

ESTTA Tracking number: **ESTTA581326**

Filing date: **01/10/2014**

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	Fisker Automotive, Inc.
Granted to Date of previous extension	01/12/2014
Address	3080 Airway Avenue Costa Mesa, CA 92626 UNITED STATES
Correspondence information	Tricia L. Schulz and Mark J. Diliberti Foley & Lardner LLP 777 E. Wisconsin Avenue Milwaukee, WI 53202 UNITED STATES ipdocketing@foley.com, tschulz@foley.com, mdiliberti@foley.com Phone:608-258-4204

**Applicant Information**

Application No	85900188	Publication date	07/16/2013
Opposition Filing Date	01/10/2014	Opposition Period Ends	01/12/2014
Applicant	Ford Motor Company One American Road Dearborn, MI 48126 GERMANY		

**Goods/Services Affected by Opposition**

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Automobiles; Insignia badges for automobiles
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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.	4372739	Application Date	10/28/2008
Registration Date	07/23/2013	Foreign Priority Date	NONE
Word Mark	ECOSPORT		

Design Mark	<b>ECOSPORT</b>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2011/12/00 First Use In Commerce: 2011/12/00 Motor vehicles, namely, cars Class 040. First use: First Use: 2011/12/00 First Use In Commerce: 2011/12/00 Custom manufacture of automotive vehicles

Attachments	77602399#TMSN.jpeg( bytes ) Signed Notice of Opposition.pdf(189677 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	/tschulz/
Name	Tricia L. Schulz
Date	01/10/2014

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

In the Matter of App. Serial No.: 85/900,188  
Mark: ECOSPORT  
Published: July 16, 2013

_____	)	
Fisker Automotive, Inc.	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Ford Motor Company	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Opposer, Fisker Automotive, Inc. (“Fisker”), a Delaware corporation, having a business address at 3080 Airway Avenue, Costa Mesa, California, believes that it will be damaged by, and hereby opposes registration of the mark ECOSPORT that is the subject of Application Serial No. 85/900,188 (the “Application”) published in the *Official Gazette* on July 16, 2013 (and subject to two timely requests for extension of time to oppose, the last of which expires on January 12, 2014) and requests that registration of the Application be refused.

As grounds in support of this opposition, Opposer asserts as follows:

1. By the Applications herein opposed, Applicant seeks to register the word ECOSPORT as a trademark for “Automobiles; Insignia badges for automobiles” in Class 12. The Class 12 products are based on intent-to-use the mark, and the application was filed on April 10, 2013.

2. Opposer owns Registration No. 4372739 for the mark ECOSPORT for “motor vehicles, namely, cars” in Class 12 and “custom manufacture of automotive vehicles” in Class 40. This registration is valid, subsisting, unrevoked and uncanceled.

3. Opposer filed its intent-to-use application for the mark ECOSPORT, which matured into Registration No. 4372739, on October 28, 2008.

4. Opposer, including via its authorized agents, began using the mark ECOSPORT at least as early as 2011 in connection with cars and the custom manufacture of automotive vehicles.

5. Opposer’s ECOSPORT mark is of significant value to Opposer, including as an identification of source in connection with the sale and offering of Opposer’s products and services.

6. Opposer, prior to any filing date or date of first use upon which Applicant can rely, applied for, adopted and used its ECOSPORT mark in connection with Opposer’s products services.

7. Applicant’s ECOSPORT mark is identical to Opposer’s ECOSPORT mark in sound, spelling, connotation, appearance and commercial impression.

8. Opposer’s products and services and Applicant’s products overlap or are closely related. Opposer offers and sells cars and the custom manufacture of automotive vehicles. Applicant’s identified products are automobiles and insignia badges for automobiles. Cars are a type of automobile, automobiles are an automotive vehicle, and insignia badges for automobiles are typically used on or in connection with cars. Automobiles, cars, insignia badges for automobiles and

custom manufacturing services for automotive vehicles are typically offered to the same class of purchasers.

9. Applicant's ECOSPORT mark so resembles Opposer's ECOSPORT mark that when applied to the products set forth in the Application, it is likely to or will cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act, all to the damage of Opposer.

10. Through use by Opposer of its ECOSPORT mark for Opposer's products and services, purchasers and prospective purchasers of such products and services, and/or related goods and services, associate such marks with a single source, namely, the Opposer.

11. Purchasers and prospective purchasers are likely to be misled into believing, contrary to fact, that Applicant's products sold or provided under the mark opposed herein emanate from, are connected, associated or affiliated with, or are in some way approved or sponsored by Opposer, all to Opposer's irreparable damage, including through impairment of its goodwill, as symbolized by Opposer's ECOSPORT mark.

12. For at least the above reasons, registration of Applicant's Serial No. 85/900,188 is herein opposed on the ground that Applicant's proposed ECOSPORT mark is likely to cause confusion, to cause mistake, or to deceive under Section 2(d) of the Trademark Act, and under state statutory and common law.

WHEREFORE, Opposer requests that this opposition be sustained and the subject Application Serial No. 85/900,188 to register the mark ECOSPORT be refused registration.

Payment in the amount of \$300.00 is tendered herewith via a credit card charge to cover the statutory filing fee. 37 C.F.R. § 2.6(a)(17). If any additional fees should be required, please charge the same to Deposit Account No. 19-0741.

Respectfully submitted,  
FOLEY & LARDNER LLP

Date: 1/10/14

By:   
\_\_\_\_\_  
Tricia L. Schulz  
Mark J. Diliberti  
777 E. Wisconsin Ave  
Milwaukee, WI 53202  
Counsel for Opposer

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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Mark: ECOSPORT  
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_____	)	
Fisker Automotive, Inc.	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Ford Motor Company	)	
Applicant.	)	
_____	)	

**CERTIFICATE OF SERVICE**

I, TRICIA SCHULZ, hereby certify that a copy of the NOTICE OF OPPOSITION was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

Elizabeth Janda  
Mark S. Sparschu  
Brooks Kushman P.C.  
1000 Town Ctr Fl 22  
Southfield, Michigan 48075-1183

Dated: 1/10/14

Signed: 



United States Patent and Trademark Office

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# ECOSPORT

<b>Word Mark</b>	<b>ECOSPORT</b>
<b>Goods and Services</b>	IC 012. US 019 021 023 031 035 044. G & S: Motor vehicles, namely, cars. FIRST USE: 20111200. FIRST USE IN COMMERCE: 20111200
	IC 040. US 100 103 106. G & S: Custom manufacture of automotive vehicles. FIRST USE: 20111200. FIRST USE IN COMMERCE: 20111200
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77602399
<b>Filing Date</b>	October 28, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	September 22, 2009
<b>Registration Number</b>	4372739
<b>Registration Date</b>	July 23, 2013
<b>Owner</b>	(REGISTRANT) Fisker Automotive, Inc. CORPORATION DELAWARE 5515 E. La Palma Anaheim CALIFORNIA 92807
<b>Attorney of Record</b>	Jeffrey A. Kobulnick
<b>Type of Mark</b>	TRADEMARK. SERVICE MARK
<b>Register</b>	PRINCIPAL

Live/Dead Indicator    LIVE

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