

ESTTA Tracking number: **ESTTA689914**

Filing date: **08/17/2015**

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	Deutsche Lufthansa AG
Granted to Date of previous extension	09/09/2015
Address	Von-Gablenz-Str. #2 - 6 Cologne, 50679 GERMANY
Domestic Representative	William E OBrien Attorney Law Offices of William E. OBrien 2 Connector Road Suite 200 Westborough, MA 01581 UNITED STATES william@masstechlawyer.com Phone:7819565363

Applicant Information

Application No	86469766	Publication date	05/12/2015
Opposition Filing Date	08/17/2015	Opposition Period Ends	09/09/2015
Applicant	D Internet Corporation Suite 51132 Miami, FL 33131 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels
Class 039. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Airline transportation services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registra-	NONE	Application Date	NONE
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tion No.			
Registration Date	NONE		
Word Mark	EUROWINGS		
Goods/Services	airline services		

Attachments	Notice of opposition final.pdf(36223 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	/william e obrien/
Name	William E OBrien
Date	08/17/2015

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

In the Matter of Application Serial No.: 86469766
Published in the *Official Gazette* on: May 12, 2015

Deutsche Lufthansa AG

Opposer,

v.

Opposition no.:

D Internet Corporation,

Applicant.

NOTICE OF OPPOSITION

Deutsche Lufthansa AG, (hereinafter referred to as “Opposer”), a German corporation, located at Von-Gablenz Str. 2-6, Köln, Germany, believes that it will be damaged by registration of the mark shown in the application serial number 86469766 – “EUROWINGS” for:

“Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels” in international class 35; and

“Airline transportation services” in international class 39 (the “Applicant’s Mark”), filed, December 3, 2014, by the D Internet Corporation, located at Suite 51132, 444 Brickell Ave., Miami, FL 33131 (“Applicant”) and hereby opposes the same, pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.104.

1. Opposer is the owner of the international trademark application for the mark EUROWINGS & Design, for:

“transport; services of a travel agency; providing of travel and flight information including flight delays, flight cancellations and changes of flights or gates issuing of electronic travel tickets, transport of passengers and goods by airplanes and automobiles; storage of goods or luggage; arranging, booking, reservation and

organization of travels; organizing and performing traffic services (transportation); arrangement of city tours; tourist guiding; rental of airplanes and automobiles; storage, packing and delivery of goods of all kinds;” in international class 39; and

“education; providing of training; entertainment; sporting and cultural activities; training and teaching airline staff and cabin crews, airport ground personnel and others; interpreting; preparations of translations;” in international class 41; and

“services for providing of food and drink for guests, and temporary accommodation of guests; hotel reservations; catering” in international class 43 (“Opposer’s Mark”)

as filed pursuant to the Madrid Agreement and the Madrid Protocol. This application is referred to herein as “Opposer’s Application” (Note: the application has not yet been assigned a serial number by WIPO). Opposer’s Application seeks registration of Opposer’s Mark in several countries including the United States and it asserts the priority of the German application/registration 30 2014 073 040 as filed on December 2, 2014 with the German Patent Office. This registration is referred to herein as the “German Registration.”

2. Opposer’s Application has not yet been domesticated in the United States. However, once domesticated, Opposer’s Application would predate Applicant’s application. Thus, priority is not an issue in this case because the filing date of Opposer’s Application precedes Applicant’s filing date. Further, Applicant has asserted that it has an intent to use its mark in commerce as a basis for its application. Applicant has not asserted any use of the mark in commerce that would give it priority of Opposer’s Application.

3. The word component of Applicant’s Mark is identical to Opposer’s Mark. The marks are therefore similar in their spelling, sound and commercial impression.

4. The services that Applicant intends to market under Applicant’s Mark are related, if not identical, to the services intended to be provided in connection with Opposer’s Application and/or represent a natural zone of expansion for Opposer and such goods and services would travel and/or be promoted through the same channels of trade for sale to,

and use by, the same class of purchasers.

5. Applicant's use of its proposed mark in connection with the designated goods and services is likely to cause confusion, mistake or deception as to the source of origin of Applicant's goods and services in that the public, the trade and others are likely to believe that Applicant's goods and/or services are: (a) the same goods or services as Opposer's; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposer and/or its goods, services or licensed products.

6. Opposer also opposes Applicant's mark on the basis that Applicant committed fraud on the Patent and Trademark Office when it alleged in its application that it intends to provide airline transportation services.

7. On information and belief, Opposer asserts that Applicant is an internet provider and web portal company. As an internet services provider, Applicant has no bona fide intention to use the mark in connection with airline transportation services. Applicant's lack of bona fide intent to use the mark in connection with airline transportation services is manifested by Applicant's lack of efforts to establish an airline.

8. Opposer also believes that Applicant committed fraud on the Patent and Trademark Office when it declared in its application that "the signatory believes that to the best of signatory's knowledge and belief, no other person has the right to use the mark. . ."

9. On information and belief, Opposer asserts that the signatory of the Applicant's application, Tim Häussler, is a German citizen who had knowledge of Opposer's marketing of its new airline services under the EUROWINGS mark at the time he executed and filed the Application.

10. By reason of the forgoing, Opposer would be harmed if Applicant's mark were allowed to register.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and

Applicant's application to register its mark be denied in all respects.

Respectfully submitted,



William E. O'Brien, Esq.
Attorney for the Opposer

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Dated: August 17, 2015 email: william@masstechlawyer.com

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY WITH THE U.S. PATENT AND TRADEMARK OFFICE ON August 17, 2015.



William E. O'Brien, Esq.

Certificate of Service:

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served by mailing said copy on August 17, 2015 via First Class Mail, postage prepaid D Internet Corporation 444 Brickell Ave., Ste 51132, Miami, Florida 33131-2403, the correspondence address on record.



By: William E. O'Brien, Esq.