

Privacy Act

Annual Report 2021-2022

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Introduction

Through this inaugural Annual Report on the *Privacy Act*, the new [College of Patent Agents and Trademark Agents \(CPATA\)](#) presents to Parliament a summary of its activities in accordance with section 72 of the *Privacy Act*.

The protection of confidentiality for licensees and members of the public who engage with CPATA is vital to the College's operations and credibility. Like other professional regulators, CPATA preserves the privacy rights of registrants as a tenet and hallmark of quality oversight of the patent and trademark profession. In this way, the regulatory standards, objectives and principles of CPATA align perfectly with the purpose of the *Privacy Act*, which "is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and to provide individuals with a right of access to that information". Unless information is required to be made public, such as the requirements to keep a Public Register of agents, agents in training and foreign practitioners (ss. 28 and 31), it is treated as confidential, not be disclosed and to be used only to advance CPATA's work as a public interest regulator.

Requirements for preservation of confidential information are embedded in the [College of Patent Agents and Trademark Agents Act \(CPATA Act\)](#) in ss.52, 65 and 66.

CPATA is one of only a few independent regulatory bodies subject to federal legislation such as the *Privacy Act*. Upon its coming-into-force in June 2021, the College received no resources or training from the federal government regarding its obligations under this Act. During the first 12 months of its existence, CPATA has prioritized developing an understanding of its obligations and taking steps to build the foundation for compliance with all federal legislation to which it is subject.

Institutional Mandate

The Government of Canada enacted the *CPATA Act* in 2018, as part of its National Innovation Strategy to position the country as a world leader in innovation. In 2019, an interim Board of Directors was appointed by the Government, with the purpose of building Canada's independent public interest regulator of patent agents and trademark agents. CPATA's first CEO was appointed by the Board in spring of 2020, and the College officially came into force on June 28, 2021.

CPATA is the regulator of patent agents and trademark agents in Canada. Anyone who wants to hold themselves out as a patent agent or trademark agent, or to act on behalf of clients in dealing with the [Canadian Intellectual Property Office](#) (where patents and trademarks are registered), they must be a licensee of CPATA. It is unique as a national regulator; there are no provincial regulators of patent agents and trademark agents¹.

CPATA operates in the public interest². All CPATA activities are required to promote and protect the public interest in the delivery of patent and trademark services in Canada. To support this statutory purpose, CPATA has adopted Regulatory Objectives, Standards and Principles³ that prescribe the way CPATA operates to achieve its public interest protection role.

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.

CPATA also plans to work with the profession to encourage equity, diversity and inclusion in the profession, to make the services of agents more widely available to stimulate innovation in the Canadian economy, and to support innovation in the way patent and trademark agents do their work and more broadly the way intellectual property rights are protected in Canada.

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

² *CPATA Act* s.6 The purpose of the College is to regulate patent agents and trademark agents in the public interest, in order to enhance the public's ability to secure the rights provided for under the *Patent Act* and the *Trademarks Act*.

³ [Board Policy 2 - Regulatory Objectives, Standards and Principles - CPATA \(cpata-cabamc.ca\)](#)

Organizational Structure

CPATA is a small organization that is still in development. CPATA has a Board of Directors, six committees, and a small team of less than ten employees led by a CEO/Registrar.

The Board has nine members, five of which are appointed by the Federal Minister and four of which are elected by the profession. The Board is responsible for ensuring that CPATA performs the role described in the *CPATA Act*. It does so by instructing the CEO/Registrar, and then monitoring what CPATA is doing and, more importantly, accomplishing.

Most of CPATA's daily operational work is done by the CEO/Registrar and six staff, who handle interactions with licensees, trainees, and members of the public.

All the Privacy work is conducted by one Privacy and Access Officer, with some support from the rest of the CPATA staff.

Delegation Authority

Delegation by Head of Corporation

The Delegation Order dated October 7, 2021 (the "2021 Delegation Order") designates the Access to Information and Privacy Officer to exercise certain powers and perform certain duties and functions of the CEO under the Act and is attached hereto and forms part of this annual report (see Annex A).

Performance 2021-2022

No privacy or privacy-related requests were received during the reporting period.

Operating Costs

The cost of delivering CPATA's Privacy program and services for 2020–2021 was \$145,690 based on salary costs and professional services contracts.

Salary costs for 2020–2021 totalled \$17,500, equating to 0.15 full-time employees, when averaged over the year.

Professional Services contracts for the year totalled \$128,190.

Policies, Guidelines, Procedures, and Initiatives

Privacy Management Program

CPATA has developed a Privacy Management Program to manage its privacy obligations. The program defines the privacy policies, procedures, and other controls needed to distribute privacy responsibilities, manage privacy risks, and ensure compliance with applicable legislation. The privacy management program is intended to demonstrate accountability for the management of this information to the organization's stakeholders.

The main components of the Privacy Management Program include:

- Definitions of accountability, roles, and responsibilities for privacy
- Privacy Policies and Procedures to provide clear direction to employees, committee members, Directors, and service providers on acceptable information practices at the College
- Privacy statements and notices
- Completion of privacy impact assessments
- Standard privacy and security provisions to include in agreements with service providers who manage or act on the College's behalf with respect to personal information
- Privacy training materials
- Procedures for meeting annual federal government privacy and access reporting requirements
- Process for monitoring the effectiveness of the privacy management program and revising privacy controls as needed

Privacy Policies

The table below describes the policies, procedures and other resources that were developed during the year as part of CPATA’s Privacy Management Program.

Policy	Policy Description
Privacy Policy	Describes how personal information in CPATA’s custody or under its control is created, collected, retained, used, disclosed and disposed of in a manner that respects and complies with the <i>Privacy Act</i> and its Regulations and aligns with TBS privacy policies and directives. CPATA upholds the privacy rights of individuals whose personal information is controlled by the College, in accordance with these requirements. The policy outlines the roles and responsibilities of the Board of Directors of the College, employees, the CEO of the College, and the Privacy Officer of the College.
Website Privacy Statement	Describes the CPATA’s practices for protecting the privacy of the personal information it collects from visitors to the College’s website and social media pages and describes ways in which CPATA collects, uses, discloses, and manages their personal information.
Agent Privacy Statement	Describes how CPATA collects, uses, discloses, and protects the personal information of patent agents, trademark agents and agents in training, their rights and choices with respect to that personal information, and how the College protects it.
Privacy Notices	CPATA has a Privacy Notice framework to ensure it identifies the purpose and the College’s authority for collecting personal information from individuals, in accordance with the TBS Directive on Privacy Practices.
Privacy Inquiry Procedure	Describes how CPATA responds to inquiries or challenges regarding its information practices, including any alleged contravention of the <i>Privacy Act</i> , Regulations or College Privacy Policies.
Request for Access to or Correction of Personal Information Procedure	Describes the process by which individuals may request access to their personal information in the custody and control of the College, pursuant to the <i>Privacy Act</i> , and the steps to be followed by CPATA when individuals request access to or corrections to their personal information. This procedure was developed in compliance with the TBS Directive on Personal Information Requests and Correction of Personal Information.

Policy	Policy Description
Privacy Breach Management Protocol	Outlines the steps that must be followed by anyone working for or on behalf of CPATA with respect to personal information who discovers a possible breach of privacy related to personal information controlled by the College.
Procedure for Updating privacy policies and procedures	Includes the process for developing, updating and reviewing privacy policies, privacy statements, privacy protocols, and privacy notices.

Training and Awareness

Through its training activities, CPATA continues to work towards its commitment to privacy vigilance. As CPATA is a fully virtual organization, Security and Privacy Training was prioritized to inform employees of any potential security or privacy breach risks while working from home.

This fiscal year, CPATA developed separate privacy training modules for College employees and Board members as part of its privacy management program. This training will be updated and offered to all new staff, directors and committee members.

The objectives of the privacy training are for employees, committee members and Board members to:

- understand their obligations under the College’s privacy policies,
- familiarize themselves with privacy principles and best practices that form the basis for CPATA’s privacy management program, and
- understand how to apply these principles in order to protect individuals’ privacy in carrying out work with CPATA.

All employees, board members, and providers handling personal information as part of carrying out services for CPATA must complete privacy training. The College will periodically review and update the privacy training based on significant changes to privacy legislation, best practices, or risks impacting CPATA.

Summary of Key Issues and Actions Taken on Complaints

No complaints were received or concluded during the reporting period.

Monitoring Compliance

No monitoring was conducted during the reporting period.

Material Privacy Breaches

No material privacy breaches were reported to the Office of the Privacy Commissioner and to Treasury Board of Canada Secretariat (Information and Privacy Policy Division) during the reporting period.

Privacy Impact Assessments

During its first year of operations, CPATA conducted a Privacy Impact Assessment (PIA) on the proposed design and implementation of a cloud-based licensee management solution and the supporting processes of the College.

This initial PIA was completed in July 2021. The PIA documents how the collection, use, disclosure and handling of personal information related to its operations is authorized under the *Privacy Act* and includes options for mitigating privacy risks. The PIA will assist decision-makers within CPATA by enabling privacy considerations and requirements to be incorporated into the processes and systems as they are being designed.

CPATA plans to review and update the PIA in 2022 to incorporate any changes in the collection, use or disclosure of personal information, to ensure that its operations remain compliant with applicable privacy legislation, regulations and policies.

Public Interest Disclosures

No disclosures were made under paragraph 8 (2)(m) of the *Privacy Act* during the reporting period.

Conclusion

Care for confidentiality and privacy are foundational to effective professional regulation. As a modern, risk-based professional regulator, CPATA treats the personal information of its licensees, the public and other stakeholders with great respect.

As one of very few professional regulators subject to the *Privacy Act*, CPATA is committed to compliance, but is navigating uncharted territory. CPATA is not a governmental organization and does not benefit from the accrued expertise and resources of the federal network. CPATA welcomes advice regarding how to effectively meet its obligations under the *Privacy Act*.

In the coming years, the College will continue to dedicate resources and time to building the operational infrastructure necessary to protect the privacy rights of individuals, in accordance with its regulatory objectives, standards and principles, as well as its institutional values of confidentiality and accountability.

Annex A – Delegation of Authority

Privacy Act Delegation Order

I, undersigned, CEO of CPATA, pursuant to section 73(1) of the *Privacy Act*, hereby designate the Access to Information and Privacy Officer, or person occupying that position on an acting basis, to exercise signing authorities or perform any of the CEO's powers, duties or functions as head of institution that are specified in the attached Schedule B. This designation replaces all previous delegation orders.

Original signed by

Darrel Pink

Chief Executive Officer of CPATA

Date: 2021-10-07

Schedule B - Sections of the *Privacy Act and the Access to Information Act and Regulations* to be delegated

Position	Powers, Duties or Functions
Access to Information and Privacy Officer	Full Authority

ANNEX B - Supplemental Statistical Report on the Access to Information Act and Privacy Act

Name of institution: College of Patent Agents and Trademark Agents

Reporting period: 2021-04-01 to 2022-03-31

Section 1: Capacity to Receive Requests under the Access to Information Act and Privacy Act

Enter the number of weeks your institution was able to receive ATIP request through the different channels.

-	Number or Weeks
Able to receive requests by mail	0
Able to receive requests by email	52
Able to receive requests through the digital request service	52

Section 2: Capacity to Process Records under the Access to Information Act and Privacy Act

2.1 Enter the number of weeks your institution was able to process paper records in different classification levels.

-	No Capacity	Partial Capacity	Full Capacity	Total
Unclassified Paper Records	52	0	0	52
Protected B Paper Records	52	0	0	52
Secret and Top Secret Paper Records	52	0	0	52

2.2 Enter the number of weeks your institution was able to process electronic records in different classification levels.

-	No Capacity	Partial Capacity	Full Capacity	Total
Unclassified Electronic Records	0	0	52	52
Protected B Electronic Records	0	0	52	52
Secret and Top Secret Electronic Records	52	0	0	52

ANNEX C – Statistical Report on the Privacy Act

Name of institution: College of Patent Agents and Trademark Agents

Reporting period: 2021-04-01 to 2022-03-31

No data was reported except for the following sections:

Section 9: Privacy Impact Assessments (PIA) and Personal Information Banks (PIB)

9.1 Privacy Impact Assessments

Number of PIA(s) completed	1
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Section 11: Resources related to the *Privacy Act*

11.1 Costs

Expenditures		Amount
Salaries		\$17,500
Overtime		\$0
Goods and Services		\$128,190
• Professional services contracts	\$128,190	
• Other	\$0	
Total		\$145,690

11.2 Human Resources

Resources	Person Years Dedicated to Privacy Activities
Full-time employees	0.15
Part-time and casual employees	0.000
Regional staff	0.000
Consultants and agency personnel	2.000
Students	0.000
Total	2.15