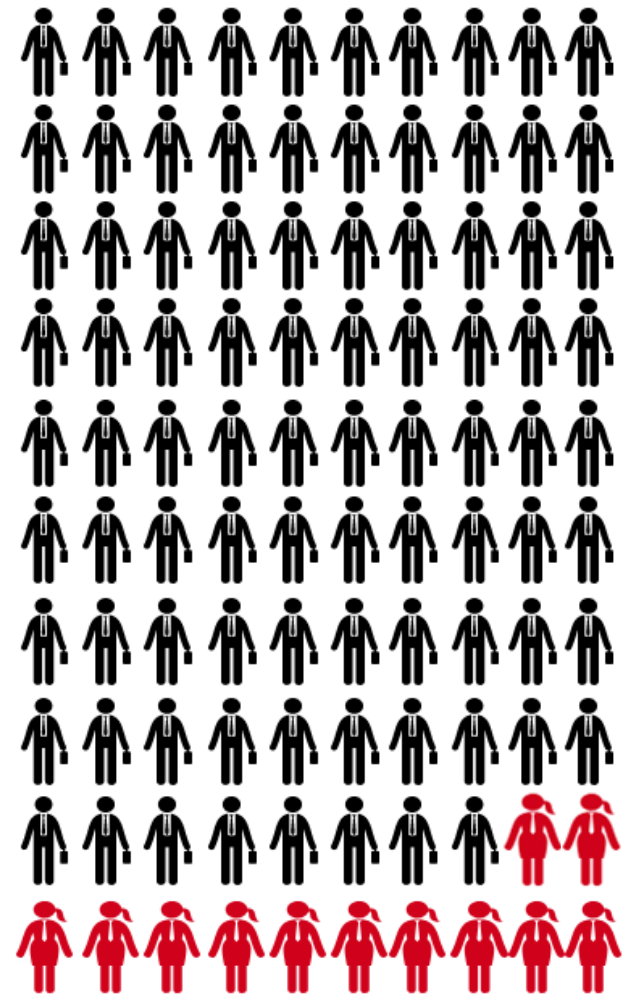

PTAB Bar Association

Report and Challenge:

Women at the PTAB: Post-Grant Proceedings

-
- The legal industry has begun recognizing the importance of diversity
 - Mansfield Rule to boost diversity in leadership: To Be Mansfield Certified, legal departments are asked to consider at least 50% historically underrepresented lawyers for 70% or more of the leadership roles and certain other activities in the department
 - USPTO Goals: In July of 2020, the USPTO updated its “Progress and Potential: A profile of women inventors on U.S. Patents.” The report shows that while women still comprise a small minority of patent inventors, more women are entering and staying active in the patent system than ever before. Further, it continued to highlight the untapped potential of women to spur U.S. innovation.
 - U.S. District Courts: Certain judges have adopted standing rules to encourage young attorney participation, including as a way to address litigation’s gender disparities.

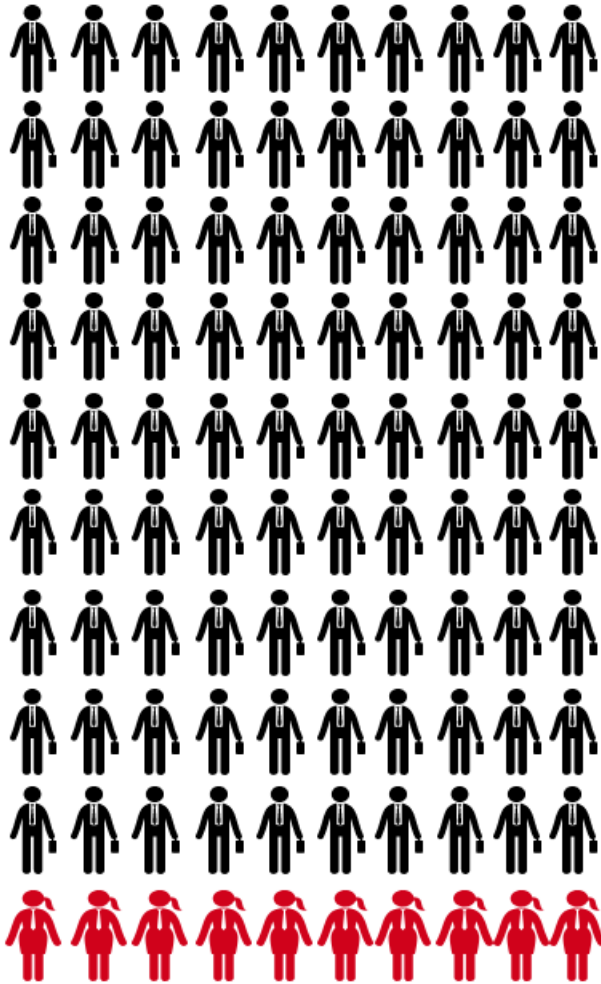
Law Review articles indicate 20-30% of registered patent attorneys are women. But of the 2000+ total firms and entities appearing in PTAB proceedings, **women make up 12%** of total attorney appearances



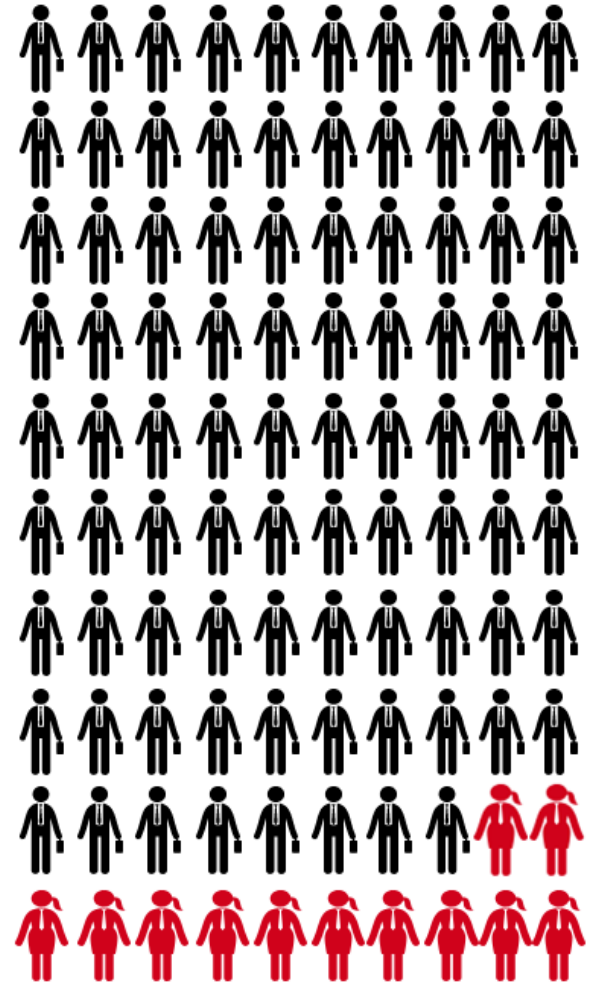
Of the 2000+ total firms and entities appearing in PTAB proceedings

- As of March 2019: women made up **10%** of total attorney appearances
- As of August 2021: women made up **12%** of total attorney appearances

2019:



2021:



Of the **top 100 firms**
appearing in the most
PTAB proceedings,
women make up 13%
of the total attorney
appearances



Of the top 100 firms appearing in the most PTAB proceedings

- As of March 2019: women made up **11%** of total attorney appearances
- As of August 2021: women made up **13%** of total attorney appearances

Of the **top 100**
attorneys appearing
in the most PTAB
proceedings,
8 are women

Lori Gordon (257) (10th overall)
Perkins Coie

Heidi Keefe (215) (18th overall)
Cooley

Erika Arner (211) (21st overall)
Finnegan Henderson

Dorothy Whelan (191) (29th overall)
Fish & Richardson

Kim Leung (162) (39th overall)
Fish & Richardson

Gabrielle Higgins (132) (66th overall)
Desmarais

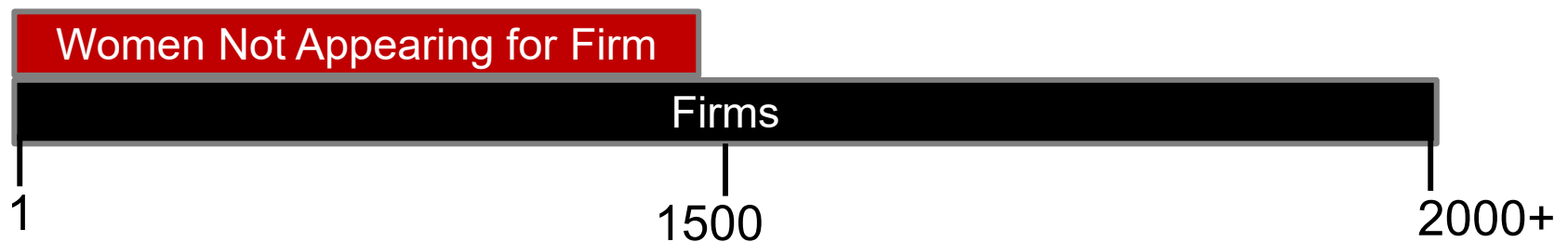
Bridget Smith (126) (76th overall)
Lowenstein & Weatherwax

Andrea Reister (121) (83rd overall)
Covington & Burling

Of the top 100 attorneys appearing in the most PTAB proceedings

- As of March 2019: **6** were women
- As of August 2021: **8** are women

1498 of the 2000+ firms and entities appearing in PTAB proceedings **have never had a woman appear** for them



Of the top 30 parties appearing before PTAB

- As of March 2019: women made up **10%** of total attorney appearances
- As of August 2021: women made up **11%** of total attorney appearances

Challenge and Call to Action

- Include more women on PTAB trial teams and improve your firm's year-over-year average by just 1%
- Identify at least one more woman for her first speaking role in a PTAB proceeding (e.g., in a telephonic hearing, oral argument, or deposition)
- Send a junior woman to boot camp at the PTAB Bar Association Annual Meeting or other training
- Nominate at least one woman who has not previously spoken about the PTAB on a panel/CLE for such a role
- Send one more women to the PTAB Bar Association Annual Meeting than last year

Of the **top 500 firms** appearing most often in PTAB proceedings, women attorneys make up at least half the total attorney appearances **22 times**

<u>Firm/Entity</u>	<u>Proceedings</u>	<u>% Women</u>
Bey & Cotropia PLLC (Finjan)	23	100%
Blitzsafe of America	17	100%
Convergent Law Group	14	100%
Avago Technologies	10	100%
Birch Tree IP Law & Strategy	10	100%
Arris International	9	100%
Myers Bigel	12	92%
Law Offices of S.J. Christine Yang	13	84%
Bey & Cotropia	23	76%
Honigman Miller Schwartz & Cohn	14	74%
Osha Liang	43	71%
Moyles IP	9	64%
Choate Hall & Stewart	10	63%
Bunsow DE Mory	43	60%
Padmanabhan & Dawson	15	58%
King & Spalding	97	57%
Choate, Hall & Stewart	30	56%
The Procter & Gamble Company	10	55%
Goodwin Procter	225	54%
Green, Griffith & Borg-Breen	25	54%
Smith, Gambrell & Russell	11	52%
Shook, Hardy & Bacon	55	52%

THE PTAB 100

Percentage of Women Appearances

King & Spalding	97	57%
Goodwin Procter	225	54%
Crowell & Moring	98	42%
Kasha Law	85	38%
Arnold & Porter	125	35%
Skiermont Derby	111	33%
Mayer Brown	199	31%
Ascenda Law Group	250	30%
Cooley	443	29%
Wilmer Cutler Pickering Hale and Dorr	614	26%
Ropes & Gray	463	23%
Erise IP	230	21%
Steptoe & Johnson	127	21%
Brinks Gilson & Lione	126	21%
Reed Smith	84	20%
Baker Botts	586	20%
Finnegan, Henderson, Farabow, Garrett & Dunner	1086	20%
Covington & Burling	248	19%
Perkins Coie	525	19%
Knobbe Martens Olson & Bear	466	18%
Dentons	80	18%
Weil, Gotshal & Manges	291	18%
Wilson Sonsini Goodrich & Rosati	374	17%
Venable	112	17%
Latham & Watkins	285	16%
Rothwell, Figg, Ernst & Manbeck	109	15%
Kilpatrick Townsend & Stockton	345	15%
Robins Kaplan	177	15%
Sterne, Kessler, Goldstein & Fox	1131	15%
Buchanan Ingersoll & Rooney	140	15%

Irell & Manella	315	15%
Sheppard, Mullin, Richter & Hampton	166	14%
Polsinelli	127	14%
Wolf, Greenfield & Sacks	221	14%
Oblon, Spivak, McClelland, Maier & Neustadt	384	13%
K&L Gates	171	13%
Kenyon & Kenyon	158	13%
Winston & Strawn	244	13%
Baker & Hostetler	130	12%
Fish & Richardson	1478	12%
Akin Gump Strauss Hauer & Feld	128	12%
Brooks Kushman	134	11%
Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing	98	11%
Fenwick & West	182	10%
Lerner David Littenberg Krumholz & Mentlik	83	10%
Kramer Levin Naftalis & Frankel	172	10%
Lowenstein & Weatherwax	148	10%
Williams & Connolly	150	10%
Kirkland & Ellis	459	10%
McDonnell Boehnen Hulbert & Berghoff	78	9%
Pepper Hamilton	147	9%
Gibson, Dunn & Crutcher	91	8%
Alston & Bird	340	8%
Norton Rose Fulbright	164	8%
Desmarais	158	8%
Blank Rome	77	7%
Jones Day	398	7%
Morrison & Foerster	269	7%
McDermott Will & Emery	217	7%
Sughrue Mion	137	7%
Devlin Law Firm	135	7%
Heim, Payne & Chorus	96	7%
Quinn Emanuel Urquhart & Sullivan	491	7%
Sheridan Ross	76	7%
Greenberg Traurig	222	6%

O'Melveny & Myers	219	6%
Michael Best & Friedrich	93	6%
Merchant & Gould	89	6%
Duane Morris	306	6%
McAndrews, Held & Malloy	214	6%
Fitzpatrick, Cella, Harper & Scinto	145	5%
McKool Smith	190	5%
Foley & Lardner	302	5%
Haynes and Boone	544	5%
DLA Piper	320	4%
Banner & Witcoff	305	4%
Klarquist Sparkman	149	4%
Sidley Austin	446	3%
Orrick, Herrington & Sutcliffe	231	3%
Lathrop & Gage	85	3%
Fitch Even Tabin & Flannery	146	3%
Paul Hastings	555	3%
Mintz Levin Cohn Ferris Glovsky and Popeo	158	3%
Bryan Cave	87	3%
Harness, Dickey & Pierce	134	2%
Morgan, Lewis & Bockius	243	2%
White & Case	214	2%
Barnes & Thornburg	76	2%
Russ August & Kabat	186	2%
Dinovo Price Ellwanger & Hardy	79	1%
Pillsbury Winthrop Shaw Pittman	181	1%
Carlson, Caspers, Vandenburg, Lindquist & Schuman	85	1%
Nixon & Vanderhuy	88	0%
Gonsalves Law Firm	235	0%
Brown Rudnick	119	0%
Etheridge Law Group	221	0%
Davidson Berquist Jackson + Gowdey	211	0%
Chao Hadidi Stark and Barker	125	0%
Rauschenbach Patent Law Group	125	0%
Bragalone Conroy	119	0%

Women attorneys make up **25%** of total attorney appearances in **biotech PTAB** proceedings for the top 100 biotech PTAB proceeding firms

<u>Firm/Entity</u>	<u>% Women</u>
Skiermont Derby	98%
McDermott Will & Emery	81%
Crowell & Moring	74%
Goodwin Procter	71%
Choate Hall & Stewart	58%
McCarter & English	58%
Paul, Weiss, Rifkind, Wharton & Garrison	58%
Choate, Hall & Stewart	57%
Tensegrity Law Group	56%
The Procter & Gamble Company	55%
Green, Griffith & Borg-Breen	54%
Skiermont Puckett	50%
Arnold & Porter	48%
Hogan Lovells	48%
Katten Muchin Rosenman	47%
Sterne, Kessler, Goldstein & Fox	45%
K&L Gates	45%
Fish & Richardson	45%
Patent Group	44%
Covington & Burling	43%
Gibson, Dunn & Crutcher	39%
Kirkland & Ellis	39%
Brinks Gilson & Lione	38%
Wilmer Cutler Pickering Hale and Dorr	38%
Baker Botts	38%

Percentage appearances by Tech Center – biotech/pharma

- As of March 2019: **21%** of total appearances for the top 100 biotech/pharma PTAB proceeding firms were by women
- As of August 2021: **25%** of total appearances for the top 100 biotech/pharma PTAB proceeding firms were by women

Women attorneys make up **10%** of total attorney appearances in **semiconductor PTAB** proceedings for the top 100 semiconductor PTAB proceeding firms

<u>Firm/Entity</u>	<u>% Women</u>
King & Spalding	49%
McCarter & English	47%
Mayer Brown	45%
Squire Patton Boggs	44%
Irell & Manella	41%
Goodwin Procter	38%
Ropes & Gray	34%
Arnold & Porter	27%
Covington & Burling	26%
Cooley	25%
Erise IP	25%
Radulescu	24%
Baker & Hostetler	24%
Ascenda Law Group	24%
Knobbe Martens Olson & Bear	24%
Alston & Bird	23%
Steptoe & Johnson	23%
Wilmer Cutler Pickering Hale and Dorr	21%
Baker Botts	20%
Husch Blackwell	20%
Robins Kaplan	20%
Finnegan, Henderson, Farabow, Garrett & Dunner	19%
Buchanan Ingersoll & Rooney	18%
Wilson Sonsini Goodrich & Rosati	17%
Brinks Gilson & Lione	16%

Percentage appearances by Tech Center – semiconductors

- As of March 2019: **8%** of total appearances for the top 100 semiconductor PTAB proceeding firms were by women
- As of August 2021: **10%** of total appearances for the top 100 semiconductor PTAB proceeding firms were by women

In the top 100 firms by number of **mechanical PTAB** proceedings, women attorneys make up **13%** of the total attorney appearances in this technology

<u>Firm/Entity</u>	<u>% Women</u>
Cooper & Dunham	60%
Goodwin Procter	58%
Sunstein Kann Murphy & Timbers	50%
Covington & Burling	44%
Robins Kaplan	37%
Wilmer Cutler Pickering Hale and Dorr	37%
Erise IP	37%
Day Pitney	36%
Wilson Sonsini Goodrich & Rosati	35%
K&L Gates	35%
Calfee, Halter & Griswold	33%
Polsinelli	30%
Ropes & Gray	30%
Devlin Law Firm	28%
Armstrong Teasdale	26%
Novak Druce Connolly Bove + Quigg	24%
Finnegan, Henderson, Farabow, Garrett & Dunner	24%
Sidley Austin	23%
Fenwick & West	23%
Weil, Gotshal & Manges	22%
Crowell & Moring	22%
Oblon, Spivak, McClelland, Maier & Neustadt	22%
Orrick, Herrington & Sutcliffe	21%
Meunier Carlin & Curfman	21%
Arnold & Porter	21%

Percentage appearances by Tech Center – semiconductors

- As of March 2019: **8%** of total appearances for the top 100 semiconductor PTAB proceeding firms were by women
- As of August 2021: **10%** of total appearances for the top 100 semiconductor PTAB proceeding firms were by women

In the top 100 firms by number of **computer science** PTAB proceedings, women attorneys make up **9%** of the total attorney appearances in this technology

<u>Firm/Entity</u>	<u>% Women</u>
King & Spalding	43%
Goodwin Procter	43%
Ascenda Law Group	40%
Drinker Biddle & Reath	33%
Skiermont Derby	31%
Cooley	29%
Paul, Weiss, Rifkind, Wharton & Garrison	27%
Erise IP	26%
Latham & Watkins	23%
Rothwell, Figg, Ernst & Manbeck	21%
Weil, Gotshal & Manges	21%
Kramer Levin Naftalis & Frankel	21%
Wilmer Cutler Pickering Hale and Dorr	19%
Perkins Coie	18%
Irell & Manella	17%
Baker Botts	17%
Sterne, Kessler, Goldstein & Fox	16%
Finnegan, Henderson, Farabow, Garrett & Dunner	15%
O'Melveny & Myers	15%
Keker & Van Nest	14%
Mayer Brown	14%
Reising Ethington	13%
Lowenstein & Weatherwax	12%
Knobbe Martens Olson & Bear	12%
Winston & Strawn	11%

Percentage appearances by Tech Center – computer science

- As of March 2019: **8%** of total appearances for the top 100 computer science PTAB proceeding firms were by women
- As of August 2021: **9%** of total appearances for the top 100 computer science PTAB proceeding firms were by women

In the top 100 firms by number of transportation/e-commerce PTAB proceedings, women attorneys make up **13%** of the total attorney appearances in this technology

<u>Firm/Entity</u>	<u>% Women</u>
King & Spalding	80.70%
Reed Smith	62.71%
Kasha Law	50.00%
Goodwin Procter	46.51%
Skiermont Derby	44.44%
Cooley	41.86%
Buchanan Ingersoll & Rooney	41.03%
Wilmer Cutler Pickering Hale and Dorr	40.97%
Duane Morris	35.59%
Ascenda Law Group	33.71%
Ropes & Gray	31.25%
Dentons	29.34%
Arent Fox	27.34%
Wolf, Greenfield & Sacks	26.32%
Williams & Connolly	25.61%
Oblon, Spivak, McClelland, Maier & Neustadt	25.45%
Heim, Payne & Chorush	24.24%
Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing	22.22%
Sterne, Kessler, Goldstein & Fox	21.59%
Finnegan, Henderson, Farabow, Garrett & Dunner	20.65%
Mayer Brown	20.51%
Steptoe & Johnson	19.05%
Brooks Kushman	18.35%
McDonnell Boehnen Hulbert & Berghoff	17.74%
Perkins Coie	16.83%

Percentage appearances by Tech Center – transportation/e-commerce

- As of March 2019: **11%** of total appearances for the top 100 transportation/e-commerce PTAB proceeding firms were by women
- As of August 2021: **13%** of total appearances for the top 100 transportation/e-commerce PTAB proceeding firms were by women

Of the **top 100 parties** appearing before the PTAB, these parties have the highest percentage of women appear to represent them. The average percentage is **11%**

<u>Firm/Entity</u>	<u>Proceedings</u>	<u>% Women</u>
Facebook	132	36%
Pfizer	66	34%
Allergan	48	33%
Whatsapp	43	32%
Apotex	43	29%
Mylan Pharmaceuticals	110	28%
Finjan	64	25%
Genentech	65	24%
Amneal Pharmaceuticals	50	23%
Supercell OY	49	23%
Maxell	57	22%
Medtronic	76	21%
Paice	47	21%
Roku	45	20%
Dell	97	18%
Ford Motor Company	75	17%
Samsung Telecommunications America	65	17%
Hulu	49	17%
HP	56	17%
Google	401	17%
Smith & Nephew	45	17%
amazon.com	98	16%
Taiwan Semiconductor Manufacturing Company	57	14%
Dish Network	70	14%
Lenovo (United States)	57	14%

Of the top 30 parties appearing before the PTAB, women attorneys make up an average of **11%** of total attorney appearances

<u>Firm/Entity</u>	<u>Proceedings</u>	<u>% Women</u>
Apple	706	13%
Samsung Electronics	608	11%
Samsung Electronics America	442	12%
Google	401	17%
Microsoft	257	8%
Unified Patents	237	11%
Intel	225	7%
LG Electronics	206	13%
Cisco System	183	11%
Comcast Cable Communications	161	6%
ZTE	146	10%
HTC America	133	7%
Facebook	132	36%
Toshiba	125	9%
Zond	125	0%
HTC	116	8%
Telefonaktiebolaget LM Ericsson	115	7%
Intellectual Ventures II	112	11%
Mylan Pharmaceuticals	110	28%
Huawei Technologies	109	8%
Uniloc 2017	108	0%
Sony	107	7%
Qualcomm	101	3%
Rovi Guides	98	13%
amazon.com	98	16%
Dell	97	18%
Advanced Micro Devices	94	9%
Ericsson	94	7%
Toshiba America Information Systems	92	9%
Uniloc Luxembourg	92	0%

Of the **top 30 parties** appearing the most before the PTAB, women attorneys make up **25% or more** of the total attorney appearances for only **two parties**

<u>Firm/Entity</u>	<u>Proceedings</u>	<u>% Women</u>
Apple	706	13%
Samsung Electronics	608	11%
Samsung Electronics America	442	12%
Google	401	17%
Microsoft	257	8%
Unified Patents	237	11%
Intel	225	7%
LG Electronics	206	13%
Cisco System	183	11%
Comcast Cable Communications	161	6%
ZTE	146	10%
HTC America	133	7%
Facebook	132	36%
Toshiba	125	9%
Zond	125	0%
HTC	116	8%
Telefonaktiebolaget LM Ericsson	115	7%
Intellectual Ventures II	112	11%
Mylan Pharmaceuticals	110	28%
Huawei Technologies	109	8%
Uniloc 2017	108	0%
Sony	107	7%
Qualcomm	101	3%
Rovi Guides	98	13%
amazon.com	98	16%
Dell	97	18%
Advanced Micro Devices	94	9%
Ericsson	94	7%
Toshiba America Information Systems	92	9%
Uniloc Luxembourg	92	0%

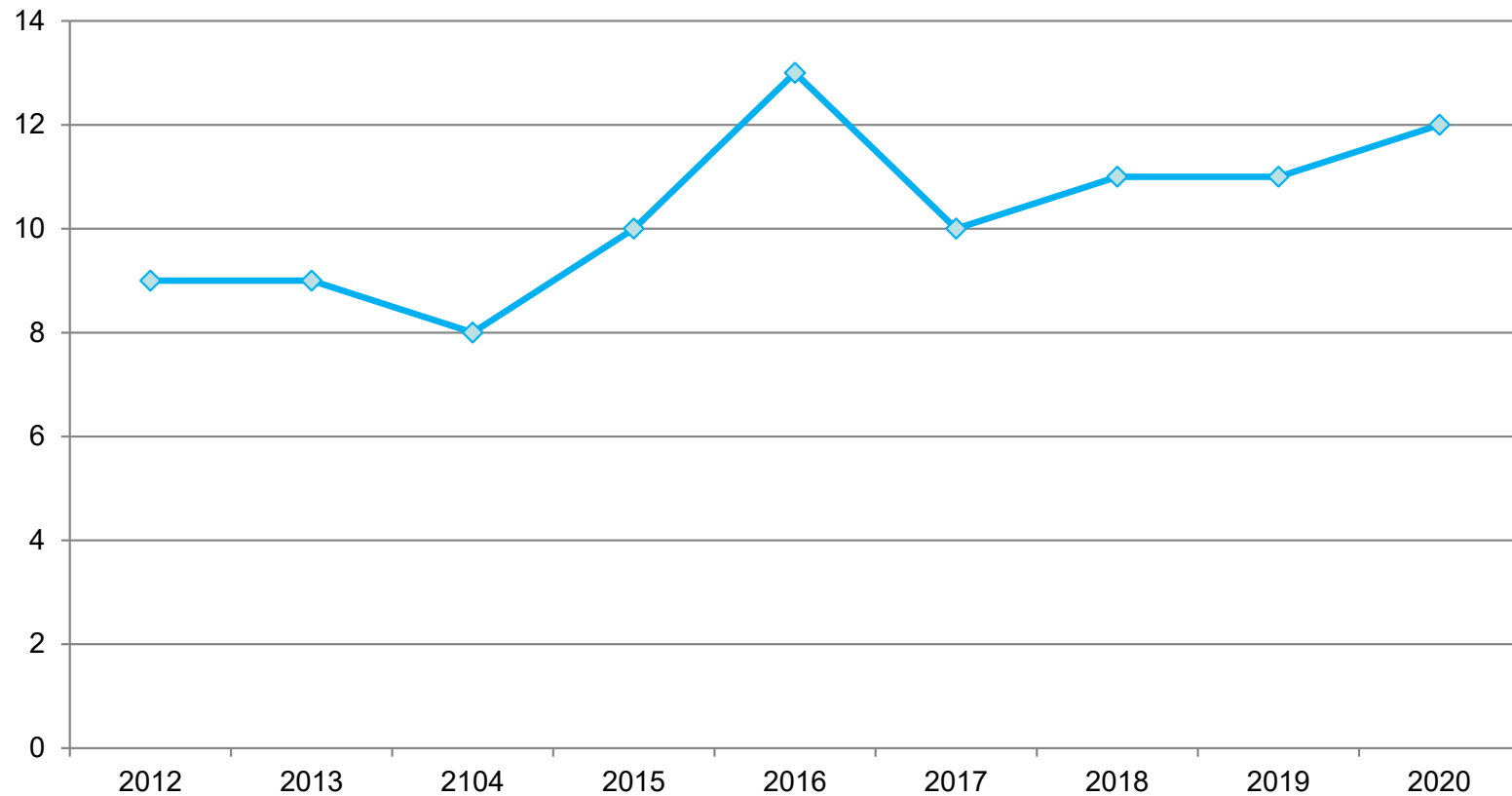
9 of the **top 100 parties** appearing before the PTAB have had **no women** appear to represent them

Of the top 100 parties, several communications companies feature higher percentages of women appearing on their behalf

<u>Firm/Entity</u>	<u>Proceedings</u>	<u>% Women</u>
Facebook	132	36%
Pfizer	66	34%
Allergan	48	33%
Whatsapp	43	32%
Apotex	43	29%
Mylan Pharmaceuticals	110	28%
Finjan	64	25%
Genentech	65	24%
Amneal Pharmaceuticals	50	23%
Supercell OY	49	23%
Maxell	57	22%
Medtronic	76	21%
Paice	47	21%
Roku	45	20%
Dell	97	18%
Ford Motor Company	75	17%
Samsung Telecom. America	65	17%
Hulu	49	17%
HP	56	17%
Google	401	17%
Smith & Nephew	45	17%
amazon.com	98	16%
Taiwan Semiconductor Mfg. Company	57	14%
Dish Network	70	14%
Lenovo (United States)	57	14%
Rovi Guides	98	13%
LG Electronics	206	13%
Apple	706	13%
Seven Networks	55	13%
The Gillette Company	82	12%
Global Tel*link	48	12%
LG Electronics Mobilecomm	53	12%
Motorola Mobility	60	12%
RPX	61	12%

Overall trend since PTAB trials began...

Average Percentage Women Appearing Over Time



How can we improve?

Encourage all attorneys who work on a proceeding to make a formal appearance—even if it requires a *pro hac vice* motion

Embolden the women in your firm or at your company to become involved in PTAB trial work

Encourage junior women in your firm to try PTAB trial work (e.g., give them the opportunity to argue the other side when mooting the oral argument)

Companies, hire women and ask your outside counsel to include women on your PTAB trial teams. **Hold them accountable.**

Searches were run courtesy of **Docket Alarm**, covering all PTAB post-grant proceedings from the advent of the AIA through mid-August 2021.

Gender data was coded by Docket Alarm. Percentage of women appearing counts attorneys who made appearances before the PTAB, as listed on mandatory notices as lead or back up counsel (*pro hac vice admission* included).

- Every instance of an appearance counts once. For example, if there were 2 cases, and the same woman appeared 2 times, and 2 different men appeared once, the data would report that women make up 50% of total appearances.
- For firm-specific information, Docket Alarm categorizes appearances based on the time of appearance. That is, if a woman had 20 appearances while at a prior firm, and 10 appearances at her current firm, the prior firm would still be categorized as having those 20 appearances by a woman even though the woman in question is no longer at that firm.
- This data could not capture attorneys who worked on a proceeding but who did not make a formal appearance
- The data does not include appearances in appeals to the PTAB, e.g., ex parte reexam appeals, or patent prosecution matters

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