



# A Practical Guide to Diversity & Inclusion in the Legal Profession Version 3.0

Intellectual Property Owners  
Association

Diversity & Inclusion Committee

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# Overview



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  - Hiring & Retention
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  - Allyship





# Introduction

- **This Practical Guide is designed to be used to understand and improve Diversity & Inclusion (D&I) of legal professionals – especially lawyers – in law firms and corporate legal departments**
- **Who?**
- **What?**
- **How?**



# Who is the Practical Guide for?

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- This Guide can be used, in whole or in part, for presentations and trainings to legal teams in law firms or corporate legal departments.
- It can also be used, in whole or in part, for individual education and reference.






# What is this Practical Guide?

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- **This Guide comprises three main sections, which a user can work through to build knowledge and understanding.**
  - **Section 101** of this Guide is an introductory explanation of D&I including D&I related statistics.
  - **Section 201** of this Practical Guide is where most companies and law firms can dig into the main issues affecting D&I and suggested solutions.
  - Finally, the **Master Level** section of this Practical Guide is for companies and law firms who have excellent diversity numbers but are struggling with inclusion and specifically inclusion of specific groups of underrepresented lawyers.



# How can you use this Practical Guide?

- The questionnaires on pages 7 and 8 of this Guide can assist a user in determining which section of the Guide will be most useful to the individual user or a legal team.
- This Guide can be used in whole or in part according to the needs of the user.
- Links throughout this Guide can be used to jump to various sections and linked content.



# Which Section of the Practical Guide Applies to you?



**ANSWER THE BELOW QUESTIONS FIRST:**

- **I know what Implicit Bias is**
    - Yes
    - No
  - **I know how Implicit Bias affects D&I**
    - Yes
    - No
  - **I understand the difference between Diversity and Inclusion**
    - Yes
    - No
  - **I am a biased person**
    - Yes
    - No
- If you had two or more “No” responses to the above, please review Section 101, otherwise you can proceed to Section 201.

# Which Section of the Practical Guide Applies to you?



**Answer the questions in Section B after you have finished reviewing Section 201:**

**1. I know how Implicit Bias affects D&I**

- Yes
- No

**2. I understand the difference between Diversity and Inclusion**

- Yes
- No

**3. Everyone human being is biased**

- Yes
- No

**4. I understand that D&I issues in my company/firm are not entirely attributed to pipeline issues**

- Yes
- No

If you had 2 or more “No” responses to the above, please review Section 101 and Section 201, otherwise please proceed to the MASTER LEVEL section.



# SECTION 101



Section 101 of this Guide is an introductory explanation of what Diversity & Inclusion are and why they are important to legal organizations

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A diverse group of people of various ages and ethnicities are shown from the chest up, cheering enthusiastically with their mouths open and fists raised. They are wearing casual clothing like t-shirts and jackets. The background is dark, making the people stand out.

# What are Diversity & Inclusion?

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**Diversity** is the things that make us different, including race, ethnicity, gender, gender identity, gender expression, sexual orientation, age, social class, physical ability or attributes, religion, and national origin.

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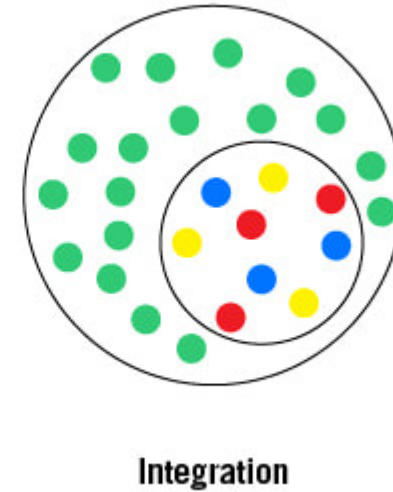
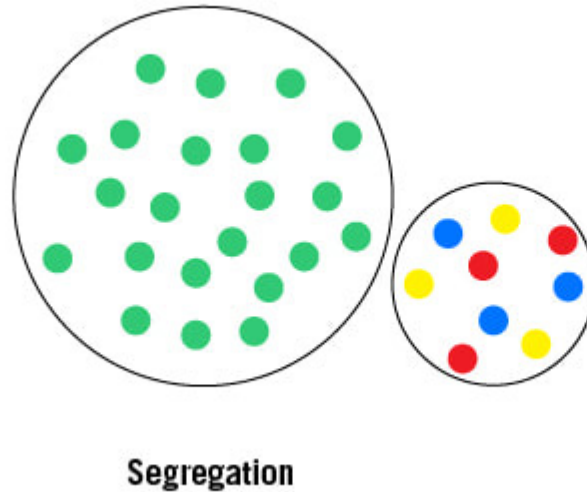
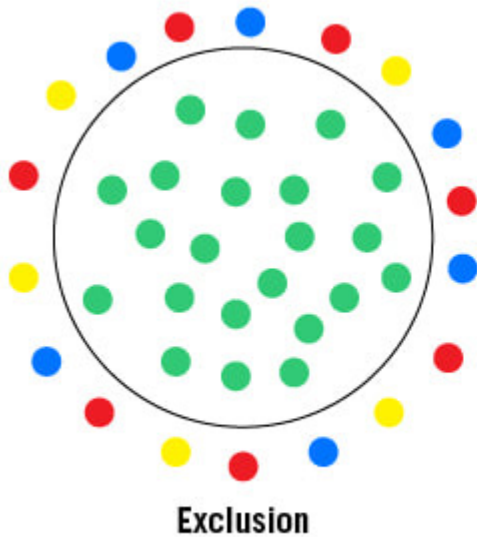
**Inclusion** is the active and ongoing engagement with and empowerment of diverse groups of people. An inclusive environment promotes belonging and gives everyone a seat and a voice at the same table.

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Diversity can and often does exist without inclusion, but both are critical.

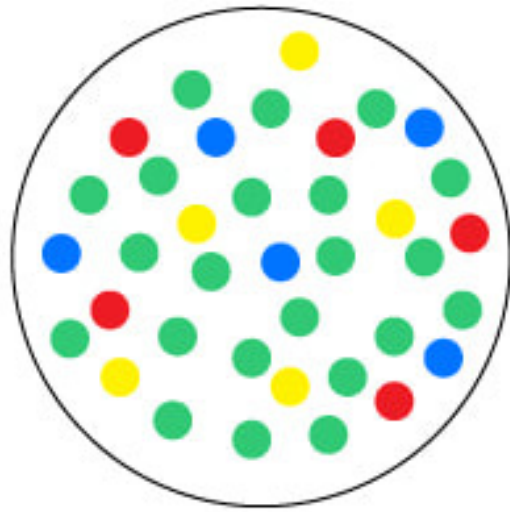


# What does Diversity without Inclusion look like?



Diversity can be achieved simply by having diverse employees, even if those employees are not included or supported within the organization

# What does Diversity with Inclusion look like?



Inclusion

**Inclusion** can be defined as the achievement of a work environment in which all individuals are treated fairly and respectfully, have equal access to opportunities and resources, and contribute fully to the organization's success.

While **Diversity** is about the **what** and focuses on the makeup of the workforce, **Inclusion**, on the other hand, is about the **how** – the creation of a work environment and culture that enables all employees to participate and thrive.



# Diversity the Patent Bar: A Look at the Numbers

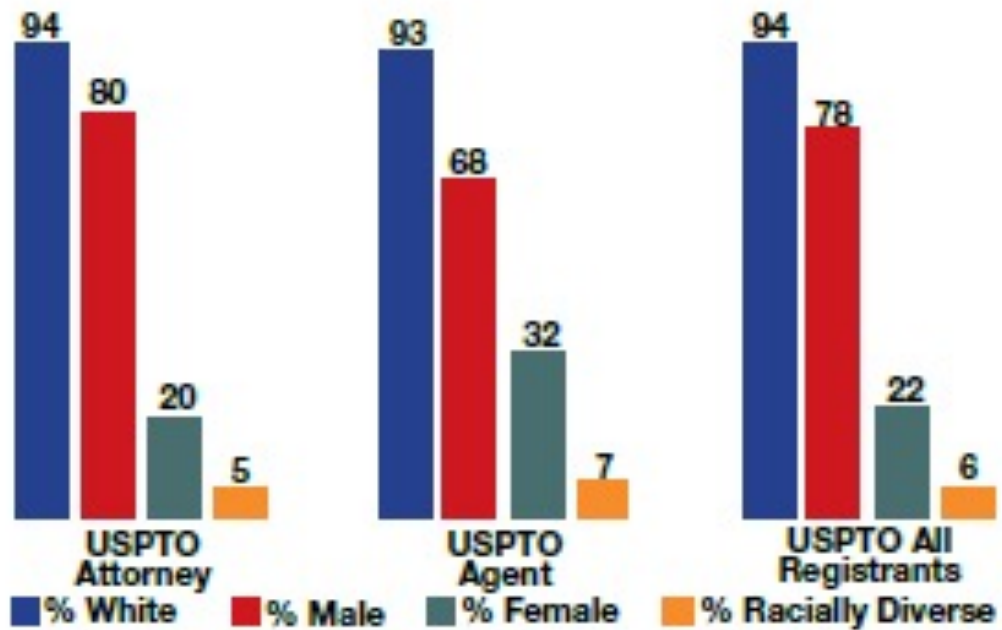


Figure 4. Overall diversity trends among USPTO registrants.

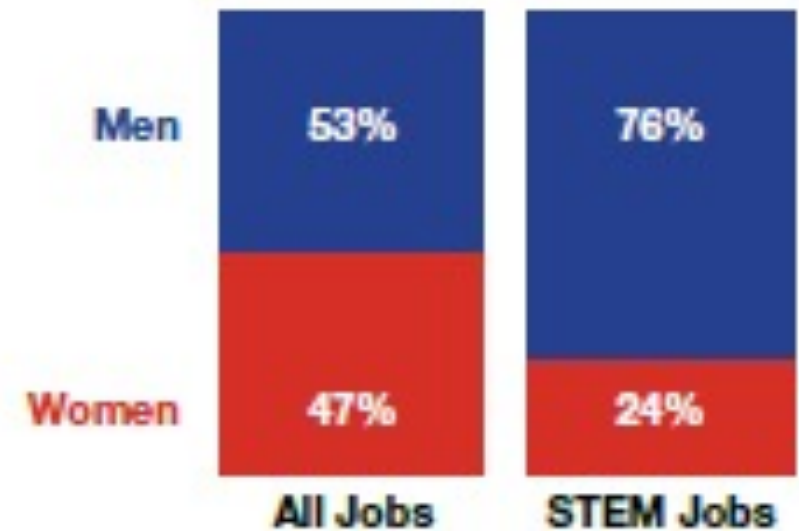


Figure 2. Women in STEM: 2017 Update gender shares of total and STEM jobs, 2015.

# Diversity of the Patent Bar: By Technology Area

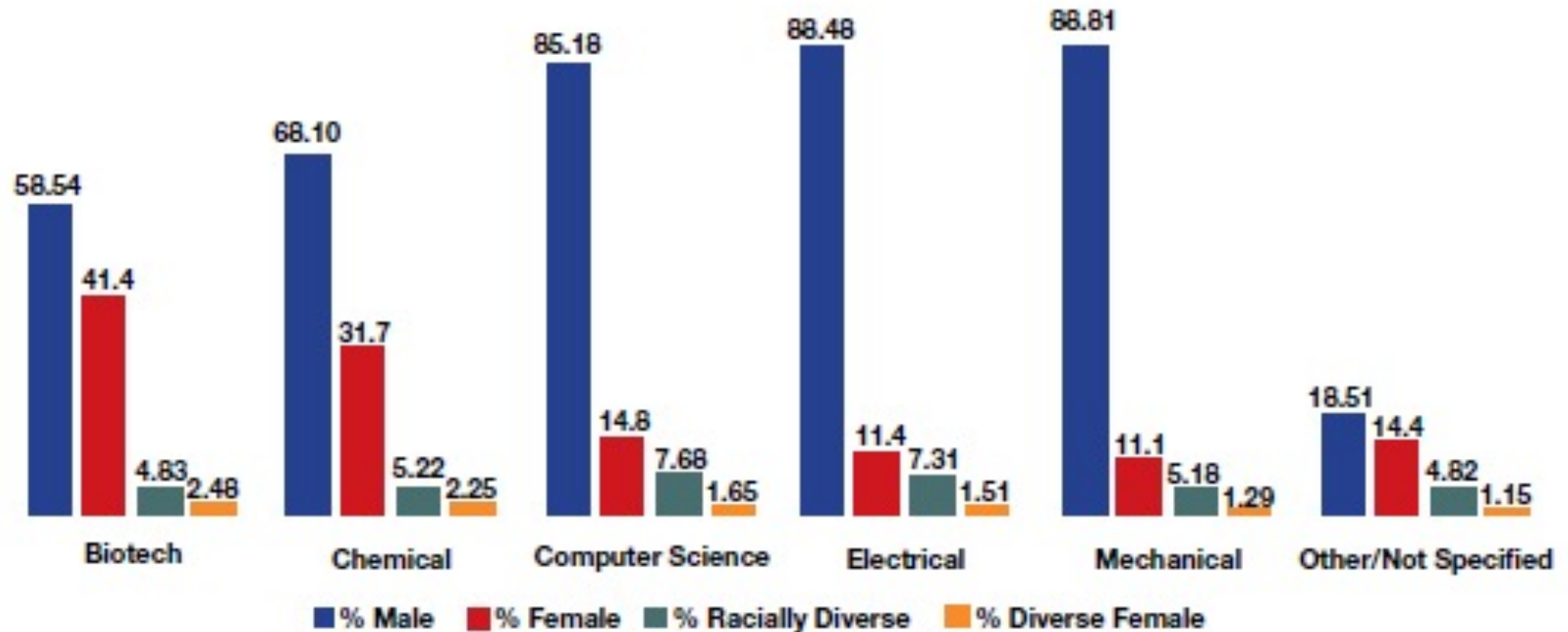


Figure 9. Diversity representation in patent practice areas.

Source: ["Diversity in Patent Law: A Data Analysis of Diversity in the Patent Practice by Technology Background and Region,"](#) Landslide® Magazine Vol. 13 Num. 1 (September 2020)

# Diversity of the Patent Bar: Historical Gender Breakdown

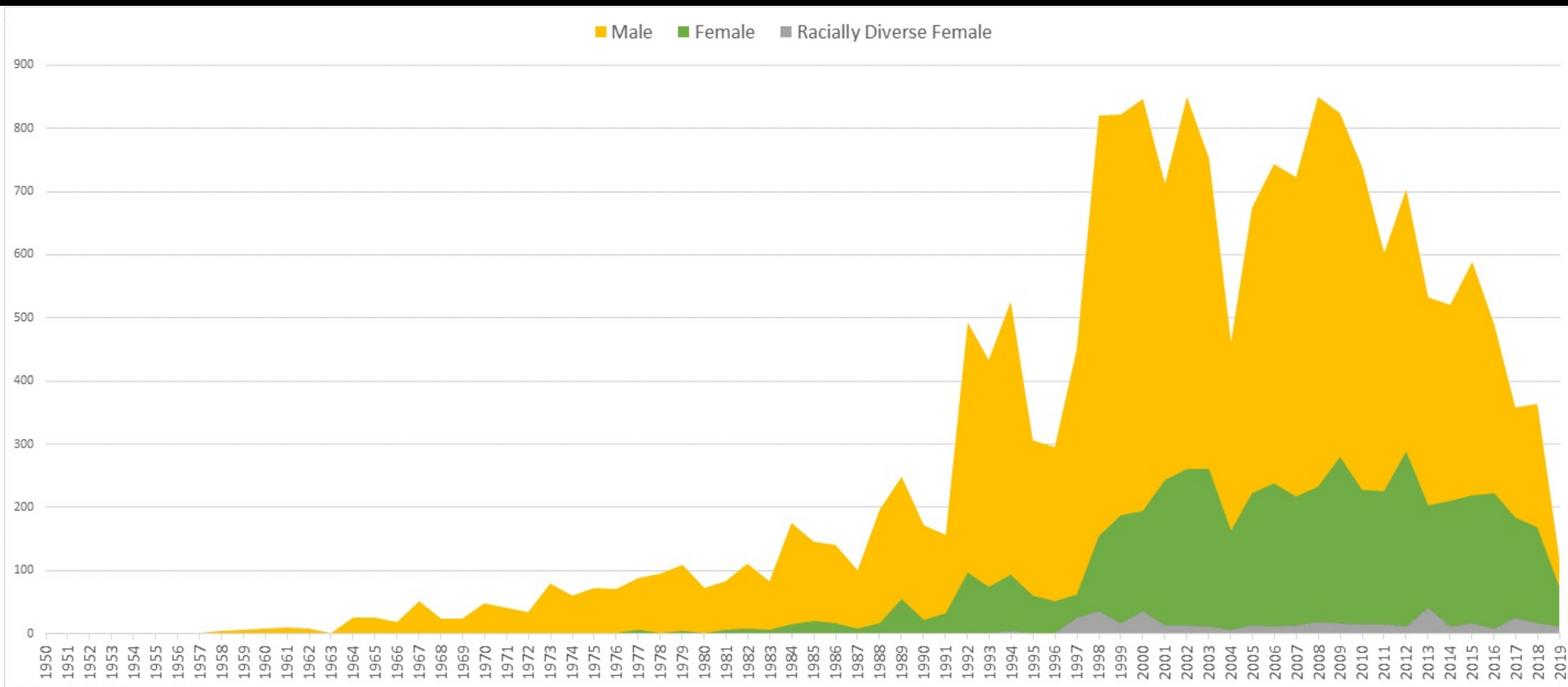


FIG. 5; Source: ["Diversity in Patent Law: A Data Analysis of Diversity in the Patent Practice by Technology Background and Region,"](#) Landslide® Magazine Vol. 13 Num. 1 (September 2020)



# Diversity of the Patent Bar: Historical Racial Breakdown

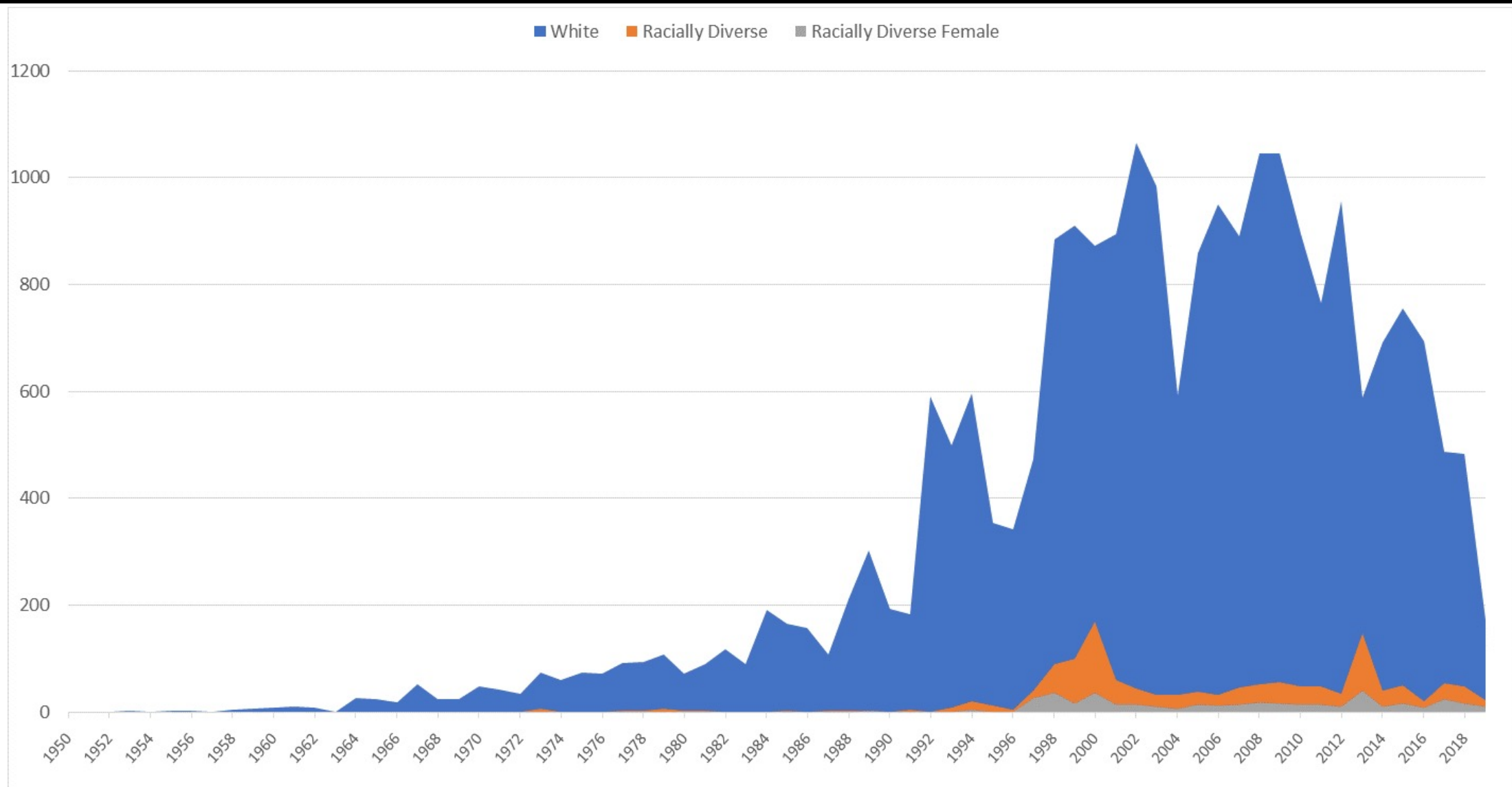


FIG. 6; Source: [“Diversity in Patent Law: A Data Analysis of Diversity in the Patent Practice by Technology Background and Region,”](#) *Landslide® Magazine* Vol. 13 Num. 1 (September 2020)



# GENDER DIVERSITY IN TRADEMARK AND COPYRIGHT PRACTICE

- Women are more well-represented in the Trademark field compared with other sectors of IP practice
- There are also higher percentages of women in senior roles in the trademark area than other areas of IP
- However, even within trademark, women are disproportionately under-represented in trademark litigation
- Women are also more well-represented in the Copyright field than other areas of IP
- To address these imbalances, many in IP have suggested measures such as open dialogue and sound work-life integration policies

• Source: [The Women's Leadership Initiative Report](#), International Trademark Association, 5 (December 2020)



# DIVERSITY IN IP LITIGATION

- According to one study by Trask Consulting, 76% of lead attorneys in IP trials were male and 87% were white
  - For partners, 74% were men and 80% were white
  - For testifying corporate representatives, 82% were men and 76% were white
  - For technical experts, 92% were men and 88% were white
  - For damages experts, 71% were men and 97% were white
  - Only for associates do the numbers start to improve for women, with only 59% men, but still 72% were white

Source: <https://www.law360.com/articles/1318813/wides-are-drawn-to-diversity-in-patent-trials-attys-say>

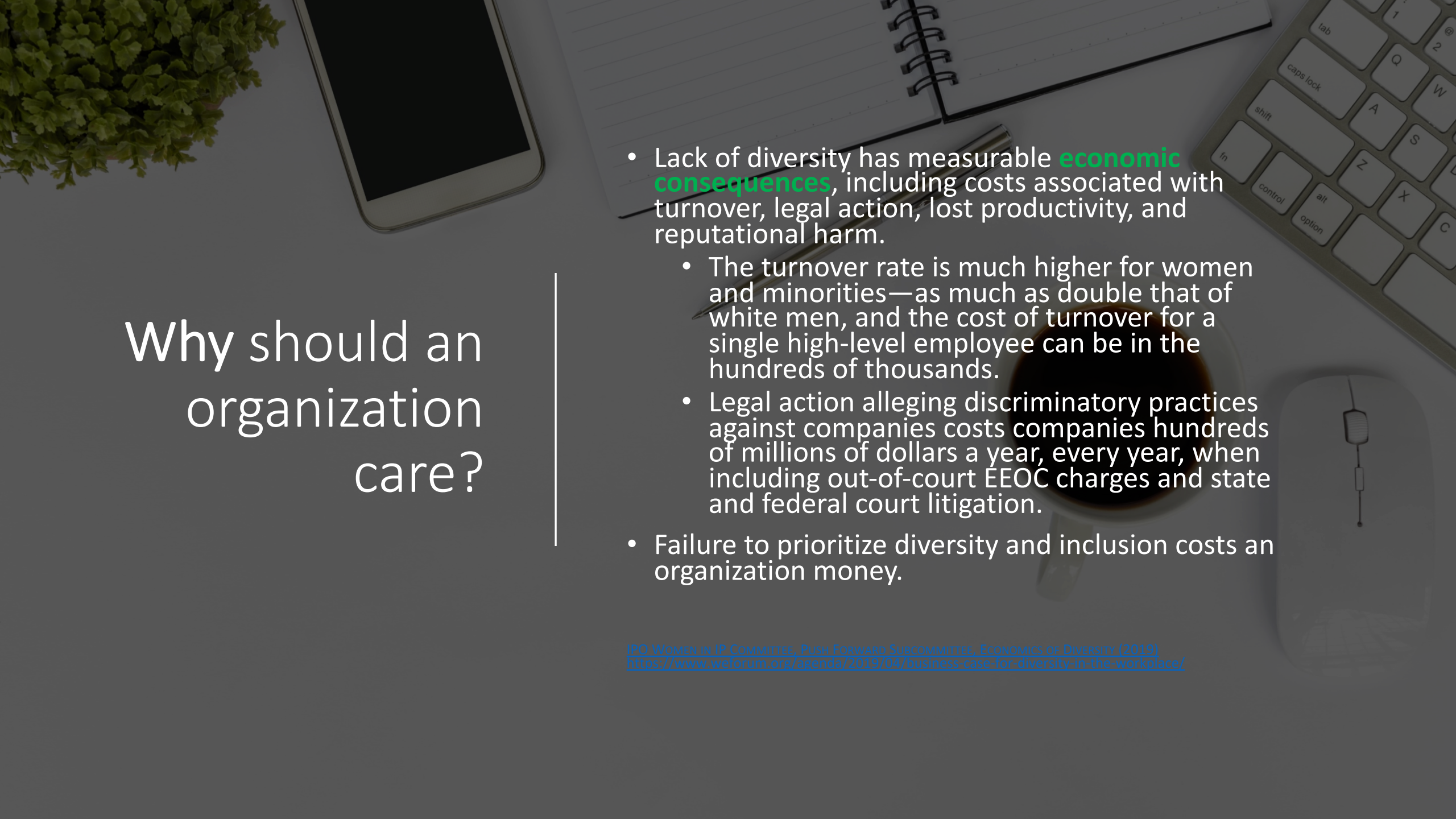




# DIVERSITY IN IP LITIGATION

- A study by professors at Temple University's Beasley School of Law found that women argued less than 10% of companies' patent appeals at the Federal Circuit in the last decade and less than 10% of all patent arguments before the US. Supreme Court in the past 30 years
- IP Litigation has a staggering lack of diversity, but studies show outcomes are improved by diverse teams

Source: [https://www.law360.com/ip/articles/1396529/women-arguing-far-fewer-patent-appeals-for-cos-than-men?nl\\_pk=c2bbb6be-90ae-4289-a14c-7341cdb21bc5&utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=ip](https://www.law360.com/ip/articles/1396529/women-arguing-far-fewer-patent-appeals-for-cos-than-men?nl_pk=c2bbb6be-90ae-4289-a14c-7341cdb21bc5&utm_source=newsletter&utm_medium=email&utm_campaign=ip)



# Why should an organization care?

- Lack of diversity has measurable **economic consequences**, including costs associated with turnover, legal action, lost productivity, and reputational harm.
  - The turnover rate is much higher for women and minorities—as much as double that of white men, and the cost of turnover for a single high-level employee can be in the hundreds of thousands.
  - Legal action alleging discriminatory practices against companies costs companies hundreds of millions of dollars a year, every year, when including out-of-court EEOC charges and state and federal court litigation.
- Failure to prioritize diversity and inclusion costs an organization money.

[IPO WOMEN IN IP COMMITTEE, PUSH FORWARD SUBCOMMITTEE, ECONOMICS OF DIVERSITY \(2019\)  
https://www.weforum.org/agenda/2019/04/business-case-for-diversity-in-the-workplace/](https://www.weforum.org/agenda/2019/04/business-case-for-diversity-in-the-workplace/)

# Why prioritize diversity?

- Diversity increases **sales revenue**—one study found an increase of 9% correlated with an increase in racial diversity and an increase of 3% correlated with an increase in gender diversity.
- Diverse companies are more **profitable**—companies in the top quartile for racial and gender diversity are more than 33% and 21%, respectively, more likely to outperform the national median of profitability than companies in the bottom quartile.
- Diversity increases **market share**—companies with diverse teams are 70% more likely to report the capture of a new market within the past year and more than 45% more likely to report market growth in the prior year.

IPO WOMEN IN IP COMMITTEE, PUSH FORWARD SUBCOMMITTEE, ECONOMICS OF DIVERSITY (2019), <https://www.ipso.org/wp-content/uploads/2019/03/FINAL-White-Paper-on-Economics-of-Diversity-1.pdf>





# How to improve diversity?

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There are many strategies to improve diversity, but fundamental to any successful strategy is – **MONETARY INCENTIVES TO SENIOR LEADERS** (measurable diversity and inclusion metrics in the organization tied to the senior leaders' compensation packages).

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Other strategies include a focus on diversity in recruitment, mentoring, retention, culture, promotion, compensation, and other aspects of employment.

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Diversity and Inclusion must be an **ongoing** focus of the organization for there to be real, measurable improvement.





The End.

End of Section 101

Proceed to Section 201



A close-up, shallow depth-of-field photograph of numerous dark brown, roasted coffee beans. The beans are scattered across the frame, with some in sharp focus in the foreground and others blurred in the background, creating a warm, textured backdrop.

# ACKNOWLEDGEMENTS

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