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2015 Women Leaders in Tech Law

Why 'Perfect' Is the Enemy of Diversity

BY MALLUN YEN

Editors Note: Mallun Yen delivered these remarks at The Recorder's Women Leaders in Tech Law event on Sept. 29.

As a woman of color in a still predominantly male field (tech and patents) and a co-founder of ChIPs, you might expect that I would be more aware than others of the pitfalls of stereotyping. And I am. But that didn't keep me from almost losing a great hire because of my own biases.

Many years ago, I was looking to hire a patent litigator. I was thrilled when a recruiter sent me the resume of a woman with stellar credentials: BSEE, MSEE, graduated first in her class, top five law school, patent attorney, years of litigating with a top-tier law firm. Perfect, I thought. Hired!

Until the interview.

It started with a weak handshake and went steadily downhill from there. She made little eye contact and was very soft spoken. I couldn't imagine her standing up to opposing counsel or advising senior executives on challenging issues. Disappointed, after the



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interview, I let the recruiter know I wouldn't be calling her back.

I had largely moved on when the recruiter called back a short while later and said the candidate wanted to know if I would give her the feedback directly. I replied, of course. When she called, I asked her whether she really wanted candid, unfiltered feedback. She said yes, so I let it rip. (And those of you who know me know how direct I can be.) At the end of the call, I asked her whether she still wanted to join my team. She said yes. I told her I was willing to have her meet my boss, but it had to be that evening since he was leaving on a trip, and that she needed to do a number of very specific things including: start with a firm handshake; make eye contact, hold it, and don't look away first; speak assertively; project out of your diaphragm and so forth.

I had harangued her for a good five minutes, so when I hung up the phone, my assistant was looking at me with a raised brow. I said, after what I just put her through,



she'll either be a complete wreck when she meets him, or she's going to knock it out of the park, in which case we are going to hire her. Well, she ended up joining us shortly thereafter, and became a top performer with the company for many years as well as a great public speaker. Today, she is a judge.

I learned two valuable lessons that day. First, my idea of "perfect" was flawed and deeply biased. My instinct was to hire for those who looked like others who had been successful in the position in the past—those who satisfied that "single story." It was based on my experience with those litigators who had assertive body language, spoke loudly, filled a room with their swagger, etc. My implicit bias made me believe that those attributes made a great litigator, when in fact, a great litigator needs to be smart, know how to construct an argument, build rapport, identify the other side's weaknesses and so much more. I was biased toward the external manifestations of what I thought a "litigator" should be.

Luckily, this candidate actually had the smarts, intrinsic confidence, adaptability and willingness to take chances that are the real attributes of a great litigator and employee. I mean, after being told she had been turned down, she had the wherewithal to ask immediately for direct feedback about why.

The second lesson I learned was that if you go for just the obvious

candidates, you'll miss out on the diamonds in the rough who just need a little polish to shine. I realized during our conversation was that she hadn't received any constructive coaching about how to translate her strengths into corporate success. She was willing to absorb my 15 minutes of unvarnished feedback—and translate it immediately in a way that worked for her in the interview with my boss. It was clear she could and would do what it takes to realize her untapped potential.

It turns out her experience isn't atypical. The Clayman Institute at Stanford University is about to release a study that shows that men are significantly more likely than women to receive feedback in their performance reviews on how to develop and succeed in their careers, while women are more likely to receive feedback about their communication style and personality.

This experience taught me to open my eyes and take another closer look even if that person was not what I pictured of who had been successful in the past. It taught me that the idea of "perfect" is the enemy of diversity. Sometimes "perfect" is so skewed to that single story that we forget that those who speak softly often can and do carry the biggest stick.

And sometimes even those who believe they are completely sensitized to—and on guard against the dangers of biased thinking need to remember to constantly consider and reconsider how they are making decisions. Bias is always lurking. That's something I discovered the hard way and it almost cost me one of the best employees—male or female—that I've ever had.

While we are making progress toward increasing diversity in our workforce, but we all know we still have a ways to go. The recent Women in the Workplace 2015 study by LeanIn.org and McKinsey shows that at the current pace of progress, we are over 100 years away from gender equality in the C-suite. I do believe we can accelerate the pace, but it will take many steps, including fighting against some of our natural instincts and staying attuned to the biases that can get in our way.

Mallun Yen is the executive vice president of RPX Corporation responsible for corporate development, products, business, and regulatory affairs. She is the former vice president of worldwide intellectual property and deputy general counsel at Cisco, and a co-founder, board director, and president of ChIPs, a 501(c)(3) organization with over 1,000 members focused on the advancement of women in tech and intellectual property.