



3-15-2016

# PTAB Data Analytics: Looking Behind the Numbers

Amy E. Simpson  
*Perkins Coie*

Brian Love  
*Santa Clara University School of Law, blove@scu.edu*

Kim Schmitt  
*Intel Corporation*

Follow this and additional works at: <http://digitalcommons.law.scu.edu/facpubs>

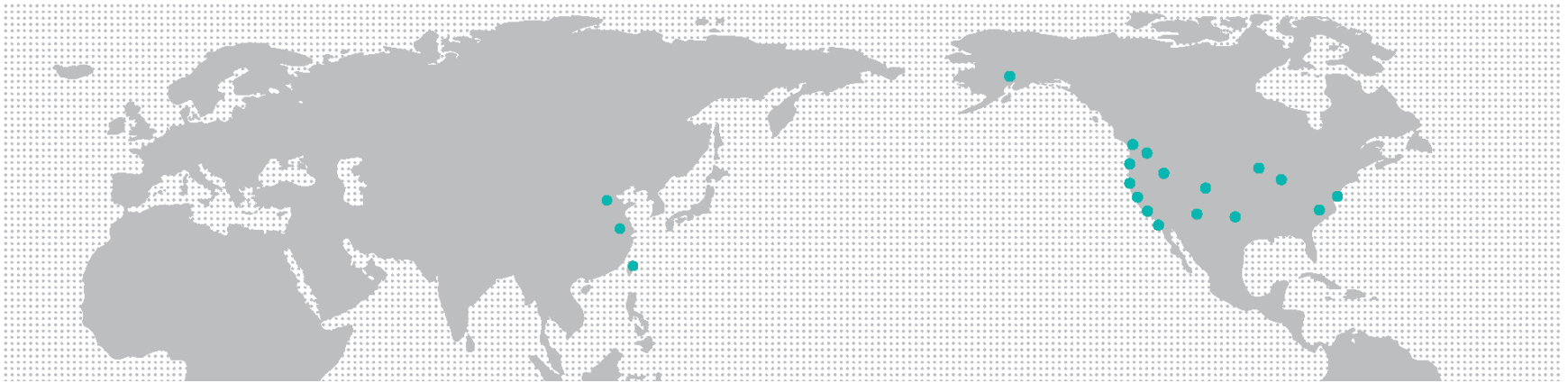


Part of the [Law Commons](#)

## Automated Citation

Amy E. Simpson, Brian Love, and Kim Schmitt, *PTAB Data Analytics: Looking Behind the Numbers* (2016),  
Available at: <http://digitalcommons.law.scu.edu/facpubs/922>

This Conference Paper is brought to you for free and open access by the Faculty Scholarship at Santa Clara Law Digital Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact [sculawlibrarian@gmail.com](mailto:sculawlibrarian@gmail.com).



## PTAB Data Analytics: Looking Behind the Numbers

COUNSEL TO GREAT COMPANIES

PREPARED BY PERKINS COIE LLP FOR

PRESENTED BY

# Managing Intellectual Property

---

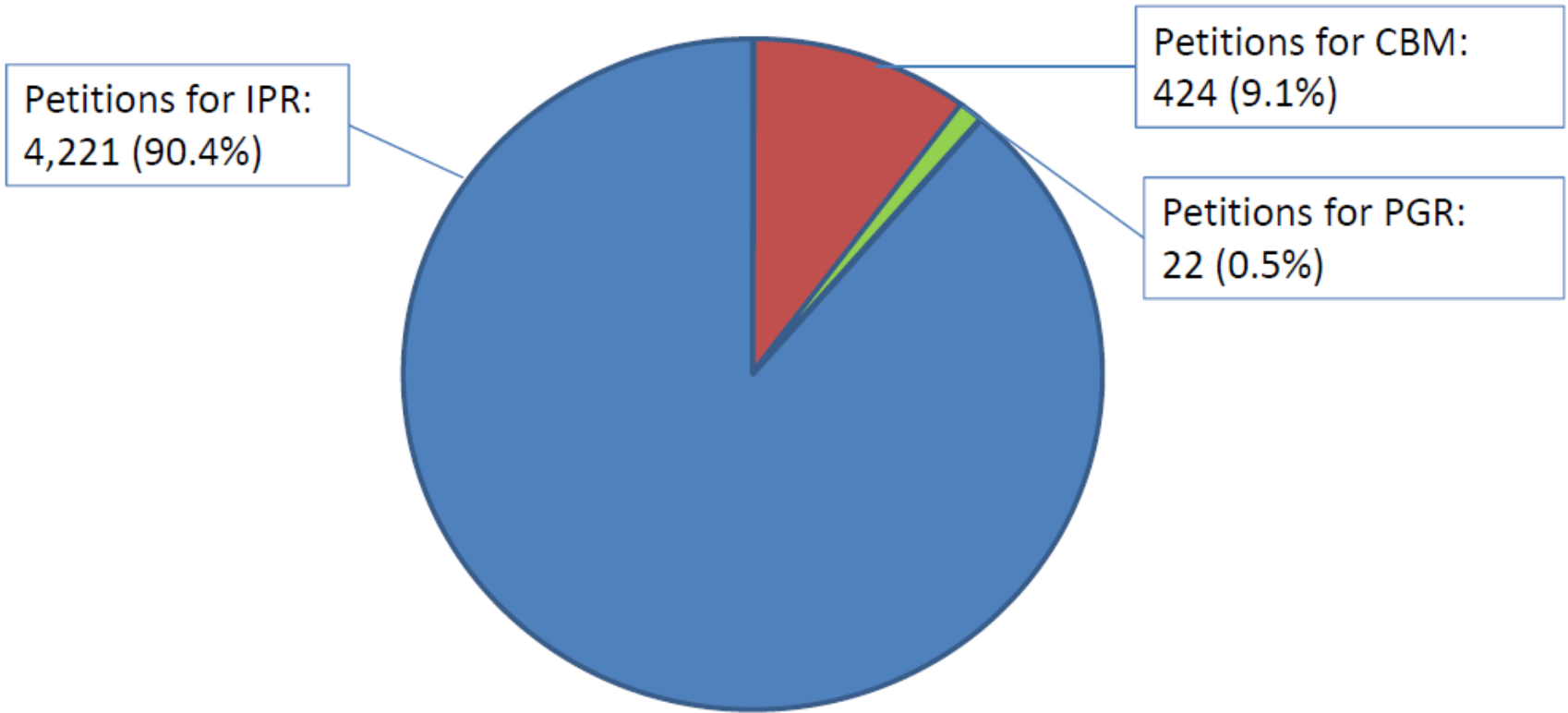
**KIM SCHMITT** | MANAGING COUNSEL, INTEL CORPORATION

**BRIAN LOVE** | PROFESSOR, SANTA CLARA UNIVERSITY

**AMY E. SIMPSON** | PARTNER, CHAIR - PATENT LITIGATION GROUP

MARCH 15, 2016

# Total AIA Filings: The Big Picture

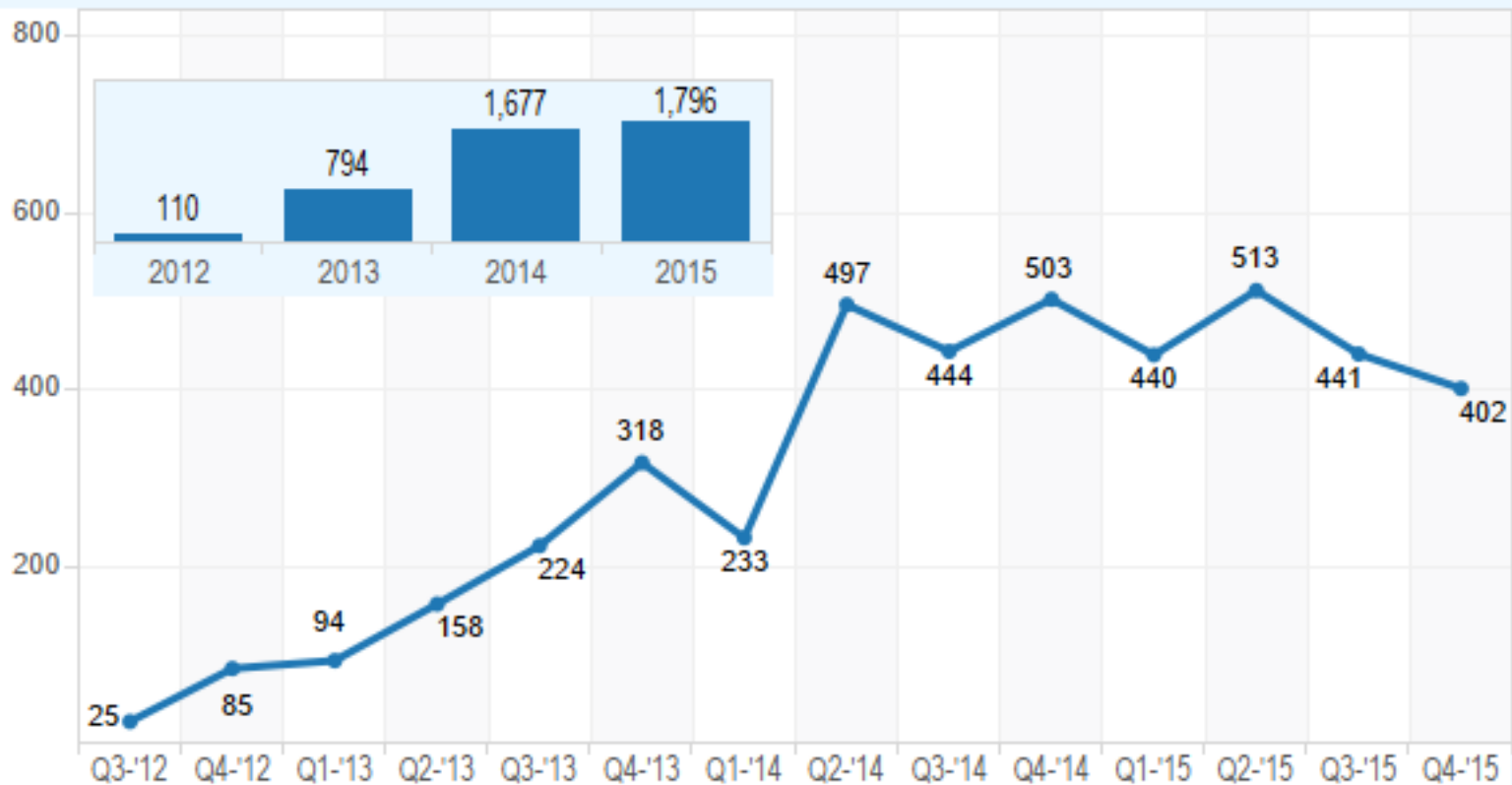


Source: Docket Navigator (March 11, 2016)

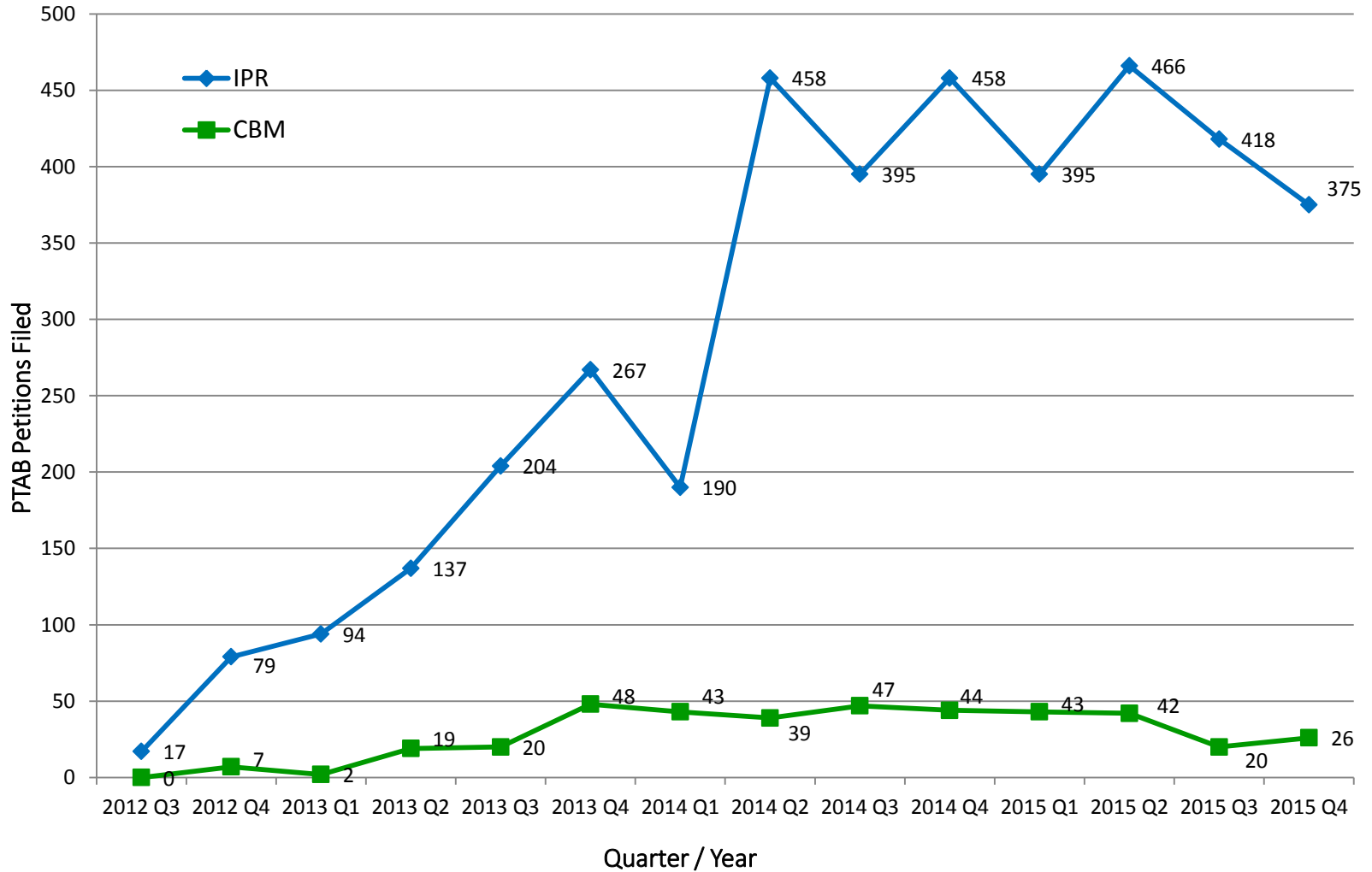
# IPR Filing Trends: Is It Leveling Off?

## PTAB's Popularity Levels Off

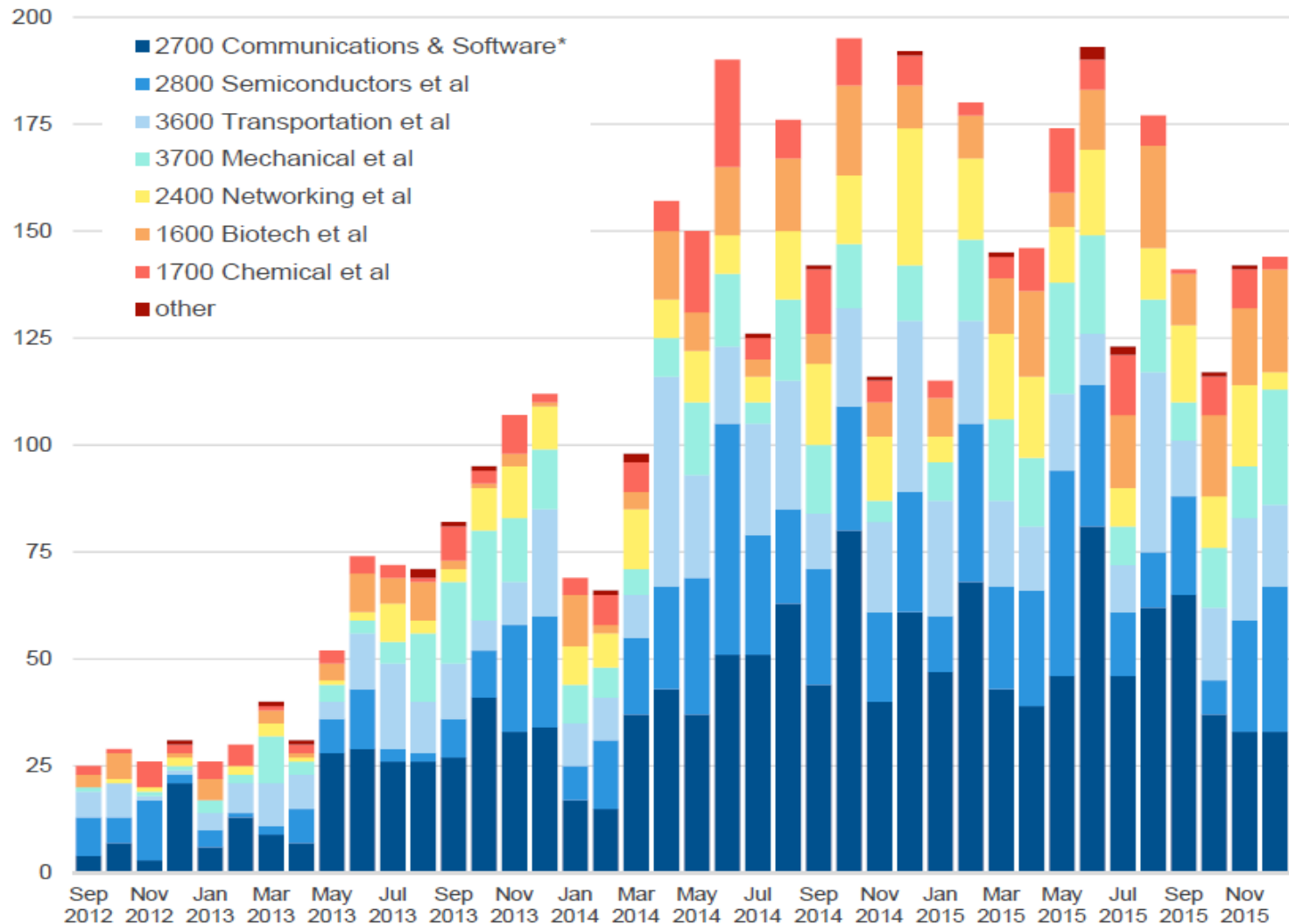
Patent litigation targets continued to flock to the PTAB in 2015, but the growth of petitions filed has slowed.



# IPR vs. CBM Filing Trends



# Filing Trends: By Technology Category

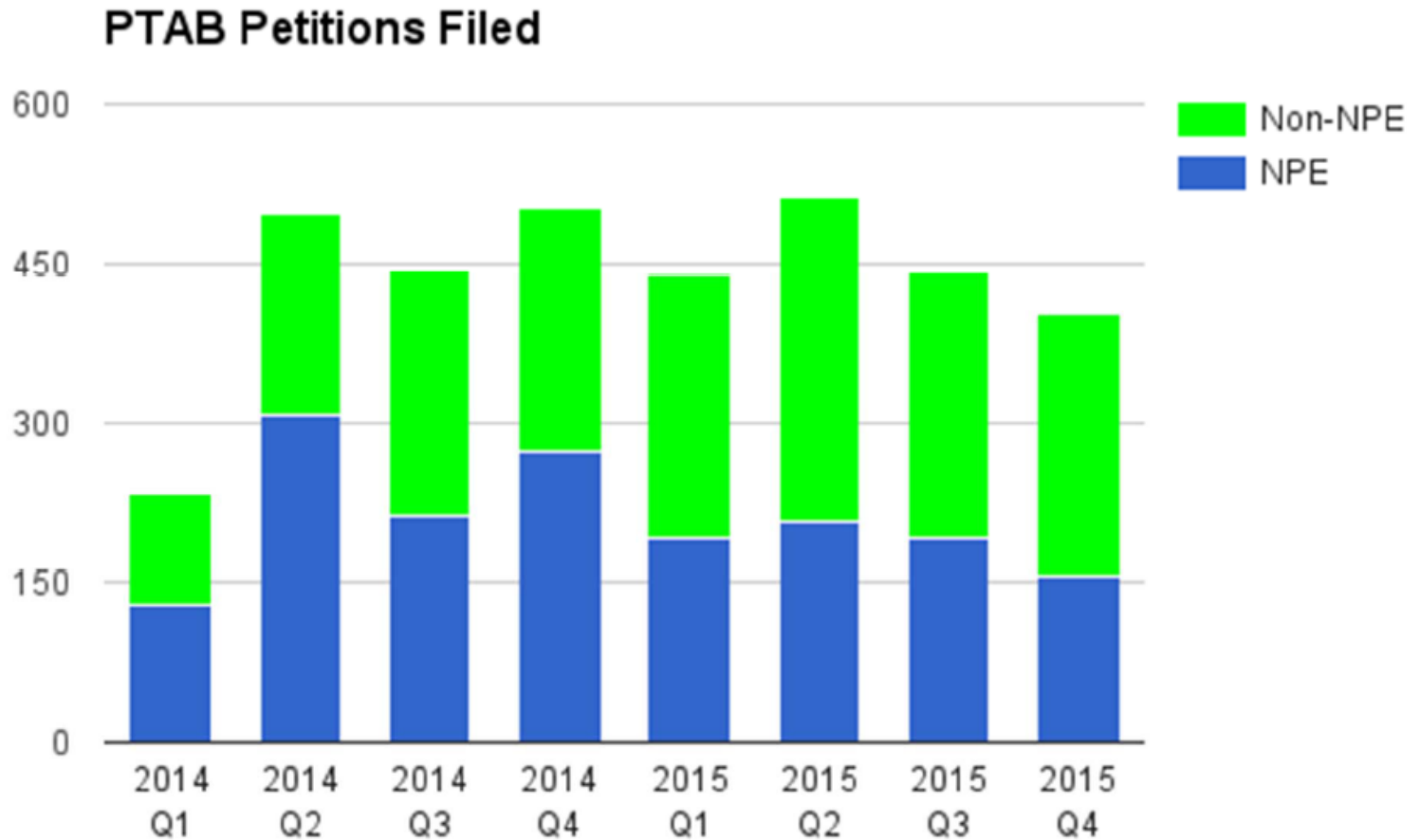


# Filing Trends: Top PTAB Parties (2015)

By Petitioner		
Rank	Company	No. IPRs
1	Apple	120
2	Samsung Electronics Co., Ltd.	58
3	Google Inc.	42
4	LG Electronics, Inc.	38
5	nXn Partners, LLC	35
6	Hayman Capital Master Fund, LP	33
7	IP Navigation Group, LLC	30
8	Sony Corporation	25
9	Micron Technology, Inc.	23
10	Toyota Motor Corporation	23
11	TRW Automotive US LLC	22
12	Microsoft Corporation	20
13	Ford Motor Company	19
14	Daimler North America Corporation	18
15	Mercedes-Benz USA, LLC	18
16	ServiceNow, Inc.	18
17	Toshiba Corporation	18
18	Arista Networks, Inc.	17
19	Qualcomm Incorporated	17
20	TCL Corporation	17
21	TCT Mobile (US), Inc.	17
22	Unified Patents Inc.	17
23	Volkswagen Group of America, Inc.	17
24	American Megatrends, Inc.	16
25	Giga-Byte Technology Co., Ltd.	16
26	MSI Computer Corp.	16
27	T-Mobile USA, Inc.	16
28	Ericsson, Inc.	15
29	Intel Corporation	15
30	Lupin Pharmaceuticals, Inc.	15

By Patent Owner		
Rank	Company	No. IPRs
1	Innovative Display Technologies LLC	35
2	Acacia Research Group LLC	28
3	Ericsson, Inc.	27
4	Finjan, Inc.	26
5	Magna Electronics, Inc.	26
6	The Abell Foundation, Inc.	22
7	Paice LLC	22
8	Signal IP, Inc.	21
9	Golden Wave Partners Co., Ltd.	19
10	Jazz Pharmaceuticals, Inc.	19
11	VirnetX Inc.	19
12	Global Touch Solutions, LLC	18
13	Joao Control & Monitoring Systems, LLC	18
14	TracBeam, LLC	18
15	Cisco Systems, Inc.	17
16	Smartflash LLC	17
17	Kinglite Holdings Inc.	16
18	Longitude Licensing Ltd.	15
19	Samsung Electronics Co., Ltd.	15
20	BASF Corporation	14
21	Cellular Communications Equipment LLC	13
22	Core Wireless Licensing SARL	13
23	Vivint, Inc.	13
24	Bonutti Skeletal Innovations LLC	12
25	Horizon Pharma, Inc.	12
26	Intellectual Ventures II LLC	12
27	Milwaukee Electric Tool Corporation	12
28	Straight Path IP Group, Inc.	12
29	ZiiLABS Inc., Ltd.	12
30	Innovative Display Technologies LLC	35

# Filing Trends: By NPE/Non-NPE Status

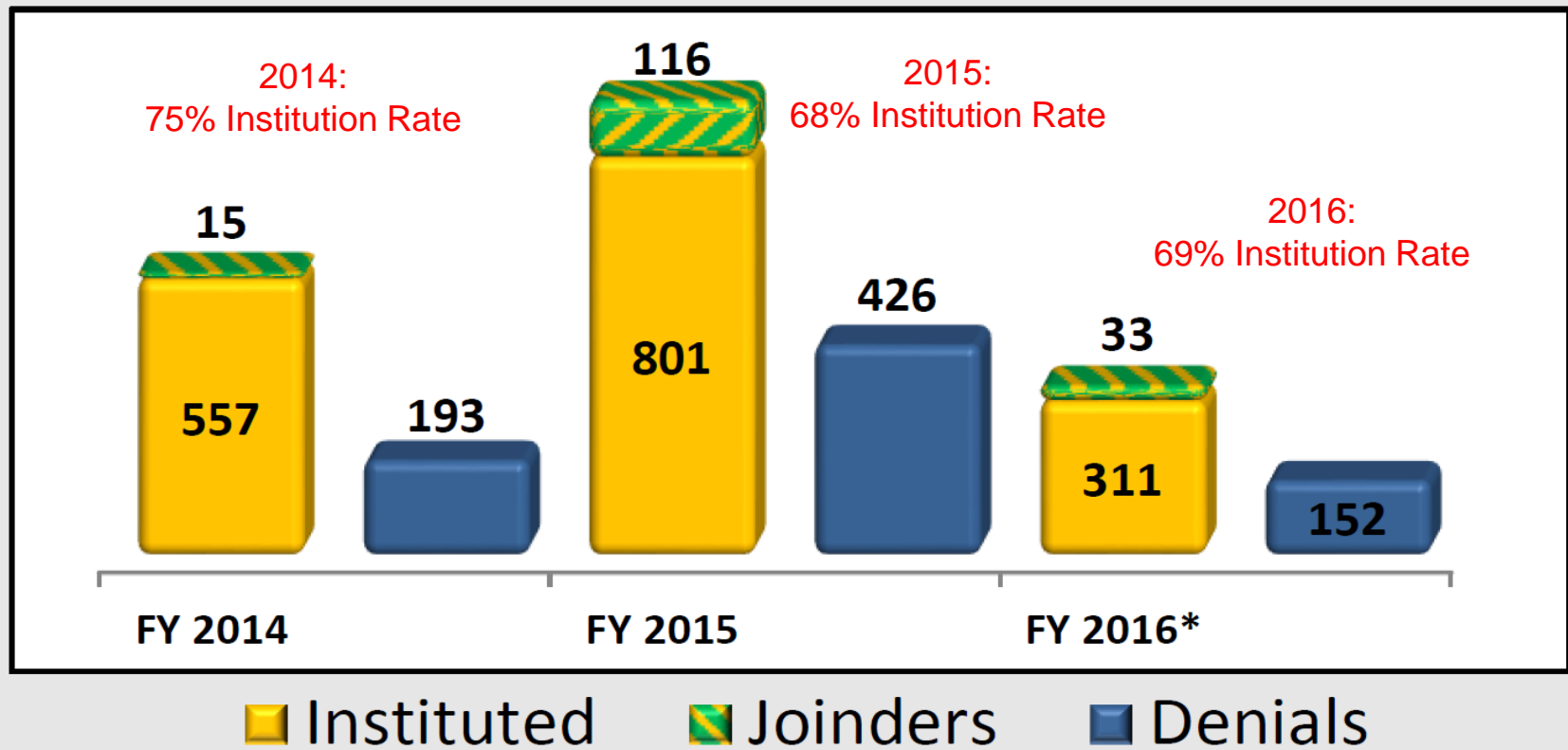


Source: Unified Patents

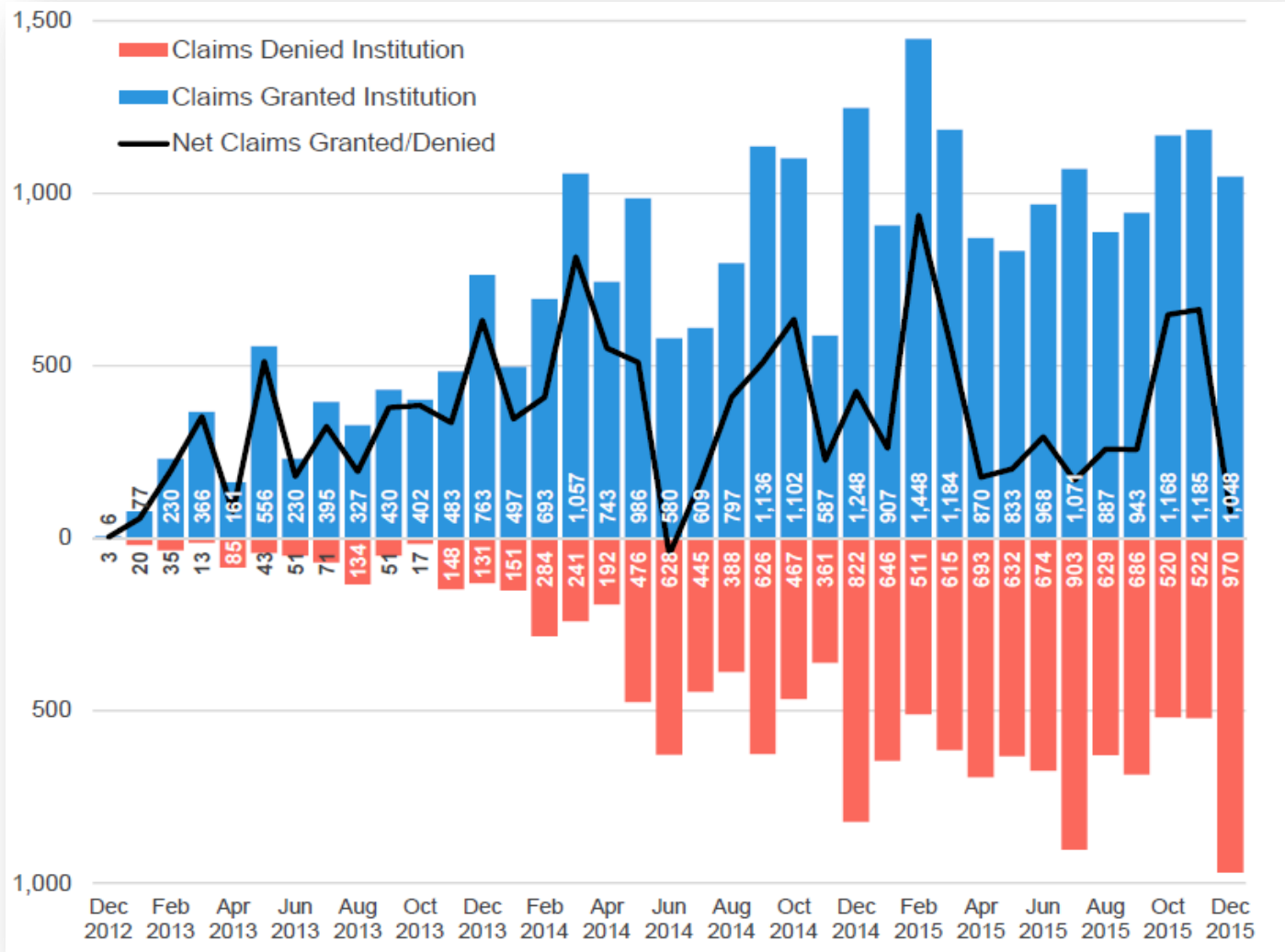


# Institution Trends: Overall

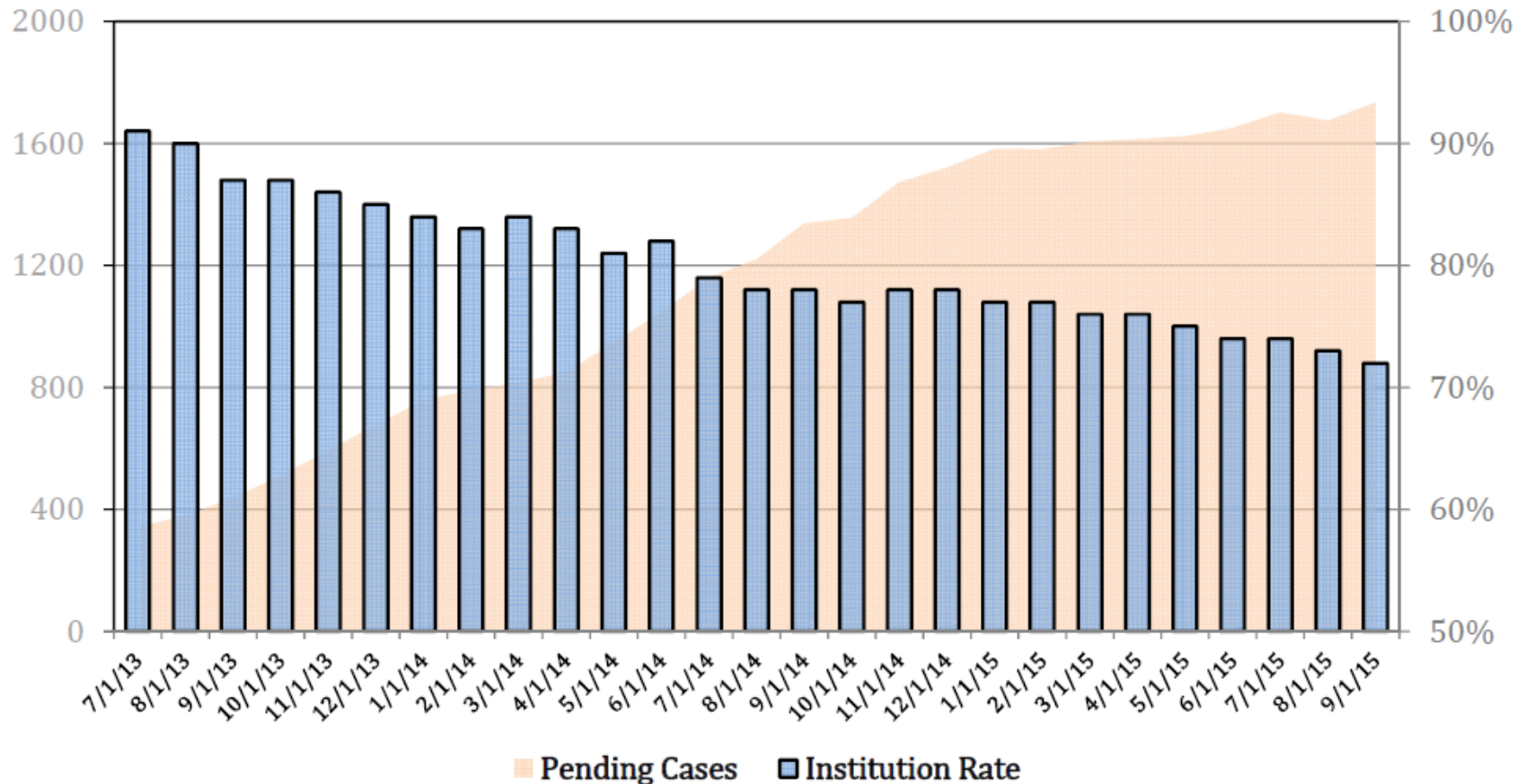
## IPR - Number of Decisions On Institution Per Fiscal Year by Outcome



# Institution Trends: By Month

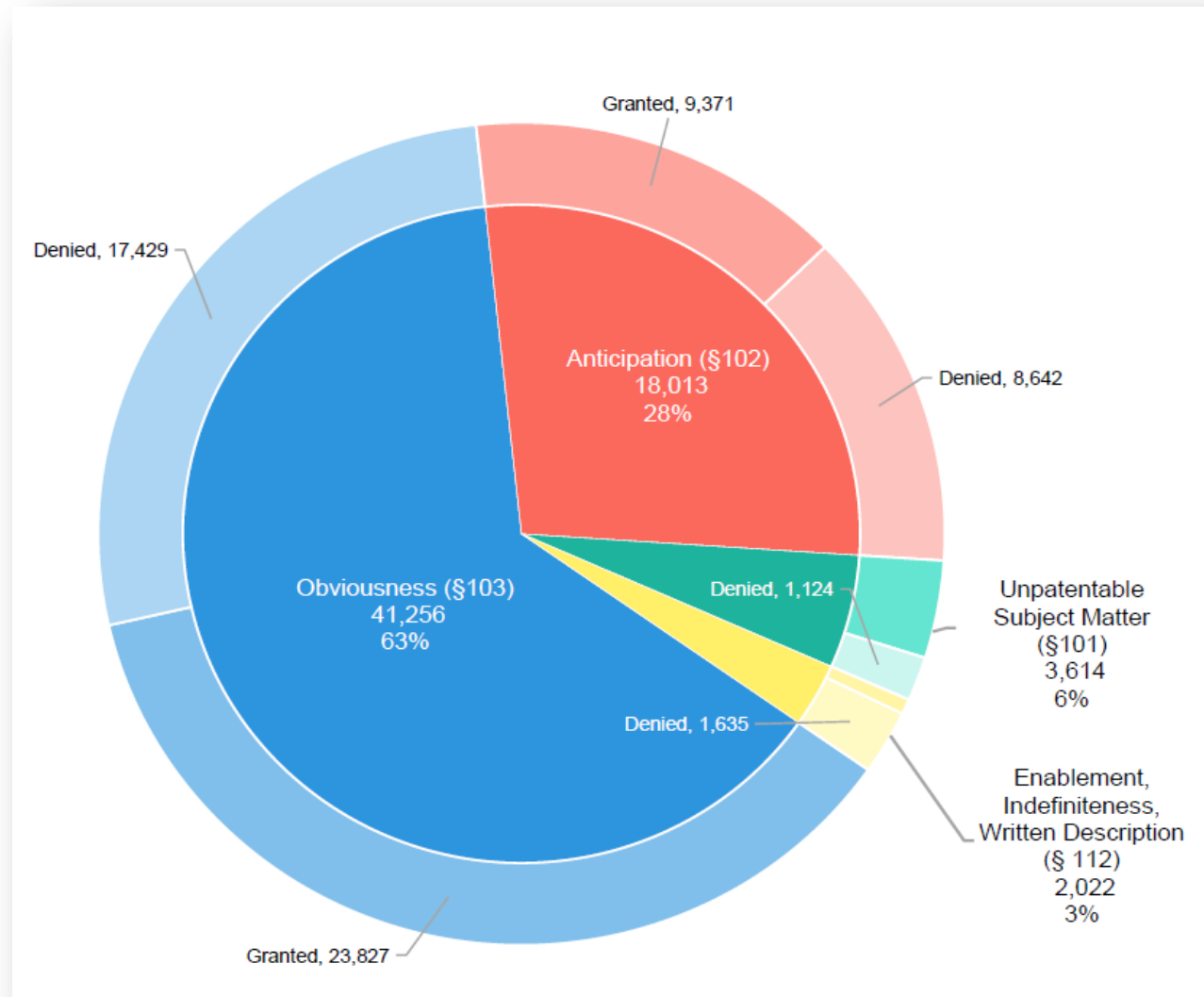


# Institution Trends: Over Time

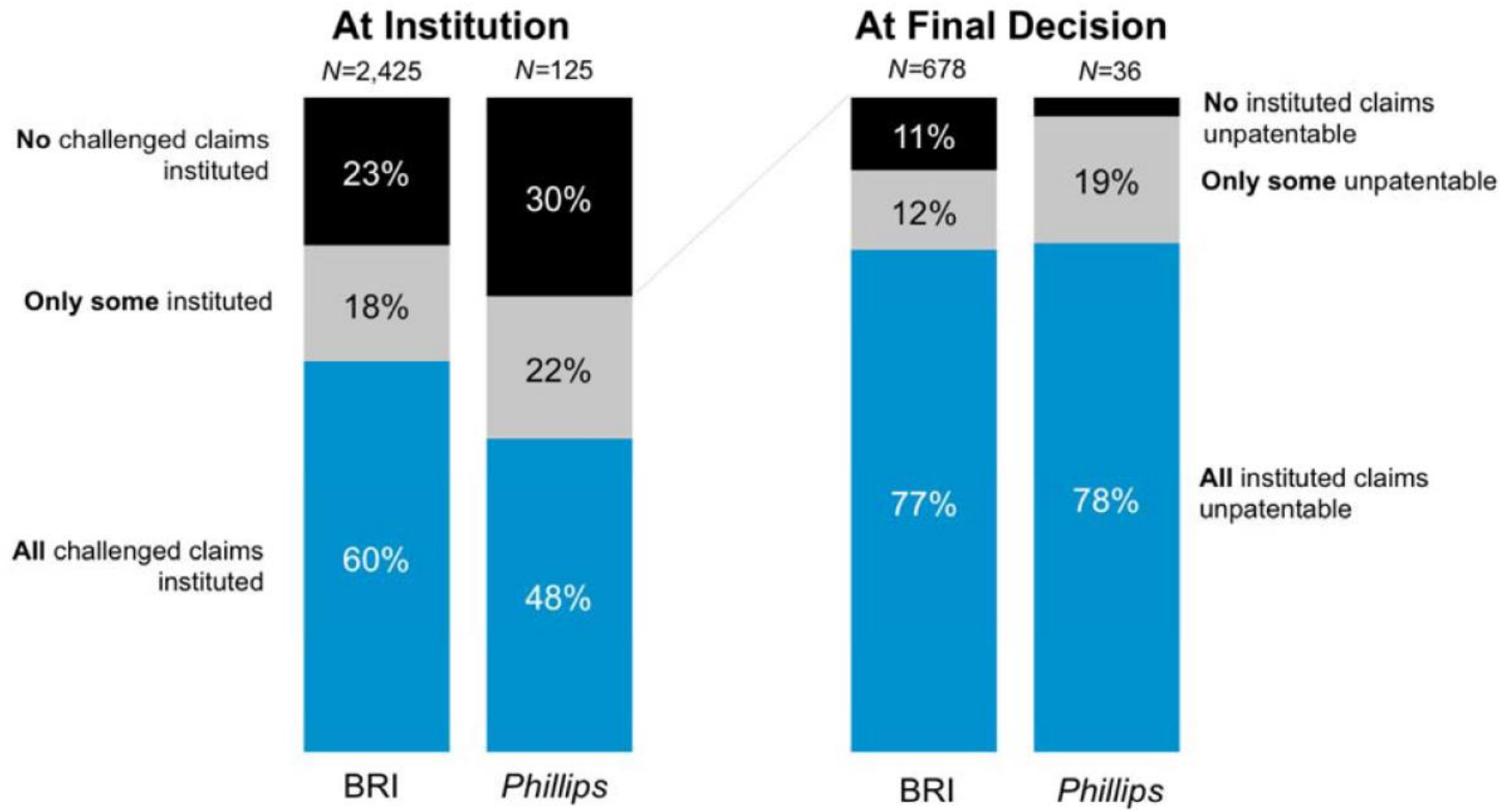


Source: Unified Patents

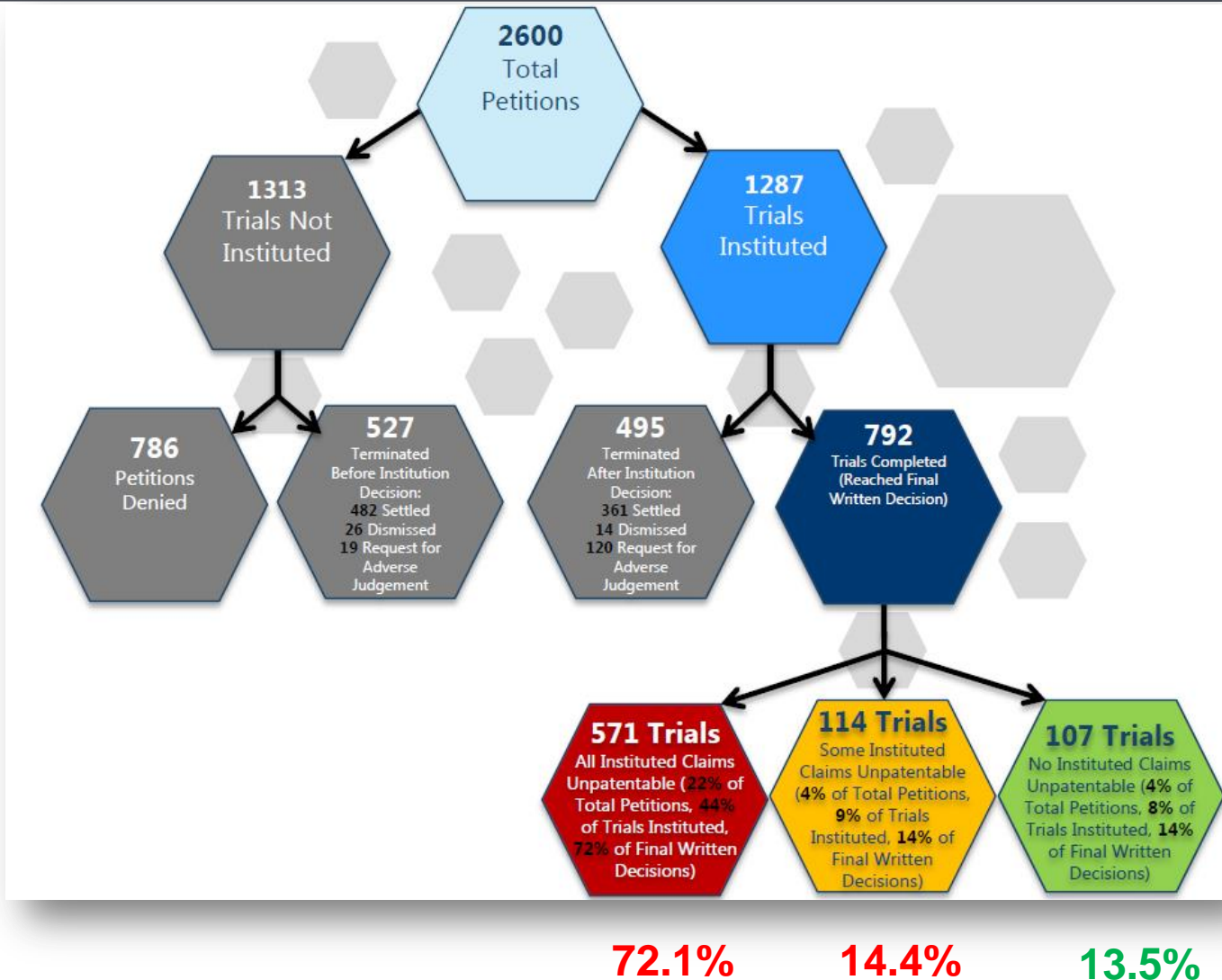
# Institution Trends: By Challenged Grounds



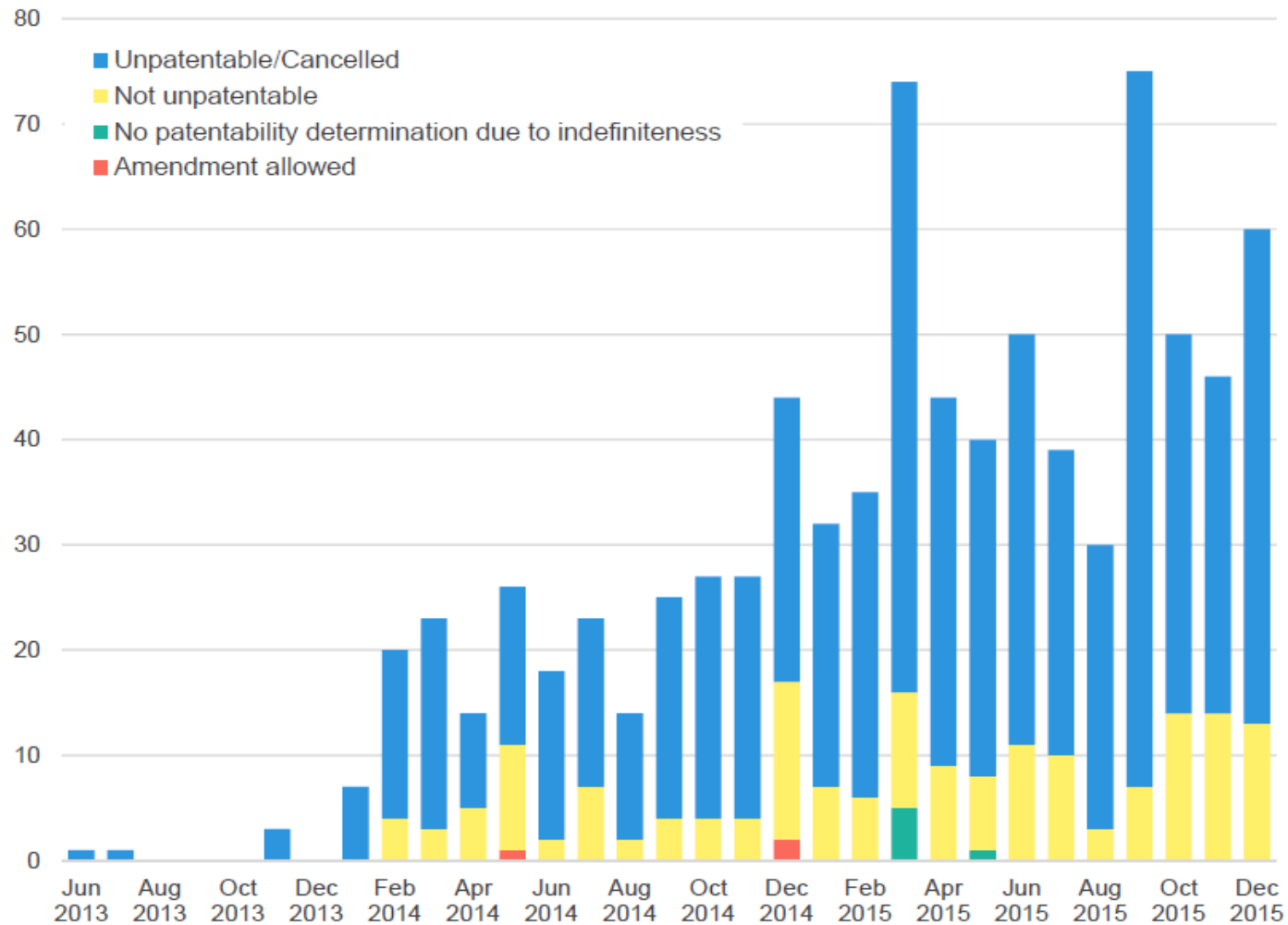
# Claim Interpretation: Success Rate By Standard



# PTAB Kill Rates – Is It Really a Death Squad?



# Final Written Decision: Outcomes by Month



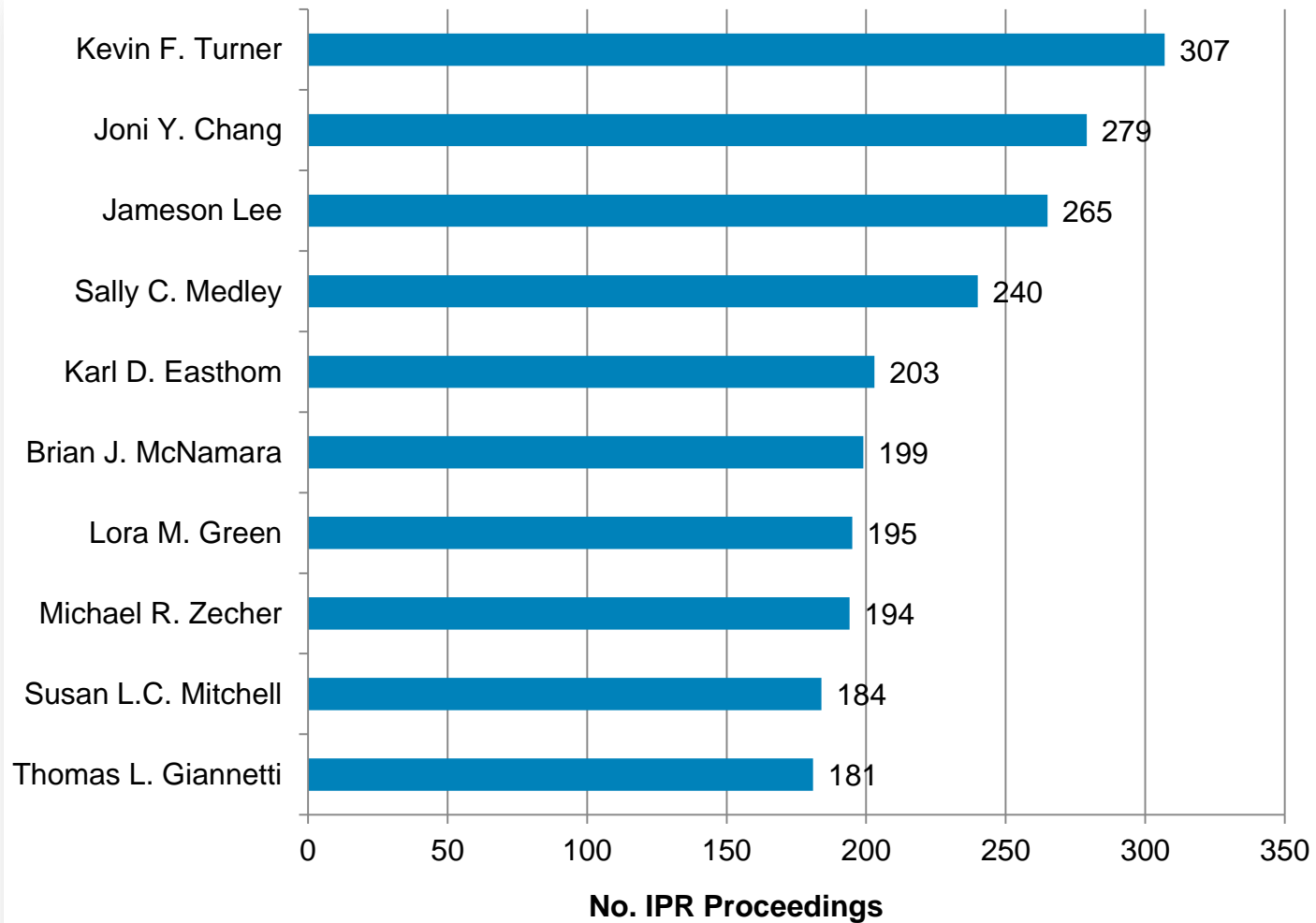
# Which Ground Is More Successful? § 102 or § 103

Statute	Trials	Grounds
Institution Decision: Instituted		
§ 101	0	0
§ 102	889	1,311
§ 103	1,936	4,782
§ 112	0	0
Institution Decision: Denied Institution		
§ 101	0	0
§ 102	783	1,268
§ 103	1,346	4,094
§ 112	0	0
Final Decision: Unpatentable		
§ 101	0	0
§ 102	263	370
§ 103	535	1,251
§ 112	0	0
Final Decision: Upheld		
§ 101	0	0
§ 102	113	141
§ 103	174	352
§ 112	0	0

- **2,721 proceedings have reached Institution Decision**
- **701 proceedings have reached Final Written Decision**

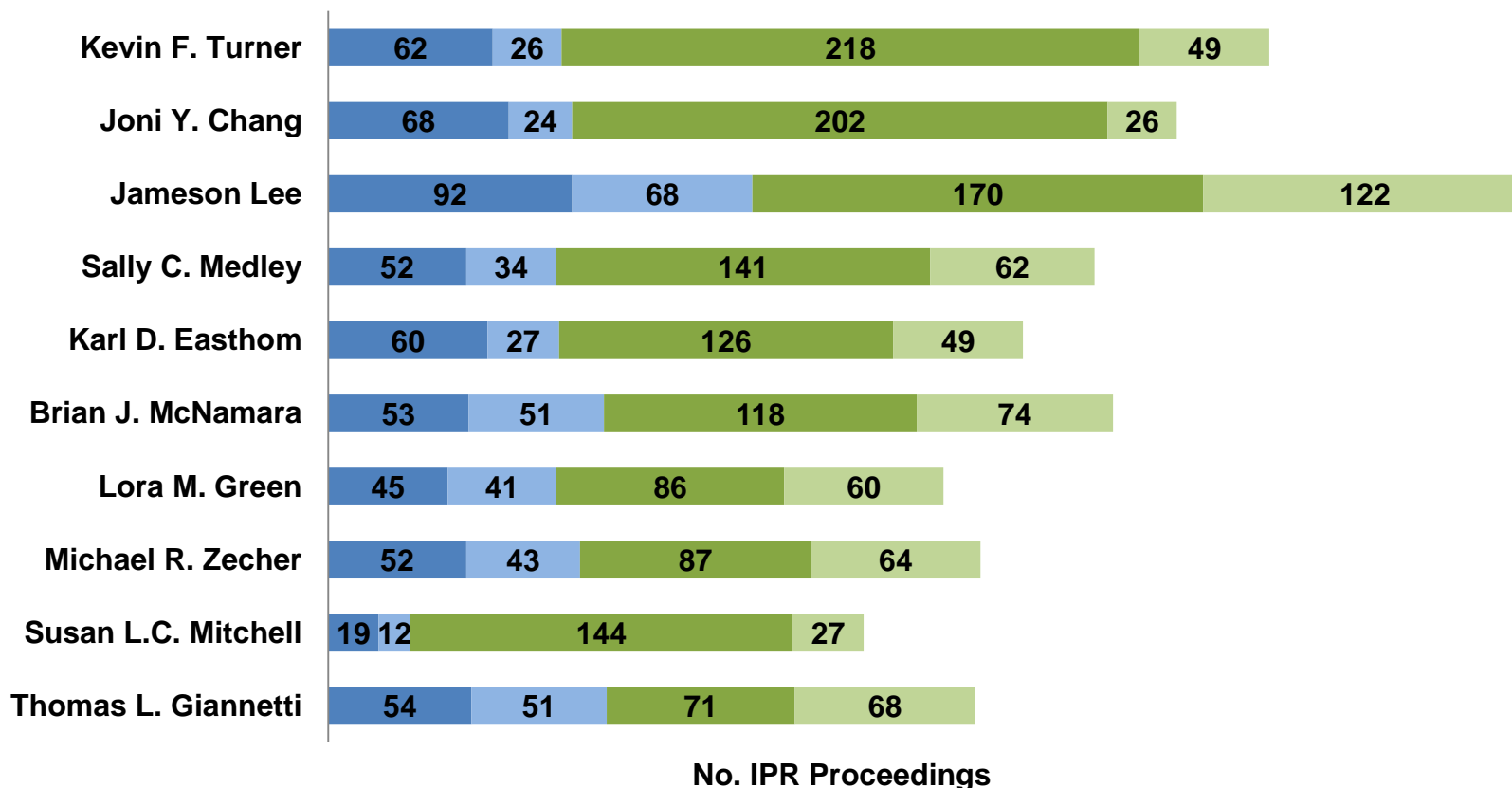


# PTAB Judges: Total Proceedings



# PTAB Judges: Grounds Instituted & Denied

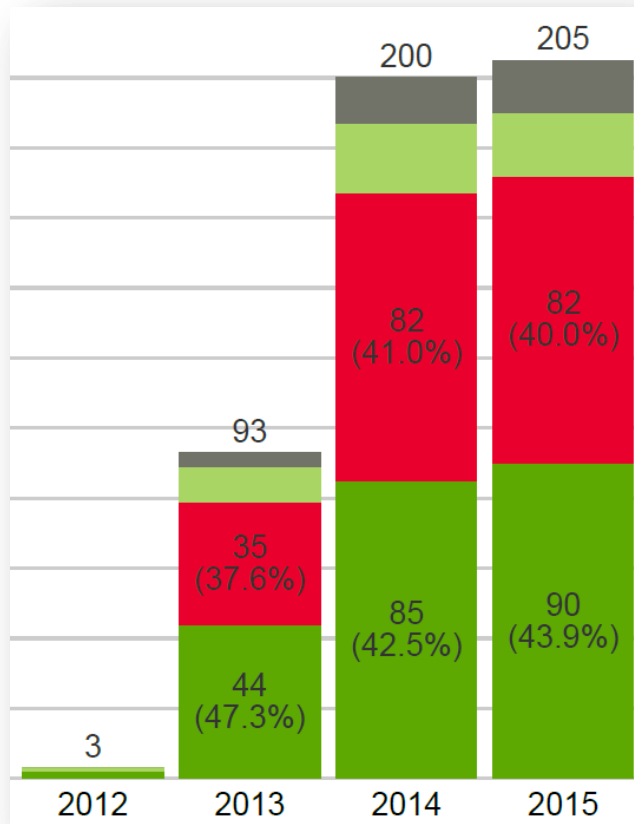
■ § 102 Grounds Instituted ■ § 102 Grounds Denied ■ § 103 Grounds Instituted ■ § 103 Grounds Denied



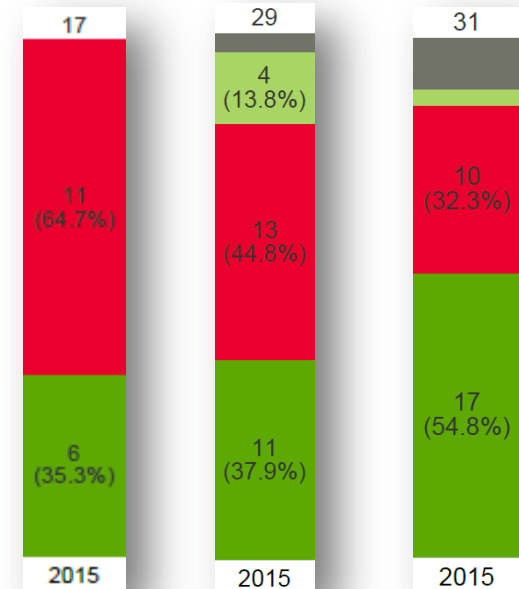
These numbers reflect proceedings in which each judge was involved. It is important to note that the panel for each proceeding is made up of three judges, and there is no way to know if the listed judge was the primary decision maker. Also, a single proceeding may have § 102 and § 103 grounds that were instituted and § 102 and § 103 grounds that were denied, so the numbers do not necessarily add up to total proceedings before each judge.

# District Court: Stay Trends

Granted  
Denied  
Partial  
Other



All Courts

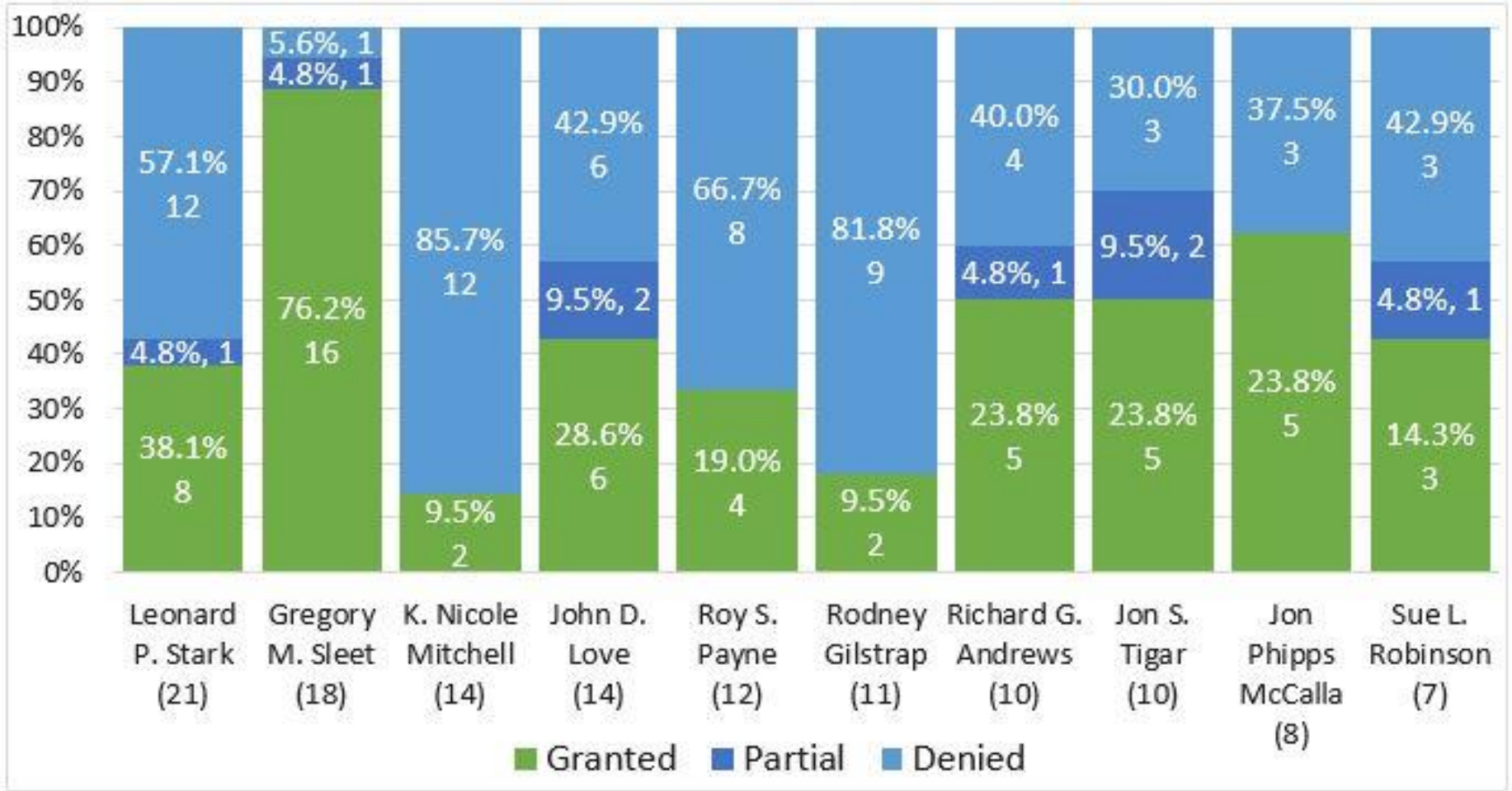


E.D. Tex.

D. Del.

N.D. Cal.

# District Court: Stay Rates by Judge



# PTAB and the Federal Circuit

## Federal Circuit Grapples With PTAB Crush

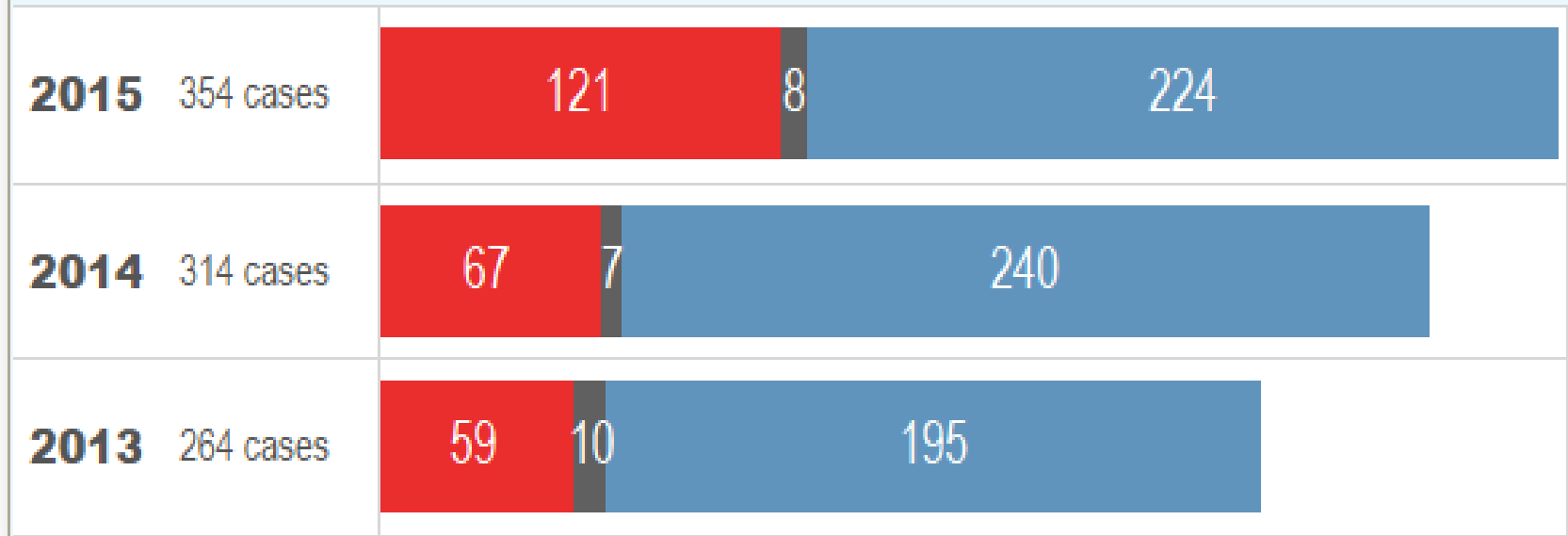
The Federal Circuit issued 13 percent more opinions on patent disputes in 2015, an increase driven by a striking 80 percent rise in rulings on appeals from the relatively new Patent Trial and Appeal Board.

### Venue of origination

District Court

ITC

PTAB



**Federal Circuit affirms PTAB 88% of the time**