

# IP RIGHTS

## Letting go of stereotypes

Jay Kugler DeYoung explores the challenges for women in STEM and IP



Jay Kugler DeYoung

**The challenges for women in science, technology, engineering, and mathematics (STEM), and by extension IP law, are numerous, but they differ in scope by the field of technology.** In the life sciences, women account for about half of the workforce, which is generally in line with women's overall representation in the workforce (see figure 1).

Outside of the life sciences, however, female representation declines dramatically. Fewer women in non-life sciences STEM disciplines (eg, computer sciences, mathematics, engineering, etc) and far fewer female role models in law firm leadership positions, can make it more difficult for younger women to see themselves pursuing, and eventually advancing in, careers in IP.

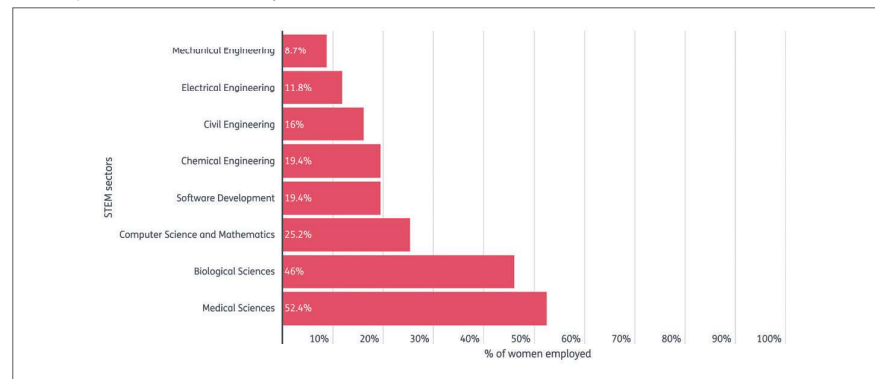
And with fewer women in firm leadership positions, both implicit and explicit bias can mean that younger women are overlooked for career advancement opportunities.

Sometimes, the numbers alone don't reflect the extent of inequities that women face. For example, there can be a discrepancy between the number of women who work at a law firm (or on a particular legal team) and the amount and quality of work they are assigned.

A team composed of three women and three men would seem to be gender-balanced on its face, but if the three men are assigned 85% of the work (or all of the higher-level work), that can hardly be considered equitable. And even where the work is split equally among the women and men, women frequently are assigned non-client-facing tasks, which limits their visibility and makes it harder for them to earn credit for their work. Looking beyond the simple numbers to understand whether women are truly being given the same opportunities for advancement, education, and client development as their male colleagues is where the real work begins.

Figure 1: Women's share of employment in select STEM occupations, 2019

Source: US Bureau of Labor Statistics, Table 11: Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity (2020).<sup>1</sup>



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### The importance of representation

Adequate representation of women – and other diverse attorneys – on law firm teams is essential for long-term business success not only because it is the right thing to do, but because it makes good business sense. Our clients are themselves extraordinarily diverse organisations, comprised of people from very different backgrounds, and often located in foreign countries. Servicing clients in the best way possible means being attuned to gender equality and diversity issues that might hinder hiring and staffing our teams with the best and brightest talent. An IP team that brings together people with different experiences, perspectives, capabilities, and talents – and reflects the diversity of the global world we live in – will always lead to new and better solutions.

Unfortunately, the lack of female representation in STEM fields makes hiring

women who have both STEM backgrounds and a legal degree even more difficult since the pool of qualified female applicants can be very small. Increasing representation of STEM women on IP teams goes beyond mindful hiring decisions, it means ensuring that, once hired, female attorneys are supported in their work and given opportunities in line with their male colleagues. Otherwise, we (and our clients) lose out on their talent.

We also want to ensure that legal teams are staffed with attorneys who have the technical skills necessary to handle the clients' matters and who can deliver the best service. In many cases, the best attorney for a particular matter is a female attorney.

### Areas of opportunity

We can strengthen female representation on IP legal teams by providing more opportunities for career advancement to women. For example, at Fish, we've recently implemented "mentoring pods" as part of our 'Empower (Enrichment, mentorship, partnering, opportunities, wisdom, excellence, and responsibility) programme' that are designed to give junior women access to senior women both inside and outside their own areas of technical expertise. The mentoring pods

encourage communication between senior attorneys and junior attorneys, allowing female attorneys early in their careers to gain career insights from their more experienced colleagues, and build relationships that will foster a feeling of inclusion among all of the women at the firm. We expect that these mentorships will result in more women in leadership roles, which likely will have a snowball effect – the more senior women there are in an organisation, the more likely it is that junior women will get noticed and be given opportunities for advancement.

However, to be clear: women do not bear the burden of increasing female representation on their own; men have to get involved too. We need our male colleagues to partner with us in this endeavour, to discuss the importance of interrupting bias, and to make a conscious effort to provide career opportunities to women.

One way to do this is to make sure that the factors considered for advancement credit aren't skewed to favour traditionally masculine traits. Do not make women toot their own horns to advance their careers – this is notoriously hard for many women. Do away with rigid structures such as required 9-5 office hours and face time that disproportionately disadvantage women who are often primary caregivers if they have children.

### Progress in the field

Progress on increasing female representation in STEM and IP law has been slow. In January 2021, the US Census Bureau reported that while women comprise 48% of the workforce, they make up only 27% of all STEM workers compared to men who make up 53% of the workforce but 73% of all STEM workers. The one bright spot for women is in life and physical sciences where women now make up 47% of the STEM jobs. Outside of the life sciences, most STEM fields remain very male-dominated. One possible explanation for this discrepancy is that the life sciences have traditionally been seen as more female-friendly. For girls interested in STEM and IP, life sciences may have been the path of least resistance. Sadly, the legacy of sexism in education in the hard sciences, including mathematics, is still making its impact felt today. Stereotypes and longstanding cultural norms present a large

barrier to closing the gender gap in the STEM fields. The idea that a particular person cannot possibly succeed in a certain field based only on gender can be a difficult roadblock for anyone, but in particular a young person, to overcome. We need to support our educators and our girls and young women to encourage them to push forward in exploring STEM careers and to continue challenging these stereotypes and presumed norms.

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The good news is barriers are becoming a bit easier to overcome – in particular, there has been a strong push to stop characterising certain careers and paths of study as being strictly male or female. This goes a long way to fostering curiosity and building a love for science, technology, engineering, and mathematics. Showing women working in all aspects of the STEM fields, including IP law, provides young women and girls a model and an inspiration that such a career path could be one for them. Instead of feeling as if they will be the only “girl” in the room, they can know that someone has walked that path before them and, while it may be challenging, it can be done.

At Fish, we are constantly working to model what is possible in this profession. Of all our attorneys with life science STEM degrees, 50% are women, which tracks closely to the national average. But more importantly, nearly 40% of our legal staff have STEM degrees in the other engineering, computer sciences and mathematics areas where women are currently woefully underrepresented in the STEM marketplace. While we aren't “there” yet, we are definitely making progress.

### Advice to younger female IP attorneys

I've seen many younger female attorneys struggle to talk positively about themselves and their accomplishments (men are generally much better at doing this); in my experience, overcoming this reticence is key to progress. What I advise my young female mentees to do is to talk about themselves as if they were talking about a colleague they admired – stand up for yourself, clearly demonstrate what you bring to the table, and don't be afraid to talk about your accomplishments. While women should not be judged on their ability to aggressively promote themselves, they still need to learn to speak up and speak out.

I also advise women who are starting or building their careers to make sure they stay true to themselves. By that, I mean know your strengths and weaknesses and your personal and professional goals, and let that guide your way to a fulfilling career. Nobody else has the traits that make you unique. Advancing your career in a direction that utilises your natural strengths and brings you closer to your goals will more likely lead to success and satisfaction.

It's also a good idea for younger female attorneys to find someone they can trust who will not only be a mentor but also a positive advocate for them, preferably a senior colleague who will be able to put them in front of clients and help them get to the next level. Establishing and maintaining close relationships with similarly situated colleagues inside and outside of the firm is also key: not only will they be an excellent support network, they may be potential clients someday.

Lastly, learn to let go of the stereotypes of success. There are many different personality types in the IP profession who achieve great success in their careers on their own terms. You don't have to play golf to land clients or go to sporting events to connect with colleagues unless you like those things. The world is a diverse place, and if you are confident in yourself you will be able to relate to others in a way that is authentic and lasting, which is the best way to ensure success.

#### Footnote

1. <https://www.bls.gov/cps/cpsaat11.htm>

*Jay Kugler DeYoung is a principal in the Boston office of Fish & Richardson PC, a global IP law firm. Her practice emphasises US and foreign patent prosecution, opinion work, and strategic counseling in biotechnology and other life sciences. DeYoung is chair of the firm's women's initiative, EMPOWER (Enrichment, mentorship, partnering, opportunities, wisdom, excellence, and responsibility), which promotes the recruitment, retention, and advancement of women on the firm's legal staff.*

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