

The 2014 U.S. Global Patent & IP Trends Indicator

An in-depth look at the foreign filing strategies
of U.S. patent owners

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Introduction

The U.S. Global Patent & IP Trends Indicator is an annual report issued by *inovia*, the global leader in foreign patent filing. Now in its fifth year, the Indicator has become a go-to resource for identifying the trends that have the greatest impact on the foreign filing strategies of U.S. patentees.

The results were generated from a survey of over 100 companies and universities conducted by *inovia* in May 2014. This report summarizes the results and trends identified in their responses.

Introduction

Respondents represent a diverse range of industries and sizes from small enterprises filing a single patent family to multinationals filing more than 1,000 patent families in 2013. The respondents are all involved in the strategy and patent filing activity at their organization, with job functions ranging from Patent Manager to General Counsel to CEO.

The respondents represent the following industries:

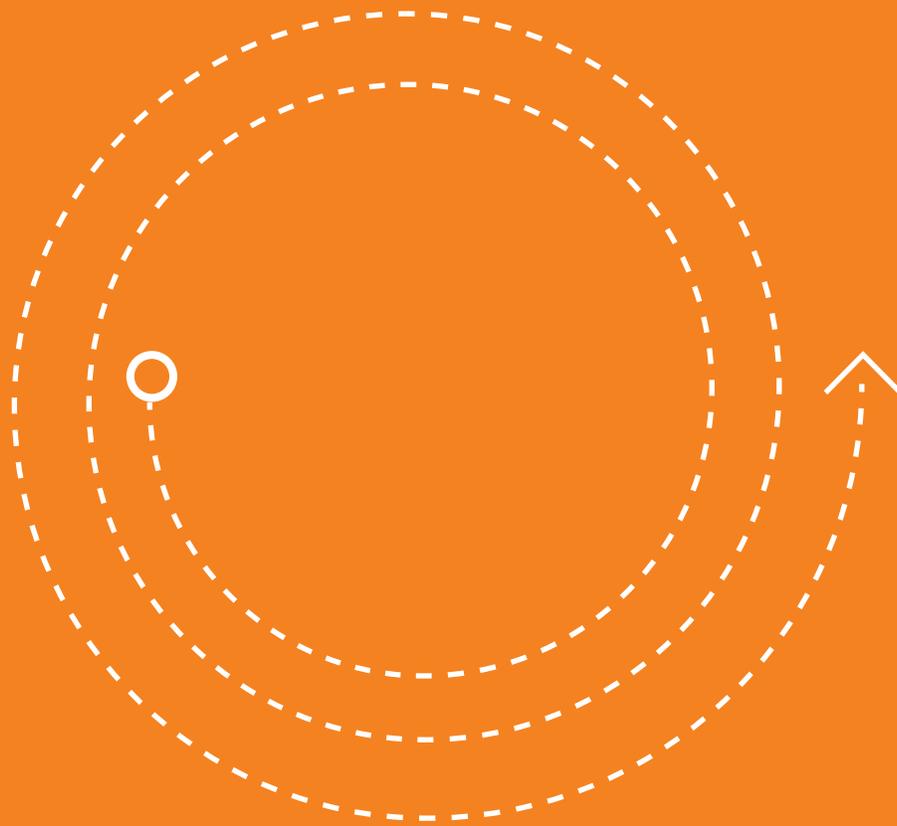
13.6%	Chemicals, Materials
7.8%	Electrical, Electronics
1.9%	IT, Software, Media
12.6%	Mechanical, Engineering
20.4%	Pharmaceuticals, Biotech
16.5%	University, Association, Non-profit
27.2%	Other

The respondents represent a wide range of company sizes:

32.0%	1-100 employees
18.5%	101-1,000 employees
29.1%	1,001-10,000 employees
20.4%	10,001 or more employees

The number of in-house patent attorneys or agents at each respondent's organization is as follows:

24.3%	0
51.5%	1-4
11.7%	5-9
4.9%	10-24
7.8%	25 or more



2013 year in review

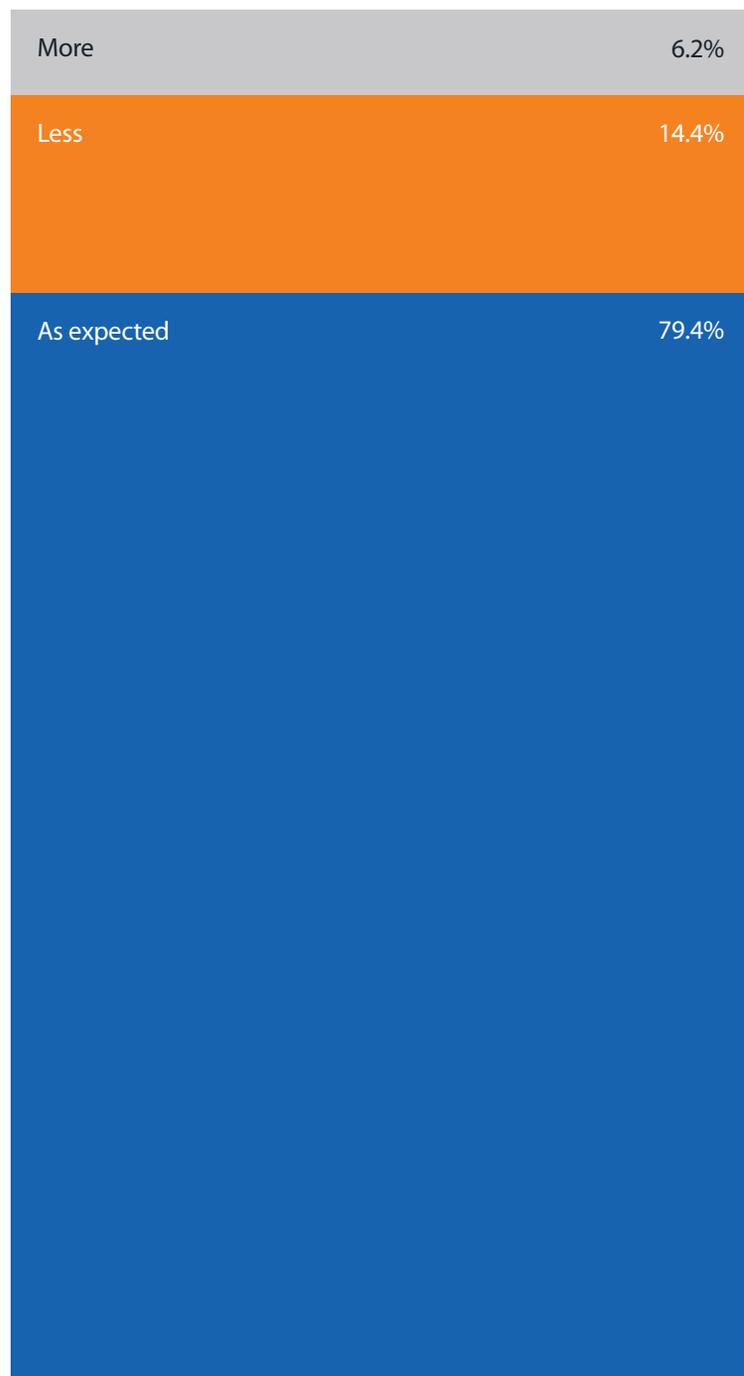
2013 year in review

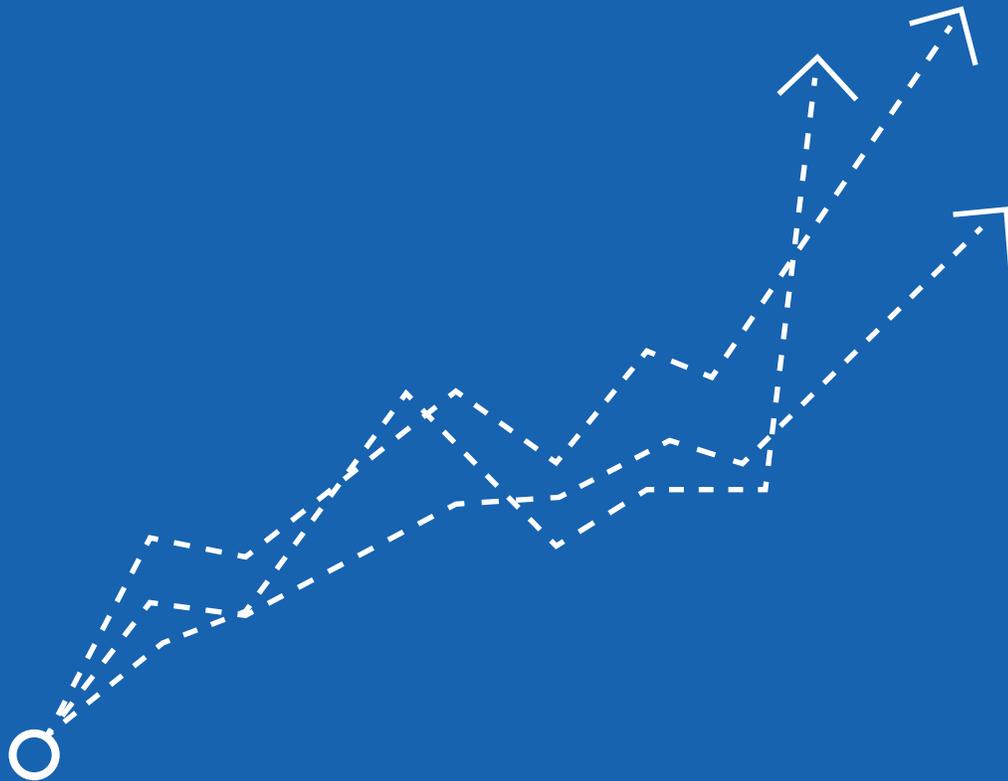
The effects of U.S. patent reform / For U.S. applicants, patent reform was the dominating issue of 2013. The final, and arguably the most critical provisions of the Leahy-Smith America Invents Act (passed in September of 2011) came into effect on March 16, 2013, giving patent owners much to consider this past year. Respondents needed to figure out how best to manage the changes, specifically in regard to filing practices, which is greatly different than in previous years.

Second to the America Invents Act, many respondents cited patent troll litigation or non-practicing entities as a key issue for 2014 and beyond.

Patent filing activity / 79% of respondents said they filed as many patent applications as they expected to file in 2013 (up from 73% in 2012 and 67% in 2011). 6% filed more than expected, while 14% filed less than expected.

Did you file as many patent applications as expected in 2013?



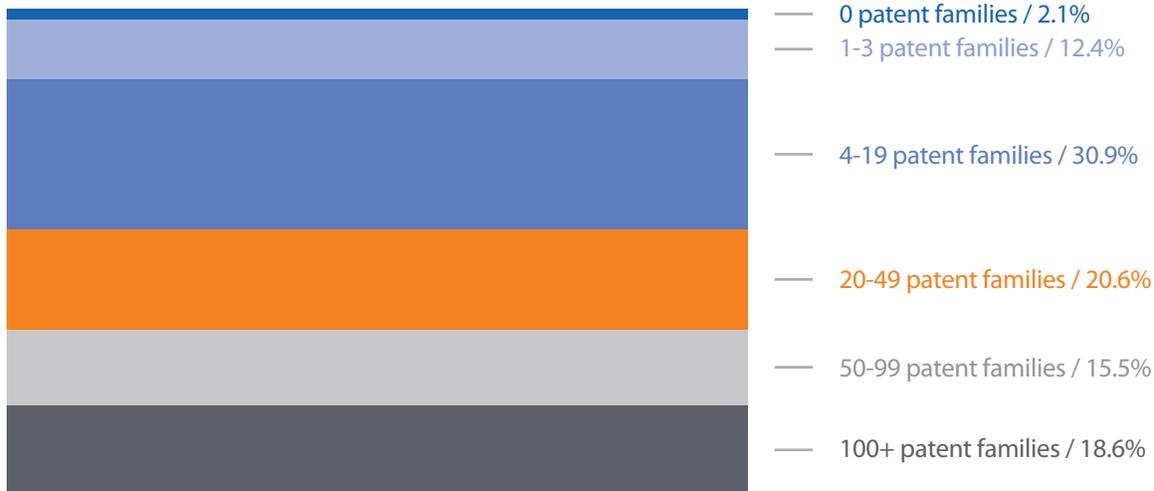


Foreign filing & global outlook

Foreign filing & global outlook

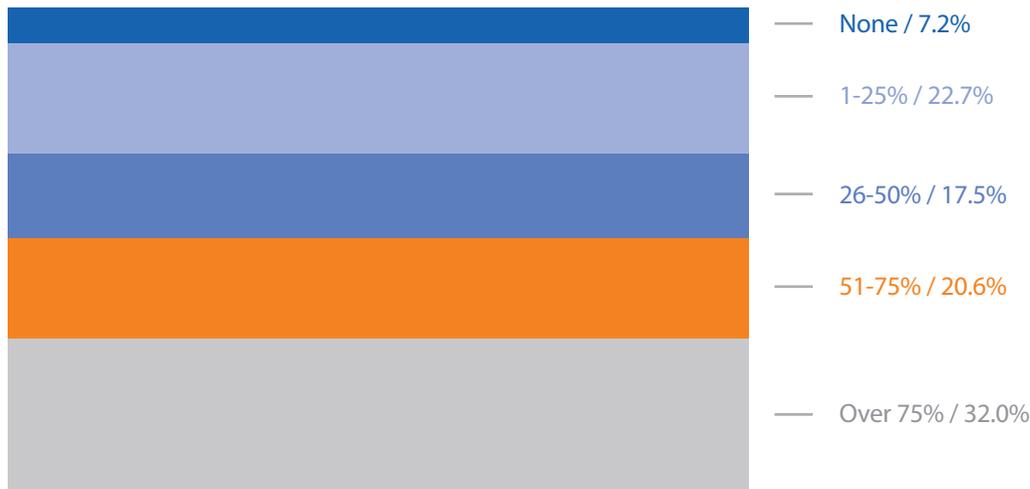
The patent portfolios of the respondents span a broad range of sizes, with 14% of respondents filing 3 or fewer patent families in 2013, 50% filing 4-49 and 33% filing 50 or more patent families.

Approximately how many patent families did you file in 2013?



In terms of the international filing activity, 52% of respondents filed more than half of their patent applications overseas in 2013. This number continues to grow year after year, reflecting the importance of international patent protection among U.S. companies.

What percentage of 2013 patent families did you file internationally?



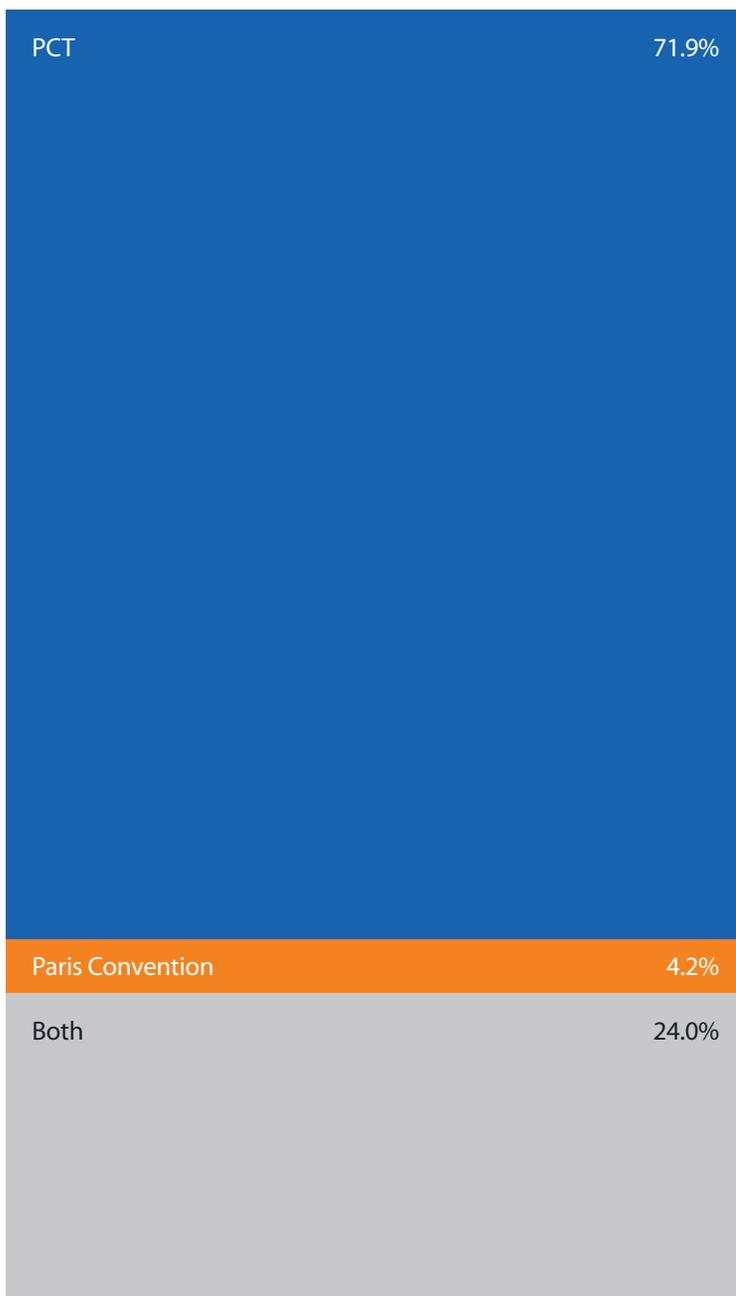
On track with last year's results, 70% of respondents filed in 4 or more countries.

Foreign filing & global outlook

Filing method / Similar to the results of our 2011-2012 surveys, almost all (96%) of our respondents used the Patent Cooperation Treaty (PCT) for some or all of their foreign filings in 2013.

Many respondents who filed abroad via both the PCT and the Paris Convention discussed the cost-savings break-even point when considering the methods: for 4+ countries, the PCT is often most cost-effective; however, if filing in just a few countries then it makes more sense to file direct via the Paris Convention. Many respondents also mentioned that they file into countries that are not PCT members, and thus must file via the Paris Convention.

Did you file overseas using the PCT and/or Paris Convention in 2013?



Those who were critical of the PCT commented about the length and expense of the process:

- "Sometimes the search takes much longer than expected."
- "Cost ends up being higher than when applying directly in a specific country."
- "The PCT system makes most sense for filing in a large number of countries, which we do not," according to one respondent. "The PCT system also makes sense for a company that is likely to decide within 20 or 30 months that it is not going to pursue a non-trivial number of its filed patent applications. Our patent strategy is not consistent with such."

On the contrary, many respondents had very positive comments about the PCT system, including:

- "The PCT system has evolved greatly over the years, the 371 declarations and the IB web based filing is great."
- "We like using the PCT for its convenience and affordability."
- "Still the best cost-shifting tool available."

Country selections / 20% of respondents filed into new countries in 2013 versus 23% of respondents who added countries in 2012, as compared to prior years. It appears that certain countries, like China, are now regular destinations for many U.S. applicants.

BRIC Countries / We asked respondents for the first time this year how recently they started filing into the BRIC countries (Brazil, Russia, India and/or China). The results were encouraging, showing tremendous growth in these markets within the last 5 years.

How recently did you start filing into the BRIC countries (Brazil, Russia, India and/or China)?



Some interesting reasons for adding countries in 2013 included:

- Emerging markets like Latin America, specifically market growth in Brazil
- Business expansion in China
- Growing markets in Peru
- A growing economy in Poland with good enforcement
- Market developments in Thailand

Alternatively, 15% of respondents stopped filing into certain countries in 2013 (versus 19% of respondents who dropped countries in 2012, as compared to prior years).

Of those respondents who stopped filing into certain countries in 2013:

- Some stopped filing a significant amount in the EPO due to the upcoming unified patent court
- Market opportunity in Japan, Australia, and Canada was dwindling
- Onerous prosecution and limited value in Saudi Arabia
- Too expensive in Japan

Those who cited dropping Europe in 2013 mentioned that the high cost does not justify the value. Compared with previous years, nobody cited dropping China, indicating that prior concerns over enforceability have significantly lessened.

Foreign filing & global outlook

Targeted global outlook / As in past years, respondents were asked to rank the importance of certain jurisdictions in their 10-year foreign filing strategy (South Africa and Canada were added to the survey for the first time this year). Largely, feelings have not changed with Europe, China and Japan rated as the most important. India dropped in importance largely due to growing doubts about usability of patent protection and Brazil slipped in importance because of increasing difficulty in getting patents granted in a reasonable length of time.

1. Europe



2. China



3. Japan



4. Canada



5. South Korea



6. Australia



7. India



8. Brazil



9. Singapore



10. Russia



11. South Africa

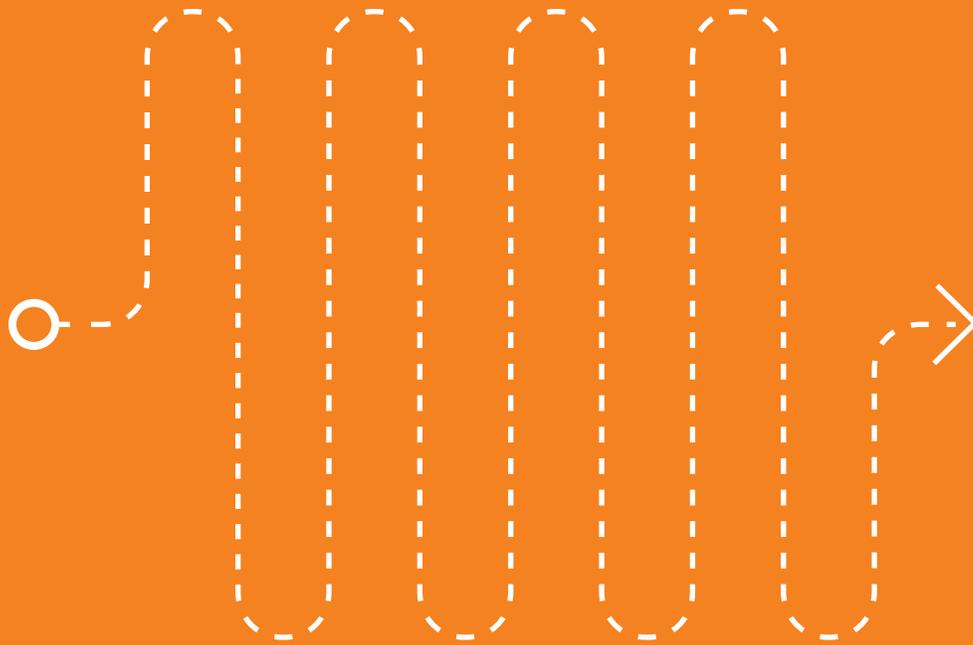


12. ARIPO



Experiences with International Searching Authorities / We also asked respondents which offices they use as an International Searching Authority and found that 71% have used the European Patent Office (compared to 75% last year), 45% have used the Korean IP Office (versus 50% in 2012) and 11% have used the Japanese Patent Offices in 2013 (same as 2012). A few others cited using the Australian and Russian Patent Offices.

EPO	KIPO	IP Australia	Rospatent
+	+ / -	+	-
Generally Positive	Mixed feelings	Generally Positive	Mostly negative
<ul style="list-style-type: none"> • "Europe is probably the best, but too expensive." • "EP has traditionally been excellent, but I've found them slacking off a bit in quality the past couple of years." • "I much prefer European searches. They are thorough and good." • "Very pleased with both EPO recently; quality has been good; speed acceptable. Cost in EPO is higher, but you can get some back later if you don't proceed." • "Europe is best, but expensive." • "Europe is clearly the one providing best quality and best value." 	<ul style="list-style-type: none"> • "The Korean search authority appears to have very high quality and speedy results." • "KIPO is fast, but searches are not as thorough as they used to be." • "Korea is cost effective but not perceived as authoritative by other jurisdictions." • "Generally pleased with the Korean search authority." • "Korea was cheap but mediocre in quality." • "See no difference between lower cost ones (Korea) and higher cost ones (Europe)." 	<ul style="list-style-type: none"> • "Australian quality is better than Korea and the speed is better than Europe." 	<ul style="list-style-type: none"> • "Cheaper." • "Russia is good for cost, but prior art can be odd at times." • "Russia is not good (we've received irrelevant or cumulative references that harm the value of the property)." • "Not useful."

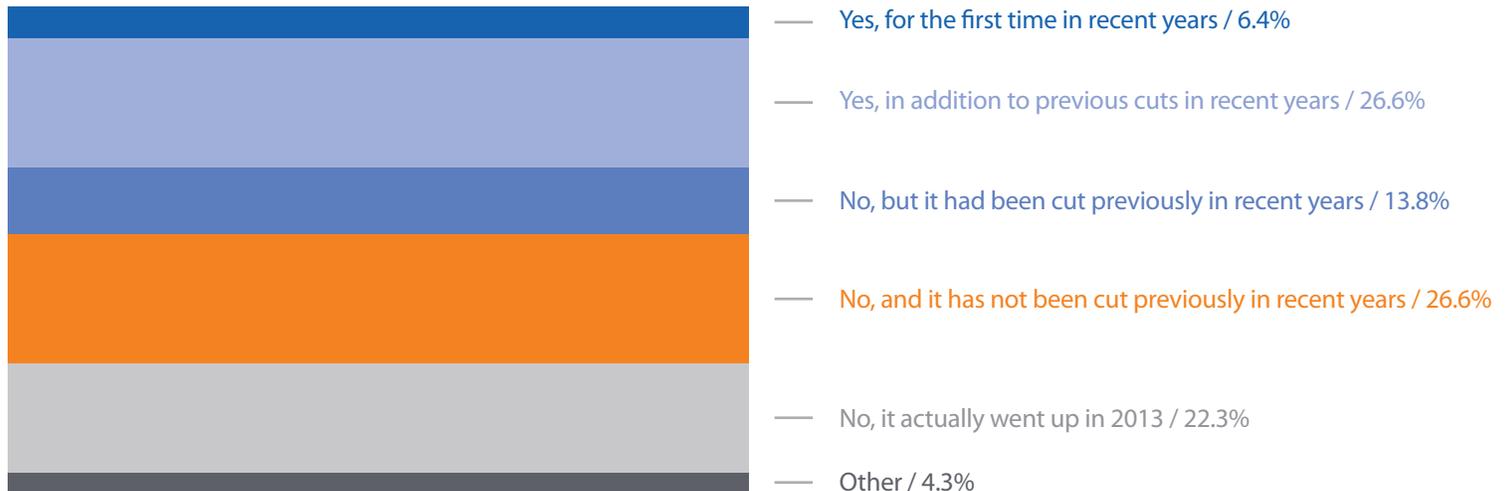


IP budgets & workflow changes

IP budgets & workflow changes

Continuing the trend from last year's survey, only 33% of respondents are working on a reduced IP budget going into 2014, compared to nearly two-thirds of respondents three years ago. Positively, over 60% of respondents were not affected by these cuts, and in some 22.3% of cases, the budget actually increased in 2013.

Was your IP budget cut in 2013?



For those respondents who did have their IP budget cut in 2013, only 6% saw it cut by more than 30% (versus 19% who experienced budget cuts in excess of 30% in 2012).

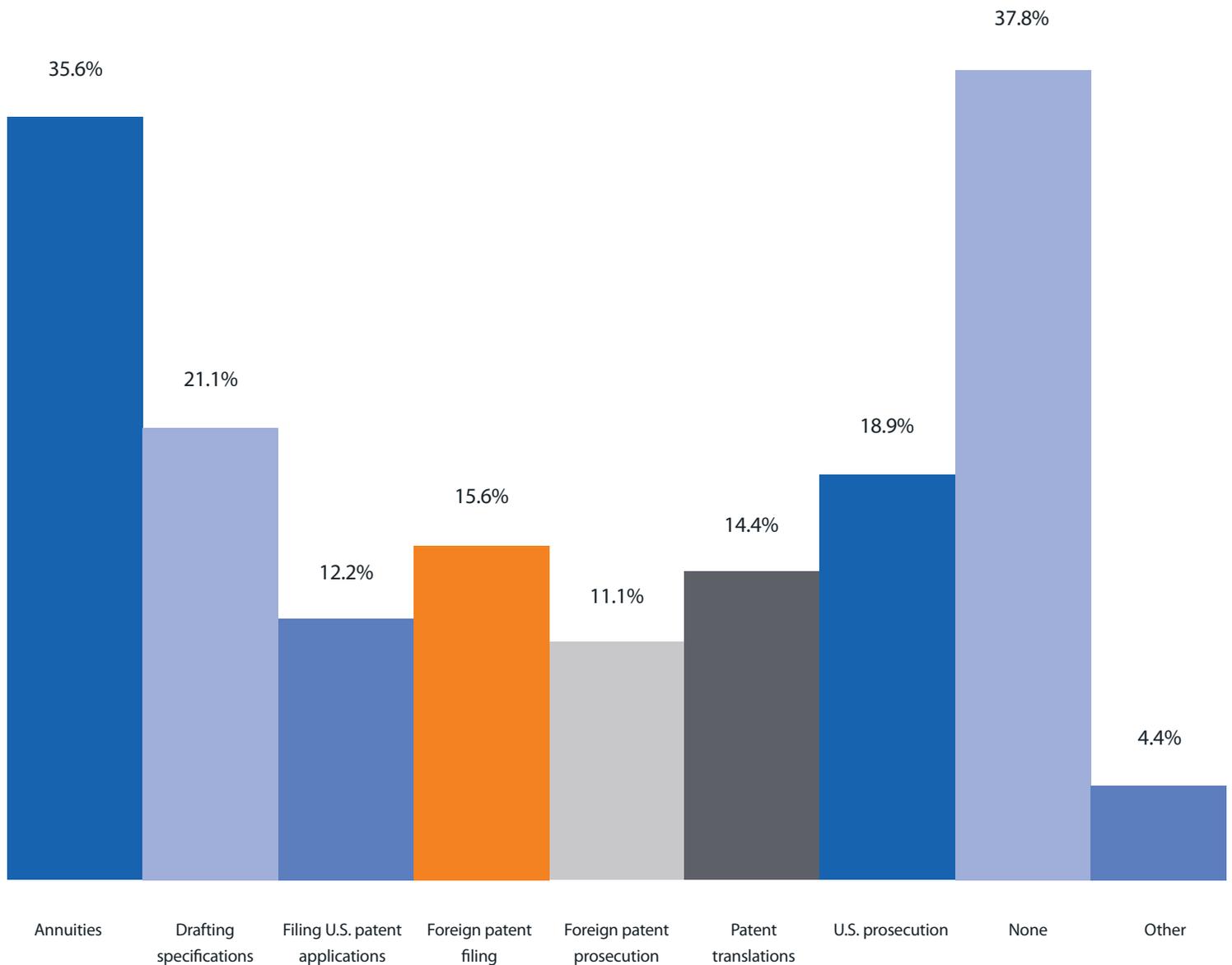
By what percentage was your IP budget cut in 2013?



IP budgets & workflow changes

Workflow and cost containment / 45% of respondents brought some steps in house in 2013 (less than 57% from last year). As we see almost every year, there was a jump in the percentage of respondents who either brought in house or outsourced annuities (36% in 2013 versus 30% in 2012).

What steps, if any, did you bring in house or outsource to a non-law firm provider (i.e. did not use local counsel for) in 2013?

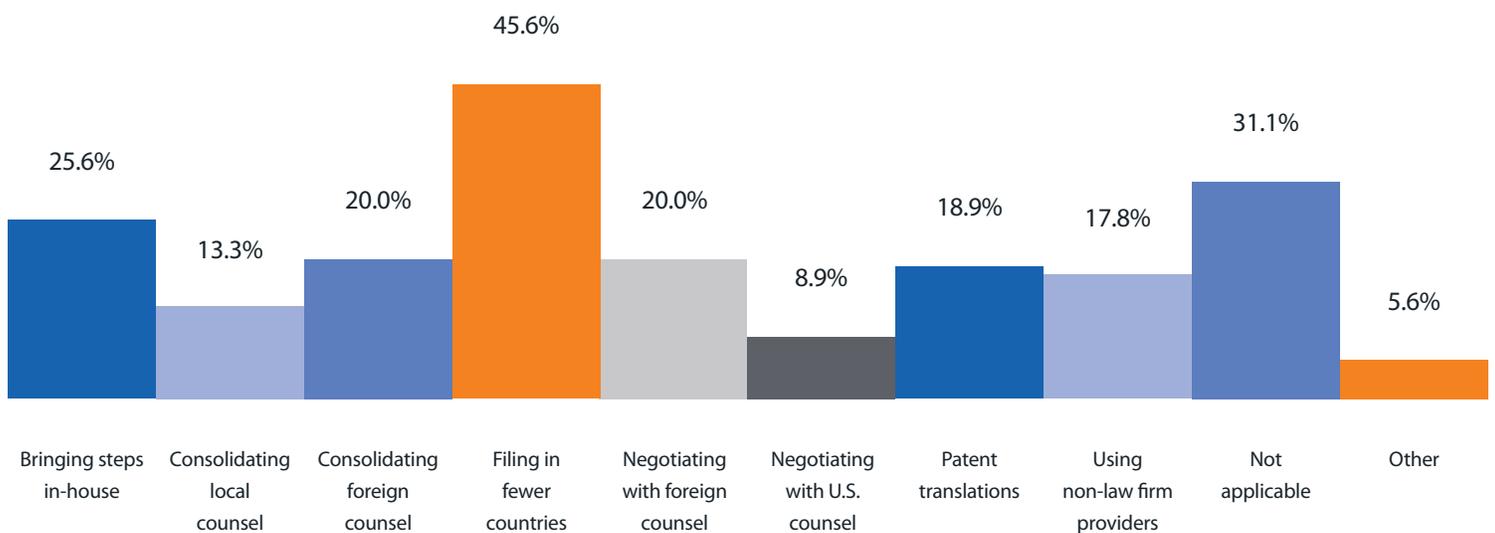


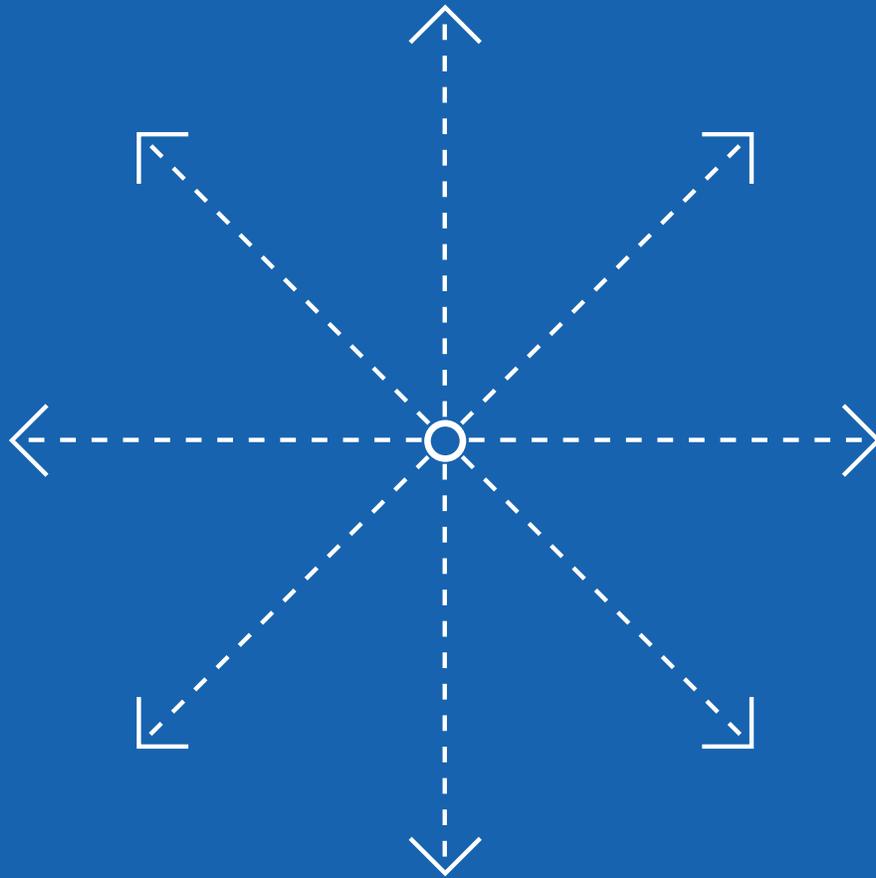
More companies outsourced their foreign patent filing needs in 2013 compared to last year (nearly 10% in 2012 and growing to over 15% in 2013).

As compared to the 2013 results, more applicants expect to save on foreign patenting costs in 2014 by:

Bringing steps in-house	27.9%
Consolidating local counsel	8.9%
Consolidating foreign counsel	25.6%
Filing in fewer countries	41.1%
Negotiating with foreign counsel	34.4%
Negotiating with U.S. counsel	17.8%
Patent translations	20.0%
Using non-law firm providers	20.0%
Not applicable	27.8%
Other	6.7%

If you reduced foreign patenting costs in 2013 (compared to 2012), from which areas did these savings come?

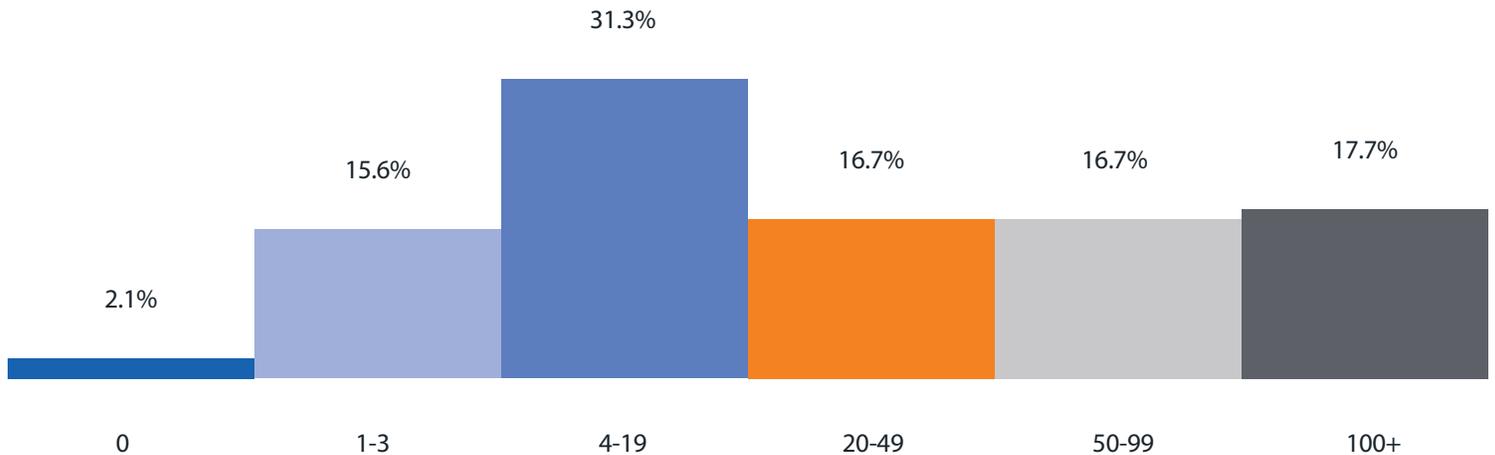




Outlook for 2014

Outlook for 2014

Approximately how many patent families do you expect to file in 2014?



About half of the respondents answered that the key IP trend to look out for would be non-practicing entities and patent troll litigation. Others answered that U.S. patent reform and the effects of the America Invents Act, as well as the rising cost to obtain patent protection will be key IP trends in 2014. Only a few individuals mentioned IP enforcement in China as a concern, reiterating that this is less of an issue than in past years.

Topics cited as key trends for 2014 were:



About *inovia*

inovia is one of the largest foreign filing providers in the world. Our goal is to offer a one stop shop experience so that our clients can save both time and money on their foreign filings. Currently we offer solutions for:



PCT national stage entry



Direct filing



European validation



Patent translations



Trademark search

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