

CPATA Pathways to Practice Project: Key Findings

Analysis of Key Findings

This consultation process has enabled CPATA to gather rich data about the merits and challenges associated with the 24-month apprenticeship model and the licensing process more broadly. The focus group consultations, roundtable discussions, and write-in responses provided extensive qualitative insights about the apprenticeship model from current trainees, supervisors, firm representatives, and representatives from CIPO, IPIC, and ISED. The survey provided both qualitative and quantitative data about the members of these professions and their experiences with intellectual property apprenticeships as they are currently being undertaken.

Collectively, the consultations have highlighted the following key findings:

1) The greatest barrier to licensure is an inability to secure an apprenticeship

Respondents from all consultation mediums stressed that securing an apprenticeship is the single greatest barrier to licensure. As there are not nearly enough placements for the number of individuals seeking an apprenticeship, this requirement acts as a bottleneck to the licensing process. While securing a placement is difficult for many individuals, respondents highlighted that it is even more difficult for individuals who are foreign-trained and/or who do not possess an advanced technical science degree or law degree. Training opportunities are also mostly limited to large cities, precluding individuals living in small centres and rural and remote areas from easily accessing a supervisor. Many supervisors indicated that they could not always afford to take trainees on due to financial and time constraints.

Respondents laid bare the negative impacts that potential trainees experience when trying to secure an apprenticeship, including extensive professional, personal, and financial impacts. Many individuals outlined the great lengths they went to secure a placement, including applying repeatedly over the course of several years and cold-calling and emailing dozens of firms. One trainee explained that they switched from patent to trademark training after repeated failures to find a supervisor in their preferred area. Several individuals indicated they had yet to find a supervisor.

Respondents from all consultation mediums suggested that more needs to be done to connect and match potential trainees with supervisors, connect potential trainees with current trainees, create and monitor job boards, and create and bolster other mentorship and peer support infrastructure.

2) The lack of structured training requirements for intellectual property apprenticeships poses difficulties for both trainees and supervisors; guidance from CPATA is desired by all

Apprenticeship experiences vary greatly as individual supervisors currently solely determine the training content and structure for their trainees. Several trainees

described having a positive apprenticeship experience under the supervision of a dedicated mentor. These trainees described having access to exam preparation materials, paid or subsidized courses, and peer support networks. Other trainees described negative apprenticeship experiences with absent supervisors, little to no pay, and a lack of broader firm and peer support. All agreed that the true value of an apprenticeship depends upon the quality of supervision and the dedication and support of individual supervisors.

Both supervisors and trainees expressed a desire for more structured training requirements and guidance from CPATA to better help everyone involved in the process – particularly with the recent changes to examinations and the rollout of the technical competency profiles.

Many trainees expressed frustration that their training was under-inclusive and often limited to their firm's existing files and/or the specific practice area of their supervisor. Many expressed feeling unprepared for certain aspects of the examinations and practice. This was particularly true for those apprenticing under an individual who was absent or unsupportive.

Supervisors expressed that they are trying their best to provide a holistic training experience to trainees with little to no guidance on how to do so. They explained that their training is constrained by their existing files and the realities of running their business. Many expressed frustrations over a lack of available training goals, checklists, and materials that could help structure training and ensure that all key knowledge areas are being properly addressed. Many believed that a reference structure with competency milestones, as well as practice materials to help trainees reach those milestones, would help everyone involved and make apprenticeships a more equitable experience for trainees.

Several respondents thought that the legal sector's articling plans and learning objectives could serve as a promising template for apprenticeships. However, many supervisors were quick to stress that they did not want the guidance or reporting responsibilities to prove too onerous or restricting, as training is already a time and resource-intensive activity.

3) The professions largely views the apprenticeship model as vital

Most respondents agreed that the apprenticeship model is a vital aspect of training to become a patent agent or trademark agent. Intellectual property practice is incredibly complex. To properly serve the public, agents require time, hands-on experience, and mentorship to learn the practical and technical requirements of the job. Engaging with clients under the supervision of an experienced practitioner is the essentially the only way to fully develop the necessary skillset for practice.

Respondents disagreed about how long the apprenticeship should be, with some respondents wanting to lower the requirement to a year or under and a few others wanting to raise it beyond two years. Others believed that there should be different apprenticeship time requirements for patent vs trademark trainees, or for those with certain degrees or previous professional experiences. A small minority believed that the apprenticeship should be removed altogether. However, keeping the existing 24-month time requirement for all was the most common response for both survey and focus group respondents.

4) Some respondents were open to CPATA exploring education-based pathways to licensure

Some respondents were open to CPATA exploring education-based pathways to licensure. Suggestions included creating an official university certificate or diploma program; creating an accredited education course at the Community College level; and requiring a combination of an educational component alongside the apprenticeship model.

Several respondents stressed the need to study and advance any new initiatives in an evidence-based way, such as by examining models from other countries, the impact of theoretical vs purely practical learning, the impact of additional costs for students who have already completed advanced degrees, and whether the market has enough students and educators to make this path viable.

5) Examination timelines are delaying entry to practice

Both supervisors and trainees expressed frustration that current examination timelines and schedules are delaying entry into practice. Many trainees are having to wait 3 years to challenge their final exam. This extends 24-month apprenticeships past the two-year mark as trainees wait for exam sittings. Several respondents suggested exploring whether trainees could challenge the knowledge examination earlier in their apprenticeship, such as after 12 months or after they had reached certain training milestones. Many also expressed a desire for more exam sittings per year, if possible.

6) Supervisors would like to see training incentives introduced

Supervisors and firm representatives highlighted the difficulties of training new agents, including the extensive time and monetary burden that supervisors take on to educate new agents – particularly if those individuals leave soon after becoming licensed. Many respondents viewed training as a service to the profession and identified changes they would like CPATA to consider implementing, including rebates, waived fees, and other financial incentives for those who train new agents.

Respondents also explained that such measures could potentially create more apprenticeship positions by incentivizing more agents and smaller firms to take on trainees.

7) Respondents cautioned against making rapid changes to the licensing process

Throughout all engagements with supervisors and organizational representatives, there was an undercurrent of hesitancy to make rapid changes to the licensing process. Respondents expressed worry over changes that would “open the flood gates” and allow for an influx of inexperienced agents that they believed could put the public at risk. Examples included concerns over making exams easier to increase pass rates, lowering the apprenticeship time requirement to accelerate licensure, and setting high recruitment and licensing targets that may be beyond what the market can handle.

Several respondents encouraged further exploration of current market needs and potential impacts on the profession, such as:

- Does Canada have too few trademark agents and patent agents, or is the current level reflective of the service demand?
- Is the current 24-month apprenticeship model impacting the public’s ability to receive intellectual property services?
- How would additional agents working in the field potentially impact the public? The licensing and insurance fees for members of the profession?
- Would the implementation of alternative pathways that allow more individuals into the profession further limit the ability of prospective trainees to secure and complete an apprenticeship?

Similarly, many participants wanted to see evidence-based approaches to understanding diversity – or the lack thereof – within the profession. Many were concerned that efforts to meet DEI targets may lower the rigorous entry standards that act as an important gatekeeper to a public-serving profession. Several respondents believed that the profession was already diverse and largely reflective of the Canadian population. Others explained that targeted surveying and engagement with members focusing on identity may help CPATA to better map and understand the demographics of the current profession to help guide any new initiatives.

8) Intellectual property practice should be promoted more broadly to encourage more individuals, including individuals from diverse backgrounds, to enter the profession

Respondents explained that more needs to be done to promote intellectual property careers. Many trainees indicated that they had no idea that this career was an option during their undergraduate training. Several stumbled upon the practice themselves or were introduced to it when already established in a professional career.

Respondents called for a targeted outreach plan that would aim to reach students early in high school and Universities/Colleges.

Many respondents asserted that there is indeed a lack of diversity within the professions, including for racial and ethnic minorities, gender minorities, LGBTQI+ individuals and neurodivergent individuals. Several believed that the lack of diversity within the intellectual property professions is a systemic issue that emerges from a lack of diversity within law schools, engineering faculties, business faculties, and other common streams into the professions.

Several respondents stressed that a broader promotion of the intellectual property field in non-traditional university and college programs – in addition to enhanced outreach in law, engineering and technology, science, and business programs – could help to both diversify and grow the professions.

9) Respondents identified several metrics that CPATA may wish to use to help evaluate the effectiveness of the current licensing pathway

Respondents offered several metrics to measure the effectiveness of the current licensing pathway, including:

- The size of the profession: conducting trend analyses on whether the overall number of i) candidates and ii) licensed agents has grown, shrunk, or remained the same over a particular time.
- Examination statistics: analysing initial examination success rates, how many attempts agents are taking to pass each exam, and how many agents drop out of the licensing process because of an inability to pass the exams.
- Post-licensing surveys or interviews with all recent licensees: exploring how licensees found a supervisor, their overall apprenticeship experience, how long they took to get licensed and why, etc.
- Post-licensing retention: measuring how many agents are currently active, how many practiced after they were licensed, and how long they practiced for.

- Surveys or interviews with inactive members/members relinquishing their licenses.
- How foreign-trained agents are faring in the licensing process; and
- A comparison of these statistics with similar data gathered in other countries.

10) Clarity around CPATA's role is required

Some respondents expressed confusion over which roles CPATA had taken over from other intellectual property organizations. Several expressed concerns that CPATA may be overstepping past its mandate with recent efforts, while others were adamant that CPATA should be doing far more to support members of the professions. Clarity about CPATA's mandate, role, and responsibilities is desired and needed.

A primary example is that many trainees and supervisors expressed a desire for CPATA to provide more support to trainees, including by creating and promoting mentorship, peer support, and job-searching infrastructure. However, several respondents stated that similar supports are already being offered by other organizations. Several respondents also thought it may be inappropriate for CPATA to organize and provide these supports as the regulator of the profession.