

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Thursday, August 20, 2015

PARTICIPANTS:

PPAC Members:

MARK GOODSON

PAUL JACOBS

MARYLEE JENKINS, Vice Chair

ESTHER M. KEPPLINGER, Chair

DAN LANG

JULIE MAR-SPINOLA

WAYNE P. SOBON

PETER G. THURLOW

F. MICHAEL WALKER

USPTO:

TIM CALLAHAN, Director, Technology Center 2400

JOHN COTTINGHAM, Director, Office of Petitions

ELIZABETH DOUGHERTY, Director of Inventor
Education Outreach and Recognition for the
Office of Innovation Development

ANDREW FAILE, Deputy Commissioner for Patent.
Operations

BRIAN HANLON, Director, Office of Patent Legal
Administration

DREW HIRSHFELD, Commissioner for Patents

TOM HUGHES, Supervisory Patent Examiner
Tech Center 3700

PARTICIPANTS (CONT'D) :

DAVID LANDRITH, PE2E Portfolio Manager

MICHELLE LEE, Under Secretary and Director of the
USPTO

JENNIFER McDOWELL, Pro Bono Program Coordinator

JOHN OWENS, Chief Information Officer

CHARLIE PEARSON, Director, Office of
International Patent Legal Administration

SHIRA PERLMUTTER, Chief Policy Officer and
Director for International Affairs

TONY SCARDINO, Chief Financial Officer

DEBBIE STEPHENS, Associate Commissioner for
Patent Information Management

VALENCIA MARTIN WALLACE, Deputy Commissioner for
Patent Quality

Union Members:

ROBERT D. BUDENS

PTAB:

JUDGE NATHAN KELLEY

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P R O C E E D I N G S

(8:36 a.m.)

MS. KEPPLINGER: Good morning all.

Welcome to the PPAC meeting -- Patent Public Advisory Committee. It's my pleasure to be here with all of you today. For the public, we welcome anyone in attendance today and anyone who's online joining us. Thank you for attending, and we'd be happy to take any questions that you might have throughout the sessions.

It's my great pleasure to have with us today Michelle Lee, Undersecretary and Director of the USPTO. Shortened that title. That's one of the longest complete titles in the government. And also my extreme honor to have Andrew Hirshfeld here at his first PPAC meeting as the new Commissioner for Patents.

So, welcome. We're pleased to have you. PPAC looks forward (applause) -- we look forward to working with you, working closely with you, and I know it will be a great success, so.

So, Michelle.

MS. LEE: Thank you very much, Ester, and good morning everyone. It's great to see you

all again, and we've got a great lineup of presentations that we have all been working very hard on through the several months, and so I want to just jump right down to business with a few updates on my end and then hand it over to Drew Hirshfeld, and we'll continue with the rest of the program.

So, very soon after our last meeting in May I traveled to Beijing for meetings with ministers and vice ministers of China's trade, patent, trademark, and copyright offices. But I began my trip with a meeting with one of the most senior officials in the Chinese government, Vice Premiere Wang Yang. And during these meetings, he emphasized China's desire to strengthen IP protection and enforcement, not just because their trading partners were asking for it but because China views it as necessary in their desired transformation from a manufacturing-based economy of inventions developed elsewhere to an innovation-based economy with inventions developed within China.

So, from that meeting and my encounters I've had with leaders around the world, I

repeatedly hear that the United States is a global leader when it comes to protecting intellectual property. And while we can and should take pride in that, we should also take heed that as China and other countries seek to move from a manufacturing-based economy to an innovation-based economy, we will have more competition, and we cannot afford to sit still as other nations seek to catch up. So, we must work to make our patent system as strong as it can be to drive incentives to innovate and to invest in this country.

Here at the USPTO, we are striving to do so in many ways, and I'd like to highlight for you a couple of those ways in which we are doing so. We are making solid progress on our enhanced patent quality initiative. Following the Quality Summit and Federal Register Notice seeking ideas and input on how to enhance the quality of issuing patents, we received more than 1,200 submissions, and thank you to those of you who submitted comments.

We reviewed all the feedback, which was very helpful, and identified three themes. You

indicated that examiners should clearly articulate their positions on the record. You also recommended that the USPTO needs to differentiate between measures directed to the patent process from those that address the patent product. And you advised that the quality of an interview is more important than the type of interview. We are focusing on these themes now and devising improvements to be rolled out in the coming months, and we welcome your participation.

In fact, later this morning we are going to hold an interview demonstration to show you the interactivity possible through videoconferencing. I think you will be very pleased and excited with the quality of this interview option.

Turning to the Patent Trial and Appeal Board, we are in the process of making enhancements to our AIA trial proceedings. Today, with a prepublication yesterday, we published a set of proposed rules in the Federal Register. Among other things, those proposed rules will allow patent owners to include new testimonial evidence such as expert declaration

with their opposition to a petition to institute a proceeding; contain a new requirement on practitioners before the PTAB akin to the federal rules and procedural rule 11 requirements in federal courts to give the USPTO more robust means with which to police misconduct; and clarify that the PTAB will use the clean construction standards used by district courts for patents that will expire during the proceedings and therefore cannot be amended, while maintaining use of the broadest reasonable interpretation for all other cases.

As with the Enhanced Patent Quality Initiative, we want your input on these proposals: Did we hit the mark? Or can we do more or make different changes than initially proposed?

Next week the Agency is traveling for a series of road shows sponsored with AIPLA. We are delighted to have this opportunity to partner with AIPLA and to hear from you in person in Santa Clara on Monday, August the 24th; Dallas on Wednesday, August the 26th; and Alexandria on Friday, August the 28th. During the morning

segment of the program, we will focus on our Enhanced Patent Quality Initiative and share with you more details about our forthcoming enhancements. Then, in the afternoon, we will address our AIA trials, including the proposed rules, as well as feature an actual AIA trial hearing.

We are sending a team of Agency experts to each of those three cities, and I encourage you to register with AIPLA to attend. Our discussion at these events is invaluable to building that stronger patent system essential for the 21st century global economy.

Turning a minute now to operations, we are currently working with the Department of Commerce to evaluate their new shared services initiative for any possible benefits to the USPTO's HR, IT, and procurement functions. In addition to the USPTO, Commerce has a number of bureaus of various sizes. Each of these bureaus provides support services for their specific mission or obtains these services from other bureaus. Commerce has decided that consolidating mission-supporting services into a

shared services organization will provide benefits to the bureaus and to the USPTO. The USPTO currently takes advantage of our authority to obtain services from other agencies and is viewing these shared services initiatives as another opportunity to evaluate alternative ways to provide the highest possible service while effectively managing our financial resources.

Finally, to help lead many of the positive changes I have shared with you, I have the pleasure of hiring a new Commissioner for Patents. This is certainly not an everyday occurrence at the USPTO, and it's a good thing because it's a big decision with a host of long-term implications. In this case, the search for a worthy successor to Peggy Focarino was made a lot easier by the fact that no other candidate has the same ideal combination of policy, operations, and examination experience as the colleague sitting to my left, and that's Drew Hirshfeld.

In short, Drew has done it all. He began his career at the USPTO in 1994 as a patent examiner and then rose through the Patents

organization, becoming a supervisory patent examiner and later group director of Technology Center 2100, overseeing computer networking and database workgroups. During the tenure of Director David Kappos, my predecessor, Drew served two years as USPTO's chief of staff, managing operations and serving as a vital liaison with the Department of Commerce. And most recently, as Deputy Commissioner for Patent Examination Policy since November of 2011, Drew developed patent examination guidance on difficult topics like what is patent-eligible subject matter and clarity of the prosecution record.

He has my fullest confidence, and I have no doubt that the USPTO and the American public at large will benefit from his wisdom and experience in his new role as Commissioner.

And with that, I'd like to pause and answer a few questions, and then I'd be glad to turn it over to Drew to continue with the rest of the program.

Yes, Mike.

MR. WALKER: Thank you Director

Lee -- and congratulations, Drew, to you.

So, Director Lee, on the operations side of the shared services that you mentioned, just one comment from the user community side -- I'd say around the IT side, because I think a lot of people in the user community have experience with these shared services operations. So, question is, especially around IT, recognizing how important IT is to the office -- well, what I've seen in other organizations is that when you go through a shared services environment, what had been the priorities for one organization now gets shared across multiple organizations. And so when you look at Commerce, the priorities for IT for the Patent Office, I guess a question will be how the priorities for IT for the Office get prioritized among all of Commerce. So, one general reaction -- and I think a lot of people in private industry have seen these shared services arrangements and how that impacts the priorities for IT for their individual organizations.

And then a related thing is just as a user-funded agency, question about user fees, and

you can see that in a year where the PTO priorities are such that the funding that would have gone to IT where what was planned would be fine, but in a particular year where another part of Commerce has something that is deemed to be a higher priority from an IT system point of view, would that mean that user fees that the Office collects are somehow, you know, moved, diverted over to supporting this other higher priority that Commerce decides.

So, just a comment -- you know, initial reaction from hearing what you had to say from the user community point of view.

MS. LEE: Well, thank you very much, Mike, and those are issues that we're going to keep a very close eye on, and the idea is to help give the USPTO more options for better quality and lower-cost services. So, we're trying to actively participate to create more options for USPTO and then evaluate our choices as, you know, we go through the process. But I appreciate the comment.

MR. THURLOW: Just can you give us an update from your perspective on what's going on

in the patent legislation? We know that Dana is not here today to give us an update, and even though it's the summer and it's a quiet period, there's still an obvious lot of concern, especially with EIPR reform and ongoing developments in that area. So, any update from your perspective would be appreciated.

MS. LEE: Sure, I'm always glad to pinch hit here.

(Laughter) No, but in all seriousness, it's an issue that we are actively involved in, and the issues are still as important, as relevant as ever, and the House has a bill that they're working on; the Senate has a bill that we're working on. We understand there are still open provisions on the Senate bill and that there are discussions underway particularly with regards to the IPR proceedings, and there was placeholder language put in the Senate bill. The Senate leaders fully acknowledge that on the Judiciary Committee. So, we look forward to and hope that this fall we will continue to make progress with all stakeholder input to achieve really balanced and meaningful reforms.

What do I mean by "balanced"?

"Balanced" means, yes, we curtail abusive patent litigation, but we also enable patent owners of legitimate patent rights the ability to enforce their patents. They have to have that. It also means that we take into account all the changes that are accruing in our system, and there are lots of changes occurring all over the ecosystem. I mean, you know, it's a very dynamic environment in the courts, in the PTO with our Enhanced Patent Quality initiative, and with the implementation and now the refinement of the Patent Trial and Appeal Board rules and proceedings. I mean, just today I mentioned that we published some rules updating and refining proposed rules -- not rules, proposed rules -- updating and refining proceedings before the USPTO, and we very much welcome everybody's input on it. And in that Federal Register Notice, you know, I basically said we will work with the public based upon experiences that you have with the proceedings, based upon experience that our judges have with the proceedings, to further strengthen and refine and make sure that the PTAB proceedings are as efficient and as fair as possible within the

congressional mandate of the America Invents Acts.

So, let us know if we got it right. Let us know if we need to do better. And within the congressional mandate of the AIA, we'll work with you to get those proceedings right.

Robert and then Wayne.

MR. BUDENS: Michelle, I wanted to follow on to Mike's comments on this shared services and things we talked a little bit about yesterday, too, because I'm highly concerned that this has, you know, bubbled to the surface at this point. For the benefit of the members, this has been discussed in the last six months down at the department with the Labor Management Forum, which is one of the more active forums in the federal government, and yet we've been unable to reach consensus of anything to do, you know, with that because generally the experiences that employees see is either losing their jobs and the services that are delivered are less, you know, or not as good a quality, less efficient, and cost more; and we end up -- actually, shared services ends up backfiring. And I think the caution that Mike gave

you -- and I would share those concerns myself as we go forward -- you know, many people don't realize the diversity of the organizations in the Department of Commerce.

The three biggest organizations are the U.S. Patent and Trademark Office; the National Weather Service and NOAA; and the Department of Census -- the Census Bureau -- three so vastly different agencies in goals and needs and what have you and how you can figure out how you're going to share, you know, IT services across those bureaus and share HR services. The differences in each organization's needs are dramatic, and I hope we do not end up in the situation that Mike is referring to where our needs get subsumed by, you know, priorities of other agencies and what have you of the bureaus within the Department.

MS. LEE: Thank you, Robert, and that's absolutely something we're keeping an eye on.

Wayne.

MR. SOBON: Thanks, Director Lee. I had one question. Your remarks on your visits to China I think are important, and it's increasingly striking the amount of focus that

they are placing -- that country is placing on developing a first-class patent system and innovation economy. I was struck several weeks ago. The Office no doubt saw it -- the cover story of the Economist arguing for, if not the complete abolition of patents, a radical desizing of patents as a focus of the economy and focusing on some academic studies suggesting it has no effect on innovation and that coupled with a number of other, you know, high-profile attacks on especially the U.S. system if not the Western world patent system. I just wanted to find out what the Office -- how the Office is responding to that or what -- in the past the Office has had econometric studies and work done to support the role this plays for the U.S. Economy. So, I wondered, you know, what else you -- in response to these things, what else is happening.

MS. LEE: So, it's interesting. I read the same article, and I think many of us around the table did, as well. And I just came back from Aspen where I spoke at the Technology Policy Institute, and in my lunchtime keynote remarks what I said was based upon the studies

that we're seeing. You're seeing highest economic growth associated with small and young companies that are part of the innovation economy and particularly those that have IP- intensive businesses -- patent, you know, copyright. I'm not going to say what form of IP, but patents, copyrights, trademarks, trade secrets, et cetera. So, there's an equal amount of data, I would say, if not more on the other side -- and I don't need -- we don't need to count. But, you know, that is a viewpoint and I have my chief economist looking at these issues all the time, guiding our policy decisions, and we continue to believe that incentivizing our companies to be a part of the innovation economy and making the resources of the USPTO -- the patents, trademarks, registrations -- available to all, particularly the younger companies is critical for our country's continued economic success.

MR. SOBON: Any plans to publish some of these, or are we apt to lead, in a sense, the discussion?

MS. LEE: We should think about that but, yeah, I mean, we'll think about that, yeah.

MR. SOBON: It was obviously a pretty full frontal attack from the very, you know, very widely read and respected newspaper, although they noted that they've been opposed to the patent system since 1875 or something, so --

MS. LEE: They have, and they've quoted from --

MR. SOBON: Since the Cornwall Act in England or something, so.

MS. LEE: Yeah. No, I appreciate your comments.

MS. KEPPLINGER: Okay, thank you very much, Director Lee.

One thing I omitted was to go around the table and have everyone announce themselves, and we'll do that first, and then we'll take comments from Drew, if that's okay.

So, Robert, maybe we can start with you?

MR. BUDENS: Robert Budens, POPA and PPAC.

MR. GOODSON: Mark Goodson, PPAC.

MR. LANG: Dan Lang, PPAC.

MR. SOBON: Wayne Sobon, PPAC.

MR. JACOBS: Paul Jacobs, PPAC.

MR. LOWENTHAL: Mary Lee Jenkins,
PPAC.

MR. HIRSHFELD: Drew Hirshfeld, PTO.

MS. KEPPLINGER: Ester Kepplinger,
PPAC.

MS. LEE: Michelle Lee, PTO.

MR. FAILE: Andrew Faile, USPTO.

MR. THURLOW: Peter Thurlow, PPAC.

MR. WALKER: Mike Walker, PPAC.

MS. MAR-SPINOLA: Julie Mar-Spinola,
PPAC.

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

MS. STEPHENS: Debbie Stephens, PTO.

MR. HANLON: Brian Hanlon, PTO.

MS. KEPPLINGER: Great, thank you.

And Drew, we'll be happy to hear your remarks.

MR. HIRSHFELD: Thank you, Ester. So,
you'll notice on my right side Debbie Stephens and
Brian Hanlon are here. Debbie is acting in the
role that Bruce Kisliuk has vacated when he
retired as Deputy Commissioner for Patent
Administration. And Bob Bahr is actually acting
in the role that I have vacated as Deputy

Commissioner for Patent Examination Policy, but Bob is not here today, so Brian is acting for Acting Bob in his position. (Laughter)

So, you know, Michelle had said that it's not every day that you get to appoint a commissioner. Well, from my perspective it's not every day you get to become Commissioner for Patents, and I have tried very hard over the last few weeks to try to put into words what is, in my head, about having such a big job and responsibility and, just to be very blunt, can't really do it. I'm honored. I'm honored. I'm humble. And I know that it's a great privilege to be doing something so important and to be working with such wonderful colleagues, and words will not be able to express what I have inside, but I can tell you that I'm greatly looking forward to the challenges that lie ahead and to do everything I can to help the PTO and the patent system at large.

I've worked with PPAC for many years in various capacities, probably the last eight or nine years. Our collaboration is critical to the way we move forward, and, you know, you're

excellent advisors. I've worked with, again, many of you in a variety of different capacities, and I know first-hand the dedication that you all bring, so as we move forward, please know how much I value this relationship and how important it is.

I did want to talk about some of my priorities. Just very high level. I've been asked a number of times about what are the things that are most important to me, so I picked two things to talk about. One, of course, is the Enhanced Quality Initiative in supporting the pillars. And I look at this as being what a wonderful challenge to have.

And Michelle is basically asking us: What do you need to do? What can you do to do your job better -- something we should all ask ourselves all the time. And, you know, I've wanted to be Commissioner for some time, but really now is, for me, the best time to do this where I really have the opportunity to help lead the Patents organization with these quality initiatives. I feel it's very, very important; and, again, it's just something -- we're asked: How do you do your job better? And I can't think

of a better challenge to be given. So, to me it's an absolutely perfect situation to be in.

So, shortly after I'm done, I know Valencia Martin-Wallace and Tom Hughes are going to walk through where we are with the quality initiative in terms of the comments we've received and some initial next steps that we have going on.

A second priority of mine -- and I hope those who have worked with me in the past and know that this is a priority -- is to be very open and transparent and collaborative. And it's very important, you know, PTO -- we are a public service. I do value the openness, the transparency, and working with everybody, right -- whether it's employees of the PTO or the public -- very, very important to me as I move forward.

This morning you'll actually hear John Cunningham, who's a director of the Office of Petitions, talk about a new petitions database we have, which is something that actually came up in a prior PPAC meeting, where it was suggested from PPAC, hey, we really need some more information

about some petitions data and some petitions information. So, John and others throughout the PTO have been working on this, and he'll step you through that. I know that's, you know, one small step in the big picture, but, again, that just represents the openness and transparency that I plan to have and to continue to keep. I know, we've going down that path, and I intend to make sure we continue to go down that path.

So, I really just wanted to give some brief opening remarks, and I'm really looking forward to continuing to work with everybody. Thank you very much for being here today, and I'll kick it back to Ester to get us started.

MS. KEPPLINGER: Well, thank you very much, Drew. We really look forward to working with you collaboratively to help move along your priorities and objectives. And I know that in the past, we've worked very, very well with your office and everyone in the USPTO. It's been an extremely productive last few years, and I think all of us have appreciated the openness and support that we've received from everyone in the USPTO.

So -- and I also wanted to recognize Catherine Faint, a PPAC member that has just joined us.

So, any comments or questions for Drew before we get started?

Okay, so, Valencia and Tom Hughes.

MS. MARTIN-WALLACE: Thank you, Ester, and good morning to everyone. I'm just going to give you a few brief updates, and Tom Hughes, who is the supervisory patent examiner in the medical device technology, who is currently on detail to my organization as part of a quality team, is going to be giving you a more detailed presentation on the comments and the background of the last six or seven months, and the summit, the FR Notice, and what have you and moving forward -- next steps moving forward.

First I want to mention that in the last couple of months we've brought on a new executive, Tony Caputa, who is now the Director of the Office of Patent Quality Assurance. Previously his position was Chief of Staff for the Commissioner of Patents. He's doing an amazing job. He jumped in and started running from the beginning

in addressing some of the issues that were identified not only in the comments we received but internally as well on the relationship with the Office of Patent Quality Assurance and moving forward. So, I think he will gladly reach out to this committee and get any comments and ideas that you have to help us move forward with OBQA.

One of the other things that has happened since I've last seen you is that Deputy Commissioner for Patent Operations Andy Faile and I traveled to Japan to discuss shared successes and challenges with the JPO, as well as their search firm. They are going through the same initiative as we are right now with enhancing their quality. It was a great series of meetings that we had. We received a lot of great ideas from them, and we're going to keep moving ahead with partnering with JPO and some other VIP5 to move ahead and make sure that we are maintaining consistency in how we are addressing our quality issues in patent examination and IP as a whole.

Some other things that have happened are we have a series of outreach activities across the country, where we've not only updated on the

themes that you heard from Director Lee earlier today but also getting further input from all industries within the IP community. And I'm happy to say that the input we've received so far is validating what we found through the summit and the FR Notice, and validates the direction that we are moving with our initiatives and quality management system as a whole. So, I'm not going to belabor it, because we'll have time after Tom's presentation for your ideas and comments.

So, I will kick it over to Tom Hughes.

MR. HUGHES: Thank you, Valencia, and thank you, Drew and Ester and the rest of the PPAC for welcoming me this morning.

When the PPAC last convened in May, the Federal Register comment period for the Enhanced Patent Quality Initiative was about to expire. So, at that time, we were busy consolidating all the comments received from multiple sources, including two examiner forums. We held examiner forms, actually, either in this room or in the room next door.

We also had additional feedback mechanism from examiners, emails, et cetera.

We also had the Patent Quality Summit that was held during the last week in March, the two-day summit.

We also had responses to the Federal Register Notice, which were submitted to our World-Class Patent Quality email box, and these responses to the email box were both internal and -- and we did have -- we had some internal responses, and we did have mostly external responses, and I'll show you the breakdown here in a minute. But we considered all the responses to the World Class box, external responses, to be official responses to the Federal Register Notice. Okay, so these are the ones that we considered and we have now published since this was the email box that was mentioned in the Notice.

And so we received comments to the Notice from entities according to the six categories listed here. So, we have IP organizations and associations; government agencies; academic and research institutions; law firms; and companies. And as you can see, the majority of our comments came from individuals,

but don't let that mislead you. The number of the individual comments came from people who are associated with either a law firm or an academic institution, et cetera. But unless that specific comment or that specific response was on behalf of that particular institution or government agency, et cetera, we considered those as individual responses. So, that's why we have so many individual responses.

And so what we did was we took those responses and all input that we gathered, and we called them submissions, and so as Director Lee mentioned before, we actually have over 1200 submissions -- actually 1206 submissions. And so if you look at this pie chart here, you can see -- for instance the number 235 is associated with the World-Class Patent Quality external sources. So, if you go back to the last slide, you might ask yourself: Well, how does that correspond to the 107 emails? Well, each email may have several different submissions drawn to the different patent quality initiatives or the proposals. So, what we did was we took those emails, those 107 emails, and the other sources

and broke them down and categorized them in this manner. So, each email and response may therefore map to multiple submissions, and that's how we -- so, if you look at it this way, just combining the two internal sources -- the internal sources being the examiner forum, from which we received a majority of our internal feedback -- and also we received 64 responses from internal sources to the World-Class Patent Quality box, and those we did not publish. We just published the ones that were from external sources.

So, what we did was we kind of broke everything up into "buckets," if you will, okay? And so if you remember from the Enhanced Patent Quality Initiative, we went out in the Federal Register Notice and we asked for comments on six specific proposals, okay? And so those specific proposals -- we asked specific questions about each specific proposal, and we got comments on those questions, but we also -- just due to the nature of the beast, we got a lot of other comments about a lot of other things, okay?

So, what we tried to do was we tried to

kind of categorize the comments by the six proposals. So, if you look at the first six that are listed here -- OPQA, Prior Art Search, Clarity, Quality Measures, Compact Prosecution, In-Person Interviews -- we broke those down into -- we kind of -- and so the OPQA not only addresses the applicant request for prosecution review of selected applications, which was the first proposal that we had for our Patent Quality Initiative, but it also concerns, addresses, or has concerns and submissions regarding OPQA processes in general -- so, review processes and comments of that nature. So, that's kind of where the OPQA is going.

The Prior Art Search is linked to the Preexamination Search proposal. So, not only did we get comments on the Preexamination Search proposal, but we also got comments on prior art searching and searching in general, okay?

And then the Clarity of the Record proposal was kind of like a broad-based kind of -- asked for the public's opinion on the clarity of a record, so most of the comments were kind of couched to the thing, the specific

questions that we asked with regards to clarity of the record, but there were also other things that were mixed in there.

And the Quality Measures -- the Quality Measures kind of distinguishes from the first category as being the data that OPQA gathers. Okay, so OPQA is kind of the data-gathering force, and the Quality Measures is the actual data that we're gathering. And so we received a number of comments on the Quality Measures -- compact prosecution. So, we asked you to comment on our current compact prosecution model, and we not only got comments on our current model, but we got a lot of comments on other things that we could possibly do with regards to compact prosecution. And then we also went out with a proposal having to do with face-to-face, in-person interviews, and so we got comments not only with regards to that specific proposal but we got comments -- we received comments with regards to in-person interviews and interviews in general, okay? And so the -- and I think Director Lee mentioned that, you know, about the over-arching theme was that the substance of the

interviews was more important than just about anything else. And I'll get into that in a little bit.

And so for anything that didn't fall within those six broad buckets we categorized into a seventh other bucket. And so when I get to that, I have a couple of things that I can think of that were in that bucket, but these were things that we just couldn't categorize as one of the six, and we moved onto -- and just decided to create another one and called it "Other."

So, here we can see each of those buckets, kind of a distribution by source. So, you can see that the Patent Quality Summit was the main, I guess, source for most of the comments, and this makes sense because we drove the comments, if you will, by asking specific questions about those six proposals. So, that kind of makes sense that we would get most of our data from the Patent Quality Summit, in addition to the fact that the Patent Quality Summit -- we captured -- we tried to capture everything, including -- if you remember, if you attended the Patent Quality Summit -- the bullet points on the

flipcharts during the breakout sessions. So, these are things that are -- that's why we have a lot of data, and that's why you see that the number of responses or the number of comments, if you will, kind of is overwhelmingly Patent Quality Summit.

But when you get to the other, you'll see that the internal kind of overrides there. And the reason that the number of internal comments kind of rises up there is because when we went out to the examiners, we didn't focus on anything in particular. We just wanted their input as to how we could, you know, enhance patent quality. So, we didn't go out to them with the proposals. We just kind of got their feedback with regards to patent quality in general, and that's why we see that.

So, now I'm going to go through each of the proposals, or each of the buckets if you will, and if you have any questions as I'm going, please feel free to chime in.

So, the OPQA bucket -- so, like I mentioned, the comments that we received with regards to this bucket, if you will, definitely

corresponded to proposal one, the "Applicant Request for Prosecution Review of Selection Applications." So, most of these comments had to do with the use and process of the data that we're gathering; the concerns that both the public and the examiners had with regards to this particular proposal; and the outcome and the results. And so those were driven -- those comments were certainly driven by the questions that we asked during the summit and in the Federal Register Notice. And OPQA processes in general -- everything else that kind of fell into the OPQA bucket, those lie in this subbucket of OPQA general process.

So, here you can see that the comments were kind of broken down by all sources, so you can see that a majority of the or at least a large number of the comments had to do with the use or the process of this OPQA request for prosecution review by the applicant. And then a number -- we had 47 comments that had to do with concerns -- okay, concerns either by the examiners or by the applicants, and a number of different comments about the outcomes and results

and the processes in general.

So, I would say that the top comments that we saw or the ones that I remember -- there were a lot of them, so for instance for the use of process, we would get comments like: I would use this process when I get a final rejection -- or I would use this process when I get to a certain point in prosecution. That's when I would do this, and that's when I would recommend that you go out there and make this available to the applicants.

Examiners and applicants were concerned about retaliation. So, applicants, from the standpoint of, well, if I put this request for prosecution and review in the record, I'm just telling the examiner that I'm basically second-guessing what their decision was, so is the examiner going to come back and say anything or do anything with regards to that? So, that was a concern, okay?

And then on the same timeline, the examiners were concerned about how the data was going to be used against them in their performance plan. So, there were concerns on both ends from

the examiners and the applicants.

And then another concern was they didn't want anything in the record reflecting that there was a review, okay -- because they didn't want, I guess, a stigma of, if you will, like, a super-patent, if you will -- so, you know, one that has been through the review process. So, they were very, very, very concerned about having that stigma, if you will.

And then --

MR. THURLOW: Hey, Tom? Tom?

MR. HUGHES: Yes.

MR. THURLOW: This is a quick question.

MR. HUGHES: Sure, uh-huh.

MR. THURLOW: Just on this point to the extent this could be beneficial as you go out on the road shows and discuss this, when we raised this in the New York Bar Association and were reviewing all the comments, a lot of people just needed some basic information on OPQA, what the organization does and so on.

MR. HUGHES: Yes.

MR. THURLOW: I think everyone around the table, PPAC, and in the room and of course the

Office understands that, but when you go on the roadshows, there are a lot of people that don't know the (inaudible), and I think based on all the discussions it's increased.

The second point is is one of the areas where people have expressed to me an interest in using this is in the 101 area, not that the examiner was -- sometimes a feeling that examiners were just rejecting claims for 101 purposes, but really because they look at this as a higher-level review, which is needed in light of the pace of changes from the courts and the guidelines and everything, there's a feeling that with everything going on it's very difficult to train the examiners with the latest developments. So, that's where something like this was considered not as an affront to the examiner reviewing it but more just as an additional set of eyes.

MR. HUGHES: And thank you, Peter, those are great points; and, as a matter of fact, some of the comments revolve around, you know, if a particular type of rejection comes up in the claims -- say a 101 subject matter eligibility

rejection comes up in a, not in a claim, in an application, maybe I will ask for prosecution review at that point, or maybe I just ask for prosecution review of that particular action, okay -- or maybe of just that particular rejection. These are the types of comments that we got. So, we are -- you know, we're still in the process of digesting all this information and coming up with a final plan of potentially going forward with this. But -- so, those are two good comments, and we appreciate them.

MS. MARTIN-WALLACE: And, Peter, to your first comment about the process of OPQA. Just last week we did a Webinar. Tony presented OPQA, not only the quality measures but also the OBQA process and what they do inside a quality assurance. And that will be -- a link will be on our Webpage very soon. We recorded that, and it will go out, so if anyone is interested in getting further information about the OBQA process, it will be there.

MS. KEPPLINGER: Robert?

MR. BUDENS: Okay, I've got a couple of comments on this. The first question is: If

we've got this many comments coming in with this many concerns, that should tell us that maybe this proposal just needs to be, you know, dumped, that there have got to be better ways to be spending our time and our resources and trying to improve the quality of this organization. No. 2: While I appreciate Peter's remarks a second ago, I think people need to understand and realize what this entails and what OPQA really is and what it isn't. It is not a group of people who are experts in the 250,000-plus technologies that this agency examines in U.S. patent applications, okay? With the revamp of CPC, we have over a quarter of a million different technologies being examined by 9,000 examiners, and now we're going to expect that, you know, less than 50 examiners in the Office of Patent Quality Assurance are going to know and understand and be able to apply correct principles in examining these things and determining whether, for example, a 101 patent eligibility rejection was correct in this particular technology versus that particular technology. This is an ill-conceived proposal, and I think the number of comments and concerns

that were raised in all these comments should suggest that maybe we need to be rethinking this one considerably or just deleting it from the -- you know, from the thing, because this is not going to improve quality of examination at the USPTO. That's going to require time and training and resources, not, you know, this kind of proposal. This does not accomplish much of anything except wasting time and diverting resources from where they really need to be put.

MR. HUGHES: Thank you, Robert.

Moving on to the distribution of the OPQA comments by source, it's not surprising that we got most of our comments from the Patent Quality Summit, but I think of note is in the OPQA process most of our comments came from internal sources. And so these are comments like, you know: How do you pull the case -- exactly how do we pull the cases for OPQA review? How are the reviews actually accomplished? How are they done? How are they recorded? Things of that nature. So, those are the types of comments and the questions and concerns that we had that were under the OPQA process.

So, now I'm going to move on to the automated preexam search.

MS. MAR-SPINOLA: Tom?

MR. HUGHES: Yes.

MS. MAR-SPINOLA: Excuse me, Julie Mar-Spinola. I wanted to ask a question just for clarification. At the beginning -- correct me if I'm wrong -- you had mentioned that with respect to the World-Class Patent Quality Box, the email, external and internal.

MR. HUGHES: Yes.

MS. MAR-SPINOLA: Did I understand correctly that external was published; internal was not?

MR. HUGHES: That's correct.

MS. MAR-SPINOLA: And internal included examiners and I assume anybody -- "internal" meaning PTO.

MR. HUGHES: Anybody internal through the PTO, correct.

MS. MAR-SPINOLA: Okay. So, my question is: Why were the internals not published?

MR. HUGHES: I don't really know the

exact answer, but Valencia, you can --

MS. MARTIN-WALLACE: So, based on the FR Notice -- and that was the majority of the World-Class Patent Quality comments that ran through our office, Patent Legal Administration -- the opinion was that the purpose of the FR Notice was mainly for the external stakeholders and to address the issues there and publish those comments, any internal comment coming from a public forum. And while we opened up the World-Class Quality Box to the internal as well, it was not toward the efforts of the FR Notice comments. But we will be publishing all comments. We have received a request to have all comments published. It won't go through the same process that it went through (inaudible). Our comment will be on our -- the Enhanced Quality page as well as our Enhanced Quality public page. We're in the process now of categorizing and refining the raw data so that it's easy to read and understand. So, it's going to take us some time to get through that process, but it will be published on our Webpage.

MR. HUGHES: Thank you, Valencia.

MS. MAR-SPINOLA: Oh, actually, I wanted to respond to that.

So, thank you for that explanation. As a member of the public, I think it would be -- and also to advance Drew's comments about being transparent and collaborative -- my personal suggestion would be to encourage the Patent Office to not only publish it but publish it in the context of this survey and then also include it where you had mentioned so that -- to the extent it's relevant to both. I think if you disconnect it, that disconnection doesn't allow a cohesive understanding of what it is, and also from the public I think there is great value in learning from what the examiners and the PTO think about these issues -- positive, negative, whatever -- but I think they will be interesting to understand. Thank you.

MS. MARTIN-WALLACE: Thank you.

MR. HUGHES: Thank you very much.

Dan, do you have a question?

MR. LANG: Well, if I could just register a quick comment about the first proposal.

MR. HUGHES: Mm-hmm.

MR. LANG: I mean, to the extent that we're talking about -- applicant-requested reviews of individual actions by examiners -- I would echo the earlier comment that it seems to me to be, you know, very unscalable, you know, very burdensome, and, you know, probably not conducive to the examiners being able to do their jobs. And I'm, you know, very committed to the notion of quality improvement, but, you know, I think we should look to more realistic measures.

MR. HUGHES: Okay, thank you. Thank you, Dan. So, moving on to the prior art -- pre-exam/prior art search, as you'll notice, the responses and comments are focused on the actual questions that we ask with regards to automated pre-exam search -- things like what is the value of the search, when should this search be done, potential legal implications of the fact that a search is done, and also the results in how they are going to be attached, if you will, to the application and how the results will be used.

And like I said before, we had a number of comments related to prior art searches in

general, so we included those comments. And as you can see, you know, a vast majority of the comments had to do with how those results are actually going to be tabulated, so -- and used in the ultimate, you know, scheme of the patent examination process. So, we had comments on just about all of these things -- the legal implications a little bit less so, but the results certainly were commented on specifically.

And the 58 number there -- and there's a typo on the slide. It doesn't say what that number is for, but what that number is for is the prior art, the prior art searching comments in general, and most of those comments actually came from internal sources. So, for the internal comments, you know, we -- I think they came from internal sources for the most part. But as you can see, most of the comments came from the Patent Quality Summit, which is not surprising, and then the prior art comments in general came mostly from the World-Class Patent Quality box and the internal sources.

MR. THURLOW: Hey, Tom.

MR. HUGHES: Yes.

MR. THURLOW: A quick question.

Refresh my memory. I worked on this from the New York Bar Association, but as you're well aware, a specification can add 10, 20 embodiments of the different invention but the real heart of the invention is in the claims.

MR. HUGHES: Right.

MR. THURLOW: How does a search focus on the claim terms, not necessarily all the terms in the specification?

MR. HUGHES: That's a good question. I mean, that certainly would be a focus of how we would do that particular, you know, pre-exam/prior art search, and I think, you know, they're coming up with -- or were thinking about algorithms that would actually, you know, be at play when we're actually doing this prior art search. So, that would go into that kind of decision-making process. But it's not something that we really have come to a conclusion on, you know, at this point. So, thank you.

MR. BUDENS: Yeah, following on that, Peter, I think one of the things that we were talking about in prepping for this Quality Summit

originally was the fact that the current tools we have are not sufficient to really make this effective.

However, one of the questions was and one of the questions we put out to the public was to provide assistance in helping us identify technologies that might actually give us an improved searching -- you know, whether it's using algorithms that search key words and, you know, ratios of key words -- this key word to that key word, whatever it is -- I don't know, I'm not an expert on that, but looking for ways -- because this is one of the initiatives that we think might have some possibility for, you know, being useful, but it's going to require finding good technology -- upgrading technology and finding good technology that will give us -- you know, give the examiners, you know, a good search.

MR. HUGHES: Thank you, Robert, and that's a great point, and I failed to mention that, you know, due to the fact that we had a large number of internal sources for these comments. And that's what -- the comments were directed to things like how can we improve searching, et

cetera. So, thank you.

Yes.

MR. JACOBS: Yeah, I just had two things to add to that. I'm a search engine expert, and two comments. One is: It's really, really hard -- and particularly in the context of the way examiners do their jobs, it's going to be really, really hard. Now -- but notwithstanding that, one of the main takeaways from the overwhelming number of comments in this area is that search is a very important part of the examination process, and it's perceived that way by the public and it's perceived that way by the examiners and by us. And so even though this particular proposal may be very difficult implement, it's an area where we have to push forward. We are pushing forward, as we'll talk about in the IT session, and we have to keep doing so in whatever ways are practical. This may not be necessarily the most practical approach, but we do have to keep pushing forward.

MR. HUGHES: Thank you very much, Paul, and thank you for bringing that up. I mean, it's really important to note that the major theme in

a majority of these comments was the fact that we want to get the best art into the hands of the examiner as soon as possible. So, the mechanisms by which that happens are to be determined, but that was overwhelmingly the theme that we saw from the comments from both internal and external.

MS. MARTIN-WALLACE: Just to add on to that, we've been entertaining some conversations with several corporations and companies and startups on what they're doing with the search tools and patents and the NPL especially, which is an area that we really need to research and work through more intently. So, we've been working since the summit, actually, with pursuing this; and what we can get into the hands of the examiners from the outside, why should we reinvent the wheel if there's something out there that's working well and is going to be successful for us.

We're also working with Debbie Stephens' area not only about this particular initiative but in general with all the work that her organization is doing with the PE2E and making sure that whatever we're doing now is going to be integrated into that system to move forward with.

MR. THURLOW: Just a very quick follow-up. I would just emphasize on this point. This is only a pre-examination search. There was some confusion where people thought that it was replacing an examiner search. Need to be clear that the examiners are still going to do their job and this is just pre-examination, so.

MS. MARTIN-WALLACE: Excellent point. Thank you.

MR. HUGHES: Yeah, I'm pretty sure -- I think the questions were kind of geared that way and we didn't mean to, you know, insinuate that that was being done.

MR. THURLOW: No, I'm not saying you didn't.

MR. HUGHES: So certainly thank you for the comment. Thank you.

MS. KEPPLINGER: Tom, just one comment, and of course to echo what Paul was saying, the search and getting the best prior art -- also you -- getting the best prior art before the examiners is a critical part, getting consideration of -- full consideration of all the best prior art and the claims. But one thing that

goes hand in hand with this is a complete understanding by the examiners of the scope of the claims and what's in the prior art. So, along with that search, we just need to make sure that the examiners are well enough trained about how to look at the claim with the broadest reasonable interpretation and apply that prior art.

MR. HUGHES: Thank you very much, Ester, and that's an excellent segue to clarity of the record. So, the Clarity of the Record proposal actually was kind of like a broad-based kind of seeking comments on how the Office can enhance the clarity of the record. So, we asked specific questions about, you know, providing examiners perhaps or even the applicants providing explicit claim construction on the record specifically memorializing, you know, the oral record, you know, in interviews. Reasons for allowance -- a lot of comments on the reasons for allowance and maybe how detailed the reasons should be and maybe not as detailed as they need to be. But -- so, there were a lot of comments in that regard, and then we also had several comments with regards to office actions, prior

art rejections and how they play into the clarity of the record. And so if you look here, this is kind of a distribution of where these comments fell out. So, you can see we had a number, certainly, of explicit claim construction. So, a number of those comments were explicit. Claim construction is needed on the record to clarify things like broadest reasonable interpretation, et cetera, of claim elements. But there are also several comments that said that basically we don't need to be as complete, I guess, in the explicitness of the claim construction, okay? Leave it to the words of the claim if you will. So, there are a number of comments in that regard.

And then the next top comment category was Memorializing Interviews, okay -- memorializing the oral record, and so we have several comments on that.

And then the Reasons for Allowance. We did have several key comments on, you know, examiners providing reasons for allowance, the back and forth between the examiner and the applicant with regards to the reasons for allowance. So, we had a number of comments in

that regard.

And then we had general comments with regards to Clarity of the Record. But the thing that I found most telling was the fact that we have a number of comments directed to if the office action, okay -- was -- if the rejection itself was stated more clearly or if there was a way that the examiner could make the record more clear in the action, that probably would do everything with regards to making the record more clear. So, we got a lot of those comments, and we were surprised about that, because we didn't ask about that, okay? We asked about the other things; we didn't ask about the last one, but the last one -- we got some pretty vocal comments in that regard. And so here you can see, you know, most of the comments certainly were driven by the Patent Quality Summit. Nothing really telling here, I don't think. So, if you have any questions on clarity of the record -- anybody? Okay.

Quality Metrics -- let's see. So, quality of the metrics -- this was kind of like another open-ended kind of proposal where we asked specific questions, but we were seeking

basically comments on what you, the public, think about our quality metrics, and so we asked questions regarding the value and the understanding of the composite. So, you know, did you -- basically, we wanted to know does the public understand the comment, and I'll get to that in a minute.

New Measures -- incoming documents, downstream users, effectiveness of training. So, how we are actually going to be using these measures in measuring our quality within the Patents organization. And also, you know, ways that potentially we could modify the composite that we use with the quality metrics.

And so if you see here -- a lot of comments with regards to the value and the understanding of the composite. But I think the most telling number here is the last one, which was modifying -- how to modify the current composite. What this is telling us is that the users really do understand, you know, what the composite is and the metrics that we're using, because they were telling us, you know, well, you should do this and you should do that and you

should do specific things, you know, to the composite -- maybe use this data point instead of that data point, et cetera. And I think that kind of showed us that the public really is aware of what our quality metrics are and kind of, like, they have an understanding of what they are. So, I thought that that was kind of telling right there. And this kind of reflects where we got those comments from, so.

Any questions on Quality Metrics?

MR. THURLOW: I don't know where those numbers are coming from. I could tell you when we worked on it, there was a lot of confusion so, with all respect, we didn't really see that with the quality metrics.

MR. HUGHES: Okay.

MR. THURLOW: But with the PE2, PE2E --

MR. HUGHES: PE2E.

MR. THURLOW: With that program that's open, there's even better and clearer data on the rejections type -- 112 rejections, 101 -- you name it and hopefully add to it. That information could enhance it, but there were a lot of questions on that composite.

MR. HUGHES: So --

MR. THURLOW: We've discussed it a lot over the years. We don't need to beef that up too much, but.

MR. HUGHES: Okay, thank you.

MS. MARTIN-WALLACE: So, Tom, just one comment. So, just one comment. So, yeah, understand exactly where you're coming from and that whole composite number -- clearly we heard from everyone that it doesn't do anything to help understand better the range of quality and the direction we're going. So, I will give you a preview on that one, that you will not have to suffer through the composite anymore.

MR. HUGHES: No. A couple of other -- I'm sorry, Paul, go ahead. I'm sorry.

MR. JACOBS: Yeah, I was just going to clarify what Tom's saying, that there are 95 people out there who understand the metric.

(Laughter)

MR. HUGHES: Thank you for clarifying that.

MS. KEPPLINGER: Except that's their interpretation that they understand it. I'd

question 95.

(Laughter)

MR. HUGHES: One theme that we saw in the comments was that you did not really particularly like the rollup of how we rolled up everything and came up with, like, a composite, like, one single number and rolled everything up. You liked the individual metric. So, if we continue to at least report out on the individual metrics, that would be preferable, I guess, to maybe that rollup number.

The other thing that we heard, too, was the fact that the current metrics pretty much focus on the process type of numbers, okay? So, things that we internally can certainly use to measure the quality of the process of making a decision and creating office actions, but I think maybe just one or two of the metrics actually have to do with the quality of the actual product. So, I think it's the final disposition -- and I can't think of the other one off the top of my head, but there was -- so, some of the comments addressed the fact that you want us to focus on the quality of the product numbers versus kind of, like, the

process numbers. The process numbers certainly are useful for us internally to gauge, you know, where we need to do training in certain areas, et cetera, but you really want to see more numbers or numbers that are at least directed more towards the quality of the product.

Any questions? (No response)

MR. HUGHES: Move on to Compact Prosecution. And so this was another one where we basically went out and asked for comments on our current Compact Prosecution model, and we asked questions with regards to, you know, perhaps adding an additional action before final rejection or maybe, you know, giving us comments on the No Final Action model. And we actually got a lot of comments about a New Examination model, okay? And so we got comments from everywhere, and some of them were very, very, very, very detailed, okay -- about how we should do this, and especially with the New Count model. These are things that we didn't necessarily ask about but they came in anyway. We got a lot of comments in that regard. So, you can see that the New Examination model, I think, was by far the kind

of category that we received most of the comments from. And if you look and see where those comments are from, well, lo and behold, they came from our examiners, okay? So, our examiners have a lot of very valuable, good input as far as, you know, how we should structure our Examination model. And so they came in with a lot of really good comments, and I think that's probably the most telling number and striking number here on this slide.

Any questions? Dan?

MR. LANG: Is there any way to summarize what some of the key features are of the new examination models proposed by examiners?

MR. HUGHES: Yeah, let's see.

MR. LANG: How they differ from the current model?

MR. HUGHES: My notes here have, for instance, instead of concentrating on a very detailed first action, perhaps concentrate on giving applicants the best prior art and taking care of the 112 and 101 issues right away, get the claims to where they need to be, and then give the first office action on the merits. So, that's

one of the comments I have. And I think most of the comments kind of reflected on variants of that, but I think that that was certainly one of them. Maybe have a separate action with art and claim interpretation. So -- oh, with a separate action that addresses just art and claim interpretation. I guess that would be after taking care of the claim scope of the one before.

I have one here. I think this came from the public base finality solely on if the examiner uses new art or not, okay? So, you know, right now -- you know, the examiner can go final if an amendment necessitates that new grounds of amendment. So, if you're using a new piece of art, the examiner may not be able to go final if there wasn't an amendment that necessitated that.

So, these are just different kinds of flavors of the comments that we were getting in that regard.

MR. THURLLOW: I worked with some examiners for years. We reviewed some of this just over the phone. There seems to be a frustration with the section action and that you're going final and the inability to enter any

amendments or consider declaratory evidence of someone. So, from the Bar Association and and from just review of this, there seems to be some optimism with the hope of a second non-final action, especially in situations where after the first one you've amended the claims and you get so-called "new" art cited that was not previously cited. So, I think that has some promise as something that could to be worked out.

MR. HUGHES: Thank you. I think, you know -- and I have another note here -- thank you, Peter -- the other note I have is in general to commenters, whoever they were, did not want to do anything to extend prosecution. So, you know, we don't want to do that, okay? But we want to come up with maybe a different, you know, recipe for how we get to that final disposition, so. But don't --

MS. MAR-SPINOLA: Tom, this --

MR. HUGHES: Yes.

MS. MAR-SPINOLA: Oh, I'm sorry.

MR. HUGHES: Mm-hmm.

MS. MAR-SPINOLA: This is Julie again. I wanted to ask again -- so, it seems like there

is some valuable information that comes from internal.

MR. HUGHES: Yes.

MS. MAR-SPINOLA: Now, would these be shared -- and published rather?

MR. HUGHES: Yes.

MS. MARTIN-WALLACE: Yes. This is part of the whole series of comments from internal as well that will be shared with the public.

MS. MAR-SPINOLA: Thank you.

MR. HUGHES: Thank you.

MS. KEPPLINGER: Tom.

MR. HUGHES: Yes.

MS. KEPPLINGER: Just very quickly. I want to echo what Peter has indicated, and that is the frustration, because any amendment that gets made to the claim, even the most minor amendment of -- in some cases, you'll get a new final with -- a final with new art that should have been applied to the claims initially. But because you made some small amendment, which really didn't change the claim very much, you get new art and a final rejection; and very, very few things are entered after final. So, then we have

to go to an RCE.

MR. HUGHES: That's a great comment, Ester, and personally I've experienced that by having patent attorneys call me up and say -- and ask me: Why didn't your examiner enter that amendment? And so what I would do is I would go back and actually look at the case, and if I agreed with your assessment that, really, it was just changing "v" to "a" or something like that -- I mean, if it was just a little minor change and it really didn't affect, in my opinion, the need to find a new piece of art, then I would just have the examiner go on final and send out the new action. But -- so I guess what I would recommend doing in that case is just call up the supervisor or call up the examiner -- call up the examiner and have a discussion with them about that. We have a lot of reasonable examiners, and they're willing to do, you know, what they need to do to make things right with the applicants, and then calling up the supervisor also really helps.

MS. KEPPLINGER: Quick comment and then Robert. Thank you for that, and I have -- just in terms of appreciation for the

USPTO -- one thing I have seen more recently in interviews is more willingness of the supervisors to actually look at the record and push, you know, the examiner towards what may be a more equitable or reasonable approach. So, you are having some impact on, you know, getting out a message to the examiners, and we appreciate that on the outside.

MR. HUGHES: I certainly agree, and I'm not sure about the word "push," but collaboration is certainly there. So, thank you. Thank you, I appreciate that.

And --

MR. BUDENS: Tom, the --

MR. HUGHES: I'm sorry -- oh, Bob, I'm sorry.

MR. BUDENS: One of the things that -- your first comment about the examples from the internal -- correct me if I'm wrong, but that actually sounds somewhat familiar or somewhat analogous to what we currently have as our first action interview pilot going on around where we do kind of just pretty much put out the art or something. Is that the kind of comment? Was I hearing your comments pretty much?

MR. HUGHES: Yeah. I mean, that's exactly -- and so what Robert is talking about is our first action pilot where we basically give applicants a chance to talk to the examiner and the examiner can cite prior art and may not do a detailed action, but at least you get the prior art in the record and maybe there's an amendment that goes along with that, and so that all comes before a first action on the merits. So, we have thought about it as basically an enhanced pilot just like that one. So, that's kind of what we are thinking when we're looking at this. Exactly. Thank you.

Yeah, mm-hmm.

MS. MARTIN-WALLACE: Robert, thank you, that was a great comment, and one of the things that I'm finding as I'm going out and doing some of the outreach as I receive some of these comments, especially about getting to a final too soon, and I mention some of our programs going on and specifically the first action interview. I'm hearing from a lot of attorneys that they're not really as familiar with the program. They haven't been using it. So, this is definitely an

area where we can do some better marketing of the programs that already exist that will help them get there. So, thank you for bringing that up, and it is something that we're looking into.

MR. HUGHES: Yes.

MS. JENKINS: I have been uncharacteristically silent so far. (Laughter) I couldn't agree with you more. Education of us is so, so important; and you and the Office have so many initiatives going on. It's honestly hard to keep track of all of them. So, it's not just marketing to us; it's educating us. So, please, please keep that in mind.

One of the things, though, that I've been struggling with, with the quality initiative -- and I know folks within the Office have asked for comments and input is -- I highly commend the initiative -- is a much needed initiative. We are, as a patent community, being attacked on all fronts to justify why we have patents, and I echo Wayne's comments earlier. Patents are a great thing. They help with innovation. They spark creativity. And they should be viewed as an asset, not a commodity. We

have much to do to get over that. But one thing I struggle with, with all the things that you're discussing, is how are we going to pay for all the things that we are suggesting from the outside as well as from the inside? You may not want to answer that because we haven't done the financial statement yet from Tony, but just something of overriding concern that I have, particularly being on this committee.

MR. HUGHES: Thank you for that comment. Oh, sorry.

MS. MARTIN-WALLACE: So, thank you very much for those comments. They're exactly right, and Michelle and Drew have made the quality initiatives the top priority. But we are being very responsible as well. I'd mentioned earlier -- this is just an example -- I'd mentioned earlier that we've been doing a lot of outreach. We're also focusing on things like how can we do it that gets the most people and not break our bank for what we're doing. So, that's where the Webinar series came from. So that's another thing that we need to educate the public and more is we're going to do a lot of remote

activities and communication. And some of the meetings that I have -- you know, we take advantage of the tools that we're saying we want our examiners and the attorneys to use. We're going to start taking advantage of those tools to have remote outreach as well. That's one example, but I will not steal Tony's thunder.

MR. HUGHES: Thank you.

MR. WALKER: Valencia, I'll just echo a little bit about what Marylee said about the number of initiatives, but I will give a shout out. I attended the TC 1600 Users Conference, and that was awesome. I mean, I really learned a lot there and a lot of interactions with the SPEs and am looking to the September 14th Chem BioFarma Users Conference. Yeah, I mean, it was really, really good; and I thought that the SPEs were particularly very, very helpful in their comments in helping people understand some of the ways to participate, and a lot of people dialed in on the Web, which -- and a lot of people gave comments from the Web. So, that was very helpful.

I also, while I have the microphone, had a couple of people attend the big conference you

had -- the two-day conference --

MS. MARTIN-WALLACE: Mm-hmm.

MR. WALKER: Very positive. We had someone attend the Web session you had -- was it last week or the week before? -- yeah, so all very good. But I -- it's one of these things that you hear -- well, I hear in our company -- is that you have to repeat something seven times before people really remember it. And so, with so much going on in the user community and everybody's so busy with everything, this constant repetition -- don't feel that repetition is bad, because it can really, really help. It's just hard to keep track of all these things.

MR. HIRSHFELD: So, if I can -- I was just going to go (inaudible) going to tell you about the budget, if you want to jump in.

MS. LEE: Yeah, just following up on what you said, Mike. So, repetition on our initiatives and so forth is (inaudible), and so what we've tried to do is we've tried to make it very easy for everybody to participate, including having a Website with all past recordings of all events. So, if you were not able to make it in

person or if you're joining the conversation late, as we have every other week -- Webinars -- you're not out of the conversation. You can go back. You can catch up on the part that you missed, the part that interests you, and we try to make it easy to index and access, in part because we want everybody to be participating all along the way. Even if they're joining a little bit late, they can still participate.

MR. WALKER: Yeah, that's a message I think we can help get out, because maybe people are aware of that, but they might not be. Very good.

MR. HIRSHFELD: In addition to what Michelle, it's our training materials, too. It's the same concept of making all of our training materials available so that people can back -- examiners and the public -- and see them over and over as they need.

I just wanted to sort of return to the big picture on these initiatives. There are a lot of initiatives, and where are in the process is determining which ones we go forward on, how

we go forward in them, et cetera, so pros and cons are weighed in that as you decide how to move forward, and of course the budget is something that we need to consider and that impacts on the budget with all of these initiatives. So, while Tom is taking you through everything, he's taking you through everything we asked about, and then the determinations will be made as to what is best and most efficient for us to move forward with.

MR. HUGHES: Thank you, Drew. Yeah, Dan, sure.

MR. LANG: Just really quickly. You know, I think the Quality Initiative is extremely important, you know, particularly those aspects focused on the quality-of-work product, and I think it's very much, you know, related to the kinds of, you know, anti-patent, you know, public record that others have commented on. I mean this is the way to push back -- is to improve public perception of the patent system by improving the quality of patents to come out of the Office, and that's what we should be thinking of in financial planning as well.

MR. HUGHES: Absolutely, thank you. I

just want --

MS. KEPPLINGER: Just a quick time check. We're about 15 minutes over our schedule, so maybe we can wrap this up. Of course the Quality is a very important topic, and I haven't wanted to -- but let's finish up.

MR. HUGHES: I had just one additional topic, but if anybody has any questions about where the training materials are or where the previous things or -- send me an email: Tom.Hughes@uspto.gov. Anybody in this room, send me an email and I'll send you a link to whatever you need, so.

MS. MARTIN-WALLACE: And Tom?

MR. HUGHES: Yes?

MS. MARTIN-WALLACE: Maybe since Tim is going to be discussing interview practice later on today, we can skip this one, because he will be reiterating what's there, and move on to the last one.

MR. HUGHES: Absolutely. So, I will skip through the in-person interview comments, and I will go directly to the other comments. And so these are everything that didn't fall into a

particular one of those six buckets, so, you know, these additional examiner and SPE resources, more time for examiners, improving examiner training, examiner PAP awards. So, I guess you can kind of see the flavor of these comments, so it's not surprising that we got so many of these additional comments. But -- so, you can see the number that kind of fall into the additional resources, more time for examiners, et cetera; and the one on the end was the others that we really kind of couldn't put into a particular category. But, as you can see, this is no surprising that most of these other comments were driven by the internal sources, because we didn't drive examiners towards one particular series of category of things to comment on with regards to quality. So, you know, we have a lot of comments here that just didn't fall within one of those four buckets neatly.

Two of the things that I can think of right off the top of my head have to do with the design patent quality, so there were a couple of comments about design patent quality that we are taking a look at and also comments with regards

to QPIDS and how QPIDS, how the Quick Path IDS process -- how those IDSs and QPIDSs are processed. So, those are some of the other comments that we received in this regard.

So, I am open to questions, but if there is nothing -- yes, sure, Paul.

MR. JACOBS: Yeah, just a quick comment. First of all, I think this outreach and this whole effort has been very successful in engaging the public and getting a lot of helpful thoughts from the community. Some of the members of the public may have the mistaken impression now, just from the structure of our agenda, that this is what we're doing in Patent Quality, and I just wanted to point out that the Office is taking steps every day to improve patent quality, and I think probably in future meetings we should have updates on those. This is very important for today, but certainly at the next meeting we should show updates on all the efforts that are ongoing and the results as well as the outreach efforts, just so people don't get that mistaken impression.

MR. HUGHES: Okay, thank you.

MS. MARTIN-WALLACE: Thank you, Paul. That's a great comment, and unfortunately we did go a little bit long. I wanted to be able to discuss a little bit more on next steps. As Drew mentioned, we have been formulating some initiatives through this path to move forward with, and we have to make sure we're being responsible about the efforts that we're putting forward, that they're right for the Agency, the stakeholders, and for employees. So, we will have news for you on those efforts very soon.

Also -- I apologize -- I had a packet or a document of a table of initiatives that have already been going on for quite some time along with what you're saying, that every day is an opportunity to enhance quality, and we will have that packet of initiatives that are in place right now that --exactly -- and we'll be sharing that with the whole committee.

MR. JACOBS: So, that's going to get -- and that's going to go up on the Website with the other materials, right?

MS. MARTIN-WALLACE: Yes.

MR. HUGHES: Okay, well, thank you all

very much for the opportunity. We appreciate -- I appreciate it. And, like I said, if you have any questions send me a direct email and I'll be more than happy to help you out. Thank you.

MS. KEPPLINGER: Thank you, Tom. That was a great update, and we look forward to the initiatives that you intend to roll out as a result of this. So, thank you.

MR. HUGHES: Thank you.

MS. KEPPLINGER: And next we have Brian Hanlon and John Cottingham.

MR. HANLON: Thank you, Ester. John Cottingham is going to start for us today, talking about the Petitions Dashboard that has been established by the Office of Petitions and the efforts that he's making with respect to that.

MR. COTTINGHAM: Thank you, Brian. Good morning, everybody. I am John Cottingham, the director of the Office of Petitions. I am here this morning to introduce a couple of new initiatives that we've been working on. First, a little background on my office, the Office of Petitions. We decide about one-third of all the

petitions in the patents organization, and we also oversee two different call centers, one of them being the Inventors Assistance Center, and that is -- my first announcement is after this past Monday we have expanded the hours for the Inventors Assistance Center. The previous hours were 8:30 a.m. to 5 p.m. Monday through Friday, and we have expanded them to 8:30 a.m. to 8 p.m. Monday through Friday to better support all our external stakeholders, especially those in the Midwest and on the West Coast.

And next I would like to walk through our Petitions Dashboard. We have gone through several iterations of this. First we went up and put up -- I think they're going to put up the first Website. So, we put up some data on the Data Visualization Dashboard a couple of months ago, and it was introduced at PPAC -- I think at the last PPAC.

Do we have the other one? So, as some of you are aware of our Data Visualization Dashboard here, if you scroll down -- let me see here if I can get -- okay, there we go -- you'll see a link here that says "Petitions Data," and

this will take you to some limited petitions data we have -- if it will work. Well, anyway, while we're waiting on the Website, we put up a subset of the petitions data from my office on some of the petitions we decide, and it shows backward-looking pendency and also shows historical grant rates, some of them more frequently filed petitions within my office.

There it is. So, these are some of the more frequently filed petitions that we've put up here. It was just a quick thing that we could put together while we worked on the bigger Website that had all the petitions data for you. So, what we did was we put it up here, and we gave you some information that would help all our external stakeholders. And also we put up here our ePetitions and non-ePetitions data. So, this is to highlight our eleven ePetitions and to encourage people to use our ePetitions over filing a regular petition, because with the ePetition you can get an instant grant. It takes care of everything in the computer, so everything's done instantaneously. You move on with your prosecution as opposed to having to wait

a couple of months for my office to decide the petitions.

MR. THURLOW: And just a quick point.

MR. COTTINGHAM: Yes.

MR. THURLOW: Marylee, I mentioned it before, this is something I've used in the past but many, many people don't know enough about, and it's really good. The ePetition is really good.

MR. COTTINGHAM: Thank you. So, with this data -- so, if you're on this website and you want to get to our new Petitions Timeline that just went live on Tuesday, you would just click here at the bottom. And when we built the Timeline, we didn't want to just put up a big spreadsheet worth of data, because not many people would find that useful. We wanted to create a tool that would be useful by all external stakeholders and internal stakeholders. So, we modeled it after the Patent Application Initiatives Website. So, where we built it as a timeline -- so, you have Prior to Examination, During Examination, After Prosecution, Allowance Imposed Issuance. So, wherever you are in the application stage or once you have your patent and

you have to file a petition, you could come here and you could see all the different categories of petitions that are available to you at that stage. And this is just a long list here, so as you -- and you can use this little handy guide here. You can click down here and it will scroll down here. But I'll take us back up here to Prior to Examination.

So, in all these groupings we have all the different petition types that are available to you. So, if we go -- say your application went abandoned in pre-exam, so you click on "Abandonment" and it jumps down here to the Prior to Examination petitions that are available. So, if these are not applicable to you because, like these are limited to international or (inaudible) that you can only scroll up and see the generally available petitions that are available any time. So, and what we did here was we -- it's the same data that was on the data visualization. We had the average days pending (inaudible) decide the petitions. This is a 12-month rolling average of the backward-looking pendency. We have the historical grant rate. We have the deciding office. So, if you click on

the link it takes you to our information page for each one of those offices so you can get the contact information and contact that office.

Also, for every petition, we hyperlinked it to either the MPEP or a particular Webpage that gives you more information about each petition. So, if you just click on one of these it will take you to the MPEP or to, say, a specific Webpage that we built for that specific petition, and you can get all the information you need for that petition.

MR. THURLOW: Hey, John.

MR. COTTINGHAM: Yes.

MR. THURLOW: I'm sorry, just a quick follow-up.

MR. COTTINGHAM: Yes. Yes, Peter.

MR. THURLOW: So, the issue always comes up as to how you get this information out to the public. I'm not sure if this has been the subject of a director's blog. People read that blog, especially the recent one with the PTAB and so on. This is a short version of everything you're saying. I mean that in a nice way. That would be helpful.

Also, one major confusion, and what happens is this confusion with petitions that you handle -- you handle, I think you mentioned, one-third of all petitions (inaudible) -- there's a lot of concern with the petitions being handled in the (inaudible) Re-examination Unit, and apparently there was a backlog. I don't know what the status is now, and with re-exams it's supposed to be done on special dispatch. So, there's a need to distinguish with all petitions you're talking about, what's going on and reexamine and so on, but as far as to get this out, again going back to ePetitions, maybe we could help you consider other ways.

MR. COTTINGHAM: Okay, thank you. We are putting together, like, the Patents Alert emails, a blog for, like, internal and external, so we are trying to get the information out there. It's just that we just went live with this, so I'm actually in the process of putting all that together, so it's just been a whirlwind trying to get it all out. As for the CRU, I will defer to the CRU to answer for their petition decisions.

Yes, Wayne.

MR. SOBON: Yeah, it's sort -- I'll take off from Peter's comment and also from the prior discussion we had. One thing that strikes me is that also to the extent -- and it may be the Office's plans -- but to the extent that the news people can use actually occurs at the events when they are happening.

So -- and one thing that, you know, is possible is, you know, not with -- well, maybe with respect to this -- if you miss a payment of fees and you're getting a notice from the Office, then an actual email alert goes to the email with the links saying, you know: You can potentially file a petition, here are the links to that. It's all automated based on actions the Office is taking with applicants.

A first office action that includes 101 rejections of the claims would go immediately with links to -- if you want to challenge that or here are the resources you can look at, to the extent that the Office can become kind of, now, sort of Web 2.0, user-savvy and sophisticated in terms of its immediate responses back to applicants with the links that are useful would

help the thicket of complicated -- in trying to manage your, you know, the applicants busy lives to find exactly the right resources at that moment when you need them would be very helpful, as a general theme.

MS. JENKINS: And we are already doing that on the Trademark side, so it's very helpful. They send out early links: Renew your trademark application and here's how to do it. So, it's a wonderful tool that the other side of the house is working on. So.

MR. THURLOW: So, a very quick comment. If you look at one example, the unintentional -- if you miss paying the maintenance fee --

MR. COTTINGHAM: Right.

MR. THURLOW: -- you do the ePetition instead of submitting the papers, waiting a few months, and a lot of people aren't aware of that method. That's a big deal.

MR. COTTINGHAM: Yes. The payment of the maintenance fees under the unintentional standard is available on ePetitions. It's just you have to pay -- you can only use it within the

first two years. If it's outside that two-year window, you have to file in paper or for my office to decide manually. So.

MR. HIRSHFELD: So, just again, returning to some of the big picture for the Office of Petitions, we are well aware that people need more information about petitions, and this was one of our first steps, and I can tell you what John has done, and also he's been out to some of the satellite offices and actually having seminars for people in the public for a lot of paralegals who are filing a lot of the petitions and were trying to get the Office of Petitions to be a more visible organization. That is, he's working with the public and, again, this is a huge step.

Now, John, correct me if I'm wrong but this went live yesterday or --

MR. COTTINGHAM: Tuesday.

MR. HIRSHFELD: So, very, very recent, and we will be advertising it and making sure people are well aware of it, and John and his colleagues will be out a lot more.

MS. KEPPLINGER: This is exceptional.

I mean, this is really great, because I think the whole petitions area has been kind of unknown to everyone out there. So, this is a really great endeavor, and I applaud you doing it. The suggestions that Wayne and Marylee had -- I mean, those are excellent, Wayne. It's a great suggestion for something in the future with our eye on the budget of course, but those would be great enhancements at some point when we're able to.

MS. JENKINS: I was just hearing we need to be patient, so. (Laughter) Hard with this group.

MR. COTTINGHAM: Yes. Thank you, everybody. So, that concludes the demonstration of the timeline. Feel free to take a look at it on the USPTO.gov Website and play around with it, and if you have any comments, please send me an email, give me a phone call. I look forward to hearing -- you know, if there's anything that you -- any enhancements you'd like to see, we can consider them all.

So -- and with that, I'd like to turn it over to Brian Hanlon, director of the Office

of Patent Legal Administration.

MR. THURLOW: So, are there plans to just make one section of the Website for all petitions or just with the ones that you're responsible for -- to make it one-stop shopping?

MR. COTTINGHAM: Right now, it's --

MR. THURLOW: Well, take things slow. I'm -- we're getting greedy as you can see, so.

MR. COTTINGHAM: Yes. It's a slow process, and through -- when we were building the Website, we were also capturing how we actually processed all the petitions within Patents, so that's an ongoing project that we are working on to try to improve that system. So -- and then trying to improve the Website and get more information out there -- it's an ongoing process.

MR. HIRSHFELD: Just to reiterate also, those petitions that John went through are not just the Office of Petitions' petitions, right? So, they are much wider than that. Now, I don't -- I actually -- I don't know if they're every single petition, but it's the vast majority of them, and our plan is to, whatever is not up there -- which I believe is a very small

subset -- make sure that is in the same place, attainable in the same way. So, that's why, you know, he had the links to more information on each of the areas, because it's much greater than petitions.

MR. COTTINGHAM: Right. Yeah, there are about 177 of them that we put into the timeline. Some of them are rolled up together, because they're all under the same code but you can call them whatever you want, so it was kind of hard to break all those out because then you'd have information on one (inaudible) petitions, and then you'd been into the hundreds. So, we kind of just condensed them into just general categories for several types of them.

MS. KEPPLINGER: Is this easy to find on the Website?

MR. COTTINGHAM: Actually, it is. If you just type in "petitions" in the search engine, it will take you to the petitions page, which is actually the first link, and there's a link there that says "timeline." You just click on it, and it takes you straight to that page.

MR. HANLON: So, I'm just going to talk

to you about two things. One is the update on our subject matter eligibility efforts; and then an update on our 112 efforts.

So, the first is subject matter eligibility. As you all know --

MR. THURLOW: You said "two small things."

(Laughter)

MR. HANLON: Tiny. I'm not controversial or anything like that.

MR. THURLOW: No, not at all. No, 101, that's pretty easy.

MR. HANLON: Yes.

MR. THURLOW: Yeah. We can skip that.

(Laughter)

MR. HANLON: So, as you know, we put out guidance in December of 2014. As an update, we have completed the training on that guidance. We completed it earlier in the summer. The training was two phases. There was a lecture- style training for examiners; and then there was also workshop training for examiners. The workshop training was very well received by the examiners. We heard a lot of good feedback about that. The

worksheets that we used in the training also very well received, so we are -- we have posted all of the worksheets. We've posted all of the training materials, and they're available on the Website for anyone to look at and to use, and the worksheets even are still being used by examiners as they are going through their analysis of their applications.

Based on these efforts that we made in the training on the December 14 guidance, we anticipate to see more consistency between the examiners and the office actions. We know that that was one of the comments that were made. One of the themes in the comments was made in response to the December guidance. So, we anticipate seeing an increase in the consistency, as I mentioned, of the examiners' actions.

So, in response to the comments that we received to the December guidance, we just recently issued guidance -- it's an update to the guidance -- on July 30th. In that update, we set another comment period, so it's a 90-day comment period expiring at the end of October. I believe it's October 28th. In that update to the

guidance, we addressed those major themes that we saw in the responses to the December guidance that we had issued. We also added some new examples, in that the majority of this was focused on the more software business method, the Alice type -- that's where our examples were because of sort of the state of flux right now in the -- basically in the life sciences area because of Sequenom and some of the cases that are ongoing. So, we're waiting for Sequenom to be resolved also for some other cases to see where we go with examples in the life sciences area.

Along with the new examples, we also have a chart of all the existing examples to make things easier for people when they're reviewing all of our guidance, and we have a chart of all the recent and relevant court decisions from the Supreme Court and the Federal Circuit. So, as I mentioned, we're continuing to monitor all of the cases. We know that there are some cases out there right now also on abstract ideas that we're monitoring, and as I mentioned we're working on the life sciences examples -- sorry, I should say we are working on life sciences examples as we

watch for Sequenom, and we're making determinations as to what the timeline is for Sequenom and whether or not we're going to issue examples that don't touch on that in the life sciences area or if we're going to wait for that and roll it out all together at once --those life sciences examples.

MR. WALKER: So, excuse me, this is Mike Walker. So, a question on behalf of the life science community. So, the -- any -- well, first of all, two questions I guess. One, right now you're applying Sequenom as the Federal Circuit Panel decided I assume; and, two, any idea on the timing for the other life science examples?

MR. HANLON: I don't know the timing. I think -- to take your first question, the timing -- I'm not sure when it's going to be. I think a lot of that's going to be dictated about what the comments are that we received. We don't want to go out too quickly. We want to let things settle for what we've already done and let everybody sort of get comfortable, get the examiners used to it, and move forward from there. So, I think that we'll have to wait and see also

on the timeline of Sequenome because, as you know, they just requested re-hearing en banc, so I don't think we want to -- we have to be aware of the timing of that, and we don't want to let the others be delayed excessively because of that. So, we're going to wait and see with that. So, I think it would be premature for me to answer that for you. So.

MS. MAR-SPINOLA: Brian, this is Julie. Let me ask you: Where are these materials available?

MR. HANLON: They are available on our Subject Matter Eligibility Webpage. On the Webpage there's a page dedicated to all subject matter eligibility, all the 2014 documents, 2015 documents, all of the training materials, and everything that's been distributed to the examiners.

MS. MAR-SPINOLA: All right, thank you.

MR. HANLON: So, yeah, you can go right through, and there's an entire list.

MR. HIRSHFELD: On USPTO.gov there's an examination and guidance link that you can

click on that will take you to the link of all of the examination materials. It will have 101 and other materials.

MR. HANLON: So -- and also, for the July guidance we're actually working on a training plan right now for that, to roll that out to examiners, and we're anticipating also seeing an increase in consistency based on the update that we issued just at the end of July and when that training has been completed. I anticipate that training to be done toward the end of, well, in the first quarter of fiscal year '16, so after the quiet time for examiners is when I think we'll start seeing that rolled out. And I would anticipate us to be doing workshop-style training again because of the success that we saw with that workshop training in response to the December guidance.

MR. BUDENS: Brian?

MR. HANLON: Yeah?

MR. BUDENS: Appreciate what you just said. Is there any kind of timeline for -- on behalf of the Life Sciences people? Because what do you want the examiners to be doing in view of

the Sequenom decision now? I mean, we -- you know, we can't set aside, you know, cases until you guys decide to issue guidance or Sequenom gets finally decided by the circuit or the Big Nine. You know, what do we --

MR. HANLON: Well, I think we --

MR. BUDENS: -- what do we do as examiners to deal with this decision? We've been smacked with mail; we've been smacked with (inaudible), and now we're smacked with this one. What do we do?

MR. HANLON: Well, I think we continue to examine consistent with the guidance that was issued in December of '14, and so I think if we continue along those lines, that's the right direction for us.

MR. HIRSHFELD: Yeah, I'll add to that. I mean, the December guidance has, you know, the principles of how you examine in subject matter eligibility, and that's applicable, of course, to the Biotech area and other areas. The issue with Sequenom was people wanted more specific claims -- claim examples in a Diagnostic Methods area itself. So, obviously, the prior training

that we've put out covers (inaudible) myriad, et cetera, and the issue for us was do we come out with more specific diagnostic method claims at this point, or do we wait, and our decision was based on the potential for additional litigation in Sequenom that it would be most prudent to wait and not be reactive to a panel decision when either the Supreme Court or even an en banc or Supreme Court is possible.

MR. BUDENS: Yeah, I understand where you're coming from, Drew, but maybe it might be helpful to just go out to the (inaudible) and remind them that the, you know, if you want them to continue following December 14 that that's, you know, where the Agency policy is right now, even in view of that recent decision, then it will at least help inform examiners, you know, what direction they should go to avoid getting into imperial entanglements with the 10th floor where there supervisor is, as the case may be. Thanks.

MR. HANLON: Okay, so the next topic is the training related to 112. So, we train the examiners on functional claim limitations. This is mostly focused in the computer software area.

This is consistent with the executive actions that we had for dealing with functional claim limitations. That training, as I mentioned, has been completed.

We've also done training on 112(a), Written Description. There was a high overview -- there was an overview training, a CBT, that was done on all of 112(a). That included both written description and enablement, but then there was also a second phase of training for written description. That training was being done in workshops, and that training is currently ongoing. The CBT has been completed. We're also going to begin training on enablement, a more detailed training on enablement, and that training is currently in production. We are also working on or anticipating our next module of training under 112. We'll be training on 112(b).

One thing I want to mention to you is that in all of this training for 112, consistent with the quality initiative that we have, we're emphasizing to examiners clarity of the record and making clear on the record what's the prime facie case and the elements that constitute a

prime facie case.

So, that is all I have. Yes, sir.

MR. JACOBS: Yeah, I wanted to point out, having participated as an individual in some of the software roundtables, that this 112(a) training I think was one of many examples but a good example of where the Office really did respond to the public from the outreach, because I think when the software roundtables started, we were looking at functional claiming and 112(f) in particular, and a lot of feedback that came back was not only -- this doesn't only apply to software, and it doesn't -- it's not only 112(f), it's really 112(a) and a more clear application of Section 112 in general (inaudible). And then, as I recall, the 112(a) and 112(b) got on the agenda, and we're seeing that now.

MR. THURLOW: Just a quick -- coming back to 101, I know I'm only giving feedback -- I don't work in this area, but there was a financial seminar in New York, and Valencia got an earful of information when she came up for the Patent Quality about Section 101 applications, especially in the 3600 group art unit. Apologies

to whoever the director is there, but -- so there just seems to be -- I guess the majority of cases are handled by that tech unit. So, there was just a request for additional training and focus on that particular area. So.

MS. KEPPLINGER: Okay, thank you.

Thank you for that presentation.

We are scheduled here for a break.

Let's be back at a quarter of eleven, and we'll have Andy Faile.

(Recess)

MS. KEPPLINGER: Okay, time for us to resume. Thank you for coming back, and we will start with Andy Faile with an operations update. Thank you.

MR. FAILE: Okay, good morning. So there's a lot of slides in your slide deck. I won't begin to cover them all. What I'll do is probably move through some of the slides, stop. We can have a bit of a discussion on those slides. The rest of it will be left as reading material, and obviously if there's any questions feel free to ping me and I can get answers to you.

So, for this slide deck it's roughly

broken up into two major pieces; one section talking about filings, one section talking about pendency. There's an allowance rate slide and at the very end a track one slide, so we'll get to a few of these and kind of walk through them.

The one I'll stop on is actually the very first one. This is our traditional look at our captured serialized and RCE filings. Just by way of background, by serialized filings we mean those new filings that receive a new serial number, unique serial number. All of our regular filings are continuations, et cetera.

As you can see in the red bar, those are serialized filings, and then in the blue bar is the RCE filings. We're tracing these from 2009 all the way on the left all the way to where we are in 2015. We're almost through 2015. We've got about a month and a half left, so we're closing in on that.

So a couple big takeaways from this slide -- maybe this is one to pause on and talk a little bit about. Number one, the last PPAC we talked about slow-down in the filing rates. We continue to see that. I believe last time I told

you guys we would end up overall about negative 1.8 percent over last year's receipts.

Currently we're about negative 2.2 percent. We do see the filings rising week by week. We think we are on track for our overall negative 1.8 percent growth, so we'll make up a little of that ground from 2.2 to 1.8 by the end of September.

You can also see on the right in kind of the shaded areas, this is kind of our projected filings in what we call the out years. This traces from 2016 in that first shaded bar all the way to the right in 2021, and what we're modeling here is just a very modest increase in the filings starting at about a 1 percent for next year climbing up very slowly to somewhere in the neighborhood of 4 percent.

Based on -- there are estimates in historical looks at filings -- we think that's probably a good estimate for now. The big caveat here: The more you move to the right in the shaded bars the more you get into the future. We will be updating that as we get the actuals for the years to the left as they come into being.

So, for this slide I thought we would

stop just for a minute if there's any questions or discussion. The big takeaway: We're going to end up at this year pretty much at a negative 1.8 percent overall growth. The serialized filings are probably going to be about flat, maybe a little negative, and the RCE filings will be about 6 to 6 and a half percent in the negative. Wayne?

MR. SOBON: Okay, so that's interesting. So, I mean, if you're comparing the two-year swing then it's almost a negative -- minus 4.6 percent swing, but you're saying that it may not be as concerning if in fact the bulk of that is an RCE filing decline because that actually is something we wanted to see happen.

MR. FAILE: Yea, it's a good point. So, what I'm saying is in the negative 1.8. That is the growth rate compared to last year.

MR. SOBON: That's right.

MR. FAILE: But contributing to that, RCEs are about 30 percent or so of the receipts. That portion of the receipts is down about 6 percent, and it was down a lot higher than that

earlier in the year, and the serialized will end up flat. When you do those ratios you get to the negative 1.8.

MR. SOBON: Right, so that actually helps unpack this data better because the concern that's been expressed is that this indicates some sort of global or U.S. secular concern about the value of patenting and the decline, but in fact if -- if in fact in light of that the actual serialized or real (inaudible) native filings are actually flat, but it's just the RCEs that are taking the brunt of the decline. That is actually something we've been fighting for and wanting to see happen for quite some time, so in fact that is mostly -- if I'm reading this right mostly good news.

The one question I had unpacking it one step further is if you can comment yet -- I think we ask this the last session -- is there any indication, art unit by art unit, is there for the deeper declines in certain art units that indicate (inaudible)?

MR. FAILE: I have slides on that per your request last time. I'll dig into those when

I get to them. So a couple ways to look at Wayne's comment. One is yes, serialized filings will roughly be flat. Another way is historically if you go back a few years, we generally had about a 5 percent increase from year to year, so we're not at that historical trend level. We're roughly flat which is muted from where we were before, but compared to the overall negative growth, the serialized, the bulk of the filings, the 70-percent-ish part of it is roughly flat. Oh, I'm sorry.

MR. WALKER: Andy, you asked the same question last PPAC meeting about trends we saw and the only things I would say is since then is *Ariosa v. Sequenom* has come out, so it's just another example of impact on the user community where you're saying "Is keeping something trade secret better than filing an application," and until we get some greater clarity either from Congress or the courts on that I think you're just going to have -- we're all going to have to just deal with the understanding that people who see those decisions are going to say it may not be worth it.

MR. FAILE: Okay.

MR. THURLOW: The more general comment I'll give is -- with the Patent Office I spoke at Cornell Tech to about 50 to 60 independent inventors, small businesses, business owners. The need for patent protection was critical. We were there for two hours. We got two hours straight of questions and the importance to the independent inventors based on a showing we had on a Monday night in the summer was pretty impressive, and the constant questions, so the zest for information I guess was really interesting to me.

The other thing, larger, we still see, obviously -- for a larger company is a huge need for obviously budgetary constraints (inaudible) always, and it seemed like you ask this question each meeting. Normally I say we don't hear too much, but in some recent conversations as Michael mentioned we are hearing more and more discussions especially with everything going on in 101 area about should we consider trade secret. I know on the legislative side the Congress is considering making a trade secret or even more, I guess shall I say, pro-patentee or

pro-business, which is making people ask questions about -- even more questions about that, so it's a trend that we're looking at and it's very important for us.

MR. FAILE: Thanks, Pete. So again, before we leave this slide, thanks for all the comments and for the previous comments from PPAC. That's helped inform us in the projections you see in the shaded areas.

And again, looking at '16 and '17, obviously much closer than today. When we get the actuals for '15 I'll inform those years. As you move to the right we're making larger guesses just because of the time span from where we are today and what may happen in-between could profoundly affect us. So, Wayne?

MR. SOBON: I do -- I went to further -- sort of a continual comment I have. I think this chart would benefit if you put on each time the bar that actually shows your expected for the end of the year, so it's always a little hard to just sort of eyeball what --

MR. FAILE: Okay.

MR. SOBON: See what I'm saying? So we

got (inaudible) comparison --

MR. FAILE: Yeah, the shaded --

MR. SOBON: -- what you're projecting. Where the bar's going to look like at the end of the year would be helpful I think for the public.

MR. FAILE: Okay, so for a little bit of a different look, we've been looking at design filings for some time. Design filings are actually up 2.4 percent over last year, so we have an increase in the design area, so that's something. Just as an FYI, that subsection of a design application is actually on the rise.

We have hired -- in the design area -- we hired 30 examiners this year which is a pretty good proportional growth. For designs there are about 140 examiners or so, and we anticipate also hiring pretty heavily in the design -- heavily meaning in the 2030 range for next year as we see the trend line in design filings begin to climb.

There was a question about the Hague. We haven't seen a lot of effects from the Hague yet. I still think that's something we need to watch. That could actually contribute to the workload dramatically. We haven't quite seen

that yet, but that's certainly something we want to watch.

So a few of these I'll run through really quick. This is -- in the red is the actual filings per month for the fiscal year '15 and in the blue is what we had planned. This kind of just shows you a quick visual that our planned and actuals coincide pretty well. I think we've done -- the office has done a pretty good job of trying to calculate what these filings would be in the actual so show that we're not far off of the original plan.

For this one again it just looks at the actual monthly serialized and RCE filings are received per month. You can get a sense of that trend line in a little bit; more granular.

One of the requests last time is a little more granular filings data, so let's take a second on this slide. This shows you the filings per fiscal year per tech center. At the very top in the orange kind of circled area is tech center 2800, our largest tech center. The one right under that in kind of the -- I would say pink lines -- hard to see from here -- is tech center

3700 which has been steadily increasing as you can see. The rest of the TC's are somewhat bunched together in that lower area. One thing you kind of see there is the filing rate gross between tech centers. It kind of gives you the next level snapshot. Yes, Paul.

MR. JACOBS: Sorry, I spent a fair amount of time with this one in part because I'm color challenged and part because the version I was dealing with I think you used the same background blue for one of the bars which made it even harder, but I was trying to figure out -- the 2800 clearly is bucking the trend and some of the others are maybe bucking the trend? I was trying to figure out what the trend actually might be because we know that overall filings are flat to down, yet some of them are up, so is it fair to say that in the mechanical and electrical filings continue to rise whereas as in software and life sciences they're declining and that that may be the overall trend?

MR. FAILE: Yeah, on a high level but I wouldn't emphasize those differences too much, but in a general sense that's probably a true

analysis of it.

Okay, and we take a same look at the RCE filings by tech center, again showing a bit of the drop from last year. You can see -- I think a big takeaway from this slide is if you look from '14 to '15 you see that drop. It's pretty much the same steep -- not steep but the same level drop per tech center, so we're seeing the effects roughly across the board is what I would take from this slide in the RCE downward filings.

We talked a little bit earlier in one of the other sessions about the business methods area; it's our class 105 area. So what we did was we took a little deeper look at just that particular area. It's about 400 or so examiners in the business methods area, so what you see here is the trend lines starting at about April of '14 to basically June of this year. In the blue is the serialized filings that tracks the month-by-month filings in that area and then the red is the RCE filings in that area.

So a couple notes here. You see somewhat of the trend line, the serialized filings somewhat moving down. We're actually

back to where we were in June of this year, back to where we were approximately in November of '14, so a little bit of oscillation there.

As you look at the RCEs, what you see here I believe is expected in this year. You have the Alice decision summer of last year. You start to see the RCEs go down as we're dealing with the effects of Alice, we're sending out non-final rejections. The finals go down; therefore the RCEs go down since they need to be filed after finals so you see that moving down.

Then you see the RCEs coming back up as those cases go towards file, and RCEs are filed you see the RCEs moving back up. They look like they're cresting probably about the June or so timeframe. We expect the trend line on the red to actually come back down a little bit more and be more at a steady state, so we see the RCE filing progression following Alice pretty much what one would expect.

Here's a shot of the unexamined application inventory. Again we've seen this slide a number of times. It shows a general decline starting in quarter 1 of FY11 all the way

to the left. The purple line is basically August 12th of this year where you see the inventory, and then to the right of the purple line are our projections. Based on that very first slide looking at the fourth quarter of fiscal years '15, '16, '17, '18, '19, '20 and '21, so we're switching scales there and going into actual fiscal years the last quarter to kind of show the projection there.

Got another look at the design application inventory. As design filings continue to increase we're building up that inventory, and again one of the main levers there is bringing in more design examiners to work that inventory down.

The RCE inventory -- we've shown this inventory a number of times. No real change here. We're roughly flat. We're somewhere in the mid-30,000s, 35,000 or so RCE's which is basically steady state size of inventory for the amount of examiners we're had here.

We've had a lot of improvement in RCEs since back in about February of '13 where we were at the 111,000 mark in the backlog. You can see

the trend line going down to our current mid-30,000s or so. That's been a very positive trend and again the partnering with PPAC and doing the RCE Outreach and doing a number of initiatives suggested by you guys was a huge part of that as well.

MR. THURLOW: Can I just make a general comment about the design side since there seems to be more of an emphasis on it than I initially expected? What's curious for me to watch -- I won't name the companies but we all know -- that we kind of sell the design applications based on decisions and in certain cases Applebee, Samsung, and so on, with the design of the IP and all that stuff. But I mean with the recent decision and the sensory examination unit at the Patent Office, I'm curious how that's going to affect the whole design filings and just questions what the scope of protection and value because that was a major part of that case, so that's something we're watching and people are reviewing.

MR. FAILE: Definitely something to keep our eye on. So, any other comments on filing trends that you guys see or things we should take

into account please, as Pete did, please throw those out so we can capture those.

MS. KEPPLINGER: Just the one thing on the RCE inventory, I note at the bottom you have a note that the percent of the backlog that's over 4 months is 30.7 percent, and I think that's obviously going in the right direction although I need to look at the end of last year to see exactly where we were because I think I did capture those numbers in the annual report, but ideally we would be decreasing that percentage that's over 4 months because each of those translates into PTA that's granted to those applicants, so that would be one focus.

The whole RCE initiative has been great and we've been reducing them, but getting them down below 4 months would be also a big help.

MR. FAILE: Yeah. That's a great point and right now the average pendency of an RCE is about 3.4 months. Again, that's average so you have some that go over and some that are left of that number. It would be -- the next obvious focus is to look at the 4-month statutory period under 1444436 and make sure we're staying to the

left of that line to the maximum extent we can.

Let me skip this one and go into this one next chart and talk about that a little bit. This is the unexamined patent application inventory per examiner, average per examiner by technology center. In addition to being an eye test let me just give you kind of the trends that you see here. Each technology center is color-coded.

I'll give you a couple highlights here. I think a couple main takeaways from this slide is if you start all the way on the left -- that's 2009, number one you see the bars pretty much at most of the technology centers higher than the way they are all the way on the right in 2015 showing the average inventory coming down, number one. And number two, if you start on the right as you move -- start on the left, as you move from left to right you see the bars starting to equalize a little bit meaning that the placement of hires and the application of the fire power to the backlog, and we're starting to make sure we're getting those choices made where we're starting to equalize pendency out to some degree better than

we were several years ago.

For the tech centers you'll notice that the bars on the far left are 3,700. You can see the inventory there coming down significantly when compared to some other TCs when you get to the 2015 level, and you see some of the other TCs particularly in 2,400 and to some degree 2,126 coming down but remaining relative constant. So again, the big takeaways I think from this slide in looking at the average inventory per examiner in a technology center basis; number one, those bars have come down overall and two, they're starting to bunch up a little bit more, starting to equalize that inventory out. This was a request from last time to show a little bit more granular data so.

Switch to pendency real quick. I'm going to go through a few of these slides, hit the last two, and Esther, I hope I can return some time back for the schedule. Our pendency -- our targets this year for average total pendency is 27.7 months. We're currently at 26.6 -- are currently making that target and expect to continue that trend for the next month and a half,

so we'll make our total pendency target for the year.

Our first action pendency, we're at 17.6. Our target is 16.2. It looks at this point that we will not make that target. We will be slightly above that. We get a lot of output -- probably 30 percent or so of our output for the year comes in the fourth quarter, and our trend line, if that comes to bear we will actually -- we're not out of the realm of possibility of making the 16.2. The better guesstimate is we end up at 16-point some other number. Paul?

MR. JACOBS: I'm pretty sure I know the answer to this question too, but the graph makes it look like the first action pendency has not only leveled off but increased a little bit just at the end, and if that's true at the same time that filing rates -- well, why would that happen that filing rates are declining?

MR. FAILE: The first action pendency said there's a lag factor in between the two, and we're also -- keep in mind we're coming off of a pretty big investment in CPC from last year. We

just converted at the beginning of this year, so those effects are playing out as well. That's a good question.

MS. MAR-SPINOLA: Drew, I have a question please. So, in the earlier graphs you showed a lowering of the inventory per examiner, but the pendency for projected for -- am I reading this right -- for 2017 is expected to go up by about a month? How does that correlate?

MR. FAILE: Yes, this is the -- you're talking about this graph?

MS. MAR-SPINOLA: Yes.

MR. FAILE: Yes. This is the application inventory, not the pendency. So, this is the inventory of cases in. The pendency -- there's a lag and the cases are there, and then they go -- they're acted on, so at some point you get a first-action pendency data point, and then later on you get a total pendency data point and they become abandoned or allowed, so they're kind of two different quantities. One is the actual application inventory and one is actually pendency when that inventory is completed.

MS. MAR-SPINOLA: Okay.

MR. FAILE: Okay, so for a little bit of a deeper dive into first-action pendency, I've got a couple new slides here that were requested last time. I'll kind of give you the takeaways. They're pretty busy and colorful at the same time.

So, this is the first-action pendency by tech center. This traces from FY11 through FY15. I think the big takeaway here is kind of the general downturn in pendency and kind of the bunching up on the right end of the slide of the pendencies. They're getting a little bit more in line with one another whereas you can see maybe not so much at other points in previous fiscal years, so that's kind of on a tech center level.

Now we take another granular look. This is first-action pendency by work group. I don't expect you to be able to read this, so I'll just kind of give you the highlight -- overview.

At the bottom are all our work groups from 1610 all the way to 37 -- technology center 37, 3780. This is each work group. In the bars on the axis to the left are the number of months pendency and then work groups on the bottom, so

this kind of gives you the sense of any particular work group and the pendency that that particular work group is at, and again in an ideal world we want these bars as low as we can -- looking at first-action pendency shooting for goal of 10 months in the future, low as we can and as equal as we can, so were a case coming into the office is acted on in a very short window of time with respect to another work group. Ideally that's what we want.

There are such huge variables here; technology differences, staffing, et cetera. There's always going to be some level of variation in this, so the goal would be to look at this from kind of the management perspective, performance perspective area, and try to figure ways to equalize these to the extent we can.

Hiring is a huge thing that we -- a huge tool we do in doing that making sure we're placing the hires in the areas of the higher bars. Mary?

MS. JENKINS: I know you've probably told us this, and I don't remember and it might not be necessarily a simple answer, but is an examiner more incentivized to pick up an RCE, or

is an examiner more incentivized to pick up a file for first-office action, and is that really not the fair way to put it?

MR. FAILE: Depends on what you mean by incentivized, but let me tell you how it works in general. So, the count structures are slightly different, so if one is looking from the perspective of a count structure, a new case you have a total of two counts.

In an RCE it's a little more complicated. The first number of RCEs one does in a quarter have a reduced amount of counts; 1.75. When they reach a certain threshold then they get the 2 counts, so at play is I need to do my RCE counts at the lower threshold so I can get to the higher threshold during that quarter.

Also is the work available to them at the time, what they think they can get through, how they're balancing their counts for that bi-week? Becomes a pretty, very individualized assessment by the examiners, but just looking at a very large level, the count incentive structure is based on the new cases having more than the first RCEs that won't be due in a quarter, so from

a count incentive structure it's weighted that way, but there are many other factors that play when one wants to figure out the work they need to do for either that bi-week or that quarter.

I'm going to skip through the design dependencies and talk just a little about attrition because I think there's a note here that I should bring to everyone's attention. As you can see, the attrition -- looking -- this calculates from 2001 all the way on the left end of the graph to July of '15 on the right end. These are 12-month rolling averages, so you do see a bit of a smoothing of that attrition rate. If you see the last trend from 2014 to 2015, the attrition rate is starting to climb a little bit. We're probably about 5 and 1/2 percent. We modeled this year somewhere in the neighborhood of 5, so we're a little bit over the attrits that we had modeled slightly, so that's beginning a new look at attrition.

We've been -- had record low attrition 2010, 2011, 2012. We're starting to see that climb a little bit this year, so I wanted to put that --

MR. THURLLOW: Is that just because the economy getting stronger and so on?

MR. FAILE: Yeah, so we did a little bit of a deeper dive into this looking at attrition and some of the outside factors obviously that play in: Unemployment rate, federal salary levels being relatively flat. We did -- for a number of these examiners a few years ago -- had a recruitment retention incentive. We've burned off all of those now, so that's not in place anymore, so those external factors I'm sure have contributed in the attrition rate going up slightly from where it was. But this is another slide. Any input from PPAC, obviously attrition-rate modeling is an exercise in a guesstimate on our part that we want as accurate as possible. It directly affects the size of the workforce and what we can do.

MR. THURLLOW: One quick follow up on that. I'd be curious to see the attrition rate between examiners that are in the so-called hotel program that apparently --

MR. WALKER: (off mic)

MR. THURLLOW: I'm sorry. (inaudible)

so that in a -- for examiners in hotel program as compared to (inaudible) Was it 50/50 or something like that?

MR. FAILE: Yeah, we can get that. I don't have it.

MR. THURLOW: I'm just curious. You would think --

MS. KEPPLINGER: But isn't it true that the attrition rate is greater in the early years as compared to the more experienced examiners and those newer examiners are not even in the hoteling program?

MR. FAILE: Yeah.

MR. THURLOW: When do you go into the hotel program? When can you?

MR. FAILE: For hoteling it's your -- basically here for two years. You're at a certain GS level, GS12 and you've passed the third exam, so it's your more mid-level, more higher-end senior examiners that are eligible in the first place.

And Esther's right. Most of the attrition volatility -- the higher numbers are in the first one, two, and three years. Once an

examiner's passed either three or the four year mark the attrition rate drops dramatically, so in the massive hiring that we've done in the past, you have a lot more volatility in the first few years, and the attrition rate's generally higher -- generally significantly higher than it is for the more senior examiners on the back end.

MS.JENKINS: Andy, you kind of took my question, too, so I feel for you, Peter. I'm wondering because of other attrition in the senior rankings of the office, with all due respect, I'm wondering if there is any attribution to the dot going up because of people having been here for 25 years and you have a lot of people who are saying I don't want to stay at the office anymore, so I'm wondering about that.

And then also wondering, too, because I know we've had other discussions where hiring is going lower, so are we looking -- how are we looking at attrition which I know you're doing -- how are looking at attrition with respect to our lowering of hiring demands?

MR. FAILE: Yes, okay, so that's a good question. So, for the very first, we don't see

the data on the more senior examiners. We don't see the trend line moving down there.

Having said that as everyone knows there's a certain wave of retirement moving throughout the federal government from the baby-boomer generation at the end of that that we will see probably coming to bear any time from now and the next several years, next decade or so, so we will probably see that trend line on the senior examiners as they get retirement-eligible and move out as a part of that process. That will probably be a different effect than we've seen in the past.

So, in looking at the actual attrition rate, we are projecting now to have hiring somewhere in the neighborhood of 100 to 200 examiners for the next few years. That's basically a direct response to what we see in filing rates and making sure that we don't over hire and crash and burn with respect to inventory.

So, part of that equation is factoring in the attrition that's kind of synonymous with the hires so the more attrition goes up, that's going to affect the level of hires on the front

end and vice versa, so we're looking at that. In the modeling that we do we're looking at both of those quantities, thus the request for the best information we can have on anything you guys see that might affect our calculations on anticipated attrition rate is very helpful because we scale that up with the hires on the front end.

Okay, and let me do one more slide and I'll turn the time back over to Esther and that's Track One. We usually have some stats on Track One at the meetings here. One thing I did want to point out that this date is captured sometime in August. It's not complete for August. You'll see that we're at 7,876 Track One filings this year.

We do have a cap of 10,000. Our trend line so far estimates that we'll be somewhere in the 9,000 to 9,500 range for Track One for this year, so we'll be below the cap. At one time we were thinking we were actually going to hit and exceed that cap. As the year progressed and we continued to compile the numbers it looks like we'll be slightly under that cap to the tune of 500 and 1,000. Mark?

MR. GOODSON: Has anyone made any derogatory comments about Track One? I mean I can tell you it's wonderful. Is there any negative feedback on it other than the cost?

MR. FAILE: I don't -- I can't off the top of my head think of any negative comments. I'm sure someone's had a case that whenever they made a negative comment, but none comes to mind. It's a pretty well received program both from the outside and from practitioners that have dealt with the office and prosecuting this program -- those particular cases. I have not heard much of anything negative about the program, but --

MR. GOODSON: Okay.

MR. FAILE: -- it's largely positive.

MR. THURLOW: Basic question is when you hit the 10,000 number, do you have flexibility to increase that because I don't think a lot of practitioners are aware that (inaudible) coming even close this year and --

MR. FAILE: Yeah, so hopefully one of the takeaways here is that we'll be under --

MR. THURLOW: Right.

MR. FAILE: We can increase that number. There's processes in place to do that. One of the things that we're looking at in the modeling as pendency comes down, one of the assumptions is the use of Track One at some time follows that trend. Less people use Track One as pendency moves down more into the 10-month range, so that's an assumption we're making in the modeling, so in the out years we're trailing off the anticipated filings of Track One, and again, any input on that assumption would be helpful.

MR. THURLOW: Just looking at the numbers it seems like there's a chance in 2016 if the numbers continue to trend up that you may hit that, so I would be concerned if I was filing in December and I wouldn't have the option to get that so that's something to consider.

MR. FAILE: Sure.

MR. JACOBS: I'm sorry. Is it December or is it September?

MR. FAILE: Fiscal.

MR. THURLOW: I'm sorry.

MR. FAILE: Fiscal year. I thought you meant December of next year because next

year -- I mean Pete's right. Next year we'll likely -- either '16 or '17, if all assumptions that we talked about here come to bear and we continually see pendency going down, '16, '17's probably a crest year for Track One if that assumption plays out. As pendency gets lower Track One is maybe not needed as much, so it may be that we ride under the 10,000 for the program, but again, just an assumption.

MR. THURLOW: I wouldn't advocate the elimination of that program.

MR. FAILE: No, I'm not advocating that at all, just the usage of the -- the need to increase the cap. I think in the next couple years we'll know whether we're going to need to increase that cap on a fiscal year basis.

MS. MAR-SPINOLA: Drew, I would say in terms of forecasting I actually think there's always someone who wants it even more quickly than 10 months, so I think that -- I actually think and agree with Mark about that it's a great program, and for some companies even 10 months is a long time for different needs, right, especially start-up companies who need funding.

So, I think that -- and also I would almost increase the number of what you would allow to make up for any lost revenues in a different area such as RCEs or any area where you expect revenues to come down.

MR. FAILE: Okay. Yes, I think the -- just to make sure we're all on the same page, the take away from the Track One slide is "No, we're not thinking of eliminating it." Let's squelch any kind of discussion to the contrary.

The discussion was mainly how do we model this in the out years with lower pendency, so we're getting as accurate numbers as we can, and no model do we have it going down to zero or even close. We're just moving it down from the 10,000 mark. To the extent we need to punch through the 10,000 mark, obviously we'll cross that bridge when we get there, just to be clear.

MS. KEPPLINGER: Okay, any more comments? We're minutes behind now (laughter), so that's okay. Any further comments?

MS. JENKINS: Just real quick. Andy, thank you. These slides are really helpful, and

we appreciate you breaking it out in more detail. It's really insightful. Thank you.

MS. KEPPLINGER: Okay, now we have Tim Callahan with a WebEX Interview Program Demonstration (slides).

MR. CALLAHAN: Thank you. I appreciate the opportunity to talk to you about interviews. If we're running tight on time I actually had a few other things other than the demo that I wanted to talk about, but I can go through those very quickly or --

MS. KEPPLINGER: Sure.

MR. CALLAHAN: -- okay. So, couple things I wanted to talk about is we had a survey last year. I wanted to talk a little bit about the results of that survey, do our WebEX demo. We did update our authorization policy, talk a little bit about that, and then talk a little bit about some of the interview resources we have available.

So last year we ran a survey for examiners and for applicants. We had over 2,000 applicants take our survey. We had almost 8,000 examiners take our survey, and what we were trying

to do at the time is to learn what's going on in interviews, what are people's opinions of the interviews, how are they using interviews, and we were looking for training opportunities, and when I talk about training opportunities I mean both for examiners and for our external stakeholders.

So, a couple of points -- takeaways on our survey -- one of the things we asked was just do you think surveys are an effective tool to advance prosecution, and we were glad to see that the applicants were very positive on that. Ninety-eight percent said that they were either somewhat, very, or extremely useful. I don't know what that other 2 percent were doing (laughter), but anyway -- so we had a very positive response from our applicants; that they did see interviews as useful tool.

And so these next couple slides we asked very similar questions to the applicants and to the examiners trying to compare what their opinions were on interviews, so one of the things we were trying to get are what are people doing in interviews so we ask them was it to -- how often were you clarifying or trying to get a better

understanding of the -- or explanation of the rejection, so you see both the applicants and the examiners had very similar responses. So, people are talking about rejections, trying to understand what's being said.

And again, on clarification of positions, is that something you're talking about in interviews and again, both very similar response from both applicants and examiners. They did feel that they were getting a better clarification of their position during the interview.

One of the things we asked was did you feel that there was a better understanding of the invention being claimed, applicants thought -- 93.5 percent said yes, they thought the examiners had a better feel for what the invention was. The examiners, of course, had a slightly different -- they already knew what the invention was, but a very, very similar result, right?

(Laughter)

And so here was another one where there was a little bit of a difference between the two sides, and this was about reaching agreement or

at least forwarding prosecution during an interview. Applicants -- about 81 percent said yes. Examiners had a slightly better opinion of that, and they said that -- 92.6 thought that they advanced prosecution or did reach some kind of agreement, but overall very positive results from both sides on interview practice.

One of the things we did learn and I think we knew this going in was that applicants were primarily the ones initiating the interviews, but a very positive, I thought, came from the -- one positive point that came from the survey was that 99 percent of our applicants that responded said that their request for interviews were usually granted. So again, the examiners are participating and collaborating and trying to wrap up prosecutions.

So, training opportunities -- one of the questions we were asking for -- to the applicants specifically about WebEX -- have you had a WebEX? What do you think of WebEX? And so here you see a chart on one of the questions, and this was a question where you could select any of the answers that applied, and so our takeaway on

this -- you could see that 60 percent said that they had never been offered a WebEX, and so that was something very telling to us. Even more telling was 42 percent said "I didn't even know that WebEX exists," so part of our effort this year is really to try to get out the word that WebEX is available, and it's a very effective tool to have an interview when you don't have that opportunity to be in person.

So, having said that, let's get to a quick demo of our WebEX. A few basics: Really all you need is a computer and a high-speed internet connection. You should have a camera, too, if you want to share video. It's a web-based product, WebEX is, so you don't have to -- it will run on any of the operating platforms that are generally used. You don't need to download any kind of software or purchase any software. The way we use WebEX is we use the telephone for the audio portion, and the video goes right through WebEX, so you will need a telephone to call into.

Now, when you get invited to a WebEX interview by an examiner you will get an email, and in the email you will see this box. All you

have to do is click on that link that says "Join the meeting," and WebEX will start up. Now, it may ask you -- depending on what web browser you're using -- it may ask you to download -- not download but run a java applet just to start the program up, but other than that, that's all that you should have to do, and then you have to call in with your telephone.

So, I have a colleague on the phone here. See if I can pull him up. There you go. Mike, are you with us?

MR. THIER: Yes I am. Good morning, Tim.

MR. CALLAHAN: Good morning. So, with me here I have Mike Thier. He's a supervisor in TT2400 and a member of our interview practice team, and so Mike and I are going to run through a little mock interview. I selected Mike specifically because of his acting ability so that it will be very realistic, and -- but we wanted to show you a little bit of functionality of WebEX and how it would be used in an interview.

Now, just for your knowledge, when you start up WebEX this is what you will see. This

box over here -- if I can get my mouse -- it's this audio box here -- one of the options will be -- you can either -- it will have a number there. You can either call into WebEX or you could have WebEX call you. I always have it call me. You just punch your number in, push the button, your phone will ring, you pick it up, you're right into the WebEX, so starting the audio portion of WebEX should not be a big deal. So, all right, Mike, are you ready?

MR. THIER: Yes, sir.

MR. CALLAHAN: Thanks, Mike.

MR. THIER: All right, so let's jump right into it. Hello, Mr. Callahan, I'm glad to see you made it into WebEX okay.

MR. CALLAHAN: Thanks, Mike. You can call me Tim. You don't have to call me Mr. Callahan.

MR. THIER: All right, yes. Okay, so let's jump right into the proposed agenda you sent me. I have it here on my computer, so what I'm going to do is I'm going to share it so we can both look at it. (inaudible) right to your screen, flicker a little bit, and then it should pop up

in a couple seconds. And you should see the agenda now?

MR. CALLAHAN: Not yet but it's coming, I'm sure.

MR. THIER: There you go.

MR. CALLAHAN: All right, so there it is. Yes, so primarily we really wanted to talk to you about today was the 102(a) rejection on the Adams reference.

MR. THIER: Yes, of course. So, I looked that over earlier. Specifically you just want to discuss the rejections I made in view of Adams, right?

MR. CALLAHAN: Right, so we looked over your first action. We're creating our response to all the rejections, but the one on Adams we're having a little bit of difficulty so we want to discuss that with you today.

MR. THIER: Okay, so to make this easier what I'm going to do is share my file so you can see the Adams reference as well as your figure next to each other so we can kind of compare. So, you should see the application file now, and I'll open the Adams reference here on the

right --

MR. CALLAHAN: Okay.

MR. THIER: -- as well as opening your instant figure. Oops, that's the claims -- your instant figure. Hence -- right here. On the left we have your Figure 1 and on the right we have Adams.

MR. CALLAHAN: Great, that's fantastic. So, our difficulty here is we're looking at our Figure 1, and in our Figure 1 -- by the way, this is a mouse trap. In our Figure 1 -- in our mousetrap what we have is we have two distinct compartments; one to lure the mouse in and one to contain the mouse, and when I look at the Adams reference I only see a single compartment, so we think that's distinguishing feature on our invention.

MR. THIER: Okay, sure. So, let me just make sure I understand your interpretation correct. I'm going to open an animation tool here just so I can make sure I understand you. You're saying you have here -- 111 is a first like luring compartment, I think you guys said.

MR. CALLAHAN: Right.

MR. THIER: And then you have 112 here which is the detention compartment.

MR. CALLAHAN: That's correct. Now, you -- are you drawing on my application there?

MR. THIER: No, no. Don't worry about -- this is actually a tool in WebEX that only annotates within WebEX. The minute I stop sharing the doc all these go away, so it's not actually in your file.

MR. CALLAHAN: Okay, so that's great. So, right. Those are the two compartments, but I only see one. Can I have the -- can I be able to annotate also?

MR. THIER: Sure. Let me give you control here. I'll give you the ability to annotate, so what should happen now is you should see a pop-up on the left with a pencil?

MR. CALLAHAN: Yes, I do.

MR. THIER: Yes, you can then take that and annotate, and it will show in a different color. An interesting thing to note is that if we had multiple participants, another one of your colleagues, we can all annotate at the same time in different colors. There you go.

MR. CALLAHAN: That's great. So, don't look at my drawing ability, but I have two -- so I'm indicating that the two -- the lure and the containment features on ours -- and when I look into Adams I just see one single chamber here. I don't see the multiple chambers as is claimed in our invention.

MR. THIER: Okay, let me -- I looked this over earlier once I saw your agenda, and what I'm going to do now is I'm going to have to stop annotating on this document because I want to show you something in Figure 2 that might make it a little more clear for us since Figure 1 doesn't necessarily make it perfectly clear, so what I'll do here is -- we'll go to Adams Figure 2. I'm going to turn annotation back on for me to show you what I'm talking about. So, over here is Figure 2 -- right over here, and what we actually have is two trap doors, here and here, okay? So those two open and close.

When those open as shown here in Figure 2 -- open -- you can see down here item 3 is the retention department or detention department where the mouse actually would fall. So, to show

you that in Figure 1 now, if we go back, you can now see those here as item 8 and 30 disclose, so these doors would open and then down here is actually showing you the underside which would be the second compartment. So, you are right that there is a first compartment up here which you were pointing out correctly; however this second one's down there. That's how I was interpreting it.

MR. CALLAHAN: Okay, thanks for that explanation, Mike. I see how you're reading the Adams reference on my claim, so I've taken some notes here. I'll take that back and look at our description of our figures and see if I can't come up with some suggestions to overcome the rejection.

MR. THIER: Perfect. That sounds reasonable. I did notice that's the only thing you had on your agenda, so is there anything else you want to discuss?

MR. CALLAHAN: That's really what I wanted to discuss. Do you have any suggestions or anything else you'd like to discuss?

MR. THIER: Yes, actually when I was

reviewing the file earlier to prepare for the interview I noticed a couple things with respect to the claim language. Would you be open to possible suggestions to work on that now?

MR. CALLAHAN: Sure.

MR. THIER: Okay, so I'm going to stop annotating, and if you actually have a copy -- a digital copy of the Word document I can give you the ability to share your document and annotate it or edit it. Would you like to do that or --

MR. CALLAHAN: I'd love to share my document but I'm not exactly at my computer right now, Mike. Do you have the working copy that I sent you?

MR. THIER: Yes, actually. The other way we would do it is I can then share it, and I can actually give you control to edit the document as well, so we both can work on it together which is actually a really cool tool. So, let me to go and pull that up real quick. I'll pull up the claim set. You should see your claim set now.

MR. CALLAHAN: I see it, yes.

MR. THIER: I'll expand it a little bit to make it a little more visible for everyone.

MR. CALLAHAN: Thank you.

MR. THIER: And what will happen now is I'll pass keyboard and mouse control to you, and this will give you the ability to edit the document. Use your mouse on it just like we were working in the same room together.

MR. CALLAHAN: Great.

MR. THIER: So you might see a pop-up that says you've been granted control.

MR. CALLAHAN: Okay, I'll take control.

MR. THIER: Great.

MR. CALLAHAN: What suggestions do you have for me?

MR. THIER: Okay, so the first thing I wanted to point out was just a minor correction I noticed in Claim 2 when I was reading it. At the first line you have where it says lutes compartment. I know you meant lure on that one. You might want to change that.

MR. CALLAHAN: Let's see --

MR. THIER: I appreciate you turning on track changes as well.

MR. CALLAHAN: No problem. Thanks for

catching that, okay? Thanks for catching that.
Any other suggestions?

MR. THIER: The other thing I wanted to point out was something to do with actually Claim 4. This is actually cancelled or non-elective species originally, so I didn't really examine it but now we're viewing the case as we've moved forward and what not. I took a look at that with respect to the Adams reference, and I actually think if you add the limitations of Claim 4 back into Claim 1, I think it will overcome the Adams reference, and I'm not sure if I've seen anything like that.

MR. CALLAHAN: Okay. Okay, so what you're suggesting is that the phrase in Claim 4, if we take that and put that into Claim 1, that would be in condition for allowance?

MR. THIER: So, I can't guarantee that it's allowable yet because I haven't updated my search, but what I do know is I'm pretty sure it overcomes the Adams reference. We'll take another look at that reference to update our search, but I think with my path searching and my understanding of the art, I haven't seen

something that worked in that manner, so I'm pretty confident saying that it may be allowable.

MR. CALLAHAN: Well, thank you so much for those suggestions. I will take that into consideration and file a file amendment.

MR. THIER: Great, so did you have anything else you wanted to talk about or are we good here?

MR. CALLAHAN: We're good, Mike. Thanks for your help.

MR. THIER: All right, so before we actually shut down the WebEX I'm going to take back control here of the keyboard and mouse. Now, these were just suggestions so these aren't -- he can't officially submit anything this way via WebEX, so these are just the suggestions, so if you want to submit those you can go ahead.

For now what we'll do is I'll go ahead and I'll summarize our entire discussion in detail on an interview summary, and I'll get that out to you later today.

MR. CALLAHAN: That's great, Mike. Thanks for your help.

MR. THIER: Okay, and just remember if you have any questions regarding WebEX or anything with respect to interviews you can feel free to contact one of our new TC interview specialists, and a list of them can be found on the external interview practice website.

MR. CALLAHAN: All right, great.
Thanks, Mike.

MR. THIER: Have a great day.

MR. CALLAHAN: You too. So, our quick demo on WebEX -- let me jump back to our slides. I have a few more points I wanted to hit, and then I'll take any questions.

So, one of the things we recently did to facilitate these video conferences was we updated our authorization policy for Internet communications, and we updated 502.03 which now says you can make a verbal authorization to have a video conference, and our thought here was that we wanted it to be applicants and examiners to have the ability if you're on the phone, you're having a discussion, you say, "Hey, let's have a WebEX," you could verbally authorize it right there, and so that was the impetus for updating

this policy.

One thing to note is that verbal authorization only goes to the WebEX session itself. If you wanted to continue to communicate via the Internet you would have to go back to the original policy and make a written authorization.

Just a couple -- a few more slides just to talk about some resources we have. As Mike mentioned in our demo we do have what we now call interview specialists. There are at least four interview specialists in each TC. These are points of contact that are subject matter experts on all things interview policy including WebEX. They are assets for both the examiner and the applicant, so if you have any issues, you want to have a WebEX, you're not sure how to do it whether you're an examiner or an applicant. This is a go-to person that will help you facilitate and make your interviews more effective.

As Mike mentioned, if you go on to our website there is a complete list of all of our specialists including their email address and phone number, so feel free to talk to them.

One of the things the interview

specialist will do is to do one-on-one training with any applicant or examiners that are requesting more information on WebEX. We have an email box. It's examinerinterviewpractice@uspto. Any applicant that would like to have a quick demo or some training on WebEX, if they send an email there, give us a date. We'll have the interview specialist contact you and go one-on-one and explain to you how WebEX can be done. Sometimes people want to share documents and not sure how to do it. This would be a great way just to get a quick update on that.

I did want to mention our public interview rooms. These are video conference rooms that are on all our campuses including our new regional offices, and the thought of these rooms is we want to make sure that if an applicant steps onto our campus whether it's here, Alexandria, any of our regional offices, that they would have the ability to connect and collaborate with any of our employees regardless of which campus or if they're working remotely from a campus. So currently now in Alexandria,

Detroit, and Denver coming soon, and San Jose and Dallas. These rooms must be reserved by the examiner, and we need about two business days to set them up. And again, because we would be communicating via the Internet we will need some kind of authorization; either written or verbal.

Just as an aside, the room you see there on the right is the public interview room in Jefferson. We've since upgraded with a little bit better equipment, but in June of 2015 we had 47 video conferences scheduled and had in that room, so they are being used.

And just a quick shout out about our external website: All of our policy, training, guidelines, FAQs; whenever we have an examiner-interview training, we summarize it and post it up there. A lot of good information and, of course, our email box where we take any kind of comments, suggestions or feedback on interview practice. That's a quick demo of the tools. Any questions or comments?

MS. KEPPLINGER: Just -- I especially love the fact that you used a mousetrap as the invention here to be discussed, and I know that

Nick Capezio, former commissioner, would especially appreciate that since he examined in the area of fishing, trapping and -- fishing, trapping and vermin destroying I think is the title.

One thing I did note -- I did note the relatively brief interview agenda, and I think this is something that -- it certainly has been an issue for us is that some examiners are requiring extremely detailed interview summaries or they won't have an interview, and so reinforcing that brief agenda is adequate would be a plus.

MR. CALLAHAN: Yes, that's a very good point, and we try to emphasize and we did have interview training for this year, and we try to emphasize the point that you can request an agenda, but the fact that an agenda is not provided is not a sufficient reason to deny an interview, so -- but I think it is a good idea to try to focus the topics and get everyone prepared and have the best interview you can, so.

MS. KEPPLINGER: And I fully appreciate that. Sometimes we do what our

clients want to do, and so we have variations in how they want to approach it, so --

MR. CALLAHAN: Sure.

MS. KEPPLINGER: -- thanks.

MR. THURLOW: Just a quick follow-up. I'll steal the idea that came out of our meeting together in New York, Tim. Just to get the word out -- I mean it's my second time seeing it, and I think it's a very good tool. Not enough people know about it. To the extent we could add anything on the end of office sections about this program and I think more people -- I think that's -- would be very helpful.

MR. CALLAHAN: Yes, that was an excellent suggestion, and we are pursuing to try to put something together like that.

MS. JENKINS: Just a couple quick points. One, and this goes to some of the earlier Section 101 -- the website is not -- sorry -- is still not that friendly, so, in fact, when I was trying to figure out where this page was that you cited to I put an interview practice in the search box and nothing came up. But then, resourceful, put it in interview and the page came up which was

good, but something we need to continue to work on because this is a great initiative, and something I think people will really enjoy using and it's productive, and I think clients and user -- stakeholder community will find it very, very helpful.

One little sort of pet peeve that the PPAC members know -- several of them know and Robert knows as well as -- I do firmly insist and recommend that examiners are also reminded that this is a professional setting, that they need to dress appropriately, that their background needs to be professional as well because you're looking into -- most of them are hoteling, and you're looking into -- you have background, so that's something that's not covered in the interview FAQs because I just read them very quickly and something that we just need to remind everybody about, so.

MR. CALLAHAN: Yes, very good point. It's something that we emphasize with the examiner. The FAQs themselves are really meant for the applicant point of view, but point well taken. It's something we'll emphasize.

MS.JENKINS: I can be in pajamas.

(Laughter) Thank you.

MR. CALLAHAN: Robert?

MR. BUDENS: Two points, Tim. One is the -- I just want to make sure everybody understands this new Interview Specialist position. They really are there to help facilitate the technical aspects of it; the WebEX portions, making sure WebEX is up which if any of you have had a lot of experience with WebEX knows that once in a while that you need somebody there to help with that. They're not there to second guess the examiner, override the examiner, or anything like that.

And then the other comment I have to direct to Esther (laughter) on her comment, so I understand what you're saying about the level of a detailed agenda, but then don't be surprised if you start popping up with additional topics and stuff that the examiner looks at you and goes well, we're not prepared to be discussing that at this point and time. The whole point of the agenda is to help both sides get their thoughts together and focused on what they need to be

talking about because we don't get a lot of time for interviews, so just a thought.

MS. KEPPLINGER: A point well taken. I appreciate that. What I'm suggesting is that they want all the amendments, they want all the arguments as opposed to here's what we want to talk about with something that's a little more general. And I appreciate the more that we can give them, the more productive the interview can be. Absolutely, and always try to do that but it isn't always possible.

MR. CALLAHAN: Well, great. Well, thank you very much.

MS. KEPPLINGER: Thank you so much, Tim. That was a really, really great demonstration. I think it will be a very effective tool for people to use.

Okay, next we have Shira Perlmutter and Charlie Pearson.

MS. PERLMUTTER: Good morning I'm delighted to be here and to have the opportunity to provide a little bit of information about the Office of Policy and International Affairs as it exists today and describe some of our current

initiatives.

In the past we've provided PPAC with information on specific projects. We thought today it would be helpful to give an overview of our overall structure and role in the organization which I don't think has been done since we've existed in our current form. So obviously given the limited time and I'm aware we're over time already -- this will be a very whirlwind tour at a very high level, but I would be happy to answer questions or provide more information later on or at any point in the future.

OPIA, the Office of Policy and International Affairs, has been part of the PTO for more than 40 years, but our name has changed multiple times. Depending on your age and level of experience you may remember us as OLIA, or as EA -- we were called for a while, External Affairs. We are actually a separate business unit outside of Patents like the Office of the General Counsel or the Offices of the Chief Administrative Officer or the Chief Financial Officer.

We have a slide that shows you the

structure of OPIA today. As you can see we've got two deputies; Mary Critharis who I think spoke to you at your last meeting and George Elliott who handles operations. and a Chief of Staff, Ari Leifman.

And then we have a number of separate teams. On substance we've got five teams of lawyers who specialize in different areas, a patents team, trademarks, copyright, enforcement, and then a China team which we added in recent years because China is such a huge priority for the administration.

We also have informal regional teams that cover different geographic areas besides China. In fact, they cover the whole world. We take attorneys from each of the substantive teams and pull them together as needed. And, of course, the patents team is the biggest. That's our main area of operation in this agency in terms of percentages of work time and financing.

In addition to the substantive teams, as you can see, OPIA also houses a number of other offices. That includes the Office of the Chief Economist, which was established now about four

years ago; the Office of Governmental Affairs, and I'm sure you've had Dana present to you many times; the IP Attaché Program; and the Global IP Academy. Then, of course, we have an administrative staff to handle all of this work.

The main responsibility of our office is to formulate and implement both domestic and international IP policy, and we do that in a number of ways. That includes developing U.S. government positions on those issues working with other agencies, and negotiating on behalf of the United States at the World Intellectual Property Organization and other intergovernmental organizations. We also serve as expert advisors to the U.S. Trade Representative in trade negotiations on the IP provisions.

I thought I would mention five things that we're currently working on that I think would be of greatest interest to this group: trade negotiations, WIPO, collaborations with other offices, substantive harmonization efforts, and U.S. legislation. Then I'll describe a bit what these three offices do; the Office of the Chief Economist, the IP Attaché Program, and the Global

IP Academy.

On trade negotiations there's obviously been a lot in the press about current negotiations of the Transpacific Partnership and a bit also about the T-TIP, the Transatlantic Trade and Investment Partnership, OPIA lawyers are major participants in these negotiations because all of them have IP provisions as one of the chapters, and we serve as expert advisors. Of course, as you will have seen in the press, TPP is hopefully very close to finished. We were hoping it would be done last month; unfortunately, not quite, but we're still trying. Issues having to do with pharmaceutical patents are one of the final and most controversial issues, so we're working very hard on that. That's one of the things Mary has been handling. T-TIP is at much earlier stages, so it's not yet clear exactly what IP issues will be covered, but we're working on that as well.

At WIPO we lead the U.S. delegation, and that includes other agencies as well. There's always a lot of activity going on there; constant meetings, and unfortunately not always taking

directions that we like, so a lot of our work on the policy front is defensive, trying to stop bad things from happening. Then, of course, we try to make sure that the organization is well run and that the PCT in particular operates efficiently and serves our stakeholders well.

So, current activities in early October: There will be the annual meeting of all the WIPO member states. Items on the agenda will include the budget, the Hague system, and the PCT. One of the major events that happened in the last year relating to WIPO was that we were very pleased to have been able to shepherd through finally the U.S. ratification and implementation of the Hague agreements. The system has been in force here since May of this year.

And I should say in addition to the actual meeting being important, we use it as an opportunity for our director to interface with other major offices from around the world. Director Lee will be conducting more than 20 bilateral/multilateral meetings with other offices on the outskirts of the actual WIPO meeting. In many ways those meetings are more

productive and more useful for us than the actual meetings taking place in the halls of WIPO.

We also handle the WIPO Standing Committee on Patents which meets now once a year. Right now on the agenda we're trying to make sure there that we don't do negative things, and try to keep some of the positive items that we want to see progress on as much as possible. At present there are several reports that the WIPO Secretariat is working on and several issues that there are planned symposia for member states to share information and experiences, and those relate to exceptions and limitations. That's one of the areas where we're trying to make sure that the work that's done there is more descriptive than normative. Patent quality: That's something that we'd like to see looked into, so there's experience sharing on the agenda, especially with regard to the assessment of inventive step and examination opposition and revocation procedures. Patents and health: There will be a seminar. Attorney-client privilege and technology transfer are all on the agenda; again, not for normative work but for

various reports and symposia and information sharing sessions.

Another area where OPIA is very active, and this is one, I think, that's of great interest to all of us, is work with other country's offices. One of our main focuses is to work with counterpart offices in other countries to promote the development of IP systems, and we do a lot in this area. One is an exchange of best practices. We also provide capacity building for some of the less sophisticated offices which includes examiner training. We do a lot of discussion of harmonization; both procedural and substantive harmonization. We exchange experts and we negotiate work-sharing initiatives, and obviously, all this work is done working very closely with Patents and in particular with the Office of International Patent Collaboration and Charlie's team.

To give a couple examples of things we're doing now: We recently in July held an IP office administration program with all of the ASEAN countries -- the Association of Southeast Asian Nations -- at the Global IP Academy. We had

27 senior officials from 9 different countries offices. We shared best practices in organizing, managing, and operating a national IP office, focusing on improving patent examination processes through quality, pendency, and efficiency initiatives. I think people found that very valuable.

Another one of our major ongoing initiatives that you'll all be familiar with is the Patent Prosecution Highway. Working with OIPC we've negotiated and implemented about 30 PPH arrangements with other offices at this point, so that's really been moving apace.

Most recently this has involved facilitating work-sharing negotiations on behalf of the U.S. during a visit by the president of Brazil to the White House in June. The visit resulted in a joint statement on patent cooperation signed by Secretary Pritzker and Brazil's minister for development, industry, and trade. That was essentially a precursor to a bilateral PPH that we are now negotiating with the Brazilian Patent Office which will be narrower than we had hoped but still a big step forward.

And then turning to the topic of substantive harmonization, in order to maximize work-sharing efficiencies and improve the quality of the patents that are issued it's important to explore harmonization of the underlying legal frameworks. So we've been working with other like-minded countries who are interested in that and discussing issues such as, in particular, the grace period, prior-user rights, and treatment of conflicting applications. We're hoping to be able to set a foundation for a more harmonized system in the future. As many of you know, we held a round table last November, and we're now working to develop a set of international principles to take this further.

Another area where we're trying to align practices internationally has to do with attorney-client privilege, looking at issues such as the treatment of patent agents as opposed to patent attorneys and how international IP professionals are treated in U.S. courts. We held a roundtable earlier this year, and now we're in the process of consulting with stakeholders and

looking at issues like the possibility of federal legislation to have a better single U.S. system that we can then work on with our international counterparts.

Then generally on patent reform and legislation, obviously through our Office of Governmental Affairs we're very involved in patent reform efforts and other legislative work. That includes both helping to develop policy views for the Administration but also providing technical drafting assistance to the Hill.

The current focus is, of course, on patent reform. We're working on behalf of the Administration with Congress and stakeholders to try to craft a targeted and balanced bill that will curtail some of the abuses that we're concerned about, but also preserve the patent owner's right to enforce a valid patent.

We're also actively reviewing legislative proposals on a variety of other IP issues including trade-secret protection, the establishment of an innovation-box approach to taxation of IP revenues, and modernization and structure of the Copyright Office which has also

been in the press.

I'll just close because I'm sure I'm out of time by describing very briefly what we do in some of our other divisions. The Office of the Chief Economist was established in 2010. Its purpose is to advise the Undersecretary and Director of the Office on the economic implications of our policies and programs and also to encourage empirical research on the economic impact of IP on the economy and on innovation.

This office now is supporting workshops and conferences in collaboration with academic institutions to promote a better understanding of IP policy through empirical research.

We also have an active research program that's providing evidence on a range of matters relevant to policy making including the role that IP plays in markets for technology. We are making PTO data available to researchers and others in a clearly documented and ready-to-use format. Those are all very important roles of that office.

We also have an Edison Scholar Program

which is run by the Chief Economists office which brings academic experts to the PTO to conduct research on various matters, right now focusing on patent litigation and patent quality.

GIPA, the Global IP Academy, provides outreach and training on IP to both foreign government officials and policy makers and enforcement officials, and also to domestic stakeholders. We have, as many of you may have experienced, a state-of-the-art facility where we train government officials from around the world; that includes policy makers, judges, prosecutors, customs officials, and examiners. We try to focus on places in the world where our stakeholders may be having particular difficulties in enforcing their rights, and we also do extensive outreach in this country to small and medium sized enterprises to try to help them understand IP and navigate IP systems internationally.

And the Attaché Program, last but not least. This program was established in 2006. We put IP experts as attachés in U.S. embassies around the world, and we now have them posted in

12 cities, and I thought I would list them. We have first the BRIC countries. We have three attachés in China; in Beijing, Shanghai, and Guangzhou. We have one in Moscow, one in Delhi, and one in Rio. Then we have four in other regions where they're covering an entire region of interest: So we have one in Bangkok, Thailand; one in Mexico City; one in -- we're just placing one now in Lima, in Peru; and one in Kuwait City who was originally supposed to go to Cairo but because of political unrest there that position got moved to Kuwait. And then we just placed one in Brussels for the first time to cover the EU, and we have two long-standing attachés in Geneva that cover WIPO and the WTO.

Just a few words about the Attaché Program. The role of the attachés is to advocate for improved IP protection in these countries and regions where they're based, and that includes helping U.S. stakeholders navigate the IP systems there. It includes promoting U.S. policies by engaging with officials of their host governments, and it also includes doing educational and outreach programs in the region,

and the program's been very successful.

We have had tremendous feedback on it from both the private sector and from other government agencies, so we've been expanding it and also focusing in the last year or two on increasing our outreach to U.S. businesses to make sure that they're aware that we have this resource for them to draw on. We've been not only bringing our attachés to Washington every year but also now sending them around to our regional offices to meet with companies in other parts of the country.

And I wanted to mention a change in how we're handing the funding for the program. In the past when I first arrived, which was 3 1/2 years ago, we had a fixed distribution method where approximately 45 percent of the cost of the program was attributed to Patents, and 55 percent to Trademarks. This was based on an allocation that was decided in 2006 when the program was set up and an estimate of how the attachés time was likely to be used.

What we've done now is put in a more detailed, accurate way of estimating. We now

have the attachés reporting on their activities in much more detail, and allocating their time between patents, trademarks, enforcement, copyright and other, which includes some of the management and administrative aspects of what they have to do as part of the embassy team. What we're now doing is to reallocate the cost attribution every quarter based on the reports of how the attachés are spending their time, so there will be an adjustment periodically. I think that will be a more accurate reflection of what's actually happening.

I'll close there, but as I said, happy to take questions. I did want to say as I mentioned earlier that our patents team works very closely with the Office of International Patent Cooperation. To give an overview of how that works, generally OPIA tries to leverage our international relationships to develop the policy framework for many of the collaborative programs we're developing internationally -- and then we negotiate the legal framework to establish them or to enable them working with OIPC. Then OIPC takes over and handles the

implementation going forward of those programs. I will take that as a good opportunity to turn this over to Charlie.

MR. PEARSON: Yes, okay, thank you. I realize I'm the only things standing between you and lunch, so I'll try and go as quickly as I can.

Okay, I'm just going to run through some of the major issues that we're dealing with here to sort of give you a quick around-the-world tour if I can.

In our shop we traditionally have dealt with PCT matters, and a few new things dealing with the PCT; we've added a couple new searching authorities that will be available to U.S. applicants. In the recent past we've added Israel and Japan, and now they both have numerical limits on the number of applications that they will take as well as certain subject matter limitations. Israel is not going to accept business methods, and Japan has limited their competence to green technology. We'll see how that works, but they've orally promised that they're going to be very liberal on that issue, so hopefully we won't experience problems.

As Shira mentioned, we attend the meetings (inaudible) WIPO. The PCT working group was held in Geneva in June and was -- the agenda was very heavy. We came away with four proposals that we're going to be sending the assembly this fall to -- I'm confident we'll get the rule changes passed through the assembly, so we'll move forward with these.

And by the way, as Shira mentioned, a lot of times there's a lot of political controversy at WIPO. I think PCT is the one thing that works pretty good at WIPO. We're still discussing the substantive issues, not getting into the political rhetoric.

So, just that the first item here is where there's a prior application filed in the receiving office country, the search results of that application as well as classification information will be transferred to the international searching authority to facilitate work sharing and hopefully improve the quality of the PCT work product.

And also, information concerning national stage entry is going to be published by

WIPO. This is something that the public has been asking for. Hopefully it will be a mechanism by which they can determine the status of the application and the various offices around the world.

A third proposal that's going forward is that personally identifiable information may now be excluded from the publication. It surprises me every now and again I'll get a phone call from some applicant who says, "You know, I filed this patent application, and I included my social security number and bank account numbers in the application itself. Is there anyway I can get that taken out so the rest of the world doesn't know it?" And now there will be a procedure through the PCT where that can be done.

And the fourth item that is going forward is a provision to exclude delays in responses due to the general unavailability of electronic communications. This would be sort of a massive Internet outage in an area. It's not meant to cover the situation where an applicant is attempting to file an application at 10 minutes till midnight and his computer crashes, so.

We also have two new collaborate search pilots; one with Japan and one with Korea, and these pilots you're going to have contemporaneous searches by both of the offices, and the results can be combined in both offices to once again engage in work sharing and improve the quality.

In the U.S. our framework is based upon the first- action interview program, and the Federal Register notices were published in July, and these are two-year pilots going forward.

Now here's just a little diagram of how it's going to work in Japan. In Japan there's going to be sequential search. The results of the first search will be transferred to the second office who will then have that available to work on and will come back to the U.S. who will then -- it'll form the basis for use in the first-action interview program. The pre-interview communication will be based upon this joint search effort, and so far -- granted it just started, but so far participation has been rather light.

And Korea, there's going to be two independent searches done; one by each office and

then they will be communicated to the other office and combined, and the program will go forward that way.

Okay, as Shira mentioned, the Hague Agreement became effective here recently, and of course it's the centralized acquisition and maintenance of industrial design rights where you have one international design application, and you get a single international registration, and it can have the effect of a regular application for design protection in one or more countries that are designated in the application.

Okay, and, of course, the U.S. became a member of the Hague Agreement in May of this year. Just some statistics there; you can see last year there was less than 3,000 of these applications filed worldwide covering 14,000 designs, and it will be interesting to see whether U.S. Accession to the treaty along with that of Japan and Korea affect the number of filings. To date, granted it's only two months old, but we've had only 64 applications filed through the USPTO as an office of indirect filing, and we've had 83 of these applications filed elsewhere who've been

forwarded from WIPO for examination.

I have to keep in mind that the program was only two months old and these applications aren't forwarded to us until publication, and publication normally occurs at six months, so these 83 applications would have had -- been applications where early publication was requested by the applicant.

Okay, the PPH; it's been going for I guess nine years now. We've had cumulatively 33,000 applications with petitions in them. We're getting on the order of 600 a month here. In July of this year Estonia and Germany agreed to participate in the Global PPH Program, and Mexico also is involved in the bilateral agreement effective in July, and as Shira mentioned, discussions are ongoing with Brazil and that's very important. They have been very resistant in the PCT context to any sort of PPH involvement, and so I think that is a major achievement.

The CPC, the Cooperative Patent Classification; U.S. examiners have transitioned to the CPC now, and today it's the old United

States patent classification is basically a static, historical collection of art, and all new patent documents are going to be published only with the CPC on them, and of course we're continuing to work with the EPO to maintain and update the system.

Currently there are 16 offices worldwide classifying into the CPC, and we hope that more will join them in the upcoming year. We're certainly working with Japan to increase the classification cooperation, and over 45 offices are now using the CPC to search. Okay, the Global Dossier; the task force meeting was held in January of this year, and the industry came forward with a number of priorities. One is the proof of concept of transferring documents between office -- sharing documents. Another one is a system to indicate patent legal status and the various offices around the world. That seems to be something that the public is very interested in. There was also a proposal that came out of Korea for applicant name standardization. I don't know how that's going to work. It seems like many companies have

slightly different names in different areas, but we'll see what Korea comes up with there, and we're also looking to move toward XML documents and applicants want an alert function when there may be a response to some sort of office action. They would like to get a little feeler there, and these are currently being looked at and studied very carefully.

And just one thing, November of this year we plan to have public access to the Global Dossier, and yesterday in the International Subcommittee we had a little demonstration of that, and I think it was fairly well received. Maybe Mark or Robert or Marylee, if you have some comments on that -- your feeling on that -- but hopefully we'll go live to the Global Dossier for public use in the fall. And that's the end of my presentation. Thank you very much. Hope you're not too hungry.

MS. KEPPLINGER: Questions?

MR. WALKER: Mike Walker. Shira and Charlie, thanks for the great report. Just to emphasize Brazil. For the life sciences and biotechnology world and particularly

agricultural biotechnology, anything that can be done to speed prosecution in Brazil would be more than welcome, so I'm very happy to see this work on the PPH because prosecution there is just agonizingly slow.

MR. THURLOW: Just on that note I asked for an agent in Brazil to get me a patent. We take everything we're doing here today for granted. They said it would take months to get the patent. They just don't have it available on the website. I mean they're -- we're at a point where many companies need it in Brazil, but it's really troubling; one of many countries.

MR. GOODSON: Yeah, I do a lot of semiconductor work overseas. Is there any emphasis or push to have uniform method of claims construction?

MR. PEARSON: I mean, yes there has been discussion. To say there's been deal of progress made, not -- obviously not real. You have your two-part claim construction in Europe and sort of meets and bounds authoring here, but I mean it's something that's lurking in the background, so.

MR. GOODSON: Should that not be -- in terms of prior art, I mean, you don't (inaudible) medical school we use this (inaudible) this patient was draped in the usual sterile fashion. That means one thing here and quite a different thing overseas, and it's the same with these claims. I'm just curious -- well anyway, appreciate your help on that. Thank you.

MS. PERLMUTTER: I will say only -- on Brazil -- it's been a difficult task trying to get to the PPH with them, and I don't know how much you've heard in the past already about this, but politically it became a real hot potato there. So at this point I think we're going to be talking about starting with something fairly narrow but with the hope that once they've had some experience with that we'll be able to broaden it and make it something more generally useful to our stakeholders.

MS. JENKINS: Thank you both. That was so informative and I think it's a wonderful example of the many things that the office does that we need to know more about, and please be assured that this committee is here to help get

the word out and the message out, so whatever we can do to help with your efforts particularly when IP is becoming so much more important as we go forward.

I remember years ago clients didn't ask about Brazil. They didn't ask about China. Now they all ask, all over the world, and we need unfortunately to have instantaneously answers because that's what our life is like now, and it's funny too because I had a recent foreign associate in Brazil saying, "Oh, yes, we have de facto PPH because we take so long." (Laughter) So -- and I thought well, that's not really the answer I was looking for, but thank you for presenting, and you tag teamed very well (laughter) so.

MR. LANG: A question for Shira: Would it be possible at a future PPAC meeting to have a presentation from the chief economist on so many of the issues that we're dealing with, whether it's how patents operate in the world at large or different financial modeling for the operations of the office are clearly in his or her bailiwick and it would be good to have a readout?

MS. PERLMUTTER: I would be delighted

(off mic).

MS.JENKINS: Also to pick up on Dan's point, I noticed the Australian government is doing an analysis -- basically the future of the IP system for Australia. I'm wondering -- it's helpful to know what our office is doing on these studies, and if that is something that we are at all considering particularly in this day and age, so.

MS. PERLMUTTER: One of the things that the chief economist office is working on is updating the IP intensive industries report that the Department of Commerce issued in 2012. We're going to focus it a little bit differently this time, but that's certainly aimed at this sort of overall question about how much IP matters to our economy. There are a lot of different research projects that they have going on, and we're also always open to ideas and suggestions for things we could be doing that we're not already doing. It's great having that office because they have a lot of capacity both to do things internally and also to know who to turn to outside if we need to find an expert to do some research for us.

MR. SOBON: Just to add to that, you may have -- I don't think you were in the early morning session, but we discussed the recent cover story by The Economist on us calling for nearly the destruction of the (inaudible) system or (inaudible), so I think getting more publication of the Office of Chief Economist out in those studies and having them come to talk with us would be very, very useful in that context so that we can see a lot of the work that you're doing right now, so thank you.

MS. KEPPLINGER: Okay, well, thank you very much for that very valuable presentation. I think as Marylee said I think it's very interesting to all of us to see the wide scope of the issues that are being handled in your office, so thank you very much.

So, now we have a lunch break. We're scheduled to come back at 12:50, I think, but given that the time right now, can we come back at about 1:05 or something like that? Will that be enough? Okay, great, see you then.

(Recess)

MS. KEPPLINGER: Okay, welcome back

everyone. Hope everyone had a good but quick lunch. And we are starting the afternoon session with the new Acting Chief Judge of the PTAB, Nate Kelley.

JUDGE KELLEY: Thanks. It's a pleasure to be here. This is the first time I've done this so take it easy on me. I -- what you'll see here and what you've been given is a slide deck that's reminiscent of what PTAB normally presents for these meetings. I've taken out some slides and more importantly I'm going to skip a lot of the slides and try to get to what I think is most interesting to the audience. Certainly stop me if you want to or need to or have an inclination to.

The one thing I'll start with is a slide at the end so I'll just mention it now without actually going to it because some questions came up yesterday and it's just about the current management of the PTAB. So right now I'm the acting chief judge. I was moved over to be the deputy chief judge at the end of June from the solicitor's office in advance of the departure of Chief Judge Smith so that there would be somebody,

you know, a team in place when he left while the search went on for the next chief judge. And he's not here so I can say this. They were big shoes and are big shoes to fill. Chief Judge Smith did a -- really a fantastic job with a world-class organization that he came to and then basically had to double-down on that to get ready for the AIA and did a marvelous job with that. And so I've taken over as much as I can at a time when there's a lot to do but everything is in place to get it done and so I'm happy to be there for the time being. I cannot forecast what will happen moving forward with the chief judge selection. That process is ongoing and it's not something obviously I'm doing.

The acting deputy chief judge is Scott Boalick. A role he's been familiar with for some time and I'm happy to have him in that role and frankly couldn't do my role without him there. So that's the current structure of the management of the board right now.

So with that I'll go right to the first slide. I will mention it's the continuing drop in the backlog of our exparte appeals. As you'll

see it's -- we're continuing on a straight decline but I think also what the graph shows you is that it's really up and down week by week. I mean we're churning them out as quickly as we can but they're also coming in. And so you see like from August 4th to August 11th we dipped by exactly one in our inventory. And that's not because we slowed down, it's because we had a little peak of incoming appeals. But by in large they continue to come down at the rate they have been and we're doing various things to try and speed that up.

And then I'll take you to our pilot program. So this is the Expedited Patent Appeal Pilot program that we started up less than two months ago. And basically what it allows an appellant to do who has multiple appeals is to take an appeal out of the queue; an appeal that they -- for whatever reason, business reason, a development in some other area, they might not be so focused on that appeal right now and then take a different appeal and move it forward to get advanced treatment. Our timing goal is to decide these petitions to enter the program very quickly. And in fact we've been doing it

with -- in less than two days. And basically everybody that fits the guidelines of the pilot should get into it. We've had one denial and that was just because they hadn't filed their appeal in the window when it would have been appropriate to get into the pilot.

We don't have data right now on how quickly the appeals are being advanced; the ones that stay in the queue, and that's just because the pilot is so young. And so I suspect the next time we meet we'll have details on that as well.

So and that -- I'll go to the trial statistics and I won't go through all of these in detail but I do want to point out because I don't know if these were online at the time of the last meeting of this body, but the PTAB is revamped. It's standard dataset that it provides online. It's updated monthly and the slides that you see here that are in your materials are all available online and they're updated every month. And so this deck is the slides active as of the end of July. And then at some point we -- once we get the August data in, we will revise that in September. And the data is largely

self-explanatory so I'm not going to go through the charts that I think are easily understood. I do want to spend some time on one chart at the end though that we've received a lot of questions on and frankly the first time I saw it I had questions on it.

This is what I kind of refer to and we refer to internally as the stepping stone chart. And I want to be clear on what the chart is showing you. It's showing the subset of IPR petitions and there's a chart for CBMs and PGRs. Obviously that data is yet to really be filled in. But what it is it's the family -- it's the universe of cases that have come in through the front door in a petition and have worked their way all the way through. So they're completely done in one way or another. So a petition that was filed last month would not be shown here. A petition that was filed eight months ago that a trial was instituted also would not be shown here. The only thing you see here is data about petitions that have come in and have been resolved in one way or another and it allows you to see over a typical lifetime of a case from start to finish

where that case is likely to end up or I should say where the cases have ended up so far. And it's cumulative data. So this is all IPR petitions that have come in from the beginning and are now out the door through whatever mechanism. And you can see as you move through the stones how the numbers diminish because either trial's not -- trials are not instituted because the parties settle and then once the trials instituted obviously we have a lot that are terminated during trial due to settlement; even requests for adverse judgment. Once the trials are completed there's cases where all claims are held un-patentable, there's cases that are mixed decisions, and there's cases where many or all of the claims are held patentable. So that is meant to give you a flavor of what's happening in the entire body of these cases. And there's one for IPRs, one for CBMs, and one for PGRs where obviously the numbers are significantly lower. So that's the one chart I wanted to sort of go through because it's the ones we've had the most questions on.

Now I -- what I do too is move to some

developments recently at the PTAB that people have noticed and for good reason. The first is motions to amend. For quite a while, you know, I have heard from my old position as solicitor issues with motions to amend; the rate at which those motions have been granted. And most of those discussions centered on an earlier decision of the PTAB *Idle Free and Idle Free* decision laid out the requirements that that panel would have expected to have seen in a grantable motion to amend. And one of the requirements was a discussion of essentially all Prior Art known to the movement outside of the record; the closest Prior Art that -- of which they're aware. What the panel did in *MasterImage* is to sort of clarify that discussion to say here's what a grantable motion to amend needs to discuss. It needs to discuss all the Prior Art of record. And the Prior Art of record includes Prior Art in that proceeding, Prior Art in the prosecution history of the patent, and Prior Art in any other proceeding involving the same patent. So if you discuss everything of record and at the same time you're cognizant of your duty of candor before the

PTAB and under that duty of candor you would presumably raise for us any Prior Art that you're affirmatively aware of, that would be inconsistent with what you're urging, that is and should be enough. And then the -- it would go over to the petitioner to respond in one way or another. To say that you haven't met your burden, you haven't demonstrated patentability over the Prior Art of record, or even to, perhaps, suggest that there is other Prior Art that is relevant to the claim amendment to the motion.

So that decision went out in July '15 and we think we hope it addressed part of what was going on in some of the discussions surrounding the Idle Free case.

MR. THURLOW: Nate, just to comment on that. I can just remember. I think it was two years ago being with Wayne and others discussing the Idle Free case and it was very controversial and so on. So I think you're going to be discussing the Federal Register notice that come out yesterday and issues related to it. Although there's no changes in there with motions to amend that many practitioners were looking for, what

I'm saying to many people is don't minimize this development because there was a feeling going back to Idle Free that it was very difficult to do the amendment. So a lot of the meeting today has been what can we do to educate the public? What can we take out of the meetings to get the word out? And I think things like this really need to be -- and especially in any discussions with respect to the Federal Register notice and the roundtables that you're going to be doing with patent quality. So it's maybe not as much as we wanted. I know there's still things in Congress about making changes to make motions to amend easier but it is what is and this, you know, try to look at things in a positive way then I think this needs to be in size as much as possible.

JUDGE KELLEY: Yeah, thanks and I think that's fair. You'll see in the Federal Register notice that was published today and I'm going to talk about it in a second. You'll see in there our response to comments about motions to amend and why we thought that following a decisional approach was the better course of action here. And just anecdotally to talk just for a second

about the difficulty that people have foreseen with getting motions to amend granted, what I have heard is not so much the story that it's very difficult to get them granted because in fact we haven't seen a huge number of them. It's that practitioners found it very difficult to say what they thought they had to say in that motion. That they didn't want to make that express statement and it was -- that was sort of holding them back. And we wanted to be as clear as possible that what you have to talk about is the stuff in the record and the stuff that you actually know about that you should tell us under your duty of candor. But beyond that you don't have an affirmative duty to search the Prior Art and go find for us something that you're not aware of. And you, perhaps, should not be so worried about a reference that you don't know about that is sitting in a subsidiaries office somewhere in a desk drawer. That's not something you know about. It's not something that would be under your duty of care as an advocate; a duty of candor at that moment making the motion. So that's what we wanted to clarify. So hopefully that gives people a little

bit more of a sense of comfort when they make such a motion.

So the trial rulemaking update -- the -- our notice of proposed rulemaking was published today. It was available beginning yesterday from the Federal Register Reading Room and it responds to essentially all of the comments we've received to date. That's not to say that it drafts rules about all of those comments but we took them all into account when deciding what to do with this next notice of proposed rulemaking. Of course, we had the quick fixes that came out earlier and they were things that we could just simply do immediately without a request for comments. This we do want the public's comments and, you know, we want to be clear about why we're making the choices we've made. And the comment period is 60 days. It starts today. There is several sort of principle things that we've touched on in actual rules that we're proposing to change.

The first, probably the most significant, is a change to patent owner's ability to include in their opposition to a

petition new evidence. The rule that we are suggesting now, we're requesting comments on is a rule that would allow a patent owner to bring in evidence such as expert declarations, things like that that we have heard through the comments patent owners feel disadvantaged by not being able to bring forth today under our current rules.

The second rule change is something in the package that would create a rule. It's akin to a Rule 11 requirement in district courts. We're doing that to create, if we need it, a more robust means with which to police misconduct. The purpose of the Rule 11 language is to create language that all practitioners should be familiar with. If we are operating as an alternative to a district court, then practitioners should be familiar with the rule that they would have in a district court and should apply here as well. And obviously we're interested in the public comments about the necessity of the rule and what the public feels would be benefited, or perhaps, not by that rule.

MR. THURLOW: So Nate, just on that point as we discussed that based on very quick

feedback I got overnight and this morning, there's a feeling in the stakeholder community that the AIA for the first time I think gave you guys the authority to issue sanctions and you also required in the AIA that the person or petitioner filing it, the attorney has a registration number and that has certain requirements for duty of candor and other things. And there's a feeling that enough is there to give the PTO authority and that you don't use -- you don't need the Rule 11. I'm not saying that we should do it. I'm just saying you have enough there. So the hope is that, especially with some proceedings that have been very public, that the PTO doesn't think it needs more when many in the stakeholder community believe that it's clear that you have it now. So I don't know how this is different Rule 11 from the registration number requirements and the sanction authority already given to the patent office in the AIA.

JUDGE KELLEY: Well that's -- I mean that's certainly the kind of comments we're interested in hearing. It is true, however, that right now our rules are different than the Rule

11 requirement.

MR. THURLOW: Okay.

JUDGE KELLEY: Whether they're substantively different and create a gap between activity that we can police versus activity a district court can police, that is potentially an open question.

MR. THURLOW: Okay.

JUDGE KELLEY: I don't think it's a big ask to say though that people who appear before the PTAB are held to the same standards that they would be if making the same sort of accusations in a district court. And it may be that our rules already police that well enough. It's just that with different language there is an open question potentially. And I think this is the -- exactly the kind of thing that we can explore through the response to the NPRM itself.

MS. MAR-SPINOLA: Nate, I'd like to add to that through a question and then another comment. Let's say the Rule 11 requirement is adopted. What type of sanction would be applied for a violation?

JUDGE KELLEY: Well obviously that's

not something I could answer without seeing what exactly the violation was.

MS. MAR-SPINOLA: Okay.

JUDGE KELLEY: It would obviously be done on a case by case basis and it's something we'd have to think through very seriously before we did it.

MS. MAR-SPINOLA: Right, okay.

JUDGE KELLEY: It would be tied, I assume, to the conduct, the alleged conduct, and in a way to perhaps coerce the person not to do it again.

MS. MAR-SPINOLA: Okay.

JUDGE KELLEY: Whether it's -- and I don't mean that. I that sounds funny but you could think of a sanction. You know, a sanction can be in terms of -- you could think of it in terms of a punishment but I don't -- that's not how I think of it. I think of it in terms of the -- an additional requirement to make sure this doesn't happen again. I mean you can imagine a sanction. And I've seen sanctions like this in court where someone repeatedly files a particular type of motion and the court doesn't punish them. The

court says next time you're going to file one of these motions you got to tell us ahead of time because we're going to have to agree to this motion because you're sort of dragging us down by these repeated motion filings and it's -- and that's a district court hypothetical. And it's just to say that the sanction would have to be very much tied to the conduct. And so that's not a question of the district court.

MS. MAR-SPINOLA: To distance and device.

JUDGE KELLEY: Mm-hmm.

MS. MAR-SPINOLA: Yeah, I get that. Now so the other comment generally from me is that one of the things that I value in the proceedings before the Patent Office versus the district court is that there are -- that they are distinguished and they're different. And one of the things that I worry about, especially in the uptick of IPR proceedings for example, is that you do have more trial counsel who are typically in the district court making arguments now here as opposed to licensed practitioners. So I -- for me, while I understand like the Rule 11

requirement and why you need or want to do it and I actually commend it. But I would be disappointed if the Patent Office proceedings were very similar to the district court proceedings only because it'll get just like the district court proceedings where they get extended and protracted in terms of fights --

JUDGE KELLEY: Mm-hmm.

MS. MAR-SPINOLA: -- issues that really don't need to be in this forum.

JUDGE KELLEY: Well we do have some of the same practitioners and I will tell you, just anecdotally, we do have some of the same flavor of disputes about things that you would not think two lawyers would have to be disputing. Things that really don't have to do with merits of the case. I'm not saying that this is the type of protection against that but whatever behavior goes on district courts does go on here as well.

So there's the Rule 11 language. As I mentioned before on claim construction the NPRM clarifies that what the -- we've chosen to do at least for now is to just continue to develop this through a decisional approach. And I mentioned

the MasterImage case already. On BRI we discussed the rationale behind BRI but do make the change that if the patent is going to expire during the proceeding then we'll follow Phillips-type construction from the outset because, of course, you can't amend an expired patent. That's the same thing by the way that is done during re-examination as well for the Agency.

And we've also moved away from page count to word count because it turns out that page count is much more confining on people because they have to figure out how they want to put stuff on their pages. And moving to word count, which is what a lot of courts do; it's what the Federal Circuit does, really allows a little bit more freedom, gives more freedom to the practitioner to style their briefs how they want to as long as they've got the right amount of information in there.

So that was the last slide I was going to talk about today.

MR. THURLOW: So one thing that's not on there that was discussed and there was

considering legislation and some of it we discussed yesterday if you can share with the audience and everyone. As the panel makeup there's a lot of discussion about the possibility of having one judge decide the petitions as compared to three and can you just discuss that whole issue?

JUDGE KELLEY: Sure, so that's something that the director has had a blog on previously was exploring approaches to institution decisions that's -- sort of could maximize the efficiency of the PTAB if you will. The statute, of course, delegates the decision to institute -- assigns a decision to institute to the director. The director has delegated that to the board. The statute says that the board writes the final written decision and does so with three judges. So there's a little bit of opening there as to exactly how the institution decision is made. Right now we make it in the way that is most natural for us. We take the addition, assign it to a panel, the panel makes the institution decision, and if a trial goes forward the same panel sits on that trial exactly like

would go on in a district court where there's a Motion for Summary Judgment or something like that. But as the director stated in her blog we're actively thinking of different ways to approach this and we're looking into some sort of pilot program to explore the -- that.

MR. THURLOW: Thank you.

JUDGE KELLEY: Okay, well that was all I planned to cover. I think my 20 minutes is up and I went through the rule outline. Please do read the rules and please give us your comments because obviously the types of things that were raised here is -- are exactly what we want to hear about.

MR. THURLOW: Thank you.

JUDGE KELLEY: Okay, thanks.

MS. KEPPLINGER: Thank you very much. Okay, we next have the OCIO with John Owens, Debbie Stephens, and David Landrith. Look forward to progress as always.

MR. OWENS: So do I. Good afternoon, everybody. Well as always I'd like to thank you for the opportunity to speak but I will not be doing the bulk of the speaking. I have Mr.

Landrith for that. (Laughs) So we will get right into the update and thank you Debbie for joining us a few seats away please.

MR. LANDRITH: Can I --

MR. OWENS: Sure, take it away.

MR. LANDRITH: All right. So, to start with just to go over the major examination products and where they stand. You know the Docket & Application Viewer which we've gone over has been released this year in March of 2015. We'll be going -- the training for that is wrapping up this month and we'll be going over the key dates for that on a subsequent slide.

We have Official Correspondence. We have a pilot release that is due later this year and then a production release slated for the following year in December of 2016.

Examiner Search is proceeding according to the same timeline with a pilot at the end of this year and the production release at the end of next year.

Cooperative Patent Classification was released in January of 2013 and we've had enhancement releases for the tools that surround

that and we're in the process of expanding that to cover the USPC design and plant classifications that are not included in CPC and include functionality to allow us to retire legacy systems as well as improve the collaboration systems that we use with the EPO.

And the Central Enterprise Data Repository is part of -- has now become part of a larger investment to -- that is centered on replacing PALM. We're also going to be going over a few other systems that cover backend functionality as well as international and dissemination areas.

So you've seen the -- a demo so you know about the user interface and one -- there are a couple things I want emphasize here are that we developed this using Agile and DevOps with I think an unprecedented level of collaboration among the Patent Corps, the POPA, and the OCIO. And we replaced ancient hardware and software. That's not a hyperbole with 21st Century solutions.

So you're familiar with this story where we -- you know, we started in 2011. We were interrupted by sequester. We recovered from

that in July of last year in order to make our release date of March of this year. We began training in April with close -- in close coordination with POPA. We're wrapping that up this month. At this point we are about 90 percent complete in training and what is left in the schedule are makeup sessions for people that were not able to attend the sessions that were scheduled to their unit.

This is a little bit different than the data usage slide that we showed last time. I think we mentioned that we're still -- at the time we were still trying to hone the data and figure out what the best way to present it was. What this shows is that percentage of the trained users that are using it for four or more days per week. What we see is I think a strong and steady growth over time. Where it ends the final point on August -- that's the 10th is about 28 percent. So although we're off to a good start we still have some work to do. When we begin with the training at the end -- when we finish with the training at the end of this month we're looking to begin drilling down into what the drivers and obstacles

for adoption are to see what we need to do in order to increase the adoption rates. But I think we're off to a very good start. Go ahead.

MR. OWENS: It should be noted that at this time of the year examiners are hitting their end of year which means their focus is largely on meeting their production goals rather than learning new tools. So the fact that were almost 30 percent and those folks are comfortable enough to continue with the new product four plus days a week actually to me is the best that I've ever seen at adoption here anywhere. (Laughs) So knowing that those 30 percent are also taking this on along with their lofty goals as examiners is quite telling.

MR. LANDRITH: Yeah, and if you were to look at this and compare it to something like a major industry upgrade from Microsoft Office or for Android OS or for iOS you would actually see that these are rather good numbers. So I -- you know, so we haven't really envisioned this kind of sudden switchover. We -- if we had something like that we'd be dealing with additional disruptions like end of year counts that I think

would cause more problems than they'd solve even though the graph might be prettier.

So this is a pie chart and it shows the proportion of the e-mail that has been received in this within the support system for the PE2E product. And there's a couple things that I want to highlight here. First, the vast majority that are suggestions and training issues. Training issues mostly relate to WebEx or Confine the Conference Room. The fact that we have the single largest category of suggestions I think shows a tremendous amount of buy-in. And the other thing that I want to point out is that we effectively have no significant issues with performance.

Drilling down in the Examiner Search we're on track for a pilot release this fall that will include the functionality that has already been developed with the prioritized defect resolution as well as an expansion of -- to include all of the databases and collections that are available on the legacy tools.

With Official Correspondence we're on track for our pilot next month. It is going to

encompass offering capabilities that includes -- key authoring capabilities that includes form paragraphs and templating.

So the Content Management Solution is a -- one of our backend products. The legacy products have a very diffuse content management system. A lot of the products have their own content stores. They are not unified from an architectural or a technological point of view. They're not highly available. It's very difficult the way that they're designed to make them redundant. And then there's also a good deal of duplication. So one of the PE2E efforts is to consolidate those into a solution that is highly available and that addresses our business continuity and disaster recovery needs.

MR. OWENS: And performance.

MR. LANDRITH: And performance needs. So this -- we've -- we actually begun the transfer of data. We're starting with IFW, the single largest repository that we have. We've begun the transfer of data that is slated to be -- to complete in December. In October we'll be doing a release that serves up whatever content it has.

So that is going to be about 60 TB of data according to current projections and then on a -- you know, on a minute to minute basis any document that is loaded in CMS will be loaded from there instead of IFW. So we project that process being complete in December so that then all data will be served out of -- all IFW data will be served out of CMS. The next steps are to make sure that this aligns with the search system roadmap. Right now the legacy search tools have their own content management repository and it faces many obstacles I described earlier. And also begin casting our net further afield from IFW to areas like SCORE, the PATI Data Repository that's in use by the legacy tools.

And this is discussing specifically the PATI Data. So this is of course the system that converts the images to structured text as it does upon receipt of the images. It has about a four hour turnaround time average. So to date we've converted 164 million pages. That's a significant number and it reflects what we've actually gotten in; 100 percent of what we've gotten in when it comes to the documents, claims

specification, abstracts, remarks, information disclosure statements, petitions, and briefings. Now that's significant because if you remember in earlier presentations when we started this out we were just talking claims, spec, and abstracts. And over time this project has been able to expand to remarks, the information disclosure systems, and petitions and the briefings. And those -- the structure for those supports key functionality within the DAV application.

So Global Dossier, this phase, the Public Access to Foreign Application Dossiers has two aspects. One is making our data available to citizens of the world and the other is making foreign data available to U.S. citizens. So the -- in June we completed the portion that makes our data available; the outgoing portion. And in November we're on track to complete the step that will make the foreign data available to U.S. citizens.

So a CPC Database. We have what's called the Classification Allocation Tool. That is a tool that is used by classifiers. It is in use. We've been improving it over time with a

successful release in July and we're slated in October for a release that contains aides for examiners as well as tools that facilitate quality monitoring.

So with the IP Office Collaboration Tools, this is referring to tools that will be used on both sides of the Atlantic in order to coordinate the classification. This month we've laid the foundation for developing across both offices and given the security needs that both the USPTO and the EPO have. This is actually a major milestone where we can work in a common environment in order to build these tools. In November we're delivering a Proof of Concept for CPC expansion tools as well as an identity management system that works across both offices.

Moving to dissemination, we had the Assignment Search. We've talked about this before. This is public at assignment.uspto.gov. This is a complete remake of the current -- of the old assignment search that matches the new UI. The key features, it expands the number of searchable fields and it also expands the search function across these fields to include things

like being able to search multiple fields, filtering the results, wildcard searching, and fuzzy searching. For next steps we're on track this fall to make improvements that include images in a search results, improve the way they're prints, and also to support data export.

MR. OWEN: And trademarks.

MR. LANDRITH: Thanks, and trademarks.

MR. OWEN: Don't forget trademarks.

MR. LANDRITH: So with The Hague this was something I believe we went over last time. In May we did the major release. So we are now processing the Hague Agreement applications. At the end of this month we'll be releasing an EFS web as well as in the supporting applications a online Web-based 85(b) form.

And we're wrapping up the America Invents Act both solidifying what (inaudible) as well as meeting some of the outlining deadlines and we have a planned release for our -- both our -- some of our backend examination systems as well as our frontend user facing systems for that.

We talked about CEDR a little bit earlier. CEDR is a major component of the -- what

is now being called PALM replacement which is its own investment that was approved by the -- here by the ITRIB, CRB. Those are -- anybody familiar with those?

MR. OWENS: Those two bodies are executive management's approval as per the Clinger-Cohen Act and the guidelines for capital investment approval. So the ITRIB is chaired by myself, the CRB is chaired by Tony Scardino. And those are the bodies that look at all investments for approval; not funding, just approval.

MR. LANDRITH: So yeah, these have been approved by ITRIB, CRB as of July 22nd of this year. So that's going to allow us to attack the PALM area with a great deal of focus and with multiple projects. Questions?

MR. JACOBS: So I have a couple of comments and then hopefully I'll get around to a question. So I know there are some non-IT specialists in the audience, right, so. So first of all the -- you know, just to add on some of the things you said. The rollout of DAV, this new examiner docket viewer, is going great. Like better. I think Robert was going to say it,

right? But better than anything else comparable that we've seen, right? You know, so that's great and kudos to everyone for that. In terms of some of these things that are slated I wanted to give like an illustration of how these different systems interact. Like the search, the content management, the backend, and so forth. All of which are not done yet but slated to be done over the next couple of years. So we're part of this whole PE2E landscape. And this morning we heard a lot of ideas and suggestions that kind of wouldn't it be great if we could do the following. So one very simple example I give is wouldn't it be great if we could search the Prior Art that's given in IDSs. So applicants come in, they file these IDSs, the IDSs have attachments that contain Prior Art. Much of it is non-patent literature. And that goes into a file that's now in this, you know, image file or wrapper or just images and not text searchable and not text, right? And so that -- in order to make that searchable it has to be text for one thing so that all of these systems have a -- an XML text searchable component to them. And then

also these different systems have to talk each other. We need this new search interface in order to be able to search it and that's new content. And then the content management piece is that you want to unify the content management part of it so that if something's in the -- accessible in the Docket Viewer it's also going to be accessible through the search engines. So that's just a simple example of how something you put up like the backend and the interoperability of the system is illustrated through the kind of capabilities that people will want to have but they don't understand how these systems need to change and interact and exist in this new format that's not -- we're not going to have for a couple years in order to support that kind of capability.

MR. LANDRITH: Mm-hmm.

MR. JACOBS: And so people are constantly coming up with these new desires and requirements and you have to tell them, look, we can do that but we have to do all these other things first. And I want to emphasize that because there is a lot of pressure and there is

a lot of desire to make all these other changes and right now you guys have to be supported in a lot to finish what you're doing. So that's the comment.

And then the question is given that landscape, given that things are going great but you have all this work ahead of you, what keeps you up at night? What -- you know, this is like the first time in years we've been in this position where we got money, everything's going well, right? What are you worried about in terms of next year or two?

MR. OWENS: Want me to handle that?

MR. LANDRITH: I was going to say scope creep is. You know, it -- but making sure that we maintain focus I think is a big challenge. When you see this broad of an approach and making sure that we're able to keep both a high level cohesive vision as well as a focus on the individual projects, that's one of -- those are some of my biggest concerns. That and funding.

MR. OWENS: So I have a different opinion because I sit in a different particular seat, but of course, scope creep is always one of

those things that's a good or bad, right? People want new functions and features and I can't tell you this pie chart here makes me a proud papa when I look at this and say, "I only have 300 and what is it 69 bugs but 725 different suggestions on added features. Make it better." right? I mean that's fantastic. So all of that in light yellow there could be considered scope creep. And that has to be managed. Don't get me wrong. But what keeps me up at night is the amount of time we have to maintain the legacy systems which are burning resources; money, at the same time that we have the new systems online. And although their adoption is good we would always like to see that at 100 percent. And we've replaced now a lot of the backend. We showed you the big systems that we're, you know, finishing replacing. And there will come a point where the systems are going to be competing for dollars and resources. And of course every dollar that I spend on keeping the legacy system available is a dollar I can't spend to accelerator ed; one of those things in yellow up there.

Now this will come to a head, of course,

if there's a financial decision, sequestration, continuing resolution, problem with the debt cap, any of those things you've probably heard of earlier in the CFOs meeting, but also there may be some contention if some law were to be passed and/or some decision that would be made by a court that would cause us to change the systems of which I'd have to invest even more heavily in the legacy systems as the same time as the new systems to then just realize I throw away that work and money within a very short period of time when the new systems take over. And it's that type of wasted energy and effort rather than improving the systems that keep me up at night.

Now that we've released and that -- I mean quite honestly, folks, my prior job I spent 12 years at AOL during its heyday and I gotta tell you, an uptake like that wasn't even seen then delivering to 32 million people. It didn't look that good. So this chart looks fantastic. This chart is unbelievable. I actually double-checked the numbers in this chart because I didn't believe it. We need to continue to push. I know it's the wrong time of year. We're hitting

the right time of year soon but we need to push that adoption because this tool and the tools that we are going to be providing are going -- is already being seen by the examiners a class above and beyond what they've ever experienced before and that's a big -- that's a game- changer.

MR. WALKER: Sir, may I just make a comment. And John and Deb, not to put you on the spot but you heard this morning from the director about this proposal for shared services within commerce. And John when you just talked about the competition for money and resources, just hearing this presentation and all the progress we've made that Paul just talked about and that you've just shown, I just want it on the record that this idea of a shared services where the Agency may be competing for IT resources with others in commerce really, you know, gives me pause. So, not a question to you but just a comment for the audience.

MR. LANG: John, speaking of the finances, I mean how would you compare just roughly the resources necessary to implement let's say Examiner Search and the Official

Correspondence pieces of the project?

MR. OWENS: Well, they're a lot more complicated than what we think basically due to workflow. The three major projects that we have going on right now are sucking up resources. Let's see, the Examiner Search, correspondence including workflow; and that's the replacement of OACS, the Content Management Solution, plus the continued development of features and functions in DAV. We didn't stop doing that, right, are consuming just as much as we were in the heyday of DAV if not a little more. But these are huge features. You know, huge major features of functionality that would wipe out, you know, at least a half dozen to a dozen legacy systems once the rest are turned off.

So I don't have the numbers right in front of me but the amount of money we're spending is sizeable; probably another hundred -- or well do you remember? Is it --

MR. LANDRITH: In terms of the overall investment or per year?

MR. LANG: What was I after was not so much a dollar figure but simply --

MR. OWENS: Oh.

MR. LANG: -- roughly the relative size of the individual components, you know. Is it --

MR. LANDRITH: So the largest is DAV. That has hundreds of people working on it; about 60 of whom are dedicated programmers. The hundreds that are working on it include people who are end-user experience specialists, functional testers, performance testers, the operational support staff for infrastructure. Office actions is about two-thirds of that size --

MR. LANG: Mm-hmm.

MR. LANDRITH: -- and search is about one-third of that size. Does that give you a point of reference?

MR. LANG: Yeah, that's exactly the thing I'm looking for.

MR. OWENS: Don't underestimate the complexity of those search in particular. Building a system that can take at-will any repository of data and add it to it because we've built it flexible enough not to know in the future what we might get has been a challenge. Plus the interface has been interesting. So it's not

always the large number of people or the investment compared to the complexity of the overall system. We have systems here that are quite -- to be quite honest are astonishingly complex for something that seems very simple. But they have to be that way to maximize the flexibility of taking in data and manipulating it as text and providing it to the consumer or the examiner in this case.

MR. LANDRITH: That's true also. And it's also not the case as you implied, John. That -- and you implied also that it is not the case that these numbers are just separable. So that if all you were doing was search it would be that size. There's actually a lot of cross-pollination. Particularly one of the reasons why the DAV application is so big is because since it's in the forefront it's laying the foundation for a lot of things and then working very tightly with the search group. So it's best to understand that in the sense of resources used as one integrated whole.

MR. OWENS: It is the major integration point --

MR. LANDRITH: Mm-hmm.

MR. OWENS: -- right?

MS. JENKINS: You know, one thing the pie chart is also making me think about and something that we haven't really discussed that much about is seeking input from the user community about IT. I think most people have no idea that the office is operating a legacy system. They just want to make sure if they go to PAIR it's up and running and they can file their application on a Sunday, things like that.

MR. OWENS: Just one thing. One thing (inaudible) another failure.

MS. JENKINS: So, I mean one thing that -- the other office -- the other components of the office so to speak are seeking a lot of user input. It might be something, which I'm sure you don't want me to add to your plate, but I would nevertheless will make the suggestion of seeking more user input and also -- I know you do it in certain aspects but you might want to rethink if, you know, this is your finding so helpful. User input from us in a different fashion might be helpful and also continue -- and a lot of people

won't like this either, continue to put the application on us to make sure our information that we're giving you is easier for you to translate so everyone can use the system better, so to speak.

MS. STEPHENS: So let me help address that. So within the -- you know, obviously in -- within OPM we liaison very closely with CIO so it just echoed the complexity. And one might not think the Official Correspondence and tool in itself is complex but obviously anybody knows about the word editor function but it's much more than that. It's the workflow and the integration with the other tools. And I might reference our morning conversation where Andy was mentioning the RCE counts and them getting a different count at a different time. And that Official Correspondence tool in a combination of with workflow and document management has to account for some of that transaction. So I just wanted to echo that it's a lot more complex. It's not just a word editor number one. But to your point on the input from stakeholders, we are very much in tune and would appreciate PPAC's help with

outreach for our e-modernization effort. We actually have a Website. So when you go to the USPTO to get information about filing and PAIR, there is another link to the e-mod Website that has what we're doing in terms of not only our upcoming outreach events which we talk about not only the current tools and we give demos, but we are actually asking for input on what you would like to see going forward. And we actually have an idea scale Website up now which with a forum where we're having users in the community talk about different ideas that we kind of post. So --

MS. JENKINS: Yeah, I'm part of that --

MS. STPEHENS: Yeah.

MS. JENKINS: -- and it's just fascinating. I mean it's really good input for the most part and it's fascinating to see what the user community comes back and says can you think about changing. This is the things you take for granted like, you know, getting on PAIR and your certification. Sometimes that causes problems and the people can't (inaudible) and make that happen. So all good but just always thinking about how we, I guess, overall better communicate

inside the office and outside the office, so.

MS. KEPPLINGER: This is a very important aspect to getting the input from the outside because those of you that have been around some time know that with the adoption of e-filing applications the initial iteration was not adopted widely and it wasn't until the re-modifications that made it easier for applicants to file that there was wholesale usage of e-filing which was helpful for all of us. But it is critical. And while obviously applicants want to be helpful to the office, the bottom line is the bottom line. What it's going to cost everybody, how much it -- how much effort it takes and do they have to hire additional staff and all of that. So that dialogue is very important.

MR. OWENS: Yeah, as your chief information officer I make you a commitment and a promise. We're not going to forget everything that we just did over the last few years and everything we've learned. We have a user center design team that worked closely with our customers. Right now they're working with POPA. We will be applying their efforts to the e-mod

team to get user input from not only you all but the rest of our user community and we will build you a better product designed for you which is something we're not going to give up on. We've had great success with it here. And to be quite honest I hope to see a double adoption rate to what we've seen here externally once we get it all up and running. And we have some really good ideas but I commit to you that we will use those -- that team and the knowledge that we have to make a better product and you will have a voice in that.

MS. MAR-SPINOLA: If I can, I wanted to ask a couple of questions. One is what is your forecast for replacing your legacy products or systems? How long -- how much more time do you need to replace it? And then secondly, one of the things I think of interest to me is to learn more about how robust the security system is for the Patent Office, IT, right?

MR. OWENS: Two separate questions so I'll handle the first one first. I would like to, a year after training is done if we can't convince someone to do it sooner, start shutting off the legacy systems that we currently have. We just

shut off PFW. Certainly by the end of FY -- by the end of '16 I can definitely see shutting off IFW, eDAN, and then, of course, at some time in '17 OACS and a bunch of the others. So sometime between the -- you know, the year FY '16 and the year FY '18 one would hope that the bulk of the legacy systems are shut off. Now there are some smaller legacy systems we just haven't touched, okay? PALM is one that we just put a new initiative behind that'll be back in infrastructure so when the new ones ready and we're done testing it we just shut the old one off and no one notices. But there are some smaller systems, ABSS and, you know, they're all very important and they need a revamp too so we're going to have to talk about those. They're just not as important right at the moment as what we're working on nor the frontend systems. But it's about getting the bulk of the legacy systems shut off and the new systems fully utilized and focusing on improving those, okay. I don't have a date for the stragglers. When I was last asked I would -- hopeful that 2020 would be the last we'd see of any of the legacy stuff. But the bulk of

it between '16 and '18 is what I'm -- what I'm personally hoping for. But there's a lot of stuff in there, negotiation with the Union that has to happen. And of course adoption rate will have something to do with that so I'm really hoping to push the adoption.

As far as security goes, you know, we take great pride in the improvements we've made since 2008 or I've made since 2008 when I got here until now. We have multiple layers of external protections. I'm not going to tell you exactly how much. If you'd like to I can meet offline, I can give you a tour of our NOC SOC which is one of the best in Department of Commerce let alone one of the best in some agencies. I regularly get visitors from other agencies wanting to know how we do what we do. But we have multiple layers of protections, multiple layers of antivirus. We take precautions both for external and internal attacks. Though most of our data is public as you know other than the prior 18 months, none of our secure data, patents on weapons for example, are in the systems. They're turned into paper and dealt with with the military and we use military

examiners. So they can't be absconded with.

(Laughs) I mean, they're physical. So there's not real worry there. You know, some of the proceedings that are locked down, some of the patents that are locked down for various reasons, and then of course pre-18 month we take special care to make sure that only the folks that need access have access. Of course that does mean all examiners have access. And we watch the examiners devices and so-on for, you know, Trojans and viruses, you know, 24 by 7, 365 and three layers of scanning happens every day. So nothing is full-proof though. This is a war, all right? I mean people want data. They spend money on finding ways to acquire the data. They find ways to infiltrate and steal the data and we find ways to detect and block and prevent them from doing it in the future. I am not ever going to get in front of you that says I have the perfect system because what happens is the Titanic sinks. Not saying that. What I've said is I've spent a large amount of money and lot of effort and research and I balance the amount of money I spend for the protection that I spend and the access to

the data that is necessary to the public and that's one gigantic juggle. You know, if I shut off the systems access to the public it's perfectly secure it's just not useable. Can't go that far. So it's a giant balance.

Last year there was at least in security alone 60, \$70 million spent and I think that's the right funding level for what we do and the complexities that we have. And that doesn't include PII information from the public or the finance; that's all separate. The financial system's separate and the PII is separate in the HR systems.

MS. MAR-SPINOLA: So I think it -- partly my question partly goes to what Mike's point was earlier about the shared services particularly in the IT space, right? Is that the Patent Office, for all the areas that you've mentioned, that probably carries for this country both in terms of enterprise, private versus government or military, probably has some of the most sensitive information in this agencies trust? So the concern that we would have as a general public -- I would have as general

public is that we have the most robust system and none of that is degraded by having to share resources unless you are the high-mark of having everybody's systems brought up to that level of security and then even higher, right? So that was my point. Thank you.

MR. OWENS: Yeah, I do have an agreement with Michelle Lee that I will not be blindly accepting a poor quality service than we have today. And quite honestly and not to brag we are seen as leaders in almost every service that have been discussed at Department of Commerce to date because of the investment of our constituents and the advancements we've made over the last five, six years. But I will not accept something substandard.

MR. BUDENS: Julie raised a question and Mike raised it earlier, too. Just for our information give us an idea because there is a lot of concern about this idea of shared services and I don't know that anybody around this table is too happy about it at the moment. But just to give us a perspective, if you needed to order a major system like a set of servers to replace PALM or

something like that, something that would be a capital investment, how long does it take you to get through the procurement process right now just when we don't -- when we're not competing with other sources in the shared services environment. You know, we don't have to compete for procurement people and we don't have to compete for other, you know, IT services. What does it take even now to get a major procurement for the IT system?

MR. OWENS: I wish your -- the answer to your question was simple. It's not. If the piece of equipment is something that I already have and is on a contract already that we have, then it's a matter of applying the money through momentum to the financial system and just buying it. I know I don't have to do anything. I just -- I -- it's already on there. Now let's say it's something completely new, the question is is there a similar service or a similar contract that I can amend, edit, then that's relatively short of period of time, a couple of days to a couple of weeks. If it's a brand new re-compete of a multi-year, multi-company \$100+ million a year,

you know, contract then it could take a year to do it. I can tell you this, I've never seen it done faster than here in the federal government. Of course, this is the only place I've ever been in the federal government so I guess it doesn't count for very much but a lot of my friends are envious of how fast we can get some of these things done even when they hear a year. So let's put it that way. So I am very happy with the team that Mr. Scardino gives us. Of course, we all have areas to improve. I have to improve, he has to improve.

But I don't know what's going to happen with the shared services, okay? I've been asked to participate. We're sending our representatives our requirements. We're giving them to the Department of Commerce. In some cases we're guiding the Department of Commerce on what to look for, how to set them up with the service level agreements, some of the measures that are appropriate and so and so forth because we've done it already. And as such we are contributing as members. If those contracts produce better results than the ones that I have

for equal to or less than money, well then I'll be happy to use them. But they have to have the quality level there because one of the things that you've all come to expect is that level of quality for dollars spent. It can't just be cheaper, right? As much as I'd like to save I can't give you crap and save money. You wouldn't put up with that, right?

MS. KEPPLINGER: Excuse me, but we really are way, way, way behind --

MR. OWENS: Oh, I'm sorry.

MS. KEPPLINGER: -- schedule so we need to move along very quickly here.

MR. OWENS: Okay.

MS. KEPPLINGER: Thank you.

MR. OWENS: You got my point. All set?

MS. KEPPLINGER: Yep.

MR. BUDENS: Thank you very much.

MS. KEPPLINGER: Great. Next we have Liz Dougherty and she's going to give us an update on the Smithsonian -- USPTO Smithsonian collaboration.

MS. DOUGHERTY: Thank you madam chairperson. It's good to be here this

afternoon. Good afternoon. It's a pleasure to brief the PPAC on this exciting collaboration and to kind of let you know where we are at in our collaboration. But before I do so to talk about current and future projects, I would like to take a step back for those of you who may be new to the collaboration or are not familiar with what we have done thus far.

We did start this collaboration, this very unique collaboration in 2013 in part due to the vision of then Undersecretary Director Kappos. He secured this unique opportunity for us and we began with a vision that we were going to help reopen the Arts and Industries Building which is on the National Mall directly adjacent to the castle. We began with that as our vision. It was going to be a temporary space for approximately seven years as a museum dedicated to invention in innovation. We proceeded down that path through 2013 and into the start of 2014 until the Board of Regents at the Smithsonian determined that reopening the Arts and Industries Building at this point in time was untenable. So with that we've kind of restarted our

collaboration in 2014 and then now into 2015 and that's shifted our focus. But it again -- still it's a very unique opportunity.

Change these slides here. So while we are no longer focused on the Arts and Industries Building which a number of the members here of the PPAC had the opportunity to visit on a hard hat tour, we have refocused as the anchor of our collaboration the National Museum of American History which is there on the mall directly adjacent to the National Museum of Natural History. We were very fortunate this year to reopen in collaboration with the Smithsonian the first floor of the west wing of that museum. The first floor of the west wing is dedicated to innovation. And when I say innovation I mean innovation as we see innovation; innovation of business, entrepreneurship, intellectual property, and invention. So this is just a lovely photo of our team being on hand for the July 1st opening. There featured in the photo we have none other than Undersecretary Lee; John -- directly to her right, our left is John Gray, the head of the American History Museum;

David Allison who is one of the primary curators of the largest exhibit within the west wing, first floor; and then Richard Kurin who is a member of the executive team who oversees several museums in the Smithsonian.

One thing that we contributed to most substantially in the west wing is the Inventing in America Showcase. This showcase is the -- this is entrance into the west wing and something that all patrons have to walk through to enjoy the west wing itself. I've passed around for you as part of your packet a press release that described that opening, as well as I'm sharing with you some of the schematic drawings of the interactive displays that are there as well as something that we'll talk about again here in a second; some things having to do with our innovation festival. So what you see Director Lee and Deputy Director Slifer looking at is actually one of the artifact cases there in Inventing in America. And in this next photo you can see -- so on opposite sides of Inventing in America there are a series of artifact cases. One is a large case that's been populated by the

Smithsonian with artifacts out of their own collection. They're enormous collections of unique artifacts. We helped to populate the two artifact cases on the opposite side of that entrance. The case that you're seeing on our left is a case of trademark artifacts and that was done in collaboration with our business unit partners here in trademarks. The case to the right was populated with artifacts from National Inventors Hall of Fame inductees. In between the two cases is an interactive display where people can find out more information about the items that are in those artifact cases. And in the case of the National Inventors Hall of Fame artifact case they can find out more about the inventors themselves.

This again is a schematic drawing that was done in preparation for opening the exhibit and it just provides to you some of the actual inductees and their artifacts. The Apple One microcomputer, the Sticky Note from 3M, Kevlar which came to us from DuPont and the Hagley Museum, the telephone circuit board, the Ethernet prototype circuit board of Robert Metcalf. Just

a wide variety and diversity of technology, diversity of inductees because it was important to us in telling the story of Inventing in America that we recognize our inventors are of diverse backgrounds, working in diverse technologies. As I mentioned the Smithsonian has an artifact case and this is a schematic drawing of their artifact case with a Morse telegraph centered most featured -- featured most centrally in the center of that case.

Also in Inventing in America the U.S. Patent and Trademark Office helped bring a very, very unique artifact to bear. This is in fact the Ralph Baer workshop. Ralph Baer was a prolific inventor and passed away recently within the last year. They had the opportunity to go to his home in New Hampshire and remove the entirety of his workshop and it is depicted and reproduced identical to as it was in his home such that people can position themselves in his workshop. They can see how an inventor would work; the tools of an inventor. Perhaps even picture themselves in a -- as an inventor. Ralph Baer worked primarily in the toy and game area inventing one of the first

interactive video games.

We also helped to that same day, July 1st, to open the west wing itself. In addition to opening Inventing in America we also helped open the remainder of the west wing. As you can see this ribbon cutting ceremony took place on the innovation stage which will be used for a great deal of programming for the remainder of our collaboration.

Here's a schematic drawing of the entirety of this space and as you can see it is quite large. There is again, our Inventing to America, the gateway into the entirety of the west wing. The Inventive Minds gallery, the Lemelson Hall of Invention and Innovation, Places of Invention where there's a conversation about the unique places in America that have served as hubs of innovation over time. What made these places result as a hub of innovation? Was it the people? Was it the company's position there? It tells a very fascinating story about the history of America. Spark!Lab, a hands-on place of learning for people of all ages. Wonderplace is yet to open but Wonderplace is going to be an

interactive hands-on innovation space for toddlers and children of pre-elementary school age. There's the S.C. Johnson Conference Center. We are -- we have been invited to do programming with the public. There is the Object Project where they take an analysis of unique inventions in America and tell the stories of their inventors; tell the stories of those objects themselves. Whether it's a bicycle, a telephone, and how they impacted America. There is also the performance stage which you saw in the proceeding slide. There's the Mars Hall of American Business and a feature called American Enterprise. This is a particularly unique part of the west wing in that it tells the history of America business -- of American businesses and the growth of business in America. And in doing so it focuses very heavily on trademarks so this allows us to weave into our collaboration with them. The importance of trademarks in promoting American business. So we're having the opportunity to feature both patented technologies and trademarks and to weave intellectual property throughout all of our

programming. They have an archive center exhibition and a Gallery of Numismatics talking about the importance and value of money throughout time.

These are just some photos from opening day that day and the crowd that was gathered there. Again, a feature of American Enterprise. This is again the Numismatics Gallery again which tells the history of money in the United States. Again, some folks who have come out to enjoy the opening. These folks look like they're having fun, don't they?

Moving on to things outside of the American History Museum that we're doing, we currently also have another exhibition in place and this is at the Smithsonian American Art Museum or the former home of the U.S. Patent and Trademark Office. We have participated in the preparation and display of an exhibit called Measured Perfection. Now if anyone was ever to ask you what do sculpture and intellectual property have in relation to one another you might raise an eyebrow and say you're not sure. In this unique situation there's a fantastic American

sculptor. Perhaps only second to Alexander Calder as far as recognition amongst American sculptors. Hiram Powers was a sculptor in the late 1800s. While he spent the majority of his time in Italy, he was born in America and did his early work in America and much of his work reflects American values, American individuals. What's most unique perhaps about Hiram Powers is that he was a firm believer in intellectual property. He had patented tools and in fact has patents in his name. Now what is also unique about the exhibit is that they do have some patent documents. Again, as I mentioned, he lived the majority of his life in Italy so he filed documents with the Italian Consul in seeking patents. So they actually have some of those documents as part of the exhibit. We have shared with them through our research documents reflecting the patents that he was able to obtain through the U.S. Patent and Trademark Office and we have made those part of the exhibit. So I would encourage you to take time while your here in D.C. to visit this small but very fascinating exhibit.

Here's a reflection of the two patents that he holds. Now he claims to have also patented the Greek Slave which is featured here in the image on the left. However, to date, we have not been able to find a patent to the Greek Slave. So while he claims to have patented it it's unclear to us where in fact he patented it if he in fact patented it. So maybe he applied and was never in fact successful but we continue to research on the subject.

Our next upcoming event is actually happening the end of this September; September 26th and 27th and we'll be having our next innovation festival. Last year I reported out to you on our first innovation festival held at none other than the National Museum of -- the National Air & Space Museum; the world's most popular museum. That innovation festival over a two period was visited by over 30,000 visitors. We anticipate similar audiences at the American History Museum. And again we'll be there September 26th and 27th where we will feature 13 patented technology exhibitors who have applied through a selection process and then selected.

The selection process, our selection committee comprised members of our stakeholder groups, AIPLA and IPO, a representative of the independent inventor community, and was completely outside of the USPTO. So again we will have 13 patented exhibitors portraying their technologies there. And again, diversity being of importance to us they range from independent inventors to government entities to university inventors, small companies, and large companies. So in addition to their exhibits they will also be surrounded with unique and creative programming from the various Smithsonian units. So it's going to be a very engaging two-day event for people of all ages.

With that I'd just like to close out very quickly with what we're looking forward to in FY '16. We are currently working to prepare an amendment to our Memorandum of Agreement with the Smithsonian which will lay out what we hope to do in FY '16. Right now we're currently looking at programming there in the west wing of the National Museum of American History. Again, there's the conference center, there's the

innovation stage, there's the Spark!Lab facility.

We'll be focusing on three main concepts; entrepreneurship, STEM, and trademarks with a look to counterfeiting. Those we hope to be our main focuses in the American history programming that we plan to do. We are in conversation right now with the National Portrait Gallery about planning a long-term project to create a portrait exhibit of American inventors. Our hoping that this project will have greater longevity and also be something that can travel to museums around the country; particularly to those cities where we have regional offices. Again, this is a long-term project to both obtain portraits that already exist or to perhaps create portraits for those inventors we would like to have represented but a portrait does not currently exist.

We are working with the Smithsonian Channel to in fact produce a pilot, a television pilot to run on the Smithsonian Channel that could eventually turn into perhaps a series within FY '16, '17, '18, or '19. So this year we hope to

do a pilot to perhaps then grow into a series. With Smithsonian.com we'll continue to have an innovation Website that is done in collaboration between the USPTO and the Smithsonian that carries all types of information on invention and innovation.

With that I know we are running behind today so I will bid adieu unless there are any questions. And again encourage you to come out, visit the National Museum of American History first and foremost, but also get out to the American Art Museum to see the Measured Perfection exhibit. Both are extremely fascinated -- fascinating and reflect very, very well on the USPTO's work with the Smithsonian. We're able to infuse their creativity and their vision with our vision and the importance of intellectual property.

MR. SOBON: I just want to say I know it was a real blow and we were very disappointed when the prior collaboration with Smithsonian didn't transpire but I went to the Inventing in America exhibit in July when I was here last and it -- I have to say it's really, really well done

and engrossing and it's so cool to see the actual models of all those inventions there. It's a really, really -- so I encourage everyone to go see it. It's really --

MS. DOUGHERTY: Thank you.

MR. SOBON: -- really, really cool.

It was --

MS. DOUGHERTY: We're very, very proud of it.

MR. SOBON: -- sort of a tie for me between that and the beach, exhibit, to go to the museum but I really -- it was really fantastic so I really -- congratulations to you guys.

MS. DOUGHERTY: Thank you.

MS. JENKINS: Elizabeth, I'll tell you I was nice -- I was coming down on the train Tuesday afternoon and was reading The Journal and saw the article on the review of the exhibit in it. So it was just -- you know, it's like, yeah. So very nice.

MS. DOUGHERTY: I appreciate that feedback and I will say though they're many great things to the collaboration because both of us bring very unique things to the table. And one

thing, in addition to their many resources, the Smithsonian has great reach into the community and great reach into the press and media. Where it says -- something oftentimes we are challenged with getting an audience or getting an audience for the right reasons. So the Smithsonian has been real blessing to us in getting out to the public in reaching these larger audiences so thank you.

MS. KEPPLINGER: Thank you very much, Liz, for that exciting update on the exciting collaboration.

MS. DOUGHERTY: You're welcome.

MS. KEPPLINGER: We really appreciate it.

MS. DOUGHERTY: Thank you, madam chairperson.

MS. KEPPLINGER: And thank you for that title. (Laughter) Okay, so next we have Jenny McDowell who's going to give us an update on the pro bono program. By the way we're skipping the break if you didn't notice.

(Laughs)

MS. MCDOWELL: So hi, everyone. I

thank you very much for having me here; members, chairperson. Very excited to talk you about Patent Pro Bono. Very sorry that I'm the reason that you're missing your break. (Laughs) I will make this brief. I promise. This is all very good news and very happy information to share.

I believe the last time that we spoke about Patent Pro Bono this now looked a lot different. This represents how the different regional programs for Patent Pro Bono are divided within the United States. And just taking a step back for a moment -- I mean, I sort of assume everybody knows what Patent Pro Bono is in the whole entire world but in the event that you don't, just at a very high level, what this concept is is on the one hand matching up low income under-resourced inventors and on the other hand volunteer patent lawyers and agents who are willing to donate their time. There are non-profits, universities, bar associations that act as the matchmaker between those two. And this map shows you how 18 different hubs throughout the United States provide those

services. And like I mentioned just a year ago, boy, did it look a lot different. We have made a ton of progress in a very short period of time in no small part because President Obama, last year in February of 2014, issued an executive action calling on the patent bar to step up to the plate, calling on the PTO to get this done, and requiring the appointment of a pro bono coordinator. So voila, here we are (Laughs) a year later. In fact on August the 4th, he at Demo Day, announced that we have reached all 50 states which was a huge, exciting announcement for us. Now any inventor in any state in America can have access to this very valuable program.

We are just beginning to collect metrics on this program. It's been a very fast growth period but of the data that we're beginning to collect, we know that in the past three months alone almost a half a million dollars have been rendered in pro bono legal services through one of these 18 various hubs. That would primarily be including the filing and prosecution of various patent applications.

This again is the first time we've seen

this kind of data. This is our very first collection. We had in that three month period, between April and June, a little bit over 700 requests for assistance from all across the United States. We had just over 100 people who were approved to be placed with an attorney or an agent. And so you might wonder why the blue chart so much higher than the red bar is and the answer is pretty simple. Everyone who wants to be in this program quite simply can't be in the program. There are three general criteria in order to be able to qualify for assistance. One of the largest thresholds is an income threshold. You really have to be under-resourced. There's also a knowledge component. You have to show that you've tried to educate yourself. And there's a requirement that you have an invention not just a clever idea that can't be reduced to practice or described. So when you think about it, that disparity means that the program is actually functioning because what we're doing is we're screening out the folks that don't meet these eligibility criteria and that the limited resources of the volunteer attorneys are placed

with the people who need them the most.

I also made this map. I guess I like maps in colors but this is sort of a heat map and what this shows you is of that 700 plus requests for assistance, where they're coming from. And I guess the best way to look at this is red is the hottest, okay? So we've got three states in red; California, Florida, and New York. Those are the states where we are seeing the most requests for assistance coming from. Pink is next. And the stars just so you know, that indicates where the regional hub is. So for example, you know, there's one in Dallas, there's one outside of San Francisco, and New York City. That kind of gives you an idea of where the programs are actually physically located. And I think the thing that speaks volumes about this map in particular is that there's only a very few number of white states. We have managed to get this word out to people in very remote places. We have managed to get volunteer lawyers volunteering all over the country. And like I say this is just the very first round of collecting data so it's only going to get bigger and better from here as we publicize

this and as it grows. But I thought that was kind of an interesting snapshot to see where the inventors are at this time.

Really that's the bulk of what I wanted share. This is, you know, trying to be short and sweet but I am very happy to answer any questions that folks have.

MR. THURLOW: So just a quick comment because I remember working on this with the New York Bar Association and Andy and Jenny going back several years ago. It's like three or four states. I think Minnesota was one of the first ones, California. So it's nice to see it up and running. I think to the extent that the PPAC members can help, a number of us from a big company, big law firms, and the bar association connections just to spread the word because what we're finding out, at least in New York, is that there's people that need assistance but now we need to place them with more attorneys. The difficulty, especially from a law firm perspective, is there are always liability concerns and the conflict issues that are concerned. So that's where maybe we can have

more of an outreach to in-house even though that's always a challenge as well. But, you know, I think it's a great program and something we could all help and spread the word.

MS. MCDOWELL: Pete, I appreciate that comment very much and it has been a pleasure to work with you, with my -- I have worked with virtually everybody in this room I think. I'm not shy about asking folks to volunteer and I would certainly echo that request.

MS. MAR-SPINOLA: May I ask what do you envision for the extension of the program? Right now it's focused on applicants, right, and new inventions. What about on the side of patent quality and in particular where there might be folks like the mom and pops who receive demand letters for patents? This is something as contemplating for this program for example to allow pro bono type efforts to have the patents reviewed.

MS. MCDOWELL: Right now I would say that our Patent Pro Bono program is in and of itself a quality initiative because the more people who do not file pro se and are assisted by

competent counsel, the higher quality applications coming in the door, which helps the entire system. So just the measure being in existence is a quality initiative. Currently, there -- it's not a litigation tool or a litigation device. It's primarily a filing, prosecution of a patent application. But who knows what the future holds, right?

MS. MAR-SPINOLA: Yeah, I mean my -- the way that I see it it's not quite a litigation tool. In fact, you could remove it as a litigation tool. If these patents that are being asserted can be vetted back from who -- from the Patent Office and remove it if that's the case in terms of determining the validity, right? So that's how I look at it. It's not a form of litigation but simply as a -- I see that as a patent quality issue because reexaminations and any other type of reevaluation of the grant of that patent will allow further determination of whether or not that patent should be enforceable and all.

MS. MCDOWELL: Yeah, thanks.

MS. MAR-SPINOLA: That's my point.

MS. MCDOWELL: Thank you very much for your comment. We'll think about that.

MS. KEPPLINGER: Thank you. Thank -- anything else from anyone? Thank you so much, Jenny. Great progress. We have Tony Scardino with the budget update.

MR. SCARDINO: Good afternoon. All right let me see here. All right. So like I usually like to go in order, this is time of year where we're in the midst of three fiscal years. And what I mean by that is we're living one, Fiscal Year 2015. We are working with Congress on the next one, Fiscal Year 2016 which starts in October and then Fiscal Year 2017. We are furiously in the process of proposing a budget to the Office of Management and Budget. So I'll go through each of those in a little more detail.

For 2015 fees are coming in a bit lower than we had estimated back when we submitted the president's budget back in February for 2015. In fact it's \$93 million lower so our current working estimate is a little more than \$3 billion for both patents and trademarks. Specifically that's for patents here is \$2.78 billion. But we are

spending a bit more than that. You'll see here our end of year projected spending is \$3.25 billion. So we were dipping into the operating reserve which is why the operating reserve exists. Last year we put money into it and this year we're taking money out. And this is to keep spending at a consistent rate. We call them spending requirements. We should only spend money if we need them to help us hire the people we need to hire, keep them on board, keep them fully functioning, as well as IT developments, et cetera. So the operating reserve on the patent side will still be almost \$400 million going into next year. So that's very healthy. We're happy to have it. And on trademarks it'll be close to \$100 million.

So then we move into 2016. As I mentioned both the House and Senate have already marked up our budgets and they -- support of the President's budget, and even a little -- even a little more than that. We won't collect to that level. We don't believe in 2016 but it's nice to have the support from Congress. And they also -- as part of their markups they provide

what's called report language and each, the House and the Senate, have asked us to either provide reports on patents end-to-end as the House always does. And for the Senate we've been keeping them abreast of things. We give them a monthly report. We show them where we are with fee collections versus what the plan was and they've asked us to include in our budget request OMB which is due next month, a longer term plan to reduce costs and expenditures if fee collections remain lower than projected levels. And all that does is recognize the fact that we've been working with them and showing them that, you know, there's a little more elasticity maybe in maintenance fees than we thought. We're seeing fewer RCEs filed. So they were just saying, well if you're going to collect less money -- if, you know, the patent community is submitting fewer things or keeping patents enforced for shorter amounts of time, what are you doing to adjust to that? And that's, you know, what we do every day. We've been meeting with Russ the Deputy Director, in fact, all week long to do just that in terms of planning for the next couple of years. So that's

a request that we can certainly support.

2017. I'm happy to announce that both PPAC and TPAC will get our draft 2017 budget today, later today. It's due to the Office of Management and Budget September 14th; the first Monday after Labor Day every year. And so, you know, we'll have some time to review that, ask us questions, and then we can certainly be in touch again throughout the fall because to budget OMB is just kind of like the first step and then we continue to refine it as we get better information on fee collections and expenditures in the fall.

For our final submission on '17 is the first Monday in February. I believe that's February 7th next year. And I think -- the last thing I've got is Biennial Fee Review. As I've told you a couple times now -- a recorder -- this year we've been involved in our fee review. Two years ago we set fees for the first time ever. We committed to reviewing fees every couple of years. We're doing that and when we say review fees that could be eliminating fees, it could be introducing new fees, it could be lowering fees, raising fees. We've worked with all the business

units to determine, you know, what their kind of wish list was or what they think if they wanted to modify any behavior, what they may want to do. And we're in the process of continuing to review that. We've been talking to Russ and Russ has been talking to Michelle about appetite for raising fees and whether that's something we would want to do. And we hope to have something for you soon, probably September to discuss in terms of a rulemaking that might be necessary associated with raising fees or introducing new fees.

So as always I run through these things really quickly but I'm so happy for questions. Esther.

MS. KEPPLINGER: So just a clarification of this. So should you choose to lower fees as you've done in trademarks you just do that as a matter of (inaudible).

MR. SCARDINO: Right, PPAC would be less involved. You don't need public hearings, et cetera.

MS. KEPPLINGER: Exactly. It's only -- but if you decide to raise any fees --

MR. SCARDINO: Raise or introduce new fees.

MS. KEPPLINGER: Right, and then the PPAC would become involved and we would hold at least one public hearing --

MR. SCARDINO: And we're going to issue a report, correct.

MS. KEPPLINGER: Yes.

MR. SCARDINO: Okay.

MS. KEPPLINGER: Exactly, thank you.

MR. SCARDINO: Thank you.

MR. THURLOW: Just one area. I remember going back years ago with former Director Kappos and the whole funding model and there's so many discussions to maybe deemphasize the amount of funding you get from maintenance fees. Is that one of many thousands of considerations as you consider raising fees for this time?

MR. SCARDINO: Absolutely, yes. There's been some thought that, you know, the states free maintenance fee maybe for example. Maybe that's, you know, possibly too high or maybe the application fees should be raised a little

bit. There have been discussion on RCEs. I mean, I can't definitively tell you anything because nothing's been decided but it's certainly something that we've been looking at.

MR. THURLOW: Yeah, and my feedback on that is sometimes people think -- see if this makes sense, that raising fee raises revenues. Sometimes that doesn't happen. You know we --

MR. SCARDINO: Right, sometimes it works backwards.

MR. THURLOW: Yeah.

MR. SCARDINO: If fewer people are paying the fees then you actually get less.

MR. THURLOW: Right, so we see that a lot in international, say, prosecution --

MR. SCARDINO: Sure.

MR. THURLOW: -- where many -- when I started many, many years ago we used to file everywhere. Now there's -- you know, the budget is a big issue so we decide some countries we can't and some of those that we mention Brazil and others. So we cut out certain areas rather than file there so that they're losing out on those revenues going in because of many things so.

Just bear that in mind. If the cost gets too, too much then we decide not to do it if (1:38:05).

MR. SCARDINO: Now that's very helpful feedback. We've met -- we met yesterday with the PPAC subcommittee on budget and it got similar guidance and it's also really good to have Russ and Michelle here since they both come from the community and have lived through it. So they've been very helpful in this process.

MS. KEPPLINGER: Yes, as a matter of fact one of the areas that we pointed out was the third stage maintenance fee. It was in fact one of the areas of our concern in the initial fee setting from the last time that we felt was potentially too high, so. But it's something for them to consider.

MR. LANG: I'll comment that I think it would be good to, you know, carefully model what's been happening in other jurisdictions with the way that their annuity structures have affected fee collections because, you know, as the discussion that we just had, you know, change -- there is a marginal effect from raising the fees and how many people actually decide to

pay them.

MR. SCARDINO: Right.

MR. LANG: But we're not alone in that that's confronting --

MR. SCARDINO: Absolutely.

MR. LANG: -- every patent system and there's a spectrum of the fees that are charged and, you know, different jurisdictions have experience adjusting them and may have seen impacts that we can use (inaudible).

MR. SCARDINO: We can learn from. Absolutely, yep. We took that under advisement yesterday and we'll certainly move along in that direction. Thank you.

MS. JENKINS: And sort of along the same note, it's often hard to explain to a client it's -- well it's not a lot of money but why you're getting a fee for filing an assignment for a trademark and not for a patent? So those costs too -- you know, when you're looking at it -- a client's looking at the entire portfolio --

MR. SCARDINO: Sure.

MS. JENKINS: -- costs to try to understand --

MR. SCARDINO: Why they consist that?
Yeah.

MS. JENKINS: -- why you don't do the
same for both, so.

MR. SCARDINO: I appreciate that,
thank you. Because I should say that PPAC will
also be involved if we are -- unlike a couple a
years ago when Esther was very involved we were
just raising fees or just adjusting fees, I should
say on the patent side. Since then trademarks
has reduced a couple fees so TPAC was not as
involved. And this time around we're looking at
all fees, patents and trademarks so thank you for
those thoughts.

MR. THURLOW: Do you see how much money
your -- the Agency is getting in now under the
so-called micro entity fee as compared to what
you've maybe in the past (inaudible) and --

MR. SCARDINO: Absolutely, we --

MR. THURLOW: I mean, to a certain
extent you're losing money but you're benefitting
the community which is good.

MR. SCARDINO: Right, which
was -- yeah, part of the design but we can

certainly get that information for you. And yesterday in our discussions we were talking about Track One and how folks are gaining confidence in it and it -- the numbers there may continue to increase also.

MR. THURLOW: Right, and I want to be clear the PTO is not eliminating Track One.

MR. SCARDINO: Nope, no we're not.

MR. THURLOW: Just to be clear.

MR. SCARDINO: We're not, no.

MR. THURLOW: That's a joke from earlier.

MR. HIRSHFELD: Okay, say that again, Tony.

MR. THURLOW: Yeah, yeah. (Laughs)

MS. JENKINS: You weren't here when he was trying to get rid of the fees so you probably did that on purpose.

MR. SCARDINO: I don't think you would let me --

MR. THURLOW: Yeah.

MR. SCARDINO: -- as part of his new responsibilities.

MR. THURLOW: Thank you.

MS. KEPPLINGER: Any other questions?
Thank you very much, Tony, for that update.

MR. SCARDINO: Sure, thank you.

MS. KEPPLINGER: Okay, we are moving
right along. Drew, your closing remarks.

MR. HIRSHFELD: Okay, so I will keep
these very brief and limit it to just a thank you
very much. It was a very good comprehensive
meeting. A lot was covered and I'll reiterate
and no, we are not getting rid of Track One
(Laughter) and that's all I think I need to close
with today.

MS. KEPPLINGER: And for me also echo
that. Thank you very much for all of the PPAC
members, the USPTO who I know takes a tremendous
amount of effort and time to pull all this
together, to get all the materials, to get all the
speakers, and to handle all the requests that we
have for information and address the questions
that we have. So we really appreciate that from
the USPTO and thank you to any of the public who
have joined us today and look forward to you
coming next time. Thank you.

(Whereupon, the PROCEEDINGS were

adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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

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