



**Entrepreneurs' Law Clinic Proposal**  
Submitted by the High Tech Law Institute  
September 2012

The High Tech Law Institute proposes to create a new law clinic providing formation, transactional and counseling services to entrepreneurs with a Santa Clara University connection.

Earlier drafts of this proposal have been approved by the Curriculum Committee, the High Tech Faculty Committee and Dean Polden. Student leaders have also expressed significant enthusiasm for the proposal.

**I. Why an Entrepreneurs' Law Clinic?**

*How the Clinic Would Benefit Students.* An Entrepreneurs' Law Clinic would enrich students' education in several ways:

- Like any clinic, the Entrepreneurs' Law Clinic would teach students how to do real-life work with real-life clients.
- Students would learn about transactional law, a topic that would enrich our curriculum.
- Students without a technical background could get work experience in high tech law.
- We expect some students will have the opportunity to work collaboratively in teams with other business advisors.

*How the Clinic Would Benefit the University and the Community.*

- The clinic would enhance SCU's brand as the Silicon Valley law school. Silicon Valley is best known throughout the world for its high tech start-ups. The clinic would reinforce that we are the leading law school for that kind of work.
- It would create collaboration opportunities with the Business School, the Engineering School and other parts of the university.
- It would help local entrepreneurs who are creating new companies and new jobs in California.

*Clinics at Other Schools.* Numerous other schools have established transactional clinics. University of Pennsylvania's clinic has been around for 2 decades, and Northwestern's for a decade. The range of offered services varies some; for example, some clinics handle trademark registrations, real estate transactions or tax counseling. Our proposal is similar to those clinics, but it has been customized for the unique considerations of our community.

More recently, some schools (including Hastings) have created transactional "clinics" that function similar to externships; students are placed into third-party organizations and supervised by adjunct instructors. We believe a permanent on-campus legal clinic will provide substantially richer pedagogical experiences (and achieve some of the other benefits described in this memo).

*Alternative High Tech Clinic Options.* Before developing this proposal, we considered many other types of clinics, such as a high tech litigation clinic or an IP prosecution clinic. While we would be excited about those clinics too, we prioritized an entrepreneurs' legal clinic because of its opportunities for students without a technical background, its ability to support many constituencies throughout the university, and the ability to reliably source appropriate clients.

## **II. How the Clinic Will Work.**

*Clinic Director.* A newly hired clinic director will administratively run the clinic and act as the supervising attorney. The clinic director will be a California-licensed lawyer. We anticipate the clinic director will have substantial experience advising high tech start-ups in financing and commercial contracts matters. Eventually, we expect the clinic director to report to a new position, an Associate Dean for Skills Education. Until that position is created, the clinic director will report to the Director of the High Tech Law Institute. The clinic director will be a non-tenure-track faculty position (NTTF).

*Advisory Board.* The clinic will be supported by an advisory board, composed of various stakeholders, to guide the clinic director on the clinic's strategic choices. For clarity, the decision to retain any specific client will be the director's prerogative, but the advisory board may have useful guidance on the client mix. The director shall meet with the advisory board at least twice a year and provide the advisory board with periodic updates.

*Clients.* We anticipate the clinic will focus on clients from the following sources:

- Participants in the California Program for Entrepreneurship ("CAPE"), run by the Leavey Business School's Center of Innovation and Entrepreneurship ("CIE"). See <http://cms.scu.edu/business/cie/CAPE.cfm>. CAPE trains and mentors emerging entrepreneurs to help them contribute to California's economy. The program runs between June and November each year. In 2011, 29 small businesses participated. CIE selects participating entrepreneurs based on their potential, so CAPE participants are pre-vetted for the clinic. We anticipate that CAPE's business advisors and law students will team up to help clinic clients.
- SCU student entrepreneurs, including students from the Business and Engineering Schools. For example, students participating in the Engineering School's Senior Design competition may decide to commercialize their designs; and students in the Business School may be developing and pursuing business plans as part of their studies.
- SCU alumni, who regularly approach the university seeking help with their businesses.
- Participants in the Center for Science, Technology & Society's Global Social Business Incubator (GSBI). GSBI supports social entrepreneurs from around the globe. The clinic could work with GSBI participants based in California or that have California legal issues.

The clinic doesn't need to limit itself to SCU-related clients, but our initial review indicates that university-affiliated entrepreneurs can fill the clinic's capacity. If that's not the case, we can find many alternative client referral sources.

The clinic director will have the final authority over which clients to take and what services to provide them. For example, some CAPE participants aren't "high tech" companies, but the clinic director may feel they are worthwhile clients for pedagogical or other reasons. Clinic clients doing a venture capital round of financing should transition to a law firm. The clinic director will have the discretion to decide when a client no longer fits the clinic's mission.

*Services Provided and Student Competencies.* We anticipate the clinic will provide some of the typical "transactional" services needed by high tech entrepreneurs, such as:

- entity counseling and formation;
- counseling about start-up equity allocations and valuations (done in collaboration with the business advisory team where applicable);
- drafting standard seed financing, stockholder and stock option plan agreements;
- product counseling, including legal research and advice about product design issues;
- basic IP counseling and training;
- drafting and counseling about basic form agreements, such as NDAs, independent contractor agreements and employee IP assignment agreements;
- drafting and negotiating commercial contracts with vendors or customers.

For the foreseeable future, the clinic will refer litigation and patent/trademark prosecution matters to cooperating law firms.

Student work on client matters will likely include:

- participating in the intake meeting (competency: interviewing and counseling);
- drafting and completing the engagement letter (competencies: contract drafting; professional responsibility);
- attending CAPE workshops and participate in team meetings with the business school advisors (competency: collaboration/working in teams);
- drafting documents, such as formation documents or form agreements, and maintaining the clinic's standard form templates (competencies: legal research; contract drafting);
- negotiating and drafting customer or vendor agreements where appropriate (competencies: negotiation; contract drafting; interviewing and counseling);
- researching product issues and advising the client (competencies: legal research; interviewing and counseling; problem-solving).

*Academic Configuration.* The clinic director, subject to subsequent faculty approval, will develop the clinic's academic structure, such as the number of students that can enroll (likely 8 per term for a total annual capacity of 24 student seats), the number of credit hours, whether students can enroll more than once, and the nature of the classroom component of the clinic.

*Budget and Funding.* The clinic requires a full-time clinic director/supervising attorney, some administrative support (probably a fractional FTE), office space, basic office supplies, research tools and malpractice insurance. Assuming the availability of on-campus space, we estimate an annual budget of \$200k-\$250k.

Regarding funding, Dean Polden has communicated to us that the law school's 2012-13 budget already contains a placeholder to support a possible high tech legal clinic.

While we are asking the law school to fund the clinic for now, we intend that the clinic eventually will become self-financed. Possible funding sources include donors/sponsors (such as law firms or entrepreneurs), government/foundation grants and client fees-for-services. In addition, we expect the clinic will take small equity stakes in clinic clients, and eventually we hope that the equity portfolio will provide financial self-sufficiency.

Separately, Dean Polden and HTLI will pitch the University President and Provost on creating a campus-wide program for SCU-connected entrepreneurs (including the Leavey School, CSTS and others), and we hope to seek university funding as part of that process.

### **III. Next Steps.**

If the faculty approves the proposal, we will open up a job requisition and solicit candidates who will go through the standard process for hiring NTTF. The clinic director would reapproach the faculty with a proposed academic structure for the clinic in Spring 2013. We anticipate commencing "normal" clinic operations in Summer 2013.