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IPR Intelligence Report

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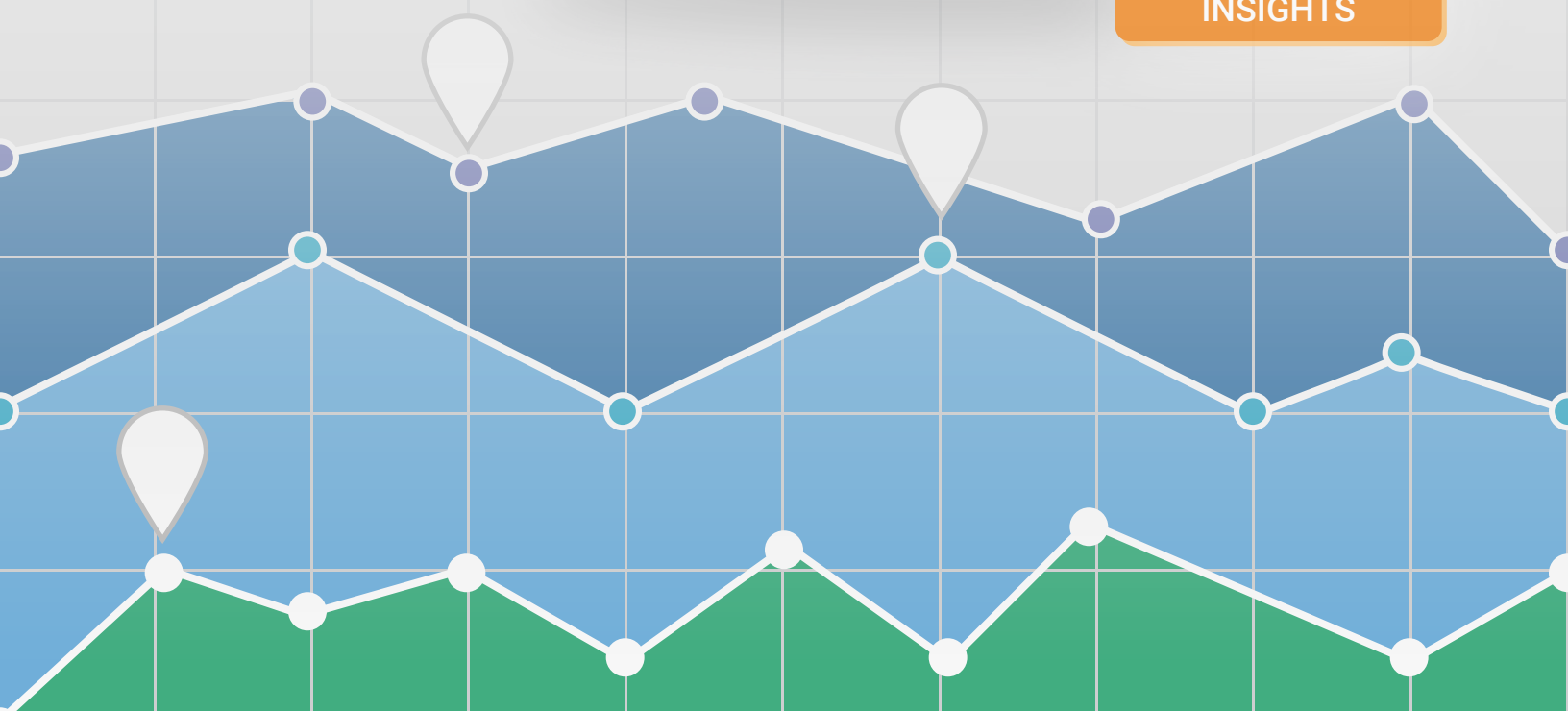


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Introduction



Over the last couple of years, many small law firms, large law firms, and corporations have received our popular *IPR Intelligence Reports*. The reports and our analysis have become an integral part of decision making for many companies seeking the most qualified attorney to work with, when preparing to file an *Inter-Partes Review* (IPR) or when responding to an IPR challenge filed against their patents.

Some law firms with an active *Patent and Trial Appeal Board* (PTAB) practice, use our data-backed analysis to compare their performance and market themselves to new clients. Other firms leverage our deep analysis of attorneys to find and recruit leaders or form new PTAB practices.

This year marks the third year we have measured the performance and published rankings for attorneys, law firms, and other stakeholders in *Inter-Partes Review* (IPR). I am very delighted to announce the release of our *IPR Intelligence Report - 2019 Edition*.

As we continue publishing these annual reports, we try to improve the accuracy (raw data), models, and content (type of analyses) each year. We have been publishing some of our work in our popular *Patexia*

Insight Articles. Thus far, about 70 *Insight Articles* have been published, which are all available for free on the Patexia website.

We consider all the feedback we receive from the IP community to improve and make the reports more useful to all stakeholders, including our law firm and corporate partners. Our analysis has become more complex and covers a wider range than in the past. We have made a number of improvements to this year's report at the suggestion of our community, and we are confident you will see the added value in these changes.

Some of the improvements in this year's report include a deep cleanup of corporate data. In many cases, the patent owner named in a petition did not immediately match with the controlling entity with the patent right. Often times it was the original inventor. We had to trace back each case to identify the entity behind it. While this was time consuming and not always feasible, our corporate data has improved significantly.

We also adjusted our performance metrics to better model the outcome of work performed by each of the parties involved in IPR.

We improved our attorney detection algorithm to perform optical character recognition (OCR) on more PDF files, including power of attorney (POA) documents, to minimize the chances of missing some attorneys named on different cases.

This year, in response to our community request, we have published the performance of up to 500 most active attorneys, law firms, and companies (instead of 50). This PDF file will cover up to 100, and the Excel file accompanying this PDF will cover the extended list with more metrics.

This was done because many attorneys or law firms who were not listed in the top 50 were still interested to know about their performance metrics, inquiring after purchasing the report. Additionally,

some of our corporate clients who did not find their counsel in the top 50, were interested to know where they stood compared to the top firms or attorneys.

Over the last year, we released our first *Patent Intelligence Report*. We are planning to release our first *ITC Intelligence Report* later this year. We introduced *Patexia Concierge* earlier this year, which provides online access to tens of thousands of metrics covering examiners, judges, attorneys, law firms, and companies. The data is updated on a daily basis, and attorneys and law firms now can claim their profiles and add descriptions about their practice and what makes them unique.

We hope that our community finds this information useful for their important decision making.



Pedram Sameni
Founder and CEO

What's in This Report?

The report content has been divided into the following sections:

- 1. Ranking Methodology:** We explain our performance model and how we have calculated the performance scores and rankings for patent owners, petitioners, and their representatives, as well as the PTAB judges.
- 2. IPR Statistics:** We provide a 360-degree overview of IPR from 10,000 feet. We cover high-level statistics about IPR, including all parties, cases, patents, and claims.
- 3. Case Analysis:** We dive into case-level statistics and analyze *Settlement*, *Denial*, and *Invalidation* rates. This provides powerful insights about IPR impact on the current pool of enforceable patents.
- 4. PTAB Administrative Judges:** We examine the performance of about 200 *PTAB Administrative Judges*, identifying the most active as well as the best performing from the viewpoint of *Patent Owners* or *Petitioners*.
- 5. Petitioners and Patent Owners:** We identify the most active and the best-performing *Petitioners* and *Patent Owners* over the last five years.
- 6. Law Firms:** We analyze the performance and activity of law firms, comparing and providing rankings for the top firms representing *Petitioners* and *Patent Owners*.
- 7. Attorneys:** We review the performance and activity of attorneys, representing *Petitioners* and *Patent Owners*, comparing and providing rankings for top attorneys on each side.

As per our tradition for this and our other intelligence reports, and in order to have a meaningful comparison, as well as compensating for the time required for each case from filing to completion (e.g., 6 to 18 months), we covered a period of five years (e.g., July 1, 2014, through June 30, 2019). While the cut-off day for cases was June 30, 2019, we used the latest updates for the cases as of August 14, 2019. Appendix A lists all sources of data used for this report.

Disclaimer: The data for this report was obtained from public sources including USPTO, PTAB, and PACER, as well as self-reported by attorneys on Patexia website. Patexia has gone to great lengths to provide valid and accurate analysis based on this data. However, Patexia does not guarantee 100 percent accuracy nor take any responsibility for possible losses caused by use of information provided in this report.

Executive Summary

From its inception in September 2012 through the end of the second quarter in 2019, a total of 9,553 IPR petitions have been filed. IPR has become an integral component of patent litigation strategy. Over the last five years, a total of 8,107 petitions have been filed (July 1, 2014, through June 30, 2019).

Year-over-year filing peaked at 1,725 in 2017. Since then, we have observed a slight decline. This follows the observed reduced district court activity with a lag of about 12 months. Based on this logic, we also anticipate that IPR activity will grow in 2020, because litigation and patent owner activity is gradually edging higher in the second half of 2019.

Settlement rate has gone up 9 percentage points, from 16 percent in 2014 to 25 percent in 2017. And it seems to be heading even higher in 2018. Both *Institution Denial* and *Final Written Decisions* have fallen as much as 4 percentage points over the same period. Overall, out of 6,338 cases that were completed during this period, 43 percent have been denied institution, 22 percent have been settled, and 35 have reached the *Final Written Decision*.

Pharma and life science IPRs related to IPC code A61K are the second most popular, trailing IPRs related to digital data processing patents (IPC code G06F).

During the five-year reporting period, a total of 8,107 IPRs were filed to challenge 5,005 unique patents and 83,233 unique claims. So far, this has resulted in institution and invalidation of 42,718 and 21,488 claims, respectively.

In the last five years, close to 3,265 companies have been involved in one or more IPRs. This includes about 1,400 petitioners and 2,100 patent owners. The top 20 petitioners account for about 30 percent of all cases. Apple remains the most active petitioner with 407 IPRs. Uniloc is the most active patent owner with 114 IPRs for this period.

More than 900 law firms have represented patent owners and petitioners. This includes more than 5,200 attorneys. Nearly 3,300 attorneys have represented petitioners, and about 3,400 have represented patent owners. Similar to last year, we will be providing our law firm partners with the most active and best performing IPR badges for 2019.

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Founded in 2010 to bring efficiency and transparency to intellectual property by leveraging the power of data, technology and experts, Patexia is the largest network for IP professionals with over 70,000 IP attorney profiles. We offer IP services under four distinct arms: Patexia Connect (recruiting), Patexia Contest (crowdsourcing), Patexia Research (IP databases), and Patexia Insights (IP reports). Contact us today to learn more.

 **(424) 239-9714**

 **info@patexia.com**

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