

# Intellectual Property and Women Entrepreneurs

Qualitative Analysis  
Conducted by the National Women's Business Council  
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**NATIONAL WOMEN'S  
BUSINESS COUNCIL**



**ADVISORS TO  
THE PRESIDENT,  
CONGRESS,  
AND THE SBA**

# INTELLECTUAL PROPERTY AND WOMEN ENTREPRENEURS

QUALITATIVE ANALYSIS

September 2012

## CONTENTS

- 1 Executive Summary
- 2 Approach
  - 2.1. Locations and Logistics
  - 2.2. Recruitment
  - 2.3. Questions/ Themes
- 3 Summary
  - 3.1. Questions raised by the Quantitative Analysis
  - 3.2. Questions of interest to the NWBC
    - 3.2.1. Perceptions about the IP process
    - 3.2.2. The Reality
    - 3.2.3. What are the remedies?
    - 3.2.4. Entrepreneurship and IP

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*for*

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The National Women's Business Council is a non-partisan federal government council created to serve as an independent source of advice and counsel to the President, Congress, and the U.S. Small Business Administration on economic issues of importance to women business owners. Members of the Council are prominent women business owners and representatives of women's business organizations. The Council's mission includes conducting and supporting research on issues of importance to women business owners and their organizations in order to promote bold initiatives, policies and programs designed to support women's business enterprises at all stages of development in the public and private sector marketplaces.

## EXECUTIVE SUMMARY

In September 2011, the NWBC commissioned a broad study to analyze the relationship between women entrepreneurs and intellectual property. It consisted of two parts:

- Quantitative Research
- Qualitative Research

The quantitative research was completed in February 2012. A report, *Intellectual Property and Women Entrepreneurs, Quantitative Analysis*, was released by the NWBC on February 27, 2012 and presented at a featured meeting on March 1, 2012 in Washington, DC. It is available at <http://nwbc.gov/research/intellectual-property-women-entrepreneurs>

The current report covers the qualitative research whose stated goal was to conduct focus groups with women entrepreneurs, businesswomen and professionals, probe the questions that were raised in the quantitative study as well as additional ones of interest to the NWBC. Six focus groups were conducted in different parts of the US. Two of these focus groups were with women who had successfully obtained a patent or trademark, two were with women who had applied for but did not receive a patent or trademark and two were with women who had never applied for a patent or trademark. In addition to specific issues raised by the quantitative analysis, the following questions were also addressed by the focus groups:

- What are the perceived barriers facing women entrepreneurs surrounding protecting their IP?
- What are the actual barriers?
- How do we address these barriers?
- What are the long term effects on businesses that receive patents and successfully market their IP?

Accordingly, six focus groups were held, four in northern California and two in the Washington, DC metropolitan area. These locations were chosen based on the concentration of women patent and trademark holders in these regions. Data from the USPTO was used to recruit a random sample of women entrepreneurs. The assistance of the local chambers of commerce was also solicited in recruiting women who had never applied for a patent or trademark. Appropriate incentives were offered to the participants to cover costs.

The focus groups were conducted in accordance with OMB Regulations. The OMB control number was 3245-0380. The Paper Reductions Act of 1995 requires that Federal agency information collections employ effective methodologies appropriate to the purpose for which the information is to be collected (5 CFR 1320). This study meets the OMB requirements.

The study yielded significant insights into the IP processes as they affect women and women entrepreneurs. While major strides have been made in facilitating access to patent and trademark

services, there remain significant opportunities for further improvement. The perceptions of the participants, the realities, the suggested fix as well as answers to questions raised in the quantitative study are summarized below.

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## QUESTIONS RAISED BY THE QUANTITATIVE ANALYSIS

### **What factors motivate women entrepreneurs in their successful pursuit of a patent or trademark?**

Perceptions of risk and reward, increasing the value of the company, adding credibility to one's business, gaining recognition and increasing revenues are some of the principal factors that motivate women to successfully pursue their patent and trademark applications.

### **Why do women entrepreneurs abandon their patent or trademark application?**

A host of factors, perceived and real, influence this issue. Some of the most important factors are: Fear and awe of the process, the absence of clear, easy to understand documentation, lack of financial resources to obtain professional help, discouragement from family, friends and advisors, and the demands of multiple roles as an entrepreneur, mother and caregiver.

### **Why do some women entrepreneurs never apply for a patent or trademark?**

Perceptions of the patent and trademark process as complex, expensive and drawn out play a large part in the decisions of women entrepreneurs not to file for IP protection. Other reasons include: lack of a support system, websites that are not user friendly and mired in legal language, obscurity of the process and a perception that a cost-benefit analysis of IP protection does not justify the investment in time and money.

### **What are the barriers to reducing gender inequality?**

Women entrepreneurs who strive in a business world dominated by men face an uphill battle in getting acceptance as intellectual peers. Women are still expected to be mothers and caregivers in the traditional sense while they struggle to build up their businesses. They perceive that they are not taken seriously in the work place. Lack of finance is a persistent opinion.

### **Is there a gender gap in financing?**

There appear to be demographic differences between women who were successful in obtaining finance and those who did not. Women who were experienced and more business savvy took the time to prepare credible business plans as backup to their credit applications and were successful whereas less experienced women used an ad hoc approach to obtaining finance and were less successful.

**What accounts for the increasing participation of women in hi tech industries?**

Changing perceptions of gender roles in American society, the entry of more women into science and engineering, increasing access to higher education, legislation and law suits have all contributed to the successful entry of women into hi tech sectors.

**Why is there a gender gap in the assignment of patents and trademarks?**

Most women tend to be small businesspersons as compared to men who may have jobs with large corporations. Employees of large corporations assign their patents and trademarks to their employers while self employed entrepreneurs do not.

**How has the recession impacted women entrepreneurs?**

The prolonged recession since 2007 has had a profound impact in the workplace. Women entrepreneurs, by and large, look upon the recession as a challenge and an opportunity. The recession appears to have increased entrepreneurship among women. This aspect needs further study.

**There is ambivalence about the benefits of holding a patent**

Women entrepreneurs were more positive about the benefits of a trademark than of a patent. The expense, perceived complexity and the long wait for a patent has created ambivalence about the value of owning a patent.

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**QUESTIONS OF INTEREST TO THE NWBC****Perceptions**

- The patent and trademark processes are too complex, drawn out and expensive.
- Intellectual property can be stolen easily. It costs a great deal of money to defend IP.
- The patent and trademark processes are not well known or well understood by women entrepreneurs.
- The USPTO website is not user friendly.
- Women are discouraged from going into science and technology.
- Women prefer to hear a female voice at the other end of the phone when they call the USPTO.
- The current patent and trademark processes are archaic and harken back to a bygone era.
- Women are harassed by salesmen and attorneys once a patent or trademark application is made public.
- There is scant assistance and guidance after the first rejection from the patent and trademark office.

- The patent and trademark processes are more focused on “legalese” than on fostering entrepreneurship.
- The patent and trademark processes have not kept up with emerging technologies.
- International protection is absent.
- The patent and trademark processes favor large business.
- There persists a gender gap in IP generation and protection.

### **The Reality**

- There are no support systems for women, especially working single mothers.
- The patent and trademark processes are indeed too complex, drawn out and expensive.
- The USPTO website can be made more user friendly.
- Funding for marketing and business development is scarce.
- The current IP processes favor big business.
- Protecting a patent or a trademark can be very expensive. Most women cannot afford it.

### **The Remedies**

- Simplify the process.
- Improve the website.
- Hold regional seminars and webinars.
- Increase visibility of existing federal programs.
- Consider a two-tier process to help micro-business and entrepreneurs.
- Use emerging technologies to improve service to small business.
- Add a “hot line” to help entrepreneurs.
- Use customer satisfaction surveys and other feedback to provide two-way training to service providers and consumers.
- Advice to entrepreneurs: “Read and follow the instructions”.

### **Does IP protection help entrepreneurship?**

More research is required to determine if there is a correlation between IP protection and entrepreneurship. The complexity and cost of obtaining a patent or trademark, and the difficulty of protecting the IP from infringement, act as deterrents to many a small businesswoman. On the other hand, there are also cases where a patent or trademark has clearly helped a business grow and become a success story.

Each major finding is addressed in the body of the report with quotes from the participants. Wherever possible, the contrast between perception and reality is brought out. Suggested improvements to the IP protection processes are highlighted.

Although the focus groups included only women, many of the insights gathered herein have general applicability and would be of benefit to businesses owned by men as well.

The information in these focus groups must be taken as a point source reflecting the opinions of a small, albeit a select and influential group of women entrepreneurs who live in different parts of the United States. There is no attempt here to generalize these findings to a national audience or to draw statistical inference from them. Despite these limitations, the opinions offered and the insights gathered serve as useful guidelines for further research.

## LOCATIONS AND LOGISTICS

Two regions were identified for the focus group studies:

- Northern California/San Francisco Bay Area/Silicon Valley
- Washington DC Metropolitan Area

These regions were selected based on an evaluation of USPTO data on patents and trademarks to ensure that an adequate number of participants were available for the focus groups. For each region, a centralized location was chosen for the proposed focus group considering the availability of transportation, parking, facilities, cost and convenience of the participants. A cluster of towns and cities within a commuting radius of the proposed location was identified for the recruitment. The names of the selected towns and cities for each selected region are provided below:

### **Region 1: Northern California/Silicon Valley**

Walnut Creek, CA  
Pleasant Hill, CA  
Lafayette, CA  
Moraga, CA  
Oakland, CA  
Berkeley, CA  
Concord, CA  
Clayton, CA  
Orinda, CA  
Martinez, CA  
Pittsburg, CA  
Alamo, CA  
Danville, CA  
Pleasanton, CA  
Fremont, CA  
Dublin, CA

### **Region 2: Washington DC**

Washington, DC  
Arlington, VA

Falls Church, VA  
Bethesda, MD

## RECRUITMENT

### THE USPTO DATABASE AS WELL AS CONTACTS WITH LOCAL CHAMBERS OF COMERCE WERE USED TO RECRUIT THE PARTICIPANTS

#### Recruitment Process

Women entrepreneurs who have applied for a patent or trademark represent a special and select group in the US population. As such, the recruitment of a random sample of qualified women entrepreneurs and women professionals within a commuting radius of a specific location presented a challenge. The following process was used for the recruitment:

- For each region, select the towns that are within a commuting distance from a preferred location for a focus group meeting.
- Start with the USPTO database for patents and trademarks for the selected towns and cities.
- Apply successive filters to the USPTO database:
  - Filter 1: Sort by first name to locate only patents and trademarks filed by women.
  - Filter 2: Identify and tag patents and trademarks as abandoned/dead or alive.
  - Filter 3: Locate women with their addresses or by the names of companies.  
Note: This was a challenge as companies were not always willing to provide information about their employees. Furthermore, a significant number of women had moved from the documented address.
  - Filter 4: Locate the telephone numbers of women innovators from commercial sources.
  - Filter 5: Since a large number of addresses did not match the telephone numbers, the Realquest software supplied by CoreLogic was procured and used to trace addresses.

Realquest is the website for standardized nationwide real estate data and information which includes more than 145 million properties. It is a property and ownership search engine. This search engine enabled us to track and confirm the addresses of patent and trademark applicants and holders when phone numbers were not easily accessible. Also, when a woman's maiden name was used, we were able to locate her by her address on the USPTO application. And then, using her husband's name at the same address, we were able to find phone numbers listed only in the husband's name.

The support of local Chambers of Commerce was extremely helpful for recruitment. Social media using Facebook and Craig's lists were also used.

These efforts and the successive filters yielded enough women entrepreneurs/ professionals to recruit a focus group of 8 to 12 persons for each region. The overall yield was 3 percent or less.

### **Telephone calls:**

Telephone calls were made to the identified potential participants using a standardized script which explained the purpose of the call and the importance of the study. A trial run was made with 5 calls and the script was modified for maximum response. An average of three calls was required per telephone address to complete a yes/no response from a person.

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## **OBJECTIVES AND APPROACH**

### **The objectives**

The goal of the focus groups is to probe in-depth the issues raised by the NWBC as well as throw additional light on insights gathered from the quantitative analysis in phase 1 of the study. Specifically, the focus groups probed the following issues:

- What are the long term effects on businesses that receive patents and trademarks and successfully market their IP?
- What are the perceived barriers facing women entrepreneurs surrounding the protection of their IP?
- What are the actual barriers?
- How do we address these barriers?
- Is there a gender gap in the patent and trademark process?
- Are women showing increasing leadership in innovation?

### **The Approach**

To meet these objectives, Delixus adopted a comprehensive, detailed and responsive approach:

1. The focus groups were conducted in accordance with OMB guidelines 5 C.F.R. § 1320.3(c): which were incorporated into the plan by reference. The OMB control number was 3245-0380.
2. Six focus groups were held:
  - Two with women who have obtained patent or trademark protection
  - Two with women who applied for but did not obtain a patent or a trademark
  - Two with women who never applied for a patent or a trademark.
3. Locations and dates: As outlined below.
4. Focus group participants were selected at random from a regional sample.

5. Each focus group session started with introductions, a statement of purpose and assurance of confidentiality in accordance with OMB requirements. The disclosure form read and signed by each participant is shown in Appendix 1.
6. The proceedings of the focus groups were recorded, transcribed, analyzed and a narrative was developed to capture the perceptions, the realities, the suggested improvements as well as success stories and failures.

## QUESTIONS AND THEMES

The questions to be asked and theses to be presented before the focus groups were grouped around the issues that were of interest to the NWBC and the ones highlighted by the quantitative study. A common set of questions, summarized in the protocols listed below, were used for all focus groups:

### Protocols Section 1: Issues Raised by the Quantitative Study

Observations from the Quantitative Analysis	Lead-in Question	Follow-on Questions
Our quantitative analysis shows that “there is no statistically measurable difference in the proportion of successful women Trademark applicants and successful men Trademark applicants. The analysis shows no bias in the processing of trademark applications.”	Is this conclusion in synch with your perception? If it is not, why is that so?	<ul style="list-style-type: none"> <li>• Are there differences in the employment patterns of men and women?</li> <li>• Are there differences between men and women in R&amp;D opportunities?</li> <li>• Are there differences in the way men and women perceive risk and reward?</li> </ul>
“U.S. based women demonstrate increasing leadership in patent and trademark activities.”	Do you agree with this observation? Why?	<ul style="list-style-type: none"> <li>• What accounts for this trend?</li> <li>• Do women have more opportunities to take the lead in research and development?</li> </ul>
“There is a surge of innovation by women in some of the emerging high-tech industries.”	Do you agree with this statement? If not, why?	<ul style="list-style-type: none"> <li>• What accounts for the greater participation by women in the high-tech sector?</li> </ul>
“The number of patents granted to women is increasing at an accelerating pace.”	Why is there a noticeable jump in patent activity in the midst of a continuing, prolonged recession?	<ul style="list-style-type: none"> <li>• Is it a reflection of more women becoming entrepreneurs?</li> <li>• Does it reflect increasing investment by U.S. companies in R&amp;D?</li> </ul>

		<ul style="list-style-type: none"> <li>• Does it reflect an increasing awareness by women of the benefits of patent protection?</li> <li>• Does it show increasing participation in patent activity by recent immigrants?</li> <li>• Are the standards for granting of patents more lenient now as compared to those thirty years ago?</li> </ul>
Our quantitative analysis shows that “19.77% of all patents by men were unassigned as compared to 29.41% for women.”	Why do you think this is so?	<ul style="list-style-type: none"> <li>• Is there a difference between men and women in independent entrepreneurship?</li> <li>• Are women more likely to be independent entrepreneurs and keep their patents unassigned while men are more likely to be leading the research in businesses and corporations?</li> </ul>
“The ratio of successful women patent applicants to successful men patent applicants varies from a low of 73.36% in 1986 to a high of 93.57% in 2002.”	What factors influence this trend?	<ul style="list-style-type: none"> <li>• Opportunity?</li> <li>• Education?</li> <li>• Social factors?</li> <li>• Legislation?</li> </ul>

### Protocols Section 2: Questions of interest to the NWBC

Questions raised in the RFQ	Lead-in Question	Follow-on Questions
Introductions		
What are the perceived barriers facing women entrepreneurs surrounding protecting their IP?	Have you ever applied for a patent or trademark? If so, what are your perceptions of the process?	<ul style="list-style-type: none"> <li>• How complex was the process?</li> <li>• How drawn out was the process? How expensive was it?</li> <li>• Were you concerned that your ideas would get stolen once they were disclosed?</li> <li>• What is your perception of the USPTO web site? Is it user friendly?</li> <li>• Were you familiar with the patent</li> </ul>

		<p>and trademark process before you applied for IP protection?</p> <ul style="list-style-type: none"> <li>• How responsive are the current patent and trademark processes to modern technological needs?</li> <li>• Do you perceive that there is a gender gap in patents and trademarks? Why do you think so? What specific difficulties did you face in pursuing IP protection as a woman entrepreneur?</li> <li>• If your first application was rejected, what did you do? Where did you get help from? Do you perceive that as a woman entrepreneur you experienced specific hurdles in getting follow-on help?</li> <li>• Do you perceive that the participation of women in patent and trademark activity is increasing? Why do you think so? What do you think accounts for this increase/decrease? Are there economic or cultural factors at work here?</li> <li>• What is your perception about IP protection in the international marketplace? What is your experience in this matter? Do you perceive a gender bias in the international marketplace? Why do you think so?</li> </ul>
<p>What are the actual barriers?</p>	<p>Please describe your actual experience with the IP process.</p>	<ul style="list-style-type: none"> <li>• Are there specific difficulties that you experienced as a small business?</li> <li>• Are there specific difficulties that women owned business experience?</li> <li>• Are there specific difficulties that single mothers (entrepreneurs) experience?</li> <li>• Is financing available to women entrepreneurs? Is there a gender bias in obtaining finance for business?</li> <li>• Are there cultural barriers that women entrepreneurs face?</li> <li>• How familiar are you with the help that is available from the USPTO?</li> </ul>

		<ul style="list-style-type: none"> <li>• How familiar are you with the assistance offered by SBA programs to women entrepreneurs?</li> </ul>
How do we address these barriers?	What suggestions would you offer to improve the process for women entrepreneurs?	<ul style="list-style-type: none"> <li>• How would you make the process simpler?</li> <li>• Do you have specific recommendations that would help small business?</li> <li>• Do you have specific recommendations that would help women owned businesses?</li> <li>• What can the SBA do to help women entrepreneurs?</li> <li>• What can the USPTO do to help women entrepreneurs?</li> <li>• How can technology help?</li> </ul>
What are the long term effects on businesses that receive patents and successfully market their IP?	Do you know of specific case histories of women entrepreneurs who received a patent or trademark and built a business upon it?	<ul style="list-style-type: none"> <li>• What accounted for their success/failure?</li> </ul>
Closing comments		

## TRANSCRIPTIONS AND NARRATIVE

The focus groups were conducted as planned, in Northern California and the Washington, DC metro area in the time period August 25, 2012 to August 30, 2012. Audio recordings were made and transcribed and a narrative was developed from the transcripts.

There was convergence on several issues among the disparate focus groups. These issues were captured and highlighted in each of the major areas of interest, namely, perceptions, reality, fix and the benefits of IP protection. These are stated in the participant's own words.

1. Focus group 1 in Walnut Creek, CA, Women who successfully applied for and received IP protection.
2. Focus group 2 in Walnut Creek, CA, Women who applied for but did not receive a patent or trademark.
3. Focus Group 3 in Walnut Creek, CA, Women who have never applied for a patent or trademark.
4. Focus group 4 in Walnut Creek, CA. Women who have never applied for a patent or trademark.

5. Focus group 5 in Arlington, VA. Women who successfully applied for and received IP protection.
6. Focus group 6 in Arlington, VA. Women who applied for but did not receive a patent or trademark.

## QUESTIONS RAISED BY THE QUANTITATIVE ANALYSIS

### WHAT ARE THE FACTORS THAT MOTIVATE WOMEN ENTREPRENEURS IN THEIR SUCCESSFUL PURSUIT OF A PATENT OR TRADEMARK?

As with other questions in this study, the motivations for applying for and successfully pursuing a patent or trademark are complex. Perceptions of risk and reward, increasing the value of the company, adding credibility to one's business, gaining recognition and increasing revenues all enter into the equation. Financial ability to hire professional help in pursuing IP protection

“The reason I applied (for a trademark) is that it adds credibility and it adds value to a business. You get protection and in addition when people see these names...they take you seriously.”

appears to be a major differentiator between those who successfully pursue a patent or trademark application and those who abandon the pursuit. We reproduce below some of the comments from the participants in the focus groups to illustrate this observation.

“I applied for patents to increase the value of my company. Down the line I wanted to sell it as an entity. I had no trouble getting a patent but I did go

through a patent attorney. It cost me a little money. But it made it a little easier. I thought it was worth it.”

“I have a positive experience with trademarks. I know someone who works in the patent office (who helped me). I found different groups in the USPTO system. I read up on everything. I tried every group. But then I have three years' experience in the health field. I applied in the fall. I heard next May.”

“We have an expression in nursing that if it's not documented, then it didn't happen. That's the advantage of a patent or a trademark because it forces you to document and this country runs on documentation.”

“The reason I applied (for a trademark) is that it adds credibility and it adds value to a business. You get protection and in addition when people see these names...they take you seriously.”

“I thought it was important to get the name recognition.”

“It generates more revenue.”

“I think it was definitely worth dealing with that company that specialized in handling trademark applications.”

### WHY DO WOMEN ENTREPRENEURS ABANDON THEIR PATENT OR TRADEMARK APPLICATIONS?

A host of perceived and real factors, influence this issue. Some of the most important factors are: Fear and awe of the process, the absence of clear, easy to understand documentation, lack of financial resources to obtain professional help, discouragement from family, friends and advisors, and the demands of multiple roles as an entrepreneur, mother and caregiver. Here are a few representative comments:

“The discouragement from society, from parents or friends rather than any rejection from the USPTO is what accounts for a patent or trademark application abandonment. People say...”Oh, girl! Why don’t you play with your dolls? Why do you want to do something in hi tech”.

“I came up with the idea. I made the drawings, and I got some of the people at CalPoly in the manufacturing business. So I started creating it. And then I just stopped because of the discouragement (from peers).”

“I was married once and I don’t think my husband would have supported me in what I am doing and I would not have realized what I have realized. For a man it is different. If a man is trying something, the woman would support him. If there are more patents and trademarks for men, that might be a reason.”

“Fear of the process, not knowing and understanding it. I delayed eight years from the time I knew I needed to do it (file for a trademark).”

“In most women’s situations, they are a little entity and that’s why they are abandoning them because they are footing the bill.”

“Not understanding the process because it is not laid out. So that you can print it off and say, step 1 on January 1, step 2 on January 2 and so on.”

“It is a lot more work to do for a patent than it is for a trademark. It is a lot more involved.”

“Once you have a patent or once it is pending, you have deep enough pockets, if it is a good enough product to defend it.”

“Women have multiple roles.

“I still think there is some gender differentiation especially with the older generation. maybe not so much with the younger generation.”

“The discouragement from society, from parents or friends rather than any rejection from the USPTO is what accounts for a patent or trademark application abandonment.”

“I had to reapply for my trademark. I did not know I had to renew it. Somehow I found it I couldn’t use it any more. A friend of mine works in the patent office. I had lunch with her. I asked her, “My trademark has expired. What do I do?” I had to reply for it all over again. Very irritating!”

“There is nobody out there to help me. The process is so obscure. I am getting along fine without a patent or trademark.”

#### WHY DO SOME WOMEN ENTREPRENEURS NEVER APPLY FOR A PATENT OR TRADEMARK

Perceptions of the patent and trademark process as complex, expensive and drawn out play a large part in the decisions of women entrepreneurs not to file for IP protection. Other reasons include: lack of a support system, web sites that are not user friendly and mired in legal language, obscurity of the process and a perception that a cost-benefit analysis of IP protection does not justify the investment in time and money. A few comments from the participants are reproduced below:

“To me, the reason I did not apply for a patent or trademark is that I don’t understand how the process works. I don’t know how to go about it. I have asked different people. Not everyone has a patent or trademark for their product. I am not sure it will help me.”

“There is nobody out there to help me. The process is so obscure. I am getting along fine without a patent or trademark. I didn’t even know I could get one. It does not bother me one bit.”

“I am not familiar with the process. What does it take to get a trademark?”

“I looked up the internet once. It was all so complex, I just gave up.”

“I have heard it takes anywhere from two to seven years. By the time I get a patent, probably what I am doing will have changed, anyway.”

“Awe of the process...In my mind it was not something a little person would do.”

“It is very expensive. I am told it can cost up to ten thousand dollars to get a patent.”

“I am doing very well in business. I don’t see any advantage to getting a patent or trademark.”

#### BARRIERS TO REDUCING GENDER INEQUALITY

The question was asked: What barriers do women entrepreneurs face in reducing gender inequality in patents and trademarks?

Traditional cultural paradigms do not breakdown easily; they only wither away. Women entrepreneurs who strive in a business world dominated by men face an uphill battle in getting acceptance as intellectual peers. Women are still expected to be mothers and caregivers in the traditional sense. The pressures of modern life wherein a large number of women are single mothers struggling to support a family and at the same time pursuing entrepreneurship add to the stresses on women. Further research needs to be done to understand quantitatively and

qualitatively the influence of various social and business factors on the success or failure of women entrepreneurs. Some comments from the focus groups are offered below:

“As a woman, they do not listen to you. I am the CEO of a company. Once I answered a call from a customer. He said, “Could I speak to some man who knows the business?”

“I think it is societal values. People do not take a woman seriously as they do with a man. They

“Women entrepreneurs who strive in a business world dominated by men face an uphill battle in getting acceptance as intellectual peers.”

ask you, “How do you know you are going to be successful?” Who asks a man that question?”

“A large number of women are single mothers. Women are single, with or without children. And they have to support themselves. They are pretty much on their own. They have to be pretty

inventive.”

“They expect you to do things for free. I mean it’s constant. I was just asked to take on a production for a very, very major author. “Well, I can do all of this but I’m not going to do it for free.” Well, it was like everybody was flabbergasted. And I say, “Well, why don’t you give it to...” and I named some male colleagues. (laughter) I mean it’s really blatant. It’s not in my imagination at all. Male chauvinism? I lost a client over the same thing because they weren’t even paying as much as everybody else. And they tried to talk me down. They tried to do other things. They tried to take my intellectual property. And my contract they had signed for 6 years and turned it completely around. And this is a man’s world.”

“I was working at a university when they started promoting men in nursing, in the late 1990s. They (the men) jumped the gun and said, “I’m male. I’m good. I can lead.”

“Men’s workday ends at 5. Women’s ends when they go to bed. And that’s a fact.”

“Yes. Women have several jobs every day and only one of them is in the work place. The other jobs, well, they do not get paid for them---traditional roles that women perform. So, yes, it is exhausting.”

My own experience is...when I first started to apply for a patent I was told by an ex-patent examiner, “Get your husband on it and you will have a better chance.”

“I think that what is happening to women even in all of our evolution, is that we’re still expected to be June Cleavers (TV show character).

“Even with us doing what we do in the work force, is that when we come home we take off our cool Brooks Brothers/Ann Taylor suit and put on our June Cleaver dress and the apron: “Hi honey. Dinner’s ready... And she cooked in high heels.”

“I still think it is a man’s world. I think a woman has to struggle to get accepted especially when you present your product and you try to sell it. They are always all men. Everywhere there are men. There are very few women.”

“Yes, I think there is still some discrimination. It makes a difference if you are a man or a woman.”

“There’s another layer of complexity to your question. From my own experience, the first years that I made significant money, and by significant I mean I earned a six figure income, I really was very happy but inside myself I really looked at whether this impacts my femininity.

“Now I was doing a man’s role. I was supposed to be at home cooking dinner and taking care of kids. And I had a hard time because when I was working for (Fortune 100) corporation in my day, working with all men. Your personality changes; you become harder. You feminine side is gone because you have to make sure you’re staying up with the guys...you’re running with the bulls.”

### INCREASING PARTICIPATION OF WOMEN IN HI TECH INDUSTRIES

“Society is more accepting of what women do. But there is still a lot of drag.”

The quantitative analysis showed that 12.95% of the patents in Photography and Optical Equipment had at least 1 U.S. woman inventor. For Optical Waveguides, 11.55% of the patents had at least 1 woman inventor. Optics, Eye Examining, Vision Testing and Correcting came in third at 10.91%.

This is a noteworthy trend as hi tech industries tend to generate high paying jobs and have a substantial effect on the output of the nation’s goods and services. Several factors influence this trend. Changing perceptions of gender roles in American society, the entry of more women into science and engineering, increasing access to higher education, legislation and law suits have all contributed to the successful entry of women into hi-tech sectors. However, there persists a wide gender gap that needs to be addressed. These observations are illustrated by a few selected comments from the focus group participants reproduced below:

“There are several other factors here. People do not talk about women’s lib any more. Back in the 1960s we were breaking through a lot of stereotypes ---of a women being a secretary to a man, being the support system at home and not going out in the work place. So, all of that has changed and that is what-- forty, fifty years or more. It is changing attitudes about what women can do. It is women getting into different fields of education and also getting more advanced degrees. “

“Society is more accepting of what women do. But there is still a lot of drag. They get pulled down.”

“It’s money.”

“And there are no barriers.”

“And it’s the future.”

“There’s more opportunity, more education.”

“I think more women are going into the sciences than in the past.”

“I think women are becoming more independent because their roles in the workplace are changing. Although the U.S. has achieved some equality between men and women, in the board rooms women are under-represented. There was a study done in a Fortune 500 company. It showed that 27.4 percent of Fortune 500 companies have no women executive officers. For that reason, women feel that they need to be more empowered.”

“Now, over the years, there has been an evolution so that there is more equality in the work place.

“There have been a lot of law suits too.”

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### WHY IS THERE A GENDER GAP IN THE ASSIGNMENT OF PATENTS AND TRADEMARKS?

The question was asked: The quantitative analysis showed that more men assign their patents and trademarks to companies as compared to women. Why do you think it is so?

This question relates to the relative participation of men and women in entrepreneurship. Most startups are small businesses headed up by individuals or a small group. The answers from the participants confirmed that indeed most women tend to be small businesspersons as compared to men who may have jobs with large corporations.

“The gender gap in patent and trademark assignments relates to patterns of employment. More men work for large corporations as compared to women who tend to be entrepreneurs.”

“More men work for large corporations than do women. Women tend to be small entrepreneurs. I think there are more resources when you work for large organizations so that they can go for their patents or the support that you would have within an organization. Small entrepreneurs do not have such resources.”

“The recession has leveled the playing field...and everybody has had to step back and rethink”.

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### THE IMPACT OF RECESSION

The question was asked: “How has the recession impacted women entrepreneurs?”

The prolonged recession since 2007 has had a profound impact in the work place. While many women have lost their jobs, the perception is that the recession has hit men harder than women.

Women entrepreneurs, by and large, look upon the recession as a challenge and an opportunity. They show a remarkable resilience in not just sustaining their business but in innovation as well. This aspect of intellectual property protection, namely, the impact of recession on patents and trademarks needs to be investigated further.

“What I find that in the recession, women’s jobs are safer than men’s jobs.”

“It has leveled the playing field for one thing. And everybody has had to step back and rethink.”

“The recession affected my pet sitting business because people were no longer traveling and my niche market was doing overnights. Two sides of the coin: really bad for pet sitting so I said, “Well, like she said there’s money out there...let me recreate myself.”

“The recession has caused me from licensing my patent to selling them outright. Because companies that had before saw an opportunity to licensing and making big bucks are very hesitant because of the market.”

“Recession has also forced us to work harder.”

“It’s just increased their game. Their hustle level just got more intense. They just started to draw on everything within them and it just made them up their game.”

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## THE ROLE OF FINANCE

The question was asked: How difficult is it for women entrepreneurs to pursue IP protection because they do not have access to financing? Is there a gender gap in financing?

There was unanimity on the importance of finance in business but there was a difference of opinion among the women entrepreneurs as to what factors influenced a successful loan application or a grant. There appear to be demographic differences in the success rate. Women who were experienced and more business savvy took the time to prepare credible business plans as backup to their credit applications and were successful. Younger and less experienced women were not as careful in their applications. They had less of a track record and were less successful in obtaining loans. The demographic aspect of finance for women entrepreneurs needs to be investigated further. Here are a few excerpts from the focus groups:

“I think gender gap (in financing) happens in the beginning when they are just betting on you as a person”

“I’ve had pretty good luck getting a loan.”

“I have too and I think it was a demographic. I was a woman. I was middle aged. I think I hit the nail.”

“I created a serious business plan but the bottom line was that I didn’t get any sales yet. At that point he had to bet on me. He (the investor) is betting on a demand, on sales. My feeling is that before you get to that point, you’re at a disadvantage if you’re a woman.”

“In terms of getting an answer to your question about whether there is a gender gap, I think that gender gap happens in the beginning when they’re just betting on you as a person.”

“Well you have to show what are yours returns, what are your distributions. What is the take away from this? How are you going to benefit as a patron? You have to have everything spelled out.”

“The basic driver in Silicon Valley is education. If you happen to have a PhD from Stanford or MIT or something like that, that makes a difference, whether or not you are a man or a woman. That’s number one. Number two, your team.”

“Then there are specific programs that are available to minorities, to women, etc. There was a very successful case that was pointed out to us using Cloud Funding in Oakland, California.”

“I think there is more than one track. I think there is intellectual property and there is product. A product may be easier to sell although you do not know if he is backing you or the product.”

“Everyone knows about the Shark Tank. There is a national group and the district group is based here in Georgetown University called the Dolphin Tank. I think to some extent they help you with investments but mostly they help you with your pitch.”

“If you already have a patent or trademark, does it make it easier to procure a loan, or it doesn’t matter? I think it doesn’t matter. The patent does not help you.”

“I would like to have a website which would tell me where the funds are, where women have an opportunity to start, hopefully (to obtain loans) at a discounted interest rate.”

“If I had to do it over again, I would put the product in the marketplace. If it does well, it doesn’t take any time to do a provisional patent.”

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#### THERE IS AMBIVALENCE AMONG WOMEN ENTREPRENEURS ABOUT THE BENEFITS OF HOLDING A PATENT

Most women entrepreneurs are ambivalent about the benefit of a patent. The expenses are high and the waiting period is long. Unless it is a product that has a large market potential, the perception is that a patent is not worth it. There are also concerns about patent

encroachment, especially in the international market.

Women entrepreneurs are more positive about the benefits of a trademark. The process is easier, waiting periods are short and the benefits of name recognition are widely appreciated.

“If I had to do it over again, I would put the product in the marketplace. If it does well, it doesn’t take any time to do a provisional patent.”

“And I just think that you’ve spent so much money and energy for the patent but you don’t get much back. That’s my really big issue. Right now I should be starting to make money but then because of so much legal fees I can’t start making money. And I have so many legal bills. It’s just not worth it.”

“I think we should differentiate between patents and trademarks. Trademarks are a good idea, even if you are a small business. You want to get your name out there and protect it with a trademark. You want people to remember your product so that you get business, whereas with a patent, unless you are a big corporation, they can walk all over you. You see that patents are being disregarded in other countries. How are you going to go to China to sue somebody? Or, a European patent that is infringing on yours?”

“If I had a friend who was going for a patent, I would say, good luck to you, it is going to cost you a lot of money and it may well be that a big corporation is going to steal your idea, tweak it a little bit. You are just not going to be able to sue a big corporation. You hear of some such stories but that is one in a million. Basically it is not going to be very successful.”

## PERCEPTIONS

*Perception:* “I looked into patents but after looking into it I was so convoluted with nothing for me.”

### THE PATENT AND TRADEMARK PROCESSES ARE TOO COMPLEX, DRAWN OUT AND EXPENSIVE

This is the most common perception of women entrepreneurs. Indeed, this perception is so widespread that it becomes a hard core belief. It cuts across industries, regions or the degree of success with the patent and trademark process. Those who have never applied for a patent or a trademark express this opinion most often. Those who did apply but were not successful in obtaining a patent or trademark did surmount the perceived difficulties of filing an application but were frustrated when they got their first rejection, objection or request for further explanations. Those who have successfully obtained IP protection seem to have used legal counsel or to have carefully and meticulously followed the instructions given by the USPTO.

As we explore this issue deeper, we find that it is a systemic issue that is tied in with a large number of issues - the paperwork, the legal requirements, the time it takes to understand the processes, the cost of obtaining IP protection and the long timelines. From the perspective of the entrepreneur, there is a disconnect between the business needs of entrepreneurs and the legal requirements of IP protection. Entrepreneurs who are often pressed to be the first on the market with their products or services are torn between spending their time pursuing patent and trademark protection and the demands of marketing and sales. Very often, technology or market conditions have changed so much in the time needed to obtain IP protection that the patent or trademark may have lost its relevance in the marketplace.

If perceptions are reality, they modulate business strategies and business decisions. Most women entrepreneurs approach the IP protection process with a combination of enthusiasm and bewilderment. Those who have not obtained a patent or trademark in the past are most likely to feel frustrated by the seemingly complex processes.

Submitted below are some quotes from the focus group participants about this issue.

“I looked into patents but after looking into it, it was so convoluted with nothing for me. I couldn’t just grab anything. I couldn’t hold onto the information. Last week, I even looked into the internet and it was just too much of nothing.”

“...The reason why it never worked for me is the complexity of the process. In a legal system that I don’t want to have anything to do with, the legal system is not friendly to women.

“I think there is a perceived cost that doubles with the lack of information.”

“My own personal perception is it is expensive. The process time is lengthy to do it. And then once, even if it is done, the investment to acquire an attorney to pay for the initial cost, to even present it to the patent office, is almost like you wait X number of months and then somebody has already done it. You invested all this money and now there is no return.”

“What is the benefit of it all? As you were saying, I have come up with this idea, why bother? And I told my friend I have this idea where you can button your pants (laughter) and I was excited. My friend said: “Excuse me honey but that is already out there”. So I felt good. I didn’t waste much time developing this thing to find out that it is already out there.”

“...So I ended up getting a patent attorney. It cost me a fortune. I wouldn’t change it. But it will take me years to pay to recover the funds. I am glad I got him because he wrote all the patents as one patent. I don’t think I could have done it on my own.”

“I want it to be very easy...1, 2, 3 steps - makes it very easy to apply. But when they give you an official rejection, then it’s go through the appeal process which is very-- you have to be an attorney. I have a master’s degree in finance. I started to do a joint JD. I started to read that and you know, you needed to have an attorney.”

“And he says, “Why didn’t you pursue this (patent)?” I said, “Well, I am a single parent with two kids. I work at (a Fortune 500 company) all day long. Where is my time?”

“When I did feel like I had all my market research done and I was ready to actually apply for it, oh my gosh, it was just doing the paperwork itself and the diagrams, and how it works, getting all that information where I thought that even one of my clients who has special needs could understand this. And sending it in and having them come back to me saying, “No, we do not understand this. You need to make this a little clearer. This looks like...this process looks similar to this one here, how is yours different?”

“I question, having the patent for a while now, whether it is really worth the effort. I think on future things that we will probably go ahead and do a provisional and just see if there is a market out there for it and go ahead and manufacture it, license it, whatever, and put it out there. If it looks like something that is going to take off and really needs the protection of a patent, then maybe go ahead and proceed with the patent process.”

“I think it (the process) is intentionally intimidating.... I think they don’t want to fix it because they don’t perceive it as broken.”

“If somebody infringes on your right, you have to go after them and I do think to myself sometimes that if somebody was infringing, to what extent would I go after them? I guess I could write them a nasty letter but would I go to court, probably not. It’s expensive.”

“So I said, “...What should I do? I have this idea, I even have a name.” He said, “Well, I would definitely trademark that.” So, I did go online. I didn’t find it difficult....Since I had applied in July of 2010, I got a letter in September saying that they were reviewing it. And by the following March, I had my certificate.”

“They have these multiple filing dates. You file one and then after two years you have to file again and after 10 years – I think I’m on the 12 year mark this year on one.”

“Mine expired and I didn’t even know it. On the back of the certificate it says, in the 7<sup>th</sup> year you have to reapply. And I don’t know about the 2 year thing. I never had -. But mine went out and I didn’t even realize it and I couldn’t reapply.”

#### FEARS ABOUT IP THEFT ARE WIDESPREAD

Fear is a strong deterrent to innovation. To successfully patent or trademark an innovation one must not only meet legal requirements but must have the capability to defend the idea from poachers. Deep pockets are often a requirement for legal defense. This fact acts as a filter on innovation ideas. Most vulnerable are small and micro-businesses that do not have the financial means to defend their IP in a competitive economy dominated by big businesses.

*Perception:* “There is widespread fear that ideas get stolen once they are disclosed in a patent or trademark application.”

The widespread fear of theft was a surprise factor that popped up as we probed deeper into why women do or do not file for IP protection. Case after case of IP theft was narrated by the participants. While some of this perception may be attributed to the fact that the entrepreneur failed to do adequate research into the existing art, many of the cases were genuine and were an expression of the frustrations felt by women who had an original idea but as soon as they shared it with someone, it was stolen. The theft may come from colleagues, competitors, friends as well as bosses. What is surprising is that the fear of theft was rampant among those who had never applied for a patent or trademark as well as with women who had applied for and either obtained IP protection or had abandoned the application after it was filed.

While the contributions made by large businesses in innovation are recognized, documented and protected, the contributions of small and micro businesses are underrepresented in the research because so much of it is lost before it surfaces at the reportable levels. Further research needs to be done to quantify the extent to which small and micro businesses contribute to innovation.

While the number of patents and trademarks are one measure of the innovative vibrancy of the economy, it does not adequately represent the innovative ideas that are abandoned because they were stolen or not pursued because the innovator felt that it did not make economic sense to invest time and energy pursuing an idea that would be stolen anyway.

“You know, I want to make enough money to enjoy life, to help my family, to do some things with the youth. And I wrote a poem and ...then I heard \$\$\$\$ (person) sing my poem on TV. And even now my mind goes: ‘What?’ It was word for word. That’s what got me...”

“At a yoga teacher conference I shared my idea about the type of yoga that I was working on with the owner. The next thing I knew he had it on his website: \$\$\$\$ (name of a product), which is what I had come up with.”

“Yes, he owns half of the patent now because the gentleman went behind my back, filed it, sold it to \$\$\$\$ (person) to get the funds because he had the money.”

“...it has been really frustrating. We did everything that we should have done. I followed everything that my patent attorney said to do. “Okay, file provisional first”. Then we also filed a utility (application) but we are still waiting for it to be approved. But while you are waiting for your patent to be approved, it is a long process, and people are just taking advantage of that and they just come up with the (copied products)...”

“We’ve had a lot of copycats since we introduced our product. These big companies, they take our name - it is almost the same. And the next problem with trademarks is how do you defend them? And now we have stuff constantly coming from Asia. They are so bold. They will send you an email with a picture of your product.”

“..They cross engineered it and it’s still not as good. But they are a big company. They market in a totally different way.

“They are going to steal the idea. They are going to do everything they can so you really have no protection. So you have a piece of paper that says you have a patent.”

“I would like to have that patented, trademarked or copyrighted but after the experience that I had after a year...I don’t even know if it is worth going through it ....”

“What I know of it is that it is a very expensive process to patent. The concern is, you spend all that money, I mean thousands of dollars, and somebody can copy it anyway. All they have to do is change that one little thing. Sometimes you wonder if it is worth it. And you also need a big legal team behind it so that you can even fight it. So if they copy your product, unless you go after them with a huge amount of money at the cost of tens of thousands, it doesn’t make sense.”

“And I had my intellectual property stolen by one of the largest non-profits in the country.”

“There is a group in Europe using my domain name. When they started using it, they put a little letter before it.”

“I presented it at an international leadership conference in Prague and I am seeing things that are verbatim all over the place...close enough to home that I am suspicious. Good ideas can happen to different people at the same time but why it’s the exact same words, I am not sure.”

“And it is interesting to note that people in the business are sometimes the worst offenders for intellectual property.”

“...A lot of investors say, if you file for a patent, you have to publish it, all the details, publicly. Everybody can look at it and know what you are doing there.

Moderator: You mean copy it?

Participant: Learn something from it. Eventually, it doesn’t really protect your work.

Moderator: Do you all agree that you feel that if you were to get a patent it does not necessarily protect you?

Participants (in unison): Absolutely.

Moderator: There appears to be a consensus around the table, more or less?

Participants: (in unison) “Yes.”

#### THERE IS LACK OF KNOWLEDGE ABOUT THE PATENT AND TRADEMARK PROCESS

While the available information about the patent and trademark process is comprehensive and complete, it

is not easily available to potential users or is not easily understood by them. To the first time user, the patent and trademark process is often a mystery. She approaches the process with a degree of awe, often with preconceived notions gathered from friends and colleagues. She is looking for a support system that would explain in simple, easy to understand terms the requirements, the process, the methodology and the steps that need to be followed in the application process. The issue is one of both simplicity and ease of use. Of particular concern is the need of a support system to sustain an innovator after that first rejection from the patent office. While considerable strides have been made in the direction of providing simple, easy to follow instructions, there remains considerable room for improvement, especially as the process applies to small and micro businesses.

*Perception:* “I did not know I could patent or trademark that.”

“When you work for an employer, even though I worked for so long, I never knew that I could do a patent while you are working for an employer because you think that your ideas are a part of the project though I am the one who is researching - but I am researching on their time.”

“Over the years I came up with ideas all the time, and I thought, “Wow, I should go for a utility patent or a design patent. It is a great idea”. And then I let it fall through. So I am here because I know I am ignorant about the process and I think it is time for ideas to work for me.”

“The reasons many women do not apply for IP protection are: lack of knowledge.”

“...It points back to the barriers that I was thinking of. I am not sure if they are real or perceived. Not understanding the value of the business and how having these things of IP will create value, not understanding the importance of creating a brand, not having a basic understanding of intellectual property.”

“For me, the actual barriers are the time lines. You’re not sure what you’re doing. Like what I said, is it a trademark or a service mark? By the time you probably figure out what you probably should have been doing, you’re already too late.”

“.....When you talk about lack of information, well, that is the very first barrier that they are preventing (you from patents and trademarks).”

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### THE USPTO WEBSITE IS NOT USER FRIENDLY

One of the themes that surfaces again and again in the focus group discussions is that the patent and trademark process is not sufficiently responsive to small and micro business or to individual

*Perception: “The USPTO website is too complex and not user friendly.”*

entrepreneurs. The perception that the USPTO website is not user friendly should be understood in that context. Summarily, the existing website is comprehensive and user friendly but the perception is that it requires a great deal of patience and perspicacity to wade through it. It is not so much a question of a lack of information; the information is all there. It is rather a question of how it is presented and how user friendly it is for someone who is totally unfamiliar with the IP protection process. This reinforces our observation that a two step process for IP protection would go a long way towards addressing this issue and helping the individual entrepreneurs or micro businesses. Innovation by individual entrepreneurs and micro businesses is one fountainhead of creativity that is perhaps not tapped as efficiently as it can be. A first step may be taken in this direction by implementing a website geared specifically to small entrepreneurs. The institution of a two tier IP protection schema would require higher level authorization or perhaps even a legislative remedy.

Here are some quotes from the focus groups:

“I didn’t do the patent drawings although my office used to do that. We specialized in ..., and I had a very good firm for that and that was doable except that figuring out how to do it from the government’s website is a chore. And there’s a fair amount of wrong information on it. When you call their little help desk and it seems you always get some old guys who “really want to help you honey” and they said, “No no. Don’t send in this form. Do this. Here’s the list of what you need” but it’s not described in plain terms on the government website. It’s awful.”

“I would say that my experience with the trademark back in the old days when you didn’t have the computer was much easier. Because things were on paper and they were much more simplified. Now that they use the computer everything is so wordy, so complicated and impossible to find. So it has gotten much more complicated.”

“Because right now, when I look at it... it’s just too much “legalese”. I don’t get it. And I’m an educated person.”

## WOMEN ARE DISCOURAGED FROM GOING INTO SCIENCE AND TECHNOLOGY

As observed in the quantitative study that preceded the qualitative work, the contribution of women in the scientific and technical disciplines, as measured by the number of patents and trademarks granted, has shown a sustained and noteworthy increase over the last twenty years. Nonetheless the perception persists that women are discouraged from pursuing careers in science

*Perception: “Women are discouraged from getting into science and technology...there is a gender bias here which is culture bound”*

and technology. Cultural paradigms die hard. The American culture, like the culture of so much of the world, is a prisoner of long held notions about the role of women in society, the differences between men and women based on “the right side of the brain” versus “the left side of the brain”, childcare, family responsibilities and a host of other set ideas. Certainly, the gender gap, as measured by patents and

trademarks filed and granted, is decreasing. But it is also true that the gap persists. Cultural norms in America are varied; one shoe does not fit all. Whether the gender gap relates to how boys and girls are brought up in families or if indeed the gap can be closed and how are subject matters for further research.

These observations are illustrated by a few select comments from the focus group participants:

“I think that we as women are often not encouraged to do science, not encouraged to think about technical things and that is where I want to excel.”

“When we are on our own, then there is so much cultural stigma, ancestral background of limitations and roles.”

“But there are women who would let the traditional barriers stop them. There are some of us who are saying: “With the support of my sisters I know we can do this together”. But some of us are saying: “I can’t wait. I could die where I live right now, not making it to eighteen. And so I got to step out now, hell or high water. So I got to do it right now. So there are two ideas running in parallel.”

“I always thought that mothers taught men or fathers taught men to be aggressive and positive about themselves. It is a natural thing for them to be positive about what they want and where they want to go and what they want to receive from it.”

“...Even with all the advancements that women have made - the female are still looked upon - “well honey, well sweetie, why don’t you...”

“...My personal belief is just that men are different from the day they are born.”

“I was the only African American female in this company and the thing in medical device sales is that it is male dominated. And I have always feared that I would bring up an idea, it would be taken from me because I was perceived to be young and maybe I did not know what I was doing.”

“I came here (to the US) thinking there is no gender (gap), no difference, discrimination. And I am shocked that there is really a lot here that I did not think it existed.”

“It is the subculture. I mean like the Indians. They want you to be more mathematical. So you head towards the engineering field or something related but there are other cultures that are, for instance the Filipino, I mean they are saturated in nursing.”

“I was raised bi-internationally... all of the males have been raised with the understanding that they will go into that career side (engineering) while the women are trained in education, academics, literature, the fine arts, dancing.”

“...It is different depending upon financially where you are growing up, sociologically who are the people that you are surrounded by, culturally, in the global perspective, do you believe you are one with people who are in India or do you believe that in China?”

“You know it is different. There are outside relationships. What women have with their superiors is just working, and have coffee talk conversations but there is always the sports talk, and that kind of leads to other things. They learn about patents and copyrights and that leads to other conversations.”

“The networking is so important. After work, I see that the guys go to the bar and talk. I was not a part of that group.”

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#### A FEMALE VOICE AT THE OTHER END OF THE PHONE?

The USPTO has made enormous strides in hiring and training women patent examiners. A majority of patent examiners, perhaps as many as sixty percent, are women. Nonetheless, the perception persists among women entrepreneurs that there are an insufficient number of women patent examiners. The perception arises not so much from who answers a call for help but how it is handled. Most women who call the USPTO for help or visit their regional offices for help are entrepreneurs or individual innovators who do not have the financial means to hire an attorney. They require detailed answers and pointers towards information that may be available somewhere on the website. Sensitivity training for the USPTO help desk is perhaps the answer.

*Perception: “Women prefer to talk to women patent examiners. The perception is that examiners are not sufficiently sensitive to the specific needs of women entrepreneurs.”*

Here are a few quotes:

“My experience when I called or went to the office in San Francisco, I always spoke to men. I didn’t see women. I didn’t have the opportunity to talk to a woman.”

“I do remember when you were talking about the attorney that there was actually a woman who really helped me because I had some problems in terms of trying to get the service mark.... We had to go back and forth. I was impressed with how she really was working hard to make sure that I got this.”

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### AN ARCHAIC PROCESS?

Calls for a strategic rethinking of the patent and trademark process were made by some of the participants. The current process labors under the burden of history, the rapidity of technological

*Perception:* “The process itself is archaic and needs overhauling.”

obsolescence and the pressures that it creates to bring a product or service rapidly to market. Progress has been made in accommodating these challenges but it is perceived to lag behind the needs of the times. The reference to an archaic patent and trademark process

comes up in multiple contexts while probing the issues of process complexity, inordinate timelines, costs and gender bias. The voice of small business and of women innovators who are suggesting a strategic rethinking and simplification of the IP protection process deserves to be heard. It could be one of the major benefits of this important study.

A few select quotes are reproduced below:

“I feel that the process itself is so archaic.”

“They have not made any changes in the process itself since inception. It is outdated. At one time all patents, copyrights and trademarks were done by men because women were raising kids. We were doing the woman thing. It (the process) was geared to what they were doing. I do not know, if it is (male) ego or something, it has not changed. And now that more and more women are offering their ideas, and they are coming into their own right of supplying good ideas and products - that verbiage is still the same. It has not changed.”

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### WOMEN ARE HARASSED BY SALESMEN AND ATTORNEYS ONCE THE APPLICATION FOR A PATENT OR TRADEMARK IS DISCLOSED

A patent or trademark disclosure is perceived by many women to be self defeating. Not only does it reveal to potential competitors the details of the product, process or service that the disclosure is supposed to protect, it attracts poachers and invites an avalanche of solicitations from attorneys and others who aggressively try to entice the businesswoman into buying their services. The entrepreneur who is struggling to keep a business alive under

*Perception:* “Women are harassed by attorneys for business once a patent disclosure becomes public.”

enormous financial stress is burdened further with the task of fending off the solicitors. This is a “downer” and acts as a dampener on innovation. A simplified IP protection process that provides temporary protection for, say two years, to an innovator would go a long way towards helping small businesses focus their energies on the marketing and sales of their innovation. If the innovation is accepted by the market, a second tier process with more stringent requirements can perhaps take over. It would also help if there are laws against undue solicitation and aggressive poaching during this initial period of gestation.

A few voices are articulated here:

“It’s like the ambulance chaser. It felt very much like the attorneys chasing you as if you just got hit by a car. It was really a turnoff.”

“I got a lot of mail with bills, like the same amount as the trademark and patent application was a lot of mail...the one company that looks like the US patent office. There are a few of those.”

“I guess that is one comment I can make about the patent office is that of course your information is publicly available but then that means you have all these ambulance chasers who send you mail and they try and make it look like it is from the government and you have to use them and then you see they are charging lots of money and I just had this little freelance business.”

*Perception:* “There is no assistance or guidance available following the first rejection of an application by the USPTO. Attorneys are too expensive for most women entrepreneurs who often toil as single mothers”

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#### THERE IS SCANT ASSISTANCE AND GUIDANCE FOLLOWING THE FIRST REJECTION FROM THE PATENT AND TRADEMARK OFFICE

While most women entrepreneurs approach the initial filing of a patent or trademark application with some awe and trepidation, they do manage to overcome that first hurdle with perspicacity and assistance from the patent office as well as their own support systems. However, it is that first rejection letter from the patent

office that is the biggest hurdle in the successful pursuit of a patent or trademark. Most women just do not know where to turn for help at this stage because the rejection letter from the patent examiner is often stated in legal language not understood by laymen. Individual entrepreneurs and inventors do not always have the financial means to consult attorneys. So, frustration sets in.

This frustration is articulated in select quotes submitted below:

“It has been an interesting scene; the process...The paperwork is crazy. The initial application is easy. You just go online, you fill everything out. Once that stuff comes back it is so completely overwhelming...I have a Masters degree too and I did not even understand what they are asking me.”

“I think the biggest thing in the whole process is: “Hurry up and stop and wait.” It feels like a stalling process. You don’t really know where to go to get the answers unless you have all the money to pay someone to help you. And the amount of time to do the research is exhausting and frustrating and takes you away from doing the actual work to get this product that you want to put out and you want to share with others.”

“I felt there were a lot of “legalese” and I didn’t understand when I was reading them”

#### THE PATENT AND TRADEMARK PROCESSES ARE TOO FOCUSED ON “LEGALESE” RATHER THAN ON FOSTERING ENTREPRENEURSHIP

Inventors and entrepreneurs tend to be highly individualistic, well versed in their disciplines

but typically short on training in legal matters. Often they tend to be visionaries, passionate about their work and their innovative ideas but lack an understanding of the legal and commercial aspects of their products and services. A highly competitive economic environment that changes so rapidly with evolving technology puts enormous pressure on the entrepreneur to get her ideas out in the marketplace as fast as possible. These requirements run into the perceived slow pace with which patent and trademark applications are processed. These processes are governed by strict statutes and commercial law. The requirements for protection are at odds with the requirements of the fast moving modern commercial marketplace. If fostering entrepreneurship is the goal, not just the granting of a patent or a trademark, then there needs to be a strategic rethinking of the goals as well as the process of IP protection.

The inherent tensions between legal requirements and the pressing demands of the commercial world are articulated by a focus group participant in her own words.

“I felt there was a lot of “legalese” that I didn’t understand when I was reading them. So I come from, I’m actually adopted. My father is a physics professor and my mother is a botanist, biologist and I had them look at it, and they were confused.”

#### THE PATENT AND TRADEMARK PROCESSES HAVE NOT KEPT UP WITH EMERGING TECHNOLOGIES

The perception is that the patent and trademark processes take too long. The average estimated

*Perception:* “The patent and trademark processes have not kept up with state of the art technologies.”

time for obtaining a patent is approximately 3.6 years. Not only do most applicants not understand what goes on once their application is submitted, they do not even know what stage of the process their

application is. To them, the process is a “black box”. The focus groups showed an overwhelming desire for improved communications. At the minimum, the applicants would like to know where their application is in the process and the estimated time for the completion of the process.

“If you go on UPS or FedEx to track your package, you can see exactly the process and where your package is and the estimated time of delivery. Why can’t they put that kind of knowledge to this so that anybody who has applied for one (patent or trademark) can log on and see at what stage your application is?”

## INTERNATIONAL PROTECTION IS ABSENT

Notwithstanding international treaties that govern IP protection, the perception is widespread that

*Perception:* “Women entrepreneurs do not have the resources to file for international patent protection.”

there is scant protection for patents and trademarks in the international marketplace. Specifically, the perception has set in that Asia does not honor patents and trademarks. This perception is particularly strong among

small businesswomen and individual entrepreneurs who lack the means to defend their IP should there be an infringement of their patents or trademarks. Large businesses have the financial means to defend their IP and the news and social chatter reflect the arm wrestling between big players for ownership of IP. However, it is in the small business arena where much of the perceived infringement takes place. The frustrations of the individual entrepreneur and the small businesswomen are underrepresented.

Here are a few representative comments:

“And you do all this work and then a company in Southeast Asia - and they are doing it anyway. I have been hearing stories about how big companies are.... Is it even worthwhile?”

“I just want to say for other countries the patent is not respected. In Russia, for example, they can do anything. They can copy the name.”

“One of my ex co-workers used to work for the company where I worked. She has this business also. She builds software. Someone from China copied it and was making money. So my co-worker wrote to him and also wrote to the Chinese embassy. It turns out that person was caught. He was willing to do free advertising for my co-worker. It turned out all right. But she is still sore it was stolen.”

## THE PATENT AND TRADEMARK PROCESS FAVORS LARGE BUSINESS

Whether it is the front end or the back end, the patent and trademark process is perceived to favor large business. The successful pursuit of IP protection often requires legal help which is expensive. The entrepreneur or the small businesswomen who struggles between the competing requirements of establishing a business, meeting payroll, responding to local, state and federal

*Perception:* “I found it interesting that two years later, the exact same name was given a registered service mark for the exact same pill bottles, a receptacle for medication.”

government regulations, answering volumes of official and non-official paperwork, and marketing and sales cannot afford high quality legal counsel. By contrast, big business has in house legal departments which specialize in patents and trademarks and are able to wade through the fine technicalities of a successful patent or trademark. A simplified initial process with interim protection for a year or two and minimal accompanying fees would go a long way towards addressing this issue.

“So, I chose to abandon that service mark. However, I found it interesting that two years later, the exact same name was given a registered service mark and it provides the exact same pill bottles, a receptacle for medication. So that was approved with the exact med minders versus med e-minders. I was a dotcom (.com) - that was a voice telephone communications - denied - but somebody else a year later gets the same patent with the same name, and is giving out the exact same product. That’s clearly for me. So the inconsistent application of approval and rejection...”

### IS THERE A GENDER GAP?

Perceptions on this issue are split. Despite the quantitative evidence that the gender gap is decreasing, the perception persists that the gender gap exists and prevents women from achieving their innovative potential. Long held perceptions die hard. On the other hand, it is also true that women face a glass ceiling in corporations and encounter a gender bias in the commercial world. On balance, it may be stated that the legislative initiatives taken over the last thirty years and the social transformations taking place in a technology driven workplace are hammering away at the gender gap. It is incontrovertible that in most fields the gender gap is shrinking. But the process must continue.

*Perception:* “What are people saying about women’s rights? Aggressive go getters, we just become the big Bs.”

Here are a few observations from the focus group participants:

“But it is still a man’s world. Businesswise ... you know, it is all men. Who are the CEOs? Very, very few women.”

“And you know the saying about women, you are talking about CEOs. What are people saying about women’s rights? Aggressive go getters, we just become the big Bs.”

“Certainly, the financial industry is very much a man’s world when it comes to ownership and leadership. Women do a lot of the work in the field. But they don’t own and lead. So you see the glass ceiling, whether they are there intentionally. And some of that just becomes a boys club mentality.”

“The glass ceiling is still there. Unless there is a big lawsuit going on in the corporation, all of a sudden you see the glass ceiling going away.”

“I think that there’s a bigger problem. I think that women, when they get to a higher level position, are not really good at mentoring younger women. I think it’s almost like that girl high school mentality.”

“What I feel is that in the big corporations, I feel that a woman can’t be a soft woman. You have to be aggressive. You have to be half man. I used to sit in the conference room and have meetings. I was the only woman sitting there in a round table like this one, and all men in blue suits. And, you know, they would say, “you get the coffee.” And one day I said, “No, I’m not doing it.”

“Men more easily fraternize with men. You may just pick up information at a bar or just a casual conversation: “I’m thinking of trademarking this or that” Some of your buddies (may have the information). That might happen less if there’s a larger share of women who are patent attorneys.”

“I think women have made a lot of strides but there is still a gap because men wrote the rules and there’s still this boys club which is very active and that’s because they had a running start and so it’s still an unlevel playing field.”

“Women don’t network enough (agreement from others saying umm) and I think men network more and we may not network for a different reason because it comes across as we’re bragging or we’re doing something and to me that is a gender barrier and cultural barrier.”

“I think because I came from Russia and I grew up in that type of society and I got used to being very strong and being a fighter so I came here and to me it’s much easier for me in the United States. I don’t see the barriers. If you put something in front of me I’ll just go for it and if I see somebody stand in my way I just go around (Laughter) so maybe it helps that I’m from a different country.” (More laughter)

### **Dissenting and ambivalent voices:**

“I don’t think it makes a difference whether you are a man or a woman.”

“I think that it is (decreasing).”

“I guess if you put six other people in this room who were of a different culture, economic or a minority or perhaps grew up in Iowa rather than New York or whatever, I think there would be different answers.”

“We all divided up and there was the silent generation, the baby boomers, the Generation X, the Generation Y and the Millennium. It was so fascinating how everybody had a different take on that story and it was just so interesting how, for example, the women in Gen X and Gen Y had a far different view than the baby boomers and the silent generation.”

“The very modern liberated women, once you’re married and you have children, they do a disproportionate share of housework no matter how modern their husbands are, no matter whether they’re from the young generation or old.” (Laughter)

“If we can educate women and men because I believe collaboratively we’re better together if men and women can learn to work together rather than separately.”

“My boss has been working with \$\$\$\$ (company) for 11 years. She is the only woman in that whole team....I was surprised (and I thought) there must be so many women now in hi tech. She said: “Are you kidding, I have been with \$\$\$\$ (company) for 11 years. I am in the sales department and they are all men. I am the only one.”

*Perception:* “In some people’s mind, they still think that women can only do certain things, certain types of work even if it’s in the high tech world.”

“I worked with a small company. I was the only woman engineer; all the others were men. It was a factory. That is where I did my thermal engineering. And there was a difference. I could see the difference. People, men who got employed after me, they became ahead of me.”

“I think from where we were twenty years ago, it is decreasing but I wouldn’t say significantly. I think that for every one female CEO that there may be thousands of males.”

“The reality is my life stops when my family says: “Stop your life” and that is necessary. I don’t see that with the men in my family. They never have to stop their life. As a matter of fact, when it came time for the annual hunting thing, the men went off no matter what was happening. The women still had to do what they had to do and that is a gender barrier that isn’t disappearing.”

“Women for the past however many years, really have had to fight to have equality with men and you do get that: “This is what I need to do to get what I need.”

“I think in seminar presentations there definitely is (a gender gap). If a guy was doing the same kind of things I was doing, nobody would be arguing with him including at the university level. They would never ask them to do anything for free and I get asked to do things for free all the time.”

“I haven’t had any really negative experiences. I got very lucky with the interior plantscaping business because at the time maybe it was the Small Business Administration. But they would have these seminars where they invited Fortune 500 companies to attend and you were allowed to present yourselves to any of these companies who wanted to do business with women. It was fantastic. So I was hired because I was a woman. What could be better?”

“Men in general seem more open to helping. But with women it is a more competitive environment and they aren’t necessarily open to helping another woman or maybe choosing another women when they give a grant or something, I don’t know. But in general my experience has been that women haven’t been as helpful even though they are also women.”

“It depends on the individual. There are plenty of women who will nurture a woman. Hopefully most of them do. There may be a few who do not.”

“From personal experience I think they are closing. A lot of younger people, especially too in the financial sector, around technology, there are a lot more young females coming out of college applying for those positions.”

“In some people’s minds they still think that women can only do certain things, certain types of work even if it’s in the high tech world.”

## WHAT ARE THE REAL BARRIERS?

### LACK OF SUPPORT SYSTEMS FOR WOMEN, ESPECIALLY FOR SINGLE PARENTS

Child-bearing and child rearing impose responsibilities on women that are different from those

“Lack of support systems for women makes it difficult to manage family and business at the same time.”

on men. These responsibilities are accentuated in a society wherein single motherhood is not uncommon. Although reliable statistics are not available, if the divorce rate is accepted as a metric of single parenthood, then about half the women entrepreneurs in the state of California would be single women. Women, especially single women, face the perennial

challenge of balancing the tensions between family and career. The requirements of supporting a family act a brake on innovative pursuits. Support systems for single parents are either scarce or totally absent. It is a long term societal issue. It is real. It is here. It requires continuous attention and innovative solutions.

Here is a voice speaking up on this issue:

“With a single parent, or any parent, it is an issue if you have to stop work at 3 o’clock to go to the school. Guess what? If I am working at a certain place, I can’t leave at 3 o’clock, if you have to leave at six. But if you have your own business, it is kind of like, well, I am going to stop, so I am going to stop taking appointments or you are going to stop designing shoes because you got to go somewhere. So those were real barriers, having the support that you need, whether you are a single parent or not, having to stop at a certain time to go somewhere.”

### THE PATENT AND TRADEMARK PROCESSES ARE TOO COMPLEX, DRAWN OUT AND EXPENSIVE

The entire IP protection process requires a critical and strategic re-examination. What is the goal of IP protection? Is it an end in itself or is it geared

“I looked into trademarking and it was a lot of work and very costly.”

towards encouraging innovation and entrepreneurship, and ultimately the economic well being of the country? If it is the latter, then, are there alternate ways to provide IP protection to entrepreneurs, small and micro businesses, even if it be in an interim, limited period, so that the

entrepreneur can focus on growing her business? The current study shows that there is a conviction, shared across the entire spectrum of women entrepreneurs, from those who have never applied for IP protection to those who have successfully done so, that the current processes are too complex, drawn out, expensive, and perhaps not in synch with the requirements of a fast moving, technologically-driven age.

Here are a few voices articulating this view:

“I have looked into trademarking and it was a lot of work and very costly and so I decided not to.”

“It is just frustrating. I feel like I am of normal intelligence and able to read and I have a pretty good vocabulary. I was very thrown and I was very frustrated... It was the trademark process. I was trying to get my name trademarked.”

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#### FUNDING NOT AVAILABLE

*Perception:* “There is no funding out there for women inventors.”

Entrepreneurship requires money. This is a truism that is often overlooked. It requires funds to start a business, finance the marketing and sales efforts, meet payroll and pay for the overhead, pay taxes and

fees and at the same time keep the engine of innovation churning. The startup costs can be quite high. Most women entrepreneurs, especially those who are single parents, struggle to balance the financial needs to grow a business with the needs to support a family. Credit is scarce and grants are few and far between. Additionally, the information for such grants is often buried in layers of obscure official disclosures and announcements. A single clearinghouse that would assist women seeking financial help would be of enormous benefit to aspiring innovators and small businesswomen.

“You always hear about women in business. “Oh you get grants.” You know I have been on the internet hours and hours, looking for this grant. Where are they? Where is the funding for women in business?”

“As a woman we do not have a lot of access to financial resources. Those are always my biggest challenges.”

“I have looked for those grants, like SBIR. But I really do not know which one is applicable to my business. I really need some help. I approached a government contracting officer. She referred me to one of her friends who was working on the SBIR programs. But I didn’t get a response from her.”

The question is: “Where do we find the resources? Is there a website, a government agency that we can tap into? Where do we find it?”

## IP PROCESSES FAVOR BIG BUSINESS

*Perception:* “It is difficult for small business people to go after the big ones but it is easy for the big people to go after you.”

A consequence of the long, drawn out patent and trademark process is that they favor large businesses. It costs money to file and pursue IP protection. And it requires a minimal knowledge of the legal

requirements. Entrepreneurs, small and micro businesses do not have the resources to stay the course and to see through an application to success. This is an inherent flaw of a single process that applies to all applicants. A suggestion that has often come up in the focus groups is this: Is it possible to have a simplified process for small business that requires minimal investment and provides IP protection for an interim period of, say two years, so that the small businessperson can focus on marketing and sales rather than be concerned with looking over her shoulder for IP infringement?

Here are a few voices from the focus groups:

“Well, there are deep pockets. Just like a service mark or a trademark, whether it’s registered or it’s not. It’s really about marketing. But if somebody has deep pockets, they can stop you. The money talks. I’m not going to be able to stop somebody who steals my idea. I don’t have enough money to fight the big guys if they take the idea.”

“I think the better way to do it is to put a place mark here and say, “I have registered this idea, I have a provisional patent on it” and then we’ll go out and see if there’s actually a market there and see if it makes sense to go ahead and get that kind of protection.”

“It is difficult for small business people to go after the big ones (in case of patent violation) but it is easy for the big people to go after you.”

## PROTECTING A PATENT OR TRADEMARK CAN BE VERY EXPENSIVE

“We had to pay an attorney \$1200 just for a couple of letters.”

Even after a patent or trademark has been obtained, there remains the burden of defending it against legal challengers and infringement. Legal costs are high. While a large business may spend \$10 million defending a patent, a small businessperson cannot

even think in terms of \$10,000. So the legitimate question that comes up is this: Of what benefit is IP protection that cannot be defended? This is a real barrier for which there are no easy solutions.

Here are some observations from the focus group participants:

“But I asked the patent attorney, “So if I’ve found somebody infringing on the patent, how much would it cost me to pursue it?” Well to send a letter, it could cost me \$2,000. So, then otherwise, \$9,000” (Exaggerated laughter)

“The burden to protect that patent falls back on us. Is the government going to step up and say: “We are going to bat for you. We are going to go after these people” “No.”

“We had to pay an attorney \$1,200 just for a couple of letters.”

## WHAT CAN BE DONE TO OVERCOME THE BARRIERS?

“Many women entrepreneurs are not aware of existing federal programs to assist them.”

### INCREASE VISIBILITY OF EXISTING FEDERAL PROGRAMS

The importance of marketing and advertising the current services offered by the USPTO and other agencies cannot be overemphasized. Many of the

perceptions about the patent and trademark process are simply a reflection of the fact that potential users are unfamiliar with what is already out there. An example would illustrate this observation. In March 2012, the SBA along with the NWBC and the USPTO offered a seminar highlighting a quantitative analysis of patents and trademarks covering a period of thirty years. Several women in the focus groups expressed their appreciation for what they learned at the conference. Indeed, it inspired them to revisit their decisions to seek IP protection. More such conferences and seminars would help along with a user friendly website that explains the process in layman’s terms, a simplified process and woman-friendly online and/or phone help.

Here are a few comments that illustrate this observation:

“In March I came here because I got an email saying they were having the public meeting at the patent and trademark office. I drove down 200 miles, because I said, “You know what? They are opening the door. They are letting me in”...I register, I come. They introduce a report about the gap how women are not getting as many patents and trademarks. I hear this in person. I made this decision before I left home, “I am going to make this trip count. I am filing something before I leave.”

“And it was just a miracle that I got this notice that this new report that reviewed 35 years of information was going to be introduced. It is a free program and all you have to do is register and come... What I saw was a gold mine. So some of the perceived barriers can be removed based on education, awareness, some type of training program and even more open houses, something similar to that because we got a chance to hear the people who run the patent office, under secretary and different folks. I would never have had the opportunity to hear these people and when they said how valuable a patent or trademark was, that was just unbelievable.”

“And I was surprised to read that they said that they have given examiners more time to communicate with the applicants to review the merits well before they make their decision, place a greater emphasis on the examiners interaction with the patent applicants early in the process to clarify claims and enhance thoroughness... they also mentioned something called an ombudsman

program to help resolve questions about applications as people were going through the patent process.”

“The Women’s Initiative is one organization but the IDA is a Federal program. So there are resources out there. It is just how do you hear about it?”

“It (the course offered by the IDA) is three months and it is a very comprehensive course. If you go in there with an idea with very little self esteem and not know what to do, you leave there with a very good business plan, a lot of support, consultants. They help you go from your business idea and win awards from the National Women’s Business Council. And they are for low income women.”

“What I do find is that the way information like this is marketed, that you need to have a real marketing entity to get it (the information) out.”

“So here is this resource, the Small Business Development Center who can help.”

“If they have this ombudsman program, it should be advertised. It should be put on the website that this program is here to help you, assist you and maybe have something you can click on for more information and mention ombudsman so that most people understand that here is someone who can walk you through the process, if they do have all these different things this person says they have implemented them. Why am I reading about it here and not seeing it on the website?”

“And if they really intend to have women earn more trademarks, maybe they should have outreach for women. I didn’t see anything like that on their website.”

“The USPTO could align itself with the Chambers of Commerce or whatever it is in different states and counties. So people who are opening up new businesses know right away that, “Do you have something that needs to be trademarked?” before you’re out in the market.”

“Maybe if the USPTO would have a campaign about what a trademark is, put it out there and let people know.”

“I went to the SBA and they assigned someone to me. Most of them are retired business owners and he spent a year with me working on everything, financial, marketing, all for free.”

“Actually, they have an electronic filing system for patents. I personally tried that. I think that it’s a good system for filing a patent. I thought that since it’s going to cost me that much, why don’t I try it since they have this filing system. I can just get all the details and do it myself. So I tried it. To me I think that it’s pretty easy to use.”

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## SIMPLIFY THE PROCESS

The current process is perceived by women entrepreneurs to be complex, long and expensive. It should be possible to make it easy for an innovator to file for IP protection. A two-tier process, explained in greater detail in an earlier section, would be one way of achieving this. A process which can be followed in easily understood 1.2.3 steps would go a long way towards

encouraging entrepreneurs, small and micro businesses to seek IP protection. It would be a boost to innovation. The economy would benefit.

“I think they just need to break it down a little more in layman’s terms. I think the material that was this thick could have been this thin and said the same thing. It is just an awful lot... of paperwork that is unnecessary.”

“A lot of paperwork is unnecessary.”

“The first thing, I would get rid of all the legalese. Just say it.... The timeline should be shorter. What? 3 to 5 years, it is ridiculous. 6 months to a year, because you will be doing other things with your business, your products, 6 months to a year - you are trying to get into your business -I am going to give it my best shot for a year...”

“What I would like to know is: ‘What is the process that they go through?’ I have no clue. I am just sitting here (asking) who is looking at it, how many stages are there in the process? Why is the cost so high? Why can’t you have a simple 1, 2, 3 kind of process...”

“I think the application has to be simplified and the language has to be simplified but there has to be a first step and you can just write a basic description of the idea and you are able to submit that to the Office. Or there could be a different branch of the Office which could issue you your documents.”

“If you don’t put it out there (put your product on the market) and you’re waiting for the patent to be done, it could be five or six years. And then there’s something else and it could be old.” (3)

“I think the notification of the 7<sup>th</sup> year (for trademarks) has to be redone as opposed to just having it on the back of the certificate.”

## IMPROVE THE WEBSITE

The USPTO website is comprehensive and it contains just about any information that a potential user may seek. But the perception is that it is too complex. A user friendly website with a section that is specifically directed to small business and entrepreneurs would be extremely helpful. Usability tests may be conducted after redesign to measure its effectiveness. Website modification is a dynamic process. It requires periodic updating to keep up with user demand and changing technologies.

“Improve the website. It is just too complex.”

Here are a few observations from the focus groups:

“Just simplify the website. It’s too complicated.”

“I would agree, *a la* the Copyright Office, because that’s a pretty recent changeover that they made.”

“There should be a website with 1–2–3 (easily understood steps to get your patent or trademark application completed). A designated website and make it very basic. You know, when someone says its 1 - 2 - 3, to me that says it’s easy. “

## HOLD REGIONAL SEMINARS AND WEBINARS

Periodic seminars held in different regional centers would increase the exposure of current services available to women entrepreneurs. A shift from the center to the regional centers

“Regional seminars, webinars would greatly help women entrepreneurs understand the IP protection process.”

appears to be what is required here. Webinars, conducted in conjunction with a simplified patent and trademark process and user friendly websites would be of tremendous benefit to aspiring innovators.

“One of the things is, like the patent office to say to women: “Do you have an idea where you need help trademarking or patenting? We are here to help you and have a representative come maybe three or four

times a year to, not just Walnut Creek (California), but come to an Oakland (California), come to a Compton (California), come to each area and (listen to) this woman talk about being a part of the women’s initiative.”

## A TWO-TIER PROCESS TO HELP MICRO BUSINESS?

Time and again, the discussions in the focus groups gravitated towards the complexity and cost of the current patent and trademark process. A recurrent suggestion was that the process can be separated into two distinct phases. The first phase would be an interim phase, perhaps registering a claim and giving IP protection for a period of two years during which time an entrepreneur would introduce her product or services into the market and test its sales potential.

The second phase would be more comprehensive involving detailed investigations and providing

“A two-tier process would help small and micro business.”

IP protection for a long period.

It would be worthwhile to look into the feasibility of such a two-tier approach, especially as it may apply to small and micro business and individual entrepreneurs.

“The fee I can afford, a little bit high for the chance of it being rejected. It should be something like: ‘Apply, then pay more if you are approved’, is something I would like to suggest.”

“I think the application has to be simplified and the language has to be simplified but there has to be a first step and you can just write a basic description of the idea and you are able to submit that to the Office. Or there could be a different branch of the Office which could issue you your documents.”

“I think the better way to do it is to put a place mark here and say, ‘I have registered this idea, I have a provisional patent on it’, and then we’ll go out and see if there’s actually a market there and see if it makes sense to go ahead and get that kind of protection.”

## TECHNOLOGY TO THE RESCUE

While there are no limits to how technology can be applied to reshape the patent and trademark process, the suggestion here is limited to the tracking and status reporting of applications. There was a broad consensus in the focus groups for the implementation of a tracking mechanism that

“Technology will change the way patents and trademarks are processed.”

would give an entrepreneur visibility about the status of her application. The example of Federal Express and UPS was often cited. This recommendation deserves consideration.

“I actually think that the patent office is going to have to change. It’s not going to be paperwork. They’re going to have to ping me back with clarification. And so that may reduce any gender bias.”

“Now that we are in the age of the internet, maybe (they will send us a notice). When it was all paper based, things were different.”

## ADD A HOTLINE TO HELP WOMEN ENTREPRENEURS

Women entrepreneurs and businesswomen have special needs over and beyond those of other entrepreneurs and businesspeople. Some of these needs have been articulated in earlier sections- a supporting system for working mothers, need for capital, the desire for talking to another woman and so on. A helpdesk, especially tailored to address the needs of women entrepreneurs, preferably staffed by women advisors would certainly be a step in this direction.

“A hotline for women entrepreneurs would enable them to contact the USPTO and seek help more easily.”

“I would add in a hotline, have someone available (to answer) if I am going in the right direction, what else can I do. So they should attach a hotline to help small business. At least someone you can interact with and can help you. Not just materials online but an actual person who you can call on or have a meeting with who can explain things and you can ask questions rather than just maybe a pamphlet or on a computer screen.”

## BETTER FEEDBACK AND TRAINING

The recommendation here is to take periodic surveys and learn the real needs of women entrepreneurs. The information gathered can be used to evolve effective strategies and implement continual improvement of patent and trademark services.

“Customer satisfaction surveys, customer feedback followed by training would help the process.”

“I think the director or the CEO of that business needs to screen and put out a survey: ‘How did you like the customer service? How were you treated today?’, and

let people give their honest opinion or what happened to them.”

“More feedback. And if need be, bring in somebody else who can do the job...Or job training.”

“What would be nice is if there was a place where you could go and say, ‘Could you tell me if I should go ahead with my idea without applying and spending all that money?’”

### FOLLOW THE INSTRUCTIONS

Many of the frustrations of those who have never applied for IP protection or those who abandon a patent or trademark application after filing for one result from failure to follow instructions. A simplified guidebook with easy to follow instructions and a user friendly website would increase the success rate of women who obtain patents and/or trademarks.

“Many entrepreneurs find the process frustrating because they do not follow instructions.”

“It was an appeal (on a trademark). Because they said, in the letter it told you exactly, you have to read everything that they sent—online and everything that they send you. And read it more than one time. I was a little emotional about it. I had to read it over and over. And it said exactly what to do. And whatever it was that’s what I did. And I couldn’t believe it worked.”

## RELATIONSHIP BETWEEN ENTREPRENEURSHIP AND IP PROTECTION

### MORE RESEARCH IS NEEDED TO DETERMINE IF THERE IS A CORRELATION BETWEEN IP PROTECTION AND ENTREPRENEURSHIP

Many a participant in the focus group expressed the opinion that a patent or trademark is not a pre-requisite to entrepreneurship. This issue also requires a deeper study. The issues are subtle and require a segmentation of perceived benefits from a patent or trademark measured against associated costs. For instance, a legitimate question would be: What is the marginal increased revenue associated with the perception that a client is buying a product or service because it is patented or is trademarked? In other words, do customers buy a product or a service because it is patented or trademarked? The focus groups were split on this issue.

“I personally don’t think that having a patent is that important anymore”.

“It is a perceived notion that you have to have this protection before you move forward or God forbid somebody else should come in and lay claim to what you are doing. That is not true. Not in my experience. I don’t know where the preconceived notion comes from. Maybe it is of our own making.”

“It is very frustrating. It is very costly. It is not for the weak of heart or pocketbook. And that is unfortunate because it eliminates a lot of many worthy ideas from coming to the market because there are these barriers.”

“I don’t see where there is a value to it. I really don’t. The idea initially was to bring our ideas to market, go through the patent process first, receive a patent on it and therefore it would automatically have value in the marketplace. That is very naïve, very naïve. But again because you have never been through it, you have this perception that if you have patent, or patent pending or whatever, on your packaging that somehow it is going to motivate that buyer to make (the decision) to buy. That is not true.”

“Everyone is working on their logo. You haven’t sold a widget. (Laughter) You don’t have a widget. But they’re spending money on logos.”

“But I’m not sure whether giving it a patent or a trademark would have really made that much difference.”

“It’s probably better to figure out where your customers are coming from rather than spending too much time applying for (a patent or trademark).”

“I’m saying I’m not going to spend too much time applying for the logo because I had to go through - do I need a trademark, do I need a service mark. And I’m thinking I need 7 things. But maybe I just need one thing to get started – from the USPTO, some protection and then I can expand it. Does it need to be blue? No, it can be black and white for now. So, all of that were becoming barriers for me.”

“It takes a while to get a trademark and that would lead me to think they’re more credible and in my business, that’s what I’m all about – is trust and accountability.

It’s hard sometimes to find that. You know in a lot of industries now there’s a lot of fraud.”

“To the extent that it (the IP process) has (helped entrepreneurs), women are empowered by it... To me, there’s a benefit there whether it’s real or perceived.”

“Patents and trademarks can help entrepreneurs in a big way. But they are not a pre-requisite to business success.”

## IS THERE A CORRELATION BETWEEN IP AND BUSINESS GROWTH?

This is also an issue that needs to be investigated further. The focus group discussions highlight some cases where an individual entrepreneur built up a successful business based upon her patent or trademark. But there is a growing opinion among women entrepreneurs that a patent or trademark does not necessarily help a business grow. Indeed, the perception is that the risk of divulging a trade secret through a patent or trademark disclosure and the cost of obtaining and protecting a patent or trademark are not worth the trouble unless it is an idea that has a huge market potential. It is difficult to assess how many women have given up seeking IP protection because of these perceptions. A flip side of the question is how many women build up their

businesses without applying for or receiving a patent or trademark. The issue warrants further research.

“Well, look at QVC. There are a couple of inventors that have many patents. There’s one that does the storage thing, jewelry storage. And she started out small and she does a lot of storage things for travel jewelry boxes and she’s got many patents. She just started out with one. She was just an ordinary person who designed this product, went to QVC and now she says, ‘Well, that was easy.’ She got the exposure of television and she started selling it. So she started doing another one, similar to that but a little bit different. And she kept on patenting them. But what I think she did was go to China, looked at what they had that wasn’t patented over here and she just patented it over here. Because her concepts are pretty...”

“I worked for a woman as a pattern maker for a maternity wear manufacturer. And she didn’t get a patent because she had her product out for just a year. She didn’t have the money. Back then, it was going to cost her \$10,000 that she didn’t have. So she was running her company. And at that time I was the only employee so I was the only person getting paid. She’s still in business. She started in 1981. She didn’t get a patent and now I see her products everywhere.”

## A CONCLUDING COMMENT

The focus groups provided a powerful testimonial to the courage, determination and perspicacity of women entrepreneurs who struggle against heavy odds to innovate and succeed. We conclude by offering the following testimonial of a homeless woman in San Francisco who found her way to dignity and respect through entrepreneurship:

“...I have been on my own since I was 12. I was given up at the age of 4 ... I am from Canada. I have basically - I hate to even say this - I have been homeless all my life except for the last ten years. So when I say I have been blessed, I sincerely mean it. I have done the whole thing, the drinking - I don’t know if that is a Native American thing or not. For the last eight years I have not touched liquor and I do not even want to look at a liquor bottle. So where I’m at, I still have that low self esteem. I remember walking around with just a bag with a blanket and a cosmetics system. To me when I go to a place now and I would leave the house with one bag and I come back with two. I feel like, I wonder if they still think I am still homeless. I am that and it will always be with me. But I am very grateful. I don’t care. I don’t go to church on a regular basis. I go past Saint Barnabas which is at the 101 and take two seconds to just go in there and say a quick prayer and say I am thankful. I think I will always have that. I was very nervous about coming here and talking to you guys. Oh shoot, excuse me (holding back tears) excuse me (encouragement from other participants), you know, that is how I felt. I don’t fit in there. When I have my stand one day a week in the Civic Center, even though it is a couple of blocks, you are dealing with people on different levels, some are very intelligent, some are CEOs, and I could interact with them on that because my comfort zone is that little tent and my little hundred hats or whatever hanging up. And my other half is there all the time. He supports me a hundred

percent. He is my model. I was going to wear a hat today. Well, I can't wear that on me. O God, I think I have said enough."

Moderator: "Thank you... thank you so much."

**APPENDIX 1**

**Disclaimer read and signed by all focus group participants**

Purpose of the focus group:

The purpose of this focus group is to explore in-depth issues surrounding intellectual property protection for women entrepreneurs.

Sponsoring Agency:

This study is sponsored by the National Women’s Business Council (NWBC), Washington, DC.

How the information gathered in the focus groups will be used:

The proceedings of the focus groups will be recorded, transcribed and descriptively analyzed to capture patterns and categories of themes and perspectives and gain further insights into the issues which have been quantitatively analyzed.

The NWBC will use the information gathered in the focus groups to make recommendations to Congress and the White House on issues relating to intellectual property protection for women entrepreneurs.

The results of the focus groups will only be reported to the sponsoring agency in the aggregate. The last names of the participants or other identifiable microdata will not be used in the final reports.

Who is conducting the focus group study:

Delixus, a corporation registered in the State of California, is conducting this focus group study under contract with the NWBC. Dr. Nazeer Ahmed, CEO, Delixus will serve as the moderator.

Duration of each session:

Each session will last approximately 1 hour.

Participation is voluntary:

Participation in the focus group study is entirely voluntary. Any participant can walk out of the focus group at any time.

OMB Approval:

One does not have to participate unless the Office of Management and Budget (OMB) has approved the session. The OMB has approved this session. The control number is 3245-0380.

.....  
Signature of the focus group participant