UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

QUARTERLY MEETING

Alexandria, Virginia

Thursday, August 5, 2021
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MS. MAR-SPINOLA: Let me welcome everybody. And thank you for attending our quarterly meeting. And I'm Julie Mar-Spinola, Chair of PPAC. I want to keep my intro short, so we have plenty of time to review.

And so, let me just start by welcoming everybody and then introducing our Chairs of our Subcommittee. There's Steve Caltrider, our Vice-Chair, and he is the Chair of our PTAB Subcommittee, Jeff Sears is our Chair of our Pendency and Quality, Barney Cassidy is Chair of our Finance Subcommittee Jeremiah Chan, Chair of our AI and IT Subcommittee, Tracy Durkin is our Chair of our Outreach Subcommittee, Judge Susan Braden and Dan Brown are our Co-Chairs of Legislative Subcommittee, Jennifer Camacho, the Chair of our Innovation Expansion Subcommittee.

With that, let me turn it over to Director Drew Hirshfeld, performing the functions and the duties of the Director of the USPTO. Good
morning, Drew.

MR. HIRSHFELD: Thank you very much, Julie. I hope everybody is doing well. Just wanted to thank Julie and all the PPAC members. I'd like to thank all of the USPTO staff who've put this event together, and I know we have a number of people -- I'm watching numbers on the screen, we can see people are joining in, so thank you to members of the public for joining in.

We have a great agenda for you all today. One of the struggles we always have, quite frankly, with the PPAC meetings is how to fit in everything that we have. So, on the agenda, you'll see topics ranging from PTAB, including a post- Arthrex Director review process. The Patents Organization will talk about drawing quality and petitions information. We have budget and finance, AI, international legislator affairs, innovation expansion, and sustainability. So, great topics for all of you.

What I would like to do in my remarks, and I'll keep them brief today, but what I'd like
to do in my remarks is give you some highlights
that I feel are particularly noteworthy, and I'll
touch on some of what's going to be discussed in
more detail later on and some new topics.

Let me start with a visit we had early
last month from our Deputy Secretary Don Graves.
It was a wonderful visit. By the way, the
Secretary, Gina Raimondo, visited PTO after she
started and Don Graves visited us, after he took
on the role. And they both showed a great deal of
interest. I wanted to talk about the Don Graves
visit because it was a great visit. And I talked
to him in advance of that, and said how detailed
do you want us to get? And he said, let me see --
get the full package.

So, we actually not only gave him a tour
of the wonderful National Inventors Hall of Fame
Museum, which if any of you haven't seen, you have
to be able to see it, once we re-open of course.
And then we gave him a tour of PTO and a whirlwind
with the business senior heads.

But we also gave him a short day in the
life of a patent examiner and a trademark examining attorney. So, he actually got to see the tools that examiners use and be able to ask questions. I thought that was wonderful. And then I will say one of the highlights for me, personally, was we presented him with a framed copy of one of his ancestor's patents. So, his, I think I'm going to get this right, but it was a great, great, great, great grandfather in -- and I have the year written down here -- in 1881 received a patent, and so he has ties to the patent system. And it was a really special moment, quite frankly, to be able to be a part of that with him. By the way, his ancestor was one of the first black people to receive a patent, so it was a very moving and touching experience for all of us.

I always wanted to look forward a little bit and let you all know that later this month, we have our annual Invention Conference, Invention-Con, as well call it. It's the 25th year of this conference, and it focuses, of
course, on independent inventors, IP protection, and the importance of American ingenuity.

This year's theme is capitalizing on your intellectual property and, to date, very pleased to say we have more than 1,500 registrants for this. So quite a great turnout so far. And I'm looking forward to those numbers continuing to go up. So, I say that now, because if there's people here who would like to join, and I hope there are, please know that you can still sign up for the Invention-Con conference. We will have remarks from Secretary Gina Raimondo, as well as many panels.

And I'd like to highlight one of them because they -- one of our panel members will be, I want to make sure I get her name Gitanjali Rao. And you may know that name, but she is a 15-year-old author, inventor, scientist, and is Time Magazine's 2020 Kid of the Year. So, she was inspired by the water crisis in Flint, Michigan, and she developed an innovative way to make sure that our drinking water is clean. So, very
excited for that panel as well as many others.

Okay, let me go back to some other ongoings at USPTO. Since our last PPAC meeting, a lot has happened on the Arthrex front. So, of course, we had the decision from the Supreme Court. I know others will get into more details later, so I'm going to skip some of the details.

But just to say, we do have a new post-Arthrex interim Director process that is on your way. You can get information about that right from our website. We've put up a great question and answer document which you can look at. It gives you information about the process and should -- gives you a way to provide comments to us, should you have comments. So, I hope that you will certainly take a look at that if you haven't been able to. And please give us comments. This is an interim process, so I see it being iterative.

By the way, we were able to take -- use the President Opinion Process, the POP Panel process, that we had in place already and use a
lot of that to help us move to this process. So, again, please take a look at our website and give us some feedback. By the way, two decisions went out this week. Those were the first two decisions, both denials, that went out very recently. So, you'll hear more from that.

One question I did want to address myself though, because I'm getting asked it a great deal is how is one person going to do all of this. And I assure you that I do have an advisory group that is working on this. And that, by the way, is addressed in our questions and answers document that we have. But I have an advisory group that helps on this. That advisory group is made of judges from Keytowd (phonetic), it is made of members from patents, members from our general law office, and so we -- I tried to have a very representative group throughout the Agency to be able to give me input and information, and then, ultimately, the decision will be made by me in all of these cases. So, I do have a great deal of assistance, and I want to say thank you to the
teams that have been working on all of that.

I also wanted to mention another topic related TCAB that has been a topic in the past. In PPAC, we've had great discussions in prior meetings about situations where patented claims are held to be invalid and what are we doing at USPTO as a teaching point and a learning point from that. I wanted to assure you all that that is a very high priority of mine to continue our efforts, moving forward, to get a better understanding of anytime there's a claim that's held to be invalid. I want to understand and we all want to understand at PTO the reasons why.

So, we are working on a process to be able to capture that data such as -- is it related to prior art, was the art in the case, was it not in the case. If it was not in the case, should it have been something an examiner should have found, some reference that wouldn't reasonably be in a place where an examiner could find. These are all questions that I think we need to get a better handle on, so we will continue that focus. And
I'm looking forward to future PPACs where we'll be able to give you more information as we continue with our study.

Maybe I can transition to the patents organization and just mention filings a little bit. I think Andy Faile might get into more detail on filings or some of the patents folks might get into more detail. But I get asked a great deal about the filings relative to the pandemic. We are tracking and got a negative -- we are proposing, actually, or predicting for the year that there will be a slight decrease in filings in this year as compared to last year. We're predicting about point, or, I'm sorry, about 2 percent decline. That decline is less of a projection than we were originally projecting at the beginning of the year. Our original projection was about a 3.7 percent decline. So, we've seen filings come in at a higher rate than expected. So, we've reduced our projection numbers.

I think that is actually very good news.
It shows that there hasn't been too much of an impact, decrease in filings. These numbers aren't too far off what they typically are in a year. Nobody knows what's going to happen the remaining months, so I get it that these are all projections. But, again, I think this is a very healthy place to be in our revenues. And I know you'll hear more from Jay Hoffman later, our CFO, of course, that our revenues continue to be strong. So, I feel that the agency is in a very good place.

I did want to mention some about patent pendency. You have all heard me talk many times, both as Commissioner and being in this role, about our transition in looking at patent term adjustment timeframes or pendency, rather than your average First Action and Total Pendency, which is what we've been doing for many, many years looking at that. So, this does represent a significant change. Looking at the patent term adjustment timeframes, which are set by statute, makes more sense to me. I think we've actually...
received comments from many of you that it makes more sense. But just a background, it's a way for us to say, how many applications in all these actions can we ensure are below these patent term adjustment timeframes.

By doing that, we'll get consistency throughout the core. When people, for example, look for status inquiries, they'll be able to have more consistency. Averages are somewhat problematic with a very large organization such as ours, because if you are not in an area close to the averages, your numbers could be way off. And that is a problem. So, we're really trying to focus on the patent term adjustment timeframes, and you'll see that.

One interesting issue, in focusing on the patent term adjustment timeframes, is it has helped us move out a lot of older cases, which is a good thing, of course. We want to move the older cases, so that they're not there anymore, right. So, we're working the cases as they come in. The downside to that, quite frankly, is
you'll see that our First Action pendency numbers will increase a little bit, and we've seen that trend a little bit.

And so our First Action, again, which we're trying to get away from these, but for completeness, I'm just adding it to the discussion, are about 16.9, which is higher than it's been recently. But I think that this is an interim uptick, because of our change to a new process of looking at the patent term adjustment timeframes. Our Total Pendency is still declining and is at a very, very healthy 22.6. So, (Audio drops) years our goal, and to be beneath 24 months, and we're currently at 22.6 months. And personal opinion, the Total Pendency matters a lot more than the First Action Pendency. I know people may have different opinions about that, but that's my view, and I think, of course patent term adjustment is the right way to go. So, I just raise those, so you are alerted if you see some changes in our numbers, that is the effect.

By the way, in looking at First Action
and Total Pendency, the difference between 16.9 and 22.6 for Total Pendency is a very small difference. To me, that is a really good indication. It's something I haven't actually really focused on in the past, but the fact that our First Action Pendency and our Total Pendency are getting closer in time is quite a great statement about what our examiners are doing. In other words, having interviews to move cases along, issuing high quality First Actions to make sure that there's compact prosecution. All of these factors play into not having a significant delta between First Action and Total Pendency. I know I got a little weedy (phonetic) in my discussion there, but I do think it's important for all of you to hear that.

A couple additional notes about Patents Organization. You've also heard me mention that this year is a really interesting year for Patents Organization. They are going through very significant changes, perhaps the largest changes ever in Patents Organization. Starting this past
October, there were changes relative to the --
first, there was a reorganization of senior
leadership. Second, there was the changes to the
examination time, the way we rout cases, and a
performance appraisal plan for every single
examiner. These are very significant changes.
They all occurred for a variety of reasons at a
similar time. So the Patents Organization is
doing a great job, in my opinion, adjusting to all
of these.

I did want to mention routing here and
time a little bit. The routing is one of those
topics that I can't state enough of how large of a
change this is. This change entirely gets us away
from the USPC and moves us to a CPC, which is
something we've been in the middle of for years.
It also now creates, instead of a single data
point of matching a case to an examiner like we've
done historically, it now creates a profile of
classification for every case that comes in. We
have a profile of every examiner based on the
actual cases they've worked on, so it's a
technological profile. We're able to match those profiles to get the best match and technological match and be able to give out cases, which help us really focus on our pendency goals as well as getting the best case to the examiner. So this really puts us on a footing to make immense improvements moving forward.

And I'm very happy with what we've done so far. I don't want to seem remiss to those examiners who are listening in. I'm well aware, with 8,000-plus examiners, this has worked better in places than other places. But, overall, I'm very happy about the start we've had, and I feel like we're in the right place.

By the way, with examination time, all the examiners' time that they have for production is tied to these classifications, in some way, shape or form, as well as also now being based on specific attributes of cases, which we've never done in the past. So, significant changes, and I think we're moving forward.

A last word about classification is
artificial intelligence, which I know it will be discussed later on in the program, continues to be a priority of ours in a number of ways. We are actively using artificial intelligence for some of our classification. We're seeing improvement to the classification, and we're seeing also financial savings as well. So, I think that that is a very, very positive step for all of us.

Okay, a couple other topics, and then I'm going to wrap it up here. I did want to mention the President's Executive Order on Economic Relief, related to the pandemic. That issued of course late January, January 22nd, by the President. It's an executive order that asked the agencies to identify actions they can take within existing authorities to address the current economic crisis, resulting from the pandemic. We have the PTO working group, led by -- or performing functions, the PD, Coke Stewart, who's just been absolutely wonderful in all respects. I know she's listening in here. While I can't get into all the details, she's going to talk with you
all later about some of the efforts she's doing on sustainability.

I did want to mention some changes to our website that we have. We've updated our inventors' and entrepreneurs' resource page and placed it where it's more prominent. And we've updated our patents basic page, which also we can more easily get to. Our goal here was to more clearly explain the application life cycle and provide practical assistance along for each step. And these are great changes, great improvement. I'm highlighting it here because I hope that you will take a look at the updated website and to be able to give us feedback on that. And thank you to Coke and the team for keeping those initiatives going forward and others.

My last topic, and I do have some breaking news. So yesterday, the Department of Commerce, on behalf of the USPTO, filed for federal registration of the USPTO trademarks. Which you're probably asking yourself, why are we talking trademarks in a PPAC meeting. But we
filed those registrations yesterday, and this is something that we've been thinking about for some time now at PTO and feel like this is a very good step.

And here's the reason why. What we've seen more on the trademarks side is we've seen people using our trademarks to -- and the USPTO logo and name, et cetera -- to commit fraud on an applicant. So, we've taken a step to avail ourselves of federal registration to be able to protect all of the applicants. And, right now, this is not something we're seeing this type of fraud on the patent side, but we are certainly seeing it on the trademark side, that, obviously, with the registration, it gives us the ability to better protect everybody across the board. So, this is a really important step for us. I think it will help us with protection for everybody. So, I'm very confident this is a step in the right direction and the many fraud prevention steps that we're taking throughout the agency.

By the way, earlier, just about an hour
ago or slightly under that, we had a blog come out
from Commissioner Dave Gooder explaining this in
more detail. So, please take a look at that blog.

I know that was a lot. I felt like I
talked -- just to get in all in, Julie. [Audio
drops) the meeting.

MS. MAR-SPINOLA: Thank you very much,
Drew. I want to open it up for a few minutes for
questions to the Director, and if we can either do
that through Chat or email to the PPAC email
address, then that would be -- we'll be able to
take those up. Drew, will you be staying for the
entire meeting today? Are you able to do that?

MR. HIRSHFELD: I won't be able to stay
for the whole meeting, but I will be here for
probably another 40 minutes or so, 30-40 minutes.

MS. MAR-SPINOLA: Okay. And may I
suggest that folks can ask you questions while
you're here?

MR. HIRSHFELD: Absolutely.

MS. MAR-SPINOLA: As they come up, okay.
And I know that you are often very proactive
during the discussion and in the event. So, thank you. Well, that gives us some more time to start with our PTAB Subcommittee, and let me turn this over to Steve Caltrider. Thank you, Drew.

MR. CALTRIDER: Thank you, Julie. We have a full agenda today, so I'm going to keep my introductory remarks short as well. I would like to open with a thank you to Acting Director Hirshfeld and Chief Judge Boalick and their teams for implementing a solution to Arthrex so quickly and for providing extensive resources as well, hosting a Boardside Chat to the forum practitioners about procedures for direct review, are also leading us to -- Chief Boalick's here to explain those in more detail and to discuss how that process is being utilized to date. I would also like to recognize the PPAC for their ongoing commitment to continuous improvement.

Acting Director Hirshfeld touched on this in his remarks that through a PPAC's perspective, it's extraordinarily important to be committed to continuous improvement and the
efforts by the PTAB, as well as by Patents, to improve work product as it starts in the Office in the filing stage and leaves the Office with the final written decision, the PTAB has been really remarkable and much appreciated. So with that, I'll turn it over to Scott.

JUDGE BOALICK: All right, well, thank you, Steve. And I guess thank you -- we have a number of topics to speak of today with the first being Arthrex. And so, I guess if -- I don't know if we have the slides up right now, but if we could go ahead and put those up. And then advance to the next slide.

This is our overall agenda. So, you can see, we'll start out with a talk about Arthrex and the Director review process. We'll talk about some 325(d) case studies that we've done. Talk a little bit about training that we do in collaboration with Patents. And some inventor outreach efforts that we have, and, as you talked about Steve, as did Drew, a little bit about our continuing efforts in process improvement and that
collaboration and data-sharing.

So, without any further delay, we'll move on to the Arthrex topic. And I'll turn things over to Senior Lead Judge Kal Deshpande and Judge Linda Horner, who is also currently serving on detail as a senior advisor to the Office of the Under Secretary. So, let me turn it over to them and we'll get started.

JUDGE HORNER: Great, thank you, Scott. So, I'll start with Arthrex. As most of us are aware, on June 21st, the Supreme Court issued the decision in Arthrex, and the court addressed the Constitution's appointments clause, as it relates to administrative patent judges, and considered whether the APJ's are principal officers who must be appointed by the President with the Senate to advice and consent. And the USPTO and the U.S. government argued whether they are inferior officers who could be appointed by the Secretary of Commerce. The court held that the unreviewable authority wielded by the APJ's during the
inter-parties review is incompatible with their appointment by the Secretary to the Interior Office and that the court devised a remedy that provides that the Director may review final PTAB decisions and, upon review, may issue decisions himself on behalf of the Board.

We put on this slide links to various source materials that are available on the PTAB's webpage, including information regarding implementation of an Interim Director review process in light or Arthrex, a link to Arthrex frequently asked questions related to the interim process, and also a link to our slide presentation that we presented on July 1st in a Boardside Chat to the interim process and how it works.

So, as I mentioned, the office implemented this interim procedure. It may be initiated or sponsored by the director, for director review, or it may be requested by a party to a PTAB proceeding. I'm going to turn it over to Senor Lead Judge, Kal Deshpande to discuss in a little bit more detail the director review
JUDGE DESHPANDE: Thanks, Linda. The director review process, we've kept it very simple. There's only two things that you need to do concurrently in order to appoint (phonetic) Director review. The first one is just filing a rehearing request and the second is submitting an email to an email address, I'll give it to you -- it's director_ptab_decision_review@USPTO.gov to request a Director review. Filing those two things concurrently will establish you for your request for a Director review. It's pretty simple, it's pretty straightforward. It's just a rehearing request with an email to our Director review email box.

There are a couple litigations or constraints associated with the process. I'll go over this just a little bit, but you can only ask for a Director review or you can ask for a panel rehearing request. You cannot do both. If someone asks for both, we streamline those requests for Director review. And you must file
your rehearing within 30 days. That's consistent with our rehearing process. In order to complete your Director review request, you need to be able to file a rehearing. In order to do that successfully, you must file within 30 days of the answer to the final written decision.

Of course, you have be a party to the proceeding. You won't be able to file the rehearing request if you're not a party to the proceeding. It all kind of comes back together. You have to be a party to the proceeding in order to ask for a Director review request. In other words, third parties can't ask for a Director review of a proceeding that they're not a party to.

As Linda mentioned, this process is envisioned as an interim process. We have a suggestions mailbox, it's Director Review Suggestions @USPTO.gov. If anybody has any thoughts on how the process is going or for improvements, this is an interim process, we plan on revising and correcting and making it better as
time goes on. So, that's just a -- a thought out
there is that if anyone has any suggestions, we
are welcoming those. I will turn it back over to
Linda to talk about some of the requests we've
just received.

JUDGE HORNER: Great, thank you, Kal.

So, I'll just add to what Kal's emphasized, that,
as of now, the current interim process is
available for inter-parties review and PGR or Post
Grant Review proceedings for parties to file a
request. And that to spunky (phonetic) review is
always a possibility for any PPAC final decision.

But the request can be filed only in the
inter-parties reviews or PGRs.

So, since the announcement of this
interim recess, we've received 14 timely requests
for Director review. That's requests from 14
individual final written decisions and petitions.
Those requests were a batch of related IPRs. But,
in total, 14 requests. For these tardy filed
requests, we're adding the e-mail that we received
in the Director Review mailbox to the official
record in PTAB end to end. And we're using a
special designated exhibit number, Exhibit number
3100. We're hoping this will facilitate the
public being able to easily locate these requests
by filtering through our bulk data for exhibits
bearing this number. We welcome any feedback if
that's not working as we anticipate, hoping that
will make it easier for being able to find cases
where these kind of requests have been filed.

As Director Hirshfeld mentioned, he
issued two decisions on the first two requests
this past Monday, and the other remaining requests
are still under consideration and currently
pending. We anticipate receiving additional
requests as the Federal Circuit has started
issuing limited remands on some pending appeals to
the office. And those limited remands are
providing a (inaudible) 30-day window in which to
request.

I'll just note we've also received some
requests are untimely, meaning that either the
case is still pending at the federal circuit and
hasn't been officially remanded to us yet. And so, those requests might be filed a bit soon, but those parties will have an opportunity to file their request upon remand. So, they're just not in our jurisdiction yet. And we do have a few requests filed where the party's case has terminated or come to a final conclusion years ago, and then those requests were filed too late. So, we will notify parties if a request is untimely.

And I think we're ready to move on to the next slide set, and I'll turn back to over to Senior Lead Judge Deshpande to start the discussion on 325(d).

JUDGE DESHPANDE: Before we get too far into 325(d), I just want to give a little refresher on what 325(d) is. And this is one of our statutes that lets us guide into proceedings that have already happened at the office and, if they've already been happening at the office, whether we give a deference to the office's previous findings.
This statute, an important part reads whether -- it asks whether the same, substantially the same prior order arguments were previously presented to the office. PTAB issued a Presidential decision in Advanced Bionics that set forward a framework as to how we'll be reviewing cases under this light.

The Advanced Bionics framework is a two-part test. The first part is whether the same, or substantially the same, arguments were previously presented to the office. And the second is whether the petitioner has demonstrated that the office erred in a manner material to the patentability of the challenge claim. And a little bit more to unpack into that, when you think about what does it mean on something that was previously presented to the Office. This can be any proceeding that happens in the Office. It can be examination, re-examination, re-issue or any other AIA post grant proceeding.

I also want to review what we mean by previously presented art. That could include art
cited by an examiner or it can include art that was provided by the applicant, maybe on an IVS. I'm going to turn it back over to Linda to talk about some of the goals and any implications they might have with any other Supreme Court cases.

JUDGE HORNER: Thanks, Kal. So one thing to note is the impact of the SAS decision on 325(d). So when the Supreme Court issued its decision in SAS, it required that the office institute on all challenges or no challenges. Previously, we had instituted on partial challenges. So, we provided in a question/answer on our webpage guidance on how the decision is SAS would affect our 325(d) analysis. And what our guidance was, was that the panel will evaluate the challenges and the petition as a whole and determine whether a 325(d) is sufficiently implicated such that its statutory purpose would be undermined by instituting all the challenges. So, it's a case by case inquiry and, as you'll see, as we go through the case studies, each of these cases we looked at are very fact intensive.
and case by case. And so, this issue of the
implications for SAS likewise is evaluated based
on the entire petition and what's presented.

The goals of the case study were to
provide insight as to how panels are applying
Advanced Bionics framework and show how that
framework requires, as I mentioned, a case
specific and fact-intensive inquiry. And then
look for any questions about whether we should
have changes to the ecaps card (phonetic) approach
or 325(d).

So, I'll start off with the first case,
and we're just going to give a high level summary
of each case, but we recommend these cases to
everyone's reading from cover to cover because
you'll see, as you look at these, these are good
representative cases, but they're very
fact-intensive analysis in each.

So, in Balt vs. MicroVention, the Board
found that a reference that was relied on in the
petition was previously presented to the Office.
So, under the first part of the Advanced Bionics
framework, the reference was previously before the
Office and so the panel then went on to look
whether there was a material error in anything
that was done during examination.

During examination, the examiner had
rejected the claims over the reference, and there
had been considerable back and forth between the
applicant and the examiner about the teachings in
the reference. The panel found that the
petitioner had not provided sufficient evidence of
material error in the examiner's -- or the
Office's prior consideration of the reference.
And the panel denied this petition on 325(d). So,
this is an example where material error was not
shown.

And I'll turn it back to Judge Deshpande
for the Roku case.

JUDGE DESHPANDE: The Roku case is a
great counterpoint to the Balt case. In the Roku
case, the Board of Similes (phonetic) literally
found that a reference was previously presented to
the office. In this case, there was a reference
that was listed on an IVS during examination. And so the Board found that this reference, because it was listed on an IVS was previously presented to the office. That's the first part of the Advanced Bionics framework has been met.

So, proceeding on to the second part of the Advanced Bionics framework is whether the office erred in a manner material to the patentability of the claims. As we promised, these would be fact-intensive and case specific inquiries, the Board did look to see what the examiner noted as the reasons for allowance -- and in the reference that was cited on the IVS, it was found that the examiner overlooked some of the teachings in that reference as it was applied to the patent challenge claim. So, the Board did find that there was an error towards the patentability of the challenge claim here.

You can see how it goes fact-intensive, as Board will look as far as to see exactly what happened here in examination in order to correctly determine whether there was an error by the
Office.

I think we'll move to the next case with Linda.

JUDGE HORNER: In NXP versus Impinj, the Board found that the references relied on in the petition were not substantially the same art as previously presented to the office. The main reference discussed in this case was a thesis. The thesis was cited in the petition, and that thesis was by the same author as some of the art of record issued patents. But the thesis disclosed substantially more than the cited art of record. So, the thesis was more comprehensive and had a fuller disclosure than the art that had been considered by the examiner during examination.

The patent owner in their (inaudible) pro-ray (phonetic) response, raised the 325 issue, but failed to address the differences between the disclosures in the thesis, that was the basis for the ground (phonetic) of the petition versus the art of record in the arguments made in the patent owner preliminary response, and so the Board
instituted finding that the reference relied on
under the petition was not substantially the same,
because it included critical disclosure that
wasn't before the Office previously.

And Judge Deshpande will talk about the
last case.

JUDGE DESHPANDE: The GSK was a great
case to show our commitment to previous Office
determinations. In the GFK case, there was a
petition that was filed that included the same art
that was submitted in a previously submitted IPR
for a related patent. I know that's a mouthful
(phonetic), but we promised this would be case
specific and fact-intensive.

But in a related patent, there was an
IPR filed, and that prior art was submitted in a
later petition for a related case. In between
those two, the examiner had allowed the case
challenge in the GFK. The examiner had actually
looked at the prior art that was submitted in the
earlier IPR, and it found that the claims in the
later patent were distinct from what the prior art
that was submitted. So, the examiner made a
specific finding that the claims overcome the
prior art that was presented in the previous IPR.

So, when the examiner's made an express
finding and the petitioner was unable to provide
any further information as to any error was
determined by the Office. So, when the examiner's
made an express finding absent to showing of
material error, in this case, the institution was
denied and 325(d) was officially implicated where
both prongs in Advanced Bionics test were met.

So, this is a great case to show that
325(d) framework goes back to an Office
(inaudible) for a previous determination. I think
concludes our case studies.

JUDGE BOALICK: All right. I think at
this point, we'll move on to our next item, which
is talking about the training that we're doing
with patents. And, Janet, I believe you're up for
this as well as the next item.

JUDGE GONGOLA: Yes, good morning,
everyone. I want to talk with you about the
educational efforts that the PTAB is embarking on, both with the patent organization as well as our stakeholders. So, beginning with the Patent Organization, we collaborate extensively throughout the year in a variety of ways to bring training from the Board to Patent and vice versa. On this slide, you can see some of the examples of that training. And I thought I'll talk just about a couple of them as examples.

So, under the first bullet, the first category is Patent Quality Chats. So, throughout the year, four times, we host webinars held by judges to talk with examiners about different aspects of PTAB proceedings. We plan out the content of the webinars with the Office of Patent Training, based upon input from examiners, what they would like to learn about from the Board.

So, you can see our April session focused on how examiners can strengthen their answers when a case comes on appeal to the Board. And then in July, we talked about how the Board handles cases where the Federal Circuit reversed
the Board decision. The Patent Quality Chat webinars are really, really popular segments. We do them twice and, on average, we have over 1,000 examiners in attendance. We’ve been doing them for the last two years and plan to continue for the foreseeable future.

The next example has to do with detail assignments. Detail is a term we use in the government to refer to a temporary work assignment in a different business area from your regular work. So each year, we have 20 examiners come over to the Board to work with our judges in drafting and getting ready for ex-parte appeal.

So, in that process, there's a collaboration between the judges and the examiners about the cases. The examiners have an opportunity to learn about the decision-making process, about what constitutes a strong argument, what constitutes a weak argument, how to effectively make points in written briefing. And the intent is so that examiners take this information that they learn from the judges and go
back, share it with their colleagues in the examining core, and they, in turn, can incorporate these skills into writing better examiners' answers and better Office actions and prosecution, in general.

At the same time, judges are learning from examiners about nuances of the patent prosecution. Some of the judges have been examiners; others have not. We could all stand to have a refresher every now and then. So, this is a way that we can glean the latest and greatest developments that are occurring in the examination process from our examiners.

And then, on the flip side, Patents has been very gracious in offering to the Board, opportunities to take advantage of technical training that they provide to examiners in certain specific art areas. We also have access to all of the training on the legal side that is given to patent examiners. This is important for judges to know how examiners are being trained, so that when we are reviewing their work product in appeal, we
have a better sense of what the framework is, how
they're laying out their Office action, so we can
more efficiently find the arguments that bear upon
the particular issue that's on appeal. So, we are
really thrilled to be able to do this training,
cross-collaboration with Patents, and we continue
to look for ways to expand that
cross-collaboration.

Next slide, please. Moving from
internal training to our outreach effort, the
Board is particularly targeting ways in which we
can reach the inventor community. This has been a
group, in the past, that we've not had a
significant number of interactions with, and we're
very eager to change that. So, we've come up with
a variety of different ways that we can make
inroads into the inventor community.

First of all, as shown on this
particular slide, we have created a new website,
and it's called New to PTAB. And when you go to
the PTAB landing page, in the first column on the
left side of the screen, you'll see, in the red
circle with the arrow, there is a link to our New
to PTAB webpage. This page features information
about appeals, trials, and oral hearings. It's
distilled down to its very basics. Written in
plain English, so it's very easy to understand
what is required in these different proceeding
types. So, that's like a first stop that
inventors can go to, to learn about the Board and
how our proceedings transpire.

A second new activity that we're doing
is publishing articles on a monthly basis in
Inventors Digest. Inventors Digest is a
third-party publication, and they have offered us
space in each one of their issues to talk about
what the Board does. We've not had this
opportunity before, so we're super-excited to
have the platform to start kind of making that
inroad, explaining the very basics, and then
building upon it over time to get more and more
sophisticated in the information we're able to
bring to the inventor community.

Our third effort concerns Invention-Con,
which was mentioned in Director Hirshfeld's remarks. We are appearing at Invention-Con on Thursday, August 19th, for a workshop session. And we plan to use this workshop session to tell inventors four things about the Board.

First, we want you to meet some of the judges to find out what are our backgrounds, experiences -- who are these people deciding your cases. Second, we want to show you where PTAB fits in the full IP landscape. Where we sit in relation to the district courts, the ITC, the Federal Circuit, and the Supreme Court. Third, we plan to offer you some suggestions based upon our review of your work product coming to us through those appeals and trials for things you might want to consider in prosecuting your patent application to make it stronger and better able to withstand an issuance challenge.

Some things we plan to talk about, nesting of claims, ensuring you have multiple embodiments in your disclosure, ensuring you get the best art in front of the examiner during
prosecution. And then, finally, we want to talk to you about some of the myths that you may have heard about the Board and clarify whether those myths are false or whether they really should not be called a myth, but instead a fact. So, we have a kind of a session planned for you that we think hits the issues you want to know most about PTAB. And then, finally, the last item on our slide, we are starting a brand new webinar series called Inventor's Hour. This series will debut on Thursday, August 26th. It will, thereafter, occur on a monthly basis. And we're going to try something new here. It's not a straight hour on a given topic. Instead, it's an hour on a whole bunch of different topics. We want everything single Inventor Hour series to be relevant to any concern you have about the Board. So, it's going to be more like a news segment where we do short vignettes into who the Board is, aspects of appeal, aspects of trial, our statistics, our interesting history about the Board. We want to make the Board as accessible as we can to the
inventing community through this series. So, we hope that you all will tune in for our debut and monthly thereafter.

I believe that we'll take some questions at the end. We have one more slide to cover before that, though, and I'm going to pass the floor over to Vice Chief Judge Mike Kim to talk to us about some data efforts.

JUDGE KIM: Thank you, Janet. So, as everyone is aware, at the community's request, PTAB and Patents have been working together to show how we have and continue to improve the process, both here at PTAB and also at Patents. This is something we've always done, that we'll continue to do, and we welcome comments and suggestions on past (audio drops).

On a lot of the forums, presenting regularly on our efforts to increase transparency with you and to also maintain confidence with the public is very important. And so we're glad to have the opportunity.

As you are also aware, for organization
purposes, we divided up this inquiry into three phases. The first phase highlights the strategic coordination between PTAB and Patents. There are so many efforts, large and small here, that are too numerous to count, many of which have been reported on previously. I think an excellent example of which (audio drops) with the training and cross-collaboration that was just addressed by Vice Chief Judge Gongola.

The second phase which concerns how PTAB accounts for Patents' work, and also just been reported to you by Judges Deshpande and Horner. This issue is something that has been in our radar since the beginning of AIA. That belief of which (phonetic) because it is required by Fetchie (phonetic). Certainly this changed over time as we learned more and adapted policy, such as through Presidential decisions like Advanced Bionics. And I am confident it is something that will continue to evolve, especially with your participation and input.

And, finally, we have Phase 3, where we
discuss how patents accounts for PTAB's work. And
as noted in the opening remarks by Acting Director
Hirshfeld, I am pleased to report that PTAB has
been and will continue to work closely with
Patents on this and are making progress, both on
the sharing of collected data and joint analysis
fronts. We look forward to presenting any result
to you in the future. Thank you.

JUDGE BOALICK: Thank you, Mike. And I
think now we will take questions. We see there
was one question in the Chat, having to do with
the Director review process that was asking if the
rules for rehearing apply to Director review or
from a party challenge, PTAB, for being wrong
regardless of the rehearing standard, and if it's
on the single request, how is it framed to cover
the standard. So, I'll turn that over maybe to
Linda and Kal to address that question.

JUDGE HORNER: Thanks, Scott. Well,
first, I would direct everyone's attention to our
question and answers posted on our webpage,
specifically Question D2, which covers what
criteria the Advisory Committee uses when iterating Director review requests. It provides some examples of criteria, including matters that the Board has misapprehended or overlooked due to the rehearing standard. But it also includes, for example, material errors of specter law, novel issues of law policy, or issues on which the Board's panel decisions are split, or other issues of particular importance to the Office of Patent Community et cetera. So that provides sort of a framework for possible areas where Director review might be of interest and advisable.

So, Director review is (audio drops). We have that in our materials as well. And so, I'll just remind everyone that, as Judge Deshpande noted in his comments, that parties can request either Director review or Panel rehearing, but not both. So, in the single request, bear in mind the criteria set forth in Question D2.

JUDGE BOALICK: And, so I don't know if there are other questions about Arthrex or any of
the other PTAB topics. I will note that there appears to be a question on the item that Drew mentioned about trademarking. I'm not sure when a good time might be to answer that. But I'll just -- if you have questions, please let us know, and then we'll turn the floor back over.

MS. MAR-SPINOLA: Scott, this is Julie. Pardon me, Drew, go ahead.

MR. HIRSHFELD: You probably were going to the question that came in the Chat on trademarks. But that's what I was going to say is, as I mentioned, have to leave shortly for another meeting, actually, another public event coming up, but there is a question that came in about the trademark filing, let me just find it here. So, the question was, which non-conflicted employee of the Office gets to examine the trademark application, and doesn't this need to be done by statute to protect the CO of the Office. So, obviously, I'm not surprised by the question. We've given this a great deal of thought about the oddness, and we recognize the
oddness of applying for trademark protection where
a USPTO employee obviously will be an examiner.
However, this case will be -- these filings will
be subject to all the same procedures and rules as
any other trademark filing goes forward. So, I
can't answer the specific question about which
examiner, et cetera. But I want you to know that
the same procedures will apply for these
applications as any others.

And I just wanted to point out that we,
of course, recognize, and I recognize, the oddness
of the situation. And even in Dave Gooder's blog,
Dave, of course is the Commissioner for
Trademarks. In his blog, he acknowledges this
issue as well. And I'll just say from my personal
standpoint, the Office should do, and I'm not
doing my duty if we are not taking upon the
responsibility to protect our stakeholders in
every way possible. So, notwithstanding the odd
situation that we have in front of us, I feel it's
very important for us to take a step, so that we
can better protect applicants. We've seen a
number of situations arise where people are taking our marks and defrauding our stakeholders. So, I hope you can all recognize that that is our priority and we're going to take every step -- as far as I'm concerned, we're going to take every step we can to protect all of you.

MS. MAR-SPINOLA: Thank you, Drew. I think that it helps to address the issue directly and candidly. And I think that's all that we can do for transparency at this point. And allow the process to take place first. So, thank you for that response. Are there any other questions to Director Drew or to Chief Judge Boalick?

JUDGE BOALICK: Excuse me, I can see one more question in the Chat, which is one that I know has been very carefully considered, asking about the authority of Drew's performing the functions and duties of the Director to actually issue the decisions for Director review. I guess I'd offer Drew if he'd like to answer that, or I'm happy to address that.

So, I think what I would say is that
this a question that has been very carefully
considered, and we strongly believe that Drew as
performing the functions and duties of the
Director has ample legal authority to issue those
decisions. It is an issue that's looked at very
carefully, but we are very confident that of the
answer.

MR. HIRSHFELD: Thanks, Scott. I have
nothing to add other than just to reiterate what
Scott said. This, obviously, of course, is being
considered and thought about and we're well aware
of some people's opinions in this regard, and so
we have certainly done our due diligence in this
respect.

JUDGE BOALICK: Great. And I see
another question about will the interim procedures
undergo sort of a notice and comment rulemaking
procedure. I guess at least what I can say for
right now is that, as we mentioned, these are
interim procedures. We're interested in the
public's input about what should transpire for the
future. I would say that is a possibility, but at
this time, I think we're gathering input and
information about what the next steps are.

MS. MAR-SPINOLA: Thank you, Scott. I
think that Jeremiah Chan has a question?

MR. CHAN: Yes, thank you, Julie. I had
a question actually for Judge Michael Kim. I was
kind of excited to hear about some of the
collaboration, cross-agency collaboration with the
process of data-sharing. Would love to hear a
little bit more about what kind of roadmap for the
next three to six months. And, frankly, where are
we trying to get to? What does that end state
look like on that collaboration?

JUDGE KIM: Sure. Thank you very much
for the question. So, that was addressed, in
large part, by what Acting Director Hirshfeld said
in his opening remarks. You know, finding why
claims are held invalid, the reasons, and the
basic questions, were they before the Office, you
know, the art that was applied officially before
Office, you know, if it wasn't, why not. And
really getting to fundamentally know what
(inaudible) all this, so that we can take all the information and work with Patents to have a feedback loop in the process.

MS. MAR-SPINOLA: Okay, Steve.

MR. CALTRIDER: I think we'll try and stay on time here, Julie, and hand back things over to you and to proceed to the next agenda item. Thanks very much for everyone. Good presentation, very informative.

MS. MAR-SPINOLA: And thanks Steve and PTAB. I would encourage folks, if they have further questions, to send them to us, and we'll try our best to respond to them, either today or after today's meeting. So, let's move on to Patent Pendency and Quality. So let me hand it over to Jeff Sears, our chair of the subcommittee.

MR. SEARS: Thank you very much, Julie. Happy to be here today. We have a great presentation coming up from the Pendency and Quality side of the house. We are going to be talking about two topics that don't get a lot of air time, but are really significant, nonetheless.
The first is going to focus on design patents. We focus a lot of utility patents, but design patents, as we know are also a key aspect of commercial protection for certain types of products. And then we're going to turn to a presentation on the petition process. I turn it over now to Robin Evans, of the Office.

MS. EVANS: Thanks, Jeff. It's a pleasure to share with PPAC. As you said, we don't hear a lot about design, but you've heard from Karen Young before. She is the Director of TC 2900, specifically design. And she's going to talk to us today, share about the quality of design drawings and they've been working on this for a very long time, and you've heard about this before. And so, we want to bring Karen back, so that she can talk about the improvements that they've made thus far. So, I'll turn it over to Karen Young.

MS. YOUNG: Check to make sure you can hear me. All right, thank you. Next slide, please. So, as I mentioned, thank you so much for
letting me join you today. I am Karen Young, the Director of the Design Group. And when I talk today about drawing, I am referring to the drawings that are published with the issued patent.

So, by way of background, back in 2016, the USPTO received feedback that the images published as part of the design patent grants were degraded compared to the images provided to the Office by the applicants at the time of filing. So, the Office looked into the issue, and it was noted that during the overall electronic processing of an application, and by that I mean the entire process -- the initial receipt of the files, the movement of the files into the examination tools, and in the last stages, which is the publication and dissemination of the patents.

During that overall process, there was a specific conversion process where all the incoming file types were converted to another file type, a raster type. And this conversion was mainly
responsible for the degraded quality of the image in the design patent grants.

Next slide, please. So to address this issue, back in 2016, the USPTO changed part of its process and moved to preserving vector-based drawings submitted by applicants in .pdf. These drawings are stored and displayed in a system called the Supplemental Complex Repository for Examiners. That's a mouthful, so we shortened that to SCORE. So, the SCORE drawings are looked at by examiners when they examine applications and the SCORE drawings are pulled and used in a printed, official paper patents that are mailed to the applicant. They are also loaded into the supplemental content of the electronic files of our patent application files that are viewable by our external stakeholders.

Next slide, please. I want to take a moment to show you examples of the improved quality that resulted from that process change. On the left side, you'll see the image as it ends up after the conversion process that was
identified as responsible for the degradation of
the image. On the right side, you see the
vector-based drawing image the applicant submitted
which is preserved and, again, this SCORE image is
used by the examiners. It's included in the
printed patent grant sent to applicants and it's
available to stakeholders in the supplemental
content area of the electronic file, so they can
view it. In the enlarged areas, especially, you
can see the cleaner, sharper lines of the
preserved vector-based image on the right.

Next slide, please. So, here's another
example where the drawing image of the tire tread
is so much better on the right side, which is the
image in SCORE. So, I've noted that the images
preserved in SCORE are used by examiners. They're
images received by applicants as part of the paper
patent grant and the SCORE images (inaudible) to
our applicants. I can't emphasize that enough.

So, these changes that were implemented
in 2016, they did greatly improve the quality of
the design patent drawings. However, let's fast
forward to today. The USPTO remains committed to providing high quality patent drawings, and thanks to feedback from both external customers and internal reviews, we have noticed some issues that have arisen.

So, I want to point out some of the issues, provide tips to applicants to avoid these issues and mention our ongoing effort to continue to make improvements. So, if you can go to the next slide, please. So, here I am showing a portion of a design. On the far left is how the drawing appears as filed in SCORE. In the middle, is that same portion and how it appeared on the issued patent. You can see that there's an entire area whitened out. And on the right side, in blue, is a box that you can't see in the as-filed version, but it's there, and it was revealed during the data capture printing process as the reason for the whitened out area.

Let's go to another example. Next slide, please. So, in this example, the portion of the design I am showing is meant to be very
light, as filed and seen on the left. However, the printed patent included blacked out areas as shown in the middle. Then on the right, I'm trying to illustrate that a translucent layer was found to be present. That is the reason for the blacked out area.

Next slide, please. I have two more examples of issues that we've become aware of. The first, as seen here, is in the published patent drawing is pixelated. You can see the difference between the As Filed and the As Published.

Next slide, please. We're also seeing some small gaps in the lines of the patent drawings. Sometimes these are only visible when you really zoom in on an image.

Next slide, please. So, the Office is committed to continuing to work with the stakeholders and working internally to improve patent drawing quality. I believe communication and awareness is key, as we work together on this effort. And so to that point, I wanted to note a
few items. When the drawings are submitted as vector-based drawings, they are treated as vector-based drawings throughout the entire process.

Next slide, please. If the vector-based drawings have invented elements in them that are raster, the entire drawing has to be processed as a raster image.

Next slide, please. So, applicants can help the Office by checking for hidden objects, check for layering, and make sure all the drawings are flattened before submission.

Next slide, please. So, internally, steps that have been taken include training USPTO staff to better detect those unexpected outcomes in the final drawings. Where possible, several IT and software improvements have been implemented to correct some types of output errors that have been noted. The most recent update was made on March 10th, where the software we believe has resolved the pixation [sic] issues and the issue where there is a gray output that's darker than the
source. We are exploring further solutions, for example, to address the gaps in the lines and the semi-transparent overlays that are being replaced by the opaque blocks in the output. We will continue to explore solutions for those items.

Next slide. That's my update for you today. I do have my information here, and I'm happy to assist you in the future. If you have any questions, don't hesitate to reach out to me. Thank you very much for letting me speak today.

MR. SEARS: Thanks very much, Karen.

This is Jeff. I do have a couple of questions for you. They're really two in the same topic. The first is how did the Office identify these drawing issues? For example, how did the Office figure out pixilation was happening. And second, how did the office figure out what the underlying issue was?

MS. YOUNG: So, that's a very good question. It is a twofold effort of how we found out about it. We did get feedback from our external customers who received a patent that did
not look like what they submitted. So, we did get some external feedback that helped us see that there was a problem. We also had examiners who, like I mentioned, they are trained to look at the SCORE drawings. However, when they are searching, they are looking at sometimes more degraded files, and then they have to go into SCORE to see the actual drawing. And when they saw the patent drawing had overlaid images, that was like, this is not right, this is not what I'm expecting to see, and they brought it to our attention.

So, then the USPTO worked closely with the folks -- our open area, our automation area, worked closely with the folks responsible for the publication and tried to get examples and work through things to see what the actual issue was. And I'm happy we've been able to resolve some. Clearly, we still have some more items to address. And we are continuing to review to make sure nothing else happens as a result of a change in the process. So, please, we welcome any input as people see an issue, please let us know about it.
MS. MAR-SPINOLA: Karen, this is Julie Mar-Spinola. How are you?

MS. YOUNG: I'm fine, thank you. Hi, Julie.

MS. MAR-SPINOLA: Good. A couple of questions, one from outside but one from me which is, it sounds like the image issues are more or less discovered after publication. Is that right?

MS. YOUNG: If it's a glaring issue, it's found out during the conversion process, so you don't realize there's an issue until you see the final result, and the final result doesn't look like the input.

MS. MAR-SPINOLA: So, I was just wondering is there an earlier stage to review the images, maybe even with the inventor, to determine whether there are any image issues?

MS. YOUNG: Cooperation with the inventor would definitely be something that we might potentially look into. We did, though, as I mentioned, train kind of the staff to kind of do a quality review and to look for those unexpected
outcomes before the final release of the drawing to try and catch things. And the software that they have worked on deploying has been trying to catch some of those (audio drops). So, I'm hopeful that we can go more of an IT solution, which would be a little bit maybe quicker than having another interaction back and forth with an applicant. But it's certainly something we could consider if we need to explore more solutions.

MS. MAR-SPINOLA: Great. Thank you. So, just turning to a question from the outside, does the vector-based drawings preference suggest that Adobe Illustrator is a preferred drafting tool with DCI for raster images?

MS. YOUNG: I definitely can't comment on a preferred drafting tool. I know there's many out there that are equally well. I would say that the most important thing is that if you can make the images as sharp as possible, get rid of all the layering, and when you submit them, you should be able to go into the SCORE. And what you are seeing is what we want to see on the end. So, if
you are happy with the way they uploaded, then
that's what we want to see on the other end. I'm
sorry, I can't comment on a particular tool.

MS. DURKIN: It's Tracy Durkin. I was
just going to add an important comment for the
public after sitting here, and what a great effort
you and the Office have made on getting to the
bottom of this. But I think the important
takeaway for the public here is that, when you
look at a design patent, particularly one that's
in the search files, that it's very likely in some
cases that the drawing as published on the patent
is not what the right is. And so, going into that
SCORE file and actually looking at the drawings
that were examined and the drawings that were
approved, is really important, especially if
you're evaluating a third-party patent and trying
to determine whether or not there might be an
infringement problem.

So, I think the important takeaway here,
until this is completely resolved forever and
ever, is you can't really take the patents, in
some cases, at face value. That you really do have to go into that SCORE file. I think that's particularly important for things like broken lines that sometimes don't show up clearly or solid lines can show up as broken lines, particularly in that pre-2016 time period. So, we're on the right track. Just a word of caution to folks, especially if they're not familiar with the SCORE file, I just wanted to make that comment. So, thank you, again.

MS. MAR-SPINOLA: Jeff?

MR. SEARS: Thanks very much, Julie. Thanks very much, Karen. Really, I would like to laud the efforts of the Office on identifying and addressing these issues. Really great effort. I'm going to turn it over now to the Patent Office to talk about petitions. Before we get to petitions, I'd just like to make a couple of very brief comments. Petitions can sometimes be an obscure topic, but we, probably, whether as applicants, attorneys, or inventors have filed one or more of them. Petitions for Track 1, for
example, the expedited examination, petitions for patent prosecution, petitions to revive. These are all sorts of your common petitions. So, I turn it over to the Office for the presentation on petitions.

MR. HANLON: Good afternoon. This is Brian Hanlon. I'm the Assistant Commissioner for Patents, overseeing the Office of Petitions. And this afternoon, you will receive a presentation from Kristen Matter and Fenn Mathew. They're going to speak to you today about how petitions are processed within the Office and also provide you with some statistics and electronic resources that you can use for frequently filed petitions and you can use to expedite your petitions. So with that, I will turn it over to Kristin to start the presentation.

MS. MATTER: Thank you for inviting us here today. Oh, am I unmuted? All right. Thank you, Brian. And thank you, Jeff and all the committee members for inviting us here today.

Before I talk about the flow of
petitions, and I'm sorry, you can progress to the
next slide, please. So, before I talk about the
flow of petitions, I think it's important to
remember that, although there is an Office of
Petitions at the PTO, we don't actually decide
every petition that is filed. Petitions to the
Director are delegated to various officials
throughout the Office, and these delegations are
outlined extensively in MPEP 1002.02.

For example, 1002.02E list approximately
50 different petition types that are delegated to
the Deputy Commissioner for Patents who oversees
the Office of Petitions. And we do handle the
majority of petitions filed with the PTO. The
Technology Centers decide at least 20 different
petition types as well, and these are listed in
MPEP 1002.02C. For purposes of today, that's
really our focus, petitions that are handled by
the Technology Centers and the Office of
Petitions, since those are the most commonly filed
petitions with the Office. However, I believe
there are least 12 distinct business areas
included in MPEP 1002.02.

Next slide, please. This slide is an overview of the general process of how petitions work their way through the office. The process starts when a petition is received by the PTO. For purposes of this slide, we're not really talking about ePetitions, but we're focused on petitions received through mail, fax, hand-carried or EFS web.

That application document is placed in the electronic record and given a document description, similar to every paper in the image file wrapper. That document description is important because it generates an internal message to a specific business unit, who then either re-routs the document, if necessary, or enters that petition into POM, where it sits in a queue until it get assigned and decided by an appropriate official.

And I want to stay here for just a moment longer and really emphasize the importance of these document descriptions or doc codes.
Because petitions are handled by various areas throughout the Office, one of the ways to help reduce pendency is by initially routing the petition to the correct area. When filing papers via EFS web, applicants choose a document description. So by choosing an accurate document description for their petition, applicants can help reduce processing delays and avoid a situation where that petition just sits in the file until someone happens to notice it. And the same rules apply when mailing or faxing a petition in, except the Office will find that document description based off the use of a particular PTO form or a header or label on that paper, for example.

Once that petition is entered in a POM, as I mentioned, the petition remains in queue until it is docketed, generally in the order it's received to an appropriate deciding official. That official will take a detailed look at the petition and usually grant it, dismiss it, or deny it.
A granted petition is one where the requested relief is fully provided. The application will often then be routed to another business area for further processing, such as entry of an amendment that was filed as part of the grant full petition to revive. A petition is dismissed where the relief is not granted; however, the matter may be reconsidered through a renewed petition. And this includes adverse decisions by Technology Center or Central Re-Examination unit directors. Their decisions can be reviewed under 37 CFR 1.181 by the Deputy Commissioner for Patents who oversees the Office of Petitions. And, finally, a petition is denied where the relief is not granted and the USPTO's consideration of the matter is concluded. It's important to know that only certain delegations can result in a final Agency action, but that does include petitions delegated to the Deputy Commissioner for Patents.

And that's all I have regarding the process. I believe we'll take questions at the
end, so I'm going to pass this off to Fenn to
cover some numbers. Next slide, please.

MR. MATHEW: Thank you, Kristen. Good
afternoon, everyone. So, by way of background,
the Office of Petitions staff includes 20
paralegals, 8 attorney advisors, 7 petitions
examiners, and a management staff consisting of 3
deputy directors and a director.

As we can see from the table here, the
Office of Petitions decided about 44,500 petitions
in FY20, which was an increase of about 2,500
petitions from FY 19. You can also see, despite
an additional 2,000 petitions in FY20, the overall
average pendency of all petition types dropped
from FY19 to FY20, indicating that the Office of
Petitions was deciding in a much more expeditious
manner.

We've also included statistics for Track
1 and patent prosecution highway petitions on this
chart. The reason for that is Track 1 and PPH
petitions account for over 20,000 petitions per
year. So, a little less than half of the
petitions that are filed. And, of special note, are Track 1 petitions. Track 1 petitions are petitions for prioritized examination and they are subject to a cap of 12,000 grants per year. So, since applicants are providing or paying an additional fee for prioritized examination, it behooves the Office to handle those petitions in an expeditious manner. And, in FY20, 98 percent of Track 1 petitions were decided in 40 days or less. So, as I have noted, those are two of the most frequently filed petitions. Other frequent petitions that are filed include petitions to revive an abandoned application or to withdraw a holding of abandonment, petitions to accept late priority claims and papers, petitions to accept late maintenance fees, petitions concerning patent term adjustments, and petitions to make special based on age or health.

So, later on in the slides, I'll be showing some of the electronic resources, where this information can be found along with pendency numbers that can be found for those specific
petition types.

Next slide, please.

MR. SEARS: Fenn, before you move on, this is Jeff. I have a question. It's a question about pendency. So I know for any given taste, if you file a petition that takes 40 days or 100 day to decide, but certainly your pendency in that case might be affected. What's your view on whether the Office's handling of petitions, generally, has any effect upon pendency across the Office. And I'll give you my gut feeling on the map -- there's about 40,000 petitions per year. The Office gets about 600,000 new applications. So my gut feeling would be the overall effect on pendency is probably negligible. I'm just curious if the Office has thought about it.

MR. MATHEW: Sure, thanks for that question, Jeff. And the pendency can be impacted in two distinct ways. So, we have petitions to make special or for prioritized examination. So, that's kind of impacting pendency on the front end because granting of those petitions will allow the
applications come to the examiner in an expedited manner. So, we kind of have some petitions that will impact that and, specifically, I noted PPH petitions and Track 1 petitions, so roughly 20,000 of those petitions are decided each year, and those do have an impact on pendency on the front end.

Additionally, we will have what we call critical petitions. Petitions, for example, that -- for delayed priority claims. Which could impact examination downstream. And while we don't have the high number of petitions of that particular type, it does impact prosecution and pendency and therefore -- it doesn't affect a lot of the cases, but it does have an effect on some pendency.

MR. SEARS: Thank you.

MR. MATHEW: So, continuing with this next slide, this is just a snapshot of the current fiscal year, specifically as of July 1st. This is a graph displaying the undecided petitions in the Office of Petitions by age. The overall pendency
is about 65 days for undecided petitions. As of
July 1st, we had about 7,800 undecided petitions.
As you can see, the vast majority of our petitions
are within three months that are yet to be
decided, so we're continuing to make strides in
our overall pendency with respect to petitions.

Next slide, please. So now we have some
statistics on the Technology Centers. As you can
see, the Technology Centers typically decide about
10 percent of the total petitions, in terms of
total number, about 4,600 petitions, as opposed to
the 40,000-plus that the Office of Petitions
decides. And we have some pendency statistics
here, specifically with respect to the Review of
Final Restriction Requirement and Relating to
Prematureness of Final Rejection. These are two
petition types that are often seen in the
Technology Center and that are very important with
respect to pendency.

Before I dive into the numbers, as an
initial matter, we'd like to reinforce one point.
There has been some suggestion that the Office
deliberately delays decisions on petitions relating to prematureness of final rejection until an applicant file an RCE, only to then dismiss the petition as moot. So, we wanted to dispel the notion that this is the practice. The Office in no way sanctions or condones that type of behavior. While we have had some outlier instances where these types of petitions have been dismissed as moot after filing an RCE, they are just that. They are outlier instances.

The Office acknowledges and is cognizant of the limited time period that applicants have after final rejection. And we continue to make strides in deciding these petitions in a more expeditious manner. And this is happening through communication between the Technology Centers as well as improved tracking tools.

And so that provides a segue into the data on the chart, which kind of shows that we are making those strides. So, we see, with respect to the review of final restriction requirement and, as I mentioned, relating to prematurity of final
rejection, the average pendency has dropped in both instants. For the third petition type that is there, For Matters before the Technology Center, this is kind of a catch-all, miscellaneous petition type. Some of them can include petitions to withdraw a drawing objection, resetting of time periods, and expungement of papers. So, some of the petition types that fall under that code don't necessarily impact pendency in the same way as the first two petitions that have been mentioned.

Next slide, please. So, now we wanted to provide some resource that are available to the public. So, the first is Patents Dashboard. There's a link for Petition Data off of the Patents Dashboard. And this can be found off of the Data Visualization Center page.

So, as I kind of alluded to earlier in the presentation, this page provides data on Office of Petitions petitions. Specifically, it provides data on frequently filed petitions in the Office of Petitions, and many of them are the ones
that I have mentioned previously, earlier in the presentation. They are divided by petition type, they provide the average number days pending, and this is a rolling 12-month average, as well as the grant rate of the total petitions decided within those past 12 months.

Additionally, we have ePetitions' and non ePetitions' data. So, ePetitions are petitions that are available for certain types of petitions. For example, revival based on unintentional delay in abandoned application. The ePetitions, if submitted, are decided instantaneously and have 100 percent grant rate. Certain requirements need to be met in order to file an ePetition, but if those requirement are met, you will receive an immediate decision.

To contrast that, we have the data for of the petition had been filed through standard means, either through EFS web or through mail or fax. As you can see, you're not going to get a lower average days, zero days. So the ePetition option, where available, is always advisable.
And, likewise, the grant rate is 100 percent for ePetitions. You can compare the grant rate between ePetitions and non-ePetitions.

Next slide, please. So, in addition to the Patents Dashboard, we also have a Petitions Timeline. Whereas the petition data off the Patents Dashboard was limited to the Office of Petitions, the Petitions Timeline provides information based on all petition types. And the page is well-constructed. There is a nice navigation menu on the left, which shows petitions and where they -- they're divided by stage of prosecution. So, you can see on the left, we have choices for Prior to Examination, During Examination, After Close of Prosecution, Allowance After Payment of Issue Fee, and Post Issuance.

So, as we can see, we see a little snippet here and we see under the Prior to Examination, we see it further subdivided into different categories. So, clicking on one of these links -- next slide, please -- it will bring up to a more detailed page. So in this -- we have
a little snippet if you had clicked on the link
Related to Advancement of Examination Petitions.

So, once again, you will have the
petition type, you will have the average days pending
of a decided petition, you will have the grant
rate percentage, and you will have the deciding
office. Additionally, you'll see on the column,
on the right-most column, there's an ePetition
option. If any of the petitions have an ePetition
option, there will be a link within the box next
to that petition type that will navigate you to
the ePetition page.

Under the petition type, all those
petition types are clickable links. As you can
see, there's numbers next to each of the petition
types. Those are internal codes. That's how we
kind of keep track and code of the different
petition types.

Other things to note, the deciding
office; in this particular example, you can see
that three of the four petitions are decided by
OPET or the Office of Petitions. One of the
petitions is decided by the Technology Center.

And we have the little legend at the top, since we love our acronyms, to identify what each of the deciding offices are.

The other plan for you to note, I mean, the grant percentage you'll note under Petition Type 644. You see the grant rate percentage is at 100 percent and you see that there's a little asterisk next to that 100 percent. That is just to indicate to the public that that is an infrequently filed petition.

Next slide. Thank you. That's all we had for our presentation, and we'd be happy to take any questions that you might have at this time.

MR. SEARS: Thanks very much, Penn. I have a comment and then a question for the design part of the presentation. The comment, could you bring up the pendency slide, basically the histogram that shows the pendency of the petitions across months.

MR. MATHEW: Sure.
MR. SEARS: Great, this is the slide.

So, something we worked on with the Office in terms of pendency is what I heard referred to as moving a mountain. Sort of putting your hands on the mountain on the right-hand side and trying to squash it over to the left. And things we look at are how long is the tail and also how tall is the tail. And when I look at this chart, what I see is really tremendous progress by the Office. I mean, this is a mountain that is almost pushed entirely to the left. It's pretty close to idealized, so I really wanted to laud the Office for its great effort on attacking petitions.

Second, a question from the public regarding designs, a question for the Office -- if the published image differs from the image that was submitted to the Office through SCORE, what's the response for the applicant? Should the applicant file a request for Certificate of Correction to try to address that issue?

MS. YOUNG: Thank you, Jeff. That's a very good question. Can you hear me?
MR. SEARS: Yes.

MS. YOUNG: We definitely would encourage folks to go ahead and file for that Certificate of Correction, absolutely.

MR. SEARS: Great. Thank you. Julie, I see we are at 12:40, which is right on time for the agenda. So, I will turn it over to you.

MS. MAR-SPINOLA: Excellent. Thank you. Thank you, everybody for that. That was so very interesting and informative, particularly on the design patents. Everybody's always interested in the pendency of the petitions. So, thank you very much for those details. We're going to now take about a 10-minute break. We will resume at 12:50 p.m. Eastern and see you in a few minutes.

(RECESS)

(RECESS)

MS. MAR-SPINOLA: It's now 1:50 and we're back on from the break. Thank you, Jeff, for your pendency quality presentation. Again, very helpful, very interesting. We're going to move now to finance and budget. Let me turn it
over to Barney Cassidy, our chair of the finance subcommittee. Barney? Barney, are you on mute? I'm not hearing you.

MR. CASSIDY: Can you hear me now?

MS. MAR-SPINOLA: Yes.

MR. CASSIDY: Okay.

MS. MAR-SPINOLA: Thank you.

MR. CASSIDY: Thank you. Thank you for the introduction and the notice that I was on mute.

It is an important topic that I'd like to address before turning it over the Jay Hoffman for the periodic review of finances. The topic is related to the fees that users pay to the PTO. I think everyone knows the PTO is funded entirely by fees paid by the users and since the passage of the Leahy-Smith American Events Act which ended fee diversion, the diversion of those user fees or other agencies or other uses.

Since then, Congress has annually appropriated to the PTO all of the fees that the PTO estimates will collect during the fiscal year.
This for the first time, however, the President's budget has asked for a lower amount to be appropriated namely that the amount that PTO initially expects it will spend during the year. And the delta is about $64 million.

This change is concerning to the Public Patent Advisory Committee so much so that we have taken the step of writing the appreciators to ask that they return to the subtle practice of appropriating the entire amount of fees that are collected -- that are estimated to be collected at the beginning of the year. And I just want to point out a couple of reasons why we took this action and why we're so concerned about this.

First of all, these are fees that may only be used for the purposes of supporting the work of the PTO. They eventually must be used for that purpose. And what the change that the OMB has mandated in the President's budget does is it takes $64 million and sort of puts it in a separate account that we can't get to during the year. We have to go through a separate process to
get it later. We will get it later. But what happens during the year is actually quite important.

I think everyone recognizes that the special quality of patents and trademarks is that they are time based as the Constitution says, these are rights that are given for a limited time. And you have a limited time as an inventor to apply. We have restrictions on when we can examine them and when we must finish that examination process. These are time-based rights and the demand for those rights changes throughout the year.

One year, for example, you may have a spike of interest in vaccine patents related to MRNA. You may have a spike of interest in alternative energy patents or in artificial intelligence patents. That requires the patent office to respond, for example, by giving more overtime to the examiner's expert in those important areas that are important for the inventors and eventually for the American people
and society as a whole.

This takes away that flexibility. We can meet those needs, but that will require that we ignore other needs such as the ongoing operating of our IT equipment and processes and personnel. So this steals flexibility from the patent office when they need it during the course of the fiscal year. And, you know, these -- as I said, eventually end up back in the hands of the PTO. But the problem is that the loss of flexibility which is, you know, what any prudent enterprise would do during the course of the year particularly because this is not taxpayer money. This is user fee based.

So that's my explanation of why we wrote the letter. We're happy to take questions and comments about that, but with that I'd like to switch over now to Jay Hoffman and the presentation that the PTO will provide about the current status of our finances. Thank you. I think you're on mute, John.

MR. MILDREW: Okay. Can you hear me
now? Okay. Great. Thanks, Barney. I'm going to take over Jay Hoffman today. Jay had a scheduling conflict and couldn't be with us today. So I'm the Plan B, the back bench, whatever you might want to say. I like to call myself the Deputy Chief Financial Officer, but I've been called a lot worse as well.

So I'm glad to be here today. I appreciate your comments and why don't we jump into the presentation. The good news is that our financial position overall is strong and we're going to share our typical standard quarterly rack and stack for you today for '23 information here.

And we'll go through the usual three years. You know, we're always looking in the financial office at three years. The current year, which is fiscal year 2021. The budget year which is 2022 and the budget formulation year which is 2023. Always keeping our eyes on all three years.

So the next slide. Our '21 status, financial outlook. Our outlook is largely
unchanged from what we presented to you in the last quarter. As we get closer to the end of the fiscal year, our spending projection tends to firm up a little bit which is good. And so, so far so good.

We're still on the path of ending the year above our minimum operating reserve level which is set at $300 million. And so, we're looking at as you can see on the chart there our projected end of year operating reserve, that very last line on the chart there under the patent's column of ending the year with $330.7 million. So that's $30 million above our minimum, which is always makes us feel comfortable when we're above our minimum operating reserve.

And we plan to spend more than what we're planning to collect this year, which means we'll be taking funds out of the operating reserve and that's exactly why a fee funded agency like ours has an operating reserve. So we have a continuity of operations. We can plan for the work we need to do in the year and then execute
accordingly.

Our estimated patent fee collection is $3.098 billion and you can see that number on the bold line there, FY21 estimated fee collections under the patent column there. The $3.098 billion that's our estimated fee collections for patents.

And through June 30th, quarter three, our total revenue collections are above our plan by 1.7 percent, which is great. And our application filings are 1.8 percent above our planned levels as well as maintenance fees are above our planned levels at 3.5 percent. And I'll show you on the next chart what that looks like graphically.

You can see this chart shows the end of year projections by C category. And just to orient you to the chart here. The percentages above or below zero are above and below our current plan. So you can see that the percentages actually above the bars indicate the percent difference between our end of year projections of the fee category and the annual plan for the fee
So you can see patent maintenance is almost four percent, 3.95 percent above our plan and that's good. And as we noted on the last slide, the applications filings and maintenance fees are all above plan. Next slide.

Okay. So this is the -- this graph depicts the end of year aggregate revenue projections for the patent's business line. And each day, we're calculating an end of year projection. This is the 25-day moving average projection of revenue based on trends that we've experienced so far in the fiscal year and also any factors that we know that maybe occurring in the future.

So let me just give you an orientation to the slide. The blue squiggly line there is our end of year projections calculated every day. We compare that blue line to the purple line, which is the straight line there, which represents our most up to date plan. And the plan currently reflects $3.098 billion and that's what was
referenced earlier in the slide just a few slides before this one.

And the revenue is tracking at about one percent above our plan, which is always good. We have more revenue than you planned for. It's tracking at $3.127 billion or about $30 million above the plan or as I said about one percent.

Next slide.

So this slide here is the operating reserve balance. The chart shows that patent's operating reserve balance is again, it's a 25-day moving average. You'll see that it fluctuates and as noted earlier, we're currently above our minimum level of $300 million and that's that straight line that goes across. You'll see it fluctuates as the 25-day moving average adjusts for the spending and revenues as they come in.

It really is when you're running an organization like ours that's as Barney mentioned 100 percent fee funded, it really is about managing cashflow and how important that is.

That's why any time we're above our minimum
operating reserve, it's a good thing. Okay. The
next slide.

So moving on from fiscal year '21 to
fiscal year '22. The House and Senate
appropriations committees held hearings in May for
our budget. Both hearings focused on other
bureaus within the Department of Commerce not on
U.S. PTO. The appropriation request in the
President's budget is $3.994 billion, which is
based on a projected spending requirements not fee
collections.

Fee collections are actually estimated
at $4.05 billion. It's a difference about $64
million that Barney referenced in his comments
just before I started this presentation. But
again, not to be concerned because the fees
collected in excess -- any fees collected in
excess of our appropriation will be deposited into
the special Barney noted, the Patent Trademark Fee
Reserve Fund and will be available to you as PTO
through a Congressional reprogramming request.

And so, this is a change from
appropriating based on spending as opposed to
collections as a change from past practice, but it
is an Administration budget request item and
we're, as a part of the executive branch, we are
supportive of that change. The House Committee
just so you know had a hearing just so you know,
had a hearing on July the 12th and appropriated
USPTO at the President's budget request number.
So I just wanted to make sure that you were aware
of that.

Next steps for fiscal year '23 budget
formulation. Right now, we're working on our fee
estimates and requirements for fiscal year '12,
which will be submitted to the office of
management and budget on or about September 13th,
but before that goes, once the draft is finalized
within the USPTO, the PACs and the Department of
Commerce will get a chance to review later on this
month.

And then public relief of the budget for
fiscal year '23 is expected in early February so
it would be February of 2022. And it starts the
Congressional appropriations process all over again.

And so, with that I will conclude my presentation. And thank you for joining me and I'll be happy to answer any questions you may have.

MS. MAR-SPINOLA: Sean, this is Julie Mar-Spinola. And thank you very much. Nice to see you.

MR. MILDREW: Hi, Julie. Nice to see you too.

MS. MAR-SPINOLA: Thank you. Thank you.

If we could go back. I think it was slide number 42 where you have a bar chart. If we can go back to that slide?

Specifically on patent maintenance where you're almost four percent above the forecast. Is there a breakdown of which maintenance fees are being paid?

MR. MILDREW: Julie, I don't have that as part of this deck, but I'm sure we can get it to you if that's something that you would like to
MS. MAR-SPINOLA: I think so. I'm sorry, go ahead.

MR. MILDREW: Yeah, please.

MS. MAR-SPINOLA: The reason why I'm thinking about that is that I think it would be interesting to see where the maintenance fees -- at what stage they're being paid for. There was some concern maybe last year or so about whether the last maintenance fee was being paid or not. And so, I think that type of breakdown could be helpful.

MR. MILDREW: And, Julie, we've actually done some analysis on that very issue. And we'd be happy to share that with you because it's really interesting and it's a little bit different than the narrative but I think we've been hearing for the last couple of cycles.

MS. MAR-SPINOLA: Yes.

MR. MILDREW: So we'd be happy to share that.

MS. MAR-SPINOLA: That would great.
Maybe we can plan for the next meeting to share breakdown. I do think it is, you know, I've always been interested especially on the fee setting -- during a fee setting discussion to figure out the best place for the maintenance fees to be increased or not increased. Okay. So Barney, let me give it back to you. I think you're on mute.

MR. CASSIDY: So it's like you saw and I really appreciate that whole presentation. I don't have any other further remarks. And I think we can move along if unless there are further questions from feedback or from the chat?

MS. MAR-SPINOLA: I'm not seeing any questions in the chat so thank you, Barney. Let's proceed to artificial intelligence and technology with Jeremiah Chan, our chair of the subcommittee. Jeremiah?

MR. CHAN: Great. Thank you, Julie. And hello everyone. It's a pleasure to be here today.

As we continued to live through the
challenges of the pandemic, I am pleased to report that the PTL has continued to make significant progress with respect to its initiatives in IT and VI. The sustained productivity of the team during these circumstances is really a testament to the PTO strong leadership and its preparation and adaptability to change.

Today, we're going to adjust our normal sequence of it and start with AI policy then we're going to move to IT and AI updates. For AI policy, we're going to have a reasonably published AI patent dataset used in the recently issued report inventing AI, tracing the diffusion of artificial intelligence with U.S. patents. These datasets were released by the Office of the Chief Economist who assisted researchers and policymakers focusing on the impacts of AI invention. And I think it's a terrific example of the cross-agency collaboration that we've seen similar to the collaboration previously mentioned by Judge Michael Kim on process and data sharing between patents and the
PETA. We will also share highlights from the previously issued report of the National Security Commission on AI.

For IT initiatives, we're going to focus on the main priorities of the team ever since the beginning of the year which is cyber security, resiliency, moving to the cloud. And we'll also talk about the upcoming new structure related to DOCX filing in January of 2022. And then to close, we'll talk about AI initiatives and focus on enhanced search and CTC autoclassification.

It's probably worth noting that in discussing both IT and AI updates, we'll be using our standard format, which essentially tracks the agency's practice of agile development. We'll talk about the milestones accomplished in the last three months and then we'll move to the goals that we have set for the next three months. With that I will turn it over to Coke Stewart.

MS. STEWART: Great. Thank you so much, Jeremiah. So what we wanted to do today was to provide an overview of some of the activity across
government in the AI policy area.

And as many of you maybe aware of there are active organizations in this field was created by the government last year and that's the National Security Commission on Artificial Intelligence. Can we go to the next slide?

So this was created by the National Defense Authorization Act. As you can tell this is really a joint effort between the private sector and the government. There are a lot of heavy hitters on the committee. And in March of this year, they issued an enormous report. I think it's exceeding 1,000 pages. And the goal of the report is really to address what our national security posture is with respect to artificial intelligence and what the government can do to promote a better national security posture on that issue. Can we go to the next slide?

So as I said, it issued a report, a very lengthy report and one of the many chapters related specifically to IP policy. Can we go to the next slide?
So within that larger report, there were really two high-level recommendations. One was a recommendation that the U.S. government really develop and implement a national IT strategy. And that is to incentivize innovation in the area of AI emerging technologies.

So specifically, the commission, although their recommendations are binding in anyway, proposed a lot of different actions for the government. And some of those were directed directly to DOC and USPTO. So they're asking us to, you know, gather a subject matter expert in this area, convene public deliberations, make sure that we are collecting and reporting out on data on IP policy.

So the good news is that we have a longstanding AI IP working group at USPTO. We've been meeting for several years. As many of you are aware, we've issued our RCs. We've had a report on AI issues. All of this is available in the USPTLF site on our AI hub.

So this guidance from the commission is
very welcomed and it does channel very nicely with the work that USPTO is already doing. Can we go to the next slide?

An area that I think would be interest to our stakeholders is their second recommendation where it really drills down on a list of very specific IP considerations and they identify 10 of them. So as you can see, time eligibility. Whether that is a net that's kind of capturing AI inventions and whether that's an impediment to our national security needs with respect to AI.

Issues involving China. Whether there should be IP protection for new kinds of intellectual property that might support innovation in AI.

So this is a list of 10 areas that they want USPTO to look at. So what, you know, they did is they asked the Secretary to ask USPTO to look into those areas. And they've also asked, you know, the Vice President to take a role in this and maybe for even there to be an executive order.
So those kinds of formal instructions so
USPTO haven't taken place, but we are looking into
these areas in any event. We also agree that
these are very important areas for us to be
researching in the IT policy arena. So we're
moving ahead, recommendation or not, to be
researching these issues. To be evaluating what
we've done in the past? What we're doing current?
And to make recommendations to the department and
to the government on, you know, possible steps
forward to make sure that we're innovating in
these areas. Can we go to the next slide?

And just to mention a few other items
that are going on across government. There was --
the White House created a National AI Research
Task Force and they issued a request for
information recently that I would direct folks to
reviewing and potentially responding to. And the
point of that request for information is really to
identify ways to insured that everyone, all
Americans, have access to the benefits of
artificial intelligence research and innovation.
So that ducktails into the administration's other efforts on equity and making sure that, you know, we have an accessible IP system in the United States. But the other issue that they touch on is the creation of this National AI Advisory Committee. And that is a committee that is being created by the Department of Commerce.

And the implementation of that directive is being handled by NIST, which is another bureau in the Department of Commerce who work closely with on AI issues. So I also wanted to highlight this because they are looking for AI experts to join this government committee.

So if you have expertise in this area, especially if you have expertise in AI and IT, we would love to talk to you more about, you know, what might be involved in serving on the committee. Please feel free to reach out to me and I will direct you to the right folks. But we really want to make sure that we have, you know, an excellent AI advisory committee for the
And then the last thing I wanted to mention relates to IP5. For those of you who are not familiar with the term IP5, it relates to the five IP offices across the world. And we work very closely with them in a variety of issues including AI. They have a very active AI emerging technologies committee.

And we recently are a last IP5 head of offices meeting agreed on a roadmap. And basically, that just means what are the areas of study that all the five offices agree would be worthwhile for us to work together on? And those include statistics, classification, utilization of AI and various legal issues.

So while we're very active within the USPTO in encouraging innovation on AI issues, we're also very active across the government and even on the international stage. So that's really the update that we wanted to give today and I'm happy to answer any questions or else I'll turn it back to Jeremiah to hear from Andy Toole.
MS. MAR-SPINOLA: So this is Julie. I have a question.

MS. STEWART: Sure.

MS. MAR-SPINOLA: I'm not sure you can answer it, but let me just advance it in any event. I don't remember the particulars or even the country, but recently it was -- I read that one of the offices has granted an AI patent.

And so, my question is if -- let's say, the other countries have agreed to grant AI patents and/or the U.S. -- maybe trailing on that. How does the issue of them seeking foreign equivalent through the U.S. -- how will that be treated?

MS. STEWART: So I think what you're referring to, Julie, you're absolutely right. Our decisions in Australia and South Africa, I believe, to grant --

MS. MAR-SPINOLA: Yes.

MS. STEWART: To permit an artificial intelligent machine to file for our patent applications in those countries? But with every
country has their own systems so they can do it a little bit differently than we do. They may have different applicable laws and regulations. But I understand that those decisions may be appealed. So they're not filing in those countries.

And we also have litigation already issued in the U.S. But it's been a decision in the U.S. and U.K. and other countries that so far our laws do not permit artificial intelligence machine to be applicants. With that said, we want to make it very clear that if you are an inventor and you're using artificial intelligence or machine learning to conceive of your inventions, they're eligible for examination and filing with our office.

So we don't want anyone to get the wrong impression that just because you're using these tools that you should not be filing for patent applications. And we're seeing tremendous growth in this area, but we do know that, you know, folks are trying to, you know, push the boundaries on policy. Or maybe even advocate for changes in the
law with respect to what kind of inventorship is permitted.

MS. MAR-SPINOLA: Great. Thank you.

Jeremiah?

MR. CHAN: Great. Thanks so much, Coke.

That was great overview.

Excited to move onto Andy Toole to talk about some recently published AI found datasets.

I know I've got lots of colleagues and friends who do research in data science. In the patent area, we're very excited about this so, Andy, take it away.

MR. TOOLE: Great. Well, thank you very much, Jeremiah. And good afternoon everyone.

It is really a pleasure for me to be able to highlight these two resources that USPTO has released at the Office of Chief Economist has been deeply involved with. Next slide please.

I don't think it's any secret to anyone on this meeting or in this meeting that AI is a very important national policy priority. It's also important for the private sector and the
university sector. But the most recent wave of AI particularly AI related to machine learning and vision and other areas, subareas, like that. There's not a lot of information yet that built up about the different policies that we should follow and how the trends are actually going to play out as we move forward in time.

So what we really need are new resources to help us understand that. And I want to highlight two resources very briefly this afternoon. One is our inventing AI report, which was actually released in October of 2020. And that report and in the next slide, I'll talk about that in a little bit more detail. But that report really does provide a broad overview of what's happening in this AI space. And we've seen two patent documents.

And the second thing I would like to highlight in the next few minutes is the release of a new public dataset. A very important new source, I believe, that's going to allow us to really create metrics, track metrics and use data
to understand AI policy better. And that is a new
dataset called the artificial intelligence patent
dataset. And in that dataset, we include all of
the patents that have some component of artificial
intelligence technology in them out of 13.2
million total patent documents that were searched.
So next slide, please. I'll be talking about that
in just a moment.

First, let me just spend one minute on
the report. Now, the report itself is based on
the same dataset that we released. And what we
did is we built a machine learning model. So we
used AI to identify AI, if you will. And what we
lay out in this report is very impressive growth
in patent applications and the diffusion of AI
across different inventors, different organization
types and even geography within the United States.

So for instance, a second bullet point
points out here that in the 16 years from 2002 to
2018, the annual AI patent applications increased
by more than 100 percent rising from 30,000 to
more than 60,000 annually. And now, they make up
about 16 percent of our total applications received. This is data as of 2018.

And the patents also -- what's also very interesting to me, and again this is included in the report, is that AI is not just a single technology, it's actually spreading in a ubiquitous way across a variety of technology classes. So by 2018, 42 percent of the CPC technology classes had at least one document with some AI technology in there. Next slide, please.

So we took the dataset that we used to create that report and we added onto that dataset two additional years of information. So we added 2019 and 2020. We also created a companion document called the working paper that describes -- and some people might say excruciating detail -- the methodology that we undertook and the ways in which we tested our findings.

So when we built the machine learning model, we let it loose, so to speak, on 13 point million patent documents. Those are granted patents and public pre-grant publications. And
when it -- in identifying an incredible proportion
of patents that actually have AI in them.

Now, did we do it right? Well, that's a
big question. So what we did, and this is an
aspect of this dataset and of the report prior,
that nobody else has actually. We were able to go
to the experts within the AI Art Unit of the USPTO
and have them review manually some of our findings
and our predictions. So we had a random sample
that was reviewed by experts in the area. And
when we did that to test the, you know, the kind
of fidelity of our work and the accuracy of our
work, we found that actually it beats most of the
benchmarks out there in terms of what's been done
at other offices around the world, and even
academic researchers. So far, we're really happy
with that.

So both the dataset and the report are
available on the website. Since we released the
dataset in June, late, late June -- June 25th
actually of this year. There have been over 2,200
page views, over 375 downloads of the dataset and
again a similar number of downloads for the
working paper. So people are very interested and
I think this resource is going to do very well for
all of us.

The only thing I would like to add here
as a final comment is that this was, as Jeremiah
said, this was a great collaborative effort across
business units at the PTO including the patent's
organization, the CIO group, the OPIA group. And
I'm just -- I'm very impressed with what everybody
has contributed and we should all feel proud of
what we've accomplished here. Next slide, please.

So with that I'll end. And I will
certainly take questions if anyone has any. Thank
you.

MR. CHAN: Thank you, Andy. I think
it's a fantastic resource so I'm glad that, you
know, people are hopefully are aware of it. I
know many are already.

To your point about the difficulty in
doing it. I think one of the great things about
the dataset release is that there was also a lot
of transparency to provide it.

So the second dataset, data file actually, contains the patent documents that were used to train the machine learning models. And so, for those of you who actually tinker with the models and you're curious about how it was trained. Andy's team has also provided that information as well. So please take a look at it and use it. It's a great resource. And with that any questions for Andy or Coke?

MR. CALTRIDER: Jeremiah, I have a question. Fantastic presentation, Andy. It's really informative report. And I'm curious to know whether or not the datasets include the application with AI and kind of on ITR units? Or if it only -- so if you -- if AI is being applied to discover some synthetic rubber for example. Is that getting captured in this if it's part of a disclosure? Or does it sort out as looking for things that is either claimed or somehow didn't realize that AI is of the invention?

MR. TOOLE: Well, that's a great
question. Thank you. Thank you for asking that.
We do include a text analysis of the abstract of
the patent and of the claims.

So really the claims are a very
important part of how we identify the different
components of AI. So there are different -- there
are eight different categories of artificial
intelligence that we identify including machine
learning, diction, speech, AI hardware and several
others.

So the answer to your question is yes.
They are included. In fact, what was very
interesting to find was that these different AI
components when we search for them using the
machine learning model, they appeared in
technologies that we didn't really think were
going to have AI. Most of those were just areas
that you wouldn't think of, right?

So AI is in databases for sure. AI is
in other areas. And so those -- it's concentrated
in these areas you would expect, but it does occur
in these more obscure, let's say, technology
areas. And that's one of the great advantages of using machine learning approach actually. Is to be able to find it in these very difficult areas to find.

That's the advantage over the query approach which is the traditional approach in which, you know, you find technologies based on key words and patent classifications. But so the answer is yes.

MR. CHAN: Great. Thanks, Andy and thanks Steve for the question. Looking at the time. We've got about a little over 15 minutes left. So why don't we continue to move on and if we have time at the end, we can kind of have another opportunity for questions but thank you, Andy, and Coke.

All right. Turning to IT initiatives where we will focus on cyber security, resiliency, moving to the cloud and some new updates with respect to DOCX. I will turn it over to Jamie Holcombe and Don. Jamie, take it away.

MR. HOLCOMBE: Great. Thanks a lot,
Jeremiah. And go, go, go. First up, cyber security. Second, it's all about resiliency and then we'll talk about moving to the cloud. Don Watson, take it away.

MR. WATSON: Good afternoon, everyone. We realize we operate in a heightened cyber threat environment.

Many of us have seen in the news about the Colonial Pipeline attack, the Nefilim attack and even on the Fourth of July weekend, the CASEA (phonetic) tool which is a lone access tool being compromised effecting 200 businesses across 17 countries.

So we've been on a journey of continuous attacks when it comes to cyber security. So the last quarter, you know, we developed a self-service security vulnerability dashboard. It allows product owners to timely see their vulnerabilities and to remediate them as quickly possible.

We're also encouraging and getting our product owners to transition their products off of
end support operating system platform, the older
OSs to reduce vulnerabilities.

One of the primary attack vectors
nowadays from attackers is through fishing emails.
So sometimes, you know, the technology we have in
place lets the emails slip through. So we have
these warning banners. Our incoming external
emails to help prevent fishing attacks to inform
the user. Hey, exercise caution.

And the last, we focused on assessing
and reducing risk for our publicly assessment
systems. That's an ongoing thing. We're always
assessing the penetration testing of our publicly
assessable systems who have the greater exposure.

In the next quarter, focused on the
deployment of technologies secure our end user
systems. Traditional antivirus is not enough
nowadays so we're deploying some new technologies
that use machine-based learning and other type of
capabilities to ensure we can improve our
monitoring and instant response capabilities.

We also taking a role -- emphasizing a
role-based approach to help improve information
system level of security. And lastly, the
zero-trust approach, and that approach is the
default. No one person is trusted from inside or
outside of a network. Verification is
continuously required to get an access to
resources on that network. And systems are
segmented and there's authentication ongoing to
make sure the right people have the right access
for the right resources and nothing further than
that.

That also helps with us ensuring that
someone can't get into our networks so our cloud
environments and move across and just create
havoc. And that's it now briefly. And I'll take
any questions.

MR. CHAN: Okay. Thank you, Don. It
looks like we have a question from Barney Cassidy.

MR. WATSON: Sure.

MR. CASSIDY: Well, hi. Just sort of a
dumb question. Can you give us a sense in order
of magnitude? How many attacks on the PTO system
do you experience in a year? Is it, you know, 10,000? Is it 100,000? What's the level of attacks that are detected?

MR. WATSON: Thank you for the question, Barney. Yes, it's actually hundreds of thousands. And I'm talking about attacks that we are seeing at our perimeter level, but we have our firewalls and our intrusion prevention systems.

While there is someone trying to deliver a malware into our environment or if it's someone trying to create a denial of service by flogging us with packets of, you know, IT packets and all that. We see hundreds of thousands and what's great is we have a very robust firewall and tree prevention system in place, but we're stopping those things. And so, I'm pretty confident in our capabilities.

MR. CASSIDY: Okay. That was my follow up would be, you know, do you have all the resources you need because I think from the user perspective, the confidentiality of unpublished patent applications is very important to
businesses and inventors.

MR. WATSON: Absolutely yes. And we do.

We're on a journey to, again, I think the concept of zero trust here is, you know, there's an insider threat where someone does make it pass our primary defense and we have that extra layer a zero-trust model. It's an architectural model. It can be based on either the way segment thing in your network or the way you maybe use software defined type software to do that. But we are doing that to ensure that if it does occur that the impact would be minimal.

So my confidence in our roadmap is very high both from the inside threat and monitoring perspective and also from the zero-trust approach that we're taking.

MR. CASSIDY: Thank you.

MR. CHAN: Thank you for the questions, Barney. Both really great. I do think, you know, with the headlines, many of us do suspect that the attacks are pretty bad, but we really don't know. And so, understanding the magnitude, I think is
very important.

I know for me having time with Don and Jamie to understand the proactive measures we're taking are giving me lots of relief. And hopefully, the public will now understand all the efforts and focus that we have on security so. Why don't we move on for now and I'll hand it over back to Jamie? But thank you, Don.

MR. HOLCOMBE: Okay. Next up, we're going to talk about our resiliency in the cloud.

MR. SIMMS: All right. Thanks, Jamie. Hi, everybody. I'm Bob Simms. Director for Infrastructure Engineering and Operations and I'm going to give you an overview of how we're doing on our data center migration and our cloud journey.

So as part of our data center migration efforts, we've completed our new plans and are actively -- we stacking Seed equipment in our new Manassas Data Center. Doing so gives us back those critical infrastructure services ahead of moving any equipment to the Manassas Data Center,
which decreases the amount of time that it will
take to migrate.

The good news is those efforts are
paying off. Our Boyers Data Center migration is
well underway and I will say, it's ahead of
schedule. So, the team is working very hard to
get those services up and running within the
Manassas Data Center.

So, at the same time, we're also
preparing for the Alexandria Data Center migration
to Manassas. And that is also looking good and
things are again ahead of schedule. So I'm happy
to report that. So on the cloud front, our comp
journey, we completed seven product migrations to
the cloud as of this month. And we've increased
our cloud migration adoption rate.

We've developed an intake process where
we assess the feasibility of moving a product to
the cloud. We look at the things such as
interdependencies, plan system requirements, the
size of the product, the data that's being moved
and a number of other factors to make a
determination on whether that product is going to be fit for the cloud or not.

In the coming quarters, we've got six products that we're going to be moving through our cloud pipeline. So those are being assessed and underway. And then we also take the opportunity as we're going through these cloud migrations to, you know, look at the current architecture. You know, the architecture of the system that's on Prim may not be exactly what we would want it to be in the cloud. So we look at different ways to, you know, increase the resilience. And of course, anything we can do to make it more cost effective.

Next slide, please.

So this slide gets to some of the meat of what Don had briefed just a few minutes ago. We set a critical path to remove end of support platforms. This is a direction that we've given to our product line leads and managers through an email on the 22nd of June to remove all Window-based systems that have reach their end of support date.
Our lead product owners are working collectively within their product team to make sure that that happens. They are prioritizing that work. They're planning that work and the goal is to have all those systems removed from the network by December 31st of this year.

So much progress is being made and got some systems off the wire and then we've got plans established for the other systems to make sure that they're completed by the 31st of December. And I think that's my final slide. And happy to take questions if there are any. Otherwise, I'll kick it over to whoever is next.

MR. HOLCOMBE: I think it's Matt Seidel is next. He will be up on AHAS.

MR. SEIDEL: Actually, I'm going to jump in. I think DOCX is up next. Sorry to jump in. AI is coming next. Just a spoiler.

So not a lot to update. Again, we had the FR notice recently that went out. Just to reminder the non-DOCX excerpt charge goes into effect January of next year. But we did change
the authoritative document to DOCX. That federal
register notice went out in early June.

We continue to work with our
stakeholders to assist with the shift of DOCX
filing. Many, many training sessions that we've
held in the past, and we will continue to have
twice per week, were over 10,000. Just an amazing
amount of effort to try and make this transition.

I think last time at the PPACK meeting
we shared the training mode to help familiarize
folks with the ins and outs. Just a reminder,
multiple sections can be filed as one document in
patent center. Recently, we included drawings to
be included under the DOCX filing. And then
again, the real time content validations are only
available with the DOCX.

And again, that's huge in terms of
trying to minimize some of those things that would
result in incomplete applications, missing parts
and so on.

Really the only other two updates that I
have just in the interest of time. We're very
pleased. We offer a video on our patent center homepage now. It's a three-minute video to address the DOCX filing and retrieval aspects. So if you haven't seen it, we can certainly provide it in the link. Our patent center homepage. It's just a quick overview of the filing again to raise awareness. And then our CIO, Jamie Holcombe and I, are planning on some listening sessions probably in the early Fall as a continued part of our outreach efforts. So with that I will pass it over to Matt Such at long last to talk about some of our AI initiatives.

MR. CHAN: One quick comment and thank you, Rick, I appreciate that. But one quick comment before we turn it over to Matt is that I encourage the public to take advantage of Rick's invitation for feedback.

At the last quarterly meeting, we got a bunch of follow up questions from the public on DOCX. Rick and team answered those promptly in addressing the questions there. They've also been collecting feedback and have been very responsive.
I've been very impressed.

And so, be listening towards that Rick and Jamie are doing fine tuning for those. If you're having any issues with DOCX and hopefully, it will continue to get better and better over time. So thank you for that and, Matt, you are up.

MR. SUCH: Thanks, Jeremiah. So if we can go to the next slide.

So what we have here is a three-month look back and look forward on our AI tools efforts for patents around using AI for search and autoclassification.

So over the last couple of months, we've been working to build out a feature that we are calling More Like This to make that available to our full examining corps. We have been spending a lot of time as we've discussed in previous meetings over working on a variety of different AI base approaches that can be useful for examiners during search.

And those have been in our pro-type
phase and we're now reaching a point where we are promoting things out of the prototyping that we've identified are bringing value and getting those prepared for release to the full examining corps. And so, over the next couple of months, we're doing a lot of planning to lay the foundation to be able to release the first AI capability to the full examining corps. Along with that we will be continuing to work on additional new features within our prototype and continuing to identify additional capabilities through that prototyping process that also demonstrate value and kind of stacking and those for potential future release down the road. Turning to autoclassification. Just as a reminder, we have kind of two different use cases here. One is for identification of claim subject matters, so-called C-stars. And as a reminder as we discussed last time, we did implement a portion of our patent filings back in December. We continue to monitor the quality of
the C-stars that the machine is signing. And as we reported last quarter, we continue to see no statistical difference so that's very, very positive.

Looking forward for the assignment of the -- or the C-stars and assigning claim indicators, we're going to be wrapping up an assessment over the coming months to determine the readiness of the system to expand across a wider subset of applications and have a wider implementation.

Turning to the full classification program. This is an effort by which we are looking to do classification on patent documents using the cooperative patent classification system. And we have recently made some updates to the models that allow us to be able to identify suggested symbols to place on those documents with the hopes that those are in alignment with our expectations of what we would normally see on patent documents in terms of the numbers of symbols and which symbols.
And so, over the course of the next few months, we're going to be focusing on assessing that output from these updated models and determining the readiness of the system to do some piloting in a live environment. So I can take any questions now. Thank you.

MR. BROWN: Jeremiah, I have a question if you have a second.

MR. CHAN: Sure.

MR. BROWN: So, Matt, I just have a follow up from before. I had asked if you had plans of -- or you were going to discuss allowing this to be used by inventors in the public sector in the future? I think it would be, you know, a great opportunity to sort of, you know, close that gap between, you know, original searches and then what happens even as far as post-grant reviews. Has there been any discussion on that?

MR. SUCH: We do discuss that. And that is something that I do recall we've talked about in the past.

We are continuing to evaluate that and
understand both the technical -- kind of technical delivery mechanism that would need to be in place in order to be able to provide that. But also, make sure that we understand that the particular AI capabilities are going to, you know, be of value, right, to our stakeholders.

And so, one of the things that we're looking forward to when we release the capability to the examining corps is getting a wider set of feedback from our examiners across all technology areas, you know, to really understand at a deeper level the maturity of this particular technology.

And as we learn how that maturity is playing out at that wide scale that's really going to be informative to help to go into that decision making.

MR. BROWN: Yeah. Of course, it's going to evolve. I mean, obviously there's going to be future generations of that evolution. I just I'm personally excited about this and, you know, as I'm doing a lot of patent searching myself, I'd be more than happy to, you know, get involved in some
of this with you just as a feedback possibility.

And you know, the sooner you discover, you know, potential road bumps, the sooner you can be open. And I really think this would be a valuable tool for, you know, expanding innovation, right? And getting -- making it easier for people to understand where that existing prior knowledge is.

MR. SUCH: Yeah, certainly. I do appreciate those comments. I think that, you know, that is a sentiment that we do hear. And, you know, we are absolutely, you know, looking at this question and, you know, trying to come to, you know, the best decision possible in order to better serve our stakeholders. So I very much appreciate it from that perspective.

MR. BROWN: Looking forward to the opportunity.

MR. CHAN: Okay. Thanks for the question, Dan. And thanks for the answer, Matt. I see we do have a question on the chat although we are a few minutes over time. So I'm guessing
at this junction, we should probably move forward
and perhaps you can address it offline.

MS. MAR-SPINOLA: Thanks, Jeremiah. I
think we need to keep on time. I will take this
opportunity just to let folks know that the PPAC
with the office is considering maybe a new format
for our public meetings going forward.

We may test it out as a pilot for our
next meeting. More specifically, we're looking at
maybe having maybe breaking up that meeting rather
than having one long meeting. We would break it
up into maybe a lunch session similar to what the
patent office has been doing with their outreach.

If we are successful in doing that. I
think a benefit to that will be that each subject
matter will be more thoroughly covered and the
public will have more opportunity for one on one
or more direct communications and questions and
answers on that. So I apologize to Jennifer who
submitted the question, but we can definitely
respond to it offline.

So if we can move on now to our
outreach. Let me turn it over to Tracy Durkin.

MS. DURKIN: All right. Thank you, Julie. So now we're going to leave the sort of domestic front and take a look at what's been happening internationally with the office.

Despite the fact that everyone is still primarily working from home. And normally, these international activities take place with face-to-face meetings, there's still a lot of progress that the office has been able to make with their counterpart offices and really actually have been able to move a lot of things along.

And so, I think our first presentation today is coming from Valencia Martin Wallace, Deputy Commissioner. And she's going to talk a little bit about the IP5 test meeting report out. And if you would also, Valencia, when you get started. I noticed there was a question in the chat a while back about, what are the five IG offices? And so, this might be a great chance for you to inform everyone about that as well. So thank you.
MS. WALLACE: Thank you, Tracy. And good afternoon to everyone. And I absolutely as current to my slide. So we'll discuss the current offices.

So this is as Tracy said, a report out of this year's IP5 Heads meeting. If you could move to the next slide. Thank you.

So just to start out. The Heads meeting is actually a series of three meetings that were the week of June 20th. The first meeting was the June 21st meeting which was the IP deputy head, which really was just to make sure that they finalize and approved the agenda moving forward for the IP5 Heads meeting.

All three meetings that occurred that week were posted by the Japan patent office. So the five IP offices consist of the U.S. PTO. ETO which is the European patent office. JPO, the Japan patent office. KIPO, the Korean IP office. CNIPA, which is the China National Intellectual Property Administration. And the WIPO as a guest that comes in is the World Intellectual Property
Office, which they are not part of the IP5, but they are there and they observe our meetings.

So the second meeting, which is the slide you see here is our IP5 office and IP5 industry meeting. So the first meeting is with the deputy to solidify agendas. The second meeting is with the heads of office along with representatives of industry from all five countries.

So you see on the left board, the industry delegates where AIPLA as well as IPO for the United States, BusinessEurope. So these are all professional IP professional organizations that work with the IP5 throughout the year and we have a meeting with them during the head weeks.

So it's BusinessEurope that works with the European patent office. JIPA which is Japan's intellectual property professional organization. KINPA which is the Korean intellectual property professional organization and PPAC which is a professional IP patent's professional organization working through China. And the next slide,
So just very quickly on the IP5 industry meeting. There were some meeting topics which the order of business is really the IP5 Heads discuss the topics that were worked on throughout the year by the IP5 with industry. And it really is just where they're just finalizing and making sure that we are in alignment with our stakeholders.

So some of the updates from our heads to the industry were on the new organization of patent practices and projects that we have undertaken in the work group of the patent harmonization expert's panel. So that's one of the working groups IP5 that you need to discuss issues and new initiatives.

They also discussed the IP5 net AI. That's the new energy technology and artificial intelligence roadmap that we heard about from Coke a little earlier. They also discussed cooperation in post-pandemic era. Are we properly satisfying our users and accommodating our users in this new virtual world that we've been in?
And then we also talked about some of the 2022 high-level meetings that will occur. So could we move onto the next slide?

So the June 23rd IP5 Heads of Office occurred. And leading the USPTO delegation was Drew Hershfeld, Mary Critharis, the Chief Policy Officer and Director of International Affairs was also there and I also represented along with several members of each of our staff. So it was an all work environment. This was our second Heads meeting, all virtual, and I participated last year, which went very well, but this year was even better. I mean it was virtually seen this year and went very well. So once again there were delegates from the five IP offices as well as WIPO, okay. Next slide please?

So the meeting focus for this year was as I mentioned before. Changing needs of users in this post-pandemic. How do we get to the new normal? And how do we harmonize as much as possible within the IP5 offices and beyond? And further cooperation on initiatives for our users?
So as part of the Heads meeting is an endorsement of the programs and initiatives that our staff in all five offices have worked on throughout the year. One of those endorsements from the Heads and all these were unanimous endorsements from the Heads was the IP5 net AI roadmap that Coke mentioned. So that's just setting a roadmap of the topics that Coke mentioned earlier, which were statistics, classification, IT and legal matters which both of AI and net.

Next was endorsed were two projects that the organization expert panel will be moving forward on. And I mentioned these last year as well. Global assignment, which is being led by USPTO and KIPO. And Allowable Features in Drawings which is being led by the JPO.

So this year, we have a plan moving forward for how these topics will be addressed and moving forward on as opposed to last year as we worked with industry, we really tried to narrow down the projects that the IP5 would be working
with to make sure that we can accomplish them. And we further talked about continued interaction among the IP5 offices. And then lastly, we spoke of the 2022 high-level meetings. So specifically there, we talked about the next meeting, next year's meeting which at one point EPO was considering. They are the host for next year's meeting and they were considering bringing the three major forms together, IP5, which I'm talking about now. ID5 which is industrial design focus. And GM5 which is trademark focus of the same as with ID5 with the five large offices.

We talked about that with industry as well as through the Heads. We also discussed some of the themes for the Heads throughout this year leading up to next year's meeting. And those themes being addressing accessibility of the IP system for users and specifically for startups and S&Es.

Also, what we will be taking up is exploring how IP as a whole can contribute to solving socioeconomic issues. We'll also be
discussing promoting greater visibility of IP in general as well as advocating for a stronger pro-IP agenda.

And then we also discussed a little bit of the fact that next year's meeting will be the 10th year anniversary of our meeting IP5 with industry and how we will celebrate that monumental event which has been of great importance and support to the IP5. And if we can move onto the next slide?

So the next steps. I just mentioned some of the next steps that we will be taking on -- the IP5 will be taking on this year coming. And I can also share with you that next IP5 Heads meeting as I mentioned will be hosted on EPO but ultimately it was decided that next June 2022, it will just be IP5. We will not be in combination with the other organizations and it will be held in Munich, Germany. Can we move onto the next slide?

So I guess if anyone has any questions, I can certainly take a couple or we can hear from
Nelson Yang first and take some after that.

MS. DURKIN: I just would make a comment that I hope that you are all able to meet in person next June.

MS. WALLACE: Yes, next year the EPO is planning that it will be an in-person meeting. The first one for several years, but I'm glad you brought that up, Tracy, because one of the areas that we're talking about with the offices is how do we have the appropriate combination of virtual and in-person meetings?

I mean we've all, you know, found it very, very useful. It's been a great year of fine tuning how we cooperate with each other and meet with each other virtually. But there's still a strong need to meet in person and finding with that right combination.

MS. DURKIN: Steve, do you have a comment?

MR. CALTRIDER: Yes, I just have a question on the global assignment. First, thank you for a very interesting presentation. And
there's a great deal of interest as you know on global assignment and I'm curious if the planning on it so far as a timeline or target date under which that might be put into place? That's the first question.

The second question is related. That's great to have one with the IP5, but is the intent then to work with WIPO to get that more broadly accepted beyond the IP5's as well?

MR. WALLACE: Those are great questions. So we do have a very high level timeline, but it does not include a final implementation date. And as we meet, our work groups meet and we come to further agreement with the other four offices. We will update you as we're getting closer to an implementation date.

And also, great question, Steve, about working with WIPO. WIPO does coordinate with us. They've been very interested in this. And this is something global assignment as well as other initiatives that we're working with WIPO to make sure that it is more widespread and it will be
something that all offices will be able to use.

We're not quite there yet with the
global assignment, but that is, you know, our
shining star we're all travel toward.

MR. CALTRIDER: Thank you.

MS. DURKIN: Okay. Valencia, did you
want to turn it over to Nelson Yang?

MS. WALLACE: Yes, absolutely. Thanks,
Tracy. So Nelson Yang, Senior Advisor over
Business Solutions. And I call him IT
international extraordinaire. He's all things IT
international that he does wonder with. And today
he's going to talk to us about the IT5 statistics
report, the measures and give us a further
understanding of it. So take it away, Nelson.

MR. YANG: Sure thing. So thank you.

So thank you for the opportunity to be here today.
If we can go to the next slide?

I kind of wanted to first give a little
bit of background on the IP5 statistic report.
This is a report that the IP5 offices published
annually. And it provides various different
metrics on patent application filings and also
prosecution.

And one of the metrics that we provide
is application pendency both first action pendency
and final action pendency. And this is something
we've been getting some questions lately. So I
wanted to take the opportunity to kind of focus on
this particular area. Next slide.

So within the report, we actually have
the statement that kind of covers our basis so to
speak. We state that the pendency measurement is
intended to provide insights into the workload at
each of the offices. But while we also note that
while this may seem to be an indicator for the
backlog in handling applications within the
offices, it's not really particularly ideal
because there maybe periods where the applications
are waiting action from applicants. And so, that
creates some delays there. And currently both the
first action and final action pendency reflect
this issue. Next slide.

This is currently the format that we
present the pendency metrics. However, what I have not included here is roughly the half page of definitions that explain how the different offices calculate their pendency metrics including different starting points, different endpoints. And so, understandable it has a potential to create some confusion amongst readers who are only looking at this table without looking the corresponding definitions. Next slide.

And so, kind of part of what I want to do in these next couple of slides is to kind of give some insights and details as to how each of the offices are calculating their pendency. And with a particular focus on the first action pendency.

Starting with the EPO. The way they calculate their pendency is from the filing search the report. And this search report doesn't really have an equivalent at the other IP5 offices who typical will use the first office action in this pendency metric. If we go to the next slide.

At the JPO, they kind of measure
pendency through a different manner. Instead, they focus on that request for examination as their starting point and measure from the request for examination to that notice of the first action. And typically, it may take an applicant up to three years to file that request for examination so there is some lag time between the filing and the request for examination. Next slide.

KIPO uses a similar measurement where they're actually measuring from request from examination to the notice of first action. There are some slight differences in the workflow including the fact that the applicant typically has up to five years to file that request for examination at KIPO. But roughly that measurement is comparable where it is measuring from request for examination to that notice of first action. Next slide.

At the CNIPA, they also measure from request for examination to notice of first action. However, there is an additional requirement where
that application has to be first published before the application can begin examination. And that publication typically occurs within 18 months of the priority date. Next slide.

At the USPTO, which I'm sure most of you are probably most familiar with. We typically measuring filings -- measure pendencies from (inaudible) to the examiner first action. And this is because we don't really have a process such as a request for examination or a search report. And so, this is really our best way of capturing that, that first action pendency. We have begun looking recently at other ways where we can present this pendency metrics are ways where we can provide more consistencies across offices or provide metrics that can better reflect offices of both the USPTO and IP5 offices.

But this is one of those ongoing exercises where we still are in very much in discussions with both our stakeholders and with other IP5 offices to kind of find a way that we can really move forward and really provide more
transparency and clarity as well as like
information that would be beneficial to our
applicants and to our stakeholders in general.
Next slide.

I believe that's the end of my
presentations, but if anyone has any questions,
I'd be happy to try to answer them.

MS. DURKIN: Nelson, I have one
question. If we go back to that prior slide.

MR. YANG: Sure. Sure.

MS. DURKIN: You mentioned that there
could be some delays on the part of the applicant
during that blue bar. What types of things are
you thinking about that would hold those?

MR. YANG: So that's actually a really
good question. A lot of times, this could be
perfecting the application contents where they may
have an incomplete application that could delay
that completion of that complete application and
prevent the application from going further to that
examination phase.

MS. DURKIN: So they're missing inventor
MR. YANG: Yeah. Missing inventor names or if they've forgot to provide a specification or a complete specification those would prevent, you know, prevent that application from going further.

MS. DURKIN: Yeah. Because it seems like now that the office isn't requiring the declaration until the end of the process that would have sped up the beginning so that's interesting.

MR. YANG: Yeah.

MS. DURKIN: And there are enough cases that are not ready that it skews the data?

MR. YANG: I think this is something we really want to look more carefully at. I can't say for certain and I highly doubt there will be sufficient number of cases that was skewed directly. But we definitely want to get more granular and look at the different aspects and figure out ways where we can really improve that, the process.

And also, really have ways where we can
provide metrics that better reflect our goals here at the USPTO and also at the IP5 level. And this is something I think the traditional ways we've been presenting it may not provide that insight into.

MS. DURKIN: That makes sense. Any questions? No. And I think you'll be turning it over the Mary Critharis. Thanks.

Mary is the chief policy officer and director for International Affairs and she's going to update us on some of the things that have been happening in her office.

MS. CRITHARIS: Thanks, Tracy. I just want to make sure everybody can hear me?

MS. DURKIN: Yes, we can.

MS. CRITHARIS: Okay. Great. So next slide please. So these are the topics that I'll just discuss briefly. A little bit more of an update on the IP5 perspective on the UN Sustainable Development Goal, address the delay in certification and legalization of patent documents as well as the recent Congressional study. The
impact of subject matter eligibility
jurisprudence, innovation and investment and
summary of comments from Federal Register Notice
on section 171 particular the article of
manufacturer requirement as it pertains to
industrial design. Next slide please.

So building on Valencia's excellent
presentation on the review of the IP5 type of
office meeting. I just wanted to both go a bit on
one of the strategic topics. As Valencia
mentioned, one of the objectives for this
particular year was to identify major challenges
and changes in prosecution due to the pandemic and
to propose solutions to address them.

The IP5 industry group met in February
of this year and some of their priorities included
enhancing digitization in patent prosecution,
enhancing online Communication as well as
addressing Sustainable Development Goals. So if
we go to the next slide, we focus on what are
goals are with respect to these Sustainable
Development Goals. And I know a lot of people
ask, well, what are these goals?

So on the right side, we have listed the 17 Sustainable Development Goals that are set forth by the UN. They run the gamut from addressing, you know, hunger and poverty to climate change, health issues as well as equality and justice. Given the attention on IPR in the global market place, the IP5 thought it was important to identify ways that IP5, right, contribute to solving and addressing these social issues. And also, for ways to enhance the IP system that promotes the offices' contributions to solving these global challenges. So onto the next slide.

What we did in this recent meeting, the offices had an opportunity to share examples of their contributions to these Sustainable Development Goals. So the USPTO highlighted our patent for humanity program and held that it incentivizes innovation for humanitarian efforts. We also highlighted our efforts, National Council for Expanding American Innovation.
Other offices highlighted, I thought, some interesting projects that they were working on. China focused on some of their efforts to help commercialize and brand agricultural products for local farmers. KIPO talked about their tutorials for IP for children. EPO also talked about how they're reducing their environmental footprint using green technology. And JPO highlighted their efforts in working with WIPO Green to advance IP systems with respect to addressing, you know, climate change. So these are just some examples of how the IP offices contributed to promoting these development goals. Next slide.

So from the next steps since was really kind of a new strategic priority. I think everybody really appreciates hearing everyone's experiences. And so, we're going to continue to compile and disseminate information on how the offices contribute to these social issues. And perhaps even maybe identify some best practices and opportunities where we cannot just engage
separately, but engage collaboratively to address some of these issues.

And obviously, we're going to continue to explore ways to promote the IP system and how its importance to these Sustainable Development Goals. So that's really -- I just wanted -- but I wanted to highlight this kind of new priority for the IP5. Next slide please.

So now, I'm going to turn to a new topic is delays in certification and legalization of patent documents. First, I wanted to thank some of the PPAC members for bringing this issue to our attention. We've heard from other stakeholders as well that there were some significant delays in processing certified and legalized patent documents for use in overseas applications and filing abroad.

So there's two components to this. There's the certification process that the USPTO are understanding as the void is that or certifying copies of the originally filed application and for assignments. The office is
operating on a little bit over two-week period. Obviously, we're looking to reduce that. We had some delays due to COVID, but those time periods seem to be trending downwards.

The other challenge is from legalized documents from our State Department. Unfortunately, we've had numerous conversations with our State Department colleagues and they are really backlogged due to COVID.

This is not a situation that is unique to IP across the business sector for all types of documents that need to be legalized and certified by the State Department. Everything has been delayed. We do not have any more information as far as when this issue will be resolved by the State Department, but we will continue to work with them and obviously share any updates that we have with you.

But in order to mitigate some of these problems, we are looking to explore flexibility from our other IP offices. So the attorney of OPIA as well as the IP Attachés have been working
together to reach out to the jurisdictions where we heard there was particular concerns. We noted them on the presentation. They include Bolivia, China, Egypt, Ethiopia, Panama, Saudi Arabia and Thailand. And they are preliminary discussions. Have highlighted where there's some possibility to extend some of the deadlines that are in place due to COVID.

I do want to report, we've just found out yesterday, we do have an early success that the Saudi IP authorities have agreed to some more flexibility in claiming of receiving the certified documents. They will issue a commitment form and if applicants still have that form and indicate that they will be providing the certified or legalized document as soon as they can then it will extend that deadline until the applicant is able to submit the document.

They will be putting more information about that new process on their website and we also exploring ways at the PTO to alert our applications and our users on these, you know,
challenges and office and measures that they can
take advantage of moving forward. So we are
exploring that. Next slide please.

I also just wanted to point out that
another way to mitigate some of these issues with
respect to delays is to really utilize the WIPO
DAS. That's the document access system that
allows for electronic exchange of priority
documents. There are 30 offices participating in
WIPO DAS for patents and we have 19 offices for
industrial design. We will encourage to other
offices to participate in WIPO DAS and to kind of
extend its coverage more broadly, but hopefully
those kinds of systems will also help alleviate
some of those problems.

But finally, we'd like to take this
opportunity to also reach out to PPAC members and
also for our stakeholders as we continue to
address this issue. We wanted to make sure if
there are any other jurisdictions in which there
are delays in obtaining any kind of certification
and legalization to please bring them to our
attention.

The circumstances in which attestations are being required perhaps is not just patent applications. It's power of attorney documents that maybe necessary for court filings and the type of attestation documents that are being required by other offices. We really would appreciate any kind of information you have so that we can kind of, you know, take the next steps and like said engage some of our attorneys and our attachés who are working on the region to help mitigate some of these problems.

And so, if we go to the next slide, we have identified -- next slide please -- two opportunities or avenues for seeking out input from our office. We have a USPTO policy inbox that you can send information to.

And also, David Gerk who is our Principal Counsel and Director for Patent Policy in OPIA. He is coordinating all of these activities. So please feel free to reach out to him and we'll make this information more broadly
available so that, again, stakeholders can reach
out to us and share the information with us and
then we can, you know, make the necessary
arrangements and discussions with your foreign IP
offices.

So onto the next topic. We wanted to
discuss briefly with you, our Congressional study
on the impact of subject matter eligibility,
jurisprudence on innovation and investment. As
you've heard at the request of Senators Tillis,
Hirono, Cotton, and Coons, the USPTO published a
Federal Register Notice to analyze the impacts of
the current state of patent eligibility
jurisprudence.

I think the particular response to the
American Axle case, the expansion of some of the
federal circuit jurisprudence to not just computer
related inventions, not the diagnostics but now to
more broadly industrial applications have caught
their attention.

They wanted us to focus on the impacts
of the jurisprudence on innovation in particular
in critical technologies like artificial intelligence and quantum computing, precision medicine and diagnostic methods as well. So next slide.

So the Federal Register Notice was published on July 9th and there's a robust set of questions that we ask for people to share their observations and experiences. Examples of these questions related to patent prosecution, strategic decisions involving portfolio management, litigation issues, impact on research and development, employment, marketing; investments; production obviously and innovation and competition. So we wanted to see not just how it impacts the filing practices but also more broadly a company's business portfolio.

Again, key impact on technological fields. Also, we asked for experiences on foreign jurisdictions as we heard that many stakeholders have made claims that other jurisdictions are more accommodating as respect to patent eligibility. And also, address if there are any changes in its
business practices. Maybe they're highlighting
their research efforts to other areas to adjust
for the current state of patent eligibility
jurisprudence. The next slide please.

So in addition, we also went more
broadly. Not just the direct impact to the
business, but what are the impacts to the American
economy, the intellectual property system? What
are the key tenants of the Biden administration's
priorities to ensure that the American companies
can maintain their global leadership and they can
be competitive in the global market place?

So we asked more broad questions to
address the impact to the global economy. The
Federal Register Notice asks for comments by
September 7th and hopefully that will give us
enough time then to publish the report, which is
due to Congress in March of 2022. Next slide
please.

And here are -- and I'm not going to
spend too much time on -- but here's just a brief
overview of a lot of the USPTO 101 actions. Back
in 2016 and '17, we held roundtables on our particular guidance that we issued in 2015 as well as we asked stakeholders for their views on the impact of subject matter eligibility jurisprudence on their practices. And we also asked them at that time whether they thought any legislative redress was necessary and what that legislative action would look like?

We published that report in 2017. Since then, we've issued a series of guidance and guidelines. Most notably in January of 2019, we issued our PEG guidelines on subject matter eligibility. Next in 2020, the Office of Chief Economist published a report on adjusting to Alice and some patent outcomes after the Alice decision. And since our guidelines, there was a more increase -- actually, I say decrease in patent subject matter eligibility rejections, but there was also an increase in the consistency and predictability among the technologies so that was a good outcome.

Again, now in 2021, we've got this
request from the Hill on a study on the impact of subject matter eligibility jurisprudence. And so, again the report is to be finalized and sent back to Congress by March of 2022.

So next, I'm going to turn to the final topic for today. And this is the Federal Register Notice on section 171. We published a Federal Register Notice last year asking the public for their input on the article of manufacture requirement as it relates to new and emerging technologies such as holograms, virtual and augmented realities including graphical user interfaces. And especially focused on these types of designs that are not embodied on a physical article of manufacturer.

We noted that other jurisdictions have been changing their laws and their practices in order to accommodate these types of new designs. We received 19 comments and these comments represented different groups from academia to universities as well as stakeholders and trade associations. And we are currently preparing a
draft summary report of the comments for
publiation and hopefully in the near future.

So I think that is all we have for you
today. I'm glad to take any question.

MS. DURKIN: Thank you, Mary. That was
a great summary of what's been going on over the
past few months. And I really want to commend the
office for what you were able to do particularly
on the legalization issue. That, you know, COVID
obviously created that and we couldn't have seen
it coming, but, you know, some situations that
we're aware of during PPAC and elsewhere and you
know as well.

There is, you know, a real potential for
loss of rights and the ability for the office to
step in and particularly the attachés and the
relationships that they have with the foreign
offices. I think was a real welcome activity this
last quarter so thank you for that.

Does anyone have any questions or
comments for Mary? Okay. Then we will get two
minutes back extra into the agenda and I will turn
it back over to you, Julie. Unless you want to
just keep going and turn it over to Susan and Dan.

MS. MAR-SPINOLA: Yes. So thank you,
Tracy. Thank you, ladies, for great presentations
and let's do take advantage of the time and turn
it over to Judge Susan Braden and Dan Brown,
cochairs in the legislative subcommittee. Dan and
Susan?

MR. BROWN: Well, we had agreed Susan
was going to introduce it, but I don't hear her.
She maybe muted. So I'll make it short and sweet.
I mean we'll turn it over and start with the
meeting. And I don't know if she had anything
prepared to say so I don't want to just babble
here so.

MS. MAR-SPINOLA: Susan? Okay. Maybe
there's some technical issues that can be resolved
in the background. Dan, why don't you start?

MR. BROWN: Okay. I'm just going to
turn it over to the office and let them report
out. It's been a very busy quarter from -- well,
I'm new to the PPAC. I think that, you know, a
lot of things have transpired so.

MS. MAR-SPINOLA: Okay. So with that for Tamara Foley.

MR. BROWN: Yes.

MS. FOLEY: Yes.

MS. MAR-SPINOLA: Hi, Tamara. Welcome.

MS. FOLEY: Thank you. I'm assuming everyone can hear me?

MS. MAR-SPINOLA: Yes.

MS. FOLEY: Great. Thank you. Next slide please. Great. So I'm going to start off talking about some of the legislative activities that have been happening recently. First, I'm going to start off with the Senate, U.S. Innovation and Competition Act as I'm sure everyone has been hearing about. That passed the Senate on May 28th by a vote of 68-32. It's a fairly large bill. The bill included the number of sections that touch on IP including one that directly effects the USPTO. In section 6204 of the bill, this includes the IDEA Act that we've discussed in previous PPAC.
meetings.

This would require these USPTO to provide for the collection of voluntary demographic data including race, gender, military or veteran's status or any other category the director deems appropriate. I won't go into detail on the other sections listed here, but they include the creation of an IT violators list, enforcement of IT provisions and trade agreements, et cetera.

I will note that the list here is not exhaustive and these are only some of the IP related provisions inclusion results. If anyone has any questions on any of these or other provisions, please feel free to reach out to our office. The next slide please.

These are a continuation of some of the other provisions from the U.S. Innovation and Competition Acts. The last bill mention on the side is from ranking member Issa. He introduced the Save Money on Auto Repair Transportation Act. It amends Title 35 to provide an exception from
infringement of design patents for a certain component parts of motor Vehicles. This bill has been part of a larger bill he previously introduced.

Finally, what was not included in this slide. I just wanted to define for everyone. Last week, the Senate Judiciary Committee report out for bills related to drug typing. Similar bills were introduced in the last Congress. The bills dealt with (inaudible) petitioned before the FDA, case for delay agreements and a study on the pharmaceutical supply chain.

Of particular interest to us is the Affordable Prescription for Patients Act of 2021, which in addition to amending the (inaudible) Commission Act to prohibit product topping, but also amend Title 35 to limit the number of patents that can be asserted by a biologic company against the biosimilar competitors.

We will continue to monitor the progress of all these bills and provide any updates. And I'll pause there to see if anyone has any
questions on the bills. Okay. Next slide please.

MS. MAR-SPINOLA: Hold on. I think Judge Braden is speaking, but we can't hear her.

Susan, if you can hear me maybe pose your question in chat and we can at least temporarily get your question in. Tamara, you want to continue?

Tammy:

MS. FOLEY: Sure. Tammy is fine. Tammy is a lot easier. I think so I'm just going to
touch really quickly on some Congressional
activity outside of the legislative activities.

The Senate IT Subcommittee held a
hearing on patent quality and the problems that
low quality patents can create for small
businesses and entrepreneurs particularly from
patent assertion entities. There are no USPTO
witness on this panel. During the hearing,
however, witnesses discussed changes to the
examination process, fees and increasing resources
for the USPTO as ways to improve patent quality.

Several Senators also acknowledged that
the work at the USPTO has done and continues to do
to improve patent quality. All of the Senators and witnesses agreed that the USPTO should have access to all its fees. And so, in doing so would help improve patent quality. Judge Braden?

MS. MAR-SPINOLA: Judge Braden are you back on?

JUDGE BRADEN: Can you hear me now?

MS. MAR-SPINOLA: Yes, perfectly.

JUDGE BRADEN: All right. I think it was something with the headset. I just want to be sure that when you talked about the four bills that went through, we didn't have a slide up.

MS. FOLEY: No, we didn't. We didn't get a chance to put up slides on that.

JUDGE BRADEN: All right, okay.

MS. FOLEY: But I did describe them, yeah. Yeah.

JUDGE BRADEN: All right.

MS. FOLEY: Okay. And then speaking of drug pricing. I'm just going go over it really quickly. I'm sure Jay talked about or the finance office talked about the appropriations bill that
was passed by the House.

But moving quickly to (inaudible) and drug prices. And in addition to the bills that we had discussed earlier both the Senate and the House held hearings on drug pricing. In the House, the hearing's focus -- the focus of the hearing was primarily on AbbVie's continued increase in price for its drugs and the role that the government negotiations could play in lowering drug prices.

However, the discussion of patent (inaudible) PTO's in particular was raised numerous times in the discussion, the changes to USPTO key structure and improving patent quality was discussed.

In the Senate hearing, the members stressed the need to do something about reining in cost as well drug prices for consumers. While a variety of solutions were discussed including those that were mentioned in the bills I discussed earlier. There was actually extensive discussion of patent tickets. And several of the Senators
expressed concern there was potential abuses of the system. We will continue to monitor Congressional action on drug pricing and provide any updates to this group.

And then finally the last thing I wanted to report was last week. The USPTO received a letter from a bipartisan group of Senators on the IT subcommittee that asked the PTOs to engage in funds the American Conference of the United States to study and recommend whether and how a patent small claims tribunal could be established. They are certainly reviewing the cost in the letter. I can take any questions. I believe that's all I have.

MS. MAR-SPINOLA: Go ahead, Judge Braden.

JUDGE BRADEN: I just wanted to say a couple of things. One is it's not the American conference of the United States. It's the administrative (inaudible) to the United States. That's a different group and it's run by the judges and that might confuse people.
1 The second thing is I wanted to
2 acknowledge in (inaudible) has been very active
3 with the subcommittee. They changed, I believe
4 and couldn't make it today. But she's been a real
5 teammate of ours with Tamara and we appreciate
6 their diligence of following daily events. Thank
7 you.

8 MS. MAR-SPINOLA: Thank you, Susan.
9 Thank you, Tamara. And then we appreciate the
10 updates there. There is a lot going on and I
11 suspect there will be more activity by the time of
12 our next meeting so thank you for that.
13 We can now move onto innovation
14 expansion update and that is with Jennifer
15 Camacho, chair of the subcommittee. Jennifer?
16 MS. CAMACHO: Thank you. We have a
17 freeze up date today and in just a few minutes. I
18 wasn't handing it over to the Valencia because she
19 has the full times there. But there are a number
20 of different things that are in the works. And
21 so, we're really excited to get the update today.
22 But we're really looking forward to the next time
we chat. We expect to have additional updates at that point.

MS. WALLACE: Thanks, Jennifer. Yes, it's very brief today, but I just wanted to make sure that everyone understands that while you may not have heard as much from us recently, we are working just as feverishly on our strategy on promoting the expansion of innovation on having a stronger, more diverse and inclusive innovation ecosystem and to make sure that everyone realizes that with this change in Administration really things have not changed for us.

Before Drew Hirshfeld was the acting directory. He was commissioner and he was fully supportive. And in his present role, he has been fully supportive and more than that he has really promoted more and pushed us even further. We have regular weekly meetings with the Department of Commerce about the direction we're going and the strategy and with our initiatives towards an inclusive environment.

We're still working hard. Even though
you haven't heard us don't think that this is not moving forward because it is. And in fact, as everyone probably already knows but deserves being said, our President Biden and his full priorities were racial equity where the economy and both are squarely things that we are working on. So you will be hearing from us. We still have the expectation that our strategy will be published this year and just stay tuned.

MS. CAMACHO: Thank you, Valencia. I also would like to take a moment just to encourage everybody to take a look at the website and particularly the events that we have going on. Because there are a number of events which really broadened out and it's fantastic. There are Spanish language events. There are educator events. There are innovation chats. It's really growing. It still got the events that the office is putting out there and I really think there is something there for everybody, inventors. It's all inventors, small business owners. There's a tremendous amount of effort and outreach
there. And I really do encourage everybody to
take advantage of it. There's a great wealth of
resources available to procure interested in
innovation and entrepreneurship.

MS. WALLACE: I'm sorry. Just one
second. Thank you. That's a huge year. Thank
you so much for bringing that up and please do go
to our webpage. To the regional offices, our
headquarters. We're all feverishly working on
events and programs and education and partnering
with other organizations to keep this moving
forward.

MS. FOLEY: And with the virtual
capabilities these days, you can attend it
anywhere. It's really fantastic. Thank you. Any
questions? With that, I'll hand it back over to
Julie.

MS. MAR-SPINOLA: Thank you, ladies.
I'm looking forward. I know PPAC is looking
forward to learning about the strategies and
hopefully by the next meeting, but we do know that
a lot of activity and a lot of hard work is going
into this, and a lot of thought-provoking ideas are coming out. So thank you for that.

So we are down to our last subject and it's an important and new subject for us to hear about from Coke Stewart. And this is the director's initiatives on sustainability. This is something that Drew mentioned at the opening. And so, let me hand it over to Coke Stewart performing the functions and duties of the deputy under Secretary of Commerce for IP and deputy director of the USPTO.

I waited at the very end to share that super title and very impressive. But I didn't want to take up time until this was sustainability segment. Thank you. Coke?

MS. STEWART: Thanks so much, Julie. You have to take a breath before you try to get that all out.

Well, I just wanted to give a little overview before I turn it over to Sarah Brown who is going to speak on this, which is that the Biden Administration does have these administrative
priorities and multiple pillars that they talked about.

You know, as early as even before the President took office, we have transmission meetings. And those include economic recovery in view of the pandemic, racial equity and it included environmental sustainability and climate issues. And so, we rapidly set up working groups that are interdisciplinary working groups across our agency. And Sarah Brown helps lead our working groups that address climate issues. So we have two main pillars of that climate working group. One relates to kind of what we do operationally and another addresses IP policy. So I will turn it over to Sarah Brown to report out. Thanks so much, Sarah.

MS. BROWN: Great. Thanks so much, Coke. We can actually go ahead and jump right into the next slide.

And first, I just wanted to thank the PPAC for giving us the time to come in and discuss this issue today. This is an area of USPTO's
operations that doesn't get a ton of outside attention, but there really is some great work going on here. And so, we're really excited to be able to share some of that with the committee today.

Just by way of introduction and background. USPTO has a longstanding energy and sustainability program at the agency. These initiatives are primarily led out of our office of the Chief Administrative Officer. And I want to take a moment just really quick to recognize USPTO's CAO, Fred Steckler.

Fred and his team have done a really great job over the years of identifying and making some targeted investments that really are win/wins for the agency and our stakeholders. They reduce our environmental footprint but at the same time they result in long-term cost savings for the agency.

So we have that sort of as our starting point. And then as Coke mentioned with the new Administration coming in, they've really put an
emphasis on environmental stewardship across the board.

From day one, what they make clear that one of the top priorities of the Biden Administration was going to be addressing the climate emergency. And in support of this there's been a series of executive orders over the last eight months that are really aimed at making sure that there's a whole of government approach on climate.

A lot of these orders are focusing on how the government can engage with its partners and deploy its resources and programs in order to mitigate and build up community resiliency to some of the worst effects of climate change. So from a policy perspective given USPTO's focused mission, we really have a narrow slice of that that we're working on. But there are components of these orders that are more directly applicable to USPTO.

Importantly, there are elements of the orders that are focused on government agencies really leading by example. Making sure our
buildings are energy and water efficient and that our operations are climate resilient.

And beyond that the executive orders along with the identification of this broader Administration priority on climate have really been good to set the tone and give us an opportunity to highlight some of the great work that is being done at the agency in this area. And so, that's what we're going to share a few examples of with you today. We can move to the next slide.

So as you all know, USPTO is a big, you know, 13,000 person organization and that means that we are in the somewhat unfortunate position of being able to produce a lot of waste. In 2020, USPTO generated 885 tons of solid, nonhazardous waste. But we really do what we can to try to mitigate the impact of that. So of those 885 tons of waste last year, none of it ended up in (inaudible). We were able to (inaudible) 70 percent of that to a state-of-the-art waste to energy facility right here in Alexandria where it
gets converted into reusable energy.

The rest of it about 230 tons, we were able to divert through either reuse or recycling programs. So in addition to having on campus bottle, can, paper, plastic recycling. The agency also recycles or donates a lot of its furniture and electronics.

So since the beginning of 2020, we have actually donated more than 2,500 pieces of computer equipment that is no longer needed at the agency or no longer meets the agency's very strict IT security standards or compatibility standards. We were able to donate that through a program of the general services Administration called Computers for Learning. So those pieces of equipment, monitors, computers, printers were able to be transferred to schools.

Also, leveraged a lot of GSA programs to redistribute furniture and equipment that we aren't able to repurpose internally. And even though these have slowed down a little bit during the pandemic. Just to give you an example, in
2019 we were able to recover about $550,000 through GSA auctions. So that again is a financial benefit to the agency and it's also, you know, making sure that that equipment does not end up in a landfill.

And we're also making steps to reduce the amount of waste that the agency generates in the first place. A good example here is a set of measures that we're taking around printing including adjustments to our default settings and installing new print management software. These kinds of measures are expected to result in a 35 to 40 percent reduction in paper usage in the years ahead. So we can move to the next slide.

Okay. Another really big area where we're working hard to manage our impact is around energy consumption. So first, we have been optimizing our facilities for several years now to ensure that they consume less energy. In 2020, we reduced total energy usage on our main campus by 10 percent. And certainly, the fact that we were in a maximum telework posture for half of the year
contributed to that, but you can see from the chart there that that's really only part of the story. USPTO has been successfully reducing the energy that we consume for the last decade. And in fact, our campus has been energy star certified every year since 2012.

And, you know, it's not something that automatically happened. It takes a lot of effort and it's been a lot of years in getting us to where we are today. A notable recent example of something that we've done to manage our energy consumption is over the last two years, we have replaced about 34,000 fluorescent lamps across our main campus with LED lamps.

And each one of these replacements saves 51 watts a year which might not sound like a lot, but once you multiple that over 34,000 it adds up to a reduction of about three million kilowatt hours each year, which is about five percent of our overall energy consumption. And then translating that to dollars that's about $180,000 per year that we'll be able to save.
And then we're also took steps earlier this year to consolidate our office space. And we vacated one of our outlying buildings in Alexandria. Brought those staff back onto our main campus buildings and this reduced our space footprint that we're having to manage by 55,000 square feet.

Then looking outside of our facilities, we've also taken a lot of steps to reduce vehicle emissions. So USPTO has -- we have a pretty small vehicle fleet. It's just six vehicles which we lease through GSA. All six of those vehicles are now hybrid vehicles. But even more substantial than that is the impact of our telework programs on the emissions of our workforce.

And so, as you all know even before the pandemic, USPTO had really robust telework programs in place. We had estimated that in a typical year the fact that these employees were not commuting every day leads to roughly a 50,000 ton reduction in emissions each year. And yes, I said that correctly. It's 50,000 tons of emission
reductions. And last year, we estimate that that increased to 75,000 tons. So that is pretty significant. Next slide.

So purely from an environmental stewardship perspective, we're really proud of these sustainability achievements, but from your perspective as stakeholders and importantly as the payers of fees to USPTO to finance our operations, we really do want to emphasize that the kinds of things I'm talking about here show a clear, significant financial benefits for agency.

I mentioned the introduction of print management software. That investment paid for itself in the first 18 months and we expect that it is going to reduce paper and toner to such an extent that we'll save about $450,000 a year going forward.

Moving over to hybrid vehicles that's reducing our fuel costs by selling our surplus furniture. We're able to recover a share of that through auction. I mentioned that the move to vacate one of our office spaces that's going to
save USPTO about $2.2 million each year moving forward. And then I already mentioned the expected savings of $180,000 from that investment in replacing our fluorescent lights with LED lights.

So this is not something where we have to choose between environmental stewardship and financial stewardship. There really are a lot of things that we can do that are supporting both of those goals. Next slide.

Okay. So just a few more examples.

Looking back, so much of our focus has been on sustainability and cost savings and that still is very much an area of focus for us, but in addition following the administration's lead, we're also paying close attention to resiliency. In other words, making sure USPTO's operations are resilient to the risks that come with climate change.

And so, I just want to hit on a few examples here of things that are very recent or are ongoing activities. On the sustainability
front, we just recently implemented an internal
demand response program and when that is
activated, it sort of automatically senses how
much activity is happening in the agency. How
much power load there is and in areas within the
buildings where there's not a lot of load, it
automatically dials back the AC so that we're not,
you know, pumping tons of air into space that
really doesn't need it.

So we are for the future exploring
possibilities of finding these kinds of automated
solutions for things like, you know, occupancy
sensors and daylight sensors for our lighting so
that, you know, if no one is around or if there's
sufficient daylight, we're not continually keeping
the lights on.

On the IT front, we are nearing the end
of a multiyear effort to optimize the energy use,
airflow and temperature controls in our
datacenter, which that's going to make it more
energy efficient but it's also going to reduce the
risk of power related system outages. Again,
finding those win/wins for the agency.

And we're also in the process of

relocating our disaster recovery site getting to
resiliency. This is part of a bigger effort to
make sure that we have the space and power that we
need to have failover capabilities for all of our
IT systems, which I'm sure you've all heard about
that over the last couple of years. But since one
of the big risks that we're accounting for is, you
know, what happens if there's a major climate
event that takes the main data center offline?

Begin able to have that redundancy really helps us
out from a climate resiliency perspective as well.

And then finally, I noted before our
telework programs. Those continue to evolve in
addition to having a big impact on the level of
emissions from the agency. These are also helping
us to be very climate resilient from a continuity
of operations perspective if there's an extreme
weather event this helps us to be able to have our
operations very disbursed.

And, you know, there are functions
where, you know, just a year, a year and a half ago, we did not think they could be done remotely. We're starting to learn that many of these can be done remotely. And so, we're taking those lessons learned and we're incorporating them into our telework items for moving forward. And I'm sure that the committee will hear much more about that in the future as we move forward with some of these program modifications. Okay. Next slide.

So speaking of moving forward, I'm looking to the future as I'm sure you can tell, we are always looking for areas where we can improve. As Coke mentioned while the recent executive orders haven't had a ton of direct requirements for the USPTO, we are really embracing the spirit of these orders. And in March, we set up a climate working group. That working group is comprised of a handful of really passionate individuals from patents, trademarks, our office of policy and international affairs and also our mission support organizations. And as Coke mentioned, we have two different swim lanes for
Part of the group is looking at, you know, various areas of our operations where through additional capital investments or changes of practices, we could improve the sustainability of our liberal corporations at the USPTO. And more also (inaudible) updates to USPTO's patent and trademark programs in order to identify ways where USPTO might be able to facilitate green innovation or encourage growth in the green economy.

And so, all of this is in its very early stages right now, but we're really excited to see what the next several years will bring on this front. And with that I will pause for questions or yield the floor.

MS. STEWART: I just wanted to add -- first of all, Sarah, thank you for that phenomenal presentation.

As you can tell, Sarah, that these initiatives are in capable hands with Sarah helping to lead the effort. And as you can sense,
Sarah is -- her home office is the office of the Chief Financial Officer. So she can rattle off these financial statistics and cost savings better than anyone. And she is currently in the office, obviously, under the Secretary and senior advisor to the director for operations.

And as Sarah explained. All these initiatives are really not, you know, projects that, you know, make us feel better about what we're doing assignment. These are really is savvy plans that do what we can to better use the staples or fees that we're receiving on a daily basis.

And the other point I think Sarah made which is so excellent is that this isn't about, you know, some long-term climate change issue. This is about resiliency as of today. And, you know, what we do weather events. If there's a loss of power? If there's a hurricane? If there's a snow storm? You know, all of these kinds of resiliency measures and disbursed workforce prevents us from keep working sometimes
to the chagrin of those who used to enjoy those as snow days in the Washington capitol area. You know, we keep working because we have a telework ready workforce. So I just wanted to thank Sarah again and thank you, Julie, for permitting us time to talk about some of these initiatives that we're working on in the front office.

MS. MAR-SPINOLA: Thank you, Coke. And thank you, Sarah. I have to go with what Coke said about your presentation. Very helpful, very informative and a strong dose of passion included in that so thank you very much.

I think that, Coke, what you said about resiliency, you know, and it's focused more or less on the present. I think and less on the long term. But I think when you look at the aggregate of resiliency that has helped the long-term efforts and climate change, right? So kudos to the patent office. And I'm more than happy and I thank you for even asking us for time to make that presentation here. It's definitely a social
interest that I think is worth promoting or at
least discussing with our external stakeholders.

So if there aren't any questions and I
don't see any in chat. Let me just ask the PPAC
members if you have any questions?

MR. CHAN: Actually, I have a question,
Julie. Really enjoyed the presentation, Sarah.
And it was great to hear about these wonderful
initiatives.

My question relates to -- I mean, all of
the different organizations and companies, many of
them out there trying to move toward a smaller
environmental footprint. Have we done any reach
outs to do best practice sharing? I mean I think
about examples like datacenter power management
and temperature control, much of which has been
outsourced -- I mean open sourced with a variety
of companies.

Have we been kind of sharing and
learning from other organizations who are trying
to do very similar things that you mentioned?

MS. BROWN: Yeah, I don't know that we
have an active campaign to do that, but we
definitely are in contact with other federal
agencies particularly on the telework front. Very
much involved in sharing best practices. I know
that our CIO, Jamie Holcombe, is very active in
sharing best practices with industry and, you
know, engaging in conversations there.

Beyond that I would have to get back to
our CIO to find out the specifics of, you know,
how much they engage with external partners
regarding what we're doing on the resiliency
front. But we're happy to get back with some
responses on that.

MR. CHAN: Thank you.

MS. MAR-SPINOLA: Anyone else? All
right. Jeremiah, thank you so much. And again,
thank you, Sarah, for your presentation. I think
this concludes our meeting. And but before I
adjourn, I'd like to thank everyone, PPAC members,
the patent office members as well as all the
attendees in today's meeting and our external
stakeholders for attending. And for having
engagement enough to ask us questions and keep us all on our toes.

I want to especially thank Jennifer Lo who is kind of our shepherd. She has kept us all together and on time and has been very gracious about that as well as our WebEx tech team who keeps this program going virtually.

Our next meeting will be November 18th. That is our last meeting for the year. And that will be the time that PPAC will highlight what we will be covering in our annual report which will be published around November 23rd.

So with that I'd like to adjourn the meeting. Do I have a second?

MR. CASSIDY: Second.

MS. MAR-SPINOLA: Barney has second it.


(Whereupon, at 3:03 p.m., the PROCEEDINGS were adjourned.)

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I, Mark Mahoney, 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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