

1 services, using the name TATA, in approximately 240 countries and territories around the  
2 world. Tata has a history of almost 34 years in telecommunication service. Globally, Tata is  
3 the No. 1 international wholesale voice provider and in India it is the No. 1 service provider  
4 of international long distance, enterprise data, and Internet services. In 1995, Tata was the  
5 pioneer of India's first Internet service.

6 9. Tata's telecommunications goods and services further include transmission, IP,  
7 converged voice, mobility, managed network connectivity, hosting and storage, managed  
8 security, managed collaboration, and business transformation for global enterprises and  
9 service providers, as well as calling plans, calling cards, WiFi, VOIP, Internet, retail  
10 broadband, and content services.

11 10. Tata's telecommunications services further offer one of the most advanced and  
12 largest submarine cable networks, a Tier-1 IP network, with connectivity to more than 200  
13 countries across 400 PoPs (points of presence), and nearly 1 million square feet of data center  
14 and collocation space worldwide.

15 11. And Tata's emerging market goods and services include a national fiber  
16 backbone network and network access in over 60 cities and 125 PoPs in India, strategic  
17 investments in South African converged services operators, offerings in Sri Lanka and Nepal,  
18 and, subject to fulfillment of conditions precedent, a 50% ownership in China Enterprise  
19 Communications providing full country VPN coverage in China.

20 12. Tata further provides and markets its telecommunications goods and services  
21 through an extensive Internet presence, including [www.tatacommunications.com](http://www.tatacommunications.com),  
22 [www.tatateleservices.com](http://www.tatateleservices.com), [www.tcs.com](http://www.tcs.com), and [www.tataindicom.com](http://www.tataindicom.com).

23 **B. TATA'S TELECOMMUNICATION SERVICES IN THE U.S. AND NORTH**  
24 **AMERICA**

25 13. Tata opened its first U.S. office in 1945. In 2004, Tata was awarded  
26 International Section 214 authorization to operate in the United States as an international  
27 telecommunications carrier.

1 14. In 1968 Tata Consultancy Services launched as India's first software services  
2 company. Tata Consultancy Services is India's first and largest software research and  
3 development center and software exporter. Tata Consultancy Services has a global presence  
4 with operations in 42 countries, 138 offices, 140,000 employees, and 96 Global Solution  
5 Centers.

6 15. Tata Consultancy Services also provides services to all aspects of the  
7 telecommunications industry, from wireless and wired telecommunication providers, to cable  
8 and satellite companies, to hi-tech and media businesses. Tata Consultancy Services'  
9 offerings assist Tata's clients by helping them create, deliver, and manage innovative  
10 products and services faster, at lower cost, and with reduced risk.

11 16. In 1971, Tata Consultancy Services began providing services to U.S. customers,  
12 and in 1979, by opening its New York office, Tata Consultancy Services became the first  
13 Indian technology firm to open a North American office. By 2000 Tata Consultancy  
14 Services had expanded its operations and opened its first office in Toronto, Canada. Since  
15 then, Tata Consultancy Services' North American operations have grown to include more  
16 than 43 offices and facilities with more than 15,000 employees in North America.

17 17. Recently, in March of 2008, Tata Consultancy Services' Seven Hills Park  
18 Domestic Delivery Center, the largest Tata Consultancy Services facility in North America  
19 and third North American Innovation Lab, opened outside of Cincinnati, Ohio. This facility  
20 will eventually house over 1,000 Tata Consultancy Services associates, servicing customers  
21 throughout the U.S. and playing a critical role in Tata Consultancy Services' Global Network  
22 Delivery Model.

23 18. Tata Consultancy Services' telecommunications business is a highly recognized  
24 brand in North America and is regularly featured in the market research and analysis reports  
25 of Forrester, Gartner, and other third party market analysts.

26 19. Tata Consultancy Services has long-term agreements and information  
27 technology outsourcing contracts with major business enterprises in North America,

1 including in banking and finance, telecom, insurance, retail, pharmaceuticals and healthcare,  
 2 manufacturing, transport, engineering, media, and entertainment, which provide Tata  
 3 Consultancy Services with annual revenues ranging from \$2-250 million for applications  
 4 development, maintenance, software license, consulting, and other services. Currently, Tata  
 5 Consultancy Services offers a full range of telecommunications, information technology, and  
 6 information technology-enabled services to several Fortune 500 companies

7 20. In the last fiscal year, Tata Consultancy Services recorded revenue of  
 8 approximately 6 billion dollars. More than 50% of this revenue came from services offered  
 9 in North America. Additionally, the North American business is a significant portion of Tata  
 10 Consultancy Services' approximately 1 billion dollars in annual revenue for  
 11 telecommunications services.

12 **C. THE TATA NAMES AND MARKS**

13 21. Tata owns numerous trademarks throughout the world, which it has continuously  
 14 used to identify its vast array of goods and services. Tata has owned and used its U.S.  
 15 federally-registered TATA trademarks and applications since before Plaintiffs' use of the  
 16 TATA marks. The current Tata United States trademark registrations and applications  
 17 include:

MARK	REGISTRATION/APPL'N. NO.
TATA T (and Design)	Reg. No. 2,929,070
TATA	Reg. No. 789,432
TATA CONSULTANCY SERVICES (Stylized)	Reg. No. 2,814,916
TATA CONSULTANCY SERVICES (Stylized)	Reg. No. 2,824,913
TATA T (and Design)	Appl. No. 77/037369
TATA	Appl. No. 77/024615
TATA NANO	Appl. No. 77/368944

TATA COMMUNICATIONS	Appl. No. 77/389690
TATA TECHNOLOGIES BETTER & BETTER	Appl. No. 77/702983
T TATA	Appl. No. 77/389677
A TATA ENTERPRISE	Appl. No. 77/117361

The above-listed registrations and applications are valid, in force and effect, and constitute evidence of Tata's exclusive right to use these trademarks for the related goods and services.

These registrations and applications are incorporated herein by reference.

22. Specifically, Registration No. 2,929,070 grants Tata the exclusive right to the TATA mark in connection with, *inter alia*, "telecommunications, software, computers, computer system hardware, network hardware, and information technology." Moreover, Registration No. 2,824,913 grants Tata the exclusive right to the TATA mark in connection with, *inter alia*, "telecommunications."

23. In addition to the foregoing, for well over a hundred years, Tata has adopted and intends to continue adopting numerous other TATA-based brand and corporate names for use with its wide range of products and services. Included in such use are the following:

Tata Communications	Tata Teleservices Limited
Tata Communications Internet Services Limited	Tata Indicom
Tata Consultancy Services Limited	Tata Nano
Tata Steel Limited	Tata Sponge Iron Limited
Tata Industries Limited	Tata Metaliks Limited
Tata Johnson Controls Automotive Systems Limited	Tata Motors Limited

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Tata Advanced Materials Limited	Tata Refractories Limited
Tata Auto Plastic Systems Private Limited	Tata Toyo Radiators Limited
Tata Yazaki Autocomp Private Limited	Tata Cummins Limited
Tata Ficosa Automotive Systems Private Limited	Tata Ceramics Limited
Tata Tea Limited	Tata Power Limited
Tata AutoComp Systems Limited	Tata Projects Limited
Tata Securities Limited	Tata Elxsi (India) Limited
Tata Projects Limited	Tata Technologies Limited
Tata Chemicals Limited	Tata Interactive Systems
Tata Capital Limited	Tata AIG Life Insurance Company Limited
Tata Sky Limited	Tata Coffee Limited

24. The wide range of products and services offered under the TATA-based trade names and house marks described above include:

- (1) Tata Consultancy Services, India's pioneer in information technology services and one of the fastest growing consultancy firms in the United States, offering a wide range of strategy consulting and system integration services to help organizations architect and build their businesses in such diverse industries as telecommunications, banking, financial, transportation, healthcare, and utilities;
- (2) Tata Motors, offering automobiles such as the Jaguar and Land Rover throughout the United States and the Tata Nano – also known as “The People’s Car” – an

1 economical and environmentally friendly car aimed at reducing congestion and  
2 pollution;

3 (3) Tata Ceramics Limited, an exporter of fine china to numerous countries, including  
4 the United States, Australia, Germany, Korea, New Zealand, and the United Kingdom;  
5 and

6 (4) Various joint ventures with leading companies, such as Tata AIG General Insurance  
7 Company Limited and Tata AIG Life Insurance Company Limited (with American  
8 International Group), Tata Sky Limited (with News Corporation), Tata McGraw-Hill  
9 Publishing Company (with McGraw-Hill Publishing), and Tata BP Solar (with the  
10 U.S.-headquartered BP Solar).

11 **D. TATA'S NAMES AND MARKS ARE WELL KNOWN AND FAMOUS**

12 25. As a consequence of the extensive sales, advertising, and marketing activities by  
13 Tata over decades of widespread use, the above trade names, services marks, and trademarks  
14 (collectively, the "TATA Names and Marks") have become well known and famous  
15 throughout the world to identify the wide range of goods and services of Tata, including in  
16 the field of telecommunications. Consumers all across the globe associate and identify  
17 "TATA" and the "TATA" prefix with Tata as the source of its various products and services.  
18 As a result, the TATA Names and Marks have become valuable assets to Tata and the  
19 principal symbols of its extensive goodwill.

20 26. The fame and renown of the TATA Names and Marks have been recognized the  
21 world over. The Encyclopedia Britannica notes that "by the late 1950's, Tata controlled  
22 among its interests not only textiles, steel and electronic power but also agricultural  
23 equipment, trucks, locomotives, diesel trucks, chemicals, cement, vegetable oils, soap and  
24 toilet products, insurance, radios and industrial investment." Further examples of the fame of  
25 the TATA Names and Marks include India's issuance in 1965 of a commemorative stamp  
26 recognizing a Tata founding family member, and a statement issued by the Prime Minister of  
27 India in 1998 recognizing that the founder of Tata "brought in the concept of 'brand name' in

1 the Indian mindset and the very word 'Tata' inspired confidence in any product or service  
2 offered to the consumer." In 2009, Forbes magazine reported that Tata was ranked the  
3 world's 11<sup>th</sup> most reputed company by the Reputation Institute.

4 27. Numerous magazines and newspapers around the world have devoted countless  
5 articles to Tata, including *The New York Times*, *The Economist*, *Financial Times*, *Business*  
6 *Barons*, *Forbes Global & Business Finance*, and *Business Week*. Even 60 years ago, the  
7 fame of Tata was recognized through the publication of an especially dedicated edition of  
8 Fortune magazine, dated January 1944.

9 28. Tata was named "Best Wholesale Carrier" at the World Communications  
10 Awards in 2006 and "Best Pan-Asian Wholesale Provider" at the 2006 and 2007 Capacity  
11 Magazine Global Wholesale Telecommunications Awards, and was awarded "Best Progress  
12 in Emerging Markets" at the 2008 Mobile Communication Awards.

13 29. Analysts have likewise recognized the fame and dominance of the services  
14 provided under the TATA Names and Marks, including the following:

15 "Many of the world's leading telecommunications service providers have engaged  
16 TCS [Tata Consultancy Services] for its Global Delivery Model for IT and  
17 Engineering. TCS helps these companies address their business and technology  
18 challenges with regard to adoption of new wave technologies e.g. Next Generation  
19 Networks, convergence, and triple play. TCS also helps service providers manage  
20 coexistence of legacy systems in a cost-effective manner and improve operational  
21 efficiency through off-shoring."

19 **Declan Lonergan, Director Wireless Research EMEA, Yankee Group**

21 "TCS' backing from the Tata Group (in particular the affiliations with VSNL and  
22 Tata Teleservices) combined with its global delivery capabilities and track record  
23 gives TCS a strong position to compete in both the UK and European telecoms  
24 markets."

23 **Pete Foster, Associate Consultant, PAC**

25 "TCS' level of expertise in the Telecom domain along with its vast skills in various  
26 technologies, project management and consulting leaves me confident that TCS can  
27 provide services that not only provide value for money, but also innovation and  
28 added value to the customer."

27 **Julia Reichhart, Consultant, PAC**

1 "The growth of companies such as TCS and other off-shore players in the software  
2 development and services markets bring a fresh and positive aspect to the emerging  
3 ICT services industry. The work done to support many telco's development activities  
4 will now begin to move across into other verticals. Combine this with the other  
strengths in the Tata group, such as VSNL, and a very powerful Indian-based  
conglomerate in the IT services market emerges."

5 **Chris Lewis, Enterprise Practice Leader, Ovum**

6 **E. MR. SINGH AND TATA TELECOM'S INFRINGING AND IMPOPER USE OF  
7 THE TATA NAMES AND MARKS**

8 30. . On information and belief, Mr. Singh, on behalf of TATA Telecom, obtained a  
9 registration for the domain name www.tata-telecom.com through the registrar eNom, Inc.  
10 ("eNom") on May 2, 2003. By including the word TATA, this domain name wholly  
11 incorporates the world-famous TATA Names and Marks, adding only a generic term –  
12 Telecom – which merely indicates the type of goods and services. The only distinctive  
13 portion of the domain name. "Tata," is identical in sight and sound to the world-famous  
14 TATA Names and Marks.

15 31. The scope of actual and likely confusion in the minds of the relevant group of  
16 consumers posed by Plaintiffs' website is further enhanced because, on information and  
17 belief, TATA Telecom markets goods and services also offered by Tata and markets its  
18 goods and services through similar channels of trade and to similar customers as Tata.  
19 Indeed, Tata first became aware of Plaintiffs' use of the TATA name in 2008 when it was  
20 contacted by an existing customer who had been approached by Plaintiffs and had been  
21 confused by the similarity of Plaintiffs' trade name with that of Tata's.

22 32. On information and belief, Mr. Singh incorporated his company, in Canada, on  
23 May 8, 2006, as Toronto Asia Tele Access Telecom Inc. having in mind that the acronym of  
24 this company – "TATA" – would be identical in sight and sound to the world-famous TATA  
25 Names and Marks. To further free ride off of the valuable reputation and goodwill associated  
26 with the TATA Names and Marks, in 2008, Mr. Singh, on information and belief, began  
27 using the name TATA Telecom.

1 33. Tata is informed and believes, and thereon alleges, that Plaintiffs used in  
2 commerce the TATA Names and Marks only after Tata began using in interstate commerce  
3 the TATA Names and Marks and only after they had become famous.

4 **F. WIPO'S DECISION TO TRANSFER TATA-TELECOM.COM TO TATA**

5 34. On May 21, 2009, Tata filed a complaint with the World Intellectual Property  
6 Organization (WIPO) Arbitration and Mediation Center, seeking transfer of the domain name  
7 www.tata-telecom.com from Plaintiffs to Tata.

8 35. On September 1, 2009, a three member panel of the WIPO Arbitration and  
9 Mediation Center issued a Uniform Domain Name Dispute Resolution Policy decision  
10 requiring Plaintiffs to transfer the domain name www.tata-telecom.com to Tata. The WIPO  
11 Panel found, among other things, the following: (1) Plaintiffs' use of the domain name  
12 www.tata-telecom.com was confusingly similar to the TATA Names and Marks; (2)  
13 Plaintiffs had no legitimate interest in using the TATA Names and Marks in their domain  
14 name; (3) and that Plaintiffs made use of the TATA Names and Marks in bad faith,  
15 attempting to attract Internet users to their website by creating a likelihood of confusion with  
16 the TATA Names and Marks as to the source, sponsorship, or affiliation of the Plaintiffs'  
17 products and services.

18 36. Relevant portions of the September 1, 2009 WIPO decision are as follows:

- 19 • "The Panel finds that the Complainant beyond question has established rights in  
20 the TATA trademark. The Respondent's arguments to the contrary are without  
21 merit.
- 22 • "The addition of the descriptive term 'telecom' does not dispel such confusingly  
23 similarity, as many of the Tata Group companies use Tata as the initial word in  
24 their business or trade names – i.e., Tata Communications, Tata Teleservices,  
25 Tata Steel, Tata Tea, and so forth.

- 1 • “When the disputed domain name was registered in May 2003, the Tata Group  
2 was already a major conglomerate which was widely known not only in India  
3 but in other areas of the world.
- 4 • “To the contrary, based on the totality of circumstances in the record as  
5 described above, it is a virtually inescapable conclusion that the Respondent was  
6 aware of the Complainant when registering the disputed domain name.
- 7 • “Given the strength and reputation of the Complainant’s TATA mark, the Panel  
8 is of the view that the Respondent adopted the disputed domain name with the  
9 intent of creating a likelihood of confusion with the Complainant’s well known  
10 mark as to the source, sponsorship, affiliation or endorsement of the  
11 Respondent’s website and services.”

12 **FIRST COUNTERCLAIM**

13 **(Infringement of Federally-Registered Trademarks)**

14 [15 U.S.C. § 1114]

15 37. Tata hereby repeats and re-alleges each and every allegation set forth in the  
16 preceding paragraphs 1 through 36, inclusive, as if fully set forth herein.

17 38. Tata owns and has used its federally-registered TATA trademarks with respect  
18 to a wide range of goods and services.

19 39. Upon information and belief, Plaintiffs have used the TATA Names and Marks  
20 in commerce on or in connection with Plaintiffs’ goods and/or services, which has caused  
21 and is likely to continue to cause confusion, mistake, and deception among consumers and  
22 the public as to the source, origin, sponsorship, affiliation, and/or quality of Plaintiffs’  
23 purported goods and/or services, thereby causing loss, damage, and injury to Tata and to the  
24 purchasing public. Plaintiffs knew or, in the exercise of reasonable care, should have known  
25 that their conduct was likely to so mislead the public.

1 40. Tata is informed and believes, and thereon alleges, that Plaintiffs' violations of  
2 Tata's federally-registered trademarks have been knowing, deliberate, willful, intended to  
3 cause mistake and to deceive, and in disregard of Tata's rights.

4 41. As a direct and proximate result of Plaintiffs' violations of Tata's federally-  
5 registered trademarks, Tata has suffered damages in an amount to be proven. Pursuant to  
6 15 U.S.C. § 1117, Tata is further entitled to enhanced damages and attorneys' fees and costs.

7 42. As a direct and proximate result of Plaintiffs' violations of Tata's federally-  
8 registered trademarks, Plaintiffs have been unjustly enriched. Accordingly, Tata is entitled to  
9 recover restitution for Plaintiffs' unjust enrichment in an amount to be proven.

10 43. As a direct and proximate result of Plaintiffs' infringement of Tata's federally-  
11 registered trademarks, Tata has suffered and will continue to suffer great and irreparable  
12 harm. Tata's remedy at law is not by itself adequate to compensate Tata for the ongoing  
13 harm inflicted by Plaintiffs. Tata thus seeks preliminary and permanent injunctive relief  
14 under RCW § 7.40.020 and 15 U.S.C. § 1114.

15 **SECOND COUNTERCLAIM**

16 **(False Designation of Origin & False Description)**

17 **[15 U.S.C. § 1125(a)]**

18 44. Tata hereby repeats and re-alleges each and every allegation set forth in the  
19 preceding paragraphs 1 through 43, inclusive, as if fully set forth herein.

20 45. Tata is informed and believes, and thereon alleges, that Plaintiffs' illegitimate  
21 use of the TATA Names and Marks is likely to cause confusion, or to cause mistake, or to  
22 deceive consumers as to the affiliation, connection, or association of Plaintiffs with Tata, or  
23 as to the origin, sponsorship, or approval of Plaintiffs' goods, services, or commercial  
24 activities by Tata, and that such use is likely to confuse or mislead the public into believing  
25 that Plaintiffs are the source or sponsor of Tata's products and services. Tata is informed and  
26 believes, and thereon alleges, that such likely confusion will cause Tata to lose customers and  
27 business due to this likely consumer confusion intentionally or negligently caused by

1 Plaintiffs, thereby causing loss, damage, and injury to Tata and the purchasing public.  
2 Plaintiffs knew, or by the exercise of reasonable care should have known, that their conduct  
3 was likely to so mislead the public.

4 46. Tata is informed and believes, and thereon alleges, that because consumers are  
5 likely to be confused in the future between Tata's legitimate business and Plaintiffs'  
6 illegitimate use of the TATA Names and Marks, Tata's customers and prospective customers  
7 are likely to visit [www.tata-telecom.com](http://www.tata-telecom.com) by mistake when looking for Tata's websites,  
8 products, and services.

9 47. The foregoing actions of Plaintiffs constitute false designation of origin and false  
10 description in violation of Tata's rights under Section 43 of the Lanham Act, 15 U.S.C.  
11 § 1125, and, on information and belief, have been knowing, deliberate, willful, intended to  
12 cause confusion and mistake and to deceive, and in disregard of Tata's rights.

13 48. As a direct and proximate result of Plaintiffs' false designation of origin and  
14 false description in violation of 15 U.S.C. § 1125, Tata has suffered damages in an amount to  
15 be proven. Pursuant to 15 U.S.C. § 1117, Tata is further entitled to enhanced damages and  
16 attorneys' fees and costs.

17 49. As a direct and proximate result of Plaintiffs' false designation of origin and  
18 false description in violation of 15 U.S.C. § 1125, Plaintiffs have been unjustly enriched.  
19 Accordingly, Tata is entitled to recover restitution for Plaintiffs' unjust enrichment in an  
20 amount to be proven.

21 50. As a direct and proximate result of Plaintiffs' false designation of origin and  
22 false description in violation of 15 U.S.C. § 1125, Tata has suffered and will continue to  
23 suffer great and irreparable harm. Tata's remedy at law is not by itself adequate to  
24 compensate Tata for the ongoing harm inflicted by Plaintiffs. Tata thus seeks preliminary  
25 and permanent injunctive relief under RCW § 7.40.020 and 15 U.S.C. § 1125.

1 **THIRD COUNTERCLAIM**

2 **(Federal Cyberpiracy)**

3 **[15 U.S.C. § 1125(d)]**

4 51. Tata hereby repeats and re-alleges each and every allegation set forth in the  
5 preceding paragraphs 1 through 50, inclusive, as if fully set forth herein.

6 52. By registering and/or using the domain name www.tata-telecom.com, which is  
7 closely similar to the TATA Names and Marks, Plaintiffs have demonstrated a bad faith  
8 intent to profit from the TATA Names and Marks, and have registered, trafficked in, and  
9 used a domain name that is identical or confusingly similar to the TATA Names and Marks.  
10 Plaintiffs are thus engaging in cyberpiracy in violation of 15 U.S.C. § 1125(d).

11 53. Upon information and belief, Plaintiffs have used the TATA Names and Marks  
12 as part of Plaintiffs' domain name with actual knowledge of the TATA Names and Marks,  
13 with the intent to cause confusion, and in bad faith.

14 54. Tata has no adequate remedy at law to address Plaintiffs' cyberpiracy. Tata has  
15 been, and absent injunctive relief, will continue to be, irreparably harmed by Plaintiffs'  
16 actions.

17 55. Tata is entitled to have Plaintiffs immediately cease using the domain name  
18 www.tata-telecom.com and transfer registration of the domain name (and any other similar  
19 domain names) to Tata, pursuant to 15 U.S.C. § 1125(d). Tata thus seeks preliminary and  
20 permanent injunctive relief under RCW § 7.40.020 and 15 U.S.C. § 1125.

21 **FOURTH COUNTERCLAIM**

22 **(Violation of the Washington Consumer Protection Act)**

23 **[Chapter 19.86 RCW]**

24 56. Tata hereby repeats and re-alleges each and every allegation set forth in the  
25 preceding paragraphs 1 through 55, inclusive, as if fully set forth herein.

26 57. Plaintiffs' wrongful acts constitute unfair methods of competition and unfair and  
27 deceptive acts and practices occurring in commerce, in violation of the Washington

1 Consumer Protection Act, chapter 19.86 RCW. Plaintiffs' wrongful acts have caused and are  
2 likely to continue to cause confusion, mistake, and deception among consumers and the  
3 public, including existing and potential Tata customers, as to the source, origin, sponsorship,  
4 affiliation, and/or quality of Plaintiffs' purported goods and/or services, thereby both  
5 impacting the public interest and injuring Tata's business and reputation.

6 58. As a direct and proximate result of the foregoing alleged actions of Plaintiffs,  
7 Plaintiffs have been unjustly enriched and Tata has been injured and damaged in an amount  
8 to be proven. Unless the foregoing alleged actions of Plaintiffs are enjoined, Tata will  
9 continue to suffer injury and damage. Tata should be awarded preliminary and permanent  
10 injunctive relief, treble damages, and costs, including reasonable attorneys' fees, under  
11 RCW § 19.86.090 and RCW § 7.40.020.

12 **FIFTH COUNTERCLAIM**

13 **(Violation of Common Law Trademark and Trade Name Rights)**

14 59. Tata hereby repeats and re-alleges each and every allegation set forth in the  
15 preceding paragraphs 1 through 58, inclusive, as if fully set forth herein.

16 60. Tata owns and has valid common law trademark rights in its TATA Names and  
17 Marks with respect to a wide range of goods and services.

18 61. Plaintiffs' use of the TATA Names and Marks is in violation and derogation of  
19 Tata's common law trademark rights and are likely to cause confusion, mistake, and  
20 deception among consumers and the public as to the source, origin, sponsorship, affiliation,  
21 and/or quality of Plaintiffs' purported goods and/or services, thereby causing loss, damage,  
22 and injury to Tata and to the purchasing public. Plaintiffs knew or, in the exercise of  
23 reasonable care, should have known that their conduct was likely to so mislead the public.

24 62. Tata is informed and believes, and thereon alleges, that Plaintiffs' violations of  
25 Tata's common law trademark rights have been knowing, deliberate, willful, intended to  
26 cause mistake and to deceive, and in disregard of Tata's rights.

1 63. As a direct and proximate result of Plaintiffs' violations of Tata's common law  
2 trademark rights, Tata has suffered damages in an amount to be proven.

3 64. As a direct and proximate result of Plaintiffs' violations of Tata's common law  
4 trademark rights, Plaintiffs have been unjustly enriched. Accordingly, Tata is entitled to  
5 recover restitution for Plaintiffs' unjust enrichment in an amount to be proven.

6 65. As a direct and proximate result of Plaintiffs' violations of Tata's common law  
7 trademark rights, Tata has suffered and will continue to suffer great and irreparable harm.  
8 Tata's remedy at law is not by itself adequate to compensate Tata for the harm inflicted by  
9 Plaintiffs. Tata thus seeks preliminary injunctive relief under RCW § 7.40.020 and  
10 permanent injunctive relief.

11 **SIXTH COUNTERCLAIM**  
12 **(Common Law Unfair Competition)**

13 66. Tata hereby repeats and re-alleges each and every allegation set forth in the  
14 preceding paragraphs 1 through 65, inclusive, as if fully set forth herein.

15 67. In using the TATA Names and Marks, Plaintiffs have engaged and continue to  
16 engage in unfair competition in violation of Tata's common law rights, including by causing  
17 confusion, mistake, and deception among consumers and the public as to the source, origin,  
18 sponsorship, affiliation, and/or quality of Plaintiffs' purported goods and/or services.

19 68. Plaintiffs' use of the TATA Names and Marks is in violation and derogation of  
20 Tata's rights and constitutes common law unfair competition, as set forth above. Plaintiffs  
21 knew or, in the exercise of reasonable care, should have known that their conduct was likely  
22 to mislead the public.

23 69. Tata is informed and believes, and thereon alleges, that Plaintiffs engaged in the  
24 actions set forth above with the design and purpose of causing injury to Tata's business  
25 through improper means.

1 70. As the direct and proximate result of such unlawful actions, Tata's business has  
2 been, and continues to be, disrupted, and Tata has suffered, and continues to suffer, damages  
3 in an amount to be proven.

4 71. As a direct and proximate result of Plaintiffs' unfair competition in violation of  
5 the common law, Plaintiffs have been unjustly enriched. Accordingly, Tata is entitled to  
6 recover restitution for Plaintiffs' unjust enrichment in an amount to be proven.

7 72. Moreover, because of Plaintiffs' conduct, Tata is suffering irreparable harm for  
8 which money damages would be inadequate, justifying preliminary injunctive relief under  
9 RCW § 7.40.020 and permanent injunctive relief.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Defendant and Counterclaimant Tata requests relief as follows:

12 1. Injunctive relief preliminarily and permanently enjoining Plaintiffs and counter-  
13 defendants Manmohan Singh Thamber and TATA Telecom and their agents, servants,  
14 employees, and attorneys, and those persons in active concert or participation with any of  
15 them who receive actual notice of the injunction, from using the "TATA" name or mark or  
16 any colorable imitations thereof, as a domain name, trademark, service mark, company name,  
17 or trade name, or as a portion of a domain name, trademark, service mark, company name, or  
18 trade name, in connection with the promotion, display, sale, or distribution of any goods or  
19 services, including, but not limited to telecommunications goods and services, and in  
20 connection with any websites, meta tags, search engines, or other Internet indexing systems;

21 2. Directing Plaintiffs and counter-defendants Manmohan Singh Thamber and  
22 TATA Telecom to deliver to the Court to be impounded during the pendency of this action  
23 and destroyed thereafter any and all infringing literature, advertising material, and other  
24 items bearing a "TATA" name or mark;

25 3. Directing Plaintiffs and counter-defendants Manmohan Singh Thamber and  
26 TATA Telecom to transfer the domain name www.tata-telecom.com to Defendant and  
27 counterclaimant Tata Sons Limited;

28 TATA SONS LIMITED'S ANSWER TO  
COMPLAINT, DEFENSES, AFFIRMATIVE  
DEFENSES, AND COUNTERCLAIMS - 22  
Case No. CV 09-01356 RSM

FENWICK & WEST LLP  
1191 SECOND AVENUE, 10<sup>TH</sup> FLOOR  
SEATTLE, WASHINGTON 98101  
telephone (206) 389-4510  
facsimile (206) 389-4511

1 4. Awarding Defendant and counterclaimant Tata Sons Limited up to three times  
2 the amount of its actual damages;

3 5. Awarding Defendant and counterclaimant Tata Sons Limited up to three times  
4 the amount of profits made by Plaintiffs and counter-defendants Manmohan Singh Thamber  
5 and TATA Telecom as a result of their unlawful conduct;

6 6. Awarding Defendant and counterclaimant Tata Sons Limited all other damages,  
7 including exemplary damages, to the fullest extent available under federal and/or state law;

8 7. Awarding Defendant and counterclaimant Tata Sons Limited its costs, including  
9 reasonable attorneys' fees, regarding this action;

10 8. Granting Defendant and counterclaimant Tata Sons Limited leave to amend  
11 these counterclaims to conform to proof later discovered, pled, or offered; and

12 9. Granting Defendant and counterclaimant Tata Sons Limited such other and  
13 further relief as the Court deems just and proper.

14  
15 RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of February, 2010.

16 **FENWICK & WEST LLP**

17  
18 By: sl Kit W. Roth

19 Kit W. Roth, WSBA No. 33059  
20 Kathryn J. Fritz (*admitted pro hac vice*)  
21 Eric J. Ball (*admitted pro hac vice*)

22 1191 Second Avenue  
23 10<sup>th</sup> Floor  
24 Seattle, WA 98101  
25 Phone: 206-389-4522  
26 Fax: 206-389-4511  
27 Email: [krwth@fenwick.com](mailto:krwth@fenwick.com)

28 Attorneys for Defendant Tata Sons Limited

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the attached Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 23<sup>rd</sup> day of February, 2010.

By: s/ Kit W. Roth  
KIT W. ROTH, WSBA No. 33059  
  
FENWICK & WEST LLP  
1191 Second Avenue  
10<sup>th</sup> Floor  
Seattle, WA 98101  
Phone: 206-389-4522  
Fax: 206-389-4511  
Email: [kroth@fenwick.com](mailto:kroth@fenwick.com)

DOCS/1:97550.7

## **Mailing Information for a Case 2:09-cv-01356-RSM**

### **Electronic Mail Notice List**

The following are those who are currently on the list to receive e-mail notices for this case.

- **Michael G Atkins**  
matkins@grahamdunn.com,sbarlow@grahamdunn.com,ddemars@grahamdunn.com
- **Eric J Ball**  
eball@fenwick.com,tchow@fenwick.com
- **Kathryn J Fritz**  
kfritz@fenwick.com,gdunlap@fenwick.com
- **Kit W Roth**  
kroth@fenwick.com,doconnor@fenwick.com

### **Manual Notice List**

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)

# EXHIBIT

## C

INTERNATIONAL SECTION 214 APPLICATION  
FCC FORM 214  
FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:

International section 214 Application

1. Applicant			
<b>Name:</b>	Tata Telecom INC	<b>Phone Number:</b>	+1 905 693 9364
<b>DBA Name:</b>		<b>Fax Number:</b>	+1 905 693 9467
<b>Street:</b>	8108 Hornby Road	<b>E-Mail:</b>	info@tata-telecom.com
<b>City:</b>	Hornby	<b>State:</b>	
<b>Country:</b>	Canada	<b>Zipcode:</b>	-
<b>Attention:</b>	Mr Manmohan s Thamber		

2. Contact

<b>Name:</b>	Mr Manmohan Singh Thamber	<b>Phone Number:</b>	+1 905 693 9364
<b>Company:</b>	Tata Telecom INC	<b>Fax Number:</b>	+1 905 693 9467
<b>Street:</b>	8108 Hornby Road Hornbey	<b>E-Mail:</b>	info@tata-telecom.com
<b>City:</b>	Ontario	<b>State:</b>	
<b>Country:</b>	Canada	<b>Zipcode:</b>	L0P - 1E0
<b>Attention:</b>	Mr Manmohan Singh Thamber	<b>Relationship:</b>	Same

3. Place of Incorporation of Applicant Canada

4. Other Company(ies) and Place(s) of Incorporation

5. Service Type(s) (check all that apply)

- Global or Limited Global Facilities-Based Authority (Section 63.18(c)(1))
- Global or Limited Global Resale Authority (Section 63.18(e)(2))
- Individual Facilities-Based Service (Section 63.18(e)(3))
- Individual Switched Resale Service (Section 63.18(e)(3))
- Individual Facilities-Based and Resale Service (Section 63.18(e)(3))
- Switched Services over Private Lines (ISR) (Section 63.16 and/or 63.18 (e)(3))
- Inmarsat and Mobile Satellite Service (Section 63.18(e)(3))
- Overseas Cable Construction (Section 63.18(c)(3))
- Individual Non-Interconnected Private Line Resale Service (Section 63.18(c)(3))
- Other (Section 63.18(e)(3))



Applicant certifies that its responses to questions 11 through 17 are true:

11. If the applicant is a foreign carrier, or is affiliated (as defined in 47 C.F.R. Section 63.09(e)) with a foreign carrier, provide in Attachment 1 the information and certifications required by Section 63.18(i) through (m).

12. Does the applicant seek authority to provide service to any destination described in paragraphs (1) through (4) of Section 63.18(j)? If yes, list those destinations in Attachment 1 as a response to question 12.  Yes  No

13. Does the applicant seek authority to provide service to any destinations other than those listed in response to question 12 where it has an affiliation with a foreign carrier? If yes, list those destinations in Attachment 1 as a response to question 13.  Yes  No

14. [Section 63.18(h)] In Attachment 2, provide the name, address, citizenship and principal business of the applicant's ten percent or greater direct and indirect shareholders or other equity holders, and identify any interlocking directorates.

15. In Attachment 2, respond to paragraphs (d), (e)(3) and (g) of Section 63.18.

16. By checking Yes, the undersigned certifies that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.  Yes  No

17. By checking Yes, the applicant certifies that it has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future.  Yes  No

**CERTIFICATION**

18. Typed Name of Person Signing (Must be a Corporate Officer) Manmohan Singh Thamber	19. Title of Person Signing Mr	
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).		
20. 1: fcc 214 attachment 1	2: fcc 214 attach 2	3:

**FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

The public reporting for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PER, Paperwork Reduction Project (3060-0686), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0686.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.**