

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, October 18, 2013

1 PARTICIPANTS:

2 TPAC Members:

3 MAURY M. TEPPER, Chair

4 DEBORAH HAMPTON

5 CHERYL BLACK

6 DEE ANN WELDON-WILSON

7 ANNE CHASSER

8 SHARON MARSH

9 LINDA McLEOD

10 JUDY GRUNDY

11 ANTHONY SCARDINO

12 MERYL HERSHKOWITZ

13 ERIK PELTON

14 MARCIE LOVETT

15 JOHN OWENS

16 Union Members:

17 HOWARD FRIEDMAN, NTEU 245

18 HOWARD ROSS, NTEU 245

19 RANDALL MYERS, POPA

20 USPTO:

21 DEBORAH COHN, Commissioner for Trademarks

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1 PARTICIPANTS (CONT'D):

2 GERARD ROGERS, Chief Administrative Trademark  
3 Judge

4 RAJ DOLAS, Portfolio Manager for Trademark Next  
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1 P R O C E E D I N G S

2 (9:01 a.m.)

3 CHAIRMAN TEPPER: Good morning,  
4 everyone. I'd like to go ahead and call our  
5 meeting to order. Welcome to those of you here  
6 in the USPTO and those of you who are viewing  
7 online in the cyber world this morning, to this  
8 meeting of the Trademark Public Advisory  
9 Committee. We're glad to have everyone  
10 participating today. We are especially glad to  
11 have a government today. And it is a beautiful  
12 fall day in D.C. So at least for the moment, all  
13 is right with the world and we will enjoy that.

14 I apologize for starting just a couple  
15 of minutes late. We were getting our sound and  
16 all of our technology in order. So a bit of a  
17 close shave getting done on time this morning, but  
18 we will do our best to scrape by and see if we can  
19 keep things proceeding.

20 I would just like to remind everyone,  
21 this is a public meeting, so we will be hearing  
22 from presenters from the office today from various

1 groups. I will try to allow time at the end of  
2 each presentation. We'll have comments or  
3 questions from our committee members. And I will  
4 be sure to look and ask for any comments from the  
5 public. But if I miss you, you know, wave at me,  
6 raise your hand. And if you are participating  
7 online today, I would love to remind you, we  
8 welcome your questions and comments. And if you  
9 e-mail those in, they will be brought here to us.  
10 I'll try to make sure that we have everything  
11 read.

12 I'm not sure if I can award a prize if  
13 it's legitimate, but since we rarely get any  
14 e-mail questions, I will mail a snickers bar from  
15 my office to anyone, to the first person to e-mail  
16 us a question today. Tony has got a blackberry  
17 and I don't think I put any limitations on my  
18 offer. So please don't do it during your  
19 presentation. Tony will be our first presenter  
20 this morning, but absolutely. So we do welcome  
21 and seek your participation and your commentary  
22 during the meeting.

1                   We'd like just to take a moment to  
2                   introduce you to the members of our committee.  
3                   We're sort of on a skeleton crew this morning.  
4                   We've had a few folks who are traveling and  
5                   actually one who fell ill last night. So I'll  
6                   first mention, unfortunately not here because she  
7                   is home trying to recover, Jody Drake. Jody is a  
8                   partner with Sughrue Mion here in Washington, D.C.

9                   Also traveling for a very good cause, he  
10                  is training and working in a law school mentoring  
11                  program, Ray Thomas. Ray is the owner of the Law  
12                  Offices of Ray Thomas also here in D.C., but not  
13                  today. Linda McLeod is here with us. Linda is a  
14                  partner with Kelly IP. She resides in New York  
15                  and we're very glad to have her here. Not  
16                  present, Kathryn Barrett Park who is the vice  
17                  chair of TPAC. And with apologizes, she is on  
18                  extended travel. And I think this is a record.  
19                  This is quite possibly the first meeting Kathryn  
20                  has not been present for. So we greatly miss her  
21                  participation and look forward to seeing her at  
22                  our next meeting.

1                   I believe the member who's traveled the  
2 farthest today, Dee Ann Weldon-Wilson has come up  
3 from Texas. She's counsel with Exxon Mobile. I'm  
4 Maury Tepper. I had a short little plane flight  
5 out from Raleigh yesterday. I work with the firm  
6 of Tepper and Eyster, so I am trying not to fire  
7 myself and hoping to maintain that as my day job.

8                   Now, I worked a bit out of order because  
9 we have three members who this will be their final  
10 public meeting. Their terms will be ending  
11 December of this year. And I want to take a  
12 moment to recognize their service, their  
13 contributions. I have to say three years have  
14 really flown by. And this is an extraordinary  
15 group of folks. I know we may not be as  
16 entertaining on the microphone, but I cannot  
17 believe the amount of effort and work that has  
18 been accomplished over the last three years. I  
19 hope that the folks here at the PTO appreciate, as  
20 well. We have great respect for the staff here  
21 and for everything they do. And I think that  
22 we've received a lot of support. We've built some

1 very strong and positive relationships and I think  
2 that has been for the good of the trademark  
3 community. But that is due largely to all of the  
4 time and effort that are put in by these  
5 volunteers.

6 First we have Anne Chasser who is from  
7 the greatest town in the world, Cincinnati, Ohio.  
8 Anne is a strategic advisor with Wolfe, Sadler,  
9 Breen, Morasch and Colby. I wrote this down so I  
10 could get all those names in. Anne has done a  
11 number of interesting things previously including  
12 running the trademark operation. She is a former  
13 commissioner. And, Anne, we want to thank you.  
14 Debbie, would you like to say anything?

15 MS. COHN: Absolutely. Let me echo  
16 Maury's thanks to all of you. And, Anne, you will  
17 definitely be missed. You have been an extremely  
18 valuable participant. And, you know, whether in  
19 the office or out of the office, you have  
20 contributed a great deal and we really want to  
21 thank you. And allow me to present you with your  
22 certificate.

1 MS. CHASSER: Thank you.

2 CHAIRMAN TEPPER: These, by the way, are  
3 not only certificates suitable for framing, they  
4 are certificates that are framed. So this is a  
5 very small recognition. I hope it will remind you  
6 of our time here, all that you all have done.

7 As well, closest to me here is Deb  
8 Hampton. Deb is a senior intellectual property  
9 specialist with Katten, Muchin, Rosenmann in New  
10 York City. You know, she has some Ohio ties, too.  
11 She is a graduate of the University of Cincinnati.  
12 So you will note that I have a fondness for this  
13 particular city. And I think we started together,  
14 Deb. So it's been a quick three years.

15 She has had an extremely optimistic and  
16 positive attitude. She has taken the laboring oar  
17 on working with our CIO in particular. And for  
18 those of us who are just on the legal side and do  
19 not understand technology, it is quite a challenge  
20 to keep up with the jargon, with the lingo and the  
21 abbreviations. And that group in particular has  
22 done a tremendous job sort of helping us to

1 translate and understand, and therefore, be able  
2 to give some meaningful input on the progress  
3 going on. So, Deb, we want to thank you, too.

4 MS. COHN: Deb, thank you so much from  
5 the PTO. It's been great getting to know you and  
6 working with you. And again, you have just  
7 contributed so much to the TPAC and to helping us  
8 as we move forward, especially in the technology  
9 area, so thank you.

10 MS. HAMPTON: Thank you.

11 CHAIRMAN TEPPER: And last, certainly  
12 not least, Cheryl Black. I'm going to get your  
13 firm name right this time, Cheryl, so bear with  
14 me. She is coming up from Richmond, Virginia, so  
15 one of our closer commuters. But she is a partner  
16 with the firm of Goodman, Allen, and Filetti in  
17 Richmond, Virginia. This is a tremendous firm.  
18 And for the lawyers there, I apologize for  
19 mispronouncing your name in July. I wanted to  
20 practice that one this time.

21 Cheryl has also been working in our CIO.  
22 She has experience with the trademark office in

1 the past. She has just been wonderful in terms  
2 of, you know, keeping a positive tone, being  
3 willing to do whatever needs to be done, and  
4 really helping us to forge some great lines of  
5 communication. So I can hardly believe it's been  
6 three years, Cheryl, but thank you very much. We  
7 are all the better for your service.

8 MS. COHN: Cheryl, thank you from the  
9 USPTO. It has been such a pleasure to have you  
10 back here with us. You were once with us as part  
11 of the USPTO and it's been even better to have you  
12 as a really valuable member of TPAC, so thank you.

13 CHAIRMAN TEPPER: I'm going to do  
14 something unusual. It's hard to tell when I'm  
15 standing, so I'm going to tell you in advance, I  
16 will be standing up. I think we owe these folks a  
17 hand. (Applause)

18 I would also like to remind the three of  
19 you, your terms don't end until December. And we  
20 have a couple of issues we're working on, so there  
21 will be some e-mails and calls and assignments  
22 that I look forward to having you help us finish

1 out with.

2 Well, with that, I do want to apologize.  
3 If you're following on the agenda, I did not speak  
4 over Acting Director Terry Ray's time. She is  
5 unable to be present today. She was hoping to  
6 participate at our meeting and travel has  
7 prevented that.

8 So I would like to move on forward with  
9 our agenda. There is also a bit of a change in  
10 order. Given recent events this week and sort of  
11 the impact that those events have had on the PTO's  
12 budget, we wanted to start off with our update  
13 from the chief financial officer. So we're very  
14 pleased to have Tony Scardino, our CFO, here  
15 today. I'll save a couple of observations for the  
16 end. But if you think you have a tough job, I'd  
17 like you just to give a listen and try to imagine  
18 managing things in the climate that Tony has been  
19 helping to support, the PTO's financial operations  
20 and planning and strategy. So with that, thank  
21 you, Tony.

22 MR. SCARDINO: Thank you, Maury. I'm

1 just trying to figure this out. Anyone know how  
2 to work this? Steve? While we try to figure that  
3 out, I'll start. So good morning, it's a pleasure  
4 to be here. As usual, I want to go through fiscal  
5 2013, '14, and '15 sequentially. You know, the  
6 800 pound gorilla in the room, of course, is '13  
7 into '14 was a bit challenging with the government  
8 shut down.

9           So I'm sure you all know that we  
10 continued operating. As a fee funded agency, we  
11 were able to spend fee collections, monies that we  
12 had collected prior to October 1, 2013. A lapse  
13 in appropriation means that we didn't have the  
14 authority to collect and spend any fees collected  
15 after September 30th. We could still collect  
16 them, we just couldn't spend them. So we were  
17 able to spend all monies collected in prior years  
18 that were sitting in our operating reserve.

19           Our operating reserve -- well, first of  
20 all, '13 was a very healthy year on the trademark  
21 side. We collected \$264 million and spent \$226  
22 million. So we actually added to our operating

1       reserve. Part of that was due to sequestration.  
2       We contributed some money there to sequestration.  
3       And we also did less as an organization. In other  
4       words, in IT spending, there was some  
5       enterprise-wide projects that we did not continue  
6       to develop, and that actually saved money on the  
7       trademark side. So we spent less money than we  
8       would have, kind of an odd occurrence.

9                 So preliminarily, because we're still  
10       closing our books for 2013, the operating reserve  
11       is about \$156 million. And that money served us  
12       very well over the last few weeks when the  
13       government was shut down. We could spend that to  
14       keep operations going just as they normally would  
15       over the last, you know, 16, 17 days. We operated  
16       just normally, no shut down for us.

17                So these slides were actually prepared  
18       earlier this week. And at the time, we weren't  
19       sure if the government was going to reopen or not  
20       or when it was going to reopen actually. That's  
21       really where the mystery was. So we were trying  
22       to say here is that, you know, we operated, we

1 were maintaining operations fully, but we were  
2 also monitoring spending on the patent side, as  
3 well as the trademark side, because with defense,  
4 the operating reserve is actually less on the  
5 patent side, so we would have run out of money  
6 sooner than we would on the trademark side. So we  
7 were considering staying open on the trademark  
8 side past the period that the patents would have  
9 had to shut down.

10 So where we are with '14, of course, no  
11 one knows for sure. We have a continuing  
12 resolution until January 15th. And then the  
13 hopes, of course, is that we'll have a full year  
14 preparation after that. But beyond that, I  
15 certainly can't predict anything that's going to  
16 happen.

17 So in the meantime, we are moving  
18 forward, of course, with fiscal year 2015 budget.  
19 The committee has seen our budget proposal to OMB.  
20 It's been at OMB since early September. And  
21 eventually this will become the President's budget  
22 request by the first Monday in February for fiscal

1 year 2015. So we're still waiting to hear back  
2 from OMB because they weren't shut down like most  
3 other federal agencies over the last couple of  
4 weeks. But eventually you'll see -- before it's  
5 submitted to Congress, you'll see a copy again, as  
6 usual.

7           And the last thing I've got is the  
8 strategic plan. The draft was provided to TPAC,  
9 as well as PPAC, OMB, and Congress. They all got  
10 drafts of our strategic plan. This is a statutory  
11 requirement. Public comments are due by November  
12 25th. And we will have an open session, public  
13 session on November 5th. So we whole heartedly  
14 would like to get any comments, thoughts, opinions  
15 you may have on our strategic plan.

16           It's not that different than what we've  
17 seen in the past, but it's certainly updated to  
18 represent accomplishments we have made, any new  
19 directions or any new initiatives we'd like to  
20 take on. And we, again, will submit that in  
21 February, 2014, with the President's budget, we'll  
22 submit that to Congress. So that's all I've got

1 in terms of a formal presentation, but I'm happy  
2 to take any questions you may have.

3 CHAIRMAN TEPPER: Thank you very much,  
4 Tony. You know, I want to remind everyone, on the  
5 best of days, at any given time, the CFO is  
6 looking at three different budget years, of  
7 course, the year we're operating in they are just  
8 now closing out, fiscal year 2013, working on the  
9 new budget or the hopes of having a budget. We're  
10 under a CR at the moment which also changes their  
11 projections, and planning ahead on next year's  
12 budget. That's confusing enough. If you throw in  
13 all of the externalities we've had, I think taking  
14 a look at the fact that we've managed operations,  
15 that we are all here today and that the PTO is  
16 open is nothing short of a minor miracle, so I  
17 want to thank you for -- I'll never know how you  
18 manage it, but we're certainly grateful for the  
19 effort and that you guys are willing to operate in  
20 such an environment.

21 You may wish to refer to the writings of  
22 Louis Carroll if you want to get a picture of what

1 that must feel like. So do we have any questions  
2 for our CFO today? Any questions for Tony? Yes,  
3 Deb.

4 MS. HAMPTON: Good morning, Tony.

5 MR. SCARDINO: Good morning.

6 MS. HAMPTON: I just have one quick  
7 question. Do you have to replace the funds that  
8 were spent?

9 MR. SCARDINO: Yes.

10 MS. HAMPTON: -- during the shut down?

11 MR. SCARDINO: Yes.

12 MS. HAMPTON: Okay.

13 MR. SCARDINO: We will be able to  
14 replace the funds that were spent with -- the fees  
15 we collected, we'll now have the authority to  
16 spend them and will replenish our operating  
17 reserve.

18 MS. HAMPTON: Thank you.

19 MR. SCARDINO: You're welcome.

20 CHAIRMAN TEPPER: Thank you. Tony, and  
21 I hope you'll correct me on this. It may be  
22 useful just for anyone listening in to remember

1       that although the PTO certainly receives fees when  
2       users file applications on the trademark side, for  
3       example, you know, when you send in your filing  
4       fees, we are, nonetheless, subject to  
5       congressional oversight.

6                 We are part of the Department of  
7       Commerce, and therefore, those fees can only be  
8       spent after Congress both appropriates and  
9       authorizes the spending. So we need both of the  
10      A's. We need approps and we need authorization.  
11      And so with the government closed, Deb's question  
12      goes to that. There was fees that had already  
13      come in the door that had been authorized to  
14      spend. But any new money, although it was coming  
15      in the door and was here, simply could not be  
16      accessed or used until Congress says so.

17                So now that we have a continuing  
18      resolution, I believe that gives you the authority  
19      to such fees. And I will hope that you will fix  
20      any misstatements I just made.

21                MR. SCARDINO: No, that is our  
22      understanding, as well. I could not have said it

1 better myself.

2 CHAIRMAN TEPPER: Many thanks. Do we  
3 have other questions from the committee for Tony?  
4 Any questions from the public today for our CFO?  
5 All right. Thank you very much.

6 MR. SCARDINO: Thank you.

7 CHAIRMAN TEPPER: Well, with that, I'm  
8 going to exercise the Chair's prerogative. And  
9 before we move forward on the agenda, I'm going to  
10 take a step backwards. I was caught up in  
11 thanking our members who are finishing out their  
12 terms and I did not sort of flip over to complete  
13 the introduction of our TPAC members. I did not  
14 mean to shave them off of the list. I did not  
15 mean to create a hairy situation. So I would like  
16 to just take a moment to thank and to acknowledge  
17 for you.

18 Howard Friedman is an ex-official member  
19 of TPAC, has been longer than any of us. He  
20 serves as the NTEU Chapter 245 representative, as  
21 well as Randy Myers, who is here on behalf of the  
22 Patent Office Professional Association. And we

1 also have Harold Ross with the NTEU Chapter 243.  
2 I do not believe we have Harold with us today, but  
3 he is also an active ex-official member of the  
4 TPAC. So, gentlemen, I apologize for becoming  
5 distracted and not completing my introductions.  
6 And I hope to do better next time.

7 All right. Now to our sort of  
8 convoluted agenda. We're going to move back up to  
9 what would have been our top slot. We usually  
10 start with a legislative update. And I suspect  
11 you are all keenly interested in legislative  
12 developments and what's been going on.

13 I think that the information about our  
14 budget, how our funding has been impacted, and how  
15 we've managed forward was really relevant. It  
16 gives you a good backdrop for the next discussion.

17 Dana Colarulli is often here to do these  
18 presentations for us, and Dana is on the west  
19 coast today. I hope you will not take the fact  
20 that he fled to California as any sign of the  
21 state of affairs in Washington. But we're very  
22 pleased to have Judy Grundy here with us today to

1 give us our legislative update. Judy is an  
2 attorney in the Office of Government Affairs. We  
3 are proud to say she's also a former trademark  
4 examining attorney. So trademarks is going to  
5 claim credit for you there, Judy, and we thank you  
6 for joining us today.

7 MS. GRUNDY: Thank you. I'm really  
8 thrilled to be here. I've been gone from  
9 trademarks for nine years, but I still consider  
10 myself part of the trademark community. I  
11 remember pounding on Cheryl Black's door many  
12 times asking her 2D questions, and is this  
13 descriptive, would you hold this descriptive, so  
14 thank you.

15 In April of this year, Chairman  
16 Goodlatte, during the World IP Day celebration,  
17 announced a series of hearings and that his  
18 committee would conduct a comprehensive review of  
19 U.S. copyright law to determine whether the laws  
20 are still working in the digital age.

21 So we went to three different hearings  
22 in September, one on satellite televisions laws,

1 innovation versus regulation in the video  
2 marketplace, and the role of voluntary agreements  
3 in the U.S. intellectual property system. We  
4 expect there to be continued hearings this  
5 calendar year.

6           There was a green paper that came out in  
7 July of this year on The Copyright Policy  
8 Creativity and Innovation in the Digital Economy,  
9 which came out by the USPTO and the NTIA. Our  
10 office, led by Shira Perlmutter, was very involved  
11 in that. I'm not sure if a lot of people know  
12 because we don't actually register copyrights, but  
13 we have a top notch team of about five copyright  
14 attorneys in our Office of Policy and  
15 International Affairs. So if anybody has any  
16 questions about copyright policy, please let us  
17 know. We expect there to be a hearing on this.

18           Also, on October 30th, we were expecting  
19 to have a meeting to receive additional comments  
20 on the green paper. Unfortunately, this was a  
21 casualty of the government shut down. So this is  
22 going to be rescheduled to December 12th. I

1 don't know if anyone is interested in that, but if  
2 you need further information on it, please let us  
3 know.

4           In June of this year, the White House  
5 established a task force on high tech patent  
6 issues and announced major steps to stem patent  
7 litigation abuse. The White House announced five  
8 executive actions and seven legislative  
9 recommendations. I think Dana talked about this  
10 at the last TPAC, so I won't go into a lot of  
11 detail. Dana especially and others in the PTO  
12 have been holding various meetings with  
13 stakeholders. Also, there is the establishment of  
14 a software partnership roundtable, a partnership  
15 with the software community to enhance the quality  
16 of software related patents. That's where Dana  
17 currently is. Yesterday there was the third  
18 roundtable at UC Berkeley. This followed two  
19 other roundtables in February, one in Silicon  
20 Valley and the other in New York City.

21           There have been various pieces of  
22 legislation introduced, as well as draft

1       legislation. Off the top of my head, I can think  
2       about six or seven that have already been  
3       introduced on the topic of patent litigation abuse.

4                 Chairman Goodlatte released a second  
5       draft in September. This was in addition to his  
6       first draft in May of this year. And  
7       Chairman Goodlatte, the Chairman of the House  
8       Judiciary Committee, and Chairman Leahy, the  
9       Chairman of the Senate Judiciary Committee,  
10      are expected to officially introduce some  
11      legislation shortly on patent litigation abuse.

12                Hearings are also expected probably  
13      sometime this calendar year. And there's a  
14      possibility of some type of mark-up by the end of  
15      the calendar year or the beginning of next year.

16                There have been various other pieces of  
17      legislation introduced that we're monitoring since  
18      the last TPAC meeting. I'm not going to go into a  
19      lot of detail on any of these bills, but I  
20      just wanted to make the offer that if anybody on  
21      the committee is ever interested in a phone call  
22      or a meeting with us to learn about various pieces

1 of legislation or the legislative process,  
2 Dana or myself or anybody on our team,  
3 will be glad to make ourselves available to you.  
4 I know from time to time we do receive a call from  
5 PPAC members. So we wanted to extend that also to  
6 TPAC.

7 Ranking member Watt, who is ranking  
8 member on the House IP Subcommittee, introduced the  
9 Free Market Royalty Act, which is the performance  
10 rights bill which would force radio stations to  
11 pay artists for air play. This is something that  
12 has been introduced for many congresses. And  
13 there's been real strong support for it, but it's  
14 also strongly contested, as well.

15 So this was introduced again this year.  
16 The Playing Fair on Trade and Innovation Act. This  
17 would prevent the President from granting trade  
18 benefits to countries that discriminate against  
19 American manufacturing and jobs.

20 The Public Access to Public Science Act  
21 was introduced, and requires covered federal agencies  
22 to develop public access policies. The Protect

1       Advanced Communications for Emergency Services was  
2       introduced by Senator Cardin. That would require  
3       the government to be liable for patent  
4       infringement against wireless carriers providing  
5       911 or other emergency services.

6                   And one bill that I don't have up in my slides  
7       is HR 1278. I think Dana talked about this at  
8       the last TPAC. That's the Redskins legislation.  
9       No hearings were held on this, but since the  
10      last TPAC, several more co-sponsors signed onto  
11      the legislation. So now we have 19 total co-  
12      sponsors for this. And I know that the Congressional  
13      Native American Indian Caucus has  
14      been pretty  
15      outspoken about this. Gerry Rogers is here. He may  
16      want to talk about the timing of the petition to  
17      cancel. But that's the status of the legislation.

18                   We continue with our AIA reports to  
19      Congress. We just submitted a report which is  
20      required every two years. We're to provide a  
21      short description of certain incidents made known to an  
22      officer and employee of misconduct before the

1 office.

2 We've also received a lot of interest on  
3 our satellite offices which is patent related. I know  
4 trademarks at this point hasn't been involved with  
5 the satellite offices. But in July of this year,  
6 we celebrated one year of the Detroit office being open.  
7 They've hired over 100 examiners. They have 5  
8 managers there, 10 judges, and at this point, they  
9 have approximately 120 employees in Detroit.

10 Silicon Valley and Dallas unfortunately  
11 are postponed. Next in the cue is Denver. We're  
12 hoping to get that office open in 2014. You  
13 never know, but that's our hope. We still partner  
14 with the Smithsonian. That's ongoing. And, of  
15 course, we still continue with our meetings with  
16 the Judiciary Committee.

17 We used to mostly just meet with  
18 Judiciary and Appropriations. But now there's  
19 been an interest in various committees. The Small  
20 Business Committee and the Energy and Commerce  
21 Committee have held hearings. As far as the  
22 caucuses, we work with the Internet Caucus, the

1 China Caucus, the IP Caucus, the Anti-Piracy  
2 Caucus.

3 We're also beginning our discussions and  
4 meetings to talk about TEAPP. TEAPP is currently a  
5 pilot program that passed in 2010 for seven years.  
6 So it's already been three years.

7 MS. COHN: Judy, could you describe what  
8 TEAPP actually stands for and what type of program  
9 it is?

10 MS. GRUNDY: Oh, I'm sorry.

11 MS. COHN: Thank you. No problem.

12 MS. GRUNDY: TEAPP is the Telework  
13 Enhancement Act Pilot Program. That's our  
14 telework program whereby we have individuals  
15 living throughout the country. I think there are about  
16 states whereby trademark examiners live. And it's my  
17 understanding at this point nobody has been called  
18 back to the office. They're to come back from  
19 time to time up until I understand four times and  
20 possibly one time for ethics training, and possibly  
21 one additional time.

22 This was a pilot program designated

1 for the USPTO which passed in 2010  
2 for seven years. We would like  
3 to see that made permanent. Since 2010, there  
4 have been a lot of changes on the Hill. Some of the  
members  
5 and senators we worked with are no longer there.

6 For example, we worked real closely with  
7 Senator Akaka. And we work closely with Senator  
8 Voinovich. They've since retired. Other members  
9 such as, Congressman Connolly or  
10 Congressman Sarbanes, they're still members, but  
11 their key staffers have changed. Debbie  
12 knows because I had her schlep up to the Hill with me on  
13 several occasions. Howard knows because we  
14 brought back dozens of congressional staffers to the  
USPTO. I  
15 think the key to our success was building good  
16 relationships. We brought back staffers on  
17 many different occasions and partnered with  
18 NTEU and their legislative people. It took  
19 us approximately four years to get it passed.

20 Hopefully to make the program  
21 permanent, it won't take as long. But we're  
22 starting meetings educating people about telework

1 and hopefully in the near future will start talking to  
2 them about making the program permanent.  
3 That's all I have for now. But I'd be glad to  
4 answer any questions.

5 CHAIRMAN TEPPER: Judy, thank you very  
6 much for that overview. As you can see, it  
7 continues to be an active time on the Hill. I'm  
8 glad that there is a Hill for them to go back to  
9 now to talk with our representatives about. And  
10 so we'll be back to work continuing to promote the  
11 IP agenda.

12 In particular, you just heard an update  
13 on TEAPP. In the old days, of course, there's a  
14 limitation on needing to live within 90 miles of  
15 the PTO and to come here physically a day a week.  
16 So that has been removed since 2010. I am hopeful  
17 that none of you have noticed the difference,  
18 which means things are working quite well. It is  
19 nice for the office to be able to retain talent  
20 throughout the country and to have them  
21 successfully working there. So we'll stay tuned  
22 for developments on that. Do we have any

1 questions for Judy today? Yeah, please, Cheryl.

2 MS. BLACK: I have two questions. One  
3 is about TEAPP. You mention that there are 28  
4 states. I don't know if you know how many  
5 employees are participating and if there is the  
6 opportunity that there will be additional  
7 employees in that pilot program.

8 CHAIRMAN TEPPER: I think we might have  
9 an answer.

10 MS. COHN: Cheryl, I've asked my  
11 trademark telework person, Meryl Hershkowitz, to  
12 fill us in on the numbers that you've requested.

13 MS. HERSHKOWITZ: Hi. Thanks, Cheryl.  
14 TEAPP is working wonderfully. One of the things  
15 the legislation required is that there be an  
16 administration for TEAPP which is a partnership  
17 between all the unions and all the management  
18 units at the PTO and that's worked out great. And  
19 as a result, we probably have over 1,000 people  
20 from the agency working across the country. In  
21 trademarks, we have about 70 at the present time  
22 and we're constantly expanding. We are as far

1 away as Washington State, Seattle. We have the  
2 most people residing in Texas and Florida. But  
3 it's worked out very well and I do think it's  
4 transparent to our customers. Is there any other  
5 questions, Cheryl?

6 MS. BLACK: Not about TEAPP, but thank  
7 you.

8 CHAIRMAN TEPPER: And thank you, Meryl.  
9 While we have her here, other than reminding those  
10 of you who are speaking, please do remember to  
11 turn your mics on and apparently face into them.  
12 We are taking a transcript for today. Those of  
13 you who would like to order one and read various  
14 people's lines, you're welcome to do so.

15 But, Meryl Hershkowitz, we're glad to --  
16 I'll just let you stay on, but I want to say thank  
17 you. In addition to being our teleworking expert,  
18 Meryl has been wearing lots and lots of hats. And  
19 you will hear later, she has been helping and  
20 working with Chief Judge Rogers on the TTAB.  
21 She's been doing lots and lots of good things. I  
22 just wanted to take a moment to tell you how much

1 we appreciate that. And you'll hear some of that  
2 news later this afternoon when we get to talk  
3 about the TTAB. But thanks for filling us in  
4 today. Are there legislative questions?

5 MS. BLACK: Okay. My second question,  
6 Judy. You mentioned the Redskins legislation and  
7 that there is additional sponsorship now. I was  
8 just wondering if you had any thoughts or  
9 predictions about the likelihood of that  
10 legislation moving forward.

11 MS. GRUNDY: Yes. Thanks for the  
12 question. There has been a lot of discussion  
13 about it, but I would guess the chances of it  
14 actually moving and passing would be very slim.  
15 Thank you.

16 CHAIRMAN TEPPER: I'm not going to ask  
17 anyone to predict the likelihood that Bob Costas  
18 will run for office, but obviously this is a topic  
19 everyone is following very closely. All right.  
20 Any other legislative questions from the  
21 committee?

22 MR. FRIEDMAN: I have a couple comments.

1                   CHAIRMAN TEPPER: Howard, sure.

2                   MR. FRIEDMAN: First off, it's always  
3 going to be a successful Trademark Public Advisory  
4 Committee meeting if you can use the word schlep,  
5 particularly coming from the person whose last  
6 name is Friedman, so I think that's very  
7 commendable. I think the other thing I want to  
8 point out about TEAPP is, it works not only for the  
9 people we represent, but it works for the agency.  
10 And people become more productive or as  
11 productive. But the other thing I don't think was  
12 touched upon is, it's allowed this agency, through  
13 TEAPP and through its regular telework program, to  
14 save millions of dollars in real estate cost and I  
15 think that's very important to point out.

16                   Additionally, I have to commend Judy. I  
17 think this is the first time she's spoken before  
18 this committee. So I don't think I've ever had a  
19 chance in this public forum to thank her going  
20 back to 2010. She was very, very instrumental in  
21 getting legislation passed. We had a number of  
22 discussions going back a number of years before

1       2010 and during 2010. So I just want to thank  
2       Judy for helping the effort in allowing that  
3       legislation to pass.

4                   MS. GRUNDY: Thank you.

5                   CHAIRMAN TEPPER: Thank you for that,  
6       Howard. Do we have any questions from the public  
7       today for Judy? Judy, thank you very much then.  
8       I suppose you're off the hot seat. I would  
9       summarize it as saying it was a close scrape, but  
10      Congress is open for business again. So we're  
11      glad that you'll be following up on some of these  
12      issues.

13                  MS. GRUNDY: I wanted to add that I  
14      heard Senator McCain say that there will no longer  
15      be gridlock in Washington and there will not be  
16      another government shut down, so we're hopeful.

17                  CHAIRMAN TEPPER: I'll leave it at we  
18      are certainly hopeful. I was going to create a  
19      rumor they heard on the internet there was free  
20      Starbucks for everyone today, but I was afraid of  
21      causing a panic and having you all leave the room.  
22      But let us always continue to hope for the

1 process. It is a remarkable thing that we have  
2 people who can work together to solve things,  
3 sometimes just barely when we need to get it done,  
4 but so far always when we need to get it done and  
5 so we are glad for that.

6 I'm going to turn now to our trademark  
7 operations update. Commissioner Debbie Cohn is  
8 well known to everyone. I want to just sort of  
9 mention, as you will see, against the backdrop  
10 that has just been presented, trademarks is not  
11 just the little engine that could. I think that  
12 really understates their ability to continue not  
13 only to deliver, but to always raise the bar and  
14 keep meeting those raised expectations. And in a  
15 year like this, I think it is particularly  
16 extraordinary. So, Debbie, we're glad to have you  
17 here today and I'm happy for the news you'll get  
18 to share with us.

19 MS. COHN: Great. Thank you so much,  
20 Maury. And, Judy, I just want to say before I get  
21 started that I was very happy to be schlepped up  
22 to the Hill. And I, too, thank you for everything

1       you did for telework. I'm going to talk first  
2       about performance statistics and then go into some  
3       of the highlights of some of our current  
4       initiatives and things that you might have already  
5       seen, hopefully have already seen, and give you  
6       some status updates.

7                 So trademarks had a very good year. In  
8       fact, we met and exceeded all of our performance  
9       goals. And I'm going to go into those in a little  
10      more detail. But before I do, I want to take this  
11      opportunity to really thank all of the trademark  
12      employees.

13                You know, we report out on a few goals,  
14      pendency, quality, e-government. To make those  
15      goals possible, we need the work and support of  
16      all of our trademark units, all of our trademark  
17      business areas. And each and every trademark  
18      employee has contributed to the success of our  
19      organization. I'm going to go through the  
20      statistics. But as an overview, you'll see each  
21      and every area within trademarks has met and  
22      exceeded their goals. And this is why we've been

1       successful this year. In the face of, you know,  
2       all of the turmoil throughout the government and  
3       in the face of rising filings, we have managed to  
4       have optimal quality, optimal pendency, and  
5       increase our e-government percentage. So let me  
6       just again thank all of the trademark employees  
7       and all of the USPTO employees who have helped and  
8       supported trademarks in this effort. I'm really  
9       proud of all the work that everybody has done, so  
10      thank you.

11                 Okay. So let me go through a little  
12      bit. You've got it up there. I hope it's  
13      legible. I'm going to start with quality. And  
14      our quality goals for first action and final  
15      compliance were 95.5 percent and 97 percent  
16      respectively. And we came in ahead of both of  
17      them, 96.3 on first office action compliance on  
18      quality and 97.1 on final action compliance.

19                 And I do want to emphasize that these  
20      are not easy goals to meet. They are stretch  
21      goals. And so, you know, we're not exceeding them  
22      by leaps and bounds, but I'm very happy to say

1 that we did exceed them.

2 The exceptional office action, this we  
3 did exceed. This also is a stretch goal. It's a  
4 bit of an unknown because it's fairly new and it  
5 requires excellence in a number of different areas  
6 in order for office actions to be considered in  
7 this pool of cases. And so examining attorneys  
8 have to achieve excellence in the office action  
9 search, in the evidence, in the writing, and in  
10 the legal decision-making. So the 35.1 percent  
11 that we've achieved is really quite remarkable.  
12 We've done an excellent job. The examining  
13 attorneys have done an excellent job in this  
14 regard.

15 Moving down to e-government, we have  
16 right now 79 percent of our filings are processed  
17 completely electronically from beginning to end,  
18 from coming in the door filing to registration,  
19 abandonment, or notice of allowance. So that  
20 means no paper goes out from us or no paper comes  
21 in from the applicant or registrant. And that's a  
22 pretty big achievement I think.

1                   Last year we ended at 77 percent. So  
2                   you might say, well, you know, 2 percent, no big  
3                   deal. It is a big deal because you have to do a  
4                   lot to change people's behavior. We've been  
5                   working with our customers to figure out what we  
6                   can do better with our electronic systems to  
7                   encourage electronic communication. And we're  
8                   going to continue to do that. We have a campaign  
9                   waged for this year that Mary Dennison, our Deputy  
10                  Commissioner for Operations, is heading to try to  
11                  get those last vestiges of people who, for  
12                  whatever reason, don't want to communicate  
13                  electronically or file electronically or receive  
14                  electronic filings from us. So hopefully you  
15                  won't be receiving a phone call from Mary. But if  
16                  you do, I urge you to have a discussion and be  
17                  open to those possibilities.

18                  Filings, we came in at 433,654 classes  
19                  for new applications. And if you'll see our  
20                  target was 433,000. Now, our target is really  
21                  just our estimate of what we think we're going to  
22                  get. And so I think it's pretty amazing. We were

1 very, very close to our estimate and I want to  
2 thank Karen Strohecker, Nabil Chbouki, and our  
3 budget team for providing us with accurate  
4 estimates so that we could actually, you know,  
5 plan.

6 This estimate is used in our planning  
7 for hiring, for overtime, for a great many things  
8 so that we can keep the work at optimal levels and  
9 keep pendency where it's supposed to be.

10 Examiner production came in over the  
11 mark. Examiner FTE, that's full-time equivalent,  
12 as you can see, we now have 389 full-time  
13 equivalent positions, 409 actual people on board.  
14 I'm just going to run through this page really  
15 quickly and highlight. Pendency to first action  
16 is at 3.1 percent, I'm sorry, 3.1 months, so 3  
17 months and 3 days essentially to first action from  
18 when the file comes in the door. Pendency to  
19 disposal, if you include suspended and  
20 interparties proceedings, we're at 11.7 months.  
21 And if you take those interparties proceedings and  
22 suspended cases out of the mix, we are at 10

1 months to disposal pendency, total pendency.

2 Our efficiency number, that is the total  
3 cost of trademark disposal. So that includes all  
4 of the costs in other areas of the agency, whether  
5 it's rent, or computers, or every cost that gets  
6 figured into the cost of doing business in  
7 trademarks. And so the lower the number, the  
8 better. We came in at \$552 per disposal as  
9 opposed to our target which was \$621. So we did  
10 well in that regard this year.

11 The next couple of pages really are what  
12 I was talking about earlier with respect to the  
13 support of the entire trademark process from all  
14 of our different areas. ESU stands for  
15 Examination Support Units. Those are the people  
16 who process the amendments and who look over the  
17 approvals for publication to make sure the data is  
18 correctly entered into the system. Their pendency  
19 was terrific, as you see, 4 days and 10 days. And  
20 their quality was right on target.

21 Our Trademark Assistance Center just did  
22 gangbusters again this year as they've done in

1 recent years.

2           Percent of the phone calls are answered  
3 within 20 seconds of receipt, 92 percent.

4           Our Madrid Processing Unit, their  
5 pendency was one day. I'm not sure how they're  
6 going to be able to improve on that. Maybe we can  
7 start measuring them in hours or minutes or  
8 something. But they did a fantastic job. Pre-  
9 examination unit, they were at four days. Again,  
10 terrific result. And our Post Registration Unit,  
11 which has had a few bumps along the road, ended  
12 the year doing just a fantastic job of 4 days and  
13 10 days pendency for their various areas of  
14 responsibility.

15           And so, again, these are all of our  
16 internal measurements for our support areas. I  
17 also want to take this opportunity to thank not  
18 only them, but our Office of Program Control  
19 within trademarks who handles all of the technical  
20 issues and works very closely with our Office of  
21 the Chief Information Officer and makes this web  
22 cast and this meeting possible, so thank you to

1 all of them. So that is our performance update.  
2 And I just want to take this opportunity. First  
3 of all, you know this is the end of the fiscal  
4 year, obviously, so these numbers mean a little  
5 bit more than they do during the year. This is  
6 our final performance results. So I want to take  
7 this opportunity to give you a chance to ask  
8 questions, if anybody has any, about what I've  
9 just said.

10 CHAIRMAN TEPPER: Thank you, Debbie. Do  
11 we have any questions for the Commissioner? Deb.

12 MS. HAMPTON: Good morning, Debbie.  
13 It's not so much a question as a comment. I'm  
14 just very pleased and give big kudos to you and to  
15 the office for what you've done and particularly  
16 with the e-government. I remember coming in three  
17 years ago and the goals and objectives that were  
18 set. So to be at 79 percent three years later is  
19 just phenomenal. So it's been a pleasure and  
20 congratulations.

21 MS. COHN: Thank you, Deb.

22 CHAIRMAN TEPPER: All right. Any other

1 questions, comments? I'm going to echo something  
2 that Debbie mentioned. I suspect, for those on  
3 our examining core who may be listening or  
4 monitoring today, when you call us with an  
5 amendment or an office action, we probably do not  
6 stop and tell you this, but thank you. Thanks to  
7 all of you. These statistics are impossible  
8 without everyone working very hard. And so on  
9 behalf of those attorneys who may not sound as  
10 appreciative when they are receiving news from you  
11 about their filings, often of which I'll admit is  
12 correct, and you're probably right, but we can't  
13 tell you that, we do want to let you know, we  
14 recognize how hard it is to achieve this level of  
15 quality, this level of responsiveness, and so we  
16 do want to say we appreciate that very much.

17 MS. COHN: Thank you very much. Okay.  
18 Let me move on to a few other items. First I want  
19 to just let everyone know that at the end of this  
20 month, on October 30th, you will be seeing an  
21 update to the TMEP that will be coming out. And  
22 just to highlight a couple of the areas that

1 you'll be seeing, we're actually adding some  
2 guidance regarding determination of registrability  
3 of hash tag, marks that contain the term hash tag  
4 or the actual hash tag side. So we're entering  
5 the 21st century here in the trademark operation  
6 and providing that guidance to you.

7 We've also expanded our guidance  
8 regarding 2A disparagement and false association  
9 refusals relating to government agencies and  
10 instrumentalities. We're giving some more  
11 guidance on the procedure for those refusals. We  
12 have Chapters 1100 and 1700 of the TMEP up on our  
13 idea scale tool. And I don't know whether you all  
14 are familiar with that tool, but if you're not, I  
15 would highly encourage you to take a look at it.  
16 You can look at Chapters 1100 and 1700 and make  
17 comments on them, as well as examination guides  
18 that we post in draft.

19 And one examination guide that we  
20 currently have posted for comments is on generic  
21 top level domain names. We have an actual draft  
22 exam guide that you can make comments on. And the

1 way you can access that is by looking at our news  
2 and notices page on the trademark website, look at  
3 user input, and you can get to the examination  
4 guide, and within the guide you'll see, there's a  
5 way to click on so that you can actually provide  
6 your comments.

7 We look at every comment provided. We  
8 found this is a really good tool for us to see  
9 what the public thinks before we make our  
10 examination guides final. So I really hope that  
11 you take the time. You have until October 23rd to  
12 do that. The comment period closes then. We will  
13 be posting additional exam guides as we prepare  
14 them in the future. So again, the tool is called  
15 idea scale and please take a look at that.

16 Let me turn now to the Identification of  
17 Goods and Services Manual. We are in the process  
18 of redesigning our manual to help it serve  
19 everybody's needs a little bit better than it has  
20 been. So we've been reaching out to our examining  
21 attorneys and then also reaching out to our  
22 stakeholders. We are looking right now to

1       increase the -- or to further -- to have better  
2       quality I should say in some of the  
3       identifications of goods and services relating to  
4       some of the rapidly changing fields, and I'm  
5       talking about specifically fields like social  
6       media, finance, computer terminology.

7                       We're actually working with stakeholder  
8       groups, with INTA, and with IPO, with their  
9       industry experts, to try to have them provide us  
10      with some expert information and guidance on  
11      changing the ID's and updating them so that  
12      everybody has better information in the  
13      Identification of Goods and Services Manual.

14                      We're going to be continuing to try to  
15      find ways to improve the manual. And if people  
16      have suggestions, please let us know at TM  
17      feedback, e-mail box [TMfeedback@uspto.gov](mailto:TMfeedback@uspto.gov).

18                      One of the things that we recently did  
19      was to deploy a new tool in the ID manual and  
20      that's specifically for our regular TEAS form, and  
21      it's called ID Assist. It allows you, when you're  
22      in the regular TEAS form, to enter a particular

1 identification, and you will immediately see  
2 whether it's acceptable in the manual, whether  
3 it's not acceptable, or whether it's a possible  
4 match. So we think that's very helpful for  
5 people. It should be very helpful if you haven't  
6 yet used it. And again, just for the regular TEAS  
7 form. For TEAS Plus, obviously you have to use  
8 the manual, so I wouldn't apply there. But take a  
9 look at that. And let me just emphasize that this  
10 is a limited first step. We're going to be  
11 improving that tool as we go along.

12 Let me shift now to a request for  
13 comment that was recently posted. And this has to  
14 do with identification. It's a request for  
15 comment on post registration identification  
16 changes. Some stakeholders have requested at post  
17 registration time that they be allowed to change  
18 identifications due to changes in technology.

19 Normally, of course, this would not be  
20 allowable unless it's within the scope of the  
21 existing identification that's been registered.  
22 So an example of this is going from pre-recorded

1 audio cassettes to pre-recorded compact disks, we  
2 would not allow that. We issued this request to  
3 comments to see whether the public, whether users  
4 would like us to reconsider that policy somewhat  
5 to account for changes in technology. And we've  
6 asked some specific questions in the request for  
7 comment, and I really hope that some of you or all  
8 of you get a chance to take a look at this. It  
9 closes on December 1st. And we will be closely  
10 looking at the comments and deciding how to move  
11 forward. We will be having additional discussions  
12 on it and additional discussions with the public  
13 once these comments are received.

14           And I just want to go over a couple of  
15 the questions that are contained within the  
16 request for comment to get you to start thinking  
17 about them. One is, should we allow the  
18 amendments to identification of goods and services  
19 based on changes in the manner or medium by which  
20 products and services are offered for sale and  
21 provided to consumers? Should we make a  
22 distinction between products that have been phased

1 out, such as eight track tapes, and ones where  
2 technology is just evolving, like online  
3 magazines, where the print magazines are still in  
4 existence?

5           Also, do you believe that the scope of  
6 protection is expanded if we're permitted to alter  
7 the medium? And finally, what about the dates of  
8 use? How should the original dates of use be  
9 treated in this type of a situation? So, you  
10 know, there are a few more questions on the  
11 website. Take a look, please. Let us know what  
12 you're thinking. This is a really important area.  
13 We get a lot of requests in this area. And I  
14 think when you start thinking about the issue,  
15 you'll realize that there are many considerations,  
16 but we do want to hear from you about it.

17           Next I'd like to turn to the enhanced  
18 electronic OG. And I hope that many of you have  
19 had a chance to take a look at that. We deployed  
20 it on September 24th. And I do want to emphasize  
21 that this is an initial version. We have some  
22 enhancements planned for later in the year. But

1        what we've deployed on September 24th is a huge,  
2        huge change and a huge improvement from the pdf  
3        version that you've been used to seeing all these  
4        years. And as you probably already know, the  
5        print version is long gone. That's been done away  
6        with as of last Christmas.

7                        So I'm not going to go through all of  
8        the improvements that we've made. I really  
9        encourage you to get on the website and take a  
10       look, and when you have a mark where you have a  
11       link that's been sent to you because you have a  
12       mark that's published, you know, you have a choice  
13       between the traditional pdf OG and the new  
14       enhanced OG. Please take a few minutes, look at  
15       the enhanced OG. I think you're going to find it  
16       a huge time saver and a much better tool for many  
17       different purposes. And we're going to continue  
18       to have the pdf version for a while, not forever,  
19       but for a while. So you'll be hearing more about  
20       that in the future. Any questions about the OG,  
21       by the way? I know that some of you probably have  
22       already seen it.

1                   And by the way, I do want to mention, I  
2                   had a discussion this morning to make sure I  
3                   understood, and I want everybody else to  
4                   understand the supporting browsers for this new  
5                   enhanced electronic OG. So they include Internet  
6                   Explorer 9, the latest version of Firefox, Chrome,  
7                   and Safari. So these are the browsers that we've  
8                   tested so far.

9                   If you're using a different one and it  
10                  doesn't work for you, you can get one of the  
11                  browsers that it does work with from the internet.  
12                  So we're not recommending any particular browser,  
13                  but these are the ones that it's been tested with  
14                  and works with thus far.

15                 Okay. I'm moving on to outreach now. I  
16                 want to talk to you a little bit about some of the  
17                 things that we've been doing and something new  
18                 that's actually on our website. I've talked about  
19                 in the past few years our new Trademark  
20                 Educational Outreach Program, where we're actually  
21                 trying to engage people who don't know anything  
22                 about trademarks, but should, because they're

1 opening businesses, they're small businesses,  
2 they're entrepreneurs, and so we try to engage  
3 them earlier in the process.

4           And our outreach manager, Craig Morris,  
5 has been going around the country giving  
6 presentations and they have been extremely well  
7 received. We've been getting great feedback on  
8 it. So we're continuing to do that.

9           But the other thing we did was,  
10 realizing we can't reach every single person, we  
11 actually recorded a video of one of these  
12 presentations. It's called Trademark Basics, What  
13 Every Small Business Needs to Know Now, Not Later,  
14 and I think that's a great title, Craig, I think  
15 it's a great mark. And it's now available on our  
16 website in the trademark basic section. And we've  
17 had more than 4,000 hits in the first 2 weeks it  
18 was posted.

19           So it's not a short video. It's about  
20 42 minutes long. But it's really comprehensive  
21 and some of you might want to show it to your  
22 clients or others. Take a look when you have 42

1 minutes. It's really a very well done  
2 presentation.

3 Our outreach to our stakeholders, to our  
4 trademark stakeholders, through the INTA  
5 roundtable series continues. We are hosting a  
6 number of roundtables around the country where  
7 we're talking to experienced practitioners. We  
8 have smaller group discussions so we can talk  
9 about specific issues, talk about practice tips  
10 and whatever is of interest to them, hear about  
11 problems firsthand and give them feedback, as well  
12 as getting feedback.

13 Our latest stops included Minneapolis  
14 and New York City. We will be in Miami, Florida  
15 and St. Louis, Missouri also this calendar year.  
16 And we have additional plans for next year.

17 Another outreach program we're planning  
18 is a seminar which is actually next week on  
19 October 23rd. It's on advanced Madrid protocol  
20 basics. It's an advanced Madrid seminar, I should  
21 say. And the target audience is practitioners who  
22 have already used Madrid and are familiar with it.

1 But I think, you know, anybody who's interested  
2 should join in. It's going to be here at the  
3 USPTO, but it will be web cast, and the web cast  
4 instructions will be posted on our website if  
5 they're not already posted. If you want to attend  
6 in person, the deadline is today. So you can send  
7 your name to [TMfeedback@uspto.gov](mailto:TMfeedback@uspto.gov) if you would  
8 like to attend. So again, it's Madrid protocol  
9 advanced training.

10 You know, Maury, I think that's all I  
11 have for everyone today. And again, I'll be happy  
12 to answer questions that anyone might have. And I  
13 think I'm actually right on time. Thank you.

14 CHAIRMAN TEPPER: That's perfect. Thank  
15 you. That was a tour de force, Debbie. I would  
16 like to encourage you all, maybe take a few  
17 minutes away from youtube videos of cats and spend  
18 some time on the PTO website. Now, I counted six  
19 separate opportunities for you to comment and have  
20 input on developments, exam guides, proposals.

21 As my mom used to say, speak now or  
22 forever hold your peace. I think it's

1 extraordinary and commendable that trademarks  
2 seeks input from the user community. Those do  
3 make a difference. So if you have not yet found  
4 the tool, you know, go to news and announcements  
5 and take a look at idea scale. It is surprisingly  
6 under utilized and it is I think exceptionally  
7 important. If you would like to have the ability  
8 to shape policy to make your views known on how  
9 these ought to look, I encourage you to take the  
10 PTO up on its offer.

11 I'd also like to take just a quick  
12 second to thank Craig Morris. I want to check out  
13 his video. I think that will be an engaging and  
14 entertaining presentation. And we can often  
15 underestimate because these are the folks that we  
16 don't call.

17 It's not the clients who call you with  
18 names, it's the fact that Craig has reached that  
19 small businessman who thought that Gillette facial  
20 care was really great, since his name is John  
21 Gillette, and, you know, we can avoid those  
22 problems which are, of course, disastrous for

1 entrepreneurs and also costly for established  
2 businesses and trademark owners. So it makes a  
3 big difference for all of us. And we appreciate  
4 the ongoing effort. And I want to check out the  
5 video.

6 So you all are welcome to e-mail me with  
7 your comments and reviews, as well. I don't think  
8 that the PTO has a box for that one just quite  
9 yet. But please do take the time. And if I've  
10 miscounted, I think it is at least six  
11 opportunities that you have right now. One of  
12 those will close out on October 23rd, so, you  
13 know, take care of that before you come into the  
14 advanced Madrid seminar. But do take a look and  
15 make your views known. Yes?

16 MS. COHN: Just one more comment about  
17 giving us feedback. You know, we do have a number  
18 of mailboxes set up. We have TEAS@uspto.gov for  
19 TEAS issues. But if you don't know where to send  
20 something, please send it to TMfeedback@uspto.gov.  
21 Anything at all can go to TMfeedback. We will  
22 make sure it gets to the right place promptly. We

1 look at that mailbox every single day. So thank  
2 you.

3 CHAIRMAN TEPPER: Great. Do we have any  
4 questions now that I've issued my challenge?

5 MS. BLACK: Debbie, I do want to say I  
6 appreciate you looking at the issue of the ID's  
7 with the, you know, those items that maybe are no  
8 longer in existence and what do you do about that,  
9 so I appreciate the office really taking a look at  
10 it. The implications and the impact of that could  
11 be huge. And so I do think it's important that  
12 the public reaches out and addresses this issue.

13 My question for you is, in the process,  
14 is there a process of what the office is looking?  
15 Are you looking for feedback now? Are you  
16 planning on making decisions about that in the  
17 future? What's the plan for this issue?

18 MS. COHN: Cheryl, you are absolutely  
19 right, this is a huge issue. And the plan is to  
20 gather the feedback and then have further  
21 discussions. We will not be making any decisions  
22 based on the feedback. It's important for

1 everyone to know, when you start thinking about  
2 this issue and realizing what the implications  
3 are, you know, there are some real issues, as  
4 you've pointed out.

5           You know, we're doing this in response  
6 to numerous requests from the public that we make  
7 these changes. I'm not sure that people, when  
8 they're making these requests, understand the  
9 implications of a policy decision. But I believe  
10 it's our responsibility to explore the issue and  
11 make sure we, you know, we understand both sides  
12 of it and how trademark practitioners and the  
13 public feel about it before we do anything.

14           Now, we may do nothing, but at the very  
15 least, we'll have further discussions about it.  
16 And I don't think anybody will be surprised when,  
17 you know, if something does happen, it will be  
18 after long discussions and a lot of back and  
19 forth.

20           MS. BLACK: Thank you.

21           CHAIRMAN TEPPER: Any other questions?

22 All right. Do we have questions from the public

1       today? All right. Well, that being said, I  
2       thought we were going to have to shave a minute or  
3       two off the agenda, but we are right on time. I'm  
4       pleased to move forward. I personally wish we  
5       could revisit the issue about phasing out eight  
6       track tapes, but I'm told they're not coming back.  
7       So do be thinking about it. I'm glad we're  
8       working on these important issues.

9                 We're going to take just one last set of  
10       few minutes before our break. Our Deputy  
11       Commissioner for Trademark Policy, Sharon Marsh,  
12       is going to I think give us an update on a couple  
13       of ongoing projects and maybe talk about a new  
14       initiative or two.

15                MS. MARSH: Thanks, Maury. I actually  
16       have very little to add to Debbie's report. But I  
17       did want to touch briefly on two issues today, the  
18       first, Madrid protocol. I took a look at the, you  
19       know, it's the end of the year and we're  
20       collecting all of our statistics, so we took a  
21       look at the stats for Madrid filings this year,  
22       and it's kind of interesting.

1                   There is a significant increase in the  
2                   request for extension of protection to the United  
3                   States, what we call the 66A applications. In FY  
4                   '12, there were about 13,000 66A applications. In  
5                   this past year, that went up to 18,000, so that  
6                   was a significant increase. And the only other  
7                   thing on Madrid, at the end of the month, there is  
8                   a meeting of the Madrid Working Group in Geneva.  
9                   All of the members of Madrid protocol will be  
10                  meeting. And if you're interested in this, all of  
11                  the information, the agenda, all of the issues  
12                  that are going to be covered are posted on the  
13                  WIPO website.

14                  There's also an interesting report  
15                  there. The International Bureau has finished a  
16                  report on trying to get a sense, and there were 29  
17                  participating countries I think, a sense of how  
18                  many international applications have a ceasing of  
19                  effect because of somebody using the central  
20                  attack feature of Madrid. You know, the idea that  
21                  if you attack the basic and that's knocked out,  
22                  then all of the designated country applications

1 also have to end. So anyway, if you're interested  
2 in that, take a look.

3 The other thing I guess I wanted to  
4 mention is the TMEP. As Debbie noted, we're going  
5 to be issuing the update at the end of the month,  
6 and it's very good, includes all the new case law,  
7 the result of a lot of hard work on the part of  
8 our legal policy staff. And in addition to the  
9 exam guides that are currently posted on idea  
10 scale, in the coming few months, we should have a  
11 couple news ones. We're working on one on  
12 repeating patterns. We're also working on an exam  
13 guide on web specimens. If you recall last year,  
14 we issued an exam guide on specimens for goods  
15 that are web specimens and now we're working on  
16 the service mark version of that.

17 And when we do get a draft completed, it  
18 will be posted on idea scale. And so I would  
19 reiterate Debbie's suggestion that you check the  
20 USPTO web page under trademarks, either news or  
21 notices or user input periodically, because when  
22 these go up, you know, they'll be up for maybe,

1       you know, it depends, but maybe about a month, and  
2       we really, really, really appreciate the feedback  
3       that we get.

4               MS. COHN: Sharon, this might be a good  
5       time to put in a plug for TM Alert.

6               MS. MARSH: Well, yes.

7               MS. COHN: That way you'll know if you  
8       subscribe to TM Alert, which you can get to  
9       through our front page on the website or through  
10       the trademark page, subscriptions, you will get  
11       notice when these things happen. You'll get lots  
12       of different notices. They won't come too often,  
13       not every 10 minutes or anything, but you'll get  
14       importance notices, and it'll reduce the time that  
15       you have to guess, you know, is it time to look at  
16       the USPTO website.

17               MS. MARSH: Right. And you can  
18       subscribe by, again, going to [uspto.gov](http://uspto.gov). Unless  
19       there are questions, that's it.

20               CHAIRMAN TEPPER: Great. Thank you very  
21       much. Are there questions for Sharon this  
22       morning? The committee? I might just mention

1 just for folks general awareness, you all will  
2 recall that there is a pilot going on for the  
3 office to review post-registration filings. I  
4 believe that 500 registrations were selected at  
5 random. I know it will be a while before we hear,  
6 but I think it's safe to say, is that right,  
7 Sharon, that those have all been notified? And if  
8 you have not heard from the PTO, you don't need to  
9 worry about hearing from the PTO as a part of that  
10 pilot?

11 MS. MARSH: Yes. The 500 lucky winners  
12 have received their letters.

13 CHAIRMAN TEPPER: Thank you. Now, the  
14 IRS is open, again, I can't talk about your  
15 chances of an audit, but if you did not receive a  
16 PTO request, then at least know that, you know,  
17 we'll look forward to hearing the results, but you  
18 will not be selected.

19 MS. MCLEOD: I had a question for  
20 Sharon. What are the next steps in that pilot?

21 MS. MARSH: We will review the  
22 information. And my guess is, we're probably

1 going to decide whether or not we need further  
2 public comment about whether changes are needed.  
3 In response to the discussion the first go around,  
4 we were told that we should collect more  
5 information about the extent of the problem of  
6 identifications of goods and services in  
7 registered marks. And so that was the purpose of  
8 this pilot, to assess the accuracy of the  
9 register. If it appears to us that there is a  
10 significant problem, I think we will be beginning  
11 further discussions with users about what some  
12 alternatives are to try to improve the situation.

13 CHAIRMAN TEPPER: Thank you, Sharon.  
14 And I will remind everyone, you know, stay tuned  
15 and watch this space. If your clients or your  
16 company have not worked on clearing a new mark  
17 recently, I will let you know that I, you know,  
18 certainly rely on data in the PTO register. It is  
19 a you space register, so we certainly encourage  
20 their looking at the accuracy of the register and  
21 what we can see. Anything we can do to improve  
22 that I think is going to obviously improve

1 searching, improve the reliance that we place on  
2 that information. So I know it will be a while.  
3 But I did at least want to make people breathe easy  
4 if you were worried about am I going to be asked  
5 that question when I file my next Section 8 or my  
6 renewal. So I know we'll wait and see what good  
7 information we can get from that project. Are  
8 there any questions? I'll warn you, you're  
9 holding up our break, but any last questions for  
10 Sharon before that? Well, in that case, thank you  
11 very much, Sharon, for the update.

12 And onto the most popular part of the  
13 meeting, we have a 15 minute break scheduled. I  
14 would like to keep this on time as best we can.  
15 So if I can ask everyone to reconvene here at  
16 10:25. And those of you who are watching on the  
17 internet, certainly enjoy those videos. But you  
18 would be better to use your time looking over the  
19 PTO website. So here's your 15 minutes to do so.  
20 And we'll reconvene at 10:25.

21 (Recess)

22 CHAIRMAN TEPPER: All right. I am going

1 to ask everyone to go ahead and if you'll please  
2 take their seats, we are going to start back up.  
3 I am glad to see, by the way, that everyone enjoys  
4 the break just as much as I do. It's nice to see  
5 a lot of collegiality and good discussion. But if  
6 we don't start, we can't finish. So let me bring  
7 us back on time and I'm going to move on forward.  
8 I'm pleased now to turn to an update from the  
9 TTAB. I think you already heard maybe one  
10 presaging comment. But we're very glad to have  
11 Chief Judge Gerry Rogers with us today. Gerry, I  
12 suspect you are looking forward to this  
13 presentation as much as we are, so I'll get to  
14 this.

15 CHIEF JUDGE ROGERS: Thanks, Maury.  
16 Thanks for bringing me back. And it is certainly  
17 a pleasure to be here for a meeting when we can  
18 report such great successes kind of across the  
19 board.

20 And obviously we heard from Debbie  
21 earlier about how every part of the trademark  
22 operations performed well this year and I think we

1 can say the same thing about the board, whether  
2 it's the judges dramatically increasing their  
3 production of the number of cases decided on the  
4 merits, or the attorneys reworking the docket of  
5 pending contested motions to bring down the  
6 average age of the pending motion so that we're  
7 working on more current motions on a regular  
8 basis, or even the paralegals taking on additional  
9 responsibility for handling uncontested matters  
10 and consented matters that increase during the  
11 year. So it's been, you know, across the board.  
12 Everyone pitched in to help us realize the  
13 successes that we've obtained this year. And even  
14 the administrative staff providing the hoteling  
15 operations for a great staff of teleworkers and  
16 providing all the administrative support so all  
17 those other units could get the work done that  
18 they needed.

19 And, of course, Meryl as our consultant  
20 from trademarks was of great assistance, whether  
21 it was working on performance appraisal plans and  
22 PAP's with the paralegals and the attorneys or

1 sitting in with me and working on changes to the  
2 judge's PAP's. You know, anything that she could  
3 provide assistance on, she was willing to provide  
4 assistance on and it was great to have her.

5 Unlike the Patent Board, which has a  
6 deputy chief and a couple of vice chiefs, it's  
7 kind of me and Ken Solomon, the managing attorney,  
8 and so we're a much smaller staff, and it's been  
9 great to have someone else to bounce ideas off of  
10 and to discuss things with Meryl.

11 So with that introduction, I'll get into  
12 the statistics. And I think the presentation as  
13 we work through the slides will cover pretty much  
14 everything that's on the agenda.

15 CHAIRMAN TEPPER: That's great. If I  
16 can just pause for one acronym alert here. You  
17 might want to just let everyone know what a PAP  
18 is.

19 CHIEF JUDGE ROGERS: Oh, I thought I had  
20 said Performance Appraisal Plan, but if I hadn't,  
21 yeah, the PAP is the Performance Appraisal Plan.  
22 And, of course, everybody at the PTO has one. I

1 have one. Debbie has one. The attorneys, the  
2 judges, the examiners, everybody has one. But  
3 they need to be tweaked from time to time as we  
4 redefine our goals, given the circumstances that  
5 we're facing and the case loads that we're facing,  
6 and so it's useful to revisit them from time to  
7 time so that the PAP's are aligned with office  
8 goals or business unit goals as the case may be.

9 Okay. So the first slide we have just  
10 focuses on what's been coming in the front door.  
11 And, of course, given the increases in filings in  
12 trademarks in recent years, it should be no  
13 surprise that we saw modest increases kind of  
14 across the board with appeals, oppositions, and  
15 cancellations. It's kind of remarkable that  
16 extensions of time to oppose with such a high  
17 number, almost 17,000, were within 7 of the  
18 previous year. But anyway, just a little factoid  
19 for you to take away from the meeting.

20 If those numbers go up additionally  
21 during the coming year based, again, on the  
22 increases in work that the trademark operations

1 have had in the previous couple of years, we'll be  
2 well positioned to handle it because our staffing  
3 is right, our judge staffing is right, our  
4 attorney staffing is right. And we'll be hiring  
5 some paralegals during this fiscal year. That's  
6 one area where we need to add a few, but  
7 otherwise, we think we'll be prepared for any  
8 additional increases that will come in.

9           On the other end of the process,  
10 decisions on the merits, this is, of course, where  
11 we saw some very interesting figures. The number  
12 of cases decided, I challenged the judges hoping  
13 for a 20 percent increase in production during the  
14 year and they far exceeded my request and they  
15 were able to get to almost a 27 percent increase  
16 in production, which was really tremendous. And I  
17 think, in my recollection, it's the third highest  
18 year of production that the judge's have had, so a  
19 tremendous year for them. One of the interesting  
20 things on this slide to note, however, is that the  
21 number of cases, and this includes appeals and  
22 trial cases maturing to ready for decision

1 actually went down some during the year and that  
2 was a bit of a surprise to us. We had kind of  
3 staffed up for this year anticipating that we  
4 would have a rate of cases maturing to ready for  
5 decision by judges at the same rate as the  
6 previous year.

7           We're not sure whether this was just an  
8 aberration. You can see from this slide the first  
9 quarter was particularly low compared to the other  
10 quarters. And again, we'll have to just kind of  
11 keep an eye on it. If it does pick up again and  
12 go back to the FY '12 levels, we'll be ready for  
13 it. The staffing is right and the inventory, as  
14 you can see at the bottom of this slide, is pretty  
15 low. We don't really want it to go much lower  
16 than that because we want to have cases for all  
17 our judges to work on.

18           And anyone who's paying very close  
19 attention to both the slides and the one page  
20 handout that I provided will note that there is a  
21 two case discrepancy in the inventory. And it's  
22 actually not an arithmetic error. Another little

1 factoid you might want to take away from the  
2 meeting today is that we actually had three  
3 concurrent use cases mature to ready for decision  
4 on the merits. Almost always concurrent use cases  
5 are settled. This year, quite remarkably, we had  
6 three cases mature to ready for decision. They  
7 were actually tried by the parties. One of them  
8 was handled during the year so it doesn't appear  
9 in the inventory and that's the discrepancy  
10 between the two sheets on the inventory. One  
11 doesn't track the concurrent use cases and the  
12 other one does. I didn't want anyone to think our  
13 math was off. There's an explanation for that.

14 The next slide, this is kind of the  
15 aspect of board practice that I think most  
16 practitioners are familiar with. Not everybody  
17 gets involved in trial cases at the board. Sorry,  
18 I went one too far. It's a very light touch  
19 button today.

20 The appeal processing, more people are  
21 involved in appeals I think than trial cases. So  
22 I just wanted to quickly cover the end to end

1 processing in appeal cases. You can see that we  
2 brought the average total pendency down in  
3 appeals.

4 The percentage drop in this figure is  
5 probably more dramatic than you would see in a  
6 normal year and that's because FY '12 had a lot of  
7 older cases that were worked off and the average  
8 was up. So I think you're not likely to see 35  
9 percent drops in end to end appeal processing on a  
10 regular basis. But we're certainly happy to go  
11 from the elevated figure of last year down to a  
12 figure that's more in the normal range for end to  
13 end appeal processing. And I think we will also  
14 be focusing on trying to extract in the future  
15 additional savings out of end to end processing.  
16 That's something I'll get to in a moment when we  
17 talk about the board's next roundtable and kind of  
18 goals for this year. It's a good figure, but if  
19 we can realize additional time savings in end to  
20 end processing appeals, then we would certainly  
21 like to do that.

22 Contested motion practice, we've talked

1       about that a little bit. And this, of course, was  
2       a modest increase in production from the  
3       attorneys. But I don't want you to think that the  
4       modest increase in production wasn't a dramatic  
5       reworking of the docket.

6                 It was a dramatic reworking of the  
7       docket because the cases that involve contested  
8       motions and are pending, awaiting decision, when  
9       we started six months ago on a pilot performance  
10      plan with the attorneys, we had cases that were a  
11      year -- had been pending with contested motions  
12      for a year or more. Now we don't have one that's  
13      over 16 weeks. And the average of the contested  
14      motions that are pending is well under 10 weeks.  
15      So we're working on not only a reduced inventory,  
16      but a much more current inventory, and so that's  
17      really good news for anyone who's involved in  
18      trial cases and contested motion practice.

19                Now, one thing I also wanted to note on  
20      this slide, because some people may take note of  
21      it and think that there's been a significant  
22      change for a reason, and that is the percent of

1       contested motions decided after there was some  
2       kind of a phone conference.

3               The percentage figure is down. But I  
4       don't want anyone to think that this means that  
5       the attorneys are any less committed to helping  
6       parties resolve contested motions by phone  
7       conference if that's necessary.

8               In part, the figure changed because of  
9       our focus on working off older motions, many of  
10      which were potentially dispositive and needed to  
11      be decided by a panel of three judges in  
12      conjunction, in consultation with the attorneys.  
13      And those are motions which cannot be handled by  
14      phone conference.

15              And so, in part, this is a function of  
16      the specific work we targeted during the last six  
17      months of this fiscal year. But certainly the  
18      attorneys are always available to parties that  
19      need to engage them in phone conferences to help  
20      them resolve their discovery disputes or any other  
21      contested motions. And I just wanted to make sure  
22      that everybody on the committee understood that

1       there's been no change in our commitment to having  
2       attorneys be available for phone conferences.

3               Overall trial processing, again, echoing  
4       the theme for this year for us at least,  
5       everything is down. The average pendency for  
6       trial cases is down. The median pendency for  
7       trial cases is down. Not dramatic figures, but  
8       nonetheless, significant for us, and again,  
9       something that we will try and continue to focus  
10      on, because I think the earlier slides have shown  
11      that the judges have a good handle on the work  
12      that they have to do in terms of deciding cases  
13      once they're ready for decision on the merits.

14             The attorneys have gotten a good handle  
15      on the contested motion practices. So those  
16      discreet chores that certain parts of the board  
17      have to do are well in hand. And what we really  
18      want to be able to focus on during this year is  
19      the more holistic end to end processing of both  
20      appeals and trial cases. So we'll be looking for  
21      everyone, paralegals, attorneys, judges, everyone  
22      to get involved in stakeholders, external

1 practitioners who practice before us to get  
2 involved in helping us figure out ways to reduce  
3 end to end pendency. Of course, one way in the  
4 current environment that you can reduce end to end  
5 pendency is by electing ACR for your trial  
6 proceedings. And as has been true in every  
7 presentation where I've compared ACR trial  
8 processing to traditional trial processing, the  
9 end to end numbers for ACR cases are always lower  
10 than traditional discovery trial and briefing of  
11 trial cases.

12           The number of cases tried under some  
13 form of ACR was about the same this year as last.  
14 It's a number we would like to increase. And we  
15 continue to talk about ACR at conferences, at CLE  
16 programs, in anything that a board attorney or a  
17 judge participates in. We're always stressing  
18 ACR.

19           And I think anyone who practices before  
20 us in trial cases has probably received an order  
21 from an interlocutory attorney disposing of a  
22 motion or an order on a summary judgment motion

1       which says we can't grant you summary judgment now  
2       based on the circumstances of the case, but this  
3       case seems to be a good candidate for accelerated  
4       case resolution, and if the parties are willing to  
5       consider it, the board stands ready, willing, and  
6       able to assist you in crafting an ACR alternative  
7       to traditional trial and briefing. So that  
8       salesmanship, if you will, is something that I  
9       think is pretty typical now in most board orders  
10      and so we hope that more people will sign on as we  
11      move forward. Actually, before I discuss  
12      transparency and outreach, if there's any  
13      questions about any of these numbers I've run  
14      through, I'll be happy to take any questions now.

15                   CHAIRMAN TEPPER: Thanks, Gerry. Do we  
16      have any questions for Chief Judge Rogers? All  
17      right. Well, I have to pause and mention how  
18      extraordinary the change you've seen. And when  
19      Gerry says everything is down, that's a good  
20      thing, by the way. In this context, down, that is  
21      very helpful. But I want to compliment your  
22      group, Gerry, you and Meryl, of course, but all of

1 the administrative law judges, the interlocutory  
2 attorneys who have rolled up their sleeves.

3 I'm sure I'm the only person guilty of  
4 this, but when you have that pile of things on  
5 your desk, the deeper in the pile that things get,  
6 the harder they are to deal with, and you all have  
7 done the opposite of what I would do, and that is,  
8 you've dealt with the difficult, old, and time  
9 consuming matters first, and I think that's really  
10 not only admirable, that will pay dividends I  
11 think in how we're able to watch sort of the rest  
12 of the numbers follow. So I suspect it's a great  
13 feeling to have finished. I know it was a  
14 difficult thing to have gone through and so I'm  
15 very pleased to be able to hear about that today.  
16 So if there are no questions, I'll let you  
17 proceed.

18 CHIEF JUDGE ROGERS: Okay. On the first  
19 of these two slides on transparency and outreach,  
20 you might wonder, well, why am I still posting on  
21 a slide before the TPAC the fact that we had a  
22 roundtable on metrics and performance measures in

1 2011. Well, the reason I remind everyone that we  
2 did that is that we continue to be interested in  
3 fine tuning our performance measures and our  
4 metrics.

5 We post our statistics on a quarterly  
6 basis on the website. And earlier this year, we  
7 posted our new dashboards reviewing some of these  
8 performance measures and metrics. And we have an  
9 opportunity again, following one of the themes  
10 from the earlier presentation, for the public and  
11 the stakeholders to comment. And we have not  
12 really received many comments on the TTAB  
13 dashboards.

14 I've received many offers from China and  
15 other places to purchase things. We received  
16 various sweepstake notifications. But we'd really  
17 like to see the mix in that in-box change and get  
18 some comments from practitioners and stakeholders.  
19 So I just want to plug that opportunity for people  
20 to continue to dialogue with us about our  
21 performance measures and our metrics and how we  
22 report our goals and the measures as we move

1 forward.

2 We also want to remind you that we've  
3 updated the TBMP. I mean this was something that  
4 was done earlier in the year. We have followed  
5 the trademark's lead. And I just want to make  
6 sure I have the right slide up there. We also  
7 have a chapter of the TBMP up for public comment  
8 in idea scale. Again, we haven't had a lot of  
9 comments yet, but it's there and it's available.

10 The first chapter that's been up there  
11 for comment is Chapter 1200 which is the chapter  
12 that covers appeal processing. We will in the  
13 future move towards posting chapters that involve  
14 trial cases and provide opportunities for people  
15 to comment on motion practice or presentation of  
16 evidence at trial or other things.

17 We upped the number of precedence. Oh,  
18 before I get onto precedence, I wanted to mention,  
19 too, that we have made significant progress in  
20 getting the TBMP into the RDMS system, which is  
21 what trademarks has been using to update the TMEP.  
22 And again, we have to kind of thank trademarks for

1 doing a lot of the hard work along with patents.  
2 And so the two teams that produced the MPEP and  
3 the TMEP have done a lot of the beta testing and a  
4 lot of the hard work to get RDMS to be a very  
5 useful system. And now we are going to be  
6 following in and joining the group and getting the  
7 TBMP into RDMS.

8 The current version has been put in the  
9 system. It's been converted in a way that we can  
10 start working with it. And it's quite possible  
11 that our next revision of the manual will be able  
12 to be accomplished through the use of the RDMS  
13 system. And it will also afford us the  
14 opportunity to make more frequent updates as case  
15 law develops and as rules change in the future.

16 And speaking of cases that might need to  
17 be incorporated into the TBMP, we increased our  
18 precedence this year. As you can see from the  
19 slide, 22 precedents issued in ex parte appeal  
20 cases, 27 in trial cases. The trial case  
21 precedence could be final decisions on the merits.  
22 They could also be just procedural issues that

1       come up and need to be handled by interlocutory  
2       attorneys. So practice and procedure issues are  
3       also covered by those precedence.

4               Of course, we have the roundtable, the  
5       second roundtable that the board has had in recent  
6       years on ACR. Last year at this time, after  
7       having had it be rescheduled because of Sandy, but  
8       that was very successful. And we have again  
9       another pitch for suggestions and interaction with  
10      stakeholders, we've got the ACR suggestions  
11      mailbox up there. And so anyone who wants to look  
12      at the information that we have on ACR on the  
13      website, which gets regularly updated, and provide  
14      additional suggestions, there's an e-mail box and  
15      a way for people to do that.

16             And then we've got a date secured to use  
17      this room, December 3rd. Hopefully next week you  
18      will see as one of the stakeholder groups, TPAC,  
19      will receive an invitation for that roundtable, as  
20      well the other stakeholder groups that have been  
21      involved in the prior roundtables.

22             But for this roundtable, what we want to

1 focus on is the end to end processing that I've  
2 talked about earlier. Again, we've got a good  
3 handle on the judge work, we've got a good handle  
4 on the attorney work, and we want to be able to  
5 focus more holistically on end to end processing.  
6 And this will be both for appeals and trial cases.  
7 So that's what we've got in the works for December  
8 3rd. I just want to finish before I ask for any  
9 questions by saying that in the near term what  
10 I'll be working on with Meryl is setting some  
11 goals. Now that we've kind of worked off backlogs  
12 and brought down inventories of contested motions  
13 and cases waiting to be decided on the merits, we  
14 have to kind of transition from a work off the  
15 backlog mode to a maintenance mode, and so we have  
16 to rethink our goals.

17           We may have had a goal to increase  
18 production dramatically in the past year. We did  
19 have a goal to do that with the judges. But  
20 that's not necessary a feasible goal for the  
21 current year because we have an inventory that if  
22 we increase production again at that rate, we

1 might not have any work left to do.

2           So what we really want to do is focus  
3 more on pendency and reworking our goals to face  
4 the current situation that we have. So that's  
5 something that Meryl and I are going to be working  
6 on. And we've already had some discussions of  
7 that in-house.

8           We'll also be trying to improve the  
9 analysis of our data so that we can guide future  
10 performance based on our analysis of past  
11 performance. That's something that we'll want to  
12 focus on. And I think that pretty much covers it.  
13 But I'm happy to take any other questions, or any  
14 questions anyone has.

15           CHAIRMAN TEPPER: Thank you, Gerry. We  
16 very much look forward to hearing this. I think  
17 it'll be interesting to see sort of the, you know,  
18 being in the position of needing to plan for  
19 appropriate pendency goals, and we'll be able to  
20 follow those up, it's been quite a year. They  
21 didn't just trim things up around the edges. They  
22 made significant cuts in the state of affairs and

1 I'm very pleased to hear about the progress. Do  
2 we have any questions for Gerry today? Yes,  
3 please, Dee Ann.

4 MS. WELDON-WILSON: Actually it's more  
5 of a comment following up on what Maury just said.  
6 I agree and applaud the significant progress that  
7 the judges, interlocutory attorneys, and staff  
8 have made to make this all possible. But I'm also  
9 very encouraged to hear about the goal setting and  
10 setting targets for the future so that there will  
11 be continued improvement. And I just think it's  
12 amazing what you have been able to do in a year.  
13 And so I wanted to thank you and your entire staff  
14 for the efforts.

15 CHIEF JUDGE ROGERS: Thank you on behalf  
16 of the staff that did all the work.

17 CHAIRMAN TEPPER: Linda, please.

18 MS. MCLEOD: Not to be repetitive, but I  
19 wanted to just thank also the interlocutory  
20 attorneys and judges again. The significant  
21 increase in productivity and working off I know  
22 ancient cases with large records was not an easy

1       undertaking, and I know it took a lot of  
2       flexibility and cooperation. So I think the users  
3       and customers of the PTO are going to be grateful  
4       this year now and looking forward to continued  
5       success by your group.

6                   And then I also was pleased to hear your  
7       goal setting about transitioning from this backlog  
8       to maintenance and look forward to hearing more  
9       details about how that's going to roll out over  
10      the next year.

11                   And you mentioned a couple of things  
12      that stand out for me was ACR and continuing to  
13      educate people on that valuable alternative to  
14      litigating before the TTAB. When you just look at  
15      the statistics, it's a significant time and cost  
16      savings for parties, and I just applaud your  
17      efforts to keep encouraging people to use that  
18      alternative.

19                   And then the other thing is use of the  
20      phone by the interlocutory attorneys, and I don't  
21      know to the extent the judges, but the more active  
22      the TTAB is in case management and resolving by

1 phone, I think it just benefits everyone,  
2 including the agency and the users in expediting a  
3 resolution of motions and just moving cases along.  
4 So I think those two things looking forward are  
5 important to keep in mind and I look forward to  
6 the plans for the future.

7 CHIEF JUDGE ROGERS: Thank you, Linda,  
8 for the comments. And I think that we are very  
9 aware that those are going to be important  
10 aspects, whether it's the focus on ACR or any  
11 efficiencies that can be utilized in trial cases,  
12 and the use of the phone, of course, being one of  
13 those efficiencies, so we're well aware that those  
14 are going to be critical to our success moving  
15 forward.

16 CHAIRMAN TEPPER: And I think it's  
17 probably time, fellow members of the bar, we need  
18 to challenge ourselves. I've been watching these  
19 presentations for a good while. You see the  
20 e-mail address. You have the chance to provide  
21 your input on ACR. The TTAB has certainly made  
22 ACR available and has encouraged us. We are no

1 longer at a point where we can blame the board for  
2 having big backlogs. They're catching up. I  
3 think it now falls to us to really take a look at  
4 the way we approach disputes, to get things  
5 resolved, to try to work them out quickly for our  
6 companies, for our clients.

7 So if you have views on those, please do  
8 make them known. Please participate. The  
9 roundtable will be coming up December 3rd. You  
10 can offer your suggestions to the  
11 ACRsuggestions@uspto.gov e-mail address. But  
12 please do give that some consideration. Do we  
13 have any questions from the public today? I think  
14 that we do. Yes, please. If you'll just come on  
15 up and simply -- I know you've done this before,  
16 but push the button, make sure the mic is on.

17 MR. DONAHEY: Thank you. Mark Donahey.  
18 I've just got two quick things for Judge Rogers.  
19 First, thank you very much, Judge. We had two  
20 judges from the TTAB come to the Association of  
21 Intellectual Property Firms annual meeting in  
22 October, Judges Wellington and Adlin, and they

1 presented some tips for TTAB practice. And the  
2 comments I received afterward from a lot of the  
3 practitioners there were very positive.

4 And a surprising number of patent  
5 attorneys had never heard of ACR. I think people  
6 who casually and occasionally practice before the  
7 TTAB. So I'm wondering if there's any way -- I  
8 mean it shocked me because of all the extensive  
9 outreach that you have been doing on this, so I  
10 was wondering if there's a way to target maybe  
11 people who are more focused on patent practice.  
12 And then the other thing is, I think in response  
13 to Mr. Tepper's offer for a snickers bar, I  
14 received a tweet from John Welch at the venerable  
15 TTAB blog, and I don't know if that counts, meet  
16 your criteria, but he --

17 CHAIRMAN TEPPER: John, you need to  
18 e-mail me. I'm waiting.

19 MR. DONAHEY: But he wanted me to ask  
20 Judge Rogers if he has any thoughts regarding web  
21 casting a TTAB final argument, would it be a  
22 useful, educational event?

1                   CHIEF JUDGE ROGERS: Let me try and  
2 remember both questions and respond to both of  
3 them. I think for firms that have both patent and  
4 trademark practitioners will have to rely to some  
5 extent on the trademark practitioners bringing  
6 their patent brethren up to date on ACR.

7                   Otherwise, you know, as Maury had said  
8 earlier, urging people to go to the PTO website, I  
9 mean we put a lot of information on ACR on our  
10 website, and it's really hard to miss for anyone  
11 who practices before us, because then they should  
12 be looking at our website and looking at  
13 information that's available there.

14                   But nonetheless, with your suggestion, I  
15 think we'll now consider what ways we might  
16 perhaps leverage information about ACR, perhaps  
17 through Craig's outreach or through other  
18 opportunities that the PTO might have to reach the  
19 non-traditional trademark practitioners, those who  
20 practice before us only on an occasional basis and  
21 make sure that they're aware that there are more  
22 efficient alternatives to traditional trial and

1 briefing.

2           And then in regard to the second  
3 question, I think John has posed that question  
4 before, and I think he's goading me until I  
5 finally agree to web cast a hearing. You know,  
6 it's something that we should consider and I think  
7 we will consider. We've never done it before.

8           We have had hearings, though, in public  
9 forums as part of CLE programs, and as John knows,  
10 we've come up to Boston on a regular basis and  
11 heard arguments in cases at law schools in the  
12 Boston area, and we've done this with the  
13 practicing law institute. LEXIS/NEXIS sponsored a  
14 conference years ago in Chicago where we did this.  
15 We've done hearings at AIPLA.

16           And while these things have not  
17 necessarily been web cast, I think sometimes  
18 they're recorded and then people can look at them  
19 on those organization's websites in the future.  
20 So we'll have to consider whether we can expand a  
21 little bit beyond just the presentation of cases  
22 on -- the hearing of cases on the merits in those

1 forums, and maybe we can do something that we  
2 could allow people to see on the website and go to  
3 on the website. Of course, if we recorded a  
4 hearing and then we put it on the website, then I  
5 still have to get people to go to the website and  
6 access the recording, but it's something we can  
7 consider.

8 MR. DONAHEY: Thank you.

9 CHAIRMAN TEPPER: Thank you, Mark, for  
10 those questions. And I appreciate the  
11 information. John, if you find me, I'll consider  
12 buying you the snickers bar, but you'll have to  
13 come look for me at INTA or some other event. Do  
14 we have other questions today? All right. Well,  
15 with that, Gerry, we very much appreciate your  
16 being here today. And I especially appreciate  
17 your gift of five minutes. We are slightly ahead  
18 of schedule. I would love to keep it that way.  
19 That is an admirable thing. And thanks once again  
20 for the news you brought us today.

21 I'm going to move on. We had just a  
22 couple of technology delays this morning. Our

1 sound crew and our video crew here are great and I  
2 thank them for what they do to keep these meetings  
3 available to everyone. So we did have just a  
4 couple minutes delay.

5 I'd like to let you know, when you work  
6 with technology, these things can happen. That's  
7 not necessarily -- I think we're going to have  
8 some good news and an update from our CIO's  
9 office. But obviously we all understand the  
10 importance of these changes. And a lot of times  
11 things that seem easy to fix become more  
12 difficult.

13 But we're glad to have our Chief  
14 Information Officer, John Owens, here, Raj Dolas,  
15 our Trademarks Next Generation Portfolio Manager.  
16 And, Marcie, I'm going to get your title wrong, I  
17 apologize. Marcie Lovett is our Division Director  
18 for Trademark Systems. I need to memorize that  
19 one. But we very much appreciate you all being  
20 here today. And with that, I'll turn it over to  
21 you folks.

22 MR. OWENS: Thank you very much. Good

1 morning, everybody. Hopefully whatever setback  
2 you had this morning didn't reach my ears, so I  
3 hope that it was minor and non- repeatable, but if  
4 it is, we'll figure it out. I'm going to just say  
5 a couple of words here. I think that our year has  
6 been pretty strong. Whereas parts of the office  
7 were set back with funding, trademarks was not.  
8 And we got quite a bit accomplished.

9           And to tell you about all the wonderful  
10 things that we've done and that many of you have  
11 seen and some things that you haven't seen, I'm  
12 going to hand it now over to Mr. Dolas and he will  
13 lead you through the portfolio of projects that we  
14 are working on.

15           MR. DOLAS: Thanks, John. Good morning,  
16 everyone. So as always, I'm going to put up a  
17 slide that shows all the stuff that we're doing  
18 for Trademark Next Generation. There are a whole  
19 bunch of programs and there are lots of projects  
20 underneath these programs. What I would like to  
21 do, though --

22           CHAIRMAN TEPPER: Raj, before they ask

1       this, I might ask if you could just move your  
2       microphone maybe a little bit over?

3                 MR. DOLAS:  Oh, sure.

4                 CHAIRMAN TEPPER:  I know you want to be  
5       able to see the slide and I want to make sure that  
6       they can capture you for our transcript, as well.  
7       Thank you.

8                 MR. DOLAS:  What I would like to do,  
9       though, today is make sure that I put some context  
10      around these projects and describe how they fit  
11      together, because there are way too many projects  
12      that we're doing right now.  If I look at it from  
13      top down, when our users come to a website, the  
14      most important thing for the users is the user  
15      interface, meaning the way the website is going to  
16      look and feel and behave and experience of the  
17      website.  So the TMNG user interface is a program  
18      that focuses on making sure that the website or  
19      the TMNG application behaves the way  
20      our users want it to behave.  So that's the first  
21      thing that the users see.

22                 Behind the covers are web and business

1 services, where we define the business  
2 rules and the way systems should behave  
3 workflow-wise. Underneath that we have data  
4 services which provides access to the data that is  
5 used by all these components. And underneath that is  
6 the infrastructure, which is web and business  
7 services 2 where we're building the infrastructure  
8 for Trademark Next Generation.

9           So now going from bottom up, the  
10 infrastructure is very important. We have built  
11 five different environments in fiscal year '13.  
12 Two are dedicated for developing software. Those  
13 are developer environments. Two are dedicated for  
14 testing, and one is a production environment. All  
15 five environments have been built. Of course, the  
16 work continues into '14 and '15 to fine-tune these  
17 environments, configure them for the new needs that we  
18 encounter every year. But those five environments  
19 have been built. And what we will be working on  
20 in '14 is creating a business continuity and a  
21 disaster recovery environment, as well. That will  
22 be our sixth environment. So this is lessons

1 learned from our past, where we had limited number  
2 of testing environments, and we built into our  
3 plans testing environments to ensure that we will  
4 not get caught into that again.

5           The other area that we focus on is cloud  
6 computing, where applications that we develop are  
7 focused for our external stakeholders. We'll talk  
8 a little bit about EOG. And I think Debbie may  
9 already have spoken about EOG. We did a demo  
10 about EOG last time you guys were here.

11           Trademark status and document retrieval  
12 has been in production for quite a long time now  
13 and it's one of the very well received  
14 applications for the last two years, a year and a  
15 half almost.

16           Separation and virtualization is taking  
17 our legacy applications and putting them into an  
18 environment that is separated out and allows us to  
19 move forward without any dependency on other  
20 applications in PTO, such as patents, for example.  
21 We still do share at the enterprise level  
22 applications that are common to everyone like



1 developing for external stakeholders starting next  
2 year, starting this fiscal year, sorry. And TTAB  
3 will be a separate investment that will begin in  
4 '15. We're anticipating that we will be  
5 leveraging a lot on what has been developed for  
6 our internal users, for our trademark examining  
7 attorneys, for TTAB use. Okay. So these are the  
8 projects that are under several programs that we  
9 have. Authentication authorization, single  
10 sign-on, this is one of the things -- a key for us  
11 is when a user comes to our website, we want to  
12 make sure what role the user has. This allows us  
13 to determine that role without the user having to  
14 do anything different than just logging in. So  
15 when a user logs in, the website will behave  
16 differently for that specific user.

17 Today we have the roles of examining  
18 attorneys, role of the supervisor attorneys, and  
19 managing attorneys, and the website behaves  
20 differently for each of those roles.

21 I spoke about the user interface  
22 earlier. We implement a user centered design

1 methodology. We work with the examining attorneys  
2 twice a week to ensure that their input is heard.  
3 The user interface, the look and feel and  
4 experience of the website is driven by the users  
5 themselves.

6 Web and business services 1, this is  
7 where we implement the business rules, the  
8 workflow rules. The focus has been, in fiscal  
9 year '13, developing capabilities for docket  
10 management, office actions, evidence attachment,  
11 and also doing amendments and priority office  
12 actions. One of the other things that we'll be  
13 focusing on is production records, as well as  
14 making sure that real time records are available  
15 on the system for production. We're also  
16 integrating with our finance side to make sure  
17 that when fees are paid or not paid, we know about  
18 that when we review the case details.

19 Web and business services 2 is that  
20 infrastructure piece I spoke about earlier. As I  
21 said, we have built five environments. We're  
22 looking at designing and architecting the business

1 continuity and disaster recovery environment in  
2 '14.

3 Reporting and data-mart is a project  
4 that focuses on giving users the capability of  
5 creating their own ad hoc reports. So we build  
6 out a data mark that brings in data from multiple  
7 data sources. We create what is called a universe  
8 in data-mart language which marries data to actual  
9 business terms that users are familiar with. And  
10 they can create their own reports because they are  
11 familiar with the business language. And that is  
12 available for generating ad hoc reports for them.

13 What we've done so far is, we have two  
14 releases in production. The first one went early  
15 this fiscal year and the second one went in  
16 August. What we have in there are quality review  
17 reports and production reports. We're also  
18 working on implementing the FPEP reports, and  
19 those are form paragraph related reports, quite  
20 critical for trademarks to understand which  
21 form paragraphs are being used on a regular  
22 basis. It will continue into fiscal year '14 as a

1 phase two project, more focus on additional data  
2 that is available from our variety of data bases.

3 Content management system is a separate  
4 project that was started in fiscal year '13 to  
5 focus on ensuring that content that is associated  
6 with a case is easily available to examining  
7 attorneys, as well as any external users. We want  
8 to make sure that this content management system  
9 is designed, developed with technologies that can  
10 be extended further out into the future, and it  
11 has the capabilities to manage any kind of content  
12 whether it is multimedia, or pdf files, or  
13 Microsoft Word files, or image files.

14 We have developed services that  
15 allow us to upload office actions and evidence, as  
16 well as mark images. This is one of our  
17 foundation piece. Everything that is associated  
18 with a case content-wise is going to be managed in  
19 this content management system and it will be  
20 shared by everything in Trademark Next Generation.  
21 All projects in Trademark Next Gen will use this  
22 content management as a foundation. Trademark

1 records management is our project for migrating  
2 legacy data into Next Generation. So today our  
3 data exists in several data bases, one of them  
4 being a mainframe. We want to make sure that the  
5 data is migrated successfully into Trademark Next  
6 Generation. There is a lot of work in there to  
7 make sure that the scripts to migrate the data are  
8 written accurately. There is a great amount of  
9 work that is required for data cleansing, to make  
10 sure data is clean and migrated accurately in  
11 there.

12 So the focus has been data migration, as  
13 well as developing scripts for data migration.  
14 And the second effort is to build a synchronizer  
15 that will allow us to keep both systems in sync  
16 until we decide to retire the legacy applications.  
17 Until then, both applications will live in  
18 parallel and will run in parallel.

19 I don't think I should spend any time on  
20 EOG. I think we did a demo last time you were  
21 here. The system has been in production since  
22 September. We deployed it as per our schedule.

1 And it's been very widely accepted by our  
2 community.

3 Separation and virtualization, I spoke  
4 about this earlier. We are separating our legacy  
5 applications into a new environment and ensuring  
6 that the footprint is reduced, as well as we have  
7 migrated the systems to use the newer technology  
8 as far as the infrastructure goes. We're not  
9 making changes to the AIS, just to be sure. I  
10 know Marcie is going to speak about this a little  
11 bit later, so I won't focus in detail on this one  
12 either.

13 This is our draft roadmap that was  
14 created in June. We will continue to enhance  
15 this. We are figuring out an automated way of  
16 creating this roadmap that is project driven. The  
17 next time you folks come here, we'll have that new  
18 roadmap ready for you.

19 The reason we want to do an automated  
20 instead of hand drawn is, any time a project  
21 changes its start and end date, we have to  
22 manually change this, and we want to get out of

1 the business of manually creating roadmaps and rather  
2 have an automated way of creating it. That's all  
3 I have. Any questions for me?

4 CHAIRMAN TEPPER: Thank you. Do we have  
5 questions for Raj about the TMNG project?

6 MS. WELDON-WILSON: Hi, Raj. It sounds  
7 like you have been very busy. I just have a  
8 general question and I really don't know whether  
9 it's directed to you or to John or to Marcie. But  
10 on these timelines and the roadmaps shown on your  
11 tables for New Generation investments and projects  
12 and their timing, does this all align with the  
13 business priorities?

14 MR. OWENS: I'll take that one. I'm  
15 sorry. We're going to have to talk about table  
16 set-up later. You know, we review with trademarks  
17 on a quarterly basis the business priorities. In  
18 fact, I think that what you're going to see after  
19 Marcie's presentation is a much closer alignment  
20 with the trademark business priorities between the  
21 mix of legacy work, Next Gen work, meeting the  
22 priorities of the business, and the business

1 processing rearchitecture project which is the  
2 foundation for all the TMNG work that Raj is  
3 talking about that is being undertaken by  
4 trademarks.

5                   So not to speak for Debbie, but I think  
6 we're in a very close alignment here on the right  
7 balance to all of that work in meeting those  
8 priorities. And if they shift, let's say tomorrow  
9 they shift, a new law is passed, a ruling comes  
10 about or something that adjusts, then we adjust  
11 appropriately and have done that to meet the  
12 business need and will continue.

13                   MS. COHN: If I could add on to that,  
14 John. I agree with you, we are in close  
15 alignment. And, in fact, we have a team of  
16 trademark managing attorneys and others in  
17 trademarks who are responsible for working with us  
18 to set the business priority and working with Raj  
19 and his team. And we look at those priorities  
20 once every quarter, so every three months. And we  
21 could do it sooner, but we've set at least every  
22 three months we look at them and make revisions as

1 appropriate.

2 And, you know, nothing is ever set in  
3 stone to the extent that it couldn't be changed if  
4 there is a change in the law, as John said, or  
5 some other priority that we feel is more important  
6 for any reason. So we have a lot of control over  
7 what you see.

8 MS. WELDON-WILSON: Thank you very much.

9 CHAIRMAN TEPPER: A quick question for  
10 you, Raj, and it deals -- well, you know, first  
11 just the observation. Perhaps one day we should  
12 rebrand TMNG. I remember back when Trademarks  
13 Next Generation was an 18th month initiative  
14 announced around 2010, and I know we've certainly  
15 become a much more encompassing project. We might  
16 need a new identity for that. But when I see, you  
17 know, projections into 2017, I can't help but  
18 pause and remember that. Boy, we've come a long  
19 way. But I certainly understand when you're sort  
20 of running your data, TRM, for example, a legacy  
21 system, will need to continue to run in parallel  
22 with the new architecture for some period of time.

1 Do you all have a time frame in mind? It seems to  
2 me -- I get nervous, and maybe I shouldn't, about,  
3 you know, two systems trying to house the same  
4 data and, you know, how do we keep them in  
5 alignment, and I would want to retire the old one  
6 as soon as possible. But is there an optimal time  
7 window for that or is it just something that, you  
8 know, it'll work out and when we're ready, we'll  
9 retire the old system?

10 MR. OWENS: Since I've already reported  
11 that to OMB, I'm going to take this answer. We  
12 have estimated a year overlap minimum and a  
13 maximum of two, and that's the answer I gave them,  
14 as well. We believe that a year is sufficient  
15 enough to make sure all the I's are dotted and the  
16 T's are crossed, but we wanted to alleviate the  
17 stress over migration, because this means a  
18 personal change for everyone. The old system and  
19 the new system will look a lot and feel a lot and  
20 work a lot differently.

21 So we wanted to have enough. And  
22 certainly in discussions with trademarks, we felt

1       that that was the right balance and that's what  
2       we've reported, so just for consistency there. We  
3       haven't changed that opinion. So minimum of a  
4       year overlap, somewhere around a maximum of two.  
5       Then you really don't gain the benefits if you  
6       keep going on beyond that of retiring the old  
7       systems, recouping that legacy cost, which is  
8       quite expensive, keeping the legacy systems  
9       available and a much lower cost of operations for  
10      the newer systems by a lot, so that's the answer.

11                 CHAIRMAN TEPPER: Thank you, John. I  
12      had assumed that was attended to. I feel better  
13      knowing. Do we have other questions? Yeah, Deb.

14                 MS. HAMPTON: Hey, John. In terms of  
15      the overlap, will that have a big affect on those  
16      who are, you know, telecommuting, working  
17      remotely? Because I know that there has been some  
18      issues with the existing legacy systems in terms  
19      of those that are working remotely with the  
20      universal laptop, so when you add that dynamic to  
21      it, what affect, if any, is that going to have?

22                 MR. OWENS: So the legacy systems are

1 built on a client server technology that was  
2 created in the '80's, early '90's, and has since  
3 died. The new systems are created on web  
4 technologies which we use every day when we go  
5 into a web browser and browse the internet. Those  
6 new technologies are much more resilient on the  
7 internet. And so I personally think that even  
8 though it is a change, I have to speak up a  
9 little, even though it is a change, the  
10 performance gains that the folks that are  
11 teleworking will see will encourage them greatly  
12 to migrate early. And with the number of folks  
13 that are teleworking in trademarks, I think it  
14 will mean a positive push to adopt these tools  
15 early.

16 Performance will be much better. The  
17 systems will be much more stable. There will be  
18 less glitchy, where you start with something and  
19 have to restart it because it's kind of lost its  
20 mind. All of those are side effects that have  
21 gotten much better. We have done legacy  
22 improvements to make them better over the last few

1 months and I'm sure Howard can talk a little bit  
2 about that.

3 But the new technologies are really  
4 where we need to go to meet the compatibility with  
5 the internet, which the original technologies just  
6 never envisioned. So I am highly encouraged that  
7 performance will be much better.

8 MS. HAMPTON: Thank you.

9 CHAIRMAN TEPPER: Any other questions  
10 before we turn to Marcie? All right. Thank you.  
11 In that case, we'll look forward to hearing the  
12 remainder here.

13 MS. LOVETT: Good morning. I just want  
14 to share with you some of the accomplishments  
15 we've made some of the enhancements and  
16 stabilization efforts since the last time we've  
17 met as it relates to our legacy systems. We've  
completed deployments for the following projects. Trademark's  
18 petitions, templates enhancements we were able to  
19 create eight new templates and they're available  
20 for use now by the examining attorneys.

21 Raj spoke a little bit about our  
22 separation and virtualization efforts. These

1 have included upgrades to our infrastructure  
2 and application software for TEAS, TEAS-I  
3 the FAST application suit and also TICRS.

4 The Fee Processing Next Generation  
5 release involved application updates to consume services  
6 that have enabled us to decouple and have a direct  
7 connection to the Revenue Management System (RAM)  
8 This allows the ability to retrieve fee history  
9 Information directly from RAM and accessible through the  
FAST application.

10 India, Rwanda, and  
11 Tunisia have been to the Madrid protocol. We have  
implemented some  
12 changes to the ID Manual which included an  
13 expansion of the section of the TEAS application  
14 form for entering free text ID's to include a new ID  
Assistance tool. This tool allows the user to enter one or more ID's into  
the existing free-form text field for comparison  
15 with entries in the Acceptable Identification of Goods  
and

16 Services Manual. The tool informs the user if This tool  
is our first ID selection tool for the public and is very basic. We  
expect to develop a more sophisticated ID selection tool in the future.

17 AS s part of our stabilization effort we addressed  
18 13 priority items that as part of the recent TEASi  
19 maintenance this release.

20

21



1       scheduled for TEASi before the end of 2013. For Madrid  
2       processing stabilization, the development  
3       activities are still in process, and this will  
4       also include 15 priority items, both enhancements  
5       and bug fixes.

18                   CHAIRMAN TEPPER: Thank you. Certainly,  
19       as you can see, while we're building the new  
20       environment, it does take a lot to maintain the  
21       existing environment to keep people happy with  
22       those functionalities. I appreciate that update,

1 Marcie. Do we have any questions for Marcie? Let  
2 me make sure from the committee. Okay. I know we  
3 have a question from the public. Erik, do you  
4 want to come up? And just if you'll make sure you  
5 have the red light on on your microphone and we'll  
6 be able to pick you up. And if you would, please,  
7 introduce yourself.

8 MR. PELTON: Good morning. I'm Erik  
9 Pelton of Erik M. Pelton and Associates in Falls  
10 Church. I have two questions. One is maybe a  
11 half a comment/question. Can users from the  
12 outside expect a mobile version of the trademark  
13 website and search engine any time in the near  
14 future?

15 And the second is, as Chairman Tepper  
16 noted that these processes for TMNG began at least  
17 in 2010, and user feedback and suggestions were  
18 sought at the time, has there been consideration  
19 to seek additional feedback and comments both to  
20 the changes that have been made, as well as to new  
21 ideas, and as we can all imagine, three, four  
22 years in the world of IT and technology, it

1 changes a lot, so there may be a lot of different  
2 and new input from users.

3 MR. OWENS: I'll take that question if  
4 you don't mind. Thank you, by the way. Let's  
5 answer the first one. The USPTO has come up with  
6 a new mobile strategy which is being vetted at the  
7 executive level. It does include future plans to  
8 make all of our data search systems both for  
9 patents and trademark in our dissemination systems  
10 which are under the CIO's organization available  
11 on mobile technologies.

12 The foundational technology with search  
13 in particular for trademarks and patents will be  
14 part of the foundational work being done for  
15 Trademark Next Gen and patents end to end. The  
16 current search system and the current website as  
17 infrastructure cannot support the proper mobile  
18 applications, nor have the right application  
19 interfaces to support mobile apps. They just  
20 can't. The legacy systems won't support it.

21 So in the rewrite, we have taken that  
22 into account. It depends what you mean by soon.

1 I kind of think in five year stints, so it's  
2 certainly in the next five years. It's part of  
3 that external facing project listing that starts  
4 this year and moves on in a few in one of Raj's  
5 slides. So '14 through '16, you should see that  
6 work happening.

7           And the agency has a list of things that  
8 it would like to do in mobile applications and  
9 mobile supported websites to release its  
10 information to the public with the appropriate  
11 application interfaces if a third party would like  
12 to write their own applications on top of it. And  
13 this is all in alignment with the President's  
14 mandate for transparency of data, not just in the  
15 bulk releases that we make today, but on  
16 applications to support new mobile technologies  
17 that everyone else in the world is using.

18           As far as outreach to customers and  
19 gathering feedback, the CIO relies on trademarks  
20 to lead the way on that because it is a business  
21 decision what is or is not built. And I am a  
22 service organization. I basically build what

1 trademark wants. So, Debbie, I'm going to hope  
2 you answer that question for me, please.

3 MS. COHN: All right. Well, thank you  
4 so much, John. And hi, Erik. Yes, we do plan on  
5 seeking additional feedback as we look to  
6 redesigning our external filing systems and how  
7 they should be redesigned. And let me also point  
8 out that as we have specific, discreet projects  
9 such as the enhanced electronic OG, we've sought  
10 feedback on those specific projects, as well.

11 We had several user group sessions as we  
12 launched the project. And then we also sought  
13 feedback during the OG project with our various  
14 alpha beta and gamma releases. And I think you  
15 probably were aware of that and maybe even  
16 submitted some feedback. So, you know, depending  
17 on how the project is scoped or defined, we'll be  
18 asking for feedback and certainly generally what  
19 people want to see, so you can look forward to  
20 that.

21 MR. PELTON: Thank you.

22 CHAIRMAN TEPPER: Thank you, Erik.

1 Those are good questions and I'm certainly looking  
2 forward to the chance to gather more feedback.  
3 Anyone else have questions for our CIO? Any  
4 technology related questions? All right. Well,  
5 thank you, folks, and thank you all for the  
6 update. We appreciate the ongoing work. With  
7 that, I have just a couple of open minutes. If  
8 there are any final questions from our committee  
9 or from the public, certainly glad to hear those.

10 I know I'm fudging a bit on my context  
11 rules, but I was pleased to be able to award a  
12 candy bar today. I certainly do want to invite  
13 those of you who are participating online to take  
14 advantage of the opportunity to make your views  
15 known, as well, and to submit questions to us.

16 And I have a final announcement before  
17 adjourning. You are all eagerly awaiting this, I  
18 know, and if you just can't get enough trademark  
19 updates, I'm very proud to say that we on the  
20 Public Advisory Committee take our statutory  
21 obligations seriously. We are finalizing our  
22 annual report. I am told that the President is

1       eagerly awaiting it after having the budget and  
2       the government, you know, shut down out of the  
3       way. And we will be transmitting that as we are  
4       required to do. But it will be published in the  
5       Official Gazette. So stay tuned for what we hope  
6       is some good reading. There's a lot of  
7       information in there. Much of it relates to what  
8       we saw today. So you will be seeing that  
9       published in the OG in the near future.

10                 And finally, our next meeting, you can  
11       all get out your calendars. I'm sure I'll have  
12       some other fabulous giveaway and theme, but it  
13       will be here on February the 28th. Friday,  
14       February the 28th will be our next public meeting.  
15       With that, I thank you, and we are adjourned.  
16       Thanks for your participation today.

17                         (Whereupon, at 11:36 a.m., the  
18       PROCEEDINGS were adjourned.)

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COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)  
Notary Public, in and for the Commonwealth of Virginia  
My Commission Expires: August 31, 2017  
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