PARTICIPANTS:

TPAC Members:

JOHN B. FARMER, Chair
JAMES G. CONLEY
TIMOTHY J. LOCKHART
KATHRYN B. PARK
ANNE CHASSER
DEBORAH HAMPTON
MAURY M. TEPPER, III

Union Members:

HOWARD FRIEDMAN
RANDALL P. MYERS

Also Present:

DEBORAH COHN, Commissioner
MARY BONEY DENISON, Former TPAC Member
MARK OLECHOWSKI, Deputy Chief Financial Officer
DANA ROBERT COLARULLI, Director, Office of Government Affairs
KEVIN SMITH, Deputy Chief Information Officer
GERARD ROGERS, Chief Administrative Trademark Judge, TTAB

PARTICIPANTS (CONT'D):

CYNTHIA LYNCH, Administrator for Examination Policy
MARK DONAHEY
RAJ DOLAS

ANTHONY SCARDINO, Chief Financial Officer

TERESA STANEK REA, Deputy Director of USPTO

JOHN OWENS, Chief Information Officer

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CHAIRMAN FARMER: Sorry, I was a little behind. Normally I'm the one that's excoriating everyone to make the trains run on time, and here I am violating it in the beginning, so much for that. And also, I can tell you already that we're going to get a bit off track today simply because it's a different meeting than usual.

By the way, Terry, I'm going to have a little longer than normal opening comments. Would you like to go before me or would you like to --

MS. STANEK REA: I think (off mike)

CHAIRMAN FARMER: Okay, that's fine then. I think what we'll do then, I'll just get the stuff organized and I'll turn things over to you and then I'll come back and, since it's my last roundup, I'll have a few words. We're going to handle it that way then.

Well, welcome to the TPAC public meeting. Thank you to everybody for coming, we really appreciate that. This meeting is being
webcast, and so just be aware that you might show
up on a video, a recorded video. It's also being
transcribed, and so maybe your comments will show
up in the transcript. That's not to chill you in
any way. It's just that some people like to know
they might be recorded. You can watch this at
home. Now, of course, if you're at home, you've
already discovered that or you wouldn't have heard
me say that. But it is being webcast, and for
those who are watching at home, to the extent that
time permits, we will receive your questions and
try to ask them to our interlocutors as we go
through our schedule today.

The way you can do that is to send an
e-mail through asktpac@uspto.gov. That's
asktpac@uspto.gov. The way we handle questions
here, and those of you who have been at previous
meetings are tired of hearing me say it, but we
will let our friends at the PTO who are visiting
with the state give a brief presentation, and

normally that proceeds to questions and answers
between the champion for that issue on TPAC and
that person. Then we open it up to all of TPAC in case there are any other questions or comments, and then to the extent time permits, we open it up for questions and comments from both and our live studio audience because if you show up, you're special, and we want to give you the chance to do that. And then if we have time left after that and we get any questions from cyberspace or maybe even comments from cyberspace, we'll give you a little bit of editorial control there, we'll get those in, too, because it's not just for show, it's a meeting, and we want to be able to do those things.

And so without further ado, we are thrilled to have a new Deputy Director here at the office, Teresa Stanek Rea, to my immediate right. I hear you're already working incredibly hard, and so I thought I'd just turn the floor over to you for some opening comments.

MS. STANEK REA: Excellent, John, thank you so much. And good morning, everybody, and many thanks to Debbie Cohn, John Farmer, and all the
TPAC members for their dedicated leadership and all of the time and the commitment that you have made with TPAC. You are very, very important to the U.S. Patents and Trademark Office. Your contributions and comments are valued, and we appreciate all that you have done.

Unfortunately, as with most things in life, we are all unsung heroes, both those of us at the table, those of us who are spectators, and those of us who are webcast, but it takes every one of us to keep the trains running.

Now, in the past several years, TPAC has offered the trademark community its key insight and invaluable guidance, and over time, they've sort of become an extended family of the USPTO, so getting to know each and every one of you is going to be very, very nice for me. I've met many of you today for the first time, several of you are already good friends I have known for a very long time, so to get closer to each one of you and closer to TPAC is very important.

For those of you who don't know me, as
John indicated, I'm Teresa Stanek Rea, the Deputy Director of the USPTO. And while I've spent most of my professional career navigating the IT terrain, never before has the power of the trademark held such importance. So what you do day in and day out during your day jobs is extremely important to the U.S. Government and the U.S. economy because, as you know, by building brands that allows us to build industries and create jobs, and that is truly job one in everybody's mind right now.

As America works every day to live within its means under the cloud of harsh economic times, trademarks are what we consider to be the badges of creativity. They can represent the next wave of new jobs, the next trusted brand relied upon by families, and the next steps small businesses take in protecting their enterprises and leveraging their products. Not only do trademark submissions help sustain this office, but they're actually essential tools for small and large businesses alike to build brand equity and
establish their products in the marketplace,
thereby, directly impacting the growth of our
economy, and that makes all of your cooperation
vital and your advice more instrumental now than
ever before.

By collaborating closely with TPAC,
thoroughly assessing the work that's been done,
and having a candid conversation about what's left
to do, we continue to build a stronger, more
robust Trademark infrastructure here at the USPTO
that smartly invests in our country's path and the
businesses of tomorrow.

We consider this to be a partnership.
We want to work with each and every business that
uses our services. We want to better understand
what you do. We want to more efficiently use our
resources. So I want to sincerely thank each and
every one of you for your dedication and
unrelenting ethic of public service that is on
demonstration today.

Just as much as it is a chance for the
USPTO to clarify the wisdom of its processes, it's
also a sincere chance to learn from each one of 
you, ultimately empowering all of us to weigh a 
variety of perspectives. Let me tell you about a 
couple of things we're currently doing here at the 
USPTO.

Currently, as part of our overall IT 
effort, we're working to modernize the TMEP 
system. I was just given a slight demo yesterday 
of what to expect in the future. I think that you 
will find that our use of that technology to be 
awe inspiring and impressive and will improve the 
work and efficiency of not only our examiners here 
in the PTO, but eventually it will be launched to 
those outside of the PTO, to the private sector. 
So it's a very, very good use of our resources and 
helps bring us into the 22nd century.

So changes and addendums to the TMEP 
manual can be done much more consistently and 
uniformly. Right now we're provisionally 
considering updating the TMEP approximately every 
quarter so people will know when modifications are 
being made, and I think that that awareness, that
transparency and that efficiency should help everybody, and ideally things will become more streamlined over time. We want to minimize redundancies in anything in the TMEP and we want to draw your attention to pivotal legal changes that required modifications of the TMEP.

Also, in the name of improving external communications, on April 28th, we hosted a trademark e-filing seminar with the managing attorney at the Trademark Electronic Application System, and we explored best practices and answered questions about the filing process. Now, these efforts are part of an ongoing dialogue aimed at better understanding and meeting applicant's needs, understanding that such an effort is a two-way system. And, therefore, on June 21st, we're also going to hold an additional roundtable discussion on disclaimer policy. And on June 23rd, we're going to host a focus group on the effectiveness of authorizing e-mail communications.

So we're constantly making modifications
and changes within the U.S. Trademark and Patent Office, and we are doing it with all of your talent behind us, making sure we're as efficient as possible, and making what we do more efficient for the user community.

Now, in all of these efforts, we look to evaluate current communication practices with stakeholders and determine the viability of new, more efficient ways to bridge our office directly with the applicant or user community or shareholder community, and with those attorneys and other interested parties. So we think of this as a bridge, it's a two-way communication. And the ongoing effort to study and respond to existing trends was also recently codified in a report that was submitted to Congress last month.

I think most of you are well aware of that. In compliance with the Trademark Technical and Conforming Amendment Act of 2010, the USPTO and the Department of Commerce determined that the trademark system could be further strengthened in part via engagement even more with the private
sector in the manner of perhaps providing free or
low-cost legal advice, providing continuing legal
education programs, and enhanced federal education
outreach to small businesses. So we want
businesses of all sizes to understand what they
can do and what their trademark rights bring to
them.

Moreover, Congress considers patent
reform legislation right now, and while that might
not directly relate to your day job, that is
something that I'm sure you are all keenly aware
of. And the USPTO is continuing its outreach to
key Hill staff members to build bipartisan support
for a bill that will accelerate innovation and
create new jobs, new industries, and new economic
opportunities for Americans.

Now, not only will it streamline the
processing and examining of, in this case, patent
applications, but both the bill that passed the
Senate and the version currently under
consideration in the House contains language to
create a revolving fund for the USPTO fee
collections. It will allow the USPTO to set both trademark and patent fees. And this essential provision will allow the agency to engage in something very important to everybody in the real business world, multiyear budget planning, which I don't think is an unreasonable request, and will allow us to adjust our fees, subject, of course, to oversight, to reflect changes in cost, demand, and work load. We've got to be more flexible, more fungible, so we can anticipate shifts and changes. And this improved funding structure is very critical to enable us at the USPTO to better meet the needs of America's innovators.

Let me be clear, however, that for all of these efforts, we're working to implement at the PTO and to further improve our trademark application processing. Debbie Cohn and the Trademark team have met and exceeded their goals once again in areas of pendency, quality, and e-government with a steady increase in filings of four percent over the last fiscal year. So on the Trademark side of the house, they are meeting and
even exceeding goals, and each one of you here on
the TPAC should be very pleased that you are part
of that effort. Now, none of this would be
possible without the public's input and TPAC's
excellent support and hard work behind the scenes.
Now, your consistent communication and
collaboration is what helps us craft the best
policies, and that's why the conversation that
we're able to have today is essential in shaping
the best vision and future for this country's
trademark system.

So while I look forward to participating
in today's conversation, I am also eager to
collaborate with each one of you in strengthening
our most essential intellectual property rights,
trademark rights.

But before we go on, there is someone
very important that I would like to acknowledge
for their unrelenting commitment to the trademark
community. So I hope not to pull away from the
microphone too far, but I think at this moment in
time, it would be appropriate to thank John Farmer
for his heroic efforts, for the amount of time he has put in, for all of his corralling of the stray cats who are currently here present at the table, and while perhaps from time to time he deserved to be frustrated, he did very, very well under stress, he maintained composure at all times. He added to the efficiency of the TPAC, and even beyond that, the USPTO is very, very pleased to have had him as a colleague, especially with his position as leading the TPAC. So in that light, I would now like to present a certificate to John Farmer for all of his efforts. (Applause)

CHAIRMAN FARMER: Thank you very much.

MS. STANEK REA: And I do hope that when this record is transcribed, the duration of the applause is accurately recorded. The room has a great deal of affection and appreciation for all of John Farmer's work, and to those of you that it's webcast to, I think you can appreciate the enthusiasm and how proud we are in this room to have had this leadership. So, with that, John, how about if I turn this back over to you?
And I do want to tell you that I am just as proud to be here in this room and sort of a quasi part of the TPAC. I guess I could have a seat at the table. And I am proud to be part of this effort. Right now we have a lot more to work on with the Patent side of the house. Debbie Cohn has done a marvelous job with the trademark world, but I think the fact that we're still continuing to push forward in the trademark side of things to improve things and make it yet more efficient, and that maybe on the Patent side of the house, we could try and catch up with the trademark side. So, with that, I'll turn it over to John Farmer, and thank you so much.

CHAIRMAN FARMER: Thank you, Teresa, very kind of you. That's extraordinarily kind, and also thank you for coming to the USPTO and for your time. I know you've been working extraordinarily hard, and it's a public service, and it's because of a genuine desire to try to contribute to making the system better, and so we really appreciate that, and for spending time with
us. We always love it when the folks from the front office can come on down and visit with us for a little bit.

I'm going to say some thank-yous in a second, but before I do so, one thing I forgot to mention for the folks listening at home is, in case it's not obvious, the documents that are public for this meeting should be on the website, so if you want to see the documents that we're actually handling here at the meeting, you should be able to do that.

I want to thank a member whose service recently ended, but she's not here quite yet, so that might be kicked back a little bit in the meeting for between speakers. To continue to get us horribly off track, I'm now going to make us even slower by saying thanks to a few folks. I want to start off by saying that I have a horrible memory. I mean, I'll have people walk down the street in Richmond, Virginia, that like I went to high school with and stuff, and they'll say, hi, John, and I have no idea who they are. And so if
I leave out any names here today, it's not because I didn't think highly of your service, it's just because I've got a lousy memory, and so I apologize in advance.

I'd like to start off by thanking my fellow TPAC members, all the members that are presently on TPAC, and also those who I spent a lot of time serving with, particularly former TPAC members Elizabeth Pearce, Jim Johnson, Jeff Storie and Bob Anderson. It's a little tough because I think we all remember Jeff Storie right now, and he's a great member.

Thanks for putting up with my pushing, I appreciate it. And thank you for our strong friendship. What I would say about TPAC is that we have built a strong friendship based upon the mutual respect of hard work, and that's been tremendous.

I'd also like to thank the Trademark operation, especially Lynne Beresford, who I see here today, and Debbie Cohn, and their key lieutenants, including, but not limited to, Sharon
Marsh, Karen Strohecker, Craig Morris, and Cynthia Lynch. The thing about working with the Trademark operation is that it's made being on TPAC such a pleasure because they just do such an absolutely fabulous job.

I will confess that when I came to TPAC, I had a very cynical view sometimes of government employment. I know it's a bad thing to say in this room, but I just had a feeling that if you weren't under a lot of pressure, that possibly being tired tomorrow, that maybe the pressure for excellence might not be so strong, and they've proven me flat wrong.

They are responsible, they are responsive, they are accessible, they are communicative. There is no arrogance in the organization whatsoever, no sense whatsoever that we're just TPAC and we should stay in our corner at all. They have kept TPAC in the loop. They have sought our input and seem to genuinely want it. And above all, they constantly strive to do a better job. And when they are confronted with
obstacles, they don't see them as something to
rest on, but something to get over as soon as
possible, and that's tremendous, and we are --
that's made the TPAC job vis-à-vis the Trademark
operation, so each, because Lynne, then Debbie,
and their lieutenants just constantly strive for
excellence, and they are the paradigm of how a
governmental organization can run.

I'd also like to thank the USPTO staff
people who have been the key infrastructure behind
the scenes to make things work so well. I mean
these meetings look easy, but there's a lot of
work that goes on behind the scenes.

I want to especially recognize Ann
Farson, who's here today, but also Pat Beck, Letra
Dennis, Clarie Clemons, and Lesley Morris.
They've done a lot of stuff to help me out, and
it's not all been obvious to you.

I'd like to thank some people who are
not here today and would not be here today. I was
appointed by Commerce Secretary Carlos Gutierrez.
I'm sure he has no idea who John Farmer is, but,
Carlos, wherever you are, thank you for the opportunity.

Also to a former commissioner or a former director, Jon Dudas and Eleanor Meltzer. I've met -- Eleanor Meltzer called me three and a half years ago to ask if I wanted to be on TPAC, and I said what's TPAC? I didn't know, and I was shocked that they would have confidence in someone who -- I mean, it's not like I was super active in INTA or anything. I wasn't even a member of INTA. But for whatever reason, they plucked me out and asked if I would come do the job, and it's been a tremendous opportunity, and a career changer, and I'm thankful to them. So Jon and Eleanor, wherever you are, thank you.

I also want to thank some of the folks that we've frequently interacted with here other than with Debbie's operation. And here I'm going to be on very thin ice because I know I'm going to leave out some names.

We recognize that we on TPAC have pushed you hard, and we appreciate that you have worked
with us in such a spirit of collegiality in recognition that we're all working to better the organization. And you haven't stonewalled us or run away from us, but you've worked with us, and we really appreciate that, and it's made it very rewarding for us and it has been our pleasure to work with you.

And so at the TTAB, Judge Rogers, Judge Sams and their assistant, Cindy Greenbaum, who I see over here, we've really enjoyed working with you. As we'll find later in the meeting, you all are really starting to make some great strides and we appreciate that, especially getting that TBMP launched. We know that took a Herculean effort, and that, Judge Rogers, you inherited quite a catch-up job there, and we're really glad that it's out there, and we look forward to seeing it in HTML soon.

To the OCIO operation, particularly John Owens and Scott Williams, we're thrilled that TMNG is coming along. That was one of the great things when David Kappos became director of the agency,
that we knew the focus was going to be on patents.

And I told them up front when I chatted with them
that I realize that part of our job is to kind of
stay out of your hair so you can focus on patents,
but he still stepped up right away, recognized the
need for TMNG, and has said that it shall be so,
and we're very grateful for that.

And to the OCFO offices, particularly
our regular interlocutors, Mark Olechowski,
who's right down here, and Michelle Picard, who I
see right over here. You all have made such great
strides. It won't surprise anyone to let out of
the bag that there wasn't a great a relationship
with the Trademark operations several years ago,
and you've continuously improved it. And the
transparency and the cooperation between those
organizations has become very good, and the
information that's now coming out of your offices,
particularly the fee study and cost analysis
information, is extraordinarily helpful and
extraordinarily illuminating. And so thank you
for all of your hard work in that, we really
appreciate it, all good.

And also, for the international folks,
especially Amy Cotton -- and I'm not sure if I see
Amy here today -- you know, Amy is just so
incredibly easy to work with, there is no drama
with Amy. She just gets it done. She keeps us
apprised of what's happening on the international
scene, and she always does it with great humor
because we realize those things tend to go a
little slower since they're not entirely within
the control of the United States, but she does a
great job there. And so if I've left your name
out, it's my fault, not a lack of effort by you,
and so I just thank the entire office.

Now I get to do one more person while I
hold it together up here. Mary Denison, I just
saw you walk in. I hope you'll come on up here
with us. The thing about Mary Denison, for those
of you who don't know, Mary's term was to complete
in October, but Mary resigned I guess about a
month or so ago because she's going to be taking a
position at the PTO very soon, and we on TPAC are
very thrilled about that. But I want to talk about Mary's time on TPAC, and it can be summed up in this one sentence: Mary Denison gets it done. When she takes on a task, she just goes after it, she gets it done. She is a doer, not just a talker, and so when she decides that something needs to get done, she goes after it, and she's been a tireless worker on TPAC in that regard.

Her primary area of responsibility was the TTAB, and she's worked very closely with Judge Rogers and Judge Sams before then. And while it is the TTAB that deserves the credit for the work that they have accomplished such as getting up the new TBMP, it's Mary's work with them that I think had some contribution to that. And she's been a great TPAC partner with them, and so we really appreciate that.

She stayed on top of all of her championed issues and she set the example of how to be an issue champion. The way that the current TPAC is run, how future TPACs run themselves is up to future TPACs. I tried to basically run away
from responsibility, and so we would hand out
issues to individual members, then I would just
lift up my hands and say go to it, I hope it comes
out well for you, try to keep me in the loop if
you don't mind.

And Mary did just that. She just picked
up the ball and she ran with it and did a great
job with it, and so we are very much thrilled that
Mary will be here. And so, Mary, thank you for
your nearly three years of service on TPAC. We
have a couple of things here for you today. I am
assured within this box is a plaque recognizing
your service here.

MS. DENISON: Thank you.

CHAIRMAN FARMER: And I signed it myself
so I'm pretty certain it's there. And so, Mary
Denison, thank you very much for your service on
TPAC, you did a great job, I'll give you that.
And I also have one other small thing for you.

MS. DENISON: Thank you.

CHAIRMAN FARMER: And so as the Eagles
said, "You can check out any time you like, but
you can never leave." We're thrilled that you're
going to be back here at the PTO doing some more
fine work, and we will all admire it from our
present and former TPAC perches. So thanks for
your service.

MS. DENISON: Thank you so much. May I
take a moment?

CHAIRMAN FARMER: Go for it.

MS. DENISON: Okay.

CHAIRMAN FARMER: We have the schedule
out the window today.

MS. DENISON: Okay, thank you.

I'm honored to have served on TPAC, it was a real
pleasure for me. The members of TPAC are a
wonderful group and I consider each of you and
those who have gone before, including our dear
departed Jeff Storie, to be good friends, and,
John, thank you for that.

I've been constantly impressed by the
dedication of this group. Everybody has worked
really hard and has the best interest of the USPTO
in their hearts and minds at all times. And it's
been not only a pleasure to work with TPAC, but it's been a real pleasure to work with the people at the PTO. And it's given me a real renewed faith in the government of the United States to work with the people here and see how impressive the public servants are.

I come from a family of public servants, and this was my first foray into limited public service, and I loved it. And so, as John said, I'm now going to be full-time, so I'm very excited about that.

And as David Kappos said, you come from this family of public servants, and, I've known your brother, what took you so long to get here? So thank you so much for this privilege that I've had working here, and I look forward to working with you guys in the future. Thank you. (Applause)

CHAIRMAN FARMER: We have one other piece of housekeeping, and that is one of the things that I was very concerned about was to make certain that the next chair who came into TPAC
would be someone who's experienced and knew how to run it, because I was just making it up when I got here, not having known what TPAC was. And the office responded, and I am pleased, in case you didn't know this already, to let you know that our next TPAC chair will be our very own Maury Tepper. (Applause)

For those of you who don't know this, Maury has been at TPAC far longer than I have. He was originally appointed by President Jefferson during the inception of TPAC and has served several terms since then and knows more about TPAC than I did. As a matter of fact, he was on TPAC when I joined TPAC as chair. He was just headed out the door for one of his various terms here, and helped me learn the ropes, and I've been very thankful for that, and now I see he's back to guide very capably. His term I think actually starts on, what, the 26th of June, Maury, and so there's technically a little bit of gap, but there's no real gap. And so, you know, if there's anything you'd like to see TPAC address or issues
you want to bring up going for him, dump them on
Maury's lap, I'm done.

But Maury is going to do a great job,
I'm glad we have that experience leading the
office, it's going to be in great hands, and so,
Maury, thanks for answering the call once again,
and I look forward to watching you distantly from
Richmond via webcast as you lead TPAC, so thank you
for doing that. I think we've got all the
preliminaries out of the way right now unless I've
committed a social faux pas and forgot something,
and I usually do.

MR. FRIEDMAN: No, you didn't, but if we
could -- if you could indulge us for one more
presentation.

CHAIRMAN FARMER: Go for it.

MR. FRIEDMAN: Thank you. Well, to
borrow a few of John Farmer's favorite phrases,
this is his last rodeo. And so before he turns
into a pumpkin, I've been championed -- and, yes,
this goes off my list when I finish this, John --
I've been championed to undertake the singular and
final messianic honor presenting on behalf of all TPAC members a small token of our appreciation for all your services as TPAC chair for the past three years. I don't know for sure, but I think John's ready to move on, because yesterday he was dropping lines like when it came to TPAC in the late '70s, and do anything you want, I'm leaving. But what we all really know and saw for the last three years is that John Farmer has given his all to TPAC and the Trademark Office.

Words that come to mind to describe his leadership, and indeed, John as our leader, include hard-working, driven, and detail-oriented. But I think one quality that best describes John and his leadership of TPAC is that he always led TPAC with the utmost integrity, and it was that integrity that always caused him to do what he thought was best for the office.

On a personal level, I know all of us now call John a good friend, and I know we will all miss him. So with your permission, I cross this off my champion list, and I want to present
you with a gift from your TPAC peers, current and
former, and thank you for your wonderful public
service. (Applause)

CHAIRMAN FARMER: All I can say is thank
you. I'm going to turn back into old John Farmer
now and start driving the train. And so we're 20
minutes behind, that's okay. That will actually
put us in where we normally finish TPAC meetings,
and so let's go ahead and get started, especially
since all the folks who tuned in at home to see
what's going on in Trademarks, they're probably
wondering, when are they going to get on with it.

Dana Colarulli, I see right down here,
the director of the Office of Governmental
Affairs, to tell us about what's going on in
legislative matters. Dana, thanks for being here.
The floor is yours.

MR. COLARULLI: Thanks, John. I'm not
sure how to follow up on the various
presentations, but I'll do my best to get
us started. And you can think of me a little bit
as a bridge between our Deputy Director and the
CFO report. What I'm going to do is talk a little bit about pending legislation, highlight a couple of bills quickly that are pending that we're watching, give an update on the legislation that's passed recently and what we're doing, and then talk a little bit about funding.

So let me just highlight the three bills that I think you all might be interested in. Deputy Director Stanek Rea mentioned the patent reform bill. The key provision there for the entire agency really is getting us to sustainable funding and stable funding. I'll talk a little bit more about that when we get there.

Patent reform legislation we expect to reach the floor of the House in June. The House is in session this week, and this is the last day they're in session. Next week they're in recess, so the bill could be taken up as soon as they get back from recess, which is the week of June 13th, so we're watching that closely.

There's been a number of activities on the Hill, a number of questions that folks have as
the bill goes to the floor, questions about the
effect on small businesses, the effect on
universities, those are very active discussions.
There's been an active discussion about
the constitutionality of some provisions. So
those conversations will work their way out over
the next couple weeks.

There has not been yet, although I think
we're likely to see a lot more discussion about
moving the USPTO to a revolving fund and including the fee
setting authority that Deputy Director Stanek Rea had
mentioned. The two of those really work together
to put PTO on good, solid footing so we
can do multi-year budget planning. Traditionally,
congressional appropriators have had concerns
about moving to this model, I think we'll still
see that conversation moving forward, and you all
have heard me talk about that before.

Two other bills I'll highlight briefly,
one is the Protect IP Act. This is a follow-up to
Senator Leahy's rogue websites bill last year.
Actually it had two other names, rogue websites
and a much longer acronym which I won't try to remember or mention right now.

The Protect IP Act really attempts to increase the tools available to crack down on online piracy. That bill was reported out of the Senate Judiciary Committee, and is now essentially being held in the Senate, and it could be ready for floor time this year. I don't think there will be much more action until the House moves forward with their legislation. They also want to address this area, so right now it's pending in the Senate, not scheduled for floor time yet, but we're watching it closely.

Another bill that we're watching that came along parallel with the Protect IP is legislation on streaming. That still is pending in front of the Judiciary Committee, and we'll have more discussions about that potentially on June 9th, when the Senate actually is in session next week. So we'll be watching both of those, and at a future TPAC meeting I can report on the status of
So those are the pending bills. Of the two pieces of legislation that have passed, one required the PTO to do the trademark litigation report that we mentioned earlier this morning. We completed the report, sent it to the Hill, and included some good recommendations to ensure that resources are available to the Federal government to allow especially small businesses to effectively enforce their rights, effectively manage their trademarks, and ensure those resources were readily available.

We also discussed increasing education around this area. I think it was a good product. We haven't heard too much reaction from the Hill, but as you all know, it was a long process of getting to recommendations that we all felt comfortable with and are things that we should be doing, ensuring that the resources that are available to small businesses are actually accessible by them.

The second piece of legislation may be
even more important for this agency is taking advantage of the additional flexibility the Telework Bill Public Law 111 292 had provided to the agency. Groups here have been meeting in the bunker. I'm looking at Howard because I know he spent many hours there attempting to come up with an agreement, and I think they're making some real progress there. So, hopefully, there will be a report on how the PTO is going to move forward using that flexibility soon to expand our award winning program.

So last but not least, and this is really the bridge, I won't spend too much time on funding because I think Mark will be able to provide a little bit more detail. But our current spending is limited to 2.09 billion. That essentially, from our own prediction that we sent up much earlier this year, means that we'll likely collect in excess of our spending authority this year.

Focus on the 85 million, I had included in the slide 85 to 100 million as the
range as a result of some of the cuts,
particularly delaying the track one accelerated
exam proposal on the Patent side.
And Mark will correct me when he does his
presentation, it’s closer to around 85 million that at
this point we’d expect to collect over our
spending level. You know, I think the
Trademark activities were unaffected by the recent
cuts, again, we're really looking towards patent
reform legislation to get us to a place that we
have stable funding. We can engage in a process
which we set fees on both the Patent and the
Trademark sides of the house that allow us to
recover costs and actually run an operation. So,
again, that's, the focus for all of us
right now, and, hopefully, there'll be some good
news to report here in the next month or so on
whether that legislation moved forward, and
we're positive that it's moving in a good
direction. Some challenges still, some good
discussions to have, but we're remaining hopeful.
John, with that, I'll end my report, and I'm happy
to answer any questions.

CHAIRMAN FARMER: Any questions or comments from fellow TPAC members? I've said this so many times, I'll try to keep it to the readers digest version, and that is, just as you know, we 100 percent support the office being able to keep all its fees. It's nonsensical that it shouldn't be able to because people pay that money to do something. And that we also support you all in having that fee-setting authority, once you get the ability to keep all of your fees, and we just hope it happens soon. And, you know, I know it's tight times right now, but you can see in real terms the effect of the office not having enough money because you all were about to launch that patent fast track where you could pay that $4,000 if it meant enough to you and get your patent through fast, and you all had to put that on ice. I realize we're not the Patent Committee. We're the Trademark Committee, but we still care about IP, because what happened to your funding.

And so, you know, IP is being slowed
down because of the way funding is currently handled vis-à-vis the PTO, and we just hope that it changes soon. And if there's any way TPAC can help you get there, while I'm leaving, as Maury said or Howard said, I'm sure TPAC will back you up because they want you to get there.

So with that, I cut off -- does anyone in the audience have any questions or comments for Dana? And we didn't get any e-mail. So, Dana, thank you for your time, thanks for being here.

We're now going to turn to the OCFO's office. I don't think Tony Scardino is here, but I think Mark Olechowski, who's a regular friend and visitor of ours here, is here to chat. And so, Mark, I'm going to turn the floor over to you, and thanks for being here.

MR. OLECHOWSKI: Thanks, John. Good morning, everybody. After the comments by the deputy director and Dana, I'll try to add a little more detail, but I think you've got the gist of everything that's going on in the financial world, but I'll try to add some comments and answer any
questions that I can. So, Dana, are you still --
do you want to -- there we go.

So, as usual, the way we do our
presentations, we try to talk about fiscal years
in the world of government finance. We're always
working on three fiscal years at one time, so it
could be quite confusing.

But 2011, several people have mentioned
we are in a little bit of financial difficulty.
Our spending authority has been limited to $2.090
billion. That's somewhat less than what the
President submitted earlier in the year, which was
about $2.3 billion.

As a result of that, as Dana mentioned,
we expect to still collect more than we're
authorized to spend. We're looking at probably
over collecting around $85 million by the end
of the year, Patents and Trademarks, but we
continue to spend the money we do have. I'll talk
about a little bit some of the cuts we've had to
make so live within the spending authority, but
our current rate of expense is roughly about what
it has been, about a 90/10 split between Patents and Trademarks.

The next page, the $2.090 billion level has forced the PTO to reduce its spending in certain areas to live with the authority. Everybody here is familiar with it because we've had the conversation many times about the difference between what we collect and what we're authorized to spend. But the $2.090 billion level has placed some pressure on the PTO to cut its spending.

Some of the things we've had to curtail, we're currently under a hiring freeze, we're not hiring patent examiners, nor anybody for the support organization, CFO, CIO. There's Tony, good morning, Tony.

The discretionary training, budgets have been cut from everybody's operating plans. John Owens, I'm sure, will talk about what plans he has for the remainder of the year, but we've had to curtail spending in IT development. Our PCT outsourcing, we've cut back to about 50 percent of what we would like to do. There's no overtime,
not even for patent examiners. And then we've also had to postpone the opening of our first satellite office in Detroit.

MR. SCARDINO: Track one.

MR. OLECHOWSKI: Right, track one has been, I think Dana mentioned, as well, we had that ready to launch early May, and we put that on, as I think John's words, put it on ice until our funding situation is resolved. So 2012, once again, we're hopeful. The President submitted a budget on behalf of the director and the PTO. Just a little clarification on our first line up there, the President's budget request for 2012 is actually $2.7 billion. This number, the 2.599, is what we actually expect to spend if the Congress authorizes us our full budget submission.

However, as we go into 2012, I'm not so sure anybody thinks that we're going to have a budget passed on October 1st, if we do, that's wonderful, if we don't, the PTO is required to live at the 2011 level, which is the $2.090 billion. That presents additional difficulties that continue
from 2011 into 2012 just in order to pay our bills and everything. So all the cuts that we've talked about that I just mentioned that are in place now, no hiring, no overtime, reduced IT spending, et cetera, will continue into 2012.

Living at 2011 levels in 2012 will be especially challenging just because of the amount of people we have on board, inflation, salaries, et cetera, et cetera, so we'll continue to keep you updated on 2012 as things change. But we list down here the possible scenarios. They go from good to bad to terribly bad. So I guess maybe we could go in the opposite direction. We are encouraged. I think both the Deputy Director and Dana mentioned that the patent reform bill, which has passed the Senate and is expected to be on the House floor, does incorporate some financial tools to allow the PTO to operate more like a business. The most significant one is a revolving fund, which I'll talk about in just a second.

So the American Invent Act that Dana
gave us a little status on does have some
significant financial sections to it. Terry
mentioned that it allows for fee setting authority
with the associated oversight that would go along
with that. It establishes a public enterprise
fund, in other words, that's a revolving fund.

For those not familiar with that term, a
revolving fund simply means that the money that
goes into it, the money can come out of it. The
PTO, it essentially takes us out of the
appropriations process where all the fees we do
collect, we're allowed to spend, so that's a
significant change to the way the PTO has operated
in the past, so that all funds deposited in that
account become available to the PTO and they're
directed to spend to manage our operations.

The trademark fence obviously is not
impacted by that. The bill itself passed the
Senate by a 95 to 5 margin, which is a significant
boost for the bill. It passed the House Committee
I believe 32 to 3, so we're encouraged. The bills
are quite similar in most respects, but we won't
know the final answer until it gets to the House
floor to see what the differences might need to be
worked out in conference, but I think we're all
encouraged by the strong support the bills have
received in both the House and Senate to date.
And I'm sure Dana, myself, Tony, the director and
deputy director keep everybody informed on the
progress of the bill as it moves through.

So subject to your questions, Mr. Farmer, that concludes the brief.

CHAIRMAN FARMER: Please call me John.

MR. OLECHOWSKI: It's been two years and
I haven't done so yet.

CHAIRMAN FARMER: Yeah, I keep meaning
to bring my dad so we'd have someone to call Mr. Farmer, but he just won't come.

Just one quick question that occurred to
me while you were talking, and I don't know if you
will know this, if this bill gets passed, how
quickly do the financial changes for the office
kick in? In other words, is it right away you
start living off your own money or is there a lag
before you convert to living off your own money?

MR. SCARDINO: I'll take that. Good morning. I'm sorry I'm tardy this morning. I was meeting with Director Kappos on something that couldn't wait.

But the way the bill is written, it would become enacted -- become a revolving fund, a public enterprise fund the October 1st after it's enacted. But if this is enacted before October 1st, boom, Fiscal 2012, we would be a mandatory account, a revolving fund, instead of an appropriated account. If it passes October 3rd, we wait until the next October 1st.

CHAIRMAN FARMER: Can we help you get that fixed if it passes on October the 3rd?

MR. SCARDINO: It would be challenging for us, to be honest with you, to have two sets of books during a fiscal year.

CHAIRMAN FARMER: Really.

MR. SCARDINO: We do support having it start in a fiscal year. We're just really pushing to have it done for October 1st of this year.
CHAIRMAN FARMER: I hope it happens. By the way, for those listening at home, this is Tony Scardino, our CFO, so thanks for making it down to visit with us. Any questions or comments from members of TPAC? From members of the audience? In that case, gentlemen, thanks for visiting with us, we appreciate it.

MR. SCARDINO: Can I just add one thing, John?

CHAIRMAN FARMER: Go for it, yes.

MR. SCARDINO: As you saw today, with me not being here, we really didn't skip a beat, and that's because Mark Olechowski is a wonderful deputy CFO. And he leaves in two weeks, he's going on to other pastures, I'm not even calling them greener because it's a great place to work, but I just want to thank Mark publicly for being a great asset to the USPTO, and most especially the CFO.

(Applause)

CHAIRMAN FARMER: Well, Mark, we'll miss you, and thank you very much for your service, and
I can't wait to see what the next thing holds for you.

We didn't schedule a break now, but because I've blabbered on for a long time, we are going to take a five-minute break. But you know me, I mean five minutes, and so we'll start back up right in five with our visit with Debbie Cohn.

(Recess)

CHAIRMAN FARMER: All right. Well, we're going to start off anyway. Our next presenter is Debbie Cohn, the Commissioner of Trademarks. And I am going to do something I rarely do, and that is restrain myself by handing the floor over to our co-champions for the trademark operations, Kathryn Barrett Park and Deb Hampton. When I put the agenda together, I didn't bother to think to try to line up the issues so we'd have all of one person's and all the others, but they'll work it out between themselves. And so, Kathryn and Deb, the floor is yours.

MS. PARK: Thank you, John. And it's always a pleasure to conduct this part of the
meeting because it's so easy. And so, Debbie, I thought what would be a good idea is to go sort of over the agenda that we all have. And we heard Deputy Director Rea mention in passing the disclaimer roundtable that's going to be on June 21st, but I thought maybe you could spend a minute or two to talk about what that will do.

COMMISSIONER COHN: Thanks, Kathryn.

Yes, we're -- and, in fact, we have just posted a notice on our website, so you can get the information about the disclaimer under our Trademark News and Notices, and it will be webcast. It's June 21st at 1:30. And the purpose of this is to really just have a discussion about disclaimer process, disclaimer practice, it's not to initiate any changes. We want to hear about whether disclaimer practice as it currently is in the USPTO is useful to stakeholders, whether you think there might be any changes that could be made. And the reason we're doing this is, disclaimers take up a lot of our attention and your attention. I think it's around 29 percent of
the office actions in the past 2-1/2 years contain
a disclaimer requirement, and that's not even
including those requirements that are made by
phone and handled by examiner amendment, so it's a
big topic.

And, in addition, several other
countries have actually made changes to their
disclaimer practice, Australia and Canada in
particular, both of which have likelihood of
confusion examination prior to registration,
similar to our system. So we thought it was a
topic worthy of discussion, but that said, it's
just an information-gathering session, it's just
a discussion, I don't want anyone to think that we
are going to leave that session and go ahead and
make changes because that won't happen. It may
lead to further discussion, it may not, we'll have
to see what happens.

MS. PARK: Thank you, Debbie. And I can
say that TPAC will be, hopefully prior to that
roundtable, sharing sort of our consensus views on
the issue. We turn next to something else that
Deputy Director Rea alluded to, which is review of your speed and quality performance metrics, which you, I think she said, are meeting and exceeding in all categories, and there's a lot of good news, so we can briefly go over some of those highlights.

COMMISSIONER COHN: Okay, great. And we have the chart that we normally hand out, which is the quarterly results, and so this is as of the second quarter which ended March 31st. I think it's probably a little difficult for people to see the chart, you have it in your materials, hopefully people can see it at home. I'll just go over a couple of the key highlights that I think people would like to hear about, and the first, of course, is quality.

And regarding the quality of decision-making, correct decision-making, which has always been our traditional quality measure. We are on track to exceed our targets, so you can see that in front of you.

The first office actions, we are at 96.4
percent compliance, and for final actions, we're at 97.9 percent compliance, so we're looking forward to having another good year for both of those measures.

This year we have in place a new quality measure, it's for excellent office actions. We had run a pilot last year and put a baseline in place, and that was 15 percent target for excellent office actions, and I'll remind people what that is in just a moment, although I know we've gone over that in the past. We've done very well at that this year. We're at 21.1 percent so far as of the second quarter.

So the excellent office action, just to refresh your memory, focuses on the entire communication, not just the correct decision-making, although correct decision-making is very important and that's included in the measure. We also look at the search, we look at the quality of the evidence, whether it's appropriate and on point, whether it's the best evidence.
We also look at the quality of the writing and the communication itself, whether it's properly geared to the recipient, and, you know, whether it contains appropriate formed paragraphs, all of the things that we think go into making an excellent communication, in addition to the correct decision-making. So we are on track to do very well in that area.

And then our e-government measure, and as I've said in the past, we don't measure any more the percentage of initial applications filed electronically, just about everybody does that now. So where we're headed now is trying to have complete electronic processing from start to finish, from the beginning of the process, filing the application, to the actual registration or abandonment. And so that means that no paper gets exchanged, no paper gets sent out from us, and no paper comes in from the applicant.

And we are currently at 71 percent as of the end of the second quarter, which is exceeding our 68 percent target. And just for some
perspective, a couple of years ago we were in --
we were about 52 percent, so we've made some great
efforts in that area.

I think applicants -- the stakeholders
have gotten on board and trying to increase their
use of electronic systems, but we've also tried to
make improvements and tweaks to our forms and
things to make them easier for people to use, so I
think we're headed in the right direction there.

Moving down now to application filings,
as Terri mentioned, we're on track for a 4 percent
increase in application filings for this fiscal
year, and that was our second quarter result, as
well. So we're looking to meet that 4 percent
and, hopefully, see an even further increase as
the next fiscal year approaches. Examiner
production, I'm not really going to go through all
of the production and FTE numbers, you can see
that for yourself.

I will -- now I'm going to switch to
another slide. I'd like to talk about pendency.
As of the end of the second quarter, our first
action pendency was at 2.7 months, which is within
our target range of 2.5 to 3.5 months, so we're on
track in that area. Our disposal pendency, also
on track, 10.9 months excluding inter-partes and
suspended cases. And let me see if I can read
this number, and we're at 13.1 months if you
include the suspended and inter-partes cases, so
both of those numbers are well within our target
range.

Moving on to the -- outside of the law
offices, all of the other functions that are
necessary to get mark's examined and
registered, and post-registration, we are actually
on track in all of those areas to meet our goals.
Our service organizations are doing really, really
well. Our Trademark Assistance Center has been
doing extremely well in making sure they answer
the calls within the prescribed period of time.
So I'm just going to move along and let people
look at the statistics at their leisure.

MS. PARK: Thank you, Debbie. I just
wanted to follow up on one thing that you alluded
to, which is the e-government, and first to
congratulate the office on being really a leader
for the government on the e-initiatives, and then
to mention that I know you're going to be having a
stakeholder roundtable or discussion in June,
also, June 23rd, with some of the users of the
office who don't do end to end electronic
processing, to try and find out why not. So I
think that's a wonderful initiative and hopefully
you'll get some good insights from that.

COMMISSIONER COHN: Yes, thanks for
mentioning that. Craig Morris, our TEAS project
manager, is holding an invitation only focus group
for certain select stakeholders who do not yet use
e-mail communication. And so we're hoping to find
out some good information that will help us maybe
make some even additional improvements and
actually share some best practices with them so
that maybe they can venture into new territory and
actually let us send them an e-mail or two.

MS. PARK: That's terrific. The next
item on the agenda sort of dovetails nicely with
the performance metrics, and that is the Dashboard that you all have worked so hard to do, which is now, for those of you who haven't seen it, it is on the website. It's a very helpful overview of statistics presented in a very easy to understand fashion, but maybe, Debbie, you'd like to say a few words about that.

COMMISSIONER COHN: Yes. And first of all, I want to thank TPAC for their active contributions in reviewing the Dashboard before it was published in prime time and giving us some very helpful suggestions on the presentation and the look and feel. We were really grateful for your participation in that, and especially you, Kathryn, I know you led that effort.

And I also want to mention that you can give us comments about the Dashboard at tmdashboard@uspto.gov, and it's at the end of the Dashboard you'll see it. And so if you can think of suggestions or changes that you would like to see in the future, please let us know, because we have the ability to change it and update it,
obviously, and we will be making some changes based on the comments. We won't be doing it every week, but we're going to collect them, and possibly on a quarterly basis or so, make those changes.

And the other thing I wanted to mention which I think is really cool about this Dashboard is that it breaks some of the information down by filing method. So people have asked us that in the past, so I think that's great information. You can see the pendency by filing basis and also the application filings themselves.

MS. PARK: Thank you. And there's also good historical comparison data in there which is very helpful, as well. And I think we're going to turn over the agenda to Deb Hampton for the next few items.

MS. HAMPTON: Good morning, Debbie.

Before I get started, I just wanted to say, John, in the short time that I've been here, it's been an absolute pleasure working with you, and we'll keep you active. And, you know, now that I've met
you, I'm not going to let you go, so just keep
that in mind.

And, Debbie, I'm going to get you up to
the hot seat in about five minutes or so. I just
wanted to know if there's any updates as far as
communication practices with trademark examining
attorneys, if you want to report on that.

COMMISSIONER COHN: One of the items
that we had been talking about was to ask our
examining attorneys to include e-mail addresses on
their office actions. Some of them had done it in
the past, some of them hadn't. And we actually
went ahead and made that requirement, and as of
April 14th of this year, all examining attorneys
are including their e-mail addresses on their
communications. So we hope that that facilitates
public contact with the office and helps expedite
matters even more so than they've been done.

The next item was the status of making
it possible for a second e-mail address. And we
are going forward with that, we're going to change
the TEAS forms to have that available. As I've
mentioned in the past, this is a more involved
effort in the technology area, more involved than
we thought, so we're moving ahead with it. It
should be done by the end of the calendar year, so
you can expect to see that.

MS. HAMPTON: Okay, thanks, Debbie.

That's it for me, John.

MS. PARK: The next item, Debbie, on the
agenda was, just to give us an update, we've
talked over the past couple of meetings about the
dead wood on the register problem, and discussed
the pilot program that you've been working on to
sort of take a look and see if we can assess the
extent of that problem. Can you give us an update
on that?

COMMISSIONER COHN: Yes. And just by
background, we -- in order to put any pilot in
place, we need to have a rulemaking, and so we're
planning on going out with a proposed rulemaking,
you know, probably very soon which will give the
post-registration examiners the authority to
request additional information and specimens when
they're examining Section 8 affidavits. So the plan is to have a short pilot, maybe 6 to months, involving a small number of cases -- I emphasize small -- to actually gauge the nature and extent of the problem. And the problem being, are there items included in an identification of goods and services that are not being used on the goods?

So we're going to have attorneys handle the pilot. And we're working right now on figuring out how those cases would be selected, and we're also working with a statistician so we can make sure that the results are meaningful. And we don't have any of that in place just yet, but we are actively working on it.

MS. PARK: Thank you. And I think our next item was on -- the next couple items I think are really ones that I think will fall into -- well, let's go one by one. We've discussed in the past sort of trying to -- whether there would be any fee changes contemplated to sort of drive behavior, so that may be -- if there's something
new on that front.

COMMISSIONER COHN: You know, we had --
we started having discussions some time ago about
the possibility of charging extra fees for paper,
anytime somebody submits paper. And during our
discussions we realized that the administrative
cost of that requirement could be fairly high. So
that's something we -- we don't want to create a
system that is, you know, not cost-effective and
that just is a burden to us, so we haven't moved
forward in that area, but we are actively talking
about ways to create incentives for authorizing
e-mail communication because that's really key
during the examination process. So that's where
we are now, no news on that yet.

MS. PARK: I think the next issue is one
that I suspect is really going to be part of
Trademark's next generation, which is getting the
official Gazette published in a form other than
PDF. We know we have been able, because of some
improvements made, that it's much faster to
download, and that has made a big difference to
the user community. But am I correct in that, that this goal of having it in HTML is somewhat down the road?

COMMISSIONER COHN: Yes, that's correct for that item. And actually for the next item on the list, the electronic certificates of registration we still have those on our wish list and we still plan to do that, but realistically we're looking at Trademark's next generation.

MS. PARK: Thank you. And we heard Deputy Director Rea mention that there is some discussion of trying to update the TMEP quarterly based on some of the new IT infrastructure that's going in, and that, I assume, is sort of what you're working towards at this moment.

COMMISSIONER COHN: Right, that's really moving into that next item. The frequency of the update, I know that Patent's plans would like to do it on a quarterly basis, I think that would be great for us if we can do it. We still have to work out, you know, the -- how that would work in our area. So we're not ready to go out and make a
definitive statement yet. Certainly that would be an idea, so we're going to work toward that and see where we end up. It'll be more frequently than once a year, I can tell you that.

MS. PARK: Good. And the last item on my list was, I know that you've had Section 1200 of the TMEP up with IdeaScale to receive sort of public comment and stimulate some discussion, and I'm wondering if you can give us an update on how that's been received and what kind of comments you're getting.

COMMISSIONER COHN: Yeah, that's been well received. We haven't gotten a flood of comments, but we've gotten a number of comments on different areas. And, you know, even though it's Section 1200, people feel free -- and we're happy about that -- they feel free to comment on just about anything and everything.

And so we got a comment, for example, on the format of the TMEP, about adding hyperlinks. We got a comment about a certain decision on unity of control. We've just gotten lots of different
types of comments, and we're looking at all of them and we're discussing all of them, and the plan is to consider them when we do make updates to the TMEP. So we're, again, not -- we're not responding to the commenters. We're just, you know, but we are reviewing them continually.

MS. PARK: I have to say, knowing the legal community as I do, I'm not surprised that given an opportunity, they'd comment on anything. That was all I had, Debbie, and I don't know if there were other things that you wanted to mention or if there are any questions from either the audience here or from the web audience.

CHAIRMAN FARMER: This is just one small thing that's -- this is in the category, we know it, but just so everyone else does. I think, Debbie, just to confirm with the IdeaScale, the ultimate plan is to open up the whole TMEP to it, but it's a walk before you run thing, right?

COMMISSIONER COHN: Yeah, definitely.

CHAIRMAN FARMER: Great.

MS. PARK: And I just want to say one
more thing, that, Howard, in your remarks about John, you forgot walk before you run.

COMMISSIONER COHN: And, John, I just want to add --

MR. FRIEDMAN: I did.

COMMISSIONER COHN: John, I just want to add my voice to everyone else's thanks for just an incredible job well done, and all of your wonderful support and guidance for the Trademark organization, we are much better because of you, so thank you.

CHAIRMAN FARMER: Well, that's very kind of you. But as I said before, you know, it's easy when you work with an excellent organization, so you make it easy for us and we appreciate it, and Trademark operation gets it done, there's no doubt about it. Thank you, Debbie.

Any questions or comments from other TPAC members of the Trademark operations? Any from the folks here in our audience? And we didn't get any e-mail.

We are not going to take the break we
planned earlier. We had that break earlier, and so we're going to dive right ahead. Cynthia Lynch, if you would step on up to the mic.

Cynthia is coming to talk with us about an issue that we've had on our champions list for a while, which is just keeping an eye on trademark filings being made by online non-attorney services and concerns that TPAC has had about that. So, Cynthia, I'm just going to give the floor to you.

MS. LYNCH: Sure. On that subject, I think I can just reiterate what we've reported at recent meetings, which is that the Trademark operation continues to work closely with the Office of Enrollment and Discipline to address any potential or actual instances of unauthorized practice in trademark cases, to the extent that the USPTO has authority and ability to address those. So I can recap briefly what we're doing, which is certainly sharing information that either office receives through reports from examining attorneys, from third parties, or from applicants themselves who are complaining about experiences
that they've had. And OED takes the lead in following up with the suspected individuals, and educating them if necessary about unauthorized practice before the office, and clarifying their status to practice before the office.

If they deem it appropriate, they follow up with the state bar where the individual is located so that they can pursue potential unauthorized practice enforcement. And, you know, if there is any involvement of a registered practitioner or an attorney over whom OED has jurisdiction, then they can look into potential disciplinary investigation or proceedings.

Then once the status of the individual is clarified, if they are engaging in unauthorized practice, then in some instances they may proactively remove themselves from the cases, which is ideal, and if not, then it comes back to the Trademark operation, and the Commissioner will then issue a show cause letter, where we are, you know. We certainly can go ahead and remove them from the attorney field once we've established
that they are not an attorney, but sometimes these
people are just appearing as the correspondent in
cases or the domestic representative, and to take
care of that situation, we do the show cause
letter requiring them to demonstrate any
legitimate purpose they might have for serving in
those capacities; and if not, letting them know
that we're going to remove them. And then, you
know, if no showing is made, then we go ahead and
take action to remove them from continuing to be
the correspondent or domestic representative in
any cases where they appear in that status, and
then we also prospectively tell them that we are
not going to recognize them in any other cases as
the correspondent or domestic representative.

So we also, I think -- you know, we've
talked before about we continue to direct people
to make complaints also directly with the Federal
Trade Commission. I don't think they have pursued
any enforcement actions in this area, but they,
you know, do collect that, and, you know, I guess
could do so at some point in the future.
Because of the confidentiality of OED's investigations, I think we're not able to really give any information about the existence of or the status of any OED investigations. But I'll just end by saying that, you know, Trademark operation and OED continue to focus attention on the issue, and we recognize that it's, you know, very important.

CHAIRMAN FARMER: Well, Cynthia, thanks for staying diligent on it. One thing I think I understand correctly, but just tell me if I get it wrong, it is my understanding that the position of the office -- and I realize this probably comes from OED, not from your part of it -- that a non-attorney preparing an application for registering a trademark to be signed by the applicant themselves is still engaging in the unauthorized practice of law. Do I correctly understand the office's view of what that is?

MS. LYNCH: That's my understanding, also, yes.

CHAIRMAN FARMER: Okay. So let that
word ring throughout the land to those who may be engaged in that. Some have asked why I kept this on the agenda, and the reason is not because we know -- we know that you're on top of the issue. It's not an indication that you and the OED is not, but just to let the trademark community know that the TPAC continues to believe that this is a very important issue and one that requires continual vigilance. And it's not just a lawyers looking out for lawyers thing. I will tell you that three of the seven TPAC members sitting at the table right here right now are not lawyers. They're trademark professionals, but they're not lawyers. From my personal point of view, it continues to be a consumer protection issue. I just have a concern that people may get the impression that more will be provided from such services or that things will happen more automatically or more quickly than is really the case, and so we're just concerned about the public. And while I realize you are powerless to cause this by the force of your will, we just
really hope that the FTC will take interest in this issue some day, because, again, it's a consumer protection issue.
Were there any other questions or comments from anyone on TPAC to follow up on mine? Any from anyone in the audience?
Okay, Cynthia, thanks for being here, we appreciate it.
MS. LYNCH: Okay, thank you, and I'll echo everyone else in saying it's been a pleasure working with you on TPAC and we'll miss you.
CHAIRMAN FARMER: Well, thank you, Cynthia, I greatly appreciate that and the same here.
Judge Rogers, is it okay if we just keep rolling?
MR. ROGERS: Sure.
CHAIRMAN FARMER: Okay. In that case, we're now going to visit with the TTAB and with Chief Judge Rogers. And Kathryn Barrett Park is our Champion there, so I'm going to kind of turn the floor over to you all and try to sit here
and behave myself.

MS. PARK: Thank you, John. And it's my great pleasure to sort of start the discussion on the next part of our agenda. I am stepping into Mary Denison's shoes, so to speak, with respect to being the champion for the TTAB, and I was quite excited to be asked to do that because I admire the TTAB and I have enjoyed working with Chief Judge Rogers and with Cindy.

And so I think there's a lot of good news today, Judge Rogers, to talk about, and so I don't want to steal your thunder, so I'm going to let you just take the floor.

MR. ROGERS: Thank you, Kathryn. I guess we should probably start with the really good news before we even get into the statistics, and, of course, that is our posting on the web of the revised manual of procedure for the board which has been alluded to earlier in the meeting. And it's up, it's only in a PDF form, but it's a more accessible version of PDF than the previous manual was. It's also one which, because
of the way we reformatted it, is more easily
updated in the future. Even in its present PDF
form, we will be able to update sections
individually and not have to do a complete
revision of the whole manual all at one time as
we've had to do in the past, so we've made a lot
of progress there.

And then we'll be following on the lead
that Patents and Trademarks have established.
They're working much more -- on a much more
involved basis with the CIO and the development of
the RDMS system. And because we are committed to
presenting a manual to our stakeholders that has
the same user interface and the same functionality
that trademark stakeholders have, we will
certainly just follow the Trademark's lead and
eventually make the board's manual available on
the web in multiple formats and eventually have
the IdeaScale application deployed, too, and
receive comments on the manual.

In the meantime, we make it clear in the
introduction to the new manual that we're
certainly willing to take comments by an e-mail
address that has been set up, TBMP comments that
at uspto.gov.

MS. PARK: I just want to say, and I
know I speak for all of TPAC, to thank you for
your leadership on getting the manual revised and
up. I know it was a Herculean task and involved a
lot of manpower and a lot of, you know, not just
manpower, but a lot of really deep thinking and
really careful writing and editing and crafting,
and it is a great benefit to the trademark user
community. We waited for this, and I think I
speak for not just TPAC, but probably for most of
my peers in the trademark world to say it's really
a great product and thank you very much.

MR. ROGERS: You're welcome. And I
would be remiss if I didn't point out that it was
a real collaborative effort. And I think it was
-- the production of this edition of the manual is
an illustration of how well the judges and the
attorneys at the board worked together on a
project like this, because we did have eight or
nine judges and four or five attorneys and our
supervisors of our paralegals and customer service
reps all contributing to the revision effort in a
very substantial way.

And Angela Lykos, Judge Lykos, is to be
commended because she worked really tirelessly on
it for many months. So it's really her Herculean
effort and not mine. I'm just sitting here
going the benefit of all the hard work that she
did.

So we can go into the statistics if you
like. And I guess one thing I should note is that
we've put these not in the same format. These are
here in PowerPoint slides for the audience members
here and those who might be viewing the web cam.
But we've taken essentially the same information
and we've now put it up on the TTAB website.
Previously we hadn't put this information on the
TTAB website, but it's now on the -- for those who
are looking for MapQuest directions, it's kind of
on the right hand side in the column that says:
Board New Receipts and Decisions.
And so you can click on a link there and you can get to all of the same for -- the information that's in these charts on the website now.

MS. PARK: Jerry, before you go into the actual statistics, I want to just, again, commend you and congratulate you for putting these up on the web. I think, again, this is really good news for the user community and it creates a sense of transparency. It gives people some opportunity to understand a little bit more about the TTAB, so this is really fabulous that this is up and available.

MR. ROGERS: Thank you. And I think it is kind of a precursor for what we expect to issue later in the year, which will be a second Notice of Inquiry or Request for Comments on performance measures. That's alluded to, it's discussed in the strategic plan, so it was something we always planned to do. And I'm hoping that getting some of this information out now will get people thinking about the subject in addition to having
judges and attorneys go out and talk about that part of the strategic plan at conferences and CLE programs and committee meetings.

We can now get -- the non-visitors to those programs can go to the website and get this information and start thinking about it. So when we do roll out that Notice of Inquiry, hopefully we'll have a robust dialogue with stakeholders about what kinds of information we should be posting, and what kinds of information are useful for stakeholders in terms of assessing whether we're living up to expectations or not.

And I would say that this is not the only information that we'll put up there. We will, again, follow the wonderful lead of Trademarks, and we'll be developing a Dashboard of our own, too, to put up there. And we've already had some discussions, Cindy Greenbaum and I, with Deputy Director Rea about what kinds of information we should add to the website. So this is a start, and as John says, we'll walk before we run, but this is our start.
So where we stand, I wanted to give you a sense of just what's coming in the front door so you can see what kind of -- what filing levels are like. And from my point of view, looking at the incoming filings over the last year or so, it's kind of like the economy, where we're getting mixed indicators, and some things go up and some things go down, and then you try and look for explanations.

So essentially, at the midyear point, at the end of March, you can see from this slide that our appeal filings were down about 300 from the previous fiscal year. On the other hand, we were up in extensions of time to oppose, and we were up a couple of hundred in new oppositions coming in the front door, but then we were down a little bit in cancellation. So it's kind of a mixed bag.

And part of the increase on extensions of time to oppose and oppositions might be that they were somewhat larger OGs a few months back, and so I don't know whether that will continue, whether people are feeling a little more flush and
willing to finance more oppositions or whether it's just a function of slightly larger OGs. So that's kind of where we stand in terms of what's coming in the front door.

Looking -- oh, let me go back one. Looking at the other end of the process, what goes out the back door when we finally decided cases on the merits, the key information I think on this slide is the pendency to issue decisions as measured from the ready for decision date until we get the final decision on the merits mailed.

And as you can see, while we were working and having so many judges work on the TBMP revision, the pendency figure crept up, and it was 16.4 weeks in the first quarter, it was up to 18.1 weeks in the second quarter. And these, again, are average figures and they are mixed, so they are both appeals and inter-partes cases measured from the time any of those are assigned to judges, well, actually from the time they're ready for a decision and then subsequently assigned to judges for writing.
Significantly, though, we reached a high water mark of about 19 weeks in February for cases that issued in that month, but we brought it down to 17 in March, and April we were down to 15.2. And I just did the May report last night, and we're at 15.6. So we seem to be holding and bringing the figure down, and so I'm very hopeful that as we have more judge time spent on issuing decisions, we will keep the pendency figure moving downwards towards where we want to be. And the goal for this fiscal year is a range of 12 to 14 weeks, so we're certainly within striking distance of that.

The one thing that does concern me a little bit is the number of cases awaiting decision. It was at 152 at the end of the second quarter, but as of the end of April, and I don't -- these came after these slides were prepared, so I'll just read them to you, but we were up to 170 decisions or cases waiting to be decided at the end of April, and then 180 in May. So while we're making progress on the pendency and we're getting
them out quickly, or quicker than we were, we know
that there's a backlog there and we have to remain
vigilant about bringing that backlog down.

Any questions about either what's coming
in the front door or what's going out on the other
end of the process before I go on to the other two
slides?

MS. PARK: I do have one question, and I
know it's on the agenda, but it seems maybe a good
place to raise it. And I do know that you have a
couple of vacancies right now for judges, and I'm
wondering what your -- if you have some sense of
timing as to when those will be filled, because
obviously that might help address some of the
backlog and the pendency issues.

MR. ROGERS: Yes, I'm sure if we fill
those positions, and I hope that we will fill them
in the very near future, that it will certainly
help a good deal with bringing down the backlog.
Those are the two positions: The one that I used
to hold and the one that Judge Walsh, Jim Walsh,
held before he retired. I think about all I can
say is that we received applications from many attractive internal and external candidates, and the process is underway.

As you know, judge positions, too, have to work their way through the front office and through the Commerce Department, and so it's a more involved process than hiring a new examining attorney or even for us hiring a new staff attorney at the board. But we certainly want to fill those positions as quickly as we can.

Another slide, and this one, again, these are all -- this is all information that's on the website, this is one which we've kept. This slide shows various categories of information that we've kept on our internal balanced score card, but I felt it was important to get it up with the other slides on the website, because I know we've often talked here at the TPAC about end-to-end processing.

Our traditional performance goals focus on the work that is within the control of the board's judges or attorneys. The final decision's
when they are submitted and ready to be decided
and the party's work is done. And we're only
measuring judge time spent on the decisions, so
that's been one thing that we've traditionally
focused on. And with attorneys, we've
traditionally focused on the contested motion
pendency, again, because it's within our control.
It's after the motion is briefed.

But nonetheless, many stakeholders want
to know how long is it going to take me to get
that case into and out of the board, they want the
overall commencement to completion processing
time. And so I put this information up there on
the web, again, because it will help generate that
dialogue that we want to have when we engage
stakeholders in a discussion about effective
performance measures.

And you can see from this slide that for
appeals, they tend to be pending at the board for
under a year from the time the appeal is filed.
That includes time with a request for
reconsideration being considered by the examining
attorney, so a Notice of Appeal may be filed, but we'll remand it so that the request for reconsideration or a remand can be considered. 

So this is -- this average of say 46 to 51 weeks for us to get an appeal decision out includes all of that activity, everything related to it, not just the judge time on the end, but all of the activities that lead up to it being ready for a panel of judges to decide. And the third row down, Average Total Pendency on Trial Cases, you can see that we range on average from 173 weeks to 183 weeks, so we're talking, you know, between 3 and 4 years. Again, these are average figures, and we all know that there are cases that linger at the board for longer than three years, and there are inter-partes cases that get off the board's docket sooner than that.

But these figures, too, are cases that actually go through the whole process, I want everyone to understand. These are cases that are commenced and go all the way through to final decision on the merits and measures everything
that's involved. It does not factor in cases that
are settled or defaults or anything like that,
because those cases are not measured in this. So,
again, just a new set of measures that we can
focus on in our coming discussions.

And we've also added the ACR average on
trial cases, because it's something we're
continuing to push under the strategic plan. But
as we discussed in the Subcommittee meeting
yesterday, the case numbers are few, and so the
average figures are not particularly useful at
this point in time. When we get more ACR final
decisions, I think they'll be more useful. But
just the example of the two cases that went out in
the first quarter being decided in 76 weeks, so
that's a lot faster than our usual trial case
completion time of 173 to 183 weeks.

So if parties agree to ACR early on,
they can get a final decision on the merits pretty
quickly. If they wait and agree to it at the end
of discovery or on the eve of trial, then they're
not going to realize as much in terms of savings.
And the last slide that we have is contested motions. We're within goal on contested motions. There is one correction here. The first quarter of Fiscal '11, it actually should be 8.3 weeks, not 7.6 weeks. But the rest of the figures are accurate, and the 9.5 week figure on average for decisions issued on contested motions is under our goal for this year of 10 weeks.

And as you can see, the number of -- from the bottom row on this table, the number of motions awaiting decision at the midyear is pretty much where we were at the midyear last year, in fact, a little bit below. So I think we're doing okay on motions, but we have had Judge Lykos and Judge Wolfson join the judge ranks from the attorney ranks. And Cindy Greenbaum and I are kind of monitoring the workload, and if it's necessary, we will then fill those attorney positions. But at this point, we're just kind of in a -- we're meeting the goal and we're just kind of on a monitoring approach to that docket.

MS. PARK: Thank you, Jerry. Does
anyone have any questions before we move on to the other items on the TTAB agenda?

Well, you mentioned the -- in going over some of the slides, ACR, and I thought it would be useful to update -- for you to give an update on some of the efforts the board is taking to promote ACR.

I wanted to commend you for the recent precedential decision, the SOLARIN case, because it does talk about ACR, and I think getting that out there will help make people more aware of it. And I also think there's some developments on your web page that are helpful in making people more aware of what the options might be.

MR. ROGERS: Yes, as of today, if you go to the TTAB website, you can -- our Policy and Procedure section was getting a little clogged with various versions of the manual and FAQ's and other things, and the Notice of Inquiry, and so what we've done is taken that box and sorted it out, and we now have a separate box containing a number of links that's just focused on ACR and
ADR. And within that box, you will -- so that
will, hopefully, highlight and make more
accessible all of the materials about ACR to
people. And the ACR/ADR box includes the ACR
frequently asked questions, the overview of ACR.
It also includes the stakeholder suggestions link,
which is essentially at this point the AIPLA
suggestions, because those -- that's the only
organization from which we've received
suggestions.

But what we did was take the narrative
presentation that they provided us in letter form
and we created a very detailed chart showing the
various options that were discussed in their
narrative presentation, what you get, what you
give up for each of the various options that AIPLA
suggests. And so you can go to the website and
you can look at the options and get a visual
overview in chart form.

And then there's a link to the narrative
presentation that they provided, so you can read
the details if you want to. And we've included
some commentary and some notes indicating that we
don't endorse any particular approach. And we're
willing to post any additional stakeholder
suggestions that come in, and we provided
additional comments on how some of the suggestions
made by AIPLA would actually work in practice.

MS. PARK: And I know in the
Subcommittee meeting yesterday you mentioned that
the Board itself is undertaking an effort perhaps
to develop some ACR options, as well, that it
could put up, is that correct?

MR. ROGERS: Yes. So that will be
another link that will go in that ACR and ADR box,
which will be Board suggestions, and those are
being developed by Judge Cataldo with some of the
attorneys. We've had some meetings and we got a
lot of very useful suggestions from the
interlocutory attorneys, who are the ones who are
on the front line of ACR in the sense that they
are having the conferences with the parties to
discuss what will work for them, what won't work
for them, and so their suggestions were very
useful, and Judge Cataldo is working on those options now. So we'll probably be vetting those and discussing those in-house over the next month or so, and then eventually get them up on the web. And as we also discussed in the Subcommittee meeting yesterday, it would be very useful if we can have set schedules that you would follow if you adopt one model or another, whether it's an AIPLA model or a board model, and then parties could essentially sign off on a consented scheduling order for a particular kind of ACR, just as we now have our standard protective order that the parties can sign off on, the one difference being the standard protective order is applicable whether the parties agree to it or not. It's a default in terms of trying a case. The default is the normal discovery and trial schedule, but if you want to adopt something else, we will, in the long run, have information up there in these standard scheduling orders for the various ACR options.

MS. PARK: Let me just say, we think
that's a really terrific idea, and if there's anything TPAC can do to help develop those, we would be pleased to do it. Because I think you're right, it would help parties really focus on what they are signing up for and maybe encourage more participation.

MR. ROGERS: I'm sure we will seek the TPAC's input on the board-developed proposals before we post them, because we're obviously going to take stakeholder suggestions as they come to us and post them, but our internally developed proposals, we would certainly like to get comment on before we post them.

MS. PARK: Sure, absolutely. I'm just going over our agenda here. I know that -- maybe you can give us a brief update. I know there is a pending Notice of Inquiry on whether or not there should be board involvement mandated in some form and settlement discussions, if you can just say a few words about that.

MR. ROGERS: That notice is out and comments can be received until -- I don't recall.
I'm getting confused with the Trademark roundtables and focus groups. I think it's also the 21st is our deadline for receiving comments to that Notice of Inquiry. I checked this morning with Judge Kuhlke, who helped author that notice, and we have not received any comments yet either by e-mail or through the regulations.gov website. We know that there's talk out there on blogs, and we know that various stakeholder groups are working on submissions that they will make, so we expect to receive comments, but to date we haven't received any.

One thing I would point out is that the notice seeks responses to questions that we pose in the notice. And, of course, we have the TPAC to thank because we worked through various revisions of this with the TPAC, this Notice of Inquiry. And so some of those questions seek comments on whether board judges or board attorneys or some mediators that the office might hire in a revolving fund kind of world, where we would have nobody to do that, whether they should
be involved more intimately in the settlement
negotiations of parties.

But there are other questions that are
posed by the notice which don't focus so much
about -- or on whether the board should be
involved, regardless of who would be involved, but
whether there should be more triggers and
essentially more opportunities or more forced
opportunities for the parties to discuss
settlement.

So, for example, one of the questions
asks whether the parties should be required to
have a second round of settlement discussions
after their initial settlement discovery planning
conference before any motions for summary judgment
could be filed.

There's another question that asks
whether the parties should have a forced
settlement discussion. I say "forced," but
basically just be required under the schedule to
at least meet and decide whether there's any
possible grounds for settlement after discovery
and before trial. So even if stakeholders think that the board shouldn't be involved, they may want a schedule that will include more opportunities for settlement discussions. And so I don't want anyone to lose sight of the fact that this is a very open-ended Notice of Inquiry and we'll take all suggestions that relate in almost any way to settlement talks and board proceedings.

MS. PARK: That was an important clarification, thank you for making that. I think another item on our agenda, and we're getting close to the end, is if you could give us an update. I know you've made some progress in cleaning up some of the old cases, but it would be good to hear where we stand now.

MR. ROGERS: Yes, and where we stand is there are still -- they're hanging on for dear life, but there's about 400 cases that are pending at the board, 400 inter-partes cases that are still "proceeding," to the extent that they are proceeding under the old rules.

We, of course, have as vested an
interest as anybody does in getting rid of these
cases and getting them off our shelves so that we
can just have one manual on the web and one set of
rules that governs all of our cases. But the two
largest groups of these 410 cases, more than half
of them, are either on track, I mean, they're not
suspended for any reason. They may be held up by
contentious motion practice or the parties may be
taking a long time in trial, but they are
theoretically moving forward. And then there's
120 or so which are suspended for settlement
talks. And that's always been a rub with the
board where stakeholders have always told us they
like the fact that they can get many extensions
and suspensions for settlement talks and board
proceedings, but then it leads to cases lingering
for a while. And then there are 100 which are
suspended for civil action, and there's basically
nothing we can do about those because we just have
to wait and see what the courts decide.

But as we discussed yesterday, the rate
of decline in this volume, this docket of old
cases, has slowed a little bit. We were seeing on a quarterly basis greater reductions in the first quarter. We lost 100 cases in the second quarter, or actually before that it was 80 cases. We lost only 50 of these older cases in the most recent 3 months that we looked at.

So if the rate of decline continues to slow, then we will pay closer attention to these groups of older cases and see what we can do to make sure the ones that are moving through trial actually get through trial and get decided, and that we perhaps limit any future suspensions for settlement talks and require the parties to either settle or get on track for trial.

MS. PARK: Thank you. You know, one thing I wanted to follow up on, and this is completely changing the subject, and then after this I only have one other thing on the list, but that is when we talked about the TBMP, we didn't talk really in this public meeting, although we talked in Subcommittee about your plans to keep it updated. And I think it would just be useful to
tell the public sort of what the current thinking is on that front.

MR. ROGERS: Absolutely. We are thinking of, as we've discussed with the TPAC in the past, semiannual revisions. No, I don't think that we're really in a position to do quarterly revisions, but semiannual revisions are our goal. We already have a list of revisions that need to be made, because we have to cut off content updating as of last November, and then there were many months just getting all of the content rendered into the form that we could put up on the web. And there were federal rules changes in December, so we've got additional presidential decisions, federal rules changes and other things that we know need to go in there. We've even had internal suggestions from some of our attorneys who are now working with the manual about things that should be tweaked or changed.

And so Judge Lykos, who rode herd on this project for so long a period of time, is maintaining that list. And we've encouraged both
external and internal users of the manual to send
all their suggestions to that e-mail address so
that we'll have them all in one place.

And what we hope to do is use one of the
various FTEs that we have at the board and
re-craft it into an editor position. Because
unlike Trademarks and Patents, we haven't
previously had someone who was dedicated to
keeping the manual up to date, and so we're going
to be moving in that direction and, hopefully,
getting someone in place in the near future who
can then take that list of needed revisions from
Judge Lykos, and that would be that person's first
task to put out our first revision of the manual,
which we hope will be later this year.

MS. PARK: Well, again, we really
support that development. And I think TPAC's
advocated for that for a while, that there be a
dedicated person who would own this kind of
process, and so that will be really a wonderful
change for you, and keep those judge resources
free to keep moving.
MR. ROGERS: Yeah.

MS. PARK: And writing those good precedential decisions.

MR. ROGERS: Well, and that person will probably also be working on all of the Notices of Inquiry and Requests for Comments that the TPAC wants us to issue, so they'll have plenty to do, that person.

MS. PARK: All right. Well, and speaking of what TPAC wants you to do, the last thing on the agenda that I have is just to briefly mention one of the ideas that we've talked about, which is crafting potentially a Notice of Inquiry or Request for Comments on an option for a fast track for TTAB cases.

And I think this has come up, and in practice, there are some instances. For example, if you need your trademark registration because you want to record it with Customs because you want to stop counterfeit goods coming in, and yet you've held up in an inter-partes procedure or you've had some other thing happen to your
application, and you don't want to wait the 176 weeks if you haven't -- if the other party hasn't agreed to ACR, so is there a way to sort of compel a faster result? So I know TPAC will be working with you, but I thought maybe if you had anything you wanted to add to that.

MR. ROGERS: Only that I'm very happy to work with TPAC on this and many other Notices of Inquiry or Request for Comments. I think we can safely dub this the John Farmer legacy Notice of Inquiry or Request for Comments. I know it's something that John has been strongly behind for a long time, and so he will live on, at least at the TTAB, for some months to come. And I'm sure we'll get a comment from you.

CHAIRMAN FARMER: (off mike)

MR. ROGERS: But then you'll be free to comment as a member of the private bar.

MR. LOCKHART: I predict he'll be in favor of it.

MR. ROGERS: I predict he'll be in favor. So the one cautionary note I would add,
though, is that I think we want to focus on the
tablet settlement one and getting out the Notice of
Inquiry on performance measures now that we've got
the performance measure information on the
website. And so I think the fast track one will
be kind of third in line, but it's certainly
something on our list to do.

MS. PARK: Well, thank you very much,
Chief Judge Rogers. Does anyone have any
questions for Judge Rogers? Mary Denison.

MS. DENISON: This isn't really a
question, this is a comment. As you know, I
was previously working with the TTAB when I was on
TPAC, and I'm thrilled that Kathryn has agreed to
take this over because she's already doing a great
job and I know she'll continue to.

But I just wanted to commend the TTAB,
Judge Rogers and Cindy Greenbaum, on a job well
done. I'm very, very excited about the TBMP
coming out, the progress on ACR, the notice of
settlement, putting up the information on the
website, the new Dashboard to be,
and I'm really, really excited about it, and
I just wanted to say hip hip hurray for the TTAB.

MR. ROGERS: Thank you.

MS. PARK: Here here. Oh, James.

MR. CONLEY: I just have one other
comment for Judge Rogers. On the finance side of
TPAC, you know, we are anxiously looking forward
to driving the ABI system into your operation, and
I know that sometimes this can be a little
invasive and distracting as it's rolling out, but
we really appreciate all of your cooperation with
Michelle and Steve and his team that has -- Steve
Porter, who are trying to make this -- actually
make it more efficacious and get you the resources
when you need them. And we know that this will
even lead to better things, so we thank you for
your cooperation.

MR. ROGERS: Right. I'm kind of a new
entrant into those discussions, as Cindy Greenbaum
and Julia Lee and Latoya Brown, Kim Goodwin from
the board have been going to these discussions for
a while. I've gone to them on and off sometimes,
but we find that the information is very valuable.

It's taking a while for us to tweak the
models and to get it working, as well, for us, as
it has been for Trademarks, but I think Trademarks
had a big head start on us and had some good
people working on it, but we're committed to
continuing with that effort, and we'll find out
where it leads in terms of indicating to us how
much time and effort is spent on certain
activities.

And it may lead to some uncomfortable
questions for members of the stakeholder
organizations about how much certain activities
drive cost at the board and whether those
activities should be funded in a different way
than just through a simple $300 opposition fee.
I'm not suggesting any fee changes in this forum,
but at some point I think the logical outgrowth of
looking at what the costs are at the board and
knowing that our fees don't cover all of our
costs, and we have Trademarks to thank for helping
balance our budget every year, inevitably there
will be a discussion about whether costs are
fairly apportioned or not.

MR. CONLEY: We can already hear in your
response that you know the information is coming.
And whatever the questions may be, you know,
getting the model right so that we can address
those questions is what our objective is, so thank
you very much.

MR. ROGERS: You're welcome.

MS. PARK: I have nothing further.

Thank you, Judge Rogers.

MR. ROGERS: You're welcome.

CHAIRMAN FARMER: I want to jump in and
say it's really heartening. I mean, now that
you've got the TBMP put to bed, and I know you're
going to be keeping it up to date, it'll never be
entirely away from you. You all have really
started to make progress on the other issues, and
that jumped out at Kathryn yesterday, and at me,
and it obviously has to Mary this morning. And
so, you know, great job and stay after it. It's
just absolutely wonderful, it really excites me.
And just since -- I'm trying to come up with a new happy phrase I can use so Howard can add it to his list, and I'm struggling to get beyond "last rodeo," but my one sort of just general plea for the future is that when you all do get around to a fast track, either Request or Comments or Notice of Inquiry, I hope that the future TPAC will look within its own resources, but also maybe reach out a bit to try to make certain that they get the experience of experienced federal court trademark litigators, and maybe even judges or magistrates or folks at Customs. Because I think that if you haven't been through the federal court fights on trademark stuff, sometimes -- maybe sometimes you can't fully appreciate that you can't always go to federal court and leave the TTAB if you need to go faster; that there's some sorts of cases you just can't tee up in federal court because of lack of declaratory judgment, jurisdiction, for example; and so that -- when you all are looking to understand the extent of the need, that you all
will just reach out to that community so that
maybe a fast track in cases where need is proven
will come to pass. And so that's just my one
little thought on that.

Any comments or questions from anyone
else on TTAB issues amongst the TPAC members?
From the members of our audience? We've obviously
put the folks on the webcast asleep, they haven't
had anything to say to us.

So, Judge Rogers, thank you,
congratulations, and keep up the good work.

MR. ROGERS: Okay.

CHAIRMAN FARMER: We are going to take a
five minute break now. And, miraculously, we are
now slightly ahead of schedule. And so we'll do
that, and then we'll come back and visit with the
OCIO folks.

(Recess)

CHAIRMAN FARMER: We're officially five
minutes ahead of schedule. I'm not quite sure how
we got caught up when I got us so far behind, but
I like that. And so we're now going to have our
visit with the Office of the Chief Information Officer. And Tim Lockhart and Maury Tepper and Howard Friedman are our champions on technology issues, and so I'm going to turn it over to Tim now to -- with his colleagues, Howard and Maury, lead us through our technology section. So, Tim, the floor is yours.

MR. LOCKHART: Well, thanks, John. I know Kevin Smith is going to give us a good briefing today, sitting in for John Owens, and he and his colleagues have got a lot of good information to put out about where the IT shop is based on our Subcommittee meeting yesterday. But before Kevin begins the briefing, I just personally want to thank you, John, for all the help and guidance that you've given me over now almost three years.

You were never too busy to take a phone call or sit down and chat, and I often ask you for advice and counsel, which you always gave me, and I always benefited from. And I very much appreciate your leading, as we say in the Navy,
leading from the front, leading by example. And so I wish you all the best in your post TPAC career, and I know that you'll go on to find a way to lead in other ways, in other organizations, and I know they'll benefit from that leadership, just as we have here on TPAC. Thank you.

MR. SMITH: Hi, good morning. The OCIO would like to extend our thanks to you, as well, Mr. Farmer, on everything you've done with us working together. I know John, if he was here, would be saying the same things, so we all appreciate it, as well, and wish you the best. It's a team effort always.

So I appreciate the opportunity to speak in front of the Committee today. I'll just extend that John Owens gives his apologies for not being able to be here. He had another engagement he had to be to.

I had been working with the Subcommittee before. A little history on myself, I've got a lot of industry experience within Fortune 100 and 1000 consulting, or to the IBM on a lot of
different things. I've managed organizations similar in the mortgage industry to what's happening here: A lot of paper, a lot of process around paper, dockets, case managements, I've been through that. And I'm focusing with John to help move the OCIO forward and move the agency forward, so it's an exciting time for us.

So I want to move to the second slide to talk about Trademarks Next Gen and the progress that's up there. My fault, first time here, right, I didn't know. I thought the projector was automated by voice.

MR. LOCKHART: (Jokingly) We could make voice activation a Next Generation requirement?

MR. SMITH: (Jokingly) That's coming up next, if it's a requirement, we'll do our best to fit it.

So first on Trademarks Next Generation, the activities in the first year for this have been a lot of planning for the program and some of the implementation. I'm pleased to say that the Trademarks organization, working with the OCIO, has gone through the capital planning and investment control process, which is the federal process to go through, based on the Clinger-Cohen Act, to make sure we're doing our due diligence on
all financial investments, dotting every I and
crossing every T to make sure we go forward with
the program in the right -- and did enough due
diligence up front to make sure we ensure success
down the road.

So this is handled within the agency on
something called a capital investment decision
paper. It goes between three different boards to
go through the process. It goes to the IT
liaisons on the 5th of May, as approved by the
CRB, the CPIC Review Board, which is the deputies
and the directors represented from each business
unit.

And in just a few weeks -- last week,
the 26th of May, was approved by the ITIRB, which
is basically the commissioners, the C levels, and
all the organizations representing looking at the
investment, making sure it's a good idea for the
agency going forward. And it was hands down a
good idea to move forward with, and we're going
forward with that.

And I wanted to give thanks to Gary
Cannon and Glenn Brown for their work, working with the OCIO, to get that through the process. We can start getting the work done. I'd like to also introduce, based on some of the past findings, we actually went through and got a portfolio manager fully dedicated to the Trademarks Next Generation platform, or the portfolio. Sitting next to me to my left is Raj Dolas. He's got years of experience in large-scale developments with modern technologies and modern approaches. He is the portfolio manager, the point of contact, lead interface for all of the programs and projects within the OCIO that are going to make up what's going to be moving forward in the next generation for Trademarks. And so he has direct reporting lines within -- to the director, Mr. Kappos, as well, within OCIO, and he works heavily within the Commissioner of Trademarks, as well, making sure all of the interests are met and we're moving forward at the right level. I'm going to have him
actually go through the next couple of slides to let you know where we are with the next generation and what to expect.

MR. DOLAS: Thank you, Kevin, and thank you for giving me a chance to speak in front of you. Like Kevin said, I bring about 22+ years of experience in private industry. I worked about 9 years in AT&T Bell Labs and about 12 years on Wall Street in several different companies before I joined here. I joined here in March, so I've been here only for three months, and I've been drinking through the fire hose. And the acronyms, I'm just coming to terms with all the acronyms we love to use around here.

So the best acronym that I would -- you guys are interested in hearing about is TMNG, which is Trademark Next Generation. So we can go to the next slide. So the activities that we're doing this year, Fiscal Year '11, are divided into two distinct tracks: One track is associated with platform and infrastructure improvements, and the second track is associated with application
development.

   So in the first track, we have three programs, one is for separation and virtualization of trademark applications from other applications that run within the data center.

   The second track we have -- the second program we have in that is for cloud computing. And by the way, trademark document retrieval is on the cloud. It was published -- it's one of the first things that's on the cloud right now for PTO, that is.

   And then our third program we have on the first track is analyzing and evaluating several business tools that we would like to use in Trademark Next Generation.

   On the second track, which is application development, we have identified -- Trademark actually, they have identified a team of managing attorneys and other members. And they formed a business architects team that has been working heavily to define the business capability and the value streams that we will need to develop
the applications for TM Next Generation.

That work is going on track, and we expect a lot of -- a lot of the work that they're doing, we expect that work to be fed into application development and application architecture-related work.

If we skip to -- move to the next slide, I can give you a rough roadmap of how things are going and how things -- we are planning for those. The first three bars on the chart show us how the work of architecture is going. Business architecture, data architecture, and application architecture are planned out starting from March onwards, and they go through 2012 for application architecture.

The green bars are for infrastructure and improvement, separation and virtualization, and the Next Generation build out of the environments that we'll need to start application development. The four yellow bars that we have in there are for our actual application development, the first one being cloud computing, TDR 3.0 is planned for.
Work on that is going to start fairly soon. The second, content management, a potential cloud computing project is also planned for. Content management is a question mark, we may do something else instead of content management system there.

The next two bars are for myTrademarks, which has been a heavily requested item from internal as well as external users. So we’re planning for it right now. One of the main important work item that's happening for that is user-centric design that Marti Hearst is leading right now, and that work will feed into the myTrademark's application development.

All the bars that follow down there are related to the capability mapping and value stream development that the business architects are working on. One of the things I would like to point to is collection and payment management, fifth or sixth bar from the bottom. Fee processing next generation on the CFO side, we're working very closely with them to make sure that the needs of Trademark will be heard, and the
architecture of both the applications, the Next Generation applications work hand-in-hand together.

I'll give it back to Kevin, unless you have questions.

MR. SMITH: All right. So as Raj was saying, Trademarks Next Generation, Patents and Fee Processing Next Generation are the next generation of USPTO. And the architecture teams and the business teams are working tightly together to make sure we move things forward appropriately.

And part of the reasons that the fees are separate is based on the CFO Act. It's also based on simple financial audits that we regularly do, where that data needs to be separated. The plans are working together with these three Next Generation programs to make sure the end users have a seamless interface to the USPTO, and it doesn't show a difference for them, they should see the best interface and the best experience they can get, but we have to combine these at this
point to meet the best interests of the USPTO.

So I'd like to go back to the next slide. So on the next slide, the accomplishments ongoing. Trademark Document Retrieval 2.0, what we like to call TDR 2.0, was deployed on production on 4-7-11. As Raj Dolas mentioned, this is actually a highlight that's been highlighted by Vivek Kundra, the federal CIO, also through OMB. There's a document here where they've identified 78 agencies that have moved to the cloud. We are on the first page. And when I say "we," Trademarks is on the first page of the document showing what they've done with TDR 2 and put it out there into the cloud. And from a first assessment of this document, it's out there. It talks about cloud initiatives, but at the end of the day, some of them were still in development. DOC had five, Department of Commerce had five out there, but only three of them actually are out there on the cloud. The other three were proposed to be there. So it just shows we're moving the agency forward, as well as the
department, and it's a good sign.

Within Patent and Trademark Assignment
System, known as PTAS, and Assignment Historical
Data Base, AHD, has been stabilized. I know
at the last TPAC meeting in February, there were
some issues with the stability of the systems.
We've gone through and corrected the
infrastructure stability of those systems.

Debbie Cohn and John Owens are working
together to make sure that we do the best plan and
we develop the quickest and most effective
approach to the assignment systems going forward.
So there are going to be plans going forward of
how to handle these in the best interest of the
Trademarks organizations, and we're working on
that heavily.

Something else that's coming up is the
Electronic Trademark Assignment System, which is
ETAS. The upgrades are in progress and they're
out there and they're being planned. Our plans
are to make the deeds available by the fourth
quarter of this fiscal year. What I mean
"available," the plans are to have them out there on the web, available for PDF download, and basically the deeds will be available, and all the supporting -- the assignments will be available, and all the supporting documentation.

MR. LOCKHART: One question on that. Will that be everything that's in the historical database or going back to a certain point or going forward? Exactly what documents will that encompass?

MR. SMITH: It's going to be, from what I -- what we're working on is the cover sheet and all the supporting documentation for assignments that are recorded. Does that answer the question?

MR. LOCKHART: Perfect.

MR. SMITH: The other topic, well, it's actually the topic on there, the other topic --

CHAIRMAN FARMER: If I could jump in just real quick. I'm afraid I didn't quite understand the answer. Tim, I understood your question to be are we going to go back to things previously filed in the past or are we just going
to pick it up going forward, was that what you
were asking? So what's the plan on that? Are you
all going to go back and reach into past
assignments and put up assignments documents or
just sort of say from this point forward in time,
assignment documents are going to go up? And if
you don't know, then you can say we'll get back to
you later.

MR. SMITH: We're going to get back to
you later.

CHAIRMAN FARMER: Okay.

MR. SMITH: I mean, I understand exactly
what you're requesting. I am fairly sure, but I
want to come back and --

CHAIRMAN FARMER: That's fine, wait
until you all know.

MR. SMITH: I appreciate it, thank you.

So the other mention here is, we are actually
still working, it is in the planning phases to
have e-mail notifications and e-mail responses
back instead of some of the ways things are being
communicated with assignments, and those are still
in the plans, they're just not on this slide going forward.

So the ULP update, Universal Laptop, what we've done is, we started deployment in March. To date, there are 1,200 laptops that have been deployed and we're going at about a rate of 50 a day. I actually looked today on the Intranet here at the PTO, we have a running ticker, and we're probably -- I think it said 1,347, so we're even past this now. This is going on every day, it's just a moving target as far as a number to keep track of.

So far to date, though, the CAO office and the Board of Patent Appeals has been fully deployed, and we're actually working with the director's office, as well as within the OCIO, based on the schedule for deployment. Actually, Mr. Kappos himself has had a laptop since the beginning of this week, and everything is going fine. There's always a small learning curve with new technology. Some of the new office suites for Microsoft, where did my button go, where is my
icon, we're dealing with a lot of those, but as far as the data being there, the system being stable, we're getting good responses back.

And also to mention with this, it's not just the laptop and the software. Bundled into this is also collaboration software and some messaging, personal video conferencing, voiceover IP communication phones are being swapped out for a better, more stable platform. So as we're doing the shipments, these things are included within that to enhance the end user experience, as well as a high-definition camera for that user experience within the agency. And as it says up here, two technology centers within Patents have been completed, as well.

So currently from the ULP, what does that mean to Trademarks and TTAB? Well, we have 34 -- actually it should be 34 up there, I believe -- systems out to the end users within Trademarks, and basically this is a very broad and diverse set of people to get the most feedback we can from the success of the ULP. People are testing
applications, making sure it works. We're getting

great feedback from the phone communications.

There are some issues we're still working on that
I'll address on the next slide.

Basically the legacy applications within
the Trademarks organization have been heavily
built within visual basic from Microsoft, which
is, it's based on a technology approach for client
server design, which basically means you have a
very large, heavy application on your laptop which
communicates to the data over the network, and so
there's a marriage there of the network and how
well it performs to make that application
successful.

When you're in this building, and the
USPTO owns the physical network, it's very fast,
very quick, the applications work superbly, from
the connectivity standpoint and the performance
standpoint. When you actually go out and separate
some employees and have them with a laptop working
from home, we've taken out the ownership of that
network, and we're now going over Internet service
providers such as Comcast and Verizon that own the network connectivity.

There's latency, it's the laws of physics. Data takes a little bit longer to reach the laptop. Some of the applications from the legacy standpoint, specifically Fast and X-Search, are not able to handle that latency as well as we were hoping.

Some of this is actually based on underlying technology and protocols within Microsoft, that is just the way the Internet communications work between the client application and the database.

As soon as you separate the application and data, the protocol used was never intended to be fully capable to support that fully.

We’ve gone through working on solutions. There is always going to be a solution to it, it's the matter of what's the best one at the time. We're actually working with solutions, bringing in industry standard solutions to basically stream that application to the end user, not the whole desktop, but looking at Fast and X-Search and saying, can we make the user
experience acceptable? Can we make the user not
know we've changed anything, where they would
actually still have the icon on their desktop to
go to Fast, and they think the application is
running on their laptop, but in a sense, it's not,
and it shouldn't matter to them as long as they're
getting the right performance.

The application might be running back in
the data center. It might be streamed to them
over the Internet in a much more forgiving manner,
and I'm going to say forgiving based on latency of
networks. Being able to take the fact that the
data might take a little longer, and that's the
approach we're looking at to basically solve this,
and in the gap, basically do a bridge until Next
Generation takes these over. Because it comes
down to what makes the most sense: Go into the
Next Generation, write those applications effectively to be
tolerant of latency, or go back and try to rewrite
something we know that's not in our best interest
necessarily at this point to do. We'll put the
best solution in place to make sure the end users
are getting what they need. But as I said, on

campus -- oh, I'm sorry.

MR. LOCKHART: I just had a follow-up

question. So is it the case then that you'll

begin or continue rolling out the laptops to the

Trademark employees once you've got your solution

for Fast and X-Search?

MR. SMITH: Yes.

MR. LOCKHART: Okay, fine.

MR. SMITH: The plans are within the

next few months to have this resolved and then

continue to roll out. Is that the right one? It

is, all right. The next topic I wanted to address

was basically, it's a contractual topic, these

things are out there in the public domain, so I'm

going to be very brief on it, but it's something

we wanted to advise to the Committee.

We're basically going through a contract

award that is being protested. The system

development and integration contract is basically

the contractors we use to do all application

enhancements and all maintenance of applications.
Currently this is not just affecting the Trademarks organization; this contract is used in Patents; it's used across the agency. Everyone is feeling some of the delay within this.

What happens is that one of the offerors have actually filed a protest with GAO. So actually following the process, following what needs to happen when a protest is filed, GAO is due a response back to the USPTO. The response is due back at the end of July, as it shows there, for July 25th, but it says "by." We may get a response tomorrow, okay, but the deadline as far as their turnaround to us is another two months basically if you count it from today, so we're still waiting on that.

What we're doing is continuing to do work with the existing contractors on the SDI contract. The SDI Next Gen contract is the one that's under protest. So we still have opportunities to do work, but we're working with Trademarks specifically to figure out which work we want to continue, which we want to delay based on
the protest, when we get the answer back, to make
sure we're doing things at the right time.

So as it says here, they're currently
working on three discreet task orders to make sure
that Madrid and Fast and TEAS are -- we're
handling what we need to within those three
systems.

And that's all I've gone through for
today, so I'm trying to do everything early as
we're still keeping on pace.

MR. LOCKHART: Perhaps just one or two
follow-up questions. And, by the way, it was a
great briefing, and I appreciate, Kevin, your
coming in and sitting in for John. Raj, great to
have you on board. You've got, you know, a big
project there, but I'm sure you're up to it and we
look forward to continuing to get these updates
going forward. It looks like things are really
beginning to come together, you're starting to get
the system architecture in place and move forward
with these discreet projects, so I think that's
all good news, and I'm pleased to hear about where
you are with the laptop program. I recognize with
these legacy systems there are some problems, but,
hopefully, you can arrive at a solution.

One thing that John had mentioned, and I
just want to get some clarification on this, have
there been any problems? The new laptops have
Windows 7?

MR. SMITH: Correct.

MR. LOCKHART: Other than the two
applications you mentioned, have there been any
problems in terms of Windows 7 or any other
conflicts with the software?

MR. SMITH: There are minor problems
that are being fixed. There have been some issues
with the voice over IP connection to the laptop,
but these things are, you know, they're little
things that happen when users look at the laptops.
Overall, within Trademarks, the two major
applications are these.

MR. LOCKHART: Okay, very good.

MR. SMITH: Other than the nuances with
the new Office Suite.
MR. LOCKHART: Right.

MR. SMITH: It's just getting used to a new interface.

MR. LOCKHART: Okay, very good. And you mentioned that later this year we expect to be able to see the actual assignment documents in the database, and I know you're going to get us some clarification about the exact time period that's going to be covered there.

Also, yesterday we discussed sending out the Notices of Recordation by e-mail, and is that something you think you can turn to later in the year, once some of these contracting issues and other things have been resolved?

MR. SMITH: The e-mail is actually in the planning. But as you said, with contracts and everything else, it's in the planning, and we have not lost sight of that, it's just a matter of when does it make sense to put that in. And it's not one of the long-term items. It's something in the short term.

MR. LOCKHART: Okay. So that's not
something where we'll have to wait for full
deployment of TMNG, but we'll get that sooner, we
hope?

MR. SMITH: That is the plan.

MR. LOCKHART: Okay, fine. I think
that's all I had. I'll turn to my colleagues,
Maury and Howard, and see if they have any
questions.

MR. TEPPER: Thank you. I just want to
underscore, I think on behalf of everyone, the
importance of this project. I think we've already
seen the presentations today. We understand where
we are in the budgeting process, although we have
reason to hope the models may change at a time
where we are having to make cuts to do without
many things and many services.

I think it's an important investment
that, you know, we are moving forward with trying
to realize the goal of a separate unified sort of,
you know, singular trademark operating system. I
think it's testament to what Trademarks has
accomplished in the past with your help, and we
just look forward to working with you guys and supporting you and being able to realize that vision.

MR. SMITH: Absolutely, thank you.

MR. FRIEDMAN: And I would just add, we look forward to continuing working with you and the Trademark Office to iron out all the bugs with the laptop and look forward in a few months, hopefully, to a successful deployment.

MR. SMITH: Thank you very much. That's the whole plan, find the bugs, fix them, so we're working strategically to make sure that happens.

CHAIRMAN FARMER: Anything from any other members of TPAC on technology issues?

Thanks for coming today. You all have made a lot of good progress and we really appreciate that. And I know that I don't need to say this for it to happen, but just, you know, keep after it with all deliberate speed.

There could be a change of administrations in a couple of years, you never know. I'm not here advocating for or against,
just noticing that it could happen. And you just
never know what a new regime would do if there was
a new regime brought into the office, if there was
a change in administration. So I just hope you
just get on as far down that road as you can so
that if someone who came in had a different mind
about how resources are allocated, then all of
your good work wouldn't fail to reach its full
potential, but keep it up.

Any questions or comments from members
of the audience on technology issues?

Okay, well, thanks for visiting with us
today. Now it's open mic night -- or morning;
it's still morning by 14 minutes. Anyone in the
audience have anything they wanted to bring up on
other stuff? Yes, sir. Why don't you step up to
a microphone so that we can make certain we
capture your stuff?

MR. DONAHEY: Good morning. I'm Mark
Donahey from Erik Pelton Associates, a trademark
attorney. Thank you, Mr. Farmer, for your
leadership all these years. I just had a question
about the trademark litigation study. I know the
study has been sent over to Congress. I was
wondering if there were recommendations in the
study that were made, is the Patent and Trademark
Office taking any steps to implement any of those
recommendations or are things just kind of on hold
waiting for Congress' response to that study and
what are the next steps?

CHAIRMAN FARMER: Thanks.

COMMISSIONER COHN: I think we would
first need to hear the reaction of Senator Leahy's
office and Congress to the study. And to the
extent that there are recommendations that the PTO
would be involved in taking the steps toward, we
would do that. Many of the recommendations are --
well, there were three distinct recommendations;
for the most part they involve the private bar and
practitioners. But again, to the extent that the
PTO would be involved, we will do so as soon as we
get some affirmation. Thank you.

CHAIRMAN FARMER: Okay. Thanks for
coming, by the way, and I appreciate the coverage
that you all have been giving to TPAC, we really
thank you for that, for your blog. Maury, is
there anything you wanted to add in since we are
now looking backward and you're looking forward?

    MR. TEPPER: Big shoes to fill, John. I
think, you know, we have an excellent group of
people, we have an excellent agency to work with,
I'll simply try not to break anything. Do keep
your eyes on the website. Of course, it'll be a
time of transition, but we'll be scheduling our
upcoming meetings, and we'll look forward to
continuing the good progress that we've seen the
office making.

    CHAIRMAN FARMER: That sounds great.
With that, we are done. What I'd ask is that if
the existing TPAC members would just huddle up
right up here just for a quick minute so we can
figure out what we want to do with lunch plans
since we got done a little earlier than we
anticipated. And thanks to all of you all at the
office for working with us, and thanks to everyone
who showed up today. A lot of life has just shown
up. Take care, everybody.

(Whereupon, at 11:48 a.m., the PROCEEDINGS were adjourned.)

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

Notary Public, in and for the Commonwealth of
Virginia
My Commission Expires: July 31, 2015
Notary Public Number 258192