

**Notification of provisional refusal of protection based on an opposition  
(Article 5 of the Madrid Protocol and Rule 17(1) and (2) of the Common Regulations  
under the Madrid Agreement and Protocol and Article 78 EUTMDR)**

Alicante, 25/10/2018

*International registration No:* **1406563**

*Date of notification to EUIPO:* **14-06-2018**

*Trade mark:*

*Holder:* **LANDTOURER AUTOMOBILE CO., LTD**  
**No. 1 Yuanquan Road,**  
**Shangrao Economic & Technological**  
**Development Zone**  
**Jiangxi Province**

*Opposition number:* **003066175**

Protection of the abovementioned mark is provisionally refused for the European Union.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for opposition are as follows.

Conflict with an earlier mark because of likelihood of confusion (Article 8(1)(b) EUTMR);

Conflict with an earlier identical or similar trade mark registered for goods or services which are not similar to those for which the international registration is registered, where the earlier mark has a reputation and where the use without due cause of the international registration would take unfair advantage of or be detrimental to, the distinctive character or the repute of the earlier trademark (Article 8(5) EUTMR).

II. Name and address of the opposing party:  
**FCA GROUP MARKETING S.P.A.**  
**Via Nizza, 250**  
**I-10126 Torino**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : EUTM

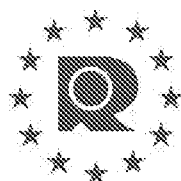
- filing date, registration date and, if applicable, priority date: 10/11/2006, 07/11/2007
- filing number and, if different, registration number: EUTM 5484639
- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

The opposition is based on more than one earlier right: (see annex)

IV. The provisional refusal relates to all the goods and services covered by the designation of the European Union.

The Office will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Article 6(1) EUTMDR. The Office will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

The Office will also set a time limit of two months for the holder to appoint a representative within the meaning of Article 120(1) EUTMR. Protection of the international registration for the European Union will be refused in whole if the holder fails to appoint a representative within the time limit.



**Cacciatori Letizia**

Enclosures (excluding the cover letter): 10 pages

Date of receipt (DD/MM/YYYY)	Number of pages (including this one)
10/10/2018	9

### Acknowledgement of receipt of a Notice of opposition

Your notice of opposition has been submitted successfully.  
We thank you for choosing to use the online OPPOSITION form.

Opposition number:	003066175
Date of submission:	10/10/2018
Time of submission:	12:43
Number of attached files:	1
Payment method:	Current account with EUIPO
Payment ID number:	186ATXN3
Account No:	0000000263

Please indicate the opposition number in any further communication with the EUIPO.

## NOTICE OF OPPOSITION

Your reference: **T299130/EC/VG/ic**

### Opponent(s)

Opponent EUIPO ID: **361034**

Name of legal entity or first name and surname: **FCA GROUP MARKETING S.P.A.**  
 Legal form: **S.P.A.**  
 Type: **Legal Entity**  
 Street address: **Via Nizza, 250**  
 City: **Torino**  
 Postal Code: **10126**  
 Country: **Italy**  
 Postal address (if different):  
 Telephone number:  
 Fax number:  
 E-mail address:  
 Website:

### Representative(s)

EUIPO representative ID: **10583**

Name or legal name: **DR. MODIANO & ASSOCIATI S.P.A.**  
 Type: **Association**  
 Street address: **Via Meravigli, 16**  
 City: **Milano**  
 Postal Code: **20123**  
 Country: **Italy**  
 Postal address (if different):  
 Telephone number: **00 39-0285907777**  
 Fax number: **00 39-0272021062**  
 E-mail address: **uami@modiano.com**  
 Website:

### Challenged entity

Challenged registration ID: **W01406563**

Type of entity: **IR**  
 Name of the owner/holder: **LANDTOURER AUTOMOBILE CO., LTD**  
 Designation date: **26/03/2018**  
 Representation of the trade mark: **&nbsp;**  
 Trade mark type: **Figurative**

Representation of mark

## NOTICE OF OPPOSITION



**Language of proceedings** ☒ First language: EN (English) ☐ Second language: FR (French)

**Extent of the application** ☒ Against all the goods and services  
☐ Against some of the goods and services

Class	Goods and services
12 (EN)	Electric vehicles; automobile chassis; hub caps; vehicle running boards; ski carriers for cars; automobiles; automobile bodies; bumpers for automobiles; spare wheel covers; hubs for vehicle wheels.

### Grounds for opposition

#### Selected ground number 1

Article 8(1)(b) EUTMR - There exists a likelihood of confusion on the part of the public

#### Basis of opposition

Type of basis	EUTM/A
Name of the owner/applicant	FCA GROUP MARKETING S.P.A.
Application date	10/11/2006
Filing number	005484639
Registration number	005484639
Registration date	07/11/2007
Expiry date	10/11/2026
Trade mark type	Figurative

Representation of the earlier right



☒ Colour(s) claimed

## NOTICE OF OPPOSITION

Colour description	Red, white, grey, silver, black, brown.
Verbal elements	FIAT

☒ The opposing party accepts that the necessary information for this trade mark is imported from the relevant online official database, accessible through TMVIEW, and that this source is used for substantiation purposes without prejudice to its right or obligation to provide any additional information that may be necessary to comply with the substantiation requirements of Article 7(2) and (4) EUTMDR

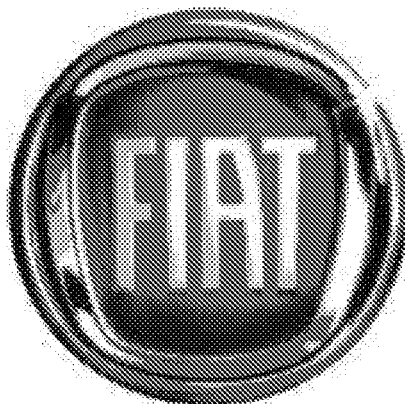
**Goods and services used as basis** ☐ Based on all the goods and services  
☒ Based on part of the goods and services, namely:

Class	Goods and services
12 (EN)	<p>Vehicles; apparatus for locomotion by land, air or water; air bags [safety devices for automobiles]; air pumps [vehicle accessories]; anti-dazzle devices for vehicles; anti-glare devices for vehicles; anti-skid chains; anti-theft alarms for vehicles; anti-theft devices for vehicles; automobile bodies; automobile chains; automobile chassis; automobile hoods; automobile tires [tyres]; axle journals; axles for vehicles; baby carriages; balance weights for vehicle wheels; bands for wheel hubs; baskets adapted for cycles; bells for bicycles, cycles; bicycle frames; bicycle handle bars; bicycle pumps; bicycle rims; bicycle spokes; bicycle stands; bicycle tires [tyres]; boat hooks; bodies for vehicles; bogies for railway cars; brake linings for vehicles; brake segments for vehicles; brake shoes for vehicles; brakes for bicycles, cycles; brakes for vehicles; buffers for railway rolling stock; bumpers for automobiles; caps for vehicle petrol [gas] tanks; casings for pneumatic tires [tyres]; casters for trolleys [vehicles] [carts (am)]; chains for bicycles, cycles; cleaning trolleys; cleats [nautical]; clutches for land vehicles; connecting rods for land vehicles, other than parts of motors and engines; couplings for land vehicles; covers for baby carriages; crankcases for land vehicle components, [other than for engines]; cranks for cycles; cycle hubs; cycle mudguards; cycle saddles; cycle stands; davits for boats; direction indicators for bicycles, cycles, etc; direction signals for vehicles; disengaging gear for boats; doors for vehicles; dress guards for bicycles, cycles; driving chains for land vehicles; driving motors for land vehicles; ejector seats [for aircraft]; engines (traction -); engines for land vehicles; fenders for ships; flanges for railway wheel tires [tyres]; frames for bicycles, cycles; freewheels for land vehicles; funnels for locomotives; funnels for ships; gear boxes for land vehicles; gearing for land vehicles; gears for cycles; hand cars; handle bars for bicycles, cycles; head-rests for vehicle seats; hoods for baby carriages; hoods for vehicle engines; hoods for vehicles; horns for vehicles; hub caps; hubs for vehicle wheels; hydraulic circuits for vehicles; inclined ways for boats; inner tubes (adhesive rubber patches for repairing -); inner tubes for bicycles, cycles; inner tubes for pneumatic tires [tyres]; jet engines for land vehicles; luggage carriers for vehicles; luggage nets for vehicles; luggage trucks; mine cart wheels; motors for cycles; motors for land vehicles; motors, electric, for land vehicles; mudguards; non-skid devices for vehicle tires [tyres]; oars; paddles for canoes; panniers adapted for cycles; pedals for cycles; perambulator covers (fitted -); pneumatic tires [tyres]; portholes; power tailgates (am) [parts of land vehicles]; prams [baby carriages]; propulsion mechanisms for land vehicles; pumps for bicycles, cycles; pushchair covers; pushchair hoods; pushchairs; railway couplings; rearview mirrors; reduction gears for land vehicles; repair outfits for inner tubes; reversing alarms for vehicles; rims for vehicle wheels; rims for wheels of bicycles, cycles; rowlocks; rudders; sack-barrows; saddle covers for bicycles or motorcycles; saddles for bicycles, cycles or motorcycles; safety belts for vehicle seats; safety seats for children, [for vehicles]; screw-propellers; screw-propellers for boats; screws [propellers] for ships; sculls; seat covers for vehicles; security harness for vehicle seats; ships' hulls; shock absorbers for automobiles; shock absorbing springs for vehicles; shopping trolleys [carts (am)]; ski carriers for cars; sleeping berths for vehicles; spars for ships; spikes for tires [tyres]; spoke clips for wheels; spokes for bicycles, cycles; stands for bicycles, cycles [parts of bicycles, cycles]; steering gears for ships; steering wheels for vehicles; stern oars; stroller covers [pushchairs]; strollers; studs for tires [tyres]; sun-blinds adapted for automobiles; suspension shock absorbers for vehicles; tailboard lifts [parts of land vehicles]; tailgates (am) (elevating-, power-) [parts of land vehicles]; timbers [frames] for ships; tipping apparatus, parts of trucks and waggons; tipping bodies for lorries [trucks]; tires for bicycles, cycles; tires for vehicle wheels; tires, solid, for vehicle wheels; torque converters for land vehicles; torsion bars for vehicles; trailer hitches for vehicles; transmission chains for land vehicles; transmission shafts for land vehicles; transmissions, for land vehicles; treads for retreading tires [tyres]; treads for vehicles [roller belts]; treads for vehicles [tractor type]; trolleys; tubeless tires [tyres] for bicycles, cycles; turbines for land vehicles; turn signals for vehicles; two-wheeled trolleys; tyres for vehicle wheels; undercarriages for vehicles; upholstery for vehicles; valves for vehicle tires [tyres]; vehicle bumpers; vehicle chassis; vehicle covers [shaped]; vehicle running boards; vehicle seats; vehicle suspension springs; vehicle wheel spokes; vehicle wheel tires [tyres]; vehicle wheels; warning systems (audible -) for cycles; wheelbarrows; wheels for bicycles, cycles; windows for vehicles; windscreen</p>

## NOTICE OF OPPOSITION

	wipers; windscreens; windshield wipers.
<b>Class</b>	<b>Goods and services</b>
37 (EN)	Construction; repair; installation services; airplane maintenance and repair; anti-rust treatment for vehicles; anti-rust treatment for vehicles; artificial snow-making services; boiler cleaning and repair; building construction supervision; burner maintenance and repair; car wash; chimney sweeping; cleaning (dry -); cleaning machines (rental of -); cleaning of buildings [exterior surface]; cleaning of buildings [interior]; cleaning of clothing; computer hardware (installation, maintenance and repair of -); construction information; demolition of buildings; diaper cleaning; disinfecting; drilling of wells; film projector repair and maintenance; fulling of cloth; fur care, cleaning and repair; furniture maintenance; laundering; leather care, cleaning and repair; linen ironing; machinery installation, maintenance and repair; mining extraction; motor vehicle maintenance and repair; motor vehicle wash; office machines and equipment installation, maintenance and repair; painting, interior and exterior; paper hanging; pipeline construction and maintenance; pressing of clothing; quarrying services; rat exterminating; rental of bulldozers; rental of construction equipment; rental of cranes [construction equipment]; rental of excavators; rental of road sweeping machines; repair information; rustproofing; safe maintenance and repair; shipbuilding; shipbuilding; signs (painting or repair of -); street cleaning; strong-room maintenance and repair; toner cartridges (refilling of -); varnishing; vehicle cleaning; vehicle lubrication [greasing]; vehicle maintenance; vehicle polishing; vehicle service stations; vehicle wash; vermin exterminating [other than for agriculture]; wallpapering; washing; washing of linen; window cleaning.
<b>Entitlement</b>	<input checked="" type="checkbox"/> Owner/Co-owner <input type="checkbox"/> Authorised licensee <input type="checkbox"/> Person authorised under the applicable law
<b>Selected ground number 2</b>	
Article 8(1)(b) EUTMR - There exists a likelihood of confusion on the part of the public	
<b>Basis of opposition</b>	
Type of basis	International registration
Territory(ies)	Romania ; Croatia ; Bulgaria
Name of the owner/applicant	FCA GROUP MARKETING S.P.A.
Application date	08/01/2007
Filing number	916080
Registration number	916080
Registration date	08/01/2007
Priority date	13/11/2006
Expiry date	08/01/2027
Designation date	08/01/2007
Trade mark type	Figurative
Representation of the earlier right	

## NOTICE OF OPPOSITION



☐ Colour(s) claimed

Verbal elements

FIAT

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**Goods and services used as basis**

- ☐ Based on all the goods and services  
☒ Based on part of the goods and services, namely:

Class	Goods and services
12 (EN)	Vehicles; apparatus for locomotion by land, air or water.

Class	Goods and services
37 (EN)	Building construction; repair; installation services.

**Entitlement**

- ☒ Owner/Co-owner  
☐ Authorised licensee  
☐ Person authorised under the applicable law

**Evidence in support and**

- ☐ Attached  
☒ To follow

### Selected ground number 3

Article 8(1)(b) EUTMR - There exists a likelihood of confusion on the part of the public

### Basis of opposition

Type of basis	National trade mark application/registration
Territory(ies)	Italy
Name of the owner/applicant	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.
Application date	13/11/2006
Filing number	2006901465879
Registration number	0001032281
Registration date	08/01/2007
Trade mark type	Figurative
Representation of the earlier right	



## NOTICE OF OPPOSITION

	T299130_mark.jpg <input checked="" type="checkbox"/> Colour(s) claimed
Colour description	ROSSO, BIANCO, GRIGIO, ARGENTO, NERO, MARRONE
Verbal elements	FIAT

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**Goods and services used as basis**

☐ Based on all the goods and services  
☒ Based on part of the goods and services, namely:

Class	Goods and services
12 (EN)	Vehicles; apparatus for locomotion by land, air or water.

Class	Goods and services
37 (EN)	Building construction; repair; installation services.

**Entitlement**

☒ Owner/Co-owner  
☐ Authorised licensee  
☐ Person authorised under the applicable law

**Evidence in support and**

☐ Attached  
☒ To follow

**Selected ground number 4**

Article 8(5) EUTMR - The use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark

**Basis of opposition**

Type of basis	EUTM/A
Name of the owner/applicant	FCA GROUP MARKETING S.P.A.
Application date	10/11/2006
Filing number	005484639
Registration number	005484639
Registration date	07/11/2007
Expiry date	10/11/2026
Trade mark type	Figurative

Representation of the earlier right

## NOTICE OF OPPOSITION

	
	<input checked="" type="checkbox"/> Colour(s) claimed
Colour description	Red, white, grey, silver, black, brown.
Verbal elements	FIAT
Reputation claimed	Yes
Countries for which reputation is claimed	European Union ;

☒ The opposing party accepts that the necessary information for this trade mark is imported from the relevant online official database, accessible through TMVIEW, and that this source is used for substantiation purposes without prejudice to its right or obligation to provide any additional information that may be necessary to comply with the substantiation requirements of Article 7(2) and (4) EUTMDR

**Goods and services for which reputation is claimed**

☐ Based on all the goods and services  
☒ Based on part of the goods and services, namely:

Class	Goods and services
12 (EN)	Vehicles.

**Entitlement**

☒ Owner/Co-owner  
☐ Authorised licensee  
☐ Person authorised under the applicable law

**Statement of grounds**

**Uploaded File(s)**

Title	Confidential

**File(s) linked from other proceedings**

Procedure	Filing number	Subject	Date

**Fees**

Payment method	Current account
Opposition of EUTM fee	320.00 €
Total amount	320.00 €
Current account with EUIPO	
Account N°	0000000263

## NOTICE OF OPPOSITION

<b>Signature</b>	
<b>First name and Surname</b>	<b>Capacity of the signatory</b>
Micaela Nadia Modiano	Professional representative

### Annexes:

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## Annexes

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