

**BOARD OF DIRECTORS MEETING AGENDA**
**OPEN MEETING**
**VIA VIDEOCONFERENCE**

<b>Date</b>	<b>Thursday, July 29, 2021</b>
<b>Time</b>	<b>3:00 pm ET</b>
<b>Chair</b>	<b>Tom Conway</b>

ITEM	TOPIC	TIME	SPEAKER	Page #	ACTION
<b>1</b>	<b>Introductory Matters/Call to Order/ Approval Of Agenda/Conflicts of Interest</b>				
	Introductory Remarks by Chair				5
	<b>Conflicts of Interest</b> - Board members are to declare if they have any conflicts regarding matters on the agenda				
<b>2.</b>	<b>CONSENT AGENDA</b> The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Directors may seek clarification or ask questions without removing a matter from the consent agenda. Any Director may request a consent agenda item be moved to the regular agenda by notifying the Chair or the CEO prior to the meeting.				
	Minutes of June 22, 2021 Meeting				Approval
<b>3.</b>	<b>Establishing the College</b>				
3.1.	Board Policies BP No 2 – Regulatory Objectives, Standards and Principles - <i>Originally intended to be part of the By-laws, the RO's were deemed not to be appropriate for them and need Board approval as a stand alone policy</i>	10	D. Pink		Approval
3.2.	BP No 3 – Director's Code of Conduct - <i>This draft is for introduction and discussion by the Board. It includes the College's conflict of Interest policy, an essential requirement</i>	30	D. Pink		Discussion and Direction
3.3.	BP No 4 – Board and Committee Remuneration - <i>The Board has previously approved this and it has simply been reformulated for approval and publication</i>	10	D. Pink		Approval

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3.4.	BP No 5 – Executive Expectations of the CEO - <i>As the sole employee of the Board, there are expectations of the CEO to advance the work of the College, manage the College's risks and perform the tasks assigned by <a href="#">Board By-law 46</a></i>	20	D. Pink		Discussion and Direction
3.5	Indemnification of Board - <i>The Board will be briefed on the Board's risk and the mitigation strategies put in place.</i>	30			Authorize execution of indemnity agreement for Board
3.6	Appointment of Auditor - <i>The Board will need to appoint an Auditor for the College. The CEO and CFO have make a recommendation to the Board. The Board is being asked to agree to address the appointment via an electronic motion supported by a briefing note from the CEO.</i>	10			Approve
<b>4. Building a Model Regulator</b>					
4.1.	<b>Committee Structures</b>				Update
4.1.1	Investigations Committee - Skills Matrix - Terms of Reference Committee Appointments	15	V. Rees		Approval
4.1.2.	Discipline Committee - Skills Matrix - Terms of Reference	15	V. Rees		Approval
4.1.3	Registration Committee - Skills Matrix - Terms of Reference				
4.2	Mandatory Liability Insurance - <i>With assistance of Axxima a consultation document on liability insurance has been prepared and is now ready for circulation to the profession</i>				Approval

<b>5. FOR INFORMATION</b>	
5.1	June 30 Financials and memo from CFO
5.2	BP Policy No 1 – How CPATA Works
5.3	CEO Presentation to IPIC
<b>6. IN Camera</b>	
-	- with CEO - without CEO

FUTURE MEETINGS	
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**College of Patent Agents and Trademark Agents/**  
**Le Collège des agents de brevets et des agents de marques de commerce**  
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Board of Directors Meeting  
June 22, 2021, 2:00 ET

## Minutes

Present: Tom Conway, Chair, Jeff Astle, Karima Bawa, Ruth McHugh, Doug Thompson, Sean Walker, CFO, Darrel Pink, CEO/Recording Secretary.

### Call to Order

The Chair called the meeting to order at 2:00 ET.

### Agenda

The meeting was to address the continuing challenges faced by the College in moving towards operations.

### Conflicts

No conflicts were declared.

### Minutes

The minutes of the June 8, 2021 meeting were corrected and approved (Astle/Thompson)

### Appointment of Deputy Registrar

The CEO briefed the Board on the requirements in the By-laws (Board) and on motion (Bawa/Thompson) Jennifer Slabodkin was appointed a Deputy Registrar of the College of Patent and Trademark Agents.

Motion carried.

### Revenue Quebec

Whereas CPATA must register with Revenue Quebec in order to conduct certain business in Quebec,

And whereas Darrel Pink must sign documents to enable the College to register with Revenue Quebec;

And whereas Revenue Quebec requires confirmation of Darrel Pink's role with CPATA,

On motion (Bawa/Thompson) the Board confirms Darrel Pink is the President of the College and fulfills the role associated with that office.

Motion carried.

### Indemnity Agreement for the Board

The Board had for consideration a draft form of indemnity agreement between the College and individual Board members.

Before approving the agreement itself, the Board will be briefed on the full extent of risks now apparent that the structures and procedures for the College are clearer. The Board also wishes, as a mitigation strategy, the risks noted in the advice of BLG are fully implemented in policy. Thus the Board was prepared to approve the principle of providing an indemnity for Directors, but will defer approval of a final agreement pending provision of advice on the range of risks and mitigation strategies associated with them.

Whereas the College of Patent Agents and Trademark Agents Act does not contain any provisions regarding statutory immunity for members of the Board of Directors;

And whereas CPATA has had many discussions with senior officials in the Department of Industry, Science and Economic Development about this and believes those officials will work to ensure amendments to the Act are made to add legislative provisions regarding immunity;

And whereas the Board of Directors recognises and is committed to meeting its fiduciary obligations;

And whereas there remains some personal risk for individual Directors which the College has mitigated through the purchase of insurance;

And whereas the College wishes to further assure its Directors they are protected in the event of a claim made against the personally,

On motion (Thompson/Bawa) be it resolved that the College will provide an Indemnity Agreement for each Director and the CEO is authorized to execute that agreement on behalf of the College;

And the specific form of agreement will be determined after the Board receives advice on risks and mitigation.

Motion carried.

### By-Laws

The CEO described the process leading to the development of the By-laws, the role played by the Department of Justice, the need to comply with the provisions of legislation and established processes and the limited room for flexibility to advance, in the by-laws many of the goals and approaches the College wishes to implement. He explained that if something is contained in the Act or Regulations, even to create context, it cannot be repeated in the by-laws, so they do not contain a complete picture of the regulatory or governance regime, but a reader will have to reference several documents to fully determine all aspects of the regulatory requirements.

Time did not allow for a complete review of the by-laws. The meeting adjourned and resumed at 7:30 pm on June 26.

Whereas the College of Patent Agents and Trademark Agents Act and the Regulations made under s. 75 of the Act authorizes the Board of Directors to enact by-laws governing many aspects of the College's regulation and operations;

And whereas the process of drafting and reviewing the by-laws has been complex and has taken far longer than anticipated;

And whereas drafters at the Department of Justice, responsible to ensure by-laws meet the requirements of the *Statutory Instruments Act*, have acknowledged the by-law preparation process was significantly compressed resulting in by-laws that will require amendments to clarify or elaborate on aspects of the College's regulation and operations addressed in the By-laws;

And whereas the Board has considered the by-laws in a timeframe that was compacted and which recognizes the coming-into-force date of the Act is only a few days away;

And whereas the Board has a fiduciary obligation to the College, the public and the profession to ensure the by-laws are appropriate and satisfactory to enable the public interest regulation that is the responsibility of the College;

On motion (Thompson/Astle) be it resolved:

1. The Board approves the by-laws attached as Appendices 1 and 2 of this Resolution, and authorizes the CEO to approve non-substantive corrections to ensure the English and French versions align prior to publication;
2. The Board will begin a review of the by-laws within six months of the date of this resolution;

The Board instructs the CEO to procure for the College expertise in drafting of statutory instruments to assist the College in preparing future revisions to the by-laws in a form and style dictated by the Department of Justice to comply with the *Statutory*

Approved July 29, 2021.

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## Appendix A (Board By-laws)

By-laws of the College of Patent Agents and Trademark Agents (Board) Règlement administratif du Collège des agents de brevets et des agents de marques de commerce (conseil) SOR/2021-168

[By-laws-of-the-College-of-Patent-Agents-and-Trademark-Agents-Board-1.pdf \(cpata-cabamc.ca\)](#)

## Appendix B (College By-laws)

By-laws of the College of Patent Agents and Trademark Agents (College) Règlements administratifs de l'Ordre des agents de brevets et des agents de marques de commerce (Collège) SOR/2021-167

[By-laws-of-the-College-of-Patent-Agents-and-Trademark-Agents-College.pdf \(cpata-cabamc.ca\)](#)

## BOARD POLICIES

NAME OF POLICY	Board Policy No. 2 - Regulatory Objectives, Standards and Principles		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	By-Law ???		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Board	June 28, 2021	Date	Date

## REGULATORY OBJECTIVES, STANDARDS AND PRINCIPLES

To advance its role as a risk-focused, modern public interest regulator, the College has adopted these Regulatory Objectives:

1. We protect and promote the public interest in patent and trademark services.
2. We protect those who use patent and trademark services.
3. We promote innovation in the delivery of patent and trademark services and the protection of intellectual property rights.
4. We improve access to and promote competition in the provision of patent and trademark services.
5. We promote the independence of the patent and trademark profession.
6. We ensure Licensees deliver patent and trademark services ethically and competently.
7. We promote equity, diversity and inclusion in the patent and trademark profession and in the delivery of patent and trademark services.

### Regulatory Standards

#### Programs and Activities

We maintain standards for the ethical and competent delivery of patent and trademark services and enforce compliance with those standards.

We maintain up-to-date practice standards for licensees and provide guidance in applying the standards.

We maintain standards for education, training and fitness to ensure our admission programs deliver competent trainees that meet the College's requirements for registration.

We understand the diversity of licensees and those who interact with them.



We have fair processes for raising concerns about a licensee, and for examining and investigating those concerns. We support parties in the Complaints Investigation Process.

#### How we do business

We are clear about our purpose and open and transparent in all processes: we publish our regulatory requirements, guidance, policies, processes and decisions; we provide accurate accessible information about our licensees; and we report on our performance and outcomes.

We clearly distinguish among the roles of the Board, committees and the CEO/Registrar. Board decision-making occurs in public.

We clearly state the public interest objectives we seek to achieve in our policies.

We apply policies in a principled manner, proportionately, fairly and efficiently with decisions clearly explained, including their public interest rationale.

We identify and manage risk to the public by being proactive and proportionate, taking a risk-based approach, and focusing resources on licensees most likely to harm clients or the public.

We promote equity, diversity and inclusion in the patent and trademark profession and do not impose inappropriate barriers. We have due regard to the need to eliminate unlawful discrimination and harassment and consider carefully the health and capacity of those we deal with and understand the stress that involvement with the College can cause.

We comply with the College's obligations under the [Canadian Human Rights Act](#), the [Privacy Act](#) and the [Access to Information Act](#).

In developing policies and advancing the College's objectives, we obtain expert advice as required, conduct research relevant to the matters under consideration and consult and work with interested stakeholders.

We promote innovation in the delivery of patent and trademark services, the achievement of high-quality IP practices and risk management by licensees.

Our process for raising concerns about a licensee is open to anyone. We consider and investigate concerns about a licensee fairly, proportionately, and as quickly as is consistent with the goals of early and fair resolution of concerns, and of prioritizing situations which pose a serious risk of harm to the public.

We protect the public by making fair decisions supported by appropriate evidence.

We conduct adjudicative processes in a timely manner, to ensure fairness for the parties and the public who are involved.

We evaluate our governance and regulatory processes and standards to ensure they meet expected requirements.

### Decision-making Principles

Decisions by the Registrar and Regulatory Committees:

- focus on the public interest;
- ensure matters are considered on their own merits, on an objective analysis of the facts, and under published policies, guidance and criteria;
- are made in a timely manner and under processes proportionate to the risk involved and targeted only at cases in which action is needed;
- are informed by appropriate specialized knowledge and expertise to ensure a complete analysis of the matters at issue;
- are consistent;
- account for the Regulatory Objectives, our obligations under applicable legislation<sup>1</sup>, our standards and the case law;
- are fair and seen to be fair by incorporating common law principles of fairness and natural justice;
- prioritize innovation and promote high-quality IP practices;
- are made directly or by proper delegation by appropriate decision makers exercising authority in the Act, the Regulations or the By-laws<sup>2</sup>;
- ensure the person potentially affected by the decision has an opportunity to make representations before a decision is made unless urgent circumstances require a decision to be made without hearing from that person;

<sup>1</sup> By publishing a summary of Registrar's decisions and complete adjudicative committee decisions on the College's website we keep the public and licensees informed of our regulatory actions;

<sup>2</sup> The Registration, Investigations and Discipline Committees and panels or quorums of those committees.

- are transparent and explain the process and
- the result is communicated to the person affected by the decision.

We provide an internal review process for decisions of the Registrar.

## BOARD POLICIES

Board Policy No. 3 - DIRECTORS' CODE OF CONDUCT			
NAME OF POLICY			
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	Title		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Name	Date	Date	Date

## INTRODUCTION

This Directors' Code of Conduct ("Code of Conduct") includes all items in Sections A through I, herein. The Code of Conduct has been approved by the Board and is intended to govern the conduct of the Directors and members of Committees. The principles in this Code of Conduct are the individual and collective responsibility of all directors.

Each director when appointed/elected or reappointed/re-elected is required to sign an undertaking regarding the Code of Conduct (Section G), which undertaking will apply for the term of office

In addition, each director is required to declare that they are not ineligible to act as a director (Section I).

## A. CODE OF CONDUCT GUIDELINES

### 1. Responsibilities of Individual Directors

Each director is expected to become an active participant in the Board, a body that functions as a whole. In addition to assisting in the exercise of the major duties of the Board, including any College committees on which they serve, directors are responsible to exercise due diligence in the performance of their duties.

They are expected to:

- (i) Be informed of the College's Act, Regulations and By-laws, the College's Regulatory Objectives, Standards and Principles, this Code of Conduct, and any Board Policies as they pertain to the duties of a director;
- (ii) Keep generally informed about the activities of the College, the public interest it serves, and general trends in the sector in which it operates;

- (iii) Attend Board meetings regularly, serve on Board committees, and contribute from personal, professional and life experience to the work of the Board;
- (iv) Exercise the degree of care, diligence and skill expected of a director;
- (v) Exercise the degree of care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person;
- (vi) Be independent and impartial;
- (vii) Not be influenced by self-interest, outside pressure, political considerations or fear of criticism;
- (viii) Not knowingly permit the director's personal interests to conflict with their duties and powers as a director;
- (ix) Act with honesty and integrity and conduct themselves in a manner consistent with the nature and the responsibilities of a director and in such manner as will maintain public confidence in the conduct of the Board's business;
- (x) Offer their perspectives and opinions on issues that are the subject of Board discussion and decision;
- (xi) Voice, clearly and explicitly at the time a decision is being taken, any opposition to a decision being considered by the Board;
- (xii) Maintain solidarity with fellow directors in support of a decision that has been made in good faith in a legally constituted meeting, by directors in reasonably full possession of the facts;
- (xiii) Ask the directors to review a decision, if they have reasonable grounds to believe the Board has acted without full information or in a manner inconsistent with the directors' fiduciary obligations;
- (xiv) Work with the staff of the College on matters within the mandate of the Board or its committees;
- (xv) Know and respect the distinction between the roles of directors and the roles of staff, and work with and treat staff in a manner that is consistent with that distinction and the principles underlying the Board's governance policies;
- (xvi) Exercise vigilance in identifying, and declare, any real, potential or perceived conflict of interest in accordance with the Conflict of Interest Guidelines herein, and the College's By-laws.

## 2. Conduct of Directors

At all times directors will conduct themselves in a manner that:

- (i) Supports the Regulatory Objectives of the College;
- (ii) Serves the overall best interests of the College rather than any particular constituency;
- (iii) Brings credibility and good will to the activities of the Board and of

- the College;
- (iv) Respects principles of fair play and due process;
  - (v) Demonstrates respect for individuals in all manifestations of their diversity and life circumstances;
  - (vi) Demonstrates a posture and attitude of professionalism and respect towards others and avoids any form of harassment;
  - (vii) Respects and gives fair consideration to diverse and opposing viewpoints;
  - (viii) Demonstrates due diligence and dedication in preparation for and attendance at meetings, special events and in all other activities on behalf of the Board;
  - (ix) Act consistently with the College's Regulatory Standards and Principles and demonstrates good faith, prudent judgment, honesty, transparency and openness in his or her activities on behalf of the College;
  - (x) Oversees the financial affairs of the College so they are conducted in a responsible and transparent manner with due regard for a director's fiduciary responsibilities and public trusteeship;
  - (xi) Avoids real, potential or perceived conflicts of interest;
  - (xii) Conforms with the By-laws and Board Policies approved by the Board, and in particular this Code of Conduct;
  - (xiii) Conforms with any obligations or duties of directors under applicable legislation;
  - (xiv) Publicly demonstrates acceptance, respect and support for decisions legitimately taken in transacting the Board's business.

### **3. Performance Monitoring**

The directors collectively, operating as the Board, recognize their collective responsibility to monitor the performance of the College, and to measure and account for its results. In addition to the annual performance evaluation of the CEO, the College's performance will be assessed by the Board, through a systematic process of evaluations that will include:

- (i) Evaluation of the Board's effectiveness to identify strengths and weaknesses in governance structures and processes and to suggest priorities for further attention;
- (ii) Directors' self-assessments to help individual directors and the Chair of the Board to assess the "added value" that each director brings to the College, whether each director has met the expectations set by the Board, whether each director continues to be committed to serving on the Board and whether each director has complied with the requirements of this Code of Conduct.
- (iii) One on one meetings between each director and the Chair of the Board to assess individual director's perspectives on Board and corporate performance.
- (iv) Development of a system that demonstrates the impact or outcomes of the College's regulatory mandate including the effectiveness of all regulatory processes, decision making and the communication and implementation of

regulatory decisions.

#### **4. Contracts with Former Directors**

Nothing in this Code of Conduct prohibits the College from awarding a contract to a former member of the Board provided that the procedure followed for awarding such contract is in accordance with the College's established practices.

#### **5. Gifts and Hospitality**

Directors must not directly or indirectly offer or accept cash payments, gifts, gratuities, privileges or other personal rewards that are intended to influence the activities or affairs of the College. Directors may give or receive modest gifts or hospitality as a matter of general and accepted business practice, provided they do not include cash or other negotiable instruments and provided proper accounting is performed for any such expenses.

### **B. FIDUCIARY OBLIGATION GUIDELINES**

1. Directors owe a fiduciary obligation to the College.
2. A fiduciary obligation requires a director to act loyally, honestly, in good faith and in the best interests of the College, to avoid conflicts of interest, avoid using the position of director for his or her own benefit, and to keep the College's information confidential.

### **C. CONFIDENTIALITY GUIDELINES**

1. In these Confidentiality Guidelines, "confidential information" includes, without limitation:

any secrets, trade secrets, processes, ideas, materials, documents, business plans, business forecasts, strategies, professional or expert opinions, bids, estimates, proposals, proprietary information, financial information, or any other information whatsoever, whether in verbal, written or any other form, relating to any and all aspects of the business and activities of the Board, its committees or the College, which is not known to persons outside of the committee, the Board or the management of the College and any personal information, whether or not it is known by any other person, that a director learns as a result of his or her position as

a director.

2. As a public interest regulator, the College operates in the public domain, conducts its Board business in public, discloses regulatory decisions and operates in an open and transparent manner. The obligations relating to confidential information relate to materials, information and matters that have not been disclosed in the fulfillment of the College's public interest mandate.
3. All communications between directors or directors and management are confidential unless disclosure is authorized by the Chair, Board Policies or required by law.
4. Directors must adopt reasonable precautions in dealing with confidential information so as to prevent its unauthorized use or disclosure.
5. Except as directors may be compelled by applicable legal process, each director must, both while serving as and after ceasing to be a director, treat all information regarding the policies, internal operations, systems, business or affairs of the College that they obtain by reason of their status as a director and that would not otherwise be available to them, as confidential information.
6. Duplication and disclosure of confidential information (written or oral) other than for the purposes of carrying out directors' duties or as between directors requires advance written consent of the Chair.
7. It is the responsibility of each director to know what information is confidential and to obtain clarification when in doubt.
8. A director must not use information obtained because of involvement on the Board for their personal benefit. Each director must avoid activities that may create a perception the director has benefited from acquiring confidential information during the course of being a director.
9. Directors must inform themselves of the general obligations of the College respecting personal information and ensure their own actions are consistent with the College's obligations to protect and handle such information in a secure manner and in accordance with applicable laws.
10. When a director ceases to be a director of the College, they must return forthwith to the CEO every copy of any confidential information (including all notes, records and documents pertaining to acting as a director) in the director's possession or under his or her control at that time.

## **D. CONFLICT OF INTEREST POLICY**

Directors are required to comply with these Conflict of Interest Policy in fulfilling their duties as directors of the College.

At all times directors act in the best interests of the College rather than in their own or any particular constituency's interests. This means setting aside personal self-interest and performing a director's duties in transacting the affairs of the College in such a manner



that promotes public confidence and trust in the integrity, objectivity and impartiality of the Board, the College's regulatory committees and all regulatory decision making. Beyond the approved remuneration for directors, no director directly or indirectly receives any profit from their position, other than reasonable expenses incurred in the performance of their duties. The pecuniary interests of immediate family members or close personal or business associates of a director are considered to also be the pecuniary interests of the director.

## **1. Definition of conflict of interest**

A conflict of interest refers to a situation in which personal, occupational or financial considerations affect or appear to affect the objectivity or fairness of the actions, decisions or deliberations of the Board or individual directors.

Directors are in a "conflict of interest" whenever they, or members of their family, business partners or close personal associates, may personally benefit directly or indirectly, financially or otherwise, from the director's position on the Board.

A conflict of interest may be "real", "potential" or "perceived"; in each case, there exists the same duty to identify and disclose the conflict. Full disclosure does not eliminate a conflict of interest.

Pursuant to ss. 14 and 17 of the Act, a conflict of interest exists if a director is a member of an association whose primary purpose is to represent the interests of persons who provide advice on patents or trademarks

## **2. Principles for dealing with conflict of interest**

- (i) Directors must openly disclose a potential, real or perceived conflict of interest as soon as the issue giving rise to the conflict arises and before the Board or a committee deals with the matter.
- (ii) If the director is not certain whether there is a conflict of interest, the matter may be brought to the Chair for advice and guidance. Where a conflict of interest issue arises in the context of a College committee, the director brings the matter before the Chair of the committee.
- (iii) If there is a question about the existence of a conflict, the Board, absent the director whose interest is involved, determines by majority vote if a conflict exists.
- (iv) Directors, who are aware of a real, potential or perceived conflict of interest on the part of a fellow director, should raise the issue for clarification, first with the director in question and, if unresolved, with the Board chair.
- (v) A director in a real, potential or perceived conflict of interest must abstain

- from participation in any discussion on the matter, not attempt to personally influence the outcome, refrain from voting on the matter and, leave the meeting room for the duration of any such discussion or vote.
- (vi) The disclosure and decision as to whether a conflict exists is to be recorded in the minutes of the meeting. The time the director left and returned to the meeting is also recorded.
- (vii) The failure of a director to comply with the procedures outlined in this Conflict of Interest Policy does not, of itself, invalidate any decision or action of the Board.

### **3. Examples of conflict of interest on the part of a director:**

The following is a non-exhaustive list to assist a director to determine whether a conflict of interest exists:

- (i) Any circumstance that may result in a personal or financial benefit to a director or their family member, business associate or close personal associate. This includes, but is not limited to, accepting any payment for services rendered to the College, including contracted work or honoraria; accessing financial or other resources for personal use, i.e., transportation, training costs, supplies, equipment, etc.
- (ii) Personal interests that conflict with the interests of the College.
- (iii) Seeking, accepting or receiving any personal benefit from a supplier, vendor, or any individual or organization doing or seeking business with the College.
- (iv) Being a member of the Board or staff of another organization that has or might have material interests that conflict with the interests of the College ; and dealing with matters on one Board that might materially affect the other Board.
- (v) Any involvement in the hiring, supervision, grievance, evaluation, promotion, remuneration or firing of a family member, business associate, or close personal associate of the director.
- (vi) Individuals who serve as directors on the same board with members of their family or others with whom they have a direct business or close personal relationship will be subject to an immediate perception of apparent conflict of interest.

## **E. COMPLAINTS AND DISPUTES INVOLVING DIRECTORS**

- (i) The Board, in a meeting called for this purpose, reviews complaints a director has violated any provision of this Code of Conduct.
- (i) The Board Chair similarly reviews disputes between directors that interfere with the ability of the Board to carry on its business.
- (ii) Complaints of a grave nature may be referred to an independent arbiter.
- (iv) Allegations of illegal activity or misconduct must be immediately referred to

police, to a professional regulatory body, or other appropriate authorities for investigation. Any director against whom such allegations are made must take a leave of absence from the Board pending completion of the investigation.

- (v) The review of a complaints or dispute must include an opportunity for the director concerned to present their positions.
- (vi) Every attempt is to be made to resolve such matters expeditiously and fairly.
- (vii) The ruling of the Board is final. Should the director refuse to abide by the ruling, the Board may table the matter pending determination of disciplinary action. Such action may include formal or informal censure by the Chair, suspension or a request for the director's resignation.

## **DIRECTOR'S UNDERTAKING REGARDING THE CODE OF CONDUCT**

(To be executed at the time of appointment or re-appointment)

The execution of this Undertaking confirms that I, \_\_\_\_\_, as a director of the College of Patent Agents and Trademark Agents, agree to act in accordance with the Code of Conduct throughout my tenure as a director and as applicable, after I cease to be a director.

I understand and acknowledge:

1. As a director, I have fiduciary obligations to the College and the relationship between me and the College is that of mutual trust. I will always act loyally, in good faith, in the best interests of the College and in accordance with the Fiduciary Obligation Guidelines set out in the Directors' Code of Conduct.
2. As a director, I will always endeavour to avoid conflicts of interest and if a conflict of interest arises, I will address it in accordance with the Conflict of Interest Policy.
3. As a director, I have and will continue to have access to confidential information, the disclosure of which may be detrimental to the best interests of the College or its licensees. I will keep confidential all confidential information of which I become aware because of my participation on the Board or a College committees, and act in accordance with the Confidentiality Guidelines.

I undertake and agree:

- (i) I have read the attached Directors' Code of Conduct in its entirety. I understand my obligations and agree to be bound by them.
- (ii) Any breach of this undertaking by me constitutes a breach of my standard of care and fiduciary obligations to the College.
- (iii) If I breach this undertaking, I may, upon resolution of the Board, be removed as a director in addition to any other remedies the Board or College may

determine are appropriate.

- (iv) The obligations contained in this Undertaking continue after I cease to be a director.
- (v) This Undertaking is governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto.
- (vi) Any provision of this undertaking that is invalid or unenforceable does not affect any other provision and is deemed to be severable.
- (vii) Receipt of a facsimile or electronic version of an executed signature page of this Undertaking constitutes satisfactory evidence of execution of this Undertaking.

**IN WITNESS WHEREOF** I have set my hand this \_\_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director

## CONSENT TO ACT AS A DIRECTOR

TO: College Of Patent Agents and Trademark Agents

AND TO: The Directors of the College

- 
1. I consent to serve as a director of the College and agree to my re- election or re-appointment from time to time until I revoke this consent, my term expires or I resign from the Board of Directors, in which case this consent will cease to have effect from the later of: (i) the College's receipt of my revocation or resignation, and (ii) the effective date of such revocation or resignation as stated therein.
  2. I consent to the participation by any director of the College in a meeting of the Board of Directors, or of a committee of the Board, by means of telephone, electronic or other communications facilities that permit all participants to communicate adequately with each other during the meeting, such consent to continue in effect unless revoked by an instrument in writing delivered to the Colleges.
  3. I certify that:
    - i. I am at least 18 years of age;
    - ii. I do not have the status of a bankrupt;
    - iii. I am not a member of an association whose primary purpose is to represent the interests of persons who provide advice on patents or trademarks;
    - iv. Within the last 12 months, I have not been a member of the governing body or a steering committee of an association referred to in (iii) above;
    - v. If I am appointed to the Board, I am not
      - a. a licensee, or
      - b. an employee of a department as defined by s. 2 of the Financial Administration Act (Can.)
    - vi. If I was elected to the Board, I
      - a. do not hold a licence that has been suspended;
      - b. am not otherwise ineligible to be a director.

DATED as of the \_\_\_ day of \_\_\_\_\_, 20 \_\_.

## BOARD POLICIES

NAME OF POLICY	Bd. Policy No. 4 – Board and Committee Remuneration		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	s. 79(7) <sup>1</sup> and s. 18 <sup>2</sup> By-law -		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Board	2021-01-19	Date	Date

## TITLE

### Rationale

As an independent public interest regulator, members of the Board of Directors bring expertise and skills to set the policy direction for the College. They are not volunteering and should receive reasonable compensation reflecting the value of the time and work they perform on behalf of the College.

Board members should not incur personal costs because of their work on the College's Board or Committees.

### Board Compensation

Board members will receive compensation based on a per diem rate adjusted occasionally.

The per diem rate is set to reflect the value of the work, time spent at meetings and to prepare for them and the risks assumed by the Board. It follows rates paid to GIC appointments by the Treasury Board of Canada.

<sup>1</sup> 79(7) Before the coming-into-force day, the College may pay the remuneration and expenses that it fixes to the directors.

<sup>2</sup> 18 The College may pay to the directors the remuneration and expenses that are determined in accordance with the by-laws.

A per diem rate is payable for:

- Preparation for and attendance at meetings of the Board and College committees or sub-committees (including participation by electronic means);
- travel time, if the time required to travel between the meeting place and the normal place of residence exceeds three hours;
- representational responsibilities designated by the Board.

Per diem rates are paid for preparation for and attendance at meetings over four (4) hours.

Preparation for and attendance at meetings of less than four(4) hours are paid at 50% of the per diem rate.

Per diem rates are \$550 for Board members and \$750 for the Board Chair.

### **Travel and Accommodations**

Travel is compensated for economy class<sup>3</sup> fares for air and train travel.

Ground transportation associated with air or train travel is compensated.

Travel by car is compensated at the per kilometer rate paid by the Treasury Board.

International travel with flight times exceeding six (6) hours may be in Business or Executive Class.

Accommodations will be reimbursed at the hotel rate negotiated by the College for attendance at in person Board or Committee meetings or at the designated conference venue, if travel is to attend a conference on behalf of the College.

Reasonable meal expenses will be reimbursed.

Receipts must be provided for reimbursement of any expenses.

<sup>3</sup> Economy class is that class of travel which is immediately below 'business' or 'executive' class.

## BOARD POLICIES

NAME OF POLICY	BP No 5 - Executive Expectations of CEO		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	Title		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Name	Date	Date	Date

### 1. Introduction

Executive expectations are a mechanism that allows the Board to exercise appropriate control, promote accountability and foster flexibility, innovation and creativity to benefit CPATA's purpose. They protect the well-being of CPATA from risk while encouraging the CEO to improve processes and identify new responses to needs of CPATA in a controlled manner.

### 2. General requirements

The CEO is the chief executive officer of CPATA and under the direction of Board is responsible for the management and coordination of all phases of the operation, administration, finances, organization, supervision and maintenance of all activities of CPATA.

The CEO performs all the functions and duties normally associated with the office of chief executive officer, including:

- putting into effect all policies and procedures established by Board or a committee acting under its authority;
- counselling and assisting the Board and any committee in the development, adoption, implementation and advancement of the various activities of CPATA and its Regulatory Objectives, Standards and Policies;
- engaging employees and directing personnel in the ongoing administration of approved policies and programs;
- executing documents on behalf of CPATA; and
- performing such other functions and duties as may be assigned by Board.

The CEO shall not cause or allow any practice, activity, decision or organizational circumstance that is imprudent or violates the Act, Regulations, other applicable legislation, Society policies, professional ethics or commonly accepted business and management practices.



The CEO must participate in the annual performance review.  
The CEO shall ensure that all policies necessary for the operation and management of CPATA are created, kept current, documented and followed. Such policies shall follow applicable legislation, professional ethics and best business and management practices.

### **3. Employees**

The CEO ensures working conditions for employees of CPATA are fair, dignified and safe, and in compliance with applicable legislation, employment contracts, professional ethics and best business and management practices.

The CEO ensures all there are current position descriptions in place for all employees that contain a description of the competencies required and performance expectations

The CEO ensures regular performance reviews are conducted for all employees in accordance with CPATA's Human Resources Policies and Procedures.

### **4. Employment, Compensation and benefits**

Employment, compensation and benefits of employees, consultants and contract workers accordwith approved budgets and shall not jeopardize the public image or the fiscal integrity of CPATA.

In particular, the CEO must:

- not change their own compensation and benefits, or receive benefits outside of theapproved compensation plan;
- ensure compensation and benefits included in the budget do not substantially deviate fromthe mean salary for similar positions in the national Capital Region market; and
- ensure employees use their vacation entitlement without carrying over vacation time from one year to the next, other than what is allowed by CPATA's human resources management policies.

### **5. Backup and cross-training**

The CEO must ensure:

- appropriate succession planning is in place for the CEO and staff;
- all staff have designated employee backups; and
- appropriate cross-training exists within CPATA so in the event of the absence of acritical employee, the work of that person can be carried on by others at least on an interim basis.

#### *6. Strategic Goals and Objectives*

The CEO shall facilitate Board's development and approval of a current Strategic Goals and Objectives that sets the strategic direction for Board and CPATA.

#### *7. Annual Activity Plan*

The CEO ensures Board considers and approves the Annual Activity Plan for the successive Board year, which plan shall be consistent with the Strategic Goals and Objectives and developed with the input of the Officers, Board members, the Executive Committee, committee chairs and senior staff.

#### *8. Planning calendar*

The CEO develops and regularly updates a 12-month planning calendar that submitted to Board at each meeting for its review in conjunction with an update on the Annual Activity Plan.

#### *9. Finances*

In October, the CEO presents an annual budget to the Board for approval, together with three-year projections, which budget:

- contains expenditures that do not exceed forecasted revenues
- allocates resources that do not deviate substantially from broadly stated organizational goals and priorities;
- corresponds with the priorities and objectives of the Annual Activity Plan and Strategic Goals and Objectives;
- contains credible projections of revenues and expenses;
- separates capital and operational items; and
- discloses planning assumptions, risk factors and cash flow projections.

The CEO provides regular written reports to the Risk and Audit Committee on CPATA's financial situation that specifically advises of any material change in assumptions or expected deviation in projected revenue or expenditures (material means variances from budget that are greater than five per cent or \$10,000.00). Current reports are provided to Board at each meeting.

#### *10. Risk - Financial Reporting and accountability*

The CEO ensures:

- expenditures are made in compliance with the budget but the CEO may reallocate between items in the budget within guidelines provided by the Audit and Risk Committee;
- appropriate signing authorities and banking resolutions are kept current;
- tax payments and other government-required remittances and other deductions are current and so certifies to the Board as part of each written report;

- sufficient funds are always available to meet current obligations in a timely manner;
- receivables are addressed in a timely manner; and
- cash and funds are handled in accordance with applicable standards;
- an Enterprise Risk Management Policy is developed, approved by the Board, on advice of the Audit and Risk Committee, and there are annual reviews and reports to the Board on the Policy;
- instructions to CPATA's auditors include:
  - a requirement for independent review and reporting on CPATA's statutory compliance obligations, and
  - a review of risks usually associated with an organization like CPATA, identified by the CEO, the Audit and Risk Committee, the Board and the Auditors.

Commented [DP1]: Noted in BLG opinion

Commented [DP2]: Ditto

### 11. Risk – Statutory Compliance

The CEO ensures:

- CPATA complies with its obligations under the Privacy Act, the Access to Information Act, The Official Languages Act, the Canada Labour Code and any other federal legislation that applies to it;
- CPATA complies with the provisions of The College of Patent Agents and Trademark Agents Act, the College's Regulations and By-laws

### 12. Risk Management and Asset Protection

The CEO ensures CPATA's tangible and intangible assets are adequately protected and maintained and are not subject to unnecessary risk.

In particular, the CEO ensures:

- property and equipment are properly maintained and not subject to improper wear and tear or to unauthorized access;
- plans are in place to replace depreciated assets;
- intellectual property, information and files are properly protected from loss, theft or significant damage;
- CPATA has adequate insurance protection against all risks and in particular those risks that are heightened because of the virtual nature of CPATA's operations;
- CPATA has adequate liability insurance protection for CPATA, its employees and agents working on behalf of CPATA;
- CPATA has a current technology plan, together with current information technology policies;
- information systems are properly maintained, and appropriate backups exist for electronically stored information; and
- CPATA meets legislative requirements for records retention, confidentiality, privacy and freedom of information.

### 13. Whistleblowing

The CEO ensures CPATA has a Board approved Whistleblowing Policy that is reviewed annually by the Audit and Risk Committee and recommended changes are address by the Board.

Commented [DP3]: BLG advice

### 14. Litigation policies

The CEO instructs counsel on behalf of CPATA in all matters in which CPATA is a party to litigation or to judicial or quasi-judicial proceedings and is not represented by its insurer.

In hearings conducted by the Discipline Committee, the CEO instructs counsel for CPATA in accordance with the approved policies.

Any participation by CPATA in litigation or in judicial or quasi-judicial proceedings in which it is an applicant, appellant, intervener or plaintiff must be authorized by the Board, which shall set out the scope of CPATA's role in the matter.

In matters where CPATA, its employees, Board or committee members are named as a defendant or a responding party in litigation or in judicial or quasi-judicial proceedings, the CEO must:

- advise the Board as soon as practicable;
- report to the matter to CPATA's insurers as soon as practicable for a determination of whether the matter is covered by the terms of the insurance policy, and report the results to the Board;
- if the matter is not covered by insurance, retain and instruct counsel for CPATA, its employees, Board or committee members, and provide direction with respect to the nature and scope of CPATA's role in the matter, in consultation with the Executive Committee as practicable; and
- report to the Board on the status of the matter from time to time.

The CEO advises of the status of litigation matters at all regular Board meetings or at special meetings called for that purpose.

### 15. Support and communication

The CEO supports the Board, committees and all those who provide assistance to CPATA through both leadership and administrative support.

In particular, the CEO ensures:

- there is full communication with the Board on all relevant matters at Board meetings or between Board meetings, which communication contains appropriate information to allow members to be adequately informed of the issues;
- written monitoring reports, required by the Board, are provided in a timely, accurate and understandable fashion;
- the Board is informed of relevant trends, significant issues, adverse media coverage, significant internal or external changes and any other information that might reasonably impact Board policy or the reputation of CPATA;

- the Board is informed if, in the CEO's opinion, the Board fails to comply with its own policies, or if there has been conduct that is detrimental to the relationship between the CEO and Board;
- official Board communications such as minutes and Board packages are distributed no later than one week prior to Board meetings;
- Board deliberations are informed by appropriate staff and external points of view on issues and options;
- appropriate briefing information and support are provided to the Board to assist them in carrying out their duties, including any presentations to the public or licensees;
- the Board is assisted in overseeing the engagement with the profession and external stakeholders.

#### *16. Licensee and public relations*

Together with the Chairperson, the CEO is the person primarily responsible for the public image of CPATA and shall present that image in a credible way so as to advance CPATA's purpose, strategic direction and values.

In particular, the CEO ensures:

- accurate and effective communications strategies and practices are in place, both licensees and the public;
- effective public, government and stakeholder relations strategies are in place;
- information regarding Board decisions is readily available; and
- employees or agents of the College, unless specifically authorized, do not make public presentations on matters of Board policy.

#### *17. Strategic alliances*

Because CPATA's relationships with individuals and organizations involved in innovation and intellectual property issues are critical to achievement of its strategic goals, and because the CEO plays a vital role in developing, nurturing and enhancing the quality and extent of these various relationships for the benefit of CPATA, the CEO ensure:

- external relationships are developed and maintained with maximum effectiveness with organizations having an interest in innovation and intellectual property;
- opportunities for the development of new external relationships and partnerships are identified; and
- there are meetings between CPATA and Industry, Science and Economic Development (ISED) and the Canadian Intellectual Property Office (CIPO), and the Board is advised how this work benefits CPATA.

## INVESTIGATIONS COMMITTEE TERMS OF REFERENCE (DRAFT V. 5)

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### ROLE

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. This includes setting and enforcing compliance with required ethical and practice standards through a variety of means, and in a manner that is risk focused, fair, transparent, efficient, proactive, proportionate and principled.

For the Investigations Committee, this regulatory approach includes finding ways to fairly resolve complaints as early as possible; adopting restorative approaches<sup>1</sup> to complaints handling that strive to identify and address harm, help agents be accountable for their actions, and, where appropriate in the public interest, foster learning from mistakes rather than punish; and making decisions that are clear, concise, well-supported and balance all relevant interests.

#### **Objects of Complaints and Discipline Process**

The objects of the complaints process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Addressing concerns of professional misconduct and professional incompetence, including striving for early resolution of complaints when doing so is consistent with the public interest; and
- c. Enforcing compliance with professional and ethical standards.

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The Investigations Committee is an essential component of the Complaints Process, which includes the Registrar, investigators, the Investigations Committee and the Discipline Committee.

The role of the Investigations Committee is to support the College's professional regulation and public protection mandate by carrying out its assigned

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<sup>1</sup> Restorative practices are an emerging social science that studies how to strengthen relationships between individuals as well as social connections within communities. Though new to the social sciences, restorative practices has deep roots within indigenous communities throughout the world

responsibilities<sup>2</sup> and advancing the College's Regulatory Objectives, Standards and Principles.

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## RESPONSIBILITIES

In support of the Regulatory Objectives, Standards and Principles, the Investigations Committee:

- Supports the ethical and competent delivery of patent and trademark services by licensees;
- Acts on complaints referred to it by the Registrar or opened at the initiation of the Committee;
- Investigates or directs the investigation of complaints, and makes decisions following investigations;
- Supports modern approaches to handling complaints that are proactive, apply the right touch and embody restorative principles; and
- Enhances an efficient, effective, fair, transparent and accountable complaints process by considering, on its own or on request of the Registrar or the Board, revisions to by-laws and policies

### Confidentiality

- Committee members must maintain confidentiality of all information they acquire while discharging their duties unless disclosure is authorized.<sup>3</sup>

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## MEMBERSHIP AND VOTING

The Committee has at least 5 and no more than 9 members, the majority being individuals who are not licensees and are otherwise qualified to serve under s. 21(1) and Regulation 2. The Committee possesses the knowledge, skills and experience set out in the Investigations Committee Skills Matrix.

### Voting members:

- At least one individual who is a patent agent;
- At least one individual who is a trademark agent;
- At least three individuals who are not licensees;

### Non-voting participant:

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<sup>2</sup> Under ss. 37-50 of the Act, the Regulations, and Registrar's Policies.

<sup>3</sup> Act, s. 65

- Chief Executive Officer as an *ex officio* member.
- Manager, Professional Conduct

A Committee member who, without excuse satisfactory to the Chair, is absent from two consecutive meetings of the Committee, is deemed to have resigned, which resignation will create a vacancy on the Committee to be filled<sup>4</sup>.

The Board, by a vote of two-thirds of those present, may at pleasure remove a member of the Committee<sup>5</sup>, but the Board will not consider a motion to remove a committee member unless the Committee Member is given notice of the motion and is provided an opportunity to present to the Board.<sup>6</sup>

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## CHAIR

The Chair is a voting member of the Committee appointed by the Board. At a minimum, the Chair will have:

- Experience with professional regulation
- Familiarity with patent agent and trademark agent services delivery requirements
- Knowledge of applicable law including administrative, privacy, investigations, and some familiarity with patents and trademarks

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## FREQUENCY OF MEETINGS AND MANNER OF CALL

Meetings are scheduled in advance and occur at least quarterly, or otherwise at the direction of the Chair, who may cancel any meeting when there are no matters for consideration. Additional meetings may be scheduled by the Registrar in consultation with the Chair. Meetings will be held by audio-visual means, or on direction of the Chair, in person. If necessary, votes may be cast by email or other electronic means where it is in the public interest to do so.

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<sup>4</sup> Registrar's Policy on Committees

<sup>5</sup> Registrar's Policy on Committees

<sup>6</sup> Registrar's Policy on Committees



## QUORUM

Quorum of the full Committee is a majority of the members entitled to vote, as long as this number includes at least one patent or trademark agent, and a majority who are not licensees.

The Chair may appoint a panel of the Committee to carry out the Committee's work so long as the Panel consist of one patent or trademark agent and a majority who are not licensees. The Chair designates one panel member as Chair of the panel.

## RESOURCES

The Committee is supported by the Manager, Professional Conduct.

## REPORTING

The Committee will provide semi-annual reports to the Board.

## DATE OF LAST REVIEW

2021-06-22

## **CPATA Investigations Committee**

### **Skills Matrix**

2021-06-21 draft v.8

#### **Introduction**

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. This includes setting and enforcing compliance with required ethical and practice standards through a variety of means, and in a manner that is risk focused, fair, transparent, efficient, proactive, proportionate and principled.

For the Investigations Committee, this regulatory approach includes finding ways to fairly resolve complaints as early as possible; adopting a restorative approach to complaints handling that strives to identify and address harm, helping agents be accountable for their actions, and, where appropriate in the public interest, fostering learning from mistakes rather than punishing; and making decisions that are clear, concise, well-supported and balance all relevant interests.

#### **Objects of Complaints Process**

The objects of the complaints process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Addressing concerns of professional misconduct and professional incompetence, including striving for early resolution of complaints when doing so is consistent with the public interest; and
- c. Enforcing compliance with professional and ethical standards.

#### **The Complaints Process**

The Registrar has primary responsibility for regulatory transactions with licensees, trainees and the public, including receiving inquiries about the conduct of licensees. Individuals may either file a complaint directly or may first complete an Agent Conduct Inquiry Form to help assess whether their questions or concerns can be resolved or addressed at an early stage by the Registrar. If not, the result of the inquiry may be the filing of a complaint for referral to the Investigations Committee for direction, investigation or decision.

The Investigations Committee provides direction respecting investigations. If the Committee decides there is evidence of professional misconduct or incompetence, it must refer the matter to the Discipline Committee. Otherwise, the Committee may dispose of the complaint in accordance with the Act, By-laws, and Policy on Complaint Investigations.

The Discipline Committee hears complaints referred to it by the Investigations Committee, and may conduct its work through the Chair alone, or panels of three or five individuals.

## **Role of Investigations Committee**

The Investigations Committee<sup>1</sup> is responsible for supporting the Board's professional regulation and public protection mandate by carrying out responsibilities assigned under ss. 37-50 of the Act, the Regulations, and the Registrar's Policies.

### **Responsibilities**

The Investigations Committee's responsibilities include:

- Supporting the ethical and competent delivery of patent and trademark services by licensees
- Acting on complaints referred to it by the Registrar or opened at the instigation of the Committee
- Investigating or directing the investigation of complaints of professional misconduct or incompetence, and making decisions in accordance with the Regulatory Objectives, Standards and Principles
- Recommending and commenting on revisions to By-laws, policies and procedures needed to support a complaints process that is efficient, effective, fair, transparent and accountable

### **Committee Composition**

The Investigations Committee as a whole must possess the required skills, knowledge, attributes and experience to enable it to fulfil its responsibilities in the public interest. Most of the Committee consists of individuals who are not licensees as one means of ensuring the public is intrinsically involved in the College's public interest work. Members of the Committee bring to the table knowledge and experience with the patent and trademark agency professions, the legal profession, as well as perspectives of members of the public whom the system is designed to protect.

All Committee members must complete mandatory training prior to commencement of service, and engage in such ongoing training and education during their term on the Committee as determined to be appropriate by the Chair and the Registrar.

The Committee Chair may require additional specific training.

### **Specific Knowledge, Skills, Attributes and Experience**

The Skills Matrix below is used to:

- i. identify the specific knowledge, skills, attributes and experience<sup>2</sup> required of the Investigations Committee members and as a whole;

<sup>1</sup> Appointed under s. 21(1) of the Act

<sup>2</sup> Knowledge' includes understanding how CPATA operates in substance and principle, risk principles, and the prosecution of patent and trademark applications;

'Skills' include an ability to use the technology employed by the College, to communicate effectively both orally and in writing, and to discern and analyze ethical issues;

'Experience' includes professional discipline, committee or Board work, and engaging in effective debate and decision-making in an in-person and on-line environment;

- ii. facilitate appointments that will fill gaps in the required knowledge, skills, attributes and experience; and
- iii. assist with identifying training and education needs on an ongoing basis.

Members as a whole must possess/demonstrate the following:

The College is committed to the foundational principles of equity, diversity and inclusion, which are reflected in the composition of committees and the level of cultural competence expected of committee members.

<b>Knowledge</b>	<b>Skills</b>	<b>Experience</b>	<b>Attributes</b>
CPATA Act	Effective oral communications	Professional regulation	Active listener & strong communicator
Patent Act Rules and practice	Effective written communications including writing decisions with reasons	Federal Court and administrative tribunal procedures	Fair, impartial and open-minded
Trademark Act Regulations and practice	Collegial and effective decision making	Law relating to privilege and privacy	Courteous, respectful and patient
CPATA Regulations	Conflict management	Administrative Law <sup>3</sup>	Apply confidentiality and discretion
CPATA By-laws	Attention to detail	Patent Agent services	Cultural competence <sup>4</sup>
CPATA Code of Professional Conduct	Organization & time management	Trademark Agent services	Ethical
Registrar's Policies for Investigations Committee and complaints process	Practice & business management	Not For Profit, regulator and/or other community service	Strong work ethic

'Attributes' include having a strong ethical foundation, being organized and meeting deadlines, collaborative decision-making, active listening skills, and behaving in a fair, respectful, culturally competent and courteous manner at all times.

<sup>3</sup> 'Administrative law' refers to principles of fairness, natural justice, efficiency, transparency, etc. and the four basic rights: for the licensee to know the case against them and make answer; unbiased decision-makers; those who hear the application decide the case; and there are adequate reasons for the decision. (Federation of Law Societies of Canada National Adjudicator Training Curriculum)

<sup>4</sup> 'Cultural competence' refers to an ability to understand, communicate with and effectively interact with people across different cultures; acknowledge the harmful effects of discriminatory thinking and behavior on human interaction; and acquire and perform the skills necessary to lessen the effect of these influences in order to serve the pursuit of justice. ( Rose Voyvodic, "Lawyers Meet the Social Context: Understanding Cultural Competence" (2006) 84:3 The Canadian Bar Review 564 at 564)

Administrative law principles incl. fairness and natural justice	Investigations & evaluation of factual evidence	Business & innovation	Professionalism & civility
Charter & Human Rights	Conducting interviews	CPATA Board	Competent to use the technology facilitating the committee's work
Restorative justice & ADR principles <sup>5</sup>		Adult education <sup>6</sup>	Respected by peers
Equity, diversity, inclusion and access to justice principles <sup>7</sup>		Fitness to practice, capacity and health impacts on professional practice <sup>8</sup>	

<sup>5</sup> 'Restorative justice' and ADR (alternate dispute resolution) principles focus on: early and informal resolution; effective conflict management; understanding context; identifying and addressing actual harms; encouraging accountability; being proactive, principled and proportionate rather than pursuing punishment; avoiding 'naming, blaming and shaming' and instead seeking collaborative solutions

<sup>6</sup> 'Adult education' experience is valuable for understanding how adults learn, how to evaluate whether learning has taken place, and developing or identifying effective educational opportunities

<sup>7</sup> 'Equity, diversity, inclusion and access to justice principles' are closely tied to cultural competence, and include having the knowledge, experience and skills to actively work to protect against and prevent individual and systemic discrimination, to cultivate appropriate attitudes toward cultural differences, and to ensure that the College's processes are open and accessible to all

<sup>8</sup> 'Fitness to practice' encompasses knowledge and awareness of a range of factors that may impact or impair a licensee's ability to provide services competently and ethically, including a physical, mental or emotional condition or addiction, and the most effective ways to identify and address such situations in the public interest.

## DISCIPLINE COMMITTEE TERMS OF REFERENCE (DRAFT V. 5)

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### ROLE

CPATA regulates the profession in accordance with Act, Regulations, by-laws, Registrar's policies, and the Regulatory Objectives, Standards and Principles. This includes setting and enforcing compliance with required ethical and practice standards through a variety of means, and in a manner that is risk focused, fair, transparent, efficient, proactive, proportionate and principled.

For the Discipline Committee, this regulatory approach includes fair, efficient and effective adjudication of applications; adopting a restorative approach that strives to address harm, help agents be accountable for their actions, and, where appropriate in the public interest, foster learning from mistakes rather than merely punishing; and making decisions that are clear, concise, well-supported and balance all relevant interests.

#### **Objects of Complaints Process**

The objects of the complaints process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Addressing concerns of professional misconduct and professional incompetence, including striving for early resolution of complaints when doing so is consistent with the public interest; and
- c. Enforcing compliance with professional and ethical standards.

#### **Discipline Committee**

The Discipline Committee is an essential component of the Complaints Process, which includes the Registrar, the Investigations Committee and the Discipline Committee.

The Discipline Committee supports the mandate of the College to regulate the profession in the public interest by carrying out its assigned responsibilities and advancing the College's Regulatory Objectives, Standards and Principles.

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<sup>1</sup> Under ss. 51 – 63, the Regulations, and Registrar's Policies.

## RESPONSIBILITIES

In support of the Regulatory Objectives, Standards and Principles the Discipline Committee:

- Hears applications referred by the Investigations Committee;
- Conducts hearings in accordance with principles of fairness and natural justice; and
- Enhances an efficient, effective, fair, transparent and accountable adjudication process by considering, on its own or on request of the Registrar or the Board, revisions to by-laws and policies.

Confidentiality

- Committee members must maintain confidentiality of all information they acquire while discharging their duties, unless disclosure is authorized (s. 65).

## MEMBERSHIP AND VOTING

The Discipline Committee will be comprised of at least five individuals, the majority being individuals who are not licensees and are otherwise qualified to serve under s. 21(1) and Regulation 2. The Committee as a whole will possess the knowledge, skills, experience and attributes set out in the Discipline Committee Skills Matrix.

Applications may be heard by the Chair alone under the Policy on Delegation to the Chair, or by panels of three or five Committee members, in the discretion of the Chair.

The Board, by a vote of two-thirds of those present, may at pleasure remove a member of the Committee, but the Board will not consider a motion to remove a Committee member unless the Committee member is given notice of the motion and is provided an opportunity to present to the Board<sup>2</sup>.

## CHAIR

The Chair will be appointed by the Board, and will possess the knowledge, skills, experience and attributes set out in the Discipline Committee Chair Skills Matrix.

## FREQUENCY OF MEETINGS AND MANNER OF CALL

The Discipline Committee will meet as a whole at least annually, and will meet as needed for purposes of hearing applications. Meetings of the Committee, and the hearing of

<sup>2</sup> See Registrar's Policy on Committees

applications by the Chair or a panel of the Committee may be in person, or with the consent of the parties, by audio-visual means.

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## QUORUM

For purposes of hearing applications, quorum of the Discipline Committee will be:

- The Chair, for matters delegated to the Chair alone under the Policy; or
- A majority of panelists hearing an application.

For purposes of matters arising at meetings of the whole Committee, quorum is most of the Committee members.

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## RESOURCES

The Discipline Committee will have administrative support provided by the office of the Manager, Professional Conduct.

If the Discipline Committee requires legal advice, the CEO will retain independent counsel for the Committee.

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## REPORTING

### Decisions

All decisions of the Discipline Committee and Chair will be prepared in writing and made public by the CEO in accordance with the Act, Regulations, by-laws, the Policy on Decisions, and the Registrar's Policy on Filing and Publication of Decisions.

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## DATE OF LAST REVIEW

2021-06-21

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## **CPATA Discipline Committee**

### **Skills Matrix**

2021-06-21 draft v.6

#### **Introduction**

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, By-laws, Registrar's policies, and the Regulatory Objectives, Standards and Principles. This includes setting and enforcing compliance with required ethical and practice standards through a variety of means, and in a manner that is risk focused, fair, transparent, efficient, proactive, proportionate and principled.

For the Discipline Committee, this regulatory approach includes fair, efficient and effective adjudication of applications; adopting a restorative approach that strives to address harm, help agents be accountable for their actions, and, where appropriate in the public interest, foster learning from mistakes rather than merely punishing; and making decisions that are clear, concise, well-supported and balance all relevant interests.

#### **Objects of Complaints Process**

The objects of the complaints process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Addressing concerns of professional misconduct and professional incompetence, including striving for early resolution of complaints when doing so is consistent with the public interest; and
- c. Enforcing compliance with professional and ethical standards.

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#### **The Complaints Process**

The Registrar has primary responsibility for regulatory transactions with licensees, trainees and the public, including receiving inquiries about the conduct of licensees. Individuals may either file a complaint directly, or may first complete an Agent Conduct Inquiry Form to help assess whether their questions or concerns can be resolved or addressed at an early stage by the Registrar. If not, the result of the inquiry may be the filing of a complaint for referral to the Investigations Committee for direction, investigation or decision.

The Investigations Committee provides direction respecting investigations. If the Committee decides there is evidence of professional misconduct or incompetence, it must refer the matter to the Discipline Committee. Otherwise, the Committee may dispose of the complaint in accordance with the Act and Registrar's Policy on Complaint Investigations.

## **Role of Discipline Committee**

The Discipline Committee is an essential component of the Complaints Process, which includes the Registrar, the Investigations Committee and the Discipline Committee.

The Discipline Committee is appointed under s. 21(1) of the Act and supports the College and Board's mandate to protect the public interest, by carrying out responsibilities assigned under ss. 51-63 of the Act, the Regulations, and the applicable Registrar's Policies.

## **Responsibilities**

The Discipline Committee's specific responsibilities include:

- Hearing applications referred by the Investigations Committee in accordance with principles of fairness and natural justice, as well as the Regulatory Objectives, Standards and Principles
- Recommending revisions to by-laws, policies and procedures as needed to support an adjudications process that is efficient, effective, fair, transparent, consistent and accountable

## **Committee Composition**

The Discipline Committee as a whole must possess the required skills, knowledge, attributes and experience to enable it to fulfil its responsibilities in the public interest. Most of the Committee consists of individuals who are not licensees as one means of ensuring the public is intrinsically involved in the College's public interest work. Members of the Committee bring to the table knowledge and experience with the patent and trademark agency professions, the legal profession, as well as perspectives of members of the public whom the system is designed to protect.

All Committee members must complete mandatory training prior to commencement of service, and engage in such ongoing training and education during their term on the Committee as determined to be appropriate by the Chair and the Registrar.

The Committee Chair may require additional specific training to effectively lead the Committee and carry out work delegated by the Discipline Committee to the Chair.

## **Specific Knowledge, Skills, Attributes and Experience**

This Skills Matrix below is used to:

- i. Identify the specific knowledge, skills, attributes and experience<sup>1</sup> required of the Discipline Committee members and as a whole;

<sup>1</sup> Knowledge' includes understanding how CPATA operates in substance and principle, risk principles, and the prosecution of patent and trademark applications;

'Skills' include an ability to use the technology employed by the College, to communicate effectively both orally and in writing, and to discern and analyze ethical and evidentiary issues;

'Experience' includes professional discipline, committee or Board work, and engaging in effective debate and decision-making in an in-person and on-line environment;

'Attributes' include having a strong ethical foundation, being organized and meeting deadlines, collaborative decision-making, active listening skills, and behaving in a fair, respectful, culturally competent and courteous manner at all times.

- ii. Facilitate appointments to the Committee that will fill any gaps in the required knowledge, skills, attributes and experience; and
- iii. Assist with identifying training and education needs on an ongoing basis.

Members as a whole must possess the following:

The College is committed to the foundational principles of equity, diversity and inclusion, which are reflected in the composition of committees, and the level of cultural competence expected of volunteers.

Knowledge	Skills	Experience in	Attributes
CPATA Act	Effective oral communications	Professional regulation & adjudication	Active listener strong communicator
Patent Act, Rules and practice	Effective, persuasive written communications	Federal Court and administrative tribunal procedures	Fair, impartial and open-minded
Trademark Act, Regulations and practice	Collaborative and effective decision making and writing in accordance with the Committee's Guidelines	Law relating to privacy & privilege	Courteous, respectful and patient
CPATA Regulations	Adjudicative hearings management	Administrative Law <sup>2</sup>	Apply confidentiality and discretion
CPATA By-laws	Attention to detail	Patent Agent services	Cultural competence <sup>3</sup>
CPATA Code of Professional Conduct	Organization & time management	Trademark Agent services	Ethical
Registrar's Policies for Hearing Committee	Statutory interpretation	Community service & volunteer leadership	Strong work ethic
Administrative & common law	Evaluation of factual evidence & credibility	Law of evidence	Professionalism & civility

<sup>2</sup> 'Administrative law' refers to principles of fairness, natural justice, efficiency, transparency, etc. and the four basic rights: for the licensee to know the case against them; to have unbiased decision-makers; those who hear the application decide the case; and adequate reasons for decisions. (Federation of Law Societies of Canada National Adjudicator Training Curriculum)

<sup>3</sup> 'Cultural competence' refers to an ability to understand, communicate with and effectively interact with people across different cultures; to acknowledge the harmful effects of discriminatory thinking and behavior on human interaction; and to acquire and perform the skills necessary to lessen the effect of these influences in order to serve the pursuit of justice. (Rose Voyvodic, "Lawyers Meet the Social Context: Understanding Cultural Competence", (2006) 84:3 The Canadian Bar Review 564 at 564)

principles relevant to adjudication			
Charter & Human Rights and values	Conflict management	Conduct of adjudicative hearings	Competent to use the technology facilitating the Committee's work
Restorative justice & ADR principles <sup>4</sup>	Applying sanctioning principles	Fitness to practice, <sup>5</sup> capacity and health impacts on professional practice	Respected by peers
Principles of equity, diversity and access to justice <sup>6</sup>			

<sup>4</sup> 'Restorative justice and ADR (alternate dispute resolution) principles focus on: early and informal resolution; effective conflict management; understanding context; identifying and addressing actual harms; encouraging accountability; being proactive, principled and proportionate rather than pursuing punishment; avoiding 'naming, shaming and blaming' and instead seeking collaborative solutions where possible and in the public interest

<sup>5</sup> 'Fitness to practice' encompasses knowledge and awareness of a range of factors that may impact or impair a licensee's ability to provide services competently and ethically, including a physical, mental or emotional condition or addiction, and the most effective ways to identify and address such situations in the public interest

<sup>6</sup> 'Equity, diversity, inclusion and access to justice principles' are closely tied to cultural competence, and includes having the knowledge, experience and skills to actively work to protect against and prevent individual and systemic discrimination, to cultivate appropriate attitudes toward cultural differences, and to ensure that the College's processes are open and accessible to all

## REGISTRATION COMMITTEE TERMS OF REFERENCE (DRAFT V. 1)

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### ROLE

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. This includes maintaining standards for education, training and fitness to ensure the admissions programs deliver competent and ethical trainees that meet the College's requirements for registration in a manner that is risk focussed, fair, transparent, objective, impartial, proactive, principled and proportionate.

For the Registration Committee, this regulatory approach includes finding ways to fairly consider requests made by applicants or licensees to review a decision of the Registrar made under the College By-laws as quickly as possible; adopting fair registration approaches<sup>1</sup> to registration that strive to identify potential risks to the public and whether those risks can or should be mitigated through the imposition of conditions; and making decisions that are clear, concise, well-supported and balance the rights of the individual with the need to ensure licensees provide competent and ethical patent and trademark services to the public.

### Objects of the Registration Process

The objects of the registration process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Maintaining standards for education, training and fitness to ensure the admissions programs deliver competent trainees that meet the College's requirements for registration;
- c. Applying policies in a principled manner, proportionately, fairly and efficiently with decisions clearly explained, including their public interest rationale;

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<sup>1</sup> Fair registration practices include the principles of transparency (clear, straightforward, accessible information that is easy to understand, is complete and accurate; objectivity (decision-making systems are valid, reliable and relevant in measuring and assessing qualifications); impartiality (decisions are free from bias, including but not limited to conflict of interest, preconceived notions or limited understanding of issues related to equity, diversity and inclusion); and fairness (processes are expedient, rational, the same, and well-explained to all individuals). (Ontario Fairness Commissioner)

- d. Making fair decisions supported by appropriate evidence;
- e. Conducting adjudicative processes in a timely manner, to ensure fairness for applicant or licensee; and
- f. Promoting equity, diversity and inclusion in the patent and trademark profession by not imposing inappropriate barriers and having due regard to the need to eliminate unlawful discrimination and harassment, considering carefully the health and capacity of those we deal with and understanding the stress that involvement with the College can cause.



The Registration Committee is an essential component of the registration process, which includes the Registrar.

The role of the Registration Committee is to support the College's professional regulation and public protection mandate by carrying out its assigned responsibilities and advancing the College's Regulatory Objectives, Standards and Principles.

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## RESPONSIBILITIES



In support of the Regulatory Objectives, Standards and Principles, the Registration Committee:

- approves standards for the evaluation of the competencies that are to be assessed by the qualifying examinations and the passing marks for those examinations to ensure that all licensees have the necessary skills and competencies to represent persons under section 27 or 30 of the Act
- Supports the ethical and competent delivery of patent and trademark services by licensees;
- Reviews decisions made by the Registrar under the College By-laws 5-8 and makes decisions, including approving applications under review, with or without conditions, and conducting a registration hearing in accordance with the Regulatory Objectives, Standards and Principles, Act, Regulations, College By-laws, and Registrar's Policies.
- Enhances a transparent, objective, impartial and fair registration process by considering, on its own or on request of the Registrar or the Board, revisions to by-laws and policies

Confidentiality & Conflict of Interest

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- Committee members must maintain confidentiality of all information they acquire while discharging their duties unless disclosure is authorized.
- Committee members are subject to the conflict of interest policy established by the Board.

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## MEMBERSHIP AND VOTING

The Committee has 7 members, the majority being individuals who are not licensees and are otherwise qualified to serve under s. 3 of the Regulations. The Committee possesses the knowledge, skills and experience set out in the Registration Committee Skills Matrix.

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### Voting members:

- At least one individual who is a representative from the Patent Office;
- At least one individual who is a representative from the Office of the Registrar of Trademarks;
- Must not include any individuals who are members of an association where the primary purpose is to represent the interests of persons who provide advice on patents or trademarks;
- At least four individuals who are not licensees;

### Non-voting participants:

- Chief Executive Officer and/or Registrar as an *ex officio* member.
- Director of Registration & Education, Deputy Registrar

A Committee member who, without excuse satisfactory to the Chair, is absent from two consecutive meetings of the Committee, is deemed to have resigned, which resignation will create a vacancy on the Committee to be filled<sup>2</sup>.

The Board, by a vote of two-thirds of those present, may at pleasure remove a member of the Committee<sup>3</sup>, but the Board will not consider a motion to remove a committee member unless the Committee Member is given notice of the motion and is provided an opportunity to present to the Board.<sup>4</sup>

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## CHAIR

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<sup>2</sup> Registrar's Policy on Committees

<sup>3</sup> Registrar's Policy on Committees

<sup>4</sup> Registrar's Policy on Committees

The Chair is a voting member of the Committee appointed by the Board. At a minimum, the Chair will have:

- Experience with professional regulation
- Familiarity with patent agent and trademark agent services delivery requirements
- Knowledge of applicable law including administrative, privacy, fair registration, and some familiarity with patents and trademarks

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**FREQUENCY OF MEETINGS AND MANNER OF CALL**

Meetings are scheduled in advance and occur at least quarterly, or otherwise at the direction of the Chair or the Director of Registration, who may cancel any meeting when there are no matters for consideration. Additional meetings may be scheduled by the Director of Registration in consultation with the Chair. Meetings will be held by audio-visual means, or on direction of the Chair, in person. If necessary, votes may be cast by email or other electronic means where it is in the public interest to do so.

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**QUORUM**

Quorum of the full Committee is a majority of the members entitled to vote, as long as this number includes at least one patent or trademark agent, and a majority who are not licensees.

The Chair may appoint a panel of the Committee to carry out the Committee's work so long as the Panel consist of one patent or trademark agent and a majority who are not licensees. The Chair designates one panel member as Chair of the panel.

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**RESOURCES**

The Committee is supported by the Director of Registration & Education, Deputy Registrar.

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**REPORTING**

The Committee will provide semi-annual reports to the Board.

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**DATE OF LAST REVIEW**

2021-07-19

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## **CPATA Registration Committee**

### **Skills Matrix**

2021-07-19 draft v.2

#### **Introduction**

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles.

For the Registration Committee, this regulatory approach includes finding ways to transparently, objectively, impartially and fairly set and approve competency standards under s. 2 of the College By-laws and adjudicate requests for review submitted under s. 5 and s. 6 of the College By-laws.

#### **Objects of Registration Process**

The objects of the registration process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Maintaining standards for education, training and fitness to ensure the admissions programs deliver competent trainees that meet the College's requirements for registration;
- c. Applying policies in a principled manner, proportionately, fairly and efficiently with decisions clearly explained, including their public interest rationale;
- d. Making fair decisions supported by appropriate evidence;
- e. Conducting adjudicative processes in a timely manner, to ensure fairness for applicant or licensee;
- f. Promoting equity, diversity and inclusion in the patent and trademark profession by not imposing inappropriate barriers and having due regard to the need to eliminate unlawful discrimination and harassment, considering carefully the health and capacity of those we deal with and understanding the stress that involvement with the College can cause.

#### **The Registration Process**

The Registrar has primary responsibility for regulatory transactions with licensees, trainees and the public, including making decisions under the College By-laws with respect to registration. If an individual is not in agreement with a decision of the Registrar, the decision can be reviewed by the Registration Committee on the request of the affected applicant or licensee.

The Registration Committee provides direction respecting registration. After reviewing a decision of the Registrar, the Committee may request additional information, approve the application

under review, with or without conditions, and specify the effective date of the decision, or conduct a hearing which will produce a decision with reasons.

Decisions of the Registration Committee are final and cannot be reviewed by the Board.

### **Role of Registration Committee**

The Registration Committee is responsible for supporting the Board's professional regulation and public protection mandate by carrying out responsibilities assigned under s. 2, s. 5 and s. 6 of the College By-laws.

### **Responsibilities**

The Registration Committee's responsibilities include:

- Supporting the ethical and competent delivery of patent and trademark services by licensees;
- Reviewing decisions made by the Registrar under the College By-laws and makes decisions, including approving applications under review, with or without conditions, and conducting a registration hearing in accordance with the Regulatory Objectives, Standards and Principles, Act, Regulations, College By-laws, and Registrar's Policies;
- Setting and approving standards for the evaluation of the competencies that are to be assessed by the qualifying examinations and the passing marks for those examinations to ensure that all licensees have the necessary skills and competencies to practise as patent agents and/or trademark agents.
- Recommending and commenting on revisions to By-laws, policies and procedures needed to support a registration process that is transparent, objective, impartial and fair.

### **Committee Composition**

The Registration Committee as a whole must possess the required skills, knowledge, attributes and experience to enable it to fulfil its responsibilities in the public interest. Most of the Committee consists of individuals who are not licensees as one means of ensuring the public is intrinsically involved in the College's public interest work. Members of the Committee bring to the table knowledge and experience with the patent and trademark agency professions, the legal profession, as well as perspectives of members of the public whom the system is designed to protect.

All Committee members must complete mandatory training prior to commencement of service and engage in such ongoing training and education during their term on the Committee as determined to be appropriate by the Chair and the Registrar.

The Committee Chair may require additional specific training.

### **Specific Knowledge, Skills, Attributes and Experience**

The Skills Matrix below is used to:

- i. identify the specific knowledge, skills, attributes and experience<sup>1</sup> required of the Registration Committee members and as a whole;

<sup>1</sup> Knowledge' includes understanding how CPATA operates in substance and principle, risk principles, and the prosecution of patent and trademark applications;

- ii. facilitate appointments that will fill gaps in the required knowledge, skills, attributes and experience; and
- iii. assist with identifying training and education needs on an ongoing basis.

Members as a whole must possess/demonstrate the following:

The College is committed to the foundational principles of equity, diversity and inclusion, which are reflected in the composition of committees and the level of cultural competence expected of committee members.

<b>Knowledge</b>	<b>Skills</b>	<b>Experience</b>	<b>Attributes</b>
CPATA Act	Effective oral communications	Professional regulation	Active listener & strong communicator
Patent Act Rules and practice	Effective written communications including writing decisions with reasons	Federal Court and administrative tribunal procedures	Fair, impartial, open-minded, self-aware
Trademark Act Regulations and practice	Decisions are proportionate, consistent and targeted	Law relating to privilege and privacy	Courteous, respectful and patient
CPATA Regulations	Collegial and effective decision making	Administrative Law <sup>2</sup>	Apply confidentiality and discretion
CPATA College By-laws	Conflict management	Patent Agent services	Cultural competence <sup>3</sup>
CPATA Code of Professional Conduct	Attention to detail	Trademark Agent services	Ethical

'Skills' include an ability to use the technology employed by the College, to communicate effectively both orally and in writing, and to discern and analyze ethical issues;

'Experience' includes professional registration, committee or Board work, and engaging in effective debate and decision-making in an in-person and on-line environment;

'Attributes' include having a strong ethical foundation, being organized and meeting deadlines, collaborative decision-making, active listening skills, and behaving in a fair, respectful, culturally competent and courteous manner at all times.

<sup>2</sup> 'Administrative law' refers to principles of fairness, natural justice, efficiency, transparency, etc. and the four basic rights: for the licensee to know the case against them and make answer; unbiased decision-makers; those who hear the application decide the case; and there are adequate reasons for the decision. (Federation of Law Societies of Canada National Adjudicator Training Curriculum)

<sup>3</sup> 'Cultural competence' refers to an ability to understand, communicate with and effectively interact with people across different cultures; acknowledge the harmful effects of discriminatory thinking and behavior on human interaction; and acquire and perform the skills necessary to lessen the effect of these influences in order to serve the pursuit of justice. ( Rose Voyvodic, "Lawyers Meet the Social Context: Understanding Cultural Competence" (2006) 84:3 The Canadian Bar Review 564 at 564)

<b>Knowledge</b>	<b>Skills</b>	<b>Experience</b>	<b>Attributes</b>
Registrar's Policies for Agents in Training, Language Proficiency, Good Character & Fitness to Practise, Canadian Residence, Letters of Reference, Prior Experience Assessment	Organization & time management	Not For Profit, regulator and/or other community service	Strong work ethic
Administrative law principles incl. fairness and natural justice	Practice & business management	Business & innovation	Professionalism, civility, collaboration
Charter & Human Rights	Information analysis and judgment	CPATA Board	Competent to use the technology facilitating the committee's work
Equity, diversity, inclusion and access to justice principles <sup>4</sup>	Conducting interviews	Adult education <sup>5</sup>	Respected by peers
Fair Registration Practices (Transparent, Objective, Impartial, Fair)	Procedural fairness	Fitness to practice, capacity and health impacts on professional practice <sup>6</sup>	Accountability, honesty and integrity
Unconscious Bias/Implicit Bias <sup>7</sup>	Risk assessment	Competence assessment and standard setting	Adaptability
Indigenous Context			Knowledge of competence based standard setting

<sup>4</sup> 'Equity, diversity, inclusion and access to justice principles' are closely tied to cultural competence, and include having the knowledge, experience and skills to actively work to protect against and prevent individual and systemic discrimination, to cultivate appropriate attitudes toward cultural differences, and to ensure that the College's processes are open and accessible to all

<sup>5</sup> 'Adult education' experience is valuable for understanding how adults learn, how to evaluate whether learning has taken place, and developing or identifying effective educational opportunities

<sup>6</sup> 'Fitness to practice' encompasses knowledge and awareness of a range of factors that may impact or impair a licensee's ability to provide services competently and ethically, including a physical, mental or emotional condition or addiction, and the most effective ways to identify and address such situations in the public interest.

<sup>7</sup> 'Unconscious Bias/Implicit Bias' is a bias or prejudice that is present but not consciously held or recognized. (Merriam-Webster)

# **Patent and Trademark Agents**

## **Mandatory Liability Insurance**

A consultation with the profession

Darrel Pink, CEO and Registrar

July 2021

## **INTRODUCTION**

This is the first Consultation Paper issued by College of Patent Agents and Trademark Agents (CPATA). It addresses and seeks input from stakeholders on one of CPATA's regulatory requirements – to mandate liability insurance for the profession with effect from January 1, 2022.

To assist the Board in understanding the breadth of the issue CPATA retained [Axxima Insurance Services](#) to review the environment of liability insurance for professionals in practices similar to Agents and to make recommendations to the Board about approaches CPATA might take in addressing its regulatory mandate. Axxima's Report is posted [here](#).

## **CPATA**

CPATA's mandate is to regulate Canada's Patent and Trademark Agents in the public interest. Patents and Trademarks are key tools in protecting the intellectual property rights of citizens and corporations in Canada and around the world. They are key to maintaining and developing innovation in Canada's economy. CPATA's regulatory oversight clears the path and sets the stage for opportunities and international Intellectual Property advancement for Canadian businesses, and for Canadian patent and trademark agents.

Every patent agent and trademark agent (Agents) must be a licensee of CPATA, and to abide by its adopted professional standards. CPATA will establish standards for the professional

conduct and competence of agents, encourage compliance with those standards, and enforce compliance through a disciplinary process. CPATA will also set standards for entry to the profession and administer examinations to ensure applicants have the required skills, knowledge and attitudes. As an independent public-interest focussed regulator, CPATA will maintain relationships with the Government of Canada, with agents and their firms, and with Canadian users of patents and trademarks. Since many agents are also engineers, lawyers and other regulated professionals, CPATA will also establish cooperative relationships with other professional regulators and associations.

CPATA's Board has set up the organization to be a modern regulator. It has adopted these Regulatory Objectives:

To advance its role as a risk-focused, modern public interest regulator, CPATA has adopted these Regulatory Objectives:

1. We protect and promote the public interest in patent and trademark services.
2. We protect those who use patent and trademark services.
3. We promote innovation in the delivery of patent and trademark services and the protection of intellectual property rights.
4. We improve access to and promote competition in the provision of patent and trademark services.
5. We promote the independence of the patent and trademark profession.
6. We ensure Licensees deliver patent and trademark services ethically and competently.
7. We promote equity, diversity and inclusion in the patent and trademark profession and in the delivery of patent and trademark services.

## **LIABILITY INSURANCE**

For professionals, the requirement of insurance against errors and omissions primarily serves the public interest. Financial losses, resulting from an error by a professional service provider, is insured so the losses to clients are minimalized. Though there is a benefit to professionals, the establishment of an insurance requirement is primarily to protect the interests of clients. The design of an insurance requirement must meet this objective.

### **BOARD'S APPROACH**

The Board's approach to mandating liability insurance is to do so to ensure public protection, create minimal administrative burdens on agents, and not establish significant reporting and compliance requirements. Given the small size of the profession, CPATA determined it would be impractical to consider a compulsory program where a single policy would apply to all agents and purchasing that policy would be compulsory. Rather, in keeping with its commitment to right-touch regulation, the Board's initial determination is its requirements should be provided by the existing insurance market. Most agents purchase mature insurance products now; the goal is to build on rather than replace them.

### **PROCESS**

While CPATA is continuing to gather information from other sources, it seeks input from stakeholders on several key issues, identified in the Axxima Report. Responses to the questions arising from each issue should be directed to Darrel Pink, CEO



& Registrar, [dpink@cpata-cabamc.ca](mailto:dpink@cpata-cabamc.ca) by

**September 15, 2021**

## **Issues on which input is invited**

### **1. Who must be insured and scope of required coverage?**

The Board's initial approach is to require those who provide services to the public must maintain insurance. The exemption in s. 34(b) for those employed by the Federal Government illustrates the principle those who provide services only to their employer, need not be insured. Optional coverage may be available, but that would not be a regulatory requirement.

Regarding scope of coverage, Axxima notes:

For CPATA, PAMIA's terms of coverage provide a good starting point. PAMIA defines Intellectual Property Business as: "The provision of services relating to Intellectual Property Rights by the Insured to another party, including services of advice, acquisition, prosecution, maintenance/renewal, enforcement, defence, opposition, consulting, support, formalities, search, administration, drafting of documents, and/or ancillary services." *[Note: PAMIA Limited is a major provider of professional liability insurance to patent and trademark attorneys in the UK and Ireland.]*

In turn, Intellectual Property Rights are defined as: "Rights, whether legally validly protectable or not, anywhere in the world, conferred on intangible matters generally known as intellectual property, including: inventions, designs, copyright works, trademarks, domain names, company names, plant varieties, databases, performances, encryptions, hallmarks, personal data, trade secrets, confidential information, know-how, goodwill, designations of origin, geographical indications, traditional specialty guarantees, and the like, and including claims and rights related to: passing off, counterfeiting, grey imports, comparative advertising, advertising standards, labelling, unfair competition and the like."

*Recommendation #3:*

***The required scope of coverage should be defined broadly to encompass professional services related to intellectual property rights.*** *The Canadian equivalent of the PAMIA definition will likely form a good starting point in defining the scope of required coverage.*

CPATA invites comments on this approach.

## 2. Limits (per claim and annual aggregate)

Axxima make three recommendations. The first, on p. 16, is that limits requirements be prescribed at the entity level (i.e. firm/partnership/sole practitioner) rather than the individual level. The second, on p. 18, is for minimum limits of \$2.0 million per claim. The third, also on p. 18 is for a minimum annual aggregate limit of \$2.0 million for firms with five or fewer professionals and \$4.0 million for firms with six or more professionals.

The consultant and the Board looked at whether all firms should require the same minimum limits per claim or if there could be some lesser coverage required based on the size and nature of a practice. The Board concluded, based on advice, it is impossible to predict against whom a claim will arise, and a small practice does not equate with a lower risk that would justify a smaller amount of insurance. Setting adequate minimum requirements for policy limits is a key aspect of satisfactorily addressing the public interest. Therefore, the Board supports the recommendation for a universal requirement of \$2.0 million limit per claim.

Regarding the annual aggregate limit, Axxima's discussion states:

Some regulators specify a minimum annual aggregate, specifically Ontario Nurses, insurance brokers and lawyers, where the aggregate is double the per claim limit. (Nurses licensed for an expanded scope of practice are required to have a \$5 million aggregate.)

In particular if insurance requirements are defined at the firm level, a minimum aggregate limit of say two times the per claim limit becomes important in the event of multiple unrelated claims in the same policy year. Having said that, the aggregate is somewhat dependent on the per claim limit. If the minimum per claim limit is higher, a minimum requirement of a double aggregate may be viewed as less important, although Ontario insurance brokers are required to maintain a limit of \$3 million with a double aggregate.

*Recommendation #5: Assuming that insurance requirements can be met at the firm level, it is recommended that the aggregate limit be based on firm size, for example, a single aggregate for firms with five or fewer professionals, a double aggregate if for firms with six or more professionals.*

The Board also supports the recommendation of a \$2.0 million annual aggregate limit for smaller entities (5 or fewer agents) and a \$4.0 million annual aggregate limit for larger entities (over 5 agents).

CPATA invites comments on this approach.

### 3. Territorial requirements

AXXIMA's discussion states:

Given the unique cross-border nature of intellectual property practice, most of the programs reviewed are unlikely to provide much precedent for the territorial requirements for P&T agents. It seems self-evident that CPATA's minimum requirements should include coverage for services provided and lawsuits brought outside of Canada. The coverage required by IPReg (the UK P&T attorney regulator) is worldwide, although the exclusion of the US and Canada is permitted. This approach is likely to allow the insurer to underwrite US exposures and charge additional premium if appropriate. The Magnes program, which currently insures many Canadian-domiciled P&T agents, provides worldwide coverage.

One topic for further discussion is whether it is central to the public protection mandate that the territorial requirement be extended beyond Canada and the US, i.e. worldwide and whether, if this is acceptable, there is any benefit to insureds in terms of availability and cost, from restricting the requirement.

*Recommendation #10: Coverage for services provided and lawsuits brought in the US is essential and should be part of CPATA's minimum requirements. An open question is whether CPATA should mandate worldwide coverage, or coverage in Canada and the US only.*

The Board believes that though global coverage should be the default, an option should be considered relating to coverage in the United States. This option might exempt US coverage if an agent does not practice personally before the USPTO but does so only using the services of a qualified American agent. Therefore, US coverage would be an optional addition to a policy for those who practice before the USPTO. All would continue to have other global coverage.

There would be annual information filings by agents with CPATA about the geographic areas in which an agent practises.

CPATA invites comments on this issue and the alternate proposed approaches.

#### 4. Separate requirements for patent agents versus trademark agents?

Although not specifically addressed in the Axxima Report, the Board is considering whether it is feasible and prudent from the College's perspective to mandate different insurance requirements for professionals acting only as trademark agents versus professionals acting as patent agents or both. This might be possible if the Board satisfies itself that the exposure of trademark agents, by virtue of the nature of services provided, is lower and that as a result public protection would not be unduly affected.

Consideration is complicated by the fact that, even though a trademark agent may not register patents, that agent may be giving advice on intellectual property strategy generally, which could raise an exposure in the patent area.

CPATA invites comments on this issue.

#### 5. Run-off/extended reporting period (ERP) requirements

How long after an agent stops practicing should a policy remain in place? Axxima suggests 5 years if a firm dissolves or an individual retires and no entity remains that will or could maintain coverage for that individual. The provision of ERP coverage would be required as a condition of cessation of practice.

## AXXIMA'S discussion states:

The programs reviewed dealt with the issue of claims arising after a firm has disbanded or a professional has retired (or in any event changed to a status that does not require insurance) in vastly different ways. It is fairly standard for a professional liability policy to include an ERP provision that can be exercised by payment of premium when the policy is terminated or expires. The question for the regulator is whether to require that coverage for services provided in the past be maintained for a period of time after retirement.

Ontario accountants require a six-year ERP on withdrawal of a professional or dissolution of a firm. Ontario nurses require a two-year ERP. LawPRO offers a small limit (\$250,000 lifetime aggregate) to retired lawyers, with the option to buy more. IPReg also requires six-year run-off protection if a practice closes without transferring its liabilities, and it goes further by requiring that contact information for the insurer must be provided to former clients.

Some programs (e.g. Ontario engineers and insurance brokers) do not have a run-off requirement. Regardless, our view is that run-off protection is appropriate and the main question is how long the period should be. ERPs are quite standard in professional liability policies and 12-, 24- and 36-month ERPs are often included in policy terms, available for an additional premium. The Magnes policy includes a six-year ERP.

*Recommendation #11: The appropriate duration of a prudent ERP depends on the claims profile (specifically the length of time it takes for claims to emerge). A five-year ERP may be reasonable, especially in the case of a firm dissolution. Further discussion may assist in determining the appropriate duration.*

CPATA invites comments on this issue.

## 6. Other issues

The Board will be addressing all aspects of Axxima's recommendations and invites comments on them all. The Board concurs with these recommendations and views them as essential requirements for a mandatory public-interest focused requirement.

*Recommendation #6: CPATA should not specify that defence costs be in addition to the minimum insurance limits specified. The exception to this, in our view, would be if the required minimum limit is low relative to the exposure.*

*Recommendation #7: The default maximum should be in the range of \$25,000. CPATA may wish to accommodate the desire for a higher deductible on approval or based on something measurable like firm revenue.*

*Recommendation #8: CPATA should require that insurers be licenced in the provinces/territories where*

*the professionals are domiciled.*

**Recommendation #9:** *Explicit insurance requirements should not be imposed on trainees.*

## **Conclusion**

This is the first profession-wide consultation undertaken by the College. It intends to use this and similar processes to engage the professional and the public about vital areas of public interest in regulating patent and trademark agents.

The establishment of CPATA is a work in progress that will continue to evolve as CPATA, its Board and staff gain greater knowledge and expertise on issues they will need to pursue as part of their mandate. Professional and public engagement are core values CPATA has adopted and through processes like this it will increase its knowledge and appreciation of a variety of perspectives.

## **Submissions**

Submissions should be directed to Darrel Pink, CEO & Registrar at [dpink@cpata-cabamc.ca](mailto:dpink@cpata-cabamc.ca) by **September 15, 2021**.

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- END -

## BOARD POLICIES

NAME OF POLICY	No. 1 - How CPATA works – Its Principled Approach to Regulation and Governance		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	By-law		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Board	<del>May 11</del> June 8, 2021	TBD	

## How CPATA works - Its Principled Approach to Regulation and Governance

### 1. Introduction and Overview

The Government of Canada enacted the College of Patent and Trademark Agents Act at the end of 2018, as part of its National Innovation Strategy. In 2019 they appointed an interim Board to get the organization up and running. In the spring of 2020, the Board appointed a CEO to further that work.

This is our plan for operating a new, state of the art public interest regulator of the intellectual property professions. It is intended to assist those involved – Board and committee members, CEO and staff, adjudicators, licensees and the public – to understand how the College intends to work. Because this form of operation differs from many 'self governing' regulators of professions in Canada and elsewhere, documenting the form of operation is crucial. It will ensure we start properly and maintain this form of operation instead of defaulting to other structures that some might assume apply because they are used by other regulators.

This is part of a suite of documents providing parameters for how we operate. This document knits together our approach, while other documents explain the full range of College operations<sup>1</sup>. This document is not authoritative; the authoritative documents are the statute, regulations, by-laws and policies.

## **What is CPATA?**

The College is the regulator of Patent and Trademark agents in Canada. If someone wants to hold themselves out as a patent or trademark agent, or if they want to act on behalf of clients in dealing with the Canadian Intellectual Property Office (where patents and trademarks are registered), they must be a licensee of the College. It is unique as a national regulator; there are no provincial regulators of patent and trademark agents<sup>2</sup>.

## **What does CPATA do?**

The Act says,

The purpose of the College is to regulate patent agents and trademark agents in the public interest, to enhance the public's ability to secure the rights provided for under the [Patent Act](#) and the [Trademarks Act](#).<sup>3</sup>

In practice that means:

- We ensure people entering the profession meet our standards for professional competence and ethics. To do that we:
  - o Set competency standards for those who want to be licensed as an agent
  - o Require trainee agents to work with an experienced agent for two years, and
  - o Pass an examination to ensure the applicant meets our entry level competence standards
- We then issue a patent or trademark license and require that the license be renewed each year. License fees fund our operations.
- We set ethical and practice standards for agents and enforce them through a variety of techniques, including advisory and support services, and a complaints and discipline system if necessary.
- Once fully operational, we will require licensees to have mandatory professional liability insurance, and we will require them to take appropriate steps to demonstrate they remain competent.
- We also to plan to work with the profession to encourage equity and diversity in the profession, to make the services of agents more widely available to support innovation in

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<sup>1</sup> Regulatory policies (including registration, investigations, discipline, quality assurance, professional development), operational and management policies, Board governance policies (including Board processes, values, roles, relationship with CEO, CEO, Board and committee evaluation, planning [strategic and operational], budgeting, risk management, external [stakeholder and government] relations, public and profession consultations

<sup>2</sup> About 1/3 of the profession are lawyers and are therefore regulated in that sphere, an overlap the College recognizes and will address to avoid confusion for the public and licensees, or any gaps in public protection.

<sup>3</sup> s. 6



the Canadian economy, and to support innovation in the way patent and trademark agents do their work, and the way intellectual property rights are protected in Canada.

## **Who's In Charge?**

The College has a Board of Directors, committees, and a CEO/Registrar and staff.

The Board has 7 members: 4 are appointed by the Federal Minister of Innovation, Science and Industry; the remaining three directors are elected from among the roughly 2,500 licensees.

The Board of Directors has overall responsibility to see that the College performs the role described in the Act. They do so by instructing the CEO, and then monitoring what the College is doing, and most important, what the College is accomplishing.

The Board gives its primary instructions by enacting by-laws and policies; it adopts annual business plans and budgets, and a strategic plan and organizational values. The by-laws sort out who does what, and generally flesh out the business and governance rules. The Board has enacted three core policies that set the tone for what we do and how we do it: Regulatory Objectives, Regulatory Standards and Regulatory Principles. They are described in more detail later in this document.

The Board's instructions are carried out by the CEO/Registrar and staff, and by 5 committees.

Most of our work is done by the CEO/Registrar and staff. They handle all interactions with licensees, trainees and members of the public. Later in this document we describe that work in more detail.

The staff and Board are assisted by five committees:

The Registration Committee – we want to ensure our regulatory decisions are fair. If the staff make a decision and a trainee or licensee disagrees, they can appeal that decision to the Registration Committee.

The Investigation and Discipline Committees – when concerns arise about whether an agent is acting ethically or competently, these concerns cannot be resolved or addressed at an early stage, and there is evidence of professional misconduct or professional incompetence, these concerns will be investigated and referred to the Investigations Committee. If appropriate, that Committee will then refer a complaint to the Discipline Committee for formal adjudication.

The Audit and Risk Committee – assists the Board by working with staff in dealing with financial management, and the assessment and management of risks more generally.

The Governance and Nominating Committee – assists the Board in its succession role by working with government on nominating Board members for appointment, overseeing the process for electing Board members from among the licensees, and nominating committee members to be appointed by the Board.

We may set up additional committees as we embark on new activities or deal with new issues.

### **How we are different?**

CPATA is a brand-new regulator. It has not grown out of another organization. We have built a new regulator from the ground up.

Most of our Board are directors who are not licensees. This flows from our mandate to protect the public interest. It brings a wide range of skills to the board table and keeps us in touch with our public interest mandate and enhances the transparency of our work.

We are results oriented. The CEO has the responsibility to operate regulatory programs, and then report to the Board. Together they determine whether those programs are creating the outcomes specified by the Board.

We are driven by a set of policies designed to result in high quality regulation. We have studied the best-in-class regulators in the world and modelled our regulatory practices and operations after those regulators.

We are professionally managed. Regulating the profession is important work and requires staff with the appropriate experience and expertise in professional services regulation.

We are committed to consulting with stakeholders, so we understand the impact and results of our plans or regulatory decisions, including the policies we put in place.

We are national; most regulators of professions in Canada are provincial/territorial. Because patents and trademarks are a federal government responsibility, so too is the regulation of the agents licensed to deal with the CPIO.

We are virtual – our primary mode of doing business is virtual. As a modern regulator, we do not plan to have a central office, and most of our meetings will be held on-line.

### **When will this happen?**

The Act was passed in 2018. Since 2019 the Board, and starting in 2020 the CEO, have been planning for the organization. We expect to be 'start up functional' in the ~~spring~~early summer of 2021. And we expect it will take about four more years before all the planned aspects of our work are up and running.

## **2. The governance model**

The chosen governance model is a policy governance board with the CEO/Registrar as its sole employee.

In the College, the CEO and Registrar roles are combined in one person, the CEO. The CEO is responsible for leadership, management and operations. The Registrar is responsible for maintaining regulatory policies and processes, and for initial regulatory decision-making.

In keeping with the governance model having the CEO as the only employee, the Registrar function will be vested in the CEO, and delegated by the CEO to a Deputy Registrar, and as necessary to employees or contractors. Registrar decisions will be reviewed under the policies or by-laws.

The Board and CEO will build the approach described in this document into their work.

### **How the work gets done**

In what follows, we describe the various actors in the College: the Board, Committees, CEO and staff, and how they are knit together by various enactments. Before looking at those details, we describe more generally how it is that the work of the College gets done.

The roles of the Board, committees and staff are found in the Act, the Regulations, the By-laws, governance policies enacted by the Board, and regulatory policies adopted by the Registrar. Taken together, these define how the work is accomplished, and who does it. Publication of all policy documents is an essential requirement, so the public and licensees are aware of how we do our work, make decisions and change in response to new circumstances.

The Act sets up CPATA and creates its mandate. It describes in some detail the keeping of the official registers of licensees, and the structures (including two statutory committees) and processes for dealing with complaints and hearings about professional conduct. The Regulations, enacted by Order-in-Council set criteria for many of the College's regulatory obligations, such as requirements for licensure.

The rest of the work of the regulator is within the control of the Board and the Registrar.

The By-laws set out the details of corporate governance, such as the responsibilities of the Board, CEO and Registrar, the way Directors are appointed and elected, and the mandates for the operation of the organization, including finances.

By-laws and Policies define the mandates and processes for regulatory programs, including entry to licensure, and continuing licensure. Three key Board policies describe:

- what is to be accomplished by the College (the Regulatory Objectives),
- the activities of the College and how we carry out those programs (the Regulatory Standards), and
- How the College makes regulatory decisions (the Regulatory Principles).

Together, these policies describe what to do, and provide a 'code of conduct' for our operation.

The College will start with 4 key programs/activities:

1. Admissions/Registrations
2. Complaints and Discipline
3. Mandatory Professional Liability Insurance
4. Governance, including elections and appointments to the Board, and appointments to Committees

After these programs are functioning (although more program development may be planned) work will begin on additional programs such as:

5. Innovation and IP Practice
6. Continuing fitness
7. Quality Assurance reviews
8. Practice Standards development and advice
9. Continuing competence and professional development
10. Pro bono programs

A high-level implementation schedule is found at Appendix 3.

The By-laws mandate three additional committees: the Nominating and Governance Committee, the Registration Committee, and the Audit and Risk Committee. The By-laws describe how these

committees are appointed, how vacancies might occur and how they are filled. There will be specific competencies required by committee members, as well as a mix of public representatives and licensees. Details of committee requirements will be in the published Terms of Reference.

Using this documentation as guidance, the work is allocated as follows:

The CEO/Registrar and staff

- carry primary responsibility for regulatory transactions with trainees, licensees, and the public in accordance with the Regulations and By-laws. This includes registration of trainees and licensees, all record keeping including the Register of agents, the administration and content of competency assessments, annual renewal of licenses including payments, and receiving complaints and statements of concern about the conduct of licensees or trainees. Registration decisions can be appealed to the Registration Committee, at which the College may be represented by staff or by counsel instructed by the CEO/Registrar or delegate. ~~Complaints~~ Concerns about licensee conduct that cannot be consensually resolved or addressed at an early stage and raise issues of possible misconduct or incompetence must ~~will~~ be referred to the Investigations Committee, under the appropriate guidance documents. The Investigations Committee will decide whether to refer to the Discipline Committee for adjudication;
- support the Board in its oversight, policy direction, stakeholder relations (government, industry and the profession) and performance measurement (regulatory outcomes and governance);
- administer Board and committee meetings, providing agendas, notices, briefing materials and minutes, researching policy, operational issues and best practices throughout the world, and providing insight and advice;
- administer elections for Board positions, and recruitment for committee positions, subject to oversight by the Nominating and Governance Committee.
- administer the organization, including all operational policy and operations related to business planning and finance, risk analysis (enterprise and regulatory), information technology, human resource management and compliance with statutory requirements including privacy, access to information, bilingualism, equity and diversity and employment;
- set operational policy for all programs operated by the College;
- are responsible for maintenance of the College's web and social media presence, communications strategy and execution in dealing with the public, stakeholders, and the profession including various forms of consultations.

The Investigations and Discipline Committees are responsible for their roles as described in the Act, ~~Regulations, By laws~~ and policies they adopt.

The Nominating and Governance Committee assists the Board by carrying out the role described for it relating to board and committee appointments and the holding of elections for Board positions.

The Audit and Finance Committee assists the Board by reviewing management's budgets, financial plans and risk analyses.

The Registration Committee hears appeals from registrants, trainees and licensees who disagree with a decision of the Registrar.

The Board oversees the operation of the College, approves strategic plans, business plans and budgets, evaluates the performance of itself and committees, considers reports describing the extent to which programs of the College are achieving the desired outcomes, appoints and supervises the CEO and evaluates the performance of the CEO. In short, the Board ensures that we 'protect the public interest'.

What does it mean to protect the public interest? There are two important parts to this mandate. First, we must ensure agents are competent and ethical in delivering their services. This protects the public who use these services. Second, we ensure in providing their services the profession upholds the system that protects intellectual property rights. We will do that by ensuring continuing competence, promoting innovation in the delivery of patent and trademark agent services and the operation of the government's intellectual property programs, promoting equity and diversity within the profession, and promoting programs that make IP services accessible to Canada's innovators.

In combination, these assurances promote the reputation of the profession and the College as worthy of trust and respect.

### **3. Detailed Role Descriptions**

In this section we describe in greater detail the roles of the various actors in the College.

#### **3.1 Who makes policy?**

CPATA's Board has determined it will be a Policy Board. Its authority and key functions are elaborated in the By-laws and can be summarized as: we will make policy decisions that direct the organization, the CEO and our committees.

We use the term 'policies' to refer to different kinds of documents, enacted by different bodies within the College.

## **Board Policies**

Policy directions will most often involve articulating an outcome that will require resources to achieve a particular goal. The Board then monitors the College's compliance with those policies, and the achievement of those goals and outcomes. Our governance policies guide how we operate the College. Some policies – like the Regulatory Objectives – set goals of what the College is to achieve.

Examples of Board Policies that set goals are in the Regulatory Objectives, such as:

“Protect those who use patent and trademark services”.

The Regulatory Standards provide broad directions that guide the operation of the College, such as:

‘We are clear about our purpose and open and transparent in all processes: we publish our regulatory requirements, guidance, policies, processes and decisions; we provide accurate accessible information about our licensees; and we report on our performance and outcomes.’

Further examples like these are found in the Regulatory Objectives, Standards and Principles, and Strategic Goals and Objectives, and corporate values articulated after the first round of strategic planning. The Board also sets other policies such as those related to governance and finance. An example of a model for Board policy setting by establishing an Admissions Program is included in Appendix 2.

## **CEO/Registrar Policies**

The CEO/Registrar make policies compliant with or to further the By-laws and Board Policies. These can be administrative policies (such as human resource policies, or those related to using IT resources), or policies related to the design and operation of a particular program. For example, a program policy might describe a trainee testing program, including how it will operate, its goals, means of achieving those goals, limitations, performance targets, etc.

Within the published policies are procedures or the detailed description of the steps to be taken for a business processes of the College. Examples include the steps to be taken to register for entrance examinations, or to become a trainee or licensee, or to renew a license annually. Procedures describe what is to be done, and the detailed steps to be taken. The steps may be performed by someone inside the College, such as an employee, or by someone outside the

organization, such as a licensee, trainee, or complainant. Because procedures are operational, establishing them is within the authority of the CEO/Registrar. Processes and procedures are always required to comply with or be subservient to the By-laws.

There may be ambiguity about whether a policy is properly the purview of the CEO/Registrar or the Board. While on a purely technical analysis the CEO/Registrar is **free to make** any policy provided it fits within the policy framework already articulated by the Board, the CEO may wish to inform the Board of the policy they plan or tell the Board after the decision has been taken. The challenge is to not burden the Board with administrative detail or invite the Board into operations, while recognizing that what the CEO/Registrar sees as administrative may be seen by others as substantive or a change of direction.

### **3.2 The Board's role**

The Board's four appointed directors are named by the Minister<sup>4</sup>; they cannot be licensees. The Directors elected from among the licensees **are not permitted to** be members of any organization that advocates on behalf of patent or trademark agents. The terms of the elected directors is three years; the terms of the appointed directors is at the discretion of the Minister.

CPATA's by-laws, enacted by the Board, prescribe the Board's roles and responsibilities. They are summarized here for explanatory purposes; check the By-laws for the authoritative versions. Most of these requirements are carried out with the assistance, support and advice of the CEO/Registrar:

#### Supervise the organization

- a. Appoint a CEO and provide clear directions to and oversee the work of the CEO with established performance expectations, succession planning and periodic and regular performance review;
- b. Monitor Board and committee performance, determine the nature of Board evaluation, and ensure it takes place at least annually;
- c. Ensure the CEO has plans to address variance from staff performance standards;

#### Determine regulatory policy

- d. Adopt Regulatory Objectives, Regulatory Standards and Regulatory Principles;
- e. Determine frequency of review of policies, including an evaluation of whether the policies **are successful**, and ensure those reviews are carried out;

#### Governance

- f. Ensure effective governance through governance policies related to its work, assessment

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<sup>4</sup> The By-laws provide the College, through its Governance & Nominating Committee, will advise the Minister on Board appointments.



- of organizational performance and commitment to succession planning;
- g. Elect the Chair and Vice-Chair;
- h. Working with the CEO, establish a future vision for the College and policies and plans, including a strategic plan, related to regulatory and program effectiveness and quality;
- i. Establish Board committees, task forces or working groups to assist in carrying out the work of the Board;
- j. Develop competencies specification for Board members; specify process for those elected from the licensees, including oversight; collaborate with Government of Canada on appointment of Board members;

#### Financial Oversight

- k. Provide stewardship over College resources:
  - a. Ensure effective business and financial planning,
  - b. Approve annual business plans, operating and capital budgets,
  - c. Set fees;
  - d. Monitor financial performance,
  - e. Oversee an independent financial audit, and approve audited financial statements.

#### Oversight

- l. Monitor and comment on the regulatory and operational risks for the College, and ensure decisions and policies focus on the management and mitigation of risk of harm to the public;
- m. Oversee effective internal and external stakeholder relations and engagement;
- n. Oversee compliance with all legal requirements of the College, the CEO and the Board;
- o. Monitor operations through reports from the CEO or others describing compliance with policies;
- p. Monitor the extent to which CEO is achieving established performance criteria for operations;
- q. Monitor the extent to which organizational goals are being achieved, including desired/specified outcomes;
- r. Decide when and **what may be** subject to compliance audits (not only financial, but also CEO and others' compliance with policies);

#### Miscellaneous

- s. Address matters assigned to it by the Act and by-laws, and as assigned by the Minister;
- t. Undertake such other matters as the Board considers necessary to achieve the purposes of the College.

Appendix 2 contains a prototype annual calendar of topics to be considered by the Board.

The Board Chair is elected from among the Directors. By default, they chair all meetings unless unavailable or conflicted, work with the CEO to set agendas, act as a key linkage between the CEO and the Board (although not as supervisor of the CEO) and is responsible to see the evaluation of the CEO takes place each year. On occasion the Chair speaks on behalf of CPATA and/or the Board, and is, along with the CEO, a resource for Board members.

### **3.3 The CEO's and Registrar's roles**

The CEO and the Registrar are responsible for management, operations and initial regulatory decision making. The By-laws specify their mandates.

#### **The CEO**

The CEO performs the functions and duties normally associated with the office of chief executive officer, including:

##### Administration

- a. manage, coordinate and maintain the College's operations, administration, finances, and organization;
- b. engage and supervise employees, agents and contractors of the College and direct and supervise them;
- c. Articulate and manage customer service standards;
- d. Set the terms of delegation of the authority of the Registrar;

##### Board Support

- e. counsel and assist the Board implementing and evaluating the College's regulatory activities;
- f. Keep the Board up to date on developments in professional regulation;
- g. Propose metrics to the Board for compliance reporting, and report on achievement of regulatory goals and outcomes;
- h. Assist Chair of Board in development of Board agenda and Board's focus;
- i. Ensure resources are available for organizing Board meetings, and taking minutes;

##### Legal

- j. Execute documents on behalf of the College;
- k. Ensure the Board complies with the Act, regulations, by-laws and policies affecting it;
- l. Ensure compliance with laws such as privacy, access to information, and bilingualism;

##### Program Administration

- m. Articulate processes for management of business procedures (adoption, retention,

- amendment);
- n. Determine insurance requirements for licensees, which may differentiate different classes of practice;
- o. Determine practice standards for licensees;
- p. Determine **appropriate** levels of transparency related to individual regulatory transactions of the College and business processes;

#### Performance Management Reporting

- q. Measure and report to the Board on compliance with policies and laws, and achievement of goals and outcomes;
- r. Propose and carry out internal and third party reviews of operations and accomplishments;

#### Risk Management

- s. Ensure risks are managed, for both the organization and for regulated licensees, including all forms of insurance required for the organization;

#### Communications

- t. Ensure communications with all stakeholders;

#### Leadership

- u. Lead the College;

#### Miscellaneous

- v. Carry out the duties and responsibilities conferred by the Act, the Regulations, the By-laws and policies and procedures approved by the Board;
- w. Give effect to policy directions established by the Board;
- x. Other functions and duties as assigned by the Board;
- y. Regular reporting to the Board on other matters as required;
- z. Report to the Minister as required by the *Act*.

### **The Registrar**

The Registrar performs the duties and responsibilities conferred by the Act, the Regulations, the By-laws and Policies approved by the Board or the CEO. To support the Regulatory Objectives, Standards and Principles, the Registrar establishes regulatory policies, procedures and forms for all relevant programs, which are called 'Registrar's Policies'..

### 3.4 Committees

There are three kinds of committees:

#### **Board Committees**

The Board can establish committees or task forces, must set their terms of reference, and can appoint committee members and set their length of tenure. These can be standing Board committees, or committees set up for a specific purpose (and usually a specific timeframe). As of the date of this document, the planned Board committees are the Audit and Risk Committee, the Nominating Committee, and the Registration Committee.

#### **CEO Committees**

The CEO can also strike committees or work groups to assist with the CEO/staff's work. These might be subject matter specialists or may be advisors from other regulators or from other countries. Consultation committees struck by the CEO represent an excellent opportunity to engage stakeholders on a variety of issues central to the success of the College. As of the date of this document the only planned groups are those that will help to develop a competency profile for entry level agents, and another to advise on the entrance examination. None of these groups has yet been established.

#### **Statutory Regulatory Committees**

These include the Investigations Committee and the Discipline Committee established by s.21 of the *Act*. These are appointed by the Board, which will select committee members based on articulated competencies. The members of the Investigations and Discipline committees must have a majority who are not licensees.

The Chair of the Investigations Committee may direct a panel of one or more Committee members to consider a complaint brought forward by the Registrar. The panel will investigate the matter according to the *Act*. If the committee considers there is merit to the complaint of professional misconduct or incompetence, they must refer the matter to the Discipline Committee.

The Discipline Committee will sit in panels of 1-3 members, as decided by the Chair. They are obliged under the *Act* to conduct an oral hearing. The *Act* lays out the procedures, in sections 51 – 58, and the appeal provisions to the Federal Court. Further details of the process are set out in the By-laws.

## **4. Scope of CEO/Registrar regulatory decisions**

Almost all transactional work of the College is carried out by the staff. In the course of that work they (or staff or contractors reporting to them) make different kinds of regulatory decisions. Some of these are decisions about how the work will be carried out – processes, forms, deadlines, etc – while some are decisions about individuals. [The By-laws specify some requirements for the Registrar's decision making.](#)

### **4.1 Registrar decisions**

The Registrar makes regulatory decisions:

- about individual licensees or applicants, that can affect the individual's status. This includes admission, ongoing compliance, annual renewals and enquiries/complaints/expressions of concern;
- about the processing of inquiries and complaints; and
- setting procedures for regulatory transactions, including required processes, supporting forms and documents, and required timelines or deadlines.

Both kinds of decisions will be circumscribed by Board level policy decisions, including Regulatory Objectives, Standards and Principles, and the By-laws. Decisions must also be compliant with statutory and common law. Of particular importance to all decision making by the Registrar are the decision-making principles, as they create a menu of matters to be considered by the Registrar in determining matters under the By-laws.

In the normal course of operating a regulator, licensees and applicants may find themselves negatively impacted because of a provision of the statute, a by-law or a policy. Examples range from failure to pay a levy or some other amount of money owing to the College or failing to make some form of application in time or in a form required or failing an examination. These breaches may be technical (such as failing to do something on time) or substantive (failure to pass an examination or other competency assessment).

### **4.2 CEO decisions**

Applicants, licensees and their agents may contact the College.

The CEO/Registrar and staff will deal with these situations in a manner that is helpful, respectful and responsive. When possible, without diluting the impact of the relevant regulatory process, staff will be empowered to resolve matters.

For some of these situations a specific appeal process will be in place (for example, when an applicant challenges the marking of an examination or assessment). If no specific process exists, the CEO will also provide an internal process to deal with challenged outcomes as matters arise. This internal process will also be available to reconsider a situation in which the CEO or staff have decided on a matter and communicated it. The CEO will publish the process and how to access it, and staff dealing with these situations will advise applicants and licensees of this process. These resolutions will comply with the Regulatory Objectives, Standards and Principles. This internal appeal is in addition to the appeal to, say, the Registration Committee.

The CEO will articulate customer service standards that deal with the timeliness of responses, timeliness of resolutions and the nature of staff responses. We will also have documentation standards so an appropriate record is kept. As staff must be respectful in their communications and actions regarding licensees and others, so too must people dealing with the College be respectful; staff and the CEO/Registrar may refuse to deal with someone who is abusive.

We will have resources to assist the CEO in making these kinds of regulatory decisions, including subject experts, legal advisors, a 3<sup>rd</sup> party mediator/resolver, and experts from other regulators.

#### **4.3 Policy/process decision areas**

What follows is a list of policies typically developed by a regulator of professionals; others may also be required. Some will be decided by the CEO, some by the Board, and some are a shared responsibility. Every decision is subject to the Regulatory Objectives, Regulatory Standards and Regulatory Principles. While the table shows Primary Responsibility, some may have a secondary responsibility as well:

<b><i>Policy</i></b>	<b><i>Primary responsibility</i></b>
Accounting	CEO
Fee payment and license renewal	CEO
Maintenance of the registers of Patent Agents and Trademark Agents	Registrar, subject to statute

<b><i>Policy</i></b>	<b><i>Primary responsibility</i></b>
Risk management	CEO subject to oversight by Board and the Audit and Risk Management Committee
Privacy and related	CEO, subject to relevant statutes
Human resource policies	CEO
Technology policies, including data use and security	CEO
Travel policies	CEO
Admissions – both what, and how admissions standards are assessed	Board makes high level policy decisions.  Registrar decides policies for administration of processes, forms and required documentation, assessment policies, and individual levels of achievement
Business processes for adopting and modifying CEO or Registrar policies	CEO
Complaints' processing	Registrar, subject to <del>Committee Board</del> policies, the Act, and by-laws
Compliance with licensee reporting requirements such as admission info, keeping addresses up to date, CPD etc.	Registrar
Operating instructions for regulatory programs [this provides clarity about future programs, such as practice audits and the like]	CEO

<b>Policy</b>	<b>Primary responsibility</b>
Adjudication processes	Registrar, subject to Act, Board policies, by-laws and Committee policies
Process for appealing CEO/staff decisions	CEO for internal appeals; <del>Review Commissioner for Registrar's complaint-threshold decisions; By laws and policies for appeals to committees</del> <u>Registration Committee for decisions in that area.</u>
Practice standards	CEO
Unauthorized practice	TBD
Ethical standards	Board
Principles for enforcing ethical standards (and admission standards?)	Board
Governance – including how Board works, Board and statutory committees and mandates and membership, Board compensation. . .	Board, by-laws

#### 4.4 Expectations of CEO in making policy decisions

The CEO must make policy and process decisions defensible from legal and risk management perspectives, and practicable. They must consider and comply with the Regulatory Objectives, Standards and Principles.

There is no formula for determining how to construct these policies and processes, but there are options and 'ingredients' that we will consider. They include:

- Proportionality – what is the process or policy intended to accomplish, and what is the least intrusive and least expensive way to achieve that goal?
- Are there options from other work of the College, or from other regulators, that should be considered?



- What are the legal constraints on the decision? Is the range of options limited by law? Are there some possible outcomes that are more or less risky from a legal perspective? What steps have been taken to identify and resolve the legal issues?
- Consultation. For policy development impacting the profession or the public, we are committed to appropriate consultation, as an aspect of openness and transparency. We will ask ourselves:
  - What kind of consultation has taken place about the policy recommendation?
  - Has the consultation been with the profession, with other regulators or with experts?
  - Has the consultation been transparent?
  - Is the consultation commensurate to the impact on the profession, the College, and the public, in terms of cost, complexity and reputation?
  - What are the outcomes/deliverables of the consultation?
  - In what way are the consultation outcomes reflected in the policy ultimately proposed?
- What kind of a change management process is proposed?

We recognize the prevalence of resistance to change; however, we are committed to working with stakeholders as we develop, implement and modify policies and programs to ensure effectiveness as an independent public interest regulator. We expect the CEO to be competent in making decisions that reflect positively on the College, consider the Regulatory Objectives, Standards and Principles, and as much as possible, are acceptable to licensees, applicants and other stakeholders.

The CEO may incorporate a variety of resources in taking these policy and process decisions, including:

- Subject experts from the profession
- Subject experts from other professions
- Legal advisors
- Technical advisors from other domains, including (for example) educators, behavioural psychologists, testing and assessment experts, business consultants, strategic planning consultants, change management advisors, privacy advisors, risk management advisors
- Leaders and staff from other regulators
- Consumer advocates
- CEO initiated advisory committees

We do not expect the CEO to know all the answers; but they must be proficient at finding those who can assist in finding good answers.

#### **4. Adjudicator Decision Making**

Adjudicators make decisions about admissions (on appeal from the Registrar), complaints and discipline matters, and other matters yet to be defined.

These decisions will be made in a manner compliant with the Regulatory Objectives, Standards and Principles, an Adjudicator code of conduct<sup>5</sup>, the Act, Regulations, By-laws and the relevant procedural rules. Adjudicators will have to complete appropriate training, or provide credentials demonstrating they are competent to act in this role before they are appointed to an adjudicative panel.

The College will provide legal advice and counsel to Registration and Discipline adjudicative decision-makers, in addition to any advice College staff provide.

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<sup>5</sup> To be developed

## **Appendix 1: Board Agenda Annual Plan**

This plan is set out by quarter. There may be more than one meeting in a quarter.

The Board establishes Governance Policies and other policies directing the College's activities

At each meeting, the CEO reports on the status of policy implementation, deviation from policies, service levels and statutory obligations.

In addition to what is set out here there may be agenda items dealing with current issues, such as:

- developing new programs;
- policy issues with existing programs;
- relevant changes in the Canadian operating environment, or
- relevant developments in regulatory programs in Canada or elsewhere.

The CEO reports regularly on the operation and goal achievement of one or more selected programs, so the Board is briefed on each program no less frequently than once in every 24-month period. In the initial years of operation a more frequent schedule may be established.

The CEO also reports on Board Governance Policies and proposes amendments as appropriate. This will be carried out on a schedule that ensures the Board is briefed on each policy no less than once in every 24 months. The Board can require more frequent reporting if necessary.

Although the reports will not be part of the Board agendas, the CEO will provide the Board with an operational overview report monthly, with time at each meeting for questions.

### **Q1**

- CEO report of achievements in prior fiscal year, based on business plan and budget
- CEO report on achievements of policy goals for prior year
- CEO exceptions report, describing any deviations from policies, service levels or statutory obligations
- Q1 financial report from Audit and Risk Committee
- CEO report on selected programs
- CEO report on selected Board Governance Policies
- CEO report on stakeholder relations, including government and profession

- Governance Committee report with recommendations to refresh appointments to committees after reviewing the work and performance in the prior year, and proposed plans for upcoming year

## Q2

- Board meets with auditors and approves financial audit report
- Board appoints auditors for next fiscal year
- Discuss priorities for coming fiscal year, within the context of a) priorities, b) longer term (strategic) plans, and c) relevant changes in the operating environment and in regulation throughout the world
- CEO exceptions report, describing any deviations from policies, service levels or statutory obligations
- Report on CEO performance evaluation, and resulting compensation recommendation
- Q2 financial and risk report from Audit and Risk Committee.
- CEO report on selected programs
- CEO report on selected Board Policies
- CEO provides copy of Annual Report to Minister

The General Meeting of Members will also take place in Q2, and newly elected Directors take office after that meeting

## Q3

- Business plan decision as basis for budget
- CEO exceptions report, describing any deviations from policies, service levels or statutory obligations
- Report on Board and Committee evaluations
- Q3 financial report from Audit and Risk Committee
- CEO report on selected programs
- CEO report on selected Board Policies
- CEO report on stakeholder relations, including government and profession

## Q4

- Business plan, budget and fees for final decision
- Set date for AGM
- CEO exceptions report, describing any deviations from policies, service levels or statutory obligations
- Q4 financial and risk report from Audit and Risk Committee
- CEO report on selected programs
- CEO report on selected Board Policies
- CEO report on staff succession policies

- Nominating and Governance Committee report, including upcoming elections and appointments to the Board, and appointments to Committees

Programs for reporting:

1. Admissions/Registrations
2. Complaints and Discipline
3. Insurance
4. Continuing fitness
5. Quality Assurance and Continuing Professional Competence
6. Governance, including elections and appointments to the Board, and appointments to Committees
7. Practice Standards development and advice

## **Appendix 2: An Example of the Policy Basis for a Program of the College**

The governance premise of the College is that the CEO delivers programs. The Board sets the policy relevant to programs (an example is detailed below); the CEO develops and delivers the program, and reports to the Board on how things have gone, and how well the program has achieved the relevant goals. Besides the operating statistics and descriptions generated by staff, these reports may include external evaluation reports and surveys of users or others. Under the College's Regulatory Standards, the CEO brings to bear expertise and resources so programs achieve the desired goals in a way that is acceptable to users and is affordable to the College and users.

In line with the other expectations of the College, programs should also be admired for their excellence.

For example: the Admissions Program is a key College activity to ensure new agents are professionally competent.

The Regulatory Objectives speak to the high-level goals of an admission program:

- We protect those who use patent and trademark services.
- We ensure Licensees deliver patent and trademark services ethically and competently.
- We promote equity, diversity and inclusion in the patent and trademark profession and in the delivery of patent and trademark services.

The Regulatory Standards also speak to our goals:

- We maintain standards for the ethical and competent delivery of patent and trademark services and enforce compliance with those standards.
- We maintain up-to-date practice standards for licensees and provide guidance in applying the standards.
- We maintain standards for education, training and fitness to ensure our admission programs deliver competent trainees that meet the College's requirements for registration. [RO6]

And our description of how we do business includes:

- We are clear about our purpose and open and transparent in all processes; publish our regulatory requirements, guidance, policies, processes and decisions; provide accurate accessible information about our licensees and report on our performance and outcomes.
- We clearly state the public interest objectives we seek to achieve in our policies.

- We apply policies in a principled manner, proportionately, fairly and efficiently with decisions explained, including their public interest rationale.
- In developing policies and advancing the College's objectives, we obtain expert advice as required, conduct research relevant to the matters under consideration and consult and work with interested stakeholders.

Taken together, this means that the Admissions Program is mandated to be transparent, based on meaningful published standards related to competence and ethics, not so complicated or expensive that it constitutes an unreasonable barrier to entry to the College, and best in class based on the need to **seek and** implement expert advice. It also must play a central role in the College's objective to promote equity and diversity in the profession and the means for doing this must be articulated and measurable.

The policy statement that underpins the Admissions Program can incorporate those standards by reference, and can be succinct:

The College will operate an Admissions and Registration program that ensures Trainees entering the profession as Patent and Trademark Agents have demonstrated a) entry level professional competence based on appropriately designed and defensible competency statements and assessment techniques, and b) good character and fitness.

This 'Policy' developed by the Board and College Staff will serve as the CEO/Registrar's 'instructions' to develop and implement a program and report to the Board on implementation of the policy and the relevant Regulatory Objectives, Standards and Principles. If those reports disclose features the Board thinks should be changed, then the Policy can be modified.

## Appendix 3: The First 4 Years

The Board intends to be forward looking in the way it works, and that has started. We have a great deal of work ahead to properly launch a new regulator; that will take **some** years to complete. So far in our discussions we have identified:

### The Work

### Approximate Timeframe

Figure out how best to operate a 21<sup>st</sup> century regulator, operating across the country. Develop effective consultation mechanisms to properly understand the implications of proposed regulatory actions. Some specific matters required to be addressed include liability insurance, continuing professional development and mandatory *pro bono* services.

About 2 years, 2021 – 2022

Update our admissions and registration program, including a new entry level assessment tool, the articulation of entry level professional competencies, and consideration of a formalized education and training regime

Up to 3 years – 2021 – 2023

Develop our complaints investigation and discipline program, and ensure it all functions smoothly, with appropriately trained decision makers. The matter of co-regulation of licensees will need to be addressed.

About 2 years – 2022 – 2023

Work out all the parts of the annual renewal process, including payments and providing information so we better understand the

About 2 cycles after the initial one – 2021 – 2023



demographics and practice settings of the profession

Determine the best way to protect the public interest through the statutorily mandated compulsory practice insurance 2 to 3 years – 2021 – 2023

Based on what we learn about the demographics of the profession and research into the demand for IP services, work out a strategy to increase diversity, and ensure a sufficient supply of IP agents. Start implementation of that strategy. About 3 years – 2022 – 2024

Begin the discussion about innovation in the IP agent field, what steps the College can take to support and encourage innovation in the work of IP agents and in protecting IP, and develop that into a 5-10 year strategy 2022 – 2023

Develop and implement a program to ensure continuing competence and continuing fitness to practice 2 years, beginning in 2022

Develop a program of low cost or no cost agent services for those in need. About 2 years, 2023 – 2024

To: Board of Directors

From: Sean Walker, CFO

cc:

Date: July 29, 2021

Re: Financial Update for Board of Directors

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This memo will provide an update to the Board on a number of financial items.

#### CIPO Funds Transfer

We received the funds transfer from CIPO on Monday July 19 in the amount of \$475,792. It represents the prorated portion of CIPO fees received from Agents up to the end of June 2021. They paid the College for 7 months (June to December). We had based the budget for 2021 based on a payment for May to December (8 months and \$515,100) therefore; we are short by approximately \$40K.

Breakdown of Agent payments received:

- 1,551 Trademark Agents                      \$ 277,954
- 950 Patent Agents                              \$ 197,838

#### CPATA Fee Projections

We currently have 961 Patent Agents and 1,550 Trademark Agents including 409 “dual” agents. Therefore, we are expecting that the fees to be paid by the end of August totals \$1,614,550:

1,693 Single Agents	X \$ 700	= \$ 1,185,100
409 Dual Agents	X \$1,050	= \$ 429,450

The budget called for Agent Fee revenue of \$1,664,950 so we are short by approximately \$50K. However, we are expecting to see additional revenue from Reinstatement and Class change fee requests, which should account for a portion of the shortage.

To date as of July 20<sup>th</sup> we have received \$241,870 from Agents and Firms for fee payments. This represents about 15% of total payments expected.

### College Cash Situation

In 2021 the Line of Credit (LoC) balance reached a maximum of \$894,000 at the end of June. Since we received the CIPO transfer and Agent fees the LoC balance has decreased to \$270,000 and we should be in a significant positive cash balance (+\$1M) by the end of August once all fees are paid. This balance may be large enough to carry the College into the next fee payment period in January to March 2022.

Once we have final numbers for licensees and their classes, we will be able to specify our approach to cash flow management and to developing our financial reserve policy. This will involve RBC to ensure there is always adequate cash available for operations.

## Statement of Operations

June 2021

	TOTAL	
	JUN. 2021	JAN - JUN., 2021 (YTD)
<b>INCOME</b>		
4000 Service/Fee Income		
4010 Licensee fees - CPATA fees	1,400.00	1,400.00
<b>Total 4000 Service/Fee Income</b>	<b>1,400.00</b>	<b>1,400.00</b>
<b>Total Income</b>	<b>\$1,400.00</b>	<b>\$1,400.00</b>
<b>GROSS PROFIT</b>	<b>\$1,400.00</b>	<b>\$1,400.00</b>
<b>EXPENSES</b>		
5500 Wages & Benefits		
5510 Wages	10,903.85	10,903.85
5530 Wages - CPP / EI	866.26	866.26
<b>Total 5500 Wages &amp; Benefits</b>	<b>11,770.11</b>	<b>11,770.11</b>
6000 Professional fees - Interim CEO	18,500.00	111,000.00
6010 Professional fees - Accounting	8,100.00	37,773.75
6030 Professional fees - Legal	49,264.12	99,060.39
6050 Professional fees - Planning		12,669.50
6060 Professional fees - Translation	6,264.25	6,502.30
6200 Consulting - Admissions		35,725.00
6210 Consulting - Communications	4,900.00	21,430.00
6230 Consulting - Human Resources	7,200.00	66,522.39
6270 IT Consultants - Network & General	903.45	8,237.30
6280 IT Consultant - License Systems	2,500.00	15,000.00
6290 IT Consultant - Website	4,200.00	8,400.00
6295 Payroll provider Fees		22.50
6510 Board - Remuneration		12,269.85
7010 Bank fees and interest	3,792.70	16,512.19
7140 Insurance - D&O	3,465.00	7,796.05
7210 Office - Furniture	579.79	579.79
7215 Office - General expenses	174.50	174.50
7300 Software costs - Administration	405.89	1,329.39
8000 Amortization	54.22	225.86
<b>Total Expenses</b>	<b>\$122,074.03</b>	<b>\$473,000.87</b>
<b>PROFIT</b>	<b>\$ -120,674.03</b>	<b>\$ -471,600.87</b>

## Statement of Financial Position

As of June 30, 2021

	TOTAL	
	AS OF JUN. 30, 2021	AS OF DEC. 31, 2020 (PP)
<b>Assets</b>		
Current Assets		
Cash and Cash Equivalent		
1010 RBC Chequing Account	724.76	
<b>Total Cash and Cash Equivalent</b>	<b>\$724.76</b>	<b>\$0.00</b>
1230 Other current assets	603.92	
1400 Prepaid expenses	58,833.95	10,000.00
<b>Total Current Assets</b>	<b>\$60,162.63</b>	<b>\$10,000.00</b>
Non-current Assets		
Property, plant and equipment		
1600 Computer Equipment	5,925.88	
1605 Computer Equipment - Accum Amort	-225.86	
<b>Total Property, plant and equipment</b>	<b>\$5,700.02</b>	<b>\$0.00</b>
<b>Total Non Current Assets</b>	<b>\$5,700.02</b>	<b>\$0.00</b>
<b>Total Assets</b>	<b>\$65,862.65</b>	<b>\$10,000.00</b>
<b>Liabilities and Equity</b>		
Liabilities		
Current Liabilities		
Accounts Payable (A/P)		
2000 Accounts Payable (A/P)	72,584.73	406,980.77
<b>Total Accounts Payable (A/P)</b>	<b>\$72,584.73</b>	<b>\$406,980.77</b>
Credit Card		
2020 RBC Visa Credit Card	367.67	
<b>Total Credit Card</b>	<b>\$367.67</b>	<b>\$0.00</b>
2010 Accrued Payables	25,599.20	26,763.24
2050 GST/HST Payable	-51,702.34	-34,813.09
RRSP Contribution	545.18	
<b>Total Current Liabilities</b>	<b>\$47,394.44</b>	<b>\$398,930.92</b>
Non-current Liabilities		
2030 RBC Line of Credit	879,000.00	
<b>Total Non-current Liabilities</b>	<b>\$879,000.00</b>	<b>\$0.00</b>
<b>Total Liabilities</b>	<b>\$926,394.44</b>	<b>\$398,930.92</b>
Equity		
Retained Earnings	-388,930.92	-388,930.92
Profit for the year	-471,600.87	
<b>Total Equity</b>	<b>\$ -860,531.79</b>	<b>\$ -388,930.92</b>
<b>Total Liabilities and Equity</b>	<b>\$65,862.65</b>	<b>\$10,000.00</b>

College of Patent Agents and Trademark Agents

Statement of Operations by Department

January - June, 2021

	ADMINISTRATION & OPERATIONS	BOARD & GOVERNANCE	MARKETING & COMMUNICATIONS	REGULATIONS - COMPLAINTS	REGULATIONS - REGISTRATION	TOTAL
INCOME						
4000 Service/Fee Income						\$0.00
4010 Licensee fees - CPATA fees	1,400.00					\$1,400.00
<b>Total 4000 Service/Fee Income</b>	<b>1,400.00</b>					<b>\$1,400.00</b>
<b>Total Income</b>	<b>\$1,400.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,400.00</b>
<b>GROSS PROFIT</b>	<b>\$1,400.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,400.00</b>
EXPENSES						
5500 Wages & Benefits						\$0.00
5510 Wages	10,903.85					\$10,903.85
5530 Wages - CPP / EI	866.26					\$866.26
<b>Total 5500 Wages &amp; Benefits</b>	<b>11,770.11</b>					<b>\$11,770.11</b>
6000 Professional fees - Interim CEO	111,000.00					\$111,000.00
6010 Professional fees - Accounting	37,773.75					\$37,773.75
6030 Professional fees - Legal	2,262.91			96,797.48		\$99,060.39
6050 Professional fees - Planning		12,669.50				\$12,669.50
6060 Professional fees - Translation	6,502.30					\$6,502.30
6200 Consulting - Admissions					35,725.00	\$35,725.00
6210 Consulting - Communications	1,380.00		20,050.00			\$21,430.00
6230 Consulting - Human Resources	66,522.39					\$66,522.39
6270 IT Consultants - Network & General	8,237.30					\$8,237.30
6280 IT Consultant - License Systems	15,000.00					\$15,000.00
6290 IT Consultant - Website			8,400.00			\$8,400.00
6295 Payroll provider Fees	22.50					\$22.50
6510 Board - Remuneration		12,269.85				\$12,269.85
7010 Bank fees and interest	16,512.19					\$16,512.19
7140 Insurance - D&O	7,796.05					\$7,796.05
7210 Office - Furniture	579.79					\$579.79
7215 Office - General expenses	174.50					\$174.50
7300 Software costs - Administration	1,329.39					\$1,329.39
8000 Amortization	225.86					\$225.86
<b>Total Expenses</b>	<b>\$287,089.04</b>	<b>\$24,939.35</b>	<b>\$28,450.00</b>	<b>\$96,797.48</b>	<b>\$35,725.00</b>	<b>\$473,000.87</b>
<b>PROFIT</b>	<b>\$ -285,689.04</b>	<b>\$ -24,939.35</b>	<b>\$ -28,450.00</b>	<b>\$ -96,797.48</b>	<b>\$ -35,725.00</b>	<b>\$ -471,600.87</b>

**College of Patent Agents and Trademark Agents**  
**Budget vs. Actuals: CPATA - Budget 2021 V1 - FY21 P&L Classes**  
January - June, 2021 and Forecast

	TOTAL - June 30, 2021				2021 - Full Year forecast				
	Actual	Budget	Variance	% of Budget	Forecast	Budget	Variance	% of Budget	Forecast notes
<b>Income</b>									
4000 Service/Fee Income	0	0	0						
4010 Licensee fees - CPATA fees	1,400	237,850	(236,450)	0.6%	1,614,550	1,664,950	(50,400)	97.0%	Based on Agent numbers July 19
4040 Licensee fees - CIPO Transfer	0	128,775	(128,775)	0.0%	475,792	515,100	(39,308)	92.4%	CIPO Fees payment received July 19
4060 Certificate and Application fees		0	(128,775)	0.0%	10,000	0	10,000		
4050 Exam fees	0	0	0		107,000	107,000	0	100.0%	Estimated to match budget - based on forecast
<b>Total 4000 Service/Fee Income</b>	<b>\$ 1,400</b>	<b>\$ 366,625</b>	<b>\$ (365,225)</b>	<b>0.4%</b>	<b>\$ 2,207,342</b>	<b>\$ 2,287,050</b>	<b>\$ (79,708)</b>	<b>96.5%</b>	
<b>Total Income</b>	<b>\$ 1,400</b>	<b>\$ 366,625</b>	<b>\$ (365,225)</b>	<b>0.4%</b>	<b>\$ 2,207,342</b>	<b>\$ 2,287,050</b>	<b>\$ (79,708)</b>	<b>96.5%</b>	
<b>Gross Profit</b>	<b>\$ 1,400</b>	<b>\$ 366,625</b>	<b>\$ (365,225)</b>	<b>0.4%</b>	<b>\$ 2,207,342</b>	<b>\$ 2,287,050</b>	<b>\$ (79,708)</b>	<b>96.5%</b>	
<b>Expenses</b>									
5500 Wages & Benefits	0	0	0		0	0	0		
5510 Wages	10,904	55,000	(26,096)	29.5%	180,916	350,917	170,000	51.6%	Jennifer, Andres, Admin - August 1 Policy Analyst, Comm Mgr, Exec Asst - Sept - Dec
5530 Wages - CPP / EI	866	7,500	(50,634)	1.7%	27,137	52,092	24,954	52.1%	
<b>Total 5500 Wages &amp; Benefits</b>	<b>\$ 11,770</b>	<b>\$ 62,500</b>	<b>\$ (76,730)</b>	<b>13.3%</b>	<b>\$ 208,054</b>	<b>\$ 403,008</b>	<b>\$ 194,955</b>	<b>51.6%</b>	Delays in Hiring due to delay in ATO
6000 Professional fees - Interim CEO	111,000	110,999	1	100.0%	222,000	129,500	(92,500)	171.4%	Interim CEO through end of 2021
6010 Professional fees - Accounting	37,774	37,500	274	100.7%	67,774	77,500	9,726	87.5%	Forecast estimate of \$5K per month
6020 Professional fees - Communications	0	5,000	(5,000)	0.0%	0	22,500	22,500	0.0%	Costs included in Consulting
6030 Professional fees - Legal	99,060	51,750	47,310	191.4%	175,000	130,917	(44,083)	133.7%	Pink Larkin, Mara Consulting
6050 Professional fees - Planning	12,670	0	12,670		42,670	0	(42,670)		
6060 Professional fees - Translation	6,502	10,000	(3,498)	65.0%	20,000	30,000	10,000	66.7%	Website, forms, etc.
6200 Consulting - Admissions	35,725	35,000	725	102.1%	247,725	242,000	(5,725)	102.4%	D. Thompson plus Exam costs
6210 Consulting - Communications	21,430	19,000	2,430	112.8%	40,000	31,500	(8,500)	127.0%	Nick M. and support
6230 Consulting - Human Resources	66,522	66,002	520	100.8%	80,000	146,000	66,000	54.8%	Delays in hiring
6240 Consulting - Policies	0	5,000	(5,000)	0.0%	5,000	10,000	5,000	50.0%	Work mostly done internally
6250 Consulting - Regulation	0	20,000	(20,000)	0.0%	25,000	50,167	25,167	49.8%	Work mostly done internally
6270 IT Consultants - Network & General	8,237	6,000	2,237	137.3%	16,475	12,000	(4,475)	137.3%	ACE-IT
6280 IT Consultant - License Systems	15,000	15,000	0	100.0%	30,000	30,000	0	100.0%	Thentia
6290 IT Consultant - Website	8,400	20,000	(11,600)	42.0%	20,000	30,000	10,000	66.7%	Website development and maintenance
6295 Payroll provider Fees	23	0	23		200	0	(200)		
6510 Board - Remuneration	12,270	20,220	(7,950)	60.7%	32,920	31,108	(1,812)	105.8%	Based on Estimated meetings
6530 Board - Training	0	3,500	(3,500)	0.0%	5,000	7,500	2,500	66.7%	
6600 Committee Expenses	0	5,000	(5,000)	0.0%	10,000	15,000	5,000	66.7%	Delays in Setting up Committees
7010 Bank fees and interest	16,512	22,700	(6,188)	72.7%	58,000	60,400	2,400	96.0%	Estimated at budget - pending CC fees
7130 Dues and memberships	0	2,000	(2,000)	0.0%	10,000	10,000	0	100.0%	
7140 Insurance - D&O	7,796	18,105	(10,309)	43.1%	22,500	29,105	6,605	77.3%	D&O and Side A

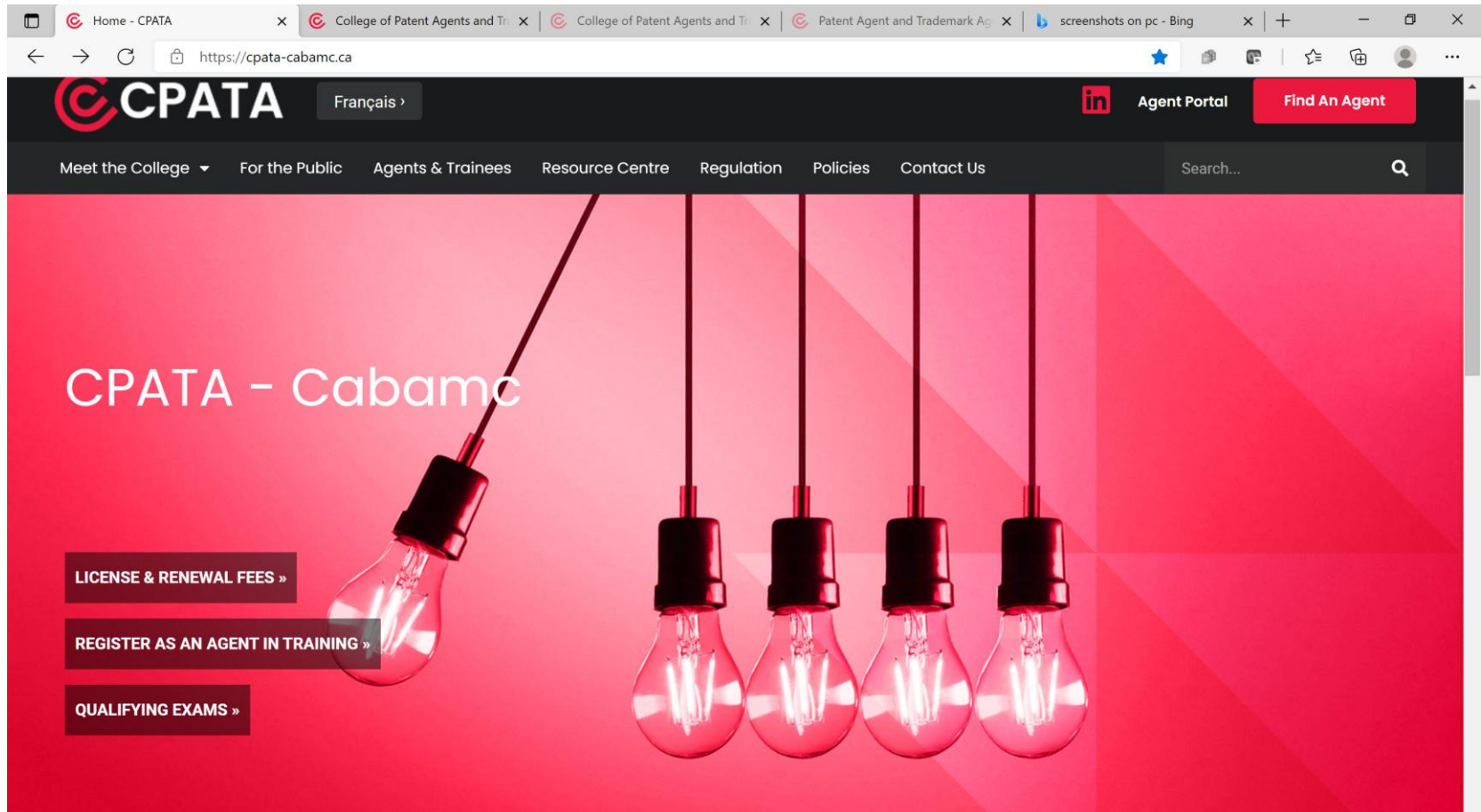
	Actual	Budget	Variance	% of Budget	Forecast	Budget	Variance	% of Budget	Forecast notes
7150 Insurance - General Liability	0	10,000	(10,000)	0.0%	750	20,000	19,250	3.8%	Policy was much less than budget
7160 Insurance - Mandatory Liability	0	5,000	(5,000)	0.0%	4,600	10,000	5,400	46.0%	Cyber Policy
7210 Office - Furniture	580	5,000	(4,420)	11.6%	1,391	10,000	8,609	13.9%	
7215 Office - General expenses	175	0	175		419	0	(419)		
7300 Software costs - Administration	1,329	499	830	266.4%	2,659	1,000	(1,659)	265.9%	
7320 Staff Travel	0	5,000	(5,000)	0.0%	5,000	10,000	5,000	50.0%	Costs expected n second half of year
7410 Contingency	0	0	0		0	100,000	100,000	0.0%	
<b>Total Expenses</b>	<b>\$ 472,775</b>	<b>\$ 586,775</b>	<b>\$ (114,000)</b>	<b>80.6%</b>	<b>\$ 1,353,136</b>	<b>\$ 1,649,205</b>	<b>\$ 296,070</b>	<b>82.0%</b>	
<b>Net Operating Income</b>	<b>\$ (471,375)</b>	<b>\$ (220,150)</b>	<b>\$ (251,225)</b>	<b>214.1%</b>	<b>\$ 854,206</b>	<b>\$ 637,845</b>	<b>\$ 216,362</b>	<b>133.9%</b>	
<b>Other Expenses</b>									
8000 Amortization	226	0	226		1,000	0	(1,000)		
<b>Total Other Expenses</b>	<b>\$ 226</b>	<b>\$ -</b>	<b>\$ 226</b>		<b>\$ 1,000</b>	<b>\$ 0</b>	<b>\$ (1,000)</b>		
<b>Net Other Income</b>	<b>\$ (226)</b>	<b>\$ -</b>	<b>\$ (226)</b>		<b>\$ (1,000)</b>	<b>\$ 0</b>	<b>\$ 1,000</b>		
<b>Net Income</b>	<b>\$ (471,601)</b>	<b>\$ (220,150)</b>	<b>\$ (251,451)</b>	<b>214.2%</b>	<b>\$ 853,206</b>	<b>\$ 637,845</b>	<b>\$ 215,362</b>	<b>133.8%</b>	



# College of Patent Agents and Trademark Agents

Welcome to our new world!!  
Darrel Pink, CEO & Registrar

# Home - CPATA (cpata-cabamc.ca)



# Key dates

## Coming into Force – June 28

- Act proclaimed
- Regulations in effect
- College By-laws in effect
- Code of Professional Conduct

## Soft launch – June 28 – July 4

- Testing – found- and continue to find – some bugs

## Renewals – July 5 – August 31

- Review and update database
- Fees \$700/\$1050
- Payable by credit card

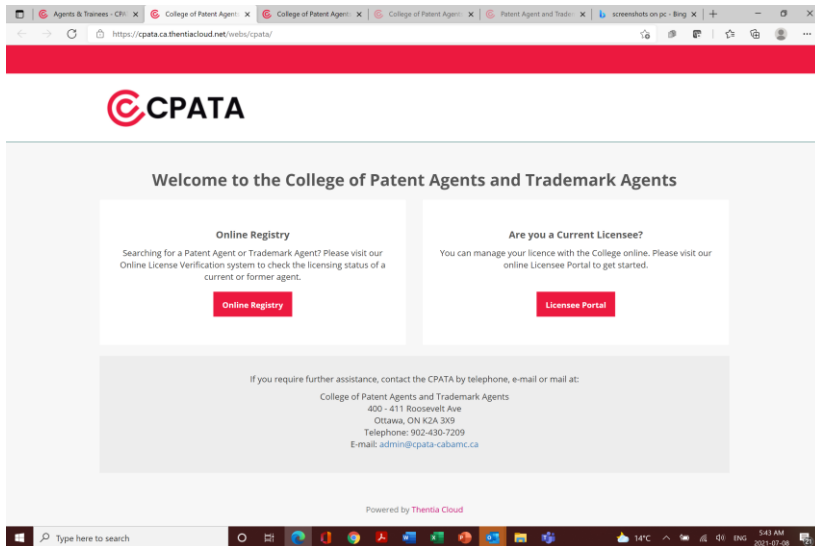
## Agents in Training Registration

- Ongoing

## • 2021 Exams

- **Exam Fees - \$200/exam + tax**
- **Trademark Qualification Examinations**
  - Registration Deadline: October 1, 2021
  - Accommodation Request Deadline: October 15, 2021
  - Part A – November 9, 2021
  - Part B – November 10, 2021
- **Patent Qualification Examinations**
  - Registration Opens: July 26, 2021
  - Registration Deadline: October 29, 2021
  - Accommodation Request Deadline: November 12, 2021 (To be confirmed)
  - Paper A - December 7, 2021
  - Paper B - December 8, 2021
  - Paper C - December 9, 2021
  - Paper D - December 10, 2021

# Access to CPATA



[www.cpata-Cabamc.ca](http://www.cpata-Cabamc.ca)

Access to the Licensee Portal  
for all licensee requirements

Access to Registers

Access to Forms

- - new licensees
- -Inquiries/Complaints

# Renewals and Fees

- Access is by unique email – for most their firm email address
- System generates a password
- Renew – i.e. update personal information
- Pay fees – by credit card
- Firms paying for all agents – **implementing this to allow one fee payment** – by credit card or e-transfer

# How will CPATA work ?



## BOARD POLICIES

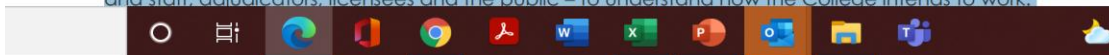
NAME OF POLICY	No. 1 - How CPATA works – Its Principled Approach to Regulation and Governance		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	By-law		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Board	May 11, 2021	TBD	

## How CPATA works - Its Principled Approach to Regulation and Governance

### 1. Introduction and Overview

The Government of Canada enacted the College of Patent and Trademark Agents Act at the end of 2018, as part of its National Innovation Strategy. In 2019 they appointed an interim Board to get the organization up and running. In the spring of 2020, the Board appointed a CEO to further that work.

This is our plan for operating a new, state of the art public interest regulator of the intellectual property professions. It is intended to assist those involved – Board and committee members, CEO and staff, adjudicators, licensees and the public – to understand how the College intends to work.



# Innovation within a 'rigid' framework

This is our plan for operating a new, state of the art public interest regulator of the intellectual property professions.

BP No. 1 will assist those involved – Board and committee members, CEO and staff, adjudicators, licensees and the public – to understand how the College intends to work.

Our form of operation differs from many 'self governing' regulators of professions in Canada and elsewhere, documenting the form of operation is crucial.

It will ensure we start properly and maintain this form of operation instead of defaulting to other structures that some might assume apply because they are used by other regulators



# Regulatory Objectives

To advance its role as a risk-focused, modern public interest regulator, the College has adopted these Regulatory Objectives:

- We protect and promote the public interest in patent and trademark services.
- We protect those who use patent and trademark services.
- We promote innovation in the delivery of patent and trademark services and the protection of intellectual property rights.
- We improve access to and promote competition in the provision of patent and trademark services.
- We promote the independence of the patent and trademark profession.
- We ensure Licensees deliver patent and trademark services ethically and competently.
- We promote equity, diversity and inclusion in the patent and trademark profession and in the delivery of patent and trademark services.

# Some issues

- Agents in Training (Class 3 Licensees)
  - Registration opened on July 5
  - Forms - [Agent-in-Training-Application-Form-and-Checklist.pdf](https://cpata-cabamc.ca/Agent-in-Training-Application-Form-and-Checklist.pdf) ([cpata-cabamc.ca](https://cpata-cabamc.ca/))
  - No fee in 2021
  - Will need an arrangement with a 'training Supervisor'
- The Register and in-house agents
  - Information on the Register is public. Only privacy considerations will allow contact info to be redacted
- Regulations, Code, College By-laws
  - In force on June 28 – Regs published in CG2 on June 24
- How is CPATA different from CIPO?
  - “Let me count the ways”.....

# The first 2 weeks

- Technical glitches
  - Working to resolve them – if problem contact [admin@cpata-Cabamc.ca](mailto:admin@cpata-Cabamc.ca) (Andres Diaz)
  - Examples – some email systems will not receive emails from Thentia – our database operator – has been fixed
- But the system works – Tutorial on-line
- Foreign Practitioners
- New trainee licensure and exam registration
- Exam preparation is underway

# CPATA Priorities

- Operational efficiency – we are a staff of 5 – 2FT and 3 PT
- Continue to enhance bi-lingual website
- Policy development and publication
- Liability insurance – discussion paper later this summer
- Co-regulation – discussions with law societies
- Committee appointments
  - Regulatory – Investigations, Discipline, Registration
  - Board Committees – Governance & Nominating, Risk & Audit
- Board succession – Elections and Board appointments

# People we will need

**Investigations, Discipline and Registration Committees** – 1 Patent and 1 Trademark Agent – To serve on these committee may NOT be a member of IPIC

**Board of Directors** - 1 Patent and 1 Trademark Agent and 1 who is either. To serve on the Board may NOT be a member of IPIC

**Risk & Audit and Governance & Nominating Committees**  
– Requests will go out later this summer

- **CPATA is independent from government and the profession – thus the majority of public members on all regulatory c'tees and the Board**
- **CPATA must and will work closely with IPIC on its key initiatives – Insurance, Code, Competence initiative, Professional Standards**

# Who to contact ??



Registration matters, change of licence, applying to be a trainee and to register for exams –  
[DirRegistration@cpata-Cabamc.ca](mailto:DirRegistration@cpata-Cabamc.ca)  
(Jen Slabodkin)



Licensee Portal, renewal, difficulties in accessing portal –  
[Admin@cpata-cabamc.ca](mailto:Admin@cpata-cabamc.ca)  
(Andres Diaz)

- Money issues –  
[CFO@cpata-cabamc.ca](mailto:CFO@cpata-cabamc.ca)  
(Sean Walker CPA)
- Website and communications –  
[info@cpata-cabamc.ca](mailto:info@cpata-cabamc.ca)  
(Nick Matsell)
- **Everything** –  
[dpink@cpata-cabamc.ca](mailto:dpink@cpata-cabamc.ca) 1 343-309-5742