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KRISHNAMURTHY & CO.

By Registered AD / ~~Courier~~

WITHOUT PREJUDICE

30 December, 2015

Our Ref.: IP 1266 (MISC-01) BLR

**Anand and Anand,
Plot No. 17A, Sector 16A,
Film City, Noida -201301**

Email: email@anandandanand.com

Re. Your Legal Notice dated 16th December, 2015 titled 'Mis-use of the trademark 'HOUZZ'

Dear Sirs,

We act on behalf of our client, Metamarket Ventures Pvt. Ltd., a company incorporated under the Companies Act, 1956, having its corporate office at 3342, I Floor, 6th Cross, 13th Main, HAL II Stage, Indiranagar, Bangalore - 560008, Karnataka. Our client has placed in our hands the legal notice bearing the subject "Mis-use of the trademark HOUZZ" dated 16th December, 2015 ("Notice") with instructions to respond as under:

At the outset, our client states that your client's legal notice is extremely far-fetched, baseless and without any legal or factual merit whatsoever and denies the contents of the same in their entirety.

Our client's marks HOUZIFY and HOUSIFY are completely dissimilar, structurally, visually, phonetically and in the manner of spelling and depiction, from your client's alleged mark HOUZZ, and therefore your client's allegation that the marks are deceptively similar are totally without merit.

Our client's marks HOUZIFY and HOUSIFY are invented words having no ordinary dictionary meaning and are inherently distinctive. The marks were honestly invented and adopted by our client.

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New No.08 Old No. 63/1
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Adyar
Chennai 600 020
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4th Floor
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Our client has sufficiently and more than adequately distinguished its mark from a generic word 'HOUSE' or its phonetic equivalent 'HOUZ' by adding the suffix 'IFY' which is a commonly used suffix to indicate an action (such as beautify, modify, edify, amplify etc.) There are hundreds of marks which end with the suffix 'IFY'. Some such marks are listed below –

- i. Homify available at <https://www.homify.in/>
- ii. Dormify available at <http://www.dormify.com/>
- iii. Shopify available at <https://www.shopify.in/>
- iv. Sportzify available at <http://www.sportzify.com/>
- v. Rentify available at <https://www.rentify.com/>

Our client's marks are therefore inherently distinctive, invented marks. The said marks have been coined by our client independently without any reference to your client's or any other third party marks.

Our client offers services under the mark HOUZIFY in the form of a mobile application on iOS and Android platforms. The mobile application has garnered immense popularity since its launch. Our client's brand name HOUZIFY has also gained recognition and popularity on the social media. At the instance of our client, we state that since the beginning of our client's operations, our client has made extensive use of the same in India and today, the trademark HOUZIFY has come to be associated with our client alone. Our client has created a niche for itself in the area of interior décor under the brand name HOUZIFY and members of the relevant trade and public in India identify and associate the said mark with the quality services provided by our client alone.

Our client instructs us to state that your client's mark 'HOZZ' is merely a phonetic equivalent to the word 'house' which is a generic / descriptive mark. Hence, your client cannot claim any exclusive rights over the same.



For any service provider in respect of real estate, interior décor or any other similar industry, the base word 'HOUSE' or phonetic equivalent thereof would necessarily be required to use and/or to modify to arrive at their own unique trademarks. On the other hand, the mark of your client 'HOZZ' is the equivalent of the base word itself and therefore, any trademark rights claimed by your client over the said word is without legal merit. Therefore, our client denies and disputes any exclusive rights claimed by your client over its alleged mark 'HOZZ'.



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There are several third parties, in India as well as in other jurisdictions, using marks which contain the phonetic equivalent of 'house', HOUZ to identify and promote their businesses. Produced below is a list of a few marks that contain the word 'HOUZ' which clearly illustrates this point –

Sl. no	Mark	App / Reg no.	Class	Country
1		305392638 / 30539263	9, 35, 36, 37 and 42	Germany
2	INHOUZ	000516719	42	Portugal
3		77816747 / 3823122	35	USA
4	HOUZE	85795745 / 4445312	37	USA
5	IN HOUZ	86031619 / 4668337	35, 37	USA
6	HOUZE	85364619 / 4107062	37	USA
7	Houz of Bundles	86767315 / -	26, 35	USA
8		86811997 / -	35	USA
9	CONTEMPOHOUZZ	86765190 / -	35	USA
10	Houzfinder	4124591 / -	35	France
11		000542967 / -	36, 43	Portugal
12	HOUZEE	Z.419170 / R.270675	35 and others	Poland
13	HOUZZ	1455051 / 1450020	36	Mexico



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14	 HOUZZ	1592358 / 1557705	35	Mexico
15	 HOUZZ	1592357 / 1557704	42	Mexico
16	 houzee mieszkaj piękniej	Z.419165 / R. 270357	16, 35, 39	Poland
17	HOUZON	4520150003170 / -	11, 35	Republic of Korea
18	MODHOUSE	86688889 / -	37	USA
19	 Uhouzz 异乡好居	UK00003133421	9, 35, 36, 39, 41 and 43	UK
20	 HOUZZ THE PROPERTY PALACE	3009355	36	India
21	IN HOUZ	3027509	35 and 42	India
22	houzemarkt	3055246	42	India
23	IDEA HOUZE	1363590	35	India
24	 HOUZZ STUDIO	2674281	35	India
25	 Around The Houz	2711016	35	India

Representative lists of various active websites containing the word 'HOUZ', 'HOUS' or the suffix 'IFY' are also produced below which further illustrates our client's stance that the use of the phonetic equivalent of 'house' and/or marks using the suffix 'IFY' is very much in active and actual use by several third parties.

Marks containing the word 'Houz', in respect of similar businesses are as under –



- i. Houzilla available at <http://www.houzilla.in/>
- ii. Houzzit available at <http://houzzit.in/>
- iii. Houzzup available at <http://houzzup.com/>
- iv. Houzup available at <http://houzup.com/>
- v. Houzzfresh available at <http://houzzfresh.com/>
- vi. Houzzmann available at <http://www.houzzmann.com/>
- vii. Houzzprojects available at <http://houzzprojects.com/>
- viii. Maxihouzz available at <http://maxihouzz.com/>
- ix. Buildhouzz available at <http://buildhouzz.com/>
- x. Houzige available at <http://www.houzige.com/>
- xi. Houzome available at <http://houzome.com/>
- xii. Area Houzz Design available at <http://www.houzzdesign.co/>
- xiii. Fresh Houzz Decore available at <http://houzzdecore.com/>
- xiv. Houzz Deco available at <http://houzzdeco.com/>
- xv. Houzzworks available at <http://houzzworks.com/>
- xvi. Houzpix available at <http://houzpix.com/>
- xvii. Houz Hunt available at <http://houzhunt.com/>
- xviii. HouzMagz available at <http://houzmagz.com/>
- xix. Houz Depot available at <http://emall.houzdepot.com/>
- xx. Houz Buzz available at <http://houzbuzz.com/>
- xxi. Houzingu available at <http://houzingu.com/>
- xxii. Houzein available at <http://www.houzein.com/>
- xxiii. Houzeme available at <http://houzeme.com>
- xxiv. Houzmax available at <https://houzmax.com/>
- xxv. HouZone available at <http://www.houzone.com/>
- xxvi. Houzzmakers available at <http://houzzmakers.com/>
- xxvii. Houzz Home Designs available at <http://houzzhomedesign.blogspot.ro/>
- xxviii. Houze That available at <http://www.houzethat.com.au/>
- xxix. Houzenga available at <http://www.houzenga.com/>
- xxx. Houz available at <http://www.houz.dk/>
- xxxi. Houzemart available at <http://www.houzemart.com/>
- xxxii. Art Houz available at <http://arthouz.com/>
- xxxiii. Houzng available at <https://houzng.com/>
- xxxiv. Houzboom available at <http://houzboom.az/>

In fact, while our client has found more than a few instances of the use of your client's alleged mark 'HOZZ' by other third parties, no other instances of our client's unique and invented mark HOUZIFY were found.



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Marks containing the word 'Hous', in similar businesses are as under –

- i. HouseIt available at <http://houseit.com/>
- ii. Housefull available at <https://www.housefull.co.in/>
- iii. Housejester available at <http://www.housejester.com/>
- iv. HouseYes available at <http://www.houseyes.com/>
- v. Houssup available at <https://www.houssup.com/>
- vi. Housediz available at <http://housediz.com/>
- vii. Housst available at <http://www.housst.com/>
- viii. Housekool available at <http://www.housekool.com/>
- ix. Housegrove available at <http://www.housegrove.com/>
- x. Housedsgn available at <http://housedsgn.com/>
- xi. House Breeze available at <http://www.housebreeze.com/>
- xii. Housgen available at <http://housgen.com/>
- xiii. Houskitchen available at <http://www.houskitchen.com/>
- xiv. House Beautiful available at <http://www.housebeautiful.com/>
- xv. Housedecorin available at <http://www.housedecorin.com/>
- xvi. Housology available at <https://www.houseology.com/>
- xvii. House Proud available at <http://www.houseproud.in/>
- xviii. Houssini available at <http://houssini.com/>
- xix. Houselogic available at <http://www.houselogic.com/>
- xx. HousiQ available at <http://www.housiq.com/home.html>
- xxi. Housely available at <http://housely.com/>
- xxii. Houste available at <http://www.houste.com/>
- xxiii. Housandreams available at <http://housandreams.com/>
- xxiv. House Junkie available at <http://www.housejunkie.co.uk/>
- xxv. House By Hoff available at <http://www.housebyhoff.com/>

Marks containing the suffix 'IFY' are as under –

- i. Homify available at <https://www.homify.in/>
- ii. Dormify available at <http://www.dormify.com/>
- iii. Shopify available at <https://www.shopify.in/>
- iv. Sportzify available at <http://www.sportzify.com/>
- v. Rentify available at <https://www.rentify.com/>
- vi. Storify available at <https://storify.com/>
- vii. Holidify available at <http://www.holidify.com/>
- viii. Expensify available at <https://www.expensify.com/>
- ix. Chargify available at <https://www.chargify.com/>
- x. Detectify available at <https://detectify.com/>



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- xi. Uploadify available at <http://www.uploadify.com/>
- xii. Copify available at <http://uk.copify.com/>
- xiii. Freakify available at <http://freakify.com/>
- xiv. Markify available at <http://www.markify.com/>
- xv. Accessify available at <http://accessify.com/>
- xvi. Proxify available at <https://proxify.com/>
- xvii. Procurify available at <https://proxify.com/>
- xviii. Lodgify available at <http://www.lodgify.com/>
- xix. Arivify available at <http://www.arivify.com/>
- xx. Xtendify available at <https://www.xtendify.com/>
- xxi. Wingify available at <http://wingify.com/>
- xxii. Backupify available at <https://www.backupify.com/>
- xxiii. Marginify available at <https://www.backupify.com/>
- xxiv. Granify available at <http://www.granify.com/>
- xxv. Wrapify available at <http://www.wrapify.com/>

Your client's mark 'HOUZZ' therefore, is highly generic and incapable of registration. It also appears that your client's mark 'HOUZZ' is co-existing with several other similar marks starting with 'HOUZ' in the USA, where your client's office is situated. This being the case, it is strange that your client wants to restrain our client from using its inherently distinctive mark HOUZIFY / HOUSIFY in India. At the cost of repetition, our client would like to state that your client cannot claim exclusivity over the use of the word 'HOUZ'.

Without prejudice to the generality of the foregoing, a para-wise reply to your aforesaid Notice is provided below:

1. The contents of un-numbered paragraph 1 do not require any comment.
2. The contents of un-numbered paragraphs 2 – 4 are denied for want of further knowledge. It is denied that your client's alleged mark 'Houzz' is used in India has any reputation or goodwill in India as alleged or at all. Assuming but not admitting that the same are true, our client instructs us to state that its trademarks HOUZIFY and HOUSIFY are completely different from your client's alleged trademark 'HOUZZ' when compared as a whole. Your client's claims are therefore, irrelevant and have no legal or factual merit.



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3. The contents of un-numbered paragraph 5 are denied for want of knowledge except that which forms a part of the records. Our client has only now become aware of your client's application under the Madrid Protocol designating India for registration of the mark 'HOUZZ'. It is pertinent to point out that the said application of your client is dated 13th October, 2014 filed on a 'proposed to be used' basis. On the other hand, our client adopted and started using the mark HOUZIFY on 10th June, 2014 when the domain 'houzify.com' was registered by our client. Therefore, our client has superior rights since it is the first to adopt / use the mark HOUZIFY in India.
4. The contents of the un-numbered paragraph 6 are matters of record and do not require any comment.
5. The contents of un-numbered paragraph 7 are denied vehemently. It is specifically denied that our client's marks HOUZIFY and HOUSIFY are similar to the alleged trademark 'HOUZZ' of your client. It is a well-settled principle of law that when comparing similarity, the rival trademarks must be looked upon as a whole. When so compared, it becomes apparent that the trademarks HOUZIFY and HOUSIFY of our client are very different from the alleged mark 'HOUZZ' of your client. Further, as stated earlier, our client was the first to adopt and use the mark HOUZIFY in India. Therefore, our client denies any claims of priority of use by your client in India as alleged or at all.
6. In response to the contents of un-numbered paragraph 8, our client states that our client has an established name and reputation in its field of services, offers quality services in its area of business and has no need to ride upon the marks or 'reputation' of another entity, especially the alleged mark and the alleged reputation of your client, to provide its services. Further, the rival marks being dissimilar, there is no question of any infringement of your client's rights by our client.
7. Under the circumstances, the contents of un-numbered paragraph 9 are without any legal or factual merit. The legal notice issued by your client amounts to groundless threats, which are, in turn, actionable by our client and your client is required to withdraw the

same. In view of what has been stated above, our client finds no basis to comply with your client's unreasonable requisitions.

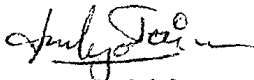
In this view of the matter, our client has addressed the Notice dated 16th December, 2015 and considers the matter concluded.

Should your client be ill-advised to initiate any legal proceeding despite this reply, it is incumbent upon them to serve our client advance notice of such proceeding and such legal action would be strongly defended and countered by our client at your client's cost and consequences.

Please also note that non-filing of this reply on record of the court in which such proceeding may be initiated would amount to suppression of material facts surrounding the controversy and allegations leveled by your client.

In light of what has been stated above, our client believes that both the parties can arrive at a mutual resolution of this matter and can harmoniously coexist together.

Yours sincerely,



FOA Nikhil Krishnamurthy
Senior Partner



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