

ESTTA Tracking number: **ESTTA387948**

Filing date: **01/12/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Dr. Ing. h.c. F. Porsche Aktiengesellschaft
Granted to Date of previous extension	01/12/2011
Address	Porscheplatz 1 Stuttgart-Zuffenhausen, 70435 GERMANY

Attorney information	Jana L. France FSB FisherBroyles LLP 4505 Jewel Lane North Plymouth, MN 55446 UNITED STATES france@fsblegal.com Phone:763-208-9847
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### Applicant Information

Application No	85006000	Publication date	09/14/2010
Opposition Filing Date	01/12/2011	Opposition Period Ends	01/12/2011
Applicant	Blue Water Ventures LLC 1301 N. Dearborn Street Suite 402 Chicago, IL 60610 UNITED STATES		

### Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, a reality television series featuring inventors, entrepreneurs and product development
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2414167	Application Date	02/14/2000
Registration Date	12/19/2000	Foreign Priority Date	NONE
Word Mark	911		

Design Mark	<b>911</b>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1964/00/00 First Use In Commerce: 1965/00/00 Automobiles and Their Structural Parts

Attachments	75917912#TMSN.gif ( 1 page )( bytes ) 2011.01.12 - Notice of Opposition - PRODUCT 911.pdf ( 5 pages )(558046 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jana L. France/
Name	Jana L. France
Date	01/12/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the matter of Application Serial No. 85/006,000  
By Blue Water Ventures LLC  
For the mark: PRODUCT 911  
Published in the Official Gazette on September 14, 2010*

Dr. Ing. h.c. F. Porsche Aktiengesellschaft,

Opposer,

v.

Blue Water Ventures LLC,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Dr. Ing. h.c. F. Porsche Aktiengesellschaft, a corporation organized and existing under the laws of Germany, having its principal place of business at Porscheplatz 1, 70435 Stuttgart-Zuffenhausen, Germany, believes it will be damaged by the registration of the mark shown in the following intent-to-use application, and hereby opposes the same through this Notice of Opposition:

Mark	Application Serial Number	Int'l Class	Registration Basis
PRODUCT 911	85/006,000	41	Filed under Section 1(b).

This opposition is based on 15 U.S.C. §1063 and the grounds of opposition are as follows:

1. Dr. Ing. h.c. F. Porsche Aktiengesellschaft, by and through its predecessors-in-interest and related companies (collectively, "Porsche") has been selling automobiles in the United States for more than fifty years. Today, Porsche is a leading automobile manufacturer

that sells automobiles as well as a wide variety of merchandise under such iconic and famous brands as PORSCHE and the Porsche Crest Design mark.

2. In 1965, Porsche first introduced its 911® sports car into the United States, a car that has been dubbed “the world’s most recognizable car” and a “legend in its own lifetime”. Unlike other automobiles that are retired after only a few years, Porsche has offered its 911® sports car continuously since 1965. The unprecedented and unmatched longevity of the 911® speaks volumes about the success and popularity of the 911® and has resulted in an extraordinary level of brand recognition for Porsche.

3. In addition to the common law rights Porsche has developed in its 911® mark, on February 14, 2000, Porsche filed in the United States Trademark Office an application for registration of 911 in connection with “automobiles and structural parts for automobiles” which on December 19, 2000, issued into U.S. Registration No. 2,414,167. U.S. Reg. No. 2,414,167 is valid and subsisting and has achieved incontestable status.

4. On April 5, 2010, Blue Water Ventures LLC (“Applicant”) filed an application to register the mark PRODUCT 911 as a trademark for “Entertainment services, namely, a reality television series featuring inventors, entrepreneurs and product development” in International Class 41. The application was designated Application Serial No. 85/006,000 (the “Application”).

5. Applicant had constructive knowledge, and upon information and belief, actual knowledge, of Porsche’s 911® mark prior to the filing of the Application.

6. Upon information and belief, Applicant has not filed an allegation of use in connection with the Application.

7. Porsche has priority over Applicant as a result of its earlier registration and continuous use of the 911® mark. Indeed, Porsche’s common law rights and statutory priority dates precede the filing date of the Application by many years, and upon information and belief, any priority date upon which Applicant may rely.

8. Porsche has expended considerable time, effort, and expense in promoting its 911® mark, and the goods offered under such mark, with the result that the purchasing public has come to know, rely upon and recognize the goods of Porsche by such mark. The 911® mark is well and favorably known in the United States, and Porsche has built up extensive, exclusive, and valuable goodwill in such mark.

9. Porsche's 911® mark, as set forth above, is distinctive and well known.

10. The services identified in the Application are broad enough to cover a reality television series featuring inventors, entrepreneurs and product development relating to automobiles.

11. Upon information and belief, Applicant will market the services identified in the Application to the same potential purchasers to whom Porsche markets its automobiles and other goods sold in connection with its 911® mark.

12. The mark Applicant seeks to register so resembles the 911® mark as to be likely, when used in connection with the services recited in the Application opposed herein, to cause confusion, or to cause mistake, or to deceive. Indeed, Applicant's mark incorporates 100% of Porsche's 911® mark.

13. Purchasers and prospective purchasers are likely to mistakenly believe that the services Applicant intends to offer under the PRODUCT 911 mark are sponsored, endorsed, or approved by Porsche, or are in some way affiliated, connected, or associated with Porsche, all to the detriment of Porsche and Porsche's licensees. Registration of Applicant's mark should therefore be refused under Section 2(d) of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063.

14. Registration of Applicant's mark would be a further source of damage to Porsche, as it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Porsche's long prior rights in its 911® mark.

WHEREFORE, Dr. Ing. h.c. F. Porsche Aktiengesellschaft prays that Application Serial No. 85/006,000 in International Class 41 be rejected, and that registration of the mark therein be refused.

Respectfully submitted,

Date: January 12, 2011

By Jana L. France  
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Attorneys for Opposer,  
DR. ING. H.C. F. PORSCHE  
AKTIENGESELLSCHAFT

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2011, I have caused a true and correct copy of the attached Notice of Opposition to be served on Blue Water Ventures LLC by mailing such copy by United States Mail (First-Class, postage pre-paid) to counsel for Blue Water Ventures LLC at the following address:

Andrew S. Ehard, Esq.  
Merchant & Gould P.C.  
P.O. Box 2910  
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