

Inventor Diversity: Issues and Approaches to Encourage Participation

Washington State Patent Law Association, Jan. 20, 2021

Thanks to our guest panelists

- ▶ Julie Kane Akhter
Senior Attorney, Microsoft
- ▶ Mollybeth Kocialski
Regional Director,
Rocky Mountain Regional USPTO
- ▶ Beth Schubert
Patent Attorney, Aeon Law
WSPLA Board Member

Inventor Diversity: Issues and Approaches to Encourage Participation

Agenda

- ▶ Review of some available data on inventor diversity
- ▶ Some approaches to resolving the problem: IPO and Microsoft
- ▶ Expanding American Innovation Initiative at the USPTO
- ▶ Considerations from an outside counsel viewpoint
- ▶ Questions and discussion

How Diverse are Patent Inventors?

- ▶ Data is not easy to obtain
- ▶ Gender information somewhat available from names, but other attributes (race, etc.) not generally available
- ▶ USPTO gender data provides an example

What did USPTO do in the update?

- USPTO collects limited information on patent inventors.
- To study women's participation in patenting, it is necessary to classify inventors as men or women based on their names.
- This study improves our understanding of women's participation as inventor-patentees in two ways:
 - Updates 2019 P&P with three years of new data: 2017-2019
 - Provides a new analysis of entry by U.S.-based women into the patent system

Two metrics: patents vs. inventors

- Share of patents with a female inventor: The percentage of all patents granted to U.S. residents in a given year (e.g. 2019) that include at least one female on the inventor team.
- Women inventor rate (WIR): The percentage of all unique U.S. inventors in a given year that are women.



50% of patents with at least one female inventor



50% of patents with at least one female inventor

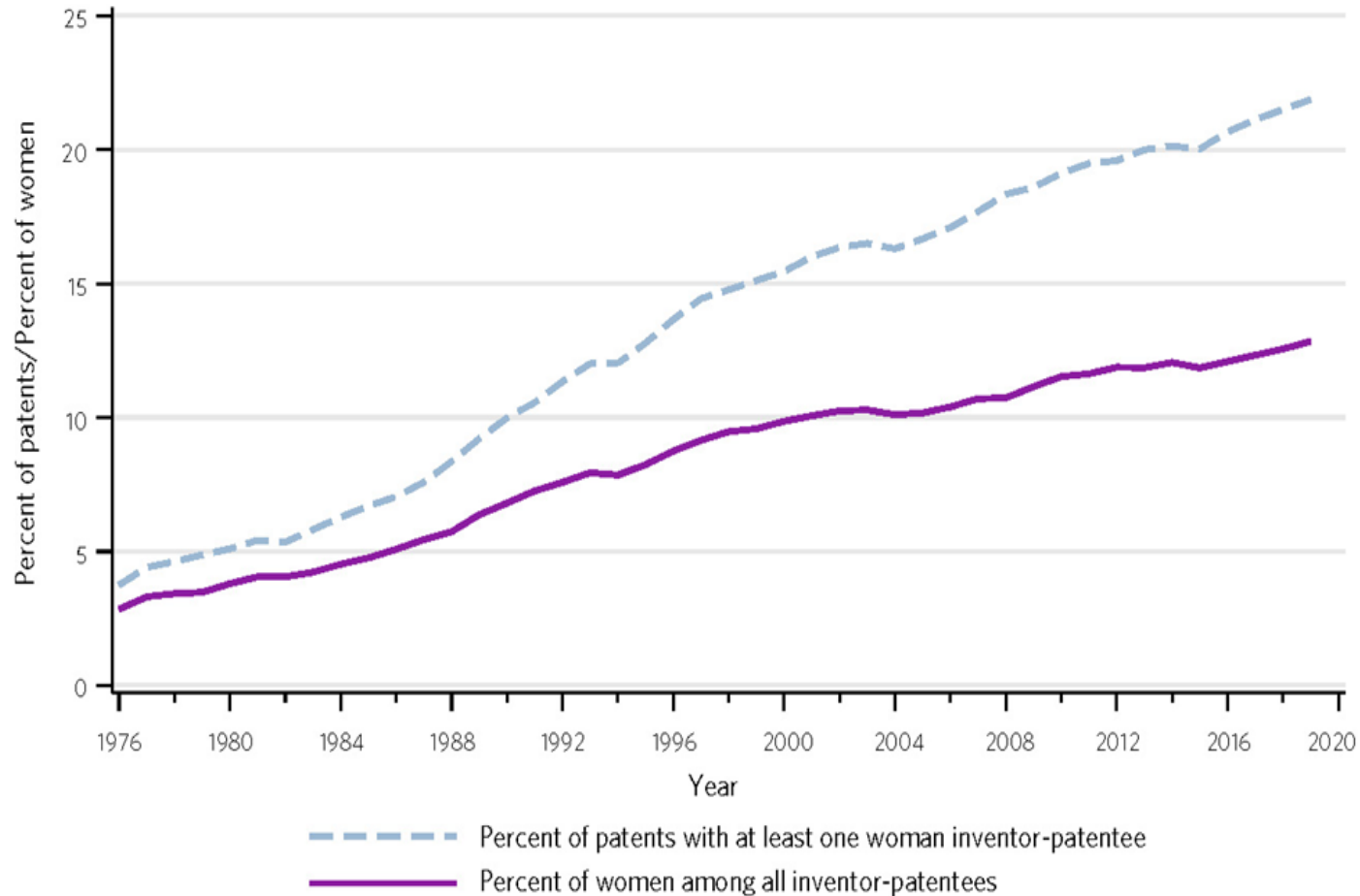


50% women inventor rate



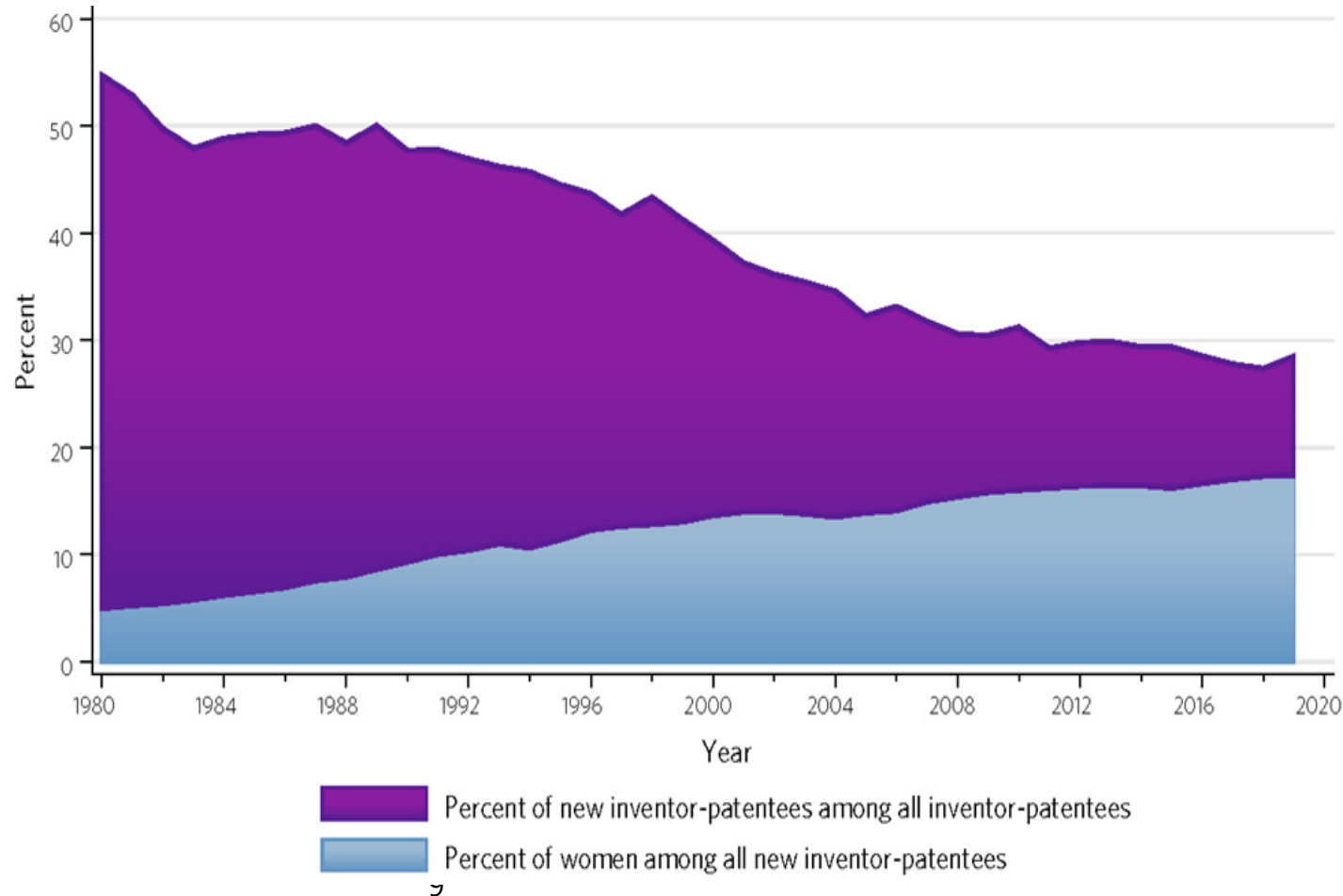
10% women inventor rate

More patents and more women over time



- Granted patents with at least one woman increased to 21.9% in 2019.
- The percentage of women inventor-patentees increased to 12.8% in 2019.

More women are entering the intellectual property system



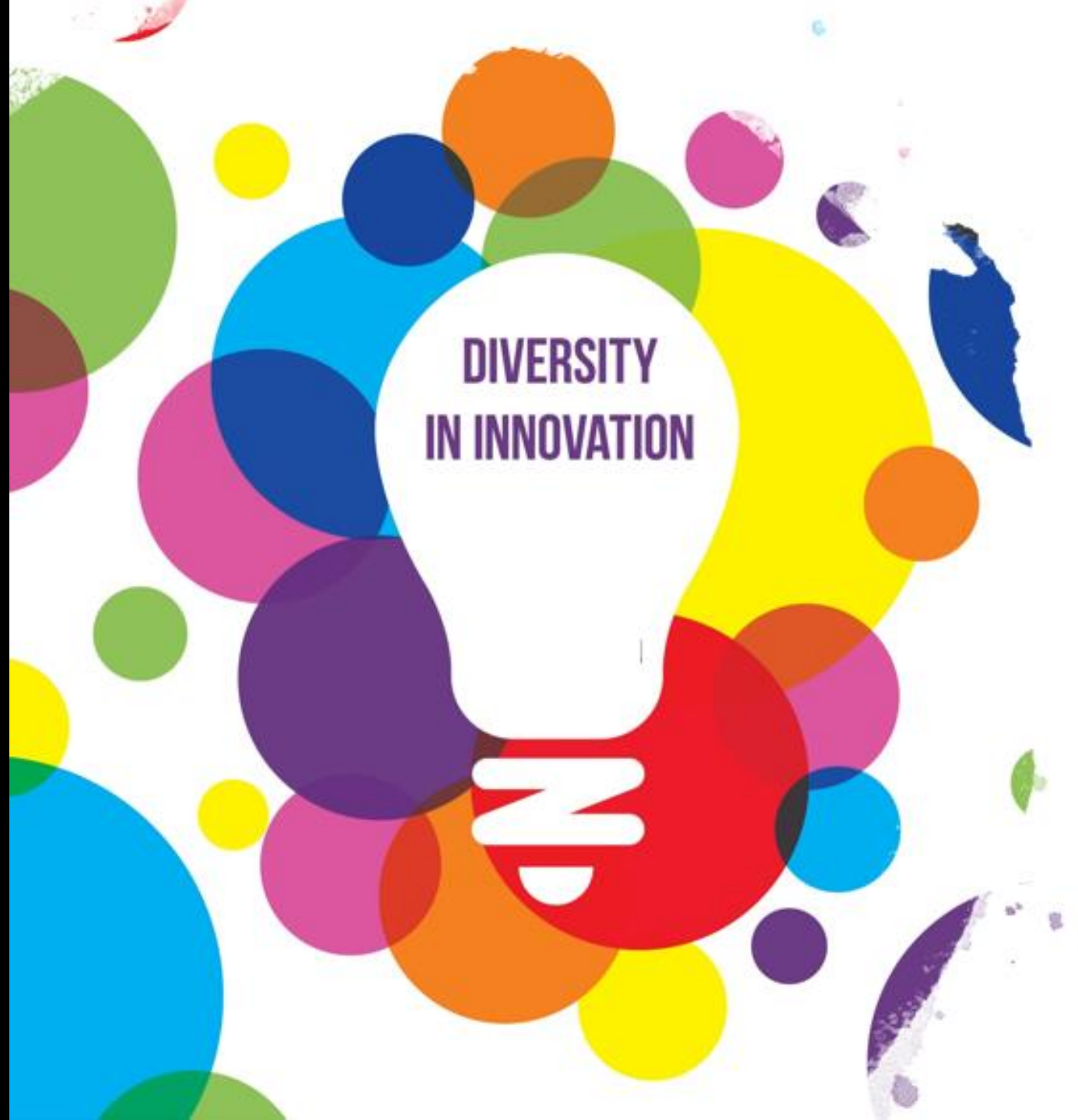
- Women made up 17.3% of all new inventor-patentees in 2019, up from 5% in 1980.
- The number of new women inventor-patentees has increased by 4% per year since 2014.

How Diverse are Patent Inventors?

- Data is not easy to obtain
- Gender information somewhat available from names, but other attributes (race, etc.) not generally available
- USPTO data on gender indicates room for improvement in diversity of inventors

Drive awareness and engagement to
increase women inventorship

Julie Akhter, Senior Attorney
Intellectual Property Group
Corporate, External & Legal
Affairs
Microsoft



USPTO Perspective

- Mollybeth Kocialski
Regional Director,
Rocky Mountain Regional USPTO

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Outside Counsel

- ▶ IPO Toolkit resource for clients
- ▶ Client-specific support
 - ▶ Smaller entities

Outside Counsel

- ▶ MPEP § 2157 Improper Naming of Inventors
- ▶ Educate clients on inventorship standards
 - ▶ Not the same as grant applications or scientific papers
- ▶ IPO Toolkit resource for clients
- ▶ Client-specific support

Outside Counsel

- ▶ Caution clients on possible problems with incorrect inventor list
 - ▶ Excess Inventors can increase costs such as revenue share or bonus
 - ▶ Omitted Inventors can result in future difficulties
 - ▶ Omitted inventors can be co-owners, see Board of Trustees of the Leland Stanford Junior Univ. v. Roche Molecular Systems, Inc., 563 U.S. 776 (2011)
 - ▶ European priority claims require all applicants to be the same at the time of filing, possible loss of priority if inventor list changes

Questions and Discussion

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