

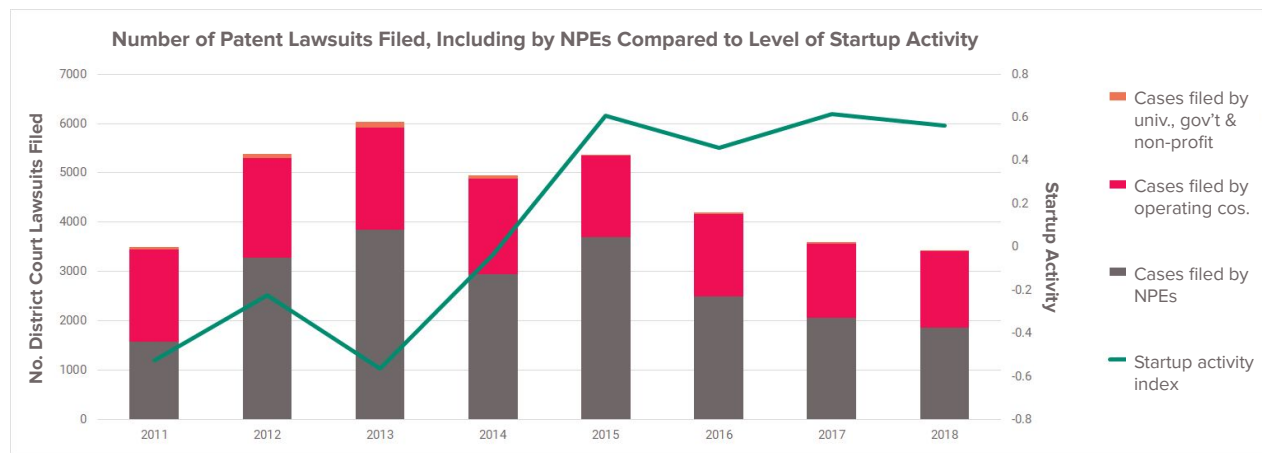
# Patent review is working for startups.



**Inter partes review (IPR)** is a procedure for challenging low-quality patents, *i.e.*, those that should not have issued in the first place. With IPR, a third-party can go back to the patent office's **Patent Trial and Appeal Board (PTAB)** and petition it to take a second look at a patent. The PTAB can then assess whether a patent was (in)correctly granted, and specifically whether a patent fails to claim a truly new invention.

## What it means for startups:

Startups cannot afford to spend a lot of time and money on patent litigation. IPR offers a more **efficient & affordable alternative for challenging low-quality patents**. Bad actors (variously called “patent trolls,” non-practicing entities (NPEs), or assertion entities) use low-quality patents and the threat of litigation to coerce startups into settling frivolous infringement allegations. By reducing the cost of challenging low-quality patents, **IPR has helped level the playing field**. Indeed, since IPR went into effect in 2012, abusive NPE litigation has started to decline as startup activity has simultaneously increased.<sup>1</sup>



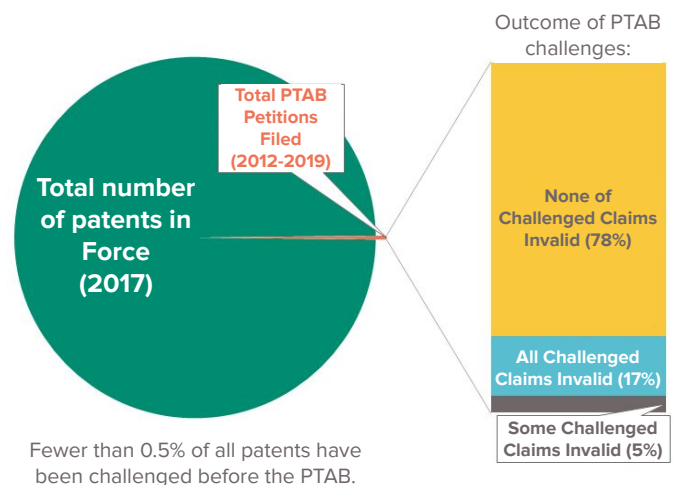
“Having the IPR process available to us as a means of defending our innovation is critical.”

- Colin Sullivan, Patreon<sup>2</sup>

## Patent review board is working:

Over 10,000 petitions have been filed with the PTAB—which is a very small fraction of the nearly 3 million active U.S. patents.<sup>3</sup> **But companies report fewer frivolous patent demands and estimates suggest innovators have saved over \$2 billion since implementation of IPR.**<sup>4</sup>

Despite its success, critics mischaracterize the PTAB as a “death squad.” In reality, an exceedingly small portion of patents are challenged before the PTAB. And for those that are challenged, the PTAB only invalidates claims in a minority of cases.



**Bottom line:** The PTAB has proven to be an accessible venue for resolving problems of abusive litigation and low-quality patents that should not have issued. This promotes both patent quality and confidence in the U.S. patent system. And when there are fewer low-quality patents that can be weaponized against startups, innovation thrives. Congress should preserve, not chip away at, the PTAB and IPRs.

### Sources:

1. Data collected from [portal.unifiedpatents.com/litigation/analytics/indicators.kauffman.org/data-table](http://portal.unifiedpatents.com/litigation/analytics/indicators.kauffman.org/data-table).
2. [www.youtube.com/watch?v=JjFcZl\\_Ftpc](https://www.youtube.com/watch?v=JjFcZl_Ftpc).
3. Data collected from [www.statista.com/statistics/256738/number-of-patents-in-force-in-the-us/](http://www.statista.com/statistics/256738/number-of-patents-in-force-in-the-us/); [www.uspto.gov/sites/default/files/documents/Trial\\_Statistics\\_2019-09-30.pdf](http://www.uspto.gov/sites/default/files/documents/Trial_Statistics_2019-09-30.pdf).
4. [www.patentprogress.org/2017/09/14/inter-partes-review-saves-over-2-billion/](http://www.patentprogress.org/2017/09/14/inter-partes-review-saves-over-2-billion/).

