

SUPPORTING STATEMENT
United States Patent and Trademark Office
Law School Clinic Certification Program
OMB CONTROL NUMBER 0651-00xx
December 2015

A. JUSTIFICATION

1. Necessity of Information Collection

This rulemaking is required by Public Law 113-227 (Dec. 16, 2014). Pub. L. 113-227 requires the United States Patent and Trademark Office (“Office” or “USPTO”) Director to establish regulations and procedures for application to, and participation in, the USPTO Law School Clinic Certification Program. That law removed the “pilot” status of the USPTO’s existing law school clinic certification program. The program allows students enrolled in a participating law school’s clinic to practice patent or trademark law before the USPTO under the direct supervision of a faculty clinic supervisor. Each clinic provides legal services on a pro bono basis for clients who qualify for assistance from the law school’s clinic. By drafting, filing, and prosecuting patent and trademark applications, students gain valuable experience that would otherwise be unavailable to them while in law school. The program also facilitates the provision of pro bono services to trademark and patent applicants who lack the financial resources necessary for traditional legal representation. The proposed rules incorporate the requirements and procedures developed and implemented during the pilot phase of the program.

Table 1 provides the specific statutes and regulations authorizing the USPTO to collect the information discussed above:

Table 1: Information Requirements

IC Number	Requirement	Statute	Rule
1-6	Submissions Under 37 CFR § 11.16, 11.17	Public Law 113-227	37 CFR § 11.16, 11.17

2. Needs and Uses

The Office of Enrollment and Discipline (“OED”) Director uses the information in this collection to determine whether the applicants are of good moral character and reputation as well as whether said applicants have the necessary legal, scientific, and technical qualifications required for admittance to the Law School Clinic Certification Program. Information collected from applications submitted by law schools for admission into the program is used to evaluate those law schools and determine whether they are qualified to be admitted as member law schools into the Law School Clinic Certification Program. These qualifications are reevaluated through the law

schools' provision of quarterly reports as well as their completion of the required biennial reapplication process.

The USPTO uses student-applicant information to determine whether an applicant may be admitted to, or an existing student-practitioner may remain in, the Law School Clinic Certification Program.

The information collected, maintained, and used in this collection is based on OMB and USPTO guidelines. This includes the basic information quality standards established in the Paperwork Reduction Act (44 U.S.C. Chapter 35), in OMB Circular A-130, and in the USPTO information quality guidelines.

This proposed collection of information will result in information collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines.

Table 2 outlines how this collection of information is used by the public and the USPTO:

Table 2: Needs and Uses

IC Number	Form and Function	Form #	Needs and Uses
1	Application by Law School to Enter the Program	No Form Number	<ul style="list-style-type: none"> • Used by clinic applicants to request admission to the program. • Used by USPTO to evaluate credentials of candidates to the Law School Program.
2	Application by Law School Faculty Member to Become a Faculty Clinic Supervisor	No Form Number	<ul style="list-style-type: none"> • Used by clinic to request admission for faculty member to participate in program. • Used by USPTO to evaluate credentials of proposed Faculty Clinic Supervisors.
3	Application by Student to Become a Participant in the Program (PTO-158LS)	PTO-158LS	<ul style="list-style-type: none"> • Used by student of a participating clinic to request admission to the program. • Used by USPTO to evaluate credentials of student participants.
4	Quarterly Report Required of Law School Clinics	No Form Number	<ul style="list-style-type: none"> • Used by clinics to inform OED of their activity within the program. • Informs USPTO with numbers of students, faculty, consultations, client representations, applications and responses, and patents and trademarks issued in the preceding quarter.
5	Biennial Renewal Application by Law School	No Form Number	<ul style="list-style-type: none"> • Used by clinics to request continuation in the Program. • Used by the USPTO to evaluate clinics' suitability for continuation in the program.

6	Request to Make Special Under the Law School Clinic Program	PTO/SB/419	<ul style="list-style-type: none"> • Used to request examination of a patent application out of turn. • Used by USPTO to prioritize examination of a particular patent.
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3. Use of Information Technology

All items will be submitted by mail, e-mail, or hand delivery.

4. Efforts to Identify Duplication

The information collected is required to process and record applications to the Law School Clinic Certification Program as well as to operate the program. This information is not collected elsewhere and does not result in a duplication of effort.

5. Minimizing Burden to Small Entities

The information collected is the minimum needed to execute the collection. This collection of information does not impose a significant economic impact or unnecessary burden on small entities or small businesses. The same information is required of every applicant and is not available from any other source. Participation in the program is voluntary.

6. Consequences of Less Frequent Collection

This information is collected at the time a law school clinic, law school administrator, or law school student submits an application for admission to the program and periodically throughout a law school's participation the program. This information collection could not be conducted less frequently. If the collection of information were not conducted, the USPTO could not effectively comply with the requirements of Public Law 113-227.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultation Outside the Agency

The USPTO expects that it will have long-standing relationships with law schools from whom this information is collected. There have been no comments or concerns expressed by these or similar organizations concerning the time necessary to provide, nor the nature of, the information required under this program.

9. Payments or Gifts to Respondents

This information collection does not involve a payment or gift to any respondents.

10. Assurance of Confidentiality

This collection contains information of a confidential nature, which is collected on form PTO-158LS (Application by Student to Become a Participant in the Program) and on the Application by Law School Faculty Member to Become a Faculty Clinic Supervisor. A System of Records Notice (SORN) is being created to cover the relevant information in this collection. That SORN will facilitate the maintenance and access of personal information collected by the law schools as part of their required submissions to OED and will allow OED to gather workload information for analysis of the clinics and their participants.

11. Justification for Sensitive Questions

The USPTO does request information of a sensitive nature on Forms PTO-158LS (Application for Limited Recognition in USPTO Law School Clinic Certification Program), and the Application by Law School Faculty Member to Become a Faculty Clinic Supervisor.

35 U.S.C. 2(b)(2)(D) authorizes the USPTO to require that attorneys, agents, and others practicing before the Office possess good moral character, reputation, and necessary qualifications. The information sought by this collection is used, in part, to determine the suitability of the student applicant to practice before the USPTO and of the faculty applicant to supervise student participants in a law school clinic. The applicant certifies by his or her signature that all of the information provided in the application is true and correct. The applicant is additionally warned that any willfully false statement or certification is considered to be a criminal offense and is punishable by law under 18 U.S.C. 1001.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The USPTO estimates that it will receive approximately 745 total responses per year for this collection.

The USPTO estimates that 75% of the annual responses for this collection will be submitted electronically.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public between 0.5 and 40 hours to prepare and submit the required information, with a total of 1,185 respondent burden hours.

- **Cost Burden Calculation Factors**

The cost to law student respondents for taking the registration examination is estimated to be at the rate of \$48.61 per hour; the median hourly rate for legal occupations (SOC 23-0000) in May 2014 by the Bureau of Labor Statistics. The cost to paralegal respondents for completing the quarterly report is estimated to be at the rate of \$125 per hour. The cost to attorneys for completing the Application by Law School and its Biennial Renewal is estimated to be at the rate of \$410 per hour, the median rate for attorneys in private firms as shown in the 2015 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). The cost to law school faculty members for taking the registration examination and completing the request to make special is estimated to be at the rate of \$60.71 per hour, the median hourly rate for postsecondary law teachers (SOC 25-1112) in May 2014 by the Bureau of Labor Statistics.

Table 3: Burden Hour/Burden Cost to Respondents

IC Number	Item	Estimated Response Time (hours) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Hourly Cost Burden (c) x (d) = (e)
1	Application by Law School to Enter the Program	40	15	600	\$410.00	\$246,000
2	Application by Law School Faculty Member to Become a faculty Clinic Supervisor	1	30	30	\$60.71	\$1,821.30
3	Application by Student to Become a Participant in the Program (PTO-158LS)	0.5	450	225	\$48.61	\$10,937.25
4	Quarterly Report Required of Law School Clinics	1	200	200	\$125.00	\$25,000
5	Biennial Renewal Application by Law School	5	20	100	\$410.00	\$41,000
6	Request to Make Special Under the Law School Clinic Program	1	30	30	\$60.71	\$1,821.30
	TOTAL	-----	745	1,185	-----	\$326,579.85

13. Total Annual (Non-hour) Cost Burden

The total (non-hour) respondent cost burden for this collection is estimated to be \$1,058.00 per year due to postage costs.

Fees

There are no fees associated with this collection.

Postage Costs

The USPTO does not presently use automated or other technological collection techniques for the items in this collection of information, but submissions are accepted electronically through email. Submissions are also accepted via postal mail and hand delivery. The USPTO expects that 75 percent of the items in this collection will be submitted electronically. Of the remaining 25 percent, the USPTO estimates that 99 percent will be submitted by mail—with the remainder submitted by hand delivery—for a total of 184 mailed submissions. The average first class USPS postage cost for a one-pound mailed submission in a flat rate envelope will be \$5.75. Table 4 calculates the postage costs associated with this collection.

Table 4: Annual (non-hour) Respondent Cost Burden

IC Number	Item	Estimated Mailed Responses (a)	Estimated Postage Rate (b)	Total Annual (Non-Hour) Cost Burden (a) x (b) = (c)
1	Application by Law School to Enter the Program	4	\$5.75	\$23.00
2	Application by Law School Faculty Member to Become a faculty Clinic Supervisor	7	\$5.75	\$40.25
3	Application by Student to Become a Participant in the Program (PTO-158LS)	112	\$5.75	\$644.00
4	Quarterly Report Required of Law School Clinics	49	\$5.75	\$281.75
5	Biennial Renewal Application by Law School	5	\$5.75	\$28.75
6	Request to Make Special Under the Law School Clinic Program	7	\$5.75	\$40.25
	TOTAL	184	-----	\$1,058.00

Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total \$1,058.00.

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-11, step 3, employee approximately 120 minutes (2 hours) to process a student application. The current hourly rate for a GS-11, step 3 employee is \$32.57. When 30% is added to account for a fully-loaded hourly rate (benefits and overhead), the hourly rate for a GS-11, step 3 employee is \$42.34 (\$32.57+\$9.77).

The USPTO estimates that it takes a GS-14, step 3, employee approximately 60 minutes (1 hour) to process law-school quarterly reports and 120 minutes (2 hours) to process the request to Make Special. The current hourly rate for a GS-14, step 3 employee is \$54.85. When 30% is added to account for a fully-loaded hourly rate (benefits and overhead), the hourly rate for a GS-14, step 3, employee is \$71.31 (\$54.85+\$16.46).

The USPTO estimates that it takes a GS-15, step 10, employee approximately 240 minutes (4.0 hours) to process a law-school application, 30 minutes (0.5 hours) to process a faculty application, and 120 minutes (2.0 hours) to process a law-school renewal. The current hourly rate for a GS-15, step 10, employee is \$76.04. When 30% is added to account for a fully-loaded hourly rate (benefits and overhead), the hourly rate for a GS-15, step 10 employee is \$98.85 (\$76.04+\$22.81).

Table 5 calculates the burden hours and costs to the Federal Government for processing this information collection:

Table 5: Burden Hour/Cost to the Federal Government

IC Number	Item	Estimated Burden Hours (a)	Estimated Annual Responses (b)	Estimated Hourly Burden (a) x (b) = (c)	Rate (\$/hr) (d)	Total Federal Government Cost (c) x (d) = (e)
1	Application by Law School to Enter the Program	4	15	60	\$98.85	\$5,931
2	Application by Law School Faculty Member to Become a faculty Clinic Supervisor	0.5	30	15	\$98.85	\$1,482.75
3	Application by Student to Become a Participant in the Program (PTO-158LS)	2	450	900	\$42.34	\$38,106
4	Quarterly Report Required of Law School Clinics	1	200	200	\$71.31	\$14,262
5	Biennial Renewal Application by Law School	2	20	40	\$98.85	\$3,954
6	Request to Make Special Under the Law School Clinic Program	2	30	60	\$71.31	\$4,278.60
	TOTAL	- - - -	745	1,275	- - - -	\$68,014.35

15. Reason for Change in Burden

As this proposed collection is a new one, there are no changes in the burden.

16. Project Schedule

The USPTO does not plan to publish this information for statistical use.

17. Display of Expiration Date of OMB Approval

The forms in this information collection will display the OMB Control Number and the expiration date of OMB approval.

18. Exception to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information will not employ statistical methods.