

Dismissing a Request for 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	September 1, 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 5 of the By-Law.
- 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 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 College of Patent Agents and Trademark Agents Act (the Act) and By-laws 40(a) and 41 (the Committee) review decisions of the Registrar on the request of the affected applicant.

This policy sets out the process to consider dismissing a request for review. 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 Panel:

- Considers all materials that the Registrar had at its disposal when making its decision, any further information the Registration 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
- 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.

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.

Reasons for Dismissal:

The Committee, or a Panel of the Committee, may dismiss a request for review of a Registrar's decision if, including for example:

- a. the request is frivolous, vexatious or is commenced in bad faith;
- b. the request relates to matters that are outside the jurisdiction of the Committee; or
- c. some aspect of the statutory requirements for bringing the request has not been met; or
- d. if it is in the public interest to do so.

The Committee may dismiss a request at any stage of the review and hearing process, if applicable.

Notice of Intent to Dismiss

Before dismissing a request, the Panel shall give notice of its intention to dismiss the request.

The notice of intention to dismiss a request shall set out the reasons for the proposed dismissal and inform the parties of their right to make written submissions to the Panel with respect to the dismissal.

The Panel shall not dismiss the request until it has given notice and considered any submissions made within the time allowed.

Submissions for Dismissal:

The Panel will not consider new information (or "fresh evidence") while considering dismissing a request, unless the applicant can demonstrate that such information was not available to them at the time of their initial request.

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 the decision is final and not reviewable by the Board, and this applies to decisions of panels of the Committee.

Procedures

1. If upon consideration of a request for review against the reasons for dismissal noted above, the Panel intends to dismiss a request, the Applicant and Registrar will be advised in writing within thirty (30) days of the date of the Panel's meeting, and will include a Notice of Intention to Dismiss that:
 - a. Sets out the reasons for the proposed dismissal; and
 - b. States the deadlines for the parties to make written submissions.
2. The Applicant will have no more than fifteen (15) days from the date they are provided with the Notice of Intention to Dismiss 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 fifteen (15) days to provide a written submission to the Deputy Registrar, who will provide a copy to the Applicant.
4. 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.
5. Either party may waive their right to make submissions by notifying the Deputy Registrar in writing, who will notify the other party.
6. 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.
7. 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.
8. The Panel will consider the submissions of both parties, make a decision and provide reasons.

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](#)