

WRITTEN STATEMENT

By [Mallun Yen](#), Founder, Operator Collective

April 20, 2021

Good morning, everyone. Thank you for inviting me today. I'm Mallun Yen, and I've spent my career furthering innovation -- starting in the patent field and now working with startups, and always working in parallel to advance underrepresented groups. So I'm an unusual combination of IP attorney, operator, founder, and investor.

Because there tends to be more data on women than other categories, for shorthand today, I refer to "women" as a proxy for women, people of color, and other underrepresented groups. But my comments are not limited to women.

My background in patents

For many years, I was the VP of Worldwide Intellectual Property at Cisco. When I was promoted to that position in 2005 there were so few women Chief Patent Counsels that it was front-page news. That led all seven of us to start a nonprofit called ChIPs, which is the world's largest organization for women in patent law with almost 4,000 members in 17 chapters worldwide. My ChIPs co-founder, Michelle Lee, was the first and still only woman, as well as the first and still only person of color, to serve as a Senate-confirmed Director of the USPTO in its 219 year history. I then built up a startup called RPX that helps companies reduce and insure against patent risk. I'm also a member of the National Council for Expanding American Innovation.

Bringing diversity to venture capital

A few years ago, I actually invented something new -- the collective venture model, which serves as the basis of my current startup, a venture capital fund called Operator Collective. I'd been spending a lot of time on the periphery of venture capital and noticed a few things, namely that the venture world revolves around VCs and founders, both homogeneous groups which at the time were [about 90%](#) male, predominantly white, and [40% of whom went to Harvard or Stanford](#).

But having been a founder, investor, and an operator, I saw a huge piece missing -- a piece that's critical to the success of any startup: operators. In the world of venture, operators are the people who join the company as it needs to grow. They are not typically in the limelight, but spend their time building and scaling all of these successful companies in the background.

So here are these wildly experienced operators who have exactly the right knowledge and skill sets to help new businesses grow and thrive, but they're typically left out of the venture equation. Most people aren't intentionally trying to exclude these operators, it's just that the system was not friendly to people who give 150% to their day jobs and use any time leftover for their families and friends.

I *knew* operators were the critical missing piece in venture capital, and since the traditional model didn't work for them, I created a new model that would. We tore down the traditional fund structure and rebuilt it from the ground up to optimize for bringing in busy women operators. To do so, we added three things: education, accessibility, and representation.

- **EDUCATION.** We knew women didn't have access to the right information, so created programs to educate and engage.
- **ACCESSIBILITY.** We knew one big hurdle was the cost of entry, so we created a sliding scale for financial participation. Another obstacle was the rigid structure, so we made it flexible in terms of time commitments.
- **REPRESENTATION.** Knowing women are often criticized for self promoting, we built a supportive community that does it for them.

In short, we made it easier and more user friendly for them, and turned their preferred way of operating into a core part of the model that actually made it stronger. Today, our \$51M fund has over 130 operator investors who are 90% women and 40% people of color, over 70% of whom had never invested in venture before.

How this relates to patents and innovation

There are several parallels to what's going on in the world of patents. [According to the National Bureau of Economic Research](#), "children born to parents in the top 1% of the income distribution are ten times as likely to become inventors as those born to families with below-median income, and whites are more than three times as likely to become inventors as blacks." And according to the [Public Library of Science](#), "women's rate of patenting has increased from 2.7% of total patenting activity to 10.8%" in 40 years. Assuming a consistent rate of increase, it would take 194 years to increase that to 50%.

Securing a patent is complex, daunting, and expensive. You have to learn a system that uses terms outside of everyday language, you need the time to dedicate to it on top of your job and family obligations, and you have to have the financial means to navigate the process. Once you've completed the process once, it's less intimidating, but the barriers to entry are huge.

The system wasn't built for inventors like Ms. Edwards. If we want to capture the innovations that reflect the contributions of all of America, we need to evolve the system to make it more accessible to everyone. That includes the same three things: education, accessibility, and representation.

- **EDUCATION.** We have to make it easier to navigate the process, instead of first-time inventors having to complete a monumental journey just to know where to begin, with

deliberate outreach to underrepresented communities early and consistently.¹

- **ACCESSIBILITY.** We must make it more accessible in terms of access to resources and financial commitments. The [Leahy-Smith America Invents Act of 2011](#) added four satellite PTO offices, which was a good start, but more would be better. Another idea is to revisit the USPTO's patent pro bono program, potentially to adjust it to apply to underrepresented groups with a traditionally low rate of patenting.²
- **REPRESENTATION.** We must highlight inventors from diverse backgrounds in order to create a new normal and change the voices that are highlighted. This includes appointing a USPTO Director from an underrepresented background.

Finally, there is one fundamental piece that underlies this all, and it's something the tech industry has been doing for years: data. We cannot measure progress if we do not track our data and results.

[According to the National Bureau of Economic Research](#), "relatively little is known about the individuals who become inventors in the modern era in the U.S. This is because most sources of data on innovation (e.g., patent records) do not record even basic demographic information, such as an inventor's age or gender." Senator Hirono's IDEA Act goes a long way toward ensuring this fundamental piece.³

Thank you for your time and attention.

¹ Some corporations, like HP and Cisco, have already begun to implement programs to encourage underrepresented groups to participate in the patent process with early success. Since Cisco launched its program in 2020, over 200 women have participated, resulting in 48 invention disclosures and a dozen accepted for filing as applications, according to Dan Lang, Cisco's Vice President, Intellectual Property and Deputy General Counsel. In most corporations, employees receive a monetary award based on patent filings and also sometimes for submitting patent disclosures. Beyond these awards, patents have also been known to enhance careers, with increased peer and professional recognition, leadership opportunities, opportunities for collaboration, and ultimately increased pay. [Equity in Innovation, Women Inventors and Patents, Institute for Women's Policy Research](#), 2016 citing Stevens, Johnson, and Sanberg 2011; Association of Public & Land-Grant Universities 2015; Rosser 2009.

² [USPTO's Pro Bono Program](#): In general, the requirements for admission are: Income (Your gross household income should be less than three times the [federal poverty level guidelines](#), though some regional programs may have different criteria), Knowledge (You must demonstrate knowledge of the patent system in one of two ways: Having a provisional application already on file with the USPTO, or successful completion of the [certificate training course](#)), and Invention (You must be able to describe the particular features of the invention and how it works).

³ Along these lines, one way to jumpstart data collection is to compile that data by amending the Inventor Oath and Declaration (37 CFR 1.63). For pending applications, all applicants should be required to file an updated Oath and Declaration that includes demographic information (at the office action phase or prior to the notice of allowance issuing). For issued patents, applicants should provide that information when maintenance fees are due or any other touch points that the inventors/assignees have with the USPTO. Thank you to Vaishali Udupa, HPE's Associate General Counsel, for this excellent suggestion.