

# *Creating a College for the Future*

A PROFESSIONAL REGULATORY BODY FOR PATENT AND TRADE-MARK AGENTS

## **Should Firms be on the Registers?**

There has been much discussion among members of the Privilege & Self-governance Committee about whether the College should regulate “firms of agents” or just “agents”. Apparently, law societies in Canada do discipline law firms as well as individual lawyers. In part, the Committee Members’ discussions have been centered on how firms may conduct business before the various branches of the Canadian Intellectual Property Office (CIPO). The convenience of appointing a “firm of agents” rather than individual agents means that documents may be signed with the firm name which allows other members of a firm than a specifically appointed agent to sign documents. This may include non-agent firm members as well.

Generally, our committee is of the view that the College should regulate individuals primarily and where more than one member of a firm is complained about and a breach of the Code of Ethics found, the consequences may require an investigation of the firm’s practices. Therefore, under the proposed legislation for the College, only a member (an individual) of the College may represent applicants before CIPO. However we could propose consequential amendments to the Patent Rules and Trade-mark Regulations regarding how its members may communicate with CIPO. For example, the registers would comprise only individuals but the College could provide CIPO with a list of authorized firm signatures. The Committee is also examining whether the legislation or regulations could provide for agents to form legal entities of any suitable sort for dealing with CIPO on behalf of applicants. The legal entities could encompass structures such as the LLPs that are permitted under provincial legislation for lawyers and accountants. They could also permit more traditional corporate structures which would clearly offer even greater benefits than exist for law firms.

Another alternative would be to create a system of customer numbers as is used in the U.S.A. This would allow agents in a firm to sign on each other’s behalf. While this is more limiting than our present system which allows the firm name signature, it is a solution that provides for an agent to be accountable on the public record.

Against all of this, one must recognize that the use of “electronic signatures” is becoming widespread, which coupled with electronic filing of documents at CIPO seems to make the issue less critical than it might have been earlier.

The whole point of the College is to ensure transparency, accountability, and competence in the IP agency professions in Canada. We must develop a College that adheres to these

principles while allowing us to conduct business in the most modern and efficient way possible.

Your thoughts, comments, criticism are welcomed. We want to consider all options so that the best solution can be developed.

Joan Van Zant  
Chair, Privilege and Self-Governance Committee