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CHAIRMAN TEPPER: Good morning, everyone, and welcome to this meeting of the Trademark Public Advisory Committee. I want to thank those of you who are viewing online for your interest and participation. I will remind you, if you have questions, we will from time to time throughout the day be taking questions here in the room. You are very welcome to email those into us and I will try to get to any observations or questions that you have.

We also have just a couple of updates for you. I would like to welcome two members to our Committee. One of them I will be welcoming back. But since our last meeting, I'm very pleased to let you know we have two new appointees who are joining the TPAC.

First is Dee Ann Weldon-Wilson. Dee Ann is very well known to many of you in the IP Bar. She is with Exxon Mobile. She has worked long in many associations. She's been very active in issues before the office and we're very glad to
have her. Looking forward to working with her.
As well as Kathryn Barrett Park who we are welcoming back. Kathryn is with General Electric, a little company up in Connecticut somewhere that makes a few things you may use. She has graciously agreed to serve another term with our Committee, which I think shows that she has great generosity, if not, good judgment. But we're very grateful that she's here working with us.

Our other members of the TPAC, I will mention Linda McLeod is in Vancouver today and not able to be with us. Linda is with Finnegan Henderson. Anne Chasser is working with us from the University of Cincinnati. Cheryl Black from Goodman - I'm going to get it wrong, Cheryl.

MS. BLACK: Goodman, Allen and Filetti.

CHAIRMAN TEPPER: Thank you. In Richmond, Virginia. Deb Hampton, she's with Elizabeth Arden in New York. Jody Drake with Sughrue Mion here locally. As well as Ray Thomas from Law Offices of Ray Thomas right here locally, as well.
So we are close to on time. I will try my best to keep it that way. We're going to start off today with a budget update. We're very happy to have Frank Murphy, the Deputy CFO here, who's going to give us - well, we've got a few issues that are interesting and concerning, but I think you will see we have good people at the helm paying attention and we're doing our best in what is sometimes a difficult external climate to manage the finances of the offices. So, Frank, thank you, and I'll bring you - hopefully this will work from over there.

MR. MURPHY: Thank you. Good morning, everyone, and thank you for having us here. I'd like to take this opportunity to give you a brief overview of where we are with the performance results for fiscal year '12, talk a bit of the fiscal year '13 outlook, some of the key things that are happening government wide, and also touch on fiscal year '14 progress.

For fiscal year '12, you'll see the chart. Trademarks finished the year about $242
million, which was very close to our working estimate, about 1.6 percent below that. And the spending finished at $232 million, about 1 percent below our estimate.

So the preliminary operating reserve entering into fiscal year '13 is $128 million. That final level we determine in the next few weeks as we finalize the cost from FY '12.

In FY '13, there certainly are a number of budget dynamics that are going on. The first that is widely known is that all federal agencies will be operating under a continuing resolution for six months. For PTO, that senior authority, that continuing resolution authority places us at the fiscal year '12 appropriation level which is about $2.7 billion. We'll be monitoring our spending carefully. But this appropriation level should be adequate for us for a six month period.

We're not sure how that will play out for the full year, and therefore, we are being cautionary PTO-wide on our spending outlook.

Given the health of what we just discussed as the
Trademark's operating reserve, however, we do not believe that there's going to be any significant impacts for the Trademark side of the operations.

One of the other uncertainties for fiscal year '13 is the sequestration. OMB has determined that the PTO will be subject to sequestration. Now, what that means for PTO is a reduction of about $242 million. The potential impact of that, the specifics impact, we're continuing to work with OMB. They, on behalf of the administration, is working very closely with Congress. We expect that Congress will do the right thing.

However, personal opinion, I don't think that you're going to see that before the election. I do expect, though, that Congress will move forward and avoid the severe impacts of sequestration sometime in the November/December time period. For fiscal year '14, we have submitted an initial draft to OMB on September 10th. There were no significant policy or program shifts in that budget. TPAC is reviewing that
draft as we speak and will also review the
President's budget draft as our estimates are
refined. We expect that we'll complete the budget
by January with a release to Congress in February.
The other aspect, the community has a
notice that PTO set out taking a look at
potentially adjusting the Trademark fees. I
believe the response period has been extended to
October 22nd and looking to determine what that
will do for any of the estimates going forward.
The budget that you're currently looking
at does not reflect any changes to those fees.
Obviously, we're just at this point assessing what
inputs there may be. And, therefore, we really
don't have a firm date on when the fees might be
adjusted. It depends largely, in fact, entirely
on the comments that we receive back to see
whether that makes sense.
That is a snapshot of where we are for
ending '12, what we're looking at in '13 going
forward in '14. I do want to mention one other
thing. I had a sidebar conversation with Maury.
We have a lot of things that go on behind the scenes, especially in allocating the cost for Trademark and Patents, and thought that this might be a forum the next time we meet to have a brief overview of that. We have a very robust activity-based costing system that we use at PTO. And if that's something that is agreeable to the Board, we would like to do that the next go around to, you know, we won't go into the weeds on that, but at least give everyone a good sense of the kinds of rigor that we put into the estimates and how we come up with that.

CHAIRMAN TEPPER: Thank you, Frank, very much. And he's being very gracious about the fact that I cornered Frank this morning and asked him if we might all be able to get a better understanding of the processes that our CFO office applies in in sort of allocating the budget and analyzing and understanding the numbers.

And so those of you who are fascinated by such topics, you really want to come to our next meeting in the spring. They have graciously
agreed that they'll provide us a little bit more
of an in-depth briefing on that topic. So, you
know, just like any good television series will
leave you a teaser at the end of the season, I
just want to dangle that one in front of you all
for March. Does anyone have questions? I will,
as usual, go back and underscore a couple points,
but I'd first like to see if we have questions
from the Committee? All right. Any questions
from the public? Okay.

Do remember, I think it's always useful
to keep in mind at any point in time we're working
on three different years of budgeting. That can
be a little bit challenging to the mind. We're
operating under our current projections. We're
thinking about next year's budget. And we're
working on the budget for the year out. So, you
know, we do need to see it sort of track all three
of those.

Those of you who operate any type of
business I think would shake your heads and marvel
at the fact that you need to try to manage in that
way, as well as some of the additional vagaries
that are introduced by being a part of the
government, the continuing resolution.

You know, we are hopeful that that will
resolve itself within six months. We do not know.
So we'll, you know, obviously be watching that
closely. We'll be interested in hearing an update
in the spring about how things are progressing.
But regardless of the income to the agency,
regardless of filing levels, the ability to put
that money to work or to spend that money does
come from Congress and we can only do what
Congress authorizes under the current statute and
under our current regime. So the continuing
resolution will, in effect, limit our ability to
use and to spend any funds that may come into the
office.

We're doing our best to plan for that,
as you've heard, but we do want to keep an eye on
that and certainly hope that we'll be able to
resolve a budget bill. I think it's usually
Commerce Justice State that will include PTO's
funding authorizations and budget.

So we have that looming, as well as, of course, the specter of sequestration. And any business that may have 10 percent lopped off on short notice, those will not be easy decisions to make. We'll hope for the best, but I understand that probably we are planning for other eventualities.

Okay. Thank you very much, Frank. We'll move ahead. And I like the fact that we're already slightly ahead of schedule. We'll identify this as a trend that we will hope will continue. Dana, we're glad to have you with us today. I know he was busy traveling at our last meeting. Dana Colarulli is going to provide us an update on developments on the Hill and legislative initiatives that may impact the office.

MR. COLARULLI: Thanks, Maury. Well, like any good TV series, you need promos. I'm going to give you a promo, as well, for the 113th Congress, the next Congress, because I think we're at the dwindling days here of Congress. The
election is causing not a lot of things to happen on Capitol Hill except one that I'll mention is going to happen this afternoon which is a wonderful event to also promo, the Trademark Expo next week.

And Commissioner Cohn and I will be joined. It's very exciting by five costume characters. I'm very excited to be next to the Geico gecko and the dangerously cheesy cheetah.

So I'm going to be in good company this afternoon, hopefully with some congressional staff which we can then get to come out here next week for the actual event and, again, have a good, successful event.

So what I'm going to do today is just give you a sense of things that are active. Many of these things I'll call place holders for the next Congress. But we'll see some hearings certainly on some of these issues as the Congress dwindles after the election.

IP legislation that my office is following, substantive legislation, there's a few.
Certainly, the PLT and the Hague implementation treaties, these are bills that have now finally been introduced and passed out by the Senate. Hopefully they'll be picked up by the House, as I said, late November. The office has proposed implementing legislation for these two treaties twice, once in 2007, once in 2010. This is the Patent Law Treaty and the Design Treaty. The Patent Operations will go through a similar exercise that the Trademark Operations did for Madrid in implementing those additional resources for U.S. Applicants, this case on the design side.

The saving high tech innovators from egregious legal disputes, it's a shield act. A lot of certainly visible press on software litigation, ways to address increasing costs in that area of technology. We're certainly watching that. It's interesting conversation in light of the new tools that the America Invents Act added, but, again, is something that we're watching. There's a number of other bills that
address design issues, fashion design, auto parts.

Not clear whether they will move forward this Congress. Again, my instinct would be no, but it's certainly furthering the discussion I think on the fashion design side, where Trademarks has played clearly a prominent role in protecting those companies. I think this is probably the furthest a bill has gotten, which is passed out of the Senate Judiciary Committee. Again, not clear whether the full body of the Senate will pass a bill there that will create essentially a new right, a more limited right for the fashion industry to protect their designs.

Similarly, a trade secret, legislation, I think we'll see more next Congress, an important issue for us to see what changes to the statute might be made. And we have some of our own ideas, as well. So, again, we're watching some of that activity.

Frank already addressed the CR and touched on sequestration. There's still a lot of unknowns I think, although we're managing our
budget as best we can. I think as I've said to this body before, I think we have some additional tools to do that. We're optimistic that we can be able to use the fees that we collect for operations.

I'll mention two. Last one, just a general interest on the AAA. After a major legislation, there's always discussion of technical corrections, and I think this agency will put some on the table. The IP Attaché' Act, the Intellectual Property Attaché' Act, Cheryl is going to talk a little bit more about the program. But again, legislation introduced that we have not taken a position on, but we think may benefit our efforts of building a consistent program and having resources abroad that can help U.S. businesses.

Just a quick snapshot at the times that we've been up on Capitol Hill this year. The director has been up there four times. The deputy director has been up talking about our efforts internationally. And we've gotten our chief
economist up there, as well, talking about some of
the economics of IP, particularly in the way of
economic espionage.

So the PTO has been very, very visible
on the Hill, not particularly on a Trademark issue
yet, but we're looking forward to maybe doing that
next Congress if something comes up that's
relevant. But certainly we're continuing to be
visible on Capitol Hill.

My staff also frequently is getting
questions from Capitol Hill staff trying to engage
them on understanding what the Trademark side of
the shop does and the Patent side does. We'll
probably be doing a day in the life at some point
here, if not before the end of the year, then
early next year, again, to kind of walk through,
give folks a sense of what it is that PTO actually
does, because sometimes it's not so clear.

I mentioned sequestration. Continuing
to get a lot of questions and interest,
particularly from four areas around the country,
on satellite offices. I'll mention that along
side our celebration of the Trademark Expo next
week, the Detroit office will be planning their
own small celebration. We're supporting them to
do that. So we're really trying to pull in as we
establish these new offices, you know, activities
throughout the PTO system.

Beyond that, I put a couple other topics
here just for discussion. There's a lot of new
internet associations, a lot of new company
associations, looking at the Hill, looking at next
Congress, and thinking about what legislation they
might want to convince Congress to consider. So
again, we're looking at those.

I mentioned the Shield Act. I think
there's going to continue to be a lot of interest
on software patents, so we're watching that, as
well. And we're continually looking for
opportunities to again get up to the hill and not
just bring costume characters, but brief on
substantive issues, as well. So hopefully there
will be more of those as the year progresses -
ends this year and progresses next year. With
that, that's all I have for an update. I'll be
happy to answer any other questions that folks
have.

CHAIRMAN TEPPER: Thank you, Dana. Are
there questions? Yes, Deb.

MS. HAMPTON: I just have a quick
question about sort of the temperature as far as
the Fashion Design Bill. How is that going on the
Hill? Are people leaning more towards it, against
it? I'm just curious.

MR. COLARULLI: Yeah, it's curious.
This has been an issue that's been raised now over
three Congresses, bills that have introduced and
haven't made much progress. I think it was raised
in the Senate Judiciary Committee and it passed
out. There was a number of members that
traditionally are supports are intellectual
property bills that voted against the bill, but it
did come out as a majority.

The House has a similar process. I
think the real champion there has been
Representative Goodlatte, who's the chairman of
the Subcommittee. To the extent that he comes chairman of the Full Committee next year, we might see the House take up that bill with some more vigor, but it's unclear. They've held a couple hearings on the issue. But I think there's a lot of at least unresolved issues even in our mind here at the PTO. So it's one we're watching closely. Again, I don't think it'll make much progress this year, but may get some traction next year.

MS. HAMPTON: Thank you.

MR. COLARULLI: You're welcome.

CHAIRMAN TEPPER: Other questions? All right. Dana, thank you very much. I do hope we'll see your picture up on the web site or if you'll post that to Youtube.

MR. COLARULLI: Facebook, yeah.

CHAIRMAN TEPPER: And I'll put it an advanced plug. You'll be hearing more about Trademark Expo coming up next weekend. I'm already interested enough. I'm driving up with my kids and I hope to meet some of these characters
myself.

We're now going to turn to a presentation about the IP Attaché' program. This is something new. And we're very glad to have Shira Perlmutter with the program to give us a little background today. Shira, you can blame Frank and Dana if you like. We have noticed in some past meetings looking over the budget the investment that Trademarks has made in this program. We've heard a little bit about what the Attaché' program has done to advance our interests here and abroad and became interested enough that we thought it would be good for us to get a better sense of what you all are doing and of the program. So we're very grateful for the chance to hear from you today. And as I said, feel free to blame those gentlemen and not us.

MS. PERLMUTTER: Well, I think I will thank them rather than blame them. I'm delighted to have a chance to meet all of you for the first time, having just joined the office this year. So thank you for inviting me to talk. And it's also
a pleasure to talk about the IP Attaché' program because I think it's one of the jewels in the crown of my office, the Office of External Affairs here. And it's got a bit of a history already. It's not entirely new, but it has expanded tremendously in the last six years or so.

So I thought I would talk a little bit about the reasons for the program and its background, how it's structured, and the role that the Attaché's play, and then where we see it going in at least the near future.

Essentially, the IP Attaches' are IP experts employed by this office who serve as diplomats in U.S. Embassies and consulates in selected countries around the world. And the core of their job is to promote U.S. IP policies, which is a broad topic, but it obviously includes high standards for IP protection and enforcement in their host countries and the regions that those host countries are based in, and to do so for the benefit of U.S. Stakeholders. So that's their mandate and their mission.
And they are each supported by country specific and region specific teams in External Affairs here at the USPTO, and that means lawyers from each of the substantive specialty groups. So it'll be Trademark lawyers, patents, enforcement, trade, and copyright. So they feed into the work that the Attaches' do and support them.

And I did want to introduce Dom Keating who's the director of the program who's here. This is Dom. So he can also answer any very specific questions about how the program is running.

So when was the program created and what was the reason for it? Well, it's interesting because it really came out of the Uruguay Round negotiations that established the WTO, so it goes back almost 20 years now. And what happened was, the Japanese Patent Office started sort of an arms race by putting an Attaché', an IP Attaché' in Geneva in 1992 to be able to draw on that expertise, that technical expertise in the negotiation of the TRIPS Agreement. And we
immediately thought that was a very good idea. So we created our first Attaché’ and sent him there, and that was Paul Salmon who some of you may know. Actually I think he’s in the room.

Paul, the first U.S. IP Attaché’, and he became an Attaché’ to the World Trade Organization in 1993. So he was there through the TRIPS negotiations helping us further our interests.

And about 10 years later, with the growing importance to us of IP matters in China, we created an Attaché’ position in Beijing and posted Mark Cohen at the U.S. Embassy there. Some of you may know Mark. And I’m delighted to say that Mark this year has now rejoined the PTO as head of our China team. So we’ve gotten him back and are drawing on his tremendous experience.

So based on the success of these two initial postings and then with new funding from Congress in 2005 that was specifically allocated to international outreach, we expanded the program greatly in 2006. And so as of 2006, it included Attaché’ positions in Rio, in Moscow, in Delhi, in
Bangkok, and in Cairo. So what we have in addition to the Geneva postings, we have the Brit countries, we have Thailand covering the Asian region, and we have Egypt covering the Middle East.

And each of these Attachés' are supposed to be responsible not just for the country where they're hosted, but also the entire region where they're located, except, of course, for China, which is its own region in almost every respect. So that was the outgrowth, the beginning and the outgrowth of the program.

Now, at this point we've added a few more. We have two more Attachés' in China. So in addition to Beijing, we now have Guangzhou and Shanghai. And we've added Mexico City and the Attaché' there is covering Central America and the Caribbean.

We also now have grown from one Attaché' in Geneva to two. Some one of them covers the WTO and the other deals with WIPO and any IP matters that arise under other UN agencies, which happens
more and more as IP becomes more and more, I don't
know if the word is popular, but hot, shall we
say.

And we're also looking to expand
further. So as soon as our budget permits, we're
going to add another in Beijing because the work
has gotten so extensive in China and it's such a
priority for us. And we're also looking to add
someone in South Africa. And we're in ongoing
discussions right now about doing that.

So just a few words about how the
program is structured and then what the Attaches'
actually do. The programs are structured somewhat
differently in Geneva than in the other countries.
In Geneva, the Attaché' who serves at WIPO and the
UN organizations is detailed to the State
Department and to the U.S. mission in Geneva.
And the other one is detailed to USTR
serving at the U.S. mission to the WTO. They both
have a two year term which can be extended to
three years. In all of the other countries, the
Attaches' are assigned to the U.S. and Foreign
Commercial Service as limited appointees. That's the technical term. I'm just learning all these terms myself.

And they each have a two year term which can be extended to up to five years. I have to say actually in many respects I'm sorry it's limited to five years because sometimes when you have someone who is extremely well attuned to a particular country or region and not that easy to replace, which was true recently in Guangzhou for us, it would be great to be able to continue drawing on that expertise, but those are the limitations in the program. And in terms of the role, I mean I talked about it a bit, but just essentially to advocate and promote U.S. Government positions for the benefit of our stakeholders. And they do this in three primary ways.

First of all, they, and probably most importantly, they serve as advocates directly with the host governments. And they get to know the people in the government who run the IP offices.
And they work very closely with them. And they advocate appropriate and helpful changes in policies and laws and regulations on IP issues. And they can also bring to attention of the appropriate level officials in those governments specific problems that are facing U.S. stakeholders. So that's also an important part of what they've been able to do.

They also do a lot of indirect advocacy by educating and training government officials in their country, in their region on IP, and that has included policy-makers, of course, but also judges, and prosecutors, customs officials, police, and, very importantly, examiners in both Trademarks and Patents. And this can help a lot getting people to understand U.S. perspectives on IP matters in a more indirect way, in a very practical and pragmatic way, and also to get them to be as effective as possible in protecting IP.

And finally, they serve the function of building grassroots support in the region by conducting public awareness programs of various
types and just being ambassadors for IP more generally. And a lot of those programs will include academics, local politicians, business people, and students.

So in doing all of this, they engage in constant interaction with headquarters here in Alexandria. And their work is all coordinated by Dom, drawing on all the resources that we can offer here, which, of course, includes people going out to their country and region and helping put in these various programs and meet with the governments.

They also work very closely with the other USG agencies in the region, because obviously they tend to be small teams at all of these embassies so people need to work together closely.

And I think I've seen this as being a very important element of their role since I've come here. They serve as our eyes and ears on the ground there. So they often can alert us to important changes and developments before they hit
the newspapers and give us more complete and more
accurate reports on what's happening than we might
otherwise be able to get. So I think it's been
exremely positive.

We wanted to just give you one example
from Indonesia in particular relating to
Trademarks. The Wahl Clipper Corporation, which
is an Illinois company, was faced with Trademark
squatting from a counterfeiter that obtained registrations for their marks in Indonesia. And
our Attaches' in Bangkok over the years raised
this issue repeatedly with senior management in
the Indonesian Directorate General for IP rights
and provided information on the Indonesian
Trademark procedures to Wahl Clipper, the American
company.

And they subsequently were able to
prevail in a cancellation proceeding in Indonesia
and were very appreciative of the help that was
given to them by our Attaches. So we can help
with those kinds of problems and that kind of
interpretation and education, as well.
So what do we see for the future? Well, Director Kappos established a task force to look at the program and make recommendations for the future in the fall of 2010. And they developed 18 proposals, which have all been approved. And I won't go through the whole list, but just to mention a few of the key proposals, we've developed a Master Action Plan which incorporates and prioritizes all the relevant USPTO and other federal government IP action plans including that of the IP enforcement coordinator, and that's been a key tool to make sure that the Attaches' on our teams here are all focused on the same priorities.

We've also developed standardized operating procedures which help us interact with U.S. and foreign industry associations to identify IP issues of concern and review and enter into bilateral agreements with host governments to address those issues.

We've developed a plan to create a pool of talent, potential Attaches' for the future, because, again, these people are very specialized.
They have to be comfortable operating in the region, have some knowledge of the region, have some diplomatic skills, and then, of course, IP expertise, and that's a rare combination.

And then based on very positive feedback we've had from industry, from other agencies from Capitol Hill, the task force developed a plan for expanding the program, and I talked a little bit about the areas where we're looking to expand. And finally, we've developed training plans which include internal training here in External Affairs before they go out into the field, but also details to USTR, the IP enforcement coordinator, the ITA, and the IPR Center, and the government so they can really learn the wide range of things that the government is doing.

And then we've looked at developing procedures to reintegrate the Attaches' back into the PTO when they come back so we can draw on everything that they've learned while they've been in the field.

So we think it's been a very positive
program. I have already seen in my few months here already that the program is very highly valued by other U.S. government agencies because whenever I talk to people, the Commercial Service, U.S. (inaudible) the State Department about possibly bringing people into new programs, in new regions, they're thrilled, they're begging us to do it, and they find it very helpful in their work to have that kind of expertise close at hand.

So we will be continuing to improve the program and expand it, and we'd be delighted to have your input or ideas on other things we could do moving forward. So thanks very much. Happy to answer any questions. Either I can or Dom can if they're beyond my can.

CHAIRMAN TEPPER: Shira, thank you very much. And obviously, looking around the room, we had no idea the program was this far reaching. So thanks to all of the participants we have here, as well. Other questions for Shira? Yes.

MS. MCLEOD: Shira, I'm just curious, what are the Trademark issues specifically that
the attaché's are looking at and what other issues
are they looking at? I'd be curious to know sort
of what the focus is now currently.

MS. PERLMUTTER: Well, generally I would
say the focus tends to be the major bilateral
issues we have with the countries in the region,
whatever they are at the moment. So they can be
trademarks, they can be patents, they can be other
things. I will turn it over to Dom who can talk
about some of the specific Trademark issues the
attaché's are currently working on.

MR. KEATING: Sure. In countries like
India, they're working on the Madrid protocol
implementation. They're working on counterfeiting
as a common problem that cuts across all the
regions that we're in. And perhaps I'll tell a
little story to illustrate the problem. Dorie
Berkovich, who is our IP attaché' in Rio,
discovered that counterfeiting was a huge problem
in Brazil, so he created a three day program that
pulled together the chiefs of police and their
deputies from the 14 largest Brazilian cities to
talk about this problem. And at the end of the program, he asked them to compile a wish list of legislative changes that would help to address the problem.

They did, and that was subsequently provided to the President's office and then introduced into the Brazilian Congress as the first bill in 2011. So it's a big problem. The IP attaché's are focusing on counterfeiting and I think they're making progress on it.

In Geneva, our IP attaché's are working on geographical indications, which is an issue that the Europeans, as many of you know, have different ideas about how to approach than the U.S. government and the U.S. Industry. And I think our attaché's have been very effective in advocating U.S. positions on those geographical indications with other delegations in building support for U.S. positions. Thanks.

MS. PERLMUTTER: Dana was just pointing out to me, we should also mention a lot of work on bad faith Trademark registrations in China that's
been a very major issue for us that the China team and the attaché's have been working on.

CHAIRMAN TEPPER: Thank you. Other questions? Yeah, please, Cheryl.

MS. BLACK: Sure. Thank you for the presentation. It was very, very enlightening. I did want to ask you about the renewal. You were say that there's a two to five year term and that's it. And I could see the benefit of extending that because they're now accustomed to -

Is there any consideration of having a renewal of the terms or - even if they come back to the U.S. for a period and then return to that country, or, you know, is anything in the works on that end?

MS. PERLMUTTER: Good questions. And we've been looking at what we can do. My understanding is that, you know, it's a legal restriction on the five years so we can't do anything to extend it. But it is possible to bring someone back, and if they're back for at
least one year, they can then be reposted again. I think they have to compete again for the position, so they would have to be the best qualified applicant. But obviously they're likely to be very well qualified after all that experience. Hard to imagine how you could have better qualifications than that. I don't know if Dom wants to add anything.

MR. KEATING: This is an unfortunate situation. And the reason why we're constrained legislatively is because of the current structure of the program which affects this particular issue and other issues. Attaché's are assigned to the U.S. and Foreign Commercial Service which is our sister agency in Commerce who happens to have a foreign service of its own. So we're working through their regulations right now.

And as Dana may have mentioned earlier, there are some legislative proposals that could potentially open up different options in terms of the structure of the program. But this is the structure that we are working under at this point.
in time. Thanks.

MS. BLACK: Thank you.

CHAIRMAN TEPPER: Thank you. Yeah, please, Dee Ann.

MS. WILSON: You mentioned that Japan started this type program. Are there other countries that are also doing the same thing?

MS. PERLMUTTER: That's a great question. And, yes, they are, but I don't think anyone at this point has a program nearly as extensive as we do. But what I find interesting is very, very many of our just ongoing bilateral conversations with other governments, they're very eager to hear about our attaché' program, they're eager to expand theirs, and they're especially eager for our attaché's to coordinate with theirs in each country where they are located.

And it's interesting because that includes Japan, the EU, and some of the specific - some of the individual EU member countries like the UK, which has started to be very active in this area. And I find it interesting personally
that you've got both the EU level and the
individual member states doing the same thing.
But the impression I have - and Denmark I think
has also been very active, interestingly enough.

I think from their perspective, they're
interested in helping their companies trying to do
business in these other countries. And,
obviously, China for many of them is also a big
focus.

MS. WILSON: Thank you. That was
helpful. One of the things you mentioned just
then was that they're interested in helping their
companies. If a company is interested in finding
out more about what you do or if a company has an
issue that they would like to try to raise so that
the USPTO might put some focus on that in trying
to train their attaché's, how would they best
contact you?

MS. PERLMUTTER: Send an email to either
me or Dom. So it's both of our full names, so
it's Shira.Perlmutter@uspto.gov, or Dom's is
Dominic.keating@uspto.gov. And we'd be more than
happy to help. That's what the program is all about. So we want to hear what the problems are and what the issues are so we can try to address them.

CHAIRMAN TEPPER: Yeah, please, Jody.

MS. DRAKE: Following up on Dee Ann's question, is there currently in place a public - do you do public outreach, appearing, you know, on programs, making companies aware of, you know, the sort of relief that they can possibly get through your agency?

MS. PERLMUTTER: Yeah. We do, and maybe one idea is to try to think of other ways to do more. But we do certainly in the countries and regions the attaché's are regularly appearing, you know, working with Chambers of Commerce, for example, AmCham, or the local one, and talking about what they do and what they can do. And we certainly do in our global IP attaché' programs, especially the ones we do for SME's, but also all of the training programs. But I think there's probably more we can do, and we will think about
it, and if you have other ideas, we'd be delighted to hear them.

MS. DRAKE: I was more interested in U.S., you know.

MS. PERLMUTTER: Of course.

MS. DRAKE: Interested in knowing what outreach goes on here, but that's just --

MR. KEATING: Every December, the IP attaché's all come back to Washington for consultations. And at that time, we do invite some industry associations in to talk with them. The U.S. Chamber also hosts a full day event for the attaché's where they can come and speak with a wide range of companies.

And we are considering creating a second series of attaché consultations which would be in the spring or summer and perhaps getting out to another city. And if you have any ideas about that, we'd be interested in those ideas.

We'd also like to possibly line the spring consultations up with the meeting of a larger organization like - it could be INTA or it
could be AIPLA or IPO, some other organization like that. Thanks.

MS. DRAKE: Thank you.

MS. PERLMUTTER: One other comment that I forgot to mention sooner is, another thing I found interesting, we just came back from a week of non-stop bilateral meetings in Geneva at the WIPO General Assembly and so we were talking to a lot of other countries, and what I found is, in all of the countries where we have attaché's, they are really happy to have them.

They've very happy to have them there and work with them and they see it as a very useful conduit to the U.S. government where they can form that kind of personal relationship, have someone they can get to know in their time zone who can come into their office for meetings. So it seems to be just a very useful communication device from that perspective, as well.

CHAIRMAN TEPPER: Thank you for that.

Yeah, we're generating a lot of questions.

Please.
MS. BLACK: Are there any attaché's from other countries in the U.S.?

MS. PERLMUTTER: Yes, there are. The one I've had the most contact with personally is from China, and he's based here in Washington, very fluent in English, comes to all of the bilateral meetings both here and in Beijing of an appropriate level and does quite good. And, Dom, do you know others?

MR. KEATING: Sure. Japan, Korea, and France also have IP attaché's based in Washington. Thanks.

CHAIRMAN TEPPER: Thank you. Any other questions? Are there questions from the public? All right. Well, I do want to thank you. This was very informative for us. We look forward to learning more about how, you know, I know lots of associates and industry groups here would certainly welcome the chance to participate and to help to strengthen the message so we'll look forward to hearing about those developments.

Dana mentioned some pending legislation.
So certainly stay tuned for developments.
Anything that we can do to help to formalize and, you know, smooth out some of the edges around the program I know we'd be interested in learning about. All right. With that, we'll keep moving forward.

I'm pleased to now turn over to Commissioner Debbie Cohn who's going to review operations. We have, as you probably know, just closed a fiscal year here at the PTO just about the first of October. So she looks a lot less tired than she probably ought to be. It's been a very active year. And we'll get an update. Thank you.

MS. COHN: Thanks so much, Maury. And I'd like to extend my welcome to Dee Ann Weldon Wilson and Kathryn Barrett Park, welcome back. And so let me launch right into the report here. Okay.

So first I'm going to talk to you about our performance statistics for fiscal year 2012. As Maury mentioned, we just ended the fiscal year
and so this meeting is perfectly timed. And the information is actually hot off the presses.

And I am very pleased to report, and I don't think that you can actually see the numbers up there, but those of you who have handouts can see. I'm pleased to report that we have met and exceeded all of four goals in the Trademark organization. And I will go through some of them with you.

We have certain goals that we report on to the Department of Commerce and to Congress and those include quality of examination. I am very pleased to report that we exceeded our first action and final action compliance goals in that area, and that measures the legal decision-making. We have a third quality measure that we just started in fiscal year 2011, and that is measuring - it's called the Exceptional Office Action, and it's measuring the quality over and above the legal decision-making. It's measuring the quality of the evidence, the writing, the search, you know, all of the components that are
very important in a communication, but don't
directly always affect the legal decision-making.

So we know those are important to our
stakeholders and our applicants. And so we have
started measuring that, as well. We have an E
government measure which measures the percentage
of applications that are processed completely
electronically from beginning to end as opposed to
just measuring the percentage of applications that
are filled electronically, which is extremely
high, over 98 percent. Now we're focused on
trying to get applicants to continue to
communicate with us electronically and to allow us
to communicate with them electronically.

And so that number is 77 percent this
year. We are trying to move that even higher.
And I think the reason it's even that high is that
we've made a number of concerted efforts over the
past year to find out what it is that is stopping
people from communicating with us electronically
or authorizing electronic communication. And
we've tried to make some changes, and we've made
some changes actually to try to facilitate people getting into the electronic system. So we're going to continue to work very hard on that. Application filings were up this year. They were up about four percent, and that's approximately what we predicted from last year. So I wanted to congratulate our Budget Office led by Karen Strohecker for her wonderful crystal ball and her ability to make those predictions.

You know, a lot of things go into that mix and a lot of unknowns. It's the economic forecast, it's, you know, Trademark applications, as you know, are pretty volatile. They go up and down from month to month. And, you know, we need to try to make as accurate a prediction as we can because that informs our hiring decisions and a lot of other decisions that we make.

And so I'm glad for two reasons. I'm glad we were able to accurately predict, but I'm also glad that filings went up because I think it's a very good sign for all of us. And hopefully that will continue to go up in the
future. And we are predicting that for the future, as well. Production, disposals, all of that, we came in above our targets. Pendency, our first action pendency was—we ended the fiscal year at 3.2 percent, I'm sorry, 3.2 months, which is 3 months and 6 days. And that's within our target range of 2.5 to 3.5 months. So our goal is to stay within that target range. It's not to drop it down below 2.5 months.

Our disposal pendency, which is the pendency from the date of filing to the issuance of the notice of allowance, the abandonment or the registration, our disposal pendency is measured in two ways. One is the overall pendency including suspended and inter party's cases. And so our average, when you include those cases, was 12 months. And when you take out those suspended and inter party's cases, our average was 10.2 months to registration, notice of allowance, or abandonment.

So all of that is great news. I also want to talk about our other areas that we don't
necessarily report on to Congress and Department
of Commerce, but which are extremely important to
us getting our work done, and that's our
examination support areas, our service areas, post
registration, Trademark assisted center, all of
the components in the Trademark organization that
have to be working properly in order for our users
to get what they need in a timely manner and with
high quality. And our support units, all of our
units, each and every one of them met their target
goals both in pendency and in quality.

So I'm really pleased to report all of
this to you. And I also wanted to take this
opportunity to thank each and every one of our 600
plus Trademark employees for a job very well done.
So thank you.

I think that's all for the statistics.
If anybody has any questions on that, I'd be happy
to answer them. Cheryl.

MS. BLACK: You were mentioning about
the filings and the factors that go into it and it
effects hiring and so I wanted to ask you about
hiring for the future?

MS. COHN: Sure. And I assume you mean examining attorney hiring?

MS. BLACK: Yes.

MS. COHN: Okay. And actually that is a very important component. We hired a number of people this fiscal year. I think the number may have been 34. We had separate hirings, groups of between 10 and 15 employees. For next fiscal year, we are planning on hiring 26 examining attorneys. And we're going to hire our first group in January, between 10 and 15 attorneys in January. And then we'll see where we are. You know, we may have a larger group than we expect later on in the spring or we may have a smaller group. That depends on where we are with regard to inventory, filings, pendency, you know, all of those factors. And so that's our plan. But we are definitely hiring a group in January. Okay.

So let me move on. I have a couple of items that are on the agenda that have to do with requests for comments or information and the first
has to do with the adjustments to fees.

We have a notice out there requesting -
a notice of inquiry requesting comment on a
possible fee adjustment for filings. And the idea
behind that adjustment would be to try to
incentivize the electronic filing and
communication that I talked about a few minutes
ago.

The idea is that it may make sense to
offer a financial incentive for people who commit
to using the electronic systems exclusively and
not just filing electronically on a TEAS form and
then sending us paper or forcing us to send them
paper. So we're looking at that. We have gotten
quite a few comments on that. And I have to say
that people are generally supportive of it,
overwhelmingly supportive. Our date is October
22nd, that's the final date for comments due. And
we will have a much better idea after that date in
which direction we're going in and we will
certainly communicate that.

The other notice we have is a request
for comment regarding the Section 8 and 71

Affidavit of Use Time Period. So the question is,
or the proposal is to reduce the time, so instead
of filing between the fifth and sixth year, the
registrant would be required to file between the
third and the fourth year.

And the rationale behind that would be
to try to get rid of dead wood on the register, to
try to increase the accuracy of the register. And
we have gotten quite a few comments on that. The
deadline for that was extended to November 5th.
We are waiting for some industry group comments
which we expect to get. And we've gotten quite a
few individual comments.

And I have to say that there's really no
overwhelming position that these comments are
taken. It's a little bit of a mixed bag. They're
very, very helpful comments. Many of them are
very thoughtful. And we really appreciate people
telling us how they feel about this issue. And
after November 5th, we will be reporting back and
letting you know what the temperature is on this
issue. Now I'm going to move into some recent
developments or things we've been doing this
fiscal year. And the first thing I want to
mention is the ID manual. And the ID manual
obvious affects both internal and external users.
And we have been talking about redesigning our ID
manual to better meet the needs of our employees
and our external users.

Over the past year, we've been reaching
out to our examining attorneys for ways to improve
the manual. And we have gotten a lot of feedback
on that. And we're proposing some changes and
increased training and better resources. So
that's in the works in the very short term.

We've also reached out to stakeholders.

And one thing that we've heard from our
stakeholders is that we need to have better
entries in the ID manual that more accurately
reflect what's actually going on in industry, and
particular industries that change on a rapid
basis.

So we're working. We've begun a project
to work with some of our stakeholder groups to get input, to improve the content and make sure we have more expertise in the entries in the manual so that people will be able to rely on the entries and see the most up-to-date information. And we've started working with groups from INTA and from IPO on this project. And we're very happy to have their help and assistance and they were very anxious to help us with this.

Another thing that we're doing in the ID manual area is actually doing some IT enhancements. And we have a couple of things in the works in the short term. And one of those things is what we call an ID checker, which will mean when you put an entry into the TEAS form, you will see right away whether it's in the manual or not. So we think that will be very helpful to applicants.

The other thing we have in the works in the short term is something we call an ID filter. So I'm sure all of you are aware that we have many entries in the ID manual that have come in through
suggestions for TEAS Plus. And so a lot of these
entries may not be that useful to applicants on a
regular basis, and this ID filter will give you
the option. You'll always have the option of
filtering out those extraneous sort of submissions
when you're doing your work and looking at the
manual.

So those are in the short term. We have
some other things in the works with the ID manual
that you'll hear about later. We're trying to
accelerate our work on a number of IT projects and
the ID manual is one of them. The next thing I
want to mention is something called Idea Scale
which hopefully you're all familiar with by now.
In January of 2011, we began offering this as a
pilot. It's an alternative method of providing
comments on specific chapters of the TMEP and
examination guides. And we have an examination
guide up there right now. It'll be there until
the end of October. And it's on web specimens.
And so this gives you the opportunity to actually
make comments and see what other peoples' comments
are.

And this lets us get input from our stakeholders. And we also have this available for our examining attorneys. We want to get input on this before the policy decisions are finalized. And this will help us make better decisions in the long run I think and better documents.

The next item is our new TMEP. And there are two things I want to mention. First, we actually have the current version of the TMEP, the 8th edition, available in a new format. And you can see it on the web. And I encourage you to look at it if you have not already done so.

It contains some enhanced search features. And it will be the way we will publish the TMEP in the future, the future being the end of this month when we come out with a new edition. So please, if you haven't already done so, take a look at this while it's up there during this interim basis, interim phase rather.

So it's got some enhanced functions and that's great. The biggest advantage I think for
us internally is, it allows us to better control the content of the TMEP to more easily change the content and will allow us to publish a TMEP more frequently.

So we're thinking that we may want to publish twice a year rather than once a year because now we'll be able to do so. We don't want to inundate with new publications every month or even every quarter, but we're thinking that twice a year might be the way to go on this. And I'd certainly be interested in your input on that issue.

The next item is the enhanced electronic Official Gazette. I'm very pleased to report that the Government Printing Office is sending out their notices to all 150 subscribers of the paper OG world-wide. And I don't know if the USPTO still has three of those subscriptions, but when we last checked, we did. So if you're getting a paper OG, you might want to hold onto that last copy because it may be worth something some day. The last paper OG will be published on December
25th. And after that, no more paper OG. The current electronic OG that you have in PDF is in that very sort of clunky format because of our restrictions with the paper publishing.

Once we get rid of the paper publishing, we have a lot of opportunity to change the electronic version, to put it in a web based format which was exactly what we're going to do. So we're working on that project. We are planning on having a brand new enhanced Official Gazette by the end of this fiscal year, so by the end of fiscal year '13.

And we are very anxious to get your input on it. We're going to have a prototype available for you to look at. We have already had two focus groups where we've had people providing some comments and directions on what they might like to see in a new electronic OG. So that gave us some indication of what's important to people. But you will have another opportunity to certainly comment on what the final product will be. So we've very excited about that and we're working
very closely with the OCIO folks to make that happen.

And in the meantime, just this past month, just in September, we changed the way we send the link in the Notice of Publication for the Official Gazette, for the current version. So now instead of having to page through the PDF to find your mark, your link takes you directly to the page. So we were working on that improvement and we were happy that we were able to implement it last month. And hopefully you all have seen that by now or will see it soon.

The next item is TSDR, Trademark Status and Document Retrieval. We released a new version, 2.0, in September. And all of the hyperlinks that you have displaying the old TAR information were redirected to TSDR. So that should be working very smoothly by now. We had a little bit of a bumpy start to that, but everything should be good.

So we have some new features in our TSDR and that is that you can now review assignment
details and you can filter the assignment data by conveyance type, which is a big improvement. You can review multiple documents at the same time in separate windows. You can also file specific identifiers allowing direct access to case data, to specific case data and documents. We're now listing the Notice of Allowance date which was missing from the old TSDR. And we now have hyper links to parent and child applications that have been divided. So those are some of the major improvements I think for this release.

Another item, I'm sort of shifting away from IT now, and that is, I'm going to talk about the basic facts about Trademarks booklet. We have updated that and it will be available shortly in paper copy. It's available on our web site right now. And the group responsible for this is called our Pro Se Working Group.

And I want to mention this because, you know, it's sometimes a challenge, you know, dealing directly with pro se applicants who have varying degrees of sophistication or knowledge
about the Trademark process. And we have to be very careful to make sure we explain things, you know, properly to them and maybe differently than we would to an experienced practitioner.

And so we have a working group that focuses on these issues. And they put together this basic fact about Trademark, the information booklet revision, and I think it's terrific. It has some new information in it. It talks about how Trademarks and domain names and business names, registrations all differ, which is always a confusing topic for pro se applicants. And it talks about the importance of conducting a Trademark search. And also sometimes the applicant may need to hire a private attorney and the importance of doing that and when that might be appropriate. So all of that plus more is in our new version of the basic fact booklet so you might want to take a look at it, it's online.

Moving now to the TM-5, which is the international group that was formally called the Trilateral. It is not called the Trilateral
anymore because there are five members. It is the United States, Japan, the European Union, Korea, and China. And Korea and China just recently joined the TM-5.

And so we are next meeting at the end of this month, the end of October, in Barcelona, because the EU is hosting the meeting. And so we're going to be working on certain harmonization and collaboration projects and continuing our work from the past.

And just to give you some examples of those projects are the development of an ID list, and identification list, where all of the entries will be uniformly accepted by all of the member countries. So that's just one example of some of the projects we're working on. We're also working on the bad faith filing issue. And we're working on training for that and trying to encourage all of the member countries to participate. And we're very enthusiastic about this bad faith filing training. We've had some in the past and we're hoping to continue it this year actually.
Now I just want to talk a little bit about stakeholder outreach, about outreach in general and just a couple of different areas. I'm sure you all know, we've been having these roundtables. The USPTO and INTA have been working together to have roundtables for Trademark practitioners around the country. And we've had quite a few of them.

We started it this past January. And our latest stops include Seattle, which we just were there in September. We're going to Charlotte, North Carolina next week, this week or next week, a Trademark's Administrators Conference, so we'll be having one in conjunction with that. And then we'll be going to Detroit, Michigan to have one at our new satellite office.

And we've gotten great feedback on these. They're small groups, no more than 25 people, and we just have a chance to exchange information, to hear issues directly from practitioners, to have them exchange information and practice tips. And it's been a very good and
constructive meeting each and every time. So we're hoping to continue those into the future. So that's dealing with experienced Trademark practitioners.

Another area that we've begun extensive outreach in is really for the non-Trademark practitioners and the public entrepreneurs, businesses, small businesses, students, and trying to give them more information about trademarks, the importance of trademarks, the importance of protection, the importance of starting early and finding out what you need to know before you select the mark and actually have a selective good mark.

So we have this really - I think it's a very robust outreach program. And we've been going all over the country to places like the Small Business Association, Women's Business Center annual conference, the U.S. Black Chamber annual conference. We've been at the Bethesda Rotary Club in Maryland. We've been to the National Society of Hispanic MBA's, the MIT
Enterprise Forum, just to name a few of the many places.

And Craig Morris is spearheading this program. He's been doing all of the traveling and speaking on it. And many of you know Craig from the TEAS days. He was our TEAS program manager for quite a few years and he is now launched on this program. And by all accounts, it's highly successful and we expect to continue it full force into the next few years.

The next outreach I want to talk about, Dana mentioned the Trademark Expo which is next week. And, Maury, I'm so glad you're coming back for that. I look forward to seeing you there on October 19th and 20th. And it's really an educational event. It is to educate the public about trademarks, about the importance about, you know, how bad counterfeiting is. It's all trademarks all the time for two days.

Last year we have 15,000 people attend. It was a fabulous event. And this year it's going to be even better. We have more exhibitors. We
have exhibitors like Geico, we have Mattel coming.

We have a number of government agencies. It's just going to be a terrific event.

We have NASCAR coming. And we have some informational seminars that our folks will be presenting. I'm just going to read off some of them to you so you get an idea of what we're doing. What every small business should know about intellectual property, Trademarks 101 covering basic facts, an overview of our online tools and resources, common mistakes to avoid when filing, counterfeiting and piracy, why buy legit, and respecting the Indian brand, the Native American art and imitation. So those are the seminars we'll be hosting throughout the day on each day. So I hope you come.

And as Dana mentioned, I'm going to be on the Hill later today. Before we go to the Hill, I'm making a stop at Children's National Medical Center with the costume characters, so we'll give them a taste of what's going on in the Trademark world, and it's always a lot of fun to
see them. So I think that I have reached the end of my items. And I will be happy to answer any questions.

CHAIRMAN TEPPER: Thank you very much, Debbie. I want to pause for a second because we do get used to I think looking over these performance measures, and oh yeah, ho hum, Trademarks exceeded all objectives once again. That takes a lot of effort.

We know we have great leadership here at the PTO. But there are not a lot of things that we applaud on this Committee, and I think it's appropriate, and I'm glad that we gave a round of applause to all the employees here on Trademark Operations. I'm lucky enough to speak with some of you from time to time, examining attorneys who go above and beyond to pick up the phone and call with a question to help us out, and I want to compliment. It takes lots and lots of folks working out there. We don't get to see you very often, but we appreciate all of the work that comes out of this office and the great leadership
that we have.

I think I speak for everyone here on the Committee. We feel very lucky to be volunteers because we really admire and support everything that's going on here. So thanks for a great year in Trademarks.

I would also encourage – Debbie mentioned just a couple of things out there. You have time and we really do want your feedback. October 22nd is the deadline to respond to the – I'll get my Notice of Inquiry and request for comments backwards. But on proposed reduction of fees, if you don't want to pay less, let us know right away. But obviously, the PTO can use your specific thoughts and recommendations on that, as well as on the issue of the Section 8 and Section 71 filing window. November 5th is the deadline for that.

And I think as you heard, there are lots of different views and ways to look at this. So this is your chance to certainly take part in shaping the process and the Trademark system for
years to come. And I encourage everyone to take a
look into those and help us out with your
information. Do we have questions or comments for
the Commissioner? Please.

MS. BLACK: I do have a comment on the
TMEP and the TSDR enhancements. I have noticed
them, I've been using them, and they really do
make a difference, so it's nice to see. And I do
kind of want to piggyback on what Maury said.

I was reading about Ritz Carlton, and as
great as the company was years ago, they always
felt the need to continue improvements and look
for ways to do even better and to make those kind
of enhancements and so I kind of look at Trademark
Operation doing the same thing. It's been doing
well, but you're continuing to look for ways to
enhance and improve it and so we do salute you on
that.

MS. COHN: Thank you very much, Cheryl
and Maury. And it's always been a pleasure
working with TPAC and we really value your
continued input and support.
CHAIRMAN TEPPER: Well, I think it's also great we have Ritz Carlton's Trademark attorney in the room today in the audience, Cheryl, so that was an excellent example. And, Ray, I think I just cut you off. Go ahead.

MR. THOMAS: Yes. I just have a couple of comments. Commissioner, you mentioned the focus groups regarding the new Official Gazette. As you know, I participated on behalf of TPAC and I just want to thanks for the invitation for TPAC to formally participate in those discussions.

And aside from that, just generally commend the office with regard to its ongoing and continued efforts to make the experiences of users more pleasant with that project just being one of many.

MS. COHN: Thanks very much, Ray.

CHAIRMAN TEPPER: Okay. Questions from the public? Comments? Great. I do want to put in one last plug. Don't forget Trademark Expo is coming up next weekend. Those of you who are in the area, please do come out. Anyone who needs a
ride up the I-85 or I-95 corridor on Friday and
doesn't mind riding with my 10 year old twins, let
me know, I'd be glad to bring you on up, too. So
we're looking forward to the chance to learn a
lot. And I do hope you'll have the chance to come
by if you're near the office. Okay. We're going
to turn now to some international and policy
updates. We're glad to have Sharon Marsh.
Sharon, I mangle your title every single time and
I'll apologize. Deputy Director for Trademark
Policy. Did I come close?

   MS. MARSH: Commissioner, we use Deputy
   Commissioner.

   CHAIRMAN TEPPER: Thank you. I gave you
   a promotion. You're welcome.

   MS. MARSH: Yeah. Thank you. We just
   wanted to give you a short update this morning on
   our project to collect some data about
   registrations at the point where the Section 8
   affidavit is filed. This is five to six years
   after registration. And we're trying to collect a
   little bit of information about whether
registrants are keeping their list of goods and services accurate.

It's been, frankly, a slow process because we had to make some CFR rules changes before we could start the program. So if you recall, the final rule took effect last summer. And finally then in late summer, in July and August, we started our project.

And we have a group of senior attorneys who are randomly - are taking a group of randomly selected registrants who have filed Section 8's and they are asked to provide additional proof of use for two additional items per class. This will take place over a period of probably about six months. And so far everything is going fine. We do not have enough information yet to be able to report results. As soon as we get that information, I know we're all eager to see some results, we will share that with the Committee.

Keep in mind also that, you know, the letters go out and they have six month response clauses. So it could be a number of months yet before we have
I did talk to one of the attorneys who's participating in the project earlier this week and she reported that there have been one or two registrants who have already responded to our request, and their response has been to delete all goods and services except the goods and services to which the specimens filed with the initial Section 8 pertain. So that was interesting. But, come on, 2 out of 500, so stay tuned. We'll have more information, I hope, at the next meeting.

Regarding Madrid, I don't think we have anything we were going to discuss today, Maury. There was a meeting last summer, a discussion of some technical issues, but no news that we need to discuss today.

CHAIRMAN TEPPER: Thank you, Sharon.

Those of you who may take part in this program, you know, I've tried, it's a little bit like your odds of getting audited. We're sorry if you happen to be one of those. You know that the odds are remote. But I think it will be certainly very
valuable information for the office. Remember that we do work in a common law country and we have a used based register. So I know it will not be convenient for anyone who has to provide the additional specimens, the additional information to the office.

But I think for those of us who rely on that register, we sometimes forget. We spend a lot of our time clearing marks and we look at the PTO to provide us accurate data. So we certainly want to step back and remember that it's in everyone's interest for the register to reflect reality in the market as closely as possible.

That being said, I'm not going to give you my phone number or email address if you have to provide specimens, but we'll look forward to hearing how this pilot goes. It's an important initiative. Are there questions for Sharon? All right. In that case, I think I'll come to everyone's favorite part of the morning. We're going to take a brief break. I'm going to say 10 minutes so we can try to keep on schedule. We are
close to it. And I already know it's hard to get you guys back in 10 minutes anyway, but if you can make every effort, we'll resume in 10 minutes. Thank you.

(Recess)

CHAIRMAN TEPPER: Thank you. Folks, if I could ask everyone to please some take their seats. All right. Thank you and welcome back, everyone. I think it's always a good sign when people come back after the break. I hope that means that you're finding the information as useful as we are this morning.

I'd like to continue. I'm glad to be joined today by Chief Judge Gerry Rogers from the TTAB. There has been a good bit going on, lots of changes, some of which you've seen, some of which you'll hear about this morning. So, Gerry, thank you for your time today. We look forward to hearing about new developments.

MR. ROGERS: Thank you, Maury. I'm glad to be here. Pardon the voice today, it's a little off. I'm not rehearsing for a new deep throated
role, I just have some kind of a cold. I'd like
to move through the performance slides first, even
though I know the agenda said we'll talk about
hiring and vacancy, because I think the
performance measures will kind of lead into that.
And it does also show us a little bit about what
is coming our way from Trademarks given the
increases that Commissioner Cohn has talked about
over the last two years. And you can see on this
slide that the work that's coming in the front
door, this first slide, shows that appeals were
just kind of steady for the year, down a little
bit from FY '10, about the same as in FY '11. But
extensions of time to oppose and oppositions and
cancellations were all up this year, the highest
levels in three years.

So some of those applications that are
being published are getting opposed at a higher
rate. Some of those registrations that are being
cited in ex parte cases as grounds for refusal are
the subject of petitions to cancel. And so we're
not quite at the really high levels that we saw in
'06 and '07 and '08 for opposition where we were above 6,000 a year. But these are clearly signs that filing levels are picking up for us at the Board based on the work that's coming through Trademarks.

On the next slide, I want to also point out that maturing to ready for decision, these are the cases that the judges work on, and this is both appeals and oppositions, cancellations, cases of all types. So clearly, again, we're up at a three year high in the last three fiscal years. Not like it was in '08 or '09, but still a lot of cases that are maturing to the point where judges have to do final decisions on them. And one thing that this figure doesn't - I can't really tell from this figure is whether it is appeals or whether it's more trial cases, because this is something that previously the Board had not tracked the number of appeals versus oppositions, cancellations in its monthly reporting that were maturing to ready for decision.

We started doing that in February. So I
hope by the next meeting I'll have a year's worth of data and I'll be able to figure out whether the case is maturing to ready for decision that the judges have to write finals on or coming from appeals that are being prosecuted through or whether there are more trial cases, oppositions and cancellations that are being prosecuted through. So that's something I'll be monitoring and we can talk about again next time.

And then, of course, cases decided, highest in three years. I'm very proud of what the judges were able to pull out this year. Still, it's a small business unit, you know. Eighteen judges is not a lot for the work that they're asked to do on cases. And with the number of cases maturing to ready for decision increasing as it did this year, so the work they were expected to do was increasing and yet they responded as a team and increased about 18 percent, increased their production this year. So I'm very proud of the work that they did.

But I've also discussed with them, and I
think everybody understands that we're bringing on
new judges who will talk about in a minute, and
the filing levels are probably going to continue
to rise, and so we're going to have to target
another 20 percent increase, you know, again for
this year just to make sure that we keep pace with
the expected workload increases, and I'm confident
that we'll be able to do that.

The other thing that is not shown on
this slide, but you will see in dashboards that we
will be posting up on our web site soon, and I'll
talk a little bit more about that in a minute, is
the make-up of these cases that are awaiting
decision for the judges.

Pendency at the end of the third quarter
was a couple of weeks higher than it is now, so it
has tipped down. The reason we've been able to do
that is, the composition of the cases waiting to
be decided has shifted from over 70 percent of
those cases being more than 20 weeks old. And
these are cases not yet decided, but waiting to be
decided. But at the end of the third quarter,
more than 70 percent of those cases were over 20
weeks old already. At the end of the fourth
quarter, less than 40 percent of the cases were 20
weeks old or older. And so what we've done is,
we've been able to work off a significant part of
the backlog.

Of course, as you work off a backlog of
older cases, bringing down pendency is going to
take a little bit of time because those older
cases are older and so they're going to impact the
average as you work them off. But it's a very
positive thing that the percentage of all pending
cases waiting to be decided by the judges has come
down the average age of those cases, has come down
significantly.

And, of course, 256 cases waiting to be
decided is an inventory that's still, you know,
higher than we want it to be, but it can come down
from the third quarter where we were over 300, at
307, so, again, progress in the fourth quarter.

In terms of end to end processing, FY
'12 processing of appeals looks like it was
something of an aberration. As the bottom of this slide shows you, while the number was very high compared to FY '10 and FY '11, there were quite a few cases, as you can see, in each quarter and then comments on the bottom, quarter two, quarter three, quarter four cases that just had very unusual prosecution history entries and contributed to that overall average being higher than we would otherwise expect it to be.

So hopefully FY '12, in terms of the end to end processing, is a bit of an aberration. And again, as the judges are working off younger and younger cases, then the end to end processing comes down just as the pendency to final decision comes down.

In terms of trial cases, just by a few tenths, but nonetheless, it beats the last two fiscal years end to end processing, so we'll take any victory any way you can get it. Especially in this playoff season, people are scratching out wins by one run sometimes, and so we'll take one that we can get by a couple of tenths, so that's a
good thing.

I query whether some of it might have to do with more parties being interested in ACR, and we'll get to that on the next slide. But, of course, if ACR cases taken on average less time than regular trial cases, so to speak, they are going to bring down the overall average for all trial cases because they still get - while we track them separately, they still get figured into the average for all trial cases. And so that may be a leading indicator that, over time, more ACR cases will mean better end to end processing figures.

And on the next slide, the ACR cases, we started off really strong this year. And I was hoping that we might double the number of cases that were decided by some form of ACR. We only increased it by a third, but still that's good. And, of course, we have the roundtable coming up at the end of this month where we'll be discussing ACR. We've had a webinar on ACR. And so we're going to try and figure out the lessons
learned from ACR and figure out what we can do to continue to increase the number of parties who are interested in pursuing some form of ACR.

And on motion practice, the significant thing here I think is, of course, this is the third year in a row that the attorneys under their new performance plan have come in under goal on deciding contested motions, so that's something we've very happy with. And also the nearly 30 percent of contested motions that were decided following some form of phone conferencing with the parties is higher than it's ever been. So we're really reaching out, the attorneys are really reaching out to the parties and trying to help them resolve the contested motions as expeditiously as they can through phone conferencing.

The other thing we need to note on this chart is that each of the last two years we ended up with only about 150 contested motions waiting to be decided. Throughout this year, it was kind of stubbornly high a little bit and so we're still...
at 199, but that's, of course, one reason why we've hired new attorneys. We want to make sure that that backlog that's stayed a little higher than we would like during the past year doesn't adversely impact pendency in the future. So we'll be attacking that backlog aggressively when the new hires come on board. Any questions about the performance measures?

MS. PARK: Let me talk for a minute, Gerry, so you can take a sip. And my sympathy because I just got over having a similar problem that went on and on. A couple of things I wanted to point out, which is one thing I was very pleased that 534 cases were decided, which was above what we had hoped for even, and that's a very good sign.

I also wanted to comment you for the number of presidential decisions that were issued in the last fiscal year. And maybe you could just say a word or two about them in a second, because I do think, again, that's something that the Trademark community has asked for, and I think
that you've heard us, and we did see more than we
had anticipated.

And my last question, and I know you're
going to talk about dashboards in a minute, but I
do think when we look at some of the statistics
that you've just gone over and we see that some of
them seem very skewed because one or two or six
cases or however many had some extraordinary
circumstances like a nine year suspension, which
is a long suspension, I do think it would be
helpful when you start doing your pie graphs or
whatever you're going to do, pie charts or graphs,
to do two sets, one with everything and one where
you take out those outliers, because I do think
for purposes of counseling our internal clients,
if you work at a corporation or if you're at a law
firm, your clients, it is useful to be able to
show so that the parties have an expectation of
what reasonable timeframes are.

And when there is data in there that
really skews it, you can explain it in a note, but
it would be nice to also have a visual where
people could see what it would look like in a more
normal circumstance. So hopefully I've talked
long enough for you to regain some of your voice.

MR. ROGERS: No, that's very important
points, Kathryn. And, yes, I'm also very proud of
the attorneys and the judges for increasing the
number of precedents this year. It was pretty
much equal in terms of ex-precedence in ex parte
cases and precedence in inter parties cases. And
in the latter group, of course, some of those are
precedents that deal with procedural matters and
motion practice matters, so the attorneys have
contributed significantly to that.

But we were up to identifying nearly 50
cases as having decisions we created which we
thought were precedent worthy. Forty-three of
them actually issued by the end of the fiscal
year. And some still remain under consideration
and are going through the presidential review
policy. So that's up from the 38 that we issued
last year, and we're very pleased with that.

And I agree with you on the dashboards.
I think any visual tools that will take out the outliers, just as Trademarks reports, the, you know, overall processing with and without suspended cases I think, especially for, you know, appeals, it might be very useful to show cases on end to end processing of appeals that just go through the normal course of an appeal and weed out those that involve significant requests for—well, not requests for reconsideration because those come up in many cases, but sometimes we get cases involving many remands or suspensions, and if we can weed those out, I think it'll give people a truer sense of how appeals are going to be processed in a normal case, in a typical case.

CHAIRMAN TEPPER: Thank you, Gerry.

Before we move on, I think, Dee Ann, did you have a question? I'll have one after you.

MS. WILSON: I did. And please forgive me, this is something I should have already known. But you mentioned that the attorneys came under goal for resolving contested motions. Could you tell me what some of the goals are on these in
terms of numbers or in time periods?

MR. ROGERS: Yes. Well, the goal for resolving contested motions has been to resolve them on average in 10 weeks or less. And that's been the call for the last three years. And again, we've come in under that goal. And that average is the average for the decisions that are issued. So it doesn't reflect the overall age of some of the motions that may still be pending, but that's something that we're going to be showing both for the inventory of work that the judges handle and the inventory of work that the attorneys are responsible for in the dashboards.

We will be showing through pie charts or graphs, you know, the kind of breakdown of the age of pending matters. And so when I said earlier that the cases waiting for judges to decide that were 20 weeks or older had decreased from 72 percent to 38, that's very visible in a pie chart in terms of the overall percentage of cases that are waiting to be decided.

And so we'll figure out how to do this
for both motions and final decisions and show the
overall ages of things that are pending so people
will know not only the average age of the motions
that were decided by issued decisions or the
overall age, average age of the final decisions
that issued, but they’ll also have a sense of
what’s waiting to be decided and how old it’s been
so that can help you counsel your clients, because
you’ll know who’s already in line or what
percentage of cases are already in line.

CHAIRMAN TEPPER: Well, Gerry, I’ll
piggyback on the last question and first of all,
congratulations for exceeding your goal, that’s
really good. I was unaware. I think for us
generally, it would be helpful in looking at the
presentation and the data you provide us where
there are targets or goals to include those so
that we can see and probably ask you better and
more focused questions on, you know, where are we
ahead of plan, where are we behind plan, where do
we need to focus our attention.

So if there is a way, this is all good
information and gives us sort of a big picture
sense of what you're up to. But to give us kind of where you've set targets and goals, something to compare those two would help us a lot.

My question is going to be similar.

Your current I guess inventory, you're at 256 cases awaiting decision, do you have or is there sort of a target level that you would like to be at? We know, for example, on Trademarks, you know, pendency and we've talked about that 2.5 to 3.5 months for first action.

MR. ROGERS: Right.

CHAIRMAN TEPPER: Is there a point at which, you know, we don't want to go too far below a certain inventory or too far above or do you have a sense of how you feel about the range?

MR. ROGERS: Yeah. I mean the goal for the judges is to get final decisions out within a range of 12 to 14 weeks from the time the cases are ready for a decision. And so obviously the pendency is above goal but coming down.

I don't really have a sense of what a
good working inventory is with the number of judges increasing. We'll have to try and figure that out moving forward. I know, for example, anecdotally that if a judge asks me for work, I will assign them two or three cases at a time to work on and it could be a couple of ex parte appeals and one trial case.

And so if I had every judge ask me for work at the same time, you know, I would need a good 80 or 90 cases to give everybody work. So I'm thinking we probably need at least a working inventory of 80 to 100 cases. But I'm not sure how much more above that we want to be.

CHAIRMAN TEPPER: No, that's helpful. I certainly appreciation your bearing with us through respiratory distress. And by the way, you are free to continue with baseball analogies. I'll point out that I grew up in Cincinnati, Ohio and I'm trying to avoid them as desperately as I can today. But my hats are off to the Nationals for their performance last night. I was glad to hear, and just to kind of get a more comfy
picture, that sort of the pendency is obviously an issue. We've talked about and we've been looking at with you that, you know, you're focusing on the older cases.

And you mentioned that, you know, as those go away, that will, in turn, bring pendency down, but right now we sort of have the numbers, you know, sort of increasing or sort of remaining there as those older cases work their way out of the system.

Do you have a sense as to timeframe for when we would start to see the impact of those cases being removed and when we would see the pendency numbers starting to reverse themselves? Are we looking at six months from now, are we looking at three months from now, or is it --

MR. ROGERS: Well, I'm hoping that decline from about 26 weeks to 24 from the third to the fourth quarter was their tipping point and that it will continue to go down. So especially with bringing new judges on board, I'm hopeful that we'll certainly be down under 20 weeks and
get within hailing range of our 12 to 14 week goal later in the year. And if we can increase our production by another 20 percent this year, which I'm confident that we can, it's just going to be kind of a function of monitoring the number of cases maturing to decision. And again, on an earlier slide we saw that that went up significantly this year. And we'll have to wait and see whether it's going to go up again significantly this year or whether - and so what we'll be working with. But, you know, my goal is to increase the production and bring down the pendency during the coming year.

CHAIRMAN TEPPER: Thank you. Are there other questions before we continue? I know we've sort of hinted at and touched on things like dashboards and new hires, so I want to let Gerry proceed. Any other questions at this point? Okay. Well, take a big swallow and --

MR. ROGERS: Pardon me for using a cough drop, but hopefully that will help. Well, we have hired three new attorneys and we've hired four new
judges. One of the new judges is a current attorney who has been promoted. One of the new attorneys will come on board in another 10 days or so. And the rest are all going to be coming on board in the month of November.

And so typically in the first quarter, we see production sometimes waning as people take vacations and there are holidays. But fortunately this year we're going to have a lot of new people who won't have a lot of leave saved up and they'll have to work through the first year and that will help our production. And we will hopefully have a good, robust first quarter and that will be a good way to start the year.

But we were able to hire people with really excellent qualifications, partners from law firms and people with 10 or more, in some cases 30 years experience handling IP and Trademark matters.

A good mix of people who have tremendous writing skills, who have experience with business and know what businesses need in terms of settling
cases. And so hopefully the diversity of the
group that we're bringing on is going to help us
in resolving cases.

MS. PARK: I'm going to give Gerry
another break. I just want to say we are very
pleased on TPAC with the recent hires. And all
four of the new judges have really sterling
credentials. So I think I share your optimism
that they're going to really help with production
because they are, you know, many of them were
people that I know of and respect in the Trademark
bar, so it was really great to see their addition
to the Board.

MR. ROGERS: Thank you. In addition to
hiring, something on the agenda that you wanted to
talk about was the other initiatives for working
on the backlogs. And we have Trademarks to thank
for sending examining attorneys are way. We're in
the beginning states of a work project where right
now six examining attorneys are working with six
of our judges on larger record inter parties
cases.
And the prevalence of larger record inter parties cases is something that harkens back to your question, Maury, about what's good inventory. And so part of that is figuring out what the average record size is going to be and how long it's going to take people to get through those cases.

And so we're seeing very positive returns from this work project with the examining attorneys. We've gotten a number of decisions out in cases where the examining attorneys worked with the judge and helped go through the record and categorize all the evidence and help the judge get those final decisions out.

So it's an increase in productivity just based on the anecdotal evidence that we have from early on. But later, at the end of the first quarter, we'll be looking more comprehensively at the work that these first six have done, and interviewing the judges, and interviewing the examining attorneys and figuring out what we can do to make the project a success continuing
forward and get a sense of how it has helped not
only the examining attorneys who have come over
and had a good experience with us, but the judges
and their productivity. So hopefully by our next
meeting we'll have a good sense of trying to
quantify some of the benefits of that program.

In fact, I have to point out that one of
the examining attorneys has helped us in a way
that we never anticipated, and that is, some of
you may notice that over the years the Board has
issued decisions and sometimes the citations are
in italics and sometimes they're straight up and
sometimes they're underlined and everyone has kind
of worked in the way that they want it to work.

But we have an examining attorney who's
working with Cheryl Butler, our new senior
attorney, manual editor, and we're kind of moving
in a direction of standardizing our templates and
the look of our decisions and trying to save time
so that people don't have to recreate the formats
for their decisions. And one of the examining
attorneys is really good with this kind of stuff
and has been loading increased and very useful
templates on the computers of all of the judges.
We're working through them. She started with the
group of judges who were working with Cheryl
Butler on this template project. But I think it's
become such an attractive approach to getting our
decisions out that many judges say, yeah, I want
those templates, too.

CHAIRMAN TEPPER: I think we may have
had a question over here for you, Gerry.

MS. HAMPTON: Good morning, Judge
Rogers. My first question, first comment is, I
think it's great that there's been new hires on
the Board. But I also realize that there are some
judges that are nearing retirement. And so I
wonder what the plan is for replacing those judges
that are going to be retiring.

And since you mentioned templates, I now
have sort of a part two question. In terms of
standardizing and using templates, do you think
from a training standpoint, that will bring the
new hires up to speed quicker and get them moving
quicker to handle the backlog?

MR. ROGERS: I'll take the second one first. I'm not sure how much the templates will actually reduce training time. But pairing the templates with our more senior attorneys, in fact, a couple of those who are among those eligible to retire in a few years, I'm trying to get the benefit of their experience by having them do the training of some of these new judges who are coming on board. And so I think we'll get the benefit of a lot of good experience and the training.

I expect to go very quickly. There are really experienced people who are coming on board and we're pairing them, matching them up with some of our really high producers and/or experienced judges. So I think the training will go very well.

In terms of hiring levels in the future and judges that retire, while we have some who are eligible and some who will become eligible in the coming years, I've got no firm indications from
anybody that they're planning to retire in the
next year or so. And so I think we will have the
benefit of getting these new people on board and
going them trained, working off some of the
backlog, and then being able to reassess when we
do have people retire a couple of years from now.
And hopefully we'll know then what the budget is
like and be able to replace people if we need to.

MS. HAMPTON: I just have one other. Do
you think it's something - just looking out at the
landscape moving forward, even though, you know,
some of the judges may not have specifically
stated that they're going to be retiring, but if
you kind of look at the landscape moving forward,
and if you think about starting to plan, you know,
the what if, what if in, you know, two years or
three years, sort of starting early so that
there's something in place, are they still to
retire?

MR. ROGERS: Yeah. What your question
really gets at is something that we haven't had a
good tool for, but that we need to develop. And
I'm hoping to work with our new senior administrator, Debbie Decker, on this. And we haven't really had a good tool for looking at the number of examining attorneys, the rate of Trademark filings, the number of cases coming in our front door, et cetera, and predicting how long and how many motions are going to come out of those cases and how many decisions are going to have to be written by the judges.

And so we're going to try and come up with some better predictive tools that will hopefully help us forecast staffing levels in the future.

MS. HAMPTON: Thank you.

MS. PARK: Judge Rogers, thank you. And I'm going to give you another little break from talking. I wanted to say, first of all, that I was really pleased to hear even anecdotally that the detailed program with the Trademark examining attorneys is working out so well. It certainly doesn't surprise me that having someone to help you digest a record and draft opinions will
increase productivity.

And I'm wondering perhaps when you think
you'd be able to talk in more detail about what
the plans would be for the future to expand that
program more broadly so that - I understand
there's a detailee assigned to a specific judge,
but so that more judges could take advantage of
this additional help.

MR. ROGERS: Yeah. I really don't have
a particular plan for expanding it. I really want
to hear from the judges themselves and from the
examining attorneys about how well it's been
working and figure out what the best approach for
the future would be, whether it would be to just
continue a kind of rotation with examining
attorneys or whether it might be better to move
into some more permanent kind of position that
would involve doing this kind of work and
assisting the judges, more like a clerk position
or something like that. So I think we're open to
all of those possibilities and we'll just have to
wait and see what the experiences and what we can
learn from. The first three judges have been
doing this only for a couple of months and the
second three just started a couple of weeks ago.

CHAIRMAN TEPPER: I found a new button
on my microphone. I might use that. Gerry, thank
you. You know, we're running a couple minutes
over and I do want to let you touch on our last
few topics. But certainly we're encouraged to
hear early success from the program. My hope will
be, if it's working well, that it will multiply
quickly and you guys can use that help effectively
to address the issues you see. Let me let you
touch on the dashboard. Anything else you want to
make sure we know about? Why don't we say just
the next few minutes?

MR. ROGERS: On the dashboard, I think
you'll see those by the end of November. We will
look to get them up quickly. We've had some
useful discussions. We were working on them even
this week. And we will be focusing at the
beginning on getting out three or four graphs each
for the work that the judges do and the work that
the attorneys do. And we'll get them up and then
we'll start taking public comment on them and
potentially expand from there.

And then we also had on the agenda,
talking about outreach. I do want to point out
that the Board has been involved in a lot of
outreach recently and a lot in the near future.
We were at a UNH law school program in September.
We had a hearing there. We made presentations
there, a TTAB specific program. We've
participated in an ABA webinar on ACR.

We have another webinar coming up next
week with the ABA that's going to be on trial
practice tips more generally and not ACR focused.
We are going to be at the AIPLA annual meeting and
we'll be discussing best practices and TTAB rules
as part of a program there.

Of course, we're participating with
Trademarks and getting various panels together for
the IPO's PTO day program in December. And we
have the roundtable on ACR on October 30th. And
we're just waiting to get the last couple of
nominees from some of the stakeholder organizations so that we can finalize the agenda and discuss it with the participants.

And the Office of Enrollment and Discipline is doing a day long program for law students who are participating in the PTO's law school clinical programs. And we will present a hearing. We will hear arguments in the cases as part of that program and make some presentations there, too. And the last point I guess I should make before I have nothing left of my voice is, we will be moving the TBMP. Of course, we got it out last year and we met our goal of getting a revision out within a year. And our next big goal is to get all of that content put into the RDMS system so that, like Trademarks, we'll be able to make future additions available through the RDMS system. So that's a goal that I'll be working with Cheryl Butler on.

CHAIRMAN TEPPER: Thank you, Gerry, very much. We're a little bit over so I'm going to hold at that point so we can move forward. We
appreciate the update. I especially appreciate your coming in when you're not feeling well. And I do hope that your voice is saved. I promise Gerry was not at the baseball game last night, so this is - I wish it were for that reason. But thank you for your time today.

MR. ROGERS: You're welcome.

CHAIRMAN TEPPER: All right. We're just a couple of minutes behind. So, John, I will either apologize for taking your time or let you know if you're relieved that you're off the hook for those five minutes. But we're going to hear now about what's new in IT, some developments from the Office of Chief Information Officer. I see John Owens is coming up today. And I'll let you start off and introduce our speakers.

MR. OWENS: Good morning and thank you. All right. Well, Mr. Dolas, the portfolio manager for Trademarks, again, direct report to me dotted line to both Debbie Cohn and Mr. Kappos, is not here today. But our program manager, Kevin Hamer, is here, and he will be talking about Trademark's
Next Generation.

So a couple of quick things going on.

First off, let's talk about a couple of the production issues, namely X-Search, which we had just started to discuss last time. The laptops were deployed with a copy of X-Search that made some improvements to the performance. We are fine tuning that right now with a couple of variants of those performance tweaks that are in the hands of Trademarks today.

Those performance measures will be taken in the field from live examiners. And based on that, we will choose one or other of the configurations that optimize performance for cost and then upgrade everyone to that base platform so that we can maintain a consistent uniform environment. A couple of things, we've officially retired, which the long standing goal here is to retire Legacy systems and replace them with new ones. We have officially retired TDR and TARR and we have replaced it with TSDR, which I have heard from the Committee lots of folks like and I hope
we can continue to expand that. In fact, I believe that it's on the list for next year.

We have successfully deployed a small modification to the OG that allows you to click, and instead of going through page after page after page and hoping some day your mark will not be at the end of the document instead of the beginning, we bring you right to your mark.

Successfully deployed Madrid, style sheet upgrades, which I know many of you are using. So those are some of the good things. And we are about to deploy some fixes. The third party project, we deployed Snag-It, which allows an examiner to grab web pages used as evidence and deliver them is evidence to you all. Had a bug, and we are upgrading I think from version 8 to version 11 of that product. Again, that's a third party product, not one that we have here, but it's critical to the success of the examiner. And we're redirecting the links for BOS and the TMEP that allow you to all use the new RDMS system to view the TMEP, the same RDMS system that Judge
Rogers spoke about a moment ago. And we are working with the agencies, also the one that houses the MPEP, and it is a fully scalable, redundant system that brings a little bit of a more modern look and searching capability to the TMEP.

And finally, FPNG, the new financial processing system. We have decoupled our data base links to RAM and we are well on track for linking to that new financial system in February. That's a big deal because it will allow you to have a single log-in and a single shopping basket for all of your needs for Trademarks which will simplify things for you all greatly.

So that's a little bit of the high level. Does anyone have any questions about the current state of the systems before I hand it over to Mr. Hamer?

CHAIRMAN TEPPER: Are there questions for John? Sure.

MS. BLACK: Hi, John. I had a question about the laptop. You said all the laptops are
deployed. At our last meeting we had talked about
the cash approach of the fix and you said that
you'll be evaluating the effectiveness of that. I
was wondering if you could give us a timeframe.
Is it going to take a month to gather that
information or less?

MR. OWENS: Somewhere between 30 and 45
days is my understanding after yesterday's
meeting.

MS. BLACK: Okay. And so after that,
you'll make a decision on whether you're going to
use that system or go with the other approach and
everything will be formalized or unified by all
examining attorneys?

MR. OWENS: That's when the CIO and
Trademarks will make a joint decision on what we
want to do, we as in the both of us.

MS. BLACK: Okay.

MR. OWENS: I'm not making this in the
blinders. I support the business. I don't make
global decisions on my own unless it has to do
with something that I am responsible for like
security. Some people don't, you know, some of
those things I have to force on everybody.

But in this case, it will be a joint
decision. I'm sure Debbie and I will personally
speak about it. We will come to a formal
decision. And from that point of evaluation, when
both of us are satisfied, then we will migrate
everyone to a single platform.

MS. BLACK: Okay.

MR. OWENS: I'm not sure which platform
until that analysis is done. But the analysis
should take somewhere between the 30 to 45 day
range or sooner if we can get it done sooner and
everyone agrees, it's obvious, then we can move
on. So we always look at doing it most
efficiently as possible. But after that, then we
will have to plan a roll-out of an upgrade to
either - to bring everyone on to the same baseline
basically.

MS. BLACK: Okay. Well, thank you. And
I did want to say that we did notice the changes
and the improvements --
MR. OWENS: Oh, good.

MS. BLACK: -- to TSDR and the TMOG and
do appreciate those.

MR. OWENS: Oh, yes. We've been working
hard to fix the back end so we can start
delivering more on the front end for you all. So
thank you very much for noticing.

MS. BLACK: Thank you.

CHAIRMAN TEPPER: John, I just want to
make sure I'm kind of up-to-date. I know that the
new equipment, the new laptops are in the hands of
all the examiners. At our last meeting we
understood there were issues with, you know,
particularly two programs that examining
attorney's use day-to-day when they're sort of
accessed out over the internet remotely for those
many examiners who work at home. And the cash
issue that you all just mentioned I believe was
part of trying to facilitate examining attorneys
being able to use the systems, that they use X-
Search and FAST.

Where do we stand? I know you're
looking to resolve, you know, that particular fix. Right now, what are we looking at in terms of the examining attorneys and their day-to-day work? They're using the equipment or they're using an old system or how are we looking at that?

MR. OWENS: So there were two deployments of laptops, one in approximately the, and I don't want to get this wrong, someone from over there nod at me. Mary. The May timeframe? Okay. And the other one from the August timeframe. She didn't nod. Was I wrong? Oh, she nodded, okay, good.

Lots of deployments I deal with. I'm sorry, I don't memorize them all. The May deployment did not have a larger hard drive and the cash available. The August deployment did.

Since the August deployment, we have worked with Trademarks to make another couple of tweaks. We are going to weigh how fast those are. Now, the average performance is rated in a controlled setting by a very small number of people in controlled environments is about one-tenth to
five-tenths or a half of a second variance. But that one-tenth or one-half of a second, particularly the half of a second per page flip adds up, and it does impact our examining core.

So the goal is to try to get it down to two page flips per second on average. And we have a couple of variables we're toying with there. And now we are in the test phase where we're going to - since it's after quiet time, because we don't touch anything at the end of the fiscal year, right, because people are trying to get their production numbers in, we can't mess with anything.

So now that we are past that, we are looking at doing the test that I just described, figuring out what options are best, weighting the performance against the cost, against any changes, against who it would impact, to get the best overall experience into the hands of the examiner.

And once that is made, we will adjust the laptops, which are fundamentally exactly the same except for the software load and the hard
drive size, and hard drives are cheap, okay. So we're not talking about a huge amount of money. And we will adjust everyone to be on the same.

The other major issue that's really plaguing the examiner now, and we spoke to Howard the other day, is really that Snag-It issue I talked about. Snag-It, the world of IT on the world wide web continuously changes. The Snag-It product suddenly started to break as new web sites were put out or updated web sites with new HTML standards. And we need to upgrade that product, which means integration with our FAST product.

We are addressing that. It has been moved. Debbie and I spoke. It's been moved to the top of our priority list instead of kind of in the middle. And we are looking to get that tested and deployed as quickly as humanly possible.

CHAIRMAN TEPPER: Thank you. For those of us out there, that means we will have evidence attached to the office actions we receive. So that is obviously a pretty important thing both
internally and externally. And this may provide
your transition to Kevin. But, you know, we've
been aware for a while of sort of the need to try
to keep these systems that examiners rely on
working, while in the meantime, try to invest in
moving toward the new Trademarks Next Generation
environment that is going to ultimately replace
these programs. And maybe this is less of a
question then. I'd like to hear from the both of
your sense of sort of where that balance lies.
And we've seen obviously some enhancements. It's
nice to start to see things changing on the
outside. But how's the timeframe? What does the
gap look like in terms of, you know, keeping these
systems alive while we're building the new one?
And I'll let you sort of provide us with that
background.

MR. OWENS: So keeping the Legacy
systems alive due to their age gets more and more
difficult every year that goes by. I'm not going
to say that it's the same as it used to be.
Actually it gets harder every year.
We do have our steps that we are taking, the virtualization and trying to shore them up as much as possible and even enhance them, and we've seen some of those enhancements. Recently Debbie and I spoke to Mr. Kappos, and Debbie and I and the CFO came to the agreement that since we have focused on the infrastructure, and I know a lot of that is not very glamorous, you all don't see it, but it is critical to the future success of Trademark Next Gen, and we've been focusing on that area. But a recent agreement, which you'll hear about today, and I don't know if Debbie covered it earlier, we have agreed to an increase in spending on IT to accelerate some of those things both that you will see this year with a few enhancements to Legacy systems that will be what we call transportable on to the new Trademark Next Gen environment, as well as accelerating some of the Trademark Next Gen work.

So as with that investment, now that the IT modernization roadmap is done, now that our focus is almost completely in my organization on...
building the new applications, aka Trademark Next Gen, Patents end to end, FPNG, and the various supporting systems for the judges and so on, we have now taken all of our resource, instead of stabilizing our environment over the last few years, and focusing it on replacing the Legacy systems with much more modern, maintainable, available 24 by 7 systems.

And this gets back to something that I said years ago which a lot of people forget. We live in a world where our IT systems and reliance on them is 24 by 7 and we expect them to never go down. You know, when we think about the Google's and the Microsoft's and the Amazons and the Yahoo, their systems are available 24 by 7, and if they are not available, they make the news. USPTO systems were designed for 1, 9, 90 percent, which are days, weeks of down time. And it's hard to understand, but if there's 365 days in a year, just take, you know, 10 percent of that, 36 days of down time. And, of course, a lot of people don't realize that that's the system that we've
built, but it's what we have.

So even though over the last few years we've plugged as many of those holes as possible, the analysis on how stabile the environment is and because of how it was designed and built and the technology that was available at the time, the expectation of it being available 24 by 7 has never been met by its design. That is what, in large part, Trademark Next Gen is for. Great, now I'm losing my voice.

So that's important to keep in perspective and why on the surface we haven't seen a lot with Trademark Next Gen, but it's, you know, Debbie and I have spoken about this on a number of occasions, it is critical we concentrate on some of the less glamorous and the less seen infrastructure on the back end because no one builds the facade of a building before they build the foundation to the building.

And it's the type of work actually that I'm accustomed to because that's the type of work that I as an engineer did, was that back end core
infrastructure. But it also leaves our customer wanting. And if anyone has ever gone through the process of building the house, you know, the first time you see the big hole dug and the foundation you're put in, you're like, yeah, where's my walls, where's my rooms, where's my heating, where's my roof, you know, and it seems to take forever to get there.

But it is a crucial, important step. And trust me, no one ever wants to have a house with finely painted walls and wonderful floors and ceilings and fixtures only to have a crack in their basement and it to fill with water. That's bad.

So I will, because I've probably run over the amount of time I had, turn this over to Kevin, who will go over with you where we are with Trademark Next Gen and talk a little bit about those things that we are going to accelerate to give you more of a view of the future this coming year.

MR. HAMER: Thanks. Good morning. I am
not Raj Dolas, I’m Kevin Hamer, and I am the program manager for Trademark Next Generation and Trademark Legacy Systems. To continue on with what John said, just to level set what our objective is, it is to, over the next three years, do the majority of the work in creating a Next Generation system end to end using modern technologies on a modern platform that will result in retiring all of the existing Legacy systems in Trademarks. That's a big undertaking.

We've had some successes over the FY '12 period and I'll walk you through a few of those. A lot of work to be done, but we've set ourselves up for success here. You're looking at the portfolio itself and the various programs that we have under the portfolio, Cloud computing infrastructure, separation of virtualization, data services, user interface, and web and business services.

Some of those are infrastructure and some of those are actually development of the applications and user interfaces, which will be
more important, more visible to you all.

We've set ourselves up for success in a
couple of ways. One is, create some prototypes
and pilots in each of our major program areas.
And we have done that in accordance with a
business architecture which is established by the
Trademark organization to identify their needs,
what the end state is that we're building these
systems to meet. So their business architecture
provides the foundation for how we are actually
designing the systems. So we had some new
additions to that business architecture that was
developed last year, one of which is to really
include the Trademark Trial and Appeal Board and
integrate their activities and their needs into
our overall business architecture.

So our objective in developing Trademark
Next Generation is to integrate the Trademark
Trial and Appeal Board with the Trademark Next
Generation system so it's seamless and end to end.

We have an application development track
which is separated into three different
components. The first is user interface. Over this last year, we had created a prototype using three different user interface vendors. And we went out to the Trademark users, identified the opportunities, what they wanted to see in a user interface. The three different vendors proposed a prototype.

It was voted upon by the Trademark organization and we selected a vendor to do our user interface. So that was accomplished in this last year. The vendor is now on board and developing under our current project the user interface for Trademarks Next Generation. We're in the first phase of that. The second element of our major development application effort is the Web and Business Services Program. We're in phase one of that effort, and that is going to be the core of the applications that we develop using web services and the business logic for the Next Generation effort. It's really our cornerstone, where we're going to spend the most money and do the most work.
We in FY '12 also created a prototype and a pilot which set us up for continuing success, and that was a case management tool that we initially didn't think we'd be able to find in a COSS project, a commercial off-the-shelf software product to do case management to meet our needs.

We did a lot of market research. We selected one case management product. And we did a prototype in FY '11 and then a pilot in FY '11 which was very successful looking at their ability to meet our core needs.

MR. OWENS: '12.

MR. HAMER: '12, yeah. Thanks, in FY '12. And we just finished up that 90 day pilot at the end of FY '12. It was successful. And we're moving forward in FY '13, continuing to explore that off-the-shelf software case management product and work with that to develop our core web business services. We're also working on a project to develop a Trademark reporting and data mark for the Trademark systems to consolidate all
of our data into a data warehouse and then have
the ability for the Trademark customers to use
self-service to develop reports and do some
business analytics with that tool.

Our third element is data services, our
third large element of the Next Generation
application development. Data services will
include the creation of a new data base for
Trademarks, a new data base of record, and migrate
all of the data off the existing TRAM data base
into that new data base.

It's going to be a challenging project
for us. We're underway with it. We've got some
really great, smart people working on it. And
we're in our first phase of the Trademark Records
Management Project, which will accomplish the data
migration effort.

We have on the application development
track Cloud computing initiatives. The first one
or the major one is TSDR. Debbie talked a little
bit about that. Some of the changes we made in FY
'12 that provide more information to you and
better access specifically with assignments and
the Trademark Trial and Appeal Board.

    We're going to continue that effort, and
as Debbie mentioned earlier, look at developing -
creating a project which has just kicked off to
develop an electronic Official Gazette, a web
based electronic Official Gazette which will
provide all of search features and capabilities
that I think most of you would be looking for in a

Next Generation Official Gazette.

    Legacy enhancements, Debbie also talked
about this. We accomplished a project to allow
you access to your mark within the Official

Gazette. Instead of directing you to the very
first page in the Official Gazette, the
notification we sent out to you, the earmark is
being published. It includes a link that will
take you directly to that page in the Official
Gazette where your mark is contained.

    And then the ID manual, allowing that ID
- from the ID manual in the TEAS form, allow you
to pull down a menu that has all the ID
information from the manual so that you can select
the one that is appropriate to your application.

Platform improvements, more of the back
end stuff. We were able to separate and
virtualize six different systems, Legacy systems,
take them off of shared physical servers and move
them to our internal Cloud environment, separate
and virtualized. That's FY '11. We completed
that project. We have an FY '12 project which we
started in FY '12 and continues on into FY '13,
which will separate another eight systems, four
within the first quarter and then four more
throughout the rest of the FY '13 year. And
again, that will move those off of shared physical
servers or individual physical servers into our
internal Cloud environment.

We talked about the infrastructure
improvements in terms of selecting our case
management product. But we also created a pilot
and a prototype and started a project that will
result in a single sign-on capability for our
internal users.
It's a role based system that will allow us to eliminate the dual sign-in for different systems or multiple sign-ins for different systems and provide the folks, based on their role, access to specific information based on their role.

Here's a roadmap as of June in 2012. There will be an update coming to this roadmap that will reflect the changes we've made, the accomplishments we've made. This is where we are at a very high level. And as Debbie mentioned earlier, and John mentioned in this presentation, we are looking to accelerate some activities in support of the Trademark organization in this next fiscal year, a new content management system. That's part of a Next Generation effort to retire TICR's and replace it with modern technology using an open source software program. Alfresco is our selected solution for content management.

Development of the electronic Official Gazette, new application, redoing the Trademark ID manual, again, in a modern web based platform, and develop a new filing application using Wizard to
enhance your capabilities in submitting applications.

We'll also look at using our new Next Generation notification solution, a core capability in providing automatic notifications for Section 8 and 9 filings. And then we are going to enhance our ability in our support organization, so provide extended hours for your call-in, your help desk, and timely resolution of service outages.

So those are what we're planning on doing new this year which we weren't planning on last year. So we'll do everything we planned on doing in FY '13 and work at these new accelerated projects.

CHAIRMAN TEPPER: Kevin, thank you for that update. And especially I want to underscore the last slide. We're very pleased to see you're getting some additional resource and can focus on accelerating development and deployment of some of these. To borrow John's analogy, we understand the importance of the foundation being right.
We're still a new homeowner, very excited and standing out there in the yard. We want to make sure you've got every available crew on this so that, you know, we can have the home ready to go. And we're all ready to move in I think from the outside world, so, you know, just do understand that.

I hope you all got everything off of that roadmap slide. That's my favorite one every time, guys. Maybe we can brainstorm next meeting about if there's a way, you know, the key deadlines are sort of key projects, if we can maybe condense that and highlight the information for us. But I love the colors every time. I've never managed to absorb very much from that.

Other questions for our CIO's office?

MR. OWENS: Thanks.

CHAIRMAN TEPPER: All right. Well, thank you for the update. Again, it's nice to be at a point in time after we've had these dialogues for, you know, a good amount of time. We're starting to see things coming out. We appreciate
that. And it's good to see the enhancements going. We remain interested in staying tuned to see what progress we can hear. Any questions from the Committee, closing questions, or from the public today? Well, thank you all for being so agreeable in that case.

Before I adjourn the meeting, I have two announcements I would like to make. I know after learning that we will have a budget presentation about cost-based accounting and how we track expenses, that you're eager to know when you can come back for that.

I would like to tell you our next meeting date will be Friday, March the 1st, right here I suspect in this room, and then we will have a summer meeting on Friday, June the 14th. So you all will certainly want to block your calendars now for March the 1st and June the 14th.

And just as a last note, understand that we are, by statute, required to prepare and submit an annual report to the President. It will be published in the Official Gazette. That report is
well under way. We have drafted it. I would like to thank all of the members of the Advisory Committee. They put a lot of effort and a lot of work into that. I appreciate it, because otherwise, I'd be in a world of trouble trying to write that entire report. So I would encourage you all to watch for that. It will be published in the Official Gazette shortly. In November that will be coming out. And with that, I want to thank you all for your time and participation today. And we will be adjourned.

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

(Signature and Seal on File)

Notary Public, in and for the Commonwealth of Virginia

My Commission Expires: July 31, 2015

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