

A Conversation with Mareesa Frederick about Women and Diversity in IP Law

By Shannon N. Proctor



Mareesa Frederick (mareesa.frederick@finnegan.com) is a partner at Finnegan LLP in Washington, D.C., where she focuses her practice on intellectual property litigation with a focus on investigations before the International Trade Commission (ITC) and counseling matters.

Shannon Proctor: *I rarely see Black women with chemistry backgrounds, so I was very excited to see your background in chemistry. As a woman of color, what sparked your interest in STEM and chemistry?*

Mareesa Frederick: It's interesting, because initially I started out as a math major at Spelman, a historically Black women's liberal arts college in Atlanta, Georgia. I went into math because during my last year of high school, I was the only female student in my calculus class because the school had just integrated to include girls. My math teacher always announced the highest grades when handing back our tests, and I kept getting the highest score. I hadn't realized I was good at math until then, so I figured I should major in it.

I went to Spelman and decided to pursue a dual degree in math and engineering. Initially, I was unsure on the type of engineering degree I would pursue. But during my freshman year, I settled on chemical engineering because I always enjoyed the process of making things, such as consumer products. Chemical engineering also offered me a wide scope of industries to work in—from food and beverages to pharmaceuticals. I then switched my major to chemistry and chemical engineering and was on my way.

SP: *Your college experience pursuing a STEM degree must have been a lot different from many people of color since you went to Spelman College, which is (1) a historically Black college and (2) a women's college.*

MF: Yes, it was. Spelman provided me with an excellent education and a nurturing environment for me to learn and grow. The strong foundation Spelman provided more than prepared me for Georgia Tech, where I pursued my engineering degree, and for the challenges that I have faced in my career.

SP: Did you start working in chemical engineering after college?

MF: I did. I started working for ExxonMobil doing research and development work. Then I moved into process engineering, where I oversaw a manufacturing line. I was responsible for making plastic used in cereal bags or Kit Kat wrappers. I really enjoyed it. I used all the theory I learned at Georgia Tech in a much more practical way in the manufacturing plant.

SP: So you went from Kit Kat wrappers to law school?

MF: I knew I wanted to go to law school even before I decided to work as an engineer, but I decided to get some industry experience first. When I was in high school, or maybe college, my parents had this book on inventions, which I enjoyed reading. That is what sparked my initial interest in patent law. I applied to law school during my second year working at ExxonMobil, and I decided to attend the George Washington Law School, which has a strong intellectual property program.

SP: I take it you focused on patent law and looked for those types of externships and internships while at George Washington.

MF: I was fortunate in that I was offered a summer associate position at Finnegan after my first year as a law student. I continued to work at the firm throughout law school and accepted a position as an associate after I graduated.

SP: Now that we have a good sense of your background, I want to talk about diversity in IP and the legal field, with a focus on women in IP. “Diversity” has been such a buzzword for years now that it almost gets annoying. You will hear people say, “Let’s increase diversity,” but we do not always see genuine efforts to do this. Have you seen an increase in women, for example, in your IP practice from when you first started?

MF: I do see more women. Finnegan does a great job at being intentional and committed to having diverse summer associate classes. We do the majority of our associate hiring through the summer associate program rather than through lateral hiring. In the IP legal field more generally, since I first started as an associate, I have also seen more women leading cases and being members of litigation teams.

SP: Are you seeing diversity among opposing counsel?

MF: I have seen the numbers increase for women of color litigators since I started as a first-year summer associate. However, when it comes to retaining women of color, in particular African American and Latino women, it is challenging.

SP: Are you seeing more diversity on the bench?

MF: Yes. I have a distinct practice, in that I have a subspecialty

in litigation before the ITC. Back in 2010, during a hiatus from Finnegan, I worked as a senior investigative attorney at the ITC for five years. There were no women judges, but there were women commissioners. Now the ITC has two women judges.

More generally, I have not seen a significant difference with respect to the addition of more judges of color to the bench in other courts or tribunals since I started practicing in 2002. My understanding is that approximately 4 percent of sitting judges are Asian American, and when you look specifically at gender differences, for women of color, the numbers are at 7 percent.¹ I think there is a consensus that diversity on the bench is extremely important, as different points of view or life experiences can inform a judge’s decisions when resolving cases.

SP: You mentioned that it is challenging to retain certain demographics. When you have talented, diverse associates, they are seen as a desirable commodity by law firms that pursue them—possibly to check the diversity box while having a strong associate. I have also heard from colleagues that they feel like they are not recognized or are unappreciated. What do you think law firms can do to keep these talented, diverse associates engaged?

MF: I do think that’s a problem. I’ve been to different conferences where this issue has been discussed, and it always seems to circle back to three areas to increase the numbers of diverse attorneys:

Recruiting. Firms need to broaden both the pool from which they seek candidates as well as the schools from which they seek them. Some law firms are focused on recruiting from only the top 10 law schools, but if you do that, you could miss very promising candidates. For example, perhaps there is a person of color who couldn’t afford to go to Harvard and instead had to go to a non-Ivy League school on scholarship. That person of color could be a stellar attorney but would be overlooked by top law firms.

Experience. There needs to be a very concerted effort on sponsoring diverse associates to ensure they are building their skills as a lawyer. It should not be the case that an attorney in the fifth year of practicing has not taken a deposition, written a significant portion of a brief, or had extensive client contact. And, unfortunately, it could get to a point where it’s more difficult to get staffed on high-profile matters because you don’t have the foundation of skills or the confidence to do the work. So, I think firms need to be intentional about making sure attorneys of color are included among those who are getting the early experiences and skills needed to be successful.

Accountability. I think that firms need to hold themselves accountable by keeping track of, measuring trends from, and acting upon the data, making sure they understand what does and does not work.

In my view, these are three areas that firms can work on improving. This list is not exclusive, but I do think these three areas could help in retaining attorneys of color in law firms.

SP: Those are all good points for consideration. I understand you took a very proactive approach to gain significant trial experience. Can you tell us about that and how it affected your IP practice later?

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MF: In my fourth year, I began to think I was not getting the experiences that I would need to be successful. At the suggestion of a mentor, I decided to join the government as a trial attorney for the ITC. As a result, I was able to obtain a significant amount of trial experience in a relatively short time by building up my skills and shaping my specialty. I have seen a number of other attorneys of color, in particular, take this same path, i.e., public service followed by very successful careers in law firms or in corporations.

SP: You mentioned a subtopic I wanted to discuss, which is the concept of having mentorship and sponsorship. Many people get stuck on the word “mentor” and are often frustrated with everyone saying, “Oh, you should have a mentor.” I learned from a local bar organization while in law school that you need not only mentors but also sponsors—someone who is willing to get you experiences, recommend you for projects, etc. Did you have that type of mentorship and sponsorship available?

MF: When I was an associate, I may not have been savvy enough to understand the difference between those two words or that these concepts existed in 2002 when I started practicing. I certainly had people who gave me some fantastic advice to help me navigate my career. And it was really built around the fact that I had worked with these particular attorneys on cases and had developed relationships with them. I often think the key with mentorship is finding someone with whom you have a genuine relationship. But it works both ways. At some point, the mentee can also help and advise the mentor. I think it’s just more about developing relationships with people and mutually supporting one another.

SP: In past conversations, we talked about our experience of having more men, especially white men, as mentors than women. Why do you think it’s hard to find women mentors, especially in IP law? Do you think it simply is the smaller number of diverse, more experienced attorneys?

MF: I don’t think it’s difficult, but I do think junior associates should be more and consistently proactive in seeking mentors, whether within their own firms, in other firms, or in corporations. Specifically, diverse associates should really take advantage of the opportunity when a mentor voluntarily makes themselves available to them. It is not something they have to do, and these opportunities should not be taken lightly. I remember attending a National Bar Association conference a couple of years ago, and there were a few Black partners who told the group that if anyone needed mentoring, they could call them at any time. They were sincere and open to forming mentoring relationships. Experienced attorneys are definitely open to forming these relationships, and associates need to take advantage of their willingness to do so. I cannot stress this enough.

SP: I read some statistics that stated although half of law school graduates are women, only one-third of those women enter law firms, and only one-quarter of those women who go to law firms end up at IP boutiques.² Is that generally what you are seeing during recruitment and at firms? What

about with respect to retention of women at law firms?

MF: One reason for the difference in numbers of women attorneys between IP boutiques and general practice firms is that IP boutiques may require the attorney to have a science background; therefore, the pool of candidates to consider is smaller. From a retention standpoint, I think that women have many balls to keep in the air—children, work, extended family. Oftentimes, women are the ones providing the primary care, and that’s difficult to balance when you’re at a law firm that’s demanding 2,000 billable hours. While there are options to have reduced hours, I think that women sometimes have to make decisions to delay or forgo their goals.

SP: You make a great point that women are often juggling a lot of balls. Yes, there are options like reduced hours, and I have seen colleagues settle into staff attorney roles that fit their situations better. But sometimes those roles take women off partnership track. Can we have it all—family life, social life, partnership track?

MF: I think women can have it all—but what that “all” looks like may not be the same for every woman. And it is likely that most women may not have it all at the same time. Law firms are a service-based business, which means attorneys are expected to respond to clients quickly and sometimes with short turnaround times. This can be challenging, and you have to make sure everything’s covered for you on the home front. And if you’re a single mother or a married mother with little support, it’s not easy.

SP: We talked about your educational background earlier, and you certainly have the qualifications to practice IP law. We have also had past conversations about being approached by women, Black, or Hispanic law students who desire careers in IP but oftentimes do not have a technical background needed for entry into IP law. While women are attaining chemistry, biology, or engineering degrees in increased numbers, access to this type of education remains a challenge for people of color. If we could increase the number of women and people of color STEM disciplines and introduce them to IP, we could get a steady pipeline. How do you think we could achieve this?

MF: I think that’s a good question. I reflect on this a lot because there’s been so much focus on STEM over the past five years. I hope that we do see some vast improvement in the number of women and people of color entering STEM fields. I think children should have as much exposure as possible at an early age to really foster an interest in the sciences. Moreover, having more role models who look like them and who work in the STEM field will boost a child’s interest in STEM.

SP: For those law students or attorneys who do not have a technical background, what would be your advice for them if they want to practice IP and do so successfully?

MF: Networking! I think those students or attorneys should work on building and fostering relationships within the IP community. The more people who know you and your career goals, the better your chances of having an opportunity become available to you. But, in doing that, you also need to

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understand and learn what those people are doing and what their jobs entail. What does it really mean to be a trademark lawyer? Or an entertainment lawyer? Many times what I've found is that students may be interested in different areas of law and IP, but they don't really know what it involves. So, again, networking to get that understanding is important. The second piece of advice is that students should cast a broad net—and look at all their opportunities. There are so many interesting positions in the government, for example, in the field of IP, including with the United States Patent and Trademark Office, the ITC, and the DOJ.

SP: And what can the IP community do to try to get the word out earlier to high school students, undergrads, etc., that IP law offers all these opportunities?

MF: Exposing students to IP law at an early stage is critical. For example, I, along with two other attorneys at Finnegan, started teaching a class at Howard University where students had to come up with a business plan

while also “obtaining” a patent. One goal of this class was to expose the students to patent law with the hope that they would decide to go to law school, and a few of them actually did. So I think classes like that are a great way to expose students to IP before law school. The Intellectual Property Owners Association is also focusing on ways to expose students to IP law at an early stage and has a number of initiatives and outreach programs directed to diverse students to increase awareness of the field. ■

Endnotes

1. *Examining the Demographic Compositions of U.S. Circuit and District Courts*, CTR. FOR AM. PROGRESS (Feb. 13, 2020), <https://www.americanprogress.org/issues/courts/reports/2020/02/13/480112/examining-demographic-compositions-u-s-circuit-district-courts>.

2. Amanda G. Ciccattelli, *Are Women Under-Represented in IP Litigation?*, IPWATCHDOG (Feb. 7, 2018), <https://www.ipwatchdog.com/2018/02/07/women-under-represented-ip-litigation/id=93243>.