

HARNESSING PATENT OFFICE LITIGATION



VOLUME X

A Look at Thirty Three
Months of *Inter Partes*
Review Proceedings Before
the United States Patent
and Trademark Office



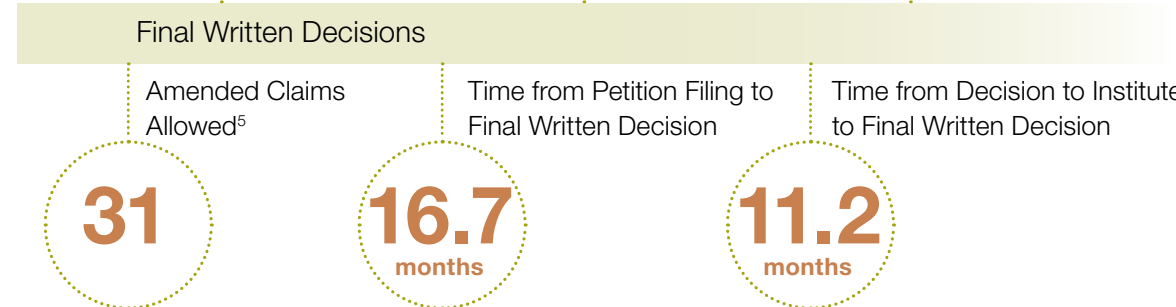
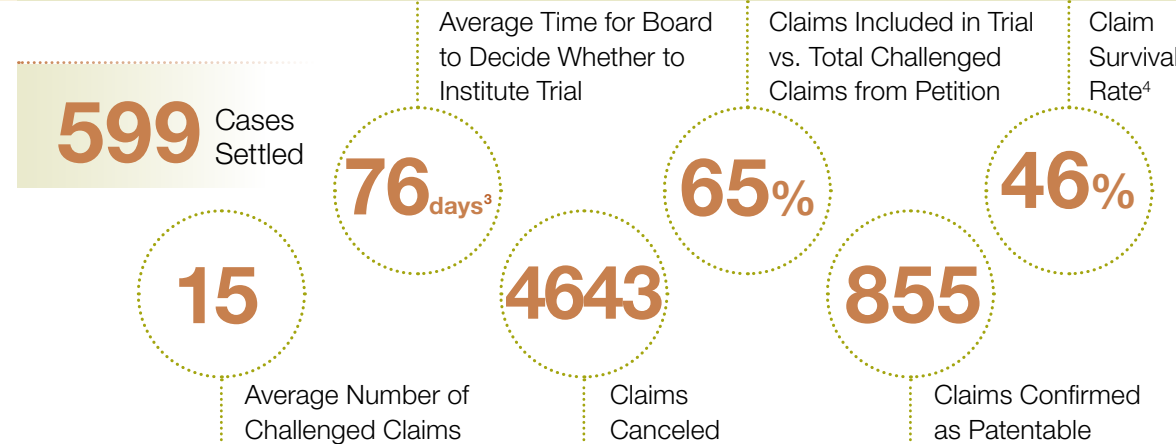
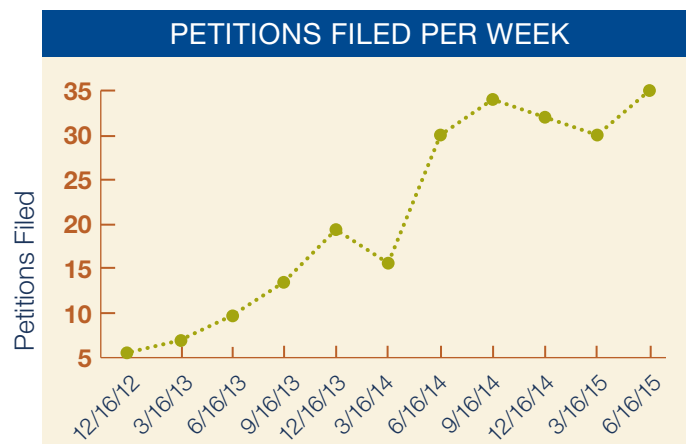
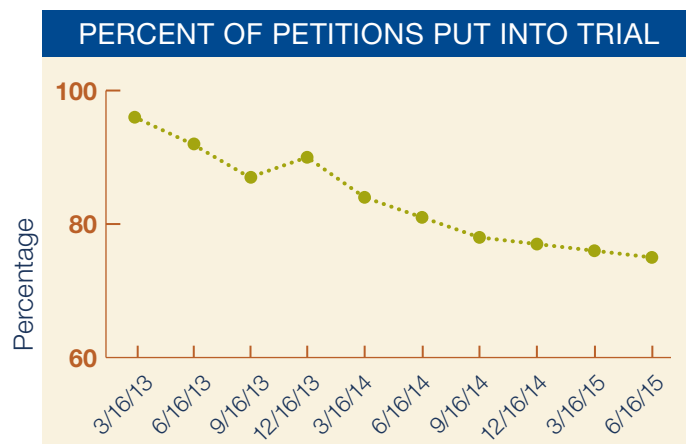
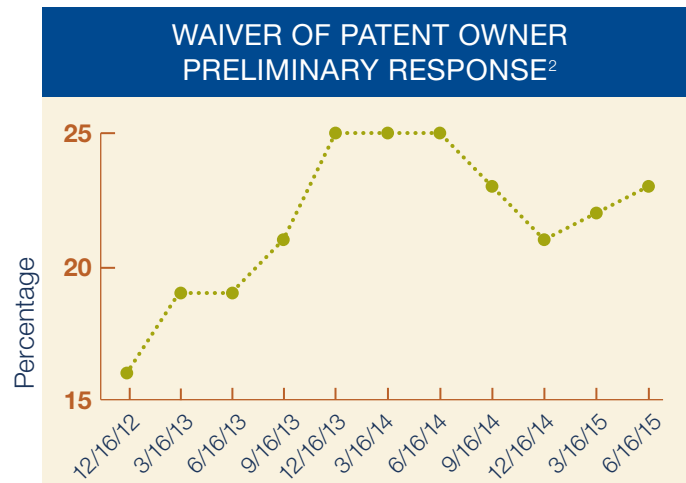
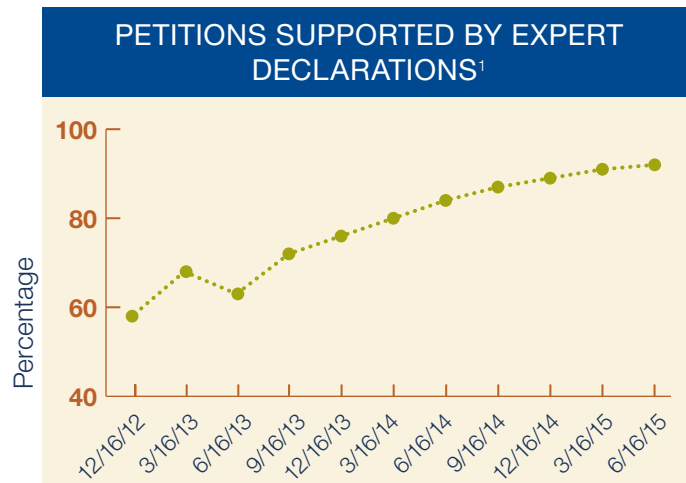
9|16|2012 to 6|16|2015

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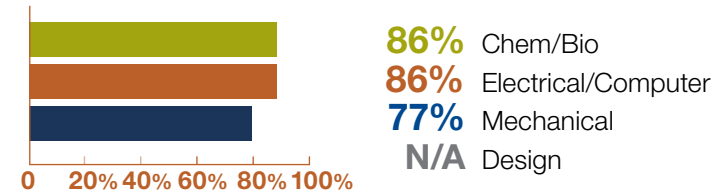
While the initial Final Written Decisions were decidedly in favor of Petitioners (a 96.4% cancellation rate as of March 16, 2014), more recent decisions have increasingly sided with Patent Owners, bringing down the total number of canceled claims to 84.0%. Critics of IPR proceedings try to argue the various ways in which the proceedings are skewed toward Petitioners. It is becoming increasingly clear, however, that the *Inter Partes* Review process has added an efficient and cost-effective avenue to test the patentability of patent claims outside expensive, District Court litigation.

PRELIMINARY STAGE Preliminary Stage of the Proceedings (Petition Filing through PTAB Trial Initiation Decision)

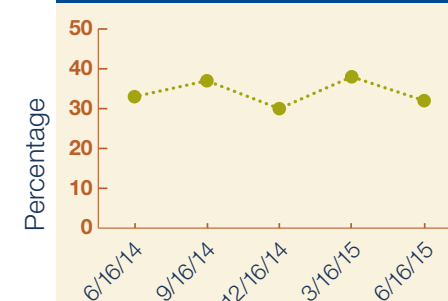
TRIAL STAGE Trial Stage of the Proceedings (PTAB Trial Initiation Decision through Final Written Decision)



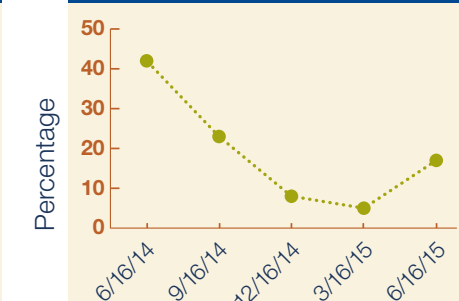
CLAIMS CANCELLED IN FINAL WRITTEN DECISION BY SUBJECT MATTER



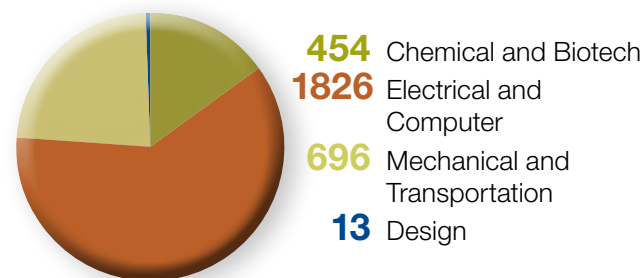
CLAIM SURVIVAL RATE AT INSTITUTION DECISION



CLAIM SURVIVAL RATE AT FINAL WRITTEN DECISION



TECHNOLOGY OF CHALLENGED PATENT CHART



TOP 6 IPR FILERS

135	88
68	68
58	42

¹ Over time, Petitioners have come to recognize that their Petitions must be supported by hard evidence in the form of expert testimony.

² As Patent Owners have come to realize that substantive attacks on a Petition are less successful without expert testimony, they have waived the Preliminary Patent Owner Response in increasing numbers.

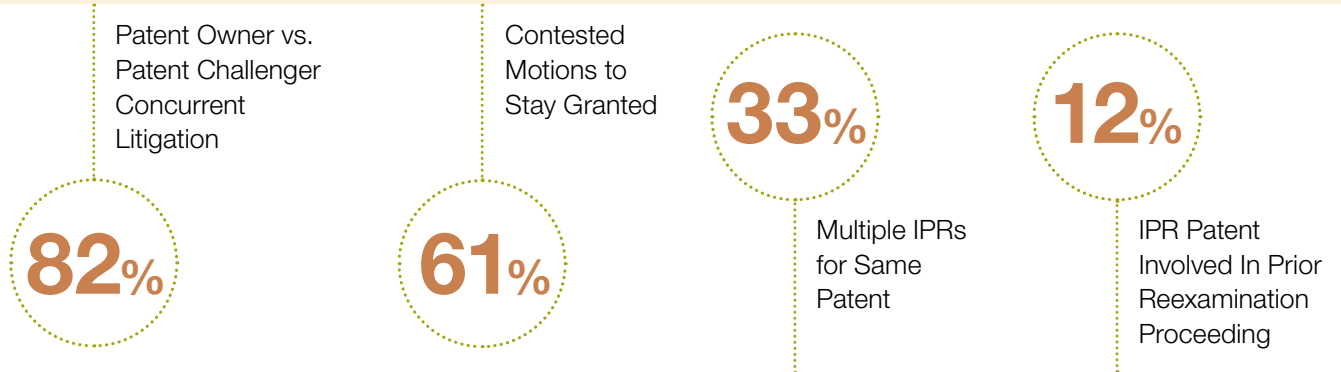
³ As the PTAB's workload has steadily increased, the time to a Decision to Initiate has gradually climbed, as well. While the Board has statutorily been provided with three months to make that decision, it is taking about two weeks less than the full statutory allotment to come to a Decision to Initiate.

⁴ Percent of claims that were confirmed as patentable in a Decision to Institute or Final Written Decision.

⁵ A total of six motions to amend have been granted through June 16, 2015

CONCURRENT PROCEEDINGS

Litigation and other Administrative Proceedings Involving the Patent-At-Issue



Increasingly, and to get around the PTAB's onerous Motion to Amend requirements, Patent Owners are filing concurrent reissue or reexamination proceedings to offer a more robust substitute claim set.

COURTS WITH HIGHEST WIN RATE FOR MOTIONS TO STAY⁶

DISTRICT OF UTAH	100%
NORTHER DISTRICT OF ALABAMA	100%
EASTERN DISTRICT OF PENNSYLVANIA	100%
EASTERN DISTRICT OF VIRGINIA	90%
NORTHERN DISTRICT OF GEORGIA	88%

COURTS WITH LOWEST WIN RATE FOR MOTIONS TO STAY⁶

DISTRICT OF NEW JERSEY	0%
EASTERN DISTRICT OF TENNESSEE	0%
EASTERN DISTRICT OF WISCONSIN	11%
EASTERN DISTRICT OF TEXAS	19%
NORTHERN DISTRICT OF NEW YORK	25%

⁶ For district courts with four or more decisions on motions to stay

HARNES DICKY HAS DEMONSTRATED EXPERTISE IN PATENT OFFICE LITIGATION

we are achieving for our clients. Please contact us at ipr-pgr@hdp.com with any questions or to discuss our expertise, including a more complete array of statistics than presented here.

Harness Dickey has developed the expertise to handle the specialized *Inter Partes* Review (and Post Grant Review) proceedings. That expertise shows in the results

Microsoft Corp. v. Proxyconn, Inc. (IPR2012-00026; IPR2013-00109); *LKQ Corp. v. Clearlamp, LLC* (IPR2013-00020); *Athena Automation Ltd. v. Husky Injection Molding Sys., Ltd.* (IPR2013-00167; IPR2013-00169, IPR2013-00290); *Bomtech Elect. Co., Ltd. v. MT. Derm GmbH* (IPR2014-00137; IPR2014-00138); *Heartland Tanning, Inc. v. Sunless, Inc.* (IPR2014-00018); *Laird Tech., Inc. v. GrafTech Int'l Holdings, Inc.* (IPR2014-00023; IPR2014-00024; IPR2014-00025); *Histologics, LLC v. CDx Diag., Inc.* (IPR2014-00779); *Webasto Roof Sys., Inc. v. UUSI, LLC* (IPR2014-00648; IPR2014-00649; IPR2014-00650); *Brose North Am. V. UUSI, LLC* (IPR2014-00416; IPR2014-00417); *Positec USA, Inc. v. Black & Decker, Inc.* (IPR2013-00502); *Plant Science, Inc. v. The Andersons Agriservices, Inc.* (IPR2014-00939; IPR2014-00940; IPR2014-00941); *HTC Corp. v. FlashPoint Tech., Inc.* (IPR2014-00902; IPR2014-00903; IPR2014-00934; IPR2014-01249; IPR2014-01460); *Fresh Products v. Ed Ramirez* (IPR2015-00475); *Enovate Medical v. Intermetro Industries Corporation* (IPR2015-00301); *Cequent Performance Products v. Hopkins Manufacturing Corporation* (IPR2015-00605); *Victaulic Company v. The Viking Corporation* (IPR2015-00423)



We have traveled the world to provide seminars regarding *Inter Partes* Review proceedings to companies, law firms, and other organizations. Interested in having us visit for a presentation? Please email us at ipr-pgr@hdp.com.