

The Trademark

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Lawyer Annual 2021

The end is nigh: what you need to know about Brexit and trademarks



Kate O'Rourke sets out the principles for trademark protection with the end of the Brexit transition period.

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Women in IP Leadership

Celebrating achievements and continuing
the empowerment of women



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We give special thanks to LexOrbis for their dedication and support in continuing
the empowerment of women in IP by facilitating this opportunity.

This segment is dedicated to women working in the IP industry, providing a platform to share real accounts from rising women around the globe. In these interviews we will be discussing experiences, celebrating milestones and achievements, and putting forward ideas for advancing equality and diversity.

By providing a platform to share personal experiences we aim to continue the empowerment of women in the world of IP.

This segment is sponsored by LexOrbis, who, like *The Trademark Lawyer*, are passionate to continue the empowerment of women. LexOrbis' sponsorship enables us to remove the boundaries and offer this opportunity to all women in the sector. We give special thanks to LexOrbis for supporting this project and creating the opportunity for women to share their experiences, allowing us to learn from each other, to take inspiration, and for continuing the liberation of women in IP.

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A diverse environment and an inclusive culture are the core principles for reaching better outcomes. LexOrbis as a Firm has and will always aim to achieve equality and diversity in our workplace, as these two factors count for the best discussions and all success stories. It is important to treat everyone equally, as that gives each individual a sense of belonging.

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Manisha Singh, Managing Partner - LexOrbis

If you would like the opportunity to share your experiences with *Women in IP Leadership*, would like to nominate an individual to be involved, or would like to learn more about sponsorship, please contact our Editor.

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- » **IAM Strategy 300, 2020** - Manisha Singh has been recognized as world's leading IP strategist
- » **IAM 1000, 2020** - LexOrbis is recognized as "Recommended Firm"
- » **IAM 1000, 2020** - Manisha Singh is recognized as "Recommended Individual"
- » **The Asia-Pacific Trademark Law Firm Rankings (India), 2020** - LexOrbis has been recognised as the most well respected law firm by The Trademark Lawyer Magazine
- » **Managing IP, 2020** - Manisha Singh recognized as "IP Star" 2020 for Patent litigation, Patent strategy & counselling.
- » **Managing IP Trademark Rankings for 2020** - "Trade mark prosecution tier 2 firm"
- » **India Business Law Journal's** - Indian Law Firm Awards 2020 for Intellectual Property Protection
- » **"Patent Law Firm of the Year" by Legal Era** - Legal Media Group, 2020
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- » **WTR 1000, 2020** - LexOrbis has been recognized as "Recommended Firm"
- » **2019 IP Star women of the year by Legal Era** - Legal Media Group awarded to Manisha Singh

- » **2019 GIPC** - Award for Excellence for invaluable services in the field of IP to Manisha Singh
- » **Ranked in WTR1000 2019**
- » **Innovation & excellence** - IP law firm of the year 2019" by The Corporate LiveWire.
- » **Awarded as "Corporate INTL Global awards 2019"**-"Intellectual Property Law firm of the year in India".
- » **IAM Patent 1000** : Most recommended prosecution firm for 2019 recognized Manisha Singh
- » **The IAM Strategy 300** – The World's Leading IP Strategists
- » **The Award for "IP Excellence Recognition" for 2019**, at Questel Executive IP Summit 2019
- » **Diversification of Practice** – 2019 by Indian Corporate Counsel Association (ICCA).
- » **The Acquisition International for 2019 Global excellence award:** Manisha Singh recognized as the most influential women in IP
- » **Asia Law:** Recognized for the category Intellectual Property in Asialaw Profiles 2020
- » **Best Patent Law Firm in India** - 2019 Asia IP awards.
- » **India Business Law Journal, 2019:** Manisha Singh recognized as one of India's Top 100 Lawyers, The A-List

Joana de Mattos Siqueira: Partner, Montaury Pimenta, Machado & Vieira de Mello

An interview: inspirations, experiences, and ideas for equality.

Joana is a partner and part of the Montaury Pimenta, Machado & Vieira de Mello trademarks team. With over 20 years of experience as an attorney in Intellectual Property, her practice involves all procedures for registration of trademarks with the INPI, including opposition and other administrative petitions, as well as strategic analysis for complex trademark issues, with the aim of avoiding litigation, where possible.

Joana is responsible for the management of

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**Never
forgetting to
show off
with
confidence
WHO I was.**

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trademark portfolios for major international companies and actively participates in worldwide organizations such as INTA, ASIPI, ECTA and ABPI. Joana actively participates in the work of IP associations across Latin America, North America, and Europe. She is currently the chairwoman of the ASIPI (Inter-American Association of Industrial Property) Trademark Commission, member of the INTA's Brands for a Better Society Committee in the Corporate Social Responsibility (CSR) section and chair of ABPI (Brazilian IP Association) Diversity and Inclusion Committee.

Besides that, Joana has always been very active in PRO BONO work and on social responsibility issues. For over eight years she was Vice Chair of ASIPI's Social Responsibility Committee, undertaking social work initiatives in different countries and for four years she was a member of INTA's Pro Bono Committee. Furthermore, Joana serves on Montaury Pimenta's Executive Committee and also heads the firm's Diversity and Inclusion's Committee.

She is member of WIPLA (Women's Intellectual Property Lawyers Association), has been nominated among the most influential women in IP by the publication World IP Review 2020 and participates in various "IP Women events" such as MIP INTERNATIONAL WOMEN'S LEADERSHIP FORUM.

Joana has been repeatedly recognized as a leading trademark practitioner in Brazil and internationally, including by the most renowned international guides such as WTR1000, Leaders League and IP Stars.

What inspired your career?

I am lucky enough to be born into a family where my mom was an example of a women with a career and a father who always supported that, so I was always inspired and educated by them to find my path (I am the first attorney in my family) – and I did achieve it. Law turned out to be my choice because the idea of justice and helping others has been part of my personality as long as I can remember.

How have you found the pathway to your current position? And can you offer advice from your experience?

Today I may say that I am a successful partner of one of the most renowned Brazilian IP law firms and ironically when I started studying law I didn't even know what IP was... once again, I mention my mother, who imposed me to start working at any open opportunity and not wait for my dream job (at that time I wanted to work with family law), so a friend told me about a clerk position in a certain IP law firm.... and the end of the story you already know... 22 years have passed, all my professional career was developed in Montauray Pimenta so the pathway to my current position was based on loyalty, admiration, patience, hard work, willingness to learn, humbleness, commitment and respect (not only from my side, but also from my "bosses", today, partners) – never forgetting to show off with confidence WHO I was. My advice would be, when you find a place that you believe that is worthwhile with people that you admire and where you feel happy, add all these "ingredients" (with extra dose of commitment and patience – I feel nowadays that a lot of people from the young generation expect that things should happen way too fast) and take your chance – chances of success are high.

What challenges have you faced? And how have you overcome them?

Of course being a woman with a quite "fragile" figure (I am tiny and always looked much younger than I am) in several situations colleagues, attorneys, and clients would give me a first glance and I could read their minds... "is she really the one in charge of this matter?", but when facing a situation like that, if you have confidence in yourself, said confidence will appear naturally and indeed everyone involved will realize that, at their own pace, and respect and listen to you. Of course, they will not always "like" you – but we must know that we will not always be "liked" by everyone and this is a fact.

By the time my career was developing I thought I had everything "under control", but then I became pregnant with my first son and in the same week that I had this great news: I was invited to become a partner... the "problem" is that my husband and I decided to keep the pregnancy a secret for the first three months and I did not want to accept the partnership not being totally honest with my soon to be partners. This "challenge" was solved soon, of course, after talking to my husband, the day after the invitation I had a meeting with these two partners and their reaction could not have been better. The challenges started afterwards, trying to find a balance between a professional and personal life is very

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difficult but achievable. Regarding the ingredients that I mentioned before, when you are confident and proud of the professional you have become you will not be completely devastated when you need to travel for work (and I do travel a lot) and someone asks you "and what about the kids?", or your kids ask you why you are not picking them up at school – these questions will happen, but once your family knows that your work makes you happy (of course economically also important), they should support you and understand that it is part of who you are – so this message must be clear – on the other hand, knowing that I am truly doing my best as a mom, wife, and professional also gives me a strong peace of mind. Of course, it is not always as easy as it sounds!!

What would you consider to be your greatest achievement in your career so far?

I was quite honored to be appointed one of the most influential women in IP by WIPR's publication (2020), but if I were to pick one achievement, it would be being one of the founders of our firm's Diversity and Inclusion Committee. I know that my participation was very important to give voice to the Committee and a bridge to have the support of the firm's founding partners. The knowledge that we have a genuine committee looking inside our firm (and not a marketing tool) and honestly willing to change our culture for a truly inclusive and diverse law firm is an extraordinary achievement.

What are your future career aspirations? And how will you work to achieve them?

Of course, never putting my position as one of the partners of our Trademark Department in second place, my aspiration is to develop a diverse and Inclusive environment in the firm. Our idea was initially to focus -but never limit to -on gender, sexual orientation, and race, but after conducting an internal survey to find out who we are, for me that is the key when you are starting a program like this, we noted that there is a social economic barrier showing that not everyone in the firm feels included – I want to change that as soon as possible. I want our team to feel a totally inclusive environment, being able to BE who they are. Focusing on the Brazilian scenario, where we have a very large part of the population with very low income resources and very low educational opportunities, we are working to give opportunities for our professionals such as English classes and opportunity to apply to open positions in the firm, planning affinity groups, and mentorship program providing mentees with a role model – always with determined goals and deadlines. In parallel, we want diversity to be part of our team and our

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Having 1% of black people being partners in Brazilian law firms is just unacceptable.

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society, so we are sponsoring LGBTQ+, RACE, and WOMEN events and looking for our new candidates in specific diverse employment databases.

Still on this matter, we sponsor two passionate projects that I would like to point out, the first one is called "Incluir Direito" which gives support to black students in universities across Rio de Janeiro and São Paulo giving them English classes and writing classes to prepare them to the law environment. The project also provides a mentorship program in which senior partners from law firms mentor these students to prepare them for interviews and for the workplace. The second one is Projeto Camp Mangueira, which aims to contribute to the socio-educational formation of adolescents and young people, training them for the job market. We give job opportunities to young apprentice, registered on the project, from a community located at the north zone of Rio de Janeiro.

And since Social Responsibility is a priority in my personal and professional live, I should mention our firm's PRO BONO Department which immediately launched a beautiful project offering pro bono assistance in any Covid related IP matters at the beginning of the pandemic.

What changes would you like to see in the IP industry regarding equality and diversity in the next five years?

I believe that the gender situation in the trademark field is different than in the Patent area. In Trademarks we have a majority of women, but my goal would be for these women to achieve leadership positions and equal pay. Regarding Patent practice, the number of women should increase in every step of the career.

Back to the situation in Brazil, where 54% of the population declared themselves black and with the longest history of slavery in the world, I wish to see that structural racism loose place. I know that it will not be fast but having 1% of black people being partners in Brazilian law firms is just unacceptable.

How do you think the empowerment of women can be continued and expanded in the IP sector?

Mentorship and inspiration– of course it must always be continued, there is no way back when we are talking about gender (or any other diverse group) – mentorship programs are always inspiring and helpful no matter where you are in your path– since it's an extremely rich learning experience to both mentor and mentee. For me, the goal is to achieve a balance between men and women, since usually our natures are different and should COMPLETE each other and not COMPETE. Luckily in our firm, this

empowerment is naturally happening and an entire new generation of partners is composed by extraordinary women – we are not the founding partners, but we have our chairs by their sides and they are open to listen to us. Once again, I revert to my "ingredients" – they really helped me become who I am and where I am.

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Rebecca O'Kelly-Gillard: Partner, Bird & Bird

An interview: inspirations, experiences, and ideas for equality.

Rebecca obtained her BCL International Law degree from University College Dublin and became a Solicitor at McCann FitzGerald in 2004. In 2011 she spent a year on secondment to Freshfields Bruckhaus Deringer before finding her place at Bird & Bird's London office in 2012 where she specialises in solving trademark and copyright issues that have a digital or online focus. Rebecca was made partner in May 2020.

What inspired your career?

Well, I wanted to do film production but my parents, who have never said a flat-out no to any of us, said, "you could do that, but what if

“ Law firms need to be making up partners from women who have children. ”

half way through your diploma you decide you don't like it and you're stuck with a niche background?”. So, I decided to do law, and was lucky enough to get into study law in Ireland – and I've got to be honest I absolutely hated the first year, but second year I did a module in IP and loved it. I found it interesting and relevant to everyday life. In third year I had the chance to do Erasmus year which I did over in the States, which meant I could do entire courses just on patents, or trademarks, or media law, immersing myself in all aspects of IP - this just confirmed my enjoyment. So that's what got me into it.

How have you found the pathway to your current position?

I'm not from a family of lawyers and I didn't really know what you were meant to do. In the last year of study everyone was doing the traditional interviews, in England you have the Magic Circle, in Ireland you have The Big 5 – everyone applies to these to see if you can get an interview. So that's what I did, and I managed to get an interview with McCann FitzGerald, which is an excellent firm, and got the job. It was all quite serendipitous because they had the best IP practise in Ireland. So, I worked there for a few years, then my boss took early retirement just after the financial crash. After she left there was a shift in the focus of the work I was doing.

So I was getting itchy feet and came over to London to meet a recruiter, then really randomly two days later my Managing Partner asked if I would go on secondment to Freshfield Bruckhaus Deringer in London. It was 2011 and Freshfields was the official legal sponsor of the London 2012 Olympic games and needed some extra assistance due to members of their team being on secondment to LOCOG. It became evident to me then that if I wanted to continue doing high quality IP work I would need to leave Ireland, so I used my time at Freshfields to make contact with London lawyers I had worked with including Morag Macdonald, who is joint Head of the international Intellectual Property Group at Bird & Bird. Before meeting she said, "we don't have any jobs," and I said that was fine, it would be helpful to know more about the IP landscape in



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Individuals need to be having much more honest exit interviews with their employees/employers.
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London. Then I met with her and she said, “we don’t have any jobs!”. That was Wednesday, the following Tuesday I got a call from HR to schedule my second interview – I wasn’t aware I had had a first interview! Morag was very clear there were no jobs! But I had my interviews and got the job – and it’s been so interesting working for Bird & Bird.

Their – well our – reputation is phenomenal, and it is a privilege to work in our IP team. I have been given the opportunity to get stuck into the work I want. I have a great mix of long-term project management roles for clients, and meaty litigation cases that I can really get stuck into like the *Warner Music v Tuneln* case.

What challenges have you faced? And how have you overcome them?

The biggest challenge by far was deciding to leave Ireland, it wasn’t something I wanted to do on a personal level. But I was 30 and I needed to decide what I wanted to do with my career. I was always driven by IP which I needed to move for. But it was also very freeing because when I joined Bird & Bird I could be honest that I did move for my career, proving how important my career is to me, and be honest about how I wanted my career to go. The move allowed me to be more self-focused.

What would you consider to be your greatest achievement in your career so far?

Being made partner. It’s been a long slog and when I moved over here I fell back down the ladder. But I feel I have done it in a relatively authentic way. I have great relationships with clients, and I have ended up with a practice I am very happy with despite the big decisions I’ve had to make along the way. Don’t get me wrong, I’ve had knock backs. When I was looking to stay on at Freshfields I was considering staying on there at the same time as I was interviewing elsewhere, but they didn’t think I was Freshfield’s material. But in hindsight I am delighted because, although everyone at Freshfields was excellent, I do a lot more contentious work at Bird & Bird which I prefer and is the work I want to do.

What are your future career aspirations?

That’s a tough one. When I was a Senior Associate I worked with Phil Sherrell on *Warner Music v Tuneln*, which is a big music case focusing on complex copyright issues (I’m still working on it as it is currently under appeal). – okay I didn’t see my husband for about two years – but to be able to do such complicated litigation was just, it sounds nerdy, so mentally rewarding. Continuing to do more work like that would be amazing, particularly with clients as great as Tuneln.

But then balancing that with more long-term projects: clients that I have worked with everyday for the past eight years, we have a great relationship. If they have a project they want to work on they will take the risk with us and we will muddle through it together because of the trust, so it would be great to develop more relationships like that. A balance between working on innovative projects on what is perceived to be routine work, with really cutting-edge litigation would be ideal.

What changes would you like to see in the IP industry regarding equality and diversity in the next five years?

Well, you didn’t need to ask me specifically to talk about diversity and inclusion, because the answer about what changes I want to see in the IP industry in general would have been equality and diversity! My biggest frustration is around our profession’s lack of ethnic minority diversity. When looking at partnership level in IP practices, there are so few ethnic minority members for our more junior colleagues to aspire to – there are some BAME partner trailblazers, of course, but nowhere near enough. We are quite fortunate in terms of gender equality, certainly in the Bird & Bird IP team, as there are quite a lot of female partners. But at the same time, different women have different aspirations and needs. And law firms need to be making up partners from women who have children in a way that they are not delaying their route to partnership by having a family. The pathway and objectives for partnership need to be realistic regardless of gender and background.

In terms of ethnic minority diversity, the recruitment process needs to be challenged across the board too, right from entry level up to partnership and management.

I think social mobility is a key part of this. At Bird & Bird we have a bursary scheme which has been running for a long number of years and we brilliantly now have qualified lawyers in our teams who joined our bursary process before university. We also work closely with Aspiring Solicitors, and I hope our mentorship programs will continue to develop. Another example we have is that one of my partners in Paris, Djazia Tiourtite, is doing an amazing job around social mobility, pairing with an organisation called VienVoiMonTaf – focusing on teenagers from disadvantaged suburbs where job aspirations are perhaps more limited, they are bringing these kids into the offices to meet and see what work lawyers do, and see the range of jobs in a law firm – just to plant a seed.

I think, across the board, individuals need to be having much more honest exit interviews between employees and employers. – whatever

their background, gender, or sexual orientation. I think when leaving a firm, for whatever reason, individuals feel they should maintain a good relationship and avoid burning any bridges – which is good to an extent, but this will not highlight underlying issues surrounding inequality if they are present. Everyone, no matter their position, should have a safe space where they feel comfortable voicing their experiences – good or bad.

I am not sure how we get there, and we aren't going to change the sector overnight. There has been a big focus on gender equality (partly driven by the pay gap reporting requirements), and yes, I am a woman so I'm obviously all for gender equality, but equality and equity for all should be top priority.

How do you think the empowerment of women can be continued and expanded in the IP sector?

I think mentorship is really important. I have an amazing mentor who is a partner in Deloitte, which got set up through a mentorship event run by one of my partners, Bryony Hurst. What I find great is that my mentor can really challenge me on some of the preconceptions I have, but she also understands my issues because she is in a professional service firm herself – she has been through it herself and helps associates develop their career in her own firm. So, having benefited from this I need to pay it forward, so I am mentoring a few people – I am not sure how good I am at it, but just helping people have conversations is important.

Bird & Bird hosted IP Inclusive's Women in IP's annual event at the beginning of this year. Women in IP is chaired by Joey Conway and Susi Fish who are doing a fabulous job. At the talk I spoke briefly about mentorship and people were getting frustrated and discussing how difficult it is to find mentors – but I suggested finding mentors outside your own firm and thinking laterally. After the event I was speaking to Joey and she said that they are already looking into developing a mentorship programme. It is important to give people guidance, pull the next generation up with you and don't kick the ladder down.

I am also a very firm believer that we need to be having these conversations with men in the room and teaching about unconscious bias. A colleague, Afra Casiraghi in our Millan office, having done an immense amount of research around gender equality, has set up a program called 'Together', part of that is around unconscious bias training. For example, it might be thought helpful to avoid giving a woman with children a particular piece of work because

it would mean she'd have to work late, but it's actually hindering her career because when it comes to her appraisal, she hasn't done anything meaty, but that's only because she hasn't been given the opportunity. Also, language is looked at to address words that would never be used in relation to men. The feedback was amazing. And similar should be done to address (micro)aggressions used towards people from minority ethnic communities. It is the people in positions of privilege that need to educate themselves – people need to start understanding the very real and lived experiences of the people that haven't made it to the positions they want to be in.

And my final point is to be honest about the role of partnership. Partnership is very different, with only a fraction of your time actually doing the law – it's client relationships, it's people management, it's doing things like this, which are all brilliant and interesting, but you need to make people aware of it. Obviously, there is the pressure of how much money you're bringing in and there's the stress. We need to be honest with people about the role of partnership to allow people to decide for themselves if it's something that they want. And if it isn't, what is the alternative and what can you do to reward people meaningfully in different ways?

You don't get anywhere alone, and I have had lots of mentors and role models, especially now I have been made partner, to help me transition into my new role – men and women. I am not trying to make it sound like I have made it here on my own because I certainly didn't!

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