

35 USC 101 Statutory Compliance Metrics

		All Reviews		Non-Final		Final		Allowance	
		Count	Column N %	Count	Column N %	Count	Column N %	Count	Column N %
Quality Metric Category: 101	Compliant	3883	97.4%	3007	97.0%	157	96.9%	719	98.9%
	Not Compliant	105	2.6%	92	3.0%	5	3.1%	8	1.1%
	Total	3988		3099		162		727	
Quality Metric Category: 35 USC 101 - Eligibility	Compliant	3896	97.7%	3019	97.4%	158	97.5%	719	98.9%
	Not Compliant	92	2.3%	80	2.6%	4	2.5%	8	1.1%
	All Reviews	3988		3099		162		727	
Quality Metric Category: 35 USC 101 - Utility	Compliant	3975	99.7%	3087	99.6%	161	99.4%	727	100.0%
	Not Compliant	13	.3%	12	.4%	1	.6%	0	.0%
	All Reviews	3988		3099		162		727	

The Office's 35 USC 101 Statutory Compliance metrics are based on reviews assessing patent eligibility as well as utility, where the reviews were conducted by OPQA on every Office action type from all technologies. An action that does not reject a claim under a given statute is considered to be compliant as long as the reviewer does not identify an omitted rejection. For example, the overall compliance metric for 35 USC 101 includes as a compliant action many actions from technologies that are clearly patent eligible under current law, such as fish hooks, because no 35 USC 101 rejection was made and no rejection was warranted. Also, the number of instances of non-compliance under the overall metric will not necessarily be the sum of the number of instances of non-compliance under each of the breakdowns because a single case that is non-compliant with respect to both 35 USC 101's eligibility and utility requirements will be counted only as a single instance of non-compliance in the overall metric.