Florence King
First Woman Patent Attorney

Women in the Legal Profession
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The United State’s first woman patent attorney, also active in the organization of business and professional women, as well as the suffrage movement, was born in the village of Hudson, Iowa. She was the daughter of Andrew and Susan (Goughnour) King, who were Quakers. Little is known of her parents, although on her death certificate, her son, Willis King, reported that her father was born in Germany and her mother in Johnstown, PA. In her late teens, Florence moved to Mount Morris, IL, where she attended Mount Morris College, a school affiliated with the Church of the Brethren. She graduated in 1891 with an A.B. degree in stenography. After graduation, she moved to Chicago, IL, where she supported herself as a public stenographer.

In the fall of 1893, Florence enrolled in the newly organized Kent College of Law in Chicago, a night school with a distinctive two-year program of study that emphasized practical training. At some point prior to her graduation from Kent on May 24, 1895, she married Herbert L. Embrey, a fellow student who was originally from Boston, MA. Florence and Herbert Embrey graduated together on May 24, 1895, along with 63 other graduates (including one other woman), in the school’s third graduating class. On June 6, 1895, Florence was the 51st woman admitted to the Illinois bar. She continued working as a public stenographer until she was able to develop a large enough clientele to fully devote her energies to the practice of law.

In order to practice patent law, Florence enrolled in night classes at the Armour Institute of Technology, the current day Illinois Institute of Technology, in Chicago. She earned a degree in Mechanical and Electrical Engineering and on October 4, 1897, became the 685th person and the first woman registered to practice before the U.S. Patent
Office. Florence and Herbert had one son Willis King, but it is likely that Herbert died before their son was born.

In February 1898, Miss Florence King (according to two newspaper accounts) was in New York, promoting the Woman’s Alaska Gold Club, an organization she founded to enable women to strike it rich in the Klondike gold rush. The Club, with 150 members, had established an office in New York under the supervision of Dr. Ella A. Jennings. Although Alaska’s Governor, John G. Brady, had appointed Florence a commissioner of deeds for the district, the Club never made it to the gold fields. It is probable that Herbert died in late 1897 when Florence was in the few months of her pregnancy. Reverting to her maiden name, the young widow decided to strike out for the Yukon, only to discover, on the eve of the arduous journey, that she was pregnant with Willis. This train of events would explain Florence’s early reversion to her maiden name along with her return to the practice of law in Chicago. She was admitted to practice before the federal courts in 1900 and on April 20, 1903, Florence was the 12th woman admitted to practice before the U.S. Supreme Court.

In 1903, Florence won “the greatest victory ever won by a woman,” defeating “a future U.S. Senator.” This case established Florence as one of the leading patent attorneys in Chicago and she moved her offices to the Monadnock Building in 1905, offices she would maintain through the remainder of her career. The Monadnock Building, built in 1893, was the largest commercial office building in the world at the time of its completion. It is still the tallest building in the world supported primarily by brick load bearing walls.
In 1912, frustrated with the lack of leadership opportunities provided by the Chicago area Chamber of Commerce, Florence resigned her membership and began meeting with other professional women in the Chicago area. Working with representatives from women’s groups and clubs, she founded the Woman’s Association of Commerce, of which she was the President. The organization spread throughout the nation by adding chapters from California to New York and with national meetings in Cincinnati, OH in 1918 and St. Louis, MO in 1919. Florence was also the President of the International Woman’s Association of Commerce. The Association put pressure on the chambers of commerce across the country to open up membership and leadership opportunities to women. By 1922, with over 97% of the chambers open to women, the Woman’s Association of Commerce of the U.S.A. was dissolved in order that women could devote themselves fully to their work in the integrated chambers.\textsuperscript{ix}

In 1914, Florence attempted an unsuccessful run for Municipal Judge in Chicago. In 1915, Florence was the only woman to address the California Bar Association meeting, which held a special “Lawyer’s Day” celebration at the San Francisco Exhibition. Throughout her career, Florence continued to prosecute patent applications before the United States Patent Office and represent her clients in patent suits in the district and appellate courts. She was a member of the faculty and assistant dean of the Chicago Law School, teaching patent, trademark, and copyright law. She was the only certified woman member of the American Association of Engineers and represented the Chicago chapter of the Association at the Pan-Pacific Congress in August 1920. She was recommended by the Woman’s Republican Club of Chicago for a federal judgeship in 1922.
In 1921, Florence began representation of the Crown Die and Tool Company in a patent infringement lawsuit filed in federal district court in Chicago by Nye Tool and Machine Works. Handling the case in the district court, the 7th Circuit Court of Appeals, and the Supreme Court, Florence argued the case before the Supreme Court on January 17 and 18, 1923. When the case was decided in her favor on February 19, 1923, Florence King became the first woman to win a case in the Supreme Court. In a holding that is still binding precedent today, the Supreme Court defined the boundaries for dividing the bundle of rights present in a patent. The Court held that the assignment of the right to sue a specific infringer did not vest in the assignee a legal right to sue for patent infringement.

Florence’s only son, Willis King, was admitted to the Illinois bar on October 11, 1923 and applied for membership in the Illinois Bar Association in November 1923 on the recommendation of Frank W. Koraleski and Harry G. Keats. Willis practiced law in Florence’s office after his admission to the bar.

On the heels of her victory in the Supreme Court, Florence was diagnosed with breast cancer. Despite operations in 1923 and 1924, the cancer metastasized to her stomach and brain. On June 20, 1924, Florence King passed away at her home on Michigan Avenue in Chicago.

As the first woman patent attorney, Florence King was clearly ahead of her time. Even though a more than a century has passed since her admission, patent law is still lightly populated by women attorneys. Undaunted by seemingly impossible challenges, Florence King sacrificed to blaze a path for upcoming generations of women. Shortly
before her arguments in the Supreme Court, she was quoted in an article about her career:

“Yes, it was a hard grind. I gave the best of my years to the career I had wanted since a tiny dot. But I won and am happy.”

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ii  Death Certificate for Florence King, Cook County, IL Clerk’s Office, Bureau of Vital Statistics, June 22, 1924.
v  Author’s interview with USPTO Office of Enrollment and Discipline, April 19, 2004.

vii  “Miss King off to the Klondike” New York Daily Tribune, p. 5, col. 4, February 17, 1898.

xii  “Meet Responsibilities If You Would Be Real Success, Lawyer Says (Miss Florence King Has Income of $100,000 a Year Because She Made Up Her Mind to Do Work Ahead of Her)” Roy Gibbons, Appleton, Post-Crescent, p. 13, March 11, 1922.
Florence King
A Trailblazing Engineer and Organizer

Craig Largent

Florence King was a trailblazer throughout her life and career. As a solo practitioner patent attorney, she combined the professions of engineering, business, and the law. While many women of her time, not to mention men, struggled to master one profession, she excelled in all three. This paper focuses on Miss King’s experiences in the fields of engineering/patent law and her work in founding the National Woman’s Association of Commerce.

**Mechanical and Electrical Engineer**

Florence King (under her married name of Florence Embrey) was admitted to the Illinois bar in 1895.¹ Almost immediately, and at least by 1898, she was the first woman registered to practice before the United States Patent Office. In 1900, an article on women lawyers in Illinois stated that Florence had been practicing patent law in Chicago for several years.² Given that the vast majority of engineers were men, Florence’s accomplishments were quite rare.

In 1891, at the age of 21, Florence, graduated with an A.B. degree in stenography from Mount Morris College in Illinois.³ Moving to Chicago after graduation, she first worked as a stenographer in a publishing house. When she heard of an opening in a patent lawyer’s office, she took advantage of this chance to broaden her skill base. Stimulated by the practice of patent law and not content to take dictation, she decided to become a lawyer herself. Along with her husband, Herbert L. Embrey, she studied law in a night school, the Kent College of Law, earning

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her degree after completing the two-year program.  

Herbert passed away shortly after their graduation and the prediction made at their graduation ceremony: “We expect at no very distant day to see a law office with Embrey and Embrey on the sign,” never came true.  

Florence was registered to practice before the United States Patent Office, serving clients as a solicitor of patents, which entails working with the Patent Office to help inventors obtain patents on their inventions. Numerous patents were issued in the early 1900s bearing Florence King’s signature as the attorney of record.

In 1903, Mrs. Myrtle Rogers hired Florence to aid her in enforcing several patents against the Federal Supply Company. Realizing that the case hinged on a question of engineering details, Florence believed that it would help her case if she added engineering expertise to her skills as a lawyer. She enrolled in a course in mechanical-electrical engineering at the American School of Correspondence at the Armour Institute of Technology (now the Illinois Institute of Technology) in Chicago. Nearly completing the course before the final hearing of the suit, Florence found that her engineering education made the difference in cross-examining the engineers who served as expert witnesses for the other side. She won the case, which the Chicago Tribune heralded as “the biggest woman’s victory yet chronicled in the United States, of not in the world.”

In addition to her work as a patent attorney, Florence worked as a consulting engineer. In 1918, she became the only woman member of the Illinois branch of the American Association of Engineers (AAE), which had 2,250 members. In fact, she was the only certified woman

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4 “The Kent College of Law” Chicago Legal News, vol. 27, p. 344 (1895)
5 Ibid.
member in the entire organization.\textsuperscript{9} Becoming a certified member required active engagement in engineering work for not less than seven years before applying for membership. She took on leadership responsibilities within the organization and represented the Chicago chapter of the AAE at the Pan-Pacific Congress, which was held in Honolulu, HI from August 2\textsuperscript{nd} to 20\textsuperscript{th}, 1921.\textsuperscript{10} In 1922, she was elected as the vice president of the Illinois branch of the AAE.\textsuperscript{11}

**National Woman’s Association of Commerce**

“Two are better than one because they have a good return for their work.”\textsuperscript{12} Heeding the wisdom of Solomon, Florence organized the representatives from the business and professional women’s clubs of Chicago in 1912 and founded the Chicago Woman’s Association of Commerce. She was elected as the first president of the organization.\textsuperscript{13}

Frustrated with the limited leadership opportunities available to women in the Chicago Chamber of Commerce, Florence quietly resigned her membership in 1912 and began meeting with representatives of local business and professional women’s clubs. Under Florence’s leadership, they formed the Chicago Woman’s Association of Commerce. The object of the Association was to “advance the commercial, educational and civic interests of women.”\textsuperscript{14} Meetings were used to discuss business problems and solutions, and eventually, the Association offered scholarships for young women wishing to enter the commercial world. Florence headquartered the new Association in her offices in the Monadnock Building.\textsuperscript{15}

\textsuperscript{9} “A Certified Engineer” *The Woman Citizen (Woman’s Journal)*, vol. 6, # 16, p. 20, December 31, 1921.
\textsuperscript{12} Ecclesiastes 4:9.
\textsuperscript{13} “New Phase of Organization Among Women” *The Woman Citizen (Woman’s Journal)*, vol. 1, #9, p. 148, July 28, 1917.
\textsuperscript{14} Ibid.
\textsuperscript{15} “Women and Big Business” *The Woman Citizen (Woman’s Journal)*, vol. 3, # 9, pp. 170-171, July 27, 1918.
As news of the success of the Association spread, women across the Midwest sought Florence’s help in organizing other local associations of commerce. Florence traveled extensively throughout the Midwest during the next few years, encouraging the women to build their own associations of commerce. Melding these local organizations (including associations of commerce, businesswomen’s clubs, and women’s professional clubs) into a national body, Florence founded the National Woman’s Association of Commerce (NWAC) in 1916, eventually known as the Woman’s Association of Commerce of the United States of America. By 1919, Florence had organized, and was the President, of the International Woman’s Association of Commerce, with branches in over 10 countries in Europe and Asia.16

The impact of the Association was felt not only in the women’s community, but among businessmen as well. In 1921, according to a survey commissioned by the Association, 97% of the chambers of commerce were open to women, up from a mere 10% in 1912. Moreover, leadership positions were available and being filled by women across the country. As a result of these changes, Florence advised women to join the men’s chambers of commerce, where greater opportunities for growth and contribution were available. In late 1922, having changed the landscape of the chambers of commerce on a national scale, the Association was disbanded.17

Coupled with the work of the Association, World War I impacted and was used as a vehicle to provide increased opportunities for women. Both the increased production required during the war (to meet the army’s requirements) and after the war (to rebuild broken economies and countries) was utilized as an argument to include women in the workforce.

16 “National Woman’s Association of Commerce” The Woman Citizen (Woman’s Journal), vol. 4, # 9, p. 212, 219, August 2, 1919.
At the second annual Convention of Business Women, sponsored by the NWAC and held in Cincinnati, Ohio from July 16 - 19, 1918, over 500 women from 26 states were in attendance. The convention, held during the height of World War I, specifically addressed the impact of the war on women’s opportunities for advancement. In announcing the convention, Florence wrote that the deployment of men to Europe, presented women with a “golden opportunity for advancement in the business world.”¹⁸ She noted that the War Department had recently authorized a policy of the Army Ordinance Department in which women were to be paid equal pay for equal work. She saw the war as an “opportunity for women to demonstrate their real ability to work shoulder to shoulder with men.”¹⁹

Not only did WWI require increased contribution from women, but the increased demands for production following the war were used as a vehicle to increase women’s opportunities. At the third annual convention of the NWAC, Florence said that women were “not seeking to crowd men out of their positions, but are seeking to do their share of the world’s work wherever they are best fitted to serve in carrying forward the increased production which must now be stimulated in the United States.”²⁰ Florence argued that the increased demand for goods and services in a world recovering from the destruction of war provided motivation to commercially employ the half of the population that had been “kill[ing] time making lace for pillow shams, frosting for cake and like employment.”²¹

Despite the opportunities for advancement that the war and post-war economy initially promised, Florence found that in the long run, these promises fell short. Because of the “short


²⁰ “National Woman’s Association of Commerce” *The Woman Citizen (Woman’s Journal)*, vol. 4, # 9, p. 212, 219, August 2, 1919.

duration” of the war, women “were only allowed to fill positions as assistants to someone higher up” and did not have a “real test of any woman’s ability or success in the position.” 22 The playing field was still not level. “Mens’ chances are so much greater than womens’ that it is very difficult to make any comparison [between chances for men and women]. With the handicaps under which women have always labored, it is an unusual woman who can succeed in the legal profession if her success is to be measured and compared with the success made by eminent men in the legal profession.” 23

Conclusion

Florence King broke new ground in separate and significant careers. As an engineer, she was “a first woman” in many of her accomplishments. First woman patent attorney, first certified woman member of the AAE, first woman vice-president of the AEE. As a business organizer, she changed the national landscape of the chambers of commerce. Using the consequences of WWI as a tool, she built a national organization that increased opportunities for women.

Although Florence King lived a life full of accomplishment and progress, there was much work left to be done. Florence King and other early women engineers and attorneys played the dual roles of trailblazers and foundation builders. As they impacted their world, they also provided broad shoulders on which future generations of women would stand.

23 Ibid.
On February 19, 1923, Chief Justice Taft announced the decision of Crown Die & Tool Co. v. Nye Tool & Machine Works (261 U.S. 24). With the decision in favor of Crown Die & Tool Co., Florence King, who wrote the briefs and argued the case for Crown in the District Court in Chicago, the 7th Circuit Court of Appeals, and the United States Supreme Court, became the first woman to win a case before the U.S. Supreme Court.

The Patent in Suit

On July 23, 1919, U.S. Patent No. 1,033,142 for a machine for forming screw thread cutting devices, was issued to the Reed Manufacturing Co. of Erie, PA. In Chicago at this time, there were two competitors, both Illinois corporations, making and using these types of machines, Crown Die & Tool and Nye Tool & Machine Works. In order to gain a competitive advantage over Crown, Nye negotiated and entered into a license agreement with Reed to license an interest in the patent. The license agreement assigned to Nye:

- all claims recoverable in law or in equity which Reed had against Crown arising out of the infringement by Crown of the 1,033,142 patent, including the right to collect damages resulting from infringement, and

- the right to exclude Crown from the practice of the invention of said patent.
The District Court

The license agreement was signed on July 29, 1920 and, not wasting much time, Nye filed a complaint for infringement against Crown on August 10, 1920. The case was filed in the federal court in Chicago (Northern District of Illinois). On behalf of Crown, Florence King filed a motion to dismiss, arguing, among other points, that the court lacked jurisdiction and Nye lacked standing to sue. Because, Crown argued, the “right to exclude” was not an assignable “right” under patent law, the case was merely a contract dispute between citizens of the same state, resulting in no federal jurisdiction. Additionally, because the assignment did not give Nye legal title to the patent, which was required to bring suit, Nye lacked standing to sue.

Judge Carpenter, the District Court judge, believing that the assignment was valid and conferred legal title to Nye, was of the opinion that he should overrule the motion to dismiss as a matter of law. However, he also believed that the District Court Judges should have the power to certify questions of law to the appropriate Court of Appeals. The ability to certify questions of law would enable parties to settle serious legal differences before the expenditure of time and money on a trial. In this case, the issue turned on the legal status of the assignment, which was an issue appropriately resolved by the 7th Circuit Court of Appeals. “For the purpose of enabling the parties to have justice speedily, and without any more purchase than is absolutely necessary, I believe the motion to dismiss should prevail; and it is so ordered.”¹ Therefore, Crown “won” a short-run victory in the District Court, although the Judge believed that Crown would lose in the long-run.

The 7th Circuit Court of Appeals

Crown filed a Petition for Appeal to the 7th Circuit, which was granted and the oral arguments in the Court of Appeals were heard on April 28, 1921. As they had argued in the District Court, Nye argued that an assignment of a chose in action was a legal assignment and should apply to patents. The act of creating the invention gave the inventor the common law right to make and use the invention. The government enforced these rights to make and use the invention by using government power to exclude others who infringed the invention. Therefore, Nye argued that the “right to exclude,” similar to a chose in action, founded on common law, was divisible and assignable at the will of the owner. Thus, they argued, the assignment was valid.

Moreover, the federal code stated that “any patent, or any interest therein, shall be assignable in law by an instrument in writing.” Nye argued that “any interest therein” was pretty clear language. Accordingly, based on both common law and federal stature, the owner of a patent had the right to subdivide, deed, lease, or assign his property, including the “right to exclude” as he pleased.

Judge Baker, delivering the opinion of a three-judge panel (Baker, Evans, and Page), reversed the District Court and ordered an accounting and further proceedings. The Court of Appeals held that Congress had established that “‘any patent, or any interest therein, shall be assignable in law by an instrument in writing.’ It would be hard to find broader or clearer words than ‘any interest therein’ with which to clothe the owner of a patent with the right to subdivide and deed or lease his property as he pleased.”2 Thus, the motion to dismiss was overruled and the case remanded to the District Court.

The Supreme Court

After the 7th Circuit rejected Crown’s Petition for Rehearing, Crown filed a motion to stay the order of June 26th, which was granted. On December 23, 1921, Crown filed a Petition for a Writ of Certiorari and Brief in support thereof. The petition for a writ of certiorari as well as the arguments and briefs filed with the Supreme Court prior to oral arguments are included in the Supreme Court Transcript of Record. A copy of the relevant portions of the petition, arguments, and brief are now part of the Stanford Law School Library collection.3

In the Petition for a Writ of Certiorari, Crown argued that this was an important case that the Supreme Court should hear. Issues related to patent law were federal in nature and needed to be settled at the highest levels of the federal courts. Moreover, the patent laws were created to promote the growth and development of science, not to promote litigation and suppress competition. If the Supreme Court allowed this ruling to stand, a precedent would be set that would result in litigation aimed solely at suppressing competition, an outcome in complete opposition to the motivations for the patent laws. Although the Supreme Court granted the Writ of Certiorari on January 16, 1922, oral arguments were not heard in the Supreme Court until January 17 and 18, 1923. When Florence King argued this case in the Supreme Court, she became the first woman to argue a patent case before the Supreme Court.4

As Nye had argued in the District Court and the 7th Circuit, they argued that an assignment of a chose in action was a legal assignment based on common law and should apply to patents. Moreover, they argued that the Court of Appeals had interpreted the federal code language “any patent, or any interest therein, shall be assignable in law by an instrument in

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writing” correctly. Accordingly, the “right to exclude” was an assignable interest owned and controlled by the patent owner.

Crown argued that it was widely accepted and fundamental to patent law that there was a distinction between rights and remedies. This distinction was overlooked by the District Court and the Court of Appeals. The right held by the patentee is “the exclusive right to make, use, and vend the invention or discovery throughout the United States.” (Revised Statutes § 4884 (now 35 U.S.C. § 154). If another infringes the invention, then the remedy is to seek the aid of the courts in bringing an injunction against the infringer. This remedy is only available to the patent owner, not to mere licensees. Thus, understanding the distinction between the right to practice the invention and the remedy of excluding infringers was critical to the court reaching the proper conclusion. It was Crown’s position that the “right to exclude” was not a property interest held by the patent owner, it was merely an unassignable remedy only available to the patent owner.

It was well-established patent law that there were only three valid patent assignments:

- The licensing of the entire, undivided patent,
- The licensing of an undivided portion of the undivided patent (the licensing of one or more claims in their entirety), or
- The licensing of the entire, undivided patent in a specified territory.

Therefore, the assignment from Reed to Nye was invalid with respect to transferring title in the patent.

Moreover, in suits for patent infringement, the issues addressed at trial were (in this order):

- Ownership of the Patent,
- Validity of the Patent,
Infringement by the Defendant, and
Damages to the Plaintiff.

In this case, the leap had been made straight to infringement, without determining the ownership or the validity of the patent. For all these reasons, the motion to dismiss was properly granted.

In addition to these arguments, Crown argued that there was no federal jurisdiction. Since this was a contract case brought between two Illinois corporations, there was no federal question and no diversity of citizenship. Even if the court had jurisdiction, Crown argued that the license agreement between Reed and Nye had attempted to sell the remedy and not the right, as discussed above. Nye’s arguments based on common law were not relevant, since patents were a statutory creation, not derived from the common law. Therefore, no rights in patents could be acquired, except by statute.

The Supreme Court had previously held that patent assignments shouldn’t create different monopolies in one geographic area, the outcome produced by the present license. In addition to several policy arguments that Crown had raised in the petition for the writ or certiorari (important for Supreme Court to hear cases of importance to patent law, patent laws were to promote science, not to promote litigation and suppress competition), Crown pointed out inconsistencies in Judge Baker’s 7th Circuit opinion and previous opinions on point that he had previously authored. The 7th Circuit had misinterpreted the phrase “any interest therein,” since Supreme Court precedents had narrowly defined the interests that could be assigned.

The Supreme Court decision rejected Crown’s jurisdictional arguments, holding that the question raised was the assignability of patent rights, which was a federal question. Therefore, the Court held that the cases cited by Crown regarding jurisdiction had “no application and the

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point is without merit.”\textsuperscript{6} The Court moved quickly to the issues of assignable rights and ownership, stating: “The main question is an interesting one.”\textsuperscript{7} The Court restated Nye’s arguments, starting with the proposition that the right to make, use and vend was a common law right. The right to exclude others from practicing the invention was all that the government granted to the patentee and subsequently protected. The statute was clear in stating that a patentee may assign by an instrument in writing his patent or any interest therein. Thus, the power to exclude some particular person from infringing was merely a part of the power to exclude all persons, and was, therefore, a definite interest in the patent that was assignable.

Rejecting these arguments, the Court held that a patent is a creature of federal statute. Therefore, it was not safe to follow common law rules that were applicable to transferring the rights of a chose in action. “The monopoly did not exist at common law, and the rights, therefore, which may be exercised under it cannot be regulated by the rules of the common law. It is created by the act of Congress; and no rights can be acquired in it unless authorized by statute, and in the manner the statute prescribes.”\textsuperscript{8} The Court restated the well-established law that the only legal licenses were for: 1) the entire patent, 2) one or more claims in their entirety, or 3) the entire patent in a specified geographical region. “Any assignment or transfer, short of one of these, is a mere license, giving the licensee no title in the patent, and no right to sue at law in his own name for an infringement.”\textsuperscript{9} Therefore, “as the owner of the patent is not a party to this bill, the result is that on no ground can the bill of the plaintiff be sustained and that the motion to dismiss should have been granted.”\textsuperscript{10}

\textsuperscript{6} 261 U.S. at 33.
\textsuperscript{7} 261 U.S. at 33.
\textsuperscript{8} 261 U.S. at 40.
\textsuperscript{9} 261 U.S. at 37.
\textsuperscript{10} 261 U.S. at 44.
Comments

Crown Die & Tool Co. v. Nye Tool & Machine Works is still cited for the proposition that a patent owner cannot retain the right to make, use, and sell while, at the same time, giving to others the right to sue certain named infringers. As of April 2003, the case was cited 303 times by either cases or secondary sources.

While reading the Supreme Court briefs, I was struck by how unchanged the practice of law is from the time Florence King practiced in Chicago. Although the technology and subject matter of patents in her time bear little resemblance to the biotechnology and nanotechnology of today (a number of the patents Florence prosecuted before the Patent Office were for plastic goggles to be used while driving the newly invented “motor cars”), the legal portion of the practice is incredibly similar. In arguing the case, the attorneys made arguments based on the common law and applicable statutes. They interpreted the statutory language by using the precedents found in the case law and closed with strong policy arguments. Several times, Florence repeated the policy argument that patent laws were to promote science, not to promote litigation and suppress competition. She selected this persuasive policy argument as a theme and repeated it throughout the briefs. In the end, closely related language made it into the decision, when the Court held that it would violate the patent laws to divide up the monopoly and enable the patentee to transfer “to many different individuals the right to sue certain named infringers, respectively, and that with the sole motive of harassing them such as is avowed in the recitals of the instrument before us. If held legal, it would give the patentee an opportunity without expense to himself to stir up litigation by third persons that is certainly contrary to the purpose and spirit of the statutory provisions for the assigning of patents.”11

11 261 U.S. at 39.
I also appreciated the legal skill with which the briefs were prepared. Although there were some minor errors, for example, a series of arguments were referred to as: first, second, sixth, and seventh, the quality of the legal work in an era before computers was astonishing. Numerous citations to case law, including previous inconsistent decisions on point handed down by the specific Court of Appeals Judge, Judge Baker, without the aid of the electronic legal databases now available, was impressive.

As I tried to imagine myself drafting these briefs, totaling over 100 pages, on a typewriter, with no electronic legal resources, my respect for Florence King grew. I have had the best undergraduate, graduate, and legal education money can buy; she only had a two-year degree in stenography, attended law school at night for two years (while she was working full-time), and then practiced as a solo practitioner. Given our backgrounds, I was humbled by the comparison. Simultaneously, the unchanging nature of the practice of law instilled a feeling of close connection in me, as I realized that the legal skills she mastered are the same ones I have been learning the last three years. In the end, it’s the same game - crafting persuasive legal arguments - and I have been humbled and challenged. I hope that some day, I will be able to develop my legal skills to achieve the level of excellence that characterized the legal practice of Florence King.

Case Citations
In reviewing Florence King’s life in light of her friends, allies, and influences, she presents some contradictions. On the one hand, she was a self-made woman, rising from poverty to achieve remarkable success as the nation’s first woman patent attorney and the first woman to win a case before the U.S. Supreme Court. On the other hand, she was an active organizer, working with other women to advance her goals as a businesswoman, an attorney, an engineer, and a civic leader.

In reconciling these different visions of Florence’s interpersonal interactions, I think both are true - it just depends on the context in which the question is posed. In the context of Florence’s dedication and commitment, she was a self-made woman. She was not handed the world on a silver platter. However, from the point of view of collaborating with others, she was a real leader and team-player. She willingly strove together with others to achieve the goals that cannot be achieved by a single person working alone. What Florence brought to the table, she earned on her own - once there, she combined her gifts with those of others to effect changes in society that are still felt today.

Florence King was not born to a life of privilege. Far from it, she was born in a poor farming community in the Midwest. However, despite her humble surroundings, from the earliest time in her life, Florence was eager to take hold of opportunities as they came along. Not content to stay on the farm, she moved away from home and worked her way through college, earning an A.B. in stenography from Mount Morris College in Mount Morris, IL at the age of 20.
Heading to Chicago, where she had no contacts, she obtained work as a public stenographer and a court reporter. She supported herself a stenographer during law school, which she attended at night. In fact, she continued to work as a stenographer after completing law school, supporting herself in this way until she developed a large enough client base to support herself solely on her income as an attorney.¹

The short duration of her marriage to Herbert L. Embrey, coupled with the fact that she was working before she and Herbert met, most likely meant that her contributions to supporting the family did not stop after they were married. However, after she became a widow and a single parent, it is somewhat incredible that the newspaper writer got it right when he quoted her as saying:

> “Yes, it was a hard grind. I gave the best of my years to the career I had wanted since a tiny dot.
> But I won and am happy. Happy because I did it all by myself.”²

Surely, to raise her son Willis as a single parent, she must have had support from her family, her church, or some other sources.

In a survey she filled out when she was about 50 years old, she spoke of the many female social climbers who were entering the law, only to play at being a lawyer. As a self-made woman, she found it frustrating to see women born to privilege, getting through law school and passing the bar, only to use it as a stepping stone to matrimony. She believed that the practice of the law required “years of persistent effort and eternal vigilance.”³ She put forth the effort to rise to the top of her profession and of this, she was rightly proud.

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² “Meet Responsibilities If You Would Be Real Success, Lawyer Says (Miss Florence King Has Income of $100,000 a Year Because She Made Up Her Mind to Do Work Ahead of Her)” Roy Gibbons, *Appleton, Post-Crescent*, p. 13, March 11, 1922.
In contrast with the image of a self-made woman, alone and victorious, Florence King was a constant organizer and worked together with other women in numerous aspects of the law and business throughout her life. During the Klondike gold rush, while Florence was still in her 20s, she organized the Woman’s Alaska Gold Club, which had over 150 members. During her 30s, she worked tirelessly with other women to found and lead the Woman’s Association of Commerce, opening up opportunities for women in business and the professions. She was active as a speaker for suffrage as well as a worker and leader for other social and political organizations. She was an active member and officer in the American Association of Engineers. In sum, her life was full of organization and partnership. As a skilled professional, she combined her talents with others to produce results only achievable by group effort.

In 1912, frustrated with the lack of leadership opportunities provided by the Chicagoland Chamber of Commerce, Florence resigned her membership and began meeting with other professional women in the Chicago area. Working with representatives from women’s groups and clubs, she founded and was the President of the Woman’s Association of Commerce. This organization, which eventually expanded to become an international body, of which Florence was also the President, put pressure on the chambers of commerce across the country to open up membership and leadership opportunities to women. By 1922, with over 97% of the chambers open to women, the Woman’s Association of Commerce was dissolved in order that women could devote themselves fully to their work in the integrated chambers.

Throughout her life, Florence was active in numerous women’s organizations:

Founder - Woman’s Alaska Gold Club
Recording Secretary - Illinois Equal Suffrage Association

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Her involvement in these many women’s organizations, starting in supporting roles and working her way to leadership positions, demonstrates the commitment she had to collaborating with other women. Her relationships with other women leaders, although not well documented, is apparent from her ascendance through these many women’s organizations.

Not only did Florence King work closely with many women during her career, as a patent attorney, she also worked closely with men, as less than 1% of her clients were women. One of her clients, Robert Malcom, an inventor from Chicago and founder of the Chicago Eye Shield Company, was one of Florence’s longest running clients, with a working relationship that stretched over two decades.

Florence prosecuted patents before the Patent and Trademark Office for Mr. Malcom, starting as early as 1908, when U.S. Patent Application No. 398,417 was filed by Florence King on behalf of Robert Malcom. This application, for an Eye-Shield, issued as U.S. Patent 1,031,859 on July 9, 1912. Over the course of her career, she prosecuted at least 18 patents for Mr. Malcom.

In addition, she represented Mr. Malcom in several litigations regarding his patents, covering the validity of the patents as well as the infringement (or copying) of Mr. Malcom’s

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inventions by other people and companies. Several of the cases went to the 7th Circuit Court of Appeals as well as the Court of Appeals for the D.C. Circuit.

In an effort to learn more about Mr. Malcolm and how he first came to work with Florence, I attempted to contact Mr. Malcolm’s son, Robert “Bill” Malcom, Jr., who was also a prolific inventor and eventually the president of the Chicago Eye Shield Company (CESCO). Bill Malcom grew up in Chicago and was an avid boater on Lake Michigan, a commercial pilot and flight instructor, and built the Chicago Eye Shield Company (CESCO) into a national business with products in major U.S. distribution channels. He moved to Florida in the 1960s, where he passed away in 2003 at the age of 90. His widow, Helen, and a granddaughter, Laura Segers, survived him and currently live in Florida. Since Bill Malcom was only 21 when Florence passed away, it is not likely that their professional careers overlapped, however, I was hopeful that Helen or Laura might have heard of Florence King.

Helen, who married Bill later in life and did not know Mr. Malcom, Sr., was kind enough to put me in touch with Laura, who is a Veterinarian Technician and a Samoyed breeder. Laura suggested that perhaps Mr. Malcom and Florence King met through a connection with Freemasonry. Mr. Malcom was a 32nd degree Mason, the highest level attainable in the Masonic Order, and many of his business and personal contacts were associated with the Masons. Although I have not found any information that Florence was part of the Eastern Star, which is the women’s organization associated with the Masons, it is possible that a mutual friend involved with the Masons introduced Robert and Florence.

When Mr. Malcom was divorced in 1924, Florence served as one of his lawyers, working alongside one of the most famous divorce lawyers in Chicago history, Charles E. Erbstein. To

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8 See “List of Cases” in Florence King Annotated Bibliography.
be working alongside Mr. Erbstein must have been quite an experience for Florence. One of the favorite attorneys of Chicago mob bosses like Al Capone, Mr. Erbstein defended more than 100 men accused of murder - without having the death penalty imposed a single time. Threatened with disbarment on three separate occasions, he acted as his own attorney and was acquitted each time. He is reputed to have had an indefatigable energy, running up and down in front of the jury box, yet possessing a legal brilliance that ranked him among the greatest attorneys of his day. Moving from a criminal to mostly a divorce law practice, Mr. Erbstein was highly sought after as an attorney.

It is possible that Florence was on the divorce team because of her long-standing friendship and working relationship with Mr. Malcom. It is more likely that she was serving in her role as a patent lawyer, establishing the valuations of the patents owned by Mr. Malcom or rebutting the valuations proposed by Mr. Malcom’s soon to be ex-wife’s attorneys.

In summary, Florence King was a self-made woman, who also realized the value that organizing and collaboration brought to the woman’s movement. Not only was she an expert in her profession of patent law, dealing almost exclusively with male clients, she was a leader and an organizer for professional and business women. Like other leading women of her day, Florence King saw her professional success as a necessary precursor to a wider stage. Through her own diligence, she became a “Famous Woman Lawyer,” a position she then used to organize and lead women to greater opportunities in business and the professions.¹⁰

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Florence King  
First Woman Patent Attorney  

Annotated Bibliography  

Prepared by Craig Largent  
Stanford Law School, JD, 2004  
Last Updated: April 2004  

1. Three-quarter length portrait of Florence King, a lawyer, standing behind a chair in a room in Chicago, Illinois.  

2. Three-quarter length portrait of Florence King, a lawyer, sitting in a room in Chicago, Illinois. This image shows damage on the negative.  

   1. Mount Morris 1.jpg - Labeled on the back: Mt Morris, IL 1901-1902  
   3. Mount Morris 3.jpg - Labeled on the back: A group of Mt. Morris students in 1886 or 1887  
   4. Mount Morris 4.jpg - Postcard: Mount Morris College as it Appeared in 1888  
   5. Mount Morris 5.jpg - Mount Morris College Campus Description, 1912  

   Article describing the 3rd annual commencement exercises of the Kent College of Law, Class of 1895.  
   “Miss N. Palmer is numbered among the graduates of this class (65 total), as are F. K. and H. L. Embrey, who are husband and wife. We expect at no very distant day to see a law office with Embrey & Embrey on the sign.”  

   A husband and wife were among the graduates of the third annual commencement of the Kent College of Law.  

   The graduating class of Kent College of Law had 100 graduates, including four women.
   A cover letter for a pamphlet advertising opportunities for women in Alaska.
   “THIS IS THE FIRST OPPORTUNITY WOMAN HAS EVER HAD TO MAKE A FORTUNE. Let us embrace it.”

8. **“Women Going to Alaska” New York Times, p. 4, February 13, 1898.**
   A club of 150 was to start from Seattle in March. “A Chicago Woman’s Scheme.” Miss Florence King, a young woman patent lawyer of Chicago, is now in this city giving information and making plans for the trip. The name of the club was the Woman’s Alaska Gold Club.

9. **“Miss King off to the Klondike” New York Daily Tribune, p. 5, col. 4, February 17, 1898.**
   Appointed by Governor John G. Brady of Alaska a commissioner of deeds for that district. Florence King was to start for the Klondike on February 17, 1898. A New York office of the Woman’s Alaska Gold Club was established under Dr. Ella A. Jennings.
   John G. Brady (Governor from 6/23/1897-3/2/1906). Appointed by President Roosevelt.

    The Woman’s Alaska Gold Club was formed by Florence King and planned to set off in March 1898. In the end the expedition was cancelled.

11. **Frontier spirit: The Brave Women of the Klondike, Jennifer Duncan, Doubleday Canada, p. 48 (2004).**
    Florence King organized the Woman’s Alaska Gold Club. Club members were enthusiastic suffragists who had already broken through barriers to become professionals in their fields.

12. **“Otano Watanna, the Japanese Woman Writer” Current Literature, vol. 24, # 4, p. 306, October 1898.**
    Florence King, the only woman lawyer registered at the U.S. Patent Office, helped Miss Watanna meet business and literary people in Chicago.

    This is a Florence King from Indiana, a graduate of the Ohio Wesleyan Law School.

    Mrs. Florence E. Embrey (Kent College of Law, LL.B. 1895) is listed as the 51st woman lawyer in IL, admitted June 6, 1895. She and her husband were classmates in the law college. Mrs. Embrey devoted several years in Chicago to the practice of patent law.
This is Florence King. She was widowed early in her career and reverted to her maiden name. Thus, Florence Embrey was “lost” to history, although her career continued.

   A biographical sketch of Florence King and her victory in the Rogers case.

   Florence King has removed her law office to suite Nos. 1652 and 1653 Monadnock block.

   Florence King was elected recording secretary of the Illinois Equal Suffrage Association. “An attorney who has had a remarkable rise in the world.” In 1890, she was a country girl employed as a house servant at $1.25 a week. Her specialty was patent law and she had won a number of well-known cases.

   Miss Florence King was in a Suffragist Pageant in New York. Most likely another Florence King.

   Miss Florence King, patent lawyer, was to make a campaign in the fall in Chicago for the position of municipal judge. She was going to run on the Independent ticket and had obtained over 1,000 of the 5,000 required signatures. When I examined the Chicago Tribune from the time of the elections, there was no mention of her running for the office.

   Summary of the practice of patent law and the benefits of this branch of specialization.

   Florence King was the first woman in Chicago to seek election as an associate justice of the municipal court. Her career was mentioned as a “matter of pride to all interested in the advancement of women.” She was the president of the New Woman’s Association of Commerce, headquartered in the Monadnock Building. A quote from the Chicago Tribune is given regarding her victory in a patent case.

   Miss Florence King wore overalls at a ball in New York. This is possibly the same Florence King from item #18, although the article does refer to camping in Wisconsin.
   Miss Florence King regarded the President’s note to Germany with admiration. Most likely the Florence King from item #18.

   The Illinois branch of the Congressional Union was organized on Feb 20, 1916. A message from the Chicago Woman’s Association of Commerce was included with various messages sent to Representative William Elza Williams regarding suffrage.

   Florence King, well-known lawyer and civic worker, was present at the banquet honoring the envoys from the Eastern U.S.

   The lawyers’ committee was directed by Judge Mary Bartelme, assisted by Florence King, president of the Woman’s Association of Commerce.

   Between May 17th and 23rd, 1916, Florence King donated $5.00 toward the $150,000 fund for securing the passage of the Federal Suffrage Amendment.

   Program for conference in Des Moines, IA: “Federal Suffrage and Illinois,” was a speech to be given by Miss Florence King, of Chicago.

   Florence King, speaking for Illinois on the Woman’s Party, told of the difficulty of amending state constitutions. “The time for the women to beg enfranchisement has passed. In their union lies the whole solution to the long suffrage fight.”

   Florence King charged that excess of profits of $60,000,000 were made by bread manufacturers, who used low-grade wheat, but charged consumers for the highest grades. She filed a complaint with the U.S. District Attorney Clyne.

   Florence King urged the suffrage amendment before the farmer’s meeting. She was a prominent Illinois member of the Woman’s Party.
32. “Claims Food Values Milled Out of Flour” *Nevada State Journal*, p. 2, October 30, 1916. A complaint was forwarded to the Department of Agriculture that manufacturers milled the food value out of flour for whiteness. Florence King sought to have flour included in the application of the new grain inspection act.

33. “New Phase of Organization Among Women” *The Woman Citizen (Woman’s Journal)*, vol. 1, #9, p. 148, July 28, 1917. The “Woman’s Association of Commerce to Advance the Commercial, Educational, and Civic Interests of Women” was developed by Florence King. Organization skills originally developed in women’s clubs were spreading to other organizations.

34. “Governor Lowden, Guest of Illinois Women’s Club” *The Woman Citizen (Woman’s Journal)*, vol. 2, # 22, p. 435, April 27, 1918. Miss Florence King was an honorary member of the Illinois Women’s Athletic Club of Chicago, “organized for women, by women.”

35. “Conference of Women in Business to Be Opened this Morning at Hotel Sinton” *The Cincinnati Enquirer*, vol. 75, # 197, p. 14, July 16, 1918. The 2nd annual Convention of business women, called by the Woman’s Association of Commerce was to be held. A schedule of activities was given.

36. “Positions which Soldiers Leave are Being Filled by Women” Convention Speakers Say, *The Cincinnati Enquirer*, vol. 75, # 198, p. 14, July 17, 1918. More than 500 women registered for the Convention. Eight states had already been organized for the Association and the aim of the Association was to help the war effort and improve national efficiency.

37. “Equal Wage is Due Women Workers who Substitute for Males in Industries, Says Speaker” *The Cincinnati Enquirer*, vol. 75, # 199, p. 7, July 18, 1918. Summary of speeches given during the Convention. Florence King read letters from Governors of the Middle Western states congratulating the women upon their success.

38. “Limits on Activity of Women in Heavy Manual Labor, Are Stressed by Physicians” *The Cincinnati Enquirer*, vol. 75, # 200, p. 14, July 19, 1918. Florence King was quoted extensively. “We hear much of equal pay for equal work, but our first emphasis should be placed on the work. The time has come when women must cease to demand both the rights of men and the privileges of women.” “If there were any advantage in high heels men all would be wearing them.” She advocated that women learn to shake hands, “saying 50 percent of the omen at any meeting gave a cold chill with the hand which they extended.” “We believe the greatest asset American has today is the latent ability of its women,” she said. “Let the spineless women of the past – and we know there are such – cease to be exponents of the feminine portion of the human race.”
*The Cincinnati Enquirer*, vol. 75, # 201, p. 8, July 20, 1918.

Florence King was re-elected President of the Association. She was one of four women who had tried cases in the United States Supreme Court. She was chosen to represent the Association on a trip through the allied nations to investigate conditions for business women in those countries. She expected to leave during the month of August and return in the fall.


The 2nd annual Convention of Business Women was held in Cincinnati, OH from July 16-19. Florence King was quoted with respect to the convention and women’s opportunities for advancement in the business world.


Article about the Woman’s Association of Commerce and Florence King, its founder and president.


600 women attended the annual convention of the Michigan Woman’s Association of Commerce in Detroit. They supported suffrage and the pending amendment.


Florence King was the 1st vice-president of the Women’s Bar Association of Chicago.

44. “Women Seek for $8,500,000 in the Churches Sunday” *Chicago Sunday Press and the women’s press*, vol. 2, # 10, p. 2a, November 9, 1918.

Florence King, as a representative of the Women’s Association of Commerce, was a member of the Woman’s Committee, National Council of Defense.


Florence King predicted that there would “be no more wars – EVER!” if President Wilson named a woman as one of the peace commissioners. The dateline was Washington D.C.


Florence King had returned from New York, where she was planning the joint meeting in St. Louis for July 14-18, 1919. They were planning an additional meeting for
June, probably in Buffalo, N.Y., at which they were going to plan the joint program for July.


The third Annual Convention of the Women’s Association of Commerce of the United States opened at the Hotel Statler. In conjunction with the Convention, the Professional and Business Women’s Federation also had their convention. There were plans to merge the two organizations.

Miss Florence King, the Chicago patent attorney, who “recently won a hundred-thousand-dollar fee case before the Patent Court,” was president of the Commerce Association.


Salaries of the women at the Conventions ranged from $3,000 to $15,000. Many women owned and operated their own businesses. Sketches of some of the women’s businesses are given. Miss Florence King, president of the Women’s Association of Commerce of the United States, was a Chicago lawyer, and in one case, won a $100,000 fee in a patent litigation. Miss King was to make the report for the Association and then the real business of the meeting, the project of federation, was to be taken up.

Miss Jennie M. Fisher, a prominent Kansas City business woman, was elected president of the Association of Commerce of the United States for the coming year.


The Women of Commerce, the Altrusa Clubs, the Business and Professional Women, and the Y.W.C.A. Business Women’s Clubs were to merge. The delegates of the Women’s Association of Commerce, the eldest of the four units, voted unanimously to become a part of the combined federation.

The principal difference of opinion that retarded the adoption of the new federation’s constitution concerned membership requirements. It was tentatively agreed to admit women’s clubs with no less than 75% business and professional women actively employed in gainful occupations. No restrictions were placed on the remaining 25%, which may have been “either women of leisure or mere men.”


The vocational registry of the Federation of Business and Professional Women and the Women’s Association of Commerce of the United States was listed.


The third annual convention of the Women’s Association of Commerce, U.S.A. met in St. Louis, MO from July 14-18, 1919. A committee was formed to attempt to unite with the National Committee of Business and Professional Women. The mayor of
St. Louis welcomed the convention. Florence King addressed the convention in response to the welcome address of Henry Kiel, Mayor of St. Louis.


Instead of women trying to regulate the morals of the world, they were urged to work on the civilization of business (making business conform to ethical standards) and the granting of industrial as well as political equality.

Florence King was elected to the Board of Governors of the Woman’s Association of Commerce.


The proposed merger between the Federation of Business and Professional Women’s Clubs and the Women’s Association of Commerce fell through and the two organizations continued independently.

The Women’s Association of Commerce refused to adopt the report of the joint committee in response to an ultimatum of the Federation. The Association feared that the new federation would be dominated by the Y.W.C.A., which had a fund of $65,000 available for organizing women’s clubs. The money, which had been raised during the war, was set aside after the armistice for the work of organizing professional and business women.


Review of the founding and growth of the National Woman’s Association of Commerce of the U.S.A. Florence King discussed the opportunities for women that WWI had produced. The increased production required by the post-war period provided increased opportunities for working women. Miss King was also the president of the International Woman’s Association of Commerce.

55. “Meeting of the State Council of the Woman's Association of Commerce of Indiana” *National business woman*, vol. 1, # 4, p. 6, October 1, 1919.

The recommendation was made for the Indiana branch to withdraw from the National Woman’s Association of Commerce, as there was no future for the national body under its present management.


From the International News Service, dateline Washington, October 23, 1919. Florence King makes an appeal for people to work towards improving their communities like they had worked during the war. Community based fun is preferable over movies and theater. She makes a reference to “here in Washington” as if she were there.

Florence King as an example to her sex. Her accomplishments made the “miles and miles of crocheting, which is most women’s sole contribution to the world, seem a little inane.”


Florence King filled out this survey regarding her legal career and the opportunities for women a legal career provided. She supported herself as a stenographer while attending law school. She was disappointed that although many women were admitted to the bar, so few practiced.


Florence King represented the AAE at the Pan-Pacific Congress in Honolulu, HI, August 2 - 20. Miss King was the only certified woman member of the organization.


Florence King wrote an article that summarized the history of the patent system and described numerous patents granted to women. She gives Queen Elizabeth credit for “inventing” the first patent system.


The National Woman’s Association of Commerce called for delegates to meet in national convention at Columbus, Ohio, July 14th-16th, 1920.


Florence King was among women who gave short addresses on the topic of “Suffrage Yesterday and Tomorrow.”

Florence King was elected a Director of the Illinois League of Women Voters.

63. “**First Woman To Win Case Before Supreme Tribunal**” *Coshocton Tribune*, vol. 12, #213, p. 1, April 4, 1921.

Florence King urged a budget system for the U.S. government and said women were the real budget makers, keeping homes together through the use of budgets.

64. “**The Fury of Women Scorned**” *The Woman Patriot*, vol. 5, #25, September 1, 1921.

This is an article in an anti-feminism semi-monthly paper. Miss Florence King supposedly denounced the appointment of a woman to the disarmament delegation, saying that no woman had any new idea of value to contribute to the conference. This is unlikely in light of the newspaper article in item #45.

   Florence King filed the petition on behalf of Crown Die and Tool Company in the U.S. Supreme Court. It was the first patent case filed by a woman.

66. “Meet Responsibilities If You Would Be Real Success, Lawyer Says (Miss Florence King Has Income of $100,000 a Year Because She Made Up Her Mind to Do Work Ahead of Her)” Roy Gibbons, *Appleton, Post-Crescent*, p. 13, March 11, 1922.

   Women have potential, but must not take the first matrimonial prospect happening their way. “A woman has to choose marriage or career, the two won’t mix.” “‘Yes, it was a hard grind,’ she says. ‘I gave the best of my years to a career I had wanted since a tiny dot. But I won and am happy. Happy because I did it all by myself.’”


   Florence King was the only certified woman member of the American Association of Engineers and had been a member for three years. Certified membership was extended to those who were actively engaged in engineering work not less than seven years before applying for membership.


   A biographical sketch with an emphasis on her founding of the Women’s Association of Commerce in 1912. She was elected the Vice President of the Illinois branch of the American Association of Engineers, a professional association of 2,250 men and one woman, Florence King.


   Florence King was a member of the Memorials Committee.


   Florence King was presented for nomination to the Federal Bench by the Woman’s Republican Club of Cook County.


In a list of women actively and successfully practicing law, Florence King is listed as the “well known patent attorney of Chicago.”

   The meeting of the Woman’s Lawyer’s Association occurred in Minneapolis, held at the same time as the ABA meeting. Along with Clara Foltz, Florence King was elected to the executive board.

   Willis King, Florence King’s son, applied for admission to the Chicago Bar Association. He was admitted to the Illinois bar on October 11, 1923. His sponsors also sponsored several other new members in the same month. The address given for Willis is the Monadnock Building, where Florence had her offices. “Willis King, 53 W. Jackson Blvd.; October 11, 1923; Frank W. Koraleski, Harry G. Keats.”

   An account of the meeting of the Woman’s Association of Commerce was given in the Ohio State Journal of March 4th.

   Association of Commerce members heard an explanation of the Equal Rights Amendment given by Miss Mabel Vernon.

   Obituary.

78. Death Certificate for Florence King, Cook County, IL Clerk’s Office, Bureau of Vital Statistics, June 22, 1924.
   Florence King died, at her home, from a metastasis of breast cancer. She was born in Hudson, IA on June 22, 1870 and died just two days short of her 54th birthday. The informant was her son, Willis King. Willis gave the name of his father as Herbert King. Willis did not know the name of birthplace of his maternal grandfather. Florence is listed as having lived in Chicago for 30 years.

   Obituary.

   Obituary.

81. “Women in the Supreme Court” Nell Ray Clarke, Equal Rights, vol. 14, # 9, pp. 70-72, April 9, 1927.
Florence King is listed as one of the 13 women who have argued cases before the Supreme Court.


Florence King, a prominent patent lawyer and president of the Chicago Woman’s Association of Commerce, assisted in marshalling support for the Illinois suffrage bill.
Partial List of U.S. Patents Prosecuted by Florence King

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<tr>
<th>U.S. Patent Number</th>
<th>Title</th>
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<tr>
<td>1</td>
<td>Combined Match Box, Cigar Cutter, and Lighter</td>
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<td>2</td>
<td>Eye Shield</td>
<td>Oct. 21, 1907</td>
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<td>Eye Protector</td>
<td>Nov. 8, 1915</td>
<td>July 11, 1916</td>
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<td>Lens Rim for Face Protectors</td>
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<td>19</td>
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<td>Nov. 22, 1927</td>
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Partial List of Cases Argued by Florence King


Malcom v. Richards, 47 App. D.C. 582, C.A.D.C., April 1, 1918.

Moore v. Machinery Sales Co., 297 Ill. 564, Illinois Supreme Court, April 21, 1921.


Suggestions for Future Biographers

Florence King
First Woman Patent Attorney

Prepared by Craig Largent
Stanford Law School, JD, 2004
Last Updated: April 2004

1. Willis King – Florence’s son and an attorney in Chicago – I have not been able to find any information on his career, but finding his descendants could lead to Florence’s papers.

2. Herbert L. Embrey – Florence’s deceased husband – Originally from Boston.

3. James W. Barrett – President, Crown Die and Tool Co., Chicago

4. American Association of Engineers – Newsletters may have written about Florence as the only certified woman member

5. Chicago Chapter of the Intellectual Property Law Association (IPLA)

6. Morrill and Shannon – Florence was listed as “Of Counsel” in Moore v. Machinery Sales Co., 131 N.E. 141 (1921)

7. Woman Lawyer’s Association – Florence was on the Executive Board


9. 1916 ABA Annual Meeting in Chicago on August 30 - September 1, 1916. The Patent Section met in the Oak Room, Congress Hotel on August 29th at 3:30 p.m.

10. T.K. Bryant – Listed as co-counsel on Malcom v. Richards in the D.C. Court of Appeals, 47 App.D.C. 582 (1918)

11. 1880 Census from Hudson/Waterloo, Iowa

12. Quaker records in Hudon/Waterloo, Iowa

13. University of Illinois at Chicago (UIC) – Possible Florence’s papers are here?

14. Chicago Law School – Professor and Associate Dean

15. L.S. Bacon, who recommended Florence for the Supreme Court bar

16. Biographies of contemporary Chicago women lawyers, e.g. Mary Bartelme, Jane Addams, Florence Kelley

17. Florence was buried in Coral, MI, just outside Howard City, MI. Why was she buried here? Did she have family here?
Please contact me for information and assistance @ Craig.Largent@StanfordAlumni.org
Florence King
First Woman Patent Attorney

Craig Largent
Stanford Law School, JD, 2004

1870 June 22 - Born in a log cabin in Hudson, Iowa
1871
1872
1873
1874
1875 (?) Orphaned at age 5
1876
1877
1878
1879
1880
1881 (?) Appeared as a witness in a court case in Waterloo, Iowa.
1882
1883
1884
1885
1886
1887
1888
1889  Employed as a house servant at $1.25 per week

Began school at Mount Morris College, Mount Morris, IL

1890

1891  Monadnock Building in Chicago is built. The building was at the time, the “largest office building in the world.” It is still the tallest building in the world that is supported primarily by brick load bearing walls. The masonry walls are 6 feet thick at ground level and gradually narrow at higher levels. Cast and wrought iron columns and beams support the interior. Florence will move her office to the Monadnock Building in 1905.

Received A.B. degree from Mount Morris (Ill.) College

Moved to Chicago, IL. Worked as a stenographer and court reporter.

1892

1893

1894  (?) Married Herbert L. Embrey, originally from Boston, MA.

1895  May 24 - Received L.L.B degree from Kent College of Law (under the name of Florence K. Embrey). Now the Chicago-Kent College of Law at Illinois Institute of Technology, Chicago, IL. Husband, Herbert L. Embrey graduated with her.1

June 6 – 51st woman admitted to the Illinois Bar

1896  The graduating class of Kent College of Law had 100 graduates, including four women.

1897  Womans’ Klondike Gold Club operating in Chicago. Offices located in the Monadnock Building.

(?) Graduated from Armour Institute of Technology with degree in Mechanical and Electrical Engineering.

October 4 – First woman admitted to practice before the U.S. Patent Office. Registration # 685.

1898  Organized the Woman’s Alaska Gold Club.

Appointed by Governor John G. Brady of Alaska a commissioner of deeds for the district of Alaska. Recruits 150 women and travels to New York to recruit and organize. Expedition set to depart from New York on February 17 and Seattle in March. Expedition never sets off for the Klondike.

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1 Note: Her obituary in the Chicago Legal News said they were married on November 30, 1896, but they must have married before or during school since her name at graduation was F.K. Embrey.
October - Described as the only woman lawyer registered at the U.S. Patent Office. Introduced the Japanese writer, Otana Watanna to the business and literary circles of Chicago.

1899  (?)  Son Willis King born.

1900  Admitted to practice in the federal courts.

                                      Husband Herbert L. Embrey dies.

1901

1902

1903  April 20 - 12th woman admitted to practice in the Supreme Court on the recommendation of L.S. Bacon.

                                      Hired by Myrtle M. Rogers to undertake patent litigation.
                                      Wins the Roger’s Case.

1904

1905  Moved her law office to suite Nos. 1652 and 1653 in the Monadnock building.


1907

1908

1909

1910

1911

1912  Resigned from the Chicago Chamber of Commerce.

                                      Founded Chicago Woman’s Association of Commerce

1913

1914  World War I begins

                                      Listed in Martindale’s American Law Directory - Monadnock Block
November - Was to be the first woman to campaign for the position of associate justice of the municipal court in Chicago. She was going to run on the Independent ticket and had obtained over 1,000 of the 5,000 required signatures.

1915 Listed in Martindale’s American Law Directory - Monadnock Block

1916 April - Present at the banquet honoring the suffrage envoys from the Eastern U.S.

May - Donated $5.00 toward the $150,000 fund for securing the passage of the Federal Suffrage Amendment.

May - Planned Woman’s Party Convention: Served on the lawyer’s committee, which was directed by Judge Mary Bartelme.

August - Presented speech entitled: “Federal Suffrage and Illinois,” in Des Moines, IA.

August - Spoke for the Illinois Woman’s Party at the meeting organizing Iowa’s branch of the Congressional Union.

October - Charged that excess profits of $60,000,000 were made by bread manufacturers, who used low-grade wheat, but charged consumers for the highest grades. Filed a complaint with the U.S. District Attorney Clyne.

October - Was a prominent Illinois member of the Woman’s Party. Urged the suffrage amendment before a meeting of Illinois farmers.

1917 April 6 - United States entered WWI

First national convention of business and professional women with representatives from 36 states. Woman’s Association of Commerce of the U.S.A. formed.

1918 Earned a contingency fee of $100,000 in a patent litigation.

April - Selected as an honorary member of the Illinois Women’s Athletic Club of Chicago, “organized for women, by women.”

July 16-19 - 2nd annual convention of business women, called by the Woman’s Association of Commerce, was held in Cincinnati, OH. More than 500 women registered. Re-elected President of the Association.

Chosen to represent the Association on a trip through the allied nations to investigate conditions for business women in those countries. Expected to depart in August and return in September.

November - 1st vice-president of the Women’s Bar Association of Chicago.
Member of the Woman’s Committee, National Council of Defense.

December - Predicted that there would “be no more wars – EVER!” if President Wilson named a woman as one of the peace commissioners.

Joined American Association of Engineers

1919  April - Attended meeting in New York to plan upcoming convention of the Woman’s Association of Commerce.

July 14-18, 1919 - 3rd Annual Convention of the Women’s Association of Commerce of the United States in conjunction with the Professional and Business Women’s Federation. Merger discussions were held between the Woman’s Association of Commerce, the Altrusa Clubs, the Business and Professional Women, and the Y.W.C.A. Business Women’s Clubs, but fell through.

Elected to the Board of Governors of the Woman’s Association of Commerce. President of the International Woman’s Association of Commerce.

Elected the Vice President of the Illinois branch of the American Association of Engineers, a professional association of 2,250 men and one woman.

December – Joined the Association of Commerce of Chicago.

1920  March 3 - Completes Survey: Study of the Vocational Application of Legal Training for Women

July 3 – Publication of article written by Florence King: “Are Women Inventive?”

July 14 - 16 - 4th Annual Convention of the National Woman’s Association of Commerce in Columbus, OH.

August 2 - 20 – Represented the American Association of Engineers at the Pan-Pacific Congress in Honolulu, HI.

August 10 – Nye Tool and Machine Works filed complaint against Crown Die and Tool (represented by Florence King) in the N.D. IL.

October – Gave address on topic of “Suffrage Yesterday and Tomorrow.”

Elected a Director of the Illinois League of Women Voters.

1921  Listed in Martindale’s American Law Directory - Monadnock Block

February 3 – Hearing on motion to dismiss Nye v. Crown. Motion granted.


December 23 – Petition for a Writ of Certiorari and Brief in support thereof filed in Supreme Court in Crown v. Nye.

1922 January 16 – Supreme Court granted Writ of Certiorari in Crown v. Nye. Florence King is the first woman to argue a patent case in the U.S. Supreme Court.

April 21 – Moore v. Machinery Sales Co. decided by the Supreme Court of Illinois. Florence King is listed as counsel for appellee Malcom as: Florence King, of Chicago (Morrill & Shannon, of Chicago, of counsel).

Listed in Martindale’s American Law Directory - Monadnock Block.

Recommended by the Republican Women’s Club of Chicago for appointment to one of the two new IL seats on the federal bench. Florence King was recommended for the Northern District of IL. The nomination was to be made by U.S. Senator Medill McCormick.

Member of the Memorials Committee, American Bar Association Standing and Special Committees.

Disbanded National Woman’s Association of Commerce. 97% of the chambers of commerce across the country now admitted women.

Elected Vice President of the Illinois branch of the American Association of Engineers.

1923 Won a fee of $100,000 in a patent infringement case. One of the few women in America to earn $100,000 per year.

Only certified woman member of the American Association of Engineers


Feb. 19 - Supreme Court decides Crown Die & Tool Co. v. Nye Tool & Machine Works in favor of King’s client. Florence King becomes first woman to win a case before the Supreme Court. Holding: The assignment of the right to sue a specific infringer does not vest in the assignee such legal title as will support a suit for patent infringement.
September – Attended the meeting of the Woman’s Lawyer’s Association in Minneapolis, held in conjunction with ABA meeting. Elected to the Executive Board, along with Clara Foltz.

October 11 – Willis King is admitted to the Illinois bar.

December – Willis King applied for membership the Chicago Bar Association.

1924

Listed in Martindale’s American Law Directory - Monadnock Block

Friday, June 20 – Dies at the age of 53 at her home at 3824 S. Michigan Avenue, Chicago.

Sunday, June 22 – Funeral services at the Daylight church, 47th Street and St. Lawrence Avenue, Chicago.

Monday, June 23 – Buried in Coral, Michigan.

1925

Listed in Martindale’s American Law Directory - Monadnock Block