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MR. MATTEO: Okay, we've got the light. Do we have the voice? Okay, if everybody could make their way to their seats we'll get started in a minute here.

Good morning. Welcome everybody. I'd like to formally open this public session of the Patent Public Advisory Committee. Welcome to everybody here.

What I'd like to do is, if I may, introduce myself first -- David Matteo, the chairman -- and by way introductions go around the table and we'll start, if you don't mind, on my right and you can introduce yourself.

By way of just a quick housekeeping note. If you would, I'm told that you need to be very close to the microphones. It's the far button on the right that says "mic," and please turn off your mic when you're finished speaking.

Thank you.

MS. STANEK REA: Good morning. I'm Terry Rea.
I'm the Deputy Director of the USPTO, and I'm pleased to be here today. Thank you.

MR. ADLER: Marc Adler, PPAC.
MR. BORSON: Ben Borson, PPAC.
MR. FOREMAN: Louis Foreman, PPAC.
MR. BUDENS: Robert Budens, PPAC.
MS. FAINT: Catherine Faint, NTEU 245 and PPAC.
MR. BAHR: Bob Bahr. I'm Acting Associate Commissioner for Patent Examination Policy.
MR. OLECHOWSKI: Mark Olechowski. I'm the Deputy Chief Financial Officer.
MS. TOOHEY: Maurine Toohey, PPAC.
MR. SOBON: Wayne Sobon, PPAC.
MS. LEE: Michelle Lee, PPAC.
MS. KEPPLINGER: Ester Keplinger, PPAC.
MS. FOCARINO: Peggy Focarino, USPTO.
MR. MATTEO: Thank you, everybody. Just to continue the housekeeping notes, as always -- I'm sure you've heard me say this before and you'll hear me say it again -- as members of PPAC,
we've been invited to participate here by virtue of our private sector perspectives and affiliations. But while we're here, we leave those hats at the door and we speak solely for the benefit of the U.S. economy, innovation eco system, and the Patent Office.

A few other housekeeping notes. We're going to try to get questions or comments from the public. It's not possible to do so in real time, but during breaks we'll make an effort to see if we can field some of those questions and get them answered. We have a little time reserved in the agenda for making that happen.

I do want to take a moment to recognize two new additions to PPAC. We have Michelle Lee joining us from Google, Wayne Sobon joining us from Rambus, and I'd like, if I may to give them a moment or two to introduce themselves, their background affiliation, and their inspiration for wanting to join PPAC.

Michelle, if you want to lead off?

MS. LEE: Sure. I'm glad to be here
today. Thank you. And I'm Deputy General Counsel, head of Patents and Patent Strategy at Google. I've been involved in patent work my whole career, which is now inching up to 20 years, and we are a frequent user of the services of the USPTO, including in our filings, reexaminations, appeals to the board, and so forth. So, I'm delighted to be here to help out in whatever way I can. Thank you.

Mr. Sobon: I'm Wayne Sobon. I'm currently Vice President and Chief IP Council out of Rambus. For the past 10 or so years I was Chief IP Council at Accenture. I have a deep interest in the intellectual system, going back to when I first became a patent agent in the '80s and am involved in a number of other organizations seeking to improve the system and how it works for everybody and all users. So, I'm thrilled to be a part of this organization and excited to be here. Thanks.

Mr. Matteo: And thank you both. Just another check, if you don't mind. We have another
member who appears to have dropped off the line.

Steve Miller -- is he with us?

MR. MILLER: Miller from PPAC. Thank you.

MR. MATTEO: Good. Thank you very much, Steve. All right. So, without further ado, what I'd like to do is introduce the Deputy Under Secretary and Deputy Director of the USPTO, Terry Rea, who will lead us off with some opening remarks before the PTO.

MS. STANEK REA: Thank you so much, Damon. I do appreciate the opportunity to be here to address each one of you today. I think that what you do, you show a great deal of leadership, and everybody appreciates what you do. This is true public service at its finest. And to bring this much talent into this room I think is appreciated by everyone.

I would also like to thank some people from the PTO who were really instrumental in putting this together. At the high level, Bob Stoll and Peggy Focarino really support this
effort and want to make your jobs as efficient as possible, to pull as much talent from you as possible. And, of course, Dave Kappos views the contribution of PPAC to be extremely important. So each one of you should be honored and pleased to be here today just because Dave views each one of your talents and assets to be vital to the operations of the PTO.

As you know, we have a lot of initiatives going on. We have the Green Tech pilot, which we'd like to work with. We have the Peer-to-Patent initiative, where we're going to ideally bring in, through the use of the Web, the talents of people outside the PTO so that we can do the best and finest searches possible.

Eventually we will implement our Three Track system. Track One we would be close to implementing. We don't know exactly when that's going to roll out at the present time.

We're doing a great deal on the IT side. In terms of IT architecture, there are a lot of changes being made, and we'd like to make many
more changes in the future.

In the petitions area, we're trying to make for our user community things as simple as possible, and through the use of the computers and the Web we're able to do, in particular, one-third of the petitions that are filed in the USPTO rather straightforward. So, we have Electronic Petitions. It's now on the USPTO Website. I think we implemented that about two weeks ago. We're trying to get the word out about that right now where you can file an electronic petition, get an immediate response, an immediate grant for the petition, from the PTO, right then and there and there's no delay.

The Patent Dashboard was a wonderful idea from Dave Kappos, and it's constantly being updated as you know. So, it's up to you to help us make each one of these features bigger and better and to come up with more and more ideas.

The MPEP eventually will be this great user-friendly document online. A great deal of work is going on behind the scenes right now to
try and bring a more vital, vibrant MPEP online not just to our examiners but to our user community.

    Also what's going on right now -- just a little side note -- is the America Invents Act where there will be a markup going on today in the House. That's very, very important to us, as well as to the entire IP community. It's going to ideally simplify the process of acquiring our inventive rights, and it will also allow us to tap into the global market with more ease.

    Now, communication and collaboration are essential at every level, not just here within PPAC but within the user community and within the PTO, and for us to get our ideas out there. We are very open. Dave Kappos wants us to listen to the user community, to listen to ideas that people have so we can choose the best to implement here to make our systems as efficient as possible.

    And last but not least, I wanted to take the opportunity to thank Michelle Lee and Wayne Sobon for joining the PPAC team. Both of your
contributions will be very, very valuable, and we expect great participation from both of you, so I'd like to thank both Michelle and Wayne for being here today. Thank you so much.

MR. MATTEO: Thank you, Terry. What I'd like to do now is turn the microphone over to Peggy Focarino, Deputy Commissioner for Patents, who will provide us with a patent operational update.

Peggy, if you would.

MS. FOCARINO: Thanks. Thanks, Damon.

Good morning, everyone. It's a pleasure to be here with you today. Commissioner Bob Stoll is in Florida speaking, again, to applicants and practitioners, and he wishes to express his gratitude to this committee for all the work they've completed and the projects that have been participated in this year.

Before I begin, I'd like to introduce Richard Maulsby, and Richard may not actually be here yet. But let me tell you about Richard Maulsby. He's joined our staff as Associate
Commissioner for Innovation Development, and this is a new function within Patents that will help us maximize our outreach to important stakeholders, such as independent inventors and small businesses, and strengthen our alliances with important educational and innovation partners. So, Richard will discuss his ideas and plans with you later in the agenda.

Just to give you a brief update on our progress in our programs at a very high level, we've made continuous strides towards our pendency and backlog goals. Our backlog volume has been reduced by a concentrated effort through our 699 program, which we started during the fourth quarter of last fiscal year, and from very conscience work on the part of our examiners. Currently, the backlog stands at 708,912 new applications waiting examination. We've placed an emphasis on working with applicants through the first action interview program. And changing our culture to be more collaborative has resulted in a significant increase in time spent by our
examiners in conducting interviews.

We're also expanding our Patent Examiner technical training program, which brings leading experts to the USPTO so our examiners can keep in touch with the very latest in their areas of technology.

We recently launched our COPA initiative, and COPA stands for Clearing the Oldest Patent Applications, and this initiative targets applications that are older than 16 months old. The program does more than focus resources on older cases. It also facilitates the distribution of examiner resources to where the volume of older cases resides. The program represents a distinct shift in our thinking from viewing examiner expertise within narrow technical specialties to looking for compatible competencies that fully utilize examiner resources and skills.

We all know that inventions are not limited to narrow subspecialties in all cases, and we need to develop a workforce that has broader areas of expertise, which will allow us to be more
flexible in shifting workload and resources. And Andy Faile will discuss in more detail patent operations in our programs, including our successful Green Tech, Ombudsman, and Project Exchange programs.

As you probably know, and Terry mentioned this, we issued our Public Notice on Track One of the Three Track initiative. We had expected this program to be implemented on May 4th. We have hoped that it had significant benefits to our applicants in terms of flexibility of examination and timing of that process. And it represents a way to applicants with solutions that meet their needs in terms of timing of examination. But we'll discuss later the implementation aspects of this, and, really, it depends on budget.

Bob Bahr will discuss the details of the program, the Track One in particular, and also our 112 guidance that just came out. These guidelines are very important to our examiners so that there's no guesswork but also to applicants as a
way to assist them in submitting high-quality applications.

As you know, Patents is undertaking a major system and process redesign. Today you'll hear about our progress in more detail from Jim Dwyer. And these efforts have already started to take shape, and we are hopeful that we'll have a new IT infrastructure in our horizon in the very, very near future.

Looking ahead, for the remainder of the year we'll focus on bringing improvement and innovation to the patent system through changes, as I mentioned, to our system and processes, and we will continue to focus on that. We value all of your input, and we look forward to expanding our collaborative environment. We appreciate all of your guidance and support.

And now I will turn it over to Mark Olechowski, who will give you a financial update.

MR. OLECHOWSKI: Thanks, Peggy. We're also trying to get -- as I mentioned, I'm Mark Olechowski, the Deputy CFO. Tony Scardino, our
CFO, is on travel today, but he's trying to call in so he can participate. There's a lot going on, as you know, in Congress and with our stakeholders and everything else with the budget. So, we'll see if Tony can call in and --

MR. SCARDINO: I'm here.

MR. OLECHOWSKI: Very good. That's the technology we're talking about.

MR. SCARDINO: I'm on, Mark.

MR. OLECHOWSKI: Okay. Can we have the slides up? Does everybody have one?

MR. SCARDINO: Can you hear me?

MR. OLECHOWSKI: Yes, we can.

MR. SCARDINO: Good morning. Sorry I'm not there folks. I'm traveling today. I wanted to come give you a status of 2011 and 2012.

MR. OLECHOWSKI: We're waiting for the slides to come up now. Here they come.

MR. SCARDINO: Okay. Well, unfortunately, the slides are not the most helpful things, because they were prepared a couple of days ago and a lot has happened since then. As
you'll see on slide 1, you know, where it gives you the usual range of what we are actually going to collect, and it's a much greater number than what Congress is actually considering funding us at for this year. So, going backwards, we are funded until Friday at last year's level of $2.016 billion.

Now, on this slide -- this slide really isn't that relevant anymore. But if you go to slide No. 4, we are now at, like I said, 2.016, but the new full-year funding bill -- the sum is at $2.09 billion. However, we will most likely collect upwards of $2.2 billion, and this is without the surcharge. Congress is not going to authorize the USPTO to collect the 15 percent surcharge. Most likely the Bill that will be enacted, bill that you probably all read, and about -- the House is going to vote on the bill today, stay home and take it up immediately thereafter, and then the President should sign the Bill by tomorrow. None of these are definites, of course, but that is most likely what's going to
I'm getting static. I can't really hear anything online.

MR. MATTEO: We're fine on this end. I think everybody's just trying to absorb what you're saying.

Did anyone on the floor have any questions?

MR. OLECHOWSKI: Yeah, let me amplify what Tony said. The current continued resolution expires at midnight tonight and through this time frame from the beginning of the year we've been limited to our 2010 enacted level, which has been $2.016 billion. The bill that's currently in front of our Congress funds the PTO to 2.090, which is an increase of about $74 million. However, we believe we're going to collect upwards of $2.2 billion, which means we would have roughly $100 million unavailable to us. And I think that's what Tony's --

MR. SCARDINO: Assuming Track One implementation.
MR. OLECHOWSKI: Correct, which is scheduled to start on May 4th, as Peggy mentioned. So, that presents some challenges for the USPTO for our Under Secretary and our Deputy Under Secretary to decide over these coming weeks how we're going to manage the agency with a little bit more funding but not the full amount of funding of the fees that we think we're going to collect this year.

MR. SCARDINO: Now, just to give a little bit of background, you know, 2.090 -- Congress didn't just pull that out of the air. That actually did -- the President's budget request minus the surcharge for fiscal year 2011. Mind you, there was a budget proposal put together 14 months ago, February 2010, and since that time applications have risen as have fees collected. So, we are estimating now that we're going to collect $2.2 billion, roughly.

MR. MATTEO: What if any is the prospect of the PTO obtaining authority to retain some or all of that additional money?
MR. SCARDINO: It's challenging, because, you know, everybody wants to change the Bill that's pending on the Hill right now. So, we're being told, you know, no changes are really being considered. So, we hooked all the angles that we can. We've just identified for folks that the facts are what they are. We're going to collect more money than the bill is going authorize us to spend. So, in terms of information, they're providing it, but I think the chances are pretty slim that there are going to be any changes.

MS. FAINT: Do you know if the trademark fence remains in place?

MR. SCARDINO: Yes, Trademark Fence absolutely remains in place. That's the law. It will always remain in place.

MS. KEPPLINGER: This is Ester Keplinger. I wondered about any prospects -- you know, we may not have any chance to change the appropriation right now, but last year you were successful in getting a supplementary
appropriation later in the summer. Is there any chance that you might try for that again, and maybe under the radar when we're not looking at this bigger budget we might be successful then?

MR. SCARDINO: Yeah, I don't want to be too glib here, but we had the same kind of (inaudible) and lightning doesn't twice necessarily. That was a huge, huge effort last year to get this up. And, frankly, yeah, I don't know if there is something that will come around this year. The budget bill has been so intense, and it's so challenging to get the deficit down. I'm not optimistic they will have another supplemental to provide more access to our fees. It could happen. Anything could happen. But we can't plan for that.

MR. OLECHOWSKI: Esther, I think, you know, to amplify again what Tony said, we'll certainly be working toward that. Everybody in the PTO, its stakeholders, and everyone else desire the PTO to have full access to our fees. I
think the challenge is that if Congress passes the
law that's in front of them today, how do we
manage the Agency with the authority we have. We
can't hope that we're going to receive the other
hundred million. We have to operate the agency.
Should we hire the patent examiner? Should we do
overtime? Should we outsource PCT? I think all
of those decisions become much more difficult
under the current conditions than if we knew we
were going to get a supplemental, if we knew we
were going to have access to our fees, if we knew
what the bottom line number was for the entire
year.

MR. MATTEO:  Yeah, including Mark.

Everybody has to anticipate that the 2.09 billion
is going to be the budget for the year. I don't
think we're suggesting that he should plan on the
incremental money, just simply our hope or
otherwise that we'd be able to retain or have
access to some of it. I think the question that
comes to mind now is of the 2.09 billion, how does
that match up against at least your anticipated
operational plan? Do you have an operational or strategic plan in place that suggests your burn rate is going to be 2.09 billion? Is it going to be 2.1? So, I'm trying to get a sense of on the margin, how does the actual appropriated funding map to what your anticipated operational plan would be?

MR. SCARDINO: Operational plan calls for having over $2.3 billion available, which would have allowed for a much greater amount of hiring of patent examiners and IT development, full over time, PCT, and this funding level 2090. I can't tell you definitively what it's going to do since we are still working with Director Kappos and Deputy Director Rea. But it's not going to allow for the vast majority of that, which is I'm going to show all our abilities to meet all of our performance goals this year, which then feeds into 2012 and further years. Our backlog and pendency will not be coming down as we'd envisioned.

MR. MATTEO: Other questions from the floor?
MR. BUDENS: Yeah, this is Robert, Tony, and a question for Terry and Peggy, too.

Something Mark just said triggers a concern to me about the stuff like Track One being implemented May the 4th. Is that still planning on being implemented if this bill passes in its current form this afternoon? Because that just -- in my mind, that just means we're going to be charging a whole lot more fees to donate to the Treasury rather than having it be spent to hire more examiners like it was intended to do.

MR. SCARDINO: Yup. You're absolutely right, Robert. And, like I said, you know, Director Kappos hasn't made any final decisions yet. He's traveling right now. Once the bill passes -- you know, we were working seriously to provide options for him, and that's something that will be on the table should we continue to implement Track One as we had envisioned. For the very reason that you mention.

MS. FAINT: This is Catherine Faint again. We're in the midst of beginning IT system
rollouts. Do you foresee those to continue at the
scheduled pace?

MR. SCARDINO: For bend and end?

MR. BORSON: No, just the laptop rollout

I think she's talking about.

MR. SCARDINO: Oh, the laptop rollout.

Most likely, because a lot of those costs are
already sunk. We had supplemental money from last
summer, so we actually purchased all of the

laptops. So, it would kind of be very

inefficient, I guess, to just have those laptops

just sit on a shelf somewhere. So, we are

continuing with that rollout unless somehow Dave
decides, you know, to back off on that. But I
really doubt it. It doesn't cost us that much

more money to implement the rollout.

MR. OLECHOWSKI: Right. We funded

obviously the purchase of the laptops we have, all
the laptops for this year, and we funded the
installation and rollout of that for the remainder
of the year. So, I think what Director Kappos and
Deputy Director Rea have to decide is which
developmental programs may have to slow or be curtailed if we have to limit 2090.

MR. MATTEO: Okay, Tony, did you have any more?

MR. OLECHOWSKI: No, unless there are any more questions.

MR. BORSON: Oh, yeah, this is Ben Borson. I just wanted to ask what you think the key differences might be between the House bill and the previously passed Senate bill and whether there is a likelihood that something will be resolved in conference. That may be a topic that we'll wait on for the legislation section.

MR. ADLER: In terms of budget in terms --

MR. BORSON: Yeah, in terms of the budget and the other provisions that Patent Office has been promoting.

MR. SCARDINO: I'm sorry, Mark, maybe you can cover that, because I couldn't hear some of it.

MR. OLECHOWSKI: I'm sorry, I want to
make sure I understand. Is it on the Patent Reform Bill or on the budget side?

MR. BORSON: Well, both actually. I think, you know, you're talking about the budget bill. The question is whether or not patent reform legislation will have any impact on that.

MR. ADLER: Well, I'll answer part of the question, and Dana's going to be here in a few minutes. I believe he speaks after me, and he can talk much more extensively on the Patent Reform Bill, or Bob.

But on the budget side, I think Tony had mentioned, and maybe we didn't catch it, the bill that was introduced -- and the reason that I think it's difficult for us to add any language to it is because it takes care of the entire U.S. government, and so Congress is reluctant to add amendments or anything to it, because then they would have to go into conference. They'd have to have the House and Senate be exactly the same thing. So, the bill that exists in front of the House today we believe is the same thing that's
going to go in front of the Senate today. So, getting any changes, as Robert knows has been very difficult to talk to people to do. So, do we believe that that's set stone? No. Things could happen, because there's a lot of people up on the Hill trying to help us out, but from the patent reform side, you're right. There are two bills, both House and Senate, and Dana I think can talk more extensively about that in a few minutes.

MR. BORSON: Thank you.

MR. OLECHOWSKI: I think you need to consider, Ben, really the answer to your question is the bill that's sitting up there to be voted on today is, in essence, a conference report bill. I mean, it's intended to be the final budget bill, you know, to be voted on by both houses and get over here and signed.

The flip side of that is -- a nightmare scenario is that it doesn't get passed tonight or tomorrow and we all find ourselves back in shutdown mode, you know, by Friday. So --

MR. SCARDINO: That's right. That's
quite a possibility.

MR. MATTEO: Okay, if there are no other question from the floor, I'll use that as a segue into a topic of discussion from last year, one that PPAC had kicked off and would like to resume with the PTO, the notion of the -- basically, the intersection of the budget and funding with the strategic plan, how one supports and informs the other. So, as these discussions happen, I hope that we can participate and provide whatever assistance and guidance possible to the PTO in terms of our constituencies and our own personal experience, so that again is something I'd very much like to kick off again for this year. Why don't we return to that discussion in the Executive Session, since I understand effectively all of this is predecisional? But I did want to make sure that we revisit that topic, because I think the intersection of the two is even more so now critical.

Okay, so I believe we're, startlingly, ahead of schedule. So, is Dana here? I don't see
him. He's not here. So, I'll tell you what. Why don't we take a quick break. It's now 8:30. Why don't we return at 8:45, and we'll pick up with the update on the legislative.

Thank you very much. We'll see everybody at 8:45.

(Recess)

MR. MATTEO: Welcome back, everybody.

What I'd like to do now is introduce Dana Colarulli, who will give us a hot-off-the-presses update on legislative affairs for the PTO.

If you would, please, Dana?

MR. COLARULLI: Happy to. Thanks so much, Damon. Good morning, everyone. So, I thought the best use of your time for me today was to give you the hot-off-the-presses update. After our presentation here, a group of PTO folks are going up to the markup of the Patent Reform Bill in the House, the America Invents Act. So, this is the House version. The Senate had passed the bill early March, and this is the House's attempt. We've had a number of discussions on the technical
side with House staff as they've tried to put
their own mark in the bill. I'm going to give
quickly a highlight of the major issues that
they're addressing, how it differs, and what's the
process for moving forward here.

So, in early March, the Senate passed
their version of patent reform by an overwhelming
vote of 95 to 5. That bill included a number of
things that have been in discussion for the last
eight years, some even longer than that post-grant
review. The framework of that procedure had been
discussed as far back as 2000. It also included
fee setting authority for the USPTO. It also
included significantly a proposal to ensure that
all the fees that are collected at the Office stay
with the Office by function of a revolving fund.
So, in act, Mark may have talked briefly about
funding this morning.

Essentially what the bill sets up is a
fund that all fees would be deposited into --
accessible to the PTO. The PTO would continue to
develop its budget, defend its budget as it had
done previously, but this is one mechanism that
appears to be effective to keep the fees that are
collected by PTO at the office.

So, we've now moved to the House bill.

There have been three hearings on patent reform,
PTO operations, leading up to the markup. Today
we had an oversight hearing where the director
testified earlier this year, a panel of industry
about a week or two later commenting on various
parts of the bill, really reacting to the Senate
process and reacting to what they thought was good
in the Senate process and what was not. That
resulted in introduction of the bill, which they
had a third hearing on, and the director again
testified on that.

So, today is the markup of that bill.

It includes many of the same provisions as the
Senate bill. It changes the Senate bill or
addresses things in a slightly different way on
two major issues. The first is the prior user
defense. So, under current law, there's a limited
prior user defense that can be raised in
litigation just for the area of business methods, just limited in technology. The House bill would extend the defense to all areas of technology but significantly address the concerns of universities by providing an exemption for universities. So, patents that were fully funded by and acquired by universities -- if they were the patent at issue, the litigant could not raise that as -- could not raise a prior use as a defense in litigation.

That didn't fully satisfy the universities. The Manager's Amendment has a slightly modified take at attempting to expand the defense. The most important part is moving the line back to require both reduction to practice and commercialization a year before the effective date of the patent.

Still unclear whether the university community will think that's a good deal or not. That's going to be certainly one of the major discussion points this morning. But the expansion is very much supported by others that support the bill, mostly in the high-tech area. That's the
first area.

The second area is an area where there's a lot of attention on the Senate side, and that's the features of the enhanced inter parte reexaminations. So, both the House and the Senate moved the proceeding over to the Board, had the proceeded conducted in front of a three-judge panel.

The question that had been focused on in the Senate and then here in the House was what's the appropriate threshold to start these proceedings. Now, the Senate landed on a so-called higher threshold, a reasonable likelihood standard, reasonable likelihood of prevailing on the merits in at least one claim. The House said we like the current standard, we like the substantial new question of patentability. So, the discussion between the House and the Senate has been what's the right balance here? What's the significant difference between those two thresholds? And which threshold best allows the Office to implement and prevent
undue abuse of the system?

We've weighed in. The director testified on this in the House based on our own data and essentially expressed that both thresholds have merit the way the PTO would implement it. We could implement either. And we get right into a little bit more detail about what we're seeing in terms of statistics -- how many patents are coming through the system with no change at all versus those that actually have some change or there was some discussion.

So, that's been one of the most contentious points. It will continue to be one of the contentious points. The House-introduced bill proposed a substantially new question of patentability, the current standard. The Manager's Amendment now would move the standard up to the reasonable likelihood that the compromise will be one of the two of those. It may come down to other features that are changing inter partes at the end of the day for folks to decide what threshold the House thinks is the most
appropriate.

So, let me talk a little bit about process. The Manager's Amendment was circulated a few days ago. Yesterday by 11 o'clock all members of the committee needed to submit amendments to the bill, so this morning they'll do a few things. They'll first consider the Manager's Amendment. The manager is the chairman of the committee. That's Chairman Smith -- Lamar Smith from Texas.

They'll then entertain amendments to that Manager's Amendment, and then they'll entertain other amendments to the bill as a whole, so two phases for procedural purposes.

There are over 30 amendments combined, those to the managers and the underlying bill, that were circulated. Not all of them will come up. Members will put in various options of different amendments that they might want to entertain to try to make the deadline, to get some discussion before the markup. So, that process has moved forward.

Some of the amendments we think moved
the bill in not the good direction the
administration has supported --
first-inventor-to-file. We've supported a number
of other things for the operational efficiency of
the office. But this is part of, I think, both
the education and understanding of the true effect
of the bill. By floating these various
amendments, folks are trying to get to the right
balance and trying to evoke that discussion of
where they want the bill to go to.

So, there are over 30 amendments. Some
are very much directed to the two differences in
the Senate bill that I mentioned -- the prior user
defense and the threshold for inter partes.
Others are somewhat completely unrelated, so
they'll entertain the whole bunch of them today.

That's patent reform. And these slides
-- I apologize. They weren't in your packets
beforehand; the team will get them up on the
Website at some point in the future. They don't
have them posted just yet.

Let me say one word on funding, and I'll
make this short, because I know that the CFO's office already reported to you all. Today the Congress will be voting on the budget deal that was agreed to last week, the so-called $38.5 billion cut budget. USPTO was not addressed in that bill except for raising our ceiling slightly on spending. So, our previous FY10 funding was at 2.016. CBO rescored the budget that the administration had submitted some 14 months ago, and as a result it increased our ceiling slightly. I think, based on our current estimates, that improves our plight a little bit. We now estimate projected collections to be about a hundred million over what our adjusted ceiling is in the budget deal that will be agreed on today.

So, with that, that's my big overview. We're certainly looking at the fee-setting authority. We're certainly looking at the revolving fund, how that will be implemented. Looking at a number of other issues as this bill moves forward. I think this isn't the last step. The bill will be considered today clearly in the
full committee. The chairman is eager to move the
bill to the floor pretty quickly, and I would
imagine there will be another Manager's Amendment
targeted at additional technical changes that need
to be made to the bill when it gets to the floor
of the House, 435 members also. It will be an
additional educational process for folks who
hadn't really been in the process, hadn't really
been involved in the development of this
legislation throughout. So, there are some
challenges left, but it appears as if it's moving
in the right direction towards final passage in
the House. And it appears as if the bill is
pretty close to what the Senate came out with.
Those differences they'll need to reconcile before
the end of this process.

MR. MATTEO: Thank you, Dana. I'd like
to turn it over to questions from the floor.

Interesting. No questions.

MR. BORSON: Yeah, I have one. This is

Ben Borson. I wanted to ask, do you have any
sense of the likelihood that the President would
sign a bill that sort of blends the two?

MR. COLARULLI: Well, the House is going to come out with their -- I expect it will be different in a few aspects. So, generally when the House passes a bill and the Senate passes a bill, sometimes you can go to a conference. I've never seen a conference on a judiciary bill, so it seems that might be unlikely. But there are a couple of scenarios where one or two of the bills are amended to mirror the other. It might require additional procedural hurdle where either the House bill or the Senate bill would need to be amended by agreement by both Houses of Congress and then passed again by the other House. But that's certainly one option to go forward. The other option is some other type of conference, but we haven't see that yet. Who knows what could happen. So, that is certainly a possibility, but we haven't seen it.

MR. BORSON: Well, the question is whether or not you have any sense that the President likes this.
MR. COLARULLI: Oh, the President does.

The administration has been consistently on the record of supporting the bill that came out of the Senate and the elements that are included in that budget. So, first-inventor-to-file elements, the post-grant opposition -- at some point, I think, you hear the White House and the administration stop and want the Congressional process to move forward on some of the details and where they think the balance is appropriate. But I think the administration is throughout the Senate debate and I think we're considering right now, based on what comes out of the markup today, you know, what our views are and how we are going to support the process moving forward.

So, we're in basically the views letter process right now.

MR. BORSON: I see. Well, if the bill does pass in some form, there are some implications for the Patent Office, and I wonder if either Peggy or Terry would like to provide some comment about how the Office might think
about implementing some of these newer initiatives in the bill.

MS. STANEK REA: We have actually started talking about possible things to implement and possible changes to make. But, frankly, until it's a fait accompli, until we actually have a bill it will be difficult for us to formalize any kind of procedure, and I think it would be premature for us to speculate on that right now. But I think that we need to hire more examiners. We would certainly need more APJs or Administrative Patent Judges. It looks like the other form of the bill should pass right now. But I think that we really haven't gotten down into the specifics quite yet. We're just starting to label the ground work for change.

MR. BORSON: One further comment is that if it would be helpful to have PPAC or members of PPAC assist in sorting out some of the questions that will ultimately arise during your process of thinking about it, there will be perhaps some issues of, you know, where do you draw the line;
what is a first inventor, et cetera? I mean, there are a number of things that will come up that will have both policy and practical implications, and we're available if we can be of help.

MS. STANEK REA: That would be excellent. We do appreciate the talents of all of our PPAC members in the room and the ability to rely on you, and to have you assist us with the task that we will likely have ahead of us is truly appreciated. Thank you.

MR. COLARULLI: Dana -- if I could add one additional thing. I'd be remiss if I didn't highlight that the bill actually includes enhanced roles for the PPAC, especially on the fee-setting authority. So, certainly we're going to need to rely on your expertise there.

I will say, reflecting Terry's comment, additionally the bill in a number of key areas includes significant rulemaking, a promulgation of rules, to implement a number of the procedures. So, that's going to include us certainly engaging
the PPAC, engaging the public in all of those
different processes before we implement. So,
there will be a lot of discussion.

MR. ADLER: Dana, does either bill have
a time when, like, post-grant review would be
started?

MR. COLARULLI: It does. So, the timing
for post-grant review for the changes to inter
partes to move it to the board is one year after
enactment. So, there is some time there. There
are also provisions in the bill that allow for
essentially a ramp up of petitions as well.
That's language that we worked with the Hill on to
ensure that we could implement the new procedure,
ensure that we could address the petitions coming
in the door.

MR. ADLER: So, assuming the bill passes
and it gets reconciled, the PTO would have a year
to promulgate the rules and figure out the costs
for applicants to go through that process.

MR. COLARULLI: Well, for
first-to-invent, that's the rule. The effective
date is one year after enactment. For the new procedures it's one year after enactment as well. So, we have that year to get our act together, which is not -- I'm looking at Bob -- which is not different from the 99 Act as well. We had about a year as well, is that right?

MR. BAHR: Yes, that was six months to a year for many of the provisions.

MR. ADLER: Thanks.

MR. COLARULLI: Thank you.

MR. MATTEO: Any other questions from the floor? So, just one parting shot. Dana, can you give us a sense of trajectory or color commentary around what you think or perhaps the most key or the most difficult fights among these?

MR. COLARULLI: So, the most difficult fights really are -- really is that the threshold and inter partes, so where the Senate looked at a number of different issues, as we move to the House, they've really targeted on those issues where some of our stakeholder community feel as if their voices weren't heard as much in the Senate,
and that's around the inter partes reexamination proceeding, the enhanced procedure, that they feel they'll use. So, the threshold coordinating that proceeding with district court litigation -- all those issues have been discussed quite a bit. So, that really has been the focus. The prior user rights, because it was new, raised a lot of attention and will continue to.

First-inventor-to-file -- interestingly enough, I think the members of the committee -- this bill started with the House 2004. There was a bill in the House that proposed to move the first-inventor-to-file system. In 2007, the House as a whole passed a bill that would have done the same thing. So, at least for the committee, they're familiar with those issues. I think outside the committee -- and that's why I say it will be an interesting discussion. There's been a lot of chatter in members' offices outside the committee about what the real impact of the first-inventor-to-file is on independent inventors and small businesses. I think that will continue
to be a discussion. It seems as if the judiciary committee might be in a place where it will be the advocates for this bill, including that provision given their past history. I think those are the three issues that have gotten the most attention. Our fee-setting authority people generally have been very supportive of it.

MR. MATTEO: So, any particulars around fee-setting authority or the revolving fund that should be aware of?

MR. COLARULLI: One in particular that may come up today. In the managers, we saw a provision to sunset the fee-setting authority at four years. We've talked to congressional staff. We've heard from Democratic members of their concern that that might be too short of a time to truly test this new authority to set fees at the Agency. There's some discussion of moving that to ten years. Perhaps it will be a compromise somewhere in between.

MR. MATTEO: We have one more question from the floor.
MR. ADLER: You probably don't have to answer this, but have you been trying to get a count of whether this bill will actually pass the House today? I mean the 95-5 in the Senate doesn't necessary reflect how the House -- the new House will actually view this Bill.

MR. COLARULLI: The House members are the first to tell you that same thing. You know, Marc, it's tough to do that type of count yet until it gets through the markup today. I think the process, as we've seen it leading up to today -- you have Republican members on the bill; to date, you don't have Democratic members of the bill as official sponsors of the bill, but you have a lot of Democratic members that have voiced both support and concern about issues. So, they haven't been ready to sign on with their majority colleagues. I think that's the dynamic that's going to play out today, and once we get a sense of that, we'll have a better sense of the rest of the body.

You know, I say it in jest, but I think
it's true. The bill is going to come out of the committee. Those members do become the advocate for the rest of the body. This is a small group of individuals that are essentially going to sell the bill to their colleagues, so we'll have a better sense. I think that's where the discussion about first-inventor-to-file does become really important. There are a number of folks that have been hitting offices on the Hill talking about the list of horribles that might occur with this structural efficiency, what we see is a structural efficiency and improved system.

MR. MATTEO: Thank you. And we have one more question.

Wayne?

MR. SOBON: Yes, I have, Damon. One thing also. It struck me -- it may not affect the Patent Office directly, but in the Manager's Amendment they have a number of significant provisions around mandatory joinder and stay for manufacturer-customer litigation. Did you have any thoughts on that or where that's coming from?
MR. COLARULLI: Yeah. We've been -- on these provisions last -- only asked for technical advice on it. Administration hasn't taken a position on those provisions. I can tell you I think those provisions were offered to address some of the concerns that some of the high-tech companies had coming to the table. I've seen more scrutiny at the stay provisions, and I would expect there to be changes in the Manager's Amendment, either just on that manufacturing stay provision or also the joinder provisions. But that certainly is one of the discussions that they'll have again today among the 30-plus amendments.

MR. MATTEO: Great, thank you very much, Dana.

MR. COLARULLI: Absolutely.

MR. MATTEO: Okay. We're still ahead of schedule, but I see Robert Bahr, our next presenter is at the table already, so we'll cue him up.

Robert Bahr, Associate Commissioner for
MR. BAHR: Thank you. I think it's been mentioned a few times earlier, with respect to the Track One proposal, we published a final rule on April 4th and the changes of schedule to go into effect on May 4th. Obviously, the idea behind this proposal was that applicants would pay a fee to get prioritized examination of their application, and we would use the revenue generated by those fees to hire examiners so that we could take those applications up quickly without affecting the other applications in the cue. Obviously, we've talked a lot about our budget and its novel we had hoped for when we had come up with this plan. So, obviously some thoughts are going to have to be given about whether or not we actually turn the switch on May 4th. But the proposal was that there is a prioritized examination fee of $4,000. The applicant also has to file the application through the electronic filing system. There is a limit on
the number of claims. I believe it's independent
claims and 30 total claims. But there aren't the
other attributes of, for example, the accelerated
examination program. There's no requirement for a
preexamination search, no requirement for an
eexamination support document, and no requirement

that the applicant respond within shorter time
periods than are the customary time periods during
the application process. But that's the Track One
proposal in a nutshell.

Also in the Three Track proposal, there
was, for Track Three, the more PCT-like
examination process. We are in the process of
coming out with a Notice of Proposed Rulemaking to
implement that.

With respect to Track Two, that's
basically the default examination process, so we
don't need anything to implement that. That, in
effect, is already the examination track.

Moving on to Section 112 guidelines. We
published Section 112 guidelines on February 9th.
We had a comment period that ended, I think,
Monday. We got four comments in. We're in the process of evaluating those comments to see if we need to make adjustments. I mean, we certainly will. When you're issuing examination guidelines based upon case law, you can always count on having to do updated guidelines because the case law changes from time to time -- sometimes dramatic changes, sometimes subtle changes. But we also train the Patent Examining Corps. I believe we've done most of the training. We're basically into where I think all we have left are the makeup sessions for it.

We're also looking at RCE practice. We're not thinking about changing the existing RCE practice, but the thought is that there has to be something between the after-final practice, the Row 116 practice, that we have and the RCE practice where we basically do almost the examination that we would do for our continuation application, that the thought is if we could see if there's something that's in between that range that would satisfy the needs of some applicants,
maybe we could avoid having them file the RCEs and
going through the full examination process to be
able to resolve the issues in an application. But
we are still meeting and working on that to see if
there's something we can come up with.

Finally, we published last week a Patent
Term Adjustment Notice of Proposed Rulemaking. I
think I sent it to the PPAC earlier. It basically
has two changes based upon things that have
happened over the last ten years since we
initially implemented the patent term adjustment
rules.

The first is that we've implemented
pre-appeal brief and pre-appeal conferences, which
have resulted in a lot of reopening, and it was
felt that maybe those reopenings, if the Office
does it on its own, should be treated as a
decision in the review reversing and adverse
patentability determination for purposes of the
patent term adjustment because it, you know, feels
that way.

Back in 2000 when an appeal was filed,
it usually went to the Board. Now that doesn't always happen. So, the thought was maybe we should revise the patent term adjustment rules and take that into account.

Also back in 2000, most of the prior art that was submitted by applicants where they got it from the other source was where they got prior art submitted by a foreign patent office or during a PCT search. Now a lot of times there's prior art or office actions in related applications where applicants have decided the so-called McKesson issue. We felt that we would treat prior art and/or office actions that you get from a related U.S. application the same as we treat prior art received from a foreign patent office for purposes of letting applicant submit it promptly and not get a patent term adjustment reduction.

That's basically the update on these. Are there any questions?

MS. KEPPLINGER: Yes, with regard to the RCEs. That would be excellent if you could come up with something in between, because I think a
significant number of the RCEs are being filed for
a variety of issues, among them McKesson.

MR. BAHR: Um-hmm.

MS. KEPPLINGER: Where you have a
portfolio of cases, one examiner or another still
working on it, and at some point you have to pay
the issue fee but additional things come in, you
have no choice but to file an RCE for that reason.

And additionally, the after-final
practice that currently exists, in the Office
anyway, some of the more senior examiners will
consider things after final, but the vast majority
of the examiners being younger examiners won't
consider much of anything, sometimes even a claim
that was already presented, and so you're forced
to file an RCE. So, something that is in between
-- and we'd be happy to work with you in any way
in developing that, but hopefully you have
something that's in the works real soon.

MR. BAHR: Okay, we are working on
something, but if you have any suggestions feel
free to send them to me.
MS. KEPPINGER: And a follow-up is how many RCEs are sitting on the shelf?

MR. BAHR: Do you know, Peggy?

SPEAKER: Somewhere between 50- and 60,000.

MR. BAHR: It's somewhere between 50- and 60,000.

MS. KEPPINGER: So, in July of '09 you had 17,000 on the shelf. You changed and took the RCEs off the amended docket, and now you have 50 to 60,000 RCEs sitting un-acted on, on the shelf, and I guess -- it's my understanding that those cases don't count in the backlog number.

MR. BAHR: They don't count as unexamined applications, because they're examined applications.

MS. KEPPINGER: Right. Well, I guess I'll spare Andy. (Laughter) So, the inconsistency that I see here is that you count an RCE as a new case when it's filed. It's a part of your intake in the number that you report. You used to put the RCEs on the amended docket so that
they were picked up quickly, but now you've changed that so they're put on new case docket and treated as though it were a new case. But then when you get to actually picking it up for action, you're now kind of treating it like well, no, it's not a new case; it's an amended case. So, your backlog number does not include the RCEs. In my view, that's a tremendous inconsistency, and you need to count it in the same way consistently across the numbers that you're generating. It's either a new case or it's an amended case, but it can't be either as it suits you.

The other problem that I see right now with your statistics is that the RCEs -- now, in my time they weren't being counted in pendency either, so I understand that. But we only had 10,000 back when I was still in the Office. Right now you have 30,000. Once the first case abandons, it is no longer counted in the pendency numbers. It's true you've added on your Dashboard an RCE clock that shows the pendency of RCEs, but remember, all those cases sitting on the shelf
aren't being counted in any pendency numbers, so you have an iceberg where the vast majority of dependency is underwater because those cases are sitting. And until they're actually picked up they won't even show on that clock. But they'll never show on your regular pendency number that is provided to the Congress. So, I think that's another thing that really needs to be addressed. And the sooner you get them done the better for any pendency number.

MR. BAHR: Okay, but that's true for every case.

MS. KEPPLINGER: But to keep one set of cases sort of off the books and sitting on the shelf is hiding the true facts.

MR. BAHR: Okay, anybody -- are there any other questions?

MR. MATTEO: Okay, Robert, thank you very much. Oh, unless you had something further.

MR. BAHR: No, that was all for me.

MR. MATTEO: Okay. So, next on the agenda we have Peggy Focarino, who will be giving
us an operations update. Oh, I'm sorry, actually
Andy Faile will be doing the update. Just to
correct the agenda that's been published, it says
Peggy but it will in fact be Andy Faile.

MR. FAILE: Okay, no problem. One
second while the slides come up. Okay, so by very
ambitious slide set here with a lot of numbers,
I'm going to kind of take you guys through a tour
of the material. I hope we have some time for
questions at the very end, because it's a good bit
of material here.

The first few slides are actually
highlights. Let me hit those real quick. For our
filings, we look to have a projection of about 5
percent over our FY10 levels.

Backlog reduction numbers. As Peggy
mentioned earlier, we're currently sitting
somewhere around 708. Our low point this fiscal
year was, right at the end of mid-year, a little
bit over 705,000. We have about 721,000 cases
pending during the first quarter of 2011.

Under Production, you see at the bottom
there, the allowance rate has gone up slightly over FY10 levels. In both first action pendency and total pendency, it's gone down slightly.

On quality, there will be a little bit more detail on the quality the way we're gauging quality in some later slides, but for the highlights we have two measures, two traditional measures that we use. One is the final disposition compliance rate currently at 95.3 percent in our in-process review cases that are in prosecution and being reviewed. Compliance rate there is 94.7 percent.

Returns from the Board. Cases coming back from the Board -- if you add up the affirmed and affirmed-in- part responses, that's about a 66 percent slice of that.

All right, technical support staff. Good strides in our technical support staff processing. Our amendment entry times are down to 5.1 days for amendments. Very good progress there. Our quality error rate of about 2 percent is pretty steady. It's been that way for some
time now. Tech support had a really good year last year. It exceeded basically all their goals for amendment entry, production, and quality error rate.

Our Green Tech program. Here's a summary of the petition activity in that particular program. To date we have a little bit over 3,000 petitions received, almost 1600 granted, about a thousand dismissed. If you look at the dismissals, a couple of quick highlights there. The original number of dismissals was where the particular applications didn't conform to the class schedule that was published. We had changed that, and the dismissals went down dramatically after that. Now the balance of the dismissals is the materiality of the application being green or not. Applicants get one chance to correct that. If they don't, then it goes into the denied category of which we have about 200.

On the Ombudsman program. Another pretty popular program, this gives you the stats of the different counts of inquiries per TC. As
you notice on the back in 36 and 37, there's a pretty dramatic jump in the number of increase for those two TCs. The team is currently looking at that and trying to figure out why they are different than the other TCs. They do have the lowest average per BD. There are a lot more cases coming through there, a lot more potential for calls to come in just because of the volume. That may be a reason. But we're actually active in looking in to that to see what is going on there. But a pretty popular program. We've had a pretty good response from the outside on this one.

Our interviews. Another program that seems to be doing well. We had a big interview training for all examiners within the last couple of years. Every examiner went through an interview training class. We also provided time for examiner-initiated interviews, which has also been very popular.

So, here are the stats on that. So far we have about 65,000 interview hour logged so far this fiscal year, a projected increase of about 16
percent of what we did in 2010. The First Action
Interview Pilot -- the big note there is the
allowance rate is about twice what it is for the
non-First Action Interview Pilot applications,
about a 30 percent versus about a 15 percent or
so. We're currently talking with POPA about that
particular program, seeing if an expansion there
is going to happen.

MR. MATTEO: Andy, just two quick
questions if I may. On the interview training,
you said it's well received. Well received by the
Examiner Corps and/or by the public, both sides?
MR. FAILE: I would say it's well
received by both. We've had a good jump in
interviews held. A lot of good anecdotal feedback
from the outside that the interviews -- the
examiners have been accessible, been able to move
cases more rapidly than maybe we have in the past.

MR. MATTEO: Okay, so you got the part
of -- what would be a follow-on question, so it's
mostly anecdotal? Are there any metrics you've
established to try and get feedback and reinforce
MR. FAILE: It's basically the logging
of the -- the jump in the hours --

MR. MATTEO: Okay.

MR. FAILE: -- as opposed to anything
beyond that. But if you guys had some suggestions
of ways we could capture different metrics in
that, that would be very helpful.

MR. MATTEO: Ester, did you have
something?

MS. KEPPLINGER: I was just going to say
that certainly the interview policy is very well
received. I don't know that the outside has much
to say about the training, and so you might be
able to gather some statistics. I think
overwhelmingly the public is enthusiastic about
the change in interview practice.

MR. MATTEO: Yeah, I was speaking more
to the training, because I know interaction hasn't
always been as smooth as it could be, so I'm
wondering if you've gotten any feedback along
those lines, other than anecdotal. But that's
fine, because we can circle back to that.

I did actually have one other question about the First Action Interview Pilot Program. Clearly significant jump up in the allowance rate, but how statistically significant is that sample? What are the numbers we're talking about?

MR. FAILE: It's a pretty low volume of cases compared to regular cases, obviously. But just within the confines of that small number, that process does seem to result in the termination of liable subject matter much quicker. So, hopefully if we can replicate that on a larger scale, that would even be --

MR. MATTEO: That actually is the question. What is the number?

MR. FAILE: For --

MR. MATTEO: For the pilot program. How many applications have you processed?

MR. FAILE: Oh, how many applications?

MR. MATTEO: You can ballpark it.

MR. FAILE: I'm not sure. Rob, do you remember what was the original --
MR. BUDENS: I'm actually trying to remember right now, because actually this is being taken up by our Executive Committee actually today to see about approving to go forward and the expansion of the pilot to the entire corps. And I can't remember the exact data. From my point of view, the fact that we're putting it in front of the Executive Committee for expansion -- you know, we thought the numbers were good enough to justify considering allowing the Agency to not have to fight with the Agency over expanding it, that it looked like it was actually a good program.

And on your previous question about how well interviews are -- I would just note that I've run into Ester a lot more times coming into the Rumson, you know, than in prior days. (Laughter)

MR. BORSON: Andy, I had a question.

This is Ben. I had a question about the affirmation rate. You mentioned the affirmed and affirmed-in-part 66 percent. What about the reversed or reversed-in-part. I can't calculate those based on this data.
MR. FAILE: It's not a (inaudible)?

MR. BORSON: No, it can't be, because a rejected or a reversed case plus a partial reversal -- I mean, partial reversals overlap --

MR. FAILE: Right.

MR. BORSON: -- with the partial affirmatives --

MR. FAILE: All right.

MR. BORSON: -- but the absolute numbers of decisions that were rejected firmly or affirmed firmly are unclear from this data set.

MR. FAILE: Right, because affirmed-in-part could go either way. So, are you asking how would you slice and dice between the two?

MR. BORSON: No, I'm asking how many rejected reverse decisions are there from the Board? What's the percentage of complete reversals?

MR. FAILE: I don't have that cut.

MR. BORSON: There's dead air here.

MR. FAILE: Yeah, I don't know whether
they're thinking or they don't know.

MR. BORSON: There now?

MR. FAILE: Yeah, I can get back to you, Ben. I don't have the cut between the affirmed-in-part and the affirmed.

MR. BORSON: Yeah, it's about the reversed fully, the fully reversed ones. Those are the question mark.

MR. ADLER: Can I add a question on that? All right, so assume it's less than a third that are rejected. Say it's 20 percent. So, what do we do with that data and how does that feed back into the process? I mean, is there a process in place to look at those cases to see whether there are trends as to why those cases were rejected by the Board? I mean, because that would improve -- I mean, stating what the data is, is one thing, and using the data feedback is something else. I mean, it's more important than data itself. We want to keep -- you want to keep raising that number.

MR. FAILE: Right. They're not part of
the OPQA sample, right?

MR. BAHR: Well, no, not really. Sorry to cut in. This is Bob Bahr. 33 percent of cases getting reversed is sort of a historical norm. You say you want to make that number smaller, but it does -- we really don't want to drive that number down too much, because we probably are making wrong decisions to allow it if that number gets too low. When that number got very high up to 50 percent? That's when we started implementing our Appeal Brief Conference and Pre-Appeal Brief Conference Programs. So, yes, we do take that information into account and try -- in our processes. But I don't think -- looking at it now, we're sort of saying that the process will work -- the things we're doing are working, but I don't think there is -- you know, this number -- it drives us to enhance those to a greater degree.

MS. LEE: This is Michelle Lee. A question for you on slides 3 and 4 with regard to the Coletti metrics. Actually, let's show slide 4. For my benefit, what is the quality error rate
on the technical support staff accomplishments?

You indicate that it's 2.0 percent, but what is that actually measuring?

MR. FAILE: Okay --

MS. LEE: And then, secondarily, on the previous slide what about final disposition compliance and in-process compliance?

MR. FAILE: Okay, just kind of go over with you what those are?

MS. LEE: Yes.

MR. FAILE: Okay, sure. Let's start with slide 3, Final Disposition Compliances, Looking at Final Rejections and Allowances. I'd say look at those. The in-process compliance rate is looking at other cases, in-process other than finals and allowances -- first action, non-final rejections; second action non-final rejections, et cetera.

For the Tech Support, what we look at, at Tech Support, is all the different processes that they do when they're entering amendments, entering RCEs, preparing the case for allowance,
doing that checklist for that, looking at all
that, and then calculating if those processes are
done correctly or not. So, for Tech Support --
Tech Support is the group of employees that enter
amendments in the case and process all the cases
for the examiners to work on or as examiners are
working on them. So, there are a number of touch
points in there that we measure for their
particular expertise in making sure those cases
get to examiners, get to examiners correctly, and
all the input from the applicant has been checked.
So, there's a criteria there that we measure
against that.

MS. LEE: So, is that a random selection
or -- that you check? Okay.

MR. FAILE: Um-hmm, yeah. Statistically
relevant random selection throughout the fiscal
year per Tech Support employee.

MS. LEE: Got it. Thank you.

MR. FAILE: Um-hmm.

MR. ADLER: I'm going to go back to
where I was, based on your answer to my question
around the -- you said that that's been the
historical level of rejections, as if that's
acceptable? I would propose that it's not
acceptable, that it should be improved. I would
like to -- I mean, the whole point, I think, of a
quality improvement effort is to use the data to
move the target, not to look at it and say it's
okay. I mean, I still think if 20 percent of the
cases are improperly -- you know, are rejected --

MR. FAILE: Well, let me ask you --

MR. ADLER: -- I think that means that

there's a percent of improvement that could be
backed in the Office.

MR. BAH: Are you saying theoretically
100 percent of appeal decisions from examiners
should be affirmed?

MR. ADLER: No. I don't know what that
number should be, but I don't know that --

MR. BAH: Do you think a number exists?

MR. ADLER: I don't know.

MR. BAH: I mean, do you think there is
some sort of ideal number?
MR. ADLER: No, but I'd like to see, if
you're analyzing the data, whether or not a third
of the cases are being improperly -- your analysis
of the data that you just presented doesn't sit
with me right is what I'm saying. It's not the
way I would look at quality data. I don't know if
it's a hundred percent or --

MS. KEPPLINGER: I'd like to follow up
on that. I think what Marc is -- both of you have
very good points. Certainly I think you don't
want the number to be too low, because that means
you're not sending any of the grey cases.
However, I think Marc's point is when you look at
those cases, were any of them slam dunks by the
Board, or were there reasonable rejections? If
there were slam dunks, then there's definitely
some feedback training to be done.

MR. BAHR: Okay, I mean, you're right,
and I really should amend my earlier answer. It's
not like we ignore -- we see 33 percent and say
fine, you know, move on. We are actually looking
to see if there are any of these cases where the
rejection never really should have gone up. There are some where the Board's decision is a reversal. Maybe we say okay, this is a reasonable decision but maybe we should have sent the case up anyway because it was close enough. But we are also looking to see if there are cases where something happened in our pre-appeal process that should not have happened because the case shouldn't have gone to the Board. We do look for that.

MR. ADLER: Thanks.

MR. FAILE: So, Marc, to follow up, just one idea would be looking at the cases in some statistically relevant manner, seeing how many rejections were clearly to the left or right, however you want to characterize it, and then feeding that back into the process to see if we can avoid that, and also maybe linking up with activities in the pre-appeal brief conference and the appeal brief conference to see if those match some version of that I think is what you're --

MR. ADLER: That's what I was asking.

Thank you.
MR. FAILE: Um-hmm. Okay, jumping back to interviews, I think we're covering kind of a last point, which is basically that the interview process or the loosening up of interviews and the giving of time for examiner-initiated interviews seems to be a pretty positive thing. It's well received.

Okay, here we have a breakdown of the filings, kind of historical from '95 to currently this year. This goes back to basically the first bullet where we're looking at a projection of close to 5 percent for this fiscal year on application filings. This just gives you kind of a quick visual of the steady increase of filings from '95 to present, which is not surprising I'm sure.

This is a chart here showing filings in the blue line there. You see the filings from '03 to '11. Little bit of a steady increase. This is mapped against the first actions in green.

This is a backlog projection. See, it's centered somewhere around 2008. There's kind of a
crest there. It started to come down a little bit in that time frame. Compare and contrast the filings, the first actions have been done and the actual effects of that went down and back.

Turning to the backlog a little more specifically, here we have from basically October of '08 to present kind of showing you the backlog of cases and say kind of come down at a dip there in September of '10, a little bit of a rise, and come back up. You see a little bit of a pattern there of the backlog coming down, raising a little bit, and coming down.

Again, currently we're about 708,000. Our low point this year was 705 right at the end of mid-year.

MR. BORSON: Andy, to what do you contribute that cycle -- business cycle not unlike at the end of the year --

MR. FAILE: Um-hmm, yeah, you'll see the end-of-the-year dips when a lot more work is going on. During the first quarter of the new year it'll rise up a little bit, so.
MR. BORSON: I just wanted to make sure I wasn't pursuing something insignificant, so.


MR. BORSON: You know, Andy, it looks kind of like these dips in the pattern are quarterly, and the question is whether those match the quarterly production targets.

MR. FAILE: Um-hmm, right. At the end of the year you'll see a bigger dip quarterly. You do see dips. We get a lot of work at those points in time cranking out actions that are consistent with what we see production-wise at the end of quarters and particularly in the fiscal year.

MS. FOCARINO: And of course the RCEs it's really about 700 to 50,000.

MR. FAILE: Right. (Laughter)

MR. BORSON: I think that slide you're seeing, too, being in 7, 8, and 9 is -- that's when the Office -- you know, Mr. Kappos tried to put in a 699 and all the while you're pushing at
the speed level the arguments to move the backlog cases as much as they could. So, that slide there on the backlog looks to me to be a little more steeper than we might normally expect. We'd be seeing a lot of cases going out the door -- don't know that we've necessarily seen it that steep or new cases going out the door. But I can tell it was, you know, somewhat of a reflection of the pushing the Agency to get backlog reduction.

MR. BUDENS: Okay, fair enough, and actually I couldn't read the dates on the bottom, but I can actually see now from the paper copy that it doesn't correlate to an annual cycle. It's close to a --

MR. ADLER: So, if you look at the data and the account system that was put into place, it doesn't seem to have made much of a difference other than where, Esther, you were saying on the use of RCEs. Is that a fair statement? Since the new account system has gone into place, the pendency and the first actions and really -- and the backlog really hasn't changed -- the way that
account correlated to the backlog really hasn't changed much. True? False? I don't know.

MS. FOCARINO: Marc, what do you mean by "hasn't changed much"? Kind of just the volume of it?

MR. ADLER: The first action happens on down --

MS. FOCARINO: I think Andy had one slide in there that showed the -- what was at the end of blue line file versus the green line first action.

MR. ADLER: Yeah, that's what I'm looking at.

MS. FOCARINO: You can see that there is an up-tic in first actions certainly. So, I think you can attribute some of that to the shifting credits under the new account system. The other thing that is not in place yet with the new Examiner Performance Appraisal Plan is the Docket Management element, which will also have some effect then on how you see pendency change, because there are incentives built in for
examiners to move their cases quicker rather than on a biweekly cycle. So, I think you'll see even more of a change in some of the pendency numbers, on first actions certainly but --

MR. ADLER: I guess all I'm really saying is it would be good to track the timing of the major events against the new initiatives that have been put in place whether they're first office action interviews or whether it's the new account system so we could actually get some sense of what's working in terms of the results and what isn't working and what might need to be changed.

MS. FOCARINO: Right. Yeah.

MS. KEPPLINGER: Just one comment with respect to the first actions. You've doubled your staff on this chart.

MR. FAILE: Right.

MS. FOCARINO: So that's just a representation of more examiners it would seem.

MR. BUDENS: In response to that, Peggy, just from an anecdotal point at the trench level, I think it's a combination of both the expansion
of the staff but also retention of the staff that
we have, because the retention, as you know, means
the people are moving up in position factor, and
that's increasing the production naturally, too.
So, I think in that regard, that's where the
account systems' effects would be most notable --
would be in increasing the retention of the
examiners.

MS. FOCARINO: The other thing that's at
play also -- if you just look at raw output in
terms of first actions or BDs, the complexity of
the applications is increasing as a total
percentage of the overall applications that are
being done, so you will tend to see less of an
output of more complex cases. So, there are a lot
of things going on here, but I think it's a good
point, Marc, that we can identify by a timeline on
the charts what significant internal events are in
play.

MR. SOBON: I have a question. I
apologize for my -- it's my first time here and
I've spilled water everywhere. It may have been
covered, but I wanted to know about -- on the 
statistics on the chart a bit before that, 
actually two before -- no, that one, yes -- what's 
the relationship between the question that Esther 
had raised about moving applications on the RCE 
docket to these numbers and I don't know that 
we're going back where the blue filings -- did 
those include continuation applications that now 
would be considered RCEs and then would not be on 
the -- would be now off the backlog?

MR. ADLER: My assumption is they're not 
in there, so let's see.

MS. KEPPLINGER: They're in the filings. 
They're in the filings; they're not in the 
backlog.

MR. SOBON: So, the blue continues to 
include the new RCEs, this blue --

MS. KEPPLINGER: That's correct.

MR. SOBON: The blue line.

MR. FAILE: Okay, other -- okay, move 
on? Okay, so over on this slide we have pendency 
per tech center. The average pendency months,
average first action pendency. You can see it's split up for -- delineated by tech center. The total is down at the bottom there.

Okay, on this graph, the dotted lines are the actual targets. You see the blue dotted line is the total pendency target for 11 at 34.5 months and then kind of a chart of the pendency calculated as we started in 10 of '08 all the way up to mid-year of this year and how it charts against that reference line.

The same for first action pendency -- the dotted green line down there -- targeted at 23 months and currently the progress from 10/08 to date. You can see that it's above that line. Obviously on the total pendency we're kind of in and out of our target range, and then we're above it for the first action pendency with respect to the 23-month line for '11. Getting a little bit closer end of February/beginning of March and then starting to rise up a little bit.

Okay, this slide shows the 12-month rolling average of allowance rate by bi-week
beginning in '08 to date. As you can see from the
-- remember back to the first slide, the allowance
rate creeping up slightly? This chart has a
little bit more detail showing month by month how
that allowance rate has moved up to the current
level.

MR. MATTEO: We have a question.

MR. FAILE: Oh, sorry.

MS. KEPPLINGER: I just wondered. I
think you calculate internally the allowance rate
without the RCEs, which is significantly higher.

MR. FAILE: Right.

MS. KEPPLINGER: Since in 30 percent of
the cases you get an abandonment from the RCE,
which counts in the disposals and so counts in
your allowance rate, could you tell us what it is
without the RCEs?

MR. FAILE: It's about 20 -- it's
60-ish.

MR. FITZPATRICK: 62 percent.

MR. FAILE: Sorry, Dave?

MR. FITZPATRICK: 62 percent.
MR. FAILE: 62 percent with the RCEs. Okay, focusing a little bit on the backlog, for this chart on the X axis there you have the age of the cases in months from all the way out to the -- in there from 0 to about 60 and then on the Y axis the numbers of cases in those bands. On the red line there is centered at 16 months, so one of the goals we have this year is taking the backlog that was 16 months at the beginning of FY11 and trying to reduce that, bring that to 0, as close to 0 as possible. And this is kind of looking at -- if you're looking at this chart, you're looking at everything to the right of the red line as kind of the tail of the backlog, so the effort is to try to concentrate our first action power toward that tail to reduce that down to 0.

This is -- I'm sure you've heard of our COPA effort, Clearing Oldest Patent Applications. The target of this particular effort is to get rid of that tail of cases.

MR. MATTEO: So, Andy, this is a snapshot -- current snapshot?
MR. FAILE: Current, yes. So, by the end -- if we were to reduce all those by the end of this year, the oldest case would be 21 months, you know, 16 plus 12.

MR. MATTEO: Okay. And do you have a sense of how this evolves over time -- has evolved, rather?

MR. FAILE: Oh, beginning of the fiscal year, sorry.

Sorry, Damon?

MR. MATTEO: Do you have a sense of how this has evolved over time?

MR. FAILE: The tail -- actually, the tail is scrunched up -- how do I explain this -- scrunched up to the left. Overtime was probably a longer tail to the right. So, we're trying to move everything more toward the left of the graph. So, I think if you -- I don't have the historical data in front of me, but I think you'd see the tail a little bit longer.

MR. MATTEO: Okay, so length of the tail aside, just to grossly oversimplify, volume of the
curve to the left of the line, to the right of the line? How is that changing? Significantly?

MR. FAILE: He's asking the volume of cases under the curve, how has that changed significantly over time, from a historical perspective.

MR. FITZPATRICK: There are a lot more cases to the right of the line. The next slide is showing (inaudible).

MR. MATTEO: I don't think anybody can hear the answer.

MR. FAILE: Yeah, Dave, can you come up?

MR. FITZPATRICK: Hi, my name is David Fitzpatrick.

MR. MATTEO: Welcome, David.

MR. FITZPATRICK: Hi. Just in regard to the -- as Andy was saying, this is the backlog at the beginning of the year. We do have slides showing comparisons to '08 and '09, and you see significantly higher cases to the right of the red line.

MR. MATTEO: Higher cases. Do you mean
volume?

MR. FITZPATRICK: I'm sorry, the age of the cases is significantly higher to the right of the red line.

MR. MATTEO: No, no, I understand how to read the X and Y axis. I'm asking a different question.

MR. FITZPATRICK: Okay, I'm sorry.

MR. MATTEO: So, volume -- maybe we could take this offline, but it is a question I would like to have answered at some point. So, you take the volume under the curve, and since you've drawn the line at 16, what is the volume under the curve to the left and to the right of that line and how has that changed over time. That's what I'm asking.

MR. FITZPATRICK: Okay.

MR. MATTEO: Right. So, what I'm trying to get at is are you attacking a symptom -- i.e., the three cases that are, you know, 800 years old -- at the very tip of the tail or are we significantly addressing the broader backlog
problem that reflects the volume? And, again, I'm simplifying, but that's the nature of the question. If you don't have the answer now, that's fine, but I'd like for us to circle to it.

MR. FAILE: Take a look at it.

MR. FITZPATRICK: Okay. Well, we can get the data and get back to you.

MR. MATTEO: That would be great. Thank you. We think we have a follow-on question.

MR. ADLER: Yeah, it's sort of related. I'm looking over at Jim back there -- Jim Dwyer. Are the cases that are the tail cases, you know, the ones all the way out, you know, 40 to 60 months out, being factored into the QIR data for performance or -- I mean, I'd like to sort of at some point try to figure out why a case might be sitting on an examiner's or a group of examiners' desks for five years without any action. I mean, are you trying to factor that into the performance in the QIR data.

SPEAKER: Can't hear that.

MR. ADLER: Okay, can you hear me now?
SPEAKER: No.

MR. Dwyer: So, just to make sure I understood, the question, is the question: Does the QIR, which is our Quality Index Reporting, take into account as to why cases may be at the 40-plus month?

Mr. Adler: No, not really. I'm looking -- you're tracking outliers in terms of performance both on the plus side and on the downside. Obviously, to me, the ones that are at the tail all the way out are the downside and are those cases being identified to individual examiners to try to figure out what their particular issues might be with regard to those cases and to see whether there's some reason or theme that's going on with regard to why those cases are there.

MR. Dwyer: Okay, again, going back from an examiner's performance plan, if the cases are on their docket, okay, they have a certain period of time in which to move those cases. So, once they're actually placed on there, we know they're
in the process. The question is do we have the
right examiners in the right location to handle
those cases that might be out there? Some of
those cases also may be cases where there's been a
transfer of inquiries.

MR. ADLER: That's what I'm worried
about. I mean, obviously one examiner might leave
and he might give it somebody else and then they
don't want to deal with it and they give it to
somebody else. I mean -- but, is that a systemic
issue, and is that -- how is that being dealt
with?

MR. DWYER: Again, I can't say whether
it's systemic or not. But I do say that the
concept of doing this COPA -- you know, clearing
out the oldest patent applications -- takes into
account for that, because again, like I said, once
we know we've got it on somebody's docket and
their docket is reasonably in the aspect that it's
in -- the tail cases is what they're in -- that
means every case they work on will be those cases
that are out at 36, 38, and 40 months.
MR. ADLER: See, COPA is kind of, to me, a triage, right? You're trying to deal with the ones that are, like, way out there. I'm focusing on quality. From a quality perspective, you don't want them to ever get there. So, you use the data to find out why they ever got there to try to prevent that from happening. That's what I'm trying to logic my way through here.

MR. DWYER: Right.

MR. ADLER: You would have that data.

MR. DWYER: This is not to the blame of a particular examiner not doing cases. This is a situation where it is to matching our resources with our incoming, and that's been attempted over the years using our recruiting. We bring folks in, in areas where we need them. However, typically in the years -- in the 2003-plus, the area where we needed examiners was also where industry needed engineers, so we're constantly competing, and that's where our attrition levels were at the highest. We're right now at more of a steady state, which we have an opportunity to
recapture. But I don't think you can look at any individual examiners as it's their fault that it's out there at 46 months.

MR. ADLER: I wasn't looking at this as a blame thing. I was looking at this as a process improvement question, and I was looking at it as a learning to try to prevent the cases that are on the left of the line from ending up on the right of the line.

MR. DWYER: Understood.

MS. FOCARINO: I know exactly what you -- for example, the transfer process? We are definitely looking at that entire process from start to finish and reengineering it to be able to make sure that the cases aren't just bouncing around. So, I --

MR. ADLER: That's what I would assume would happen to a case that gets pushed that far.

MR. MATTEO: Actually, let me jump in here for a moment just in the interest of time.

Can you hear me? Okay. Got two different red lights here. Sorry about that.
In the interest of time, let me just in
--

SPEAKER: Sorry.

MR. MATTEO: Not at all. Let me jump in here with two things. First, by way of a follow-up, I don't think any question anyone asks here at PPAC is centered around or even hints at allocation of blame. We're really just trying to get a deeper understanding and, to the extent we can, help identify ways for providing feedback mechanisms that support and inform and improve processes going forward. So, that's clearly the intent and spirit of these questions, and we're sorry if it sounded to the contrary, because that's not at all the case.

Having said that, to get us back on track let me suggest that we're already a little behind schedule. Why don't we move through the balance of the presentation, and to the extent that we have high-order questions that we need to surface we'll do so but I'll create a little parking lot here and we'll circle back to you,
Andy, with those questions.

MR. FAILE: Okay.

MR. MATTEO: And if you could get us back the information, that would be great.

MR. FAILE: Sure.

MR. MATTEO: Thank you.

MR. FAILE: Okay, so let me go through the rest of it in the time we have.

Okay, so real quickly, this is kind of our current situation. Again, everything to the right of the red line is what we want to try to clear out this year. And, again, the snapshot at the beginning of the year at 16 months by the end will be at 28 months with the oldest case.

So, this is what we'll look like in the out-years when we have a 10-month pendency goal.

Obviously, you'll have a big line, sending it at 10 months. You don't have a lot of line -- a lot of room to the left to average out anything to the right, so you're going to have a pretty big spike right in the middle there centered on 10 months.

This would be the goal for the future.
The way we get there -- our big effort is the COPA effort that Jim had talked about and Marc amplified on a little bit, and that is the matching of hires to these backlog areas, number one, and also looking at examiners that are related to these areas that may be working ahead of some of the older COPA cases, re-shifting those resources and getting the examiners to work on those cases so we can drive that number back, which I think may have been where Marc's going, a two-fold effort. There's the targeting of hiring to the areas. There's also the movement of work and/or examiners to those areas to try to work that tail back off so we're down into, at some point, our idealized world here.

Quality measures real quick. This shows our rolling 12-month average. Catch up real quick. And slides here. The blue line is our final disposition measure. Our target line in the red, the in-process review.

We have some new quality measures -- I believe members of PPAC have contributed to that,
to which we thank you -- that we're looking at now. Again, our traditional measures are the final disposition in the in-process review measures. We're looking at five new measures to compliment this. You'll see those in the blue, the traditionals in the yellow box there and then the blue. Real briefly, we're looking at a first action on the merits search review, checking the searching of the cases. Complete first action on the merits review and the in-process, they could be first actions, second actions, anything short of allowances or finals. This review would target specifically the first action trying to get the best first action possible.

Jim had mentioned a little bit about the QIR, Quality Index Report. We were looking basically for statistical outliers with respect to our metrics and seeing if we can identify those and bring those back into some kind of norm.

We also have two different surveys, an external quality survey and an internal quality survey. We're going to use these new measures and
kind of come up with a composite index of quality.

So, we'll have a little bit of richer look at
good quality versus our traditional in-process review
and final disposition review.

Quick note on hiring. We're up to about
836 hires for this year. This shows you kind of a
breakdown by technology center. And, again,
linking this back to our COPA plan, targeting
these hires in the areas where we can actually
reduce some COPA cases is obviously a goal we want
to do.

Here's kind of a breakdown of the 836
hires: 761 patent examiners, about 57 in our new
IP experienced hires program, where as a quick
note there we are bringing in examiners that have
previous IP experience -- we're shortening that
training time in the academy, getting them back to
the TCs a little bit quicker -- 57 of those, and
then 18 reinstatements.

There's a 5 percent attrition rate
projected for '11, and I believe currently we are
just a little bit over 3 percent -- as of March, a
little bit over 3 percent. So, doing really well attrition-wise.

MR. ADLER: That's significantly lower than what I recall it was when we asked this question a year or so ago. It was something like 5.7. So, that's -- you're holding on to them. That's a good thing.

MR. FAILE: It is.

MS. TOOHEY: Does the 3 percent attrition rate include retirees and transfers? Does it include it or exclude it?

MR. FAILE: Excludes. Excludes, right? Yeah, excludes.

MS. TOOHEY: Thank you.

MR. FAILE: Okay, the last bullet out of the training academy -- we did a review of the training academy. We had an 8-month program. We got a lot of feedback and did some analysis of that and we have changed that to a 4-month program, which is currently being reviewed to see if that's the right amount of time for an examiner to be in the training program before they
"graduate" to the TCs and start their work there.

A couple of other highlights. We have the Telework Implementation Act. There's currently an Oversight Committee that's meeting. It's comprised of all three unions and management, and they're working out details for the hoteling program, the pilot program authorized by that legislation. The last bullet there -- we are continuing to expand in our hoteling program a target of 500 examiners per year.

You'll be hearing a little bit more about this, this afternoon or a little bit later this morning, so I'll just hit the highlights on our IT resources. We have a patents end-to-end project. I believe Fred and John will be giving you more information about that. Jim will be talking a little bit more about our current reengineering process, which obviously dovetails into the patent end-to-end look, so I'll save that for those guys.

The last line is our direct docketing initiative, in which we look at cases that are
classified with a certain accuracy -- I believe it's about 95 percent correctly placed -- and we just go ahead and straight docket those without going through the actual second-level review, because we've determined that they're within a certain norm, that we can send them right to the examiner's and get going, so that's ongoing as well.

And that's it. There are questions, Damon. Do you want to catalog some questions and we can take them offline and get back to you?

MR. MATTEO: I think in the interest of time we'll move on --

MR. FAILE: Okay.

MR. MATTEO: -- and jump right into the next presentation. And to the extent anyone has questions, why don't you just circle them back to me at some point in e-mail.

Great. Thank you. So, next up I'd like to introduce Fred Schmidt, Associate Commissioner for Patent Information Management, and James Dwyer, Assistant Deputy Commissioner, who will
talk to us about the patent process reengineering effort.

MR. SCHMIDT: Okay, thank you very much.

We're going to begin this presentation by talking about the overall governance structure that we've established to coordinate patent reengineering with our automation patents and project.

Of course, as you know, patent reengineering is one of the major drivers for the IT efforts, and what we want to do is create a governance structure, which is represented by the circle in the middle of this particular diagram, the PE2E Coordination and Operation Group. The idea is to be able to take reengineering ideas, concepts, suggestions from the Reengineering team, which is represented on the left of this diagram, and very expeditiously make a decision as to whether or not we want to go forward with development of IT projects, plans, et cetera, for those reengineering proposals or, if they are simply a change in process and procedure that does not require an IT solution, to again flip that
back to the Reengineering team for implementation.

So, again, focusing on the COG, or the Coordination and Operations Group, in the center, that's the decision-making body that gets its strategic direction from the Executive Management Committee on top, which of course consists of David Kappos, Terry, Peggy, and Bob Stoll. The COG makes decisions on suggestions that come from Jim Dwyer and Christian Chase's Reengineering team. If there's an IT component, then it goes over to the right-hand side of this particular diagram, where we hand it over to David Landrith, who is the PE2E portfolio manager, and you'll be hearing more from David later on. And of course, as appropriate, David will be initiating agile development teams for those IT developments.

The other thing that's really represented by this governance structure is the fact that the Reengineering team as well as COG is trying to solicit input or is open to suggestions from our large stakeholder universe. Whether it's PPAC, the examiners, bar groups, independent
inventors, et cetera, all those groups have an avenue through Reengineering or directly to the COG group to provide suggestions to improve operations in patent reengineering as well PE2E IT developments.

So, again, we wanted to set this up again so we didn't have to go to the top of the rock to get David Kappos' approval for every single reengineering change or IT development that we wanted to make. This really expedites the whole process of implementing reengineering changes.

So, if there aren't any questions about this governance structure that we've established, I'd like to turn the floor over to Jim to really go over the status of some of the reengineering initiatives that are underway right now.

MR. BUDENS: I do have one question, Fred.

MR. SCHMIDT: Sure, Bob.

MR. BUDENS: Who -- what is this COG composed of? Who's all on that Coordination
Operations Group?

MR. SCHMIDT: Yes. The COG consists of representatives from patent business. Peggy's on that team. Jim's on it. I'm on it. David Landrith is on it. Marti Hearst is on it. So, we've got representatives from CIO, patent business area, finance areas. And of course Jim is represented on that team as well from the Reengineering team, so he brings perspective directly from the Reengineering teams, which of course are heavily involved with end users.

Does that answer your question, Bob?

MR. BUDENS: Yes.

MR. SCHMIDT: Okey-doke. All right, Jim.

MR. DWYER: Morning. I'm just going to start off with a real quick background.

Obviously in any reengineering process you're looking to streamline that application process. And again as background, we've been looking at the application starting process all the way through issuance. And from that, right
now we have 19 working groups that are exploring
the processes that we felt had a good capability
of making some advancements, and with that 12
additional teams were working on some of the
processes that came out of the working groups to
implement.

As all teams are designed around this
concept of basically process mapping, identifying
problems, looking for solutions and prioritizing
those solutions, and then reporting out those
deliverables, which include the last deliverable
to the COG. Most teams -- those 19 teams are in
the third and fourth stages of best process, so
we've got a pretty good -- we're moving forward on
a lot of these. We've identified a few other
teams along the route that are probably still more
in the first two bullets, but the majority are
along the way.

Specific ones that we're working on are:
Color drawings -- one is to eliminate petition
requirements for color drawings. Classification
and transfer -- and this goes back to Marc's issue
with respect to some of those cases that may be
out there on the 42-month range and so forth; that
is, what are they; why are they out there. One of
the things that we've come to in our
classification team is the transfer inquiry, and
this is where examiners or supervisors wishing to
move cases around based upon that they don't
believe they have the examination resources or the
right resources to examine it. So, it's moved to
other supervisors. And the recommendation is a
central examination support unit, on which I'll
get into a little bit more detail later.

Another team is one that's been
designated to enhance the technical knowledge of
examiners, and this is a thing that used to happen
naturally when examiners were in search rooms and
so forth and they had a good relationship. We
were a smaller organization, and we didn't have
two or three thousand people hoteling. So, this
team is kind of interesting. They came up with a
very proactive concept, and this is basically
delivering. So, when an examiner opens up an
application for the very first time, with it will be an enhanced technical knowledge system that would give them information as to what other examiners may have been working in this area, and it's proactive and it's real time, so it actually could go back to an examiner's outlook schedule or whatever it might be and give the normal times this examiner works and so forth. So, again, it's basically -- we found it a more passive system where an examiner would have to go out and search. It doesn't happen very often. But if they're given all those resources of where they need to go and who has that expertise in that particular area, there is a better chance that they would use that. So, again, this is one of the teams.

Central Reexam Unit. We validated the current process and the IT requirements. And this is going to be the pilot for PE2 architecture. In other words, this will be the first time that examiners will have text and text tools available. Again, we're going to try this out in the Central Reexam Unit.
Okay, other areas we've looked at are:

Pre-exam -- we've looked at things that have been serially processed and we can now parallel process to improve their timing. One of those items, licensing and review, is now in parallel.

On post-exam, we've come to the conclusion that a lot of the things in post-exam are eGrant, and eGrant's been, I think, here before, and this is a PE2E initiative.

Two other items here are: Restriction practice. This is a team that started in the Reengineering and the DCPEP team took it over. They are looking at a lot of interim measures, and they're also working on a request for comments on unity, which to my understanding will be out shortly.

Double patenting is also another one we've looked at. We looked at Rule 105 requests that are being used in some of the technology centers.

And we've also looked at the TD processing. We currently have a cleanup in
process of those, but also in a long-term aspect
we're looking at an ETD, kind of like the
ePetitions. This would give the ability to fill
out online a terminal disclaimer where they would
get instant notification that the TD was
acceptable, and we believe that will, obviously,
cut down cycle time. And right now we have --
about 20 percent of our TDs are returned because
of some level there, so we would hope that would
improve that piece also.

Okay, on the Central Examination Support
Unit, just some quick details on this. It's a
virtual business unit. In other words, this is
not somewhere where we have to move examiners.
Examiners that are either on detail or assigned to
this would simply stay in their same office. They
could be managed remotely through a virtual
business unit. The functions of these -- get to
the next slide -- they're basically to support
patent operations. We've noticed in the
reengineering anything that is not the normal
path, anything like reissues, reexams,
interferences, and classification disputes, these things cause things to go off track and they get delayed, and the hope here was to put them into a Central Examination Unit where we could manage and use the technical abilities and legal abilities defined for that specific function.

MR. BUDENS: Okay, I've got to cut in here, Jim, because I want to make sure I understand this one. Are you talking about creating basically another unit similar to the CRU and now you're going to take reissues and interferences and stuff away from -- out of the Examining Corps and move it into this central unit?

MR. DWYER: Let me go to the next slide. That might help you a little. Here's the functions. Yes, the concept was to take applications that examiners rarely see, like, a reissue -- I think we typically get around a thousand or so, and we have 6,000 examiners, so you can do the math -- that examiners don't see these very often and when they do there's a
situation where there's a lot of rework in that and mistakes are made because they don't know the processes well.

We have a lot of oversight currently with TQASs reviewing their work and giving it a lot of the kickback. And I think statistically we've seen that the average number of actions per disposal of a reissue is 4, which is well above the 2.4 that we are for regular cases. So, the theory behind here is that once you've done a few reissues and you become -- if you understand the oath requirements and so forth that are necessary with the reissue, you won't need the oversight nor will you be making those mistakes.

MR. BUDENS: This raises a serious issue for me, because I know when this was brought to us originally -- and I know it was brought back to you all, but we were very much opposed to this kind of scenario initially, POPA being -- because of the reissue/issue, I'm concerned about reissues and interferences in the sense that the person who is most familiar with those kinds of cases is the
examiner who's doing those cases not suddenly getting it to the point of a reissue or an interference request and suddenly taking it away from the examiner who knows and understands the technology and handing it to somebody who may know interference practice but doesn't know that case, doesn't know, you know, what the past history of that case is or what have you. And I think -- I know that we put in a lot of comments opposing this particular idea in favor of putting resources in the tech centers who can, you know, assist the examiners so that we don't, you know, have four actions for disposal, which I agree needs to be rectified. But I'm not sure this is the path to go, and I'm just -- I was very surprised last night when I was reviewing these slides to see this particular thing here, because I hadn't heard anything more out of the reengineering issue on it.

MR. DWYER: Okay, noted. Just to continue --

MR. MATTEO: Excuse me, we have one
follow-on question.

Esther, please.

MS. KEPPLINGER: Just one follow-on question to that -- they're more observations rather than questions but, to Robert's point, I think that the GS scale for examiners is -- you know, some of it, the fundamental groundwork is based on some of the complicated issues that the examiners handle, including reissues and interferences. So, that's at least something that should be taken into consideration --

MR. DWYER: Yeah, we've considered that.

MS. KEPPLINGER: -- since reexams have already been taken out.

And, secondly, while the CRU is a good idea, it's not necessarily been the rousing success, because it's received a lot of criticism for being slow, and the petitions in particular, so at least consider enough resources and things to continue to process things expeditiously.

MR. DWYER: Understood. Other functions out of the Central Exam Support Unit are cases
that may be sensitive, that need a little bit of extra care where somebody needs to maybe put a little bit more time in the search and so forth.

Surging technologies is an example of -- occasionally we'll have a change -- "nano" technology is another example as is voice-over IP where we get a tremendous number of applications in a short period of time and getting people who are technically competent in those areas and up to speed quickly such that, you know, they can deal with things like interferences that occur when you have a surge in technology where the prior art really isn't out there yet -- it's all in patent applications -- and having that centralized.

MR. BUDENS: How do you -- I'm sorry, Jim, how do you think putting a bunch of what you're trying to turn in to generalists into this group is going to help us deal with an emerging technology? I mean, the best thing you do is you get examiners who know that area and you create an art unit with them or you do something like we did with Business Methods, like we've done with nanos
kind of spread around, but, you know, or in the case of Biotech, when it became an industry we created an entire tech center for it. But to suddenly sit here and think you're going to have a Central Examination Support Unit that's going to be able to handle emerging technologies I find a little difficult to swallow.

MR. DWYER: And you hit it right on the nail. That's why this concept is virtual. You can bring people into this unit. In other words, if it takes three examiners -- like, nanotechnology is a perfect example where you can have examiners on a virtual issue where they work partial examination in their normal docket, but they also are involved with nanotechnology and you can manage it from a central location. So, you know when you're doing classification and you know the number of resources when it's all spread out.

You don't really know how wild of a project you might have or what type of beast, so to speak, you have until it's centralized, so that the concept here of being virtual is that these
can come and go quickly. And if an emerging
technology is finally situated, you can hand it
off back to the TC as a whole with it now totally
managed and ready to go as opposed to what we saw
in the software area, specifically business
methods. It got off to such a bad start, because
it was kind of all over the place, and then 'til
we found out and tried to manage it, the thought
process here was to be proactive, to have a unit
ready to go, and to recognize it.

And it goes into this issue of the
classification dispute transfer, because that's
typically where you start to see technology that
doesn't fit. You know, it's not mine, so it goes
to somebody else, and it's not theirs, it goes to
this unit. The unit starts to recognize that,
hey, we do have an emerging technology and then
can explore that emerging technology and try to
find out what the future filings look like in that
area and what type of resources we need. So, it's
a management tool to be a little bit more
proactive.
Going into the --

MR. MATTEO: Jim, if I could just

interrupt by virtue of a time check. You guys had

requested 10 minutes on this topic, and we're --

MR. DWYER: Okay.

MR. MATTEO: -- way beyond that. I
don't mean to be dismissive. It sounds like

there's a lot more here to cover. So, one of the

things that I'm going to suggest -- and I'll use

this as a segue into that -- is that for several

topics it feels like we might want to constitute

outside of the quarterly meeting deep-dive

sessions on several topics, and we can set up a

PPAC phone call to make that happen. We may want

to identify this as one of the topics we cover in

one of those deep-dive sessions.

It doesn't feel as though we're going to
get the level of quality conversation and depth of

understanding necessary in the 10 minutes that

we've allocated, so if you don't mind, if you

could just hit the highlights, we'll move on with

the promise to return in deeper detail, please.
MR. DWYER: Okay. Going back to the --

I'll make it one minute here -- ongoing efforts.

IDS -- and that's what Esther had brought up about McKesson and the like -- there's a team working on that.

Applicant office interface -- that's to improve the interface between applicants and give them a little bit more ability to manage their dockets themselves with respect to changes and the like.

PCT -- we're looking at reuse of work.

Sequence listings -- that's the bio area. Trying to get a handle on that. Internal data requirements to better manage our quality and efficiency. An example of that would be right now we do not know how many interviews have been requested versus how many have actually occurred. So, you know, in PE2E we hope to have solutions, so we'll have the denominator how many requests. And then technical support staff is basically looking to see where our employees need, as we do PE2E. Some of these are automated.
We'll need folks in different areas. So, it's just basically looking to retrain that staff as needed.

So, thank you.

MR. MATTEO: Great. Thank you very much. What I'd like to do now is -- we'll take a five-minute break and reconvene at 10:30 with the OCIO update. And do we have John here?

(Recess)

MR. MATTEO: We're about to start our next session, the OCIO update, and that will be led by John Owens. John, if you would, please.

MR. OWENS: Thank you, sir. So, I'm going to tell you a little bit about what's going on with the CIO in their work to support patents. We're going to start with Examiner Docket Performance Plan Improvements.

This is to one of our largest automated information systems -- or AISs. It's called PALM. And it's a critical system that's been around for quite some time, so while we're doing this we're also improving its stability and performance by
upgrading the system altogether.

But just to recap, this was a negotiation between the Patents business and POPA over the summer, and it was approved in October of last year. Some of the major features -- we have Auto Count for GS-12 and -13 employees; new docket categories separating incoming work from additional work on the docket workflow calculations, in fact several calculators to help employees manage their time and performance; pay period calculator as well as the award calculator to let them know they're doing; as well as new docket, new office action integration, and the separation of EFS Web from the rest of the infrastructure for support purposes, which was kind of tangential but it's critical based on the amount of -- the incredibly complicated environment that is in this area.

So, as we're looking ahead, we're going to do auto counting in OATS. OATS is the Office Action Tool introducing the new docket categories and new workflow calculations.
And the PALM Reporting System will be fully online at the end of April/May time period with the last two things that we're going to introduce, which are those reporting calculators that I had mentioned prior.

So, this is critical to us moving forward with keeping our system up and running and operational while providing the best feedback we can between the Patent Office management and the actual employees and how they're performing and doing their job.

Next I'd like to talk a little bit about ePetitions, and this was a little initiative actually inspired by Marti Hearst, our chief IT strategist as well as the Patents Business. To take common types of petitions and put them online, eight of them to be exact, and see if we can get more electronic filings and automated processing so these don't have to clog the desks of the folks who normally handle petitions.

I'm not going to read them all off, but I am going to take this opportunity to introduce
Randy Green, to my right, who I'm going to ask to
give you the current stats. This product was put
out. It has been in use now for a couple of
weeks, and we think it's a pretty big success, and
we can grow upon its success to provide even more
in the future.

Randy?


As a little background, the Office of Petitions
every year is processing approximately 35,000
petitions, and these are all being done manually,
by hand. Obviously, when you process that many
petitions you run into cycle time issues, and a
lot of the reliefs that are being sought by the
users are not actually in place until such time as
we grant them.

We were approached as part of the
Office's overall goal of reducing the backlog and
the pendency and asked if we could automate
petitions. We worked with John's group here in
the CIO. As he indicated, Marti, helped us get
this launched. And we were successful in
automating eight new petition types. They were listed on there.

It's important to note that in automating, it helps us because our growth in the Office of Petitions is approximately 7 percent per year in filings. So, it's an ongoing issue of staffing up, getting the training in.

The petitions that we automated with this go-round represent 31 percent of the total petition decisions done by the Office of Petitions per year. We already had two previous types out there, petitions to make special for age and the unintentional late payment of a maintenance fee. Those were 12 percent of our filings. So, if you combine the two and all of the ePetitions that are out there, it now represents 43 percent of the total work done in the Office of Petitions.

The advantages of automating it are fairly straightforward. The most significant thing, it allows -- if we could users to recognize this and use it regularly, it frees up our already well-trained and existing staff to work off the
other backlog. So, it's a nice double win for the Office.

What we would like to do is demo one of the types that we did, and one of the most popular ones in the Office, one of the most commonly used that we're going to show you, is an automated petition to allow you to withdraw as attorney. There are approximately 7,000 of these processed in the Office per year, so this is a big one. Plus the important thing, for those who may not be familiar, with the withdrawal of attorney you can file it but you're still responsible for the case -- keeping it alive and prosecuting it -- until such time as this petition is granted.

Currently today when you file it, there are multiple places in the Office that process these, but it can take anywhere from one to two months. By doing it this way you get an immediate change, and you get immediate relief.

So, we're going to demonstrate -- I see they're still working on our demo over here.

Well, while they're getting that ready,
I'll give you some more stats I wanted to give a
little bit later on.

Director Kappos -- these deployed on
March 28th, the eight new types -- Director Kappos
made it aware to the public on Thursday. I
believe it was April 2nd, or that might be the
wrong day. It was Thursday. He sent out a blog.
And then there was an e-mail transmission sent out
to roughly 7,000 people who have signed up to
receive these.

I went back and pulled a little bit of
information from last week's data before we came
over. In the very first full week of usage, the
withdrawal of attorneys -- now we had 400, I
believe, already in the House that were in paper
format. So, it slowed down.

Percent of the withdrawal of attorneys
granted last week or processed last week were done
electronically.

The more important withdrawal from
issue, the ones that already had a patent number
assigned, which are the most critical to get out
because they're getting ready to go out the door as a patent, 63 percent of those were processed last week using this new electronic petition format.

So, we think the uptake is going to be big. We've done some things along the way to make it easier for the users, and we made all these as a pass/fail so that if any time you're going through the process if there's anything that's deficient we will tell you what that deficiency is so that you can get it fixed and get success the first time through.

Okay, Ramesh, we're going. First thing I want to show you is this is our typical PALM screen. If you're familiar with the way the Office works, we have two major systems. One is PALM to track our workflow, and the other is the electric file wrapper.

What I want to do is show you the PALM here. We're going to demo -- we're drawing attorney and application No. 11872512. Click the attorney/agent info button. In this particular
scenario it shows you all the attorneys of record, gives you their registration number, and note that they've got a customer number. Whenever you are appointed by customer number, you need to withdraw by customer number. We set the system up to allow people to withdraw individually if you are named individually, and we set it up to do by customer number.

So, we wanted to show you the screen before, because we're going to come back to this a little bit later to show you the changes.

And, Ramesh, if you would show them the inventor address, please.

This is the current address of where all the mail is going. One of the things that we're going to do as we get -- well, I'll explain as we get there.

Let's flip over to the petition. In order to use these, you must have a PKI certificate. We made all of these so that you have to be a registered user. You will log in the normal way you do. You'll put in your PKI
certificate number and you'll log on.

This is the standard preexisting EFS screen that you will see. When you come down, you'll notice there's a button here that says "existing applications/patents." You'll click that. Now, this is where you can provide additional information, but there's a new button noted "ePetition," and this is a new change for us. When you bring up the ePetition, you will now see a listing of all the petition types that are available to be done electronically. We did this in hopes that when people go in to use it for whatever -- withdrawal of attorney, withdrawal from issue, or whatever else -- you'll see all the other various types that exist, and that way you'll be aware of them, because otherwise they're just kind of out there and it's the luck of the draw.

So, in this particular case, we're going to request a withdrawal of attorney of record. You'll put in the application serial number from which you want to withdraw; and then we're going
to ask that you put in the confirmation number.

The reason we're asking for the confirmation number is that it is very easy, we have found, for people to transpose numbers accidentally, and if you put in the confirmation number, it's kind of a nice backup system there. You'd put in the name of yourself as the attorney, and you'll put in your registration number.

Okay, and you'll scroll down and will hit "continue onto the next screen."

Now, if you look at the top button -- pull that just a touch, Ramesh, please -- this is application data. Here you'll see listed everything that's relevant to the case: Your application serial number, the title, your inventor's name, your customer number. And if you'll scroll on down a little bit, Ramesh -- and what you're going to do at this point is you'll start filling out the data.

Now, important to note, these are Web-based petitions. The original two petitions we had for age and late payment of the maintenance
were PDF-based. PDF-based is where you would go on line, download a form from our Website to your personal computer, fill it out. Then you had to sign in, attach it, and submit it. Under the new Web-based scenario, once you log in, you're going to do everything live, real time at the Website, at the PTO Website, and then you'll submit it and you're done. So, that's an important point.

So, we're going to walk you through this. We're going to ask for data. These are data fields. You're going to give us some information. That's then going to auto-populate the petition form, which we'll show you in a second.

So, you'll check that all petitioners are here. You'll give us whichever reasons why you're withdrawing. And then the three things that are required are that you've given reasonable notice to the applicant; you've delivered to them whatever they're entitled to; and you've given them all the necessary responses.

And now you have to make a choice. This
is something that we did as requested in the Office of Enrollment and Discipline. One of the things that we found in the past happened quite a bit, and numbers I heard were as much as 30 percent. When we were allowing people to withdraw, we did not always necessarily have the most current addresses for applicants, because if an application's in the office for years the people may have moved or relocated, so we had stale addresses. A lot of these were being returned to the Office.

So, what we're going to do now is have the person come in and put in the most address for us so we've got a higher rate of success. So, we're going to put in the first-named inventor, their street address.

Ramesh keeps changing it so that I can't find where he lives.

And then we're going to come down, and you have to sign now.

One thing is important to point out. We have a lot of checks behind the scenes that we're
not showing you here. If at any time the
application number and the confirmation number
don't match, you'll get an error saying you've got
a mismatch, so you can correct it. If you
inadvertently type your registration number wrong,
you'll get an error message saying you've got a
mismatch. So, we make this to where when you go
through it's all correct and you go forward. So,
we go through. If you were to not use the proper
eSignature address, we can fix that.

Okay, Ramesh, thank you. Okay, now,
this is showing you -- this is the "confirm and
submit." This is the last step before this
actually gets granted automatically. Again, the
same data. In phantom -- it may be a little hard
to see on the screen, but everything that you
checked on the previous screen is being shown
there.

Okay, we'll move this on. Keep going
down, Ramesh.

If you need it, you could hit the
"petition request PDF." It will show you the
actual application itself.

And going on, if you hit "submit" -- and at this point, this is where the application is actually being granted. It's going a little slow. But in order to save time, what will happen at this point -- okay, it's checked all the information. If you'll notice, the attorney/agent info, if he refreshes this, the attorney/agent has been removed. If you click the address, it will show the address that all future correspondence will be going to.

So, that's just an example. All the other petitions work the same way.

Okay, John?

MR. OWENS: Thank you very much. So, little demo about the things we're doing to make things a little bit easier -- would you hit the button, thank you -- and a little more efficient for the office.

So, just a quick update on the Universal Laptop Program. The Universal Laptop Program is going very well. We have already started rolling
out to the business units. The Office of Human
Resources was one of the first. We are on track.
We're delivering approximately 50 of these a day
four days a week at night, and then we're ready to
handle issues. This is a very hands-on process,
because we have to sit down with each individual
examiner or customer the way we look at them and
manage the moving of all of their data off of the
legacy system. So far, everyone that has received
them, almost bar one -- and you can see Mr.
Kappos' public blog -- are very happy with their
new devices and the performance that they offer.
PALM slowness -- several people may have
noticed that particularly on count Mondays we have
experienced some slowness with various systems.
They're all related to slowness that we have going
on with PALM. We are upgrading the system today
in a major way, migrating it not only to a new
more modern platform but upgrading several key
components, including Oracle. This work is going
on right now as we speak and should complete by
the end of the month. That will lower the rate
down well below the 80 percent acceptable threshold down to around to 60, which is where it should be.

I'm going to skip through that. Now I'd like to introduce you very quickly to David Landrith. I've talked on a number of occasions about how it was important to build the folks here at the USPTO's technical capability. That is because I do not believe in a mix of all contractors or all federal employees but a healthy mix of both, and we certainly had a lack of technically capable senior leaders as well as technologists inside the USPTO. And David is one of the best hires we've had to date, and he is the portfolio manager, the top dog, for the Patents End-to-End Program from the CIO's perspective. He has a very good pedigree of experience in related material, including legal processing, and I'm going to turn it over to him, and he's going to tell you a little bit more about the focus we're putting on Patents End-to-End.

David?
MR. LANDRITH: Thank you, John. We have two major deliverables that we've handled so far with Patents End-to-End. The front-end prototype and vendor selection is the first deliverable that we have. We engaged three vendors to do a substantial amount of research, and they created clickable prototypes of multimedia presentations, and we opened those up for evaluation by the Examiner Corps, and we had a tremendous level of participation. We had more than 2,000 evaluations submitted.

We selected, based on those evaluations, two teams that have a complementary skill set and who were focusing on specific areas. They've been working together for the past several months. We've completed the March deliverables. Obviously, we're in progress for April, and we're gearing up to create a critical mass of user interface designs and information architecture information so that we can proceed with development.

So, the next stage -- we're going to be
planning to go through September, and this will align with the implementation of the fiscal year '11 deliverable for Patents End-to-End.

The second deliverable was the prototypes for implementations. So, we engaged three vendors to create a series of prototypes and sprints to implement the Happy Path for patent examination as a sample to evaluate their work. What we found was that the vendors favored technical priorities over business priorities. So, they didn't succeed in actually providing a cogent business-oriented solution. The evaluations that we performed validated the observations that we made when the prototypes were demonstrated. So, the concerns that we had at a high level of the organization were very much in line with the detailed examination that was provided.

So, we evaluated on more than 400 different factors, and based on that we gained some insight into architectural alternatives that we'll be leveraging for the patents and solution.
It also clarified the requirement process, actually identifying more than 400 evaluation factors and evaluating solutions based on them. It did a tremendous job of clarifying what we need to look for and how we need to shape a successful solution.

It also aligned the business vision with the technical vision. It's frequently difficult to have technical folks understand that technology is a means to an end rather than an end to itself, and especially in an organization as diffuse as this one it was amazing to see the degree of alignment that was reached among the different parties in understanding how the solution that we're going to deploy needs to address business needs and needs to be in tune with that context.

So, this is the timeline for the fiscal year '11 development. The major dates are -- 5/6 would be foundational architectures, and so those are going to be fairly specific for the stuff that we planned to develop immediately and we'll add
clarification as we go along. The date that we're shooting for to begin development is going to be June 6, and we actually hope to beat that, but we are managing a mountain of contingencies to get there.

The environmental build-out is already underway. We have the development environment built out now from the OS level down, and we're proceeding apace to gather requirements and make sure that the other environments for different levels of testing and for deployment will be in place.

And on 9/17 that's the date that we plan to release to the Central Reexamination Unit.

So, the scope of this release will include a case listing the statuses. This would be a lightweight docket. It's a to-do list for the examiner. There will be a segment devoted to document viewing and analysis tools. That will include a case table of contents. It allows document groupings. It will display relationships among documents. It will have a text-based
representation of all documents, so every document
in the case would be represented as text and will
allow the documents set within the case to be
searched.

We'll also have a structured patent
application representation so that while it will
be viewable as a unified document, it will also be
decomposable into the separate aspects, abstract
claims, figures, prior art.

We're going to have an examiner note
tool. This is going to be a major feature,
because it allows examiners to attach notes to
claims, documents, cases; and these will be
structured in such a way that it will allow
examiners to record the pieces of information that
will ultimately populate the office action so that
when we move to deploying the office action, it
will be pre-populated with content from the notes
as a starting point.

We'll have a claim analysis tool that
displays claim by grouping. That would be, like,
a dependency tree claim type, and claim tracking
and management tool that allows them to view -- changes the claims over time. The status -- they've assigned the claims as well as attaching bibliographical information.

So, the key resources that we're bringing to bear on this from a governance level -- we have a Coordination Operations Group. We have a dedicated team from Patents and a variety of support needs from the CIO office and that we'll be obtaining from vendors. And the risks that we have that we're managing -- we are -- obviously availability of the USPTO resources. We're paying careful attention to the contractor support that we need to make sure that's lined up. We already discussed briefly the hardware environment and then managing the data life cycle to get the information in text so that it's usable within the system.

And that's --

MR. GREEN: That's all we have.

MR. LANDRITH: Great, thank you very much. Do we have questions from the floor?
MR. ADLER: This is all good. I have one question. The Examiner Note Section -- is that a temporary note, or has that become part of the file wrapper, the final case? Is that, you know -- that's a legal question, really.

MR. LANDRITH: Right. That's a good question. So, it does not become part of -- what's currently called the file wrapper is what we're calling the table of contents. So, the notes are going to be specific to examiners. They're not temporary, because they are persistent over time, but they would not constitute part of the patent --

MR. ADLER: Legal record.

MR. LANDRITH: Yeah, the legal record.

MR. ADLER: Ester, please?

MS. KEPPLINGER: I just wondered about the impacts, the budget impacts, on what you've laid out. Are these costs already taken into account in the current budget?

MR. OWENS: They were certainly part of the current budget request. However, the CR has
brought that all into question. And I would say
that very much of everything the CIO does will be
put on the table to continue to support payment of
resources, a.k.a. paying examiners. And I would
expect a large impact to the CIO budget here
shortly. So, to answer your question, it puts it
all in jeopardy.

MS. KEPPLINGER: Do you have any idea of
prioritization? I think -- there were questions
earlier about the laptop delivery. I think that
was before you had come. And of course you've
already got those, so I think the answer was that
those would continue but this program might be in
jeopardy?

MR. OWENS: Actually, I have some
photographs that I've used when talking to folks
on the Hill of lots of hardware sitting in the
warehouse. However, to personally deliver 50
laptops a night, take the phones and computers off
the desks, deploy the new laptop, migrate all the
data is a very, you know, expensive proposition.
There's an entire army of people that literally
storm a floor that do this at night. That is in jeopardy. That hardware will sit there and I will lose warrantee time on that hardware. So, I would say that as far as prioritization goes, Mr. Kappos knows all the good work that we are doing to facilitate the growth and stability of this organization, and he and I of course, along with patents management and other management, trademarks, et cetera, will work very hard to make the best choices, but those choices will be extremely limited based on the funds. And I don't have to speak for the CFO, but I'm sure those in the Financial Committee can tell you that the largest amount of money in play in the USPTO, when it comes to budgetary constraint, has been and continues to be the CIO's office, because the rest is largely to pay people. I mean, our money goes over 70 percent for pay. So, it will have a large impact, and I don't think anything is critical, it's sacred, but I am trying to work with the best way that I can to provide the stability to the agency and continue progress under the these
continued difficult economic times.

MR. ADLER: Follow-on question, Michele?

Oh, you looked like you were poised to say something.

John, we very much appreciate the presentation. We'll look forward to circling back to you when there's some more clarity around the budget situation. It will be very useful to see what the priorities are as they emerge. And again, to the extent that there's anything we can do to help or facilitate, by all means call on us.

MR. OWENS: Thank you.

MR. ADLER: Great. So, our next presentation will be Assistance to the Inventor Community, led by John Calvert.

MR. MAULSBY: Well, good morning, everyone. I am Richard Maulsby, the newly minted Associate Commissioner for Innovation Development, and I have been here at the Agency for 17 years, and during that time as the Director of Public Affairs our outreach to the Independent Inventor Community has always been part of my portfolio.
Undersecretary Kappos and Commissioner Bob Stoll made the decision about a year ago to take our ongoing Independent Inventor Assistance Program to a new level by creating a new position to expand upon the many great things that we have been doing here for, gee, the last 15 years or so. It was Todd Dickinson during his tenure who first started the program.

We will continue to do everything we have been doing. We're going to do new things and more things. Our outreach will include to the small entity largely the university community. We'll be working more closely with women entrepreneurs and inventors and other minority groups around the country and building much more closely aligned with the goals of the Obama administration in regard to encouraging innovation in America and entrepreneurship.

In that regard, we have been participating in the Startup America forums that have been going on around the country.
Terry Rea have both participated in those forums
that have been held in Durham, North Carolina;
Austin, Texas; Boston, Massachusetts. We are
still going to be doing one out in Silicon Valley.
We have one upcoming in Pittsburgh and in Atlanta
a little bit later on in the spring, and not only
will one of our principals be there but we will be
there with materials for those people that
participate in that.

We had a very successful women's
symposium a month ago. We had 100 women who were
here as innovators and entrepreneurs, small
business people. We intend to build upon that
going forward with other groups in the near
future.

At this point, I'd like to turn things
over to John Calvert, who has been, for many
years, handling our Inventor Assistance Program,
to give you a little more ground-level view of
some of the things that we have been doing.

Two quick notes. We do have copies of
our Inventors Eye electronic newsletter, which is
now in its second year. We started off with about 3,000 subscribers; it's up 6500 right now. My goal by the end of the fiscal year is to increase our subscribers of that publication, which is bimonthly, to 13,000.

Also, this afternoon we'll be doing our bimonthly online chat for independent inventors from 2 to 3 o'clock, where we gather together a corps of experts from our Agency to answer questions online from inventors.

With all of that, I will now turn it over to John Calvert.

John?

MR. CALVERT: Thank you, Richard. Can you all hear me okay? Okay, we have a lot of different things that we do for inventors, but one of the first things we always try to do is do customer interaction. We do that a lot of different ways.

First of all, we have, as you all are well aware, an Inventors Assistance Center line, a 1-800 line that anybody can call, and while it's
not directly under our control, it is a very good tool that we use, and we tell our people that we talk to out in the road that this is where they need to call and ask for information.

We also have an Independent Inventor e-mail address. It's independentinventor@uspto.gov. We have a number of people that answer that. Right now we're down around 60 current e-mails to be answered. We try to keep that as current as possible. There are times when it gets a little backed up, but this is something -- we actually answer those e-mails, give the independent inventor small businesses advice.

I'll talk a little bit more about the Inventors Eye newsletter in a minute, but that is a very good outreach effort for us. It gives a lot of information. And as Richard said, we do online chats, and one of the things that we have on our Website is a listing of all the online chat transcripts that we've had ever since we started. I believe they're all by category as well as by
the date, and one of the things that we're proud
of -- at one time we had one hour to answer these
questions. Sometimes we get as many as 2 or 300
questions, and we've answered over 120 questions
in one hour, which is quite an output when you
think about it.

The next slide I have is the Commerce
Connect -- is Inventors Eye, and the month that we
did this, this was our lead story. It talked
about the Commerce Connect, different ways that
inventors and small businesses can get information
at one stop from the United States government at
the Department of Commerce, Commerce Connect.
Each one of our Inventors Eye has three stories in
it, usually a lead story, which in most instances
is from the Under Secretary's office, or one of the
commissioners will write a lead story. We will
then have some type of news story that gives
people the information. It tells more about
what's happening in the Office.

A story about what we call the "Spark of
Genius" -- it's an inventor, and each one of those
and I'll talk about that in a minute, what we have on this particular issue of January of 2001. But there always is some underlying feature within that story. It's a tip for the inventors. We also have a tip or advice line, and we have events and networking opportunities for inventors.

In January of 2011 our "Spark of Genius" story was about a woman who had invented a step stool that was used in public restrooms. It's a permanently mounted step stool for public restrooms for children to use, but it also gets out of the way for adults to use that same sink. One of the things was that she and her husband had gotten together with a product designer, a product engineer to help them design their product, and once they had gotten some allowable claims they went back to that product engineer and asked them to see if they could design around the patented claims, and they were able to -- or the designer was able to, so he filed a continuation. That's the type of thing that we want to let independent inventors know, that sometimes they have to do
something beyond what would be normally thought of
as just filing a single patent application.

A few months ago, people were asking
where we had Web assistance for independent
inventors. We have a tremendous amount of
information on our Website marketed toward our
Independent Inventors and Small Business people.
We also have a little bit of computer-based
training on there, which is a video. It's 50A
compliant. It's about 20 minutes in length. It
gives independent inventors and small businesses
basic knowledge on what they should do when they
come up with an idea. We have other videos
waiting to go online as well. And just to show
you, this -- it's not very clear here, but this is
the page that -- if you look right underneath the
banner, there's a dark blue, almost a black line,
and one of the headings there is "Inventors." If
anybody clicks on that particular item, they will
get this drop-down window that has a tremendous
amount of information on it, including complaints
and information about invention promotion
companies, which is one of the things that we monitor and post all the time.

A few years ago when I was out on the road doing university outreach, which I'll talk about in a minute, some professors asked if there was anything we could do to assist them in getting some information for their freshmen or their first-year engineering students. After a lunch meeting with these professors, we decided to put together a set of videos that students could download through iTunes. We now have four videos up on iTunes. We have a few things on YouTube, not that we produced but were produced by the universities. In fact, one year when we were doing a lot of recruiting I was the number one hit for about two weeks at University of Illinois, Urbana-Champaign, because I was talking about what you need to do to become a patent examiner, and there were a lot of hits on that. We have a number of videos that we have produced and others to come in the future.

One of our biggest things we've been
doing for many, many years is the Independent Inventors Conferences. For the last number of years, we've been doing them here at the USPTO. We hope to take those on the road. We feel that, you know, to have everybody come here is nice, but we seem to see the same people over and over again. So, it's time for us to get the word out to other parts of the country. We had done those -- you know, the first few were around the country. We did one in Chicago, one in San Francisco, one in Houston. And we have done a number of them on the East Coast outside of the Washington, D.C. area. But we really think that this is a big tool, that we can impact a lot of inventors and get them a lot of information. We have worked with some of the congressional districts to get outreach to them. We plan to, in the future, provide not only government resources but state and local resources in congressional districts. We had one planned, but due to financial constraints we were unable to continue with that plan.
I was in Wyoming last week -- just to
give you an example, I was in Wyoming last weekend
doing a conference for Senator Enzi. It was a
town of 2400 people. But we had 60 independent
inventors and small businesses in attendance at
that conference. So, it was a very good -- it's a
good outreach effort for us.

We're also going to look at doing
two-day regional conferences. We have done those
in the past, and they draw about as many people as
we do when we have our national conference.

As Richard said, we do a lot of
university outreach, and I'll just kind of give
you an idea. In 2006 we started our University
Outreach program with ten universities in the fall
of that year, and in that spring we did 15
universities -- 25 total universities. By the
academic year 2008/2009 we had initially planned
to visit 92 universities, ended up visiting 74.
Again, that was because of the budget constraints.
In that year, those 74 universities we saw in
about five months on the road, two of us, and
talked to about 11,000 students, our total expenditure was less than $32,000. And if you figure that out, it's less than $3 a student that we saw. So, it's a very, very good opportunity for us to get information out on a very low-cost basis per person we talk to.

We continued last fall. When we thought we had a little bit of money we did 22 universities, saw about 3600 students, and a lot of these 22 universities were new places that we had not been before. And some were repeats. But, again, it's a good opportunity for us.

I did a little research the other day. There are 371 universities and colleges that offer engineering degrees in the United States, and if you look at that, we've only been to about 80 of them. We've got a lot of work to do to get everybody on the same scale as these few that we have reached out to.

I also made faculty and staff contacts while I was at universities, and the other person that does the outreach with me also made a lot of
contacts. We talked with tech transfer offices, and we are now dealing with a consortium of five major universities to try to ask or to get them to, in their first-year engineering and their senior-year engineering components, have a module on intellectual property, a search module, so that students will have a little bit of a knowledge of when they actually get out into the real world and start working.

In 2009 you saw how we didn't do any outreach. Again, that was because of fiscal -- you know, our financial constraints. So, we did outreach to universities virtually. We set up a studio in the bottom of one of the examining buildings and talked with a number of universities. We contacted well over a hundred universities, and because of the constraints with the electronic equipment in the universities, we were not able to do as many as we had hoped to do, but we have people calling us every year asking us if we can do another one at that university. In fact, one of our big ones is at -- every semester
we do an outreach effort with the University of Texas at San Antonio for their business and entrepreneurship programs.

And I think that's all I have. Anybody have any questions?

MR. MAULSBY:: I do want to add just one thing. There's a wonderful new organization called the National Academy of Inventors. It is made up of inventors who are associated/affiliated with colleges and universities, and we are just starting to work with this group. So, I think going forward, one of the things we'll do more or when we go out to colleges and universities is actually meet with some of the inventors who are affiliated with those colleges and universities.

MR. MATTEO: Louis, please.

MR. FOREMAN: First off, Richard and John, I need to applaud you for all the work that you do for the independent inventor community. The feedback that I get from them is that the PTO is much more approachable, much more friendly than it's ever been in the past. So, the work that
you're doing is actually generating results.

But my question and, actually, comment
is how do we tie metrics to what you're doing so
this way we have a case to ask for more funding?
How do we tie the outreach to more patent filings,
more job creation, more innovation that's going
into society and therefore we've got a compelling
reason to make sure that your budget isn't cut --
John, that you've got enough money to travel to
all these universities and reach out to those
engineers?

MR. MAULSBY:: Well, I mean, that's a
great point, Louis, and that's certainly going
forward and we talk about taking this program to
the next level. That's one of the things that we
have to do.

I've started to have some discussions
with some of our folks here about how we can in
fact develop measurable metrics that would better
chart the impact of the work that we do.

I don't know, John, do have any thoughts
on that?
MR. CALVERT: Yeah, there are a couple of things. The only way we were able to measure these things was numbers, pure numbers. How many people do we reach out to? How many questions do we answer? How many people that we see over and over again that file applications? But it's a really hard thing to do, because you may be out in Torrington, Wyoming and see 60 people. How many of those are actually going to file patent applications after a one-day -- you know, short seminar on intellectual property. It's a difficult situation, but we have to figure out how we can do that.

MR. FOREMAN: Yeah, and I think one of those numbers also is the patent applications that are not being filed because you've educated the inventor, that maybe their subject matter is not patentable, and we're not tying up the system with garbage patents. So, I mean, I think that's another metric that we should look at -- is by educating the Independent Inventor Community, probably avoiding some of the scam companies.
They're not being exploited and we're not filing -- or they're not filing, you know, worthless patent applications.

MR. ADLER: But you could track the names of the people who attend the conferences with the names of the people who get granted patents subsequent to having attended your conference. I mean, that would be a way to track it.

MR. CALVERT: That's one of the ways we can track it, absolutely. Now, one of the things that we think that -- right now with a two-type of filing system that, you know -- the large entity and small entity -- there's no way that we can track how many independent inventors are actually filing applications, because it's -- unless you go actually -- go into it and physically look at every application that comes in. But with the potential change in law that allows us to capture or have micro entities, that may assist us in capturing more data and getting a better idea of what kind of impact we really have.
MR. MATTEO: Thank you very much. Any -- yes, one more question from the floor.

Wayne?

MR. SOBON: I was curious on your outreach to the universities, which is great. Have you thought about or are working with other organizations and in particular -- I would think it would have to be done carefully -- involving local practitioners to come and assist and leverage and develop training materials so they could, themselves, participate in some of these training courses that would be part of science and engineering coursework? It would be great to just be able to leverage people who are local in those areas to be part of this effort.

MR. MAULSBY: Well, I think -- you know, one of the things -- we were just talking about this yesterday, about the idea of bringing people from universities in here for training just as we do with the librarians that are associated with the Patent and Trademark Depository Library program. That's one thing.
You know, we do want to work more with AUTM, the Technology Managers people. And again, this new organization, the Academy of Inventors -- I've been very impressed with them in our dealings with them so far. But, boy, that's a good point. I appreciate that.

MR. CALVERT: Now, I have worked with the AIPLA. I'm actually on the Public Education Committee. Unfortunately, every time there's a meeting, I'm on the road. I have not been able to make any of the meetings yet, so. But I have talked to some of the people on the committee, and that's one of the things we'd like to do as we can see how we can work it together.

I do want to mention that last week we had a -- I don't want to name a university, but we had a major university in here last week that's putting in a Master's -- a professional Master's one-year program into their curriculum to help train or help educate people that could potentially take the patent bar or come to work at the USPTO with a Master's degree with intellectual
property already involved. If that happens, I can see that going to a lot of different universities and really becoming a major impact that will help us reach out to these universities and help the USPTO.

MR. MATTEO: Great. Thank you very much.

MR. CALVERT: Thank you.

MR. ADLER: Any other questions from the floor? Thank you very much, gentlemen. So, let me introduce a nontrivial change in the agenda. We've had some time chipping. So, what I'm going to suggest is rather than take a lunch break now as scheduled reconvene, have a 10-, 15-minute session and then end the public session. Considering it is fairly early, why don't we run the public session to ground, draw that to a close, and then do our lunch break? So, any objections from the floor? Seems like a more efficient way to use our time. Okay.

So, one of the other items on the agenda was if and to the extent we got public questions
to field them. Since there were no questions to
field, we get a pass on that, so that will save us
a little bit of time as well.

One thing I did want to mention for the
benefit of whomever listening in, the people at
the Patent Office, we had a working session
yesterday at PPAC at which we discussed a number
of things -- our objectives but also the notion of
continuing these topical teams where we identify
different topics of interest to PPAC, to the PTO,
and hopefully to the Innovation community. And
our strategy here is to identify a PPAC member or
two that would lead each of these areas. They
would form partnerships with the PTO counterparts.
They would be the go-to person for this and will
continue to move that forward, and hopefully as we
move forward in the year we'll have more of these
presentations become joint presentations -- PPAC
and PTO -- rather than simply static reporting.
And my anticipation is that will help avoid some
of the surprises, the protracted efforts to
develop understanding in and around these topics
as we can make them more joint and more collaborative.

On the heels of that I think there's a realization here that -- certainly my realization -- that it's not possible to go into any meaningful depth for any of these topics. So, what I'm going to suggest is that we tee up and I'll throw out a straw man here maybe once a month -- and we discussed this yesterday as well -- a focus session on a particular topic of interest, whether it be timely and ad hoc or whether it be an ongoing or a major issue. So, some of them might include updates, vis-à-vis the OCIO after the budget is more certain, revisiting the whole notion of the process reengineering. I think, personally, it would be good to have a focus session on some of the operational work. A lot of the stats are presented, but without the appropriate context -- in particular, trending analysis and the background for the assumptions for the data -- it's difficult for us to grock; I suspect it's also difficult for the public to
grock. So what we'll do is we'll set up an
operations deep-dive session as well. My hope and
intent is to make all of those, or at least as
much of those as possible, public sessions so to
the extent anybody in the public has interest in
these, they can benefit from it as well.

Okay, so what I'd like to do at this
juncture, since we don't have any more matters
before us, is open it up to the floor for PPAC.
If you have any wrap-up comments or questions that
you'd like to add, please do. Anyone?

Very good. All right. So, with that,
I'd like to adjourn the public session, and if you
could cut off the public access to the microphone,
that would be great. Okay.

(Whereupon, at 11:29 a.m., the
PROCEEDINGS were adjourned.)

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

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