

# Post Grant Outcomes

Final Pilot Survey Results and Statistics

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# Objectives of Post Grant Outcomes

The purpose of this program is to learn from all post grant proceedings and inform examiners of their outcomes

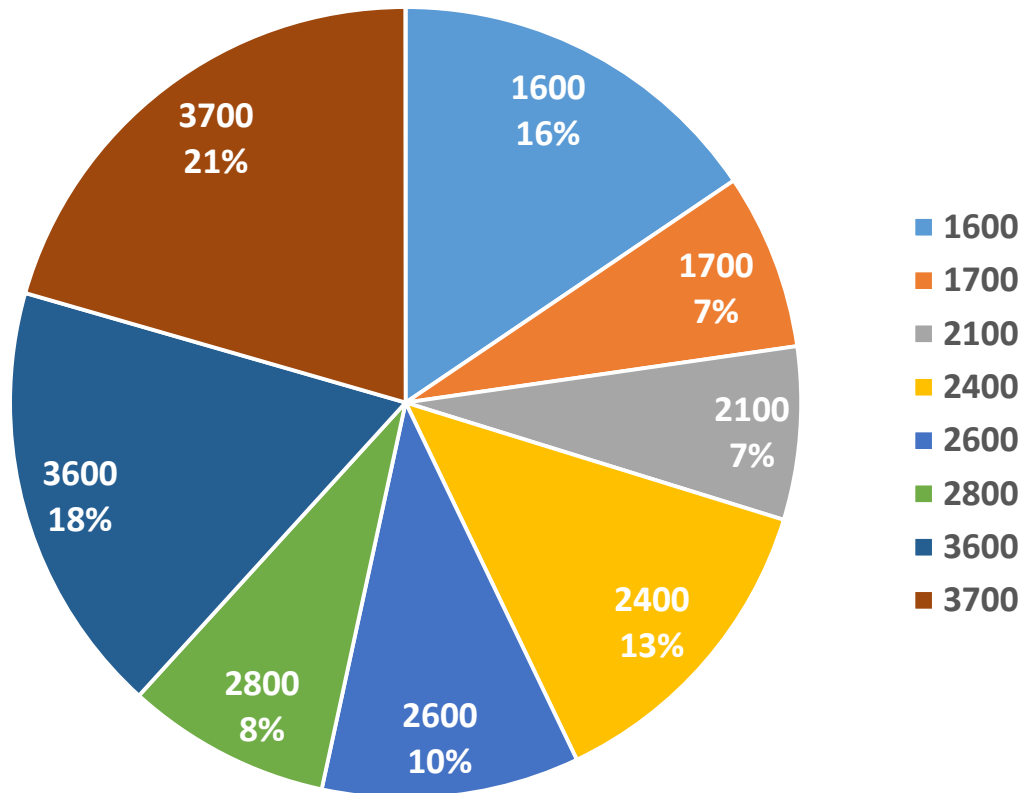
- Propose **three** objectives to accomplish this:
  - **Enhanced Patentability Determinations in Related Child Cases**
    - Provide examiners with contents of PTAB AIA trial proceedings, including relevant prior art and expert analysis
  - **Targeted Examiner Training**
    - Data collected from the prior art submitted and examiner behavior will provide a feedback loop on best practices
  - **Examining Corps Education**
    - Provide examiners a periodic review of post grant (and post examination) outcomes focusing on technology sectors

# Objective 1 – Enhanced Patentability Determinations in Related Child Cases

- A Pilot to:
  - Identify those patents being challenged at the PTAB under the AIA Trials that have pending related applications in the Patent Corps
  - Provide the examiners of those pending related applications access to the contents of the AIA Trial

# Objective 1 – Pilot Statistics

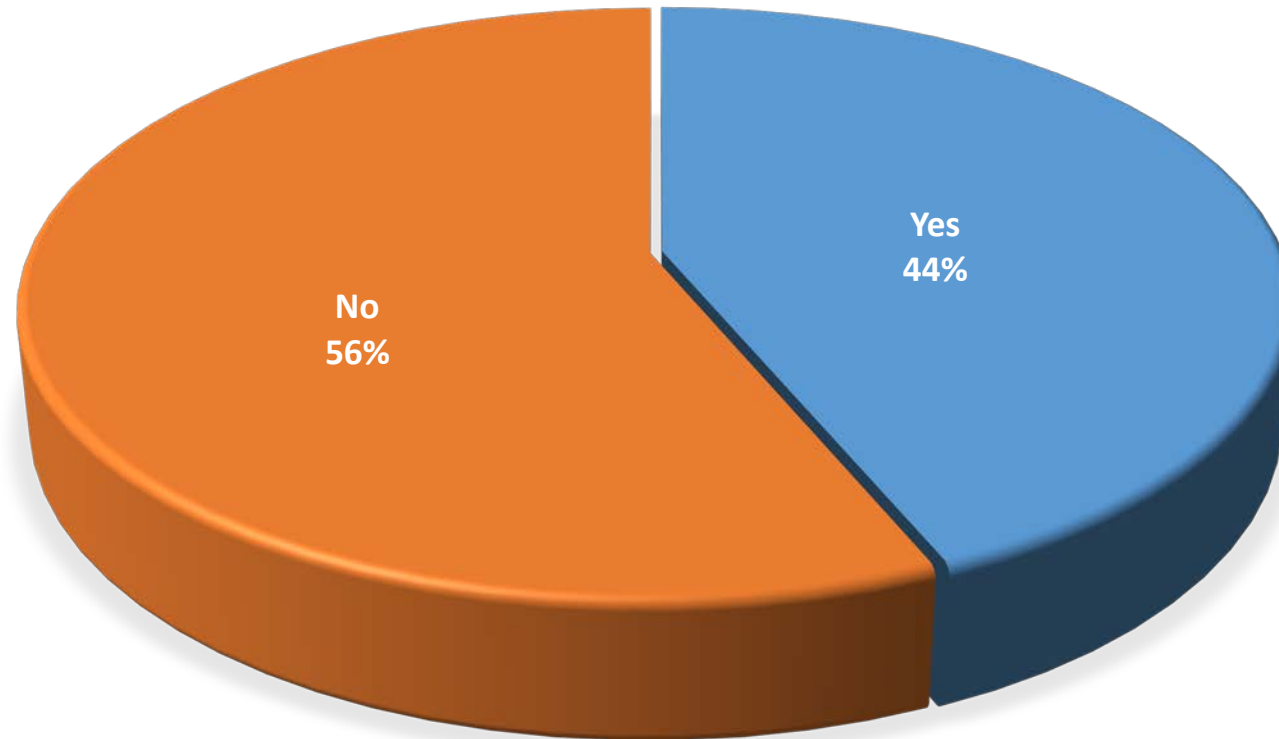
DISTRIBUTION OF PILOT APPLICATIONS  
BY TECHNOLOGY CENTER



Technology Center	Number of Pilot Applications
1600	121
1700	56
2100	55
2400	102
2600	82
2800	65
3600	138
3700	160
<b>Grand Total</b>	<b>779</b>

# Objective 1 – Pilot Statistics cont.

In the Office Action of the child case, did the examiner refer to any of the references cited in the AIA trial petition of the parent case?

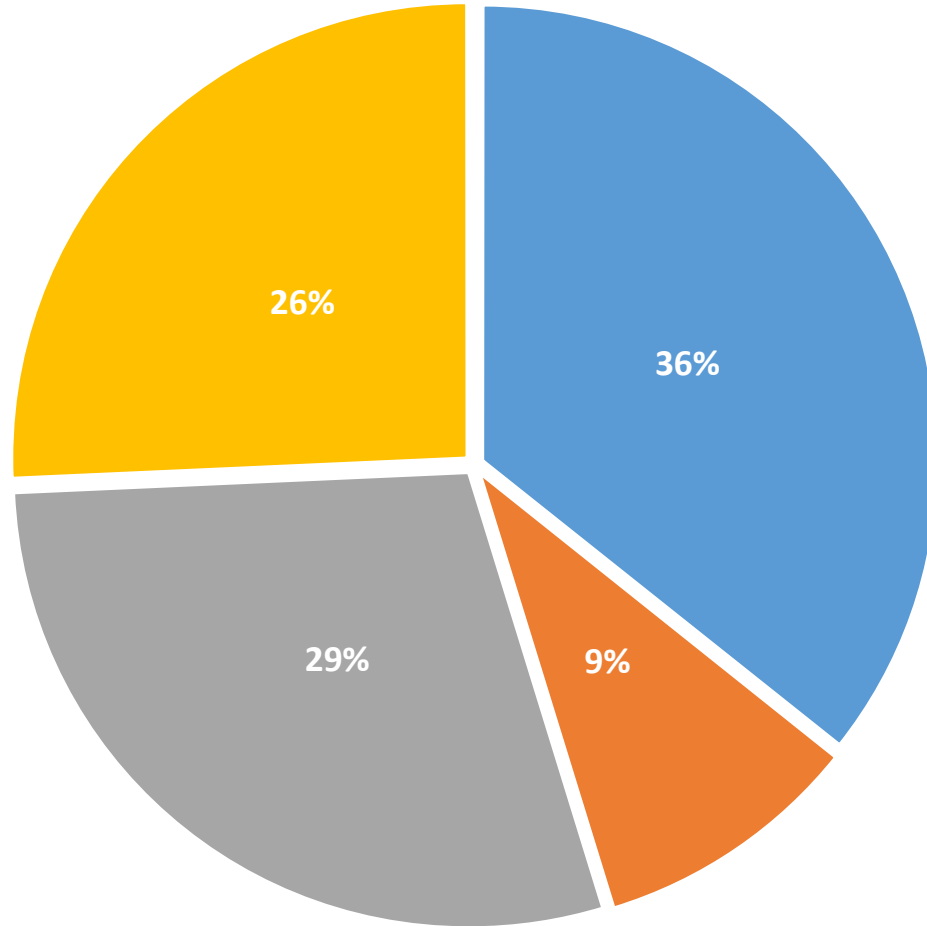


Based on 323 Survey Responses



# Objective 1 – Pilot Statistics cont.

If the examiner did not use any references cited in the AIA Trial Petition, why?



- The claims in my pilot case were substantially different from the parent case.
- I disagreed with the petitioner's analysis of the prior art and/or claims.
- I was able to find better art on my own.
- Other (please specify below)

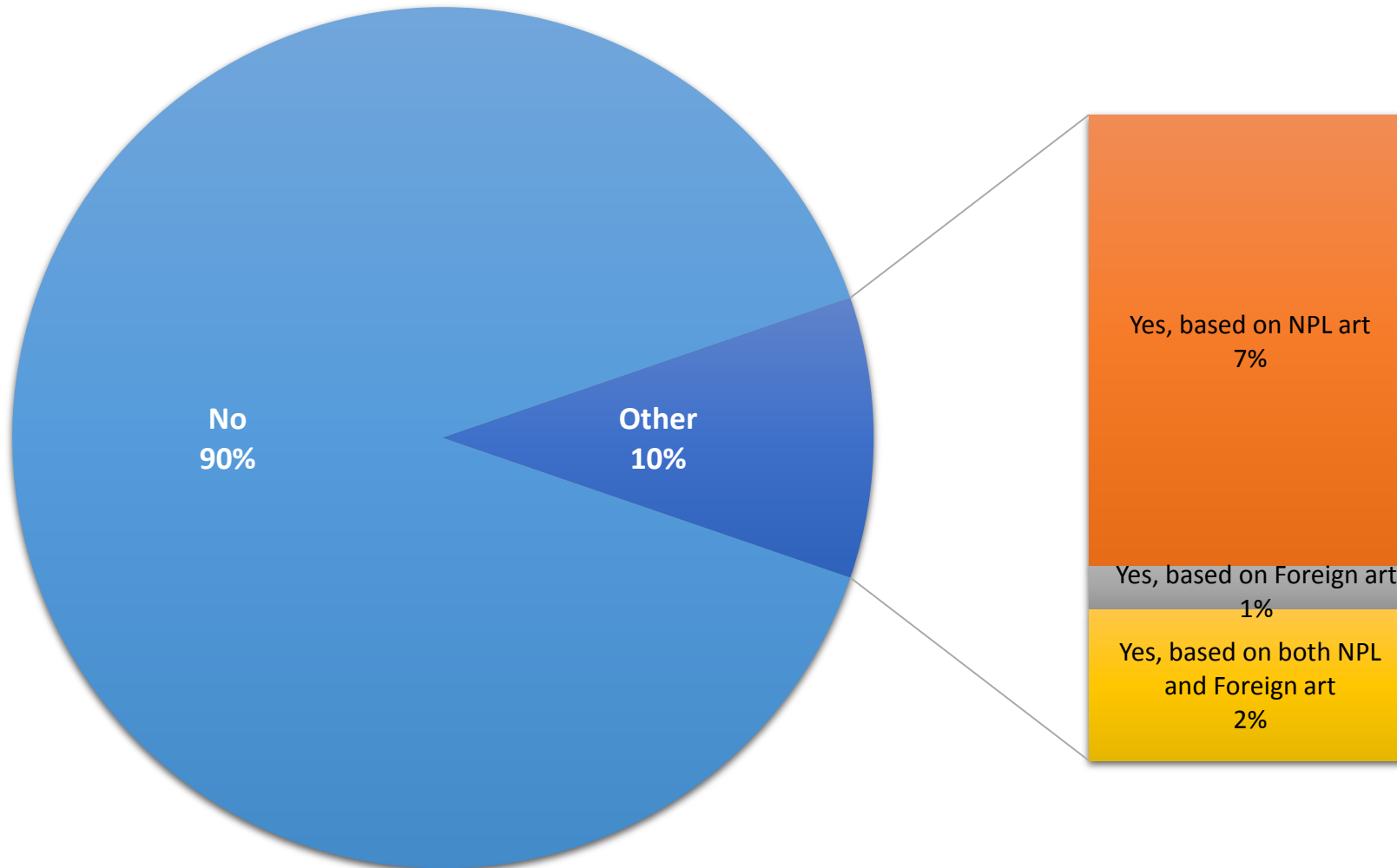
**Common responses for "Other" include:**

- The PTAB denied the IPR and the cited art wasn't relevant to the instant application
- The AIA Trial was a Covered Business Method Review and only 101 was at issue
- The art cited in the IPR was used to negotiate an examiner's amendment

Based on 171 Survey Responses

# Objective 1 – Pilot Statistics cont.

Did the examiner write a new grounds of rejection using NPL or foreign art cited in the PTAB Petition?

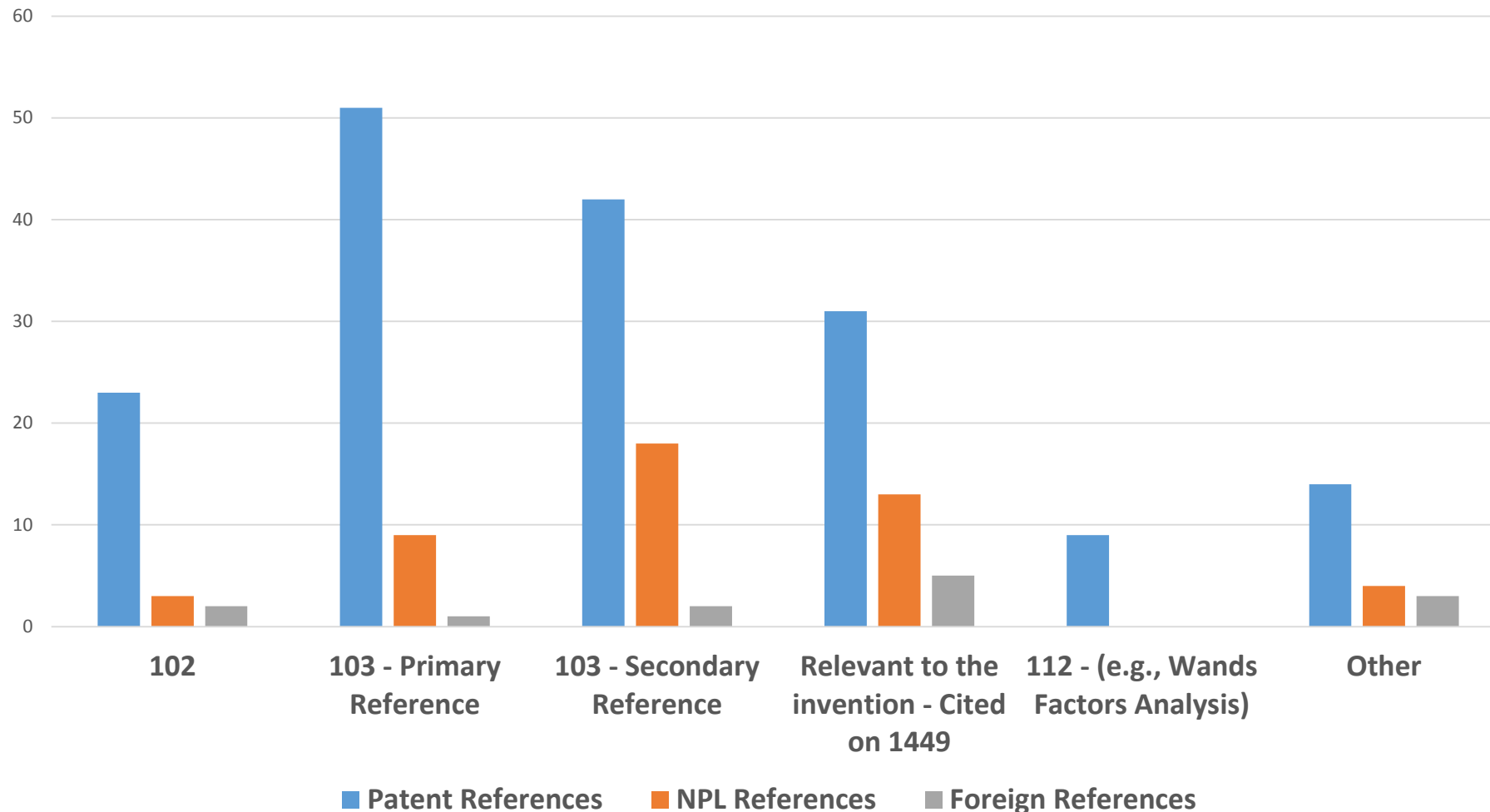


Based on 285 Survey Responses



# Objective 1 – Pilot Statistics cont.

How did the examiner apply the AIA Trial reference(s) in the pilot application?



## Common responses for "Other" include:

- Art cited in the IPR was used to negotiate an examiner's amendment
- Arguments in a CBM Review were used to inform a 101 rejection
- Expert testimony helped the examiner better understand the prior art

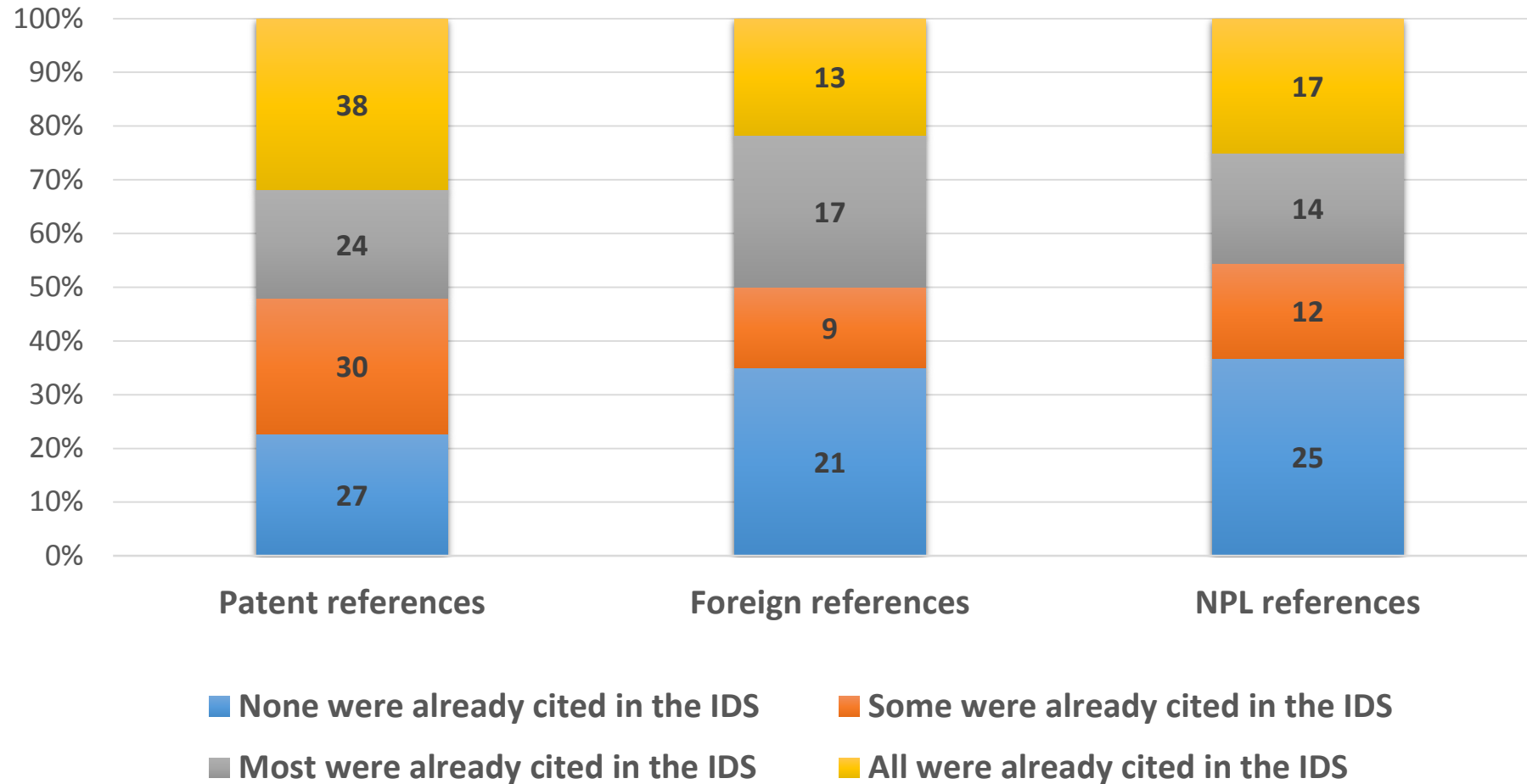
Based on 127 Survey Responses





# Objective 1 – Pilot Statistics cont.

Were the references from the AIA Trial cited in an IDS of the child application?

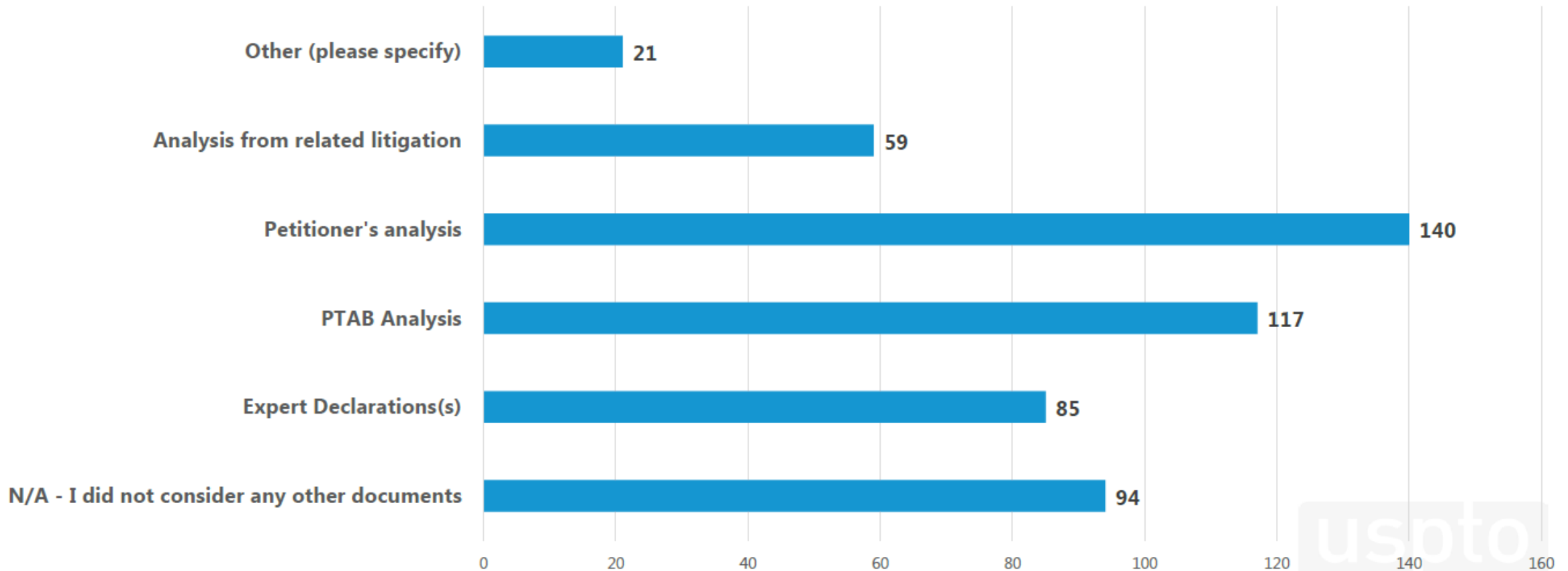


Based on 129 Survey Responses



# Objective 1 – Pilot Statistics cont.

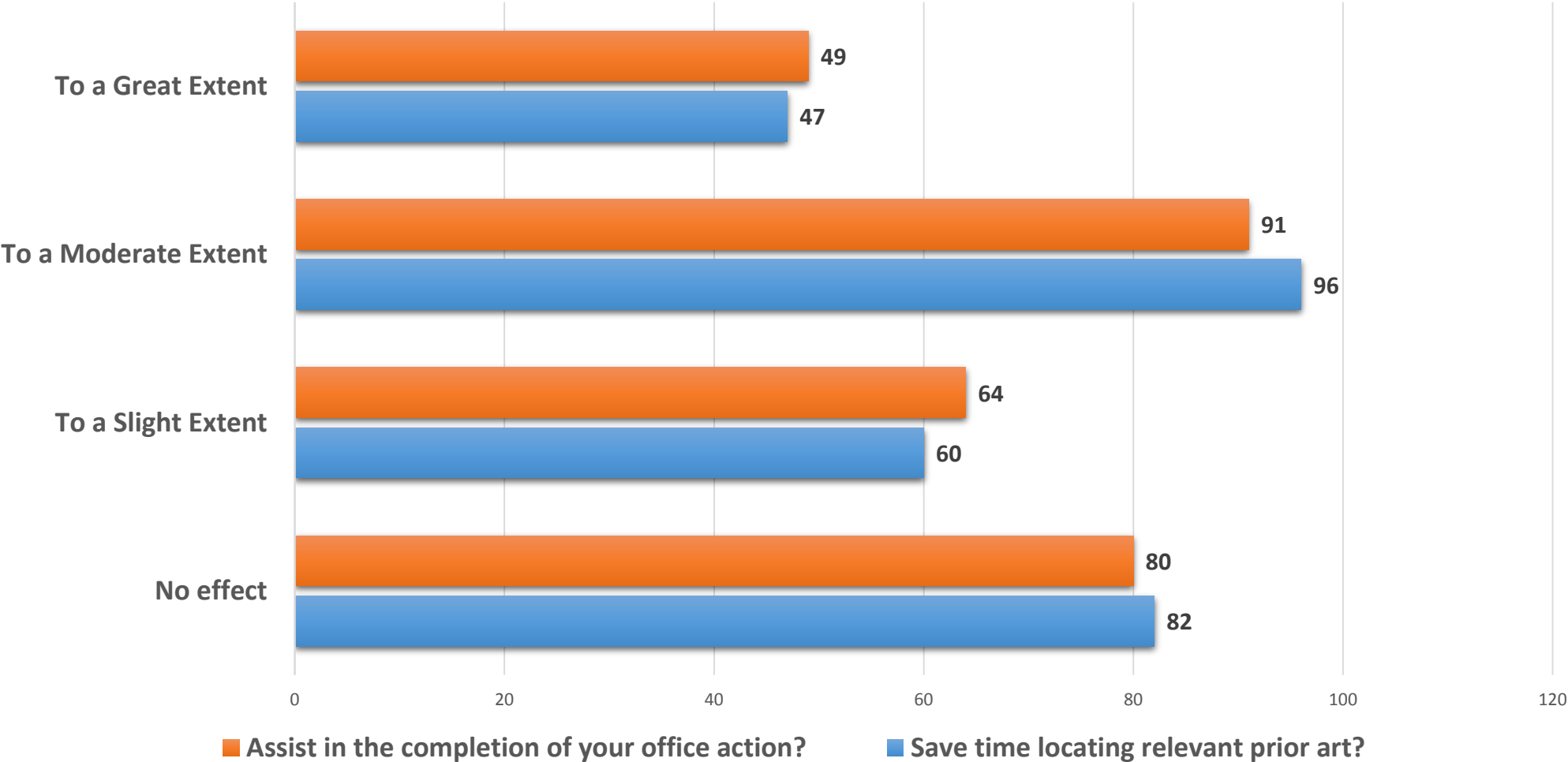
Did the examiner consider any other documents submitted with the petition, e.g., expert declarations, PTAB analysis?



Based on 289 Survey Responses

# Objective 1 – Pilot Statistics cont.

To what extent did the pilot help the examiner?



Based on 285 survey responses.

# Objective 2 – Targeted Examiner Training

- Data collected from the prior art submitted, resulting examiner behavior and the survey, will provide a feedback loop on best practices
- Potential to educate examiners on:
  - Prior art search techniques
  - Sources of prior art beyond what is currently available
  - Claim interpretation
  - PTAB proceedings and how it relates to child applications

# Objective 3 –Examining Corps Education

- Leverage results of all post grant proceedings (and post examination) to educate examiners on the process and results
  - Provide examiners a periodic review of post grant outcomes focusing on technology sectors
  - Utilize the proceedings to give examining corps a fuller appreciation for the process
  - Collecting Ex Parte PTAB decisions by technology to recognize trends for examiner education

# Post Grant Outcomes Summary

- Learn from the results of post grant proceedings
- Shine a spotlight on highly relevant prior art uncovered in post grant proceedings
- Enhance patentability of determination of related child cases
- Build a bridge between PTAB and the examining corps

# Next Steps

- Develop training and best practices gleaned from pilot and implement corps-wide
- Send your feedback to:  
[PostGrantOutcomes@USPTO.GOV](mailto:PostGrantOutcomes@USPTO.GOV)
- More information at the PGO Pilot home page:  
<http://www.uspto.gov/patent/initiatives/post-grant-outcomes-pilot>

