

CANADIAN PATENT DRAFTING COMPETITION RULES

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 higher education degree, provided that:

- (a) such course is not a research degree in law;
- (b) he or she has not been admitted or licensed to practice law in any jurisdiction, and is not a registered patent agent; and
- (c) he or she is enrolled at his or her institution at the date of the Competition, or at an earlier time as permitted at the discretion of the Organizing Committee.

2. Any student applicant into the Competition is required to declare in their application that they are eligible to compete under Sec. 1. Anyone considered by the Organizing Committee to have misrepresented their eligibility will be subject to an appropriate penalty determined by the Organizing Committee, which may include disqualification from the Competition.

3. A university or other higher education institution may only enter one team for the Competition. A team comprises two or three team members, each eligible under Sec. 1. The same team must prepare the patent application and appear at the Competition to give the presentation. It is a matter for teams to decide which members speak (if at all) and in what order.

4. A team may be accompanied by one or two observers. Observers may fulfill a mentoring or coaching role for the team, but may **not** make any substantive contribution to the preparation of the patent application or presentation, nor contribute during Competition presentation. Additional observers may be admitted to the Competition at the discretion of the Organizing Committee.

5. On registration, each team undertakes to submit all documentation in good time to meet the deadlines set out in these rules. Additionally, each team undertakes to arrange timely payment of any fees. Late submission of any documentation or payment may lead to sanctions determined by the Organizing Committee to be appropriate, including disqualification from all or part of the Competition.

6. Each team is required to pay a Competition registration fee of **\$260.00CDN**. This subsidized fee covers, amongst other things, registration of the team in the competition

Any observers travelling with the team will be required to pay a separate registration fee, calculated on a cost-recovery basis. Details about the fee and arrangements for observers will be released separately at a later date.

Each team will be responsible for paying their own accommodation costs. The Organizing Committee will attempt to make arrangements for a discounted rate at a local hotel. Specific details regarding accommodation options will be released separately as the date of the Competition approaches.

The Competition registration fee, the team registration form, and any fees payable by observers as defined in Sec.4, must be submitted by the Registration Deadline (see competition website for deadline).

7. A team is deemed to have applied to enter the Competition when a completed team registration form and payment of the registration fee has been received by the Competition Secretary.

8. Teams are entirely responsible for their own travel costs and arrangements, including any immigration arrangements for teams coming from out of 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. Teams unable to attend the Competition because immigration arrangements were not made in good time will **not** be eligible for a refund of any fees for the Competition.

9. If a team deemed under Sec.7 to have applied to enter the Competition does not then attend, they are deemed to have withdrawn from the Competition. They will no longer be considered for any awards.

10. Should a member of a team have to individually withdraw from the Competition, the remaining team member(s) may continue in the Competition (if the team originally comprised three Competitors) or withdraw from the Competition. The team may also apply in writing to the Organizing Committee for permission to substitute a new team member. The Organizing Committee will have total discretion in deciding whether to accept this request.

The Competition

Written Phase

11. For the Written Phase, each team must prepare and submit a complete patent application pertaining to the hypothetical invention in accordance with these Rules. Additional instructions for the preparation of the patent application may accompany the hypothetical invention. Additionally:

(a) as discussed in detail below, there is no word count limit for the patent application;

(b) each patent application submission **must be formatted in accordance with all applicable Canadian laws and CIPO guidelines (including MOPOP)** for the format of patent applications;

(c) the patent application must be in .pdf format;

(d) students must submit an 'IDS' detailing the relevant prior art discovered in their prior art search; the sample IDS form will be provided to students and students must list their **top six (6) prior art references only**.

12. The patent application must be received by the Organizing Committee by **8:00pm on FRIDAY 26 JANUARY 2018 (EST)**. No alterations to the patent application 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.

The Organizing Committee will acknowledge receipt of all patent applications by email.

13. The patent application must be submitted as electronic attachments to an email addressed to the Organizing Committee. They must be supplied in **.pdf format only**.

14. The patent application shall be reviewed by assigned judges prior to the Competition. Furthermore, the patent application shall be adjudicated at the Competition along with the student presentation (as discussed below) by a panel of judges, selected by the Organizing Committee from the legal profession, patent examiners, academia or special guest judges.

15. The patent application will not be circulated to other teams. Each submission will be treated as confidential to the team that wrote it, and (unless permission is obtained) access limited to the Organizing Committee and the judges panel.

Oral Proceedings

16. Each team shall have a maximum of thirty (30) minutes for their presentation; the presentation should be split up with approximately fifteen (15) minutes for presentation on search strategy and results, fifteen (15) minutes for presentation on application drafting strategy and five (5) minutes for questions throughout the presentation.

17. Time will be kept by a clerk, who will indicate to each team when they have fifteen, five and then two minutes remaining, and when the team's time has expired. **Teams must not continue speaking after the expiry of time without first gaining the permission of the panel of judges**. The panel will have discretion to grant such an extension, although the maximum extension that may be granted for any given speaker is **two minutes from the expiry of time**. Teams should **not** assume that they will be granted extensions, and should structure their presentations accordingly.

18. 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 the teammates. While still active in the competition, teams may not send observers or scouts to other presentations.

19. The scope of the presentation is not limited to the text of the patent application, and each team may prepare a short 'explanation brief' for the panel of judges. This explanation brief is not mandatory, rather, is optional for teams that wish to include authorities and rationale supporting their patent drafting strategy.

(a) Each explanation brief can set out relevant authorities that have influenced the team's patent drafting strategy, including (but not limited to) excerpts from relevant case law and the MOPOP. Other points may be raised and authorities cited in response to questions from the

panel of judges, if necessary. The explanation brief should explain the relevance of each cited authority to specific items pertaining to the team's patent application drafting strategy.

(b) The explanation brief **must not** exceed five (5) single sides of A4 paper for each team.

(c) Each team must submit a **.pdf copy** of the explanation brief to the organizing committee with their patent application. These will be circulated to panel of judges in advance of each presentation. Judges may wish to retain the explanation brief to assist with scoring.

Discretion of the Organizing Committee

20. 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 to all teams. Any questions of interpretation of the rules should be addressed to the Organizing Committee; during the Competition, 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.

21. The Organizing Committee may, at their discretion, disqualify a team if they consider that there has been a serious violation of these rules, or in the event of other behaviour that is considered contrary to the spirit of the Competition. A team so disqualified may, at the discretion of the Organizing Committee, be charged the full fee, as if they had withdrawn from the Competition.

SPECIFIC MARKING GUIDELINES

PLEASE NOTE – THE COMPETITION SHALL TAKE PLACE UNDER CANADIAN LAW PERTAINING TO PATENT APPLICATION DRAFTING, INCLUDING RELEVANT LAWS PERTAINING TO CLAIM DRAFTING, NOVELTY, OBVIOUSNESS AND FORMATTING OF APPLICATIONS.

SEARCHING

Students will need to complete a novelty search pertaining to the technology of the hypothetical invention scenario. Students will be provided limited time access to Thomson Innovation® search software for the duration of the competition. However, students are permitted to complete their search using any resources available to them including any online databases.

Students will need to present their search strategy and results at the Competition event in March 2018. Marks will be awarded based on the following criteria:

- *How well have the students compiled necessary 'keywords' in order to cover the main elements and/or aspects of the proposed invention*
- *Have the students been able to locate the most relevant Cooperative Patent Classification classes? What classes were selected and why? How did students choose to search within a class (i.e. keyword selection; Boolean operators)?*
- *Did the students search international patent databases? If so, using what methodology (for example, Cooperative Patent Classification (CPC) system; online databases such as Espacenet)*
- *Did the students search relevant non-patent literature (NPL), and if so, what was the search strategy?*
- *What search queries did the students use? Did the students use a combination of keywords, classification, Boolean operators, etc.?*
- *What were the most relevant pieces of prior art located, and why are they relevant?*

Students must present their search strategy and results at the Competition to the panel of judges. Students will be awarded points based on the above-referenced criteria, as well as the overall quality and creativity of their presentation. Students can use any presentation software of their choosing, including Powerpoint, Prezi, etc. A significant portion of the marking will be based on students' presentation skills and how clearly and competently they can explain their search strategy, search results and relevance to the panel of judges.

CLAIM DRAFTING

Students must prepare a set of claims for the hypothetical invention and must present their claim drafting strategy to the panel of judges. Students must draft claims in light of their search results, taking into account considerations of novelty and obviousness, as well as other relevant claim drafting rules. Students will be provided a limited time access to a commercially available patent application drafting software for the duration of the Competition, which students can use to draft their claims. However, students are permitted to draft their claims using any program they wish, so long as the specification is submitted in .pdf format. Marks will be awarded based on the following criteria:

- How have students identified the essential elements of the independent claim(s)? The judge's marking grid will include some key 'elements' of the hypothetical invention that must be identified in the claims, but students will receive marks based on their approach and creativity.

- What elements have the students chosen to claim dependently? Judges will have a marking grid of elements that should be claimed. Students will be awarded marks 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.

- Have the students carefully avoided including any unnecessary limitations in their claims, especially the independent claim(s)?

- Have all of the elements been correctly identified and supported in the description (see discussion of description below)?

There is no specific limit on the number of claims that can be included, either independent and/or dependent claims. However, students should be aware that **more does not necessarily mean better!** A significant portion of marks are awarded for **quality** of the claims i.e. what is the rationale provided for the approach to claiming? Keep in mind that from a practical perspective, applicants would be charged excess claim fees for **more than three (3) independent claims** and **more than twenty (20) claims in total**. As such, students should keep this in mind when crafting their claim strategy in light of the **quality** of their approach to claiming.

Students must present their claims and claiming strategy at the competition to the panel of judges. Students will be awarded points based on the above-referenced criteria, as well as the overall quality and creativity of their presentation. Students must explain how the claims were drafted, and elements chosen, in light of their search results (i.e. the prior art). The presentation is the opportunity for students 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. Students can use any presentation software of their choosing, including Powerpoint, Prezi, etc. A significant portion of the marking will be based on a team's presentation skills and how clearly and competently they can explain their claiming strategy and relevance to the panel of judges.

DETAILED DESCRIPTION & LABELLED ILLUSTRATIONS

Students must draft the description in order to meet all relevant legal requirements- including but not limited to provide support for the claims and to enable the invention. Students will be provided a limited time access to a commercially available patent application drafting software for the duration of the competition, which students can use to draft their specification and label illustrations. However, students are permitted to draft their specification using any program they wish, so long as the specification is submitted in .pdf format. Marks will be awarded based 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?*
- *Have the students carefully avoided including any unnecessarily limiting language throughout the description?*

Students must present their overall specification drafting strategy at the competition to the panel of judges. Students will be awarded points 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.

FIELD OF THE INVENTION; ABSTRACT; BACKGROUND; SUMMARY;

Students must prepare the following additional components of the application:

- *abstract;*
- *field of the invention;*
- *background;*
- *summary of the invention;*

The Panel will award each team a mark out of 150 based on each patent application written submission and the presentation at the Competition. Marking will be based on the criteria discussed above. These marks will be forwarded to the Organizing Committee by the various judges' panels, and the 1st, 2nd and 3rd place teams will receive awards.