UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, March 1, 2013
PARTICIPANTS:

TPAC Members:

MAUR Y M. TEPPER, III, CHAIR
DEBORAH HAMPTON
CHERYL BLACK
DEE ANN WELDON-WILSON
ANNE CHASSER
SHARON MARSH
KATHRYN BARRETT PARK
LINDA McLEOD
JODY DRAKE
RAY THOMAS

Union Members:

HOWARD FRIEDMAN, NTEU 245
HOWARD ROSS, NTEU 245
RANDALL MYERS, POPA

USPTO:

DEBORAH COHN, Commissioner for Trademarks
FRANK MURPHY, Deputy Chief Financial Officer
DANA COLARULLI, Director, Office of Governmental Affairs
SHIRA PERLMUTTER, Chief Policy Officer, Office of Policy and External Affairs
PARTICIPANTS (CONT'D):

SHARON MARSH, Deputy Commissioner for Trademark Examination

GERARD ROGERS, Chief Administrative Trademark Judge

JOHN OWENS, Chief Information Officer

RAJ DOLAS, Portfolio Manager for Trademark Next Generation

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PROCEEDINGS

(9:49 a.m.)

MR. TEPPER: All right, good morning, folks. I would like to call our meeting to order at this point.

Welcome to the first public meeting of the Trademark Public Advisory Committee for the calendar year 2013. I appreciate everyone being here today in-person and I know we have some folks who are also viewing online.

I'll try to mention this as we go, but at various points throughout the day, we'll be taking questions when we can from the public. If I forget to acknowledge those who are watching online, we certainly invite you to e-mail in your questions to us, those will when received be brought to me and I'll try to make sure that we have a chance to answer any questions that you have, as well. So, do feel free to use the e-mail function, anyone out there in our cyber audience.

And I would like just to mention we have had the chance now to meet several times. This is
a great facility. Our committee is made up of volunteers from various aspects of the public. We used to think we were just here advising the PTO and maybe weren't that big of a deal, but I got to brag a little bit and mention that whatever you think about whether Congress is doing anything or not, our advisory committee has been the subject of legislation already this year.

So, we must mean something and I don't think that you will see many changes those of you who have been participating in or following our meetings. No big changes you can notice. I suspect you'll hear a little bit more about those details later in the day, but we did all feel very special, so, we wanted to share that with you.

This is obviously a time of a lot of change externally, but pleased to report as you will see throughout the day the PTO's doing an excellent job of planning, changing, continuing some very excellent operations, and we're going to hear a little bit more about that throughout the day.
I'm particularly pleased and I will remind some of you at our last meeting we talked with our chief financial officer and we'll be hearing a little bit more in detail in this meeting about just how much work goes into the PTO's budgeting and cost allocation process and I want to thank them in advance for bringing that information to us and also just to mention that we are following up on the point that we promised at our last meeting, so, we will see that today.

I think there are no other housekeeping issues, and, so, with that, I'd like to start up with the more productive part of our meeting. I had a tough act to follow after the background music that we started off with. So, I'll give up at this point, but we do want to start with a legislative update and I can tell you this is an up-to-the-minute update. Dana Colarulli has been working literally around the clock and I say this because people were updating slides to reflect some changes on the Hill as recently as an hour ago. So, if you want to know exactly what's going
on, stay tuned.

And, Dana, thank you for joining us this morning.

MR. COLARULLI: Absolutely. Thank you, Maury. Well, that's true. There is tremendous activity on the Hill. It's unclear whether it's going to be effective, but tremendous activity is going on in the Hill.

I'll mention the other way I was going to start off my remarks was to say that I'm going to cut them today. They're going to be a little bit shorter. I'm going to cut about 5 percent in honor of the U.S. Congress, given that today is March 1 and the sequester officially takes place. The impact still slightly unknown and you'll hear more from PTO perspective on impacts on this agency from Tony Scardino a little bit later today.

But let me start off where Maury had suggested. Yes, TPAC was the subject of legislation in the last days, the 112th Congress. We were able to encourage the Congress to pass and
the president signed Technical Corrections Bill to
the America Invents Act. That included two
provisions that I think that affect the trademark
side. So, I'll talk a little bit about that.

In the beginning of the 113th Congress,
my staff has been very active both in trying to do
good outreach to members of the judiciary, as we
always do. There are new members of the
committee; I'll talk a little bit about that.

There are also new members to Congress who are
unfamiliar with our issues.

So, there's a lot of education that my
team needs to do and we're doing that both on the
impact of the AIA and the patent operations, but
also that we do more than just patents, we do
trademark issues and I expect that a number of
other issues, copyright issues in particular,
might also come up this year in front of the
Senate and the House Judiciary Committees.

They're still coming together with their agendas
where we're in communication with them as they
figure out what they want to focus on this year.
So, I'll start with a couple IP legislation highlights as we begin the 113th Congress. I'm not going to go through each of these in detail, but I wanted to highlight a few of the bills that we're watching and certainly things that have been of interest to the employee base here, discussions around the pay adjustment for federal employees certainly had gotten some attention, issues around access to federal-funded research and making those publications available to the public, have continued through many congresses and continue this Congress.

This week, we saw more activity on the software patent issue, something that we've been focusing quite a bit at times. Representative Defazio reintroduced a bill on Wednesday that would offer some litigation remedy to those in software patent litigation. Certainly following the cyber security issues, our friends at the Department of Commerce have been following that, as well, and there's been activity in both houses of congress and in front of the administration.
I think that's all I'm going to highlight on this page. For those who are interested in Seed Availability and the Competition Act, I can provide you lots more information.

Move on to other things that we know will come up. Certainly, there's been some focus on the Computer Fraud and Abuse Act after Internet Activist Aaron Swartz committed suicide and the question was really: Are penalties too high in that area? So, we've certainly been following that issue. Really a question whether some of the various copyright protection, copyright enforcement issues that were raised in the last Congress might come up again this year. It's unclear. We do expect more activity on the trade secret front and the administration announced an effort this past week to address trade secret theft.

There's been some congressional activity, as well, that was started by Senator Cole actually. Senator Coons, with Senator Cole's
retirement picked up the mantle for that bill and we've been in conversations with them as they look to reintroduce that bill.

So, let me go back now and talk a little bit about the AIA Technical Bill. I mentioned there are two provisions I think that are important for this body. One is correction really to the language around the trademark fence and this was not to alter the language of the trademark fence; actually it was to return the language back to what it was pre-AIA. It was as a patent parallel to the trademark fence was added to the statue in the AIA. H.R. 6621 tried to return it back to the language it was. It gives us that certainty that we should still read it the way that we read it, that the trademark fence is still solid and strong and we're really seeking for a parallel with the new patent fence that was provided by the AIA.

So, it's an issue that I had briefed the TPAC on I think at the end of last year. It happened, which was nice to always see legislation
actually get passed and signed by the president
and I think it gives us a bit more certainly at
least on how that language should be read.
The second and probably more important
for this body is flexibilities that TPAC had
requested and talked about in its annual report
for a few years going and that is more flexibility
on appointments and particularly the appointment
of the chair, but also the timing of the terms of
the TPAC members. So, again, language that this
body had weighed in on. The House and the Senate
thought those were wise changes. We were able to
make the case for them. Included in this bill
signed by the president at the beginning of this
year which was the very end of the last Congress
before we switched over to the 113th Congress.
Happy to answer any questions now or
later, but I think that's a good change.
Hopefully, it's seen by all of you as a good
change and provide some more flexibility.
Possible upcoming congressional
hearings. As I said, the schedule, they're still
coming together. We would expect once the administration officially submits its budget that we would be called up to testify at least in front of the House CJS Subcommittee, Commerce, Justice, Science Subcommittee. PTO tends to be kind of the first up to bat on appropriations hearings and we're regularly called up in front of that House subcommittee. Possibly March, possibly beginning of April, again, depending on the timing of the president's budget. Certainly, we would expect some more oversight hearings in House Judiciary, potentially also some in the Senate, as well.

The House has already started their schedule of substantive hearings and they've started out again with a patent focus next Thursday, they announced, that they'll hold their first hearing of the session under the new chairman, Chairman Goodlatte, who's the chairman of the Full Committee. This will be a subcommittee hearing that they'll hold on patent litigation issues again. So, expect more discussion of software and particularly litigation.
concerns over software patents.

I mentioned the new chairman, Chairman Goodlatte, is the new chairman we're working with in the House Judiciary Committee. His ranking member on the minority side remains John Conyers from the State of Michigan. New leadership on the subcommittee on the House, as well. Actually, the return of Representative Coble heading that subcommittee and Representative Watt on the minority side continues.

On the Senate side, our leadership in the Senate Judiciary Committee continues without change, Senator Leahy and Senator Grassley. I think I'm happy to say that I think all of those six folks we have fairly good relationships with and as I said, I would expect that would call us up for an oversight hearing. They continue to be interested in the happenings here at the agency. Clearly, funding issues are always a concern of ours and as I said, you'll hear a bit more about the current funding situation from Tony a bit later today.
A couple other things that my staff is doing on behalf of the agency, in particular really helping to provide more momentum to the outreach of the satellite offices. There's a lot of focus right now on Silicon Valley with Michelle Lee as the new regional director there. We've been giving her support as she's been reaching out to folks locally and here in Washington, D.C. As you might imagine, we haven't selected a particular location yet for a permanent home for PTO in that area and everyone wants us to be in their backyard. Certainly, Michelle brings to the table a lot of, again, patent background, but she's being asked quite a bit. What other resources will come to bear in Silicon Valley that will be available not just to patent applicants, but to trademark applicants and she's thinking about and trying to make plans to provide other resources there, too.

Certainly a lot of activity on congressional caucus activity. Creating new caucuses, the USPTO has Joyce Ward who runs our
education programs here at PTO, helped to launched
what's the new STEAM Caucus, that's STEM plus an
A, A for Arts. I call that the enduring legacy of
Steve Jobs. So, we've turned STEM into STEAM and
there were lots of good metaphors about the rising
steam of this effort. So, we helped to launch
them. Actually, I'm being correct here, it was
launched on February 14 on Valentine's Day, so,
yet again my metaphor, it was a steamy day up on
Capitol Hill.

Also, we've seen a Creative Rights
Caucus launched, we've seen the activity from
other caucuses that we know there's an IP Caucus,
an IP Piracy Caucus and we're following all of
those. In addition, as I mentioned, we're already
doing kind of individual meetings. We were up on
the Hill a couple of weeks ago doing a briefing
for all Senate Judiciary staff on PTO operations
and a couple of the key areas.

One issue in particular that folks are
interested in is activity in China. As you all
may know, there's activity on all fronts in China
legislatively; reform of the trademark law, reform
of the patent law, and reform of the copyright
law. So, certainly, they were interested in those
issues, also interested in issues like trademark
swatting, which we've done quite a bit of
education on.

And then there's the softer side of
congressional affairs. We try to find other ways
to engage congressional staff to get them involved
and interested in our issues by bringing them here
to the office and see the day in the life of a
trademark examiner, day in the life of a patent
examiner. We're just getting started thinking
about when we might do that.

Also taking advantage of some new
relationships that we have with the Smithsonian.
We've helped to establish two museum exhibits
there at the Smithsonian, one being "Build a
Better Mousetrap." We're going to bring some
staff out to see that again this year and we
announced earlier this year a great partnership to
open up an innovation pavilion in the Arts and
Industries Building on the Mall. Those of you who've seen that, one big building always perpetually under construction on Independence Avenue. Well, at least part of it will be a home for an innovation exhibit.

Lastly, we have World IP Day coming up. Official World IP Day is April 26. We're looking at doing some events up on the Hill earlier that week and I have a team here at PTO that's actually expanding it further than we've done in the past doing six events around the country, one here in Alexandria, one in each of the satellite locations, one in New York. That's all six.

I think, Debbie, you're going to go out to help celebrate World IP Day as well to one of those locations. So, again, kind of the softer way to engage our audience, congressional staff who want to appreciate the work that we do and understand the work that we do.

With that, I'll end. That's all the activity that we're working on, hoping that Congress will act on some of these budget issues
as the year goes forward. I will say for those who are following the news, I think the focus now after today is the next date, which is March 27. That's when the current CR ends and there will need to be a congressional activity in order to avoid a government shutdown. So, we have eyes on that, as well. As I said, Tony certainly has eyes on that. He'll speak later today.

Maury, with that, I'll turn back the

mike.

MR. TEPPER: Dana, thank you very much.

Obviously, lots going on.

And before I ask for questions, and with my apologies, I cannot resist but point out that throughout the course of Dana's helpful remarks, we heard the term "steamy," "Valentine's Day," "congressional affairs," and "softer side."

(Laughter) Now, any of you out there in the media who have great editing capabilities I suspect could make something of that, but for the rest of you, I know that
1 you're going to look forward to
2 Dana's updates in the future. And,
3 so, we could be back.
4
5 More seriously, I would like to thank
6 you on behalf of the committee for your help. I
7 mean, our lesson is if you want to get something
8 done, just ask Dana and it will happen for you.
9 We have excellent representation on the Hill with
10 the PTO as you can see. Dana's absolutely correct
11 that although for most of you, the sort of
12 technical amendments to our structure can be very
13 helpful for those of us on the committee. I think
14 it's going to sort of enhance our continuity and
15 our work and we appreciate that.
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17 Does anyone have questions, comments for
18 Dana? Yes, please.
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20 MS. HAMPTON: Good morning, Dana.
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22 MR. COLARULLI: Good morning.
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24 MS. HAMPTON: I just have one question
25 and I probably should know this, so, I'm going to
26 take it for those who maybe don't. Can you give
27 like a two-second summary on the Foreign
Counterfeit Merchandise Prevention Act? Thank

you.

MR. COLARULLI: Sure. So, it's not one
I worked on a lot. I'm happy to send you more
information. It's one of the first bills that
were out of the shoot this Congress.

Representative Poe had I believe a previous
version in the 112th Congress and it's escaping me
the actual provision. So, let me follow-up and
get your more information.

MS. HAMPTON: Thank you.

MR. COLARULLI: Sure.

MS. PARK: I have a question.

MR. TEPPER: Yes, Kathryn, please.

MS. PARK: Dana, I have a question in
whether or not you've heard any discussion about
whether they'll be hearings of any sort on what's
happening with ICANN and the rollout of new GTLDs?

MR. COLARULLI: So, it's unclear. I
mean, it actually is an issue I've raised with
House staff. You saw a number of hearings last
year without necessarily a goal, other than
raising awareness. ICANNs take an additional action since then. So, I would expect the issue to come up again. I know it's not the top of their list. You'd most likely see this come up in the House context and there's two forms actually that have come up, certainly House Judiciary, but there's kind of a split jurisdiction with Energy Commerce, regulation of Internet. So, we might see it, but we haven't heard any mumblings about a hearing as of yet.

MR. TEPPER: Thank you. Are there other questions?

MR. FELDMAN: I don't have a question, but to piggyback on what you said, I just wanted to compliment both Dana and actually TPAC members, and by "TPAC members," I really mean all the other members here beside me because dealing with the technical amendments, it really was partnership at its finest.

Obviously, the Hill was looking for guidance from you, you were looking for guidance from TPAC, and as you well know, TPAC gave you
comments and gave them very quickly and sometimes
those amendments turn into law and sometimes or
often they don't and in this case, they did. And
like you noted, we've raised this issue for a
number of years both in and outside the annual
report and it's nice to see that when it comes to
the composition of TPAC and the helpfulness, the
rotating on and off will help or will aid when it
comes to the writing of the annual reports. It
really worked out well for everybody.

So, I think it's a good time to thank
you and a good time to thank the TPAC members for
stepping up and stepping up so quickly.

MR. COLARULLI: Thanks, Howard. And
I'll mention the very quick response is absolutely
essential and to add to the splicing, it's nice to
see that TPAC is agile and you can move quickly
and very, very helpful particularly in legislative
process that moves quickly. We have very few
opportunities. I think that'll continue in this
congress to actually get some of the things that
are less sexy but important for this agency to get
done. So, I did it again, "sexy." (Laughter) So,

thank you, Howard.

MR. TEPPER: Thank you, Dana. Are there

questions from the public? I know we're just a
couple minutes behind, but I want to make sure,
are there any questions before we move on?

(No response)

MR. TEPPER: All right, many thanks to

all. I'm especially pleased at having been

labeled as "agile." Anyone who's met me will

probably recognize I'm very famous for falls and

injuries, and, so, I'm going to write this one
down in my book. This is a first.

I'd like to turn now to an update on

trademark operations. If you've been following

your agendas in the past, we've mixed it up a

little bit, so, I hope you'll like the fresh, new

format, that I do think that there will be a good

flow of information today, and Commissioner Debbie

Cohn has kindly agreed to sort of move a little

bit up in the batting order and we'll continue

with an update on operational issues.
MS. COHN: Great, thanks so much, Maury, and good morning, everyone.

And I'll just get started here. If you'll turn to the first page in your book under this particular presentation and on the screen, you'll note that we've changed the format just a little bit after getting some feedback on the un-readability of our previous presentations with our data and statistics. We have made an effort to make it more readable for people who are watching online and for those of you who are looking at it in our printed materials. So, I hope this works for you. It's on more pages than it has been in the past. So, that's the only bad part, but I think it should be actually readable which is very helpful when you have materials in front of you.

So, let me just get started and the first area is quality and as in the past, we have broken our quality down into three components. The first two have to do with legal compliance by examining attorneys and they are for first office
actions and for final office actions, which
includes approvals for publication as well as
final refusals. And in both of those areas,
you'll note if you look at the last two columns
that we're not quite making our targets yet for
the fiscal year, but I would like to point out
that for the quality areas, the statistics or the
data is not really statistically significant until
we've reached the end of the fiscal year.

It's the way the cases are pulled and
the number of cases pulled just don't give us a
statistically significant result. So, this has
happened in the past where the first quarter or
the first few months shows a more negative result
than we actually achieved by the end of the fiscal
year. So, we're planning and hoping that that
will be the case this year, but we are also
looking at the data with an eye toward developing
appropriate training where necessary to address
whatever themes there might be or issues that we
might uncover in this first quarter quality data.
So, that's for first and final compliance.
Now, the next item in the quality area is the exceptional office action and I've talked about this for the last year or so, but I'll just sort of remind everybody what that is and it includes the legal compliance as the first two measures do, but it also includes the writing, the clarity of the writing of the office action, it includes the appropriateness and clarity of the evidence and it includes the search. And, so, it's a more comprehensive look at the quality of the office action and we're measuring our first office actions on this because we really want to focus on having a very clear and concise first action for our users and our customers.

So, the excellent office action, as you can see, we are currently at 33.8 percent compliance, which is just a terrific, terrific level of compliance. Examining attorneys reach this level because they want to. Now, we do provide full disclosure, a financial incentive for them to reach this level. It's an exceptional quality award and we want people to reach it, but
it's not an easy lift and I'm really pleased that our examining attorneys are paying attention and want to produce the best quality work that they can and it's showing in these rising compliance levels for the exceptional office action.

And just one more item on this, I would like to point out that the trademark operation actually received a gold medal from the Department of Commerce this past January, just a couple of months ago, for this program and Department of Commerce awards gold medals for new and innovative programs, all sorts of things throughout their agencies and this was seen as a new and innovative program for customer service for using stakeholder input and quality guidelines and training to provide a better product for the customer. And, so, I was very pleased and proud to accept the gold medal on behalf of the entire trademark operation and I want to publicly thank everybody involved in this project, including all of our examining attorneys, managing attorneys, and the folks who really plan this effort.
Moving onto e-government, you'll see that we're doing quite well. We're at 78 percent and let me remind everybody that e-government in this context means complete electronic processing from beginning to end of the application. So, the application is filed electronically and there is electronic communication, no paper is exchanged throughout the process until the point of either registration or abandonment or notice of allowance.

So, this is really a great goal for us to have because as you all probably know and I'm sure all of you only communicate electronically with us, but electronic communication really means you have a better quality product, what you enter, what you send us is what gets uploaded into the system. We have no lost papers; that's a thing of the past with electronic communication. So, and it's a cheaper way to go. And, so, it's really a win-win for everybody.

So, I hope that people are always thinking about electronic communication and we in
connection with this put out some months ago a request for comments on a possible fee change and to incentivize electronic communication and the response that we got from our user groups and from the public was overwhelmingly positive, and, so, we are currently considering those comments and making additional plans to go forward with a proposal that you will see probably fairly soon.

Next item is application filings and we are on target which means filings are going up the way we thought they would. I have several people who work on planning; they're budget folks and they work on planning what's going to happen in the coming fiscal year and beyond and they have to take a lot of things into consideration. It's a bit of a crystal ball kind of thing, but they do a fabulous job. So, they actually do have crystal balls. And we're on target for their predictions, and, so, we're expecting to have an increase in filings throughout the fiscal year, especially cumulatively throughout the fiscal year.

And in that connection, we're doing some
hiring. We just hired 30 examining attorneys. Sixteen of them started this past Monday and the remaining fourteen will start in the first week in May and they are an excellent group of examining attorneys, we got a huge response as you might imagine to our job announcement. So, we're really excited to get this group onboard and get them trained and start producing lots of high-quality work.

And then I'm not going to go through the examiner production except to say it's pretty much on target to where we expect it will be. Let's turn the page here. Examiner FTE, that's Full-Time Equivalent positions. We've got a target of 387, and, so, that's a balance between how many people we expect will probably leave during the year and how many people we will hire during the year. So, that's probably where we will end up.

And I'm going to skip office disposals and move to pendency to first action. As of the end of January, we were at 3.3 months. We're
looking at this very seriously, which is why we're hiring. We don't want to go above 3.5 months, so, we need to be pretty proactive in this regard as we plan for the future and especially for the rest of this fiscal year. We did increase our available overtime hours for examining attorneys to try to address the issue this month and we expect that that plus the hiring will help us stay the course.

Pendency to disposal, the next two items are right on track. As you can see, the second one, 10.2 months is if you take out suspended and inter partes cases. That's about the time that you can expect to get your registration or notice of allowance.

And then the efficiency item, you can see the lower number is a better number, so, we're doing well on that. It's the average cost of a trademark disposal compared to all the costs of operating, not just within the trademark operation, but all of the related costs throughout the agency, such as OCIO, space, et cetera, so,
that's our efficiency measure.

And then turning the page, I'm going to
run through the non-examining statistics and I
hate to say "non-examining" because it's not
really a positive term. There are a lot of
operations that go on within the office that
support the rights of trademark holders and the
ability to maintain registrations and the ability
for people to get information about how to apply
and register and that's everything from our
Trademark Assistance Center, our post-
registration area, our Examination Support Unit
that handles amendments and things as they come
into the office.

So, if you look at these, I'm not going
to through them in great detail, but I want to
point out that our support areas are doing really,
really well. We have very highly-motivated,
productive, and high-quality employees and they
are getting the work out and they're doing it in a
very high-quality manner.

So, if you look at this page, you'll see
that the people, our areas are meeting their
targets. If you look at the top, the ESU, that's
the Examination Support Unit, you'll see they have
a target of 14 days on amendments and publications
and they're at 1 day for amendments and 12 days
for publications. So, it's just as an example our
Intent to Use Unit is processing under the 15-day
target for all areas.

Turning the page now to MADRID, their
target is two days and they're at one day. Can't
get much better than that, can you? And then
pre-exam is at three days. They really need to
push to get to their target of two days, and I
have no doubt that they will.

And similarly with post-registration,
they actually have improved since in the last few
months and we'll continue to improve and they will
undoubtedly shortly reach their target of 15 days
for all of their processing.

And then our Petitions Office is right
there, one week and on all of their measures, and
they're within their target.
So, I'll pause for a second in case anyone has any questions about this presentation. This is the statistics and data and then I'll move on to other things.

MR. TEPPER: Do we have any questions?

(No response)

MS. COHN: Okay, I mentioned the request for comments regarding the TEAS filing fees. We had another request for comments that came out around the same time and that was to shorten the Section 8 and 71 affidavit of use period, and if you'll recall, the question was whether it should be shortened from where it is now between the fifth and sixth year to possibly between a third and fourth year and we got a lot of response on that. We got coordinated responses from user groups as well as responses from individuals and the responses are available, the comments are available, but I would say that it was really mixed, but probably overwhelmingly negative or more negative than positive. People not really wanting to make that change. Many of the comments
referred to the Section 15 filing period and
decoupling it with the Section 8. They were
concerned about that. Some said that we needed to
do some further research and have data on it and
but everybody I think agrees that the idea of
deadwood from the register is a good idea and will
only serve to make the register more valuable for
trademark owners and potential trademark owners in
the future.

So, we are putting a hold on that in
terms of activity, but we're not closing the book
on it. We are waiting until the end of our
specimen pilot which, as you may know, is a
two-year pilot and Sharon Marsh will talk a little
bit more about that in her presentation, but we're
waiting to see the results of that and then we'll
pick this issue up again and start talking about
it in light of those results. So, there is a
notice on our Web site giving information about
that. It was posted on January 10.

Moving on now to some recent
developments, you're on the cutting edge because
we are having a TSDR deployment tonight. So, you're the first to hear about it, although I think it was posted on our Web site. So, we're going to have some new features and some of those I'm just going to go through some of the highlights that you'll be able to see on this deployment.

The public will be able to view data and documents about a trademark including relating to TTAB and assignments from a single location. You'll be able to download all of the data, including TTAB and assignments. And the ability to view the TTAB and assignments data will be much, much easier using the document tab once this deployment is made. You'll be able to book more the TSDR urls for future searches using the case and docket viewer and you will also be able to view multiple cases, up to 25 on the same screen.

So, these are all positive developments and I am told that this deployment is going forward. If there's any late-breaking news later in the day, you'll see it on our Web site, but I
think all systems are a go on this one.

At the end of January, we had a migration of TEAS and TEASi forms to a new virtual environment and some of the highlights and changes for this included improvement to the suspension forms, allowing attorneys to bypass the signed declaration if none is required, global forms now function properly when special characters appear in the mark. That's really great that they function properly. I was very happy to see that.

The actual word and claim of acquired distinctiveness was added to any field that references Section 2(f) and there were a number of other enhancements and you can see them on our TEAS Web page if you look under TEAS enhancements, you can see more of what I'm talking about in terms of enhancements.

Another IT issue is our idea manual where, as I've said before, we're redesigning it to better meet our user needs and this is redesigning our current manual, although we also will be working on a manual for Trademarks Next
Generation. We had a bit of a slow start for technical reasons, but we are getting started right now. I believe we've just signed a contract to make some IT enhancements. One of them will be to have an ID checker, which is what we call being able to when you type in your ID on a TEAS form, not TEAS Plus, but regular TEAS, you will be able to see right away whether it's in the ID manual or it's not. So, that, we think, will be a really good improvement.

Another thing we're going to do is allow users to filter out at their option the TEAS Plus individual submissions that come in and sort of crowd up our manual. Sometimes you may not want to see all of those; so, you will be able to filter those out.

We also had a number of suggestions from internal users, from our examining attorneys that we're going to try to implement, as well. So, we have to strike a balance and trying to do what we can to our current system, but we know that we can't do too much because we're also in the
process of working on our Trademarks Next Generation and we certainly don't want to slow up those efforts, but we will have a new ID manual at the end of that process, as well.

Continuing along the ID manual, we've reached out to various industry groups to talk about ways to improve the content and entries in the manual and three of the topics that are probably at the top of the list are social media, finance, and computer terms. INTA and IPO in particular are helping out with that effort to try to give us some expert industry advice on how things should be worded and what should be included in the manual. So, we see that as a big benefit to our internal users, our examining attorneys, and also to the public in having the most up-to-date and relevant IDs listed in our manual.

Turning now to the TMEP, we are going to have an update in April. This will be our first semiannual, is that the right term, twice a year? Yes. So, we're going to have semiannual updates
now rather than annual updates and that's because we have a new tool. The technical letters are RDMS. That's the new tool that not only has presented the public with better search features, but it allows us to much more easily update the manual and control the content of the manual.

Now, we don't want to give you an update every month. I think that would be a little bit too much, but twice a year is what we're shooting for, and this April, we're going to have an update. It will be limited to new case law and previously-issued exam guides. So, it won't be overwhelming, but it will be a good update for everyone to have.

In connection with the TMEP, we have a tool that many of you probably have seen already. It's a way that you can provide comments about the TMEP online and you can also provide comments to the exam guides that we post before they're issued and we recently did that with the specimen exam guide that came out in December, but before we issued that exam guide, we considered all of the
comments that were posted by the public and by
examining attorneys on this tool which the brand
name I think I can say because it is on the Web
site is IdeaScale, and it's turned out to be a
very good tool for people to really give us some
valuable input before we make our exam guides
final. And, right now, we have TMEP chapters 1100
and 1700 available for comment using that tool,
so, if you feel so inclined, go on there and let
us know if you think any changes should be made.

Another enhancement that we're looking
at is the Official Gazette. So, I don't know if
you know this, but since we've last met with this
group, we have eliminated the paper OG. I know
that doesn't matter to any of you because none of
you have been using it for a long time. In fact,
we only had I think 150 users of the paper OG with
subscriptions within the past few years and 3 of
those subscriptions happen to be ours. I don't
know how that happened, but we were a little
surprised. Anyway, so, we got rid of that GPO.
Government Printing Office is no longer producing
that. Christmas day 2012 was the last issue of
the paper OG. And, so, that puts us in a position
where we can actually modify and enhance the
electronic OG because it no longer has to be
suitable for paper publishing.

And, so, the clumsy PDF format will be a
ting of the past. We're working on enhanced
search tools. We're working on a lot of things.
We hope to have a prototype available. I think
end of March is what we're looking at for people
to look at. It won't be an actual Official
Gazette, a working Official Gazette, but it will
be something for people to take a look at and make
some comments on. We're hoping to have the entire
project finished by the end of the fiscal year and
we do want to get user input on this.

We had a couple of focus groups in
October where representatives from user groups had
the opportunity to give us their thoughts on what
they thought should be contained and that's sort
of the basis for how we're marching forward on
this, but you'll have other opportunities. So,
that's the Official Gazette. We're very excited about that project.

I want to move now to outreach and talk a little bit about first stakeholder outreach and I think you've probably noticed in the past few years we've tried to have roundtables, we've tried to involve our stakeholders in our decision-making actually before we make those decisions. We think that's a lot better than hearing the complaints after we make the decisions. So, we finally got it and we're moving in that direction.

We're also trying to have stakeholder outreach sessions around the country to involve people who maybe wouldn't ordinarily have the opportunity to meet with us. And, so, we're working on this with INTA and we're having a small group, around 25 people in various cities and we set up these meetings, they're several hours long, and the whole purpose is to talk about whatever issues are on their mind, even talking about advanced practice tips, letting people share ideas and letting them hear from us, but most
importantly letting us hear from them. And we've had these stakeholder roundtables for a little more than a year now. They've been very successful.

The past couple of months, we've been in Seattle, Charlotte, North Carolina, Detroit, Portland, Oregon. We'll be in Atlanta this month and we have a few more planned and we will continue to plan them as long as everyone feels that they're valuable ways to spend their time and so far, we've gotten excellent feedback on them and we've actually made some changes and it's really helped us to hear from people who use our systems every day, who work with us on a regular basis, and, so, if you've participated in any of those, I appreciate it and thank you.

More outreach, and this sort of falls onto something Dana mentioned. We're planning to have a seminar or workshop later this year on bad-faith filings. It will take place in Tokyo, and it's actually being set up and coordinated by JPO, the Japanese Patent and Trademark Office, and
targeting practitioners, of course, and we're hoping to get good attendance from China and other areas in Asia, and this is one of the projects for the TM5, one of the seven or eight projects that we have going and we're really happy that we're going to continue along this line and all of the participants of the TM5, including China and Korea, are very anxious to get this going.

So, hopefully, we'll have good results from that and our folks do participate. We've had these in the past, and TTAB judges and representatives from External Affairs, Dana's area, have participated. So, we look forward to that in the future.

Another international area I wanted to mention has to do with the WIPO Global Brands Database. I'm not sure whether you're aware; WIPO has recently launched a Global Brands Database that has I think six national offices, including ours, and you can also, of course, access the MADRID registrations, international registrations.

What I do want to mention and we were
able to give them our data because they were able
to do all of the IT work necessary to convert it
to make it usable for them, we do have a notice
posted on their Web site talking about the need to
actually do a search on the USPTO Web site on
tests for U.S. mark or for when you're filing in
the U.S. The WIPO Global Database does have all
of our data, but it's necessarily the way that you
would see it if you were really interested in
doing a proper search at the USPTO, and, so, we do
make that known on their Web site.

More outreach, I want to mention our
Public Educational Program and we continue to
explore ways to reach members of the public
because we have realized over the past couple of
years that it's much better to educate people
before they have entered into the process and made
whatever mistakes that they might make when they
don't know anything about trademarks and they get
involved in it a little too late. And, so, our
outreach manager, Craig Morris, has been
continuing to reach certain educational
entrepreneurial groups and other small business
groups that we probably wouldn't ordinarily reach
in our usual stakeholder outreach efforts and
we've also revised our basic fact booklet and
added some informational videos to our Web site,
which I know we've talked about in the past, and I
really encourage people to look at because they
explain our process in a really informative and
clear, plain English, and even sometimes
entertaining way and I've heard from law firms and
others that they actually used these videos for
training. So, I encourage even the most
experienced practitioners to take a look at them.
And we're planning to do a few more this year on
trademark basis.

So, I think that I've definitely
exhausted my time and I think I've covered
everything I would like to cover, but please, if
anyone has any questions, I'll be happy to
entertain them.

MR. TEPPER: Thank you very much Debbie.

I see a hand with a question, but I'm going to
exercise my prerogative just to acknowledge and 
say thanks to not just Debbie and her staff and 
leadership, but to Trademark Operations for 
another excellent quarter. I suppose that our 
next meeting will be introducing her as 
commissioner for Trademarks and gold medal winner 
Debbie Cohn. 

But I was just struck as we went through 
all of the performance measures the fact that a 1 
percent variance in January has already been 
focused on and dealt with training and resources 
by the office tells you that it makes our job on 
the Advisory Committee very easy. They pay a very 
close mind to these, they stay on track. We 
appreciate that. In fact, I admire that once you 
start meeting all of your goals and targets, the 
office is on its own setout, some more stretch 
targets, and the excellent office action standard 
is a good example. Twenty-five percent compliance 
rate was what they were shooting for. They're 
ahead of that. 

So, we'll look forward to seeing what
they can do to raise the bar next time, but we do appreciate it.

And I would like to thank the examining corps, all the managing attorneys. You guys don't always agree with me. I wish you did, but you're very helpful and very responsive and thoughtful. And, so, just on behalf of your customers, we do appreciate that.

I'd also like to encourage everyone, you heard several times in Debbie's remarks changes that are coming, responses the PTO has made, and in most cases, they are after public input. There are roundtables and discussions and meetings, there are often a quest for comments. I encourage those of you in the public to take that seriously and to give your feedback to the PTO.

As you can see, it makes a difference. I appreciate that the office seeks input first. And, so, for those of you, do please stay tuned. We'll try to be aware of Federal Register Notices or Requests when they come up, but it's a great process and it makes for, I think, a better
outcome for everyone when you participate and
provide your comments to the office so that they
can respond.

With that, Deb, I think you had a
question.

MS. HAMPTON: Good morning, Debbie.
First of all, I just wanted to congratulate the
office and to say that from a user standpoint that
the enhancements that you mentioned this morning
is going to save so much money and probably so
much time, particularly when you talk about the
ID-checker. I believe a lot of the users,
particularly when they have long identifications
of goods and services for TEAS, and if there's a
method to do a TEAS Plus, which will shorten the
time to complete the application, I would not be
surprised to see that the number of TEAS Plus
applications rising and TEAS going down. So, my
hat off to the office.

MS. COHN: Thank you, Deb, and your
comments suggest that maybe I need to clarify what
the ID-checker is going to be. It will be on the
regular TEAS form. So, you will have the
advantage if you want to use regular TEAS rather
than TEAS Plus for any particular reason, you'll
have the advantage of being able to tell in that
regular TEAS form whether your ID is in the manual
and you can't do that today. So, I'm not sure
whether it will cause people to move to TEAS Plus,
as you suggest, but it will certainly make it
easier for them to use the regular TEAS
application form.

MR. TEPPER: Thank you. Are there other
questions, comments? Yes, Anne?

MS. CHASER: Debbie, I'd like to echo my
congratulations for terrific results.

Recently I heard that the USPTO is
ranked number four as one of the top places to
work in the federal government, and I think that's
a huge compliment to the leadership and also to
all of the employees that work here.

Could you give us a little background on
that?

MS. COHN: Sure, and actually, I should
have included that in my remarks. For some reason, it didn't make it in there and I apologize for that.

This was a huge deal for us, it was a huge honor. Among the category of sub agencies, which we are considered since we're part of Department of Commerce, we were ranked number five in the Best Places to Work Survey, which is put out by the Partnership for Public Service and it's based on an employee survey that goes out every year to all employees, and, so, they compile the answers to various questions and figure out -- and it's a very complicated process -- rankings among a number of categories of agencies. In our category, there were more than 200 agencies. And, so, to be ranked number five was just a huge honor for us and I think it reflected a lot of things; it reflected the employees, it reflected the managers, it reflected just a lot of effort on the part of our agency and it was, as I said, a huge honor to be part of that. So, thank you for bringing that up.
MR. TEPPER: Great. Are there other
questions? Please, Cheryl.

MS. BLACK: Hi, I have a question about
the TMOG. I was just curious if any of the 147
other subscribers had any comments or feedback
with the elimination of the printed publication.

MS. COHN: We have not heard directly
from anyone. I understand that one person may
have complained through INTA. I don't know who
that person is. And I haven't gotten any
information about it, but I think the level of
effort required of GPO and the money required to
produce that and the negative effect it has on our
ability to provide services, I think the balance
tips in favor of that one person just having to
deal with that.

MS. BLACK: And that's sort of hearsay
anyway because you didn't hear it directly.

MS. COHN: No, no, it's complete
hearsay, thank you. (Laughter)

MR. TEPPER: Thanks. With apologies to
that one person, if you exist, I think that if at
least one lawyer doesn't complain about something, it's a sign of the apocalypse. (Laughter) So, all is probably right with the world. Do we have any questions from the public?

(No response)

MR. TEPPER: Well, thank you very much, Debbie. I know we're just a little bit behind on time, but I think we had a lot of ground to cover and we appreciate all of the updates and information you shared.

And I'm also glad we are going to hear next from our Chief Information Officer's Office. Having learned about the roll out of TSDR tonight, I'm glad we got them on early in the day because they will have their hands full, I don't doubt. We're joined this morning -- thank you, I see Raj Dolas is coming up, who is the Portfolio Manager for Trademarks Next Generation and your agenda indicates, John Owen, our Chief Information Officer, is going to be here. John actually does have a doctor's note. I apologize, but need to
tell you that his physician insisted on his being there instead of here this morning, but we are grateful and want to thank Marcie Lovett for stepping in.

I think you all met Marcie at our last meeting in October, when she was just brand-new to the office. So, we appreciate her being here today to provide the OCIO update.

And with that, I'll turn it over to you, folks.

MR. DOLAS: Thank you, Maury. Good morning, everyone. John does send his apologies that he could not make it here today. He's at the doctor's office, but I will go through the Trademark Next Generation portfolio and then I'll hand off to Marcie for the state of our current systems.

This is what we're doing right now for Trademark Next Generation. We have six programs that have numerous projects. We're doing a lot of stuff right now.

So, the six main programs we have are
infrastructure improvements, the TMNG user interface, which is very important, we have a Web and Business Services Program, a Data Services Program. Cloud competing, obviously, is very important to us and Separation and Virtualization.

There are a number of projects in each of these programs. I'll go through the projects in the next set of slides and I'm just going to move on to the next one.

So, one of the key projects that we have done and it's complete, by the way; it was completed in January, is single sign-on project that allows us to provide access to TMNG in a role-based access. So, instead of trying to figure out or trying to build multiple systems, we have one system that we're going to build in TMNG and when you log in, based on who you are, the system behaves slightly differently for each of the roles. For example, managing attorney versus an examining attorney or legal instrument examiners. The roles will be defined based on who you are and the system behaves slightly
So, this product was installed in December. We tested it with one of our TMNG Systems Trademark Quality Review System in January and that also was completed and successfully tested in January. So, we have one system that is working using the single sign-on mechanism and production environment.

The user interface is a key for building new systems. We follow a user-centered design methodology for building the user interface. We have a set of volunteers who are interviewed twice a week and they tell us what the system should look like and how it should behave. So, their input is captured and the user interface is developed based on their input directly. We have developed some core capabilities that are necessary, such as docket management, case file management, routing management which means, how do you take a case from one business unit and send it to the other or between employees? Those are some of the core capabilities that we developed and
we'll continue to work on them to make them better.

The current UI efforts are focused more on writing office actions, providing a very easy way of developing and writing office actions and storing them in a content management system and alert notifications. This is a new feature that we're adding to Trademark Next Generation where alerts will be used predominantly instead of e-mail communication between the business units and between employees.

Web and Business Services is where most of the business logic, the workflow rules live. We're currently developing workflow rules and business rules for examiners and we'll continue to do that for the rest of this year.

The Web and Business Services 2 Project is responsible for building out different environments for Trademark Next Generation. We have built out environments for development, system integration tests, functional quality tests, and staging. We're currently working on
planning on how to build a production environment and that's a goal for us to complete in this year. We also have an environment for disaster recovery. We're going to start planning for that in 2014 and build that environment out in 2015.

We have a project for Trademark Reporting and Datamart. So, the goal of this project is to separate reporting features and functions from your main systems that examiners and other employees use, transfer the data into or copy the data on a nightly basis into the Datamart so your reports do not impact the way your main systems work.

The current focus that we have is developing reports for the Office of Quality Review. We're working on examiner reports and publication reports for that group.

Trademarks Records Management is part of our Data Services Program. We will be migrating data from our current system of records, our mainframe which is TRAM, into Trademark Next Generation Databases. We have made significant
amount of improvements and progress in migrating data for our mark information, correspondence information, goods and services, and we have about 59 tables that are created in the Next Generation System, we have about roughly 11,000 cases that have been transferred into the Next Generation Database that allows us to prove that the migration process is accurate and allows us to check for data accuracy and consistency.

The rules that go into migration also get validated as part of this. So, doing a migration of 11,000 cases has helped us tremendously in improving the rules that allow us in the transformation.

Debbie spoke about the TSDR and document retrieval system. We actually have -- it's going into production today, instead of just testing quality, performance and user acceptance, all those tests have been completed and we're actually looking forward to this system going into production.

Electronic Official Gazette, Debbie also
1 talked about this.

2 We're all excited about this project.

3 We initialized it a couple of months ago and we

4 have selected vendors. They have started working

5 on development process. Architecture has been

6 finalized, requirements have been finalized, and

7 development has started. What we anticipate doing

8 in the next few weeks is giving you a preview of

9 what the user interface is going to look like. We

10 will put this out on the Internet, so, selected

11 members can get a preview of how the user

12 interface looks like and get your feedback on

13 improving the user interface further.

14 Separation and virtualization, we have

15 been talking about this for quite a while now.

16 Our goal is to separate all Trademark IT Systems

17 from other systems that exist in our data center.

18 The goal of that is to not just separate them, but

19 virtualize them so that we reduce our footprint

20 for all Trademark IT Systems that exist in data

21 center.

22 We're currently working on five, and
that is going to be the last stage in separation
and virtualization. We have finalized the
production deployment state, and in the next few
months, most of these systems will be separated
from other systems that exist in the data center
and they will stand on their own.

This is a draft of a roadmap. We
continuously improve this map and modify it based
on priorities of the business. It is very busy,
so, I'm not going to go through the details in
there, but the applications, a majority of them
since we're in FY13, TSDR 2.1, as you see up there
at the very first thing that is going to be
complete. The Trademark Datamart Reporting will
continue throughout 2013. Electronic OG has been
kicked off. AASSO, and this is the one in pink,
is complete. TRAM data migration will continue.
And at the bottom, we have the terminology that we
use that is based on Business Architecture, which
is value streams, development of the value steams
was kicked off in September and that will continue
throughout through the next few years.
And that's all I have for Trademark Next Generation.

Do we have any questions?

MR. TEPPER: Okay, are there questions for Raj? I would like to just pause a second and just make sure that it's clear to everyone in reviewing these slides and I think Marcie's, as well, Trademarks Next Generation will be a single system that is going to serve both internal users at the PTO, examining attorneys, folks that are doing their work here at the office and also the external users, the public. So, some of what you have seen and I think will be seeing in the slides when you hear of these developments for examiners, do understand some of this for those of us attending or for public users will be behind-the-scenes work. We may not see the changes. We want you to be aware of activity that is going on and some of the external phasing pieces you are hearing about, as well, in connection with this. So, if you hear a part of you see a screen where you think I don't think I
use that application, that probably is the case,
but we want you to understand development
activities that are ongoing for sort of both
d Pieces in the system.

With that, do we have questions for Raj
on Next Generation activities before we transition
over?

(No response)

MR. TEPPER: All right, thank you. In
that case, Marcie, I'll let you pick up.

MS. LOVETT: So, in terms of some of the
legacy enhancements and small work requests
accomplishments that we've made since the last
time we've met, there was an initiative to update
the existing trademark serial numbers because the
existing ones were going to end. So, we've added
a new series code for trademarks, Code 86, which
would take us out a couple of years and these
serial codes are the ones that are generated when
applications are assigned.

Also, there's been an infrastructure
upgrade for compliance with IPV6, which is our
Internet Protocol Version and this will enable better routing across the network. We did that for our TEAS, TEASi applications on January 31 and we also address any post deployment issues in collaboration with the support teams.

For trademark petitions template enhancements, we're currently modifying the existing templates to change some content to assure compliance with the law as well as developing six new templates for the examining attorneys. We are in the process of developing two of those, which is the Letter of Protest, decision, and memo.

The Trademark Universal Laptop replacements was completed successfully on February 22, so, all the trademarks are currently on the same baseline.

In terms of the MADRID enhancements, code modifications are underway to mitigate any erroneous and duplicate data generated on the style sheets to ensure the appropriate texts apply when stating the reason for the invalidation.
There's also an infrastructure upgrade to help us better stabilize the platform for MADRID and some system enhancements are under analysis and these system enhancements will help us meet some additional treaty obligations as well as put some things in place in the interim while we're waiting to move forward with Trademark Next Generation.

For X-Search and TRAMcites, as you know, we had initially had issues deploying this to the users, so, we've addressed all of the performance degradation issues and we've also deployed to the trademark examiners. There are a few stragglers that for various reasons we were unable to reach; either they were on vacation or they were not connected to the network.

For Fast-1 and Snag-IT, testing is in progress and we're scheduled to deploy on March 4. TEAS form enhancements; we're also doing some analysis to make some enhancements to those. Some are dealing with treaty mandates and some are dealing with cumbersome manual processes that we need to automate.
The Trademark ID Manual, Debbie spoke to that earlier. This will allow us to have a Web interface to retrieve and validate goods and services.

So, does anyone have any questions?

MR. TEPPER: All right, yes, please.

Yes?

MS. WELDON-WILSON: I just wanted to thank you for making these slides so accessible to us so we can understand the progress that's been made and the progress that will continue to be made and you've done that in a very straightforward and understandable way. So, thank you.

MS. LOVETT: You're welcome.

MR. TEPPER: Sure, Cheryl, did you have a question?

MS. BLACK: I just wanted to make the comment, Marcie, I know you kind of jumped in at the last TPAC meeting and you've come back and shown us what has been done. I know John is not here, but we really appreciate the progress that
we've seen. We had raised some concerns and you
all have addressed them and we definitely see
going forward that we'll continue to see that
progress. So, we want to acknowledge that and,
Raj, thank you very much.

MS. HAMPTON: I just want to echo what
Cheryl said. From the last public meeting until
today, the enhancements that we've heard about and
the changes that have been made, it's just
phenomenal. So, my hat's off to you, Raj, to
John, to the OCIO office. Thank you.

MS. LOVETT: Thank you.

MR. TEPPER: I was pleased; by the way,
you'll note that we saw the universal laptops have
now been deployed and are at least in use. I
don't know that we're going to miss that one. You
all have probably noticed we've been focusing on
and talking about that issue for about the last
year in our meetings. Understand trademarks were
sort of the last in the office to receive that
because there are some difficulties with a couple
of the systems that examining attorneys need to
So, since it was a February 22 deployment, let's all hold our breath, cross our fingers, and try to look the right way so that everything works. That's what I do with my computer when I log on and sometimes that is effective.

But we obviously are at a midpoint here. It's a little bit like being halfway through constructing a house. We're really pleased to see progress. We also recognize this has been a significant investment on behalf of trademark users and customers and we hope to see things continue to progress to finish out and round out these systems.

Do understand for those of you on the outside that part of this we may be in a quiet phase while some internal changes and enhancements are showing up and we'll do our best to keep you updated on those to be looking at those as we meet here and also we'll look forward to seeing some of the other changes that we get to see on the
outside of things.

So, do we have any questions from the public for OCIO?

(No response)

MR. TEPPER: All right. Well, good, see, you guys must be very thorough. Everyone's quiet today. We appreciate that very much.

Thank you, and I'm going to turn now, sort of continuing with my baseball analogy about the way that we have structured today's meeting. I believe this makes Sharon Marsh our cleanup batter. If you ever had to put together a batting order, you know you want someone strong in that position. Sharon is sort of the last item before our break. She's coming forth in the lineup. So, you make sure that you have a strong hitter to come in and round that out. But we do have a brief update on just a couple policy issues and developments and we appreciate your being here to update us, Sharon.

MS. MARSH: Thanks, Maury. My nametag's on the other side of the room, but most of the
committee and most of the audience is on that
side, so, I'm going to sit here.

I just have two brief items. The first
is what we have been calling our Post-Registration
Specimen Pilot. If you recall, this is our
attempt to gather some information about the
accuracy of the Section 8 affidavits that are
filed between the fifth and sixth year after
registration. And, so, for 500 unlucky
registrants, we have been sending them an
additional requirement at the time they filed a
Section 8 to submit proof of use for 2 additional
items per class.

The pilot is going fine. As of
Wednesday, the staff tells me that we have sent
out about 450 letters. I think actually it's a
little less than that. We have 68 more letters to
send. And these letters are going to all
registrants, no matter what the basis. I'm told
that we got a phone call from one U.S. registrant
who was surprised that he had received a letter.
He thought this pilot was only going to apply to
non-U.S. registrants. But it's a proportionate number of queries that are going to registrants under all 3 bases, Section 1, 44, or 66.

Probably we will be ready to report some data maybe, maybe the end of the calendar year. These registrants have, as you know, six months to respond. So, if we haven't even sent out all the letters yet, it'll be a full six months before we can collect all the data.

The other topic was any updates on MADRID protocol. I think the news with MADRID is that in the last seven months, four countries have become active participants in MADRID. The Philippines last July, Colombia last August, New Zealand in December, and then Mexico just last month. I think that brings the total number of MADRID protocol countries to 88, which is a really good development. We have provided a little bit of technical assistance to some of the new countries as they come on. As you can imagine, it's a very large, sometimes overwhelming project to put all the systems in place to be
participating in MADRID.

Last month, two of our staff members, Jennifer Chicoski and Felicia Battle, provided some technical assistance to Mexico, as they prepared to start accepting MADRID applications.

I also believe that Commissioner Cohn had some very preliminary conversations with the officials at the Indian Trademark Office. India is also preparing to join the protocol.

Here in the U.S., our statistics for 2012 were similar to 2011. We had 5,291 international applications filed by U.S. trademark owners and we had 13,492 MADRID registrants that designed the United States, and those came in as 66(a) applications.

And, lastly, I wanted to mention we are just in the planning phase, but we're working with WIPO to develop as WIPO-USPTO seminar on advanced MADRID protocol practice. The idea is that it's kind of a complicated system sometimes, lots of little rules that don't come up very often, and, so, we thought that it would be useful to U.S.
Practitioners if that kind of program were offered here. This would be done through GIPA, our Global Intellectual Property Academy. So, stay tuned. We will let you know as that develops.

I think that's about it, Maury.

MR. TEPPER: All right, thank you for that very much.

I do want to remind everyone in the event that you receive a letter in the specimen pilot, this is a pilot that was launched only after several rounds of comments and discussions. I compared it last time, I think, to your chances of being audited by the IRS. If you are one of those people, I am very sorry. Your odds are still very low.

So, for the rest of us, we appreciate what you are doing to help us better understand the system and sort of preserve the integrity of our use base register and I wish I had an address to direct you to, but do remember this is one of those things that although we'll all hope to avoid, I think some useful information will come
from it and I'm so far holding my breath, keeping
my head down, but if I get a letter, we'll be
responding, as well.

Are there questions for Sharon on these
developments?

(No response)

MR. TEPPER: Okay, any questions from
the public? Are you guys ready for a break?

(No response)

MR. TEPPER: In that case, I think one
of the most popular parts of our meeting and in
recognition of reality, I used to have a 10-minute
break in these meetings and I know you guys aren't
going to be back. I'm going to call this 15, but
please actually do plan to be back here at 10:45.
Our CFO will be providing us with an update and
presentation.

So, those of you who are watching
online, just understand we'll plan to reconvene at
10:45. Thank you.

(Recess)

MR. TEPPER: I was really intending to
let you sort of find your way in, but since everyone's back in, why don't we with the old adage you can't finish if you don't start, I would like to resume our meeting.

Have just a quick housekeeping request and hopefully, this will benefit those of you who are listening to the meeting online, I do want to remind our speakers we do have microphones here in the room. Please be sure you push them and the red light is on when you speak, but also if you can speak close to the mike so that your voice picks up. It will help those who are listening online to be able to better hear and understand the presentations and the questions.

And I also understand, and I may be guilty of this since I'm using my phone as a clock to try to watch this, if you get your PDA or you smartphone too close to the microphone, it can cause some interference. So, please do try to avoid that. If you're playing Angry Birds, good for you, but just don't do it too close to the microphone.
All right, with that, we're going to pick back up in the agenda. Again, shuffle the order a little bit, but we're following up on some discussion from our last meeting. Very pleased to have some representatives from the Office of the Chief Financial Officer here today. We are going to start off with an update from Tony Scardino, our CFO, but he is also joined by Mark Krieger and Michelle Picard, who are going to also be giving us some background on some of the work that the CFO's office does.

You heard from Dana this morning about some technical amendments to the AIA. One of those dealt directly with funding and is relevant to why we wanted to have this presentation. You all know that for a while, there has been what we call the trademark fence, which is a statutory prohibition on expending trademark-related revenues on non-trademark operations.

Now there is also a patent fence. So, the CFO's office is our group that helps us attend to both of those. You'll hear a lot about the
lengths to which they go to make sure that we appropriately account for and allocate the monies that come into the office and ensure that those are all being handled and expended appropriately. So, just wanted to give that to you as a context for part of why we're going to walk through a presentation on their cost-based accounting methods, but first, Tony, I want to thank you for being here and we'll look forward to an update.

MR. SCARDINO: Thank you, Mark. Good morning. It's a pleasure to be here.

Kind of busy times in the financial world of the U.S. government right now. So, I always like to start out with the most positive, which is that fiscal year 2013 resource status, especially for trademarks, is looking very good right now. Revenue is just slightly below what our working estimate was for the first four months of the year. We're at $86 million. We had estimated about $90 million by now. And spending is totaled $89 million, which is about $3 million above our current year revenue, as I mentioned.
But we fully expect that the trademark's operating reserve would cover any revenue or lower than expected fee collections, so, no problems there whatsoever. Reserve was $126 million, you'll recall, coming into this year.

Having said that, there's still significant uncertainty for fiscal year 2013. As you know, government agencies are operating under a continuing resolution until March 27. So, we are waiting to see what will happen. We fully expect that Congress will probably develop a full year continuing resolution, which means that agencies by and large would then operate at fiscal year 2012 funding levels. However, if our spending rate is below our anticipated collections, we have the access to the reserve. So, we can do a variety of things and if we collect more than is appropriated, we can also then -- things would go into the Fee Reserve Fund that was created with the America Invents Act, so, we can request that through reprogramming. So, that's always good.
And then we've got fiscal year 2014.

I'm sure folks that are following things in the federal government right now, usually the president submits a budget to Congress by first Monday in February, and right now, that's been delayed a bit. We're dealing with sequestration and other things. So, we think a budget will probably be submitted by the end of March from the president to Congress, and, of course, we're part of that process. You should see a draft budget for trademarks by probably late next week. So, we appreciate your comments, as always.

Other than that, we look to forward to discussing the 2014 budget as things go into the future. We expect that Acting Director Ray will testify. I think Dana mentioned probably sometime in April.

Any questions, thoughts?

MR. TEPPER: Do we have any questions at this point for Tony?

I do want to remind everyone as we spent a good part of the day sort of keeping up on
projects and operations, we sometimes lose sight
of the difficulty that the office faces as a
government agency and actually budgeting and
spending. They are still subject to congressional
appropriation. When there is not a budget and
there is a continuing resolution that impacts the
agency and its ability to plan. So, I think if
you keep this in mind, most businesses would tear
their hair out if they had to deal with this type
of uncertainty and this level of change. So, we
have been encouraged in recent years, but I think
you’ve seen language in our annual reports and you
will continue to.

I do want to remind folks that although
it is a user fee-funded agency, the PTO still is
subject to congressional appropriation and
authorization, and, so, when you send in money in
connection with an application or transaction, we
sort of could all simplistically assume that money
goes straight to the office and they can use it.
That is not the case. So, we appreciate the way
in which the office can operate. There were some
positive steps in the AIA, but we definitely
support and encourage any additional measures that
will allow the PTO access freer and more regular
and predictable access to its funds that its
customers provide.

Now, any other questions at this point?
(No response)

MR. TEPPER: All right, well, stay
tuned, folks. It's hard to avoid listening to the
news and understanding that -- I think I heard
this an ancient Chinese curse, may you live in
interesting times, and we definitely do right now.
So, I know that the only thing I know for sure is
things will be changing over the next few months
and we'll try to keep on top of that, but we
appreciate knowing that you guys are monitoring
that and working on that for us.

I think we'll continue now with a
presentation giving us an explanation of sort of
how the CFO's office reviews and accounts for
costs. You saw a slide earlier on I think that
provided you -- and I was waiting for somebody to
jump up with this -- on the cost of reviewing an
application. It came out around $555. I don't
have the exact number, but I was waiting for
someone to notice how much bigger that is than the
filing fee and you were informed at the time that
that represented all of the agency's costs direct
and indirect. Stay tuned here. I think this will
help you understand better how we determine and
calculate and can manage to understand and predict
those costs.

So, thank you, Mark.

MR. KRIEGER: Good morning and thank
you. I'm Mark Krieger. I'm the director of
Finance here at PTO and here to talk about
managerial cost accounting.

I apologize for the dryness of this.

There's only so exciting you can be about the
managerial cost accounting.

On our agenda today, we're going to talk
about the history and overview of ABI, or
Activity-Based Information, how we've gotten to
where we are today. The Trademark Fee Study
1 Approach, I can tell you it's a very collaborative
effort between us and trademarks and the subject
matter experts. We need them to help us through
every step of the process.

And then we're going to give you a
shared service factsheet or an example related to
managerial cost accounting with our OCIO and we'll
show you a detailed example, but also I want to
illustrate that we have models for every business
unit and it's very comprehensive here at PTO.

Like I said, we've been doing this for
many years. It's 15-plus years, so, we're at the
maturity level. We're recognized as a federal
leader, which is very complimentary to us. Also,
we want to take a look at how we're doing things
and we had an independent review several years ago
and I think it's a shout out to our Steering
Committee, which is members from each business
unit, that they gave us thumbs up and gave us a
few suggestions which we took into account, but
for the most part, they said that we're doing
everything pretty well and that's really good.
We're very proud of that fact and also that we have received Certificate of Excellence in accountability reporting for the last 10 years. So, for the federal agencies, that's a really good plus.

There are a couple yearly things that I want to point out. 2007 and 2008 were very pivotal years for us. The first thing we did was revitalize the Steering Committee. Like I said, every business unit is represented. No driver is done without voting. It's not a unilateral approach. And we implemented new PPA codes. And you'll hear me say that a couple of times. That's a Program, Project, and Activity, and that really allows us to allocate or drive costs to various business units based on coding structure.

Also in 2009, 2010 is when we really developed or enhanced our fee study approach. Again, we worked with patents and trademarks throughout this process, calling upon the subject matter experts and I think at the end, we have a great product.
Well, this is our flow of ABI data and what I want you to get from this slide is that it's a very comprehensive system for collecting and reporting financial information. On the left side, we have our inputs, which are timesheets, any financial data, contractor invoices. All those inputs are going to have PPA codes associated with them. They're going to be input to our system and the outputs are a variety of things.

The first is our expense contribution report, which is we can tell by three digit org or by every organization how that's split is to patents and trademarks. That's our jumping off point for our fence calculation as well as for budget formulations to 2014.

We also have Statement of Net Cost. For those in the private sector, that's the income statement. Now, that is audited. I want to keep that in mind. They look at our drivers, they look at our desk procedures, they make sure they're onboard with the way we're doing things.
We also have performance reporting by efficiency measure, we have model data which in the trademarks case are cost objects or an end result are the fee codes. That's what we result from the model data.

We also have EDW Reports and standard reports so every quarter, we have a large volume of standard reports that go out to the Steering Committee that talk about expenses not only PTO-wide, but also by business unit that everybody gets and we review it at the quarterly Steering Committee meeting.

This is one of my favorite slides because it really does summarize how we do it here at PTO and that's the basic waterfall methodology where we allocate all the support or shared service organizations down to two buckets, patents and trademarks.

I want to take you through an example and it's a perfect segue from CIO, but if somebody from CIO, an employee is working on the trademark and Next Generation System, they're going to use a
specific PPA code that will drive not only the
cost associated with their payroll, but the space
that they incur and any OPM payment, which I'll
get to in a second, will drive down directly to
trademarks because that's the PPA code they use.
It's that simple.

OPM payment for those that don't know,
we have to fund all future health, life, and
pension costs currently. So, everybody, including
myself, every federal employee at the PTO, we have
to pay that currently.

We have two types of expenses; we have
direct expenses and indirect expenses. Now, the
direct have two flavors. Okay, I want to be clear
on this topic. The first is anything managed
directly within a trademarks organization. You're
going to have your normal stuff, payroll,
benefits, training, travel, contractual services.
Those things are directly managed by trademarks.
Then you're going to have your other direct costs
that they're allocated, but they're directly
associated with the products and services and
they're managed centrally at times and there's an efficiency reason for that.

So, for example, rent. Instead of having one requisition and each organization having to pay an invoice for rent, we do it centrally. Just makes sense. It's the same with the OPM payment. We have one big quarterly payment that we pay to OPM, we manage it centrally, but we have a good driver by the individual level that will drive those costs to the entire organization.

The second piece is indirect expenses, which are going to be your financial management, HR, legal, things of that nature. Also included in that is policy. So, for example, I know at last TPAC they had Dom from the Attaché Program. That would be part of the indirect costs associated with it.

Again, another slide that I really enjoy because it shows you the five-year expense trend and you get a feel for where we're headed and you can see for trademarks a very consistent
percentage. You went in 2008 at 68.2 direct expenses to 69.3. So, you can see over a five-year period there's not much variety there. Also the same with indirect. You're at 31.8 versus 30.7 from 2008 to 2012.

The final below that, I want to show the final two-way split because, like I said, in the waterfall methodology, that's where we come to two buckets. You'll have your trademark and patent split. For 2008, it was more like 11 percent, 89, and now you're at 9, 91, and that's to be expected as the patent organization has grown.

Now, this is something we went over in detail at the subcommittee yesterday because we have this by actual fee code. For every fee code, we have the cost incurred and what we actually charge in the variance. This is a summary, and we're aggregating them, to give you a high-level view of where not only do we incur our expenses, but where we recoup them.

Now, how do we get to this level?

Here's a good slide of trademark expenses and the
flow through of how it works. And what I want to
point out is on the resources, activities, and
cost objects, all those three columns, the numbers
are the same. It's just a different slice of
them. Now, how it works is you have your
trademark direct expenses, which we talked about.
You have your compensation contracts, et cetera,
then you have the direct portion that are managed
outside of the organization which is rent, your
OPM payment, and any CIO systems. Then you're
going to have your indirect CFO, CAO, and your
policy.

Now that we've talked about your
activity cost, how do we get to the final cost by
fee code? Well, it's a complicated process.
Again, we couldn't do it without the trademarks
organization. We really needed the subject matter
experts involved in this and that's where they
helped us really every step of the way.

But we had to create an activity to fee
code mapping. So, we collect the fee and what
activities support that fee. And then we have to
unitize those costs and apply any adjustment factors, if necessary. Sometimes you do things more than once. There has to be an adjustment factor applied and we come up to a fully burdened unit cost by fee code. Now, within that, we can tell what portion is direct, what portion is indirect. Gives you a really good feel for where your costs are coming from.

Okay, now, CIO. When I talked about the trademarks slide, it's not much different than the CIO slide in the way it works, the way it operates. You have your resources which are your direct compensation. CIO is going to have their own staff; they're going to have their own contractors. They're also going to have rent they take up. Data warehouse takes up space or the data center takes up space. OPM payment for all those employees. We used resource drivers. In most cases, it's going to be PPA codes that I talked about to come up with CIO activities.

Now, you'll see we have a lot of activities. Most of that is because we have so
many systems. We have over 260 systems here at PTO. We use those activity drivers to drive those

to the actual business unit.

Now, I want to give an example of number

of PTO IDs, so, PTO Net is a system, so to speak.

It's an infrastructure piece. We will split that

based on the number of PTO Net IDs that we have.

So, if I create an additional one in my office, my

office is going to get one more, okay? That's the

way it works.

I also wanted to take you through a

helpdesk example. If someone in trademarks

organization calls and says hey, I'm having a

problem with TRAM, that cost associated with that

is going to actually burden the system, which that

system is then going to be allocated to

trademarks. If someone from patents says hey, I

need to move my PC from here to there and they

call the CIO for helpdesk, that's exactly what's

going to happen. That cost is going to allocate

two patents because they requested a move.

That pretty much is it. I did want to
take one example because I love examples, and it's specific to my office, but if someone is working on a trademark project or something on behalf of trademarks, we have a coding structure in place that will allow for that. Okay, so, that cost associated with whoever's time would go directly to trademarks.

In most cases, that is not the case in my office because we make payments on invoices. That's for benefit of the entire organization. So, what we do is we come up with a driver. That would be number of invoices per business unit and that's how we split that cost. We aggregate that activity cost and we split it based on the number per business unit. It's very logical, makes sense, and that's how we do things here at PTO. So, I want to open it up for any questions.

MR. TEPPER: Thank you, Mark. I'm afraid to say I actually understood that. (Laughter) So, I hope that you all found that as helpful as I did.
It's good to know and understand sort of how much effort goes into tracking this.

Do we have any questions? Questions for Mark?

MR. FELDMAN: I would just add that in spite of your opening comment about how dry the subject matter was going to be, I've been at many TPAC presentations and this was the most riveting presentation I've ever heard on cost accounting.

(Laughter) And I, for one, can't wait until the July presentation.

MR. KRIEGER: Thank you very much.

MR. TEPPER: I'm not sure if that was a compliment. Howard may have called you the coolest team on the chess team.

MR. FELDMAN: It was a compliment.

MR. TEPPER: Okay.

MR. FELDMAN: I can't wait for the waterfall slide again.

MR. TEPPER: Thank you. Do we have questions?
1 (No response)
2 MR. TEPPER: All right. Thank you.
3 Anything else from the CFO?
4 (No response)
5 MR. TEPPER: Thank you very much. We
definitely appreciate both your efforts and your
time today to help us and get a better
understanding of this.
6 In that case, I'm very happy to be ahead
7 of schedule.
8 Gerry, you're bottom of my lineup. You
9 have to be the power hitter today. So, I
10 appreciate that and I also appreciate Chief Judge
11 Rogers sort of waiting until last. Perhaps, I'll
12 move you up to the top of the line up next time.
13 We'll see how things work. Like a good manager,
14 you got to keep it fresh and try to work with
15 that.
16 But we will now turn to an update on
17 TTAB, some progress, some status reports, and
18 thank you to Chief Judge Rogers for being here
19 today.
JUDGE ROGERS: Thank you, Maury. I actually thought you had me last because you were giving me as much time as possible to recover from the terrible cough I had the last time I was here. And I appreciate that. It was quite a chore to get through that last meeting.

But I am better and things are getting better and looking up at the board, too, and hopefully, we can talk about some of the things that we have going on there and some of the things that we've been doing in the long time since the last meeting.

I'll just run through the things on the agenda first since they're listed and people are expecting to hear about them and then we'll run through some of the slides that are up on the screen.

So, staffing and integration of new hires, again, that's something that's kind of exciting times for the board because we have since the last meeting added four new judges, three new staff attorneys, a lead paralegal to work with our
supervising paralegal, a quality review team of
three people with a supervisor to review the many
thousands of uncontested and consented matters
that come in on inter partes cases and have to be
handled by our team of paralegals every year.
And, so, those groups that I've mentioned,
paralegals and attorneys and judges, if you think
of the workload at the board as kind of a pyramid,
the base of the pyramid are the 9,000, 10,000
matters that come in every year that require
processing by our paralegal team and they provide
the basis for the pyramid because that's what's
keeping all of those pending cases moving forward,
whether they are appeals or oppositions or
cancellations.

Then, of course, we've got the attorneys
who handle the contested motions that come up in
the trial cases. So, those cases which have a
hitch in them can also be kept moving and we can
resolve those hitches.

And then of course at the top of the
pyramid with the smaller number of work, but of
course much more detailed and lengthier decisions are the judges. So, we'll go from 10,000 paralegal matters to 1,000 attorney matters to 600 or so judge matters at the top of the pyramid.

So, it's been a challenge for us to integrate all of these new people, but I have to say it's working very well. The new judges were very productive, we were happy to have them in the first quarter to help with our production in the first quarter, and they've taken to writing decisions very well.

The new attorneys that we've brought in are experienced and quite capable and every report I have from Ken Solomon, the managing attorney, is that they and their mentors are getting along fine and doing great and the attorneys are coming along very well.

The lead paralegal has really just started just shortly before this meeting and the Quality Review Team is getting set and up and running, and, so, we're hoping for great things from them because there's been a lot of scrutiny
paid to the work of the judges and the work of the attorneys at past meetings of the TPAC and at roundtables and at other forums.

But one of the kind of great unknowns, the unexplored territory of the board, if you will, has been all of that work being done at the base of our pyramid by the paralegals. And, so, we're very excited to be able to focus on that with the new lead paralegal and the Quality Review Team. So, that's the hires we've actually brought onboard and we are paying them out of our PPA codes and our budget.

But we also have another significant addition and that is Meryl Hershkowitz is kind of on loan to us from the Trademark Operations and we thank Commissioner Cohn very much for freeing up some of Meryl's time and making her available to us. Trademarks, of course, is kind of ahead of the board in terms of their systems and the data that they gather and can use for performance measurements and workload projections and budget projections.
We have systems that are much more labor-intensive, not as useful in terms of doing those kinds of projections and it's great to have Meryl onboard and to have her working with myself and Debbie Decker, our senior administrator, to kind of assess workflow and work processes on every level of our pyramid and figure out where we can realize efficiencies, where we can deploy some initiatives that will increase production where needed and have us work more efficiently on our cases. But it will also help us work with Karen Strohecker and Nabil, who you heard from before in various times because they're going to be helping us out with coming up with formulas that we can use to project workloads and staffing needs based on what's coming in the front door of the PTO and the trademark operations because that's kind of an area of weakness for us.

So, again, exciting times, a lot of people, difficult to integrate and keep all the moving parts going, but I'm looking forward to the challenges and I'm really happy to have the help
from trademarks and to have all the new people onboard who, again, are doing very well.

A more specific item on the agenda that also deals with kind of personnel and people is the examining attorneys who have been working with us on work project at the board and I want to briefly touch on that. We have had two groups of thee examining attorneys come and work with our judges on large record inter partes cases.

So, the first two groups have completed their work and I reported back to Commissioner Cohn with the summaries from the judges who worked with the first group of three, and the second group of three has just recently finished up. So, we'll get reports and feedback on how the judge work went with those participants, too, very soon. And then we have the third group of three starting in April and what we will do is in the fourth quarter kind of debrief the work project participants, continue to debrief the judges who have participated in this, figure out what the best practices are, what the lessons learned have
been, and then we can sit down and talk with trademarks and see how their staffing is going and how our staffing is going and what we can work out for the future. But that has been a successful program at least at this point in time based on the limited data and the limited time we've been running it.

The next two items on the agenda I'd like to kind of flip because one is meetings and outreach and the other is the TTAB dashboards. And, so, I'd like to talk about the meetings and outreach first because that kind of leads into the dashboard, which is an outgrowth of one of our roundtables.

If you go to the TTAB Web page today, you will see some changes in the Web page and what we've tried to do is kind of rearrange some of the links and some of the sources of information that we have on the Web page. And, so, you will today see for the first time a stakeholder outreach box which didn't exist before and we're trying to highlight and collect in one place all of the
agendas and transcripts and things like that from previous outreach.

So, in that box, you will see the Notice of Inquiry on the possible increase of the board involvement and settlement talks in inter partes cases, you'll see the comments received, you'll see the agenda from our roundtable on processing times or links to all of these things, you'll see the transcript from that first roundtable. That was the 2011 roundtable on processing times.

You'll see the agenda from the more recent roundtable on accelerated case resolution and a coming soon notice on a placeholder for the transcript from that ACR roundtable and that transcript is out now with all of the participants and as soon as we get the comments back and we can update that transcript, we'll get that posted.

The other thing that we expect to post on the Web page within the coming month or so is the first set of TTAB dashboards and we've worked through a lot of iterations of this and I know it's kind of been a long time coming. It's like
of like the UL deployment, as you alluded to earlier, Mark. We talked about the dashboards a lot, but, again, our databases and our information are not as mature, not as developed as what trademarks has available to them, and, so, we've kind of tried to tease a lot of information out of our systems, out of the manual labor that I do on some spreadsheets.

And I think we're finally at the point where we have at least a good starting set of dashboards to put up on the Web site, and when they go up, hopefully by the end of March, you will see essentially kind of an at a glance approach to some performance measures, much like you see on the trademark dashboard page. So, you'll see pendency figures, you'll see incoming filings, you'll see inventory levels of all kinds of cases, so, you can have a sense of how much work is pending at the board of every type of case.

But then we will further break it down and we will have various dashboards on ex parte
appeals, the number of cases maturing to be ready for decision, those that need to be decided by judges, the total inventory of appeal cases that need to be decided on the merits, the age of those cases, the pie chart sharing various ages of the cases. We'll do the same thing for trial cases, oppositions, and cancellations so you'll be able to see again the number of oppositions and the number of cancellations out of our total inventory of each type of proceeding that have proceeded to the point where judges have to decide them on the merits and how long they've been pending, that sort of thing.

And we've also been working very diligently with the managing attorney and the attorneys at the board who are our source of data on contested motions and TTAB opposition and cancellation proceedings. Again, we don't really have a way to tease that information out of the system, but they enter data, the attorneys enter data into a log in our Electronic File System and we're able to derive from the data that they enter
filing information on the various types of
contested motions that come in, those that are
awaiting decision, how old they are, that sort of
thing.

And in this regard, in regard to these
two dashboards, we've also kind of in-house, we're
going very close to deploying two new logs, data
collection tools within our Electronic Filing
System that will ease the chores of the attorneys
in reporting and listing the contested motions and
will ease, I hope, my chore in keeping track of
all the cases waiting to be decided on the merit.
So, that's a little bit of a kind of IT
enhancement that we have going on while we're
waiting for TMNG.

And, so, that's the kind of preview of
what you can expect to see on the dashboards and
we will, of course, have explanations of the
charts and the graphs and we will be soliciting
comment.

The thing I think our next step would be
would of course be to consider the comments and
consider any changes or additions that might be warranted based on the comments, but also to add some more historical data. The initial set of dashboards are really going to focus on kind of current data so that anyone who needs to advise a client on how many things are pending at the board and how long it's going to take for that matter to be resolved, we'll be able to look at current data and provide that kind of client advice, but we know that there's some interest in getting more historical data, so, we'll get that up on the Web eventually, too, but some of that will have to go back and develop and pull together to be able to put up more historical charts.

And, of course, you will also see on the Web site the revised Manual of Procedure. No report here by the board would be complete in recent years without a report on how we're doing on revising the Board's Manual of Procedure, and, of course that's available on our Web page and archived versions of it are available on our Web page.
And I do have to thank Judge Angelo Licos and Cheryl Butler for the work that they've done in the last couple of years and we will have the next revision of the manual out in June.

That's our schedule and that'll be three years running that we've had a successful revision of the Board's Manual of Procedure after a string of about seven years with no revisions. So, we're happy that we seemed to have turned that corner and it's no longer a question of when the revisions are going to come out, but just really what's going to be in them because we know that they're on a good, steady schedule now.

Potentially something that could be increased in frequency maybe to semiannual updates when we're in the RDMS System and alluding to another kind of IT enhancement. We will have this revision that is being worked on now by Cheryl Butler completed first and then rendered in PDF form and posted on the Web, just like we have for each of the last two revisions, and the reason we've done that and we've been slow to get our
manual into the RDMS System is, well, part it's
CIO resources and the focus that they have
necessarily had on the patent operations and the
trademark operations and getting their manuals up
and running and in great shape through the RDMS
System. We also had tried earlier to convert a
version of our manual into xml so it could be put
into the RDMS System. That conversion didn't work
as well as we had hoped and until very recently,
we were thinking that we would continue to work on
getting that data converted, but a decision was
recently made in conjunction with the CIO that it
would be better to wait, there's a new schema
that's going to be deployed, I'm not quite sure
that I understand what a "schema" is, but I know
it's important. And when the new schema is
deployed in the RDMS System, it is I am told going
to make it much easier and much more efficient for
the board to do a conversion of the revision of
the manual that will come out in June and convert
that into xml.

So, we'll get that into RDMS, we'll be
looking to get that into the system later this year. And then we'll be able to think about doing future revisions through the RDMS System and I do want to also note that we will get a chapter of this revision of the manual up and available for comment in idea scale. That will be Chapter 1200. It's a discrete chapter in the manual that covers all of the ex parte appeal topics and, of course, many of the people who are interested in the work that the TPAC does and the work that the Trademark Operations do will also be interested in ex parte appeal procedure at the board.

And, so, we will make that our first chapter in IdeaScale and we don't have to wait for the RDMS conversion, the xml conversion to do that, but we do feel that it would be more useful to get the revision of the chapter done first over the next couple of months so then when that complete revision is done, the whole manual will be rendered into PDF and posted on the Web and be searchable. And then we will take that one chapter and put it into IdeaScale.
I've got some other topics, but I've covered a lot, and, so, maybe I should stop for a minute and see if there are any questions before I go on with other points.

MR. TEPPER: Absolutely. Do we have any questions for Chief Judge Rogers on the material so far?

(No response)

MR. TEPPER: Gerry, I want to take a second at this point to commend you for stepping back, taking a look at just how big the pyramid is and for being able to enlist some list and I also would like to commend Trademark Operations for giving you some of their best.

Meryl is a rock star around here. We've had the pleasure of working with her. I think she's filled most every role in the agency. So, I know between the two of you, we'll expect to see lots of great things coming down the pike and I think I speak for everyone on the committee, we're very excited to learn about this and we'll look forward to hearing how this is working for the
both of you. So, we appreciate that news.

Are there questions before we move on?

(No response)

MR. TEPPER: All right, you must be very thorough and on point today, Gerry. Thank you.

JUDGE ROGERS: Well, I'm trying to cover what I think people are interested in.

The next thing I wanted to mention was the number of precedential decisions that the board has issued during this fiscal year. As of the close of February, as of yesterday, we've had 13 precedential decisions in ex parte appeal cases and 5 in inter partes cases. The inter partes precedents can be final decisions on the merits that might also be useful for procedural rulings or evidentiary rulings, but they also might be interlocutory orders that are designated as precedential because they're considered useful sources of practice information for people. I expect that within the next month because of the number of other decisions that are already under consideration and in the pipeline or in some form
of review for possible precedent that will be right on target at midyear for precedents. Expect we'll probably have 17 precedents in ex parte cases and 8 approximate figures based on the numbers that I know are working their way through the system.

So, we would be at about 25 precedents by midyear, which is right where we want to be and the breakdown would probably be around 17 or so ex parte decisions and 8 decisions in inter partes cases and I know at least 3 of those inter partes ones that are now working their way through the system are procedural decisions that will be useful to those who practice before the board in oppositions and cancellations.

Another thing that we talked about time and again in these meetings and I think is a source of some good news is the number of old rules cases, if you will; the number of cases that are pending under the old rules. The number is down to only 135 cases and that's out of about 6,000 total pending oppositions and cancellation
proceedings. So, you can see the number is small enough that we don't feel that we need to have any particularly special effort to kill them all off, and, in fact, there's a number of them we couldn't kill off anyway because they're on appeal or they're suspended for civil action, but we continue to monitor them very closely and they continue to drop very dramatically.

In fact, of the 135 cases, only 63 are cases that we can really do anything about, that are on track to at some point become decided on the merits or settled. But the rest, 72 cases are suspended for civil action or they're on appeal or they're pending the appeal period or they're waiting to be decided on the merits because they were not settled and they have been tried, but there's nothing more to do on them other than decide them on the merits.

So, again, great progress on moving those older cases out and we will continue, as we have been doing, to push those cases that are supposedly on track to eventual trial and decision
and perhaps put them on a little bit of a faster track to get them decided so we can get them off of our books at some point in the near future.

And, so, that brings me to the new rules cases which are, of course, those which are all the other cases pending at the board and covered by the stats that I have on the slides.

So, the first slide you can see, this is just to give you a sense of kind of where we stand over the last few years and how things are looking in the first quarter in terms of incoming filings. Appeals based on the first quarter would be slightly up from the last of the two years if they continued at this pace, but they would still be below the higher point of fiscal 2010. Extensions of time to oppose if they continue at the current trend would be the fourth year in a row that we would reach a high level.

So, that shows that more potential oppositions are out there based on, and this is not surprising, based on the increased work that trademarks has been seeing in the increased
publications. You would expect to see more
extensions of time to oppose. And, of course,
oppositions, too, which are generated from the
extensions of time to oppose would also at the end
of the year be at a four-year high. So,
cancellations, too, would be down a little bit
from last year, so, cancellations and appeals seem
to be the things that are the most steady, but the
oppositions seem to be going up a little bit.

So, on the other end of our process
where we're deciding cases on the merits, you can
see that in fiscal 2012, we had an increase in the
number of cases that worked their way through the
system, and these are both appeals and trial cases
and required decision on the merits. We, of
course, also increased the number of cases we
decided last year, so, both of those figures were
at highs last year and that's what those asterisks
show on this chart and our inventory, another key
on this slide is our inventory of cases waiting to
be decided by the judges is down and that's a good
thing. And what we have been concentrating on
working off some of those older cases, the ones that have been waiting to be decided for a longer period of time.

So, in the near future, you can expect to see that the pendency figure may stay somewhat elevated, may even go up a little bit, but that inventory figure is going to continue to go down and then the pendency figures will come down once the inventory comes down, but we were at a high point at one point during fiscal 2012 of over 300 cases waiting to be decided and we've been consistently in the 250 range or so for the last few quarters. And, so, that's a good sign of improvement.

This is just appeal processing. The kind of information you see in the notes to this chart were prompted by the roundtable on processing times, just like the dash development of dashboards, and, in fact, the posting of all of this kind of information on our Web page was prompted by the roundtable on processing time.

We have cases that we know are outliers
and kind of skew our numbers and this is just an example, these notes on the bottom are from fiscal 2012, and if you look at the average time to disposition of appeals from the time they're commenced, you can see that fiscal 2011 and the first quarter this year are pretty steady. Fiscal 2012 was up a lot, but that was because of some of these cases which are referred to in the notes which were real outliers and which threw off the average, so to speak.

And what we would like to be able to do in the future is to develop our IT systems so that we can kind of take the same approach that trademarks does and be able to report on cases that are suspended versus cases that are not suspended because a lot of time that goes into end-to-end calculations on appeals and end-to-end calculations on trial cases, which is on the next slide, is kind of beyond the board's control in the sense that if the parties in an appeal, if the applicant wants to file a request for recon or a remand and they want to discuss with the examining
attorney whether they can get their application approved without having to pursue a decision on the merits of the appeal, that's a process the office wants to encourage. The more marks that can be registered, the better we don't want it to have to decide any more appeals than are necessary, but that's, of course, time that those appeal cases are not pending at the board, they're back before the examining attorney.

Similarly in the trial cases, which are -- oh, I'm sorry, before we get to the trial cases, we'll get the motion practice, but in the trial cases, of course, we have little control over the time that the parties spend in settlement negotiations. We could crack down and provide far fewer extensions and suspensions for settlement talks, but we know from the roundtable on processing times that not everybody would want us to do that and many people like the slower pace of board proceedings. But if we can adapt our IT System so that some of these figures we report factor out the time that is not attributable to
board action, but to others who are involved in
the proceeding, then we will hopefully have more
detail presentation of this data in the future.

This slide, the asterisks on the far
right in the first quarter is a mistake. That
should have been deleted. I've usually used those
on prior slides to indicate high points as
compared to prior years and when I recreated this
slide and moved some of the data around, I just
neglected to delete that asterisk.

But you can see that the attorneys
continue to resolve about a quarter of their
matters by getting the parties involved in phone
conferences and that's something the board is, of
course, committed to. The average time to
decision from RFD, 10.6 weeks is not particularly
significant over the goal of 10 weeks, however, we
do have to note that we expect that that figure 2
will probably be going up some in the coming
months before it starts to come down because what
we will be working on with the attorneys is to
bring down the inventory of contested motions and
that is something that you can see from the bottom line on this chart has been increasing. And, so, while we have kind of started that downward trend on the final decisions that the judges have to make, we haven't yet made that break on the motions, but we expect to be able to do that very soon and of course we have, as we said earlier, three new attorneys onboard who really are just kind of getting their feet wet and it takes a little while for them to learn the ways of the board.

And this, of course, is something I alluded to earlier. This is just end-to-end processing time in oppositions and cancellation cases. And nothing particularly noteworthy to talk about there.

And ACR trial processing, again, accelerated case resolution is something that we will have to revisit. Based on the roundtable, we'll get all of the comments back and the corrections on the transcript from the roundtable on ACR. The board is, of course, committed to
1 figuring out what best practices have been in
2 those cases that have proceeded through the ACR
3 process and I have to say that at some point, we
4 may have to seriously consider some rulemaking
5 that might after we identify best practices and
6 think about incorporating some of the best
7 practices from these cases that proceed through
8 the board more quickly and adopt some of those
9 best practices into our rules for all inter partes
10 cases.
11
12 So, that's a little bit of a heads-up, I
13 think, to the Trademark Bar. We haven't had any
14 rulemaking since we did rulemaking in 2007. We've
15 always known that we've needed to engage in at
16 least a little bit of housekeeping rulemaking and
17 some changes, but we may take that as an
18 opportunity to also think about ACR efficiencies
19 and bring them into the rules for all inter partes
20 cases.
21
22 And, so, I think we've covered some of
23 these issues earlier today in the discussion of
24 stakeholder outreach, and, again, all of this
information is available on the Web site in a more clearly identified stakeholder outreach box and I didn't know that trademarks would have something being deployed today, but I'm glad that we could report that we have something deployed today, too. So, when you come, we give gifts when the TPAC comes.

That's it for me, but I'm happy to take any other questions that people may have.

MR. TEPPER: Thank you, Gerry. Are there questions for Chief Judge Rogers?

(No response)

MR. TEPPER: Now, I do have one and I don't know the answer to this, so, of course, I'm asking it at our mutual hazard, Gerry, but I understand when we were talking about the inventory of cases and we certainly are encouraged to see that measure beginning to come down with the understanding that the others will in a trailing way be coming down, as well, is there a target number, and I just know, for example, in examination, we need to have a certain level of
inventory of work in the pipeline.

Does the board have a sense or do you have in mind a range of what ought to be the appropriate inventory of cases or is it we'd love to see it go to zero if we can ever get there? How does that impact us?

JUDGE ROGERS: I would not like to see it go to zero because then I think I'd have 20 judges asking me how am I going to be paid next month if there's nothing for me to do. If the inventory gets low, cases, that is, to be decided on the merits, both appeals and trial cases, but motions are still high. We can always have judges work on motions along with the attorneys, pitch in and help the attorneys help. If the attorneys find themselves in a position where they are caught up on motions and that inventory is low, it's in their performance plan that they can help out writing decisions in ex parte cases.

So, we have some flexibility there if one or another of the two significant inventories falls low to kind of redeploy our labor, but I
think that's one of the issues that Karen Strohecker and Nabil and I will have to be discussing and come up with models that will help us predict what kind of staffing levels we need based on anticipated numbers of motions, anticipated numbers of cases to be decided on the merits based on trademark filings and what will come from them.

I think our prior model which we had some questions about the reliability of it was designed really only to predict hiring levels, staffing levels for judges. We didn't really have anything that dealt with the staffing levels for attorneys, and, so, I don't want to shoot from the hip here and guess at what I think appropriate inventory levels would be, but I can tell you that I would like the inventory of contested motions to go back down to what it was in fiscal 2010 and 2011 because the attorney group and the size of it, the number of attorneys that we had in each of those two fiscal years and that relatively consistent inventory seemed to be a good match.
1 So, I think that might be a starting
2 point for analysis for Karen and Nabil and I to
3 discuss when we are trying to figure out contested
4 motion inventory and attorney staffing and we'll
5 just have to look at some historical data and see
6 what we can figure out about cases waiting to be
7 decided by the judges and staffing levels of
8 judges.

9 MR. TEPPER: Thank you. And I would
10 love to see us reach the point where you have to
11 start worrying about such things, but, again, we
12 are encouraged to see the trend beginning to turn
13 around and that number coming down.
14
15 Also want to compliment you for the
16 dashboard coming up. I'm going to give you
17 compliments in advance for the record. It'll be
18 coming out in March, but we really appreciate the
19 public having access to that kind of data. Like
20 any other project, I know there will be changes
21 and enhancements coming, which having the first
22 step out there, that will be a very welcome
23 change. So, we're glad to see that.
Also very pleased, I suppose if you were a band, we'd be thankful that you guys are back in the studio putting out releases every year now and we hope that will certainly continue.

Are there other questions?

(No response)

MR. TEPPER: All right. Any questions from the public at this point?

(No response)

MR. TEPPER: Thank you, Gerry, very much. And, yes, we also are pleased for your recovery.

JUDGE ROGERS: Thanks.

MR. TEPPER: We'll talk about our next meeting. It'll be in the summer. I hope allergy season doesn't impact you, but other than that, we'll be in very good shape.

Well, I want to pause at this point just to see if we have questions from the public about anything that's come up in today's meeting. Any comments or concerns?

(No response)
MR. TEPPER: Very good. With that then, my last announcement for you and we will promise to do a better job of getting this up on the Web site. This meeting, I think we had announced at our last meeting and it didn't sort of make it out there as quickly as we wanted, but our next meeting in keeping with our sort of throwing you all curveballs and changes, is going to be on a Tuesday. I know we have customarily been meeting on Friday, but we will plan next to see you all on Tuesday, July 9. So, mark your calendars, put a circle on that. We'll have another meeting right here Tuesday morning, July 9.

And I will point out the Web site currently has July 12 up, the Friday as a date. So, this is sort of following on the theme today. This is late developing news. These are up-to-the-minute changes. So, we'll get the Web site corrected. You all are in the know and we'll hope to see you all back on July 9.

With that, I am pleased to adjourn this meeting. Thanks to all.
(Whereupon, at 11:43 a.m., the

PROCEEDINGS were adjourned.)

* * * * *
CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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
direction; that the witnesses were sworn to tell
the truth under penalty of perjury; that said
transcript is a true record of the testimony given
by witnesses; that I am neither counsel for,
related to, nor employed by any of the parties to
the action in which this proceeding was called;
and, furthermore, that I am not a relative or
employee of any attorney or counsel employed by the
parties hereto, nor financially or otherwise
interested in the outcome of this action.

(Signature and Seal on File)

Notary Public, in and for the Commonwealth of
Virginia

My Commission Expires: July 31, 2015

Notary Public Number 258192