

UNITED STATES
PATENT AND TRADEMARK OFFICE





An overview of the **USPTO Patent Pro Bono Program**



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USPTO Patent Pro Bono Program

- Assists financially under-resourced independent inventors and small businesses.
- 20 regional programs work to match financially under-resourced inventors and small businesses with volunteer practitioners to file and prosecute patent applications.

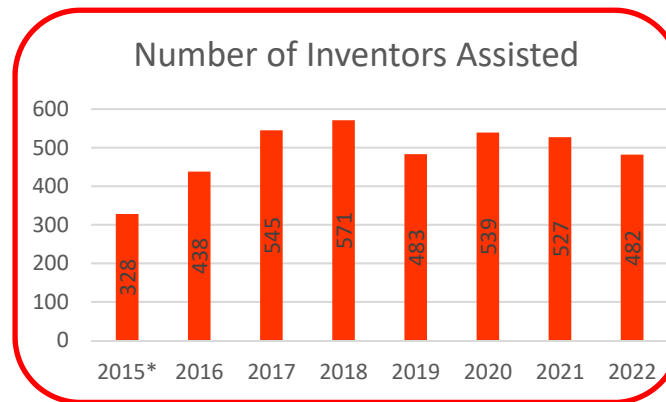
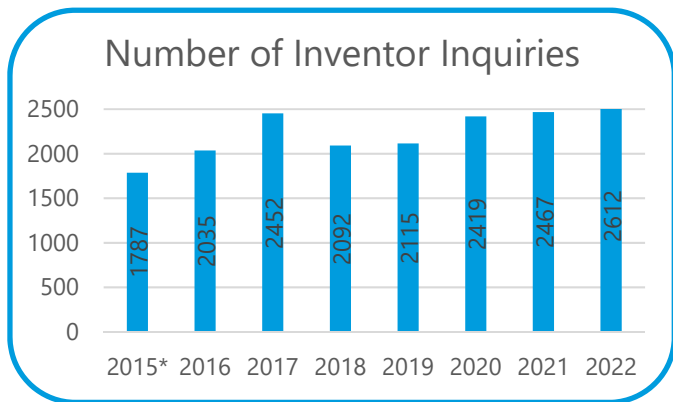
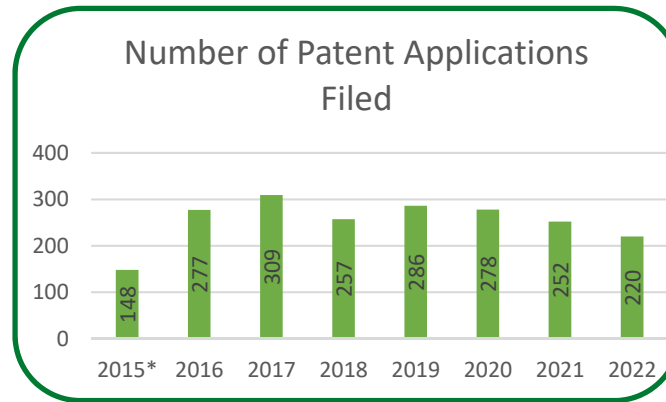
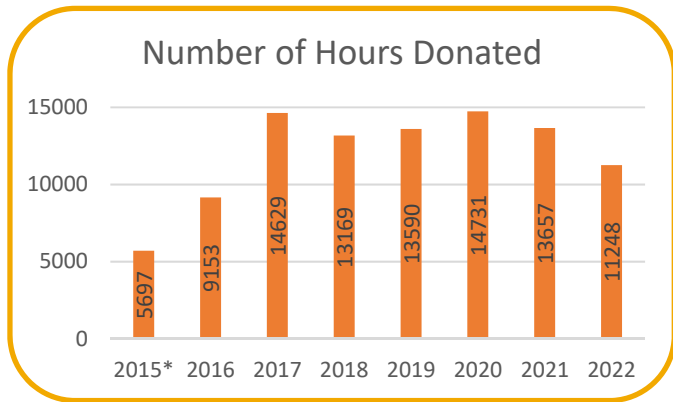


Benefits inventors and USPTO

- **Impact for inventors:**
 - Opportunity to work with experienced patent practitioners;
 - Nearly \$36M in donated legal services provided to inventors from 2015 to present.
- **Impact for USPTO:**
 - Increases participation in the patent system;
 - Improves patent quality;
 - Supplements pro se (filing on your own) assistance efforts.



Program Statistics



Life of Program Totals

Hours donated:
95,874

Applications Filed:
2,019

Inventor Inquires:
17,979

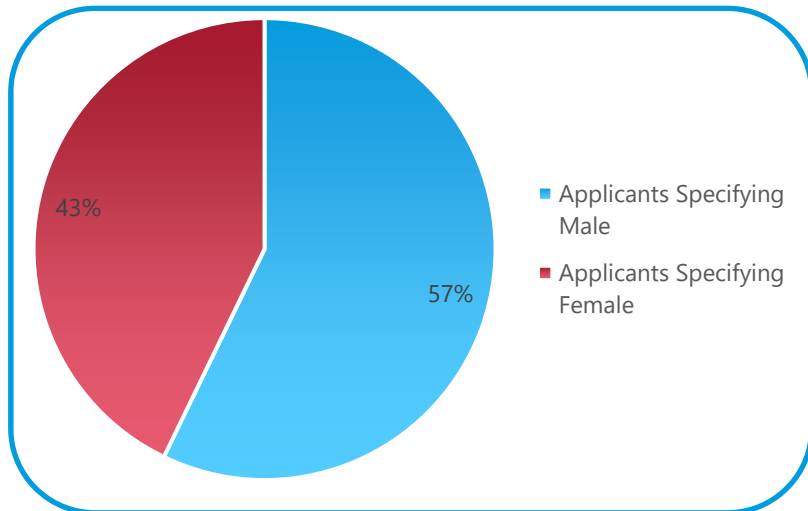
Inventors Assisted:
3,898



* Data collection began in Q2 of CY 2015

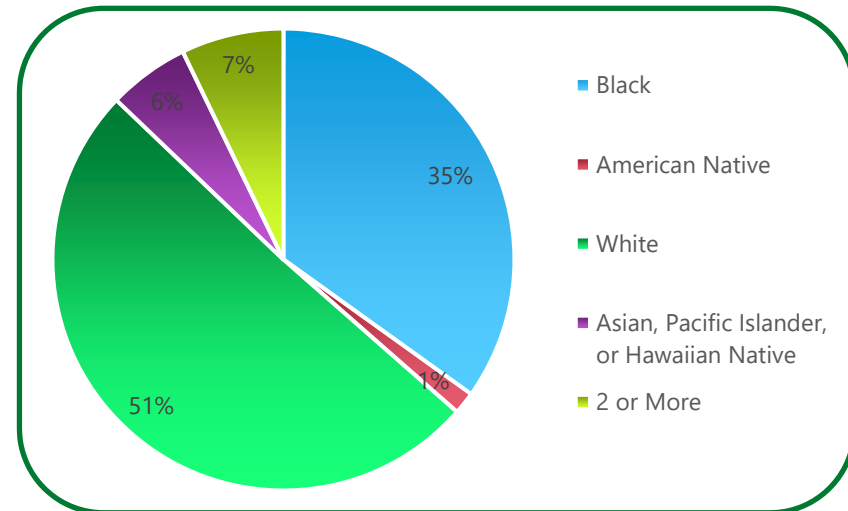
PPBP and under-represented communities

Applicant Gender Demographics



| Male | Female | Did not Specify |
|------|--------|-----------------|
| 822 | 616 | 265 |

Applicant Race Demographics

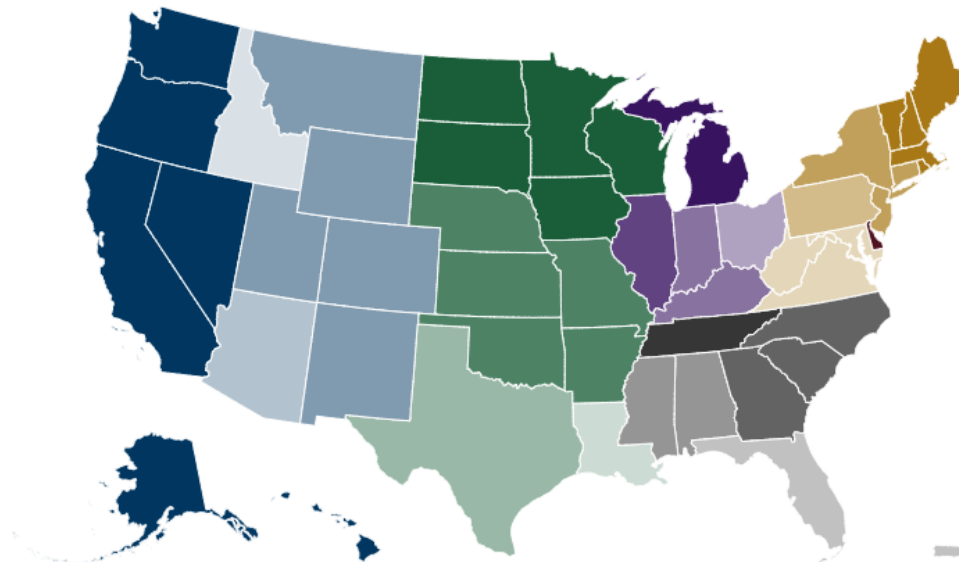


| Black | American Native | White | Asian | 2 or More | Did not specify |
|-------|-----------------|-------|-------|-----------|-----------------|
| 423 | 19 | 614 | 69 | 87 | 433 |

Note: Persons claiming Hispanic origin are estimated to be 13.8% of survey respondents



Current nationwide coverage



- St. Louis U. Pro Bono Patent Program
- Texas Accountants and Lawyers for the Arts
- Louisiana Invents
- Chicago-Kent Patent Hub
- PatentConnect
- Ohio Invents
- Pro Bono Patent Project
- New England Program
- New York Tri State Program
- Delaware Program
- Federal Circuit Bar Assn.
- Penn State Law Intellectual Property Clinic
- Tennessee PATENTS
- BBVLP Patent Program
- Idaho Patent Pro Bono
- California Inventors Assistance Program
- ProBoPat
- Arizona Public Patent Program
- LegalCORPS
- Georgia PATENTS
- Patent Pro Bono FL



Regional patent pro bono programs

- Regional programs may cover individual or multiple states.
- Regional programs are operated by:
 - Nonprofit organizations focusing on copyright and trademark (e.g., lawyers for the arts);
 - Universities;
 - Bar associations.
- Regional programs follow general guidelines but are independent of the USPTO and set their own policies and procedures.
- Regional programs are responsible for screening and matching patent pro bono applicants:
 - Ensure applicants meet requirements for pro bono assistance;
 - Screen for:
 - Income;
 - Knowledge of the patent system;
 - An actual invention (more than an idea).



General criteria for inventors

- Gross household income:
 - Regional program dependent, but usually limited to 300% of the federal poverty guidelines.
 - A single person could have an income of up to \$43,740 (2023 federal poverty guidelines).
 - The limit increases with additional dependents.
- Demonstrate knowledge of the patent system:
 - Have at least a provisional application on file with the USPTO or have completed a certificate training course (also available in Spanish).
- Have an invention, more than an idea:
 - To demonstrate that there is an invention one should be able to describe the invention so that someone could make and use the invention.
- Responsible for all USPTO fees (80% reduction may be available).
 - Regional programs may require a processing fee if matched with a practitioner.
 - Ancillary fees (e.g. drawings) may also be required.



General criteria for inventors (cont.)

- Contact your regional program for any additional requirements.
- Applicants with an upcoming deadline may not be able to be matched with a practitioner.
 - For example, if you have a provisional application on file with the USPTO, your regional program may only attempt to match you with a practitioner if you apply 3-6 months in advance of your provisional application's expiration date.
 - This allows time to find a practitioner and time for the practitioner to complete the work.



Matching with a patent practitioner

- Assuming you qualify for pro bono assistance, your regional program will provide its patent practitioners with a brief description of you and your invention.
 - There is no guarantee that a practitioner will choose to work with you on your invention.
 - Reasons an invention may not be chosen may include, but are not limited to:
 - No practitioner with experience in your technology;
 - You or your invention/business conflicts with an existing or former client of the practitioner.
- Follow up with your regional program periodically to verify your status.
- If, after a period of time, no practitioner chooses to work on your invention, then your regional program will inform you that no practitioner is available to serve you.
 - Your regional program may provide you with other resources that may help you pursue your patent application.



Applying via USPTO Patent Pro Bono Program

- Apply **directly** to the program in your region.
 - To find the regional program that serves you, see www.uspto.gov/probonopatents for a map of the United States and select your state.
- Email probono@uspto.gov if you have any questions.



Patent Pro Bono Program: Opportunities to provide feedback

- USPTO is requesting comments from the public to improve patent pro bono programs.
 - <https://www.regulations.gov/document/PTO-C-2023-0009-0001>
 - Written comments will be accepted until July 11, 2023.
- USPTO is hosting two “Listening Sessions” on patent pro bono programs:
 - June 5th from 5:30 – 8:30 PM (Inventors)
 - <https://www.uspto.gov/about-us/events/inventor-listening-session-patent-pro-bono-programs>
 - June 7th from 1:00 – 4:00 PM (Practitioners)
 - <https://www.uspto.gov/about-us/events/patent-practitioner-listening-session-patent-pro-bono-programs>



Conclusion



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Patent Pro Bono Program Study Areas Under the UAIA

- Whether the patent pro bono programs are sufficiently serving prospective and existing participants
- Whether the patent pro bono programs are sufficiently funded to serve prospective participants
- Whether any participation requirements of the patent pro bono programs serves as a deterrent for prospective participants
- The degree to which prospective inventors are aware of the patent pro bono programs
- What factors, if any, deter attorneys from participating in the patent pro bono programs
- Whether the patent pro bono programs would be improved by expanding those programs to include non-attorney advocates



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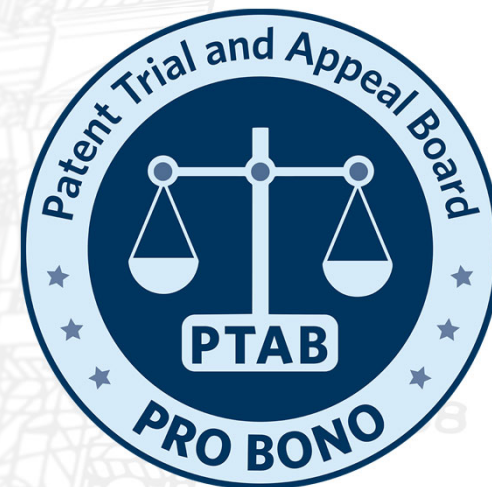
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Overview of the PTAB Pro Bono Program



Janet Gongola, Vice Chief Administrative Patent Judge

June 5 and 7, 2023

uspto

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PTAB Pro Bono Program

Financially under-resourced inventors, inventor groups, and inventor-owned small businesses are matched with volunteer patent professionals to obtain free legal assistance in proceedings before the PTAB

"[T]here is a crucial need for a new era of innovation, and for all of us to unite in helping every potential innovator in our country bring their innovation to impact. We can help make those dreams become reality and, in the process, turbocharge access to the American innovation system for everyone."

Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO
PTAB Pro Bono Fireside Chat



Program benefits

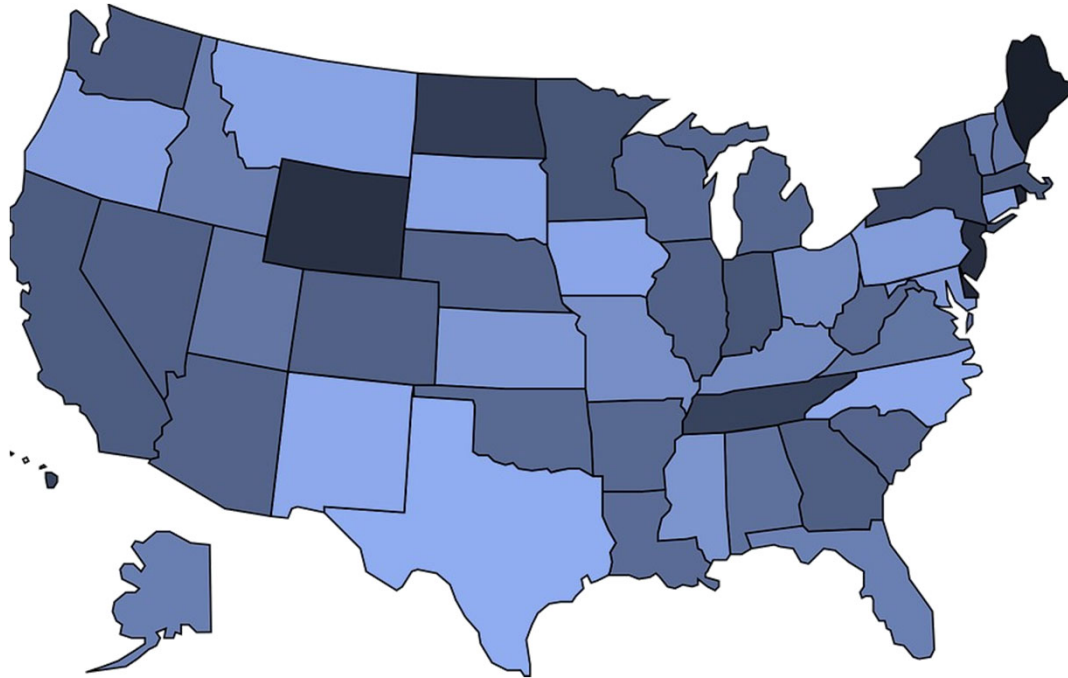
- For inventors:

- Eliminate financial barriers for legal assistance; and
- Aid in making effective arguments

- For volunteers:

- Provide legal help in their field of legal practice; and
- Create new contacts in the community

Nationwide coverage



Administered by the PTAB Bar Association

https://www.ptabbar.org/ptab_pro_bono.php



Program evolution

- June 1, 2022
 - Program opened to solo inventors for *ex parte* appeals through a Board decision
 - Does not include:
 - Rehearing
 - Appeal to the federal courts
- April 1, 2023
 - Program expanded to include inventor groups and inventor-owned small businesses
 - To enable more inventors to qualify, program:
 - expanded income limit; and
 - removed micro-entity status requirement



Program expansion

- Expansion planned to assist with AIA trials

PTAB Pro Bono Program

Eligibility

Involved entities

- Independent inventors
- PTAB Bar Association
- Volunteer practitioners (attorneys or agents)

Inventors: eligibility criteria

Applicant

- Individual
- Inventor group
- Inventor-owned small business

Location

- Domiciled in the U.S.

Gross household income

- Limited to 400% of the federal poverty guidelines
- A single person in 2023 could have an income of up to \$58,320 (<https://aspe.hhs.gov/poverty-guidelines>)

Timing

- Request assistance within 1 month from date of Office action at issue

Demonstrate knowledge of the program and the appeal process

- Established by completing a 2-part video training online
 - Part 1: PTAB Pro Bono Program and application process
 - Part 2: Overview of *ex parte* appeals

Appealable rejection

Ownership Interest

- No obligation to assign to third party



HHS poverty guidelines for 2023*

| Persons in the Household | Poverty Level | 400% Poverty |
|--------------------------|---------------|--------------|
| 1 | \$14,580 | \$58,320 |
| 2 | \$19,720 | \$78,880 |
| 3 | \$24,860 | \$99,440 |
| 4 | \$30,000 | \$120,000 |
| 5 | \$35,140 | \$140,560 |
| 6 | \$40,280 | \$161,120 |
| 7 | \$45,420 | \$181,680 |
| 8 | \$50,560 | \$202,240 |

*Poverty guidelines for the 48 contiguous states and the District of Columbia.
Available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>



Clearinghouse: PTAB Bar Association

- PTAB Bar Association is responsible for screening and matching PTAB pro bono applicants with volunteer practitioners
 - Ensures applicants meet requirements for PTAB pro bono assistance; and
 - Finds volunteers to take on pro bono cases
- PTAB Bar Association is independent of the USPTO and sets its own policies and procedures



Practitioners: volunteer criteria

Registered patent practitioner

- Good standing

Experience

- Technology
- Proceeding type

Insurance

- Provide malpractice insurance

Services

- Agree to no fee

Representation agreement

- Such letters may discuss information including, but not limited to
 - The scope of services provided
 - Any ancillary fees
 - The reasons that the practitioner may withdraw from the representation
 - Avoid verbal agreements

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Process

Processing volunteer forms

- Clearinghouse will enter volunteer information into database
- Clearinghouse will contact all unmatched volunteers regarding new appeals
- Volunteer agrees to representation after:
 - Evaluating case; and
 - Completing conflict check
- Once matched, volunteer will be removed from database for period of ongoing representation



Matching inventors with practitioners

- PTAB Bar Association will provide volunteer practitioners with a brief description of applicant's appeal.
 - There is no guarantee that a patent practitioner will choose to work with the applicant on the appeal.
- A match will occur within one month after the application is submitted.
- If, after a month, no practitioner chooses to work on your appeal, then PTAB Bar Association will inform applicant that no practitioner is available to assist.



PTAB Pro Bono Program

Resources

Applying for legal help from the PTAB Pro Bono Program

- Apply directly with PTAB Bar Association
 - www.ptabbar.org
- Visit for more information and the training videos
 - <https://www.uspto.gov/PTABprobono>
 - [Learn about pro bono programs available at the USPTO | USPTO](#)



Contact information

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- PTABprobono@ptabbar.org



