



2021

PATENT LITIGATION YEAR IN REVIEW



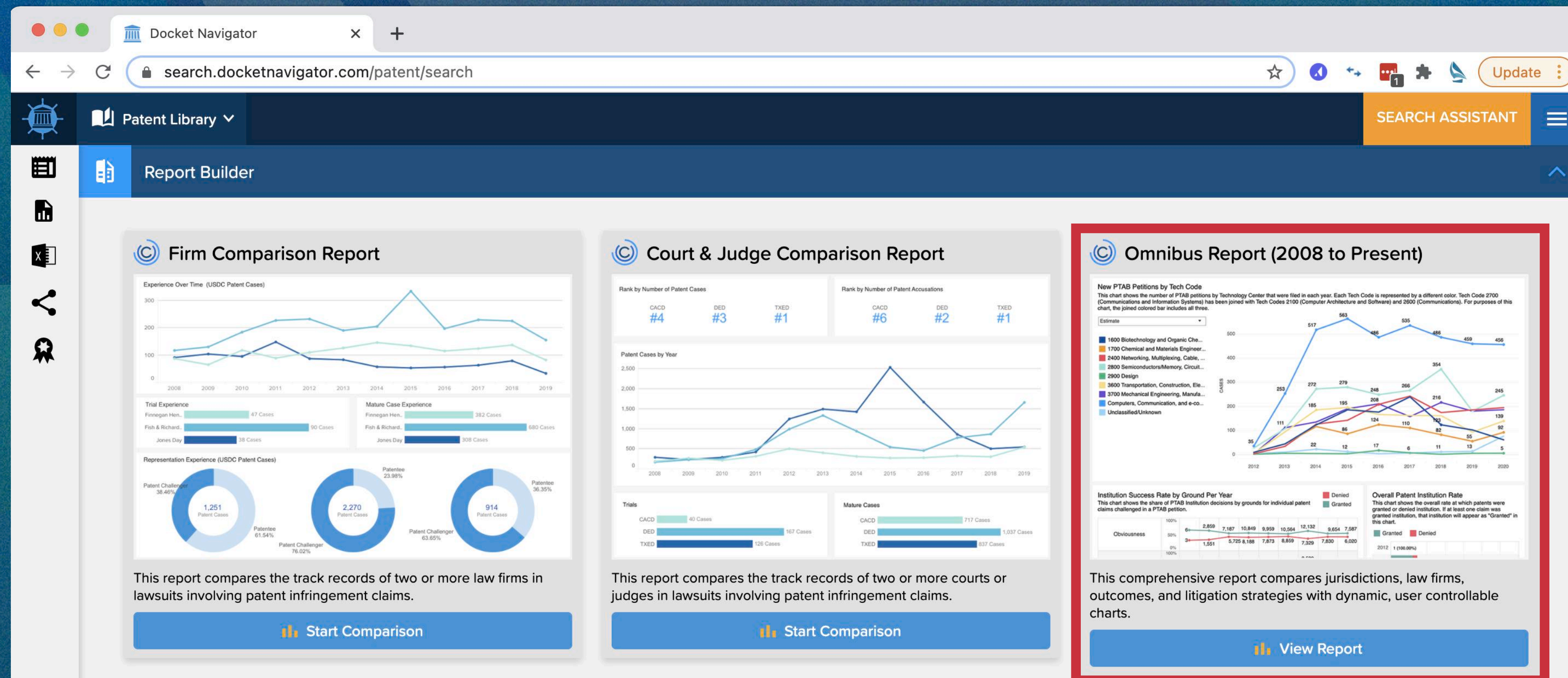
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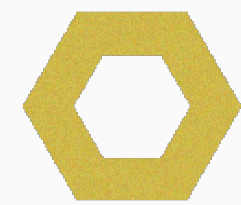
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ONLINE OMNIBUS REPORT

Over the past year, we've added a series of new analytics tools that make our data more user friendly and interactive. So we're excited to offer two versions of this report: an online interactive version called the Omnibus Report, and this clickable PDF. Click on buttons and charts throughout this report to open the interactive version and add or modify parameters for your own customized results. The Omnibus Report is updated in real time so you can stay current throughout the year.





Introduction

2021 was not a year of dramatic change in patent litigation activity. Decisions before the Supreme Court of the United States did not shake the status quo, at least as far as measurable data points can demonstrate. The proportion of new cases before Judge Albright remained high, with close to 1 in every 5 new cases appearing in the Western District of Texas. The number of patent litigation proceedings across all forums changed by less than 3%.

More interesting than the narrowly-shifting trends in overall patent litigation activity are the trends related to court procedure. As trials delayed in 2020 finally saw verdicts in 2021, the average time to trial increased in many courts. However, despite this trend, the current time to trial (bench or jury) sits at ~1000 days nationally, a surprising decrease of almost 20% when compared with pre-pandemic figures.

2021 was also the year Docket Navigator expanded its coverage to include Federal Circuit patent decisions. While the great majority of appeals are affirmed or dismissed, recent appeals of denied motions to transfer for convenience were vacated or reversed more than one-third of the time. This outlier statistic stems almost entirely from appeals of Judge Albright's orders denying transfer.

1 in 5

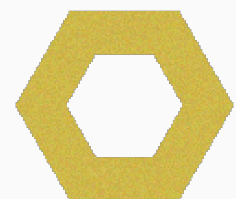
Number of patent cases nationwide
assigned to Judge Albright

107

Number of cases filed by Cedar
Lane Technologies this year, 2021's
top Highly Assertive Entity (HAE)

82%

Institution success rate for
WilmerHale's petitions across
44 PTAB proceedings in 2021



Letter from the Editor

Dear Friends,

As many of you may know, Docket Navigator was acquired by Law Business Research (LBR) last August. The transaction was strategic and mutually beneficial for both companies.

LBR is a leading provider of legal information, data and networking solutions for global legal markets. Over the years, Docket Navigator collaborated with LBR, combining Docket Navigator's quantitative litigation data with LBR's qualitative research and analysis to create unique content unavailable from any other source. Working on those projects, it quickly became clear that the two companies could accomplish much more together than we could separately. LBR's CEO, Nick Brailey, described the deal as a "marriage of strengths."

Since the acquisition, IAM has published more than 30 articles based on Docket Navigator data, delivering new insights to IAM and Docket Navigator subscribers. This year's Year in Review report is another step in that direction. Throughout the Year in Review, you will see expanded commentary on the various charts. In addition, IAM will be publishing a lead Long Read article taking a deep dive into the Year in Review, incorporating analysis and insights from leading practitioners.

In the months ahead, the Docket Navigator and LBR teams will continue to collaborate to deliver unique services combining quantitative data and qualitative research, analysis, and events. The following projects are currently in the development pipeline, so stay tuned for more.

- Jointly developed Year in Review report with deeper analysis and insights
- More data-driven IAM content
- Data-driven events
- Data-driven performance data

As we look back at 2021 and look forward to 2022, I would like to thank all of you for subscribing to Docket Navigator. We are passionate about delivering information and insights that help you work better, smarter, and more efficiently, and I appreciate the opportunity you've given us to do that. We're honored and grateful for your support.

Very best wishes for 2022,

Darryl Towell
CEO Docket Navigator

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Terminology

Patent Case

Patent Case means (i) a federal civil action in a U.S. district court or the Court of Federal Claims addressing the infringement, validity or enforceability of a U.S. patent flagged with Nature of Suit ("NOS") 830 in the PACER system as well as other cases that are known to meet the above criteria, (ii) investigations by the U.S. International Trade Commission ("ITC") pursuant to 19 U.S.C. §1337 and 19 C.F.R. Parts 201 and 210 involving allegations of infringement of a U.S. patent as reported in the ITC's Electronic Document Information System ("EDIS"), and (iii) applications to the U.S. Patent and Trademark Office Patent Trial and Appeal Board ("PTAB") under 35 U.S.C. § 6(b)(4) (including IPR, CBM and PGR review), as reported in the PTAB's Patent Review Processing System ("PRPS") (This does not include proceedings conducted pursuant to 35 U.S.C. § 6(b)(1)–(3) such as appeals of adverse decisions of examiners, appeals of reexaminations, or derivation proceedings).

Patentee

A Patentee (sometimes referred to as a patent owner) is a litigant in a Patent Case who holds or claims to hold rights to a U.S. patent. In district court cases a Patentee is usually a plaintiff, but may be a defendant in declaratory judgment cases (i.e., cases in which the complaint seeks a declaration of patent noninfringement, invalidity or unenforceability). In the ITC a Patentee is usually a complainant. In the PTAB a Patentee is the patent owner.

Patent Challenger

A Patent Challenger (sometimes referred to as an accused infringer) is a litigant in a Patent Case who is accused of infringing

a U.S. patent or who is challenging the infringement, validity or enforceability of a U.S. patent. In district court cases a Patent Challenger is usually a defendant, but may be a plaintiff in declaratory judgment cases (i.e., cases in which the complaint seeks a declaration of patent noninfringement, invalidity or unenforceability). In the ITC a Patent Challenger is usually a respondent. In the PTAB a Patent Challenger is the petitioner.

Patent Accusation

A Patent Accusation is a request for relief in a Patent Case, the resolution of which could determine if a patent has been infringed or the patent's validity or enforceability. For example, a case with one plaintiff asserting one patent against one defendant would involve one Patent Accusation. A case with one plaintiff asserting 5 patents against 10 defendants would result in 50 Patent Accusations. Multiple claims involving the same parties and patents (e.g., a claim of infringement and a declaratory judgment counterclaim of invalidity or unenforceability) are counted as a single accusation. In a PTAB proceeding, each challenge to the patentability of a patent counts as a Patent Accusation. Docket Navigator records Patent Accusations as a group of data consisting of a Patentee name, a Patent Challenger name (often an accused infringer), the patent being asserted or challenged, and the Outcome of the accusation.

Patent Determination

A Patent Determination occurs when a court or administrative agency issues a decision that determines the infringement, validity (or patentability), or enforceability of one or more claims of a patent. There may be more than one determination per patent and determinations may be overturned or reversed in later proceedings. Determinations may be made in connection with a

stipulation or agreement of the parties, but many searches allow for the exclusion of such determinations if desired. Determinations are recorded by patent number, not on individual claims.

Accusation Outcome

Patent Accusation Outcome is the resolution of a Patent Accusation with respect to the issue of liability. Patent Accusation Outcomes indicate whether the Patent Accusation was resolved in the Patent Challenger's favor, the Patentee's favor, via settlement, or in a non-merits decision.

Claim Construction

A Claim Construction occurs when a court or administrative agency defines or gives meaning to a patent claim or term in a Patent Case. In district court Patent Cases, Claim Constructions may occur in special orders called "Claim Construction Order" or "Markman Order," but they may also occur in orders on motions for summary judgment, motions for judgment as a matter of law, motions for judgment on the pleadings, and many others. Docket Navigator records Claim Constructions as a group of data consisting of (i) the term or phrase being construed, (ii) the definition (construction), and (iii) the patent number.

PTAB Institution

A PTAB Institution is a decision by the Patent Trial and Appeal Board determining whether to institute review of a ground for unpatentability in a petition for Inter Partes Review, Covered Business Method Review, or Post-Grant Review. Docket Navigator records PTAB Institutions as a group of data consisting of a statutory ground for unpatentability, the claim or claims being challenged, and the result of the PTAB's decision with respect to institution.

Overview of Patent Litigation Activity

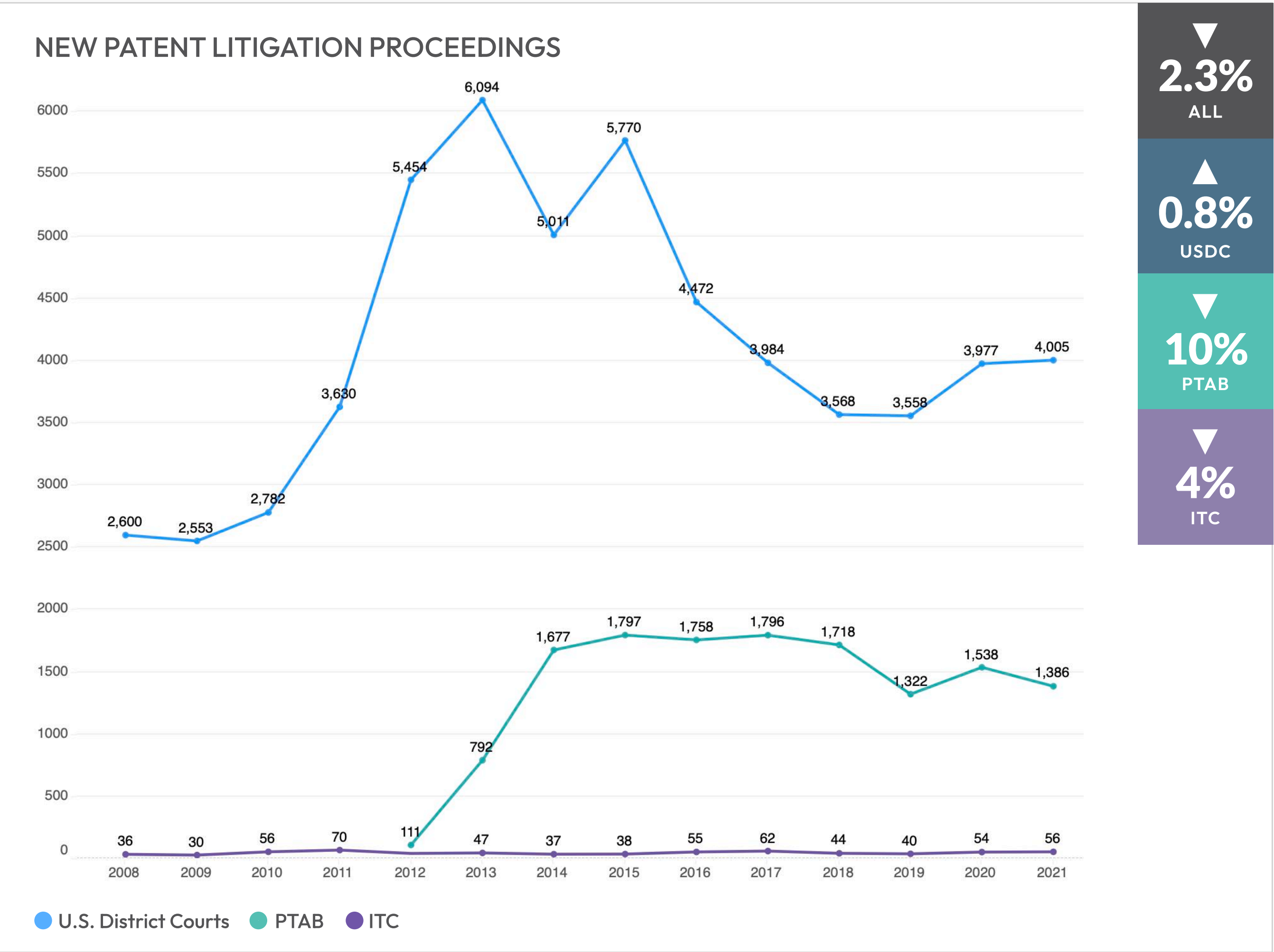
Patent litigation remained mostly steady in 2021, with the exception of a slight downturn in activity in the Patent Trial and Appeal Board (PTAB).

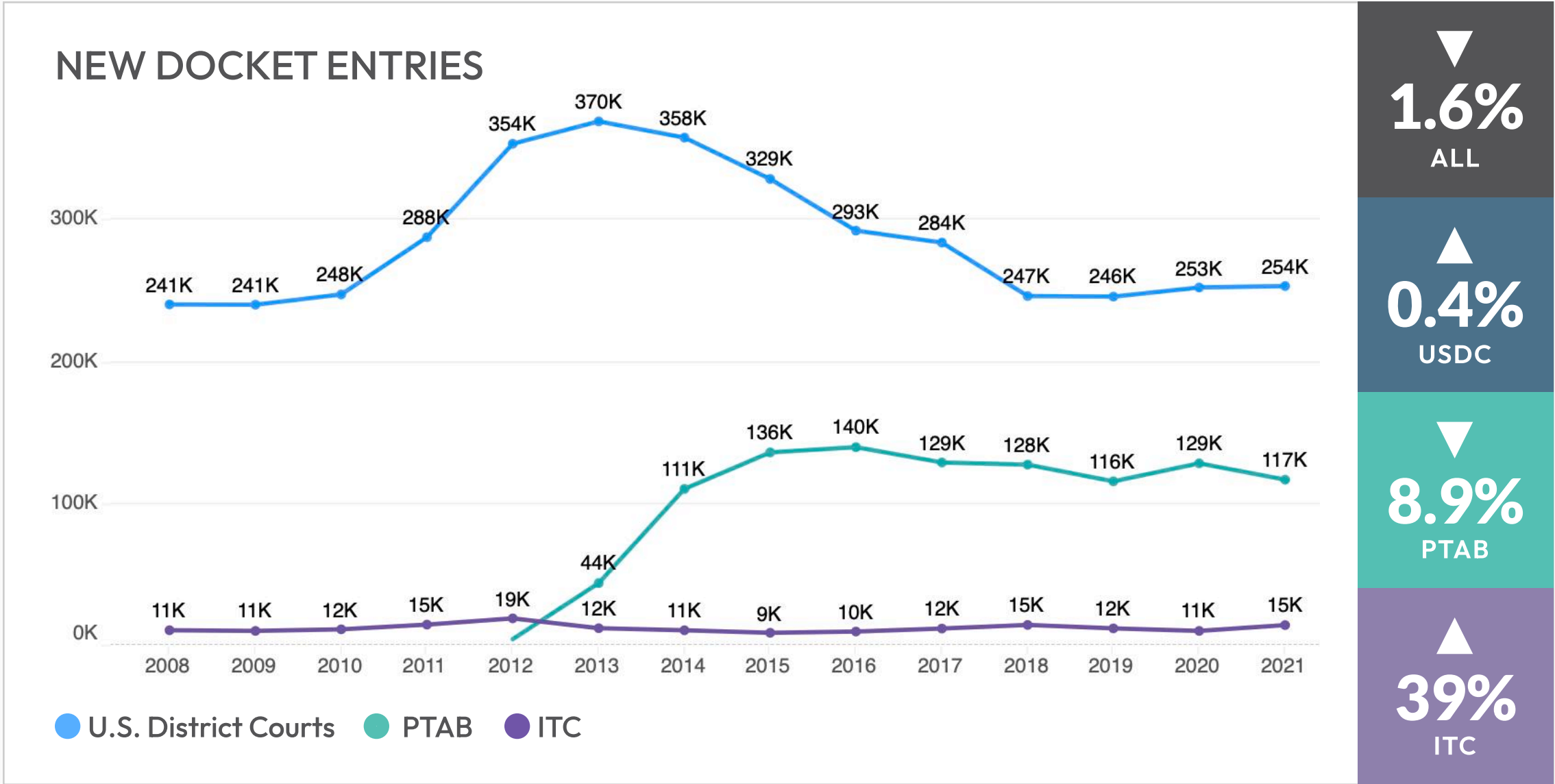
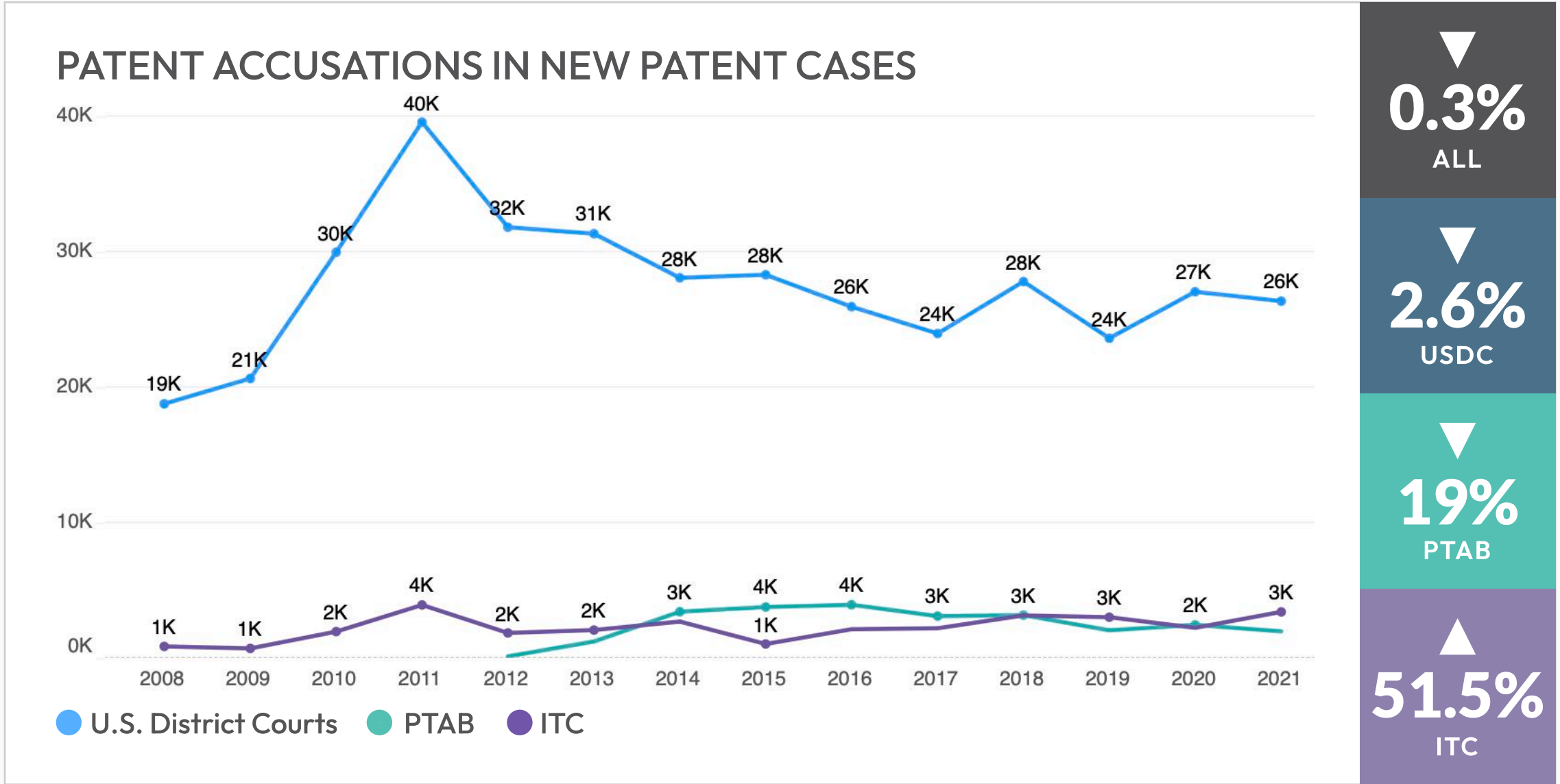
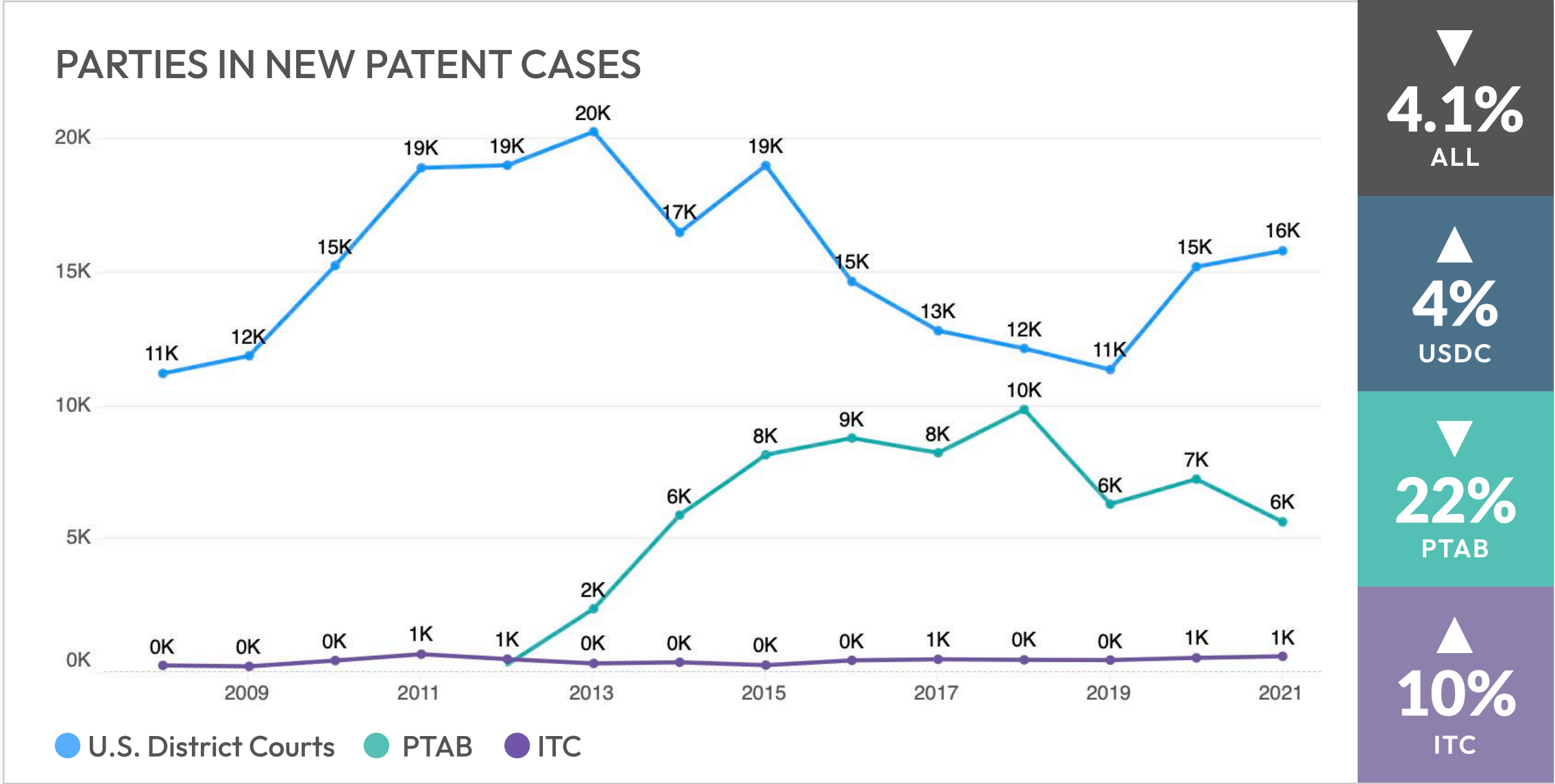
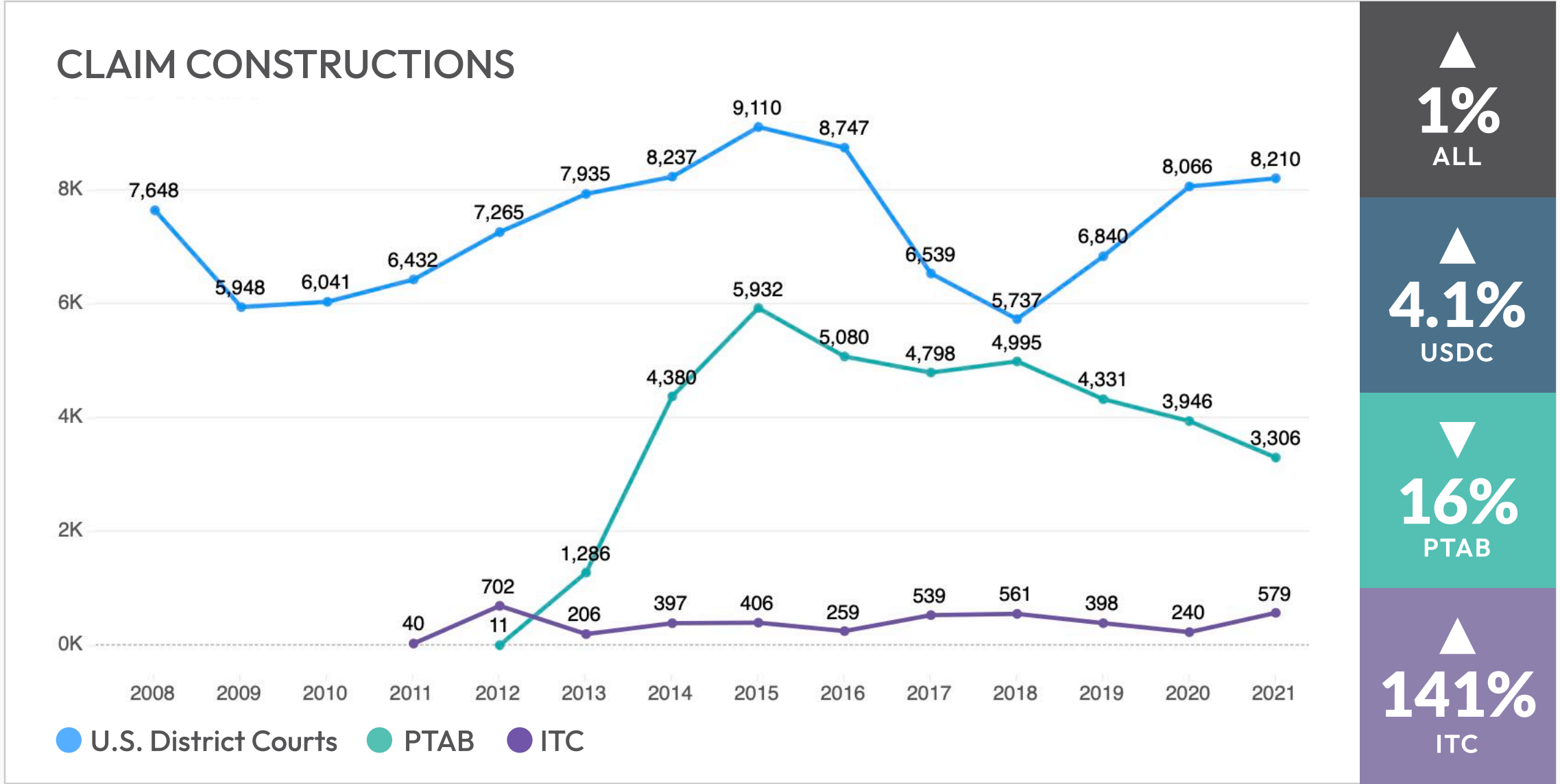
While the number of new cases in U.S. district courts was consistent with 2020 (less than one percent higher), the number of claims construed in 2021 increased, continuing a trend that began in 2019. This was not associated with an increase in either the number of parties, docket entries, or individual patent infringement accusations in those cases. In fact, fewer total accusations were made in patent cases in 2021, indicating the cases that were filed had reduced slightly in scope as compared with the prior year.

PTAB activity, conversely, was down by nearly every metric. This stems from a reduction in the number of petitions filed in 2021.

The ITC, like USDC, saw a noteworthy uptick in the number of claims construed in 2021.

Live Court Stats



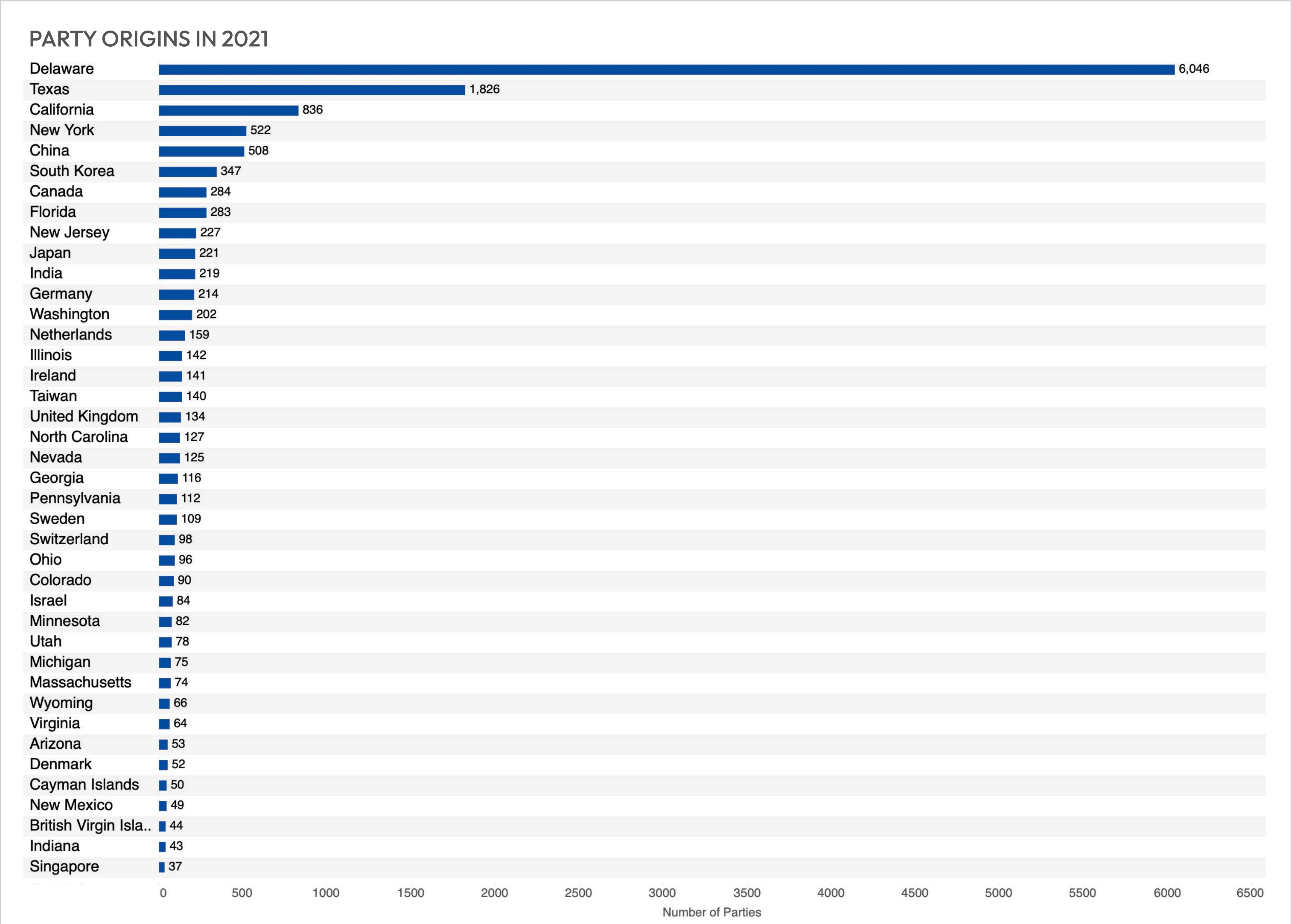


Origins of Parties in 2021

There has been growing interest in party origin data from our users over the last several years. As we've begun tracking it, some expected and unexpected trends surfaced.

As expected, in 2021 most litigants were incorporated in Delaware, with Texas, California, New York and China rounding out the top 5. Given the prevalence of Delaware incorporation among U.S. companies, and the dominance of those other jurisdictions in the patent litigation landscape, these numbers are understandable.

However, the presence of Canada, Netherlands, and Ireland in the top 20 suggests a less geographically focused tech and pharmaceutical environment.



Key Players In District Court Cases

Law firm rankings are based on the number of new cases in which the law firm entered an appearance. This counts all cases equally, rather than being weighted by the number of parties or patents involved in a given case. Please note that some districts do not report pro hac vice attorneys on the docket sheet header. To ensure accurate rankings in those districts, Docket Navigator editors manually update case records to reflect out-of-state attorneys and law firms.

Local Counsel firms and attorneys are excluded here, and can instead be found in their own list in the next section of the report.

VIEW THE COMPLETE LIST

TOP PARTIES, FIRMS, & ATTORNEYS FOR **PATENTEES** IN 2021 (U.S. DISTRICT COURT CASES)

Parties	Firms	Attorneys
Cedar Lane Technologies Inc. (107)	Sand Sebolt & Wernow (279)	Isaac Rabicoff (196)
Social Positioning Input Systems, LLC (41)	Rabicoff Law (196)	Howard L Wernow (193)
Geographic Location Innovations LLC (38)	Ramey & Schwaller (172)	William P Ramey, III (172)
DatRec, LLC (36)	Direction IP Law (124)	David R Bennett (124)
Auth Token LLC (33)	Morris Nichols Arsht & Tunnell (117)	Jay Johnson (114)
Rothschild Broadcast Distribution Systems, LLC (32)	Kizzia Johnson (114)	Vincent J Rubino, III (101)
BE Labs, Inc. (28)	Russ August & Kabat (104)	Reza Mirzaie (101)
AML IP, LLC (26)	Fabricant (101)	Peter Lambrianakos (101)
PF Prism IMB BV (25)	Devlin Law Firm (99)	Alfred R Fabricant (101)
Display Technologies, LLC (25)	Garteiser Honea (96)	Jack B Blumenfeld (97)
Caselas, LLC (25)	Truelove Law Firm (67)	M Scott Fuller (96)
mCom IP, LLC (24)	Kent & Risley (64)	Timothy Devlin (93)
Stormborn Technologies LLC (23)	Nelson Bumgardner Conroy (63)	Andrew S Curfman (93)
Canon Inc. (23)	Stamoulis & Weinblatt (61)	Randall T Garteiser (88)
Sonrai Memory Limited (21)	Susman Godfrey (54)	Marc A Fenster (80)
Scanning Technologies Innovations, LLC (21)	Finnegan Henderson Farabow Garrett & Dunner (53)	Rene A Vazquez (71)
Oakley, Inc. (21)	McKool Smith (52)	Christian W Conkle (68)
Novartis Pharmaceuticals Corporation (21)	McCarter & English (52)	Justin Kurt Truelove (67)
Mellaconic IP LLC (21)	Ni Wang & Massand (50)	D Bradley Kizzia (63)
Tunnel IP LLC (20)	Venable (49)	Richard C Weinblatt (58)
Pfizer Inc. (20)	Williams & Connolly (46)	Stamatios Stamoulis (54)
Digital Cache, LLC (20)	Quinn Emanuel Urquhart & Sullivan (38)	Cortney S Alexander (51)
Decapolis Systems, LLC (20)	pro se (32)	Jonathan Ma (48)
American Patents LLC (19)	Daignault Iyer (32)	Daniel M Silver (44)
XR Communications LLC (18)	Connor Lee & Shumaker (31)	Alexandra M Joyce (44)
WSOU Investments, LLC d/b/a Brazos Licensing and Development	Williams Simons & Landis (27)	James A Milkey (43)
Wave Linx LLC (18)	Saul Ewing Arnstein & Lehr (27)	Brian D Ledahl (42)
R2 Solutions LLC (18)	Haller Law (26)	Minna Y Chan (40)
Hydro Net LLC (18)	Rubino Law (24)	Thomas G Fasone, III (39)
GreatGigz Solutions, LLC (18)	Heninger Garrison Davis (24)	Edward R Nelson, III (38)
Swirlate IP LLC (17)	Loaknauth Law (21)	Megan E Dellinger (37)
Harmony Licensing LLC (17)	Bragalone Olejko Saad (21)	Jennifer L Truelove (37)
Elite Gaming Tech LLC (17)	O'Kelly & O'Rourke (20)	Samuel F Baxter (36)
Digital Verification Systems, LLC (17)	Latham & Watkins (20)	Neal G Massand (34)
Aperture Net LLC (17)	Gibbons (20)	Ronald M Daignault (33)
VoIP-Pal.com, Inc. (16)	Wawrzyn LLC (19)	Chandran B Iyer (33)
Pearl IP Licensing LLC (16)	K&L Gates (19)	Ryan P Griffin (32)

TOP PARTIES, FIRMS, & ATTORNEYS FOR **PATENT CHALLENGERS** IN 2021 (U.S. DISTRICT COURT CASES)

Parties
Samsung Electronics Co., Ltd. (62)
Samsung Electronics America, Inc. (62)
Google LLC (46)
Apple Inc. (43)
Amazon.com, Inc. (23)
Walmart Inc. (22)
LG Electronics, Inc. (21)
LG Electronics USA, Inc. (21)
Aurobindo Pharma Limited (20)
Lupin Limited (19)
Aurobindo Pharma USA Inc. (19)
Microsoft Corporation (18)
Lupin Pharmaceuticals, Inc. (16)
Juniper Networks, Inc. (14)
Dell Technologies Inc. (14)
Verizon Communications Inc. (13)
TCL Technology Group Corporation f/k/a TCL Corporation (13)
Roku, Inc. (13)
MSN Pharmaceuticals Inc. (13)
Motorola Mobility LLC (13)
Acer, Inc. (13)
T-Mobile USA, Inc. (12)
MSN Laboratories Private Limited (12)
HP Inc. (12)
Dr. Reddy's Laboratories, Ltd. (12)
Dr. Reddy's Laboratories, Inc. (12)
Cisco Systems, Inc. (12)
Amazon.com Services, Inc. (12)
Zydus Pharmaceuticals (USA) Inc. (11)
Sun Pharmaceutical Industries Limited (11)
Cellco Partnership d/b/a Verizon Wireless (11)
TCL Electronics Holdings Ltd. f/k/a TCL Multimedia Technology Holdings Ltd. (10)
TCL Communication Technology Holdings Limited (10)
Sun Pharmaceutical Industries Inc. (10)
Netgear Inc. (10)
Mylan Pharmaceuticals Inc. (10)
Lenovo (United States) Inc. (10)

Firms
Fish & Richardson (218)
Morris Nichols Arsht & Tunnell (112)
DLA Piper (71)
Perkins Coie (64)
Winston & Strawn (62)
Baker Botts (51)
Quinn Emanuel Urquhart & Sullivan (43)
Greenberg Traurig (40)
Alston & Bird (35)
O'Melveny & Myers (33)
Potter Minton (32)
Pillsbury Winthrop Shaw Pittman (31)
Duane Morris (30)
Foley & Lardner (29)
Latham & Watkins (26)
Kirkland & Ellis (25)
Cooley (25)
Morgan Lewis & Bockius (24)
Kilpatrick Townsend & Stockton (24)
Norton Rose Fulbright (22)
Fenwick & West (22)
Faegre Drinker Biddle & Reath (22)
Jones Day (21)
Sheppard Mullin Richter & Hampton (20)
Morrison & Foerster (20)
Gibson Dunn & Crutcher (19)
Finnegan Henderson Farabow Garrett & Dunner (19)
Womble Bond Dickinson (18)
Venable (18)
Orrick Herrington & Sutcliffe (18)
King & Spalding (18)
Jackson Walker (18)
Goodwin Procter (18)
Jenner & Block (17)
Barnes & Thornburg (17)
K&L Gates (16)
Wilmer Cutler Pickering Hale and Dorr (15)

Attorneys
Neil J McNabney (148)
Ricardo J Bonilla (106)
Jack B Blumenfeld (69)
Jeremy D Anderson (48)
Lance E Wyatt, Jr. (44)
John M Guaragna (34)
Adil A Shaikh (32)
Michael E Jones (30)
Rodeen Talebi (29)
Noel Chakkalakal (27)
Sarika N Patel (23)
Jennifer Ying (23)
Brian C Nash (21)
Michael A Vincent (20)
David B Conrad (20)
Ryan K Yagura (19)
Rodger D Smith, II (17)
David M Hoffman (17)
Brian P Egan (17)
Katherine A Vidal (16)
Darin W Snyder (16)
Rex A Mann (15)
Brian A Biggs (15)
Nicholas J Whilt (14)
Matthew S Yungwirth (14)
Justin M Sobaje (14)
Gilbert A Greene (14)
Syed K Fareed (13)
Stamatios Stamoulis (13)
Collin J Marshall (13)
Cameron P Clark (13)
Aaron P Pirouznia (13)
Sean C Cunningham (12)
Karen A Jacobs (12)
Daniel M Silver (12)
Bradford A Cangro (12)
Tiffany K Sung (11)

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Highly Assertive Entities in District Court Cases

While they have many names - patent assertion entities (PAEs), non-practicing entities (NPEs), patent trolls, etc. - the impact of highly assertive entities on the patent litigation landscape has been unmistakable. But underneath the headlines, there is a nagging question: how does one define and identify these entities?

We've spent a great deal of time on those questions and believe the best answer is to focus on litigation data that suggests a pattern of highly assertive patent litigation behavior. We begin by studying groups of related parties ("affiliate groups" or "groups"). An affiliate group's members are classified as Highly Assertive Entities (HAEs) if the group meets at least 3 of the following criteria:

- The group has made at least 275 non-Orange Book Patent Accusations since 2015.
- The group has been a Patentee in at least 30 Patent Cases since 2015.
- The group was a Patentee on non-Orange Book Patent Accusations more often than they were a Patent Challenger since 2015, at a ratio of at least 40:1
- At least one member of the group was a Patentee in 10 or more Patent Cases within a 10-day window, at least once since 2015.
- At least 5 patents asserted by the group in U.S. district courts have also been challenged in the Patent Trial and Appeal Board (PTAB).

Next, we break down those affiliate groups into individual parties, and the following are excluded:

- Parties who have never made a patent infringement accusation.
- Parties who have themselves been accused of patent infringement more than 10 times.

TOP HIGHLY ASSERTIVE ENTITIES (HAE) IN U.S. DISTRICT COURTS IN 2021 BY NUMBER OF CASES

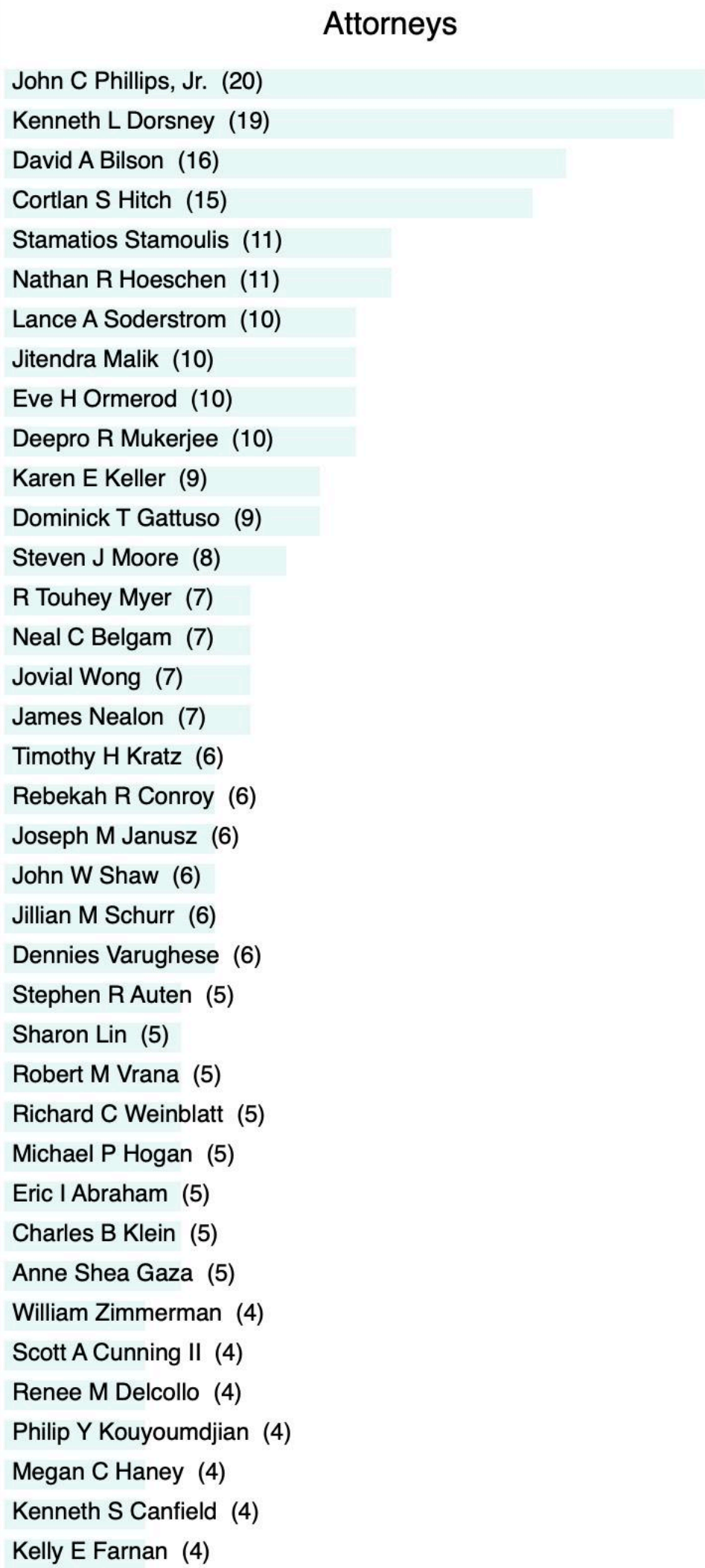
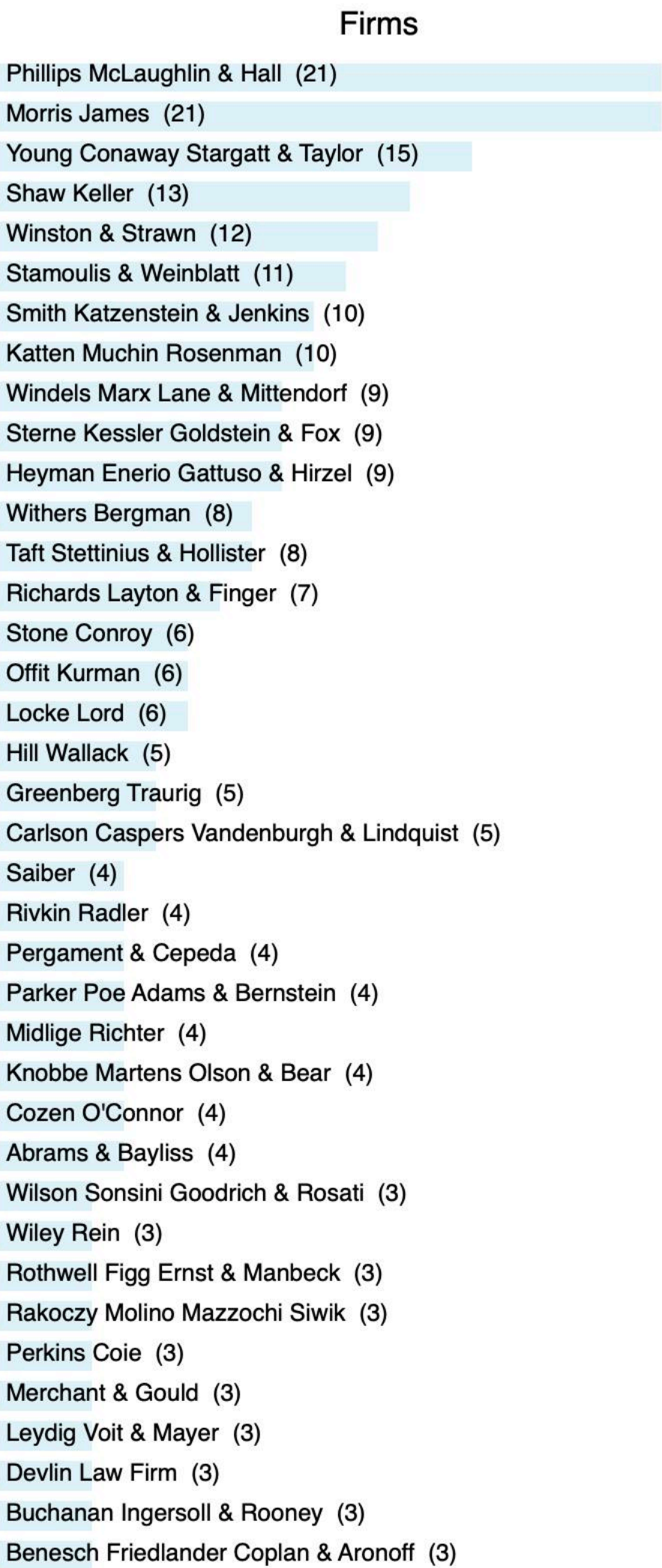


Leaders in Hatch-Waxman ANDA Cases

TOP ANDA PARTIES, FIRMS, & ATTORNEYS REPRESENTING **PATENTEES** IN 2021 BY NUMBER OF CASES

Parties	Firms	Attorneys
PF Prism IMB BV (23)	Morris Nichols Arsht & Tunnell (81)	Jack B Blumenfeld (77)
Novartis Pharmaceuticals Corporation (21)	McCarter & English (47)	Daniel M Silver (40)
Pfizer Inc. (19)	Williams & Connolly (41)	Alexandra M Joyce (40)
Warner-Lambert Company LLC (13)	Finnegan Henderson Farabow Garrett & Dunner (35)	Megan E Dellinger (30)
Janssen Pharmaceuticals, Inc. (12)	Saul Ewing Arnstein & Lehr (22)	William C Baton (21)
Neurocrine Biosciences, Inc. (10)	Ashby & Geddes (17)	Sarah A Sullivan (21)
Celgene Corporation (9)	Gibbons (15)	Charles M Lizza (21)
PF Prism CV (8)	Venable (14)	Jeremy A Tigan (20)
Merck Sharp & Dohme Corp. (8)	Quinn Emanuel Urquhart & Sullivan (14)	Lauren J Dowty (18)
Azurity Pharmaceuticals, Inc. (8)	Jones Day (12)	James B Monroe (18)
Supernus Pharmaceuticals, Inc. (7)	Wilson Sonsini Goodrich & Rosati (11)	Bruce R Genderson (18)
Gilead Sciences, Inc. (7)	White & Case (11)	Steven J Balick (17)
Boehringer Ingelheim Pharmaceuticals Inc. (7)	Walsh Pizzi O'Reilly Falanga (11)	David I Berl (17)
Boehringer Ingelheim International GmbH (7)	Hogan Lovells (10)	Christopher J Mandernach (17)
Bayer Pharma AG (7)	Haug Partners (9)	Andrew C Mayo (17)
Bayer AG (7)	O'Melveny & Myers (8)	Dov P Grossman (15)
Allergan USA, Inc. (7)	Kirkland & Ellis (8)	Andrew L Hoffman (15)
Sunovion Pharmaceuticals Inc. (6)	Paul Weiss Rifkind Wharton & Garrison (7)	Michael X Liu (14)
Eden Biodesign, LLC (6)	Latham & Watkins (7)	Michael P Kelly (14)
Bial-Portela & CA SA (6)	Gibson Dunn & Crutcher (7)	Kevin Hoagland-Hanson (14)
Astellas Pharma Inc. (6)	Sidley Austin (6)	Derek J Fahnestock (14)
Anacor Pharmaceuticals, Inc. (6)	Fish & Richardson (6)	Alexander S Zolan (14)
Allergan Holdings Unlimited Company (6)	DLA Piper (6)	Shaun P Mahaffy (13)
Salix Pharmaceuticals, Inc. (5)	Wilmer Cutler Pickering Hale and Dorr (5)	Seth R Bowers (13)
Janssen Pharmaceutica NV (5)	Fenwick & West (5)	Karen A Jacobs (12)
CP Pharmaceuticals International CV (5)	Covington & Burling (5)	Jessamyn S Berniker (12)
Boehringer Ingelheim Corporation f/k/a Boehringer Ingelheim USA Cor	Perkins Coie (4)	F Dominic Cerrito (12)
Bial-Holding, SA (5)	McDermott Will & Emery (4)	Erin M Sommers (12)
Bayer HealthCare LLC (5)	Kilpatrick Townsend & Stockton (4)	Elise M Baumgarten (12)
Bausch Health Ireland Ltd. (5)	Arnold & Porter Kaye Scholer (4)	Liza M Walsh (11)
AstraZeneca Pharmaceuticals LP (5)	Winston & Strawn (3)	Jason A Leonard (11)
AstraZeneca AB (5)	Shaw Keller (3)	William T Walsh, Jr. (10)
Astellas US LLC (5)	Saiber (3)	Sarahi M Uribe (10)
Astellas Pharma US, Inc. (5)	Rothwell Figg Ernst & Manbeck (3)	Jeanette M Roorda (10)
Astellas Pharma Global Development, Inc. (5)	Ropes & Gray (3)	Eric C Stops (10)
Astellas Ireland Co., Ltd. (5)	Mayer Brown (3)	Anthony M Insogna (10)
PBG Puerto Rico LLC (4)	Barnard Mezzanotte Pinnie Sealaus & Kraft (3)	Andrew S Chalson (10)
Janssen Research & Development, LLC (4)	Amgen Inc. (3)	Stanley E Fisher (9)

TOP ANDA PARTIES, FIRMS, & ATTORNEYS REPRESENTING **PATENT CHALLENGERS** IN 2021 BY NUMBER OF CASES



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Firm Outcomes in U.S. District Courts (2016-2021)

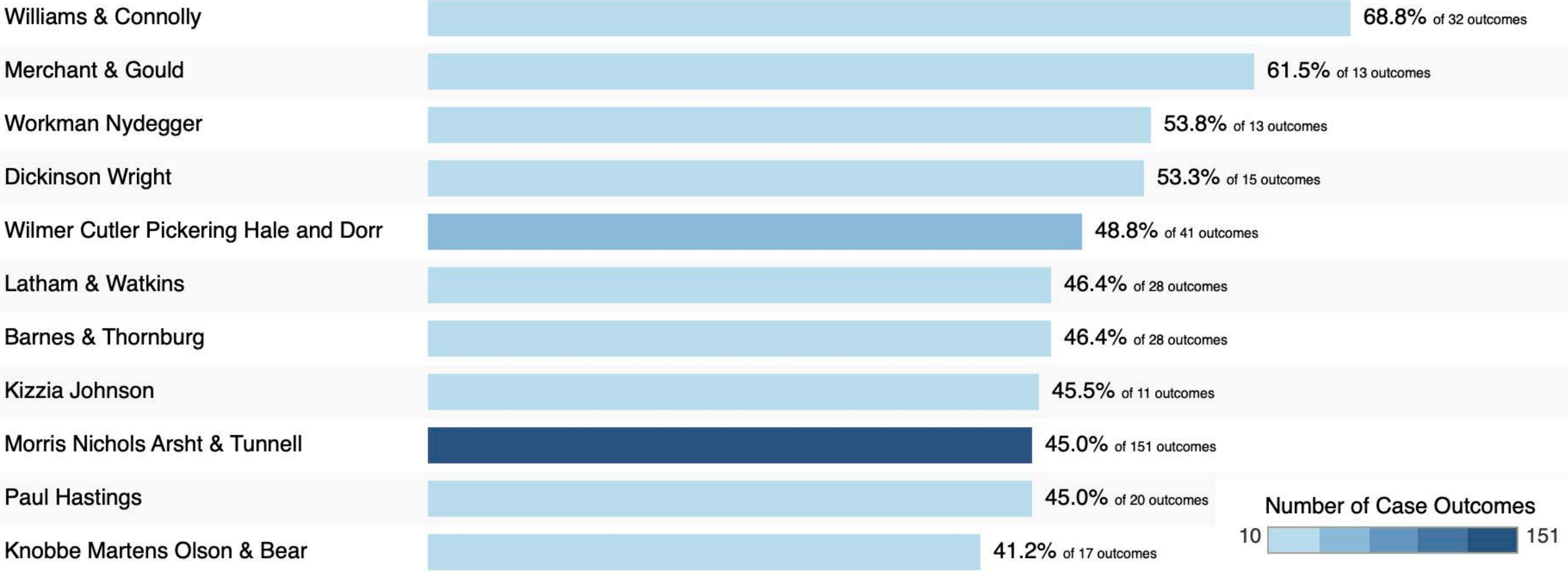
This page shows the top firms by win-rates when representing Patentees or Patent Challengers, respectively. Only U.S. district court data is shown. Cases with unclear winners are excluded from this data, including settlements, non-merits dismissals, and mixed outcomes. Historically, Patent Challengers prevail about 80% of the time. All firms shown substantially outperformed the average. The Patentee chart is using a minimum number of 10 completed cases, and the Patent Challenger chart is using a minimum of 40 completed cases.

Ranking firms by win-rate involves complex and consequential judgment calls - you can read about our methodology here. If you would like to view or edit the filters that derived these lists, visit the online version to customize your own list.

In addition, please keep in mind that each case is unique and the outcome of any specific case can be the result of many different factors and variables other than the law firms involved.

TOP FIRMS BY WIN RATE

WIN RATES OF TOP PATENTEE FIRMS



WIN RATES OF TOP PATENT CHALLENGER FIRMS



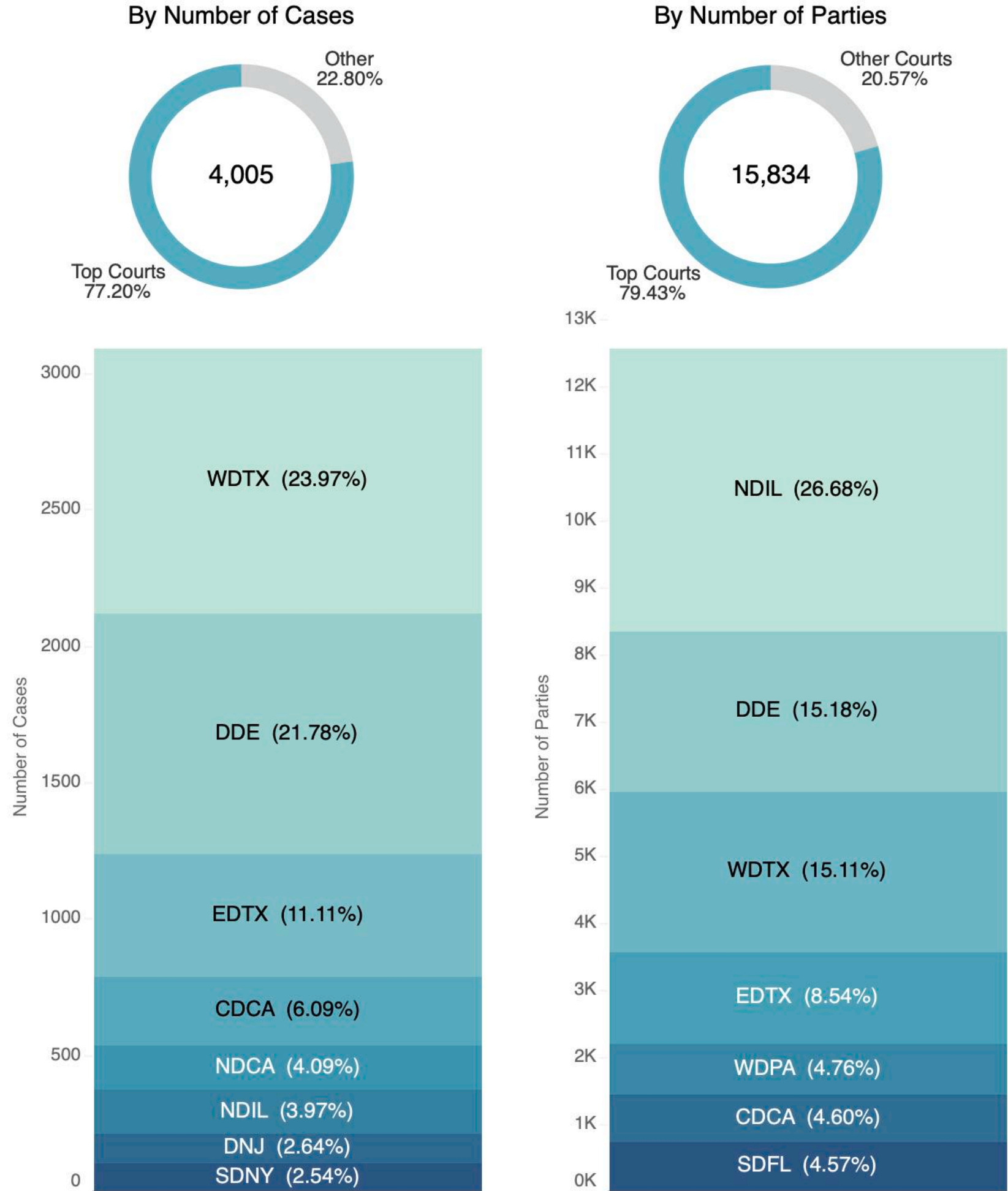
Top District Courts in the United States

Litigation activity is often measured by the number of cases filed in a given period of time, but cases are not equal in size or complexity.

In addition to the number of new Patent Cases, Docket Navigator measures the number of parties involved in those new cases. This metric gives cases involving multiple defendants greater weight than cases involving a single defendant. When measuring the number of Patent Accusations, cases involving multiple patents are given more weight than cases involving a single patent.

In 2021, the Western District of Texas received the largest number of new Patent Cases at 23.97% of all new Patent Cases in the U.S. The District of Delaware (DDE) was nearly as popular as WDTX, with 21.78% of new cases being filed in the court. EDTX remains the third-busiest U.S. District Court.

TOP COURTS BY NUMBER OF CASES OR PARTIES



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RONALD LEMIEUX AND STEVEN M. AUVIL

Move Over Marshall, There's a New Sheriff in Town - The Rise of Waco and the Western District of Texas

Since the mid-2000s, mention Marshall, Tyler, Sherman, Beaumont or Texarkana to an experienced patent litigator and you would get knowing nods about...

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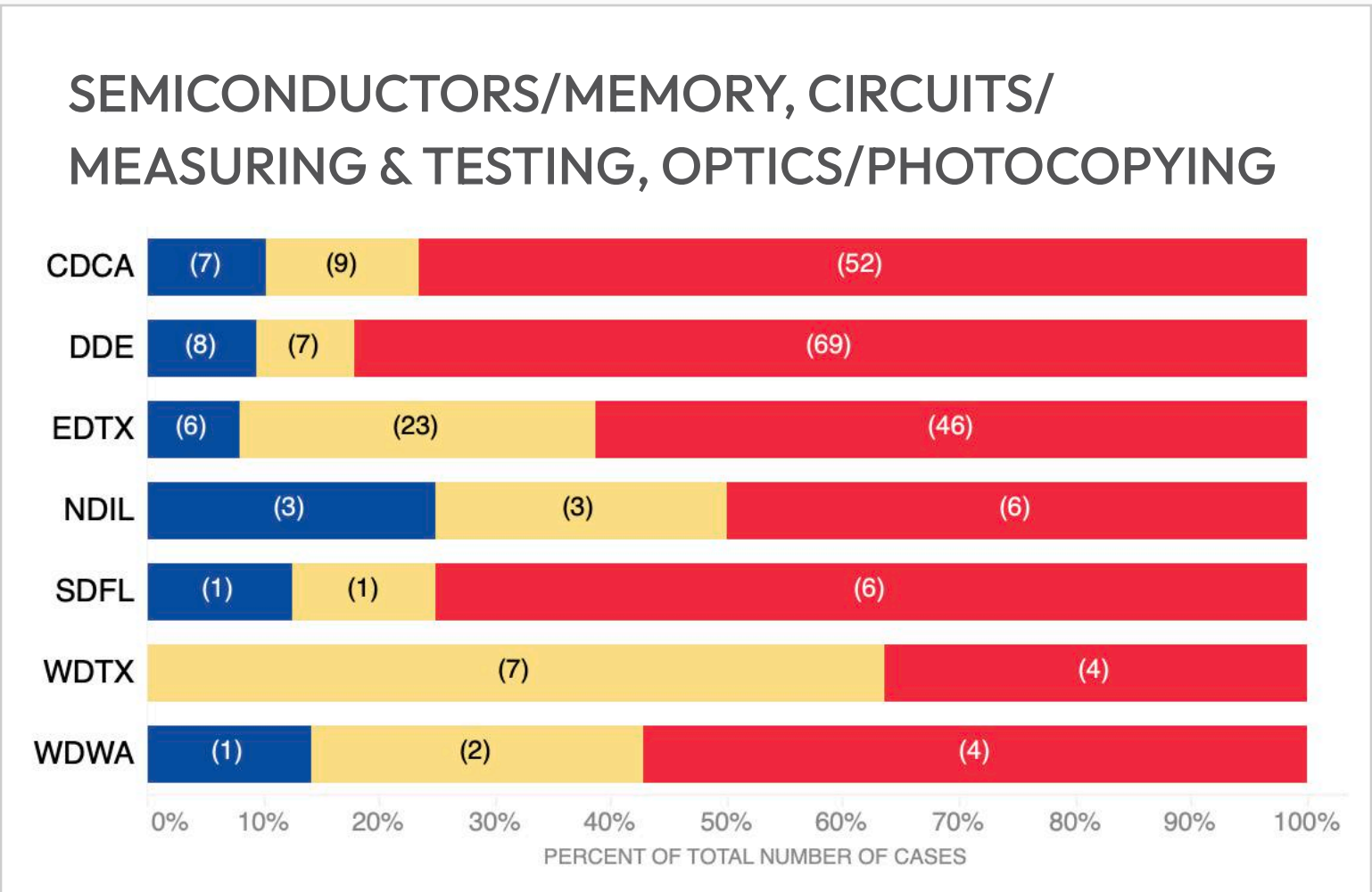
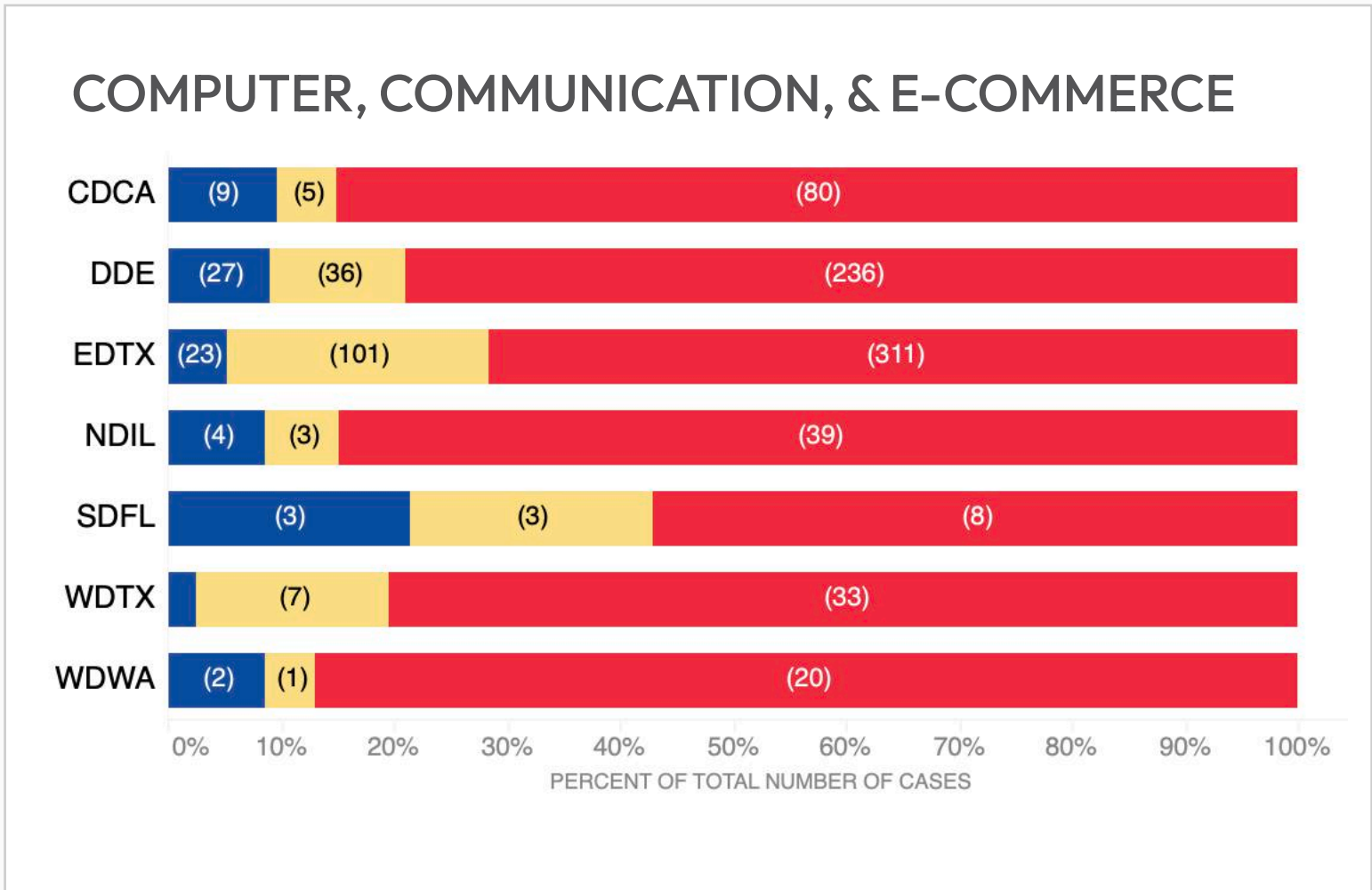
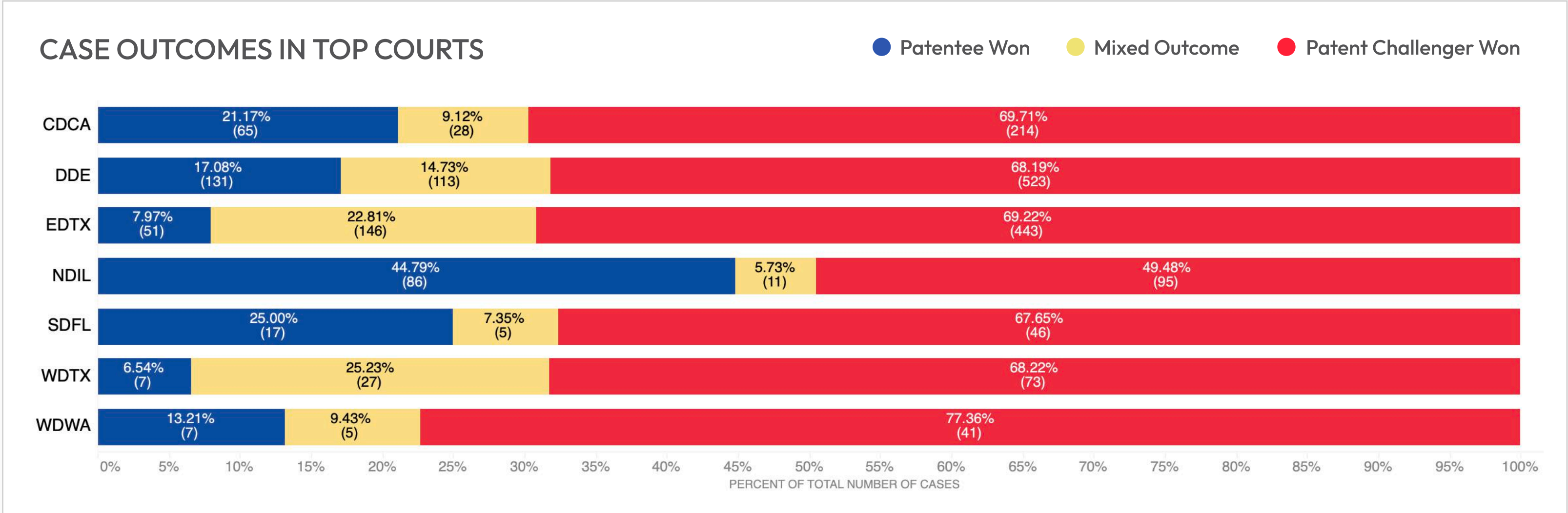
U.S. District Court Case Outcomes

Across the United States, Case Outcomes favor Patent Challengers more often than Patentees. WDTX Outcomes are weighted against Patentees because many recent Outcomes in that court are based on early terminations and early terminations tend to favor Patent Challengers.

Importantly, for stayed cases pending other court or tribunal proceedings, our Outcomes methodology takes into account the outcomes of those proceedings. For example, a case dismissed under Rule 41(a) after a stay pending IPR would be counted as a "loss" for the Patentee if the PTAB cancelled its claims during the IPR.

These charts show Outcomes of USDC Patent Cases. Accusations ending in settlement are excluded. Only cases terminated January 1, 2016 or later are shown. See our Official Scope to view the current date range that our Outcomes data covers.

OUTCOMES



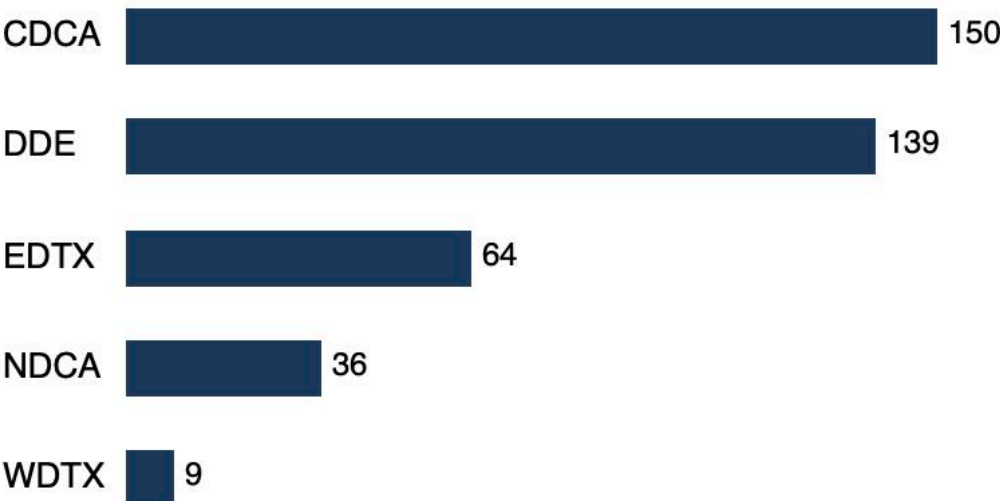
Remedies in U.S. District Courts

Damages awards differ substantially in both quantity and size across forums. The great majority of CDCA damages awards are less than \$1 million, while most EDTX and DDE damages awards are greater than \$1 million.

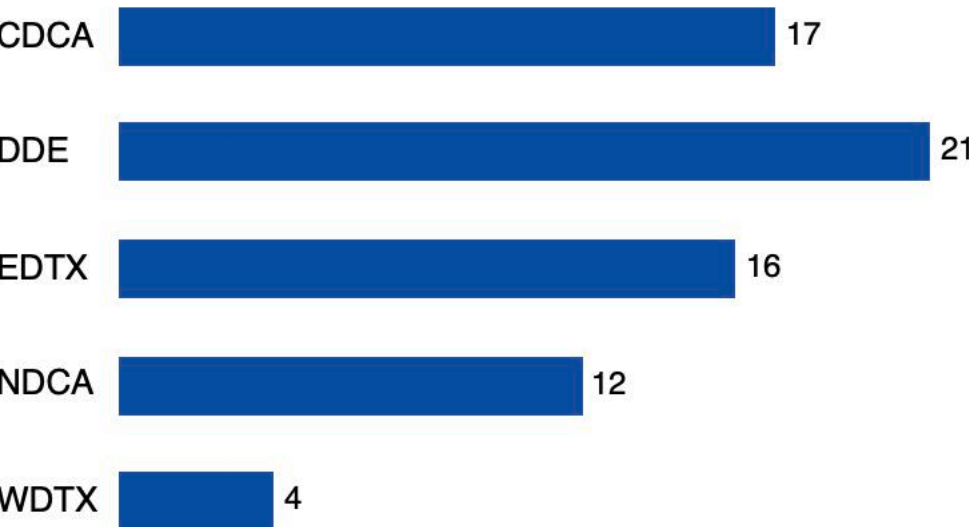
These charts show remedies from Docket Navigator's full remedies scope (2008-2021).

REMEDIES

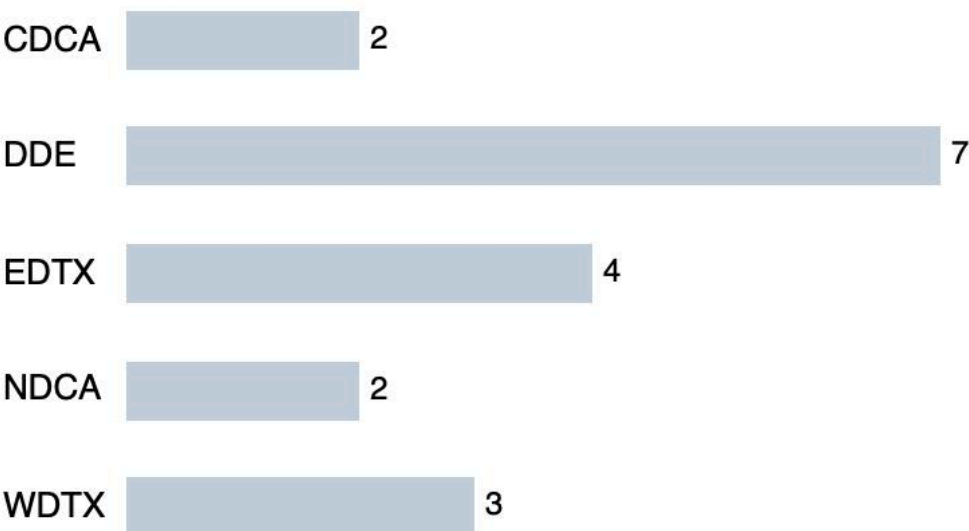
PERMANENT INJUNCTIONS



PRELIMINARY INJUNCTIONS

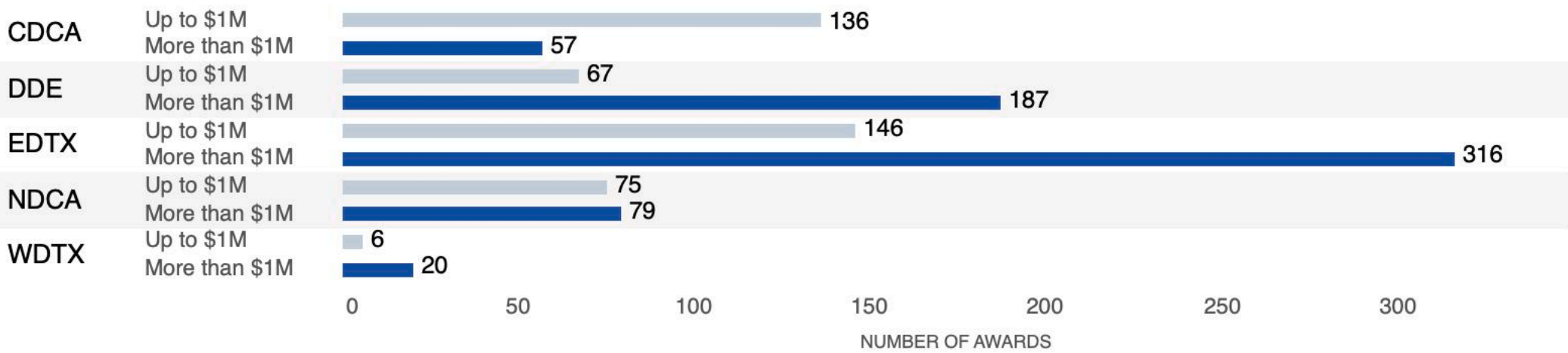


TEMPORARY RESTRAINING ORDERS



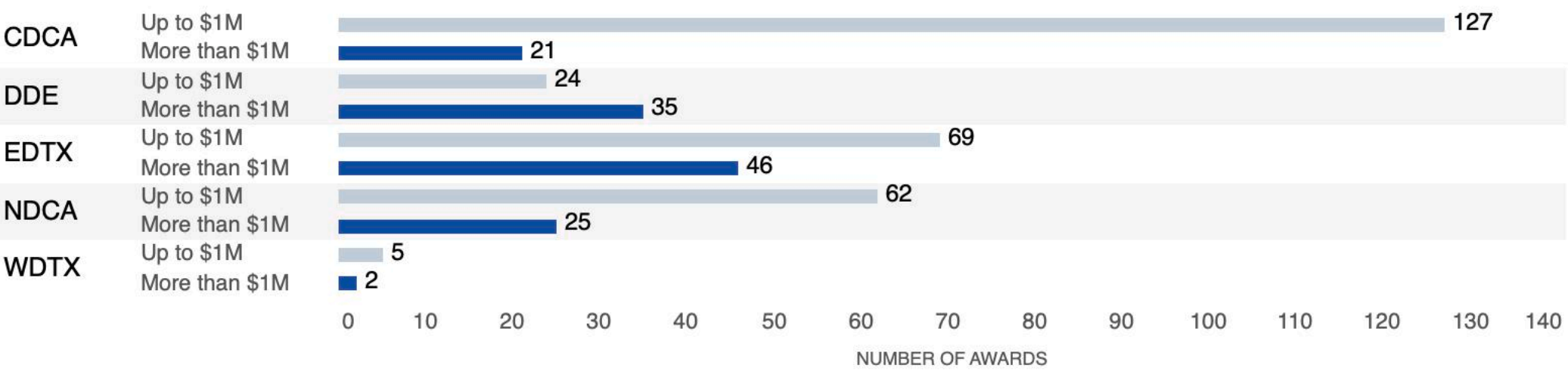
COMPENSATORY DAMAGES AWARDS

These charts show the total number of compensatory damages awards by the selected judges of courts grouped by dollar amount.



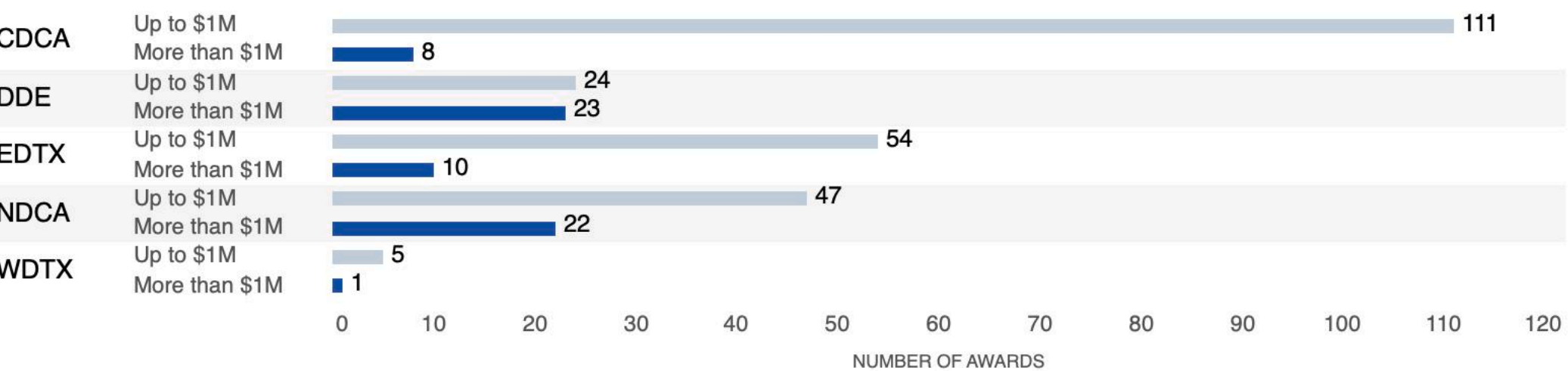
ENHANCED DAMAGES AWARDS

These charts show the total number of enhanced damages awards by the selected judges of courts grouped by dollar amount.



ATTORNEY FEES

These charts show the total number of attorney fee awards by the selected judges of courts grouped by dollar amount.



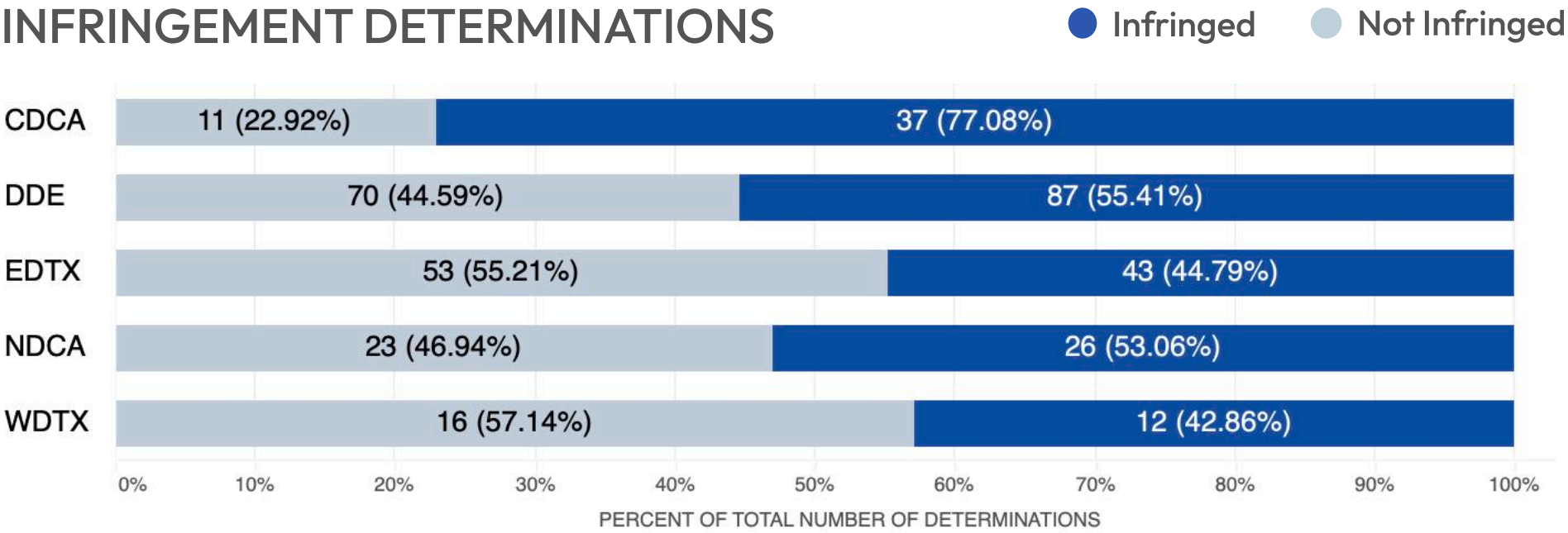
Determinations in U.S. District Courts

In 2021, the Central District of California had a substantially higher percentage of non-infringed determinations than other top courts.

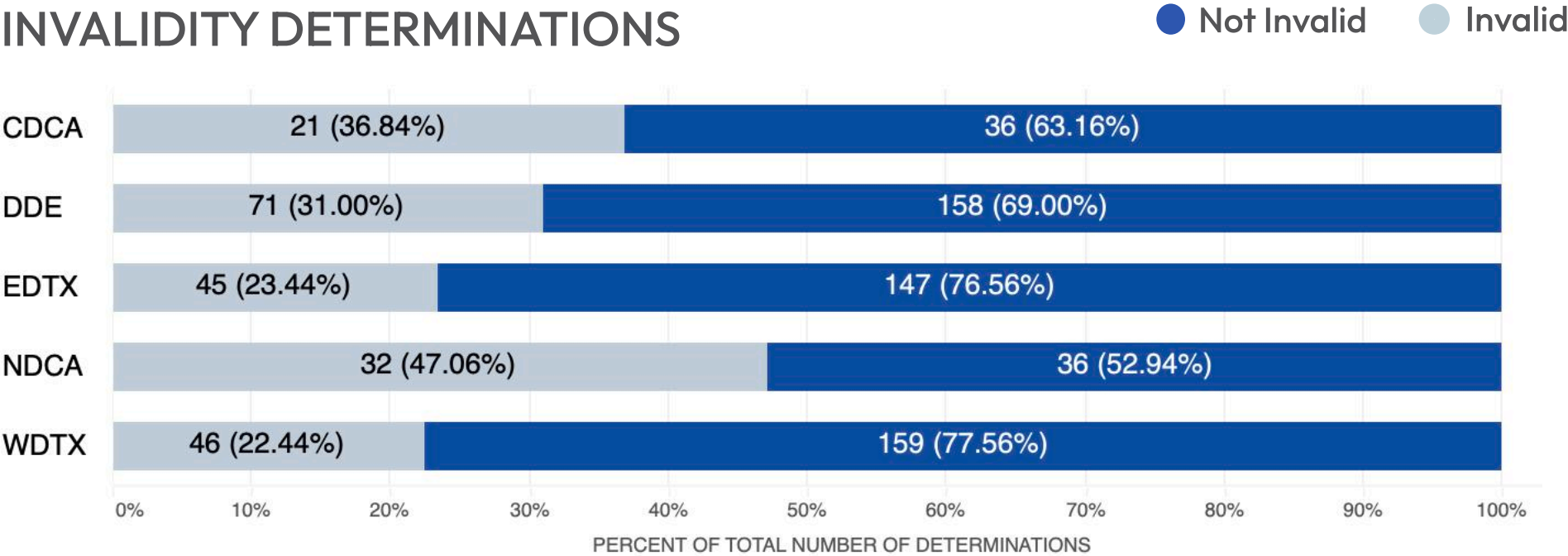
The breakdown of invalidity determinations reveals NDCA determinations tended to favor Patent Challengers, while WDTX determinations tended to favor Patentees.

DETERMINATIONS

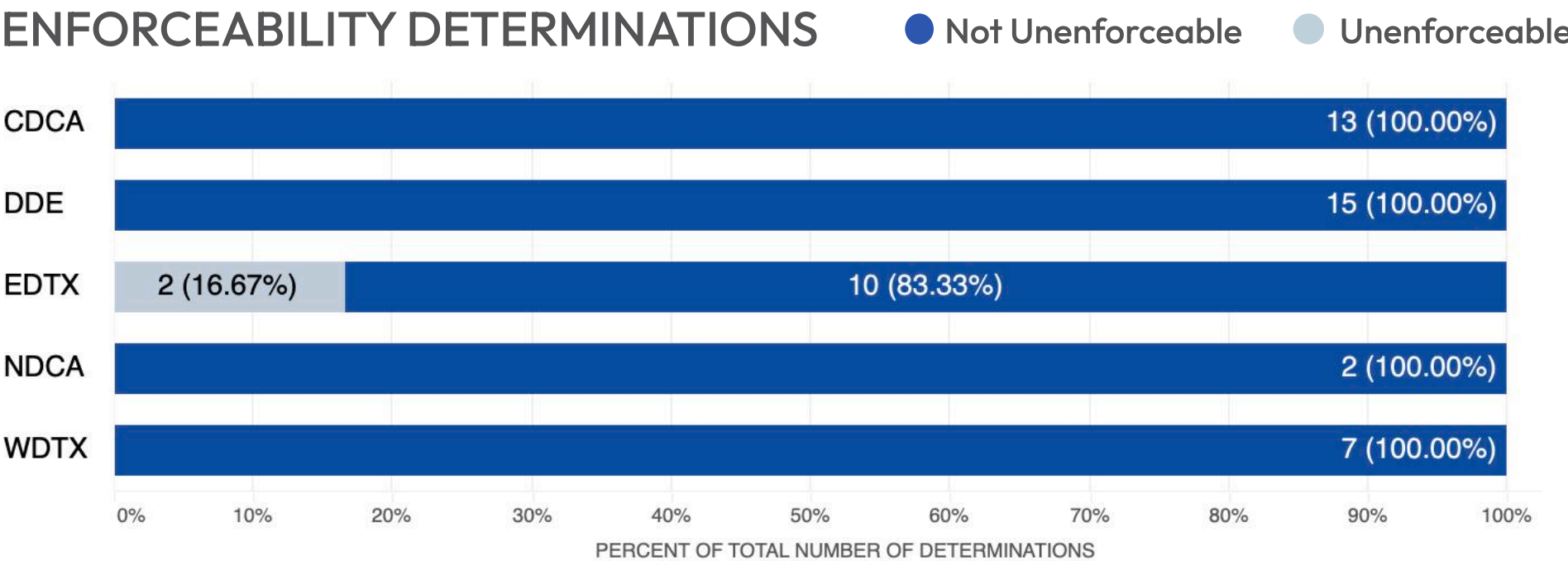
INFRINGEMENT DETERMINATIONS



INVALIDITY DETERMINATIONS



ENFORCEABILITY DETERMINATIONS



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VLSI wins US\$ 2.18 Billion against Intel as patent infringement damages

A Jury in Waco Texas (Western District Court of Texas) has ordered Intel Corp. (Intel) to pay VLSI Technology LLC (VLSI) US\$ 2.18 billion as patent...

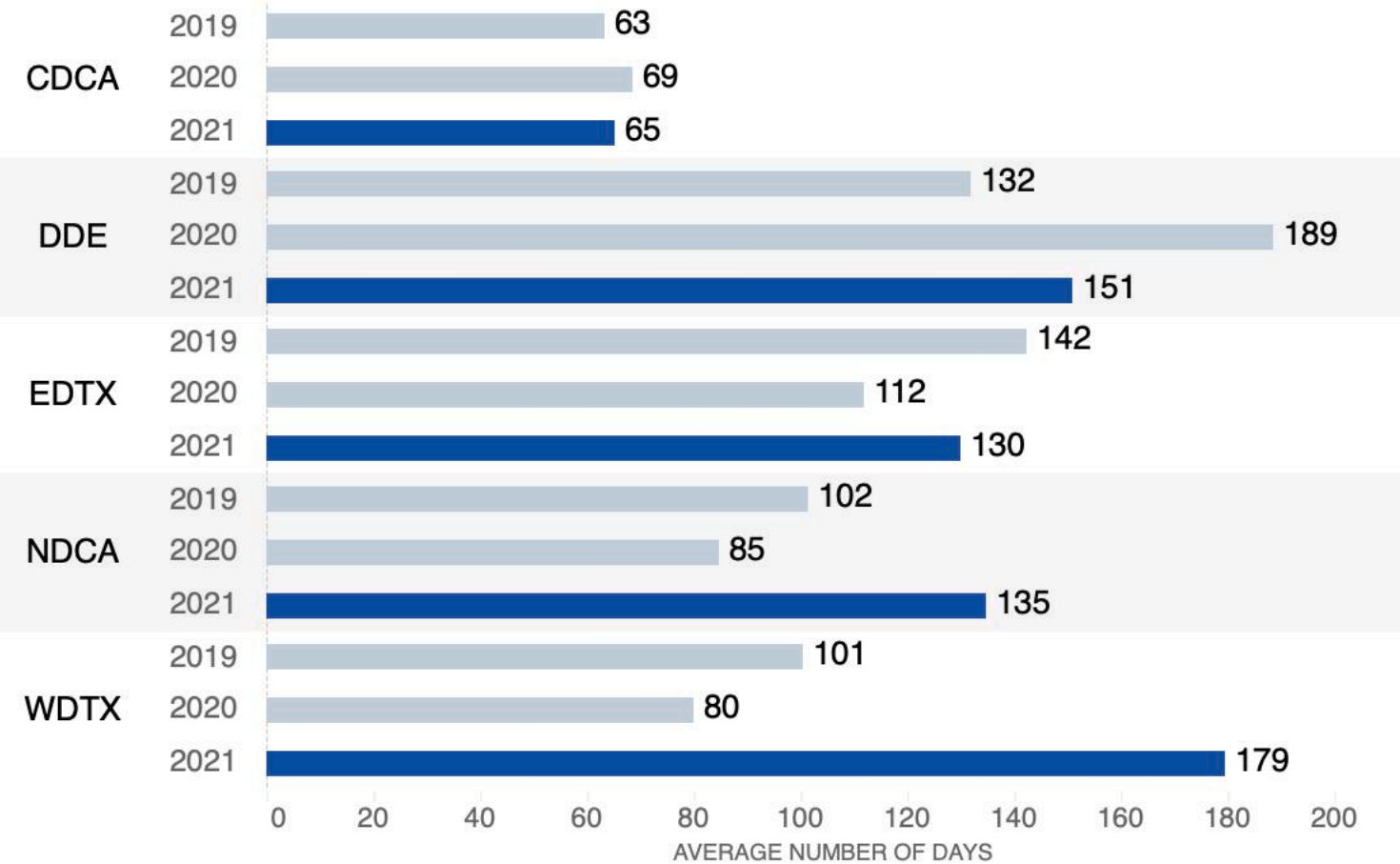
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Motion Pendency in U.S. District Courts

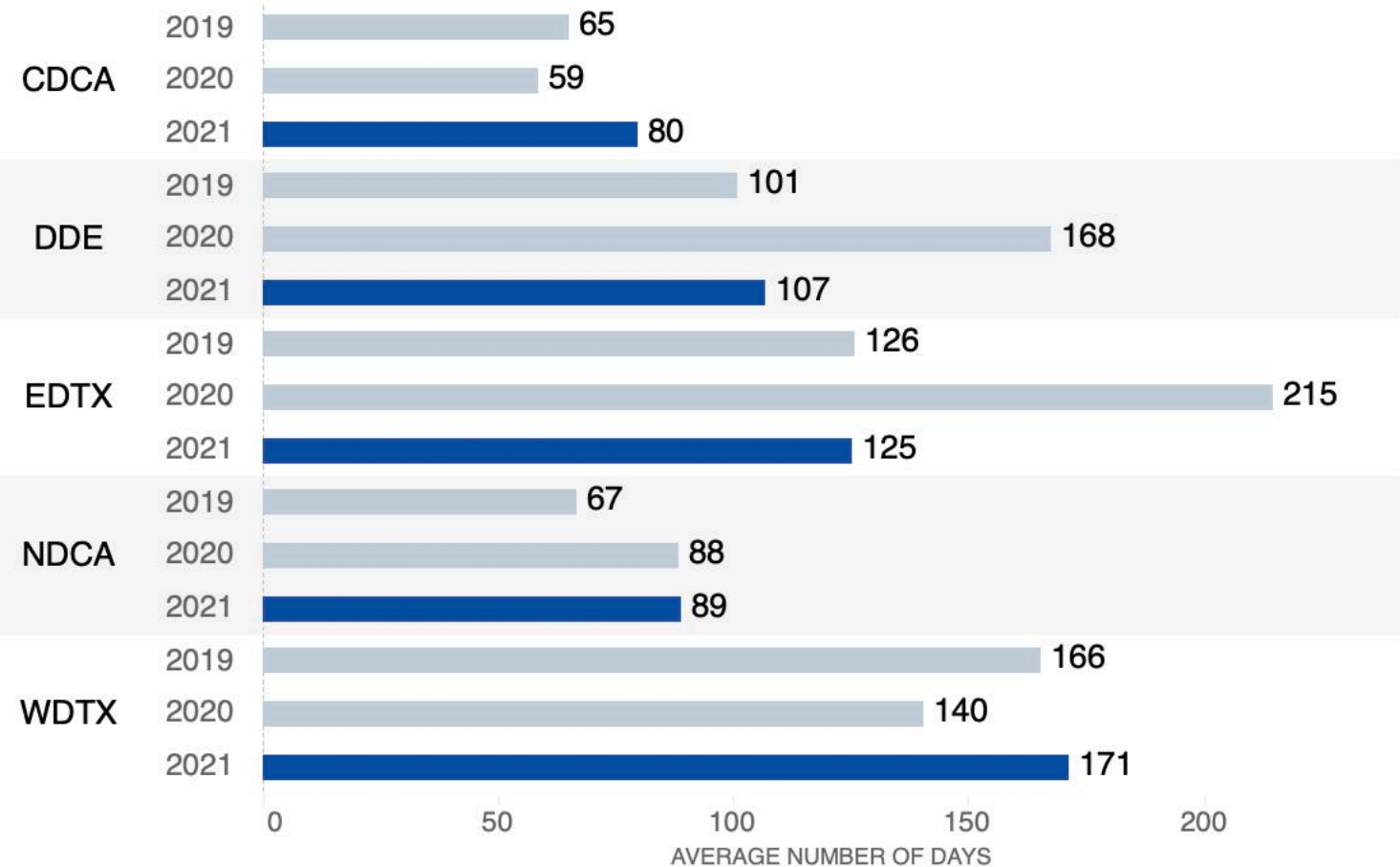
Courts vary on how quickly they rule on motions. These charts show how quickly specific courts issue decisions on different types of motions. Each colored horizontal line shows the average number of days between the filing of a motion and issuance of a decision on the motion in that year. Pendencies for Markman orders are calculated from the date of the Markman hearing.

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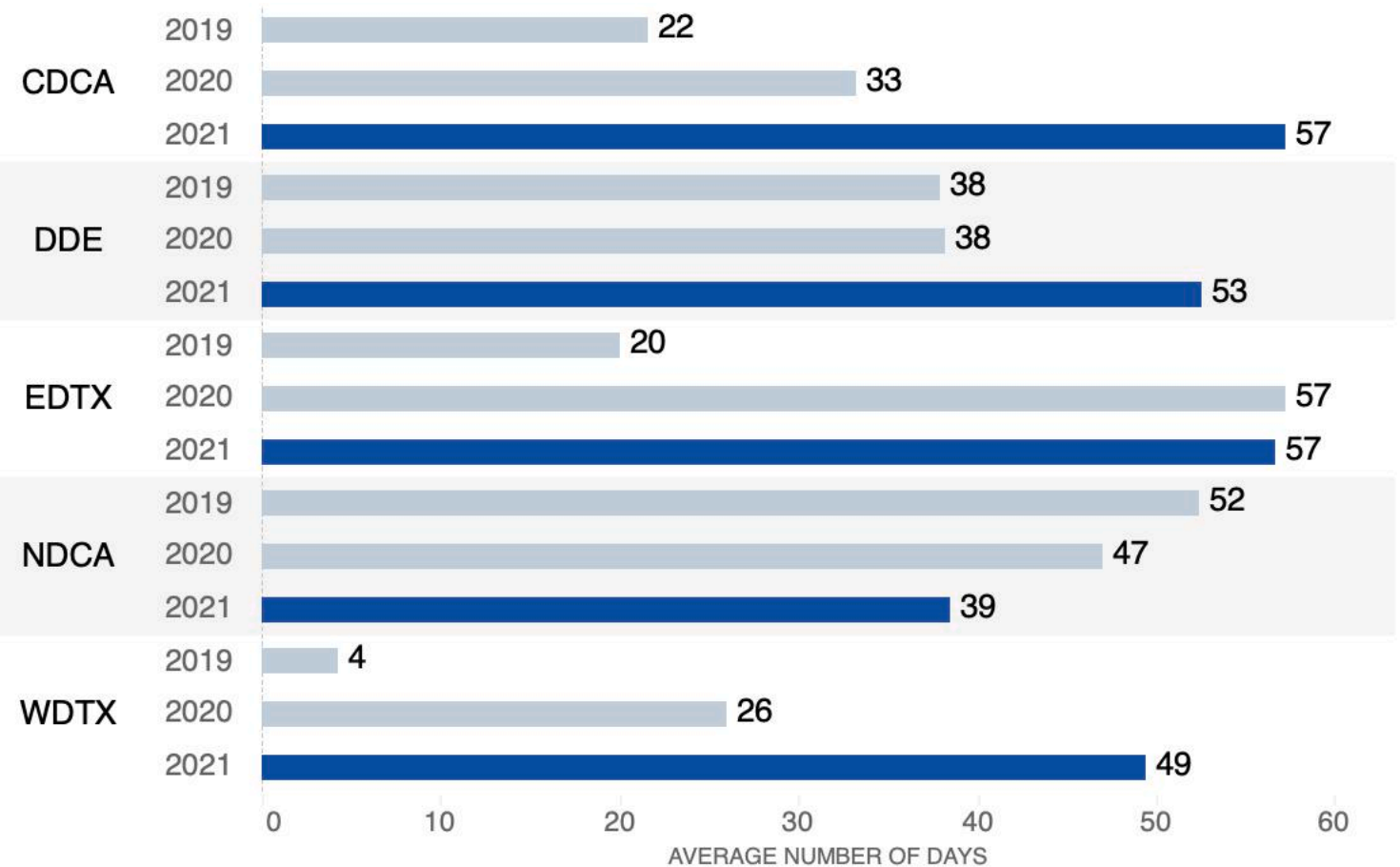
MOTION TO DISMISS - FAILURE TO STATE A CLAIM



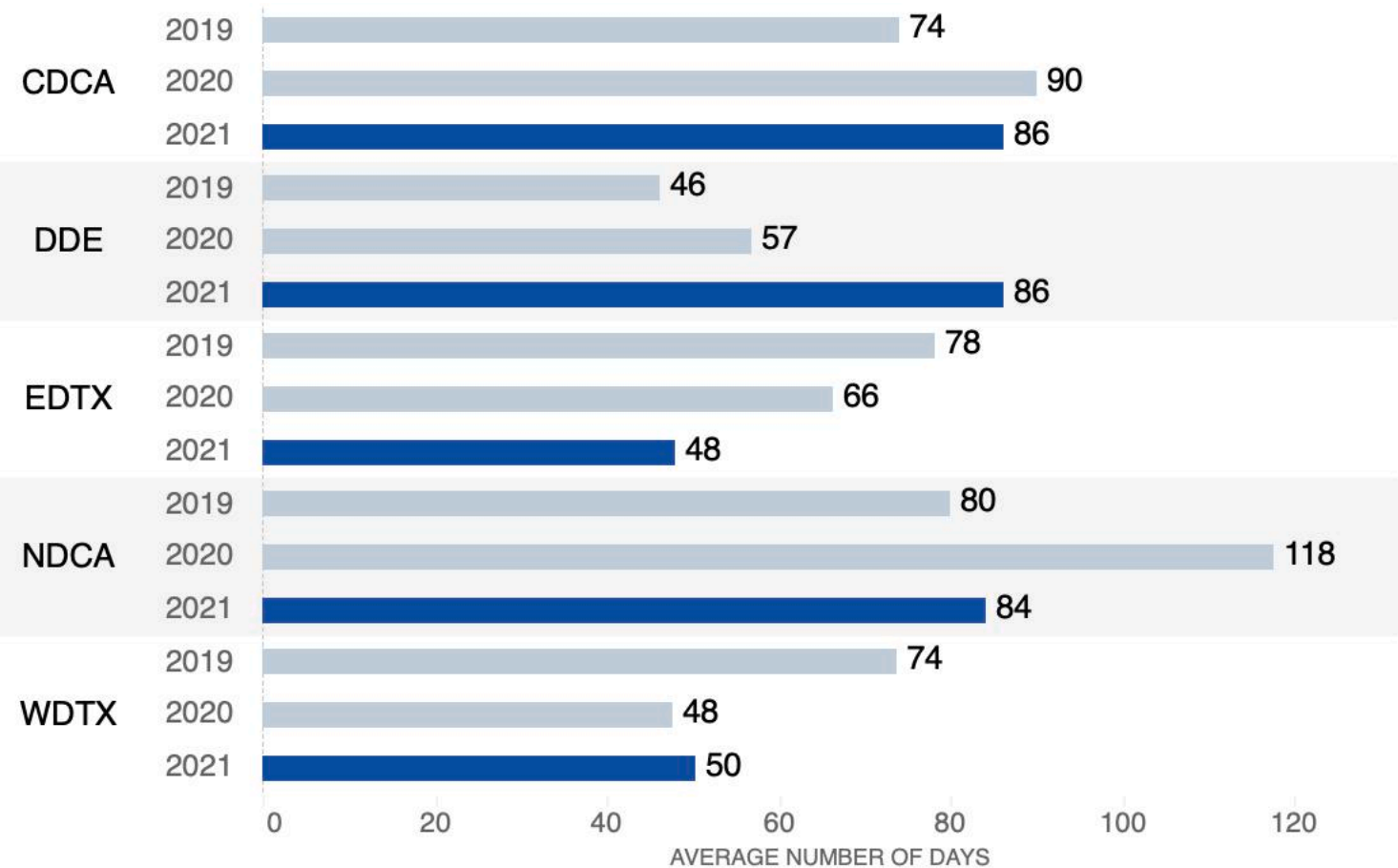
MOTION TO TRANSFER VENUE FOR CONVENIENCE



MOTION TO STAY PENDING INTER PARTES REVIEW



CLAIM CONSTRUCTION ORDER (MARKMAN)



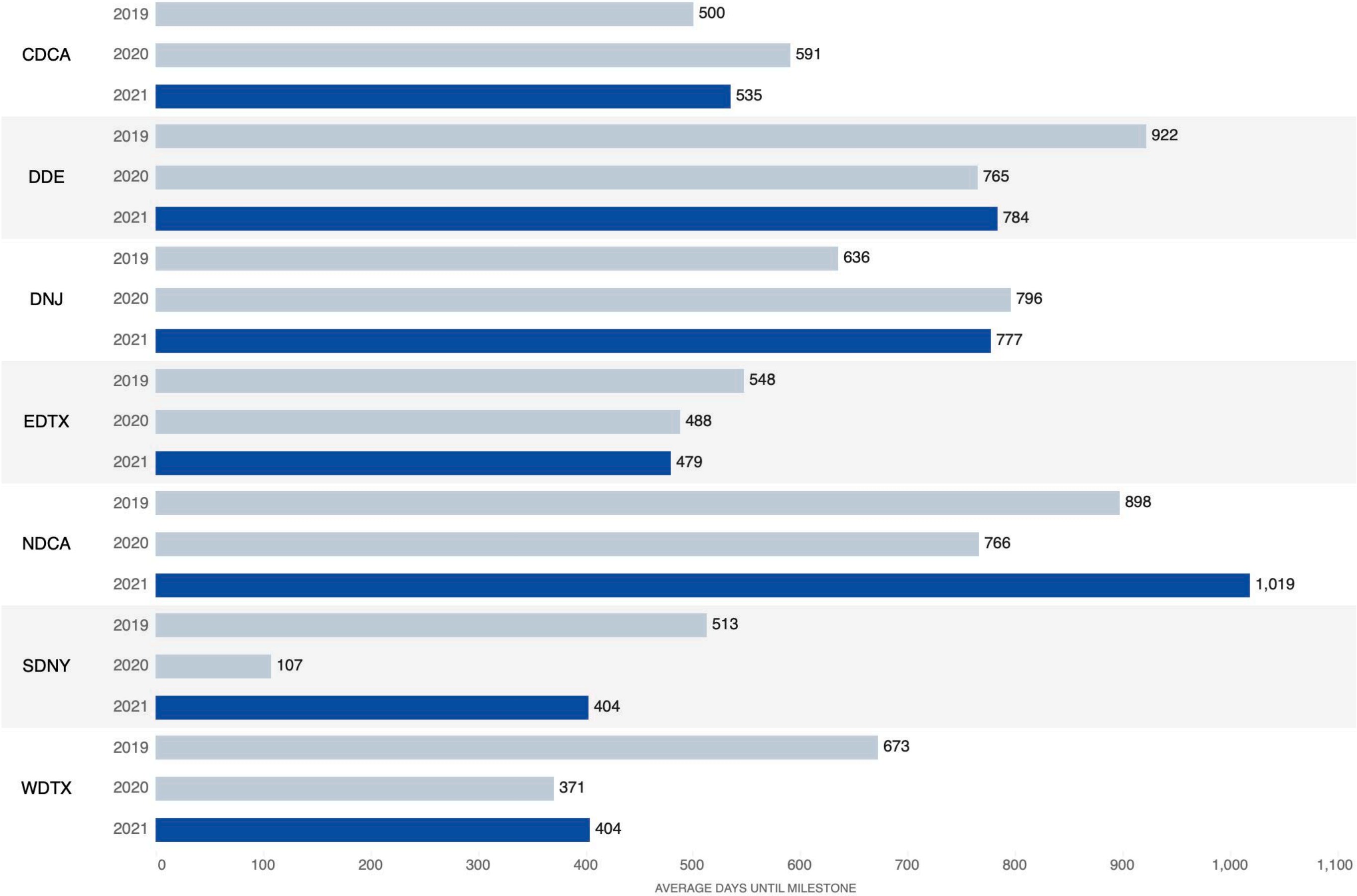
Time to Claim Construction

Time from case filing to Claim Construction varies substantially from court to court. In 2021, WDTX was once again the fastest to Claim Construction among major courts (tied with SDNY), with an average of 404 days from the case filing date. The majority of top courts had an average time to Claim Construction consistent with their 2020 figures.

This chart shows the average number of days from case filing to Claim Construction in select U.S. district courts.

FIND OTHER TRIAL MILESTONES

AVERAGE TIME TO CLAIM CONSTRUCTION



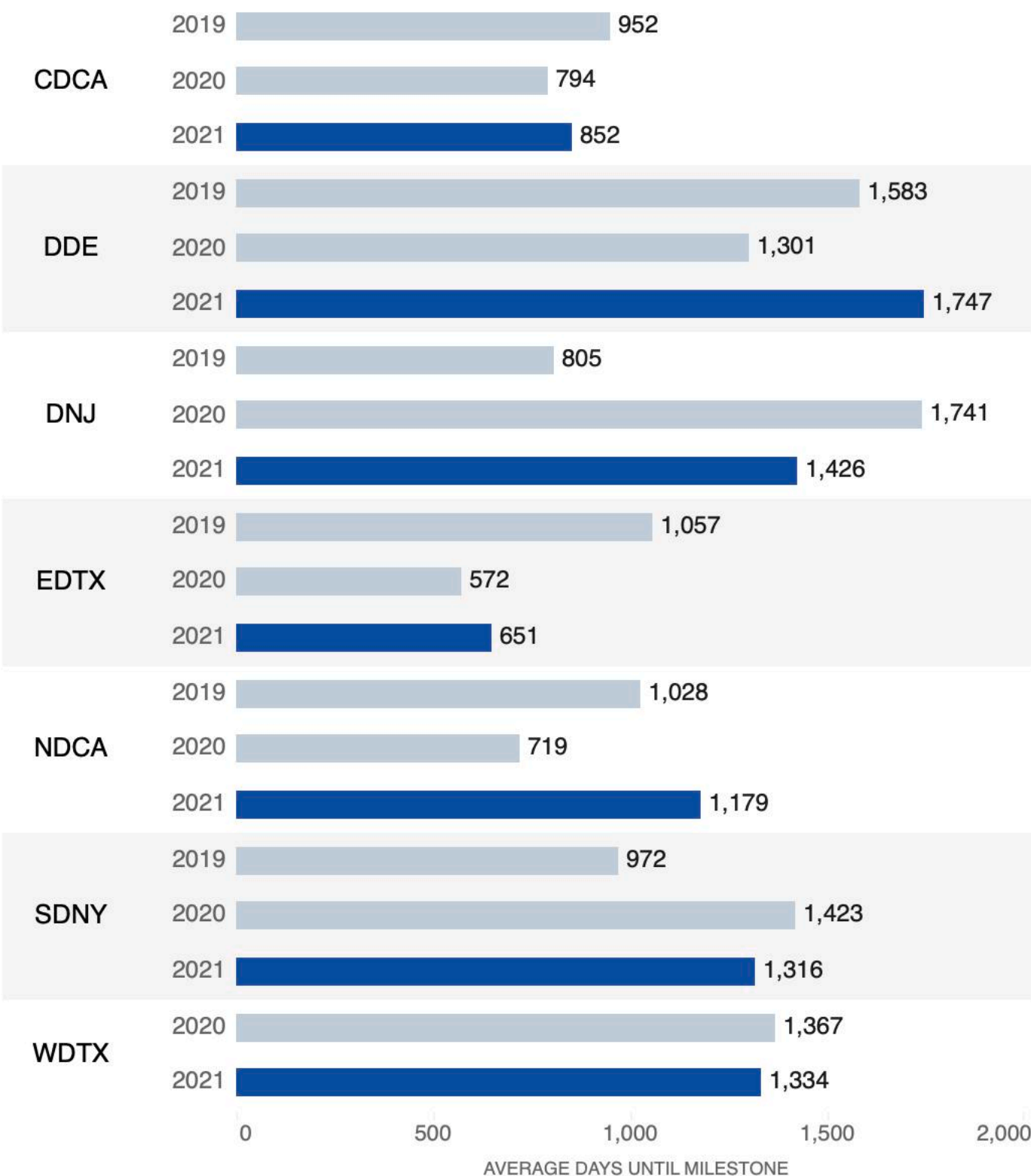
Average Time to Summary Judgment

The average time to summary judgment across most U.S. district courts was similar in 2021 to the same figures from 2020. DDE's already-lengthy time to such motions further extended in 2021, with the average such ruling 1757 days from the filing date of the original complaint.

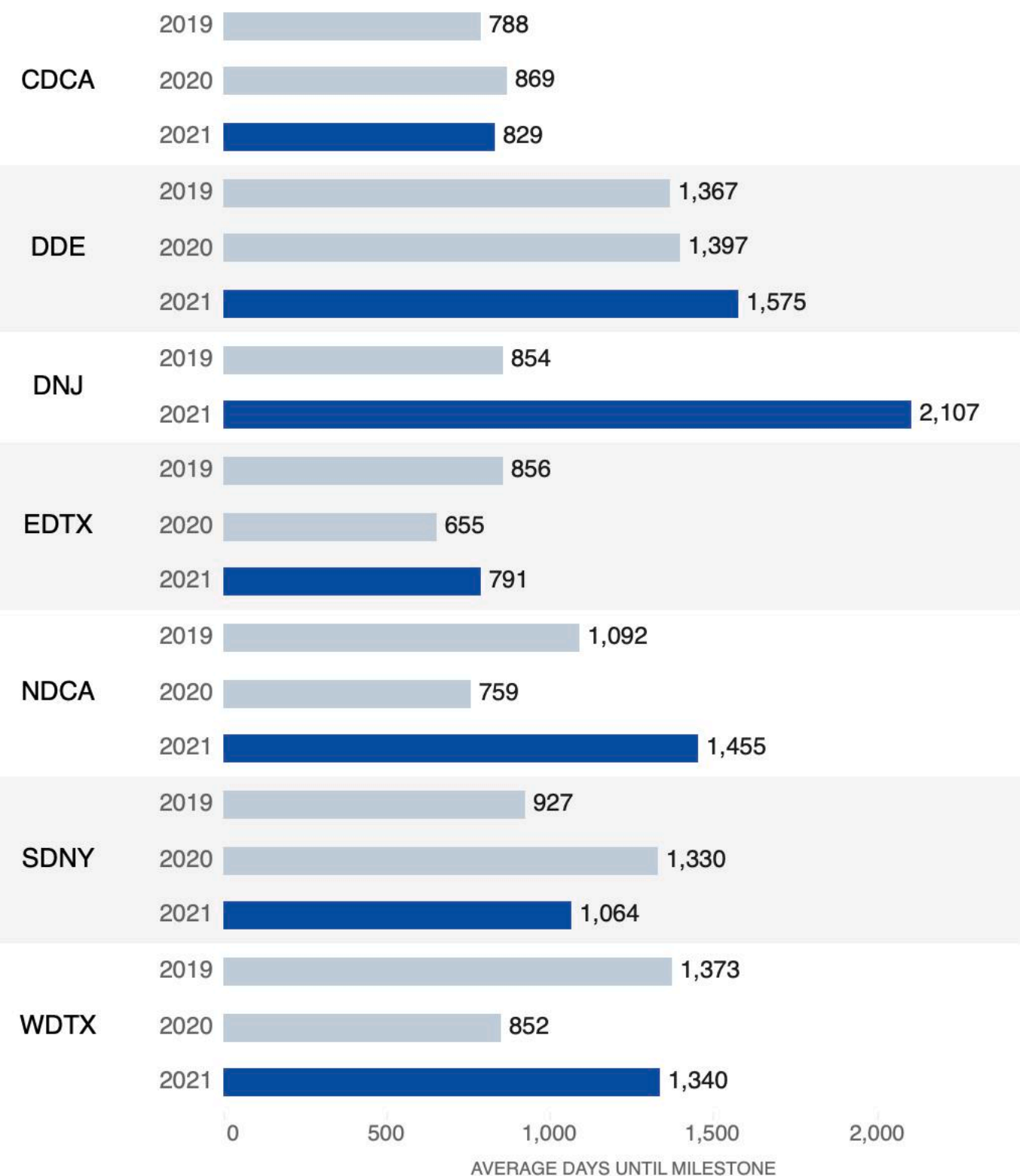
Rulings in WDTX were earlier for Patentee MSJs and later for Patent Challenger MSJs. Note that it has been fewer than 1200 days since Judge Albright was confirmed in WDTX, so these averages are influenced by cases that initially appeared before a different judge.

These charts show the average number of days from case filing to a ruling on a motion for summary judgment (MSJ) filed by a Patentee or Patent Challenger.

MOTIONS FILED BY PATENTEES



MOTIONS FILED BY PATENT CHALLENGERS



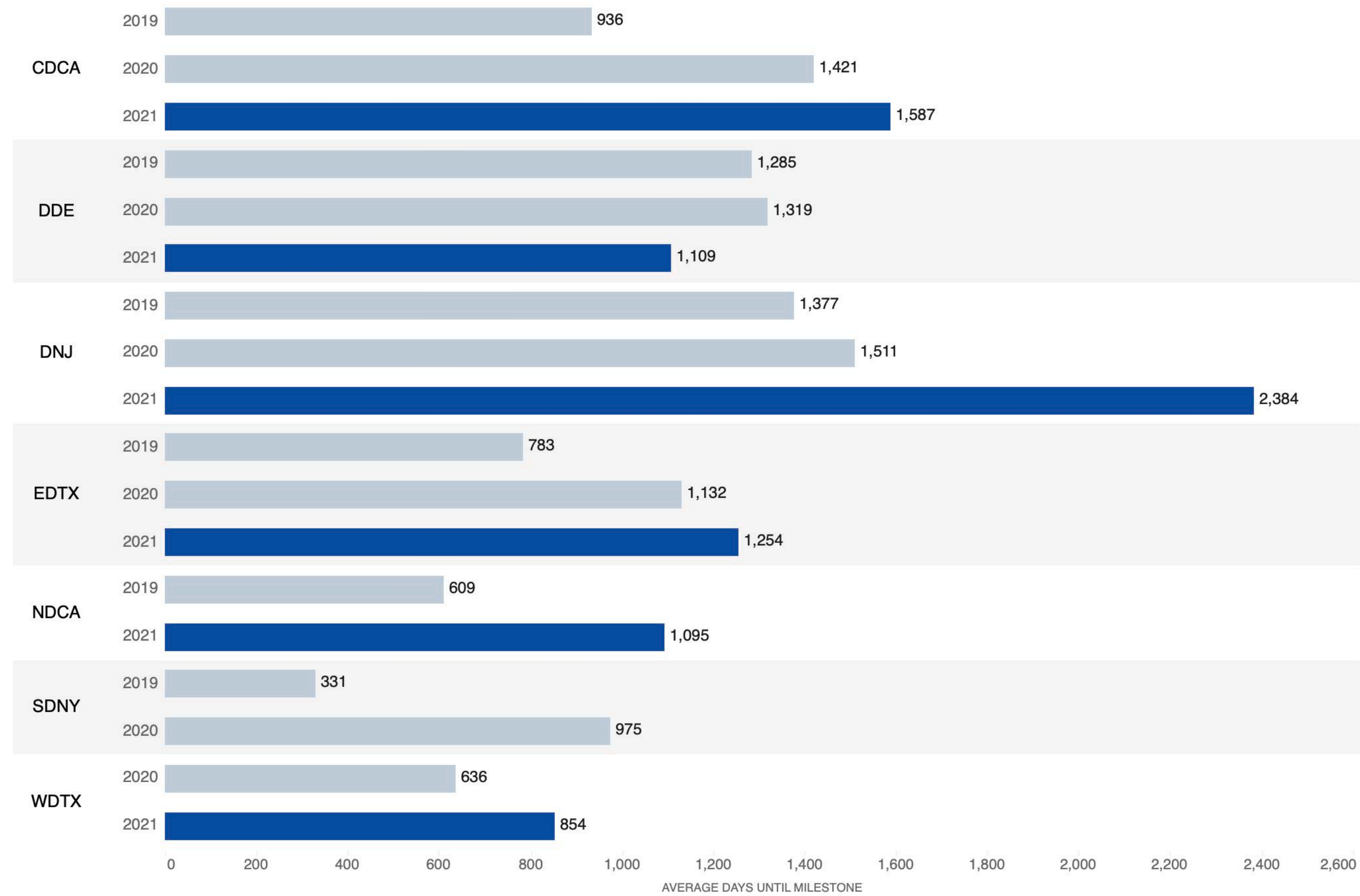
Average Time to Trial

This chart shows the average number of days from case filing to a trial (bench or jury) in select U.S. district courts.

Trials were substantially less delayed in CDCA in 2020 when compared to 2021. Other courts changed less consistently, with Delaware cases reaching trial sooner and Texas trials (in both EDTX and WDTX) arriving more slowly. Trials are relatively rare compared to events discussed in the previous pages, so this data is expected to vary from year-to-year even without substantial changes to the court's case management policies.

FIND OTHER TRIAL MILESTONES

AVERAGE TIME TO TRIAL FOR TOP COURTS

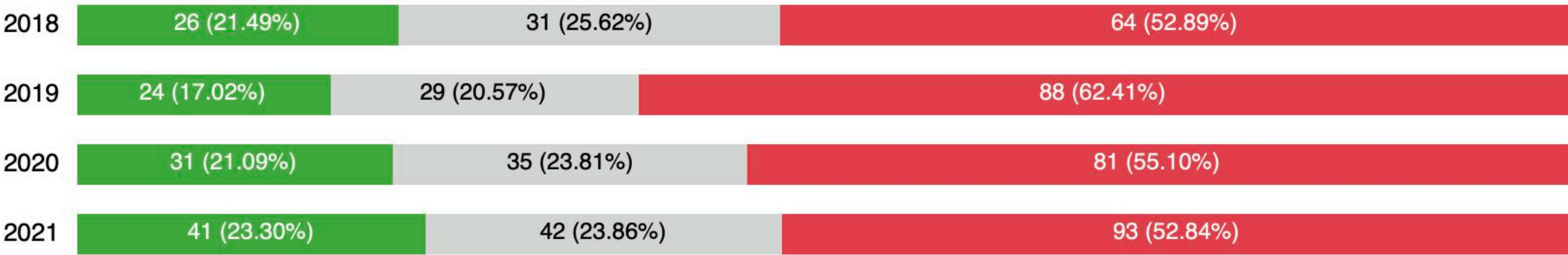


Motion Success in U.S. District Courts

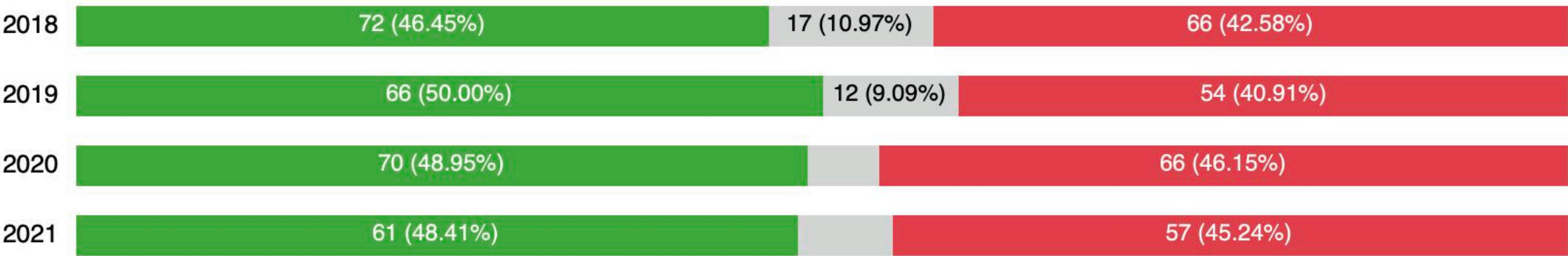
This page shows the success rates of five types of non-stipulated motions from 2018 to 2021. Motions were chosen based on the popularity of these motions in Docket Navigator searches. In 2021, Motions to Strike Expert Reports were more successful than in 2020. Motions for preliminary injunction were less successful than in 2020, but still significantly more likely to be granted than in 2019.

● Granted
 ● Denied
 ● Partial

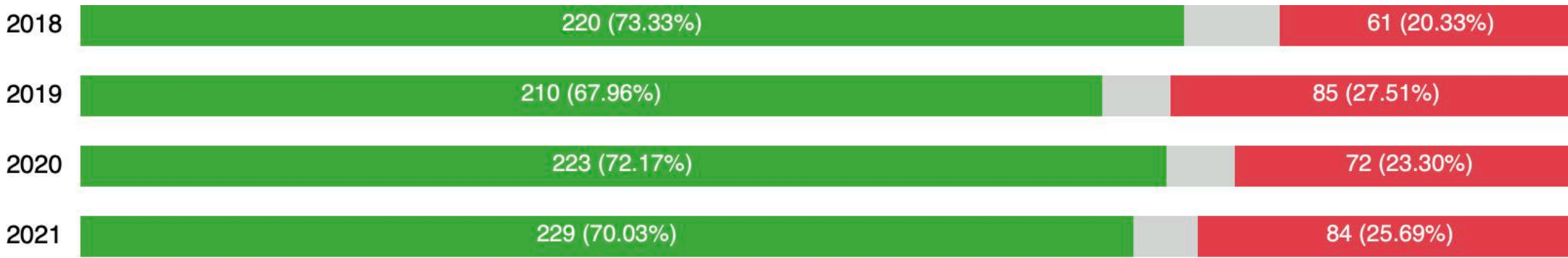
MOTION TO STRIKE EXPERT REPORTS



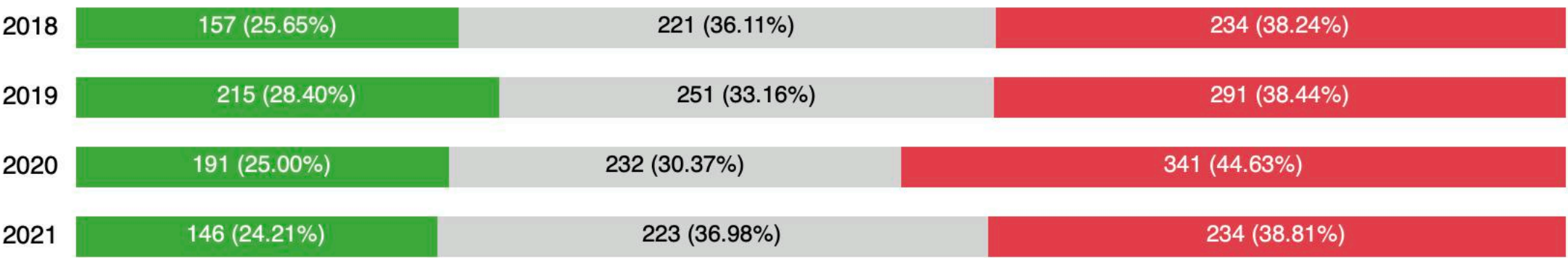
MOTION TO STAY PENDING INTER PARTES REVIEW



MOTION TO AMEND OR SUPPLEMENT PLEADING



MOTION TO COMPEL DISCOVERY



MOTION/APPLICATION FOR PRELIMINARY INJUNCTION

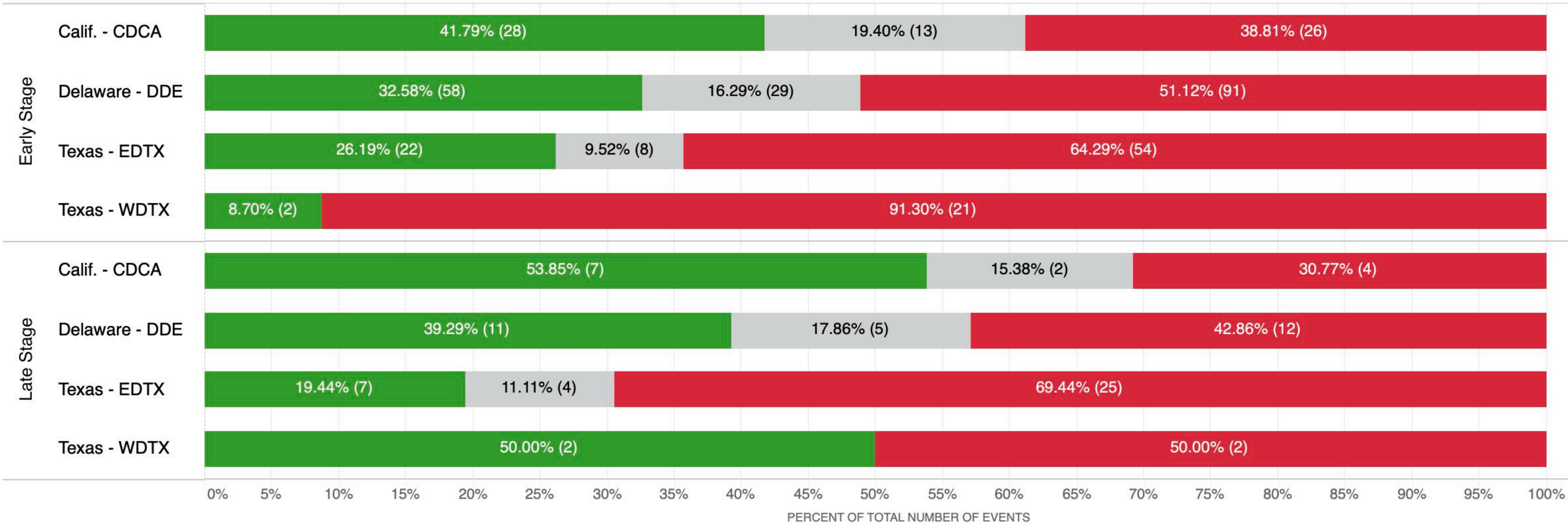


Outcomes of 35 U.S.C. § 101 Challenges

§ 101 Challenges have had mixed success in most top courts. WDTX, however, continues to see a considerably lower rate of success for early stage § 101 challenges. Late-stage § 101 challenges appear to be more successful in WDTX, though available data remains sparse. § 101 challenges are more successful in CDCA and DDE, regardless of the procedural stage.

These charts show the results of judicial decisions on challenges to patent validity under 35 U.S.C. § 101 from 2016 to 2021. Early stage challenges include early motions to dismiss, while late stage claims include all other types of § 101 challenges.

OUTCOMES OF 35 U.S.C. § 101 CHALLENGES



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Top Section 101 Patent Eligibility Stories of 2021

It's that time of the year again. Take your rapid test, light a fire and gather with family and friends to discuss the top patent eligibility stories...

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Judges in the U.S. District Courts

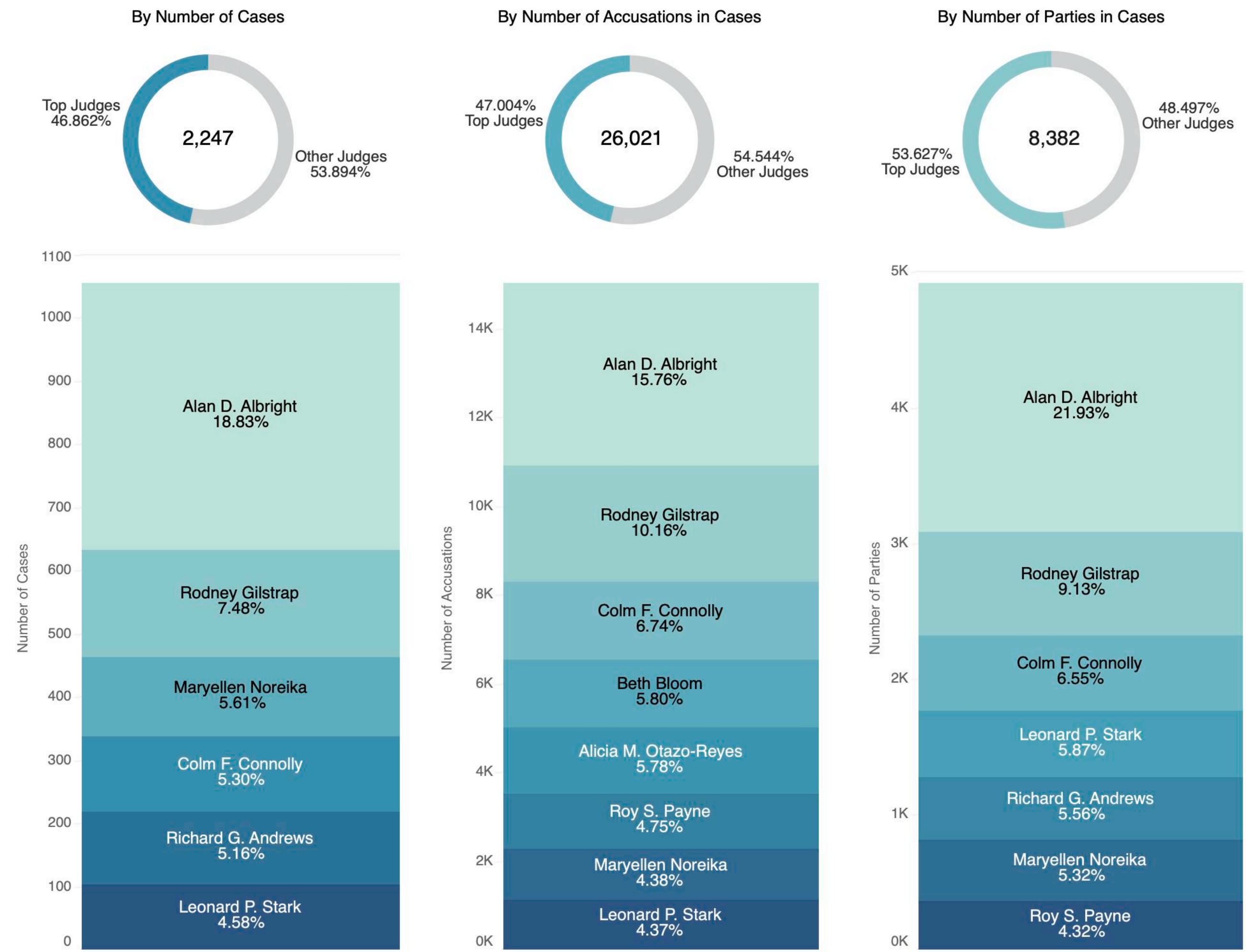
In 2021, the Western District of Texas maintained its lead over Delaware in the number of newly filed cases. Nearly 1 in 5 Patent Cases in the United States appear before Judge Albright. Notably, Judge Gilstrap's proportion of patent cases increased in 2021 for the first time since TC Heartland. Judge Gilstrap carried just over 7% of the patent caseload in 2021.

In 2021, nearly half of all new Patent Cases were assigned to the top judges (by number of cases). Judge Albright holds the top position for number of assigned new Patent Cases, Parties, and Accusations by a wide margin. The remaining cases are widely distributed among other judges in top courts.

VIEW MORE

TOP U.S. DISTRICT COURT JUDGES BY NUMBER OF CASES, ACCUSATIONS, & PARTIES

This chart shows the top judges by (i) number of new Patent Cases filed in 2021, as well as (ii) the number of Accusations in those new cases, and (iii) the number of parties in those cases. Below each donut chart is a break-down of the colored portion of each donut chart by judge.



Average Time to Claim Construction & Trial

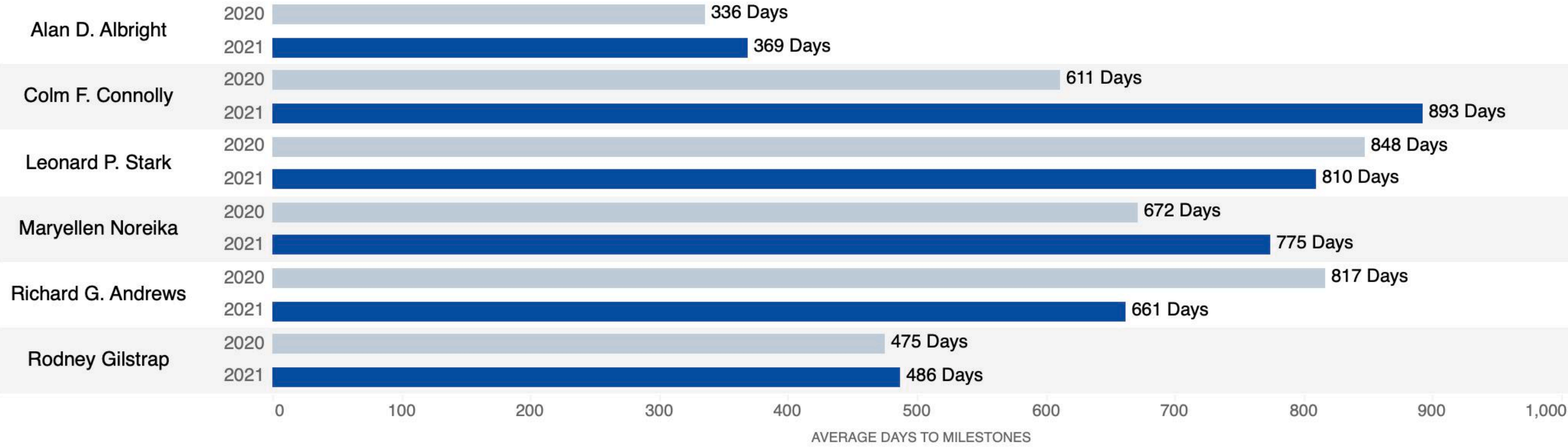
Both the average time to trial and average time to claim construction increased for Judge Albright in 2021 - perhaps a reflection of his substantial caseload - but he remains the fastest judge to both major events. The timing of milestones before other top judges was mostly consistent, with a few noteworthy exceptions.

Judge Andrews's average time to claim construction and trials were both substantially faster than in 2020. Judge Gilstrap's average time to trial was significantly longer, at 963 days as opposed to 556 in 2020. Judge Noreika, who had previously not seen a patent trial, had trial timings similar to her Delaware colleague, Judge Stark.

MORE MILESTONES

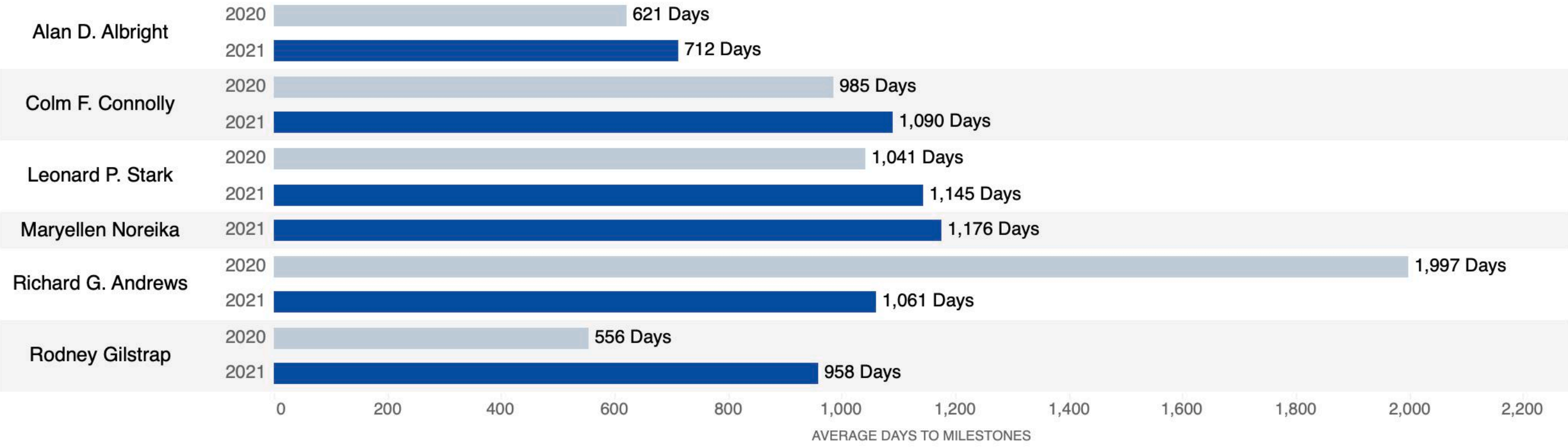
AVERAGE TIME TO CLAIM CONSTRUCTION

This chart shows the average number of days from case filing to Claim Construction for top judges. Top judges were determined by number of newly assigned Patent Cases in 2021.



AVERAGE TIME TO TRIALS

This chart shows the average number of days from case filing to a Jury Trial or Bench Trial. Top judges were determined by number of newly assigned Patent Cases in 2021.



Average Time to Summary Judgment Rulings

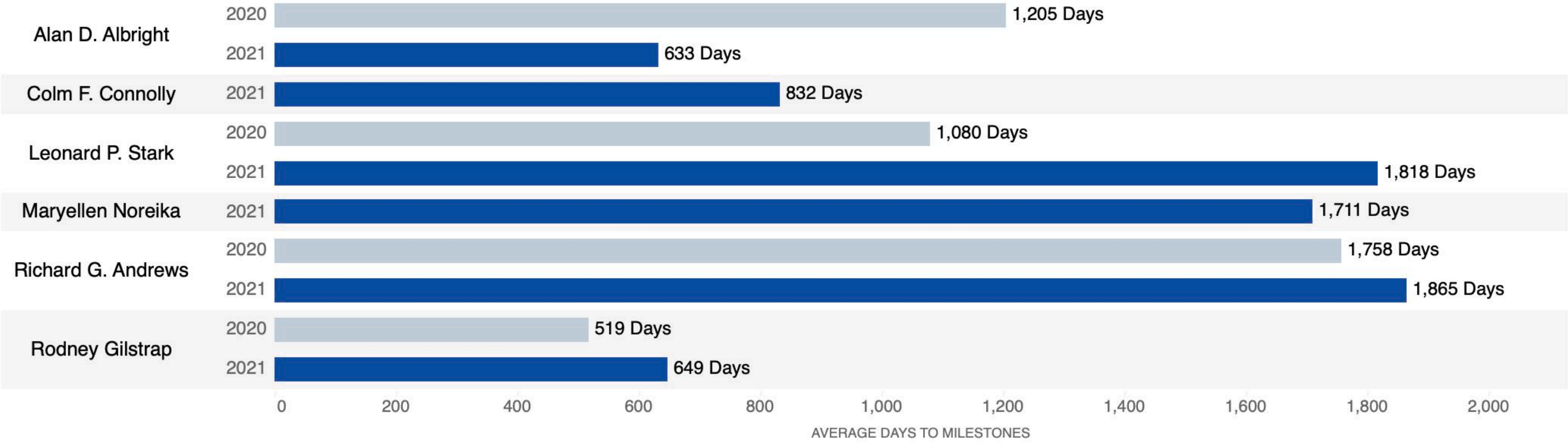
Motions for Summary Judgment (MSJs) arrived more quickly in Judge Albright's cases in 2021. Such motions are still relatively rare, however. In contrast, MSJs were seen much later in cases before Judge Stark. This average is skewed by a pair of rulings that occurred in a 15-year-long litigation.

Judge Noreika notably did not see any Patentee MSJs in 2020, but her time to these decisions was similar to Judge Stark's in 2021.

MORE MILESTONES

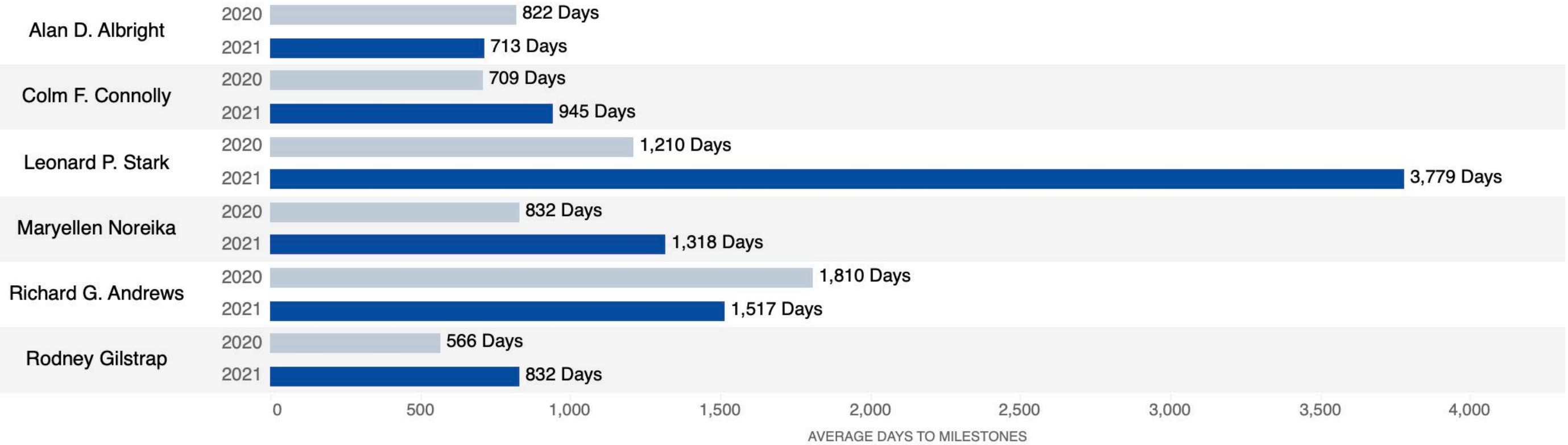
MOTIONS FILED BY PATENTEE

This chart shows the average number of days from case filing to a decision or recommendation on a Motion for Summary Judgment (MSJ) by district court judges.



MOTIONS FILED BY PATENT CHALLENGER

This chart shows the average number of days from case filing to a decision or recommendation on a Motion for Summary Judgment (MSJ) by district court judges.



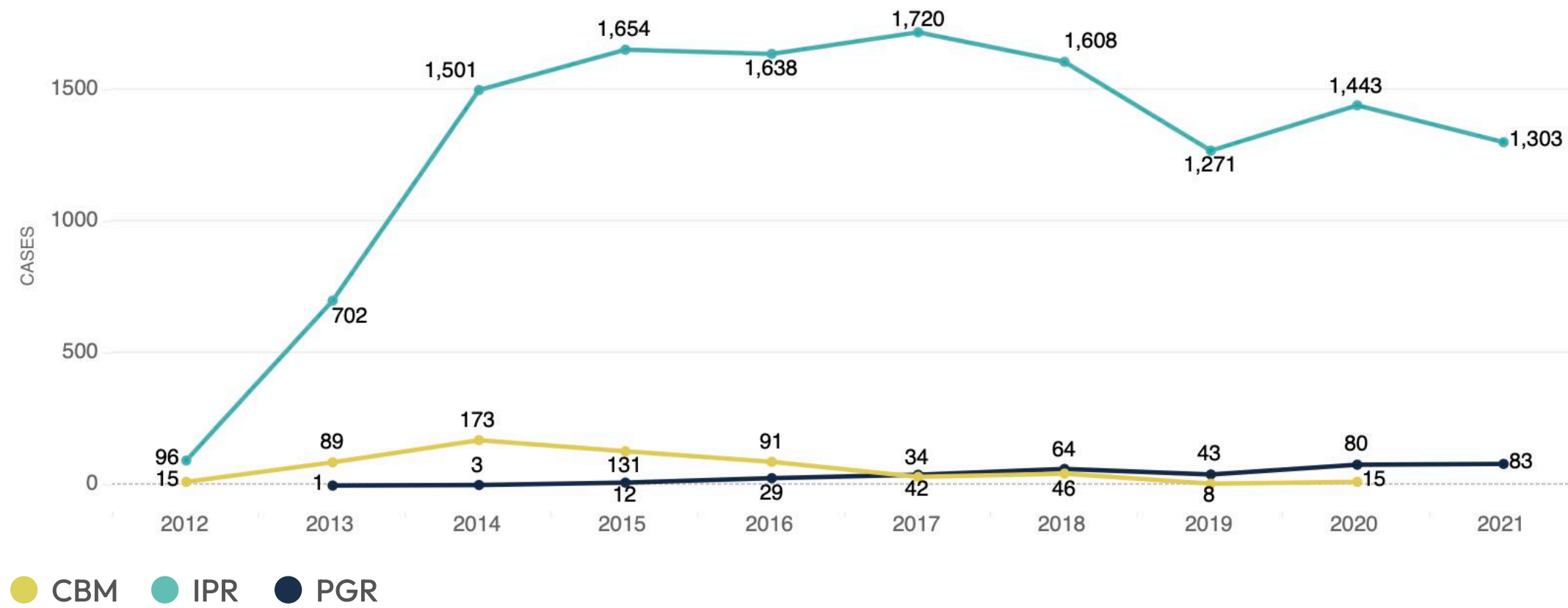
Inside the Patent Trial and Appeals Board

The number of PTAB petitions decreased in 2021 to nearly the same low as 2019. The PTAB nevertheless remains a popular forum for patent disputes. While fewer claim determinations were made in 2021 compared to past years, a slightly larger proportion of claims were determined unpatentable than in 2020.

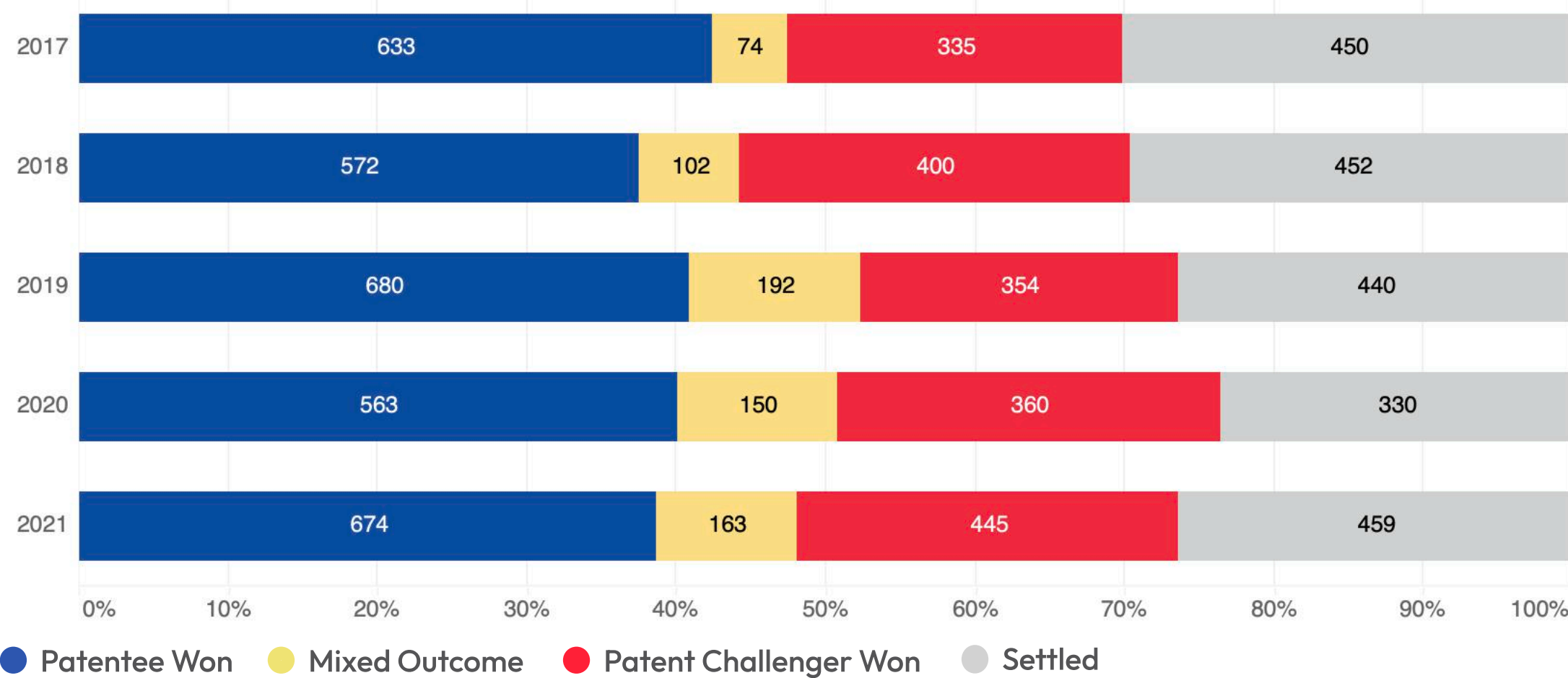
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NEW PTAB PETITIONS BY YEAR

These charts show the number of new IPR, CBM, and PGR petitions filed in the Patent & Trademark Appeals Board (PTAB) by year.

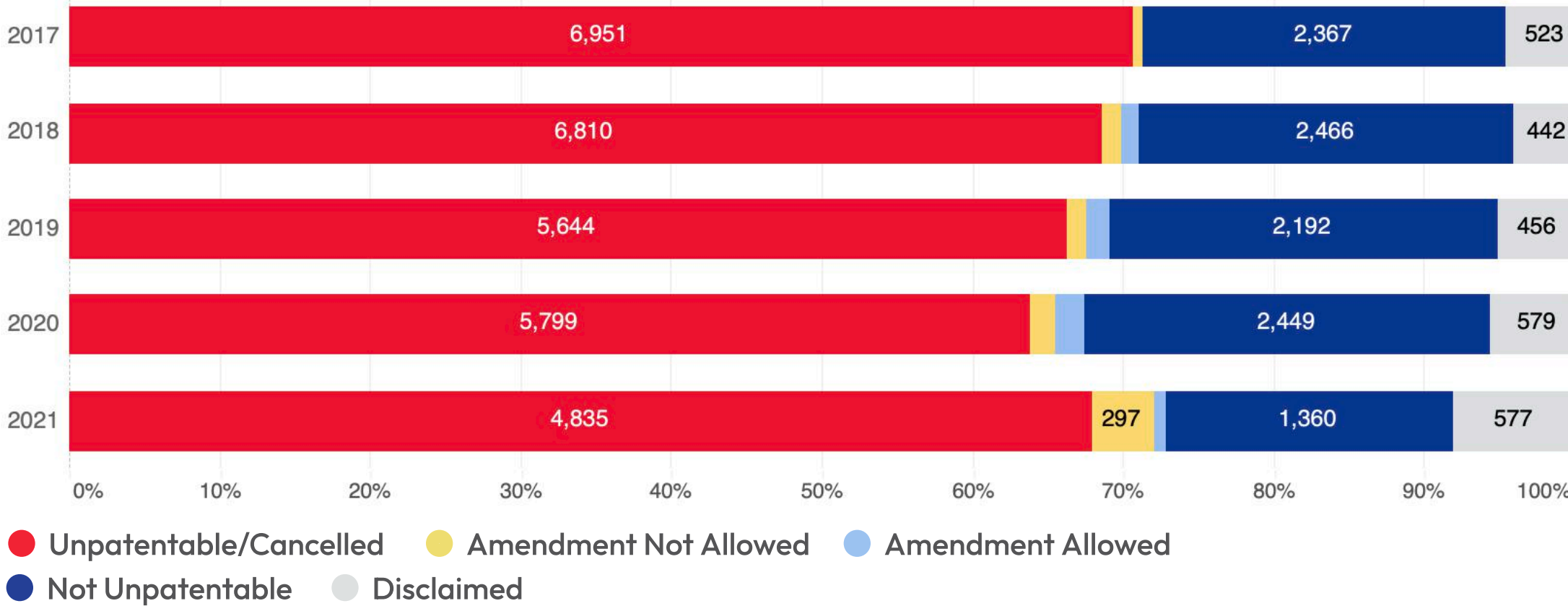


PTAB OUTCOMES



DETERMINATIONS OF PATENT CLAIMS IN FINAL WRITTEN DECISIONS

This chart shows the number of claims deemed unpatentable or not unpatentable in IPR, CBM or PGR Final Written Decisions over the past six years.



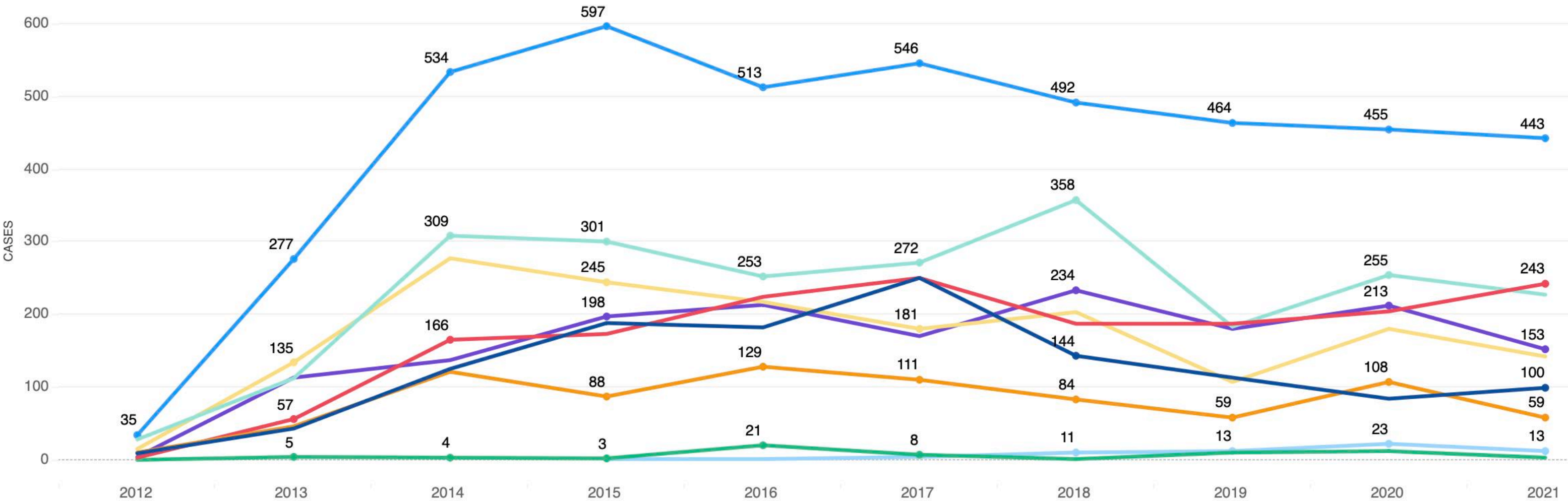
PTAB Petitions by Technology Code

Despite an overall decrease in the number of new petitions, 2400 Networking patents petitioned increased in 2021. Computers/Communication continues to be the most common technology center of petitioned patents, a trend that tracks closely with overall patent litigation numbers.

NEW PTAB PETITIONS BY TECHNOLOGY CODE

This chart shows the number of IPR, CBM and PGR petitions by Tech Code that were filed in the PTAB each year. Each Tech Code is represented by a different color. Tech Code 2700 (Communications and Information Systems) has been joined with Tech Codes 2100 (Computer Architecture and Software) and 2600 (Communications). For purposes of this chart, the joined colored bar includes all three.

- 1600 Biotechnology & Organic Chemistry
- 1700 Chemical & Materials Engineering
- 2400 Networking, Multiplexing, Cable
- 2800 Semiconductors/Memory, Circuits
- 2900 Design
- 3600 Transportation, Construction, Ele..
- 3700 Mechanical Engineering, Manufacturing
- Computers, Communication, & e-commerce
- Unclassified/Unknown



Obviousness Grounds (35 U.S.C. § 103)

§ 103 institution success rates were similar in 2021 to previous years. After a decline in the number of such challenges in 2020, 2021 saw obviousness challenges return to roughly the overall average in terms of both amount and success rate.

INSTITUTIONS OF CLAIMS CHALLENGED ON OBVIOUSNESS GROUNDS (35 U.S.C. § 103)

This chart shows the results of PTAB Institution decisions for individual patent claims challenged in a PTAB petition on obviousness (35 U.S.C. § 103) grounds. Bars above the midline show the number of claims in which review was granted while bars below the midline show the number of claims in which review was denied.

Net Grants/Denials: Net Grants/Denials are visualized with a bar. When the Net Grants/Denials line appears above the midline, it means more claims were granted institution of review than denied that year. When the shaded bar appears below the midline, it means more claims were denied institution than granted that year, and its size measures the difference.



2021 Top PTAB Patent Owners by Number of Proceedings

Parties
WSOU Investments, LLC d/b/a Brazos Licensing and Development
Telefonaktiebolaget LM Ericsson (30)
ACQIS LLC (26)
Lynk Labs, Inc. (23)
Express Mobile, Inc. (19)
Centripetal Networks, Inc. (17)
BTL Healthcare Technologies AS (16)
AMO Development, LLC (16)
US Well Services, LLC (15)
StratosAudio, Inc. (15)
Palo Alto Research Center Inc. (13)
United Services Automobile Association (12)
Koss Corporation (12)
Koninklijke Philips NV f/k/a Koninklijke Philips Electronics NV (12)
Teladoc Health, Inc. (11)
Gesture Technology Partners, LLC (11)
Scramoge Technology Ltd. (10)
Ravgen, Inc. (10)
Nant Holdings IP, LLC (10)
Jenam Tech, LLC (10)
Bright Data Ltd. (10)
Stragent, LLC (9)
Staton Techiya, LLC (9)
Scorpcast, LLC d/b/a HaulStars (9)
RFCyber Corp. (9)
Regeneron Pharmaceuticals, Inc. (9)
Proven Networks, LLC (9)
Power2B, Inc. (9)
Koolbridge Solar, Inc. (9)
HD Silicon Solutions LLC (9)
Commvault Systems, Inc. (9)
AGIS Software Development LLC (9)

Firms
Lowenstein & Weatherwax (53)
Russ August & Kabat (44)
K&L Gates (42)
McKool Smith (37)
Devlin Law Firm (37)
Irell & Manella (36)
Etheridge Law Group (33)
Ascenda Law Group (32)
Sterne Kessler Goldstein & Fox (31)
Quinn Emanuel Urquhart & Sullivan (28)
Kramer Levin Naftalis & Frankel (26)
Fish & Richardson (25)
Fabricant (25)
Williams Simons & Landis (24)
Nelson Bumgardner Conroy (22)
Latham & Watkins (22)
Haynes and Boone (22)
Dorsey & Whitney (19)
Finnegan Henderson Farabow Garrett & Dunner (18)
Duane Morris (18)
Desmarais (18)
Banner & Witcoff (18)
Venable (17)
White & Case (16)
Carter Arnett (16)
Sheridan Ross (15)
Patterson + Sheridan (15)
Williams & Connolly (14)
Foley & Lardner (14)
Feinberg Day Kramer Alberti Lim Tonkovich & Belloli (13)
Adsero IP (13)
Wolf Greenfield & Sacks (12)

Attorneys
Bridget A Smith (42)
Timothy Devlin (37)
Reza Mirzaie (37)
Kenneth J Weatherwax (37)
Ryan S Loveless (33)
Patrick Gabriel Maloney (33)
Jeffrey Huang (33)
James L Etheridge (33)
Brian M Koide (33)
Brett A Mangrum (33)
Tarek N Fahmi (32)
Parham Hendifar (32)
Jeffrey A Stephens (32)
Nathan N Lowenstein (30)
Katherine L Allor (30)
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James R Hannah (26)
Vincent J Rubino, III (25)
Peter Lambrianakos (25)
Erik J Halverson (25)
Todd E Landis (24)
John Wittenzellner (24)
Jason G Sheasby (24)
Enrique W Iturralde (24)
Jonathan M Strang (21)
Jonathan Tsao (20)
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Mark A Miller (19)
Flavio M Rose (19)
Dennis A Majewski (19)
Theodoros Konstantakopoulos (18)

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PTAB Continues Streak of IPR Denials

US Patent Trial and Appeal Board (PTAB) institution denials for inter partes review (“IPR”) and other post-grant review petitions have steadily risen...

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2021 Top PTAB Petitioners by Number of Proceedings

Parties

Samsung Electronics Co., Ltd. (128)
Apple Inc. (71)
Samsung Electronics America, Inc. (58)
Google LLC (54)
Intel Corporation (32)
Unified Patents, LLC (24)
Microsoft Corporation (23)
Palo Alto Networks, Inc. (19)
Meta Platforms, Inc. f/k/a Facebook, Inc. (17)
TCT Mobile (US) Inc. (16)
Lumenis Be Ltd. (16)
Alcon, Inc. (16)
Alcon Vision, LLC (16)
Alcon Research, LLC (16)
Alcon Lensx, Inc. (16)
Alcon Laboratories, Inc. (16)
ZTE Corporation (15)
ZTE (USA) Inc. (15)
Juniper Networks, Inc. (15)
Halliburton Energy Services, Inc. (15)
TCT Mobile (US) Holdings, Inc. (14)
RJ Reynolds Vapor Co. (14)
Dell Inc. (14)
Cisco Systems, Inc. (14)
Roku, Inc. (13)
PNC Bank, NA f/k/a BBVA USA (12)
Hewlett Packard Enterprise Co. (12)
Dell Technologies Inc. (12)
Volkswagen Group of America, Inc. (11)
TCT Mobile, Inc. (11)
TCL Communication Technology Holdings Limited (11)
American Well Corporation (11)

Firms

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Paul Hastings (63)
Finnegan Henderson Farabow Garrett & Dunner (61)
Baker Botts (55)
DLA Piper (54)
Ropes & Gray (52)
Kirkland & Ellis (51)
Perkins Coie (47)
Haynes and Boone (41)
Quinn Emanuel Urquhart & Sullivan (38)
Wilmer Cutler Pickering Hale and Dorr (36)
Jones Day (36)
Latham & Watkins (32)
Cooley (32)
Alston & Bird (28)
O'Melveny & Myers (27)
Erise IP (26)
Orrick Herrington & Sutcliffe (25)
Greenberg Traurig (25)
Unified Patents, LLC (24)
Sterne Kessler Goldstein & Fox (23)
Winston & Strawn (22)
Goodwin Procter (22)
Sheppard Mullin Richter & Hampton (21)
Knobbe Martens Olson & Bear (19)
K&L Gates (18)
Desmarais (18)
Banner & Witcoff (18)
Arnold & Porter Kaye Scholer (17)
Venable (15)
Sidley Austin (14)
King & Spalding (13)

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W Karl Renner (70)
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Joseph E Palys (48)
Matthew W Johnson (35)
James L Davis, Jr. (32)
Kim H Leung (29)
Jeremy J Monaldo (29)
James M Glass (28)
David B Cochran (28)
Todd M Friedman (25)
Jonathan M Strang (25)
David L Cavanaugh (25)
Chad C Walters (25)
Bao T Nguyen (25)
W Todd Baker (24)
Jon R Carter (24)
Heidi L Keefe (24)
Eliot D Williams (23)
David L McCombs (22)
Mark R Weinstein (21)
Ryan K Yagura (20)
Roberto J Devoto (20)
Nicholas J Whilt (20)
Cory C Bell (20)
Arvind Jairam (20)
Phillip W Citroen (19)
David L Holt (19)
Adam P Seitz (19)
Yung-Hoon Sam Ha (18)
Kenneth W Darby (18)
John R Hutchins (18)

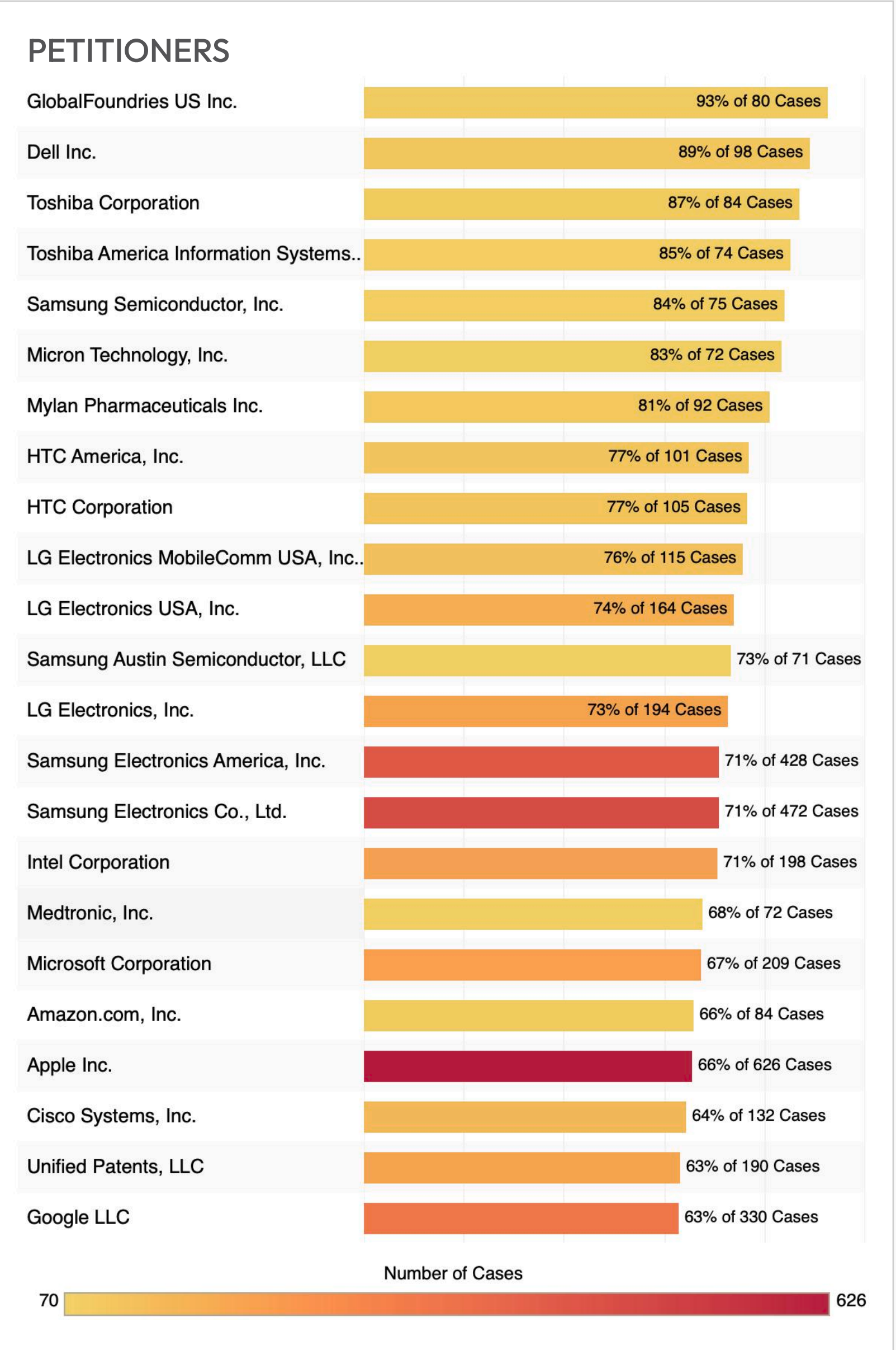
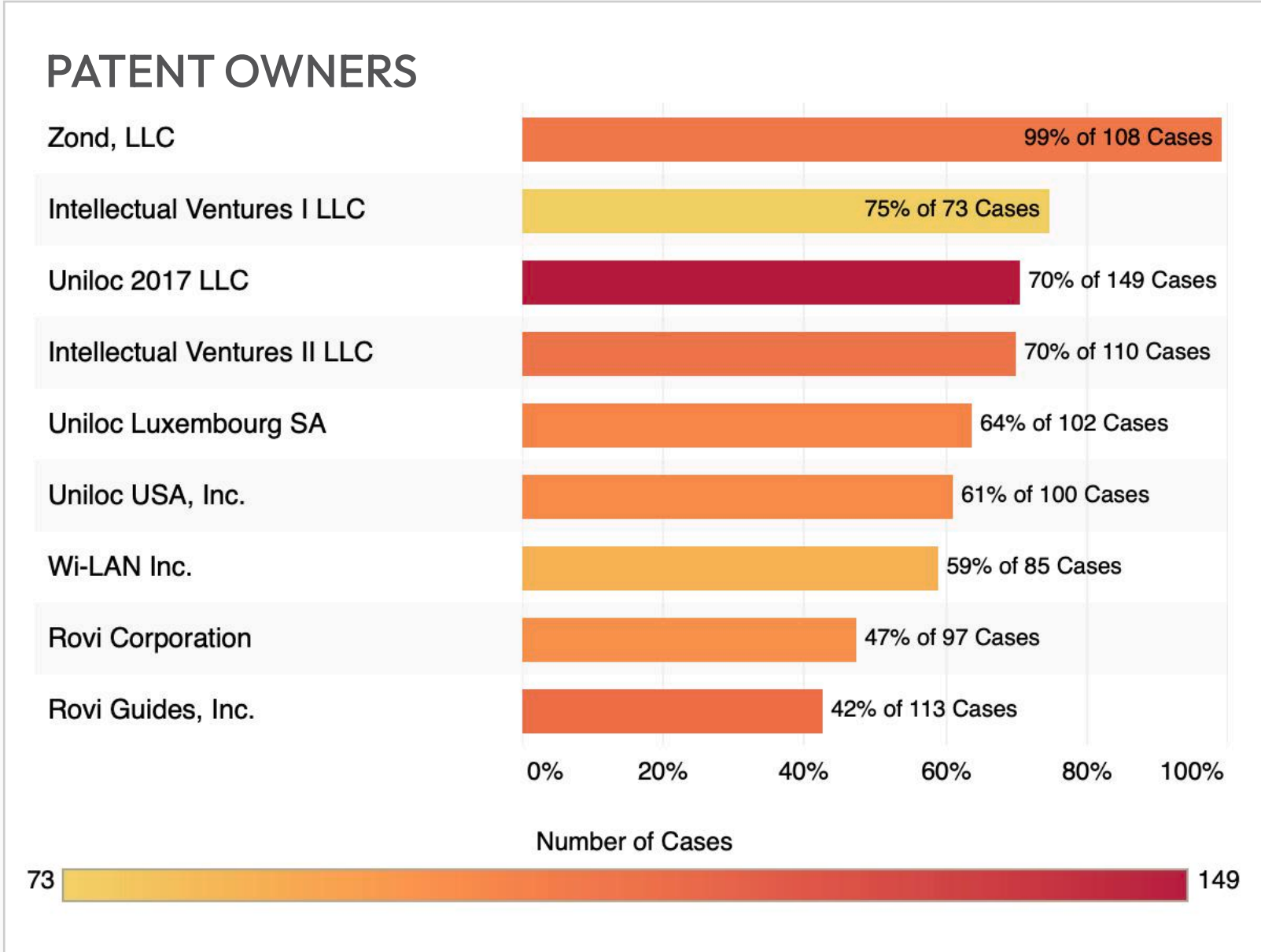
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Top Parties by PTAB Institution Success Rate

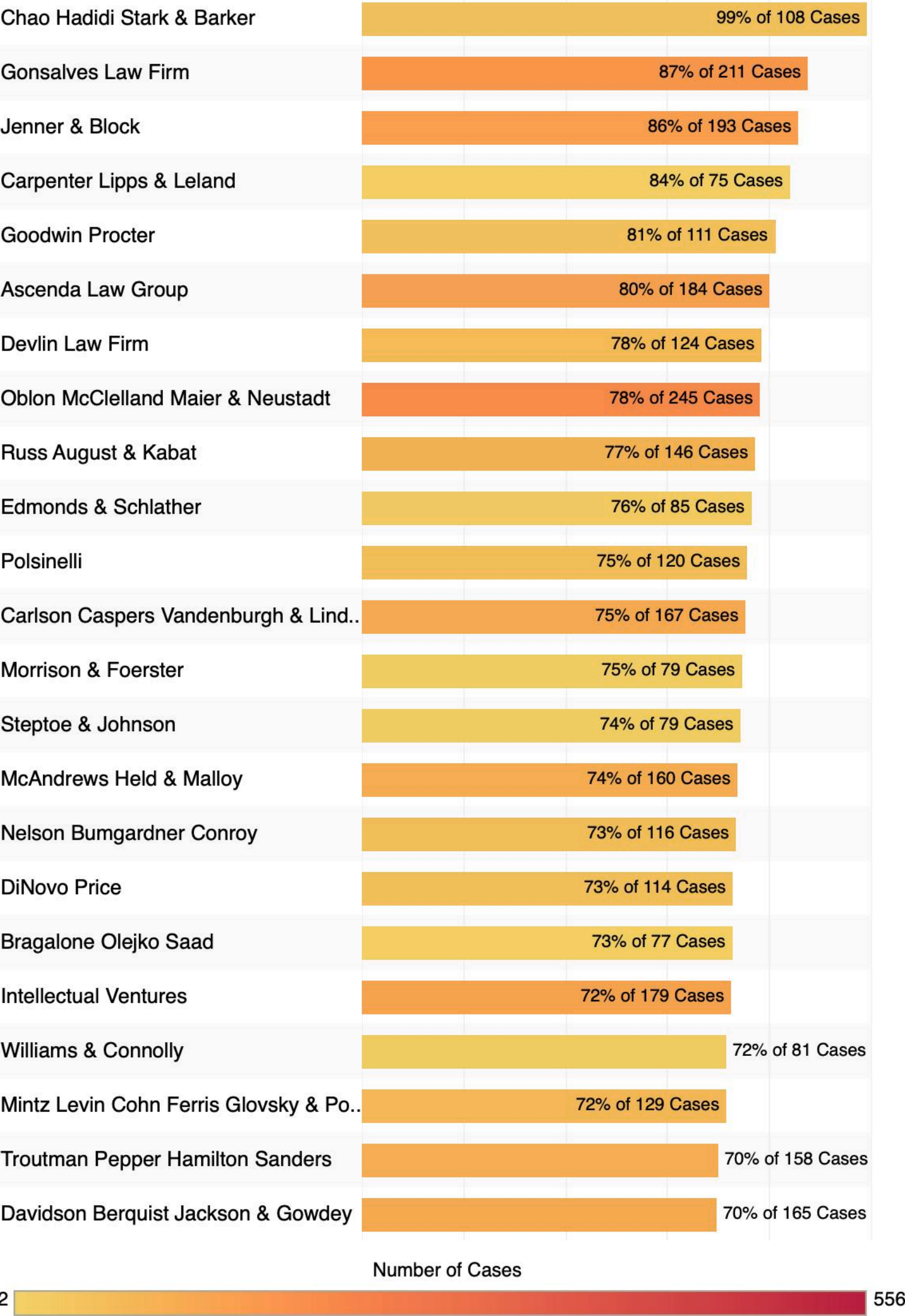
These charts show the institution success rates for Petitioners and Patent Owners who have seen more than 70 petitions in any type of PTAB Proceeding since 2012. GlobalFoundries and Dell have the highest proportion of granted institutions of any such petitioner. Among Patent Owners, Rovi Guides patents were most difficult to successfully challenge.



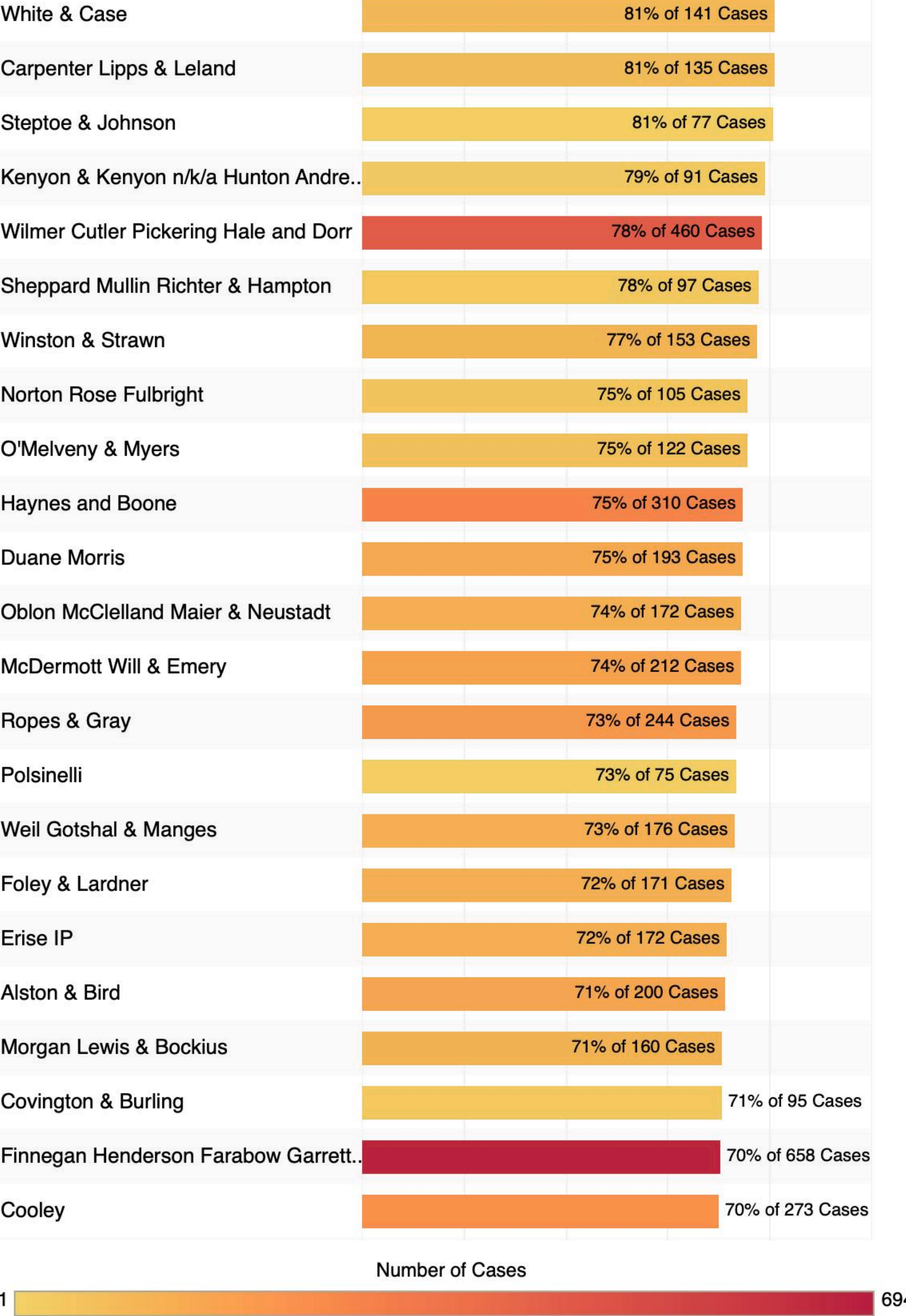
Top Firms by PTAB Institution Success Rate

These charts show the institution success rates for firms representing Petitioners and Patent Owners. Only those with more than 70 petitions in any type of PTAB Proceeding since 2012 are shown, and only the most successful firms in either category are listed. In other words, all firms shown significantly outperformed their peers.

PATENT OWNERS



PETITIONERS



Local Counsel in U.S. District Courts

Local counsel are commonplace in complex patent litigation, providing insight to litigants in the form of local customs, legal culture, and the practices and preferences of the judges in a given jurisdiction.

Docket Navigator defines Local Counsel as a firm that appeared in at least 100 cases in a single state and has a 5-1 ratio of cases in that state versus all other forums.

VIEW THE COMPLETE LIST

TOP LOCAL COUNSEL IN U.S. DISTRICT COURTS BY NUMBER OF CASES

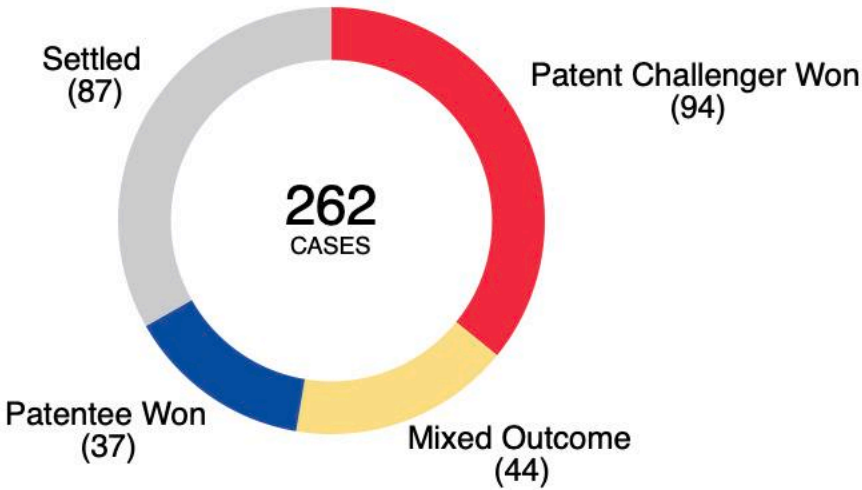
Firms	Attorneys
Chong Law Firm (318)	Jimmy Chong (318)
Gawthrop Greenwood (149)	David W deBruin (149)
The Mort Law Firm (94)	Raymond W Mort, III (94)
Ward Smith & Hill (79)	Stephen M Lobbin (62)
SML Avvocati (62)	Andrea L Fair (53)
Greer Burns & Crain (50)	Justin R Gaudio (47)
The Stafford Davis Firm (45)	Stafford Davis (45)
Antonelli Harrington & Thompson (44)	Catherine Bartles (45)
Farnan (38)	Zachariah S Harrington (44)
O’Kelly Ernst & Joyce (35)	Larry D Thompson, Jr. (44)
Porter Hedges (34)	Christopher Ryan Pinckney (43)
Parker Bunt & Ainsworth (32)	Matthew J Antonelli (42)
Capshaw DeRieux (27)	Claire Abernathy Henry (41)
Ashby & Geddes (26)	Amy C Ziegler (39)
Gillam & Smith (21)	Brian E Farnan (38)
Young Conaway Stargatt & Taylor (17)	Michael J Farnan (37)
Steckler Wayne Cochran Cherry (17)	Jake M Christensen (37)
Davis Firm (17)	T John Ward, Jr. (36)
Bayard (15)	George Pazuniak (36)
Walsh Pizzi O'Reilly Falanga (14)	Erick S Robinson (29)
Richards Layton & Finger (13)	Thomas J Juettner (27)
Shaw Keller (10)	Elizabeth L DeRieux (27)
Scheef & Stone (10)	Robert Christopher Bunt (26)
Ramey & Flock (9)	Andrew C Mayo (26)
Findlay Craft (9)	Charles Ainsworth (25)
Potter Anderson & Corroon (7)	Charles Everingham, IV (23)
Mann Tindel Thompson (7)	Martin F Trainor (22)
The Dacus Firm (6)	J Wesley Hill (22)
Siebman Law (6)	Melissa R Smith (21)
Heyman Enerio Gattuso & Hirzel (6)	Steven J Balick (20)
Smith Katzenstein & Jenkins (5)	William E Davis, III (17)
Robinson Miller (5)	Mark D Siegmund (16)
Gray Reed & McGraw (5)	Ronald P Golden, III (15)
Prickett Jones & Elliott (4)	Rehan M Safiullah (15)
Wilson Robertson & Cornelius (3)	Liza M Walsh (14)
Weide & Miller (3)	Christian J Hurt (14)
Shelton Coburn (3)	Stephen B Brauerman (13)
Scott Douglass & McConnico (3)	William T Walsh, Jr. (12)
Saiber (3)	S Calvin Capshaw (11)

Inside the International Trade Commission

In sharp contrast to USDC trends, case outcomes in the ITC generally favor Patentees. The types of patents litigated in the ITC vary from year-to-year. Semiconductor/Memory patents have been the most commonly litigated patent in the ITC since 2018, with that number increasing again in 2021.

OUTCOMES OF ITC INVESTIGATIONS

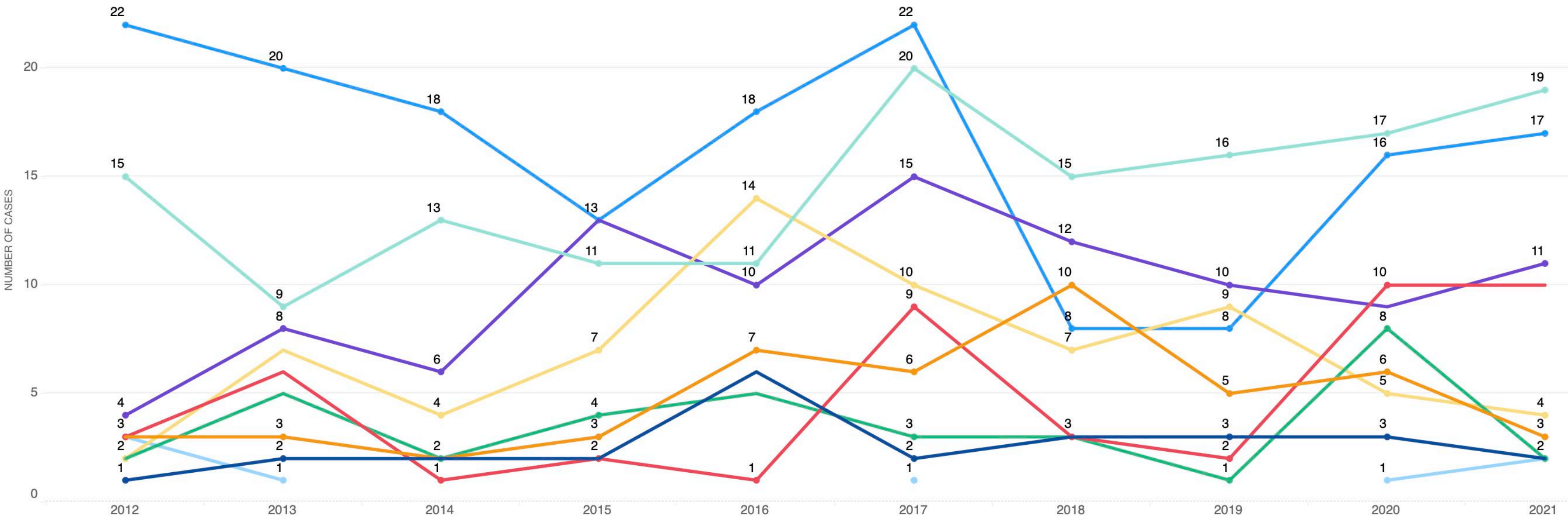
This chart shows Outcomes of ITC Patent Cases. Accusations ending in settlement or transfer are excluded. Only investigations that began in October 2016 or later are shown. See our Official Scope to view the current date range that our Outcomes data covers.



TECHNOLOGY CENTERS OF ITC INVESTIGATIONS

This chart shows the number of new ITC Investigations each year according to the Patent Technology Centers of the patents litigated. Patents with classifications that fit multiple tech center categories count toward all relevant totals in that year.

- 1600 Biotechnology & Organic Chemistry
- 1700 Chemical & Materials Engineering
- 2400 Networking, Multiplexing, Cable
- 2800 Semiconductors/Memory, Circuits
- 2900 Design
- 3600 Transportation, Construction, Ele..
- 3700 Mechanical Engineering, Manufacturing
- Computers, Communication, & e-commerce
- Unclassified/Unknown



New Federal Circuit Data

We're extremely proud to announce our new Patent Appeals coverage! We've spent the last two years developing an extremely granular approach to representing and classifying CAFC data, painstakingly connecting underlying cases, patents, and rulings to their now-processed appellate counterparts.

For each appeal, our attorney editors flag all of the lower tribunal decisions and associated data being challenged on appeal and then layer in appellate status and outcomes as they occur. This includes: orders, remedies, determinations, and claim constructions.

LEARN MORE ABOUT PATENT APPEALS

January 26, 2022

Patent Appeals Report

Notices of Appeal

Biodelivery Sciences International, Inc. v. Alvogen PB Research & Development LLC

22-1394

January 25, 2022

DDE

Appealed From: [BioDelivery Sciences International, Incorporated et al v. Alvogen PB Research & Development LLC et al](#)
1-18-cv-01395

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Significant Decisions

Apple Inc. v. MPH Technologies Oy

21-1387

January 25, 2022



PTAB

Appealed From: [Apple Inc. v. MPH Technologies Oy](#)
IPR2019-00821

PATENTS AT ISSUE	8037302 - Method and system for ensuring secure forwarding of messages PTAB Determination: Not unpatentable CAFC Ruling: Affirmed
JUDGE JOHN D. HAMANN DECISIONS BEING APPEALED	PTAB Final Written Decision -- Patentability of Challenged Claims Legal Concepts: Comparing Claims & Prior Art (Obviousness) CAFC Ruling: Affirmed
CHALLENGED CONSTRUED TERMS	8037302 - establishing a first secure connection PTAB Definition: forming or creating a new secure connection CAFC Ruling: Affirmed 8037302 - establishing a second secure connection PTAB Definition: forming or creating a new secure connection CAFC Ruling: Affirmed 8037302 - secure connection PTAB Definition: no express construction CAFC Ruling: Affirmed

CAFC Non-Precedential Opinion

Judge(s): **Alan D. Lourie**, Todd M. Hughes, Tiffany P. Cunningham

Legal Concepts:

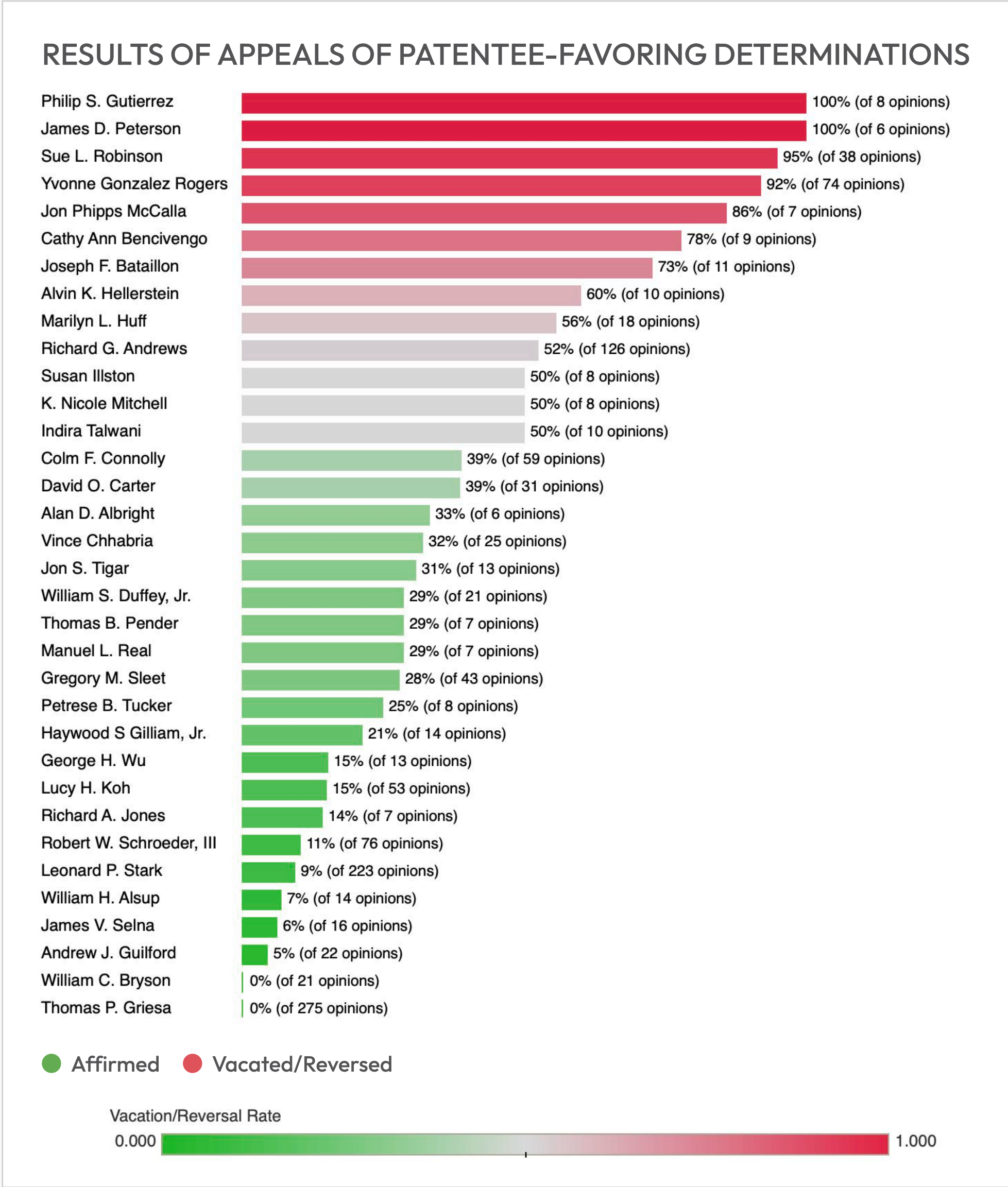
PTAB Exceeds Scope of Reply/Untimely
PTAB Claim Construction

On appeal, the Federal Circuit affirmed a final written decision finding claims of a patent directed to

Federal Circuit Outcomes for Patent Owners

This chart ranks judges in U.S. district courts by the reversal rates of their Patentee-favoring determinations (infringement, not invalid, not unenforceable), when appealed. Other types of appeal results, such as settlements, have been excluded, and only judges with at least 5 such appealed determinations are shown.

Mixed appeal results count as vacated/reversed for purposes of this chart.



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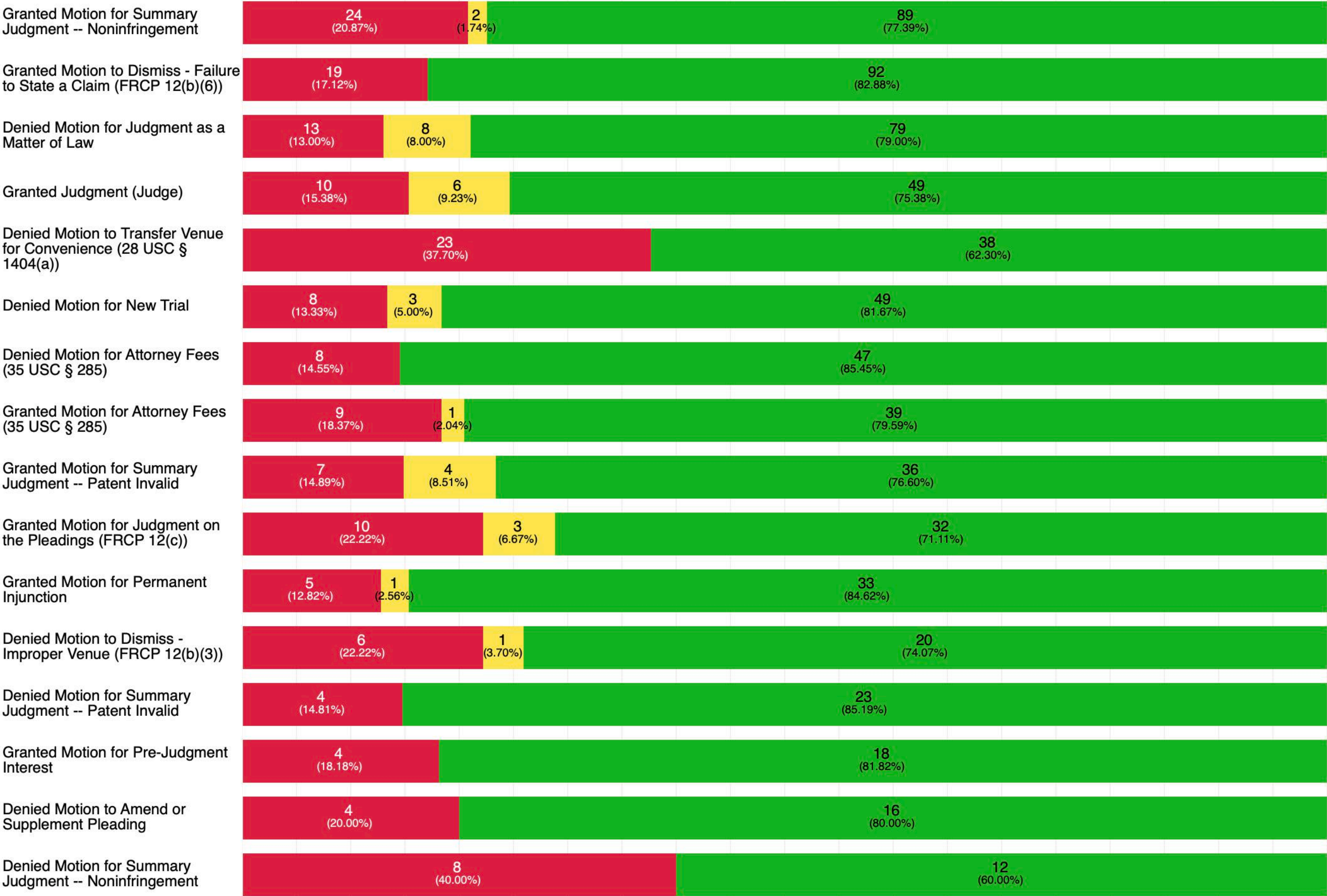
Federal Circuit Motion Success

This chart shows the affirmance and reversal rates of appeals of decisions on the most popular motion types, ranked by the number of such appeal results since 2018. Other types of results, such as settlements, are excluded. "Mixed" results also include instances where separate appeals proceedings had different outcomes on the same event.

Generally speaking, decisions on motions are more likely to be affirmed. Denied Motions to Transfer Venue for Convenience were vacated or reversed at a rate of nearly 40%, a statistic that is influenced by appeals of Judge Albright's orders.

RESULTS OF TOP MOTIONS IN THE CAFC

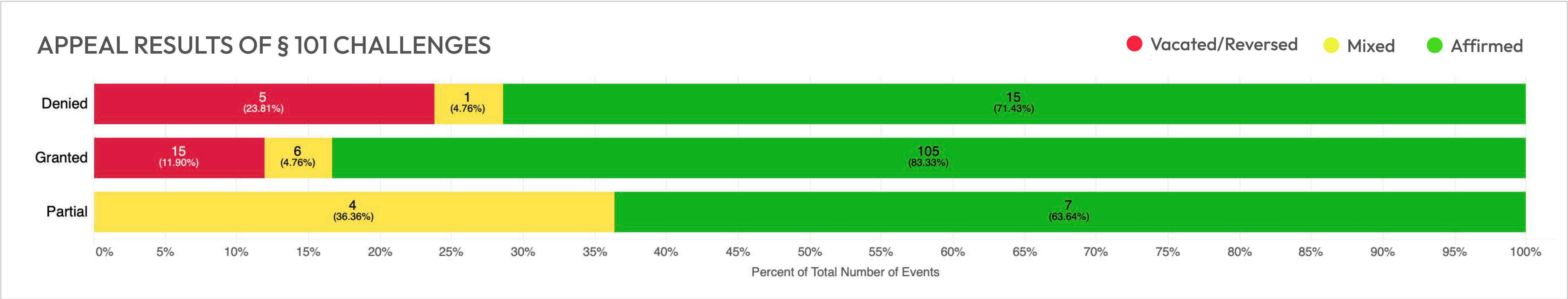
● Vacated/Reversed ● Mixed ● Affirmed



Outcomes of Appeals in District Court § 101 Challenges

This chart shows the appeal results of decisions on § 101 Challenges at any stage in U.S. district courts, including both Rule 12 motions and Motions for Summary Judgment. "Denied," "Granted," and "Partial" represent the original result of the challenge, while the colored segments of the bar show the appeal results of those events. Other outcomes, such as settlements, were excluded. Data includes only CAFC decisions made in 2018 or later.

Like most appeals, these were affirmed more often than they were vacated/reversed. Denied § 101 Challenges were more likely to be reversed on appeal than granted challenges.

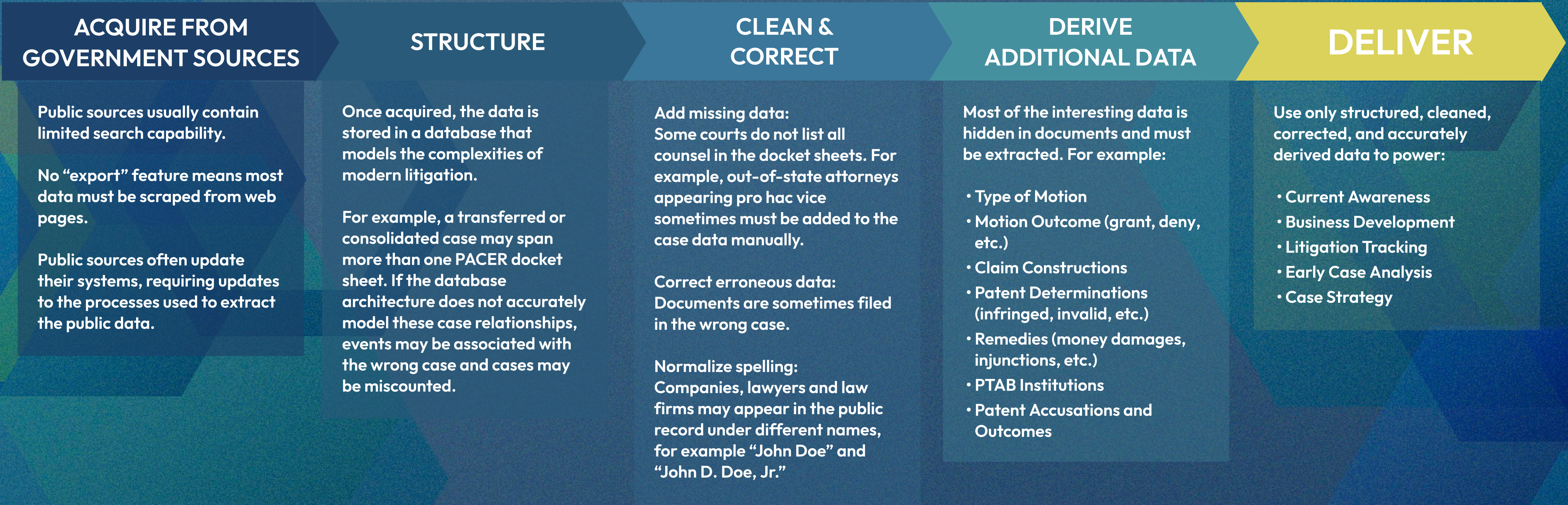


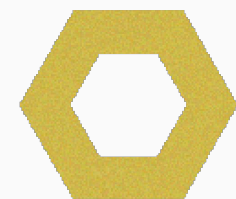
Our Methodology

Docket Navigator collects data from government sources, including PACER, USPTO databases, ITC EDIS, PTAB E2E, and the FDA. Our US-based editors clean, normalize, and correct the data by hand. The refined data is reviewed by U.S. attorneys who code, classify, and summarize the data, again by hand. We rely on automated processes only where they have been proven to consistently yield highly accurate results. Even then, the data is reviewed for accuracy. While we do not claim to be free from human error, our software engineers have developed a series of checks and safety nets to identify

gaps or inconsistencies in our data. Additionally, most of the data used to create this report was first published in the Docket Report and vetted by nearly 16,000 patent professionals who subscribe to Docket Navigator. The underlying data is available to Docket Navigator subscribers for independent review and analysis via our publicly available database.

For a complete description, visit our [Scope of Data](#) page.





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