

UNITED STATES
PATENT AND TRADEMARK OFFICE



A faint, light gray technical drawing of a mechanical assembly is visible in the background. It features various parts with callout numbers such as 40, 86, 84, 82, 56, 62, 58, 8, 38, 42, 54, 46, 64, 340, and 66. The drawing is a cross-section or exploded view of a complex machine component.

Judicial Symposium on IP 2024: Patent Trial and Appeal Board (PTAB)

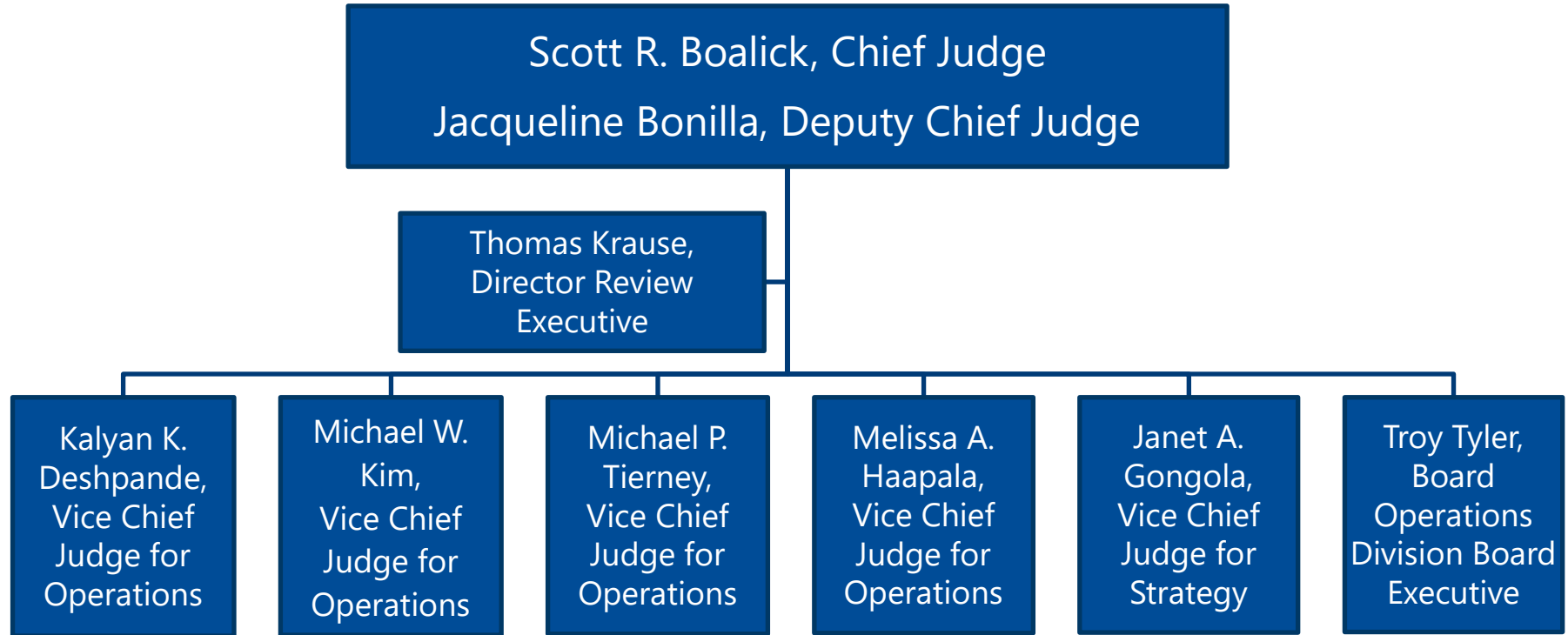
Scott Boalick, Chief Administrative Patent Judge



UNITED STATES
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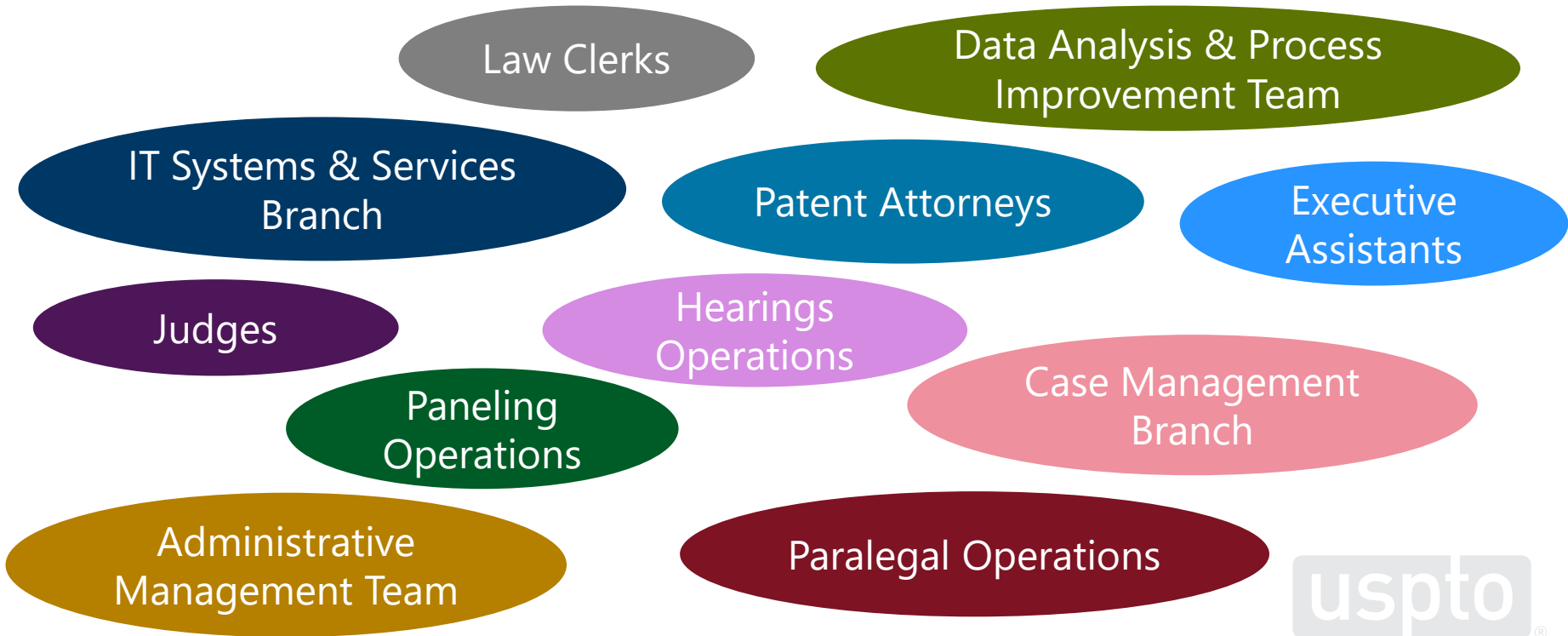
State of the Board

PTAB organizational structure



Patent Trial and Appeal Board (PTAB)

THE NUMBERS: ~350 members



FY2023 PTAB case load

- 5,845 filed cases
 - 4,606 *ex parte* appeals
 - 1,239 AIA petitions
- 6,287 issued decisions
 - 4,718 *ex parte* appeals; average pendency of 11.9 months
 - 1,061 AIA decisions on institution; average pendency of 2.7 months
 - 508 AIA Final Written Decisions; average pendency of 11.9 months



FY2023 hearings

- 868 hearings
 - 405 requests for public audio feed
- 264 in person hearings
 - 132 *ex parte* appeals
 - 132 AIA review hearings
- 604 remote hearings
 - 232 *ex parte* appeals
 - 372 AIA review hearings

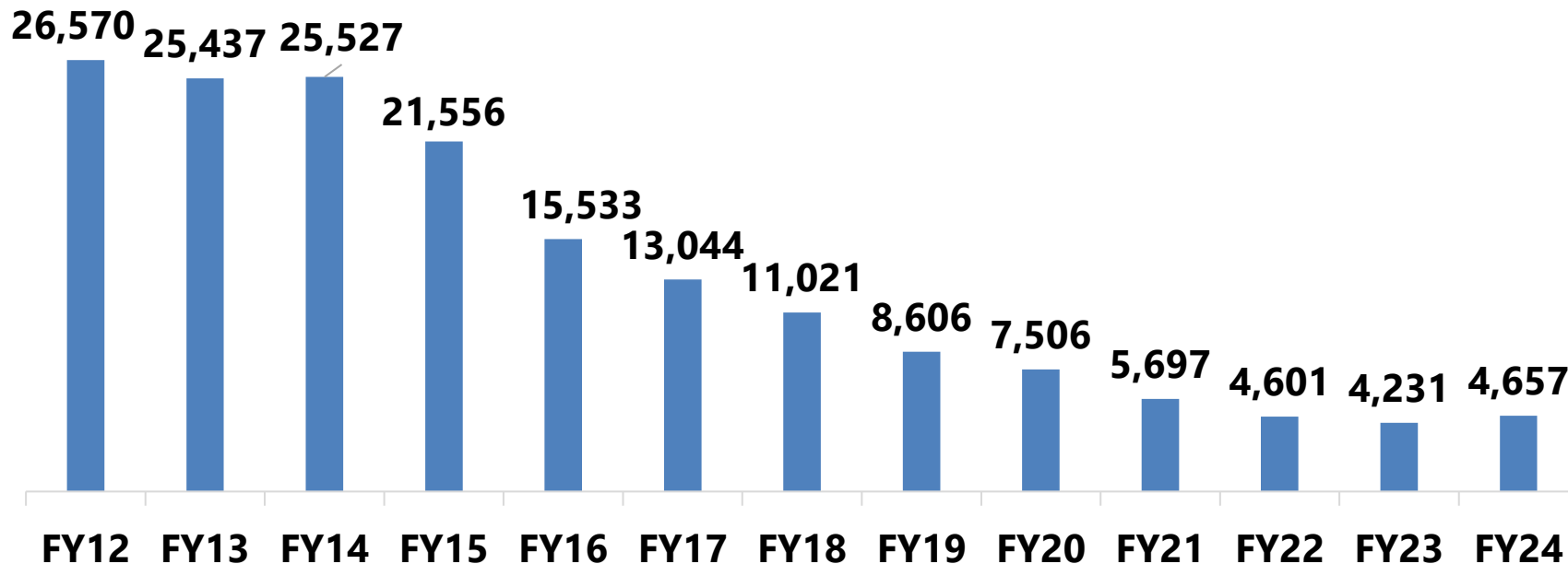


Sept. 30, 2012- Jul. 31, 2024

***Ex parte* appeal and interference statistics**

Pending appeals FY12 to FY24

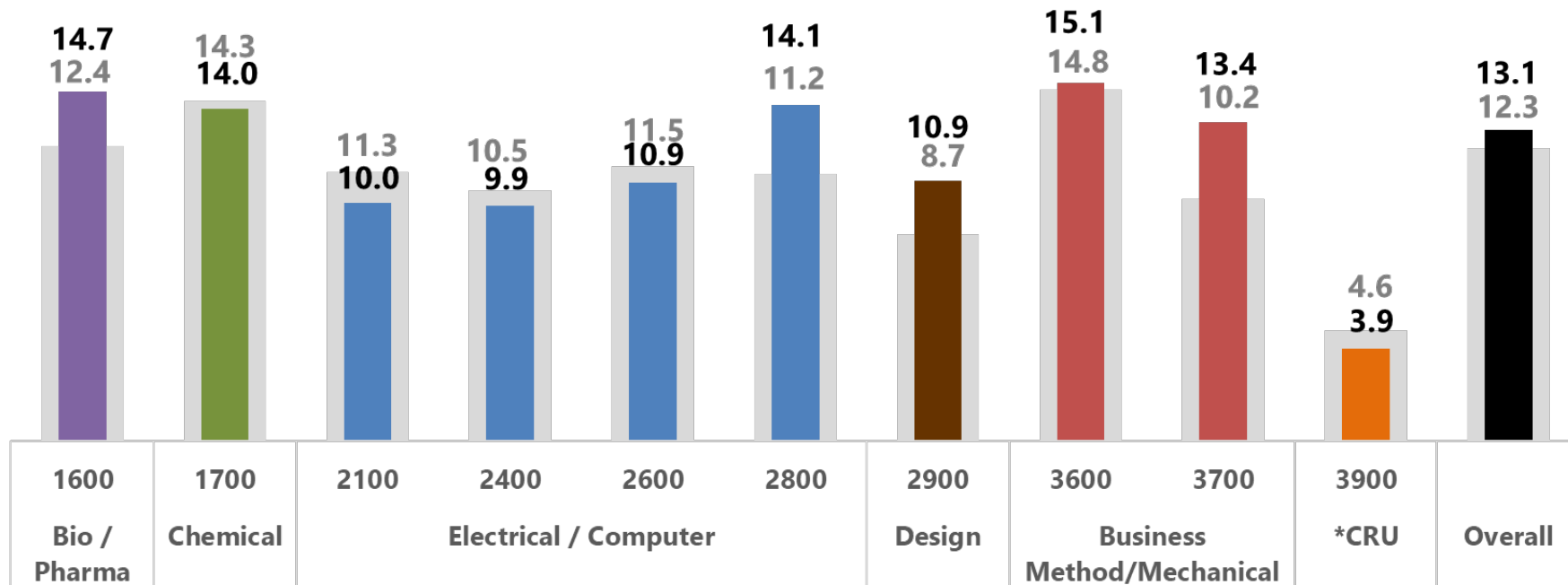
(Sept. 30, 2012 – Jul. 31, 2024)



Pendency of decided appeals

(May 2023 – Jul. 2023 compared to May 2024 – Jul. 2024)

■ FY23 ■ FY24



Pendency is calculated as average months from Board receipt date to final decision.

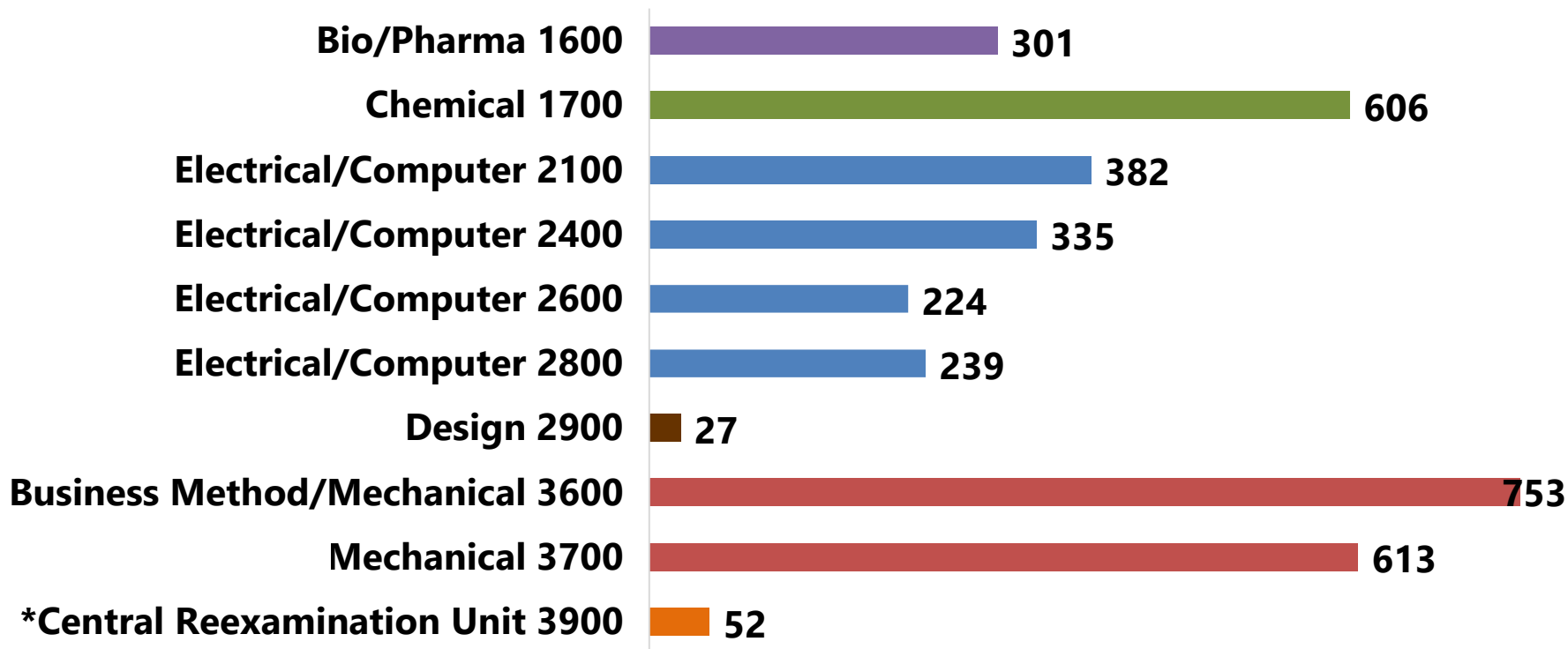
Pendency is calculated for a three month period compared to the same period the previous year.

*CRU (Central Reexamination Unit) decisions include *ex parte* reexams, *inter partes* reexam, supplemental examination review, and reissues from all technologies.



Appeal intake in FY24

(Oct. 1, 2023 – Jul. 31, 2024)

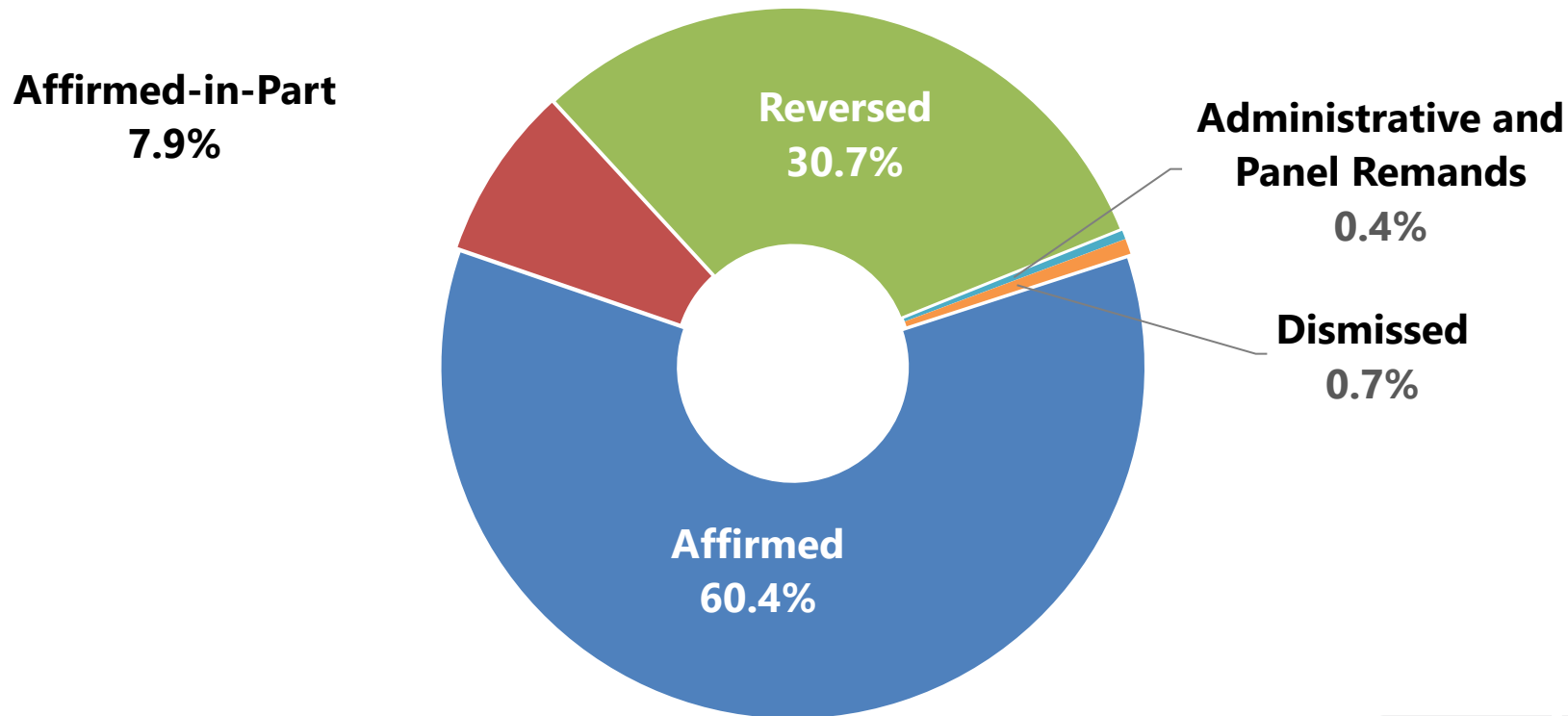


*The Central Reexamination Unit includes ex parte reexams, inter partes reexams, supplemental examination reviews and reissues from all technologies.



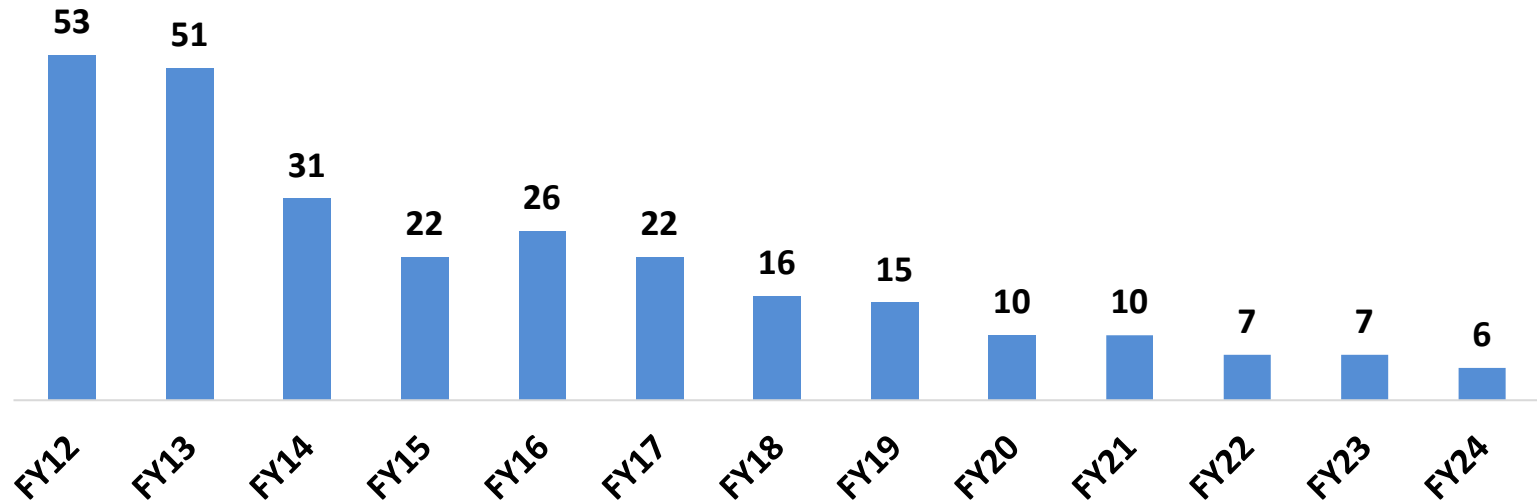
Appeal outcomes in FY24

(Oct. 1, 2023 – Jul. 31, 2024)



Interference inventory over time

(Sept. 30, 2012 – Jul. 31, 2024)

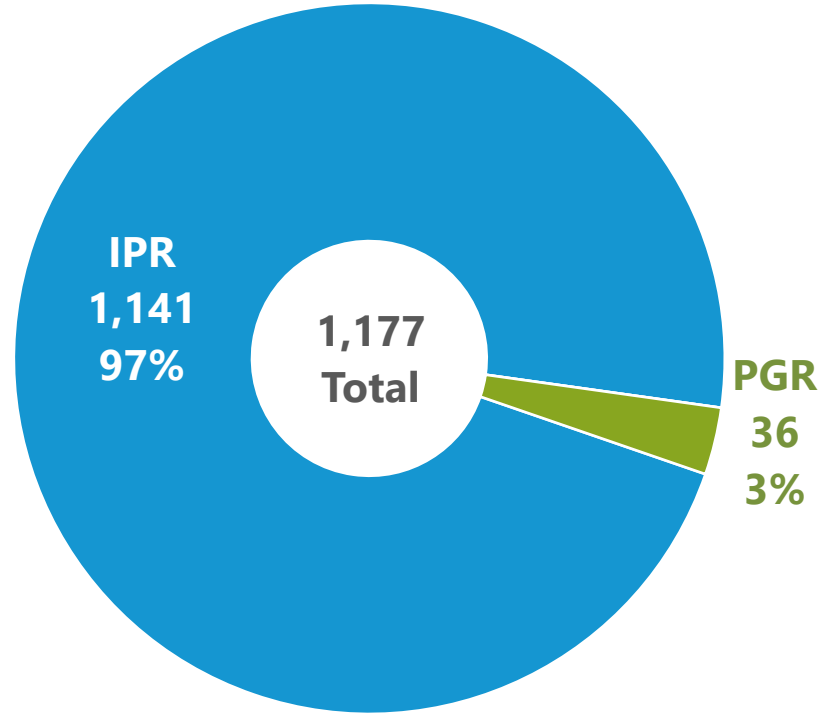


Sept. 30, 2012- Aug. 31, 2024

PTAB trial statistics

Petitions filed by trial type

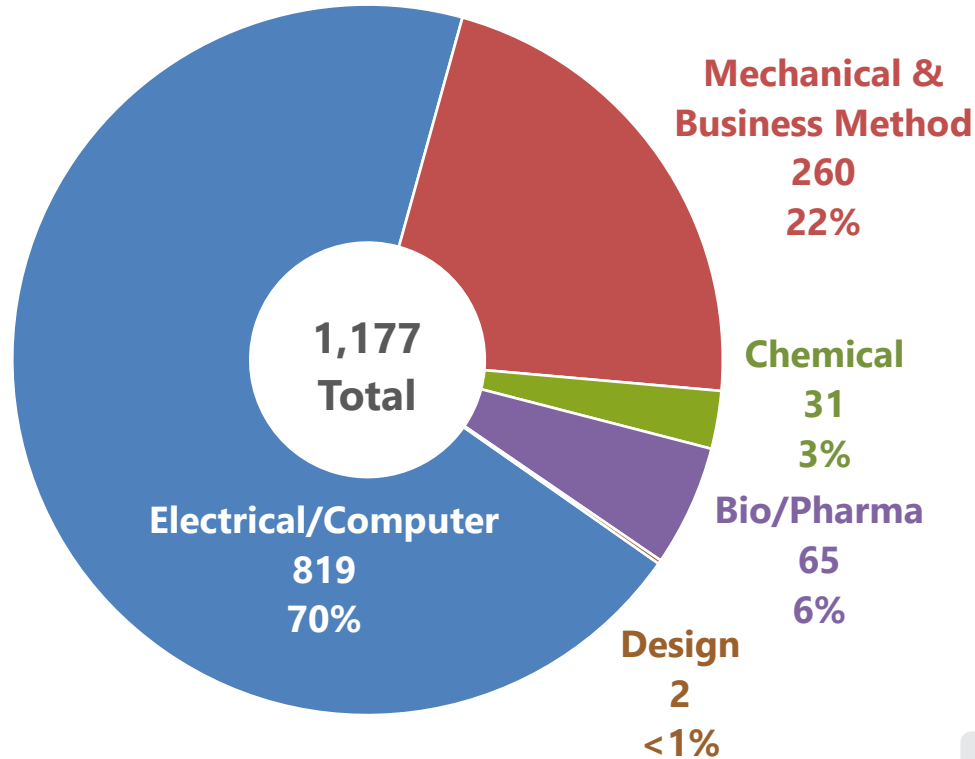
(FY24 through August: Oct. 1, 2023 to Aug. 31, 2024)



Trial types include Inter Partes Review (IPR) and Post Grant Review (PGR).

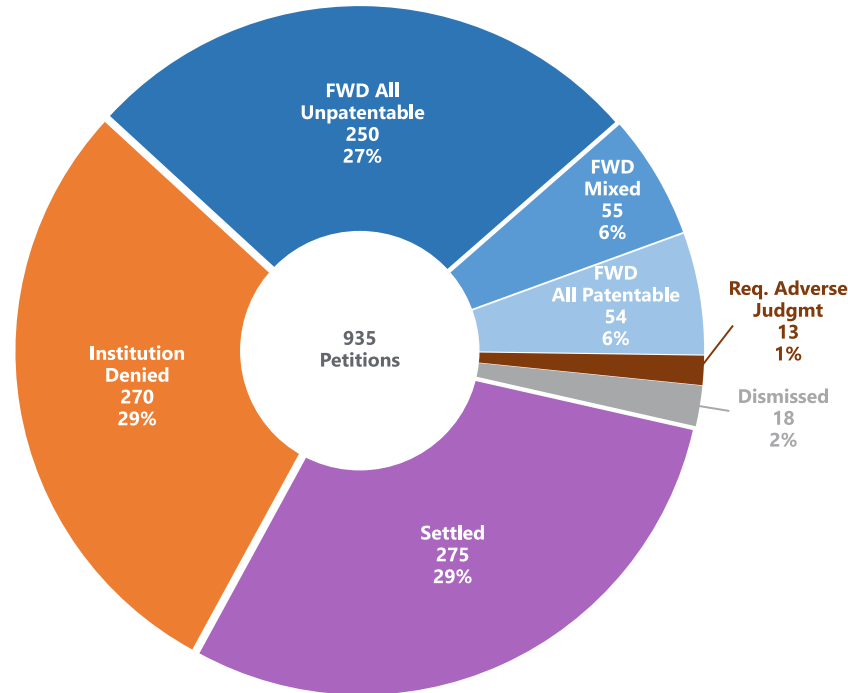
Petitions filed by technology

(FY24 through August: Oct. 1, 2023 to Aug. 31, 2024)



Outcomes by petition

(FY24 through Q3: Oct. 1, 2023 to Jun. 30, 2024)



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

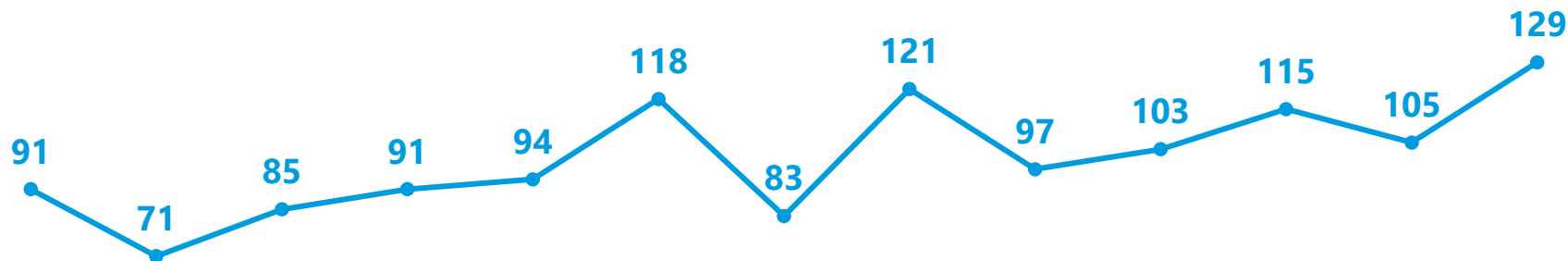


Petitions filed by month

(August 2024 and Prior 12 Months: Aug. 1, 2023 to Aug. 31, 2024)

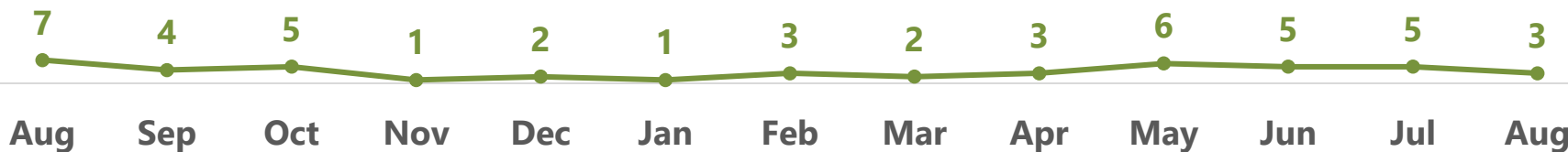
IPR

(1,141 IPRs in FY24)



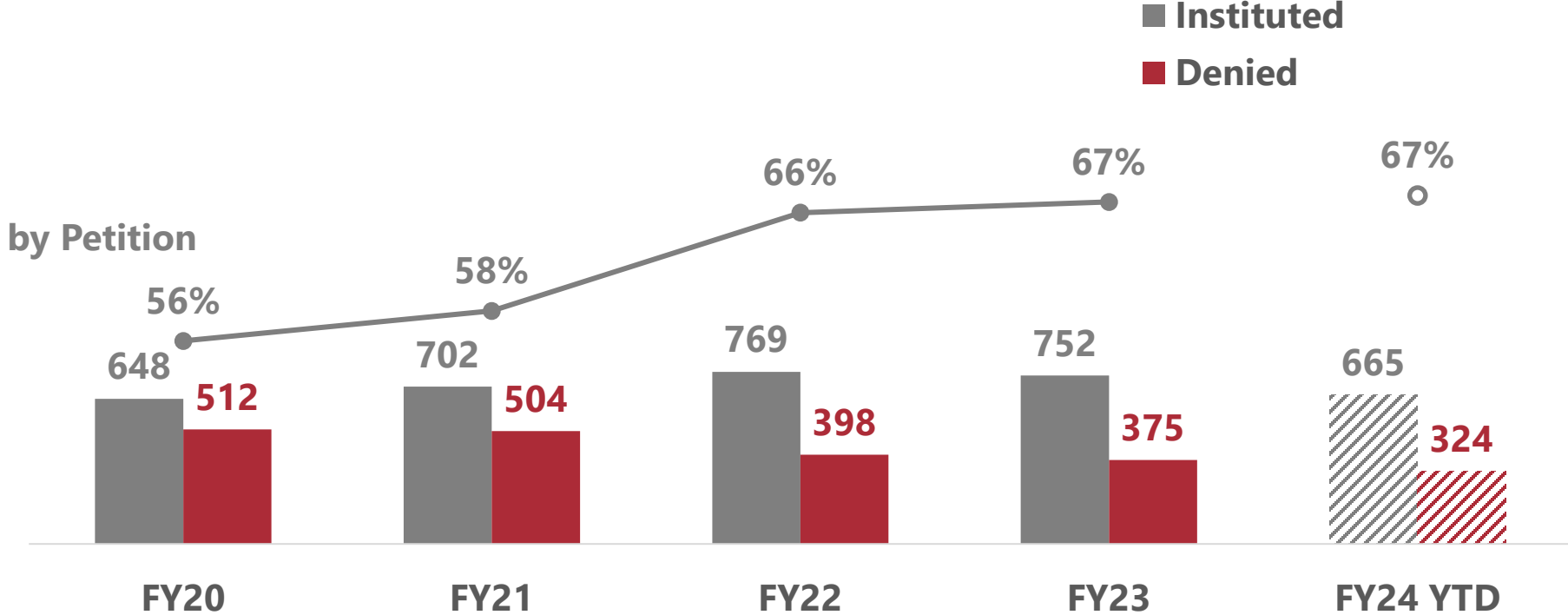
PGR

(36 PGRs in FY24)



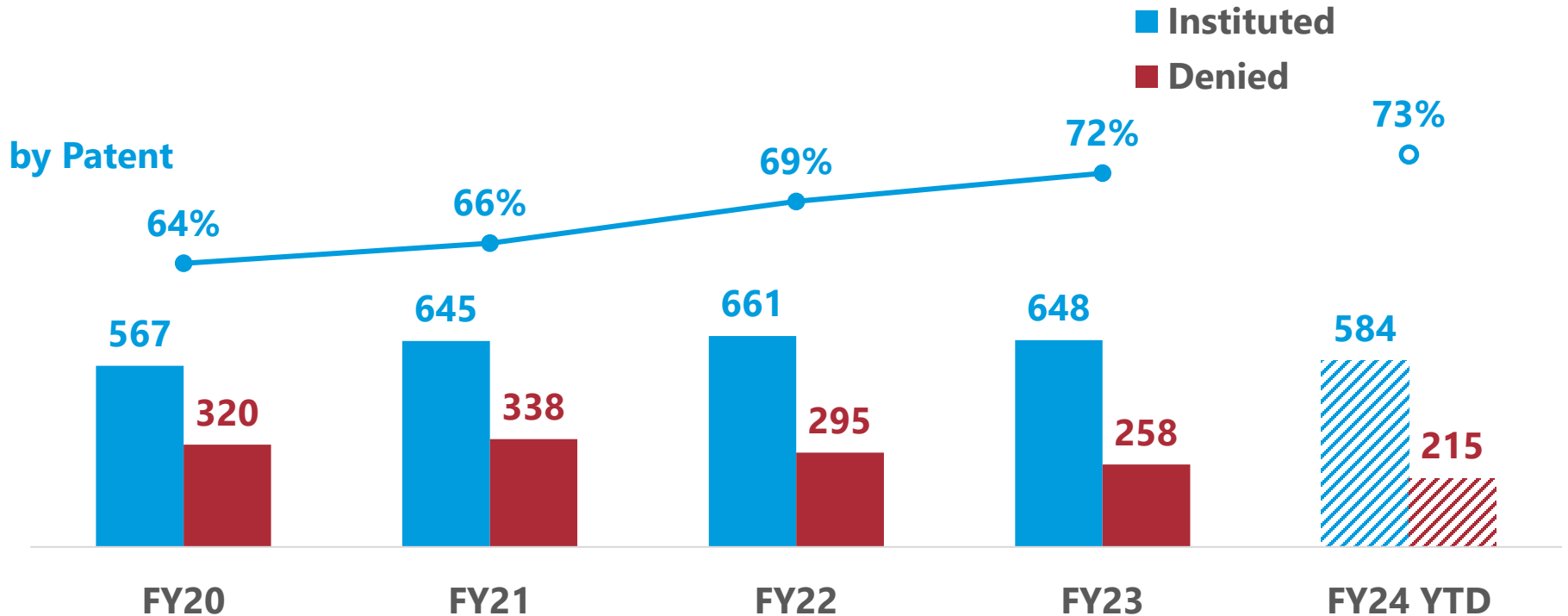
Institution rates by petition

(FY20 to FY24 through August: Oct. 1, 2019 to Aug. 31, 2024)



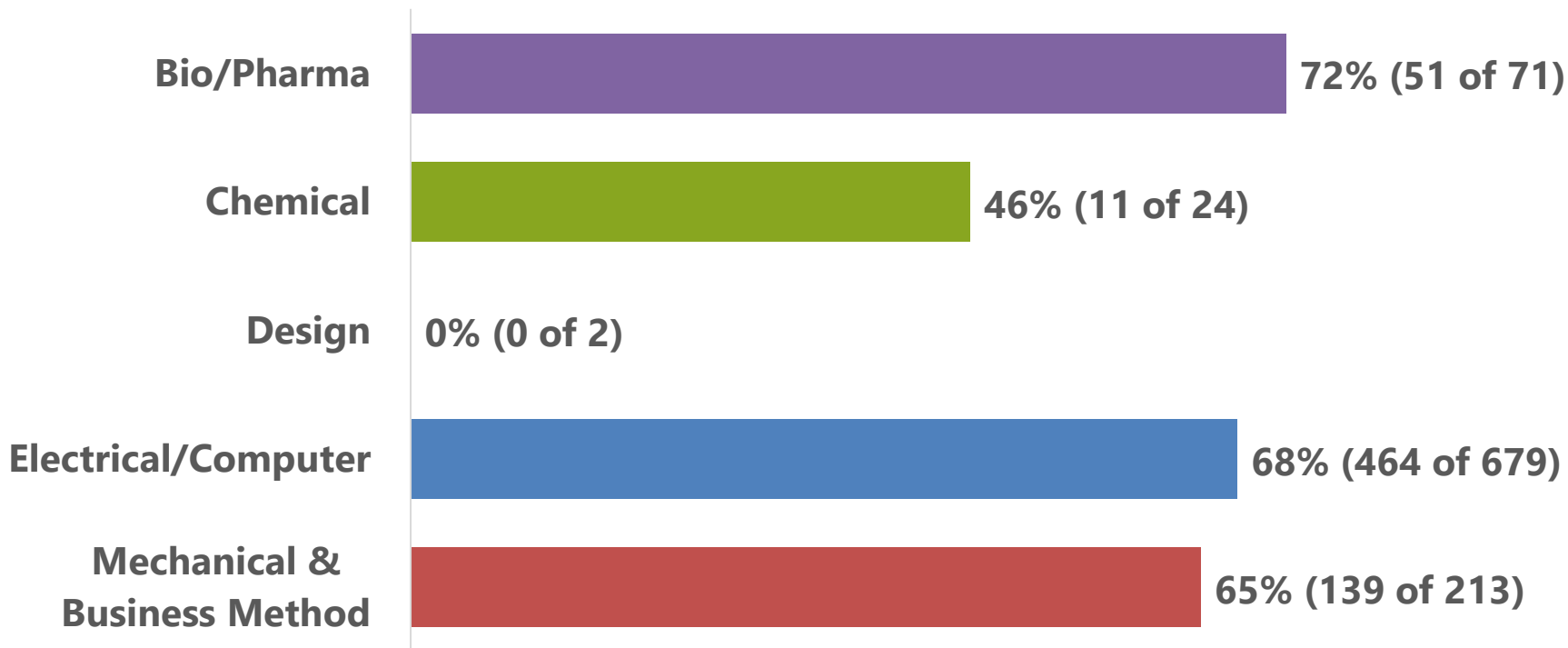
Institution rates by patent

(FY20 to FY24 through August: Oct. 1, 2019 to Aug. 31, 2024)



Institution rates by technology

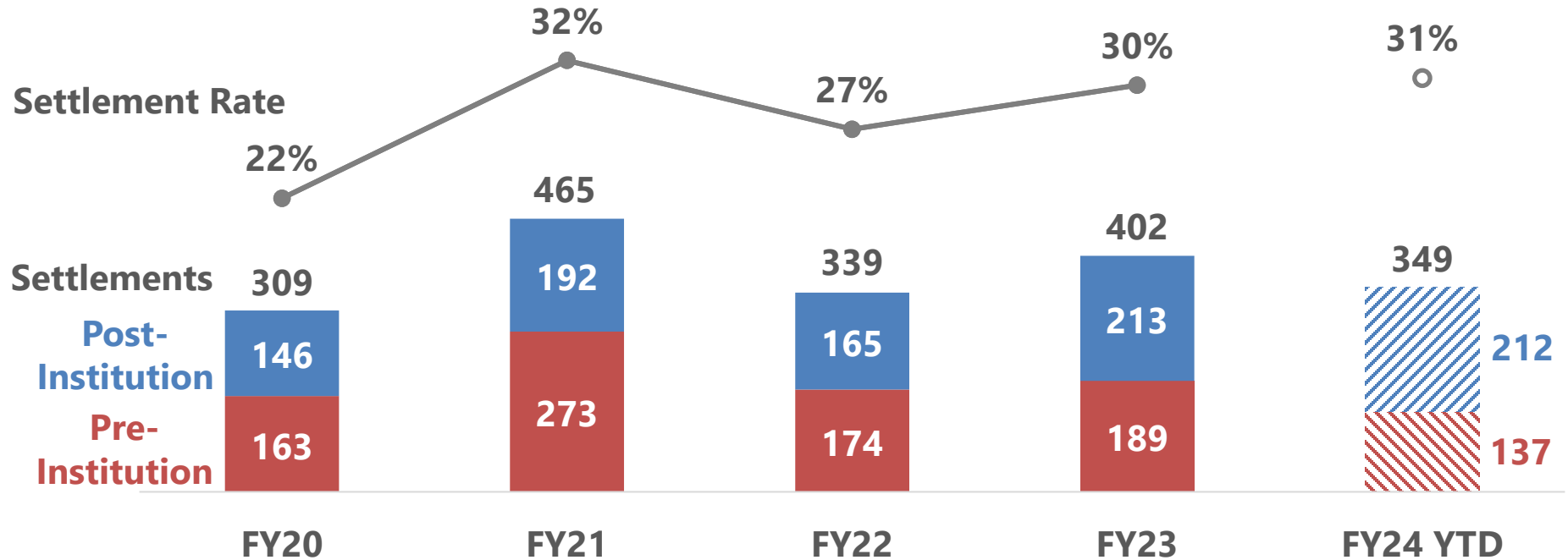
(FY24 through August: Oct. 1, 2023 to Aug. 31, 2024)



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

(FY20 to FY24 through August: Oct. 1, 2019 to Aug. 31, 2024)



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.



Director Review

Director Review

United States v. Arthrex, Inc., 141 S. Ct. 1970, 1986 (2021): The Director “may review final PTAB decisions and, upon review, may issue decisions [herself] on behalf of the Board.”

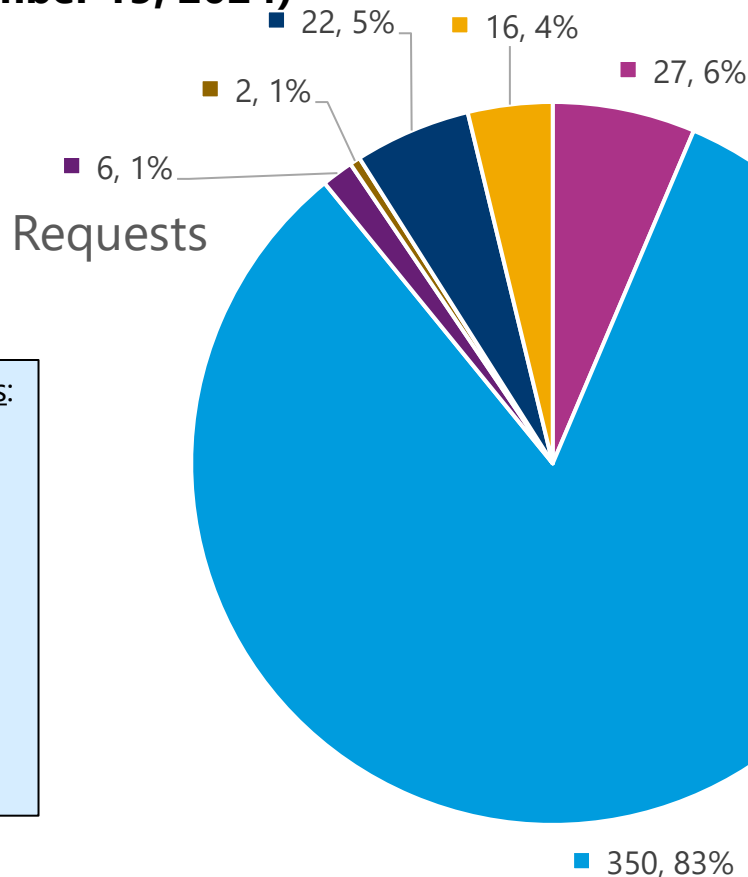
Current interim Director Review process:

- A party may request Director Review of:
 - A decision on institution,
 - A final written decision, or
 - A decision granting a request for rehearing of either of the above.
- A party may request Director Review *or* rehearing by the Board, but not both.
- The Director can initiate Director Review *sua sponte*.

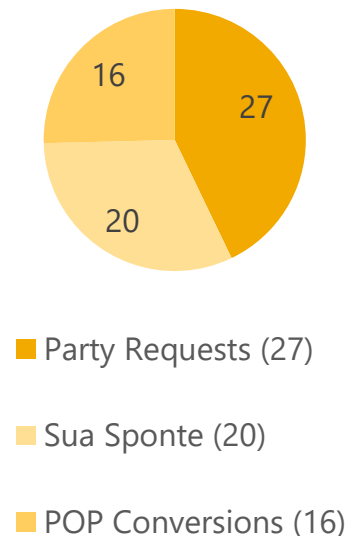


Director Review: Statistics

(through September 15, 2024)



Grants



407 compliant requests:

- 156 requests from Final Written Decisions
- 133 requests from Decisions on Institution
- 118 limited remands post-*Arthrex*



PTAB outreach

PTAB outreach: Virtual programs

- **Boardside Chat webinars**
 - Series addresses best practices before the Board and answers attendees questions
 - www.uspto.gov/patents/ptab/events/boardside-chats
- **Inventor Hour webinars**
 - Series covering PTAB proceeding basics for independent inventors and those new to PTAB practice
 - www.uspto.gov/patents/ptab/events/inventor-hour



PTAB outreach: Development opportunities

- PTAB Legal Experience and Advancement Program (LEAP)
 - Provides training and oral advocacy opportunities for less experienced advocates in proceedings before the Patent Trial and Appeal Board (PTAB).
 - Events
 - LEAP mock argument trilogy
 - LEAP to Chambers
 - LEAP to Law Schools
 - www.uspto.gov/LEAP



PTAB outreach: Legal assistance

- PTAB Pro Bono Program
 - Matches under-resourced inventors with volunteer patent professionals for the purpose of providing free legal assistance in proceedings before the PTAB. Currently open to ex parte appeals.
 - www.uspto.gov/PTABprobono
- PTAB Education Clinic
 - Provides free education to members of the public who have questions about proceedings at the PTAB
 - www.uspto.gov/patents/ptab/education-clinic



