

EAST AFR. PROT

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Recd
Regd 2 JUL 15

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Hess & Co.
Messrs D.

TRADE MARKS OF BIRCH PAPER

1915

1st July

States have been asked to supply Pez Caps hitherto supplied by Messrs Actian-Gesellschaft der Osterreichischen Pezfabriken with registered trade mark of two guns and a lion. Requests early information as to law on matter.

Last previous Paper.

W. Jefferson

N. Y. R.

Mr. Davis

2/7/15

Mr. Read

As to the legal question, E.A.P. has a trade mark, code 17, so far as we know here, no legislation has been passed enabling Trade marks registered under it in the names of enemies to be avoided or suspended.

The parties therefore

51 July 15

Copy for 4/4/15

Next subsequent Paper

remains the same as
stated in my minutes
on 7806 - viz the rights
of the registered owner
are suspended during
the war, but he will
(presumably) be able to
sue after the war for in-
fringement of his rights
committed during the war.

The question then arises
whether we should alter
the law so as to enable
the J. J. Ennis's Trade mark
to be avoided or sus-
pended in favour of the
applicants in this case.

This raises two points:

- (1) do we wish to
enable British ^{brew-}
chants to ~~produce~~
manufacture goods
with enemy marks.

As to this the answer will
probably be "no": the two

Cases below, in which we allowed the sale of foods bearing the enemy marks were cases where the foods had been manufactured & stamped before the outbreak of war. This reason does not exist here, & I think the British manufacturers ought to try & introduce food under a British mark to oust the enemy mark.

(ii). A question of legal policy arises.

It appears from Com. with B.S. which has been conducting in consequence of sue-
tions raised by Hong
Kong that the only

Cases in which sus-
-pension of enemy
patents has been granted
here have been,

(1) Where the mark
is the name of a patented
article & a license has
been granted under the
patent protecting it

(2) Where the Trade
mark is the only name
or only practicable
name of an article
manufactured under
an expired patent,
or ~~the~~ the only practicable
name of an article
manufactured in
accordance with a
Kardov process or
formula

(3) Where the goods
in respect of which the
mark is registered have
formerly been manu-

-factured by the ap-
-plicant & sold to
the enemy owner of the
mark under the mark

Generally speaking
Suspension is not granted
in the case of pictorial
devices (But I don't
think this qualification
applies to (3))

It is plain that the present
application does not
fall within any of these
clauses, & I should
therefore

reply that there
is no law in
Ed. P. Enabling
Trade marks registered
in the names of
enemies to be
avoided or suspended

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HG/EC.
D. HAES & CO

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8. *Golden Street.*

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30405
REC.
Reg. 2 JUL 15

Aldersgate Street.

2c.

London 1st July, 1914
EC

THE COLONIAL OFFICE,
WESTMINSTER,
LONDON, S.W.

Dear Sirs,

We have been asked by agents in British East Africa whether we can supply them with Pez Caps hitherto supplied by Messrs. Actien-Gesellschaft der Oesterreichischen Pezfabriken with the trade-mark of two guns and a lion. This trade mark was registered on the 20th July 1914 at the High Court of Mombasa under Certificate No. 179. We are particularly requested that any Caps we supply should have this trade-mark if it may be used. We should like to know the law as regards trade-marks of Austrian firms in British East Africa at the present time. Have such trade-marks been cancelled, and may they be re-registered by English firms if wanted? We shall be glad of an immediate reply as if we wish to secure any of this trade it will have to be very prompt.

Yours faithfully,

D. Haes

No. 20405/1915

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R. S. D.
R. 1111
D. 3.

89-3

3 July 1915

DRAFT.

From D. Haes & Co.

MINUTE.

Mr. Harper 3/7/15-

Mr. Bottomley 3/7/15/p

Mr.

Mr.

Sir G. Fiddes.

Sir H. Just.

Sir J. Anderson.

Mr. Steel-Maitland.

Mr. Bonar Law.

Gentlemen,

In reply to your letter of the 7th of July I am to inform you that there is no law in the Patent Enabling Trade Marks register in the names of enemies to be avoided or suspended.

Copy for Mr. 8/11/15

NY