

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

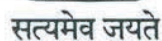
**Notice of Opposition / Application for Rectification of the Register by cancelling or varying registration of a trade mark / Counter statement / Request to refuse or invalidate a trade mark under Section 25(a),(b) of Geographical Indication of Goods (Regulation and Protection)
under the Trade Marks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

Temp Number : 11194056

REQUEST	NOTICE OF OPPOSITION
FEE	2700
APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY MAKING THE APPLICATNION/REQUEST	
Opponent Name	PHARMED LIMITED
Trading As	
Address	Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru – 560066
Service Address	Flat GB, AR Villa, 31, 3rd Main Road, Gandhi Nagar, Adyar, Chennai-600020
Mobile No	9840455047
Email address	chennai@anandandanand.com
AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONMENT/THIRD PARTY AS THE CASE MAY BE(if any)	
Agent Name	ANAND AND ANAND
Address	FLAT NO. GB, AR VILLA, 31, III MAIN ROAD, GANDHI NAGAR, ADAYAR, CHENNAI 600 020
Mobile No	9840455047
Nature of the Agent	Advocate
Registration No	41996
REQUEST OPPOSITION/APPLICATION IN THE MATTER OF	
DETAILS OF APPLICATION NUMBER	5624767
CLASS	5
REQUEST	NOTICE OF OPPOSITION
GROUND OF OPPOSITION	Grounds of opposition are attached separately
Date	29-08-2024 02:30 PM

Digitally Signed By
KRISHNAN PREMCHANDAR

for ANAND AND ANAND



Government of Karnataka

e-Stamp

Certificate No.	: IN-KA69121851669975T
Certificate Issued Date	: 02-Dec-2021 01:38 PM
Account Reference	: NONACC (FI)/ kaksfcl08/ HALASURU/ KA-BA
Unique Doc. Reference	: SUBIN-KAKAKSFCL0886709083600709T
Purchased by	: PHARMED LIMITED
Description of Document	: Article 12 Bond
Description	: AGREEMENT
Consideration Price (Rs.)	: 0 (Zero) -
First Party	: PHARMED LIMITED
Second Party	: NA
Stamp Duty Paid By	: PHARMED LIMITED
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

FORM TM-M
THE TRADE MARKS ACT, 1999
Form of Authorisation of an agent
[Section 145 and Rule 19]

We, Pharmed Limited, of the address Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru - 560 066, Karnataka, do

For PHARMED LIMITED

Director

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

hereby authorize Mr. N.K Anand, Mr. Pravin Anand, Mr. Safir Anand, Mr. K. Premchandrar, Ms. Sandhya Singh, Ms. Madhu Rewari, Ms. Swati Sharma, Mr. Revanta Mathur, Ms. Twinky Rampal, Ms. Nupur Sharma, Ms. Shivani Rampal, Ms. Chitra Subbiah, Mr. L. Ramprasad, Mr. N.C. Vishal, Ms. Pavithra Ramasundaram, Ms. Scarlet Danielle Grey, Advocates of Anand And Anand, Advocates, at Flat GA & GB, AR Villa, New No.31, 3rd Main Road, Gandhi Nagar, Adyar, Chennai – 600 020, Tamil Nadu, India to act jointly or severally as our agents for the registrations, objections, assignments, oppositions, rectifications, renewal, protection of trademark applications, registered/ seeking registration of our trademark.

All communications relating thereto may be sent to our agents at the above address. We also authorize our said agents to appoint any person or persons on our behalf to attend and conduct the cases and/ or proceedings. We hereby ratify and agree to ratify all acts and deeds done/ to be done by our said agents. We hereby revoke all previous authorization, if any in respect of all our matters.

Dated at Bengaluru on this the 16th day of February 2022

For PHARMED LIMITED



Director

Signature

The Trade Marks Registry
New Delhi/Mumbai/Kolkata/Chennai/Ahmedabad



Attorney Code: 41996
29 August 2024

Our Ref: 18943/MUM-5624767

To,
The Registrar of Trademarks,
Trademarks Registry,
Mumbai

Re: Opposition to Application No. 5624767 in Class 5, published in the Trademarks Journal No. 2154 dated 29th April 2024 at Page Number 1103, for registration of the trademark "CITRIVET" in the name of M/s. Safinvet Pharmaceutical Private Limited, of the address 131, Anand Nagar Marg Gali Number 1 Anand Nagar Dist. Khandwa MP-450001.

Dear Sir / Madam,

We act for M/s. Pharmed Limited, having address at Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru - 560 066, who is the Opponent in the captioned matter.

On behalf of our client, we are filing herewith the Notice of Opposition in Form TM-O along with requisite fee of Rs.2700/-. A copy of the Power of Attorney is enclosed herewith.

We request the Learned Registrar to take the opposition on record and proceed further in the matter.

Yours sincerely,

Pavithra. R
Managing Associate

Encl: 1. Notice of opposition
2. Copy of Power of Attorney

Flat No. GB, AR Villa
New No. 31, 3rd Main Road,
Gandhi Nagar, Adyar, Chennai 600 020 (India)

+91-44-43504228, 43504232, 45568229

chennai@anandandanand.com

REGISTERED OFFICE: B-41, Nizamuddin East, New Delhi 110 013

NOIDA | NEW DELHI | MUMBAI | CHENNAI

Fee: Rs.2700/-

Attorney Code: 41996

FORM TM-O
THE TRADEMARKS ACT, 1999
BEFORE THE REGISTRAR OF TRADEMARKS,
TRADEMARKS REGISTRY, MUMBAI
NOTICE OF OPPOSITION TO REGISTRATION OF A TRADEMARK
[Section 21 of the Trademarks Act, 1999; Rule 42 of the Trademarks Rules,
2017]

In the matter of Application No. 5624767 in Class 5 for registration of the trademark 'CITRIVET' in the name of SAFINVET PHARMACEUTICAL PRIVATE LIMITED of the address 131, Anand Nagar Marg Gali Number 1 Anand Nagar Dist. Khandwa MP-450001.

AND

In the matter of opposition filed thereto by PHARMED LIMITED, Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru - 560 066, Karnataka.

We, PHARMED LIMITED having our address presently at Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru - 560 066, Karnataka (hereinafter referred to as "the Opponent", which term shall hereinafter include our predecessors in rights, interests and title) do hereby give notice of our intention to oppose the registration of trademark CITRIVET bearing Application number: 5624767 in class 5 covering the goods "*veterinary medicines and pharmaceutical and*

medicinal preparation”, which has been advertised in the Trade Marks Journal No. 2154-0 dated 29/04/2024 at Page Number 1103.

The grounds of opposition are as follows.

BACKGROUND OF THE OPPONENT

1. The Opponent is a Limited Company incorporated in the year 1946 and engages in the marketing and sale of Pharmaceuticals and Nutraceuticals ever since 1946. The Opponent is the 56th fastest growing pharmaceutical company in India among top 100 corporates as per IQVIA MAT JULY 2024 data, in which the Opponent is ranked 51st in terms of sales value and is growing at 7.37% as compared to the Indian Pharmaceutical Market growth of 7.96%. As per C MARC, the Opponent is ranked 49th in India in terms of doctors' prescriptions as per four-monthly data from November 2023 to February 2024. For over 78 years, the main charter of the Opponent has been providing products for quality healthcare of the Indian population.
2. It is stated that the Opponent's core strength lies in identifying and creating a unique therapeutic range of products across different specialty segments and marketing them across India through medical channels like doctors, chemists, and hospitals/institutions. Today, Opponent is a name to reckon with in the fields of women's health, reproductive health, bone, orthopedic surgery and musculoskeletal health, pain management and general health and Opponent's products help people live healthier and enriched lives. The products of Opponent are scientifically marketed and promoted through their teams of Technical Sales Officers to doctors all over India and doctors in turn prescribe to their patients to provide healthcare benefits

3. The Opponent is engaged in marketing and sales of pharmaceuticals and nutraceuticals for orthopedic surgery, gynecology among others and owns and uses a large number of trademarks in the course of their business. The trademarks and brand names form the essential identity of the products marketed and sold by the Opponent. The Opponent therefore has a well-structured and refined process of conceptualizing and coining trademarks following the norms of the industry and branding practices. The Opponent expends enormous effort in the adoption of trademarks so as to communicate to and identify with the end consumers. During the course of business since 1946, the Opponent has acquired various brands based on their suitability as a part of Opponent's product range. The Annual Sales turnover and Advertisement expenses of the Opponent run over crores of rupees.

OPPONENT'S TRADEMARKS

4. In the year 1990, the Opponent bonafidely coined and conceived the trademark "CITRAVITE". At the outset, it is pertinent to mention that the trademark CITRAVITE is a coined word with no dictionary meaning. The Opponent's mark therefore has a very definite and bona fide conceptual basis, and the Opponent has coined the mark CITRAVITE with the legitimate intention of distinguishing the Opponent's products from those of others. The aforesaid coined nature and conceptual basis of the Opponent's mark also endows it with a very high degree of inherent distinctiveness which readily distinguishes the products sold under the mark from those of others. The Opponent has promoted and popularized the trademark CITRAVITE through diverse media including magazines, thereby enhancing the visibility of the reputed trademarks CITRAVITE.

These activities have generated immense recognition in the minds of the customers of our client's product range.

5. The Opponent's products bearing the CITRAVITE marks is in the Top selling brands of the Opponent in India. In due course, the Opponent also commenced the sale of other products under several CITRAVITE formative brands such as CITRAVITE XT, CITRAVITE Fizz, Citravite Z, etc. to name a few. The Opponent's products bearing the trademark CITRAVITE marks are sold throughout the length and breadth of the country. Therefore, by virtue of its bonafide adoption, continuous use, impeccable quality including the incessant promotional and publicity measures undertaken by the Opponent, the consumers and members of the trade exclusively associate the CITRAVITE trademarks with the Opponent. The Opponent' CITRAVITE marks has been extensively, widely, consistently and continuously used and promoted across the length and breadth of the country, to the extent that the same is immediately identified and associated with the Opponent herein.
6. The Opponent submits that as a result of the continuous and extensive use of the CITRAVITE trademarks, over a long period of time spanning a wide geographical area coupled with vast promotion and publicity, the said trademark enjoys an unparalleled reputation and goodwill. The Opponent has made open and honest use of the mark CITRAVITE trademarks, and the Opponent herein is also the registered proprietor of the said trademark as tabulated below and it is pertinent to mention here that the registration obtained for the said trademark is subsisting on register since 1990.

Class 5

S. No.	TM Reg. No	Mark	Status	Valid up to
1.	525338	CITRAVITE	Registered	28/02/2034

By virtue of its continuous use and impeccable quality, including the incessant promotional and publicity measures undertaken by the Opponent, the consumers and members of the trade exclusively associate the CITRAVITE trademark only with the Opponent. Thus, by virtue of continuous, extensive, and long use and wide promotion, robust economic performance, high quality products, huge clientele, etc. the CITRAVITE Trademarks are well-known as per provisions of Section 2(1) (zg) of the Trademarks Act, 1999.

THE IMPUGNED MARK

7. The present opposition is being filed against Application No. 5624767(‘impugned application’) in Class 5 for registration of the mark ‘CITRIVET’ (hereinafter referred to as the ‘impugned mark’) in respect of “veterinary medicines and pharmaceutical and medicinal preparations”.

GROUND OF OPPOSITION

8. The impugned mark CITRIVET, is virtually identical and deceptively and phonetically similar in its structural, visual, phonetic impression, bearing

identical alliterations, to the Opponent's CITRAVITE Trademarks. In fact, when the marks are considered in their entirety, the deceptive similarity becomes apparent. The Opponent thus submits that the registration of the impugned mark in the Applicant's favor would be contrary to the provisions of Section 9(1)(a) of the Trade Marks Act, 1999 ('Act') as the impugned mark is neither *prima facie* distinctive of the Applicant's goods and/or business nor has it been adopted to distinguish the Applicant's goods from those of others, in particular, from the Opponent's goods.

9. The impugned mark is confusingly and deceptively similar and virtually identical to the Opponent's prior registered CITRAVITE trademarks. The resemblance is so uncanny due to which the impugned mark is likely to be wrongly perceived as the CITRAVITE marks or, in the alternative, the impugned mark is likely to create an impression that the mark is an extension of the Opponent's product line under the CITRAVITE marks. The impugned mark is nothing but a slavish reproduction of the Opponent's mark. Even the Learned Registrar has cited the Opponent's CITRAVITE registration in the examination report rendered for the impugned mark, which confirms the similarity in the matter beyond doubt. Further the impugned mark has been applied for goods including pharmaceutical and medicinal preparations in respect of which the Opponent is a prior and long user. The impugned mark thus gives the impression that the goods traded under it have the same source as that of the Opponent's mark. In the alternative, there exists a likelihood of confusion on the part of the public, which includes likelihood of association of the impugned mark with the mark of the Opponent, since the impugned mark is highly confusingly similar to the Opponent's trademark. The registration of the impugned mark is accordingly liable to

be refused under Section 11(1) of the Trademarks Act, 1999. The said confusion would be caused as:

- (a) The impugned mark is deceptively similar to the Opponent's well-recognized and registered CITRAVITE marks and it is phonetically, virtually identical to the Opponent's mark.
- (b) The Opponent has an immense reputation in relation to a wide array of goods which are similar to the goods covered by the impugned application. In fact, the impugned application covers goods in which the Opponent is a pioneer and market leader and enjoys a prodigious reputation. Hence confusion is imminent.

10. Having regard to the fact that the Opponent's trademark enjoys vast reputation and goodwill and is acknowledged as a mark of repute due to use over several decades, the use of a similar mark for any goods by the Applicant, would lead to immense confusion and deception in the minds of the public and the trade. The said confusion or deception would be certainly caused in the instant case as:

- (a) The Opponent has made widespread use of the CITRAVITE formative marks for a long period of time and caused massive promotion of the trademark.
- (b) The impugned mark is highly confusingly similar and virtually identical to the Opponent's said trademarks.
- (c) The purchasing public will thus see and perceive the goods the impugned mark as those of CITRAVITE marks, originating from the Opponent.

11. Thus, for the aforesaid reasons' members of the public and trade would be led falsely to believe:

- a) That the impugned mark and goods offered thereunder originates from and/or has an association with the Opponent's CITRAVITE Trademarks and in turn the Opponent.
- b) That the impugned mark is a variant of the Opponent's said trademarks
- c) That the impugned mark is CITRAVITE only and that the Opponent has given a license to the Applicant for the use of the impugned mark while guaranteeing the high quality that the public is accustomed to and expects from Opponent's trademark; and
- d) That, in any event, by offering the impugned goods, the Applicant has some affiliation, sponsorship, association or nexus with the Opponent, which is not the actual case.

Thus, the use of the impugned mark for which the Applicant is seeking registration is liable to be prevented by virtue of the law of passing off and is liable to be refused registration under Section 11(3)(a) of the Act.

12. Further the trademark CITRAVITE has been in long, continuous and wide use by the Opponent for over two decades now and has attained a secondary meaning in favour of the Opponent. Hence the impugned mark will dilute the distinctive character of the Opponent's marks, erode its exclusivity and would allow the impugned mark to take unfair advantage in the reputation subsisting in the Opponent's long used famous trademarks CITRAVITE, due to which the impugned mark is contrary to provisions of Section 11(2) of the Act.

13. To the extent that the Opponent has not consented to the use of the impugned mark by the Applicant, the Applicant is not even entitled to the benefit of the provision stipulated in Section 11(4) of the Act. Further, the alleged use of the impugned mark is denied as the Applicant has not substantiated its alleged use vide cogent documentary evidences under Rule 25 of the Trademarks Rules, 2017. In any case the adoption of the impugned mark by the Applicant is not bonafide, as there cannot be a sheer coincidence for the Applicant to adopt a mark so confusingly similar or rather virtually identical to the opponent's renowned mark. In these circumstances, there cannot be any possibility of concurrent and honest adoption. Even the Learned Registrar has cited the Opponent's registration as a prior mark as mentioned above and in its reply to examination report, the Applicant has failed to deal with the Opponent's registration deliberately. The Applicant is thus not even entitled to seek registration or protection of the impugned mark under Section 12 of the Trademarks Act of 1999.

14. It is submitted that the Opponent has used the CITRAVITE marks for decades and has extensively and widely promoted the same by virtue of which these marks have acquired a tremendous reputation in the market in its favour. Claiming to be in a similar industry as the Opponent, the Applicant cannot feign innocence, and the Applicant ought to have been aware of the Opponent's CITRAVITE marks and the prodigious reputation and goodwill the Opponent enjoys thereunder. Thus, the impugned mark has been deliberately adopted to come as close as possible to the Opponent's said trademarks with an intention to ride on the hard-earned reputation of the Opponent in their CITRAVITE marks. In any case, the Applicant had admitted knowledge of the Opponent's mark CITRAVITE and its registration in the Opponent's name, when the said registration was cited in

the examination report rendered for the impugned application. Despite this, the Applicant has proceeded to prosecute the impugned application. The Applicant's claim to proprietorship in filing the impugned application is false. Accordingly, the registration of the impugned mark is likely to be contrary to the provisions of Section 18 of the Act.

15. The Opponent is the registered proprietor of the CITRAVITE mark in India as set out in the preceding paragraphs of the Notice of Opposition and the impugned mark being a slavish copy of the Opponent's trademark is to be hit by infringement and falsification. Therefore, the impugned mark is liable to be hit by Sections 29, 102 and 103 of the Trademarks Act, 1999.
16. In summary, the registration of the impugned mark is contrary to the provisions of Section 9(1)(a), 11(1), 11(3) (a), 11(4), 11(10), 12, 18 & 29, 102 and 103 of the Trademarks Act, 1999. The Opponent craves leave to modify, amend to and/or add to or alter any of the foregoing grounds and reasons.

PRAYER

17. The Opponent therefore prays that in view of the above premises:
 - a) This Notice of Opposition be allowed.
 - b) The Application No. 5624767 in class 5 for registration of the mark 'CITRIVET' be refused.
 - c) The cost of these proceedings be awarded to the Opponent.

All communications in respect of the above proceedings may be sent to the following address in India:

Anand and Anand
Flat GB, AR Villa, New No.31,
Old No.13,3rd Main Road, Gandhi Nagar,
Adyar, Chennai- 600020.
Email : Chennai@anandandanand.com
Mobile: 9840455047

Dated this 29th day of August 2024.

For PHARMED LTD.

(By Their Advocate)



Anand And Anand

To,
The Registrar of Trademarks
Trademarks Registry, Mumbai

VERIFICATION

I, Noshir B Shroff, Authorized Signatory of the Opponent herein do hereby verify the above contents as being true to best of my knowledge, information and belief. Paragraph 17 is the prayer before this tribunal.

Verified this on the 29th day of August 2024

For PHARMED LIMITED


Authorised Signatory

Noshir B Shroff
Authorized Signatory
Pharmed Limited