

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**



# **PTAB Trial Statistics**

## **FY20 End of Year Outcome Roundup**

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

Patent Trial and Appeal Board  
Fiscal Year 2020

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# FY20 PTAB outcome roundup

- Generally speaking regarding AIA petitions in FY2020:
  - ***one-third*** were **denied**
  - ***one-third*** **settled** or otherwise terminated
  - ***one-third*** resulted in a **final written decision**.
- AIA ***institution rate*** = about **56%** (out of all decisions on institution).

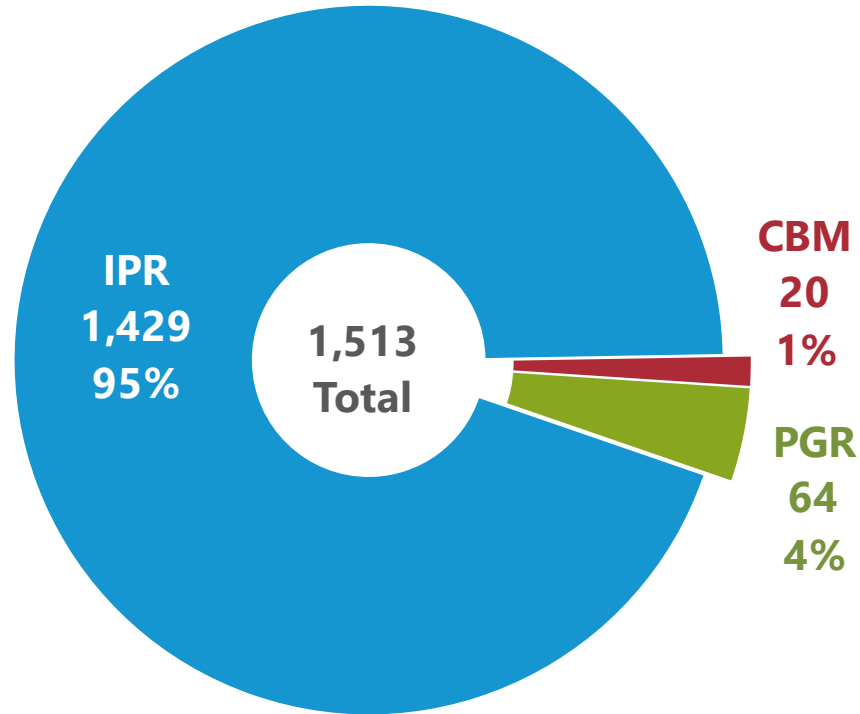
# FY20 PTAB outcome roundup

Considering all Outcomes in AIA Proceedings in FY2020:

- PTAB issued **508 final written decisions** addressing **413** different **patents**.
- Less than **30% 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

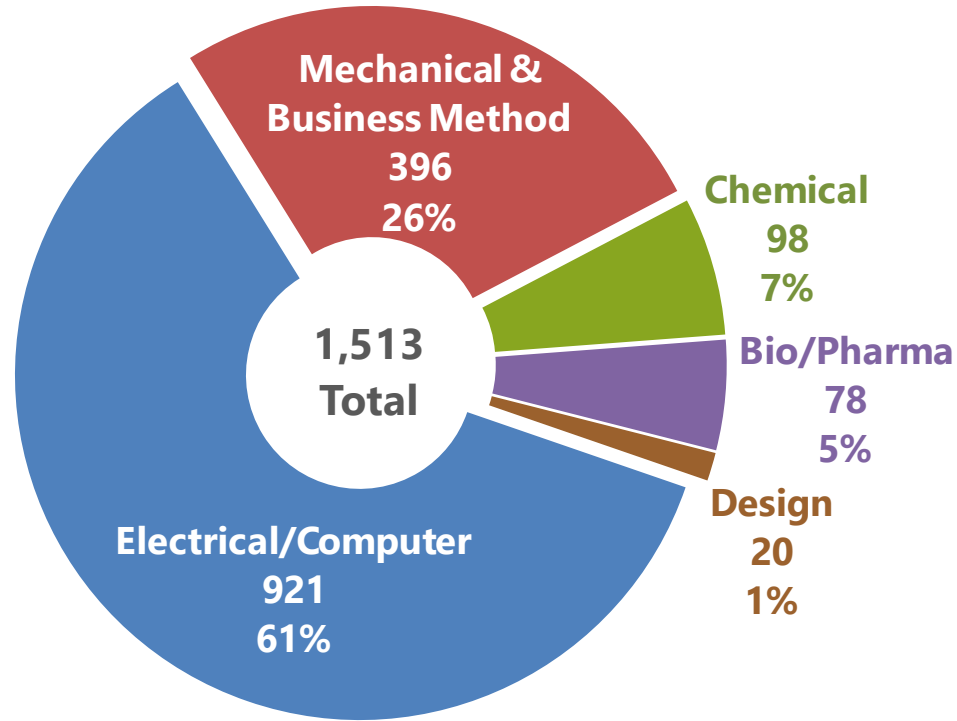
(FY20: Oct. 1, 2019 to Sept. 30, 2020)



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

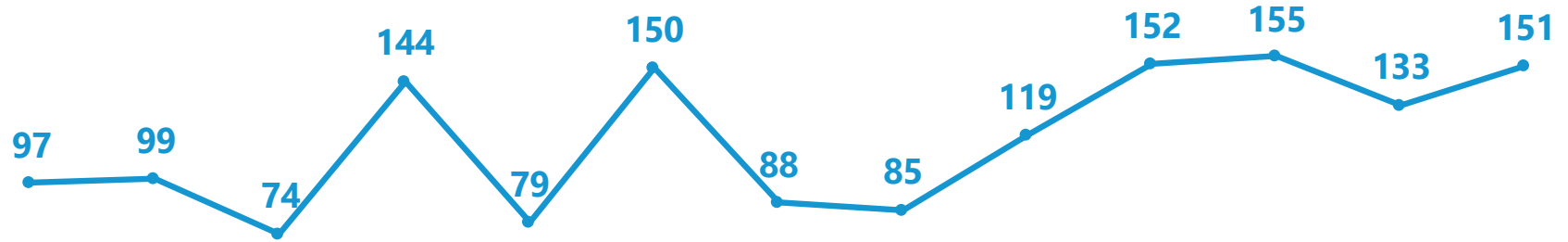
(FY20: Oct. 1, 2019 to Sept. 30, 2020)



# Petitions filed by month

(Sept. 2020 and Previous 12 Months: Sept. 1, 2019 to Sept. 30, 2020)

(1,429 IPRs in FY20)



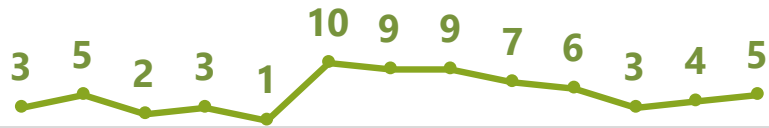
Sep-19

IPR

Sep-20

(64 PGRs in FY20)

(20 CBMs in FY20)



Sep-19

PGR

Sep-20

Sep-19

CBM

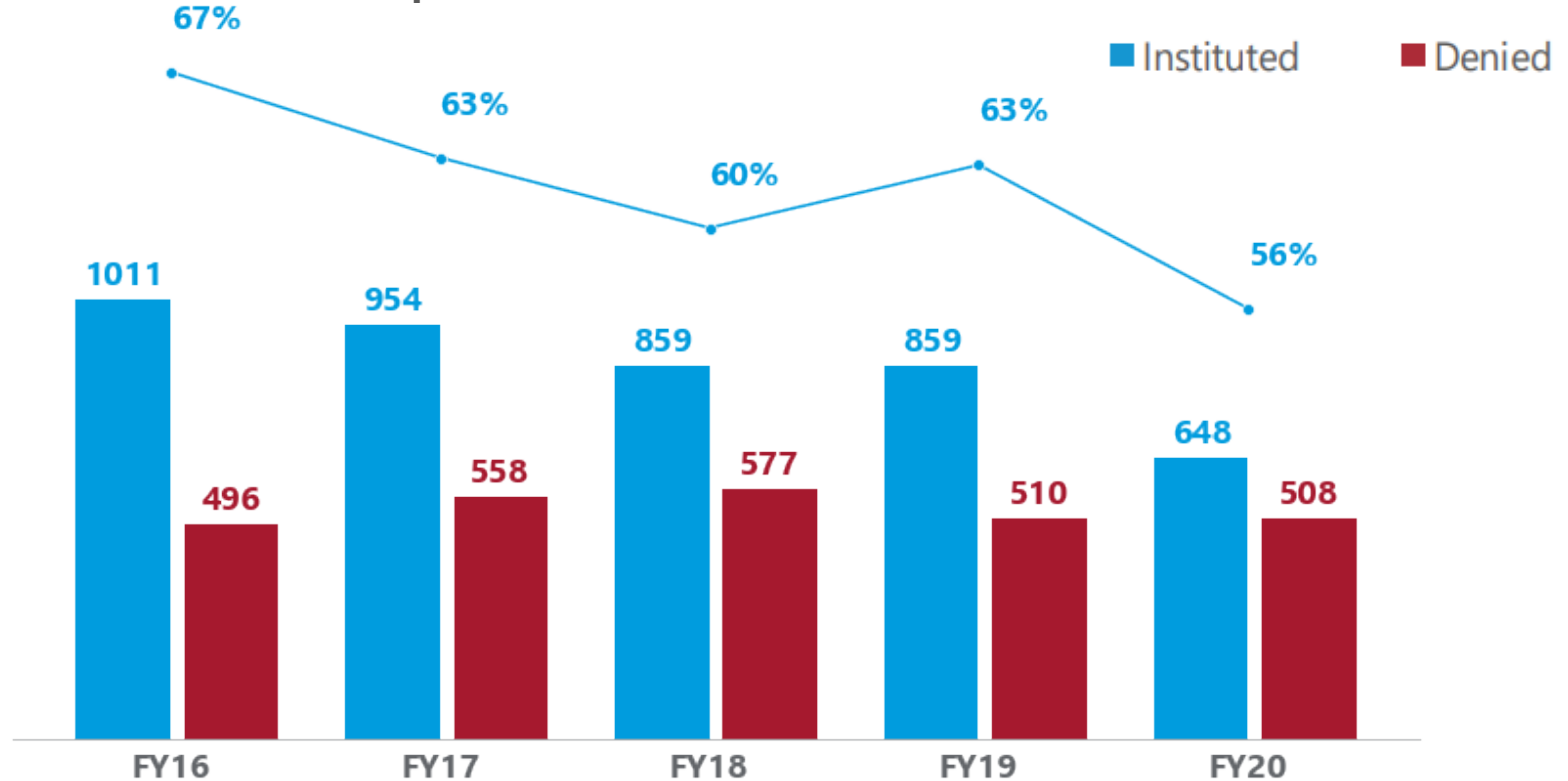
Sep-20



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

# Institution rates by petition

(FY16 to FY20: Oct. 1, 2015 to Sept. 30, 2020)



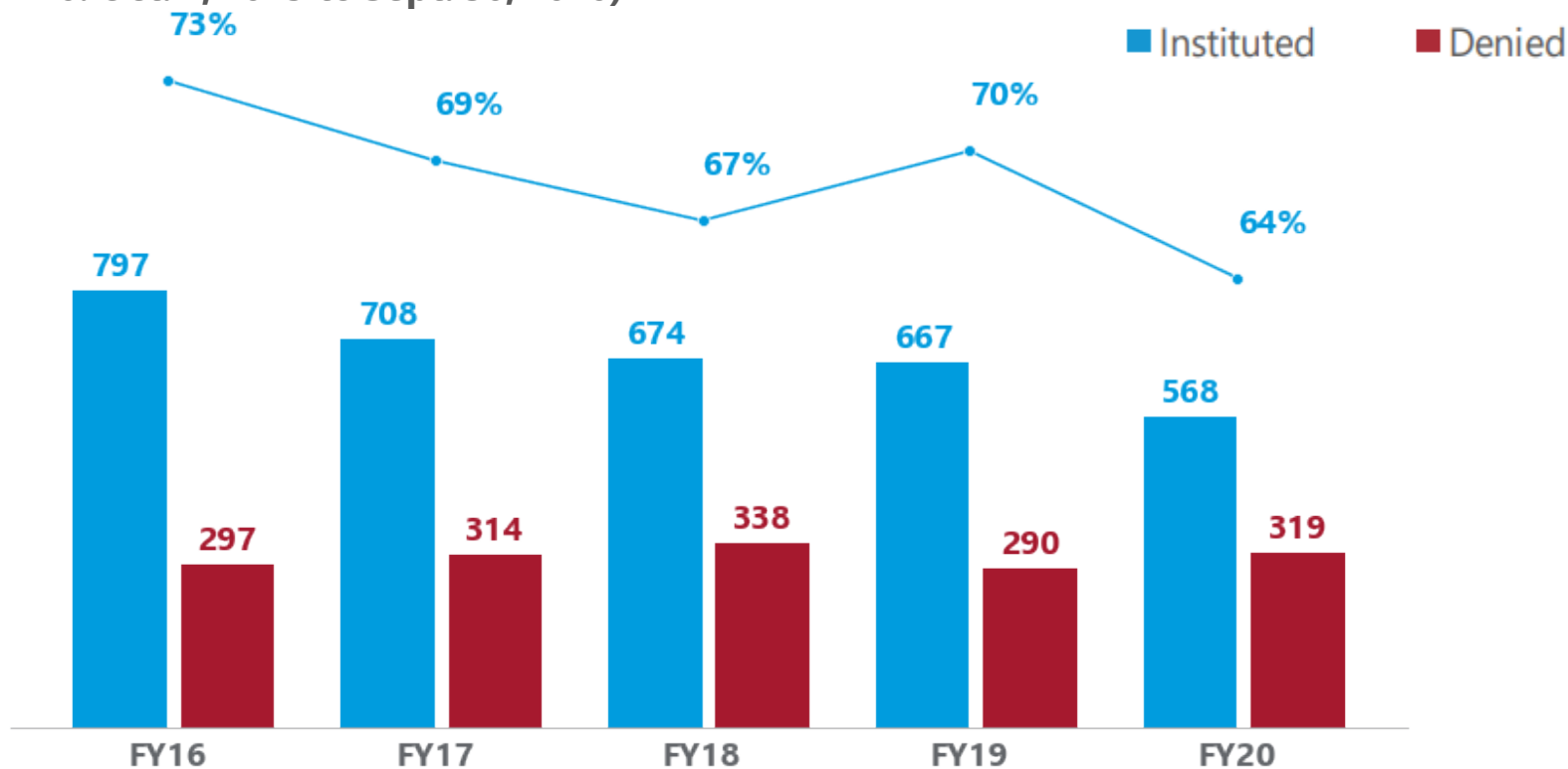
Institution rate is calculated by dividing petitions instituted by decisions on institution (i.e., petitions instituted plus petitions denied). The outcomes of decisions on institution responsive to requests for rehearing are excluded.





# Institution rates by patent

(FY16 to FY20: Oct. 1, 2015 to Sept. 30, 2020)

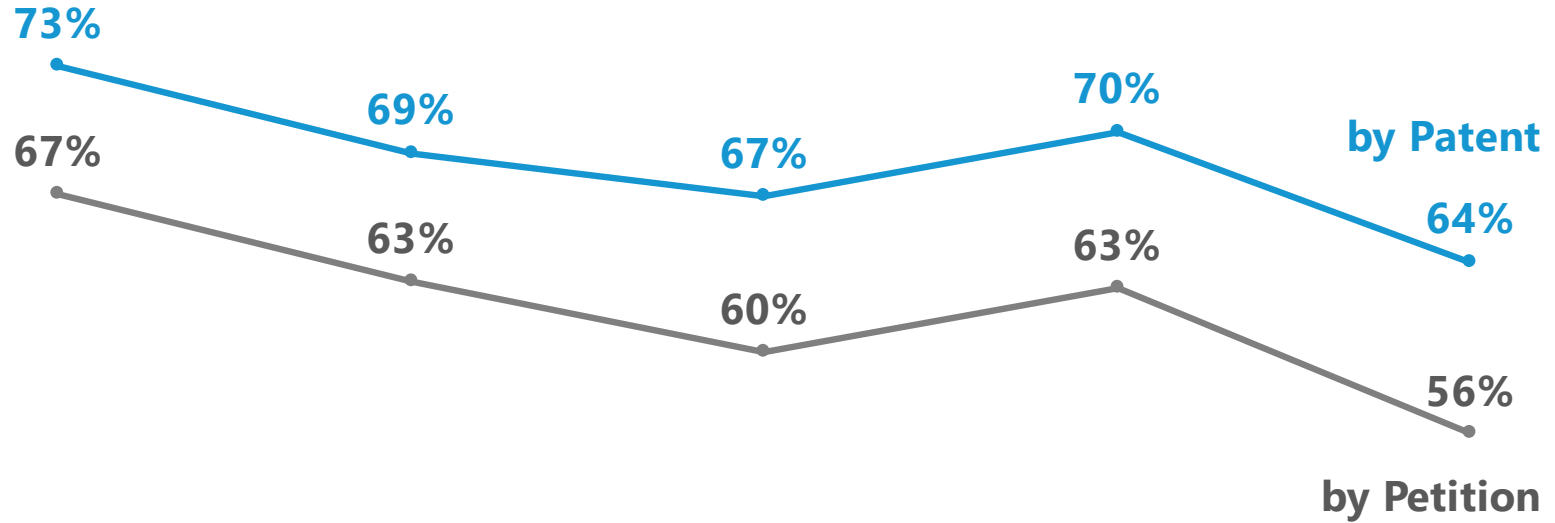


A patent is "instituted" if any petition challenging that patent is instituted. A patent is "denied" if no petitions challenging that patent are instituted. Patents that have not received a Decision on Institution are not included in this data set.



# Institution rates by patent and by petition

(FY16 to FY20: Oct. 1, 2015 to Sept. 30, 2020)



FY16

FY17

FY18

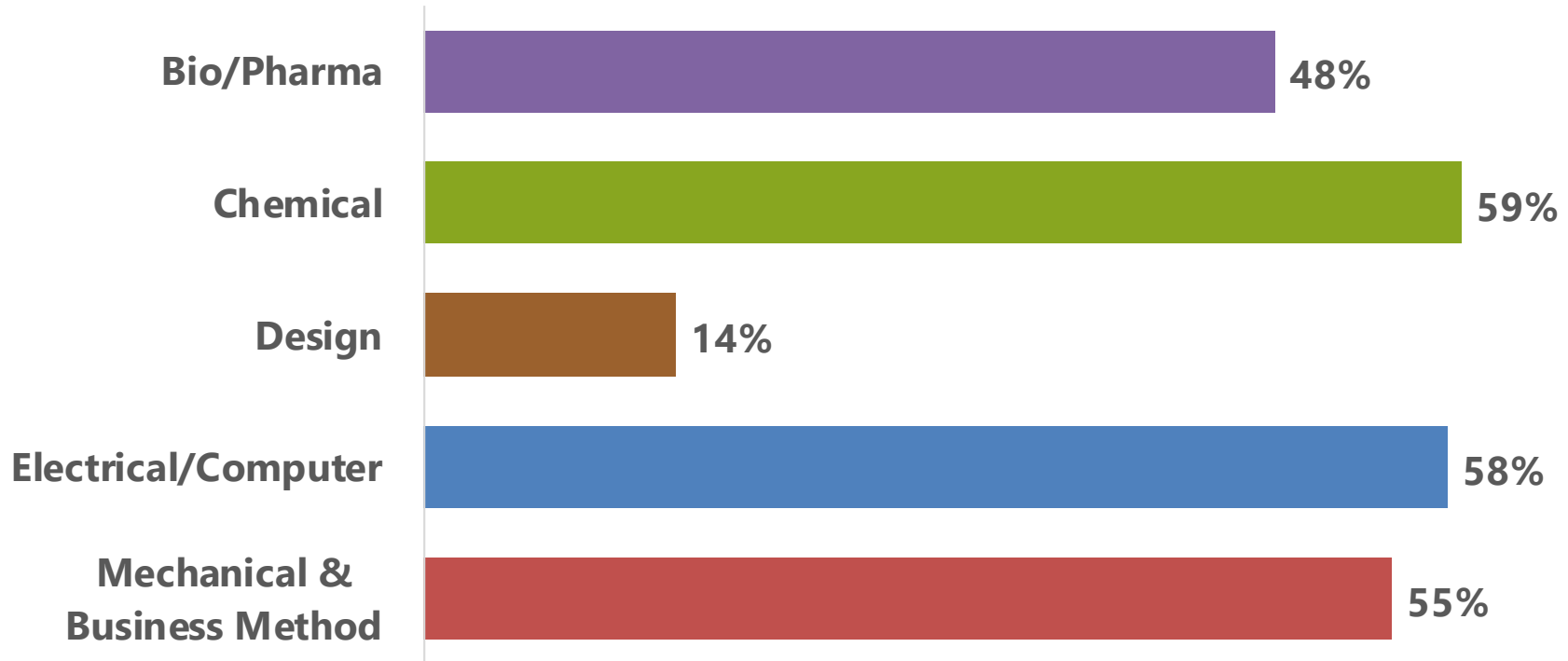
FY19

FY20



# Institution rates by technology

(FY20: Oct. 1, 2019 to Sept. 30, 2020)

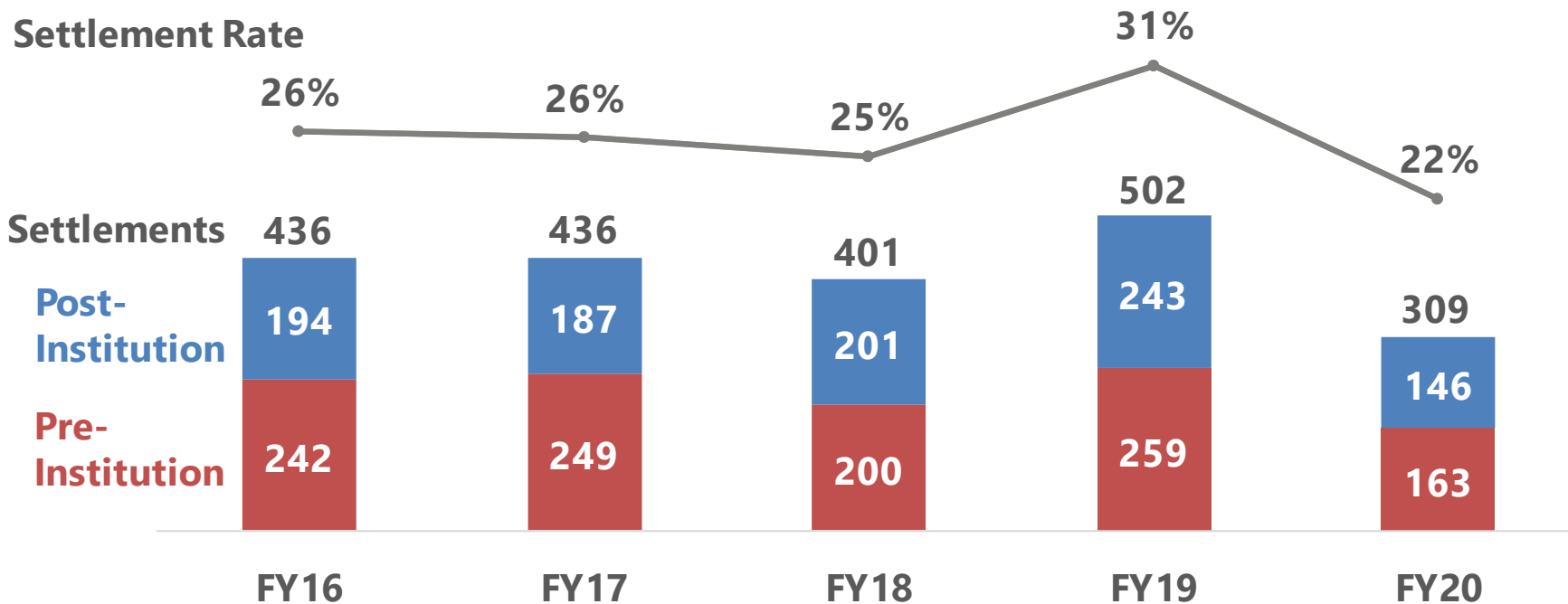


Institution rate for each technology is calculated by dividing petitions instituted by decisions on institution (i.e., petitions instituted plus petitions denied). The outcomes of decisions on institution responsive to requests for rehearing are excluded.

# Settlements

(FY16 to FY20: Oct. 1, 2015 to Sept. 30, 2020)

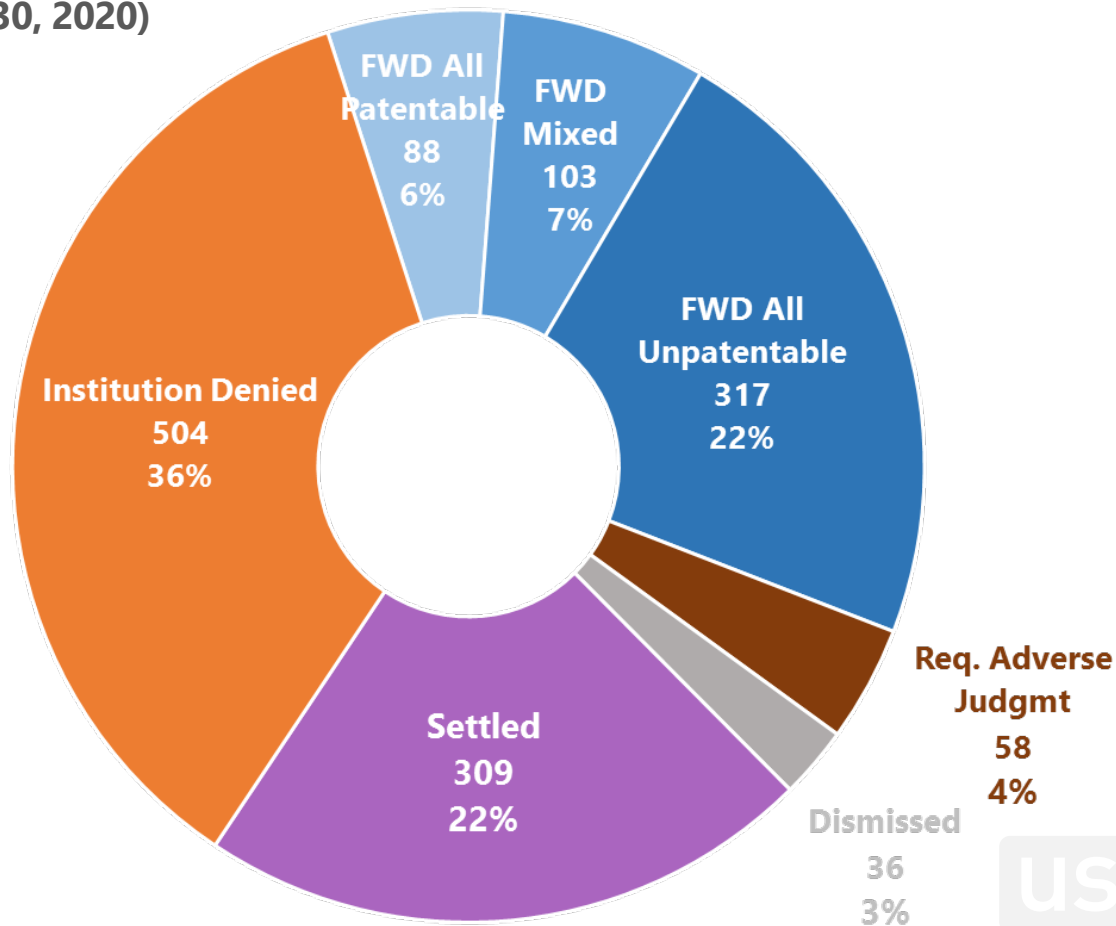
## Settlement Rate



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

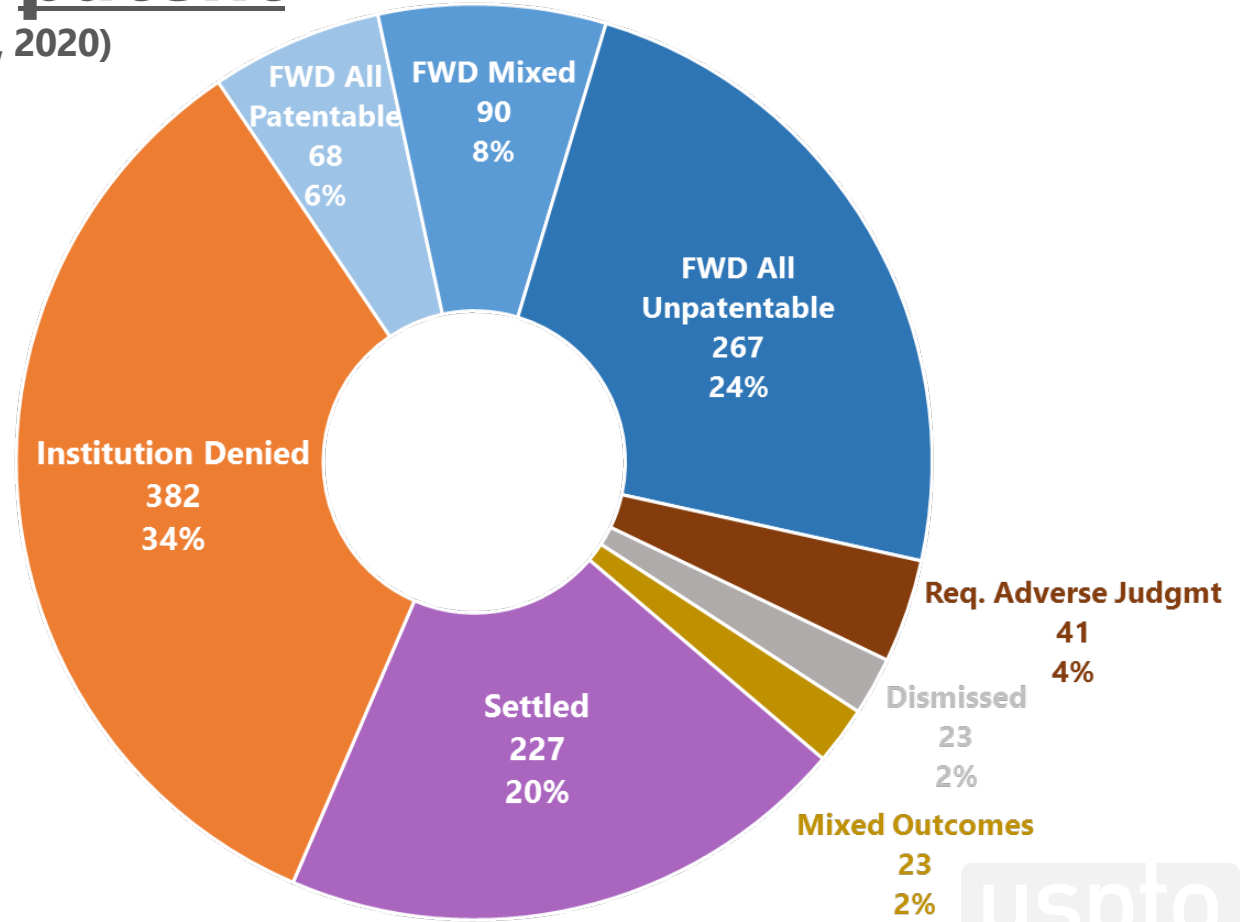
(FY20: Oct. 1, 2019 to Sept. 30, 2020)



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

# Outcomes by patent

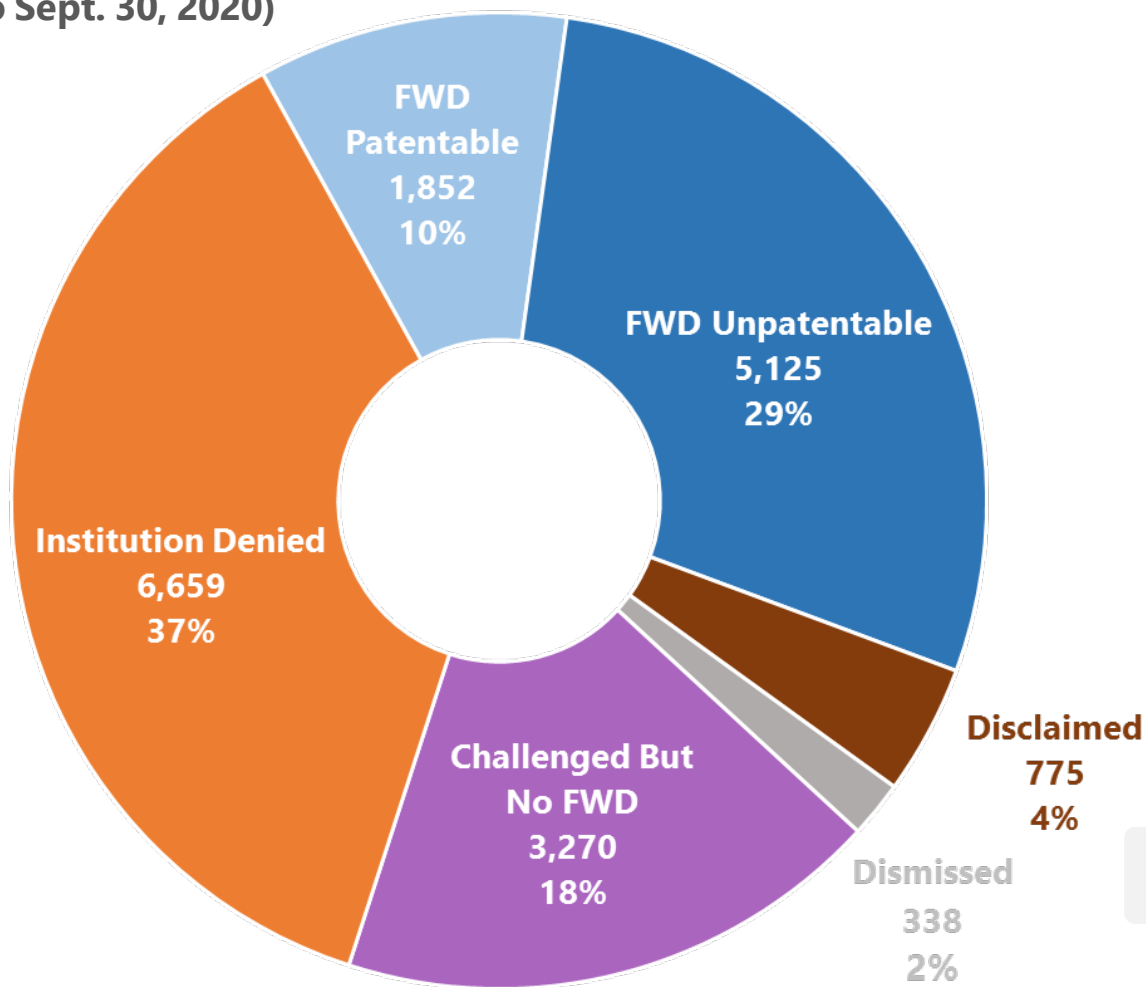
(FY20: Oct. 1, 2019 to Sept. 30, 2020)



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.

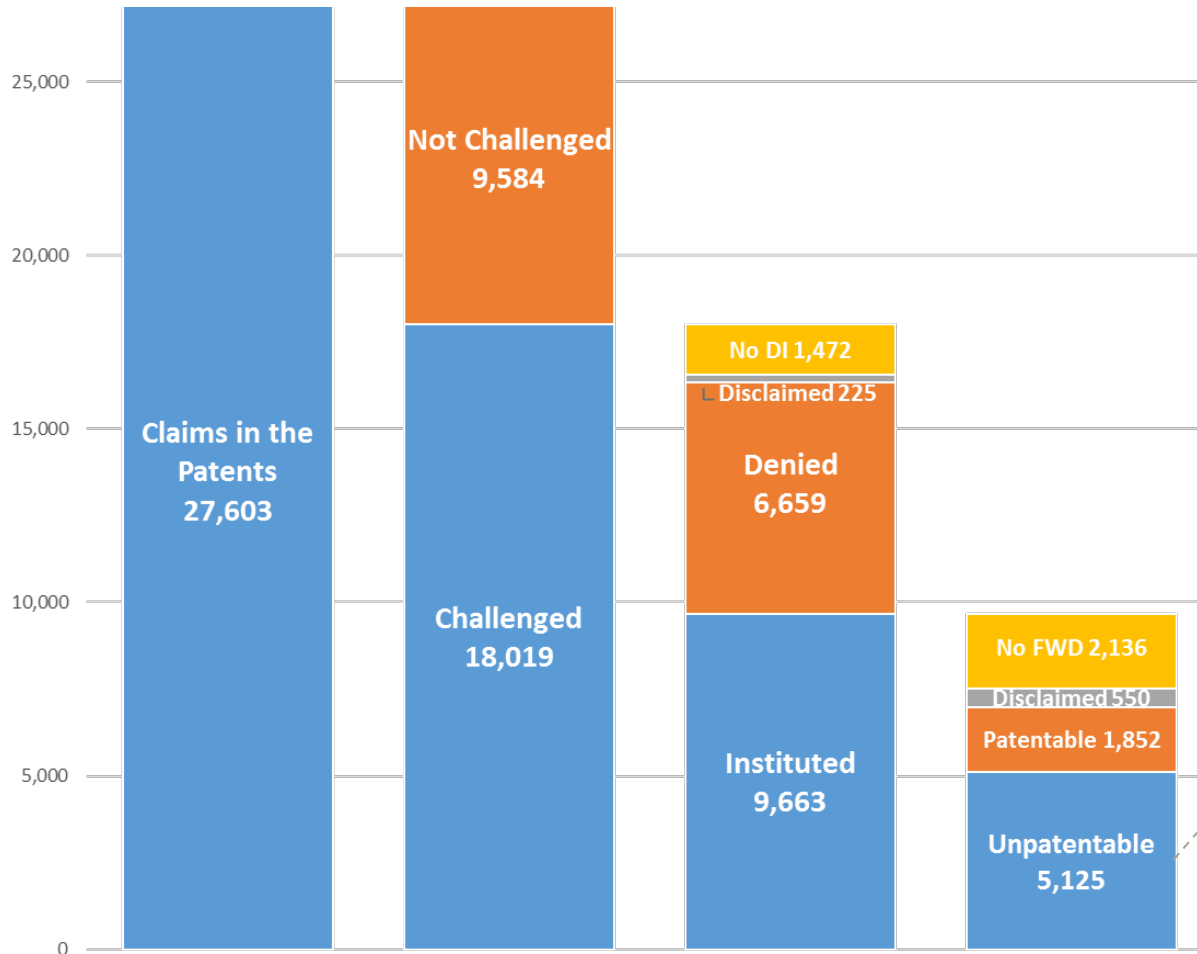
# Outcomes by claim challenged

(FY20: Oct. 1, 2019 to Sept. 30, 2020)



# Claim outcomes

(FY20: Oct. 1, 2019 to Sept. 30, 2020)



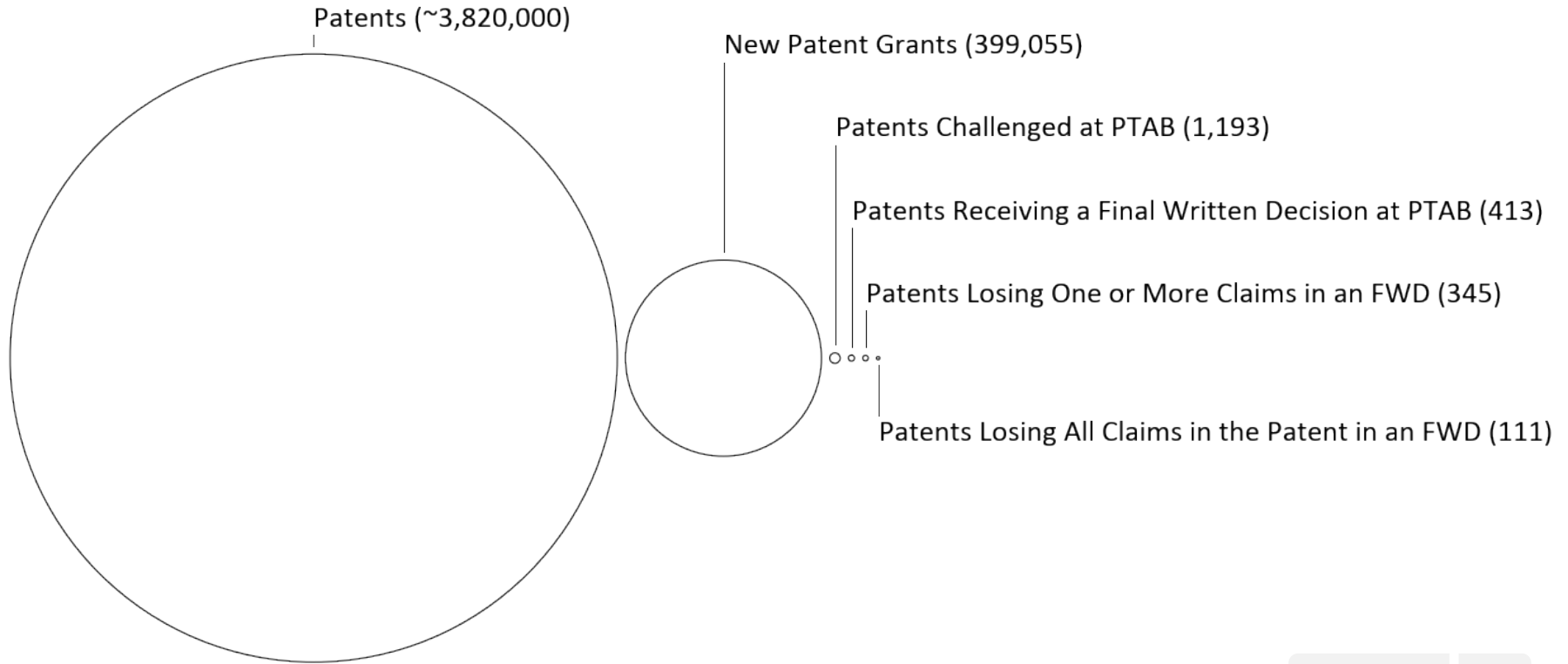
\*"No DI" and "No FWD" means the claim was challenged but not addressed in a DI/FWD, e.g., due to settlement.

28% of challenged claims and 53% of instituted claims were found unpatentable by a preponderance of the evidence in FY20.





# All patents, fiscal year 2020:



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: Motion to Amend Study (Installment 6, through March 31, 2020)**

- A report on the outcomes of pre-pilot motions to amend in AIA trials and some limited data for motions to amend filed under the Office's pilot program.
- Originally published in July 2020.

## **Appendix B: Trial statistics by patent and by claims**

- A report providing various AIA trial statistics, including results by petition, by patent, and by claim; also includes an update on multiple petitions
- Originally presented in June 2020.

## **Appendix C: Methodology for FY20 Roundup Statistics**

- Technical details of the methodology used in generating the FY20 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>



