

EXCHANGE OF NOTES

(December 3-28, 1937)

BETWEEN

CANADA

AND THE

UNITED STATES

CONCERNING

THE RECIPROCAL RECOGNITION OF DULY REGISTERED PATENT ATTORNEYS



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**EXCHANGE OF NOTES (DECEMBER 3/28, 1937), BETWEEN CANADA
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*From the Canadian Minister at Washington to the Secretary of State of the
United States*

CANADIAN LEGATION

No. 241

WASHINGTON, December 3, 1937.

SIR,—I have the honour to advise you that as a result of an amendment to the Rules of practice of the Patent Office of Canada—which was adopted in 1933—attorneys who had previously been listed on the Canadian Patent Office Register were no longer permitted to practice before that Office. Subsequently there have been informal negotiations between the Commissioner of Patents of the United States and the Under-Secretary of State of Canada with a view to the conclusion of a reciprocal arrangement.

The negotiations have culminated in the decision of the Government of Canada to substitute for existing Rule 14 under the Patent Act a new Rule to become effective on January 1, 1938, which will read as follows:—

14. (1) The names of the following persons shall on request and payment of the prescribed fee of \$5 be entered on the Register of Attorneys who are permitted, subject to the qualifications and conditions prescribed by these Rules and Regulations, to practice before the Patent Office:

(a) Any barrister, solicitor or advocate on the roll of barristers, solicitors or advocates under the Laws of any of the Provinces of Canada;

(b) Notaries entitled to practice their profession under the Laws of the Province of Quebec;

(c) Any barrister, solicitor or attorney resident in any part of the British Commonwealth of Nations, who files proof to the satisfaction of the Commissioner that he is registered and in good standing before the Patent Office of his place of residence and possesses the qualifications required to practice before the said office;

(d) Any attorney resident in the United States of America, who files proof to the satisfaction of the Commissioner that he is registered and in good standing before the Patent Office of the United States of America and possesses the qualifications required to practice before the said office;

(e) The names of Canadian nationals residing in Canada entered on the Register of Attorneys on the date of approval of these rules shall be continued thereon. Any Canadian national resident in Canada and who is not a member of the bar of one of the Provinces or a Notary Public of the Province of Quebec, but who has had three years experience in patent work under the personal direction and supervision of a duly registered patent attorney, or who has served for three years in the examining corps of the Canadian Patent Office, and who shall file proof that he is of good moral character and of good repute and possessed of the necessary technical qualifications to enable him competently to prosecute applications before the Patent Office, may be entered on the register of Patent Attorneys with the approval of the Minister; provided however that attorneys who are not Canadian nationals may continue to practice with respect to pending applications.

(2) Each person residing outside Canada whose name is entered on the Register of Attorneys, shall state, in respect of each application or other proceeding filed by him in the Patent Office, the name and address of an attorney resident in Canada, who is associated with him in the

carriage of the application or other proceeding, and no applications or other proceedings by an attorney resident outside Canada shall be filed, entered or examined until an associate resident in Canada has been so named. The associate so named shall be a person qualified under (a), (b) or (e) of subsection (1) of this section and whose name is entered in the Register of Attorneys in the Patent Office. Notices, letters and other communications relating to the application or other proceeding shall be forwarded by the Office to the Canadian associate and shall be deemed, for the purposes of the Patent Act and of the Rules and Regulations, to have been communicated by the Office to the Attorney filing the application or other proceeding.

(3) The Commissioner of Patents, with the approval of the Minister, after giving notice and opportunity for a hearing, may suspend or exclude, either generally or in any particular case, from further practice before this office any person, agent or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who refuses to comply with the rules and regulations, or who shall, with intent to defraud in any manner, deceive, or mislead any applicant or prospective applicant, or other person having immediate or prospective business before the Patent Office by word, circular, letter or by advertising, or who shall guarantee the successful prosecution of any application for patent or the procurement of any patent, or by word, circular, letter, or advertisement shall make any false promise or misleading representation. The reasons for any such suspension or exclusion shall be duly recorded, and the action of the Commissioner may be reviewed by the Minister. If the name of an attorney registered under (c) or (d) of subsection (1) of this section shall be removed from the list of those registered as entitled to practice before the Patent Office of the Dominion, colony, state or country in which he resides, his name shall be removed by the Commissioner from the Register of Attorneys permitted to practice before the Canadian Patent Office.

(4) All advertising matter of registered patent attorneys or other agents interested in the procuring or developing of patents used for the promotion of their business shall be submitted to the Commissioner before being issued, but such advertising matter shall not contain any matter from which, due to its arrangement or text, it may be inferred that the Commissioner vouches for the statements made therein or the ability or integrity of the advertiser. Any violation of this rule shall incur a penalty of suspension of practice before the Patent Office for one month or for such longer period as the Commissioner may determine.

It is the understanding of the Canadian Government that, in return for the adoption of this Rule, the Government of the United States will undertake that residents of Canada whose names are entered on the Register of Attorneys permitted to practice before the Patent Office of Canada will be accorded the right of registering in the Register of Attorneys permitted to practice before the United States Patent Office on a reciprocal basis; and that any amendment to the United States Patent Rules which may be necessary to give effect to this arrangement will be adopted. I should be grateful for your confirmation of this understanding.

I have the honour to be,
with the highest consideration,

Sir,

Your most obedient,
humble servant,

HERBERT M. MARLER

*From the Secretary of State of the United States to the Canadian Minister at
Washington*

DEPARTMENT OF STATE

WASHINGTON, December 28, 1937.

SIR,—I have the honour to refer to your Note No. 241 of December 3, 1937, in which you were good enough to set forth for the consideration of this Government the draft of a new rule which is to take the place of the existing Rule 14 under the Patent Act of Canada.

I have pleasure in informing you that, when the Canadian Patent Office adopts the rule set forth in your above-mentioned note, residents of Canada whose names are entered on the register of attorneys permitted to practice before the Patent Office of Canada will be accorded the right of registering in the register of attorneys permitted to practice before the United States Patent Office under the rules of that Office. No further amendment of these rules will be necessary.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

HUGH R. WILSON

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the Secretary of State of the United States to the Canadian Minister at Washington. It is to be noted that the Canadian Minister at Washington is also the Canadian Minister at Ottawa. The name of the Canadian Minister at Ottawa is Mr. J. G. Macdonald. The name of the Canadian Minister at Washington is Mr. J. G. Macdonald. The name of the Canadian Minister at Ottawa is Mr. J. G. Macdonald. The name of the Canadian Minister at Washington is Mr. J. G. Macdonald.

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I have the honor to refer to your Note No. 211 of December 3, 1937, in which you were good enough to set forth for the consideration of this Department the terms of a new rule which is to take the place of the existing rule 14 under the Patent Act of Canada.

I have pleasure in informing you that when the Canadian Patent Office rules the rule set forth in your above-mentioned note, residents of Canada who have been entered on the Register of Attorneys permitted to practice before the Patent Office of Canada will be accorded the right of registering the names of attorneys permitted to practice before the Patent Office of the United States. No further amendment of these rules will be necessary.

I accept the renewed assurance of my highest consideration for the successful prosecution of the application for patent or the promotion of the business of the State or of the promotion of the business of the State or of the promotion of the business of the State.

The reasons for the proposed amendment are as follows: The names of attorneys permitted to practice before the Patent Office of Canada will be recorded and the act of the Commissioner may be reviewed by the Minister. If the name of an attorney registered under (1) (c) or (d) of subsection (1) of this section shall be removed from the list of those registered as entitled to practice before the Patent Office of the Dominion, colony, state or country in which he resides, his name shall be removed by the Commissioner from the Register of Attorneys permitted to practice before the Canadian Patent Office.

HUGH R. WILSON

(4) All advertising matter of registered patent attorneys or of agents interested in the procuring or developing of patents used for promotion of their business shall be submitted to the Commissioner before being issued, but such advertising matter shall not contain any matter from which, due to its arrangement or text, it may be inferred that the Commissioner vouches for the statements made therein or the ability or integrity of the advertiser. Violation of this rule shall incur a penalty of suspension of practice before the Patent Office for one month or such longer period as the Commissioner may determine.

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It is the understanding of the Canadian Government that, in return for the adoption of this Rule, the Government of the United States will undertake that residents of Canada whose names are entered on the Register of Attorneys permitted to practice before the Patent Office of Canada will be accorded the right of registering in the Register of Attorneys permitted to practice before the United States Patent Office on a reciprocal basis, and that any amendments to the United States Patent Rules which may be necessary to give effect to this arrangement will be adopted. I should be grateful for your confirmation of this understanding.

I have the honor to be,
with the highest consideration,

Sir,
Your most obedient,
humble servant,

HERBERT M. MARIE