

From:**Sent:** Thursday, March 17, 2011 2:40 PM**To:** PTDL_comments**Cc:** Palmer, Helene; Kitchens, Christine**Subject:** RE: Request for Comments on How To More Effectively Use the Patent and Trademark Depository Library Program

Greetings,

I am Eileen Fischlschweiger and I am the PTDL Representative for the Fort Lauderdale PTDL at the Broward County Main Library in Florida. We have been a PTDL for over 25 years, and I have been the intellectual property librarian for 16 years. Attached please find a document that I prepared with comments regarding How To More Effectively Use the Patent and Trademark Depository Library Program which was the topic of the Director's Roundtable on the Patent and Trademark Depository Library Program on 2/15/2011. If you should wish to contact me please feel free to do so.

Thank you very much for your kind attention.

Eileen Fischlschweiger, PTDL Representative Librarian
Broward County Main Library Reference Section
100 S. Andrews Avenue, Fort Lauderdale, FL 33301
Tel: 954-357-7822 Fax: 954-357-6113
www.broward.org/library

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Comments Regarding How to More Effectively Use the Patent and Trademark Depository Library Program which was the topic of the Director's Roundtable on the PTDL Program on 2/15/2011.

Eileen Fischlschweiger, PTDL Representative, Fort Lauderdale PTDL

In planning for updating the PTDL system for the 21st century it is important to focus the improvements on what will provide the best return on investment targeted to the current needs of the USPTO and also with a vision toward the long term return, not just the immediate return. PTDLs at public libraries have a solid niche in the area of dissemination of intellectual property and knowledge for a target audience consisting primarily of independent inventors, and many work closely with local inventors groups, such as the Fort Lauderdale PTDL for which I am the Representative, with the Inventors' Society of South Florida. For PTDLs at academic libraries, their target audience may include primarily university faculty and local industrial complexes, but may also include independent inventors at many locations.

In order to look at new things that PTDLs can be doing it is important first to review the current work being done by PTDLs and current characteristics of PTDL customers, and then look at possibilities for improvement in PTDL services. This analysis is done below.

A. PTDLs currently

PTDLs currently do what they are charged with extremely well. They use the information, with which the USPTO has trained them, as tools to help the customers achieve that which they set out to do, be it patent or trademark searches, finding information on the USPTO website, or learning general information about forms, procedures, etc. What PTDLs have been traditionally doing based on my experience at a public library during the past 16 years' tenure as PTDL Representative is as follows:

The PTDLs have been involved in an active role of information dissemination primarily focused on guiding, assisting, and educating independent inventors with patent and trademark searching, as well as other basic information, but this role has been shifting, not in the substance of the function, but in the methods used and the range of subject matter coverage available. During the pre-Internet days when people needed to use Cassis, our hard copy patent collection, Manual of Classification, etc., this role involved customers coming in to use materials that were not accessible anywhere else. The PTDLs' educational role very nearly exclusively focused on guiding and assisting independent inventors with the steps for patent and trademark searching and the method of using the available materials needed to perform the searches (hardcopy and microform materials as well as Cassis), with very few questions regarding other topics, which were generally limited to finding out about application forms and fees. Over the years, as more and more became available online, our role still related to the steps for patent and trademark searching and the materials needed to perform the searches, but because those materials became available online, our role grew to encompass the technical aspects of

using electronic materials: first in finding where they are located on the website and then how best to use them for people who may not have much computer experience, if any. In addition, the availability of more information than that which was included in the hardcopy/microfilm/Cassis series of products meant a corresponding expansion in the PTDLs' educational role to include those online materials. This includes not only information made available by the USPTO, such as Public PAIR, which includes access to electronic file wrappers for many patents, but also information made available by the PTDLA and by foreign IP agencies/organizations, such as WIPO and the European Patent Office (for esp@cenet), none of which was available in the pre-Internet and early Internet days. In addition, PTDLs still retain the older role of assisting customers with historical research using the Index of Patents/Index of Trademarks because there is not an adequate means to search the historical data online, although the databases compiled electronically by Jim Shaw from the publication *Subject Index of Patents for Inventions 1790-1873, Inclusive*, which are posted on the PTDLA website along with Google Patents are helpful in supplementing research with the old paper Indexes. The expansion in the educational role as described above necessitated a corresponding expansion in PTDL Representative training by the USPTO, which also shifted to accommodate.

B. Needs of PTDL customers

Given that my experience is at a public library and our primary clientele is independent inventors, the discussion below will focus on that. Independent inventors have:

1. Varied knowledge base regarding IP. As an example, customer knowledge base in patents runs the gamut from totally inexperienced to independent inventors who have filed multiple applications. The majority of customers fall in the inexperienced category.
2. Varied knowledge base regarding computers and varied searching skills. Again, there is a wide range of knowledge among customers; however, the majority of customers we get have functional basic computer skills, while the next largest group has little or no computer skills. Very few have advanced computer skills.
3. Varied levels of attention to detail and study skills. This is a very important point because, no matter how good is the training we provide our customers, there will be a varied level of understanding and retention among them due to the complexity of the subject matter. Customers with good attention to detail and strong study skills will have a greater probability of grasping the training PTDLs provide accurately and completely. It has been my experience, however, that even well educated, diligent customers who do not have any knowledge of IP miss many important concepts when information is provided only orally, such as over the phone as a reference query. Much information is either ignored or forgotten, and what is retained is recalled in an over-generalized form in which essential detail is often missing or the customer has filled in the gaps in memory resulting from the ignored or forgotten information with incorrect information the customer believes to be true. Therefore, the presentation of information in a class setting works much better and it is essential to include all the information presented orally in written form so that all information can be later available to

- the customer for review. Likewise, handouts that provide detail on the searching process rather than very quickly listed steps are more effective with our customers.
4. Varied availability of computers and/or Internet access among inventor population.
 5. Varied awareness of the nature of IP information available on the USPTO and foreign IP agency websites. Due to the extensive amount of information available online from the USPTO as well as the foreign IP agencies and the PTDLA, most customers either don't know how to find the information that they are looking for or don't know to even try looking for certain kinds of information. This latter situation ties into the customers' lack of knowledge of IP, because what the customers are not aware of, the customers will not look for, even if it's important information. To use the needle in the haystack analogy, there are two situations here: first, looking for a known needle in a haystack, and second, not knowing to look for an unknown, but relevant, needle in a haystack.
 6. Increase in complexity of questions by customers. Many years ago, customers seldom asked for assistance in understanding what was required of them when they received an office action. Within the past few years we have seen an increase in customers asking for this kind of assistance.
 7. To tie all of these points together, a major issue with our primary customers, the independent inventors, is that, unless they have prior experience with patents, they generally do not understand the concepts relating to patents nor do they understand how the patent processes and procedures work. We can manage to walk them through the patent search but after that they are on their own as far as completing their own application. We have books that we can show them, and we can show them the list of patent attorneys and agents. They expect to be able to file the application on their own, yet they don't realize that they need to do a patent search not only to determine novelty but also because they will need to use what they find in their search as part of their patent application. Many even think that because their invention is not on the market nobody has patented it. In addition, they have no idea as to how to write claims in proper form or what makes for an effective claim. When I tell them what former examiner and former director of the USPTO's Independent Inventor Program Richard Apley told our inventor group about the problems with claims written too narrowly it is clear that if I hadn't said anything they wouldn't have thought of it at all. In addition, NPL research capacity at public libraries is virtually nonexistent due to lack of advanced resources. Unknowledgeable applicants, inadequate resources, and unclear rules of procedure are a time drain on examiners who have to examine poorly written applications. This is one of the reasons why creating wizards and templates that can show applicants relevant information in context (one of the ideas discussed in more detail below) can be very useful. Also, streamlining procedures and simplifying language can help too, to the extent to which that is possible. These measures would be useful not only to independent inventors but even to practitioners and examiners. I recall reading or hearing that even among practitioners there is confusion about the procedures leading to wasted time and final rejections that then trigger applicants to file a Request for Continued

Examination (RCE). All these things contribute to increasing the backlog and pendency rates.

C. Factors affecting the implementation level of any improvements in PTDL services

In looking forward to improvements in PTDL services, there are several factors that will dictate the level of service that PTDLs can provide:

1. The extent of training provided to PTDL Representatives by the USPTO
2. The level of authority in providing service bestowed to PTDL Representatives by the USPTO regarding the extent to which that training is used to assist customers and the conferring of credentials by the USPTO that provide substantiation of the legitimacy of that authority.
3. The extent to which equipment and equipment support are provided to PTDLs by the USPTO to accomplish desired functions. Many if not most libraries have little control over equipment issues since this is the purview of a specialized IT section. Some of the restrictions imposed are that we may not be able to add software to library owned equipment or connect USPTO equipment to library Internet lines. Instances need to be handled on a case-by-case basis, and there's no way to predict whether a request will be approved. One workaround for the Internet access for a USPTO machine is that our library has wireless Internet throughout the building, and no password is required.
4. The extent to which the goals of the USPTO for the PTDLs is consistent with the ability of the institutions hosting the PTDLs to accomplish them.
5. The extent to which the host library's governing agency recognizes the PTDL Representatives' authority to provide the expanded level of service. This is a very important point and it ties into Item #C.2. regarding the level of authority in providing service conferred by the USPTO to the PTDL Representative and the substantiation of such authority via the conferring of credentials. This point can be illustrated with the following example. Several years back I had to justify to our County Attorney the level of assistance that I was able to provide to customers in providing patent information in relation to an inventor show we were going to have. We had a discussion by e-mail where I explained that it was essential to provide certain information because of USPTO rules regarding public exhibit of inventions. I was not addressing any individual or his/her invention; I was simply providing information that prospective exhibitors needed to be aware of before displaying their inventions. I explained that, as PTDL Representatives we receive annual training and a certificate. This was a very important point for the County Attorney, because it was that annual training and certificate that made the difference. It indicated that the USPTO, as the authoritative agency for the rules it promulgates, conferred on us, the PTDL Representatives, the special level of training required and the authorization to assist and train the public on their behalf. The current formal relationship of PTDLs to the PTDLP, and the PTDLP as an agency of the USPTO along with the annual PTDL Training Seminar requirement provides a legal groundwork that enables the PTDLs to provide the

complex information dissemination function that they currently do. Therefore, any increase in the level of service that PTDLs are asked to do needs to come with a corresponding level of official certification of the authority to do it granted by the USPTO.

D. Analysis of service improvement possibilities for PTDLs

When proposing or discussing ideas for change it is my philosophy to think them through and look at the factors concerning their potential benefits, the possible means of accomplishing them, and the possible repercussions that might arise as a result of their implementation before presenting them. I believe that this makes it easier for readers to get a better understanding as to what the ideas are. Hence, the items below are given with some discussion as to their rationale with such factors in mind.

- 1. Partnership PTDLs: a past attempt at implementing augmented PTDL services and discussion of an improved, modified model.** There was a program some time ago (1994-2006) in which a small group of PTDLs became Partnership PTDLs. A problem with Partnership PTDLs is that the program was ahead of its time. Although the technological infrastructure needed existed, it wasn't yet sufficiently widespread or cost effective. I remember talking with a former PTDL Representative who had also been a PTDLP Fellowship librarian about this, and one of the big problems was the high cost of fees incurred by Partnership PTDLs to maintain telecommunications systems satisfactory to the USPTO for secure videoconferencing with examiners. I don't believe any of the former Partnership PTDLs ever achieved cost recovery, despite charging for specialized services. These days technology has advanced considerably making this idea more practical. But the USPTO would still need to take the initiative to provide the equipment because most if not all public libraries are experiencing severe cuts in funding, and will continue to do so for at least the next several years. Also, considering that, unlike the former Partnership PTDLs, public libraries may not be able to charge fees (even to recover costs) if a similar program is created, such a program would have to be streamlined and modular such that the individual PTDLs would be able to decide to which extent they can participate. Then the USPTO could have a chart of all PTDLs indicating what level of services is offered at each. The State of Florida does this for partner agencies that assist people with filing for various kinds of assistance such as food stamps. They have various partnership levels and a list of services that can be expected at each level. Then, they have a chart listing all of the public assistance partnership sites with their partnership level. The way it might work for the PTDLs would be that at the fullest level PTDLs would offer all possible services, such as teleconferencing, video classes, submission of electronic applications, etc. The next level might include all but not the submission of applications. The next level might include all of the previous level except for videoconferencing with examiners, and so on. In this way, each institution can participate according to its abilities.
- 2. Purpose of PTDLs and improved use of technology to support that purpose.** The purpose of PTDLs is information dissemination, and the most important of

PTDL functions in relation to that purpose is to provide educational opportunities to our clientele with the aim of improving their capacity to better meet the demands of working on their intellectual property protection goals. To this end, one of the tasks that we do is to create handouts and training programs for the inventors. This function requires a solid understanding of the subject and of the audience to which it is being presented, and it takes a great deal of time, good teaching skills, ingenuity, and creativity to find ways in which to make the complex information to be presented clear so it can be understood. Many of the items below are geared to this, as it can be expected that this will continue to be the major function of PTDLs. The changes will not be so much in what PTDLs do (providing IP and USPTO information to customers) but how many aspects of it are handled and the methods that are used to do it. There are such great opportunities with the current technologies to be able to improve teaching methods to make things easier for our clientele. Technology today gives us a great opportunity to improve things not only by using more of it but also by using it more creatively and effectively to improve efficiency and to make difficult tasks and procedures easier to understand. Patent procedure can be challenging, especially to an independent inventor, so it is important to remove the sources of frustration and to clarify. One way to do both is to make it possible for everything one needs at any given point to be at one's fingertips, not simply by having it online in a specific part of the USPTO website but by having it right where one needs it. This is a great power of current technology, and it could be used more effectively. For example, currently, there is a section on the USPTO website where one can find manuals such as the MPEP. There is another section where one can find the Index to the US Patent Classification System. There is also a glossary and many other resources that people would need to use, and they all can be found in a place on the website, and there's a site map to find where it is in case people aren't sure. But, these are what I would call "passive" resources. The reason for calling them "passive" is that if one has a question and one knows that the answer might be in a particular resource because one is aware of the existence of the resource, one stops what one is doing and opens the web page containing the resource, goes to it, and consults it, much like with a print resource, also a passive resource. If that doesn't work, one hunts for something that might, and if one is not too aware of IP resources, one gets really very frustrated in the process, and stops searching when the perceived quantity of effort that continuing the search would require relative to the perceived probability of a successful outcome outweighs the perceived benefit of having the knowledge. When this happens, people try to accomplish things without all the necessary information and quality goes down. A possible solution is to not only have those resources in their current "passive" form, but to also have them in what I would call an "active" form, which makes more efficient use of the capabilities of the electronic format. An active resource would easily be available from where a user needs it via a hyperlink that the user can open if needed to reveal a new window or box with the desired information, such as a glossary term or a MPEP citation with text. It would not be necessary for a user to know that the MPEP exists because that it does will be obvious due to the existence of such a link. Furthermore, even

if the user knows about the MPEP, the user would not have to try to figure out what part of it is relevant, as the link will directly go to the relevant section. These links would need to be inserted into the appropriate places by someone who is looking at a page or function on the website from the point of view of a user. The two key functions for which this would be very useful for independent inventors would be for patent searching (the wizard idea discussed below in Item #D.9.) and for authoring patent applications (the need for authoring software with such hyperlinks, also discussed below, in Item #D.10.).

3. **More on the educational role of the PTDL.** The educational role of the PTDL is to get a customer prepared to the point that the customer can communicate with the USPTO whether the communication be through indirect communication, such as reading information found on the website, or direct communication, such as having an interview session with an examiner or responding to an office action. It cannot be assumed that that all people, even highly educated ones, will be able to find, understand, and use the portion that they actually need of the information disseminated by the USPTO in a variety of means successfully on their own. Today, it is often assumed that since electronic distribution of information has removed many barriers to information delivery, the information being disseminated is therefore being communicated effectively. But a common complaint among even the most technology-oriented consumers is that there is now simply too much information available from too many sources. The reason is that users do not have the sifting tools or skills to handle that amount of information, and part of the sifting tools is the knowledge of what one is sifting through. Users need assistance in the selection of sources and guidance on sorting, prioritizing, and evaluating the information provided, and they need to be taught how to do this for themselves. So, in getting a customer prepared to the point that the customer can communicate with the USPTO, either directly or indirectly, the PTDL has to help the customer gain
 - a. a sufficient understanding of the subject to define his/her question
 - b. the ability to identify what specific information is needed to answer his/her question
 - c. the awareness of the availability of the information needed and its potential sources
 - d. the ability to distinguish between reliable and unreliable sources offering the information
 - e. the ability to easily find the information needed once a reliable source is selected
 - f. the ability to evaluate the information found for relevancy, accuracy, timeliness, and completeness
 - g. the ability to understand the information found and know how to use it or to find resources that can help him/her with that task
 - h. the possession of the means of obtaining the information through the medium by which it is disseminated (e.g., access to a computer and skill in using it).

The PTDLs need the USPTO's support in their efforts to be successful in the performance of these functions.

4. **Extended training and certification of PTDL Representatives.** This is mentioned in Items #C.2. and Item #C.5., above, and it comes up as an issue in several of the service improvement ideas presented throughout Section D. of this paper in areas such as electronic filing of patent applications with USPTO authoring software and examiner interviews with videoconferencing equipment, both of which deal with patent application related functions. We already have customers coming in asking for assistance with office actions, also a post-application function. If PTDLs are to extend their areas of coverage of service beyond the traditional services on which we currently receive training, that is, beyond searching patents and trademarks as well as basic patent and trademark information, USPTO website navigation, and other general USPTO information, then extended training to cover the new services will be needed. Extended training would mean that subjects that up until now were not considered apt to be included in PTDL training would now need to be covered due to the need for that knowledge for satisfactory performance of the new services. This would mean a paradigm shift in the scope of knowledge of the PTDL Representative. Because of the paradigm shift, it would also mean the need for clear authorization from the USPTO that assistance can be provided in these new areas, and that authorization would need to be demonstrated through certification so that we can demonstrate to our institutions that this shift is indeed legitimate. A possible way to deal with this issue is to provide PTDL Representatives who have the educational requirements for becoming patent agents, the additional training and take the test to become patent agents. This is not to mean that the PTDL Representatives would then be helping customers with their applications. The roster of attorneys and agents contains people who are government employees, and therefore cannot be hired by private sector concerns. In addition, librarians at law libraries have law degrees, yet they don't provide legal counsel to the library users. The law degree enables them to have the knowledge and credentials to enable them to function in assisting customers with the more advanced information. This would be something similar. PTDL Representatives who do not have the educational requirements to become patent agents can receive certification as an associate agent in which all the requirements for being a patent agent are met, but not the requirement of having a bachelor degree in a scientific area. Because this is a major paradigm shift for PTDL Representatives and their institutions, and because some may not feel comfortable with working at this level and being certified as a patent agent or a patent associate agent, it should not be mandatory. Then, there will be different levels of service from the different PTDLs, and this would tie in with the discussion in Item D.1., above, regarding different partnership levels for PTDLs. There would likely not be 100% PTDL participation at the enhanced service level, but there would be more PTDLs providing such services than there are now, and that means more customers to whom we can provide those services. During the roundtable discussion I think it was Joanne Colvin who also brought up the need for the possibility of PTDL Representatives being acknowledged as agents of the PTO, so that we can go beyond the level at which we assist

customers now. The key point is that without this extension of training and authority PTDLs are capped in terms of the nature of the services they can provide and consequently in terms of the ways in which they can be of service to the USPTO by handling more kinds of questions from customers.

5. **Providing videoconferencing capability to PTDLs.** This item also came up during the roundtable discussion and I think that it can be very useful and has great potential in two ways.
 - a. Videoconferencing at PTDLs for the purpose of enabling applicants to interview with examiners regarding their application can be a very useful tool for independent inventors. We are in the process of investigating the availability of private room with an Internet connection for this purpose. We would also need to find out whether we would be allowed to connect USPTO equipment to the Internet cables. We do have access to wireless Internet throughout the building, so this can be a workaround possibility if such a connection is considered secure enough to meet USPTO standards. Using wireless Internet access also opens up the possibility of moving equipment to any available meeting room if none can be specially designated for this purpose.
 - b. Videoconferencing at PTDLs for the purpose of programming can also be useful for training of library customers and staff, as mentioned during the roundtable discussion.
6. **Further justification for the need for extended training for PTDL Representatives commensurate with the extent and level of service improvements.** As mentioned in Item #D.4., any increase in the level of service that PTDLs are asked to do needs to come with a corresponding level of official certification of the authority to do it granted by the USPTO. An important point that needs to be mentioned in the context of the videoconferencing services discussed above in Item #D.5. or of any other extension of PTDL services is that the knowledge level that the PTDL Representative will need will have to be extended to cover areas beyond the level of patent and trademark searching and basic procedural information which is primarily what is covered right now. For example, PTDL Representatives are not trained with the more in-depth information such as claim writing. But if we have applicants coming in and doing interviews with examiners we are bound to be asked some of the more advanced application-based questions. Granted, some could be for legal opinion, which we could decline to answer on that basis, but many will be for procedural information because the inventor omitted to write down some important information in their notes and now they are totally confused about what they are expected to do. If we have knowledge of the procedure in the greater depth required when this kind of a service is offered, that knowledge would serve as a background for helping us to recognize if the information they were missing was easy to find in the MPEP or other resource and help them find it without giving an interpretation or an opinion, or for determining whether it was necessary to ask for additional information from the examiner in a follow-up interview. This is the reason why I discussed the needs of our independent inventor population in Section B., above. To illustrate this point is the following example. I had two very educated people

working together on starting a business based on an invention that they wished to patent and spoke to one at length over the phone answering a good number of basic procedure questions, such as the kinds of patent applications, what pre-grant publication is, etc. They asked for an appointment in person, and we scheduled one. At the appointment they indicated that the person who spoke with me took notes, and I asked if I might review them to make sure they were correct before we got started. They said OK, so I went through the notes. I found that I had to make corrections in about 40% or so of the statements therein. Many statements were partly true but so incomplete that they were wrong or could give the wrong impression. Some statements were outright wrong as written. This is just the basic procedural information with which we are trained at Seminar, and it is too complex even for the well educated and diligent novice to understand by just listening to it for the first time. But I knew this would happen, because most people miss the detail and tend to interpret what they hear in terms of a generalized concept that fits into the context of their prior knowledge, and this causes problems when they listen to complex information that is new to them because of the ambiguity and error that are introduced in the process. The more a person learns about the subject, the more refined the context into which they are trying to fit new information becomes, which results in a lessening of ambiguity and error. This is why when I present classes everything I say is written in the presentation. I want the audience to listen, not to try to listen and take notes because I know that they will miss things. Based on this, one can expect that the average independent inventor coming to the PTDL to have an interview session with an examiner will have a good chance of not understanding correctly or completely at least some part of what the examiner is talking about, and the probability of this happening has a positive correlation with the difficulty level of the issue being discussed. The thing is that most people don't realize that they didn't understand until sometime afterward when they try to use the information to do what they need to do. And, that's when they will come and ask the PTDL Representative for help, and we should have a sufficient understanding of the more complex procedures that might arise that we can help them with the non legal opinion information. But having the knowledge is not enough. Most if not all of our respective organizations will require certification that shows that we are authorized to assist at such a level. This is very important. Although the following example is dated as copyright forms are handled differently these days, it makes the point well and in simple terms. If a customer who was writing a book came in and asked for a copyright form a librarian would have been able to give the customer a list of forms from which to choose and show information about them from an authoritative source, but would not have been allowed to tell the customer that he needed form TX, as this would be giving legal advice, because, although it might be obvious to the librarian, the librarian does not have the authority from the Copyright Office to say so. However, if the customer could not decide based on the information shown, the librarian could then give the customer the Copyright Office's phone number. When the customer calls the Copyright Office and they say that form TX is needed, from their perspective the question is a procedural one which they can answer because the Copyright office

had designated that the form TX was to be used to process applications for copyright registrations of text materials. In this example, the only difference between the customer – librarian transaction vs. the customer – Copyright Office employee transaction is that is that the librarian is not authorized by the Copyright Office, as the originating agency for the forms and the authoritative agency for procedural questions relating to them, to provide that information, whereas the Copyright Office employee is authorized, and it is part of their job responsibilities to do so.

7. **A formal training program for inventors intended to improve patent application quality by improving their knowledge of the patent process.** Have a series of online Independent Study Program (ISP) courses (training videos and/or computer based tutorials) produced by the USPTO (similar in form and structure to the courses that FEMA's Emergency Management Institute has online at <http://training.fema.gov/is/crslist.asp>) covering information on the patent process for prospective applicants, on how to file patent applications, how to write claims, on how to respond to office actions, etc. Each course would have a list of questions at the end to test knowledge. Although these courses would be open to all, their target audience would be independent inventors. The incentive for going through the series of training classes is that after the independent inventors complete the series they would qualify for an e-voucher that they could use with their application to get a discount on fees to be determined by the USPTO if they decide to implement such a program. The discount would be available to independent inventor filers only, whether or not they choose to use a patent attorney or agent. (This idea of a discount is actually based on a program that the Small Business Administration had a good number of years ago. It was called the FAU CURE grant program, and prospective business entrepreneurs would take a series of classes provided by FAU, one of which was a library orientation class which I and others in our library taught, and at the end of the series they would qualify for a certificate which would entitle them to a lower interest rate on their small business loan.) I thought of two possibilities for discount that the USPTO could offer as incentive. One option would be a 20% discount on the initial application fee. The other option would be a 20% discount on the issue fee. The advantage on an application fee discount is that it is received right away, providing a more immediate incentive for the applicant to take the classes. The advantage of an issue fee discount is that for the inventor it means more money saved, and for the Patent Office it means that the applicant has an incentive to work on getting the application through to completion. The USPTO may think of other discount or non-discount incentive options that it may find more effective in encouraging quality of applications, diligence in following rules and procedures on the part of the applicant, and timely responses to office actions, all of which are designed to help the examiner get through the application more quickly and efficiently. Also, to be eligible for the discount or other incentives the USPTO may decide on, the applicant must have taken the classes within one year of the application date. For applicants who have gone through the entire set of classes earlier than that, there could be an annual refresher class to re-qualify for the discount. Such a program would serve two functions. The first function would be

to educate the applicant and improve the quality of pro-se applications for those that after going through this entire program still believe that they can be pro-se filers. The second function would be to serve as a reality check for the applicant who would then be in a better position to be able to make a determination as to whether to file at all, and, if so, whether to hire a patent attorney or agent. Everyone stands to benefit from such a program. The diligent applicant will have a better chance of getting their invention through the process faster, the examiners will not have to spend so much time teaching patent procedure basics to the pro-se applicant who goes through this program (meaning that the USPTO would likely recover the discount amount in terms of less examiner time needed for applicants who have gone through the series of classes), there would be an increase in the allowance rate because of increase in the quality of the application, and there would be a decrease in the number of flawed applications filed, which are often for nonpatentable subject matter, and for which the inventor has little intention to follow through, but which the examiners must still handle in a diligent fashion and according to rules of procedure, which takes time. If a program such as this is implemented, it can be seen, again, that the knowledge base of the PTDL Representative must be sufficient so that the customer who has difficulty with the training can come into the PTDL, ask questions, and get correct responses.

8. **Tutorials:**

- a. Make a link for finding all tutorials for patents and for trademarks more obvious from the home page. Having a button that says tutorials that then leads to a page with links to patent related tutorials and trademark related tutorials is one option. Another option is to have a link on each of the columns (patents and trademarks) on the main page that goes to the respective tutorials page for each.
- b. In addition to the tutorials currently available, have additional tutorials and handout style instruction sheets on various aspects of patent and trademark searching. For example, in addition to having the Seven Step Strategy handout for patent searching, have also a handout for a series of steps for doing patent searches with international databases (esp@cenet) and the IPC (IPC Concordance from USPTO and IPC from WIPO). I normally show these to customers who are interested in searching international patents, and it would be helpful to have step-by-step instructions in a handout.

9. **Improvement in the organization and user friendliness of portions of the USPTO website that are used for searching patents.** The USPTO via the PTDLP promotes the Seven Step Strategy, yet the organizational structure of all of the web based components needed to perform the search is better suited to a keyword approach. It would be useful to go beyond the tutorial on the PTDLP page (which is excellent) and also have a kind of wizard based on the Seven Step Strategy, that walks a searcher through the seven steps giving them a detailed and clear explanation of each step (which I have done for our handout at the Fort Lauderdale PTDL as simple quick one line statements for the steps is inadequate for most of our customers) along with hot links to the different pages that are needed, each of which opens up in a new window (to avoid confusion). The

wizard can be as simple as a basic guide that walks them through the process in a way that they don't have to keep hunting for the parts that they need as they need them (and can be modeled using handouts that I have already created for our customers), or it can be a more elaborate application and, ideally, have the capability of saving a person's work in a kind of electronic worksheet or checklist as the person is paced through the steps of the search. It would have a progress bar above that shows how far one has progressed through the steps and with the completed steps highlighted in one color and the current step highlighted a different color. There would be links so that the person can easily return to a previous step if needed. Also, it would have hyperlinks at critical points to link to references to relevant resources or explain difficult parts of the process (such as the dot indent system, for instance); such hyperlinks when clicked would open into a box-like new window. Then, by the time they have their classes and subclasses, the computer could be programmed to automatically retrieve lists of patents from both the AppFT and PatFT databases and, if possible, save the work so people could take a break and return (users would have to register in the same way as if they wanted to register for e-filing to get this level of functionality). If saving on the USPTO system is not possible, perhaps there is a way that users can store what they've done in a file on their own computer in some way but which can then be accessed by the USPTO system at a later time like it is possible to do with TEAS. If the saving part is not possible at all, at least the wizard part, without the search saving capability, would be very useful.

- 10. Patent application authoring software from the USPTO.** It would be helpful to have a patent application authoring software that applicants could use. This is not a new idea. Back several years ago (2004-5) the USPTO had made available a patent authoring software that was intended to be used with electronic filing of patents (please see <http://www.uspto.gov/web/patents/patog/week53/OG/TOCCN/item-245.htm>). I seem to recall that there were some glitches with the software and it was dropped. Although currently there are two USPTO patent authoring software tools for biotechnology patents (<http://www.uspto.gov/patents/resources/tools/index.jsp>), I did not see any evidence that the old authoring software that could be used with EFS has been revised or even exists. Reviving the authoring software, updating it, and upgrading it would be helpful. One of the upgrades that would make the software very useful would be to have hot links to pertinent MPEP citations and/or CFR sections as relevant. This is what I call active resources in Item #D.2., above. For instance, when completing a section there could be a basic explanation along with the link(s) that states the MPEP section number(s). When one such link is clicked, the corresponding section would pop up in a separate box or window (as needed), with examples (if appropriate) and with possible references to other MPEP sections or parts of other relevant resources. This would make for a very powerful tool for the independent inventor and would also help with examiner interviews because if the examiner makes a point on a part of the application related to a rule or procedural point, the applicant can go back to his work with the authoring software, and easily look up the information by clicking.

11. **Capability for electronic filing of applications at PTDLs.** Although with electronic filing, if the USPTO provides a secure computer for filing applications that would work with unsecured wireless Internet, we could probably handle that provided that the applicant can work on their own. Again, applicant knowledge becomes an issue. Some years ago the USPTO had a CD with authoring software for patent applications that they issued when they were first starting with e-filing. Unfortunately this seems to have been dropped, but in theory it should be able to be updated; and depending on how well it is constructed, it could help a knowledgeable applicant format the application in an acceptable way. The key thing, though, is still getting the knowledge to the applicant, which is where my idea for patent process training with USPTO provided curriculum (videos, and other training materials such as practice tests, etc.) and PTDL Representatives as certified USPTO instructors comes into play.
12. **Access to databases for NPL searches by independent inventors.** This item came up during the roundtable discussion and is very important. Public libraries do not have the resources to offer the more technical databases that are used for NPL review. I liked the idea that came up about having some way to access the USPTO's databases, perhaps through a proxy similar to the EZ Proxy that Florida Atlantic University (FAU) uses to provide their students with off-campus access to subscription databases and electronic journals. This example can be found at <https://login.ezproxy.fau.edu/login>. If something could be done this way or in some other way to help with access for NPL searching, it would be very helpful. Also, having some formal step-by-step approach to doing NPL searches using search templates would be useful in clarifying the process, especially for inexperienced users.
13. **Rebranding.** This item came up during the roundtable discussion. I have mixed feelings about rebranding because whenever one changes an established name one runs the risk of changing its established image in more ways than just the desirable one. A name change leads people to believe that there is a substantial change in the product or service associated with it, and this is fine when there is a change, but the problem comes in with the impression that people get regarding what they believe the nature of the change will be. The reason is that a name change leads people to formulate expectations in their minds of what some of those changes might be, and this can vary depending on the impression that the new name gives to them given the connotations and associations that the words in the new name have for them. Therefore, there are frequently unforeseen expectations from people that accompany the new name. When dealing with products, this may not be such a problem, but when dealing with services, especially free services, this can be a big problem because people want to believe that they can get everything for nothing. First, in the inventor community the PTDL name has acquired distinctiveness as well as an association with a long-standing system and quality assistance. Also, the word "library" conveys an association with the way in which we are able to provide the service. This is important in legal reference at public libraries because library customers doing legal research of any kind frequently ask librarians for legal advice and want confirmation not information. They want to believe that librarians are free

lawyers. The word “library” enables us to easily say that we can provide information and not opinion because we are librarians and not attorneys. Library customers have been exposed to this for so long that, though they might try, they generally do not insist in asking us for legal opinions because there’s a long standing association in this as well. And, on the occasions when they do insist, we can always bring up Unauthorized Practice of Law and then they stop insisting. It is similar for in-depth research. Librarians at public libraries cannot do in-depth research for a customer as we do not have staffing levels that would permit it and, in instances of legal research, doing in-depth research generally will require some level of interpretation at some point to continue, so in-depth research can easily turn into a situation in which one may be in a position of at least giving the impression of providing legal opinion if not in fact doing so, which librarians cannot do. Through many years of exposure to this concept as well, customers seldom ask for unreasonable levels of research and are happy to be guided in doing their own research. The profession of “librarian,” as far as the public that we serve is concerned, has been defined over many years, and there is great value in that definition. It is interesting to note that many in the profession who do not work directly with library customers tend to associate the word “library” with the old connotations of books and quiet places, but customers who regularly use public libraries don’t. And it is that which the customers associate with the word “library” that is important. I can’t think of any other name that would be more descriptive than PTDL while not leading to potential misleading connotations. For instance, “Patent and Trademark Research Library” sounds interesting, until one considers that our customers will interpret that name change as meaning that now we will do in-depth research for them and they will be rather unhappy when they find out that this is not the case. Eventually we can get our customers re-trained again, but a name change is not worth the potential difficulties that may arise as a result. Therefore, if the purpose of the rebranding idea is to promote PTDLs and improve their visibility, I would suggest finding another way, such as placing a link to the PTDL as a button somewhere on the main USPTO web page as many PTDL host libraries do, including ours (lower right hand corner of our main page at www.broward.org/library). Also, with videoconferencing capability, discussed in Item #D.5. there can be a major opportunity to promote PTDLs.

14. **The need for improvement in access to PubWest.** This is another useful item that came up during the roundtable discussion. Perhaps a method similar to the FAU EZ Proxy described in item #D.12. can be used.
15. **Having access to patent documents from 1790 – 1975 fully searchable online.** This item came up during the roundtable discussion a couple of times. To this I would add all of the dead marks earlier than 1984 which currently are not available online in TESS. I know that the PTDL Representatives have been requesting this for many years, and we certainly could use it as well, since from time to time we have an adult education antiques class doing research with patents and trademarks in those years. But, in the scheme of things I would consider this as a desiderata item. I think that the items listed above can have a better impact on supporting the primary use of PTDLs which is for patent and trademark

searching, with the ultimate intention of filing an application. For our PTDL, historical research is a use, but it is a secondary use.

16. **Concerning the roundtable discussion question regarding what PTDLs provide in the USPTO PTDL partnership.** To best answer this question I would refer the reader to three resources:
- a. The commentary to the Draft USPTO Strategic Plan, 2010-2015 I submitted via e-mail on 7/31/2010 titled *Benefits of PTDLs to USPTO*.
 - b. The article I wrote titled “Intellectual Property Reference: Resources, Assistance, and Outreach Opportunities for Libraries” to be published soon in the Spring 2011 issue of *DttP: Documents to the People*, the official publication of the of the Government Documents Round Table (GODORT) of the American Library Association (ALA).
 - c. The PTDLA Newsletter, an annual publication containing the News from the PTDLs section, in which PTDLs describe their work and events from the past year. The latest six issues can be found online at <http://www.ptdla.org/newsletters>. The issue for this year should be posted sometime in early April, in time for the PTDL Training Seminar.