

Promoting diversity in IP law: how small actions can lead to big changes

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Diversity, equality and inclusion are firmly on companies' agendas in 2020, but how can you make a difference? Eldora Ellison and Gaby Longsworth of Sterne, Kessler, Goldstein & Fox offer their advice.

2020 may be a year in which so many things are beyond our control—whether it be the global pandemic, divisive politics, or racial unrest—but the reality is that each of us as individuals *can* make a positive difference in this world. This includes making a difference with respect to diversity, equity, and inclusion in IP law. As women—and, inseparably, women of colour—we share some of our experiences and perspectives here.

If we were to think only about the statistics surrounding diversity in the law, it would be easy to be dismayed, particularly when we look at law firm statistics. According to the National Association for Law Placement's "2019 Report on Diversity in US Law Firms", just 20% of equity partners in 2019 were women, and only 7.6% of equity partners were people of colour.

Since black attorneys make up only 2% of all partners, black, female equity partners in law firms—especially in IP law—are practically unicorns. But, unlike unicorns, we do exist! How did we defy the odds? What lessons can one learn from our experiences? More importantly, how can individuals who want to promote progress actually make a difference? Below, we reflect upon our personal experiences, and offer ideas for actions that could move the needle.

Eldora Ellison

As the child of a police officer and a factory worker, I never would have guessed that I would obtain a PhD from an Ivy League university, become a patent attorney, equity partner, and member of a law firm's executive committee.

It's not that I doubted I would become a professional (I wanted to become a "real doctor", as my mother called it), but I had no clue about the field of patent law. My interest in patent law was piqued when my PhD advisor sought to patent the protein I studied for my dissertation.

"Many other people contributed to my professional development over the years—in some instances because they motivated me not to become like them" – Eldora Ellison

Then, a friend's father told me about technical specialist jobs in law firms, and another friend's mother made an introduction that helped me land such a job. I suspect I would not be where I am today without those individuals opening my eyes and opening doors for me.

But initial opportunities, and even hard work, do not ensure success in law: statistics in law firms show that attrition rates for women and persons of colour far outpace those for men and white people.

In the early years of my career, Paul Clark, a white, male partner with whom I worked, invested time not only in giving me candid feedback on my work product, but also in getting to know me personally, building a trusting relationship, and giving me forthright career advice. Were it not for his efforts, my career may well have gone off track in its early stages.

Upon moving to my current firm, I was fortunate enough to work closely with Jorge Goldstein, another white man who gave me candid feedback and advice. I seek his guidance to this day. He also gave me opportunities and support, not only on client matters, but also in navigating the dynamics of a law firm.

Again, individuals had a significant, positive impact on my career. Of course, many other people contributed to my professional development over the years—in some instances because they motivated me not to become like them. But the individuals to whom I refer above stand out.

Gaby Longsworth

I am an immigrant from Suriname, a woman, a mother, and a person of colour—not the most embraced profile in the US. I am biracial: my white dad was an English teacher, my black mom taught Dutch and was a high school principal. Both were educated in the Netherlands and obtained master's degrees in teaching.

Much was expected of me, the eldest of three. Dad often mentioned his dreams of my attending Yale, Harvard or another Ivy League college. It was a rather big dream as we were not well off. Yet, they scraped together money and sent me alone to the US for college at 19. To my dad's delight, I was accepted to Yale and Princeton for graduate school, but chose Johns Hopkins. I was able to secure student loans to finance my college, graduate and law school degrees.

Beyond my parents' influence, my own mix of grit, ambition, sheer determination and willpower helped me become who I am today. However, just like Eldora, I could not have done it without supportive and influential mentors and allies, mainly white men, who looked out for me from day one of my legal career at our firm Sterne, Kessler, Goldstein & Fox, where I started as a paralegal.

“Individuals can take what seem like small steps that can have a significant, positive effect on others”
– Gaby Longsworth

I attended evening law school at Georgetown University and was at my firm job during the day. After graduating, I was an associate and ultimately worked my way up to director (partner).

I met Eldora when she was working at another firm. She said that she was eternally grateful that someone took the time to talk to her about patent law when she was still in graduate school, and did the same for others, including me when I contacted her out of the blue in 1997.

We chatted on the phone for two hours and after that, we regularly met for lunch. When she was looking to leave her firm, I introduced her to the decision-makers at mine. This is a good example of how individuals can take what seem like small steps that can have a significant, positive effect on others.

What can you do?

In 2020, we have seen a groundswell of interest in diversity, equality, and inclusion, and our friends and colleagues have asked what they can do to help effect positive change. As our stories show, individuals *can and do* have a significant, positive impact.

We posit that if more individuals converted their concerns into actions—even seemingly small actions—the cumulative effect would be powerful. Based on our experiences, we see many options for making a difference:

- Expose young students to careers in science, engineering, and IP law. This is essential for increasing the pipeline.
- Make introductions and open doors.
- Mentor a student or lawyer who is a member of an underrepresented group. For both of us, white men have provided vital mentorship. As one young associate told me (Longsworth) recently: “If I look only to senior people of colour as my role models, there simply are not enough.”
- Take a personal interest in the professional development of a member of an underrepresented group: give them candid feedback, help them navigate politics, and get to know them personally to build trust.

- Educate yourself on unconscious bias and do not tolerate it when you see it. We can recall numerous stories in which someone has assumed we were part of the administrative staff or a court reporter, rather than a lawyer. I (Ellison) credit one particular opposing counsel for openly setting his firm's receptionist straight when she made such an assumption about me but not about the white, male law student who was carrying my bags.
- Engage in potentially difficult conversations around bias and privilege, and keep an open mind.
- Be a voice for change, particularly if you hold a position of influence. As Petrina Hsi, associate general counsel, IP and litigation, at Amgen tells us: "Improving diversity is a long-term effort that encompasses working deliberately towards inclusion and belonging of all colleagues, and it requires resources and commitment of the organisation at a senior level."

She notes that such a commitment exists at Amgen both internally and with respect to their choice of outside counsel, "not just the firm overall, but who is working on our matters".

Lisa Geller, head of IP at Frequency Therapeutics, echoes this sentiment: "Select law firms that have a robust diversity programme. Ask that your projects, whenever possible, be staffed with a diverse team. Implement a similar company-wide policy for major vendors."

We encourage more companies to adopt these approaches, because it will be key in driving faster change in the profession. The suggestions we list above are likely not earth-shattering to readers. Nor do they require "special treatment" of minorities.

However, too often members of underrepresented groups miss out on receiving the types of guidance and opportunities that are essential for success. If more individuals committed to taking the types of relatively small steps we suggest above, the cumulative effect could be significant across the profession.

Eldora Ellison and Gaby Longsworth are directors in the biotechnology and chemical group of Sterne, Kessler, Goldstein & Fox. Ellison serves on the firm's executive committee, and Longsworth co-chairs the firm's diversity and inclusion committee.