

The Patent Lawyer

GLOBAL REACH, LOCAL KNOWLEDGE

www.patentlawyermagazine.com

March / April 2022

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.



Top 100 Global Innovators™ 2022

Page 12



AI patent eligibility

Page 16



Patenting the Metaverse

Page 28

.fenixlegal

INTERNATIONAL PATENT AND LAW FIRM

SWEDEN • SCANDINAVIA • EUROPE

European Patents
EU Trade Marks
Community Designs
Copyright & Marketing Law
IP Due Diligence & Business Law
Domain Name Disputes & Internet Law
Mediation
Social Network Law
Artificial Intelligence

FINANCEMONTHLY
LEGAL AWARDS
2 0 2 1



Östermalmstorg 1 • 11442 Stockholm • Sweden
info@fenixlegal.eu • www.fenixlegal.eu

Women in IP Leadership

Celebrating achievements and continuing
the empowerment of women



Sponsored by

.fenixlegal
INTERNATIONAL PATENT AND LAW FIRM

We give special thanks to Fenix Legal KB for their dedication and support
in continuing the empowerment of women in IP by facilitating this opportunity.

This segment is dedicated to women working in the IP industry, providing a platform to share real accounts from rising women around the globe. In these interviews we will be discussing experiences, celebrating milestones and achievements, and putting forward ideas for advancing equality and diversity.

By providing a platform to share personal experiences we aim to continue the empowerment of women in the world of IP.

This segment is sponsored by Fenix Legal KB, who, like *The Patent Lawyer*, are passionate to continue the empowerment of women. Fenix Legal KB sponsorship enables us to remove the boundaries and offer this opportunity to all women in the sector. We give special thanks to Fenix Legal KB for supporting this project and creating the opportunity for women to share their experiences, allowing us to learn from each other, to take inspiration, and for continuing the liberation of women in IP.



Sponsored by

.fenixlegal
INTERNATIONAL PATENT AND LAW FIRM



IP for IP = Intellectual property for an international planet.

Intellectual property development and protection is the necessary base for creating innovative solutions in our daily life. It is well-known during the history that innovative minds are equally presented independent of gender, nationality or age. As WIPO phrase it: “Human innovation and creativity are the engines of progress”.

In this respect, we all need to educate politicians and legislators of the importance of a gender-equal working environment and legislation that gives all talents the equal possibilities to use their creative minds to solve problems and create new opportunities for today and for the next generation.



Maria Zamkova, CEO of Fenix Legal KB

If you would like the opportunity to share your experiences with *Women in IP Leadership*, would like to nominate an individual to be involved, or would like to learn more about sponsorship, please contact our Editor.

Tima Hachem: Senior Manager, Alyafi IP

An interview: inspirations, experiences, and ideas for equality.

Tima is currently Deputy GM at Alyafi IP group, with over 17 years of experience in IP management, experienced in a wide range of intellectual property-related work, with a particular focus on trademarks and patents in the MENA region and GCC.

Tima assists clients in all aspects of local and International Trademark protection, non-contentious IP matters; Legal opinions; legal contracts and agreement; Trademark

“
I saw an opportunity, a future, and an avenue to make a difference...
”

opposition and cancellation proceedings; and Anti-counterfeiting cases.

Tima helps inventors, companies, and universities to navigate the path of obtaining a patent, and advises clients on Patent infringement, commercialization assessment and process, and other areas surrounding intellectual property rights.

Acquired experience in business planning and technology-driven start-up management, technology transfer while working as IP advisor and trainer for incubators and universities in the MENA region and GCC.

What inspired your career?

There are so many factors that have influenced my career trajectory and have shaped the way I am today but it all started from my love of community work and our family values of being pro-active. I was brought up in a family that values social work and community building. So ever since I was a child I was exposed to all the social challenges going on around me.

So, when tasked with choosing what to major in at university it was a no brainer for me to choose Law and specifically concentrate on how the law can be used to assist and alleviate social causes.

During my second year at university, I took up a part-time job at an NGO which teaches children who dropped out of school between the ages of nine to 12, and this experience was so transformative and impactful that it changed my perspective of the world and my take on life.

When growing up I was exposed to challenges, but nothing was as detrimental as what I saw during this part-time job. This experience while very tough, further exposed me to the injustice of the world where children would come from 10-person families that have less than one dollar to spend on daily essentials.

I found that year to be brutal, it tried my faith, strength and confidence in the justice system, as everything I saw was unjust and since then I took a vow to always work hard to update the law and ensure it is effectively enforced and protects all people not just one class of people.

So, while this year was tough, corporate law was out for me, criminal law was also out as it



“
There was a tremendous lack of knowledge, regulations, and law related to IP in the MENA region and GCC which was one of the biggest challenges we faced during our journey.
 ”

entails back room dealing in a country with a lot of corruption which is contrary to the straight-shooting personality I have! A year into teaching, a friend of mine approached me with an opportunity to work as an intern for the founder of Alyafi IP Group. I knew nothing about IP and I was looking for more administrative jobs that would allow me to pay my tuition.

That is where my journey in intellectual property started, alongside an extraordinary woman who was the founder of Alyafi IP Group, Mrs. Mayssam Sijaan. I was mesmerized by her personality, her courageousness and her love of community. She was a wife, a working mom of three kids and at the age of 50, she decided to get a new BA in Law. Working alongside her was as though I was attending afternoon classes. She taught me everything relating to IP and her love for it transferred to me and I saw an opportunity, a future, and an avenue to make a difference in the world through this field.

In addition to my Law background, I am obsessed with technology, just like my husband and probably because of him, so this drew me further into the crossover between technology, law, innovation, and IP.

Last but not least, my father is my inspiration and compass, he is a very hard-working man but always had time for his family, so he is who I look up to to make sure all the important and valuable aspects of my life are well balanced.

How have you found the pathway to your current position? And can you offer advice from your experience?

I have been working with the firm for more than 17 years, I am a mother to a lovely five-year-old boy, and I am on route to leading the firm as a General Manager. All of these are achievements I am very proud of, but I cannot say they were easy and could not have been accomplished without an enabling community and support system. The firm environment, my family, friends, and colleagues supported me in these achievements. The support for working moms helped me grow and be who I am now.

Looking back at all of the work I did, I cannot say my path was easy or straightforward. On top of the usual career bumps people go through I was working in an entrepreneurial venture with all of its fluctuations, and in a region where intellectual property was only superficially understood. There was a tremendous lack of knowledge, regulations, and law related to IP in the MENA region and GCC which was one of the biggest challenges we faced during our journey.

We wanted to provide our clients with high standard service, accurate responses, and guidance, however the lack of structure, law, and understanding put us in a very awkward and unusual

situation. Therefore, we took it on ourselves to create structure when there was none, and to help governments and agencies create the structure and build up their capacity in it.

The persistence, the continuous learning, and support I had from the firm was the biggest motivation I got, have, and will pass on. The firm was never hesitant to invest in our learning through conferences, educational events, or professional events that will grow us professionally and allow us to be pioneers in this filed in the MENA and GCC countries.

I think the best advice I can give is to be adaptable to all changes. The firm passed through different phases and challenges and the region we service is quite risky, challenging, and booming at the same time. I can say that my character is very adaptable and I always look to the future and the outcome from the change and like to have new challenges in life.

People tend to resist changes, but for me, I like changes and challenges and this helped me in my career growth and development.

Adaptability and resilience are the key...

What challenges have you faced? And how have you overcome them?

I can say working in the Middle East with all that's happening around us is a challenge by itself.

In addition to the above, and as previously mentioned, there is a big lack of awareness in terms of IP rights (especially Patents and other rights) in the MENA region and GCC countries.

So even IP owners 10 or 15 years ago did not know what their rights were, and how to protect them, and this was making our mission to promote the service very hard - even impossible.

Therefore, I lead an initiative at the firm to raise awareness about IP rights in all the Middle East and GCC countries and we start giving training, and building capacity sessions for free in the Syndicates, Research centers, Universities, and Incubation centers. We delivered training about all IP rights and more specifically about Patents.

I have also led the initiative of capacity building events for government authorities around the region, training judges, customs agents and linking and introducing them to the international community in order to uplift their know how and transform our regional IP eco-system. While not there yet, the changes that are happening in the GCC, Jordan, Egypt and Iraq are worth every second we spent on these initiatives and capacity building events.

What would you consider to be your greatest achievement in your career so far?

This year I am currently working as acting General Manager for Alyafi IP Group, an Innovation Boutique operating in the MENA Middle East and North

Africa including the GCC region. The firm will focus on providing well rounded Innovation services, and tackling IP from a legal, commercial, and technological aspect. For the firm to trust in my capability is a great honor by itself.

Leading during the time of COVID was not challenge free; while remote working is second nature to us due to the different offices we work with, managing, motivating and providing support to your teams during times of extreme uncertainty especially during the early phases of COVID was not easy. A lot of our team members and I are working moms, and I can assure you this was one of the toughest, trying experiences we have had so far, and being able to get through it with growth, and an extremely motivated team, while taking care of my family is an achievement that I do not take lightly.

What are your future career aspirations? And how will you work to achieve them?

I love this question, and will try to answer it with a few words, but with my big aspirations I am not sure how to limit the wording! As background information, historically, the Intellectual Property Legal systems in the Arab countries was semi working. There were laws, judgments, but to say that it was a reliable jurisdiction to go to court and ensure that your rights are protected would be misleading. However, we have recently seen so many changes in laws, processes, appointments and leaderships in some of the biggest markets regionally, from Saudi Arabia, Egypt, UAE and Iraq. While understanding the change and coping with it is challenging, it is also an opportunity I, personally, and the firm would like to seize, by elevating the level of the judicial system and ensuring IP rights and legal decisions are reflective of a transparent equitable system. Where I fit in that is I would like to be recognized as one of the regions leading lawyers in shaping the IP legal system, assisting clients with enforcing, protecting, and commercializing their brands regionally.

Previously we were hesitant to advise our clients to go to court because of the lack of knowledge at the courts and lack of regulations. However, with all the changes going on, our understanding of the legal and cultural landscape and deep understanding of Intellectual property laws, I am confident that I, along with the firm, will be responsible for a couple of key judicial decisions that will change the entire IP landscape, they will be referring to them as landmark decisions and success stories in several Arab countries mainly Saudi Arabia, United Arab Emirates, Bahrain...

In parallel to the strong legal system that protects IP rights, I would also like to work with Universities, Research and Development (R&D), students and incubators to create an optimal ecosystem

that encourages innovation and development.

I have many more aspirations, but another one I would like to mention is how we are aspiring to build a network of strong hard working, innovative, and motivated females. One of my goals and career aspirations is to create a formal professional network of women innovators, executives, researchers and technologists to create and invest in more technologies made for and by women. I would like this network or organization to inspire all females in our region to get into STEM fields, work on their career and never give up on their professional dreams and ambitions.

What changes would you like to see in the IP industry regarding equality and diversity in the next five years?

Alyafi IP group is the only Majority Women-Owned and Operated IP Boutique in the Middle East, the mentality is part of our growth strategy and we are focusing on giving women equal opportunities and chances in the world of IP.

I think all IP firms need to ensure gender equality and provide equal access to the same opportunity in terms of career growth, salaries, gender, color, religion and beliefs should never be a barrier to growth for anyone.

Giving equal opportunity should not stay a slogan, companies should implement regulations and policies that take into consideration women's lives, such as working from home, flexible working hours for mothers, less working hours for new mothers, and other rules that give incentives to women to keep focusing on their career and never give up due to family or personal circumstances.

How do you think the empowerment of women can be continued and expanded in the IP sector?

Women can inspire the new generation; all studies prove that being a working mom has a great positive impact on the kids, most of working mom's kids have higher academic outcomes, also the work environment impact their behavioural conduct and social adjustment, and the higher sense of competence and effectiveness, especially for daughters. It teaches the new generation dedication, hardwork, and, most important, balance between professional and personal life.

Women have great impact on the evolution and the development of any sector including countries, and giving more ladies the chance to shine in the IP sector will have a massive positive impact on this sector, and I say that since I have a real example at the firm and I can see the dedication and the enthusiasm that our female team works with and this is really inspiring for us and for all our clients.

“

A lot of our team members and I are working moms, and I can assure you this was one of the toughest, trying experiences we have had so far.

”

Sponsored by

fenixlegal
INTERNATIONAL PATENT AND LAW FIRM

Karen Abraham: Head of the Intellectual Property, Messrs Shearn Delamore & Co.

An interview: inspirations, experiences, and ideas for equality.

Karen Abraham is the Head of the Intellectual Property department of Messrs Shearn Delamore & Co. Her practice covers all aspects of IP, Technology, Media & Telecommunications, Data Protection, and Competition Law. She has more than 30 years of litigation experience in IP matters, appearing in the Apex Courts in Malaysia. The Malaysian law journals bear testimony of how she has been instrumental in setting precedent in IP jurisprudence thereby establishing and evolving IP infrastructure in Malaysia. Karen is experienced in all aspects of IT, e-commerce, and telecommunications-related matters and cyber laws.

Karen is the first woman in Malaysia to hold a position as Board Member for INTA. Karen was the Assistant Secretary General at AIPPI and the first Malaysian to sit on the AIPPI Bureau. She also sits as a Council member of ASEAN IP Association (AIPA) and in 2021, was appointed the Asia Pacific Regional Forum Liaison Officer, IBA Intellectual Property and Entertainment Law Committee. Karen is an active member of the Emerging Rights Committee at APAA, the co-chair of the TK/TCE committee of AIPPI, and a member of the anticounterfeiting committee of both INTA and Marques.

What inspired your career?

I have always been an argumentative child. I always questioned why things had to be done a certain way and why alternative approaches could not be explored, which prompted family members to summarily conclude, "this one is going to be a lawyer!". I wouldn't take anything for granted, I always wanted to know where rules came from, who set the boundaries, and what the rationale was. There were hardly any

TV shows or movies featuring women as litigators when I was growing up, but I was consumed watching programs that surrounded courtroom advocacy and anything oratory.

At school I was always selected to represent the Oratory competitions and won most of them. I loved public speaking, performing in theatre, singing in public, and so I very soon understood that I was born to be on stage and if it was not in a TV drama, or at a Jazz bar, it had to be in a Courtroom!

Well on a more serious note, and to be honest, what struck me deep in my heart and appealed to me most was the power this profession had to make change (and the fact that lawyers get paid for it was a welcome incentive!). That is what's so wonderful about law in general, but IP, in particular has been so exciting as it has been an evolving subject since the beginning of time and so the law has had to continuously evolve in parallel. Being at the cusp of law reform and changing legal landscape was just thrilling. There is something new to learn every day that has been invented, discovered, or created. So I wake up each morning, in great anticipation of what the world is serving up. I have thrived being part of that daily opportunity to be involved in the change and making a difference by protecting, preserving, and enforcing IP rights in this ever changing world we live in. What an exciting life!

How have you found the pathway to your current position? And can you offer advice from your experience?

It took me 10 working years before I became a partner and five years after that to be Head of the IP department.

The journey was not an easy one. Starting out

“There needs to be a long-term plan, I always had that deep down in me, and I knew that it was going to be a rough journey but I could make it if I stuck to it.”

”

30 years ago, I was the first woman in the IP department of my firm which created a series of firsts and although I did struggle, I always reminded myself that I was always embarking on a career path that would be ground breaking. I needed to keep my eye on the prize.

I believe much of my perseverance and determination stemmed not only from my upbringing, but from my education in Australia. I watched women take leading roles in all sectors of the community always championing the advocacy of women. The liberal and practical approach to the law gave birth to jurisprudence that resonated with me. This empowered me to break barriers, consider, and explore alternative approaches to the way things were done when it came to the role and expectation of women in my society.

I was in a part of the world where women's rights were recognized and applauded so when I came back to Malaysia to practice, I was full of hope that I could be a part of the changes in my country too.

Aspirations and visions are the starting point, but change doesn't happen overnight and without hard work and tears. I don't think you can achieve anything without investing your heart, soul, and mind and that means sacrifice, time and effort. To be a leader one must understand and practice humility and have ability to uplift the people around you. To embrace the strengths as well as the weaknesses of those around you and balancing this whilst maintaining the position of neutrality and authority you hold. This is not easy. I pray for wisdom and humility everyday and this has kept me in check (although LinkedIn posts are still something I am grappling with!!).

My children are now 24 and 22 so I understand this current generation entering the work force. They are in a different world however they are ready and willing to embrace the work force but we need to play our part as mentors and sponsors to help them navigate this journey. We need to start listening to fully understand their vision for the future in this career.

My advice is that once we have done that, we can lay down our expectations, and guide them to be prepared for the long run in this profession.

There needs to be a long-term plan, I always had that deep down in me, and I knew that it was going to be a rough journey but I could make it if I stuck to it.

What challenges have you faced? And how have you overcome them?

Starting out as the only woman in the IP department, I felt challenged to prove that I had just as much time, energy, commitment, stamina, and confidence to do the job as any other colleague. Circumstances are different now, but when I



Karen Abraham

“
When I first started, I always felt there was a presumption that women were not able to perform equal to men in the profession.”

first started, I always felt there was a presumption that women were not able to perform equal to men in the profession. Overcoming these presumptions was a large hurdle. Being feminine whilst gearing up to be a warrior in Court or in negotiations is not an easy feat.

One of the earliest revelations was how visibly absent the publication of the achievement of women were when successfully winning a case or carrying out a brilliant cross examination. A senior female counsel once said to me that when women go to court and win a case, they don't go straight to the pub and beat their chests to say, 'I thrashed my opponent and I put him in the corner' or 'I had that witness eating out of my hand'. 30 years ago how were women to boast about their accomplishments so others would know of their wins?

Today social media has sorted that problem out. In the legal profession it has had a positive impact when it comes to visibility of ones achievements. For example we can vocalize our successes on LinkedIn. Today my firm regularly posts every accolade achieved on LinkedIn and I can share it. I think this is really important, even if we feel uncomfortable doing it, otherwise what is the point in achieving these accolades?! These success stories must be told to empower and encourage the next generation of men and women alike.

We've got to make sure that we measure up to the equality we want to assert, and that's something I had to keep doing in my early career. That was challenging because I was in my early 20s, just graduated from university - how do you address your mind to these things when you want to have fun, live your new life and enjoy your first few years as a lawyer? But these are critical years where you're being evaluated and assessed. I would advise young lawyers to invest in what they want early, to keep their eye on the prize, and not get distracted. It's a balancing act.

I think having a plan of action for what you want to achieve is important. We're noticing that more and more young lawyers are giving up on the legal profession after a year or so. We need to look at why people are exiting the profession and I think it's because young professionals aren't sitting down to think about what they really want to do with the education they have been gifted with. The danger is to be focused on quick gratification or less hours in the office. What is the long term goal?

I think the question of value is too infrequently raised when discussing a legal career, the service paid to the public and your country. This is such an honorable profession. There needs to be emphasis placed on the role to the public and society.

“
I would advise young lawyers to invest in what they want early, to keep their eye on the prize, and not get distracted.
 ”

There is also the fact that when you are young embarking upon your career; you get into a relationship or you're a young wife or mother, as you develop in your career whilst increasing your roles, those challenges get greater. Your career is not the only thing that you have to contend with. Life's demands increase and this often happens in the first five to 10 years of your career. Communication is imperative; I would advise communicating with your partner about how your career is going to evolve, what you want from your career, how ambitious you are to take leadership roles and to make changes and discuss the time implications with your family.

What would you consider to be your greatest achievement in your career so far?

I've been the first for many things, but I have to say that, to me, my greatest achievement is leading the IP department in my firm, which is a top tier practice in the country right now. I have an amazing team of lawyers, paralegals and support staff that work really hard to ensure we are at the top of our game. The endless annual accolades bear testimony to this.

So, to me that's my greatest achievement, to be at the helm of this group of people for the past 16 years.

What are your future career aspirations? And how will you work to achieve them?

I've done everything under the sun in IP in terms of litigation, appearing in the Apex Courts, transactional, enforcement, and advisory work. My future aspirations are to look at areas of IP Law in which Malaysia has room for development and growth. Two areas that I've earmarked, which I've already started working on locally, regionally, and internationally, are the protection of Traditional knowledge (TK) and Cultural Expressions (TCE) and the mediation and arbitration of IP disputes in Malaysia. These are two of my pet projects, they bear no revenue whatsoever to me or my practice right now and take up a lot of my time but it's something that I want to see come to fruition before I see the end of my work life.

I have been involved with international bodies like ASEAN IPA, AIPPI and WIPO to run a series of awareness programs through webinars locally, regionally, and internationally, planting the seeds to disseminate the need for recognition of TK through IP rights for indigenous communities. This is not just protecting the rights of the indigenous community, but also representing the human rights aspects by reaching out to communities to see what we can do for them. We are entrenched in our profession, but we need to extend that to commit time and get involved in

pro bono projects that serve the indigenous community by educating and helping them protect their IP.

I'm doing this hand-in-hand with the relevant Malaysian Government bodies, trying to instil and harness the need for recognition and infrastructure, which will hopefully self-fund the community eventually. I've started this adventure and have been enjoying working with the local and international advocates in our mission to roll out a program in the future.

The second project is getting Mediation of IP disputes on the Malaysian Alternative Dispute Resolution map.

Almost all IP disputes in Malaysia land up in Court. Everything is being litigated unlike in a lot of other jurisdictions where there are provisions and directions that mediation must be explored before a matter goes to trial. There is precedent around the globe testifying to the fact that Mediation has been extremely successful in resolving IP disputes and achieving a 'win-win' position for all parties to litigation.

What changes would you like to see in the IP industry regarding equality and diversity in the next five years?

In my department we have four female partners and two male partners, we have 10 female lawyers and six male lawyers. The women are presiding in abundance and that shows that women are very much involved in IP practice in my firm. In fact, in my firm which is a full-service firm, out of seven heads of departments five are women and two men. Women are rising to the top and we must in turn take responsibility and encourage women to reach for these positions.

There seems to be a fair opportunity for women to rise to top positions in IP in private practice, but I would say that that's not necessarily reflected in the other sectors. For example, in the government sectors we have never had a Female Minister in the Ministry dealing with IP matters or a woman Director General for IP - it would be great to have women presiding in these positions. There are many smart young women at the Ministry, and I hope that they will persevere and rise because we look forward to their leadership.

How do you think the empowerment of women can be continued and expanded in the IP sector?

I think the support for women by women is still lacking. In my early career I didn't have any female mentors until I started meeting women in leadership at international forums. They were empowering and uplifting. Generous and honest in their sharing, opening doors for women like me.

I have since started a women's group formed from a ladies' network and we have met over

years at international conferences including INTA, AIPPI, Marques, APPA, etc.. We have been a support group for each other and are there for other women. During the pandemic, I brought these women together and set up a community to share and network online to empower women and encourage a mentoring and sponsorship system. A lot of the women in my group are leading professionals from over 40 countries all over the world. Our aim is to plant projects to help and encourage younger women in the profession. It's more than our professional training. It's about sharing the bad times we've had and not being afraid to share them because these shared experiences will help others overcome their struggles.

A structured mentoring scheme would be incredibly valuable. For example, with the system that I have in mind, we could have a lawyer in Ecuador mentoring one of my female lawyers here in Malaysia.

I've worked with the women in this group for many years, we know each other well and we have shared our stories. The women in this group have all shared similar experiences, for example about how difficult it can be being away from home at an international business meeting or conference, dealing with the issues of leaving your children or family at home. We have all shared our experiences at these meetings, and there is comfort in knowing that these struggles are not singular or specific to geographic or demographic. I think sharing is extremely important and can be so empowering.

We also need to look at areas in the IP sector where women may be scarce. Women who are already in this industry could start doing more work with associations to start programs in schools to talk to children about what they can do, to show that there are female scientists and inventors. It's important to provide role models to plant that seed. There are many emerging areas so we need to think about how we can encourage more women to get involved.

We should offer training to young lawyers to raise their confidence. It's easy to have the confidence to sit behind a desk and draft a beautiful transactional document but having the confidence to negotiate the terms you want, stand up in court and deal with an opponent challenging you is very different. I think advocacy is very important and encouraging young lawyers to go for more workshops, particularly with female litigators sharing their tips and experiences, could be very valuable.



“
I think
advocacy
is very
important
and
encouraging
young
lawyers to
go for more
workshops,
particularly
with female
litigators
sharing their
tips and
experiences,
could
be very
valuable.

”

Sponsored by

.fenixlegal

INTERNATIONAL PATENT AND LAW FIRM