The Additional Secretary to the Government of India  
Ministry of Commerce & Industry  
Department of Industrial Policy & Promotion  
Udyog Bhawan  
New Delhi -110011

Dear Sir,

Sub: Request for modification in Rule 147 of the Draft Trade Marks Rule, 2015 in alignment with the existing provision of Rule 150 of the Trade Marks Rules, 2002.

1. This has reference to Draft Trade Marks Rule, 2015 published by the Government of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion dated 17th November, 2015 seeking objections or suggestions thereon.

2. We wish to draw your kind attention to Rule 147 of the Draft Trade Marks Rule, 2015 which has excluded the specific recognition granted to the members of the Institute to be registered as Trademark Agents.

3. Rule 147 is corresponding to the existing Rule 150 of the Trade Marks Rules, 2002. The existing Rule 150 of the Trade Marks Rules, 2002 dealing with qualifications for registration, specifically recognised the members of the Institute of Company Secretaries of India as a requisite qualification for registration as Trademark Agents.

Rule 150 read as under:

“subject to the provisions of rule 151, a person shall be qualified to be registered as a trade marks agent if he- (i) is a citizen of India; (ii) is not less than 21 years of age;(iii) has passed the examination prescribed in rule 154 or is an Advocate within the meaning of the Advocates Act,1961 (25 of 1961) or is a Member of the Institute of Company Secretaries of India; (iv) is a graduate of any university in India or possess an equivalent qualification; and (v) is considered by the Registrar as a fit and proper person to be registered as a trade mark agent.”
4. Our concern

Proposed Rule 147 of the Draft Trade Marks Rules, 2015 corresponding to Rule 150 of the Trade Marks Rules, 2002, has excluded the specific recognition granted to the members of the Institute to be registered as Trade marks agents. The draft Rule 147(iii) does not include the words "or is a Member of the Institute of Company Secretaries of India" after the words "or is an Advocate within the meaning of the Advocates Act, 1961 (25 of 1961)".

5. Submission

We wish to submit that the members of the Institute are actively engaged as Trade marks Agents and are rendering value added services to the trade and industry and acting as extended arms of the regulatory mechanism. A Company Secretary is a competent professional who understands legal, financial and compliance dimensions of business entity comprehensively, including aspects relating to accountancy, taxation, intellectual property rights and governance. In recognition of their capabilities, the Company Secretaries have been assigned onerous responsibilities under various laws and regulations including Company Law, Competition Law, Securities Laws, Taxation Laws, Banking Laws, VAT Laws of various states. The Company Secretaries in Practice have been recognized to conduct audit/appear as an authorized representative under various Central as well as State Legislations. In addition to the above many of the Company Secretaries are working as Trade marks Agents.

Further, pursuant to Sections 4, 7, 12, 152 and 153 of the Companies Act, 2013 read with Rules made thereunder, Company Secretary in Practice is authorised to certify Form No. INC-29 (Integrated Incorporation) and Form No. INC -1(Application for reservation of name) which includes inter-alia certified that:

➢ Whether the proposed name is based on a registered trademark or is subject matter of an application pending for registration under the Trade Marks Act.

➢ I have also used the search facility for checking the resemblances of the proposed name with registered trademarks and trade mark subject of an application under the Trade Marks Act, 1999 and other relevant search for checking the resemblance of the proposed name to satisfy
myself with the compliance of the provisions of the Act for resemblance of name and Rules thereof.

Sir, we wish to apprise your goodself that the curriculum of Company Secretaryship Course includes, *inter alia* detailed specialized study and acquired expert knowledge of Trade Marks Act, 1999, Patents Act, 1957, Designs Act, 2000, Geographical Indication of Goods (Registration and Protection) Act, 1999, Copyright Act, 1957, Trade Secrets, Intellectual Property Audit and Management and Valuation Intellectual Property. A student of this course undergoes a rigorous and comprehensive practical training before he is admitted as the member of the Institute. Further, the Institute of Company Secretaries of India (ICSI), being a Statutory and Premier Professional Body established under an Act of Parliament, the members of the Institute are governed by the Code of Conduct contained in the Company Secretaries Act, 1980.

We submit for modification of Rule 147 of the Draft Trade Marks Rule, 2015 recognising the members of the Institute of Company Secretaries of India to be registered as Trademark Agents, thereby strengthening the governance and compliance in emerging Intellectual Property regime. The suggested Rule 147 is as under:

147. Qualification for registration—"subject to the provisions of rule 148, a person shall be qualified to be registered as a trade marks agent if he-
(i) is a citizen of India;
(ii) is not less than 21 years of age;
(iii) is a graduate of any university in India or possess an equivalent qualification and has passed the examination prescribed in rule 151 or is an Advocate within the meaning of the Advocates Act, 1961 (25 of 1961) or is a Member of the Institute of Company Secretaries of India;
(iv) is considered by the Registrar as a fit and proper person to be registered as a trade mark agent."

We shall be pleased to provide any other information as may be desired by your goodself.

Thanking you,

Yours faithfully

[Signature]

(CS Atul H Mehta)

PRESIDENT