

# **Exhibit A**



Prevolos Lewin  
& Hezlep, ALC

550 West C Street, Suite 1600  
San Diego, CA 92101  
Tel: (619) 696-0520  
Fax: (619) 238-5344  
Toll Free: (855) 860-4LAW

April 8, 2013

ZipRealty, Inc.  
2000 Powell Street, Suite 300  
Emeryville, CA 94608

National Corporate Research, Ltd.  
523 W 6<sup>th</sup> Street, Suite 544  
Los Angeles, CA 90014

Re: Trademark Infringement – Ascent Real Estate

*Sent Via Certified Mail*

Dear ZipRealty, Inc.:

This firm represents Ascent Real Estate, Inc. (“Ascent”) in connection with the protection and enforcement of its intellectual property rights. Ascent is a well-known California corporation registered with the California Department of Real Estate. Ascent has been involved for many years as a brokerage company dealing with real estate holdings under the Ascent Real Estate® trademark. Over time, Ascent has developed important trademark rights in the Ascent Real Estate® trademark. Ascent has used the Ascent Real Estate® trademark extensively in marketing, advertising, listing, selling and buying real estate in California. Ascent began using the Ascent Real Estate® trademark as early as 2005. Ascent has used the Ascent Real Estate® trademark consistently since the date of first use. As a result of this continuous and longstanding use, Ascent has developed substantial brand recognition and goodwill along with common law trademarks. In addition, Ascent has obtained Federal trademark registration for its trademarks (Reg. Nos. 3,195,161 and 4,230,114). Copies of Ascent’s registrations are attached for your reference.

Ascent has recently become aware that you are licensing the domain name www.ascentrealestate.com from Electronic Creations Corporation. And you are utilizing this domain name in association with the marketing, advertising, listing, selling, investing, and buying of real estate at your company.

The Lanham Act, 15 U.S.C. § 1114, provides that any person who uses a reproduction or colorable imitation of a registered trademark in commerce in connection with the sale, offer for sale or distribution of goods or services which results or could result in a likelihood of confusion, mistake or deception is liable to the registrant for profits and damages. Furthermore, 15 U.S.C. § 1125(a) provides that use in commerce of any word, term, name, or symbol, or any false designation or origin, or false or misleading description of fact which is likely to cause confusion, mistake, or deception as to the affiliation, connection or association with another person or as to the origin, sponsorship or approval of goods and services, is liable for damages. The Lanham Act also provides for injunctive relief, attorney’s fees and costs.

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The similarities of the trademarks, target markets, customers and channels of trade indicate that your use of "Ascent Real Estate" is likely to cause confusion or deception in the marketplace. Clients may believe our companies are associated or connected in some manner. Your company's target audience is identical to Ascent's target audience. The customers and clientele are the same. The channels of trade are the same. Moreover, considering the similarity in the services and trademarks, confusion of customers and clientele as to sponsorship or association is extremely likely.

As a result, use of the term "Ascent Real Estate" in the domain name you are licensing infringes on Ascent's trademark rights and is actionable under the Lanham Act. The infringement is also actionable under California state law as trademark infringement, unfair competition, injury to business reputation, and trademark dilution.

If you were not previously aware of the infringement of Ascent's trademark, this letter shall serve to notify you of such. We will assume that you know, or had reason to know, of the infringement at least as early as of the date of this letter.

We therefore request that you immediately cease and desist from all further use of "Ascent Real Estate."

Thank you in advance for your prompt attention to this matter. We look forward to hearing from you within ten (10) days of this letter. Should you have any questions, or wish to discuss this issue further, please do not hesitate to contact me.

Sincerely,



Olin M. Lewin  
Prevolos Lewin & Hezlep, ALC

Enclosures (2)

cc. Ascent Real Estate, Inc.

cc. Ms. Jacalyn Ann Young  
Electronic Creations Corporation  
1617 Proctor Drive  
Santa Rosa, CA 95404

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 3,195,161

Registered Jan. 2, 2007

SERVICE MARK  
PRINCIPAL REGISTER



ASCENT REAL ESTATE, INC. (CALIFORNIA CORPORATION)  
400 KALMIA STREET  
SAN DIEGO, CA 92103

FOR: BROKERAGE COMPANY DEALING WITH REAL ESTATE HOLDINGS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-4-2005; IN COMMERCE 4-4-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "REAL ESTATE", APART FROM THE MARK AS SHOWN.

THE COLOR(S) BLACK, RED AND YELLOW IS/ ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A YELLOW CIRCLE WITH A STYLIZED BLACK ARROW POINTING UP THROUGH THE CENTER OF THE CIRCLE. AN ARCHING RED LINE BISECTS THE BLACK ARROW FORMING THE LETTER "A" THE WORDING ASCENT REAL ESTATE APPEARS IN THE COLOR BLACK TO THE RIGHT OF THE YELLOW CIRCLE.

SN 78-642,182, FILED 6-2-2005.

IRENE D. WILLIAMS, EXAMINING ATTORNEY

**United States of America**  
United States Patent and Trademark Office

**Ascent Real Estate**

**Reg. No. 4,230,114**

**Registered Oct. 23, 2012**

**Int. Cl.: 36**

**SERVICE MARK**

**PRINCIPAL REGISTER**

ASCENT REAL ESTATE, INC. (CALIFORNIA CORPORATION)  
410 KALMIA STREET  
SAN DIEGO, CA 92101

FOR: REAL ESTATE BROKERAGE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-1-2005; IN COMMERCE 4-1-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,195,161.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "REAL ESTATE", APART FROM THE MARK AS SHOWN.

SER. NO. 85-575,524, FILED 3-21-2012.

MICHAEL WEBSTER, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office