

N° 4330.

**ÉTATS-UNIS D'AMÉRIQUE
ET CANADA**

Echange de notes comportant un arrangement relatif à l'admission réciproque des agents autorisés à procéder devant les offices des brevets. Washington, les 3 et 28 décembre 1937 et 24 janvier 1938.

**UNITED STATES OF AMERICA
AND CANADA**

Exchange of Notes constituting an Arrangement relating to the Reciprocal Admission to Practise before Patent Offices. Washington, December 3rd and 28th, 1937, and January 24th, 1938.

No. 4330. — EXCHANGE OF NOTES¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE CANADIAN GOVERNMENT CONSTITUTING AN ARRANGEMENT RELATING TO THE RECIPROCAL ADMISSION TO PRACTISE BEFORE PATENT OFFICES. WASHINGTON, DECEMBER 3RD AND 28TH, 1937, AND JANUARY 24TH, 1938.

English official text communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne. The registration of this Exchange of Notes took place April 12th, 1938.

I.

CANADIAN LEGATION.

No. 241.

WASHINGTON, *December 3rd, 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 practise 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 1st, 1938, which will read as follows :

14. (1) The names of the following persons shall on request and payment of the prescribed fee of \$5.00 be entered on the Register of Attorneys who are permitted, subject to the qualifications and conditions prescribed by these Rules and Regulations, to practise 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 practise their profession under the Laws of the Province of Quebec ;

¹ Came into force January 1st, 1938.

(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 practise 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 practise 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 practise 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 practise 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 practise 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 practise before the Patent Office of Canada will be accorded the right of registering in the Register of Attorneys permitted to practise 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.

The Hon. Cordell Hull,
Secretary of State of the United States,
Washington, D. C.

II.

DEPARTMENT OF STATE.

WASHINGTON, *December 28th, 1937.*

SIR,

I have the honour to refer to your Note No. 241, of December 3rd, 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 practise before the Patent Office of Canada will be accorded the right of registering in the Register of Attorneys permitted to practise 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.

The Honorable
Sir Herbert Marler, P.C., K.C.M.C.,
Minister of Canada.

III.

CANADIAN LEGATION.
No. 13.

WASHINGTON, *January 24th, 1938.*

SIR,

I have the honour to refer to my Note No. 241 of December 3rd, 1937, in which I informed you of a new rule which would take the place of the existing Rule 14 under the Patent Act of Canada. In your reply of December 28th, 1937, you were good enough to inform me that when the Canadian

Patent Office adopts the rule set forth in my note of December 3rd, 1937, residents of Canada whose names are entered on the Register of Attorneys permitted to practise before the Patent Office of Canada will be accorded the right of registering in the Register of Attorneys permitted to practise before the United States Patent Office under the rules of that Office. You added that no further amendment of these latter rules will be necessary.

2. I am happy to inform you that the new rule set forth in my Note of December 3rd, 1937, became effective on January 1st, 1938.

I have the honour to be, with the highest consideration, Sir, your most obedient humble servant,

Herbert M. MARLER.

The Hon. Cordell Hull,
Secretary of State of the United States,
Washington, D. C.

Certified to be a true and complete textual copy of the original Arrangement in the sole language in which it was signed.

For the Secretary of State
of the United States of America :

Edward Yardley,
*Chief Clerk and Administrative
Assistant.*
