PARTICIPANTS:

PPAC Members:
DAMON C. MATTEO, Chair
MARC S. ADLER
D. BENJAMIN BORSON
LOUIS J. FOREMAN
ESTHER KEPPLINGER
MICHELLE LEE
WAYNE SOBON

Union Members:
ROBERT D. BUDENS
CATHERINE FAINT
VERNON A. TOWLER

Also Present:
Peggy Focarino, Patents
JANET GONGOLA, Patent Reform Coordinator
AZAM KHAN, Deputy Chief of Staff
DAVID LANDRITH, Portfolio Manager
JOHN OWENS, Chief Information Officer
ANTHONY SCARDINO, Chief Financial Officer
JAMES SMITH, Chief Judge, Board of Patent Appeals
TERESA STANEK REA, Deputy Director of USPTO
PARTICIPANTS (CONT'D):

ROBERT STOLL, Commissioner for Patents

TOM STOLL, Congressional Affairs Specialist

BOB BAHR, Associate Commissioner for Patent Examination Policy

NICK GODICI
CHAIRMAN MATTEO: I call to order this public session of the Patent Public Advisory Committee.

My name is Damon Matteo, the chairman, and what I'd like to do is introduce around the table the members in attendance. So perhaps we can start on my left and work our way around.

MS. FOCARINO: Okay. Peggy Focarino from Patents.

MS. KEPPLINGER: Esther Kepplinger, PPAC.

MR. FOREMAN: Louis Foreman, PPAC.

MR. ADLER: Marc Adler, PPAC.

MR. BUDENS: Robert Budens, PPAC.

MS. FAINT: Cathy Faint, PPAC.

MR. T. STOLL: Tom Stoll, PTO.

MR. BORSON: Ben Borson, PPAC.

MS. LEE: Michelle Lee, PPAC.

MR. SOBON: Wayne Sobon, PPAC.

MR. R. STOLL: Bob Stoll, PPAC-PTO.

MS. REA: Terry Rea, PTO.
CHAIRMAN MATTEO: Thank you very much, everybody. As is my habit at the beginning of every meeting, I do like to repeat the fact that PPAC membership was invited to participate on the basis of their wide perspectives and different constituencies. But, of course, all of us here leave our hats at the door and we represent only the interests of the PPAC and the PTO. So, we all speak from that perspective alone. I do want to remind anybody who's either watching online or on the phone that both the agenda and the presentation materials from today can be found on the PTO website, and to the extent that anybody has any questions or comments during the course of the conversations today, we can receive e-mails at askPPAC@uspto.gov. We won't be able to answer those questions real time, but in the breaks we'll make an effort to get those questions answered for you. All right, and without further ado, what I'd like to do is introduce -- let's see, who's speaking for the PTO -- Terry? All right, Terry Stanek Rea will provide the comments for the
USPTO. Thank you.

MS. REA: Thank you so much, Damon.

It's an honor to be with you here once again. I am very, very proud to always participate in these PPAC meetings. These are very talented, focused, hard-working people who have the best interests of the PTO and the stakeholders in their minds when they're spending all the time away from their day jobs and families to participate here today. So, to those of you who are viewing this Webcast, I do hope you know how much time and preparation goes into these meetings, not just on the side of the PTO but by each and every one of these PPAC members. Their talents are truly appreciated, and their dedication should be appreciated not just by those of us here in the PTO but from all of the user community.

Now, the PPAC, we count on them providing their unique talents and keen insights, and we do follow their guidance. We take their oversight and their comments seriously, and we attempt to sort of change our direction in terms
of developing best practices and expanding our focus and our outreach.

Now, we're in a new era right now, a new era of cutting-edge tools. We're looking for innovative jobs and next-generation industries. So, our job and our task right now is quite serious, and that makes the cooperation not only between the PTO and the PPAC vital but between the PTO, the PPAC, and the entire user community. We have candid conversations here. We look at what's left to do. We try and focus and prioritize all of our many, many issues.

I also want to take a moment to thank, on my right, Bob Stoll and on my far left, Peggy Focarino for their leadership and insight and vision, because they, along with my boss, Director Dave Kappos, are really the drivers of the Patent side of the office, and I think they do an excellent job. Our statistics are ever, ever increasing, and those will be provided later, but I think that things are going in a positive direction, a positive slope, and we're trying to
increase that rate of acceleration.

I have a few landmark initiatives that I just wanted to very, very quickly highlight. We're always trying to improve quality while trying to manage compact prosecution. So, whenever you hear about our acceleration initiatives, keep in mind that Bob Stoll and Peggy Focarino have created some very, very good quality metrics to be certain that we maintain the highest quality possible while being more efficient with our reviews of patent applications.

We have the Green Tech Pilot Program, which is very, very successful, as well as our Peer-to-Patent Initiative. Recently we expanded our First Action Interview Pilot Program to cover all of our technology centers. To those of you in the audience, the First Action Interview Pilot Program -- if you are not familiar with it, I strongly recommend that you look on the PTO website, because you have an opportunity to engage in discussions with an examiner very early in the prosecution, and our statistics demonstrate that
there are less actions needed per application if
we do engage in this very early dialog.

We also are doing an awful lot, as I
indicated, with the Green Tech Pilot Program,
where we're making significant investment in
cleaner energy technologies. And so far with
Green Tech -- that's something I'm particularly
proud of -- we've had -- more than 1,900 petitions
have been actually granted, and we've issued over
350 patents to date. Our 350th patent related to
a configuration for a new model of a wind turbine
housing. So, to those of you who work in the
green energy area, I also strongly recommend that
you look at this program. You can have
accelerated review of your application without
paying a fee.

We also, I'm pleased to report, are
going to celebrate the issuance of Patent No.
8,000,000 on Thursday, September 8th, and we're
very proud of that, and we hope that many of you
will observe and read about that ceremony.

We also wanted to say that patents are
truly the vehicles for all companies and innovators, and we know how important the patent system is to you, and we know how efficient we have to be, so as I mention frequently we're always constantly retooling our IT infrastructure. We've recently modernized our petition system. The Patents Dashboard as well as the Trademarks Dashboard give you real time, live updates; give you quality metrics on a lot of what we're doing. We're streamlining our MPEP and TMEP so that once again you can see updates and changes more quickly. Our community Wiki is also being developed, as well as we're coming up with a faster set of examiner search tools where examiners will be able to identify information earlier and just to make our overall patent examination process more efficient.

Probably the most important thing that we're doing right now, however, is working toward communicating and advising on the America Invents Act. I do think it's time that we revised our patent laws to follow this ever-changing, rapid
technology and this very critical business environment. So, we are optimistic that the bill will be on the President's desk hopefully sometime in September, and we are working to build the bipartisan support so that Act actually occurs.

You will be hearing from my very talented colleagues shortly, Janet Gongola, and she's actually -- I guess you could call her the patent reform zarina right now within the Patent Office. (Laughter) And it's her job to make sure that we have a smooth, timely implementation of everything that we are to do within the Patent Reform Act. You know, it sets out an awful lot of tasks for us here at the PTO. We have a lot of changes to make, and we want to be very careful, and we want to make the best decisions possible. But we also want to make sure all the trains are running on time, on target, and that's going to be Janet's goal. So, I would pay special attention to her portion of the program.

Let's see, Bob Stoll is doing an excellent job in reducing the backlog. I'm going
to steal a little bit of his thunder and as of yesterday our backlog is now at 682,367. So, we were celebrating breaking that 700,000 number, and now we're seeing a rapidly decreasing slope, and we're really catching up with the patent backlog. And I think that Bob Stoll and Peggy Focarino should really be applauded for their efforts now, because all of their frontloaded hard work is now coming to fruition. So, as that number goes down, I guess we'll quit celebrating at some point; but for the moment, we are still fully enthused and we'd like to see that number continue going down.

Let's see, I think once again just thanking the PPAC for everything that they've done, for continuing to collaborate and to communicate with us. We are going to be working with PPAC rather closely once the America Invents Act actually gets enacted into legislation. We want the guidance not only from PPAC but from our entire user community. So, please also pay special attention, as Janet will likely be telling you, to the PTO website, where we have a specific
site dedicated to the implementation of the America Invents Act, and we are soliciting your input and ideas early, because we're going to have to move very, very quickly when we send out our notices of proposed rulemaking.

And with that, I wanted to thank you and thank you, Damon.

CHAIRMAN MATTEO: Great pleasure, Teresa, thank you so very much. I always enjoy your comments.

And I'll have to make a comment of my own, Janet. "Patent reforms arena." I definitely want a copy of your business card. I need to see that for sure.

Actually -- I'm sorry -- I just got late-breaking news here. Whomever has a cell phone near your microphones, if you could move it away, we're getting some sort of feedback. So everybody move. (Laughter) Unclear who it is. Good. Thank you very much.

So, without further ado, his thunder slightly diminished, Bob Stoll will speak to us
from Patents.

MR. R. STOLL: Thank you very much, Damon. Good morning, everybody. How's everybody doing this morning?

GROUP: Great. Good.

MR. R. STOLL: Good. Well, I think it's going to be an interesting meeting today to talk about a lot of the issues facing the United States Patent and Trademark Office.

I first want to thank Terry for her leadership and involvement in patent issues. She has a strong background in patent issues and is engaged in everything we do, and Peggy and I both appreciate Terry's involvement and her guidance in issues related to patents.

And I want to thank the PPAC. We've been working very closely together on many projects. Marc helped us very much so with our quality evaluations, and I think that they are moving in the right direction, and we're seeing a lot of great things there.

People are consulting on all different
types of issues. I expect a very active year this
year, particularly if, as planned, the bill AIA
gets brought to the floor of the Senate in the
first week -- beginning next week -- of September,
which I anticipate will be brought to the floor;
and I think we're going to have a lot of work and
a short time frame that Janet will be talking
about later.

I also want to talk about the fact that
we are in fact dropping below 700,000 applications
in our backlog. That's a big deal. We have a 4.2
percent increase in filings and anticipate that
through the end of the year, so we are actually
making more progress than it actually seems from
the numbers themselves. Our allowance rate is
also going up because of our compact prosecution
and cooperation between applicants and examiners,
and we're now seeing about a 47.1 allowance rate.

So, those are the things I want you to
carry away from today.

Patents is moving in the right
direction. I expect that we'll be working very
hard to actually undertake more efforts. Terry said that we were very close to our goal and we'll make it by the end of the year for our COPA program. I would say we may make it by next week, and we are in discussions with our unions about maybe adding a kicker to go even further so that can actually reduce those even more before we enter the next fiscal year.

With that, I'd like to just turn it back over and let's get rolling and answer any questions we might have as we go along. Thank you.

CHAIRMAN MATTEO: Thank you very much.

Appreciate it, Bob.

Next up we have the legislative update. On the PTO side we have Tom Stoll, and on the PPAC side -- where did he go? Oh, here he is, Wayne Soban.

Thank you very much. Please, if you would.

MR. T. STOLL: Thank you. Just wanted to start by saying I'm the quieter member of the family.
I'll try to speak up. (Laughter)

Speaking of stealing thunder, my first slide addresses H.R. 1249, and of course everyone knows it passed the House in June of this year by a vote of 304 to 117. And as was mentioned, the Senate is expected to take up the legislation in early September. Senator Reid filed a motion for cloture before recess, which means the Senate can take up that motion to invoke cloture when it returns, which would cut off debate at 30 hours and significantly limit amendments that could be filed to the bill. And so it's very likely we'll see a vote on cloture on the 6th, assuming there's no pre-season game or presidential debate that would interfere, which I don't think is going to be a problem. So, we could see the Senate vote on the bill as early as later in the week or the following week, and it could be on the President's desk by mid-September. So, that's pretty exciting.

And as was also mentioned, we have a lot to do under the bill. There's a lot for the PTO to do. There's a lot of rule making...
implementation of those rules, and there are several studies, but I'm going to leave it to Janet Gongola to give you the details about, what we need to do there, and about our website page that's been created to help us collect the input from the public on the recommendations of how we should implement the legislation.

So, what other legislation is pending before Congress that's IP related? Well, there's S.968, which is -- it's got a great long title -- Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, and it's got such a long name because that makes it have a cool acronym: PROTECT IP Act of 2011. And the reason this legislation is being enacted is because law enforcement, DOJ working closely with the Department of Homeland Security in connection with Operation In Our Sites, has been working to take down illegal websites that sell pirated content or counterfeit goods to U.S. consumers online. And in taking down these sites they discovered there has to be,
of course, a U.S. connection that these sites have. Most of the sites that we've been going after so far have been .net or .com and so we can go to the U.S. registry and serve a court order against them to seize the domain name, which effectively blocks all access to that site no matter where you are in the world. But we have no authority -- law enforcement has no authority at this point to go after websites that are owned, operated, and registered overseas. So, what this legislation does is provide DOJ with the authority to go into court and get an order that would require the ISPs to block access to the sites by U.S. consumers, or get an order that would require search engines to not produce the website as a search result. It also authorizes both the U.S. Attorney General and private rights holders to get an order that would require payment processors -- credit card companies and the like -- to block payment to these websites and also block ad brokers from providing additional revenue as well. So, that legislation has been marked up in the
Senate Judiciary Committee. They passed it on May 26, and we're also expecting that the House is going to introduce a related bill in the coming months.

Another piece of legislation that's pending in the House is H.R. 2511, and it's titled the “Innovation Design Protection and Piracy Prevention Act,” and it essentially establishes copyright-like protection for original fashion designs. And that's been referred to the Subcommittee on IP Competition and the Internet.

So, my next slide is USPTO Funding, but I'm going to hold off and not steal Tony Scardino and Bruce Kisliuk's thunder here. So, I'm just going to skip to the next slide. It's going to make my talk go a little quicker.

All right, so telework. Telework legislation passed last year, and we've been spending that time developing operating procedures that would allow PTO employees to live remotely and not have to travel back on a regular basis to the PTO. And we've been working with the unions,
and there are MOUs now signed with the USPTO
unions. Those were signed July 5th of this year.
And implementation begins within 30 days once we
get approval from GSA to implement our telework
program, and we're excitedly anticipating that
that will happen soon, and we're looking forward
to that.

And with that, I'll take any questions
you might have and turn it back over to Jim.

CHAIRMAN MATTEO: No questions? Okay.

So, with that, why don't we move to the finance
update? Tony Scardino from the USPTO.

MR. SCARDINO: Good morning. Thank you
for having us.

I kind of want to go through an overview
of where we are from a funding a situation, and
then Bruce Kisliuk is going to actually walk you
through some slides.

I always like to start out with the big
picture of Fiscal Year '11, '12, '13, because
we're always living in two and/or three fiscal
years at the same time: The current year and the
year that you're debating with Congress on, and
then the one you're planning for, which is '13.
So, for '11, today marks, obviously, the beginning
of the last month of the fiscal year, so we are
operating at $2.09 billion, which is a little bit
less than what we're actually going to collect in
fees this year. So, we will, unfortunately, not
be able to spend somewhere between 70-, $80
million of fees that we collect. If AIA passes,
as we all know that's hopefully going to correct
the situation we've dealing with the last couple
of years, but we'll go through that in later
slides here.

What we're really worried about or
concerned about and planning for right now is the
Fiscal Year 2012. It's most likely that we're
going to be living under a continuing resolution.
Theoretically, Congress could pass a bill that we
think will have a continuing resolution. Will
that be for four weeks? Eight weeks? Six months?

Nobody knows. We're planning for right now within
the administration I think seven weeks, but I
don't know if there's anything definitive about
that. I think that's just right now what people
are planning for. It affects our life as well as
any federal agency's, but ours tremendously
because the President's budget request is $2.7
billion while the CR rate would be $2.09 billion.
That's a $600 million swing.

Now, many things could happen under a
continuing resolution. They could put in an
anomaly for us. An anomaly could be access to
full fees, as we collect, as I mentioned, more
than 2.090 this year. We could also get the
President's budget request, some pro rata amount:
2.7 billion times, let's say, with 6-month CR,
we'd get half of that. Or they could -- Congress
could enact something somewhere in the middle,
give us just the surcharge authority, 15 percent,
or they could just give us Track One authority, or
they can give us none of the above. We don't know
what's going to happen. Nobody does. I would
argue that no one on the planet actually knows
what's going to happen in this appropriation cycle
after the debt limit ceiling and everything that we've been going through over the last few months. So, it makes it challenging.

CHAIRMAN MATTEO: Excuse me, Tony?

MR. SCARDINO: Yes.

CHAIRMAN MATTEO: If I may, are there existence proofs for all of those scenarios you laid out?

MR. SCARDINO: Yes. In fact, we work very closely with Director Kappos and under Deputy Undersecretary Rea on things like that. We're kind of in a holding pattern right now, in fact, that you plan for the worst and hope for the best.

CHAIRMAN MATTEO: Actually, I'm sorry, I meant -- clearly you're planning for the different scenarios. I meant are there existence proofs. In history have all those scenarios played out?

MR. SCARDINO: In history at PTO or just any organization?

CHAIRMAN MATTEO: I'm trying to get -- you laid out a number of different scenarios.

MR. SCARDINO: Yeah.
CHAIRMAN MATTEO: I'm trying to get a sense of if they've ever --

MR. R. STOLL: Some have.

CHAIRMAN MATTEO: -- advanced a little bit further.

MR. R. STOLL: I mean, for example, we have anomalies before. We've also not been included in anomalies before.

CHAIRMAN MATTEO: Right, right.

MR. R. STOLL: We've all of that in certain ways happen, probably not all together (laughter), but hopefully they'll be more enlightened this time.

MR. SCARDINO: Yeah, it's difficult to speak for, obviously, a body as diverse as Congress. When people say "Congress," they're thinking well, Congress will support this or they won't. Congress has 535 members, so no one can actually predict what they're going to do. I do know that anomalies have been challenging over the last few years for all federal agencies. They're trying to pass very clean bills when they do a
continuing resolution, which I think puts pressure on folks in the administration and Congress to then pass an appropriations bill. But, again, that's my personal opinion, not even my CFO position.

So, as I mentioned, you know, there are various scenarios that we're planning for. The challenge, of course, becomes trying to meet our strategic plan goals, the administration priorities, pendency and backlog issues with patents. If we can't hire more people, we can't really meet these goals. If we can't pay for overtime, we have less productivity. So, that's where the challenge has been, and, you know, Bob reminds me in a very subtle way once in a while that it would be nice if we could turn some of these back on such as hiring in overtime. So, that's our goal. That's certainly Director Kappos' goal. Once we know -- and if AIA passes in a couple of weeks -- then we will start to turn things back on judiciously and prudently. You know, there's a lot of work to be done between now
and then and then after then of course implementing the bill. But if we do have the search art authority 10 days after the bill's enacted we could start charging surcharge, which means more money would be coming in and then we could spend more money.

So, while we're delivering all of this, we're trying to plan for Fiscal 2013. It's very challenging to do so when you don't know what your funding level's going to be in 2012. Still, that's how all federal agencies are operating right now. Our budget request to OMB is due September 12th. You've all seen or been provided drafts. We met with the Budget Subcommittee yesterday, went through the details of our budget requirements for 2013, as well as our estimated fee collections. We will be working within the administration with OMB. Very soon after September 12th, once we give it to them, they'll be asking us questions and things will crystallize a little more firmly, I guess, when we actually know whether AIA passes or what our funding level
for '12 is at least for the first couple of months. Our concerns are with the first quarter, of course, because that's when most likely we'll be living on a continuing resolution.

So, having said that, Bruce is going to walk us through a few more details on what I've just given an overview for.

MR. KISLIUK: Okay, thanks, Tony. I'm going to go through what is our standard checkbook, and it really points to our collections and our spending for '11, and then I'll talk a little bit more about our '12 and '13 plans.

So, on the fee collection side, of course we've been projecting ranges to allow for some of the assumptions. But of course, as the year goes on, there's a reality that it could start standing out within the range. Right now our current estimated projection on fee collections for the agency is 2,169 million. And as a reminder, we're only authorized 2,090. So, right now our projected unavailable fee collections would be about 79 million.
On our patent surplus, which would be another way to describe carryover, again we have a range. In July, when we had our meeting our estimate was around 40 million carryover for patents. We are in the end of the year. We're starting our, like, end-of-the-year sweeps. We anticipate that number will go up. Don't know exactly how much more, but of course anything that we can carry over from '11 into '12 will help our position, particularly in early '12.

And then on the obligation side, that's the split between patents and trademarks, and any gain we get in carryover from the 40 million that we estimated in July will come from the fact that we are not spending as much as we thought we would mostly due to the number of cuts and holdbacks we have, just to be conservative.

Tony mentioned a number of these things in '12. As we go into our plans for '12 there are a lot of unknowns. So, we are currently establishing our program area, hiring, operating, traveling, and unfunded plans in line with the '12
budget. We, of course, anticipate going in under a CR -- and, like Tony said, we are trying to run a number of scenarios. We are hoping for the best, planning for the worst. And, of course, the carryover we have in '11 helps our position in early '12.

It says there "Hold USPTO to FY10 spending levels."

That's actually -- in a CR would be FY11 spending levels. It's the prior levels that are typical CR if we don't get an anomaly.

We did revise our '12 fee collections. Our original estimate was 2.7. We are now at 2.618. And again we anticipate passage of the AIA, and there are actually two things -- either 15 percent is in the AIA should that pass; it is also specifically pointed out in the draft House Approps language, the 15 percent. So, there is a possibility that if we don't get AIA we could still get the 15 percent in Appropriations language. That's just right now on House side.

We don't know about the Senate side.

And we did meet with the subcommittee
yesterday on the '13 and we'll be having further
discussions on the '13 budget, and Tony will
mention the timing, so we do have it due to OMB so
that there's kind of a timeline on the process for
FY13.

That's all I have. Thank you.

CHAIRMAN MATTEO: Thank you very much.

Okay, so then why don't we move to the discussion
of the America Invents Act? We have a change of
players here. We'll give them a moment or two.

And joining us will be Janet Gongola,
the Patent Reforms arena, and Azam Kahn. Welcome.

MR. KHAN: Thank you. I'm just going to
start out really quickly. I know everyone is
excited to hear from Janet, so -- but I wanted to
join Janet today first to offer to this committee
my services. Director Kappos and Deputy Director
Rea have asked me to help coordinate, from the
front office, interactions with this committee as
we move, hopefully, through the implementation
process here in the coming weeks, months, years
ahead.
And so I am Azam Kahn. I'm the Deputy Chief of Staff to the Under Secretary. And as I've reached out to this group offline, I wanted to make that offer here today to coordinate both substantively as well as operationally with this committee as we move into operations. I'll be working very closely with Janet on, really, the whole package that she's about to present, and without further ado I will turn it over to Janet.

Thanks.

MS. GONGOLA: Well, thank you very much for inviting me to attend today and present about our implementation efforts on the America Invents Act. I also very much appreciate Deputy Director Rea's support and confidence in me, as well as Director Kappos'. We want to make this a collaborative effort between the agency, our PPAC, as well as our stakeholders. So, with this, I'd like to start; as soon as my slides are available, I will begin to talk about. My focus is on the process that we intend to follow.

I won't talk too much about the
substance of the various provisions, in part because we are still working out the details of how we will be implementing the various provisions. It would be premature for me to talk too much about substance at this point, but I want everyone to understand the process that we will follow, particularly where we will need input from our PPAC as well the public at the large.

CHAIRMAN MATTEO: And this is a work in progress, correct? The process that you follow -- they will co-develop collaboratively.

MS. GONGOLA: The process is completely a work in progress.

CHAIRMAN MATTEO: Right.

MS. GONGOLA: And at this point if the public or PPAC has any suggestions, I welcome them, because we want to keep the trains running on track to meet our various implementation deliverable dates.

CHAIRMAN MATTEO: So, you'll find we're not particularly bashful about taking advantage of offers such as Azam and you have made? (Laughter)
So, we'll definitely be reaching out to you for logistical and resource support and, Janet, of course, working with you collaboratively to help you make this happen and the reality where you can embrace the PPAC feedback and, in particular, the feedback that we can get from our different constituencies.

MS. GONGOLA: Thank you. I would expect nothing less --

CHAIRMAN MATTEO: And you'll get nothing less.

MS. GONGOLA: -- and I very much appreciate your willingness to do that for us. You all have my contact information on the last line I believe. So, please, don't hesitate. I give you my e-mail address, my telephone number. I'm available to you at any point in time that you want to reach me.

Okay, now that our slides are available. Okay, I won't go into a lot of the history, because Tom Stoll has explained the status of the America Invents Act. In anticipation of the Act
passing sometime in the month of September, we have begun gearing up for implementation. Since some of the challenges that we face -- we are going to be asked to implement numerous provisions simultaneously. I count approximately 10 different rulemaking and other ancillary activities, 7 studies where the agency is responsible for leading them, 2 studies where the agency will serve as consultants, and 4 distinct programs that we must get up and running within a certain period of time.

Now, turning to time, the implementation of the America Invents Act is staged. On the side I list for you -- there's a period of three windows. One I'm calling the Date of Enactment window; the next window is a 12-month implementation; and, finally, the last window is 18 months. So, the implementation efforts won't happen all at once. Applicants will not have to change their practices all at once. It will be a slow rollout over a period of time so that everyone has a chance to understand what changes
are being taken and what how they can participate
in those changes.

Now, we also will be asked to coordinate
extensively within the PTO as well as outside of
the agency. Coordination efforts within the
agency involve multiple business units, as well
with our unions. We will be engaged in efforts to
have teams, which I'll talk about momentarily,
comprised of various business unit representation
so that everyone's on board as to what is
happening with our implementation efforts.

And then externally on the side I list
the various agencies outside the PTO that we must
collaborate with. This particularly arises in
connection with the studies that we will run.
Certain studies ask us to be involved with the
Small Business Administration, the Attorney
General, the Department of State, and the U.S.
Trade Representative. I'll talk more about that
when we hit the slides. But this isn't just a PTO
effort. Other agencies must get involved to aid
us in this implementation.
And then, finally, we have numerous operational matters that we will be confronting: Staffing, automation changes, guidance and training to not only our examiners but to the public at large so everyone is on the same page as to what is required in how our rules and regulations will be changing.

So, how do we prepare ourselves for making these implementations? Well, we have organized the agency in a hierarchical structure. At the top of the structure is what we are calling our Patent Reform Task Force. A task force is being headed by Mr. Kappos, and we are planning to have weekly meetings to discuss issues that affect all of the business units. We also would like the business units who partake in those meetings to sort of be the ambassadors for patent reform, carry the message in the implementation activities back into their units so that there is consistency across the agency, and that all business units understand what's being required and the deadlines for those requirements. We want this effort to be
complementary throughout the agency and never at
odds with each other. So, the task force is
designed to ensure that that will happen.

At the next level down we have what is
called the core team. The core team is made up of
the leaders of the three working groups: Patents,
the Board, and Finance. The core team is
responsible for filtering out some of the
decisions that would rise to the level of the task
force and coordinating between the three
principally affected areas on the patent reform
provisions. We envision the core team meeting on
an as-needed basis, perhaps multiple times a week,
to ensure that we have the consistency that I'm
talking about throughout implementation efforts.

And then, finally, the working group
level is the nuts and bolts. Those are the
numbers of the agency who will be preparing the
rulemakings, preparing the guidance documents,
making the MPEP revisions that will be required
for implementation, as well as conducting all of
the internal and external training that would be
involved. I will be involved at all levels of this to ensure that we have consistency and that the communication channels are open between the working groups, the core team, and the task force.

Now, I talked a little bit about the staged implementation. This way it gives you a better picture -- No. 5 -- of exactly what activities will be happening at what points in time.

Now, I won't talk about the specific provisions that are going to be staged in this rollout, but what is important to understand is that the -- I'm calling these the Group 1, and this becomes important when I go down and talk about some timelines that I'll show you in a moment. But the Group 1 activities and rulemakings, not all -- what's important here is not all of them are rulemakings. Some of them will involve internal guidance documents, MPEP updates, or simply no action on the part of the agency at all.

For example, the first, the
Re-examination Transition for the Threshold, that will be a rulemaking where the agency goes out directly with a final rule explaining the change in the threshold that's required by statute from a substantial new question of patentability to a reasonable likelihood that an examiner would find at least one claim unpatentable. The next three in that first column -- Tax Strategies Deemed Within the Prior Art, Best Mode, and Human Organism Prohibition -- we expect to go out straight with guidance documents for our examiners on those areas. A final rule is not required.

The next one, Patent Term Extension, the timing for filing a patent term extension application, that does not affect our examiner population. It affects a very small group within the Office of Patent Legal Administration who handles patent term extension applications. So that change will be captured in due course through an MPEP revision.

The remaining actions on this slide, except for prioritized examination, will not
involve, really, action on the part of the agency at all. These are statutory changes that go into effect on the date of enactment or in the short windows thereafter. Prioritized examination is an exception; that's what you are all familiar with. It's our Track One. And we have a final rule in the works. We've gone through the rulemaking process already for Track One.

So, turning to Group 2, this group will involve affirmative rulemaking. So, we will be following the APA process for rulemakings. We will engage in the Notice and Comment rulemaking process through a notice of proposed rulemaking, a comment period, followed by a final rule. And each of those final rules will have a delayed implementation date so that we might educate the public as to what the final rule requires before it goes into effect. The first several items -- the first six items on the list will be handled by the Patents Working Group, and the remaining three items on the list will be handled by the Board Working Group.
Now, the last group of rulemakings is Group 3, and again I mention these might not all involve rulemakings. Some of these might involve agency guidance documents. For example, "first inventor to file," at this point in time we do not envision going out with a rulemaking for it.

However, for derivation proceedings we do. And incidentally, we are running the derivation proceeding rulemaking process in line with the other contested cases that the Board will be handling. So, that's running on roughly a 12-month schedule even though it won't become effective until the 18-month point.

And then, finally, on the "statutory invention registration," for that one we expect to go out straight with a final Federal Register notice repealing the provisions that allow for statutory invention registration. It's not a frequently used procedure within the agency, so we feel confident in going out straight with a final rule. Notice and comment rulemaking will not be needed for it.
So, from the rulemakings now we move into the studies where the agency is charged with leading. I've broken them down on the slide, you'll see, by color. The first two, three studies appear in black font. Those are the studies that must be completed within the first 12 months after enactment. So, for us those are our immediate priority. The remaining studies listed in blue, those have delayed -- I don't want to say delayed but due dates that fall after the 12-month window when the bulk of our substantive patenting rulemakings will be complete. So, we will begin focusing on them after the 12-month date.

For these studies I should also mention that we envision a process where the public is intimately involved. For the International Protection for Small Businesses and Prior User Rights studies, those are due at four months after the date of enactment. And in those studies we envision going out with Federal Register notices seeking the public's input very early on within that 4-month window. We will need the public's
assistance with these studies, because much of the
information being required for us to study does
not exclusively fall within the PTO's bailiwick.
The public at large can be of a great help here to
the agency, so we want to solicit the public's
input.

And we also intend, separate from the
Federal Register notices, to conduct public
stakeholder meetings where the public has a chance
to, separate from written comments, provide verbal
comments to us so that we can learn about these
areas that we're asked to study from the people
who are best and most familiar with those areas.

The Genetic Testing study we envision
during --

CHAIRMAN MATTEO: Excuse me, Janet, just
a quick question on the previous slide. So --
back to the next one, I'm sorry, you hadn't
switched yet. So, the report due at four years,
which is the one on the implementation of the
America Invents Act by the PTO --

MS. GONGOLA: Yes.
CHAIRMAN MATTEO: -- there were a number of elements there. Some of them I would expect, like effects associated with the impact on innovation, et cetera, competitiveness. But it seemed like the first part of that said that it would be four years before you're reporting about the PTO is implementing the America Invents Act. Are there other interactions or will that be the sole point of guidance for how you're implementing it?

Go back to the previous slide. I'm just reading -- there we go, on the very bottom.

MS. GONGOLA: Oh, the last report requires the Implementation study?

CHAIRMAN MATTEO: Right. So, it's going to be up to four years before you report out to anybody how this is being implemented?

MS. GONGOLA: The due date for that study is four years after the date of enactment. But I'm certain that the agency is going to be assessing its efforts at implementation and how its various rulemakings are affecting the public,
how they're operating informally before then. But the official due date for that study is not until four years after enactment.

MR. KHAN: I think it's also worth noting that the regular congressional oversight that the agency participates in currently, I imagine it will be up to the congressional oversight folks what they want to ask about, but I would assume they would focus significant portions of that oversight on America Invents. So, that would be a formal reporting to Congress, just not in the context of a study.

CHAIRMAN MATTEO: Okay, fair enough. Just on the surface having read that, it seems, though, it's going to be a long while.

MR. KHAN: I say that having had the same question.

CHAIRMAN MATTEO: Good. Thank you.

MR. ADLER: I have a question on the Prior User Rights study. Did I hear you correctly say that you were going out to the public in this country to get their impressions of how this works
in other countries or are you planning to go and
talk to people in those countries in which this
type of situation presently already exists?

MS. GONGOLA: I think the entity -- it's both. I said the Federal Register study that we
-- Request for Comments that we will publish,
certainly anyone can read that, but largely
targeting the audience in the United States. And
then informally through our attaché program,
through our contacts with other patent offices
throughout the world we will be considering,
because other countries do have greater experience
with prior user rights than the United States, so
we will be tapping into their experience as well.

MR. ADLER: (inaudible) through the
governments in those countries, like the IP5
thing, or are you actually going to go and seek
comments from companies or inventors that have
actually had experiences with prior user right
determinations in France, for example? I don't
understand how you actually do that, but --

MS. GONGOLA: I think we're working
through the details right now of exactly how we will tap those other countries for their experience.

MR. R. STOLL: We would talk with the governments. We'd also solicit input from intergovernmental associations and from associations like FICBE, which has representatives across the world.

MS. GONGOLA: And certainly if you have suggestions to how we --

MR. ADLER: That's what I actually was thinking about, but I hadn't heard that. Okay, thank you.

MS. GONGOLA: Other questions on the studies?

MR. BORSON: Yes, thank you. Regarding the providing second opinions for genetic or diagnostic testing, how do you see that being played out? And a similar question to the last one about prior user rights, where do you expect to find input? Who do you expect to assist the office with some of the policy considerations
outside the matters that are handled directly by
the office?

MS. GONGOLA: Well, for that study, like
the other studies, we will definitely go out with
the Federal Register notice seeking comments from
the public at large. We likewise will hold
roundtables. We haven't nailed down the specifics
of what additional groups we might solicit input
from. So, if you have suggestions in that regard,
you know, please feel free to let us know, because
that study has a nine-month due date. We haven't
focused a huge amount of effort on it yet. We're
just gearing up to do so. You'll see when I
covered the timeline, it's our plan within the
first couple months to develop our Federal
Register notice so we have time to think about
what information we request from the public.

MR. BORSON: Yes, there is certainly a
large international interest in this issue. There
are some countries that have statutory changes
that either have been finalized or are being
considered, and I was wondering whether you also
had the same idea to reach outside the United States.

MS. GONGOLA: Well, we're certainly open to suggestions and glad to do so. To the extent that they can provide other countries -- other governmental agencies can provide information that will enable us to complete an efficient and effective study, we're certainly glad to do that. Again, if you have suggestions for us, please let us know what groups you think would be good to contact.

MR. BORSON: Yes, I will.

MS. GONGOLA: Okay. Okay, then I'll move on to the studies where the agency is not lead but the agency is consultant for. And there are two of them. Both of them have due dates at around 12 months from enactment. And so the first is a First-Inventor-to-File on Small Businesses and Patent Litigation. These studies are tasked to other agencies, but to assist these other agencies in completing the studies, we intend to send a detail or offer a detail to the other
agencies so that that will enable them to tap into
our experience, if they like, in completing these
studies.

MS. LEE: Excuse me, is that -- are
those studies in which you anticipate getting some
input from -- on the public or is that primarily
conducted internally by the PTO?

MS. GONGOLA: For the studies where we
are consultant, we won't be leading the charge --

MS. LEE: Right.

MS. GONGOLA: -- so that the other
agencies will have to determine how they want to
run those studies. Hopefully, they take some
guidance from the way we've chosen to run the
studies by going out with the Federal Register
notice, having public roundtables. But we will
not be in control of those studies ourselves.

MS. LEE: Got it, thanks.

MS. GONGOLA: Okay, so for the --

MR. SOBON: One suggestion which you may
already be thinking about, but it would be helpful
at least on your implementation website to have
information about those other studies as they're progressing so that people -- sort of a one-stop shop. People can see in those other agencies what they're doing. It would be very helpful I think.

MS. GONGOLA: Precisely. We are thinking very much alike. We intend to use, and I'll speak to it in a moment, our microsite as one-stop shopping for all information related to patent implementation of AIA.

MR. SOBON: Great.

MS. GONGOLA: So, the last -- this slide covers the programs that the agency must implement. The first two programs, again, are those that we must have in the works within the first 12 months after effective date. The first study is a pro bono one, which directs us to work with various IP law organizations to establish pro bono programs to assist independent inventors, small businesses in pursuit of patent applications. One form of that, we have a program that we have running in Minneapolis called a low bono-type program, and we're looking for
opportunities to expand the low bono-type programs, as well as pro bono efforts and we will be contacting various IP bar organizations to solicit input and support from them to effect this specific provision. The other one, the Diversity of Applicants, asks us to set up methodologies to study the diversity of our applicant population. We're hoping to maybe work with the Department of Census to tap into the information that they have already collected on various applicants.

Now, the one caveat here with these studies: That the information we're collecting will not be used for purposes of advancing certain applications through the process or delaying others based upon diversity of information.

MR. ADLER: The applicants are not U.S. citizens, so you --

MR. R. STOLL: Half.

MR. ADLER: So, your database is missing the other folks from around the world if you only focus on Census data.

MS. GONGOLA: Right, Census is not the
only place, but it's certainly a starting place for us to collect data, and your point's very well taken. It would be less than our population.

Okay, this side is a projected timeline that at least gives you a rough idea of the periods of time where we will have various activities ongoing. And I know it may be difficult for you -- because this slide is small on the screen it's hard to read the font, so I'll kind of walk you through it. But most of this information is captured on the preceding slides, but I want -- so that the public understands exactly what's happening where, I'll try to cover it for you.

I guess my -- here we go. So, the purple box at the top of the slide -- and at this point in time, because we do not have an active legislation, I'm going according to months: Month 1, month 2, month 3, et cetera. Once we know the date of enactment, assuming that to be the case, then we can go in here and place specific dates of exactly what will be happening in each calendar
month. So, the purple box at the top of the slide reflects what I'm calling the Group 1 Rulemakings and Other Activities. Those actions that must be in place within the first -- and it's 60 days after the date of enactment.

The light blue timeline might be of greatest interest to the folks in this room. This is the timeline we project for what I called the Group 2 Rulemakings, the heavy-duty substantive patent rulemakings, and I'll walk you through this timeline carefully so that we understand the deeds, at least the ballpark of the deeds.

So, in the window of months 1 to about 3-1/2 we will internally be preparing the NPRMs for the various rules. We haven't determined yet how we will package. You know, I said we have roughly a dozen rulemakings to engage in. I don't know if we're going to come up with a package that has four rulemakings grouped as 1, 10 individually. We're still working out those details. But all of the 12-month rulemakings will be operating on the same timeline. That's
the point to take home in terms of planning for
the preparation of public comments that you want
to submit to the agency. So, months 1 to 3-1/2
we're preparing and going through the internal
clearance process to release the NPRMs. Around
month 3.7 or so to the 4-month mark, the
rulemakings will be undergoing the clearance
required by the Office of Management and Budget.
OMB will be clearing them.

Then right around the four-month time
point, we will be releasing the Notices of
Proposed Rulemaking in the Federal Register. That
will then trigger about, you know -- I'm sorry,
the slides -- I can't -- not the best with
graphics, but the little gap here means to jump up
and look at the top line. That's a key date.
Around four months is the NPRM publication date.
Immediately following it, as soon as they publish,
a 60-day public comment period opens up for all of
the rulemakings. So, the point here to be mindful
of, that will be for all 10, 12 substantive patent
rulemakings that will be coming out. We're
running in parallel here, not a staggered date --
not staggered dates that, you know, month 1 or
these two, month 2 or these two all at the same
time.

And then around the -- just past the
six-month mark, that -- and certainly before that,
but that's when the public comment period will
close, the agency will then begin to prepare the
final rules, taking the public comment into
consideration, and going through the clearance
process that we need to go through internally with
the final rules.

Now, we certainly will be monitoring the
public comments as they are coming out and taking
them into consideration on an ongoing basis. All
of the comments will be made available to the
public on our microsite, so as things are
developing the public will be able to monitor that
development.

Right around the nine-month time point,
we project releasing our final rules to the Office
of Management and Budget for clearance. And then
around the 10-month marker where you see the next
gap, that is where the final rules will publish in
the Federal Register. And from just the 10-month
mark to the 12-month mark, that is our delayed
effective date period, during which time we will
be training the public, training our examiners
about the final rules.

Now, the blue box underlying all of
this, starting at the 10-month point, the agency
will -- at that point we will have some idea of
what the final rules will look like, so we will
begin to engage in our internal memos that we need
to write to the examiners.

Our guidance documents, MPEP updates,
preparing examiner training, facilitating our
finalization of automation changes that are needed
to implement the final rules -- some of that will
be going on earlier than the seven-month point,
but certainly heavy-duty on at seven months. That
is where our focus will be, pushing the final
rules out the door for the public, as well as
preparing internally to implement them.
Now, the series of orange boxes beneath, these reflect all of the studies that we will be conducting within the first 12 months, so I don't know, would you like me to walk through the details of these studies?

Okay. So, the first two studies -- the Prior User Rights Study and International Protection of Small Businesses -- they're roughly running on identical tracks. They both have a four-month due date.

So, shortly after enactment sometimes within that first month, ideally first couple of weeks, we will publish our Federal Register notice; there's going to be separate notices, but notices to solicit the public to give us input about those studies.

And then we envision from month 2 to month 3, roughly a 30-day comment period within which the public has the chance to give us their feedback. We will also simultaneously be holding somewhere in that public comment window, probably mid-window, public roundtables, ideally East
Coast-West Coast, so we have a chance to hear from the public.

Then starting at month 3 through the middle of month 4 we will be preparing our study results. So, internally considering the public feedback that we received and building that into our reports to Congress. And then at the four-month due date we will produce our studies. We're going to have a mid-three-month to four-month internal clearance process that the studies will go through and produce for Congress at the four-month due date.

Now, for the genetic testing, that study is not due until the nine-month point, so our start date is going to be protracted a little bit, given resources that we need to focus on in the first couple of months. As you see above, in the blue, months 1 to 2-1/2 are going to be spent on heavy-duty preparation and the substantive Notices of Proposed Rulemaking.

So, in the period of months 1 to 2 we will be preparing our Federal Register notice for
the genetic testing study. At the three-month point we will publish that Federal Register notice in the Federal Register so that the public will have a chance to start providing us feedback. And then we're going to have a little bit longer comment period here from four- to the six-month point, because we are afforded more time by the Act. We don't have it until the 9-month due date, so we can have a 60-day public comment period here during which we will again be conducting public roundtables, ideally East Coast-West Coast, in order for the public to give us additional feedback. And then from the six-month to the nine-month point we will be preparing our study results, delivering them to Congress at the nine-month point, and built into this period is a period for internal clearance of the genetic testing study. And, finally, in the red boxes at the very bottom, what we have here are the due dates for the two programs that must be implemented
within the 12-month window. Upon date of implementation the pro bono study needs to be up and running. And then at the six-month window the Diversity of Applicants program needs to be up and running. So, we're protecting them.

What you might not see on this timeline is a schedule for how we plan to exercise our fee setting authority under Section 10 of the Act that is effective on the date of enactment. But obviously we're not going to have all the fees available on the date of enactment.

On our microsite we have projected there -- if you check it out, there's an 18-month timeline. Our goal for implementation of fee setting is 12 months. We are working to take 18 months to 12 months in assessing whether that's a doable thing, given the number of steps additional from a regular rulemaking that are required. There will be PPAC hearings involved. There will be oversight activities from the Office of Budget and Management and from the Department of Commerce. So, right now we are engaging with
those three organizations to talk about whether we can meet our 12-month goal for this rulemaking.

So, I haven't listed it separately on this slide. It's a little too premature for us to do that at this point. But I wanted to explain that we haven't forgotten about it. It is part of our process. It's a work in progress. So, for that reason, I don't want to show hard dates in stone until we have them nailed down for purposes of avoiding any confusion as to what schedule we're running on.

So, questions about the timeline.

MR. ADLER: I have a question about the blue timeline with regard to PPAC collaboration. Do you anticipate that within the first three-month period that you would be seeking our input on those rulemaking proposals?

MS. GONGOLA: We have felt it time for PPAC to become involved in the rulemaking so they know what the rulemakings are about, and we had an opportunity, so yes. In short, the answer's yes. We've built them -- I've not shown it on the
timeline for sake of trying to simplify the

timeline but we absolutely do plan on engaging

with PPAC.

MR. ADLER: Really when to when?

MS. GONGOLA: In the time period that we

show, around the three-month mark after we have

our rulemakings to the point where we are able to

show them to you, where we develop some things,

we've talked with the unions, we've worked out

labor relations issues, at that point we're going

to be involved in our PPAC.

MR. ADLER: Okay.

MR. BORSON: Yeah, if I might just

follow up on Marc's comment that we'd be very

happy to work with you, but we do request that we

get the information in enough time so that we can

go through our own internal conversations and then

provide you with some cogent remarks.

Historically, some of the rulemakings that have

gone through in the last year or two have been

done in a rapid way, perhaps because the OMB

approved them very quickly, very rapidly during
their process, and in a couple of cases we have not really had an opportunity to comment on these. And so I think maybe Marc's point is that we would like to have a timeline in which we know when to expect these pre-publication proposals so that we would have at least two weeks, at a minimum, to be able to provide our own comments.

MR. ADLER: Thank you. I was being nuanced there. (Laughter)

MS. GONGOLA: Well, I appreciate that feedback, and we have felt a period of time when you -- you will have 30 days to look at those.

MR. BORSON: So, okay, 30 days. That's very nice. Thank you, Janet.

MR. KHAN: Yeah, and I think it's worth noting also that I mention my role here at the beginning. Director Kappos asked me to do this sort of in direct response, I think, to some concerns that you were alluding to, so I'll be making sure that that happens for everyone here.

MR. ADLER: Let me -- just for your -- just to explain a bit, I mean, a number of those
proposals have been -- post-grant opposition,
third-party submissions -- have been being
discussed among the patent organizations for about
five years, and we do have some folks on PPAC who
have some experience in the details of how that
might actually work might be of some assistance to
you.

MS. GONGOLA: Well, maybe I should
mention also we're -- we have a microsite up and
informal comments can come to us at any point.
You have my phone number. You can contact me.
You have my e-mail address. If you have thoughts
at this point in time, that's one of the things
when I come to -- I want to emphasize. We do want
to hear them orally so we can build them in from
the ground up.

MR. ADLER: Go ahead.

MR. R. STOLL: Well, let me reiterate.
We want comments now, today, because we will be
putting up sort of a straw man in what we put out
with our Federal Register notice. The more input
we get, the better that will be, the less changes
that may need to be made. So, I would urge you as soon as possible to put in as extensive of comments as you can. And I recognize also that organizations like AIPLA have many, many different committees looking at every aspect of this and may have to take a little bit longer, but as soon as we get information, we are starting to review it for drafting Federal Register notices, and we need it right away.

MR. ADLER: I was -- thank you, because that's what -- was what I was hoping you'd say, because I know that hopefully they're listening and they're busily working on providing you these comments now.

CHAIRMAN MATTEO: Actually, I think we have a question from the audience.

MR. GODICI: From the audience.

(Laughter)

CHAIRMAN MATTEO: Mr. Nick Godici.

MR. GODICI: And a couple of comments. First of all, this is really good information. I am working with some of the folks at AIPLA and
some of the other organizations to try to organize comments on the rule packages. And the one thing that -- and we talked earlier, so Janet knows this -- the one thing that would be helpful for the folks on the outside is if we knew how you were going to group the packages so we knew, you know, if there's going to be 5, there's going to be 10, and what content is going to be in each one of those, so that we can organize our committees on the outside to both comment to the formal package. But, as Bob said, maybe even, you know, give you some input before your timeline, for your release. So, we do -- any information you can give on how you package those (inaudible) will be helpful to us.

I also have a specific question, and this may be for Bob. The immediate -- when the legislation is passed I think it's about 10 days or so you can begin collecting Track One fees.

MR. R. STOLL: And the 15 percent surcharge.

MR. GODICI: Got it. (Laughter) The
question is can you spend it? But then -- but the question a lot of clients have is when will we be able to take advantage of Track One? Is the rulemaking finished such that 10 days later we can start filing Track One applications? That's the question.

MR. BAHR: I mean, it was ready to go, Nick, on May 4th of this year, so I think we've gone through rulemaking. My understanding is that the bill states that it comes into effect 10 days from signing. So, I think we are planning to do 10 days from signing.

MR. GODICI: So, the final rules that were published earlier were the ones we --

MR. BAHR: (off mike)

MR. GODICI: Okay. And then the last thing -- did I understand correctly that the whole fee -- reorganization of fees is going to be on a 12-month instead of an 18-month timeline?

MS. GONGOLA: Presently on our website we feature an 18-month timeline. We are working toward getting that timeline toward 12 months. I
mean, that 12 months is our goal. We'd like to see 12 months. But we are taking the steps now to investigate whether that's possible. It very well could be 12 months. That was what we would like. If it's not possible, we would have to slide into 12+ months.

MR. GODICI: Would you follow a timeline similar to this with a notice --

MS. GONGOLA: Similar but not identical. There will be various -- many, many additional steps in the timeline.

MR. GODICI: Okay, thanks.

MS. GONGOLA: But similar. It certainly -- all of the milestones that you see on this timeline will be in effect for the fee setting timeline. There will be additional ones as well.

MR. GODICI: Got it. Okay.

MR. ADLER: I have a -- oh, go ahead.

MS. KEPPINGER: I think, Nick, to your question, part of the challenge with the fee setting authority is that it adds the additional layer of PPAC evaluation along with public
hearings. So, that complicates that timeline quite a bit more to get it done in the 12 months.

MS. GONGOLA: There's also an addition to PPAC hearings and a report. There's a requirement for involvement of OMB and the Department of Commerce. That adds another layer that we don't have in this timeline for the regular rulemakings under the APA. So, those are the additional steps that I'm referring to. So, when I say this timeline certainly will be in place, there will be other steps overlaid on it.

MR. ADLER: I have, really, a question for Bob about -- really, Tony brought this up and we just heard it. If you have the authority and the intention of imposing the 15 percent surcharge but you don't have the authority to access all the money that you might collect above what your budget is or the projected budget under the teaming resolution, what impact would that necessarily have on how the public perceives the surcharge? I mean, we don't mind paying the money if you actually get the money, but we don't want
to pay the money if it goes to somewhere else.

MR. R. STOLL: Michelle, hit me if I'm wrong, but my understanding is the 15 percent surcharge for '11 would only be probably effective for 2 weeks, so it wouldn't be significant. And then our budget for '12 includes the 15 percent surcharge.

SPEAKER: Correct.

MR. R. STOLL: So, not big. Maybe Mark is getting to a slightly different issue --

MR. ADLER: You're already out $80 million in '11. In other words, you collected more money than you're actually authorized to spend.

MR. R. STOLL: Correct.

MR. ADLER: There's -- assurance has been given that you'll, even under the House version, be able to access in '12 money that you collect. I'm worried going further in, you know, super committees and budget cutting under '13, that you'll end up with more money than you actually can use.
MR. R. STOLL: Marc, I'm worried, too.

MR. ADLER: All right, so we're all worried.

(Laughter)

MR. R. STOLL: It's a public relations problem --

MR. ADLER: No.

MR. R. STOLL: -- that you potentially have.

MR. ADLER: It's also --

MR. R. STOLL: It's also a functioning problem that we're going to have.

MR. ADLER: Right.

MR. R. STOLL: Okay.

MS. GONGOLA: Any more questions on timing? Okay.

So, opportunities for public comment, I want to specifically talk about those, because, to your point, Mr. Adler, we want the public and we want PPAC to be involved early and as extensively as they want to be. So, we have --

MR. ADLER: Nay.
MS. GONGOLA: Pardon me?

MR. ADLER: Within the confines of our ability to provide guidance. That's a different issue. Go ahead.

MS. GONGOLA: Okay. So, to date we've conducted two stakeholder meetings to basically share the information that we're sharing with you, not to this degree but some of it, to encourage the public to give us their feedback and explain to them how to do it. One meeting was held -- both were held in August. One was held with large organizations: AIPLA, IPO, BIO. The second was held with independent inventors, universities, and small businesses. So, we've asked them, give us your feedback now. And we've made available the means to do so through our microsite, which I'll talk about in the next slide.

Now, separately, apart from before enactment, what can people do after enactment to give public feedback to us? Well, we're going to be engaging, as I talked about, in the notice and rulemaking process. That's the means by which the
public gives formal comments to the agency. It will be posted on the microsite. They will be taken into consideration as we receive them on a rolling basis and certainly as we build our final roles.

Now, we will conduct public roundtables for the NPRMs, for the final rules, for the various studies. I talked about that already. We've created a separate e-mail address: Aia_implementation@uspto.gov. This is the e-mail address by which the public, at any point in the process, can provide feedback directly to the agency. It comes to my inbox and I route the comments to the respective working group who the comment pertains to so that they receive the feedback on an ongoing basis. We're not waiting until the end. Every comment we receive is being posted likewise on the microsite.

And then finally we have a microsite. This is intended to be one-stop shopping, as we suggested earlier, for anything related to patent reform implementation. This is Phase 1 of the
microsite that you see on this slide. It contains information about historic events as far as the legislation goes. You can read copies of the bill. You can see the administration statements in response to Congress' efforts. It also contains some information about different Group 1, Group 2, Group 3 rulemakings, a rough timeline. So, you can look on there for documents now.

We are planning for Phase 2 at this point. Phase 2 is going to look much different than Phase 1, because we will have much more information to share at that point. We envision including drilldown views, because as we grow each page is going to need a sort of hierarchy management. So, we're going to have a patents page, a board page, each working group a finance page where all of the related information for those groups' activities will be posted.

On the main page we will have announcements of up and coming events, various roundtables that are taking place so everyone knows the specifics of the roundtables, how to
attend. We'll have a comment box so the public can submit comments.

We're creating a registration e-mail address so that if you go on and subscribe every time there is an event related to AIA implementation, you will receive an e-mail from the agency notifying you of what the event is so you can be informed and partake.

We will have our timelines posted on the main screen so that if anyone wants to know a specific point what the agency is doing, they can simply consult the timeline.

So, any other suggestions that you might have for what you feel that you would use as PPAC or that you think the public would use, as we're in our development stage for Phase 2 please let us know. We want to make that available. Any tools that you think, to the extent it's possible within the scope of automation parameters, we will definitely investigate those tools.

So, with that, I encourage you, emphasize, please submit your comments if that's
the one thing that you take from the presentation today. We want the public to be involved. We want your comments early so we know what you're thinking, so we can tap into that resource as we begin after date of enactment, certainly somewhat before we've started up, but our heavy-duty lifting to implement these rules in the stage fashion of 60 days, 12 months, and 18 months. Any additional questions for me?

CHAIRMAN MATTEO: Actually, you were talking about participation by the public and ask and you shall receive. We have some real-time questions from the public. You may or may not have the answers to these, but I just want to parrot them forward to you for comment.

First is how will independent inventors be selected for pro bono assistance? And if you don't know now and there are places you can point them to in the future, that would be very helpful.

MS. GONGOLA: So, the details of how independent inventors will be selected for assistance we've not worked out at this point, but
as far as where they can look for information on
that, the microsite.

CHAIRMAN MATTEO: Okay. Is running all
12 rulemakings at once imposing a large burden on
the public?

MS. GONGOLA: Well, running --
CHAIRMAN MATTEO: Think you know -- we
know that there --
MR. R. STOLL: There are a lot more
public than there are PTO folks. You should
realize that.

MS. GONGOLA: Running rulemakings on a
12-month timeline is definitely going to be
challenging. We admit that. However, under the
confines of a 12-month effective date, there's not
a lot of leeway for us here.

CHAIRMAN MATTEO: Correct, and I believe
that's also the answer to the next question.
Thirty-day comment period for the study seems very
short for the public. Everything seems a bit
rushed with this system, for which you have no
empathy at all, I'm sure. (Laughter) Need more
time for public review.

     MS. GONGOLA: We appreciate the need for public review, so to the extent that they'd like more time, please give us your comments now if you have thoughts on these studies. We have a 4-month window to run the studies, so we feel that 30 days is as generous as we can be in order to be able to create an effective study -- write an effective study.

     MS. REA: Yeah, I'd like to add just one comment, that Janet and the core team and the task force, we are working as quickly as possible to organize our thoughts and share them on the microsite and the website as quickly as possible. So, we do have great bandwidth here and great talent here. But of course we require input from PPAC and the user community, and we realize this creates undue pressure on everybody, but as we anticipate the Act to appear in its final form we are required to act within a certain period of time, and we are doing everything possible to ameliorate or minimize the pain to the user
community, because we want your comments. So, anything that you can do we appreciate what AIPLA, IPO, the ABA, everything that people are going to be doing right now -- and our recommendation is to break things up as we are doing here within the PTO, because for one individual to amass the entire act and the full to-do list is overwhelming. So, to those of you out viewing this webcast, your input on any one area would be fantastic, and Janet will take it and take it seriously. Thank you.

CHAIRMAN MATTEO: And actually maybe to further that point, given the burden on the public, is it possible or do you plan to aggregate comments? It's difficult enough to absorb the acts themselves, but it's also useful and interesting for the public to see who's commenting on what, where, where the most comments are focused. So, will you have a way for the public to see and aggregate comments -- comments about aspect A, B, or C, or comments A+, you know, 4A, -A, things like that? Because otherwise, if it's
just this rolling blog -- and anybody who's been on a blog or something like that -- it's impossible to see and digest it all.

MS. GONGOLA: So, the way we plan to structure the blog, it's going to be broken down into the Patents area, the Board area, and the Finance area. Then within the Patents area it will be broken down into the various rulemakings that are being run. So, then if -- and then what the public wants to know, like supplemental examination, what are the comments about it, they can look on that part of the microsite and see all the comments related to supplemental examination. They're not going to have to sort through all of the comments to try to figure out in 10,000 pages where are the comments about supplemental exam.

To the extent we can do this based upon how the comments are submitted from the public -- and to that end, a comment might appear on the microsite in multiple places, the same comment, if it's touching upon different subject matter within the same letter or e-mail submission.
CHAIRMAN MATTEO: So, what if --

MS. GONGOLA: Is that an -- is that what you're asking?

CHAIRMAN MATTEO: That would be a partial answer. Do you envision this being searchable, so, if I'm interested in all comments about X, Y, and Z?

MS. GONGOLA: That's a very good question. I can't answer that. I'm a bio person, and I don't know much about automation. So, I have to defer to the IT folks to --

CHAIRMAN MATTEO: Well, as luck would have it, John Owens, I think, is the next one on deck, so we'll --

MS. GONGOLA: Well, how convenient for John.

(Laughter)

CHAIRMAN MATTEO: We won't forget you, John, wherever you are.

Okay, but the specifics of how you do that I'm not as concerned with, but the notion that in the spirit of transparency I think if the
public can see who's commenting on what, that sort
of cross-pollination can be very useful.

MS. GONGOLA: Right, and then the same
goes for the PPAC report. We plan on making that
available in connection with fee setting so that
the public can see the PPAC's report and comment
on it as well as the rulemaking itself.

CHAIRMAN MATTEO: Excellent. We look
forward to that. Comments anyone else? Very
good. Well, Janet, thank you very much.

MS. GONGOLA: Thank you, and please do
contact me if any issues arise and you want to
have a chat about patent reform. I'm most
available to you.

CHAIRMAN MATTEO: Thank you very much.

So, let's see here. Okay, we're almost exactly on
time. Why don't we take just a 15-minute break
and reconvene at 10:45?

(Recess)

CHAIRMAN MATTEO: -- attention. I'd
like to see if we can get ourselves reconvened.

Will the members please make their way back to the
Welcome back, everybody. Reconvening the Public Session of the Public Advisory Committee. Next up we have John Owens, who will speak to us from the OCIO.

Please, John. Thank you.

MR. OWENS: Thank you, sir. Good morning. So, I'm going to give you a little bit of an update, and there's a possibility that Mr. Landrith is indisposed. If he is available, he will step in. If not, I will fill in his shoes.

So, the production and deployment of the Universal Laptop, if you remember, began on March 28th on schedule. Production deployment started 140 per week. We're up to 200 and we're moving to 255 per week in the fourth quarter -- fiscal quarter. Projected number deployed at the end of the fourth quarter, which was the scratch goal to reach for Mr. Kappos, was 5,000 or approximately 50 percent of the employees.

So far, the following organizations are complete, particularly concerning patents TC 1600,
2900, 2100, 2600, and 2800. We get better and better at doing these. Certainly there is always the odd case of folks that are having issue. That is, of course, true. But we have noticed as we have gone along we've gotten a lot better at deploying them, people are better at accepting them, and we are better at supporting them. So, this is a major change. Remember, we modified some 91 automated information systems in the previous 12 months. This is the deployment of all of those changes, a massive amount of change.

How are you doing, Dave?

MR. LANDRITH: I'm good.

MR. OWENS: And we are on track, on target, and I think for those that settle in with the Universal Laptop we have particularly, in the last quarter, gotten an extraordinarily overwhelming, positive view of the environment. Now, that does not mean we haven't had our hiccups with certain deployments that are unrelated to the Universal Laptop that people sometimes confuse as being part of the Universal Laptop. Obviously,
the Universal Laptop is a change. People don't always adapt well to change. But I did want to note that even though we are deploying some other 80 environmental changes in systems outside the Universal Laptop, a lot of people confuse the Universal Laptop as actually the cause of their issue when in fact it is not. And we are working to minimize the impact of any of those application changes, particularly in the OACS/eDAN environment, as well as PALM, which continues to improve, but we still have issues maintaining under its current load and is on a separate track to undergo continuous improvement and enhancement.

Before I hand everything over to Mr. Landrith, our portfolio manager for Patents End-to-End, I'd like to know if anyone would like to ask me any other questions.

MR. BUDENS: Yeah, just quick, John. One of the hassles we have had was the help desk and stuff, and I know that you'd hired some additional people to bring on, and I was wondering if those people are now on line. Are we improving
on the help desk response and stuff?

MR. OWENS: So, with the influx of change, you know, some 80 projects finished this year, 70 more in flight and all the change with the laptop, we did see an increased call load. That increased call load did overwhelm our current help desk resources, and we found some money in the organization. Actually, Patents came to the rescue in this, and we doubled the working staff and Tier 1 help desk.

I need to explain to you how help desks work a little bit for those of you that don't know. Help desks are usually -- you can look this up on a Wiki -- separated into three tiers. Tier 1 is the most basic tier. This is where if someone comes into the help desk they also have the largest amount of churn. People come from outside with basic skills on how to coach people through using Office and standard products and so on and so forth, but not the 91 custom applications we provide here to the USPTO employees. So, COLD -- we call it COLD --
replaced 20 new -- literally doubled -- the number
of people we had on the daytime help desk, on the
help desk. Now, actually, their added value up
front was very minimal. We needed to push them
through the extensive training, which will take
them till today actually, September -- actually, I
think it's the end of this week, where we will
give them all the basic training.

Now, the way this works in industry is
new people come on Tier 1, you take your best and
brightest and move them over to Tier 2, and your
best and brightest from Tier 2 move to Tier 3, and
each level gets exceptionally more involved and
more educated on how things work. So, we met the
need to answer the phone, which we were failing
at. We now answer the phone and issue tickets.
We categorize the calls, and of course one would
guess that the Tier 2 help desk for more
complicated help backed up. That's normal. It
happens. We are now, once the training is
completed at the end of this week, moving people
from Tier 1 to Tier 2, and that will bring that
down, and then we will move people from Tier 2 to Tier 3, all of which takes a couple of months of training, because you can't find anyone just out of the blue -- I wish I could -- that came here pre-trained in all of our custom applications. It's just impossible to do.

So, with that tiering, which is common in industry and certainly the one we use, as well as the training times, it looks like Tier 2 will be increased probably by December -- is our current plan -- of the appropriate level, and Tier 3 also in the same time frame, because we're going to move some of the folks to Tier 2 to Tier 3.

So, the answer, Robert, is we're now taking all the calls. We're meeting our SLAs for that. We are issuing tickets. Some people are less than satisfied with our response times, but I will tell you that our SLAs are a little different than a lot of people think. Our Service Level Agreements call for a very quick turnaround time to answer the call -- under a minute -- and we are now meeting that again -- well under a minute, by
the way. But our SLAs, which are published on our internal website for all employees, to answer Tier 2 calls and Tier 3 calls are four hours on average. And of course we are looking up next year after conversations with Bob and forward from -- you know, continuing to fund an enhanced group of people in these areas to lower those to a wait that I think people would expect. But that is the current level of funding. A lot of this does relate directly to funding. More funding, more people; more people, more people trained; more people trained, more people to answer the help.

There's a balance there, though. How many people do you have sitting around when you have a lull, and how many people do you have active when you have a lot of change? And the amount of calls is directly related to the amount of change. We certainly don't want to go too far the other direction, because then we'll be paying for resources we don't use. So, it's a balance. And unfortunately, staffing in the area does take time -- three to six months on average, and that's
pretty much an industry norm.

Did that answer your question? Any other questions before I hand it over to --

CHAIRMAN MATTEO: Yeah. Actually, Marc, why don't you go first?

MR. ADLER: Yeah, thank you, okay. How -- what's your anticipated life for these laptops? When do you think you're going to have to go through this again? I mean, we always have to buy new computers every 18 months or 2 years or something. I mean, do you have a -- can you use the lessons that you learn from this deployment to memorialize them so then you do this the next time you can speed this whole process up and stuff like that?

MR. OWENS: Well, a couple of things. Absolutely, we are learning. You have to remember that the bulk of the people that were here when we did this last time some eight, nine years ago are not here anymore. So, it was a big learning curve. I mean, I had previously told you all that the desktops were seven-plus years old. That was
the last time we really changed, not to mention --

if you remember when I first got here we hadn't

even patched XP Service Pack One. You know, we

went through those exercises to move to Service

Pack Three to learn. When we started deploying,

we started slow. We certainly learned a lot.

Now, as far as the process goes to

upgrade, certainly it started slow. We're up to,

you know, some 50 a night. But you also have to

understand this just isn't handing someone a new

laptop. It involves a technician sitting down

with each and every employee and manually moving

their files, making sure all their data is moved.

And, if you remember, XP was very loosey-goosey

about where it would allow you to store things.

So, that's pretty much a custom job where a

technician sits down with an examiner and custom

moves their data. That takes a lot of time.

Doing 60+ of those a night, we're hauling. I

mean, that's not -- actually, we're not moving

slow at this point. We were at the beginning, but

not --
MR. ADLER: I'm talking about the future. I wasn't talking about the --

MR. OWENS: So, we had documented and instilled and used our Tier 3 employees through a rotational program, as well as our contractors, to do this work. So, we have institutionalized the lessons learned.

Now, overall, we have baked into the capital replacement budget -- replacement plan every four years. Now, what does that mean? That means that a few people will get the new piece of equipment in three, and some of them will get it in five.

MR. ADLER: That answers it.

MR. OWENS: Doing it all in one year, to be completely honest, has been a little nuts.

MR. ADLER: Yeah, you answered my question. You have a four-year cycle for --

MR. OWENS: Four-year cycle and are learning.

MR. ADLER: Okay, thanks.

CHAIRMAN MATTEO: That was actually my
question. You got a two-fer.

MR. OWENS: Good deal.

CHAIRMAN MATTEO: Good.

MR. OWENS: Yes, absolutely, and I think
if you've looked at the progression of how quickly
we're doing these and working toward that stretch
goal of 5,000 employees, you've seen that increase
as we've learned and optimized our knowledge. We
certainly get less calls and complaints than we
first had. I'm sure Robert will tell you, you
know, the first few people it was a little shaky,
and then things kind of smoothed out, and I think
it was on both sides. The expectations change as
well as, you know, the work was better. We're
just getting better.

So, speaking of change, I'd like to turn
it over to David Landrith, our Patents End-to-End
portfolio manager, to talk about the wonderful
changes that are coming with Patents End-to-End.

MR. LANDRITH: Thank you, John. This is
our timeline. Hopefully, this is beginning to
look familiar. What's key since the last time
we've spoken is we have completed the Sprint 3 for
the back-end, which is the shown as Sprint 3 demo on the
timeline. That was successful. We are now
underway with Sprint 4, which is our issue-resolution
sprint, which will be completed on September 16th.
At that point, we'll move to deployment so
that we're on track for September 30th release date.

What we also see there, at the bottom,
the August 2011 deployment of PATI, so that has
been deployed to two working groups. That
represents tremendous success, because it's able
to push text versions of the patent application,
specifically the spec, claim, and
abstract, to the examiners. It is also our first
step toward developing an in-house OCR capability,
which we hope to leverage going forward in the
other PE2E projects. It also provides automated
creation of the claim tree as well as some very
high-quality analytics that we are hoping will
improve the ease with which examiners can make
quality reviews.

Also, on the timeline planning
is scheduled to begin in October, but we've actually
begun planning for this Fiscal Year '12 well in
advance of that.

So, going over the front end, the
initial implementations are complete. We are, at
this point, resolving issues that have arisen,
working kinks out of the system, and refining
minor details of the user interface. Again, what
they are delivering are fully functional web-
based applications with stubbed-out services. And
so that allows us, on the back end, to create the
production-level services -- all the services that
feed the front end, connecting the front-end
to database engines, search servers, and the like,
leveraging the technology stack and the
resources it provides.

We are, again, on track for our
September release, and we have, as I mentioned in
a previous slide, completed the deployment to two
art units of the PATI application.
So, the front-end summary, this provides some detail to what I mentioned before. We're continuing to work out the kinks.

And the last point, as of last week the physical model for the front end is actually complete with what we're going live with in September. So, that's production ready.

And this is a screen shot that shows the implementation that we've done on the front end, with the case table of contents on the left. And we have a claims tree and a claim analysis tool.

The feedback that we've been getting from the examiners on this has been very positive. We have gotten some important critical feedback that we've been able to incorporate using the sprint cycle that we've been deploying this with.

CHAIRMAN MATTEO: Excuse me, David.

Just by way of example, so you have a claims analysis tool. Is that something that you de novo developed in-house? Are you leveraging third-party software or analytics?

MR. LANDRITH: So, that -- there's a
couple of components. This relies on a structured representation of the claims that we are getting from a vendor that we have developed in-house to specify what that structure should look like. I think you've heard me refer to XML schemas before, and that's what those are.

So, we have then developed in-house a viewer that transforms that structure into what you see here. So, the other part there is the narrow column on the left reads "Notes" at the top so that you can attach structured statuses along with comments that would, you know, constitute anything from the examiners' thoughts to a potential argument or a piece of analysis that they would put in an Office Action, and that would be something they could attach to claims or specific text within a claim. And all of that we have developed in-house using industry standard tools.

Does that answer your question?

CHAIRMAN MATTEO: I think it may. So, that's analytics in and around the structured data
whether it comports with a standard or a spec
versus, for example, metro language analytics
vis-à-vis the content of the claims?

MR. LANDRITH: Right. We are not
performing natural language analytics.

CHAIRMAN MATTEO: Okay.

MR. LANDRITH: What we're looking to
do is structure the content into specific, logical
groupings. Our next major piece of
functionality is going to be Office
Action, and so we created this with
that in mind so that the analysis that
examiners do within this tool can be
promoted into Office Action text that will fill
out template content and make the transition to an
Office Action more fluid.

CHAIRMAN MATTEO: Okay, so it promotes
the relevant data in whatever the structured
format, okay.

MR. LANDRITH: That's right. Does that
answer your question?

CHAIRMAN MATTEO: That does, yes. Thank
MR. OWENS: I would like to say that any future use of tools purchased or developed internally to further enhance this, like natural language matching and so on and so forth, has certainly been contemplated. It can happen later.

I'd also like to point out, though --

David is very modest -- this is eight weeks of actual honest-to-God development run internally by our folks with vendor assistance. We are in charge. And he's done an incredible job of doing this in keeping our constituency, both the examiners and POPA, involved every step of the way. And I know, Robert, you've been in it almost every sprint if not all three sprint finishes, and certainly when David's done I'd like to hear what you have to say.

CHAIRMAN MATTEO: Go ahead.

MR. LANDRITH: Thank you, John. So, the user involvement in the front end, as John alluded to, has been very intense.

We do design sprints every two weeks we
have focus groups to run the new features that we've implemented in the front-end by examiners. This includes both members of examiners from the CRU, which is a pilot audience for release, as well as examiners from the core. And this is also used as an opportunity to get input on future features.

We also do a major holistic user evaluation every six weeks where we go over the entire front-end from soup to nuts. We have a User Advisory Council. As John mentioned, we've been heavily engaged with the union to make sure that they're up to speed on what we're doing, and we have a green light for them. And, as I mentioned, the reactions have been very positive and the critical feedback that we've gotten is something that's been very important to leverage during the sprint process to improve the outcome of the product.

So, the back end, this is the -- what John had mentioned is basically eight weeks of development efforts. We have -- the technology
stack has been vetted and finalized. This is the platform that we're going to be going ahead with. We'll be adding additional things, as John mentioned, for -- as we require them for additional features.

Internal development began in June. Our procured development kicked off a little later than we'd hoped, two weeks. It doesn't seem like a lot, but within a time-frame of development that we're talking, it was something we had to make accommodations for. As of today, the first, second, and third sprints are complete with successful demos, and we are on track for the September 30th release.

The XML schemas at this point, actually as of yesterday evening, we have the complement of XML schemas finalized that will be going live within production. And we are going to then be reviewing that set for improvement and expansion on an ongoing basis at fixed intervals. It looks likes probably quarterly, but we're still nailing that down so that we can continue to improve the
quality of the content that we have.

The high-level physical architecture, we actually have that completed now for QA and staging. We're working on the release environment. We have the development QA and staging environments built out, and the logical and physical models are complete through production.

So, we just completed, as of yesterday, our second document-conversion trial. We have 49 full cases that have been converted from images into XML. Our third trial, then, began yesterday or today, depending on how you calculate when the last one ended. But the -- we are leveraging the substantial knowledge that we gained from the first two. We've finalized the schema, and so the third sprint is really going to be a test for what we're going to see live in production. That's going to involve the conversion of 20 additional cases, and then we will be set to have production quality data to feed the system on an ongoing basis, both the conversion of existing cases as well as the
continuous integration of new data that arises in the case over time.

Any questions?

MR. ADLER: I have a question. On your timeline slide you listed a number of milestones that were delayed due to funding request issues, down there on the bottom. Since we want you to get the funding that you need to do the projects, could you identify what benefits these would -- or what benefits these would have to users and the public or to the examiners if you actually were able to have completed these or, stated the other way, what are the negatives that the public isn't getting the benefit of because the money was not available to you? Did I say that clearly enough? I mean --

MR. LANDRITH: Yeah, I think I understand. So, the budget crunch came at a time when we were actually in the process of defining the scope, and so there was never actually a scope that was defined before that. So, the items that we cut off were -- some of them were along the
lines of expanded functionality, like advance work on the Office Actions and advance work on Search in order to line those up. Other areas where we cut back were infrastructure-wise. We had planned on deploying in a cloud. We decided to go with a virtualized environment. The difference there is that instead of having an elastic infrastructure that can grow with usage, you build to peak. It's a build-to-peak usage. So, since we're going ahead with a smaller pilot audience, building-to-peak usage proved to be less expensive than deploying in a cloud. So, we made some changes that way.

And the larger impact, though, has been our ability to get items locked and loaded in advance for Fiscal Year '12, and those would be items like Search, Office Actions, and improvements to the Applicant/Office interface.

Did you want to add anything, John?

MR. OWENS: Sure. Basically what we did is we punted a bunch of things downfield. I mean, there's no other way about it. We had a very
strong directive with OMB and conversations with Vivek Kundra and Mr. Kappos. And that goal was to get into the hands of a small group of real examiners the tool this year and have it function. We picked the CRU, because they're not on production time. They are examiners. They understand the tools. They have no automation today whatsoever. It was a big win for everyone. And no matter what, when we were playing with the money and trying to figure out what we could or could not do, that remained the focus.

Now, the tangential things that David mentioned still do hurt. I mean, we will eventually have to port our virtual environment to a cloud environment to gain elasticity. That will take time and money. We will still have to engineer the products and services that we wanted to have pre-engineered for implementation this year. So, delay in next year, '12, for some of those things will happen. But we kept on target for the goal of this year.

MR. ADLER: I'm -- maybe I didn't state
my appreciation for the work that you did in view of the dynamics of the situation. That's -- I'm taking that as granted; that's good. What I'm trying to help you develop is a narrative for would the additional money that you weren't able to use have led to shortening of a re-examination determination if you had gotten it? In other words, if these things were in place faster, would a re-exam go from two years to a year? In other words, we need to be able to make a story that explains why you're using -- not from the internal workings, but from the impact on the operation, if you actually were able to do all this stuff faster.

MR. OWENS: What you're really talking about is would I be able to implement patents and faster and would it have a more positive impact to the examination core.

MR. ADLER: Yes, and what would they be?

MR. OWENS: And I don't -- I do not know what the impact of providing these advance tools and operations and text to the examiner will have
impact. I do know that in conversations with Mr. Kappos, our focus is not on the reduction of examination time; it's for Patents to deal with. We are providing good and stable tools that implement features and functions that assist the examiner in performing their job. That's the focus that we have.

So, could one draw a corollary? I'm sure, but I am not going to draw that corollary without extreme assistance from Patents.

MR. ADLER: Do you think that that would be a useful thing for somebody to create a narrative like that -- maybe not for them, they're busy doing all the work, but maybe for somebody else to explain why this work is good?

MS. KEPPLINGER: I already wrote one, Marc, from what they said that -- by putting there. I mean, at least to some extent, what they said was that functionalities, a search, Office Actions, and improvements in Office Actions were delayed, and they'd hear the cloud instead of -- they had used virtual instead of cloud. So, I
think we can turn the first part into — quality enhancement was delayed because of the search and the Office Actions, and those things would have been conveyed to the public, and they're delayed. Yeah.

MR. BUDENS: That's where I would go on with that, too, and I think that as we've gone through — you know, in reference to John's comments we've been involved in this, too. And what we've seen so far is, No. 1, pretty impressive, because I've never seen anything get developed this fast and actually kind of look like it's going to work in all the years -- so, you know, there's still a ways to go, but I've got to give them credit, for the sprints have been impressive. But I think we're -- I would see this really having more impact, too -- is in the quality of examination, because the tools that it's going to give us are things we've been lacking in the current tools, which is the ability to go in and search the spec and search the claims and search the whole doggoned application with
tech searching so we can find what we need, you
know, quicker; find if it's there; et cetera. And
I think that's what we saw in the demonstration
here just this past week that they put on for POPA
leadership. It has some very useful tools in it.
I think they are going to be very well received by
the examining corp.

MS. KEPPLINGER: I'm confident --

MR. ADLER: It's true. I'm trying to
just help them help make the case. That's all.

MR. OWENS: And I appreciate that.

Drawing the conclusion of what was delayed and,
therefore, without the money I think you hit it on
the head. We delayed the work that we wanted to
do to enhance the functionality of Patents
End-to-End of the things listed on the bottom of
the chart and moving to an elastic environment.
Those are the things that were delayed. We wanted
to have money for them. We had early planned on
doing those things, and now we're not. We didn't
miss the goal. The goal is still met, but we
didn't meet it the way we wanted.
But judging impacts so we get the full story on the examiner environment is going to be a very difficult thing until examiners start using the environment. And then we add all of those features and functions and tools. I don't -- I'm not the type of guy that guesses. I'm a much more analytical person, so I'm reluctant to say but I think it would have -- if you wanted that study, which I believe would be useful, it would really have to be done in close cooperation with Bob Stoll and in Patents to find out what impact this had on examiners. And certainly I agree with Robert. Quality is a big impact that we're trying to hit.

MR. BORSON: If I might follow up on that, I think that there's a narrative to tell about improving quality and decreasing pendency, and I think that things are in place now to quantitize at least some of those through the objective measures of quality and timeliness. I think there is an opportunity here to leverage last year's comments and the work that we did last
year on the quality initiative and the pendency to
actually create some data around that. And maybe
if there is somebody in Patents that can help find
out some objective data, as well as examiners like
it -- yeah, they understand there's a learning
curve -- but if they end up being able to
demonstrate that pendency for Office Action goes
down, the quality of the Office Action goes up.
It would be very nice to have that. That would be
the data to support the narrative.

MR. OWENS: You know, just as an aside
-- and I'm sorry Robert had to leave -- we are
releasing PATI this year, which was an enhancement
to the current tools, which brings text to a
couple of groups, and we hope to expand that. We
will learn a lot from that. We will learn how
examiners use text, which is something we don't
know. We know how they use pictures, but we
really don't know how they use text. Patents
End-to-End is a good guess at how they use text --
pardon?

MR. ADLER: They know how to use text.
They find the sentence that they're looking for and --

MR. OWENS: Yeah, but right now they use a picture to do that. How they use and manipulate text, the copy and pasting between windows, and so on and so forth can't be done today. So, we are learning, even with this early initiative, based on the tools that we have today, how the examiner will operate. And that feedback will get incorporated dynamically into the Patents End-to-End sprints, which is something that shouldn't be overlooked.

CHAIRMAN MATTEO: So, can I ask a question that maybe is resident in that, that you may have tacitly answered but I didn't catch? Back to Marc's nuances again. Maybe I missed it, but, so, a lot of this ties into workflow and process. You can't architect the system around the patent system if you don't know the workflow and the process. How tightly coupled are you working with the process reengineering effort? It didn't sound as though you spoke to workflow or
optimization of workflow in this discussion, so
can you make explicit what your interaction is
there?

MR. LANDRITH: Yeah. We've been meeting
with them at least weekly, with the business
process reengineering team. Because we had such a
short planning and development cycle, we have
sought to avoid workflow issues in the CRU release
and center the functionality, you know, kind of

nested in an area where the workflow occurs around
it rather than implementing workflow. But in
Fiscal Year '12, that's going to be a major area
that we push toward both in terms of the features
that we embrace. For example, Office Actions is
going to represent an umbrella of features that
are tied very tightly to workflow as well as
specific workflow items that exist as features in

and of themselves.

CHAIRMAN MATTEO: So, I hate to keep
beating on this, tied to or collaboratively
co-developed with?

MR. LANDRITH: It's going to be a
combination. They've been working on a lot of things for a long time that have been queued up and are, you know, kind of waiting to be implemented in Patents, and that's the kind of stuff that we'll be taking from them. They'll be handing off to us new items in areas for improvement. We'll also have the opportunity to introduce new parameters by virtue of the technology that we're bringing to bear will be working collaboratively with them.

CHAIRMAN MATTEO: Okay, so I think the last point hit my question. Okay, great, thank you.

MR. OWENS: Very tightly coupled is the way I would describe it. And I know Ben's been involved in this, but very, very tightly coupled. They not only take a seat in part of the development of the new stuff to help us get feedback and work with us, but as they come up with new ideas -- and one of the biggest things, as you saw, next year to tackle will be Office Actions, and that will be huge to have their
involvement in. And it is a major piece that I
certainly would be more than happy to see replaced
out of our current system.

So, the answer is yes, very tightly
coupled. There isn't a thing that they don't come
up with or design or optimize that we don't then
take and work together with them as an
implementation.

CHAIRMAN MATTEO: Great. Thank you very
much. Did you have -- John? David? Did you have
anything else?

MR. OWENS: That's all for us.

CHAIRMAN MATTEO: Okay.

MR. OWENS: Unless you have questions.

CHAIRMAN MATTEO: Any further questions
from the floor? Ben? Wayne?

Okay, great. Well, thank you,
gentlemen, very much.

MR. OWENS: Thank you.

CHAIRMAN MATTEO: Excellent work. Thank
you very much.

And our final presenter -- I'm sorry.
Oh, I'm sorry, Esther, I didn't see you. Esther has a question.

MS. KEPPLINGER: I had a question. Actually, it's for Mick. He was leaving, but he had a question about, for example -- and it's to the legislation. The legislation currently has provisions for charging, for filing an application that's not electronic. But there are definitely plenty of times when the system goes down and people are forced to file via paper when they would ordinarily have filed electronically. And so the question is what -- are you going to have provisions in place for that sort of eventuality?

MR. OWENS: So, actually, I don't know who noticed, but -- I'm kind of proud of this -- we actually modified our current EFS web environment to -- even if our system goes offline here to continue to take applications. So, you should have seen a significant decrease in complaints from your offices, and certainly the public in general, by not being able to receive electronic filings.
MS. KEPPLINGER: It may be that they didn't realize that, that when the system was down they could still file, because I know they do a lot of filing, and he was saying it just last week. I think the system was down and they had to submit a number of cases. So, that's very helpful. Thank you.

MR. OWENS: Because we keep track when the system is down and we're still getting filings. If there are instances where we're not, I certainly want to know about those, because it's kind of like when the system goes down and we have to reset it, we watch the bucket that all the filings go in, and there are filings going in there. So, if someone can't get there, I'm certainly very interested in knowing when they can't -- date, times, and whatever -- and I can find whatever's broken. But we have made a significant increase. Mr. Kappos and Mr. Stoll made it clear to me that, you know, as good as the current system is, it's not good enough and we needed to plug that hole. I mean, we can't lose
the rights of the filer at all, and that's going to become more and more and more important.

As far as, you know, an emergency type of thing, both systems break and which we try to avoid, then we are going to have to have some accommodation in there, obviously, if the data center would be affected on a grand scale -- weather, earthquake, hurricane, et cetera. There may be times where because we don't -- we have not had funding to complete our BCDR work, our backup disaster recovery work, obviously, offsite of this location, we will have to have an accommodation made. But I have a representative on the team that's talking about the proposed legislation and what needs to be done to our electronic systems for that, and certainly that will be tied into that conversation on how the -- you know, if some disaster were to happen. But if people have examples of where it's not working in the last few months, I certainly would need to know specifics, and I want those down, because that's a bug.

CHAIRMAN MATTEO: Okay, thank you very
much.

MR. OWENS: Thank you again.

CHAIRMAN MATTEO: All right. So, our

final presenter for the afternoon will be Jim

Smith, chief judge of the Board of Patent Appeals

and Interferences.

Welcome, Jim.

MR. SMITH: Good morning. I see from

the schedule that my time has expired. I guess

you're allowing me to continue.

CHAIRMAN MATTEO: Yes, by all means

please do.

MR. SMITH: My name is James Smith,

James Donald Smith. I'm the new chief judge of

the Board of Patent Appeals and Interferences,

soon with AIA to be renamed the Patent Trial and

Appeal Board. So, we'll have to do some acronym

adjustment at the appropriate time.

Just to tell you a little bit about me,

my previous position was as chief IP counsel,

Baxter Health Care in the Chicago area. Prior to

that in earlier portions of my career I served as
a licensing executive for a mobile devices company. Also worked in patent litigation for the bulk of my career. But I think quite nicely buried somewhere in the back of my professional history is a little time at this office as an examiner, so that certainly is helpful in terms of some perspective setting for me. And I also spent a time as a federal judicial clerk for former Chief Judge Michel. So, I know we have at least one other such person in this group who clerked for Judge Michel.

This is an exciting time for the Board. You may not know, so I will tell you, this is the 150th year of the Board's existence. Going back to 1860, there was the enactment of the legislation that brought about the Board, which was put through Congress and signed by then President James Buchanan. It was in the following spring of 1861 that Abraham Lincoln himself appointed the first three members of the Board. So, my way-long-ago predecessor, the first chairman of the Board of Examiners-in-Chief was, in fact, an Abraham Lincoln appointee and a
prominent patent lawyer with whom Lincoln had actually tried a patent case.

So, we at the Board, I think this year, are feeling a special energy that comes in part from our long and storied history, and I guess we're feeling energy also from some of the challenges that we are facing and additional challenges we soon will be facing. A little more on that in a while.

Let me just say about the Board and some of what's happened since Abe spent some time thinking about it. His original appointment was of three individuals to the Board. In early July the Board, for the first time, topped the number 100 of administrative patent judges. That sounds like a big number, and in some ways it would seem that way to any number of people, President Lincoln included. But it's really a small number in comparison with, really, the challenges we're facing.

Some of how we get to that hundred number includes recent addition of a large number
of patent attorneys who were assisting the work of
the judges, but who themselves have since
qualified for and been appointed to serve as
judges. We think that's a significant development
for helping us with our current inventory of
cases. We think it's particularly a useful
development because the bulk of the patent
attorneys who now have become judges at the Board
have been at the Board for two or more years and,
therefore, very much have been able to develop the
skills and to have been tested in their ability to
carry out the duties of the Board.

So, when you last may have looked at the
total number of judges, it may have been more in
the low 70s range. We're now, as I say, in the
hundred range, which includes those former patent
attorneys and several appointments to the Board
from outside the office and folks who previously
were not affiliated with the Board. That gets us
to a hundred total, which, fortunately, also
includes two of our most productive former judges
who have rejoined in their retirement years, not
carrying what one may consider a full load, but being very productive. They essentially probably will provide to us what it is the equivalent of a full load anyway.

We expected to receive in Fiscal Year 2011 13,200 new cases roughly, and what has in fact happened is that we are on track to, and we're very close, of course, to the end of the fiscal year and can give this number with some certainty: We're much more likely to come in at about 14,000 cases filed before the Board in the fiscal year.

The significance of that really comes to light by comparing it with the flow of cases out of the Board, which is to say our disposition rate. We had expected to decide about 6,900 cases in this fiscal year or slightly higher. We probably will come out more than slightly higher at about 7,300 cases decided, which is certainly good in terms of improvement of output. But, as you can see against the incoming number, it, unfortunately, causes our inventory to continue to grow. Looking back, say, in the last 30 days or
so, our inventory of cases -- and I prefer to use that terminology rather than some other terminology that often is used -- our inventory was about 23,000 cases. We think the year will end with it more at about 24,000 cases.

All this suggests quite strongly that there is a need for additional resources, and we envision, in fact, that additional resources will come to the Board at some not-too-distant point.

In anticipation of this, one of the things we already have done in recent times is to reposition, rework some of the leadership of the Board. We have appointed new lead judges whose roles now also include more of the tasks associated with personnel management and evaluation of performance and the like. We think that's an important precursor to our growth, because it means there will be more leaders in place to defray the load of managing a substantially larger board and handling all of those tasks that OPM and the Office of Human Resources and others require of us in terms of
And, in fact, with the anticipation that we will grow in a way that will be aided by our new lead judges, position announcements are already out for the hiring of many more judges. To some extent, whether we can move forward with that at the pace we would like to depends again on whether we get the additional resources. But in any event, we have set ourselves up in terms of both the internal reorganization and the posting of the announcements so that that growth can come. In fact, looking more specifically at the kind of growth we expect and need over the course of the next 12 to 24 months, the Board essentially needs to double in size. And it might sound a bit audacious to contemplate a board that roughly now has a hundred judges and about a hundred support staff being an organization of not 200+, but 400+. But we view this as not so much audacious as it is necessary.

As you are aware and have heard reviewed
in some detail earlier, the America Invents Act brings to the Board four new types of proceedings, and those proceedings will add to the load of the Board. And, in fact, even before those proceedings come to the Board we have significant responsibilities, as Janet Gongola described, with regard to the development of new rules, infrastructure, training in order to support those new proceedings. A significant amount of the work involved in that has to be done by judges who are already at the Board, which diverts their attention from deciding cases. And all of what I've said just speaks to the new challenges, which drive growth, without mentioning the fact that we have twice as many cases coming in now as we're able to decide, which demands growth even if there were no America Invents Act and new responsibilities arising from it.

Another area receiving attention at the Board is consistency in Board decisions. This is not an unrelated topic to what I've been mentioning so far. A large board means lots of
cases being decided by lots of people. The more
cases and the more decision makers, the greater
the challenge of maintaining consistency at the
Board.

You will see it follows from the numbers
that I've given you that the Board decides 600+
cases per month with 3-judge panels, which means
that we have 3 dozen or more panels in any given
month. The ability of any one judge or panel to
keep track of the several hundred other decisions
in that month or in previous nearby months and the
work of the several different panels is a
challenge. We will increasingly try to focus the
attention of the judges in areas where there is
perceived to be inconsistency or where consistency
may not have arisen but likely would because the
law is in flux, and definitive approaches to
certain areas have not necessarily been honed yet
so that we can minimize the amount of
inconsistency that might ensue.

Let me also speak to IT support systems.

You will have heard -- you have heard, now, some
information about the things that have been ongoing from the chief information officer.

Let me point out -- and this again will be no surprise -- it follows from what you know about our operation that some of what we do is different than what the rest of the agency is doing, which means we have particular, distinct demands with regard to our information technology needs, as an example, because our decisions are rendered by three-judge panels and they work interactively and iteratively, the need to deliver information to them jointly and to allow manipulation of files and drafts and records is of a unique character, which means that those kinds of needs are not necessarily included in the general package of needs, for example, by the examining core, which drives the need for the Board to be both very forward-thinking and very assertive with regard to having its needs addressed by the IT organization at the agency.

And it also drives at times consideration of solutions to challenges which
don't come from the internal IT organization but come from outside vendors, for example, where our use of them is overseen by the IT office at the agency and where we work with people there. We benefit from a very IT-sophisticated group of judges at the Board and administrators as well who participate in the discussion of these issues and forecasting our needs and working with the CIO to develop our solutions.

In recent times there is more of a sense that some of the Patent End-to-End solutions will in fact be adaptable to Board needs, so we're very excited about that and continue to work with them on those things and to try to keep the judges on the Board generally involved in the process, because at the end of the day the solutions delivered have to work for the target audience or the efforts are not particularly effective.

Currently, we think the number of paralegals and legal assistance and other support personnel at the Board are adequate for our needs and even can accommodate some additional growth.
This is very good, because we expect and need the growth. But, in short order, if we grow the judge number in the way I've described them, we'll need to revisit the number of paralegals and other support staff. That will come in time.

In terms of the interaction between the Board and other parts of the agency, one thing ongoing, starting, in fact, next week is a round of special assignments of examiners to the Board, the idea being, really, a two-way flow of information and learning, allowing the examiners to spend some time with us, participate in our activities by assisting the judges on the cases and then being able after their special assignments are over to return to the core and share with their examining colleagues more about what we do and how we do it so that, hopefully, the whole process gets to be smoother over time. And we certainly hope to learn from the examiners, just to get a refresher sense of the examiner perspective, on how cases are handled at the Board and the best way to do that so that we can do our
little part in -- or not so little part in terms
of the quality of examination.

Let me speak lastly to our recruitment
again of new judges, and I'll speak to the
recruitment because contemplation of it has given
me the opportunity, after being here for about
four months now, to ask whether the things that
drew me here, in terms of what service at the
Board means, are in fact things which I would urge
on the recruits who we most want to see accept
positions at the Board.

We of course want only the best people
who we think can do a quality job at the Board to
be the people who make it through the selection
process and who we then persuade to be here. I
can tell these people, after my time being here,
although short, that the reasons to be here are
very good, that the Board is a collegial place,
that the work of the judges is very interesting
and intellectually engaging. I can say, as has
been said many times by various people at the
agency, that the teleworking program is an
effective, useful program for the purposes it seeks to advance, and it enhances the quality of the work experience, interestingly. Teleworking provides freedom in a number of ways to the judges and other people at the Board who take advantage of it, but it provides that freedom from the workplace by in fact connecting people very well to the workplace.

I think we have a very good sense at the Board that teleworking works for us, because judges get together, as an example, in a meaningful and regular way even though they're not all officed next to each other in a real sense. I think virtually they are officing together and the telework program has demonstrated the extent to which that is true.

Another couple of things that I think are really good about the Board experience and make it something I am quite happy to point to for quality recruits is that our case inventory, among other things, indicates that the people want us to do something, and they want us to do a lot of it.
That is an affirming, and continues to be an affirming, thing for our sense of our mission at the Board. It's not merely that we have many cases coming in but that they are coming in at an even greater rate.

Lastly I would say this. One of the nicest things about being at the Board is that it changes my life from being one who merely awaits decisions to being one who gets to make them, and that's refreshing, at least for someone who spent most of his professional career more looking for decisions and advocating for them rather than being able to make them.

CHAIRMAN MATTEO: Great. Thank you very much. It's the first time we've had someone from the BPAI here at the PPAC meeting, so I think everybody probably enjoyed the presentation as much as I did.

We're a little over time, but if there are a few questions from the floor, we'd like to entertain them.

MR. BORSON: You know, I had one
question. First, thank you very much, it's a
pleasure to meet you. I wanted to ask you about
the interplay between the inventory that you have
at the Board and the role of Patents in making
decisions prior to appeal. I know that this is an
area of interplay. There have been programs at
the Office previously -- technology specialists,
quality assurance specialists, and the like -- who
would be able to assist the examination process in
sorting out some of the issues that otherwise
would have had to go to the Board of Appeals. And
so I think this is an opportunity for us and for
Patents to address the issues about what can be
done by way of keeping your workload from
increasing to an unsustainable level.

I understand that your vision is to
increase the ability and capacity of the Board to
handle these cases, but on the other hand there is
an opportunity for Patents to assist the process
and maybe allow cases to be resolved prior to
getting it to your level. Do you have any
comments and, Bob, do you have any?
MR. SMITH: I'm happy to defer to Commissioner Stoll.

MR. R. STOLL: It's a very good question, and there's a lot of merit to it. We are currently working very closely with the Board to see how we can reduce the number of appeals going to the Board, recognizing that we placed a lot of different initiatives in place, so we are already doing more compact prosecution, early interview, early finding of allowable subject matter, discussions with the applicant. So, I think we are working in manners that are already currently reducing what's going to the Board.

We do have the problem that are what doesn't -- Jim doesn't want to say: A backlog of cases at the Board. And we're actually looking at those as well to see whether or not all of them are properly there. So, our two groups are working together looking at different issues to see whether we can't hand them back at the corps if they're inappropriately at the Board, but still expediting prosecution so that the applicant
doesn't feel like we're just churning at this point in order to do something. So, we're looking at those issues.

We're looking at maybe changing our appeal process review at the examination level, bringing folks outside of the examiner chain of command to take a look at the actual case as it's being decided to move forward in that process. So, there are many things going on right now.

And, Mr. Chief, if you want to add or change anything I said, feel comfortable doing so.

MR. SMITH: I would certainly agree with you with respect to the collaborative work going on now between the examining core and the Board to see what opportunities exist for refining the set of cases to make sure that the cases that the Board comes to decide -- panel to the Board comes to decide are, in fact cases where the cases -- any given case is really ready for proper decision, that the record facilitates a decision and there's not something that should have been done prior to the appeal coming forward.
I would also say this, and it is somewhat less meaningful in terms of an immediate turnaround of any number -- any inventory number. But ultimately the function of the Board really is to write decisions that help examiners do their job so that only the right cases come to the Board. That is, it's, in part, an instructional feedback loop.

One of the difficulties with the current inventory is that it means it's not on-time instruction, sort of three-year-delayed instruction. But to the extent that the instruction is still useful and not only in specific cases faced by a particular examiner whose case was on appeal but, more broadly, even as we decide cases we should, in fact, be helping to reduce the number of cases that are not rightly at the Board at any given time.

CHAIRMAN MATTEO: Let's make it just a couple of questions since we are over.

So, Esther and then Catherine, and then we'll call it a day.
MS. KEPPLINGER: Excellent, excellent initiatives. I think if you offered also the opportunity for interviews, real dialogue in some of those appeal conferences where there's an opportunity for exchange because oftentimes it gets -- you know, the examiner's position gets misrepresented both for the cases that are at the Board -- you might be able to get some of the backlog out if you offer those kinds of interviews and real dialogue. So, I think that they're good things.

MS. FAINT: I'm also an interlocutory attorney with the Trademark Trial and Appeal Board, and I wanted to say welcome back to the PTO.

MR. SMITH: Thank you.

MS. FAINT: But also I had two questions. One is the structure at the TTAB. We have interlocutory attorneys who decide non-dispositive motions, and I know that at the BPAI you have patent attorneys, but I don't think their function is quite the same as ours, and in
-- but I wondered if you were thinking of increasing that. You didn't mention them as a level of support that you were thinking of increasing.

MR. SMITH: Let me say that the answer I'm about to give is certainly subject to correction by two experts sitting in the room: Judge Michael Tierney and Vice Chief Judge Jay Moore. So, stop me, judges, if I misstate this.

I did not mention interlocutory matters particularly, but a large number of them are actually decided by judges in our contested cases and interferences area. In fact, I'd say a regular and ongoing part of the work they do, it is sort of part and parcel with the judging job. So, we staff that pretty robustly. I didn't mention the patent attorneys who are supporting judges in their decisions, but they also help in a way with interlocutory-type decisions.

A large number of petitions decisions, for example, are delegated to the chief judge from
the director of the agency, and we have a number of patent attorneys who assist me with that function on a day-to-day basis. So, we have quite a bit of interlocutory support built into the way we're doing the judging thing. But I say that all subject to correction of our experts in the room, who seem to be nodding.

MS. FAINT: All right. And my other question was if you foresee increasing of the role of the Board in mediation in ACR, which I think is a little bit different from this other discussion about the pre-appeal conferences, but actual mediation and settlement of cases or fast-tracking of cases.

MR. SMITH: Well, I think mediation is certainly a possibility as something to explore. I think the role of the Board -- in doing it, we need to look at it very carefully because, at the end of the day, we have judges who we want not to have become involved in a discussion that's distinct from the record we're presented with, because we are a tribunal of error and want to
have a record that is essentially fixed and where
we're opining on things that have already
happened. So, our -- the mechanisms by which we
engage the parties in the dispute are very
carefully regulated.

CHAIRMAN MATTEO: Okay. Well, Jim,
thank you very much. We'll hope this isn't your
last appearance here.

MR. SMITH: Thank you.

CHAIRMAN MATTEO: Very much enjoyed it.
And I'd like to thank once again all of the
presenters from the Patent Office for their
diligent and great work that went into the
presentations and, in fact, that underlie all of
the presentations that were made today.

Thank you all to the audience who have
chimed in and given us questions and to those of
you who are listening.

And what I'd like to do now on the theme
of thanks, for those of you who aren't aware, PPAC
members are appointed by statute to three-year
terms, and coming up very shortly in October is
the end of the term of several of the members of
the current PPAC. Those members are Marc Adler,
who's with us today, and Maureen Toohey, who
should I hope still be with us on the telephone.

            MS. TOOHEY: I am, Damon.

            CHAIRMAN MATTEO: Wonderful. So, what
I'd like to do is, on behalf of myself and the
entire PPAC, thank you both for your great
efforts, marvelous contributions, continued
inspiration. It has been, personally speaking, a
great pleasure and privilege to have worked with
you both, and I look forward to working with you
again in different capacities.

            And what I'd like to do now --
unfortunately, Maureen, you're not here, so you'll
get yours virtually or in the cloud I guess is the
preferred method now, but, Marc, if you can up, we
have a little plaque to present to you.

            MR. ADLER: All right.

            CHAIRMAN MATTEO: Here you go.

            MR. ADLER: Oh, thank you very much. I
guess it's a photo op event.
SPEAKER: The whole purpose of being here.

MR. ADLER: Thank you. Thank you, Damon.

CHAIRMAN MATTEO: Great pleasure.

MR. ADLER: Say one thing before I leave?

CHAIRMAN MATTEO: You can absolutely say what you'd like.

MR. ADLER: I want to thank everybody from the Patent Office and my colleagues on PPAC. It's been an interesting experience for me and it's been hopefully helpful to everyone as well as, you know, to PPAC as well as in the Patent Office. I think the nature of the collaboration with PPAC has been started in a different way than it may have been in the past and should be continued. There are a lot of good folks on both sides who want that to happen, and I hope that some of our initial work on the quality effort won't get lost in your attempts to deal with the AIA implementation and that it should be a goal,
number one, at the end of the day anyway. And I
want to thank you all for your hospitality and
your good graces for putting up with some of my
more direct non-nuanced discussions about some of
your issues. But it's all meant -- it's all been
meant in a positive and constructive way, and I
just wanted to thank you all. And I won't be
disappearing, so you'll still see me around but
not within PPAC. So, thanks a lot.

MR. R. STOLL: We at the PTO greatly
appreciate your efforts, and I expect that we'll
be hearing from you and from Maureen on many more
issues at the Patent and Trademark Office, maybe
more quickly.

SPEAKER: (off mike)

MR. R. STOLL: That's what I mean.

(Laughter) Thank you for your help.

CHAIRMAN MATTEO: Maureen, would you
care to say anything?

MS. TOOHEY: I'm not sure how well you
can all hear me, so I'll keep it very brief, but I
just want to echo Marc's comments and greatly
thank everybody at the Office and all the members
at PPAC for just a fantastic three years. It's an
amazingly committed group and think it was a great
honor to be a part of it, and I look forward to
helping in any way that I can in the future.

CHAIRMAN MATTEO: Thank you again,
Maureen and Marc. Very much appreciate it. It's
been our great pleasure.

So, with that I would like to draw to a
close and formally adjourn the public session of
the PPAC. We'll take a group vote to decide
whether we want to enter Executive Session. There
are certain pre-decision or confidential matters
that we need to discuss, so if you would by a show
of hands. Affirmation for the Executive Session?
All right, so moved.

With that I'll adjourn the Public
Session, and thank you all, once again, on the
phone, here in the building, and wherever else you
may be. Bye-bye.

(Whereupon, at 12:01 p.m., the
PROCEEDINGS were adjourned.)
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CERTIFICATE OF NOTARY PUBLIC

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I, Stephen K. Garland, notary public in
and for the Commonwealth of Virginia, do hereby
certify that the forgoing PROCEEDING was duly
recorded and thereafter reduced to print under my
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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
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interested in the outcome of this action.

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