



INTELLECTUAL PROPERTY INSTITUTE OF CANADA

INSTITUT DE LA PROPRIÉTÉ INTELLECTUELLE DU CANADA

Governance of Patent and Trade-mark Agents

Business Case

September 2002



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Note

About the two experts quoted in this business case:

- **Gavin MacKenzie** is the author of a report on self-regulation presented to IPIC on September 10, 1999. Mr. MacKenzie is an elected Bencher of the Law Society of Upper Canada. He chairs the Law Society's professional regulation committee (which is responsible for professional conduct and discipline) and is co-chair of its strategic planning committee and its task force on the reform of the Rules of Professional Conduct. Mr. MacKenzie is the author of *Lawyers and Ethics: Professional Responsibility and Discipline* (Carswell-Thomson, 1993 with annual supplements). He has been retained as an expert witness on professional responsibility issues in litigation in the United States and Canada.
- **G. Bruce Doern** is the author of a study prepared for CIPO in June 1995 entitled *The Regulation of Patent and Trade-mark Agent Qualifications: Institutional Issues and Options*. Mr. Doern is a professor at the School of Public Policy and Administration, Carleton University. His areas of research include Canadian Regulatory Institutions and Canadian Intellectual Property Policies and Institutions. He is co-author of *Canadian Intellectual Property: The Politics of Innovating Institutions and Interests* (University of Toronto Press, 2000) and author of *Global Change and Intellectual Property Agencies: An Institutional Perspective* (London: Pinter, 1999).

1. Introduction

The Canadian intellectual property (IP) legal framework requires modernization to better support Canada's economic development, competitiveness and innovation priorities.

1. Introduction

IPIC has identified two specific aspects of the current IP framework that require modernization:

- the absence of privilege in communications between Canadian patent and trade-mark agents and their clients, and
- the regulation of Canadian patent and trade-mark agents

This business case deals with the latter.

2. The Problem

Why modernize?

Because there is a serious problem in that the interest of the Canadian public who rely on, and benefit from, the services of IP professionals is not well protected.

2. The Problem

In 1999, Gavin MacKenzie stated: “The current regulatory regime is, in my opinion, seriously flawed”.

- The profession does not have an effective licensing process comparable to that of other professions.
- The complaint and disciplinary process is insufficient as provided by the Commissioner and the Registrar, and IPIC.
- IPIC’s disciplinary process is ineffective because it is not compulsory for registered agents to be members of IPIC.
- The Commissioner, the Registrar and IPIC have no legal ability to control practice by unregistered persons.

2. The Problem

There is currently no effective control of discipline or unauthorized practice.

- There are no guidelines from the Commissioner or the Registrar with respect to agent conduct.
- There is no indication as to how a member of the public can make a complaint about a registered agent, nor, if a complaint is made, is there any provision for any discipline short of removal from the register.
- There is nothing that precludes a non-registered or de-registered agent from practicing, since there are no provisions in the Acts or Regulations relating to unauthorized practice.

2. The Problem

- IPIC has received complaints about people who purport to be agents but who are not properly qualified as agents. IPIC is not authorized to stop these people from representing to the public that they are qualified (nor can CIPO).
- IPIC has also received complaints relating to the competence of agents. Again, IPIC cannot compel an agent to take continuing professional education courses, or remove an agent from the Register.

2. The Problem

Why worry about this problem now?

- A strong, efficient, effective, modern and trustworthy IP system is required to sustain Canada's innovation capability and competitiveness.
- The current “seriously flawed” regulatory regime can hinder the willingness of Canadians and foreign inventors/investors to use the system and cause them to ignore it in favour of protection in other countries.
- One result of a regime that doesn't prevent unqualified persons from practicing is poorly prepared patent portfolios. These can be very harmful to SMEs and start-ups.
- As the Government implements its innovation strategy, IP will continue to grow in importance in Canada and become more visible; as will the risk to the public from the continued operation of a flawed regime.

2. The Problem

Why worry about this problem now?

- As a consequence, in addition to the visible risk of harm done to the users of the system, there is the less visible but just as direct and harmful risk of having more Canadian IP work done outside of Canada.
- Further, Canadian patent and trade-mark agents are at a competitive disadvantage in respect to agents/attorneys in many other jurisdictions, including the US, because their clients do not enjoy privilege on their client-agent communications. Granting privilege to IP professionals acting in their capacity as registered patent and trade-mark agents and improving the governance of agents are two mutually supportive actions that can be taken to improve the IP regime in Canada.

3. Desired Outcome

We know what the problem is.

What should the solution be?

3. Desired Outcome

Professional Work Force Licensed

- Examinations should test for both competence and ethics for persons entering the intellectual property profession.
- To remain active in the profession, agents should meet certain standards of practice, including compulsory continuing education.
- Clients should be assured that individuals calling themselves agents are properly accredited.

Discipline

- A discipline code for IP professionals should be enforced to ensure that public interest concerns are fully met.

Superior Service

- A high degree of professional competence and ethical conduct should lead to improved patent and trade-mark agent services.

3. Desired Outcome

A More Efficient CIPO

- CIPO should have more time and resources to devote to providing a world class intellectual property system including an international searching and preliminary examination capability. Presently, resources are being used to qualify new members of the profession at the expense of providing other more complex, essential services.
- The public should make more use of the Canadian IP system as service and confidence improve.
- Prevention of unauthorized practice should result in better applications and consequently more expeditious processing.

Indemnification

- Compulsory insurance for agents should be required to protect the public in the event of agent errors.

4. Background

Previous Work

Considerable work has been done on behalf of IPIC and CIPO on the subject of governance. The reports identified below provide further background, context and rationale.

- *June 1995:* Doern Report – “*The Regulation of Patent and Trade-mark Agent Qualifications: Institutional Issues and Options*” prepared for CIPO.
- *March 1996:* PTIC Spring Meeting – Panel Discussion on Self-Management Structures for other professions comprising: Bruce Doern, Nancy Spies, Peter Kirby, Robert Gould and Roger Hughes.
- *1997 onwards:* Council engaged in ongoing dialogue with Industry Canada Policy Personnel and with CIPO executives regarding privilege and self-governance.
- *Feb. 1998:* Presentation at PTIC Spring Meeting of a proposed College structure generated from Spies, Stockwood & Campbell Report on self-managed structures for our profession.

4. Background

Previous Work

- *Sept. 1999*: Report for IPIC on type of structure required to provide for the self-regulation of patent and trade-mark agents in Canada, by Gavin Mackenzie. Presented to membership at the 1999 Annual Meeting and also made available to Government. The MacKenzie Report.
- *March 2001*: New Code of Ethics adopted. Code modeled on CBA model code, LSUC updated Code, and reflected the practice of Canadian Patent and Trade-mark Agents.
- *Oct. 2001*: IPIC received Synopsis of Report by Pierre Lecavalier, Legal Counsel, Justice Canada, on Self-Regulation by the IP profession.
- *Dec. 2001*: Disciplinary process proposed and published in Bulletin for comment and for discussion at the Spring Meeting and the AGM.

4. Background

Opportunity

The opportunity now exists to enact legislative changes to achieve the desired outcome.

In recognition of the importance of a modern IP framework to the strengthening of Canada's innovative capacity, the government has launched an IP Law improvement initiative, through which the Canadian Intellectual Property Office has begun to identify international and domestic IP administrative issues that will have to be addressed as part of an IP improvement Bill.

This Bill would amend existing statutes such as the Patent Act and the Trade-marks Act.

5. The Options

In this section, we present five options to address the problem. In section 6 we display to what degree each option can help achieve the desired outcome.

The options are:

- A. Status Quo
- B. Enhanced CIPO Role
- C. Delegated authority to IPIC
- D. Delegated authority to an existing regulatory body
- E. Creation of a college

5. The Options

We can display the options on a continuum as depicted below, moving from maximum government regulation of the profession to professional self-regulation.

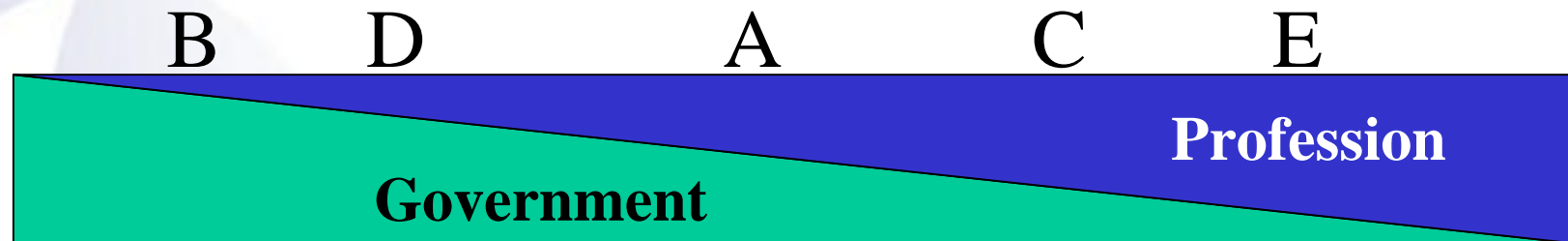
A. Status Quo

B. Enhanced CIPO Role

C. Delegated authority to IPIC

D. Delegated authority to an existing regulatory body

E. Creation of a college



5. The Options

A. Status Quo

The Commissioner of Patents and the Registrar of Trade-marks currently govern agents in Canada.

- Sections 12, 15 and 16 of the *Patent Act* relate to patent agents, with Section 16 allowing the Commissioner “for gross misconduct or any other cause that he may deem sufficient” to remove an agent or attorney from the register of patent agents but removal from the register does not prevent an individual from offering patent agent services.
- Sections 12 to 19 of the Patent Rules deal with examinations, who may be registered as a patent agent and how one stays on the register.
- In the case of trade-mark agents, Section 28 of the *Trade-Marks Act* and Sections 18 to 23 of the Regulations govern agents, although there is no provision relating to conduct.

5. The Options

A. Status Quo

IPIC takes an active part, within the limitations of the current regime, in the regulation of patent and trade-mark agents.

- Admission: IPIC, in cooperation with CIPO, prepares and marks the patent and trade-mark agents exams.
- Discipline: IPIC has a strong Code of Ethics in place but the worst penalty that can be incurred is expulsion from the Institute which doesn't prevent one from practicing. IPIC Council deals with complaints.
- Maintenance of qualifications: IPIC offers continuing education programs but cannot impose them.

5. The Options

B. Enhanced CIPO Role

CIPO takes over the role of training, examining, and disciplining agents.

The following would be required:

1. Availability of courses

- Ensure that courses are offered to train the agents both before and after qualifying.

2. Examiners

- Examiners are required to set and mark the examinations for patent and trade-mark agents. Each year the number of candidates for the four patent exams goes up. The number writing in 2002 was 206.
- Currently IPIC contributes the work of 8 practitioners who spend anywhere from 200 to 300 hours marking and remarking the exams of patent and trade-mark agents – at full hourly rates, this amounts to approximately \$600,000.

5. The Options

B. Enhanced CIPO Role

3. Revising the Exams

- There have been a number of problems with the patent agent exams, and to a lesser extent with the trade-mark exams. If the government were to take over this responsibility, it would require inside staff and perhaps the hiring of educational consultants to assist in drafting a new set of exams.
- Given recent experience, the possibility remains of law suits against the government for the setting and marking of the exams.

4. Discipline

- CIPO would need to set-up a discipline board and have at least one full-time person to be responsible for the handling of complaints – this would include the administrative responsibilities, along with co-ordinating with those who actually hear the discipline matters.

5. The Options

B. Enhanced CIPO Role

Summary of resource requirements

- 1-2 full-time people to manage educational programs (or contract equivalent)
- Staff to set and mark the exams (if done internally); estimated cost: 2-3 full time staff at CIPO; or contract amount of \$600,000 or more.
- Revamping the patent agent's exams; estimated cost: part of the tasks of the educational staff plus consultant.
- Staff in CIPO and in the department of Justice to handle law suits regarding the exams.
- 1 full-time equivalent to manage complaints plus expenses of the discipline board.

5. The Options

C. Delegate responsibilities to IPIC

The Minister would delegate (without legislating) the following responsibilities to IPIC:

- Full management of the exam process
- Management of the register of agents, including power to remove agents from the register
- The power to set the fees for the exams and the registration of agents
- Membership of IPIC would be one of the requirements to be on the register.

5. The Options

C. Delegate responsibilities to IPIC

IPIC would receive the revenues currently received by CIPO for the exam and the register.

From these revenues, it would hire the necessary staff to:

- enforce the discipline process
- manage the exams
- set continuing education requirements
- manage the register

Associated costs would be similar to those of a college explained later.

5. The Options

D. Delegate responsibilities to another regulatory body

This option would be the same as option C but instead of delegating responsibilities to IPIC, it would be to an existing regulatory body such as a law society.

5. The Options

E. Creation of a College

The Government would legislate the creation of the new College of Patent and Trade-Mark Agents. The College would assume the following responsibilities:

- Full management of the exam process
- Management of the register of agents, including power to remove agents from the register
- The power to set the fees for the exams and the registration of agents.

Furthermore, to prevent unauthorized practice, the legislation would grant to members of the College the exclusivity of practice as patent agents and trade-mark agents

5. The Options

E. Creation of a College

Licensing vs certification

With the proposed legislative changes, a licensing system would be created. As explained by Gavin MacKenzie,

“The College would administer a licensure system, as contrasted with a certification system. In other words, the College would not only certify to the public that certain individuals have the requisite competence and training to act as patent and trademark agents (without prohibiting uncertified individuals from carrying on practice), but would rather ensure that only licenced patent and trademark agents are allowed to practise.” (p. 20)

6. The Analysis Criteria

The five options were analyzed against the following criteria:

- Improved service to Canadians
- What experts think is the best solution
- Focus on protection of the public interest
- Enforcement of discipline
- Prevention of unauthorized practice
- Indemnification
- Cost to Government
- Benefit to Government
- Demonstrated ability to regulate
- Cost to the profession

6. The Analysis Criteria

The results of the analysis are:

	Status quo	CIPO	IPIC	Other	College
Improved service to Canadians		■	■	■	■
What experts think is the best solution					■
Focus on protection of the public interest				■	■
Enforcement of discipline		■	■	■	■
Prevention of unauthorized practice					■
Indemnification		■	■	■	■
Cost to Government	■				
Benefit to Government			■		■
Demonstrated ability to regulate			■	■	■
Cost to the profession		■	■	■	■

7. Conclusions

Option A

From the studies that have been done, and as we have explained in the first part of this business case, the public interest is not well protected with the status quo.

The status quo should not be considered.

7. Conclusions

Option B

We also believe that the enhanced role for CIPO is not a viable option. For CIPO, to obtain the expertise required to properly govern the profession would be expensive and against current trends in Government role. It was also rejected by Bruce Doern in his report to CIPO:

“... my considered view is that, in the mid-1990’s, there is no convincing rationale for the patent and trademark profession to be so directly supervised by an agency of the Federal Government in matters of its professional qualifications. As the federal agency involved, CIPO should focus on its more complex mandate tasks and should not be so closely regulating one of the client groups it must interact with in other vital public interest ways.” (p.120)

7. Conclusions

Option C

While the delegation of responsibilities to IPIC is tempting because it may be easier to adopt than legislative changes, we also believe this option is not viable for two main reasons:

- Without legislative change, unauthorized practice cannot be prevented.
- An infrastructure very similar to the one required for a college would have to be implemented at significant cost to the profession. To do so with the risk that the delegation of responsibilities could be removed would make this option unattractive to IPIC.

7. Conclusions

Option D

There are two main problems with this option:

- The jurisdiction for delegating is unclear.
- It would mean additional workload for CIPO.

And so we believe that delegating responsibilities to another body is not viable.

7. Conclusions

Option E

The creation of a college is the best option. It is the tried and true method used by most professions and it is supported by the experts:

– Bruce Doern :

“The patent and trademark government system is currently not a fully self-regulating model in that it involves certification and not licensing. It should become more of a self-regulating profession to prepare itself for the new regulatory and service provision challenges that the PTIC faces.” (p.120)

7. Conclusions

- Gavin MacKenzie in his 1999 report to IPIC:
 - “... the creation of a modern and effective mechanism for regulating the profession is, in my opinion, essential both in the public interest and the profession’s interest.
 - I have accordingly recommended the creation of a self-regulatory body that I have called, for the purpose of this report, the College of Patent and Trademark Agents.” (p. 24)

Another source of expertise that can be a useful reference is the Quebec provincial legislation that governs all professions, the Professional Code. In particular, Article 25 defines factors to take into account when a profession applies to create a “professional order”. The factors equally apply to the patent and trade-mark professions.

8. Creation of a College

The following sets out in more detail how a college would exercise its mandate.

8. Creation of a College

Purposes and Objects of the College

- To regulate the professions of patent and trade-mark agents and to govern and license its members.
- To ensure high standards of competence and conduct within the professions.
- To ensure that consumers and stakeholders (including CIPO) are able to rely on licensed Canadian patent and trade-mark agents as being knowledgeable and proficient.
- To protect consumers and other stakeholders from persons practicing as patent and trade-mark agents, whether licensed or unlicensed, who do not comply with standards of competence and conduct or who otherwise practice in an unauthorized manner.

8. Creation of a College

Admission

- The College will set eligibility criteria for those who practice intellectual property law in Canada as patent and trade-mark agents, including the right of Canadians to practice before the Canadian Intellectual Property Office.
- The College will manage the examinations to test for competence and ethics for persons entering and being maintained in the intellectual property profession.
 - First, and most important, the college would set and mark examinations in both the patent and trade mark fields. These examinations would test candidates to ensure that people entering the profession meet a minimum standard of competence in the preparation and prosecution of patent and trade-mark applications and the law as it applies thereto.
 - Second, these same examinations would test to ensure that candidates know and understand the code of ethics already adopted by IPIC.

8. Creation of a College

Maintenance on the Register

- Members who receive from the College a license to practice will have the right to designate themselves as a Registered Patent Agent or a Registered Trade-mark Agent.
- By having the power to license, to admit and remove agents from the register and to enforce the exclusivity of practice, the College would be able to set and maintain standards of practice, such as:
 - an enforceable code of ethics
 - education requirements
 - audit of members.
- Foreign agents would continue to be treated the same way as they are now by CIPO in accordance with international agreements. However, to avoid confusion with registered Canadian agents who are licensed to practice in Canada, foreign agents would not be called “registered”.

8. Creation of a College Code of Ethics

The Code of Ethics will be adopted from the current Code of the Intellectual Property Institute of Canada. This Code includes:

- Professional Integrity
- Competence
- Confidentiality
- Conflict of Interest
- Advising Clients
- Fees
- Withdrawal of Services
- Duty to the Profession
- Duty to Members
- Advertising
- Unauthorized Practice.

8. Creation of a College Code of Ethics

While the Code may be adjusted to reflect the reality of the College, it is felt that the current IPIC code is entirely appropriate.

- It is modeled on the Model code of the Canadian Bar Association (CBA), and the codes of the Law Society of Upper Canada (LSUC), Law Society of Alberta and others.
- It was revised in 2001 with the intention that it be used in the context of a self-regulating profession.
- IPIC's code also addresses the requirements of The Quebec Professional Code, as set out in article 87.

8. Creation of a College

Discipline

- IPIC has crafted a set of bylaws specific to maintaining discipline for its members. They are adapted from the by-laws of the Canadian Institute of Actuaries (CIA), a federally legislated self-regulated profession.
- The College will enforce these bylaws to ensure that public interest concerns are fully met. The College therefore, upon application of the bylaws dealing with discipline, will have the power to expel a member from the College and consequently remove him/her from the register of patent and trade mark agents. There will, of course, be other less harsh forms of discipline.
- The following slides outline the discipline process to be implemented by the College. This process is inspired by the processes of the CIA, LSUC, and of the Professional Standards Board for Patent and Trade Marks Attorneys (Australia)

8. Creation of a College

Discipline Process

1. The procedure starts with a *Complaint*

- A complaint may be made by a member of the public, another member of the College ("Member"), or a client.
- The complaint should be in writing and detail the nature of the complaint.
- It is anticipated that there will be two broad classes of complaints:
 - (1) those relating to competence; and
 - (2) those relating to honesty/integrity of the Member.

The following tables provide examples of possible complaints and penalties.

Discipline Process (cont.)

Competence	
Complaint	Penalty
(1) Member has not provided accurate advice to the client, or missed a due date that was corrected (but no financial repercussions.)	Obligatory continuing education. Periodic file review by College.
(2) Member has made serious errors in giving advice. (3) Member had missed a due date, with financial repercussions. (4) Member is practicing outside his or her area of competence (e.g. scientific background) without notifying the client or obtaining specialized advice.	Temporary suspension of right to practice unless under supervision of accredited Member.
(5) Member has continued to practice while under suspension. (6) Member has failed to fulfill continuing education penalty of Level 1 complaint. (7) Member has been reviewed by College, and does not meet the minimum standard of knowledge of a Member.	Suspension of rights pending re-examination.

Discipline
Process
(cont.)

Honesty and Integrity	
Complaint	Penalty
(1) Member's books are not in compliance with College guidelines.	Review of Member's books and records; and periodic audit by outside auditor.
(2) Member has been discourteous and unprofessional.	Member to be monitored by College review of Member's correspondence
(3) Member has failed to transfer files to another Member (at client's request) in an orderly manner. (4) Member has acted for both sides of a dispute without advising the clients of this fact.	Member required to attend ethics education programme.
(5) Member has been unable to properly account for client's trust funds. (6) Member has made false statements to clients/CIPO. (7) Member has failed to co-operate with the College's review of his or her books/practice. (8) Member has misused information obtained due to representing both sides of a dispute.	Member temporarily suspended. Member to prove to College that he or she has remedied the problem before being allowed to practice.
(9) Member has stolen funds from client. (10) Member has been unable to manage a practice due to illness, bankruptcy etc.	Member is stricken from the list of accredited members of the College.

8. Creation of a College

Discipline Process (cont.)

2. The Complaint will be made to the *Discipline Committee of the College*. The committee will be made up of members of the College only. The powers of the Discipline Committee shall be:
 - (1) to dismiss the complaint;
 - (2) to recommend the lowest level of penalty;
 - (3) to refer the complaint to the Discipline Tribunal;
 - (4) to mediate the dispute between the Member and other members, or the client.
3. The *Discipline Tribunal* will be made up of 2 members of the College and 1 member of the public (a retired judge is recommended).
4. The Tribunal will hear all of the complaints sent to it by the Discipline Committee. The Tribunal will conduct hearings in public (unless for reasons of client confidentiality, this cannot take place).

8. Creation of a College

Discipline Process (cont.)

5. The Tribunal will have the power to subpoena witnesses and to require documentary production
6. At the hearing before the Tribunal, the College will be represented by counsel, and the Member may (if he or she wishes) be represented by counsel. The members of the Tribunal shall not include any member who reviewed the complaint at the first instance (in the Disciplinary Committee).
7. There will be an appeal to the Federal Court of Canada by way of a judicial review under Section 18 of the *Federal Court Act*.
8. The process will proceed in a timely way to ensure fairness to the complainant and to the member.

8. Creation of a College Discipline

In the past the number of complaints made with respect to an IPIC member have not been large (one or two a year). However, it is contemplated that once there is a good system of handling complaints, the number of such complaints would rise slightly.

By comparison: Actuaries with 3,300 members: 80 cases in last 10 years. Of those, 46 led to establishment of investigation teams. Twenty charges were laid. Of these 13 went to disciplinary tribunals. Three went to appeal.

8. Creation of a College

Indemnification

Part of the responsibility of a college would be the creation of a compulsory system of insurance in relation to professional negligence.

- The current Code of Ethics stipulates: An agent conducting agency practice other than for an employer must maintain a professional liability policy from a reputable insurer for at least the amount recommended by the Institute.
- Currently this amount is \$1 million.
- Notwithstanding that each member holds compulsory insurance in relation to the professional negligence of that member, the college will hold any necessary insurance.

8. Creation of a College

Board of Governors

- The College would be governed by a Board of Governors, which would consist of members of the profession elected by their peers and public representatives appointed by the Federal Government.
- The College will have the power to make By-laws, rules and regulations in relation to officers, servants and agents of the College, the election of the Board, meetings and membership as well as all other particulars of the affairs of the College.

8. Creation of a College

Exclusivity of Practice

Through changes to the Patent Act and to the Trade-marks Act, exclusivity of practice as patent agents and trade-mark agents would be granted to members of the College. This could be done with a text such as:

Every person, not being a member in good standing of the College of Patent and Trade-mark agents, who holds himself or herself out or permits himself or herself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent (trade-mark), shall be guilty of an indictable offence and liable upon conviction to a fine not exceeding \$X or to an imprisonment for a term not exceeding Y months, or both.

8. Creation of a College Resources

Current IPIC Staffing

Executive Director

Director of professional
development

Administrator

Clerical staff (1)

Given the new continuing education
requirements created by a College,
IPIC would likely add an Assistant
director of professional development

College staffing

Executive Director

Registrar

Investigator (contract)

Administrator

Clerical staff (1)

8. Creation of a College Resources

Revenues

Annual fees:

500 patent agents @ \$300 =	\$150,000
1,800 trade-mark agents @ \$300 =	<u>\$540,000</u>
Total:	\$690,000

Exam fees:

	current	proposed
200 patent agents @ \$200 =	\$40,000	\$100,000 (@\$500)
45 trade-mark agents @ \$100 =	<u>\$4,500</u>	<u>\$13,500</u> (@\$300)
Total:	\$44,500	\$113,500

TOTAL

\$803,500

8. Creation of a College Resources

Expenses (estimates)

Administration/general

Salaries (Ex Dir., Registrar, Assistant, clerk)	300,000
Rent (share with IPIC)	60,000
Meetings (of the College)	40,000
Office operations	70,000
Publications	20,000
Web site	<u>10,000</u>
	500,000

8. Creation of a College Resources

Expenses

Discipline

Investigators (contracts)	130,000
Travel (of boards, investigators)	<u>50,000</u>
	180,000

Preventing Unauthorized Practice

Investigator (contracts)	included above
Legal proceedings	<u>50,000</u>
	50,000

8. Creation of a College Resources

Expenses

Exams

Salaries (included previously)	0
Consultant	10,000
Honoraria	20,000
Room rentals	20,000
Operations (photocopies, mailings, etc)	<u>20,000</u>
	70,000
Total	\$800,000

8. Creation of a College Resources

Staffing Comparisons

To handle the admission of members and the complaints and discipline functions:

- the Actuaries, with 3,300 members, have a Membership/Information Manager, a Database Administrator and an Accounting Assistant.
- The Law Society of Saskatchewan, with 2,000 members, has a Membership secretary, a complaints officer and a legal assistant.

8. Creation of a College

College Relations with CIPO

The three elements: registration, maintenance of membership status, and discipline are interwoven with certain activities of the Canadian Intellectual Property Office (CIPO).

The College will manage the registers of patent and trade-mark agents. It will inform CIPO of the persons that have been added to or removed from the registers so that CIPO can update the list of people authorized to file applications.

8. Creation of a College

College Relations with IPIC

- **IPIC will continue to exist for the primary purpose of helping its members succeed while the College's primary purpose will be the protection of the public interest.**
- The College will not be active in intellectual property education activities, other than to propose standards for such education. IPIC will continue to be active in education matters.
- IPIC will continue to have members beyond the practice categories which are addressed by the College.
- IPIC will have no further role in examinations of persons wishing to qualify as patent or trade-mark agents.
- In at least its first years of operation, the College will share premises and may share human resources with IPIC. However, in all other respects, the two operations will maintain independence to the degree possible.
- IPIC will continue its liaison activities with the Government of Canada and its Canadian and foreign sister organizations.

9. Recommendations

A) Through the IP Law Improvement Bill, amend the Patent Act and the Trade-marks Act to indicate that patent and trade-mark agents will be governed by a College. This College will determine who is on the registers.

B) The Acts should also be amended to prevent unauthorized practice.

9. Recommendations

- C) Following adoption of the amendments, a consultative process involving the Government and IPIC will take place to determine the best structure and operating procedures for the College.

- D) Once the Government is satisfied that the College can meet the legislated requirements, the College will be created and the new governance model will become effective. Certain other more detailed requirements applying to the College can be legislated through regulations enacted by Order in Council.