UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Thursday, February 19, 2015
PARTICIPANTS:

PPAC Members:

ESTHER KEPPLINGER, PPAC Chair

MICHELLE LEE

PETER THURLOW

PAUL JACOBS

WAYNE SOBON

P. MICHAEL WALKER

MARK GOODSON

DAN H. LANG

CATHERINE FAINT

USPTO:

PEGGY FOCARINO

VALENCIA MARTIN-WALLACE

ANDREW HIRSHFELD

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PARTICIPANTS (CONT'D):

ANTHONY SCARDINO
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DANA COLARULLI
BRUCE KISLIUK

Union Members:
ROBERT D. BUDENS

PTAB:
JUDGE JAMES SMITH

Other Attendees:
SCOTT BAOLICK
TONY CHILES
FRANK MURPHY

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PROCEEDINGS

(9:17 a.m.)

MS. KEPPLINGER: Okay, good morning, everyone. We've been waiting for the court reporter to get started but we're going to start. So it's my pleasure to open this meeting, the Patent Public Advisory Committee. I'm Esther Keppler, the Chair of this Committee and it's a great honor to have this role. I really am glad to be in this position.

And it's my honor to welcome our new members. We have three distinguished gentlemen who are joining now, Mike Walker, Mark Goodson and Dan Lang. Thank you for taking your time to be a part of this organization. We really look forward -- I, just from interacting with you yesterday, I see that you're going to have a lot of good ideas and contributions for the Committee. So we really appreciate you taking on this role.

Perhaps what we could do is go around and have everyone introduce themselves and then, we'll start the session. So Cathy, maybe we'll
start down there with you?

MS. FAINT: I'm Catherine Faint, Vice President of NTU245 and a member of PPAC.

MR. BUDENS: I'm Robert Budens. I'm the President of the Patent Office Professional Association, the Examiner's Union and a member of PPAC.

MR. GOODSON: Mark Goodson (inaudible).

MR. WALKER: Mike Walker, Vice President and Chief IP Counsel Dupont.

MR. JACOBS: I'm Paul Jacobs with PPAC.

MR. SOBON: Wayne Sobon, PPAC.

MS. FOCARINO: Peggy Focarino, PTO.

MR. FAILE: Andy Faile, USPTO.

MR. THURLOW: Peter Thurlow, PPAC.

MR. LANG: Dan Lang (inaudible).

MR. KISLIUK: Bruce Kisliuk, USPTO.

MR. HIRSHFELD: Drew Hirshfeld, PTO.

MS. MARTIN-WALLACE: Valencia Martin-Wallace, USPTO.

MS. KEPPLINGER: Okay, thank you and welcome everyone. I'll turn it over to Peggy
Focarino, Commissioner for Patents.

MS. FOCARINO: Thank you, Esther, and
good morning. On behalf of Deputy Director
Michelle Lee who will join us later this
afternoon, I'd like to officially welcome you and
the rest of the members of PPAC for today's
quarterly meeting.

Before we talk about today's agenda, I
would like to acknowledge some changes since our
last meeting. And I want to echo Esther's
congratulations to our new members, Mark Goodson,
Dan Lang and Mike Walker. I especially wanted to
congratulate Esther on her role as the Chair of
PPAC and Marylee Jenkins is not here today but she
is the new Vice Chair of PPAC.

As many of you know, former PPAC member,
Christal Sheppard, is our new regional director of
the Detroit satellite office so we want to thank
her for her service on the Committee. We're
already enjoying working with Christal in her new
capacity and as you can see from the agenda, we
have a full program scheduled for today and will
bring you up-to-date on our activities here at the agency.

So you'll be hearing from our Deputy Commissioners and also get an update on PTAB from Chief Judge James Smith just prior to lunch. And then, you'll receive a demonstration of our patents and docket and application viewer tool. And the demo will be conducted by one of our very talented patent examiners. And you'll receive updates on our IT, our budget and legislative picture.

And also, Michelle Lee will be back this afternoon and close out the session today. So we hope the session is informative and that you'll free to ask questions and offer input throughout. We always value and appreciate your comments and feedback.

As you know, one of our top priorities is to implement our new patent quality initiative. And the goal of this initiative is to build more confidence in our patent system by improving patent quality and the public perception of the
patent system overall. This will make the system
more understandable and usable by all inventors
and will ensure that each of our customers feels
they are treated fairly and professionally
throughout the application process.

As part of this initiative, we'll focus
on building the workforce and the tools that we
need to support a world class patent quality
system. Deputy Director Lee and I feel this
initiative is so important that we've created a
new position to oversee it, a Deputy Commissioner
for Patent Quality and we hope you'll join us in
welcoming and congratulating our new Deputy
Commissioner for Patent Quality, Valencia
Martin-Wallace who will start our agenda today but
updating you on the quality initiative.

Valencia?

MS. KEPPLINGER: If I may just interject
one thing. For those of you that are online
listening to this session, if you have any
questions you can send them in to PPAC, P-P-A-C
@uspto.gov and we'll try to address them as they
come in. So thanks very much.

Valencia?

MS. MARTIN-WALLACE: Thank you, Peggy.

Thank you, Esther. I'm very honored to have been selected by Peggy for this position in overseeing our quality efforts. And I'm very happy to be working with this Committee as well.

So I'd like to start by spending some time discussing patents path forward with enhancing quality. First, I'll start with addressing why this is the right time to put an even greater emphasis on quality of our product, our process and our customer service. So for the first time in recent history, the USPTO has financial resources to consider long-term and more expensive improvements to patent quality by leveraging the sustainable funding model provided by the fee-setting provisions in the AIA.

The USPTO has made steady progress in reducing both the backlog of unexamined patent applications and patent pendency. In fact, the current backlog of unexamined patent applications
has dropped from a high of 764,000 in January of 2009 to under 600,000 in February of this year.

Also, the pendency from filing to disposition has dropped from 34.5 months in 2010 to currently 26.8 months at the end of January.

Now, while we still have progress to make in further reducing both the backlog and pendency, the confluence of these events make this the right time for USPTO to pursue this enhanced quality initiative and our IT advancement initiatives as well as training initiatives that are going on currently are giving us an opportunity to address our employees' needs.

We have already taken steps to clearly and consistently enforce statutory examination mandates like providing our examiners new training in functional claiming and issuing guidance on subject matter eligibility of claims and improving our classification system for searching (inaudible). We have begun to implement long-range plans to improve our operational capabilities like upgrading our IT tools for
patent examiners and expanding international work-sharing capabilities.

And finally, I'd just like to say it's the right thing to do. High-quality patents permit certainty and clarity of rights which in turn fuels innovation and reduces needless litigation.

So next I'd like to talk about our core quality elements. So our new patent quality initiative is built around these core elements or pillars in order to deepen and refine how we think about general aspects of quality. Our first pillar, excellence in work products, it includes both quality of issue patents and the quality of all work products during the filing, examination and issuance process.

We're committed to issuing patents that clearly define the scope of the patent rights therein that are within the bounds of the patent statutes as interpreted by the courts and that provides certainty as to the validity to encourage
investment in research, development and
commercialization.

As a key building block to the
infrastructure and foundation needed to enhance
and sustain quality, we're committed to taking the
steps necessary to evaluate the needs of our
examiners to ensure that they have the tools,
resources and training required to perform their
job optimally and provide a superior work product.

Now, the second pillar, excellence in
measuring patent quality. We're focusing on the
measurement of quality in order to evaluate our
work product and our customer service interaction.
So we're seeking the input of the public on the
measurement of our current patent quality or, I'm
sorry, the current measure of our patent quality
and how to improve it.

I'm sorry, go back one. So almost
forgot the third, our customer service. So we're
focusing on the quality of the customer experience
at the USPTO. We're seeking feedback to ensure
that customers are treated promptly, fairly,
consistently and professionally at all stages of examination process. We're also focusing on maximizing our effectiveness and professionalism of all customer service interactions.

So next is our ongoing steps. We have current initiates that I'm sure you're all aware of. And so, I will just list a few of the many that we have going on such as claim clarity and functional claiming training that we're doing through Drew's shop as well as Andy's shop.

The promotion of more applicant examiner interviews and in one way we're doing that is the first action interview program that we have going on as well as the initiative we have to have examiners initiate more interviews with applicants. Also, our pro se pilot program where we have a pro se examining unit dedicated to working with the pro se's in order to have a superior quality of product as well as our crowd-sourcing program.

Now, last fall, October of last year, we also held brainstorm sessions. We had nine
sessions with a cross-section of our patent employees. Over 200 employees participated in this event where we gathered over 400 ideas from them; ways we can improve, that includes ways we can work more efficiently and communicate more effectively. Just a few of those ideas that came through are incorporating more public feedback into the patent process, resolving problems during prosecution, notifying applicants of their application status during the process, increasing levels of training both internally and externally and improving our call centers' capabilities.

We've continued to refine the examiner guidance that we've issued about court rulings and Drew will be speaking very shortly of that. And just yesterday, Deputy Director Lee and Commissioner Focarino held a patents forum where they met with our employees. We had over 1,000 employees to participate in this where we garnered even more ideas. And I have to say, I did participate in that as well and it was very encouraging to see the number of examiners who
were interested in taking part in this process and
inputting as to how we can improve the quality of
our product.

(Coughs) Excuse me. We're
committed to providing necessary
tools and resources needed to
support building a world-class
quality system as part of this
initiative. And we're working with
our patent counterparts
internationally to share these
ideas and collaborate to implement
best practices. And we're also
considering how we can better use
our data to improve the examination
process.

Now, our external steps towards proving
equality include our efforts of measuring quality
and getting public feedback on how we're currently
measuring and what improvements we need to make.
This means we continue ongoing dialogue with our
stakeholders about the current measurement
Now, I'd like to add at this point that our stakeholders have never been shy so we're constantly receiving feedback and receiving positive feedback on us being more transparent as well as soliciting the feedback from them. Whether they're agreeing with how we're addressing issues and I can speak as the lead of the ombudsman, patent ombudsman program, that we're not necessarily telling everyone that comes through the program exactly what they want to hear but we are giving them the appropriate and the right decisions. And it is greatly appreciated by them.

We're also eagerly awaiting the public comments through the federal register notice that we put out and that comment period's going to end May 6th. And we're also gearing up for our patent quality summit in order to continue the dialogue with our stakeholders. Now, late next month, March 25th and 26th, we're going to have this two-day quality summit where we've invited in
speakers who will represent various aspects of the patent industry from practitioners to independent inventors to manufacturing companies as well as academics to join us as we focus on these specifics of quality initiatives.

And we've developed six proposals for the public to consider as part of this summit and have breakout sessions. And I will just speak very, very briefly about each of these. So we've divided them up amongst the three pillars and the first proposal under pillar one is applicant request for a prosecution review of selected applications. So the Office of the Patent Quality Assurance will conduct reviews of randomly selected office actions from examiners.

The USPTO proposed a mechanism for an applicant to request the OPQA prosecution review, particular application when the applicant believes that it contains an issue that could benefit further review. And the second proposal under pillar one is the automated pre-examination search. The PTO is continuously looking into
better ways to get the best prior art in front of
our examiners as soon as possible in the
examination process.

So this is the second way that we're
opening up to the public and asking for their
ideas and the third proposal under pillar one is
the clarity of the record. And we've made great
strides in this area and we're looking to see what
more we can do, get feedback from the public on
what we have done and effectiveness and any ideas
forward.

And proposal four which is under pillar
two is review and improvement to our quality
metrics with I've discussed a little further so I
won't belabor that. And proposal five which is
under pillar three review of our current compact
prosecution model and the effect on quality.

So in an effort to resolve outstanding
issues in an application before prosecution on the
merits -- before the merit closes, the USPTO is
seeking assistance from the public on determining
whether the current compact prosecution model
should be modified. Revisions to the compact prosecution model seek to enhance both overall pendency and the quality of the prosecution.

And finally, under pillar three our proposal six is in-person interview capability for all examiners so regardless of where their location that we seek the public's comments on how to practically provide in-person interviews for those applicants who feel that the remote interviews are not appropriate or not working.

So our next steps, analyzing our quality summit and the federal register comments. So we are looking to have a product from there towards early summer. Reason being is we have the 90-day comment period. We have a series of focus sessions internally that we plan on having so we need to gather all of that information in order to address the initiatives and the direction that we're going.

Now, after we do that, we do plan on after we solidify more initiatives, having quality enhancement roadshows this summer where we go
around, (coughs) excuse me, and seek more information and more ideas about our initiatives from the public as well as holding the internal focus sessions throughout this process as well.

And this is our quality Web page which will give you some of the more important links and the contact information necessary and give you the process as we're going through this effort. And as you can see at the bottom, if you go to our Web page, and the link is patent/initial/patent-quality-initiative to go on and get more information and updates.

And we've also established the email box that you can see that worldclasspatentquality@uspto.gov open to the public for any ideas that they may have and would like to forward to us. So this concludes my presentation and I'm happy to answer any questions. I know we're running a little short.

MS. KEPPLINGER: Mike?

MR. WALKER: Thanks, Esther. Hate to be at my first meeting and ask the first question but
I'll try. Valencia, welcome, congratulations and it's great to have a Deputy Commissioner for patent quality.

One thing I've always thought about because various associations have looked at measuring patent quality. And one thing I haven't been clear about whether the office does this but one of the approaches is looking at litigated patents. To look back and say, this patent has survived litigation, gone through appeal or this patent has been knocked out on a summary judgment motion on a validity basis or 112 or something.

Is that one of the things you're looking at in terms of quality? Looking at results from patent litigation?

MS. MARTIN-WALLACE: That's actually a great idea. We have had some programs in the past that we've partnered with the solicitor's office and Drew's office to go through a year in review of patent litigation. And we are looking towards even more programs in that direction. So you're absolutely right and it is one of the areas we're
MR. SOBON: I think it's very good that you're also focusing on the examiner interviewing process. We've talked about that before and I wondered if you have metrics, obviously, I'm intrigued by examiner initiated interviews especially and I think from the application point of view, as we've said before, we think that's sometimes the most productive way to get to a quality result by having a full two-way communication.

Can you elaborate a little bit more on the steps you're taking in those areas?

MR. SOBON: Examiner -- inspiring or encouraging examiner interviews and maybe measuring --

MS. MARTIN-WALLACE: Yes, we actually have had a huge internal campaign with making our examiners more aware of the positives and the reasons for them initiating interviews and not
waiting just for the applicant or attorney to come in and ask. We also have a Web page for our examiners that walks them through the process for especially those who are remote on how to make it easier for applicant as well as themselves on having the interviews.

We've had a training campaign and a workshop campaign as well with our examiners and our supervisors on the benefits of interview. So we've made great strides in the last few years on promotion of interviews and the purpose and we're going to keep moving forward with that as well.

MR. SOBON: Do you have some metrics so maybe next time you can share some further metrics with us about how many are happening and how many, you know, where the trend is going?

MS. MARTIN-WALLACE: Absolutely. I'll get that information.

MR. LANG: So I'll echo the congratulations to Valencia for taking on this very important role and this is a great initiative on the patent office's part. It emphasizes
something very important.

Just a couple of things. One is that
the discussion of quality seems to also
incorporate discussions of customer service and
timeliness and those are both important things but
I want to make sure that we keep independent and
strong focus on quality being seen as the quality
of the finished work product, the validity of the
patents that come out of the office.

The second thing I wanted to point out
is about the metrics and you get what you measure
as an organization and when you drive an
organization to achieve metrics you get those
things. And with the metrics that we have now, I
think they take into account some internal
observation and analysis. They take into account
input from some kinds of stakeholders,
stakeholders who are themselves applying for
patents or their representatives.

But I think we also need to capture
information about what happens to patents after
they leave the office. I like the idea of looking
at litigated patents but I also think we need to
look at the perceptions of the system from the
viewpoint of people who are themselves technology of
investors in innovation but aren't necessarily the
ones directly interacting with the office. The
ones who are experiencing the effects of patents
in the world after the patents leave the office.

MS. MARTIN-WALLACE: Those are both
excellent points. And Dan, you and I have talked
yesterday about the focus of patents, the patent
product which is hugely important and absolutely
our focus. And right now, we're trying to take an
opportunity with the summit to take a holistic
approach to what's affecting patent product but
definitely the number one focus is the product and
making sure that it's of the highest quality
possible.

As well as your second comment with the
measures, that's a great idea and that we can look
into with patents after they've left us as well as
I hope to hear more from you at the summit.

MS. KEPPLINGER: Thank you, Valencia,
and great that you're in this job. It's wonderful
to have the focus on quality. I think we can all
agree.

Following up on what Mike had said about
looking at litigated patents, I think it could be
useful for you to look at the pre-appeal brief and
appeal conference data because there are a
significant number of those that don't go forward
to appeal. They're either allowed or they're
reopened so I think that's a rich area to look at
why. What were the causes of that?

And at the same time, you could also
look at the process that's involved in the appeal
conferences. Where there are ones that go forward
and are maybe not so good, what fell down in the
conference that allowed it to go forward to the
board, to try to improve the process to weed out
so that you can reduce the appeals.

MS. MARTIN-WALLACE: Excellent comments
also and Andy I know has made great strides with
looking at both the pre-appeal conference as well
as appeal conferences and making sure that the
process is appropriate. And he's going through that right now and the data that's coming out of that, you're right, it's very rich data.

We're also partnering with PTAB right now, the Trial and Appeal Board on looking at some of the most recent backlog for them and what it looks like and using that data as well to help us, operations and training our examiners. But those are great, great comments.

MS. KEPPLINGER: And one last item that I raise all the time, of course, the initiative that you've mentioned with respect to having OPQA look at applications is a worthy one. But the staff that you have there is pretty small. You're not going to accommodate very many -- you're not going to be able to look at very many cases. And so, if you were to open, say, the pre-appeal brief conference process to include an interview where the applicant and practitioner could speak directly to the people looking at the case, I think that would be -- people would be really grateful for that opportunity.
We'd have better resolution. I think we'd reduce the need for RCEs and appeals in that process.

MS. MARTIN-WALLACE: Thank you, yes. We agree in this area that we are looking into now and we are going to further look into. So I'm really looking forward to the summit and getting even more ideas and really hope that all of you would be able to participate in it.

MR. THURLOW: So just on that note, the summit and of course, I'll echo everyone else's comments. I think it's a huge initiative. I'm a little bit concerned about how you're going to your arms around all these issues because we can have a full-day meeting just on patent quality and so, I guess one initial comment is somehow try to stay focused which is, to me, going to be, I think we all agree, patent quality is just a huge task.

One of the things I was thinking of as the summit comes up in March, there is a lot of interest from bar associations. I think you're going to get a lot of participation. I think it's
going to be great. Some of the events I've gone
to in the past at the patent office have been like
the medical device working groups, software
working groups. Maybe you could use that as a
model and the reason I say is that because at
those kind of meetings we actually had examiners
and applicants in the same room.

So you mentioned that Peggy and Michelle
yesterday spoke to 1,000 examiners. I'm pretty
confident I can get a sense of what the examiners
are saying that the applications coming in are of
poor quality and they're missing a lot of things
and a lot of them are very good points.

Now, if you're in the same room with
practitioners, they're going to say the
examination from the patent examiners is not good.
So the interesting thing is to bring them
together, let them share the podium and say, this
is what we're seeing. How can we both work
together to (inaudible) system. So something as
you kind of frame out that day more interaction
between actual examiners.
Like on today's agenda, having the examiner come today and run us through this P2E2 or whatever it is, PE2E, is something I'm looking forward to so more interaction. And then, last comment, over the last couple of years as I have been a member of PPAC, we've been very active with the PTAB roundtables, the AA roadshows. Esther, in particular, for the RCE work. So to the extent we can help you as you go outside the office on stuff, we're willing to help wherever we can.

MS. MARTIN-WALLACE: Thank you very much. And I will hold you to that. We are -- we have, as you mentioned, this is a huge task and we are ready to take it on. And I can tell you Deputy Director Lee and as well as Peggy and her executive team have put in so much effort so far and are just dedicated to making a difference here. So I can tell you I thank you for your support here and I feel the support of Peggy and her team as well.

All of her deputies here that we are going to make great progress, there's a lot to be
done and I'll leave with one word. We are relentless in working on this.

MS. KEPPLINGER: Any other comments for Valencia? Questions?

MR. GOODSON: I have one. That would be, you know, the lawyers will tell you right now the gold standard is not the patent office but what the district judge says. And I'm hoping that would come back to your office instead. Thank you.

MS. MARTIN-WALLACE: Thank you very much.

MR. SOBON: I'll look forward to the next meeting after the summit and hearing what comes out of that. One thing we talked about before and I'd be curious. Maybe the next time you could report a bit more of the actions you're doing in the area of comparing quality results in the PTO with other offices because we now, with global dossier and the patent prosecution highway, you have a rich data set of comparison data of different offices looking at the same exact
application and seeing what happened. And I think that's a rich area to mine. And so, I'd be curious, you know, to see how you're doing at the next meeting.

MS. MARTIN-WALLACE: Absolutely, thank you.

MS. KEPPLINGER: Okay. Thank you. I think we'll go now to Drew Hirshfeld for an update on the 101.

MR. HIRSHFELD: Thank you, Esther. So I'm going to talk about the recently issued subject matter eligibility guidelines which came out in December. I'll start with a very brief overview of the guidelines. I wanted to focus on some of the changes that we made to this recent guidelines.

I wanted to also discuss some of the examples that we've put out and what the thought process was behind the examples and then, I'll close with some high level discussion of the examiner training and some of our next steps.

So as I mentioned, we issued the
guidelines on December 16th so right in December so very recently. This guidelines takes into account all of the body of case law. So they're, unlike prior guidelines, not limited to one particular area so to speak. So it takes into account, for example, the Alice, Mayo and myriad Supreme Court cases.

We also took into account a lot of the feedback that we received in the recent comment period. The comment period was actually for two different documents. It was for the March guidelines on biotech and the June preliminary examination instructions which came out after Alice. So we had a concurrent comment period that ran. We got a significant amount of feedback and we were able to incorporate that feedback into this guidance and I'll go through some of exactly how we did that.

So again, sticking to a very high level overview of the guidelines itself, I only have a short period of time. Can't do it justice here but basically the guidelines is two main steps.
You have your first step which is asking whether you're one of the four categories of eligible inventions. That is not a new step. That's nothing new. As long as examiners have been making eligibility determinations, they've been making determinations in the same step one.

Step two, on the other hand, is really where the rubber meets the road, so to speak, where there have been significant changes from the courts and hence our guidelines. And that is really a two-part analysis that mostly comes from the Alice and the Mayo case and that evaluates whether your claim is encompassing one of the judicial exceptions.

Again, that is the biggest part of the guidelines itself. That is where the law has been most evolving. So taking a look at this two-part analysis for the judicial exceptions, that would be the step two.

So part one of that asks you, are you directed to one of the exceptions? That's directly right from the Alice case. And then, you
go -- if you are directed, you get to step two. If you're not directed to then your claim is eligible. So if you are directed to then you get to step two which is the significantly more step where we're asking does the claim itself have anything in addition to that exception that would be significantly more so that the claim would be eligible.

So that's, again, very high level overview. I wanted to highlight some of the changes from the prior guidance. I think that will help everyone understand, not only guidance itself, but our process of how we went about this. As I said, we had a comment period. Some of these changes were directly responsive to comments we received. As long as we get comments that are consistent in nature from people on the outside that are consistent with the law and show us a better way or improved way to make a change.

So again, if that's consistent with the law, we're very happy to incorporate that. So some of the changes we made were directly
responsive to the feedback we received. Other changes that we made were our own ideas. So we basically have a combination of both approaches. So one of the changes from prior guidance is that the December guidance is an integrated approach for eligibility that applies to all claims.

    So every claim goes through this approach. Now, I'm always careful when I say that because I don't want people to think that every claim goes through the exact same process, right? The two-step process is the same but there are certainly nuances that apply to each. For example, your markedly different analysis is going to apply to products of nature but not to say abstract ideas or other exceptions. So there are certainly nuances even though the overall approach applies to all claims.

    Also, claims must be directed to judicial exception to trigger the full analysis. Okay, and that directed to language was something that was from, again, the Alice case and we got feedback from our prior guidelines back from the
March time period that our funnel of cases that we were looking at was too wide. So we had basically said, if you are recite or involve or you're based on one of the exceptions, we would do the analysis.

And we were receiving feedback from people that that was too broad of a funnel and too many cases were being put through the eligibility analysis. Concurrently with that timing, Alice came out and also used the words directed to. So we felt that was a change we could make to change from the broader involve or based on to directed to to be consistent with Alice.

Another change was the elimination of the factor-based approach. So in our previous March guidance we had a factor-based analysis for evaluating when you had significantly more and there were a number of factors to weigh. And we did hear from many people that that was too confusing and difficult to follow. So we tried very hard to simplify the analysis and we feel we were able to do that in that second part of step
I wanted to highlight some of the changes regarding products of nature, again, the guidance goes on -- applies for all claims but there were a couple of changes that we made for products of nature which I feel are very important. The first was markedly different characteristics as opposed to markedly different structure. So again, for those of you that participated in the first forum that we had, we received significant feedback from the public that our focus on markedly different structure was not encompassing all of the case law and that there were other characteristics such as function or other properties that could show a difference for a product of nature and we did -- we were able to incorporate that into our guidance.

And another change, which I think is very important, was not one that was necessarily suggested from the public but something that we came up with to try to help have a very efficient analysis, is we moved that markedly different test
into the part one of that step two. And the reason why we did that is if you have a markedly different product, right, which you have markedly different characteristics, you can come right out and be eligible from that analysis without having to go to that significantly more. We felt that was much more efficient for examiners and just made a lot more sense.

And actually, when we were having these discussions, it seems like that was one of the keys that made everything fit together as we were having our discussions. So we feel it's very consistent with the case law. It's good for examiners and it's good for the public as you can really make that determination early on and cut off the rest of the analysis where it's not needed.

So I wanted to spend a little bit of time talking about some of the example sets that we put out. And at the high level, 30,000 foot level, we have the federal register notice itself and it does examples in it, it has significant
examples in it. Most of those were from case law
discussion and we also thought it would be very
helpful to have additional examples which our
examiners in the public can look at and say, okay,
my situation is closer to this or not closer to
that.

So we feel the examples are very helpful
and we've also received a lot of feedback from
people in the public that the more examples the
better, right? And our examiners are saying the
same thing.

So we put out two sets of examples. One
was in the biotech area and we did that
concurrently with the guidance itself. And we put
those examples on our Web site for people to see.
These examples show things like how you would do
the markedly different analysis, et cetera. I'll
get a little into, in the next slide, what our
goals were behind that.

We also have a set of abstract idea
examples which just came out recently just a
couple of weeks ago, actually, or a few weeks ago
in January for abstract ideas. So we were a little bit behind the December time frame but I have heard that those examples have been very helpful to both examiners and people in the public. So again, those examples are a next step of trying to continue the conversation about how to look at people's claims. Again, we want people to be able to compare their claims to as many situations as possible.

So turning back to the nature-based product examples, I did want to highlight some of the teaching points because as I'm out talking to people, I get asked how did you choose these examples. What was your rationale behind them? They are part case law and part hypotheticals and where we -- how we chose them was really to highlight some of the key points that we thought were important to get across not only to the examiners but also to the public.

So for example, in the nature-based products examples which we released in December, we have numerous examples that show that function
and other non-structural characteristics can show a markedly different. That was, of course, important because again our first guidelines was very heavily weighted towards structure. As we made the change, we thought it would be important so that people knew exactly what we were thinking in terms of other characteristics that could show a markedly different product.

We also wanted to have a number of examples to show that purified and isolated products can be eligible. And so, after our March guidance came out, we received a lot of feedback which said, okay, seems like nothing -- you can't ever purify or isolate and be eligible and that certainly was not the case then. We thought it would be very important to show that sometimes when you isolate, for example, you're not eligible but sometimes you can be eligible. So we wanted to include significant examples which address that and in that example set there are numerous different claims which address both purified and isolated products.
And then, the last key point we wanted to highlight was that where you lack markedly different, so when you're in that first part of that step two, if you have a product that is, say, not markedly different, you still may be eligible when you get to that step 2B. So we wanted people to recognize you're still going through the whole analysis and you could still have eligibility in step 2B where in the first part of the step you didn't have eligibility.

So again, those were some of the key teaching points, the goals behind that. I have a similar slide for the abstract ideas and they somewhat run in parallel. The first point we wanted to get across and this does stem from feedback we received, is that people are interpreting after Alice that either all software or all business methods are automatically directed to an abstract idea and hence, not eligible or at least not passing the first part of step 2B. So we wanted to have an example that showed, no, you can have software or even a business method that
is not even directed to an abstract idea. And our first example shows that point related to software.

We also were receiving feedback that the mere existence of a computer and a general purpose computer in a claim was leading examiners to reject claims in all situations. And so, we wanted to have an example that showed you can have the mere existence of a computer or routine and conventional elements in a claim and that doesn't necessarily mean that you are ineligible. So again, we were trying to balance that to give everyone a good view of what is eligible and what is not eligible.

And then, the third point very much mirrors the third point I made under the biotech examples that if you do have an exception in that first part of step two, you still need to proceed to the second part of that step and could still be eligible based on the significantly more analysis. So in other words, if you have a claim that is directed to an abstract idea, you still could be
eligible in that second part of the significantly more step.

In that regard, we actually really tried to focus our examples, excuse me, on improvements to another technology or technical field or improvements to the computer itself. And the examples that we have, we really tried to highlight those points. We actually took some of the federal circuit cases and made a couple of hypotheticals based on those so we changed them so that it was very clear that you do have a claim that is directed to an abstract idea.

We actually added math formulas to it. We did that so you'd get to the second step and you can evaluate the significantly more analysis. We thought that was very important for everyone to see the big picture.

So I've mentioned a lot of the feedback. We had a public forum on January 21st. This was the second forum that we had. The first forum was obviously after the March guidance came out. This forum was, of course, so people could give us
initial feedback on the December guidance that I'm
discussing here today. At that forum we had about
300 people participate either in-person or on the
Web. Just as comparison, we were just over 500
people back on our prior forum after the March
guidelines came out.

So really a lot of interest in this
topic, a lot of good feedback and really good
discussion in both forums. So there were a few
common themes that came out. I think it's fair to
say that most people felt that our recent
guidelines was certainly a step in the right
direction. People seem much happier; feel it's a
much more balanced approach. That being said,
there's still feedback that more improvements are
needed and that there's still things we can do the
guidelines.

We certainly understand that and
recognize that this is an iterative process. As
we get feedback, we will look to see what changes
can be made that are consistent with the law, of
course. Case law is developing very rapidly, as
you all know. So we will continue monitor all and
we'll make improvements as we go forward.

I think people felt -- there were many
comments where people were expressing their
opinion that PTO was very responsive to the issues
raised in the March guidelines. I went over some
of the changes that we made. A lot of those, as I
mentioned, were responsive. So there was some
good sentiment about the iterative process that we
had. And of course, there was a recognition from
all that the case law is developing and is still
potentially changing and we will continue to have
updates as we need it.

A final point which is the last bullet
on the slide was there was some feedback about
concerns regarding examiner implementation. So I
did want to address that. We came out with the
guidelines as soon as the guidelines were ready.
That was in December. And we actually came out
with them just before the holidays and our
examiners were not even trained on these when they
came out.
So I know people in the public saw them and wanted to discuss them with examiners which, of course, is the right thing and is appropriate to do but we are actually in the process of training examiners on the guidelines now. So we were trying to walk this balancing act of getting the guidelines out knowing how important they were to everybody but knowing that we have 8,500 examiners to be trained on them and so, we decided as soon as the guidance was ready, because of its importance, we were going to come out with it. And we were going to immediately start training POCs in all the technology centers but we have not trained all the examiners or completed training all of the examiners.

So I did want to go through what our approach is with the examiners. So we're basically having a two-phased approach for training examiners. Phase one of the approach, which is completed, is training on the federal register notice itself. And that even completed, I believe it was either last week or just the week
before. I think we still had a couple of sessions
last week.

So that was on the federal register
notice itself which, as I said, was the approach
to eligibility determinations as well as the case
law on the subject. We are now in the middle of
phase two which is training on the examples
themselves that I had mentioned. So different
technology centers are training in different ways
dependning on how they feel will be most effective.

And I can tell you, for example, the
business methods area is deciding to have
workshops where they can have smaller meetings
with examiners so examiners can ask questions and
have a discussion. And I certainly agree that in
that area, that will be the most effective way to
going forward given the difficulty of the issues in
the business methods area.

So again, we still are underway with
training. I do expect it to be wrapped up in the
next probably few weeks but different technology
centers are in different time periods for the
training depending on how they rolled it out.

So just turn quickly to some next steps, I've really discussed them all so just to summarize them, we'll, of course, our immediate next step is to complete phase two of the training. That's what I had just mentioned. We are, of course, monitoring case law and feedback that we get to see if there's any updates that we should be making to the guidelines itself. As I mentioned, there is a comment period. That comment period extends to March 16th. We will make all the comments public and, of course, we will be going through all the comments and seeing if there are any additional changes that are warranted based on the feedback we received.

And again, we're happy to make changes when we see something that improves the guidelines, makes it more efficient, for example, and is consistent with the case law. I do get back to the consistent with the case law multiple times because we have been asked a fair amount to ignore this case or that case and our approach is
not to ignore any cases and to really try to be consistent with the case law itself.

And I also wanted to highlight that we are working on additional examples. As you all know, the examples are very helpful but they're a start and we recognize that more is needed. I know I've heard from multiple people including some discussions with PPAC that examples in say, the diagnostic area, are important and we are working on those to move forward. So as we develop more examples we will, of course, put them on our Web site. They are, of course, something that the public can comment on during the comment period, and quite frankly, at any time. But again, we certainly recognize the value of additional examples for examiners and will continue to develop more as we go forward.

So the last slide I have is where you can get some of this information. You can go right our main page, it's linked from there, but all of the guidance materials that we create and all of the examples are posted on our Web site for
people to see and the links are on the screen.

But of course, you can get there menu driven. So
that is all I have. I'm happy to have a
conversation or address any questions or comments.

MS. KEPPLINGER: Thank you, Drew.

That's very informative. Comments, questions?

Wayne?

MR. SOBON: Yeah, first of all I thank
you for all the hard work you're doing to -- and I
think the user community appreciates your
listening to the comments and revising and
reflecting on those. I think that's -- this is
obviously a very, very important, delicate area.
And so, I think that's extremely welcome and all
the openness to public comment.

A couple of things I would comment on
this. I think are important, maybe I would like
to see maybe continue to be emphasized as the
package gets finalized. One is the first, I think
it encompasses a concern, is that 101 has been
seen as just a easy blunderbuss just a wide
ability to just attack patents as a class rather
than dealing with the specific invention and
before the examiner. I think of your work is
really good to focus much more carefully on the
nuances.

But I think an emphasis on compact
prosecution, that despite the fact they may say
that something's rejected under 101, that they go
on to actually fully examine under 102 and 103. A
number of us have argued that 101 has really been
converted from sort of a very basic threshold to a
central examination is really problematic because
it has these widespread attacks on classes of
inventions rather than specific inventions.

And that it's far better, in a way, to
focus on the details and whether something's just
simply is actually obvious or invalid, which many
of the inventions that may have been reviewed by
the Supreme Court may have been easier examined
under that kind of rubric. So that would be my
first thing.

And the second thing is on the teaching
points. I'm concerned that you're forming sort of
safe harbors or what's helpful for people to
understand what may be patentable given if you
really do have a lot of other additional materials
added to a specific "abstract idea." But I'm
concerned, one of the key holdings of the Bilski
case may be being lost here which was the Court
specifically that even pure business methods
divorced from machines or transformations
themselves are eligible for patentability.

And so that, I think, needs to be
focused on and I think it may come down to nuances
between what is the abstract idea and what may be
a specific instantiation of the idea which may, in
fact, be divorced from a machine or other
materials. So I'm concerned that that doesn't get
lost either in this analysis.

MR. HIRSHFELD: So on your two points,
the compact prosecution, I agree 100 percent and
in our training we are making sure to emphasize
the importance of compact prosecution. And you
are looking at all the statutes and should be
examining under 102, 103, 112, et cetera. So
totally agree there.

And on the second point, we certainly are not intending to convey any message regarding Bilski or not applying Bilski, actually it's the opposite. We are intending to simply state that where you have business methods, you know, there is no per say rule against that and we have said that in our guidelines.

I take your feedback as a maybe this is an area we'll be expand on more in the example set as we go forward to further the points you're raising which I agree with.

MR. WALKER: And, Drew, thanks, too. I add my thanks taking on all these comments. We don't, as a company, put in many comments but we're putting comments on this because of our interest in nature-based products. So thanks very much for the guidelines and especially the description about the nature-based products.

So the two-part question. One is you mentioned about these additional examples you're working on. I think I heard you say this at the
very end but are you open to suggestions on examples to consider for the office to interpret? That's part one. And part two is both the examining corps and the user community; we are working on constantly moving targets around patent eligibility. And so, you know, the poor patent attorney who drafted cases 10 years ago and now the eligibility standards have changes, they're really kind of stuck.

The examples that you have, is it the intention of the office to keep those kind of standard examples so that as the law changes that the same kind of examples can be reviewed and understood in terms of patent eligibility? Because I think that would be really helpful with all the work you've put into the examples that as the law changes, those examples are updated and modified on an ongoing basis.

MR. HIRSHFELD: So to address your first question are we open to receiving examples, an absolutely 100 percent resounding yes. So quite frankly, I would like nothing more than to have
comments of suggesting examples and that we agree
with that they're consistent with the law and to
be able to use those in our guidelines. Because
having people submit them, whether it's from
examiners, right, or from the public is extremely
helpful for us for seeing what is exactly needed.

It sort of gets to the point Wayne was
raising as well. So absolutely 100 percent yes.
And some have done that and we've been able to use
some more than others, right? But I think it's
very helpful to have that feedback. I'm also
hoping, quite frankly, that people can comment on
the examples, that people do comment on the
examples that we've put out during the during the
comment period. So absolutely, if you can give us
more examples and comment on those we've done,
that would be absolutely wonderful.

So your second question about standard
elements, really almost goes to the process that
we had in creating the federal register notice and
the example sets. And what you'll see is the
federal register notice is really our approach to
eligibility, as I said from the Alice and Mayo cases. And then, you have the significant body of case law being discussed.

And we ended it there and did it that way for a reason so that that hopefully becomes a foundational document that doesn't need to be changed. Now, of course, a case can come out any day and make significant changes and we have to go back and make changes. But we thought if we really stick to the case law in that document, that that will hopefully be a foundational document that people have as a good basis for all future eligibility determinations.

Of course, I know that's idealistic. I know the case law will change but that was the approach. Then the examples that we came out with on our Web site, which is a combination of hypotheticals and some case law, was specifically done to fill some of the gaps where we thought we needed to address and it wasn't specific from -- there wasn't enough from the case law itself to address some of these issues. But recognizing
that that is probably where, in those gaps, where you are going to have the biggest changes in the courts.

And so, coming out with those on our Web site as training tools is much easier to be able to make changes to those documents should we need to make changes to them. So anyway, that was the big approach. Did that address your second point?

MR. WALKER: I think so, yeah. I got it. So I think those examples will be living -- what I'm trying to say is they will be living examples and being on your Web site so that they can be updated if there is a case law change that fills in one of these gaps will be helpful to the user community as well as the corps.

MR. HIRSFELD: Yes. So that's exactly correct. And I think all the documents are living documents and since the case law is evolving so much, any of them are subject to change. Again, our approach was that it's easier to change the examples than the federal register notice. You can certainly do both but if there is a case law
update or if there's additional examples or for any reason, an example is no longer viable, we would, of course, come out and make that known so that the public knows exactly how our examiners are applying the case law.

MS. KEPPLINGER: Paul?

MR. JACOBS: I'll try to be quick. So as the software guy, on slide nine, mere existence of a computer routine and conventional elements does not mean that the claim is ineligible. Well, now we know it doesn't mean the claim is eligible either and this is sort of the landscape that we're dealing with. And with respect to your talking about tracking judicial opinions, do you have any comments on decisions at the District Court level that apply section 101 to software claims?

MR. HIRSHFELD: So we watch the District Courts but our guidelines follow the Supreme Court or federal circuit. So we're watching the District Courts to really see what type of issues might permeate upward but I don't have specific
comments about any District Court because, quite frankly, we're more focused on the federal circuit and the Supreme Court.

MS. KEPPLINGER: Anyone else?

MR. THURLOW: So, Drew, thank you. The feedback, just to give you the feedback I've been receiving, the examples have been very helpful. More examples you can provide will be really appreciated. One of the things that we're working on, at least for different bar associations is looking at the federal register notice and providing some examples. And we follow through the Amicus Committee and other committees more on the litigation side what's going on in District Courts. So that seems to be relevant and, of course, PTAB.

Just a suggestion. I'm looking at, I guess, one of the slides where you said the public forum on January 21st, 300 people and you mentioned after the March was more than 500 people. Judge Smith recently, from PTAB, held a webinar. I think it was well attended. You know,
meetings like this where you give updates doesn't have to be as formal. I'd the same to Valencia on patent quality.

People chime in. It's stated on the Web site. It's very helpful. And then, the last thing, I mean, this is a tough area. The education that you're doing is helpful to show that there's still opportunities in this area. Because quite frankly, when we meet with clients, when we work with companies on 101 issues, I think what I'm taking from your presentation is there's still hope to get.

But I can tell you from -- and you've heard it in all the forms. The initial reaction that we're getting to 101, it's not patent worthy and through your education stuff we need to make clearer there is possibilities there. But the concern is that the feedback from Supreme Court which reigns supreme has really been challenging and we'll see in Andy's next presentation of patent operations like really major concern.

Thank you.
MS. KEPPLINGER: Thanks. I did have one comment. I haven't experienced it myself. I've had very good help on 101 but I have had comments from other people. A concern that some examiners have expressed the opinion that they are not permitted to allow cases that have a 101 issue in them. That someone at a higher level in the TCs is the deciding person.

So I don't know if that's true or not but one thing I could suggest is that if you don't have it, you create some sort of ombudsman or some sort of person in each of the TCs that could be contacted. Because the concern from some practitioners is that they don't even have an opportunity to address the person that's making the decision. And so, they'd like a little more ability to do that.

MR. HIRSHFELD: So thank you, Esther, for the comment. There are -- I've heard the same feedback about these either bodies, whether they're in patent operations or in OPLA, so to speak, overseeing and mandating yes or no on any
kind of rejection. And that's certainly not the case.

We do have POCs in every technology area, every TC and we have -- they all are working directly with folks from the Office of Patent Legal Administration for advice and discussion should it be needed. But certainly, the decision-makers on the case are whichever primary is responsible for deciding that case, right? So whether it's a junior examiner working with a primary, they can get advice and input from other people but certainly, they're not -- there is no body that's mandating over this and I'm glad you brought that up because I have heard that from others. Your feedback about an ombudsman or somebody people can talk to is something that --

MS. KEPPLINGER: Yeah, because you just go online and see who are the interference practice specialists, things like that and if you put something about 101, that could be helpful, too.

MR. HIRSHFELD: Thank you.
MR. BUDENS: I think we need to qualify that a little bit. I'm not necessarily sure but I'm wondering if the basis for some of the feedback you just gave and some of the reactions we've seen is because of the fact that for -- until just recently we've basically been operating under the original interim guidelines which I think most people felt were far more restrictive than what the second set of guidelines are and the examples.

And we're, as Drew said, we're just now getting the examining corps even trained on the examples and stuff and the second set of guidelines which I think seem to be opening things up again. I'm not necessarily disputing, you know, there may have been a knee-jerk reaction for lack of any better guidance than what we had, sorry, Drew and Carolyn but we had to do -- examiners have to do what we get from the 10th floor.

So I'm -- I don't necessarily agree with your need for an ombudsman or anything else. I
think we need to let the system play out a little bit and what these new guidelines and the new examples and even additional examples that may come out of the comment period have on the application of these interesting pieces of case law.

MS. KEPPLINGER: Thank you. Anything else? Okay, we'll move on to Andy Faile for a patent operations update.

MR. FAILE: Okay, thanks, Esther. So I have a number of slides on patent ops data. I'll run through those and then, we'll take questions at the end. And to the extent we have time, Esther, there is a few points that we'd like to get some input from the Committee on particularly in filing rates. So if we have a little time for a discussion there, that would be very helpful to us to get some insight on this area.

So speaking of filing rates, our first slide is and I'll try to -- I know we have some new members. I'll try to hit some of the acronyms. If I miss some, feel free to get back
to me at the end and say what does that actually mean? So the first slide we're looking at the filings.

We break this down into two general groups. We call one the serialized filing. Serialized meaning a new application that gets a serial number. Regular utility, continuations, continuation parts, divisionals, et cetera.

That is the red line you see and then, the blue line at the bottom is our RCE filing for request for continued examination filings. This chart's hard to see from where we are here. Basically starts at the left at 2002, all the way to the very small bar on the right is our progress so far in 2015.

So the bar immediately to the left of 2015 would be how we ended last fiscal year. A couple of notes on filings and I'd like to loop back at the end of this presentation for a little discussion. First of all, historically, we generally see a five percent increase from year to year in our filings going from fiscal year to
fiscal year. You see 2009 it's a bit of an
anomaly there. It's the lower bar in the middle.

What we're seeing now starting in 2014
is a bit of a slowdown of that filings. We saw
about a 2.8 percent increase of last year. So far
this year, we're running in the serialized filings
about a percent, 1.2 or 1.3 percent above where we
were last year. And interesting to note, in the
RCE filing rate, we're down about 12 percent from
where we were last year.

So I'd like to circle back to this at
the end and talk a little bit about that, some of
the questions we have. Is this an anomaly? Is
this a new trend? What are some underlying
effects that might be driving this? Very
important for us to as accurately as we can guess
our incoming workload or estimate our incoming
workload to which we bring our 8,600 examiners to
bear on that workload.

So speaking of that, the next slide kind
of shows the effect of bringing those examiner
resources to the tune of 8,600 or so on the
backlog. This shows, kind of the application inventory trends. Valencia had mentioned in her initial talk on quality that at one point in time that would be about the fourth quarter of February '08, I'm sorry FY08 or beginning of FY09, we were somewhere in the three quarters of a million cases in the unexamined patent application inventory.

You see kind of a steady march downward through the years. If you look at a little bit of the bubble towards the right of the graph in FY14, there's quarters two and three, you're seeing a little bit of a CPC effect. We had an investment in changing to our new classification system that was in terms of learning curves and training times. So you're going to see a little bit of a bump up there as our resources were dedicated to that.

That transition was complete as of January of this year. You're going to start seeing that move down again for this year. As of yesterday, we had just a little bit over 600,000 cases on this unexamined patent application
This is a slide where we're trying to capture kind of our optimal state in the out years. So in the blue you see the optimal inventory and you'll see at the end there it says as of today, 3/27, 983. That represents the number of staff we have onboard, examiners, 8,600ish carrying a 10-month backlog. Again, we're shooting for 10 months first action pendency. You would calculate that optimum inventory would be at that number.

What you see in the red is the inventory where we are today, somewhere around the 600,000 mark. And the optimal state, in the out years, the red and blue lines we converge and we're operating at our target inventory. So this just gives you just kind of a sense of the red being what we could consider excess inventory off our optimal 10 months times the number of examiners that we have.

So going back to inventory. So we talked a little bit about the trend line downward
in the unexamined serialized inventory with a little bump for CPC. This shows kind of our trajectory for the RCE inventory. That would be the blue lines on that first graph, kind of tracking that.

All the way on the left, we start back in the 2009 or so time frame. You see a steady climb up till about the zenith of about 111,000 cases in the backlog as of somewhere in the February of '13 time frame. That's when we got an integrated team basically of USPTO personnel and PPAC, always like to give a good plug to our internal team and our partnership with PPAC; particularly shouting out to Wayne and Esther in helping us lead that charge.

We took a look at this and said you know obviously something needs to be done here. The backlog's way up at 111,000. So we had an RCE outreach effort where we did a number of town halls throughout the country to try to figure for more a root cause analysis. You know, why the backlog is the way it is and what are some things
we can do to alleviate that.

We kind of split that in two parts. We looked at backlog, moving the backlog down and also trying to figure out is there a way to stem the incoming RCEs that aren't -- that shouldn't be needed. So from that we devised a couple of programs, our after final continuation program and our quick path IDS to try to get at reducing the RCEs that would not be necessary to conclude a case. And then, on the backlog side, we worked particularly in concert with Robert and company in the union to look at our workflow plans and gear those towards moving those RCEs.

So from that point in about, the purple line there, in about February of '13, all those plan came into action and we've got the RCE backlog on a trend downward which is a good. Today we are somewhere in the 42,000 neighborhood down from about 111,000. So we've brought that RCE backlog starting to bring that down. Obviously, we want to do more in that area.

The average pendency for our RCEs in
somewhere in the five-month range down from about eight, eight to eight-and-a-half months. We've brought that down as well. Still more to do on RCEs but a pretty good, at least, trend from that high zenith point down to where we are today.

So speaking of RCE inventories, here's an interesting slide. On the Y-axis you see the average number of RCEs per examiner. So you're starting at 0, goes up to 30 at the very top. On the X-axis those are the TCs starting with 1,600 all the way on the left, 17, 21 all the way to 3,700 on the right.

If you look at the green trend line, you'll see that's the RCE backlog per examiner in October of '13. That would be the beginning of FY14 for us. As you can see in 1,600 you were somewhere in the neighborhood of an average of 26 RCEs per examiner. We're somewhat all over the map down in 2,800 you had somewhere around an average of four. 3,600 you're back up to 19. So you can see that that line was high number one with respect to the Y-axis and a little bit all
over the place.

The dotted blue line you see is our RCE backlog per examiner of this month, February of '15. So two important things to note. Number one, you see a flattening of that line, i.e. the number of RCEs per examiner has come down which is good news. And number two, you see that line being a little more consistent.

So through some changes we've done in our workflow system, we've actually rebalanced movement of RCE in new cases. And so far, now, we've got a good trend line where the TCs are a little bit more equal in their average number of RCEs per examiner. And that entire line has come down in the average lower than it was back in '13.

Moving on to first action in total pendency; a couple of trends here. Total pendency is the purple line. First action pendency you see is in the green line. And we're shooting per the president's budget for the end of the year for the following targets. For average total pendency we're shooting for 27.7 months. Our current
progress is 26.8 months. So we're a little bit under our target which is good news.

We do expect a bump in the purple line towards the end of the year reflecting the delayed effects of the CPC adjustment which you see a little bit in the first action line towards the right, the green line towards the right. You see that little bump. We'll see kind of an equal effect in the purple line towards the end of the year. We still think we are on target modeling-wise to meet our goal of 27.7.

Currently, we are at 18.2 in the green line. 18.2 months, that's the average time. The first action, our goal is 16.4. We expect that line now that we have completed our CPC transition and those resource allocations to continue to move down and we expect to be at our 16.4 target by the end of the year. So right now we seem to be on target for both our traditional total pendency measurements and first action pendency measurements.

Here is another graph looking at
pendency from a different perspective. So we just talked about total and first action pendency which is basically cases that are complete. It's necessarily a rearward looking statistic. Another way to look at pendency is looking kind of predictive for first action pendency.

Mark, it's a question we discussed a little bit yesterday. So this line, what you see here is for a case filed within the time frame on the X-axis, that would be the month and year, how many months would it take us to get to that first action based on the months on the Y-axis? So you can see and then, what we do here is a calculation of the resources on hand at any given point, those resources that we've modeled out literally through the end of the decade and we do a prediction where we'll be in an average month pendency in kind of a forward-looking predicted manner.

As you can see here at the very end of that, as of the end of January, we predict that to be at the 14.8 months. So for cases filed in January, we would be at the first action in a 14.8
months' time frame. Again, a predictive look.

Yes, Wayne?

MR. SOBON: Can I ask a question? This is predictive. Have you gone back and checked whether your predictions that were existing -- now you have data to actually see if those predictions actually bore out. Have you checked to see the model actually works?

MR. FAILE: It's a good question. There was a couple of updates to this model in the first kind of -- the blip you see somewhat in the middle where we changed the -- we are -- as the model changes, this changes. So there's a lot of variables at play. I don't know that we've gone back and actually validated the points here that were predicted going back to the past and see if they actually came true. That would be an interesting thing to do.

And a number of variables at play, we need to be careful to make sure we're doing apples to apples there. That's actually a good point.

MR. HIRSHFELD: Wayne, I will add that
we do check the model annually when -- assuming
our -- the big variables we predict are correct,
the filings for example. If we get that right,
the model is extremely accurate. If we miss
filings, everything's off. So again, this is only
as accurate as our estimates of filings which is
one of the things I think we need a little input
on.

MR. FAILE: Yeah, we'll circle back to
that. So very interested in filings. Okay,
looking at our attrition rate, the thing to draw
from this slide basically is that we're somewhere
in the neighborhood of a four percent attrition
rate. That would mean that if we -- when we move
into steady state and we're going attrit level
hiring, that's basically four percent of a close
9,000 person workforce. Would put us right at
attrit hiring. We're scheduled this year to hire
a little bit above attrit level right at 450 for
this year.

We're going to continue to move that
down. Again, a lot of it depends on the filing
rate trends and what we -- what assumptions we
make there and what predictions we use there to
feed the model.

MS. KEPLINGER: Just, UPR is Utility
Plant Reissue. So what's not counted in that are
the design examiners.

MR. FAILE: Thank you, Esther. Yeah, I
see UPR in there. It flies right by me. Yeah.
Utility Plant Reissue.

We talked a little bit about interviews.
I got a couple of slides on interviews. The
takeaway from this slide is that we continue to
have more interviews. One could argue we hire
more examiners, we're going to have more
interviews and we get that but the interviews
continue to climb in number. The stat at the
bottom says that we had about 68,688 hours on
January '15 compared to the same point in '14 it
was about 66,000. So we're continuing to climb in
interviews and there's really no real surprise
there.

The next slide --
MR. THURLOW: Just real quick on this.

MR. FAILE: Sure.

MR. THURLOW: I think we've all over the years know the importance of interviews. I've had some recent ones. They're always very productive. Back to I think Valencia made a point and something we'd love to see the office do more where the examiner calls and says I reviewed the (inaudible) and make some suggestions.

In the past it's always been one-sided from the applicant to the patent office. To the extent there's a little change here, I think that would be helpful. In fairness, just ironically a few weeks ago, an examiner did call and said, I think we can get allowance for some cases which we always like to hear.

So that's from that but if it can be initiated from the office more, the open dialogue, I think that's something that would be new.

MR. FAILE: Thanks, Peter.

MS. KEPPLINGER: Wait.

MR. SOBON: We may have mentioned this
before but I think, just a suggestion, I think a 
more interesting chart here would be year-on-year 
awaited or a ratio of interview hours over total 
hours so we see on average and even by TC, too, we 
see on average what percentage of time examiners 
are spending for the average examiner each year 
and whether that's going up or down. Because it's 
hard to tell here whether this is just our fact, 
whether it's good or bad.

It could be actually going -- the 
percentage being spent could be going down even 
though you're hiring more examiners. You know, 
this overall increasing the hours. So I think 
normalizing it to the number of total examiner 
hours and even maybe having it by TC too to see if 
there's difference among those would get -- would 
be an interesting lever at this issue. Because I 
think a lot of us sort of have talked about it and 
agree that examiner interviews are probably a very 
extremely productive way to resolve backlogs, 
resolve problems, avoid appeals, avoid waste, 
avoid redos and achieve higher goals. But I think
having a better tool would be useful for that so.

MR. FAILE: So let me take them -- let me get the next slide, Wayne, which gets, I think, a little bit at what you're saying but not quite and we can take your suggestion back.

MR. SOBON: Yeah.

MR. FAILE: So in -- oh, I'm sorry, Robert. Robert had his hand up.

MR. BUDENS: Thanks. I just going to say on this slide, too, it's only been in recent history, relatively recent history, that examiners have been provided time for examiner-initiated interviews. And I wonder why we are not splitting, you know, or tracking. This looks to me like just tracking interview time as a whole and why we're not tracking interview time, you know, initiated by applicants and interview time initiated by examiners and stuff to see what's really going on behind the scenes there.

MR. FAILE: Yeah, it's --

MR. BUDENS: Especially with Peter's continuous reminders and Wayne's continuous
reminders.

MR. FAILE: A good question. One question I need to get back with the data guys is can we actually discern between the two. If there was widespread use, I believe it's the 413 form where we know whose initiating, whether it's outside or the examiner. We could cut the data that way. I don't know that there's a clean way to do that but that's something we should certainly look into. It's a good point.

So back to another kind of cut of interview. So what this slide shows is we look at a case and by serial we mean a case with a serial number. We look at the disposal. And by disposal we mean the actual ultimate abandonment or allowance. We look at that case when it reaches one of those two terminations points.

We look back to see if there was at least one interview in that case. And then, if the answer is yes, it becomes a data point. So this is a little bit of the normalizing that Wayne's talking about. Not quite exactly the look
that he's asking for.

So if we look at that, we started back
on the left end of the graph. We're back in
October of 2007 beginning of our FY08. We're at
about 18 percent of those cases that are finally
disposed, i.e. abandoned or allowed, had at least
one interview. If there were two or three, it
would just as a single data point.

And you can kind of see the trend line
moving up there to where we are today where we're
roughly at a 28.7 percent; I believe is what the
slide says, in cases that have a final disposition
of an allowance or an abandonment where we had at
least one interview. So you kind of see a trend
line moving upwards. When those cases are finally
disposed, we've gone from about 18 percent to
somewhere in the neighborhood of 28 percent of
interviews in that case.

So that's one look at trying to kind of
normalize the data from just having a number of
interviews which arguably scales up by the size of
examining staff you have. And per Wayne's point,
we'll take that back and see if there's a way we can figure another look at interviews.

So at the end, I'd be interested in any other interview-type data that you guys think would be helpful for us to mine.

MR. THURLOW: Just one quick comment if I can say. Saw a gentleman last night, in-house attorney, and he mentioned, you know, so many of the interviews in the past have been in person I guess and now they're being done, I've had interviews with examiners from all around the country. And sometimes I guess they try to do presentations and webinars and stuff.

And I guess there's still some basic technology issues. I don't fully appreciate all them but I guess to the extent that ever comes up, the interviews that I started with 15 years ago are a lot more in person. These days obviously they're over the telephone but there's a lot more types of technology-related interviews to get information across. So I hear there's problems with technology so.
MR. FAILE: Okay, yeah, so I'd be interested in hearing more about that to the extent you can get more details for me, Peter. Let me just stop here real quick and point out that we do have the ability, our examiners have the ability to do WebEx interviews and applicants can literally just request an interview. The examiner will send you a link and basically all you need is a computer and a camera on the computer and we can facilitate that interview for remote examiners particularly via WebEx.

I would direct you to our interview site on the uspto.gov Web site. If you search interview, you'll pop that page up. There are instructions how to request that interview and then, how that interview will be conducted. There's also on that page some helpful hints both from a practitioner point of view in conducting interviews and from an examiner point of view.

So that's a pretty rich page in interview information but to Peter's point, we do have the ability for examiners to do WebEx
interviews. You can share whiteboards and have the video conference piece of that. Per Valencia's early discussion, one of the things that we're teeing up for the quality summit in late March is a discussion about in-person interviews that Peter refers to in the old days where we had them all in-person interviews. Even with our remote teleworkers, that's very much a discussion point at this point.

MS. KEPPLINGER: I had one question. It's actually a combination from Marylee and me. Marylee is unfortunately unable to be here. But if you could give us more data, not necessarily right now, but at the next meeting on the RCEs, the initiatives that you put in place, how many people have been using them? What are the outcomes of those?

So, for example, the Cupid's program, I did see some numbers about how many people have been using. And I think that program has been considered a great success. That's a tremendous ability when you get prior art that comes in late,
you can still continue on and not have to do an RCE.

The after final 2.0 at least, in my view, is a little less successful. So some data on that, how many people have requested it, how many times have the amendments been entered and the case goes forward, because an awful lot of examiners will say it's not enough time. And so, you're not able to get anywhere. So some additional data on that would be helpful.

MR. FAILE: Okay, got it. So for Cupid's we do have data that basically says through the use of the Cupid program we have avoided X number of RCEs. I believe that number is somewhere between 2 and 3,000 at this point from the beginning. So pretty successful in that sense.

For AFCP, as you know Esther, we've gone through a number of iterations from our original concept in AFCP. We're on now, I believe it's 2.0. So we could get some data and kind of track the progress of that program as it's morphed into
its various versions.

MS. KEPPLINGER: And one thing that Marylee suggested was I don't know if you can track how many requests for interviews after final have occurred. At least from her perspective, she hears that some people don't get a call back. The attorney will call and ask for an interview after final and they don't get any response and then, they just get an advisory.

MR. FAILE: Okay. Thanks for that.

Track one, oh, I'm sorry, Mark, sorry.

MR. GOODSON: Oh, just continuing on from yesterday. You've done half the statistical data. If you put in range, something like that, standard deviation, like on chart A, it would be most helpful. Thank you, sir.

MR. FAILE: Thank you. Okay, track one, so a pretty popular program that's gathering in steam, let me just kind of go through what we have here. These are the track one filings on the left. We start in basically the end of FY11 all the way through 15.
Those are the months starting with October all the way through September and we're tracking trends by months. The end is the totals. It might be a little hard to see from here but let me just read a couple off.

That in FY12 we had a little bit over 5,000 track one request. The next year, FY13, we moved up to almost 6,900 requests. Last year, we were just over 9,000 requests. 9,124 requests for track one.

So again, the message is getting out. People are using the program. I've got some data coming up about the effectiveness of the program. This year so far we are on track. We are trending higher in each month than we were last year. We're certainly on track to the 10,000 cases that the program is designed for this year.

So a couple of little notes in the boxes, they are hard to see that we have a pretty good representation of small and micro entity apps in the track one program. That's a little bit over 51 percent that are small or micro entity and
it's very interesting.

And then, the track one request filed after an RCE, that number is at about 1,800.

MR. SOBON: That's cumulative to the beginning?

MR. FAILE: Yep. So speaking of the performance of the RCE, sorry, RCE track one initiative, here's a couple of graphs. They are split in two pieces. On the left, this is track ones without RCEs and then, track ones with RCEs and we're just looking at the pendency.

So starting on the left the first stack of colors is a regular case, a 12-month average and they are split up between the red is the time awaiting first action. You see it about 10 months. The prosecution time with applicants, 6.9 months and the prosecution time with the office, 3.5 months, adds up to that number at a 12-month rolling average.

You see the same look for RCEs and just visually you can see you're at the 12-month mark when you add all those up. So we're getting our
track one cases right at the 12-month point which
is obviously the goal of the program. If you pop
over to the right side of that box we're adding
the RCEs, your times jump up there. You still
have the healthy disparity between the ability to
conclude a track one compared to a case with RCEs
on the right.

So again, looking at the performance of
the program, you see a pretty good difference
between a regular case and a track one case in
terms of the pendency performance.

MS. KEPPLINGER: Mark?

MR. FAILE: Oh, sorry, Mark.

MR. GOODSON: Yes, sir. You mentioned
10,000. Is that what the program was designed for
or what you'll accept?

MR. FAILE: That's the cap of the
program currently. And we're going to be punching
up probably right at that cap by the end of the
fiscal year.

MR. GOODSON: Okay.

MR. THURLOW: So what are you going to
do in those situations where you get more than 10,000 I guess?

MR. FAILE: Well, it's only -- we can only take in the 10,000 per the program. We will likely be talking with Robert and talking about should we be moving this cap upward? It looks like it's a pretty popular program. We're going to probably need some more head room as that program continues to climb. We will -- it's inevitable we're going to hit that cap at some point.

MR. THURLOW: Just two suggestions. I don't think there's going to be any -- I know you made one round of changes to it. The one thing that comes up is we'll make initial filings and then the client later decides to do a track one. So we have to do a continuation. To the extent that it would make sense to me that before an application is examined, if you're able to submit the track one request, I don't know why in the process you need to file a new continuation to get that going.
So if that could be a consideration for a potential change in the future? And then, after you get the track one, understand that only gets you to the front line and beginning which is very important. But after you submit a response, you're still in general waiting four months. If there's any way to up that? I know that probably more challenging so if I had a wish list I'd probably request the first one where you submit a form and six months after the filing have to do that.

What do you think, Robert? I see you smiling.

MR. BUDENS: I think it's a wish list. It's one thing to dream about. It's another thing to figure out the impacts of doing that which is a lot of thought went into it. When we first sat down, the Agency first approached us with this, and there were reasons why we put a cap on it and had it only (inaudible). Because once you start doing it across the board, then all of a sudden what happens if everybody decides to make track
one cases? We don't have the staff to be able to
make those time frames necessarily and then, are
you willing to pay the extra?

And then, at what point do we start

losing the fairness of the system of the first in,
first out kind of situation for applicants who
either don't or can't for whatever reason enter
the track one program? There's a lot of variables
that go in here. I'm not saying I'm not glad to
see that it's being used more but I think it
becomes a little bit interesting and heavier lift

with trying to expand it more and more or trying
to do what you want and expand it to encompass the
entire prosecution history of the case.

MR. THURLOW: The only thing I'd say is

I know the bar associations, everyone was

concerned about everyone using track one and every
case would be a track one. But the numbers show

that 10,000 applications out of all the

applications, the system are not every case. So I
can tell you in practice, we don't do it in every
case. We do it in the important cases and just
not to put Mark on the spot but we had conversations last night and over breakfast and I think you mentioned you used a track one. So it's really a nice program to have in the system.

MR. GOODSON: Well, it is a nice program. I just don't want it to be like a certain amusement part that you bought a ticket to get to the head of the line but so did everybody else so it did nothing for you. But it is a good program, thank you.

MR. FAILE: I like that analogy. So a couple of more slides here. This is on our current quality composite. Our quality metrics, and again, kind of the caveat here per Valencia's talk in quality in the summit; this is an area that we're actively seeking input. So I'm just kind of go over where we are now.

It's our second pillar and our quality efforts, you know, looking at quality measurement. That would be this. So this is where we are now and obviously, we'll be seeking a lot of input on this.
For this slide, it's hard to see it's broken down into the seven components. The big takeaway is the very top line in quarter one of FY15. We see a slight bump in most of the categories. That equates to, at the very end there, the composite being at 76.9 percent, a little bit up from the prior measurement period.

One thing to note here is all the way on the left, that's our final disposition column compliance rate. Those are the Office of Patent Quality assurance samples of final rejections and allowances. We had a stretch goal set a few years ago to be at 97 percent compliance rate.

And FY15 quarter one was the first time we actually hit that number 97 which is a little bit up from our 96.9 on the previous measurement period. So cutting across that very top green line, you see there that we're at 76.9 percent. We've had a lot of discussions within PPAC about the weighted summation average at 76.9. Is that meaningful or valuable or not? Perhaps the value is in looking at each one of the components.
separately.

That's a discussion that we will likely get into in the quality summit at the end of March and certainly we'd welcome comments there.

The last slide I have for you is the graph of the quality composite aggregate performance. This is the weighted summation of all the seven categories. Based on the weighting in the previous slide, again, our March is to be at 100 percent of all of our stretch goals by the end of '15 and this kind of shows you that's the red. So for each fiscal year we had a different target all the way up to 100 percent.

At the end of this year, if we hit all our stretch goals we're there. The blue tracks are performance. As you can see starting in 12 we did better than our targets. That's -- we're starting to ebb a little bit in that movement upward.

We're a little bit at 76.9. We're a little bit above where we ended up last year in the first quarter of 15. We have quite a ways to
go if we were to hit all our stretch targets by
the end of the year. So there will be a big --
that will be a big stretch, no pun intended, to
hit that 100 percent mark at the end of FY15.

So if, Esther, do we have a few minutes
for discussion or?

MS. KEPPLINGER: Sure.

MR. FAILE: Just real quick. So one of
the things that we've been discussing internal to
patents lately and we would really greatly
appreciate any input that you guys have is back to
kind of the first line on filing trends. So just
to recap where in our serialized filings we're
about 1.3 percent over where we were last year.

We expect to be about two percent at the
end of the year, fiscal year. Normally we are in
the five percent range. So there's a question
there. Our RCE filings we're down 13 percent or
so now. So any input you guys could help us.
This feeds directly into our modeling the filing
trends.

Bruce made a comment earlier which is
absolutely correct. The more accurate that is
that's a huge lever in the model and the more
accurate that is, the more accurate we can map our
resources and hit pendency targets so.

MR. LANG: So I see at least uncertainty
in future filing trend for a number of reasons.
One is that there's been judicial evolution of
patent law, in particular, for example, the courts
have been aligning the metrics that they use for
damages to focus on the incremental value added by
a particular invention.

I expect there to be continued
legislative reform of the patent system including
particularly the patent litigation system to shift
value away from patents that are lower quality or
otherwise irrelevant. And also, the famous
smartphone patent wars may be dying down.

You may some of the larger filers
refocusing their patent efforts on the
technologies that are most important to them and
not simply playing a numbers game to get the
largest portfolios possible. Therefore, we should
be cautious in forecasting future growth of patent filing numbers.

MR. FAILE: Thanks. That's helpful.

MS. KEPPLINGER: Wayne?

MR. SOBON: I guess I would agree with Dan a bit but put a different spin on it. I think from the point of view of a number of a folks who are focused on patenting technology, there has been in especially my travels this last year globally, not only the United State but globally, anecdotally, concern at points bordering on anguish that the U.S. system is actually devaluing the patent estates of corporations. And that so I agree in some sense that significant filers are reevaluating the value of filing.

And so, it's sort of the eye of the beholder whether that's depressing the number of patents of less quality or all patents overall is going down but people are -- that I've talked to that are in, you know, actively making decisions for investment in filing new patents are concerned that the United States is no longer the preeminent
marketplace to seek protection and that other regions are increasing in importance including China and Europe. So I think it has to be calculated into this issue. And both the court cases as well as legislation have that effective dampening interest on the assets, so.

MS. KEPPLINGER: Paul?

MR. WALKER: Yeah, I agree with that and I think the PPAC has kind of repeatedly cautioned that the office should be conservative in its projections. And I think maybe now we should be even more conservative than ever because of some of the rest particularly that Dan pointed to.

A related matter, that's not good news for fee collections but it should be good news in terms of their pendency and reduction in inventory. But when you look at a lot of these data, even as the filing rates, the rate of increase of filing has slowed on almost to the point that they're flat, at the same time we've added examiners and we've completed the CPC training and these other things, you might expect
that some of the headway we'd be making in reducing inventory would be greater.

And I think you answered this but I just want to make sure I understand the answer that there's a lot of lag time in the system that we're still just getting out of CPC. And so, right now, we're only making small reductions in pendency and inventory but we would look like next meeting and the meeting after that maybe to see a steeper decline particularly if we've got a continued plateau sort of in filing. Is that correct?

MR. FAILE: Correct. Yeah, it's a good observation too. You do a lot -- the pendency data but for the forward-looking pendency setting that to the side, the other pendency data we discussed are cases that have ended. So you're going to -- they have ended and the data was calculated from that point. So you'll always see a bit of a lag there.

So we will see -- potentially we saw the CPC kind of bump in inventory. We'll see that come down. There'll be a reflection 11 months-ish
or so in that purple line. In total pendency, we still see those coming down. What we do there, Paul, is we, in our model, there's different levers we can use to kind of make sure that we're moving into a soft landing in the out year so to speak as far as pendency reduction.

We don't want to have the staff and the system geared up where we have a crash in pendency, obviously. Go down to very extremely low numbers and have staff running out of work, et cetera.

So what we do there is we have a number of larger levers including hiring, overtime, things that we can modulate to make sure that we're moving back. And if we're shooting for the 10 and 20 pendency world, we can model to make sure that we're coming in there. The model is only good as the assumptions one makes, obviously, thus the discussion on filing trends which is a huge impact on the model.

So trying to get that right is our best chance to make sure we're ensuring that soft
landing in the out years. Making sure we’re
gliding into the pendency path that we’re shooting
for. But yes, we -- the long answer to your
question, we will see that start to move down.

MS. KEPPLINGER: Mike?

MR. WALKER: So, Andy, in response to

your question, it's a U.S. -- when I talked to

other chief IP counsel, increasing pressure on our

patent budgets for sure and certainly with the
currency impact with the strong U.S. Dollar. So

I don't know if that balances out that you get

more foreign companies filing U.S. applications

versus U.S. Entities but when I talked to the

chief IP counsel, that's one thing.

The other thing I think that is just a

factor is prior user rights. And I hear other

people talking more about keeping inventions as

trade secrets with the changed AIA. So I don't

know if that's a big influence or people are just
talking about it but it's certainly a topic being
discussed and I think more companies are taking

that -- looking at the decision to keep something
that's a trade secret as a more favorable post

AIA.

MS. KEPPLINGER: And Robert?

MR. BUDENS: And essentially I'm glad you brought up the idea of the soft landing I mentioned yesterday. Going back to your slide four, as we're looking at trying to reach optimum pendency and I know we're pushing for a 10-month pendency right now, but in an effort to -- one of the problems we're seeing with that is we're already seeing pockets within the agency that are starting to run out of work and we're having to move technologies around and having to have examiners doing perhaps technologies that they're not as familiar which, of course, is probably going to impact quality, too.

So in an effort to both inform the discussions at the quality summit in March and in our forward looking on discussing pendency and appropriate levels, could you put together some statistics for us of how many art units in the different technology centers have had already to
move technology or who are getting very low in their docket so we could start figuring out just what kind of impacts we're going to have as, you know, are we going to have enough time and enough leverage to pull to get a soft landing? Or are we liable to bounce off the ground a little bit in some of the areas? Thank you.

MR. THURLOW: Just a last comment. So years ago, we used to file, just to give you an example of the trend, the international applications, the PCTs we would file all the different countries. For the most part now, we only file in EP, in Europe and in China. Japan and Brazil, other countries it's just -- we don't see the value in it.

So I saw that because now the trend in the U.S. is we used to file everything in the U.S. and I think Mike hit on it, the budget is a key issue. It's not, believe me it's just not attorney fees. It's just the -- it's everything included.

I have not seen in discussions at bar
associations and, quite frankly, internally decisions to say don't file. I find more decisions on how to file and how to claim. And all the work, good work, that Drew and everyone else at the patent offices is helpful but the one-on-one has definitely raised a lot of issues.

And then, the last point I'll make is you know, when I started doing this years ago, the business side was not involved in the patents as much as they are now. So there's a lot more basic questions on what are we getting in return for this investment? And it just not file. It's what is the value of it?

And that's an interesting thing where you have people in the business side getting involved in patents that I didn't see maybe 15 plus years ago. So that changes dynamics a little bit.

MS. KEPPLINGER: Okay. Let's take just a 10-minute break. Let's be back at 11:15 because we're quite behind schedule and maybe we can catch up a little.
MS. KEPPLINGER: Welcome back. We're now going to have a presentation by Charlie Pearson and Mary Critharis on the international update. Thank you.

MR. PEARSON: Okay, yeah, thank you. It's a pleasure to address you today. I'm substituting for Deputy Commissioner Mark Powell. He had a family emergency so I hope people aren't too disappointed that I'm pinch-hitting today so.

Okay, and I'll just go through some of the highlights here quickly. A lot of things are happening in the international arena. The cooperative patent classification system has been implemented here at the USPTO and the transition was completed on January 1 of this year going from the USPC to the CPC.

Slide looks a little funny. Transition completed then more work ahead. Well, it, in fact, you know, it's going to be ongoing. A lot of work on quality issues in conjunction with the EPO so I imagine the CPC will be keeping the
office busy for a long time.

    Now, the Geneva Act of the Hague
agreement concerning the international
registration of industrial designs was the
instrument ratification was deposited at WIPO last
Friday the 13th. And so, it will become effective
three months from that date on May 13th of this
year. And at that point in time, and a lot of
Americans will be able to file international
design applications that will have effect in a
number of countries around the world.

    And also, one thing, it's been a point
of contention out there, a concern. The 15-year
patent term will start for applications filed
after May 13th. Those are for both Hague and
regular national design applications.

    The first of the global dossier services
have been implemented and this is going to be or
will be implemented. It's going to provide a
single portal access to IP5 file wrapper
information. And this will become available in
May to USPTO examiners. And then, in December it
will be available to the public through U.S. public user interface. And this will be something like the Paris system for the five offices involved.

Now, global dossier, there's been a lot of activity there. There was a taskforce meeting. This is an IP5 meeting with industry groups in January. And there was a lot of discussion trying to identify next services to be delivered. The industry set forth some goals here and a number of them. It's -- these are in no particular order but they wanted a proof of concept for interoffice exchange of documents including things like change of address, bibliographic data, things like that.

In addition, they were concerned about the indication of patent legal status whether something is a family member may be pending or patented and of course, it does offer some problems for the U.S. sometimes to determine whether or not -- it's difficult to determine whether or not a patent is expired or not. So it's going to be a challenge there.
There's been a proposal to have sort of standardized system for applicants' names and it'll be interesting to see where that goes. Also we're looking at transmitting these documents in XML so it can provide ease for both users and offices. And the fifth item was sort of an alert function that would tell applicants when something was happening in their application. Maybe a change in status or a due date was coming up.

And right now, they're doing feasibility studies to determine the next steps on these issues. Okay.

There's also a couple of search collaboration pilots that are being considered and the USPTO has proposed two such pilots; one with the Japan Patent Office and a second one with the Korean Intellectual Property Office. And the purpose is to determine whether a collaborative search and its evaluation to commonly file the claims can be useful prior to examination and whether it can improve the examination process and provide more consistent results between offices.
Additionally, the pilots will determine, hopefully, whether the offices can control the sharing of search information between the offices so that unnecessary delays in prosecution are avoided. Now these pilots are based on the first-action interview program here at the USPTO. They're a bit different.

In Japan, the exchange of the search information will occur prior to when the USPTO examiner establishes the pre-interview communication. Now, with Korea there will be the two independent searches and the results of those searches will be furnished to the applicant at the time of the pre-interview communication.

A federal register will be forthcoming. We'll certainly look for participants and I certainly urge practitioners out there to help us with this pilot and hopefully participate. And the office intends to make the public aware of these programs and actually do a little marketing to get people interested.

There is also a PCT collaborative search
and examination pilot which has occurred with USPTO in conjunction with the EPO and the Korean Office. And plans are underway, it was discussed at the meeting of international authorities under the PCT at a meeting in Tokyo a couple of weeks ago and the EPO is taking the lead in this program and trying to come up with a third in a series of these pilots. Hopefully, we'll have some sort of collaboration tool developed that'll make it easier for examiners to communicate between offices.

In addition, we're currently having discussions with the JPO to have Japan serve as a competent international searching authority for applications filed in the U.S. Receiving Office. And this is something that applicants have mentioned in the past as being important. And I think we're making a lot of progress in that area. There probably will be some limits on the number of cases as well as to the subject matter. Japan is pushing hard to have it focused primarily on green technology. So we'll see where
that goes.

And just finally here, very briefly, you know, we have this new organization within the patents cost center, the Office of International Patent Cooperation. And as we are developing our work plans here we plan to focus on education and promotion of programs with -- that the Office is offering. Plus we want to discuss users' needs and get a feeling from them in which direction we can focus.

So and of course, intend to discuss things like the global dossier and the patent prosecution highway with user groups. And in addition, we intend to take a little larger pres -- have a little large presence at IP industry meetings so we can promote the program's services and tools offered by the office. So, anyway, thank you very much. And I guess now I can turn the program over to my colleague, Mary Critharis, who's a Deputy Chief Policy Officer and she'll talk about harmonization. Thank you.

MS. CRITHARIS: Thanks, Charlie. Is
this on? Okay, great. Before I talk about harmonization, I want to apologize for not having a formal presentation. I was a last-minute addition to the agenda but I'm still really delighted to be here to have this opportunity to talk about a lot of our international developments. And also, feel free to interrupt me with some questions.

First, just to complement what Charlie was saying, the U.S. deposited the instrument of ratification for the Hague agreement concerning the protection for industrial designs but on the same date that we deposit our instrument of ratification so did Japan. And that's kind of a real milestone because the U.S. and Japan are both examination countries. And so, we were key players in the development of the Hague agreement. So it was really very nice that we were able to deposit the same day.

But that also provides a lot of advantages for our users because now in addition to being able to use the Hague system to file in
the U.S. and to designate a whole host of countries, the list of countries that are participants to the Hague system is also expanding. So Japan is now a member. Korea is a member. So that's another added benefit to our users.

In addition to the Hague agreement, I did want to just highlight one other development on designs in that we will be having a new multilateral, international forum to address designs in the context of the ID5 which will comprise of the five largest design offices which are the USPTO, OHIM which is the Office of Harmonization for Internal Market that handles design registrations in Europe, the Japan Patent Office, the Korean Intellectual Property Office and the Chinese, CIPO, the Chinese Intellectual Property Office.

So we are going to address both technical issues related to cooperation and some other policy issues as well. And that inaugural meeting will be held here at the PTO in November.
So I just wanted to give a heads up to that meeting.

And now, I'm going to talk a little bit about harmonization. We've been working on substantive patent law harmonization for over 30 years unfortunately with not much success. You know, ideally, we'd like to work within WIPO because that's the norm setting body for intellectual property law but for political reasons there is a lot of -- there's not really much meaningful work being done there on harmonization.

So back in 2005, a group of countries who were interested in trying to achieve meaningful progress in harmonization got together and we call these the friends of harmonization and we started this Alexandria group which has now evolved into what is called Group B Plus. And Group B Plus is a UN term of art which really includes most of the developed countries.

Group B Plus, the plus was added because there are certain parties to our discussions like
EPO and the Commission that are not formally members of the WIPO. And so, what this group really wanted to focus on was not all substantive harmonization, not issues like relating patentability eligibility requirements but issues related to examinations in order to enhance our work sharing efforts here. Ones that Charlie mentioned, PPH, some of the new projects we've got going on, the collaboration projects as well. And in order for those to really be maximized, it's important that we had the same standards for prior art and how they're evaluated. This way, when Japan examines an application, we at least know with certainty that the definition of prior art is the same in Japan, in the U.S. so that there doesn't have to be additional searching going on and it would really streamline the work sharing.

So the goal was really to focus on these prior art related issues. Unfortunately, we haven't had so much progress there. I think what happened was we really got bogged down in going
back to some of the treaty language that was used in some of the earlier WIPO forum for discussing harmonization. And so, we're recently trying to have a new approach that is not really a treaty-based approach but more principle-based approach so that the countries can come up with a way of defining what are the best practices in the patent examination realm.

And so, we had a roundtable back in November to identify those topics for discussion and they included things like definition and scope of prior art, grace period, prior user rights, termination of novelty and non-obviousness and how prior art relates to those determinations.

And so, we held our first meeting with this new Group B Plus meeting to kind of follow on on that approach for having a principle-based approach and it seemed like the participants were really interested in going down that path as opposed to really having specific treaty language.

So we'll be meeting in early April with our counterparts to try to put together a package
that is principle-based approach that we would present to the Group B Plus plenary which meets in Geneva every year in the margins of the General Assembly. This year it'll happen to be in early October.

So those are -- that's kind of what's happening on harmonization. But I also wanted to talk a little bit about in addition to trying to have progress in that forum; the office is very engaged in all of our free trade agreements. And I know a lot of people aren't really familiar with that but we've been using the free trade agreements as a forum vehicle to try to get some robust harmonization. And, for example, in all our previous free trade agreements we've been able to secure a one-year grace period.

So that includes countries like Korea that did not have a grace period. As a result of our free trade agreement with Korea, there is now a one-year grace period. And so, those include countries like Australia, Morocco, Peru, Colombia, Chile, El Salvador, Honduras, Nicaragua,
Guatemala, Costa Rica, Dominican Republic and Panama all have a one-year grace period because of the free trade agreements.

And in addition to some of the one-year grace period provisions, there's also some other robust protections related to making sure these offices give patent term extensions for delays in examination. So that really helps our industries a lot when they get protection and they lose time due to delays in patent offices which can be very substantial in some of these countries.

Currently, we're in the process, the U.S. Government, is in the process of negotiating a Trans-Pacific partnership agreement. It's called the TPP and it's with a mix of real developed and developing countries. It's countries that border the Pacific Ocean.

So there's 12 parties to that agreement. They include the U.S., Mexico and Japan, Chile and Peru, then New Zealand and Australia, Brunei, Malaysia, Vietnam and Japan. So it's a very interesting mix which makes the negotiations very
complicated because the developing countries, obviously, want to kind of scale back on the patent protection and the more developed countries are really pushing to have more robust protection. Having said that, these negotiations have been going on for over five or six years and the goal really now is the administration is really pushing to close this agreement. Obama apparently wants it done by mid-March or April. And one of the most controversial topics of the TPP is the patents sections and in particular the pharmaceutical patent sections because of political implications relating to preventing access to medicine.

So while a lot of the -- there's a whole host of chapters in our free trade agreement and half of them have closed. And there was a meeting in New York in January during the blizzard where there was some progress being made in a lot of patent provisions. And there will be an upcoming meeting in March to try to close out some of the patent provisions. So there's a real push for
that as well.

And again, I can't really reveal the substance of the negotiations but again, the goal is similar to previous FTAs to try to push for enhanced rights with respect to patenting plants and new uses, patent term extensions, patent term restorations for marketing approval delays but also a one-year grace period. So the hope is to have a one-year grace period.

Paralleling that track is also another agreement called TTIP which is an agreement with, a potential agreement, with our European partners. And so, again, that would be a good opportunity for us to discuss grace period because Europe has been the real holdout in grace period. So one of our strategies was to make sure that the rest of the world adopted a one-year grace period and then, Europe would really be isolated on this issue.

And so far we've been successful in that approach. So we're hoping that the TPP will have positive results and that will bleed into the TTIP
with the Europeans.

So that's kind of our overview on harmonization. I don't know if anybody has any questions on that. Mike?

MR. WALKER: Mary, thank you. Just a quick question on TPP. It also I think covers trade secrets. Is that right?

MS. CRITHARIS: That is correct.

MR. WALKER: And does the office deal with the trade secret aspect as well as the patents? I just want to make sure.

MS. CRITHARIS: Yeah, we deal with the patents, the trademarks, the GI issues, the copyright and the trade secret and all the enforcement and board enforcement issues.

MR. SOBON: I have a quick question about just maybe a mundane issue but I was looking at the proposed budget as well. I think travel especially during the sequester was a key issue of our ability to really field at delegations to these various international meetings. And I would just wonder just if your reaction to the current
budget proposal, whether you feel you have enough
resources, especially travel resources to be able
to do this? It's one of the key things that just
allows us to be in those rooms with an adequate
number of people to do that.

MS. CRITHARIS: Right. That's always an
evolving issue. In the past we had that. So far
we've been able to really, you know, support USTR
in these negotiations but that may always change.
So we always encourage your support on those
efforts.

MR. SOBON: You have my support. I
think it's obviously very critical for the United
States to be there with adequate resources in
those rooms to be in the discussions.

MS. KEPPLINGER: Robert?

MR. BUDENS: My question is more
directed at Charlie. Don't worry; I'm not going
to shoot the messenger. But take a message back
for Mark. You brought up a couple of topics that
caus ed me some fear. The global dossier, the
first rollout in May to examiners and also this
PCT pilot you mentioned, I don't -- I'm not aware, I think we've had one meeting with Mark and Maria at a high level on the global dossier. But I don't think we've ever been shown any like details of what this is going to encompass. We've got to be able to -- if you're going to sit here and think it's rolling out in May we've got to be having some talks about what's going to be the impact on the examining corps and stuff with that. And I have no idea where the impacts are going to go. We have had some talks with, I think Dan and Amber, on the JPO and type and we're working to that one but the global dossier sounds to me pretty large and kind of worried about what its impact is. And the PCT pilot, I don't know whether that's going to impact. Is it at all or if that's going to be a contractor issue? But I think we ought to have some talks on it at some point very soon.

MR. PEARSON: No, I'll certainly take that under consideration, Robert. I think the one PCT search examination collaboration pilot that we
-- we've had two in a series in the past and I think we worked together with the union very nicely in that to work out the details. And the third phase is probably still a long way off so I'm sure we'll be able to have discussions on that. Thank you.

MR. THURLOW: Just a couple of quick points. So there was a meeting a few months ago, I think right here, where a bunch of foreign patent office representatives came in and spoke. And I made some comments. In your discussions, I guess, one thing I could ask, we have a lot of discussions internally about budget issues and sometimes I think the foreign governments use -- have increased fees over the years and look at it as a making money for the government. When in fact, what happens is that we decide not to file in certain countries. So the extent you can give that message that would be one thing. And just a small pet peeve of mine is that we do a lot of international filings. A lot of countries based the fees that they charge for
examining the application on the claims in the PCT and not necessarily on the national stage application in that country, which of course, they get more money, increases the fees for us so that's problematic.

And then, Mary, I have a question you probably can't answer but I'm going to ask. I've been reading more and more about the TPP. It's obviously very important. You've been working on it for five, seven years. Is there -- I'm getting a sense it's getting closer, is that fair to --

MS. CRITHARIS: Yeah, I mean, you know, there's not even too much information that goes down to our level but the understanding is, you know, Obama wants this done in his administration. So the pressure is really on right now that if it's not concluded by March or April then it may just even fall apart. Having said that there's some other political pressure because we do not have TPA, trade promotion authority, at the moment. And the Republicans are saying they will not support a TPP unless they have trade promotion
authority that's passed. So some people are saying they're stalling to April so that Congress can get trade promotion authority. But I will say a really good source of information for what's happening on these issues and now really focused on TPP is Inside U.S. Trade. So they kind of --

MR. THURLOW: That's a publication?

MS. CRITHARIS: Yes. So it's a really good publication as far as, you know, keeping up to date on kind of really it's more the inside scoop and a lot of it is just maybe rumor but some of it is substantiated.

MR. THURLOW: Right. And just one last point and I'll end. We had early discussions today about the concern with filings in the U.S. I was at a CLE conference last week with a bunch of people on and based on China. And so, their numbers are like two million now. They have a utility model. It's completely different. But everyone in the audience was just shocked by and
it's been known for years but just point of reference, point to note. I mean, that's amazing.

MS. CRITHARIS: Right. Well, they have a real innovation campaign and they also subsidize a lot of the filings. So they've got government subsidized and pushing applicants to file applications. So they've really pushed the filings. A lot of it is in the utility model context which is pretty easy for them to file an application in that area.

So we're hoping to address some of those utility model issues in our design forum.

MR. THURLOW: Well, yeah, their utility model I just, I don't get it.

MS. KEPPLINGER: Okay. If we could move along? Okay because we're way behind. I'm failing at my first chairing of a meeting.

MS. CRITHARIS: Just the opposite.

MS. KEPPLINGER: Okay. No, no, thank you. Thank you very much and we'll have an update now on the telework program from Andy Faile.

MR. KISLIUK: So I'm going to -- well,
I'm going to go ahead and frame it up and then, I'll reference Andy and Dana that'll jump in. So just want to give an update on some of the recent tension we've had around the telework and time and attendance issues.

I'm going to frame it up into two categories. One are what I call are external aspects that are going on and then, some internal aspects and then, I'll ask Andy to elaborate a little bit on some of the internal things and Dana to elaborate more on some of the external.

So on the external aspects, there's really three things that are going on right now. One is we have the National Academy of Public Administration, or NAPA. They're doing a third-party review of our telework programs.

That's one aspect.

Another is we have an ongoing engagement with the Office of the Inspector General as well in terms of some of these issues. And we have a congressional report that will be due this summer on these issues. So those are three external
things I've mentioned.

From the internal aspects, there's five things I'll point out. One is we did just have a recent union agreement and that's again, to level the playing field with all full-time teleworkers.

And then, four things and they kind of come in an order; so one is increasing awareness for employees around telework resources and best practices for those that are teleworking.

Another aspect of that increased awareness is training and this is specific training on time and attendance issues. And that's both for supervisors and for employees. That's number two.

The next one is preventative measures to avoid problems. And this is really directed towards early detection and early intervention. And when that fails, we're looking at improvements in the process when there is misconduct being alleged and that gets to the roles and responsibilities of employees in that process and the evidence used are computer records used in
those.

So those are kind of the categories and I'll ask Dana to maybe elaborate a little bit more on the external aspects.

MR. COLARULLI: Sure, thanks Bruce. I think in terms of the external engagement, particular with Capitol Hill, you're all aware Peggy testified at a briefing last year, we haven't had a lot of specific follow up but we're able to provide a good list of things that we're actively working on right now. Our internal plan for when we go back up to Hill and engage again includes specific briefings triggered by events.

So in particular, Tony Scardino and I briefed our appropriators last week on the FY16 budget. We had the opportunity there to say here's what we're working on. We're going to continue working. And to set the expectation that when the NAPA report comes out we would come up again. Again, probably do a briefing with our appropriators who have asked us to keep them regularly updated and talk about the upcoming
report Bruce mentioned due in July.

So no hearings at this point on the radar coming up but we have made sure we're keeping our congressional audiences very well informed. I anticipate when the NAPA reports comes out, my team will also want to organize some briefings with our authorizers as well, the judiciary committee. You're all aware that the chairman of the oversight committee now has moved over to a judiciary role. So I expect that some of these issues will not be exclusively focused on but as he does oversight question where's the agency? What progress have we made?

So that's the extent of our proactive congressional engagement at this point. Certainly, it's come up in questions as we've been engaging with members of Congress individually or staff and we've again, talked about the NAPA report. I think that'll be a good opportunity for us to reengage.

MR. FAILE: Okay, so to just pick up on what Bruce had laid out kind of five general
areas, I'll just give a little flavor of some things we're doing in those areas. The first he mentioned was in kind of the labor arena. So we've just recently concluded a series of discussions with all three of our unions. We have three unions here at the office; our patent office professional union represents examiners and then, 240NTE, NTEU chapters 245 and 243.

And we came up with kind of three new requirements for full-time teleworkers. One is the logging on to the computer systems at the beginning of one's workday. The second is the use of collaboration tools including a presence indicator. Currently, we're using Microsoft link for those that are familiar. That indicates availability of employees to each other for collaboration.

And the third is a work schedule information exchange for managers and employees to better know when they are available as far as their work schedules. The key for this piece of it I think is kind of a baselining of all our
full-time teleworkers throughout the agency.

Again, with three different unions we had full-time teleworkers at various places. Per this agreement we've kind of equalized that and it's kind of our first foray into discussion with our labor folks on that issue.

The second Bruce mentioned was kind of the increased telework resources and best practices. Things we're doing there is revamping our information about scheduling, about our telework programs in terms of the Web site for both managers, employees, some activity in that area. Also mentioned was the training. We are doing some training on not only time and attendance training but also work schedules, leave policy, overtime policies. We completed a training session for the managers back in October of last year. The employees are scheduled to go into their training phase this month.

There was a delay there pending the outcome of our union negotiations. We want to make sure that training is refreshed with the
information from that. We'll start that this month. That'll take about a month to go through. The idea there is to get everyone on the same baseline as far as the training. We anticipate doing this periodically to refresh that training, likely annually we'll have training available for managers, employees on these topics.

The next part was kind of the preventative measures, things that we can do to identify potential issues early, resolve them at the lowest level to the extent that's possible. An example of that would be looking at the work output. We'll just talk for the patent examiners for the moment. You probably heard terms like end loading or more work in a certain period of time versus less work in other periods of time.

We've started a corps-wide initiative called our constant credit initiative where we're actually looking at thresholds of work above a certain amount of work and a certain period of time. And we're addressing those situations in an attempt to kind of smooth that out. That helps us
enormously with workload being more even, getting
reviewer resources and maximizing those. We don't
have spikes of work that we're looking at.

It's an effort going in the preventative
side and then, the last part is looking at the
process where we have a situation that does need
to be addressed more than in the preventative
realm. Looking at our conduct process for taking
those actions forward and doing some work there
with our labor relations specialist and looking at
that whole process and making sure that we've got
that done as efficiently as possible. So just a
little flavor of some things that we are doing in
each one of those areas.

MS. KEPPLINGER: Thank you for that
update. That looks like you're addressing a lot
of the concerns that have been raised and that's
excellent. I wanted to make one point that some
statistics that were told to me. As you know,
Tuesday was a snow day here and the government was
closed. The USPTO was closed but people who are
full-time teleworkers have to still work on a day
when the office is closed because they're working at home.

And the statistics that the office gathered from this past Tuesday compared to a sort of equivalent Tuesday two weeks ago show that over 80 percent, about 82 percent of the amount of work that had been turned in in the previous Tuesday was done on this past Tuesday when the office was actually closed. So that's a significant amount of work that actually was done. And this is clearly a benefit of telework but it also demonstrates to me something else because the data also seems to say, since we have fewer than 50 percent of the people who work at home all the time but we had 80 percent of the work. It says to me that some employees that didn't have to work actually did work even though the office was closed.

And I think that is a result of the flexibility that laptop distribution and things like that that have been given to the employees. So I want to congratulate the office and the
employees on the dedication in turning in that
amount of work on a snow day.

Robert?

MR. BUDENS: I want to check that a
little bit because it's not only our full-time
teleworkers. We also have people who telework
like 32 hours out of a week. They're also
required to be telework ready during office
closures and stuff. So you have a large number of
our workforce that is set up and even if they come
in here some days, if the office is closed, they
have to work -- they have to be prepared to work
from home. And to be able to think that we have
some kind of mass amount of waste and abuse of
this system as some news media might have led us
to believe is ridiculous and this is good evidence
of it.

MS. KEPPLINGER: Thank you, Robert. So
I stand corrected. All the teleworkers, but
either way that's an excellent program that's
being run and shows clear value to the agency.

Any other comments or questions? Okay, thank you.
Okay, we have the Board up next.

MR. SMITH: Good morning. Thank you for having us again. Let me direct your attention to the person sitting next to me at least for a first introduction, Scott Baolick, who is serving as the Acting Deputy Chief Judge of the Board currently. He has a permanent posting as one of the Vice Chief Judges of the Board but in the absence of our having made a selection yet of a Deputy Chief Judge on a permanent basis, he's been kind enough to serve in that capacity.

In which capacity, he oversees the general operations of the Board on the judicial side which is to say, separating out the duties overseen, or actually, also including the duties overseen by our Board executive who has responsibility for operations matters. I'll touch first on some of the things related to the ex parte appeals and then, Deputy Chief Judge Baolick will speak to some of the things on the trial side.

We're mindful that the schedule is a bit
off and that our time is somewhat contracted here so we'll try to be as brief as possible. The main story with regard to the ex parte appeals is that the inventory is declining. In November of 2014, the backlog inventory was at 25,844 ex parte appeals. It's about 600 cases lower right now. It has a downward trajectory. We think the trajectory will become increasingly downward. One main thing to point out about the backlog is that what it is at any given time, that is, the amount of the inventory is really a function of two things. How many cases, how many appeals are being disposed of by the Board at any given time? And also, what number of new cases we are receiving?

We have, of course, given considerable attention to the disposition side of that including by increasing the number of judges who are hearing cases. We also have been very mindful about the receipts side of that and have continued to collaborate with the patents business unit to reduce the existing inventory.
Just a little more granularity with respect to that, there are two main things that are working on and intend to increase our work on with the patent corps. One has to do with allowing the patent corps to help us better understand which appeals are more readily the subject of reversals might either be removed from our inventory or not come to occupy it anyway.

We've taken some shots at doing that in the past and now working particularly with the new Deputy Commissioner for quality, we intend to give that renewed focus. We also want to look at portions of the inventory which are newer to see what more ready guidance can be provided to the examining corps to prevent cases which can be resolved in the corps before coming to the Board to be identified.

More specifically, our inventory has an age spread out over at least two or three years. And the decisions in the older cases provide, of course, less ready guidance to examiners as to what the Board thinks the disposition should have
been in the case. The newer cases, the ones entering our inventory in the last year or so, provide a more ready opportunity for the Board to provide guidance to examiners in whose minds the cases are still fresh.

So we want to look at at least sampling those cases to gather some guidance that we might provide to the corps both to help with our reduction and also to help with the quality initiative. This next slide shows something more about the size of the ex parte appeals inventory.

In one respect, one might think of this as a relatively flat chart with only gradual reduction at the end. But this is a relatively short time period from late last year to this year. Looking at the chart over a wider period of time, one sees more generally what has happened.

Starting in 2009, the inventory was growing at a very dramatic rate. And we show there the end of fiscal year 2012 number which is 26,484. Before we brought it down to that, it actually peaked at 27,200 cases. So that upward
slope you're seeing in the left part of the chart continued for some time before we were able to cause it crest and then to bring it down.

Of course, had the Board not grown, 27,000 would have been 40,000 at the rate we were going. The increase in the size of the Board, one would think, would have cause an equally dramatic downward slope so that we would be well below the 25,000 where we are now. Why has that not happened?

Well, the growth in the size of the Board went to do -- had as its intention two things, one reducing the ex parte appeal backlog and also helping with the new AIA work. And we sized it actually to not only handle the AIA work but also to achieve a more substantial reduction in the ex parte appeal backlog than you see here. That did not happen because, as you all know, we had three times as many AIA cases filed as was intended.

That said, because we still were able to keep it relatively flat for some period of time
and now also to begin its decline and because the AIA cases have more or less leveled as far as we can tell, we are, as I said earlier, in a better position to cause a more dramatic decline in the ex parte appeal backlog which we think you will begin to see in the next several months, in addition to the efforts that we will be making to reduce the receipts of cases.

And since we are short on time, rather than waiting for questions and comment at the end, let me invite you to interrupt as freely as you wish so that we can economize.

MS. KEPPLINGER: Wayne?

MR. SOBON: I have one question for you about the age, maybe you get into that in the next chart but do you -- similar to the actual corps production goals, do you have a goal you're shooting for for optimal time, sort of inventory or optimal time for pending appeals for the Board that you are going to trend to? It obviously can't be zero like in any other sort of rational inventory management, if you call it that.
But what is the goal you are shooting for at the end for optimal pendency?

MR. SMITH: We have a very definitive goal and it's a one-year pendency. We're somewhere between 10 months and 14 months. What that means in terms of the actual size of the inventory, we're not quite sure nor could we be because, of course, how we maintain that inve -- or that pendency period of about a year and what the corresponding size of the inventory would be depends on the number of judges we have and patent attorneys and other staff at the Board.

Basically, we think rough numbers that with a judge corps of about 300 and a patent attorney corps of about 50, we would be able to have an inventory of about 12,000 to 13,000 cases which would -- ex parte appeals which would result in a pendency of about a year.

Here is some more detail about the age of the pending appeals. To some extent this chart shows more dramatically the great need for the reduction in the ex parte appeal backlog. That is
some cases are three years old essentially. This chart was worse a year ago and what we did was undertake a reduction program on the oldest cases. So we redirected the resources of the Board to go after all cases that had been pending for more than three years. And essentially, we eliminated them. We currently have an initiative to get rid of the cases that have been pending more than two-and-a-half years and hope to achieve that relatively soon.

Now, that has a consequence in that the newer cases, the pendency goes up but the age of the inventory goes down which overall we think is a suitable tradeoff.

MR. THURLOW: So, Chief, just for the record, this say that in past meetings we've always started with the AIA and we asked the Board to start with the ex parte appeals first just for the record because I receive many emails and someone saying we're looking forward to the PTAB part of the AIA trials. We request you do this first because in the past meetings we've always
kind of not given enough time to the ex parte 
appeals.

The only request I'd have for the future 
meetings, I guess it's slide three, where the 
word, you have collaboration efforts underway with 
patents. To the extent that we could have more 
specifics on that and we could provide any helpful 
input, the example I'll give on that and I'll give 
credit to Wayne and Esther and many others is 
that, and Andy mentioned earlier today, we've done 
a lot of work with the patent office on different 
initiatives namely with ERC and it's had a great 
deal of success.

If we get more specifics in future 
meetings about those kind of efforts, to the 
extent we can help, we would look forward to 
helping in that way.

MR. SMITH: We certainly can do that.

The absence of specifics on the chart or on the 
slide is not a reflection of the absence of 
specifics in the actual working details, we could 
probably give you easily an hour just on the
specific initiatives in this area, both the
history and the current activity underway with
time and the current activity underway with
numbers and details and estimates.

MS. KEPPLINGER: Thank you. And we
really appreciate that. I'll tell you one thing
that worked very successfully with us on the RCE.
We did a lot of work offline in talking with them
and coming up with ideas and working on those
ideas. They weren't reflected in the public
meeting because we were just working on
initiatives and suggesting and then, patents was
able to put forward, put some meat on those by
working with the union to get agreement on various
initiatives. So that's one model that you could
use.

MR. SMITH: Let me say generally about
our efforts here and this is perhaps a good place
to say this since the appropriate officials from
the patent corps are here. At the Board we very
much respect the expertise within the corps for
purposes of helping to determine which cases are
better removed from our inventory for further
treatment at the corps.

That is, of course, the Board in total, judges and non-judges, is an entity of 300 people and the corps is orders of magnitude larger than that or at least one order of magnitude and a multiple larger than that. And we respect the great amount and long history of the corps' expertise in cases in examination and which can be applied, in part, we believe to helping us prune the inventory.

MS. KEPPLINGER: You make an excellent point and we'll very, on the Quality Subcommittee, work with Valencia on working on some of those suggestions as well.

MR. SMITH: Unless there are more questions about the ex parte appeals area?

MR. BAOLICK: All right, so the first chart I have for you is a comparison just by technology center of the fiscal year 2014 filings versus patent grants just for the reason if you look at the totals, you'll see that the number of patents granted just in FY14 is over 300,000.
Whereas we only received just under 1,500 total petitions for AIA trials.

So just the relative numbers I think are illustrative of the portion of the patent realm that the trials occupy. Another point of interest is just looking at the technology center breakdown. They are roughly on par with the filings that we receive in AIA are roughly on par with the percentage of patents granted in each of the various technology centers.

The next slide is just a historical slide of the filings we've received. We've shown this one before but as you can see this last four or five months has been rather eventful ones starting perhaps in October when we received 195 petitions and then, in December when we received 194. This month so far we're at 73 as of this slide. So just on a straight line projection, we'd be looking at maybe 140, 150 for this month.

So and the historical trends, if they hold, last year January and February were relatively low months but then as the year
progressed into the next quarter, the filings started to increase. So we'll be monitoring this with great interest to see what the filings are. As the Chief Judge mentioned, this is very important to us because it has great implications for the Board's resources and the use of the Board's resources. If the filings hold as they are and don't dramatically increase, we are looking forward to further reductions in the inventory of the ex parte appeals. But if the filings really start to increase dramatically, then again, that has some implications for how fast we'd be able to get the ex parte appeal backlog down.

The next slide is one --

MS. KEPPLINGER: Mike?

MR. BAOLICK: Sorry, yes?

MR. WALKER: Can I make a comment on that, please? So thank you very much. On that point, one of the things that I think is relevant is this issue that and I'll just give you the public perspective that there are people out there
who are looking to use IPRs as a financial tool for their own betterment. And so that, as you look at your potential workload, I mean, this raises all sorts of public policy issues and these companies are going to -- companies who are patent holders are saying if you pay me X I will not bring an IPR against your patent. Or they may be saying, I'll bring an IPR against one your competitors. You don't have to pay me now but if I'm successful, you can pay me later. So there's a whole public policy aspect to that that I'm not getting into now. But in terms of your projections in the workload you just mentioned, I just pass that on as a comment that the original intent for these IPRs to really be some further check on patent quality from the user community. This could be -- this could take on a whole 'nother trajectory that could impact your cost. And I don't know if you're hearing the same thing from others but that's definitely something that the user community is seeing.
MR. SMITH: One quick comment in response. Yes, this has taken on a whole different trajectory than we anticipated even without some of the more recent developments of particular kind of uses of the proceedings. Clearly, even for purposes of just simple patent removal the trajectory has a slope three times what we anticipated and which has caused us to have to bake into the mix all sorts of things that are suddenly upon us.

MR. BAOLICK: Right. Okay, thank you. Were there other questions before we move on? Okay. So the next slide, just to touch very quickly because we've seen this slide before, but the proportions broken down by technology of the filings remain roughly what they have been. This shows you for FY15 through the end of last week the filings again are largely in the electrical technology centers with the next largest group being in the mechanical and business method, TCs, followed by the biotech pharmaceutical and then chemical.
We still do have a very small sliver of design cases that are being filed. This slide I'm really just going to skip over but what it shows quickly is that parties are choosing most -- in at least 80-90 percent of the time to file preliminary responses in their cases.

This slide while busy, I would just like to have you focus on for the moment the percent instituted column and just noting that in FY15 our percent instituted for inter partes reviews is about on par with what it was last year. Keep in mind that this is really only four-and-a-half months' worth of data. Looking at the covered business methods, you'll notice the percent of institution is down. However, I would just caution that the numbers are much smaller there. So small changes in numbers can make large changes in percentage. I would also note in the column all the way on the right, the total number of decisions on institution, you can see that already four-and-a-half months into FY15, we've decided over 500 petitions whereas we
decided 765 in all of last year. And the trend is
the same in the covered business method realm.

It also shows up in the next slide on
the final dispositions, what happened to the cases
that filed. And if you look at the column all the
way on the right, the number of final decisions in
inter partes review again, so far this fiscal
year; we've had 108 final written decisions. In
all of last year, we had 130 in inter partes
reviews. So you can really start to see the ramp
up that's a result -- it's a lagging result of
that dramatic increase in filings that you saw
back in the historical chart.

MR. THURLOW: Scott, just looking at the
trend real quick and this is my third year in PPAC
so I'm familiar with, obviously, the discussions
we had. Going back some time there was initial
concern what the damage to all the patent owner
holders' owners and so one of the concerns, I'll
try not to use that saying if we all know. But
now I just say from the trend standpoint, I'm
going more questions or a lot of questions from
the petitioner side about how petitions are not being granted not just partial institution which was a significant concern but also petitions outright not being granted. So I only say that just as we look at trends and in several years doing this it's changing.

MR. BAOLICK: Right. It is interesting how -- I guess the one thing that you can guarantee about our proceeding is that somebody's not going to be happy with the result. Here's just a quick snapshot of a look at what happened in our final written decisions in inter partes review. And here this is similar to a chart that we had presented at least during the roadshows back in last April and May. And it's holding fairly steady.

There's about 63 percent of the final written decisions result in all of the instituted claims being found unpatentable. About 21 percent and again, this is at the very end, fond some of the claims that were instituted unpatentable and we have about 16 percent of the time where none of
the instituted claims were found unpatentable.

The results for the covered business methods are similar but the percentages are slightly different but once again, the numbers or much smaller. So you can see, for example, here you only have 30 cases in this chart whereas we had 224 in the other chart. So just the sheer numbers of the IPRs is dwarfing the inter partes reviews.

MS. KEPPLINGER: Dan, did you have a comment?

MR. LANG: Yes, please. So I want to just take the opportunity to thank the PTAB for its work in establishing the procedures and realizing a good part of the vision that went into putting them in the AIA, that these procedures have, I think, assumed a very central role in enforcing patent quality and dealing with assertions of weak patents. Just a kudos for being able to scale up that effort in a few years and get this process going.

I mean, the procedures are, you know,
these are not inexpensive procedures from a petitioner standpoint. I mean, to maybe add a little bit of a different spin to the concerns about some of the things that have been brought from our perspective, that when somebody brings one of these petitions forward, there's a significant expense involved and that represents a pretty high level of confidence that this is a patent that deserves to go down.

MR. JACOBS: Just quickly. I have seen some data, though not here, about the nature of written decisions in terms of 102s and 103s. Are you collecting those data as well in terms of claims that are invalidated in terms of what grounds and so forth?

MR. BAOLICK: We do keep track of some of that data. One thing, though, to understand about our current data collection is that a lot of it is done manually. We don't have our next generation system in place yet which hopefully will result in more automated collection of some of this data. But we are keeping track of that
and we could present some of those slides at our next meeting if you'd like to see those.

We had done some of those for our, again, for our roadshows back in April and May of last year. And so, we've continued to collect that information.

MR. SMITH: I hope it is not unseemly for the Chief Judge of the Board to say a thing or to say a thing about our work complimentary of the Board. I will beg your leave to do so.

The Deputy Chief Judge and I, as part of our responsibilities, and particularly in connection with our consistency review at the Board, read a great number of our decisions in our various areas of jurisdiction. And certainly, for a variety of reasons including the newness of the AIA proceedings, we read a great number of AIA decisions.

We invite all of you to read as many of them as you possibly can stomach. We think that the quality of the work by our colleagues at the Board, the care they take in reviewing the cases,
the review of the evidence, the clear exposition
of the decisional rationale, I think I speak for
both of us in saying we consider it an enormous
privilege to be colleagues of the people who are
doing this work and the reason for that is seen
most clearly in their written output which we
recommend to all of you.

I think you would want us to touch
before we end here on the rulemaking activity
which is of great interest to the public. We
received a great number of comments during our
roadshows in 2014 which prompted an invitation or
a request to stakeholders for comments which we
have received in large numbers. We have been
considering the comments and looking to what rule
changes we would make in response to those
comments.

We think the best way to approach the
doing of this work for speed and efficiency and
for getting it right involves a first package
where we could put forward rules that are quick
fixes to some things about which there seem to be
substantial agreement including, for example, increase in number of pages for various filings.

There's a second package that we envision undertaking a little later in time that is not Q2 of 2015 but more like Q3 or Q4 of 2015 that would involve some things that seem to be the subject of greater dispute and we're arriving at the right rule revision is a little more involved and complicated. But that's the path we're on and we think we're in a good position to get where we need to be on that.

Just providing a bit more specificity about that, as I mentioned, the increase in page numbers in some particular areas specifically in the motions to amend area seems to be -- to have driven towards universal agreement. So we're likely to make that change very soon and some other page changes possibly as well.

And we also can make some changes with regard to the default protective order burden in a quick fix. Again, there seemed not to be that much disagreement about what kind of changes would
be useful there.

A bit more difficult to, in some of the other areas, including for example, discovery where we have had about 50 percent of the people commenting say discovery ought to stay just as it is and another 50 percent saying discovery ought to be more sweeping. And maybe we've had a few people actually in the mix indicate that they would prefer discovery be even narrower but I think there is not support for that.

Bottom line is there is a wide variation of view as to how that should move. So we need to look at it more carefully.

Some of the more complex things we've looked at that we are considering and might drive a change include, for example, whether or not new testamentary evidence can be put forward by patent owners in the preliminary phase before a trial is instituted. Again, we're not sure even given comments in favor of doing that that we would move in that direction because there are consequences to doing that that might cause other problems
including, for example, whether a new submission
of a testamentary kind in the preliminary phase by
the patent owner then would trigger certain
responsive opportunities for the petitioner before
the trial begins.

And you will recall that the preliminary
phase of the trial or pretrial goes no more than
six months and the patent owner response time is
really only three months. If we burden that three
months with additional exchanges between the
parties, it becomes very difficult to meet other
requirements of the statute. So again, even with
some support for that kind of change, we have to
do quite a bit more thinking before we actually
arrive at a change.

You probably are aware that we have
endeavored to bring forward a program of
Board-side chats. We've had one of them already
on the third of February. We've had great support
from the Undersecretary's Office in putting this
together and staging it and intend to carry
through with the scheduled activities shown on
this slide through the remainder of the fiscal year.

MR. THURLOW: I just have one quick comment and thank you very much. I actually listened to the Board-side chat from February 3rd. It was very good. I want to make the comment with the corps here and Dana and yourself. And we have disagreement on this one point on PPAC so but to give you an example, the use of PGR going forward. You know, we've been asked to give a lot of feedback by Bruce and others of what we expect to see for filings, PGR.

So real interesting debate that we're having in PPAC and elsewhere is PGR going to be more of a quality review program or according to Judge Newman maybe more of a kind of a corresponding litigation for and validity. So one of the concerns, for example, this is how PGR may be used.

Now we're in the first even of the file system. If I file first, someone files second. The second person gets the patent. The only way
for me to knock it out really is through PGR. So that's something that according, as I was telling Dana yesterday, I don't think there should be -- some believe estoppel should not be at issue in that case, or reasonably should have known.

The other situation is if a one-on-one case every issues again, that we can use the PGR to knock it out within that first nine months understanding that 80 percent of IPRs are in litigation. That may not be the case with PGR. We'll have to see how it plays out but there's much more value -- there's a lot of value in the patents in the marketplace not just in litigation. It's in the business community, too.

So I just kind of -- I'm interested in hearing that debate and we have to be careful with the examiners when they do that interference research especially for track one that they see cases that are not published yet but have an earlier date and the first thing under the file so for you three in particular to consider.

MR. BAOLICK: I agree it will be
interesting to see how the PGRs play out because we've only had a handful of the filings so far but as more of the patents issue under first inventor to file, we'll see how this unfolds. Yeah.

MS. KEPPINGER: Okay, thank you. Any other comments or questions? Well, thank you, Judge Smith. That was an excellent presentation and you did a fabulous job of catching us up. Thank you.

MR. SMITH: Thank you.

MS. KEPPINGER: Okay. So if we could be back here, everybody go and get your lunches and we can come back here and eat. Let's be back by 10 of. That just puts us five minutes behind and we can eat here and then, we'll have our executive session.

The public session will start again at roughly 1:30 or 1:35. Thank you.

(RECESS)

MS. KEPPINGER: So I think we've got -- we're going to have a demonstration today of the PE2E and we look forward to hearing about it.
Thank you.

Mr. Landrith: Thank you. We're always very excited to demonstrate patents and especially to you all since you've been with us since the beginning and through thick and thin. And the outset of PE2E, this was back when even before we were presenting the wire frames to you to explain the project requirements, there were a lot of people that felt like this project would suffer the fate of decades of efforts to replace legacy systems.

There are systems that were made for far smaller workforce with very different needs and we couldn't have accomplished this without the support of PPAC and POPA. And so, I want to thank you all for your involvement on an ongoing basis and your support.

What we're demonstrating today is what we call the docket and application viewer or DAVE for short. It is designed to be a replacement of the eDAN tool which shows the examiner docket as well as document viewing tools and case metadata.
viewing tools.

   It's been released to 340 users. What you're going to see today contains all the features that we're going to release in March except for one which is an OCR or on-demand technology that we are adding.

   So this is almost feature complete and represents a huge achievement and I'm going to turn it over to Nadia Khoshnowdi to demonstrate.

   MS. KHOSHNOODI: Good afternoon, everybody. My name is Nadia Khoshnowdi. I'm an examiner from TC2400 and today I'm going to go over the docket and application viewer. Let me go through. Through the features that I will be presenting today include navigating through the application viewer, accessing application contents and data related to the application, viewing the text documents, IFW images, adding notes to the application and also accessing various gadgets such as the IDS viewer, the document comparison tool, the references viewer and the planner as well. Oh, and also the continuity data map.
We'll see all of these in action.

Let me go live into the tool now at this point. So when I open up my docket in the Web browser in Chrome, this is what's going to load here and this is my docket. All of the applications that I have docketed to me are separated into different filters. There is a new filter which includes my continuing new and regular new applications that have been docketed to me.

The amendments will show any amendments that have come back. There's also a special new and special amended filter and the return and expedited tabs which, you know, for specific types of applications will be put under those.

We also have the ability to open up anybody else's docket in order to check on for supervisors or other people, anybody who needs to look into somebody else's docket, if you're helping a junior examiner, you'd also be able to access their docket.

This application viewer drop-down menu
shows you the list of recent applications and if I
had any open it would show that as well right
here. And I'll show you in a little bit. And the
case list, this just shows you all the different
tabs that will be populated right here along this
bar right here in case you accidentally close one.

So I'm going to actually go into the
different views. Right now, by default, it will
open into the title, this title view where it's
not -- the title is not wrapped. If you wanted
the title to be wrapped in its cell to try and
save some space on the screen, you would be able
to put it in this multi-wrap view. There is also
a title span view which will have the title
spanning underneath all of these other columns
that are available.

And finally, and the most exciting view
would be the image view. In this view, you'll be
able to view the thumbnail image of all of the
drawings that are filed in each of these
applications. And that actually helps us a lot.
I'm sure it'll help design examiners but also in
my field it would help because if I was looking
for a particular application I worked on in any of
the tabs, I would be able to check this view for
pertinent prior art. So this is -- it's great.
You can go ahead and navigate through the images
as well without actually opening the application.
So that's really helpful.

And for now, I'll just go back to the
regular title, the list view. Okay, additionally,
you're able to add notes on each of these rows
specific to each of these applications. As you
can see, I already added a note indicating that
this is the particular application that I would
like to go over for this demonstration. So that
actually helped me even for this.

So we have -- the other and let me
actually -- once I open this application, you'll
see that that's going to open into a new window
but I want to draw attention to this color here,
this orange color. If I minimize this, we'll see
that color right here so that you can keep track
of the cases that are open. And that color will
also be right here.

So it helps a lot in terms of keeping track of the open cases and kind of correlating which ones you're attempting to get back to. So if I open up a new application, it's going to be a different color and it will show that here as well.

So I'm going to go ahead and close that one since I've demonstrated that point. And the other thing is since it's a browser; you're also able to utilize the browser zoom functionality. So if the text was too small, you're able to utilize that functionality.

And also, there are columns with the CPC information since we've moved into that direction at this point. But basically all of these columns are pertinent to our examination and so it's very good. It's nicely presented for us to keep track of everything.

I'll go ahead and minimize that and then, actually go into the case that I had open so we can look into some more specifics. When you
first open this application or in any new
application, you're going to notice that by
default, the claims specification and drawings
will be open. And if you wanted to close any of
them you would be able to do so by just clicking
the X.

For any text version of claims or we
will have an automatically generated claim tree
which helps us. Before I used to do it by hand so
that's definitely nice to have that feature and
you can also print it and there's also different
views. So let me go ahead and show you the
vertical view of it. Again, we have the option to
zoom in and out as we please.

And go ahead and switch back to the
indented view since it takes up a little bit less
space. So moving to this application contents
tab, that's going to show you all of the documents
that have been filed. It's got all of the IFW
images that have been filed for this particular
application. You can sort by any of these columns
and you can kind of look through and see the
prosecution as it's gone. It's kind of gone through some rounds here.

If you wanted to, you can filter by particular types of documents. For example, if I only wanted to see the IDS documents, I could go ahead and click that and see only those documents.

The application data tab includes information that we would use for search and just for understanding the general content of what's presented in the application, the specifics related to the case. So for example, you see the title. You see that it's been docketed to me and we have this in several instances that it's my docket that's open and whoever it's been docketed to is also listed here along with analytics.

We're also able to see the attorneys of record, the customer number would be loaded in here and if I wanted to view the lists of attorneys, it would pop up in this window here. So that's actually very helpful. So we don't have to go outside of this tool to access that list.

And as you can see, the customer number loaded
The other information that's down here, I won't go through every row or every category but all of this information is somewhat relevant to our examinations. So and there are certain areas where like the classification information was on the docket view. We also wanted to have that included once you have an open application to minimize going back and forth between the views. So I think that's very helpful that everything is kind of in more than one location. It's very helpful.

Relating to continuity, if I expand this, it will show me the applications and the continuity. And the cool feature here is family map will be presented in a visual form so that helps me see anything that's been either a continuation or a continuation in part and other types of even provisionals or any type of family will pop up here. If I wanted to see the report view, I could also see it in that manner.

So let me kind of show you based on --
and actually I'm going to zoom out of this a little bit. Okay. So once you have a text document available, you're able to include notes and I think that's a huge feature because usually prior to this I would include my notes on paper. So this has helped me be better organized in electronic format. So it's helped me greatly to kind of keep track. And I went ahead and added some notes here just for the purposes of this demonstration to give you an idea and I will also add one but I just want to describe these first. 

So for example, if I had a reference for all of these features and I realized this is the one where I'm going to have to find another reference and I find something else for it. So I could tag that as, okay, this will make this a 103 and I'll need whatever reference for this. It's basically customizable by the examiner. You can add whatever you want in free text.

If I felt like this was allowable, I would be able to highlight the allowable text. Again, this is for demonstration purposes only.
I'm not indicating anything at this moment. But just you're able to kind of see the notes that would have been added by an examiner.

So I'll show you if I wanted to actually add a note, it's as easy as just highlighting it and when you release the cursor, you can select adding a note. We have various tags here so all of those can be used, well, anything that the examiner would like. And for anything that's a 112 first, 112 second, you can say that the claims will -- the dependent claims will inherit those rejections as well.

And it's always nice to have multiple colors because people like to color code things, right? So it's very helpful.

We have the option of private notes which would be private to the user or internal case notes which would be viewable by others. And I'm not going to actually add one since I've already previously added them.

In the specification -- oh, I'm sorry.

Actually, let me show you. There is also an image
view available. For all of these documents that
have been converted into text, there is also the
image view and that's very helpful. In case after
something's been amended, you just want to double
check, that's available for you so. And
annotations can be placed on anything that's in
image view. So that's also very helpful. I mean
the biggest thing for me that's helped me a lot is
that you can add the notes and add your features,
anything that you needed to add like you can
localize it within the file so every time you go
back to it, you'll be able to pull up all of the
stuff that you added and this isn't actually even
my computer.

So clearly, since it's Web browser
based, it saves those. On any other computer, if
you login as your own, with your own user
information so that's a big plus.

Most of the specifications have also
been converted into texts. And if I was looking
for anything specific within the text, I could do
a keyword search. So just since that's the second
word, I'll just do present and we'll see it should
find, where is the highlight? I'm missing the
highlight however --

MR. LANDRITH: I think it's just washed
out on the screen.

MS. KHOSHNOODI: Yeah, I think so. So
however it has helped me a lot in the past so
we'll just go with that. And the specification is
also again any text document will be viewable in
the image format. So the drawings, these are only
available in the image format which makes sense,
right?

In terms of the gadgets that we have
available, I really wanted to demonstrate the IDS
viewer. This will show you all the IDS documents
that have been or information disclosure
statements that have been filed in reference to
this application. So I could expand any of them
or all of them.

The really cool thing about the
different view is that we have that thumbnail view
available here as well. So before this, when I
get a lot of information disclosure statements
with hundreds of let's say and non-patent
literature documents or foreign documents, they
just scanned in under the code NPL or foreign
patents or whatever. So for this it's very
helpful so that you can kind of go through when
you're considering, you can say okay I saw that
one, I saw that one.

So this helps us a lot when we're
bombarded with multiple references to consider.
And you can also go through it and navigate
through the images. So that's extremely helpful.

And we also, one of the bigger things
that I wanted to note, so when you actually open
the IDS, previously we would have to go outside of
this tool to perform annotations and now, we have
the annotations available within the tool. So
that's definitely something that helps to just
have everything localized and we would just be
able to put it into a folder for us to import into
our office action.

Let me and let's see. So the next
gadget I'd like to go over is the compare gadget. This is actually very helpful to us for example in instances of determining double patenting. So this is my application, my current application and I'm going to go ahead and select the claims that have most recently been filed and from what I saw in that continuity data, application 1397277 was in -- that was I think either a continuation or a continuation in part, I don't recall, of this application.

So I wanted to check to see if there was a double patenting issue, I would be able to compare these two documents to see if there is anything that I need to consider in terms of a double patenting rejection. So as you can see they look fairly different. Of course it takes very close attention by the examiner and the examiner will have to analyze this thoroughly but basically this tool will present the strikethrough and the underlines. And you can also choose which specific claims you'd want to compare.

So it's very customizable and if you
made a mistake and you wanted -- or if you just
wanted to see them in the opposite form, you could
kind of see that as well very easily. And let me
actually close this one out. The references
viewer is the next one that I wanted to go over.
I went ahead and added a reference
before the demo just to save some time but
basically you're able to use this add reference
dropdown menu and you can choose either to enter a
patent number which will pull in all of the data
for that patent or you can choose to put in the
foreign patent number and that, you will be able
to verify certain ones of, you know, so. Or if
you're not able to verify it since the system is
not identifying it, you're still able to add it in
there. So nothing precludes you from doing so and
if you wanted to, you could also add an NPL and
with the publication information and you can
attach the document which is the biggest thing
here, right?
Because when I go back, instead of now
printing the document, I can just attach it in
here thinking oh, maybe I'll use in this future.

Maybe I want to cite. It's very helpful at loc --

it puts everything within the application and

that's the biggest thing for me that's -- it's a

huge improvement over what we have so. A lot of

these things are enhancement and just they're very

helpful to better organize everything in an

electronic format.

I already do this stuff in a paper

format currently so it's not it changes much there

but in terms of being able to access it from

anywhere, it's very helpful. And let's see, so I

think I missed the planner. So let me go back to

the docket view.

Oops, that's the same. So the planner

is what we can access from the original view which

is what's going to open when I login or with my --

well, when I open the browser under my user login

information. So this icon right here is called

the planner. The other cool feature is that it's

very customizable. You can open anything in any

of these little blue areas that highlight as you
can see.

So I'm going to go ahead and open it here and this is actually very cool because I can plan what I like to do this bi-week, right. I can say these applications need to be done and this is all just user customizable. It's for me to kind of put together a plan for myself for the bi-week. I can also do the same thing for next bi-week and this will also show applications which have been completed this bi-week and next bi-week.

So for the most part, and this also has all the views, but for the most part those were the main features that I wanted to go over and I left some time in case there are any questions. So I don't know if anybody has any questions or I can --

MR. GOODSON: I've got one. If I go online at home or the office to search patent database there's two different databases, 76 forward and back.

MS. KEPPLINGER: Mark, can you put on your --
MR. GOODSON: I'm sorry. The 76 database forward and back. Is it -- and you may not know the mechanics. You obviously can get to both or is it being combined into one database?

MS. KHOSHNOODI: In terms of searching or in terms of --

MR. GOODSON: Yeah.

MS. KHOSHNOODI: So searching is another aspect. That's going to be under another -- yeah, you would maybe --

MR. LANDRITH: Yeah, I can speak to that. So this pulls it up by the patent application number. Right now this focuses on the active and the priority one non-active cases and we're loading the back file kind of in the background going along. But the search capabilities are something that what she demonstrated are kind of searching within a document.

The search capabilities in general, are something that we're working on refining. One of the challenges is the older documents are not as
easy to turn into text which makes them more
difficult to search especially the old, old
documents which contain human handwriting. That's
not a problem with 76 but that is a problem that
we're working on in a separate area of the
examination tools and the public tools.

MR. GOODSON: Thank you.

MR. LANDRITH: You bet.

MR. THURLOW: So it seems like a great
program. I wish I had this at work. I guess just
a more general question. It just seems like as
examiners you have to go through a lot of training
I guess with the CPC training you had last year
and you have this. How much -- is there an
average amount of time that an examiner gets to go
through training for this? It is a day? Two,
three days, a week, two weeks?

MS. KHOSHNOODI: So they're currently
putting together a training plan for this and they
have their draft copy. I can't really speak to
more than that just from I'm just -- I'm a
detailee so I don't want to kind of speak out of
terms.

MR. FAILE: So I'll take the pressure off you. So, Peter, in general, this would be in our automation suite of training and it really depends on the actual program we're deploying and how different it is. Something like this, it's not going to be a two-day training but it'll probably be a few hours' worth of training. It'll probably be some practice time, et cetera. It kind of scales up by what tool we're rolling out.

This would be -- this is a big departure, I'll say, from our current tool, our eDAN tool docket viewer. So this would probably be on the side of the training where we're spending some more time making sure examiners are comfortable. This is a bread and butter tool they'll be using every day to look at their docket.

MS. KHOSHNOODI: The one thing I wanted to note is just that the interface, it's more user friendly however; a lot of this data is already in our current tool as well. So hopefully, again,
it's more or like kind of just getting used to using the new tool.

MR. THURLOW: I'll say I think it's great. You're much better than me because I haven't got comfortable yet putting the notes in the electronic docket and stuff even when I read books on iPad and stuff so that's a big change, yeah.

MS. KHOSHOODI: Yeah, I mean, I keep paper files for everything I have and it would be nice to be at home working from home and not feel like, oh, I wish I had my file with me, right? Because there are certain times where you have unscheduled telework and you didn't have the file you wanted to work on. But you can still do the work; it's just that this makes it a little bit easier in terms of your documents and kind of gathering your thoughts.

So from an organizational, like, from organizing, from that perspective, it's extremely helpful.

MR. JACOBS: Yeah, I'd like to highlight
a couple of things that I think David alluded to earlier. First of all, in terms of placing this in the historical context, right? Some of the people who have participated in these meetings that we (inaudible) remember we saw a demo of an early version of this at the end of 2012, more than two years ago.

And then, that effort was put on hold during the sequester period and now we have to start it up again. And then, what we're seeing today is really not only a newer version of that tool that's about to rollout but also in many ways superior in terms of its functionality. So I know David thanked us for our support. We have been supporting it but thank you guys for sticking with this all this time in terms of getting this rolled out.

Second point of clarification is I know some of the people here aren't really familiar with the PE2E portfolio and this docket viewer is really the first of a series of tools within that portfolio that are being rolled out. And I know,
David, you'll talk more about this later but sometimes it gets confused because we'll say this is PE2E demo and it's really only a demo of the docket application viewer component and the search tool, the office engine, some of these others are still in the works.

And then, related to that, Nadia, you pointed out like a whole bunch of cool features and very useful features. And some of them you said, oh, this is great. I can see the same data at home that I would see here because it's browser based and all that. Now, a lot of us take that kind of thing for granted now because that's true of most of the applications we use. But in terms of the context here at the office because our infrastructure hasn't been modernized because of these various issues that we've had, many of them financial, that this is really a very new thing for the office to have an application like this that instead of being client server based, meaning built on technology from the 1980s, it's really built on technology from today.
So it's from the bottom up. I know you were probably going to say this anyway, David, right? But from the bottom up. This is built, you know, you're seeing the user point of view but underneath that is a tool that's built using current day technology which means we can customize and integrate it with the other tools and so forth.

Okay, so that's my spiel in terms of how this fits. In terms of one question I had, you showed a lot of things, you'd say, okay, this would help me do access, would help me do Y. You're an examiner.

MS. KHOSHNOODI: Yes.

MR. JACOBS: In terms of how you go about your daily work, can you just like highlight again a couple of things that you could see making a difference in terms of how the examiners go about their work on a daily basis?

MS. KHOSHNOODI: In terms of this new tool? Okay. So yeah, I mean the biggest things I would say would be the notes are extremely helpful
to be able to add those in and just customize them as I please and also, it's nice that there's an option for making it a private note so that I can -- if I'm just thinking like oh, this might be something I want to consider without actually making it an official thing because I still haven't completely figured out which way I'm going, it's nice for me to have that option without anybody else kind of looking into it being like what was she thinking? So that's very helpful.

The IDS viewer, that's a newer feature that we did not have previous to this and that actually was very helpful because it localizes everything within one document. Definitely, the thumbnail view, extremely helpful and I think, yeah, the references viewer. I mean, pretty much all of the comparison, the reference viewer, the patent family map, all of these features are extremely helpful in our day-to-day job because we are production-based. So we want to go through things just as we -- anywhere where we can
localize things within one tool it's a lot -- it's very helpful for us, let me put it that way.

MR. BUDENS: I'm going to steal some of Dave's thunder, too, and save him a whole lot of talking because especially for the benefit of our three new members. What you're seeing here is a paradigm shift in software development at the EPO?

No, at the USPTO. Where am I?

And I think the results speak for themselves. I mean, prior to the advent of this development, basically, we had a group that would develop a program and then they'd give it to the examiners and say, this is what it does, figure out -- make it work for yourself. This one was designed from the ground up with total user input. We have right now, what over 300 people and we're expanding it even more of examiners, people from the corps. Nadia's from the corps. And she's from POPA, she represents POPA with the team that represents there and we have four other people from POPA who are working up there.

And it's being used right now by over
300 examiners testing it out and constantly giving feedback, constantly giving what Dave would call agile development. I just call smart user development but I think the results will be seen as we roll this out to the corps; it's going to be positive.

MS. KEPPLINGER: Wayne?

MR. SOBON: Yeah, you may have shown this before, David, but I think the comments about where this fits in the overall architecture, I always love graphics. And so, if you could figure out some sort of high level architecture diagram of how all the pieces will fit together and what pieces are done and what pieces are remaining, that would be very helpful to just sort of, I think for the general public but also for me to play along so we know what things are in the works and where they fit in the architecture structure.

MR. LANDRITH: I'll take that as an action item for the next PPAC meeting.

MR. SOBON: Great.

MR. BUDENS: If it helps, Wayne, if
you're familiar with any of our existing tools, we have what's called eDAN which is what we currently use to pop around amongst the applications on our docket. This is basically the beginnings of the replacement for the eDAN tool.

Right now, most of our tools are not integrated well together. So we have eDAN to look at dockets. We have OACs to write office actions. We have east and west to search with and what am I forgetting? It seems like I'm forgetting another major tool somewhere.

MS. KHOSHNOODI: PALM maybe?

MR. BUDENS: Huh?

MS. KHOSHNOODI: PALM.

MR. BUDENS: PALM, oh yeah. Our worst memory, PALM. You know, to keep track of everything behind the scenes. And so, this one is the tool that's going to -- is replacing eDAN to allow people, examiners, to get to our applications and get to the files.

MS. KEPPINGER: Anybody else?

Comments, questions? Okay. We'll move on to the
next presentation.

MS. KHOSHNOODI: Okay, thank you very much for your time.

MS. KEPPLINGER: Yeah, thank you, examiner.

MR. CHILES: Good afternoon, everyone. I am Tony Chiles, Deputy CIO. I am sitting in for John Owens who apologizes. Says he was pulled away, short notice, to DOC for a briefing so I just wanted to take this moment to introduce myself for those who may not know me. And following the tangible progress that we've just witnessed on the docket and application viewer, we are going to now move to a more comprehensive overview of our progress across the patents and PTAB efforts.

And so, David will continue on with that now.

MR. LANDRITH: So we're starting off this presentation by talking about the PE2E accomplishments specifically relating to the tool that we just went over. As we wait for that to
come up, we at this point what you saw is the release product short of some defect fixes that we're going to be doing. Some which are planned, some of which we'll realize over the course of the next month or two with examiner usage in addition to the feature I mentioned about OCR on demand.

So then, with patent classification, we had released the CPC tool in January of 2013. Since then, we've had a series of major feature upgrades and releases the latest of which goes -- is from October of 2014. What we did was we integrated secure authentication with the EPO, with the USPTO examiners for the EPO's Web site as well as enhancements to the database conflict resolution engine.

These are the accomplishments I discussed before focusing mostly on the last rectangle. So just this last month, we completed the transfer assistant tool enhancements that we had slated as well as automation improvements for the revision and reclassification tools that we use in concert with the EPO. CPC is starting to
stabilize in terms of major features. What we have on track for March are further enhancements in the transfer search assistant and classification allocation tools as well as bug fixes.

So a global dossier, examiner access to foreign patent application which currently uses an outdated system called TriNet, it does not include Chinese data. Through the one portal dossier project, that has been implemented in the examination tool that Nadia demonstrated. The pilot release went forward in November of 2014 and after a series of revisions and enhancements, it's on track to be deployed to all examiners along with the deployment of the tool that she demonstrated.

Public access to foreign application documents dossiers was a project that was just initiated this past September. It has two main aspects. One is foreign users accessing U.S. Patent family members. That part is going to be completed in June or the initial release will be
in June and then, the second part is the inverse of that which is U.S. public users accessing the foreign patent family data, that will be implemented in November using an additional tab in the public pair application.

So I'm not going to go into the details of all these releases that we have listed here. I mentioned in the last PPAC meeting that it covered during a period that we were releasing at about a third of the production releases that we were doing. But this required integration and modification of almost every major tool and a lot of our minor tools. We've completed the pilot review for the Hague implementation. The State Department has signed the Hague agreement finally and that puts us on track for the production launch in May.

So the patent law treaty implementation and we, at the end of the first quarter in FY15, we're able to enhance the patent term adjustment calculator. It enhances visibility as well as the administration capabilities for administrators and
users. We already dealt with the Hague implementation.

With AIA phase three, we had to close that down in order to focus on the Hague. As you saw, that was a good deal of work. We resumed it in mid-December. We're on track for third quarter FY15 deployment which involves revision to eDAN, score, PALM and expo and then, we'll complete the AIA phase three at the end of this fiscal year.

All right, so we have the patents and the PTAB, the Patent Trial and Appeal Board end-to-end deployments that cover the American and Vensac proceedings. For the inter partes review, we plan to release that at the end of this fiscal year. For the covered business methods, that will be at the beginning of the next fiscal year as with the post-grant reviews. And then derivations are doing to be second quarter of the next fiscal year.

We also have slated new automated reporting for PTAB. The PTAB reporting right now is largely manual and involves a lot of manual
processing and post-processing. So the first step that we hope to have completed this quarter is to automate key legacy reports and an interface that allows for the fluid creation of new reports.

The second phase that we are going to kick off in third quarter and continue through the first quarter of FY16 is to create reports that are automated based off of the PTAB E2E deployments.

So assignment search, this has been an exciting project. This just started in October 2014 and it was released in December of 2014. So that is a four-month project. That is the shortest project for any kind of material deliverable that I've seen and that anyone that I've talked to at the USPTO has seen. So this is a big success and it was able to leverage search tools that we deployed in GPSN.

So I've put the URL here because it's available to the public. I'd encourage you to take a look at it. It's very, very nice product. It has a substantially improved user interface
with vastly expanded functionality. That includes expanded search fields. As you see the correspondent name and address, the assignee address, the invention title as well as expanded search functionality. So you can search multiple fields simultaneously. You can filter the search results that you get. It provides wild card and Boolean searching capabilities.

And then, it also provides Fuzzy searching so that corporations that you commonly see as x-dot, y-dot, z-dot or x, y, z, or any combination of dots within them or xyz Inc. Get treated as equivalent. And that, I think is a huge step over what we have.

So we still have some stuff that we want to complete with assignment search. On track for this quarter is a quick look up of property numbers and real frame numbers that go directly to the abstract of the title or the assignment details as well as additional user improvements. On track for completion by the end of the year is trademark assignments, document images, data
export features as well as an API that allows for outside applications to access the data directly.

So pair bulk data is also based on the GPSN search technology. It's on track for a deployment next quarter. It'll provide application data search fields. It'll allow you to download the textual data from the search results. Right now, if you download data in pair, as you all probably know, you have to select an application, download it, select another application, download it. The idea here is to allow for the data to be downloaded in bulk from the search results that you get. It'll also allow for a programming interface so that applications that people decide to make in the private industry can access the data directly.

On track by the end of the year would be additional search fields, additional features in response to customer feedback and then, by the end of the next fiscal year, we hope to be able to include file wrapper images. Questions?

MS. KEPLINGER: Paul?
MR. JACOBS: I guess I'm going to make some of my usual clarifications. Okay, so first of all, you mentioned GPSN and the context of the assignment system. Since we have new members and maybe some people haven't been following. So GPSN is the global patent search network, right? And the search technology that's used in that is actually the search technology that was developed for PE2E, right, using open source technology east and west which was the search systems currently used by examiners which Robert had alluded to are built on BRS search technology which is at least from the '80s if not earlier, right?

MR. LANDRITH: Right. And it's increasingly expensive and difficult to find resources that actually support it.

MR. JACOBS: Right. Right. Then we also -- Robert also mentioned OACs, right, which is the office action tool currently used by examiners and this isn't being affected really by any of the stuff we discussed today. So I guess just to set the context here, so we have at least
these three other major systems in the office, right? The office action system, the search system where in the case of search it's a little convoluted now because we've got the next generation search system being used for assignment and international, some of the Asian language searching, but the bulk of the searching in our own patents is currently down using the old system, right?

We have office action, we have the search and we have PALM which is sort of the back end to all of this. Can you give us some context in terms of how we're progressing in terms of the overall migration and replacement of these legacy systems?

MR. LANDRITH: Absolutely. So in terms of examiner tools, there are three main applications. Actually, I mean, there's -- Robert can tell you there's dozens of applications. But in terms of the corps day-in, day-out use, those are the eDAN application which we -- the functionality for that is covered by what we
showed in the demo and then, the second that we have mentioned several times is search. And then, the third is office actions which, you know, the official correspondences that come from the patent examiners.

So the office action project right now has been focusing on workflow items while we try to find an authoring tool that is suitable for the use within the framework that we're talking about of a Web-based design. We are within office action, there's three major components, the workflow, the authoring solution and the role-based access, what we call role-based access control which is how we know, for example, that a SPE is a SPE or a secondary examiner is a secondary examiner.

So we're focusing on workflow right now. The target for that is to have our first prototype of the workflow by April and then, to begin continuous work on that as we begin to integrate an authoring solution in the fall and then, begin to integrate the role-based access thereafter. So
the target for deploying the office action then is in December of 2016, quarter one of FY17.

Does that -- do you have any questions about that before I move on? Okay. So with search, what we have right now is a highly functional user interface that we could demonstrate for you. It works very well. It leapfrogs the current functionality. The challenge that we have is that it only incorporates U.S. patent grants and pre-grant pubs. So that's not sufficient to actually get a lot of traction with examiners.

So our next focus is going to be in addition to refining the user interface and making sure that we eliminate the defects that we've accumulated, is going to be on expanding the number of collections that we have. So we are hoping to have all of the collections that are currently used by east and west into the search system by the fall.

That will then allow us to provide a meaningful beta to the examiners and we hope then
to, after about a year of beta testing, be able to release that also in December of 2016, first quarter of FY16. So that's two major releases in the same month. Does that answer your question?

MR. JACOBS: Yeah, I think that's very helpful.

MR. LANDRITH: Okay.

MR. JACOBS: Because these things aren't currently on the schedule for rollout because they're still in the early stages of development and you have a year beta scheduled which takes us into the next fiscal year.

MR. LANDRITH: Exactly.

MR. JACOBS: Did you want to say anything about PALM?

MR. LANDRITH: I did. Thanks. So that's the fourth tool although it does have some user interface elements, its primary role is in the back end and so, it actually manifests itself in everything that the -- almost everything that the examiner touches.

So we are adopting a strategy to replace
it. The name of the system that we're adopting to replace it, it's a tentative name but it's CEDAR. It wasn't intentionally a pun on the tree theme but it ended up being that way and we'll -- the strategy for that is fairly textbook example of the use of services in order to migrate. What we want to do is put a layer of high level services in front of PALM and then use that to push something in its place over time.

And so, at this point, we're still working on a road map for that because that, you know, since as I mentioned that has tentacles that go into every aspect. It's something that's going to require a good deal of planning and a good deal of coordination in order to start biting things off.

And a good chunk of luck. I want to reiterate that because when Robert said it his microphone was off.

MS. KEPPLINGER: Any other comments or questions from anyone? Okay. Thank you, David. Thank you. We have a break on our schedule here.
Should we be back at 2:50? That gives us a 15-minute break. And I apologize because I am going to have to leave a little early myself and Paul will take over the reins. Thank you.

(Recess)

MR. JACOBS: Hi, welcome back everyone. I'm not Esther Kepplinger. Esther had to catch a plane. I'm not Marylee Jenkins either who's in New York. So I'm Paul Jacobs and I'm going to hold sway here for the next few minutes while we finish up the meeting.

So next on the agenda is Tony Scardino who's the Chief Financial Officer. Tony couldn't make it today either so Frank Murphy, the Deputy CFO, is going to take the reins for him.

MR. MURPHY: Thanks, Paul. Now, what we're going to cover today is really just a couple of things. We talked in prior PAC meetings of the fact that any given time we talk two or three-year budgets when you're talking about the federal government. I'm going to go through the '15 budget, what we've been enacted, where we're at to
date, talk about the '16 budget and I'll have a
bullet in there to address a little carryover from
'14 as well.

In terms of our status, we were
appropriated in the middle of December $3.458 -
Billion for FY15 and as of December -31st, our
working estimate of our fees is $3.14 Billion.
And you see that broken out for Patents and
Trademarks.

The second bullet actually talks about
some of the carryover from FY14. One of the key
tenets of the America Invents Act was the creation
of the Patent and Trademark Fee Reserve Fund. And
in FY14 we collected fees above what Congress had
appropriated for us, and those monies
automatically went into the Patent and Trademark
Fee Reserve Fund for the sole and exclusive use of
the United States Patent and Trademark Office the
following year, the subsequent fiscal year. And
it required a reprogramming request to Congress,
which we submitted in the early part of the fiscal
year and Congress approved that as well in
mid-December. And that was $148 Million that we got back from the Patent and Trademark Fee Reserve Fund.

So those monies are available in FY15. And just taking a look at where we're at today, you can see the chart shows for both the Patents and Trademark breakout what our fee collections have been to date, what our spending has been to date, and looking at our end of year projection of what our spending will be. And if you notice from the previous chart, our working estimate of fees is $3.142 Billion. We are, in fact, going to use some of the money that's in the operating reserve to cover our projected spending for this year, and this will leave us with about $408 Million for the operating reserve at the end of the year.

And these following items are point in time data points but as of the end of December, we had hired 91 of the 450 planned Patent Examiners and 12 of the 91 planned PTAB Judges. I know those numbers will be a moving target. They get updated frequently. I know we've progressed
beyond that I just don't have the current
information for you.

Our total IT spending is $763 Million
which is an increase of $160 Million over what we
had submitted in the FY15 president's budget. And
that was a conscious decision that we've made both
in relation to feedback we received from you, from
our stakeholders indicating that we want to be
more aggressive with our IT investments, and to
actually use some of the monies that we have in
the operating reserve to make those investments
because our IT improvements are, in fact, a
multi-year increase.

When you look at the FY16 budget, we
submitted this and we've requested authority to
spend $3.2 Billion and we have, again, operating
requirements of $3.5 Billion. So we intend to
continue to use the operating reserve for the
purpose for which it was established -- to take
care of the program changes and primarily our IT
investments that we've made going forward.

The '16 budget will allow us to hire 250
Patent Examiners. These are attrition
replacements. We're actually going to have our
zenith, our high point of patent examination in
FY15 and from this point forward we'll be
progressing towards that soft landing that we've
talked of in the past to match our capacity, our
examination capacity with our operating inventory.

This Budget also continues on our
efforts with enhancing the satellite office
outreach programs, does some pro bono, pro se
assistance efforts. We again are increasing the
PTAB staff by 60 judges and some administrative
support to go along with that and continue the
investment in IT.

You'll see a decrease in patent IT
spending from the operating plan and that is
reflective of what you just heard earlier today,
the patent's end-to-end deployment of the 1.0.
And we are putting a renewed emphasis, special
focus, on quality and training for the patent
examiners.

We'll include hiring of 50, excuse me,
of additional full-time equivalents to assess and contribute to the quality of work that's done by the examiners. We'll be providing additional technical training and we'll make sure that they're well-versed in the information technology tools, all in an effort to enhance the quality of our patents.

And we're also underway with our biannual fee review. We're just kicking that process off now. We have ballpark, in fact, exactly 45 fee change proposals that have been submitted. This includes some of those that were submitted in your PPAC annual report, and we have a body that is in process right now of doing the preliminary assessment on the merits of each of these 45 proposals, weighing the impacts on USPTO operations, on the intellectual property system as a whole, and seeing what the impact would be for our revenues, what legal authorities we have and then, what things we should be publicly proposing to get additional comments on.

Not on the chart but just as a data
point as well, our satellite offices are progressing. We have the Detroit and Denver offices that have now opened. San Jose and Dallas, we're targeting for the fall of 2015. So we're making progress on that as well.

And that's a quick highlight for the budget process. I'll open it up to any questions you may have.

MR. JACOBS: Mike.

MR. WALKER: Thanks, Frank. Budgets, Pat knows budget is not my area of expertise so sorry if this is an unsophisticated question but is there a target around the operating reserves? I saw the 266 from the operating reserve for the 2016 budget. Is there a target below which you would not want to go or is that not the case?

MR. MURPHY: It's actually not a naive question. It's a very good question. We've recently established a financial advisory board to do precisely that, to look at what we'll call the rails. What's the high level that if an operating reserve reaches that that we'll need to do a
fundamental reassessment? Whether that be changes, enhancements that we'd want to make, additional enhancements to the IP system or reductions in fees, and also a low rail below which we don't want to go without again triggering an in-house review.

Are there things that we need to be looking at for our revenue projections? Are there any tweaks that we need to make with that or at that point, take a look at the spending side of the equation to say we may need to defer some of this spending to a later year. So we are, in fact, looking at that.

The target is a three-month level, a three-month operating reserve and we are not approaching that under the current budget.

MR. WALKER: And just for my own benefit, what would that be that three-month operating?

MR. MURPHY: It should be in the neighborhood of $800 Million.

MR. WALKER: 800, okay, all right.
Thank you.

MR. THURLOW: Frank, just a quick question. The concept proposals, is it fair to say a majority of them are probably going to be increases but I assume there's going to be some where you look at and maybe some decreases? And then, to the extent, one of the things in the statute that PPAC works on and we've done and you're familiar with is the fees.

It would be interesting to see them from a concept standpoint. I think in the past one of the criticisms of the financial model for the PTO has been its reliance on money from the maintenance fees. And to the extent that we can maybe use other approaches would be recommend.

MR. MURPHY: Yes, there's a number of things and, in fact, PPAC will be part of this process as we go forward. This is truly the preliminary stages. We're doing an assessment to see what the impacts are, what things we're actually going to have legal authority to do and we'll go through, once we have a preliminary scrub
of which of the 45, which things seem to have merit, we'll do a deeper dive into those. Some of these may not have any effect on raising fees. It could be tradeoff and it would have to be weighed as well with what we've just gone through a couple of years ago, that very massive first-time fee setting, as there were some key decisions that we made.

And part of the evaluation now is if we look at any proposal in isolation, we want to make sure that it still is in concert with the overarching approach that we all agreed to two years ago to see is it still meeting those goals. And if not, it doesn't mean that it's off the table but it's one of those decision points that we need to evaluate clearly and articulate clearly to say here's what the impact would be.

MR. JACOBS: So to follow up on Mike's question, to put this in context, right, you mentioned that the stakeholders strongly supported an increase in the IT budget to try to continue the modernization that has been long-delayed and
in this room we just saw some of the benefits of
that in terms of the rollout of these new systems
that are really going to hopefully change the way
that the examiners and everyone else in the office
does their business in a very positive way.

So that's very important and where we
are now is because we had an operating reserve,
fee reserve, that we could use from last year.
We're using that to finance, to pay for some of
these increase in the IT budget and that's planned
continuing into FY2016. In other words, instead
of continuing to deposit money into the fee
reserve fund the way we did last year, now, we're
drawing down on that but to Mike's point, how
close are we going to get to that minimum level in
FY16? Do we have any idea now in terms of how
that's going to affect things?

MR. MURPHY: Yes, in fact, let me just
go back to the chart. I think we have -- you see
on the end of FY15, the projected operating
reserve is $488 Million. In '16 we are going to
dip into that again and I believe off the top of
my head I want to say it's about $260 million that we'll be dipping in.

So we still have the cushion at that point but one of the considerations that we have as well and part of what this executive body is looking at, we actually monitor the fee collections on a daily basis, report out on a monthly basis to see are we trending the way we had projected. And if not, if we're coming in lower, then do we need to reassess the IT spending or do we still have enough cushion in the operating reserve to continue with the IT investments?

Because that's a critical lever that we have, but one that we don't want to pull back prematurely. I'm not sure if they covered it, in the beginning of the meeting today, the fact that when we went a few years ago with sequestration we had to pull back about $80 Million in our IT investment. It cost us a lot more than 80 Million to catch up and it cost us a lot more in time.

So we are very cautious with that but it
is one of the key variables that we look at to make sure that we have an adequate cushion in the operating reserve.

MR. JACOBS: Yeah, Robert?

MR. BUDENS: Just a question. I realize that we're projecting out for '16 but what kind of positions are we looking at to hire 80 additional staff dealing with quality of the work by examiners? That's obviously got a, like, strike a chord here as to what you guys are planning on doing with 80 additional people in that regard.

MR. MURPHY: I was going to defer to Patents for that.

MR. HIRSHFELD: So in preparation for the quality summit and what comes out of the quality summit, there's placeholders in there, right? So there's not any, right now there's not a correspondence of how those exact staff would be used and whether that's even the accurate number. It's really a placeholder for moving forward should those spaces be needed.

MR. JACOBS: I'm sorry. To follow up, I
thought those weren't actually necessarily additional head count, right? They could be --
they could be shifted from other parts of the organization, isn't that correct?

MR. HIRSHFELD: It could be any and all of that, right? I mean --

MR. MURPHY: Right.

MR. HIRSHFELD: -- so it's placeholders but what typically happens is if you're hiring OPQA reviewers so to speak, oftentimes those reviewers come from examiners, right? They're examiners or supervisors who end up going to OPQA and then, you'd want to backfill those. So really it's placeholders just to move forward so that we have the flexibility to move, you know, to do whatever comes out of the summit and whatever we choose to do.

MR. KISLIUK: Right. And it also gets back to our modeling, right? We want to be looking forward if we know we're going to be adding resources to review in the area of quality, we want to project that now so we can plan if it's
going to cost us some examining resources, how that worked. You'd rather, at this point, maybe overestimate that than underestimate it.

MR. JACOBS: Other questions for Frank?

All right, thank you very much. We now turn to Dana Colarulli with the legislative update.

MR. COLARULLI: Thanks, Paul. Good afternoon. So I stand between you and the closing remarks from my boss I think. So what I want to do is to do two things first, two or three things. First, acclimate the committee to the 114th Congress. Second, I'll talk a little bit about some of the other activities that my team has been engaging in, try to outreach to local officials. We have now new opportunities to do that with our satellite offices, and then, talk a bit about restarting the discussion on patent litigation reform.

Happy to answer questions on other issues as well. We expect trade secret legislation to move forward this Congress as well. Just today another hearing on copyright issues was
announced but I'm going to focus this presentation much more on restarting the patent litigation debate as we get to it.

But first, 114th Congress, I set folks' expectation I think at the last PPAC meeting that there was a flip, at least in the Senate. That's now taken place. The Committee is up and working and has held its first hearing, its first few hearings, including a nomination hearing on Deputy Director Lee. The House generally stays the same. The Subcommittee changed chairmanship with Howard Coble retiring.

Darrell Issa has already shifted now from his oversight role into the head of the Subcommittee that has oversight on PTO operations. Also oversight over any substantive IP issues. He's signaled that he wants to address both in hearings. There's already been, I said, one hearing on patent litigation reform. We expect at least one or two more at least.

And the Chairman himself has said, you know, they want to go through this process
deliberatively. I think the IPO daily news this morning quoted an article that said Chairman Issa said maybe four months or so to really do the work that he thought was needed to review the various proposals on patent litigation reviews.

But he will likely move on probably springtime into other oversight issues, operations issues. We see that as an opportunity to talk about the good things we're doing here, talk about some of the good things hopefully Valencia has been doing as well with the Patent Quality Summit.

Senate as well, again, up and running.

Focused right now on nominations but expect them to move to more substantive issues.

Now, I always focus with the Committee on the judiciary. That's our primary committees of jurisdiction on the House and the Senate. Of course, we've increasingly got many inquiries from other committees, the House Energy and Commerce and the Commerce Committee on the Senate side, certainly has some equities even in the patent litigation contexts, on demand letters in
particular, there was interest last Congress. We expect that to continue.

As we get into the international trade issues and even the treaty issues, there's a number of other committees that have interest in issues that are important to the IP community. And then, of course, just last week the CFO team and my team were up on the Hill presenting the 2016 budget. Array of issues there some of which Frank just addressed. Others, they're also interested in operational issues and Frank did not mention but in the reports from our appropriations last year, there's a number of requirements for us to update the committees on issues surrounding telework.

There's even a requirement for the Department of Commerce to opine on the adequacy of trade secret law. So a number of requirements there, too, and a number of committees that are increasingly interested in our issues.

Key issues, this is a version of a recycled slide I had showed last PPAC meeting but
key issues continue to be patent litigation abuse,
clearly, a series of hearings reviewing the
copyright statute. Enforcement of trade secrets
and as I mentioned, we expect legislation to move
forward but perhaps on a parallel track with some
of the patent litigation reform.

Trade promotion authority still a focus,
at least for the beginning of this Congress to see
if the Congress can move on providing the
President with trade promotion authority. A
couple of highlight hearings, second nomination
hearing for Deputy Director Lee, the first hearing
on patent litigation issues. I'll talk a little
bit more about that.

I wanted to highlight this last one, the
trade secrets protection symposium we held here at
PTO. A day-long event, about five different
panels, the last in that we were able to have some
current professional staff hop over the river and
join us here in Alexandria to talk about the
likelihood of that legislation moving forward. I
think there seems to be some consensus. It's a
matter of getting the language right. And we expect them to move forward, again, in the next few months.

So let me talk about restarting the patent litigation abuse dialogue here in the 114th Congress. In way of review, there was a lot of activity both from the Executive Branch up in Congress and then, specifically here at the PTO that affects all of the issues that were discussed last Congress. Expect that to continue to be a theme as we get into the legislative discussion.

Whether you look at developments in the courts, you look at developments here at the Agency, in a number of areas but including, and I think the Congressional staff are focused, what can we derive from the implementation of post-grant review proceedings in total? So IPR, CBM and now, the PGR proceedings as well. So I think that will be a dominant theme as the committees are moving forward in addition to an eye towards any information you can derive from statistics about the litigation and impacts on
But I think one of the things that we have focused and Director Lee has asked me to focus on is helping to educate the Congressional staff on our implementation of the AIA. You heard from the Chief Judge, the different federal register notices that are likely to come out this year, making changes here. I think that is very instructive to Hill staff as they are trying to understand how these proceedings impact what they're looking at in legislation.

So procedurally, Chairman Goodlatte with about 19 cosponsors, about 20 now, as of today reintroduced his patent litigation of the Innovation Act, HR9 here the 114th Congress. It is a bill that's identical to the bill introduced -- bill passed by the House last Congress. It is a starting point, certainly, and the Chairman said that it's a starting point. And that they will hold hearings to try to evaluate the impact of changes and evaluate whether they should change these provisions.
I think the staff are very aware that there is about five months of discussion in the Senate. They want to see if there is improvements there but they also realize that they were able to pass a bill with a very high margin out of the House last Congress and they hope to continue to reintroduce that discussion, restart that discussion and move forward.

So this slide is very similar to the slide I had last year on HR3309 and the House passed a bill that I generally refer to as a comprehensive reform, trying to address most of the issues that have been discussed. I think there was certainly more discussion on some areas like demand letters in the Senate and that, again, may be reflected as the bill moves through the process and amendments are offered.

I mentioned the cosponsors. We're up to including the Chairman sponsor of the bill.

It's interesting to note the split. Again, I think that's by design. The sponsors, lead sponsors of this legislation want to make
sure that folks know that it's a bipartisan bill.
It's also interesting to me that not all those
folks are coming from the judiciary committee but
they're from a variety of committees including
energy commerce, including those who have a local
stake in some of these issues representing the
Silicon Valley area and other hubs of innovation
around the country.

With that, I'm going to stop and open it
for questions. I had a time limit. I knew we
were behind as well so, Paul, I leave it to you to
facilitate questions.

MR. JACOBS: Thank you, Dana. Questions
for Dana?

MR. THURLOW: So, Dana, in light of our
conversations the last couple of days about some
of the activities that we never expected to happen
on the PTAB side, a little bit of a joke but not
really a joke that the whole abuse of patent
litigation may be actually abuse of PTAB and
patent litigation. So I'm looking for the article
from the New York Times to give to Michelle but I
can't find it so she'll appreciate that once she sees that so.

MR. COLARULLI: That may be and I should mention that as part of our own due diligence, we've been trying to reach out to the stakeholder community, understand where their views are as well so that we can inform our own review. Certainly heard some of those concerns from the biotech and the pharma industries.

MR. THURLOW: And just want to follow up, Drew had a presentation this morning on 101. We've had a lot of discussions on 101 the last two days. Just to be clear and not to put you on the spot or on the record but there's in the last year or so we focused on our federal register notices the interim guidelines. We all watched the Supreme Court and what's going on in the courts in general but in the last few months there's been more discussion, at least, in our area on legislative changes to 101. I haven't seen that percolate up to Congress or any bills. And my understanding that
is not going to be in that and I just say that if
you can provide a comment on that from your
perspective what you see in 101?

MR. COLARULLI: Yeah, Peter, that's my
understanding as well and I've heard conversation
certainly the last few months and even before
whether a legislative change to 101 would clarify
the statute.

We have certainly taken a position, I
think, Drew's presentation this morning reflects a
lot of change. Folks are trying to assimilate to
the -- or get used to guidance or make decisions
based on the guidance.

I think Congressional staff generally
are not looking to, and we've heard this from
staff, not looking to broaden the scope of the
different issues that they're trying to address
right now. And in a healthy way, I hope they
would let the conversation play itself out in the
IP community and then make a decision whether to
legislate in this area.

But certainly haven't seen interest from
staff jumping at, oh, yeah, this is the solution.  
I think that's probably healthy at this point.  I  
got no hard question from Wayne Sobon.  I was  
expecting.  Thanks.  

MR. JACOBS:  All right, thanks.  Thanks,  
again.  

MR. COLARULLI:  Absolutely.  
MR. JACOBS:  All right.  It's my great  
pleasure to introduce Deputy Director Michelle Lee  
who will make some closing remarks.  

MS. LEE:  Thanks so much, Paul, and good  
afternoon, everyone.  It's a real pleasure to be  
with you to close today's first Patent Public  
Advisory Committee for the year.  And I'd like to  
thank all the committee members for your efforts  
over the last year.  Your suggestions and your  
insights are invaluable and are always welcomed.  
I also want to acknowledge some recent  
appointments and achievements.  I know Esther has  
had to leave but congratulations to her for her  
assumption of the role as head of PPAC, the Chair  
of PPAC.
And to Marylee Jenkins who I understand
is on the phone, for her role as Vice Chair on
PPAC. Both of you have contributed so much in the
past to our success and I look forward to working
with you in the year ahead.

I also want to welcome our new PPAC
members and that includes Mark Goodson, Dan Lang
and Mike Walker. And I know you'll bring valuable
insights to the Committee's work and I look
forward to working with all of you. So thank you.

And I'd like to congratulate Christal
Sheppard, a former PPAC member, who was selected
last month to be the first Director of the USPTO's
Detroit satellite office. Christal has proven
herself to be an incredibly intelligent and driven
person and I'm confident that she will take those
traits to the Detroit office where she'll provide
exceptional leadership of our talented staff
there.

Recently, I had the honor of speaking to
the -- or at the Brookings Institution where I was
proud to publicly announce that one of our best
and brightest, Ms. Valencia Martin-Wallace, was selected to be the first Deputy Commissioner of Patent Quality and Valencia is doing an outstanding job. She's hit the ground running and I have every confidence that she'll help the PTO keep its eye on the ball when it comes to patent quality.

And as I said at Brookings and at also the Technology Policy Institute, patent quality is one of my top priorities this year. And I know it's Commissioner Focarino's as well. Commissioner Focarino has done a phenomenal job in leading our efforts on patent quality and she has actually -- she's the reason why we are in the position where we are where we're able to turn in a concerted manner to patent quality. It's due to her efforts and her team's efforts in reducing the backlog and pendencies to the point where we can really focus now on improving quality in a very concerted manner.

So thanks to the team for that. And as Deputy Director, hopefully, fingers crossed, soon
to be confirmed as Director, I'll continue to do
everything that I can in my power to ensure that
she and her outstanding team have what they need
to succeed in this important effort.

You've already heard about our enhanced
patent quality initiative and its three pillars,
the excellence in prosecution services, customer
service and measurement of patent quality. And I
just want to emphasize that stakeholder engagement
is going to be key to the success of this effort.

So for all of you on PPAC, all of you
who are listening in the audience, please join in
at every stage that you can. We've got the
Quality Summit coming up on the 25th and 26th and
I mean a wide range of stakeholders. I'd like
patent prosecutors there. I'd like patent
defendants in litigation. I'd like patent
licensees. Everybody who has a perspective on
this ought to be participating because this is the
time where we can have the ability to put forth
your ideas and we can consider it and we can
follow up on the ones that make sense.
So anyway, let me turn to the next topic. Our founding fathers passed the first patent act in April 10th, 1790. We'll be marking our 225th anniversary with an event here at the USPTO. More details are forthcoming but if you are able to be in town and attend, we'd love to have you join us. And of course, our patent law has changed a lot since 1790. The original statute was amended three years later with another patent act that made significant improvements to the first and there have been many more changes since then.

So that same spirit of improvement guides us now as we ensure that our patent system keeps us up-to-date and able to keep pace with the rapid pace of innovation that is occurring domestically and around the world. Part of that effort means ensuring that American companies have strong and cost-effective IP protections overseas and in an increasingly global economy such as ours, that American companies need to and can export their products overseas with the confidence
that their innovations will be protected.

U.S. exports in 2014 set a record for
the fifth consecutive year reaching $2.3 trillion
and in 2013 alone, that accounted for 113 million
jobs in this country that were export-related. So
increased trade in exports are good for American
businesses, they're good for American innovators
and they're good for American jobs. And that's
one of the many reasons why it's important that we
continue to work closely with our countries on
patent law harmonization and also on increased
work-sharing efforts between our patent offices.

And as co-chair with the U.S. trade
representative on the IP working group for the
Joint Commission between U.S. and China on
Commerce and Trade, I'll continue to work with the
Chinese government to ensure that the IP rights
for American businesses are protected in that
growing market.

Finally, we will continue to improve
operational excellence here at the USPTO. That
includes ensuring continued reduction in the
backlog of unexamined patent applications which is
now below 600,000 while also reducing pendency.

Strengthening and improving our telework program
which has and will continue to be a key component
to the Agency's success and updating and improving
our IT system so that our examiners have the tools
that they need to efficiently and effectively do
the work so that they can best serve the public
need.

And of course, something near and dear
to my heart, fully standing up all of our
satellite offices by opening permanent satellite
offices in Dallas and the Silicon Valley. We
already have the Detroit and Denver offices up and
running. So in all of these efforts I hope that
our PPAC committee members will continue to
provide your unique talents, abilities and
suggestions. This significance of your
contribution to the success of our efforts cannot
be overstated and thank you very much.

MR. JACOBS: Thank you, Director Lee,
and thank you to everyone who tuned in and for
those who braved the cold weather to come in person. This was probably goes on record as being the coldest day of a PPAC meeting although last year at this time we got iced out. So we're better off than we were then. So with that, wish you all safe travels and we'll close the meetings. (Whereupon, at 3:25 p.m. the PROCEEDINGS were adjourned.) * * * * *
CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)

Notary Public, in and for the Commonwealth of Virginia

My Commission Expires: July 31, 2015

Notary Public Number 258192