KEYSER MASON BALL, LLP
BARRISTERS & SOLICITORS

Four Robert Speck Parkway
Suite 1600
Mississauga, Ontario
Canada L4Z 1S1
Telephone (905) 276-9111
Facsimile (905) 276-2298
Web Site www.kmblaw.com

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CONFIDENTIALITY CAUTION

FAX TO:	Canadian Intellectual Property Office (Registrar of Trade-marks)		
ATTENTION:	Consultation Section	**FAX NO:**	1-819-953-2476
REFERENCE:	Consultation on new Trademark Regulations		
SENDER:	Isabel Anne Stratton	**TEL No.:**	1-905-276-9111 ext 452
FILE NO:	999224-01		

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MESSAGE:

Please refer to the attached letter dated March 9, 2018 providing comments on the Consultation on the new Trademark Regulations which closes on March 11, 2018.

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trademarks@kmblaw.com

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Canadian Intellectual Property Office
Place du Portage I
50 Victoria Street, room C-114
Gatineau, QC K1A 0C9

Dear Sirs:

Consultation on new Trademark Regulations

On February 10, 2018 CIPO opened a consultation period for the purpose of obtaining comments from the public concerning the proposed Regulations. We wish to submit our comments in this regard.

As trademark practitioners who served Canadian and foreign applicants in securing Canadian trademark registrations we seek to achieve the best results for all of our clients.

We fully appreciate the vast undertaking facing the Canadian Intellectual Property Office to effect the modernization of the Canadian Intellectual Property regime. As trademark agents we look forward to an overall improvement of service to CIPO's stakeholders and to our clients.

Briefly, a few of our concerns are identified below:

1. Third party communications with the Registrar. The submission of written communications to the Registrar by third parties regarding registrability issues of a pending trademark in examination will be possible. It appears that the Registrar would at the very least acknowledge the receipt of same. Would these communications become part of the file history that would be made available to the applicant or the applicant's agent?

2. Importance of timeliness of communication with applicants who have filed a national application. With respect to the Madrid Protocol applications, the Registrar will be required to notify the International Bureau within 18 months of either a provisional refusal or possibility of issuance of one after the deadline in view of an opposition. Failure to do so would result in the Protocol application becoming a registration without advertisement (or the subject of opposition). Would this be detrimental to those who have filed national applications? What

are the assurances for timely communications with applicants and/or their agents with respect to national applications?

3. Transitional provisions for the first renewal. Trademark renewals as described in Section 159 and particularly in Section 160 require the grouping of goods and services properly classified within the two-month notice provided by the Registrar. Failure to do so would result in the registration being expunged. Our concern is with the drastic act of expunging a registration for which a fee has been remitted. A trademark owner who has filed a renewal request accompanied by a fee payment is expressing an interest in maintaining the trademark registration (if not for all of the goods/services, then perhaps for some). As the Trademark Regulations (Section 12) will provide for a refund of overpayment if the request is made within 3 years, would such refund option be available for those whose registrations have been expunged?

We look forward to receiving updates on any further future consultations or revisions that arise from the consultation process.

Thank you for providing our firm the opportunity to participate.

Yours truly,

KEYSER MASON BALL, LLP

Isabel Anne Stratton
Registered Trade-mark Agent
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