

To,  
The Registrar of Trademark,  
Trademark Registry, DELHI

Date: 05/08/2024

**Sub: EVIDENCE IN SUPPORT OF OPPOSITION RULE45 (MISR45) Dated on:**  
**Ref: Oppostion/Rectification Number 1278073**

Sir,  
With reference to the above application, the point wise reply is as under: -

Reply attached separately

ANAND AND ANAND  
Attorney [41996]



**EVIDENCE BY WAY OF AFFIDAVIT IN SUPPORT OF OPPOSITION**  
**BY EMAIL/SPAD**

Attorney Code: 41996  
05 August 2024

Our Ref: 18943/DEL-1278073/6040766

To,  
The Registrar of Trade Marks,  
Trade Marks Registry,  
Delhi  
Email ID: [hodel.tmr@nic.in](mailto:hodel.tmr@nic.in)

**Re: Opposition No. DEL-1278073 against Application No. 6040766 for the mark Absolute Biosciences in class 44 in the name of M/s. ECSO GLOBAL PRIVATE LIMITED.**

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.

We are enclosing the affidavit of Mr. Noshir B Shroff along with Annexures [A to H] as Evidence by way of an affidavit in support of opposition as per Rule 45 of the Trade Marks Rules, 2017. Copies of the documents [Annexures A to H] are forwarded by CD and can also be accessed or downloaded from the following link in the email: Evidence in support of opposition - Annexures - Absolute Biosciences

We are also marking a copy of this evidence to the Applicant's Counsel.

We request the Learned Registrar to take the evidence on record and proceed with the matter.

Yours sincerely,

Pavithra. R  
Managing Associate

Copy To: NISHCHAL ANAND  
C-15, Sector 44, Noida - 201301, Uttar Pradesh  
Email ID: [nishchal@legalpanda.in](mailto:nishchal@legalpanda.in)





सत्यमेव जयते

INDIA NON JUDICIAL

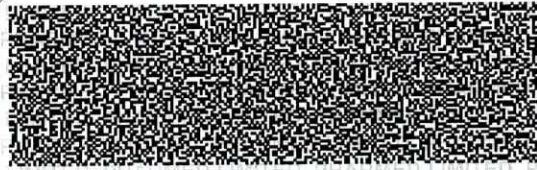
**Government of Karnataka**

Rs. 100

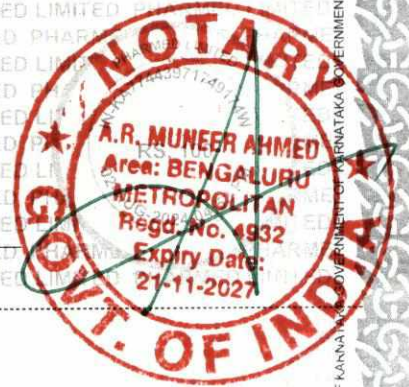
**e-Stamp**

**Certificate No.** : IN-KA77443971749174W  
**Certificate Issued Date** : 02-Aug-2024 04:52 PM  
**Account Reference** : NONACC (FI)/ kaksfcl08/ HALASURU/ KA-SV  
**Unique Doc. Reference** : SUBIN-KAKAKSFCL0807746552191416W  
**Purchased by** : PHARMED LIMITED  
**Description of Document** : Article 4 Affidavit  
**Property Description** : AFFIDAVIT  
**Consideration Price (Rs.)** : 0  
 (Zero)  
**First Party** : PHARMED LIMITED  
**Second Party** : N A  
**Stamp Duty Paid By** : PHARMED LIMITED  
**Stamp Duty Amount(Rs.)** : 100  
 (One Hundred only)

सत्यमेव जयते



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**THE TRADEMARKS ACT, 1999**  
**BEFORE THE REGISTRAR OF TRADEMARKS,**  
**TRADEMARKS REGISTRY, DELHI**  
**[Section 21(1), 64, 66, 73 of the Trademarks Act, 1999 along with Rules 45**  
**of Trademarks Rules, 2017]**

**For PHARMED LIMITED**

*[Signature]*  
**Authorised Signatory**

**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.
2. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
3. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



In the matter of Application No. 6040766 in Class 44 for registration of the trademark 'Absolute Biosciences' ('impugned mark') in the name of Ecso Global Private Limited, of the address 5<sup>th</sup> Floor, Plot No-68, Sector -44, Gurugram-122003

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.

**AFFIDAVIT FILED BY Mr. NOSHIR B. SHROFF FILED AS**  
**EVIDENCE IN SUPPORT OF OPPOSITION**

I, Noshir B. Shroff, s/o Shri Burjor D. Shroff, Authorized Signatory of the Opponent, major by age, Indian National, do hereby solemnly affirm and state as follows.

1. I am the authorized signatory of Pharmed Limited, having its address at **PHARMED LIMITED**, Sattva Mindcomp Tech Park, Ground Floor, Office 1, 149-A, EPIP II Phase, Whitefield Industrial Area, Bengaluru - 560066, Karnataka (hereinafter referred to as 'my Company'), who is the Opponent in the present proceeding, and I state that I have been associated with this Company for several years.
2. By virtue of my position, I have full and free access to all the relevant records of the Opponent and the facts and figures appearing herein below have been taken from such records and books of the Opponent, and whatever is stated herein is true to the best of my knowledge,



**For PHARMED LIMITED**

Authorised Signatory

information and belief. Copy of the authority letter in my favour is filed herewith as **Annexure A**. I have read the notice of opposition filed by the Opponent and the same may be treated as part and parcel of the present proceedings. I have also read the counterstatement and deny each and every statement, averment, allegation, contention and submission contained therein, unless specifically admitted, for the reasons more fully discussed in the following paragraphs.

3. The Opponent is a Limited Company incorporated in the year 1946 and engages in the marketing, manufacture and sale of Pharmaceuticals and Nutraceuticals ever since 1946. Copy of the incorporation certificate is filed herewith as **Annexure B**. The Opponent is the 55<sup>th</sup> fastest growing pharmaceutical company in India among top 100 corporates as per IQVIA MAT JUNE 2024 data, in which the Opponent is ranked 50<sup>th</sup> in terms of sales value and is growing at 7.78% as compared to the Indian Pharmaceutical Market growth of 7.56%. As per C MARC, the Opponent is ranked 49<sup>th</sup> in India in terms of doctors' prescriptions as per four-monthly data from November to February 2024. For over 77 years, the main charter of the Opponent has been providing products for quality healthcare of the Indian population. Copies of relevant documents and reports in support of the aforesaid statements are being filed herewith as **Annexure C**.

4. For over 77 years, the main charter of the Opponent has been providing products for quality healthcare of Indian population. 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



**For PHARMED LIMITED**

*[Signature]*  
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hospitals/institutions. Today, the Opponent is a name to reckon with in the fields of women's health, reproductive health, bone and musculoskeletal health, pain management and general health and Opponent's products help people live healthier and enriched lives. Copies of pages from the Opponent's website <https://www.pharmedlimited.com/> are filed herewith as **Annexure D**.

5. The Opponent is engaged in marketing and sales of Pharmaceuticals and Nutraceuticals and owns and uses large number of trademarks in the course of their business. The Annual Sales turnover and Advertisement expenses of the Opponent runs over crores of rupees as provided below.

6. The Opponent honestly and in a bona fide manner coined and adopted the mark "Absolut" in the year 2000 and has been continuously using the said mark to date. The Opponent markets a series of products under the mark ABSOLUT, including Absolut 3G, Absolut Woman, Absolut Dm Injection, Absolut Suspension, Absolut 369, Hereafter '*Absolut Marks*'. In 2020, the Opponent commenced the use of the Absolut mark with only A in uppercase. The Opponent's products bearing the mark "Absolut" are on high-demand in the market on account of their high quality of goods, which also played a role in the handsome and valuable sales enjoyed by the Opponent thereunder. Copies of invoices bearing the mark Absolut are filed herewith as **Annexure E**.

7. The Opponent's goods bearing the mark Absolut are marketed on a large scale and such marketing efforts have been extensive, widespread, continuous and long that the Opponent enjoys a thriving business and

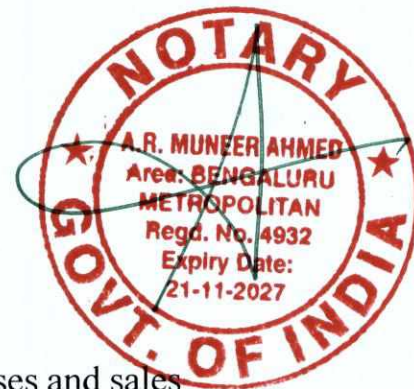
**For PHARMED LIMITED**

  
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enormous goodwill and reputation thereunder and it is one of the top selling brands of the Opponent. The trademark Absolut and its formatives has become immensely popular among the public and has received great acclaim from among members of the industry. The Opponent has expended large sums of money on publicity, advertisements and sales promotional efforts resulting in the instant popularity of goods under trademark Absolut. Copies of promotional materials in relation to the mark Absolut are filed herewith as **Annexure F**. The sales turnover of the goods under the Absolut formative marks are as below:

Absolut TURNOVER SUMMARY	
FY	VALUE (in Lacs)
2019-2020	4020.53
2020-2021	3520.07
2021-2022	4344.54
2022-2023	4699.72
2023-2024	4692.47



A copy of the CA certified statement of promotional expenses and sales revenue in relation to the mark Absolut and its formative marks are filed herewith as **Annexure G**.

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8. Further, the Opponent has been openly, continuously, and consistently using the Absolut Trademark in relation to their business for nearly two decades. The Opponent is the proprietor of the said trademark by virtue of priority in adoption, prior, continuous, and extensive use and the reputation consequently accruing thereto in the course of trade. The Opponent has exclusively used Absolut marks, so that they are uniformly perceived as indicative of the source of the Opponent. The turnover of goods for FY 2023-2024 under the Absolut marks is nearly 50 crores and there has been a consolidated turnover of over 200 crores for the past five years. Thus, on account of long, uninterrupted, continuous use and substantial, extensive promotion for over two decades, quality products and robust economic performance which is evident from its turnover, large clientele, etc., the trademark Absolut of the Opponent is a well-known mark as per provisions of Section 2(1) (zg) of the Trademarks Act, 1999. The Opponent's Absolut mark and its formatives being a well-known mark, and the Opponent being the proprietor of the said trademark, enjoys exclusive rights in the said trademark and is entitled to take action against unauthorized use thereof by third parties for any goods or services.

## 9. REPLY TO COUNTER-STATEMENT

Although no case has been made by the Applicant in its Counterstatement, for the sake of any misconception and clarification, the Opponent herewith deals with specific contents of the counterstatement as follows:

A. Paragraphs 1,2 and 3: The contents of Paragraphs 1-2 of the Counterstatement pertain to records of the Hon'ble Tribunal which does

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not merit any traverse. Paragraph 3 of the Counterstatement are nothing but blanket denials which are denied in toto, and the contents of Notice of Opposition are reiterated and reaffirmed.

B. Paragraphs 4,5,6 and 7: With reference to Paragraph 4, it is denied that the Opposition is frivolous and without any merit. The Applicant has made empty claims without any cogent supporting grounds. The remainder of the claims of the Applicant are all irrelevant as they have made submissions that the present Opposition is not maintainable as the impugned mark was filed in Class 5; whereas the present Opposition pertains to the impugned mark in Class 44. Hence such misplaced submissions merit no consideration.

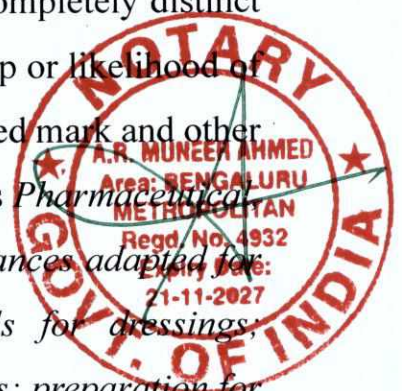
C. Paragraphs 8,9, 10 and 11: The contents of Paragraphs 8 to 11 of the Counterstatement are denied as false, untrue and legally untenable. It is preposterous for the Applicant to claim that the oppositions were filed without application of mind and the Opponent does not provide any services relatable to the Applicant's alleged business. It is also denied that the Opponent is preventing the Applicant from legitimately using its mark and the same is allegedly distinctive and coined, arbitrary and coined. Admittedly as per the own admissions of the Applicant, the Applicant has filed several Absolute marks in Class 5 in respect of goods, wherein the Opponent is a continuous and extensive user and has acquired a tremendous reputation, which is evidently reflected from the sales turnover mentioned herein. Claiming to be in the same field, under no circumstances can the Applicant feign no knowledge of the Opponent's Absolute mark and the Opponent who enjoys a prodigious reputation in the Pharma field and who has been operating in the said



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field for more than seven decades. Despite this, the Applicant has adopted a deceptively similar mark. Even as per the own admissions of the Applicant, the Absolute term is arbitrary and purely distinctive. Hence there can be no sheer coincidence for the Applicant to adopt the mark phonetically identical to the Opponent's mark. The term BIOSCIENCES in the impugned mark is a deliberate bid on part of Applicant to differentiate the impugned mark from the Opponent's mark; however, the same shall not alleviate confusion in any manner but in fact accentuates the confusion given that the term Biosciences is commonly used in the Pharma field. The Applicant has adopted the impugned mark only with an intention to cause confusion and deceive the general public with a view to capitalize on the goodwill of the Opponent in its Absolut marks. Hence the Applicant's claim that that the Oppositions have been filed against various impugned marks of Applicant, and that there is no overlap and that there are fallacies are all, concocted, malafide submissions and all the claims of the Applicant are wholly vitiated. With reference to Paragraph 9, even the Applicant has admitted to Opponent's trademarks and registrations under Class 5. However, it is vehemently denied and incorrect to state that the nature of scope of services provided by the Applicant are completely distinct from that of the Opponent and thus there is no overlap or likelihood of confusion. The Applicant has applied for the impugned mark and other Absolute marks in Class 5 in respect of goods such as *Pharmaceutical, veterinary, and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides* and the Opponent is the prior adopter, continuous and extensive user and registered proprietor in



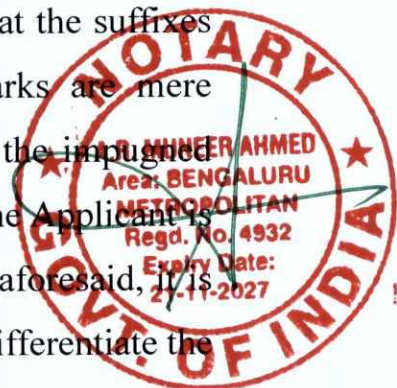
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respect of these marks. There is direct conflict of the Applicant's impugned goods with the opponent's goods, however the Applicant is blatantly making false submissions with a sole intent of misguiding the Hon'ble Tribunal.

D. Paragraphs 12,13,14,15 and 16: The contents of Paragraphs 12 to 16 of the Counterstatement are denied as tall, self-serving and self-awed claims which are all denied in toto. With reference to paragraph 13, as per the own admissions of the Applicant, the Applicant provides only services in relation to agriculture. Hence at the outset, the Applicant's claim to proprietorship of the present impugned application in Class 44 and several other classes is false and frivolous. Even the web links relied by the Applicant do not show the use of the impugned mark ABSOLUTE BIOSCIENCES but purportedly only ABSOLUTE, which is phonetically same as the Opponent's mark. On one hand, the Applicant has specifically claimed Absolute Biosciences as a whole to be different from the Opponent's Absolut marks. However, on the other hand, the Applicant does not appear to be using the impugned mark as a whole and is only using the mark ABSOLUTE in a phonetically identical manner to the Opponent's mark, which has acquired an enviable reputation. Even the Applicant has admitted that the suffixes applied by the Applicant with their ABSOLUTE marks are mere taglines and slogans. Hence the Applicant's claim that the impugned mark as a whole is different in any case not tenable as the Applicant is not using the mark as applied. Without prejudice to the aforesaid, it is reiterated that the generic term BIOSCIENCES cannot differentiate the impugned mark from that of the Opponent's mark and rather accentuates the confusion in the present matter. Even the Learned



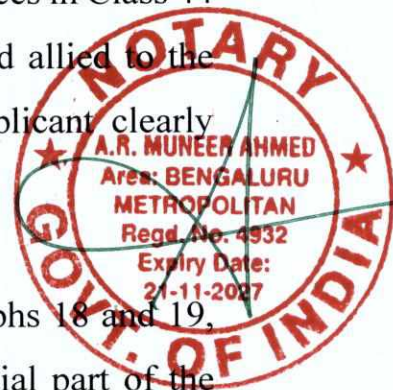
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Registrar has deemed the Applicant's ABSOLUTE marks to be similar with the Opponent's marks in the examination report rendered for its Absolute One mark and a copy of the same is enclosed as **Annexure H** which proves the similarity in the matter beyond doubt. The Applicant is called upon to substantiate all its tall claims in the corresponding paragraphs vide cogent documentary evidence furthermore in respect of the impugned mark ABSOLUTE BIOSCIENCES in specific and for the applied services falling in Class 44, failing which these submissions merit summary rejection.

E. Paragraph 17: The contents of Paragraph 17 pertain to records of Hon'ble Tribunal; however, a perusal of the Applicant's purported registrations identify that the Applicant's interest is only Agricultural goods in Class 31 and its application in all other classes are frivolous, vexatious and an abuse of law with an intention to encroach upon the rights of the Opponent. Furthermore, the impugned services in Class 44 bears medical services which are all closely related and allied to the Pharmaceutical field of the Opponent. Hence the Applicant clearly wanted to ride on the coattails of the Opponent.

F. Paragraphs 18,19,20 and 21: With reference to Paragraphs 18 and 19, as per the own admissions of the Applicant, the essential part of the impugned mark is Absolute; hence the suffixes and prefixes which are furthermore generic in nature/dictionary terms cannot invoke association of the impugned mark with the Applicant and would rather be wrongly mistaken only with the Opponent. The Opponent adopted the Absolut mark over two decades ago and has been using the same extensively and continuously and has expended enormous resources to



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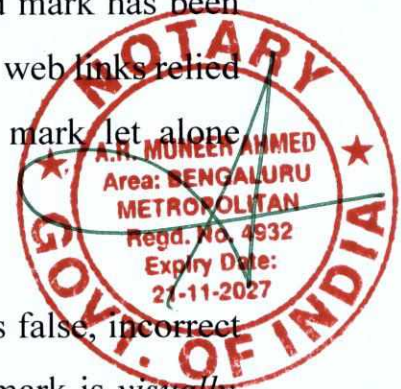


promote the said mark, due to which the Absolut marks have attained a secondary meaning in favour of the Opponent. In such a scenario, the prefixes, suffixed as relied by the Applicant cannot assist the Applicant's case. In fact, as per the own admissions, the Applicant is not using the impugned mark as a whole and the term BIOSCIENCES and other prefixes/suffixes are only used as a tagline/slogan by the Applicant. The Applicant is simply trying to claim false monopoly over various marks, even though they do not have any intention to use such marks in the manner applied. Further with reference to paragraph 19, the Applicant's reliance on acceptance of marks is feeble as the Applicant has suppressed material facts regarding the opponent's mark being cited as a prior mark and its Opposition against the Applicant and has thereby obtained acceptance. Assuming without admitting paragraph 20, it is clear that the Applicant is clandestinely trying to rely on the Absolute mark and not the present impugned mark, which has no use or reputation whatsoever. In such a case, the impugned mark which is essentially phonetically identical as the Opponent's mark for related services, would only be associated with the Opponent on account of its long and continuous use. The contents of Paragraph 21 regarding alleged use, etc are legally untenable as the impugned mark has been filed on a proposed to be used basis and even as per the web links relied by the Applicant, there is no use of the impugned mark, let alone extensive use.

- G. Paragraph 22: The contents of Paragraph are denied as false, incorrect and untrue. It is denied that the Opponent's Absolut mark is *visually, phonetically, structurally and conceptually different from the impugned mark*. The essential feature of the impugned mark is Absolute, and the

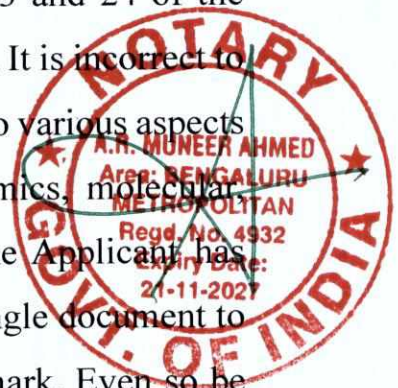
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suffix Biosciences is a commonly used term in the Pharama field. There is a striking similarity/deception involved. The Opponent has been using its Absolut marks for a long time in different formatives such as Absolut Dm, Absolut Women, etc. Even medical services are covered under the impugned mark. Hence the impugned mark would rather be associated as a variant of the Opponent's renowned Absolut mark and/or to be originating from the Opponent. Further the case cited by Applicant does not support the case of the Applicant. The Applicant cannot replicate an essential feature of the Opponent's mark affix it with a generic term and then claim that marks should be compared as a whole. Such a claim is absurd and fallacious. With reference to Paragraph d, the Applicant claims that the Opponent's mark was not cited as conflicting mark and hence there is no cause of confusion. If the Applicant's submissions were indeed true, then the Applicant's mark; Absolute One deserves summary refusal on this ground alone, as all the Opponent's registered Absolut formative marks were cited against this mark under application no. 6040811.

H. Paragraphs 23 and 24: The contents of Paragraphs 23 and 24 of the Counterstatement are concocted, untrue and fallacious. It is incorrect to state that the Applicant carries on business of relating to various aspects of plant bioscience like phytology, microbiology, omics, molecular epigenetics, AI, global trade of food, as alleged. The Applicant has relied on several web links and has not submitted a single document to prove that offers such services under the impugned mark. Even so be the case, the Applicant has overreached by claiming a myriad of services under the impugned application when it has no bonafide intention to use such services. Further the Applicant has filed



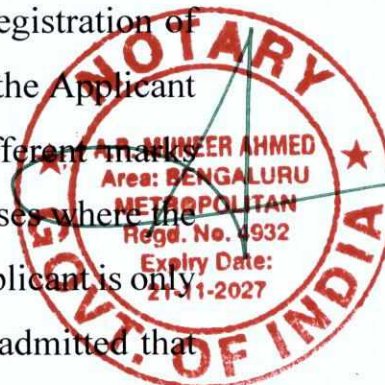
**For PHARMED LIMITED**

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applications for the same impugned mark in respect of goods/services, which has been in long and continuous use and promotion by the Opponent. The Applicant had admitted knowledge of the Opponent and its Absolut marks when the Opponent's several Absolut marks were cited against Applicant's application no.6040811. In these circumstances, the Applicant is trying to falsely portray that it renders other services in a bid to outfox its malafides. Consequently, the submissions made in furtherance of such an argument in Paragraph 23c, 24 of the Counterstatement are wholly denied as untenable and dishonest and the precedent relied by the Applicant will not be applicable in the present case. With reference to Paragraph e, the Applicant's claims of actual confusion are all untenable as likelihood of confusion is more than sufficient especially wherein the Opponent deals with pharmaceutical goods.

- I. Paragraph 25: The contents of Paragraph 25 are vehemently denied. It is denied that the Opposition is devoid of merit, false, frivolous and baseless as allegedly the Opponent is trying to squat as the Opponent is trying to gain monopoly and that there is no phonetic or aural similarity between the marks. It is denied that the Opponent was within knowledge that activities of both entities are allegedly different. The Applicant is put to strict proof of its empty claims. It is also denied that the Opposition is motivated by an intention to stall the registration of the impugned mark and create a monopoly. In fact, it is the Applicant who is trying to claim a false monopoly by filing different marks whether there is intention to use or not and in various classes where the Applicant has no presence whatsoever. Admittedly the Applicant is only dealing with agriculture field. Further the Applicant has admitted that



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all the suffixes/prefixes of Absolute marks filed, are only taglines and slogans and they are not used in the manner applied. This is also evident from the web links shared by the Applicant. Hence the Applicant's application in several classes are only an apparent abuse and misuse of process without any bonafide intention to use. The Opponent has clearly made submissions as to how the Applicant has applied for the impugned mark in respect of goods where the Opponent is a long and continuous user and how the present application will lead to an eventual false monopoly and dilution. In fact, the impugned services also bears Medical services which are related to and closely allied to the business of the Opponent. Hence the Applicant's claim that the Opposition is lacking in merits of the matter and the Opponent has failed to establish the basis of Section 11 objection are all blatantly concocted submissions merely for the sake of arguments.

J. Paragraphs 26,27,28,29 and 30: The contents of Paragraphs 26 to 30 of the Counterstatement are hollow and blanket denials and vague assertions which are denied in toto. The Opponent reiterates the contents of its Notice of Opposition and the present affidavit.

K. Paragraphs 31, 32, 33, 34, 35,36,37,38 and 39: The contents of Paragraphs 31 to 35 of the Counterstatement are repetitive, hollow denials and false submissions that are denied. It is misleading to state that there is no overlap as the Applicant has filed for the same impugned mark in Class 5 as well, wherein the Opponent is the long and extensive user and registered proprietor of the Absolut marks. With reference to Paragraphs 32 and 33, at the cost of repetition, it is denied that the impugned mark is phonetically, visually, structurally different from the



**For PHARMED LIMITED**

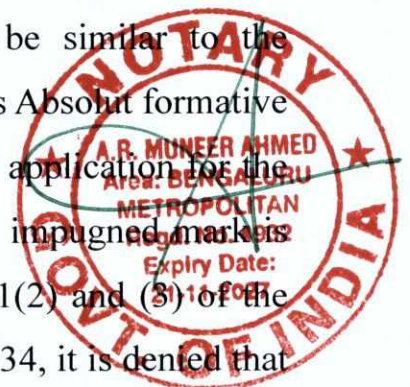
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Opponent's mark and there is no likelihood of confusion and that there is no detriment to the distinctive character of the Opponent's trademark, as the segment of consumers and market are allegedly different. As per the web pages relied by the Applicant, the Applicant uses its mark ABSOLUTE in a stand-alone manner. Hence the Applicant cannot blow hot and cold by using the impugned mark in a standalone manner but claiming it to be different merely because it has filed it with a suffix. On account of uninterrupted, continuous use for over two decades coupled with extensive promotion, the Opponent has acquired a formidable goodwill in respect of its Absolut marks. The turnover for the past FY of goods under the Absolut marks are nearly 50 crores and the Opponent has amassed nearly 200 crores as a consolidated turnover in the past five years. The sales turnover, invoices and the promotional campaigns are indicative of the immense goodwill and reputation attached to the Absolut formative marks. In view thereof, the impugned mark bearing services related to the Opponent's business offerings( both as a whole and in a standalone manner), would indeed cause immense confusion and erode the hard-earned reputation of the Opponent and would allow the Applicant to take unfair advantage in the reputation of the Opponent's mark. Even the Learned Registrar has deemed the Applicant's ABSOLUTE marks to be similar to the Opponent's Absolut marks, when all the Opponent's Absolut formative marks was cited as a prior mark in the Applicant's application for the Absolute One mark. Hence it is reiterated that the impugned marks are contrary to provisions of Section 9(1)(a), 11(1), 11(2) and (3) of the Trademarks Act, 1999. With reference to Paragraph 34, it is denied that the objection under Section 11(4) and 12 is misplaced. The Applicant had admitted knowledge of the Opponent and its Absolut mark which

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has been in use for over two decades, when its marks were cited as prior marks against Applicant's trademark. Despite this knowledge the Applicant has prosecuted several of its trademarks and is not reaching the Tribunal with clean hands. In any case, given that the impugned mark is proposed to be used, section 12 cannot favour Applicant in any manner whatsoever. The remainder of the submissions are all blanket and hollow denials, wherein the Applicant has simply negated the Opponent's submissions line by line without providing cogent grounds or reasons. The same are denied in toto as baseless and it is reiterated that the impugned mark is contrary to provisions of Section 29, 102 and 103 of the Trademarks Act.

- L. Paragraph 40: The Applicant's prayer in the counter statement in paragraph no. 40 is misconceived, legally untenable and dishonest. The Applicant does not deserve the relief as prayed thereon against the Opponent. Clearly the Applicant has not discharged its onus of honest adoption when the Opponent's Absolut marks was already in use for two decades neither have, they provided any rationale for adopting the impugned mark, feel and overall impression of which, is deceptively similar to the Opponent's renowned Absolut marks. Even the Applicant has admitted that the term Absolute is an arbitrary term; hence there cannot be any sheer coincidence for them to adopt the said trademark, which has been in continuous and extensive use by the Opponent for over two decades. Further the links relied by the Applicant clearly show that the Applicant is neither using the impugned mark nor for the services claimed in the impugned application and the Applicant is simply trying to encroach on rights on the Opponent by filing numerous applications frivolously and vexatiously, without any intention to use



**For PHARMED LIMITED**

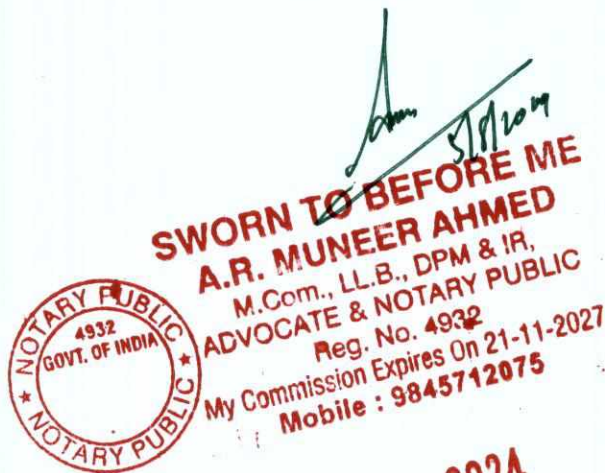
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such marks in the manner applied and for the goods/services applied. Thus, the light of prior and continuous/uninterrupted use of the Absolut marks by the Opponent for over two decades, registrations, coupled with extensive promotions, robust economic performance which are clear from its turnover and non-use of the impugned mark for the impugned services, the balance of convenience is clearly in favour of the Opponent.

10.I submit that in the light of the aforementioned facts and circumstances it is humbly prayed that the Hon'ble Registrar be pleased to refuse registration of the impugned trademark Absolute Biosciences under Application No. 6040766 in Class 44 and allow opposition no. 1278073 with costs in favour of the Opponent and thereby render justice.

Dated this 5<sup>th</sup> day of August 2024



5 AUG 2024

For PHARMED LIMITED

Authorised Signatory

Noshir B Shroff  
Authorized Signatory  
Pharmed Limited



## VERIFICATION

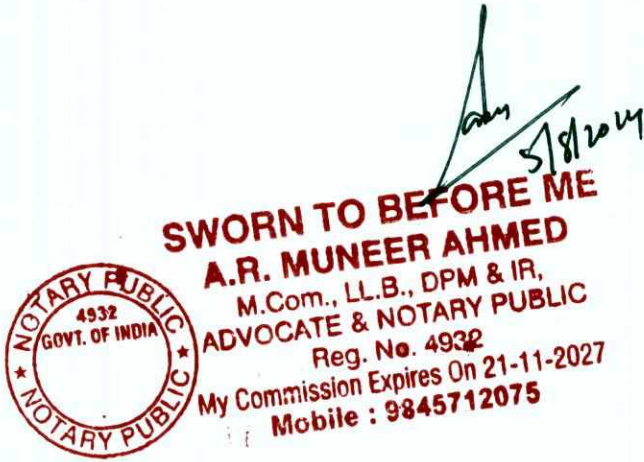
I, Noshir B Shroff, Authorized Signatory of the Opponent herein do hereby verify the contents of Paragraphs 1 to 9 as true to the best of my knowledge, information and belief and based on the legal advice received. Paragraph 10 is merely a prayer before this Hon'ble Tribunal.

Verified this at Bangalore on the 5<sup>th</sup> day of August 2024

**For PHARMED LIMITED**

  
Authorized Signatory

Noshir B Shroff  
Authorized Signatory  
Pharmed Limited



**5 AUG 2024**

