

2020 National Patent Application Drafting Competition Rules (Revised 12/3/2019)

The objective of the 2020 National Patent Application Drafting Competition (Competition) is to introduce law students to issues arising in United States patent law. Participants will have the opportunity to develop their patent application drafting, amending and prosecuting skills by applying legal principles to a hypothetical invention scenario (invention statement), writing a utility patent application, and defending their decisions before a panel of judges. The invention statement will be provided to invited teams. Each team will complete a search pertaining to the invention statement, write a complete utility application, prepare a short written summary, and orally present the application and rationale for patentability, to a panel of judges.

The Competition consists of regional rounds in Detroit, MI; Denver, CO; San Jose, CA; Dallas, TX; and the Washington, DC area. The winner of each region will compete in the National Finals held at the United States Patent and Trademark Office (USPTO) in Alexandria, VA.

Key Dates

17-Nov-19	Team registration opens
15-Dec-19	Team registration closes
19-Dec-19	Team invitations sent
20-Dec-19	Invention statement released to teams
14-Feb-20	Team patent application due
07-Mar-20	Regional Competition occurs in Denver
14-Mar-20	Regional Competitions occur in DC area, Dallas, Detroit, and San Jose
20-Mar-20	1 st Place teams accept invitation to the national finals and prior art reference(s) sent to all participating teams
01-Apr-20	Final national team patent application due
20-Apr-20	National final competition occurs

General Rules

Registration and Eligibility

1. The Competition is open to students who are enrolled, on a full-time or part-time basis, in a degree program at a law school, provided that:
 - (a) such degree program is not an advanced degree in law (i.e. LLM);
 - (b) the student has not been admitted or licensed to practice law in any jurisdiction;
 - (c) the student, if a registered patent practitioner (i.e. patent attorney or agent), must have a patent registration number issued after January 1, 2017;
 - (d) the student is/was enrolled at the institution during the 2019-20 academic year; and
 - (e) the student is not a current employee of the USPTO.
2. Each applicant to the Competition is required to declare in their application that they are eligible to compete under Sec. 1. Anyone found by the organizing committee to have misrepresented his or her eligibility will be subject to disqualification from the Competition.
3. A law school may enter multiple teams for the Competition. A team consists of two to four teammates from the same school, each eligible under Sec. 1 and a law school administrator or coach who is affiliated with the law school. The same team members must represent the team at each phase of the Competition, including but not limited to, search, preparation of the written patent application and appearance(s) at the regional and national phases of the Competition to give the presentation(s). The team will decide which member(s) speak and in what order.
4. A team may be accompanied by one or two coaches, who may fulfill a mentoring or coaching role for the team. A coach may only assist one team.
5. The patent application and oral presentation must be created and written by the students. Coaches must not make any substantive contribution to the preparation of

the patent application or presentation materials, nor contribute during the oral presentation(s).

6. Teams must register through an EventBrite® event titled *2020 US Patent and Trademark Office National Patent Drafting Competition* (number 77918334837). A qualified application must identify at least two student teammates and at least one coach or administrator affiliated with the team's law school. One additional coach may assist a team. Teams must [communicate to the organizing committee](mailto:PatentDraftingCompetition@uspto.gov) through a designated coach or administrator at PatentDraftingCompetition@uspto.gov.
7. A team is deemed to have applied for the Competition when a completed EventBrite® order form has been submitted and an email confirmation has been sent to the designated coach or administrator. Applications will be accepted until **11:59 p.m., Sunday, December 15, 2019 Eastern Time (ET)**.
8. The organizing committee will review applications and communicate invitations, via email, to those teams accepted for the Competition by **11:59 p.m., Thursday, December 19, 2019 ET**.
9. Accepted teams will simultaneously receive an email containing links to the invention statement and associated documentation by **11:59 p.m., Friday December 20, 2019 ET**.
10. There is a limit of 15 participating teams in each region. A team may register in whichever region they choose and will be placed there on a first come, first placed basis. Once the limit has been reached for a particular region, the organizing committee will forward additional team registrations to regions that have not reached the limit, based on the preferences stated on the team application form. The team will be notified, via email, within seven business days of such a change.
11. Upon acceptance of their registration by the organizing committee, each team must submit all documentation in good time to meet the deadlines set out in these rules. Late submission of any documents may lead to disqualification from the Competition.

12. Each team will be responsible for paying their own meal and accommodation costs. Arrangements for a discounted rates at local hotels in each region may be made available and specific details regarding accommodation options will be released separately as the date of the Competition approaches. Teams are entirely responsible for their own travel costs and arrangements, including any visa arrangements for teams coming from out of the country. The organizing committee can provide letters of invitation to help with visa applications, but teams are fully responsible for requesting these in good time to meet the appropriate deadlines.
13. Should a member of a team have to individually withdraw from the Competition, the remaining team members may choose to continue in the Competition (if the team originally comprised three or four competitors) or withdraw from the Competition.

Discretion of the Organizing Committee

14. The organizing committee may at any time amend or add to the rules of the Competition. In the event of a rule change, notice will be given simultaneously to all registered teams, via email to the designated coach or administrator. Any questions or interpretation of the rules, outside of the days of the oral presentations, should be addressed to the organizing committee via email. During the oral presentations, these should be addressed to members of the organizing committee directly. Decisions of the organizing committee are final and are not subject to any form of appeal.
15. The organizing committee may, at its discretion, disqualify a team if they find that there has been a serious violation of the rules, or in the event of other behavior that is considered contrary to the spirit of the competition.

Regional Round – Format and Rules

16. Upon conclusion of the registration period, all properly registered teams will simultaneously receive, via email to the designated coach or administrator, the invention statement comprising a brief description and a drawing. Additional

instructions for the preparation of the patent application may accompany the invention statement.

17. The regional round includes a written phase and an oral presentation. A written patent application shall be submitted prior to and adjudicated along with the team's oral presentation (as discussed below) by a panel of judges, selected by the organizing committee, from patent practitioners, patent examiners, academia and special guest judges.

Written Phase

18. Each team will complete a patent application and other documentation, as described below, which must be received by the organizing committee by **8:00 p.m. on Friday, February 14, 2020** (local time for the appropriate regional location). No alterations to the patent application or other submitted materials are permitted after this deadline. Within their patent application, teams must identify themselves only by use of the anonymous identifier given to them in advance by the organizing committee.
19. Each student on the team must complete a declaration supporting eligibility and stating authorship of the application.
20. Each written phase submission must be an electronic attachment to an email addressed to the organizing committee. It must be in **.pdf format only**.
21. Each team must prepare and submit a complete utility patent application (application) pertaining to the invention statement in accordance with these rules.
 - a. Each patent application submission must be formatted in accordance with all applicable U.S. laws and USPTO guidelines (including those in the [MPEP](https://www.uspto.gov/web/offices/pac/mpep/index.html), <https://www.uspto.gov/web/offices/pac/mpep/index.html>).
 - b. Each patent application must include the following components:
 - abstract,
 - field of the invention,
 - background,
 - drawings, and
 - summary of the invention.

- c. The application may not exceed 10 pages, excluding the claims.
 - d. The claim set is limited to a maximum of 10 claims.
 - e. Each team must submit an Information Disclosure Statement (IDS) listing relevant prior art discovered in their prior art search. The IDS must list only the top five most relevant references.
22. The scope of the written phase is not limited to the text of the patent application. Each team **must prepare a short summary** for the panel of judges. This summary must include rationale supporting the patent drafting strategy used by the team and may set out relevant authorities that have influenced the team's patent drafting strategy. The summary must not exceed two single sides of an 8½ by 11 sheet of paper.
23. The organizing committee will acknowledge receipt of all team submissions via email.
24. A team's patent application will not be circulated to other teams or the public. Each submission will be treated as confidential to the team that wrote it, and (unless permission is obtained) access will be limited to the organizing committee and the judges.
25. The patent application and the summary will be reviewed by assigned judges prior to the oral presentation.
26. If a team, deemed to have registered, does not submit a written utility application, they are considered to have withdrawn from the Competition. They will no longer be considered for any awards.

Oral Presentation

27. Teams that have successfully completed the written phase will gather **at the selected Regional Office on March 14, 2020** for potentially two rounds of oral presentation. In the morning, each team will make their presentation to one of a plurality of randomly assigned three-judge panels.

28. Each team may bring a laptop with an HDMI output to use with their presentation, if the use of slides or other visual presentation is desired. External drives (i.e. thumb drives, external hard drives, etc.) for use on USPTO equipment will be strictly prohibited.
29. Each team shall have a maximum of 20 minutes for their presentation. The presentation should include portions on search strategy, search results, specification strategies and claim drafting strategy.
30. Judges may interrupt the presentation to ask questions or make comments, similar to a PTAB hearing, at their discretion.
31. The judges will score each team based on their written submission and oral presentation at the Competition. Scoring will be based on the criteria discussed in this document. These scores will be forwarded to the organizing committee by the various judges' panels. The team with the highest morning score will advance to the next round.
32. After a lunch break, the highest scoring team from each panel will again make their presentation, to a single select panel. After scoring this presentation, the first, second, and third place teams will receive awards. Teams that do not advance to this round may attend these presentations, but may not offer advice, comment, coaching, etc. to teams remaining in the Competition.
33. During the oral presentations, each team will be notified by a clerk when they have two minutes remaining, and when the team's presentation time has expired. Teams must not continue speaking after the expiration of time.
34. There is to be no communication by the students with anyone other than their fellow teammates, the panel of judges, and the clerk. Notes may not be passed, other than between teammates. While still active in the competition, teams may not observe other teams' presentations, nor send observers or scouts to other presentations.

National Round - Format and Rules

The first place team in each region will receive an invitation to compete at USPTO Headquarters **in Alexandria VA**, in a Patent Trial and Appeal Board (PTAB) Hearing Room, on **Monday, April 20, 2020**, against winners in the other regions, in the national round of the Competition. The second place team may receive an invitation in the event that the first place team is unable to attend.

35. Each team in the national round will consist of the same team members as those who participated the regional round.
36. The participating teams will receive a prior art document that may or may not have been uncovered during their search. Additional instructions may accompany the prior art document.
37. The teams may amend their claims to overcome the prior art document as needed. Teams must follow MPEP rules for claim amendments. Further, no new matter may be added. Teams must submit either the original application or an amended application to the organizing committee by **11:59 p.m. Wednesday, April 1, 2020, ET**.
38. The claims, along with an oral team presentation, will be judged by a panel of judges selected from USPTO executives, patent practitioners, patent examiners, and academia.
39. Each team may bring a laptop with an HDMI output to use with their presentation, if the use of slides or other visual aides are desired. External drives (i.e. thumb drives, external hard drives, etc.) for use on USPTO equipment will be strictly prohibited.
40. Each team will have a maximum of 30 minutes for their presentation, including questions from the judges throughout the presentation. The presentation should include portions on search strategy, specification drafting strategy, and claim drafting strategy.
41. The judges will score each team based on their written claim(s) and oral presentation during the national round. Scoring will be based on the criteria discussed in this

document. The first, second, and third place teams will receive awards. Teams that do not advance to this round may attend these presentations, but may not offer advice, comment, coaching, etc. to teams remaining in the Competition.

42. During the oral presentations, time will be kept by a clerk, who will indicate to each team when they have two minutes remaining, and when the team's presentation time has expired. Teams must not continue speaking after the expiration of time without first gaining the permission of the panel of judges.
43. There is to be no communication by the students with anyone other than their fellow teammates, the panel of judges, and the clerk. Notes may not be shared, other than between teammates. While still active in the competition, teams may not observe other teams' presentations, nor send observers or scouts to other presentations.
44. By participating in the National Round Oral Presentation individuals are accepting that such presentations may be video recorded and/or live streamed over the internet.

Specific Scoring Guidelines

Please note: the competition shall take place under U.S. law, including all relevant laws and rules pertaining to formatting of utility patent applications, novelty, obviousness and claim construction.

Searching

Each team will complete a novelty search pertaining to the technology of the invention statement. Teams are permitted to complete their search using any resources available to them or the public, including any online databases.

Each team will present an explanation of their search strategy and results during the oral presentation portions of the Competition. Scoring will be based on the following criteria:

- How well has the team compiled necessary *keywords* in order to cover the main elements and/or aspects of the proposed invention?
- What search queries did the team use? Did the team use a combination of keywords, classification, Boolean operators, etc.?
- Did the team search international patent databases? If so, using what methodology?
- Did the team search relevant non-patent literature (NPL), and if so, what was the search strategy?
- What were the most relevant pieces of prior art located, and why are they relevant?

Each team must present their search strategy and results to the panel of judges. Teams will be awarded points based on the above-referenced criteria, as well as the overall quality and creativity of their presentation.

Claim Drafting

Each team must prepare a set of claims for the regional round and, if appropriate, again for the national round. They must present their claim drafting strategy to the panel(s) of judges. Claims must be drafted in light of the prior art found during the search, taking

into account considerations of novelty and obviousness, as well as other relevant claim drafting rules (including without limitation 35 U.S.C. §112). Teams are permitted to draft their claims using any patent application drafting software program they wish, so long as the claims are **submitted in .pdf format**.

Scoring will be based on the following criteria:

- How has the team identified the essential elements of the independent claim(s)? The judges' scoring grids will include some key elements of the invention statement that must be identified in the claims, but teams will receive points based on their approach and creativity.
- What elements has the team chosen to claim dependently? Judges will have a list of elements that should be claimed. Teams will be awarded points based not only on whether these elements are identified (i.e. a checklist of elements), but also on the creativity of their approach to claiming.
- Does the team avoid including any unnecessary limitations in their claims, especially in the independent claim(s)?
- Have all of the elements been correctly identified and supported in the description (see discussion of description below)?

The claims must be limited to a maximum of 10 claims, with up to three independent claims. Keep in mind that from a practical perspective, applicants are charged excess claim fees for more than three independent claims. Further, a significant portion of the scoring points are awarded for **quality** of the claims and the rationale provided for the selected approach to claiming.

Each team must present their claims and claiming strategy to the panel(s) of judges. Teams will be awarded points based on the above-referenced criteria, as well as the overall quality and creativity of their presentation. Each team must explain how the claims were drafted, and elements chosen, in light of their search results. The presentation is the opportunity for the team to explain their claim drafting rationale, in light of their search results as well as overall strategic reasoning, taking into consideration such issues as prosecution concerns and gaining the best protection for their client.

Detailed Description & Labelled Illustrations

The team must draft the specification to meet all relevant legal requirements, including but not limited to providing support for the claims and enabling the invention. Further, the specification will be limited to ten single sided pages. Teams are permitted to draft their specification using any program they wish, so long as the specification is **submitted in .pdf format.**

Points will be awarded on the following criteria:

- Have the claims been fully supported in the detailed description and the illustrations?
- Has the invention been fully enabled in the specification?
- Has the application been written to avoid including any unnecessarily limiting language throughout the description?

Each team must present their overall specification drafting strategy to the panel(s) of judges. Points will be awarded based on the above-referenced criteria, as well as the overall quality and creativity of their presentation. If necessary, students should reference their rationale for claiming strategy in light of their strategy for preparing the detailed description and labelled illustrations.

Presentation

Teams can use any presentation software of their choosing, including PowerPoint, Prezi, etc. A significant portion of the scoring will be based on the team's presentation skills and how clearly and competently they can explain their search strategy, search results, and relevance to the panel of judges.