

The Patent Lawyer

GLOBAL REACH, LOCAL KNOWLEDGE

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A potential update to the *quid pro quo* of patents? US Supreme Court to review enablement requirement in Section 112 of Patent Act



Paul Ratzmann and Melissa Chapman of Fishman Stewart explain the importance of having a 'proper' US patent disclosure for promoting science and the useful arts, and how a pending Supreme Court case may determine if certain disclosure strategies meet current enablement requirements.

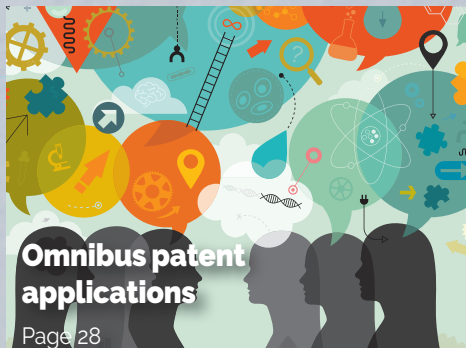
Chinese divisional applications

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Omnibus patent applications

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Time indicia in obviousness inquiry

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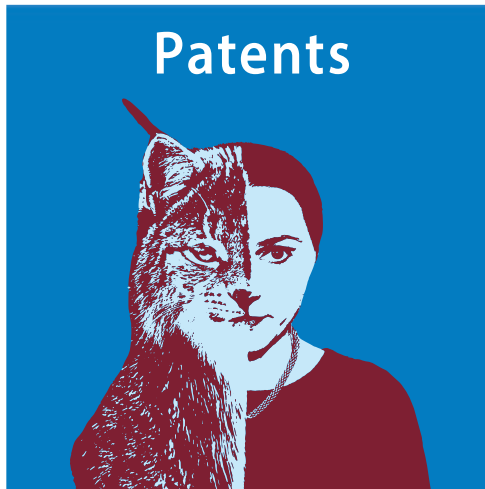
IP SERVICES IN RUSSIA, EURASSIA AND OTHER CIS COUNTRIES

PROTECTING TWO PARTS OF THE WHOLE: IDEA AND RIGHTS

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Women in IP Leadership

Celebrating achievements and continuing
the empowerment of women



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We give special thanks to Zuykov and partners 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 Zuykov and partners, who, like *The Patent Lawyer*, are passionate to continue the empowerment of women. Zuykov and partners' sponsorship enables us to remove the boundaries and offer this opportunity to all women in the sector. We give special thanks to Zuykov and partners 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.



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The innovative spirit of intellectual property is unimaginable in the absence of equal rights and diversity of talents. Women's creative energy boosts the growth of advanced industries worldwide. At Zuykov and partners, every year we are increasingly supporting innovative women and intellectual property owners to protect their rights. We believe professional support for the talents of all groups is essential for the efficient performance of the global and national economy. Our mission is to make the IP field a significant model of the global culture of equal opportunities while respecting rights and the law.

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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.

Eszter Szakács: Partner, Danubia Legal

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

Eszter is an attorney-at-law and partner of Danubia Legal, Budapest, representing and advising prominent international clients in the field of IP. With over 15 years of practice, her main focus is the enforcement and commercialization of patents, know-how, and trade secrets. She advises and represents clients from various industries and is particularly experienced in pharmaceutical patent litigation and regulatory issues, including CJEU proceedings (C-492/16, C-688/17). She authors several articles in the field of patent law, including publications of the EPO and regularly speaks at conferences in this field. She is a vice president and secretary of EPLAW (European Patent Lawyers Association) and Vice-Chair of Women in Licensing Alliance in LESI (Licensing Executives Society International). She enjoys recurring recognition in the field of patents and life sciences in MIP Top 250 Women

“Embrace all the opportunities that allow you to train your soft skills.”

in IP, IAM Patents 1000, IP Stars, Who's Who Legal and WIPR Leaders.

What inspired your career?

Throughout my childhood and my young adulthood, I was attracted to creativity and communication and tried various performing arts. Yet I also have a really rational mind and find joy in all works of logic. Following law school, I was not sure what legal path I would take but, upon the recommendation of a friend, I interviewed for an IP boutique law firm and I found the opportunity to work in such an interesting field quite appealing. I also liked the possibility of working with foreign clients, across several industries, mostly in English. It was not really a conscious choice of legal field at the time but very quickly I began loving every aspect of it.

My interest in creativity was fulfilled by dealing with innovations, meeting inventors of fascinating creations, writing articles, while my reason-driven other half enjoyed the challenge of understanding technology, complex market issues, and most of all, developing bullet-proof legal arguments in litigation. I have also realized that IP law and patent law specifically is very international, especially in Europe today as we are at the gates of the Unified Patent Court and it gives the opportunity to work with international teams on various legal cases and also to build an international network via taking part in professional associations.

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

My track has been quite straightforward as I progressed from junior associate to partner. However, my tasks have become diversified over time. As an associate, my job was mostly technical in the sense that I completed legal work on the cases handled by the firm. As I have progressed though, not only have the legal tasks and the connecting responsibility increased but also the use of my soft skills has become increasingly important in building client relationships, a professional network, cooperating on various projects in international associations, and last but not least taking part in the management of the internal issues of a law firm's daily life.



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In my current position, I am a patent litigation partner working on the trending multijurisdictional cases in Hungary as well as doing technology transfer contract work and advising on litigation strategy and pharmaceutical regulatory questions. This is the “day job” part. I have also been active as a member of the European Patent Lawyer’s Association, where I am currently the Vice-President and secretary of the association. My other favorite professional association is the Licensing Executive Society International where I used to be Vice-Chair of the Young Members Committee and currently hold the position of Vice-Chair of the Women in Licensing Alliance. My advice is: find a legal field that you are committed to, then dive deep to obtain knowledge that becomes your initial value proposition in all aspects of your professional life, and embrace all the opportunities that allow you to train your soft skills from articles, presentations, and conferences to client meetings and interacting with your firm. The two will come together at one point and reward you with a very satisfying career in the IP legal profession.

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

I have been very lucky with starting in a very supportive and encouraging work community with great superiors and peers, I would say that is indeed very important to find. Obviously, as the volume of tasks increase and diversify, stress appears and is hard to handle. Very often, I have felt that I undertook way more than what I can realistically handle. I also used to be very shy (let’s be honest – super scared) about presenting at international conferences and I have not been a natural when it comes to certain management tasks as I am not a very strict person. What I handle much better now than in the beginning is stress as I’ve tried various time management and collaboration techniques, and also learned how to compartmentalize the stress in my brain when there is a need to overcome a tide of a busy period. I also learned to say no sometimes. Very cliché but very important, equally so, to use it wisely. Regarding the presenting part, the only thing that helped is that I did it again and again until I stopped fearing it. And as for the management part, I try to replace strictness (which does not come naturally to me) with clear communication regarding my expectations in work and also put an emphasis on maintaining a supportive and understanding work atmosphere.

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

I could not really name a specific achievement and most things I have achieved are a great deal due to others giving me support and

opportunities, even at a young age. I am proud of having earned a good professional reputation in my field, especially on the international level. It feels really good to have the trust of my peers, clients, and most of all, my colleagues.

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

In the field of IP one can and should never stop learning. I have found a legal field that I really love and I would like to continuously improve and remain on top of all professional developments. Needless to say, the launch of the Unified Patent Court seems to be the most determining event in patent litigation for the currently practicing generations.

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

I am pleased to see that international DEI movements and principles are more and more common and I hope they will become natural in the next years on a national level and in all types of IP firms. While a great proportion of law school graduates are female in Hungary, female representation is much lower in partner/leadership roles which tells me there is still much to improve. I find it also important to reach a balanced approach in terms of enabling professionals of different ages. I think IP industry players, be it law firms, industry firms (many of them being global brands having the ability to reach millions with their messages) or international organizations are in a good position to be early adaptors of DEI movements and openly promote them by applying them in their organizations. I’d like to see more and more firms in the IP field joining and promoting these practices.

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

I think it would be important for all organizations to make conscious efforts in helping the advancement of women in their careers. In the Women in Licensing Alliance of Licensing Executives Society International, I have gained experience with mentoring which I find a great opportunity for female professionals to learn from and support each other. I have been amazed by the support and guidance I have received from more senior female colleagues whom I’ve met in the course of my work or in professional associations. I hope I can give back some of this by continuing to support mentoring in the organizations I am involved in, by way of setting up formal mentorship structures, training mentors, encouraging senior women to become mentors, and celebrating successful mentorship stories.

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Elaine Spector: Partner, Harrity & Harrity

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



Elaine is a patent attorney with over 25 years of experience in intellectual property law. She is a partner at the IP boutique, Harrity & Harrity and has a degree in mechanical engineering. She is the first female partner in the firm's history. Elaine hosts Driving Diversity¹, a weekly diversity vlog, as well as quarterly webinars in a series called Diversity Dialogue². She also co-chairs Harrity's Diversity Committee and is dedicated to improving diversity in the field of patent law. She serves as vice chair of IPO's Diversity and Inclusion Committee, and co-chairs the IPO D&I Outreach Subcommittee.

What inspired your career?

When I was a child, my favorite subject was math. My dad was an engineer, and as a result, I had this inclination and ability to fix structures. If something broke, I would figure out how to piece it back together. When I was in high school, a family friend asked me what I wanted to do when I grew up. I remember saying, "Well, I'm really good at math and science and my dad is a mechanical engineer, but I love the law." I loved debate – that's just part of who I am – and practicing law gives you the opportunity to exercise that. He was the one who then told me I could go into patent law, which requires both a law degree and a hard science degree like mechanical engineering. This conversation fortunately planted a seed very early on in high school. A lot of people don't find out about patent law until later on in their education or after they begin working in the STEM field. When I entered college, I declared my major as mechanical engineering and went straight from my undergraduate degree to law school, knowing a career in patent law was what I wanted to pursue.

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

I've been practicing since 1996, but I actually passed the agency exam in my second year of law school and worked part-time in 1995 at an IP boutique in a D.C. suburb.

¹ <https://harityllp.com/thediversitychannel>

² <https://harityllp.com/thediversitychannel>

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I started out at a small firm, and after two years of experience doing litigation and patent prosecution, I moved on to a larger IP boutique with about 150 attorneys. It was there that I flourished, practicing in many diverse areas. Because of my small firm background, I knew all about trademarks, trademark litigation, patent prosecution and patent litigation. This meant I was pulled in to work on a lot of different projects, which was really exciting for me.

I then started a family, which shifted my priorities a bit. I moved to a general practice firm and reduced my schedule. But when my kids were seven, five, and three, I was pulled into a litigation, even though my hours were reduced. The trial lasted four weeks in a federal court in Texas, which was a three-hour plane ride from my children. I couldn't go back to see them. After the trial, I knew that my work situation had to really change. I decided to leave that position and went to Johns Hopkins as a Tech Transfer Intellectual Property Manager. I was there for about six years when I saw an ad for a position at my current firm, Harrity & Harrity, with the catchphrase, 'work where you want, when you want, and how much you want.' The concept of remote work and flexible hours sounded great; I could continue to do what I loved, for as many hours as I wanted, on a schedule I chose, all while staying at home. It provided an invaluable opportunity for me to really flourish in and enjoy my career, without having to commute or leave my family.

Based off my experiences, there's a lot of things I can say in terms of advice. Circumstances are seeming to get better for those coming up, as more firms were forced to provide some sort of remote, hybrid, or flexible option during the pandemic. However, something I'm glad I did for myself was taking more time for my family when I needed it. I could have been more direct about saying "no" to certain projects. I felt like I couldn't say no to that trial. But in reality, I was in a good position to say, 'I'm working at reduced hours, my kids are very young, I really don't want to do this'.

On the other hand, there are likely some women – and men for that matter – that don't mind that separation, enjoy long travel, and want to be included on those types of projects. We need to open the conversation up, because everyone has different goals. I personally wanted to be around my children more when they were young, and it was a big sacrifice to be away from them for four weeks. So, looking back I wish I would have said that it wasn't going to work for me, but I wanted to be a team player. I think that's the hard part about being in a career where women are underrepresented – you want to be a team player, you're tough, you're saying yes to everything and sometimes you compromise yourself. But you don't need to do that. You're talented and

whole without saying yes to everything. You come to the table as who you really are when you do set those boundaries and say no.

There's still a gap in supporting women in their careers when they have families, depending on whether they want to be full-time or whether they want to work reduced hours. We need to find a way to advance women regardless of their time commitments, so that they are not stuck on the 'mommy track.' My advice to other women in the field is to always advocate for your whole self and the value you bring. We are more than just attorneys – we are moms, sisters, daughters, friends, wives. But, that doesn't mean that we are any less of an attorney, and by showing that you can be an incredible attorney while on the job, while still taking the time to nurture all of your other roles, you can advocate for the flexibility you deserve without missing out on upwards movement.

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

The greatest challenge was the work/life balance and boundaries around that, making sure that I could say no to things that did not work for my family. Trying to find that balance and setting boundaries for myself was difficult, as I'm sure it is for many other working women.

Now, I'm in a different position where my children are grown, and the amount of time I can dedicate to work has changed. As my children grow older and start to step out into their own lives, I have a little more free time, and it opens up the door of possibility into my career. I have a son who went to college, I have another who's going to college in the fall, and I have a daughter who's still home for two more years, but I have more flexibility in my schedule now. Also, when I was commuting to D.C. from Baltimore, it was two hours each way which was wasted time. Being able to work from home and be present means I can then travel more easily for conferences. I can go for a week without worrying about the kids. This is where I want to encourage other women; I want other practitioners to know that they can step back into their careers when their children are older. That's what I did at Harrity and my career is flourishing in ways I never imagined.

Being at home is an interesting thing as well – taking care of young children is the hardest job that you will ever have. The days that I was home with them were so wonderful but also very challenging. But I don't regret the time I took off to be with them. I think if all lawyers were able to understand the amount of effort and time it takes us to care for young children through parental leave, then they could maybe understand how we can better support our women. I see posts by women on LinkedIn who have young

children and they're barely surviving. I'd like to see us find a better balance in the United States; for firms to give new parents a reasonable amount of paid time off to bond with and care for their child and return to work when they are ready to give it 100%.

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

My greatest achievement has come recently. When I joined Harrity in 2017, it was a smaller firm of about 14 lawyers, and they were all men. But they had the intention of becoming more diverse, and because we are a small firm – we're up to about 45 practitioners now – we could move very quickly on new initiatives without much red tape. I'm obviously passionate about supporting other women in law, but I wanted to do more to help improve the overall diversity of the patent field, which is significantly less diverse than general law due to the STEM degree requirement. My co-chair in the firm's diversity committee, John Harrity, was the managing partner at the time, so I was fortunate to have his backing on this diversity journey. During the six years I have been at Harrity, our committee has launched numerous external diversity initiatives to improve the pipeline with regard to the patent bar, all with visible impacts.

A lot of people say that we shouldn't focus on the pipeline issue, as the issue of diversity and supporting diverse practitioners extends beyond that. However, if you look at the statistics with regard to diversity in the patent bar, it is, at its foundation, a pipeline issue. Women only represent about 20% of the patent bar in the United States, and racially diverse women represent about 2%. In an article we wrote for the *ABA Landslide Magazine*, we identified that there are more patent practitioners in the United States named "Michael" than there are racially diverse women. That statistic is unbelievable.

So, I'm most proud of the diversity initiatives that we have launched since I've been here. I love the fact that young women look up to me and see me as a role model, as someone who is flourishing in this profession. And in return, I am reaching my hand back down to them to pull them up alongside me. I think oftentimes, women kill their strong and men kill their weak. I've had those experiences in my career. Of the few women I have worked with, a couple of them have been very difficult, competitive, and unkind. Taking time to mentor these young women is so important; my door is always open.

This has been my greatest accomplishment thus far, and I hope my greatest accomplishment at the end of my career will be a diversified patent bar, to really see true diversity that is representative demographics of our country, and

to know I made an impact in getting there.

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

My future aspirations relate to further developing our DEI initiatives that aim to improve the diversity of the patent bar. One of our programs, *Patent Pathways*, focuses on the least represented group of the patent bar – racially diverse women, and specifically Black women – to try and bring the numbers up. In the first year, we had 20 Black women take part in the program. We paid for all of their patent bar review preparation classes, their exam and registration fees. We delivered almost a year of training in patent drafting and prosecution, and provided each participant with two mentors, one in-house mentor and one law firm mentor. Then, we line the participants up with jobs at partnering law firms. We have 20 law firms that have agreed to interview and hire at least one participant at the end of the program, and almost half of our current participants have already accepted job offers, including one who will be starting at Harrity in April.

For 2023-2024, we're scaling our program up to 50 Black women. There are only about 400-500 Black women who are registered to practice currently. If we increase it by 50 each year, we're seeing a significant increase percentagewise. Once we get the numbers up to where they should be, we will shift the program to help the next least represented group until the patent bar is diversified.

Right now, we're reaching out to women who have already aspired to obtain a career in STEM. Many of them don't know they can practice patent law without a law degree in the United States. You just have to have a hard science or engineering degree to sit for the patent bar exam and become a patent practitioner. They can enter the profession rather easily once they have obtained their undergraduate degree in an approved field and they pass the patent bar. Getting that word out to the correct audience is one of the key determinants in the success of this program. Finding and educating women at the undergraduate level is the low-hanging fruit. I used to work at Johns Hopkins Technology Ventures, and I have been giving lectures to freshmen mechanical engineering students for many years. During my lecture, I include a slide that says 'Do you know that you can practice patent law without going to law school?'. I explained that, when you graduate with your undergraduate mechanical engineering degree, you can sit for the patent bar exam. I had a swarm of students coming up to me after class who were interested. They had never been told that patent law was a career option for them without going to law school. And if you want to go to law school, there

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are law firms that will pay for it. This isn't something that is commonly shared in undergrad. So, getting that key piece of information out is incredibly important in driving more people, especially those within minority groups, to pursue patent law.

With that said, we do need to go back earlier, back to high school and middle school, and really think about the messages we're sending to girls about STEM. That will be another iteration of our program. Many people don't know about patent jobs in high school, and I think that is part of the issue with the profession - many fall into this career rather than actively pursuing it, and this needs to change. We're going to reach deeper and expand to help support women and other underrepresented communities who are interested in STEM.

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

I would like to see the patent community take an active role in shifting the statistics through engagement in various programs. For my colleagues that are in-house, there is a platform called *ADAPT*. It's a coalition of various companies including Microsoft, Amazon, Meta, Google, Cruise and Disney. *ADAPT* stands for *Advancing Diversity Across Patent Teams* and it provides a platform for in-house patent attorneys and law firms to get engaged in various DEI programs. *ADAPT* provides templates for organizations to create their own programs, but also highlights the wonderful programs already out there that are seeking additional support, including Patent Pathways.

While becoming Mansfield certified helps advance underrepresented groups into leadership roles, there is a much larger problem to fix. What I love about our Patent Pathways program is that law firms are now coming together to address the foundational issues by encouraging more diverse practitioners to enter the field. Together, our firms are volunteering to mentor, hire and train our participants - that's a huge collaborative step for changing the numbers with regard to diversity in the patent bar.

I really would like to see more firms and corporations not just talking the talk and actually taking action to make these initiatives successful. My firm can't do it by itself; we need the patent community at large to step up and get involved in programs like ours.

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

I think through mentorship and DEI programs like *Patent Pathways*, empowerment of women can be expanded into the IP sector. We have another program specifically directed towards

women called the *Harrity for Parity Women's Workshop*. It is a four-day virtual program for undergraduate and law students geared towards an introduction to the practice of patent law; patent skills and career training; resume building and interviewing; networking, and more. The workshop includes an array of female guest speakers - women who are prominent in the patent field, including equity partners and chief IP counsel at various corporations. We want to show women where this amazing career can lead them and allow them to hear from and interact with other women who are on a similar path, as well as those who have already found success. I also want to emphasize that women need to support each other. We must mentor and be role models for the next generation, so that they not only want to enter this profession, but feel supported in doing so.



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