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Reflections On My First 25 Years Among the Male Patent Litigators

It is league table season. The various ratings agencies issue their lists of "best this" or "best that" in various categories, and simultaneously interview for next year's "best that" and "best this". The patent litigation lists remain strangely impervious to gender equality. I have been reflecting on why that should be.

I commenced my articles 25 years ago, at a full-service firm, after summering at what was then one of the finest IP boutiques in the country. I learned much at these firms, and the experiences solidified my desire to be a patent litigator. I was fortunate to find litigation mentors who encouraged me (and who were almost always male).

Back then, I was often the only woman in a room full of patent lawyers, experts or clients. Women were not choosing patent law, likely as it had been engineering-centric for so many years. From 1970 – 2002, only 9% of the winners of the J. Edward Maybee Memorial Prize for the highest overall mark on the patent agents exam were women: Mary-Jane McKay-Carey (shared prize in 1981), Judith Crawford (shared prize in 1986), and Ikuko Wada (1995).

The tide has shifted. Over the last ten years, with the ascendancy of pharma/biotech into patent practice, women have entered our profession in higher numbers than ever before. Since 2003, 58 percent of the winners of the J. Edward Maybee Memorial Prize have been women.

Those numbers are encouraging. But have things changed, really changed? The following things have been said to me or about me:

- Women don't have the stamina for all-night corporate closings.
- Patents are for guys, trademarks are for chicks.
- Could you have your girl go get us some coffee?
- Listen, little lady... (followed by patronizing lecture on the topic du jour).
- Never in all my years of practice (followed by patronizing lecture on the topic du jour).

I have been accused of being a "bitch". Of "whining". Of being "arrogant, argumentative and uncooperative". Of course, the

role of a patent litigator is to zealously advocate on behalf of our clients. However, the behaviour that in men is considered to be tenacious, persistent and fearless is characterized as bitchy, whiny, strident, or hysterical in women. The usual words.

To be sure, some of these descriptions and statements that I recite above are almost 25 years old. But some are within the last two years. By men. Always by men.

Speaking with my female colleagues at the patent litigation bar, my experiences are not uncommon. Some of my stories pale in comparison to what I have heard perpetrated on others. I don't imagine that this little article will change the mind of those who believe that patents are for guys and trademarks are for chicks. Rather, for all you patent chicks out there, you are not alone.