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MR. CALTRIDER: Good afternoon. I'm Steve Caltrider, Chair of PPAC. I would like to welcome everyone to this meeting. This is the first meeting reflecting our new format. Objective of the new format are two-fold. First, to allow more full-scale discussion on a single topic. Today we are discussing and focusing on the PTAB. Second is intended to be more user friendly for PPAC Members, for USPTO leadership and staff, and members of the public joining in the meeting. The short format should minimize the Zoom fatigue. I welcome any feedback on the short session. Please send those to the PPAC email address. I will now call the meeting to order. Let's start with introductions from PPAC members. Tracy?

MS. DURKIN: Sure. Thanks, Steve. I'm Tracy Durkin, and I am the Chair of the PQuIP Subcommittee of the PPAC.

MR. SEARS: Hi, I'm Jeff Sears. I am
Chair of the PPAC Finance Subcommittee. Happy to be here today.

MR. CHAN: Hi, everyone. I'm Jeremiah Chan. I chair the Legislative and Policy Subcommittee for PPAC. Happy to be here, too.

MR. CALTRIDER: Judge Braden, you may be on mute.

MS. BRADEN: Thank you, Steve. I'm sorry. Hi, I'm Susan Braden. I am a former federal judge, and I am Chair of the Artificial Intelligence and IT Committee. It's my second year in PPAC, and I'm delighted to be here with all of you.

MR. BROWN: Hello, I'm Dan Brown, and I'm the Chair of the Innovation Expansion Subcommittee, second year in PPAC.

MR. DUAN: Hi there, I'm Charles Duan. I am the Vice Chair of the Legislative and Policy Subcommittee and delighted to be on PPAC as well.

MS. HARRISON: Hello, everyone. I'm Suzanne Harrison, and I'm the Vice Chair of the Innovation Expansion Committee.
MS. NEBEL: Hi. I'm Heidi Nebel. I'm the Vice Chair of the PQuIP Subcommittee.

MS. DUDA: Hi. I'm Kathy Duda. I'm the POPA Union Representative.

MS. FAINT: And I am Cathy Faint. I'm the Vice President NTEU 245 and a PPAC Member.

MR. CALTRIDER: Thank you. The first order of business is we welcome Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of USPTO. We are absolutely thrilled that you're here and hitting the ground running. We really look forward to working with you and serving the USPTO to advance American innovation. But before I hand it over to you in terms of the Agenda, I also want to take a moment to thank Drew Hirshfeld. Drew has done a remarkable job serving as Interim Leader which culminates (phonetic) with long years of service with USPTO and leaves the Patent Office and Patent System much better because of his leadership. I'm not asked to vote on IP Hall of Fame, but if I did vote, Drew would get my vote for sure. Thank you for your service.
I'm not sure of your timeline or if this will be your last PPAC Meeting tonight. I certainly hope you'll join us for at least one more in June. I will now turn the floor over to Kathi, the USPTO Executive Team, for introductions and opening comments from Kathi.

MS. VIDAL: Thank you. I -- I appreciate that, Steve, and I would echo everything you said about Drew. He's just done such a great job. It's difficult, even as great as this organization is, it's difficult when you don't have the political leadership positions; and I just, I can't thank him enough for everything that he's done. I'm also really excited about the PPAC new format. I love the idea that the PPAC is going to have shorter meetings where we can dive in more deeply on important issues; and we've certainly got a lot to accomplish, and I'm really looking forward to working with the PPAC in order to make that happen. In terms of the vision and what we're looking to do here at the USPTO, we're looking to incentivize more innovation
inclusively, including from underrepresented communities but also from our larger organizations and innovation ecosystems. We're looking to do that, especially in key technology areas, whether it be climate change or AI or solving some other world problems. And then, after we incentivize that innovation, we want to make sure that everybody has access to protect it because that's really the way that we're going to all benefit from the innovation. And then, bringing the innovation to impact, so really looking forward to working with you on all of that. I know that, in addition to that, it's overarching goals. We've got a lot of important, more technical issues that we need to address in the law, and it's going to take everybody's great minds to think through the issues and make sure that we're making the most-sound decisions as we go along. I'm excited to be here today as we focus on the PTAB and making patents more robust and reliable. That certainly is something that we took up from day one and that we've been working
on. We, as I think everybody knows, we updated our Director Review Process, and that's an interim process that we're using. We provided additional information so that the systems we're using will be transparent, and we provided an opportunity to provide comments now. We're also going to issue an RFC on that, and I plan, where we can't announce those things in advance, not only so that we can dialogue. You know, I can dialogue with the PPAC and with other leadership here at the USPTO, with others within the USPTO, on these things and make sure that we're asking the right questions and thinking creatively about all of this, but so that other members of the public can provide their input as well. And certainly, once we shape that RFC, we'll get comments on that from the public before we do anything more formal.

I also like the idea that we're focused on the PTAB and, again, robust and reliable patents because I think it's critically important that we close the loop in terms of our feedback loop for our patent ecosystem, that we have great
dialogue between the examiners and the PTAB,

between those individuals, and judges and

constituents, etcetera, to make sure that we're

issuing the strongest and robust patents and that

we're maintaining them. And so, I do want to

announce today that we are starting to work on

some training with AIPLA and IPO, really targeted

at helping examiners understand the full impact of

the decisions they're making and the records

they're creating and how that plays out over the

life of a patent. So that would be whether it's

at the PTAB, whether that be in litigation, and

how those patents are used in litigation and how

they're used to protect innovation from especially

small to medium size enterprises. So I'm very

excited that we're working on that. It's one of

many initiatives that I'm looking forward to

rolling out in the near term. So thank you all

and thanks for hosting this today.

MR. CALTRIDER: Thank you, Kathi. Lots

to unpack there and we look forward to working

with you throughout the year. I will now hand
things over to Tracy and Heidi, the Chair and Vice
Chair of the PQuIP Subcommittee.

   MS. DURKIN: Great. Thanks, Steve. So,
Director Vidal just gave us a perfect segue into
our next topic. And as you can see, the focus of
today's meeting is really on our new subcommittee
in the PPAC, which we're calling the PQuIP, which
is a combination of patents, quality,
international, and PTAB; and it is in recognition
of the long-term goals that both the office and
the PPAC have had to eliminate the gaps between
the patents function and the function of the PTAB,
in reality and also in the eyes of the public.
And so with that, we have two really interesting
presentations today that have been gathering some
information that will be useful to that exercise.
And I think our first presentation is going to be
from the patents area, and Andy, should I turn it
over to you to introduce that?

   MR. FAILE: Thank you, Tracy, and I will
turn it over to Robin to introduce.

   MS. EVANS: Thanks, Andy, and thanks,
Tracy. Up first, we will have our external quality service, and this is really a look on perceptions on what our external stakeholders think about the quality that they're receiving in their office actions from patents. So with that, I will turn it over to Marty so he can go through some of the key findings.

MR. RATER: Thank you, Robin. So yeah, go ahead, reach up to the very first slide. We've just got a couple slides. We wanted to show you some of the key findings. A little bit of background on this survey. This is one of the many surveys we do. It's one of many ways we measure quality. This particular survey is a semi-annual survey that we do. We have an external survey research firm conduct this survey for us. We focus on high-volume filers for this particular survey. And there's a couple of reasons to do that. Tracy mentioned long-term goals. This survey was really designed for longitudinal type studies where we want people that are interacting with the office on a daily
basis. So just to kind of give you an idea of this survey frame, these are agents, attorneys, and vendors that have six or more filings in a year. And when we ask them to evaluate quality, we're asking them to evaluate quality over a three-month period. And that kind of translates into about 20 to 30 office actions over that period. So it's a good data set for us, because it speaks of -- a really snapshot of about 30,000 office actions or kind of exchange in the folks at this time. And we mentioned longitudinal, so there's, you know, this is the one key number we do kind of track out of this. You've probably seen this slide from me probably several times. I know Drew's used it many times. We ask our customers to rate quality, is it good, excellent, fair, poor, very poor. And over time, this just shows you, the green line is the percent of our customers that say, at that particular three-month period, the body of work I reviewed was good or excellent. The blue line at the bottom is those that say poor or very poor. Not shown there are
the percent of customers that say quality is fair.  
So what do we do with this? So we look at this in 
multiple ways, right? We look at those folks 
ideally that love 100 percent of our high-volume 
filers here to be saying quality is good or 
excellent. But we all have services. There's 
multiple touch points. Everybody's got different 
things that go into their matrix, and that this is 
a matrix of what is quality.  

But a couple key things to point out 
here. So obviously, you'll look on the left side. 
Back in the day, we only had one customer that was 
saying quality is good or excellent for every 
single customer that said quality was poor or very 
poor. Whereas, in today's environment, the most 
recent survey, which we concluded in March, shows 
62 percent of our customers say quality is good or 
excellent; and that's times as many customers that 
say quality is poor or very poor. And that's a 
lot healthier environment, you can imagine, to 
operate in.  
The other key thing to really point out
here is we've got two decent numbers there, decent
in terms of the longevity and how we've done this.
We've administered this survey about 35 times now.
The last two surveys, you see a 65 percent, you
see a 62 percent. Only three out of those 35
administrations have we received and achieved a
level of 60 percent or greater. You'll see
earlier, back in 2019, we had a 61 percent mark.
That coincided with our patent eligibility
guidance released in January of 2019. So some
strong indications here of where we're going. The
other important thing not really shown here, but
it is an effect of it, is we also ask customers,
we know, right? Historic happens. I might need
to see continued improvement before I'm willing to
give you that rating of good or excellent. I
might be riding in the fair group. We also ask
our customers whether, regardless of what level
you're currently at, are you seeing quality
improving, declining or staying the same. For
about the last three survey waves, we have about
twice as many customers say quality is improving
as declining. So that's another positive indication out of this survey.

Go to the next slide? We asked about probably 25 to unique questions on this survey.
Again, it's a snapshot.

But we asked how often were the rejections you received recently in terms of correctness. We also asked about consistency. We also asked about clarity. We wanted to point this out because this has a couple of telling things.

If you notice the 103 rejections there, it's the second bar, about 54 percent of our customers say we're correct most or all of the time, 41 percent some or some of the time, and then 5 percent say rarely. 103 rejections seem to correlate the best with our overall ratings, and that's not surprising given the fact that about 75 percent of our finals and non-finals contain a 103 rejection versus maybe 35 percent containing a 102 rejection.

Over there on the far right, that's one of our pain points. It's a pain point we've been
looking at for a while. Nearly 20 percent of our
customers say we're rarely correct in our 101
arena. Only 40 percent say we're correct most or
all of the time.

The other thing we take about this data,
we use this data for is to calibrate with our
internal quality review system. So this is where
we'll look at. If we look at our internal
measures, we do a significant amount of quality
reviews, probably 40,000 office actions are
reviewed in a given year. Some of our internal
indications think that or show that when we make a
102 rejection or we make a 103 rejection, we feel
we're following all the compliance and the
statutes accordingly about 85, 90 percent of the
time. So we don't see this disjoint internally
that our customers are telling us exist between
102 and 103 rejections. So we'll explore that a
little bit, and that's kind of our focus for the
coming years, and there's been a focus to try to
identify what that difference is in terms of the
customer perceptions, in the 102s and 103s and
then how we can adapt that to our internal review system to try to identify those leading indicators.

Finally, we'll go to the next slide and talk about longitudinal data. We see things. A lot of times, it's just little hiccups here and there, and then what can we observe over time. This is one data point we've been tracking over time and has really started to show there's a significant difference in how people react. And it's how well customers feel our examiners address response to office actions. And you'll see those horizontal blue bars down there? 20 percent of our customers feel that we do it to, only a small extent of the time. About 46 percent of our customers feel we do it to a moderate extent, and then 34 percent of our customers feel we do it to a large extent of the time. So why is that important? Because then you look at the vertical box there. If you'll notice on the left, you've only got one red bar. 19 percent of our customers that were in that bucket felt quality was poor or
very poor overall. If we can get our customers, not sure all of this is plausible, but other customers that feel we do a good job responding to office actions or to the applicants' arguments, even to a moderate extent or a large extent, 0 percent of those customers felt quality was poor or very poor. And you get over there on the far right, if we want to get to a number of 80, 85 percent saying good or excellent, we need to make sure that we're responding to applicant arguments to a large extent of the time.

So that is actually one area we're exploring this fiscal year. We've actually put one of these measures in our first line managers, are speed in their performance ratings this year and that's the data point we thought we wanted to share with you today. I think that concludes what I wanted to share. We've got time for questions. I'll be happy to entertain them.

MS. DURKIN: Great. I'll ask one question while we see if there are any others. Was there any information you care to share in
terms of Tech Center or technology areas as being more or less satisfactory?

MR. RATER: So we do monitor, we do ask these respondents which technology area they interacted with the most. And I think, at the end of the day, because we're talking such high-volume customers here, we don't see much difference; and I think a lot of our customers are really talking about an organizational boundary. You know, sometimes they could be in technologies and it's spread so much. I think our internal quality review findings do a little bit better job of diving into the technology differences. This survey doesn't seem to detect that. I think if we do go out, and it's one of the things we're exploring, asking customers and asking our mixed media what industry they were more likely to dabble in over that three-month period, that will give us some insights; and that's another thing we're actually looking to explore. No, no super answer right now for you.

MR. CALTRIDER: I'd like to ask a
question or comment on Slide 8 and ask a question on Slide 7. I don't know if you're able to pull them back up. Comment on Slide 8 is to applaud the office in your efforts to respond to an office, or an applicant's response to an office action to give it appropriate consideration to a large extent, I think, is incredibly important; so I'm pleased not only with the data but also the steps you indicated the office taking to do that because that's being listened, heard, and fully addressed, the prosecution is obviously, a fundamental tenant and quality. And I certainly, the data bears that out, and I'm pleased with the office's efforts to shift that more into the large extent category. On Slide 7, I'm curious on Section 101, and I just don't recall the data from earlier surveys, is the 19 percent trending up or down, particularly since the guidance and what, where are we on the 19 percent with Section 101 kind of the trend line?

MR. RATER: So this is, all of these numbers have held pretty steady over the last two
or three years, even since the guidance, right? I think once the guidance, we went down to maybe 40 percent dissatisfied or feeling it was rarely correct down to that 20 percent and that's where it's kind of leveled out. I think when we do look at the comments and we see what folks are indicating, I think those are the ones that have either had such a bad experience over that five-year timeframe, they want to see continued improvements before they're willing to give us that next mark, or they are making comments on things that maybe are outside the hands of the actual examiners. Right? This is where they're talking more about the law and the policies that, you know, they're not holding, it's just a general dissatisfaction if you will. That's where the 101s have kind of been. One of the things we are exploring and, again, this is where this survey kind of fails us a little bit. This is a totality and when, you know, how many of these customers actually had a 101, I'd say only about 7 percent of our finals and non-finals these days, how many
101s did they actually have in that body of work over that three-month period to evaluate when they probably had 30 or 40 103s to evaluate. So we're looking at how we can get to more of that transactional level to really speak to that.

MR. CALTRIDER: Thank you.

MR. DUAN: If I could ask a question? First of all, as Steve said, this is a really great data. I applaud the office for undertaking these efforts to really dig into what's been going on. I think it's really great that you're making these efforts. So you mentioned that this was a survey of high-volume patent applicants or patent attorneys. I'm wondering if there's been any interest or effort in surveying other populations? In particular, I'd be curious about sort of more low-volume applicants and also, many folks who aren't applying for patents at all but, otherwise, have reasons to read patents. For example, scientists or litigators. I would imagine that the high-volume applicants are probably fairly familiar with patent practice and may have certain
advantages in being able to understand file
histories and rejections and such that others may
not, and I'd be curious if there would be
differences in results if those reviews were to be
undertaken. Obviously, there would be more
difficult surveys to undertake for fairly obvious
reasons, but I'm curious if you've looked into
trying to do that.

MR. RATER: So yes. So a couple of
things to unpack there. So absolutely, right?
They're less frequent and they're what we've seen
is obviously, then that becomes a little bit more
transactional. Did I get -- what didn't meet my
expectations? Did I get what -- and then you've
got to kind of tease out what barriers did we --
up until that interaction, what barriers, right.
This survey, I think you hit it right on the head,
is to get just things that we can take maybe a
little bit easier readily to the examiners and say
ok, let's take this. We do do other surveys.
Like, we'll do surveys of our pro se applicants,
right? What is their experience in that process,
and how do those interactions work, and what can
we do there? Now in terms of focusing on maybe
even the folks that are maybe using our products,
at the end of the line or not actively engaged in
the patent system or maybe even prior to becoming
those customers, I think those are things that
we're looking at as we explore these
underrepresented, underserved and other, you know,
areas to look at; and that's what we're kind of
looking at. How do we collect that data, right?
How do we identify? A lot of times, we don't
identify with a customer until they've actually
filed. Well, what about those customers'
perception, our potential customers? And so we'll
work through like our Chief Economist's office and
the other units throughout, you know, just USPTO,
not just even patents that are exploring these
different things and have a couple surveys on
that. Yeah. Happy to have those discussions, too
down the road.

SPEAKER: I have a question. Applicants
just (inaudible) in terms of quality but when
looking and measuring quality, how much of it is
do you believe is related to say timeliness versus
people agreeing on issues of obviousness, or
(inaudible), et cetera?

   MR. RATER: Fantastic question. So one
of the (inaudible) holes when we started this
survey back in 2006 because we wanted everybody
just to be thinking quality, right? Focus on
quality, tell us what it is. Okay. You know,
we've learned over time, we start seeing more and
more comments about timeliness. We see more
questions about value, other things. So we are,
actually, I mentioned we do this with an external
contractor. There's actually a little bit of
hurdles whenever you choose significant questions
here and we do that. One of the things we're
exploring and, hopefully, if not the next survey,
but a future survey early next, you know, calendar
year is to explore some additional constructs in
this survey so that we can start measuring that.
How much of this is being driven by just our
response to amendments, how much of that, so we
can start seeing that. Because we really do know it's a challenge of optimizing everything, right? So I think we do need to ask those other questions so that we can determine where do we need to optimize. And for different groups, that optimization may be different. So great question on timeliness and that is one of our future areas of exploration. Internally, when we do our internal quality reviews, we do try to time that with some of our pendency measures to see what overlap; and end of the day, right, everybody wants it better, faster, and cheaper. Where is that proper level to be?

MR. BROWN: What is the correlation between improvement and timeliness with the improvement and the overall quality? I mean, it looks really very good obviously, or is not even correlated?

MR. RATER: We do think just the general health of the environment and that's, so that's another great point is how do we measure these other factors that are going on and control for
that effect, right? And that goes with
everything, right? It goes with the education.
It goes with the talent of, you know, the agents,
the attorneys, the inventors. You know, they're
all -- everybody's contributing to this system.
It's the quality of incoming applications. How
much did that have an effect? Just the general
interaction and communications in meeting like
this. It's communication. If we went back to
that one bar, you know, the green line, you
actually saw a jump up probably in 2015, 2016 when
we saw one of our first significant jumps, and
simply all the office did, all the office did at
that time was we communicated really how we were
tackling the quality channels and the challenge
and what measures we were doing and just
communicating what we're doing and how we expect
all parties to interact and how, and that alone,
just jumped up that measure. So yeah, there is a
lot of noise and that's why this is just one piece
of our quality measures.

MR. BROWN: Just one last quick question
MS. DURKIN: I'm going to just jump in for a second because we need to move on, Dan, and that -- do you have another?

MR. BROWN: No problem.

MS. DURKIN: Okay. We do have one question from the public and, Martin, I don't know if you're the right person to answer it or not, but there was a question about what is the percentage of pro se applicants to the general application pool or applicants represented by counsel?

MR. RATER: It stayed pretty steady, about 3 percent, and it's been holding steady; about 3 percent of our filings are pro se applicants.

MS. DURKIN: Great, thanks. Well, I think we need to move on because we've got another topic to cover today, Martin. Thank you very much, and thank you, patents, for that information. This survey's always a, always a fun one to get if you're a practitioner; and it's nice
to know that the data is actually being looked at so closely.

We're now going to turn to the PTAB, and again, we have some survey results that's going to be presented to us. This is not an ongoing survey but a brand new survey that was commissioned by the office; and just to orient everyone before we get started, I just want to note that this is again an ex parte prosecution survey even though it's being conducted by the PTAB and has to do with appeals to the PTAB by applicants. So with that, I'm going to turn it over to Chief Judge Boalick and let him introduce who is going to make this presentation.

MR. BOALICK: All right, well, thank you, Tracy and appreciate the introduction. Yes, so we've actually got three things to present to everybody, the first being this survey of patent examination for, about PTAB's work in our ex parte. We also have an update on our Pro Bono Program and our LEAP Program; but to kick things off, we're going to start out with Janet Gongola
and Lead Judge Dave McKone and Judge Jeff Fredman, who will talk about the survey of the examining floor. So I will turn it over to Janet.

MS. GONGOLA: Thank you.

MR. BOALICK: And if you could, advance the slide to, I think, Slide 4, I believe.

MS. GONGOLA: Thank you very much, Scott, and good afternoon, everyone. It's a pleasure to be with you today. I just want to give a little background on the PTAB survey of patents, and then I'll turn it over to my colleagues the Judge Dave McKone and Judge Jeff Fredman to give the detail. As background, we conducted this survey of patent management with the hope of learning more about the quality, efficiency, and effectiveness of our PTAB Division. We are looking at the feedback from the survey to figure out ways in which our judges can strengthen their decisions, any detail that's missing. Additionally, we are looking at the results of this survey to identify training opportunities for both judges as well as patent
examiners. As you can see, we did an earlier survey where our patent survey PTAB judges on the very same types of information. So the survey we're talking about with you all today is a reciprocal survey so that we can have this good communication channel between both examiners and the PTAB. At this point, I'll turn things over to Lead Judge McKone to talk to you about the questions and the results.

MR. MCKONE: Thank you. Can you hear me okay?

MS. GONGOLA: Yes, Dave, good.

MR. MCKONE: Okay.

MS. GONGOLA: And we see the slides fine.

MR. MCKONE: Yeah. Great. Next slide please? All right, so and Janet gave a good background as to how we got here. So the PTAB Survey of Patents that we conducted in 2021, the goal was to engage patents management and listening to their views on PTAB appeals decisions. So this just deals with the ex parte
appeals and not with anything post grant. The people that we surveyed were people of patents management, the Supervisory Patents Examiners, SPEs, and Quality Assurance Specialists, QASs, and other patents management. So we did not survey the examiners directly. Rather, we surveyed those who supervise the examiners. And we had about 124 responses to this survey. And that was administered in the summer of 2021.

Next slide please? All right, so we had about, in addition to background questions and demographics, we had about 12 substantive questions. I'm not going to go through all of those here. I'm going to go through it, what is considered the most pertinent. So the first is the overall measure of how PTAB is doing appeals decisions. We asked overall how satisfied are you with PTAB decisions. And here, the highest bar was satisfied; and if you look at, comparing -- if you discount the neither satisfied and dissatisfied, and neutral responses, we have about 6.4 satisfied or very satisfied responses to every
dissatisfied response. We think that is a good indication that, in general, the patent management is happy with the decisions that were rendered.

Next slide please? So we got into a little bit more detailed questions on specifics from our ex parte decisions, and I'll go through a few of those. For example, we asked whether the Board's fact finding and legal conclusions were explained adequately. In general, the, you know, respondents found that usually or always we explained the facts and laws adequately. So about two-thirds of responses were that way. So we had very few rarely. Although we did have about a third of the responses that said we sometimes explained the facts and the law adequately. So we take from this, in a general manner, we're doing a good job. However, there is some room for improvement in our explanations of facts and the law.

Next slide please? We also asked do our decisions provide enough explanation for you to understand why a rejection's affirmed or reversed?
Similar responses here, so about two-thirds were usually or always provide enough explanation. Very few rarely. However, about a third, or a little less than a third said sometimes. So again, we're doing a good job explaining why a rejection's affirmed or reversed; however, there is some room for improvement as well.

Next slide please? We asked do you understand the reasoning in our decision. Similar responses here. About two-thirds said usually or always, and about one-third said sometime. So in general, our reasoning is understandable; but there is room for improvement as well.

Next slide please? Then we asked about the amount, the length and details of our decisions; and here, the respondents indicated that, for the most part, our decisions are about the right length and about the right level of detail. A few responded that we could add more details or length. Very few said we're saying too much. But in general, it was like our length in detail was about where it ought to be from a
Next slide? So with this, in this question, we got a little bit of a different result. So we asked do the decisions provide clear guidance in how to continue prosecution. So we were guided by watching what happened after our decision. Here, the biggest bar, about 40 percent, was sometimes with some, with probably more on the usually or always side, but still some saying rarely or never. We did also, as part of this survey, have questions that they're allowed for narrative responses, in general, giving us some indication of where they thought we could improve. And here, we did have some responses that centered around new rounds of rejection, and that being a possible point of confusion or lack of clarity. So looking at this chart in conjunction with some of those responses, one area we think that we can improve is providing better guidance on new grounds of rejection.

Next slide please? So to summarize the, what we do with our next step, we've established a
task force of judges to just look at our
decisions, identify where we could improve or
enhance or expand our decisions, especially
looking to provide better guidance post appeal
next steps, such as new grounds of rejection. We
expected the result of this -- as a result, we
provide training to the judges on best practices
and some additional training on new grounds of
rejection.

New slide please? Also, another one of
the questions that we asked is to allow for a
narrative response as we asked what training could
PTAB provide to the examining court. In here,
several of the responses centered around things,
advice that we could give to essentially improve
examiner answers, things like what the judges
would like to see in examiner answers, how judges
approach their decisions. And also, we already
have some training on drafting examiner answers;
and we have sent the results of this survey back
into the committee that's preparing their
training, and we are providing, we're developing
updated and streamlined training on drafting examiner answers. In near term, we would look to prevent that, too, the PSEs and the QASs as more of a long term goal to hopefully prevent, present that to the examiners. Also, as I mentioned, we're working on training for the judges on new grounds of rejection. We would eventually like to work with patent to see if there's anything we can take from that training that might also be applicable for the examining corps, but that would be future development.

Next slide please? So the take-away from the survey? In general, the patent management is satisfied with the PTAB decision. I will note there were not significant differences across the Technology Center so there wasn't, for example, a different level of satisfaction for our mechanical decisions compared to our electrical decisions for example. We have identified ideas for possible improvement. We've established a task force to investigate how we can improve our decision content. We are developing training to
provide to the examiners and the judges on things like new grounds of rejection and, for the examiners, training on the field process and examiner answers. And also, since we've gotten some of the input from inside the patent office, we think it makes sense, at some point, to survey the public to identify where the public thinks the PTAB has opportunities for improvement and growth. And with that, I'm happy to take questions.

MS. DURKIN: Thank you, David, and you said this was across all Technology Centers? So for example, Group 2900, the Design Group, was included as well?

MR. MCKONE: Yes, it was included.

Yeah.

MS. DURKIN: Okay.

MR. DUAN: Hi there. Oh, go ahead.

MS. DURKIN: No, go ahead.

MR. DUAN: Oh, okay. Yeah, so I had two questions on this one. The first was I recall that on the survey form there was a question about whether examiners had changed their behavior in
response to -- in response to appeal decisions.
I'm wondering if you have data on the response to that question? The second was, I don't think you did it on this survey, but if you would be interested or plan on trying to break down some of these answers by types of rejection, I'm curious whether the Board is performing better on certain types of rejections than others, say 103 versus 112 or such.

MR. MCKONE: As to your first question, yes, we asked have you changed your behavior based on something you've learned from a decision. About half of the respondents said sometimes; and then about a quarter of the respondents were on either side of that, usually or always or rarely or never. So it was a fairly even distribution around the sometimes answers. So at least some of these patent supervisors are taking into account what we're saying and learning something from it. And as to the second question, what was that again? Whether we're --

MR. DUAN: This is --
MR. MCKONE: We don't have --

MR. DUAN: Sorry, go ahead.

MR. MCKONE: We don't have this broken down by type of rejection, but I think that is certainly something that may be useful that we'll, we can take a look at in the future.

MR. FREDMAN: The type of rejection would be a great idea; and by the way, about 3 percent of the survey respondents is 5,900 (phonetic).

MS. DURKIN: Did you say 3 percent, Mr. Fredman?

MR. FREDMAN: Yes, about 3 percent. I don't know what fraction of examiners but (inaudible).

MS. DURKIN: It's probably about right.

MR. BROWN: Well, I have a quick question about what's the percentage of ex parte reviews that you see in a year? I mean, of patents issued or patents applied for?

MR. FREDMAN: Well, for review, I mean, we do thousands of appeals.
MR. BROWN: Yes.

MR. FREDMAN: Is that what you're asking?

MR. BROWN: Yes. There's thousands of ex parte appeals that came with the body of the services.

MR. FREDMAN: Right. I don't know how many, we're getting a fraction of all the supervisors. So it's whatever fraction have seen.

MR. BROWN: Oh, okay.

MR. FREDMAN: But so yeah, it probably was 142 that we expected to get over a thousand, a significant fraction of the ex parte appeals.

MR. BROWN: Okay.

MR. CALTRIDER: Can you comment briefly on the net promoter score? Some may not be familiar with it but it -- my recollection of how that methodology works a 48's a -- would be considered a pretty impressive score. Is that correct?

MR. MCKONE: That's my understanding and I will confess, I mean I'm not a statistician, but
I did learn about the net score from some of the others, from Mr. Rater.

MR. CALTRIDER: He might want to comment on that because he probably knows that better than we do. Actually, I'll do this in a minute, but yeah, are there any questions?

MR. MCKONE: It is my understanding that that is a good net promoter score, that is a good indication that we're, that our decisions are well received by the patent management.

MR. RATER: Yeah, Steve, we've done a little bit of research on that but, generally, 40 is a pretty healthy environment and get up to the 50, you're kind of in some best practices. We know that we're a little bit different in terms of, you know, net promoters are usually used when there's some competition; but we've at least looked at that and said this is a pretty healthy environment in terms of things kind of working well, going back to that optimization practice, when we're at those levels of 40 to 50.

MR. CALTRIDER: Again, you make a good
point in terms of being a closed universe. It does influence it. It certainly suggests that moves in the right direction consistent with your earlier data. Some of these lines are going in the right place.

MS. VIDAL: Yeah, this is Kathi. I just want to thank everybody for the work that went into this. I think this is really good data. It's good to benchmark off of it as we think about ways that we can improve; and hopefully, these numbers will just get better and better as we go. I like the idea of breaking it down by type of rejection. I think that was a fantastic idea. I also think it would be great to break it down between 2900 and the rest of Patents, because we may see different trends when it comes to the design patents versus utility patents so just, we'd love to see more data.

MS. DURKIN: Great.

MR. HIRSHFELD: This is Drew. If I may also chime into Dan Brown's question. I don't have the number off the top of my head about the
percentage, but there's you know, 350,000 applications annually allowed, right? So the numbers of actual appeals are very small. We can get those exact numbers, which we have got folks who are -- so we'll probably have that pulled very, very shortly, maybe even by the end of this meeting.

MS. DURKIN: Great. Okay, thank you, Drew.

MR. BROWN: I understand that our appeals are a very small amount. I was just wondering how big is the data set you know? Essentially, you said that and now I do remember that it wasn't all the supervisors that this was -- a small part of them, so.

MS. DURKIN: Okay, we probably should move on because we still have two other topics to cover. And let's see, who is up next? Okay, I'll give it back to you, Janet.

MS. GONGOLA: Yes, thank you very much, Tracy. The next topic that we want to share with you is information about our PTAB Pro Bono
Program. Lead Judge Stacey White and our PTAB Detail Lead, Brandy Zukanovich, have worked tirelessly to develop this program. So they will share the details of our initiative with you. Over to you, Judge White.

MS. WHITE: Thank you, Vice Chief Gongola. Good afternoon. We are very excited to tell you about this new program here at PTAB. Several years ago, the office began working with a network of pro bono organizations to provide pro bono assistance to under-resourced inventors seeking to obtain patents. The PTAB is proud to say that we are expanding upon that effort through the creation of a PTAB Pro Bono Program. We are working in collaboration with the PTAB Bar Association as our single nationwide clearinghouse to provide pro bono legal assistance to under-resourced inventors. Initially, the program scope will be limited to ex parte appeals. We are planning to handle approximately 10 pro bono ex parte appeals in the first year, and then the plan is to expand the program in both size and scope.
over time. AI trials are in the vision to be part of the program's later expansions. The first phase of the program was launched March 24th of this year at the PTAB Bar Association Conference. Currently, the PTAB Bar Association is taking volunteers in an effort to have a full bench of volunteer practitioners in place with a program opens its doors to applications from inventors. So then, we'll move on to tell you a little bit more about the eligibility with the program. So the next slide? So the program will be open to inventors in the U.S. who are domiciled in the U.S. And these are the criteria that the PTAB Bar Association will be checking for as part of its processing. These inventors need to be of limited financial resources. We're using the Federal poverty guidelines to determine what limited financial resources mean, and we're setting the limit right now at 300 percent of the Federal poverty guidelines. In the application, in the file for the application that you wish to seek assistance for, you need to have a certain
case of micro entity status, you need to not
otherwise be represented by a practitioner for
your PTAB proceedings; so this is not a situation
where you can fire your lawyer in hopes of
attaining assistance. If you already have
assistance from a practitioner, then you would not
be eligible. The innovator would need to request
assistance within one month of the date of the
office action that the inventor seeks to appeal
and be able to pay all USPTO fees and any
ancillary costs associated with the appeal. So
the inventor should talk to their counsel to get a
good idea of what those fees and costs would be at
the beginning stages of the program. In order to
be eligible, you need to complete a two-part video
training system online, so this is all going to be
available on the PTAB website. So one part will
be about the Pro-Bono Program itself and the
application process, and then the second part is
an overview of the ex parte appeal process so that
the inventor understands what the process is going
to be, the timeline of events, and how things
proceed in front of the PTAB.

Next slide. Similarly, the PTB Bar Association will be looking for certain qualifications for the volunteers that will be assisting in this program. First, the volunteer must be a U.S. licensed attorney or patent agent, have experience in the technology area and the proceeding type, provide their own malpractice insurance, of course agree to accept no fees for their services, and to provide a representation agreement so that the scope of their representation is clear from the very beginning so that the inventor has a great idea of what to expect and what will and will not be covered by this program.

Next slide. Now I'd like to pass on to you Brandy Zukanovich, our Detail Lead, to finish off.

MS. ZUKANOVICH: Thank you, Lead Judge White. So the PTAB Bar Association is serving as the nationwide clearinghouse, so they will be performing the matching placement of inventors
with attorneys or patent practitioner volunteers. So they will review the applications for completeness, as they will do the screening to make sure that they meet all of the eligible criteria both on the inventor side as well as on the volunteer patent practitioner side. They will also, as the clearinghouse, contact the applicant, inventor prior to matching attempt to make sure that this is, in fact, a true inventor asking for help. They will also send out all of the requests for volunteers' services via an email, and this placement is going to occur within a month of when they determine that the application is valid.

Next slide please? So we talked about that this program is already open to our volunteer pat practitioners now, and we are going to be launching this to inventors on June 1st. I've below included a link to our website, which is a little long, which also can be reached if you go to www.uspto.com/ptabprobono. And now I will be happy to open it up to any questions.

MS. HARRISON: Brandy, this is Suzanne.
I have a quick question. It's a clarification question please? So I was looking up the Federal poverty guidelines, and the way that they're stated is for an individual and then additional members of a family. When you're talking about inventors, are you talking about them as a corporate entity or as an individual? So which number should they be using?

MS. ZUKANOVAICH: Currently, the program is only open to solo investors, so as an individual at this time. Further questions?

MR. CALTRIDER: Yeah. Question and comment for me, first, I think this is a very, very important program. It really goes back to the inclusive innovation. I think if we want to broaden the reach of the patent system and make it available to underrepresented groups, part of this Pro Bono Program is to complement that. One of the questions I have is one month within an office action, how does a per se applicant, or how does an applicant know about the program if they're uninformed. Does the office action make reference
to it? Or how would they know?

MS. WHITE: Well, we are currently in

the stage of trying to promote and publicize the

program far and wide to get the information out

there so that these inventors know about its

existence; and as far as whether this will be

something included in an office action, that is

something that's being discussed as a later

expansion of the program, to get some form

language that's not something that we have at this

time but it's under discussion, so that we can

have as many avenues as possible to let these

inventors know about the existence of the program.

MR. CALTRIDER: Thank you.

MS. VIDAL: And Steve, this is Kathi. I

would echo your comments. This is part of a

larger initiative that we have to expand pro bono

across the board, so I'm super excited about this.

And we are also working with universities to

expand pro bono. We're working with our 21

regional groups that provide pro bono services to

make sure that we can expand it, and then working
with law firms, legal aid societies, with various
state agencies to see what we can do to provide
more access. So I completely agree with you.
It's terribly important for inclusive innovation.
And love all the ideas, because you're right. We
have to meet people where they are. We can't just
develop great processes that nobody knows about,
so really appreciate the input on that.

MS. DURKIN: Okay. All right, and the
last couple of minutes we have, we're going to
hear what's going on with PTAB LEAP Program,
speaking of other fabulous programs the office is
providing.

MS. GONGOLA: Well, today you all know
LEAP is near and dear to my heart, but I have
invited Lead Judge Amanda Wieker to talk about the
LEAP Program with you, share some new
developments, and as to both our pro bono efforts,
as well as the LEAP Program, I'm hoping we may be
able to rely on our PTAB Members and everyone in
attendance today to continue to help us spread the
word about these two programs that really are
designed to benefit the community. So over to you, Judge Wieker.

MS. WIEKER: Thanks so much for having me today. As a background bit of information, LEAP was created to provide training and oral advocacy opportunities for less experienced advocates to gain practical experience in proceedings before the Board. It was created in 2020 and, in November 2021, we expanded the definition of a LEAP eligible practitioner. To that end, a patent agent or an attorney will qualify for LEAP if they have had three or fewer substantive oral arguments in any federal tribunal and that includes the PTAB. As you can see on the slide, we have received over 125 requests since the program was created; and those requests have come from over 70 different firms and companies. As I mentioned earlier, we offer numerous training opportunities for these LEAP practitioners; and we have several events that are going on this month. Last week on May 6th, we held a webinar with external counsel to discuss how to prepare for a
PTAB argument. This Friday, we will be holding a mock argument in which 40 LEAP eligible practitioners will argue a mock trial case to a panel of APJs (phonetic). We're also lucky for this mock argument series to have four sitting ALJs from the ITC that will participate in our panel to hear the mock argument. And then next Friday, May 20th, we will be joined by four external counsel who will join us in a webinar in which they will argue the same fact patterns that our LEAP practitioners will be arguing next Friday. And this is created to give a glimpse of how very experienced counsel might approach the same facts and issues that our LEAP practitioners face in their mock arguments. That May 20th event is open to the public, and you can find, access information through our website. We'll be happy for members, the public, to join us as well. And I'd also just like to mention that, just last week, the ITC announced the creation of a similar program to our LEAP program; and they're calling it their next Advocate Program. We're looking
forward to working with the ITC judges to develop
some future training opportunities and development
opportunities that target both the LEAP and the
Next Advocate participants. And with that, I'd be
happy to answer any questions in the last moments
before we adjourn.

MS. DURKIN: Great. Thank you, Amanda.
Anyone have any questions? It's a great program,
continuing to be really successful.

MR. CALTRIDER: Yes, thank you for all
the presentations today and the forum discussion
on PTAB and quality. I started my comments today
indicating I'd love to have feedback on our new
format, to have shorter, deeper dives, and by
subject matter. Please, send those to the PPAC
email, which can be found on the website. This is
our first one, and we want to continue with
learning and get better throughout the year. So
unless there's any new business that we need to
deal with, I will call for a motion to adjourn.

MS. VIDAL: So moved.

MR. CALTRIDER: Very good. Thank you.
All those in favor? We'll say aye. Have a good afternoon.

MS. VIDAL: Thank you all.

MR. RATER: Thank you.

(Whereupon, at 2:00 p.m., the PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

I, Elizabeth Prettyman-Guay, 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.

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