

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)

QUARTERLY MEETING

Alexandria, Virginia

Friday, April 28, 2023

1 PARTICIPANTS:

2 TPAC Members:

3 DAVID J. CHO, Chair

4 ANDRAEA BROWN, Vice Chair

5 TRACY L. DEUTMEYER

6 JOMARIE B. FREDERICKS

7 DEBORAH GERHARDT

8 DONNA GRIFFITHS

9 AMY HSIAO

10 RODRICK J. ENNS

11 DANA BROWN NORTHCOTT

12 Union Members:

13 JAY BESCH, NTEU 245

14 HAROLD ROSS, NTEU 243

15 PEDRO FERNANDEZ, POPA

16 USPTO:

17 KATHI VIDAL, Under Secretary of Commerce for
18 Intellectual Property and Director of the USPTO

19 DAVID GOODER, Commissioner for Trademark

20 GLEN BROWN, Group Director for Information
Technology

21 GREG DODSON, Deputy Commissioner for Trademark
22 Administration, USPTO

- 1 PARTICIPANTS (CONT'D):
- 2 SEAN MILDREW, Deputy Chief Financial Officer,
USPTO
- 3 BRANDEN RITCHIE, Directorate for International
Affairs, USPTO
- 4
- 5 GERARD ROGERS, Chief Administrative Trademark
Judge, Trademark Trial and Appeal Board, USPTO
- 6 DAN VAVONESE, Deputy Commissioner for Trademark
Operations, USPTO
- 7
- 8 MICHELLE PICARD, Office of the Chief Financial
Officer
- 9 MONTIA PRESSEY, Director For Trademark Register
Protection
- 10
- 11 MARY CRITHARIS, Chief Policy Officer and
Director for International Affairs
- 12 NANCY OMELKO, Directorate for International
Affairs
- 13
- 14 KIM ALTON, Directorate of Governmental Affairs

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1 P R O C E E D I N G S

2 (1:00 p.m.)

3 CHAIRMAN CHO: Hello and welcome,
4 everyone. I wanted to get your attention because
5 this is our first public meeting of 2023, of the
6 USPTO Trademark Public Advisory Committee, or
7 known as TPAC. My name is David Cho. I'm the
8 current Chair, and at my daytime job, I'm an
9 Assistant Vice President and Senior Legal Counsel
10 for AT&T.

11 I would like to take this opportunity to
12 introduce my esteemed colleagues of TPAC,
13 beginning to my right with my remarkable Vice
14 Chair, Adraea Brown. She is an Assistant General
15 Counsel at Harley-Davidson Motor Company.
16 Following her, in order of seniority are: Tracy
17 Deutmeyer, Shareholder of Fredrikson & Byron; and
18 Jomarie Fredericks, Deputy General Counsel, Chief
19 Intellectual Property, Brand Counsel at Rotary
20 International and The Rotary Foundation.

21 Next, are Rodrick Enns, Partner at Enns
22 & Archer; and Dana Brown Northcott, Vice President

1 and Associate General Counsel, Intellectual
2 Property Legal at Amazon.com; finally, our newest
3 members are Deborah Gerhardt, a Reef Ivey
4 Excellence Fund Term Professor of Law, at the
5 University of North Carolina School of Law; Donna
6 Griffiths, IP Specialist, at Cytiva Technologies;
7 and, finally, Amy Hsiao, Partner at the Eligon IP
8 firm.

9 I also want to welcome our three union
10 representatives, Harold Ross, President of the
11 National Treasury Employee Union, or NTEU, Chapter
12 243; Jay Besch, President of NTEU, Chapter 245;
13 and Pedro Fernandez of the Patent Office
14 Professional Association or known as POPA.

15 Next, it's my immense pleasure to
16 welcome Kathi Vidal, the Under Secretary of
17 Commerce for Intellectual Property and Director of
18 the USPTO. And, finally, I am grateful for
19 Commissioner David Gooder and the USPTO
20 leadership.

21 It is an incredibly rewarding experience
22 to work with my TPAC colleagues and exceptional

1 leaders in the USPTO to continue shaping and
2 protecting intellectual property rights of the
3 U.S. and its significant global impact.

4 One such example is my unbridled
5 excitement to announce the April 11th launch of
6 the first ever USPTO trademark award, emphasize
7 "trademark," called Trademarks for Humanity Award,
8 recognizing brand owners who are improving the
9 environment.

10 The deadline for applicants, so please
11 hurry, is July 14th. You can see more details at
12 the USPTO website. Well, let me remind you of
13 some housekeeping matters to submit any questions
14 during our meeting today by email to:
15 Tpac@uspto.gov; again, the email is,
16 tpac@uspto.gov.

17 Now, let me turn the floor over to our
18 esteemed director, Kathi Vidal.

19 DIRECTOR VIDAL: Got it, got it, thank
20 you. Do we still have the slide up?

21 CHAIRMAN CHO: They are trying to figure
22 it out now.

1 DIRECTOR VIDAL: Okay, great. Well,
2 this is excellent. So, you stole my thunder. I'm
3 super excited about the trademark award, and I
4 will mention that in my remarks. Thank you for
5 the introduction. Thank you to all members of the
6 TPAC for your unwavering support for all that
7 we're doing and helping us in so many different
8 ways.

9 Two weeks ago -- wow, two weeks ago
10 already, I marked the first year of my work here
11 at the USPTO, and I can't say enough about all of
12 you, including my colleagues and the TPAC. You
13 have been amazing, and we know we'll get some
14 great work done, and I know we still have much to
15 do, as I was reminded yesterday in my hearing. I
16 get to wear color today, so I'm very excited about
17 that. (Laughter)

18 I am delighted to be speaking here also
19 this week, where we marked World IP Day, and where
20 the topic was Women and IP Accelerating Innovation
21 and Creativity. And, you know, just thinking
22 about that language, Accelerating Innovation and

1 Creativity by bringing more women into the
2 innovation entrepreneurship, creativity,
3 ecosystem. It's just so powerful.

4 The opportunities we have by bringing
5 more people into the ecosystem is going to have a
6 immeasurable impact on our economy. It's going to
7 create jobs in communities. It's going to allow
8 people to put their kids through college because
9 it will be higher paying jobs. The work that we
10 have to do is just so exciting and inspiring to
11 me. I'm glad to be doing it with you.

12 I'll talk some about our initiatives in
13 a bit, but we are doing a lot around women. We
14 are doing a lot to bring anybody who is not in the
15 innovation entrepreneurship ecosystem into that
16 ecosystem. I was also thrilled talking about some
17 of our work around women that TPAC attended our WE
18 Wednesday this week, as did many of my colleagues.
19 Thank you for your support of that.

20 I know a number of our patent examining
21 attorneys attended as well and said it was
22 thoroughly inspiring, and so just really glad that

1 we can serve both of those in the USPTO, as well
2 as the community, and really would hope and call
3 on you and everybody who is on for your support of
4 that and getting the word out more, helping us
5 reach more people with the programming that we are
6 already doing because we have got so many amazing
7 offerings.

8 It was also great to see you on Capitol
9 Hill; that was fantastic, a little different than
10 my other visit to Capitol Hill this week. It's
11 very, both very enjoyable in their own ways.
12 Thank you for participating in that event as well
13 and being out there as the face, part of our face
14 of the USPTO.

15 I do have here in my remarks in yellow
16 that I was supposed to update you on anything that
17 happened yesterday, so I will do a quick update.
18 So, good that trademarks are on the minds of those
19 in Congress. And I'm not sure if you've -- I'm
20 sure everybody has not heard the testimony or read
21 the testimony, but it was really great that
22 Ranking Member Hank Johnson asked me some

1 questions about some of the fraud.

2 Because he recognized, Congress
3 recognizes that that an issue for our small-to
4 medium-sized companies. It's an issue for
5 everyone, quite frankly. As I told him, we are on
6 it. That doesn't mean we don't have more work to
7 do, we have much more work to do.

8 He did mention the Local Counsel Rule,
9 the U.S. Local Counsel Rule, and I told him, and
10 I'll repeat it again here that between December
11 2022 and March 2023, 19 U.S. licensed attorneys
12 were referred to our Office of Enrollment and
13 Discipline.

14 So, those are U.S. attorneys who are
15 trying to get around the rule by helping others
16 that file things fraudulently. So, and I know you
17 know well about all of the sanctions orders we
18 have issued, about every attempt that we're making
19 to clear the trademark register of anything that's
20 fraudulent.

21 We have talked about it and work on it
22 weekly with the unions and with all of trademark.

1 So, I'm glad that Congress recognizes that the
2 more that we can elevate these IP issues the
3 better it will be for the country. I think that
4 was the main update, unless you want to talk about
5 the PTAB for a bit -- apparently not. (Laughter)
6 There is a lot about the PTAB, okay.

7 So, moving on. So, I just want to thank
8 the Trademark Office for everything that they have
9 done, we have done in the past year, including the
10 transition to TM Exam, successful and timely
11 rollout of our new response periods under the TMA,
12 Trademarks for Humanity, as David mentioned,
13 coping with the huge inventory of trademark
14 applications that surged during the pandemic.

15 You know, sometimes I get asked if that
16 surge was caused by all of these fraudulent
17 applications. That was the first question I had
18 for Trademarks, and it's not. It's the surges
19 really more people starting businesses, more
20 people realizing that they can be entrepreneurs.

21 So, the surge is great and now we just
22 have to find a way to bring pendency down, which

1 is something, again, we're working on and working
2 on with the unions. Managing the residual impact
3 of COVID in our professional lives. That's
4 something that every organization I know is
5 dealing with, and Trademarks is no different than
6 anyone else.

7 And then, anti-counterfeiting, that was
8 something that it was in my written testimony that
9 I talked about, that's something that we do mostly
10 with our Office of Policy and International
11 Affairs, and also with our Comms (phonetic) team,
12 but we have been doing a really great job
13 educating people. I know I asked you to form a
14 subcommittee around anti-counterfeiting.

15 Last year, I think that's -- that work
16 is still going on. I look forward to hearing any
17 other ideas on what more we can do, both across
18 government, our work across the world trying to
19 help shore up systems across the world so that
20 U.S. trademarks and trademarks in those countries
21 will be respected and will have good systems
22 everywhere because trademarks are so important and

1 want to make sure that once people are able to
2 secure their trademark that it's used in the
3 proper way and that people aren't trying to sell
4 against them.

5 Really appreciate the work of the TPAC
6 to the trademark community, especially in these
7 last few years, where we have tackled some of
8 these challenges, whether it be counterfeiting or
9 fraud, et cetera, just It's been phenomenal. Just
10 want to give you a few updates -- oh, also want to
11 make sure to thank the union.

12 I have said the words but thank the
13 union. Jay Besch, Harold Ross, and Pedro
14 Fernandez, thank you for all you do. As I have
15 said over and over again, we are completely
16 aligned in wanting to make sure that everybody who
17 works at the USPTO is treated fairly, you know,
18 they feel like they belong, they feel connected,
19 and that we're just doing really great work
20 together -- so, really, really appreciate that
21 we're on that journey with you and wouldn't want
22 to be on it with anyone else. So, thank you for

1 that.

2 In terms of a few updates on USPTO
3 initiatives, this year I joined the National
4 Advisory Council on Innovation and
5 Entrepreneurship, so certainly happy to make sure
6 that you get updates on that. The meetings, for
7 the most part, are public, sometimes we go into
8 private session, but the meetings for the most
9 part are public.

10 It's the work that we're doing across
11 commerce to make sure that we never get into this
12 chip supply chain issue again. We want to bring
13 more people into the innovation and
14 entrepreneurship economy. We want to make sure
15 we're reducing barriers for people and just be the
16 startup national that we have always been. And
17 so, any thoughts or ideas you have on how we can
18 accomplish that better we'd certainly be open to
19 that. Also, as we have spoken about numerous
20 times, we have our own Council for Inclusive
21 Innovation which we have also made across commerce
22 now.

1 We have co-vice chairs from other
2 agencies really looking forward to getting all of
3 the initial ideas across the finish line. We have
4 announced some of those recently including on the
5 patent side, a first filer program. Another thing
6 that we're working on that we haven't released yet
7 is just additional communications with filers.

8 So, if somebody files for a patent
9 helping take them through the process but also
10 say, have you thought about your -- what
11 trademarks you need to register; if somebody
12 files, you know, tries to register a trademark
13 talking to them about what other IP might you
14 have. And so, we do have our new IP identifier
15 tool that we can use there, so really looking
16 forward to doing that.

17 I mentioned the WE Initiative, it's our
18 women Entrepreneurship Initiative. We launched it
19 in November, and it's just been phenomenal.
20 People will travel states, a number of states just
21 to come live and be there in person, even though
22 it's also virtual. It's phenomenal. We had one

1 session. And I'm trying to where I can host it
2 from around the country to give many more people
3 the opportunity to attend live.

4 I had one recently in Phoenix, and one
5 of the women who showed up, she brought her
6 patents with her in a bag, and she drove from San
7 Diego to Phoenix, got a flat tire, tried to fix it
8 in two towns, couldn't fix it, and decided she was
9 going to drive the rest of the way on her flat
10 because she did not want to miss our session.

11 It just shows you the level of interest
12 and dedication and people seeing that government
13 is working for them, that we're here to help
14 support them. So, that's really one of our
15 initiatives to get the word out there that we're
16 here, we're going to try and let them know
17 everything government is doing; whether it's the
18 Inflation Reduction Act, which is really spurring
19 a lot of startup activity; whether it's the CHIPS
20 Act; whether it's funding through MBDA, whether
21 it's all the amazing programming that we offer.

22 So, I look forward to seeing you at

1 those and maybe hosting you at some of them. I'm
2 real excited about that. Go for Real campaign in
3 anti-counterfeiting, I will address that. We have
4 reached over a billion people with those
5 campaigns, really just trying to change the hearts
6 and minds of people across the country.

7 As we try and stop the goods from coming
8 in, we're trying to change the buying patterns as
9 well. We're trying to hit it on both ends, so
10 excited about that. I have also been on TV around
11 the country and local TV stations to talk about it
12 when people were doing their holiday spending. I
13 thought that would be a good time to get out
14 there, that's been helpful.

15 I also know that it's part of our camp
16 invention. So, last year, we educated 280,000
17 children across the nation with camp invention,
18 many of whom were on scholarship, which is
19 phenomenal, giving them opportunities. As part of
20 that, we educated them on the value of IP and
21 respecting other people's IP, so just doing
22 everything we can and look forward to

1 collaborating with your subcommittee on that.

2 I don't need to go through Trademarks
3 for Humanity, but just please get the word out. I
4 did recently have the pleasure of celebrating
5 folks who filed for patents on -- in our Patents
6 for Humanity program around COVID. It was a
7 tear-jerking ceremony. I mean, it was incredible
8 and just to be recognized at that level is
9 phenomenal, and I'm so excited that TPAC actually
10 came up with the idea.

11 That's incredible. We should have come
12 up with it as well. I'm glad that you did. And I
13 look for more ways to think about what we're doing
14 in trademarks that we should be doing in patents,
15 and what we're doing in patents that we should be
16 doing in trademarks.

17 I think we have got a lot of information
18 to share and that's why I had suggested that the
19 TPAC and PPAC sometimes meet so that we can share
20 ideas and see what more we can learn from each
21 other.

22 In terms of key initiatives, you're

1 going to hear a lot about this, so I won't go
2 through the details on all of them, obviously,
3 reducing pendency is first on our list. But
4 equally important is a lot of the other work that
5 we're doing including IT modernization. I did get
6 asked about that yesterday as well.

7 It's really important. Congress knows
8 it's really important trying to figure out how we
9 can scale and do that more quickly with making
10 sure we're rolling it out in the right way. So,
11 trademarks did a phenomenal job on that. I know
12 in the December timeframe, we were on the call
13 daily for a while just to make sure that that
14 rolled out in the right way; and then, boost
15 trademark register protection.

16 We also have fee setting authority
17 coming up which, as you know, because the TPAC
18 plays a key role in that, our public hearing is
19 June 5th. So, anybody interested in being part of
20 that, please do so.

21 With that, I just thank you for being
22 here. It's great to see you in person, and just

1 wish you success in the rest of the day. And
2 thank you for all you.

3 (Applause)

4 COMMISSIONER GOODER: Yep, okay, all
5 right. At this point, we can kick off the
6 business part of the meeting. Conference
7 services, if you could pull the slides up, please?
8 That would be great. Okay.

9 So, in terms of our agenda today, we're
10 going to cover a number of things. But, generally
11 speaking, we're going to talk about where we are
12 fiscal year-to-date. We're in the midst of fiscal
13 '23, and we'll talk about our business operations
14 so far this year.

15 We'll get a financial update from our --
16 the Office of our Chief Financial Officer, and
17 then you'll hear updates on operations on
18 registered protection on our petitions work, our
19 trademarks-related IT priorities, from the
20 Trademark Trial and Appeal Board, Office of Policy
21 and International Affairs, and the Office of
22 Government Affairs.

1 So, we've got a busy agenda and so with
2 that we'll jump right in. And, theoretically, I
3 can't change the slides, right? All right. Okay.
4 I'm missing a graphic in our slide for some
5 reason, but I'll explain it to you. (Slide)
6 Essentially, what this shows is that with the
7 exception of fiscal '21, which had an enormous
8 leap in filings, which we have talked about a lot,
9 everybody is very familiar with. This year we
10 predicted to be sort of in line with our historic
11 curve. (Slide) But, as you'll see, with this next
12 slide, the filings themselves have been since about
13 last year on a fairly slow decline. So, for
14 instance, we -- some of these people have equated
15 it to a tire with a slight leak in it. It's not
16 dropping off, but it is declining and that is
17 something that we obviously watch very closely
18 because that's what generates the fees for what
19 drives the Agency.

20 You'll hear more about that from Sean
21 and Michelle in a little bit. We're watching it.
22 We're not uncomfortable with it but watching it as

1 it does decline. It's entirely dependent on the
2 economy because trademarks, as many of you know,
3 are sort of a leading economic indicator, whereas
4 patents tend to lag behind the economy. So,
5 trying to predict the economy, to try and predict
6 trademark filings is a lot of art and a lot of
7 science, and our folks do a great job at that, but
8 they're just like the people reporting the
9 weather, they're always wrong half of the time,
10 probably.

11 So, anyway, we had a very big filing
12 month in March, which was great but that's also
13 fairly typical to have a big month. So, we're
14 halfway through the fiscal year. We'll obviously
15 keep watching how it goes. Where those
16 applications are coming from is actually -- there
17 we go, now we appear to have this back -- there we
18 go. (Slide) So, where applications are coming from
19 is a really useful thing to look at. Because
20 whether the Agency, as a whole, filings are up or
21 down is only kind of part of the picture because
22 we have people from over 200 countries who file

1 here, and what this slide shows you is a very top
2 line of filings that come in from the U.S.

3 And you can see a lot of -- It's not a
4 straight-line affair. There is a lot of ups and
5 downs during the year. You can see them around
6 the holidays; you can see them at the start of
7 lunar new year; you can see that as we go along.
8 So, the U.S. right now is -- has been up and down
9 but is kind of in an upturn. And the next line
10 down, you can also see is China is going through,
11 after a fairly long period of shrinking filings
12 has started to bounce back up.

13 The third line down is Europe and it has
14 recently started to decline a bit in terms of
15 filings. The bottom two lines are Asia-Pacific
16 without China in it and the Americas without the
17 U.S. in it, and they have stayed pretty much,
18 fairly flat.

19 That leads us to a kind of overall view
20 including the U.S. which accounts for about 64
21 percent of filings on a fairly consistent basis.
22 China is right around 14 percent, and Europe is

1 about 12, and then six and three for the remainder
2 of the world.

3 Now, what this also indicates is that
4 Director Vidal mentioned pendency and pendency is
5 a direct -- has a direct correlation to inventory.
6 And Dan Vavonese, who's Deputy Commissioner for
7 Trademark Operations, will talk in more detail
8 about both of these topics.

9 (Slide) The good news I will tell
10 you is that, as this slide shows
11 you, is that our inventory actually
12 is coming down and has been
13 consistently since it peaked
14 somewhere in the early fall, I
15 think somewhere around September,
16 and that's a really good sign.
17 But, like I say, Dan will go into
18 more detail about that.

19 (Slide) In terms of our staff, we
20 are, the slide says, early at 1100,
21 actually, as of Monday,
22 It's slightly over 1100 employees.

1 Forty new examining attorneys started in our
2 Trademark Academy and that's a one-year program
3 that trains them on how to be an examiner, and
4 then from there they move out into their offices.
5 So, we are just over 1100 now, and you can see the
6 breakdown in here between examining attorneys,
7 support staff, petitions and policy people,
8 register protection, kind of all of the different
9 areas in the Agency.

10 Interestingly, as we have done for
11 20-some-odd years, the Trademark Office was the
12 first component of the federal government to ever
13 formally telework and started it 20 years ago,
14 last year. And so, our examiners are literally
15 all over the country including, Hawaii, Alaska,
16 and Puerto Rico. Where we don't have anybody is
17 in the sort of upper Midwest, Montana, and
18 Wyoming, et cetera, and Kentucky, for some reason.

19 So, but right now about 90 percent of
20 the Trademark Office teleworks, to some degree, or
21 another. About 88 percent of that is what is
22 called the Telework Enhancement Act Program

1 (TEAP), where people live more than 50 miles from
2 the office. It's one of the things that helps us
3 recruit. It provides a great work-life balance
4 for our people. And, as we saw during the
5 pandemic, people are incredibly productive working
6 in this kind of virtual environment.

7 That's a bit about where we are in terms
8 of the nuts and bolts of the business side. I
9 want to turn it over and talk a little bit about
10 finance now. And let me introduce you to Sean
11 Mildrew, who is our Deputy CFO. And, Sean, I will
12 leave it to you.

13 MR. MILDREW: Thanks, Dave. It's great
14 to be here this afternoon enjoying it with TPAC.
15 I'm joined by my colleague, Michelle Picard, who
16 is our Senior Advisor and Chief of Staff, in the
17 Office of the Chief Financial Officer, and
18 Michelle and I will tag team this presentation.

19 So, I'll give you overview and the
20 status of fiscal year '23 and the budget for '24,
21 and Michelle will -- so, I'll set that up, and
22 then Michelle will do some future gazing and let

1 you know what's on the horizon. Okay. (Slide) So,
2 our first slide here, really, the bottom line
3 upfront is that end of year trademark operating
4 reserve is projected to be \$183.5 million, which
5 is \$63.5 million above our minimum operating
6 reserve level and that's a good thing. So, that's
7 the bottom line upfront.

8 As you can see, this is a usual, the
9 typical chart that we present to both the PACs.
10 It shows our two business lines, the patent
11 business line, and the trademark business line.
12 And I'm going to focus on that middle column,
13 which is trademarks. But if you add those two
14 together, you get that USPTO column. So that's
15 how this chart works.

16 So, I'll start from the very top and
17 just walk you through. So, our fiscal year '23,
18 which is the year that we're in right now, started
19 October the 1st and ends on September the 30th.
20 Appropriations for trademarks was \$542.1 million,
21 and that was our President's request in the
22 President's budget from last year, Fiscal Year '23

1 President's Budget, Congress appropriated exactly
2 what we asked for to the tune of \$4.2 billion for
3 the entire USPTO.

4 And since then, we've revised our
5 estimate. You can see on both, the patent and
6 trademark business line, our revenue has softened
7 over our estimate. And so, we've updated our
8 trademark revenue estimate twice, once in June,
9 last June; and then, once again, in December,
10 bringing it down \$66.5 million. So that's the
11 number in red in the parentheses, which gives us a
12 projected end of year fee revenue of \$475.6
13 million.

14 So that's below the appropriated number
15 that we receive from Congress. So, keep that
16 number in mind 475.6, and to that number to get to
17 our total resources available, we add the
18 beginning of the year operating reserve of \$217.6
19 million. So that was the operating reserve at the
20 beginning of this fiscal year. And we also add an
21 extra \$8.2 million to trademarks and that's the
22 amount that last year we collected over the

1 appropriation.

2 So, Congress gave us an appropriation
3 last year. We exceeded that with fee collections.
4 You can see both for patents and for trademarks,
5 just a little bit. For patents it was 23.5
6 million and for trademarks it was 8.2 million. We
7 get to receive and use those funds through a,
8 what's called a Reprogramming Request to Congress.
9 And it's basically a letter from the
10 Administration to the Congress saying, you gave us
11 an appropriation. We collected more than that
12 appropriation. We'd like to use those funds and
13 return them to our accounts.

14 And so, it's just by -- it's a mechanism
15 through a letter request, essentially, to the
16 Congress and that was just recently approved. So,
17 we've added that now to our available funds which
18 gives us a total just over \$700 million, \$701.3
19 million of total resources available.

20 And our spend plan for this fiscal year,
21 for trademarks, is \$517.8 million, and you can see
22 that number in red with the parentheses. So,

1 that's our spend plan. So, we round that up to
2 518, so keep that number in mind because I'll hit
3 it with another slide in just a moment or two
4 here.

5 So, if you take the total funds
6 available minus the estimated spend plan for the
7 fiscal year, you end up with an operating reserve
8 balance of 183.5. And you can see that number, as
9 I said, the good news is it's \$63.5 million above
10 our minimum operating reserve, but it is lower
11 than the number that we started with at the
12 beginning of the fiscal year, that 217.6. And
13 you'll see in a slide or two just how that
14 operating reserve works. And these numbers, by
15 the way, are as of February. Okay.

16 (Slide) So, the next slide, so that
17 517.8 or \$518 million spend plan,
18 that's that line, that green line
19 at the very top of this chart, and
20 just to give you some orientation.
21 So, this chart, the X-axis is the
22 months, starting with October 1st,

1 for this fiscal year, going all of
2 the way through September 30th,
3 month-by-month, showing spending to
4 revenue, and the spending is the
5 blue bar there and the revenue is
6 the red bar, and the Y-axis, is in
7 millions of dollars.

8 And you can see every month, we are
9 spending more than the revenue we're collecting.
10 And you probably are asking yourself, how is that
11 possible? You're spending more money than what
12 you're collecting. Well, it's the beauty and the
13 miracle of the operating reserve. That allows us
14 to continue on with normal business operations.
15 So that's just an insight into the ongoing fiscal
16 year mechanics here at the USPTO.

17 (Slide) Our next slide now focuses
18 on revenue, trademark revenue. And
19 remember that number that I told
20 you about, the appropriated number
21 for this fiscal year, \$542 million.
22 That's that line, that's that green

1 line at the very top of this chart.

2 And, as I mentioned, we have refreshed
3 our revenue estimates, once in June, and again in
4 December, getting us to that \$476 million number
5 that I mentioned on that previous slide. And when
6 we look at our 25-day moving average calculation,
7 we're actually looking at an end of year. That's
8 what the EOY stands for, end of year number for
9 revenue at about, even a little lower than our
10 revised number from December of \$463 million. So,
11 that would be about 2.6 percent or \$13 million
12 below our revised number from December timeframe.

13 (Slide) Our next slide, we'll take
14 a look at the operating reserve.
15 And so, this is about a
16 year-and-a-half of data here,
17 starting with October 1, 2021, and
18 going through to the February
19 timeframe. You can see that our
20 optimal operating reserve balance
21 is targeted at about seven months
22 worth of operations worth just over

1 \$300 million, and our minimum is
2 operating reserve balance is set at
3 120. That's that number that I had
4 mentioned previously.

5 And you can see from over the last
6 year-and-a-half, or so, we have been right sort of
7 in the middle of those two guardrails and that's
8 great. That's kind of where we want to be. We
9 don't want to be above the optimal. We don't want
10 to be below the minimum. We keep an eye on that.
11 That really is our safety net and our reserve to
12 weather any business cycle or economic changes.

13 And, as we look forward, our current
14 analysis shows at the end of February, a \$200
15 million operating reserve. But, as I said, our
16 spend plan will continue to spend that number down
17 and will get to probably around \$183 million that
18 was represented on that prior chart that I showed
19 you.

20 So, switching gears now, so that was
21 '23. We're moving now onto fiscal year '24. This
22 was the budget that was just submitted to the

1 Congress. And you can see the chart here shows
2 fiscal years on the X-axis, on the bottom there,
3 and millions of dollars on the Y-axis, and this
4 shows fee collections: The blue is patents; the
5 solid area there is actual collections; the shaded
6 area is projected; and the red, at the top, is the
7 trademark.

8 And you can see it's a general upward
9 trend, so the good news is that we're going to --
10 we're forecasting and planning revenue increasing
11 year-over-year. Our total revenue projected is
12 \$4.2 billion of which that fee collections of \$500
13 million for trademarks. Okay.

14 (Slide) Our next slide here is
15 spending now. This is, gain, for
16 fiscal year '24, shows a total
17 USPTO positions of 14,425 positions
18 for a total spend of \$4.2 billion,
19 and trademark spend is \$555 million
20 of that. And you can see on the
21 pie chart that our total plan
22 spending of \$555 million for fiscal

1 year '24, 69 percent of that is
2 compensation and that's salaries,
3 and overtime, and benefits, and 31
4 percent is non-compensation costs
5 which are things, like, including:
6 Contracts, travel, training,
7 equipment, printing, and supplies.

8 And for on the horizon, I'm going to
9 turn it over to my colleague, Michelle Picard.

10 MS. PICARD: Great, thank you, Sean.
11 Good afternoon, everyone. So, Sean took you
12 through our current financial status, now I'm
13 going to take you a little further looking ahead.
14 You'll see right there under the first section on
15 this slide that our -- we're getting ready to
16 start our FY '25 budget formulation, so that we
17 started revalidating our budget for next year and
18 then we're updating our estimates that will take
19 us all the way into 2029.

20 That process ends with us submitting our
21 budget requests to the Office of Management and
22 Budget, which is an arm of the White House, and we

1 plan to do that in September. The other good news
2 on the horizon is we are getting close to
3 publishing our new strategic plan. We provided a
4 draft to the public and our employees to provide
5 comments a few months ago, and we're in the
6 process of finalizing all of those based on your
7 feedback.

8 I want to thank those of you who took
9 the time to provide us the feedback because it
10 definitely helped us shape it into a better
11 document. We received some really valuable
12 feedback. We anticipate releasing the new
13 strategic plan later this spring, so kind of keep
14 your eyes out, it's close. We're getting there.
15 Sean, next slide. (Slide) So, the next thing on
16 the horizon, which Kathi mentioned in her opening
17 remarks is fee setting. So, as Sean discussed in
18 our '23 and '24 status, some of our costs are
19 outpacing our revenue, and our forecasts in the
20 President's budget show that this will continue
21 into the horizon for the reasons that Sean
22 mentioned, primarily, because our demand

1 forecasts, while our forecasts continue to show
2 growth, our growth is not as optimistic as we
3 thought it was going to be in our 2023 President's
4 Budget.

5 So that's taking a step back to make
6 sure that we're recalibrating our fee structure.
7 So, the good news is that, as Sean showed you on
8 this slide, the operating reserve is healthy
9 enough to sustain us until we go through and reset
10 fees. And so, let's -- I'm going to spend some
11 time just kind of talking a little bit about the
12 process, not the actual proposal.

13 So, if you look at -- some of you may
14 have noticed that in the Federal Register we
15 published and announced the fee setting hearing,
16 as Kathi mentioned, it's scheduled for June 5th.
17 I would say that Federal Register Notice yesterday
18 was kind of like a save the date and more to come.
19 (Slide) So, if you look at the bottom of this
20 slide, I'm going to spend some time on kind of the
21 process. So, if you see in Stage 1, we have
22 already completed that. We have figured our --

1 got our proposal together and we're just nearing
2 into Stage 2; so that's our fee setting hearing,
3 that's the public review. And we're going to --
4 we will deliver our proposal to the TPAC.

5 We're planning the first, the beginning
6 of May and that will be -- we'll be posting it on
7 both TPAC's webpage and our fee setting and
8 adjusting website and kind of if you -- the law
9 requires us to hold a hearing for 30 days after we
10 -- within the 30 days, we deliver the proposal to
11 TPAC, so kind of a spoiler alert, if you heard
12 that the fee setting hearing is on June 5th, and
13 you back up 30 days for that, we're kind of
14 looking somewhere around May 8th, that that should
15 be coming out.

16 So, keep an eye out for the trademark
17 alert. After we issue the proposal to the TPAC, we
18 will definitely do an alert so that folks will
19 know where that is, where to find it on our
20 webpages, and evaluate the proposal. The other
21 thing you'll see in the Federal Register Notice
22 that came out yesterday is all of the logistics

1 about how you could request to do an oral
2 presentation, or a witness at the hearing, and the
3 timeframes for submitting comments.

4 I think our date is June 12th to get all
5 of the comments in. So, you'll have plenty of
6 time to evaluate the proposal once we post it.
7 And then, the other thing that I wanted to really
8 focus on is, after the hearing is done the TPAC
9 will review all of the comments from the members
10 of the public. They will issue a report on their
11 recommendation to the Agency, as to what we should
12 do in the next stages of our fee setting. That
13 report will also be made available to the public
14 when that's done, and it will give us input, if
15 all of our timelines align, it will give us input
16 to be able to do the Notice of Proposed Rulemaking
17 there in Stage 3.

18 And I just want to highlight that
19 because if you see Stage 4, that is the second
20 opportunity for the public to provide comments
21 into the fee setting process and into the
22 proposal. And I just really want to encourage

1 everybody to provide your comments to TPAC in
2 Stage 2; provide your comments to us in Stage 4,
3 because the more lenses we see this through is
4 going to just really help refine the proposal and
5 make sure that we get the best fee schedule out
6 there that meets everybody's needs.

7 And then, you'll see Stage 4; 5 ends up
8 being where the -- I'm sorry -- 5 and 6, where the
9 final rulemaking happens and there is a
10 Congressional comment period. All of this takes a
11 bit. It's a very long process, as we published in
12 our 2024 President's budget, we're anticipating
13 fee changes happening in fiscal year 2025, and
14 that aligns with when we look at our forecasts
15 that we're in that FY '24 President's budget.

16 So, from a financial position
17 perspective, we feel like all of these things are
18 aligning at the right time, and will be nicely,
19 and until then I think we can continue operations
20 with -- in trademarks to meet some of the
21 priorities that they have already talked about was
22 like, pendency, and some of the other things that

1 we're working on.

2 I think that is the end of -- that
3 summarizes the process. And I think -- am I
4 turning it back over to Dave?

5 MR. MILDREW: Take any questions.

6 MS. PICARD: Oh, any questions, if
7 anybody has? Yeah.

8 MS. BROWN: I have a quick question,
9 Michelle.

10 MS. PICARD: Sure.

11 MS. BROWN: Just in relation to the
12 opportunities for the public to give comments and
13 feedback, I assume there will be clear directions
14 in how, where -- where and how they --

15 MS. PICARD: Yes.

16 MR. MILDREW: -- can submit those to
17 both us, as well as to you?

18 MS. PICARD: Absolutely, in the notice
19 that published yesterday, there is an email
20 address and how you submit the comments, and you
21 actually submit them through the Federal
22 eRulemaking portal, and then all of those will be

1 compiled.

2 MS. BROWN: Perfect, thank you.

3 MS. PICARD: Sure, hi.

4 MS. FREDERICKS: So, this is Jomarie
5 Fredericks. With respect to the whole debt
6 ceiling issue that we have been hearing about so
7 much about, how will that affect the USPTO?

8 MR. MILDREW: Oh, you want to give that
9 one to me, huh, Michelle? Okay. I see how this
10 partnership rolls here, tag on that great
11 question. (Laughter) I'm glad you asked it.
12 It's been certainly in the news recently, and I
13 think the best way I can answer that question is
14 to say, it's not just a USPTO issue or problem.
15 It really is a United States government issue and
16 problem.

17 And I think if I have the numbers
18 correctly, I think we -- that Congress has
19 increased the debt ceiling up over 70 times since
20 this mechanism came into effect and each time it
21 was raised. Because the risk of not raising it is
22 to default of the good credit of the United States

1 government and that would really harm, not only
2 our country, but all of our industry and
3 businesses and so I don't think anybody wants to
4 do that, that's the good news.

5 There is enough time for Congress to
6 work out an agreement with the Administration and
7 we believe that that's what happen is that there
8 will be an agreement on raising the debt ceiling
9 so that that the government can continue its
10 operations and not default on its debt.

11 And, but again, it's a much broader
12 issue than just a USPTO issue. And as of today,
13 we have received no instruction from the Treasury,
14 who really is the Agency, the Department Agency
15 that's responsible for managing the government's
16 macro accounts. And so, they would inform
17 agencies of priorities for paying additional debt
18 should we default.

19 And, again, I don't think that will
20 happen. It certainly hasn't happened in the last
21 70 plus times in the past, and we assume that
22 there is enough time that a negotiated deal will

1 be worked out. Thank you for the question though.

2 MS. FREDERICKS: Thank you, and fingers
3 crossed, too.

4 MR. MILDREW: (Laughter) Yeah. Yes.

5 MR. ENNS: Sean, if I could, and
6 Michelle, first, as Chair of the Finance
7 Committee, which means I'm in charge of asking
8 dumb questions of you guys.

9 MR. MILDREW: (Laughter)

10 MR. ENNS: I really want to compliment
11 both of you and your team --

12 MR. MILDREW: Rod, could you move the
13 mike closer?

14 MR. ENNS: Oh, sorry.

15 MR. MILDREW: Yeah, great.

16 MR. ENNS: Is that better? Okay, great.
17 I really want to compliment both of you and your
18 team on the -- not only the command you have of
19 the subject matter, but your great skill in
20 communicating it to us laypeople who are mainly
21 trademark lawyers. So, we don't do finance as our
22 first job, right. And so, I really appreciate the

1 handholding and the insights that you're able to
2 give us.

3 I wanted to ask, you know, just as a
4 layperson at first glance, looking at the
5 financials that Sean, you just presented, you kind
6 of see, well, filings are under plan; operating
7 reserve is going to lose, you know, 65 million by
8 current projections. My first reaction is, should
9 we panic? And I think I have learned from you
10 this week, the answer is no.

11 MR. MILDREW: That's the right answer.

12 (Laughter)

13 MR. ENNS: Thank you. And I thought it
14 might be helpful if you could just explain a
15 little bit more of the tools that we have. And I
16 think these kind of events are not unanticipated,
17 is what I'm saying. But so what levers do we have
18 to be able to manage, as we go forward, when
19 things trend like that?

20 MR. MILDREW: Well, thank you for your
21 kind remarks. I really appreciate that. And I'm
22 going to tag Michelle for this one. How about

1 that? (Laughter) You see how this works?

2 MS. PICARD: Surely. I think the key
3 tool during this kind of just financial changes,
4 one of the things that, you know, all IP offices,
5 including the trademark business area is just,
6 it's volatile. It follows business cycles. It
7 follows the economy, and we know that.

8 And over time we have really matured our
9 financial sustainability through the operating
10 reserve, having fee setting authority, all of
11 those things so that, you know, you look back 20
12 years ago, things like this happened and, you
13 know, we stopped spending this, we stopped doing
14 IT, we didn't hire, we let the back -- because we
15 didn't have the tools. And, today, that operating
16 reserve has just allowed us to kind of slow and
17 steady, you know, keep the course on our key
18 goals.

19 Does that mean that we're going out and
20 spending, you know, unnecessarily? No, it doesn't
21 because we do want to conserve. We do want to --
22 we don't know what future is going to be, so we're

1 being very diligent about our spending and our
2 plans, and we monitor our fees coming in every
3 day. We're reforecasting every day, looking at
4 all of this and just -- so I think that's why when
5 we look at that, it's like, ooh, it sounds really
6 scary, but I think the key thing is, we have this
7 operating reserve and it's doing its job.

8 We had put it in place, we have minimum
9 levels, we have optimal levels, and we manage to
10 those to keep within this kind of framework, and
11 the minimum level when it starts approaching that
12 that's where we go, okay, I think in the future we
13 need to start adjusting fees to make sure that it
14 doesn't go too far.

15 And if you look in our 2024 President's
16 Budget, the trend is about 2025, is where we're
17 going to be approaching minimum. So that's the
18 time when we're like we should adjust our fees and
19 make sure that we're getting ourselves back on the
20 right trajectory. So, I think between the
21 operating reserve and fee setting authority those
22 are the two really key tools that are keeping us

1 operating right in that sweet spot and allowing us
2 to continue to execute on our long-term decisions.
3 Thanks for the question.

4 MR. ENNS: Thanks very much.

5 COMMISSIONER GOODER: Any other
6 questions on the finance part? Okay. Thank you
7 all very much, we appreciate it. Next, we're
8 going to turn the stage over to Dan Vavonese, who
9 is our Deputy Commissioner for Trademark
10 Operations. That's the part of the Trademark
11 Office that examines applications, deals with
12 everything post-registration, and all of that.
13 So, Dan, I'll turn it over to you.

14 MR. VAVONESE: Good afternoon, happy to
15 be here today. I'm going to take a few minutes to
16 go over trademark operations and kind of give a
17 status update on where we are. So, first, a quick
18 reminder, on our five strategic goals that we
19 have, first Action pendency and disposal pendency.

20 That's time from filing of the
21 application to either the First Action that's sent
22 out, the first determination on the case, and

1 disposal, which is either registration or
2 abandonment of the application, as the final
3 disposition of the application.

4 So, our goals for this year are
5 eight-and-a-half months and 14-and-a-half months,
6 respectively; and then in the quality area, we
7 have three goals. We have first action
8 compliance, and disposal compliance, again, same
9 measures for at the beginning and at the end of
10 the examination of the application. Compliance
11 is, did we make the right decision on the case?

12 And then, exceptional Office Actions is
13 a holistic view of the entire Office Action: Did
14 we not only make the right decision on the case?
15 Did we give a well-detailed explanation? Did we
16 provide the right amount of evidence in the level
17 of the search that was done in the case itself?

18 So, I'm going to start with quality.
19 I'm happy to report that mid-year, we are
20 well-exceeding all three of our quality goals,
21 both in compliance and we're at 97 percent and
22 98.6 percent respectively, so we are doing a very,

1 very good job on the compliance part of making the
2 right decision on the case.

3 And then, exceptional Office Actions,
4 again, we're at 57.5 percent, and exceptional
5 Office Action is well -- well in excess of that 50
6 percent goal that we're shooting for. So, I want
7 to thank all of our employees for just putting out
8 such a high-quality work product, which I know our
9 customers really appreciate and what they're
10 receiving from the office.

11 So, let's move on to pendency where
12 obviously we've been in a challenge the last few
13 years after the surge and trying to catch up, and
14 with the goals of eight-and-a-half months and
15 14-and-a-half months, respectively, we are exactly
16 on eight-and-a-half months and 14-and-a-half
17 months, respectively and this is average monthly
18 pendency.

19 I'll explain a little bit more about
20 that in a minute. But, as you'll see, the trend
21 that's been up over the last couple of years, we
22 are stabilizing. We're stabilizing around that

1 eight-and-a-half month and 14-and-a-half month,
2 and we are hoping that the trend is going to start
3 to show down, start to move downward. And in the
4 next couple of slides, I'll explain why we think
5 we're moving in the right direction. (Slide) So,
6 as Commissioner Gooder said about the inventory,
7 you know, we had a peak in September of 2022,
8 where we were up around -- over 550,000, closer to
9 555,000 new application classes. An unexamined
10 application inventory is all of the applications
11 that have been -- since the filing date until that
12 first office action goes out, that's how we
13 measure the inventory.

14 So, since September, we have seen almost
15 a seven percent drop in our inventory. So that's
16 good news. We are staying ahead of filings that
17 are -- enough ahead of the filings that are coming
18 in, and we are starting to see it trend downward
19 in our total inventory that's in the backlog.

20 So, that's a direction that we obviously
21 want to keep moving on, and this goes into a
22 little more detail. It's similar to the slide

1 that was shown earlier with the three months
2 trends and seven-day trends. This is how many
3 filings are coming in the door versus how many
4 first office actions are going out the door, and
5 the only way you actually start to cut into the
6 backlog is when you're putting more work out than
7 you're receiving in.

8 And the trend definitely most recently,
9 especially over the last six to nine months has
10 been a good trend downward and that this is just
11 showing the amount of applications coming in each
12 month versus the number of first Office Actions
13 going out each month.

14 So, comfortably, we have been seeing
15 that trend downward and that gives us some hope
16 that the inventory will continue to drop and once
17 we get through some of the aged applications in the
18 backlog, we will start to see a drop in pendency,
19 but it will -- as I have said before, it will
20 continue to take time. (Slide?)

21 So, for current processing timelines,
22 one thing I want to focus on here is, you know, I

1 have mentioned in several other TPAC meetings, we
2 continue to update all of our processing times on
3 our website. And while we talk a lot about first
4 action pendency and disposal pendency, the surge
5 and the rise in filings across the board have
6 impacted not only first actions and disposals, but
7 all areas of our office.

8 And, you know, our Trademark Services
9 Unit, which handles all of the filings that come
10 in and out the door, they're the ones that are
11 keeping up with all of that work, and new
12 application processing, responses to office
13 actions, Madrid filings, Statements of Use, and
14 post-registration maintenance filings.

15 They are the ones that are keeping up
16 with all of that work that's coming in and out.
17 And, you know, I want to thank them for keeping
18 up. Because, especially in post-registration,
19 just like you have seen the surge in the
20 applications, we continue to see increases in
21 maintenance filings as well.

22 And, you know, the good news in

1 post-registration, especially as we have 10 new
2 specialists coming on in the next two weeks, so
3 we're getting more help coming in to help with
4 that as well. And, you know, again, they do a
5 tremendous job across the board throughout
6 Trademark Services to keep up with our work. But
7 we continue to update those processing times on a
8 monthly basis, so you can check there to see where
9 the other -- where those areas are keeping up.

10 The other thing I want to point out is
11 with first actions and disposals. eight-and-a-half
12 months and 14-and-a-half months, that is our
13 strategic metric is based on average months
14 pendency. It's the average in the dates of the
15 files that are being sent out for a first action
16 to disposal. That timeframe is always a little
17 different than the actual files that are on the
18 examining attorney's desk because of how we have
19 some Madrid filings that catch up to the front
20 because of their older dates. We also have some
21 other files that are connected together because
22 for the same applicant for consistency purposes.

1 So, we thought we were getting a lot of
2 questions about the -- it's not really
3 eight-and-a-half months, it's more like
4 nine-and-a-half months. So, we're setting up a
5 new tracker on our website that's going to be a
6 measure that's going to show a two-week timeframe
7 of the applications that are generally on the
8 examining attorney's desk.

9 And I don't have a graphic for it yet
10 because we're still working on it. It's going to
11 be out in a couple of weeks. But, again, this
12 shows the similar trend downward in the currently
13 processing age of the new application. These are
14 the first office actions that going out.

15 And that date there, because we have to
16 send these files in a little -- the slides in a
17 little early. That's actually been updated. We
18 are now at June 30th to July 14th, and the hope is
19 that we continue to catch up on that and get those
20 timeframes even cut down even further. So, stay
21 tuned on our website, probably in the next month
22 we're hoping for, we should have that information

1 and that will help allay some questions that
2 people have. They have often call into our
3 Trademark Assistance Center, so this will help,
4 you know, resolve some of those questions that are
5 coming out. (Slide?)

6 On the examining attorney's staffing
7 side, you know, so FY 2023, we have hired 87
8 examining attorneys. And as Commissioner Gooder
9 mentioned, we just hired 40, as of Monday of this
10 week, so welcome to them, and we'll get them
11 caught up on the job.

12 And the Trademark Academy that I have
13 mentioned before, this is now our fourth class
14 hired into the trademark Academy and, basically,
15 it's a way to streamline and be more consistent in
16 the training of all our examining attorneys coming
17 in for that first -- for, you know, within the
18 first year of their job.

19 And it's been very successful so far,
20 and we're continuing it. So, that's good news
21 that we are continuing to move into that progress.
22 Also, on the Trademark Modernization Act, a couple

1 of reminders here. We did institute three-month
2 flexible response periods for the pre-registration
3 responses to office actions in December and that
4 has been pretty smooth.

5 I mean, we are in that -- we're almost
6 at the end of that time period where we overlap
7 between the old six-month response periods and the
8 new three-month response periods. By June, we'll
9 be past that overlap. And, you know, we have seen
10 an increase but we're obviously dealing with it.
11 And then the second phase of the three-month
12 flexible response periods is for post-registration
13 and that's currently slated for October of 2023 to
14 switch to three-month response periods for
15 post-registration. (Slide?)

16 The last thing I want to mention, you
17 know, we have talked a lot about what do we do to
18 help with pendency? What do we do to help
19 internally in our process? And over the last few
20 months, we have been having a lot of internal
21 discussions to look at examination efficiency,
22 especially the process that the examiner tries to

1 handle, to go through their applications.

2 As you saw earlier, we have several
3 quality measures including an exceptional office
4 action. Well, the exceptional office action
5 requires a lot more work to get those -- to put a
6 lot more work into that first office action. So,
7 we are looking at that and we're trying to balance
8 our pendency and quality expectations.

9 We know that our customers want that
10 initial determination as soon as possible. So,
11 how do we balance that; how do we balance and
12 still make sure we're getting the information; how
13 to resolve the issue if there is a refuse or
14 otherwise; but to get that determination out there
15 quicker and easier.

16 I have listed a few of the different
17 topics that we have been talking about so far. I
18 want to point out specifically, the identification
19 process. We have been, you know, we have the
20 difference between TEAS Plus and TEAS Standard.
21 TEAS PLUS, you have to take an ID out of our
22 acceptable identification of goods and services

1 manual. TEAS Standard, you do not have to do that
2 although sometimes our customers still do take IDs
3 out of the manual.

4 It's a ton of work for our examining
5 attorneys to go through custom IDs, determine
6 which ones are acceptable or unacceptable, and
7 then to come up with suggestions for when they
8 don't know what the Applicant's doing, they're
9 often taking guesses.

10 So, we're looking very closely at that
11 of the process and how we can be more efficient,
12 and then I'm just going to put out the call right
13 now. Because, you know, we often get questions
14 how, you know, from customers, okay, how can I
15 help? How can we help on this?

16 Identifications is one place where we
17 can really use the help, you know. I guess one
18 way, the easiest way to say it is, look at the ID
19 manual first, you know. If you can look at the ID
20 manual first, if that can't give you the
21 identification you want then we understand. But,
22 you know, hopefully, if you can give us IDs out of

1 the manual, they're already pre-approved; they're
2 already accepted.

3 It's that much less work to go through
4 the administrative part of the determining the
5 acceptability. But also, it also allows us to
6 make our analysis, streamline our analysis because
7 we're not trying to guess what the goods or
8 services are because we have a clear
9 identification of the product or service that
10 you're applying for. So, just a quick callout on
11 that, you know, we appreciate any help we can get
12 on that.

13 COMMISSIONER GOODER: And if you don't
14 see the goods and services you want, submit a
15 request for them?

16 MR. VAVONESE: Yes, so the other thing,
17 TMID suggests is another option that's right, we
18 have an email box, since there are IDs that are
19 not in the manual. You can always make a request
20 into that mailbox, and they can work with you on
21 whether, okay, this is an ID that should be
22 accepted, or more likely, well, here is an ID

1 that's already in the manual that really more
2 closely matches, you know, what you're looking
3 for. Thanks for that reminder.

4 COMMISSIONER GOODER: So, Dan, thank you
5 very much. It's a very challenging time right
6 now. I know we have been asking you, you know, do
7 your best and it looks like the pendency issue is
8 starting to maybe flatten, now to have plateaued.
9 So, let's hope that there is no other unexpected
10 increase.

11 One question about the identification
12 process. If you could share with us how you
13 measure this as being, you know, how should say
14 it, effecting the efficiency, you know, creating
15 -- how do you measure or determine that this is
16 taking a lot of time out of the measuring factors?

17 MR. VAVONESE: It's because our
18 examination process is already very streamlined.
19 I mean our examining attorneys do a lot of work on
20 the application in a short amount of time, you
21 know. That's how our system works. So, we don't
22 have like measures down to, okay, this is how much

1 time it takes on particular issues, but what we
2 have, you know, in our discussions with the
3 examining attorneys.

4 And you can, you know how much time
5 you're spending to go through a -- whether it's a
6 very long ID and we've -- and I think we have
7 talked about that in the past. We have long IDs
8 that take an inordinate amount of time, that could
9 take hours and hours just to go through a long
10 identification, and especially on an international
11 application or otherwise.

12 But the other thing is by, you know,
13 talking through and, you know, we have tools that
14 help match up similar to the identification
15 manual. But we are able, just through discussions
16 with our employees, to understand how much time
17 they're actually spending on each identification.

18 Because they have to go through each
19 one, indicate whether it's acceptable or
20 unacceptable, and then come up with a suggestion,
21 if possible, because they're trying to help move
22 the application along so that the applicants can

1 give us a response back, you know, and get us
2 moving forward to approval hopefully.

3 CHAIRMAN CHO: Thank you, I understand
4 that. I guess another point is that I thought you
5 all did this -- and it gives you one piece of
6 information, you look at your office actions,
7 right, how many are having IDs?

8 MR. VAVONESE: Yes.

9 CHAIRMAN CHO: Within the IDs, how many
10 are there that are lengthy ones?

11 MR. VAVONESE: Yeah, right.

12 CHAIRMAN CHO: So, I imagine that's
13 something you all would also --

14 MR. VAVONESE: And we have 10 foreign
15 paragraphs, so we're able to measure the number of
16 office actions that are going out with those
17 identification issues, yes. Yeah, Jomarie.

18 MS. FREDERICKS: Hi, Dan. I mentioned
19 this the other day, but I do -- my company does a
20 lot of non-traditional services claims, and we've
21 actually found the help that the examiners are
22 able to give to be invaluable. I understand that

1 it takes a lot of time, but for us it's not
2 usually really a shot in the dark. It's more of
3 taking what we have given them, and then showing
4 us a different direction that would be acceptable.

5 I know you're in the process of, you
6 know, considering fee raising, is there maybe
7 there could be an additional charge for this
8 service, if it's not just a cookie cutter
9 response, something like that. I don't know if
10 you have considered it. But rather than having
11 the service go away all together, which sort of
12 gives me a sense of panic, because sometimes I
13 just don't know what you're looking for.

14 As we have talked about, then you're
15 just going to get a phone call, right, and that's
16 going to take the examiner time as well. So, it's
17 just a thought. I'm sure you have considered
18 various options.

19 MR. VAVONESE: Yeah, I mean, we're
20 considering various options, and I'm not -- don't
21 take from this that we're taking it out of the
22 process. But, I mean, we are considering all

1 options. I mean, obviously, this is an important
2 part of the examining attorney's job is working
3 with the Applicants to come up with an
4 identification where it's, especially what you're
5 talking about.

6 Services are more difficult. You know,
7 they're not as easy to just, okay, this is a clear
8 product, you know. So, sometimes that work that
9 we have to go through is necessary anyways. But,
10 yeah, we're looking at all options and will
11 continue to do that.

12 MS. BROWN: Thanks, Dan. It's me right
13 here, Adraea. You know, I do appreciate the
14 updates on pendency. Obviously, it's an issue
15 that you have been tackling. I know we ask a lot
16 of tough questions about it almost every quarter
17 when we speak, and I think the idea of
18 collaboration and asking for support certainly
19 makes a lot of sense. And to borrow a page from
20 Dana's book, you know, how can we help, right, or
21 how can -- is there a way that the public can
22 help, like, you know, that we could potentially --

1 I know that IDs are one part but, you know, ideas
2 or thoughts, or something like that, is that
3 something that the office would be open and
4 welcoming, like, if we have any -- or the public
5 has any ideas as well for how they could help or,
6 you know, what could be done?

7 MR. VAVONESE: Oh, very much, you know,
8 I mean, we'd love any help, and we can -- you
9 know, whether we can figure out other ways to get
10 together with our stakeholders to get ideas. You
11 know, I mean, my email address is on the slides.
12 I am always happy to take any suggestions and we
13 have I forget what the general TM. Is it TM
14 suggestion now? I forget what the latest -- no,
15 just the general suggestion, if you want to in --
16 the public wants to send in comments.

17 MS. BROWN: Okay.

18 MR. VAVONESE: We have a general email
19 box, too, that where customers can send in
20 suggestions as well.

21 MS. BROWN: Got it, okay.

22 MR. VAVONESE: -- regarding our process.

1 But I'm happy to take anything as well.

2 MS. BROWN: That's awesome. Okay, so
3 everyone can email Dan, as much as -- no, I'm just
4 kidding.

5 (Laughter)

6 MR. VAVONESE: Not all at once, but yes.

7 MS. BROWN: So, yeah, within reason.
8 But, of course, you know, we're still having our
9 TPAC meeting. So, if you have questions or just a
10 reminder, right, or ideas even right now during
11 the meeting don't hesitate to email us at
12 TPAC@uspto.gov. So, yeah, thank you.

13 MR. VAVONESE: Thanks.

14 COMMISSIONER GOODER: Anything else for
15 Dan? (No response) Okay, thank you, sir. All
16 right, sir. All right. We're going to pass the
17 microphone and the remote, otherwise known as the
18 clicker, down to Greg Dodson, who is our Deputy
19 Commissioner for Trademark Administration.

20 MR. DODSON: I see that Michelle left.
21 So, Sean, if I need to phone a friend, I'll just
22 hand the microphone to you, as well, so, okay.

1 Well, good afternoon, everybody and welcome. It's
2 great, again, to be virtual -- or not virtual,
3 totally virtually, it's great to be hybrid with
4 some people in the room and I just love it. So,
5 welcome.

6 I have got a pretty easy job today. I
7 get to hand the microphone off to my colleague,
8 Glen Brown, who is the Group Director for
9 Information Technology, and he's going to kind of
10 unpack a little bit of what we're doing on the IT
11 front, but I just wanted to set the stage for a
12 moment just to kind of get everybody in the same
13 place.

14 You know, it's when we wake up and come
15 to work on Monday morning, it's going to be May.
16 And it was a year ago in May, in 2022, that we
17 started the conversation about retiring TRAM. If
18 you had been following along prior to the
19 pandemic, and then during the pandemic, you'll
20 know that you might have heard the term "TRAM,"
21 but you would have heard a lot of other things in
22 front of TRAM and you might have -- you might

1 remember the conversation with the big rocks.

2 And as the Commissioner used to like to
3 say, we were crushing the big rocks. But TRAM
4 wasn't really one of the big rocks. It was at the
5 end of process and TRAM was going to be ultimately
6 retired in the summer of 2024, when really all of
7 the other capabilities were brought online.

8 And I know Glen doesn't like me to
9 characterize it like this, but I do. We were
10 going to kind of make TRAM obsolete by having a
11 bunch of new stuff that we were going to develop
12 and just kind of all of a sudden at the end of the
13 road, TRAM was going to be there, and we weren't
14 going to need it any longer.

15 It was May, like I said, of last year,
16 when the Commissioner David Gooder and our CIO,
17 Jamie Holcombe, stated having some serious
18 conversations about whether we were going to
19 re-strategize the IT program and the entire
20 process. And, ultimately, by July of last year,
21 they agreed that we would put TRAM at the front of
22 the line and work to retire that first. And you

1 can imagine over the course of the many years that
2 we had kind of been working to develop things like
3 trademark examination, and some of the other tools
4 that exist right now, that reprioritizing was a
5 bit of an emotional event for a lot of people.

6 But credit to all of the folks that we
7 have working on this process to be able to
8 internalize that and work with. And I just want
9 to call out a few folks. We've got, at the end of
10 the table down there, the two presidents of our
11 bargaining units.

12 And, you know, with the help of Mr.
13 Besch, who works with the help of the examining
14 attorneys, we were able to gather a whole bunch of
15 the requirements that we needed in order to
16 develop a trademark examination.

17 Mr. Ross, many of his Bargaining Unit
18 employees work for us in the form, on the IT side
19 of the house. His business analysts are the
20 interlocutors between the people that develop the
21 requirement and the people that actually turn that
22 into IT. And so, they sit in a really, really

1 important spot within this process.

2 And, you know, we couldn't have got Dan,
3 you know, likes to callout the folks on his team,
4 and rightfully so. We have a lot of people that
5 do a lot of really, really, really good work.
6 Most of the IT people that work for us, for Glen,
7 who you're going to meet in just a moment, are
8 NTEU 243 members and they're deeply engrained and
9 involved in this process; and then, and as we work
10 to develop these capabilities, obviously, we
11 certainly rely on the work that they do.

12 So, I want, you know, as we get really,
13 really close, you know, in July of last year, or
14 September of '24, seemed to be like far enough in
15 the distance, you know, remember when you were a
16 kid and you started school and summer vacation
17 seemed like, oh, my god, I'm never going to there?

18 Now that when you get a little bit
19 older, it's all of a sudden summers kind of come
20 pretty quickly and so we're five months away from
21 the retirement of TRAM, and that is a serious
22 credit to a lot of the people. And I wanted to

1 just kind of call that out before I handed the
2 microphone over to my good buddy, Glen.

3 But, with that, unless there are any
4 questions for me -- oh, the other thing that I
5 wanted to say real quick is -- because I looked
6 over at Adraea and I was like, oh, yeah, I
7 remember now. You know, we used to -- I was never
8 a Marine, but there used to be a thing that we
9 used to do once a month and then we had a
10 subcommittee for IT, and it was kind of like a
11 crucible for us on the IT side of the house,
12 right.

13 We would gather with our CIO colleagues,
14 and we would sit down in a room and at our TPAC,
15 IT Subcommittee folks would grill us and they'd
16 ask us a bunch of hard questions. And I want to
17 say that we don't do that anymore, and I
18 appreciate that you guys.

19 Because one thing, it does two things
20 for us: Number one, it really kind of gives us a
21 level of confidence that we're doing our job
22 correctly because the reason that we had this IT

1 Subcommittee, and we did some of these things was
2 that IT wasn't really performing too terribly well
3 in the beginning.

4 And I think from our perspective, you
5 know, the fact that you felt like we could stand
6 down the IT Subcommittee really makes us kind of
7 happy, you know, not -- because, one, we'd have to
8 do all of the work that we were doing before to
9 kind of feed the request, but at the same time it
10 gave us a real vote of confidence that we were
11 doing a good job.

12 And so, I want to just kind of call that
13 out. All right. So, if there --

14 MS. BROWN: We miss you though, Greg, we
15 do miss you.

16 (Laughter)

17 MR. DODSON: Yeah.

18 MS. BROWN: So, we won't have to -- we
19 miss you.

20 MR. DODSON: Not that much though,
21 right?

22 (Laughter)

1 MS. BROWN: A little.

2 (Laughter)

3 MR. DODSON: No, but, actually, we like
4 doing that. It kind of kept us -- you know, one
5 of the things that it forced us to do was to put
6 things down on paper that were sometimes just kind
7 of out there. And so, but, yeah, we'll -- if we
8 ever need to do it again, we could always stand it
9 back up.

10 So, if there are any other -- aren't any
11 questions for me, Glen, are you online?

12 MR. BROWN: I am. Can you all hear me
13 okay?

14 MR. DODSON: All right, Glen, over to
15 you, thank you.

16 MR. BROWN: Okay, good. All right. So,
17 could we get those slides advanced to, I think
18 it's slide 40 we're up to at this point -- (pause)
19 -- and you can just do one more. Oh, great, he's
20 got the clicker, good deal.

21 (Slide) So, Trademark IT

22 Priorities, next slide

1 Please. There you go, right here.

2 (Slide) So, Trademark IT priorities, I'm going to
3 kind of walk you through what our IT priorities
4 are. We brief these out the last time, so this is
5 -- and maybe the time before -- but it's just kind
6 of to recap in case folks, you know, just need a
7 reminder, or anybody new on the phone, but you're
8 on the call.

9 We, basically, said TRAM, the TRAM
10 mainframe retirement, you know, that's the 40 plus
11 year old TRAM Mainframe, as to get off of that
12 mainframe, you know, by September 2023, that's our
13 number one priority. So that kind of (inaudible)
14 of work that we were going to do about, you know,
15 nine months ago, or so, but were committed to
16 getting off of it by September of 2023.

17 The second big priority is, you know,
18 also modernization of our TM exam.

19 CHAIRMAN CHO: Glen, Glen, sorry.

20 MR. BROWN: And you'll --

21 CHAIRMAN CHO: Let me interrupt.

22 MR. BROWN: Yeah, sure.

1 CHAIRMAN CHO: Glen, we're having
2 trouble on your mike.

3 MR. BROWN: Oh, okay.

4 CHAIRMAN CHO: I mean, you're coming in,
5 but it's not as clear and loud. I am too loud.

6 (Laughter)

7 MR. BROWN: Was it, you said it was too
8 loud?

9 CHAIRMAN CHO: No, I'm too loud.

10 (Laughter)

11 MR. BROWN: How do I sound now? I moved
12 the mike a little closer to me?

13 CHAIRMAN CHO: Better, much better.

14 MR. BROWN: Okay, good deal. All right,
15 sorry about that, and thanks for the feedback.
16 So, again, TRAM mainframe retirement is the number
17 one priority, followed by TM exam modernization,
18 and the four slides I'll show you some of the
19 progress we have made on each of these.

20 We're also going to continue with the
21 Trademark Trial and Appeal modernization work
22 because they're in the middle of modernizing as

1 well. They have a team devoted to do network. We
2 also wanted to make sure that we supported
3 trademark, any international treaty obligations is
4 our number five priority.

5 And the last one on the list, on the
6 bottom right of this slide, you'll see that we're
7 also need to replace our search system, the
8 backend search system, which is currently based on
9 BRS Open Text, the vendor is basically no longer
10 around to support the product, so we need to be
11 off of that by the end of September, as well.

12 (Slide) Next slide, please. All right. So, this
13 is just instead of a recap of what we did to
14 basically focus on making TRAM the number one
15 priority. And this was presented before but, you
16 know, it's just kind of a recap of everything that
17 we did, where it was, you know, we added teams.
18 We reshuffled resources from one product team to
19 another.

20 Some of the focus area down near the
21 bottom is, we have some Legacy code, we call it,
22 that's called FAST2, where we're going to be

1 basically staying on that client-side code, the
2 legal instruments examiners use but making it work
3 against the modern backend platform.

4 And then, we also for on the TEAS front,
5 TEAS, lot of those forms that are relying upon
6 TRAM to work basically. So, we're recoding them,
7 refactoring is just the fancy way of saying that
8 we're opening up the code. We're reconfiguring
9 the calls that the code makes from one database to
10 another. So, we'll redirect all of those calls
11 from the TRAM mainframe to the new platform that
12 we call TRM.

13 And you'll see, for TEAS, specifically,
14 everywhere you'll see dates we're going to start
15 doing deployments for FAST2 in July, and then
16 TEAS, we have six releases to basically do those
17 in batches, you know. We did one already and it
18 will go through August, is when we think we'll be
19 done with all of the TEAS forms refactoring of
20 code. (Slide) Next slide please. All right. So,
21 on the Trademark exam modernization front,
22 hopefully, it will show up well on your screen,

1 but we have bolded some of this stuff that's
2 already been done, so transitioning the first
3 thing that we did back in December, first, is
4 transition all of the examining attorneys off of
5 the Legacy FAST1 code base, which is the client
6 that we use, a Windows code that we use to examine
7 trademark applications and process them, and we
8 put them on TM Exam.

9 That was done on December 1st, all of
10 the examiners are therefore now using the modern
11 platform entirely. And then, two days later, we
12 implemented the phase 2 of the Trademark
13 Modernization Act. And then you'll see the next
14 few lines, we have deployments that went to our
15 Post-registration Business Unit, our Petitions
16 Business Unit, and then more changes for the TM --
17 or the trademark examining attorneys on April 1st.

18 And then you'll see we have a cadence,
19 you know, you'll see the dates falling out there
20 for -- you know, we're just continuing to do
21 deployments in, you know, July, October, you know,
22 September. That's basically the cadence of what

1 we're going to continue to make and add features
2 to these business units for them to continue to
3 fully adopt the modernized platform.

4 And the same thing for the examining
5 attorneys, we have pockets of improvements and
6 changes that need to be made to basically make
7 sure that they're fully off of TRAM and they have
8 the best tool, you know, experience that they can
9 have while they're doing their work.

10 And then, just a few, like, just over
11 about 10 days ago, 13 days ago, we started the
12 process to remove that FAST1 code base off of the
13 universal laptops that the examining attorneys
14 use. So, that Windows code, which was the FAST1
15 code base was, you know, 20 years old, that's
16 coming off, you know.

17 And I think it's probably completely
18 removed by now, and then here are some backend
19 servers that used to support FAST1 that really
20 will be shutting down in September. So then, so
21 that huge chunk of Legacy IT that was relying
22 upon, you know, Windows code on the client side,

1 some old servers in the middle, and then TRAM on
2 the backend, all that stuff is going to be off of
3 the campus by September. So, it's good news,
4 we're making good progress.

5 (Slide) Next slide please. This
6 was our third priority. We ave
7 plans to, basically, take all of
8 the Legacy forms that we currently
9 have. I think there is like 58 of
10 them, and we're going to try over
11 time reduce them down to about
12 seven forms.

13 And the first area that we're focusing
14 on is the initial application forms. I think
15 there is -- I think it's about seven forms all
16 together. We're scheduled to do a deployment that
17 we call or refer to as the minimally viable
18 product (MVP).

19 I believe it's going to go out later
20 this summer, then we'll deploy the complete
21 initial application late summer or early fall for
22 people to use in parallel with TEAS so that we can

1 get that feedback and make those continuous
2 improvements.

3 There will be some abated period testing
4 for that initial application form, and then the
5 target date is that it would go completely live in
6 October of 2023, and probably run in parallel with
7 TEAS refurb (phonetic) at that time anyways.
8 We're going to see how all of that goes, but
9 that's the advantage of Agile(s), we can kind of
10 tweak things as we go along, as far as, you know,
11 if we're more successful, we can, you know, retire
12 the initial application forms off of TEAS earlier,
13 but otherwise we'll run them in parallel for a
14 while.

15 And then, the next bullet is just
16 basically some work we did on TEAS to support the
17 Trademark Modernization Act Phase 2, which that's
18 completed. That happened back in December, as
19 well, just wanted to put it up there as a remember
20 of some of the work that did kind of on the lines
21 of modernization.

22 (Slide) Next slide please. Our

1 TTAB Center work. I am not

2 17 really going

3 To go through this because I'm not
4 familiar with all of the ins and outs of what TTAB
5 Center's feature sets are, but they have been
6 working on what they call the Notice of
7 Opposition, of course. That's on one of the
8 forms, and then some of these sub-bullets are
9 basically some of the items that they're working
10 on. They're getting ready to do a production
11 release.

12 TTAB Center is TTAB's modernized
13 platform. So, they are continuing to work on
14 that. And, you know, it's good news on that front
15 as well, because it's been a long time coming for
16 them to, you know, get some modernized efforts
17 going on as well. (Slide) Next slide please. And
18 our fifth priority was a course to support any
19 Trademark International Treaty obligations. And
20 the only one that was on the horizon that we knew
21 about when we reestablished TRAM as the number one
22 priority was that we knew we had to support MP3

1 audio and MP4 video exchange with the
2 International Bureau.

3 So, we wanted to keep that up there
4 because the work was already started and so we
5 just made this a priority. That work is completed
6 though. So, as of now, there is nothing else on
7 our radar really that where we have any
8 International Treaty obligations. But we're going
9 to keep it as a number five priority regardless,
10 just in case, you know. But pretty soon we'll be
11 able to just drop this one off as, you know,
12 stated priority. (Slide) Next slide please. All
13 right. And then, the last one, we never really
14 gave this a number. And, regardless, it's the
15 sixth one on the list and it's highly important as
16 well. As I mentioned earlier, the vendor is on
17 the backend of the search database for XSEARCH
18 internally, and the public you all know it as
19 TESS, you know that vendor does not want to
20 continue supporting this product anymore. So, we
21 need to get off of it, and I think this is our
22 last fiscal year.

1 It's also part of -- tied into TRAM
2 retirement. So, what we will be doing is adopting
3 a search platform called Elasticsearch, which
4 there is one on the Amazon cloud. It's got some
5 really cool features, but we've been doing some
6 proof of concepts with it internally.

7 Right now, we're also now building the
8 client-side replacement of XSEARCH to work against
9 the elastic search platform and we expect to
10 deploy that right now, for XSEARCH is July 28th.
11 We'll run that in parallel until October as -- you
12 know, when we need to basically do the full
13 cutover is the plan.

14 So, TESS, we also have what -- we're
15 kind of calling it a simple user interface search,
16 but it's got a lot of features in it, even though
17 it's a bit simple on the first pass, and that's
18 what we're going to be starting to use to replace
19 the TESS client.

20 And what our plan is is to, you know,
21 over the summer, you know, late summer or
22 mid-summer, late summer, we will be doing a series

1 of beta testing with some -- an expanding set of
2 data tests with public customers. Eventually,
3 we're going to put this simple user interface out
4 there, side-by-side with us so that, you know,
5 people could use them in parallel to get
6 comfortable with them.

7 But the same date, October 1st, is when
8 we really need to cutover and stop using legacy
9 tests and start using this new simple user
10 interface. We have got to name it, you know,
11 that's going to be part of the fun in the coming
12 weeks is we're going to have to give it a name.

13 I don't think we're going to call it
14 TESS anymore. We're going to give it a brand new
15 name just for, you know, public branding, and what
16 not.

17 So that's, I think, the end of my
18 slides. But, like I said, so, two areas where
19 we'll be doing some outreach with the public
20 through some formats of beta is with the initial
21 application forms for eFile, as well as this
22 simple user interface or TESS, or for the new

1 search system.

2 And, Greg, I think that's my -- is there
3 one more slide, that may be it? Okay, that's it.
4 So, I'm happy to take anybody's question.

5 MS. BROWN: Thank you so much, Glen, and
6 Greg. Let me just start by kind of reiterating
7 what Greg was saying. We know that this is a lot
8 of work, for sure, that goes into all of the --
9 everything that you have been able to accomplish
10 this far and all of the work that you have going
11 on.

12 I know we see the highlights of it, but
13 it's truly tremendous to see the amount of
14 progress that has been made, the amount of
15 projects that are at work, and we understand that
16 there are a ton of people who are making that
17 happen. So, a true kudos to you all for
18 continuing to move the efforts along. It is truly
19 appreciated.

20 Greg, to the extent that it felt like we
21 were grilling you, that certainly wasn't -- that
22 certainly wasn't the intention. We want it to be

1 collaborative. But, to the extent it was to help
2 motivate we will take that as positive feedback
3 and we will continue doing that, so.

4 MR. DODSON: I love litigators.

5 MS. BROWN: Sometimes, hey, deadlines,
6 or meetings, or things like that, they help move
7 things along, so to the extent we helped, we do
8 appreciate that because that is the goal and what
9 we love to do. Directly to you, Glen, I think it
10 is exciting and is fantastic that a new filing
11 system and a new searching system are coming to
12 the public. I think that is wonderful news and
13 I'm excited.

14 And to that end, I assume -- I mean it's
15 great that they're going to be running parallel
16 with the existing TESS and the existing TEAS
17 application, but to the extent, you know, just
18 wondering are there opportunities for the public,
19 certain members of the public to sign up or to do
20 some testing before it deploys?

21 I think if there are, that could be
22 great, just wondering is that an opportunity or

1 something that is being looked into by the office?

2 MR. BROWN: Absolutely, we have plans,
3 communication plans, and testing plans, you know,
4 each one of those products, if you will, has a
5 team of people, or an Agile team of people, they
6 call a SCRUM team.

7 And that's part of their plan is to
8 build an outreach effort and then target, you
9 know, different expanding groups of public users
10 to basically give them feedback. Because that's
11 all about how Agile works, too, is that you have
12 to start getting it in front of people sooner
13 rather than later, even if it's like an early beta
14 so that you can get that feedback, and then you're
15 just into that continuous improvement process as
16 you get closer to closer to what we call the
17 minimally viable product which is, in our case,
18 for both of those products.

19 A minimally viable product, we're going
20 to define that as, you know, feature equivalent to
21 what those existing systems do now. So, that's
22 where we'll leave that input from customers

1 because they might catch things that we just
2 missed, you know. So, like I said, both teams are
3 going to be reaching out to the public in some
4 manner, you know, to basically get input from on,
5 you know, development.

6 MS. BROWN: That's great.

7 MR. BROWN: And then, Charlie Thomas
8 just popped into the chat.

9 There is a link, you know, to -- oh, it
10 just disappeared -- but there is a link to
11 basically volunteer, I think it is. I don't know
12 if you can talk, or if anybody wants to read it.
13 But I think that -- I think what it is is that
14 there is a way to volunteer -- let's see -- yeah,
15 customers can volunteer here. He's a got a link
16 in the chat.

17 MS. BROWN: That's awesome. I encourage
18 the public to the extent you can, or you're
19 available, certainly, go in and give feedback.
20 Obviously, this is a system that the PTO is
21 building for the public, it's for users. So, the
22 more feedback the better; the better system it

1 will be. And, you know, I always say, you
2 shouldn't complain if you have an opportunity and
3 you don't say something.

4 So, if you don't want to be complaining
5 down the road, go ahead and raise your hand and to
6 volunteer for testing. So, again, that's all I
7 had to say. Thank you. This is great.

8 MR. BROWN: Thank you. Thanks for the
9 feedback and the questions.

10 COMMISSIONER GOODER: I also had one
11 thing from Charlie Thomas, who just popped that
12 link up, runs our customer experience operation,
13 and both the search system but, especially, TM
14 Exam have been built based on a lot of customer
15 feedback already.

16 So things, features, in it that you'll
17 see came directly from that in the first place.
18 So, getting comments now is even better because it
19 just more, more, and more, but it was not built in
20 a vacuum, which is great. So, Charlie's team has
21 done a tremendous job on this, so.

22 MR. ENNS: Glen, this is Rod Enns.

1 Could I ask you just to say a few more words to
2 explain the minimum viable product concept? I
3 mean because when you hear that it sounds sort of
4 like, well, we're going to educate our kids with
5 the minimum viable education. And, you know,
6 everybody wants their kids, all of the kids should
7 be above average, right? So, can you talk a
8 little bit more about what's behind that and what
9 the goal, ultimate goal is to achieve?

10 MR. BROWN: So, the concept of minimally
11 viable product in the Agile, you know, software
12 development, you know, methodology is basically
13 you want to get -- you want to get a product,
14 whatever that thing is that you're trying to
15 buildout into being used in kind of like a
16 production manner, as soon as possible so that you
17 can get that feedback and continuing to make
18 improvements rather than wait until like, you
19 know, further on in the process where maybe major
20 mistakes have been made and you can do corrections
21 faster, if you don't -- if you were to have waited
22 is the concept.

1 So it's, you know, getting that
2 feedback, getting the customer involved, whoever
3 that customer is, so that they can say, I need at
4 least this to start working on this type of
5 feature. The whole idea with Agile is that you
6 have, you know, you put out what they called MVP,
7 and then you continue to improve it and expand
8 what its capability is.

9 But, again, the idea is that, you know,
10 you fail sooner but the failures may not be as big
11 and then you can continuously make those
12 improvement is the just general concept. But for
13 both of these products we're saying MVP, but what
14 we mean -- what we mean in these cases,
15 especially, is that they have got to be at least
16 able to do what the current systems they're
17 replacing are doing. So, for the initial
18 application forms, you know, it's got to get the
19 job done in the same manner with the initial --
20 the Legacy TEAS forms.

21 And the same thing for this simple
22 search, simple user interface search, it's got to

1 be able to meet the needs of the customer in the
2 same manner that TESS currently is. And then the
3 point though is that both of those, you know, we
4 can then, especially for TESS, or for this elastic
5 search effort, there is a whole bunch of
6 capabilities that we haven't even scratched the
7 surface on.

8 But we don't want to do that. We don't
9 want a sample of all of that, you know, with what
10 we call the MVP, because, you know, that's -- we
11 just want to make sure we get it right first, and
12 then continue to expand its capabilities and what
13 not. So that's a general concept behind it.

14 MR. ENNS: So, if I understand, the MVP
15 is not an endpoint, it's a waypoint is that right?

16 MR. BROWN: Well, yeah, sure, that's
17 exactly correct, yes.

18 MR. ENNS: Thanks.

19 COMMISSIONER GOODER: Okay. Any other
20 questions?

21 (No response) All right. It
22 somehow slipped the schedule, but

1 we thought we would take a
2 10-minute break at this point.
3 It's 2:34, so why don't we be back
4 at 2:45, eastern, 11 minutes.

5 (Recess)

6 CHAIRMAN CHO: Hello, it's 2:45,
7 everyone to your seats. Dave Gooder will start in
8 a moment.

9 (Pause)

10 COMMISSIONER GOODER: Okay. If we can
11 get everybody to take their seats, we'll roll
12 along. As someone told me yesterday, a 10-minute
13 break is actually a 15-minute break, except today,
14 good. All right. Before we roll along, Dan had
15 one clarification on the suggestion email box.

16 MR. VAVONESE: So, well, I appreciate
17 and will take all suggestions that our customers
18 want to give. I did want to provide the correct
19 central TM feedback mailbox. So, if you want to
20 send any suggestions, or comments, or feedback,
21 tmfeedback@uspto.gov is the general feedback
22 mailbox. So, I just wanted to clarify that.

1 Thanks.

2 COMMISSIONER GOODER: Sounds good, thank
3 you. Okay. If you have been looking around the
4 room, you have realized that Amy Cotton, the
5 Deputy Commissioner for Trademark Exam Policy is
6 not here today. So we're, a couple of us are
7 going to cover for her in the two key areas we
8 wanted to talk about.

9 The first one is a little bit about our
10 Petitions Office, which we don't -- we don't talk
11 about near enough. They do an amazing job of
12 dealing with a lot the things that come in that
13 aren't specific to applications specifically, et
14 cetera. And so, we thought we'd just give you a
15 little background.

16 First of all, the Petitions Office is
17 six paralegals, 21 staff attorneys, two senior
18 attorneys, a managing attorney, it's a good size
19 group of people. All of the attorneys are former
20 examiners. I think it's fair to say that all of
21 the paralegals have worked in various parts as
22 legal instrument examiners, or moved up to being

1 paralegals, or they'll have a very long history at
2 the office.

3 So, when a petition comes in often they
4 raise really, novel questions. This is a really
5 experienced group that deals with them. What is
6 kind of surprising about them is the volume that
7 they deal with. In the first half of Fiscal '23,
8 they had 8400 actions. An action could be a
9 Letter of Protest, a Petition, any of the things
10 that they deal with.

11 That's up significantly from the first
12 half of Fiscal '22. Now, that's -- there is a lot
13 of categories. The biggest two categories are the
14 Petitions to the Director, Letters of Protest, are
15 the two big ones, and then from there, there is a
16 lot of categories.

17 You can see those on the slide and we --
18 there is a great deal that goes into those
19 petitions. They can be anything from trying to
20 correct something that happened in examination, or
21 a registration problem, or you name it, it's a
22 huge variety.

1 What's interesting is when you look at
2 the types. So, prior to 1016, this is
3 interesting, they were getting about a thousand
4 petitions a year. That's only seven years ago.
5 And then since they've -- we have been increasing
6 just consistently, consistently along the way, so
7 with Letters of Protest also, they seem to go up
8 and down a little bit but they are also up this
9 year, over the past years.

10 In terms of the docket progress, or the
11 time it's taking to act on these types of things
12 with petitions, what this shows is -- I'm trying
13 to explain this accurately. When the lawyers and
14 the paralegals pull a petition down from the
15 inventory, it is now considered in the docket.
16 They are dealing with it at that time.

17 So, in the last quarter of last fiscal
18 year, they had 956 cases going. It was taking
19 about 300 days. It dropped some in the first part
20 of this fiscal year and the amount of time has
21 come down again. And now, in this quarter, they
22 have reduced that inventory by 25 percent and the

1 amount of days it's taking down to 185. So,
2 they're making really significant progress.

3 What's unpredictable about what they
4 have to do is the nature of what's in the
5 petition. So, some of them can be quite
6 straightforward, some of them can be very
7 complicated.

8 Also, a lot of these attorneys were the
9 ones who were dealing with TMA expungement and
10 reexamination petitions. And for the first year
11 of those, literally, every single one raised new
12 issues, new questions, so it was taking longer to
13 do that. Now they're back more on track. They
14 have kind of dealt with most of the TMA kinds of
15 situations, so they have picked back up a great
16 deal.

17 With Letters of Protest, they are also
18 the amount of days has gone from the end of last
19 year to now, from 53 days down to 18 days. There
20 is a two-month time period in the statute, so
21 they're well ahead of the time period for Letters
22 of Protest.

1 And just to remind folks, Letters of
2 Protest are fact-based, not argument-based. So,
3 to the extent that people are putting a lot of
4 time into making and crafting brilliant legal
5 arguments, it's not considered. It's the facts
6 that they're trying to get so that the -- and then
7 determine is it useful to the examiner.

8 Sometimes it's not useful, sometimes it
9 is, and it just depends on what the facts are.
10 So, the more fact-based it is, the more likely it
11 is to get through. If it's a lot of brilliant
12 argument, it doesn't really help much there at all
13 because it's not -- it may be looked at by the
14 Petitions attorney but that is not passed along to
15 the examiner, only the facts are passed along.

16 So, like I say, the progress though has
17 been great and they're turning around in the
18 amount of time that they really need to be. So,
19 with that, any questions about petitions? We have
20 four petitions, attorneys all over the place here,
21 so we can answer any questions that I can't
22 answer. Anything? (No response) Okay.

1 The next thing we're going to talk about
2 -- and I'll pass this down to Dan -- as many of
3 you know, we have been engaging in something
4 called Register Protection, not dissimilar to
5 Brand Protection, that goes on in companies and
6 brand owners. And we are thrilled to now have
7 taken that program from a rag-tagged group of very
8 sharp people, who were doing this in varying parts
9 of their day job to now a full-time team with
10 investigators and lawyers.

11 And I'm thrilled to introduce you to
12 Montia Pressey, who is the new Director for
13 Trademark Register Protection, and she's going to
14 talk a little bit about what's going on in the
15 office, and new scams, and all sorts of things.
16 So, Montia, over to you.

17 MS. PRESSEY: Hi, everyone. I'm just
18 getting used to this. So, I have been the
19 Director for Register Protection for all of four
20 months, so I'm still learning a lot about the STIA
21 Group, in particular, our anti-scam group that we
22 call it. Before I talk about the Register

1 Protection program, I'd like to show you the
2 organizational structure of Trademark Examination
3 Policy under Deputy Commissioner, Amy Cotton, and
4 also where the Register Protection program fits
5 in.

6 So, here are the Units in Exam Policy.
7 The mission of the first six units, in burgundy,
8 which includes the Register and Protection Office
9 is improving and sustaining examination quality,
10 improving the integrity of the register and also
11 supporting trademark operations.

12 The mission of the last three units,
13 shown in blue, is providing support and guidance
14 to external stakeholders to improve the quality of
15 the submissions across the entire registration
16 process.

17 Next, turning to the Register Protection
18 Office. First off, I want to mention that it does
19 not actually, formerly exist yet. Currently, it's
20 an informal office of one, but we're working
21 through the steps necessary to stand it up as a
22 formal part of our structure.

1 As the director, as Dave mentioned, I
2 oversee three existing Register Protection
3 programs, post-registration audits, ex parte
4 expungement, and reexamination cases, and the
5 anti-scam unit, which, as I mentioned, we
6 sometimes refer to as STIA, or the Special Task
7 Force for Improper Activities.

8 The work across all of these areas is
9 performed by attorneys on work projects from other
10 parts of other business units in trademarks, along
11 with two paralegal professionals, who help us
12 conduct audits. I have also been working with HR
13 to hire permanent RPO staff soon. But for at
14 least the time being, we're going to be continuing
15 work projects.

16 As you might imagine, I realized soon
17 after I started as Director, that scams would be
18 the subject of many emails, meetings, calls, et
19 cetera. There are four main types of scams that
20 we hear about from our customers. Scammers
21 tricking customers into paying inflated fees for
22 fake or unnecessary services; scammers posing as a

1 USPTO and as our staff; scammers hijacking
2 applications and registrations; and scammers
3 hijacking or renting attorney credentials.

4 We do have some tools that we use to
5 fight against scams and to help protect the
6 register. Some of the tools the USPTO uses
7 internally, others are external stakeholders can
8 use to help us and support us in our efforts. I
9 will highlight some of those next.

10 So, first, through our Administrative
11 Sanctions Program -- and you've heard about that a
12 lot today, and Director Vidal also mentioned it.
13 We review suspicious behavior that violates our
14 rules. We look for evidence of efforts to
15 circumvent the rules, and we sanction rule
16 violators.

17 The program involves three primary
18 elements: Reviewing suspicious filings and
19 behavior for rules violations; monitoring
20 USPTO.gov accounts for suspicious filing behavior;
21 and referring any suspicious behavior by attorneys
22 to OED. Sanctions include, terminating

1 applications and sanction registrations;
2 suspending and even shutting down USPTO.gov
3 accounts; and attorney discipline for misconduct
4 including suspension from practice and referral to
5 state bars for reciprocal discipline.

6 As I mentioned, the Administrative
7 Sanctions Program is key to identifying violations
8 of U.S. Rules of Practice, Terms of Use Agreements
9 for USPTO websites, and the Verified USPTO.gov
10 Account Agreement. Implementing the sanctions
11 process has really brought the conversation about
12 rules and rules violations to the forefront of
13 trademark practice.

14 As part of the verification process to
15 establish a USPTO.gov account, as I'm sure you all
16 know, a customer must choose one of these listed
17 user roles. If a customer doesn't fit one of
18 these roles, they should not be filing a trademark
19 submission with our office.

20 So, we monitor filing behavior to
21 determine if a customer violates the verified
22 account agreement. And, if so, we can issue an

1 administrative order to suspend or even terminate
2 the USPTO.gov account.

3 Here are some of the most significant
4 sanctions orders over the last several years.
5 Some of them involving thousands of applications
6 and registrations, most involved the unauthorized
7 practice of the law, along with that specimens and
8 improper signatures.

9 So, here are some of the highlights of
10 our Administrative Sanctions Program. We should
11 refresh this. We have some more recent stats.
12 But, as of a few weeks ago, those highlights
13 included issuing 150 orders for sanctions,
14 terminating 19,000 invalid applications, and
15 sanctioning 3500 invalid registrations, suspending
16 five USPTO.gov accountings -- and, actually, that
17 number is now closer to 10 -- and referring 34
18 individuals to OED for investigation and for
19 possible discipline.

20 If you'd like to know about our orders
21 and sanctions, you can view them using our new
22 decisions and proceedings tool, where you can

1 search using keywords and filter by date, party
2 name, and document type.

3 It's accessible on our -- the trademarks
4 page, the main trademarks page, on the USPTO
5 website. That database also contains documents
6 about expungement and reexamination proceedings,
7 the next register protection tool I'm going to
8 tell you about.

9 So, as an external tool, a third party
10 may provide evidence that a registration was not
11 in use as of the relevant date. The director will
12 determine if a prima facie case of non-use is
13 made. If so, the director will institute
14 proceedings.

15 As an internal tool, the director may
16 institute proceedings on her initiative if there
17 is evidence to support a prima facie case of
18 non-use. In both scenarios, the registrant must
19 respond with appropriate evidence of use. If the
20 registrant cannot establish use of the mark, the
21 registration is cancelled, in whole or part,
22 depending on the scope of the goods or services

1 involved in the proceeding.

2 As of last week, 287 Petitions for
3 Expungement and Reexamination had been filed. Of
4 the petitions our examiners have reviewed so far,
5 we have instituted proceedings in 132 of them, and
6 not instituted in 79. Of the 132 instituted
7 proceedings, 85 have terminated and resulted in
8 full or partial cancellation of 77 registrations,
9 and the cancellation of 867 out of 906 challenged
10 goods and services.

11 So, obviously, the proceedings have been
12 very effective so far in helping us to clear
13 deadwood from the register. As of last week,
14 along with the 132 -- then that should be 132,
15 instead of the 127 you listed there -- instituted
16 proceedings. We have also instituted 47
17 director-initiated proceedings cancelling all 370
18 of the challenged goods and services in the
19 proceedings that have already terminated.

20 The team is currently in the process of
21 instituting director-initiated proceedings in more
22 than 100 registrations against a company that's

1 affiliated with the Trademark Auction site, where
2 most of the new space registrations are advertised
3 as unused, as if that's a good thing. But our
4 examiners have already started issuing Notices of
5 Institution. I think we're up to like maybe 20 of
6 those, or maybe more.

7 So, onto the next register protection
8 tool. Since 2017, we have audited at least 5,000
9 registrations a year, as part of our permanent
10 audit program. And with the deadwood, as to the
11 audit registrations because, of course, if they
12 can't provide us with acceptable proof of use,
13 those goods and services are deleted from the
14 registration, or the entire registration
15 cancelled.

16 In an effort to have a broader impact,
17 in 2021, we implemented a \$250 per class deletion
18 fee. That fee is incurred when goods or services
19 are deleted during the pendency of a Section 8 or
20 71 declaration, and it applies to all Section 8
21 and 71 declarations, not just to those in audited
22 registrations.

1 It's only been a couple of years, so
2 it's hard to really measure the full impact of
3 that new fee. But we are seeing a downward trend
4 in deletion rates for use-based registrations over
5 the last few years.

6 Unfortunately, there hasn't been much
7 downward movement so far in the Section 44 and
8 66(a) registrations, but we are hopeful that
9 registration owners will eventually get tired of
10 paying us extra money just, you know, because they
11 file a deficient, or an inaccurate declaration.
12 Something to note about that 2022 deletion.
13 Because the audit processing can extend 18 months,
14 we expect the deletions to fluctuate upward some,
15 as responses come in, but so far the number is
16 looking pretty good for 2022, in terms of what
17 we're seeing with regard to the decline in
18 deletions.

19 And our audit examiners tell us that
20 they're seeing more Section 8 and 71 declarations
21 with narrowed IDs, and specimens that are
22 submitted from multiple goods and services in a

1 class which, of course, we only need one, but they
2 seem to be giving s additional specimens which
3 kind of makes it audit proof, the registration, to
4 some degree, because we only audit a registration
5 if there is no proof of use that's available or
6 provided for certain goods and services.

7 So, we're hopeful that it means that
8 they're conducting their due diligence upfront,
9 that they're confirming use and deleting goods and
10 services where necessary.

11 Raising awareness to scams is another
12 one of or tools. Unfortunately, it's unlikely
13 that scams are going to go away any time soon, but
14 our goal is to help customers to avoid being
15 scammed. We had our very first scam awareness
16 webinar yesterday. I think we had about 300
17 attendees. A recording will be posted on our
18 website in a few weeks, if you missed it.

19 We provided real life examples of
20 communication from scammers, and we offer tips on
21 how to identify those communications as scams. We
22 will be offering additional webinars, and also

1 we'll be sharing information about scams when we
2 hear about it in your social media, as well as
3 trademark alerts. We are also continuing to
4 revamp our webpages on scams. We're refreshing
5 our filing receipt, as well as the registration
6 notice emails to include information about scams.

7 And I'll end with some external tools
8 that our customers can use to help us fight scams.
9 Dave mentioned Letters of Protest. So, if a
10 customer has evidence that a specimen of use is
11 fake, they can provide that evidence to us for
12 consideration.

13 Petitions to the Director, which Dave
14 also mentioned, can be filed to alert the USPTO to
15 unauthorized submissions. And, finally, customers
16 can email us at tmscams@uspto.gov to report them
17 to us. Those emails are reviewed by our Anti-Scam
18 Unit, and they consider action appropriate for the
19 information that's provided in the email.

20 So, with that, I think that's it for me.
21 I know I covered a lot. I promised I would only
22 take 15 minutes, so I moved fast.

1 COMMISSIONER GOODER: Well done. Any
2 questions for Montia?

3 CHAIRMAN CHO: Yes, first, a very
4 affirming comment, thank you for talking about the
5 formulation of the new office. Congratulations,
6 again --

7 MS. PESSEY: Thank you.

8 CHAIRMAN CHO: -- for the new position
9 there. I know we had seen these numbers before.
10 I don't think the question was raised, but I did
11 see it on another slide. There are two slides you
12 have brought up numbers and I was wondering, are
13 you all going to track it year-by-year, or I'm
14 assuming you are tracking it year-by-year?

15 MS. PESSEY: Yes, yeah, we are. We're
16 doing it, a lot of it's manual, unfortunately.

17 CHAIRMAN CHO: Okay.

18 MS. PESSEY: We do have a great team
19 that was trying to help us to build reports to
20 come up regularly. But, yes, we are definitely
21 tracking. It's just, you know, folks are working
22 on them, you know, day-to-day and so they. You

1 know, we're getting some great work performing,
2 and so they always kind of are stale, you know,
3 sort of like the next days because we have new
4 folks that are doing the cases.

5 CHAIRMAN CHO: Yeah, that makes sense.
6 I mean it's small enough now, the manual -- while
7 it's still manual, it's not too cumbersome but
8 it's good for that point.

9 MS. PRESSEY: Yeah, definitely. We're
10 definitely tracking the dates and that the
11 webpages, also that tool that I mentioned that's
12 another way, you know, we use that to help us to
13 track like the number of Notices of Institution,
14 the number of terminations. That's actually our
15 way of updating and refreshing our own data when
16 we need to present in meetings. Did someone else
17 have?

18 COMMISSIONER GOODER: Any other
19 questions?

20 SPEAKER: No, sir.

21 COMMISSIONER GOODER: All right. I
22 think we're good. At this point, I want to turn

1 the program over the Chief Judge Rogers to update
2 us about Trademark Trial and Appeal Board.

3 JUDGE ROGERS: Thank you, Commissioner
4 Gooder. I will start by running through a few
5 slides that deal with pendency measures and
6 inventory. So, something you have heard about
7 already from Dan, in regard to trademarks. You'll
8 hear a similar story, in some respects, at TTAB.

9 There will be some slides that will show
10 the relationship between a pendency and inventory.
11 But the inventory that we're talking about it
12 relates to the number of cases that end up with
13 contested motions that attorneys have to decide or
14 cases that have gone through the complete process
15 and need to be decided by a panel of judges.

16 (Slide) This first slide shows you
17 the total pending inventory. So,
18 these are the total number of cases
19 pending at TTAB. But as any
20 litigator will tell you, there are
21 a whole lot of cases that get
22 commenced that never require a

1 disposition on the merits.

2 And since our pendency measures focus on
3 things that are within our control, meaning that
4 from the time contested motions are ready for
5 decision on the merits, or from the time appeals
6 and trial cases are ready for decision on the
7 merits. The inventory of cases that never require
8 those kinds of actions never really affect us, but
9 I do think it's important to note the trend.

10 (Slide) And so, this slide shows
11 that generally the top line
12 oppositions over the last two years
13 have been trending down some. For
14 a long time, we almost always had
15 more than over 5,000 oppositions
16 pending, 5500, or so. But we're
17 just now getting below 5,000.
18 Nothing particularly significant
19 and it could easily trend back up,
20 at some point=, depending on how
21 many of the trademark surge
22 applications get published for

1 opposition and potentially opposed.

2 The bottom line on this slide is just at
3 the end there showing a recent trend up, and
4 that's for ex parte appeals from examiner refusals
5 and that I'm kind of assuming is going to continue
6 to go up because just with the sheer number of
7 applications that are being review by examining
8 operation. We're going to get more appeals, I
9 believe, in the months and years to come, but we
10 will see. (Slide) The next slide just shows kind
11 of the Filings by Quarter that have been coming
12 in, and it kind of reinforces a little bit of what
13 was going on on the previous slide. So, there's
14 ups and downs on the top line, which is quarterly
15 receipts of new oppositions but there is generally
16 more down in that up and down line than there is
17 up. So that's why the overall trend is down for a
18 total number of opportunities pending at any one
19 point and time.

20 And you can see cancellations and
21 appeals are both trending up, and those are the
22 kinds of things that often come along with the

1 issuance of more final refusals because maybe
2 Applicants will petition to cancel cited
3 registrations, maybe Applicants will take an
4 appeal. So that's why those two lines often kind
5 of move in tandem.

6 So, this is just another way of kind of
7 looking at and recognizing the volatility and some
8 of the trends at TTAB and how hard it is to kind
9 of predict our workloads from '16 to '19 and into
10 the beginning of the pandemic in 2020, things were
11 generally trending up, all kinds of cases that
12 were coming in the front door were increasing.

13 And we had a significant increase in
14 trial cases over that four-year period from '16,
15 Fiscal '16 to Fiscal '19. But you can see it's
16 been a little bit of a roller coaster ride since
17 the pandemic hit with some things going down, and
18 some things going up.

19 And the two blue lines near the end of
20 this slide show that last year, we had almost a 10
21 percent decrease in the number of new appeals
22 coming in, which was really quite surprising and

1 we're not quite sure why it happened but -- and I
2 have talked with Dan about a number of reasons why
3 it might have happened last year because I was
4 wondering whether it was going to continue this
5 year. But clearly, it has not continued this year
6 and because now we're trending at a 10 percent
7 increase this year in appeals.

8 So that's a big swing for us and it may
9 be a sign that the trademark filing surge is, at
10 this point, resulting in more appeals, and
11 potentially more cancellations to come. So, our
12 goals for processing the three types of work that
13 I mentioned earlier that we do track -- and we
14 also track end-to-end pendency, just like
15 trademarks tracks disposal pendency excludes cases
16 that are involved in TTAB proceedings.

17 So, they're really just measuring filing
18 of the applications to either abandonment or, you
19 know, publication, if I have that measure right in
20 trademarks, the disposal measure, and they exclude
21 cases that could be involved in appeals or trials
22 at the Board because they could be -- those

1 applications could be pending much longer.

2 But our goals are the things that we
3 have more control over, apart from end-to-end
4 pendency, which is something we measure but we
5 don't have control over. So, we measure it and
6 it's reported on our website if you are ever
7 interested in looking at those average figures.

8 But we like to get contested motions
9 that arise in trial cases decided in 12 weeks or
10 less; we like to get appeal decisions out in 12
11 weeks or less from the time they become ready for
12 decision on the merits; and we like to get trial
13 cases out in 15 weeks or less, decisions in trial
14 cases from the time they're ready for decision.

15 So, how are we doing on these goals?
16 Well, motion practice is going very well like,
17 Webster, our managing attorney and his staff, are
18 pushing down the pendency on contested motions,
19 which is good for those of you involved in trial
20 cases at the Board. Hopefully, we'll get the
21 motions decided quickly and keep the cases moving.

22 As Dan said with his statistics earlier,

1 these are average figures. So, obviously, some
2 motions are going to take less time, and some are
3 going to take more time, a very large record
4 summary judgement motions are going to take more
5 time than a very short Motion to Suspend a case
6 because of the pendency of a civil action, or
7 something like that.

8 (Slide) But we're pleased that the
9 motion process is going down
10 because we know how quickly things
11 can turn around and go up, as we
12 see on this slide. For the last
13 few years, we have been pushing
14 down appeal processing times and
15 the time it takes judges to get the
16 decisions out from the time the
17 appeals are ready for decision, but
18 it's quickly been going up.

19 And so, we're a few weeks over goal, at
20 this point and time. We'll see what it will be
21 like at the end of the year. It could come back
22 down if it's not given that it's going to continue

1 to go up, but we'll just have to kind of see. And
2 I will get to takeaways slide in just a few slides
3 and let you know what we're doing to try and stay
4 on top of these things.

5 Trial processing has likewise, again,
6 trial cases ready for decision on the merits, the
7 timeline for processing those has gone up. But
8 it's only slightly above goal, the blue line on
9 this slide. And so, there is a very good chance
10 we'll be able to get that back down by the end of
11 the year.

12 But the pressure that suggests we might
13 have a challenge in doing that and bringing it
14 down is shown by this slide which covers the
15 number of cases. The inventory that I mentioned
16 earlier that impacts our pendency numbers that we
17 just ran through.

18 And so, the top line here shows a slight
19 trend upwards in total cases, appeals and trials
20 combined ready for decision on the merits, but the
21 appeals have gone down.

22 Earlier we were talking about appeals

1 coming in the front door going up, but for those
2 already in the pipeline the number of appeals
3 maturing to ready for decision on the merits is
4 actually trending down a little bit. And the
5 bottom line shows that the trials are trending up.
6 And that's going to put a little pressure on us
7 because whenever we have years where we have a
8 significant increase in the number of trial cases
9 maturing to ready for decision on the merits, they
10 take more time to decide often than the appeals
11 do.

12 So that's where we stand with the
13 inventory. And what we're doing to -- in
14 recognition of these trends is we're doing our
15 best to increase the number of judges. Our
16 budgets for the last few years, and for the coming
17 fiscal year provide that we can hire judges. We
18 had two retirements in '22, that we did not --
19 excuse me -- fill those positions because you
20 could see on the earlier slides that our numbers
21 were good, so we didn't need to fill them right
22 away, but we are in the process of hiring judges.

1 It's a long process that involves
2 internal work here at the PTO, an eventual
3 appointment by the Secretary of Commerce. We're
4 hoping that we will be through the end of that
5 process in the near future and have some judges
6 onboard to help work on those appeals and trial
7 cases that have become ready for a decision.

8 And we are going to be also focusing on
9 more efficient approaches to decision-writing and
10 to case management. We have already had one
11 meeting where we discussed the subject at length
12 with our attorneys and our judges, and we have
13 recently started the final pre-trial conference
14 pilot.

15 No case has yet been brought into that
16 pilot but we are beginning to consider candidates
17 for that pilot, so that's kind of a wait and see.
18 But if you go to our website and you go to the
19 pilot page that includes information on the pilot
20 and how it works information has recently been
21 updated since we have officially started the
22 pilot, which doesn't mean anything other than,

1 okay, something might happen in the near future,
2 but hold on, not yet.

3 Any questions about the pendency, the
4 numbers, any of that, before I go on to a couple
5 of other subjects? (No response) Okay. I just
6 wanted to briefly touch on the fact that oral
7 arguments are now back on. Since August of last
8 year, we have been hearing cases again in-person
9 here on campus when parties agree that they would
10 like to be here on campus and argue before a panel
11 of judges in person.

12 But just like they could pre-pandemic
13 parties can still choose a virtual option. We
14 were doing that a lot prior to the pandemic
15 anyway, and there's always the possibility that
16 one of our judges, who might be working from a
17 home office, in another part of the country, is
18 going to appear virtually.

19 So, they're kind of hybrids and on an
20 average month we're getting eight, nine, ten
21 requests for hearings. We're having eight, nine,
22 ten hearings a month, and most of them are still

1 virtual. But we're probably having three, four a
2 month that are in-person. And what we're also
3 doing is having -- and we've done this for a long
4 time, but we're kind of resuming more of the
5 in-person outside, outreach hearings you might
6 refer to them as, and these are hearings that are
7 parts of conferences, and CLE programs, and things
8 like that.

9 We had one in New Mexico, at a program
10 that was run by the New Mexico State Bar, and our
11 Texas regional office, that was in September. We
12 continue to have hearings here on campus that are
13 involved in law school clinic programs or other
14 conferences. We have hearings that are usually
15 featured or often featured as parts of GIPA
16 programs at OPIA runs. And so, we're going to
17 continue to work on outreach events like this and
18 provide opportunities for people to see how
19 hearings run.

20 (Slide) So, we've got just a couple
21 of slides on the pilot, and which I
22 mentioned earlier. We issued the

1 announcement that the pilot would
2 start April, no joke there. It
3 really is the start date. The
4 pilot planning team has provided
5 instruction to all of our attorneys
6 and judges about the process and
7 the procedure and what we are
8 hoping to accomplish through the
9 pilot and our attorneys and judges
10 or even a panel of judges working
11 with an attorney on a potentially
12 dispositive contested motion can
13 recommend to the pilot team that a
14 particular case be considered for
15 inclusion in the pilot.

16 So, the goals are the same as we have
17 been talking about for a number of meetings in
18 terms of what we hope to accomplish. And we hope
19 that we will have better trial case records in
20 cases that go through the pilot.

21 Because we will have worked with the
22 parties to ensure that they put their best foot

1 forward and they do, and the attorneys
2 representing those parties, if they're represented
3 are going to do the best job they can for their
4 clients and give us an appropriately sized record
5 appropriately tailored to the claims and defenses
6 that are most significant in the case and which
7 will allow us to get the case decided as quickly
8 as possible and make sure that we're looking at
9 the best possible evidence for both sides.

10 The steps will be that the pilot
11 planning team receives a recommendation that a
12 case be included in the pilot and the pilot
13 planning team will assess the bases for the
14 recommendation and the likelihood that inclusion
15 would be successful. That's another key factor we
16 want to make sure that we kind of pick cases for
17 the pilot that we think there is a good chance the
18 pilot will help, and it's going to work, and the
19 parties are going to work with us to make it work
20 well.

21 Once we pull a case into the pilot,
22 we'll issue an Assignment Order after the close of

1 discovery, but before trial starts, and before any
2 pre-trial disclosures would have been due. And
3 we'll have an orientation conference. The
4 Assignment Order will direct the parties to
5 specify some dates and an attorney, and a judge
6 will have an Orientation Conference with the
7 parties to discuss what they need to do in
8 preparation for the final Pre-Trial Conference and
9 their participation in it.

10 Then the parties will exchange the list
11 of witnesses. Copies of anticipated trial
12 exhibits and discuss their trial plan. They will
13 file a Point Proposed Final Pre- Trial Conference
14 Order based on reviews. The Board would review
15 and schedule the final Pre-Trial Conference after
16 review of those submissions.

17 ATJ will lead the discussion of possible
18 edits and amendments to what would be the Trial
19 Order for the case, and then once the conference
20 is over, the Order would be finalized and issues
21 and that would send -- set the schedule and the
22 course for the case going into trial.

1 Input is needed. We took a lot of input
2 on this to develop the contours of the pilot.
3 This is what you see on our homepage and I have
4 highlighted in the middle the link to the pilot
5 information. And if you go to -- that link will
6 take you this page, and then that link will take
7 you to the input, the information about the pilot.

8 And we are going to be taking input
9 throughout the conduct of the pilot, which we
10 expect will go on for quite some time because
11 we'll need to get a number of cases into and
12 through the pilot to make sure we can adequately
13 assess how well it's working.

14 So, that's it for TTAB -- if there are
15 any questions?

16 COMMISSIONER GOODER: Thanks, Judge
17 Rogers. Any questions? (No response) No? Okay,
18 thank you much. All right. So, we're going to
19 turn now to the Office of Policy and International
20 Affairs, and Mary Critharis is here and some of
21 her crew, Nancy and Branden. But I think -- I'm
22 not sure which one of you is going first but take

1 it away.

2 MS. CRITHARIS: Thanks, Dave. It's a
3 pleasure to be here. It's my first in-person TPAC
4 meeting. So, I'm also joined by Nancy Omelko and
5 Branden Ritchie, who I believe you know they are
6 the Senior Trademark Counsel for Office of Policy
7 International Affairs.

8 So, I am going to give an overview today
9 of some developments at WIPO, as well as, TM5,
10 some trademark training that we have conducted,
11 our NFT study, our newly announced Trademarks for
12 Humanity Program, as well as some developments on
13 the (inaudible) of the APEC meeting.

14 So, turning to the first update, on the
15 SCT, which is Standing Committee of Trademarks, I
16 wanted to highlight the two key topics, trademarks
17 and geographical indications, are always front and
18 center at these international discussions.

19 The first topic of importance is country
20 names and geographical names of national
21 significance and nation brands. There are several
22 proposals on those particular issues related to

1 developing an examination guideline, as well as,
2 discussing further ways to, you know, review these
3 kinds of applications.

4 There is also some information sessions
5 on country names and brand names, and also there
6 is a questionnaire that we were participating in
7 on nation brands. We are also looking at the
8 issue of geographical indications and there is an
9 information session with respect to refusals based
10 on prior rights, something we're participating in.

11 And the other development, and WIPO
12 really relates to industrial designs, for those of
13 you that follow some of those issues as well, 2024
14 Schedule for Diplomatic Conference on the Design
15 Law Treaty. It's similar to the TLT. It's
16 designed to reduce formalities with respect to
17 filing design applications throughout the world.

18 The treaty, unfortunately, is being held
19 up from some -- by some other politically related
20 issues, a lot of demands want to insert a
21 Disclosure of Origin requirement with respect to
22 genetic resources in a particular region, those

1 are required to be disclosed in order to get
2 protection in a particular region, not something
3 that the U.S. is supporting at this time.

4 It's unfortunate that those issues are
5 bleeding into the DLT. And then we're also
6 focusing on a proposal, a joint recommendation
7 concerning industrial design protection for
8 graphical user interfaces.

9 Another development WIPO relates to our
10 ongoing work in the Madrid Working Group, and one
11 of the two key topics that are being discussed in
12 the Madrid Working Group, one is a proposal to add
13 new languages, in particular, Arabic, Chinese, and
14 Russian. We are working with the State Department
15 to kind of evaluate whether we can support the
16 addition of these additional languages, and then
17 the other issue is the pendency.

18 As many of you know, to file a Madrid
19 application on other countries it's usually based
20 off of basic application, so if you file your
21 basic application in the United States, you're
22 required to have very specific requirements, a

1 very narrow set of requirements with respect to
2 the goods and services.

3 Unfortunately, that disadvantages U.S.
4 Applicants when they're using the Madrid system
5 because they -- when they're basing their other
6 applications that they designate as part of
7 Madrid, they have to make sure that their -- those
8 limitations are also included. So, we're trying
9 to come up with a new way to enhance user of the
10 Madrid system to, again, better benefit U.S.
11 Applicants.

12 MS. FREDERICKS: Excuse me, Mary.

13 MS. CRITHARIS: Hi.

14 MS. FREDERICKS: This is Jomarie
15 Fredericks. Before you go on, are you able to
16 talk yet about anything to do with the
17 establishment or setting of criteria for how new
18 languages may be considered now, and in the
19 future, to be added or taken away?

20 MS. CRITHARIS: Sure.

21 MS. FREDERICKS: Or is that just too
22 premature?

1 MS. CRITHARIS: I can give a few things.
2 I don't know if you guys have anything. So, you
3 know, the issue of new languages is something
4 that, like I said, we work very closely with the
5 State Department because we're trying to do a cost
6 benefit analysis. This is more of an UN issue.
7 We have got this issue not just in the Madrid
8 Working Group, but also in the Hague Working
9 Group, as well, so trying to have more consistency
10 of position.

11 So, what we look to is, you know, the
12 usage, how many applications are being filed in
13 these different languages. Add also, what is the
14 cost of translation and all of those related fees?

15 So, those are taken into account, so
16 that's when we're talking about having these
17 technical discussions. Those are the kind of
18 considerations that the U.S. is asking to ensure
19 whether we want to support going forward with,
20 including these new languages. I don't know,
21 Nancy, if you wanted to add something.

22 MS. OMELKO: That's good, thank you.

1 MS. FREDERICKS: Thank you.

2 MS. CRITHARIS: Yeah, no problem. So,
3 now I'm going to turn to some developments at TM5.
4 So, the TM5, Annual Mid- term Meeting will happen
5 in May 17th, at the User Session, May 17th, at the
6 Annual Meeting. Typically, the mid-term meeting
7 is on the margins of the intermeeting, and the TM5
8 panel on proving use will be held on May 18th, at
9 the Annual INTA meeting, and our Annual TM5
10 meeting will be held in September. This year is
11 Korea's turn to host the TM5.

12 I just wanted to highlight one of the
13 big accomplishments of the TM5 is that there is
14 over 22,750 entries in the ID list, which we led
15 these particular projects, and this accepted in 45
16 different countries. So, when you file your
17 applications you can rely on this basic, you know,
18 ID entry list making it easier for you to find
19 these other jurisdictions.

20 So, again, that's the progress on TM5.
21 And also, just to highlight some of our training.
22 As you know, we do a lot of training across the

1 globe with respect to a trademark education,
2 examination policies, and practices, and
3 awareness. We held a GIPA program with 35
4 Government officials from 24 countries at the
5 USPTO headquarters.

6 We also, as Jerry mentioned, this was
7 one of the programs that his office participated
8 in. We gave the participants an opportunity to
9 understand how we handle our administrative
10 trademark appeal system.

11 We also had an Andean Community Court of
12 Justice program, Mexican Industrial Property
13 workshop, and an Algerian National Institute of
14 Industrial Property with Ministry of Industry
15 there on trademark opposition. So, these are just
16 the highlight of some of the training programs
17 that we have had, and we continue to do these
18 programs throughout the year.

19 MS. NORTHCOTT: Go ahead, Jomarie. Do
20 you want to go first?

21 MS. FREDERICKS: No, you can go first.

22 (Laughter)

1 MS. NORTHCOTT: Dana Brown Northcott
2 here. Can you tell us a little bit more about
3 what you covered specifically in the Trademark
4 Office Administration Workshop?

5 MS. CRITHARIS: Sure. So, we had a
6 whole different set of issues that were covered.
7 We included everything from strategic planning,
8 budget, and staffing, as well as different
9 electronic tools that we use. We wanted to give
10 them kind of a, you know, hands-on experience and
11 with the tools that we're using, the different
12 manuals and foreign paragraphs, how we do the
13 examination process.

14 We talked a lot about our telework.
15 That's a very common theme that we get a lot of
16 questions on from our foreign colleagues. We have
17 a little bit ahead of the curve, which was nice,
18 so we can really share our experiences, a lot of
19 them were forced to kind of telework in response
20 to the pandemic.

21 We also talked about quality review and
22 how we trained our examiners, our trademark

1 attorneys, education outreach, as well as, as
2 mentioned, they got a little bit oversight,
3 overview of our Trademark Trial and Appeal Board.

4 MS. FREDERICKS: Just briefly, how do
5 you decide where to conduct the trainings, which
6 countries to go to? Is it just who makes the
7 request, or are there other considerations? Are
8 they able to make the request over and over again?
9 Do you spread them out? I just wonder how it
10 works.

11 MS. CRITHARIS: Sure, that's a great
12 question. It's a very complicated process, so
13 it's a very dynamic process. Every year we review
14 what we think we should -- we have a budget, so we
15 review all of the training programs and all of the
16 different regional teams.

17 We have regional teams that cover the
18 different areas, and we get together and decide,
19 you know, which particular problems are in a
20 particular region. I don't know if you follow,
21 but the Special 301 Report was released earlier
22 this week that identified some of our trading

1 partners, some of the challenges with respect to
2 our trademark partners, with respect to
3 intellectual property protection and enforcement.

4 So, we're guided by some of the problems
5 that we see in the region. We're also guided by
6 certain requests that are being made. Other
7 offices are very interested in our electronic
8 systems, telework, how we do quality, how we
9 manage our trial of an appeal processes, so that
10 also gets folded into the equation.

11 Sometimes, when we have free trade
12 agreements, there is a lot of training that goes
13 into implementing those agreements. So, when
14 we're working with, like, USMCA, for example, we
15 do a training with Mexico. That's why you saw
16 Mexico, a workshop there, because we want to make
17 sure they implement their obligations.

18 But then, we also take into account that
19 we want to do a lot of training in developing
20 countries because we want to make sure that they
21 get their practices up to speed, as respect to,
22 you know, examination and having gold standard.

1 Obviously, Nancy and Brandon, please
2 feel free to add and chime in.

3 MS. OMELKO: Thanks, Mary. I would just
4 add that we have the IP Attachés out in the world
5 and they do various training in their regions.
6 But, yeah, we go all around and it's through a
7 workplan pretty much that we set up in each region
8 to determine what we're going to be doing out
9 there. And it's oftentimes requested through the
10 Attachés office, or directly from country.

11 MS. HSIAO: Do you also offer training
12 for, like, some of the hot topics, like, AI, or
13 metaverse, that kind of stuff; and also, of
14 course, new decisions, the Perkins Bag, that kind
15 of stuff?

16 MS. CRITHARIS: Yeah, absolutely, we do
17 a lot of training on AI and emerging technologies.
18 Sometimes the training that we do is not just
19 trademark-specific, in conjunction with our patent
20 group as well, because it's handling different
21 aspects of AI. So, we do a lot of training in
22 that area.

1 And I just wanted to add, so I'm glad
2 you asked that question, that if there is
3 something that you think a particular problem, in
4 a particular region, or area, you'd like to see
5 training on, please don't hesitate to reach out to
6 either one of us.

7 We're, you know, very receptive to
8 making sure that we are remaining on the cutting
9 edge of, you know, new and emerging technologies
10 and new issues facing the trademark system, but
11 also if there are certain challenges in particular
12 parts of the world.

13 You know, obviously, we want to hear
14 about that and happy to take that information into
15 account where we're devising our training
16 programs.

17 MS. HSIAO: Good to know, thank you so
18 much. We'll kind of brainstorm about that, maybe
19 talk some more at our next meeting. Thanks,
20 fantastic.

21 CHAIRMAN CHO: One of their biggest
22 programs that runs fairly regularly that y'all do

1 is with your China team, and it's really
2 well-attended by practitioners, and in-house
3 people. And I don't know how often you do that,
4 once or twice a year maybe?

5 MS. CRITHARIS: We have got really high
6 numbers of participation, especially, as Dave
7 mentioned, with respect to our China programs, but
8 we just had our China road show programs in-person
9 We just had one in Omaha, Nebraska, two weeks ago
10 So, these are continuing programs and we're going
11 to do more in-person ones.

12 Because while the virtual ones are good,
13 you know, the in-person ones are nice because then
14 do get connection and are able to ask questions a
15 little bit more informally. So, again, we're
16 hoping to do a little bit more of those programs,
17 but I know the China road shows have been a real
18 success.

19 Now turning to our NFT studies. So, we
20 are preparing a report jointly with the Copyright
21 Office, in response to a request by the Senate
22 Judiciary Committee on NFTs and the impact on IP

1 rights and policies.

2 So, we issued our Federal Register
3 Notice in November, and we held three different
4 roundtables, one with respect to trademarks,
5 patents, and copyright. We had a whole host of
6 participants.

7 We had over 90 participants. I believe
8 about 34 of them were from -- represented
9 trademark interests, all spanning from different
10 creators, artists, innovators, brand owners,
11 academics, small business, trade associations.
12 So, why the variety of representation?

13 We are working on putting together our
14 report. So, hopefully in the next -- I believe
15 the report is due, Branden, in June?

16 MR. RITCHIE: Yes.

17 MS. CRITHARIS: So, hopefully, we will
18 get the report finalized. The report will have a
19 nice analysis of all of the different comments
20 that we received; highlighting the definition of
21 NFTs; is the law sufficient right now with respect
22 to IP in enforcing and protecting NFTs; do people

1 envision are necessary to protect NFTs in the IP
2 space. So, we're looking forward to that report.
3 Branden and our copyright team at the PTO are
4 leading that report.

5 And so, one other landmark program that
6 I'm happy to announce that we just launched very
7 recently is our Trademarks for Humanity Program.
8 I don't know if any of you are familiar with our
9 Patents for Humanity was launched about a decade
10 ago, but we launched this program in April 11th of
11 this year.

12 And so, the goal of the program is to
13 recognize entrepreneurship and trademark owners
14 use of their trademarks with respect to
15 humanitarian impact. For this particular cycle in
16 2023, the eligibility requirements are limited to
17 using trademarks in order to address environmental
18 concerns, so very broadly, broadly worded.

19 And so, that's where we'll be accepting
20 about two -- up to 200 applications. I think so
21 far, we have four applications that were filed but
22 we're really looking forward to this program. I

1 just want to also mention that, in addition to the
2 Trademarks for Humanity program, this particular
3 cycle being limited to environmental improvements,
4 enhancements, we also have a Patents for Humanity
5 program that is also limited to green energy
6 technologies, so this particular cycle.

7 So, this is a year we're really focusing
8 on addressing and mitigating a climate change.
9 And then, finally, just to share with you some of
10 the developments on the margins of our work with
11 the Asia Pacific Economic Forum, there is an IP
12 Working Group there.

13 And the past, in February, USPTO led a
14 program on creating a resilient and sustainable
15 future for all, and we had IP experts from the
16 APEC ecosystem gathered for this meeting to
17 discuss issues of interest and exchange
18 information.

19 The Trademark team organized a workshop
20 on geographical indications and preservation of
21 common names to highlight the importance of
22 preserving common names when granting GI

1 protection, especially for small- and medium-sized
2 enterprises.

3 To carry on that theme, there will be an
4 APEC meeting. The U.S. is hosting the APEC
5 meetings this year. So, in August, there is going
6 to be another IPEG meeting in Seattle this time,
7 and the Trademark team is going to highlight the
8 importance of certification marks, especially with
9 the related to green technologies.

10 So, you can see this common theme with
11 from Trademarks to Humanities program, as well as
12 work in APEC is going to focus, on, you know,
13 developing an entrepreneurship with respect to
14 green and clean technologies.

15 And I think we have for you today, but
16 happy to take any questions.

17 COMMISSIONER GOODER: All right, sounds
18 good. Thank you so much for coming. We
19 appreciate it. And next on the agenda is the
20 Office of Government Affairs, and Kim Alton, who
21 is Deputy Director, I think is on the phone.

22 SPEAKER: She's on.

1 COMMISSIONER GOODER: She's on.

2 MS. ALTON: Yes, hi, good afternoon.

3 I'm here. Can you hear me okay?

4 COMMISSIONER GOODER: Yeah, pretty well,

5 Kim, thanks.

6 MS. ALTON: Okay, wonderful. Good
7 afternoon. I am Kim Alton. I'm filling in today
8 for Ellen, representing the Office of Government
9 Affairs. First, let me start by thanking members
10 of TPAC who were able to join us on Wednesday, as
11 we celebrated World IP Day on Capitol Hill.

12 It was a really nice event, a real
13 homecoming for many of us, since we have not been
14 able to celebrate World IP Day in person since
15 2019. So, we were so glad and pleased to have you
16 all join us in this year's celebration. Just very
17 quickly, Government Affairs, this week, we have
18 been really busy. Yesterday, there was a hearing
19 in the House Judiciary, the IP Subcommittee, that
20 subcommittee is chaired by Darrell Issa from
21 California, and Hank Johnson from Georgia.

22 And, just very quickly, I think the

1 questions that we got, we certainly expected.
2 Many of those questions focused on Trademark
3 Modernization Act and trademark fraud. We heard
4 those questions come from Ranking Member Hank
5 Johnson. He is the member who was a lead in
6 developing the Trademark Modernization Act.

7 So, we sort of anticipated that he would
8 have several questions about that legislation that
9 that law has been implemented, any suggested
10 tweaks. So, that is an issue that Director Vidal
11 addressed, in terms of some of the work that we're
12 doing and certainly happy to keep Mr. Johnson
13 updated.

14 We have a good news story to tell in
15 terms of the work that Commissioner Gooder and his
16 team have done over the past couple of years to
17 address the issue of clutter and trademark fraud.

18 The second trademark-related question
19 that we got -- really it wasn't a question, more
20 sort of a statement, was just from our Chairman,
21 Mr. Issa, referencing a bill that he's introduced.
22 It's entitled, "No Stolen Trademarks in America

1 Act," and so that's a bill that he's been very
2 interested in for the past couple of years. He
3 referenced it, no real Q&A on that question.

4 We do expect now that the hearing has
5 ended, the hearing record will remain open for
6 about a week for members to submit questions for
7 the record. So, these would be -- these include
8 written questions that the members of Congress
9 were not able to ask yesterday during the hearing.

10 So, we'll expect to get those written
11 questions probably within the next two weeks, and
12 then we will be preparing answers to submit back
13 to the Committee to close out that hearing record.

14 Again, that's all that I have to share.
15 We do expect -- we don't know when that we will
16 have a similar hearing on the Senate side before
17 the Senate Judiciary Committee, an oversight
18 hearing for that body. We don't have a date, but
19 we're certainly happy to keep you posted when we
20 learn more.

21 That's all that I have, but I'm open to
22 any questions.

1 COMMISSIONER GOODER: Great, thanks,
2 Kim. Any questions:

3 CHAIRMAN CHO: Just an affirming remark
4 that it was our pleasure to be there to support
5 the USPTO. Many of us, who had never been there
6 before, were quite impressed. So, we just want to
7 commend you on making a special effort to allow us
8 to get there. Thank you.

9 MS. ALTON: Oh, you're welcome. It was
10 great to have you.

11 COMMISSIONER GOODER: Okay, thank you.
12 Thank you, Kim. Next, I want to move to Harold
13 Ross from NTEU 243.

14 MR. ROSS: Good afternoon, ladies and
15 gentlemen. Thank you for allowing me to speak.
16 First, my name is Harold Ross, President of NTEU
17 243. I represent 1300 members of support staff
18 throughout Patents and Trademark Office, with
19 about 3 or 400, specifically within trademarks.

20 For my employees, I'd like to give kudos
21 to all of the support staff within trademarks.
22 Those offices include the Examination Support

1 Unit, Intend to Use Unit, Post-Registration Unit,
2 Madrid Protocol Unit, Pre-examination Unit,
3 Petitions Unit, the Trademark Assistance Center,
4 and the paralegals and information specialists of
5 TTAB.

6 Our unit does have challenges. Some of
7 those challenges include some of the processing
8 times for a few of our business units. Most of
9 our business units are hitting their numbers, but
10 we do have a couple of business units who we are
11 concerned about their processing times, and we
12 want to work with the Agency to try to improve.

13 Those business units include the
14 Examination Support Unit, who went from three days
15 to processing to 15 days of processing from
16 missing corrections. The Pre-examination Unit
17 went from three days processing to 83 days
18 processing. And, of course, you all know about
19 the post-registration issues.

20 We have seen post-registration numbers
21 increase almost 0 to 80 percent, as far as the
22 processing times. So, we are looking forward to

1 working with the Agency to try to identify what
2 those issues are, resolve those issues, and
3 improve the processing times for not only the
4 Agency and the public.

5 There are also other challenges that we
6 are facing. Fifty percent of my workforce is
7 eligible to retire within the next five years.
8 That is a consideration that needs to be addressed
9 and studied.

10 There are several system updates
11 underway and we are looking forward to
12 participating in those system updates and are
13 hoping that the agency will include us moving
14 forward to have us participate and include our
15 input, and there is AI that is currently coming
16 aboard here at PTO.

17 We are extremely concerned about AI. My
18 employees will be impacted by AI, first and
19 foremost, because they are the most vulnerable
20 employees. But we do want to work with the Agency
21 to try to prevent employees from being AI'd out of
22 positions. And if AI is to come, we should be

1 trying to find things to do with those employees
2 who AI is going to work out of a position. So, I
3 do look forward to working with the Agency in
4 those efforts.

5 We also have DEIA issues within our
6 business units that we need to identify,
7 inequities, non-inclusive, not including us in
8 several aspects of work, and not giving us
9 accessibility to certain areas. So, again, I do
10 look forward to working with the Agency to fix one
11 of Ms. Vidal's major aspects of work with just
12 DEIA (phonetic), and I do want to thank Ms. Vidal
13 for instituting the DEIA here at PTO.

14 Lastly, I want to remind the Agency of
15 its commitment to PDI and collaboration. When PDI
16 and collaboration is done correctly, it limits the
17 impacts of negotiating and bargaining because the
18 units are there from day one.

19 When you do not invite us to PDI, it
20 will definitely lengthen bargaining and
21 negotiations because you're asking us to catch up
22 to what you have already done and that catching up

1 usually takes us quite a lot of time because we
2 have to figure out what the Agency is doing.

3 So, I just want to express the
4 importance of PDI and the commitment from the
5 Agency. I want to let the Agency know that we are
6 truly committed to collaborative nature and we
7 look forward to continuing working with you guys
8 to fix the problems that I have identified. Thank
9 you.

10 COMMISSIONER GOODER: Thanks, Harold.
11 Any questions for Harold?

12 MR. ENNS: Well, this is Rod. Harold, I
13 just want to acknowledge --

14 COMMISSIONER GOODER: Rod, can you get
15 closer to your mike?

16 MR. ENNS: Sorry.

17 COMMISSIONER GOODER: Thanks.

18 MR. ENNS: I keep leaning back after I
19 turn the mike on. I just want to acknowledge the
20 incredible value that your employees, the
21 employees in your union provide. I mean this
22 operation depends on so many different parts and

1 pieces. But the employees in your union are the
2 backbone. They are the fundamental frontline that
3 makes -- that everything kind of drives from.

4 And, certainly, from my point of view,
5 as a TPAC member, I want you to know that we are
6 committed to doing whatever we can to, you know,
7 facilitate and we hear and appreciate your
8 comments. Thank you, sir.

9 COMMISSIONER GOODER: Yeah, I second
10 that. Thanks, Rod. Anybody else? (No response)
11 No, okay. And, last, but not least, I'll turn it
12 over to Jay Besch from NTEU 245.

13 MR. BESCH: Thank you, Dave. It's
14 always great to be the person between the end of
15 the session, and everybody trying to catch their
16 plane. But I do appreciate the opportunity to
17 speak. First of all, I just want to recognize our
18 examining attorneys and interlocutory attorneys in
19 our bargaining unit. I represent over 800
20 employees in those positions. They all work
21 extremely hard to help the Agency meet its goal
22 and its mission.

1 They have and continue to be adaptive
2 and diligent in a very dynamic time in trademark
3 law, and changes in filing behaviors and
4 practices, things that you heard from Montia,
5 things that you have heard from Dan. I have been
6 here at the Agency for 18 years, and I have not
7 seen so much change over the past few years that I
8 saw in my 12 years before that.

9 So, it is a very dynamic time and these
10 employees that I represent have continued to do
11 their jobs and do their jobs very well, as you can
12 by the metrics in our quality. It's an incredible
13 job that they do, and I'm very lucky to be able to
14 represent those employees.

15 These employees have also had to adapt
16 to a lot of changes in technology. Over the
17 years, you have heard from Glen and Greg about the
18 amount of changes that were going from an old
19 system that we have been using for nearly two
20 decades to these new systems which have a lot of
21 promise but there is also a lot of change that
22 goes on in those circumstances.

1 And it's a challenge for them to adopt
2 and continue their pace, and they do that, for the
3 most part, so far, and we hope that continues.
4 You know, and these changes, as you heard from
5 Glen, this is an iterative thing, so we're working
6 with minimally viable products that we hope that
7 our employees will continue to, you know,
8 presented with new and better technologies that
9 help them do their jobs more efficiently and with
10 less errors and we can improve on the product that
11 the, you know, external customers, the Applicants,
12 and the public deserve and desire.

13 So, you know, and I think they're up to
14 the challenge. I want to kind of turn to, you
15 know, what Director Vidal said earlier today at
16 the outset of the session, you know, about our
17 involvement in our union's importance to the
18 Agency and our union, as the representative of our
19 unit, is vital to the Agency's mission.

20 We continue to work with the Office to
21 collectively look at solutions to the challenges
22 the Agency faces. Dan mentioned the pendency

1 initiative and the ideation -- I'm sorry -- not
2 the pendency initiative -- I'm sorry -- the
3 ideation, the pendency ideation that we're going
4 through, that is something that has been a very
5 collaborative effort.

6 We're working and looking at the
7 solutions that can really help our examining
8 attorneys efficiently examine, hopefully, address
9 pendency, and also improve their, you know, their
10 view of work. And I hope that we're able to start
11 delivering on some of those work products. I know
12 that we're very close and we hope to do that very
13 soon.

14 So, stay tuned, and I hope we have some
15 things for the examining attorneys who might be
16 listening right now, know that those things may be
17 coming soon. You know, and I think one of the
18 things that we're looking for -- and I know that
19 we've talked, and we've got some support from the
20 Agency on this and on improving our visibility and
21 integration into the decision-making processes
22 here at the Agency.

1 You know, we believe with Director
2 Vidal's leadership, we will continue working
3 towards a really, model labor situation here with
4 us and the Office working together and getting the
5 best results for both our employees and the
6 mission of the Agency.

7 So, with that being said, I'm done.
8 Hopefully, you all can catch your plans, and I
9 appreciate the time to talk. Thanks.

10 COMMISSIONER GOODER: Any questions for
11 Jay? I know we have some TPAC members who are --
12 have to scoot to catch planes.

13 CHAIRMAN CHO: Thank you all. Just to
14 affirm Jay and Harold, thank you very much for
15 expressing the viewpoints. And, you know, as Rod
16 said, here at TPAC, we're here to be a resource
17 for the entire PTO. So, I just want to reaffirm
18 that, so thank you.

19 COMMISSIONER GOODER: All right. We
20 have one question that was sent into the box, and
21 I'll turn it over to Dan. It's a question
22 revolved around metrics for the Trademark Academy.

1 MR. VAVONESE: So, we look at the
2 metrics and/or the success of the Academy at any
3 of the training of our employees across the board.
4 We look at it in terms of performance, you know,
5 and so you can tell production and you can tell
6 quality, but then you can also -- what's actually
7 even more important is the employee experience.
8 Are they getting a better experience out of being
9 in the Academy at the beginning.

10 When it comes to production and quality,
11 you know, we look at the productivity and we look
12 at their performance in the quality area, both
13 objectively and subjectively, and compare it to
14 prior classes or prior examining attorneys in that
15 first year who were not in the Academy, and we're
16 seeing very similar numbers in those areas right
17 now.

18 Where it's really going to make a
19 difference is seeing a few years out, if it really
20 makes a difference moving forward, and our first
21 class graduated just six months ago. So, we need
22 some time to gather more data on, you know, are

1 they getting up-to-speed, and are they more -- are
2 they moving more going forward in two, three, or
3 four years out in their overall performance.

4 But just as important is the consistency
5 of the training and are they coming out of the
6 Academy with the same mindset as to how they look
7 at examination. You know, we have heard issues in
8 recent years about consistency, so that is just as
9 important is looking at the consistency of how
10 they are looking. Generally, trademarks is a very
11 gray area of laws, we cannot be 100 percent, but
12 we're trying to stay within certain guardrails and
13 that's a major focus.

14 But on the employee experience side that
15 is we are virtually onboarding. Our employees,
16 for the most part, are remote, all over the
17 country. We have a few that are reporting into
18 the office.

19 So, in the midst of a new trademark
20 Academy, we are also following the pandemic still
21 onboarding employees remotely, so making sure that
22 the experience in that first year is such that the

1 employees are being brought into the environment,
2 in the culture of trademarks.

3 And we have been conducting focus groups
4 and surveys in connection with 245, as well as,
5 you know, we do evaluate -- they do evaluations of
6 the instructors within the Academy so we're
7 getting this constant feedback, also about any
8 changes or tweaks that we need to make to the
9 Academy. And so, we're evaluating those right now
10 and then we'll be just having further discussions
11 about, you know, do we tweak, you know, a little
12 bit, you know, on the lines within, you know, to
13 improve, continue to improve the Academy. So
14 that's generally how we're measuring the success
15 right now.

16 COMMISSIONER GOODER: Thank you, Dan.
17 That was last question, so back to you, David.

18 CHAIRMAN CHO: Thank you. I want to
19 always remember, and I save the best for the last
20 to send our gratitude and appreciation to the
21 entire staff for making this possible, for
22 allowing the public to get a glimpse of all the

1 wonderful work you are doing and are uplifting
2 certain items that we feel would be of interest,
3 and there are too many names, and I don't want to
4 mention names because I'll miss somebody, you
5 know, you always hear that.

6 But you know who you are, we're seeing
7 you right now. And I want to just give you, you
8 know, just a quick applause. (Applause) It
9 doesn't really capture what you do. This is
10 extra, extra, extra effort, and I just want you
11 personally to know it does not go unnoticed.

12 So, we thank you very much. Thank you
13 all for participating in our first public meeting
14 and we look forward to continuing our dialogue to
15 you in the future. This now concludes the
16 meeting.

17 (Whereupon, at 4:02 p.m., the
18 PROCEEDINGS were adjourned.)

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1 CERTIFICATE OF NOTARY PUBLIC

2 COMMONWEALTH OF VIRGINIA

3 I, Mark Mahoney, notary public in and for
4 the Commonwealth of Virginia, do hereby certify
5 that the forgoing PROCEEDING was duly recorded and
6 thereafter reduced to print under my direction;
7 that the witnesses were sworn to tell the truth
8 under penalty of perjury; that said transcript is a
9 true record of the testimony given by witnesses;
10 that I am neither counsel for, related to, nor
11 employed by any of the parties to the action in
12 which this proceeding was called; and, furthermore,
13 that I am not a relative or employee of any
14 attorney or counsel employed by the parties hereto,
15 nor financially or otherwise interested in the
16 outcome of this action.

17

18 (Signature and Seal on File)

19 Notary Public, in and for the Commonwealth of
20 Virginia

21 My Commission Expires: August 31, 2025

22 Notary Public Number 122985

