



Pathways to Licensure

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Summary

The College of Patent Agents and Trademark Agents (CPATA) was established in June 2021 as the independent regulator of patent agents and trademark agents in Canada. Our vision is to provide the public with access to a globally respected body of patent agents and trademark agents who are highly skilled, ethical, and current in their knowledge.

CPATA is in the process of modernizing the pathways to becoming a patent agent or trademark agent in Canada. Currently, patent agent and trademark agent trainees must complete a 24-month apprenticeship and then pass qualifying examinations. After creating the Technical Competency Profiles for Patent Agents and Trademark Agents, CPATA redesigned the qualifying examinations to test to these competencies, a change that enhanced transparency, set clear expectations of candidates and is expected to help trainees acquire entry level competencies more efficiently moving forward.

CPATA is now launching a multi-phase, exploratory consultation to assess the merits and challenges associated with the 24-month apprenticeship model. Exploring the existing apprenticeship model allows us to consider the needs of all groups to improve fairness and access, and to reduce unnecessary barriers into the professions.

CPATA has retained an independent, third-party consultant, [Calibrate Solutions](#), to facilitate focus groups and conduct a survey of licensees. This information-gathering stage will run from June to October 2024. Findings will be summarized and considered further by CPATA. No decisions will be made about potential changes without further outreach to licensees and stakeholders.

CPATA invites participation from licensees and others in the IP community. There are many ways for individuals and organizations to engage and provide their perspective, described at the end of this paper.

Background

Pre-CPATA Pathways to Licensure

At the time that CPATA was created, the pathway to becoming a patent agent or a trademark agent had remained largely unchanged for many years, involving a work experience requirement followed by passing qualifying examinations. The qualifying examinations were administered by the Canadian Intellectual Property Office with support from the Intellectual Property Institute of Canada.

For trademark agents, prior to 2013, any lawyer¹ who practised Canadian trademark law for more than 24 months could apply to be a trademark agent by submitting an affidavit confirming their experience and were not required to pass the qualifying examinations. Individuals who were not lawyers were required to work in trademark law for 24 months², and then pass the qualifying examinations. Starting in 2013, the exemption for lawyers was removed and all individuals were required to work in trademark law for 24 months and then pass the qualifying examinations³.

On the patent agent side, prior to 2014, individuals were required to work in patent law for at least 12 months and then pass the qualifying examinations. Starting in 2014, the work requirement increased to 24 months⁴. The increase in work experience was intended to resolve the issue of declining pass rates on the qualifying examinations, citing lack of experience prosecuting applications and other relevant work experience as significant factors to the low success rates⁵.

Internationally trained patent agent or trademark agent candidates were required to work in patent or trademark law for at least 24 months, respectively. At least 12 months of this prior work experience needed to be gained in Canada, and the rest needed to be completed in another country where the person was authorized to act as an agent under the law of that country. Once they met these prior work experience requirements, internationally trained candidates would become eligible to write the qualifying examinations to become a patent and/or trademark agent in Canada.

CPATA'S Review and Licensing Reforms to Date

Though the pre-CPATA requirements produced many excellent patent agents and trademark agents, CPATA heard from licensees and other IP stakeholders that there was room for improvement.

CPATA has heard from IP stakeholders that more patent agent and trademark agent professionals are needed for Canada given the increasing importance of intangible assets to businesses and the economy. Data from CPATA's 2022 survey of licensees confirmed this concern, indicating that the patent

¹ Licensed to practise in Canada.

² Trademark Examiners with CIPO who met the work requirements were also eligible for the qualifying examinations.

³ <https://canadagazette.gc.ca/rp-pr/p1/2012/2012-09-29/html/reg7-eng.html>

⁴ Patent Examiners with CIPO who met the work requirements were also eligible for the qualifying examinations.

⁵ <https://gazette.gc.ca/rp-pr/p2/2013/2013-12-18/html/sor-dors231-eng.html>

agent and trademark agent professions have stagnant numbers despite an increasing population in Canada and the importance of intellectual property rights. The policy changes implemented in 2013 and 2014, combined with the low pass rates on the legacy qualifying examinations and the lack of clear expectations and standards through established competency profiles, may have contributed to the decline in interest to pursue the professions, compounding the access issue.

CPATA has also heard from some within the professions that it is difficult to recruit trainees, and difficult for some seeking to become apprentices to find employment. We have similarly heard from supervisors that it has been difficult to prepare trainees for success on the qualifying exams. While it is understandable that the high stakes nature of the exams leads to stress, there are reports of stress having been exacerbated under the previous and current licensing models given the lengthy placements still leading to low pass rates.

As a result, since coming into force, CPATA has been reviewing the components to becoming a patent agent or trademark agent and making changes to improve transparency, defensibility and fairness. Several fundamental changes have already been introduced, such as:

- adopting the [Technical Competency Profiles for Patent Agents and Trademark Agents](#) in March 2023, which were developed with significant input from the professions and set clear standards for the competencies and skills that patent agents and trademark agents must acquire to serve their IP clients;
- requiring the 24-month apprenticeship requirement to be supervised by an approved training supervisor⁶;
- redesigning the qualifying examinations for 2024 to test the technical knowledge and skills required for agents as established in the competency profiles, with over 85 licensees involved in the development and administration of the new exams; and
- adopting a [Prior Experience Assessment Policy](#) and process which enables a more tailored review of prior work experience and education for internationally educated professionals, so that they can receive full or partial recognition toward the 24-month apprenticeship requirement, potentially shortening their pathway to licensure.

CPATA'S Review of the Current Apprenticeship Model

After undertaking all the changes listed above, the final element of the pathway to licensure that requires exploration is the 24-month apprenticeship component. There are strengths and weaknesses to the current apprenticeship model.

Strengths:

- Trainees learn on the job. They gain practical work experiences through hands-on learning under an experienced professional. This experiential learning solidifies trainees' knowledge and skills. A supervised practice setting allows trainees to learn while risks of error are reduced through oversight. Apprenticeships also serve as a bridge from academic and classroom-based learning to patent agent and trademark agent practice.

⁶ Class 1 or Class 2 licensee, or Examiner at the Office of the Registrar of Trademarks or Patent Office

- Trainees are generally paid. They earn a livelihood while gaining the skills to join a profession. This helps enhance inclusion, as unpaid internships and work placements are inequitable.
- There is a process in place to assess and recognize international education and experience.

Weaknesses:

- Apprenticeships are both overinclusive and underinclusive. Depending on a range of factors, trainees may gain significant experience in certain competencies, while not receiving sufficient or any training with respect to other competencies.
- The level of training, supervision and support varies depending on supervisors and workplaces. Power imbalances in the trainee/supervisor relationship can create risks in the workplace.
- Current and prospective agents in training have reported difficulties securing appropriate apprenticeship placements or finding supervisors and are finding the 24-month apprenticeship period a lengthy time commitment. It is costly to train an apprentice for 24 months, which may deter some individuals from becoming supervisors, and may limit hiring by prospective supervisors and IP firms/employers generally.
- There has historically been a relatively low pass rate on the legacy qualifying examinations despite the 24-month apprenticeship intended to prepare them for success on the exams and for practice.

CPATA is also lacking data on some details of the current operation of apprenticeships in the patent agent and trademark agent setting, including whether there are any gaps in opportunities for apprenticeships based on geography and whether there are opportunities for francophone trainees to work in French-language environments.

Approaches in Other Jurisdictions

There are a range of models adopted to train patent agents and trademark agents in other jurisdictions with different approaches regarding academic, apprenticeship and exam requirements for licensure. Appendix A includes a detailed chart describing the various pathways to licensure in select international jurisdictions. The approaches from other jurisdictions may provide examples of alternate or complementary ways to train future patent agents and trademark agents.

In some jurisdictions, there are specific academic requirements to become either a patent agent or a trademark agent. Some jurisdictions require a technical academic background to become a patent agent. As another example, in the United States, a law degree is not required to become a patent agent, but is required to represent clients in trademark matters.⁷

Several jurisdictions require a combination of university training, apprenticeship and examinations for patent agents and trademark agents (such as in the United Kingdom, France, Germany, and India). The

⁷ USPTO, <https://www.uspto.gov/learning-and-resources/patent-and-trademark-practitioners/becoming-trademark-practitioner>.

length of apprenticeship requirements also varies from several months to several years across jurisdictions.

Other jurisdictions do not require a set period of supervised apprenticeship and instead largely rely on examinations and professional experience (such as the United States and Japan).⁸

Consultation Process

Between June and October 2024, CPATA will be collecting information from licensees and other IP stakeholders about their experiences with and insights about apprenticeships, which will be used to consider potential options for improving the ways to become a licensee. Potential changes to the pathway to licensure, if any, would be subject to further outreach with the professions and stakeholders prior to being finalized by the Board or implemented.

CPATA has retained an independent, third-party consultant [Calibrate Solutions](#) to facilitate focus groups and conduct a survey of licensees. CPATA welcomes participation from interested individuals in one or more of the following ways:

Survey

CPATA has developed a survey to solicit stakeholder views on the current apprenticeship model. The link to this anonymous online survey will be shared widely with all agents (both patent and trademark), including newly licensed agents, trainees, and supervisors. The survey will capture broad demographics that will allow for further disaggregation of responses.

The survey will run from June 13th – October 1st. Calibrate Solutions will host the survey, conduct data analysis, and provide findings to CPATA in anonymized formats.

Focus Groups: Consumers, Trainees, Supervisors and Firm/Employer Representatives

In May, Calibrate Solutions led a focus group with intellectual property consumers (inventors, innovators, and entrepreneurs) to better understand current user experiences and barriers to services, and to evaluate consumer needs that should be taken into account when considering potential changes to the licensure process.

Over Summer 2024, Calibrate Solutions will lead between 8-12 focus groups with patent agents and trademark agents, including newly licensed agents, trainees, supervisors and other stakeholders. These

⁸ FICPI, “The Intellectual Property Profession – An International Comparison”, https://ficpi.org/system/files/Kirby_Royal_Chambers_-_FICPI_Survey_Report.pdf.

focus groups will concentrate largely on personal experiences with the apprenticeship model. Groups will comprise a diversity of perspectives.

Calibrate Solutions will conduct analysis of the focus groups and provide findings to CPATA in anonymized formats.

Written Submissions from Individuals and Organizations and Individual Discussions

Organizations and individuals are invited to provide written submissions to this consultation paper to Ashley Major at Calibrate Solutions before October 1, 2024. Written submissions by *individuals* will be shared with CPATA in an anonymous format unless you indicate your preference that the submission be made under your name. Written submissions made by *organizations* will always be provided to CPATA with attribution.

CPATA likewise welcomes discussions with IP stakeholder organizations to gather information from various perspectives.

Next Steps

After the summer consultation process has been completed, Calibrate Solutions will prepare a summary engagement report this fall. This report will outline the results of the engagement process with consumers, trainees, and supervisors, including key learnings and knowledge gaps regarding the current licensing process.

Based on this report, CPATA will start to consider potential options for improvement for further consideration. Potential changes, if any, would be subject to further outreach with the professions prior to being finalized by the Board or implemented.

APPENDIX A

Pathways to Patent and Trademark Licensure (and Related Context) in Select International Jurisdictions⁹

	Patent	Trademark
United States	<p>Patent practitioners must register to practice before the USPTO (Director has statutory authority and primary responsibility to protect the public from unqualified practitioners). USPTO regulations require individuals possess legal, scientific, and technical qualifications as set out in a General Requirements Bulletin.</p> <p>A law degree is not required to become a patent practitioner (distinction between “patent agent” and “patent attorney”). There is no patent-training requirement – patent competency is evaluated through a multiple-choice examination that is prepared and administered by the USPTO.</p> <p>There is an abundance of training courses for preparing for the USPTO patent examination, including non-profit and for-profit options.</p> <p>There is also an abundance of options for deepening patent practice (beyond passing the examination). Internal training programs at IP law firms are the dominant pathway, and they are often paired with evening law school programs to transition agents to attorneys. Fee-for-training programs provide an alternate pathway, and they tend to cater to those learning patent practice for “in house” applications.</p>	<p>Representing clients in trademark matters before the USPTO requires a licence to practice law. At the same time, licensed US attorneys need not apply for registration to practice trademark law before the USPTO.</p> <p>Accordingly, the primary pathway to US trademark practice is through law school. The USPTO’s Law School Clinic Certification Program is designed to facilitate this, and there are more than 50 participating programs spread across the country. This program allows students who are enrolled in participating law school clinic programs to practice Intellectual Property Law before the USPTO, under the guidance of a Law School Faculty Clinic Supervisor.</p> <p>Internal training at IP law firms is the dominant pathway to deepening trademark practice, however trademark training programs are generally not structured to the same extent as training in patent practice. Fee-for-training programs on trademark practice provide an alternate pathway.</p> <p>AIPLA and other professional organizations provide continuing education opportunities for US trademark practitioners.</p>

⁹ This research was conducted between October 2022 and March 2023 to inform the development of specific entry-to-practise pathway recommendations, including guidance for the 24-month training requirement. The intention was to use this work to begin a consultation with the profession and institutions about different models for pathways into the professions.

	<p>AIPLA and other professional organizations provide continuing education opportunities for US patent practitioners.</p>	
Australia/New Zealand	<p>In Australia and New Zealand, patent practitioners must register with the Trans-Tasman IP Attorneys Board (TTIPAB).</p> <p>In Australia and New Zealand, a law degree is not required for registration as a patent attorney (as differentiated from a patent lawyer). The pathway to licensure as a patent attorney generally involves: (i) securing a degree in a field of potentially patentable subject matter; (ii) passing examinations or an accredited course on nine IP/legal topics; and (iii) training under the guidance of a qualified practitioner for at least two years to support a written “statement of skill” relating to professional competence. With respect to (ii), six of the nine IP/legal topics are covered in courses at major universities, and the other three are provided by the Institute of Patent and Trade Mark Attorneys.</p>	<p>In Australia and New Zealand, it is not necessary to be registered to practice in the area of trademarks. However, only those persons on the official Register of Trademarks Attorneys (regulated by the TTIPAB) are entitled to call themselves a ‘trademarks attorney’ or ‘trademarks agent’, and to enjoy critical rights (e.g. professional privilege).</p> <p>In Australia, a law degree is not required for registration as a trademarks attorney. The pathway to registration generally involves: (i) securing a degree or diploma; and (ii) passing examinations on four of the nine IP/legal topics referenced with respect to Australia/New Zealand Patent Attorney licensure. In contrast to the related patent pathway, training under the guidance of a qualified practitioner for at least two years to support a written “statement of skill” is not required.</p> <p>New Zealand law does not have any provision for registration of trademark attorneys, but New Zealanders can qualify as Australian Trademarks Attorneys.</p>
United Kingdom	<p>In the UK, patent practitioners are regulated by the Intellectual Property Regulation Board (IPReg).</p> <p>A law degree is not required for registration as a chartered patent attorney. The pathway to licensure generally involves: (i) securing a 2:1 degree (roughly equivalent to Canada’s “honours distinction”) in a STEM field; (ii) passing a series of exams (set by the Chartered Institute of Patent Attorneys, which is accredited by IPReg); and (iii) working under the supervision of a qualified patent attorney.</p> <p>With respect to (ii) and (iii), the examinations are administered in a two-tier system, wherein candidates must pass foundation examinations before they are eligible to sit the final examinations (typically at the end of</p>	<p>In the UK, trademarks practitioners are regulated by the Intellectual Property Regulation Board (IPReg).</p> <p>In the UK, a law degree is not required for registration as a chartered trademarks attorney. The pathway to licensure generally involves: (i) securing a 2:1 degree (roughly equivalent to Canada’s “honours distinction”; no STEM requirement); (ii) passing a series of exams (set by the Chartered Institute of Trademarks Attorneys, which is accredited by IPReg); and (iii) working under the supervision of a qualified trademarks attorney. With respect to (ii) and (iii), the examinations are administered in a two-tier system, wherein candidates must pass foundation examinations before they are eligible to sit the final examinations (typically at the end of their first and second years of training, respectively). University courses are available</p>

	<p>their first and second years of training, respectively). University courses are available to obtain an exemption from foundation examinations.</p> <p>Many UK patent attorneys also seek registration as European patent attorneys, which enables client representation before the European Patent Office. The pathway to licensure as a European patent attorney generally involves: (i) securing a STEM degree; (ii) working under the supervision of a qualified European patent attorney for two years; and (iii) passing the European Qualification Examination, which includes a pre-examination and four main examinations set by the European Patent Office. The regulatory agency for European patent attorneys is the Institute of Professional Representatives before the European Patent Office (EPI).</p>	<p>to obtain an exemption from foundation examinations.</p> <p>Many UK Trademarks attorneys also seek registration as a professional representative to the European Union Intellectual Property Office (trademarks and designs). To qualify for representation with regard to trademarks, representatives must: (i) be a national of one of the European Economic area (EEA) member states; (ii) have their place of employment in the EEA; and (iii) have authority under national law to represent, with regard to trade marks.</p>
<p>France</p>	<p>In France, patent practice is overseen by the French Patent Office (INPI) in collaboration with the Chamber of French IP Attorneys (CNCPI).</p> <p>In France, a traditional law degree is not required for registration as a patent attorney. The pathway to licensure generally involves: (i) securing a Masters degree in a STEM field; (ii) completing IP coursework at Center for International Studies for Intellectual Property (CEIPI) at the University of Strasbourg; (iii) passing a qualification examination (set by INPI and CNCPI); and (iv) working under the supervision of a qualified patent attorney for at least three years.</p> <p>Many French patent attorneys also seek registration as European patent attorneys.</p>	<p>In France, the pathway to licensure as a trademark attorney generally involves: (i) securing a Masters degree in law; (ii) completing IP coursework at Center for International Studies for Intellectual Property (CEIPI) at the University of Strasbourg; (iii) passing a qualification examination (set by INPI and CNCPI); and (iv) working under the supervision of a qualified trademark attorney for at least three years.</p> <p>Many French trademark attorneys also seek registration as a professional representative to the European Union Intellectual Property Office (trademarks and designs).</p>
<p>Germany</p>	<p>In Germany, patent practice is overseen by the German Patent Office (DPMA) in collaboration with the German Chamber of Patent Attorneys.</p> <p>In Germany, a traditional law degree is not required for registration as a patent attorney. The pathway to licensure generally involves: (i) securing a university degree in a STEM field; (ii)</p>	<p>In Germany, there is no separate profession for trademarks, and lawyers can practice as trademarks attorneys without obtaining further qualifications.</p> <p>Many German trademarks attorneys seek registration as a professional representative to the European Union Intellectual Property Office (trademarks and designs).</p>

	<p>working in a STEM job for at least one year; (iii) working under the supervision of a qualified patent attorney for at least two years; (iv) training at the German Patent Office and German Federal Patent Court (for two and six months, respectively); (v) completing an IP course from the University of Hagen (online option available); and (iv) pass a qualifying examination.</p> <p>Many German patent attorneys also seek registration as European patent attorneys.</p>	
Singapore	<p>In Singapore, Patent Practice is overseen by the Intellectual Property Office of Singapore (IPOS).</p> <p>In Singapore, a traditional law degree is not required for registration as a patent agent. The pathway to licensure generally involves: (i) securing a university degree in a STEM field (must be approved by Registrar); (ii) completing IP-specific graduate coursework (three approved tracks); (iii) passing a qualification examination (conducted by IPOS); and (iv) working under the supervision of a qualified patent agent for at least one year.</p>	There is no regulatory regime for trademark agents in Singapore.
China	<p>In China, patent practice is overseen by the China National Intellectual Property Administration (formerly known as the “State Intellectual Property Office”).</p> <p>In China, a traditional law degree is not required for registration as a patent agent. The pathway to licensure generally involves: (i) securing a university degree in a STEM field from a national university; (ii) passing a qualification examination; and (iii) working under the supervision of a qualified patent agent.</p>	There is no separate profession for trademarks in China.
India	<p>In India, patent practice is overseen by the Controller General of Patents, Designs & Trade Marks (CGPDTM).</p> <p>In India, a traditional law degree is not required for registration as a patent agent (as of 2005). The pathway to licensure generally involves: (i) securing</p>	In India, licenced lawyers can apply for registration as a trademark agent by completing a form and paying a fee. Non-lawyers can also register as patent agents in India. In this case, the pathway to licensure generally involves: (i) securing a university degree; and (ii) passing a qualification examination.

	a university degree in a STEM field from a national university; and (ii) passing a qualification examination.	
Scandinavian Countries	According to FICPI's 2023 Report: (i) the patent profession is regulated in Finland and Sweden, but not in Denmark or Norway; (ii) in Finland, passing an examination is required, but a period of supervised work is not; and (iii) in Sweden, a period of supervised work is required, but passing an examination is not.	The trademark profession is not regulated in Finland, Sweden, Denmark, and Norway.