

1905.

PROTECTION OF TRADE-MARKS IN CHINA.

*Agreement effected by exchange of notes, June 28, 1905.*

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BRITISH EMBASSY,  
*Lenox, Mass., August 16, 1904.*

SIR: Under an Order in Council of the 2nd February, 1899, it is open to a foreigner whose trade-mark has been infringed by a British subject in China to take proceedings against the latter in the British Consular Court, provided—

(1) That the consent in writing of His Majesty's Minister or Chargé d'Affaires be obtained to the prosecution; but

(2) Such consent may be withheld unless His Majesty's Minister or Chargé d'Affaires is satisfied that effectual provision exists for the punishment in Consular or other Courts in China of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject.

By correspondence with the French, German and Italian representatives in London, it has been ascertained that provision exists for the punishment in the Consular Courts of France, Germany, and Italy in China of citizens or subjects of those countries should they infringe British trade-marks, and the necessary information has been given to His Majesty's Representative in Peking and to the Representatives there of the three countries mentioned to enable them to carry out the arrangements desired by their Governments for the mutual protection of their trade-marks.

I am instructed by His Majesty's Principal Secretary of State for Foreign Affairs to enquire whether the Government of the United States would be disposed to conclude a similar arrangement with His Majesty's Government.

I have the honour to be, with the highest consideration, sir, your most obedient, humble Servant,

(Signed) H M DURAND

The Honourable JOHN HAY,  
*Secretary of State, etc., etc., etc.*

DEPARTMENT OF STATE.  
Washington, September 23, 1904.

**EXCELLENCY:** I have the honor to acknowledge the receipt of your note of the 16th ultimo inquiring whether this Government would be disposed to conclude with that of Great Britain an agreement providing for the punishment in the consular courts of the United States of American citizens infringing British trade-marks in China and for the punishment in the consular courts of Great Britain of British subjects infringing American trade-marks in China.

The Government of the United States is of the opinion that some arrangement of this sort would be advantageous to its citizens doing business in China, and is therefore willing to enter into such an agreement with regard to China as it already has with your Government for the reciprocal protection of trade-marks in Morocco. Under that agreement the American consular courts in Morocco protect British subjects against the infringement by American citizens in Morocco of such of their trade-marks as have been duly registered in the United States, and the British consular courts afford like protection to American citizens against the infringement by British subjects of such of their trade-marks as have been duly registered in Great Britain.

If this is satisfactory to your Government, the proposed agreement could be effected by an exchange of notes as in the case of Morocco.

I have the honor to be, with highest consideration, your excellency's most obedient servant,

FRANCIS B. LOOMIS,  
*Acting Secretary.*

His Excellency the Right Honorable  
Sir H. M. DURAND, G. C. M. G., K. C. S. I., K. C. I. E.,  
etc., etc., etc.

BRITISH EMBASSY,  
Washington, April 10, 1905.

SIR, I communicated to His Majesty's Secretary of State for Foreign Affairs your note of September 23, 1904 relative to the proposed Agreement between His Majesty's Government and the United States Government for the mutual protection of British and American Trade Marks in China.

I am now in receipt of a despatch from Lord Lansdowne stating that His Majesty's Government agree in the proposal put forward in that note that an arrangement should be come to between the two Governments with regard to China, such as already exists between them for the reciprocal protection of Trade Marks in Morocco.

I am directed to inform you of the concurrence of His Majesty's Government in the proposal, and to add that the necessary instructions on the subject will be sent to His Majesty's Minister at Peking.

I have the honour to be, with high consideration, sir, your most obedient, humble servant,

H M DURAND

The Honourable FRANCIS B. LOOMIS,  
*Acting Secretary of State, etc., etc., etc.*

DEPARTMENT OF STATE,  
Washington, April 17, 1905.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th instant informing me of the concurrence of his Majesty's Government in the proposal made by this Department's note of September 23, 1904, that the agreement between the Government of the United States and that of His Britannic Majesty for the mutual protection of American and British trade-marks in China, be effected by an exchange of notes, as was done in the case of the reciprocal protection of trade-marks in Morocco, and that the necessary instructions on the subject would be sent to His Majesty's Minister at Peking.

In accordance with the understanding thus reached, instructions have this day been addressed to the American Minister at Peking directing him to effect the exchange of notes with His Majesty's Minister there.

I have the honor to be, with the highest consideration, your excellency's most obedient servant

(Signed)

FRANCIS B. LOOMIS  
*Acting Secretary.*

His Excellency the Right Honorable

Sir H. M. DURAND, G. C. M. G., K. C. S. I., K. C. I. E.,  
*etc., etc., etc.*

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AMERICAN LEGATION,  
Peking, China, June 23, 1905.

MR. MINISTER AND DEAR COLLEAGUE: The Acting Secretary of State of the United States has informed me in an instruction dated April 17, 1905, that you have been authorized by your Government to enter into a reciprocal agreement with me for the mutual protection of trade marks registered in the United States and Great Britain against infringement in China by the citizens or subjects of our respective nations, and he has given me authority to effect with you by an exchange of notes an agreement for the reciprocal protection of American and British trade marks in China.

In pursuance of the general agreement reached between our respective governments on the subject, it affords me much satisfaction to agree on behalf of the government of the United States, that henceforth trade marks of British subjects, having been duly registered in the United States of America, will be protected against infringement by such persons as come under the jurisdiction of the United States Consular Courts in China, in which effectual provision exists for the punishment of such infringements by American citizens.

I have the honor to be, my dear colleague, your obedient servant,

(sgd.) W. W. ROCKHILL

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PEKING, June 23, 1905.

MR. MINISTER AND DEAR COLLEAGUE: I have the honour to acknowledge the receipt of your letter of this date, informing me that you

have been authorized by your Government to effect with me by an exchange of notes an agreement for the reciprocal protection of American and British trademarks.

I beg to thank you for this communication and to assure that it affords me much satisfaction to enter into this reciprocal agreement, and henceforth protection will be afforded in China by His Britannic Majesty's Supreme Court for China and Corea and the Provincial Courts to trademarks of citizens of the United States which have been duly registered in Great Britain in conformity with "The Patents, Designs, and Trademarks Acts, 1883 to 1888."

At the same time it appears necessary to mention that the consent in writing of His Majesty's Minister or Charge d'Affaires must be obtained on each occasion, which consent will be given as a matter of course in consequence of the assurance contained in your Note under reply that effectual provision exists for the punishment in the United States Consular Courts in China of infringement, by such persons as come under the jurisdiction of those Courts, of the trademarks of British subjects which shall have been duly registered in the United States of America.

I have the honour to be, sir, your obedient servant,

(Sgd) ERNEST SATOW.

His Excellency, the Honourable W. W. ROCKHILL,  
*etc., etc., etc.*