



# Intellectual Property Law Clinics in Canada

**Keri Grieman**

**Aug 2019**

For submission to Innovation, Science and  
Economic Development Canada (ISED)

# About CIPPIC

CIPPIC is the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, and is a legal clinic based at the Centre for Law, Technology & Society (CLTS) at the University of Ottawa, Faculty of Law. Its core mandate is to ensure that the public interest is accounted for in decision-making on issues that arise at the intersection of law and technology. It has the additional mandate of providing legal assistance to under-represented organizations and individuals on law and technology issues, as well as a teaching mandate focused on providing law students practical training in a law and technology setting.

CIPPIC website: [cippic.ca](http://cippic.ca)

## With thanks to:

CIPPIC and its partners gratefully acknowledge the financial support of Innovation, Science and Economic Development Canada's Intellectual Property Legal Clinics Program for this project.

## With additional thanks to:

Giuseppina D'Agostino  
Myra Tawfik  
David Fewer  
Graham J. Reynolds  
Ysolde Gendreau

Greg Hagen  
Michelle Li  
Wissam Aoun  
Erica Lyons

## Translation into French:

Camille Desmarais  
Uyên Tran  
Christian Clavette

## Copyright

© Copyright: Attribution 4.0 International (CC BY 4.0)

Cover by Johann Kwan

Vector map of Canada by Paul Robinson, modified by Lokal\_Profil (CC BY-SA 2.5)

# Table of Contents

IP Clinic Report	1
Introduction	1
State of IP Clinics	2
Canada	2
American	2
International/European	3
‘Clinic’ definition	3
Clinic Structure	3
Educational Model	4
Pedagogical Model	4
How students are engaged	5
Student Legal Aid Services	5
Pro Bono Students Canada	6
Area-specific Clinic	6
Policy and Advocacy Work	6
Public Legal Education in A Unique Area as a Stand-alone Initiative	7
Public Legal Education Through Existing Clinics	7
Hybrid Clinic Involving Multiple Faculties	7
Which students are engaged	8
Level	8
Requirements	8
Legal Support Model	8
Governance/Structure/Management	9
Governance	9
Structure	10
Business Model	11
Financial Sustainability	11

Fee Structures	12
IP needs landscape	12
Firm sponsorship	12
Company support	13
Other partnerships	13
Regulatory Compliance	14
Conclusion	16
IP Clinic Literature Review	18
Annexes	23
Annex 1: Canadian Law School Clinics	23
Annex 2: American Law Schools Participating in USPTO	26
Annex 3: American Law Schools with IP Clinics Outside the USPTO	29
Annex 4: United Kingdom Law Schools with IP-Specific Law Clinics	30
Annex 5: United Kingdom Schools Law Clinics that Include IP	31
Annex 6: Outline of the United States Patent and Trademark Office Clinical Certification Program	31

# IP Clinic Report

## Introduction

Intellectual property (IP) law clinics are a global phenomenon with growing popularity in Canada, the United States, and the European Union. Both governments and universities recognize the benefits of investing in both students and creators, and recent government strategies reflect this. The Government of Canada has announced an investment of \$85.3 million over 5 years in order to "help Canadian businesses, creators, entrepreneurs and innovators understand, protect and access intellectual property (IP) through a comprehensive IP strategy,"<sup>1</sup> including a grant to "encourage the development of IP legal clinics within Canadian law schools."<sup>2</sup> This investment aims to "make pro bono or low-cost IP legal services more accessible,"<sup>3</sup> and aids student education at the same time. This report is funded by these endeavours, and aims to discuss the law school clinic landscape, and the different considerations that go into establishing a law school IP clinic.

Law clinics typically focus on helping those who are underserved by other parts of the legal system, whether for reasons of cost or access. Law school clinics combine these aspects with the goals of educating students and preparing them for full-time practice. Intellectual property law clinics are no different and focus on helping creators with their intellectual property rights and teaching law students both intellectual property law and practice skills.

Establishing a clinic is no easy task, and a number of questions must be answered. This report will delve into the questions that form clinic structure and practice: the educational model; legal support model; governance structure, management, and employment; business model; and regulatory compliance. The variety of potential structures means that an organization can play to its strengths and resources, ultimately producing a clinic that helps both creators and students to benefit from the process. This report will discuss the state of IP clinics in Canada, the United States, and overseas; discuss clinic establishment; and provide a literature review on clinical and intellectual property practice.

---

<sup>1</sup> Innovation, Science, and Economic Development (ISED) "Intellectual Property Strategy" online: ISED <<https://www.ic.gc.ca/eic/site/108.nsf/eng/home>>.

<sup>2</sup> Innovation, Science, and Economic Development (ISED) "Intellectual Property (IP) Legal Clinics Program Guide" online: ISED <<https://www.ic.gc.ca/eic/site/108.nsf/eng/00009.html>>.

<sup>3</sup> *Ibid.*

# State of IP Clinics

## Canada

Law clinics in Canada have been around for more than 50 years,<sup>4</sup> and are becoming increasingly popular as law schools focus on providing client-centric approach to legal education.<sup>5</sup> As seen in Annex 1, Canadian law schools have an abundance of clinics: every law school at least partners with a legal services clinics, with the vast majority providing their own. While other clinics may touch on intellectual property (IP) incidentally, Canada currently has three legal clinics that focus on IP: IP Osgoode at York University; the International Intellectual Property Law Clinic at Windsor University; and the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic at the University of Ottawa. Previously, the Centre for International Governance Innovation (CIGI) operated the International Intellectual Property Law Clinic in a test run for three months in 2014 in Waterloo. There is no overarching governing body for IP clinics outside of general governance structures such as Law Society of Ontario.

## American

Across the border, American law schools have “been quicker to recognize the needs of the innovation community,”<sup>6</sup> and an abundance of American law schools have developed specialized IP clinics. The United States Patent and Trademark Office runs the Law School Clinic Certification Program, which allows students in participating law schools “to practice Intellectual Property Law before the USPTO under the strict guidance of a Law School Faculty Clinic Supervisor.”<sup>7</sup> Schools under the USPTO practice patent law, trademark law, or both.<sup>8</sup> There are also many schools not associated with the USPTO which run IP clinics, including clinics that practice copyright.

---

<sup>4</sup> Julie Macfarlane, “Bringing the Clinic into the 21st Century” (2009) *Windsor Yearbook of Access to Justice* 27:1 at 35.

<sup>5</sup> James W Hinton & Kent C Howe, “The New Innovator’s Commercialization Dilemma” (2015) Centre for International Governance Innovation, Special Report, online: <[https://www.cigionline.org/sites/default/files/intellectual\\_property\\_law\\_clinic\\_special\\_report.pdf](https://www.cigionline.org/sites/default/files/intellectual_property_law_clinic_special_report.pdf)> at 5 [Hinton & Howe].

<sup>6</sup> *Ibid.*

<sup>7</sup> United States Patent and Trademark Office (USPTO), “Law School Clinic Certification Program” (2017) online: <<https://www.uspto.gov/learning-and-resources/ip-policy/public-information-about-practitioners/law-school-clinic-1>>.

<sup>8</sup> See Annex 2.

## International/European

While broader than the USPTO certification program, iLINC, the European Network of Law Incubators, focusing on providing free legal support to information, communication, and technology startups while “offering postgraduate law students the opportunity to engage in professional practice.”<sup>9</sup> iLINC’s four core partners and founders are Queen Mary University of London, the Universities of Amsterdam and KU Leuven, and the Hans Bredow Institute for Media Research.<sup>10</sup> iLINC has a number of partners globally, and in particular thanks The Brooklyn Law Incubator and Policy (BLIP) Clinic from Brooklyn Law School as an ‘Associate Partner.’<sup>11</sup>

## ‘Clinic’ definition

As per the Smith/Hale/Gold study on “Clinical and Experiential Learning in Canadian Law Schools,” clinics will be understood in this report as:

“any program that had undertaken some form of direct service or representation that had a potential or real impact on clients, communities and/or groups, including direct representation (such as advocacy, mediation, negotiation, etc.), policy advice, dispute resolution work, and community organizing solidarity work. Student work had to be integrated in the teaching and learning methodologies of the law school (through courses, supervised placements (externships), implementation of an academic director to oversee clinical programs, or other mechanisms). Pro Bono placements were not considered, as they are generally not incorporated into the curriculum.”

## Clinic Structure

There are many facets to how a clinic is structured. These facets include:

1. Educational Model
  - Pedagogical model
  - how students are engaged
  - which students are engaged (see best practice section)

---

<sup>9</sup> iLINC, “Welcome to iLINC, the European Network of Law Incubators” online: iLINC <<https://www.ilincnetwork.eu/>>.

<sup>10</sup> iLINC, “The iLINC Network” online: iLINC <<https://www.ilincnetwork.eu/law-incubators/the-ilinc-network/>>.

<sup>11</sup> *Ibid.*

2. Legal Support Model (how legal services provided)
  - single/multiple client models
  - how to deliver services (bespoke? telephone/internet advice? seminar/workshop? Handbooks and toolkits? Policy advocacy? Simulated advice, like a moot?)
  - what areas of IP to focus on? (USPTO: patent, <sup>TM</sup>, or both). How full of help on each?
  - key resources
  
3. Governance/Structure/Management/Employment
  - management of overseeing staff (independent contractor? University staff?)
  - inside/outside university environment (while still engaging students)
  - *judicare v staff?*
  
4. Business Model
  - Seed financing
  - Financial sustainability
  
5. Regulatory Compliance
  - liability/insurance
  - control v liability
  - supervision: solicitor/client privilege
  - Client confidentiality
  - Conflicts of interest
  - Trust accounts

## Educational Model

### Pedagogical Model

Pedagogy and teaching methodology in clinical settings has been much discussed, and there are innumerable approaches to how instruction should be carried out. Those setting up a clinic should determine for themselves what specific learning goals are to be achieved: an understanding of particular IP material; a chance for students to engage in a clinical setting; management of client files; etc; and structure their clinic accordingly. This can include: whether there will be specific time set aside for teaching in a classroom setting on topics the clinic encounters; whether students will be assigned directly to a mentor; whether students will have time set aside to instruct their peers; whether outside speakers will be engaged, and if so on which topics; whether there will be set times in which

students engage in the clinic, or engage free-form; how students will report on their work; and whether students will undergo reflective evaluation. Mixes between teaching styles are also an option: the International IP Clinic, for example, begins the semester by running students through practice scenarios such as searching for patents before having them engage in person with clients.<sup>12</sup> Typically, it may also be appropriate to do a search for what needs the potential clients may have, and what scope of services they would like to access.<sup>13</sup>

Additionally, clinics should consider whether all students will be taught in the same fashion or at the same time. CIPPIC, for example, holds several different types of student positions: full-time summer students have the benefit of the 'summer speaker series,' wherein industry professionals engage students on topics of interest, whereas students involved in CIPPIC throughout the semester receive an assessment of their work and course credit. Students at Calgary's BLG Business Venture Credit receive half course credit, but also benefit from direct mentorship from lawyers in the field.

There is no individual best way to teach students in clinical models, and in examining educational goals, those setting up a clinic must also consider the resources available to them. A pedagogical model dependent on interactive teaching must ensure it has a professor available to do so, or mentors with the time to interact. Additionally, teaching strategies may differ depending on the amount of students, the specifics of the course material, and the types of clients engaged.

## How students are engaged

### Student Legal Aid Services

This is the model followed by most Ontarian law schools.<sup>14</sup> The clinic is integrated with law school resources such as in-house review counsel, and serves underprivileged parts of the community.<sup>15</sup> Such services tend to focus on legal services such as landlord tenant,

---

<sup>12</sup> Aaraf Dewan, University of Windsor (22 March 2019) personal interview.

<sup>13</sup> Patrick Cahill, "Establishing a University Start-up or Entrepreneurship Law Clinic: Practical Tips" (iLINC; Queen Mary University of London) online: <[https://www.ilincnetwork.eu/wp-content/uploads/2015/09/QM15-0011-88\\_15-iLINC-Brochure-Update-QMUL-Logo-No-Crops.pdf](https://www.ilincnetwork.eu/wp-content/uploads/2015/09/QM15-0011-88_15-iLINC-Brochure-Update-QMUL-Logo-No-Crops.pdf)> at 12 [Cahill].

<sup>14</sup> Margaret Ann Wilkinson, "Mobilizing Intellectual Property Expertise [MIPE] Final Report" (2012) MIPE online: <[https://law.uwo.ca/about\\_us/PDFs/Wilkinson\\_MIPE\\_FINAL\\_REPORT.pdf](https://law.uwo.ca/about_us/PDFs/Wilkinson_MIPE_FINAL_REPORT.pdf)> at 7 [Wilkinson].

<sup>15</sup> *Ibid.*

consumer protection, and small claims.<sup>16</sup> Clinics of this model are overseen by active members of their province's bar.

### Pro Bono Students Canada

Every law school in Canada has a chapter of PBSC, or 'Pro Bono Students Canada.'<sup>17</sup> PBSC's mandate is "to train future lawyers... increase access to justice... [and] promote a culture of pro bono in the profession."<sup>18</sup> PBSC matches student volunteers with community agencies that lack the funds to hire legal counsel.<sup>19</sup> Each project is overseen by a lawyer, who ensures that the project is providing "legal information rather than legal advice."<sup>20</sup> As legal information is provided rather than legal advice, there is less strict oversight by the provincial bar association.<sup>21</sup> This type of model will be discussed minimally, as it tends not to be incorporated into curricular learning.

### Area-specific Clinic

Similar to the Student Legal Aid Services Model, the area-specific clinic model is integrated into the law school and its resources. It differs in its focus on a particular area of law, often drawing on students who have taken particular courses or who have a background in the area. Such clinics include the University of British Columbia's Criminal Law Clinic, the University of Ottawa's Ecojustice Environmental Law Clinic, and the University of Victoria's Business Law Clinic.<sup>22</sup> These styles of clinics provide legal information to those in need and unable to hire legal counsel in that specific area of law. In IP, IP Osgoode is an example of this model.

### Policy and Advocacy Work

The Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic (CIPPIC) at the University of Ottawa is the only example of this model. CIPPIC is one of several such clinics in North America, and intervenes on a policy level rather than for individual clients on a larger basis. CIPPIC engages students in "submission of briefs to government and other policy-makers, intervention in precedent-setting cases before judicial and quasi-judicial

---

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Pro Bono Students Canada "Overview" online: Pro Bono Students Canada <<https://www.probonostudents.ca/aboutus>>.

<sup>19</sup> Wilkinson, *supra* note 14 at 8.

<sup>20</sup> Pro Bono Students Canada, "Creating a Project" (PBSC, Western Law) online: <[https://law.uwo.ca/legal\\_clinics/pro\\_bono\\_students\\_canada/PDFs/OrganizationInformationManual.pdf](https://law.uwo.ca/legal_clinics/pro_bono_students_canada/PDFs/OrganizationInformationManual.pdf)>.

<sup>21</sup> Wilkinson, *supra* note 14 at 8.

<sup>22</sup> See Annex 1.

tribunals, provision of public legal education resources, publication of reports, participation in multi-stakeholder policy-making forums, provision of expert testimony before parliamentary committees, and advising under-represented organizations and individuals on relevant public interest issues."<sup>23</sup>

### Public Legal Education in A Unique Area as a Stand-alone Initiative

This model is represented by the University of Windsor's Intellectual Property Legal Information Network (IPLIN).<sup>24</sup> Rather than engaging clients directly, the IPLIN provided sector-specific legal information, rather than legal advice.<sup>25</sup> The IPLIN is no longer running, but has been replaced by subsequent initiatives.

### Public Legal Education Through Existing Clinics

This style of clinic "is aimed at social agencies and non-profit organizations, their staff, and their clients."<sup>26</sup> Law students engage in seminars and present on legal information in various areas of law, though at this time there have been no IP clinics of this type.<sup>27</sup>

### Hybrid Clinic Involving Multiple Faculties

Some clinics combine students from multiple faculties, such as business and law students.<sup>28</sup> The Centre for Enterprise and Law (CEL) at Windsor is an example of this, and engages MBA, BComm, and law students in the clinic for academic credit. The CEL is supervised by practicing lawyers, and produces business deliverables and legal support for entrepreneurs.<sup>29</sup> In the IP world in particular, "research and anecdotal evidence suggests that integrated and multidisciplinary teams offer advantages to the IP start-up that lawyers alone cannot."<sup>30</sup>

---

<sup>23</sup> Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic (CIPPIC), "Summer 2019 Internship Program at CIPPIC" online: CIPPIC <[https://cippic.ca/en/news/2019\\_summer\\_internships](https://cippic.ca/en/news/2019_summer_internships)>.

<sup>24</sup> Wilkinson, *supra* note 14 at 11.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid* at 12.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> Myra J Tawfik, "Addressing a Gap In Canada's Global Innovation Strategy: Capacity Building in IP Literacy, IP Strategy and Access to Affordable IP Legal Services" (2016) CIGI online: <[https://www.cigionline.org/sites/default/files/addressing\\_the\\_gap\\_sr\\_2016.pdf](https://www.cigionline.org/sites/default/files/addressing_the_gap_sr_2016.pdf)> at 29 [Tawfik].

## Which students are engaged

### Level

While the vast majority of Canadian law students end their full time education with a Juris Doctorate, it is more common in other education systems to pursue a Master of Laws or PhD in law. Recruiting from an undergraduate program has the benefit of a larger pool of students to draw from, while a master program can benefit from students with more expertise in a specialized area.<sup>31</sup> Doctoral students can be engaged as either clinical students or s clinical directors, and offer even more specialized expertise.<sup>32</sup>

### Requirements

While some clinics are open to all students, clinics with limited spaces will often screen candidates through various means, including interviews and grades, depending on the availability of space, resources, instructors, and mentors. One method is to require a minimum grade point average to ensure that students are academically strong, but “strong performance in exams does not necessarily mean a student will excel in clinical work.”<sup>33</sup> It can, however, help to ensure that a student is sufficiently balancing their academic workload before adding a clinical element. Clinics can also be restricted by year or experience. For example, clinics can limit admission, depending on resources, to students who have some IP experience, which is often limited to students at least in their second year.

Clinics can also require prerequisite or corequisite courses. The University of Calgary’s BLG Business Venture Clinic, for example, requires students to have be at least dual enrolled in Entrepreneurial Law and Business Associations.

## Legal Support Model

Law clinics can advise or recruit clients in a number of ways: one clinician per client, one clinician to many clients; digitally or in person; etc.<sup>34</sup> qLegal at Queen Mary University of London provides legal advice and resources to tech start-ups and entrepreneurs,<sup>35</sup> and does so by having clients meet with two qLegal students under the supervision of a

---

<sup>31</sup> Ronan Fahy & Mireille van Eechoud, "Establishing a Start-up Law Clinic in Law School: A Practical Guide" (Institute for Information Law, University of Amsterdam) online:

<<https://www.ivir.nl/publicaties/download/1686.pdf>> at 5.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid* at 8.

<sup>34</sup> Cahill, *supra* note 13 at 13.

<sup>35</sup> qLegal, "qLegal: The small print for BIG IDEAS" online: qLegal <<http://www.qlegal.qmul.ac.uk/>>.

qualified volunteer lawyer and the qLegal manager.<sup>36</sup> Following the initial meetup, “[s]tudents then research the advice with input from the qLeagl Manager. The advice is checked by the supervising lawyer in the case and sent to the client within twenty-one days of the date of the appointment.”<sup>37</sup> Brooklyn University’s Intellectual Property clinic, or bLIP, has students deliver workshops and lectures at incubators, accelerators, co-working spaces, etc, and after the lectures sit with prospective clients to draft intake forms as a way to recruit clients for the clinic.<sup>38</sup>

## Governance/Structure/Management

It is important to consider how the clinic will be governed, who will be responsible to whom, and how the clinic will be structured in terms of personnel. This will also be dependent on the resources available: whether there is funding available to hire staff, whether oversight falls by Charter to a particular faculty member, etc. While governance tends to be static, structure changes tend to be part and parcel of the clinic experience, as many clinics are funded by grants for limited periods.

### Governance

D’Agostino notes that “[l]aw Professors as “faculty champions” are necessary to lead clinics, working to fill gaps in the innovation and IP ecosystem by training the next generation of IP practitioners while increasing the IP saviness of entrepreneurs; but such professors go unrewarded and unsupported from within their own institutions.”<sup>39</sup> This raises the key point that in order for the clinic to flourish, governance must be structured in such a way that supports the faculty champion. This can be achieved in a variety of ways -- “recognizing, incentivising and supporting... credit hours, tenure, and promotion review”<sup>40</sup> - but should not be neglected if the clinic is to thrive.

Ultimately, clinical governance must align with the governance model of universities. For example, CIPPIC, at the University of Ottawa, is part of a University centre - the Centre for Law, Technology and Society. However, from a governance perspective, CIPPIC is a part of the Faculty of Law, Common Law Section. The Dean of Common Law is responsible for CIPPIC’s budget and its staff are employees of the Faculty. CIPPIC is lead internally by a Director, who reports directly to the Dean. In practice, however, the Dean delegates this

---

<sup>36</sup> Cahill, *supra* note 13 at 13.

<sup>37</sup> *Ibid.*

<sup>38</sup> Hinton & Howe, *supra* note 5 at 6.

<sup>39</sup> Giuseppina D’Agostino, “From Start-up to Scale-up: A Report of the Innovation Clinic in Canada” CIGI (publication upcoming) at 4 [D’Agostino].

<sup>40</sup> *Ibid.*

responsibility to member of the Centre. From an advisory perspective, CIPPIC's Director enjoys the support of an internal advisory board comprising the members of the Centre for Law, Technology and Society, and an external advisory board comprising influential experts in technology law and policy.

## Structure

The initial concern here is two-fold: what type of personnel does the pedagogical model dictate, and what the university's resources are in fulfilling that model. The balancing of structure and pedagogical model should occur simultaneously. Beyond this, however, there are still many decisions to be made.

How will staffing be funded? Will there be a full time clinic director? If not, how will the clinic be managed in its day to day function? Will staff devote all of their time to the clinic, and if not, what percentage? Will there be professorial staff, or only admin staff? Will staff be drawn from inside, or outside the university? What role will mentors play? Where will mentors be drawn from? How will the mentorship relationship be structured, and will it be ongoing? What responsibilities do staff and mentors have, and how will these responsibilities overlap?

Clinics often phase between different structures depending on the availability of resources or support. IP Osgoode, for example, has had different partnerships with Torys LLP, Norton Rose Fulbright, and Bereskin Parr. Partners can also be found outside of firms. Windsor's Faculty of Law, for example, offers a joint degree with University of Detroit Mercy, and allows students in either the individual or joint program to take part in the International IP Law Clinic, "one of only a few international clinical education programs in the world and... the first international intellectual property law clinical."<sup>41</sup> The BLG Business Venture Clinic at the University of Calgary does not have a full time directorship position, but half of the dedicated time is taught by the clinic founder, the clinic employs a full time administrative staff member, and one student takes the position of CTO to manage documentation for day-to-day operations. CIPPIC at the University of Ottawa is transitioning from one lawyer/director and staff lawyer to two staff lawyers and a director.

Students can also maintain a space between volunteers and staff. While some clinics run only throughout the academic year, and are typically run on a volunteer or for-credit basis, clinics such as CIPPIC employ students for the summer to help staff the clinic. There are

---

<sup>41</sup> "International IP Law Clinic" (2017) online: Windsor Law, Detroit Mercy Law <<http://www.lteclab.com/ip-clinic/>>.

educational benefits to working full time in a clinic, but the availability of funds to pay full time students must also be considered.

Mentorship can also be a component of structure. It can lessen the burden on an individual professor by providing additional instructors, and help manage regulatory compliance by adding an element of licensed supervision. IP Osgoode, for example, interacts with clients both by having a retainer agreement with the client, and the client having an agreement with Norton Rose as the mentor firm. Mentorship is often provided free of charge, and as a service to the community, but must also be respected as additional to the mentor's other work. The BLG Venture Clinic notes that

Since mentors volunteer their time, turn-around between when work is submitted for review and the time students receive feedback is variable. During the firm's busy times, it is not uncommon for students to receive no feedback or response for weeks at a time. Fortunately, this temporary delay is often remedied by another mentor agreeing to review the documents.

Additionally, mentor relationships are not guaranteed to a university starting a clinic. IP is a particularly specialized area of law, and, depending on location, there may not be an abundance of IP-specific mentors, much less a sufficient population from which to draw individuals willing to donate their own time and resources.

## Business Model

### Financial Sustainability

Financial sustainability is perhaps the biggest threat to clinic longevity. Universities have had many more law school clinics than currently exist, and while there are many contributing reasons to why clinics may shut down, these reasons are magnified by funding. As D'Agostino notes, "sustainable funding and dedicated human resources are necessary to allow IP legal clinics to continue to operate, grow, and scale up services."<sup>42</sup> Surveyed respondents noted that challenges to the clinic included difficulty in drawing dedicated faculty when a long-term position could not be assured given lack of long-term funding. Clinics have lost director positions when funding lapsed, leading to a lack of continuity and loss of personnel investment. Short-term funding bursts or seed financing can be very beneficial for clinic startup in terms of securing space and initial projects, but may be insufficient for long-term community support.

---

<sup>42</sup> D'Agostino, *supra* note 39 at 4.

## Fee Structures

Fee structure will depend on several variables: what type of clients the clinic is supporting, the cost of rendering services, and other available financial support. Law school clinics of various types typically provide services to those unable to afford them elsewhere, and thus tend to be low or no-cost to the client. Costs can include a small administrative fee, expenses such as filing fees, or a low, flat-rate retainer. It is also important to consider what other avenues are available to or lacking for clients, particularly in the IP context: as Tawfik notes, “[t]ackling the question of legal services is crucial to providing meaningful policy solutions for IP start-ups... [especially] in communities that are not based in major city centres.” The fewer the options available on a low-cost basis, the greater the needs of the IP community.<sup>43</sup>

IP clinics have additional needs on top of those of the average clinic. Depending upon what type of IP services the clinic proposes to offer, certain types of software and database access will be necessary: patent and trademark searches, for example. While it may not be unreasonable for the client to cover the filing fee for a patent, as this can range from \$200-400, the client’s overall budget must also be considered.<sup>44</sup> The International IP Clinic between the University of Windsor and University of Detroit Mercy has an agreement with the USPTO that allows for expedited patent searches in order for students to be able to cover more of the process, but clinics without these sorts of agreements need to scale their deliverable services to the time span involved in regular processing: does the client expect their IP issues to be fully resolved at the end of the relationship? What can they expect for the amount they have invested?

## IP needs landscape

As noted in the “Mobilization of Intellectual Property Expertise” (MIPE) report, it is important to explore the demand for IP expertise. This report further states that “the demand for publicly available IP expertise is high across Ontario, and, in 2010, this demand was not being met.”<sup>45</sup> The demand is clear, but it is helpful to identify what particular services might be of best assistance to those the clinic wishes to help.

## Firm sponsorship

Many law school clinics have partnerships with law firms. This is beneficial for many reasons: the relationship often involves the firm providing funding, mentorship, meeting

---

<sup>43</sup> Tawfik, *supra* note 30 at 21.

<sup>44</sup> Government of Canada, "Standard fees for patents" (January 2019), online: <<https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr00142.html>>.

<sup>45</sup> Wilkinson, *supra* note 14 at 3.

space, additional services, or some combination thereof. Relationships such as the BLG Business Venture Clinic, for example, are clearly linked to the Borden Ladner Gervais name, and professional mentorship is provided to students in the program, additionally benefiting the clinic's clients. The clinic was originally started with a donation of \$500,000 by the firm.

While firm sponsorships are certainly beneficial, their relationships with clinics can vary according to the expertise of the lawyers and firm involved, the availability of mentors, and willingness to an ongoing commitment. While partnerships with local firms are encouraged, it is important to note that not all jurisdictions have an abundance of IP-specific lawyers. This is not to say that assistance of any form should not be welcomed, but that in structuring the clinic it is important to discuss what specific aid the sponsorship is willing and able to provide.

### **Company support**

Like law firms, companies and other independent entities have historically been willing to lend their support to law school clinics. Windsor and UDM's International IP Clinic, for example, is sponsored by AI patents, Burriss Law, Lexis Nexis IP, Trademark Vision, and Turbopatent. Google Canada funds a yearly Google Policy Fellow position at both CIPPIC and Citizen Lab Toronto, providing the funds to hire a researcher for a predetermined amount of time. Universities will frequently have agreements with service providers such as QuickLaw and Westlaw for reduced cost access to legal resources. The BLG Business Venture Clinic has a year-long partnership with Paper Interactive Inc., a cloud-based legal management tool. One potential difference between company and law firm support is that while both may provide personnel, only active, licensed members of the bar are likely to be able to provide students with mandated supervision necessary to provide legal advice in most provinces.

### **Other partnerships**

While not yet prevalent for Canadian IP clinics, various law societies across the country have partnered or pledged to assist law school legal clinics. In terms of IP-specific partnerships, IP Osgoode, for example has engaged with CIPO, the Canadian Intellectual Property Office. The CEO of CIPO sits on the IP Osgoode advisory board; CIPO is one of the placement organizations for the IP Osgoode IP Intensive program; and CIPO has sponsored and collaborated with the clinic on many occasions. While CIPO does not engage in the same sort of wide-scale certification program offered by the USPTO (United States Patent

and Trademark Organization),<sup>46</sup> the USPTO serves as an example of growing these sorts of community legal partnerships.

## Regulatory Compliance

Liability is a concern for all areas of the legal profession, and no less in the clinical environment. Risk management is a concern for all universities, and is magnified by the concern of vulnerability when a university clinic takes on clients. The struggle for IP clinics in several provinces is best summed up by Tawfik:

There are structural reasons why law schools have shied away from transactional clinics outside of traditional poverty law and legal aid areas. These kinds of clinics require a full-time licensed practitioner as clinic supervisor (such as the LTEC model at the University of Windsor) or the participation of law firms willing to supervise law students (such as the Osgoode model at York University). In addition, uncertainty in provincial licensing and regulatory rules over the nature of the supervision required and the activities law students can pursue in clinical settings has inhibited their expansion into non-poverty law areas of practice<sup>47</sup>

While “very recent changes now allow for a broader range of experiential opportunities for Ontario law students, as long as they are directly supervised by a licensed practitioner,”<sup>48</sup> this uncertainty and historical lack of availability have affected the clinical landscape in Canada.

Regulation by law societies differs by province, and what students are permitted to do thereby varies. The Rules of the Law Society of Alberta, for example, state in 81(1) that:

For the purposes of section 106(2)(e) of the Act,

(a) A student enrolled in the faculty of law of a university in Alberta is permitted to provide legal services

(i) in the student's capacity as a member of a student legal services society, if the services are provided under the auspices of that society and under the supervision of an active member, or

---

<sup>46</sup> See Annex 6 for further details.

<sup>47</sup> Tawfik, *supra* note 30 at 22.

<sup>48</sup> *Ibid* at 23 citing Law Society of Upper Canada, “By-law 4 (as amended June 2015)”, online: <[www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485805](http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485805)>.

(ii) in a course of practical instruction approved by the faculty, if the services are provided under the supervision of an active member;

(b) a student enrolled in the faculty of law of a university in Canada is permitted to provide legal services if the services are provided by the student

(i) as an employee of a society that provides legal services to indigent persons, and

(ii) under the supervision of an active member.

(2) Notwithstanding subrule (1), the Benchers may direct in a particular case that any services referred to in subrule (1)(a)(i) or (ii) or (b) may be provided under the supervision of an inactive member instead of an active member, subject to any conditions prescribed by the Benchers.”

Ontario, conversely, provides that

A lawyer may permit a non-lawyer to perform tasks assigned and supervised by the lawyer as long as the lawyer maintains a direct relationship with the client or, if the lawyer is in a community legal clinic funded by Legal Aid Ontario, as long as the lawyer maintains a direct supervisory relationship with each client's case in accordance with the supervision requirements of Legal Aid Ontario and assumes full professional responsibility for the work.<sup>49</sup>

Quebec is reportedly further restrictive, and students may only provide information as to what the law is, even if supervised by an active member of the bar.<sup>50</sup> Students will conduct client intake, research the relevant laws, and present their findings to their supervising lawyer, who will then write a response.<sup>51</sup> That response is then provided to the client.<sup>52</sup>

While placing restrictions on how this provision of legal services by students is to occur, this nonetheless provides a landscape for clinical practice. While the minutiae of such legislation differs between provinces, it appears to be a common factor across clinics that clinic-client interaction and work is covered by the practice insurance of the individual

---

<sup>49</sup> Law Society of Ontario, “Complete Rules of Professional Conduct” (April 2019) commentary online: <<https://lso.ca/about-lso/legislation-rules/rules-of-professional-conduct/complete-rules-of-professional-conduct>> 6.1, 1.1.

<sup>50</sup> Ysolde Gendrau, (11 April 2019) personal interview.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

lawyers involved.<sup>53</sup> This covers the professional insurance, liability, and indemnity issues related to the clinic.<sup>54</sup> This is potentially an obstacle for several reasons. First, it means that in order to provide legal advice, rather than legal information, students are likely required to be supervised by an active member, requiring a staff member be an active member of the bar. Second, it means that any staff member with active insurance takes on liability, rather than the clinic or the school itself. Third, this is further restricted for IP clinics in particular, as there are additional restrictions for particular areas of IP expertise, such as becoming a patent agent. Fourth, it potentially limits longevity to the ability to maintain an active member of the bar, which is particularly problematic if the school cannot ensure stable funding for clinical staff positions. This requirement is, however, likely to limit the control that the school can exercise over clients that the clinic takes on: it cannot force a member of the bar to take a case onto their own insurance. This may make the university less likely to support a clinic without an agreement in place as to what clients will be considered. While in the USA “[m]ost law schools maintain malpractice insurance that cover clinic activities,”<sup>55</sup> this does not appear to be an avenue in Canada.

While IP clinics are not inherently interacting with clients as vulnerable as, for example, those in family law, there are nonetheless static requirements for the practice of law: conflicts of interest, trust accounts, document management, privacy and data protection, etc. These are no less important for clinics as for firms and are particularly noteworthy for parts of IP. These include areas such as client confidentiality; conflicts of interest; trust accounts; document management; and data privacy and protection. These must be taken into account in a variety of ways: instruction of students; clinic member access to documents; agreements with clients; maintenance of private and secure client information; management of precedent information; and contact information to name a few. These considerations mirror those of small firms, and direct guidance can be obtained from law societies.<sup>56</sup>

## Conclusion

Intellectual Property law clinics are a wonderful way to both support individuals and small businesses, as well as help students to receive a practical and skill-focused education. With

---

<sup>53</sup> D’Agostino, *supra* note 39 at 16.

<sup>54</sup> *Ibid.*

<sup>55</sup> Stephen R Miller, "Field Notes From Starting a Law School Clinic" online: (2013) 20 Clinical L. Rev. 137 <[http://www.law.nyu.edu/sites/default/files/upload\\_documents/Stephen%20Miller%20-%20Field%20Notes.pdf](http://www.law.nyu.edu/sites/default/files/upload_documents/Stephen%20Miller%20-%20Field%20Notes.pdf)> at 163.

<sup>56</sup> Such as the Law Society of Ontario’s “Opening, Operating, or Closing a Practice” (2019) online: <<https://lso.ca/lawyers/practice-supports-and-resources/topics/opening,-operating-or-closing-a-practice>>.

just a few IP-specific clinics in Canada, the space for funded, academic engagement is wide open.

In establishing a clinic, there are five areas of decisions to be made regarding structure: how the educational model, legal support model, governance structure, business model, and regulatory compliance needs will be fulfilled. With the exception of regulatory compliance, which has distinct, provincial law-society mandated requirements, each other area provides a range of options to potential clinics. Students and clients can be engaged in a variety of fashions, depending on the needs of the clients and the resources of the university.

There are two overarching needs of clinics, however, that should be taken into consideration at all levels. First, the need for a faculty champion: at least one individual willing to spearhead the effort of creating the clinic. The broad variety of questions to be answered and intense initial time commitment call for a champion, or champion, to bring to life their vision of a clinic. This leads to the second requirement: the need for support within the faculty. A champion unsupported cannot bring a clinic to life on their own. Faculties and funding efforts can support their clinics and champions in a variety of ways: grants, paid teaching hours, credit for students, physical premises, and recruitment help, to name a few. Successful clinics can be a great draw for students, but an unsupported clinic is kept from reaching its full potential for both students and clients. If a clinic is to survive, it must find a sustainable balance between clinic needs and available support.

The number and diversity of law school clinics - as seen in Annex 1 - underscores the legal academic community's willingness to embrace and invest in their communities and students. The vast range of firm partnerships, pro bono providers, and mentorship encapsulates a true willingness to give back. Intellectual property law clinics specifically provide support for creators, small businesses, and individuals who are otherwise underserved in the legal landscape. Channeling law school clinic expertise and engagement into IP law provides an exciting opportunity, new to most universities, that can benefit and engage communities and students alike.

# IP Clinic Literature Review

Myra J Tawfik, "Addressing a Gap In Canada's Global Innovation Strategy: Capacity Building in IP Literacy, IP Strategy and Access to Affordable IP Legal Services" (CIGI) 2016 online: <[https://www.cigionline.org/sites/default/files/addressing\\_the\\_gap\\_sr\\_2016.pdf](https://www.cigionline.org/sites/default/files/addressing_the_gap_sr_2016.pdf)>.

This report provides a comprehensive analysis of the gaps in accessibility of IP services to Canadian creators, and suggests concrete, actionable steps towards improving IP access in Canada from educational, governmental, and technical aspects. It examines in-depth the issues faced by IP clinics and creators from a multitude of facets.

James W Hinton & Kent C Howe, "The New Innovator's Commercialization Dilemma" (2015) Centre for International Governance Innovation, Special Report, online: <[https://www.cigionline.org/sites/default/files/intellectual\\_property\\_law\\_clinic\\_special\\_report.pdf](https://www.cigionline.org/sites/default/files/intellectual_property_law_clinic_special_report.pdf)>.

This report examines the limited existence CIGI International Intellectual Property Law Clinic. It provides an analysis of why such clinics are helpful to innovators, and lessons learned by the CIGI clinic.

Giuseppina D'Agostino, "From Start-up to Scale-up: A Report of the Innovation Clinic in Canada" CIGI (publication upcoming).

This report is a comprehensive examination of Canadian university IP clinics. It identifies benefits of and the need for clinics, necessary resources for clinics to be successful, and challenges in beginning and maintaining clinics. It provides an in-depth analysis of the issues that IP clinics face and the obstacles they must overcome.

Editor Dariusz Łomowski, "The Legal Clinic. The Idea, Organization, Methodology" (2005) The Legal Clinics Foundation Warsaw, online: <[http://www.fupp.org.pl/download/legal\\_clinic.pdf](http://www.fupp.org.pl/download/legal_clinic.pdf)>.

This report examines the aims of legal clinics, global perspectives on legal clinics, and provides a deep examination on the administration, management, and delivery of legal clinics.

John-Paul Boyd, "Establishing a Pro Bono Legal Clinic in Your Community" (February 2016) online: <<http://www.slaw.ca/2016/02/19/dit-a2j-1-establish-a-pro-bono-legal-clinic-in-your-community/>>.

This article in Canada's online legal magazine examines how to set up a pro bono clinic, and provides some useful steps for clinics of all kinds: confirming need, incorporation, securing space, etc.

Ronan Fahy & Mireille van Eechoud, "Establishing a Start-up Law Clinic in Law School: A Practical Guide" (Institute for Information Law, University of Amsterdam) online: <<https://www.ivir.nl/publicaties/download/1686.pdf>>.

This report provides a breakdown of several aspects of setting up a clinic: positioning in the law school; learning objectives; student recruitment; service delivery; and student assessment.

Roger S Haydock, "Clinical Legal Education: The History and Development of a Law Clinic" online: (1983) 9:1 Mitchell Hamline School of Law <<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=2620&context=wmlr>>.

This report provides a helpful breakdown of considerations for the development of pedagogical law clinics: course sequence; clinical course development; clinic course components; clinic faculty, staff, and funding.

"Challenging The Bar: Legal Constraints for Legal Clinics" iLINC Policy Briefs online: iLINC <<https://www.ilincnetwork.eu/wp-content/uploads/2015/08/7-PB-Challenging-the-Bar-Legal-Constraints-for-Legal-Clinics.pdf>>.

This report provides a brief discussion on the added value of legal clinics; the importance of legal clinics; legal constraints with jurisdictional examples; and recommendations on establishing a clinic.

Stephen R Miller, "Field Notes From Starting a Law School Clinic" online: (2013) 20 Clinical L. Rev. 137 <[http://www.law.nyu.edu/sites/default/files/upload\\_documents/Stephen%20Miller%20-%20Field%20Notes.pdf](http://www.law.nyu.edu/sites/default/files/upload_documents/Stephen%20Miller%20-%20Field%20Notes.pdf)>.

This article is particularly helpful for providing a real-world example of the challenges faced in starting a law school clinic. These include the initial startup; finding and choosing clients; making community connections; and defining project types, as well as detailing more granular considerations such as insurance. It also provides "A Starter Checklist for New Clinicians."

Patrick Cahill, "Establishing a University Start-up or Entrepreneurship Law Clinic: Practical Tips" (iLINC; Queen Mary University of London) online: <[https://www.ilincnetwork.eu/wp-content/uploads/2015/09/QM15-0011-88\\_15-iLINC-Brochure-Update-QMUL-Logo-No-Crops.pdf](https://www.ilincnetwork.eu/wp-content/uploads/2015/09/QM15-0011-88_15-iLINC-Brochure-Update-QMUL-Logo-No-Crops.pdf)>.

This report examines some of the key concerns involved in establishing an incubator-model clinic, and details several European law school programs as examples (Queen Mary University of London's qLegal, Brooklyn Law Intellectual Property [BLIP], KU Leuven, etc). Concerns include getting support; knowing your clients; student focus; legal advice; models of advice delivery; insurance; supervision; online marketing; client selection; and feedback.

Margaret Ann Wilkinson, "Mobilizing Intellectual Property Expertise [MIPE] Final Report" (2012) MIPE online:  
<[https://law.uwo.ca/about\\_us/PDFs/Wilkinson\\_MIPE\\_FINAL\\_REPORT.pdf](https://law.uwo.ca/about_us/PDFs/Wilkinson_MIPE_FINAL_REPORT.pdf)>.

This report is particularly helpful in detailing the models of different IP clinics across Canada. It also provides an examination of the MIPE pilot delivering IP services.

Jennifer S Fan, "Institutionalizing the USPTO Law School Clinic Certification Program for Transactional Law Clinics" (Lewis and Clark Law Review) 19:2 2015 online:  
<<https://law.lclark.edu/live/files/19985-lcb192art4fanfinalpdf>>.

This article argues for the assimilation of American law School clinics under the USPTO Law School Clinic Certification Program. It also examines the benefits of different models of organization that clinics should consider, along with the benefits and detriments of each.

Cynthia L Dahl & Victoria Phillips, "Innovation and Tradition: A Survey of Intellectual Property and Technology Legal Clinics" (2018) online: Penn Law: Legal Scholarship Repository<[https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2983&context=faculty\\_scholarship](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2983&context=faculty_scholarship)>.

This article brings together the results of a set of 72 surveys on IP and Tech clinics in the United States, and examines the rise and role of university IP clinics.

Ontario Ministry of the Attorney General "The Choice of Delivery Models for Legal Aid" online: Ontario Legal Aid Review  
<<https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/olar/ch7.php>>.

This chapter examines the different benefits and determines of the staff and judicare models for legal aid clinics.

Patricia Barkaskas & Sarah Buhler, "Beyond Reconciliation: Decolonizing Clinical Legal Education" online: (2017) 26 Journal of Law and Social Policy 1  
<<https://digitalcommons.osgoode.yorku.ca/jlsp/vol26/iss1/1>>.

This report examines reconciliation through the lense of clinical legal education, and proposes that challenging the structure of settler colonialism requires decolonizing and Indigenizing clinical legal education.

Christine Haight Farley et al, "Clinical Legal Education and the Public Interest in Intellectual Property Law" (2008) Saint Louis University Law Journal 52.

Examines motivations for forming an IP clinic, pedagogical structure therein, and reflects on the ability of the program to teach IP law. Provides insight on the different experiences of a public policy clinic.

Sarah Buhler, "Clinical Legal Education in Canada: A Survey of the Scholarship" (2015) Canadian Legal Education Annual Review 1.

This article surveys eight categories of clinical legal experience: practical experience; political/social rationales and implications; the place of clinical legal education within legal education; critiques of clinical legal education; clinical pedagogy, theory, and methodology; clinical program design and policy considerations; student perspectives; and histories and approaches across Canada.

Intellectual Property Information Network (IPLIN), "Report to the Law Foundation of Ontario" 2004.

This report includes a needs-assessment survey pertaining to IP and IT generated in the Windsor-Essex community; an assessment of what information on these issues was available at the time; and examines what types of resources would be best serve that community.

Douglas D Ferguson, "The State of Experiential Education in Canadian Law Schools" (2013) Manitoba Law Journal 37:465.

This article examines clinical legal education in Canada as split into four sections: Clinics, Pro Bono Students Canada, placements or externships, and class simulations. It further breaks down clinics into four subgroups: representational, information, advocacy, and placement; and breaks representational clinics into intensive, course drive, and volunteer clinics, discussing the structure of each.

Catherine A Brown et al "Legal Issues in New Venture Development" (1988) Journal of Business Venturing 3:4.

This report examines the 270 early-stage entrepreneurs who sought information from the Small Business Student (Legal) Clinic, which was run by the University of Calgary in 1986. The three issues examined included whether clients were able to

identify legal issues affecting their business, and if so, to what extent; whether stage of venture development was related to the legal problems identified; and whether failure to identify legal issues affected subsequent business development. While the report is not current, it does help to examine the types of issues that business typically face in the startup stage, particularly in terms of legal support.

# Annexes

## Annex 1: Canadian Law School Clinics<sup>57</sup>

IP Clinics bolded

<b>Law School</b>	<b>Name of Clinic</b>
University of Alberta	<ul style="list-style-type: none"> <li>• Student Legal Services</li> </ul>
Allard Hall, University of British Columbia	<ul style="list-style-type: none"> <li>• Indigenous Community Legal Clinic</li> <li>• Business Law Clinic</li> <li>• Criminal Law Clinic</li> <li>• International Justice &amp; Human Rights Clinic</li> <li>• Rise Women's Legal Centre</li> </ul>
Bora Laskin, Lakehead University	<ul style="list-style-type: none"> <li>• Lakehead University Community Legal Services</li> </ul>
University of Calgary	<ul style="list-style-type: none"> <li>• Public Interest Law Clinic</li> <li>• BLG Business Venture Clinic</li> <li>• Student Legal Assistance</li> </ul>
Dalhousie University	<ul style="list-style-type: none"> <li>• The Dalhousie Legal Aid Clinic</li> </ul>
Université Laval	<ul style="list-style-type: none"> <li>• Clinique de droit international pénal et humanitaire (CDIPH)</li> <li>• Clinique de Rédaction Législative</li> <li>• Clinique Fiscale</li> <li>• Clinique Juridique Pour Entreprises en Démarrage</li> </ul>
University of Manitoba	<ul style="list-style-type: none"> <li>• L. Kerry Vickar Business Law Clinic</li> <li>• Legal Aid Manitoba University Law Clinic</li> </ul>
Université de Moncton	<ul style="list-style-type: none"> <li>• None found</li> </ul>
McGill University	<ul style="list-style-type: none"> <li>• Clinique d'information juridique à McGill</li> </ul>

<sup>57</sup> Subject to ability to find said clinic on the university website.

University of Montreal	<ul style="list-style-type: none"> <li>● Clinique juridique générale</li> <li>● Clinique juridique PROFIL (pour les professionnels formés à l'étranger)</li> <li>● Clinique juridique en droit de l'environnement</li> <li>● Clinique juridique pour le démarrage d'entreprise</li> </ul>
University of New Brunswick	<ul style="list-style-type: none"> <li>● (none specific to the university; all partnerships)</li> </ul>
Osgoode Hall, York University	<ul style="list-style-type: none"> <li>● Advanced Business Law Workshop I: Corporate Finance</li> <li>● Advanced Business Law Workshop II: Mergers and Acquisitions</li> <li>● Anti-Discrimination Intensive Program</li> <li>● Community and Legal Aid Services Program (CLASP)</li> <li>● Disability Law Intensive Program</li> <li>● Environmental Justice and Sustainability Clinical Program</li> <li>● Feminist Advocacy: Ending Violence Against Women Clinical Program</li> <li>● Innocence Project</li> <li>● Intellectual Property Law and Technology Law Intensive Program</li> <li>● Intensive Program in Aboriginal Lands, Resources &amp; Governments</li> <li>● Intensive Program in Criminal Law</li> <li>● Intensive Program in Immigration and Refugee Law</li> <li>● Intensive Program in Poverty Law at Parkdale Community Legal Services</li> <li>● Investor Protection Clinic</li> <li>● International and Transnational Law Intensive Program (ITLIP)</li> <li>● Osgoode Mediation Clinical Program</li> <li>● Osgoode Business Clinic</li> <li>● Test Case Litigation Project</li> </ul>
University of Ottawa	<ul style="list-style-type: none"> <li>● Community Legal Clinic</li> <li>● Global Health Law Clinic</li> <li>● uOttawa-Ecojustice Environmental Law Clinic</li> </ul>

	<ul style="list-style-type: none"> <li>● <b>Canadian Internet Policy and Public Interest Clinic (CIPPIC)</b></li> </ul>
Université du Québec à Montréal	<ul style="list-style-type: none"> <li>● Clinique juridique de l'UQAM</li> <li>● Clinique internationale de défense des droits humains (CIDDHU)</li> <li>● Clinique Juridique Itinérante (CJI)</li> <li>● Projet Innocence Québec</li> </ul>
Queen's University	<ul style="list-style-type: none"> <li>● Queen's Legal Aid</li> <li>● Prison Law Clinic</li> <li>● Business Law Clinic</li> <li>● Elder Law Clinic</li> <li>● Family Law Clinic</li> </ul>
Ryerson University	<ul style="list-style-type: none"> <li>● Ryerson Legal Clinic</li> </ul>
University of Saskatchewan	<ul style="list-style-type: none"> <li>● Community Legal Services for Saskatoon Inner City Inc (CLASSIC)</li> </ul>
Université de Sherbrooke	<ul style="list-style-type: none"> <li>● Bureau d'assistance juridique internationale (BAJI)</li> <li>● Clé de vos droits</li> <li>● Clinique juridique entrepreneuriale</li> <li>● Clinique de médiation de l'Université de Sherbrooke</li> </ul>
Thompson Rivers University	<ul style="list-style-type: none"> <li>● Thompson Rivers University Community Legal Clinic (TRU CLC)</li> </ul>
University of Toronto	<ul style="list-style-type: none"> <li>● Downtown Legal Services</li> <li>● Aboriginal Legal Services Toronto</li> <li>● Advocates for Injured Workers</li> <li>● Barbra Schlifer Commemorative Clinic</li> <li>● International Human Rights Clinic</li> <li>● Health Equity and Law Clinic</li> <li>● Constitutional Advocacy Clinic of the David Asper Centre for Constitutional Rights</li> </ul>
University of Victoria	<ul style="list-style-type: none"> <li>● The Law Centre</li> <li>● Business Law Clinic</li> <li>● Environmental Law Centre Clinic</li> </ul>
Western University	<ul style="list-style-type: none"> <li>● Community Legal Services</li> <li>● Sport Solution Clinic</li> </ul>

	<ul style="list-style-type: none"> <li>• Western Business Law Clinic</li> </ul>
University of Windsor	<ul style="list-style-type: none"> <li>• <b>International Intellectual Property Law Clinic</b></li> <li>• <b>EPIC Law IP Triage (upcoming)</b></li> <li>• Transnational Environmental Law Clinic</li> <li>• Migrant Farmworkers Clinic</li> <li>• Class Action Clinic</li> <li>• Community Legal Aid</li> <li>• Legal Assistance of Windsor</li> </ul>

## Annex 2: American Law Schools Participating in USPTO

<b>Law Schools</b>	<b>IP Practice Area (P=patent; T=trademark; PT=Patent and trademark)</b>
American University, Washington College of Law	PT
Arizona State University Sandra Day O'Conner College of Law	PT
Baylor Law School	PT
Brooklyn Law School	P
California Western School of Law	T
Case Western Reserve University School of Law	P
Florida International University College of Law	P
Fordham University School of Law	PT
Howard University School of Law	PT
Indiana University Maurer School of Law	PT
Indiana University McKinney School of Law	PT
Lewis & Clark Law School	PT
Liberty University School of Law	T

Lincoln Law School of San Jose	PT
Mitchell Hamline School of Law	PT
New York Law School	PT
North Carolina Central University School of Law	PT
Northeastern University School of Law	T
Northwestern Pritzker School of Law	T
Roger Williams University School of Law	T
Rutgers Law School	T
Saint Louis University School of Law	T
Seattle University School of Law	T
South Texas College of Law Houston	PT
Southern Methodist University Dedman School of Law	PT
Southern University Law Center	PT
Suffolk University Law School	PT
Syracuse University College of Law	T
Texas A&M University School of Law	PT
The George Washington University School of Law	T
The John Marshall Law School	PT
Thomas Jefferson School of Law	PT
Tulane University Law School	PT
University of Akron School of Law	T
University of Arizona, James E. Rogers College of Law	PT
University of California, Irvine School of Law	T
University of California, Los Angeles School of Law	P
University of Colorado Law School	P

University of Connecticut School of Law	PT
University of Detroit Mercy School of Law	PT
University of Idaho College of Law	T
University of Maryland School of Law	PT
University of Miami School of Law	PT
University of Missouri School of Law	T
University of Nebraska College of Law	T
University of New Hampshire School of Law	T
University of North Carolina at Chapel Hill School of Law	T
University of Notre Dame Law School	PT
University of Pennsylvania Law School	T
University of Puerto Rico School of Law	PT
University of Richmond School of Law	T
University of San Diego School of Law	PT
University of San Francisco School of Law	T
University of St. Thomas School of Law	T
University of Tennessee College of Law	T
University of Washington School of Law	PT
Vanderbilt Law School	T
Washington University in St. Louis School of Law	P
Wayne State University Law School	P
Western New England University School of Law	T

## Annex 3: American Law Schools with IP Clinics Outside the USPTO

<b>Law School</b>	<b>Clinic Name</b>	<b>IP Practice Area</b>
Penn State University	Penn State Law Intellectual Property Clinic	<ul style="list-style-type: none"> <li>• IP searching and evaluating</li> <li>• Patent</li> <li>• Trademark</li> </ul>
University of Southern California Gould School of Law	University of Southern California Intellectual Property & Technology Law Clinic	<ul style="list-style-type: none"> <li>• Trademarks</li> <li>• Drafting basic work-for-hire agreements</li> <li>• Contribution agreements</li> <li>• License agreements</li> <li>• IP ownership</li> <li>• IP policies</li> <li>• Privacy Policies</li> <li>• Terms of use</li> </ul>
Georgia State University College of Law	Georgia State University Center for Intellectual Property	<ul style="list-style-type: none"> <li>• Links academic and professional communities for IP law</li> <li>• Pro bono patent</li> </ul>
Stanford Law School	Juelsgaard Intellectual Property and Innovation Clinic	<ul style="list-style-type: none"> <li>• Internet/IT</li> <li>• Biotech</li> <li>• Online free speech and new media</li> <li>• Patent, copyright, trademark, net neutrality, antitrust, privacy, security, and other areas</li> </ul>
University of California Berkeley Law	Samuelson Law, Technology, & Public Policy Clinic	<ul style="list-style-type: none"> <li>• Privacy, IP, free speech, consumer and citizen interests in tech</li> </ul>
Chicago-Kent College of Law at Illinois Institute of Technology	Intellectual Property-Patent Clinic	<ul style="list-style-type: none"> <li>• Patent</li> </ul>
University of Illinois College of Law	Intellectual Property Trademark/Patent Clinic	<ul style="list-style-type: none"> <li>• Trademark</li> <li>• Patent</li> </ul>
Harvard Law School	Cyberlaw Clinic	<ul style="list-style-type: none"> <li>• Intellectual Property</li> <li>• Communications</li> <li>• Privacy</li> </ul>

		<ul style="list-style-type: none"> <li>• Cybercrime</li> <li>• Online Speech, Media Law, and First Amendment</li> <li>• Technology and Access to Justice</li> </ul>
Cornell Law School	Entrepreneurship Law Clinic	<ul style="list-style-type: none"> <li>• Intellectual property protection</li> <li>• Other non-IP areas</li> </ul>
Vanderbilt University School of Law	Intellectual Property and the Arts Clinic	<ul style="list-style-type: none"> <li>• Copyright</li> <li>• Trademark</li> <li>• Trade secrets</li> </ul>
George Mason University Antonin Scalia Law School	Legal Clinic – Patent Applications	<ul style="list-style-type: none"> <li>• Patent</li> </ul>
University of Virginia School of Law	Patent Clinic	<ul style="list-style-type: none"> <li>• Patent</li> </ul>
Yale Law School	Entrepreneurship and Innovation Clinic	<ul style="list-style-type: none"> <li>• Intellectual property protection</li> <li>• Other non-IP areas</li> </ul>

## Annex 4: United Kingdom Law Schools with IP-Specific Law Clinics

<b>Institution</b>	<b>Clinic Name</b>	<b>IP Practice Area/Services</b>
Portsmouth Law School	Intellectual Property Clinic	<ul style="list-style-type: none"> <li>• Patents</li> <li>• Trademarks</li> <li>• Design rights</li> <li>• Copyright</li> <li>• Passing off</li> <li>• Law of confidence</li> </ul>
City, University of London	Stard-Ed Commercial Law Clinic	<ul style="list-style-type: none"> <li>• Copyright</li> <li>• Trademarks</li> <li>• Patents</li> <li>• Other commercial areas</li> </ul>
Queen Mary University of London	qLegal	<ul style="list-style-type: none"> <li>• Copyright</li> <li>• Trademarks</li> <li>• Patents</li> <li>• Business solutions</li> </ul>

## Annex 5: United Kingdom Schools Law Clinics that Include IP

University of Birmingham	Birmingham Free Legal Advice Group (FLAG)	<ul style="list-style-type: none"> <li>• Intellectual property</li> <li>• Data protection</li> </ul>
University of Edinburgh	Free Legal Advice Centre	<ul style="list-style-type: none"> <li>• Intellectual property</li> <li>• Data protection</li> <li>• IT and Internet</li> </ul>
Nottingham Trent University	Legal Advice Centre	<ul style="list-style-type: none"> <li>• Intellectual property</li> </ul>
University of Central Lancashire	UCLan Mediation Clinic	<ul style="list-style-type: none"> <li>• Intellectual property</li> <li>• Data protection</li> </ul>
University of Huddersfield	Legal Advice Clinic	<ul style="list-style-type: none"> <li>• Intellectual property</li> <li>• Data protection</li> <li>• IT and Internet</li> </ul>
University of Law	Legal Advice Clinic	<ul style="list-style-type: none"> <li>• Intellectual property</li> </ul>
University of Sheffield	FreeLaw Legal Clinic	<ul style="list-style-type: none"> <li>• Intellectual property</li> <li>• Data protection</li> <li>• IT and Internet</li> </ul>

## Annex 6: Outline of the United States Patent and Trademark Office Clinical Certification Program

Certain criteria must be met for a clinic to participate in the United States Patent and Trademark Office (USPTO) Law School Clinic Certification Program. Any law school can apply to participate and must fulfil certain requirements, including that the law school be certified by the American Bar Association, demonstrate strong clinical programs, have a strong intellectual property curriculum to support students learning in the clinic.<sup>58</sup> Once established, a clinic must meet additional criteria, such as providing bi-annual reports on clinic activity (e.g. number of students and faculty participating in patent and trademark matters in the clinic, number of client representation taken on in patent and trademark matters in the clinic, etc).<sup>59</sup> The Office of Enrollment and Discipline (OED) has the ability to

<sup>58</sup> The Office of Enrollment and Discipline of the United States Patent and Trademark Office, “Report on the Law School Clinic Certification Program” (December 2016), Report for Congress, online: <[https://www.uspto.gov/sites/default/files/documents/USPTO\\_Law\\_School\\_Clinic\\_Cert\\_Program\\_Report-Dec\\_2016.pdf](https://www.uspto.gov/sites/default/files/documents/USPTO_Law_School_Clinic_Cert_Program_Report-Dec_2016.pdf)> [OED Report].

<sup>59</sup> More reporting requirements can be found in The Electronic Code of Federal Regulations, “Patents, Trademarks, and Copyrights” Chapter 1, Subchapter Id1013, Part 11, 37 CFR Subpart B s 11.17 [eCFR].

deactivate a clinic (and can later reactivate the clinic) or remove the clinic (a clinic is able to re-apply at a later date) as it sees necessary.<sup>60</sup> Renewal for operational clinics is required biennially and all applications and renewals are subject to the approval of the OED Director.<sup>61</sup>

To participate in the program, all clinics require at least one faculty clinic supervisor. A faculty clinic supervisor who oversees patent matters must be a registered patent attorney or patent agent in good standing with the OED and has practiced before the USPTO in patent matters for at least 3 of the previous 5 years.<sup>62</sup> This supervisor can only oversee patent matters and must assume responsibility for the patent portion of the clinic.<sup>63</sup> A faculty clinic supervisor who oversees trademarks matters must be a licensed attorney in active status and in good standing with the highest court of a State who has practiced before the USPTO in trademark matters with at least 3 years experience prosecuting trademark applications in the last 5 years.<sup>64</sup> This supervisor is only able to supervise trademark matters and must assume all responsibility for that portion of the clinic.<sup>65</sup> Supervisors are responsible for all documents and applications submitted to the USPTO through the clinic with respect to the matters they oversee.

Students must also meet a variety of requirements to be eligible to participate in the program, such as having completed at least first year of law school, be of good moral character and reputation, and in the case of patents, hold the necessary scientific or technical background, as required.<sup>66</sup> Students participating in the clinic are assigned temporary practice numbers and are granted limited recognition to practice before the USPTO, given that they meet the requirements to participate in the clinic, are actively participating in the clinic under supervision by a clinic supervisor, do not ask for nor receive compensation, and have read the USPTO Rules of Professional Conduct and rules of patent or trademark practice and procedures (as relevant), neither ask nor receive compensation.<sup>67</sup> While students may undertake many activities in the clinic, such as counseling clients on patent or trademark matters, performing patentability or registerability searches, drafting opinions for clients and drafting and filing of patent or

---

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*, s 11.16(b).

<sup>62</sup> *Ibid.*, s 11.16(1).

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*, s 11.16(2).

<sup>65</sup> *Ibid.*

<sup>66</sup> OED Report, *supra* note 55.

<sup>67</sup> eCFR, *supra* note 56, at s 11.16(d)

trademark applications, they cannot represent matters before Trial and Appeal Boards (permission may be granted on a case-by-case basis).<sup>68</sup>

Regarding trademark applications that come through the clinic program, there are trademark examining attorneys who have volunteered to review these applications. They are often prioritized to receive an expedited review so that students are able to participate in the end-to-end operation of a file.<sup>69</sup> Regarding patent applications, the “Request to Make Special Program” allows each clinic to designate a number, per year, of applications that can be expedited, or “advanced out of turn”, which again gives the students the ability to participate in the full life cycle of an application.

All services delivered by the participating clinics must be provided pro bono, however it is up to individual clinics to establish criteria or requirements that clients must meet to qualify for their services (e.g. threshold income level, geographical limitations, etc.).<sup>70</sup> Clinics must also ensure that they provide seamless operation and representation of clients: the school year or students schedules cannot interfere with clinic services.<sup>71</sup>

The USPTO also undertakes activities to promote the clinics. The USPTO makes site visits to the participating law school clinics in order to keep active lines of communication open between the clinic and the USPTO and to discuss USPTO employment opportunities and clinic experiences with students as well as to encourage participation in the program by law school students.<sup>72</sup> The USPTO also organizes teleconferences between participating schools to enable discussion, sharing of advice, management strategies, etc. and hosts an event annually that students and clinic supervisors may attend that consists of speakers and roundtables, including discussions of ethics, exploring opportunities at the USPTO and networking.<sup>73</sup>

---

<sup>68</sup> OED Report, *supra* note 55.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*





