

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

QUARTERLY MEETING

Alexandria, Virginia

Thursday, August 13, 2020

1 PARTICIPANTS:

2 PPAC Members:

3 JULIE MAR-SPINOLA, Chair

4 JENNIFER CAMACHO, Vice Chair

5 STEVEN CALTRIDER

6 BERNARD CASSIDY

7 JEREMIAH CHAN

8 TRACY G. DURKIN

9 MARK GOODSON

10 DAN LANG

11 JEFFREY SEARS

12 Union Representatives:

13 KATHLEEN DUDA

14 CATHERINE FAINT

15 USPTO:

16 ANDREI IANCU, Under Secretary of Commerce for
Intellectual Property and Director of the USPTO

17 SCOTT BOALICK, Chief Judge, Patent and Trial
18 and Appeal Board

19 JACKIE BONILLA, Deputy Chief Judge, Patent Trial
and Appeal Board

20 ANDREW FAILE, Deputy Commissioner for Patent
21 Operations

22

1 PARTICIPANTS (CONT'D):

2 JAY HOFFMAN, Chief Financial Officer

3 JAMIE HOLCOMBE, Chief Information Officer

4 NICK MATICH, Senior Legal Advisor

5 SHIRA PERLMUTTER, Chief Policy Officer and
6 Director for International Affairs

7 RAMAN SARNA, Portfolio Manager, PE2E

8 DEBBIE STEPHENS, Deputy Chief Information
9 Officer

10 WILLIAM STRYJEWSKI, Patent Senior Information
11 Technology Expert

12 MATTHEW SUCH, Director, Technology Center 2800

13 VALENCIA MARTIN WALLACE, Deputy Commissioner
14 for International Patent Cooperation

15 ROBIN EVAN, Deputy Commissioner for Patent
16 Quality

17 STEFANOS KARMIS, Director, Office of Patent
18 Quality Assurance

19 MICHAEL KIM, Acting Vice Chief Judge, Patent
20 Trial and Appeal Board

21 BISMARCK MYRICK, Director of the Office of EEO &
22 Diversity

BRADEN RITCHIE, Director, Office of Government
Affairs and Oversight

KIMBERLEY ALTON, Deputy Director, Office of
Government Affairs and Oversight

1 PARTICIPANTS (CONT'D):

2 LAURA PETER, Deputy Under Secretary of Commerce
3 for Intellectual Property and Deputy Director
of the USPTO

4 NELSON YANG, Senior Advisor, International
5 Patent Business Solutions

6 DREW HIRSHFELD, Commissioner for Patents

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

2 (9:03 a.m.)

3 MS. MAR-SPINOLA: All right. We are --
4 good morning. We're going to start the session.
5 Welcome everyone to PPAC's third quarterly
6 meeting, our second virtual meeting in PPAC's
7 history. I am Julie Mar-Spinola Chair of PPAC
8 2020. We have a packed agenda today to cover in 4
9 hours or 4-1/2 hours. So I will just take three
10 minutes to share my observations and thanks before
11 I introduce PPAC 2020 members and turn the mic
12 over to Director Iancu.

13 While the pandemic is still keeping us
14 close to home, and I hope it hasn't been without
15 benefits and blessings for each of you, in this
16 quarter, the PPAC is focused on preparing our
17 annual report, which is due for publication on
18 November 2nd and which occurs before our fourth
19 quarterly meeting scheduled for November 19. The
20 report will focus on the events of fiscal year
21 2020 and share a glimpse into what we think or
22 hope fiscal year 2021 may bring.

1 Looking back at this year thus far it is
2 -- you will hear more from our presenters today.
3 The Patent Office has done an exemplary job of
4 meeting the myriad of challenges brought on by
5 this historic pandemic. Director Iancu, the USPTO
6 leadership, staff, and entire workforce have
7 demonstrated a level of responsible stewardship of
8 our patent system worthy of replication by other
9 agencies and organizations.

10 An example is the PTO's ability to
11 transition nearly 100 percent of its workforce to
12 teleworking seamlessly and effectively without any
13 significant disruption to its pre- pandemic
14 operation. Other notable progress has -- was made
15 in the areas of that PTO's patent quality, IT,
16 artificial intelligence, and diversity, just to
17 name a few. We would be remiss if the PPAC didn't
18 thank those that could not telework with a special
19 shout out to the essential workforce for keeping
20 the office's infrastructure running smoothly
21 during these times.

22 All right. It's time for me to

1 introduce the members of PPAC 2020. First, vice
2 chair Jennifer Camacho. Cochair of artificial
3 intelligence subcommittee, Barney Cassidy. Chair
4 of finance subcommittee, Dan Lang. Chair of PTAB
5 subcommittee, Jeff Sears. Cochair of artificial
6 intelligence, Jeremiah Chan. Chair of IT
7 subcommittee, Mark Goodson. Chair of patent
8 quality and pendency subcommittee, Steve
9 Caltrider. Chair of international subcommittee,
10 Tracy Durkin.

11 And our union representatives, Catherine
12 Saint and Kathleen Dudas.

13 And with that, I will turn the mic over
14 to director Iancu. Good morning Andre.

15 MR. IANCU: Good morning, Julie. How
16 are you? Good to see everybody. Good to see you.
17 It's good to see everyone in their homes or
18 offices, but I'm a little sad that we can't see
19 all of you in person. But hopefully, sooner than
20 later we can resume in person meetings. Although,
21 I should say that we are blessed with this
22 technology that allows us to be able to continue

1 the business of the PTO including meetings like
2 this one, uninterrupted and on schedule.

3 By the way, as an aside, all this is
4 possible with the incredible innovation from the
5 United States that has been going on for long
6 time. So we are the beneficiaries of that.

7 And as you said Julie, the business of
8 the PTO has really been continuing for the past
9 several months seamlessly and uninterrupted
10 despite the fact that virtually all of our
11 employees are working from home. As you can see,
12 I am in the office today along with a few others,
13 but we are slowly beginning to come back to the
14 office. But by and large, almost everyone is
15 still teleworking.

16 So I do want to start with giving
17 tremendous kudos to our IT infrastructure, all of
18 the employees of our IT group that really enable
19 us to do what we do and have been able to do it
20 seamlessly and uninterrupted for the past several
21 months.

22 The USPTO is currently still in what we

1 call phase I at our Alexandria headquarters here
2 in the national capital headquarters. We are also
3 in phase I in Detroit and Dallas. What this means
4 is that the buildings are still closed to the
5 public. Most of the employees -- I mean all of
6 the employees really, are encouraged to telework
7 to the maximum extent possible except for those
8 for whom it's mission critical to be present in
9 the office such as IT folks in our command and
10 control center that you mentioned a bit earlier
11 Julie.

12 And the Detroit and Silicon Valley
13 office is still remain in the gating period where
14 those offices are completely closed and folks
15 there are on mandatory telework. For the rest of
16 us in phase I, what it means is that the buildings
17 are still closed to the public. And as I said,
18 employees are still encouraged to telework with
19 the maximum extent possible. However, if you need
20 to be in the office, you can seek leave from your
21 supervisor, give the reason, and then come in, up
22 to a maximum capacity of 25 percent of maximum

1 occupancy. We haven't, despite the fact of being
2 in phase I here at headquarters for several weeks
3 now, we haven't come close to that 25 percent mark
4 yet. Whether and when we moved to phase II and
5 then ultimately phase III depends on a lot of
6 factors including local conditions on the ground.
7 So we are watching what happens locally as well as
8 in the rest of the federal government. Along the
9 way, we have extended the excused absence for
10 dependent care leave, also known as EADC leave,
11 for USPTO employees who qualify.

12 And in the meantime, our employees
13 continue to support our mission from their home
14 offices. And as you know, the mission doesn't
15 stop. It's fostering innovation and economic
16 competitiveness. And they really have been doing
17 this in an extremely productive manner with the
18 utmost diligence and professionalism.

19 As I imagine you will hear from our
20 Commissioner, our productivity is steady. In
21 fact, it's been slightly up as well during the
22 pandemic. And that is really good to see.

1 Videoconferences such as this one have
2 been the lifeblood of our agency frankly, during
3 this time of maximum telework. So again, hats off
4 to the IT team for ensuring that this platform and
5 all collaboration tools --

6 MR. IANCU: -- continue to work well.
7 As I have mentioned before, the built-in IT
8 infrastructure -- if I may ask all the members
9 pleased to mute yourselves if you haven't. I
10 would very much appreciate it. Please take a
11 second to look and see if you have a red
12 microphone on your name. And if you don't, please
13 mute yourselves. Thank you.

14 By the way, two phrases that everybody
15 is becoming familiar with during this time; one
16 is, can you hear me, and the other one is, are you
17 still hearing me. And please mute yourselves. So
18 we are all on -- we are still getting used to some
19 of this.

20 So it's not just our IT infrastructure
21 that has enabled us to do this, but our long-term
22 experience with telework for the past many years

1 has been really helpful to enable us to jump to
2 the full telework that was necessary a few months
3 ago and continues to this day.

4 All right. So now on to the business of
5 the Patent Office. As you will hear a lot more
6 from the commissioner, we are still on track for
7 the upcoming changes to examination time,
8 application routing, and implementation of the new
9 examiner performance appraisal plan known as the
10 PAP. These changes are scheduled to take effect
11 in October. They are some of the more -- most
12 meaningful changes in a very long time on these
13 issues. Our examiners are currently being given
14 extensive training in anticipation of this major
15 rollout.

16 Additionally, we continue to place
17 significant focus on improving examiner search
18 capability during the examination of applications,
19 ensuring that their searches are thorough and
20 complete and as early as possible during the
21 examination process. These changes will guarantee
22 even greater confidence in the quality of the

1 patents that we grant.

2 Commissioner for patents, Drew
3 Hirshfeld, mentioned at the last PPAC meeting, we
4 are transitioning to place greater emphasis on
5 patent term adjustments time frames. This will be
6 done during the processing and examination of
7 patent applications with an eye to providing a
8 greater amount of certainty for everyone involved.
9 Again, the goal is to be 90 percent compliant with
10 all patent term adjustment time frames which means
11 minimizing patent term adjustment extensions that
12 are required. So we hope to get to 90 percent
13 compliance by 2025.

14 As the examination time, application
15 routing, and PAP changes mainly pertain to
16 pendency and quality. We will hear more details
17 about these topics from Commissioner Hirschfeld
18 and other speakers.

19 Let me take this opportunity to mention
20 to those of you who don't know. We did give a
21 public announcement a few weeks ago. Commissioner
22 Hirschfeld's term has been extended for an

1 additional five years. So congratulations to
2 Drew. Very well deserved.

3 All right. Turning now to the fee
4 package that will take effect on October 2nd of
5 this year. PPAC has played a critical role in the
6 development of the fee package, as usual. As
7 noted in a patent alert we sent to stakeholders
8 this July, this process is taken several years and
9 required extensive consideration of many, many
10 factors including the state of the U.S. economy as
11 well as the operational needs of the Agency.
12 Balancing all of those considerations along with
13 the public comments we received during the notice
14 of proposed rulemaking process, which we published
15 last July, so July 2019. So based on all those
16 consideration, the publication of the final rule
17 was delayed from the planned release date of April
18 to now. So we just published it recently.

19 And the final effective date, as I
20 mentioned, has been delayed to October 2, 2020.
21 This extension is in line with various other
22 relief we provided to mitigate the impact of the

1 pandemic while maintaining the resources necessary
2 for Agency operations. As I said quite a few
3 times, ultimately our goal is to ensure not only
4 that businesses and entrepreneurs can weather the
5 economic downturn, but that they can hit the
6 ground running as it passes.

7 So this is the first fee adjustment in
8 about 3 years, 2-1/2, 3 years or so. To that end,
9 the ruling includes an across-the-board adjustment
10 to patentees of about 5 percent on average to help
11 the USPTO keep up with inflation in order to
12 achieve strategic goals. By the way, this
13 represents approximately 2 percent annual increase
14 from the last time these were adjusted.

15 Also includes targeted adjustments to
16 existing fees, some at higher levels than what I
17 just mentioned, to encourage the effective
18 administration of the IT system and permit cost
19 recovery for those specific services. Also
20 includes some new fees, for example, to appear
21 pro hac vice in an AIA trial proceeding and for
22 non DOCX patent filings. Though by the way, based

1 on public comments and other issues, the non- DOCX
2 surcharge will not be effective until 2022. And
3 the package includes a discontinuation,
4 elimination of several existing fees.

5 All in, we estimate that the patent fee
6 adjustments will generate \$280-\$300 million in
7 additional annual revenue. The final rule will
8 enable the USPTO to continue operations at the
9 highest levels of excellence including
10 high-quality examination in a timely manner, as
11 well as the modernization of our IT systems and
12 infrastructure.

13 A bit later you will hear from Jay
14 Hoffman, our CFO and PPAC finance subcommittee
15 chair Dan Lang, who will discuss our finances and
16 budgets while chief information officer, Jenny
17 Holcomb, and several others, will discuss IT
18 system updates again, a bit later in the meeting
19 today.

20 Let me turn on to some other issues that
21 we have been working on. Hopefully, you have all
22 had a chance to see the most recent report from

1 our chief economist on U.S. women inventor
2 patentees. This is a report that was published
3 just a few weeks ago and it's an update to a prior
4 report we published earlier in 2019, and this
5 update as approximately three years of additional
6 data.

7 All in, the good news is that more women
8 are now entering and staying active in the patent
9 system than ever before. The percentage for
10 example, of total U.S. women inventor patentees
11 grew from 12.1 percent in 2016 to 12.8 percent in
12 2019. The percentage of new women inventor
13 patentees rose from 16.6 percent in 2016 to 17.3
14 percent in 2019. And the gender gap in the number
15 of inventor patentees that stayed active by
16 patenting again is decreasing. This is a new
17 measure that we calculated for the purposes of
18 this report and the numbers are interesting. In
19 2014 for example, 46 percent of women patented
20 again within five years of their first patent,
21 therefore by 2019, versus 52 percent of men. In
22 1980, the gap was 28 percent for women versus 38

1 percent for men.

2 Despite all these movements and
3 improvements, of course there is much, much more
4 room for improvement. Our hope is that based in
5 parts of these data points, the public discussion
6 will focus on how to better engage this untapped
7 potential within the innovation community. It is
8 critically important for our country for many,
9 many reasons. For the United States to maintain
10 its technological edge for example, we must
11 broaden our innovation ecosystem and we must
12 broaden it demographically, and geographically,
13 and economically. In short, as I've said many
14 times, we need all hands on deck.

15 The USPTO stands ready to lead in this
16 effort, but we must have the committed
17 participation of industry, academia, and other
18 interest groups. You will hear a lot more about
19 these efforts during the innovation expansion
20 discussion later today during the meeting.

21 Another way we are highlighting the
22 importance of diversity within the IT community is

1 through the new legal experience and advancement
2 program, also called LEAP. Leap is a new program
3 from the PTAB that we just -- that was just
4 launched in May. It was designed with the next
5 generation of patent practitioners in mind.

6 We wanted to create opportunities for
7 junior lawyers, those newer to the legal
8 profession, to gain the proper skills and
9 experience in oral arguments before the PTAB.
10 Leave grants at a time for junior lawyers on oral
11 argument to encourage parties to give their newer
12 practitioners a chance for standup speaking
13 opportunities. And I'm certain that these
14 practitioners who go through this program will
15 benefit not just before the PTAB, but in other
16 courts as well.

17 LEAP also provides these practitioners
18 the tools and training necessary to excel in their
19 professional careers with events such as webinars,
20 training sessions, and practicums. In fact, we
21 held our first ever mock argument and practicum
22 last week over videoconference. It was a

1 tremendous success I think, and it's already
2 received a lot of positive feedback. Many PTAB
3 judges participated. I was one of the judges I
4 can tell you firsthand that the LEAP practitioners
5 who appeared in my group were extremely well
6 prepared. And I'm certain that they are ready to
7 stand up at real hearings. I'm very much
8 encouraged that the future of the IPBAR is bright
9 indeed.

10 All right. Let me turn now with a bit
11 of an international update. Our deputy
12 commissioner for international patent cooperation,
13 Valencia Martin Wallace, and I and the number of
14 others attended the old virtual IP five heads
15 meeting on July 21. For those of you who don't
16 know, the IP five are the five IP jurisdictions
17 around the world that handle the vast majority,
18 almost 90 percent, of patent applications that
19 includes the United States, the European patent
20 office, Japan, China, and Korea.

21 This was the first virtual meeting of
22 the IP five heads with IP -- with these five IP

1 offices participating from across the world,
2 translators and the works. It worked out very
3 well in the meeting was quite productive.
4 Valencia will provide more details.

5 But let me just mention one project, the
6 PCT collaborative search project. I found that to
7 be particularly successful. Having several
8 offices provide comments to the international
9 search report and written opinion allows
10 participants to have more confidence in
11 determining the viability of their inventions. We
12 also discussed collaborative efforts during the
13 pandemic and exchanged best practices. As I said,
14 you will receive other updates on other IP five
15 programs, initiatives, and projects throughout the
16 day.

17 Finally, as we kick off the rest of the
18 quarterly meeting, let me leave you by thanking
19 the PPAC members once again for your hard work,
20 dedication, and public service. The long-standing
21 partnership between the USPTO and PPAC is
22 extremely important. Your insights and guidance

1 on a number of issues continues to be invaluable.
2 We are looking forward to and relying on your
3 continued support in the months ahead. I hope you
4 have a great rest of the session today. Thank you
5 again for your service on the committee. And
6 Julie, if there is time, I'm happy to answer any
7 questions, but that's obviously up to you. Thank
8 you.

9 MS. MAR-SPINOLA: Thank you, Andre. We
10 appreciate that. And we do have a few minutes.
11 So are there any questions for the director from
12 PPAC or from the audience? And remember, you
13 might be on mute. So please look at your screen.

14 Andre, I do want to ask because given
15 the COVID pandemic, I asked a -- not a very
16 substantive question, but wonder if you can
17 identify one of the largest challenges for the
18 patent office that you felt was successful and
19 that the patent office didn't miss a beat on.

20 MR. IANCU: During the pandemic as I
21 mentioned, right?

22 MS. MAR-SPINOLA: During this pandemic,

1 yeah.

2 MR. IANCU: Look. We -- let me just
3 talk a bit about the leadership and then speak
4 about the examiners and the employees. We are
5 very much used to come into the office and meeting
6 in this conference room actually, and the
7 executive committee is just one example. All of
8 us and the business of the office, day-to-day,
9 traditionally takes place in person and right
10 here. Then all of a sudden on day one, we all
11 went home and worked from home. I tell you that
12 we decided on that day one for the first few weeks
13 anyway, that the executive committee will meet
14 every day in the morning. We decided to dress up
15 in suits and ties and business attire.

16 I see Drew smiling. I don't know that
17 everybody was smiling when that decision was made,
18 but it worked out very well. And we stayed in
19 touch through these collaborative tools
20 throughout, from beginning to this day. And it
21 really has helped us, this ability to see each
22 other virtually as it may be. But it really seems

1 like we were in the office speaking to each other
2 in this conference room. The bigger question was,
3 how are we going to deal with 13,000 employees
4 that all of a sudden have to do this. How is the
5 IT system going to handle an almost doubling of
6 the network traffic at any given moment across our
7 network throughout the United States? That was a
8 big question.

9 And Jamie, our CIO, and his team jumped
10 on it from the beginning. They immediately went
11 to improve our network bandwidth on day one, and
12 improve these types of collaborative tools. They
13 went through a number of improvements, and it's
14 paid off. I don't want to say, Julie, that there
15 were no hiccups. Of course there were along the
16 way, but we overcame them. We had to deliver.

17 As I said, most of our employees
18 telework anyway. Percent telework full-time
19 pre-pandemic. And then another percent telework
20 at least one day a week. So 85, 88 percent of our
21 folks were already equipped for teleworking, but
22 not everybody. So very quickly we had to secure

1 the equipment and deliver it to people's homes to
2 enable them to jump back into work right away.
3 And we did that. To me, that was the biggest --
4 really the biggest practical challenge, overcoming
5 the network issues. And that's why I mentioned it
6 from the beginning. Big kudos to the IT group for
7 being able to do that.

8 MS. MAR-SPINOLA: A Herculean task I
9 think. So we have one more question from Jeff
10 Sears.

11 MR. SEARS: Thank you very much, Julie.
12 Yes, director, I have a question for you about the
13 PTAB and discretionary denials of IPRs. As you
14 may know, certain industry groups sent a letter to
15 Congress earlier this summer regarding what they
16 view as the PTAB's increasing trend of using its
17 discretion to deny institution of IPRs, of patents
18 that are involved in concurrent litigation. We
19 understand that the PTAB is currently in a
20 data-gathering mode on these topics and we also
21 recognize the PTAB's discretionary denial is a
22 fact specific inquiry. We recognize that briefing

1 by the parties is the most important and most
2 salient way to highlight the facts that are
3 relevant to the inquiry for the PTAB.

4 We feel however, that the industry
5 reference to such a trend may give the stakeholder
6 community the wrong appearance about the work of
7 the PTAB. Would you like to make any comments on
8 how the PTAB is exercising its discretion in this
9 regard?

10 MR. IANCU: Thank, you Jeff. Well, so
11 as you know, the AIA statute gives broad
12 discretion to the PTO to -- and the PTAB to decide
13 whether to institute a post grant proceeding such
14 as an IPR if the petition meets the threshold.
15 What we have done over the past couple of years is
16 to provide a clear guideline and transparency to
17 our judges, our petitioners, our patent owners,
18 and the public, to know what factors we are
19 considering when we make these institution
20 decisions. Ultimately what we want to achieve is
21 to make sure that the statutory intent is met,
22 which is for the PTAB to provide an alternative to

1 district court litigation, and that the
2 appropriate balance is achieved with fairness to
3 all, the petitioner, the patent owner, the public,
4 and the like.

5 So what we have -- some of the criteria
6 we have provided, for example, is to consider when
7 would we institute or deny institution of multiple
8 petitions, whether they are serial petitions or
9 parallel petitions. So we have provided factors
10 for all these different circumstances, so the
11 judges have some guidelines, as well as the
12 parties. They can brief the issues and the
13 decisions can be made in a transparent manner.

14 Most recently as another example, we
15 have provided guidelines for how to consider
16 parallel district court litigation. About 85
17 percent or so of IPR or patents that are in IPR
18 here at the PTAB have parallel, concurrent
19 district court litigation going on. So we
20 recently issued a presidential decision to outline
21 the factors to consider it as to when we would
22 institute or deny institution when there is

1 co-pending litigation. Because ultimately, we
2 want to make sure that PTAB proceedings are an
3 alternative to district court litigation and not
4 an ad on second bite of the apple to district
5 court litigation which is precisely what that's
6 what the statutory intent was, being an
7 alternative. And statute expressly made clear
8 that we should not have second bites of the apple.

9 But these are a balance of many factors
10 that we consider along with the merits of the
11 case. And ultimately, we're going to see what
12 types of cases we get, what decisions are made
13 based on these factors as we go forward, and we
14 can make adjustments as necessary. What I can
15 tell you is that from the data that we see, the
16 various sets of factors that we have put out on
17 all these issues, whether it's a parallel district
18 court litigation, whether there is multiple serial
19 petitions, parallel petitions and the like. So
20 far it's working out very well, so that we can
21 address the meritorious cases while at the same
22 time avoiding duplicative litigation and multiple

1 bites of the apple.

2 I'm sure that more on this can be said
3 and will be said by our PTAB Chief Judge and
4 leadership later during this meeting if folks want
5 more details.

6 Thanks for the question Jeff. It's a
7 very important topic.

8 MS. MAR-SPINOLA: Thank you. Thank you
9 Director and thank you Jeff for the question. If
10 there aren't any more, and I don't -- Dan, do you
11 have a question?

12 MR. LANG: No, I was just going to make
13 a comment and urge the public to actually read the
14 industry letters for themselves that outline the
15 view on the part of many of us, particularly the
16 discretionary denials relating to parallel
17 district court litigation. It's the view of many
18 of us that this is created effectively an end run
19 around the process that creates motivation for
20 plaintiffs to go to fast-moving courts to avoid
21 having their patents subject to IPR in the way
22 that was intended by Congress.

1 And also that the Congress had in fact
2 intended for the possibility of parallel district
3 court litigation and IPRs when it set forth
4 statutory sections citing a one-year time limit,
5 deciding not to have a mandatory stay, and
6 creating a system of estoppel.

7 MS. MAR-SPINOLA: Thanks for that Dan.
8 You know, as a middle child, I would say I would
9 encourage everybody to read all sides of this
10 topic or this issue to be informed and to look at
11 things fully informed. But your point is well
12 taken. Okay.

13 Director, anything else before we move
14 on to patent quality?

15 MR. IANCU: Nothing else for me Julie.
16 Hope you all have a very good meeting. I'm sure
17 there are a lot of important topics coming up. So
18 I encourage folks to stay tuned in.

19 MS. MAR-SPINOLA: Thank you so much.

20 MR. IANCU: Thank you.

21 MS. MAR-SPINOLA: Okay. All right.

22 Thanks everyone. So we're going to move on now to

1 pendency and quality. This will be conducted by
2 Steve Caltrider our chair of the subcommittee,
3 Commissioner Drew Hirschfield. And we have a
4 whole list there; Andy Faile, Robin Evans,
5 Stephanie -- sorry -- Stephanie (sic) Karmis, and
6 Matt Such. Forgive me if I mispronounced any
7 names.

8 Steve?

9 MR. HIRSCHFELD: Okay. Thank you,
10 Julie. This is Drew. I will jump in. What you
11 see on the screen is an update that Andy Faile is
12 going to give. Well now the screen has changed.
13 Andy Faile is going to jump in in a few minutes
14 and he's going to start a discussion about some
15 statistics that we find most critical and
16 important at PTO.

17 I wanted to start and give a few
18 preliminary words before I kick it over to Andy.
19 And let me first say what an honor it is to be
20 here. As Andre said earlier, it is the beginning
21 of a second term for me. I don't forget for a
22 minute how completely honored it is to -- I am to

1 be Commissioner for patents and what a fantastic
2 opportunity this is for me. So thank you to Andre
3 and Secretary Ross for your confidence in me for a
4 second term. And thank you to all the wonderful
5 people that I've worked with and have made this
6 and continue to make this such a wonderful
7 experience for me. Again, I am literally honored
8 every day to be in this position.

9 It is also my pleasure to announce some
10 personnel updates in the patents organization.
11 And to that end, I'm very pleased to announce that
12 Robin Evans has very recently, as in this is like
13 breaking news in the last days, has been promoted
14 to the position of deputy commissioner for patent
15 quality. As you all know, Valencia Martin Wallace
16 was in that position and is now on the
17 international side. Dan Reiman had been acting in
18 that role and again has agreed to act as we were
19 looking for a full-time person and Robin has
20 recently been chosen.

21 By way of background, Robin was a group
22 director in PC 2800. By the way, my old

1 technology center as well. She has recently been
2 acting associate commissioner for patent quality
3 and additionally she has experience in the
4 regional offices. In Detroit she was actually the
5 first head of the regional offices office as we
6 stood up the offices. So she was literally the
7 first person to be in charge of the regional
8 office when we stood them up. Then she also spent
9 time as the interim director of the Rocky Mount
10 regional office.

11 So I'm thrilled to announce the
12 selection of Robin Evans and looking forward to
13 continuing to work with her and working with her
14 in the new capacity as she is deputy commissioner.

15 I also wanted to say a word about Dan
16 Reiman who had been acting in that role. Shortly
17 before acting in that role, Dan was actually
18 promoted to the position just below deputy
19 commissioner. And when we needed somebody to step
20 in, we asked Dan, or I asked Dan, to do so. And I
21 cannot say enough good words and positive words
22 about Dan Reiman. What a superstar along with

1 Robin.

2 So Dan, thank you for stepping in as you
3 are literally learning a new role stepping into
4 yet another role to help us out at the agency.
5 It's people like you that really keep us moving
6 forward. So Dan will now go back to the role he
7 was given as associate commissioner for patent
8 quality. And again, thank you Dan for all the
9 great work that you did and everything you do for
10 the office.

11 I will transition now to my words on the
12 functioning of the office during the recent months
13 since March when we have been in either a
14 mandatory telework, or a maximum telework
15 situation. And I will just tell you how proud I
16 am of the employees all across PTO and certainly
17 the examiners within the patents organization
18 about how they have continued to work and work
19 professionally. And I know anecdotally, I hear
20 routinely from practitioners how available
21 examiners are, how thankful they are that the
22 examiners are continuing their work. And so kudos

1 to everyone for transitioning and accepting this
2 challenge and doing the best we can under very
3 challenging situations.

4 As you heard Andre mentioned earlier,
5 examiner productivity is actually slightly higher
6 than what we modeled. You will see in a few
7 minutes from Andy Faile and I know most people who
8 are involved in this meeting, routinely involved
9 in the meeting, so you all know we keep very
10 detailed statistical analysis and staff on
11 examiners on everything we do. Examiners
12 literally are -- get a production report and their
13 supervisors get a production report every bi-week
14 about how they are working, how much work they've
15 produced. So we know very much in real time how
16 we are performing. And examiners have done
17 extremely well and again we are -- have actually
18 produced slightly above what we modeled.

19 Now to be completely clear, it is very
20 -- while it's a good story that we are producing
21 higher than what we have modeled for, to be very
22 clear, it is really not a fair comparison to

1 compare the last few months or even this whole
2 year because of the pandemic to last year. The
3 playing field certainly is different. What I mean
4 by that is, as Andre mentioned, we provide
5 certainly to employees when they have dependent
6 care issues that they did not have before the
7 pandemic.

8 So for example, examiners and other
9 staff at USPTO and others throughout the
10 government actually are able to take more time to
11 carry out the functions that -- for dependent care
12 that they would not be able to do if they did not
13 have this leave. We also know that employees are
14 not taking annual leave vacations. Some are, but
15 they're usually much more limited than in the
16 past.

17 This is actually an issue where a -- I
18 don't know if his problem, but it's something the
19 companies are doing with -- throughout not only
20 the United States, but the world, and we are no
21 different. So we do know that at some point, what
22 people feel more comfortable traveling, they are

1 likely to take additional leave. So again, that
2 will be a decrease in productivity at that point
3 and we are monitoring that as well. But suffice
4 it to say at this point, we are in what I think is
5 a very, very good situation given the challenges
6 of the pandemic.

7 As far as other functioning, we do
8 continue to operate. Andre mentioned that I was
9 smiling when he was talking about our dress code
10 and our daily meetings when we started. I was
11 actually smiling because we were meeting daily and
12 many of us were meeting nightly and weekends
13 because it was quite an effort to make sure the
14 office was transitioned. But again, very proud of
15 the way we handled that. We are completely
16 functioning in so many respects.

17 And I would like to point out that one
18 of the big changes that we've made recently is
19 when we went to maximum or mandatory telework in
20 March, we actually had a new class of examiners
21 that had just started. We transitioned them to be
22 fully remotely of course, working remotely like

1 everyone else was. And then recently we've
2 actually hired an entire class of new examiners
3 entirely remotely. So we are continuing to bring
4 in the staff we need. We are doing the training
5 remotely. And it has been a success and I won't
6 say there has been bumps in the road. There have
7 been certainly, but it has been an overall
8 complete success and a very good transition.

9 And a quick note about our telework
10 programs. It's very easy to recognize the benefit
11 of telework such as in a pandemic or not even
12 having to keep the same real estate footprint.
13 But there is another benefit that is very
14 important to speak about when we discussed
15 telework. That's the fact that I am 100 percent
16 convinced that the USPTO, because of our flexible
17 schedules, because of our ability to telework, we
18 get candidates for these jobs that we would not be
19 getting otherwise.

20 And I have actually had discussions with
21 attorneys that one of the best quality initiatives
22 we have is our telework program, because we are

1 able to attract and retain highly qualified people
2 who really want to have the ability to work from
3 their homes. And that is only magnified as recent
4 events as you might imagine. So kudos to our
5 telework program and we at USPTO have trying to
6 expand the over the years and taking steps to
7 expand that. And I think we've been fortunate for
8 that.

9 I'm going to close my remarks by just
10 talking about one more topic. I did want to
11 mention something that Andre discussed, and he
12 mentioned that October 1st we are on the cusp of
13 that we will be having significant changes. We
14 have discussed all of these changes in prior PPAC
15 meetings, but this will be the last meeting that
16 we have before those October 1st changes.

17 To summarize those changes, we will make
18 the second part of time changes to examiners. We
19 actually made some changes to their production
20 requirements or the time they get to do their work
21 last October.

22 This October we are making additional

1 changes. Suffice it to say that we are entirely
2 changing over to the cooperative patent
3 classification system. Our time will be based on
4 a much better technological look at the cases. So
5 it will be much more refined time. I think this
6 is a very important change for the patent system.

7 We are also changing examiner
8 performance appraisal plans, which have not been
9 changed in a long time prior to this change.
10 While there are many changes in their, particular
11 areas of focus or the patentability search and
12 also the clarity of the record. I won't get into
13 the details here because we discussed these in
14 prior PPAC's, but these are significant changes
15 which we feel is the right thing for the patent
16 system.

17 And then the third change will be the
18 routing of applications. And I will tell you that
19 I recently did a webinar just on this routing
20 because there is a lot of interest from the public
21 about how we are routing applications. And to
22 summarize the difference compared what we have now

1 to what we will have come October, is right now we
2 are routing applications and assigning them to
3 examiners based on a single data point of the
4 United States patent classification system. So a
5 single symbol goes on the case and it goes to the
6 examiner.

7 What we will be able to do after October
8 1st, is we will be able to create a technological
9 profile based on the CPC symbols, a much more
10 granular look at the cases. We will be able to
11 create a profile for every incoming application
12 based on this technology. We also have been and
13 are working on now, profiles for every examiner
14 based on the actual work, the actual applications
15 that they have been completing. And we will be
16 able to match these profiles together to ensure
17 that the case gets to the right examiner.

18 This is a much more refined system that
19 will have a lot of benefits starting with ensuring
20 that the best -- or the case gets to the best
21 examiner. But it also lets us handle such issues
22 as workload and workload balancing. So for

1 example, if you have five qualified examiners to
2 do a case and they are all equally qualified, you
3 would then go to the next criteria which could
4 include such aspects as the other cases or docket
5 size that they have. So we make sure that we are
6 ensuring the first in first out into the system.

7 So these are very significant and
8 impactful changes that I'm looking forward to. As
9 Andre mentioned, we are in the midst of training
10 everybody on the upcoming changes. And I'm
11 looking forward to them and know we will have a
12 smooth transition. I will end there and just say
13 thanks to the examiners for taking on these
14 changes during the pandemic as well. They
15 continue to do great work and I'm honored to be
16 remaining as commissioner representing them. So
17 with that I will and that I will pass it over to
18 Andy Faile who will discuss some of these
19 statistics. Thank you everyone.

20 MR. FAILE: Thank you Drew, and good
21 morning everyone. Julie and Steve, just by way of
22 process, to keep us on time I will go through the

1 pendency and stats update. We will do the quality
2 updates and then we can do questions at the very
3 end if that's okay with you guys.

4 MR. SEARS: That sounds great.

5 MS. MAR-SPINOLA: Yeah, thank you Andy.

6 MR. FAILE: Okay. Okay, no problem. So
7 let's dive into some pendency updates. We had a
8 request last PPAC on different look -- a different
9 look at continuation practice. And so we got some
10 slides that are cutting cons in different ways.
11 So we will walk to that today as well.

12 Next slide please. Okay. So starting
13 at the top. The Director and the Commissioner
14 mentioned some of these stats, but I will walk to
15 them on a high level. Again, our serialized
16 growth rate at the end of quarter three, these
17 stats are through the end of our third quarter
18 which was June 20th. We are still up a little
19 bit, 1.3 percent. That starting to edge down as
20 both the Commissioner and Director noticed. We've
21 had a little while to be bouncing up and down with
22 our serialized growth rates or incoming filings,

1 roughly 1.3 percent in the third quarter down a
2 little bit now.

3 Also mentioned by the Director and the
4 Commissioner is our overall productivity. We are
5 slightly up. This is productivity through the
6 third quarter of June 20th compared to last year.
7 We're basically on par with a quote/unquote normal
8 year. We are about a half a percent of. That
9 number again has ebbed and flowed, valleys and
10 peaks in that number, since March.

11 Moving on to our pendency goals. We
12 have a number of different pendency goals. Let me
13 just walk through each one. As the Director
14 mentioned, we are looking more and more closely at
15 our patent term adjustment goals. We have an
16 overall goal of being 90 percent compliant in our
17 mailed actions and 90 percent compliant in our
18 inventory, i.e. the inventory living within the 14
19 444 36 PTA goals by the year 2025. And we're
20 marching towards that goal year-to-year. We are
21 making pretty good progress there. Our overall
22 progress in the mailed actions at the end of the

1 third quarter was 84 percent, 88 percent in the
2 remaining inventory, compliance in inventory. So
3 we're doing pretty good there.

4 Looking at our average first action
5 pendency goals, we are at 15.9 months at the end
6 of third quarter. That's a little bit of a
7 decrease from the same time we were in last year.
8 And then our overall total pendency goal, we are
9 at 23.1 months. Again, a little bit down from
10 where we were last year. So we're doing pretty
11 good again, in keeping pendency, keeping pendency
12 on the front burner, keeping our forward progress
13 in the pendency.

14 If you look at our attrition rate, we
15 still have a pretty healthy attrition rate. 4.4
16 percent is very good in this time. And we see
17 that number being relatively stable throughout the
18 year. More of a volatility in our first year
19 examiners. After you get past the first year,
20 those attrition rates go down quite low.

21 Next. Taking a little bit more of a
22 look at the filing trends, so again, we are 1.3

1 percent above last year through the end of our
2 third quarter. Those fighting rates are starting
3 to come down. As of 8/11, we were up about a half
4 a percent. So we are starting to see a little bit
5 of a muting of the filings coming in in the front
6 door of the work that we need to work on and
7 process. For our RC e-filing, good news here. We
8 are 7.7 percent down on RC e-filing. Again, less
9 rework, more that firepower can be used work on
10 newer applications. And as of 8/11, that number
11 has actually come down a little bit more to 8.2
12 percent. So pretty good news on our RCE filings.

13 Provisional filings, we got a little bit
14 of an increase, 2.4 percent. That number seems to
15 move up and down between one and two and 2-1/2
16 percent. Not much of a news story there.

17 Our design filings, we've had a decrease
18 in design filings. If you remember from the last
19 PPAC, we reported on a downward trend in design
20 filings. We are actually a little bit less than 1
21 percent compared to last year. They have come --
22 the design filings have come up as the 11th of the

1 month, a little bit up, .4 percent up. So they are
2 bopping right along that line.

3 Next, please. Okay. So the second part
4 of the presentation, we will be talking about
5 continuation filing. So we've cut the
6 continuation data a number of different ways. And
7 a big thanks Steve, to you and PPAC for teeing up
8 this topic and for guiding us on the data that
9 would be of interest to not only PPAC, but to the
10 public in general.

11 This is a slide I showed last time. One
12 of the big takeaways from this presentation is the
13 graph on the right and the dramatic rise of
14 filings of continuation applications throughout
15 the years. This graph charts us from 2009 to
16 present. So in the last 10 years, you can see the
17 blue line of regular continuations dramatically
18 rising. Right now they're getting close to about
19 25 percent of our incoming workload. We will have
20 some of the graph showing historical rise of cons
21 as well.

22 Continuation in part, that kind of

1 pinkish line down at the bottom is roughly flat
2 over this time period. Our divisional filings
3 roughly flat. A little bit muted towards the
4 right end of the graph. The more cons we had the
5 more work we're doing on the case where
6 theoretically we have done some work on the case
7 before in a parent case, less work we can move
8 towards the front of the pipe working on
9 quote/unquote newly filed inventions. So cons do
10 represent an increase in part of our workload that
11 we all want to be cognizant of as we spread that
12 firepower out across our cases.

13 Another bullet, and we will dive into
14 this little bit more. 70 percent of our cons have
15 a patented parent and 26 percent of issued parents
16 actually spawn a continuation or have a
17 continuation file from them. We will dive into
18 this data a little bit more in the following
19 slides.

20 Next slide, please. Okay. So let's
21 look at the historical continuation filings.
22 Starting with the graph on the right, these are

1 our continuation filings as a percent of
2 serialized filings. So in the door we have
3 regular serialized filings. They are a makeup of
4 quote/unquote regular new cases and then our
5 continuation cases. And as you can see, this is a
6 long-term graph in 1981 until last year. As you
7 can see, starting at about 1999 and particularly
8 at about 2009, our continuation filings are an
9 increasing percentage of our overall incoming
10 caseload.

11 Going back to that slide we showed a
12 couple of slides ago, more and more of our
13 incoming caseload which we bring our 8,000
14 examiners to bear on, or represented by
15 continuation filing. Looking at the left, the
16 kind of entities that make up these filings, as
17 you can see in the blue, the large entities are
18 really spiking. They contribute a lot to the
19 continuation filings. We are getting a trend
20 starting about 2009 or so in the red of our small
21 entity filers also being more heavily represented
22 in cons. The micro entities, the green on the

1 bottom is roughly flat, very small percentage
2 anyway and roughly flat over that time period.

3 Next, please. Okay. So now let's take
4 a look at the parentage or the chain of
5 continuations. So this is a graph. Let's start
6 on the right. The percentage of cons that have a
7 single parent application. This is an interesting
8 trend throughout the years. Again, very long-term
9 graph, 1981 all the way to last year, 2019. So
10 back in 1981 or so, about 85 percent of parentage
11 of cons had a single parent application. So you
12 had an application and a con.

13 As we move through the years, last year
14 that number had come down about 20 percentage
15 points to 65 percent meaning that within the chain
16 of a con we are getting more cons in that chain.
17 So that's kind of a trend has been developing over
18 time. Some dips in there and some rises in there,
19 but basically decreasing the number of single
20 parents for any con chain. If you look over to
21 the right and kind of chart that out starting at
22 about 2001 to present, you can see that these are

1 the cons file per year. In the blue, this is one
2 con in the chain and the red, this is two cons in
3 the chain. Green, three, four or, more purple, et
4 cetera.

5 A couple of things here. Those cons
6 still have a one con in the chain. You can see
7 that the green and the red are starting to
8 increase. That's shown on the graph on the right
9 as well. So we are starting to see cons with con
10 chains with more cons in that chain.

11 Next slide, please. Okay. Let's look
12 at patented parents. And for this, we're looking
13 at how a given con, how many cons within that
14 chain actually turn out to be allow cases or
15 patented cases. So if you start with the graph on
16 the left, these are the cons. And then above
17 them, all the cons in that chain. If you see a
18 zero, that means there is no patent in that chain.
19 That parents and did not become a patent likely
20 abandon. Or if you are closer to the right in the
21 graph, potentially still in prosecution. One
22 would be one patent resulting from that chain in

1 red. Green would be two, et cetera, et cetera.

2 Jumping to the right, just kind of look
3 at this trend. There's a couple of different
4 interesting things here. What you see on the
5 right is the number of cons filed per year. And
6 again, that's approximately at this point getting
7 close to 25 percent of all of our incoming cases.
8 But this is just looking at the cons themselves.
9 In the blue, zero meaning that there are no
10 patterns in that con chain. In the red, one
11 patent and the green, two patents, et cetera.

12 A couple of interesting trends. First
13 of all, the majority of the cons still have a
14 single allow parent in that chain. However, if
15 you look from about 2012 on over on the graph in
16 the right, you start to see the green and the
17 purple becoming more and more a piece of that line
18 as you move to the right. We are getting more
19 cons that more patented cases within that con
20 chain. This is an interesting take away on this
21 slide that even though a plurality of our cons
22 have a single allow parents and that chain, we are

1 starting to see a trend developing of more
2 patented cases within that particular con chain.

3 Next slide, please. Another way to look
4 at this is also look at the origin of these
5 continuation filings. So the graph on the left,
6 these are all the cons filed in the given years on
7 the bottom axis. The blue is a U.S. origin con.
8 A red is foreign origin con. And as you can see,
9 over time, generally it's about 60 percent of our
10 cons have a U.S. origin. And then the balance, 40
11 or so percent, are of foreign origin.

12 If you contrast that with the total
13 incoming serialized filings, as more 50/50. So in
14 general, our total caseload coming in is roughly
15 split equal between U.S. and foreign origin. If
16 you just pull the cons out of that and look at
17 that, we are a little bit more represented in U.S.
18 Origin and our cons to the tune of about 60
19 percent to 40 percent. Moving to the graph on the
20 right, these are the countries that make up the
21 filings of those foreign filed cons. A couple of
22 different stories here. As you can see in the

1 blue line, Japan has always been a heavy use --
2 heavy user of the continuation practice. They
3 continue to file cons and they are actually
4 starting to come back out to where they were and
5 about 2015, had a little bit of a dip there. So
6 Japan continues to lead the way with a number of
7 cons.

8 A real emerging story you can see in the
9 red line is China. Look at about 2017 plus, you
10 see a very sharp increase in China using the
11 continuation practice. So that's something we
12 will be looking at very carefully in the future.
13 That trend seems to be continuing in 2020 as well.
14 All the other countries are basically down at the
15 bottom. They are all increasing. To a certain
16 degree, their increasing is a little bit more
17 muted compared to Japan and China.

18 Next slide, please. Okay. Another
19 request is to look at bypass cons.

20 These are cons filed off of a PCP
21 application. Pretty dramatic story here. There's
22 been a huge increase in the use of bypass

1 continuations. An over six fold increase since --
2 since 2000. Taking a look at the graph on the
3 left showing the numbers file per year. Again, if
4 we look at that by filed by PCT office, again, two
5 leading contributors, Japan and China on the graph
6 on the left.

7 Next slide. I believe our last slide
8 here is that there was a request to cut this by
9 TCs. So look at the cons file per TC and kind of
10 the trends there. So at the bottom in a very busy
11 graph, very colorful graph, very busy graph, we
12 have all of our TCs from 1600 to 3700. And a
13 very, very high level quick high level key to the
14 TCs. If there is a 1 in front of it, is generally
15 a chemical or biotech PC. If you see a 2, is
16 roughly an electrical TC. If you see a 3, is
17 roughly a mechanical TC. And there are certainly
18 deviations from that, but just at a very high
19 level you are seeing chemical, mechanical,
20 electrical.

21 TC 1600, the biotech organic chemistry
22 pharma area, has had a long history of using cons.

1 That the blue line. As you can see on the left,
2 the blue line is above everyone else. They can --
3 TC 1600 continues to get a large number of cons as
4 a percentage of serialized filings.

5 Some of the interesting stories are if
6 you see the purple line, it's the highest line on
7 the right, that's TC 2400. That's largely
8 computer networking, cable television, computer
9 security, compression of data used in the network,
10 et cetera, multiplexing. They are really on the
11 rise. They are having a sharp use of cons in that
12 particular sector.

13 If you also look, most of the electrical
14 TC's, 2100, 26, 2800, they are all on the rise and
15 the filing of cons as well. This kind of gives
16 you a little bit of a look on the technology
17 split, who's using the continuation practice. And
18 I think even more interesting, what trends are
19 developing there with 2400 over the last several
20 years really being kind of the leader and having
21 continuation as part -- as a percentage of their
22 serialized filings.

1 I believe the next slide -- I believe
2 that's the last one. Okay. So as a quick
3 summation, continuations are becoming a larger and
4 larger part of our incoming serialized filings.
5 We are getting close to 25 percent. That number
6 has sharply risen. Some of the other data that
7 we're seeing, we are getting long -- more
8 continuations within a single continuation chain
9 and we are starting to see a trend of more patents
10 emerging from a single continuation chain.

11 China and Japan are the leaders in the
12 foreign filings of these. The news there, China
13 being very much on the upswing as of late. Japan
14 has always been a leading country, a leading user
15 of the continuation practice.

16 So thanks very much to PPAC. Steve,
17 thanks for your guidance on this and look at cons
18 and breaking this down. Let me turn it over to
19 Robin Evans now to talk about some of our quality
20 initiatives. Hopefully we will have some time at
21 the end for questions. Thank you.

22 Robin.

1 MS. EVANS: Thanks Andy. And let me
2 just say, I am excited to join the ranks of deputy
3 commissioner for patents alongside Andy, Valencia,
4 Rick, and Bob. I share their same drive and
5 commitment to ensuring that we issue reliable
6 patents. I also wanted to say that I'm not new to
7 PPAC. I have presented at PPAC on a number of
8 occasions across the years. Just to jog some of
9 your memories, about this same time last year I
10 sat before you providing information on the
11 training that we give to examiners throughout
12 their careers here at the office. So I am
13 committed to ensuring that we continue to provide
14 education, information, and training both
15 internally and externally. So I look forward to
16 working with all of you in this new role as we
17 continue to bridge gaps, explore ways to meet the
18 needs of the community, and improve our processing
19 and systems.

20 And as we discuss and talk about
21 training, one of our focuses in assuring that we
22 continue to provide high- quality examinations is

1 search. We all know that a complete and thorough
2 search is one of the most important factors in
3 providing quality examination.

4 And so today, we would like to give you
5 an update on two of our search initiatives. The
6 first one is search immersion. So Stefanos
7 Karmis, director of the office of patent quality
8 assurance, or OPQA, will discuss search immersion.
9 I believe last year you all heard about the search
10 feedback pilot and this search immersion is the
11 next phase stemming from that effort.

12 Following Stefano, we will hear from
13 Matthew Such a director in technology center 2800.
14 He will give us an update on the peer search
15 collaboration pilot. So with that, I say thank
16 you and I will turn it over to Stefano.

17 MR. KARMIS: All right. Thank you for
18 that introduction Robin. It was a great intro to
19 what I was going to say about the search immersion
20 really being a continuation of a report out that
21 PPAC got in November regarding the OPQA search
22 feedback pilot.

1 So if you can actually go to the first
2 slide here, I want to spend just a slide or two to
3 recap last year's pilot for your memory.

4 And also I want to begin a little bit by
5 just reminding you a little bit about OPQA. So
6 the office of patent quality assurance is staffed
7 by about 65 reviewers. These reviewers tend to be
8 former examiners who had a lot of experience in
9 their careers that ultimately move on to OPQA.
10 They spend about half their time doing random
11 reviews for our statutory compliance metrics. And
12 the other half of their time they spend doing
13 special views, case studies, and assisting the
14 TCs.

15 This pilot last year fell into that
16 extra bucket of reviews that they were doing. And
17 just to go over a recap of what's done in that
18 pilot last year, what we essentially asked our
19 reviewers to do was to conduct an independent
20 prior art search in a pilot application. So this
21 was an application that was not part of their
22 regular statutory compliance reviews. Then we

1 also asked him to evaluate the examiners recorded
2 search strategy and history via a search feedback
3 form and send that back over to the examiner.

4 When the examiner received as a feedback
5 form, at their discretion, have the option to
6 request a meeting with our reviewers where they
7 did discuss feedback from the reviewer and also
8 share best practices.

9 If you can go to the next slide. Just
10 one more slide here on last year's survey just to
11 refresh your memory. There was 590 randomly
12 selected applications that were reviewed by OPQA
13 and 34 percent of those, so I think about just
14 under 200 of them, we did a meeting between the
15 reviewer and the examiner. And then when the
16 pilot was over, we did a post pilot survey which
17 is -- was the big focus of the November meeting
18 with PPAC.

19 And just to highlight a couple of things
20 from those surveys, 75 percent of the examiners
21 expressed an interest in having the search
22 feedback form as part of their regular OPQA

1 reviews. And despite maybe only 34 percent taking
2 part in the one-on-one sessions, 66 percent did
3 express may be an opportunity to have future
4 collaborations between reviewers and OBQA and also
5 the examiners. We also did have some other really
6 positive feedback as part of the survey that the
7 search feedback form is really easy for the
8 examiner to understand, that the sharing of best
9 practices and different ways to search and the
10 resources used to search were all very helpful.

11 If you go to the next slide. And so as
12 Robin pointed out, I mentioned at the beginning,
13 we really wanted to take the lessons learned from
14 that pilot and apply them this year. So we have
15 ultimately come up with something that we call
16 search immersion that we started in the fourth
17 quarter of fiscal year '20. It operates similar
18 to the pilot, but it is a little bit different.
19 So we are asking our reviewers to conduct an
20 independent search in 10 percent of the
21 applications that they review. They actually
22 already do an independent search or are required

1 to do an independent search in 10 percent of the
2 applications that they do. They actually do a
3 little bit more than that just how their own
4 discretion and to give feedback. One of the
5 issues we have is that our master review form in
6 which our reviewers record their searches is
7 definitely not as robust as the feedback forms
8 that were created for the OPQA search feedback
9 form. So rather than use the MRF for that 10
10 percent, we are asking that they use the documents
11 from before. Again, they will evaluate the
12 recorded search strategy of the examiner and send
13 everything back through a feedback form.

14 One thing that is different though for
15 right now, as we're not going to do the optional
16 meetings. We did get feedback that it was helpful
17 to have these as part of our regular random
18 reviews and there was some thoughts on how to best
19 collaborate. So as we tried to build this program
20 up and the number of hours that would be involved,
21 if we do 10 percent, that's upward of 1,200 hrs.
22 in theory that can be applied to these one-on-one

1 meetings. I think we really want to rethink the
2 best way for our reviewers and examiners to
3 collaborate at the beginning not only on search,
4 but as well as other things. So for this
5 immediate ask, we are not going to do the
6 meetings, but that is something we're going to
7 evaluate in the future.

8 Next slide. So some of the goals of
9 what we are going with the search immersion, very
10 similar to last year. We still want to provide
11 meaningful search feedback to both managers and
12 examiners. This is particularly important now as
13 search takes on a bigger role in the examiner's
14 performance appraisal plan in the future. We also
15 just want it for overall quality improvement. We
16 do want to consider what the impact is that not
17 having those meetings. Are we still going to have
18 good feedback going to be examiners as well as the
19 feedback that goes from the examiners back to the
20 (inaudible).

21 And as I mentioned, we are not using the
22 MRF now. We are using a specialized form.

1 Ultimately, whatever we do, we want to get put
2 into the MRF so we have this information available
3 at this data available for easier access. So this
4 will help us finalize some of those inquiries for
5 the master review form. You can go to the next
6 slide.

7 So I'm just going to give you a few
8 minutes here, a review of our works a little bit
9 more detail. So what we are asking our reviewers
10 to do, since these reviews instead of going
11 directly to the examiner, are actually going over
12 to the manager, we are first asking our reviewers
13 to search the application before they do their
14 review of the application to assist with some of
15 the things that maybe we are missing from the
16 one-on-one discussion.

17 We are having our reviewers write a few
18 sentences of what they think the inventive
19 concepts are or the inventive concept is, and also
20 some information regarding the CPC classification.
21 These are two particular areas where the
22 discussions often focused on. So if we can put

1 this in writing, we are hoping we can make up for
2 any of that loss discussion.

3 And then there will be a summary of the
4 reviewer's search. So they will have the check
5 boxes that they are letting the examiner know
6 which databases they searched and also some search
7 strategies that the reviewer used such as CPC
8 interactions, intersections, sorry, and other
9 things, and whether they consulted with any other
10 experts, which our reviewers don't often do, but
11 we had that on there. So this will really
12 document what our reviewer searched when they
13 searched the case.

14 And then the next slide. So in addition
15 to that form, there is also a search immersion
16 form. This is really where the reviewer will do
17 their analysis of what the examiner searched and
18 record the examiners search strategies and then we
19 will do a comparison of the reviewer search
20 strategies to the examiner search strategies and
21 identify what some of the differences were so that
22 we can sort of have improvements on both sides

1 really from the examiners and the reviewers.

2 I will just go one more slide. I'm
3 trying to save some time for Matthew. This is
4 actually my last flight. So during the fourth
5 quarter, we expect to do about 325 of these. I
6 think we're getting close to doing about 120 of
7 them. We will do an assessment in fiscal year '21
8 and determine whether we are going to pivot at
9 all. We do want to do some surveys with the
10 examiners to see if they are still getting the
11 feedback that they get. We also want to do some
12 surveys with our reviewers as our reviewers really
13 benefit from the discussions with examiners who
14 were maybe more experts in a particular
15 technology. We will run this for a little bit and
16 do these assessments.

17 And I think that's mostly what I have
18 for you today. So I think I'm turning it over to
19 Matt and seven questions for the end.

20 MR. SUCH: Thank you Stefanos. So I
21 also want to thank Robin as well for the
22 introduction, and fate the committee for the time

1 to present some updated results from the Pearson
2 collaboration pilot.

3 If you can, move to the next slide. So
4 this is just a recap. We have presented some of
5 the initial results from this pilot at a previous
6 PPAC session. And we would like to just briefly
7 go through the program itself. So an examiner
8 that was participating in the program to add an
9 application had the opportunity to select that
10 application to get a search assistance with a peer
11 during the pilot program. So they were given some
12 time to be able to do some collaborations.

13 The secondary examiners we referred to
14 in the pilot program who is providing that
15 additional search assistance would get some time
16 to also complete that search. Then there was some
17 discussions to facilitate an interaction about the
18 findings of the search.

19 We did run the pilot last fiscal year
20 and found that examiners that participated were
21 actually quite judicious with the applications
22 that they were selecting for the pilot. We noted

1 that we had about 130 applications go through the
2 pilot out of a maximum possible number of 240. So
3 if you can, go to next slide.

4 Previously we have presented results on
5 surveys that were conducted and focus sessions
6 that were conducted with all the participants and
7 we saw some very strong survey results. So we
8 wanted to follow to see how the prosecution of
9 these applications actually proceeded afterwards
10 to see if we could measure what the potential
11 impacts might be. And so that is updated results
12 are going to be the discussion focus for today.
13 You can move to the next slide.

14 So one of the highlighted results that
15 we wanted to point out, we did share this last
16 time, was that examiners reporting that the peer
17 search pilot was yielding references that they had
18 not found themselves during their search. And
19 this is true for both the secondary examiner
20 providing additional references to the primary
21 examiner or the lead examiner on the case and vice
22 versa. And we wanted to understand how this was

1 actually showing up and manifesting itself in
2 prosecution. So we've had OPQA provide quality
3 review of the applications in the actually found a
4 statistically significant increase in the number
5 of references that were cited in applications from
6 six to half up to about 8.2 percent or a point to
7 references in the nonfinal office action that was
8 issued directly after the pilot collaboration.
9 You can move to the next slide.

10 So this is just a review of some of the
11 survey findings. We found that 96 percent of the
12 examiners that participated in the pilot to the
13 surveys recommended that this type of interaction
14 would be appropriate depending on a couple of
15 different circumstances. We wanted to understand
16 a little bit further about some of the reasons why
17 examiners that were assigned the case for
18 nominating a case for the pilot and seeking
19 assistance.

20 And we found that the vast majority was
21 some sort of additional request for additional
22 assistance with either the overall inventive

1 concept or there is a particular limitation in the
2 claimed subject matter that they really wanted
3 their peers searchers to focus their attention on.

4 We found that about half of the
5 applications that were in the pilot itself for the
6 peer collaboration were actually pairing together
7 to examiners from different technology centers.
8 And so we recognized that there was a little bit
9 of a multidisciplinary effect in terms of some of
10 the applications that were being shared in this
11 program. So if you can, moved to the next slide.

12 So as I mentioned before, OPQA provided
13 us some review of the nonfinal applications that
14 were collaborated. Now these reviews were done
15 merely on the nonfinal spirit we did not look at
16 the allowances. There was a reason for that and
17 that was the allowances were actually very few
18 since there was 130 applications. I think we had
19 five allowances on first action.

20 The other thing I would note in terms of
21 our compliance rate numbers for a sample, a
22 representative sample of cases from the same

1 examiner group prior to the pilot and after the
2 pilot, is that we used a slightly modified review
3 process to make sure that we were focusing and
4 capturing information on the search itself. So
5 what I would note is the magnitude of the numbers
6 here may be a little bit different than what
7 you're used to seeing with our quality statistics.

8 We did not see any statistically
9 significant differences for the compliance rate.
10 And we did look at the clarity metrics as well and
11 did note some, either equal or nonsignificant
12 increases in some of those metrics that were of
13 interest. But we had a very small sample sizes
14 and so that's an area that we would like to focus
15 on in the future. You can move to the next slide.

16 We also follow the prosecution of these
17 applications all the way until either the terminal
18 disposal three RCE or at -- or until the RCE
19 itself. And one of the things we were interested
20 in learning about was effective having a -- this
21 additional search assistance in these additional
22 references on compact prosecution. While we did

1 see a slight uptick in the allowance rate and a
2 slight uptick in the terminal disposal rate, I
3 would note that while these are not specifically
4 significant, we did find that this was quite
5 interesting and would like to explore this further
6 given that -- to see if this holds. We are
7 interested to see if the additional references or
8 perhaps the references that are yielded were
9 providing some benefit in terms of the overall
10 compact prosecution of our applications. And so
11 if we can, moved to the next slide. So our next
12 steps are as follows; as I mentioned, we had some
13 very, very positive survey data that indicated
14 strong support amongst the examiners. However, we
15 weren't able to -- and while we weren't able to
16 measure statistically significant differences in
17 the statutory compliance clarity or compact
18 prosecution. We did get some indications that
19 there may be something here worth looking at a
20 little bit further. And some of those limitations
21 were just due to the smaller sample sizes we had
22 for our metrics.

1 And so we're actually proceeding with
2 further piloting and we're looking very carefully
3 at some very specific use cases that can
4 potentially bring us a lot of value, as well as
5 increasing our sample sets to be able to increase
6 that physical confidence. So we're looking at
7 these use cases right now; very interested in
8 feedback and ideas about some things that we could
9 consider for inclusion into the next steps for the
10 program as we continue to go forward.

11 Additionally, we also noted -- I want to
12 note that there was a significant investment that
13 was made for each of these applications that were
14 in the pilot program and as part of that we are
15 looking at different processes that we'd like to
16 be able to explore to see if there's more cost
17 effective ways to be able to engage in these types
18 of collaborations between examiners to facilitate
19 a patent search.

20 So with that I'd like to thank
21 everybody, and I think we have a few moments for
22 questions.

1 MR. CALTRIDER: Thank you to Stefanos
2 and Matt for a great presentation, and Andy as
3 well.

4 I want to thank on behalf of the
5 subcommittee, Drew, Andy, Robin for your
6 leadership and for your engagement with the
7 subcommittee and all of the staff because we share
8 the objective of securing patents in a timely,
9 predictable, and durable -- and the work has
10 really been outstanding.

11 I also want to make sure I pause for a
12 moment before we get into the Q&A and thank Dick
13 Rieman for his service as the acting deputy
14 commissioner of patent quality. We've had a
15 transition of leadership this year and in view of
16 that and we haven't missed a beat, and it's really
17 gone fantastic and Dan, I think that's really due
18 to your leadership and stepping in during this
19 time, so I really appreciate that.

20 One last point before we get into the
21 continuation -- or into the Q&A is on the
22 continuation practice. We'll hear more about that

1 in the future as the best project matures and get
2 into more of a root cause analysis and
3 understanding that deeply when 25 percent of your
4 filings are continuations, I think it's worthy of
5 more discussion and more consideration on why and
6 what's happening and what's driving that. And so
7 the subcommittee will be reporting out on that in
8 the future as well.

9 So we're running out of time, but let's
10 pause for a moment for any questions that anyone
11 may have.

12 MS. MAR-SPINOLA: Steve, this is Julie
13 Mar-Spinola. We have a question; I believe it is
14 appropriate at this time. And the question is,
15 could exemplary searches done by OPQA examiners be
16 available to the public?

17 MR. KARMIS: So the work that OPQA does,
18 the reviews that we do and the feedback that we
19 give has historically not been part of the public
20 record.

21 MS. MAR-SPINOLA: Is there --

22 MR. HIRSCHFELD: Yeah, Stefano, this is

1 Drew. I'm not sure if that question is actually
2 referring to searches that are done as part of an
3 application review, which is information that
4 relates to the performance of the examiner, which
5 we do not make public and it's for training
6 purposes. But the question may also be focused on
7 just having examples of exemplary searches period.

8 So not necessarily tied to a specific
9 case. Don't know the answer to that. It's -- to
10 the extent that the question is about the latter,
11 I think it's a very good question and we will
12 certainly take that back about how do we best have
13 exemplary searches shown to all, so people can see
14 what we are -- what we believe at PTO is an
15 exemplary search. I think it's a great idea.

16 MR. CALTRIDER: Considering --

17 MS. MAR-SPINOLA: Thanks. Thanks, Drew,
18 for that.

19 MR. CALTRIDER: I think a related
20 question to that, and I'm not sure if it's Matt or
21 Stefanos, or Drew, or Robin, to answer this, but
22 we don't have any external benchmarking to

1 understand -- I mean there's a lot of external
2 search providers and we don't have any external
3 benchmarking to know how a PTO search stacks up to
4 whether it's the European patent office, the
5 Japanese patent office, or an external search
6 vendor?

7 MR. HIRSCHFIELD: I am not aware of any
8 Steve. I'll jump, in. I'm not -- that doesn't
9 necessarily mean that others haven't been looking
10 into that but I'm personally not aware of that.

11 MS. MAR-SPINOLA: Okay.

12 MR. HIRSCHFIELD: . It's not a look
13 that I'm aware of that was done.

14 MS. MAR-SPINOLA: I'm sorry, my dog was
15 barking.

16 MS. MARTIN WALLACE: I'll just jump in a
17 little bit about international offices where that
18 type of data is not commonly shared. We don't
19 have metrics from other areas on their search and
20 application quality.

21 MS. MAR-SPINOLA: . Thank you,
22 Valencia. Yes, we have two questions. One from

1 Dan Lang, and then one from Jeff.

2 Dan.

3 MR. LANG: . These are great
4 presentations and I, you know, I'm really happy to
5 hear about the progress in the search initiatives.
6 And the continuation data is interesting, albeit
7 sobering in some ways. There's a lot of suspicion
8 that many continuations are not, in fact supported
9 -- well supported by the original filing and as
10 continuations progress, second, third, and so on.
11 You know, what we can often see is that claims are
12 moving into areas that cover things that were, in
13 fact, developed after the continuation -- I'm
14 sorry, after the current application was
15 originally filed.

16 Can you speak to any initiatives or
17 thoughts about how to better police section 112
18 support in successive continuation filings?

19 MR. FAILE: Sure, I'll start, Drew, if
20 (inaudible) so I think it's a great observation,
21 Dan. I think what we're diving into and looking
22 into the cons now, it's kind of baselining. We're

1 trying to get the data and trying to see what kind
2 of data we have and what kinds of trends we are
3 seeing.

4 I think our next step with the
5 subcommittee would be trying to get into some of
6 the root cause analyses of why the data is the way
7 it is. And then, maybe the third step is, are
8 there things that we should be doing different in
9 examination, kind of operationalize some of that
10 data. And section 112 is definitely an area to
11 look at. It might be interesting, I would think,
12 to now that we know we have an increasing trend of
13 the number of cons in a particular chain, those
14 second, third, fourth plus cons, it might be
15 interesting to do a study on that and see, number
16 one, how are those claims deviating from the
17 original parent case into these cons that are way
18 down the chain.

19 And then, maybe, number two, taking a
20 look from an examination practice, how are
21 examiners reacting to those later cons? There's
22 nothing that I know of, and Drew might can

1 illuminate on this a little bit better than I can,
2 there's nothing I know of that we are doing,
3 particularly a lot different than looking at a
4 second, third, or fourth con in terms of support
5 under section 112 at the moment. That might be an
6 area we want to take a look at if we're starting
7 to see something in the examination there that
8 needs to be looked at. I think that would be an
9 interesting area of study.

10 MR. HIRSHFELD: Yeah, I'll only add that
11 it is something that we've heard similar thoughts
12 to what Dan has articulated. Our reviews of
13 cases, whether they're from supervisors or the
14 office of patent quality assurance does evaluate
15 to make sure that the examiners look for proper
16 support in continuation chains. So it is
17 something we're focused on and I also agree that
18 as continuations continue to rise in percentage
19 it's something we should continue to be more
20 focused on.

21 MS. MAR-SPINOLA: Okay. Thank you for
22 that. We're running over time, but I want to

1 allow a couple more questions to come in given
2 that quality and pendency is so important and
3 overarching in the entire Patent Office actually,
4 for the stakeholders.

5 So Jeff, before I go to you, Jennifer,
6 do you have a question?

7 MS. CAMACHO: Yes, we have a couple of
8 questions from the public. I put them both out
9 there and then perhaps we can answer them in turn.

10 The first one relates to search tools,
11 and we talked a lot about making improvements to
12 the search tools that are available to the
13 examiners. The question is could this tool be
14 made available -- the search tools that are made
15 available to the public be also improved? For
16 example, proximity operators.

17 And then, let me put out the second
18 question too. And that's with respect to the
19 difference between what OPQA reports of compliance
20 versus what's coming out of the PTAB. And the
21 question is, should PTAB decisions go through
22 similar quality control review as well? So if we

1 could start with the first one on the search
2 tools, and then move over to the quality control
3 review question, please?

4 MR. HIRSHFELD: I'll be happy to start
5 there. And I'm looking -- I'm trying to scan the
6 participant list to see if Rick Seidel is
7 currently on because he can certainly add more
8 details than I have about the search tool.

9 But we are actually in the process of
10 rolling out the initial phases of rolling out a
11 brand-new search tool for examiners. And we're
12 actually rolling this out in a way of --

13 MR. SEIDEL: I'm here.

14 MR. HIRSHFELD: -- getting early
15 adopters from the core and getting their feedback.
16 And my understanding is the initial feedback is
17 very positive. I have shared that exact -- you
18 know, in a few sentences with many people and the
19 question I always get is about well, is this going
20 to be available for the public.

21 As we continue to roll this out and
22 ensure the tool, it's functioning properly, which

1 again, we are off to a great start here, and
2 ensure that it scales up, my understanding is that
3 the intent is that we will -- we are trying to
4 make sure that the public has the same platform
5 and ability as to what the examiners have. So
6 that's a long way to say that we're well cognizant
7 of members from the public asking for an improved
8 tool and are working towards that. But just
9 making sure that the tool -- the new tool that we
10 have will scale appropriately.

11 And Rick, I'm not sure if you're on.
12 It's hard to just scan the list but if you --

13 MR. SEIDEL: No, I'm here, Drew.

14 MR. HIRSHFELD: You're absolutely right.

15 MR. SEIDEL: No, we are certainly on
16 track. It doesn't make sense to maintain separate
17 systems with separate platforms and challenges.
18 So I won't say our immediate plan, but our
19 short-term plan, or maybe midterm plan is to do
20 exactly that; mirror what the examiners tools look
21 like for a public facing search tool.

22 MR. HIRSHFELD: The second question,

1 Jennifer, I think would be more appropriately
2 addressed by Scott Boalick if --

3 Scott, are you on? Sorry to put you on
4 the spot here, but I think the second question
5 about quality control at PPAC would be best
6 answered by PTAB rather than Patent.

7 MR. BOALICK: Yes, Drew, I'm on. So yes
8 -- I mean, I think there are a couple of things
9 that are aspects of quality for PTAB decisions.
10 You know, one is that every decision is made by a
11 panel of three judges. So there's two other
12 reviewers of every single decision. Another is if
13 someone's dissatisfied with a PTAB decision they
14 can request for hearing from the panel, or they
15 can request review by the presidential opinion
16 panel of that decision.

17 And, of course, there's always review
18 depending on what kind of appeal you have. You
19 know, if you're in an ex parte prosecution appeal,
20 you can go both to the district court and federal
21 circuit. And, of course, for AIA trial you can
22 get review of those decisions by the -- at the

1 federal circuit. So those are things that
2 somebody who's dissatisfied with a particular PTAB
3 opinion can do, if they disagree with it.

4 MS. MAR-SPINOLA: Thank you. Thank you,
5 Scott, Drew, and Rick.

6 Okay, thank you for that. Scott, you're
7 going to be next after this question. Thank you.

8 MR. BOALICK: All right.

9 MS. MAR-SPINOLA: Hold on. Is Jeff
10 there?

11 MR. SEARS: Yes, thanks. A quick
12 comment, and a quick question. First, the comment
13 on the root causes of the increasing continuation
14 trends. It might be interesting to overlay the
15 trends against significant developments outside of
16 the Patent Office, for example, significant case
17 law developments in 101, perhaps at the Supreme
18 Court or the fed circuit. And also, significant
19 developments in Congress, for example, AIA
20 legislation providing for IPRs. That might help
21 explain the increase in the trends.

22 Here's the question for Drew and Andy.

1 I understand that cons are becoming a larger and
2 larger percentage of the filings at the office.
3 Can you help us understand why that should be a
4 concern? Do cons not pay the same fees as regular
5 filings? What's the concern with cons becoming a
6 larger and larger percentage?

7 MR. HIRSHFELD: Thanks, Jeff. So it's a
8 great question and let me first go to the comment.
9 I have no doubt that part of the rise in
10 continuations are the number of external factors
11 such as the 101 case law because I've heard
12 directly from practitioners that this is a
13 strategy to keep applications pending. I also
14 think there's generally a strategy to always have
15 an application pending, or try to maximize the
16 time you have something pending in case you feel
17 like you need to alter the scope of your claims or
18 get another claim that, as you are trying to
19 enforce the patent. I'm not saying these are good
20 or bad strategies, I'm just saying that I hear
21 from practitioners that these are strategies that
22 are being used. So I have no doubt that's playing

1 into the equation.

2 As to your question, you know, it is --
3 again, I won't pass judgment on whether it's a
4 good or bad thing, but it is something that we
5 need to be very cognizant about and cognizant
6 about the impacts to the system. So it takes us
7 -- well, having this level of continuation, I
8 don't have the exact number, but I actually had
9 our staff person pull this number, actually means
10 that we need to have well over 1,000 additional
11 examiners just to do the level of work of
12 continuations.

13 Now that's an overly simplistic
14 statement, we don't have examiners that just do
15 continuations. But what I'm talking about is the
16 added work from the continuations resulted in us
17 needing significantly more staff, well over 1,000
18 examiners to be able to keep the same, throughput
19 in pendencies if we didn't have those
20 continuations. So without passing judgment on
21 whether continuations are good or bad, the
22 question I think is a valid one for the patent

1 system where cases that we've seen that are, in
2 many instances, rework.

3 And were not talking about continuations
4 in part here. We're talking about straight
5 continuations, for cases that in many instances
6 are rework, is that right for the system? And as
7 a fee funded agency when we hire examiners it
8 relates to your fees, right, so user fees. So I
9 think there's a very important discussion to be
10 had about what is best for the patent system here.
11 And that's what we anticipate and would like to
12 foster that discussion. Again, not passing
13 judgment, but in the end here it's a really
14 important point to have because the number of
15 continuations relates to the number of examiners
16 which is a direct correlation to fees.

17 I don't know if any other -- if anybody
18 at has anything to add, please feel free.

19 MR. CALTRIDER: Well, I'll try to add
20 and try to wrap this up. This has been a great
21 discussion. The part I'll add to your answer to
22 Jeff is the uncertainty. If one mark of a

1 high-quality patent is timeliness and having
2 continuations pending is uncertainty to the public
3 on whether or not there will be claims issued, or
4 won't be issued and I think, in theory of
5 examination, the day that application was filed,
6 if examination were instantaneous could be issued
7 that would provide the most certainty to the
8 public on what's patented and what's not patented.
9 So I think the uncertainty question is an
10 additional consideration in addition to just the
11 burden on the office and the staff.

12 As I stated in my comments -- as I
13 mentioned in my comments the continuation
14 announced is just beginning. This is kind of the
15 baseline of the data, we are going to continue to
16 dig into the data. I think a couple of people
17 have commented we're going to root causes and then
18 step back from the root causes and say well, are
19 there things the office can do differently, or
20 should do differently in view of those root
21 causes?

22 So it's going to be -- stay tuned would

1 be my message to the rest of the feedback and to
2 the public and the subcommittee is taking this
3 issue up and it's really one that I think is
4 important given the burden on the office and the
5 uncertainty it creates in the public domain.

6 Thank you, everyone, for an outstanding
7 discussion of pendency and quality. And again, I
8 appreciate everybody's engagement on those
9 important topics. With that, I'm will turn it
10 back over to Julie and then we can move on to
11 PTAB.

12 MS. MAR-SPINOLA: Thank you. And then
13 let me apologize in advance. Thanks to virtual
14 and working from home I have the gardener out
15 there with his leaf blower so I really -- and the
16 dog is over here, so I apologize. I'll hit the
17 mute as often as I can.

18 Now, we are running about 15 to 20
19 minutes behind, but that's not to take away from
20 the quality conversation. I think that it is
21 absolutely vital that we have this kind of
22 exchanges, and I think that the public for sending

1 us questions. We do try our very best to put the
2 questions in and to answer -- to raise them at the
3 appropriate time and also to frame them so that
4 they resonate with the broader audience that we
5 have here.

6 To give Scott and the PTAB team their
7 full 30 minutes, what I propose is that we'll
8 forgo the break and since we're all at home and we
9 can turn our screen off for a break, I would just
10 say please do that instead and just come back
11 after a few minutes. But I want to give Scott his
12 time.

13 So Scott, with that, that wasn't very
14 graceful of me, but please proceed. I think it's
15 with -- starts with Jeff Sears as our subcommittee
16 chair. Jeff, and Scott.

17 MR. SEARS: Yes, thanks very much Julie.
18 We have a very good presentation today focusing
19 primarily on ex parte appeals. PTAB has done
20 great work in this area, particularly in reducing
21 pendency and continuing to focus on quality. And
22 I will turn it over to Scott and the PTAB.

1 MR. BOALICK: All right. Well thank you
2 Julie and Jeff. Appreciate the time and will be
3 sure to keep to our 30 minutes. Of course, were
4 happy to answer questions at the end. I wanted to
5 say along the lines that the director mentioned
6 this morning and also comments that Julie, from I
7 know, at least you, Drew, and some others. These
8 have been some challenging times for PTAB due to
9 the COVID-19, but we've made the transition to
10 full telework and then back into phase 1 at
11 certain locations seamlessly. We've transitioned
12 our hearings to all virtual hearings which is
13 still the posture of hearings, and we've been able
14 to meet all of the statutory rules of the AIA and
15 appeals. The inventory has been steady, to
16 slightly declining, and then we've been able to
17 improve the overall average pendency of the
18 decided appeals. So we've also been able to
19 provide relief to about 120 parties who asked for
20 it under the CARES Act and the other Covid
21 provisions there.

22 So I just wanted to say that by way of

1 introduction before I turn the floor over to
2 Acting Vice Chief Mike Kim who's going to talk
3 about the ex parte appeals pendency, the -- and
4 our fast track appeals pilot program.

5 And then Deputy Chief Judge Jackie is
6 going to talk about some other PTAB updates to
7 wrap up. So I'll go ahead and turn things over to
8 Acting Vice Chief Mike Kim.

9 MR. KIM: Thank you, everyone. It is a
10 pleasure to be here.

11 If we could go to the next slide,
12 please? Great. So yes, these are the general
13 three topics we'll be talking about today. I'll
14 be covering the first two. Go to the next slide,
15 please? And one more. Okay. So we have been
16 managing ex parte appeals at the board very
17 aggressively for a long time. And just to give
18 everyone an overview, what we really want to do is
19 allow you, the stakeholder, to make informed
20 decisions of when you get to file an objection, on
21 whether to appeal, whether to file an RCE, so that
22 you can tell your client with some certainty. And

1 we also want to enable you to do that regardless
2 of what technology the particular application or
3 appeal would be in.

4 So for a while, our goal has been we
5 would like a 12 month average pendency for decided
6 appeals. Now, we know, 12 months can be parsed in
7 several ways. You could have two decisions mailed
8 at 12 months and be 12 months. You could have one
9 that's mailed at one month, one mailed at 23
10 months, that's also 12 months. I think certainly
11 we would prefer the former over the latter.

12 So another thing we watch out for
13 carefully is something called maximum pendency.
14 So again, we want to give you -- everyone some
15 certainty as to when your appeal would be decided
16 regardless of technology. And just for an overall
17 terminology -- when we say pendency we measure it
18 from the date that the application, or appeal, is
19 received at PTAB, which is roughly about the time
20 that a docketing appeal number is assigned to the
21 mail decision date. So when you get the decision.

22 Next slide. So there are primarily

1 three tools we have used to manage our ex parte
2 appeal pendency inventory. Technology
3 rebalancing, court of appeals closeout, and just
4 in time docketing. And I'll just go briefly
5 through each one of these in the next couple of
6 slides.

7 Next slide, please. So the first one is
8 technology rebalancing. And to back up a little
9 bit I will say that a lot of the information here
10 is going to refer to our standard operating
11 procedure 1. So that is a document that was put
12 out, I think, two years ago at this point, that
13 really put out, you know, how do we assign cases.
14 Both an ex parte appeal, as well as AIA. And the
15 long and short of it is that it's a very dense
16 document and there's a lot of things we consider.
17 Here, we're focusing on technology and so just to
18 give you an overview, so again, you know what
19 you're looking at.

20 The way we assign appeals to judges is
21 that the judges actually self-identify in two
22 specific technology clusters that roughly

1 correspond to the technology centers in patents.
2 And so the way we manage it is these five areas
3 here, biotech, chemical, electrical, mechanical
4 business methods, and mechanical itself, excluding
5 business methods.

6 Can we go to the next slide, please? So
7 these are sort of those three relevant provisions
8 of SOPs for this. We have a paneling team that
9 assigns cases to panels of judges and they, of
10 course, try to assign to a panel of judges having
11 the appropriate technological preferences as
12 practical.

13 Now, having said that, you know we --
14 you all are the ones who are filing appeals, so we
15 try, you know, they come from whatever technology
16 they come from and certainly we try our best but
17 sometimes there's perhaps not a perfect
18 correlation between the judges' self-identify
19 technologies as well as the appeals coming in. So
20 when that happens, you know, we do do some shifts
21 in the technology distribution to make sure that
22 we do meet our pendency goal.

1 To the next slide, please. So this is
2 sort of the high level overview of this.

3 So in the colored lines you see the
4 different technology areas where we pretty much
5 group our appeal. On the left, we start in the
6 first quarter of the fiscal year 2016, and on the
7 right -- the far right we have the third quarter
8 of this year, fiscal year 2020. And as you can
9 see, there's two main observations. So one, the
10 trend line is generally down, which is good.
11 That's something that we are very proud of and we
12 know that you, the stakeholder committee has been
13 asking for.

14 But more specifically to technology
15 rebalancing, we also have done things to reduce
16 the spread. So if you look at FY '16 Q1, roughly
17 the two outliers, if you will, the biotech is
18 roughly 34 months. Pendency, and then the
19 chemical dockets was roughly 25 months, so that's
20 about an 11 month spread. But if you look all the
21 way to the right you'll see that that has narrowed
22 considerably. So actually, the closest quarter

1 was FY '20 Q2, where there was roughly a four
2 month spread between the electrical docket with
3 the highest pendency, and then the
4 mechanical/chemical docket kind of about the same
5 with the lowest pendency.

6 Now, it is starting to spread a little
7 bit FY '20 Q3, so now there's five months. For
8 our view, we still think that's acceptable, and
9 this is just one of those things where there's
10 just a lot of moving parts. And so we do do
11 adjustments, which I'll go over in a second. But
12 the reality is that these are all going to
13 fluctuate a little bit within a margin of error,
14 but our hope is that we can minimize that spread
15 as much as possible.

16 If we could go to the next slide,
17 please. So to give you an example, in quarter 2
18 of FY '17, here where the average pendency is by
19 technology, and here were the two biggest
20 outliers. So electrical was a little under 14
21 months, while business methods was 28-1/2 months,
22 and mechanical was a little under 26 months. So

1 obviously, this is not something that's ideal, so
2 what do we do? Well, we decided to shift some of
3 the business method and mechanical fields to
4 electrical clusters.

5 Now certainly, we understand that, you
6 know, the electrical clusters they primarily deal
7 with electrical cases. They self-identify under
8 electrical and so, you know, maybe they weren't
9 going to be immediately familiar with them. We
10 knew that, so we provided the resources, and we
11 provided training to the electrical clusters so
12 that if they had questions, a lot of the issues
13 they deal with are legal issues and so those are
14 the same across technologies. However, inasmuch
15 as there were specific, perhaps technical
16 questions they had we made sure that the judges
17 were comfortable in deciding those areas.

18 Go to the next slide, please. So we do
19 this basically on a quarterly basis and just to
20 give you an update for the most recent quarter, we
21 actually reduced the number of our business subset
22 of appeals decided by electrical clusters, the

1 reason being that, as you saw, electrical now has
2 the highest pendency. Business methods had one of
3 the lowest, so we figured the electrical judges
4 should decide more electrical cases again. And
5 this is something we had done previously; we had
6 the biotech cluster deciding some business method
7 appeals. For now, we have maintained it because
8 of the trend lines right now seem relatively
9 acceptable to us.

10 Next slide, please. Okay. So I'm now
11 going to go to our quarterly appeals closeout
12 program. And again, this program is a little
13 different in that what we're trying to do is
14 maintain, or reduce maximum pendency. So in one
15 sense, it's kind of very straightforward. Each
16 quarter we set a maximum pendency target and we
17 decide all the appeals older than that target. So
18 when we started this program at roughly the end of
19 the second quarter of fiscal year '18, we had
20 roughly a 27 month maximum pendency, and as of the
21 last quarter, quarter three of FY 2020, we had a
22 roughly 22 month maximum pendency. So we're very

1 proud of the progress we have made there.

2 And if you go to the next slide, please.
3 What you can sort of see -- so this data is from
4 the end of Q3 is at that number one, there is sort
5 of this nice slope down, which we really like.
6 And really, at the 22 months to 23 months you see
7 that it really flattens. So that really is the
8 goal of the quarterly appeals closeout.

9 Now, I know we've gotten the question
10 before that there are a few cases that are older
11 than that. That is true. Any system is going to
12 have some outliers. Some reasons for that are
13 they are related appeals where we decide, you
14 know, one we have one on our docket, but one is
15 coming down the pipeline and we would like to
16 decide them together so maybe we wait. Other
17 times, there are hearings that we schedule but for
18 whatever reason, maybe the appellants can't make
19 it, and so that gets pushed out. So, you know,
20 we're going to certainly minimize those as much as
21 possible, but they're always going to be there.

22 Next slide, please. So the third tool

1 I'm going to talk about for our appeals pendency
2 is just in-time docketing. So what we try to do
3 is try to maintain a baseline inventory of cases
4 on a judge's docket so that, you know, they are
5 all going to be in various states of work. Some
6 of them the judges are going to be starting on,
7 working on immediately, others they have
8 conferenced, others they are going to be writing
9 up. So these are all going to be in various
10 stages in judges very much work in multiple
11 appeals in parallel. So we want to give them
12 enough work so that they can keep doing this on a
13 basis. So for example, one of their colleagues
14 isn't available to conference on a particular day,
15 they can just go ahead and work on another case
16 until that colleague is available.

17 That's certainly true for first party
18 appeals. It's also true for AI trials as well.
19 But that's a little different in that it sort of a
20 poll system. So where as we -- what we call it is
21 hop off a judge who currently does ex parte
22 appeals. For those who do AI trials, perhaps the

1 case settled and, you know, there is a blank spot
2 in their docket, they can go ahead and request
3 some appeals from their preferred technology area,
4 from our paneling and we will give them those
5 cases.

6 So what we've done here, if you go to
7 the next slide. Is what we did is last quarter
8 was we reduced the maximum number. So what we
9 found is through really no fault of anyone's own,
10 you know, life happens. Is that sometimes, for
11 example, let's say I'm an AI trial judge and I had
12 settlements and terminations, so I decide I'm
13 going to work some appeals, but then all of a
14 sudden some very complicated motions come up in
15 one of my cases all of a sudden.

16 So sometimes I have to set those appeals
17 down and go work on the motions which, you know,
18 are working on -- AI trials with statutory
19 deadlines. You know, we need to get to those in a
20 more timely manner. Sometimes those appeals would
21 sit longer than I would have liked, in those
22 situations. Now that's always going to happen,

1 and for example, we don't want to do too much
2 rework so just because I had to turn away
3 momentarily to work on some AI trial cases, I've
4 already invested in these appeals so I'm already
5 kind of up to speed on the case and is more
6 efficient for me to complete the case.

7 However, what we did was is we set the
8 maximum numbers lower so that even if something
9 like that were to happen, we try to minimize the
10 number of cases that's happened. And the
11 operational reality is all that really means is
12 that I just have to ask for cases more often,
13 which is fine. I mean that's just something that
14 we can readily adapt.

15 The next slide, please. So that's it on
16 the ex parte appeals pendency. I didn't know if
17 there were any questions. Okay. So what I'll go
18 over now is our fast track appeal pilot program.
19 So this was a one year pilot program that started
20 on July 2. A brief overview, I'll go more into
21 details later. It comes with a \$400 petition fee.
22 Our goal is to issue a decision six months from

1 the day that the bid tuition is granted. Right
2 now, we have, for the pilot program, we have 125
3 granted petition limit per quarter, roughly 500
4 total for the year. And hearings are permitted,
5 but there are several caveats there.

6 If you go to the next slide, please. So
7 a general overview, the big points of what the
8 program is not. So again, PTAB doesn't actually
9 get jurisdiction on a case until an appeal number
10 is assigned. And that's pretty much only after
11 all three things have finished in the case. So it
12 doesn't have any impact on procedures before that
13 docket being issued -- notice is issued. So in
14 practical matters, that doesn't change anything in
15 the briefing before the examiner. That all
16 continues as the same schedule.

17 Next slide, please. So what appeals
18 qualify? The short answer is pretty much any
19 appeal as long as a docketing notice is issued and
20 there is an appeal number it qualifies. It's not
21 limited, for example, to appeals only filed after
22 a certain date. They could have been there for a

1 month, it could have been there for a year, most
2 are eligible.

3 The one major carve out to it is that
4 anything that is already special within the
5 office, and those are listed in the MPEP section
6 listed, those are not included. So there's --
7 there's the general flavor of those. Anything
8 where a petition made special is granted to help
9 the inventor, reissues, reexaminations, those
10 actually already carry special dispatch
11 requirements. So here at PTAB we already do treat
12 them sort of specially in that we know we should
13 try to do those faster. So those are not included
14 under the program, but any other appeal is.

15 Next slide. So what are the
16 requirements? So this is a petition to a chief
17 judge under a 30 and that where the \$400 fee comes
18 from. We try to make it pretty streamlined. All
19 you really need are the application appeal numbers
20 to certify that the appeal is qualified, again,
21 which just basically means it's not already
22 treated as special. So one thing we will say is

1 this is not refundable. So even if the petition
2 is denied, unfortunately, we are going to keep the
3 money.

4 Next slide. As far as the form of the
5 petition, pretty much there's various ways to do
6 it. The way we recommend is a form PTO/SB/451
7 which I'll go into. I have a couple of
8 screenshots later. It's not required though, as
9 long as the petition includes the information that
10 I had in the previous slide we'll accept it. The
11 petitioner will be notified of the grant or
12 denial. And the one caveat is you can petition
13 again if it's denied for whatever reason, but the
14 filing date does not become retroactive. So you
15 only get the filing date of the petition -- of the
16 petition that's actually granted, not of a
17 previous one, unfortunately.

18 Next slide, please. So all this
19 information is on our fast track web page. Just
20 put in your search engine USPTO PTAB fast track.
21 This is pretty much what pops up.

22 If you go to the next slide, please.

1 Here is the petition form I was talking about is
2 linked to on our website. It is a form field PDF
3 so again; we think it's pretty user-friendly.

4 Next slide, please. So program limits.
5 We did put some limits on the program because we
6 didn't know how popular it was going to be, and we
7 wanted to make sure that -- we were sure there
8 were probably things that we didn't think about in
9 the way, and we wanted to work out all those
10 issues. So these are the limits that we put on
11 the program, just put some definitions on it. The
12 quarter is a three month program, and the first
13 quarter started July 2nd so it will go to October
14 2nd. And let's say, hypothetically, here are the
15 126 petitions in a quarter, we're just going to
16 hold those in abeyance until the following quarter
17 at which point they will be considered first.

18 Next slide, please. So the question has
19 come up, you know, why have sort of limits at all?
20 We wanted a balance of a lot of things. So
21 certainly we wanted to provide you, the
22 stakeholder, the opportunity to flip to the front

1 of the line those applications in appeals and that
2 you really valued. So we certainly wanted a
3 robust participation, so we don't want to make it
4 too low. However, we also didn't want to make it
5 too high because, for example, we just want all of
6 our appeals to roughly come out at the same time.
7 So we didn't want to make this a, you have to do
8 this in order to get your appeal in a timely
9 manner system.

10 The regular appeal system works fine.
11 We've shown you all the statistics on our current
12 pendency and they're all trending in the right
13 direction. So this is really just an added bonus
14 for those few applications we think you think are
15 that important. And we also got the question, you
16 know, I don't want to be the 126th appeal. How do
17 I know? So for that we -- you can track the
18 progress on our fast track webpage.

19 If you can go to the next slide. So
20 here are the numbers as of August 3rd. If you
21 want to do a pace, it's roughly about one a day,
22 although it slowed down recently. And so the most

1 recent information we've had 38 petitions received
2 in a quarter. We have had some denied and mostly
3 they've been denied because they were too early.
4 So one thing -- one of the requirements was we do
5 need an appeal number assigned, and some people,
6 it seems, jumped the gun a little bit. And so they
7 knew they were going to appeal a petition so those
8 are denied at the moment. But certainly, once an
9 appeal number is assigned that is something that
10 can be petitioned again.

11 Next slide, please. Hearings. Do
12 hearings count? Yes. Heard cases can be fast
13 tracked and in the hearing request we know this
14 environment, perhaps not as relevant, but you can
15 include a time and location preference with the
16 request. We will do our absolute best to
17 accommodate that request. Having said that, we do
18 have resource limitations as to office locations,
19 judges, you know whether it can do it by video or
20 telephone. So just know that, you know, we'll do
21 our best, but we may not be able to give you your
22 exact preference.

1 Next slide. And one of the things,
2 unfortunately, is once we grant the petition and
3 then once we give you a hearing date, time, and
4 location, unfortunately you cannot -- we cannot
5 request -- accept a request for rescheduling of
6 the hearing in order to stay in the pilot program.
7 Now, that's not to say there aren't options. So
8 for example, you can decide that you know, the
9 hearing is very important, and you absolutely want
10 to make it work. That's fine. You know, the case
11 will just be out of the fast track program and
12 will be put on a sort of normal schedule.
13 Certainly relevant today, you can just request
14 that it be by video or telephone so that's a
15 location independent, and so we can accommodate it
16 that way.

17 Another option is just to waive the
18 hearing at that point and continue along the fast
19 track. And as we all know, for now, the default
20 for all hearings, appeals hearings, including fast
21 track is telephonic and sort of you can track the
22 status of that at the USPTO corona virus website.

1 Next slide. So again, just some links
2 to the Federal Register notice as well as our fast
3 track website which again, has frequently a asked
4 questions section. So hopefully we'll be able to
5 respond to most of them. We know there's always
6 going to be exceptions, so there is contact
7 information, and email addresses at that page as
8 well. So feel free to refer to that.

9 Next slide, please. So with that, my
10 portion is completed unless there are any
11 questions.

12 MS. BONILLA: I thought I'd wait a quick
13 second to see if there are any questions on that
14 part before we move on.

15 Well, in any event, people can continue
16 to ask questions after we go. In the interest of
17 time we thought we would just cover the next two
18 slides, but we do have extra slides at the end
19 that go into more details about what we're going
20 to cover here. What we thought we would just
21 mention really fast is that we've had a lot of
22 stuff going on at PTAB and we just wanted to

1 mention some of the new initiatives that we've
2 been working on.

3 Of course, one of them is the fast track
4 appeal pilot that Mike Kim just mentioned. And
5 another one, of course, is the -- what we call the
6 LEAP, which is the legal experience advancement
7 program. The director spoke about this earlier
8 today. But I just wanted to mention this program
9 started on May 15th and we are very excited about
10 it. We've made -- we've had a lot of people being
11 involved in it. About 11 practitioners have asked
12 to be involved so far and have all had their
13 hearings. So far it's been going very, very well.

14 Just a reminder, if a LEAP practitioner
15 requests to participate in these parties receive
16 15 minutes of extra argument time. And I just
17 want to underscore that this is for any case. In
18 any case that's appeared, where there are no more
19 hearings before the board. So this is those AI
20 cases, ex parte appeals. And in the ex parte
21 realm that's pretty significant because normally
22 an appellate has 20 minutes of argument time. If

1 they have a LEAP practitioner involved they get an
2 extra 15 minutes so it's quite notable and worth
3 keeping in mind.

4 And also, we tell folks when we did, you
5 know, try and promote the program is that you can
6 still have an experienced co-counsel there. And
7 if needed, the person with less experience needs a
8 little bit of help, they can get it. For example,
9 the experienced co-counsel can step in if needed
10 and clarify any statements as needed. So please
11 keep that in mind if you're going to be arguing
12 before the Board. We are very excited about that
13 program.

14 I just want to mention, of course
15 everybody knows about our motion to amend pilot.
16 We talked about this program before. It started
17 back in March of 2019, it's for any AIA cases that
18 are instituted after March 15th of that year.
19 It's two new options for patent owners; either
20 they can request preliminary guidance from the
21 Board, or they can -- whether they request
22 preliminary guidance or not, they can file a

1 second revised motion to amend if they wish based
2 on the information they got, either from
3 petitioner or the Board in that preliminary
4 guidance.

5 And so far in the program, 83 motions to
6 amend have been filed. About 85 percent of them
7 have actually, if they were filed during the pilot
8 program, they actually requested preliminary
9 guidance. So a lot of people are taking advantage
10 of the motion to amend program. We've issued
11 about 44 preliminary guidance is so far, and
12 patent owners have filed about 31 revised motions
13 to amend. And nearly all of those were after
14 receiving preliminary guidance. We've been
15 starting to trickle in a few of the final written
16 decisions, but not many so far. And once we have
17 a little bit more participation we'll provide some
18 statistics there.

19 We also want to know we have two pending
20 notice of appeals rule making, one related to
21 burdens in the motion to amend space as well. We
22 have a second one that's addressing institution of

1 AI trials and for example, it conforms with SAP,
2 you know the all or nothing institution. And
3 also, responsive briefings such as sur-reply.

4 So we've received all the comments on
5 those NPRNs and we're carefully considering them
6 now, so stay tuned on those.

7 If we go to the next slide.

8 MR. SEARS: Jackie, can in interrupt for
9 a moment, Jackie?

10 MS. BONILLA: Sure. Absolute.

11 MR. SEARS: This is Jeff. I just want
12 to be mindful of the time. We are at 12:46, and
13 we haven't gotten to questions yet. Could we just
14 jump over to questions at this point?

15 MS. MAR-SPINOLA: Absolutely.

16 MS. BONILLA: Absolutely.

17 MR. SEARS: Thank you very much for a
18 great presentation. Julie, I'll turn it over to
19 you for the questions. I think Tracy may have
20 one.

21 MS. MAR-SPINOLA: Yes, thank you. And
22 Jackie, apologies. Feel free if there's anything

1 in particular that you want to add, I don't want
2 to cut you off prematurely there. But let me ask
3 Tracy Durkin to pose her question and then we can
4 go from there.

5 MS. DURKIN: Sure. My question has to
6 do with the study on the ex parte appeals
7 pendency. And I noticed that PC2900 was not
8 included, 2900, as you know was a design patent
9 center. So Mike, I wondered if there was a reason
10 why they were not part of the study?

11 MR. KIM: Sure. So we certainly do
12 track that. The reason -- but we actually, if you
13 go to our regular -- we -- PTAB page on
14 statistics, that is included in there as well.
15 The short answer is because there's so few, they
16 jump around all over the place. And so far as
17 management goes we do have a set of, like I said,
18 a set of judges who work on them. But yeah, if
19 you see the numbers, I mean they sort of vacillate
20 like crazy based on what comes in.

21 So it is something we're tracking. It's
22 not something we track as closely as far as

1 technology rebalancing goes because those are sort
2 of like the lumbering behemoth compared to design.

3 MS. DURKIN: Thanks.

4 MS. MAR-SPINOLA: Jeff and Jackie, you
5 know we have two more minutes. Do you want to
6 close up? Again, I feel bad for Jackie.

7 MR. SEARS: Jackie, I yield my remaining
8 two minutes to you.

9 MS. BONILLA: No worries at all. I was
10 just going to talk a little bit about other
11 updates. Some extension of deadlines under the
12 CARES Act. Most of those automatic extensions
13 have actually expired so we have -- we tell people
14 -- we say, look, you know if you need an extension
15 on a case-by-case basis in any of our cases just
16 to reach out and that we'll address that. So even
17 though they aren't automatic at this point they
18 still do exist.

19 And then all else I was going to talk
20 about was, you know, just a recent top decision at
21 (inaudible) which relates to motions to amend.
22 And also, that we just issued other important

1 precedents on informed decisions. But a lot of
2 that is actually covered in the slides so we can
3 slide right by that.

4 MS. MAR-SPINOLA: Thanks, Jackie,
5 appreciate it. Jeff, any closing comments?

6 MR. SEARS: I want to thank the PTAB
7 today for a great presentation. I know usually
8 our presentations focus a lot on what's happening
9 in AIA trials and I really appreciate the change
10 of pace today focusing on ex parte appeals and
11 really highlight the great work that the PTAB is
12 doing on reducing pendency while maintaining
13 quality. Thank you very much for the
14 presentation.

15 MR. BOALICK: All right. And thank you,
16 Jeff.

17 MS. MAR-SPINOLA: Thank you.

18 MR. BOALICK: Thanks for the
19 opportunity.

20 MS. MAR-SPINOLA: Thanks, Scott. Okay
21 so we're going to transition over to innovation
22 expansion. Jennifer Camacho, our vice chair and

1 Valencia Martin Wallace is up next. Thanks.

2 MS. CAMACHO: Thank you, Julie. I just
3 want to very quickly, thank the whole subcommittee
4 on the new innovation expansion and make the point
5 that we've been through a tremendous time here
6 commensurate with the COVID pandemic. But the
7 commitment and the dedication of the subcommittee
8 and Director Iancu and the PTO as a whole has been
9 amazing. We have very a important issue with
10 innovation expansion that will be noted, but more
11 importantly we have a really terrific opportunity
12 there with the impact potential that the director
13 talked about this morning. So with that, I'd love
14 to hand that over to Valencia and let's get an
15 update.

16 MS. MARTIN WALLACE: Okay. Thank you,
17 Jennifer. Yes, I agree with what Jennifer said.
18 It's such an important issue and needs to be
19 addressed. So with everything happening with the
20 pandemic, with moving to this virtual space for
21 work and for meetings it's been a bit of a
22 challenge for us. We purposely was respectful of

1 everyone's time the opportunity they needed to
2 focus on just the day-to-day functioning of an
3 organization. So we had a bit of a lull in
4 preparing for the national council for expanding
5 innovation. We originally planned for April
6 inaugural meeting and because of everything
7 happening -- I apologize for that. But everything
8 happening that was not possible. And my dog hates
9 the fact that we didn't do it either. I
10 apologize.

11 So what we have done in the meantime
12 though -- I'll tell you -- I'll give you an update
13 on the Council but also, I wanted to let you know
14 that in the meantime we really took that
15 opportunity where we weren't spending as much time
16 meeting and discussing with the members of our
17 community to really focus on the research minded
18 we needed in order to stand up the national
19 strategy. Because the whole purpose of the us
20 pursuing the council was to make sure that we were
21 developing the most comprehensive, the most
22 practical strategy that we would plan to release

1 to our community.

2 So we've been spending a lot of time
3 with developing just the concept that we would
4 like the council to weigh in on the direction to
5 go. So we have not been wasting time even though
6 we really haven't they been as visible as we
7 wanted to be over the last few months. So with
8 that said, I'd like to share where we are with the
9 council.

10 So we are -- I'm very, very happy today.
11 We are confirmed for September 14th for our
12 inaugural meeting with our chair, Secretary of
13 Commerce Ross, as well as our Vice Chair Director
14 Ianco. We have committed 22 members to our
15 council, and you know when we first started this
16 we were thinking somewhere between 15 to 20
17 members on the council as we move forward.

18 And as we've been sharing what we want
19 to do, the reasons why, the energy around it,
20 everyone has wanted to be a part of this. Not
21 just the moving forward on what do we do within
22 this arena to make a more inclusive environment

1 for innovation. Because everyone that we are
2 talking to has put together programs, initiatives,
3 and so much on their own that it's the collective
4 that's coming together we're sharing what's being
5 done. Sharing the successes.

6 Sharing the areas that maybe weren't so
7 successful so that we can avoid those, or at least
8 understand why. And making sure that we are
9 moving together so the energy around this has been
10 amazing. Twenty-two committed council members,
11 and among that group we have the administrator of
12 the office of administration. We have the
13 director of NSF. We have university presidents.
14 We have from industry we have C suite members of
15 large, small, medium corporations including CEOs.
16 We have members of professional organizations as
17 well as members of nonprofit organizations who are
18 striving in this area as well. Now, I'm not
19 giving any names at this point because we will
20 have our reveal. So I'm going to have the
21 anticipation growing so you keep going with us and
22 keep tuning in.

1 We have a webpage for expanding American
2 innovations that will be going live very soon.
3 We're just finishing up clearances on that. So I
4 will be sending out notice when we go live on our
5 webpage, that will share many things about this
6 movement, not just the council. So we will share
7 the members of our council along with their
8 background, but we'll also share our events
9 calendar. And the events calendar will let
10 everyone who goes to our site know when the
11 different events we're doing, the different
12 initiatives not just within the council but just
13 in general within the arena to make sure we get as
14 many people as possible to participate, and to
15 give their feedback.

16 We're also going to have a section of
17 our webpage that shares how to get involved. So
18 being a member of our council and working on
19 strategy is just one very small portion of this
20 giant movement. And there will be many, many ways
21 that our community can get involved. And we want
22 to share what we know, share what others are

1 doing, and how they can get involved, and how they
2 can help us give feedback to what we're doing as
3 well as get input as to what they feel we should
4 be addressing as part of the strategy. So that
5 will be coming out very soon.

6 We also, as I mentioned, are looking
7 forward to September 14th and we're finalizing the
8 details on that. I did mention that we're looking
9 for everyone to get involved so part of that
10 comments, ideas, data, projects, so we do have an
11 email address, and I'll say it slowly. It's
12 short, but I'll say it slowly because I don't
13 believe it's -- I see it up here. It's
14 nceai@uspto.gov. So is the initials of our
15 counsel, nceai@supto.gov; that is constantly
16 maintained we are looking for as much comments
17 coming in as possible to share with us so that we
18 can make sure that everyone's voice is heard on
19 the strategy.

20 And with the strategy, we are looking
21 forward to a publication of the strategy this
22 winter, and after that. So I don't want to get

1 too far ahead of myself so we will be planning
2 events around the publication of the strategy and
3 socializing the strategy and answering questions
4 and awareness. So that's where we are now with
5 the update. I do believe we have a presentation
6 by Bismark Myrick that's coming next. I don't
7 know if you want to have any questions from me now
8 or just wait until the end.

9 MS. CAMACHO: Valencia said there is one
10 question from the public. And that's, without
11 spoiling your big reveal, the question relates to
12 the consideration that was given to the makeup of
13 the council overall. For example, does it include
14 actual inventors, who are inventors themselves?

15 MS. MARTIN WALLACE: Absolutely. We
16 actually we do. We have independent inventors
17 because we weren't looking for just large
18 corporations, big government, you know, to be part
19 of this. It's every aspect of the innovation
20 community. So we have reached out to venture
21 capitalists, we have reached out to small
22 businesses, large businesses, independent

1 inventors. We've reached out to professional
2 organizations in all of the STEM fields, along
3 with industry and government, and academia. So we
4 have made sure that our council represents the
5 diversity that we are looking for in our
6 innovation community.

7 MS. CAMACHO: Thank you, Valencia. And
8 if there's no other questions at this point, let's
9 turn to Bismarck. Bismarck?

10 MR. BOALICK: Good afternoon. I hope
11 you can hear me.

12 MS. CAMACHO: Yes, we can, thank you.

13 MR. BOALICK: Oh good. Great. My name
14 is Bismarck Myrick and I work in -- work for the
15 USPTO as the director of the office of equal
16 employment opportunity I came to USPTO from the
17 Equal Employment opportunity commission where I
18 worked as a civil rights attorney focused on the
19 areas of the federal sector.

20 Each of you, on the TPAC are, and
21 represent important stakeholders. I can
22 personally vouch because I have a distinction as

1 being the longest serving member on USPTO's
2 executive committee. I can personally vouch for
3 the fact that every decision that I witnessed
4 being made has stakeholders' interests in mind.

5 I do want, however, for just a moment to
6 think about a dimension that stakeholders might
7 not immediately think about. And that is to think
8 about the USPTO as a large employer. A large
9 employer with 13,000 -- approximately 13,000
10 employees who are majority minority. About 26
11 percent of our employees are Asian American, a
12 little more than 20 percent are African American,
13 we're one third female. So that's my perspective
14 on the workforce of USPTO.

15 Within our office, the office of EEO and
16 diversity, we have three major functions. The
17 first function is to process complaints of
18 employment discrimination. And every federal
19 executive branch agency has an office that set up
20 to process complaints. And I'm not going to talk
21 in detail about that, but I do believe that you
22 must have, in order to have an effective diversity

1 program, you must be able to respond quickly to
2 complaints raised of employment discrimination.
3 So we process those complaints.

4 The second thing we do is we ensure that
5 individuals with disabilities and job seekers have
6 the accommodations that they are entitled to under
7 the law. And then the third thing, and what I'd
8 like to talk to you about today that we'll focus
9 on this afternoon is one responsibility that we
10 have which is to leverage the diversity of the
11 workforce for optimum engagement. And I'll talk a
12 little bit more about what that means to me.

13 If it's okay, could we advance to slide
14 2? In an attempt to leverage the diversity of our
15 workforce for optimal engagement there are a
16 couple of initiatives that we have underway that I
17 wanted to highlight. The first thing is that we
18 know that nothing gets done at USPTO without our
19 people. And we know that our people are some of
20 the most sought after workers in the American
21 economy, mainly they are STEM workers and lawyers,
22 and often -- and in many cases both.

1 In order for the USPTO to kind of win
2 what I call the war for talent, but which could be
3 -- maybe you could say something a little bit
4 nicer about it, to compete for talent. One area
5 that we leverage is we leverage our diversity
6 program. It is part of our recruitment strategy.
7 It's part of the way that we market the USPTO as
8 an employer. It's part of how we encourage our
9 employees to reach out through their own personal
10 networks.

11 And we seek out these diverse
12 candidates, many diverse candidates, it's kind of
13 a self-fulfilling process. When you have a
14 diverse workforce you then leverage the word of
15 mouth recruitment from that workforce to continue
16 to recruit diverse and highly qualified job
17 seekers. So that's one aspect of how we are
18 leveraging the diversity of our workforce.

19 Another aspect of our diversity program,
20 a proactive program is that we conduct an annual
21 audit with the goal of identifying, reducing, and
22 where possible, removing barriers to the equality

1 of employment opportunity. So we use a kind of a
2 checklist where we are looking for barriers,
3 looking for triggers, things that cause us to ask
4 questions about equality of employment
5 opportunity. And then we develop a strategy each
6 year to help to lower, reduce, and hopefully,
7 then, remove barriers to equality of opportunity.

8 And then the third thing -- the third
9 kind of strategy that we use in this regard is
10 that we are really dedicated to ensuring that our
11 managers and supervisors have the tools that they
12 need to manage a diverse workforce. That means we
13 provide educational programs for our hiring
14 officials, our supervisors, for our employees we
15 try to provide our employees and our managers with
16 job skills training, implicit bias training, and
17 other trainings to make sure that they are
18 effective in managing and leading people, and
19 managing and leading a diverse workforce.

20 Kind of our final focus in establishing
21 and leveraging the diversity at USPTO is that we
22 really want USPTO to be thought of in all of

1 government as the employer of choice when it comes
2 to diversity and inclusion. And in this regard,
3 one thing comes to mind that happened almost just
4 one week ago, is we had our annual community day
5 celebration. For the first time we were able to
6 host that celebration entirely virtually and this
7 was really a showcase of the diversity of the
8 USPTO from a remarkable perspective, not just from
9 race and national origin, but also covering
10 diversity in interests.

11 So there were different groups that set
12 up virtual tables for our employees who are
13 encouraged to visit those tables and consider
14 joining organizations. And we had over 9,000 hits
15 of our 13,000 member workforce we had 9,000 unique
16 hits to our community day landing page for our
17 first ever virtual community day. And those are
18 the kind of initiatives that we want to continue
19 to highlight so that the USPTO remains
20 top-of-the-line when it comes to diversity and
21 inclusion in the federal sector.

22 If it's okay, I would like to skip slide

1 and move directly to slide 4, because I wanted to
2 talk mainly about one of our strategies that is
3 particularly effective. The slide that you see
4 here are the logos of our very best affinity
5 groups at USPTO. These are voluntary employee
6 organizations and unlike other organizations that
7 are bound together by a shared interest that
8 employees have, these groups are bound together by
9 a sense of shared identity. And I wanted to talk
10 a little bit about the history of how these groups
11 came to be and how we are leveraging these groups
12 for the benefit of the office.

13 So several years ago I thought it would
14 be a good be a great idea for us at the USPTO to
15 establish a government chapter of the National
16 Society of Black engineers. I saw many, and
17 continue to see many benefits of establishing such
18 an organization. First, I thought having a
19 chapter of a primarily collegiate organization
20 would help us to establish a kind of a gateway, or
21 a pipeline to the USPTO from engineering schools.
22 But I also thought that we could use the

1 beneficial Society of Black engineers also to
2 foster within the USPTO a peer support network
3 that would help to encourage high performance and
4 engagement. So this was a very easy thing for us
5 to do. We kind of put an announcement out if
6 anyone would be interested in joining the National
7 Society of Black Engineers, and we had a
8 tremendous response in employees joining that
9 organization.

10 After announcing and helping to
11 establish that chapter of the National Society of
12 Black Engineers, the idea of establishing affinity
13 groups and joining together really exceeded my
14 expectations. There were groups that I never
15 thought would ever come into existence that were
16 coming to see me about banding together. And I
17 started to take the approach, and I still continue
18 this approach today, that the more groups that we
19 have the better. Our goal is to reach everyone.
20 To make everyone feel uniquely included and
21 valued.

22 And I wanted to kind of share with you

1 some of the ways in which our groups are working.
2 Our military Association, as just an example, has
3 helped in the USPTO to better support our veterans
4 who leave active duty and transfer into the
5 civilian sector of the federal government, and
6 there helping us to improve the way that we help
7 them to transfer their leave and retirement
8 balances into the federal space.

9 Our network of executive women is doing
10 some fantastic work because we all know it's not
11 just about recruiting and advancing women into
12 senior positions, but we want those women in the
13 senior-level positions to remain there. And so
14 our network of executive women is helping to
15 provide the support that women need to stay, to
16 remain in the executive sector and to contribute
17 to the greatest -- to the maximum possible degree.

18 Our APAnet, or Asian, Pacific, American
19 network is one of our largest affinity groups.
20 Asians are our largest minority group at USPTO.
21 And they have done, and continually do fantastic
22 groups. They have over 900 dues paying members.

1 They are able to put on career development
2 seminars with the dues that they collect, and they
3 add something that's very important, that's food.
4 Food is a great way to get people into places to
5 hear the messages about career advancement.

6 Our LGBTQ PTO chapter is helping us, for
7 example most recently, helping us to create
8 policies that make sure that our workforce is
9 inclusive for people in the LGBTQ community. Most
10 recently they helped us to develop a policy that
11 helps to make sure that there is a smooth
12 transition for people who are transitioning
13 genders in the workplace.

14 Our National Society of Black Engineers
15 developed a prep course for a promotion exam from
16 GS12 in the government to a GS13. Our employees,
17 our patent examiners, are expected to pass the
18 certification exam and the National Society of
19 Black Engineers created the preparation course for
20 that exam, and that course has subsequently been
21 adopted by the office of the best practice.

22 One group that I just really want to

1 tell you about, our society of Ethiopian American
2 Engineers and Scientists. Again, not a group that
3 I was kind of helping to encourage the form, or
4 not a group that I had in my mind as being a group
5 that we needed to encouraged to form, but once
6 they did establish themselves we've been doing --
7 we've been able to reach more -- a workforce that
8 we didn't -- we've been able to reach a group that
9 we would not have previously been able to reach.

10 I'll just pause here and just give you
11 one anecdote about this group. They approached me
12 about having kind of an intellectual property
13 overview on a Friday at 5:00 during the
14 springtime. And they asked me if you can reserve
15 our largest auditorium space, that Clara Barton
16 auditorium at USPTO's headquarters. There was no
17 way that I thought that anyone would show up at
18 5:00 on a spring Friday. They even asked me if I
19 could help them to secure parking.

20 And I thought that this was kind of a
21 trivial pursuit. That after all, who would come
22 to such an event, just a general overview. On the

1 date of the event on that Friday, we had over 300
2 members of the Ethiopian American community down
3 in our largest auditorium just to hear about an
4 overview of intellectual property. And, you know,
5 this event was advertised using empiric language
6 media in the Washington, D.C. area and we were
7 even able to stream them using the Voice of
8 America.

9 We have received feedback from Ethiopia.
10 We have an engineering professor who taught some
11 of our examiners who contacted us and said that
12 they actually watched the presentation in Ethiopia
13 that we were broadcasting from our Clara Barton
14 auditorium.

15 You talk about the reach. I could go on
16 and on, are Society of Hispanic Professional
17 Engineers, we started the first ever government
18 chapter. They are really helping us with our
19 Hispanic recruitment initiative. One of the
20 things that they're doing is they're going out to
21 Dulles Airport and picking up our new recruits
22 from the University of Puerto Rico and helping

1 them find a place to live and showing them where
2 they could buy a jacket. And I mean, our groups
3 are doing fantastic things.

4 I'll just share with you one other
5 story. We have a Caribbean Intellectual Property
6 Association. Another group that I didn't think
7 that we needed at the USPTO. But once formed,
8 just had an incredible reach. I was in
9 Tallahassee, Florida visiting my alma mater,
10 Florida State University, and when I was there I
11 got into an airport shuttle with some women who
12 asked me where I worked. And I told him I worked
13 for a small bureau of the Department of Commerce.

14 Then they asked me well, which bureau?
15 And I said, well, I work for the Patent and
16 Trademark Office. And they said, oh really?
17 Well, we have been to the Patent and Trademark
18 Office as a guest of the Caribbean Intellectual
19 Property Association. I was just so taken with
20 the fact that our groups have extended our reach
21 to help to share information about protecting
22 intellectual property and help to kind of help

1 with our organizations core mission.

2 I don't know how much more time that I
3 have. But this might be a good time to kind of
4 opened it up to see if there are questions.

5 MS. CAMACHO: Yes, perfect timing,
6 Bismarck. I was just reminded of the time so to
7 the extent that anyone might have questions, now
8 is a great time to ask them. And let's -- was
9 that a question?

10 MR. CHAN: Yeah, I had a question. This
11 is Jeremiah. Bismarck, thank you very much. It's
12 great to hear some of those anecdotes and the
13 initiatives that you've kind of outlined. You
14 talked a bit about kind of the importance of
15 diverse recruiting, and really kind of seeking
16 talent from all segments of the country. I'm just
17 wondering how you consider looking at diverse
18 representation as you move up the ranks in the
19 organization as well? Thank you.

20 MR. MYRICK: That has frankly been a
21 challenge for us, and one that I am working on,
22 and have been working on for some time. In a

1 challenge, frankly, that our director has tasked
2 me and others on the executive committee with
3 looking at.

4 I think that there are kind of three
5 important components to ensuring that we see
6 diversity in the executive ranks, that we see in
7 the work force at large. We've got to make sure
8 that people are interested in positions, that
9 everyone with the talent becomes interested in
10 providing more to the organization in the form of
11 becoming an executive and working there. We also
12 have to make sure that everyone is provided with
13 the preparation, or access to the preparation to
14 be competitive as they seek to kind of climb the
15 career ladder.

16 And the third thing that we have to do
17 is we have to make sure that our selection process
18 itself is fair and open to everyone.

19 And so those are the kind of three
20 focuses that the three kind of pillars of our
21 strategy on ensuring that the senior level is as
22 diverse as our work force at large.

1 These are our --

2 MS. MARTIN WALLACE: Can I just add a
3 little bit to the --

4 MR. MYRICK: Yeah, uh-huh. Yes, go
5 ahead.

6 MS. MARTIN WALLACE: Just add a little
7 bit to what Bismark is saying. He's done such an
8 amazing job with the affinity groups getting them
9 involved, engaged and feeling accountable and
10 responsible for our Agency and PTO as a whole, as
11 part of what he did to what Jeremiah is asking
12 that I thought was just brilliant. You know,
13 because most of our affinity groups are our
14 examiners, or the employees, we have managers as
15 well as part of them, but the majority are our
16 employees, our examiners.

17 And he matched an affinity group -- each
18 affinity group with an executive advisor so that
19 there is a connection between our employees and
20 the executives in making sure that there is
21 mentoring and coaching from our highest level
22 within our organization to those who are coming up

1 through the ranks. And I am going to brag a
2 little bit because some of my coworkers are
3 deputies are executive advisors. Rick Seidel,
4 Robin Evans, Andy Faile are all executive advisors
5 helping to promote our employees and guide them
6 through.

7 MR. MYRICK: Valencia Martin Wallace is
8 also an executive advisor.

9 MS. CAMACHO: I'd like to thank you
10 both, not only for the great presentations today
11 but all the work that you do every day there.
12 It's really very much appreciated and very much n
13 needed. Thank you.

14 MS. MAR-SPINOLA: Okay. Thanks to
15 Jennifer, and Valencia, and Bismark. That was
16 very interesting. And Bismark, we need to give
17 you some more time to connect on all those
18 organizations. They're good to know. They're
19 important to know. And I think the more the
20 Patent Office is able to highlight that I think
21 you're going to have just an incredibly robust
22 activity there. So good work on that. Thank you.

1 Okay. So --

2 MR. MYRICK: Thank you.

3 MS. MAR-SPINOLA: -- we're trying to
4 keep on time and we're almost there. We're going
5 to transition now to legislative updates and that
6 will be with Branden Ritchie and Kimberly Alton.

7 Branden.

8 MR. RITCHIE: Hello everyone. Branden
9 here. And Kim is normally right by my side on
10 these and today having some technical
11 difficulties, so I'll represent for OGA today.
12 But I will certainly miss Kim's guidance. So with
13 that I will go ahead and start. And let's see if
14 we can go to the next slide?

15 MS. MAR-SPINOLA: I want to ask if
16 everybody can hear Branden very well. You're a
17 little --

18 MR. RITCHIE: Oh, I'm sorry. Is that
19 better?

20 MS. MAR-SPINOLA: Better, much better,
21 thank you.

22 MR. RITCHIE: Okay. Sorry about that.

1 MS. MAR-SPINOLA: Now, you sound like
2 okay. Thank you.

3 MR. RITCHIE: Okay. Great. Great. So
4 we'll first go through some of the legislative
5 activity that has been going on since last we
6 spoke. And there's been a lot. We have -- the
7 House passed bill to create a new incentive for
8 the Patents for Humanity program that we do at the
9 PTO, awards for individuals and companies that
10 invent things that can help with global
11 humanitarian problems.

12 And so currently, the folks that receive
13 the award receive an acceleration certificate for
14 patent examination, and there's a bill that passed
15 in the House and is now pending in the Senate
16 which we expect will pass, at some point, that
17 would -- that will allow that acceleration
18 certificate to be transferable to others by the
19 awardee, including for compensation. And that
20 would just provide a little more flexibility.

21 Sometimes the inventors have but one
22 invention and it's already been examined but it

1 would give inventors that invent things to solve
2 these needs a little more flexibility for what
3 they can do. So that is a bill that were
4 watching.

5 In addition, the House and the Senate
6 has -- they have both now introduced -- I'll
7 update the slide here, legislation that would help
8 to provide more information with respect to the
9 demographic backgrounds of folks that are named
10 inventors in the patent application. And we are
11 providing technical assistance on that. We agree
12 with the concept of the bill that we do need more
13 information and our SUCCESS Act studied that we
14 filed with Congress last year. That was one of
15 the main conclusions, that there's not a lot of
16 publicly available information on the rates of
17 inventing for folks in these groups. So were
18 working with Congress on that and monitoring that
19 as well.

20 We're also monitoring bills, right now,
21 as we're getting toward the end of the Congress,
22 there's a lot of activity and with respect to

1 COVID related legislation and also drug pricing
2 related legislation, and we are very aggressively
3 monitoring those bills to see what the potential
4 impact might be on IP rights. So that's something
5 that were constantly working on and monitoring.

6 Could you go to the next slide? Another
7 -- one of our big initiatives has been to
8 permanently extend the TEAPP program which allows
9 our examiners to work from anywhere in the
10 country. In the best way to describe that is, you
11 know, without TEAPP we can recruit the best and
12 brightest scientist and attorneys from all over
13 the nation that want to come to DC. But with
14 TEAPP we can recruit the best and brightest across
15 the nation period. And it results in tremendous
16 savings to the office, and benefits to the
17 employees. And there's a lot of -- there's
18 consensus that that should be extended.

19 We've had a lot of progress, so in the
20 House the bill to make it permanent was included
21 as an amendment in the national defense
22 authorization act. So that House -- and it was

1 passed by the House. So the house has put their
2 stamp of approval on this legislation. And in the
3 Senate the committee of jurisdiction is the
4 Homeland Security and Government Affairs
5 Committee, and they had a markup of the bill last
6 month, and it passed out of committee unanimously
7 without amendment.

8 So there's a lot of support for this on
9 the Hill. And we are hoping that there's to pass
10 that the legislation can take, either as a
11 standalone bill, or as part of the NDAA. And so
12 we're hoping, and working hard, to make sure that
13 gets signed into law before the end of the year
14 just to provide certainty to the agency so that we
15 can do our planning and make that program as
16 robust as it can be. So a lot of progress was
17 made there.

18 With respect to the appropriations bill
19 the House did mark up the CJS appropriations bill
20 and provided 3.7 billion for the PTO. Jay, I'm
21 sure, will go into further detail about -- or he
22 either has or will about the fee situation.

1 But no surprises with the appropriation.
2 The annual appropriation had the same language
3 that we've been used to for the past many years.
4 And they matched what we had expected that we
5 would collect in the revenue. So that passed the
6 committee and it also passed the house. And so
7 that awaits further reconsideration. I will say
8 that most folks believe that there will be a CR
9 that lasts for a few months into the new fiscal
10 year, most likely until December. That's what
11 we're hearing. So the actual language might not
12 be done until after that, but the House did pass
13 our language.

14 And in that light, with COVID and those
15 -- the difficulties and adjustments in fee
16 revenues and things like that that we saw, we have
17 been providing regular updates to both the
18 judiciary committees and the appropriation
19 committees about the status of our fee collections
20 on a regular basis ever since the beginning of the
21 pandemic. So we continue to do that as well. And
22 they've really appreciated that, and they

1 appreciated the transparency and open
2 communication on those issues, which has been good
3 for the Agency.

4 We can go to the next slide. Okay.
5 Beyond that, a couple of other just quickly on
6 legislative efforts. In the Senate the Senate
7 judiciary committee has been focused a lot on
8 examining the Digital Millennium Copyright Act.
9 That's a copyright issue so I won't spend much
10 time on that today. But they are reviewing that
11 to see if it's still working as intended. And
12 they're also looking at, and discussing the
13 potential legislation to create more enforcement
14 mechanism by making it a felony to stream digital
15 content. So we're monitoring those efforts and
16 those discussions, trying to stay on top of that
17 as well.

18 We also received, in April, a letter
19 from the chairman and ranking members of the
20 judiciary committees in the (inaudible)
21 subcommittees of the judiciary committees, and
22 they wanted to get more information about how the

1 transition to telework went and also cost cutting
2 measures we had to do, and in addition, a little
3 more information on our fee situation. And so we
4 replied to that with a letter to those members a
5 couple of months ago. And it was -- the letter
6 was good, and it actually started by thanking the
7 PTO for the great efforts that they did in the
8 transition and the leadership and proactive
9 leadership that we had to make that as smooth as
10 possible. And that was really a good indication
11 that they're closely watching us. And they were,
12 you know, they were appreciative of the proactive
13 efforts that we took. So I thought that was
14 great.

15 Okay. We can go to the next slide. We
16 also received a request from Senator Tillerson and
17 Senator Leahy's office. They asked us to do some
18 research into the instances of states willfully
19 infringing patent and trademark rights. And so
20 they asked us to do some research on that and get
21 back to them by April 30th of 2021. So Jeremiah
22 has -- or will talk about that further because OPI

1 is taking the lead on doing the research and
2 analysis on that issue. But I'll just say it as a
3 placeholder here today, that's an inquiry that is
4 ongoing that is pending that we're working on.

5 So we can go to the next slide. So as
6 we mentioned before, one of our big efforts right
7 now legislative is TEAPP and getting that
8 permanently extended. That fits within our
9 continuity of services priority. Another one is
10 our statute that provides for relief on timing
11 deadlines when there are emergencies. And so
12 we've been working on language to update that to
13 clarify that it covers instances beyond what the
14 face of the statute currently says.

15 And we had some success with that in the
16 CARES Act package. And we were able to work with
17 Congress and they provided us the authority to
18 grant relief to stakeholders due to the COVID-19
19 pandemic. So that was a very useful tool that the
20 Agency used to provide relief to stakeholders --
21 relief from timing deadlines. And so we would
22 like to continue to work on this and be able to

1 provide relief in instances beyond just COVID-19
2 because that language was very narrowly drawn
3 because that's how the bills were being written,
4 very narrowly tailored to the COVID-19 emergency
5 and no further. But that was good that we had
6 that that was a success. A legislative success
7 for us.

8 We're also continuing to work on our IP
9 attaché rank issue. Make sure that they are able
10 to have the appropriate rank to be in meetings
11 overseas to have even more weight to the messages
12 that they carry. And we're actively and
13 aggressively working on that.

14 I talked about the TEAPP extension
15 already, and then just generally providing
16 technical assistance regarding patent related and
17 frankly the trademark and copyright related
18 legislation. That's an ongoing process, we do
19 that all the time and we'll continue to do that as
20 well.

21 So with that, I think hopefully we can
22 get you guys back on schedule. Ours was brief.

1 As you can see there's a lot going on but
2 hopefully that was a good summary and I'm happy to
3 take any questions.

4 MR. GOODSON: Hi. This is Mark Goodson.
5 How are you?

6 MR. RITCHIE: Great. How are you?

7 MS. MAR-SPINOLA: Go ahead, Mark.

8 MR. GOODSON: Yes. I noticed there was
9 not a mention of the STRONGER Patents Act. Did
10 that just go away? Or what is the status of the
11 STRONGER Patents Act?

12 MR. RITCHIE: So that legislation was
13 introduced in the Senate, as you know, and it's
14 still a pending measure. And we're monitoring
15 that as well. The status of that hasn't changed.
16 We haven't heard of that moving forward at this
17 point, but we're continuing to monitor it, for
18 sure.

19 MR. GOODSON: Does the Office have a
20 position on it? Or they're just going to monitor
21 it?

22 MR. RITCHIE: At this point we're

1 monitoring it, so I think we don't have an
2 official position on that particular piece of
3 legislation at this point, but as the process
4 unfolds on The Hill we'll continue to take a look.
5 Often these things change amendments and things
6 like that, and markups if they make it to that
7 point. And so we'll continue to talk with
8 stakeholders like yourself, and others, as that
9 progresses.

10 MS. MAR-SPINOLA: Branden, thank you
11 very much for laying out all the pending matters
12 that are going on right now. It's good news about
13 the appropriations, and would love to hear more
14 about that as it progresses. And thank you for
15 doing it in a way that allows me to stay on time.
16 But I think that all the things that are going on,
17 again, shows that the COVID-19 and the pandemic
18 isn't really slowing much down at all which is
19 great, in terms of -- in terms of the Patent
20 Office, I should say. I don't want to speak too
21 broadly on that.

22 But we thank you for your report. We

1 miss Kimberley. And look forward to our next
2 quarter's meeting.

3 MR. RITCHIE: If I may? That brings up
4 one last thing that I feel like would be good to
5 mention. And that is, through our conversations
6 with The Hill and other agencies that affected,
7 one thing that has come out in our discussions,
8 and it was included in the letter that the
9 Director sent back to the Judiciary Committee
10 leadership, was that, you know, through the
11 leadership of Jay Hoffman, we have discovered that
12 there was in fact -- there is in fact a very large
13 sum of previously-collected user fees from before
14 2011 when Congress ended CIDA (phonetic) Version
15 for the Agency that amounts to about \$1 billion.

16 And that is sitting in a Treasury
17 account at Treasury, in our account. And so that
18 was a huge discovery, and a huge progress as we
19 had been talking with folks on The Hill, they've
20 acknowledged that as well. And so, we'll continue
21 to work on that, and to look at options for
22 accessing that, but I shouldn't end this update

1 without mentioning that, which was huge progress
2 that we made that wasn't known before, so an
3 exciting development.

4 MS. MAR-SPINOLA: Well, it is. And I
5 wish that we all have a Jay Hoffman looking at our
6 accounts and finding extra money. But, no, that
7 is a very good and exciting turn of events for us.
8 And the fact that Congress is acknowledging that
9 that money is in the account, it says even more,
10 it's very favorable. Thank you.

11 I think what we can do is to utilize the
12 extra five minutes for an official break. And if
13 we can come right back at 10:45/1:45 that would be
14 great. Thank you, Branden. Much appreciated.

15 MR. RITCHIE: Thank you.

16 MS. MAR-SPINOLA: Debbie, hello? Are
17 you on?

18 MS. STEPHENS: Yes. Julie, can you hear
19 me?

20 MS. MAR-SPINOLA: Yes. Now I can. So,
21 are we ready to resume?

22 MS. STEPHENS: Yes.

1 MS. MAR-SPINOLA: Okay, all right. So,
2 it's now 10:45, 1:45 Eastern. And now we're going
3 to shift over to IT. The Subcommittee Chair is
4 Mark Goodson. And then we have Debbie Stephens.
5 I believe Jamie Holcombe will be on, and William
6 Stryjewski. Sorry.

7 MR. STRYJEWSKI: Yes. Yes. That's
8 okay. That's great job.

9 MS. MAR-SPINOLA: Okay. Well, let me
10 turn it over -- you're welcome. Let me turn it
11 over to Mark.

12 MR. GOODSON: Well, we have a number of
13 things we're going to hear about today. I think
14 the first order of business is, you know, once
15 again, tremendous work on the part of the IT
16 section in terms of this COVID. You were well
17 prepared for it. I've heard no complaints about
18 your work, none. And so I think we'll start by
19 talking about the Search rollout. What's
20 happening on Search?

21 MR. STRYJEWSKI: Ah. Jimmie, do you
22 want to pull up the slides?

1 SPEAKER: Sure.

2 MR. STRYJEWSKI: Thanks so much. So, go
3 to the second slide? Thank you. So, we're moving
4 to the next gen, where we're kind of already down
5 the road. That's replacing our legacy tools EAST
6 and WEST that was established in 1999. We have
7 approximately 1,500 to 2,000 examiners using the
8 tool. It's really important to get these early
9 adopters on to the tools so we can provide the
10 feedback and make the improvements.

11 The performance has looked really good
12 for us, so we're very excited that we're going to
13 continue through the rest of the year, and get a
14 majority of the examiners on the system before the
15 end of the calendar year. We're also
16 incorporating, since we have a new system that is
17 more on a modern platform, we can add more data,
18 therefore allowing examiners to find those
19 references that are so important to them.

20 We're including 60 additional full
21 countries with translations in them, and we've
22 loaded the French office, WIPO and the Chinese

1 office, and it's not just a subset of the
2 documents, it's a fully-translated, complete
3 version of the documents. So, we've always had an
4 ability to search abstracts and metadata the
5 documents, but in this case it's all them.

6 So, we're going to continue the rollout
7 through the rest of the fiscal year, all the way
8 into the New Year, working with the union to make
9 sure that they're getting the appropriate
10 training, and we're hitting all the marks. We're
11 going to complete the ingest of all the IP5
12 offices within the next -- the fiscal year, and
13 then continue to PCT min after that. So, again,
14 we really feel that the Search tool is going to be
15 a cornerstone in improving quality over time.

16 Any questions about the Search system?

17 MR. GOODSON: A comment. It was
18 mentioned earlier today that the plan, long term,
19 is to have the same search tool the examiners use
20 available to the public. But my understanding is
21 that we're talking several years off. Is that
22 correct?

1 group, and they do outreach through our
2 repositories, and we would probably leverage that
3 network. It's obviously a little bit sketchy with
4 the COVID situation since, you know, a lot of
5 those repositories are public libraries in
6 different states, or sponsored universities, and
7 we will probably have online stuff, and certainly
8 a variety of things.

9 So, I think we'll have a training
10 program for it. We're hoping it's fairly
11 intuitive, but certainly it's a powerful tool and
12 it will need some sort of training. So, we
13 haven't congealed all those plans. What I think
14 is important for us is to get off this legacy
15 system that we know is a risky item to continue to
16 lean on for our patentability decisions.

17 So, you know, job number one is to get
18 off the old system for the examiners, and then to
19 offer that same type of tool and power to the
20 public. But we will have change management plan
21 as we roll it out to the public.

22 MR. CALTRIDER: Well, if I may ask a

1 question before you move on from this slide in
2 Search. When you say foreign data ingest from IP5
3 countries and begin PCT minimum countries. What
4 do you mean by that?

5 MR. STRYJEWSKI: So, you know, we have
6 lots of resources on campus and, you know, the IP5
7 countries are the European Patent Office, Japanese
8 Patent Office, Korean Patent Office, and European
9 -- I think I got them all -- and Chinese Patent
10 Office. And what we're doing is we're taking --
11 we've always had abstracts and a percentage of the
12 documents in the Search system. Here we're going
13 to have a complete document, a complete image set,
14 all translated into English.

15 So, this way the examiners can parse the
16 whole document as opposed to just the abstract
17 part of the document. And we're going to
18 continue, down the road, with more foreign art
19 into the search system to allow for the examiners
20 to parse the whole set of document through the
21 whole collection. Does that answer --

22 MR. CALTRIDER: Is that something that's

1 new -- updates going to the foreign patent office
2 as you're -- would it be a regular --

3 MR. STRYJEWSKI: It will be updated
4 monthly. Yeah.

5 MR. CALTRIDER: Okay.

6 MR. STRYJEWSKI: We'll have it updated
7 monthly. Yeah.

8 MR. CALTRIDER: Got you.

9 MR. STRYJEWSKI: So it's the back file
10 and the front file. That's what we call it, the
11 back file, it's everything that's been published
12 in the past, and the front file is everything that
13 continues to go ongoing. Some offices have
14 different timeframes.

15 MR. CALTRIDER: Okay.

16 MR. STRYJEWSKI: But we'd be updating
17 them monthly. Yeah.

18 MR. CHAN: Hi, Bill. It's Jeremiah.

19 MR. STRYJEWSKI: Hi, Jeremiah.

20 MR. CHAN: Would you mind sharing a
21 little bit of the preliminary feedback from the
22 examiners who've been able to use the neutral, you

1 know? Are they finding more prior art? Are they
2 finding that it's reducing the amount of time to
3 search?

4 MR. STRYJEWSKI: I think the speed, I
5 think we have a feature that has found an
6 efficiency and a quality improvement that I could
7 speak to that makes sense. We have a thing called
8 highlight text on image, so everyone knows that
9 the U.S. references are two-column with line
10 numbering in them. Right? And in the past what
11 we do is we had an XML instance where we showed
12 and we highlighted the terms that they put in
13 their query string to allow them to identify what
14 part of the reference do they want to cite in
15 their Office Action.

16 Well, they would have to go back to the
17 image of the patent to kind of find that position
18 in there, and determine that line and column line
19 so they could cite it in their Office Action right
20 now. What we've done is, we've created the --
21 we've actually, in the image, created those
22 positioning points to identify where that text is,

1 and when we highlight that text on image, they can
2 actually just go right to the image and get that
3 information from the patent.

4 Therefore, when they disclose either why
5 this is patentable, or why this is rejected, they
6 pick up the line and column point, and it saves a
7 lot of time for the examiner, and to the quality
8 of that. So that's been a winning requirement for
9 us in a while. So, we're hoping we're going to
10 continue to get those benefits, and more
11 importantly on the modern platform we can build
12 more items into, and the features into it. We
13 were very hamstrung in the older platform.

14 MR. CHAN: Yeah. That sounds great,
15 Bill. I think after the broader rollout it will
16 be great to see some of those benefits kind of
17 quantified and shared. I think a lot of folks
18 would be thrilled to see some of that.

19 MR. STRYJEWSKI: And we'll definitely do
20 that, Jeremiah.

21 MR. CHAN: Thanks.

22 MR. HIRSHFELD: Hi. This is Drew. I

1 can't give you a specific feedback if Bill can.
2 But I will tell you that I routinely hear from
3 examiners how much they like this tool, and I've
4 not heard a single examiner say otherwise, that
5 they're not happy with the tool. And the kind of
6 feedback I get is, I've had examiners tell me that
7 -- they'll apologize and say, I know I wasn't
8 supposed to do that, but I told all my friends in
9 art unit, people about how to access the tool
10 because they think it's so great and they want to
11 be able to share with others.

12 MR. CHAN: Well, that's good -- that's
13 good feedback.

14 MR. STRYJEWSKI: Actually the numbers
15 show that, by the way. So, we've trained a set
16 amount of people, and more people are using it
17 than there are trained.

18 MR. HIRSHFELD: If you build it they
19 will come, right?

20 MR. STRYJEWSKI: Yeah. That's true.
21 We've been talking about for a while. So, again,
22 it's too early to completely put the wind up/down,

1 but we're feeling very good about this one.

2 If there're no more questions about
3 Patent Search I'll move on to Patent Center.
4 Could we go to the next slide?

5 MS. MAR-SPINOLA: That'll be great.

6 MR. STRYJEWSKI: Thank you. So we've
7 had the beta release at Patent Center that went
8 out in April, and the Patent Center, as everyone
9 knows, replaces the filing tool EFS-Web, and the
10 access tool private PAIR, and we're trying to
11 create more of a one-stop shop for our applicants
12 and the public for filing and getting data from
13 us. So, it allows for that merging, and hopefully
14 to find some more use cases to save some
15 efficiencies for the applicant side.

16 So, this is our new look and feel, we've
17 tried to streamline it a little bit more. Again,
18 we're looking for feedback as we go on, and you'll
19 see this also in the PTAB realm, this new look and
20 feel.

21 If we can go to the next slide, I can
22 talk about the program a little bit. So, we want

1 to just, you know, say a thank you. There's a lot
2 of feedback that goes into these tools. A lot of
3 focus sessions, a lot of understanding of what the
4 shortfalls of the old tool is. As I mentioned, we
5 did the beta in April for everyone, we will keep
6 this in production, and eventually phase out the
7 EFS-Web private PAIR thing.

8 We're trying to look for, obviously, a
9 parity of all the features and functions in the
10 EFS-Web and PAIR environment, and then, therefore
11 we'll see how long we'll run them in duality, but
12 we're really hoping that there's a larger adoption
13 towards Patent Center over time. The beta allows
14 the applicants to utilize those features. And
15 again, your feedback goes into this tool, and we
16 really hope we get as much feedback as possible so
17 we can build the best tools for you.

18 Are there any questions about the beta
19 release, or about Patent Center?

20 MR. GOODSON: This is Mark. Listen,
21 I'll just comment. I'm using it every day much,
22 much improved over public FAIR, much better.

1 MR. STRYJEWSKI: Thank you, Mark. I'll
2 definitely mention it to the team. I'll just
3 bring up one thing related to the Patent Center.
4 Obviously, Docx is used in Patent Center, it is a
5 file format for us to receive patent applications
6 for, we believe there's a large benefit to the IT
7 community at large by exchanging text with one
8 another. It was part of a lot of discussions in
9 the international realms for many years, so we
10 feel we're kind of -- you know, starting that
11 conversation, it's part of the rules package, and
12 that was published on August 3rd.

13 We delayed the implementation of Docx
14 until January 2, 2022. And during this timeframe
15 we really want, again, feedback from you of what
16 do you like, what are you concerned about. We've
17 gotten a lot of feedback from early adopters on
18 the tool, that they like the idea of just
19 attaching one Docx file. And then it separates
20 the different sections of the applications, the
21 spec claims and abstract, and it simplifies that
22 type of uploading feature.

1 So, again, Docx is part of our future
2 and our vision with respect to managing text
3 throughout the pipeline, and improving quality
4 both of examination and publication.

5 Does anyone have any questions about
6 Patent Center?

7 MS. MAR-SPINOLA: So, we have a couple
8 more minutes and I think we -- where are we on the
9 agenda? Are we at the PTAB system? Or do we have
10 a couple more?

11 MR. STRYJEWSKI: We have PTAB, and then
12 we have -- the least thing is just the Alternative
13 Site Processing.

14 MS. MAR-SPINOLA: Okay. So, please
15 proceed. Thanks.

16 MR. STRYJEWSKI: Okay. The next slide,
17 please. So, the PTAB system, what's in the system
18 today for AIA PTAB, the PTAB end-to-end system is
19 used to file papers, conduct business with the AIA
20 and with PTAB, and the paralegals and
21 administrators use it for case management, and the
22 judges view the documents. For ex parte appeals

1 PTAB is used for paralegals and administrators to
2 perform case management, and the judges do use the
3 document.

4 So, we're looking at trying to modernize
5 the appeals into the PTAB environment. Again,
6 this is the same type of look and feel that you
7 saw with Patent Center, and hopefully, again,
8 we're going to try to bring a consolidated view to
9 help applicants file and manage their cases.

10 Can you go to the next slide, please?
11 So in 2009 PTAB Center replaced the old system for
12 ex parte appeals. It's going to be integrated for
13 both appeals and AIA. We need to migrate the AIA
14 functions in data to PTAB Center. At the moment a
15 critical PTAB operations in data outcomes are
16 collected and stored in multiple locations.

17 And that's really the talking point
18 here. The energy that the PTAB team, and the
19 leadership in PTAB to bring that data together, so
20 they can have the better response to data calls,
21 and understanding of the activities in PTAB is
22 their priority number one. Consolidating the AIA

1 functions in data and to PTAB Center, expanding
2 PTAB into the robust, centralized data source.

3 So we're trying to manage the
4 operational risks and to address the fast-pace in
5 policy and legal changes that happen in PTAB
6 regularly. So I am new to the PTAB world. And
7 the energy and the executive sponsorship they have
8 to IT changes, has been really refreshing, and I
9 hope I can contribute to helping them achieve
10 their goals.

11 Any questions about PTAB IT?

12 MS. MAR-SPINOLA: This is Julie. I do
13 have a question, William, about just the timeline
14 for the next steps. When do you think it -- do we
15 have a roadmap on that?

16 MR. STRYJEWSKI: We do have a roadmap of
17 changes and improvements. A lot of the roadmap is
18 backend data consolidation. So, I don't know if
19 it's anything that the public or applicants will
20 see immediately. I think over time we'll be
21 getting more information out from that backend
22 reporting through the dissemination perspective of

1 the Agency.

2 Is there something in particular that
3 you were asking? Or was it just, you wanted a
4 more of a timeline understanding?

5 MS. MAR-SPINOLA: Well, is it the
6 overall goal that PPAC has been focused on, on
7 behalf of the general stakeholders has been
8 improving quality. Not only the quality of the
9 patent examination, but also to ensure the quality
10 of the patent asset itself as it travels from
11 patent prosecution to the PTAB for either IPR
12 proceedings or, you know, the AIA proceedings.

13 And so, part of it has been, I think, a
14 somewhat of -- PTAB has been hampered by a lack of
15 some of the tools to do that. So, the bigger
16 question -- and thank you for making me clarify
17 this -- the big question, the big objective that
18 we have here is to be able to have a very holistic
19 system for the Patent Office where examinations
20 are -- the quality has increased there, and we
21 just want to make sure that when it comes to
22 post-grant proceedings that the PTAB is afforded,

1 and the stakeholders are afforded the similar tool
2 to ensure that.

3 MR. STRYJEWSKI: Yeah. So, I guess,
4 what I can talk to is, my new role is called the
5 Patent Product Line Lead, and in doing so, I am
6 responsible for that end-to-end part, right, not
7 only patents but PTAB IT. And I'm fortunate
8 enough to meet with Chief Judge Scott Boalick, and
9 the Deputy Chief Judge Jackie, and we --

10 MS. MAR-SPINOLA: Jackie Bonilla. Yeah.

11 MR. STRYJEWSKI: Yes. Jackie Bonilla,
12 and we work -- and I worked with the lead product
13 owner who is the judge, to make sure that their IT
14 needs are being fulfilled, and that their
15 resources are being sponsored through the Agency.
16 So, again, I'm new to this position, but I think
17 that what is now -- what was in the past where
18 Patent and PTAB were two separate entities in the
19 IT budget, now they're together as an entity in
20 the budget.

21 I hope I'm bringing some of the shared
22 understandings from the patent side, which is

1 obviously a much larger piece of the pie than the
2 PTAB side, sharing some of the data and
3 functionalities, hopefully, and some of the
4 processes and experiences. That I think time will
5 tell if I'm successful at this job. But I think
6 we set up a structure of responsibility and
7 accountability in the new ways of working in that,
8 and to bring to PTAB.

9 MS. MAR-SPINOLA: That's great. We're
10 rooting for you. So, thank you.

11 MR. STRYJEWSKI: Thank you. Thank you.

12 MS. MAR-SPINOLA: Okay.

13 MR. STRYJEWSKI: I'm going to pass it on
14 to Debbie Stephens for the last slide, if that's
15 okay?

16 MS. MAR-SPINOLA: Sure.

17 MS. STEPHENS: Thank you. Hi. Good
18 afternoon. And thank you, Bill for your insights.
19 The final slide is the alternate processing site
20 update. And in our new ways of working and in our
21 -- or continue our journey for stabilization and
22 modernization with the USPTO, we are looking at an

1 alternative processing site, and in order to
2 ensure increased resiliency for the Agency as well
3 as potential disaster recovery efforts.

4 So certainly it's not lost on us that
5 our mission- critical applications not only need
6 to be stable and modern, and as well as resilient.
7 So in that frame of mind, we're looking at an
8 alternate site, and enabling a more efficient data
9 center with a reduction or consolidation in our
10 current footprint, as we look to the data center
11 of the future, combined with any potential hybrid
12 cloud environment that we can leverage, and
13 perhaps any additional infrastructure or
14 container-type of solution.

15 So, with that type of information, and
16 with the high-level background, our current status
17 as we continue on this journey, we are currently
18 evaluating proposals for a primary and alternate
19 site.

20 And we are on track for an award here at
21 the end of the month, August 2020. And with that
22 award we'll continue down the assessments of

1 potential sites for any potential relocation,
2 timeline, migration. That's going to be a huge
3 component of this process, as you can image. Not
4 only determining what that current footprint looks
5 like, what a footprint in the future looks like,
6 as well as any of that migration efforts.

7 And ultimately our goal is to have the
8 alternate site up and running in 2021. So that's
9 the update on alternate processing. Questions?

10 MS. MAR-SPINOLA: Thanks, Debbie, for
11 that. Mark, do you have questions or comments
12 before we close?

13 MR. GOODSON: No. I'm very pleased with
14 what -- very pleased with what's happening.

15 MS. MAR-SPINOLA: Okay. Debbie, one
16 quick question from me which is --

17 Hey, Jamie, I see you. Double thumbs
18 up. So, Debbie, the quick question is -- and I've
19 asked this before -- I know that the sites are on
20 the East Coast. Where are we? Are we getting
21 close to something on the West Coast?

22 MS. STEPHENS: Yes. Certainly we're

1 going to look for something. We're actually
2 thinking West of the Mississippi is our general
3 location right now. But certainly that's in the
4 plans and will be part of that assessment effort,
5 absolutely.

6 MS. MAR-SPINOLA: Okay. Thanks.
7 Thanks. It's always good to hear from IT. And,
8 Jamie, while you're on there, I want to say thank
9 you on behalf of PPAC for managing all this in
10 light of the pandemic, and we talked about it at
11 the beginning of the meeting. And great work.

12 MR. HOLCOMBE: Thank you very much. We
13 have a great team. There's no doubt.

14 MS. MAR-SPINOLA: Okay. Thanks. So, if
15 you don't mind. We're going to move on to
16 Artificial Intelligence. This is going to be
17 conducted by Jeremiah Chan and Bernie Cassidy,
18 co-chairs. And we have deputy undersecretary of
19 Commerce for IP, and deputy director of USPTO,
20 Laura Peter. Welcome. And Coke Stewart, senior
21 counsel to the director, Office of the
22 Undersecretary; and director -- and Matt Such,

1 director of TC 2800. Welcome.

2 MR. CASSIDY: Well, thank you.

3 MS. PETER: Thank you.

4 MR. CASSIDY: Go ahead, Laura.

5 MS. PETER: I was just going to say,
6 thank you for having us here today, and following
7 IT is very appropriate because our Artificial
8 Intelligence team, on the tool side anyway, works
9 so closely, and have had wonderful support from
10 the IT group, and from Jamie's group.

11 As you know, artificial intelligence has
12 been a focus of this administration, and as the
13 director, and I have had the pleasure of kind of
14 being the lieutenant in organizing the teams as
15 they press forward in IT policy around artificial
16 intelligence and around tools.

17 And so with that, I will turn it over to
18 our able team members, and let the co-chair of the
19 Committee would like to say something first?

20 MR. GOODSON: No, please, please
21 proceed.

22 MS. PETER: Well, I'll turn it over at

1 this point to Coke Stewart who is senior counsel
2 to the director. And she's going to talk a little
3 bit about IT policy and our progress with the RC
4 (phonetic). Coke, are you there? All right, can
5 you hear me now?

6 SPEAKER: Yes.

7 MS. MAR-SPINOLA: Okay.

8 MS. STEWART: As Laura was saying, AI
9 has been a really important policy issue for the
10 Agency for many reasons, but one of the most
11 significant reasons is because we as an Agency
12 want to ensure that we're continuing to
13 incentivize innovation in these emerging areas,
14 and artificial intelligence is certainly one of
15 the top areas that we're keeping an eye on.

16 So, in that regard, last year in August
17 and October, we issued two requests for comments
18 on artificial intelligence policy. The first one
19 dealt primarily with patent policy issues, the
20 second one dealt primarily with trademark,
21 copyright, trade secrets, data protection and
22 other non-patent IT issues.

1 And our response was -- you could just
2 close that slide for now, Patrick, the opening
3 slide. The response to the RC was terrific. We
4 got almost 200 unique comments. You can find them
5 on our AI Landing page on USPTO.gov. And what we
6 really wanted to take advantage and focus on today
7 was the issue of artificial intelligence and
8 inventorship. It seems to be the topic that
9 everyone's reading about in the news.

10 And we at USPTO have had our own patent
11 examination issues relating to inventorship. So,
12 what we wanted to do is just quickly walk through
13 one of the cases that we've been dealing with,
14 because we think it really presents nicely from
15 the policy issues in this area.

16 So, the case that we're going to refer
17 to is involving an artificial intelligence machine
18 called DABUS, and this slide just gives you an
19 overview of some of the procedural history in the
20 case. So, you know, after the application is
21 filed, there's preexamination processing, so here
22 we were able to discern that the filer was

1 identifying the machine as the inventor.

2 And that raises some unique issues for
3 the Agency, and we had some back and forth with
4 the applicant or the person, you know, submitting
5 the application to the Agency, and ultimately
6 decided that we needed a natural person to be
7 named on the application in order to process it.

8 And if we can go to the next slide: So
9 some of the arguments that our filer was making
10 from this policy argument is that, you know, we
11 want to have, obviously, standards for the
12 tribunal, and we want to recognize accurately the
13 contributions that our inventors are making to the
14 patent system.

15 So, here, the applicant or the filer
16 felt that the machine was really doing the work
17 and they -- so they didn't really feel comfortable
18 identifying themselves as contributing to the
19 invention because they felt like the machine was
20 really doing the work. So that's a question that
21 we're facing which is: How do we appropriately
22 acknowledge the contributions on these

1 machine-learning systems and the humans that are
2 working with them?

3 And then also, what are the requirements
4 under law that we're trying to work with, that
5 we're trying to follow? And, you know, these are
6 new issues. In one of the earlier meetings we
7 talked about the very well-known Monkey Selfie
8 (phonetic) case in the copyright context where it
9 was asserted that an animal was really an author
10 because it had taken a picture of itself. And
11 could it be recognized as an author? And could it
12 uphold the copyright?

13 Well, now we have a similar question
14 before the Office. If we have a machine as an
15 inventor, can the machine be recognized under the
16 law? And so we want to make sure that we're not,
17 you know, creating any additional requirements
18 under the U.S. patent law, that we're following
19 the laws on the books.

20 So, if we can go to the next slide,
21 Patrick? So, in assessing this question of
22 inventorship as presented to the Agency, you know,

1 we really have to look at what the laws are on the
2 books. We spent a lot of time talking about
3 policy and we want to stay, you know, one step
4 ahead of what might be coming down the pike. But
5 obviously we need to work within the confines of
6 the law.

7 So, it was our analysis that the patent
8 laws and the binding precedence from the Federal
9 Circuit as well, they're in regulations and manual
10 of patent examining procedure, really requires
11 that we have a natural person as an inventor.

12 So, for that reason we weren't able to
13 work with the particular application as filed
14 because the applicant felt like a human hadn't
15 made the requisite contribution, that it was
16 really all at the -- you know, the work of the
17 machine. So, as a result, we were not -- we were
18 not able to proceed with the examination, and we
19 were able to issue a final agency action
20 determining that we could not proceed with the
21 examination of the application.

22 Do you want to go to the next slide?

1 So, this issue of artificial intelligence
2 inventorship raises a lot of interesting questions
3 that we talk about on a regular basis, which is,
4 you know, are we really at a point in society
5 where we have artificial general intelligence?
6 There are a lot of experts who feel that maybe
7 it's happening now, there are many people who feel
8 like this is really something that's way off in
9 the future, that we're really using machine
10 learning in a much more narrow way.

11 But if machines could invent, what do we
12 do with that? You know, how do we encourage
13 innovation in this area? Would recognizing
14 machines as inventors, would it promote
15 innovation? Or would it discourage innovation?
16 And what do we do about humans that are using
17 these machines as tools?

18 I think another interesting analog in
19 the copyright context was the use of a camera.
20 So, you know, it's obviously the photographer is
21 choosing the lighting, he's choosing, you know,
22 where to aim the camera, but a lot of the work has

1 been done by the camera. So, you know, do we
2 think of these machines more like tools to be used
3 by humans? Or are we thinking of the machines
4 more as doing the work, the creative work?

5 Then, you know, if machines are doing
6 this work, what kind of legal rights do they have?
7 You know, if they're thinking and they're
8 producing, should they be able to earn the right
9 to their own creative work?

10 So these are all questions that we're
11 working through with the USPTO, you know, spend
12 time thinking about from the legal perspective and
13 the policy perspective, even engaging with experts
14 in that field and the stakeholders on it. We've
15 received a lot of really thought-provoking
16 feedback on these questions that we'll be
17 procuring a report for the community to look at
18 very soon.

19 And, you know, we're just welcoming your
20 engagement on this issue, and I think much like
21 the monkey selfie piece generated many hotlines
22 about the question of animals as authors. We

1 think that "machines as inventors" is going to be
2 an issue that we'll all be following closely in
3 the legal press in the coming years.

4 MS. MAR-SPINOLA: So, consistent to
5 remarks (inaudible) and this is an incredible
6 issue and topic that I think we'll be talking
7 about from here on; right. And so, one of the
8 things that I think we've been focused on right
9 now, is the application or the ownership of the
10 inventorship. I do think that the IT asset, as a
11 whole, when we look at it, we have to look at the
12 questions of enforcement and the ability to
13 enforce it.

14 Also, even on the prosecution side, is
15 the duty of candor to the Patent Office. How can
16 a computer comply with that obligation, right? On
17 the enforcement side, it's really about, does the
18 computer, or can the computer, inventor be able to
19 enforce a patent, and be a witness, and give
20 testimony, and about inventorship, or anything
21 like that.

22 And I think we talked about this

1 yesterday, is that the District Court action that
2 is pending in this case, you know, who is the
3 plaintiff? Is the computer the plaintiff? Or is
4 it the owner of the computer that's the plaintiff?

5 So, there are so many issues that I
6 encourage the discussion and the thought of policy
7 to include the entire life of that patent and not
8 just the creation. Of course, the beginning is
9 necessary, but so is -- assuming that an asset is
10 granted, how can it be protected? How can it
11 bring value to the inventor? My two cents on
12 that.

13 MS. STEWART: Thank you, Julie.

14 MS. MAR-SPINOLA: Any other questions?
15 Or let me give me give it back to Bernie and
16 Jeremiah. I'm sorry. I didn't mean to take over.

17 MR. CASSIDY: I'm trying to --

18 MS. MAR-SPINOLA: Yeah.

19 MR. CASSIDY: I am trying to demute. It
20 takes a moment or two.

21 MS. MAR-SPINOLA: Okay.

22 MR. CASSIDY: Thank you. And thank you,

1 Coke. That's very helpful. I don't have any
2 questions. Jeremiah or Jeff from the Committee,
3 or Subcommittee, or if anyone from the Committee
4 has questions for Coke, this would be a good time.

5 Hearing none, perhaps we should move on.
6 So, Laura did Matt -- Matt, do you want to present
7 now.

8 MS. PETER: Yes, indeed. So, we'll now
9 have a discussion on our own implementation, and
10 trial of artificial intelligence tools to aid in
11 examination. Matt, are you there?

12 MR. SUCH: I am. Thank you, Laura. And
13 thank you to the Committee for your time and
14 attention. Certainly we've gotten some wonderful
15 feedback from the Committee since the inception of
16 this session. I'm going to talk today about two
17 of the efforts that are ongoing in patents right
18 now, leveraging artificial intelligence to
19 operationalize aspects in our patent process. So,
20 if we can move forward.

21 The first is the auto-classification
22 system. So, we've covered and introduced this

1 effort in the past, and where we stood was -- at
2 the last meeting -- was that we had a prototype
3 that was leveraging machine learning that we're
4 using to classify patent documents in the
5 cooperative patent classification system.

6 Since that time we've been actively
7 assessing the output of the machine, the maturing
8 functionality in the AI models of the prototype
9 with inputs from classification experts.
10 Additionally, we have a pretty exciting
11 opportunity before us, as we get into the next
12 fiscal year, the Agency is, as you're probably all
13 well aware, changing our routing to use CPC for
14 the routing of applications.

15 And in concert with that, there are some
16 changes to some of our quality assurance processes
17 around making sure that the correct examiners and
18 the right examiners are getting the applications
19 based on the classifications. And as we move into
20 that realm, we recognize that there's a real
21 opportunity for us to be able to leverage that
22 information, as a way to collect feedback from

1 examiners and classification experts on the
2 performance of our systems, and then use that
3 information to help us improve our AI models.

4 And so we kind of view that this
5 particular effort is going to mature hand-in-hand
6 with our business processes that have been
7 developed. And the advantage here is that by
8 leveraging the existing processes that we're
9 already putting in place for CPC routing, it gives
10 us the opportunity to collect this data without
11 incurring significant additional costs.

12 If you can move, on slide 4, please?
13 So, based on the assessments that we've doing of
14 the auto-classification tool, we've kind of
15 identified a couple of big areas for value. So
16 the first is quality assurance, and one of the
17 things we talk about here in the Agency around
18 classification is this concept of correct,
19 complete and consistent classification, the three
20 Cs. And we've identified that the tool can
21 provide us some opportunities here to advance our
22 goals here.

1 This helps of course with making sure
2 that cases are ending up to the right examiner
3 when we route applications, but also is a very
4 important -- classification is a very important
5 search tool, and so having correct, complete and
6 consistent classification assist the examiners
7 with retrieval of documents.

8 Additionally, we're looking at this
9 question of ROI, and the possible operational or
10 efficiency gains beyond the quality component that
11 might be attained through the leveraging of an
12 auto-classification system.

13 And I'll say a couple things about that.
14 The Agency does incur costs to attain, use and
15 distribute classification information for the
16 purposes of running our operations and providing a
17 tool for examiners to search. And one of the
18 things that's really been on the horizon is this
19 change to the CPC routing, and we very much have
20 our eye on that, those processes that we're going
21 to use to do any corrections of classification
22 symbols, or updates of classification that might

1 be necessary in order to best drive applications
2 to the right examiners.

3 And those are all components that were
4 feeding into our particular model here for an ROI,
5 from the perspective of the internal costs that
6 are incurred through using auto- classification
7 systems.

8 So, those pieces of information are
9 things that we're very much looking forward to as
10 we get into the new fiscal year, and as we see the
11 process mature a bit, and we see the
12 auto-classification mature into various aspects of
13 where we use CPC data, we'll have a very good
14 sense of how those numbers are coming out.

15 So, if you can move forward, please?
16 So, the next is our AI prototype to assist with
17 patent search. So, as a little bit of background
18 once again, we are integrating our artificial
19 intelligence capabilities directly within the new
20 -- excuse me -- the PE2E Search tool. And that's
21 in order to provide kind of a one-stop shop for
22 the examiners.

1 We are taking advantage of cloud-based
2 technologies to access our AI models, and we've
3 been focusing our efforts around a couple of key
4 features that the AI can offer to help our
5 examiners identify prior art as early as possible
6 in prosecution. And that is that AI can help
7 identify documents that they're searching for, as
8 well as suggest potential areas for them to
9 consider building a search strategy around.

10 The other thing we've noted is much like
11 the auto- classification effort, is our ability to
12 mature and prove the effectiveness of the AI
13 models over time, is very, very important, and so
14 the system is actually also being built to be able
15 to capture feedback from our users automatically,
16 both passively as well actively, if they choose to
17 contribute, in order to be able to benchmark where
18 the AI models are, and identify areas where those
19 models can be improved.

20 Back in March we did release the tool to
21 about 500 users or so, in our User Centered Design
22 Council, and they've been actively testing and

1 providing feedback on the tool itself. We've
2 gotten some great feedback from examiners, we've
3 gotten suggestions for making improvements, some
4 of those have already been incorporated into the
5 prototype, and we're going to continue to leverage
6 those results to help inform our path forward.

7 If you can move to the next slide? So,
8 based on the assessments we're seeing where we've
9 identified some opportunities for value here as
10 well. And they revolve around the potential for
11 increasing our search effectiveness and we're
12 developing metrics to be able to identify the
13 contribution that the AI makes to that search
14 effectiveness.

15 In particular we're focused on
16 efficiency. And what I mean by that is the
17 ability for the AI system to make contributions to
18 increase the retrieval of relevant prior art,
19 while at the same time reducing the retrieval of
20 irrelevant prior art, because we don't necessarily
21 want to have a system that places more references
22 in front of the examiner, if those references

1 aren't useful for the purposes of their
2 examination.

3 Some of the tools that have been
4 prototyped and we're getting feedback on, is to
5 assist the examiners in actually reviewing prior
6 art more quickly and more efficiently. Examiners
7 do spend time going through search results when
8 they're writing queries and reviewing prior art,
9 and we want the tools to be able to help them with
10 that process so that they can focus their
11 attention on higher value-added activities until
12 search and examination.

13 As I mentioned before, we're certainly
14 collecting a system to collect feedback in order
15 to improve the search models over time. In terms
16 of an ROI equation here, the search systems using
17 the AI were very much focused on maturing our AI
18 system to advanced patent quality; and building
19 our metrics around ways that we can ensure that
20 we're seeing the contributions of our AI to each
21 of these potential search effectiveness is a very
22 important step for us to continue to move forward.

1 So, with that, I'd like to thank
2 everybody. And I think we have a few moments for
3 questions.

4 MR. CASSIDY: Thank you, Matthew. And
5 Jeremiah or Jeff, if you have any questions; and
6 if anyone else on the Committee has any questions
7 this would be good time to speak up. While people
8 are formulating that, I want to thank the Deputy
9 Director Laura Peter, and Matthew, and Coke for
10 keeping us updated on these significant progress
11 steps that are being taken. And we really
12 appreciate it and we look forward to working with
13 you. Are there any questions now?

14 MR. CHAN: Yeah. I have one, Bernie.
15 This is Jeremiah. Thank you for the -- thank you
16 for the update. Matt, on the auto-classification,
17 my understanding is that so far the preliminary
18 results have been very, very positive. Can you
19 comment at all on kind of the performance of the
20 auto- classifiers relative to any targets that the
21 Agency has set?

22 MR. SUCH: Certainly. So, the targets

1 that we set, I can just speak a little bit about
2 the way that that actually works. Obviously, we
3 have a need for patent quality, and there is a
4 certain degree of subjectivity that can exist in
5 classification of subject matter, depending on
6 what is viewed as most important.

7 And so the way that we're actually
8 handling that is by looking at the impacts to how
9 the new routing system may induce costs, or if we
10 have insufficient classification quality, right.
11 And so what that does is that allows us to kind of
12 translate the quality metrics that we have from
13 our classification system, and our sourcing
14 directly into a way to kind of balance out what
15 the best place to attain classification data may
16 be.

17 And so, as we've moved forward with
18 this, we've been testing based on a model that is
19 as similar as we can get prior to the actual
20 launch of the new routing system, and we're seeing
21 in some of the used cases that we are envisaging
22 for auto-classification on some very good

1 benchmarks. And what I mean by that is based on
2 what classification data we do have, we're able to
3 see that our auto-classification system is
4 approaching the same level of quality.

5 MR. CHAN: That's great to hear, Matt.
6 Based on the great performance that you've been
7 seeing so far, has it caused you to kind of
8 rethink the timeline for going full production?

9 MR. SUCH: Well, certainly we're being
10 very aggressive with this, because we do see a
11 good opportunity here, and the progress to date
12 has been pretty remarkable, to stand up the
13 system, to be able to build the models, and to be
14 able to get assessments on the output of those
15 models. We're very much interested in, you know,
16 proceeding as quickly as we can, as we need each
17 of these different benchmarks, we're absolutely
18 going to be looking to be aggressive to continue
19 to move forward.

20 In terms of the, you know, exact dates,
21 and times, and all that, it might be a little
22 early to say, but we're certainly anticipating

1 some good things on the horizon.

2 MR. CHAN: Thank you, Matt.

3 MS. MAR-SPINOLA: All right. So we are
4 running a few minutes behind. We have two more
5 sections, International and Finance/Budget. And I
6 want to give them their 20-minute allotments each.
7 So, if you don't mind, we're going to move on.

8 Thank you for -- Laura, and Coke, and
9 Matt for giving us this very, very important news,
10 and in fact was good news. Again similar thing
11 is, before the similar theme which is, progress is
12 being made notwithstanding the shelter in place,
13 and pandemic. So thank you very much for that.

14 So let me introduce now, Tracy Durkin
15 and Jeff Sears, co-chairs of International, along
16 with Valencia Martin Wallace, and Shira
17 Perlmutter, and will speak on the topic of
18 international matters now. Thank you.

19 MS. DURKIN: Great, thank you, Julie.
20 Let me just make a quick introduction on this one.
21 And compliments so far to the Office, and I wanted
22 to share mine as well as someone, Julie, who's

1 working daily with the Office, it's really been an
2 incredibly impressive how quickly, seamlessly
3 (phonetic), the office as an organization, and as
4 individuals, have been able to pivot to working
5 remotely on such a large scale.

6 My personal practice had me interfacing
7 with almost offices around the world, our key
8 offices around the world, where I can say, if I
9 can, that the U.S. office had maintained a much
10 more reliable pace of service than anything else
11 that I've seen throughout this time that we've
12 been dealing with the pandemic.

13 So, despite these challenges, we're
14 going to hear today how the Office has continued
15 to leverage its strong relationships with other
16 offices, and their leadership position around the
17 world to keep projects, not only moving, but also
18 to begin some really exciting projects as well.

19 And so I think, Valencia, you're going
20 to start with the presentation?

21 MS. MARTIN WALLACE: Yes. Thanks,
22 Tracy. So let's move on to the next. And I will

1 go very quickly through mine. I'm just going to
2 give you a quick update or a briefing on the IP5
3 Heads Meeting, that was July 21st, and it was the
4 13th IP5 Heads Meeting.

5 Please move on to the next: So here is
6 the agenda, so really it was the main parts of it
7 to really speak of is a response from each heads
8 on COVID-19 went through very briefly with
9 response from each of the offices. Another part
10 was an endorsement of the progress or next steps
11 of the working group.

12 So, really, the only thing we had,
13 really, where there was an endorsement of the
14 change was with the PCT CS&E, which is
15 Collaborative Search and Examination program, a
16 pilot program that's going on right now was to
17 extend out by a year the assessment phase of the
18 search and examination pilot where we have all
19 five offices were participating in the review of
20 the PCT application.

21 So it was extended out mainly to allow
22 for national- staged cases to have an assessment

1 of the effect on them as well. So, that was the
2 only endorsement of a change. The others were
3 really endorsements of further consideration and
4 we can -- the one that I wanted to speak mostly on
5 was the progress of the PHEP.

6 So, if you can go to the next slide?
7 So, the PHEP is the group that works with
8 industry, the IP5 and industry on any type of
9 issues that needed to be taken up, or any topics
10 taken up. So there was an endorsement that the
11 PHEP group would take up the following three
12 topics for further consideration.

13 One, being the global assignment which
14 is something that we heard, and we've heard for
15 many, many years about having some type of
16 uniformed, harmonized form for assignment to
17 address any type of financial and just
18 time-wasting concerns with having to address
19 assignments in separate offices.

20 The second being a harmonization of
21 claim formalities, and once again, is different
22 from formal type of issues surrounding claims that

1 we can work on, and consider having within
2 offices. Something that's a little bit more
3 consistent for an applicant in order to not have
4 to deal with some things that they really
5 shouldn't have to from one office to the next.

6 And the third was harmonization of
7 drawings, and what is allowable for drawings. And
8 it's the same type of issue where, you know, there
9 are different requirements based on the office,
10 and it can be something as simple as how you
11 identify each of the drawings. That's why it's a
12 financial burden and a time burden for an
13 applicant to do those.

14 So those are the three topics that are
15 being taken up for further consideration by the
16 PHEP Group for changes. So, I was hoping that
17 maybe we could talk a little bit about it. I know
18 we're very tight on time now. But I do ask that
19 if there are any comments, any suggestions, to
20 please send them to me, so that they can be
21 considered as part of this discussion with the
22 PHEP Group.

1 And I believe it's later on this year,
2 in the fall, that the PHEP Group will take these
3 up for consideration. So there's some time, but I
4 would suggest that you send comments to me that we
5 can then identify and put up for consideration
6 when the Group meets.

7 So I know that I went through that
8 really fast. If you want me to back up with
9 anything I can. But that was the gist of it. We
10 also talked about virtual meetings and how moving
11 forward to address having more virtual meetings,
12 even if we are outside of this particular pandemic
13 and concern that we have now, that it really is
14 more efficient and cost-effective in some ways,
15 and having some type of combination of virtual
16 meetings and in-person meetings. So, the IP5 also
17 endorsed considering that and taking that up for
18 consideration.

19 So, I'll stop there, and see if there're
20 any questions for now. Or, as I said, please send
21 any comments, suggestions to me.

22 MS. DURKIN: Thanks, Valencia. I think

1 we can move on to the R-CADE, and then we take
2 questions at the end.

3 MR. YANG: Sure. So, I can take over
4 for the repository for common access to data
5 elements. And if we go to the next slide: I just
6 wanted to give a little bit of background on the
7 genesis of this initiative. And a lot of this
8 came about from feedback we received from the
9 industry and the burden associated with the
10 population and filing of forms for when filing
11 applications at different IP offices.

12 Based on this feedback, we began
13 engaging with WIPO and the other IP offices to see
14 how we could reduce this burden. And one of the
15 concepts we came up with was the development of
16 our centralized data repository.

17 If we go to the next slide: The focus
18 of this repository would be -- there would be
19 three main objectives. Primarily, it will be
20 applicant-driven of the issuing of information, so
21 applicants would be responsible for populating and
22 managing the data in the repository. And this

1 repository could then be used for the
2 pre-population of office-specific forms, and
3 potentially for offices to retrieve the
4 information the applicants request during the
5 filing of applications. We think this would allow
6 for the creation of efficiencies in the filing of
7 applications at different IP offices.

8 And if we go to the next slide we can
9 see some of the benefits associated with that.
10 The primary focus we kind of want to emphasize is
11 that this information would be applicant-driven
12 and managed. While this would ensure the
13 consistency the applicant would have full control
14 of the data, and it would also them to kind of
15 manage the data, and how it would be entered at
16 different IP offices.

17 The second benefit we kind of envisioned
18 is that this would be application-independent.
19 So, while this information could be used in the
20 filing of applications it would, hopefully,
21 mitigate some of the legal issues associated with
22 unpublished data, and at the same time this

1 information could be used for different use cases
2 outside of the filing of the applications.

3 And I'll be happy to answer any
4 questions that people may have with regard to this
5 topic.

6 MS. DURKIN: Okay, great. Thank you,
7 Nelson. With that, we're turning then, and it's
8 over to the next issue, or two issues. Shira,
9 you're going to cover together.

10 MS. PERLMUTTER: Yes. Thank you very
11 much. Can you hear me?

12 MS. DURKIN: Yes.

13 MS. PERLMUTTER: Great. So, if we can
14 go to the next slide. I was very pleased to hear
15 that there was interest in learning more about the
16 IP Attaché Program. It's one of my favorite
17 programs. The IP Attachés are IP experts and
18 diplomats who are posted at American embassies and
19 missions all around the world.

20 And you might wonder how this program
21 began, it was during the TRIPS negotiations in the
22 '90s when we sent one IP attaché to Geneva, and

1 the program has expanded since then.

2 So, we now have 13 posts based in 10
3 countries, and we're about to add one more. Now,
4 the attachés, we've discovered over the years as
5 the program has developed, they've really been a
6 tremendous asset, first to U.S. Stakeholders, but
7 also to the Agency and to the government as a
8 whole. And we regularly get very positive
9 feedback about the program especially from
10 individual companies who they've helped.

11 So, what do the attachés do exactly?
12 They, first of all, promote U.S. IP policies in the
13 regions where they're post is, first by working
14 with local governments, and that is both
15 policymakers and enforcement officials, and also
16 by organizing education and awareness programs.

17 They also, and this is, I think, very
18 important to all of you, they help American
19 stakeholders -- and we may be up to the second
20 slide now -- the next slide, sorry. Great. So,
21 the second thing they do is to help American
22 stakeholders both establish and maintain their

1 foreign markets for their goods, because they help
2 them navigate the IP landscape in those markets,
3 and figure out how to deal with problems that may
4 arise, often promising enforcement, but not only.

5 And then, last but not least, I would
6 say the attachés are essentially our eyes and ears
7 on the ground abroad. So they really have been a
8 critical source of information on IP developments
9 in real time before they report it in the press,
10 for the benefit of everyone in the U.S.
11 Government, all the agencies that work on these
12 issues, and also for stakeholders.

13 So, if we can go to the next slide?
14 This slide shows you the coverage of the IP
15 Attaché Program around the world. It's nicely
16 color-coded. And as you can see, we actually have
17 coverage from most of the world. We are in the
18 process of opening a new office in Johannesburg
19 which will cover Sub-Saharan Africa, and at that
20 point I think we will be up pretty consistently
21 everywhere.

22 And even though each attaché is based in

1 a particular city or country, as you can see the
2 areas of coverage typically encompass multiple
3 countries in an entire region. And they become
4 expert in the IP systems of both the country where
5 they're located and also the region. The one
6 exception is Geneva, where our two attachés cover
7 the international intergovernmental organizations,
8 namely, WIPO and the other UN agencies, and the
9 WTO.

10 Now, I did want to make the point,
11 because this has been very important to the
12 program, that over the past five years in
13 particular, we've done a lot of work to spread the
14 word about this program, and what the attachés do.
15 And we've done that in a number of ways. So,
16 first, as many of you know, the attachés come back
17 to headquarters every year for a week of
18 consultations and debriefing, and they meet with
19 other government agencies, with The Hill, and with
20 a long list of stakeholder groups, as well as, in
21 the last couple of years, with PPAC and TPAC.

22 And the Chamber of Commerce actually

1 sponsors an annual half-day (phonetic) program to
2 showcase the insights the insights of the
3 attachés, and in fact that's opened to all Chamber
4 members. Second, we've started to schedule over
5 the last few years outreach visits, at least twice
6 a year, to other parts of the country could get
7 the attachés outside of the Washington area to
8 reach out to people who don't necessarily know
9 what's going on in D.C. And so we've been working
10 with our regional offices to set these up, and by
11 now we've had the attachés do outreach programs in
12 more than 20 cities in the United States.

13 Those visits include meetings with a
14 wide range of businesses, and with inventors, and
15 trade associations, and participation in AIPLA and
16 INTA programs. We also have a dedicated page on
17 the PTO website, which includes contact
18 information for each of the attachés and we're
19 using social media to describe the program and the
20 services that are available.

21 Then last but not least, we started to
22 prepare and distribute brochures and other

1 materials about the programs and indeed it's an
2 extensive recruitment effort because it's not that
3 easy to get really well qualified people for these
4 important positions.

5 So, I just wanted to say, that we always
6 welcome any ideas or any additional opportunities
7 that publicize the attaché program. We really
8 want to make as many people as possible aware of
9 how the attachés can be helpful when they do
10 business abroad or have IP problems in other
11 countries.

12 And so if we can go to the next slide:
13 This is just to say that there is additional
14 detailed information about the program, and
15 contact information on our website, and I also
16 wanted to introduce, for those of you who don't
17 know him, Dom Keating, who directs the program.
18 And it's available both now and later to enter any
19 follow-up questions.

20 So, I don't know. Should I pause for a
21 minute to see if there are follow-up questions, or
22 given the time, just move on?

1 MS. DURKIN: Thanks, Shira. Unless
2 Jennifer or Julie had questions, we should
3 probably keep going and then we'll wrap up at the
4 end.

5 MS. PERLMUTTER: Okay. So let's go to
6 the next slide. And I just wanted to mention for
7 anyone who hasn't yet seen it, PTO's Web-based
8 Patents 4 Partnerships program, which was launched
9 in May. It can be found on our website as part of
10 the COVID-19 Response Resource Center, and it's
11 essentially a platform to facilitate contact
12 between potential licensors and licensees.

13 It's a mechanism for them to connect and
14 to facilitate contact by providing a centralized
15 and easily accessible place to list American
16 patents, U.S. patents and patent applications,
17 publications that have identified as available for
18 licensing.

19 So, the platform offers a searchable
20 database of available technologies now related to
21 COVID-19, and that includes any patents or patent
22 applications, publications that have been

1 indicated as available for voluntary licensing, on
2 external public website, or in our Official
3 Gazette notices.

4 The platform also offers contacting
5 information, or links to sources that include the
6 licensing information, and if this technology --
7 if the availability for licensing is listed as
8 unknown, that means we currently don't have
9 information about the licensing status.

10 So, I just wanted to say that while the
11 initial focus is on technologies that are broadly
12 related to COVID-19, and that is technologies that
13 have to do with prevention, or treatment, or
14 diagnosis, but also personal protective equipment,
15 and medical devices, and contact with
16 interactions, so very broadly interpreted. And
17 drug development tools of course.

18 Our hope is that this will be very
19 useful in bringing products to market more quickly
20 to address the current health crisis. But I
21 wanted to make the point that depending on the
22 input we receive and the level of interest among

1 stakeholders, we could expand the platform in the
2 future to include other technologies as well.

3 And we want to invite all IP owners to
4 submit additional technologies, the list is
5 growing rapidly, and we encourage all of you to
6 take a look at the tool, and send us any comments
7 through the "contact us" link that's provided on
8 the main page.

9 And I also wanted to introduce Marina
10 Lamn, who is primarily responsible for developing
11 the platform is also here, and can answer any
12 questions now or going forward, it's
13 Marina.Lamn@USPTO.gov.

14 And I know, because we're short on time,
15 and I don't want to spend time on it, but Branden
16 Ritchie mentioned and Sovereign Immunity Study
17 that we've been asked to do by Congress, by
18 Senators Tillis and Leahy.

19 And just to say that as you mentioned
20 the copyright office had issued the request for
21 comments already on copyright infringement by
22 state entities, and we will be soon issuing a

1 similar request for comments on patent and
2 trademark infringement by state entities where
3 there is an inadequate remedy under state law. So
4 stay tuned for that as well.

5 So, I'll stop here. And if there's
6 time, happy to take any questions.

7 MS. MAR-SPINOLA: Shira, just a few
8 remarks. It's Julie Mar-Spinola. Glad to see
9 you, and thank you for the information, very
10 helpful. On the last one, the Patents 4 Partners
11 -- sorry, the last slide, Patents 4 Partnerships.

12 MS. PERLMUTTER: To go back -- go back?

13 MS. MAR-SPINOLA: Yeah.

14 MS. PERLMUTTER: Yeah.

15 MS. MAR-SPINOLA: It's right there now.
16 So, for this program I understand it is mainly to
17 address the COVID-19 issues and supplies, and I
18 heard you say that this could be expanded to other
19 technologies, which wouldn't be a bad thing. On
20 the website that you referred to, are there
21 criteria that people have to meet in order to be
22 on this program?

1 MS. PERLMUTTER: It's really a
2 self-selection process. It's identifying that
3 these are technologies that are related to
4 COVID-19, and that are available for licensing.
5 So, we're not doing any kind of review and
6 clearance. So, Marina, if you're on, would you
7 like to address this any further?

8 MS. LAMN: Hello. Sure. So, it
9 self-identified as Shira said, although there were
10 a couple of patents or patent applications that
11 were in no way, shape or form related to COVID-19,
12 such golf equipment, or anything like that. And
13 in that case we just requested an explanation from
14 the owner by email, and they never came back and
15 explained how is it related.

16 But this is a very rare case, that were
17 in the very beginning, maybe people misunderstood
18 the purpose of it, but by and large they all were
19 related, well in a broad sense, to health crisis.

20 MS. MAR-SPINOLA: Okay, great.

21 MS. PERLMUTTER: Who are the (inaudible)
22 in particular.

1 MS. MAR-SPINOLA: Great. Thank you.
2 Thank you. So, we do need to move on for our last
3 segment which is finance and budget. Are there
4 any last-minute questions? Or Tracy, would you
5 like to close?

6 MS. DURKIN: No. That's fine, Julie.
7 Go ahead. Thank you.

8 MS. MAR-SPINOLA: Okay. So, thank you
9 everyone on the International panel. We
10 appreciate the information. Next and last but not
11 least, is our Finance and Budget Subcommittee
12 chaired by Dan Lang, and we have Jay Hoffman, the
13 CFO for Patent Office, to present. And so we are
14 going to go over about 15, 20 minutes to give Jay
15 enough time to present his section.

16 MR. HOFFMAN: Great. Thank you very
17 much, Julie. Can everyone hear me okay?

18 MS. MAR-SPINOLA: Yes.

19 MR. HOFFMAN: Great. Okay. Well, let's
20 go ahead and get into it here so that we can
21 conclude the meeting. Next slide, please? All
22 right, so today I will give you a quick status on

1 where we stand with fiscal year 2020, which just
2 as a reminder, the government's fiscal year runs
3 from October 1st to September 30th, so fiscal year
4 2020 is nearly completed.

5 I will give you an update on where we
6 stand with FY 2021, our financial planning and
7 operating plans are well under way for that. I
8 will also give you a brief update on what to
9 expect with the 2022 budget which is well
10 underway. And lastly, I'll end on the fee
11 rulemaking, which I imagine was discussed this
12 morning in the opening remarks.

13 Next slide, please? So, FY 2020 as I
14 mentioned, the fiscal year is almost over. Right
15 now, in terms fee collection revenues the
16 end-of-the-year patent revenue forecasts are
17 between 3.1 billion and 3.6 billion. And when
18 this slide was put together it was dependent on
19 the final timing of the fee rule implementation.
20 As you know the fee rule was approved the Director
21 on August 3rd, and to go into affect in early
22 October, October 3rd.

1 As a result of that we expect the patent
2 revenues to be close to the 3.6 billion by the end
3 of this fiscal year, there's typically a surge in
4 maintenance fee payments the last -- a few weeks
5 before the rule goes into effect. So, probably on
6 the upper end of that range, through June 30th,
7 our patent fee collections were roughly 99 percent
8 of plan, or about 1 percent below plan through to
9 the end of the third quarter.

10 Expenses were right in line with
11 expectations. Patent expenses were retracted at
12 3.15 billion, down from 3.18 billion at the
13 beginning of the year. The reason for that is, we
14 had adjusted our operating levels downward in
15 response to the potential revenue risks related to
16 the COVID-related downturn. This included
17 deferring some patent examiner hiring, as well as
18 reducing some of our operating expenses.

19 Next slide, please. Very quickly here,
20 in terms of the revenue links, a recap on where we
21 are since the third quarter, these capture as of
22 June 30, 2020. After June 30th patent revenue

1 stood at about 2.3 and \$3 billion, that was our
2 planned collections, actual collections were
3 \$2.315 billion, so about \$21 million below plan.
4 As I mentioned on the prior slide, we're within 1
5 percent of that expectation.

6 Spinning was a little bit ahead of
7 revenue that's not uncommon, we're sitting at
8 about \$2.47 billion, and it's just to say --
9 resolve the way the contracting process works. I
10 would just note that since June we have continued
11 to see a gradual decline in our patent revenues.
12 In fact, the gradual decline started in late
13 spring, and has continued.

14 It's not a lot different, but I would
15 say, we're probably close 2 percent below plan
16 right now, and something that we're watching very
17 closely. I'll say a little bit more about that in
18 a minute, when I talk about 2021.

19 Next slide, please? I just want to give
20 you a quick update on our operating reserve
21 position for FY 2020, that it's important because
22 the operating reserve has implications for how we

1 start FY 2021. Let me first acclimate here to the
2 graph that's on this slide, and then I'll describe
3 the analytics of it.

4 So, first, the X-axis of this chart are
5 in months of the fiscal year, as well as three
6 prior fiscal years where the operating reserve
7 balance ended. The Y-axis on this chart
8 represents the operating -- the patents' operating
9 reserve in millions of dollars.

10 The bars on this chart, they are where
11 we project the end-of-year operating reserve
12 balance to be, and the line on this chart is
13 where the operating reserve balance is at the end
14 of that particular month. So as the year
15 progresses you would expect the two to converge
16 and be the same, which is exactly what we're
17 seeing.

18 So, currently the patent operating
19 reserve is projected to be between 388 million and
20 \$410 million by the end of the fiscal year. I
21 would note that as a result of the prepayments
22 that we're going to see on maintenance fees, I

1 expect an additional \$400 million will be in the
2 patent and trademark fee reserve fund to start the
3 fiscal year as well. Those will not immediately
4 be part of the operating reserve because it
5 requires a congressional reprogramming to access
6 those fees, and that's something that we will be
7 working on.

8 But the punch line is, that the minimum
9 operating reserve for patents is roughly \$300
10 million that will be a very strong financial
11 position with respect to our operating reserve for
12 patents will be well over \$400 million in
13 available funds to start the year on October 1st
14 of this year.

15 Next slide, please? I'm going to be
16 very brief on this slide, just in the interest of
17 time, but I wanted to give you an update on where
18 we were at with the CARES Act relief that the
19 Agency had begun in the springtime. And we've
20 done a number of extensions on that. As you
21 probably know the USPTO has extended, from July
22 1st to September 30th, the time for small and

1 micro entities to pay certain patent-related fees
2 that would have been due on or after March 27,
3 2020.

4 Prior to this extension we had offered a
5 number of different types of relief for large
6 entities as well. And when the CARES Act was
7 passed, and didn't really have a sense of what to
8 expect, or how much of the subscription we would
9 have for this relief. Well, we've been able to
10 populate some estimates which is what this table
11 shows.

12 If you look at the table below, April,
13 May, June, at the left-hand side of the table
14 where it says, total patent fees, these are all
15 the patent fees that we collected, either planned
16 and collected by month for those three months, and
17 that's during the height of when the CARES Act
18 relief was being offered.

19 On the right-hand side of the table that
20 you see here, where it says, eligible fees, this
21 is separating out only those where CARES Act
22 relief was applicable, and again, we do the same

1 comparison of what we expected to collect versus
2 what we actually collected.

3 What was interesting about this is that
4 the total impact of the CARES Act relief, and this
5 is, again, just an estimate, it was only about
6 \$2.3 million for the relief offered. So it was
7 quite a bit much than what a lot of our original
8 projections were. That said, we had a lot of
9 positive feedback. So that I think while it may
10 have been large dollars to the Agency, I think
11 that those that took advantage of it, and again, I
12 realize it wasn't all funds that would come on
13 with deadlines and things like that. It does seem
14 to have been well received, but the financial
15 impact was pretty modest.

16 Next slide, please. All right, with
17 respect to FY 2021, the Agency has reviewed the
18 revised FY 2021 spending requirements, in
19 consideration of projected revenue collection
20 targeted to operating reserve levels. Right now
21 the Agency is expecting that current economic
22 environment is still pretty unsettled, and that's

1 having a negative impact on what we project demand
2 to be for next year.

3 So, what I'd like to do is just take a
4 moment and address a couple items that aren't
5 explicitly on the slide but I think they're of
6 interest to the PPAC, and to probably those
7 watching. And that is, what is the near-term
8 impact of the current economic environment on our
9 near-term priorities? As well as how the Agency
10 adjust (inaudible) next year, and we wanted to
11 make sure that we, you know, stay within our
12 funding profile.

13 So, with respect to our priorities next
14 year, I think the good news is we're on relatively
15 strong footing, our macro priorities largely
16 remain the same. That may (inaudible) the life on
17 predictable patents, managing our training
18 academy, and patent -- enhancing patent
19 administrative appeal and post-grant processes has
20 continued to invest in our information technology
21 stabilization and modernization efforts.

22 So that's a positive. With respect to

1 how we're adjusting the budget, it's really a
2 three-part approach for FY 2021. The first is we
3 are adjusting operating levels commensurate with
4 expected demand for past services. Look, demand
5 in FY 2021 for patent services is expected to be
6 lower than it was this year.

7 As a result of that we have a production
8 level where we adjust hiring levels as well as
9 others that work in contract costs, so that we can
10 right size our budget commensurate with the demand
11 that we expect, and that's what we have done. And
12 this has had a material impact on the size of the
13 budget for next year. That it will be lower as a
14 result of expected lower demand.

15 The second thing is what I alluded to on
16 the prior slide, and that is, we're going to begin
17 the fiscal year with a very strong operating
18 reserve balance, to mitigate the ongoing risks of
19 economic uncertainty.

20 I mean, one thing that we've been done
21 that's been very smart this year, we've been very
22 conservative in our approach to FY 2020. We

1 scaled back some of our hiring expending as the
2 consumers of the economy were unclear, and as a
3 result of that the operating reserve is going to
4 end the year in a very strong position, as I
5 pointed out in the prior slide.

6 Secondly, the fee increase that was just
7 approved by the Director is also going to help
8 most of the operating reserve. Based on some
9 sensitivity analysis that we've done, we are
10 reasonably confident that we can withstand further
11 reductions in the demand for patent services
12 beyond those for which we planned. Obviously,
13 we're hoping that's not the case, but the
14 operating reserve will be in a strong enough
15 position to buffer those.

16 Lastly, any prudent business, of course,
17 hopes for the best but plans for the worst, we've
18 been developing contingency plans both in the
19 patent organization, as well as the important
20 units looking at potential deferrals that we could
21 make should the economic situation not accrue but
22 it -- or worse yet, deteriorate further, that we

1 could make.

2 We're not planning on implementing those
3 contingencies at this time, but we're also not
4 going to wait until there's a problem before we --
5 before we look at all of our options. Those are
6 all things that we're doing to try to mitigate the
7 risk in FY 2021 so that the contours of the
8 recovery make themselves more clear.

9 With respect to the appropriation
10 process for FY 2021, the House has completed their
11 work, the markup occurred on July 8, 2020, and the
12 marks that they gave us were consistent with the
13 numbers in the President's request. The Senate
14 markup has not occurred at this time. It should
15 happen later this summer. I'm sure Branden
16 Ritchie in his presentation probably mentioned
17 that with all likelihood we'll be a continuing
18 resolution for at least three months, and that
19 could extend longer.

20 We had looked at our financial
21 requirements through the first quarter, and the CR
22 poses no problem for our operation. I don't think

1 we'll see any material impact if we are under a
2 CR.

3 Next slide, please. FY 2022, the budget
4 that will go into effect roughly
5 a-year-and-two-months from now, the USPTO has
6 worked all summer on finalizing requirements for
7 the FY 2022 budget submission that goes to the
8 Office of Management and Budget on September 14th.
9 We're going to be providing advanced copies for
10 those documents through PAC, as well to the
11 Department of Commerce sometime here in the next
12 couple of weeks. Again, we will wrap those up and
13 send them off to OMB by September 14th.

14 I would note that this is the first of
15 two 2022 budgets we do. So, we're going to
16 continue to work and refine the FY 2022 budget
17 deep into the fall. And as we get refined revenue
18 forecast this budget is probably going to change a
19 decent amount between now and when it's ultimately
20 submitted. But something that staff have been
21 hard at work on, and (inaudible). Final slide,
22 please. So, I think there is probably -- you've

1 probably have already gotten an update on the
2 Director approving the fee rule on August 3rd. I
3 just wanted to note that the new fees will be
4 effective August 2nd, which I believe is a Friday,
5 and the beginning of the next fiscal year. We
6 appreciate the PAC's support and feedback that
7 they've given us throughout this process.

8 And with that, that concludes my
9 presentation. I think, Julie, I'm under your
10 15-minute wish.

11 MS. MAR-SPINOLA: Well, okay. I
12 appreciate that. I think you said August 2nd for
13 it to take effect. It's October 2nd, correct?

14 MR. HOFFMAN: October, October 2nd.
15 Thank you. I've got all this online.

16 MS. MAR-SPINOLA: No. That's okay. But
17 I appreciate it. So, Dan, let me turn it to you
18 to make sure that -- your comments and feedback,
19 as well as closing remarks.

20 MR. LANG: Sure. This, I thought was
21 incredibly informative, and efficient presentation
22 of the financial view. I'd like to point out to

1 the public that a crisis like the one we're facing
2 now, places the USPTO in a very special kind of
3 situation. The USPTO as a public mission, but
4 it's funded by users, and user activity is
5 variable, and it is linked to what's going on in
6 the economy.

7 So the OCFO has been incredibly active
8 and engaged on a daily basis since this crisis
9 broke out, in managing expenditures, and watching
10 the revenue come in, and how that's changing our
11 generating forecasts, and generating contingency
12 plans.

13 So, I'd like to, first of all offer
14 thanks, from me and from the community to the OCFO
15 for a lot of hard work, a lot of great work in
16 managing the PTO's financial situation.

17 Everything else that we talked about
18 today in the meeting depends on robust finances.
19 I think that the presentation actually answered
20 some of the questions I had seen on from financial
21 things when you look at the (inaudible) in terms
22 of, you know, contingency plan and prioritization,

1 which was great.

2 My own personal comment was that I'm
3 happy that the reserve is going to be --
4 operations is going to be above its minimum, but I
5 would like to remind us that there's also --
6 there's a minimum level, but there's also target
7 level, that's somewhat higher. I think that that
8 -- my only wish is that over the longer term the
9 operating reserve is peaking higher, than what is
10 projected for the end of the fiscal year to make
11 the PTO's financials even more robust. Those are
12 my comments.

13 MS. MAR-SPINOLA: Okay. Fair comments,
14 I appreciate it. And Jay, to have the ability to
15 have a strong start of the new fiscal year is an
16 amazing feat, given all the challenges that we are
17 all going through and what the Patent Office is
18 going through. So thank you for that.

19 And I think that if there aren't any
20 more questions, I'm going to call adjournment of
21 the meeting. Do I have a second?

22 MS. DURKIN: Second.

1 MS. MAR-SPINOLA: Thank you everyone.
2 Please be safe and well. And we'll see you in a
3 couple of months again. Take care. Appreciate
4 it.

5 (Whereupon, at 3:15 p.m., the
6 PROCEEDINGS were adjourned.)

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2 COMMONWEALTH OF VIRGINIA

3 I, Irene Gray, 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.

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18 (Signature and Seal on File)

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

21 My Commission Expires: September 30, 2022

22 Notary Public Number 301609

