



*United  
States  
of  
America*



*To Promote the Progress*

*of Science and Useful Arts*

*The Director*

*of the United States Patent and Trademark Office has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.*

*Therefore, this United States*

*Patent*

grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America, and if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States of America, products made by that process, for the term set forth in 35 U.S.C. 154(a)(2) or (c)(1), subject to the payment of maintenance fees as provided by 35 U.S.C. 41(b). See the Maintenance Fee Notice on the inside of the cover.

**2021** United States Patent and Trademark Office  
National Patent Application Drafting Competition

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# 2021 National Patent Application Drafting Competition rules

Welcome to the 2021 United States Patent and Trademark Office National Patent Application Drafting Competition (“Competition”). Originally created in 2014 as a midwest competition, the Competition is today a national inter-law school competition designed to introduce law students to issues arising in United States patent law. Participants will have the opportunity to develop their patent prosecution skills by applying legal principles to a hypothetical invention scenario (“Invention Statement”) and appreciating the intricacies of drafting a patent specification and claims that are both patentable and valuable. Each team will complete a search pertaining to the Invention Statement, draft a utility patent application, and defend their decisions before a panel of judges comprising USPTO executives/personnel, patent practitioners, academia and/or special guest judges.

The Competition consists of regional rounds held virtually. The winner of each regional round will compete in person<sup>1</sup> in the National Finals held at the United States Patent and Trademark Office (USPTO) headquarters in Alexandria, Virginia.

There is no entry fee for the Competition. All eligible teams are encouraged to enter.

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<sup>1</sup> Subject to change

## Key dates

The following table presents all key dates for the Competition. All dates referred to in these rules are specified in this table. Each team is responsible to ensure that all deadlines are satisfied.

| <b>Date</b>                    | <b>Description</b>                                                                                                                                                  | <b>Term</b>                                  |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| XX                             | Team registration opens                                                                                                                                             | "Registration Opening Date"                  |
| XX 11:59 PM<br>ET <sup>2</sup> | Team registration closes                                                                                                                                            | "Registration Closing Date"                  |
| XX                             | -Team invitations sent<br>-Waitlisted team (if any) notified                                                                                                        | "Invitations Date"                           |
| XX                             | Invention Statement, competition materials, and grading rubric sent to competing teams                                                                              | "Materials Release Date"                     |
| TBD                            | Workshop–How to Draft a Patent Application (optional)                                                                                                               | "Drafting Workshop Date"                     |
| TBD                            | Workshop–How to Search for Prior Art (optional)                                                                                                                     | "Search Workshop Date"                       |
| XX 11:59 PM<br>ET <sup>2</sup> | Team patent application due                                                                                                                                         | "Application Due Date"                       |
| XX                             | Regional rounds presentation schedule emailed                                                                                                                       | "Regional Rounds Schedule Notification Date" |
| XX                             | Regional rounds dry-run (optional)                                                                                                                                  | "Dry Run Date"                               |
| XX                             | Virtual regional rounds                                                                                                                                             | "Regional Rounds Date"                       |
| XX                             | -Highest scoring team from each regional round accepts invitation to the National Finals<br>-National Finals prior art reference(s) sent to all participating teams | "National Finals Invitation Date"            |
| XX 11:59 PM<br>ET <sup>2</sup> | National Finals team patent application due                                                                                                                         | "National Finals Application Due Date"       |
| XX                             | National Finals competition occurs                                                                                                                                  | "National Finals Date"                       |

**Table 1: Deadlines**

<sup>2</sup> Refers to the time the submission is *received* by the Organizing Committee.

## General rules

*Revision date – October 22, 2020*

### Organizing Committee

1. The Competition is organized and headed by an organizing committee (“Organizing Committee”).
2. The Organizing Committee may, at its sole discretion, amend or add to these rules of the Competition (“Rules”) at any time. In the event of a rule change, adequate notice shall be given simultaneously to all registered teams, via email to each team’s designated coach or administrator. Any question or interpretation of these Rules should be addressed to the Organizing Committee via email at **PatentDraftingCompetition@uspto.gov**. Decisions of the Organizing Committee shall be final and are not subject to any form of appeal.
3. Communications from the Organizing Committee to the teams (or from the teams to the Organizing Committee) shall be made exclusively through the teams’ identified coach(es) or administrator(s) (*see* rules 7 and 9).
4. The Organizing Committee may, at its sole discretion, disqualify a team if it finds that there has been a serious violation of these Rules, or in the event of other behavior that is considered contrary to the spirit of the Competition.

### Eligibility

5. The Competition is open to students who are enrolled, on a full-time or part-time basis, in any law school class, provided that:
  - (a) the student has not been admitted or licensed to practice law in any jurisdiction;
  - (b) the student, if a registered patent practitioner (i.e. a patent agent), must have a patent registration number issued on or after January 1, 2018;
  - (c) the student is/was enrolled at the institution during the 2020-21 academic year; and
  - (d) the student is not a currently paid employee of the USPTO.

6. Each applicant to the Competition is required to declare in their application that they are eligible to compete under rule 5. Anyone found by the Organizing Committee to have misrepresented his or her eligibility will be subject to disqualification from the Competition.
7. A team consists of a minimum of two members and a maximum of four members, represented by a team coach or administrator. Each member of each team must be from the same school, each eligible under rule 5. The team coach or administrator must be affiliated with the team's law school. A maximum of two coach(es) or administrator(s) may represent a team. The same team must represent the same school 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 rounds of the Competition.

Team members unable to identify a coach or administrator to represent the team may petition the Organizing Committee who will assist the petitioning team in an attempt to identify a team coach or administrator. Petitions must be filed before the **Registration Closing Date** (see Table 1) with the team's registration application via email at **PatentDraftingCompetition@uspto.gov**.

8. **All work products, including but not limited to search for prior art, patent application draft, and oral presentations must be created and written by the students.** Coaches or administrators may **not** make any substantive contribution to created work products or presentation materials, nor contribute or participate during the oral presentation(s).

## Registration

9. Each team must register through an EventBrite event titled "2021 U.S. Patent and Trademark Office National Patent Drafting Competition." A complete application must identify at least two student teammates and at least one coach or administrator affiliated with the team's law school. Each team shall communicate to the Organizing Committee through its designated coach or administrator (see rule 3).

10. 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. Eastern Time (ET) on the Registration Closing Date (see Table 1)**.
11. The Competition is limited to a maximum of 60 teams nationwide. Registration is open on the **Registration Opening Date** (see Table 1) on a first-come, first-served basis. Should maximum registration be reached, teams may still register, but will be waitlisted.
12. Except as allowed in rule 14, a law school may only be represented by one team, defined as the first team to submit a complete application for registration. Additional teams from the same school may apply for registration and be waitlisted until registration closes on the **Registration Closing Date** (see Table 1).
13. The Organizing Committee will review applications and communicate invitations, via email, to those teams accepted and entered for the Competition no later than the **Invitations Date** (see Table 1). Each team invitation will comprise the team's unique anonymous identifier, which must be used in all future submissions.
14. Waitlisted teams (if any), upon application review, will be notified of their entry into the Competition (if admitted) no later than the **Invitations Date** (see Table 1). Priority shall be given to law schools on the waitlist which do not have a team already accepted into the Competition.
15. Accepted teams will receive an email containing attachments to the Invention Statement, associated materials, and a grading rubric no later than the **Materials Release Date** (see Table 1).
16. 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 (see Table 1). Late submission of any documents may be subject to penalty points or lead to disqualification from the Competition.

17. If qualified for the National Finals, each team shall be responsible for paying their own meal and accommodation costs. Arrangements for discounted rates at local hotels may be made available and specific details regarding accommodation options will be released separately as the date of the National Finals approaches. Teams are entirely responsible for their own travel costs and arrangements, including any visa arrangements for team members 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 set forth in Table 1.
  
18. 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. The team coach or administrator shall immediately notify the Organizing Committee of the individual withdrawal and the team decision of whether or not to withdraw the entire team from the Competition. Based on a showing of good cause, a team may petition the Organizing Committee to replace/substitute a team member. Petitions for replacement or substitution shall promptly be made via email to the Organizing Committee at **PatentDraftingCompetition@uspto.gov**.

### **Regional rounds–format and rules**

19. No later than the **Materials Release Date** (see Table 1), all properly registered teams will simultaneously receive, via email to the designated coach or administrator, the Invention Statement comprising a brief description of the invention and a drawing(s). Additional instructions for the preparation of the patent application and/or its support documents may accompany the Invention Statement.
  
20. Regional rounds include a written phase and an oral presentation. A written patent application, along its supporting documents, 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, USPTO personnel, academia, and/or special guest judges.

21. For purposes of the regional rounds, registered teams will randomly be divided into five regional groups (Groups A-E) for oral presentations on the **Regional Rounds Date** (see Table 1). Each team will be notified via email of their oral presentation time no later than the **Regional Rounds Schedule Notification Date** (see Table 1). The Organizing Committee shall take into consideration each participating team's respective time zone when scheduling the oral presentations.
22. Utilizing the provided grading rubric, the highest scoring team from each of the five regional groups shall qualify for the National Finals competition on the **National Finals Date** (see Table 1). Each highest scoring team shall be notified of their qualification to the National Finals no later than the **National Finals Invitation Date** (see Table 1).
23. To aid each registered team, the USPTO has organized two virtual workshops to aid in the preparation of the written phase: (a) "How to Draft a Patent Application" and (b) "How to Search for Prior Art" (see Table 1). Attendance is optional. Further information will be sent to the registered teams prior to the **Drafting Workshop Date** (see Table 1) and the **Search Workshop Date** (see Table 1). No makeup sessions are presently planned.
24. By participating in the regional rounds, individuals are accepting that such appearances and presentations may be used, published, video recorded, and/or live streamed over the internet.

### **Written phase**

25. Each team will complete a patent application and other documentation, as described below, which must be **received** by the Organizing Committee no later than **11:59 p.m. ET** on **Application Due Date** (see Table 1) (emphasis added). Submissions shall be submitted via email as an electronic attachment and in **.pdf format** to **PatentDraftingCompetition@uspto.gov**. Other formats, such as .doc or .docx, will not be accepted. No alterations to the submitted patent application or other submitted materials are permitted after this **Application Due Date** (see Table 1). Within their patent application, teams must identify themselves only by use of their anonymous identifier given to them in advance in their invitation by the Organizing



Committee.

26. Each student on the team must complete a declaration supporting eligibility and confirming authorship of the application.
27. Each team must prepare and submit a complete utility patent 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, rules, and USPTO guidelines** (including those in the [MPEP](http://www.uspto.gov/web/offices/pac/mpep/index.html), [www.uspto.gov/web/offices/pac/mpep/index.html](http://www.uspto.gov/web/offices/pac/mpep/index.html)).
  - b. Each patent application shall include the following components:
    - Abstract,
    - Field of the Invention,
    - Background,
    - Drawings,
    - Summary of the Invention, and
    - Claims.
  - c. The patent application may not exceed eight pages single-sided, excluding the drawings and claims.
  - d. The claim set is limited to a maximum of 10 claims, with up to three independent claims. No multiple dependent claims are allowed.
  - 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.
28. 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 the rationale(s) 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 pages**.
29. A complete and timely submission shall be submitted as electronic attachment(s) to **PatentDraftingCompetition@uspto.gov**, in .pdf format, by the **Application Due Date** (see Table 1) and include:
  - (a) Declaration from each team member;
  - (b) Short Summary;
  - (c) Patent Application; and

(d) IDS.

30. The Organizing Committee will acknowledge receipt of all team submissions via email to the designated coach or administrator.
31. 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.
32. Each patent application and summary will be reviewed by assigned judges prior to the oral presentation.
33. A registered team's failure to submit a complete submission, as outlined in rules 25-29 above, by the **Application Due Date** shall be treated as a withdrawal from the Competition.

### **Oral presentation**

34. Teams that have successfully completed the written phase will participate in virtual regional rounds for oral presentation on the **Regional Rounds Date** (see Table 1).
35. Each presentation will be judged by a panel of judges comprising patent practitioners, USPTO personnel, academia, and/or special guest judges.
36. Each team may utilize a computer to use with their presentation, if the use of slides or other visual presentation is desired. No later than the **Regional Rounds Schedule Notification Date** (see Table 1), each team will be notified via email of their presentation time and will be given instructions on how to virtually present their oral argument on the **Regional Rounds Date** (see Table 1).
37. Each team shall have a maximum of **20 minutes** for their oral presentation. The presentation should focus on claim drafting strategy and patentability.
38. Judges may interrupt the presentation to ask questions and/or make comments at

their discretion.

39. The judges will score each team based on their written submission and oral presentation at the Competition. Scoring will be based on the criteria set forth in the grading rubric included with the Invention Statement and competition materials.
40. During oral presentation, 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.
41. Students shall not communicate with anyone, other than their fellow teammates, coach(es) or administrator(s), the panel of judges, and the clerk. While still active in the competition, teams may not observe other teams' presentations, nor send observers or scouts to observe another team's presentation.
42. Based on the scores from the written phase and the oral presentation, the highest scoring team from each of the five regional groups shall qualify for the National Finals competition on the **National Finals Date** (see Table 1). Judges' scores are deemed final and not subject to review or appeal.
43. Each team shall be responsible to ensure that their technical equipment, including but not limited to computer and internet connection, is fully functional at the time of their oral presentation. The Organizing Committee shall not be responsible for any technical issues. To reduce the likelihood of technical difficulties on the **Regional Rounds Date** (see Table 1), an optional dry-run has been scheduled by the Organizing Committee on the **Dry-Run Date** (see Table 1). Interested teams should email the Organizing Committee no later than 24 hours prior to the **Dry-Run Date** (see Table 1) to request a dry-run with the technical team.

## **National round-format and rules**

The highest scoring team in each group of the regional rounds will receive an invitation to compete, against the highest scoring teams in the other groups of the regional rounds, in the National Finals no later than the **National Finals Invitation Date** (see

Table 1). The National Finals will be held at the USPTO headquarters in Alexandria, Virginia on the **National Finals Date** (see Table 1). A second-place team may receive an invitation in the event that the highest scoring team is unable to attend.

44. Each team in the National Finals will consist of the same team members who participated the regional round.
45. With the National Finals invitation, the participating teams will receive a prior art document that may or may not have been uncovered during their initial search. Additional instructions may accompany the prior art document.
46. In light of the supplemental documents provided with the National Finals invitation, the teams may amend their claim(s). Teams must follow MPEP rules for claim amendments. Furthermore, no new matter may be added. Teams must submit either the original claim(s) or amended claim(s), which must be *received* by the Organizing Committee no later than the **National Finals Application Due Date** (see Table 1) (emphasis added).
47. Submissions shall be submitted via email as an electronic attachment and in **.pdf format** to **PatentDraftingCompetition@uspto.gov**. Other formats, such as .doc or .docx, will not be accepted. No alterations to the submitted patent application or other submitted materials are permitted after the **National Finals Application Due Date** (see Table 1). Within their submission, teams must identify themselves only by use of the anonymous identifier given to them in advance in their invitation by the Organizing Committee.
48. The claims, along with an oral team presentation, will be judged by a panel of judges selected from USPTO executives/personnel, patent practitioners, academia and/or special guest judges.
49. Each team will have a maximum of **30 minutes** for their presentation, including questions from the judges throughout the presentation. The presentation should focus on claim drafting strategy and patentability.
50. The judges will score each team based on their written claim(s) and oral presentation during the National Finals. 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. Judges' scores are deemed final and not subject to review or appeal.

51. 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.
  
52. Students shall not communicate with anyone, other than their fellow teammates, coach(es) or administrator(s), 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 observe another team's presentation.
  
53. By participating in the National Finals oral presentation, individuals are accepting that such appearances and presentations may be used, published, video recorded, and/or live streamed over the internet.

## Specific scoring guidelines

**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–15 points

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.

To aid each registered team, the USPTO has organized an optional virtual workshop “How to Search for Prior Art” for registered teams. An email link will be sent prior to the **Search Workshop Date** (see Table 1) for all interested teams. No makeup sessions are presently planned.

## Claim drafting–40 points

Each team must prepare a set of claims for the regional round and, if qualified, for the National Finals round. Each team 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. §§ 101, 102, 103, and 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)?
- How has the team maximized value through considerations of damages, detectability, and possible infringers?

The claims must be limited to a maximum of **10 claims**, with up to three independent claims, and no multiple dependent claims. 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 oral presentation is the opportunity for the team to explain its 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 and labeled illustrations–15 points**

Each 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.

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.

To aid each registered team, the USPTO has organized an optional virtual workshop “How to Draft a Patent Application” for registered teams. An email link will be sent prior to the **Drafting Workshop Date** (see Table 1) for all interested teams. No makeup sessions are presently planned.

### **Presentation–30 points**

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.