

Review of a Registrar’s Decision

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	October 26, 2021	January 2022 June 2023	February 8, 2022 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 to review 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” means 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, the Registrar has authority to make determinations whether applicants for patent agent or trademark agent licensees meet the registration requirements established under the Act, Regulations and By-laws.

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

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

The Committee:

- Considers all materials that the Registrar had at their disposal when making their decision, any further information the Committee may have requested 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 review; and
- Unless otherwise decided, will consider a review based solely on written materials.

All decisions of the Committee under this policy are to be 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.

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.

Registration Committee Panel:

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

Once a request for review has been made and the Panel appointed, the Panel can proceed even if a panel member is no longer able to continue for any reason, so long as at least five (5) panel members remain, and the Panel consists of one patent or trademark agent and a majority who are not licensees.

In the event that the Panel Chair is unable to continue for any reason, the Committee Chair may appoint another Panel Chair so long as the Panel consists of one patent or trademark agent and a majority who are not licensees.

Options for the Panel:

The Panel will review the matter and take one of the following actions, pursuant to By-law 67:

- a) Affirm or vary the Registrar's decision or dismiss the request; or
- b) Hold a hearing on the merits of the request and, at the conclusion of the hearing, 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 for each action it takes as listed above.

Request for Further Information:

The Panel may request that the Registrar obtain additional information from the applicant or licensee and provide it to the Panel, at any time during the Panel's consideration of the request, including during any hearing of the request.

Standard of Review:

The Panel is to determine whether the decision of the Registrar is reasonable. This is not an assessment of whether the Registrar's decision was correct but is an assessment of whether the decision reflects a consideration of the relevant information and demonstrates that the Registrar reached a decision in a manner consistent with the Act, Regulations, By-laws, and the College's Regulatory Objectives and Decision-Making Principles.

New Information:

In their request for review, the Applicant is not permitted to provide new information to the Panel considering this review.

Any new information must be requested by the Panel under section 67(2) and must be provided to the Registrar within fourteen (14) days.

Registration Hearings:

The Registration Hearings Policy sets out the policy and procedures for conducting such hearings.

Decisions without a Hearing:

If the Panel has enough information to decide on the matter without conducting a hearing, they may do so pursuant to section 67(1)(a).

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.

Procedures

1. An Applicant must electronically submit a Request for Review to the Registrar outlining the details of their request within thirty (30) days of the date of the Registrar's decision. The Request of Review should contain the basis and reasons for the review request.
2. Upon receipt of the Request for Review, the Deputy Registrar will:
 - a) acknowledge receipt of the request;
 - b) determine if the request was made within the 30-day time frame; and
 - i. If the Request was timely,
 - a. forward it to the Chair of the Committee; and
 - b. within 30 days of receiving the request, provide the Panel and the applicant with:
 1. A copy of the Registrar's written decision;
 2. A copy of all records related to the application in possession of the College, subject to any lawful restrictions; and
 3. Other written information as the Registrar deems necessary;
 - ii. If the Request was not submitted within the 30-day timeframe, the Deputy Registrar will notify the applicant they are out of time.
3. The Chair will appoint the Panel to conduct the review, as described above.
4. The Deputy Registrar will send the applicant information regarding the Panel composition to review to confirm there are no conflicts or objections to the composition of the Panel.
5. The Deputy Registrar will schedule a meeting of the Panel within a reasonable time.

6. The Deputy Registrar will provide all materials to the Panel at least seven (7) days before the date of its meeting.
7. The Panel
 - a. will review all material and submissions provided to it; and
 - b. by majority ruling, will do one or more of the following:
 - i. Request the Registrar obtain more information. If the Panel determines that additional information is required before it can proceed, the Chair will instruct the Deputy Registrar to request the additional information, which will be done within seven (7) days. The additional information must be provided to the Deputy Registrar within fourteen (14) days of the request. The Deputy Registrar will provide the additional information to the Panel and the Registrar as soon as it is received. The Deputy Registrar will schedule a subsequent meeting of the Panel within a reasonable time to review the additional information;
 - ii. affirm or vary the Registrar's decision;
 - iii. Dismiss the request; or
 - iv. Hold a written hearing according to the Registrar's Policy on Registration Hearings and at the conclusion of the hearing, affirm, vary or dismiss the request.
8. If the Panel affirms, varies or dismisses the decision, they will issue a written decision, with reasons, to the Deputy Registrar, who will provide it to the applicant and to the Registrar electronically within thirty (30) days.
9. If the Panel decides to hold a hearing, the applicant and the Registrar will be advised in writing within seven (7) days of the date of the Panel's decision to conduct a hearing. The Registrar's Policy on Registration Hearings provides additional information.

References

[CPATA Regulations](#)

[CPATA College By-laws](#)

[CPATA Act](#)

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

[Registrar's Policy on Registration Hearings](#)