

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**



# **PTAB Trial Statistics**

## **FY19 End of Year Outcome Roundup**

### **IPR, PGR, CBM**

Patent Trial and Appeal Board  
Fiscal Year 2019

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# FY19 PTAB outcome roundup

- Generally speaking regarding AIA petitions in FY2019:
  - ***one-third*** were **denied**
  - ***one-third*** **settled** or otherwise terminated
  - ***one-third*** resulted in a **final written decision**.
- AIA ***institution rate*** = about **63%** (out of all decisions on institution).

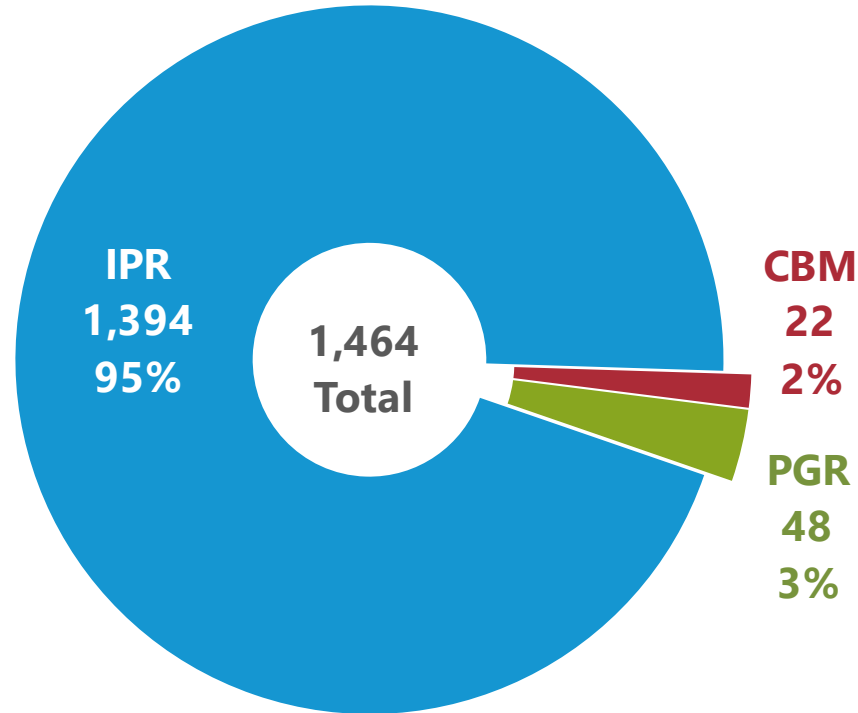
# FY19 PTAB outcome roundup

Considering all Outcomes in AIA Proceedings in FY2019:

- PTAB issued **551 final written decisions** addressing **432** different **patents**.
- About **25% of challenged claims** were found **unpatentable** by a preponderance of the evidence in final written decisions.
- Less than **40% of challenged patents** were addressed in a **final written decision** at all.

# Petitions filed by trial type

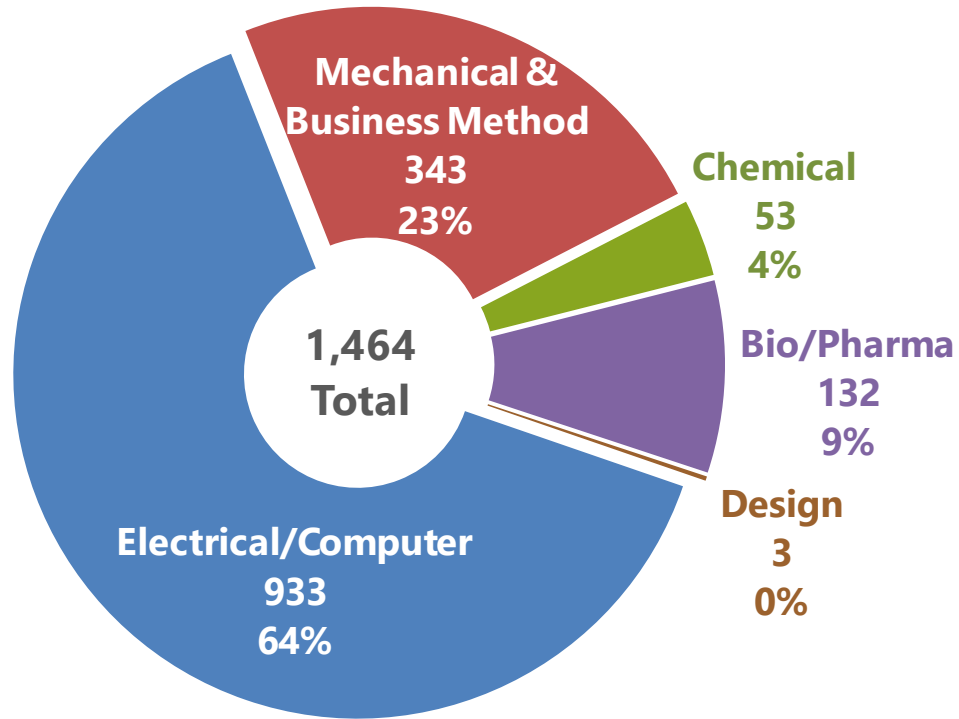
(FY19: Oct. 1, 2018 to Sept. 30, 2019)



Trial types include Inter Partes Review (IPR), Post Grant Review (PGR), and Covered Business Method (CBM). The Office will not consider a CBM petition filed on or after September 16, 2020.

# Petitions filed by technology

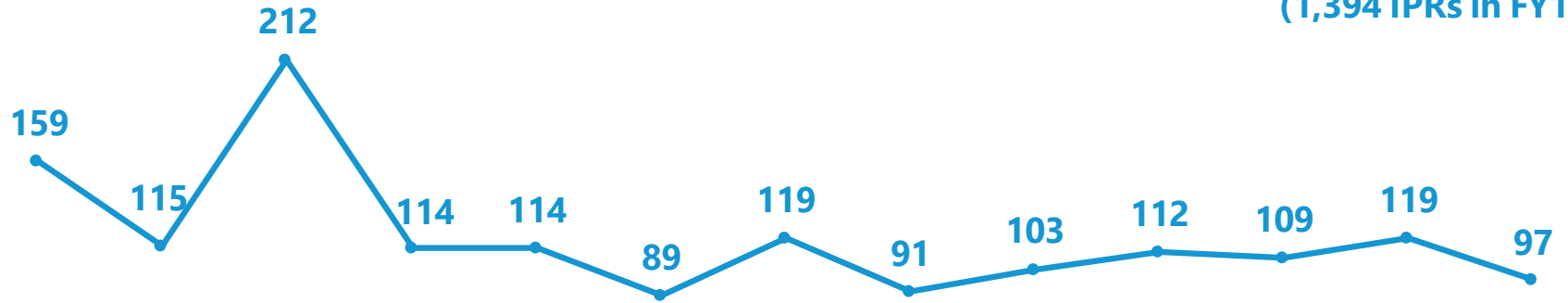
(FY19: Oct. 1, 2018 to Sept. 30, 2019)



# Petitions filed by month

(Sept. 2019 and Previous 12 Months: Sept. 1, 2018 to Sept. 30, 2019)

(1,394 IPRs in FY19)



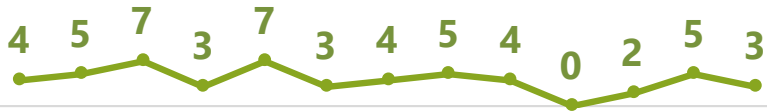
Sep-18

IPR

Sep-19

(48 PGRs in FY19)

(22 CBMs in FY19)



Sep-18

PGR

Sep-19

Sep-18

CBM

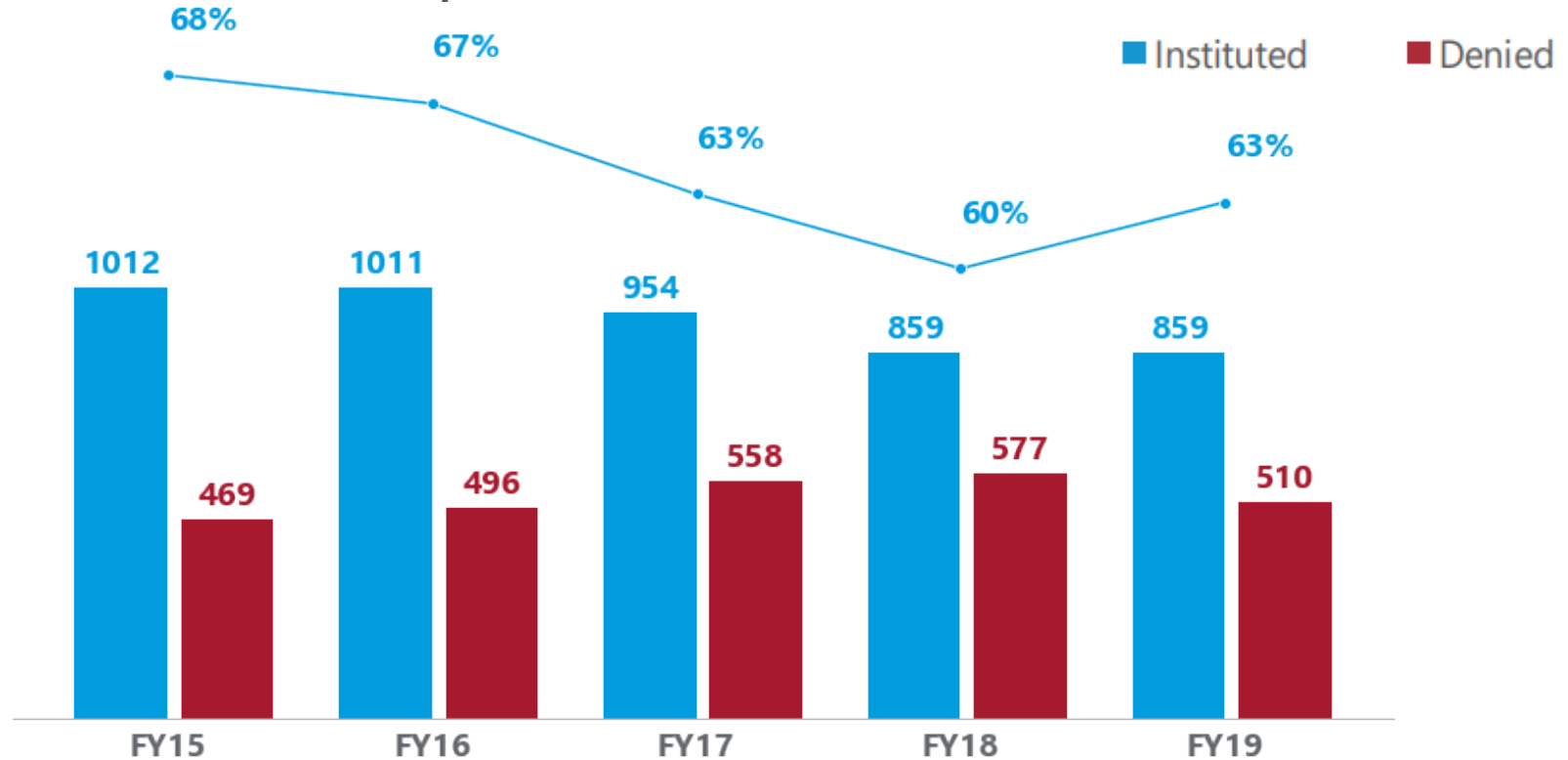
Sep-19



The Office will not consider a CBM petition filed on or after September 16, 2020.

# Institution rates by petition

(FY15 to FY19: Oct. 1, 2014 to Sept. 30, 2019)



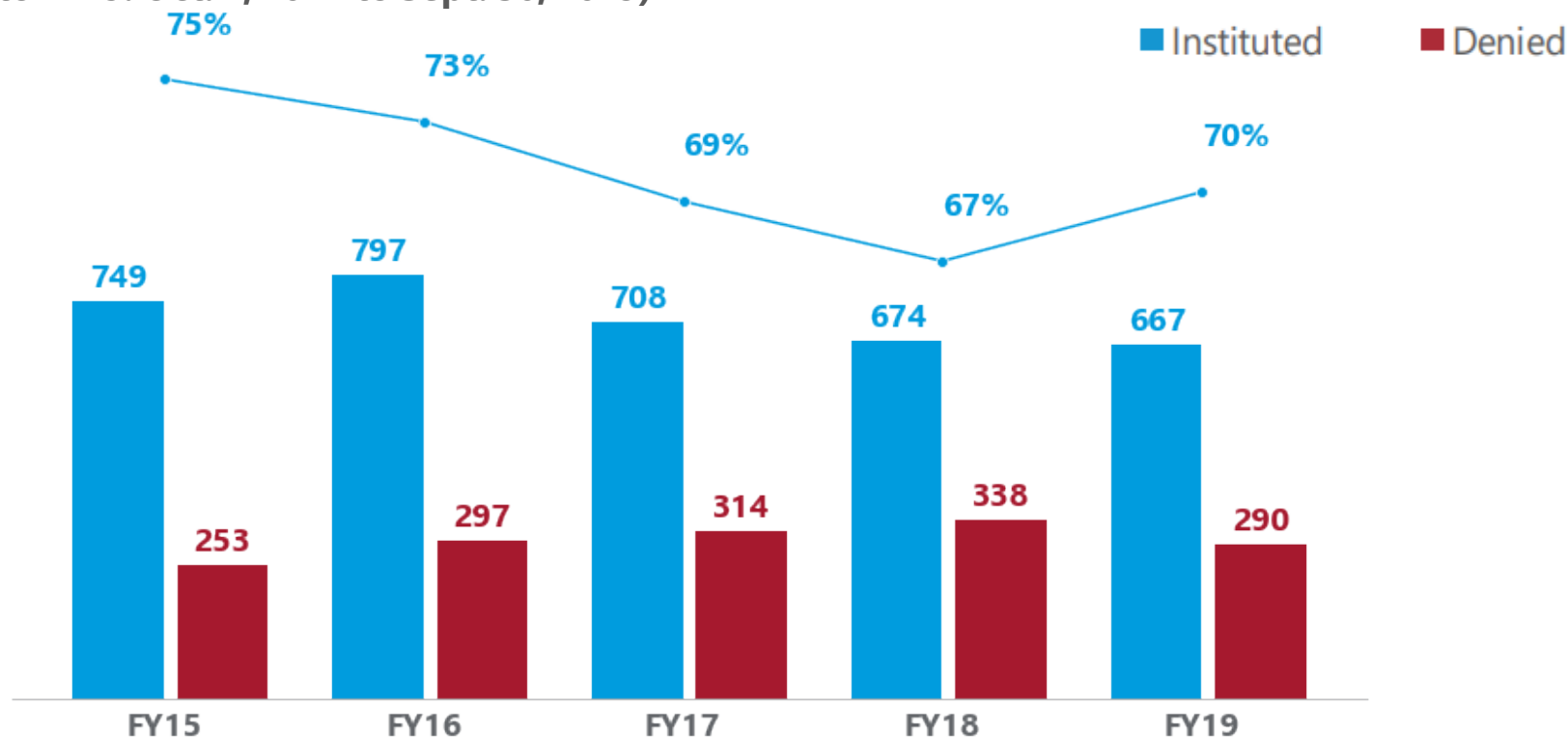
Institution rate is calculated by dividing petitions instituted by decisions on institution (i.e., petitions instituted plus petitions denied). The outcomes of decisions on institution responsive to requests for rehearing are excluded.





# Institution rates by patent

(FY15 to FY19: Oct. 1, 2014 to Sept. 30, 2019)

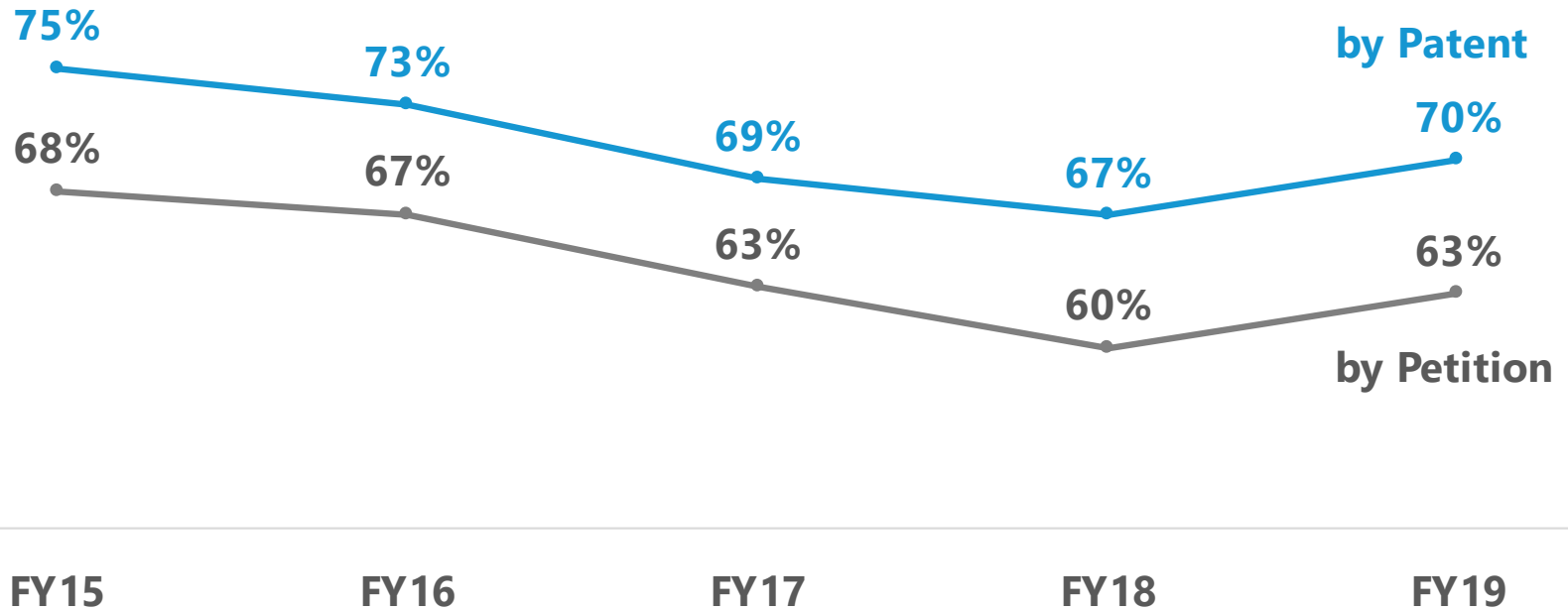


A patent is "instituted" if any petition challenging that patent is instituted. A patent is "denied" if no petitions challenging that patent are instituted. Patents that have not received a Decision on Institution are not included in this data set.



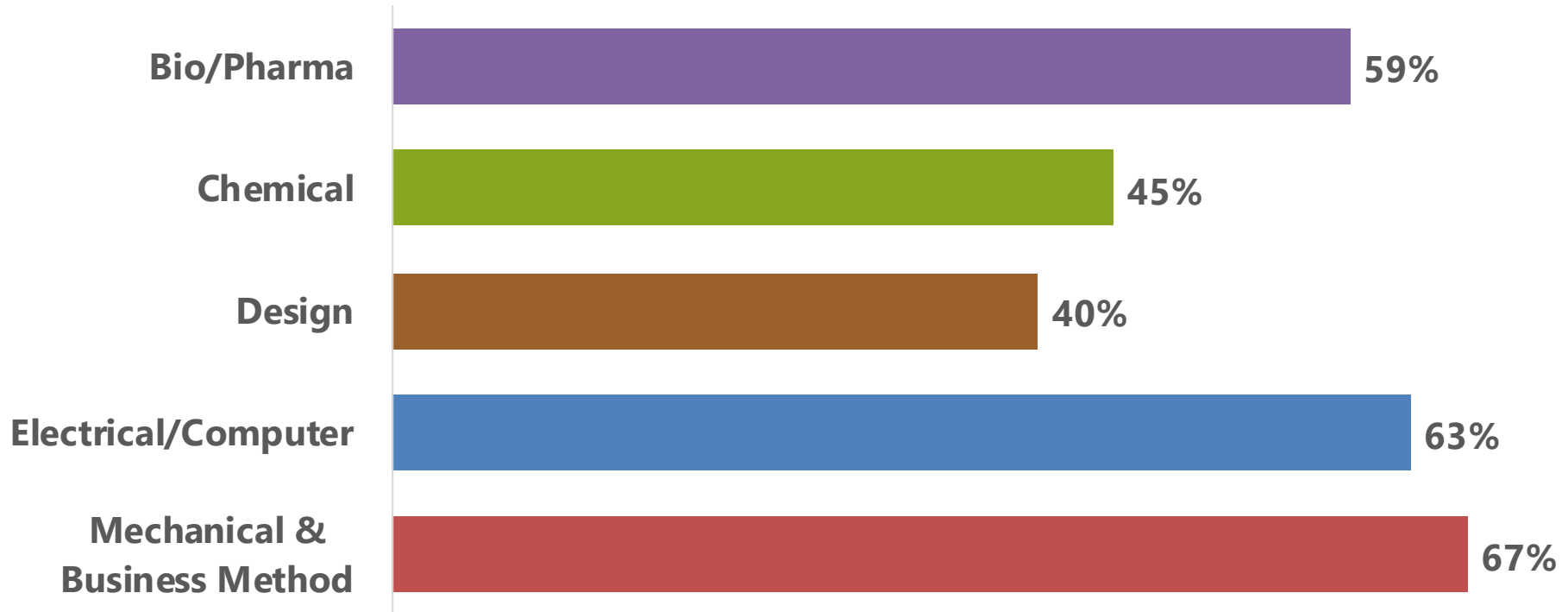
# Institution rates by patent and by petition

(FY15 to FY19: Oct. 1, 2014 to Sept. 30, 2019)



# Institution rates by technology

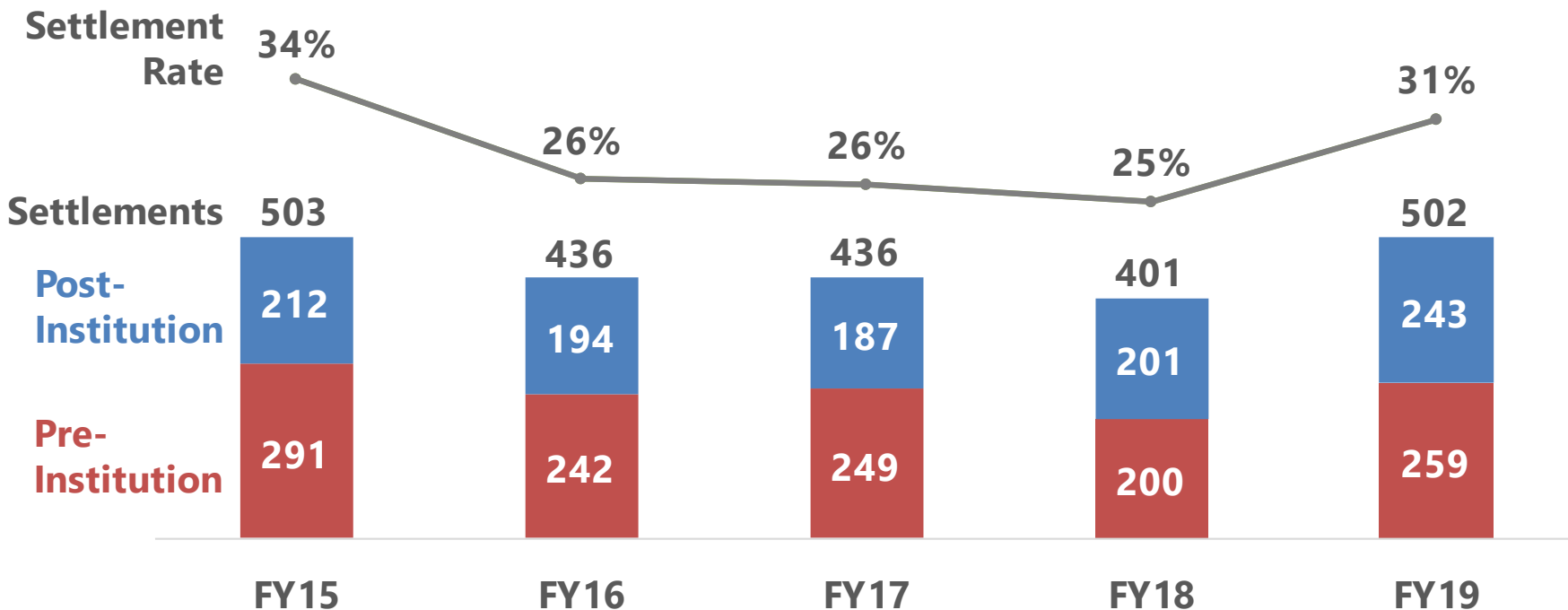
(FY19: Oct. 1, 2018 to Sept. 30, 2019)



Institution rate for each technology is calculated by dividing petitions instituted by decisions on institution (i.e., petitions instituted plus petitions denied). The outcomes of decisions on institution responsive to requests for rehearing are excluded.

# Settlements

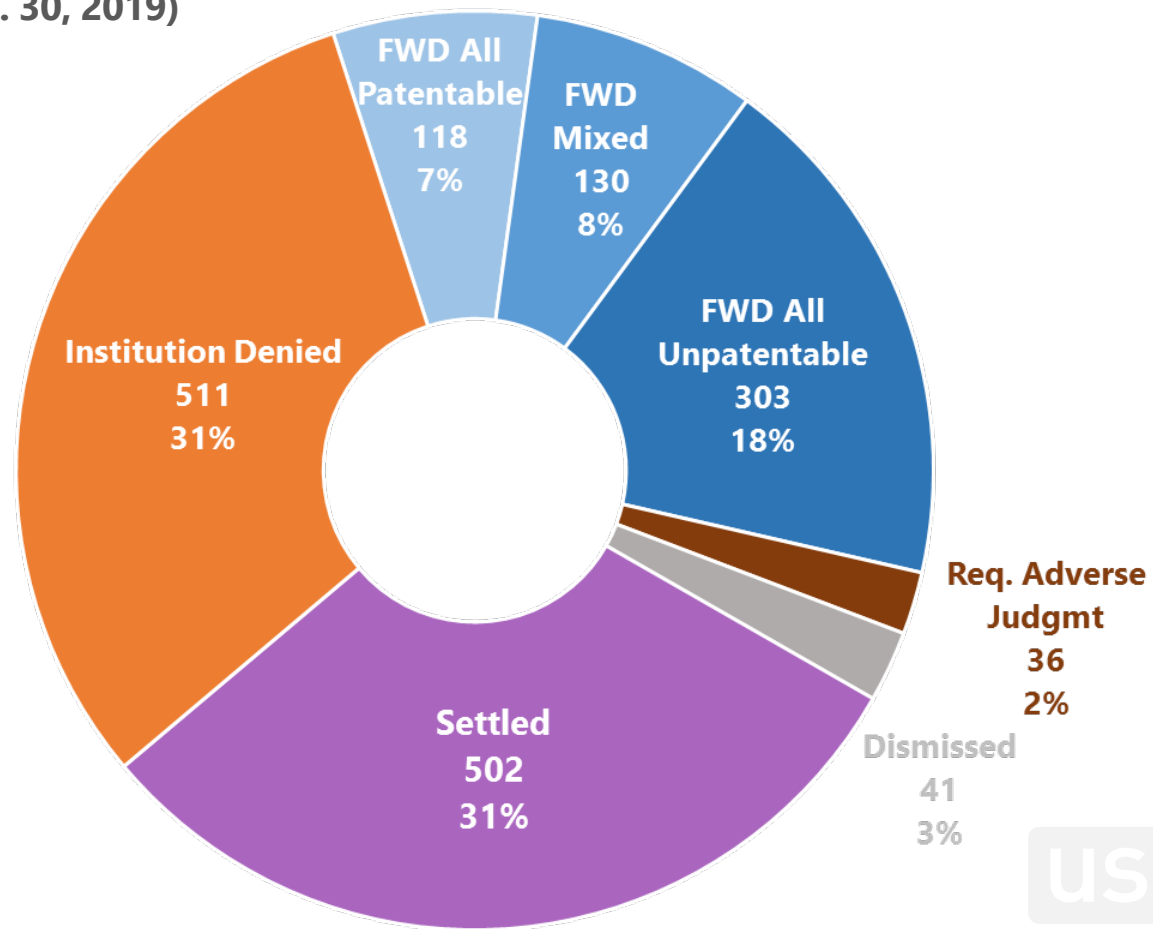
(FY15 to FY19: Oct. 1, 2014 to Sept. 30, 2019)



Settlement rate is calculated by dividing total settlements by concluded proceedings in each fiscal year (i.e., denied institution, settled, dismissed, requested adverse judgment, and final written decision), excluding joined cases.

# Outcomes by petition

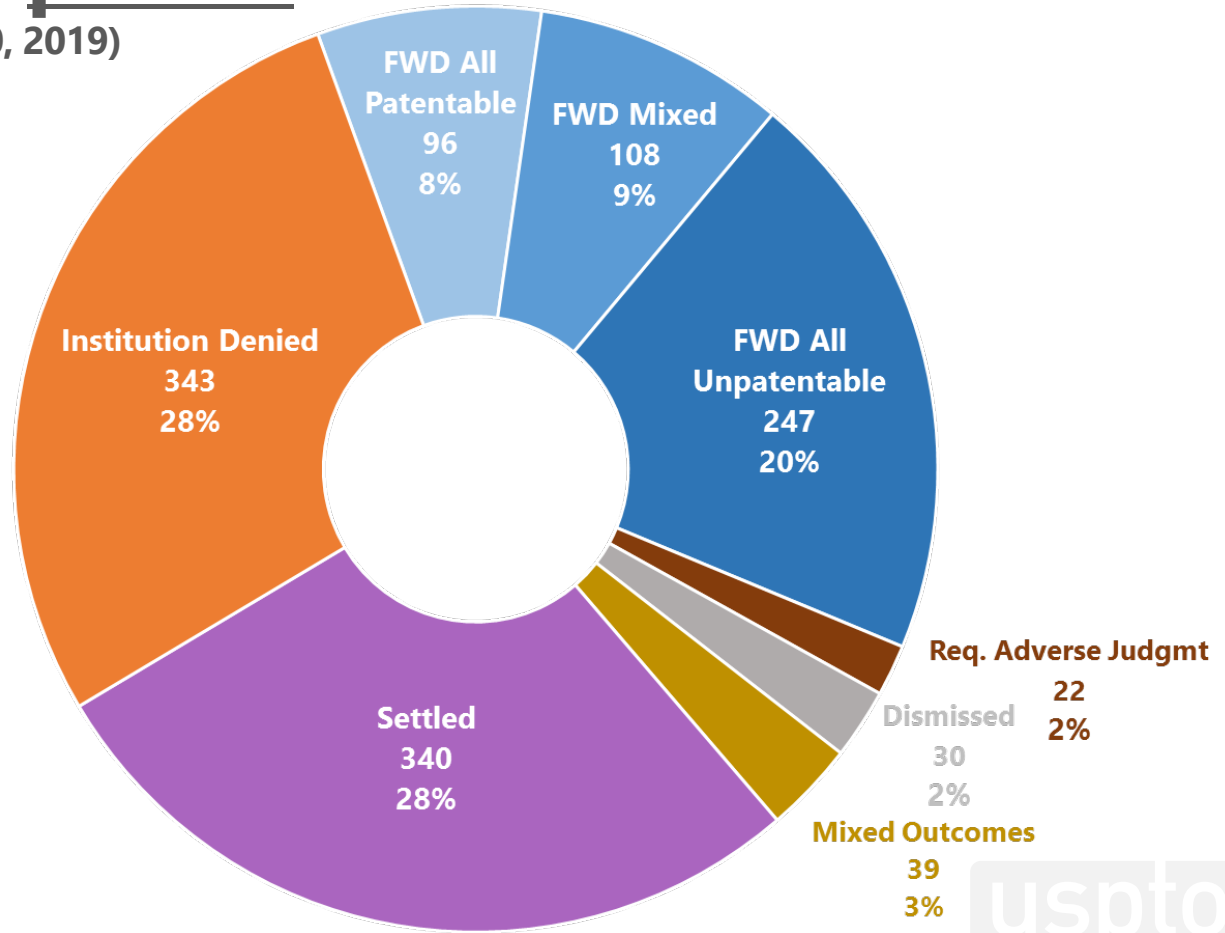
(FY19: Oct. 1, 2018 to Sept. 30, 2019)



FWD patentability or unpatentability reported with respect to the claims at issue in the FWD. Joined cases are excluded.

# Outcomes by patent

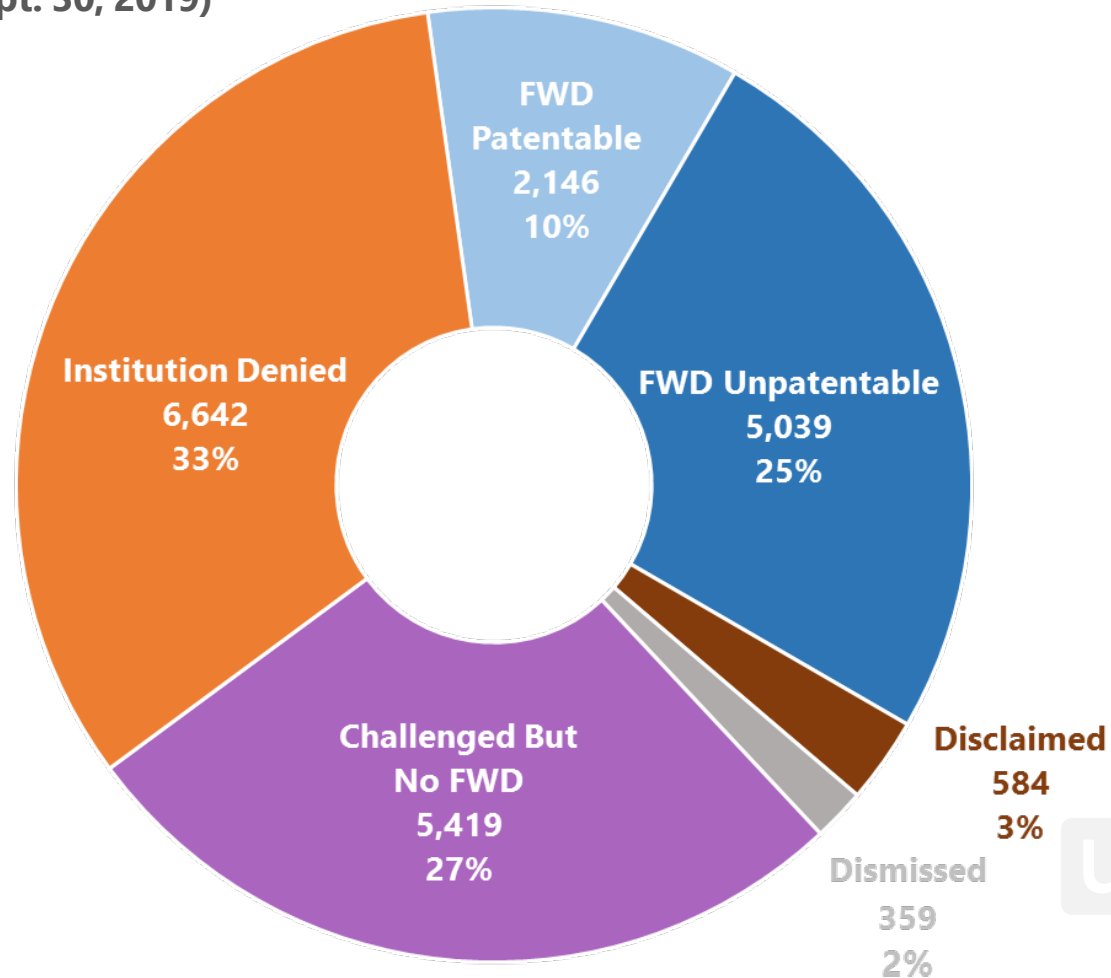
(FY19: Oct. 1, 2018 to Sept. 30, 2019)



FWD patentability or unpatentability reported with respect to the claims at issue in the FWD. "Mixed Outcome" is shown for patents receiving more than one type of outcome from the list of: denied, settled, dismissed, and/or req. adverse judgement only. A patent is listed in a FWD category if it ever received a FWD, regardless of other outcomes.

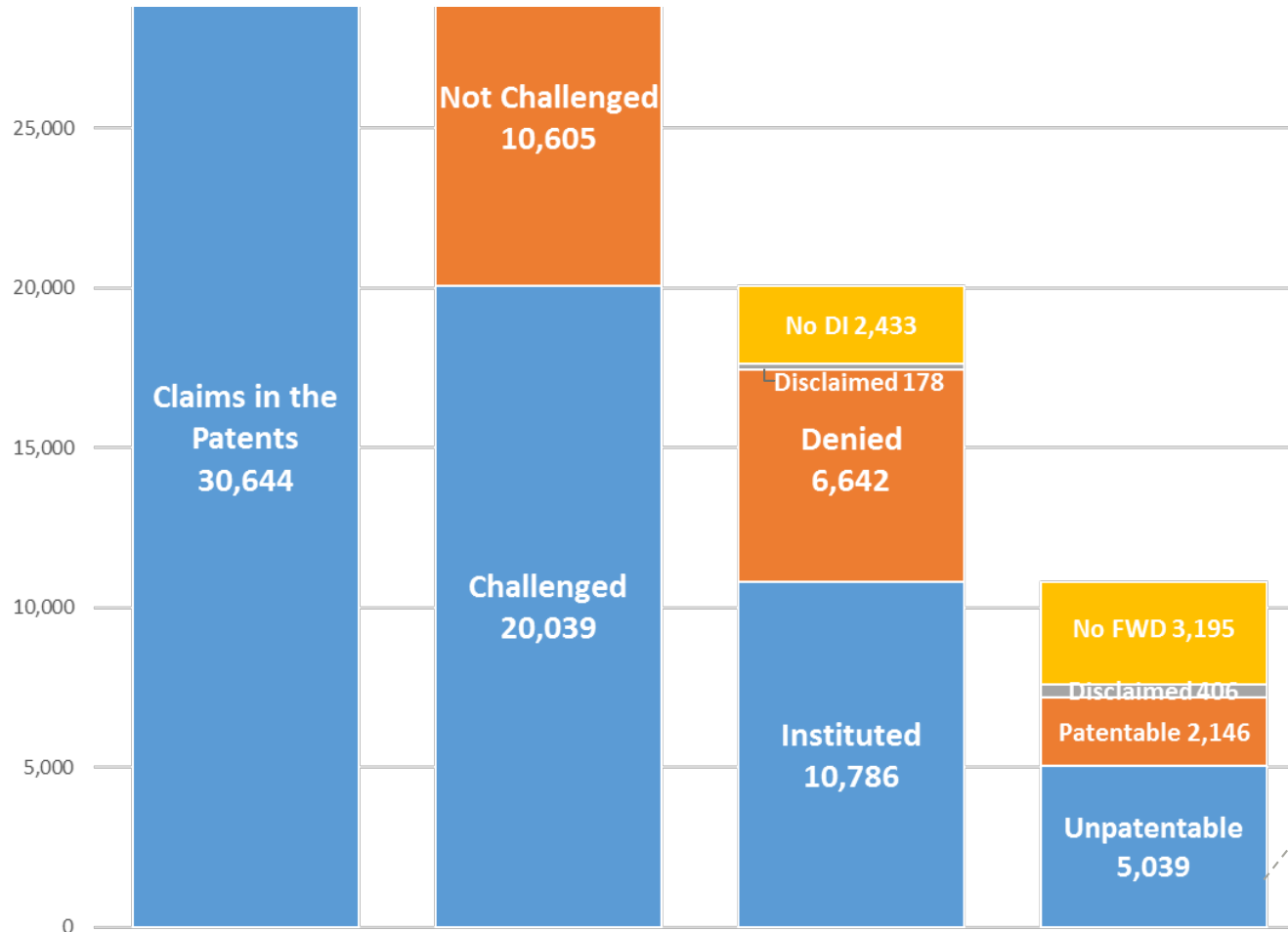
# Outcomes by claim challenged

(FY19: Oct. 1, 2018 to Sept. 30, 2019)



# Claim outcomes

(FY19: Oct. 1, 2018 to Sept. 30, 2019)



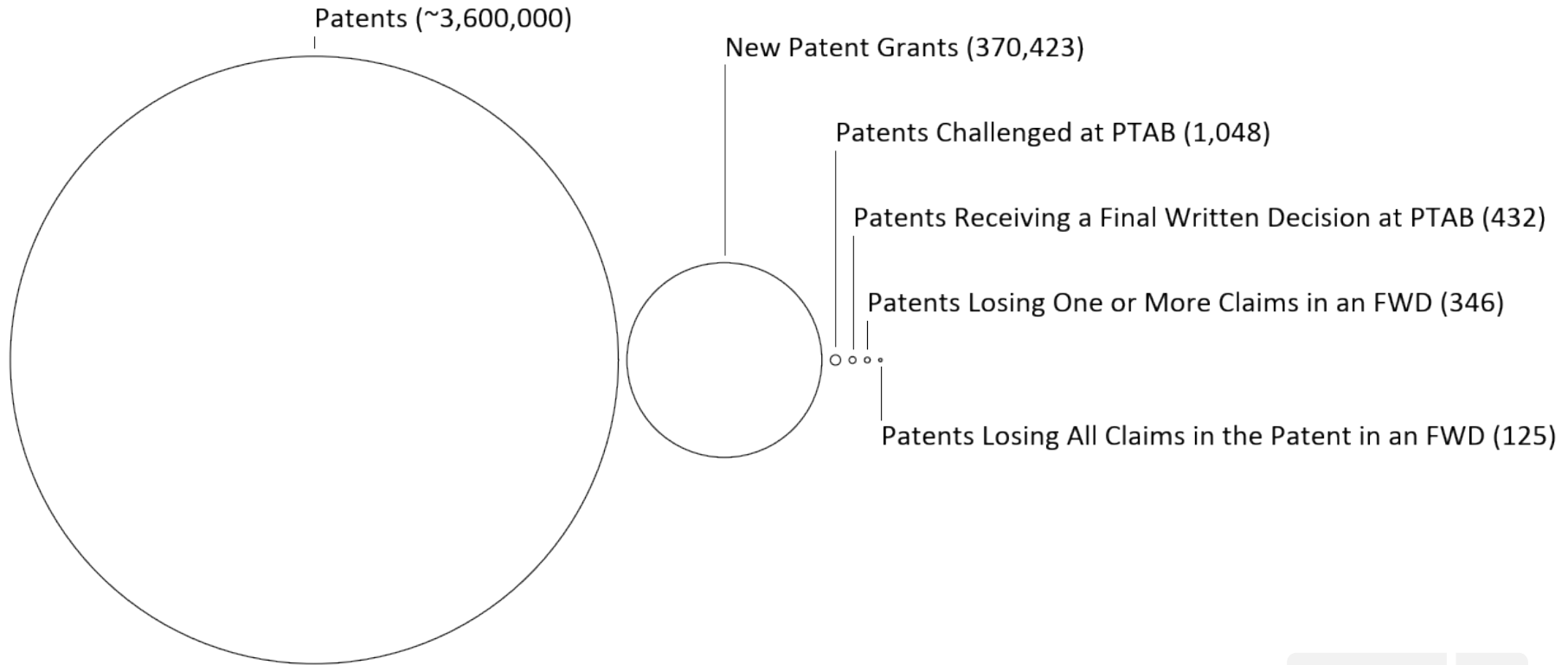
\*"No DI" and "No FWD" means the claim was challenged but not addressed in a DI/FWD, e.g., due to settlement.

25% of challenged claims and 47% of instituted claims were found unpatentable by a preponderance of the evidence in FY19.





# All patents, fiscal year 2019:



The area inside each circle is scaled to the number of patents in the category.

# Appendix

This presentation, as well as appendices are available on PTAB's statistics webpage:

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/statistics>

## Appendix A: Parallel Proceedings Study

- A report on interaction between parallel proceedings at the USPTO (e.g., AIA proceedings, reexam, and re-issue) involving issued patents.
- Originally presented April 2019.

## Appendix B: Orange Book / Biologics Study

- A report on AIA trials involving petitions challenging Orange Book listed patents and biologic patents. The report also includes a study on district court pharmaceutical litigation..
- Originally presented July 2019.

## Appendix C: Methodology for FY19 Roundup Statistics

- Technical details of the methodology used in generating the FY19 Outcome Roundup.



# Questions? Comments? Suggestions?

We welcome your feedback.

Please direct questions, comments, or suggestions relating to this presentation, or other statistical or data-related matters to:

[PTABStatisticsQuestions@USPTO.GOV](mailto:PTABStatisticsQuestions@USPTO.GOV)

Please direct comments, questions, or suggestions relating to AIA proceedings in general to:

[PTABAIATrialSuggestions@USPTO.GOV](mailto:PTABAIATrialSuggestions@USPTO.GOV)

# Want to know more about PTAB?

Please visit our website:

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board>

PTAB AIA Trials Website:

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/trials>

PTAB Statistics Website (updated monthly):

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/statistics>

PTAB Databases and Open Data (updated daily):

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/ptab-it-systems>



