

# The Patent Lawyer

GLOBAL REACH, LOCAL KNOWLEDGE

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## The Unitary Patent era is about to begin: what to expect?



Marisol Cardoso, Patent Consultant at Inventa, informs us of the expectations for the implementation of the Unitary Patent across the EU member states with crucial advice for filing.



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# Diversity, equity, and inclusion with Suzanne Wertheim.

## Chapter 6: tips for awareness and self-improvement

In this six-part series Dr. Suzanne Wertheim, of Worthwhile Research & Consulting, talks to *The Patent Lawyer* about diversity, equity, and inclusion: what it means; the current challenges; DEI in law; gender bias; and what we can all do to improve.

**O**ften people are unaware that they are being discriminatory or biased. What measures can be put in place to help overcome this? What can be done?

I like to help organizations create what I call bias interrupters. You can't trust your brain when it's making a quick decision - even if it's a decision about safety. We've been trained to think of some people as way more dangerous than they are. Let me give you an example. I live in a very diverse city, and one time a friend of mine called me right after she left my house. She's Black, and she called me from her car and said, "Girl, your neighbor just clutched at her purse as I walked by her."

She's my friend, she looks like many of my neighbors, she was raised in a middle-class home, and she's got two Master's degrees. The last thing she's thinking about is mugging my neighbor. And she has every right to be walking down my street. She belongs here in every possible way.

So even our judgments about our physical safety can be off because of the skewed data that our brains have received over the years. I imagine my neighbor has seen countless hours on the news and tv and movies where Black people were presented as criminals, and very few hours where they were presented as people just like her. And that she doesn't have Black friends, since American friendship groups are generally very segregated. So she clutched at her purse in fear. And my friend laughed it off, but I'm sure it bothered her. She can't even visit a friend's house without someone telling her she's less than, that she's scary, that she's probably



Dr. Suzanne Wertheim

“**Checklists and protocols can help you stay safe and shut down bias as it appears.**”

a criminal. For many of us, that simply isn't part of our day.

When it comes to bias interrupters, I like to use the analogy of pilots and airplane safety. When pilots are preparing to fly a plane, they use a safety checklist for every single flight. It is thorough, and if the plane doesn't pass every required point on the checklist, it doesn't take off.

We need safety checklists at work in the form of bias interrupters. There needs to be a bias interrupter for writing your job ad, for evaluating candidates, for allocating work, for promotions, for running meetings, and more. We can't trust our instincts, because our instincts are usually biased. So we need a safety checklist to make sure we're finding the bias and interrupting it. For example, there is an excellent chance that your female readers and their female colleagues are being talked over or frequently interrupted in meetings. If you have a bias interrupter that gives you best practices and tools to shut down those interruptions and get those women the conversational floor once more, well then, you've made the workplace more equitable and shut down a super common form of bias that consistently harms women's careers. You can't assume the equivalent of, "I know how to fly a plane, and everything looks all right - let's take off!" A pilot wouldn't do it, and you shouldn't either. Instead, checklists and protocols can help you stay safe and shut down bias as it appears.

**What tips would you give to recruiters and companies for encouraging inclusion from the point of application?**

The first thing is to watch your language. I have an e-learning course on LinkedIn Learning and



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Cornerstone on Demand. In this course, which is based on courses I developed for clients looking to diversify their hiring, I explain the importance of inclusive language and why you should care. I point out the real-world negative consequences that come if you don't use inclusive language. I give the six principles of inclusive language and some high-impact substitutions. Finally, I go through some words and phrases you really should avoid at work, and some easy and more inclusive substitutes to use in their place. This course can be applied directly to recruiting and hiring and starts with the language of your job listings. Just reading a brief job ad can tell people from underrepresented groups if your organization is a place where they're going to be safe and thrive.

For example, if you put too many requirements in your job posting, women will often not apply. Multiple studies have shown that women will apply for a role when they feel they are 100% qualified (and sometimes not even then), while men will apply when they're about 60% qualified. So the longer your list of requirements, the lower the chance that you'll get female applicants. Or if the job posting uses words like 'rock star' or 'ninja,' that job codes as masculine and also suggests an aggressive environment. So again, you will lose a whole set of qualified applicants.

And even to this day, I see job ads where they will use masculine pronouns as if they are universal. So a posting might say, "We're looking for an engineering director. *He'll* have to supervise around five guys..." Guess who's not going to apply for that job? People who don't identify as male. Because they know that they aren't even being conceptualized as someone who can and should fill that role.

When it comes to DEI statements and website materials, I recommend that companies be transparent about where they are when it comes to Diversity, Equity, and Inclusion. People are reading your entire website with a critical eye, and if they see a statement about how important diversity is and then the rest of the website is pretty much white men, especially at the top, you've lost their trust. Instead, it's helpful to have something realistic on your website. It can say something like: DEI is a genuine priority for us, and although we're not yet where we want to be, we have a plan. We're working on training; we're working on action plans; we have goals, and we're happy to talk about them with you. We're actively looking for people from underrepresented groups, and we want to make this a place where you can thrive.

But it has to be true. If people are taking the time to apply, they are doing their due diligence and checking you out! I have seen some very highly sought-after people in tech, especially

women of color, tweet openly about their job search process. They'll say things like, "Well, the recruiter reached out to me about this firm and I'm looking at their website and I'm like, 'absolutely not!'" And then, without naming the company, they list all the red flags visible on the website that let them know – this is absolutely not a place for me. A company may claim to want women of color, but then is clearly not setting them up for success. So, find out what the red flags are for the kinds of people who are currently underrepresented at your organization and work to fix them.

**What three tips would you give to everyone to help encourage equity and inclusion?**

- 1) Educate yourself. Don't overburden people who are already burdened by bias to also educate you and not make you feel bad while you're getting educated. This is incredibly common and makes life even harder for people who are the targets of bias. Take responsibility for your own education. There are lots and lots of books out there, not to mention videos, movies, and podcasts.

As you educate yourself, take responsibility for your own emotions. As you start to see the world more clearly, as you acquire the X-ray vision I talked about earlier, you might start to feel really bad. Because unfairness is rampant and miserable outcomes are everywhere. You might get in touch with the pain of the world and be like, "This is so rough." It's fine to feel sad as you feel the weight of the injustice around you. But, as you're educating yourself, don't lay that new-found pain on people you know who are targets of bias. Don't call them and say, "Oh my God, I just learned about this, it's so terrible!" The person you called might just be living their day and now you've dumped all this trauma and pain on them. Trauma and pain that affects their everyday life way more than it affects yours. So you've got to be responsible for both your own education and your own emotions.

- 2) Diversify your social media. This is such a light lift! It gives great results, and it's so painless. It's like eavesdropping on people. You can get so much information without really intruding on anyone. Look at the various social media platforms you're using and think about identity categories. You can even



make a list of the kinds of people who are missing - and then go find them and add them to your feeds. This can also work on streaming content platforms with television shows and movies. Whose perspectives are you missing? Watch movies and shows made by those people. And it doesn't have to be heavy and traumatic stuff - feel free to go for a sitcom (if there is one).

Social media has been really useful for me as a source of data. I am often surprised by the perspectives that I see there - people point out things or have opinions that aren't at all what I would have predicted. It's a great reminder that my perspectives are inherently limited. I follow people who are activists in different communities, for example, people that write a lot about disability. For some reason, disability is an identity category that I am less attuned to than others. So it's genuinely helpful for me to go on Twitter and see people say something I hadn't considered or had forgotten about. Not to mention, some people are just producing really fun stuff.

You can also spend a month doing a deep dive and reading fiction specifically about a group - and it should have been written by members of that group. For example, read novels where the main characters are all part of the South Asian diaspora. You can even cook recipes specifically from a certain culture and it makes it fun to learn more.

“**Let's say you devote an hour a week to educating yourself and practicing something new. By the end of the year, you'll have a lot more knowledge.**”

- 3) Create your own bias interrupters. This is more work than the first two, and you'll want to be careful. For example, let's think about pronouns. Say somebody in your workplace comes out as non-binary or somebody gets hired and they're non-binary. Wouldn't it be great if you had already practiced? And you were already comfortable saying *they* and *them* to refer to someone? One way you can do this is by telling stories about a non-binary celebrity and having someone check up and make sure you're consistently using they/them.

It doesn't have to take lots of time to implement these tips. Let's say you devote an hour a week to educating yourself and practicing something new. By the end of the year, you'll have a lot more knowledge. Especially if you've been complementing your self-education with a more diverse social media feed, more diverse film and tv consumption, and more diverse books. Then you just keep on going with these new practices, because this is a lifelong journey. New categories and new language will emerge, and you will want to keep up to date so you can say and do the right thing.

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