Many intellectual property lawyers would concede that women have traditionally been underrepresented in the practice area. Despite an absence of data detailing the ratio of men to women intellectual property practitioners, personal observation and other indicators are prompting a consensus that the imbalance is shifting, albeit slowly.

“We’re going in the right direction,” said Pamela Banner Krupka, head of the Krupka Law Group in Los Angeles and vice chair of the American Bar Association’s intellectual property section.

“When I first became professionally active in the late 1980s, I would go to meetings — American Bar Association, American Intellectual Property Law Association, any one of them, you name it. At the break I’d go into the restroom and there’d be one or two women there. But now we have a line.”

By most accounts, intellectual property law historically has been a male-dominated domain, especially when it comes to patent litigation. The most common explanation for the discrepancy is a dearth of women with strong science and technology backgrounds, a necessary requisite for intellectual property practitioners. In order to prosecute patent cases, the U.S. Patent and Trademark Office requires attorneys to pass a six-hour examination.

“Looking at the numbers in law firms — both at the associate and partnership levels — women are indeed underrepresented,” said Kelly C. Hunsaker, a litigation principal in Fish & Richardson’s Silicon Valley office and national chair of the firm’s diversity initiative. “Anything we can do to encourage women’s participation in science and engineering more generally will help.”

Kate H. Murashige, a partner in Morrison Foerster’s San Diego office, agrees the gender ratio in intellectual property is skewed toward men, but said a closer look at specific areas within the practice might tell a different story.

“Everyone has his or her own perceptions,” she said. “If you look at biotech and pharmaceuticals, I think you’ll find that women are very highly represented. If you look at things like electronics, material science and mechanical, they’re not. And the reason is because there aren’t that many women with that kind of technical degree.”

Jill M. Pietrini and Susan E. Hollander are partners in Manatt, Phelps & Phillips’ Los Angeles and Palo Alto offices, respectively. Together they co-chair the firm’s intellectual property practice and say women are very well represented within the firm.

Hollander made a distinction between the trademark, copyright and patent practices, saying it wouldn’t surprise her if analysis of the trademark and copyright bars showed that each were predominantly women.

Breakdowns of gender representation in specific practice areas were unavailable from the ABA, the American Intellectual Property Law Association and the Association for Legal Career Professionals.

“Women are creative,” Hollander said. “Trademark is a very creative area of law because you’re talking about a subjective test, and I think women are more creative in that way.”

Being an intellectual property lawyer has become “more vogue,” Pietrini said.

“When Susan and I started going to cocktail
“in the hard sciences,” Park said. “And that
scales in patent law.

directly correlates to the number of women spe-
number of women studying in these fields
that are dominated by men. But she said the increasing
computer engineering sciences are still heavily

Freddie K. Park is vice president of intellec-
tual property at Connetics Corp., a Palo Alto phar-
maceutical company specializing in dermatology
products, and sits on the American Intellectual
Property Law Association’s board of directors.

A comparison of the total number of degrees
earned by men and women in the biological,
engineering and computer sciences over the past
three decades might explain the extent of the
incongruity, as well as the narrowing gender gap.

According to statistics compiled by the U.S.
Department of Education, the number of degrees
conferred on women in the biological,
engineering and computer sciences over the past
decade has increased 239 percent for women and
3,287 percent and 4,357 percent, respectively. In

Krupka, who is also a former liaison to the
ABA’s Commission on Women in the Profes-
sion, was reluctant to use the word “problem,”
saying it connoted “some us-versus-them thing.”
She did, however, agree that the discrepancy in
women in intellectual property practice is a
reflection of the entire legal profession.

“Look at those big cases,” she said. “Under-
standably, in some ways, they tend to go to men
because these are cases of significance with big
money involved and, typically, with important
legal issues. From the client’s perspective, you
want to give those cases to the people with the
most experience. But it does become a chicken-
and-egg type of problem.”

If firm management doesn’t make a concerted
effort to offer talented, qualified female attorneys
the opportunity to handle these types of leader-
ship roles, it becomes a self-fulfilling prophecy,
Krupka said. Women, she said, will never reach
the point of being the go-to person.

“The frequency with which you come across
counsel, opposing counsel or women work-
ing on IP cases or patent cases is becoming
increasingly more frequent,” Hunsaker said. “At
the most senior levels and the lead counsel level,
there is still a great deal of progress that needs to
be made. Part of this is historical and that will just
take time.”

“We just need to keep our focus,” Krupka said.
“We have more women active in all areas of intel-
lectual property, both in law firms and in-house
[counsel]. We need to expect to be rainmakers.
We need to expect to have an opportunity to
argue that big case or be lead trial counsel. Cli-
ents want a winner, and you don’t get to be a
winner until you get a chance to shoot.”