

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Patent Trial and Appeal Board Boardside Chat: PTAB Judicial Law Clerk Program

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Michelle Ankenbrand, Lead Administrative Patent Judge
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August 19, 2021

UNITED STATES
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Agenda

- PTAB judicial law clerk program
- Panel discussion

Question/comment submission

- To send in questions or comments during the webinar, please email:
 - PTABBoardsideChat@uspto.gov

PTAB judicial law clerk program

Goals

- Create a stronger patent bar
 - Train individuals to have specific PTAB *ex parte* appeal and AIA trial experience
 - Infuse private sector with PTAB judicial law clerks
- Develop future PTAB practitioners through training
- Mentor junior practitioners

Polling question #1

Which of the following best characterizes your familiarity with PTAB judicial clerkships?

- A: I have applied to the PTAB judicial law clerk position.
- B: I remember hearing about PTAB judicial clerkships while I was in law school.
- C: I heard about the law clerk position through social media or through colleagues/friends.
- D: My understanding of PTAB judicial clerkships is what I have learned in this Boardside Chat so far.



Similarities with traditional clerkships

- Term limited position — one year
- Paid clerkship
- Learn about the inner workings of the judicial system
- Work closely with a judge
- Hone legal experience and writing skills
 - Conduct legal research
 - View oral hearings
 - Draft bench memos, orders, and decisions
 - Discuss cases with judges

Differences from traditional clerkships

- Work with multiple judges — different judicial writing styles
- Patent law only
- Specialize in PTAB trial practice — experience complete life cycle of an AIA proceeding
- Potential rotation with the Under Secretary and Director of the USPTO

PTAB judges

- Technically and legally trained — in addition to Bachelor and J.D., other degrees include Ph.D., M.D., LL.M., and M.S.
- Extensive previous experience in private practice, corporate, or other government organizations
- Based in USPTO offices (Alexandria, Detroit, Denver, Dallas, San Jose) and nationwide under the USPTO Telework Program

PTAB judge dockets

- Adjudicate *ex parte* appeals and AIA trials
- *Ex parte* appeals — determine whether the examiner correctly rejected the claims of a patent application
- AIA proceedings — determine whether to institute an AIA trial, and if instituted, whether the petitioner established the unpatentability of the challenged claims in an issued patent

Law clerk responsibilities

- Assist PTAB Judges
 - Review briefs
 - Conduct legal research
 - Attend hearings and pre/post hearing conferences
 - Draft bench memos, orders, and decisions
 - Verify citations and proofread judges' decisions
- Work collaboratively with PTAB staff
- Participate in all PTAB meetings and functions
- Attend conferences
- Create and participate in presentations

Benefits

- Receive great training for your legal career
- Increase your market value with valuable credentials that will follow you throughout your career
- Gain valuable mentors
- Learn at the hands of experienced practitioners
- See a variety of cases with different substantive and procedural issues
- Get exposure to a wide variety of legal strategies
- Become a more efficient and effective legal writer
- Be part of a broad network of past and future clerks

Polling question #2

Which of the following is your go-to place to look for a job?

- A: USPTO website
- B: USAJobs.gov
- C: LinkedIn
- D: Twitter
- E: Law school career office
- F: Other



Position requirements

- Law Degree
 - Earned prior to start date of clerkship program
- Bar Admission
 - State Bar admission is not required, but encouraged
 - Patent Bar admission is not required, but encouraged
- U.S. citizen

Application documents

- **Resume**
 - Education
 - Work experience
 - Information that sets you apart from other applicants
- **Transcripts**
 - Undergraduate
 - Graduate, if applicable
 - Law school
- **Cover letter (optional)**
 - Why do you want the position

How to apply

- All government hiring is conducted through the USAJobs website
- Current posting at <https://www.usajobs.gov/GetJob/ViewDetails/608670100>
 - Note: it is called Patent Attorney (Law Clerk)

Apply now

The screenshot shows the USAJOBS website interface for a job announcement. The browser address bar displays `usajobs.gov/GetJob/ViewDetails/608670100`. The page header includes the USAJOBS logo, navigation links for Sign In, Help, and Search, and a search bar. Below the header, a blue banner displays the job title **Patent Attorney (Law Clerk)** with a red arrow pointing to it. Underneath the banner, the employer is identified as the DEPARTMENT OF COMMERCE, Patent and Trademark Office. A horizontal menu contains tabs for Overview, Locations, Duties, Requirements, Required Documents, Benefits, and How to apply. The main content area is divided into three columns. The left column features an **Overview** section with a green 'Accepting applications' badge and a table of key details: Open & closing dates (07/23/2021 to 09/10/2021), Pay scale & grade (GS 11), Appointment type (Temporary - Excepted Service Appointment), Service (Excepted), Salary (\$77,501 to \$100,757 per year), and Work schedule (Full-time - This is a Full-Time, Temporary). The middle column shows the **Location** as Alexandria, VA with a few vacancies, and notes that Relocation expenses are not reimbursed and the position is not telework eligible. The right column, titled 'This job is open to', lists eligibility criteria: Career transition (CTAP, ICTAP, RPL) and The public. Below this is a 'Clarification from the agency' section. At the bottom of the right column is a large blue 'Apply' button with a red arrow pointing to it, and links for Print, Share, and Save. The footer of the right column provides the Announcement number (PTAB-2021-0021) and Control number (608670100).

Patent Attorney (Law Clerk)
DEPARTMENT OF COMMERCE
Patent and Trademark Office

Overview Locations Duties Requirements Required Documents Benefits How to apply

Overview [Help](#)

Accepting applications

Open & closing dates 07/23/2021 to 09/10/2021	Service Excepted
Pay scale & grade GS 11	Salary \$77,501 to \$100,757 per year
Appointment type Temporary - Excepted Service Appointment.	Work schedule Full-time - This is a Full-Time, Temporary

Location [Help](#)

Alexandria, VA
few vacancies

Relocation expenses reimbursed No	Telework eligible No
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This job is open to [Help](#)

- Career transition (CTAP, ICTAP, RPL)**
Federal employees who meet the definition of a "surplus" or "displaced" employee.
- The public**
U.S. citizens, nationals or those who owe allegiance to the U.S.

Clarification from the agency
Applications will be accepted from all United States Citizens and Nationals.

Apply

Print Share Save

Announcement number
PTAB-2021-0021

Control number
608670100

Timeline

- Posting is open until **September 10, 2021**
- Interviews in **October/November 2021**
- Offers extended in **November/December 2021**
- Start date in **September/October 2022**

Previous judicial law clerk classes

- Inaugural class in 2018-2019
- 4 law clerks per class
- 8 clerks now in private practice from coast-to-coast



Judicial law clerk experiences

Kyla B.: “The PTAB judicial law clerk program allows a firsthand look at how the patent legal system is portrayed through the eyes of those who have been senior associates, partners, patent examiners, and are now administrative patent judges.”

Lu L.: “If you are looking to gain hands-on experience and build a solid foundation in patent law, I don’t think there are many better positions than working at where it all starts—the USPTO.”



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LEAP



- [Legal Experience and Advancement Program](#) (LEAP)
- Designed to:
 - Aid in development of the next generation of patent practitioners, and
 - Encourage a diverse group of advocates to develop their skills before the Board.
- To qualify, a patent agent or attorney must have:
 - Three or fewer substantive oral arguments in any federal tribunal, including PTAB, **and**
 - Seven or fewer years of experience as a licensed attorney or agent.

LEAP oral hearing bootcamp



- One-of-a-kind opportunity for LEAP practitioners to present a mock oral arguments and receive feedback from PTAB judges.
- Program includes:
 - Webinars on preparing for oral arguments,
 - Mock oral arguments, and
 - Encore session in which experienced practitioners will demonstrate how they would argue the same case.
- Current program is underway, but stay tuned for future dates.
- September 3 webinar on preparing for AIA oral arguments, and September 17 encore session, are open to the public.
 - Register at <https://www.aipla.org/events/2021/08/20/default-calendar/ptab-leap-oral-hearing-boot-camp>.

Panel dicussion

Panel discussion

Sara Tonnies Horton – Partner, Willkie Farr & Gallagher LLP

Michelle Ankenbrand – Lead Administrative Patent Judge

Laura Nguyen – Associate, Latham & Watkins LLP

Andrew Kerrick – Current PTAB Judicial Law Clerk



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Webinar: Inside PTAB



- August 26, 2021, at 11 am – 4 pm ET.
- Learn about the PTAB, get practice tips from judges, view live hearings.
- The program will include:
 - A presentation about PTAB explaining what we do and how we work;
 - Judges panel discussing written/oral advocacy before the Board;
 - View an ex parte appeals proceeding; and
 - View an AIA trial proceeding.
- Register at <https://bit.ly/3s7INIS>.



LEAP at the PTAB Bar Association Annual Meeting



- “LEAPing to Success” program at the PTAB Bar Association Annual Meeting
- September 22–24, 2021
- More information and registration available at https://www.ptabbar.org/2021_ptab_bar_association_annu.php

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Next Boardside Chat



- September 16, 2021, at 12–1 pm ET
- Topic: Effective arguments before PTAB
- Speakers: Judge Jack Jeffries and Patent Attorney Andreas Baltatzis
- Register for and learn about upcoming Boardside Chats, and access past Boardside Chats at:

<https://www.uspto.gov/patents/ptab/ptab-boardside-chats>



