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INTA International Trademark Association

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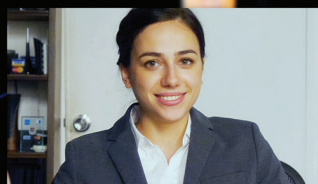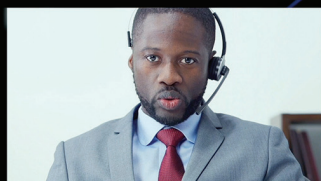
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Diversity, equity, and inclusion with Suzanne Wertheim. Chapter 3: inclusion

In this six-part series Dr. Suzanne Wertheim, of Worthwhile Research & Consulting, talks to _The Trademark Lawyer_ about diversity, equity, and inclusion: what it means; the current challenges; DEI in law; gender bias; and what we can all do to improve.

Based on your knowledge, what do you understand inclusion to be?

Inclusion is a great word. I like it because it's so positive. I mean, everybody wants to be included, right?

In my workshops, I'll often have people reflect on a time where they felt either included or excluded and talk about it. Everybody has had an experience of feeling excluded and feeling included, no matter what groups they belong to. So reflecting on their own experiences can help remind them of the importance of inclusion in the workplace.

As a lead-in to this reflection, I like to talk about an experience I had when I was finishing up grad school. I had just completed my dissertation, and drove 300 miles to Southern California to give a talk at a conference I'd never been to before. I only knew a few people there – I hadn't started professionally networking yet. The first lunch was before my session, so no one had seen me talk yet, and it felt a lot like school when you're the new student. I took my tray and I looked around, but everyone seemed to know each other, so I just headed to an empty table outside. (This was before mobile phones were tiny computers and I didn't have a book, so I just sat looking at my food.) A table next to me was filled with people in my subfield who were well known: full professors, invited speakers, people who I had cited in my dissertation –they were pretty fancy! And they did the nicest thing. They called me over and made room for me to join them. They included me. Later, when I was a professor, I understood just how nice this was, because they could have just sat there and enjoyed professor gossip, enjoyed time away from students. But instead, they invited me in and they asked what I was doing, where I had done my fieldwork, what I was talking about at the conference. And from that one lunch emerged all kinds of professional opportunities for me. They learned about the ways my work was aligned with theirs, and once they saw my talk was good, they started inviting me to contribute to books they were putting together, be on conference panels that they were organizing, I was invited to speak at their universities. One small invitation from a nearby table ended up profoundly affecting my career in all kinds of positive ways. You never know when the smallest act of inclusion can have far-reaching professional effects.

On a more theoretical level, I think of inclusion as being both proactive and systematic. My experience with those professors was a lovely one-off from people that happened to be nice: they were all female academics and so they had already experienced all kinds of gender bias in their education and their careers. They knew what it was like to be a young female academic, and from that position of empathy, they went out of their way give me a leg up.

But inclusion has to be more than just recognizing a person who is like you and seeing how their struggles mirror your own. In order for us to really identify and address the various places bias and unfairness show up and hold people back, inclusion needs to be systematic. It involves taking into consideration things like: who are all of the possible kinds of people in my workplace?; who are all the kinds of people out there?; what are the ways that our policies are not designed for them and need to be expanded?; what are the ways that people might be excluded in everyday interactions?; what are the other ways that we can set up structures, what I call "bias interrupters," to ensure that a full range of people are actually taken into consideration, thus creating a more level playing field?

For example, a lot of tech companies are very young and forget that people can be

Dr. Suzanne Wertheim

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parents. If the founders and all of the original people are single guys in their 20s, they may forget that somebody has to go to daycare and pick up kids. And they'll have semi-mandatory happy hours that coincide with daycare pick-up times. Similarly, there are global companies that forget that people are in different time zones, and they don't change the time of their meeting to accommodate satellite offices. Or there are organizers who forget that some coworkers are celiac and always bring in pizza for the lunch. And then that person who's celiac has to go out and buy their lunch and come back, and they lose 20 minutes of socializing and they don't get free food. Which may feel small, but each time it happens, that person who isn't being included feels it. Feels that they aren't being taken into consideration. And because of it, feels that their experience is kind of second-class.

When it comes to inclusion, people very often go right to race and gender. Those two categories are certainly low-hanging fruit and the areas of most pervasive problems. But there are also a ton of other ways that people may have needs or issues that you haven't thought of, and it takes rigorous work to get to them. Inclusion is putting in that work so that everybody feels taken care of. And not just the usual suspects.

By the way, I will tell you that the younger generation in particular, university level or in early 20s, are coming into the workforce with different expectations and a broader knowledge base than people above them. They know a lot more about bias and a lot more about the subtle – and unsubtle – effects of European imperialism and colonization. Last year when I was inter-viewing two potential interns, I said, "You're going to be doing research for me, so I'd like to hear about your social science work. What concept from your anthropology or sociology classes has been most influential or impactful for you?" And I was shocked when both of them said "decolonization." When I was teaching at UCLA 10 years ago, we were barely talking about decolonization with our undergraduate students. So the landscape and the knowledge base has really changed.

In many of the organizations I work with, there is anti-bias pressure from the most junior people in ways that can be upsetting to the people in top levels of leadership, who didn't come up in an environment where bias was being explicitly discussed and organizations were being held to higher standards. These junior people are comfortable saying what isn't acceptable when it comes to unfairness and exclusion, and they're voting with their feet and leaving companies that don't meet their standards or their needs. Actually, they're voting with their

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feet even before they've come in: they're scanning company websites and looking to see who shows up in photos, who is on the leadership team, if there's anything about inclusion or diversity or anti-bias work. They're reading reviews of the company on websites and using whisper networks. They're asking, "How do I know it's a workplace for me? Where I can have a great career?" I hear from them that they are especially skeptical of organizations where the leadership is entirely (or almost entirely) white men. They tell me the absence of anyone who looks like them at the top levels is upsetting in terms of career goals. And they say things like, "Why should I believe that this group of white men will have me in mind when they make decisions? Unless they're saying explicitly 'we're designing a workplace where everyone can thrive and succeed,' I think it's pretty likely that they'll just forget about people like me."

There's lots of competition right now when it comes to hiring employees, and at least in the US, we are seeing a massive reconsideration of work and employment – to the point where it is being called "The Great Resignation." People are refusing to go back into offices for jobs that treat them as "less than" in some way. In the US, Black people in particular are reluctant to physically return to workplaces where they are the targets of bias every day.

When it comes to organizations, I find that leadership is often focused on "moving the numbers." For them, diversity means the demographics of the new hires, and not much else. But "the numbers" can only change for the better when companies have done the necessary work on their culture, so that underrepresented people come in and then actually stay. I see a lot of organizations focus on their hiring numbers – but what about their retention numbers? Without an inclusive culture, there's basically a revolving door. People come in, see that it won't work out for them because no one is addressing the bias and obstacles that are in their way, and so they leave. Often in less than a year.

Inclusion is proactive, it's long term, and it's walking the walk. And if it's not happening, the underrepresented people that were the focus of recruiting and pipelines are going to head right back out there and find an organization that will treat them better. Where they have a real chance to succeed. And when it comes to the law, this often means that underrepresented people will leave firms that are treating them badly and set up shop on their own.

Do you think we are seeing a change in attitude towards inclusion?
I look for tipping points, that is, cultural shifts where there's one norm and then suddenly,

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when the new norm has accumulated enough power, it flips over. For example, back when I was teaching undergrads, it became very clear to me that there had been a tipping point around sexual orientation. I used to give some assignments and, before the tipping point, most of my students would hide when they were in same-sex relationships. And I could not have dropped bigger hints about the kind of safe person I was. I would talk about family members, about friends, I would drop in inclusive statements. Because sometimes professors are the only safe place for students to come and talk about their experiences – and lots of students picked up what I was putting down, and would come to my office to talk to me about being gay or bisexual. And then, there was a shift sometime in the early 2000s. Suddenly, the norm was to be open about your sexual orientation. To be open about people in your family and your friend groups and be open about yourself. And instead of homophobic comments and jokes being the norm, the shift meant that the majority of people were now making fun of people who were homophobic or anti-gay, and declaring those kinds of comments out of bounds. To me, it looks like we're seeing a parallel shift now, about 20 years later, when it comes to bias, unfairness, and the results of European colonization.

Related to this is the popularity of the phrase, "Ok, Boomer!" here in the US. It's a way of dismissing what younger people see as retrograde or unacceptably biased views and comments by people in the Baby Boomer generation. (This is the generation born after soldiers returned home from WWII, between 1946 and 1964.) And Baby Boomers find this phrase enraging – some of them even claim that it is hate speech. Which it very clearly is not. This dismissive "Ok, Boomer!" feels to me like a sign of a new tipping point. Where the dominant views of people who have held power for a long time – here, people in a particular generation – are being mockingly dismissed as out of date and unacceptable. The change in norms around unfairness, bias, and inclusion is here. It's happening right now.

Join us in The Trademark Lawyer Annual 2022 for Chapter 4.

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