



## BOARD OF DIRECTORS MEETING AGENDA

### OPEN MEETING

#### VIA VIDEOCONFERENCE

<b>Date</b>	Tuesday, October 5, 2021
<b>Time</b>	2:00 pm ET (initial in-camera followed by public meeting at 2:30)
<b>Chair</b>	Ruth McHugh FCPA, Acting

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				
	<b>Conflicts of Interest</b> - Board members are to declare if they have any conflicts regarding matters on the agenda				
	<b>2. 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 July 29, 2021, meeting	2:35		5	Approval
	<b>3. Establishing the College</b>				
3.1.	Registration Committee - Appointments	2:36	J. Slabodkin		Approval

3.2.	CPATA Privacy Policy <del>The Board will receive a briefing from Mara Consulting on the privacy obligations of the College and is asked to approve the following resolution:</del>	45	Mara Consulting K. Bustin and J. Walsh	26	Approval
	<b><del>Be it resolved the Board adopts CPATA's Privacy Policy dated October 5, 2021, and directs the CEO to implement its requirements across the College.</del></b>  <b>Deferred to October 30</b>				
3.3.	BP No 6 – Nominations and Elections - This draft policy was developed in consultation with Directors J Astle and D. Thompson. It is for discussion. Once approved detailed procedures will need to be developed. NB – There have been no discussions with the Minister's office on the appointment process	2:40	D. Pink	52	Discussion
3.4	Appointment of Auditor - Update on RFQ process	2:55	D Pink/S Walker		Information
<b>4. Building a Model Regulator</b>					
4.1.	<b>Committee Structures</b>				Update
4.1.1.	Risk and Audit Committee - Terms of Reference - Skills Matrix	<b>3:00</b>	D. Pink	59 66	Approval
4.1.2.	Governance and Nominating Committee - Terms of Reference - Skills Matrix	3:10	D. Pink	69 74	Approval

4.2	<p>Mandatory Liability Insurance</p> <ul style="list-style-type: none"> <li>- <i>Following consultation with the profession, the Board is asked to approve the resolution to set the policy regarding liability insurance that will result in the development of by-laws.</i></li> </ul>	3:15	D. Pink/ P. Mahoney	77	Approval
<p><i>Be it resolved under s. 75(1)(q) and (r) the Board will adopt by-laws regarding mandatory professional liability insurance that require:</i></p> <ul style="list-style-type: none"> <li>a. <b>Commencing in 2022</b>, Class 1 and Class 3 licensees, providing patent or trademark services to the public, must be insured under a liability insurance policy provided by an insurance company licensed in Canada, that will indemnify for civil liability arising from the licensee acting as a patent agent or a trademark agent;</li> <li>b. <i>The limit of liability is a minimum of \$1.0 million per claim and a \$2.0 million aggregate;</i></li> <li>c. <i>The liability insurance policy must cover claims made outside of Canada; and</i></li> <li>d. <b>These requirements will be satisfied so long as inception of coverage under a liability insurance policy meeting the requirements is in 2022.<sup>1</sup></b></li> </ul> <p><i>Further, the Board directs the CEO to have by-laws drafted and presented to the Board for approval in time for publication in advance of January 1, 2022.</i></p> <p><i>Further, the Board directs the CEO to engage in additional research and to bring recommendations to the Board relating to:</i></p> <ol style="list-style-type: none"> <li>1. <i>Whether policy limits should remain at \$1.0 million per claim and a \$2.0 million aggregate.</i></li> <li>2. <b>The impacts on the profession of the insurance requirements</b></li> </ol>					
<b>5. FOR INFORMATION</b>					

<sup>1</sup> The renewal date for the IPIC policy is March 1; Law Society insurance policies renew on July 1. The intention is to allow licensees adequate time to find a policy that satisfies these requirements.

5.1	August 31 Financials and memo from CFO	4:15	
5.2	CEO & Registrar Report		
5.3	Article by Glen Tecker on Hybrid Board meetings		
6.0	Adjourn	4:30	
<b>6. In-Camera</b>			
- with CEO			
- without CEO			
<b>FUTURE MEETINGS</b>			
	October 29 – Planning Meeting of Committee of the Whole – 8:30 – 16:30 - Ottawa		
	October 30 – Board Meeting – 8:30 – 12:30		



**Public Board of Directors Meeting  
Held via Zoom  
July 29, 2021, 4:00 p.m. ET  
Minutes**

**BOARD MEMBERS:**

Tom Conway, Chair

Jeff Astle

Karima Bawa

Ruth McHugh

Doug Thompson

Darrel Pink, CEO & Registrar

**STAFF:**

Sean Walker CPA, CFO

Jennifer Slabodkin, Director Registration & Education, Deputy Registrar/Recording Secretary

Andrés Diaz, Operations Manager

Nick Matsell, Marketing & Communications

Victoria Rees QC, Counsel, Professional Regulation,

1. Call to Order

The Chair called the meeting to order at 4:00 p.m.

2. Conflicts of Interest

No conflicts were declared.

3. Agenda

The Chair noted this is the first meeting of the Board of directors since the College's Act came into force on June 28. He welcomed members of the profession who have joined to observe the meeting and invited the Directors to introduce themselves. He noted the meeting is to consider Board policies, indemnification of the Board, College Committee structures, the mandatory professional liability insurance requirement for agents, and the College's financial report for the period ending June 30, 2021.

4. Consent Agenda

**On motion made by Jeff Astle, seconded by Doug Thompson, it was resolved to approve the Consent Agenda, which included the minutes of the June 22, 2021, Board of Directors meeting. Motion carried.**

5. Board Policy No. 2 – Regulatory Objectives, Standards and Principles

The CEO presented Board Policy No. 2 and highlighted the following:

- Regulatory Principles explain how the College will operate and emphasize that decisions are made transparently, with written reasons. The basis of those decisions come from the regulatory framework which includes the Act, Regulations, By-laws and Policies.
- Regulatory Standards cover a wide range of issues within the College's programs and activities and demonstrate the ongoing need to consult with stakeholders on a variety of initiatives.
- Regulatory Objectives explain the means or outcomes the regulator wishes to achieve in its work and complements the legislation which stipulates the College be a public interest regulator.

**On a motion made by Jeff Astle, seconded by Doug Thompson, it was resolved to adopt Board Policy No. 2 – Regulatory Objectives, Standards and Principles, as presented. Motion carried.**

6. Board Policy No. 3 – Directors' Code of Conduct

The CEO presented Board Policy No. 3 and highlighted the following:

- The Board By-laws address the importance of director conduct.
- Independence of the Board from the profession was built into the legislative structure of the College and this Board Policy supports that independence.
- Several large national not-for-profit organizations use similar models for their codes of conduct. They were used in the development of the College's policy. There were no regulatory precedents available for comparison.
- Sections of this Board Policy relating to confidentiality and privacy and conflicts of interest will be applicable to individuals serving on regulatory committees.

The Board noted the policy embodied contemporary good governance and provided a strong overview of what directors should expect from one another as well as the standards to which they are held.

**On a motion made by Doug Thompson, seconded by Karima Bawa, it was resolved to adopt Board Policy No. 3 – Directors' Code of Conduct, as presented. Motion carried.**

7. Board Policy No. 4 – Board and Committee Remuneration

The CEO presented Board Policy No. 4 and highlighted the following:

- The language of the policy was previously approved by the Board but was reworked into a Board Policy for adoption.
- The amounts presented in the policy were selected based on Treasury Board guidelines given the College is in the federal jurisdiction and are comparable to the amounts received by members of federal boards and agencies for similar work.

**On a motion made by Ruth McHugh, seconded by Doug Thompson, it was resolved to adopt Board Policy No. 4 – Board and Committee Remuneration, as presented. Motion carried.**

8. Board Policy No. 5 – Executive Expectations of the Chief Executive Officer

The CEO presented Board Policy No. 5 and highlighted the following:

- The Board had chosen to combine the CEO and Registrar positions to establish the need for strong linkages between operations, governance and regulation.
- The policy was drafted to thoroughly delineate what is expected of the CEO for both operational leadership and regulation, and to assist the Board in carrying out their fiduciary roles.
- This policy, as well as all other governance and regulatory policies and by-laws, will be reviewed on a regular and synchronized basis by either the Board as a whole, or a sub-committee of the Board.

**On a motion made by Ruth McHugh, seconded by Jeff Astle, it was resolved to adopt Board Policy No. 5 – Executive Expectations of the Chief Executive Officer, as presented. Motion carried.**

*Action item – each of the Board Policies are to be reviewed annually with the initial review to occur in Q4 2022*

9. Indemnity Agreement

The Chair reported that the Board approved the Indemnity Agreement, attached to these minutes, provided during the in-camera session.

*ACTION – The CEO will send the individual agreements to the Board members for execution.*

10. Appointment of the Auditor

The appointment of an auditor was deferred.

*ACTION – Ruth McHugh will assist the CEO and CFO with vetting auditors for appointment to the College.*

11. College Committees

Victoria Rees presented the draft terms of reference and skills matrices for the Investigations Committee and Discipline Committee, and the proposed appointments to the Investigation Committee.

**On a motion made by Doug Thompson, seconded by Ruth McHugh, it was resolved to approve the following appointments to the Investigations Committee:**

- 1. Kris Dangerfield, QC Manitoba – Chair**
- 2. Sanjay Goorachurn Quebec – Vice Chair**
- 3. Herman Van Onnen QC British Columbia**
- 4. Barbara Murchie QC Ontario**

**Motion carried.**

The Board requested that among the attributes to be of importance to each regulatory Committee are in-house agents, sole practitioners, and agents from both small and large firms, and that the matrices reflect this.

The Board requested that the terms of reference and skills matrices for all committees be amended to include a provision requiring their periodic review.

*ACTION – The CEO will schedule a review, to occur in 18 months of the terms of reference and skills matrices for all committees, with input from Committee members.*

**On a motion made by Ruth McHugh, seconded by Karima Bawa, it was resolved to approve the Terms of Reference and Skills Matrix for the Investigations Committee, as amended.**

**On a motion made by Jeff Astle, seconded by Doug Thompson, it was resolved to approve the Terms of Reference and Skills Matrix for the Discipline Committee, as amended.**

The Deputy Registrar presented the terms of reference and skills matrix proposed for the Registration Committee.



**On a motion made by Ruth McHugh, seconded by Karima Bawa, it was resolved to approve the Terms of Reference and Skills Matrix for the Registration Committee, as amended. Motion carried.**

12. Consultation Paper: Patent Agent and Trademark Agent Mandatory Professional Liability Insurance

The CEO presented the consultation paper and described the role that professional liability insurance plays in protecting the public interest. The By-laws allow for an exemption for 2021 but professional liability insurance will be required in 2022. Therefore, the policy requirements must be in place for Fall 2021 to allow for an opportunity for agents to obtain the required coverage.

**On a motion made by Jeff Astle, seconded by Doug Thompson, it was resolved to approve the circulation of the Mandatory Liability Insurance Consultation Paper for comment and feedback. Motion carried.**

13. Review of the Unaudited Financial Statements

The CEO provided an explanation for the renewal fee amounts for 2021 and the anticipated fees for 2022. Developing a risk-based regulator, implementing French language requirements, participating in the privacy impact assessment, and being subject to the requirements of Library and Archives Canada and the Canadian Labour Code made operationalizing the College very complex and expensive, with the total start up cost being approximately \$890,000. The College holds two large capital obligations including repayment of the \$1,000,000 loan that was taken out to fund its development and building reserves. Revenues from the annual registration fees will cover the costs of operating and building required reserves. The 2022 Budget will be presented to the Board in the Fall.

The CFO reported that approximately 44% of agents expected to register with the College have done so, representing approximately \$735,000 in collected revenue.

14. IPIC Presentation

The CEO reported that the webinar he presented on July 13, 2021, was the largest in IPIC's history and generated several questions. The answers will be published.

15. Other Business

Foreign Practitioners: The Board inquired about the status of discussions with the United States Patent and Trademark Office ("USPTO"). The CEO reported that a meeting with the USPTO is

scheduled for August 17, 2021, and that they expressed interest in participating in a data initiative with the College.

The Board expressed concern about unregistered agents using the Foreign Practitioner status to gain access to acts designated to registered agents who passed the qualifying examinations. The CEO confirmed that all applicants for a Class 1 Licence are required to demonstrate their qualifications for registration.

16. Adjournment

The Board of Directors meeting was adjourned at 5:43 p.m. ET.

Minutes approved by the Board on September 20, 2021.

Tom Conway, Chair

**Appendix A – Board Policies**

[Board-Policy-No-1-How-CPATA-Works.pdf](#)

[Board-Policy-No-2-Regulatory-Objectives-Standards-and-Principles.pdf](#)

[Board-Policy-No-3-Board-Code-of-Conduct.pdf](#)

[Board-Policy-No-4-Board-and-Committee-Remuneration.pdf](#)

[Board-Policy-No-5-Executive-Expectations-of-Chief-Executive-OfficerCEO.pdf](#)

**Appendix B – Terms of Reference and Skills Matrices**

Investigations Committee:

Terms of Reference

Skills Matrix

Discipline Committee:

Terms of Reference

Skills Matrix

Registration Committee:

Terms of Reference

Skills Matrix

**Appendix C – [Consultation Paper: Mandatory Professional Liability Insurance](#)**

**Appendix D – Indemnity Agreement**

## **INDEMNITY AGREEMENT**

**THIS AGREEMENT** is entered into on July 30, 2021.

**BETWEEN:**

**COLLEGE OF PATENT AGENTS AND TRADEMARK  
AGENTS**, a corporation governed by the laws of Ontario  
(**“Corporation”**)

- and -

, an individual principally resident in Quebec (**“Indemnified  
Party”**)

**BACKGROUND:**

- A. The Indemnified Party is a duly elected or appointed Director or Officer.
- B. The Corporation’s by-laws contemplate that the Indemnified Party may be indemnified in certain circumstances, and the Corporation considers it in the best interests of the Corporation to enter into this Agreement to set out the circumstances and manner in which the Indemnified Party may be indemnified in respect of certain Losses that the Indemnified Party may incur as a result of acting as a Director or Officer.
- C. The Indemnified Party has agreed to serve or to continue to serve as a Director or Officer subject to the Corporation providing the Indemnified Party with directors’ and officers’ liability insurance coverage and an indemnity against certain liabilities and, in order to induce the Indemnified Party to serve and to continue to so serve, the Corporation has agreed to provide the indemnity in this Agreement.

**FOR VALUE RECEIVED**, the Parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS AND PRINCIPLES OF INTERPRETATION 1.1**

**Definitions**

In this Agreement:

- (a) **“Agreement”** means this agreement, including all schedules to this Agreement, as amended from time to time;
- (b) **“Board”** means the board of directors of the Corporation;
- (c) **“Business Day”** means any day, other than a Saturday, Sunday, or statutory holiday in Ontario;
- (d) **“Certificates of Insurance”** means the certificates of insurance identified as “COVER NOTE NO.: CPATA\_D&O\_150421” and “COVER NOTE NO.: CPATA\_SideAD&O\_150421” and attached as Schedule A;
- (e) **“Claim”** includes any action, suit, or proceeding in which the Indemnified Party is involved arising out of the Indemnified Party’s services as a Director or Officer.
- (f) **“Director”** means a member of the Board;
- (g) **“Insurer”** means Victor Canada and Axis Reinsurance Company (Canada Branch), or the entity issuing a successor to the Policy;
- (h) **“Limit of Liability”** means the Insurer’s limit or limits of coverage for errors and omissions liability as set out in the Certificates of Insurance;
- (i) **“Losses”** includes all costs, charges, and expenses whatsoever (including any legal, professional, or advisory fees or disbursements), liabilities, amounts paid to settle or dispose of any Claim or satisfy any judgment or liabilities, without limitation, and whether incurred alone or jointly with others, including any amounts that the Indemnified Party may reasonably suffer, sustain, incur, or be required to pay in respect of the investigation, defence, settlement, or appeal of, or preparation for, any Claim, or in connection with any action to establish a right to indemnification under this Agreement, and for greater certainty, includes all taxes, interest, penalties, and related outlays of the Indemnified Party

arising from any indemnification of the Indemnified Party by the Corporation under this Agreement;

- (j) “**Officer**” means an officer of the Corporation;
- (k) “**Parties**” means the Corporation and the Indemnified Party, and “**Party**” means either one of them; and
- (l) “**Policy**” means the policy or policies evidenced by the Certificates of Insurance and any successor to such policy obtained and maintained by the Corporation.

## 1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable in Ontario.
- (b) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) **Number** – Unless the context otherwise requires, words importing the singular include the plural and *vice versa*.
- (d) **Severability** – If any provision or part of a provision of this Agreement or its application to a Party or circumstance is found to be invalid or unenforceable by a court of competent jurisdiction, that provision or part of a provision shall be deemed severed and the remainder of this Agreement shall remain in full force and effect.
- (e) **Entire Agreement** – This Agreement, including Schedule A, constitutes the entire agreement between the Parties and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written.

## ARTICLE 2 REPRESENTATIONS

### 2.1 Representations of the Corporation in Respect of the Policy

The Corporation represents and warrants to the Indemnified Party that:

- (a) The Policy is current and the Corporation has paid all premiums owing under the Policy and is not otherwise in default under the terms of the Policy.
- (b) To the best knowledge of the Corporation, any statements made by or on behalf of the Corporation to the Insurer before the issuance of the Policy which form part of the Policy present a true and complete response to the questions posed by the Insurer as of the date such statements were made.
- (c) The Corporation shall as soon as practical provide the Indemnified Party with notice of any notice of cancellation of the Policy provided to the Insurer by the Corporation or received by the Corporation from the Insurer.
- (d) The Corporation shall disclose any Loss paid by the Insurer on behalf of the Corporation that materially effects the coverage limit available to the Indemnified Party.
- (e) The Corporation obtained advice from the Insurer that the Limit of Liability is commercially reasonable for the Corporation and the Corporation shall notify the Indemnified Party if the Limit of Liability is decreased.

### **ARTICLE 3**

## **INDEMNIFICATION BY CORPORATION AND OBLIGATIONS OF INDEMNIFIED PARTY**

### **3.1 Indemnification**

- (a) **General Indemnity** – The Indemnified Party shall be indemnified and saved harmless out of the funds of the Corporation from and against all Losses that the Indemnified Party sustains or incurs in or in relation to any Claim; provided that the indemnity provided for in this Section 3.1(a) will only be available if:
  - (i) the Indemnified Party acted honestly and in good faith with a view to the best interests of the Corporation;
  - (ii) in the case of a criminal or administrative proceeding that is enforceable by a monetary penalty, the Indemnified Party had reasonable grounds for believing that the Indemnified Party’s conduct was lawful; and
  - (iii) the Claim was not related to Losses in respect to Claims initiated or brought voluntarily by the Director or Officer and not by way of defence, except with

respect to proceedings brought to establish or enforce a right to indemnification under this Agreement or the by-laws of the Corporation.

- (b) **Partial Indemnification** – If the Indemnified Party is determined to be entitled under any provisions of this Agreement to indemnification by the Corporation for some or a portion of the Losses incurred in respect of any Claim but not for the total amount thereof, the Corporation shall nevertheless indemnify the Indemnified Party for the portion thereof to which the Indemnified Party is determined by a court of competent jurisdiction to be so entitled.
- (c) **Advance of Expenses**
  - (i) The Corporation shall, at the request of the Indemnified Party, arrange to advance funds to, or to pay on behalf of, or reimburse the Indemnified Party for any Losses reasonably incurred by the Indemnified Party in investigating, defending, appealing, preparing for, providing evidence in, or instructing and receiving the advice of the Indemnified Party’s counsel or other professional advisors in regard to any Claim for which the Indemnified Party may be entitled to an indemnity or reimbursement under this Agreement, provided the Indemnified Party provides an undertaking to repay all such amounts if the Indemnified Party is not entitled to be indemnified in respect of such Losses.
  - (ii) If the Corporation advances amounts to or on behalf of the Indemnified Party under Section 3.1(c)(i) and it is ultimately determined by a court of competent jurisdiction that the Indemnified Party did not fulfil the conditions set out in Section 3.1(a), or that the Indemnified Party was not entitled to be fully so indemnified, such advance, or the appropriate portion thereof shall, upon written notice of such determination being given by the Corporation to the Indemnified Party detailing the basis for such determination, be repayable on demand and shall bear interest from the date of such notice at the prime rate prescribed from time to time by the Corporation’s bankers.

### 3.2 Notice of Proceedings

The Indemnified Party shall give notice to the Corporation as soon as practicable upon being served with any statement of claim, writ, notice of motion, indictment, subpoena, investigation order, or other document commencing, threatening, or continuing any Claim involving the Corporation or the Indemnified Party that may result in a claim for indemnification under this

Agreement, and the Corporation shall give the Indemnified Party notice as soon as practicable (but in any event, within the time required in order to make a claim under the Policy) upon it being served with any statement of claim, writ, notice of motion, indictment, subpoena, investigation order, or other document commencing or continuing any Claim involving the Indemnified Party. Such notice shall include a description of the Claim, a summary of the facts giving rise to the Claim and, if possible, an estimate of any potential liability arising under the Claim. Failure by the Indemnified Party to so notify the Corporation of any Claim shall not relieve the Corporation from liability under this Agreement, except to the extent that the failure materially prejudices the Corporation.

### **3.3 Investigation by Corporation**

The Corporation may conduct any investigation it considers appropriate of any Claim of which it receives notice under Section 3.2, and shall pay all costs of that investigation. Upon receipt of reasonable notice from the Corporation, the Indemnified Party shall, acting reasonably, co-operate fully with the investigation provided that the Indemnified Party shall not be required to provide assistance that would materially prejudice his or her defence.

### **3.4 Subrogation**

- (a) **Subrogation – The Corporation:** Promptly after receiving notice from the Indemnified Party of any Claim (other than a Claim by or on behalf of the Corporation to procure a judgment in its favour against the Indemnified Party), the Corporation may, and upon the written request of the Indemnified Party shall, by notice to the Indemnified Party, assume conduct of the defence thereof in a timely manner and retain counsel on behalf of the Indemnified Party who is reasonably satisfactory to the Indemnified Party, to represent the Indemnified Party in respect of the Claim. On delivery of such notice by the Corporation, the Corporation shall not be liable to the Indemnified Party under this Agreement for any fees and disbursements of counsel the Indemnified Party may subsequently incur with respect to the same matter. If the Corporation assumes conduct of the defence on behalf of the Indemnified Party, the Indemnified Party consents to the conduct thereof and of any action taken by the Corporation, in good faith, in connection therewith, and the Indemnified Party shall fully cooperate in such defence including, without limitation, the provision of documents, attending examinations for discovery, making affidavits, meeting with counsel, testifying and divulging to



the Corporation all information reasonably required to defend or prosecute the Claim. If an Indemnified Party retains counsel at his or her own expense, counsel for the Corporation is required to co-operate except where it would prejudice the defense.

- (b) **Subrogation – The Insurance Company:** Subject to Section 3.6, in the event of any payment under the Policy, the Indemnified Party agrees that the Insurer making such payment shall be subrogated to all of the Indemnified Party's rights of recovery and the Indemnified Party shall, upon request of the subrogated Insurer or the Corporation, execute all papers required and shall do everything necessary to secure and preserve such rights of recovery, including the execution of such documents necessary to enable the subrogated Insurer effectively to bring suit in the name of the Indemnified Party.

### **3.5 Separate Counsel**

In connection with any Claim or other matter for which the Indemnified Party may be entitled to indemnity under this Agreement, the Indemnified Party shall have the right to employ separate counsel of the Indemnified Party's choosing and to participate in the defence thereof but the fees and disbursements of such counsel shall be at the Indemnified Party's expense unless employment of such other counsel has been authorized by the Corporation or the Insurer, in which event, the fees and disbursements of such counsel shall be paid by the Corporation.

### **3.6 Settlement of Claim**

No admission of liability and no settlement of any Claim in a manner adverse to the Indemnified Party shall be made without the consent of the Indemnified Party, acting reasonably. No admission of liability shall be made by the Indemnified Party without the consent of the Corporation and the Corporation shall not be liable for any settlement of any Claim made without its consent.

### **3.7 Determination of Right to Indemnification**

If the payment of an indemnity or the advancement of funds by the Corporation under this Agreement requires the approval of a court under the provisions of any statute or otherwise, either Party may apply to a court of competent jurisdiction for an order approving such indemnity or the advancement of such funds by the Corporation.

### **3.8 Other Rights and Remedies Unaffected**

The indemnification provided in this Agreement shall not derogate from or exclude any other rights to which the Indemnified Party may be entitled under any provision of any statute or otherwise at law, the letters patent or by-laws of the Corporation, any applicable policy of insurance, or otherwise, as to matters arising out of the Indemnified Party's capacity as a Director or Officer.

### **3.9 After Tax**

Any indemnity payment made under this Agreement shall be grossed up by the amount of any tax payable by the Indemnified Party in respect of such payment.

## **ARTICLE 4 INSURANCE**

### **4.1 Insurance**

- (a) **The Policy** – The Corporation shall take all steps necessary to maintain the coverage provided under the Policy.
- (b) **Variation of Policy** – So long as the Indemnified Party is a Director or Officer, the Corporation shall not seek to amend or discontinue the Policy or allow the Policy to lapse without Board approval; provided that such insurance is available on commercially reasonable terms.
- (c) **Currency of Policy** – So long as the Indemnified Party is a Director or Officer, upon receipt of a request from the Indemnified Party, the Corporation shall provide proof to the Indemnified Party that the Policy is being maintained.
- (d) **Exclusion of Indemnity** – Notwithstanding any other provision in this Agreement to the contrary, the Corporation shall not be obligated to indemnify the Indemnified Party for any Losses that have been paid to, or by, or on behalf of, the Indemnified Party under the Policy or any other policy of insurance maintained by the Corporation.
- (e) **Directors and Officers Insurance** – The Corporation shall use reasonable efforts to continue to maintain directors' and officers' liability insurance for the benefit of the Indemnified Party such that the Indemnified Party's coverage is, at all times, the same as any coverage the Corporation maintains for the benefit of its then current Directors and

Officers. Notwithstanding the foregoing, if (i) liability insurance coverage for former Directors and Officers is no longer available; or (ii) it is no longer industry practice among responsible companies to procure liability insurance for former Directors and Officers and the cost to the Corporation to do so would be commercially unreasonable (as determined by the Board), the Corporation shall be relieved of its obligation to procure liability insurance coverage for former Directors and Officers; provided that the Corporation procures such level of insurance coverage, if any, as is available for former Directors and Officers at a commercially reasonable rate. The onus is on the Corporation to establish that the circumstances described in the previous sentence exist.

- (f) Deductible under Directors and Officers Insurance – **If for any reason** whatsoever, any directors’ and officers’ liability insurer asserts that the Indemnified Party is subject to a deductible under any existing or future directors’ and officers’ liability insurance maintained by the Corporation for the benefit of the Indemnified Party, the Corporation shall pay the deductible for and on behalf of the Indemnified Party.

## **ARTICLE 5 MISCELLANEOUS MATTERS**

### **5.1 Parties to Cooperate**

Each Party shall, from time to time, provide such information and cooperate with the other, as the other may reasonably request, in respect of all matters under this Agreement.

### **5.2 Effective Time**

This Agreement has effect from August 2019, the first date that the Indemnified Party became a Director or Officer (the “Effective Date”) notwithstanding the date of execution of this Agreement.

### **5.3 Insolvency**

The liability of the Corporation under this Agreement shall not be affected, discharged, impaired, mitigated, or released by reason of the discharge or release of the Indemnified Party in any bankruptcy, insolvency, receivership, or other similar proceeding of creditors.

#### **5.4 Multiple Proceedings**

No action or proceeding brought or instituted under this Agreement and no recovery pursuant thereto shall be a bar or defence to any further action or proceeding that may be brought under this Agreement.

### **ARTICLE 6 GENERAL**

#### **6.1 Term**

The obligations in this Agreement shall apply in respect of each Indemnified Party from the Effective Date until ten years after the Indemnified Party has ceased to act as a Director or Officer; provided that the obligations in Article 3 and Article 4 shall survive indefinitely. For greater certainty, expiration of this Agreement will not affect any obligation of the Corporation in favour of the Indemnified Party arising before expiration, including any obligation to indemnify by reason of a matter that has arisen or circumstances that have occurred before expiration.

#### **6.2 Assignment and Enurement**

The Indemnified Party may not assign this Agreement or any rights or obligations under this Agreement without the prior written consent of the Corporation. This Agreement enures to the benefit of and is binding upon the Parties and the heirs, attorneys, guardians, estate trustees, executors, trustees, administrators and permitted assigns of the Indemnified Party and the successors and assigns of the Corporation.

#### **6.3 Amendments and Waivers**

No amendment, waiver, or termination of this Agreement and, unless otherwise specified, no consent or approval by either Party, is binding unless executed in writing by the Party to be so bound. For greater certainty, the rights of the Indemnified Party under this Agreement shall not be prejudiced or impaired by permitting or consenting to any assignment in bankruptcy, receivership, insolvency, or any other creditor's proceedings of or against the Corporation or by the winding-up or dissolution of the Corporation.

## 6.4 Notices

Any notice, consent, or approval required or permitted under this Agreement (“**Notice**”) shall be in writing and shall be sufficiently given if delivered (in person, by courier service, or other personal method of delivery) or if transmitted by facsimile or e-mail:

(a) in the case of a Notice to the Indemnified Party at:

(b) in the case of a Notice to the Corporation at:

College of Patent Agents and Trademark Agents

400 – 411 Roosevelt Avenue

Ottawa, ON K2A 3X9

Attention: CEO & Registrar

[Email: ceo@cpata-cabamc.ca](mailto:ceo@cpata-cabamc.ca)

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted; provided that it is delivered or transmitted on a Business Day before 5:00 p.m. local time in the place of delivery or receipt. If the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day, then the Notice shall be deemed to have been given and received on the next Business Day. Any Party may, from time to time, change its address by giving Notice to the other Party in accordance with the provisions of this Section.

## 6.5 Further Assurances

The Parties shall, with reasonable diligence, do all such things and execute and deliver all such further documents as may be necessary or desirable to assure and confer on the Indemnified Party the rights created by this Agreement.

**6.6 Independent Legal Advice**

The Indemnified Party acknowledges they: (i) have been advised to obtain independent legal advice on this Agreement, (ii) have obtained such independent legal advice or have expressly determined not to seek such advice; and (iii) are entering into this Agreement with full knowledge of its contents, through free will, and with full capacity and authority to do so.

**6.7 Execution and Delivery**

The Parties may execute and deliver this Agreement in counterparts and by facsimile or scanned email copies, and all such executed and delivered counterparts shall constitute one and the same Agreement.

The Parties have executed this Agreement.

**COLLEGE OF PATENT AGENTS AND  
TRADEMARK AGENTS**

Per:



---

Darrel Pink  
CEO & Registrar

I have the authority to bind the corporation.

---

Indemnified Party

## Schedule A Certificates of Insurance



### COVER NOTE

COVER NOTE NO.: CPATA\_D&O\_150421

This Cover Note evidences that, in consideration of payment to be made by the Insured of the premium specified, the insurance stated below has been placed with the Insurers stated, subject to the terms, conditions, exclusions and provisions contained in the policies to be issued and any endorsements attached thereto.

This Cover Note is effective until replaced by delivery of the Insurers' written contracts. Please notify us immediately if any changes or corrections are required.

**INSURED:** College of Patent Agents & College

**INSUREDS' ADDRESS:** 400-411 Roosevelt Avenue,  
Ottawa, ON K2A 3X9

**INSURER:** Victor Canada

**TYPE OF COVERAGE:** Directors' & Officers' Liability

**POLICY PERIOD:** April 13, 2021 – April 13, 2022

**POLICY NUMBER:** TBD

**LIMITS OF LIABILITY:** \$2,000,000 per claim/aggregate

**RETENTION:** Nil

**PREMIUM:** \$16,790

**POLICY FORM:** EIM-PIC-2008

**COMMISSION:** 15%

**ENDORSEMENTS:**

- Asbestos Liability Bodily Injury Exclusion
- Defence Costs in Excess of Limit Amendment
- Definition of Damages Amendment
- Modified Conduct Exclusions (Final Adjudication)
- E&O Wrongful Act. "...to regulate patent agents and trademark agents in the public interest in order to enhance the public's ability to ensure the rights provided for under the Patent Act and the Trademarks Act..."
- Public Relations Management Cost (\$50,000)

Alternative Risk Services, a division of 3303128 Canada Inc.  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5  
Tel. 1.855.729.9462 | Fax. 1.855.529.9462 | [Web. www.axxima.ca](http://www.axxima.ca)



## COVER NOTE

**COVER NOTE NO.:** CPATA\_SideAD&O\_150421

This Cover Note evidences that, in consideration of payment to be made by the Insured of the premium specified, the insurance stated below has been placed with the Insurers stated, subject to the terms, conditions, exclusions and provisions contained in the policies to be issued and any endorsements attached thereto.

This Cover Note is effective until replaced by delivery of the Insurers' written contracts. Please notify us immediately if any changes or corrections are required.

**INSURED:** College of Patent Agents & College

**INSUREDS' ADDRESS:** 400-411 Roosevelt Avenue,  
Ottawa, ON K2A 3X9

**INSURER:** Axis Reinsurance Company (Canada Branch)

**TYPE OF COVERAGE:** Directors' & Officers' Side A Liability

**POLICY PERIOD:** April 13, 2021 to April 13, 2022

**POLICY NUMBER:** CTS652782/01/2021

**LIMITS OF LIABILITY:** \$2,000,000 per claim/aggregate

**RETENTION:** Nil

**PREMIUM:** \$15,000

**POLICY FORM:** SXS301A – Edition 06/12

**COMMISSION:** 15%

**ENDORSEMENTS:**

- Non Follow Form Endorsement SXS355A (Ed 04-13)
- Application Reliance Form SXS354A (Ed 04-13)
- Side-A and DIC SXS 390A (01-17)

**SUBJECTIVITY:**

- Follow from the Victor D&O Policy

Alternative Risk Services, a division of 3303128 Canada Inc.  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5  
Tel. 1.855.729.9462 | Fax. 1.855.529.9462 | [Web. www.axxima.ca](http://www.axxima.ca)



## BOARD POLICY NO. 6 - NOMINATIONS AND ELECTIONS V.2

<b>NAME OF POLICY</b>	Elections		
<b>APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS</b>	Board By-Law – 31 ff		
<b>APPROVED BY</b>	<b>EFFECTIVE</b>	<b>REVIEWED</b>	<b>REVISED</b>
<b>Name</b>	<b>Date</b>	<b>Date</b>	<b>Date</b>

### Introduction

CPATA is the modern, risk-focused public interest regulator of patent agents and trademark agents in Canada, and our core mandate is to protect and promote the public interest in the delivery of patent and trademark services. CPATA supports and enforces standards of practice and professional responsibility through a variety of activities, including advisory and support services, and a complaints and discipline system if necessary.

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 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.<sup>1</sup>

There are four (4) elected Directors – two to be filled by licensees who are trademark agents and two to be filled by licensees who are patent agents.

Elected Directors may be Class 1 or Class 2 Licensees.

Commented [DP1]: By law will need to address this

Service on the College's Board of Directors requires an understanding of and commitment to public interest regulation of the Patent and Trademark professions. The Board's role is focused on public protection and the oversight of strategy and the CEO

<sup>1</sup> See: [How CPATA works - Its Principled Approach to Regulation and Governance](#)

to enable effective regulation. Though elected Directors may bring the perspective of practitioners, they do not represent the interests of the profession.

### **Elections**

Elections are to be held during the 3<sup>rd</sup> week of March.

Voting will open at 8:00 am ET on the Monday of that week and will close at 5:00 pm ET on the Thursday of that week.

Elections are held electronically.

Each eligible licensee will receive a ballot, or an electronic message connected to a ballot, that lists only the candidates for whom the licensee may vote, so trademark agents will vote for those seeking a director position reserved for trademark agents (the trademark election), and likewise for patent agents (the patent election). Licensees who are both patent and trademark agents may vote in both elections.

The CEO will announce the results of the election as soon as they are tabulated by advising the candidates of the results and publishing them on the College's website.

The results will indicate the number of eligible voters for each Director position, the name of the candidate, the number of votes for each candidate, and the names of candidates elected.

In the event of a tie vote between candidates, in the presence of the candidates, the CEO must draw a name from a repository that contains the candidates' names. The name drawn will be declared elected.

### **Nomination procedure**

By December 15 the CEO must circulate to all licensees and post on the College's website a notice regarding the election providing dates and processes for all aspects of the nomination and election process. The notice includes notice of the number of director positions to be filled by the trademark agent and patent agent elections,

### **Nominations**

To be nominated to be an elected Director, a licensee submits to the CEO

- a) a Nomination form, signed by a licensee and consented to by the nominee;
- b) a confirmation the licensee is not ineligible under Board By-law 32 (a) – (c);
- c) a signed acknowledgement that if elected the licensee will be able to comply with the Director's Conflict of Interest policy; and

- d) a commitment by the licensee to attend an online orientation for prospective candidates, facilitated by the Governance and Nominating Committee.

Nomination Forms must be sent to [ceo@cpata-cabamc.ca](mailto:ceo@cpata-cabamc.ca) by 5:00 pm ET on January 15.

As soon as practicable after the close of the nomination period on January 15, the CEO will publish the names of the licensees who have been nominated ('candidates').

If at the end of the nomination period on January 15, the number of nominations equals the number of elected Director positions to be filled by the trademark or patent elections, and all licensees nominated are eligible for election, the CEO will advise the licensee nominees of that, declare the licensees elected and advise the profession.

If there are not enough nominations to fill the director positions that were to be filled by the trademark or patent elections, there will be a vacancy on the Board of Directors to be filled in accordance with Board By-law 41.<sup>2</sup>

#### **Election Commissioner**

A dispute about the eligibility of a licensee will be referred by the CEO to the Election Commissioner under Board By-law 33.

#### **Election Period**

The College makes reasonable amount of space available on its website to all candidates to allow them to publish information about themselves and their reasons for seeking election.

If the CEO believes a candidate wishes to publish material the CEO considers inappropriate for the election and the Candidate does not withdraw the material, the issue will be referred to the Election Commissioner who will, within 48 hours, decide on whether publication is appropriate. The determination of the Election Commissioner is final and not subject to appeal.

The CEO will provide licensee email contact information to candidates on the condition the candidates agree in writing:

- i. to use the information solely for purposes of communicating to the profession about the election;
- ii. not to duplicate or provide a copy of the contact information to anyone;

<sup>2</sup> **Vacancies on the Board 41** If there is a vacancy on the Board for an elected director, the Board may appoint a person with the requisite qualifications to fill the vacancy for the remainder of the term.

- iii. to destroy the contact information at or before the end of the election period; and
- iv. to provide written confirmation of the destruction to the CEO.

Candidates may communicate with licensees as frequently as they deem to be appropriate.

### **Disputes**

A dispute under Board By-laws 36 or 39 may be initiated by providing a written notice, outlining the basis for the dispute, to [ceo@cpata-cabamc.ca](mailto:ceo@cpata-cabamc.ca).

A dispute under By-law 39 must be filed within 5 days of the announcement of the election results.

The CEO will immediately direct the issue to the appropriate decision maker. The Election Commissioner or the Governance and Nominating Committee may ask the candidate initiating the dispute for additional information before undertaking the processes prescribed by the By-law.

An inquiry and ruling on the dispute will be conducted in accordance with to requirements of [Board Policy No. 2 – Regulatory Objectives, Standards and Principles](#).

The Governance and Nominating Committee must advise the candidates who might be affected by the dispute under By-law 39 of the dispute and may allow them to make submissions on the issue to be determined by the Committee. The Committee may cause notice of the dispute to be published on the College's website.

### **Withdrawal of Nomination**

A withdrawal of nomination under Board By-law 38 must be directed to [ceo@cpata-cabamc.ca](mailto:ceo@cpata-cabamc.ca).

On receipt of a notice of withdrawal the CEO advises the other candidates and the profession. If possible, the name of the candidate who has withdrawn will be removed from the electronic ballot.

## Appendix A

### Nominations and Elections By-Laws

#### Determining need for elections

31(1) Each year, the Governance and Nominating Committee determines if, based on the terms of elected directors, an election is necessary.

#### Election required

(2) If an election is required, the Committee determines whether the position is to be filled by a patent agent, a trademark agent or either.

(3) The CEO must publish the dates on the College's website for all aspects of the election process. (4) The CEO is responsible for the administration of the election process.

#### Election commissioner

(5) The Board may appoint an election commissioner to address any issues arising in the election process.

#### Ineligibility

32 For the purposes of subparagraphs 14(f)(ii) and 17(h)(iii) of the Act, the ineligibility criteria are the following:

- (a) in the five years immediately preceding the election day, the individual
  - (i) has been found to have committed professional misconduct or been found to be incompetent by the Discipline Committee, or
  - (ii) has been found to have committed professional misconduct or been found to be incompetent by a tribunal of a body that has a statutory duty to regulate a profession;
- (b) the individual is the subject of an application by the Investigations Committee to the Discipline Committee under subsection 49(1) of the Act;
- (c) the individual has served as a director for the six years immediately preceding the election day;
- (d) the individual has not provided a declaration regarding conflicts of interest; and
- (e) the individual has not attended an orientation for prospective candidates, facilitated by the Governance and Nominating Committee.

### **Dispute**

33 (1) The CEO must refer a dispute about the ineligibility of a nominee for a position as a board member to the Election Commissioner who, following receipt of the reasons for the CEO's determination regarding ineligibility and a submission from the prospective nominee, must rule on ineligibility.

### **No review by Board**

(2) The ruling of the Election Commissioner is not subject to review by the Board.

### **Elections electronically**

34 Elections for directors are to be held electronically.

### **Election policy**

35 The Board must establish and publish on the College's website an election policy.

### **Dispute**

36 (1) Any dispute that arises during the election period or regarding the election results are to be ruled on by the Election Commissioner.

### **Final decision**

(2) The ruling of the Election Commissioner is not subject to review by the Board.

### **Eligibility to vote**

37 A licensee whose licence is not suspended is eligible to vote in an election for directors.

### **Withdrawal of nominations**

38 A candidate who withdraws from an election must give notice in writing to the CEO.

### **Dispute — validity of election**

39 (1) If a candidate asserts that there are reasonable grounds to dispute the validity of the election process, the candidate may file a notice of dispute with the Governance and Nominating Committee.

**Inquiry**

(2) If the Committee finds that the notice gives reasonable grounds to doubt the validity of the election process, they must hold an inquiry into the validity of the election process.

**Report and recommendations**

(3) Following its inquiry, the Governance and Nominating Committee must make a report and recommendations to the Board.

**Board may declare validity**

40 (1) After reviewing the report and recommendation of the Governance and Nominating Committee, the Board may

- (a) declare the election result to be valid; or
- (b) declare the election result to be invalid and
  - (i) may disqualify an apparently successful candidate and declare another candidate to have been elected, or
  - (ii) direct that another election be held.

**Minor irregularities**

(2) The Board is not to declare an election result invalid based on a minor irregularity with respect to the election process.

## RISK & AUDIT COMMITTEE TERMS OF REFERENCE – 2021-08-19 V.3

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### INTRODUCTION

CPATA regulates the patent and trademark profession in accordance with the Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. It is an independent and risk-focused public interest regulator.

CPATA is a risk focused regulator. It identifies regulatory and enterprise risks and proactively takes steps to mitigate them. Given that it is a new regulator, it is committed to gathering information that will allow it to understand the environment that influences the practices of licensees.

CPATA is committed to selecting Board and committee members based on a set of identified skills and attributes, to ensure the Board and committees have the knowledge and attributes to carry out the work effectively, are diverse in all respects, and who strive to attain the vision of CPATA for a modern regulator as outlined in Board Policy No 2, CPATA's Regulatory Objectives, Standards and Principles.

CPATA committees assist the Board to meet its governance and fiduciary obligations. Unless a specific authority is granted, a committee has no independent authority.

Committees develop and document, for Board approval, and follow an annual work plan which includes processes in support of their responsibilities.

### ROLE

The purpose of the Risk & Audit Committee is to assist the Board in fulfilling its fiduciary obligations and oversight responsibilities relating to financial planning, the audit process, financial reporting, the system of corporate controls and risk management, and when required, to make recommendations to the Board for approval.

The Committee must demonstrate strong and principled advice to foster unshakeable confidence in the College's financial integrity

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### RESPONSIBILITIES

Subject to the powers and duties of the Board, the Risk and Audit Committee will perform the following duties.

#### **Financial Planning**

The Committee:

a) reviews and make recommendations to the Board in respect of:

- i) amendments to Schedule A of the Board By-laws (Fees);
  - ii) CPATA's operating and capital budgets;
-



- iii) the appropriateness and validity of material assumptions and estimates used in the preparation of the budgets
  - iv) the consistency of the budgets with policies, objectives and initiatives approved by the Board;
  - v) the consistency of the budgets with any other financial data;
  - vi) any significant assumptions, forecasts, targets or performance goals used by the CEO in the preparation of the budgets; and
- b) ensures the Board receives on a timely basis meaningful financial information regarding CPATA's current financial status and up-to-date forecasts required to make decisions.

### **Financial Reporting**

The Committee:

- a) reviews CPATA's annual financial statements to ensure they are fairly presented in all material respects in accordance with generally accepted accounting principles;
- b) reviews all public reporting by CPATA, including the aspects of its Annual Report to the Minister that fall within its mandate. to ensure it represents a complete, accurate and balanced picture of CPATA's performance and financial situation;
- c) reviews the financial statements and reports, and recommends their approval or disapproval to the Board; the Committee will provide an explanation if it cannot recommend approval;
- d) discusses with the CEO and the External Auditor:
  - i) all proposed changes in accounting policy;
  - ii) compliance with accounting standards;
  - iii) adjustments arising out of the audit process and related party transactions; and
  - iv) all Management estimates that may be material to financial reporting;
- e) discusses with the CEO and the External Auditor significant financial reporting, record or presentation issues discussed during the fiscal period and the manner of their resolution; and
- f) examines the audited annual financial statements in conjunction with the reports of the External Auditor, which may include determining whether the statements:
  - i) properly reflect the significant accounting policies selected;
  - ii) reflect estimates and other financial statements elements that are reasonable and consistent; iii) adequately disclose all major transactions and issues;
  - iv) disclose all post-year-end significant events; and
  - v) are understandable, relevant, reliable and comparable;

g) reviews and recommends to the Board approval of the:

- i) annual audited financial statements;
- ii) management discussion and analysis that accompanies the audited financial statements; and
- iii) significant financial reports.

### **External Audit**

The Committee:

- a) recommends to the Board the appointment of the External Auditor;
  - b) meets with the External Auditor in advance of the annual audit and meets in camera with the External Auditor after the audit or as requested.
  - c) determines whether the performance of the External Auditor is satisfactory, effective and meets the requirements of CPATA;
  - d) reviews all issues related to any change in External Auditor and the planned steps for an orderly transition;
  - e) confirms the independence of the External Auditor;
  - f) reviews the terms of the External Auditor's engagement, and the appropriateness and reasonableness of the proposed fees;
  - g) reviews and recommends to the Board the amount of fees paid to the External Auditor;
  - h) reviews the audit plan with the External Auditor and the CEO;
  - i) reviews the evaluation of internal controls by the External Auditor, including any recommendations for improvement of CPATA's accounting procedures and internal controls, together with the CEO's response; and
  - j) directs the External Auditor's examinations to areas of concern with respect to enterprise risks or internal controls.
  - k) reviews problems experienced by the External Auditor in performing the audit, including any restrictions imposed by the CEO and all significant accounting issues on which there was a disagreement with the CEO;
  - l) reviews the post-audit opinion letter containing the recommendations of the External Auditor and reviews the CEO's response and subsequent follow-up to any significant identified weaknesses; and
  - m) reviews and approves the provision of any non-audit services provided by the External Auditor.
-

### **Accounting Systems and Internal Controls**

The Committee through discussion with the CEO and the External Auditors, obtains reasonable assurances that CPATA has implemented appropriate systems of internal control:

- i) over financial reporting, information technology, data security and protection of personal information and privacy, and that these systems are operating effectively;
- ii) to ensure compliance with its policies and procedures that these systems are operating effectively; and
- iii) to identify, monitor, mitigate and report significant financial or operational risk exposures and that these systems are operating effectively.

### **Risk Management**

The Committee:

- a) leads the Board's oversight of CPATA's risk management;
- b) understands the material enterprise and regulatory risks to CPATA;
- c) reviews CPATA's risk management controls and policies and seeks input and assistance from other Committees as appropriate;
- d) obtains reasonable assurance that the Management's systems to eliminate or manage risks are effective;
- e) receives regular reports on the management of material risks to CPATA;
- f) annually reviews CPATA's insurance coverage of material business risks and uncertainties including insurance coverage for Directors;
- g) reviews Management's reporting of compliance with statutory obligations of the College including under:
  - i) the Income Tax Act,
  - ii) The Excise Tax Act,
  - iii) The Privacy Act, and
  - iv) The Official languages Act
- g) reviews CPATA's disaster recovery plans.

### **Material Litigation**

The Committee reviews and advises the Board with respect to:

- a) the CEO's assessment of material litigation risks; and
- b) the adequacy of provisions and estimates made in financial information including the financial statements relating to material litigation issues, including matters before the Discipline Committee.
- c) Except matters before the Discipline Committee, as appropriate, the Committee may request counsel attend Committee meetings to review significant litigation risks and may recommend to the Board that independent counsel and other advisors be engaged.

### **Compliance**

The Committee:

- a) confirms the appropriate policies and procedures are in place for monitoring compliance with applicable laws and ascertains their adequacy and the levels of compliance;
- b) advises the Board on any new or pending developments in accounting and/or reporting standards;
- c) reports to the Board all financial matters of which the Committee has knowledge that may materially affect the current or future position of CPATA; and
- d) reviews such other matters that the Committee or the Board deems advisable or timely.

### **Responsibility for policy review**

At its first meeting every year the Committee reviews its Terms of Reference and adopts a work plan for the following year.

At least every two years, the work plan must require a review of the following:

- ♣ Finance and Audit Committee Terms of Reference
- ♣ Board Member Insurance Coverage
- ♣ Board and Committee Remuneration (Board Policy No.4)
- ♣ Investment Policy
- ♣ Enterprise Risk Management (ERM)

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#### **MEMBERSHIP AND VOTING**

The Committee has 4 members, one of whom is a Director.

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Non-voting participants:

- Chief Executive Officer and/or Registrar as an *ex officio* member.

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>1</sup>.

The Board, by a vote of two-thirds of those present, may at pleasure remove a member of the Committee<sup>2</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>3</sup>

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**CHAIR**

The Chair is appointed by the Board



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

- Experience with professional regulation
- Be financially literate

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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 Committee Chair or the CEO. Additional meetings may be scheduled by the CEO in consultation with the Committee 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.

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**QUORUM**

Quorum of the full Committee is three

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<sup>1</sup> Registrar's Policy on Committees

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

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

**RESOURCES**      The Committee is supported by the CEO and CFO.

---

**REPORTING &  
EVALUATION**

The Committee develops, documents, and adopts for Board approval an annual work plan and reports to the Board by providing a high-level summary of the Committee's activities at the next Board meeting. The summary details what the Committee has been working on (since it last reported to the Board), what the Committee is bringing forward for discussion or approval, and key issues that the Committee is focused on.

The Committee evaluates its work consistent with the Board's approved process for committee evaluation.

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**DATE OF LAST  
REVIEW**

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## **CPATA Risk & Audit Committee**

### **Skills Matrix v. 3**

2021-08-19

#### **Introduction**

CPATA regulates the patent and trademark profession in accordance with the Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. It is an independent and risk-focused public interest regulator.

CPATA is a risk focused regulator. It identifies regulatory and enterprise risks and proactively takes steps to mitigate them. Given that it is a new regulator, it is committed to gathering information that will allow it to understand the environment that influences the practices of licensees.

CPATA is committed to selecting Board and committee members based on a set of identified skills and attributes, to ensure the Board and committees have the knowledge and attributes to carry out the work effectively, are diverse in all respects, and who strive to attain the vision of CPATA for a modern regulator as outlined in Board Policy No 2, CPATA's Regulatory Objectives, Standards and Principles.

CPATA committees assist the Board to meet its governance and fiduciary obligations. Unless a specific authority is granted, a committee has no independent authority.

Committees develop and document, for Board approval, and follow an annual work plan which includes processes in support of their responsibilities.

#### **Role of Risk & Audit Committee**

The purpose of the Risk & Audit Committee is to assist the Board in fulfilling its fiduciary obligations and oversight responsibilities relating to financial planning, the audit process, financial reporting, the system of corporate controls and risk management, and when required, to make recommendations to the Board for approval.

The Committee must demonstrate strong and principled advice to foster unshakeable confidence in the College's financial integrity.

Its specific obligations are outlined in the Committee's Term of Reference. The areas of Committee responsibility are: Financial Planning, Financial Reporting, External Audit, Accounting Systems and Internal Controls, Risk Management, Material Litigation, Compliance and Policy Review.

#### **Committee Composition**

The Risk & Audit Committee must possess the required skills, knowledge, attributes, and experience to enable it to fulfil its responsibilities.

All Committee members must complete mandatory privacy 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 Committee Chair and the CEO.

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 Risk & Audit Committee members and as a whole;
- 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.

As a whole, the Committee's members must possess/demonstrate the following:

Local, national, and international academic backgrounds and experiences that reflect the diverse education and knowledge of registrants and the public served by the College.

Regional diversity, to reflect the reality that IP practice, and the public's knowledge and expectations of IP practice varies throughout the country.

Diverse experiences, backgrounds and specialties that inform dialogue and decision-making, ensuring decisions meet intended objectives, are practical and, ultimately, protect the public.

Diverse leadership experience in the public, private, and not-for-profit sectors, to promote knowledge and the sharing of best practices.

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<sup>1</sup></b>	<b>Skills</b>	<b>Experience</b>	<b>Attributes</b>
CPATA Act, Regulations and By-laws	Effective oral communications	Professional regulation	Adaptable - recognizing plans change
The College's Regulatory Objectives, Standards and Principles	Financial literacy	Business & innovation	Collaboration <sup>2</sup>
Generally accepted accounting and auditing principles	Effective written communications including writing decisions with reasons	Fiduciary duties, good governance principles, and the stewardship responsibilities	Objectivity -Decisions based on evidence/good information, to fulfil the College's mandate

<sup>1</sup> **'Knowledge'** includes understanding how CPATA operates in substance and principle, risk principles, the prosecution of patent and trademark applications, the use of patents and trademarks as business tools, litigation involving patents and trademarks, and the need for a clear and reliable IP legal framework; **'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 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> Meaningful engagement and discourse will be stronger than what is created in isolation



Good governance principles	Collegial and effective decision making	Budgeting, financial reporting, financial oversight, and external audits	Act ethically and with integrity and speak the truth
Risk management	To use the technology facilitating the committee's work	Patent and Trademark Agent services	Strong work ethic
Budgeting	Attention to detail	Not For Profit, regulator and/or other community service	Professionalism & civility
Investment oversight	Organization & time management	With creating safe gathering spaces that welcome and support all who wish to connect, learn, share, belong, and grow.	Takes full responsibility for decisions made
Technology used to support the College's governance and regulation	Practice & business management	Enterprise and regulatory risk management	Follow through on commitments.
The Federal Government's IP Strategy and Innovation Agenda	Cultural competence <sup>3</sup>		
Equity, diversity, inclusion <sup>4</sup>			

<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)

<sup>4</sup> 'Equity, diversity, inclusion' 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



## GOVERNANCE & NOMINATING COMMITTEE TERMS OF REFERENCE

### INTRODUCTION

CPATA regulates the patent and trademark profession in accordance with the Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. It is an independent and risk-focused public interest regulator.

CPATA is committed to selecting Board and committee members based on a set of identified skills and attributes, to ensure the Board and committees have the knowledge and attributes to carry out the work effectively, are diverse in all respects, and who strive to attain the vision of CPATA for a modern regulator as outlined in [Board Policy No 2, CPATA's Regulatory Objectives, Standards and Principles](#).

CPATA committees assist the Board to meet its governance and fiduciary obligations. Unless a specific authority is granted, a committee has no independent authority.

Committees develop and document, for Board approval, and follow an annual work plan which includes processes in support of their responsibilities.

'Director' means a member of the College's Board of Directors.

### ROLE

The Governance Committee and its Nominating Subcommittee, referred to as the Governance and Nominating Committee<sup>1</sup> examine corporate governance practices, including Board practices and performance, and make recommendations with respect to the Board. These responsibilities include:

1. Effectiveness - Assessing and making recommendations regarding Board effectiveness and leading the processes for orientation, evaluation and continuing education of Directors, committee Chairs and the Chair of the Board.
2. Governance - Reviewing and monitoring governance practices of the Board and management with a view to enhancing the College's performance

The Nominating Sub-Committee assists the Board to fulfill its roles regarding Board and Committee succession and is responsible for:

3. Nominating - Assessing the requirements for membership on the Board and advising the Minister's Office of the College's needs, managing the process for nominating candidates for Board and committee membership.
4. Elections – assisting with the election process as prescribed by the By-laws.

<sup>1</sup> Established by Board By-law s. 45. See By-laws 31 ff

**Commented [RM1]:** This seems to be repeated later (I tried inserting page numbers in the doc but it was locked)

**Commented [RM2R1]:** Can we add pg. #s e.g. 1 of 4 etc.

## RESPONSIBILITIES

Subject to the powers and duties of the Board, the Governance & Nominating Committee will perform the following duties.

### Board Effectiveness

The Committee

- a) Monitors the Board orientation and onboarding process, and, where appropriate, recommends changes to the Board and the CEO;
- b) Facilitates Directors' ongoing updating of skills and knowledge of the College and its businesses, and recommends skills development and education for the Board as a whole or for individual directors based on their assigned responsibilities;
- c) Annually reviews and evaluates the performance of the Board as a whole and individual Directors in accordance with the procedures established by the Board from time to time; and
- d) Oversees the annual reviews and evaluation of the performance of college committees and their chairs against the terms of reference and the standards established for the role of committee chairs.
- e) Oversees the annual review and performance management of the CEO & Registrar in accordance with the procedures established by the Board from time to time. Unless superseded by the CEO's employment contract, the annual review will include a review of the CEO's salary and compensation structure and may include recommended adjustments to the Board. The review will include a review of the Board approved CEO succession plan.

### Board Governance

The Committee

- a) Provides a forum for Directors to express their views and concerns regarding the operation of the College, independent of Management and the full Board;
- b) Reviews the College's structures and procedures to ensure the Board is able to, and in fact does, function independently of Management;
- c) Annually reviews the [Board Policy No. 3 – Directors' Code of Conduct](#) and, where appropriate, recommends revisions to the Board;
- d) Monitors compliance with the Code and reports to the Board;
- e) Reviews and considers corporate governance best practices in Canada and makes recommendations to the Board regarding their consideration or

**Commented [DP3]:** I don't think annual salary review is required. I envision a CEO with a contract that addresses salary increments.

**Commented [RM4R3]:** I added wording to that effect. Q: if there is a bonus structure in the CEO contract, does the determination of whether or not the conditions have been met to earn the bonus rest with the GNC or the entire board? I'd say GNC. If everyone agrees, is there wording required to make that clear?

adoption as appropriate; and

- f) At the request of the Chair of the Board or the Board, undertakes corporate governance initiatives as may be necessary or desirable to contribute to the success of the College.

The **Nominating Subcommittee** assists the Governance and Nominating Committee fulfill its roles regarding Board and Committee succession, and is responsible for:

#### **Board and Committee Nominations**

The Committee:

- a) Assesses the requirements for membership on the Board and College committees;
- b) Creates and maintains a formal and transparent procedure for recommending candidates for appointment to the Board to the Minister;
- c) Manages the processes involved in assessing the capabilities that will be required by the Board and its Committees, by maintaining a "skills and attributes matrix" of the capabilities of the existing Directors and committee members, and identifying the gaps to be filled and the plan for the orderly succession of the Chair of the Board and its Committees and Directors and committee members to maintain required capabilities;
- d) Recommends committee member and committee chair appointments to the Board for approval.

**Commented [RM5]:** This is a repeat of 3 & 4 above. Can we combine all the Nom Com info in one section for ease of readability?

**Commented [DP6R5]:** I think the redundancy is okay as the one above is a summary of roles and here, they are detailed.

#### **Elections**

The Committee

- a) Determines if, based on the terms of elected directors, an election is necessary<sup>2</sup> and, if so, whether the position is to be filled by a patent agent, a trademark agent or either<sup>3</sup>;
- b) Advises the CEO regarding communications with the profession about the desirable skills and attributes for new Directors;
- c) Facilitates an orientation for prospective election candidates<sup>4</sup>
- d) Assists the CEO in recommending appointment by the Board of an Election Commissioner<sup>5</sup>;

<sup>2</sup> Board By-law 31(1)

<sup>3</sup> By-law 31(2)

<sup>4</sup> By-law 32(e)

<sup>5</sup> By-law 31(5)

Conducts an inquiry into the validity of the election process under Board By-law 39 and reports to the Board.

**MEMBERSHIP AND VOTING**

The Governance and Nominating Committee has up to 5 members, at least three of whom are Directors.

The Nominating Subcommittee has up to 5 members, at least one of whom is a Director.

[Redacted]

Non-voting participants:

- Chief Executive Officer (CEO) is an *ex officio* member of the Committee and the Subcommittee.

A Committee or Subcommittee member who, without excuse satisfactory to the Chair, is absent from two consecutive meetings of the Committee or Subcommittee, is deemed to have resigned, which resignation will create a vacancy on the Committee or Subcommittee to be filled<sup>6</sup>.

The Board, by a vote of two-thirds of those present, may at pleasure remove a member of the Committee<sup>7</sup> or Subcommittee 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>8</sup>

**Commented [DP7]:** 'Director' means a CPATA Board member

**Commented [RM8R7]:** Is that defined somewhere that I missed?

**CHAIR**

The Chairs and members of the Governance and Nominating Committee and the Nominating Subcommittee are appointed by the Board

[Redacted]

The Committee and Subcommittee Chairs are voting members of the Committee and the Subcommittee.

**FREQUENCY OF MEETINGS AND MANNER OF CALL**

[Redacted]

Meetings are scheduled in advance and occur at least quarterly, or otherwise at the direction of the Chair or the CEO. Additional meetings may be scheduled by the CEO 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.

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

<sup>7</sup> Registrar's Policy on Committees

<sup>8</sup> Registrar's Policy on Committees

At least once a year the Governance and Nominating Committee and the Nominating Subcommittee must meet to review matters where there are shared or complementary responsibilities.

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**QUORUM**

[REDACTED]

Quorum of the Committee and the Subcommittee is three

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**RESOURCES**

The Committee is supported by the CEO and [Deputy CEO].

**Commented [RM9]:** Who is this?

**Commented [DP10R9]:** It's how the by-laws ensure immediate succession.

**Commented [RM11R9]:** OK. So does that mean we must appoint a deputy CEO right away?

---

**REPORTING & EVALUATION**

[REDACTED]

The Committee develops, documents, and adopts for Board approval an annual work plan that includes the plans for the Subcommittee and reports to the Board by providing a high-level summary of the Committee's activities at the next Board meeting. The summary details what the Committee and Subcommittee have been working on (since it last reported to the Board), what the Committee is bringing forward for discussion or approval, and key issues that the Committee is focused on.

The Committee evaluates its work consistent with the Board's approved process for committee evaluation.

**Commented [RM12]:** I think some s/b required of the Subcommittee, except its workplan is approved by the GNC.

**Commented [RM13R12]:** Resolved with added wording. Thnx.

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**DATE OF LAST REVIEW**

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## **CPATA Governance & Nominating Committee**

### **Skills Matrix**

2021- 08-19

#### **Introduction**

CPATA regulates the patent and trademark profession in accordance with the Act, Regulations, By-laws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. It is an independent and risk-focused public interest regulator.

CPATA is a risk focused regulator. It identifies regulatory and enterprise risks and proactively takes steps to mitigate them. Given that it is a new regulator, it is committed to gathering information that will allow it to understand the environment that influences the practices of licensees.

CPATA is committed to selecting Board and committee members based on a set of identified skills and attributes, to ensure the Board and committees have the knowledge and attributes to carry out the work effectively, are diverse in all respects, and who strive to attain the vision of CPATA for a modern regulator as outlined in [Board Policy No 2, CPATA's Regulatory Objectives, Standards and Principles](#).

CPATA committees assist the Board to meet its governance and fiduciary obligations. Unless a specific authority is granted, a committee has no independent authority.

#### **Role of Governance & Nominating Committee**

The Governance and Nominating Committee<sup>1</sup> examines corporate governance practices, including Board practices and performance, and makes recommendations with respect to the Board. These responsibilities include:

1. Nominating - Assessing the requirements for membership on the Board and advising the Minister's Office of the College's needs, managing the process for nominating candidates for Board and committee membership.
2. Effectiveness - Assessing and making recommendations regarding Board effectiveness and leading the processes for orientation, evaluation and continuing education of Directors, committee Chairs and the Chair of the Board.
3. Elections – assisting with the election process as prescribed by the By-laws.
4. Governance - Reviewing and monitoring governance practices of the Board and management with a view to enhancing the College's performance.

#### **Committee Composition**

The Committee must possess the required skills, knowledge, attributes, and experience to enable it to fulfil its responsibilities.

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

The Committee Chair may require additional specific training.

<sup>1</sup> Established by Board By-law s. 45. See By-laws 31 ff

## 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 Committee members and as a whole;
- 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.

As a whole, the Committee's members must possess/demonstrate the following:

Local, national, and international academic backgrounds and experiences that reflect the diverse education and knowledge of registrants and the public served by the College.

Regional diversity, to reflect the reality that IP practice, and the public's knowledge and expectations of IP practice varies throughout the country.

Diverse experiences, backgrounds and specialties that inform dialogue and decision-making, ensuring decisions meet intended objectives, are practical and, ultimately, protect the public.

Diverse leadership experience in the public, private, and not-for-profit sectors, to promote knowledge and the sharing of best practices.

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, Regulations and By-laws	Effective oral communications	Professional regulation	Adaptable - recognizing plans change
The College's Regulatory Objectives, Standards and Principles	Effective written communications including writing decisions with reasons	Board and governance/nomination committee membership and leadership in a variety of sectors	Collaboration <sup>3</sup>
Good governance principles	Collegial and effective decision making	Fiduciary duties, good governance principles, and the stewardship responsibilities	Objectivity -Decisions based on evidence/good information, to fulfil the College's mandate

<sup>2</sup> Knowledge' includes understanding how CPATA operates in substance and principle, risk principles, the prosecution of patent and trademark applications, the use of patents and trademarks as business tools, litigation involving patents and trademarks, and the need for a clear and reliable IP legal framework; '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 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>3</sup> Meaningful engagement and discourse will be stronger than what is created in isolation



Some knowledge of Risk management	Attention to detail	Patent and Trademark Agent services and innovation	Act ethically and with integrity and speak the truth
The Federal Government's IP Strategy and Innovation Agenda	Organization & time management	Regulator and/or public interest focused community service	Strong work ethic
Equity, diversity, inclusion <sup>4</sup>	Cultural competence <sup>5</sup>	With creating safe gathering spaces that welcome and support all who wish to connect, learn, share, belong, and grow	Professionalism & civility
CPATA's Strategic Plan and the Board's vision for the College	Recruiting	Board and committee evaluation and self-assessment	Takes full responsibility for decisions made
CPATA's Board and Committee needs as identified through Board and Committee evaluations and self-assessments	Critiquing performance and providing constructive feedback	Government relations	Follow through on commitments.
The evolution of the patent and trademark profession in Canada			

<sup>4</sup> 'Equity, diversity, inclusion' 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> '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)

## MEMORANDUM

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<b>TO</b>	<b>Board of Directors</b>
<b>FROM</b>	<b>Darrel Pink</b>
<b>DATE</b>	<b>September 27, 2021</b>
<b>SUBJECT</b>	<b>Mandatory Liability Insurance</b>

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## MESSAGE

The College has undertaken an extensive consultation with the profession regarding mandatory liability insurance. Attached to this memo is a copy of the Consultation Paper and a memorandum from Patrick Mahoney summarizing the input from the profession.

### Public Interest

Based on the initial research and the consultation process, the public interest factors have been highlighted and are summarized as:

1. There is a need for mandatory liability insurance for those licensees who are providing services to the public. No similar need exists for those providing services only to their clients as government employees or as in-house agents for a corporation, because there is a minimal risk of a claim being made against those licensees.
2. Intellectual property practice in general and patent and trademark practice in particular has a global reach even if the patent or trademark is only registered in Canada. However, there is not adequate evidence at present to determine if insurance must be global or if coverage for claims made in Canada is sufficient. This issue requires further study.

3. Though the risks associated with trademark practice may be less than those for patent practice, the economics of splitting the profession into two units preclude doing so. The patent or trademark sectors individually will be so small that costs of an insurance product will be less stable and potentially much higher than if the coverage is provided to the whole profession.
4. There is insufficient evidence to require policy limits that are exceed those currently applicable to lawyers who are licensees, namely \$1.0 million per occurrence and \$2.0 million in aggregate. Further study is on this is required.

The discussion paper and the options outlined raise several issues, but these are the only ones which, based on the work done to date, rise to the level of requiring a public interest response.

### **By-laws**

To implement a mandatory liability insurance requirement, it is recommended that certain obligations take effect on January 1, 2022, and that further study of other matters be undertaken so that decisions on them will be deferred for a year.

The following resolution is proposed:

*Be it resolved under s. 75(1)(q) and (r)<sup>1</sup> the Board will adopt by-laws regarding mandatory professional liability insurance that require:*

1. *Class 1 and Class 3 licensees, providing patent or trademark services to the public, must be insured under a liability insurance policy provided by an insurance company licensed in Canada, that will indemnify for civil liability arising from the licensee acting as a patent agent or a trademark agent;*
2. *The limit of liability is a minimum of \$1.0 million per claim and a \$2.0 million aggregate; and*
3. *Commencing on Jan 1, 2023, the liability insurance policy must cover claims made outside of Canada.*

<sup>1</sup> **75 (1)** The Board may make by-laws respecting any matter necessary to carry on the activities of the College, including by-laws **(q)** respecting the professional liability insurance that licensees are required to maintain; **(r)** exempting licensees from the requirement to be insured against professional liability

*Further, the Board directs the CEO to have by-laws drafted and presented to the Board for approval in time for publication in advance of January 1, 2022.*

*Further, the Board directs the CEO to engage in additional research and to bring recommendations to the Board relating to:*

- 1. Global coverage and how the College can implement a policy and the implications, including the costs, of doing so, and*
- 2. Whether policy limits should remain at \$1.0 million per claim and a \$2.0 million aggregate.*

The Board has already addressed the requirement for reporting on liability insurance in Board By-law 52(c)<sup>2</sup>. The CEO will develop the format for reporting.



**Darrel Pink**

CEO & Registrar

dpink@cpata-cabamc.ca

<sup>2</sup> On or before March 31 of each year, licensees who hold a class 1 licence must ... (c) provide proof of professional liability insurance or proof of exemption from that insurance.

# MEMORANDUM

DATE: September 28, 2021  
TO: Darrel Pink, CEO and Registrar, CPATA  
FROM: Patrick Mahoney  
COPY:  
RE: Review of Consultation Paper Responses

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CPATA received 14 responses to its July 2021 Consultation Paper on Mandatory Liability Insurance issued in July 2021. Most respondents were lawyers. Many were in private practice at firms of various sizes; others were in-house or with the government. The Canadian Bar Association (CBA) responded on behalf of its Intellectual Property Section and Ethics and Professional Responsibility Subcommittee. Excerpts from the responses are reproduced in the footnotes to this memo and a summary of the responses is available.

The Consultation Paper invited feedback on all recommendations in the Axxima Report and specifically requested comments on the following issues:

1. Who Must Be Insured and Scope of Required Coverage
2. Limits (Per Claim and in the Annual Aggregate)
3. Territorial Requirements
4. Separate Requirements for Patent Agents versus Trademark Agents
5. Run-off/Extended Reporting Period Requirements
6. Other Issues

There was one central theme common to many responses, which is summarized in the CBA response as follows:

*“The CBA supports the development of a self-regulation model for IP professionals if it includes appropriate regulatory objectives and a governing body with appropriate accountability, and addresses potential conflicts between overlapping regulatory regimes for lawyer agents.*

...

*In looking at who is subject to mandatory professional liability insurance requirements, the Consultation Paper does not address overlapping regulatory regimes for lawyer agents. In our view, CPATA should not impose additional insurance requirements on lawyer agents. Rather, a framework should be implemented allowing lawyer agents to receive an exemption on submission of proof of insurance to CPATA. This framework resembles law society programs with minimum insurance requirements for lawyers registered in multiple jurisdictions, where proof of insurance in one Canadian jurisdiction is satisfactory for membership with another. Likewise, proof of insurance through a lawyer agent’s law society should be satisfactory for CPATA membership.*

*Similarly, to the extent that non-lawyer agents have equivalent coverage through insurance obtained by law firms that employ them, the CBA Sections recommend these non-lawyer agents receive similar exemptions by submitting proof of insurance.*

*In our view, additional CPATA-specific mandatory insurance requirements for lawyer agents and non-lawyer agents employed at law firms, who already carry insurance that meets the minimum coverage proposed in the Consultation Paper, place an unnecessary and arguably disproportionate burden on these members and would not assist CPATA to meet its regulatory objectives or further its public interest.”*

The CBA’s view is broadly consistent with the feedback received from practitioners, highlighted in the first group of issues discussed below. In this memo, we present the feedback provided and then provide commentary for consideration by the Board.

## **DISCUSSION OF FEEDBACK PROVIDED**

### **1. Who Must Be Insured and Scope of Required Coverage**

As noted above, there is a general sense<sup>1</sup> that CPATA should not impose insurance requirements on lawyers that are in addition to those mandated by the law societies. The nature of any

<sup>1</sup> *[R]equiring lawyers to obtain additional liability insurance would create an additional unnecessary financial and administrative burden for lawyers, which will result in uneven playing field for agents who are lawyers and agents who are not lawyers, increase the cost of services to the public, and create barriers for entry to the patent and trademark profession for lawyers of underprivileged backgrounds. – Jones (7 lawyer firm)*  
*Considering the expense of LSO insurance, being forced to pay for duplicate unnecessary insurance simply would not be affordable for many sole practitioners and small firms. – Henderson (2 lawyer firm)*  
*Lawyers should not be asked to pay for duplicate coverage. – Welsh (30 lawyer firm)*  
*Harmonize insurance requirements with the LAWPRO insurance for dual lawyer trademark agents to preclude unnecessary and costly duplication of coverage. – Wright (sole practitioner)*

coverage required in addition to law society requirements should be explicitly prescribed to minimize duplication. Some (but not all) respondents were open to paying only for the incremental coverage needed to meet CPATA requirements but there was general pushback against increasing the cost of doing business as this creates barriers to entry that reduce competition and increase prices, especially if lower volume agents are forced out of business.

There is concern, in fact, that addressing multiple insurance requirements would create an uneven playing field between lawyer and non-lawyer agents as the latter would be required to maintain a single policy at a lower overall cost. Many respondents (including the CBA) advocated for an exemption from CPATA's insurance requirements for lawyers with existing compulsory insurance, or who can provide proof of coverage.

Note that a technical comment was made on the scope of coverage and this is discussed at Item 6. Other Issues.

## 2. Limits (Per Claim and in the Annual Aggregate)

Most of the feedback<sup>2</sup> questioned why the limits considered by most law societies as adequate (\$1 million per claim, \$2 million in the annual aggregate) were not sufficient for CPATA's purposes. The law society limits have "stood the test of time". The central concern is the cost of additional limits but there was also mention of the lack of an analytical rationale for the higher

*In terms of the protection of the public, if a lawyer/agent already has insurance coverage deemed acceptable by his/her law society then there shouldn't be a need for CPATA to impose additional insurance requirements. – Montague (in-house)*

<sup>2</sup> *Axxima's recommendation of a minimum \$2 million limit per claim is disproportionate to the potential risk exposure and will be overly costly to the agents, leading to the higher costs of agents' services to the public. The Axxima report provides no other explanation other than the "sense" of those brokers as to why policy limits in line with LawPro coverage would be insufficient for patent and trademark agents. – Jones*  
*My current insurance coverage has been deemed by the Law Society of Ontario to qualify me to engage in high risk multi-million-dollar real estate transactions and adversarial litigation. CPATA appears to be taking the position that this insurance is insufficient to occasionally assist small businesses trademark their name and logo. – Wright*

*Require insurance on the individual level so as not to require an individual to purchase the same insurance that a firm of five requires. Or, in the alternative, have a separate category for sole practitioners operating in a firm of one. – Wright*

*To avoid creating the need for multiple policies, and to reflect best practices generally amongst regulators, minimum amounts should be harmonized with existing requirements under major law societies, such as the Law Society of Ontario and the Barreau du Quebec. For lawyer/agents, this will help avoid 'double regulation'. – Montague*

limit. It was suggested that that insurance brokers push for higher limits out of self-interest rather than need.

One respondent suggested that limits requirements should scale up by firm size so that a sole practitioner does not need to buy the same limits as a firm of, say, five.

In contrast to this, Tim Lowman made the point that a dedicated limit for patent and trademark professionals who are also lawyers would be appropriate, so that the limits available for P&T work are not exhausted by claims for unrelated legal work.

### 3. Territorial Requirements

The issue of requiring coverage for claims for services provided or lawsuits brought outside of Canada also received a lot of attention. Feedback generally followed two themes:

- Outside of CPATA's Mandate<sup>3</sup>: It was suggested that CPATA's mandate is to regulate the provision of services by agents in Canadian, under Canadian law, and so requiring worldwide coverage is *ultra vires* its authority. Insurance requirements for agents practicing in other countries should be left to whatever regulatory body governs agents in those countries. A somewhat related point is that imposing costs on the foreign practice of Canadian agents puts those agents at a competitive disadvantage in those jurisdictions.
- Unfair Burden on Agents with No Foreign Exposure<sup>4</sup>: Numerous respondents advised that the nature of their practice means that they (and many others) simply have no

<sup>3</sup> *CPATA regulates the provision of services by trademark and patent agents in Canada, under Canadian law. As such, we believe that it can only require that patent and trademark agents maintain coverage for work they perform in Canada. Requiring worldwide coverage falls out of the scope of CPATA's mandate. – Jones*  
*CPATA's mandate is limited to the practice of law before CIPO – i.e. any practice before other offices are ultra vires the authority of the College. – Montague*

<sup>4</sup> *I would encourage the Board to not require global coverage for a trademark agent not doing business globally. An Ontario based trademark agent assisting Ontario companies register Canadian trademarks would not benefit from such coverage and requiring it creates an unnecessary and material burden. Now that the USPTO no longer permits Canadian agents to independently file US trademarks this 'non-global' practice arrangement is likely far more common than it's ever been. – Wright*  
*[A]s noted in the discussion document most agents will only practice in foreign jurisdictions via a foreign associate, rather than directly. – Montague*  
*I don't practice outside of Ontario/Canada. I use foreign agents for all such filings. So perhaps it should depend on written representations/warranties as to the nature of the practice. – Henderson (2 lawyer firm)*  
*[T]here are also some agents who practice only in Canada and do not instruct foreign associates on behalf of their CDN clients. Instead, they refer their CDN clients directly to the foreign agents who the client*



foreign exposure. Requiring agents to purchase supplemental insurance for work they do not do amounts to an “unnecessary and material burden”.

One respondent said that as the USPTO no longer permits Canadian agents to independently file in the US, the “non-global” practice arrangement (where foreign agents who are directly retained by the client) is likely more common than ever.

#### 4. Separate Requirements for Patent Agents versus Trademark Agents

Most of the feedback<sup>5</sup> received on this point supported a separate (and lighter) set of insurance requirements for trademark agents versus patent agents. This view was based in part on the perception (which was not universally held<sup>6</sup>) that trademark agents presented a lower risk than patent agents. Since trademark agents cannot provide advice on patent matters, they should not have to pay for that coverage. To do so would essentially mean that trademark agents are subsidizing the insurance costs of patent agents, which is grossly unfair.

Essentially, respondents were saying that a single set of rules to regulate dramatically different practices is not appropriate. Again, the point was made that unnecessary requirements will increase the cost of doing business. This creates barriers to entry that reduce competition and increase prices, especially if lower volume agents are forced out of business.

#### 5. Run-off/Extended Reporting Period (ERP) Requirements

The recommendation in the Axxima Report is to mandate an ERP after a firm disbands or a professional changes to a status that does not require insurance. This is due to the long tail” nature of claims, i.e. it can take some time after the services are rendered for the claim to emerge. Three years is a fairly standard ERP, but a longer one (e.g. five years) may be viewed as

*retains directly. If these agents are already lawyers with professional insurance, I question whether these agents require any additional coverage at all. – Ballagh (2 lawyer firm)*

<sup>5</sup> *[T]rademark agents are not qualified to advise on other areas of law, including patents. Doing so may constitute unauthorized practice of law, which is unlawful. In our view, the required liability coverage should only cover the agent’s area of practice. In this case, trademark agents should not be required to maintain coverage for patent matters, for which they cannot even be retained. – Jones*

*I simply do not have the volume of applications that would justify paying a higher cost for a combined insurance. – Patel (sole practitioner)*

*Require insurance on the individual level so as not to require an individual to purchase the same insurance that a firm of five requires. Or, in the alternative, have a separate category for sole practitioners operating in a firm of one. – Wright*

<sup>6</sup> *Being both a patent agent and a trademark agent, I’m not sure I agree with the idea that the liability exposure for trademarks would necessarily be lower. Although I am not opposed to a lower limit for trademark agents, the value of claims can in many cases be equal. – Montague*

appropriate in cases of, for example, firm dissolution. There was no feedback provided directly on this issue.

The only feedback on this issue addressed a technical concern that the professional liability exemption for government employees in Subsection 34(2) of the *CPATA Act* refers to a licensee “who is employed” by the government. The respondent wants to be sure that the exemption would continue to apply so that the agent would not require run-off insurance for work done as a government employee after, for example, retiring.<sup>7</sup> This was presumably never CPATA’s intent and should not be controversial.

## 6. Other Issues

There was specific feedback provided on two points that do not fall under the above headings. This is summarized below.

### (a) Employed Agents

The director of Ericsson Canada’s Patent Group made the point that in-house agents should be treated in the same way as government employees, i.e., exempted from CPATA’s insurance requirements.<sup>8</sup> An error made by an employed agent does not give rise to the public interest considerations central to CPATA’s mandate and are best governed by employment law (and the employment contract). In any event, it would likely be difficult for an individual employed agent to buy professional liability insurance given the nature of an employment relationship.

This matter appears to be settled as the Consultation Paper states: “*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 that those who provide services only to their employer, need not be insured.*”

### (b) Scope of Insured Services

<sup>7</sup> [I]t would create an anomalous and unfortunate situation for a licensee to have to obtain independent third party liability insurance only after they left their government position (e.g. upon retirement. – Crealock (Ministry of Attorney General, BC)

<sup>8</sup> We respectfully submit that the same situation exists with inhouse patent agents and trademark agents, who in our view do not need to be covered by a liability insurance for the same reasons: dealings involving professional liability between inhouse patent and trademark agents are better and fully dealt with via the provisions of labor law, as applied between the employee and the employer. A personal liability insurance will add little, if anything to the situation, apart an undue cost for members. – Nicolaescu (Ericsson Canada)

One respondent took issue with the suggestion in the Axxima report that the PAMIA definition of Intellectual Property Business be used as starting point in specifying required coverage<sup>9</sup>. The essence of the feedback is that the regulatory structure in the UK is fundamentally different. P&T attorneys are a separate recognized legal profession and, as a result, are able to provide a broad range of legal services. In Canada, some of these services (most obviously the practice of litigation) can only be provided by lawyers.

While the Board will have a better sense of the technical issues, it seems as though the feedback attempts to impose an overly narrow definition on CPATA's mandate to regulate patent and trademark agents in the public interest. In any event, the scope of the required coverage should be on liability arising from the licensees acting as a patent or trademark agent.

## COMMENTARY AND DISCUSSION OF OPTIONS

The feedback received from agents who are also lawyers was that CPATA should not impose requirements in addition to those required by the various Canadian law societies. Put another way, anyone subject to law society regulation should be exempted from CPATA's insurance requirements.

At a practical level, law society coverage would be adequate<sup>10</sup> to meet CPATA's standards aside from:

- Limits requirements (by firm) of \$2 million per claim / \$4 million in the annual aggregate (compared with compulsory law society limits outside of Quebec of \$1 million / \$2 million per lawyer), and

<sup>9</sup> *[T]he ... PAMIA definition includes services that, in our opinion, trademark and patent agents are not authorized to provide. These services are provided by lawyers, who are insured per their Law Societies' requirements. CPATA has no authority to regulate the provision of these services. In our opinion, any liability coverage required by CPATA should be restricted to the legal services that it regulates: agents representing clients before CIPO for patent and trademark matters. – Jones*

<sup>10</sup> Keep in mind that any move to relying on law society coverage to meeting CPATA's standards raises an issue in Ontario with the Extended Reporting Period requirement. with the Move this up to the discussion section. One point to keep in mind is that LawPRO is alone amongst Canadian law society insurance programs in limiting coverage for retired lawyers for claims that arise in retirement for work done while insured. To the extent that CPATA exempts lawyers covered by a law society program from additional insurance requirements, lawyers relying on the LawPRO run-off coverage may not meet CPATA standards after retirement.

- Territorial requirements that include coverage for services rendered and lawsuits brought outside of Canada whereas most law society programs limit or exclude coverage for practice of non-Canadian law.

We believe that the concerns expressed during the consultation process have some validity; some agents, for example, likely do not have any material foreign exposure. Also, from a practical insurance perspective, it can be inefficient (read: expensive and potentially difficult) to obtain excess insurance that is not “follow form” to the mandatory coverage. In those cases, the excess insurance must “drop down” or “in fill” where it is broader than the law society coverage, i.e. for non-Canadian exposures. Insurers view that as a primary exposure, and rate accordingly. Further, except perhaps in the case of a purpose-built program like that operated by Magnes, insurers will not give full credit for the law society coverage, leading to increased costs.

There are a number of levers available to address the concerns raised, including:

- Amended (i.e. relaxed) requirements based on consultation feedback;
- Phasing certain requirements in over time to give both licensees and the insurance market time to adapt;
- Specifying different requirements for particular licencees based on identifiable differences (e.g. firm size, trademark v patent practice) to the extent that the “one size fits all” approach is not appropriate.

We believe that the territorial requirements present a larger obstacle and should be discussed first. This is because excess insurance for lawyers is readily available in the marketplace and so complying with the higher limits requirement should be achievable if the required coverage is no broader than the law society coverage.<sup>11</sup>

### **Territorial Requirements**

The feedback received on this issue focused on CPATA’s authority to regulate the non-Canadian elements of a Canadian agent, or on the fact that a particular agent’s practice does not extend to doing work outside of Canada. No feedback was received on the inherent global nature of intellectual property practice even if a patent or trademark is registered only in Canada. Options that could be considered to address concerns raised on the territorial issue include the following:

<sup>11</sup> As an illustration of the cost of lawyers’ excess coverage, the rate for \$1 million excess of \$1 million in the CLIA program (smaller Canadian jurisdictions) is under \$600 per lawyer. That is a single aggregate, so to meet the \$4 million annual aggregate requirement, it would be necessary to purchase excess limits of \$3 million, which costs under \$1,000 per lawyer. Premiums in the larger provinces are likely higher than this.

1. Eliminate the non-Canadian coverage requirement entirely based on the feedback provided through the consultation process. This would mean that the main additional requirement on lawyer agents (relative to their law society coverage) is the higher limit. Lawyers should be able to secure excess insurance from well-established lawyers' excess programs on reasonable terms. These excess programs are likely not available to non-lawyer agents (unless they are practicing in law firms) but since non-lawyer agents do not pay law society insurance levies, one would expect that the overall cost for non-lawyer agents would not be out-of-line.
2. Rather than eliminating the non-Canadian coverage requirement entirely, the Board could require that licensees maintain coverage for non-Canadian exposures that is reasonable given their exposure. Agents that do US work, for example, would need to have coverage for that work. This more nuanced approach could be supported by a representation in the annual renewal process that a licensee has the necessary coverage or does not provide non-Canadian services
3. Provide a time-limited exemption from the territorial requirement. This would allow lawyers to rely on their law society insurance (subject to arranging higher limits) and the elimination of foreign exposure would likely mean that insurance is available to non-lawyer agents on more attractive terms. Deferring the requirement would give CPATA the opportunity to study the appropriate insurance requirements, agents time to secure the necessary coverage and insurance markets an opportunity to create programs to meet the agents' needs.

### **Limits Requirements**

As noted above, if the territorial requirements are eased, the concern over higher limits requirements likely becomes somewhat less pressing. Having said that, options to make the limits requirement more sensitive to differences in exposure include:

4. Accept the feedback that law society limits have "stood the test of time" and change CPATA's limits requirement to be in line with those limits.
5. Specify lower a minimum limit based on firm size. For example, limit requirements could be \$1 million per claim / \$2 million in the annual aggregate for firms with less than five licensees and higher for larger firms. This approach is "a blunt instrument" in the sense that there unlikely to be a direct correlation between firm size and exposure but again, perhaps it could be coupled with a representation from the smaller firms that the insurance limits in place are adequate. Note that addressing limits without addressing the foreign law requirements is not likely to provide much relief as agents will need to secure primary coverage for non-Canadian exposures.
6. A variation on the above option which would benefit lawyer agents would be to allow them to cumulate their law society program limits to meet CPATA limit requirements. A two-lawyer firm,

for example, would each have law society limits (outside of Quebec) of \$1 million per claim and \$2 million in the annual aggregate. If viewed in total, CPATA's limit requirement would be met. This arguably disadvantages a sole practitioner, who presumably presents a similar risk as one of the lawyers in a two-person firm. This could be addressed by setting a lower limit requirement for sole practitioners. Again, addressing limits without addressing the foreign law requirements is not likely to provide much relief as.


All of the above options can be done on a time-limited basis, again to allow agents to prepare ahead for a higher limit requirement. Alternatively, an option can be implemented explicitly on the basis that CPATA will monitor the issue and reserves the right to adjust the limits at a future date if they are shown to be insufficient.

### **Trademark Agents v Patent Agents**

As discussed under Issue 4 above, most respondents supported a separate (and lighter) set of insurance requirements for trademark agents versus patent agents. This view was based in part on the perception that trademark agents presented a lower risk than patent agents and that the two areas require separate licences. This creates the opportunity to set different requirements for trademark agents, i.e. territorial coverage required only for Canadian law and/or lower limits requirements.

Having said that, CPATA lacks the data to support a conclusion that one type of practice presents a materially lower risk than the other (aside from the international elements to patent agent work), especially in relation to the limits of insurance being considered. Further, splitting the agents into two groups creates even smaller insured populations which results in less critical mass for insurers and less stable (i.e., potentially higher) year-over-year premiums.

I look forward to discussing the results of the consultation process and next steps at the upcoming Board meeting.



# College of Patent Agents and Trademark Agents

Budget vs. Actuals: CPATA - Budget 2021 V1 - FY21 P&L Classes

January - August, 2021

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
<b>Income</b>				
4000 Service/Fee Income				
4010 Licensee fees - CPATA fees	1,356,873.00	554,984.00	801,889.00	244.49 %
4015 Licensee Fees - Deferred portion	-903,648.67		-903,648.67	
<b>Total 4010 Licensee fees - CPATA fees</b>	<b>453,224.33</b>	<b>554,984.00</b>	<b>-101,759.67</b>	<b>81.66 %</b>
4040 Licensee fees - CIPO Transfer (2020)	475,791.75	515,100.00	-39,308.25	92.37 %
4050 Exam fees		0.00	0.00	
4060 Certificate & Letters Fees	150.00		150.00	
4070 Application and Change fees	6,550.00		6,550.00	
<b>Total 4000 Service/Fee Income</b>	<b>935,716.08</b>	<b>1,070,084.00</b>	<b>-134,367.92</b>	<b>87.44 %</b>
<b>Total Income</b>	<b>\$935,716.08</b>	<b>\$1,070,084.00</b>	<b>\$ -134,367.92</b>	<b>87.44 %</b>
<b>GROSS PROFIT</b>	<b>\$935,716.08</b>	<b>\$1,070,084.00</b>	<b>\$ -134,367.92</b>	<b>87.44 %</b>
<b>Expenses</b>				
5500 Wages & Benefits				
5510 Wages	40,083.76	179,583.32	-139,499.56	22.32 %
5520 Wages - Benefits	1,164.02		1,164.02	
5530 Wages - CPP / EI	3,853.13	21,358.00	-17,504.87	18.04 %
5550 RRSP Expenses	3,167.26		3,167.26	
6000 Professional fees - Interim CEO	148,000.00	123,333.00	24,667.00	120.00 %
<b>Total 5500 Wages &amp; Benefits</b>	<b>196,268.17</b>	<b>324,274.32</b>	<b>-128,006.15</b>	<b>60.53 %</b>
6010 Professional fees - Accounting	62,234.00	47,500.00	14,734.00	131.02 %
6020 Professional fees - Communications		16,666.00	-16,666.00	
6030 Professional fees - Legal	151,332.47	91,472.00	59,860.47	165.44 %
6050 Professional fees - Planning	12,669.50		12,669.50	
6060 Professional fees - Translation	10,899.53	16,666.00	-5,766.47	65.40 %
6200 Consulting - Admissions	48,904.00	104,000.00	-55,096.00	47.02 %
6210 Consulting - Communications	29,380.00	23,166.00	6,214.00	126.82 %
6230 Consulting - Human Resources	85,745.74	119,334.00	-33,588.26	71.85 %
6240 Consulting - Policies		6,666.00	-6,666.00	
6250 Consulting - Regulation		32,556.00	-32,556.00	
6270 IT Consultants - Network & General	10,044.20	8,000.00	2,044.20	125.55 %
6280 IT Consultant - License Systems	20,000.00	20,000.00	0.00	100.00 %
6290 IT Consultant - Website	8,530.09	23,334.00	-14,803.91	36.56 %
6295 Payroll provider Fees	99.07		99.07	
6510 Board - Remuneration	26,018.15	23,330.00	2,688.15	111.52 %
6530 Board - Training		4,834.00	-4,834.00	
6600 Committee Expenses		8,334.00	-8,334.00	
7010 Bank fees and interest	20,251.51	20,000.00	251.51	101.26 %
7020 Credit Card Processing Fees	29,791.09	28,000.00	1,791.09	106.40 %
7130 Dues and memberships	1,523.00	4,666.00	-3,143.00	32.64 %
7140 Insurance - D&O	14,726.05	21,771.00	-7,044.95	67.64 %
7150 Insurance - General Liability		13,334.00	-13,334.00	
7160 Insurance - Mandatory Liability	10,231.25	6,666.00	3,565.25	153.48 %
7210 Office - Furniture	579.79	6,666.00	-6,086.21	8.70 %
7215 Office - General expenses	174.50		174.50	

# College of Patent Agents and Trademark Agents

Budget vs. Actuals: CPATA - Budget 2021 V1 - FY21 P&L Classes

January - August, 2021

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
7300 Software costs - Administration	1,689.72	665.00	1,024.72	254.09 %
7310 Software costs - Admissions	231.74		231.74	
7320 Staff Travel		6,666.00	-6,666.00	
7410 Contingency		0.00	0.00	
Uncategorized Expense	40.35		40.35	
<b>Total Expenses</b>	<b>\$741,363.92</b>	<b>\$978,566.32</b>	<b>\$ -237,202.40</b>	<b>75.76 %</b>
NET OPERATING INCOME	<b>\$194,352.16</b>	<b>\$91,517.68</b>	<b>\$102,834.48</b>	<b>212.37 %</b>
Other Expenses				
8000 Amortization	225.86		225.86	
<b>Total Other Expenses</b>	<b>\$225.86</b>	<b>\$0.00</b>	<b>\$225.86</b>	<b>0.00%</b>
NET OTHER INCOME	<b>\$ -225.86</b>	<b>\$0.00</b>	<b>\$ -225.86</b>	<b>0.00%</b>
NET INCOME	<b>\$194,126.30</b>	<b>\$91,517.68</b>	<b>\$102,608.62</b>	<b>212.12 %</b>



# College of Patent Agents and Trademark Agents

## Balance Sheet As of August 31, 2021

	TOTAL	
	AS OF AUG. 31, 2021	AS OF DEC. 31, 2020 (PP)
<b>Assets</b>		
Current Assets		
Cash and Cash Equivalent		
1010 RBC Chequing Account	815,825.83	
<b>Total Cash and Cash Equivalent</b>	<b>\$815,825.83</b>	<b>\$0.00</b>
1230 Other current assets	0.00	
1400 Prepaid expenses	46,473.95	10,000.00
<b>Total Current Assets</b>	<b>\$862,299.78</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>\$867,999.80</b>	<b>\$10,000.00</b>
<b>Liabilities and Equity</b>		
Liabilities		
Current Liabilities		
Accounts Payable (A/P)		
2000 Accounts Payable (A/P)	80,808.34	406,980.77
<b>Total Accounts Payable (A/P)</b>	<b>\$80,808.34</b>	<b>\$406,980.77</b>
Credit Card		
2020 RBC Visa Credit Card	2,714.73	
2030 RBC Line of Credit	0.00	
<b>Total Credit Card</b>	<b>\$2,714.73</b>	<b>\$0.00</b>
2010 Accrued Payables	0.00	26,763.24
2050 GST/HST Payable	76,250.93	-34,813.09
<b>Total Current Liabilities</b>	<b>\$159,774.00</b>	<b>\$398,930.92</b>
Non-current Liabilities		
2200 Licensee & Application Deposits	903,030.42	
<b>Total Non-current Liabilities</b>	<b>\$903,030.42</b>	<b>\$0.00</b>
<b>Total Liabilities</b>	<b>\$1,062,804.42</b>	<b>\$398,930.92</b>
Equity		
Retained Earnings	-388,930.92	-388,930.92
Profit for the year	194,126.30	
<b>Total Equity</b>	<b>\$ -194,804.62</b>	<b>\$ -388,930.92</b>
<b>Total Liabilities and Equity</b>	<b>\$867,999.80</b>	<b>\$10,000.00</b>

# College of Patent Agents and Trademark Agents

## Profit and Loss

August 2021

	TOTAL	
	AUG. 2021	JAN - AUG., 2021 (YTD)
<b>INCOME</b>		
4000 Service/Fee Income		
4010 Licensee fees - CPATA fees	1,355,473.00	1,356,873.00
4015 Licensee Fees - Deferred portion	-903,648.67	-903,648.67
<b>Total 4010 Licensee fees - CPATA fees</b>	<b>451,824.33</b>	<b>453,224.33</b>
4040 Licensee fees - CIPO Transfer (2020)		475,791.75
4060 Certificate & Letters Fees	150.00	150.00
4070 Application and Change fees	6,550.00	6,550.00
<b>Total 4000 Service/Fee Income</b>	<b>458,524.33</b>	<b>935,716.08</b>
<b>Total Income</b>	<b>\$458,524.33</b>	<b>\$935,716.08</b>
<b>GROSS PROFIT</b>	<b>\$458,524.33</b>	<b>\$935,716.08</b>
<b>EXPENSES</b>		
5500 Wages & Benefits		
5510 Wages	16,372.22	40,083.76
5520 Wages - Benefits	1,484.20	1,164.02
5530 Wages - CPP / EI	1,352.72	3,853.13
5550 RRSP Expenses	830.76	3,167.26
6000 Professional fees - Interim CEO	18,500.00	148,000.00
<b>Total 5500 Wages &amp; Benefits</b>	<b>38,539.90</b>	<b>196,268.17</b>
6010 Professional fees - Accounting	24,460.25	62,234.00
6030 Professional fees - Legal	17,377.27	151,332.47
6050 Professional fees - Planning		12,669.50
6060 Professional fees - Translation	3,266.71	10,899.53
6200 Consulting - Admissions	13,179.00	48,904.00
6210 Consulting - Communications	7,950.00	29,380.00
6230 Consulting - Human Resources	9,890.35	85,745.74
6270 IT Consultants - Network & General	1,806.90	10,044.20
6280 IT Consultant - License Systems	2,500.00	20,000.00
6290 IT Consultant - Website	130.09	8,530.09
6295 Payroll provider Fees	36.00	99.07
6510 Board - Remuneration		26,018.15
7010 Bank fees and interest	400.72	20,251.51
7020 Credit Card Processing Fees	22,322.98	29,791.09
7130 Dues and memberships	998.00	1,523.00
7140 Insurance - D&O	3,465.00	14,726.05
7160 Insurance - Mandatory Liability		10,231.25
7210 Office - Furniture		579.79
7215 Office - General expenses		174.50
7300 Software costs - Administration	337.33	1,689.72
7310 Software costs - Admissions	231.74	231.74
Uncategorized Expense	40.35	40.35
8000 Amortization		225.86
<b>Total Expenses</b>	<b>\$146,932.59</b>	<b>\$741,589.78</b>
<b>PROFIT</b>	<b>\$311,591.74</b>	<b>\$194,126.30</b>

# College of Patent Agents and Trademark Agents

## Profit and Loss by Class

January - August, 2021

	ADMINISTRATION & OPERATIONS	BOARD & GOVERNANCE	MARKETING & COMMUNICATIONS	REGULATIONS - COMPLAINTS	REGULATIONS - REGISTRATION	TOTAL
<b>INCOME</b>						
4000 Service/Fee Income						\$0.00
4010 Licensee fees - CPATA fees	1,356,873.00					\$1,356,873.00
4015 Licensee Fees - Deferred portion	-903,648.67					\$ -903,648.67
<b>Total 4010 Licensee fees - CPATA fees</b>	<b>453,224.33</b>					<b>\$453,224.33</b>
4040 Licensee fees - CIPO Transfer (2020)	475,791.75					\$475,791.75
4060 Certificate & Letters Fees	150.00					\$150.00
4070 Application and Change fees	6,550.00					\$6,550.00
<b>Total 4000 Service/Fee Income</b>	<b>935,716.08</b>					<b>\$935,716.08</b>
<b>Total Income</b>	<b>\$935,716.08</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$935,716.08</b>
<b>GROSS PROFIT</b>	<b>\$935,716.08</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$935,716.08</b>
<b>EXPENSES</b>						
5500 Wages & Benefits						\$0.00
5510 Wages	40,083.76					\$40,083.76
5520 Wages - Benefits	1,164.02					\$1,164.02
5530 Wages - CPP / EI	3,853.13					\$3,853.13
5550 RRSP Expenses	3,167.26					\$3,167.26
6000 Professional fees - Interim CEO	148,000.00					\$148,000.00
<b>Total 5500 Wages &amp; Benefits</b>	<b>196,268.17</b>					<b>\$196,268.17</b>
6010 Professional fees - Accounting	62,234.00					\$62,234.00
6030 Professional fees - Legal	6,945.41			144,387.06		\$151,332.47
6050 Professional fees - Planning		12,669.50				\$12,669.50
6060 Professional fees - Translation	10,899.53					\$10,899.53
6200 Consulting - Admissions					48,904.00	\$48,904.00
6210 Consulting - Communications	1,380.00		28,000.00			\$29,380.00
6230 Consulting - Human Resources	85,745.74					\$85,745.74
6270 IT Consultants - Network & General	10,044.20					\$10,044.20
6280 IT Consultant - License Systems	20,000.00					\$20,000.00
6290 IT Consultant - Website	130.09		8,400.00			\$8,530.09
6295 Payroll provider Fees	99.07					\$99.07
6510 Board - Remuneration		26,018.15				\$26,018.15
7010 Bank fees and interest	20,251.51					\$20,251.51
7020 Credit Card Processing Fees	29,791.09					\$29,791.09
7130 Dues and memberships	1,523.00					\$1,523.00
7140 Insurance - D&O	14,726.05					\$14,726.05
7160 Insurance - Mandatory Liability		10,231.25				\$10,231.25
7210 Office - Furniture	579.79					\$579.79
7215 Office - General expenses	174.50					\$174.50
7300 Software costs - Administration	1,689.72					\$1,689.72
7310 Software costs - Admissions					231.74	\$231.74
Uncategorized Expense	40.35					\$40.35
8000 Amortization	225.86					\$225.86
<b>Total Expenses</b>	<b>\$462,748.08</b>	<b>\$48,918.90</b>	<b>\$36,400.00</b>	<b>\$144,387.06</b>	<b>\$49,135.74</b>	<b>\$741,589.78</b>
<b>PROFIT</b>	<b>\$472,968.00</b>	<b>\$ -48,918.90</b>	<b>\$ -36,400.00</b>	<b>\$ -144,387.06</b>	<b>\$ -49,135.74</b>	<b>\$194,126.30</b>

## MEMORANDUM

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<b>To</b>	<b>Board Of Directors</b>
<b>FROM</b>	<b>Darrel Pink</b>
<b>DATE</b>	<b>October 2, 2021</b>
<b>SUBJECT</b>	<b>CEO Report</b>

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## MESSAGE

With the coming into force of the CPATA Act on June 28, 2021, we immediately started operating as a professional regulator in accordance with the Regulatory Objectives, Standards and Principles and other applicable Board and Registrar's Policies.

Everything we did was for the first time and as you will note from the brief reports from CPATA staff, there were significant challenges. Our Registrar's Policies, that describe the basis upon which we make decisions and the procedures we use have worked well They were always intended to be reviewed and updated based on experience, but at this stage there are fewer changes than we had anticipated.

### **Registration**

The bulk of the regulatory work has been in Registration. We have received applications from over 250 agents in training. All but 3 are in various stages of their training and registered to write the Qualifying Exams in November or December and so they have status as Class 3 Licensees, so they can deal with CIPO on files. Though most applications are straight forward each is addressed individually. The more complex ones have generally related to applicants who are seeking to have us accept previous experience as credit for all or a portion of the training requirements.

To assist we have retained a subject matter expert who provides us with advice on the nature of the previous experience and its relevance to the Canadian experience.

We will publish a synopsis of the applications and our approaches to them so the way we work is clear and there will be precedents for future applications.

We anticipate our first request for review by the Registration Committee in light of a denial of an application

A brief report from Jen Slabodkin is attached

### **Complaints and Ethics**

We received two complaints at the time of coming into force and those are now being overseen by the Investigations Committee. Since we have received 2 additional requests from the public expressing concerns about licensee conduct. Under our early intervention policy, we are able to address them proactively to see if resolution is possible. Both are now in that process.

WE have also had inquiries from licensees relating to the Code of Conduct and their ethical obligations. It is gratifying to see licensees reach out to the College for this assistance. Creating an education program about the Code of Conduct will be a priority in the coming months. I hope we can collaborate with IPIC to do this.

### **Operational Issues**

There are reports attached from Operations Manager, Andres Diaz and CFO, Sean Walker CPA that outline the key operational challenges we have been addressing over the last couple of months. Overall, the fee collection process and the renewal with the College went smoothly. Though the Thentia software did not perform as well as we expected, our staff were able to get things fixed so registration was completed. Sean Walker notes in his report that we manually processed bulk payments for many firms. Though it saved the firms and their agents many hours, it was a significant effort by us, which we plan to change before the 2022 renewal.

We did suspend over 100 agents, and we continue to try to communicate with them to determine if that is the state they want. No one was suspended without personal outreach by both email and phone, but we

know there are still some data issues, and we may not have the right contact information. These individuals will not be able to present matters before CIPO so if they are active, they will come to us, and we will regularize their status.

We have met with the CEO and senior staff at Thentia regarding expanding our use of Thentia into the other modules and that will make our work much more efficient.

As is noted in Sean Walker's report and the August 31 financial statements, we are in a satisfactory financial situation at present. We have contained expenses and continue to operate as a lean regulator. Our model is quite sustainable but as the activities increase, we will remain focused on how to ensure we have the resources required to meet our mandate.

### **Issues to ponder**

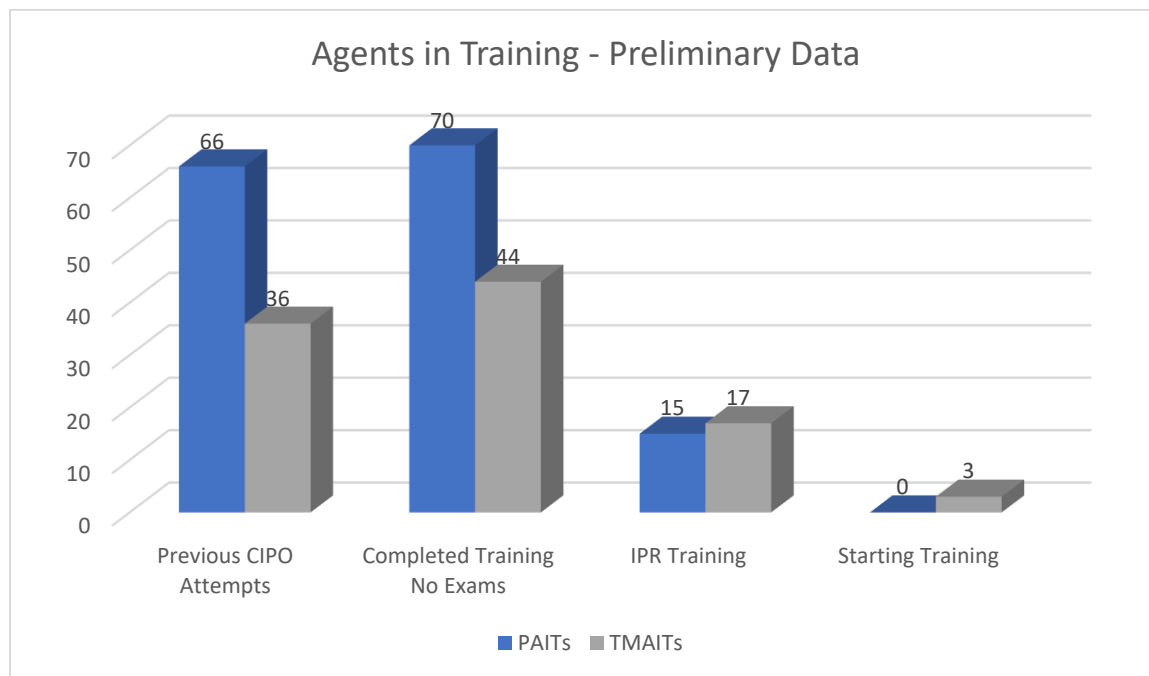
As the Board begins to think about our October planning work, there are several things I note at this stage:

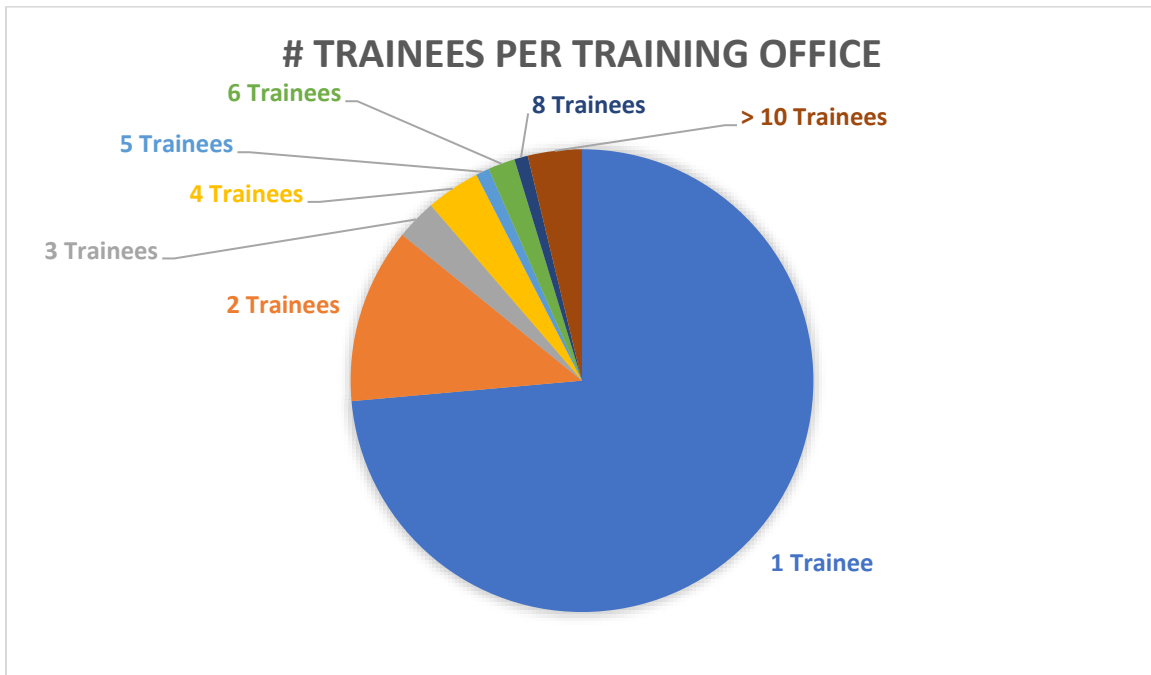
- We are not yet operating bilingually. That is a significant priority so our website and all regulatory matters can be done in both official languages.
- There are only 3 new agents in training. Though there may be others in firms who have not registered (though they should have) the long term viability of the profession is something we will need to focus on. Attracting new trainees to the profession will likely become a priority we will address as we revise the update the competence standards and articulate the training requirements.
- Most of the profession has never operated under a Code of Conduct and we will need to create materials and information to ensure all agents are aware of their ethical (and regulatory) obligations. This will be a significant challenge for the College.
- We look forward to learning about who the new Minister if ISED is so that we can arrange a discussion with the Office about a number of significant matters, including the Board appointment process.

Overall start up has gone as well as could be expected. The staff have done a stellar job in implementing our vision. They are professional, courteous and fun to work with. They have worked very hard and I, on your behalf, have thanked them for their efforts in doing the work to bring the Board's vision to reality.



**Darrel Pink**  
CEO & Registrar  
[dpink@cpata-cabamc.ca](mailto:dpink@cpata-cabamc.ca)





Preliminary Observations:

- 16 AITs are dual licensees (PA and TM)
- There are about 1.5 times as many PAITs than TMAITs. However, there are no PAITs starting their training (as of October 1, 2021).
- From the applications that have been reviewed to date, a proportion of repeat PAQE writers have attempted the exams more than 5 times; starting as early as 2006. Trainees who have attempted the exam multiple times over the span of several years require remedial training to ensure they have developed the necessary competencies required for entry-to-practice.
- A significant proportion of trainees are the only trainee in the office; there are concerns that trainees are not receiving a consistent training experience to provide them with adequate preparation for the examinations.
- Firms with Most Trainees:
  - o Bereskin & Parr - 11



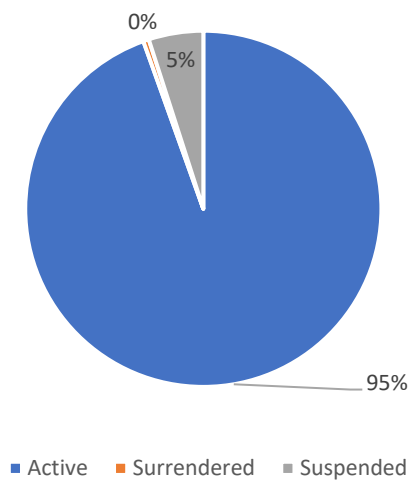
- BCF - 6
- Fasken - 12
- Gowling - 16
- Norton Rose - 8
- Smart & Biggar - 17
- Ridout & Maybee - 6
- Torys - 9

## 2021 STATISTICAL SNAPSHOT OF THE CPATA MEMBERSHIP

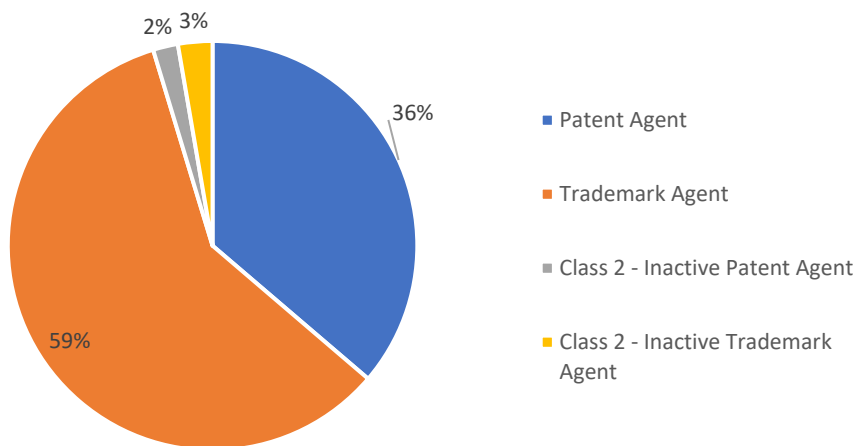
Some facts:

- 74% of the agent roster is composed of trademark agents or dual licensees (both trademark and patent agents)
- 120 agents (5% of the active agents transferred by CIPO) have been suspended, 5 of them with dual licences. 78% of the suspended agents are trademark agents. Furthermore, 5% of the active licensure has switched to have inactive status.
- 78% of the agent population has declared either Ontario or Quebec as their province of residence.
- 10% has declared English as their language of preference. However, I am inclined to think that there is a significant number of agents who have English as a default option.
- The average practice years (based on the initial licence registration date) for both licences is 16 years
- The overall profession consists of more men than women. Hopefully, when we have full reporting capabilities with Thentia, we will be able to say if there is more parity for agents who entered the profession more recently.
- The patent agent profession is better spread out in terms of years of practice. Whereas there are very few “young” trademark agents.

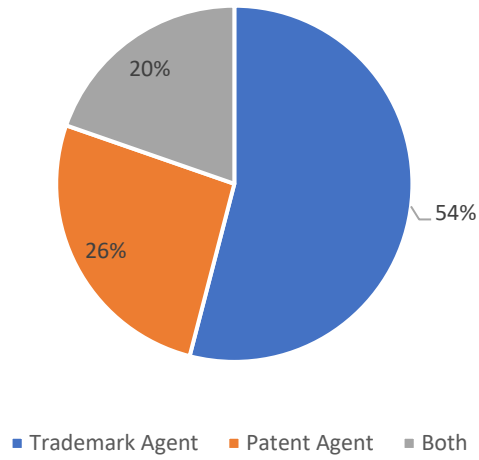
### License Profile by Status



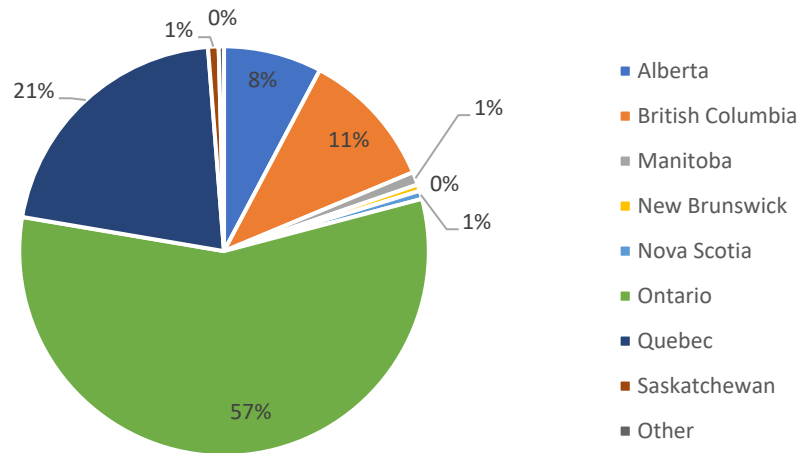
### License Profile by Class



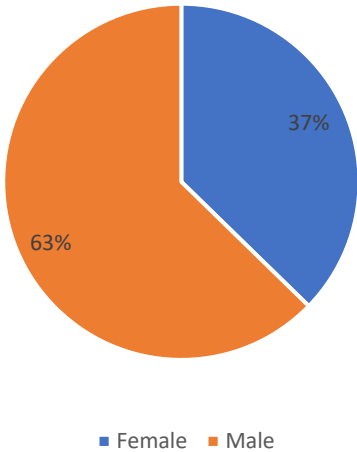
### Agent Profile



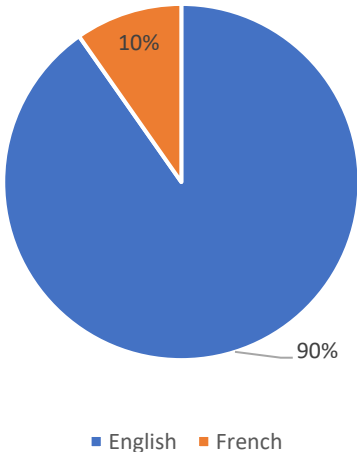
### Agents by Province

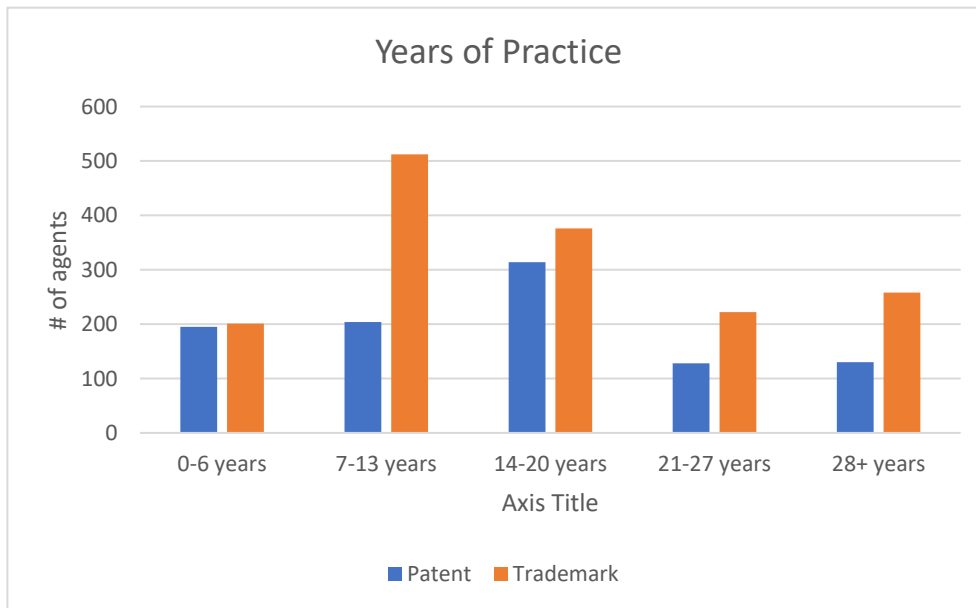


Agent Profile by Gender



Agent Profile by Language of Preference





## MEMORANDUM

<b>TO</b>	<b>Board of Directors</b>
<b>FROM</b>	<b>Sean Walker CPA, CFO</b>
<b>DATE</b>	<b>October 5, 2021</b>
<b>SUBJECT</b>	<b>October 5 CFO update to Board of Directors</b>

## MESSAGE

The College has just come through the first Annual Renewal period for Licensee’s fees. The number of Agents who have renewed their licenses with the College was lower than we had expected based on the figures received from CIPO last October that were used for preparing the budget for 2021. We also

experienced several challenges with the renewal process and the way the Thentia system was configured for Agents to renew their licenses and pay the annual fee. The configuration was based on individual agents paying their own fees via credit card, however, there were more than a third of agents had their firm remit payment for them and College staff had to manually update the renewal in the Thentia system which took a significant number of hours. We have also discovered that the Tax rates (HST/GST) were not totally accurate in the system, as a result we have been refunding agents and firms for overpayments of GST and HST.

The Financial Statements for the period ending August 31, 2021, have been included in the meeting package. Below are notes and analysis of the larger points of interest which also include references to September transactions to provide as up to date information as possible.

**Revenue and Income:**

Below are several charts that show the Agent/License figures of what was budgeted and what we have seen to the end of September (note Financial Statements are based on up to end of August only).

The fee revenue is presented in the Financial statements using a deferred revenue approach showing the amount received in payments less the amount to be deferred and recorded each month for the remainder of the year based on a straight-line approach.

Licenses – the chart below shows the number of licenses (Trademark and Patent) budgeted and the actual renewed results to the end of September. There were 282 fewer licenses renewed to date compared to what we budgeted for based on the numbers received from CIPO in the fall of 2020.

<b>Number of Licenses</b>	<b>Trademark Licenses</b>	<b>Patent Licenses</b>	<b>Totals</b>
Budgeted Licenses	1,565	960	2,525
Renewed with CPATA	1,354	889	2,243
Difference	<b>(211)</b>	<b>(71)</b>	<b>(282)</b>
<b>Difference "causes"</b>			
Surrendered	12	1	13
Change to Class 2	71	51	122
Suspended by CPATA	103	28	131
Suspended by CIPO prior to CIF	51	17	68
	<b>237</b>	<b>97</b>	<b>334</b>

Agents – the chart below shows the number of Agents who are Trademark, Patent and “Dual” (agents who have both licenses). We found that fewer agents renewed with the College and there were a larger number of “dual agents” who receive a 50% discount on their “second” license resulting in less fee revenue on these licenses.

<b>Number of Agents</b>	<b>Trademark</b>	<b>Patent</b>	<b>"Dual Agents"</b>	<b>Totals</b>
Budgeted Agents	1,272	667	293	2,232
Renewed with CPATA	960	507	388	1,855
Difference	<b>(312)</b>	<b>(160)</b>	<b>95</b>	<b>(377)</b>
<b>Agents Budgeted \$\$</b>				
Budgeted Agents	\$ 890,400	466,900	307,650	\$ 1,664,950
Renewed with CPATA	\$ 672,000	354,900	407,400	\$ 1,434,300
Difference	<b>\$ (218,400)</b>	<b>(112,000)</b>	<b>99,750</b>	<b>\$ (230,650)</b>

We are expecting to see approximately **\$230,000** less fee revenue than budgeted for the year based on the renewals to date. We received **\$476,000** from CIPO for the transfer of funds at coming into force date. This was lower than budgeted (\$515,000) as it was based on the proportionate amount of fees based on the coming into force date which was delayed a couple of months compared to the budgeted date.

Exam fees have not yet been realized as the process for receiving payments has just begun in September.

Wages and Benefits Expenses – the College is underbudget year-to-date in relation to employee compensation costs. The delay in coming into force resulted in the College holding off on hiring employees which has resulted in savings to date including having the Interim CEO continue with the College longer than we had budgeted for.

Professional Fees – the College is overbudget on Legal and Accounting fees this year. Legal fees includes the costs related to the **Privacy Impact Analysis** that has been undertaken and was more expensive than originally budgeted. Accounting fees are higher than budget mostly due to the increased time required to process the firm agent payments in the Thentia System that required additional time and data entry.

Consulting Fees – several projects were delayed as we waited for the coming into force date. These include the Admissions projects work, Human resource costs for assistance with recruiting and Regulatory reviews and planning.

Board and Committee expenses – these expenses are below budget as we are now in the process of populating committees and establishing training and meetings.

Office and staff travel related expenses – these areas are under budget as travel has been limited much longer by COVID-19 than initially thought when the budget was built and office costs for new staff have been pushed out into the future.



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### **Balance Sheet related items**

Cash and Loans – The College has been able to pay off the Loan (Line of Credit) with RBC using the Fee collected from Agents. We are working with RBC to now look at options to support the College’s cash flow over the next couple of years as we mature and learn more about the timing and requirements for funds.

Currently the College has \$815,000 in the Operating Bank account and we are hopeful that this will sustain operations (without need of using the Line of Credit) until fees start being received early in 2022.

Prepaid Expenses – the Thentia license fee and Insurance costs are recorded over the periods they relate to, the portion that is not yet expense is recorded as a prepaid expense and subsequently a portion is expensed each month in the timeframe of the contracts.

Licenses & Application Deposits – This account related to the Deferred portion of licensee fee and application amounts receive that will be recorded (spread out) each month for the remainder of the year as we match the timing of revenue and expenses.

# Yes, Your Hybrid Board Meetings Can Work

GLENN TECKER

August 9, 2021

In 2020, when COVID-19 created barriers to meeting in person, we knew how our clients did business would have to change.

With over 40 years of experience operating virtually, I wasn't overly concerned about the communication between the TI consultants. But I did wonder about how we could continue to deliver high-quality, meaningful experiences for our strategic planning clients.

How could a virtual solution, using something like Zoom, possibly work as well as sitting in a room together to talk about the tough stuff?

But after accruing many real-life case studies with testimonials to back it up, we've tested and improved upon our methods. We can tell you what works (and what doesn't) for operating virtually. Our clients report high levels of satisfaction with board, committee meetings, and assembly experience from both virtual and on-site attendees.

This was no small feat, though anyone can do it. But you have to get your strategy right.

## **Structure, Process, and Culture**

Our client groups use their synchronous time together efficiently.

We make sure Board meetings focus on strategic issues and decision-making.

The committee and workgroup meetings are for developing and examining ideas and then assessing consensus and/or consent.

We learned early on that some of the different tech tools available to us were too complicated or cumbersome for all of our clients. While many tools offer visually elegant bells and whistles when under the control of an experienced, tech-savvy

user, we needed smart tools that any person could begin using without training or demos.

That's why we use an AI-supported online platform specifically designed for group work and decision-making to provide a similar experience for all participants regardless of their location or experience.

Engagement of groups from 5 to 100 involves robust conversation, shared background information, moderation of the dialogue, and documentation of thinking and determinations. We include that in how we build out our online workspaces for both asynchronous and synchronous group work.

How do we determine which parts of the engagement are in-person, synchronous virtual, or asynchronous virtual? By the number of virtual participants.

### **Continuous Improvement**

[In lean startup methodology](#), you look to improve through an iterative process. Our team continues to learn and share with each other new discoveries for how to improve on these meetings. For example, just today, several consultants discussed over email how nonverbal cues to speak could be handled better, building in a more efficient and less awkward way for participants to engage at key points in virtual meetings. With an eye toward empathy, psychology, and adult learning behavior; we are actively working on ways to help teams function better together. This is exciting work!

The unexpected rewards of learning how to augment this collaborative decision-making process with technology and asynchronous communication opportunities include things like:

- Better support for DEI commitments
- Active engagement in interactive work in both small and large groups
- Diminishing "Zoom fatigue" and an overall feeling of mission ennui

Technology makes new methods and tools for productive and enjoyable collaboration possible. If we can get out of our own way of only thinking about the traditional methods for helping people solve problems together and start looking at ways to use the COVID-19 challenges as a way to innovate for even better methods, we'll all be happier for it.

Through our consultancy's experience, we see a way to support our work in structure, process, and culture in a diverse, equitable, and inclusive hybrid environment.

*At Tecker International, we always share our knowledge. You can also learn more about the platform we work with and lessons we've learned in ["Adventures in Leadership, Learning – There has gotta be a better way"](#). I am happy to share additional details about our methods for successful hybrid meetings and answer any other questions. Please reach out via [info@tecker.com](mailto:info@tecker.com)*