

Government of India  
TRADE MARKS REGISTRY  
Boudhik Sampada Bhavan, S.M. Road, Antop Hill,  
Mumbai-400 037, India.

**NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION OF AN INTERNATIONAL REGISTRATION DESIGNATING INDIA**

**Rule 17(1) of the Common Regulations**

I.	Office making the notification:	TRADE MARKS REGISTRY, GOVERNMENT OF INDIA
II.	Number of the international registration: 1406563 (Reference IRDI No allotted to this international registration by the TMR India)... 3865334	
III.	Name of the holder (or other information enabling the identity of the international registration to be confirmed): LANDTOURER AUTOMOBILE CO., LTD	
IV.	Provisional refusal based on an opposition  The following person(s) have filed opposition to protection of the trademark in India-  1. FERRARI S.p.A., VIA EMILIA EST 1163, MODENA, ITALY 2. FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A., VIA NIZZA 250, 10126 TORINO, ITALY	
V.	Provisional refusal for all the goods and/or services	
VI.	Grounds for refusal [(where applicable, see item VII)]:  The Grounds are mentioned as per the Notice(es) of Opposition attached herewith	
VII.	Information relating to an earlier mark  As mentioned in Notice(es) of Opposition attached herewith, if any.	
VIII.	Corresponding essential provisions of the applicable law [(see text under XII)]:  Section 21 of Trade Marks Act 1999 and Rules 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56 Sections 9, 11, 12, 13, 14 of Trade Marks Act 1999 and Rules 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56	
IX.	Information relating to subsequent procedure:	
	(i)	If the holder of the International Registration wants to protect his trademark in India he/she, on receipt of the Provisional Refusal based on Opposition must submit a Counter Statement on form TM-6/TM-O through a registered trademark agent/advocate having address in India. The said Counter Statement must be submitted along with the scanned copy of the Statement of Case signed by the holder and the Power of Attorney in favor of the agent/attorney.
	(ii)	Time limit for response or for a request to file Counter Statement against the provisional refusal: <i>Two month</i> from the date of receipt of provisional refusal by the holder of international registration.
	(iii)	Authority to which such request for review or appeal should be made: The response to the provisional refusal in the form of the Counter Statement must be submitted before the Registrar of Trade Marks, International Registration Division, Trade Marks Registry, Mumbai. The Counter Statement including the scanned copy of the Statement of Case and the Power of Attorney must be submitted online through the gateway <i>comprehensive e-filing services for trademarks</i> .
	(iv)	Indications concerning the appointment of a representative: The response to the provisional refusal must be submitted through an Indian agent or a representative. The said agent may be a trademark agent registered with the Indian Trade Marks Registry office or an Advocate within the meaning of Indian Advocates Act, 1961. Such agent/attorney must be engaged by the holder through a Power of Attorney on form TM-48 executed in the favor of the said trademark agent/advocate.
X.	Date of the notification of provisional refusal: 30/01/2019	

XI.	Signature or official seal of the Office making the notification: FOR REGISTRAR OF TRADEMARK DIPMALA P MATHAPATI Designation: SENIOR EXAMINER Mumbai
XII.	Corresponding essential provisions of the applicable law:

\*\*\* end of the report \*\*\*

**Receipt No.:** 2064668  
**Date:** 30/10/2018  
**Amount:** Rs.2700/-  
**Ref No:** A-3865334 Form  
**No:** 957110

**FORM TM-O**  
**THE TRADE MARKS ACT, 1999**

**Notice of Opposition / Application for Rectification of the Register by cancelling or varying registration of a trade mark / Counter statement / Request to refuse or invalidate a trade mark under Section 25(a),(b) of Geographical Indication of Goods (Regulation and Protection)**

**under the Trade Marks Act**

<b>REQUEST</b>	NOTICE OF OPPOSITION
<b>FEE</b>	2700
<b>APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY MAKING THE APPLICATNION/REQUEST</b>	
<b>Opponent Name</b>	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.
<b>Treading As</b>	
<b>Address</b>	VIA NIZZA 250, 10126 TORINO, ITALY
<b>Service Address</b>	D.P. AHUJA & CO,14/2, PALM AVENUE,CALCUTTA 700019
<b>Mobile No</b>	9831360050
<b>Email address</b>	trademarks@dpahuja.com
<b>AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONMENT/THIRD PARTY AS THE CASE MAY BE(if any)</b>	
<b>Agent Name</b>	D.P. AHUJA & CO
<b>Address</b>	14/2 PALM AVENUE CALCUTTA 700019 INDIA
<b>Mobile No</b>	9831360050
<b>Nature of the Agent</b>	Constituted Attorney
<b>Registration No</b>	7490
<b>REQUEST OPPOSITION/APPLICATION IN THE MATTER OF</b>	
<b>DETAILS OF APPLICATION NUMBER</b>	3865334
<b>CLASS</b>	12
<b>REQUEST</b>	NOTICE OF OPPOSITION

<p><b>GROUNDS OF OPPOSITION</b></p>	<p>Grounds of opposition are attached separately</p> <p>30th October, 2018</p> <p>The Registrar of Trade Marks, IR Division Office of the Trade Marks Registry Baudhik Sampada Bhawan, Near Antop Hill Post Office, S. M. Road, <u>Mumbai-400 037</u></p> <p>Our Ref: TO7299-RNS Attorney Code: 7490</p> <p>Dear Sirs,</p> <p>RE: INDIA Opponent : Fiat Group Marketing &amp; Corporate Communication S.p.A., Italy Applicant: Landtourer Automobile Co., Ltd, China IRDI No. 3865334 dated 26th March, 2018 [IR No. 1406563] in class 12 <u>for the registration of “Framed horse device” (label)</u></p> <p>We represent the Opponent herein, Fiat Group Marketing &amp; Corporate Communication S.p.A.</p> <p>Our client wishes to oppose the registration of the mark “Framed horse device” (label) under IRDI No. 3865334 [IR No. 1406563] in class 12 filed by Landtourer Automobile Co., Ltd. The mark was advertised in the Trade Marks Journal Number 1856 dated 2nd July, 2018. Please note that the Trade Marks Journal was made available on 2nd July, 2018. Hence, the deadline to file the Notice of Opposition is 2nd November, 2018. A copy of the relevant Trade Marks Journal advertisement clipping is enclosed.</p> <p>We enclose Grounds of Opposition on behalf of</p>
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	<p>the Opponent, to oppose the registration of the above mentioned application. We are also submitting the prescribed fee of Rs. 2700/- by Bank Transfer.</p> <p>A copy of the Authorization form (Power of Authority) in our favour from the Opponent is also enclosed.</p> <p>The Learned Registrar is respectfully requested to take the Notice of Opposition on record and to proceed further in the matter.</p> <p>Kindly acknowledge receipt.</p> <p>Yours sincerely,</p> <p>Rinita Sircar Agent No.: 424 D.P. Ahuja &amp; Co. email: trademarks@dpahuja.com Mobile Phone Number for SMS:+919831360050</p> <p>Enclosures: Grounds of Opposition Fee of Rs. 2700/- by Bank Transfer Copy of the Journal advertisement clipping Authorization form</p>
<b>Date</b>	30-10-2018 06:17 PM

Digitally Signed By

for D.P. AHUJA & CO  
[Attorney]

D.P. AHUJA & CO.  
14/2, PALM AVENUE  
KOLKATA-700019  
WE/COS/Adm/P888

39640 AGREEMENT STAMP  
185314 OCT 30 2018

**POWER OF ATTORNEY**

FORM OF AUTHORISATION OF AN AGENT

The Trade Marks Act, 1999

Trade Marks Rules, 2017

WEST BENGAL

(Section 145, Rule 19)

Attorney Code No. : 7490

We/I FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.  
VIA NIZZA 250, 10126 TORINO, ITALY

hereby authorise Samareesh Chakraborty, Sekhar Ranjan Gupta, Rinita Sircar, Sumitra Chowdhury, Ruma Mitra Dutta, Laishram Bhaswati Singh, Manish Kumar, Sanchari Saha, Nisha Thambi, Sayanti Mukherjee, Baijayanta Banerji, Vimesh Arora and Suchismita Bose, all Indians and all of D. P. AHUJA & CO., 14/2 Palm Avenue, Calcutta 700 019, India and also of, 53, Syed Amir Ali Avenue, Calcutta 700 019, West Bengal, India, and also of G135F Spencer Plaza, Phase 2, 769 Anna Salai, Chennai 600002, Tamil Nadu, India, and also of Unit No. 201D, Town Square New VIP Road, Viman Nagar, Pune - 411 014, Maharashtra, India, and also of, DLF Star Tower, Office Space No. 510, Sector - 30, Gurgaon - 122 001, NCR, India, to act jointly and severally as our/my agent for filing, prosecuting and defending oppositions against

IRDI No. 3865334 (IR No. 1406563) in class 12 for the mark



and for the doing of all the acts on our behalf as provided in the Act in this regard and for the registrations already existing in our name, and to take all steps necessary and requisite thereto, including the appointment of substitute(s) as may be necessary or expedient, and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address, and to pay all necessary fees and costs incurred as may be required from time to time on our behalf. We undertake to pay all professional fees that may be charged to us, till this power is specifically revoked in writing.

We/I hereby revoke all previous authorisations, if any, and confirm the action already taken by the agents above named or to be taken in future including verification of documents and notices and counter statement filed on our behalf.

We/I also authorise Samareesh Chakraborty, Sekhar Ranjan Gupta, Rinita Sircar, Sumitra Chowdhury, Ruma Mitra Dutta, Laishram Bhaswati Singh, Manish Kumar, Sanchari Saha, Nisha Thambi, Sayanti Mukherjee, Baijayanta Banerji, Vimesh Arora and Suchismita Bose to complete Form TM-P requesting the entry of an address for service as part of registrations obtained under the above authorisation.

Dated this 29 day of October 2018

Signature

Name KONICA BORAI

Designation SENIOR LEGAL COUNSEL

(No legalisation or signatures of witnesses are necessary)

**D. P. AHUJA & Co.**

DLF Star Tower, Office No. 510, Sector - 30, Gurgaon - 122 001, NCR INDIA  
Unit No. 201D, Town Square New VIP Road, Viman Nagar, Pune - 411 014, Maharashtra, INDIA  
G135F Spencer Plaza, Phase 2, 769 Anna Salai, Chennai 600002, Tamil Nadu, INDIA  
14/2 Palm Avenue, Calcutta 700 019, INDIA  
FAX: 91 (33) 48882269 OR 91 (33) 48882262  
Email: trademarks@dpahuja.com  
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To

The Registrar of Trade Marks  
The Office of the Trade Marks Registry  
at Calcutta / New Delhi / Mumbai / Chennai

## GROUND OF OPPOSITION

[As annexed with Notice of Opposition to application for registration of a trade mark under Section 21(1) of the Trade Marks Act, 1999; Rule 42(1) and Rule 43 of the Trade Marks Rules, 2017]

We, **FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A., (OPPONENTS)** a joint-stock company duly organized and existing under the laws of Italy, at **VIA NIZZA 250, 10126 TORINO, ITALY**, hereby give notice of our intention



to oppose the registration of Trade Mark **(Framed Horse device – label)** under **IRDI – 3865334** dated **26/03/2018** [International Registration No. **1406563**], *in the name of* **LANDTOURER AUTOMOBILE CO. LTD., (APPLICANT)** with address at No. 1 Yuanquan Road, Shangrao Economic & Technological Development Zone Jiangxi Province China, *in respect of* “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.”, in **Class 12**, advertised in the **Trade Marks Journal No. 1856** dated **02/07/2018**, at page **6923**.

A copy of the said advertisement published in the Trade Marks Journal is annexed hereto and marked as “**Exhibit-A**”.

**The grounds of Opposition are as follows:-**

- 1. FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.,** the Opponent-company, is part of the Fiat Group which was **founded in Italy in 1899**, and is rooted in a more than century-long tradition of designing and making automobiles, many of which have become icons for entire generations. With more than 1.3 million units sold worldwide every year, the **FIAT brand** is primarily focused on the mini, small and medium (mass market) vehicle segments, making cars that are functional, easy to drive, affordable and energy efficient, while at the same time also distinguishing themselves for their style and innovative solutions offered.

One of its most popular models is the Fiat 500. First launched in 1957 with the latest generation making its debut in 2007, the highly successful 500 is now sold in more than 100 countries. To consumers around the world, it has become a cultural phenomenon and a global icon of Italian style, creativity and technology.

**Our activities are carried out primarily through the following six segments:**

- (i) *NAFTA*: our operations to support distribution and sale of mass-market vehicles in the United States, Canada, Mexico and Caribbean islands, primarily under the Jeep, Ram, Dodge, Chrysler, Fiat, Alfa Romeo and Abarth brands.
- (ii) *LATAM*: our operations to support the distribution and sale of mass-market vehicles in South and Central America, primarily under the Fiat, Jeep, Dodge and Ram brands, with the largest focus of our business in Brazil and Argentina.
- (iii) **APAC**: our operations to support the distribution and sale of mass-market vehicles in the **Asia Pacific region** (mostly in **China**, Japan, Australia, South Korea and **India**) carried out in the region **through both subsidiaries and joint ventures**, primarily under the Jeep, **Fiat**, Alfa Romeo, Abarth, **Fiat Professional**, Dodge and Chrysler brands.
- (iv) *EMEA*: our operations to support the distribution and sale of mass-market vehicles in Europe (which includes the 28 members of the European Union and the members of the European Free Trade Association), the Middle East and Africa, primarily under the Fiat, Fiat Professional, Jeep, Alfa Romeo, Lancia, Abarth, Ram and Dodge brands.
- (v) *Maserati*: the design, engineering, development, manufacturing, worldwide distribution and sale of luxury vehicles under the Maserati brand.
- (vi) *Components*: production and sale of lighting components, body control units, suspensions, shock absorbers, electronic systems, and exhaust systems and activities in powertrain (engine and transmissions) components, engine control units, plastic molding components and in the after-market carried out under the Magneti Marelli brand name; cast iron components for engines, gearboxes, transmissions and suspension systems, and aluminum cylinder heads and engine blocks under the Teksid brand name; and design and production of industrial automation systems and related products for the automotive industry under the Comau brand name.

**The APAC region supports the design, engineering, development, manufacturing, distribution and sale of vehicles in Asia Pacific with key operations in China, India, Japan, Australia and South Korea and general distributors in other markets.**

In the key markets in the APAC segment (China, Australia, India, Japan and South Korea), we sell our vehicles through 100 percent owned subsidiaries or through our joint venture to local independent dealers. In other markets we have agreements with general distributors for the distribution of our vehicles through their networks.



**Sales in APAC Markets (China, India, Japan, Australia and South Korea)  
increased from 16.1 million in 2009 to 33.5 million in 2017.**

The following table presents vehicle sales in the APAC segment for the periods presented:

APAC	Years ended December 31					
	2017 <sup>(1)</sup>		2016 <sup>(1)</sup>		2015 <sup>(1)</sup>	
	Sales	Market Share	Sales	Market Share	Sales	Market Share
	Thousands of units (percent percentages)					
China <sup>(2)</sup>	215	0.8%	175	0.6%	199	0.8%
Japan	21	0.5%	20	0.5%	17	0.4%
India <sup>(3)</sup>	15	0.5%	7	0.2%	9	0.3%
Australia	13	1.1%	13	1.5%	35	3.1%
South Korea	8	0.5%	7	0.6%	7	0.4%
APAC 5 major Markets	272	0.8%	229	0.7%	267	0.7%
Other APAC	5	---	5	---	8	---
Total	277	---	233	---	215	---

<sup>(1)</sup> Estimated market share data presented are based on management's estimate of industry sales data, which use certain data provided by third-party sources, including IHS Markit and National Automobile Manufacturing Associations.

<sup>(2)</sup> Sales data include vehicles sold by our joint ventures in China.

<sup>(3)</sup> India market share is based on wholesale volumes.

<sup>(4)</sup> Sales reflect retail deliveries. APAC industry reflects aggregate for major markets where the Group competes (China, Australia, Japan, South Korea, and India). Market share is based on retail registrations except, as noted above, in India where market share is based on wholesale volumes.

**Consolidated Revenues and Units shipped for the years 2013 to 2017**

	Years ended December 31				
	2017	2016	2015	2014	2013
	In million, except per share amounts				
Net revenues	€ 110,394	€ 111,018	€ 110,595	€ 93,540	€ 84,630
Shipments (in thousands of units)	4,423	4,432	4,902	4,601	4,345

Source: FCA 2017 Annual Report

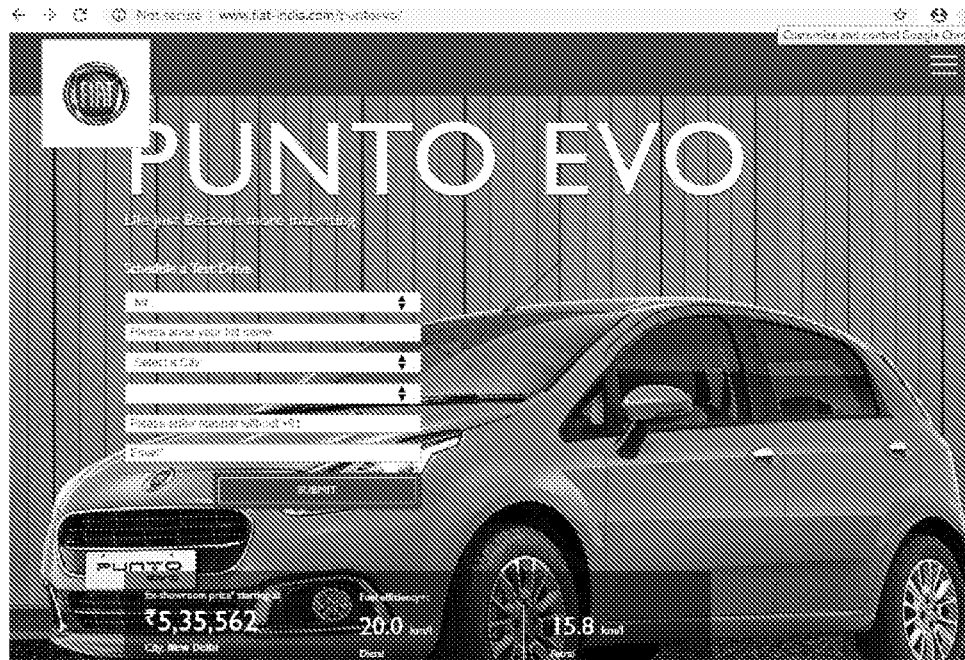
**Brief history of FIAT brand in APAC regions of China and India**

**China:** In 2010, the GAC Fiat Chrysler Automobiles Co. (*hereinafter also referred to as “GAC FCA JV”*), joint venture with Guangzhou Automobile Group Co., Ltd., was formed and has since produced the Jeep Cherokee, Jeep Renegade and Jeep Compass for the Chinese market, expanding the portfolio of Jeep SUVs currently available to Chinese consumers. The APAC region also operates three manufacturing plants, located in Changsha and Guangzhou in China, and Ranjangaon in India.

**India:** Fiat brand in India was earlier represented through a **Joint Venture** company called Fiat India Automobiles Pvt Ltd., FIAPL (name changed to Fiat India Automobiles Ltd., FIAL later), **founded in the year 1997, with Fiat S.p.A., and Tata Motors** coming together to produce cars for both brands in a plant set up through joint investments at Ranjangaon, in Pune district of Maharashtra. The joint venture exists till today. Fiat's manufacturing plant at Ranjangaon, Maharashtra, has an installed capacity to produce 135,000 cars and engines, besides aggregates and components.

FCA India Automobiles Private Limited (FCAIPL), formerly known as Fiat Group Automobiles India Private Limited, was formed in the year 2012, as a fully owned direct subsidiary of FCA Spa Italy. The new company was established for production of cars and engine under the brand Fiat, Abarth and Jeep. It is reportedly the ninth largest Indian car manufacturer by sales in India.

Following is an extract of promotional material and sales offer of our FIAT PUNTO EVO model in India, as available on our website [www.fiat-india.com](http://www.fiat-india.com), clearly evidencing use of our Framed Fiat logo –



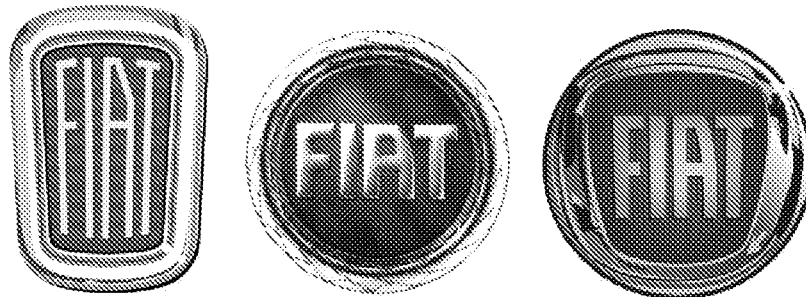
#### Other activities under our Fiat name and brand in India:

In India, FCA is actively engaged in a program to improve hygiene conditions at schools located in Shirur (Pune), not far from the Ranjangaon area where is located the Fiat India Automobiles Private Limited (FIAPL) plant that produces several vehicles including the Jeep Compass, Fiat Urban Cross, Fiat Punto and the Fiat Linea. This initiative, from 2014 to date, has assisted 144 schools and more than 18,700 students through the provision of adequate sanitation facilities and the delivery of health and hygiene awareness programs. FIAPL employees are engaged in site identification, evaluation of needs, feasibility studies, execution and final handover of the facility to schools.

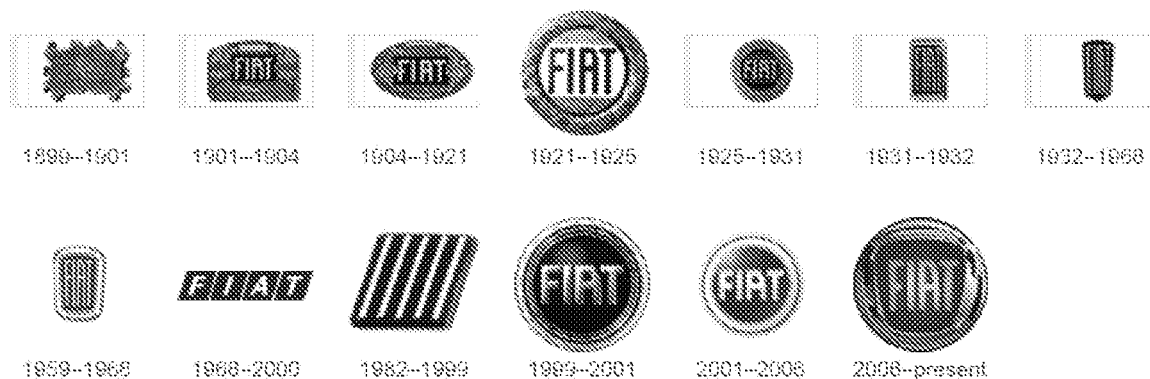
*(Hereinafter for the sake of convenience, the expressions “the Opponent”, “we”, “us”, “our”, and all cognate expressions thereto shall commonly refer to the Opponent FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A., as also its predecessors, parent, associates, licensees, subsidiary companies, joint ventures and other affiliations under the umbrella of the Fiat Group).*

2. We have been using our distinctive, over a century old trademark **FIAT**, in the form of **highly stylised artistically rendered logos and labels** for our goods, extensively and continuously, for decades.

Besides our primary trademark/house mark **FIAT**, we have also designed and adopted *inter alia* the following **original and distinctive logos/labels** several decades back, in relation to **automobiles**, and all related goods and services, including sponsorships and promotion, on a global scale –



A time-line of adoption of our various **FIAT logos** easily accessible on the Internet, is presented below:



Our framed **FIAT logo** has been in use in India since at least as early as 1999. (Our framed *FIAT* logo trademarks are hereinafter also referred to as our “*FIAT logo trademarks*”).

Our framed **FIAT logo** trademarks have been used in relation to **automobiles and related merchandise and services, including business promotion activities, for several decades**, with sales in nearly all countries and regions of the world, as a result of which **our said trademarks enjoy a world-wide reputation and goodwill**.



Information about our company, our trademarks and associated goods and services are easily viewable on our global websites [www.fiat.com](http://www.fiat.com); [www.fcagroup.com](http://www.fcagroup.com) and our several country-specific websites including [www.fiat.com.cn](http://www.fiat.com.cn) and [www.fiat-india.com](http://www.fiat-india.com)

[We crave leave to submit details and documents supporting the history of our FIAT brand, global presence and commercial information, in the later stages of the proceeding.]





3. Our **framed FIAT logo** trademarks are among the most recognised trademarks in the world and have been **registered and/or applied for registration in 100+ countries, for automobiles, accessories and parts, under Class 12.**

The countries in which our **framed Fiat logo** trademarks are registered include **China** and **India**, and the brief details of the registrations in the two countries are provided below:

#### China

Mark	Application Date	Application Number	Class	Current Status
	28/03/2002	3128207	12	Registered
	20/11/2006	24301-D/2006 IR 916980	12	Registered

#### India

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	Image
141789E	12	FIAT ( DE OF CIRCLE) ( LABEL)	1371	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.	VIA NIZZA 250, 10126 TORINO, ITALY.	Registered	
APPLICATION DATE : 31/01/2006 GOODS/SERVICES : VEHICLES; APPARATUS FOR LOCOMOTION BY LAND, AIR OR WATER. Vienna Code(s) : 010523, 270524							USER DATE : 31/12/1999
1826612	12	FIAT (COLOUR DEV.) (LABEL)	1401	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.	VIA NIZZA 250, 10126 TORINO, ITALY.	Registered	
APPLICATION DATE : 30/11/2007 GOODS/SERVICES : MOTOR LAND VEHICLES; BODIES ENGINES, MOTORS, CLUTCHES, BRAKES AND BRAKING APPARATUS, SAFETY BELTS, ALL FOR MOTOR LAND VEHICLES; PARTS AND FITTING FOR ALL THE AFORESAID GOODS, TRACTORS. Vienna Code(s) :							USER DATE :
1724297	12	FIAT PROFESSIONAL	1431	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.	VIA NIZZA 250, 10126 TORINO, ITALY.	Registered	
APPLICATION DATE : 22/08/2008 GOODS/SERVICES : VEHICLES; APPARATUS FOR LOCOMOTION BY LAND, AIR OR WATER. Vienna Code(s) : 260116, 240115, 260418							USER DATE :
2265351	12	FIAT (DEVICE)	1667	FIAT GROUP MARKETING & CORPORATE COMMUNICATION S.P.A.	VIA NIZZA 250, 10126 TORINO, ITALY.	Registered	
APPLICATION DATE : 12/01/2012 GOODS/SERVICES : BICYCLES AND THEIR PARTS. Vienna Code(s) : 270517, 290101, 290106, 260116, 270524							USER DATE :

*(We crave leave to submit details and documents related to our world wide registrations for our FIAT trademarks in the later stages of the proceeding.)*

4. On account of prior adoption, long use and wide publicity, extensive world-wide sales, **our framed FIAT logo trademarks** have acquired enviable goodwill and reputation and are exclusively associated with us and none else.

The reputation of **our FIAT trademarks** have percolated into India much before use commenced in India. Further, owing to extensive and continuous use of the marks in India for several years and expensive and voluminous advertisement and promotional campaigns, our **FIAT trademarks** and logo variants have acquired tremendous reputation in India as well.

Such is the reputation of **our FIAT trademarks** and logo variants that use by any entity, of any identical or near-identical and/or deceptively similar mark on any product or service, would lead people to believe that such product and/or service is associated with us to the exclusion of all others.

Our **FIAT trademark and logo variants** are thus, “well-known” within the meaning of **Art. 6-bis of the Paris Convention and Section 2(1)(zg) of the Trade Marks Act, 1999** (*hereinafter, also referred to as “the Act”*) and is entitled to protection as such under Section 11 of the Act. We have been vigilant in protecting our **FIAT trademarks** and enforcing our rights in our **logo variants** against all forms of infringement/dilution and has taken, and continue to take, suitable actions for protection of our marks before the appropriate *fora* in various countries, including in India.


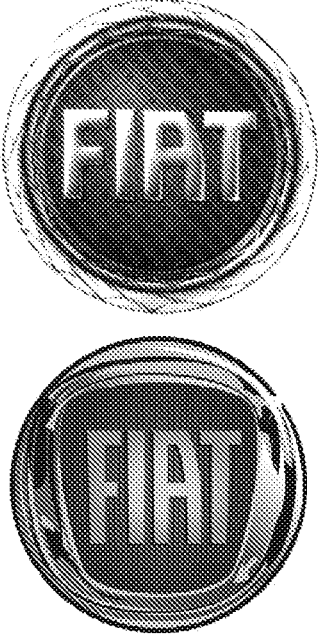
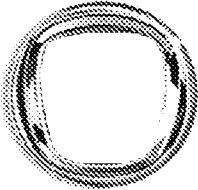
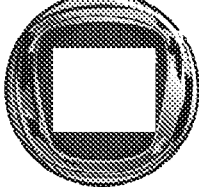


5. The impugned trademark is **(Framed Horse device – label)** under **IRDI – 3865334 dated 26/03/2018 [International Registration No. 1406563]**, *in respect of* “Electric vehicles; automobile chassis; hub caps; vehicle running boards; ski carriers for cars; automobiles; automobile bodies; bumpers for automobiles; spare wheel covers; hubs for vehicle wheels.”, in **Class 12**. The advertised mark is “*proposed to be used*”.

6. The advertised mark **comprises a frame device with dotted background which identical to the frame and dotted background of Opponent’s well-known FIAT Logo**, and has been filed for the same goods as those of Opponent’s long time business interest and as **registered under Opponent’s aforesaid mark in India and China**.

It is obvious that the advertised mark has been **deliberately adopted by the Applicant with the identical design elements of Opponent’s long used and highly distinctive framed FIAT logo, in bad faith**, in full knowledge of Opponent’s proprietary rights and reputation.

Comparison of the **frame and background in the advertised mark** and Opponent’s **well-known Framed FIAT logos**, leaves little doubt about the Applicant’s *mala fide* intent in adopting the impugned mark for identical goods-

Applicant’s Mark	Opponent’s Framed FIAT logo trademarks
	
Applicant’s “Frame”	Opponent’s “Frame”
	

The Applicant has deliberately placed on the identical frame and background on our **FIAT logo**, a **“rearing horse”** device, which is deceptively similar to the well-known insignia of another globally reputed automobile manufacturer from Italy “Ferrari SpA”, which also has presence *inter alia* in India and China.

Thus, Applicant has, without doubt, adopted the deceptively similar advertised trademark, in bad faith, to ride on the reputation of Opponent's well-known **FIAT logo** and that of Ferrari's Rearing Horse logo, by confusing consumers and members of trade into assuming that goods under the advertised mark are in some way associated/affiliated with Opponent and Ferrari and/or promoted by Opponent and Ferrari in some manner, or is a "co-branding" of two well-known historical brands, thereby enabling the Applicant to perpetrate a fraud on the public and trade.

The Applicant cannot have any justification for adopting the impugned mark which is deceptively similar to Opponent's **Framed FIAT logos** adopted and used for



decades globally, and at least since 2006 in its present form globally, and for the same goods as those of Opponent's business interest; hence adoption of the impugned mark is *ab initio, mala fide* and is solely intended to deceive the relevant consumers and members of trade.

Opponent has been directly present in China since at least as early as 2010, and in India since at least 1997. Framed versions of FIAT logo very close to its present form have been adopted and used by the Opponent since the 1950s. The current **Framed FIAT logo** has been adopted and used extensively across the globe including in China and India, since 2006, at least.

Applicant cannot deny knowledge of the tremendous international and trans-border reputation and goodwill attached to Opponent's distinctive marks. Hence, Applicant has clearly adopted and applied for registration of the deceptively similar impugned trade mark in India, with a deliberate intention to trade upon the overwhelming reputation enjoyed by Opponent in the **FIAT marks**, globally and in both countries.

If the advertised mark is allowed to proceed to registration, the tremendous goodwill, reputation and distinctiveness of Opponent's **framed FIAT logo trademark** which is inextricably associated with the Opponent's Group of companies and joint ventures, will be irreparably damaged and/or diluted and the registrations of Opponent's **Framed FIAT logo marks** will be rendered futile.

Further, considering the nature of goods claimed under the advertised mark, allowing the advertised, completely imitative, mark to proceed to registration, would be contrary to public interest.

7. The advertised mark being of such nature that will deceive the public or cause confusion the advertised mark should be refused registration under 'Absolute grounds for refusal of registration' under **Section 9(2)(a)** of the Act.

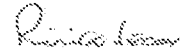
The advertised mark, for being near-identical to our prior adopted and extensively used mark, should also be refused registration under 'Relative grounds for refusal of registration' **under Sections 11(1), 11(2), 11(3) and 11(10)** of the Act.

8. Our **Framed FIAT logo marks** are well known and entitled to protection under law against identical and/or deceptively similar trade marks even in respect of dissimilar goods/services. In the instant case, as the device in the advertised mark is identical to our well-known registered **Framed FIAT logo marks**, the Applicant does not appear to have come with clean hands in seeking registration of the impugned mark. As such, the application is to be regarded as made in “bad faith”. The impugned mark, thus violates the provision of **Section 11(10)** of the Act and is not entitled to registration. Further, use of impugned mark by the Applicant is an infringement of our registered **Framed FIAT logo marks** and would also be prohibited under **Section 29** of the Act, and erroneous acceptance should be withdrawn under **Section 19** of the Act.
9. The advertised mark has been filed on the basis of “*proposed to be used*”, and any subsequent use of the advertised trademark would be *mala fide* from the very inception; hence the Applicant is not entitled to claim any relief under **Section 12** of the Act. The applicant is also not entitled to claim proprietorship of the advertised mark under **Section 18 (1)** of the Act for the reasons aforesaid
10. The advertised mark may also be refused registration by the Registrar in exercise of his discretion under **Section 18(4)** of the Act and in order to protect public interest and to maintain the purity of the Register.
11. In the light of all the foregoing arguments and submissions, we request the Hon’ble Tribunal to refuse registration of the advertised mark **under Sections 9, 11, 18, 19** of the Act, deny any benefit under **Section 12** of the Act, and prohibit from registration under **Section 29** of the Act.
12. We crave leave to add and /or to amend / modify / alter any information / factual data provided in the foregoing paragraphs of this Notice of Opposition at later stages of the instant Opposition proceeding.
13. We therefore pray:
  - i) That this opposition be allowed;
  - ii) The advertised mark under **IRDI – 3865334 [International Registration No. 1406563] in Class 12** be refused registration;
  - iii) Costs of the proceedings be awarded to our Company.



All communications in relation to these proceedings may be sent to the following address in India:-

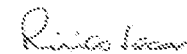
D.P. AHUJA & CO,  
14/2 Palm Avenue, Calcutta 700 019  
Dated this 30<sup>th</sup> day of October, 2018

  
Rinita Sircar  
of D. P. Ahuja & Co.  
Authorised Attorneys of the  
Opponents

**VERIFICATION**

I, Rinita Sircar, of 14/2 Palm Avenue, Calcutta 700019, on behalf of the Opponents do hereby verify that the statements made in paragraphs 1 to 4 of the Notice of Opposition are based upon information received from the Opponent which I believe are true and correct and, those made in paragraph 5 are as per the Journal advertisement, those made in Paragraphs 6 to 11 contain statements and submissions based on law and/or the official record which I verify are true and correct, 12 is by way of general submission and paragraph 13 is by way of prayer.

Dated this 30<sup>th</sup> day of October, 2018

  
Rinita Sircar

To:

The Registrar of Trade Marks

The Office of the Trade Marks Registry **IR DIVISION, MUMBAI**

**“EXHIBIT A”**

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Trade Marks Journal No: 1856 , 02/07/2018

Class 12

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3865334 26/03/2018

[International Registration No. : 1406563]

LANDTOURER AUTOMOBILE CO., LTD

No. 1 Yuanquan Road, Shangran Economic & Technological Development Zone Jiangxi Province China

**Proposed to be Used**

**IR DIVISION**

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.