

Stories and Advice from Inside the Patent Process

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According to a report by the United States Patent and Trademark Office (USPTO), while over 53% of PhDs are awarded to women, only 12% of recognized innovators in the United States are women. Women have technical skills and knowledge, yet their contributions are not patented at the same rate as those of their male counterparts.

Why does this matter? For individuals, patents are often directly linked to promotions and salary increases. For organizations, patent activity is a key metric for venture capital funding: unpatented innovations equate with lost economic value. Data show that the patents generated by universities represent only a small percentage of all granted patents. Therefore, for-profit companies must play a leading role in changing the culture to emphasize and reward diversity in innovation.

The Institute for Women's Policy Research predicts that, without a concerted effort by the business community to change course, women won't reach gender parity in innovation until the end of this century. This means that women innovators won't achieve equity until 2100.

Seeing these statistics, the Women in IP committee of the Intellectual Property Owners (IPO) Association has developed a beta-tested Diversity in Innovation Toolkit, which is available to the public and which offers a roadmap for increasing the diversity of inventors. The toolkit is broken into four cyclical parts:

- increase awareness of the gender disparity in innovation;
- discover the root causes for the gender disparity in your organization;
- develop short- and long-term programs targeted to the root causes; and
- launch and monitor the programs to measure progress.

Depending on the structure and culture of your organization, you may be able to identify many possible



contributing factors to explain lack of gender parity. One frequent root cause is that women typically have strong perfectionist tendencies and often do not submit their inventions for patenting because they perceive that these inventions are never "perfect."

Generally speaking, women do not always seek out the recognition that comes with filing a patent application. Women also tend to underplay their contributions or the impact of their contributions, which may make them hesitant to submit their inventions for patenting or to insist that they be listed as an inventor. In many instances men demonstrate the complete opposite and show no such hesitancy. Men are often overly confident and eager to file patent applications.

In order to overcome these hurdles, women should remember that nothing is ever perfect. In fact, it is acceptable to submit an idea for a patent application before it is perfect, because filing patent applications is an incremental process. Women should also keep in mind that a patent application is not an academic paper, and it is even less like a peer-reviewed academic paper. The standards are completely different: no one will be critiquing the quality of the patent application.

Women should also keep in mind that filing a patent application is a team sport. Seek out a mentor whom you trust and admire. People often love to help their colleagues. Also remember that you don't need to have all of the answers or to know exactly what you are doing in order to begin preparing an invention disclosure and to file a patent application. Simply frame the patent-application filing process as equivalent to solving a problem.

You can also trust and rely on your patent attorney, and if you don't trust them, find another attorney with whom you can have an open dialogue. As the inventor and expert, you will provide your attorney with the problem, your method for solving the problem, an explanation of how your invention is better than the status quo, and the technical details of your invention. Your patent attorney should understand the nuances of patent law but should also help you expand and refine your invention's description, to obtain the broadest protection and to ensure it is explained in easily understandable, general terms. The patent application filing process really is a team effort, made easier because your attorney is also a scientist or engineer.

Mentorship is an important and essential part of increasing the diversity of inventors. If your organization does not have a formal mentorship program, seek out mentors both within and outside your organization. Look for mentors with whom you connect and whom you admire and trust. Ask them for help and advice on how to develop the idea for your invention. Ask them for help in finding a patent attorney. Ask them for help in how to prepare an invention disclosure. Mentors love to be of use, so take advantage of their willingness to guide you.

If you have an idea for an invention, one of your first solo tasks should be to do a thorough patentability search.

Google, Google Scholar, and Google Patents are easy and great places to start. Use keywords to search for patents, articles, and products related to your potential invention. Use what you find to further develop your idea, as the legal standard for patentability is for the invention to be new, useful, and non-obvious.

Although the patent application preparation, filing, and execution process is certainly complicated, an experienced patent attorney with the right technical expertise will be able to help you determine whether your invention is actually ready for filing. With these guidelines in mind, start innovating! 🚀

References

- 1 <https://www.uspto.gov/sites/default/files/documents/Progress-and-Potential.pdf>
- 2 <https://iwpr.org/wp-content/uploads/2020/12/C448-Equity-in-Innovation.pdf>

Tina Dorr, PhD, Esq., is a partner at Cantor Colburn LLP, one of the largest full-service intellectual property law firms in the United States. Dr. Dorr represents clients in a large range of technology areas, including chemical, material, life science, mechanical, and semiconductor technologies and counsels clients to develop effective worldwide patent protection. Dr. Dorr is also an active leader in the local and national intellectual property community, currently serving on IP Law360's Editorial Advisory Board, as Co-Vice-Chair of the Next Generation Leaders Committee of the Intellectual Property Owners Association (IPO), Chair of the Outreach committee of the Atlanta chapter of Chiefs in Intellectual Property (ChIPs), and Co-Chair of the Women's Leadership Network of the Georgia Asian Pacific American Bar Association (GAPABA). She is also a regular guest lecturer in IP law at the Georgia Institute of Technology.



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