

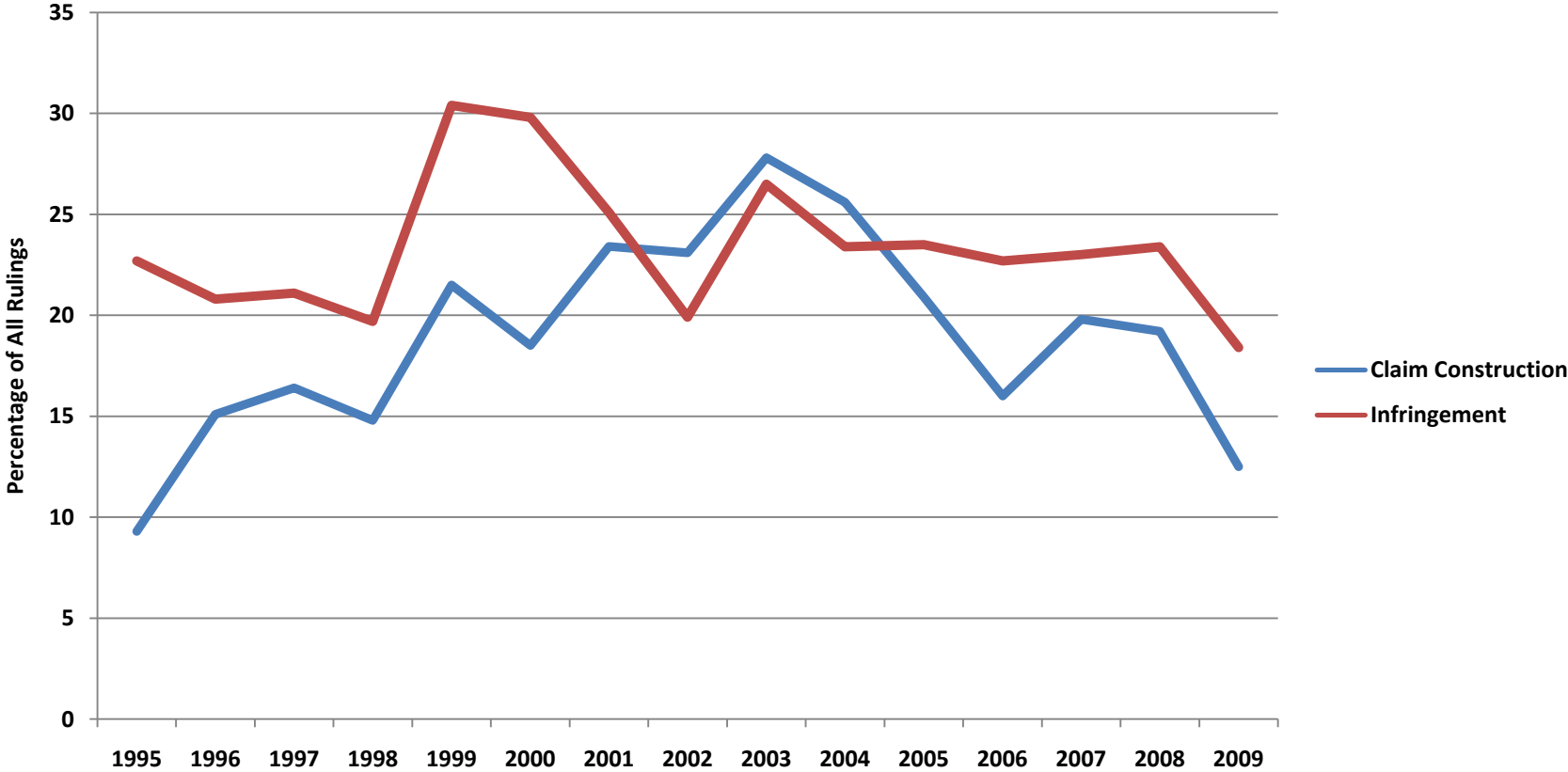
LegalMetric[®]

Federal Circuit Rulings by Issue

By Greg Upchurch
LegalMetric Director of Research
J.D.-Yale Law School
Adjunct Professor-Washington University School of
Law

Claim Construction and Infringement Rulings

Claim Construction and Infringement



Claim Construction and Infringement Rulings

- Markman was decided 4/23/1996
- Claim Construction rulings increased from that date and peaked in 2003 at almost 28% of all rulings
- Infringement rulings peaked earlier (1999) at just over 30% of all rulings
- The percentages of claim construction and infringement rulings have fallen since 2003

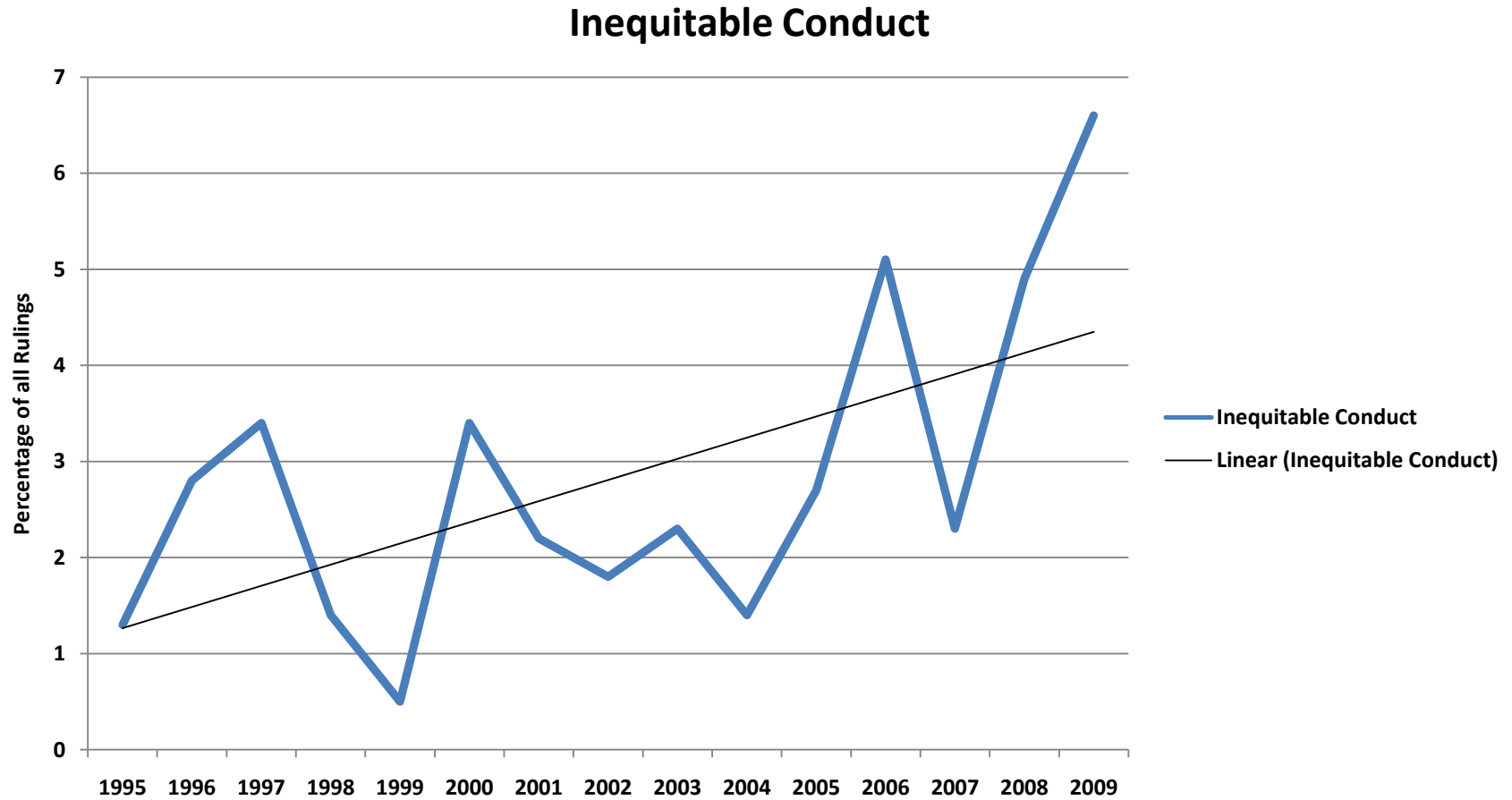
Validity Rulings



Validity Rulings

- The percentage of Federal Circuit rulings which are validity rulings is usually between 15% and 20%.
- There is no significant long-term trend, as shown by the trend-line.

Inequitable Conduct



Inequitable Conduct

- Inequitable conduct rulings constitute a relatively small fraction of all Federal Circuit rulings (less than 7%, and usually less than 5%)
- Although the numbers are small, there does appear to be an upward trend in the percentage of inequitable conduct rulings.

Time Frame and Source

- Figures are from LegalMetric's 2009 Federal Circuit Patent Report
- The underlying data was extracted from Federal Circuit opinions from 1995 to May, 2009
- Each opinion typically contains several rulings—e.g., two claim construction rulings, one validity rulings, etc.