

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Law School Clinic Certification Program**  
**OMB CONTROL NUMBER 0651-0081**  
**(February 2020)**

**A. JUSTIFICATION**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the information collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Public Law 113–227 (Dec. 16, 2014) requires the United States Patent and Trademark Office (USPTO) to establish regulations and procedures for application to, and participation in, the USPTO Law School Clinic Certification Program (LSCCP). 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. In 2019, there were over 60 law schools participating in the program.

This information collection covers the applications from law schools that wish to enter the program, faculty advisors who seek to become a faculty clinic supervisor, and students who seek to participate in this program. The information collection also includes the required biannual reports from participating law school clinics and biennial renewals required by the program as well as the request to make special under the Law School Clinic Certification Program, which allows a limited number of applications per semester to be advanced out of turn (accorded special status) for examination if the applicant makes the appropriate showing, to provide law students with practical experience as they will be more likely to receive substantive examination of applications within the school year that the application is filed.

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

**Table 1: Information Requirements**

Item #	Requirement	Statute	Regulation
1-6	Submissions Under 37 CFR § 11.16, 11.17	Public Law 113-227	37 CFR § 11.16, 11.17

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new information collection, indicate the actual use the agency has made of the information received from the current information collection.**

The USPTO uses the information in this information 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 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 information 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..

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

**Table 2: Needs and Uses**

Item #	Form/Function	Form #	Needs and Uses
1	Application by Law School to Enter the Program	No Form Number	<ul style="list-style-type: none"> <li>Used by clinic applicants to request admission to the program.</li> <li>Used by USPTO to evaluate credentials of candidates to the Law School Program.</li> </ul>
2	Application by Law School Faculty Member to Become a Faculty Clinic Supervisor	No Form Number	<ul style="list-style-type: none"> <li>Used by clinic to request admission for faculty member to participate in program.</li> <li>Used by USPTO to evaluate credentials of proposed Faculty Clinic Supervisors.</li> </ul>
3	Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the USPTO	PTO-158LS	<ul style="list-style-type: none"> <li>Used by student of a participating clinic to request admission to the program.</li> <li>Used by USPTO to evaluate credentials of student participants.</li> </ul>
4	Quarterly Report Required of Law School Clinics	No Form Number	<ul style="list-style-type: none"> <li>Used by clinics to inform OED of their activity within the program.</li> <li>Informs USPTO with numbers of students, faculty, consultations, client representations, applications and</li> </ul>

			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"> <li>Used by clinics to request continuation in the Program.</li> <li>Used by the USPTO to evaluate clinics' suitability for continuation in the program.</li> </ul>
6	Certification and Request to Make Special under the Law School Program	PTO/SB/419	<ul style="list-style-type: none"> <li>Used to request examination of a patent application out of turn.</li> <li>Used by USPTO to prioritize examination of a particular patent.</li> </ul>

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of information collection. Also describe any consideration of using information technology to reduce burden.**

Most items will be submitted by mail, e-mail, or hand delivery. At the present time, the USPTO does provide the option of using fillable forms for most items in this information collection. This means that, for some forms, the respondent may type directly into the form on the computer. After typing the information into the form, the form will have to be printed locally, signed, and then submitted to the USPTO in accordance with the instructions in the General Requirements Bulletin. The USPTO continues to expand the number of fillable forms and is moving towards electronic submission of all forms in the near future.

The Office of Enrollment and Discipline Information System (OEDIS) currently does not accept the law school application electronically. The information on PTO-158LS forms (mostly received by e-mail but mail is also accepted) is typed and scanned into OEDIS. Once a student receives a limited recognition number and are in active status, some of their information is displayed to the public.

Applicants, who are filing a request to make special under the Law School Clinic Program, may submit those items electronically through EFS-Web, the USPTO's online filing system for patent applications and related documents. EFS-Web allows customers to file requests for certificates of correction, issue fee transmittals, reissue patent applications, and associated documents through their standard Web browser without downloading special software, changing their documentation preparation tools, or altering their workflow processes. Applicants may create their requests using the tools and processes that they already use and then convert those documents into standard PDF files that are submitted through EFS-Web to the USPTO. The fillable PDF forms can be submitted through EFS-Web and may be downloaded from the USPTO Web site; they do not require special PDF creation software.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

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. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The information collected, from both individuals and the law schools, is the minimum needed to execute the information 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. Describe the consequence to Federal program or policy activities if the information collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

This information is collected at the time a law school clinic, law school administrator, or a 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. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The 60-Day Notice was published in the *Federal Register* on December 26, 2019 ([84 Fed. Reg. 70961](#)).<sup>1</sup> The comment period ended on February 24, 2020. No public comments were received during this comment period.

The USPTO has long-standing relationships with many of the law schools from whom this information is collected. The USPTO also has long-standing relationships with groups from whom patent application data is collected, such as Patent Public Advisory Committee, the Trademark Public Advisory Committee, and the American Intellectual Property Law Association (AIPPLA), as well as patent bar associations, independent inventor groups, and users of our public facilities. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of any information collection.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

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

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2019-12-26/pdf/2019-27832.pdf>

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the information collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

This information collection contains information that is subject to the Privacy Act.

The Law School Clinic Certification Program records subject to the Privacy Act are covered by the Systems of Records Notices for Attorneys and Agents Registered or Recognized to Practice Before the Office (Commerce/PAT-TM-1; 78 FR 1683; March 19, 2013).

Patent application information collection activities are covered under the Statement of Records Notice for Patent Application Files (COMMERCE/PAT-TM-7; 78 FR 19243; March 29, 2013). This SORN identifies the categories of individuals in the systems containing applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

The confidentiality of patent applications is governed by statute 35 U.S.C. §§ 122 and 181 and regulations 37 CFR 1.11, 1.14 and 5.1-5.3. The USPTO has a legal obligation to maintain the confidentiality of the contents of unpublished patent applications and related documents. Upon publication of an application or issuance of a patent, the patent application file is made available to the public, subject to the provisions for providing only a redacted copy of the file contents.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The USPTO requests information that may be considered of a sensitive nature, to some individuals, 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 information 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. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

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 903 total responses per year from 812 respondents. USPTO expects respondents from both individuals and households and private sector entities, depending upon the item being submitted.

The USPTO estimates that 73% of the annual responses for this information 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 690 respondent burden hours.

- **Cost Burden Calculation Factors**

The USPTO expects that intellectual property attorneys will complete most of the items in this information collection at an estimated rate of \$438 per hour. The attorney rates are found in the 2017 Report of the Economic Survey published by the American Intellectual Property Law Association (AIPLA).<sup>2</sup> Faculty members serving as Clinic Supervisors must be practicing attorneys and registered with the Patent Bar (for those schools handling patent matters before the USPTO on behalf of applicants). The cost for law students applying to participate in the Program is estimated to be at the 10% hourly rate for legal occupations ([BLS 23-000 Legal Occupations](#))<sup>3</sup> which is \$17.77 per hour. This accounts for law students' possible employment in various entry level legal positions. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection is \$145,474 per year.

**Table 3: Burden Hour/Burden Cost to Respondents**

Item #	Item	Type of Respondent	Number of Respondents	Estimated Annual Responses (a)	Estimated Response Time (hours) (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	Private Sector- Non Profits	Same as line 4	1	40	40	\$438.00	\$17,520
2	Application by Law School Faculty Member to Become a Faculty Clinic Supervisor	Individuals or Households	5	5	1	5	\$438.00	\$2,190
3	Application for Limited Recognition in USPTO Law School Program for Law Students	Individuals or Households	745	745	0.5	373	\$17.77	\$6,628
4	Biannual Report Required of Law School Clinics	Private Sector- Non Profits	60	120	1	120	\$438.00	\$52,560
5	Biennial Renewal Application by Law School	Private Sector- Non Profits	Same as line 4	30	5	150	\$438.00	\$65,700
6	Certification and Request to Make Special under the Law School Program	Individuals or Households	2	2	1	2	\$438.00	\$876
	<b>TOTAL</b>		<b>812</b>	<b>903</b>	----- --	<b>690</b>	----- ----	<b>\$145,474</b>

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost**

<sup>2</sup> <https://www.aipla.org/detail/journal-issue/economic-survey-2017>

<sup>3</sup> <https://www.bls.gov/oes/2017/may/oes230000.htm>



of any hour burden already reflected on the burden worksheet).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities. If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

The total (non-hour) respondent cost burden for this information collection is estimated to be \$1,721 per year due to postage costs.

Filing Fees

There are no filing fees associated with this information collection.

Postage Costs

The USPTO does not presently use automated or other technological information 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 about 73% of the items in this information collection will be submitted electronically. Of the remaining number, the USPTO estimates that 99 percent will be submitted by mail—with the remainder submitted by hand delivery—for a total of 225 mailed submissions. The average first class USPS postage cost for a one-pound mailed submission in a flat rate envelope will be \$7.65. Table 4 calculates the postage costs associated with this information collection.

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

Item #	Item	Estimated Mailed Responses	Estimated Postage Rate	Total Annual (Non-Hour) Cost Burden

		(a)	(b)	(a) x (b) = (c)
1	Application by Law School to Enter the Program	1	\$7.65	\$7.65
2	Application by Law School Faculty Member to Become a faculty Clinic Supervisor	1	\$7.65	\$7.65
3	Application for Limited Recognition in USPTO Law School Program for Law Students	185	\$7.65	\$1,415.25
4	Biannual Report Required of Law School Clinics	30	\$7.65	\$229.50
5	Biennial Renewal Application by Law School	7	\$7.65	\$53.55
6	Certification and Request to Make Special under the Law School Program	1	\$7.65	\$7.65
	<b>TOTAL</b>	<b>225</b>	-----	<b>\$1,721</b>

Therefore, the USPTO estimates that the postage costs for the mailed submissions in this information collection will total \$1,721.

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The USPTO estimates that it takes a [GS-11, step 3](#)<sup>4</sup>, employee approximately 120 minutes (2 hours) to process a student application. The current hourly rate for a GS-11, step 3 employee is \$36.81. 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 \$47.85 (\$36.81+\$11.04).

The USPTO estimates that it takes a [GS-14, step 3](#)<sup>5</sup>, 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 \$ 62.00. 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 \$80.60(\$62.00+\$ 18.60).

The USPTO estimates that it takes a [GS-15, step 10](#)<sup>6</sup>, 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 \$81.84. 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 \$106.39 (\$81.84+\$24.55).

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

<sup>4</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf)

<sup>5</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf)

<sup>6</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf)

**Table 5: Burden Hour/Cost to the Federal Government**

Item #	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	1	4	\$106.39	\$426
2	Application by Law School Faculty Member to Become a faculty Clinic Supervisor	0.5	5	2.5	\$106.39	\$266
3	Application for Limited Recognition in USPTO Law School Program for Law Students	2	745	1,490	\$47.85	\$71,297
4	Biannual Report Required of Law School Clinics	1	120	120	\$80.60	\$9,672
5	Biennial Renewal Application by Law School	2	30	60	\$106.39	\$6,383
6	Certification and Request to Make Special under the Law School Program	2	2	4	\$80.60	\$322
	<b>TOTAL</b>	- - - -	<b>903</b>	<b>1,680.5</b>	- - - -	<b>\$88,366</b>

**15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.**

**ICR Summary of Burden:**

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	903	0	0	258	0	645
Annual Time Burden (Hr)	690	0	0	-395	0	1,085
Annual Cost Burden (\$)	1,721	0	0	801	0	920

Adjustments in the information collection are due to:

- Increase of estimated annual responses.** The USPTO estimates 258 more annual responses overall due to an increase of 295 law student requests and a decrease in 14 law schools applying for program participation. At this time, the law school program already has a full compliment of law schools and is not generally expecting new applications. The number of Law School faculty member applications (25 less) and petitions to make special under the law school clinic (28 less) have also both decreased from USPTO initial estimates.
- Decrease of estimated time burdens.** The adjustments in annual responses directly result in adjustments to the time burdens. Most notably the decrease in each Law school application results in 40 fewer hours being associated with this information collection. That aggregated decrease, along with other adjustments, makes up for the increasing number of Law school student applications as the student applications take much less time (30 minutes) to complete.

- **Increases in estimated hourly rates.** For the current renewal, the USPTO is using updated hourly rates of \$438 for attorneys that are higher than the previous estimated rate of \$410.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

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

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The forms in this information collection will display the expiration date for OMB approval of this information collection.

**18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”**

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.