

This responds to the Post Registration Office Action that issued on April 4, 2017, in connection with the Combined Declaration of Use and Application for Renewal filed in connection with U.S. Registration No. 2,050,185. The Trademark Specialist reviewing the Combined Declaration/Application indicated that the Application for Renewal under Section 9 of the Trademark Act can be accepted. However, the Declaration Under Section 8 cannot be accepted because the Trademark Office records do not show a clear chain of title in the party who filed the Declaration of Use. Therefore, the party who filed the Declaration of Use must establish ownership of Reg. No. 2,050,185. Further, the Trademark Specialist requested substitute specimens for International Classes 9, 11, and 27 as Registrant's online catalog is believed to be unacceptable to show trademark use.

With regard to the first objection, namely, establishing ownership of Reg. No. 2,050,185, Registrant states for the record that it is the owner of Reg. No. 2,050,185. As noted by the Trademark Specialist, the records in the Trademark Office show that "Dr. Ing. h.c. F. Porsche Aktiengesellschaft" is the owner of U.S. Reg. No. 2,050,185. However, "Dr. Ing. h.c. F. Porsche AG" was inadvertently identified in the Combined Declaration of Use and Application for Renewal. The use of "AG" rather than "Aktiengesellschaft" is an obvious typographical error that occurred because "Dr. Ing. h.c. F. Porsche AG" was the original registrant of Reg. No. 2,050,185. Therefore, when preparing the Combined Declaration of Use and Application for Renewal, the electronic form used in TEAS automatically populated the name and address of the original registrant. Due to the substantial similarities between the name and address of the original registrant and the name and address of the current owner of the registration, neither the Registrant nor the undersigned attorney noticed the discrepancy. However, "Dr. Ing. h.c. F. Porsche AG" no longer exists as a separate legal entity. Therefore, pursuant to Section 1201.02(c) of the Trademark Manual of Examining Procedure and *In re Atlanta Blue Print Co.*, 19 UPSQ2d 1078 (Comm'r Pats. 1990), Registrant respectfully requests that Combined Declaration of Use and Application for Renewal be amended to correct this obvious typographical error and to identify the party who filed the Combined Declaration of Use and Application for Renewal as "Dr. Ing. h.c. F. Porsche Aktiengesellschaft".

With regard to the Trademark Specialist's objection to Registrant's online catalog, Registrant submits substitute specimens to substantiate that Registrant's online catalog does meet the requirements for a display associate with the goods. Pursuant to Section 904.03(h) of the *Trademark Manual of Examining Procedure*, examining attorneys may accept any catalog or similar specimen as a display associated with the goods, provided that it: (1) includes a picture or a sufficient textual description of the relevant goods; (2) shows the mark in association with the goods; and (3) includes the information necessary to order the goods (*e.g.*, an order form or a phone number, mailing address, or e-mail address for placing orders).

Registrant's Tequipment® products are a line of aftermarket products that Registrant sells through its nearly 200 authorized, licensed dealers. The products are designed for use in connection with Registrant's automobiles and many of the products must be installed on the vehicle by an auto mechanic. Therefore, when reviewing Registrant's online Tequipment catalog

on Registrant's website, potential purchasers click on the Tequipment catalog and see photographs of the products available including, the price for the product and part number, and may request that the product be added to the purchaser's "wish list" so that the wish list may be printed and/or emailed to the purchaser's local authorized Porsche dealer for purchase and installation. However, as shown by the enclosed Exhibit A, pages 1-7 and Exhibit B, pages 1-5, when a potential purchaser goes directly to an authorized Porsche dealer's website such as, Hennessy Porsche, the online catalog (1) includes a picture or a sufficient textual description of the relevant goods; (2) shows the mark in association with the goods; and (3) includes the information necessary to order the goods (*e.g.*, an order form or a phone number, mailing address, or e-mail address for placing orders) as required by Section 904.03(h) of the *Trademark Manual of Examining Procedure*.

As shown in Exhibit A, p. 1, when a purchaser goes to Hennessy Porsche's website, one of the first things the purchaser sees is the phone numbers for Hennessy Porsche's various departments including, the phone number for its Parts Dept. (Exhibit A, p. 1). When the purchaser scrolls down Hennessy Porsche's home page, the purchaser sees a link entitled "Tequipment." (Exhibit A, p. 2). Hennessy Porsche's contact information appears again directly to the left of the Tequipment link. When the purchaser clicks on the phone icon, the phone number for Hennessy Porsche's Parts Dept. appears. (Exhibit A, p. 3). In addition, Hennessy Porsche's live online assistant appears in a box to the right of the purchaser's cursor and follows the purchaser's cursor as it moves around Hennessy Porsche's website so that Hennessy Porsche's online assistant can answer any questions the purchaser has via instant message. When a purchaser clicks on the "Tequipment" link, the purchaser is brought to the Tequipment page which again includes the phone number, facsimile number, and "contact us" link for ordering the products. (Exhibit A, p. 4). When a purchaser clicks on the Porsche Tequipment Catalog link, the purchaser is brought to the Tequipment Accessories Finder page which allows the purchaser to find all Tequipment products based upon the model of vehicle they own. (Exhibit A, p. 5). After the purchaser clicks on the relevant model, the purchaser is directed to photographs of Registrant's Tequipment products for the particular model broken down by the category of products (*e.g.*, exterior, interior, wheels and accessories, audio and communication, etc.). (Exhibit A, pages 6 a – 6 b). Also displayed next to the photograph is the lowest purchase price for products within the category. By clicking on the photograph of a particular product, the purchaser sees the details of the product including, a photograph and description of the product, the price for the product, and the parts number for the product. (Exhibit A, p. 7). In this instance, Exhibit A, p. 7 shows a communication system with radio and six-disc CD/DVD player available for the Macan for \$5,592.89 (excl. tax). Prior to arriving at this page, the purchaser has seen the Tequipment mark seven times and "Tequipment Accessories Finder" appears immediately above the photograph of the goods. The price for the product is also included below the textual description of the product. Therefore, Exhibit A pp. 1-7 shows that Registrant's online catalog (1) includes a picture or a sufficient textual description of the relevant goods; (2) shows the Tequipment mark in association with the goods; *and* (3) includes the information necessary to order the goods (*e.g.*, an order form or a phone number, mailing address, or e-mail address for placing orders) as required by Section 904.03(h) of the *Trademark Manual of Examining Procedure*.

Further, Exhibit B, pp. 1-5 shows another method for accessing Registrant's online catalog. When a purchaser goes to Hennessy Porsche's website, there is a tool bar which allows

purchasers to select various options such as, New Vehicles, Pre-Owned Vehicles, Service, Parts, etc. (Exhibit B, p. 1). The link to “Parts” is immediately above and to the left of the phone number for Hennessy Porsche’s Parts Dept. In addition, Hennessy Porsche’s live online assistant appears in a box to the right of the purchaser’s cursor and follows the purchaser’s cursor as it moves around Hennessy Porsche’s website so that Hennessy Porsche’s online assistant can answer any questions the purchaser has via instant message. When a purchaser clicks on “Parts,” a menu appears, which includes, “Parts,” “Parts Order Inquiry,” “Tequipment,” and “View Special Offers.” (Exhibit B, p. 2). When a purchaser clicks, on “Tequipment,” the purchaser is directed to the Tequipment Accessories Finder page which allows the purchaser to find all Tequipment products based upon the model of vehicle they own. (Exhibit B, p. 3). After the purchaser clicks on the relevant model, the purchaser is directed to photographs of Registrant’s Tequipment products for the particular model broken down by the category of products (*e.g.*, exterior, interior, wheels and accessories, audio and communication, etc.). (Exhibit B, pages 4 a – 4 b). Also displayed next to the photograph is the lowest purchase price for products within the category. By clicking on the photograph of a particular product, the purchaser sees the details of the product including, a photograph and description of the product, the price for the product, and the parts number for the product. (Exhibit B, p. 5). Prior to arriving at this page, the purchaser has seen the Tequipment mark four times and “Tequipment Accessories Finder” appears immediately above the photograph of the goods. The price for the product is also included below the textual description of the product. Therefore, Exhibit B pp. 1-5 also shows that Registrant’s online catalog (1) includes a picture or a sufficient textual description of the relevant goods; (2) shows the Tequipment mark in association with the goods; *and* (3) includes the information necessary to order the goods (*e.g.*, an order form or a phone number, mailing address, or e-mail address for placing orders) as required by Section 904.03(h) of the *Trademark Manual of Examining Procedure*.

Accordingly, Registrant respectfully requests that the enclosed substitute specimens for International Classes 9, 11 and 27 be accepted and the Notice of Acceptance and Notice of Renewal be issued in connection with Registration No. 2,050,185. A Declaration Under Section 2.20 is submitted herewith to verify that Registrant and/or its authorized licensees were using the mark in commerce during the relevant period for filing the 10-year Section 8 on or in connection with the goods identified in the registration.