Resolution Supporting the Identification of Inequity in Inventorship

Adopted February 2022

WHEREAS, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors and law students, representing the interests of over 60,000 attorneys and approximately 90 national, state, and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

WHEREAS, NAPABA is the national voice for the Asian Pacific American legal profession, promotes justice, equity, and opportunity for Asian Pacific Americans, and fosters professional development, legal scholarship, advocacy, and community involvement;

WHEREAS, innovation is widely viewed as central driver of economic growth, and America’s long-standing economic prosperity and global leadership in innovation depend on a strong and vibrant innovation ecosystem that provides all Americans the opportunity to innovate, seek patent protection for their inventions, and reap the rewards from innovation through entrepreneurship and commercialization;

WHEREAS, the Framers of the United States Constitution recognized the critical importance of supporting the advancement of science and technology and established the patent system in order to support and reward inventors who share their inventions with the public;

WHEREAS, promoting the participation of underrepresented groups in innovation and inventorship benefits those individuals and their companies, as well as our economy as a whole;

WHEREAS, the wide gaps in patenting by women, racial minorities, and individuals born to low-income families cost the U.S. economy billions of dollars in lost economic activity annually;

WHEREAS, a recent U.S. Patent and Trademark Office (USPTO) report found that only 22% of U.S. patents list a woman as an inventor and that women make only 12.8% of all inventors and another recent report found that the percentage of African American and Hispanic college graduates who hold patents is approximately half of their white counterparts;

WHEREAS, many private companies and organizations are joining the effort to advance diversity in patent inventorship, as shown, for example, by the US IP Alliance’s Increasing Diversity in Innovation conference in July 2021, at which several dozen leading tech and other IP-rich companies came together to sign the Diversity Pledge and commit to focusing on underrepresented inventor groups, launching programs to address disparities in patenting, and tracking data to measure improvements;
WHEREAS, Congress passed the Study of Underrepresented Classes Chasing Engineering and Science Success Act of 2018 (SUCCESS Act) to instruct the Director of the USPTO to study and provide recommendations to promote the participation of women, minorities, and veterans in entrepreneurship activities and the patent system;

WHEREAS, Congress recognized that recent studies confirmed a significant gap in the number of patents applied for and obtained by women and minorities and that the United States must close that gap to harness its maximum innovative potential and continue to promote United States leadership in the global economy;

WHEREAS, upon implementing the SUCCESS Act, the USPTO found that that there is a limited amount of publicly available data regarding the participation rates of women, minorities, and veterans in the patent system, in large part because historical patent records did not record such information, and accordingly recommended that Congress enhance USPTO’s authority to gather demographic information of inventors, share such data among federal agencies, and expand the use of federally funded programs to promote invention and patenting among underrepresented groups;

WHEREAS, researchers have had to infer demographic information based on names and zip codes as proxies for gender, race, and income to study the diversity gaps in patenting;

WHEREAS, on March 9, 2021, Senator Mazie Hirono introduced, with bipartisan support, the Inventor Diversity for Economic Advancement Act of 2021 (IDEA Act), which empowers the Director of the USPTO to collect voluntary demographic information about an inventor’s gender, race, military or veteran status, and other demographic categories that the Director determines appropriate and requires the USPTO to issue reports on the collected demographic data and its evaluations of the data collection process and which provides safeguards to protect the confidentiality of such data; and

WHEREAS, the IDEA Act provides a crucial step in efforts to closing the diversity gap in innovation and inventorship, by measuring inequity in inventorship and informing policy to encourage more diverse individuals to pursue and obtain patents;

THEREFORE BE IT RESOLVED, THAT NAPABA:

1. Supports efforts by the United States Patent and Trademark Office to responsibly collect demographic information about inventors and applicants on U.S. patents and patent applications that would help researchers accurately identify underrepresented groups of inventors;

2. Supports the passage of the IDEA Act of 2021 and other legislation that furthers the goals of promoting the participation of minorities and other underrepresented groups in innovation and the benefits of the patent system;

3. Authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration,
the press, and others to take steps to implement this resolution, as they deem necessary; and,

4. Supports this resolution as a policy position until it is withdrawn or modified by subsequent resolution.