Secondary patenting on the rise

Share of drugs with non-AI patent by approval cohort

Nominal patent life by approval cohort

Share of drugs with non-AI patent by approval cohort

Nominal patent life by approval cohort
So are patent challenges

Share of drugs with challenge by approval cohort

Share with Challenge

Approval Cohort

Patent challenges focus on secondary patents

Share of drugs challenged within 3 years eligibility
By portfolio characteristics

- Non AI Patent Only
- Both
- AI Patent Only

Based on 367 drugs from Hemphill - Sampat JELS Sample with at least 3 years data

Share of patents challenged
By patent type

- Non-AI
- AI

Based on patents from Hemphill - Sampat JHE Sample
When secondary patents litigated to completion, generics usually win

Source: Hemphill-Sampat Science paper
Secondary (non-AI) patents disproportionately boost patent term for non-NCEs

Increment to patent term from secondary patents (by drug type; Author calculation - based on 485 drugs from Hemphill Sampat JELS sample)

Top bar shows mean increment; bottom bar median