

Registration Hearings

APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS and/or PURPOSE	College Regulations 3 College By-laws 41(b), 66, 67		
RESPONSIBILITY	Registrar		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Registrar Registration Committee	February 8, 2022	June 2023	June 13, 2023

In this policy:

- a. "College" and "CPATA" means the College of Patent Agents and Trademark Agents.
- b. "Applicant" means a class 3 applicant or licensee who has applied for a review of a ruling made by the Registrar under College by-laws;
- c. "Agent" and "Licensee" means an individual registered with the College as a Patent Agent or Trademark Agent, or agent in training.
- d. "Committee", means the "Registration Committee".
- e. "Panel" means a subcommittee of members from the Registration Committee who will consider a request to review a decision of the Registrar under section 67 of the By-Laws.
- f. "Days" mean a business day.

Policy

CPATA's registration framework is designed to be transparent, fair, principled and proportionate¹, and the Registrar's policies are developed to promote the objects of the licensing process².

To establish and maintain high standards for the profession, patent and trademark agents are, among other things, required to be competent, of good character and fit to practice. Under CPATA's By-laws,

¹ *Transparent* reflects how we do our work, make decisions, and address license applications in the public interest

Fair means obtaining and considering information in an objective, unbiased way, and making decisions that are clear, concise and consistent. *Principled and proportionate* mean applying the right 'regulatory touch' when balancing interests

² The objects of the licensing process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles.

the Registrar has authority to make determinations whether applicants for patent agent or trademark agent licenses meet the registration requirements established under the Act, Regulations and By-laws.

By-law 67(1) requires that the Registration Committee established under Regulation 3 of the Act and By-laws 40(a) and 41 (the Committee) review decisions of the Registrar on the request of the affected applicant.

The Registrar's Policy on Review of a Registrar's Decision sets out the policy and process for such reviews. The Review Process is conducted by the Registration Committee, or a Panel of the Committee, pursuant to the authority set out in By-laws 66 and 67.

Panel:

The Panel appointed to review the Registrar's decision will be the same Panel that conducts the hearing. If the composition of the panel changes, the Applicant will be made aware of the new panel members.

If the Panel cannot, without a hearing, make a determination, it will move to conduct a written hearing. The procedures for conducting such hearings are set out below.

The Panel:

- Considers all materials the Registrar had at their disposal when making their decision, any further information the Committee may have requested at an earlier stage from the Registrar pursuant to section 67(2) of the By-laws, and the written submissions of the Applicant and/or the Registrar, if such submissions are made, as set out below in this policy;
- May meet in any manner, including teleconference, video conference, via email or in-person;
- May consult with external subject matter experts, as it sees fit, at any stage of the review;
- May consult external legal counsel at any stage of the hearing; and
- Unless otherwise decided, will conduct a hearing based solely on written materials.

Decisions of the Panel under this policy are made in the public interest, in a manner consistent with the Regulatory Objectives and Decision-Making Principles of the College, and the Committee's Terms of Reference.

Written Hearings:

Unless otherwise determined in the public interest by the Panel, a hearing under By-law 67 will be conducted through written submissions.

The parties before the Panel are the Applicant and the Registrar, both of whom may be, at their own expense, represented by legal counsel.

Submissions:

The parties before the Panel may provide written submissions to the Deputy Registrar to support their positions. The Deputy Registrar will provide copies of all submissions to each party, and to the Panel.

New Information:

The Panel will not consider new information (or “fresh evidence”) during a written hearing. However, the Panel determines its own procedures and may modify the procedures in order to promote a fair hearing.

The following information may be included in written submissions:

- A brief description of the matter and a clear statement of what decision the party is asking the Panel to make;
- Relevant facts, preferably in chronological order;
- Reference to relevant evidence previously provided to, or considered by, the Registrar; and
- Explanation of how that relevant evidence supports the position of the party.

Options for the Panel:

Pursuant to By-law 67(2)(b), at the conclusion of the hearing, the Panel may affirm or vary the Registrar’s decision or dismiss the request.

Pursuant to Section 67(3), the Panel must provide reasons to the applicant or licensee in writing, once a decision has been rendered.

Review of Decisions by the Panel:

Section 67(4) of the By-laws states that if the Panel varies the Registrar’s decision, the Registrar must give effect to the varied decision without delay and notify the applicant or licensee and, if applicable, their supervisor.

Section 67(5) of the By-laws states that decision is final and not reviewable by the Board, and this applies to decisions of panels of the Committee.

Publication of Decisions:

Registration hearings are not public. The Panel may publish anonymized decisions.

Procedures

1. If a Panel moves to conduct a written hearing, the Applicant and the Registrar will be advised in writing within fifteen (15) days of the date the Panel's decision and will include a Notice of Hearing that:
 - a. References the statutory authority under which the hearing is to be held;
 - b. States the purpose of the hearing;
 - c. Confirms the hearing will be conducted in writing;
 - d. States the deadlines for each party to file submissions;
 - e. Sets out the composition of the Panel;
 - f. Confirms that all parties are entitled to receive every document that the Panel receives in the proceeding; and
 - g. Provides any other information or directions the Panel considers necessary for the proper conduct of the hearing.
2. The Applicant will have no more than thirty (30) days from the date they are provided with the Notice of Hearing to provide a written submission or to advise they have chosen to waive their right to make submissions.
3. Upon receipt of the Applicant's submission and/or notice that the Applicant has chosen to waive their right to make submissions, the Registrar will have thirty (30) days to provide a written submission to the Deputy Registrar, who will provide a copy to the Applicant.
4. The Applicant will have fifteen (15) days to provide a submission in reply.
5. If either party requires an extension of time to file their submissions, they must apply to the Chair. The Chair may extend the filing deadlines.
6. Either party may waive their right to make submissions by notifying the Deputy Registrar in writing, who will notify the other party.
7. Once the deadlines have expired for making submissions, the Deputy Registrar will schedule a meeting of the Panel, within a reasonable time, to consider the submissions and notify the parties of the date and time of the meeting.
8. If there are any changes to the composition of the Panel, the Deputy Registrar will advise the Applicant to confirm there are no conflicts or objections.
9. The Panel will consider the submissions of both parties, make a decision and provide reasons.
10. The Chair will provide a copy of the Panel's decision with reasons to the Applicant, the Registrar and the Deputy Registrar.

References

[CPATA Regulations](#)

[CPATA College By-laws](#)

[CPATA Act](#)

[CPATA Regulatory Objectives, Standards and Principles](#)

[Registrar's Policy on Requesting a Review of a Registrar's Decision](#)