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PROCEEDINGS

MR. BORSON: Good morning. I'd like to ask everyone to take a seat, if you could, please. My name is Ben Borson, I'm standing in for Damon Matteo who is unable to make today's meeting. So we do have an agenda today, we'll move through the agenda. And what I'm hoping everybody will be able to do is, participate in the last hour of today's meeting, which will be a public comment period relating to the annual report.

So I just wanted to let everybody outside and inside know that we would like to take comments from everyone about what you would like to see, if anything, in the annual report. PPAC is in the process of creating a final draft of the report to send to the office for comment, and then at the end of that period, we'll finalize our final report and submit it.

Anyway, so thank you all very much for attending. This is the public session of the Patent Public Advisory Committee, PPAC. And again, my name is Ben Borson. And without further
adieu, I'd like to ask the members of the Committee around the table to introduce themselves briefly.

MS. FOCARINO: Peggy Focarino.
MR. FOREMAN: Louis Foreman.
MS. TOOHEY: Maureen Toohey.
MR. MILLER: Steve Miller.
MR. PINKOS: Steve Pinkos.
MR. SCARDINO: Tony Scardino.
MR. OLECHOWSKI: Mark Olechowski.
MR. BAHR: Bob Bahr.
MR. BUDENS: Robert Budens.
MS. KEPPLINGER: Esther Kepplinger.
MR. STOLL: Bob Stoll.
MR. BORSON: Good, well, thank you very much. What I'd like to suggest the -- I've already made a few remarks about the annual report. The PPAC is a Public Advisory Committee, and we're authorized by a statute, the American Investor's Protection Act, to assist the Patent Office and others to develop and maintain the patent system.
And what our job primarily is to do is to provide a bridging function between the public, that is, the outside user community, inventors, patent applicants, attorneys, practitioners, to work with the office. And I'm very pleased that we're able to have such a close collegial working relationship with members of the office, and particularly the Commissioner and the Assistant Commissioner. So without further adieu, we can get on to the agenda items. First of all, we'd like to have Bob Stoll, Commissioner Stoll talk about the -- his opening remarks from the Patent Office; Bob.

MR. STOLL: Thanks very much, Ben. Good morning, everyone. It's a great pleasure to be with you again. Welcome back to the Patent and Trademark Office. We have many updates to share with you. Before we start, however, I'd like to mention Damon Matteo and say we are thinking of him and his family, and we wish them well, and we hope everything turns out very well there.

Ben, I'd also like to thank you for
stepping in at the last minute to chair the
meeting. The meeting is in very able hands with
you handling it. This is our last meeting before
the end of the fiscal year, and overall, I think
we've had a phenomenal year.

At the beginning of the fiscal year, the
agency was furiously working just to stay afloat.
Under the astute leadership of Director Kappos and
the extremely talented employees at the USPTO, we
have made it past a critical point and have made
some tremendous progress. We did not wait for our
situation to improve, we improved our situation by
revamping many of our programs and policies.
We've launched many new programs aimed at easing
the applicant burden in filing and obtaining a
patent. Green Tech, Project Exchange and Three
Track have all received accolades from our
applicant community, and there are many other
programs that we've been working on.

We continue to find new and innovative
ways to assist our applicants. A campaign to
increase our communication and collaboration and
transparency was launched at the start of the fiscal year. This has been the main focus of our efforts over the past year.

Our communication efforts encompass a full suite of blogs, articles, speaking events, federal register notice and everything. The launch of our dashboard is an excellent example of our commitment to become fully transparent and open. I'll let Peggy give you the details later during her presentation.

We have just announced a collaboration project to bring outside expertise to the PTO to help our examiners remain at the forefront of their fields. The Patent Examiner Technical Training Program, PETTP, was announced on September 15th. This new program to educate examiners on the latest technical developments by providing access to leading industry scientists and experts is fantastic. We are seeking public assistant in providing technical training to patent examiners within all technology sectors. We have renewed our agreement with the New York
Law School and we'll restart the Peer Review Program in the fall.

Throughout the year, we have made major improvements to our patent management policies and procedures. This includes the change to the patent count system, and we want to thank our unions for cooperating on this effort, the First Action Interview Program, which I believe has really compacted prosecution and allowed for early indication of allowable subject matter, and the launch of several significant training programs.

The Patent Training Academy changed the composition of its training program to utilize experienced SPE's as trainer. This was, in part, a response to feedback that we seek to fit our training format. Our efforts to improve patent quality were focused within the Quality Task Force. For the past year, Marc Adler and Bob Bahr have been working together to poll our stakeholders and work through quality metrics. Bob Bahr will brief you about their report later this morning.
Our backlog reduction, commonly known as the 699 Campaign, has had tremendous success. We started well over 735,000 unexamined applications. Our examiners have really pulled out all the stops. And I must commend the examining core for their effort, dedication and talent. We are nearing our goal of meeting the challenge of dropping the backlog to 699,000 unexamined applications. The patents organization has performed with the highest standards, some of our challenges remain, but we are in a much better position to meet what lies ahead.

We are about to start the new fiscal year, 2011, in much better shape than last year. We will continue to improve our programs and policies by working with all of our stakeholders. The supplemental funding will allow us to move as planned on our patents end to end project. The supplement funding puts our hiring plan back on track. Our hiring plan is targeted at 1,600 new examiners over fiscal years '10 and '11 combined. We expect 500 to be on board by the end of the
current calendar year.

You'll hear more details regarding our funding from our new CFO, Tony Scardino, but let me say we face the possibility of a continuing resolution with our fiscal year 2011 appropriations, and we are making preparations for this eventuality. We continue to build on our strong foundation by collaborating with our stakeholders. We value all input we've had and look forward to expanding collaborative environment. And thank you for your guidance and support over the past year. I look forward to working with you over the next year. Thank you very much.

MR. BORSON: Well, thank you very much, Bob. Does anyone have any questions or comments for Commissioner Stoll?

MR. STOLL: Good.

MR. BORSON: Well, thank you very much, Bob. Well, we are a bit ahead in our agenda, which is not a bad thing, so let's go ahead. Our next session will be Anthony Scardino, who will
give us an update on the current finance situation.

MR. SCARDINO: Good morning. Today is actually my one month anniversary here at the PTO, and I think I took a week vacation in the middle, so I think it's day 17. I'm actually going to ask Mark, the Deputy CFO, to kind of help me as we go along. But the way we like to brief, and I'm sure this has happened in the past, is, you know, in the fiscal world, we're living in three times all at the same time, fiscal 2010, '11 and '12. Of course, '10 is our current year, it ends in seven days; '11, as Bob mentioned, Congress has to do something over the next week to pass what's call a continued resolution, or pass 12 appropriations bills, which obviously won't happen. We don't know how long the continued resolution is going to be, some people are saying through the elections, some people are saying until Christmas Eve, some people say we could have a year long CR, which, you know, wouldn't be what they'd decide to do over the next week, but we could have one, and
there are very real implications for the PTO for that, of course.

You know, the 2010 levels, which we should start with, because of the supplemental, we have a higher starting point, thankfully, and we're going to go through that a little bit.

So if you look at the slides here, our estimated fee collections are a little over $2 billion, $2.083 million. But the appropriation, between what was enacted, 1887, and the $129 million supplemental, only totals $2.016 billion. And today, or yesterday is actually the day where we passed that number. So anything we collect between now and the end of the fiscal year we do not have authority to spend.

So we're still working with Congress to get into the CR, what's called an anomaly, where they make an adjustment and say, okay, you can spend more or at a different rate than what you had last year. It's possible, but unlikely, that they'll give us authority to spend this extra money that we're collecting. And are you all
familiar with the concept of fee diversion? I've been told by folks on Capital Hill to never use the word diversion again, but I'm sure others may, you know, no one can force us to use whatever word we want, but we're trying to use the word unavailable fees collected.

Having said that, what we're trying to do is, in the CR, get a couple other anomalies. We're trying to get approval for the surcharge, the 15 percent. Since both the House and Senate marked up our 2011 budget, including authority to charge the surcharge or collect the surcharge, but it's not in the CR as they've written it right now, and that's a big implication for a PTO.

In other words, let's say the CR goes for three months, if we can't collect the surcharge, the 15 percent, that total is somewhere between $60 to $80 million that the USPTO could not utilize, could not charge and then collect, and we'd never have the ability to collect that money again -- every day that we don't collect that surcharge. It's not like other agencies that
are budget authority, once the appropriations bill is enacted, if you get authority, you kind of go back to October 1st and pretend that's when the year really started. For us, it's a little different. So we're working really hard to help folks understand that this has real dire implications for USPTO if we don't get that surcharge.

We're also trying to give, like I said, full access to the fees collected in 2010 as part of the continuing resolution. Not a lot of support there so far, but we're still working it. Having said that, because of the supplemental and the timing that it came in, we're going to have carryover balances of over $200 million. And here's the split, patents versus trademarks. That's just because the money came in late, we can only spend so much, a lot of it's going towards, you know, laptop replacement, enhanced hiring for patent examiners, it just takes time to spend that money, so it's not an indication that we've not managed our funds.
properly or anybody, we're just trying to spend it.

So the supplemental authority on the next page gives you a list of like eight things that we're actually doing with the $129 million. And again, as Bob mentioned, this is why and how we're going to get to hire hopefully 500 examiners by the end of the calendar year. That's an ambitious goal, but we're working really hard, and every person in HR yesterday, and they're all rallied to meet this goal.

But it also helps our folks in CIO and others to, you know, improve the infrastructure, as well as do the laptop replacement for our examiners, as well as, you know, everyone at the USPTO.

Also, nation-wide work force, you probably heard about this, we're hoping to possibly either have another facility out in another part of the country or at least diversify so that we can do some recruitment in other parts of the country, and, you know, that always helps
with retention, as well as recruitment.

And overtime is always near and dear to everybody's heart. Overtime is, you know, direct correlation, number of hours people work, you know, backlog, that's how I went from 735 down to 720. Is that the latest number I heard?

So kind of moving on to 11, which I already stole the thunder from this slide a little bit, but we're now giving Congress like ranges of what we think we're going to collect, kind of low working and high, and the latest range we gave them on September 1st, we have every September 1st, we have to give the appropriations committees an update on what we think we're going to collect. And our latest update, had a broad range, between 2.314 billion and 2.491 billion, but our working estimate was, do you know, Mark?

MR. OLECHOWSKI: It's right about in the middle, about 109 million, more than the --

MR. SCARDINO: President's request, yeah. So now the issue is, is Congress going to act on our revised estimate or are they going to
use what the President submitted as an estimate back in February?

MR. BORSON: Excuse me, this is Ben. Mark, would you make your comments on the live mic, please?

MR. OLECHOWSKI: I'm sorry. Yeah, what Tony was referring to, Director Kappos has endorsed, and what we've done all year is, you know, until we get closer to the end of the fiscal year, we've been providing ranges of estimates to our appropriators and to our stakeholders, and so that's what we've done on September 1st -- report language it says on September 1st, you have to update the President's budgets, collection, fee levels. And so we have -- and we believe we're going to actually collect more than we thought we would where we submitted the President's budget back in February. So back in February, our estimate was around $2.32 billion; we think we're going to collect, at the low side, about $100 million more than that. And what Tony was referring to was, you know, Congress are, you
know, working with us in the Office of Management and Budget. They have to decide how much to appropriate as to what authority we have.

So we're working closely with them, providing them updates and estimates and rationale for why we think we're going to collect more. So it's an ongoing effort between us and the Hill as to what we think we're going to spend, collect, so just ongoing conversations.

MR. PINKOS: And, Mark, what was the difference last year between the original President's request and the September update to the appropriators?

MR. OLECHOWSKI: Well, I want to say last year for --

MR. SCARDINO: For ten?

MR. OLECHOWSKI: -- for ten. You mean, Steve, in terms of whether the major drivers for the different --

MR. PINKOS: No, I'm sorry, just if there was a difference, the amount. This year it's about 100 million.
MR. OLECHOWSKI: Well, you know, last year, Steve, was really kind of, you know, '09 was a tough year, '10 was a tough year for different reasons. So last year, when we provided the Hill the number of 1887 in September, if you remember, we were right, we call it the bottom of the bathtub, that's when our fees were at their very lowest level and the economy was in a terrible recession.

We didn't foresee, you know, the recovery that we've experienced, at least in the patent community. So we provided Congress last year with the 1887 number, and, of course, we continued to collect at a very strong pace through 2010, and we're using that latest history to kind of bolster our estimates for 2011.

But I'll tell you, allowances are up, issues are up, maintenance fees are up. I mean all of those big categories of fees are continuing to show strong growth and recovery. So, you know, from the CFO standpoint, we're excited, you know, the more money, the better. And we'd rather tell
people yes than no, which is what we've been
having to tell the commissioners for the past
couple of years.

MR. PINKOS: Right; the economists will
tell us technically the recession was over by that
point. But the point -- so my follow-up question,
though, is, so last year you estimated downward,
and the appropriators used that downward number,
correct?

MR. SCARDINO: Exactly, right.

MR. PINKOS: They were cognizant and
took notice of your amended figure and used it in
the appropriations, the ultimate appropriations
bill?

MR. SCARDINO: Right; so one would
think, with equal treatment this year, they would
take a higher number, but anyone who's worked with
Congress for longer than a half a minute know what
makes sense isn't always what they do, so we're
trying to work with them very closely.

Going back to the interim fee
adjustment, because our fees estimated has
changed, so has our 15 percent surcharge estimates
changed. So for the year, the President's budget
had I think $224 million, now we're estimating the
surcharge that we have authority starting October
1st or 10th, however it works, it could be as much
as $269 million instead of 224.

So you'll see, there's a lot of reasons
why the percent means something, there's a lot of
reasons why our new fee estimates mean something.
If we have to live under just pro rata, 2010,
$2.016 billion, it's going to result in many, many
tough decisions for Mr. Kappos versus if we get
full access to our fees. So --

MR. PINKOS: One other question
regarding the pro rata, is there history for
Congress to let you operate pro rata on your
combined appropriations for the previous year, or
do they go off pro rata of just the actual say CJS
bill that was passed? So will they combine the
supplemental and say pro rata of that?

MR. SCARDINO: Actually, it's a good
point, Steve. They had to -- Congress is
proposing a CR that includes the supplemental as our base, so that would be included. Again, if it's passed the way we're being told it's been written, we'll get full access.

So you probably recall that the -- budget -- the President's request also had this buffer in there, the $100 million, that is something that we believe, and we've talked to the House and the Senate, they both support at this point in time, but again, you never know until we get an act.

So if we have to hold the 2010 spending levels, it's going to effect our hiring, it's going to effect -- the supplemental is still available, of course, so everything that's planned for there, but we would have to start looking at, okay. You've got to live at your CR level, because we could have a year long CR. We can't kind of live at what we hope we're going to get. So, again, Mr. Kappos, we're working on many options that he'd have to consider as to what makes the most sense, what our highest priorities.
2012, this has been a busy month.

September, we are -- we submitted our budget to OMB about a week and a half ago. We went over there last week, I'm sorry, just the other day, Tuesday, and presented our budget to OMB.

Now, they spend the next couple of months reviewing it, meeting with us more, follow-up questions, and then we'll get what's called a pass back or a number or some authority that will be included in the President's budget probably right after Thanksgiving. So there's not a lot of action on 2012 other than answering some questions. And where we're guessing they're going to want some more details on what we're doing in the patent world, as well as the IT world here, but we'll keep you posted on that.

The strategic plan, we're calling the 2010/2015 plan, and if it's not rolled out and delivered by September 30th, we have to change the title to 2011/2016. So we're working with the Office of Management and Budget to get that approved. It's been a lot of work that everyone
has been involved with. And we're just getting a tiny bit frustrated it hasn't been approved yet and we can actually roll it out and stamp it. But we're also getting more feedback these days from the Department of Commerce on things. They want to be more involved in developing things like our strategic plan, our budget. You know, we've got certain statutory rights, and we've got other things that say we are part of the Department of Commerce, so we're working with them to the extent possible. We've been encouraged by the appropriators, as well as OMB to do so, but again, you know, we have some independents, so we're kind of straddling the fence there. And then eventually for 2012, you know, the first Monday of February, we will submit a budget as part of the President's budget to Congress. But a lot of things will happen between now and then, because every budget is -- builds on each other, so we are -- 2012, I say the theme for the budget is to get a multi year budget plan so
that we can ride out some of these dips from when the economy drops, or for that matter, when the economy surges and we start to collect more fees, we would be able to basically eliminate fee diversion.

MR. BORSON: Well, thank you very much, Anthony. I wanted to ask you a question, what do you think the impacts will be on the applicant community and patentees and innovators that use the patent system, in the event that there is a continuing resolution, that's one question. And the second which is related to that is, what would be the impact on innovators and patent applicants in the event that there is no multi year budget?

MR. SCARDINO: Well, the first one, and again, I've been here a month, so I'm not sure how elastic. If I was trying to apply for a patent, I'm not sure of the amount of funding the PTO had would necessarily effect it, but again, I'm completely naïve on that score. I guess it would partially depend on how long the CR is, where we stand. Again, I think the first CR is only going
to be 45 days, or at the most, 85 days, up until Christmas.

The second question is a tougher question, a tougher question in terms of, you know, what is the impact on our ability to dig into that backlog, I mean that's what we're trying to get to. You know, Mark always makes the case, if we get rid of the backlog, or, you know, get the backlog down to an acceptable level, things are going to change tremendously for everyone, the business community, here at PTO, fighting with Congress about fees, you know, we'll have an operating stream that will be more manageable.

Right now it's, you know, the economy dips, so -- backlog -- is almost insurmountable, or let's say unacceptable levels for everyone, and now we're just trying to dig away at them. We've hired thousands of examiners and we're going to continue to do so.

MR. BORSON: Well, part of that question relates to what contingencies the office has in the event that things don't work out as you would
like them. I mean I don't think anybody in this
room would question or disagree with the
proposition that the Patent Office needs to have a
sustainable funding pathway.

If that, you know, right now that seems
to be up to Congress to the major degree. I mean
there's some impact that we have through, you
know, our reports and our public comments and our
urging of Congress and representatives to pass
sustainable budgeting for the U.S. Patent and
Trademark Office, but, as always, there has to be
plan B, C, and D. And so I'd like to explore it a
little bit with you, what you think from the
budget side and what the Commissioner and other
folks in the Patent Office think might be things
that would be plans B and C, if needed.

MR. OLECHOWSKI: If I could just add to
a couple things to what Tony said. In terms of
operations during the first quarter during the CR,
we don't expect to have any change in operations.
We're going to -- with the supplemental that we
have, with the dollars you're carrying over, we
expect to continue hiring. The Commissioner talked about having 500 or 600 new folks on board by Christmas, we still will continue to do that. We know we have enough money to get that done. We're continuing our IT projects. We're just operating I think as we had planned. And through that time period of the CR, we'll know more about how long the CR will be, what will be included in it, what the President's budget will be, what the negotiations and the discussions on the Hill will be. So I don't foresee any change in plan from today through Christmas time unless something drastically different happens that we really haven't foreseen. And in terms of the sustainable funding model, I think we have great support from all areas, including our stakeholders, Congress, the Office of Management and Budget, and DOC. How that's ultimately implemented and enacted I think remains to be seen, but I think we have great support for the PTO to have a model to sustain ourselves through these economic times. There's no discussion on
the need for it, I think the discussion is in the
details about how that happens.

MR. STOLL: Thanks, Ben, for the
question. Let me clarify. First of all, we're
not certain what's going to be in the CR, we have
some ideas, but we're not sure whether there will
be things in there that help us through the year.

Second of all, we don't know how long
the CR is going to run. We are already planning
for the possibility of it running longer, I've
heard actually could be to March. If it runs
long, we will not be, A, hiring to the degree that
we are planning to. There may be effects with
respect to overtime. There will be effects with
respect to our end to end processing. So it will
have a significant impact on us if the CR does not
provide us with the amount of money we need to
operate through the year, and, in fact, runs
through the year. Thank you.

MR. BORSON: Well, thank you, Bob.

MR. PINKOS: If I could piggyback on Bob
to Ben's question, and all of that has the direct
impact on the users of the system, because ultimately, one of the concerns is the time it takes to get your patent application through. And all of these efforts that need to be funded are, you know, compounding through time to hopefully bring that down, and when they're delayed, ultimately the impact is born by the applicants to the office.

MR. MILLER: I think the other thing is that, you know, with the 15 percent surcharge, that the user community has been supportive of that, assuming the office would get full funding, and I think we're going to lose that support if Congress continues to I guess withhold funds, I won't use the D word, withhold your fee collections.

The user community is going to lose its confidence that that money will come for the purpose it is. And so the contingency may be -- may not even be able to count on the 15 percent surcharge.

MR. BORSON: Yes, Robert.
MR. BUDENS: I think kind of tailing along from Steve, I'm a little concerned about something you said, Tony, about that 70 million, because I'm not totally familiar with this anomaly process in the CR. If we do not get the anomaly passed in the CR, is there potential that the 70 million, you know, between now and October 1 would still be appropriated in the 2011, if and whenever a Congress, whatever Congress passes it, or is that $70 million going to evaporate if we don't get the anomaly into the CR so that we have authority to spend it on October 1?

I'm a little concerned about this. I'm not really too hip on the, you know, Congress' semantics game with their diversion versus unavailable. I mean a cesspool smells the same, you know, no matter what you call it. And I'm a little concerned that we're looking at a serious chunk of money for the first time in a number of years not being available to the agency to spend at all.

MR. SCARDINO: Robert, can I pick option
C? You said basically can they appropriate as part of fiscal year '11 bill or do we lose it forever, it's actually neither. They will not appropriate as part of '11, but we don't -- we lose it, but it goes into a treasury account that has been reserved if they ever need to appropriate to us. So it's available, we would just need to make the argument that we need it. So right now that account has probably $500 million in it. Anytime we've had excess fees we've collected, it goes into a separate treasury account. So it's bad in the sense of we're not going to get that money, it's good in the sense of if we ever really, really needed it, they could tack it onto a supplemental or something and give us that money.

MR. STOLL: Let me clarify that, though. They have never --

MR. SCARDINO: Yes.

MR. STOLL: -- they have never.

MR. PINKOS: I think that account is located in the office next to the Social Security
Trust Fund, correct?

MR. BUDENS: Right.

MR. SCARDINO: There's an underground tunnel, in fact, between the two of them.

MR. BUDENS: It's an unnumbered account in the Cayman Islands somewhere is what it is, because I -- I mean that may be a paper account, but, you know, I'd love to actually see the little, you know, place where that money is actually stored.

MR. SCARDINO: Yeah, I just -- I bring that up because I made that argument to the appropriators last week on the House side, and they -- the response they gave me is that that money is still available if we decided to appropriate it to you.

MR. BUDENS: -- another semantics game here.

MR. BORSON: All right. Well, thank you very much. It's a pleasure to meet you, and welcome aboard, and we wish you the best. It's a trying time here and everybody in the room and all
the listeners understand the need for sustainable
funding, and if there's anything that we on the
PPAC can do to assist you in this process, please
let us know.

MR. SCARDINO: Well, thank you very
much. I appreciate the opportunity to be here.
And also, I'd love to learn more. I mean I met
with Esther yesterday, I'm literally a blank
slate. I know finances, but I don't know the
patent world very well yet. Every day I'm
learning more, so if you're ever around and want
to visit or have me visit, I would love the
opportunity.

MR. BORSON: Very good, thank you so
much. Okay. At this point we're still a little
bit ahead of schedule, and that's fine. I'd like
to invite Peggy to make some comments. And I
believe that, Bob, you're going to head out?

MR. STOLL: I have to; I can get back
later, but because the Under Secretary and the
Deputy Under Secretary are both at the World
Intellectual Property Organization Assemblies
right now representing the United States, I need to go down to the Department of Commerce to represent the PTO. So I'm sure budgetary issues will be discussed, so I must leave.

MR. BORSON: The best of luck to you.

MR. STOLL: Thank you very much.

MS. FOCARINO: Okay. I just want to give you a very brief update on some of our initiatives and some of the new pendency measures that we have and a little bit about our dashboard that's on our internet now. For those of you that are car buffs, don't get too hung up on the positioning of the dials or things like that, I'm sure you can find some fault with this, but the intent is very noble, it's to get some data out there so people can see, you know, different looks in terms of where we are and looking at different types of pendency.

And if you look at the middle of the gauges, you'll see where we are as of, I think it's the end of August, 2010. So you're looking at basically the traditional first office action
pendency, the total pendency, where our backlog is just in terms of sheer number of applications. And as many of you know, we have a campaign going on right now to try to get that number below 700,000 by the end of the fiscal year, and that's a real stretch goal, but we've had an amazing amount of support from our examiners and certainly from all of our managers and executives in the patents organization for really making an effort to get this done.

We've got fiscal year production down there in the lower left, and actions per disposal, which we've been looking at very closely on the heels of some of the initiatives we put in place this past year. And then the far right lower gauge is basically the number of examiners we have at this point, and it's right around 6,000 right now.

Some of the good news this year is, our attrition rate is very low. I think we've attrited about 242 examiners, so it's very low, hovering just above four percent. Some of it's
the economy certainly, but I think some of it is, you know, changes that we've made, and hopefully people are making a career out of being an examiner. Some of the new measures that are on our dashboard are reflected here in this slide. So we have some -- a pendency measure that includes RCE's, that's the first one on the upper left. Inventory position is a new measure also. And I should mention that on the internet, if you're interested in the detailed definitions of all of these measures, we have those posted also, because some of these are very technical, and just to make sure everybody is clear on what they're looking at and how we are measuring, it's all there and explained.

But the inventory position measure is what would happen today if we didn't collect anymore applications, we didn't see anymore applications coming in the door. We would have basically a little over 26 months worth of work for our patent examiners. We've got pendency to board decision,
which you can see on the upper right there. We've got pendency of RCE's in the lower left, and also continuations. If you're interested in how long it takes if you're just filing an original application and then filing continuations, you can expect present day, a pendency of that number. And then on the far lower right are pendency of our divisional applications. Some of the initiatives that we put in place that we're tracking very closely and trying to share as much information as we can with our stakeholders, the first one is the first action interview pilot. So we have just a little over 1,100 applicants that have entered into this program. We've conducted a lot of interviews, you can see that almost 600 interviews have been conducted, 360 applications have been allowed. So the allowance rate for this program, you can see there is a little over 32 percent compared to just under 11 percent for all other non-continuing applications in FY '10. So, you know, that's pretty good news. It looks like a really successful program. The
examiners like the program. And it is about to end in terms of what we've agreed to with the union, so we've been working very closely with the union to try to extend it for a bit and then also continue discussions on some sort of expansion of the program, and do some measured expansion of the program. So that's where we are right now with that particular program.

MR. BORSON: Peggy, if I could just for a moment go back to the dashboard for a moment.

MS. FOCARINO: Sure.

MR. BORSON: These are all instantaneous sort of today is what we're seeing. Do you have any plans or ideas for having a trend number or something that reflects the current state with respect to what, you know, last quarter was like?

MS. FOCARINO: Right, yeah, okay, right. If you click on the gauge, if you get onto our internet and you click on it, you can drill deeper and you can see -- any particular measure that you click on, you can see the trend over the last several months and couple of years I think.
MR. BORSON: And one other question relating to this is, the office has come up with a new proposal for quality metrics for 2011. Does the current dashboard reflect those ideas or are those ideas going to come in as 2011 approaches and then there will be a different calculus under the dashboard?

MS. FOCARINO: Right, our current dashboard, you'll see, I'll show you, has -- let me go back, right there at the very bottom, I'm sorry, I skipped over that one. The two bar lines at the bottom show the current quality measures. The first one on the left is -- oh, no, that's the allowance rate. I thought I saw them somewhere, Bob. Let's see, they're on the dashboard somewhere, I know they are. Aren't they, Dave?

MR. WILEY: -- they're on the slide site.

MS. FOCARINO: Right; so you're going to see the two traditional measures, but I'm -- I'll let Bob Bahr answer, but I'm sure we will --

MR. BAHR: Yeah, we're going to put the
new one up, but right now we have the current measure.

MS. FOCARINO: Right; do you know, Bob, when we'll have the new measures up and running so that we have -- we're confident that what we're showing is accurate?

MR. BAHR: Well, one of the measures includes surveys that would not be done until January of 2011, so I don't know that you could put a complete one up until then.

MS. FOCARINO: Right, yeah. I'm looking at -- I've got all the dashboard in front of me. And there is one for examination quality, I just didn't show it up here.

MR. BORSON: Okay, thank you.

MR. PINKOS: And, Ben, can I ask a question, too? Is there any method to the colors? Because, you know, sometimes when people look at dashboards and industry, it's always red, yellow, green as to whether you're meeting your goals or you're off track on your goals. Was that just random and is there any thoughts as to make those
red, yellow, green, as to whether you're on or off track?

MS. FOCARINO: The honest answer is, it's random to me, but I know that we had people look at this who are, you know, have sort of an expertise in visual communications, and they helped refine it, but certainly this is our first foray into this type of thing, and we hope to display it better and more user friendly, so we'd love to get feedback on it if you have feedback on it.

MR. BORSON: Well, actually I do have a couple of comments, if I may. First of all, there is a color blindness, some people don't distinguish red from green.

MS. FOCARINO: Yes, right, we've heard that.

MR. BORSON: So that's true. It's more common in men than women, but it does occur. And the second thing is, I notice a number of these scales sort of stop at 70 or sort of, you know, many of these need to look like they're pegged, so
the public perception might be, well, things could not get any worse.

MS. FOCARINO: Right.

MR. BORSON: Was that an intentional decision to --

MS. FOCARINO: No, again, it was -- the people who took the data from patents and gave us advice on how it should be displayed kind of worked on that, but we have gotten some comments right along your line, Ben, the same couple of comments.

MR. BORSON: Okay. And just one other thing maybe a little bit less significant is that the concept of a circular dial is very 20th century, and if, you know, if you've seen modern displays of technology, sometimes there's a vertical bar, you know --

MS. FOCARINO: Right.

MR. BORSON: -- and I just wanted to present that, that if you want to give it a forward looking view, a forward looking image, you might consider some other style. And also maybe
more importantly is, if this is intended to be seen only by people on computer screens, then light on dark works, but higher contrast is always useful, especially for those of us who are developing Cadillac's.

MS. FOCARINO: Great.

MR. BORSON: Esther.

MS. KEPPLINGER: Just to clarify, the backlog number that you are using for unexamined cases does not include RCE's, correct?

MS. FOCARINO: That's right.

MS. KEPPLINGER: Right, so they are counted as a new case by the USPTO, but they're not counted in your backlog of unexamined cases?

MS. FOCARINO: That's right.

MS. KEPPLINGER: So the other thing that's happening, of course, is that the RCE's are sitting on the shelf and increasing very rapidly, they doubled from July of '09 to July of '10, and I think they're continuing to sit there. And, of course, this push, they won't be being done, because we're trying to do the -- you're trying to
do the unexamined applications. So the consequences for your dashboard are that the pendency for RCE's is going to sky rocket because they are sitting there, they're going to be looking like continuations I think, so that's one of the implications and trends that we're going to be seeing.

Of course, right now they're not counting because they're not being examined, so they don't show up in the pendency numbers until they're actually done and completed. So that is what the trend for some of those numbers, the total pendency --

MS. FOCARINO: Right.

MS. KEPPLINGER: -- and in particular, the ones with the RCE's are going to be going up.

MS. FOCARINO: Right; and I believe we are reflecting, though, the RCE backlog, right, Dave, somewhere in -- or no?

MR. WILEY: Not in this version.

MS. FOCARINO: Not in this version. But we do intend to do that, I don't know when we will
do it, but there's several measures that aren't in
here that we've been working on refining.

        MS. KEPPINGER: And also just to
clarify, I think that in the old days, there
weren't that many RCE's, and they weren't counted
in the total pendency, so pendency stopped when
the first case abandoned, and then the actual
pendency of the RCE was not captured. Now they're
a significant number. In your total pendency,
you're capturing it, but in your old numbers, I
think they're not being --

        MS. FOCARINO: That's right.

        MS. KEPPINGER: -- it's not being
captured. So it's a significant number of cases
that are sitting there and the traditional
measures don't show in the pendency numbers.

        MS. FOCARINO: Right.

        MR. BORSON: Okay, thank you. So please
go ahead.

        MS. FOCARINO: Okay. So --

        MR. PINKOS: Peggy, I'm sorry --

        MS. FOCARINO: That's okay.
MR. PINKOS: -- before you go to the next slide, a question on the -- no, you're back to the first --

MS. FOCARINO: First action interview.

MR. PINKOS: Yeah; the question I had was, the allowance, I guess sort of in layman's terms, an allowance that the applicant is agreeing to, so, therefore, it's sort of case closed, so to speak, they're not then seeking, you know, additional protection, and there's going to be a second office, you know, additional office actions, et cetera? I mean it's almost like a negotiated settlement at that point?

MS. FOCARINO: Yes, I mean I think the early interaction, the interview, and, you know, the dialogue that's happening, definitely there's -- a resolution of the issue seems to be occurring very early on in these cases, so we're seeing the high rate of first action allowances, which is really good. Of course, it's in limited areas right now. We have pilots in every TC, but in very limited areas, so again, we're trying to work
with the union to expand it because we do see a lot of promise in this kind of program.

MR. PINKOS: And, of course, the up side for the office then would be more cases handled more quickly, thus more cases --

MS. FOCARINO: Sure.

MR. PINKOS: -- disposed of?

MS. FOCARINO: Right.

MR. PINKOS: The backlog comes down?

MS. KEPPLINGER: My guess, Steve, with that, and my own experience is that it's a good thing, it's an excellent thing, the way the examiners are working with the applicants to try to get patents. But in those negotiated settlements, in many cases you take a narrow claim, and then go back for a broader -- for broader claims and a continuation. So I would expect that that would be occurring in a number of the cases.

MS. FOCARINO: Right.

MR. BORSON: Yeah, I wanted to ask you, Robert, in particular, you've got your hand up and
I think you're presaging my question, how is the union looking at this and do you think that this pilot is going to be expanded into areas that are not so relatively straightforward for patentability? I think the original target for this pilot was to pick areas that were relatively clean. What about the areas that are not so relatively clean? And what do you think the union is likely to want to do with that? And, Peggy, of course, I'd like to hear you two talk about this.

MR. BUDENS: I don't know, I'm not quite sure, Ben, how you're defining relatively clean. I mean the initial rule out of this pilot was in some of the electrical areas, and I think predominantly it was in those areas because, number one, they need the fast turnaround, you know, on their inventions, you know, as opposed to some place like Biotech, which would prefer not to have a quick turnaround because they've still got ten years at the FDA to play with.

So I think we started it in the electric barrier, but nevertheless, we did expand to put,
you know, work groups in every tech center into the program. I think our views on this as we've been discussing it over the last couple of weeks with the agency are somewhat mixed, okay. We are agreeing to go ahead and extend the current pilot for another six months so that it doesn't, you know, doesn't end October 1 and just end, so we want to do that while we continue discussions on the expansion of the program.

I think there's a little bit of mixed feelings about expanding it, and that was going to lead to the question I was going to ask, because I'd be interested in feedback from everyone, is that, you know, as we've had these discussions, everybody has been talking about interviews and wanting to have it, and then we put this program in place, and I think it is a good program, and I think we're seeing, you know, some beneficial effects of it.

I think one of the things that's kind of intriguing us is why is the participation in the program no more than it is. Admittedly, we have a
high allowance rate, I suspect that the people who are participating, you know, are somewhat highly motivated, you know, are a more motivated group to get to allowance and stuff, but it, you know, I'm a little bit surprised that the participation in this program has not been higher on the part of applicants, and the question is, you know, are we just reaching, you know, small targeted, you know, audiences, and then even if we expand it out to the rest of the, you know, technology areas, that we wouldn't really see much of a difference in the usage of it, or are we just missing areas that would probably use it more if we expanded it?

MR. BORSON: Well, I had a question. It's my understanding that these pre-first office action interview pilots are at the initiation of the examiners; is this correct or am I misunderstanding the current state?

MR. BUDENS: No, I believe they're at the initial -- the applicant has to opt into the program initially, I believe, to say that they want to participate in the program, and then it
becomes -- because it establishes a set of time
periods that the applicants have to meet in
carrying out the interviews and submitting
responses and stuff.

MR. BORSON: Well, I think one of the
questions is, does everybody -- does the applicant
community know that this is an option that they
can select on their own initiative?

MR. FOREMAN: Peggy, I want to ask a
quick question, going back to what Steve brought
up. One of the metrics that's actually missing
here is, how many applications actually are
disposed of because of the pre-office interviews?
So when expectations are managed, when the
inventor sits down with an examiner and realizes
that the subject matter he's seeking to protect
isn't available, are they exiting the system
quicker, and therefore, reducing backlog, so this
way an application isn't sitting there for months
and months and months, they realize very quickly
that they're not going to be able to get the
protection they're seeking and they exit the
system rather than tying it up?

MS. FOCARINO: Right; I know we have that data, I don't have it in front of me to show you, but definitely. I mean whether it's an allowance or whether it's, you know, agreed that we're not going to reach agreement or you have nothing allowable in the case and there's really an abandonment or a disposal of the case, it's definitely -- that's the purpose of the program.

MR. FOREMAN: I mean, obviously, the benefit to the system would be if they can reach some consensus, whether there's allowable subject matter or not, you could reduce pendency and not -- as well?

MS. FOCARINO: Exactly; so we are tracking the pendency, and you're right, the other side of that first action allowance rate is not shown there, but --

MR. FOREMAN: I mean it's not necessarily a bad thing to be rejected. I mean at least at that point they realize that they're not going to get a patent and they can either move
forward in some other area or not have to wait?

MS. FOCARINO: Right.

MR. BORSON: And I just had a question for clarification purposes. You mentioned that the overall first action allowance rate is 32.3 percent, is that allowance of all claims that are pending in the case or is this an allowance of some of the claims in the case?

MS. FOCARINO: Well, it's an allowance of the case. Whether -- as Esther said, sometimes the applicant comes in and narrows the claims down or perhaps cancels some of the claims and they get to a resolution where the case is allowable.

And just to clarify, though, the expansion of the program currently that we expanded over the initial area that Robert mentioned is, work groups in each TC, and I believe the methodology was to look at the pendency -- areas of the highest pendency in a work group in each TC, and that's where these pilots are going on. So we tried to marry the pilot expansion with the areas in the greatest
need of reducing pendency.

    MR. BORSON: Thank you very much.

    MS. FOCARINO: I think I lost my slide set up there.

    MR. BORSON: Is the slide -- can we get the slides back on?

    MS. FOCARINO: Oh, they had to restart it, okay. So this is our -- okay -- make sure that was my next slide, right? Right, this is the next slide. So we've got our accelerated pilot program, and we haven't gotten a lot of takers on this one, but we have some, so we're going to continue to, you know, see the results of this particular program.

    And, you know, we did extend this one also to try to get more people into the program itself. But you can see that there's a very short turnaround on these, and that's a good thing for people that choose to use this type of program.

    MR. BORSON: I know that the data is still very preliminary, but do you have a sense of whether or not large filers are taking advantage
of this or are small and mid sized companies
taking advantage of this?

MS. FOCARINO: I don't have that data, but I'm sure we're looking at that for the small number of applicants that have opted into this program. We can certainly -- and that will be one of the factors that we're looking at as we evaluate the pilot, is who participated, and if we want to continue with a similar program, how should it be modified or, you know, changed or redirected, but we will be looking at that kind of -- I just don't have that data right now.

MR. PINKOS: Peggy, under the program, how quickly is the application then picked up?

MS. FOCARINO: You mean in terms of examination?

MR. PINKOS: Yeah, how is it designed, you know, okay, I trade in one --

MS. FOCARINO: Right.

MR. PINKOS: -- I get to move my other one up, what does that really mean, you know, within two months?
MS. FOCARINO: I think as the examiners -- it goes on their docket, right. Is there a special docket? It goes on a special case docket. So depending on their particular volume of cases and that special cue, it gets picked up sooner than it would otherwise. So it is slotted into that special case docket, which the examiner in their performance plan has to move at a certain rate so many of those cases every pay period.

MR. PINKOS: Not to belabor this, sorry, but obviously you make the point that it might be used more once the word gets out, so when the office is talking about this at AIPLA or elsewhere, are they being specific at all as to how much more quickly or are they just familiar with special case docket and different TC's and what the examiner, you know, requirements are there?

MS. FOCARINO: Right, I think we would, you know, certainly if we're reporting on this, I'm just giving you high levels, this is one of the initiatives, but there's a lot more data on
this, and I think people can see on average what the first action pendency is and total pendency from time the examiner does the first action to allowance, so all that data would be available. But there are several things on these special case docket now that I'm sure Robert will agree with me, and these are one of them.

MR. BUDENS: Yeah, I definitely would agree with Peggy, there are several different initiatives that -- and heaven only knows how many more will be, you know, popping out of the tenth floor west before it's all over with, with all due respects to Dave, you know. But I think, you know, to answer your question, Steve, from an examiner point of view, I think it would be hard to predict a set time. It's not like they're on the amended docket, where you know that two months from now they have to be moved. They're being put on essentially a special docket, but depending on whether, you know, how many of those special cases the examiner has on their docket at a given point, it would depend on how long your particular case
might be in the cue before it actually gets picked up.

It is getting accelerated, you know, I think significantly, but I can't say that it's going to be, you know, out, golly, if you abandon one, we'll do it in a month or something like that, I mean it just depends on the examiner's docket at the time.

MR. BORSON: Well, I think part of the question is, what can the applicant expect, and if it goes on a special docket that doesn't really mean it's being accelerated, it may not be, and so if it were to go on the amended docket with a fixed timeline, that would give an applicant a better sense of when they would expect it and what the potential trade-offs could be and make a decision.

MS. FOCARINO: That is true, it would move quicker if it was on the amended docket in some cases, right. I think the -- go ahead.

MR. PINKOS: Perhaps this is something that we can provide some feedback on with, you
know, Steve, between our group of obviously Louis
and Maureen and others that are representing the
small inventor, what they want to hear for it to
be appealing.

I mean I think that the, again, the
assumption on its face, if you're -- if you happen
to be a smaller inventor, and Louis, you might
want to, you know, chime in, if you have a couple
applications, one of which you're not all that
excited about, but you know that -- the impression
may be that this one that I really care about will
be considered in a month or two and then they
might join the program, but if they're not given
that, you know, some kind of certainty, then maybe
they won't join, I don't know, and then, of
course, a much different calculation for Procter
and Gamble.

MS. FOCARINO: Right; I think if you
look at this next initiative, the Green Tech, this
is sort of along the lines of what you're saying,
Steve, in terms of giving you some -- if you are
the user of this program, some time frames on
average of when you can expect, you know, an
examination, and then what's the total pendency.
And we do have the data for the other program
also, but I just didn't show it to you here. So
the Green Tech program is also getting some
interest, and it's got some, you know, good
numbers up there if you're interested in trying to
use the program. And again, this is another
program that we worked with the union on to get
this going, and probably will be going back and
talking to them about what's the future of the
program, would there be any modifications to it,
any expansion to it.

MR. KIEFF: Just a minor question that
might be useful here, but then could be explored
in more depth later, so the goal here is not to
derail the conversation from the conversation
about the details of how this works. But I'm just
curious whether the office collectively is
experiencing in general responses to initiatives
like Green Tech, and so that's the first question,
and does the public say, you know, hey, we see
this, hey, we like this, hey, we don't like this, and then by the public, I mean the following part of the public?

There are all these swirling policy debates about our patent system is broken, it chokes off innovation, it creates an anti-commons, it kills people who need drugs, these are the things people say about the system, I happen to disagree with them, in writing, but I'm just curious how that audience responds to an initiative like this. Do they see this as more poison in their water or do they see this as helpful, and if they see it as helpful because it's helping an industry that is attractive, what about this industry do they think will enjoy patents as opposed to the industries they think will be poisoned by patents?

Those are broad policy -- they're imponderable, we can't answer them here, I'm just curious what the vibe is. Are we getting a vibe back, and is that vibe positive or negative, and why?
MS. FOCARINO: Right, I'm going to let the policy guy answer.

MR. BAHR: Scott, I'm going to give you a very disappointing answer in that we don't really get that type of feedback. Since the program is not really about patent eligibility or patent ability, it's just about your place in the line, those, you know, the higher level policy decisions like, you know, what should be patented and what should not be patented, we're not getting that type of feedback with respect to the Green Tech program, but we are getting feedback from people who, you know, want to use it to accelerate applications. So it would really be the feedback is from those who are seeking patents, you know, and they make suggestions on what would make it easier for them to get into the program, what things should be, you know, removed. And we have responded to some of that feedback to make it easier for people to get in.

MR. BORSON: All right, thank you. A quick comment, we're a little bit behind schedule
now by --

MS. KEPPLINGER: Just real quick, with respect to the Green program, I have a number of clients that are in this space and had applications in 1700, and it's been very successful from my perspective, my clients love it, and the examiners consider not only doing the case first special, they have been very responsive with interviews, and we've worked hard to get the cases allowed, and so they've kind of considered it special all the way along, so it's been very good.

MS. FOCARINO: Good, okay. I'm going to move quickly just because we're behind time. But I just wanted to show you the ombudsman program is doing well, we're getting more users of the system, and so we've got some data on that. But basically, you know, we've gotten some input on things that we can do to refine the program, so we'll be looking at that. But so far it seems to have gotten very positive response. Stakeholders like the ability to have some way to address
issues in a particular case, and so far I think it's viewed positively by our examiners also, so that's important.

The count system, again, we're continuing to look at the data that I've shared with you before at previous meetings in terms of, you know, the cases that are moving, our actions per disposal are going down, we're looking at our pendency numbers.

Obviously, the RCE growth rate and the pendency of those we are also looking at very closely. And the allowance rate is another indicator of some of the initiatives we put in place. So we're tracking those very closely, and you know, we'll make any modifications as we see the data come in.

The interview time, I know we've been focusing on compact prosecution and incentivizing interviews, examiners reaching out to applicants. And you can see at the far right, that bar is the amount of time so far this fiscal year, and it's increasing certainly above the two previous years,
so I think we've gotten a lot of good feedback also on examiners reaching out to applicants to try to resolve issues in cases early on, and we will continue to train the examiners and to incentivize them to do that. These are our quality initiatives or the allowance rate. And the performance appraisal plan, we revised the -- plan, and also the examiner performance appraisal plan, hopefully we'll be revising that soon. But the two measures that we've had historically are in-process compliance rate, and our allowance compliance rate you can see there.

So we are, you know, doing fairly well, we know we can always do better, but this is one of the key indicators that we also look at, but you're going to be seeing a different -- besides these two measures, additional measures for the coming fiscal year in terms of, you know, the objective look on our quality.

MR. BORSON: Okay, thank you very much, Peggy. It's now time for a scheduled break, but we do have some flexibility later on in the
agenda. So at this point we'll take a break. If we can make to ten minutes, that would be great.

It's now 9:15, let's reconvene at 9:25, if we can.

Thank you very much.

(Recess)

MR. BORSON: Okay, thank you all. We're now reconvening the public session of PPAC.

Before we move on on our agenda, I just wanted to relay a question from the outside that came in today. This was a question for the financial folks; what will the fee withholding do to the proposed three tracks patent application process? And so I'd like to ask Bob Bahr if he would respond to that?

MR. BAHR: Thanks, Ben. And just to allay any confusion, I'm not one of the financial folks, but none of them are here right now. But the bottom line is that for the three track proposal, we would still have to go through the process of implementing it by a notice of proposed rulemaking and a final rule. So most of fiscal year '11 would be spent, you know, in the
implementation phase. And so the continuing resolution situation would not have a big impact on that. But, obviously, if this went on year after year after year, there would be a problem with it.

MR. BORSON: Okay, thank you very much. Well, now at this point I'd like to have John Owens and Scott Williams, or actually Fred, Fred Schmidt is here, so John and Fred, please.

MR. OWENS: Good morning. So the first person I'd like to introduce you to is, to my left, Fred Schmidt. He is the team lead for the Patents End to End Project, and I'm going to ask him to speak for a few minutes on that program.

MR. SCHMIDT: Okay, thank you, John. I guess you've heard already from some of our members of the core team working on Patents End to End. At previous PPAC meetings we've heard from Marti Hearst. Marti, of course, is the Chief IT Strategist for the USPTO, a world renowned user interface expert, and has been working making sure that we have extensive stakeholder input.
We also have a focus in the Patents End to End Program on patent reengineering. And I just want to acknowledge Jim Dwyer is the lead of the Patent Reengineering Team, and Jim has an extensive team of members from all areas of the patent business area and are really looking at driving change in our business processes, both IT related and non-IT related changes.

And these changes that the reengineering team is coming up with will really be the drivers for the fundamental changes we're going to make in our automated systems in Patents End to End.

You also heard some previous meetings about our RFQ, our Request For Quotes for our new architecture and developing prototypes. Just to report that we have received multiple proposals. Those proposals are being evaluated by a team right now, and the expectation is to make an award on developing pilots and hearing proposed architectures by the end of October. We really can't talk much more about that process for a number of reasons. One reason is, I'm not on the
evaluation team, so I have limited knowledge of that, and, of course, that information is procurement sensitive.

And additionally and most important, John will be the deciding official on those awards ultimately, and, of course, we can't talk about that in front of John until the team doing the evaluation comes up with their recommendations and presents those to John for final decision, but that process is well underway.

But going back to the reengineering which I think is going to be the key driver for any automated changes we make here, we really want to focus on getting stakeholder input, and again, that's where Marti has been instrumental working with our examiners, with the surveys that she's gone out with, with the focus groups that she's conducted. And we plan to have extensive external stakeholder input, as well, but I think we're looking for PPAC support and guidance from -- in that regard. And I think, Ben, you have been working with Marti in that regard, if you want to
comment on that.

MR. BORSON: Yeah, I'd be happy to, thank you. The PPAC has been involved in this project for a couple of years now, and we are prepared to assist the office in reaching out to the user community, the external stakeholders, applicants, innovators. And I just wanted to make one comment, that all of the changes that occur in the reengineering process will effect the external stakeholders, so that even though the previous diagrams that have been presented publicly and at this meeting show the external stakeholders having, you know, some impact on what we would like to see.

I wanted to make sure that everybody understands that it's not simply about the user interface or the usability, it's about the internal processes, and anything that can be used to increase the efficiency of patent examination will help patent applicants.

And so we are prepared and ready to move ahead with the survey. Apparently the surveys are
a go, we will be implementing them, and we also
would like to explore the possibilities of having
roundtables, federal register notices, requests
for comments, as well as other forms of
interaction, including the new media web 2.0, 2.4,
2.6 and so on. So thank you very much, and Fred,
it's a pleasure to talk to you.

MR. SCHMIDT: Thank you very much. And
just to emphasize, we are totally in sync with
you, recognizing that any changes we make
internally will definitely impact our external
stakeholders, and we will be working closely with
you discussing those proposed changes. So that
will be part of a continuing dialogue that we will
be having with you.

MR. BORSON: Thank you, I appreciate
that comment very much. I think the distinction
between internal and external is really one of
where is the firewall, that's really all that it
is, because the process is seamless. You can
think of end to end or you can even think of it as
a circular phenomenon in which there really is no
beginning and no end, the circle of life, if you will.

MR. SCHMIDT: There you go. Now I think John is going to pick up and talk about some of our near term initiatives that we're moving forward with. Thank you.

MR. OWENS: So as I have spoken to you before, not only fixing the software, but fixing our environment is also critical, not only to keeping examination going or improving examination today, but also stabilizing the environment for undue interruption due to hardware and system failures. One of the largest initiatives we had going on on the road map, which is coming to fruition this year, is the replacement of all the desktop hardware.

As you know, in the past I've talked about how we issue over 2, I think it's 1 pieces of equipment, computers, per individual here, we're moving to a 1 to 1 model with the universal laptop program.

It's a very powerful laptop. The laptop
has been acquired through the federal procurement process. It is a very powerful machine. It's an Intel Quad-Core, eight gigaram, that's supposed to be gigabyte of ram, not megabyte, and Windows 7 and Office 2010. So we're migrating our platform from Windows XP on to the most modern environment.

We had to test quite a number of pieces of software. We have over 70 desktop applications that were mostly built under Windows XP, even a couple under Windows 3.1 that we had to port, so it's taken us a year to just do that. But we are on track to start the Beta NQ1, which is good, and certainly keeping Robert and POPA and the other unions involved. Some of these laptops have actually gone out with Windows XP on them to get people familiar with the hardware as part of the PELT Program. They have been greatly accepted in the performance of even the current software -- the new hardware has improved. But the performance of the current system on better hardware after being put into Window 7 is even better. So this will help bridge the gap. This
platform will also be available for the new 
Patents End to End Program and be suitable to run 
those applications, as well.

We do have a stretch goal for Mr. Kappos 
to complete the distribution to all 10,000 
employees and 5,000 contractors approximately by 
the end of the fourth quarter of next fiscal year. 
The logistics say that it is going to take me a 
little bit longer than that, but it is a stretch 
goal that I have to accomplish.

The universal laptop purchases are 
complete. Moving the Windows products to Windows 
7 is in the test phase. We are selecting a 
business collaboration suite that involves not 
only a voiceover IP solution, but it also involves 
foul sharing, work sharing, instant messaging, 
teleconferencing, video conferencing capabilities. 
We are going to upgrade our PBX here, we're moving 
to a voiceover IP solution on campus, and we are 
looking at training needs that the examiner will 
have to move to the new environment. So by the 
end of the year, the goal is that every examiner
will have a new telephone based on voiceover IP on
their desk, the same product at home, everything
from a new router at home to the new laptop to the
new monitors, et cetera, et cetera, so full suite
upgrade from the seven plus year old equipment
that they have today.

Some of you may have heard that the
agency was given a little bit of money. I want to
explain where that money went and what's it going
to be used for. First, a lot of people assume
that the agency received 129 million of funds or
availability to use the money that we've
collected. That came with a list of things that
we're to do with it. It wasn't just a bucket of
money that we could disperse as we'd like.

If you remember last year, some $60
million was pulled out of my budget, and the road
map went from a five year road map to a seven year
road map. Mr. Kappos would like the road map
pulled back in to five years. To offset that 60
million that was lost, I received 48 of the 129
million. That 48 was divided up into projects of
which I had the money allocated to do. So just to
go over it, the first one was the replacement of
the PBX with the voiceover IP system I talked
about earlier. The broadband upgrade is taking it
to 300 kilobytes per second connection with the
internet that we have here today and move to three
gigabytes per second, a significant increase.

The teleconferencing software that I
talked about earlier, replacing that product, the
company, Nortel, that built the last product we
use, of course, that also provided us our PBX and
our original PTO Net 2 went out of business, it
was acquired by another company. We have replaced
the LAN with a CISCO LAN, as I've reported before.

And the teleconferencing suite we're
currently talking about internally and demoing
products and trying to finalize our requirements,
that will be replaced this year. We're moving the
hardware to an initial investment and a virtual
infrastructure.

As much of the hardware we can get on
virtual environment as opposed to the aging
hardware we have in the inventory that manages the system today in the data center as we can, not only to go green, but just a month or so ago we lost a piece of hardware that hasn't been produced since 2005 and had difficulty acquiring parts. That actually impacted patents examination. We worked with reduced performance for almost 48 hours, which was not optimal. So getting off of that aging infrastructure, where parts are very difficult to acquire quickly and on to a virtualized managed infrastructure is very important to continuing the work that we do. And that same hardware can be repurposed later for Patents End to End without any issue. And lastly, the 20 million additional increase to make up for the lost time to purchase hardware for the laptop program, and that makes the total of 48.

MR. BORSON: Thank you very much. I wanted to ask you, given the fact that hardware does fail, what is the expected lifetime of the new laptop? And the second question related to that is, what do you anticipate, if any, problems
in moving into the agile format and backwards compatibility of new products that you would like to integrate into the system?

MR. OWENS: Okay, I'll handle those one at a time. The laptop, we're putting -- major change for the organization is, we introduce the concept with the help of the CFO for a capital improvement fund or a capital replacement fund. It's common in industry, at least where I came from, that you depreciate an electronic device, call it a laptop, over a period of three to five years. Because of the work that we do here, I've set it at three years. It doesn't mean it won't be adjusted. I definitely recommend it never go beyond five. But we want to -- I put together a plan that calls over the last couple of years in the presidential budget to replace the hardware that this agency uses every three years on the desktop, every five years in the data center, slight different schedules.

This is pretty much akin to industry standard. And I never wanted us to get into a
position like we did before, where people just ignored replacing laptops. We've taken control of that for the entire agency, we've started this capital improvement fund after this initial release, the funds are already in the budget, and they will come on a regular basis to replace the equipment, just like it would for any other business.

Let's see, the compatibility with the products, we did have to replace some of the minor software products that we use with newer versions, some of which we had to replace all together with similar products, none of which had major impact so far on the desktop. The rest of the products we own the software to, had the software ourselves, and we ported into Window 7 over this past year. It was quite an effort actually, porting very old products onto a Window 7 platform. And those of you are probably not familiar with Windows software development, what was allowed once upon a time on Windows NT and 95 is no longer allowed to be done on Windows 7. So
to even have an application run takes a significant amount of rework.

But we have ported all those applications, which was critical because the systems that we had today, the operating system is dead, Microsoft is no longer going to support XP, we won't be in compliance for security patches, we'd have vulnerabilities, and that is something that we cannot live with.

So we went through that effort even knowing we were going to replace it with Patents End to End in the next few years because of that and because of the need to replace hardware that's not even manufactured. The manufacturer of the desktop hardware we have today went bankrupt a year or so ago, so it's not even supported anymore.

As far as the agile development methodology we're going to be using for Patents End to End, my last seven years at AOL, that's all we used was agile. We went through several iterations of several different types of agile,
but we settled on one called Scrum, it's a rugby term, it encourages close collaboration between teams on a daily basis. And the customer, in this case, patents, would sit on each and every Scrum team and provide daily input on the direction that the team takes. And they would work against what's known as a, don't confuse it with the patent backlog, but a feature backlog, it's actually the term used, of requirements that would get filled when each and every what's known as a Sprint or a cycle of iteration.

It's going to be interesting managing something like that in the federal government. The federal government in general is run in a very waterfall like model, you do all your planning and then all your design and then all your implementation and all your tests and your deployment and you realize you didn't quite do it or make it and then you get written up by GAO and then you go back.

That cycle is what Mr. Kundra, Vivek Kundra of the federal CIO would like to break.
1 Industry has gone to agile years ago in order to
2 break similar problems of spending a lot of money
3 getting to the end and not getting what you
4 desired or thought you were going to have. And he
5 is working very hard to change OMB, the
6 requirements, the reporting and so on to accept
7 this new, more agile philosophy.
8
9 MR. BORSON: Well, thank you very much,
10 John and Fred. I appreciate your time and your
11 input. And at this point I'd like to move on with
12 our agenda to Bob Bahr, who will give us an update
13 on the equality initiative.
14
15 MR. BAHR: Thank you, Ben. Hi, I'm Bob
16 Bahr and I'm giving you a progress update on the
17 joint USPTO PPAC quality task force. Okay, back
18 in 2009, the PTO, in conjunction with the PPAC, we
19 formed a joint task force on quality. Marc Adler,
20 Ben Borson and Steve Miller are the PPAC members
21 on that task force.
22
23 We started -- the first step in this is
24 preparing and publishing a notice in the Federal
25 Register in December of 2009, requesting comments
on methods to improve patent quality and metrics
to measure it.

We also -- we got many comments on this notice, and from that we analyzed the comments and we drafted proposed quality metrics. These quality metrics were posted on our web site in April of 2010, and also in April of 2010, we published a second notice in the Federal Register. We announced that we would be having two public roundtables on patent quality measures and we sought public comment on the proposed quality metrics. We conducted two roundtables in May of 2010, the first was in Los Angeles, and the second one was held here at the PTO, and we, of course, have a web cast of these available on our web site. From that we've developed fiscal year 2011 patent quality metrics, and they're a composite of seven individual metrics.

First is the final disposition compliance rate, which is our current review of the final rejections and allowances. The second is the in-process review compliance rate, which is
the same as our current in-process review compliance rate.

The next one is a new metric, it's the first action search review. Basically we review the search that was done before a first office action on the merits, was it prepared. The second is our review of the first office actions on the merits. And what that is and how it differs from in-process review is that in in-process review, we basically review for clear error, so it's sort of a binary, it's okay, or there's a clear error in the action, where the complete first office action on the merits review is more a qualitative thing where we look and we say, you know, did we do everything, you know, more ideally, are there things that we did that were okay, they weren't clear errors, but they were things that we wish we had done better, and are there things that the examiner did in the first office action that went above and beyond what, you know, is expected of examiners.

The next is the quality index report,
and that is a review of -- from all application information in PALM. We look at how many times was there a second or subsequent second action non-final, how many times are we reopening after final, how many times are we issuing restriction requirements after the first office action.

We look at these sorts of things which go to, for lack of a better word, churning of applications. So it's not just getting the job done right eventually, it's getting it done right the first time.

Then there are two surveys that take part of this. The first is an external survey. You know, we just got the stakeholders, well, patent applicants and see, you know, get their feedback, and also an internal survey, where we survey examiners to see how they feel about the tools and the training they have that go into doing a quality job.

Now, where does this differ from the six proposals we published in April? First is that we had proposed doing a complete application and
review, and what we discovered is, when we started to look at that, we decided that, boy, you're looking at everything that happened in an application, you're reviewing office actions that occurred years in the past, you're really measuring possibly things that were done years ago and training that was given years ago, you're not measuring what was done today.

So to make it a more, for lack of a better, real time, a more current review, we decided to not review everything that happened in the application, but to focus on the first office action and merits.

And the second thing we changed is that we basically divided this review into a review of the search and a review of the office action itself. The reason we did that is, we got a lot of stakeholder input that is very important to review the search, so we felt that we would make that a separate category of review.

And the last change we made in the QIR is, we did not originally propose to include
restrictions done after first office action in the metrics as proposed in April, but we got a lot of input that restrictions done late in prosecution are of great concern to applicants, so we decided to include that in our QIR analysis.

MR. BORSON: If I may, Bob --

MR. BAHR: Sure.

MR. BORSON: -- just a question here. You mentioned that one of the reasons why you focused on the first office action on the merits and the search is because many of the activities occurred in an application years before; don't those also occur years before, so are you looking only at current cases or are you looking at older cases, as well?

MR. BAHR: No, we would be looking at current cases. We would be pulling cases in which a first office action was done with, I don't know, the last month or two. And, of course, the search was probably done right before the action is drafted. So we're not looking at cases where a first office action was done, you know, years in
the past.

MR. BORSON: Thank you for clarifying.

MR. BAHR: Okay. The next steps in this process, I was going to say to brief POPA and PPAC, and here you can see these slides were prepared way in advance, because we have briefed POPA on this and we're briefing PPAC now on the FY '11 patent quality metrics. The next thing we plan to do is to publish the quality metrics on our web site. And we're going to publish a companion notice on our web site that, you know, notifies the public that these metrics have been adopted. But we also want to make the point that this isn't really the end of the process, it's really just a step in the process, and that we got a lot of comments on things we can do to improve patent quality, and we're going to go through those to see which ones will give us the biggest bump in quality or the biggest anticipated bump in quality for, you know, for the resources it requires. And we will, you know, sort of call through those and pick ones that we think give us,
you know, the biggest bang for the buck, and we will implement those.

And the next thing is that we will continue to evaluate these metrics over the years, because they are FY '11 metrics, and, you know, we'll refine them for the outer fiscal years.

MR. BORSON: Thank you, Bob. I had a question about the overall scope and purpose of the quality metrics. We've had some conversations at the PPAC and between us relating to the use of the quality metrics and that the idea is to, among other things, to develop best practices. And I wanted to ask you about how things, you know, what your baseline would be. I know that the quality metric, the combined quality metric that you proposed relates to a stretch goal which is an aspirational goal, and you will present information about how you are achieving or moving towards that stretch goal.

I guess the question that I'd like to have clarified is whether or not you also will present baseline data, and the, you know, the
seven quality metrics individually or your report says that you will make that data individually available. But I also wanted to ask whether or not you have methods for validating the accuracy of that data.

MR. BAHR: Well, first of all, on the baseline data, we currently do the first two metrics, so we will have baseline data for that. The next two, the search and the first office action on the merits, we don't really have baseline data as such because we haven't looked at those in the past. We could artificially create that baseline information because we have done a small sampling of cases that we've reviewed in past years to see how they would do for the first office action on the merits and the search review and we can make that available. QIR, we have going back many years, so we can make that available. And the surveys we've done in the past, maybe with not the exact same survey questions, but they give us -- they do have the impression of, you know, the ratios of satisfied
to dissatisfied applicants.

And I'm not sure, I'd have to get some help on the examiner surveys, I don't know if we -- we haven't exactly asked those questions, so I don't really have a baseline for the examiner survey.

MR. BORSON: Is the examiner survey something you're doing in conjunction with POPA?

MR. BAHR: I don't know if it's "in conjunction with POPA", we briefed POPA on it.

MR. BORSON: In collaboration with or in consultation with?

MR. BUDENS: I certainly hope it'll be in conjunction with POPA.

MR. BORSON: Yes, Esther.

MS. KEPPLINGER: I had a question. The in-process review number, I think I heard you to say that that's -- the analysis has been done and you will continue to do that. I wonder what qualifies as a clear error in that survey, because the numbers that you report in terms of compliance don't seem to be in alignment at all with
reopenings at pre-appealed brief conferences, things like that. And at least from the public's perception, that's been -- the number that's reported doesn't seem to be in alignment with some of the work that's received. So I just wondered if that's, you know, what is a clear error and you're continuing exactly the same.

MR. BAHR: Right; a clear error is a -- if you go in an office action that makes a rejection -- making of an unreasonable rejection requirement or objection. Now, as you know, this is a legal question, so you can have a rejection that an examiner thinks is reasonable, you know, or not unreasonable, and the board may decide not to affirm that rejection. Just because a rejection gets reversed doesn't mean it was unreasonable.

I mean no one -- we really can't predict what an appellate body is going to do, and that's -- I don't think anyone could do that. For example, in patent litigation, district court judges get reversed almost 50 percent of the time,
it doesn't mean they need to be replaced, so --

MS. KEPPLINGER: Of course, yeah.

MR. BAHR: Okay. So a lot of times

cases go to appeal conferences and a decision is

made, was the rejection reasonable, well, maybe it

is reasonable, is it the best rejection that could

have been made, maybe it's not, maybe there's a

better rejection that could have been made, and so

the case gets reopened. You know, it's an

unfortunate result, but that wouldn't show up as a

clear error in -- because the rejection was

reasonable.

MR. BORSON: Yeah, Steve.

MR. MILLER: I think Esther makes a good

point. And, Esther, in the PPAC quality group,

we've continued to give input as to what kind of

data that the office can look at. Certainly

appeals, I think federal circuit appeal reversals

and all kinds of district court issues are

certainly data that we can look at.

I think from the standpoint of the

office, and I heard Bob say it wasn't on a slide,
I think there's going to be a lot of work and feedback from us hopefully on the quality task force over the next year, plus to see how this data really works out at the end of the day, because if we don't get the right inputs, we're not going to get the right output.

And I think Ben and Mark and I have been working with Bob and his team to try to sort some of that out and to increase the data that's going in to look at quality. So I took your point, I've got it, and certainly we'll continue to feed some of those things into the system and into the office so we can refine some of those metrics over time.

MR. BAHR: Yeah, also, Esther, I just want to make another point, is that one of the reasons we went from one or two measures to seven measures is that the situation you describe should be captured somewhere. Maybe it's not captured in the in-process review, but it will be captured in the QIR, because there will be a reopening, and it will, you know, be a percentage too high, and that
is somewhat the philosophy of the new system, is
that maybe a problem won't be caught in one
metric, but it will be caught somewhere else.

MS. KEPPLINGER: Just to clarify, I
would never suggest using the board reversal rate
as a measure of quality, because if you have 100
percent affirmant, then you're not taking close
cases to the board, so I would never suggest that.

And I appreciate your point, I just --
it's partially one of public perception, and it is
their comments that are made quite often, and also
my past history inside the office. But anyway, so
it just -- we just need to be cognizant that the
measures that we're doing are reasonable and that
the office -- that what the office is doing is
perceived by the applicant as reflecting actually
the work that's being done.

MR. BORSON: Yeah, I'd like to make a
comment. First of all, following on Steve's
point, I think that viewing quality as an office
issue is somewhat -- it's not the full scope, the
full scope of quality is reflected in almost
anything that can be imagined, including -- and I
will say that I think that board reversals are
some indicator, we don't know how much weight to
put on them, of course, depending on how close the
cases are, court decisions are relevant, and maybe
very importantly, the role of educating the
applicants in what is considered to be good and
not good quality.

And so I'd just offer that the quality
initiative should be reflected in the development
of best practices. We may not want to call them
best practices, but at least good practices or
better than worse practices and should be
reflected accurately in the MPEP.

MR. BAHR: Thanks, Ben. And I'd just
like to make another point, is that we have now,
you know, we, for fiscal year '11, selected these
seven metrics, but that doesn't mean it's the only
thing we look at. The reason we chose not to make
board and court decisions part of the metrics is
because there's such a time lag between the time
the work is done by the examiner and a decision is
rendered. If, you know, for just that reason alone, it's not terribly helpful.

But, obviously, we look at reopenings after appeal, we look at board decisions, and if that needle goes, you know, in the wrong direction too much, you know, we realize there's something that needs to be addressed, and that's, if you will, a couple years ago, why you have a pre-appeal brief conference.

MR. BORSON: Very good, thank you. Are there any other comments here from the table? How about members of the audience? You've been particularly quiet today. Okay, well, very good. At this point then -- oh yeah, Scott, please.

MR. KIEFF: I guess I'm just trying to make sure that I'm fully hearing kind of the concerns that were expressed and the responses to them. This is something I've watched evolve since Mark started it, so it's become very, very clear to me throughout this process that there is lots of really good hearts, good heads, sleeves rolled up, people in the room trying to engage in problem
solving, so that's awesome, I mean that's great on all sides. But what I haven't gotten an understanding of is what it's all about. So, for example, what's the benefit of getting it right on quality? And how is our thinking about this data going to shape our thinking about all sorts of other things we're doing?

And, you know, there's humble, honest recognition by the proponents of the metrics that they're not perfect, so no one is over claiming, and there's, you know, humble, you know, honest, you know, concerns by those worried about the metrics that they're somehow not capturing something.

But what I still don't get is like -- so let's assume one side is wrong, life is never one side versus the other, but let's assume wrong, let's assume wrong on the other way, how are these things going to play out?

I don't know that we need to answer those questions now, but I just offer that up as we continue to work through the process together
so that we're really -- as we're all sitting in the room, sleeves rolled up, with good hearts, good heads, we're kind of thinking to ourselves, how might this end up impacting things. There's no simple answer, I certainly don't have the answer, I don't demand that you have it today, I'm just asking those questions so that we keep them in our mind.

MR. BAHN: Well, I don't know if this answers your question, and it probably doesn't, but part of the objective or the point of the metrics we've selected is, we kind of assume that we are wrong and that our in-process review doesn't capture everything, and that's why we have the QIR, that's why we have the external surveys. If our in-process reviews show that, yes, we're making a lot of rejections that are not unreasonable, but are not great in extending prosecution, that's going to show up with the external surveys, and it's going to show up in the QIR. So to a degree that's how I address things, I sort of assume that no one thing is perfect and
try and look at it from multiple angles.

MR. KIEFF: So I think that's awesome, and I guess then the only other follow-up I just -- in my -- this is a totally simple stylized model that I'm working with right now, but just that we remember that a patent that makes its way out of the office that is in some, you know, perfectly informed universe invalid is a patent that society can deal with by -- that litigation and the conversations leading up to the litigation, that those will have costs and benefits. A patent that never issues, it's not clear what happens with that. Now, you know, there's the chance at appeal, but depending on how the record is made and depending on how we think about the relationship between the patent office and the appellate courts, that never issued patent may not get the same kind of shot that an invalid patent gets.

Now, maybe society wants that, maybe society thinks that invalid patents are so pernicious, that we should be so worried about
having so many of them, and that is kind of the direction we want to bias this spring compared to improperly rejected patents, but just keep all of that stuff in the back of our minds as we play this through.

MR. BAHR: I mean I take your point, I'm not an economist and I'm not going to weigh the, you know, risk of, you know, improperly issuing a patent versus the risk of improperly denying what would be a valid patent. And I agree with you that if you tilt the needle in one direction, it probably is not good. So that's why, again, the metrics treat improper decisions to allow, and they also treat improper decisions to finally reject, and many of the metrics look at cases where we are making rejections, you know, and not allowances. So I think that what we try to do is take a balanced approach, rather than trying to figure out what's worse than the other, look at everything and try and, you know, do the best job we can with the resources we have to, you know, do the examination.
MR. BORSON: Thank you, Scott. And, Bob, I wanted to thank you, as well. I think that what I've seen over the last couple of years is a move to including in the analysis these improperly denied patents. I think this is a very difficult area to measure, as Scott was pointing out. We don't know what the impacts are, but we can imagine a failure to develop a brand new industry, for example. It could be an effect of having a patent ultimately denied that may, in fact, for 101 type reasons, patentable subject matter reasons, may end up being an extremely valuable technology that does not see the light of day for some reasons related to substantive patent law, and we'll leave that conversation for another day. But I did want to thank you for acknowledging and including in the QIR and other such metrics the concept of invalidly denied claims.

MR. BAHR: Thank you, Ben.

MR. BORSON: Well, are there any further comments from the group here? We do have a couple
of questions then from the audience, that is, the
call in audience. One of them we may not get a
proper answer to, this relates to the IT
sensitivity to electromagnetic pulses. I don't
know if anyone is here that is familiar with the
shielding and the robustness of the proposed new
IT system. Bob, you're smiling, do you have any
sense of that?

MR. BAHR: No, I'm just thinking about
the impacts on us.

MR. BORSON: You mean the neutron bomb,
is that what you're thinking about? Yeah, okay.
Actually, the question came in with respect to
solar flares and solar radiation. Peggy, do you
have any thoughts or comments about it?

MS. FOCARINO: I have no idea.

MR. BORSON: Well, I do remember at one
point John Owens did mention to me that the system
would be secure and robust in the form of not only
hacking and piracy, but also electronically
isolated, so there is at least something about
that. And I apologize to the person who called
in, we didn't get your question while John or Fred were still in the house, maybe next time we'll get that one. There's a second question, and this I think relates, Peggy, to your point about the docketing. The question relates to, is there a high level official explanation of the different dockets and how these dockets relate to or interact with the bi-week productivity of an examiner.

MS. FOCARINO: Well, the answer is, yes, there's a work flow element in the performance appraisal plan that dictates how examiners examine cases in terms of their regular new case docket, and then they have a special new case docket, and the rate of movement of those cases is dictated in the performance appraisal plan.

And hopefully we'll have a new performance appraisal plan in place in the next fiscal year. It has to be ratified by the dues paying members of our examiner's bargaining unit. But this system I think will help us incentivize examiners to move cases at a faster rate by
attaching an award to that. That will also help
examiners pick up cases even in the special new
case docket at a faster rate, because we have an
award attached to it. So we're trying to focus on
incentivizing movement at one and a half to two
times the rate that an examiner would normally
have to move their work out of those cues by
developing an award that goes along with it.

MR. BORSON: Well, if I may follow up on
that, I think there's an underlying question,
which is, how many dockets are there, how are
things decided where the impacts of a case being
on one docket or another. This usually isn't
talked about very much, but it certainly came up
with the change in the count system and the change
in the RCE docket.

And so I wanted to ask whether or not
you have a plan to, or if you don't, maybe you
could address what these different dockets are for
the public so that there might be, you know, a
link to a web page that describes the different
dockets, describes how they're handled, how
decisions are made to put things on one docket or another, and a related question is, how things are changed from one docket to another, if that occurs.

MS. FOCARINO: Okay. That is a really good question, and I think with the new performance appraisal plan, we have a very -- we will share that with the public as soon as we know that it's going to be implemented. There's a very nice chart that shows the different dockets, the different cues of work and the rate of movement that they're expected to move at so that it will help people see all of the different cues that exist.

MR. BORSON: Okay. And sort of just to follow up to expand that into other aspects of how cases are handled, do we know how many times a case is transferred from one production or one segment of the patent office to other segments, and is there some process efficiency that can be obtained by reducing the number of individuals that look at a case, that have anything to do with
it, all the way from input through -- to a final disposition?

MS. FOCARINO: Right, yes. We have a transfer process, so we certainly know how many applications are moving from one area to another from examiner to examiner, but we've also been focusing on making that more efficient. And then Jim Dwyer, who's in charge of our Patent Section of the End to End for reengineering and processes also focused on that transfer issue, that's one of his main points of focus, because certainly there's some efficiency to gain in that aspect.

MR. BORSON: Okay, thank you. Yes, Catherine.

MS. FAINT: I just wanted to go back to quality for a moment. From the examiner point of view, very often what we want is feedback, information, collaboration, training, and what we often feel we get is based on form over substance, so that we get what seem like dings based on things that people want to measure that are not overall helpful in helping us to improve our own
quality, or that even recognize the quality of the
majority of the work that we may be doing and how
we could expand that.

So in measuring things, I always think
it's important to realize somewhat as Scott was
pointing out, but from a different point of view,
what you want to get to is an improvement in
quality. And you have to be careful in doing
that, in looking at what you're measuring, so the
people who are the receivers of all this effort at
quality are actually being able to change their
quality of work.

MR. BORSON: Thank you. Are there any
further questions from the external audience,
members of you that are away from Alexandria? If
not, I'd like to invite the members of the public
to consider what you would like to see as part of
the annual report from this committee, from the
PPAC. We will take a brief break, 15 minutes is
allocated for that, after which we would like to
receive as many comments and ideas and have some
interactive conversation with either members of
the committee or members of the USPTO that will remain. So I'd very much like you to invite your comments, either through the email to the PPAC email account, as many of you have already done, and if you would like to, you know, send carrier pigeons or smoke signals, please feel free to do that, as well. So thank you, we'll take a 15 minute break and reconvene at 10:30.

(Recess)

MR. BORSON: Let's get everyone to come back into the PPAC public session. We're about to start our last session of the morning. And as a preamble, I'd like to thank everyone for being here again and for contributing to this meeting. We do have one question from the -- yes, this came in as an email in the PPAC email system.

This is actually an interesting question, and if I might just read it. "I would like to see some discussion of the participation of independent inventors in the patent process. I see in the USPTO statistics that the percentage of applications filed by independent inventors is
declining. If that percentage goes down to single
digits, there will be a question about the future
legitimacy of the Patent Office as a resource for
the general public. Will the USPTO become a
resource for just the large companies?" So
anybody, Peggy, for example, do you have a comment
about that?

MS. FOCARINO: I think I came in on the
end of that question, but I think the concern is
the decrease or over the total percentage of the
number of applications that are coming from the
independent community?

MR. BORSON: Yes, that's correct.

MS. FOCARINO: Right; it's something
that I don't think internally we've talked about
in depth. I know we're looking at fee structures
and things that certainly would help the segment
of our stakeholders in filing applications, and
there are certain programs that are directed to
small entities, but I haven't heard a lot of
internal discussion of concern for this, but
certainly we're -- if, you know, we're open to
ideas and suggestions if there's programs that we could put in place that would help the independent inventor community or if there's things that we're doing that work against it, certainly we're open to that dialogue.

MR. BAHR: Yeah, I mean we have independent inventor programs and outreach programs to try and help independent inventors, because, you know, dealing with the patent system is fairly daunting for anyone, but it's something we're, you know, we would be concerned about if independent inventors dropped out of the patent system.

MR. FOREMAN: That number might actually be deceptive, and the reason why I say it's deceptive is, we should look at how many applications are actually issuing versus being filed, because I think the system for many years has been filled with maybe applications that weren't good applications.

There wasn't as much awareness or knowledge in the independent inventor community of
the process. And let's face it, there were a lot
of scam companies out there that encouraged
inventors to file applications on subject matter
that they shouldn't have patented or tried to file
a patent on to begin with.

So while I think we should all be
concerned if there is a decrease in the number of
independent inventors who are filing applications,
next we should look at what's the number of
patents that are being issued to independent
inventors, because what we may find is that the
number is the same, it's just better quality
applications are being filed and less people are
being exploited or filing applications that they
shouldn't have filed to begin with.

MR. BORSON: That's a very good point,
thank you, Louis. I had a comment about what the
office can do, and I think one is the fee
structure, Peggy mentioned a fee structure. The
U.S. has historically had a -- what would be
called a back loaded fee structure in which it
does not cost very much to get in the door.
And this is true for the official filing fees, and I'd like to the office to maintain a low barrier to entry upon filing, so I like the idea of having the filing fees be nominal. And once a patent is granted and found to be useful, the person will basically pay for the cost and the maintenance fees.

There are a couple of twists to that, one of them is that there is -- many countries in the world have an annuity based grant system or annuity based patent system whereby you file your application, and then at some point in the process, you begin to pay annuity fees, and in some countries the annuity fee structure is so onerous that unless you have a truly blockbuster patent, the patents will not survive until the end of their term because the annuity fees are too expensive. I would, of course, like to not see that happen in the United States, and I would like to see the U.S. maintain this back loaded system. It, of course, puts a big time disconnect between the time that's put into the application by the
examining core, which is all up front time,
whereas the applicant is paying for that
downstream, which is I think one of the big
advantages of the U.S. system.

Now, on the other hand, I think that the
quality of the applications is another matter. In
order for an independent inventor to file a high
quality application, it probably costs a
significant amount of money to hire a competent
patent attorney to write a proper case with proper
disclosure to support the claim scope that the
applicant wishes.

In some other countries, one can file
and obtain a patent grant based on a relatively
thin or a weakly supported disclosure at least
under United States standards.

The United States has a very rigid,
strong standard for patentability which I think
has done well world-wide to support business.
However, the largest cost for an independent
inventor is likely to be at the very, very
beginning, at a time when they really don't have
very much money. I wish that there were a better
day to do this. I think finding patent attorneys
that are willing to work for reduced fees or pro
bono is one way to approach it. But,
unfortunately, the patent system is really a
business based tool, the patent is a business
tool, it's not a social tool in the same sense
that a true social program would be.

So I would like to invite any comments
from others about this issue, and certainly the
independent inventor community is well represented
on PPAC. Not only Louis, but myself and Maureen,
we all work with small independent inventors,
small companies and the like. So thank you for
that question, I think it opens a good
conversation.

MR. PINKOS: Bob or Peggy, maybe use
this public opportunity to reiterate -- I think
you mentioned there's a help line or a help -- I
mean there's a -- especially for process related
questions, right, how to get into the system, what
to do, et cetera, that's specifically geared
towards the independent inventor?

MR. BAHR: Yes, we have independent inventors in our assistance center, yes.

MR. PINKOS: It can be done online, it can be done via the phone? Does anybody happen to know the web site or the phone number?

MR. BAHR: I know you can do it by phone, I don't know the details beyond that.

MR. BORSON: Yeah, I just suggest that maybe the office could revisit how it's presenting this information. And if you think that improvements would help independent inventors, that would be useful. I don't know whether the office also still has a referral service whereby an independent inventor can be directed to competent patent counsel locally, is that something that's still being done?

MR. BAHR: We do it, we don't do particular patent attorneys, we would just tell them, you know, this is the list of the attorneys in your area, you know. We can't really recommend anyone.
MR. BORSON: I understand that, but I'm just thinking that if an independent inventor really doesn't know where to begin, the USPTO website might be a good place to start. Okay, well, thank you for that. I'd like to open the floor to the members of the audience here in person. We have a couple of microphones, one on each side of the screen, and we have a comment from somebody. If you'd please identify yourself unless you'd like to remain anonymous.

MR. BEFFEL: Good morning. My name is Ernie Beffel, and thanks to Ben for inviting me to attend. I'm out here on an interview trip. And I wanted to make a suggestion for something that the panel might consider adding to its annual report, a mention of a collaboration tool that's proven quite effective for me over the last five years, that has gained approval, kind of sort of official, there's no objection to it approval within the Patent Office over the last six months. The collaboration tool is the use of Adobe Connect in telephonic interviews with
examiners. Adobe Connect isn't quite as well known as WebEx, it's basically the same thing as WebEx or Go to My Meeting or Net Meeting or a variety of other products.

Adobe Connect in particular has been approved by the Patent Office after security evaluations. It's a product that the Patent Office licensed. But in my use, I'm using a license that I have obtained myself, I'm not using any of the Patent Office's resources, but resources that I bring to it.

What happens is, you set up everything on your computer that you're going to need to talk to the examiner before the interview starts, including an editable copy of your claims, with changed tracking turned on. You can go through the drawings, and the examiner sees the same thing that's on your desktop. The examiner sees the illustrations that are important for explaining your technology, sees the passages of either your application or the references that are being discussed.
It helps keep the attention focused and helps illustrate what you're talking about. When you get around to looking at the wording of the patent claims, instead of talking about how the claims might change, you actually change, and the examiner says, that's not quite right, why don't you do this, and you type a little bit more, and within five minutes, you settle out the wording of a claim in a way that might have taken two or three iterations, trips back and forth, amendments, draft amendments by fax and the like. All the examiners that I've worked with using this tool, and I've actually used it over the last four years, since Commissioner Doll said it would be fine to go ahead and give a try with WebEx. All of the examiners that I've used this with have found it to be a fantastic tool, a great way to -- a huge improvement in a telephonic interview. And at least for the examiners that I've met on different trips out here, I think it's actually more productive than sitting in the examiner's office. It's more productive because
if you're working on something that's extremely technical, you really want to have your eyes focused either on the figures or on the wording, you want to have your head into that rather than trying to put the laptop at the end of the table and maintain your social distances and your nice eye contact and everything.

You actually get more done in a telephone interview with Adobe Connect and everybody looking at what they're trying to kind of geek out on than you do if you're sitting across the desk. There’s no replacement for meeting the examiners face to face and understanding who you're working with, but once you've gotten over that hurdle, just as in business, you can do things with these kinds of collaboration tools perhaps even more effectively than you can in person.

So I wanted to encourage you to mention that in your report. I wanted to thank Peggy Focarino and Dave Wiley for having given the approval for me to start talking about this, and
thank you.

MR. BORSON: Well, thank you, Ernie. I wanted to ask sort of to broaden it out, you've been using a particular type of tool, maybe, Peggy, you could comment on other types of tools that the office has considered and are useful that might help the inventor community.

MS. FOCARINO: Unfortunately, John Owens has left, but I know that he has the task of testing out different collaboration tools, and I know we will begin testing different tools, I believe it's during the first quarter of the next fiscal year, to see how they work.

But what Ernie's mentioning is really great for -- especially as we expand our work force to a more virtual environment. We have a lot more people that hotel or telework some portion of the week, and having this kind of interaction for interviews is great, because we do have people that still want a personal interview, they want that face to face, and I think this sounds like it works fairly well, sometimes
better, so --

MR. BEFFEL: It gives you a very high quality interview without the hoteling examiner having to show up in D.C., without the west coast attorney having to fly out --

MS. FOCARINO: Exactly.

MR. BEFFEL: -- to D.C. for the interview.

MS. FOCARINO: Exactly; so we'll be trying different collaboration tools based on what John Owens can, you know, get out there and deploy. I know trademarks is going to be also trying out some new tools. And it'll be up to the individual business units, is my understanding, which tool they choose to go with. But it's good to hear your feedback on this one.

MR. BEFFEL: At the present time, any patent attorney can elect to use Adobe Connect and it's even a free subscription. If you go to Acrobat.com, you can sign up for a free account on Adobe Connect, and that's all you need to conduct this kind of session with an examiner. So it
doesn't drain the Patent Office's resources at all.

It requires a little bit of familiarization of yourself as to how the tool works so that you don't waste your time and the examiner's time during the interview. But if you figure out how to use one or two key strokes to switch from one screen to the other so you're really looking at exactly the right thing, if you do some bookmarks and hyper linking in advance, there's a few tricks that you learn, but it really is efficient and great for the examiners I think.

Thank you.

MR. BORSON: Well, thank you very much. I'd like to invite others in the audience, if they have any comments that's, you know, not only about what Ernie had to offer, but also general comments or suggestions for the PPAC annual report, we would love to hear from you.

Also, if there's anyone that would like to come in via the web broadcast, we have a portal whereby we can receive comments that way, and also
through the PPAC email address. So just to give
the folks out in ether land an opportunity to make
comments, we'll maybe give it another five or ten
minutes or so, and if there are further comments,
we'll take them, and if not, we'll move on.

So in the final few minutes, Peggy, do
you have any general comments that you'd like to
offer about what you would like to see in the
report? And I will, of course, be willing to take
it under advisement and give it all the
consideration that it is due.

MS. FOCARINO: Right, I think, you know,
we would like to see, you know, some guidance,
some ideas on what we can do. Certainly I think
we have a good, you know, quality metric approach,
an expansion, a more balanced approach, so we're
interested in seeing, you know, some support for
that and maybe some ideas of how we can, you know,
which direction we can think about going in in the
future. You've seen some significant changes that
have been implemented this past year in terms of

how we give examiners credit for their work and
some other initiatives, so thoughts on how you see that working, should we redirect some of those changes, are we going along the right path, are we looking at the right data points to try to see how all those are working together.

You know we're going into a new fiscal year with hopefully a new performance appraisal plan, and some -- yet other changes to the way examiners do their day to day jobs, we think that will also move us in a positive direction, so we're looking for feedback on that.

And, you know, we're definitely trying a lot of different things. And, you know, I have to give Robert and his bargaining unit kudos because a lot of these things that I briefed you on today, all the special programs, the accelerated programs, the Green Tech, the Project Exchange, you'll see more and more of these, these are because normally we would have to negotiate these things, and, you know, we've been fortunate to have a good relationship where we can collaborate with the examiner and union on a lot of these
things and try them. If they work, great, we can talk about expanding them, and if they don't work, then we can talk about what other direction we should go in. But I think we've had a year at least under our belt where we can try a lot of things that otherwise, in a different environment, we wouldn't have the opportunity to try or we would be negotiating being able to implement certain things literally for years. So, you know, I'm just interested in what you see happening from an outside viewpoint.

MR. BORSON: Okay, thank you very much, Peggy. There are a couple of comments that have come in. One of them is relating to the USPTO web site for independent inventors, http.www.uspto.gov/inventors/independent/index.lst or jsp. That I believe is the correct web site, if I'm not mistaken. I may not have read this correctly. Okay. In any event, there is an independent inventor's web site, and I don't know whether there is a message implicit in this. It's a reasonably long URL, and I don't know how easy
it is to get to the independent inventors portion of the web site. Maybe you might consider readjusting the buttons, where the buttons are on the web site itself.

MS. FOCARINO: Right.

MR. BORSON: Okay. And there's one other comment that came in, "What about the Fog Index of the writing used in the patent itself? Much of the language is user hostile." Now, I'm not quite sure what is being referred to there. "What about the Fog Index", that's Fog Index, "of the writing used in the patent itself." A new metric, a new Fog --

MR. PINKOS: Maybe they were suggesting a new measure of the Fog Index.

MR. BORSON: This must be from San Francisco. Yeah, I'm not quite sure how to interpret that. If the author of this question would be so kind as to perhaps amplify on what you'd actually like know, it would be useful.

Yes, Esther.

MS. KEPLINGER: I can't necessarily
interpret it, but I suspect they mean the legalese that's used in the office actions that come back to them. But the office did have and the MPEP provides for help for independent inventors, and the examiners will typically be much more helpful if they request it in explaining the procedures and explaining some of it, so that -- assuming that that's what the person means, there are available ways. Plus, they can call in to the help desk and things like that to get assistance.

MR. BORSON: Yeah, that's very good.

Actually I do have an experience that I'll relay briefly. I had -- I worked on a case after it had granted for an independent inventor, and looking through the file history, there was a rejection under 112, second paragraph, because the claim language was indefinite, and the response of this pro se applicant was, how dare you say that it was indefinite, I am definitely claiming this.

MR. PINKOS: I think there have been -- there could be some legitimate feedback in there that, you know, clarity and conciseness of the
rejections by examiners could be looked at. I
don't know how you would exactly measure that, but
it's something that the office could always look
at, because if you've got, you know, a very long
rejection or something that's not understandable,
that effects the user community, and maybe that
was the fogginess that they had, that clear and
concise writing is important.

MR. BORSON: That's actually a very good
point, Steve, thank you. One thing that occurs to
me is that it may relate to formed paragraphs, as
well. We've noted -- many of us have noted that a
formed paragraph will be pulled down from a prior
office action, they will have the same typos as
was in the prior office action. And I do
understand the pressures on examiners to work
quickly and effectively, but I think that there
might be an opportunity to revisit some of the
formed paragraphs to make sure that they are
really crisp and clean and can be understood by
everybody.

Certainly we can't have a direct impact
globally on how examiners use the language that we prosecute patents in, but anything that would be helpful. In fact, possibly an idea for improving quality would be improving the quality of language use, so I'm going to make a note about that.

MR. FOREMAN: Ben, let me add that I think that the resources that are available to the independent inventor community are very well represented on the USPTO's web site. There are links right on the home page that take individuals to those resources, which are both very wide and very deep. So to answer that question that came in, those resources are there, you just have to do a little navigating on the web site to find them.

MR. BORSON: Good, thank you, Louis. Do we have another comment? Robert, do you want to --

MR. BUDENS: Yeah, just two things, one, I would like to reaffirm I think what Esther was saying, in saying, you know, for independent inventors, if they have questions, you know, examiners know if they're dealing with a pro se
applicant that they need to try and, you know, walk them through the process as best they can and, you know, are willing to give them as much help and advice as, you know, they can without, you know, I mean there's some things we can't do other than advise you that you might want to get a lawyer.

But I know examiners certainly, you know, try and do their best with the small inventors and the pro se inventor community.

Secondly, as far as Fog Index is concerned, I would say that perhaps the Fog Index actually works in both directions, too, and there may be a level of fogginess in the applications that are in front of the examiner, you know, so just a point there.

MR. BORSON: Yes, I think that's a fair comment. Okay, we have a member of the audience here.

MR. MYERS: Yes, I'm Randy Myers from the Patent Office Professional Association, and I wanted to address a comment that Steve Pinkos made
a little while ago regarding specifically the Green Technology Program and asking, you know, what are the advantages to the applicants and so on and so forth.

And I wanted to point out that really the data that we have here where it says that the time from filing date of the application to the time of allowance is an average of 15.9 months. I think this is very should I say misdescriptive because, and probably not too accurate, because when we initiated the program, we were taking basically back inventory also of applications and averaging that in.

You know, from this point forward, people that are applying and that also put their petition in for the Green Technology are going to get an action rather quickly. And as an example of that, we had an attorney come in and speak to our organization and to I think some of the other members of management here relating his story of how he had filed a patent application, and within two months, he had a patent, and within that two
month period, he was out getting manufacturing quotes and raising capital and everything on an invention that probably would have taken him, you know, five years just to run through the normal process and get his patent. So I'm thinking that this number is going to go way down as the number of cases in the program increases. Thanks.

MR. BORSON: Okay, thank you very much.

MR. PINKOS: Thanks, Randy and Peggy. I think there are some additional numbers attached to the Green Tech presentation which are very helpful. And I guess the suggestion that I was making was that if there are some numbers that could be developed around the exchange program, they would be, likewise, just as helpful.

MR. BORSON: Yes, we've received a clarification from the person who sent in the Fog Index question, and the new comment is, "Many of the actions are not understandable", and I think this is a point that we've already touched upon, that "It would be valuable to have there be simple plain language, explanations of rejections, not
overly technical, I think that's a good place to start. For those of us that write applications, we usually start with a very general plain language type of explanation of the invention up front in the summary and then follow through with increasingly level of detail as needed. I think that's, in general, a writing style that is amenable to all sorts of folks and I would encourage everybody to use it." Okay, we'll keep the lines open for another five minutes or so. And, Bob, do you have any comments as to what you would like to see in the report? Peggy had some comments, do you have any?

MR. BAHR: Well, Peggy mentioned the quality metrics, obviously I'd like those discussed in the report.

MR. BORSON: You will have your way.

MR. BAHR: Thank you.

MR. MILLER: Maybe for the audience you could explain some of the areas that we're thinking about for the report.

MR. BORSON: Sure, that's a good idea.
MR. MILLER: And that may focus their comments.

MR. BORSON: Sure; the current version of the report is still in a preliminary draft stage. We spent most of yesterday going through it and we almost made it through. But there are sort of two aspects to the report, one aspect at the front end is sort of a description of some of the overarching ideas or themes that we have believed are prominent during the last year, one of them being, you know, a thanks to the U.S. Patent and Trademark Office and the Administration for increasing the focus on customer service, we've seen that in many areas. We also have noted an increase in collaboration and cooperation with the patent applicant community. And we would like to encourage that there be overall cooperation and collaboration between all elements of the innovation community, including folks in the legislature and the judiciary and the Patent and Trademark Office and other administrative agencies.
The innovators community, the business community that supports innovation, the investor community, I think that, you know, collaboration is a very good thing and it will move ahead very quickly.

We also noted the increased transparency, the use of the dashboard and other easily recognizable and easily accessible forms of communication. Also, these sorts of meetings are very valuable. We also encourage other forms of communication to occur through either the internet, other sorts of web tools, in person meetings and the like to increase transparency.

We also will focus on the clarity of explanations of things. We've touched upon clarity of procedure, including the MPEP. Yeah, Bob, you have a comment?

MR. BAHR: I was just going to add to that that it would be helpful to emphasize the importance of, you know, adequate resources, you know, funding, and also that it be a more stable funding stream and not so much, you know, year to
year, you know --

MR. BORSON: Well, I apologize for missing that point, that's point number one.

MR. BAH: Okay, thank you, because really it's the, you know, nothing works without it.

MR. BORSON: Absolutely, and then of the initiatives that have been proposed by the office that are under discussion would work without funding. So having gone through those sort of basic sort of interwoven themes that appear in many of the topical areas, we do have separate sections on topic one, finance and budget, in which we go through some detail about our recommendations and suggestions and analysis of what has happened.

We also have a section on the outreach proposal, the outreach group that Louis Foreman had been heading up. And that's an interwoven area, as well, that appears -- that is the concept of outreach and collaboration appears throughout many of the other sections. We also have a
section on legislation in which we have addressed some of the current proposals that are in the examiner's amendment in the Senate bill and some other legislative proposals that will effect the innovator community.

We also have touched upon the international cooperation through the Patent Prosecution Highway and the Share Program. And I hope I'm not missing anything. We have a whole section on human capital that Maureen Toohey has been spearheading, discussing issues of examination, performance appraisal, how many people are being hired, the hiring and retention and attrition issues we're dealing with.

And we have a section on patent examination quality. We've chosen to refocus on examination quality instead of patent quality, which represents the quality of allowed patents. The emphasis here is to reinforce the offices, understanding that improper denials of patentability are highly significant to the innovation community.
We also have a section on pendency, a brief section dealing with appeals and proposed changes to the appeals process. And that is what we have so far. And then, of course, there will be a summary, there will be an appendix with the statute authorizing PPAC, and there will also be some brief introduction to the members of the committee. What did I miss, did I miss anything, any of the major sections? Well, I didn't miss any or we've all missed something?

Okay, well, with that, I'd like to bring this session to a close, if we could. We're out a little bit early, so I thank you very much for moving through the material quickly. We did have enough opportunity to go through everything.

And again, I'd like to thank the wider community on the web and via email. The PPAC email address is live and it will remain live for the indefinite future. Even though the web broadcast will come to a close shortly, I would like to encourage everybody in the wide, wide world to mention or to use, communicate anything
via the PPAC email address.

    And if there are no further comments,

I'd like to bring this public session of the Patent Public Advisory Committee to a close with thanks to all.

    (Whereupon, the PROCEEDINGS were adjourned.)

    * * * * *
CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn by me; that the testimony of said witness was taken by me and thereafter reduced to print under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither 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.

/s/Carleton J. Anderson, III

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2012