

# Trademark Trial and Appeal Board (TTAB) update

**Gerard Rogers**

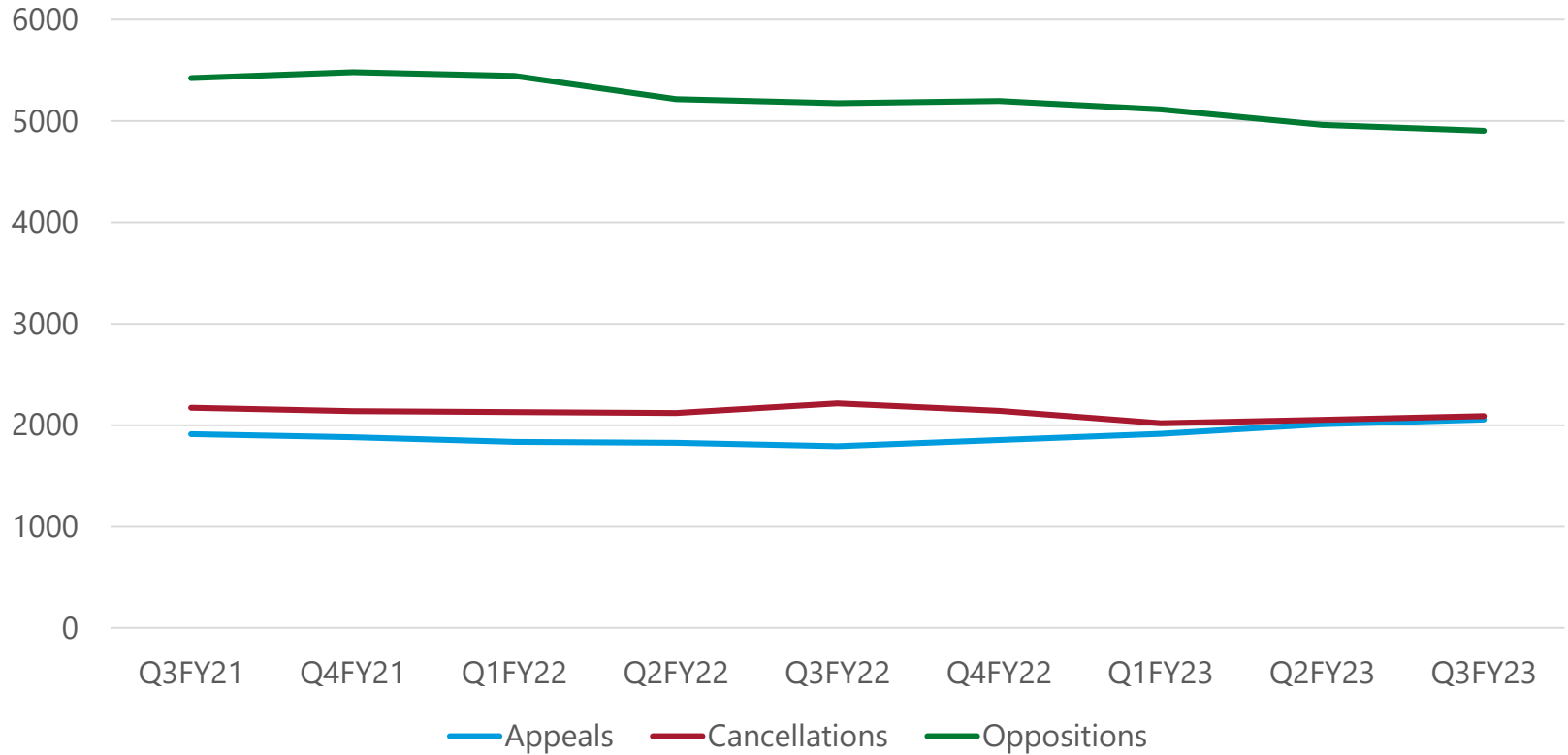
TTAB Chief Judge

August 11, 2023

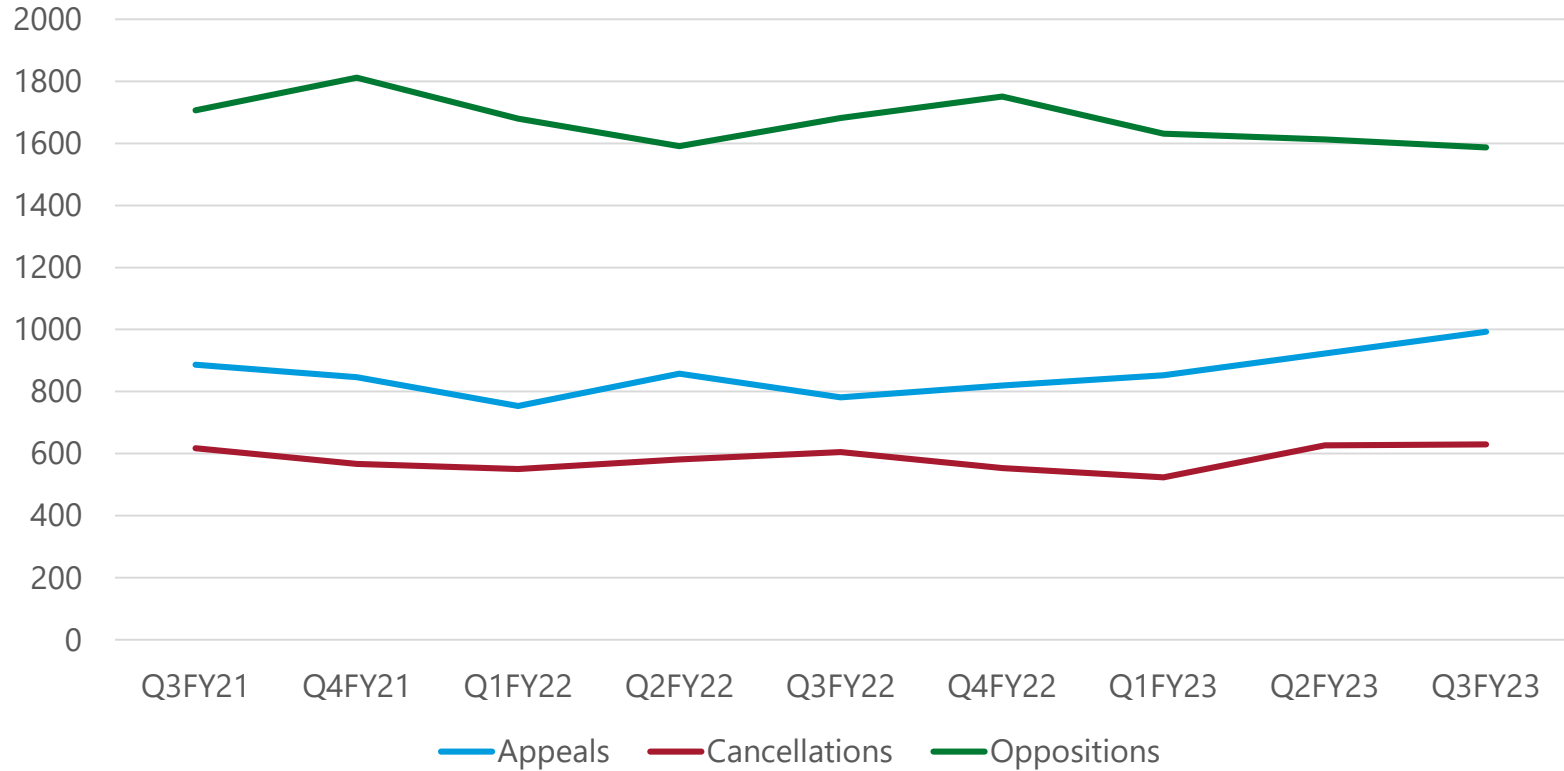


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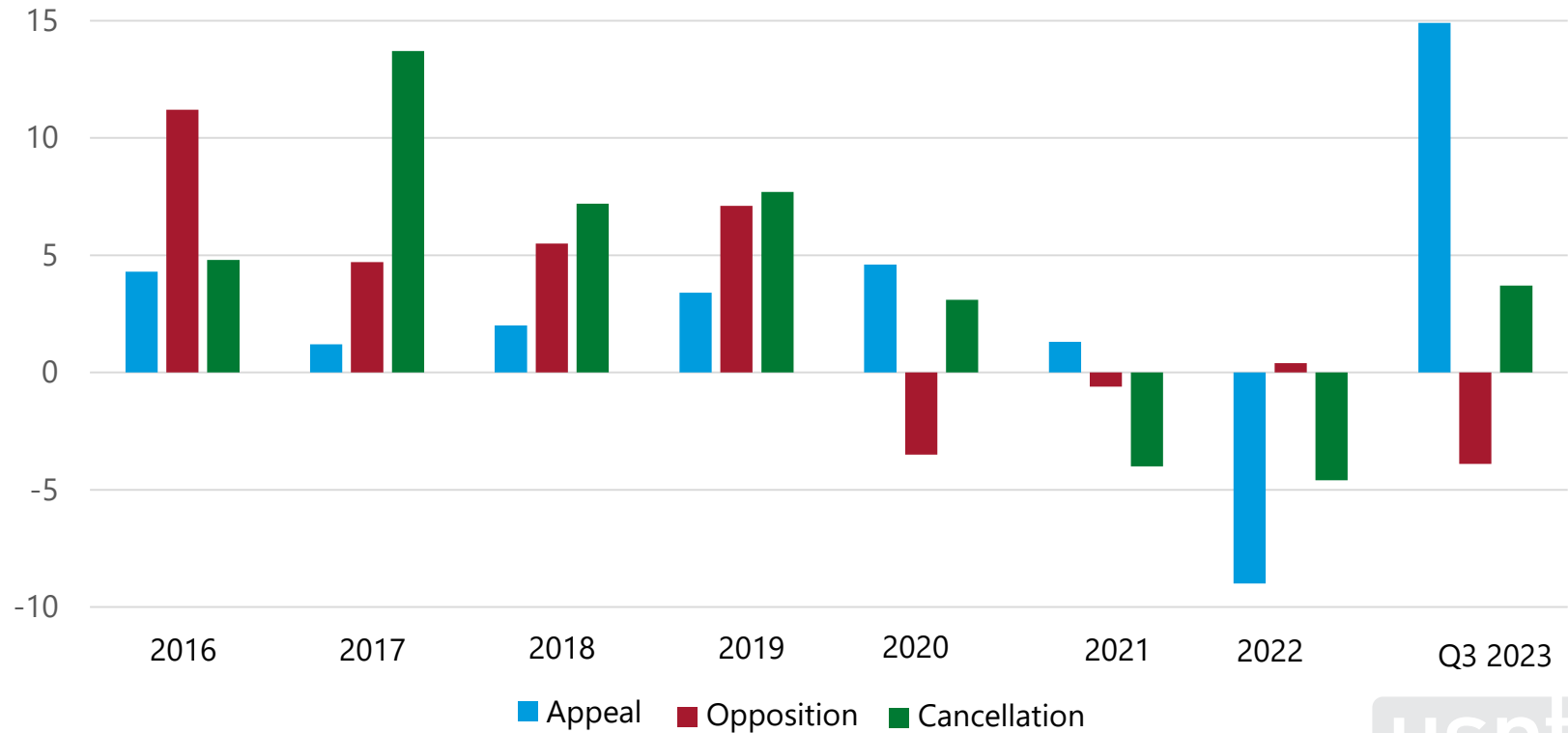
# Filings by quarter – Q3 FY21 through Q3 FY23



# Filings by quarter – Q3 FY21 through Q3 FY23



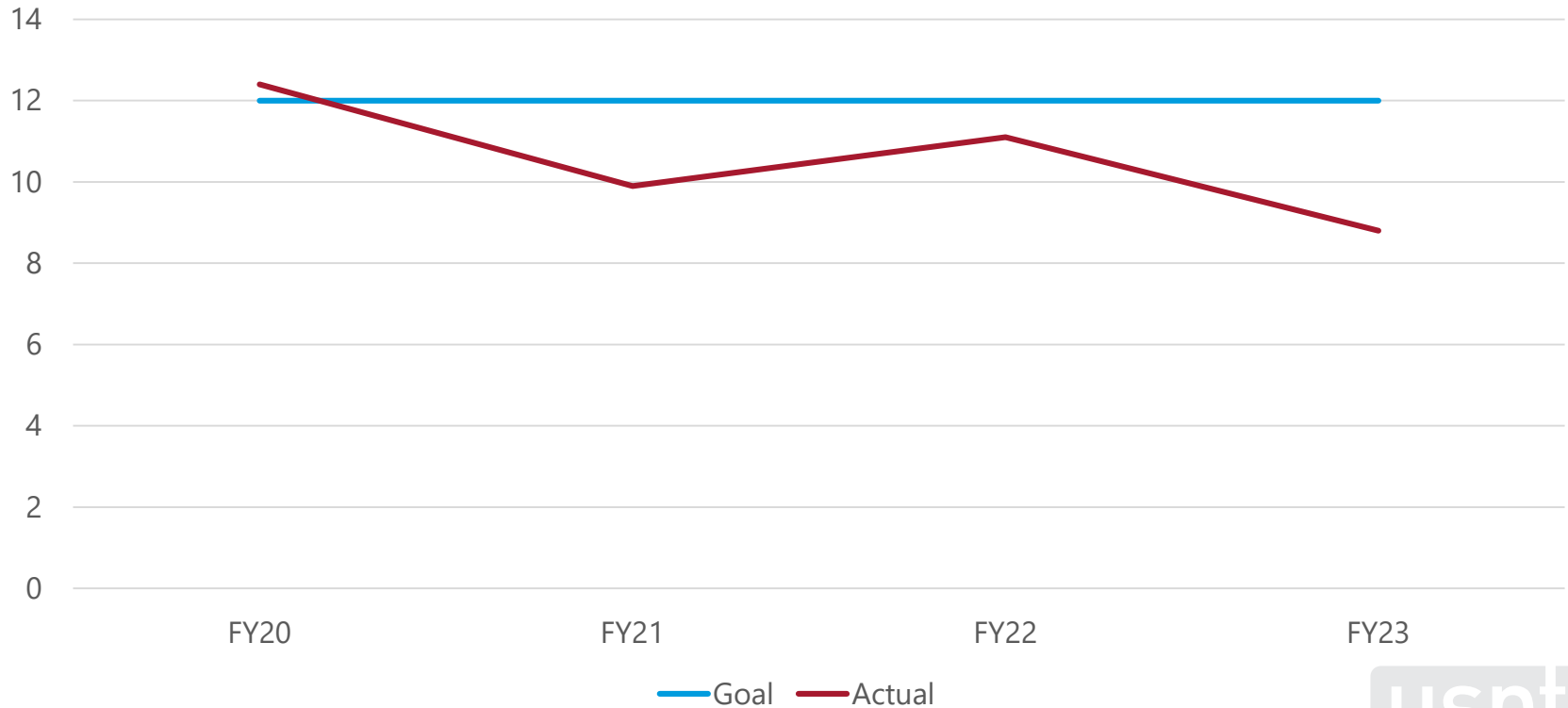
# Increase/decrease by % - annual new filings



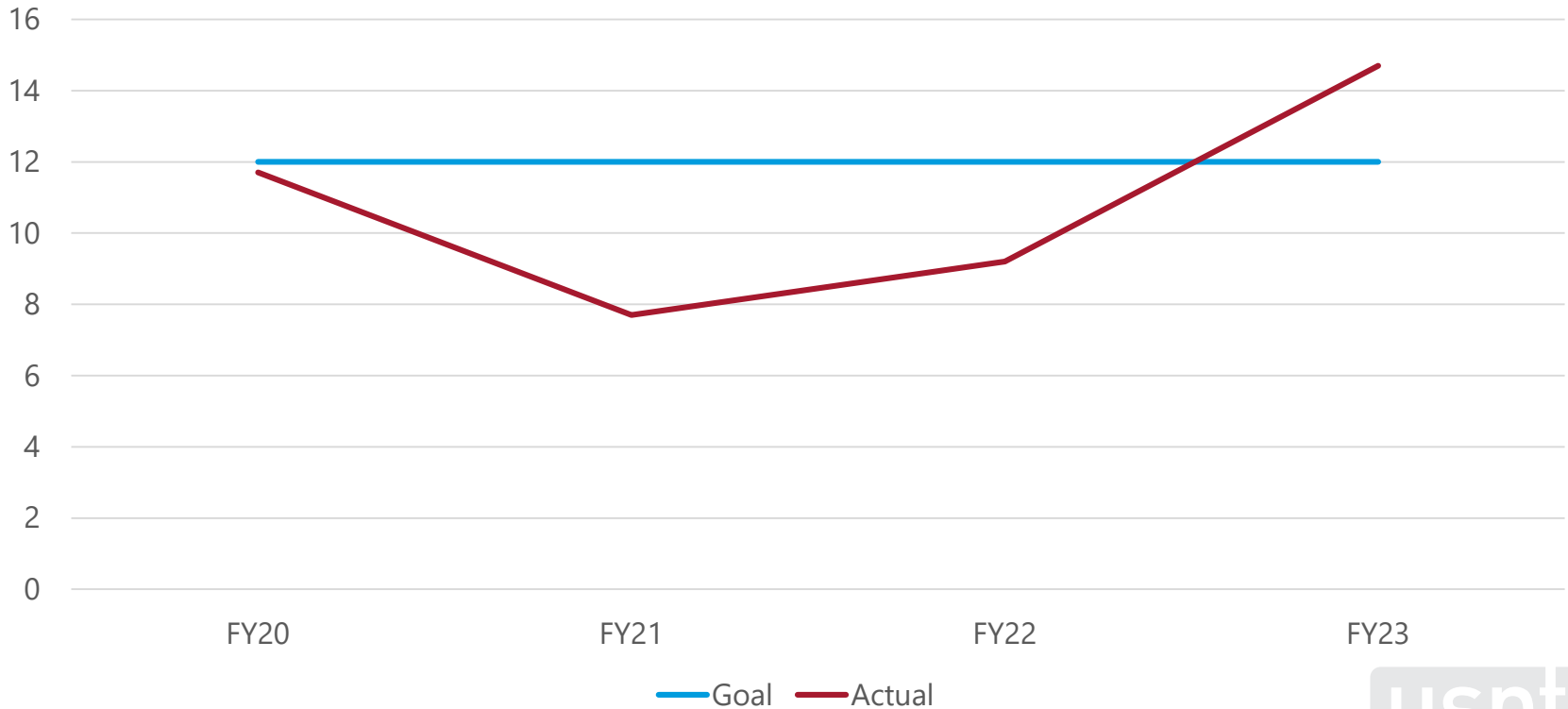
# Pendency goals

- Average time to disposition of contested motions – 12 weeks or less
- Average time to issuance of final decisions in appeals – 12 weeks or less
- Average time to issuance of final decisions in trial cases – 15 weeks or less
- As measured from ready for decision date

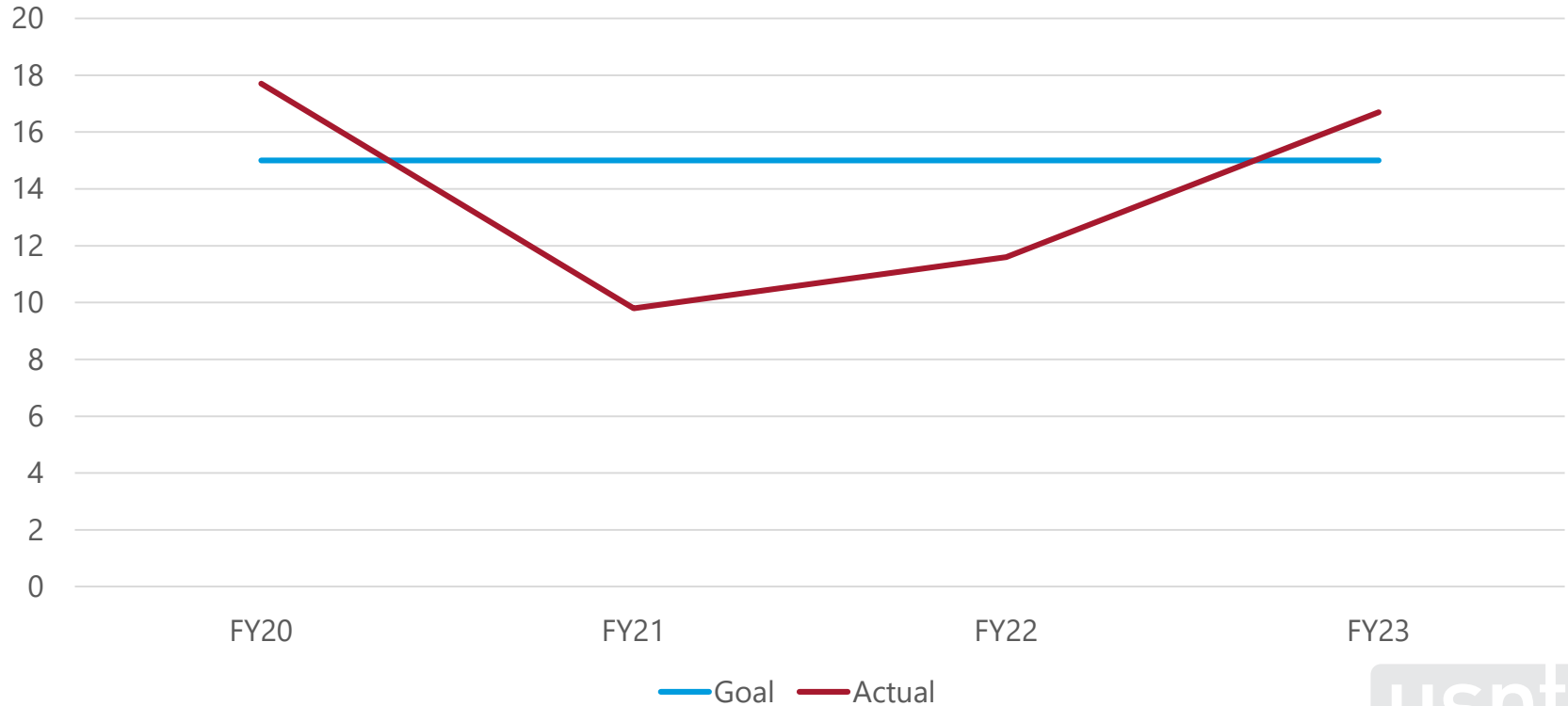
# Motion processing, in weeks



# Appeal processing, in weeks

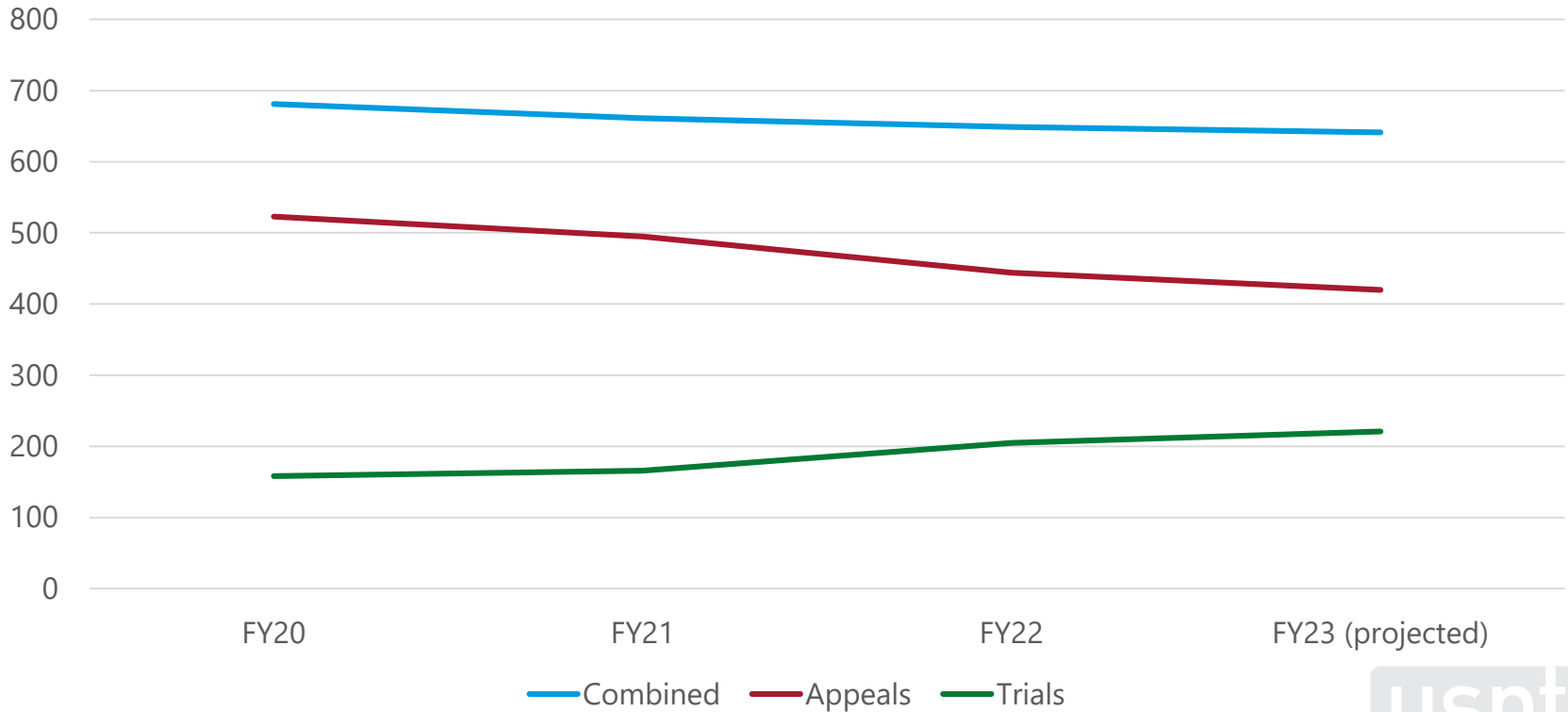


# Trial processing, in weeks





# Cases ready for decision on merits



# Initiatives to address current trends

- Increasing number of judges
- Commenced Final Pretrial Conference (FPC) pilot
- Focusing on efficient approaches to decision writing and case management of trials
- Looking into data analysis

**Next generation IT system**

# TTAB Center (a)

- TTAB Center E-filing eventually will replace ESTTA
- Notice of Opposition the first form to deploy
- Will need to have and use MyUSPTO account
- TTAB Center can populate fields in filing form using MyUSPTO information and user's role
- Sponsored support staff will be able to add sponsoring attorney as the designated contact



# TTAB Center (b)

- Will be able to access TTAB records for application, extension of time to oppose, pending opposition
- User email for extension of time to oppose limits who can access extension to create opposition
- Check mark on green background signals section of form completed; completion of sections noted in real time, showing what remains for completion

# TTAB Center (c)

- Your docket is protected through two-factor authentication
- Tabs allow user to maintain multiple opposition filing forms, completed or in process
- User does not need to complete and file within a single session
- Only one user at a time can work on form; form locked while in use; but others will know who to contact
- Will be able to share a draft form with other users



**Oral arguments**

# Hearings

- In person hearing option available as of August 8, 2022
- Parties can still choose virtual option
- Parties must agree on in person option
- Most parties are choosing virtual hearings
- Even in person hearings may involve a judge appearing virtually



# TTAB outreach and hearings

- PTAB and TTAB have resumed joint hearing programs held at law schools
- TTAB continuing to stream virtual hearings in conjunction with CLE conferences and USPTO Global IP Academy (GIPA) programs

# **Final Pretrial Conference (FPC) pilot**

# Final Pretrial Conference (FPC) pilot

- Trademark Alert email announced April 1 commencement of FPC pilot
- Pilot planning team has provided instruction to all TTAB Interlocutory Attorneys (IAs) and Judges (ATJs)
- Attorneys and Judges may now recommend cases for possible inclusion in pilot; recommendations reviewed by planning team

# Benefits

- Goals are to save time and resources of parties and the TTAB, and foster effective presentation of case
- Parties will be strongly encouraged to dispense with extraneous claims, defenses, objections; to enter into stipulations on exhibits, agreed-upon facts, presentation of evidence; trial plan subject to Board approval

# Steps (a)

- Pilot planning team receives recommendation
- Assesses bases for recommendation and whether likelihood of inclusion would be successful
- Assignment order issues (after close of discovery); parties discuss dates for orientation conference with IA and ATJ
- IA and ATJ explain parties' joint drafting of proposed FPC order and preparing for FPC

# Steps (b)

- Parties exchange lists of witnesses, copies of anticipated trial exhibits, discuss trial plan
- Parties file proposed FPC order
- Board reviews and schedules FPC
- ATJ will lead discussion of edits, amendments for FPC order
- Once order is finalized, Board issues it and it governs trial


# Input needed (a)

- Provide feedback via [TTABFeedback@uspto.gov](mailto:TTABFeedback@uspto.gov)

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## Trademark Trial and Appeal Board

The Trademark Trial and Appeal Board (TTAB) handles appeals involving applications to register marks, appeals from expungement or reexamination proceedings involving registrations, and trial cases of various types involving applications or registrations.




### Filing assistance

- > New to TTAB?
- > Filing with TTAB
- > Pre-filing and technical requirements
- > Forms
- > Fees
- > Systems status
- > Contact us



### Practice and procedure

- > Trademark Trial and Appeal Board Manual of Procedure (TBMP)
- > Final rules and pilots
- > Policy and guidance resources
- > Automatic Standard Protective Order (SPO)
- > Acknowledgement form for SPO
- > Alternative Dispute Resolution



### Proceedings

- > Preparing for hearings
- > TTAB by the numbers
- > Search final and precedential decisions
- > Frequently asked questions

# Input needed (b)

- Provide feedback via [TTABFeedback@uspto.gov](mailto:TTABFeedback@uspto.gov)

## Pilots

- [Final Pretrial Conference Pilot](#)
  - [Model Format for Final Pretrial Conference Order](#)
- [Expedited cancellation program concluded](#)
  - [Comments](#)



# Input needed (c)

- Provide feedback via [TTABFeedback@uspto.gov](mailto:TTABFeedback@uspto.gov)

## Final Pretrial Conference Pilot

The United States Patent and Trademark Office (USPTO), Trademark Trial and Appeal Board (TTAB) has begun a pilot program for holding Final Pretrial Conferences in certain *inter partes* (trial) cases to better manage and streamline opposition and cancellation proceedings that proceed to trial. The goal of the pilot is to save time and resources of parties and the TTAB, and to foster the effective and efficient presentation of evidence.

[Expand all](#) | [Collapse all](#)

> Background
> How the Pilot Works
> Timing and Duration
> Final Pretrial Conference Order (Template)
> Request for Input
> Stakeholder Comments

 Helpful | 3

 Not Helpful | 0

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