

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 : 10537277

REQUEST	COUNTER STATEMENT
FEE	2700
APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY MAKING THE APPLICATNION/REQUEST	
Applicant Name	ECSO GLOBAL PRIVATE LIMITED
Trading As	
Address	5th Floor, Plot No-68, Sector-44, Gurugram-122003
Service Address	A-51, Abul Fazal Enclave, Jamia Nagar, Okhla New Delhi - 110025
Mobile No	
Email address	
AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONMENT/THIRD PARTY AS THE CASE MAY BE(if any)	
Agent Name	NISHCHAL ANAND
Address	C-15, Sector 44, Noida - 201301, Uttar Pradesh
Mobile No	9911150016
Nature of the Agent	Attorney
Registration No	25350
REQUEST OPPOSITION/APPLICATION IN THE MATTER OF	
DETAILS OF COUNTER STATEMENT FOR OPPOSITION NUMBER	1278073
CLASS	44
REQUEST	COUNTER STATEMENT
REPLY TO OPPOSITION/RE CTIFICATION	Detailed counter statement is attached separately
Date	20-04-2024 06:50 PM

Digitally Signed By
SHAHZEB AHMED

for SHAHZEB AHMED

FORM TM-O
THE TRADE MARKS ACT, 1999

BEFORE THE REGISTRAR OF TRADE MARKS,
TRADE MARK REGISTRY, DELHI

COUNTER – STATEMENT

Opposition / Rectification No.: 1278073

Application No.: 6040766 in Class 44

In the matter of Application No. 6070515 in Class 38 for registration of the trademark “Absolute“ in the name of ECSO Global Pvt. Ltd., having its address at 5th Floor, Plot No. 68, Sector 44, Gurugram – 122003

AND

In the matter of Opposition filed by Pharmed Limited, having its address at Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru, Karnataka – 560 066

INTRODUCTION

1. We, **ECSO Global Pvt. Ltd.**, a company incorporated under the Companies Act, 2013 having its registered office at 4th Floor, B-Wing, Statesman House, Barakhamba Road, New Delhi – 110 001 and corporate office at 5th Floor, Plot No. 68, Sector 44, Gurugram – 122003 are the Applicant for registration of the trade mark ‘**Absolute Biosciences**’ bearing **Application No. 6040766 in Class 44** in respect of “*Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services; Cultivation advisory services relating to agriculture; Rental of equipment for agriculture, aquaculture, horticulture and forestry; Providing information about agriculture, horticulture, and forestry services; Consultancy relating to agriculture, horticulture and forestry; Providing online information about agriculture, horticulture, and forestry services; Consultancy and advisory services relating to agriculture, horticulture and forestry; Information services relating to the use of chemicals used in*

agriculture; Information services relating to the use of fertilisers used in agriculture; Information services relating to the use of manures used in agriculture; Providing information relating to vermin exterminating for agriculture, horticulture or forestry; Agriculture, horticulture and forestry services relating to the recultivation of industrial wastelands; Advisory and consultancy services relating to the use of fertilizers in agriculture, horticulture and forestry; Advisory and consultancy services relating to weed, pest and vermin control in agriculture, horticulture and forestry; Advisory and consultancy services relating to the use of manure in agriculture, horticulture and forestry; Advisory and consultancy services relating to the use of non-chemical treatments for sustainable agriculture and horticulture; Agricultural services relating to environmental conservation; Farming (animals); Farming (crops); Fish farming services; Livestock farming services”

2. The present **Opposition No. 1278073** (**‘Opposition’**) has been filed against the said Application by **M/s. Pharmed Limited** (hereinafter referred to as **‘the Opponent’**).
3. At the outset, the Applicant denies categorically each and every averment, allegation and contention as made out by the Opponent in the Opposition, save and except matters of record and as specifically admitted herein below. The Applicant craves leave of the Ld. Registrar to deal specifically and individually with the averments, allegations and contentions as contained in the Opposition.

PRELIMINARY OBJECTIONS

4. The present Opposition filed by the Opponent is frivolous, without any merit and is liable to be dismissed outrightly with costs.
5. The entire Opposition is based on the sole premise that the Applicant’s trade mark ‘Absolute Biosciences’ (hereinafter referred to as the **‘Mark’**) is deceptively similar and is likely to cause confusion to the Opponent’s trade mark ‘Absolut’ and other formative marks being Absolut 3g, Absolut Syrup, Absolut Woman, etc., all of which have been registered only under Class 5. It is submitted that this fundamental ground of opposition to the Mark under Class 35 is false, and without any substance.

6. At the very outset, it is submitted that the Mark is inherently unique and distinctive in nature. It is submitted that the Mark is visually and conceptually completely different from the Opponent's mark. Most importantly, the Mark is not identical or similar to earlier trade marks, including the trade marks of the Opponent, with respect to identical or similar description of goods or services. It is submitted that the words forming the Mark – 'Absolute' and 'Biosciences' when seen individually as well as together would be arbitrary to the goods/services applied for under Class 35.
7. It is submitted that the Mark is exclusive to the Applicant with respect of the services provided by the Applicant, and is purely arbitrary to the services that the Mark has been applied for under Class 35. Since the Opponent does not provide or even claims to provide any of the services mentioned in Class 35, therefore, the grounds of Opposition are completely baseless and unsubstantiated.
8. It is apparent that the Opponent, without any application of mind and without appreciating the applicable law on the subject, has filed 24 different notices of opposition to various trade mark applications filed by the Applicant under different classes (such as Class 31, 35, 36, 41. Etc.) even though the Opponent admittedly does not carry out any business or provides any services relatable to the business or services of the Applicant. It is apparent that the present Opposition is nothing but a part of the Opponent's strategy to squat on the Mark and prevent the Applicant from legitimately using the Mark, which is purely distinctive, and a coined and arbitrary mark in respect of all the classes it has sought registration of the Mark.
9. The aforesaid is evident from the following list, which captures the various oppositions filed by the Opponent without any basis or substance:

S. No.	Trade Mark	Application No.	Class	Opposition No.
1.	Absolute	6070514	36	1278013

2.	Absolute Biosciences	6040763	35	1277968
3.	Absolute Biosciences	6040760	5	1277966
4.	Absolute Planet	6041479	42	1278015
5.	Absolute Planet	6041478	41	1278014
6.	Absolute Planet	6041474	5	1278074
7.	Absolute	6070513	35	1278012
8.	Absolute	6070515	38	1277963
9.	Absolute Biosciences	6040766	44	1278073
10.	Absolute Planet	6041477	35	1278077
11.	Absolute Planet	6041476	31	1278076
12.	Absolute Planet	6041475	9	1278075
13.	Absolute Bio	6039945	31	1279721
14.	Absolute Bio	6039942	1	1279723
15.	One by Absolute	6040593	1	1266554
16.	Thrust by Absolute	6042790	9	1266559
17.	Thrust by Absolute	6042790	9	1266559
18.	Thrust by Absolute	6042789	5	1266558
19.	One by Absolute	6040595	9	1266556
20.	Thrust by Absolute	6141800	10	1286271
21.	Absolute	6070512	31	1291528
22.	Absolute Ag	6042757	5	1275337
23.	Absolute One	6040811	5	1289159
24.	Absolute	6070510	5	1289462

10. Paragraph 6 of the Opposition establishes beyond doubt that the Opponent has no prior right in Class 44 in which the Applicant has sought

registration of the Mark. The Opposition is based only on the registration of the Opponent's trade marks under Class 5, where also the nature and scope of services provided by the Applicant are completely distinct from that of the Opponent. There is clearly no overlap in the nature of services provided by the parties, and therefore, there is no likelihood of confusion in the market or amongst the consumers.

11. The aforesaid objections are just a brief overview of the fallacies in the Opposition, and the Applicant reserves its right to make detailed submissions with supporting case law at the appropriate stage. It is submitted that in view of the objections stated above, the Opposition is without any merit and deserves to be rejected at the threshold.

PRELIMINARY SUBMISSIONS




12. The Applicant was incorporated on 15th June 2016 and is a leading bioscience company leveraging the best of nature, science and exponential innovations to build a better future for the people and the planet. The Applicant currently operates across 16+ countries and has launched various goods and services under multiple brands in these countries.
13. The Applicant provides a plethora of goods and services pertaining to the entire life cycle of a crop, *inter alia*, identifying over 63 crop variants and their ideal harvesting environments, and providing farmers with the knowledge – base to utilize drastically lower percentages of the resources used in traditional farms. The bouquet of goods and services offered by the Applicant also includes developing one of the world's first and largest nature intelligence platforms, which constitutes one of the world's largest microbial, secondary metabolite, signaling molecules and other advanced bio control and stimulating agent libraries, all of which power the Applicant's Ag cloud platform & global trade platform. Under the Applicant's umbrella of goods and services, everything pertaining to each step-in agriculture, i.e., from the seed to the market, is covered.


14. The Applicant has an indomitable online presence through their websites <https://www.absolute.ag/>, <https://www.xenesis.bio/> and <https://www.inera.ag/> as well as social media platforms such as its:
 - a. Facebook Page: <https://www.facebook.com/goabsolute1>
 - b. Instagram Page: <https://www.instagram.com/goabsolute/>
 - c. Twitter Page: https://twitter.com/go_absolute/
 - d. LinkedIn Page: <https://www.linkedin.com/company/goabsolute/>

15. Furthermore, the Applicant has launched mobile applications under the various marks, which have been downloaded by over 100K+ users.

16. The Applicant's goods and services since its inception, have been reported by third party websites, online journals, newspapers, publications, video interviews etc., which ensures that the Applicant's customers all over the country and globally have access to the information regarding the headway made by the Applicant in the business. An indicative list of the third-party reporting is given below:
 - a. Your Story: <https://yourstory.com/2022/06/turning-point-entrepreneur-bioscience-startup-absolute-agriculture>
 - b. ENTRACKR: <https://entrackr.com/2022/05/absolute-raises-100-mn-sequoia-awi-tiger-global-records-rs-28-cr-revenue-in-fy21/>
 - c. The Hindu: <https://www.thehindubusinessline.com/economy/agri-business/absolute-launches-diy-crop-insurance-digifasal/article66179424.ece>
 - d. Peak xv partners: <https://www.peakxv.com/article/absolute-sowing-the-seeds-of-sustainable-scalable-agriculture/>
 - e. Silicon Start Up City: <https://startup.siliconindia.com/vendor/absolute-paving-a-new-wave-of-green-revolution-for-the-world-cid-19221.html>
 - f. Krishi Jagran: <https://krishijagran.com/industry-news/absolute-showcases-its-bioscience-innovations-at-pm-kisan-samman-sammelan-2022/>
 - g. World Economic Forum: <https://www.weforum.org/agenda/2023/01/bioscience-agriculture-agtech-davos2023/>
 - h. The Week: <https://www.theweek.in/wireupdates/business/2023/02/22/dcm65-absolute.html>

17. The Applicant has registration for its device marks for ‘Absolute’, the details of which are as under:

Trademark	App. no.	Class	Status
	5346780	31	Registered
	4097363	31	Registered
	4097364	31	Registered

	4525487	31	Registered
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18. Further, it is submitted that the Mark – ‘Absolute Biosciences’ uses the house mark of the Applicant viz. ‘Absolute’, and in addition to the Mark, the Applicant has applied for registration various trademarks used by it containing the word ‘Absolute’ either as a suffix or prefix, or as part of the slogans and taglines used by the Applicant. The Applicant seeks leave to refer to and rely upon the non-exhaustive list of all such applications filed by the Applicant.
19. The following marks of the Applicant having the house mark as an essential feature have already been accepted by the Ld. Registry:

Application Number	Trademark	Status
Absolute Ag	6042760	Accepted
Absolute Bio	6039946	Accepted
One by Absolute	6040597	Accepted
Thrust by Absolute	6042792	Accepted

20. It is submitted that the house mark of the Applicant has garnered immense reputation and has acquired distinctiveness. Due to its usage, the house

mark has come to be identified and associated by the consumers only with the Applicant.

21. Therefore, it submitted that not only is the Mark inherently distinctive but due to the extensive use of the Mark across industries; vigilance in protection of the Mark; and the Applicant's commitment towards and association with the Mark establishes that the Mark is distinct, and there is no likelihood of confusion or deception in the minds of the average consumer, especially in the context of the Opponent's marks that anyway operate in different segments/industry/markets.

GROUND FOR REJECTION OF THE OPPOSITION

22. **There is no visual, structural, conceptual, or other similarity between the marks**

- (a) It is submitted that Opponent's Mark is phonetically, visually, phonetically, structurally and conceptually different from the Mark. Thus, the Mark is neither identical nor similar to the Opponent's Mark. Therefore, the registration of the Mark cannot be refused on the basis of the Opponent's Mark.
- (b) The Mark and the Opponent's Marks, when seen as a whole are distinct from each other. In *Corn Products v. Shangrila Food Products Ltd. (AIR 1960 SC 142)*, the Hon'ble Supreme Court held that it is well recognized that in deciding a question of similarity between two marks, the marks have to be considered as a whole.
- (c) It is submitted that the Opponent has only made bare averments with respect to the same, without showing any actual similarity in the marks or even the likelihood of any confusion due to such similarity.
- (d) Lastly, while examining the Application, the Trademarks Registry in its own wisdom did not cite the Opponent's Mark as a conflicting mark. This by itself makes it evident that the Mark is no way similar or causes any confusion with that the Opponent's mark.

23. There is no overlap in the goods offered under the marks of the Opponent and the goods offered by Applicant.

- (a) Without prejudice to the above, it is submitted that there is no overlap in the goods and services of the Opponent and the Applicant. As it is evident from the Opposition, the Opponent is in the business of marketing and sale of pharmaceuticals and nutraceuticals.
- (b) On the other hand, the Applicant *inter alia* carries on business of relating to various aspects of plant bioscience like phytology, microbiology, omics, molecular, epigenetics, AI, global trade of food products such as fruits & vegetables, cereals, pulses, and other agricultural commodities involving both procurement, trade and entire supply chain and tech enabled agronomy services including IOT devices, soil testing, monitoring of crop health, farm data analytics, advisory services to farmers, controlled atmosphere services and sale and purchase of various products from farmer under its SaaS platform. The Opponent, in no manner, provides any goods or services relating to marketing, advertisement or promotion in the same or similar businesses of the Applicant. Thus, without prejudice to the fact that the marks are not similar, evidently, there is no overlap in the goods/services offered by Opponent and the goods/services offered by the Applicant.
- (c) The Hon'ble Supreme Court in the case of ***Nandini Deluxe v. Karnataka Cooperative Milk Producers Federation Limited, (2018) 9 SCC 183***, held that “*the proprietor of a trademark could not enjoy monopoly over the entire class of goods and particularly when he was not using the said trademark in respect of certain goods falling under the same class.*” The Hon'ble Supreme Court further held that even otherwise similar trademarks can coexist within the same class if they are used in respect of different goods/services. Thus, the Mark cannot be refused registration on the basis of the Opponent.

24. **Different channels of trade and class of consumers**

- (a) It is pertinent to point out that the customer base of the Opponent is distinct from the customer base of the Applicant. The customers of the Applicant's goods, constitute an extremely discerning class of consumers who can easily distinguish between the various goods and brands. Therefore, there is no likelihood of confusion between the Mark and the Opponent's Marks.
- (b) As stated above, the Applicant is an innovative bioscience company building an AI driven adaptive platform for precision agriculture helping horticulture growers radically transform yields, grade and nutritional value of produce. Providing various agriculture-based and bioengineering products, services and research facilities to consumers whereas the Opponent is in the business of pharmaceuticals and nutraceuticals under the Opponent's Marks. Thus, there are no common users of the goods of the Applicant and the Opponent.
- (c) Further, it is submitted that any person of ordinary prudence can easily identify and judge between the goods of the Opponent and the goods of the Applicant. In support of the above-mentioned submissions, that the Applicant relies on the decision of the Hon'ble Supreme Court of India in ***Khoday Distilleries Limited v. The Scotch Whisky Association (Appeal (Civil) No. 4179 of 2008)***, where it has applied the principles laid down in the US decision of ***E.I. DuPont DeNemours & Co. [476 F.2d 1357]***:

"In Application of E.I. DuPont DeNemours & Co. [476 F.2d 1357], it was stated: The ultimate question of the likelihood of consumer confusion has been termed a question of fact. Coca-Cola Company v. Snow Crest Beverages, Inc., 162 F.2d 280 (1st Cir. 1947), cert. den. 332 U.S. 809, 68 S.Ct. 110, 92 L.Ed. 386 (1947). If labeled a mixed question or one of law, it is necessarily drawn from the probative facts in evidence. As so often said, each case must be decided on its own facts. There is no litmus rule which can provide a ready guide to all cases. In testing for

likelihood of confusion under Sec. 2(d), therefore, the following, when of record, must be considered:

1. **The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.**
2. **The similarity or dissimilarity of and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use.**
3. **The similarity or dissimilarity of established, likely-to-continue trade channels.**
4. **The conditions under which and buyers to whom sales are made, i.e., "impulse" vs. careful, sophisticated purchasing.**
5. The fame of the prior mark (sales, advertising, length of use).
6. The number and nature of similar marks in use on similar goods.
7. **The nature and extent of any actual confusion.**
8. The length of time during and conditions under which there has been concurrent use without evidence of actual confusion.
9. The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark).
10. The market interface between applicant and the owner of a prior mark:
 - (a) a mere "consent" to register or use.
 - (b) agreement provisions designed to preclude confusion, i.e. limitations on continued use of the marks by each party.
 - (c) assignment of mark, application, registration and good will of the related business.
 - (d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion.
11. **The extent to which applicant has a right to exclude others from use of its mark on its goods.**
12. **The extent of potential confusion, i.e., whether de minimis or substantial.**
13. Any other established fact probative of the effect of use.

...But then we are concerned with the class of buyer who supposed to know the value of money, the quality and content of Scotch Whisky. They are supposed to be aware of the difference of the process of manufacture, the place of manufacture and their origin.”
[Emphasis supplied]

- (d) The Opponent has failed to bring to bring out any similarity in either the consumers or channels of trade of the Applicant and the Opponent.
- (e) It is pertinent to point out that the Opponent has failed to furnish any proof of actual confusion between the Mark and Opponent's mark even though there has been concurrent existence of the Applicant and the Opponent.

25. That the present proceeding reflects the *mala fide* attempt of the Opponent to squat over the rights of the Applicant

- (a) The Opposition upon perusal is devoid of any merit and rather reveals the mala fide of the Opponent to squat over the rights of the Applicant. The entire basis of the Opposition is false, frivolous, baseless and lacks any merit. It is pertinent to note that the entire Opposition rests on the sole ground that the Applicant cannot use the Mark since the Opponent wants to gain monopoly over the Class. However, the said ground is misconceived and legally untenable as a trademark should be seen as a whole when compared with another trademark, and it is abundantly clear that there is no phonetic or aural similarity between the marks.
- (b) It was well within the knowledge of the Opponent the activities and users of both the entities are different and there is no instance of actual confusion. However, despite being conscious of such material facts and peaceful co-existence, the Opponent preferred to initiate the present proceeding with a *mala fide* to preclude the Applicant from claiming its statutory rights.
- (c) The Opposition is motivated by an intention to stall the registration of the Mark and create a monopoly in the market. The Opposition is

an apparent abuse and misuse of process by the Opponent. While the Opposition is replete with averments relating to the fame and reputation of the Opponent, it is woefully silent and lacking in averments relating to the merits of the matter i.e. similarity in the marks, overlap in the goods and services, similarity in channels of trade, etc. The Opponent has made bold averments to the effect that the Mark cannot be granted protection due to it being contrary to Section 11 of the Act but has failed to establish the basis of the same

PARAGRAPH-WISE REPLY

26. The contents of the Opposition shall now be dealt by the Applicant. The contents of the Opposition are hereby categorically denied unless admitted expressly and positively hereinafter. That though the contents of the Opposition have been dealt with specifically, in event of any ambiguity or vagueness the contents of the Counter Statement should be construed as a whole.
27. With reference to paragraphs 1 to 7 of the Opposition, the contents thereof are denied for want of knowledge, except what forms part of record. The Opponent is put to strict proof of the same. The contents of the paragraphs have already been dealt with in the preceding paragraphs of the Counter Statement and the same are not repeated here for the sake of brevity.
28. With reference to paragraph 8 of the Opposition, the contents thereof are denied and the Opponent is put to strict proof of the same. It is denied that the use of the Mark is bound to cause any confusion or deception in the industry, market and amongst consumers with the goods and services that the Opponent provides. The allegation of passing off is also denied.
29. With reference to paragraph 9 of the Opposition, the contents thereof are denied and the Opponent is to put to strict proof of the same. It is denied that the Opponent's mark is well-known as alleged.
30. With reference to paragraph 10 of the Opposition, the contents thereof are a matter of record.

31. With reference to paragraph 11 of the Opposition, it is denied that the registration of the Mark would be contrary to the provisions of Section 9(1)(a) of the Trade Marks Act, 1999 (**'the Act'**). It is denied that the Mark is not distinctive of the services provided by the Applicant. It is submitted that the Mark and the Opponent's mark are phonetically, visually, structurally and conceptually different. It is denied that the Application filed under Class 44 is similar to or allied to the services/business interest of the Opponent. Admittedly, the business interest of the Opponent is limited to Class 5, whereas the Application is under Class 44 and the same have no bearing on each other nor there is any overlap as suggested by the Opponent. The allegation regarding lack of distinctiveness is also denied.
32. With reference to paragraph 12 of the Opposition, it is denied that the Mark is a reproduction of the Opponent's mark as alleged. The Opponent's apprehension of likelihood of confusion, and dilution of its reputation is completely misplaced and without any substance. It is reiterated that Mark and the Opponent's mark are phonetically, visually, structurally and conceptually different. It is denied that the Application filed under Class 44 is similar to or allied to or cognate to the services/business interest of the Opponent. Admittedly, the business interest of the Opponent is limited to Class 5, whereas the Application is under Class 44 and the same have no bearing on each other nor there is any overlap as suggested by the Opponent. It is submitted that there is no likelihood of confusion or deception amongst the consumers, especially since the segment of consumes / market are completely different. It is denied that the Mark is contrary to the provisions of Section 11(1)(a) of the Act.
33. With reference to paragraph 13 of the Opposition, it is denied that the Opponent's mark enjoys vast reputation and goodwill, and that the use of the Mark is likely to cause confusion or dilution or give any undue advantage to the Applicant. It is denied that the Mark is confusingly similar to the Opponent's mark especially since the services in respect of the Mark are neither cognate or similar to that of the Opponent's mark. The allegation of the Opponent regarding Class 5 is also misplaced since the services of the Applicant are not similar to that of the Opponent. It is denied that the Mark would be detrimental to the purported distinctive reputation of the Opponent and that the same would give any advantage to

the Applicant over the Opponent. It is denied that the Mark is liable to be refused registration in terms of Section 11(2) and 11(3)(a) of the Act.

34. With reference to paragraph 14 of the Opposition, the submission of the Opponent based on Section 11(4) of the Act is misplaced. It is denied that the adoption of the Mark by the Applicant is not *bona fide* as alleged. It is denied that there is no possibility of concurrent and honest adoption as alleged by the Opponent. The contention of the Opponent regarding Section 12 of the Act is also misplaced.
35. With reference to paragraph 15 of the Opposition, it is denied that the Mark would cause an unmistakable association with the Opponent's marks leading to dilution and unfair advantage as alleged. The allegations regarding Class 5 and having knowledge of the business of the Opponent is also denied for the reasons set out earlier in this Counter Statement. It is denied that the Mark is virtually identical to that of the Opponent. The submission of the Opponent regarding Section 18 of the Act is also misplaced.
36. With reference to paragraph 16 of the Opposition, it is denied that the Mark is confusingly similar to that of the Opponent and the allegations of dilution and infringement are also denied. The submissions of the Opponent regarding Sections 29, 102 and 103 of the Act are also denied.
37. With reference to paragraph 17 of the Opposition, it is denied that the registration of the Mark would amount to contravention of Sections 9(1)(a), 11(1), 11(2), 18, 29, 102 and 103 as alleged. It is denied that use or registration of the Mark is likely to dilute the distinctiveness of the Opponent's mark and would lead to loss, injury and embarrassment as alleged. It is denied that the Opponent's mark is well-known. It is denied that the registration of the Mark is liable to be refused.
38. With reference to paragraph 18 of the Opposition, it is submitted that none of the reliefs sought in the Opposition deserve to be granted, and in fact, for the reasons set out in this Counter Statement, the Opposition deserves to be dismissed at the very outset.

39. In light of the above, the Applicant most respectfully prays that:
- a. The above Opposition No. **1278073** be dismissed;
 - b. The present application no. **6040766** of the Applicant in class **44** be ordered to be registered; and
 - c. Costs of the present proceedings be ordered against the Opponent and in favour of the Applicant.
 - d. Pass any such further order as this Hon'ble Tribunal deems fit and proper in the interest of justice and the interest of the general public at large.

All communications in the present proceedings may be addressed to the following address in India:

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Contact: +91 7506433495

Email: office@shikharkhare.in

Dated: 20.04.2024

Attorneys for the Applicant

To,
The Registrar of Trade Marks,
The Office of the Trade Marks Registry at Delhi

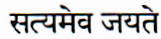
VERIFICATION:

I, **Neeraj Choudhary**, duly authorized attorney of the Applicant do hereby verify that the contents of paragraphs 01 to 38 of the Counter Statement as above are information received from the Applicant based on its company records and believed by me to be true and on legal provisions and nothing material or relevant is concealed therefrom. The contents of the last paragraph 39 of the Counter Statement are prayers to this Hon'ble Tribunal.

Verified at New Delhi on this 20.04.2024



Neeraj Choudhary
Authorized Signatory
M/s. ECSO Global Pvt. Ltd.



Government of National Capital Territory of Delhi

Certificate No.	: IN-DL76264677828379W
Certificate Issued Date	: 19-Apr-2024 06:06 PM
Account Reference	: IMPACC (IV)/ dl984903/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL76264677828379W
Purchased by	: ECSO GLOBAL PVT LTD
Description of Document	: Article 48(c) Power of attorney - GPA
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ECSO GLOBAL PVT LTD
Second Party	: Not Applicable
Stamp Duty Paid By	: ECSO GLOBAL PVT LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

FORM TM-M
TRADEMARKS ACT, 1999

We, ECSO Global Pvt. Ltd., 4th Floor, B-Wing, Statesman House, Barakhamba Road, New Delhi – 110 001, do hereby authorise Mr. Shikhar Khare (D/726/2013) and Mr. Shahzeb Ahmed (D/6048/2020), Advocates having the address at A-51, Abul Fazal Enclave, Jamia Nagar, Okhla, New Delhi 110025 to act jointly and severally as our agents for registrations,

Statutory Alert:

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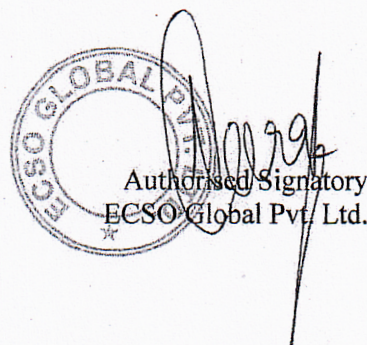
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objections, assignments, oppositions, rectifications, renewal, protection of trademark applications, and other forms relating to our trademark(s) and in all such matters where we are party or interested in the prosecution of our trademarks or with respect to any oppositions or caveats or any other action that we may choose to take against trademark applications filed by third parties. registered/seeking registration of our trademark.

All communications relating thereto maybe sent to our agents at the above address. We also authorise our 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/deeds done / to be done by our said agents.

We hereby revoke all previous authorisations, if any, in respect of all our matters.

19th April, 2024.

A circular stamp with the text "ECSO GLOBAL PVT. LTD." around the perimeter and a small star at the bottom. A handwritten signature is written over the stamp. Below the stamp, the text "Authorised Signatory" and "ECSO Global Pvt. Ltd." is printed.

Authorised Signatory
ECSO Global Pvt. Ltd.

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