

Law Firm **COMPLEMENT**

to Diversity in Innovation Toolkit

Developed by
The IPO Women in IP Committee



Intellectual
Property
Owners
Association[®]

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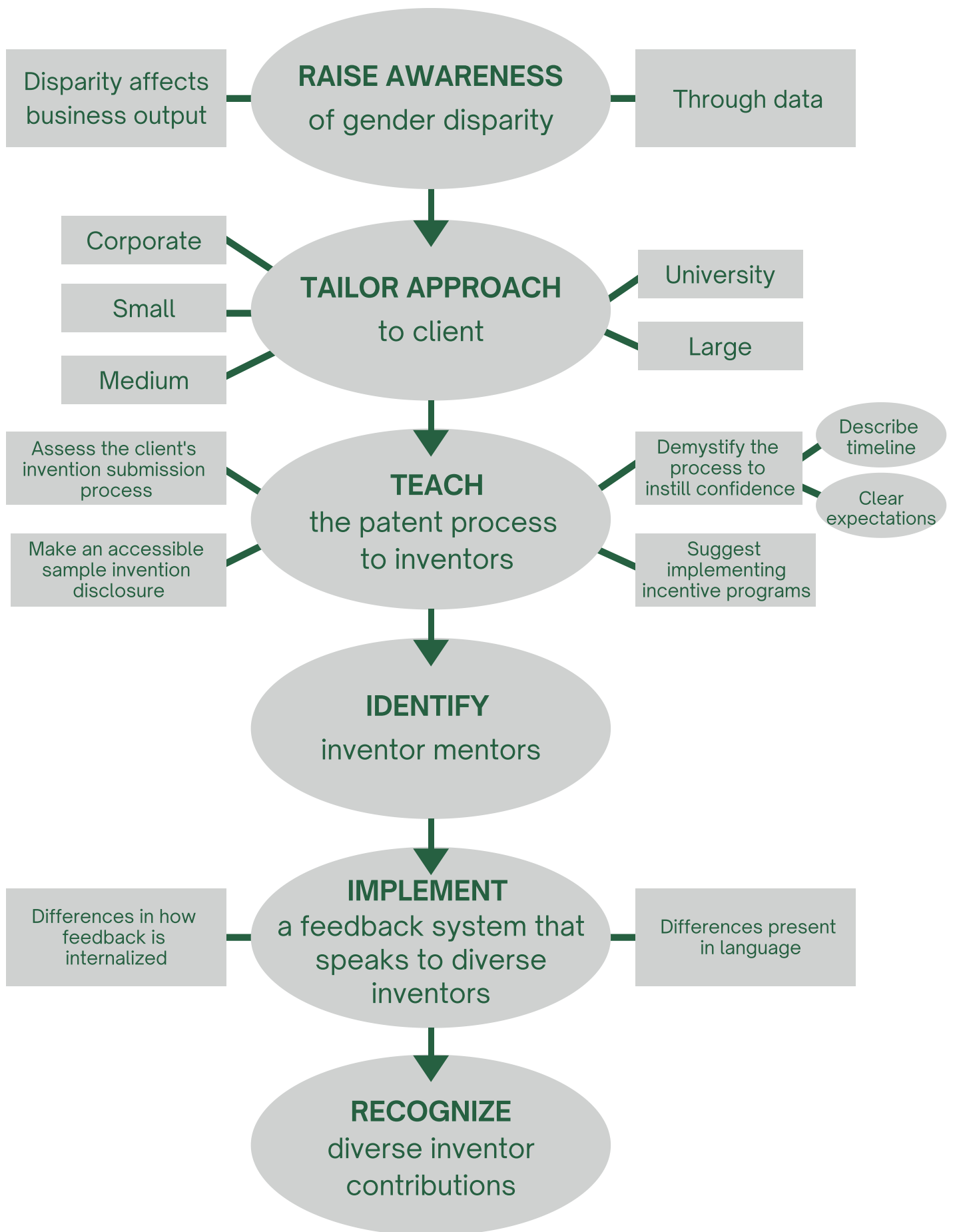


INTRODUCTION

The Intellectual Property Owners Association (IPO) Women Inventors subcommittee of the Women in IP Committee developed the Diversity in Innovation Toolkit for corporations, universities, and others to help increase the number of women patent holders at their organizations. This Law Firm Complement is a tool for outside lawyers as well as other organizations to help their clients become familiar with and more easily navigate the Toolkit. In the process of helping clients to use the Toolkit, law firms will likely improve their client relationships, develop deeper relationships with their clients, have a better understanding of their clients and their clients' cultures, be part of the client transitioning process, and help younger lawyers have speaking opportunities.

Like with the full Toolkit ([click here](#) to access), as you have ideas and examples, it would be appreciated if you would please share them so that they can be added to this component of the Toolkit. Neither document is static and complete (nor perfect), and both documents can benefit from everyone's thoughts, creativity, and contribution.





Section 1

RAISE AWARENESS

The goal of this section is to raise your client's awareness of the gender disparity in innovation.

Provide the Data

The Problem: Over 53% of PhDs are awarded to women, yet only 12% of recognized innovators in the United States are women.¹

- Be prepared for a response that the problem is a “pipeline” issue.
- Response: explain that the data show that the ~3:1 ratio of men to women inventors does not change regardless of how many women are in the industry; therefore, while this may be part of the problem, it is not simply because there are “not enough women” in the pipeline.

Where Your Client Stands: If your client does not know where their organization stands on the issue of gender diversity in innovation, help them figure out their numbers. (See Chapter 1, Section 1 of the Full Toolkit).

- Some resources for obtaining the data include:
 - WIPO gender diversity data: provides % of filed PCT applications with at least 1 female inventor for various organizations.
 - Publicly available WIPO algorithm: assigns genders to names to determine breakdown of inventors²

The Bottom Line (\$): Even if organizations are aware of their gender disparity problem, they may only respond with action if they know that their bottom line is being affected.

- Explain anecdotal examples of delayed inventions because a woman inventor felt that the idea “was not good enough.” Such a mindset means that the company has delayed/lost innovation and an opportunity cost that hits their bottom line. (See Chapter 3, Page 38 of the Full Toolkit).
- Make your client aware that corporations can suffer and have suffered from overanalyzing and that delayed action will affect their bottom line.

¹ USPTO Report, February 2019, Progress and Potential

² See WIPO algorithm in footnote 4 of Working Paper No. 33

Section 2

TAILOR APPROACH BASED ON TYPE OF CLIENT

The goal in this section is to adjust your approach based on the type and size of your client.

University Clients

University clients have limited financial and human resources. You can assist them by taking the time to speak to and educate staff and students involved in innovation.

The Association of University Technology Matters (AUTM) developed a toolkit to provide Technology Transfer Offices (TTOs) with tools for supporting women in (STEM) and entrepreneurship). The Toolkit can be downloaded [here](#).

Questions to ASK: Review their invention disclosure or submission process and access and ask (or determine the answers to) the following (see Chapter 1, Section 2 of the Full Toolkit):



- Are there problems with knowing how and where to access the invention disclosure submission system / process?
- Do inventors know where the TTO is or who to contact?
- Do inventors know the intellectual property professionals?
- Have you (as an intellectual property professional) tried to access the system?
- When a new scientist starts at the University, is the technology transfer system (or invention submission system) explained?
- Does the IDF have any language that is biased against women or otherwise deters women from engaging in the invention disclosure process?
- Is there a mentoring program in place to encourage and assist newer inventors with the invention submission process?
- Does the university have data on inventors' gender? Does it track this data by technology area? How does this data compare with the percentage of women working in each technology area?

How you can HELP: Based on the answers above, help your client by:

- Improving the process. Provide a “how to” manual, or review the steps in the process and suggest ways to improve or streamline.
- Giving an informational talk on the patenting process to the community of potential inventors. Consider having a woman give this presentation.
- Offer to review the IDF for any potentially biased or deterring language. (See Chapter 3 of the Full Toolkit).
- Offer tips for setting up a mentoring program or improving an existing program. (See Chapter 3 of the Full Toolkit).



Questions to ASK: Ask or determine how the University’s TTO reviews the technology.

- Do they rotate diverse professors, professionals, or students so they learn by reviewing invention disclosures, assessing patent portfolios, etc.?

How you can HELP: Based on answers above, help your client by:

- Do a presentation for the TTO members.
- Work with the TTO to develop teaching tools for use with staff and students having various roles.
- Have a discussion with TTO about their patent review process or committee and ensure that criteria considered are objective. Encourage transparency in how decisions are made by the committee or the reviewer to dispel assumptions.
- If there is a patent review committee, invite inventors to participate or at least watch the committee.





Corporate Clients (depends on size, see below)

Questions to ASK: Discuss gender disparity in innovation (as discussed above) and ask your client if they would like to discuss how you can help. If yes, then move forward with the following steps.

How you can HELP: Give an overview of the toolkit and its 4-step process to your client (See the 4-step process outlined in the Full Toolkit).

Questions to ASK: Ask your client about their invention disclosure submission process.

- How are invention disclosures submitted, and by whom?
- Who reviews and approves the disclosures?
- How is the reviewing team composed (i.e., is it diverse, what are the roles of the reviewers), how are people selected, and do team members rotate?
- Is there a program to make sure women are included? How are new members of the team educated on the process?
- How often are refresher presentations on the invention disclosure process provided to the employees?
- How do the scientists and engineers know to seek out the in-house IP professional?
- Is feedback given to inventors after invention disclosures are submitted but not approved?
- Have any surveys been conducted to assess whether the IDF has potentially biased language or otherwise deters women from engaging in the invention disclosure process?
- Does the organization track data on the gender of its inventors? Does it track this data by technology area? How does this data compare with the percentage of women working in each technology area?



How you can HELP: Based on the answers above, help your client by:

- Help your client's in-house IP professional prepare and execute a presentation for executive level awareness and support.
- Offer to review the client's invention disclosure form (IDF) for any language that may be biased or otherwise dissuade an inventor from filling out the form. See Section 4 of the Full Toolkit for tips on IDFs.
- Go with your client's in-house IP professional (if there is one, or someone in research or technology) to visit the scientists and engineers and give a presentation to the scientists and engineers (inventor community) on the invention disclosure submission process, and how you become an inventor. Consider holding office hours each month if the number of disclosures justifies this commitment.
- Have a discussion with in-house counsel about their patent review process or committee and ensure that criteria considered are objective.
- Have an open discussion with scientists, engineers, and others who might be inventors about what frustrates them about the process.
- Discuss what is important for a good invention disclosure submission (i.e. data (including comparative data), description of the problem solved, unexpected results, etc.).
- Encourage the organization to track data on the gender of inventors and the technology areas of the inventions. This can be helpful for seeing trends and tracking improvement.
- Help in-house counsel devise a rewards program for presenting to upper management that would encourage innovation and invention disclosures. (See Chapter 3 of the Full Toolkit).

Client Size

The size of your client can play a role in how you approach your client, as well as what their constituencies' needs are.

Small: Less than 50

The biggest problem is one of IP savviness.

Large: More than 150

When your client is large, the relationships are at the upper limit for being casual friends. Consider breaking up the talks into smaller groups so that there is a core group of people and a common affinity.



Section 3

CREATE A TEACHING MODEL

The goal of this section is to create an invention disclosure teaching model for your client and better understand your client's business, demographics, and specific issues, which not only improves your relationship by providing solutions to problems but helps you to become a better holistic counselor to your client.

Invention Submission Process

Questions to ASK: Ask your client about their invention disclosure submission process.

- Do all employees know about the invention submission process/system?
- Is the process/system easily accessible and user friendly?
- Is the process/system simple or time-consuming?

Suggest a Survey of the Invention Submission Process:

- Example questions for survey:
 - What do you consider to be an invention?
 - This will help to determine if technical professionals need training and/or if their understanding of the standard for what constitutes an invention is too high.
 - Do you understand the invention submission process?
 - Would a mentor be helpful to guide you through the process?
- If possible, review survey results with the gender status of the respondents to determine if the IDF or invention disclosure process appears to feel less available for women. (See Chapter 3, People-Related Root Causes of the Full Toolkit).

Make suggestions to improve invention submission process:

- Suggest regular internal advertisements and reminders to technical professionals about the invention submission process/system.
- If applicable, suggest ways to improve the process/system accessibility and to make it more user friendly.
- If applicable, suggest ways to simplify and shorten the process/system.
- Suggest implementing a requirement for all technical professionals to submit at least one invention disclosure per year, and have mentors walk them through the process. Introduce your client to another client who is successfully moving forward on gender parity, or share ideas about how such successful clients have made improvements to their process/system.



Make a Sample Invention Disclosure

Prepare an Invention Disclosure Form (IDF):

- Use simple sentence structure and easily understandable English, as complex language or sentence structure may impede understanding by a person for whom English is not their native language.
- Use non-suggestive and non-legal language in the IDF. For example, avoid suggesting any standards for inventiveness. Instead, use language such as “List new features about this invention” and “Describe what was known to others in this field of technology before this invention.”





Explain the Details of the Invention Disclosure:

- Offer to provide a webinar or seminar for technical professionals on how to fill out and submit the IDF.
- Create a PDF/PPT/Video directed to one or more of the following points:
 - Explain importance:
 - Explain how the IDF is helpful to the IP professional and the organization/field of science. To the extent possible, focus on the potential social/community and scientific impact of inventions. Women may be driven more by social/community and scientific impact than commercial impact.
 - In a university setting, explain how the disclosure is helpful to the licensing agent.
 - Explain inventorship (See Chapter 3, Process-Related Root Causes of the Full Toolkit):
 - One claim or even one limitation of a claim can make someone an inventor.
 - Naming each inventor is important for better understanding of the prior art and future patent enforceability. Explain the problems with not naming all or the correct inventors (i.e. invalidity, unenforceability).
 - If anyone was the primary inventor, consider listing this person first on the ADS so the patent issues in their name.
 - Explain each part of the IDF and how to fill out and submit the form.
 - Explain the timeline:
 - Invention timeline, e.g. from idea, to disclosure, to patent application, to license (optional), to patent, to product, to patent expiry, etc.
 - Timeline from IDF to review and then to feedback.
 - If the client does not provide any feedback, suggest they provide feedback, as no feedback can potentially dissuade inventors, particularly new inventors, from moving forward or filing additional disclosures.
 - Explain the rationale behind geographic filing strategies.

Section 4

IDENTIFY INVENTOR MENTORS

The goal in this section is to identify a diverse range of inventor mentors, obtain feedback from them on the invention process, and prepare stories based on their experiences, which can be highlighted by the corporation / university.

- **Make a list of inventor mentors** and have them speak with other scientists about their experience in various groups, such as affinity groups, journal clubs, or group meetings. Think about whether mentoring groups can be created having members from the list of inventors as part of the group. (See Chapter 1, Sections 2-3 of the Full Toolkit).
- Where possible, provide someone with **two mentors: one they share a scientific / work background with, and another they share ethnicity, gender, religion, sexual orientation**, etc. with (where certain information is known). These two mentors provide the mentee at least one mentor to speak with in the case of any discomfort or confrontation in the workplace relating to their ethnicity, gender, etc. if they are uncomfortable speaking with the first mentor regarding the topic.
 - Determine if the inventor mentors communicate well and get along with other inventors; raise any flags of jealousy/competition/envy.
 - Work with the inventor mentors to identify what they find frustrating with their invention process and help the organization identify ways to improve their process.
- Have the inventor mentors write their story for use in the process, as well as to possibly provide as a spotlight for the corporation or university. (See Chapter 3 of the Full Toolkit).
- **If there are not enough mentors in the organization, share resources about trade organizations or IP-related organizations** that may have the ability to provide mentorship or other organizations that may be willing to partner to provide mentors.
- Where there are enough mentors in the organization, **implement formal mentorship programs, where mentors and mentees are expected to meet at least once a quarter** and where the meetings are part of the job description.



- **Encourage mentees to speak up, participate** in conversations, present them with speaking opportunity and have their voice be heard. (See Chapter 1, Section 2 of the Full Toolkit).
- Implement formal or informal programs where mentees and inventors are encouraged to give small presentations to enhance and encourage speaking in groups and speaking about ideas. (See Chapter 3 of the Full Toolkit).
- Some sort of “**reverse mentoring**” may also be helpful to the success of an organization; if employees feel like they are able to make their voices heard within the organization, it can provide more investment within the workplace and can also show leadership the potential of younger employees.
- Mentors should be willing to provide work product samples to mentee.
- Mentors should be willing to provide feedback on mentee work product (if part of regular job responsibilities, then should not take too much extra effort).
- Mentors should be open to receiving and answering questions from mentee outside of regular meetings.
- Mentors should be willing to create a **personal connection with the mentee** in hopes of providing greater workforce harmony.

Deploying Mentorship from Outside Counsel

Seek Assistance from Outside Counsel:

Intellectual property law firms often address similar diversity and inclusion issues that their clients face. As a result, intellectual property law firms typically have established systems and procedures to enhance and optimize the development of newer attorneys of varied backgrounds. This is an expertise that clients can tap into to enhance in-house mentorship. Law firms generally will be very enthusiastic to assist clients in these respects as these efforts may prove to be mutually beneficial.

How Outside Counsel Can Help:

Communicate the concerns the client has regarding diversity and inclusion with outside counsel and brainstorm possible solutions. (See Chapter 3 of the Full Toolkit). One effective technique is to have outside counsel give regular presentations to the technical teams at the client. The presentations can be focused on educating the client's technical teams on aspects of intellectual property law directly relating to inventors and inventions. The interplay between inventors and the attorneys may also be covered. In the course of these meetings, the law firm presenters can address points of concern relating to diversity and inclusion within a broader discussion. For example, a discussion on invention disclosures may point out that the attorney is not seeking a work of literature. Instead, the attorney may be more encouraging about promoting the ideas to the client's business and legal decision makers. Depending on the law firm, the presentations may be offered gratis.



Section 5

FEEDBACK

The goal in this section is to help your client understand differences in how feedback is communicated to, and received by, inventors from underrepresented groups, and the importance of the feedback system in moving inventions forward.

Differences in Communication

Differences in communication based on gender or cultural backgrounds are present in language. For example, women use certain words more frequently than men. Such differences can play a tremendous role in what the person actually hears (or understands) when receiving feedback, which effectively complicates how feedback is given and received.

- Despite these differences, feedback should not be vague. Rather, feedback should be clear, providing specific and concrete (factual) ways of improving the invention disclosure submission.
- As one example, women tend to be more motivated by the impact of their work, as opposed to the commercialization potential. Focusing the conversation on the impact of their work may resonate better for women. In addition, women do not typically respond well to teasing.
- Women may also focus on the group's efforts and not take full credit for their contributions.
- Perfectionist tendencies may cause innovators to feel the need to overprepare for new experiences.





The Feedback System

- For many reasons, the feedback system can be a significant barrier to moving potential inventions forward. Ask your client to consider the following:
 - How do you speak to your audience of inventors? Consider the diversity of the inventor spectrum. Understand the realm of assumptions. Be curious.
 - If an inventor receives vague feedback or no feedback, the inventor may be unlikely to file a subsequent invention disclosure. Vague feedback or no feedback can cause an increase in the individual's "confidence gap."
 - Use the invention disclosure process (whether or not it results in a patent application being filed) to explain the basis of the decision, what was helpful in the invention disclosure, and what could be improved.

Improving the Feedback System:

- Invite the inventor to share feedback about the process.
 - Is there something in the feedback system that is turning people off or that could be improved?
 - Are there barriers to the system?
- Talk to the Diversity & Inclusion (D&I) officer to see if the system has been reviewed with a D&I filter to assess other issues. What conscious or unconscious biases might be present?
- Create opportunities for women to support and cheer on each other, such as hot seat type forums and workshops.

Section 6

INVENTOR RECOGNITION

The goal in this section is to help your client understand the importance of inventor recognition. Some exemplary recognition communications are provided here.

- Describe what others in the industry are doing to recognize inventors using the Toolkit. You may want to connect your client with other clients to help them learn more. (See Chapter 1, Section 3 of the Full Toolkit).
- Explain how inventor “bragging” around your diverse inventors can improve the client’s rank among other companies or universities as a female or diversity friendly institution.
- Showing pictures of your successful diverse inventors can attract new inventors who can relate and ‘look’ like those inventors and create a feeling of comfort and/or belonging.
- Explain to the client that these are ways you can help their inventors feel valued and appreciated.
- *Examples:* Some examples of inventor recognition include:
 - Articles and/or monthly newsletters highlighting the inventor(s);
 - Recognition ceremonies;
 - Asking diverse inventors to be on panel discussions to educate potential new diverse inventors about the patent process;
 - Discussion about new application filings at department meetings; and
 - Industry spotlights, lunches or other events for celebrating diverse inventors and other possible inventors that are diverse, LinkedIn posts, and Facebook posts.





- Bring the inventors being recognized to meetings when explaining the process to other potential innovators so they can ask questions.
- Encourage fellow coworkers and inventors to promote each other's achievements.
- Suggest Implementing Incentive Programs
 - Successful programs vary, and not all include a payment. Recognition within the company and award ceremonies are meaningful. This program could also reward mentorship that results in innovation, even if the mentor is not an inventor. Additionally, payments may be tiered depending on the success of the application. (See Chapter 3 of the Full Toolkit).
- Organization-Wide or Group-Wide Spotlights

These spotlights remind people that there are women and diverse inventors and help women and diverse employees self-identify with others.

 - When women invent in a technology field in which women have not participated as much in the past, include this in the spotlight to encourage more participation in this area.
 - Sample ideas: all organization or group emails, posts on internal websites, presentations, etc. that focus on the research, patents, milestones, personal stories, licensing wins, patent litigation wins, etc. of individuals.