Alexandria, Virginia

Thursday, November 18, 2021
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MR. HIRSHFELD: (in progress) the leaders, the Business Unit, head leaders of the USPTO for their excellent work. I will tell you that they are the ones who keep this office functioning very well. They are an absolutely wonderful group. You'll hear from many of them today. But I will tell you, they are the ones that, behind the scenes, are keeping this agency moving forward and have made this time, for me, exciting, enjoyable, and I really believe they've done a great job helping to move the office forward, as we await political leadership.

So, on that note, I have great news. I think everybody knows this, right, but it's still great news. But we do have a nominee for the political leadership position, that is Kathi Vidal. I am very excited to have her go through the confirmation process and join USPTO. She has a wealth of experience coming from Winston & Strawn Law Firm. I will say President Biden has
--- when he nominated her, said she is one of the leading IP lawyers in the country, and nationally recognized for leading high profile patent disputes. She has a wonderful background and experience to be the leader of the PTO, and, again, I'm looking forward to her confirmation hearing.

I'm going to spend most of my remarks looking back a little bit, at Fiscal Year '21 and then giving some highlights of some upcoming events. But let me also just share, before I look back at Fiscal Year '21, something I know you'll hear more of, in a little while, in the program. But, I also wanted to say that we are very fortunate that Secretary Raimondo has announced her Chairpersonship of our Council for Inclusive Innovation. This is our rebranded National Council for expanding American Innovation. We're thrilled to have her leadership be in the forefront for this Council for Inclusive Innovation. And this is, of course, our public-private partnership working on a national
strategy for expanding innovation, particularly to underrepresented groups. So, very happy to have Secretary Raimondo's leadership there. You will hear more about that, in the program, as we continue forward.

Let me now turn to some highlights from Fiscal Year '21. And I'll start with our status at the office, during the pandemic. We have spent, as you all know, the entire year, still remaining in maximum telework capacity. I will tell you, for the office, we are entirely functional. However, so, we -- as you all know, we have a wonderful telework program, prior to the pandemic. About 60 percent of our employees were home full-time anyway. So, for us, that we were used to remote working, we did have to transition, of course, some of the agency, but, for the whole year, we've been in that position. We're obviously watching transmission rates and seeing when they're saying return back to what I will call the new normal. We're not quite there yet. But I think we are, hopefully beginning to move in
the right direction.

I wanted to share some words, next, on quality, and pendency, and filings, and revenues. So, let me start with quality. Quality is always job one and most important to USPTO. I know I've shared this in a previous meeting, but our most recent customer perception survey results of patent quality, which was the third quarter of 2021, we had the highest satisfaction with overall quality, since the start of the surveys. I do feel very good about that. If you were to see our chart plotting out the survey, over the years, you will see a continued increase of those who are rating our quality as good or excellent and a continued decrease of those who are rating it poor, very poor. And that dates way back, to at least 2015, and earlier. So, I think, we've made really excellent progress there.

Our measures, that we do internally, of patent quality, we look at statutory compliance. So, we look at all of the patent statutes, and we have our Office of Patent Quality Assurance do
reviews, with the four statues. I will just say, at the high level, we made some of our internal goals and didn't make some of our other goals, but that being said, each of the compliance measures, in all four of the statues, improved. So, we got better in Fiscal Year '21, as compared to '20, across the board. Again, some of our goals, we fell a little bit short of, but, again, improvement and movement in the right direction.

As far as patent pendency's go, I have said many times that we're really trying to shift our focus to patent term adjustment time frames and not have such a focus on first action pendency and total pendency. The patent term adjustment is a better measure. It's better for the big picture. It's better for certainty, for all of you. And we've made progress there, I think, you'll hear more later in the program with that. We ended the fiscal year with 83 percent of our total compliance for mailed actions, and 86 percent compliance for the remaining inventory. Our goal is to get to 90 percent for both of
Those.

That's our long-term goal. We are moving in the right direction. We basically made our internal goal, with regard to the compliance for remaining inventory. And we're just short of our internal goal, for the mailed actions, but, again, those numbers are like quality, are moving in the right direction, even the same.

As far as filings go, it's been a really interesting year with filings, given the uncertainty of the pandemic. I know we started when the pandemic was new. We started to look at other historical events, and to see how they impacted filings because that, of course, is a driver of everything we do, at USPTO, including our current and future revenues. So, we were actually forecasting about a four percent decline at the beginning of the year, and where we ended up the fiscal year was just about flat. So, we saw a very, very slight decline in new utility filings, of 0.1 percent.

It is only the second time, quite
frankly, in the last 20 plus years, where there was a decline. Back in 2009, we saw almost a nine percent decline, during the financial crisis, and so, here, I think, it's actually very positive news for the IP system, that we ended up at almost flat again, a 0.1 percent decline. So, the numbers of filing rates were better than expected, and I think that's good news for all of us.

I will say, on the design front, we saw significant increases in design patent applications. We saw a 17.6 percent increase. Designs, by the way, usually follow trademarks more than utility applications. For those of you curious, even though this is a PPAC, on the trademarks side, we saw a 30 percent increase on filings. So, it's not so surprising that we saw, with design filings, a 17.6 percent increase. That just -- I know it's on the side here, but the trademark increase, of course, is due to the online sales and more registrations that go along with the online sales.

With revenues, and I know you'll hear
more from Jay Hoffman, later on. I will just say, at the high level, even though this was one of the biggest stressors coming into the year of a pandemic and not knowing what's ahead, we did finish the fiscal year with the highest operating reserves that we've had on record. So, financially, the agency is in a very good, very good position. So, that's an update on some of the larger key measures.

I wanted to mention a few more topics for '21. Obviously, in fiscal year '21, we implemented the Post Arthrex Director Review Process. There have been just over 50 petitions that have been decided. There -- I know the public is aware of one grant to the petitions, and there will be second grant, that I believe is being mailed today, possibly tomorrow. But that is a quick update there.

In addition, we still have the POP cases moving forward, the Presidential Opinion Panel (POP), cases moving forward. There has been one recent grant to that. Interestingly enough, I
will say that after the Arthrex Case and the Director Review Process was put into place, we got asked a lot, is POP still viable? Should POP move forward? I think those are great questions. For now, we certainly continue to have POP, but I will tell you that the number of POP requests, increased after Arthrex. I thought it would be the opposite, but it certainly increased, but, again, one recent grant to the POP Review Request.

The last topic I want to mention, for 2021, and I -- believe me, I know I'm not doing the justice to all the initiatives that we have going on, but I did want to mention the PTAB's LEAP Program. That's the Legal Experience and Advancement Program. I've been fortunate to be able to kick that off for PTAB. Although I take no credit for this program, it's been in place. It's a wonderful program, and it gives oral argument training and stand-up court room opportunities for young lawyers. And I know that at the end of October, PTAB has offered four mock sessions, with more than 120 lawyers
participating. It's absolutely a wonderful program, for those of you who are interested. You should look into that, if you qualify and I'm going to switch to a look forward here. Well, I give you some more information in a minute, about the LEAP Program.

So, that's a whirlwind summary of 2021. Let me just mention some topics moving forward in the short-term. Obviously, we have Kathi Vidal's nomination, and she will have a lot of addition to future events. But let me just mention some things going forward. Let me start with quality metrics. So, one thing that I would like to do, and I know we've been talking about it internally, is making many more of our quality metrics more accessible to the public, so that you can see and evaluate them. So, we're in the process of putting more of the quality metrics and some of the data behind that up on our website, which should hopefully occur in a couple weeks or so, so that you can all see that.

I would really love for the public,
quite frankly, to look at our Master Review Form, which is the form we've been using for years. Of course, we update it as needed, but it's the form that we use for reviewing office actions. It is very extensive. It has 20 sections, with up to 330 questions. I say up to because it does have 330 questions, but you only answer the ones for the sections that apply to the office action you're going -- but you're looking at, but you'll see that this is a very extensive form. We'd love to have a more robust public discussion about these reviews. So, we are putting that information out there, so everyone can see. By the way, that form is used for all the 12,000 reviews that the Office of Patent Quality does annually. So, I think, that's some good information that the public will appreciate.

I also wanted to mention some next steps, with regard to DOCX. So, you're all probably all familiar with our initial proposal or plan to move forward on January 1st, with a non-DOCX filing fee of $400. So, in other words,
if people did not submit their applications in DOCX, we would have the fee. Throughout the year, there's been an extensive back and forth public discussion about this, and we have decided to delay, for one year, the implementation of that non-DOCX filing fee. I will just say, if -- I would be happy if we -- for those of you who think this is a moneymaking opportunity, I'd be happy to make zero dollars from this because the whole idea, is to have people transition to DOCX. But I think there has been enough back and forth and enough stress over this transition, that what I would like to see is one where we're going to delay the start of the non-DOCX filing fee, and we're going to take a second step, and that is to create a very robust plan for having beta testers and a continued ramp up of usage of the DOCX. To be totally transparent here, the complaint that I hear mostly from folks is that while they overall like the new systems that PTO has, I think there are some level of stress about renderings in DOCX. I don't want to be too weedy
in my opening remarks here, but the fear is of
that -- if there is an unknown problem in this new
system, of how a rendering into DOCX might
potentially change some application, and I don't
think this was going to happen a lot, it's
probably -- hopefully never going to happen, but I
think fear is, since this is new, we needed to put
more safeguards into place for applicants.

So, what we will do for this beta
testing program is have a way to safeguard you, as
we're doing this. This will not be in the notice,
by the way, this will be subsequent to this, but
I'm just giving you some background. What we will
mostly likely do is accept a PDF filing, as well.
The PDF filing is, hopefully, never going to be
used, but it's there to show what information was
filed, if needed to go back, if there is a
rendering issue. Again, I hope there is never a
rendering issue. We're making our system so
there's not a rendering issue, but we also
recognize we need to give everyone the confidence
in the system.
So, we'll take the year to have this intense beta testing. Hopefully, it ramps up over time. I've asked Andy Faile to take the lead on planning next steps with regard to this pilot program, or this beta testing program, and I think this is a good step for all of us. This program will hopefully give all of you -- I'm talking way too much in DOCX, by the way. But, anyway, this program will give all of you the confidence in the system to be able to use it. It will highlight, for us, if there is any concerns that we need to address. It will let us do much more extensive testing. And, again, we will make sure that anybody who enters this pilot program will be safeguarded. So, this is my -- also my way to ask, please join our pilot program, when we come out with it because we really need to move this system forward.

Just a few other topics that I wanted to mention. By the way, you should see a DOCX Federal Register Notice, delaying the non-DOCX fee, early next week. It might even come out on
Monday, but that has already been sent to the Federal Register for publication, and, again, it doesn't include information on the beta testing pilot. That will be subsequent.

So, a few other topics I wanted to mention. We are, on both on Patents and Trademarks, also making some IT advancements, with regard to the issuance of patents and trademark registrations, and in the coming weeks, likely after the Thanksgiving time, you'll start to see some information from us, about the e-issuance, the electronic issuance of both patents and trademarks. I think that's a wonderful step. Applicants will get their patents earlier than in the past. It will help our pendency numbers. It just makes a lot of sense. I've had many people reach out to me and suggest that we take this step, and so, we will be doing that, as well. By the way, anybody who still wants the paper issuance, can get one. We'll have a small fee of $25 to get paper, but we are going to come out with some rule change on the patent side and get
some comments on that, same on the trademark side. It's not, for technical reasons, it's not actually a rule change on trademarks. But we will come out with a request for comments there to be able to hear from you all on this. But it is in the plans to move forward with that.

Two other quick comments, I wanted to mention, in the PTAB Front. This is sort of a look back, and a look forward. I'll say it's a look back because it was a September announcement. But most of the planning is still moving forward. But the PTAB has been working with stakeholders to establish a pro bono program, first for ex parte appeals, and hopefully in time for AIA Trial Proceedings. I think this is a wonderful step. The PTAB Bar Association will serve as the National Clearing House for the program, matching those in need of counsel, with volunteer attorneys. So, much more information will be coming on that soon.

And I mentioned the LEAP Program previously, and, again, I think that's a wonderful
program, in the coming weeks, I don't know --

exactly know the timing, but we are in the process
of removing the condition that attorneys have
seven or fewer years of experience, as a licensed
attorney or agent, to be able to qualify for that
program. We're removing that restriction because

there are some instances where people have been
licensed or registered for more than the seven
years, but they still don't have the argument
experience. So, we think this would be a very
valuable program for them. It could be parents
with time away from practice. It could be members
of the Reserve or active duty. There could be
many factors that lead in, but we'd like to be
able to open that up to anyone who is thinking
that practice would be good for them. So, I think
it's a wonderful step that the PTAB is taking.

So, I know that was a whirlwind look
back and a look forward. It's been an exciting
time at PTO, and there is much more going on than
I can do justice here, but, again, thank you for
hearing me on the look back at fiscal year '21 and
a look forward to some of the items. I did -- I'm
going to wrap up, but I just also wanted to
mention, as Julie said, that we have a sad event,
and that this isn't moving on, for some of our
PPAC Members.

So, as Julie mentioned, she will be
moving on. Her time has expired. We also wanted
to thank Jennifer Camacho and Barney Cassidy for
their work. So, thank you to all of you. I see
that the tech is a step ahead of me here. It's
great. We have the certificate of appreciation up
on the screen, so you can all see that. So, we
will be sending out those to each of you. I wish
we were in person, for this part, to be able to
really give you the thank you, to the three of
you, that, really, you deserve. But up on the
screen, you'll see the certificates of
appreciation. I will just say, from my heart to
all of you, thank you for all of your great work
and the great teaming with PTO. I mentioned this
yesterday, to the PPAC Members, that we really
have worked very well together, and it's been a
great teaming effort. So, I'm grateful for all of you.

I did also -- if we can go back to the bigger picture screen, for a second. I wanted to show one other item here, that's easier if you can see me. And I'm going to probably have to slide my chair off camera for a second, but I'm not going anywhere. Well, I guess you can still see me. But, Julie, this is something we wanted to give for you as Chair, and I hope you can see it well, but this is a USPTO Flag for you. You can't see it on the side, but there's a, of course, a nice label signifying that this flag was flown at the USPTO in recognition of your service.

MS. MAR-SPINOLA: Thank you so much.

MR. HIRSHFELD: So, thank you very much.

MS. MAR-SPINOLA: Thank you. Thank you so much. I will have that in a very special place in my office. Thank you.

MR. HIRSHFELD: You're very welcome.

So, again, thank you to all the PPAC Members, and, with that, I will conclude my remarks, and I'm
looking forward to a great discussion for the rest of the session.

MS. MAR-SPINOLA: Thank you so much, Drew. I appreciate that, and thank you, everyone, for the flag. It's beautiful. I'm excited to have it. So, thank you very much.

I neglected on not introducing all the PPAC Members, this time around. So, what I'm going to ask, to keep on schedule, is that for each chair to identify themselves, when they make their introductions to their own subcommittee presentations, if that's okay? So, thank you again.

And so, let's start with the Innovation Subcommittee. There's a lot of great things going on, and we have a new panelist with us, and we're hoping that Cara Duckworth, who is the Acting Chief Communications Officer at the Office, will continue to participate in our PPAC Meetings to highlight -- to help highlight, along with the other programs that the Office has put on, any of the programs that are inclusive and diverse for
promoting the diversity of our inventors. So, thank you. Let me turn this over to Jennifer Camacho.

MS. CAMACHO: Thank you, Julie. As you just mentioned, I'm Jennifer Camacho, Chair of Innovation Subcommittee, and this is my last meeting. I want to thank the PTO, my fellow PPAC Members, and truly the public, as well, for engaging with us on this discussion, this really important discussion.

Turning then to our Innovation Expansion Subcommittee. As we've talked about before, America's longstanding prosperity and global leadership in innovation really depends on leveling the playing field for all Americans to innovate and reap the rewards through entrepreneurship and commercialization. And as we've discussed before, as well, in Fiscal Year 2020, the USPTO laid the groundwork for a focused initiative directed towards inclusiveness and innovation. And, you know, for example, we established what is now known as the Council for
Inclusive Innovation, that's CI Squared, a catchy shorthand there.

Chaired by Secretary Raimondo, the CI Squared brings together prospects of U.S. Innovation Ecosystem, including leaders and high profile and high-level officials, from industry, business, academia, not for profits venture capital, you know, obviously venture funding is a key here, and the U.S. Government, as well as independent inventors, and those are -- voices are very, very important on this council. The objectives for CI Squared include developing a national strategy for expanding American innovation, or the national strategy, by fostering innovation, competitiveness, and economic growth, and this will be done through promoting and increasing the participation of underrepresented groups, as inventors, patentees, entrepreneurs, and innovation thought leaders.

A second objective CI Squared is to develop a long-term comprehensive plan of action for continuing to build our innovation ecosystem,
in areas that are key to the next technological revolution. That's a really fun area to think about. You know, where are we going to go next? And how are we going to continue to build our group, so that -- build the ecosystem, so that we are in front of it, so that we are not chasing it, but, in fact, we are leading the next technological revolution.

Now, in this year, in Fiscal Year '21, the PTO, together with the CI Squared, focused on developing the national strategy, and Deputy Commissioner for Patents, Valencia Martin Wallace, is here to provide a brief update on the national strategy. It's an effort that's still in progress, but I'll give you a little bit of context, as announced in the National Federation Registry at the beginning of this fiscal year. We anticipate the national strategy will be organized by a broad framework that considers the entire life journey of an individual and all the opportunities along the way to cultivate an interest and expertise in innovation.
We can't just start at the end of the show, we have to start at the beginning, but then, you know, that includes STEM at the very early ages and goes all the way through the life journey of a potential innovator. This is important. So, with that in mind, it's not surprising that one of the key elements of this framework will be focused on creating innovators, which addresses expanding access to foundational experiences and educational opportunities for students and individuals of all ages and backgrounds.

Another element will be focused on practicing innovation, which is directed to the empowerment of all innovative individuals, by ensuring that they have the adequate resources and supportive environments to turn their ideas into protectable inventions. The third element will be focused on realizing this, realizing innovation, which addresses successful commercialization of an individual's innovative products and services.

And the fourth element will be focused on measuring and monitoring, of course, which
enables organizations to measure their own progress, of fostering equal access to innovation along each stage of the pipeline. That's critical because you can't do it alone. You know, it's part of -- we're all part of a bigger ecosystem, and a lot of that depends on organizations, and corporations, and academia. This is an important aspect. So, we're all very eager to see the national strategy, and the PPAC, of course, encourages the CI Squared to continue to move with this effort, forward, with urgency, as it has been all along, and we're really looking forward to seeing this.

In the meantime, we also encourage the PTO to communicate frequently with the public stakeholders on the status and projected timeline for the release and implementation of the national strategy. We're not the only ones who are eager to see it. A lot of people out there are. Another aspect that I would love to talk about, and as Julie has -- had alluded to, we have additional voice at the table today, and we're
really excited about expanding the discussion on innovation expansion, into what else the Patent Office is also doing.

So, throughout Fiscal Year 2021, the PTO continued to promote initiatives, and inclusiveness, and innovation through its expansive Public Outreach Programming, with greater attendance even enabled with the remote access tools. So, that, you know, there are very, very few silver linings to -- we've all been through in the last year and a half. But getting everybody access through remote tools has really been, I think, a good -- one of the silver linings that is there, and that we're able to reach out to broader audience, and have them be able to access the important information and tools that are available through the Patent Office.

The Office of Chief Communications Officer, OCCO, is responsible for a significant portion of the agency's outreach efforts, through the Office of Innovation Outreach, the Office of Education, and National Outreach Partnership
Division. In fact, as Julie mentioned, the Acting Commissioner, or I'm sorry, Acting Communication Officer, Cara Duckworth, has joined us today, and will be with the group moving forward, to share some highlights from this year's outreach efforts. So, that's very exciting. It's a fun discussion.

We certainly have a long way to go with this initiative. But we congratulate the PTO for the truly meaningful strides that you have made, in Fiscal Year 2021, towards this objective. So, thank you. And with that, I will turn it over to Valencia and Cara to share some highlights with us from this last year.

MS. MARTIN WALLACE: Thank you, Jennifer. Before I get started there, I also like to add my warmest and best wishes for all of you, Jennifer, Julie, and Barney, on moving into your next phase of still working and supporting the IP System in the USPTO, as you always have. I can't thank you enough, and in particular, to Julie and Jennifer, where we are with expanding innovation
is, in part, due to your creativity, and your ideas, and your reaching out to assist us and support us in gathering the right people together to work with us on moving this forward. It's been invaluable to us, and to me, and your advice and your work with us has just -- it's been amazing. And I know that that's going -- we can rely on you still doing that, beyond PPAC. PPAC was not the reason why you did it, it's because you believe in what we're doing, and I can't thank you enough.

So, I will then give a very short update, as Drew and Jennifer mentioned. We are now CI Squared Council, we still have the same council members, except we're happy to say, as Drew and Jennifer mentioned, that Secretary of Commerce Gina Raimondo is now our Chair, and our Vice Chair is Drew Hirshfeld, in his role, that he's currently in. So, our leadership on that council is phenomenal, outstanding, and a lot of energy. So, I love to -- working with them, and talking with both of them about the direction we're going in.
We are currently working on the strategy still. We have finalized our first draft, and it is in the review process. The review process is through our agency, as well as through DOC. We are meeting as -- today actually, this afternoon, meeting with our working group, that I've mentioned before, who helped support us in building the strategy. So, our next steps with them are today, in reviewing what we have put together for the strategy and getting their comments. So, I am excited to hear what they have to say today.

I'll step back just a minute, and say, when the Secretary announced that she would chair CI Squared, she did it through and event, through the AnitaB Organization, a innovation chat that she had. It was between the Secretary and Safra Catz, the CEO of Oracle, who is a member of our council. It was an exciting discussion between the two of them, two very accomplished women in the innovation field, and sharing their experiences and their vision for what we're doing,
as well. So, I would encourage everyone to go
onto our web page, where we have that recording,
to hear what they had to say.

So, we're still very, very excited about
the direction that we're going in. We are looking
forward to a release of the strategy, early next
year. And we are also working, through Drew, and
through the Secretary and her staff, on a series
of actions that we will be taking underway for --
USPTO will be taking underway, under the name of
the strategy. We're very excited in our
development of those and we will be able to share
more information about those actions soon. So,
very excited about everything we're doing, and all
the work that we've done there.

I do want to give just a short update,
also, on some work that we've been doing globally.
So, one of the things that we're doing to better
support our stakeholders, better support
inventors, small business owners, in the
innovation ecosystem, is to work with offices
around the world, as well. And one of the ways
that we're doing that is, just this week, we had a
global discussion called Women in IP, with several
other offices that USPTO hosted, and Drew opened
up for us, and spoke very eloquently about the
work that we're doing.

The discussion was among the offices of
New Zealand, Australia, the Hashemite Kingdom of
Jordan, Canada, the UK, Mexico, Philippines, South
Africa, Namibia, all joined in. Representatives
from all of those offices joined in on this
discussion. It was a two-day discussion. The
first was Tuesday, a public session, that we --
you can also go to our web page, in about a week,
to see. And the second day was a closed session
discussion about how all of our offices can work
together, collaborate, to build a better
advancement of women in the IP and Innovation
Ecosystem. So, it was a really exciting two-day
discussion that I will have more information on,
as we work together to put actions together there,
as well.

MS. CAMACHO: Thank you, Valencia. Are
there any questions, or I know that we are short on time, so, perhaps, if there no questions, we'll go forward with Cara.

MS. DUCKWORTH: Thank you, Jennifer. Hopefully, everyone can hear me. There are a couple slides, but, as Jennifer and Julie mentioned, my name is Cara Duckworth. I am the Acting Chief Communications Officer, here at the USPTO. I think, relative to a lot of folks that you'll hear from today, I'm actually a newbie. I joined in January, and so, I'm getting my PPAC wings today. So, I really appreciate Jennifer and Julie for bringing me into the PPAC conversation. I look forward to continuing to work with you, even beyond PPAC, and I look forward to continuing the dialogue with PPAC. So, thanks again.

So, I want to talk a little bit today, as Jennifer mentioned, OCCO, my department, the Office of Chief Communications Officer, we have a unit called our Community Engagement Unit, and this unit does a lot of outreach programming to historically underrepresented, underserved
communities and innovators, to really help demystify concepts of intellectual property and in the patent and trademark system. That is very big goal of ours, and we are continuing to do that on a daily basis. So, I'm going to talk a little bit about our out -- enhanced outreach programing and storytelling initiatives, that we conduct here, within the office of the Chief Communications Officers.

So, I'm going to go to the next slide, please. So, in Fiscal Year '21, our Office of Innovation Outreach, within the OCCO, we launched four new annual programs, including our Asian-American and Native Hawaiian Pacific Islander Inventors Program, in May, which Julie was gracious enough to moderate both panels, the Proud Innovation Program, in June, corresponding with Pride Month, the Hispanic Innovation and Entrepreneurship Program, in October, and, just two days ago, our Veterans Innovation and Entrepreneurship Program. And so, for all of these programs and everything we do, we want to
make sure that its appropriately structured to be able to give folks enough resources, no matter where they are in their journey of innovation.

If they're just an inspiring innovator, who has an idea, or if they've already been building upon their business for a while with intellectual property portfolio, and they want to strengthen that, we want to make sure that we're giving value to all of the attendees. And so, our job, obviously, is to inspire attendees. We always structure it in two different panels. We have one panel of inventors, successful inventors and entrepreneurs, from a particular demographic, talking about their story, talking about how they became the inventor that they are, hopefully, giving everyone an example of what it can be to be a successful entrepreneur or inventor.

We educate folks about resources, and we promote awareness and establish new and strengthened existing conditions -- connections. Our second panel, as our structure, as I mentioned, includes a lot of our Government Agency
Partners, including the Small Business Administration, who have representatives who participated in these panels, talking about the resources that SBA provides. We also, during our Veterans Program, had somebody from the Department of Veterans Affairs, talking about VA Resources for those who want to start businesses, who have already started businesses. Next slide, please.

So, during this last fiscal year, we pivoted because we recognize there is a lot of Zoom fatigue out there, and it's really hard to get folks to pay attention, for more than, really, an hour, and sit there and listen to other folks talk. We recognize that happens to all of us, on a daily basis. For our Black Innovators Program, we had two different events that were a little bit shorter than we did last year. One included some three incredible Black women inventors, including April Ericson, Iana Howard, and Arlene Simon. You'll see April Ericson down in the bottom left there. She had a really great virtual background. She works at NASA, and she had a really inspiring
message, especially to young girls, that they, too, could become an engineer at NASA, so, obviously, recognizing that kids just can't be what they can't see. She is really a great example. They all were.

We had another event that focused on business. And we had the Google Art Director and a Google Doodle Illustrator come on and talk about their work, and especially having to execute, on a daily basis, these really cool historical, storytelling Google doodles, and their inspirational messages to young kids and young girls, as well. And for our Women's Entrepreneurship Symposium, normally, that is a very long, four-to-five-hour program. It was a virtual program in FY '20. So, last year, it was a virtual four-hour program, we recognized the Zoom fatigue was real, and so, we chunked it up, and we did one hour programming's during Women's History Month, in March, and that was during folks' lunch hour.

So, from twelve to one, every Wednesday,
we had a panel, and they went all the way from
just hearing from successful women entrepreneurs,
to talking about STEM and education, and reaching
young girls with STEM and IP Invention Education.
And it was really, really successful. I should
mention our Black History Month. In FY '20, when
we did the long virtual program, we had a little
over 200 attendees. This past year, when we
chunked it up, we had over 1000 attendees.
And for our Women's Entrepreneurship
Symposium, last year, we had a little over 500
attendees for our day long program. This past
year, because we did chunk it up, recognizing the
Zoom fatigue, we had well over 7,000 attendees.
So, we were able reach more folks, wherever they
are, in their innovation journey. Next slide, please.
I also want to talk a little bit about
our storytelling, within the Office of the Chief
Communications Officer. We have, every month, a
series called, Our Journeys of Innovations
Stories. And this is, like I said, a monthly
series, that comes out on the first of every month. It tells a story of a really game changing, world changing, inventor or entrepreneur. We look at specific demographics. So, Arlene Simon, on the top left there, she is a biomedical engineer. She is an author of the "Abby Invents" children's books. She is an inventor. She invented a blood test that detects when cancer patients have rejected bone marrow transplants. So, she is an incredible example of successful inventor entrepreneur and young.

We also highlighted the inventor of salsa, Johnny Pacheco, there in the middle, and Audrey Sherman from 3M, who has over 120 patents in the field of (inaudible) and has a really incredible inspiring story, herself. These are smack on our home page. So, if you visit USPTO.gov, you'll see our Journeys of Innovation Series, and you're able to visit our entire library of them. We've been doing them for quite some time, and they're really a great opportunity for us, whenever folks come to our front door of
USPTO.gov, to see examples of inspiring innovators and entrepreneurs who have really great stories.

Next slide, please.

So, I know we're a little pressed for time, I will try to go through as quickly as possible. But I wanted to talk about our largest partnership with the National Inventors Hall of Fame. We're creating and celebrating innovators.

Next slide. So, for those who are familiar with the National Inventors Hall of Fame, you probably know all this already. But I just want to give a little bit of background to those who may not be.

NIHF was co-founded in 1973 by the USPTO. They have a little over 160 employees and more than 2,000 philanthropic partners. They are headquartered in North Canton, Ohio. And they have, for folks who have visited USPTO Headquarters, in Alexandria, Virginia, their National Inventors Hall of Fame Museum is located right in our lobby, in our Atrium, in USPTO Headquarters. They have an annual induction for their NIHF inductees in May. This coming Fiscal
Year '22 will be at the Anthem, in May.

They also conduct some incredible STEM and intellectual property education programs, reaching kids from all ages, Pre-K thru 12, nationwide, reaching over 180,000 children annually, and over 22,000 teachers trained in the field of invention education, so, really helping inspire students and kids to learn how to become inventors. They also administer the Collegiate Inventor's Competition, which is a nationwide graduate and undergraduate contest, featuring some truly incredible college students, who are already changing the world with their ideas. And the ceremony is held annually at the USPTO. Obviously, it's had to be virtual the past couple of years, due to the pandemic. Next slide, please.

So, inductees to NIHF must hold a U.S. Patent and significantly contribute to the nation's welfare. There have been over 600 inductees. Like I mentioned, the induction is held annually in May. It will be held at the
Anthem this year, and they are featured in the NIHF Museum located in USPTO Headquarters in their wall of fame. And NIHF is really -- what they do is really, really, unique. They talk to the NIHF inductees. They get a good sense of, okay, what kind of innovator mindset do you have, and had -- have you had to have, in order to become an inventor, a successful inventor and entrepreneur, and they integrate all of what they learned from these interviews into all aspects of their program offerings to teach kids. Next slide, please.

So, the class of 2022 inductees include the first Black Women, Dr. Patricia Bath, who invented laserphaco eye cataract surgery, and Dr. Marian Cook, who works at Google, and she invented the voice to text functionality that we all have on our smartphones. This is not an exclusive nomination process. Anyone can nominate to NIHF. Like I mentioned, they have to have a groundbreaking patent, and have a truly inspiring story, and their invention has had to had wide spread use, and be willing to kind of give back to
the next generation of inventors and
entrepreneurs, and inspire that next generation.
Next slide, please.

This is just a wide offering of what
NIHF does, their programming. So, as I mentioned,
from Pre-K, their invention playground, to their
K-6 Camp Invention, which I'm going to talk a
little bit more about in the next slide, all the
way to the Collegiate Inventors Competition in
college, and the professional development. Like I
mentioned, they talk to all of the NIHF inductees,
and say, okay, what kind of concepts do you think
we should build into the curriculum? Next slide,
please.

And they conduct this curriculum
annually. They create new ideas, new concepts,
every year, to teach to kids. So, it's not the
same old, same old, every year. And something
really unique about NIHF, which we love, is they
provide all resources that are needed. So,
whenever they ship boxes of things to classrooms,
they include everything. So, recognizing that a
lot of underrepresented communities and
underrepresented families may not have scissors,
may not have screwdrivers, laying around the
house. They make sure that, included in those
boxes, everything is there, so that no one needs
to go searching for anything. And like I
mentioned, during Camp Invention, in the summer
camps, a lot of the NIHF inductees come and do the
hands-on interactive lessons with the students,
themselves, while teaching them the intellectual
property triangulation pro.

So, from start -- scratch, let's talk
about what kind of thing might be -- need to be
invented? What ideas do you have? And then, from
there, they talk about, okay, let's build your IP
Portfolio. Do you need to register for a
Trademark? Do you need to apply for a patent?
And so, they are really are teaching some basic
concepts of entrepreneurialism and
commercialization. Next slide, please.

So, at Camp Invention, as I mentioned,
the summer camps, over 140,000 children
participate annually, and these are located in 30,000 school districts, including, I'm sorry, in 3,000 school districts, in 50 states, including D.C. and Puerto Rico, each year, 17,000 certified teachers trained in invention education, and over 200,000 children in these schools districts, nationwide, are impacted by these teachers that are trained in invention education. And something really, really, important, an important statistic, is 60 to 100,000 underserved students receive scholarships annually, thanks, in large part, to support from the USPTO. Next slide, please.

I'm almost done. This is a really important slide because it talks about evaluations. So, NIHF undergoes third party evaluation, every year, to make sure that their program is having the impact that they want it to have. And by all accounts, those third-party evaluations say, yes, actually, your camp invention has a lasting impact. So, just one week of camp improves students' creativity, a STEM interest, teamwork and collaboration, which,
obviously, is so critical, problem solving. It improves attendance, GPA and test scores, the following school year, after a kid participates in camp. And teachers take these lessons of invention education and entrepreneurial concepts into their classrooms, every year, to really foster that risk taking mentality and to teach students to fail forward. Next slide.

So, moving forward. Let me just talk real quickly about the pivot. So, NIHF, because, obviously, March 2020 hit, the pandemic hit, and they were planning to have Camp Invention in the summer, with kids coming to camp, just a few months, short months, later. What they decided to do was, all right, let's just provide Camp Invention in the form of innovation exploration kits, that they delivered to both virtually and offline to homes. So, about 100,000 Pre-K-12 students, in all 50 states, were reached with these at home exploration kits. They also were able to do Camp Invention Connect, which is a virtual, teacher lead camp invention during the
And in 2021, they also did a hybrid. They did in person and hybrid camps, and they reached, because of this sort of remote offering, they reached more than 200,000 students, which is the first time ever. And scholarships were provided to over 144,000 students, again, thanks to a lot of USPTO support. Last slide.

So, moving forward, we're obviously looking to build upon our relationship with NIHF and to be able to reach more rural, small population areas, underserved communities, as many as we possibly can reach. So, we will be contributing more to keep this virtual kit format. We will also be providing material support and funding, moving forward, and this will be, obviously, included into our permanent joint agreement with NIHF because, obviously, we want to make sure that we are reaching students, and letting them understand and demystify all of the intellectual property process.

We want them to know that USPTO is here.
Resources are here. We also have some great paid internship programs. So, we always are trying to reach as many folks as we can, especially in the underserved communities, and so, this is just one of the ways, and one of the partners, and our biggest one that helps us accomplish that. So, we look forward to building upon all of these outreach efforts in FY '22. Thank you so much. I think my next slide will include my contact information. So, please feel free to reach out to me with any questions or comments. I look forward to continuing this dialogue, and I'm going to turn it back to, I think, Jennifer.

MS. COMACHO: Thank you, Cara. That was fantastic, I mean, really, the programming is dynamic. It's interactive. It's adaptive. It's interesting. It's exciting. That's terrific. Thank you so much for highlighting that for all of our participants and really appreciate it. Could you please put, in the chat box perhaps, put a link for the events page, so that folks can go and see events, sign up for it, and if there is any
way to get an alert on what's going with this, Valencia, on the innovation expansion and on the programming. That would be terrific. I'd really love to see people accessing these terrific programs. We really do appreciate that.

Any questions? I know that, again, we -- this is a topic that we love to talk about, and we always take up our time, and then some. So, I apologize to the -- to AI, who I think we've eaten five minutes of their time. But thank you both, Valencia and Cara, and I'll be cheering you on.

MS. MAR-SPINOLA: Well, thank you, Jennifer, Valencia, and Cara. This is a great and a very important topic. So, the time and attention put into it, and, you know, I'm optimistic that progress will actually be made, as a whole. I'm not talking about that the Patent Office hasn't made progress. I'm talking about, as a whole, that the Patent Office can be the example, the role model, of saying we're committed to this, and we're moving on it, and we're advancing it at every level, and I'm very proud to
say that that's what I see right now. So, thank
you for your efforts and time, and to the Patent
Office, generally. So, thanks again, and we'll
move onto Artificial Intelligence and Information
Technology.

MR. CHAN: Great, thank you, Julie. I'm
Jeremiah Chan, and I chair the Subcommittee for AI
and IT. And to provide a little bit of context,
the PPAC formed the AI Subcommittee last year, in
2020, to provide the USPTO guidance on the growing
number of AI related policy issues, the
application of AI Technology to its processes and
workflows, and to facilitate the USPTO's position
as an AI leader, among the world's Patent Offices.

Last year, I had the privilege of
co-chairing that subcommittee, with Barney
Cassidy, and it provided great visibility into the
impressive work by the USPTO's personnel working
on the applicant of AI Tools, as well as the
growing number of AI related policy issues. Over
the course of 2020, we saw that the opportunities
for collaboration between AI and Information
Technology became increasingly clear. And in 2021, our PPAC Chair, Julie, recommended that we combine the two subcommittees. That proved to be a great decision.

The combined Subcommittee for AI and IT facilitated even closer coordination, sharing data and technology across the Office, avoiding duplication of effort, and really doing a great job in improving efficiencies, all of which led to even faster execution against its goals. Now, I think it's important to continually step back and remind ourselves of the purpose of the extensive investment that the office is making and has made in IT and AI, which is ultimately to improve patent quality and the efficiency and the performance of the Office.

AI and IT initiatives deliver significant impact, in a number of different ways that we're going to discuss further today but let me give you a few highlights. The first is that the USPTO’s IT Systems remained remarkably stable and secure during the pandemic, despite having to
support one of the largest telework programs, with over 13,000 employees working remotely. I know that many companies and organizations lost productivity during the pandemic. And one thing that I would like to continue to remind the public of is that USPTO actually realized the increased productivity, in large part, due to the work of the Office of the Chief Information Officer, OCIO, which supports the stable and seamless operation of the USPTO's IT Systems. Bob Simms is going to talk about the resiliency of the IT Systems and the organization's cloud migration.

Cybersecurity plays another key role in ensuring that the USPTO's IT Systems are protecting the confidentiality, integrity, and availability of information. Don Watson is going to talk about the Office's efforts to proactively guard against the continuous threat of cyberattacks on the USPTO's IT systems.

The effort to encourage transition to uniform DOCX filing format, which Drew mentioned, by applicants and petitioners, we also continued
this in 2021. Adoption of DOCX format will improve quality and efficiency in examination and the publication process. And Rick Seidel is going to give us the latest context and updates on DOCX.

The USPTO also continue to make progress on the deployment of AI tools to automatically classify documents and assist examiners in finding relevant Prior Art. Matt Such is going to discuss updates to patent search, and then Nelson Yang is going to provide updates on Auto Classification.

Lastly, from a policy perspective, the USPTO remained in very close connection with other government agencies focused on AI, as they continue to examine the national and international duplications of the AI technologies, for laws and institutions. The USPTO was extremely active in soliciting feedback, holding conferences, and publishing reports on AI and related to IP policy. And all this great work is detailed in our forthcoming Annual Report.

Charles Kim is going to discuss the latest developments, with respect to AI
inventorship. There's been a lot of activity there, and he'll also discuss the National Artificial Intelligence Advisory Committee, that some of us have heard about. Overall, the USPTO completed the goals, that it set for itself, in 2021. And the continued work and investment that the office is making, in IT and AI today, has and will continue to raise the quality of patents and the efficiency of its operations.

So, I'm please to host this topic today, and, with that, I'm going to actually turn it over to Bob Simms to talk to us about resiliency and the cloud. Bob?

MR. SIMMS: All right. Good afternoon everybody. As Jeremiah mentioned, I am Bob Simms, and I am the Director for Infrastructure Engineering and Operations. Next slide, please.

Okay. So, the Resilience and Data Center and Cloud Teams have really had an excellent year of achievement. As part of our efforts to establish a new Data Center, in FY '21, we successfully migrated our alternate processing
site, from Boyers, Pennsylvania, to Manassas, Virginia. Alongside that, we also increased the reliability and bandwidth of our network services, going from 10 gigabyte throughput to 40 gigabytes, so, a remarkable uptick in gigabytes per second.

So, in FY '22, we prepare and begin the relocation of our Alexandria Data Center to Manassas, Virginia, using what we call a product bundle approach to reduce the amount of time our products may experience, as services are being moved. So, that allows us to do that work, with the least amount of impact. So, in relation to cloud, we implemented an intake process. And what that does is it goes out and assesses the feasibility for a product to move to the cloud, with several successful product migrations actually taking place this past year, from our (inaudible) System in USPTO Data Center to our cloud service provider, that we have agreements with.

In FY '22, we continue to assess our
product feasibility for moving to the cloud,
leveraging an Enterprise Cloud Management Contract
that we put in place, while using data analytics
and other methods to drive increased cost savings,
as well as efficiency into our systems. And that
is really all I had. I just wanted to go through
and kind of highlight what we have in the
Resilience Data Center area, as well as cloud.
And I don't know if we're taking questions now, or
otherwise I can just pass it onto Don Watson.

MR. CHAN: Thank you, Bob. Why don't we
hold questions till the end, just to make sure
we're managing the time? And we will -- we'll go
over to Don Watson to give us a cybersecurity
update.

MR. WATSON: Thank you. Good afternoon,
everyone. We deployed at endpoint a detection and
response capability, and we began this earlier in
the Fiscal Year '21, ahead of the President's
executive order on improving cybersecurity, which
came out in May of 2021. And in a recent Office
of Management and Budget mandate, we completed the
deployment of an endpoint detection and response capability. Now, what this capability does is it allows us to capture endpoint activity on our servers and our systems, and it provides in-depth analysis to automatically detect suspicious activity and to stop breeches.

We've also improved our ability to respond to security events, through automated response and orchestration. And this also includes deploying a user behavior alias capability. This capability uses machine learning to baseline user activity over time, which can help us identify user activity that is outside the norm. This does support us with insider risk management activities.

We've also improved our security configuration standards and integrated cloud threat detection into our security operations. In the next quarter, we want to integrate supply chain risk assessments and update security requirements into acquisitions. Every organization nowadays faces supply chain risks.
So, it's important that we address that early in the acquisition's life cycle.

We also are going to improve cloud security and monitoring instrument response, as we move more products into the cloud. And one of the key elements we're going to deploy, software's and servers, is called Cloud Security Posture of Management. That ensures, as we develop and deploy products in the cloud, that we are able to detect any misconfigurations of anything that's in our cloud environment. This is critical because most breaches that occur in the cloud are due to misconfigurations.

And lastly, we are beginning integration of the new and updated Federal Security Privacy Controls, which came out within this special publication, in Rev. 5. We intend to do this in a very -- the reproach. We do not want to impact our product teams. And we do have some reliance on our Government's Risk and Compliance Tool, which needs to be updated to -- for us to be able to apply these new controls and updated controls
that NIST has put out. So, we don't intend to impact the product teams as they perform their work. And we'll take an inter-approach and make sure we can meet those compliance requirements. With that, that concludes my brief. Thank you.

MR. CHAN: Great, thank you, Don. I know for many of us, you know, just turning on the news each day, we'd see that cyberattacks have become so common, and it's quite nerve-wracking to think about all the measures we need to take. But I can tell you that, you know, hearing from you and your team, Don, and all the proactive measures that the team has been taking, really given me quite a bit of piece of mind around the security of the system, the PTO. So, thank you.

MR. WATSON: Thank you.

MR. CHAN: Why don't we move it over to Rick Seidel. I know there's quite a bit of questions on DOCX, Drew mentioned it, but hopefully we can dive a bit deeper. Rick?

MR. SEIDEL: Thank you, Jeremiah. I think the big news, I'll just cut to the chase, is
we are delaying implementation of the non-DOCX surcharge for another year, to January 1, 2023. During that time, we continue to try to do two things. One, get more entry into the DOCX filing stream. Drew mentioned the issue of rendering. Stay tuned. We will have more details on that in the future, as to, you know, how we can address that, and, again, get more folks into the system. Just a reminder, we continue to have weekly sessions of how to navigate DOCX, and we will see those events carry over into the new year, as well.

And then, just as a reminder, I believe it was either our last PPAC or two PPACs ago, we talked about Patent Center Training Mode, where you can actually go into the system, and explore it, and use it, and get yourself familiar with it. So, it's on our Patent Center website. You can click on it. It's up at the top, DOCX, on our DOCX landing page. Again, I would encourage those of you who haven't taken a look to please familiarize yourself with it. And that's really
all I have. So, again, the big news is we're delaying implementation, and we will continue to work with our stakeholders to address concerns and ultimately get more users into the system. Thank you. Back to Jeremiah.

MR. CHAN: Great. Thank you, Rick. We will reserve questions for the end. And it looks like we may have some time there. I will say, Rick, you and the team have been incredibly responsive with the feedback, and so, just putting it out there for the public, that the team really is craving your feedback. Please keep it coming. I know we've heard quite a bit, but the USPTO's extremely responsive to the feedback and making sure that we hear you all. So, thank you for that, Rick.

MR. SEIDEL: Thanks, Jeremiah.

MR. CHAN: Let's switch gears a bit now to the application of AI tools, and we'll start with Matt Such on AI Search.

MR. SUCH: Thank you, Jeremiah. Good afternoon and good morning. We have a bit of news
that we'd like to share today. Just this past October, on the 15th, the USPTO released its first AI search capability to examiners that have transitioned to our new PE2E search platform. It's a functionality that we call More Like This Document, and this is very exciting for us because it allows examiners, as they're going through their search, if they run across a document that they would like to see more of, they can use this capability to actually leverage artificial intelligence retrieval capabilities to bring forth similar references and similar documents for them to consider. So, it's -- and it's totally up to the user, in terms of how they use this. So, it's very, very flexible.

The other thing that's really exciting about this is we've been putting a lot of work into this program, and the capability works not only on our US Patents and Publications, but it also works on all of the 61 foreign countries that are available to our examiners, through the PE2E search platform, and that's regardless of the
language that that -- that those documents are published in. Although, I would note that we have English translations that are available to examiners through the search tool, which is something that else has come online here, over the last couple of months, as we've been making improvements to improve the accessibility of Prior Art for our examiners.

A little bit of a look ahead on this, we are continuing to expand access to the PE2E search platform, to the full examining core, through FY '22. And as more examiners are making that transition onto our new next generation tools, they will also have access to the -- all the features, including the foreign documents, as well as this artificial intelligence retrieval capability, More Like This Document.

And we are continuing to build out this functionality. So, the next steps we are taking is we are looking at incorporating actual application data to help support the queries and refine the options that are available to examiners
to be able to tune those queries and further improve the results that they can generate through the leveraging of these tools to assist in their search. With that, I will turn it over to Nelson Yang.

MR. CHAN: You're on. You're on.

MR. SUCH: Still not hearing you.

MR. YANG: Can you guys hear me now?

MS. STEPHENS: Yeah.

MR. CHAN: There you are. Thank you, Nelson.

MR. YANG: Sorry about that. So, let me start over again. This past fiscal year, we have been evaluating the AI Auto C* models for the placement of C* symbols, which is the indication of CPC symbols on the application that should be associated with the claimed subject matter. This has included the integration of Auto C*s with our existing business processes to monitor quality. As part of this effort, we have been implementing Auto C*s for a portion of our new utility filings to determine the operational efficiency, and this
occurred back in December 2020. And we have been, since then, monitoring the quality of these Auto C*s to assess the readiness of the expansion to a further larger subset of the applications.

In addition, we have been also looking at the Full Classification, that is applying symbols on applications using AI. And we have been continuously updating the AI models and assessing their readiness and abilities. As part of this new fiscal year, we plan on continuing this assessment of these Full Classification models, which will include the exploration of a pilot for Auto Full Classification. And in addition, we are also looking at the business processes that surround the classification effort to see how we can leverage these business processes to support Auto Classification and AI. This includes looking at AI use cases for the classification processes, beyond initial classification, and also leveraging the data streams that we currently have to evaluate the quality and to assess the business impacts of AI
and Auto Classification, as well as to identify additional opportunities that we can leverage using AI and Auto Classification. And with that, I will turn it back to you, Jeremiah.

MR. CHAN: Great. Thank you so much, Nelson. All right, I am pleased to -- that we've got plenty of time for our third topic, which is policy updates. Charles, would you give us update on that? There's been a lot of activity, and so, I'll hand it to you, Charles. Take it away.

MR. KIM: Great. Thank you, Jeremiah. All right, good afternoon, everyone. My name is Charles Kim, and as Jeremiah mentioned, I'll be providing a few updates regarding AI IT policy, including updates relating to AI inventorship, the National AI Advisory Committee, and a couple of recent events on AI and IP. Next slide, please.

Regarding AI inventorship, the U.S. District Court for the Eastern District of Virginia recently issued a decision in Thaler v. Hirshfeld. Before I discuss that decision, I'll give a quick background of the applications that
were involved in that case. So, back in January
of 2019, two patent applications were filed,
naming an AI machine, DABUS, as the sole inventor.
One application related to a light beacon and the
other to a food container.

During the pre-examination stage, which
is the stage before an application is assigned to
an examiner, where the application is reviewed for
completeness, during that stage, the USPTO issued
a Notice to File Missing Parts because the
inventor was not identified by his or her legal
name on the application data sheet, or the ADS.

In response to that notice, a petition
was filed, requesting that the notice be vacated.
That petition was initially dismissed. And in
response to a renewed petition, a final agency
petition decision was issued in April of 2020.
The final agency decision explained that, under
current patent laws, inventorship is limited to
natural persons. The petitioner challenged the
USPTO's final decision, in the U.S. District
Court for the Eastern District of Virginia, or the
EDVA. Next slide, please.

So, in that case, both the USPTO and Thaler filed cross motions for summary judgement, and, on September 2nd of this year, the District Court issued a decision granting the PTO's motion for summary judgment. The decision found that the statute is clear that an inventor must be a natural person, and, thus, cannot be an AI machine. Specifically, this report agreed with the USPTO's interpretation of an inventor, as defined in 35 USC 100. The District Court also referenced the USPTO's previous AI policy efforts, many of those efforts that were discussed in previous PPAC meetings, including the AI Conference that was held in January of 2019, the two requests for comments that we issued in August and October of 2019, and the AI and IP Policy Report that was published in October of 2020. And in referencing that October 2020 report, the decision noted that many commenters disagreed with Thaler's policy arguments that AI machines should be recognized as inventors. The District Court
decision has been appealed to the Federal Circuit, where it is currently pending on appeal.

I do want to briefly mention that similar applications have been filed in other countries, including, for example, the EPO, the UK, Australia, and South Africa. The outcome regarding AI inventorship in some of those countries, specifically Australia and South Africa, were different from the outcome in the U.S., at least as reflected in the USPTO's and the District Court's (inaudible). Next slide, please.

So, the next update relates to the National AI Advisory Committee. The National AI Advisory Committee originates from the National AI Initiative Act of 2020, which became law in January of this year, as part of the National Defense Authorization Act for Fiscal Year 2021. The National AI Initiative Act calls for the Secretary of Commerce, in consultation with OSTP and other agency heads, to establish the National AI Advisory Committee. The duties of the committee include advising the President and the
National AI Initiative Office on the wide range of issues, such as the current state of U.S. Competitiveness and leadership in AI, including the scope and scale of U.S. investments in AI R&D, leveraging resources of the AI Initiative to streamline and enhance operation in various areas of the government, and opportunities for international cooperation with our strategic allies on AI research activities, standards, development, and the compatibility of international regulations.

In September of this year, the Department of Commerce announced the establishment of the National AI Advisory Committee and published a call for nominations to serve on this committee. The deadline for the nominations just ended on October 25th. So, the initial nomination period has closed, but nominations will continue to be accepted on an ongoing basis and will be considered as vacancies arise.

Thanks to Cara Duckworth and her team, the USPTO played an active role in helping to
publicize the call for nominations. And we played an active role here because we believe that our stakeholders in the IP community are uniquely positioned to offer valuable perspectives on many of the issues that the National AI Advisory Committee will be considering. I'd also like to thank PPAC for their efforts in helping to spread the word about the call for nominations. More information about the National AI Initiative and the National AI Advisory Committee can be found on the AI.gov website. Next slide, please.

So, the last update that I have relates to two recent events on AI and IP. In September, WIPO held their fourth session of the WIPO Conversation. The first three sessions of the WIPO Conversation, which were held in 2019 and 2020, discussed the impact of AI on IP policy. The fourth session focused on "Data - Beyond AI in a Fully Interconnected and Increasingly Digitized World". The fourth session included several panel discussions covering a wide range of issues, such as the economic characteristics of data,
regulatory frameworks, how innovators and creators
are using data, and how data fits into the current
IP system. The recording for this event can be
found on the WIPO website. Next slide, please.

Last month, the USPTO and the U.S.
Copyright Office held a joint conference on
copyright law and machine learning for AI. There
were three panel discussions that were moderated
by attorneys from both the USPTO and the U.S.
Copyright Office. The first panel focused on the
concept of machine learning and how it is
currently being used in practice. The second
panel discussed how existing copyright laws apply
to the training of AI systems. And the third
panel evaluated whether the existing legal regimes
are adequate and considered alternative solutions,
such as expanded exceptions and limitations to
copyright law, renumeration ranks ensuing generous
data protection. The conference was recorded, and
the recording will be made available on both the
USPTO and the U.S. Copyright Office website. So,
that concludes my presentation, and I'm happy to
answer any questions. Thank you.

MR. CHAN: Thank you, Charles, and thank you all for those great updates. We do have a little bit of time for questions, and that's not by coincidence. This team is very efficient. You can kind of see that. But let me start with a few of the questions in the chat, and then feel free to raise any others. Let's see, one is relating to DOCX. And the question is, is DOCX the officially filed format, so applicants are not at risk of flawed conversion to PDF by USPTO's tools? Rick, do you want to address that?

MR. SEIDEL: So, DOCX, right now, I think we went out with a new FRO Notice, back in June, I believe, and said DOCX will be the official record. I believe that's what the question is getting at. So, what is the official file copy? You know, what is used for the four corners of the application, as filed? I think that's what the question is -- unless I'm off on that. DOCX will be the official record.

MR. CHAN: Fantastic.
MR. SEIDEL: So, I mean, it was a converted PDF. And back in June, we said, no, it will not be the converted PDF again, based on stakeholder feedback. There was concerns about that. So, the notice that went out, back in June, I believe, said that DOCX will be the official record.

MR. HIRSHFELD: And, Rick, if I may chime in also, we made that change that Rick is referring to responsive to feedback from the public that it would be better to have the DOCX be the official document of record. When I mentioned in my remarks the PDF filing, that was simply because we're hearing feedback now that, in case there's a problem with the DOCX because it's new to some people, that they want to be able to show what was filed. They don't want to have any inadvertent mistakes that don't get noticed and then an applicant loses rights. For example, let's say a formula didn't come out in DOCX because people are used to reviewing the PDF version, so.
So, Rick is entirely correct. We switched to the PDF, based on the public feedback. My -- I'm sorry, we picked -- we went to the DOCX. I know, I'm going to confuse you here. We went to the DOCX, based on the public feedback. My reference to the PDF is because we're looking for a way to give everyone the confidence that in case there is a problem, again, don't anticipate, I don't -- I hope there's no problems, but in case there is a problem with the rendering, there would be a way to go back to the PDF to say, okay, here's what was actually filed, and so, the applicants are safeguarded in that respect. But more information on --

MR. CHAN: So, essentially a belt and suspenders approach. And I do think --

MR. HIRSHFELD: Yeah.

MR. CHAN: -- again, it's just a reminder to folks, how responsive the PTO has been to feedback. So, please keep it coming. Thank you, Drew. Thank you, Rick. That's terrific.

Let's see, there's another question relating to
Auto Classification AI tool. Can you please explain the difference between the Auto C* model and the referenced models for Full Classification picture? Nelson, would you take that?

MR. YANG: Sure, so, sure, absolutely. So, basically, what the Auto C* models are doing is that they're actually taking the classification that's already on the application and then identifying which of those symbols should be associated with the claimed subject matter, whereas for the Full Classification models, what we're doing is we're taking a look at the entire classification scheme and seeing which of those symbols belong on a particular application. And so, you can see that the level of effort between the two models is slightly different, perhaps on a magnitude difference.

MR. CHAN: Thank you, Nelson. This one is for Matt. Is China among the 61 foreign countries that you referred to?

MR. SUCH: Yes.

MR. CHAN: Yes. Great. And then, the
-- there's another one for you, as well.

Regarding AI searching capabilities in PE2E, are there any quality metrics available, such as the percentage of "More Like This" searches that reveal references that are then used in rejections?

MR. SUCH: Excellent question. So, as I mentioned, we just released that to the Corps, and one of the things we're going to be taking a look at over the course of the year is effectiveness. So, a metric like that is exactly a piece of information that's part of those considerations. So, as we go forward, we'll be monitoring that.

MR. CHAN: Great.

MR. CALTRIDER: Jeremiah, I had a question from one of these -- up on the big screen, being the featured speaker, if you don't mind?

MR. CHAN: Of course.

MR. CALTRIDER: And that is the description of the references that are included in the More Like This, then, does that include the
nonpatent literature, as well?

MR. SUCH: No. Right now, it's the U.S. patent documents and the 61 foreign countries that we have loaded. It does not query nonpatent literature, at this time.

MR. CALTRIDER: Is there a plan to expand into the nonpatent literature, as well, in due course, or what's the plan for nonpatent literature?

MR. SUCH: I think this is an area that we would like to be able to get into. I would note that there is some -- there's a number of challenges in order to get us to that point. So, that's an issue that needs to be worked on very, very carefully, as we go forward. I would note that the kind of longstanding vision for this, in the far out future or into the future, is that we would have a unitary search capability with AI that would be able to sweep in references from many, many, many different sources and to the extent that we find ways to solve those technical challenges to bring NPL into the fold there. That
is certainly something that is of interest to us. But we do not have a mechanism for doing that, at the moment.

MR. CALTRIDER: Thank you.

MS. MAR-SPINOLA: This is Julie. Jeremiah, if I can ask a question? Matt, stay on screen. You're very popular. So, one comment to -- on a follow -- as a follow on to Steve's is, could -- would it help to have -- and I don't know much about the tools that the Copyright Office has for nonpatent references, but certainly they -- they're massive. They have a mass of resources that may be looking to a joint type of relationship or a program where you can use -- the Patent Office can use their tools to be able to search certain publications, as well. It's just a thought, rather than to, you know, reinvent the wheel on that, if you will. My question goes to the AI search tool, that I think you said launched in October, for the examiners, right? Is that something -- is that ready for primetime to provide, maybe in the next meeting, or sometime in
the near future, a demo of how that works? Is that something that can be shown publicly? I think the -- I'm very much a visual person. So, I think seeing those things in action could be helpful.

MR. SUCH: Yeah, it's -- certainly, we can give a demo of that. Fortunately, it's, I think, a very simple tool to use. So, it will be a very simple and straightforward demonstration.

MS. MAR-SPINOLA: Great. Great. And has there -- has the Patent Office performed or will perform a -- I sound like I'm giving a deposition, sorry, getting -- but has the Patent Office performed or will perform a comparison of this new tool versus the -- what was used before to see if the results are that much different, you know, a differential?

MR. SUCH: So, I -- so, let me answer the question this way. We've provided the capability as part of a suite of tools that examiners have at their disposal for doing a search. We certainly value, very much, the tools
that have been longstanding search mechanisms for
ourselves. So, that includes patent
classification, that includes Boolean operators,
using Boolean text searching and keyword
searching. This is another tool in that toolbox
for us. So, while we go through and we understand
the effectiveness of how AI search is at bringing
forth those important references and ensuring that
the references the examiners have at their
disposal for considering patentability questions,
we are certainly looking at that -- how that plays
together. I don't think that it's necessarily
something that we're looking to replace, the --
those longstanding, well-worn, excellent tools
that are in place, but we do want to understand
how they compare to one another. And so, that is
certainly something that we'll be looking towards.
But I wouldn't necessarily say we're going to
necessarily compare one to another, directly, just
because we want to make sure that we're providing
support for our examiners to be able to have
multiple avenues to access the Prior Art.
MS. MAR-SPINOLA: Yes. I did not assume that it -- that this tool would be -- would replace the others. But I think to be able to assess the strength of existing tools and a new tool, what does that give us, and so, is there added value is, I guess, what I'm saying, and I'm sure that there is. Anyway, let me turn it back to -- thank you, Matthew. Let me turn it back to Jeremiah. And, Jeremiah, we will move onto legislative, unless you have a little bit more to go.

MR. CHAN: No. I think we're a tad over time. I will just flag that there was a comment that there appear to be a number of open issues listed on Patent Center and DOCX idea scale. And the question was, is there a plan to address these? And I will just say, we will follow up. We'll take a look at those offline and follow up. With that, I'll give it back to you, Julie, and Judge Braden, and Professor Brown.

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

So, let's turn it over to Legislative
Subcommittee.

MS. BRADEN: Yes, thank you, Julie. I'd like to begin, basically, by thanking Acting Director Hirshfeld for his stewardship during this transition time and his keen interest in helping the agency navigate through a very active Congress that's interested in the oversight not only of the Patent Office, but in all aspects of legislation concerning intellectual property law and patent law.

And, Julie, hats off to you. You've been a great captain of our ship on the PPAC, and we wish you smooth sailing in the future. I also need to shout out a little bit to my co-chair, Professor Daniel Brown, at -- from Northwestern. Not only has he given us the insights that -- of a someone who knows the patent law, left and right, but I point out that he is also now recently become a TV star. He was featured recently on FOX News, on a feature that talked about U.S. patent owners and the products that are being made with those patents in the United States, the
manufacturing of it. And so, we look forward to seeing you at the Emmys, Dan.

The Congress, as you know, has been -- expressed a great deal of interest in the oversight of the Patent Office and the -- and legislation. We will hear from the staff that's been responsible for answering numerous letters and attending numerous hearings, both in the Senate and the House, on that. Out of all that work, in the Annual Report, our committee had three recommendations.

The first was for the USPTO to continue to inform and engage both government and nongovernment stakeholders and policymakers to ensure that any proposed legislation or administrative changes not adversely affect the Patent System that made the United States the most innovative and economically prosperous country in the entire world. We only need to look at the recent experience and the extraordinary success of the Patent System, in attracting decades of private investment that are involved -- that
resolve in the vaccines that have allowed the
world to combat this new virus.

In addition, the PPAC Legislative
Committee recommends that the USPTO continue to do
-- be proactive in analyzing all suggested
legislative proposals. The full range of those go
from patent eligibility to TPAC, TTAB post-grant
review proceedings, and efforts to interfere or
divest previously held patent rights. That's so
important. We support the efforts to increase
patent membership, including women and more
minorities in the Patent Bar, so long as their
professional and technical expertise is
demonstrated, and we've been successful in doing
that.

Finally, we applaud Chairman Leahy's
appropriation bill, which recommends the release
$68 million in fees that the USPTO already has
collected. These user fees are urgently needed to
improve patent quality, durability, and
enforcement to support inventors and to promote
the issues of diversity that Congress has
identified and which we strongly support.

Now, let me turn to our -- the dynamic
duo of our Legislative Staff at the USPTO. First,
we'll hear from Kimberley Alton, who will go
through a litany of all the different legislative
initiatives that she has been following with her
comrade in arms, Tamara Foley. They have worked
tirelessly to keep the leadership at the USPTO up
to date, present, current, and on top of the
action going on in the Senate and in the Congress.

Kim, to you. Thank you.

MS. ALTON: Thank you. Thank you so
much, Judge Braden, for that kind introduction.
As you noted, it's been a busy year in the
Government Affairs Shop, lots going on, on Capitol
Hill, related to intellectual property. So, we
will take this time, Tammy and I, to just go
through recent developments that we'll share and
happy to answer any questions. Can we go to the
next slide, please?

So, we will start with the big
announcement that was made, just last month, by
the White House, and that is the nomination of Kathi Vidal to serve as the next Director of the USTPO. Just quickly, I -- just as a matter of background, I'll provide sort of an overview of next steps and what will happen in this process, now that that nomination has been made by the President.

The first step is really a hearing in front of the Senate Judiciary Committee. We are waiting, now, to find out when that nomination hearing will be scheduled. But that's certainly the first step. After that hearing, the Senators are allowed to submit questions for the record, QFRs, and the nominee will be asked to respond, in writing, to those questions for the record. After those questions and responses are submitted, the nomination will then advance for a vote within the Senate Judiciary Committee. There is a practice within the Judiciary Committee that would allow for a vote to actually take place within two weeks of the nomination being placed on the agenda for a vote. So, we will sort of wait and see, in terms
of the timing of that. And then if the nomination is approved by the committee, it would then move to the entire Senate, the full Senate, all 100 Senators, for a vote.

So, I just wanted to give you all just that high-level overview, in terms of the steps and the process that are all part of this confirmation process. Still waiting to hear more, in terms of timing and when the hearing will be scheduled. So, happy to keep you all posted as we learn more about timing and next steps. Next slide, please.

All right, this is a slide that really covers some of the more recent legislation that's been introduced, and, with that, I will turn it over to my counterpart, Tammy Foley.

MS. FOLEY: Thanks, Kim. Can everyone hear me okay?

MS. ALTON: Yes.

MS. FOLEY: Okay, excellent. So, I'm going to talk about quite a few pieces of legislation, but we're going to start on the
Senate side. The first is the Restoring the America Invents Act. This was introduced by Senator Leahy, last month. There are a lot of provisions. I'm just going to touch quickly upon the ones in the first slide.

So, the first is the bill provides for limiting on the Director's discretion to institute IPRs and PGRs, so, only those situations in which the same or substantially the same Prior Art are arguments were previously presented to the Office. The next provision, the Director -- it's for -- it regards Director reconsideration. It essentially codifies existing PTAB procedures that provide for all out -- provide the Director may, on his or her own initiative, or at the request of the party, reconsider, modify, or set aside a final written decision. The bill also adds additional grounds for IPRs, including 102 or 103, or Statutory or Obviousness Type double patenting, on the basis of admissions in the specification, drawings, or claims, or patents, or printed publications.

The bill also changes -- makes changes
to the amendments practice at PTAB. It places the burden on the patent owner to prove patentability of any substitute claims, and it also requires the Board to examine or a cause to examine the substitute claims. It also makes a number of changes to the estoppel provisions in the AIA. Specifically, it aligns the effective dates of the petitioner and patent owner estoppels by essentially changing the timing of the petitioner estoppel, until after the time for appeal has expired or any such appeal has been terminated. It also creates a new section that provides for a statutory estoppel for patent owners, consistent with the current practice. It limits the application of petitioner estoppel in litigation to only unsuccessful petitions, and it adds a new section that changes the estoppel for a joining party to apply, to the same extent as the first petitioner is estopped.

The bill also clarifies that one year -- the one-year time bar for IPRs would not apply to joint or requests, if the complaint is dismissed
without prejudice, or it's a new or amended claim
issued from reexamination, after the complaint is
served. And it also removes the time bar if a
declaratory judgement complaint in a civil action
is dismissed without prejudice. And then the bill
also adds specific factors for District Courts to
consider when they're considering whether the
grant stays, in light of IPRs. Next slide, please.

And then, there's obviously several more
changes that, in the interest of time, I won't go
into detail over, but they're listed. Next slide, please. And so, the next piece, the next piece of
legislation, I'm going to talk about is the Pride
in Patent Ownership Act. This was introduced by
Senators Leahy and Tillis. It creates -- it has
two new provisions. The first is that it creates
a new Section, 124, which essentially requires
disclosure of government funding, whether U.S. or
foreign, for patent applications and for
maintenance fees. And then, in addition, it also
amends Section 261. It requires the Patent Chief
to record the assignment, grant, or conveyance of certain rights or interests with the USPTO on its database, within 90 days of the effective date of the assignment. Within 60 days of this request, the USPTO must either record that interest or notify the patentee of any error in that request. Any failure to comply with the request to record the assignment will result in the loss of increased damages, under Section 284, during the period beginning on that 91st day, after the effective date of the assignment, until the date on which the assignment is properly requested to be recorded. Next slide, please.

Then, in the last piece of legislation on the Senate side, we want to touch upon is the Unleashing the American Innovators Act, which was also introduced by Senators Leahy and Tillis. This seeks to establish additional satellite offices for the USPTO. It also seeks to establish community outreach offices. It expands the USPTO's Pro Bono Program. It also requests that the USPTO establish a pre-prosecution
patentability assessment pilot program for first

time applicants. And then it also provides for a

few reductions for small and micro entities.

And then, on the House side, there are

just three bills I wanted to flag, they are hot

off the presses, we don't, unfortunately, have

slides for. But the first is a bill from

Representative Issa. This is the Conducting

Legally Efficient Administration and Resolution of

Patents Act. This essentially states other

Federal proceedings, such as an ITC action, if an

IPR or PGR is instituted at the PTAB on the same

claim.

The second bill I wanted to flag for

everyone is Representative Massie's Restoring the

America's Leadership in Innovation Act of 2021.

Representative Massie reintroduced this bill this

Congress. This restores the first inventor to

file. It abolishes PTAB and IPRs and PGRs. It

establishes the revolving fund for the PTO, makes

amendment to Section 101. It pulls a patent term

during validity challenges. It -- and automatic
publication of patent applications, and it essentially overturn (inaudible) presumptively if infringement is found, instituting an injunction. And then it restores the best mode requirement. And finally, the last bill I wanted to flag was from Representative Jeffries. This is the Patents for Humanity Act, and it codifies the USPTO's Patent for Humanity Program. Next slide, please.

And lastly, we just wanted to flag, last month, the Senate Judiciary Subcommittee on IP held a hearing on the Pride in Patent Ownership Act that I had flagged earlier. As you can see, the witnesses came from corporations, from small startups, and professors, and our former Director, Dave Kappos. Both the members and witnesses had agreed that full transparency of patent ownership was definitely desired, and I think that the goal with the legislation was something that everyone could agree to. But there are certainly concerns raised. And it seems that there will be continuing discussions on the legislation, and to the extent that the USPTO can provide any
technical assistance on that, we will continue to
do so. And that's all I have.

MS. ALTON: Thanks, Tammy. That
concludes our presentation, and we are happy to
answer any questions. Okay, well, just as we sign
off from the Government Affairs Team, I want to
thank Julie for her service and the other
departing members from PPAC. Thank you all so
much for your service. It's been great working
with you all.

MS. BRADEN: Thank you. Thank you, Kim.

MR. CALTRIDER: Kim, I was unable to get
my mute off in time. If I can ask a question,
still?

MS. ALTON: Yes.

MR. CALTRIDER: In the Pride in
Ownership Act, the consequences of failure to
identify government funding, did I -- I know what
the consequences you -- you shared what the
consequences were, if you failed to assign a
recorded assignment in the time period. But if
you fail to identify government funding, do you
recall what the consequences are of not doing that?

MS. ALTON: It's the -- the legislation actually didn't lay out any consequences. They left that to the PTO to determine.

MR. CALTRIDER: All right. Thank you.

MS. FOLEY: Thanks.

MS. MAR-SPINOLA: Judge Braden, do you have any closing remarks?

MS. BRADEN: I do not, other than just to thank the staff, and I'm sure it's going to be a busier year ahead than it was last year, so.

MS. MAR-SPINOLA: Okay, great, appreciate it.

MS. BRADEN: Go get the money.

MS. FOLEY: We're on it. All right, thank you all.

MS. ALTON: That's for sure.

MS. MAR-SPINOLA: Thank you. Thank you, Tamara and Kim, for that presentation. I think I agree with everybody that legislation is going to be very active in the patent space, and I
completely agree with Judge Braden that the Patent Office has -- is in the best position and with the strongest voice to share their input on this, and we would all encourage and look to see that happen, in connection with each and every legislation that could impact patent rights or IP rights. So, thank you for that.

I think we're either on time or we're a little bit ahead, which allows us to have a little bit longer break. If we can take a break for now and return at, and I'm going to give three time zones now because we've grown that way, 1:10 p.m. Eastern, 12:10 p.m. Central, and then 10:10 a.m. Pacific. See you all back in a few minutes.

(Recess)

MS. MAR-SPINOLA: Okay. Welcome back, everyone. Thank you for staying with us. We're going to now move to the Finance Subcommittee. Barney?

MR. CASSIDY: Thank you. I am Barney Cassidy. I am one of the departing PPAC members and if you would indulge me for just a minute or
two, I would like to express my thanks to three
groups of people. One is the rank and file of the
agency of the patent office who have been
unfailingly impressive. This is an organization
that has a real bias towards transparency, towards
helping others and towards telling the truth in a
way that is pleasant and accessible to non-experts
and it has really been a delight to work with
everyone at the patent office.

The second group is the leadership at
the patent office, the people who enable the rank
and file to be so helpful and to demonstrate such
responsiveness. My experience of working with the
leadership is that they are highly capable and
dedicated folks. Not only are they immersed in
the details but they are also capable of
delegating and enabling others on their teams but
without losing sight of the big picture why we are
all here and how their efforts can contribute to
the advance of the useful arts. It has really
been a delight to work with all of you and I
appreciate all the help that you have given me
during my time at PPAC. And third I would like to
thank my fellow PPAC members past and present. I
want to express my gratitude and my admiration for
your hard work, your dedication, for your kindness
in welcoming me to committee and supporting me in
my efforts. I will always be grateful for your
kindness and always admire the work you have done
and the work we have been able to accomplish
together. It has been truly an amazing experience
and I look forward to keeping in touch with all of
you in the years to come.

Now on to the money questions. So the
Finance Subcommittee has been very busy this year.
We are pleased to report that the patent office is
solvent, is in actually very good -- in a very
good situation financially. Just as a reminder to
listeners that the office is entirely funded by
user fees. This is not taxpayer money. This is
money submitted voluntarily by people who expect
services and rights in return for their
investment. This finance team has done excellent
job of (inaudible) those resources. At the
beginning of the pandemic there were a lot of
questions about whether there would be a drop-off
in revenue and what the office would do about
that. And I have to tell you that I am impressed
by how adjointly and carefully the revenue has
been managed by the team. There are a couple of
issues that I learned about during this past year.
One is the delta between the OMB's request for
budget, the President's budget, which requested
that the amount allocated for use fund patent
office be limited to the spending projection
versus the fees collected. This is about a
64-million-dollar delta and has not yet been fully
resolved. The PPAC is strongly of the view that
the allocation to the patent office should be the
amount of fees collected, which has been the
practice since the American Events Act was enacted
and is strongly supported by the Senate
Appropriations Committee and its chair, Patrick
Leahy.

The other thing that we learned is that
there is some money left over from previous user
fees that have been deposited into the U.S. Treasury. They total about a billion dollars and they are not yet allocated. They are not yet available to the patent office but the PPAC is again strongly of the view that those monies should be released, which we believe would require an act of Congress, and we urge Congress to find a way to do that so that the many programs and continued efforts towards increasing quality of patents and reducing pendency could be fully supported by the users who have paid those fees for those purposes. So, with that I would like to turn it over to Jay Hoffman and personally thank Jay for his strong support of the PPAC Finance Subcommittee and Jay, take it away.

MR. HOFFMAN: Wonderful. Thank you Barney for that introduction and thank you for your service chairing the PPAC Finance Subcommittee. It has been a pleasure working with you this year. Julie, thanks to you for your leadership of the PPAC. I enjoyed working with you and for all the other members that this is
their departing meeting.

My name is Jay Hoffman. I am the Chief Financial Officer of the USPTO. We will dive right into today's presentation. I've got a fair amount of material I want to try to get through. Please advance to the next slide.

So, I am going to spend the majority of my time giving you a recap on where things landed for the fiscal year 2021, which ended on September 30th. For those, just as a reminder, for those of you who are not aware that the government operates on a fiscal year that goes from October 1st until September 30th each year. I will then shift the transition to talk briefly about our FY 2022, planning assumptions, the fiscal year 2022 is already underway, and lastly I will just give you a couple of quick hits on our FY 2023 budgets process to keep you informed on that. Next slide please.

So let's spend a few minutes on the financial results of the fiscal year 2021.

Looking at the chart here on the right-hand side
of the page you will see there are blue bars from fiscal year 20 and fiscal year 2021. These bars represent the aggregate fee collections at the USPTO for each of their years. The green dots represent the level that the agencies appropriated and, as Barney just said, while the agency does not receive taxpayer dollars in forms of an appropriation we require an appropriation to authorize us to spend the user fees that we do collect. So that is why those levels are important. You will see that in fiscal year 2020, we actually exceeded the level that we were appropriated and that resulted in about 232 million dollars flowing into the patent and trademark reserve fund that is (inaudible) in the AIA. In fiscal year 2021, we collected slightly less than our collection estimate that Congress appropriated to us and again that was expected as a result of the timing of our fee roll that went into effect last October.

So, let's go ahead and take a look at the next slide I think that illuminates this. So,
understanding how the fiscal years 2020 ended, more than a year ago, is an important context to understanding the fiscal year 2021 results. The agency implemented the fee change in the patent organization on October 2, 2020. This was the second day of the new fiscal year 2021. As you can see from this chart on the right, what this shows is that this is a 5-day moving average of the agencies fee collection, and you see a large spike that occurs right before October 1st. What you are seeing here is customers of the USPTO for the most part paying their maintenance fees in advance of that fee increase going into effect. Essentially taking advantage of the lower cost of paying their patent maintenance fees. Those revenues are not extra revenues. They are not, you know, additional savings from the agency. They are simply fees that were paid early that otherwise would have been paid sometime in October or November most likely. So, this resulted in a fairly large spike in revenue right before the change over in fiscal year and this is what caused
the deposit into the Patent and Trademark fee
reserve fund in fiscal year 2020. Now we
subsequently requested reprogramming through the
congressional process. That reprogramming was
approved and those funds were ultimately made
available to the agency this fiscal year for use
to finance operations, and, of course, we are
counting on that money in 2021, again because
these were early payments not additional payments.
Next slide please.

This chart shows the patent aggregate
fee collection. I have briefed this chart to you
before but for those of you who have not seen it
(inaudible) acclimation, the Y access on this
slide is in millions of dollars. The X access is
in months of the fiscal year. The blue line that
you see at the 25-day with the average of the
aggregate revenue rate for the agency, you will
see a horizontal sort of fuchsia colored line.
That is our internal planning estimate for the
year. We had predicted that we would collect
about 3.098 billion dollars in patent revenues.
The green horizontal line that you see running across the top, this is a (inaudible) Congress appropriate. Congress had appropriated 3.251 billion dollars. So, you see here based on the aggregate rate of the blue line, we were pretty close to our internal projection. We actually ended the year 30 million dollars above the internal projections, so about 1 percent for total collections at 3.1 to 8 billion dollars. Because we were below the appropriated level, all of the funds that we collected were available to us. None of the monies that we collected flowed into the Patent and Trademark fee reserve fund. Let's go to the next slide please.

This is a recap of our financial results for fiscal year 2021. As I mentioned before, our internal estimate for fee collection is the first number that you see here at the table was 3.144 billion dollars. We actually collected 3.183 billion dollars. That includes some other income and so this is why there is discrepancy from the prior slide to 39 billion dollars in excess of
plan. Next we had planned to spend $3.415 billion dollars or more than we collected and that is because of the difference in timing of fee collections. We actually spent $3.319 billion dollars. So we were $96 million dollars below what we had planned to spend. I would point out that not all of that $96 million dollars is savings, however. Some of that $96 million is simply funds that the agency didn't execute prior to the end of the fiscal year on September 30th. Contracts were delayed, perhaps they weren't ready, and that money will ultimately be executed in the current fiscal year.

I would also note that we made 492 of the 500 planned hires in the patent examiner core, but, of course, all of those weren't filled for the entire year and that also explains some of the difference between our plan and actual. The bottom line though is that we had a net result of $135 billion dollars that was rolled over into the operating reserve at the end of the year. This is an excellent result and I think proved that we
continue take a very conservative and deliberate approach in the agency setting. Next slide please.

So, I have also shown you this slide before as well. This is a representation of the patent operating reserve balance over the course of the last couple of years to 25-days of the average. The horizontal black line that you see going across the middle of the slide is the minimum balance that we try to hold that operating reserve at, 300 million dollars. A couple of points I would like to make. Number one, we ended the year with a patent operating reserve balance of 476 million dollars. This is the highest level that the patent operating reserve has been at in any year since the AIA was enacted. Arguably the strongest financial position the agency has been in that time period.

The other point that I would make here is that you will see there is a lot of variability in the operating reserve. There is -- if you look around the November time frame you will see a
peak, it wasn't really a peak but close to a peak
of about 450 or 460 million dollars. And then 4
months later in March 2021, the operating reserve
was down at 150 million dollars. You say, well
why is that? Why would your operating reserve
vary so much? Well, it's not really your reserve.
The seasonality of our fee collection is different
than the seasonality of our spending. And we see
a lot of variability throughout the year. The
agency has very high cash (inaudible) payroll is
nearly 100 million dollars every 2 weeks. And
that is why you see a lot variability at that
balance is why we think about it if the aggregate
year-over-year as opposed to an amount
day-to-day. Let's go ahead and go to the next
slide please.

Okay. We had talked about the deposit
into the Patent and Trademark fee reserve fund at
the end of that 2020 resulting from those early
maintenance fee payments. This chart shows how
those funds flow across the fiscal year putting
together both operating reserve and the Patent and
Trademark fee reserve fund. The way you look at this chart is that the blue bars in the chart, they represent the outgoing reserve balance. The red portion of the bar that sits on top of the amounts that were falling into the Patent and Trademark fee reserve fund, those amounts (inaudible) appropriation and then via the reprogramming process that crosses fiscal years those red amounts essentially get poured into the blue amounts in the subsequent year. You can see how that happened in fiscal year 2021. The take-away here is the green dash line that is going through this chart is our minimal of operating reserve. The purple dash line that you see is our optimal level. The officers like to operative a little closer to the purple if we can but certainly keeping it above the green, and in all the years we have been able to do that. Go to the next line please. Talk a little bit about fiscal year 2022.

So, shifting gears. In fiscal year 2022, which started on October 1st, we put
together our plan. We are forecasting patent fee
collections this year of about 3.6 billion
dollars. This is driven in part by a 1.4 percent
increase in (inaudible) filings in FY2022 and we
see that going to a 2 percent growth rate in FY
2023 and beyond. Renewals. Because fees have
largely recovered from the down-tic that we saw at
FY 2020. We have projected spending in FY 2022 of
about 3.55 billion dollars. This will support a
2.7 percent pay increase for our 13,723 employees.
We plan to hire 500 new examiners. We will send
that increase of 113 examiners over the prior
year. The agency is very information technology
incentive organization. We plan to spend 759
million dollars in IT this year with key emphasis
on artificial intelligence, infrastructure
upgrades, cloud and resiliency, and I am sure you
will be hearing more from (inaudible) investments.
I would note that the current operation reserve
balance was to here -- is actually above what our
planning expectation is. Our planning expectation
when we put our plan together was for an operating
reserve balance of 341 million dollars. We are obviously starting the year on stronger position than that.

And then lastly, the way the budget is designed is we do expect a deposit in the Patent and Trademark fee reserve fund of 58 million dollars, but that is entirely dependent on what level Congress ultimately appropriates the agency and Congress has not enacted a final year appropriation for us at this time. Next slide please.

In terms of, let's see -- this is our planned patent to define fees and spending a side-by-side comparison so the pie chart on the left, this is a breakdown of the fees we collected. So, 50 percent approximately of all the fees we collected are going to be in maintenance fees. First stage, second stage, third stage maintenance fees that will account for more than 1.8 million dollars of the 3.6 billion that we collect. Filing fees is the next biggest category at 904 million dollars. If you look at the pie
chart on the right, ample money gets spent. I like to say that we are a people driven agency. Active examiners are what gets the job done and not surprisingly 69 percent of every dollar that we spend is on people. It is on compensation, the salary and benefits to pay for the staff examiners and those who support them. Next slide please.

Now as I mentioned, Congress is still deliberating on a final appropriation for all the government. They have not enacted a full year appropriation. Again, we are not waiting for appropriated taxpayer dollars. We are simply awaiting a level of fees that we can collect and then subsequently spend. But under the CR the way this works is the CR gives the agency the authority to spend appropriate portion of the fees we collect starting on October 1st, based on last years appropriation. So what you see here is based on that formula. We can spend up to 569.6 million dollars in fees we collect between October 1st and December 3rd, but not to worry. In addition to that we can also spend the entire
operating reserve balance if we needed to, we
don't need to, 457 million dollars, and then we
have some other income, 7-1/2 million. The bottom
line is we have 1.034 billion dollars available to
the agency to spend on operations which is more
than sufficient to continue uninterrupted and to
continue with resolution and if the CR was
extended for some reason a number of weeks or even
months I don't foresee any operating issues at
this time. Next slide please.

So I had hinted at the status of the
appropriation. We are still waiting on a final
number from the Congress yet to be enacted. The
House has recommended an appropriation level of
3.994 billion dollars. This is the same level that
we had requested in terms of spending
requirements, the amount that we plan to spend in
the budget. The Senate has recommended an
appropriation level of 4.058 billion dollars,
slightly more, and this corresponds with the level
of fee collections that we anticipated FY 2022.
Congress will work out that difference in their
conference process and so we will await what their final number and final decision is. Next slide please.

Lastly, the budget cycle never ends. We are already hard at work on our fiscal year 2023 budget. As you know, we submitted a budget request to the White House via the Office of Management Budget on September 13th. We are in the process of estimating our revised work loads for next year. We will submit updates to that budget soon, and ultimately as part of the President's request that goes forward in February, we will submit that budget to the Congress and I would expect that sometime in the spring there will be a combination of meetings with the appropriators, as well as potentially even hearings where we can discuss and defend our budget proposal. So, I think I am right at time so I will stop there and turn it back over to Barney and Julie. I thank you for your attention and again thank you for your service to the PPAC.

MS. MAR-SPINOLA: Are there any
questions Barney?

MR. CASSIDY: I haven't received any questions. I would like to thank Jay for the presentation. It was very clear as usual and helpful to understand the dynamics of the revenue and spending at the agency.

MS. MAR-SPINOLA: Thank you for that. I agree. I mean the explanations, while I often times struggle with these numbers or even these types of presentations, he made it very clear today and easy to understand. One thing that I am amazed and take-away is that as challenging as the pandemic has been and certainly as it has been protracted, it is amazing, but maybe not surprising, that the Patent office has been able just to carry on and not even be at status quo but to be profitable in a sense and it has the funds to not only operate and continue to hire so many people, but also to be able to fund all these programs that Barney and the folks in IE Subcommittee has mentioned, as well as to make spending -- to modernize our infrastructure in the
system with AI and IT tools. So, thank you very much for that. The leadership from Drew and Jay and Jaimie and everybody else, I apologize for not naming everybody, but I do want to thank you for that. Very impressed. Very impressed. And Barney, thank you. I look forward to working with you in another capacity. With that, let me just ask Steve, Steve are there any questions before we move on to Outreach?

MR. CALTRIDER: There are no questions received.

Ms. MARS-SPINOLA: Thank you so much.

So let's go ahead and moved on to Outreach.

Tracy.

TRACY DURKIN: Thanks Julie. And let me too add my congratulations and thank you for your stewardship this year. You are leaving really big shoes to fill and maybe high heels on top of that. I want to bid farewell to Jennifer and Barney. I am sad we cannot do this in person but I look forward to seeing you in the chat maybe in the future PPAC meetings or, better yet, maybe we will
all be in the room together in person at some point. So I am Tracy Durkin. I'm the chair of the Outreach International Committee. That includes not only the work of the Office of Policy and International Affairs, OPIA, but also the Office of International Patent Cooperation, OIPC, and also the work of the USPTO Regional Offices. And so I am going to cover some highlights from the PPAC annual report. I am going to start with the regional offices. So those offices are located in Detroit, Dallas, Denver, and San Jose, as well as an eastern regional outreach office which is at the USPTO headquarters in Alexandria. The mission of those offices is two-fold. It's first to recruit, hire and retain top talent for the office and second to serve IP stakeholders across the nation. In the short time since the regional offices were created, they now conduct a significant amount of the overall IP education and training conducted by the office. This includes more than 500 training sessions reaching more than 40,000 stakeholders spread across the U.S. On
behalf of the PPAC I want to take his opportunity
to commend the regional offices and the Eastern
Regional Outreach office for the progress they
have all made towards their congressional mandated
mission and, of course, encourage them to continue
to expand the breadth of their outreach in the
coming years.

On the international front, it's no
surprise that the COVID-19 pandemic has continued
to force the international patent community to
rethink how it engages. Meetings like this one,
which previously would have been held in person,
have all been virtual and we will get an update on
some of those meetings this afternoon. Despite
these challenges the office continued its
collaborative work with many other IT offices to
achieve important improvements for both applicants
and participating offices. One example is
continuing to explore new models of patent work
sharing that builds on the global success of the
patent prosecution highway or PPH.

In the area of international engagement
the office published a report which looked at factors that have influenced a high rate of Chinese patent and trademark filings. Beyond the usual market factors that drive IP filings, the report found that a number of non-marketing factors are influencing these filings such as subsidies and government mandates. As we'll hear today, the office has been working to identify ways to mitigate the effect of delays the pandemic has created and processing times for providing certified and legalized documents from the office and from the Department of State. And finally in 2020, the IP attaché positions at the U.S. Embassies in New Delhi, Mexico City, Beijing, and the U.S. Mission to the European Union in Brussels were all elevated to the diplomatic rank of councilor. This important elevation provided these officers with greater access to senior government officials and ambassadors and enabled them to accomplish U.S objectives more effectively.

The PPAC applauds the office for the
stride it has made despite the challenges to
international engagement created by the pandemic,
and particularly appreciates the efforts to assist
applicants and right holders in mitigating the
unanticipated effects of the pandemic on global
patent procurement and enforcement.

With that I am going to turn it over to
David Gerk who is the principal council and
director for patent policy in the Office of Policy
and International Affairs and he is going to start
by giving us an update on the WIPO general
assembly meeting and its new leadership. David.

MR. GERK: Thank you Tracy for that
introduction and thank you for your work over the
past year and I will echo what you said as far as
congrats and thanks to all the PPAC members that
may be moving on. Excellent work over the year.
We have enjoyed these discussions. Mary Critharis
the Chief Policy Officer and Director for
International Affairs had hoped to be here but
right before this got pulled into an urgent
matter. So, you know, obviously I am a familiar
face so hopefully you will feel you are in good
hands as well. As was eluted to by Julie and
Tracy, despite the pandemic and all the different
potential obstacles thrown in the way
international work is going on as vibrant and as
intensely as ever, and today we are going to hit a
couple of items just as a preview or give a short
recap of the WIPO assemblies, which is the
decision making body for the WIPO institution and
so a lot of the decisions that effect, whether it
be registration systems like PCT, Hague, Madrid or
just other engagement on international IP issues
come out of that body. We will also talk about
the ID5 annual meeting which is a meeting on
industrial designs or design patents by the 5
largest office. We will also give a quick
overview of some developments on legal
jurisdictions in a number of key markets. Keep you
up to date on that, what has happened over the
last year. And then finally, I think this is what
Tracy was highlighting, give you an update on what
is the status of insuring legalizations and
certified documents are moving efficiently,
quickly and so everyone can either perfect their
filings abroad or have whatever form of authentic
documents in court situations that they need.

Next slide please.

So the WIPO general assemblies, the WIPO assemblies was held on October 4th through 8th
this year. This was the 62nd series of meetings,
so obviously we have been doing this for quite
some time. One notable initial aspect of this
meeting was that it is the first led by Darren
Tang who is the new Director General of WIPO and
took his position on October 1, 2020. His prior
position was as the Chief Executive Officer for
the IP office of Singapore. Next slide please.

And being his first meeting he did lay
out his vision and WIPO's vision under his
leadership for where they would like to go over
the next four or so years. In particular, you can
see on your screen, but the vision is for a world
where innovation and creativity from anywhere are
supported by intellectual property for the good of
everyone. And so, this gives you some sense as to where his head is on intellectual property, as well as its role in the world. Now WIPO serves a lot of different roles. They serve obviously to support the development of the global intellectual property system, which, as we are well aware, is critical for promoting innovation and tackling many of the challenges we have in the future. So, these are tied into his vision and mission statement. So hearing from him, obviously, the Chief Executive has a lot of impact on steering the direction of the WIPO so we can look that to try and see where WIPO may be going over the next few years. Next slide please.

More concretely some of the outcomes from the assemblies of note is, as mentioned, the decision bodies of the PCT, the Hague, which is industrial designs and the Madrid for trademark, those decisions bodies met and the proposed rules to make the systems more modern, more efficient that took place in the working bodies, working groups over the year were all adopted. A couple
of different things. Things like more time to file propriety claims, as well as approving standards like, you can see below there, the ST-26 standard which will be used and go into effect July 1, 2022. That has to do with nucleotide and amino acids sequence listings and patent applications. A bit technical but important if you are filing, obviously, in those technologies. Also, the PCT decision body, the PCT union approved the (inaudible) patent organization as an ISA, IPA or international search authority and international preliminary examining authority. Additionally, the assembly renewed the mandate for the IGC so the discussions in that body can continue. That is one where the mandate needs to be updated and approved each session. And then finally one of the treaties, potential treaties I should say, that is closest to agreement is the design law treaty. That discussion has been doing on for quite sometime and discussions did continue but unfortunately no agreement was reached, but that was taken up here at this session. Next slide
please.

So that takes us to ID5 and again the ID5 is an important forum for advancement and modernization of industrial design practice across the globe and the U.S., as many of you know, implement industrial design protection through design patents. The five largest offices USPTO, CNIPA, UIPO, EPO and JPO gather together. Depending on the year they can be responsible for between 70 and 90 percent of the world's industrial design filings and this year's annual meeting was held November 1st through 2nd. It was held virtually and hosted by CNIPA and we have been rotating through since 2015, so now we are on to six on to seven iteration and quite a bit of work has been accomplished. Next slide please.

Now when I saw quite a bit of work has been accomplished, it was been focused on some of the most important areas in the industrial design space, so studies and analysis over that time period, the six or so years of work, has been focused on important issues such as grace period,
partial designs and, most recently and perhaps importantly in today's markets, new and emerging technologies. This is study and analysis not just to do the studies and analysis, but they have real impacts in that they were helpful in allowing partner offices. Four of the 5 partner offices now as a result, at least in part of these discussions, have an aligned 12-month grace period at least in number, which was something that was important for stakeholders. The five partners now with, and you'll hear a little bit more about China in a few slides with them updating their law now all five partners provide protection for less than -- for design for less than a whole product or referred to globally as partial designs, which is another important thing stakeholders have been interested in seeing. And on the digital environment and new tech front, all five partners do provide protection in digital environments, but there is quite a bit of difference in how they do that and that is something we continue to discuss. Countries like Japan and Korea and even China have
been updating their practices in this space, so these discussion continue as we learn from each other in the area of best practices, etc. All five offices have implemented WIPO DAS and we are actually going to be issuing a quick reference guide for users to better utilize those systems, and we even came out with an ID5 joint recommendation on the design formalities practices since the design law treaty was stalled at WIPO. The more aligned in thinking ID5 offices were able to bless those practices to try to move the discussion forward. Next slide please.

In looking ahead these are four projects that the US has been leading and many of them are close to conclusion and again these discussions are to help gather information, see what practices are abroad and also to sort of compare what's working, what's not working in different jurisdictions. So remedies and relief for industrial design infringement, the term or protection which includes things like deferment and payment of fees associated with those timings,
deferment of publication, also an important issues
that stakeholders continue to be interested in
seeing some, I would say harmonization or
convergence practices with regard, and then a
five-year-review to make sure all our work is
correct. Next slide please.

So that leads us into an update of what
is going on internationally. Some real notable
updates in practice. We are going to hit a couple
of the big jurisdictions and we will start off in
South America with Brazil. In Brazil,
particularly of note for those interested in the
pharmaceutical space, there was previously what is
referred to as a prior consent regime in place in
which Brazils health regulatory authority had to
review all pharmaceutical patents before
examination could begin at Brazils IP office and
not surprisingly that often led to delays or
lengthier pendencies. Also sometimes could led to
things just not ever even getting out the door,
but with removal of this requirement this has
addressed some long standing USG and industry
concerns in that making sure that the patent examination process was really focused on patentability and patent focused issues and keeping sort of the health and regulatory space distinct from the patent process. Additionally, there was a proposal in the legislative body there, Congress of Brazil, about having some compulsory licensing reform. I think, in part at least, was brought on by the COVID-19 concerns. There were some provisions about forced tech transfer in certain qualifying health technology spaces, but as that discussion progressed those provisions fell by they wayside and the issuing legislation did just sort of set more generally the potential grounds for issuance of a compulsory license in Brazil. Compulsory license is a part of the -- one of the flexibilities in the trips agreement but there is a number of requirements in several, you know, safeguards in regard to that practice to make sure it is for certain instances. Next slide please.

Next, I guess alphabetically we would
move over to Asia and China. China has passed quite a few amendments to their patent law. Just recently they took effect in June against staying in the Pharma space. They have introduced an early dispute resolution system for pharmaceutical related patents. Additionally, patentees can now initiate infringement actions against generics and biosimilars either at the courts or at CNIPA. And then this new law establishes a drug patent registration platform at the National Medical Products Administration (inaudible) concepts going on. A lot of these practices probably sound familiar because we have some of these similar sort of attributes in US practice. Patent term compensation was also introduced for both patent office and regulatory approval delays. Something to note there. China is expected to join the Hague agreement for industrial design, which again is the system like the PCT for patents and the Madrid System or trademarks and in doing so they have updated their law to allow protection for partial design, as I mentioned, and they have
changed their term of protection for design patents from 10 to 15 years, which is the minimum to participate or be a compliant member of the Hague system.

And then lastly in regard to infringement, they have made some changes to their damages regime. They have increased their statutory damages, as well as provide now for punitive damages which can go up to 5x the damages determined. Also, seemingly to take some of the gamesmanship out of litigation they provide a provision which shifts the burden of providing damages in patent infringement actions if the infringer fails to cooperate in providing certain evidence. So, can envision the scenario when you are trying to prove damages and you cannot get certain materials or books or accountings, court does have potential the ability to then shift the burden in these sorts of instances, which obviously can be an important tool. Next slide please.

I will be very quick with Germany. Just
one notable update and that has to do with the injunction law in Germany. Previously, prior to August 18, 2021, it was automatic essentially to get an injunction for patent infringement. Sounded much like our prepay sort of construct but after that time there is now a little bit of a softening on that at the parties that sought to be join may now may move the court to deny the injunction on the grounds that an injunction would cause them a disproportionate level of harm and in doing so that gives the court some discretion in limiting to monetary compensation in that regard. Next slide please.

And then here lastly alphabetically concluding with Japan as our last jurisdiction of interest. A couple of updates to mention there. First off, Japan is introducing as of April 1, 2022 an amicus brief system which will allow third parties to submit amicus briefs in (inaudible) litigations. Admittedly I work in international affairs and I did not know that Japan did not have this system. So this is certainly notable and
obviously brings it probably closer to what we have in our practice, so it is certainly of note. Additionally they, you know, I think using the challenges of the pandemic and other modernization impetus they have taken a look at some of their patent practices concerning how they operate, their procedures and they made a move to digitize procedures and have other enhancements to maybe if this sort of difficult situation arises again to be ready to deal with it flexibly. You might ask, well what are some of the examples here? (inaudible) or proceedings. Also payment being able to use credit cards and bank transfers rather than more traditional payment methods and other things like that they have gone into in that regard. Next slide please.

I think that might actually wrap it up but I will talk -- I don't have a slide for the legalization aspects but I will just talk to those points and to say -- as we have had these discussions on legalization and some challenges that were being encountered most particularly
because of delays at State Department. There were really two issues so as USPTO if you were interested in a certified document or a (inaudible) file at one point there was a little bit of a slowing from the norms and how quickly we were able to get that. In talking with stakeholders, I know we heard earlier this week as well as talking with folks internally I think we have been successful in mitigating that for the most part and bringing times more aligned. On the State Department side, the side which we do have less control, obviously, there remains these delays but as we have spoken about before we have taken a number of steps to try and do what we can to again mitigate the effects here. For example, we have our attaches in various regions that were identified to try and see what flexibilities these offices have in accepting documents or accepting a nonlegalized version for a time being until the legalized version can be provided. Of note, to sort of highlight in this particular incidence we had most recently in China an example and this
might serve as some of the flexibility sometimes we can help assist with or others can try and look for is the company was in a litigation and they were having trouble getting the document which was needed to start a litigation or filing there and they went to the local Chinese consulate in a state that they were, not State Department but one of the 50 states and the Chinese consulate there was able to review and approve and put whatever certification on that document and then it was able to be used and it did pass the muster for the procedures that it was needed for in China. So, we are going to continue -- we continue to want to hear from you all about what you are seeing on the ground. We understand, you know, things are improving, at least particularly in the USPTO sides. We appreciate that feedback and are very happy to hear that. But any further information you all can provide we can continue to try and nimbly react to that and do what we can given it is not completely in our control obviously to do that. I know we are coming up on time, but I will
take 30 more seconds just to say I realize I skipped it when I was talking about the WIPO assemblies. For those who want more information obviously you can go to the WIPO website and other places, but we will be -- we are in the last stages of putting t's and I's (inaudible) get it up on the website. We will have a bulletin that summarizes the WIPO assemblies outcomes on the IP policy page. So, look for that in the coming days if you want to see a little bit more of -- it is still a summary but it has a little bit more detail on the WIPO assemblies of 2021. I will stop there Tracy and everyone and turn it back to you.

MS. DURKIN: David thank you. That was an excellent summary of a lot that has been going on. Are there any questions? I didn't see anything come in the chat.

MR. CALRIDER: Tracy I don't have a question, but I will echo the voice of gratitude on the State Department and legalization of documents. Yes, you only control the portion that
the patent office controls, but your conversation
with State Department I think also made a
difference. It is my understanding with feedback
I tried to gather is that it has greatly improved.
So, thank you very much for that.

MR. GERK: Thank you Steve for that. We
really do appreciate you mentioning that and
hearing that back. That is nice to hear and I
will pass that along to the team and also we do
keep -- we speak regularly every week or two with
State Department so we will keep our ears to the
ground and keep you guys informed. So thank you
again.

MS. MARS-SPINOLA: Great. Okay. Thank
you Tracy and David. Thank you for that
presentation. I echo the compliments about the
presentation and I appreciate very much that you
were able to jump in and make the full
presentation for us. So we are actually on time
and I would like to be able to keep that and I
thought we would now turn to PTAB Subcommittee.
Steve. Steve you are on mute. You are still on
Steve.

MR. CALTRIDER: Am I off mute now?

Sorry about that. I'll get the hang of it someday. By the time we go back to live meetings probably. I am Steve Caltrider. I am chair of the PTAB Subcommittee and we have a full report today from the PTAB so I am going to keep my comments short. I would also encourage everyone to read the PTAB section of the annual report which highlights the accomplishments and progress in far more details. Some of the notable highlights. The PTAB continues to make progress in reducing the number of (inaudible) appeals and the pendency of the appeals. I won't go into the data now but it can be found on the PTAB statistics webpage. But a notable point in the statistics regarding workload is a breakdown in the proceedings. Ninety-three percent of the trial proceedings are IBRs and 7 percent of the trial proceedings are PTRs. I know from my perspective I would never have guessed that when the American Events Act was passed. The institution ranked by
petition for fiscal year 2021 is 59 percent compared to 56 percent in 2020 and is slightly lower numerically but roughly on par with fiscal year 2019, so we have been fairly constant in the institution rating. PTAB also should be commended for the interim procedure (inaudible) director review following Arthrex. The (inaudible) of that procedure was extraordinarily timely and very workable. We recognize the procedure is still in interim status and may change based on further input from the public and the experience between now and when those rules are made final. Next, we reported in prior PPAC meetings, PTAB in the past has collaborated extensively to improve the quality of the granted patent. Most notably when placing feedback loop that shares data information to (inaudible) and search and training which otherwise improves the examination, progress in this regard has been very significant. It is not quite ready for prime time, but it remains a high priority for the PPAC office. Of course, the applicant adds an important role in the overall
quality of the system and the PTAB has playing its part in putting in place the number of programs to train external stakeholders. Notably in the monthly foresight chats and the lead program which we have already discussed. In addition to practitioners, the board also hosts monthly and dinner hour webinars to cover a variety of topics of interest to inventors. Finally, PTAB has designated a number of opinions Presidential during the year including (inaudible) last year. These presidential opinions are important to practitioners as they provide a higher degree of predictability and this has also contributed to a steady downturn trend (inaudible) over the last fiscal year. With that, I think I will turn things over to Chief Scott Boalick.

MR. BOALICK: All right. Well thank you Steve and thank you too PPAC for the report and your recommendations. I would also like to join others who throughout PPAC today have given thanks for outgoing members.

MS. MAR-SPINOLA: I'm sure most people
already know this, but just as background
Arthrex— the Supreme Court issued Arthrex back in
June. And as part of the decision, it provided a
new tailored remedy to ensure that ABJ's function
as (inaudible) officers. And the Supreme Court
said, as a result, that the Director may review
file final PTAP decisions, and upon review may
issue decisions him or herself, on behalf of the
board. So shortly after Arthrex, the office
kicked it into gear and provided a new interim
procedure that allowed the Director, without
authority to unilaterally review a PTAB final
decision in IPR by rehearing. Under this new
process, the Director review may be initiated to
sui sponte by the Director, directly or it can be
requested by ex parte an AIA proceeding seeking
rehearing of a final decision. Let's go to the
next slide, thanks.

So right now, this current director
review process is an interim process. We put it
in place so that we could have something that
would happen right away, but it was anticipated
that might change, based on input from the public, based on experience that we have with direct reviews, and any thoughts of our new direct review, still coming. And what you can see here, anyone can send suggestions about the process to this Direct Review suggestions mailbox. So that's anybody in the public. And also listed here are a few Websites that you're going to want to know about if you want to learn about Arthrex, and the Direct Review Process. We have an Arthrex information page, Arthrex Q and As. This in particular is a great source, for the latest and greatest about what we're doing. It's just a lot of weeds there if you're interested. And also, right after we put the process in place, there was a board side chat that includes Drew Hirshfeld, so you'll see there's video and slides there that talk about the process. What was intended in this interim process for now.

So I thought that we could talk a little bit about how the direct review process works. So if the Directors initiates to Sui sponte Review,
the parties will be given notice, and they may be
given the opportunity to brief. The Director has
an option at any point before the filing of the
Notice of Appeal, or before the time for filing a
Notice of Appeal has passed. As a general matter
these reviews, the Direct Review may address any
issue, including issues of facts or law. And the
review will be De novo. It's important to note
however, even though the review is De novo, the
request isn't an opportunity for a party to make
new arguments, or submit new evidence. So the
Director themselves may choose to request
additional briefing, or under certain
circumstances may provide a party to submit new
evidence. But that's at the discretion of the
Director. A party my request Direct Review of a
final written decision in an IPR PGR by doing 2
things at the same time: By filing a request to
return by the Director, this is what's entered
into our system, and also submitting notification
of the request, by email, to a mailbox expressly
for that purpose, copying all counsel for the
parties.

Basically, parties can request either Director review or a re-hearing by the original panel, but they can't do both. If they do both at the same time, it will be construed by the office as a request for Director Review.

Now other requirements and things to keep in mind, a party can request a Director review within 30 days of a final written decision, although if need be they can ask for an extension before that date for a good cause. And once that's done, once that request is filed, it resets the clock for a notification circuit. The page limit for these requests is 15 pages, absent authority to do otherwise. This is the same as our regular request for hearings. There's no fee to do so, and third parties can not file requests for direct review. That's important. Only parties can do that.

So what is the status of Director Review requests today? Or at least as of 2 days ago, I can tell you. Acting Director Hirshfeld, he
discussed this a little bit this morning.

Following the Arthrex decisions in June, and as of 2 days ago we've received 126 requests for Direct Review. Seventy-three of those are pending, and 53 have been decided. And 1 has been granted. So in the 1 that's been granted, this is in case anybody wants to look it up, the IPR 2020-00349, this is ASSEN performance materials versus Samsung. And in this particular case, the order granting the patent owner's request for Direct Review, it vacates the Board's final written decision, which found claims unpatentable. It remands the case back to the Board to address whether 2 dependent claims are entitled to an earlier priority date. This is the priority date of the provisional. Because it turns out the final written decision didn't specifically address priority of those 2 independent claims. So it's been remanded to the Board to address that issue about whether they're entitled to priority, and also address whether the claims are patentable in view of that record.
It also happens to deny 3 other arguments the Patent owner had raised, 4 total arguments in the request, in that the order denies review of the other requests, which are basically relating to the Board’s determination about, obviously, what’s on the other claims.

Now one thing to keep in mind, because people ask and I know that Mr. Hirshfeld, he covered this, but the POP review process still exists, and if you’re interested in that you can see standard operating procedure too, which is on our Website for all the details. And 1 thing to note, that in relation to Direct review, only the parties can request Direct review of final written decisions. The POP requests aren’t so limited, meaning that parties may request it for relation, for example, to decisions on institutions or parties may appeal decisions. Interestingly, and this was noted earlier today, following the Arthrex decision, and establishment of the Direct review process, we received a higher than normal number of requests for POP reviews too. We’ve had
151

40 in the last 4 and a half months. And right now
14 are pending, 1 request has been granted and the
remainder have been denied. And the particular 1
that has been granted, this is an IPR 2021 00330
this is Toshiba versus Monument Peak ventures, and
this 1 was intended to resolve an issue relating
to institutions. In that case a PTAB panel denied
the Institution originally, because it determined
the petitioner had not paid the fee before the
expiration of its 1- year borrower window. And
the POP granted review on the issue of whether a
Fedwire confirmation of payment constitutes
sufficient evidence of payment for the purpose of
receiving the petition filing date. Obviously
briefing was authorized, the parties completed
their briefing in early November, and that case is
pending right now.

Just a last bit of information,
sometimes people ask us, "How does the process
actually work at the office itself?" And again,
there's lots of information about this in the Q&As
that I mentioned earlier, on our Website. And 1
thing that it talks about is right now in the
interim process, requests to the Director's review
are evaluated by an advisory committee that's set
up by the Director. This advisory committee
advises the Director on their views on whether the
decisions merit review. Right now that advisory
commitee, it has members from various business
groups, such as the office of the Undersecretary,
PTAB, the Office of the Commissioner of Patents,
Office of General law, including for example the
people from the Solicitor's Office, and the Office
of Policy International Affairs. But regardless
of that feedback, the director ultimately
determines whether review is granted or denied.

Now another question that people ask is,
is the criteria for Direct Review versus POP
review, because both are (inaudible) hearing? For
Direct Review, although there's no exclusive
request for criteria, a final written decision may
warrant Direct Review if they include, for
example, material errors of fact or law, matters
that the panel misapprehended or overlooked,
that's a normal standard for rehearing, novel issues of law or policy, issues in which the board panels are split, issues of particular importance to the Office of the Patent community, or anything that may inconsistent with office procedures guided the decisions.

So POP review is actually quite similar. But it is generally used to establish binding precedent concerning major policy or procedure issues, or other areas of exceptional importance. So, for example, POP review may be used to address Constitutional questions, important issues regarding interpretations of statutes, rules and regulations, important issues relating to binding or Presidential case law, or issues of broad applicability to the board, or to resolve conflicts of board decisions to promote (inaudible) inconsistencies. So POP may be less likely to take a case simply because there was an error by a panel, but Direct Review could, in theory. For example to remand a case to the original panel with instructions. This is the
kind of thing we saw in the recent grant review order. So again, that's just a quick synopsis of what's going on today, and what the process is today. But again, this an interim process, we welcome feedback, and we wanted to make sure that everybody had the Web site that we have listed here. If you have any more questions or suggestions for us.

MR. CALTRIDER: All right, well thank you Jackie, next we're going to move on to a topic that we're very excited about, and Drew mentioned this in his opening remarks this morning, something that we've been working on for some time and it is starting to come to fruition, namely the PTAB pro bono pilot program, and for that discussion I'm going to turn it over to Vice Chief Judge Janet Gongola and Lead Judge Stacy White.

MS. GONGOLA: Thank you Scott. Good afternoon everyone. Very good, we're at the next slide. So I'm going to talk a little bit about the background of how we came to set up our PTAB pro bono program, and then turn things over to
Lead Judge Stacy White, who will share more of the
details as we presently have them set up.

So you probably all remember 10 years
ago, when the AIA was passed, 1 of the provisions
required the office to collaborate with the
stakeholder community to establish a patent pro
bono program. This patent pro bono program was
designed to aid under-resourced inventors, and
filing and prosecuting a patent application. Now
we had always hoped to extend that pro bono effort
into the PTAB for appeals, and AIA trial
proceedings. Following President Biden's
Executive Order on Economic Recovery, we initiated
this effort full steam ahead. In the Spring, we
convened a steering committee comprised of various
members of the public, and the Board, to talk
about the structure and operation of a PTAB pro
bono program. Several members of our steering
committee were part of that original group, who
helped to set up Patent Pro Bono: Dave Kappos,
Jim Patterson, Kevin Rhodes, Candy Goodman, just
to name a few. With their experience in
establishing Patent Pro Bono, we thought it was a very, very natural fit to call upon them again for their wisdom to aid us once more in establishing PTAB pro bono. Additionally, this Fall, we brought on a Detailee, Grant Corboy, he's in the Office of Enrollment and Discipline. A Detailee, is an employee who is sent on a temporary assignment from their normal job into a different area of the office. Grant was very instrumental in helping to establish Patent Pro Bono, and he has been working on it ever since. So he has already been helpful in sharing best practices, based upon his years of experience with the pro bono program. Now I'm going to turn things over to give you some more detail, with Lead Judge Stacy White. And she'll talk about our progress and what we've set up so far. Over to you, Lead Judge white.

MS. WHITE: Thank you Vice Chief Gongola, and I bring you greetings from the Texas Regional Office, I'm 1 of the Lead Judges out here in Dallas. As Acting Director Hirshfeld mentioned
this morning, and as I was generously introduced
by Vice Chief Gongola, the PTAB is working in
conjunction with our stakeholder community to
develop a PTAB pro bono program. This program
will help under resourced parties obtain counsel
for proceedings before the PTAB. We're going to
be working in collaboration with the PTAB Bar
Association, which has agreed to be the
clearinghouse for the program. In its role as the
clearinghouse, the PTAB Bar Association will help
bring together potential pro bono clients and
volunteer patent practitioners. So that they can
have appropriate counsel for proceedings before
us.

The PTAB pro bono program will begin,
like so many of our programs, as a pilot. This
program will be limited, in its pilot stage, in
size and scope. During the initial phase of the
pilot program, we will be limited to just ex-party
appeals, and the program will also be limited as
far as the number of participants in the first
year. That's not going to be the end, of course.
It's anticipated that the program will grow over time, to include more pro bono clients, and to reach our other areas of jurisdiction, including AIA trials. Work with the PTAB Bar Association is ongoing, and more information will be available in the future, as we firm up the dates on our launch date, and other information.

So we're very excited about his program, and it's something that we look forward to, to really aid our stakeholder community in overcoming any sort of financial hurdles that could be getting in their way of fully participating in PTAB proceedings. So thank you again for this opportunity, and Vice Chief Gongola will take it from here.

MS. GONGOLA: Thank you Stacy. I will turn to the next slide and continue talking about some of our efforts with the inventor community. We have not historically had strong relationships with the inventor community, so we are working to forge inroads into the community, reach inventor groups, engage with them and educate them both...
ways on our proceedings.

So we've done a couple of different things to try to reach the inventor community.

First of all, we launched an Inventor Hour Webinar series. This is a once a month Webinar on the last Thursday of the month, the content is geared towards those who are new to the Board. We devised it to be short, 10-minute segments on a variety of different topics so that when you walk away from this program, you will learn something about all aspects of practice before the Board. So we have segments on appeals, segments on trials, you meet different judges and members of the Board's Operations Division during the course of the Webinar. It is not a deep dive into any particular issue. We cover deep dives in our Board-side chat Webinars. These Webinars are intended to give you kind of that broad-based exposure. So we hope you will tune in on the last Thursday of every month. We're currently on a little hiatus for the upcoming Holiday season. But we will be resuming those programs in the
month of January.

Next, we publish a monthly article in Inventor's Digest about our Board proceedings. So we talk, in very plain language, about our appeals, our trials, things that those new to practice before the Board would want to know. And so you check out our 1-page article each month, this is something we just started in October, and are looking forward to continuing it through this upcoming calendar year.

And then, finally, we created some time ago, a new to PTAB Website. This Web site, like Inventor's Digest, is written in plain language for those new to the Board. We want to, again, talk about our proceedings at basic levels so if you find yourself in front of the Board for an appeal or an AIA trial proceeding, you will have some expectation of the process, the timing, how the Board operates. You won't be caught off guard, you'll know what to expect.

One feature in particular that I want to call out is an appeal brief tool. This is a
2-part document. One is a template for preparing an appeal brief, and the second is an example document showing you what the different parts of an appeal brief look like, and how to write it up to comply with statutes and rules governing appeals briefs. We wanted to provide this tool to make it easier for those who are appearing in front of the board in an appeal, and not represented by an attorney, to effectively argue their case. This calendar year, we're going to be developing a similar tool for petitions and patent owner preliminary responses needed for our AIA trial proceedings.

So we welcome input on all of these efforts, and look forward to continuing the dialogue with the inventing community. Back to you, Chief Judge BOALICK.

MR. BOALICK: All right, well thank you Janet, and thank you Stacy for your explanation of our new program and our inventor outreach efforts. If we could turn to the next slide, we're just going to go over a couple of updates, a few things
that have been happening around the Board.

Starting with our virtual hearings,

which is something that, as you recall back at the
beginning of the Pandemic, we were operating with
in-person hearings on a Friday, and on Monday we
opened up with all virtual hearings and we've been
doing all virtual hearings ever since. We've had
quite a number of those, so to date we've had
1,145 ex parte hearings, 756 AIA trial hearings,
30 re-exam and 2 reissue hearings, all completely
virtual with the panel, the parties and the court
reporter. All virtual and we've also been able to
make these hearings available to the public, and
if any member of the public wants to attend 1 of
these hearings, and they've been able to request
the link, it was originally an audio link, we have
just recently gotten to the state where we are
offering video links into hearings as well. And
we've had 464 total hearings for a public audio
link, request was granted. We've had a handful of
denials, mainly either because there was
confidential business information being discussed
in the hearing, or the request came too late. But we've been able to accommodate the vast majority. Only 18 out of that whole period were denied. We've also had 82 hearings with leap practitioners in there. Which we'll be getting to the Leap program here in just a little bit. We've had quite a few. And we're still in the max telework posture, so virtual hearings are continuing. If the agency reaches a point where it's going to be transitioning back, I should say, if and when because we know the day will come. We just don't know the particular day yet. But I will provide information about a transition to an in-person hearing as that day comes. And we'll give everybody plenty of notice about what to do, and how to request that. At least at present, we do intend to continue to continue offering a virtual hearing option, because we've gotten a lot of feedback from parties and counsel that, at least in certain situations, a virtual hearing has been advantageous to them. And so for those that still want that, we'll continue to offer it.
So now I'd like to talk a little bit more about some pilot programs, and their status, and the first one we'll address is our Motion to Amend pilot, and I'll turn it back over to Deputy Chief Judge Bonilla to talk about our Motion to Amend Pilot.

MS. BONILLA: Thanks Scott. And just a reminder, so Motions to Amend, these are papers that patent owners can file in an AIA trial, in addition to their patent owner response. After a trial has been instituted, they can file a motion to substitute claims if they wish. And the office issued a Federal Register note about a Motion to Amend Pilot back in March of 2019, indicating that it applies to AIA Trials, or it suggested that date. And based on the preliminary results we have so far, the Office recently expanded the program for at least another year, until September 16th, 2022. And as noted in the Federal Register about the extension, as noted in the original notice, the Office may extend it again, with our without changes, after that date. And just a
reminder for everyone who may not be familiar with it, the Pilot offers patent owners 2 new options they didn't have before in relations to the Motions to Amend and AIA trials. The first option is the patent owner may choose to receive preliminary guidance from the Board on its Motion to Amend, and/or, meaning it can do one or the other, they may choose to file a Revised Motion to Amend after receiving petitioners opposition to the original Motion to Amend, and after receiving preliminary guidance, if they requested it. Basically, at that point they have options. They can, based on a petitioner's opposition of a Motion to Amend, they can file a reply, they can file a Revised Motion to Amend, or they can do nothing at all, and those 2 options aren't related to each other at all. You can do 1, or both, or neither. If the patentee doesn't elect to do either of those options, they can pursue Motions to Amend basically the same way, before we implemented the Pilot. And as far as how it's
going today, as of the end of October, just to
give you some stats, the first time anybody can
file a motion to amend, under the pilot, was in
June 2019, and what we have found is patent owners
file Motions to Amend at about the same percent as
what they did before the pilot. So about 10
percent of the time at an instituted trial, you
will see a patent owner file a Motion to Amend,
and that number hasn't changed, before or after
pilot.

At least had almost 170 Motions to Amend
filed so far that qualified for the pilot. And
the PTAB has decided about 82 Motions to Amend on
the merits, to file a decision. And what we've
seen is that Patent Owners have elected for 1 of 2
pilot options in the vast majority of cases. Well
over 80 percent of cases. And bottom line is,
generally speaking, Motions to Amend have been
granted, or granted-in-part, with greater
frequency, since the pilot began. So before the
pilot, we either granted, or granted-in-part,
about 14 percent of the time, and since the pilot
started we're up to nearly 30 percent of the time are granted or granted-in-part. So basically the point is that patent owners choosing at least 1 pilot option are more likely to have a motion granted for at least one (inaudible) claim. So as far as we're concerned, the pilot is still working pretty well. And we're going to plow on and see how it goes, and get additional feedback, and we will see how it goes, going forward. And I'll pass it back to you, Scott.

MR. SCOTT: Sure, and so next we want to give folks an update on our fast track to appeal. A pilot program, recall, which was one for a very low petition fee you can get a decision with a target date of 6 months. I won't spoil the surprise, but I'll turn it over to Vice Chief Judge Gongola, to reveal the current speed at which you can get an appeal decision on the pilot program. So over to you, Janet.

MS. GONGOLA: Thank you, Scott. Drumroll, 2 months. Two months. That's a really fantastic number. So if you participated in the
fast track appeal pilot program, from the time that you petitioned and are accepted in the fast track program, to the point in time where you receive a decision, there's a 2-month window. This is very, very fast, and I think it might surprise many thinking appeals take, you know, 20 months, 24 months. No. We have good news on that front too. But under the Fast Track program, it's 2 months regardless of technology. And we have plenty of room available. In June of this year, we renewed the pilot program for a second 1-year cycle. Thus far in our cycle, we've received 256 petitions, so we have 200-and some spaces available. For those of you listening, and would like to participate, please submit your petition. The cost to submit is very low, and we will give you a decision quickly.

Now an offshoot of our Fast Track Appeal pilot program is our COVID Fast Track program. It's built on the platform of the Fast Track Appeal Pilot, with a couple different exceptions. And actually it makes things a lot, even easier
for you to participate. First, there is no limit on the number of petitions we can receive. And second there is no charge to participate. The only additional hurdle you have to meet is to demonstrate that you have an underlying application that qualified as what we call a COVID application. The definition for a COVID application is the same that is applied during examination. We carried that definition through, your invention or your method has to be subject to SDA review, in short. It's probably written a little bit more complicated than that in our notice, but that's the way I interpret it myself.

Right now, we have not received any appeals under the COVID Fast Track, but the reason for this is because we are just starting to see applications emerge from examination that meet that COVID application definition. So we are anticipating, in this calendar year, that we will begin to see some COVID applications in our Fast Track program as well.

I will give things back over now, to
Chief Judge Boalick, to tell you more about appeals in general, not that are subject to our Fast Track Program.

MR. BOALICK: All right thank you. In general I'm just going to talk briefly about some of our ex-party appeal statistics. These are available on the PTAB Web site, and we do update these monthly. So right now, our pending appeals are 5,588 as of the end of October. That is down significantly, those of you who recall about 10 years ago, will recall that our ex-party appeal inventory was 26,000-plus, and heading in the wrong direction, so we've turned that around, we're down to a very manageable level of appeals, and there's also a good news story our turnover tendency of ex-party appeals are overall tendency, as of the end of October was 12.8 months. That's also down quite a bit from what folks may remember a few years ago. And we are in efforts to try to, even those tendencies across the technology centers, right now some of the electrical PCs have a slightly longer active tendency than, say, those
in the bio Pharma and mechanical business methods, and chemical. But we are working to even those out. So good news on both our inventory and tendency. And now for our final topic, before getting any questions, I'll turn it back over to Vice Chief Judge Gongola to talk about our Leap Program.

MS GONGOLA: Thank you Scott. Well we have really exciting news, that Acting Director Hirshfeld talked to you a little bit about this morning. I'm going to elaborate a bit more, and give you some more information about it. You may recall that to qualify as a lead practitioner, a patent attorney or an agent has to meet 2 eligibility requirements. Three or fewer substantive arguments before any Federal Tribunal, including PTAB, and 7 or fewer years experience as a licensed attorney, or a registered practitioner. Effective today, we are eliminating that 7 year requirement. The elimination of this requirement is going to make it easier for Junior practitioners to qualify for Leap, and present, as
an actual case, part of an oral argument. Maybe
even the whole thing.

The reason we made this change is
because it better, we believe, it better reflects
Leap's focus on giving opportunities to those who
previously have not had any set chances. We're
pending your eligibility for Leap on opportunity
rather than years of time in practice. Our
original definition, we felt, might have left some
folks behind. Perhaps parents or caregivers who
took time away from practice for other
responsibilities. Members of the Service, who are
in the Reserves or on Active Duty, and away from
practice. Time spent as a patent agent before
becoming a patent attorney. And those who chose
perhaps a different area of the law to practice,
before going into patent law.

Another reason that we made this change
is because we got a lot of feedback from
stakeholders who had some confusion over the years
of experience requirements, and they advised us,
"Gosh it would be really nice if you took that
requirement off the table."

And then finally, we are aiming to increase usage of the Leap program. We are all super enthusiastic about it, but we have only had 82 Leap arguments since our program started 18 months ago. Those arguments are split a third in appeals, and the balance in trials. But we really love having Leap practitioners and giving that opportunity to junior employers. So we hope that the elimination of the 7-years requirement will increase the number of Leap practitioners that we see going forward.

Now beyond eligibility requirements, we have done 4 different types of training this year, mock arguments in those appeals, and trials. We want to give the junior practitioners a little bit of practice before the actual case. So they have a chance to get comfortable with how to present, being on your feet, and answering questions from the judges. We've also introduced some Webinar programming featuring super experienced practitioners, to talk about how you prepare for
an argument, how you handle the questions, and we
look forward to continuing those programs in the
future, as well as offering more Leap type
programming for training of our junior
practitioners.

I will turn things back now to Chief
Judge Boalick, I believe we may be at time, but I
couldn't contain my enthusiasm in telling you
about Leap. So I hope you will pardon me.

MR. BOALICK: Absolutely, we're all very
enthusiastic about Leap, as well as our other
programs. So Steve, I know we are at time, I
don't know if there's time for questions, should
there be any, but thank you all for your
attention.

MR. MAR-SPINOLA: Scott, that was a
great presentation by you, Janet, Jackie and
Stacy. Thank you so much, there was a tremendous
amount of content that you went through. It's
much appreciated. If I can indulge you all, I
would like to ask 1 question because I don't know
that I picked up on the answer. The timing of the
PTAB pro bono pilot is something that's anticipated in Q1 of the next calendar year. When should people start to look for opportunities there?

MR. BOALICK: I'll ask if Janet or Stacy, yes, Stacy, why don't you maybe let us know what our plans are?

MS. WHITE: We are working with the PTAB Bar Association to finalize what the dates are going to be, but right now we're anticipating that we will be launching this program some time in the Spring or Summer, but of course it's going to depend on how everything goes in terms of us finalizing the details.

MR. BOALICK: Thank you, and thank you again for an outstanding presentation by everyone, and kudos also for expanding the Leap program, and being responsive to stakeholder feedback. I think that will be tremendously helpful to expand its breadth, I think it's a great program. Julie, I'll turn things over to you.

MS. MAR-SPINOLA: Well thank you, and I
want to echo Scott. The PTAB presentation with Jackie and Janet - welcome back, Janet - and Stacy, was very much appreciated, a lot of exciting programs. I'm very happy to hear, in particular, the Fast Track pilot program, as well as the Leap program opening up. I'm a little surprised at how few have taken up the Leap program, and definitely I look forward to that ramping up, big time.

So we are out of time, but let me just say this: Tracy had mentioned something about my leaving big shoes to fill. We have Steve Caltrider, who is the Vice President, General Patent Counsel at Eli Lilly who will be taking over, as chair, so I am fully confident that he will fill my shoes, sans the heels. Physically and figuratively. And I look forward to big things happening next year. I will definitely stay in tune, and I thank you for everybody, and everybody's efforts. So with that, do I have a motion to adjourn?

MR. CALTRIDER: Julie, you're getting
ahead of yourself, aren't you? Do we have the Patent Quality and Penancy report?

MS. MAR-SPINOLA: Oh, wait a minute, I am sorry. We have- I apologize, it was on the second page. So Penancy and Quality. So I've already given my end speech, so I won't repeat it later, but let's move on, my apologies here. Yes, Jeff, my apologies Jeff.

MR. SEARS: It's okay. I'm Jeff Sears, I'm chair of the Pendency and Quality sub committee. I'm going to start off our last section by giving you a few highlights of our annual report, and then I'm going to turn it over to the office, to discuss some recent statistics for FI21, projections for FI22 and a review of what happens in the Central Reexamination Unit.

Onwards to the highlights. A number of these have already been stated or alluded to, so I will be brief. First, with regards to Pendency, the office has made considerable progress in achieving its pendency goals, whether measured in absolute terms, for example the patent term
adjustment goals, or average term, measured with respect to First Action Pendency, or total pendency.

On quality, the office continues to improve the quality of examination. It continues to meet its objectives for the correctness indicators. Steve also, earlier, alluded to the role that applicants play in Quality. Quality is not a one-way street, it is a two-way interaction between the Office and applicants. And some of those interactions are sketched in the end report. And finally, another topic that Steve alluded to earlier, the cooperation and collaboration between the Patent Examination side and the PTAB side of the house. Data collection, data sharing and more cross-talk will lead to improved quality of examinations, and will improve the robustness and durability of issued patents.

These are just a few of the highlights of the annual report. I will turn it over to Andy now, for Andy and his team, for a presentation on statistics and CRU. Andy, over to you and your
MR. FAILE: Thanks Jeff. Before we get started on our presentations, Rob and Bob and I, on behalf of all the Patent Organization, would like to sincerely thank Julie, Jennifer and Barney for your service on PPAC through these many years. We've really enjoyed working with you, you guys have provided great advice and counsel on many of the initiatives that we've been undergoing in the Patents organization throughout the Agency. We hope to meet up with you yet again on the other side, so thanks again for your service on PPAC and your service to the Agency.

With that, we'll start out with some FY21 overall stats, see how we fared in FY21. You heard a little bit of this from Drew this morning, we've got a little bit more depth here and we had a particular request on a deep dive into continuation practice. So we have some slides on continuations, cutting that data in different ways, which we hope you find interesting. With that, I'd like to introduce Assistant Commissioner
Remy Yucel and she'll begin the presentation, so over to you Remy.

MS. YUCEL: Thank you. So I was already listening to the great presentations, I was already a little bit worried to follow all them. And then when Julie decided to adjourn I was like wow, "I've really got to work to make these stats a little more vibrant, so they can hang in there until the very last bit." I hope I'm able to do that, so with that.

MS. MAR-SPINOLA: I'm sorry Remy you still have a very big audience, and I did not want to appear eager to close this down. My printer ran out of paper, so the second page of the agenda, which has this on there. So I'm very embarrassed, but levity is a good thing.

MS. YUCEL: No worries at all, I mean you know, being part of the Analytics group, it is- Numbers are numbers and data is data, and I really do hope we try to make it as engaging for all of you, no matter where we are in the lineup.

So with that, let's get to the next
slide, please. So key points of interest for
FY21, in comparison to how ended up the previous
Fiscal Year of FY20, we are still on track as it's
been said a number of times during this entire
day, we are still on track for our long term
Pendancy Goals. We ended the year with an 83
percent compliance for mail actions, and an 86
percent compliance for our inventory. Our long
term goal is 90 and 90, and given that we had
another year under some extremely difficult
pandemic situations, the fact that we have been
able to stay on course, I think, is a good piece
of news here.

Again, as Drew alluded to at the
beginning of the day here, our serialized growth
rate was essentially flat over FY20, and our
attrition rate is at 5.8. Just as a reminder,
there are major components of the attrition rate.
The first is where Primary Examiners are promoted
to Management to Supervisory Patent Examiners. So
there's a certain percentage that are that way.
The next portion of that would be our retirees.
Right now we have a very high number of folks that are retirement eligible, and starting a couple years ago, and into the next couple years, it's going to be our highest number of eligible folks that could retire, should they choose to.

And then the last component of that is essentially our first year probationary employees. The 1 good piece of news here is, during the pandemic, in FY21, we, by necessity had to onboard all of our new employees, all of our new Examiners, onboard them and train them all virtually. And the effects of that don't appear to be any different than when we were doing those activities while we were on campus. Next slide please.

So a few more FY21 filing trends in comparison to FY20, we talked about the serialized, the essentially flat or decreased by 0.1 percent of the filings. Another really good news story is our RCE filings have again decreased. They decreased in 20, and again in FY21 by 6-and-a-half percent for 21. This really
kind of indicates to us that our continued
commitment to compact prosecution, and the
maturity of our- the more experience, the maturity
of Examiners has really resulted in reducing our
reworks. This is another good piece of news that
we hope to carry through in FY22.

Another data point is Provisional
Filings have decreased by over 9 percent. This is
a larger decrease than FY20. The 1 thing here is
we're not too concerned about how this can portend
for non-provisional filings, because it's been our
experience in the past that the level of
provisional filings is not a good indicator, is
not predictive of what level of non- provisional
filings we will be getting. So that's the data
point, it's there, but we're not terribly
concerned with that.

And another big point here is Designed
Filings have increased by over 17 percent. This
is something that we continue to monitor, PC 2900
which is the design group, has got their eye on
this in a very close sort of way. They have done
modeling, and they have made provisions to bring
on 80 new Examiners to help with the influx of
cases. So hopefully we'll be able to deal with
increased filings in a good sort of way. Next
slide please.

Okay, if we look at these serialized
filings by county of origin, if we take a look at
the Table, at the very last line you can see the
United States accounts for 50 percent of the
serialized filings, and then the rest of the
countries are shown the table, and if you look at
the graph, you can kind of see. To orient you,
the blue bars are FY20, the red bars are FY21.
It's more or less the same filing trends that we
see from the various different countries, other
than the US, which is not shown in the bar graph.
Very similar, not very many notable changes over
FY20. Next slide.

Again, if we look at the filings by the
priority type, the cons and the national stages
are pretty much the majority of the filings. We
again, the blue bars are FY20, the red bars are
FY21. Again, following a very similar pattern, with just slight increases for CONS and the national stage applications. Next slide.

So this is going to be the start of the, hopefully a more fulsome cons story in the next 4 or 5 slides we'll be going over. First of all, continuation filing trends, again CONS continue to increase over time. You can see that, with the charts to the right, the blue curve is the continuations, the CONS, the yellow curves are divisional applications, and the red curves are continuations in-part. They have remained relatively flat over a 10-year period, whereas the continuations have continued to increase. Now this impacts our ability to be effective in our workload, and docketing practices and to just balance out the workloads. So this is a challenge that we are continuously working on, and monitoring. They are still increasing, although you can see the rate of increase over the last couple years, it looks like it's slowing, but 2 data points, we shall see how that plays out in
the next few years.

Another interesting point about continuation filings is that a large majority of these continuations are files from Allowed cases. So when we Allow a case, which is when inside USPTO parlance is a disposal, it's really not a disposal because we will get a CON in many instances. Next slide, please.

So if we look at the continuation filings historically- So this is the period of time we're looking at here, on the X axes, if you look at the right hand panel we see the filings by the entity types, you can see that the green curve, which represents the filings by the undercounted entities, they have taken a really steep incline over the last years or so. But if you look at the very end of that curve, between 2019 and 2021, we see a slight plateauing, so we'll keep our eye on that to see if that continues. The red curve are small entities, and you can see they're beginning to use continuation practice a lot more than they used to over this
past decade. And then the micro, which is the blue curve, again is very flat.

If you look at the right side curve, you can see that the continuations represent about 25 percent of our total filings. And that this number, I think we have heard it a couple times today, so it continues to be something that we really need to monitor and work on in terms of our workloads and docketing practices. Next slide.

So continuations parentage -- So the chart on the left hand side basically shows that the number of cases that have a single CON really kind of rule the roost. The red stack on the bars represent 2 CONS, the green is 3 CONS and the purple is the 4 or more continuations. So the vast majority of the continuation cases only have 1 continuation. And if you take those colored curves, you bring it over to the right hand side—You can see that the number of cases that have a single CON has been steadily decreasing since, 20 years ago, since 2001. From a little bit under 80 percent to a little bit over 60 percent. The red
curve is remaining around 20 percent, and we're beginning to see a slight increase in the percentage of CONS, or cases that have 3 and 4 continuations. Next slide please.

And as we continue on the continuations, we look at the origin of the continuation filings, the right hand panel shows the relative filing rates between US filers and foreign filers, and the US being represented by the blue portion of the bars, and the red is the foreign filers. Unlike the serialized filings, where the US represented about 50 percent of the filings, in continuations they represent closer to 60 percent.

If you look in the right hand panel, you can see that continuations practices are really being mostly used by Japan, which is the maroon curve, and China, which is the green curve, and that's still continuing to increase, between 20 and 21 Japan has taken a slight downturn. SO it will be interesting, in the upcoming years, what changes there are in filing patterns and behaviors from the different foreign filers. Next slide
please.

Okay, so bypass continuations, again, the left hand curve basically shows the historical filings over the last 20 years or so, bypass continuations, which are essentially continuations of PCTs have grown over the last 20 years, around sixfold since 2000. If you look at the filing behavior, China again is the heaviest user of this continuation practice, they are the red curve in the chart on the right hand side. And Japan would be a modest second place to them. Next slide please.

And then this is always a very popular question that we get, and deservedly so. Where are these continuations being filed? If we look at continuation filings by technology centers of the last 20 years, you can see that my previous home, 1600 used to rule the roost here right? Back in the day, but now the Electricals have caught up to them, so if you look at the curve here, the purple curve is TC 2400, which is networks, multiplex, cable and security. The
darker green curve is 2100, which is computer architecture, GUI, AI< and the lighter green is 2600, which is also an electrical discipline. So electricals have certainly caught up, and in some cases even eclipsed us, 1600, by some measure. So the story now is these continuations are everywhere, and not just located only in Housing, Biotech and Pharma. Next slide please.

Last slide. Getting back to the final slide of our FY21 filing outlook. If we look at the serialized filings by entity status, again, I'll remind you that the blue bar represents FY20 and the red bar represents FY21, you can see that the filing levels by the different entity statuses, again, have been very, very stable. No surprises here. And again large entities have the lion's share of the filings, as you would expect, followed by small entities and micro-entities. And I believe that is the last slide I have.

So, any questions?

MR. FAILE: So thanks Remy. Let's kick it over to Bob Bahr to introduce the next couple
segments. Just hold questions and we'll take them at the end, is that okay, Jeff?

   MR. SEARS: Fine, I was going to suggest that.

   MR. FAILE: Okay, Bob.

   MR. BAHR: Thanks Andy. And I, of course, am going to phone a friend for the next section. I'm going to go to Stefanos Karmis. He is the Director of the Office of Patent Quality Assurance, and he is going to go over our FY21 Quality statistics and projections for FY22. So with that I'll kick it to you Stefanos.

   MR. KARMIS: All right, thank you, Bob. As Bob said, I'm going to be talking about FY21 Quality statistics roll up, and then a little bit of a look ahead into Fiscal Year 22. So you can go ahead to the first slide here.

   Before we get into the Quality statistics, I do want to take a moment. I think most people in this virtual room know, but I'm sure there's some people listening at home. We do a lot of reviews at the Patent office every single
day, in the technology centers, done by Managers and Reviewers. We've given feedback back to Examiners, for their performance appraisal plan, for coaching and mentoring, or even to sign the work of junior employees, before that work goes out the door.

In addition to that, the organization that I oversee, the Office of Patent Quality Assurance, is staffed by 70 dedicated Reviewers, who do a representative random sample of the works products that we mail out the door. Essentially what we do is we review about 12,000 work products for Fiscal Year 21, and more than 12,000 work products. And we look through every stage of prosecution, so we're looking at the non-final, the final and allowance. And again, we do it as a representative sample, indicative of the work products that we mail, and you'll see that on the next slide, some stats. To it.

What are we looking at as we do these reviews? We know there's a lot of different ways that people look at quality. We look at it
through a statutory compliance lens. Meaning that, you know, we are tasked with applying the statutes as an agency, so we look to see how well, in a case that we either do or do not do that. Most of the focus is put on things like the main statutes, 102, 103, 112, and 101 in developing a metric so if our Examiners do make, for an example, a rejection under 102, did they do it properly? By properly identifying the claim and the statute? As well as giving sufficient evidence in the rejection that demonstrates why that claim was unpatentable.

We also look for omitted rejections. So if our Examiners did not reject a claim under 101 or 112, and 1 should have been made, we mark that as a non-compliance as 1 of our omitted rejections.

Ultimately, we take our data, our reviewers use something called the Mass Review Form, which can be found online on our Web site. And we turn it into a metric which I"m going to go over on the next slide, Fiscal Year 21 roll out
here. So you can go to the next slide.

Okay, so what we have here on the left, these are the main statutes we review, that go into our Mandatory Compliance Data. The first column you see here is prevalence what we review. So how often do we see a 101 rejection? A 102, 103 and 112? In Fiscal Year 21, in our random sample, 101s were identified about 7 percent of the time. That had been dropping in the previous years, but it was actually the same in Fiscal Year 21 as it was in Fiscal Year 20, 7 percent. 102, percent, 103, no surprise, it's in most of our office actions, that's our biggest one, it's in 77 percent of the things we review in OP QA. And then in 112 we have it broken down by enablement, written description and 112b issues. The 112a issues are, we don't see that often. In our random sample, the 112Bs we see a little bit more, on par with the 102 rejections if you will.

We do set goals. We've had these same goals for the last couple years. You can see them there in the column. For 101, it has been 97
1 percent; 102, 95 percent; 103, 93 and 112, 93.

These have been goals that have sort of been on the upper end of where we have historically been. So we're trying to strive to make these goals. And the next column shows where we were last year. I wanted to give you a flavor of where we were last year versus this coming year. So in Fiscal Year 20, for 101 we finished at 97.7 percent. In Fiscal Year 21, next to it, you see we're 98.3 percent. So a little bit of an increase, we were over goal for both years. For 102 we were a little bit below goal last year at 94.3 percent. This year we are actually at 95.1 percent, this slide probably needs a little bit of an update as a result of a few cases at the end of year, but nonetheless it was an improvement. We actually made the goal for 102 this year, whereas last year we were a little bit below it.

And then 103, we were 88.9 percent last year, 90.6 percent this year. So while we didn't make the goal, we did actually have a really large increase than where we were from last year, at 1.7
percent.

And same for 112, we were at 90.6 percent, below that we want to get to. And ended the year at 92.2, another sort of 1.6 percent increase from where we were. So again a little bit short of that goal, but moving in the right direction to achieve it.

The last column just shows, if we only look at the independent claim, we just sort of track this as the back to our technology centers, so they have an idea where to focus their efforts. No surprise that 101 and 102 are very concentrated on the independent claims. A lot of times 102s are made on the independent, not necessarily all the dependents. But if you look at the 103 and 112s you'll see that the dependent claims are a big factor in us not making these goals. And we do treat the dependent claims when we do our reviews, to the independent claims. If 1 claim is incorrect, whether it's an independent or a dependent, we've marked that whole application as non-compliant. So I just wanted to give you that
feedback. It's helpful, I think, for our managers to get an idea of where some of the non-compliances are. That's sort of the data, we'll cover 1 or 2 more of the data slides, and then talk about our Fiscal Year 22 direction also. So next slide, please.

One of the other things that we've done recently, in the last about year and a half, is we updated our master review form to try to. Capture what we call character risks, but it's really, how do we communicate with our applicants? How can we provide better insight into what we're doing to focus on clarity, and things like that? These do not necessarily need to be done in every office action, they're sort of things we're tracking as a way to look for risks of potentially things being non-compliant. Or if we want to take a group of cases, or maybe compact prosecution was really good, to see what sort of habits were done in those. And so what you see on the left is a group of cases organized by accolades. The accolades
are cases that our reviewers designate as really
something that was well done, and something that
went beyond the requirements of the MPE PE best
practices that were used in a really effective
way.

The Middle Group is our pass throughs,
those are sort of our, nothing was wrong with
them, it was a good work product. And then our
non-complaints, where there was some issue in the
case.

And then you see the various
characteristics. This is for 103, but we do it
for all statutes as well as some other aspects of
prosecution. And we're just trying to get a
better feel for what's in there. I'll just
highlight 1 or 2 things here. So sort of like the
teal-ish, or sorry purple 1 where it says,
"Explanation in Detail." That's 1 where you can
see we're kind of high in the accolades, and much
lower in the non-compliance. So what we're
really looking for there is, did our Examiner not
just say, see column 5, lines 10 through 20, but
did they use language from the reference in better
equating what it was to the claimed invention and
things like that? Did they go that extra step in
really explaining it?

And even the bar, all the way to the
right, that says, "None," and a lot of the ones
that were non-compliant, as we've looked for some
of these characteristics, we don't really see
them.

So it's kind of a first look for us, to
do some risk analysis more than anything, into
what may help with prosecution, or where people
may be able to focus some efforts. They also
underpin our accolades, which I'll talk about on
the next slide. I referenced them a moment ago,
accolades are things we in OPQA do. We don't want
to just give people negative feedback, tell them
they're wrong. We want to recognize Examiners
when they do high quality work. We know a lot of
them are doing it. And so you can go to the next
slide, sorry.

So again, when our examiners are using
these best practices in effective ways, not just that they're going work products compliant, but they're really being effective in these best practices, we're designating that. In Fiscal Year 21, we identified it in about 15.6 percent of our reviews, we actually sent letters to the Examiners notifying them of what they did specifically in recognizing them. That was an increase of 2.6 percent over the previous Fiscal Year 20. So it's good to see those things moving up. It's nice to be able to recognize Examiners in that way from OPQA.

And then lastly, the only other slide I have is sort of a Fiscal Year 22 look-ahead. We have goals still for statutory compliance, so that will still be our main focus, to review cases. We're tasked with applying the statutes, we want to maintain that 101 and 102 goal that we achieved last year, but we also want to focus on our 103 and 112. We know we're really close to last year's goal, we want to continue to focus on improvements there. We do want to maintain high
stakeholder satisfaction. Our recent external
survey reveals customer perception is very high,
and there's a lot of things that go into that that
are not necessarily just in the statutory
compliance metric. It includes things like our
interview practice, how well we respond to
arguments, the overall customer service we
provide. So that's something we want to continue
to focus on keeping at a high level.

And then lastly, kind of the way I
started, is a lot of the grass roots effort here
is done in the technology centers, at their level
with the expertise they have, based on the reviews
they do, they have a lot of insight into how to
improve in their area. They're all working on
various impact plans, and improvement plans for
their areas.

So that's sort of what we'll be focusing
on in Fiscal Year 22, so happy to answer any
questions here, or can save them until the end,
after CRU goes also.

MR. SEARS: Thanks very much Stefanos.
I would say, given timing, we save questions to the end and we move right on to CRU.

MR. BAHR: Thanks Jeff, so I think at the last PPAC meeting there was a request for a discussion of the overview of the Central Reexamination Unit, or the CRU. So I have, I'll say I phoned another friend in David Ruschke of the CRU and asked him to give a report of, or an overview of the CRU. So with that, I will pass it to you, David.

MR. RUSCHKE: Thanks David, I know we're running a little behind here, and I do want to have an opportunity for questions at the end, if possible for everybody in this section. But why don't we move on to the next slide. Again this will be sort of an overview of where we are with the CRU. It was formed back in 2005, and its jurisdiction has changed, if you will, over the years. I'll get into each of the individual applications that we deal with, ex parte re-exams, inter-party re-exams, re-issues and supplemental exams in turn, as we get through the presentation.
But just to give you a sense of who we are, there is a Group Director, SCS Group Director, which is myself now for the last year. We have 8 Supervisory Patent Reexamination Specialists. So in the CRU, we refer to—That's essentially the equivalent of a SPE, but instead of using the terminology 'Examiner,' in the CRU we use Specialists. And so we have essentially Re-examination Specialists. Now these are all high-level, the highest level GS15 Employees, which have a lot of experience within the USPTO. And so these are folks that have been with the USPTO for a long time, and who are at the top of their game. And those are the folks we have reviewing our post grant proceedings in the CRU. We also have a Managing Quality Assurance Specialist. His name is Steven Stein, he's also online. I'm not sure if he's able to speak, but I wanted to acknowledge him for all the work he does in maintaining the quality in the process and operations of the CRU. We also do have Technical Support Staff
as well, dedicated exclusively to the CRU, and
administrative support staff as well.

If we could go to the next slide, let's
start off talking too, a little bit about ex parte
reexamination filings. I've sort of given you a
little bit of a historical look back at re-exams
back to 2016. 2016 is when re-issues first
became- Essentially were completed to being
integrated within the CRU. So essentially our
jurisdiction was sort of stable as of 2016, and
you can see here with respect to ex parte
reexaminations, we've had about 1,200 files since
that time. We have 345 currently pending, and you
can see the trend here, this is based on our art
units. We have a Chemical Biotech unit in blue,
we have all of our Electrics in red, and we have
a Mechanical section in green. And you can see
they're fairly stable over the years, and then we
get to FY21, and you can see how there was a
dramatic increase in filings from FY20 to FY21,
from 168 to 273. And the vast majority of that
increase, of course, came from the Electrical unit
side. WE have looked at this, and we are continuing to look at why that is. One answer that has been put out there in the public sphere was that, due to some changes with PTABs practice in their Presidential opinions with respect to deferring, instituting a trial at the PTAB, that some of our shared stakeholders have then come back to the CRU and filed the additional re-exams as a way of, sort of- IF they didn't get instituted at the PTAB, then they would come to the CRU to get instituted, or essentially ordered for re-exam here.

I'm not sure if that's exactly the reason for the large number. IT could be that there just happen to be a lot of filings lately, but that is 1 explanation that has been out there in the public domain.

It kind of makes sense to some extent, given the change in precedent, but also the fact there's a large number of Electrical applications in patents that are petitioned for trial, AIA review at the PTAB. So that might be the case for
that very large spike in Electrical filings for re-exams.

If we could go on the next slide, the thing I do want to highlight on this is, you know, similar to PTAB, I guess, essentially when you have a decision to institute, we have to determine whether there's a substantial new question of patentability. And if there is, we shall order re-examination. Now we find a substantial new question of patentability in about 95 percent of our cases. That's very high. That number has been quite consistent over many many many years. SO that's not something that's new, but it is certainly recognized that it is a significantly different standard, and a lower standard than the Reasonably Likely to Prevail standard that's used by IPRs at the PTAB.

You can also see that the first bullet point, that our average time to order, when we find an SNQ, or denial. When we don't find an SNQ in 2021, is quite quick. We are at 1.1 months for when we do find an SNQ and we're at 1.7 months
when we do not find an SNQ. And that has been fairly constant over the last 5 or 6 years as you can see from the chart. So once it is- Once the request is filed, and it's docketed, we will act quite quickly in order to give the requester and the patent owner an answer as to whether we'll be moving forward with re-exam. If I could have the next slide please?

This is essentially a timing slide to quickly work on our ex parte reexams. And once the conclusions of our process, of course, is the mailing of a notice of intent to re-issue, to issue a re-examination certificate, a NIRC. And I would like to point you out to the first real bullet point there, that our average time to NIRC in FY21 is 10.6 months without an appeal. So what that means is that we are operating very quickly. We not only order reexaminations quickly, but once we order it we move quickly and give the patent owner and the requester the answer that they want.

Now, again, in the majority of cases, 156 out of 186 total, there haven't been appeals
to either the PTAB or to the CAFC. And again, in those situations, without appeal, 10.6 months is the CRU's timeline. So I would like to highlight that, and actually our internal goal, for many years now, has been, for a number of years, has been approximately 12 months. So I think we've been doing quite well in getting the results out to the stakeholders as quickly as possible.

Our overall tendency, if you will, is about 16 months for all cases when they go up on appeal. And of course, it's necessarily longer because it takes time to go up to the PTAB, and it takes even additional time when it goes to the CAFC.

But the take home here, on this slide, is that we are—Our goal is less than 12 months, and our FY21 number was 10.6 months.

That's it for re-examination. I have slide, on the next slide, which is on legacy interparites re-exam. Again, this is, I think people are interested in how many we have left, and it's around 27, 1 of which is sitting at the
CRU. The rest are up on appeal at the PTAB. And the CAFCs can be shown in the graph. Again, keep an eye on this, reporting the data, and we pray there aren't reversals or remands from above, that'll send them back down to us. So those are the data on the Inter-party's re-exam. If I could have the next slide, please?

This is on, it should be a supplemental examination. Again, this was a concept that started with the AIA back in 2012. Throughout that entire time period, essentially 10 years now, we've had 386 files, of which 322 have been granted a filing date. You can see here, a little bit on the right hand side, I was using our art unit numbers, but the color is the same. So the light blue is Biotech Chem; 3992, the red, that is Electrical; and 3993, the green, are mechanical. And you can see that there's maybe not a particular trend here coming out, but it is a program that is still being used, so I wanted to make sure you had the data on our filing within the supplemental examination regime.
The next slide, if I could have that 1, that 1 will show you a little bit on timing. Again, we're looking for an SNQ for a determination or issuance of a supplemental exam certificate, and in FY21, we were able to produce that in less than a month, 0.9 months. Now as opposed to straight up, ex parte re-exam where an SNQ is found a large amount of the time, 95 percent of the time, in supplemental examination, an SNQ usually has been found, since 2012, this is data all completely since the inception of the program, in 68.5 percent of the cases. So that gives you a little bit of a sense of the slight differences we see in supplemental examination versus ex parte re-examination. If I could have the next slide, please.

And then again, once supplemental-

There's essentially once supplemental examination has been- Whether we've found an SNQ and moved forward, the average time to NIRC in FY21 was 9.8 months without an appeal. That's very, very close to what we found in the 10.6 months with a pure ex
parte re-examination, and then our overall for
those cases that have included some appeal is
about 15 to 18 months. So again the message is,
using the supplemental examination process, we
also not only moved very quickly on finding an SNQ
or not finding an SNQ, and then once we moved
forward, we moved to NIRC within 10 months,
definitely less than our 12 months goal.

If I could go to the next slide, I know
I'm running a little bit out of time here, I just
wanted to cover re-issues quickly. One of the
things that I think it's important to recognize,
is that it's essentially an order of magnitude
difference between the quantity of filings we have
in re-exam, versus reissue. So we have had
essentially 4,000 files since 2016, of re-issues.
Again, Chemical, Electrical and Mechanical are in
the graph. Where the red the electrical bars are
showing the majority of filings of re-issue, we've
had a slight decrease from FY20 to FY21, I don't
think that's particularly concerning, or anything
like that. I think it's just the nature of it.
Essentially if you look at the raw numbers between 2016 and 2021, we've had approximately 650 to 700 re-issues, total, filed. And again, if you look at our Pendency numbers right now, we're right around 1,850. If I could have the next slide, please.

I think this might be my last data slide. And again, just to let you know, the timing of what folks can expect when a re-issue has been filed, and moving forward, similar to regular examination, our goal is to get through with the re-issue examination within 3 year. And if you can see on the right hand side, for essentially the last 6 years, we have been running under that 3-year goal, and last year we were at 35.2 months. So I think we're doing pretty well on the re-issues compared to the regular examination in maintaining our 36-month, or 3-year goal.

I know that was a lot of data to move through. I just have 1 last slide, and it's just a tickler out there, frankly. WE did have a
Presidential case coming down from the Fed circuit at the end of September, I think it's pronounced In Re Vivint, I'm not sure. This was a case, again, where there were previous proceedings at the PTAB, and then there was an ex parte reexamination that was ordered. And what this case involves is the application of 35 USC 325D. Which is again, whether the same or similar art or arguments, or have substantially the same art or arguments been presented previously before the office? And then whether the PTAB exercises its discretion, via the Director, to not move forward with the trial based on the statutory provision. And so we are obviously looking very, very closely at this case, implementing its provisions, and I do want to mention just a couple of things that we do, just so everybody is on the same page. We have, even before this case came down—All of the folks, and all of our specialists at the CRU have looked very intently at all the proceedings on the same patent, if it has been up before the PTAB. And so that has always been a number 1 priority,
that they would look at that, particularly before an SNQ would be ordered, of course. And just to take a look at the proceedings, to see what was decided at the PTAB. On what art, on what grounds, and on what claims?

And so that is something that has always been in place, and I think that is even going to be stronger, and used more effectively now, under In Re Vivint, as well.

I also wanted to make sure all of you are aware, that before something gets mailed out for the CRU, internally we have a conference, whereby all the papers are mailed-- Before they're mailed, they are reviewed, by not only the specialist who wrote the paper, but also another specialist, and at least 1 Supervisor, if not 2 Supervisors, including our Quality Assurance Specialists. So before any paper comes out to you, that you see, we make sure that it is up to the standards of the PTO, it is compliant with all the statutes, we talked about, that Stefanos talked about. And that we're compliant with the
case law, in particular this latest one, In Re Vivint.

So with that, I know that was a lot, I'll close it down. My watch says 3:29, so I'll leave it at that. And again, I wanted to thank Steve Stein, who is my Quality Assurance Specialist, as well as Irene Lillis, she is 1 of our Senior Supervisors, and she's the 1 who handles and puts together all of our data. So I wanted to give a big thanks to that.

MR. SEARS: Thanks very much, as you noted, we are at 3:29, I know we're scheduled to close at 3:30, so I'll turn it back to the Chair to determine whether we have a moment for questions.

MS. MAR-SPINOLA: We can open it up for questions, if any.

MS. DURKIN: I have one quick question, it's Tracy Durkin. And it's to David Rushke. David, I'm sorry if I missed this, but did any of the statistics you mentioned portray the re-exam statistics include designs patent re-exams? Or
were all the stats on Utility only?

MR. RUSKE: There was only 1 slide, I think, if I remember it might have been within re-issues, where we put designs. But you're correct, there are designs, but they're actually handled within the design unit within the CRU, so that's why the stats didn't come through us.

MS. DURKIN: Thank you.

MR. RUSHKE: Thank you.

MS. MAR-SPINOLA: Are there any other questions? Okay, so Davis I wanted to say hello, it's nice to see you.

MR RUSKE: You too, Julie. When I started this 6 years ago, I remember our first PTAB subcommittee meeting. Your presence is going to be greatly missed, but we're all part of this patent community, so thanks for everything.

MS. MAR-SPINOLA: It's true, thank you very much. The last thing I'd like to say before we adjourn is you can access PPAC's annual report through the USPTO Website, and it'll be listed along with all our other information, or documents
from PPAC presentations, transcripts, whatever, on
the PPAC Web page.

So with that, do I have a motion to
adjourn?

MR. MAR-SPINOLA: Okay, Barney. Do I
have a second?

MR. CLATRIDER: Second.

MS. MAR-SPINOLA: Okay, thank you.

Thank you everybody. Happy Holidays, stay safe.

(Whereupon, at 3:31 p.m., the
PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

I, Thomas Watson, 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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Notary Public, in and for the Commonwealth of Virginia

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