

College of Patent Agents & Trademark Agents

2021 Annual Report

Protecting Public Interest.

Strengthening Competencies.

Building Confidence.

Driving Innovation.

Stimulating Economic Growth.

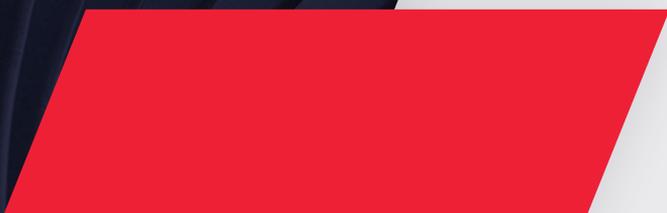


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Celebrating CPATA's Inaugural Year: 2021

In 2018, Canada set out an ambitious innovation agenda as part of a National Innovation Strategy. As the country positions itself to be a world leader in innovation, it is an exciting time for creators and innovators to bring their ideas to market. The same is true for domestic and international stakeholders, who will see Canada as a dynamic place to commercialize products and realize growth.

Patent agents and trademark agents play a vital role in the success of Canada's innovation agenda. As trusted intellectual property (IP) advisors, patent agents and trademark agents help develop strategy, file IP applications, and protect IP in Canada and abroad. By assisting creators and innovators as they secure exclusive IP rights, patent agents and trademark agents are a key component of Canada's innovation ecosystem.

To that end, the College of Patent Agents and Trademark Agents (CPATA) was created to be Canada's independent public interest regulator. Launched in late June 2021, CPATA is proud of its accomplishments:

- Built a transparent, comprehensive regulatory framework and infrastructure for the profession;
- Began setting competence standards for the profession and administering entry requirements that reflect those standards;
- Implemented the **Code of Professional Conduct** established by the Minister of Innovation, Science and Industry;
- Created a fair and open process to respond to concerns about the competence or conduct of agents; and,
- Set requirements for professional liability insurance for licensees.



As CPATA looks ahead to 2022, we will continue to bring a standard of excellence to the training and testing of Canada's patent agents and trademark agents. Our work will help build confidence in intellectual property professionals and the services they provide. We will play our part in building a culture of innovation and catalyzing Canada's economic strength.

CPATA Timeline

- **Fall 2018:** The Government of Canada enacted the *College of Patent Agents and Trademark Agents Act* (the *CPATA Act*) as part of the National Innovation Strategy.
- **August 2019:** An interim Board was appointed to help the organization come into force.
- **Spring 2020:** The Board appointed an interim CEO and Registrar.
- **January 2021:** To fund its start-up operations, CPATA obtained financing supported by a government guarantee.
- **June 28, 2021:** The *CPATA Act* came into force; responsibility for licensure was officially transferred to CPATA.
- **November/December 2021:** Patent Agent and Trademark Agent Qualifying Examinations were administered by CPATA.
- **March 31, 2022:** CPATA's first Annual Report was released.

Canada's Public Interest Regulator

As an independent regulator, CPATA **protects the public interest** by **strengthening the competencies** of patent agents and trademark agents, and **building confidence** in accessible, ethical and expert intellectual property services in Canada.

Our commitment to supporting the rigour and sophistication of the profession plays an important part in **driving innovation** and **stimulating Canada's economic growth**.



Our Vision

Public access to a globally-respected body of patent agents and trademark agents who are highly skilled, ethical, and current in their knowledge.

Our Role

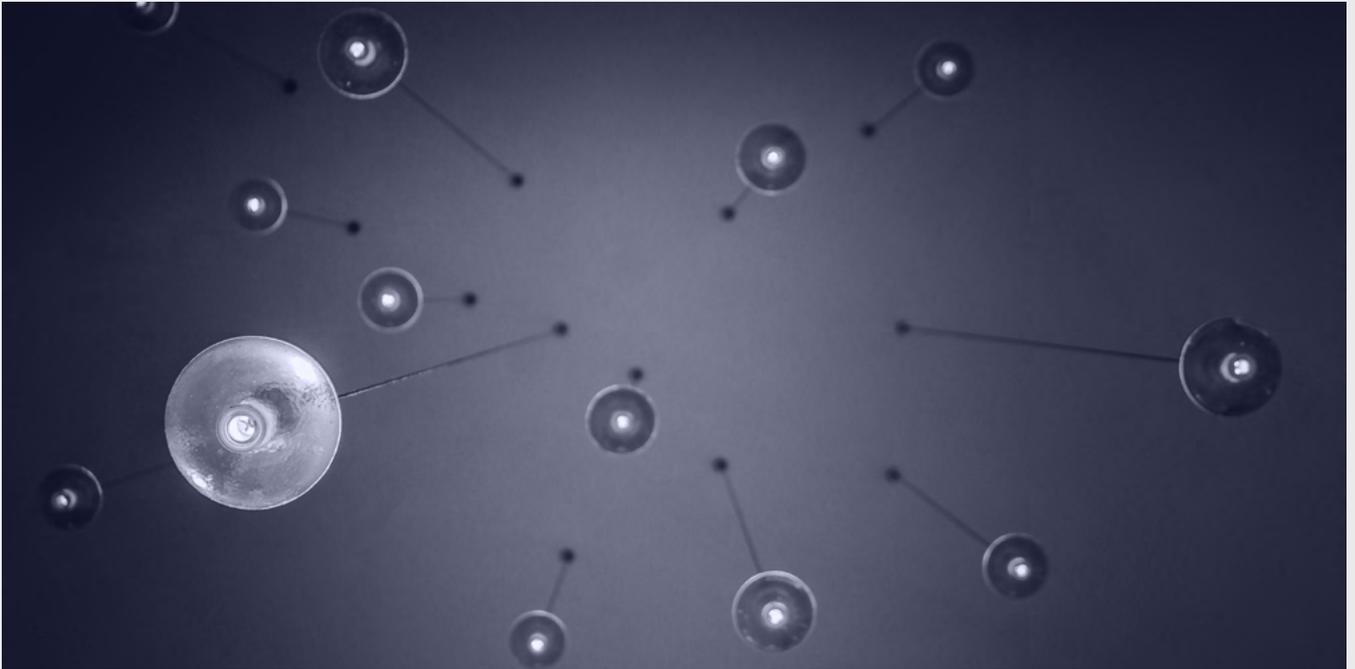
In accordance with the **CPATA Act, Regulations, By-laws** and Regulatory Objectives, the College is responsible for protecting the public interest by:

- Setting competence standards for the profession and administering entry requirements that address those standards;
- Implementing the **Code of Professional Conduct** established by the Minister of Innovation, Science and Industry;
- Administering a fair and open process to respond to concerns about the competence or conduct of agents;
- Establishing expectations for liability insurance, continuing professional development, and pro bono requirements; and,
- Promoting innovation in the delivery of patent and trademark services.

PROTECTING PUBLIC INTEREST

CPATA promotes and safeguards the public interest.

- So creators and innovators can commercialize their ideas.
- So agents can make their IP services available.
- So investors can get behind the next big idea.
- So government can drive Canada's economic future.
- So stakeholders are invested in Canada's growth and innovation potential.
- So all Canadians can benefit from Canada becoming an innovation disruptor on the world stage.



Right-Touch Regulation

To further our commitment to Right-Touch Regulation—regulation that is targeted, proportionate, transparent, consistent, and agile—CPATA adopted Regulatory Objectives, Standards and Principles to enshrine how it will act as a modern regulator.

Our Regulatory Objectives

To advance our role as a modern, professional regulator, CPATA has adopted the following Regulatory Objectives:

1. Protect and promote the public interest in patent and trademark services;
2. Protect those who use patent and trademark services;
3. Promote innovation in the delivery of patent and trademark services and the protection of intellectual property rights;
4. Improve access to, and promote competition in the provision of, patent and trademark services;
5. Promote the independence of the patent and trademark profession;
6. Ensure licensees deliver patent and trademark services ethically and competently; and,
7. Promote equity, diversity and inclusion in the patent and trademark profession and in the delivery of patent and trademark services.

Our Key Differentiators

CPATA is built on best practices from around the world, and embodies a number of unique qualities:



Independent

Led by a Board mostly comprising directors who are not licensees, thereby bringing a wide range of skills to the governance table and keeping us connected to our public interest mandate.



Results-oriented

Committed to reviewing programs and evaluating our performance against strategic priorities.



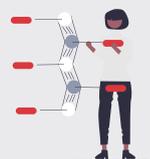
World-class

Driven by a set of published policies designed to promote high-quality regulation.



Professionally-managed

Run by a team with extensive experience in professional services regulation.



Stakeholder-driven

Dedicated to consulting with stakeholders to understand the impact and results of our plans, policies, and regulatory decisions.



National and Virtual

Charged with regulating a pan-Canadian profession, given that patents and trademarks are a federal responsibility. Our primary mode of working is electronic, which allows us to stay connected with our staff and stakeholders from coast to coast to coast.



STRENGTHENING COMPETENCIES

CPATA is committed to setting standards of excellence for professional practice and helping IP practitioners adhere to high ethical standards.





A Team Dedicated to Professional Excellence

Led by CEO and Registrar Darrel Pink, alongside a competency-based Board of Directors, CPATA's leadership team is equipped to make decisions that prioritize the public interest above all else. The start-up Board includes governance, regulatory, and industry experts: one patent agent, one trademark agent, and three non-licensee Directors appointed by the Minister of Innovation, Science and Industry. In May 2022, a permanent Board of nine directors will assume governance of the College.

Board of Directors

The Board is legally responsible for the governance of the organization and leads development, implementation, and monitoring of all policies that allow CPATA to carry out its work.

Thomas G. Conway – Chair

Jeffrey Astle – Director

Karima Bawa – Director

Ruth McHugh – Director

Douglas B. Thompson – Director

Darrel Pink – CEO and Registrar

See more about the Board at: www.cpata-cabamc.ca/board

CPATA Committees

CPATA has established five committees to guide its regulation and assist with governance, and developed comprehensive skills and attributes matrices to inform the composition of these committees. We partnered with a recruitment firm and—guided by the skills matrices—conducted extensive outreach throughout the regulatory community to invite passionate professionals to join the College’s committees:

- 1. Registration Committee:** Composed of representatives from the Patent Office, Office of the Registrar of Trademarks, licensees, and members of the public, this committee assists the Registrar in administering the College’s licensing requirements, including conducting registration hearings.
- 2. Investigations Committee:** To support competent and ethical patent and trademark services across Canada, this committee investigates and resolves complaints, and educates licensees where appropriate, including in instances of reported misconduct.
- 3. Discipline Committee:** Members serving on the Discipline Committee support the College’s public protection mandate by hearing complaints referred by the Investigations Committee, and ruling on complaints of professional misconduct and/or incompetence.
- 4. Governance & Nominating Committee¹:** This committee assists the Board in fulfilling its governance responsibilities, including promoting an orderly and effective succession of directors and committee members. It also oversees Board, committee, and CEO evaluations.
- 5. Risk & Audit Committee²:** To assist the Board in fulfilling its fiduciary obligations and responsibilities to both the public and its licensees, this committee supports matters of financial planning, auditing, financial reporting, systems of corporate control, and risk management.



¹ To be appointed in May 2022

² To be appointed in May 2022

BUILDING CONFIDENCE

CPATA strengthens professional competencies, giving stakeholders and beneficiaries of Canada's patent and trademark system confidence in intellectual property professionals and the services they provide.

A Profession at the Epicentre of Innovation in Canada

Canada's patent agents and trademark agents work in partnership with creators and innovators to prepare and present patent and trademark registrations. They advise clients on intellectual property strategy and are at the heart of Canada's innovation ecosystem.

Based on available registration information, and in accordance with the *Privacy Act*, we are able to provide the following snapshot of the profession:

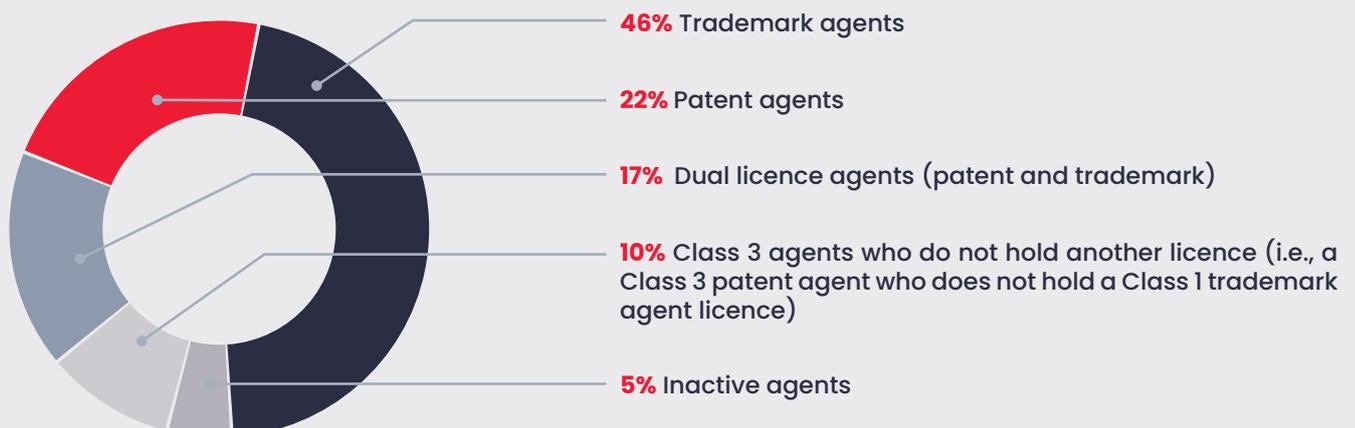
Classes of Licences

There are three classes of licences:

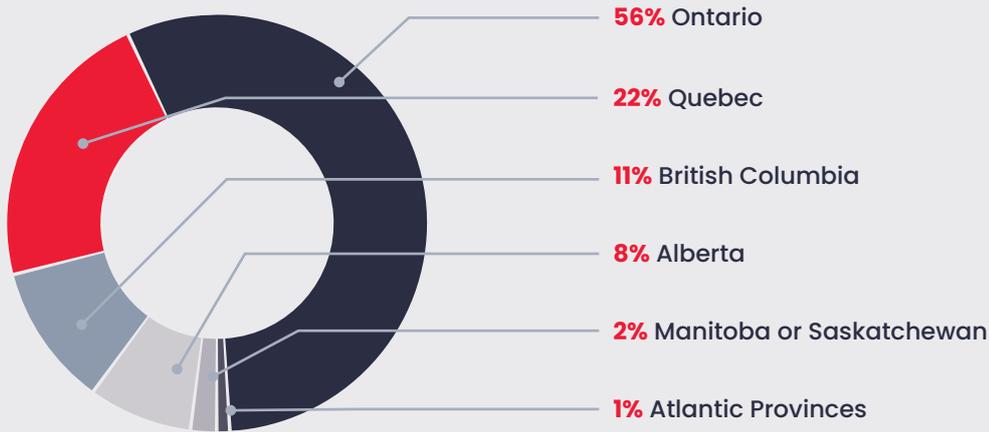
- 1. Class 1 Licence** – Active Agent
- 2. Class 2 Licence** – Inactive Agent
- 3. Class 3 Licence** – Agent in Training



Licensee Profile



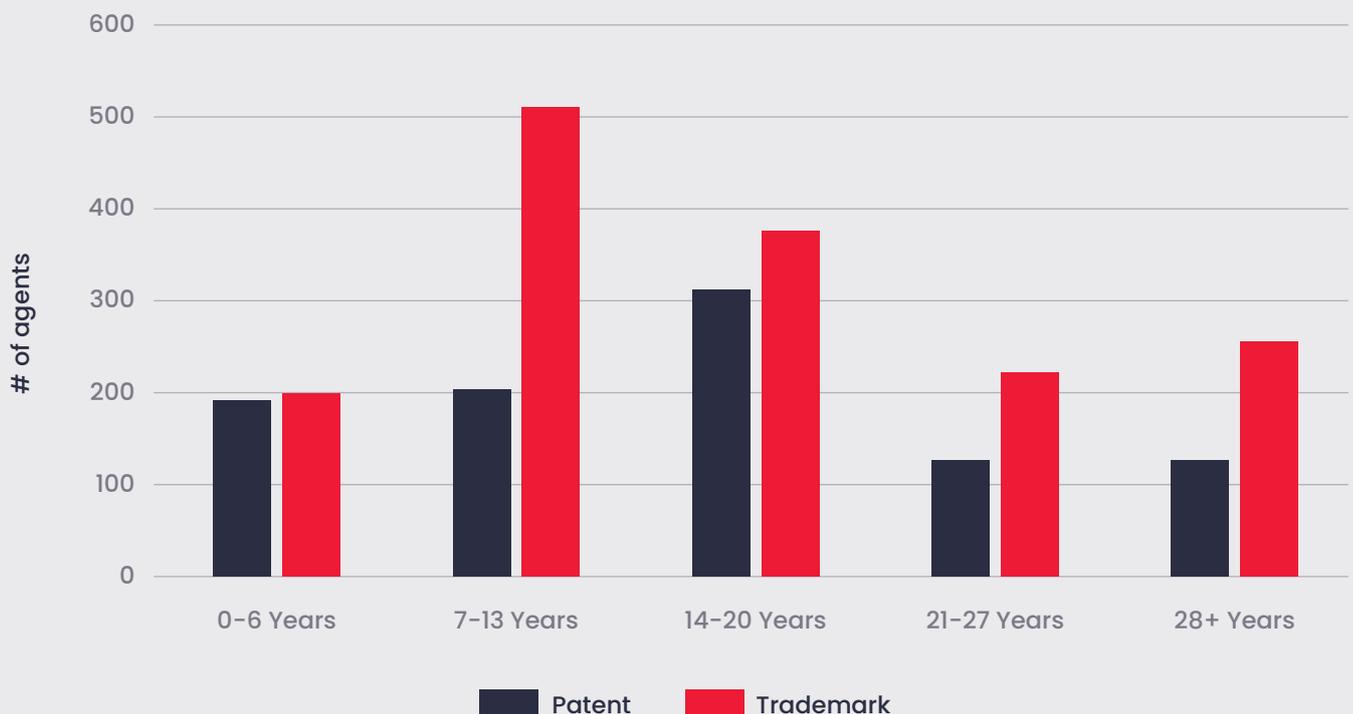
Agents' Province of Work



Years of Practice for Class 1 and Class 2 Agents

- The average years of practice (based on the initial licence registration date) for both patent and trademark licences is 16 years.
- The patent agent profession is more evenly spread out in terms of years of practice, whereas there are comparatively few new trademark agents.
- CPATA has prioritized the recruitment of the next generation of IP professionals, beginning in 2022.

Years of Practice





A Groundbreaking Year of Accomplishments: 2021

Following are the Board's 2021 objectives and a summary of key successes:

Objective #1: Getting Off the Ground

Starting a new organization can be difficult at the best of times. The realities of 2020–2021 made the launch of CPATA even more difficult. Despite numerous challenges—including a global pandemic—CPATA successfully became Canada's national regulator for patent agents and trademark agents.

- Established and adopted Regulatory Objectives, Standards and Principles.
- Designed and implemented fully-functioning Registration and Professional Responsibility processes.
- Secured a \$1 million operating loan with the support of a guarantee from the Government of Canada. Of significance, the operating loan balance of \$894,000 was paid down to \$0 by the end of 2021.
- Received data from the Canadian Intellectual Property Office (CIPO) and embarked on a quality assurance process to address data gaps, including missing or obsolete contact details.
- Migrated to a cloud-based regulation management system. The functionality of the platform now includes the ability to pay renewal fees online, search agents in the online Register, and perform basic administrative functions.
- Recruited and secured a lean, agile, and best-in-class team of employees and consultants to drive the success of the College.
- Published **regulatory policies** and procedures and **Board policies** on a bilingual website, together with online forms and guides for public and professional use of the site.

Instituting an effective, fair, and efficient Professional Responsibility Process

CPATA envisioned and established a fully-functional Professional Responsibility process that is transparent, fair, proactive, principled, and proportionate. This risk-focused system incorporates restorative justice principles and aims to promote a culture of professionalism among licensees.

Central to the process is a deep concern for the well-being of creators and innovators, and the quality of the IP services they rely on from patent agents and trademark agents. This concern is reflected in a professional responsibility approach that is empathetic, supportive, educational, and focused on reducing harm and resolving concerns without a protracted formal complaint process.

CPATA's Professional Responsibility process has four components:

- **Ethics inquiries:** As a starting point, we have built a system to guide licensees in interpreting the Code of Professional Conduct so they do not make uncertain or uninformed judgment calls that could negatively affect their clients' best interests. CPATA has subject matter experts available to discuss specific scenarios and/or circumstances for licensees. We will also publish de-identified summaries of ethical advice from subject experts so we can proactively educate other licensees.
- **Agent conduct inquiries and early resolution:** Next, the most efficient way to address questions from the public or others about a licensee's conduct is to find out whether questions can be answered or concerns resolved through an informal inquiry process, rather than requiring filing of formal complaints. For those who opted for early resolution in 2021, CPATA successfully resolved or referred all inquiries; none has led to the filing of a formal complaint.
- **Complaints:** Individuals who want to file a complaint, or who are not satisfied with the outcome of the early resolution process, can complete an online complaint form. These complaints are referred to the Investigations Committee. If the Committee determines there is evidence of professional misconduct or incompetence by an agent, it will refer the matter to the Discipline Committee.
- **Discipline:** Disciplinary hearings will be open to the public and are usually conducted virtually; written decisions are publicly available. The Discipline Committee can dismiss some or all of the complaints against the licensee, or they can suspend or place conditions or restrictions on a licensee's practice for a period. They can require a licensee to complete courses or a health assessment. They can also require the licensee to pay a fine or the hearing costs. Finally, they can revoke an agent's licence to practice.

Objective #2: Adhering to World-Class Policies and Federal Legislation

A core principle for CPATA is to operate in accordance with best-in-class policies. We have studied leading regulators around the world and modelled our regulatory practices and operations on the best of what we learned. The Board adopted a series of Board Policies to clarify its approach to key governance issues in relation to these policies.

- Researched, drafted, and implemented policies to support CPATA's role as the independent, risk-focused, public interest regulator of Canadian patent agents and trademark agents under the *CPATA Act*, Regulations, By-laws, and Regulatory Objectives, Standards and Principles.

As one of only a few national regulators, CPATA is subject to federal legislation that provides a statutory framework for privacy, language, and access to information requirements. CPATA has made significant investments—both human and financial—and undertaken exemplary steps to align itself with the objectives of the *Official Languages Act*, *Privacy Act*, and *Freedom of Information Act*.

- Completed a privacy impact analysis as it developed processes to ensure the safeguarding of personal information. The Board adopted a Privacy Policy and implemented privacy procedures. All Board and committee members, consultants, and service providers who access private information have executed privacy agreements.
- Took significant strides towards the delivery of bilingual services to licensees and the public.

Objective #3: Building a Culture of Professionalism

In June 2021, the College took over responsibility for regulating patent agents and trademark agents from CIPO. As a new, risk-based regulator, we believe that a preventative approach yields better regulatory results than reactive regulation. We are proactively fostering a culture of professionalism among patent agents and trademark agents. By strengthening the competencies of the profession, we help promote and protect the public interest.

Given that close to 70% of agents had never before been regulated, CPATA quickly introduced ethical and regulatory objectives, standards, principles, and processes.

- Renewed 2,261 licences and suspended 6% of licensees (or 125 agents) for non-payment of the fees required for CPATA to operate as a regulator. Of those suspended, 82% were trademark agents. CPATA has actively reached out to all suspended agents regarding their status. 20% have since been reinstated.
- Mandated that Class 1 and Class 3 licensees who provide services to the public hold professional liability insurance, protecting both the agent and client in situations where agent errors result in financial loss for Canadian creators and innovators. Agents must report on the status of their insurance during the 2022 annual renewal process and secure adequate insurance by the end of 2022.
- Established an ethics process to proactively address licensee questions regarding the Code of Professional Conduct.

Objective #4: Establishing a Robust Registration and Education System

CPATA aims to promote competent and ethical delivery of patent and trademark services by maintaining standards for licensee education, training and fitness.

- Manually processed over 400 applications, including 254 applications for a Class 3 licence, 120 applications to change to a Class 2 licence, 17 requests to surrender a licence, and 4 requests for foreign practitioner status.
- Researched, drafted, and implemented 7 Registrar's policies to provide clear guidelines and procedures for applicants and licensees.

Patent and trademark registration and education programs are:



Transparent



Objective



Impartial



Fair

The 2021 Qualifying Examinations were administered virtually for the first time, using a third-party exam platform and live proctoring. To support this transition, CPATA:

- Implemented a variety of measures to ensure candidates were comfortable with the technology, and able to resolve any issues with the platform and their computers before the exam date.
- Hosted first-ever candidate orientation sessions to provide an opportunity for candidates to ask questions prior to the exam dates.
- Began a professional competency assessment to report on legacy examinations and provide a proposed vision for competency profile and entry-to-practice assessment.

66 candidates

126 candidates

In total, **66 candidates** wrote the 2021 *Trademark Agent Qualifying Examination* (5 French and 61 English) and **126 candidates** wrote the 2021 *Patent Agent Qualifying Examination* (2 French and 124 English).

Preliminary exam results for the 2021 administrations were released to candidates in March 2022, with review and recorection happening in April and May.



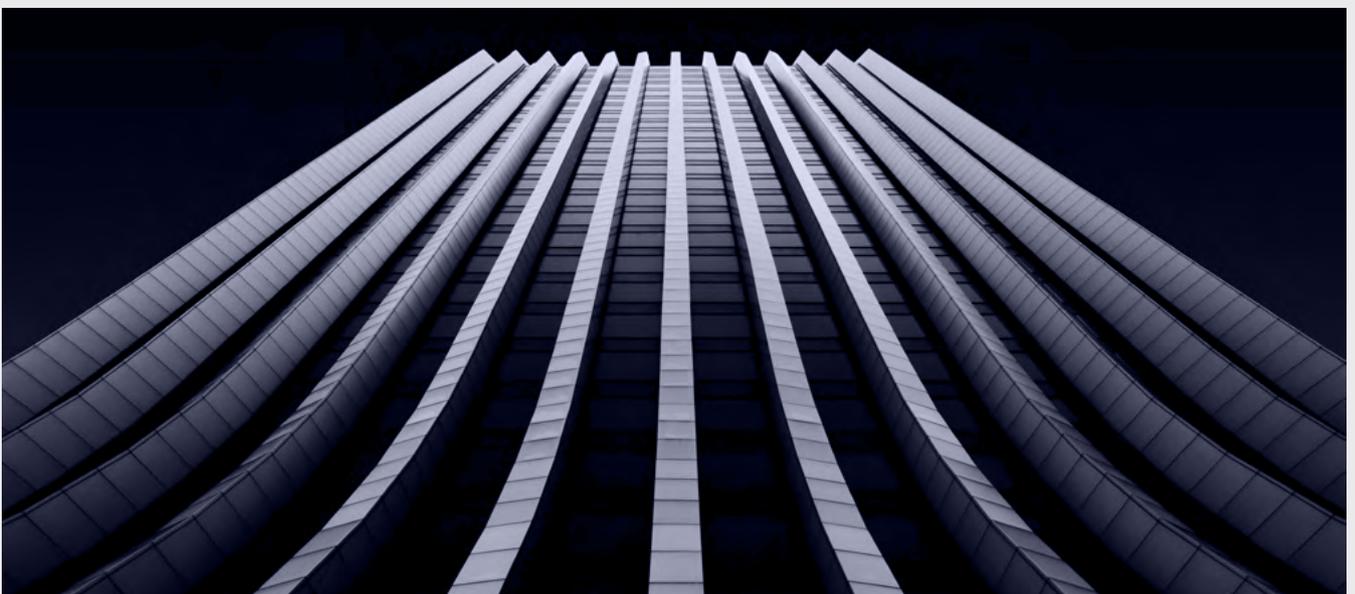
DRIVING INNOVATION

By assisting creators and innovators to secure exclusive intellectual property rights, patent and trademark agents are a key component of Canada's innovation ecosystem.

Ambitious Plans for 2022

Moving forward, CPATA's priorities are: protecting the public interest; enhancing the competencies of patent agents and trademark agents; and, building confidence in accessible, ethical and excellent IP services. To achieve these priorities, the Board has identified the following objectives for 2022 and beyond:

- **Strategic Framework:** Create a strategic framework to guide CPATA's priorities and plans, informed by the interests of creators and innovators, industry priorities, and an understanding of the role IP professionals play in supporting innovation.
- **Competency Initiative:** Seek participants for a multi-year project to develop modern competency standards for agents. With the goal of better protecting the public by establishing standards for ethical and competent practice, this initiative will focus on three areas:
 - **Competency frameworks:** Developing and validating the knowledge and technical competency frameworks for agents;
 - **Qualifying examinations:** Developing and implementing an enhanced qualifying examination system; and,
 - **Education:** Exploring prerequisite education and training, and continuing competence programs.
- **Equity, Diversity and Inclusion:** Develop a policy and practices in collaboration with the profession to encourage equity and diversity in the profession.
- **Code of Professional Conduct:** Continue to foster a culture of ethics and professionalism, including developing educational materials and programming to expand knowledge and awareness of the Code broadly, and a licensee's professional responsibilities specifically.
- **Risk Analysis and Reporting:** Develop enterprise-wide, public interest regulatory risk analysis processes and reporting mechanisms to demonstrate how CPATA operates as a risk-based regulator.



- **Agent Portal and Public Register:** Enhance CPATA’s software capabilities to serve creators and innovators more efficiently and effectively. This includes enhancing already-available digital services to support agents and members of the public.
- **Board Renewal:** Collaborate with Innovation, Science and Economic Development to support a renewed Board appointment process as we look to introduce a permanent Board in May 2022. CPATA welcomes the opportunity to work with the Government of Canada on introducing a joint process to support the appointment of permanent, skills-based Board members who meet the standards required to govern an independent, modern professional regulator.
- **Legislative Updates:** Continue discussions with Innovation, Science and Economic Development regarding amendments to the *CPATA Act* that will help us better function as a high-performing professional regulator, including a provision for the inclusion of Statutory Immunity for the Board and regulatory actors.
- **Recruitment and Training Program:** In collaboration with the Intellectual Property Institute of Canada, explore a process to attract new professionals to the sector. CPATA will initiate outreach with universities, colleges, and other training institutes to better understand opportunities for students to participate in education and training towards patent agent and trademark agent registration. We will create standards for the 24-month training period to promote more consistent learning experiences for Class 3 agents.
- **Policy:** Develop further policies in consultation with the profession related to classification, examination, registration, and training requirements.





Financial Highlights 2021

The financial information presented below is an extract from CPATA's annual financial statements. The full set of audited Financial Statements are available at www.cpata-cabamc.ca/financial-statements

CPATA's Financial Position

	Dec 31, 2021	Dec 31, 2020	Jan 1, 2020
Assets	\$ 499,881	\$ 44,813	
Liabilities	\$ 254,864	\$ 433,744	\$ 17,850
Net assets	\$ 245,017	\$ (388,931)	\$ (17,850)
Liabilities and net assets	\$ 499,881	\$ 44,813	

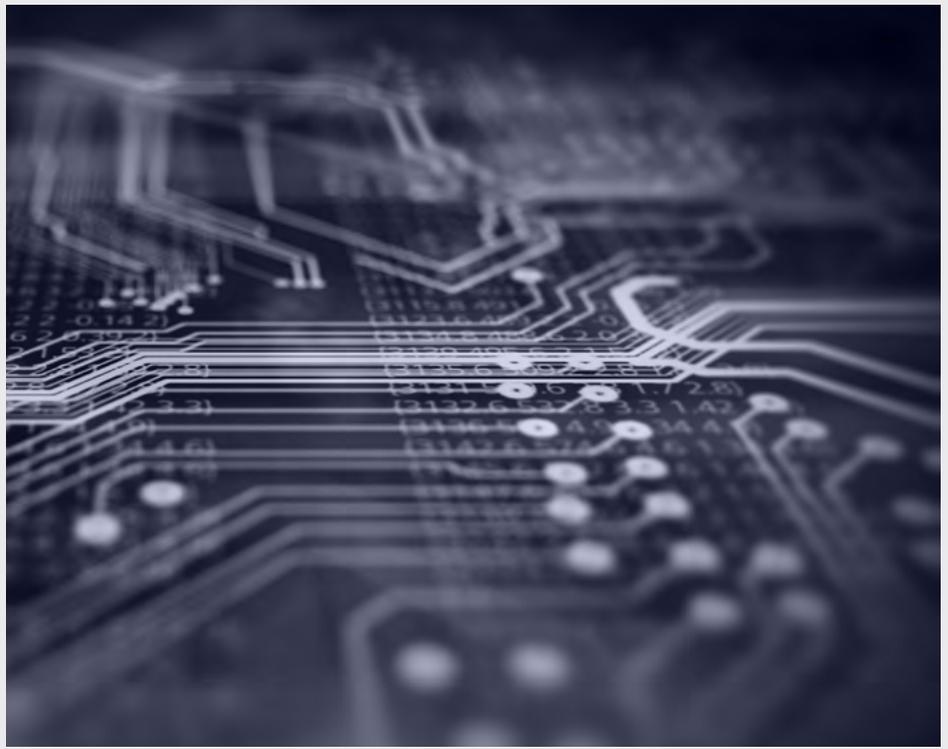
CPATA's Operations

	2021	2020
Revenues	\$ 2,061,742	
Expenditures	\$ 1,427,794	\$ 371,081
Surplus (deficit) of revenues over expenditures	\$ 633,948	\$ (371,081)

Financial Highlights

- The \$634,000 net surplus allowed CPATA to cover start-up expenses incurred before 2021, as well as establish a \$245,000 Net Asset reserve balance to help fund CPATA's future operations.
- Although CPATA began working to establish the College in late 2019, funds to support operations were not available until a bank loan was obtained in early 2021. An operating loan of \$1 million was secured with the support of a guarantee from the Government of Canada. The loan balance of \$894,000 was paid down to \$Nil by the end of 2021.
- The budget for 2021 was based on estimates for the number of expected patent agents and trademark agents. The number of agents was less than estimated; however, prudent management of expenses and programs resulted in a net surplus.
- CPATA had a positive net cash position at the end of 2021 with cash on hand to support the amounts payable to suppliers early in 2022, before the start of the 2022 annual licence renewal process.





Revenue Notes

- Licence Fees for patent agents and trademark agents received after CPATA came into force in late June 2021:
 - 1,880 patent and trademark licences were renewed at an annual fee of \$700.
 - 393 licensees held both patent and trademark licences. Their second licence was renewed at a reduced rate of \$350.
- Fees transferred from CIPO, pro-rated for the months it was responsible for agents in 2021.
- Exam Registration Fees related to the patent and trademark qualification exam:
 - 126 patent candidates wrote a total of 393 papers; 66 trademark exam candidates wrote both parts of the exam.
- Application Fees for various requests, including reinstatements, class changes, and requests to surrender a licence.

Expense items

- Board and Committee Expenses related to meetings and other Board and/or committee functions.
- Technology Expenses for development of an online licensee system.
- Legal Expenses for professional legal services, including a privacy impact analysis, by-law drafting, complaints and discipline process and investigations, responses to complaints, and general advice.
- Professional and Consulting Expenses incurred for: recruitment of employees and committees; outsourced financial and information technology services; communications and planning; and, advice regarding registration and competency initiatives.
- Translation Expenses related to the adaptation of all documentation in both official languages.

STIMULATING ECONOMIC GROWTH

CPATA plays an important role in fuelling Canada's economic future through its commitment to supporting the rigour and sophistication of the IP profession.

College of Patent Agents & Trademark Agents

2021 Annual Report

cpata-cabamc.ca

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COLLEGE OF PATENT
AGENTS & TRADEMARK AGENTS

COLLÈGE DES AGENTS DE BREVETS ET
DES AGENTS DE MARQUES DE COMMERCE