

# The Boston Manifesto

While significant progress has been made in increasing and amplifying women in IP-related careers, there is still work to be done. Just before IPBC Global 2019, a group of leaders got together to discuss how best to do this. The result was the Boston Manifesto

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**D**uring the 2019 IPBC Global conference in Boston, worldwide leaders in the legal, corporate and academic fields convened with Finnegan attorneys for a boardroom discussion on gender issues in the global IP community. Conversations were open and lively, with many sharing personal experiences, including one participant recalling: “My first day at a law firm in the 1980s, I was pulled aside and told that my trousers were inappropriate; women were expected to wear skirts to the office.” Experiences like this were a springboard for the boardroom’s discussions, which included both a positive recognition of significant advances made in recent years and a palpable desire for further progress.

Although the exact discussions (including who said what) are reserved for those present in the room, the Finnegan team compiled this special report on key topics to share the experience and enthusiasm throughout the day and to provide concrete and positive proposals moving forward. Finnegan and *IAM* would like to thank all participants for their insight, support, humour and contributions throughout the day.

## Why diversity is essential in the IP world

In companies and firms throughout the IP community, women are underrepresented. Barriers exist throughout the career trajectories of many women – hiring qualified candidates, retaining women as they ascend through company hierarchy and ensuring diversity in management and other leadership roles.

These barriers must be knocked down, as there are proven advantages to diversity in the workplace.

Effective leadership strategy and execution require balanced viewpoints. Diversity adds to the bottom line. Different perspectives, backgrounds, expertise and experiences facilitate product development and innovative strategies. Diversity creates a more inclusive environment and affords broader contributions, in which employees are more productive, perform better, get better results and remain engaged.

C-suites and law firm management throughout the IP community have recently become more engaged in this issue and are invested in making meaningful changes. In an effort to capture this momentum, the goal of the boardroom was to discuss how to move from aspiration to implementation – identifying concrete and positive actions that companies and firms have successfully implemented and brainstorming new areas. The boardroom identified the following as the main areas for consideration:

- being a company where women want to work;
- attracting talent;
- educating women and girls about careers in intellectual property;
- providing effective mentorship;
- offering meaningful flexibility in career paths and day-to-day logistics;



- providing leave policies for all;
- implementing numerical targets; and
- promoting open conversations

While the boardroom discussion was focused on gender issues, many of these topics also apply to other diverse groups in the IP workforce.

Outlined here is the Boston Manifesto.

### Be a company where women want to work

While the boardroom discussion focused on concrete steps for companies to take to attract and retain women, corporate mindsets and culture matter, one participant encouraged employers to engage in self-reflection – asking “why don’t women want to work for [our] company?” Giving this question thoughtful consideration informs all other actions.

### Attracting talent

Boardroom participants almost unanimously agreed that their employers should make hiring diverse candidates a priority. However, even with these positive intentions, participants highlighted the struggle in finding qualified women and other diverse candidates to interview for starting and open positions. Boardroom participants discussed whether these perceived struggles are real or imagined. An employer that has received no suitable CVs may need to expand the geographic scope of its search or explore new hiring channels. In addition, studies have shown that job descriptions are often drafted so that they appeal more to men. Such job descriptions and corresponding website descriptions may discourage diverse, qualified candidates from applying. Consider this and, if necessary, make changes.

Employers should also ensure that their interviewers are diverse. Potential candidates may be put off when they cannot relate to potential co-workers or envision growth potential from existing superiors. Employers must also question whether their assessment of a woman’s qualifications is accurate. Is this person less qualified than her male counterparts or are there potential unconscious biases that could lead to her being perceived as less qualified?

### Educating women about careers in intellectual property

Attracting diverse candidates does not start when employers receive a CV. Developing the interest of diverse candidates earlier in the process is critical.

Many boardroom participants admitted to knowing nothing about IP careers during their scientific schooling, while others mentioned that they never made a conscious decision to enter the IP workforce. All agreed that more steps should be taken to educate girls and young women about the possibility of intellectual property as a career and available jobs in the IP sector. Ideas to tap into and expand this under-developed candidate pool included speaking at universities to science, technology, engineering and mathematics undergraduate students and offering internships and shadow programmes for high-school and university students with IP-related backgrounds and aptitude.

### Mentorship

Effective mentorship is critical to ensuring that talent is developed, retained and afforded an opportunity to succeed. A successful mentor pairing – or other mentoring relationship developed along the way – can be a key and determinative factor in an employee’s growth and longevity at a company or firm.

Employers routinely assign formal mentors to incoming employees and junior associates, but it often stops there. Even where mentors are assigned with the best of intentions, too often such pairings lack the necessary chemistry. Positive mentoring relationships must be more than an obligatory monthly coffee break. True mentorship requires an organic connection allowing the relationship to move beyond small talk and pat responses to create a space of honesty and reasonable confidentiality in which an employee is comfortable addressing specific concerns and can expect to receive thoughtful recommendations and support.

Given this need for a connection, employees should play a part in the mentor assignment process. For new employees and employees at large companies and firms (where they may not have contact with many potential mentors), this could involve the opportunity for mentees







to select their mentors by researching or interviewing potential candidates and then deciding who they would like their mentor to be. In addition, checking in on mentor/mentee relationships can be part of the employee review process. Changes should be expected as attorneys grow and develop expertise in different practice areas and, as a result, may benefit from new mentor relationships.

For some women, having a mentor who can understand and relate to her specific needs, concerns, questions and priorities can affect the success of her career. However, pairing female employees with exclusively female mentors is not the answer. The responsibility of elevating, empowering and endorsing female talent should not rest solely on the shoulders of other women. Male counterparts must be actively involved and engaged in developing female talent within their organisation. This requires a concerted effort on the part of male mentors to engage female mentees on their own terms and to be receptive to the concerns and barriers that women may face in the workplace.

### Offering flexibility

During the discussions, flexibility came up again and again in a variety of contexts, including career-path flexibility, logistical flexibility in hours worked and location and options for other types of personal growth. While the boardroom stressed that this topic is not female-specific, the need for such flexibility is often highlighted for women taking maternity leave and returning to work on a reduced or modified schedule. Companies and firms that are prepared to meaningfully implement flexible scheduling options will have an

advantage over those who cling to old-fashioned concepts of what constitutes a 'working day'.

A common misconception is that offering flexibility leads to employees working less. This need not be the case. Having flexible working hours or workplaces allows employees to juggle family and other outside interests, resulting in a more beneficial work-life balance and higher levels of career satisfaction. Given advancements in technology and other communication tools, working nine-to-five in the office is no longer a necessity. Hanging on to this traditional framework can create unnecessary tension and stress for employees who have personal or family commitments that conflict with these hours. Provided that projects are completed, required total hours are worked and employees remain professional and communicative in regard to their availability and are able to further develop their skill sets, employees should be given reasonable freedom to perform their tasks within the hours of the day that suit their non-work-related needs.

In addition, it should be understood and respected that there are employees who are interested in different progression tracks or reduced billing requirements at different points in their career. When these programmes are offered, their use should not reflect a reduced level of dedication or conscientiousness that the employee brings to their work. Nor should there be a stigma attached to an employee whose ambitions do not necessarily extend to the high levels of a firm or company hierarchy or who is willing to undertake a different path to reach those levels. Often an employee's time commitment to work varies over the years, especially when they are raising children or caring for ageing parents.



Ultimately, flexibility makes sense not only on a personal level, but also from a bottom-line financial level. Allowing employees the freedom to work flexible or reduced hours relieves stress and can create less-rushed, better-quality work. Further, by showing consideration for an employee's needs and respecting their lives outside the office, companies and firms can create higher levels of job satisfaction, retain talent, avoid burnout and create a workplace that fosters respect, equality and high levels of productivity.

#### Leave policies

Amplifying the discussion about flexible working, boardroom participants expressed the need for continued advancements in company and firm leave policies. Formal policies must go beyond maternity leave for women. Further, even where formal policies exist, the stigma of taking such leave must disappear.

To be effective, policies must be directed to all; women cannot be treated differently. Too often the need for flexibility is ascribed only to mothers, when fathers deserve the same considerations. Equivalent leave policies should be encouraged for all. Paternity leave should not only be offered, but also strongly encouraged, if not required, for fathers. Such leave balances family responsibilities for new mothers returning to work. Required paternity leave also levels the playing field with female counterparts. Neither women nor men should be discouraged from spending time with their young children due to the idea that they may be missing opportunities at work.

Leave policies must also go beyond the addition of new family members (eg, leave for caring for sick

children, spouses or ageing parents). Humans are not machines; life happens. Leave policies should also contemplate non-familial scenarios, such as when an employee is interested in some form of personal or professional betterment, akin to a sabbatical.

Having formal policies that expect various types of leave will facilitate higher levels of job satisfaction and talent retention. Boardroom participants discussed the importance of embracing and encouraging such policies to promote the long-term retention of talent.

To effectively implement these leave options while still maintaining work continuity and high-quality standards of work, the boardroom discussed options for companies and firms to develop more systemic re-entry or reintegration plans for women and men who take family or unspecified leave. Such plans must be personal to each employee and scenario, with the objective of ensuring continuity and efficiency on projects (using junior-level employees or others with shared working knowledge of clients, projects and matters), as well as providing some assurances that employees taking leave will be re-assimilated on return.

#### Implementing numerical targets

Numbers matter. However, boardroom participants largely agreed that mandatory quotas (ie, rigid requirements for certain numbers or percentages of women or diverse candidates) are not the answer. A practical alternative is numerical targets in all areas, including:

- interviewing candidates;
- hiring and promoting at all levels of the company;
- staffing on teams for individual projects and clients;





- succession planning;
- promoting a meaningful number of women to management committees and boards; and
- addressing pay inequity.

The adoption of numerical targets and, importantly, a willingness to be held accountable to them (eg, reporting to leadership) will demonstrate that employers recognise the value of diversity at all levels.

There are many ways in which numerical targets can be implemented. One example that the boardroom discussed was HP's 2017 mandate that its outside law firms staff matters with teams meeting certain diversity requirements. HP gave its firms a year to comply with these requirements. If firms were unwilling or unable to meet the requirements after the year, either HP would allow them to remain as outside counsel but withhold up to 10% of invoiced fees for failure to meet the diversity standards, or HP's relationship with the firm would end. This model provides direct economic incentives for firms to diversify their employee and management teams.

Another example is the Diversity Lab's Mansfield Rule, which was launched in 2017. Under the rule, law firms pledged to consider at least 30% women, LGBTQ+ and minority lawyers for partnership and significant leadership roles. Approximately 65 leading firms have adopted this rule, including Finnegan.

These are just two examples and individual companies must determine what will work for them. Boardroom participants encouraged companies and firms to continue pushing the boundaries of their numerical targets.

### Promoting open conversations

Diversity and inclusion issues can lead to uncomfortable conversations. However, these should be embraced as opportunities for progress. How to better support women and grow and sustain female talent are critical discussions that must be tackled head-on, despite difficulties.

Initiating open conversations can be an important first step towards implementing meaningful change. It can be as simple as asking questions such as "are you getting the support you need?" or "how can we help you?" Questions and conversations open dialogue, allowing those in power to make concrete changes. Conversations must explore whether an employer's existing policies are merely marketing and recruiting puffery or whether they actually benefit those who need them. They must address why women may not want to work for a company to begin with and why they may not wish to stay. They must ask whether employers are doing enough to create an environment in which women can succeed and become leaders.

Those in positions of power – both men and women – have an obligation to engage in these conversations, ask questions and keep pushing the boundaries.

The discussions in Boston were the beginning of an ongoing process. The Boston Manifesto is an evolving document, not one set in stone. We look forward to developing the ideas set out in it over the coming months and years – and encourage as many people as possible to get involved and be part of the evolution. **iam**

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