
PTAB Bar Association

2019 Report and Challenge:

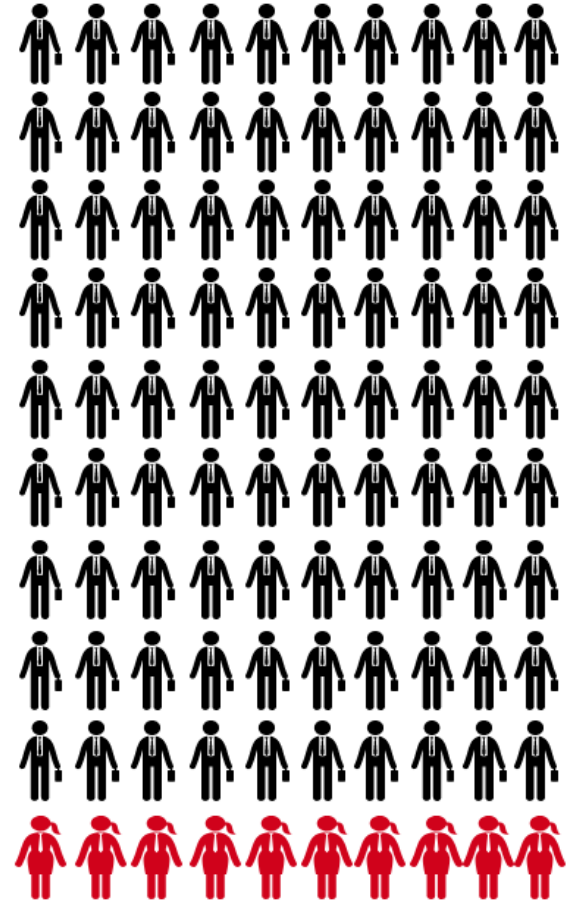
Women at the PTAB

Post-Grant Proceedings

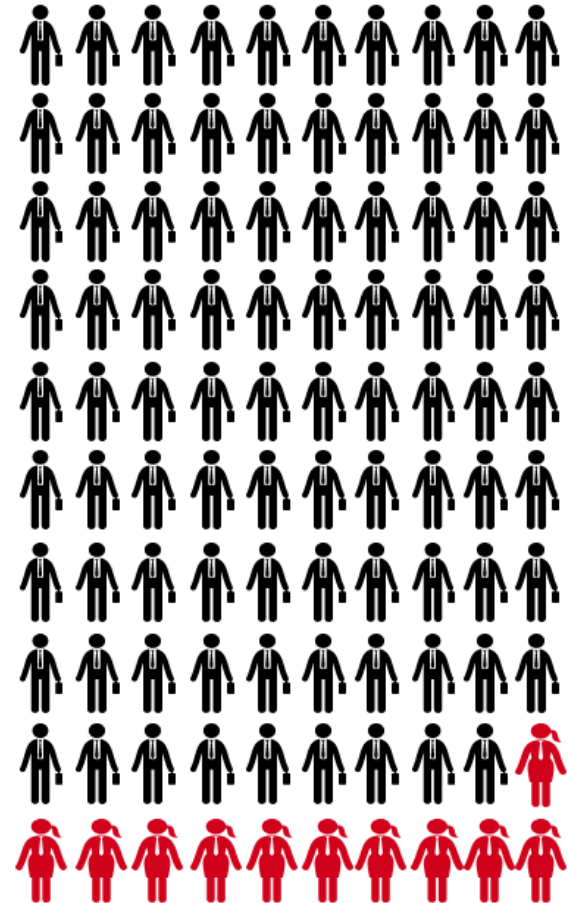
The legal industry is recognizing the importance of diversity

- **Mansfield Rule:** 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:** On February 11, 2019, the USPTO released “Progress and Potential: A profile of women inventors on U.S. Patents.” The PTO stated that “The report shows that women still comprise a small minority of patent inventors. Further, it highlights 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 gender disparities.

Law Review articles indicate 20-30% of registered patent attorneys are women. But of the 1800+ total firms and entities appearing in PTAB post-grant proceedings, **women make up 10%** of total attorney appearances



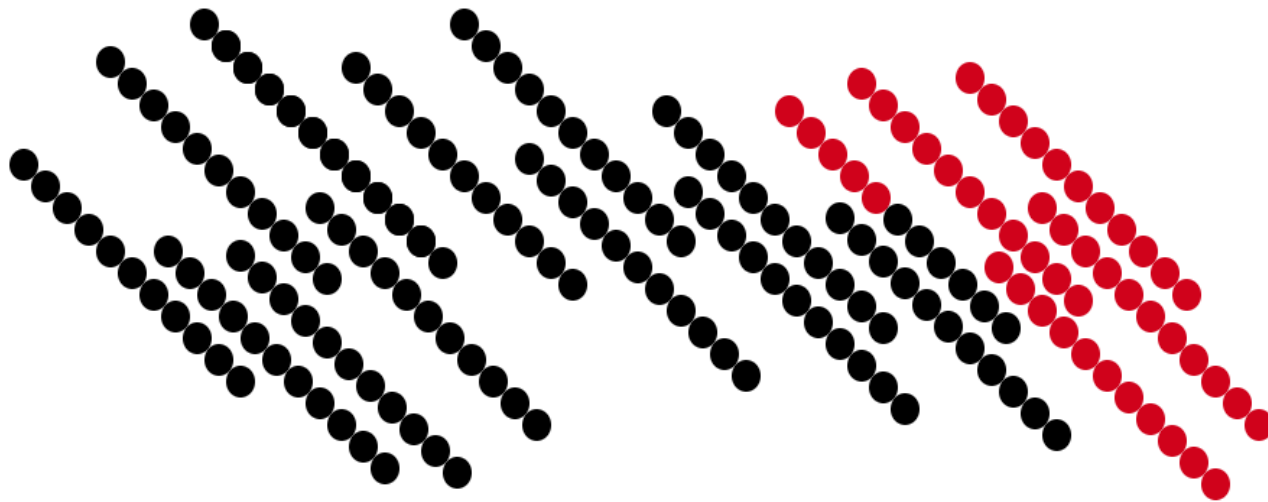
Of the top 100 firms appearing in the most PTAB proceedings, **women make up 11%** of the total attorney appearances



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

Lori Gordon (229)
King & Spalding
Heidi Keefe (168)
Cooley LLP
Erika Arner (149)
Finnegan Henderson
Dorothy Whelan (137)
Fish & Richardson
Gabrielle Higgins (122)
Ropes & Gray
Andrea Reister (121)
Covington & Burling LLP

1327 of the 1800+ firms and entities appearing in PTAB proceedings **have never had a woman appear** for them



Challenge and Call to Action

- Include more women on PTAB trial teams and improve your firm's year-over-year average by at least 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 in the most PTAB proceedings, women attorneys make up at least half the total attorney appearances for only **17 firms**

| <u>Firm/Entity</u> | <u>Proceedings</u> | <u>% Women</u> |
|------------------------------------|--------------------|----------------|
| Blitzsafe of America | 17 | 100% |
| Convergent Law Group | 14 | 100% |
| Myers Bigel | 11 | 100% |
| Birch Tree IP Law | 10 | 100% |
| Arris International | 9 | 100% |
| Law Offices of S.J. Christine Yang | 9 | 100% |
| Arris Enterprises | 7 | 91% |
| Avago Technologies | 7 | 88% |
| Bey & Cotropia | 23 | 88% |
| Honigman Miller Schwartz & Cohn | 14 | 74% |
| Osha Liang | 40 | 71% |
| King & Spalding | 65 | 63% |
| Goodwin Procter | 177 | 55% |
| The Proctor & Gamble Company | 10 | 54% |
| Green, Griffith & Borg-Breen | 25 | 54% |
| Shook, Hardy & Bacon | 52 | 53% |
| Smith, Gambrell & Russell | 11 | 52% |

THE PTAB 100

Percentage of Women Appearances

| | | | | | | | | |
|--|-----|-----|---|------|-----|---|-----|------|
| Goodwin Procter | 177 | 55% | Polsinelli | 106 | 13% | Duane Morris | 242 | 5% |
| Crowell & Moring | 78 | 46% | Kenyon & Kenyon | 163 | 13% | Foley & Lardner | 253 | 5% |
| Kasha Law | 82 | 40% | Latham & Watkins | 202 | 13% | Greenberg Traurig | 153 | 4% |
| McCarter & English | 68 | 39% | Kirkland & Ellis | 337 | 13% | Haynes and Boone | 393 | 4% |
| Arnold & Porter | 93 | 36% | Baker & Hostetler | 119 | 13% | Banner & Witcoff | 246 | 4% |
| Ascenda Law Group | 221 | 31% | Brooks Kushman | 122 | 12% | O'Melveny & Myers | 169 | 4% |
| Mayer Brown | 175 | 30% | Lerner David Littenberg Krumholz & Mentlik | 71 | 12% | Faegre Baker Daniels | 79 | 3% |
| Cooley | 359 | 28% | Novak Druce Connolly Bove + Quigg | 71 | 12% | Sidley Austin | 397 | 3% |
| Wilmer Cutler Pickering Hale and Dorr | 520 | 26% | Kramer Levin Naftalis & Frankel | 120 | 11% | Lathrop & Gage | 83 | 3% |
| Ropes & Gray | 318 | 25% | Wolf, Greenfield & Sacks | 150 | 11% | Paul Hastings | 442 | 2% |
| Covington & Burling | 211 | 22% | Winston & Strawn | 190 | 11% | Orrick, Herrington & Sutcliffe | 181 | 2% |
| Brinks Gilson & Lione | 116 | 21% | Pepper Hamilton | 126 | 10% | Morgan, Lewis & Bockius | 220 | 2% |
| Baker Botts | 504 | 20% | Perkins Coie | 405 | 10% | Mintz Levin Cohn Ferris Glovsky and Popeo | 128 | 2% |
| Dentons | 65 | 19% | Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing | 93 | 10% | Bryan Cave | 82 | 2% |
| Sterne, Kessler, Goldstein & Fox | 941 | 19% | Fish & Richardson | 1092 | 10% | Klarquist Sparkman | 124 | 2% |
| Steptoe & Johnson | 114 | 19% | Irell & Manella | 235 | 9% | DLA Piper | 241 | 2% |
| Knobbe Martens Olson & Bear | 375 | 19% | Williams & Connolly | 126 | 8% | Dinovo Price Ellwanger & Hardy | 80 | 1% |
| Venable | 80 | 18% | Norton Rose Fulbright | 144 | 8% | Barnes & Thornburg | 68 | 1% |
| Erise IP | 159 | 18% | Robins Kaplan | 139 | 8% | Proskauer Rose | 69 | 1% |
| K&L Gates | 141 | 18% | Sughrue Mion | 137 | 7% | Pillsbury Winthrop Shaw Pittman | 153 | 1% |
| Weil, Gotshal & Manges | 254 | 18% | Michael Best & Friedrich | 73 | 7% | White & Case | 195 | 1% |
| Finnegan, Henderson, Farabow, Garrett & Dunner | 870 | 17% | Merchant & Gould | 69 | 7% | Fitch Even Tabin & Flannery | 127 | 1% |
| Sheppard, Mullin, Richter & Hampton | 98 | 16% | Quinn Emanuel Urquhart & Sullivan | 365 | 7% | Troutman Sanders | 77 | 0.5% |
| Reed Smith | 74 | 16% | McDermott Will & Emery | 217 | 7% | Nixon & Vanderhye | 98 | 0.5% |
| Buchanan Ingersoll & Rooney | 114 | 15% | Blank Rome | 66 | 7% | Etheridge Law Group | 128 | 0.5% |
| Oblon, Spivak, McClelland, Maier & Neustadt | 368 | 14% | McKool Smith | 125 | 6% | Gonsalves Law Firm | 232 | 0.5% |
| Fenwick & West | 130 | 14% | Morrison & Foerster | 215 | 6% | Brown Rudnick | 106 | 0.5% |
| Akin Gump Strauss Hauer & Feld | 109 | 14% | McAndrews, Held & Malloy | 208 | 6% | Davidson Berquist Jackson + Gowdey | 213 | 0% |
| Rothwell, Figg, Ernst & Manbeck | 104 | 14% | Jones Day | 296 | 6% | Rauschenbach Patent Law Group | 135 | 0% |
| Kilpatrick Townsend & Stockton | 281 | 14% | Fitzpatrick, Cella, Harper & Scinto | 142 | 6% | Chao Hadidi Stark and Barker | 125 | 0% |
| Wilson Sonsini Goodrich & Rosati | 295 | 13% | Heim, Payne & Chorus | 67 | 5% | Bragalone Conroy | 114 | 0% |
| | | | Alston & Bird | 256 | 5% | Harness, Dickey & Pierce | 98 | 0% |
| | | | Desmarais | 77 | 5% | Russ August & Kabat | 92 | 0% |
| | | | | | | Lowenstein & Weatherwax | 78 | 0% |
| | | | | | | Gardner Linn Burkhardt & Flory | 72 | 0% |
| | | | | | | Devlin Law Firm | 65 | 0% |

*Top 100 firms appearing in the highest total number of proceedings

In the top 100 firms by number of **biotech** PTAB proceedings, women attorneys make up **21%** of the total attorney appearances in this technology

| <u>Firm/Entity</u> | <u>% Women</u> |
|------------------------------|----------------|
| Skiermont Derby | 97% |
| McDermott Will & Emory | 87% |
| Crowell & Moring | 74% |
| Goodwin Procter | 71% |
| McCarter English | 63% |
| The Marbury Law Group | 56% |
| Paul Weiss | 55% |
| The Procter & Gamble Company | 54% |
| Green Griffith & Borg-Breen | 54% |
| Skiermont Puckett | 50% |
| Hogan Lovells | 49% |
| K&L Gates | 47% |
| Morgan Lewis | 46% |
| Sterne Kessler | 45% |
| Kirkland & Ellis | 44% |
| Fish & Richardson | 44% |
| Choate Hall & Stewart | 44% |
| Covington & Burling | 43% |
| Gibson Dunn | 40% |

In the top 100 firms by number of **semiconductor PTAB** proceedings, women attorneys make up **8%** of the total attorney appearances in this technology

| <u>Firm/Entity</u> | <u>% Women</u> |
|---------------------|----------------|
| McCarter English | 47% |
| Mayer Brown | 45% |
| King & Spalding | 45% |
| Paul Weiss | 44% |
| Goodwin Procter | 36% |
| Ropes & Gray | 35% |
| Radulescu | 31% |
| Covington & Burling | 30% |
| Ascenda Law Group | 27% |
| Nixon Peabody | 24% |
| Knobbe Martens | 24% |
| Baker & Hostetler | 23% |
| Irell & Manella | 23% |
| Robins Kaplan | 23% |
| Step toe & Johnson | 22% |
| Baker Botts | 22% |
| Wilmer Cutler | 22% |
| Cooley | 21% |
| Fox Rothschild | 20% |

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> |
|--------------------------------|----------------|
| McCarter & English | 80% |
| Cooper & Dunham | 60% |
| Covington & Burling | 46% |
| Gardella Grace | 44% |
| K&L Gates | 41% |
| Wilmer Cutler | 37% |
| Day Pitney | 36% |
| Fenwick & West | 34% |
| Sunstein Kann | 33% |
| Beusse Wolter | 33% |
| Wilson Sonsini | 32% |
| Erise IP | 31% |
| O'Melveny & Myers | 26% |
| Armstrong Teasdale | 25% |
| Novak Druce | 24% |
| Akin Gump | 24% |
| Morgan Lewis | 24% |
| Ropes & Gray | 24% |
| Orrick, Herrington & Sutcliffe | 23% |

In the top 100 firms by number of **computer science** PTAB proceedings, women attorneys make up **8%** of the total attorney appearances in this technology

| <u>Firm/Entity</u> | <u>% Women</u> |
|---------------------|----------------|
| McCarter English | 47% |
| Mayer Brown | 46% |
| King & Spalding | 45% |
| Paul Weiss | 44% |
| Goodwin Procter | 36% |
| Ropes & Gray | 35% |
| Radulescu | 31% |
| Covington & Burling | 30% |
| Ascenda Law Group | 27% |
| Nixon Peabody | 24% |
| Knobbe Martens | 24% |
| Baker & Hostetler | 24% |
| Irell & Manella | 24% |
| Robins Kaplan | 23% |
| Step toe & Johnson | 23% |
| Baker Botts | 22% |
| Wilmer Cutler | 22% |
| Cooley | 21% |
| Fox Rothschild | 20% |

In the top 100 firms by number of transportation/e-commerce PTAB proceedings, women attorneys make up **11%** of the total attorney appearances in this technology

| <u>Firm/Entity</u> | <u>% Women</u> |
|---------------------|----------------|
| Osha Liang | 86% |
| Reed Smith | 57% |
| Kasha Law | 50% |
| Goodwin Procter | 45% |
| Duane Morris | 45% |
| Cooley | 44% |
| Buchanan Ingersoll | 41% |
| Wilmer Cutler | 38% |
| Skiermont Derby | 37% |
| Ascenda Law Group | 33% |
| Ropes & Gray | 33% |
| Fenwick & West | 29% |
| Dentons | 29% |
| Arent Fox | 27% |
| Ahmad Zavitsanos | 26% |
| Williams & Connolly | 25% |
| Sterne Kessler | 25% |
| Oblon Spivak | 25% |
| McDonnell Boehnen | 20% |
| Finnegan Henderson | 18% |

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 **10%**

| <u>Firm/Entity</u> | <u>Proceedings</u> | <u>% Women</u> |
|------------------------------------|--------------------|----------------|
| Pfizer | 57 | 34% |
| Facebook | 100 | 34% |
| Ipa Technologies Inc. | 37 | 32% |
| Whatsapp | 38 | 32% |
| Apotex | 42 | 28% |
| Mylan Phramaceuticals | 104 | 26% |
| Teva Pharmaceuticals | 38 | 25% |
| Genentech | 63 | 24% |
| Global Tel*link | 46 | 23% |
| Finjan | 63 | 22% |
| Amneal Pharmaceuticals | 49 | 22% |
| Paice | 44 | 21% |
| Maxell | 41 | 21% |
| Rovi Guides | 77 | 18% |
| Samsung Telecommunications America | 65 | 17% |
| amazon.com | 79 | 17% |
| Ford Motor Company | 62 | 17% |
| Smith & Nephew | 45 | 16% |
| Dell | 59 | 16% |
| Microsoft Mobile | 41 | 14% |
| Google | 287 | 13% |
| LG Electronics | 181 | 13% |
| Taiwan Semiconductor Manf. Co. | 48 | 13% |
| Netapp | 40 | 13% |
| The Gillette Company | 82 | 12% |
| Intellectual Ventures II | 109 | 12% |
| Cisco Systems | 150 | 11% |

Of the **top 30 parties** appearing before the PTAB, women attorneys make up an average of **10%** of total attorney appearances

| <u>Firm/Entity</u> | <u>Proceedings</u> | <u>% Women</u> |
|---------------------------------------|--------------------|----------------|
| Apple | 545 | 11% |
| Samsung Electronics | 416 | 11% |
| Samsung Electronics America | 316 | 11% |
| Google | 287 | 13% |
| Microsoft | 211 | 8% |
| LG Electronics | 181 | 13% |
| Unified Patents | 176 | 7% |
| Intel | 160 | 5% |
| Cisco Systems | 150 | 12% |
| Comcast Communications | 134 | 5% |
| HTC America | 128 | 6% |
| Toshiba | 125 | 9% |
| Zond | 125 | 0% |
| Zte | 117 | 6% |
| HTC | 111 | 8% |
| Intellectual Ventures II | 109 | 12% |
| Mylan Pharmaceuticals | 104 | 26% |
| Sony | 101 | 6% |
| Facebook | 100 | 34% |
| Toshiba America Information Systems | 92 | 9% |
| Uniloc Luxembourg | 92 | 0.2% |
| Telefonaktiebolaget LM Ericsson | 91 | 1% |
| Qualcomm | 87 | 3% |
| Toshiba America Electronic Components | 84 | 9% |
| Renesas Electronics | 83 | 9% |
| Advanced Micro Devices | 83 | 9% |
| The Gillette Company | 82 | 12% |
| Renesas Electronics America | 80 | 10% |
| Huawei Technologies | 79 | 6% |
| amazon.com | 79 | 17% |

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

| <u>Firm/Entity</u> | <u>Proceedings</u> | <u>% Women</u> |
|---------------------------------------|--------------------|----------------|
| Apple | 545 | 11% |
| Samsung Electronics | 416 | 11% |
| Samsung Electronics America | 316 | 11% |
| Google | 287 | 13% |
| Microsoft | 211 | 8% |
| LG Electronics | 181 | 13% |
| Unified Patents | 176 | 7% |
| Intel | 160 | 5% |
| Cisco Systems | 150 | 12% |
| Comcast Communications | 134 | 5% |
| HTC America | 128 | 6% |
| Toshiba | 125 | 9% |
| Zond | 125 | 0% |
| Zte | 117 | 6% |
| HTC | 111 | 8% |
| Intellectual Ventures II | 109 | 12% |
| Mylan Pharmaceuticals | 104 | 26% |
| Sony | 101 | 6% |
| Facebook | 100 | 34% |
| Toshiba America Information Systems | 92 | 9% |
| Uniloc Luxembourg | 92 | 0.2% |
| Telefonaktiebolaget LM Ericsson | 91 | 1% |
| Qualcomm | 87 | 3% |
| Toshiba America Electronic Components | 84 | 9% |
| Renesas Electronics | 83 | 9% |
| Advanced Micro Devices | 83 | 9% |
| The Gillette Company | 82 | 12% |
| Renesas Electronics America | 80 | 10% |
| Huawei Technologies | 79 | 6% |
| amazon.com | 79 | 17% |

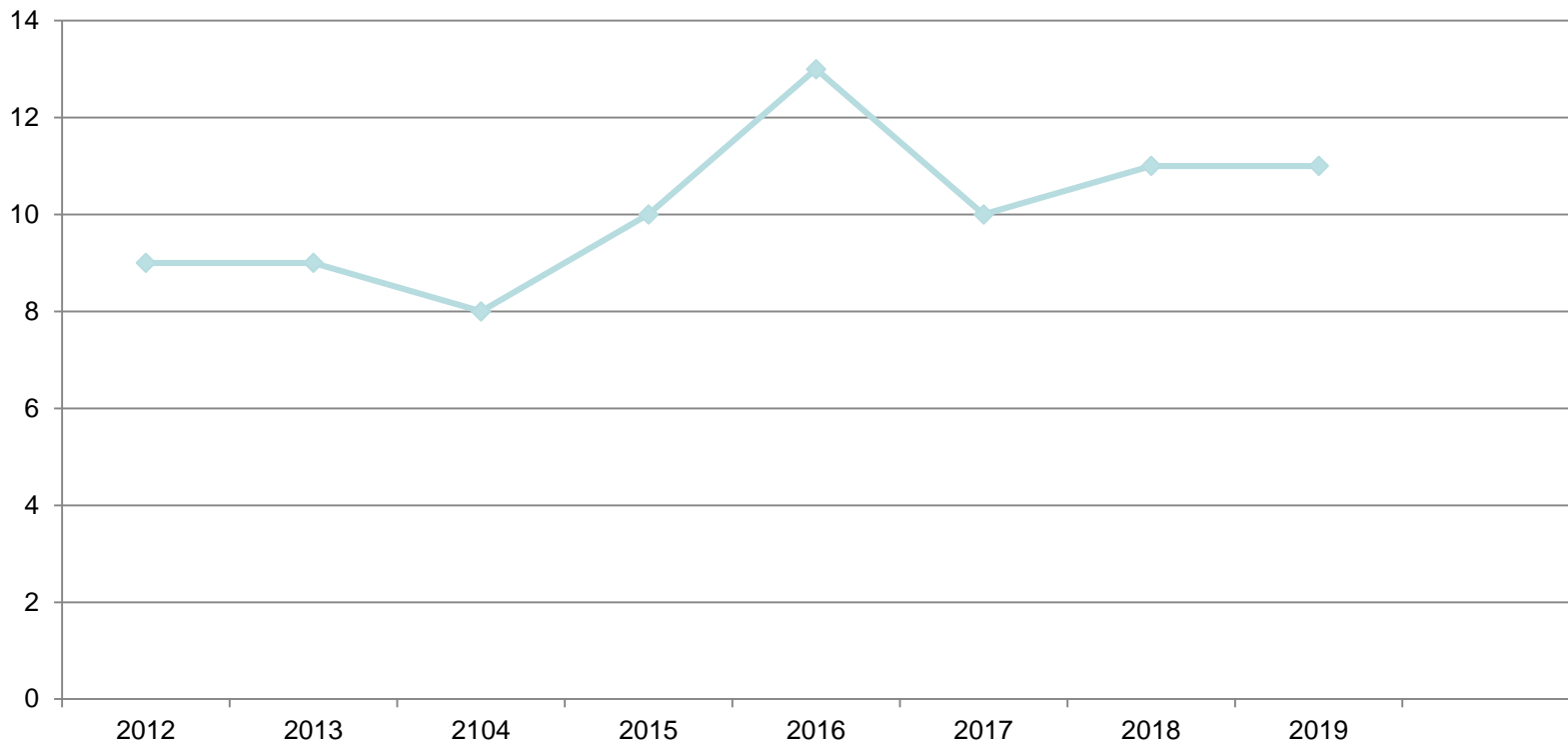
47 of the **top 245 parties** appearing before the PTAB have had **no women** appear to represent them

Several biotech and pharma companies feature higher percentages of women appearing on their behalf

| <u>Firm/Entity</u> | <u>Proceedings</u> | <u>% Women</u> |
|------------------------------------|--------------------|----------------|
| 10x Genomics | 25 | 80% |
| Supercell OY | 20 | 47% |
| Instagram | 32 | 46% |
| Ultratec | 24 | 42% |
| Elekta | 26 | 39% |
| Signal IP | 22 | 37% |
| Becton, Dickinson and Company | 20 | 37% |
| Pfizer | 57 | 35% |
| Facebook | 100 | 34% |
| Dickinson | 21 | 34% |
| Schlumberger Technology Company | 36 | 34% |
| Fresenius Kabi | 30 | 33% |
| PNC Bank | 20 | 33% |
| Ipa Technologies | 37 | 32% |
| Whatsapp | 38 | 32% |
| Lupin Pharmaceuticals | 24 | 32% |
| Kingston Technology Company | 31 | 31% |
| Sap America | 22 | 31% |
| Ethicon | 21 | 30% |
| Merck Sharp & Dohme | 33 | 30% |
| Wockhardt Bio AG | 28 | 30% |
| Netgear | 25 | 30% |
| Teradata Operations | 23 | 30% |
| Apotex | 42 | 29% |
| Mobile Telecommunications Tech. | 31 | 28% |
| Hewlett Packard Enterprise | 21 | 27% |
| Trading Technologies International | 21 | 27% |
| Bio-Rad Laboratories | 32 | 26% |
| Mylan Pharmaceuticals | 104 | 26% |
| NU Mark | 25 | 26% |
| Teva Pharmaceuticals | 38 | 25% |
| Snap | 22 | 25% |
| Personalized Media Comm. | 29 | 25% |

Overall trend since PTAB trials began...

Average Percentage of 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 Summer 2019.

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.
- 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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