

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Thursday, November 19, 2015

PARTICIPANTS:

PPAC Members:

PAUL S. JACOBS

MARYLEE JENKINS, Vice Chairman

DAN H. LANG

WAYNE P. SOBON

PETER G. THURLOW

F. MICHAEL WALKER

MARK GOODSON

USPTO:

MICHELLE LEE, Under Secretary and Director of
the USPTO

ANDREW FAILE, Deputy Commissioner for Patent
Operations

PAMELA SCHWARTZ, Vice President of Patent
Office

BOB BAHR,

SANDIE SPYROU, Senior Advisor to the Deputy
Commissioner for Patent Quality

MARK POWELL,

Union Members:

CATHERINE FAINT, Vice President of NTU245

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P R O C E E D I N G S

(9:00 a.m.)

MS. JENKINS: Good morning. Are we all ready to start? Yes? Yes? (Laughter) Ah, yes, yes. Do not be fooled.

I am Marylee Jenkins. I am vice chair of PPAC and, unfortunately, Esther is under the weather so cannot join us and chair this meeting, which I know we are all, and particularly myself, are disappointed about and we hope she feels better.

But, welcome. Our November PPAC meeting, it's amazing how quickly the year just passes and how much we get accomplished and all the great things the USPTO is doing, Trademarks, too. (Laughter)

We would like to do opening remarks with under secretary and director of the USPTO, Michelle Lee, if you would start.

MS. LEE: Great. Well, thank you, Marylee, and good morning everyone. It's a real pleasure to be here. I can't believe it's almost the end of the year. Time flies when you're having fun.

So, I'd like to begin by extending my thanks to all of you for all that you guys do, all the hours that you put in, especially the report that we got and the upcoming fee setting. I know we're meeting later on this afternoon as well. So, there's a lot of work going on and it's all important and it's all good and thank you for your time and your service on PPAC.

We are currently reviewing the results of the report that you were all good enough to put time and effort into preparing. For anyone who wishes to read the annual report in our viewing public or in the audience it will be published in the Official Gazette on Tuesday, November 24th and be available on the USPTO website shortly thereafter.

As you know, this past fiscal year has been quite a busy one and I'm extremely proud of all the work that we've accomplished. Specifically, I'd like to identify some of the major accomplishments in Patents. On the IT side we successfully released the Patents and Docket and Application Viewer and more than 10,000 staff members have been trained on it. The Docket and

Application Viewer, or DAV as we call it for short, provides a new interface for patent examination offering many advantages and new capabilities not available with our current tools. Internationally, our teams have implemented the Hague Agreement for international registration of industrial designs to streamline and expedite filing and examination of design applications. I like to say it's akin to the PCT process for utility applications but for design applications.

Our team created and launched collaborative search pilots with patent offices of Japan, JPO, and Korea, KYOP, and this really enhances examiner access to the best prior art for a given application by taking advantage of the searches completed by examiners in Japan and Korea. So that's very exciting.

In the training area we've conducted a variety of programs to keep our examiners abreast of the new and ever changing case law with a focus on areas identified as being particularly challenging. More than 8,000 examiners underwent training as we completed the transition

to the Cooperative Patent Classification System, CPC. We've also developed critical training focused on functional claim limitations for computers and software, claim terms and examining claims for compliance with the written description and enablement requirements of 112(a). And over 700 examiners participated in our first two Patent Training at Headquarters, we call it PATH, events. These events brought teleworking examiners back to the campus here in Alexandria to work on communication, team building and collaboration which increases their level of engagement as employees, boosts morale, and enhances examination quality, and I will say is really a necessary piece of a successful nationwide distributor workforce program.

We also issued interim subject matter eligibility requirements or guidance, including a key update in July, I think many of you were aware of that. As you know, this is an extremely challenging task given the lack of bright-line guidance provided in the court rulings.

And we recently opened our last two regional offices in Silicon Valley last month and

in Dallas last week, some of you were there. This is really a fantastic accomplishment and a tangible realization of part of the vision of the America Invents Act and I can't begin to share with you the enthusiasm we experienced with both of these office openings from the local innovation communities on the ground in those regions. We share that excitement and will be fully integrating our regional offices into the broader agency operations in addition to the regions they serve, so we need to integrate that with our core mission. We will do so by fulfilling -- fully utilizing the services available at the regional offices, including interview and hearing rooms, prior art search facilities, and educational and outreach programing.

As you know, we've been quite busy in our heightened focus on patent quality. I hope you saw my recent Director's Forum blog post where I highlighted the importance of issuing patents that are both correct and clear, and how we can focus -- how we will be focusing on a pilot program where we'll be launching soon -- that will be

launching soon on the clarity of the record. So please read the blog to learn more and explore all the materials that we have about our Enhanced Patent Quality Initiative at our website. There's a lot of information there.

Patent quality will remain a top priority as we move into 2016 and well beyond in the years to come. We are focusing on building Enhanced Quality into really all aspects of patent and examination as well as Trademark, including work products, customer service, and quality metrics.

I don't want anyone to think that we're not issuing high-quality patents right now because I do believe that we are and a lot of steady progress has been made on that front, but I really do believe that we can do better and this is the opportunity to do so.

As you know, the IP landscape has been changing in recent years driven by court decisions, new post-grant appeals and many other developments and our Enhanced Patent Quality Initiative is, therefore, designed to look more deeply into all aspects of our operations to

identify areas where we can continue to improve our processes, efficiency, and result work product. While we cannot at the USPTO singlehandedly fix a number of the issues that we're facing in our patent ecosystem, we can certainly make our contributions. Any company that produces a top quality product has focused on quality for years, if not decades, and that's what the PTO is committed to doing.

In addition to patent quality our priorities include improving the Patent Trial and Appeal Board proceedings and advancing the next generation IT and data systems. Regarding the Patent Trial and Appeal Board, we are focused on maintaining the issuance of high-quality decisions for ex parte appeals and AIA trials, continuing to meet the statutory deadline of the AIA trials, fairly strict, a year to a year and a half, and reducing even further the backlog of ex parte appeals.

We likewise are considering ways to strengthen the AIA trials through rulemaking. To that end we published proposed rules in the Federal Register in August and written comment

deadline closed yesterday, so we're looking over the comments that we have received. We will be making a decision about the final rules and we aim to release around the beginning part of the year any kind of developments or changes.

Regarding the next generation IT and data systems, we will continue our efforts to develop and deploy a new suite of IT tools for PTAB, complete patents and end, and launch Trademark Next Generation programs. We must develop new IT programs and initiatives centered on big and open data to transform an agency built on 21st century metrics to one that uses 21st century business intelligence really at every operational level.

So in closing, we have a full agenda scheduled today as we bring you up to date on our activities and we hope that today's session is informative.

Following the regularly scheduled PPAC quarterly updates, I think I will see all of you again at the fee setting hearing, which should also be very informative and an engaging discussion, I hope. So again, thank you for all

your hard work throughout the year and always we welcome your comments, your input, your advice, and your counsel. Thank you.

MS. JENKINS: Director Lee, thank you. Listening to everything on your sort of a laundry list it is amazing what the Office accomplishes in a very short period of time. Speaking on my own behalf as well as the other members of PPAC we truly appreciate being involved in this process and helping in any way that we can to make, hopefully, your life just a little easier with respect to this very tight and long agenda that the Office has. So, hopefully, we all get good things accomplished for the next year as well.

A little housekeeping, Director Lee had mentioned, as we know we do have a hearing this afternoon, so if we could try and stay on time and keep mindful that we have a lot on our plate today.

I just want to also say, as Director Lee said, very thankful for all the efforts that the PPAC has done for the report. This will be out soon. Individually, I know on behalf of Esther as well, thank you for the time, the thoughts, the discussions. It's never easy doing the reports.

And also thanks to the Office for all of their input and their efforts to make this even better I think than we did the year before. So, thanks so much.

One housekeeping thing, I'd like to go around and introduce everyone at the table, so maybe if we start with Catherine. Sorry.

(Laughter)

MS. FAINT: Catherine Faint, PPAC and vice president of NTU245.

MS. SCHWARTZ: Pam Schwartz, PPAC, and I'm vice president of the Patent Office Professional Association.

MR. GOODSON: Mark Goodson, member of PPAC.

MR. SOBON: Wayne Sobon, PPAC.

MR. LANG: Dan Lang, PPAC.

MR. HIRSHFELD: Drew Hirshfeld, PTO.

MS. JENKINS: Marylee Jenkins, PPAC.

MR. FAILE: Andy Faile, USPTO.

MR. WALKER: Mike Walker, PPAC.

MR. JACOBS: Paul Jacobs, PPAC.

MR. THURLOW: Peter Thurlow, PPAC.

MR. BAHR: Bob Bahr, PTO.

MR. POWELL: Mark Powell, PTO.

MS. SPYROU: Sandie Spyrou, PTO.

MS. JENKINS: So we're going to go to the next point. Thank you so much. We're going to go to the next point, which is the Quality Initiative update, so I have Drew Hirshfeld on my left -- everyone else's right I guess -- commissioner for Patents. Drew, just help me out, you are not presenting, right? So Sandie's going to present?

MR. HIRSHFELD: Yes, so Sandie is going to present. I was just going to mention that Valencia Martin Wallace, who is our deputy commissioner for Patent Quality, couldn't be here today. And we just wanted to walk everyone through the Enhanced Patent Quality Initiatives, more particularly have Sandie give everyone an update on the evolving programs that we have. And I wanted to take two minutes to mention a couple things.

One is they are evolving programs and they've stemmed out a significant back and forth that I know PPAC is very well aware of, starting with our Federal Register notice and our summit

and significant comments, over 1,200 comments received. And where we are today is we have a number of programs that we're calling evolving because we are still working on them, but significantly moving forward, and Sandie will give an update to all of those. With that, I'll kick it right over to Sandie.

MS. JENKINS: I wanted to do her title. That was one thing at the other meeting I didn't do everyone's title. So Sandie, your title is senior advisor, I hope, to the deputy commissioner for Patent Quality. So, take it away.

MS. SPYROU: That's correct, yes.
Thank you very much.

Let's see if I can get this to work. I guess not. There we go.

So what I'd like to do is give you a brief background of the Enhanced Patent Quality Initiative, tell you where we've been and how we've gotten to the programs, the evolving programs that Drew spoke of, and go into each of the evolving programs a little bit with a little bit of emphasis on those programs that we believe

will have greater impact, Clarity of the Record and some Clarity of the Record training items that we'll be initiating.

So back in February of 2015, as you're aware, Michelle Lee announced a renewed emphasis on patent quality through the Enhanced Patent Quality Initiative. So in February of 2015, there was a Federal Register notice that came out and it kind of laid out this Enhanced Patent Quality Initiative, and it laid it out as being built around basically three patent quality pillars: Excellence in work product, excellence in measuring patent quality, and excellence in customer service.

It also laid out as a starting point for the discussion, for the dialogue on Enhanced Patent Quality six initial proposals or ideas or straw man to kind of get us talking about how we should be moving forward with regard to patent quality.

So in response to the Federal Register notice we asked in response to have the public come in with their comments. So we had official Federal Register comments, sources that came in,

comments that came in, but we also did a lot of other work to get as much comments in, to get out to all of our stakeholders, both external to the PTO as well as internal.

So we had our first ever two-day Patent Quality Summit and I don't know if any of you participated in that, but it was an excellent event. Over the two days, we had over a thousand people participate both in person here in Alexandria as well as remotely, virtually. We held brainstorming sessions, we had flip charts, we were able to do virtual brainstorming sessions. We had all audience discussions, we had comments in the room, those coming from virtual attendees. And throughout that venue we received a lot really excellent feedback and comments with regard to patent quality.

We also did two different examiner forums where we looked internally to our internal stakeholders and we set up some feedback mechanisms where the examiners could readily give us their feedback. As you know, they're on the front line. They deal with patent quality everyday and they gave us a lot of really

excellent comments and critiques and feedbacks.

We also established a world-class Patent Quality Mailbox and a website, EPQI website, where we had a lot of information, also another easy source where people can funnel in their thoughts, their feedback. and their comments with regard to patent quality. And although we use that mailbox during the comment period for the Federal Register notice, we had such great response to that we're keeping it open and we're constantly monitoring it. So even today, we encourage people to funnel their comments and feedbacks about our evolving programs or any issue that they have with patent quality or comments/feedback through that mailbox.

We also went out and did road shows. We went across the country. We were in San Jose, Dallas, Las Vegas, Denver, recently in Detroit and Durham; we did roundtables in New York. We went out to our stakeholders and discussed patent quality with them wherever we could throughout the IP community.

And we've also been doing monthly

quality chat webinars where we take a different topic with regard to patent quality. And the second Tuesday of every month we have a virtual -- it's all virtual -- webinar where we have guest speakers. We talk about patent quality, but we leave a majority of that time-- it's an hour, it's at lunchtime, noon to 1:00, to just hear from our stakeholders to take their questions, their feedback, get their comments and their suggestions. So throughout all of these sources we really try to get out to all of our stakeholders and hear what's going on and how people are feeling and their thoughts on patent quality.

So all of these sources were taken together and we took all of that feedback and all of those sources and we funneled them to various teams who dug into them and took the straw men that we had and really got into the weeds and came up with 12 programs, evolving programs to move forward with. And again, this is our first phase of patent quality, the EPQI. We have a lot of other thoughts, comments that I'm sure down the road we'll be having additional phases of

evolving programs coming out. SO this is our first stage of the EPQI.

So basically all of the programs that we're moving forward with we could bucket them into three different implementation areas. So we've got the data analysis area which is related to two of the pillars, we've got the examiner resources tools and training to two pillars, and then we also have changes to our process and product. And as Michelle just said, the landscape of the IP of patent ecosystem has really changed and we need to reevaluate what does patent quality really mean at it's core, and we're really trying to change fundamentally the process to achieve the highest quality for our stakeholders.

So what I'd like to do is go through each of these evolving programs and give you a high-level update on where they are and where they're moving forward with a little bit more emphasis on those programs that we feel have the greatest impact to the public.

So I'm going to start with the data analysis bucket and start with the first one, which is topic submissions for case studies. So

basically what we have heard from the public is that -- just taking a step back, the Office does a lot of case studies. When we recognize that there's an area where we can improve, we go out and we review and we study it and we figure out what we need to do in order to improve in that area, whether it be additional guidance to the examiners or refresher training, whatever it is, and we try and figure out what the root cause is and improve.

What we heard from the public is that it would be great to have a mechanism in which the public could identify for us areas in which that they see we need to improve. So, generally, what we heard from the public is we do a good job identifying where these areas are, but it would be great to have a mechanism where the public could come in and say to us, hey, we think you're having an issue in a particular area. For example, recently maybe it was the Alice decision, we would like to see you do a case study on that and see where we can improve.

So what we're looking at is coming up with a formulized mechanism where our

stakeholders can come in and identify these areas, and then what we would do is a case study on it and come up with some actionable items that we could do to improve in those areas. Again, this is not for specific application problems. You know, we have other avenues where stakeholders can seek some relief through the ombudsman program, through the SPE, the director, the formal chains. This is more for the concepts of the big across-the-core issues where you really want us to dig into it and systematically make some kind of change for improvement.

MR. THURLOW: Sandi, just on the case studies, are you looking at hypotheticals or are you looking at real applications? Because this is something that I wasn't familiar with and it seems like a nice idea.

MS. SPYROU: What we're looking for is topical areas that the public feels that we have room for improvement either in process, product, training, however you see that we need to improve and we need to look at this area and come up maybe with some actionable items. So we're not looking for a specific application, hey, look at this

application, maybe the examiner missed the boat here. What we're looking at is kind of globally across the core that we're seeing that there's an issue. Patent-eligible subject matter would be a great example of that or the 112(f) kind of actionable items that we've recently done case studies on and then have done training and follow-up and we've done a lot of internal processes changes. So that's kind of what we're looking at here, to give you a conduit as a stakeholder to say, we really would like you to look at these areas for us and do a case study. And then, of course, we would do that case study, we'd feedback what we found, how we're going to move forward with that.

The second is an issue that I want to spend a little bit more time on, which is clarity and correctness data capture. And basically what this program is about is, as you know, throughout the Office we do a lot of reviews, there are a lot of reviews done, whether they're formal thorough the Office of Patent Quality Assurance where we do compliance reviews, we do for in-process reviews for allowance reviews, we

look at search first action on the merits. We do a lot of specialized reviews, whether it's patent eligibility, 112(f) compliance.

But we also do reviews in the core, less formal ones, where we do signatory reviews, we do PAP reviews of both primaries and then we do a lot of GS13 reviews. There are a lot of reviews going on throughout the Office, and this is an excellent pool of data that we really haven't been leveraging over time.

So what we were looking at is coming up with a mechanism, a standardized or a universal mechanism by which we can capture data from all of these different reviews that we're doing throughout the Office to leverage that data and make it mineable in order to improve quality.

We also see this mechanism as a way for us to more standardize the reviews throughout the Office; to bring consistency to what's happening throughout the Office. I'm sorry, I'm Greek I talk with my hands. Let me move that back a little bit. (Laughter) I once was told if I sat on my hands I wouldn't be able to talk and that's probably true, but I'll move the microphone back

a little.

But it would be a way that we could try to achieve consistency. What we've heard from our stakeholders is we want to have some level of consistency of expectation no matter what part of the Office we enter into or where we're discussing an issue. If it's the same issue, we want to have consistency of practice throughout the Office. So by having a standardize review throughout the Office it would be another way that we could try to achieve more consistency throughout the Office.

Also, what we would like to do is we have done a really great job over the years of capturing what we call correctness, correctness of the statutory decisions that we make as an agency. Not as great a job of capturing data with regards to the clarity by which we're conveying those decisions to our stakeholders, which is equally important, especially in today's landscape where if there is any vagueness or (inaudible) in that case, that's going to be a point at which in any post grant proceedings that they're going to be able to use that to attack the

patent.

So we hear that. And we've also heard that clarity really perception-wise is directly link to the perception that our stakeholders have with regard to our quality. When we go out and we ask the public, how clear is this Office action, if we got high marks in that and then later we just say, overall how do you feel about the quality of this action, if there's high marks with clarity, there's generally high marks with how they feel about the quality of it. So there is a real nexus between the clarity by which we make our decisions known and in the record and how we are perceived with regard to our quality. So clarity is very important and I know that you read about it in the blog and I'm sure you've heard Drew talk about it.

So we want to have a mechanism, since we're doing all these reviews and we're investing all the time in it, to also capture this very important data or information with regard to the clarity by which we are setting forth our decisions. So it's good that we're making the right decisions, but we also need to make them

very clear in the record.

So this mechanism here, this Clarity and Correctness Data Capture, you may also have heard it referred to as a Master Review Form because it's just a universal review form that we're going to use throughout all the reviews throughout the Office, will allow a mechanism for us then to capture this clarity data to have a consistency and to leverage all these reviews that we've already doing throughout the Office. So it has a lot of goals all rolled up into this one program. So let me talk about it just a little bit more.

So again, the goal here is to create a single, comprehensive form that is used throughout all of the areas of the Office when reviewing work, to collect information not only on correctness, which we've done really well I feel over the years, but also to now dig down more into the weeds of the clarity of those decisions that we're making and to establish an Office-wide review standard so that we can receive more consistency in the measurement of quality, but also consistency in decisions that we're making

throughout the Office. And the MRF, or the Master Review Form, or this Clarity and Correctness Capture tool will allow us to, of course, capture all that data that we've been capturing before with regard to the search, omitted rejections, rejections made but now both for correctness and clarity, replies, you know, responses to arguments, the appropriateness of the final rejection, replies after final, and other quality-related items. So it's a very all-encompassing mechanism.

So, that also then leads us to our quality metrics and how are we going to measure quality. So now we're going to have this Master Review Form or this mechanism in which we can capture at a much more granular level both the clarity as well as the correctness of the decisions that we are making as an agency. Now, how do we report those out to the public in a meaningful way? How do we report them out to you in an understandable way?

And in the past what we have had is, and I believe I have a slide here -- in the past what we have had is basically these seven metrics,

quality metrics. And we've measured these in a final disposition review, in-process review, QIR -- Quality Index Report -- which is really transactional data. We can go in and say how many not second action non-finals did we have, how many late restrictions did we have, transactional kind of data; first action on the merit review, search review, external surveys of perception, quality perception, as well as internal quality perception surveys.

So we had all of these metrics and then what we did is we rolled them together into a composite, weighting them based on what the importance we felt that they were, and reported them out as a quality composite and that quality composite would move up and down and we would set goals based on that. And what we heard was that's very confusing. You're taking apples and oranges and bananas and putting them all together and adding them up and weighting them and it kind of hides the underlining quality data. So we've heard that and we understand that and we've decided moving forward that we're going to eliminate this roll-up into this quality

composite and focus on reporting out the data at the quality metric levels, at those different levels.

So what we're planning on doing with regard to the quality metrics is update the transactional, that Quality Index Report metric that we talked to you about, to kind of focus on stakeholder feedback and basically looking at re-work and looking at re-opens. We're going to establish the clarity metrics while maintaining correctness metrics. And, again, that goes back to that Master Review Form, that Clarity and Correctness Data Capture tool that now we're going to have this clarity data down at the granular level. We're going to be able to figure out and develop metrics that appropriately reflect the quality of our clarity of -- or conveying our decisions in a very clear way to our stakeholders.

We're also, as I said, going to eliminate this weighted combination, this composite, clarity composite, and just report at the clarity metrics to enhance the understandability so that it's clear here's where

we believe the levels of our quality are in these individual metrics and you can see them changing and you can see the actionable items we are doing with regard to each of those metrics.

MS. JENKINS: Sandie, you want to just stop for a second?

MS. SPYROU: Sure, absolutely. I'm sorry, I know that's a lot of information.

MS. JENKINS: I have a little bird in my ear saying maybe -- anyone have questions?

MS. SPYROU: Oh, I'm sorry, yes. Absolutely. Let me pause.

MS. JENKINS: You're giving us a lot of detail.

MS. SPYROU: Yes, a lot of information, so please interrupt and ask questions along the way.

MS. JENKINS: Peter. (Laughter)

MS. SPYROU: Thank you, Drew.

MR. HIRSHFELD: Well, you know, the key of public speaking is to know your audience. I'm not going after you. What I'm asking is in terms of communications clarity, I assume everything is written to the knowledgeable practitioner and not

the inventor appearing pro se.

MS. SPYROU: Right. Yes, I think that the goal with the clarity and improving -- I'm going to talk a little bit about best practices with clarity in a minute, is that there are a lot of decisions that go along in the examiner's head during prosecution and some of them get into the written record and some of them don't. And what we're looking at is to get a lot more of those decisions that are being made with regard to claim interpretation, whether or not 112(f) has been invoked and how it's being interpreted, those decisions that are already kind of being made during prosecution, to get them into the written record.

So we're looking kind of at what are those best practices? And in a few minutes I'm going to talk about the clarity pilot where we're going to investigate what is that appropriate level? Certainly we don't want them to write encyclopedias as Office actions, right. You don't want long Office actions for the case of long Office actions. But there's kind of a sweet spot and that's what we're trying to find, where

we're putting enough in there to make the record clear enough that you feel that there's confidence in that issued patent, but not so much that you overburden one way and not too little that we're guessing what happened during prosecution. So in a minute I'm going to talk a little bit more about the pilot and how we're going to try to investigate and figure out what kind of that sweet spot is with regard to clarity.

So I think I understand where you're getting at, is that, again, we don't want to overburden the applicant with writing theses as Office actions. But, again, we don't want to write down and have none of those decisions that are happening during prosecution get into the written record either. And I think that is kind of figuring out what that line is to one of our pilots that we're going to talk about.

MR. HIRSHFELD: Thank you, ma'am.

MS. SPYROU: Okay. Are there other questions? Yes.

MR. WALKER: Yes, I have a question for you. Back on the issue of topic submission for case studies --

MS. SPYROU: Yes.

MR. WALKER: -- that's great. In surveying practitioners before the meeting there are a couple of areas I have to suggest that could be looked at.

MS. SPYROU: Absolutely.

MR. WALKER: But I guess the question I have is -- and I'll provide those offline -- is there any feedback to the submitter that their suggestion for a case study was actually used?

MS. SPYROU: Well, I think that a lot of the weeds of the programs are evolving and we're certainly -- we're working with the legal authorities, we're working with the union about how we'll be messaging all of these programs. So I don't want to get too much into the weeds, but perception, I mean, big picture is that we would take in through probably a Federal Register notice kind of mechanism these areas, and that there would be a mechanism to feedback, okay, this is what we got and these are the ones that we're going to move forward with. And then every stage as we do the case study, this is what we found and these are our actionable items, to really kind of

keep that information both ways. I think that's the perception, the idea behind it.

MR. WALKER: Okay. I think that would be great because I think under Michelle's leadership it's been very open dialogue with the user community --

MS. SPYROU: Absolutely.

MR. WALKER: -- but I think it would encourage the user community to know that their suggestions are actually being considered and --

MS. SPYROU: Absolutely, I think as transparent as we can make it.

MR. WALKER: -- is transparent that they're being used. Yes.

MS. SPYROU: Absolutely. And we've been trying all the way through the EPQI to come out and say, okay, these are the comments that we're getting, these are the thoughts that we're getting, and this is how we're moving forward, and I believe we'll continue to do that.

MS. JENKINS: Just to tag off of Mike's comment, I couldn't agree with you more. There are so many people that approach me like somehow I am going to solve their PTO problems.

(Laughter) I'm like, I don't think so. But they often are wondering what's happened to that submission and what's happened to my comments and does the Office care, honestly? And I'm always saying yes, they take everything you say very seriously.

MS. SPYROU: Absolutely. The Office cares. And anytime I go out and speak, I talk about it. You know, just with regard to comments directed to the EPQI, we had over 1,200 individual topical comments that came in. And I can tell you I read every one of those. For a couple of days my eyes were crossed as I was walking around, but I read every one of those. My team read all of those. We funneled those to all of the individual teams, actions teams for each of the programs, who read them and evaluated them, and we do care and we are reading them. And I do understand that it probably feels like a black box sometimes, but I can tell you that we have a great team and we look at every comment that comes in. We catalog it in a way that we can then do data analysis on it. We feed it to the appropriate teams and we are trying as best we can to get that

back to our stakeholders, to our roundtables, to our outreach, our webinars, our roadshows to let you know we're hearing it and to parrot back what we're hearing so that you know that we've heard it. That's really about active listening, right, is we hear you and then we parrot back, and that's what we're really trying to do is we're hearing you.

MS. JENKINS: And just two points, too. That's great to hear because a lot of people don't even realize some of the examiners aren't even in Virginia anymore, so that's always surprising when you talk to people.

One thing I wonder is there also -- and I know this is hard to define, is there also a concept of ownership, trying to get the examiners to take ownership over their work so it results in all of these great things that you're putting forward, that's one. And maybe the next time we talk, particularly since Mark is sitting right next to you, it would be interesting to know about international quality initiatives. Because I know you all are doing that, too, and I think that's so important, that's another additional

dialogue the user community would be interested in.

MS. SPYROU: Absolutely. And I say it sort of lightheartedly, but, also, in reality is that a lot of examiners, especially newer ones, to them they know attorneys exist on the outside, but they're kind of like mythical beings to them in a way. And we do try to make it clear to them the impact that all of their decisions make on not only attorneys end, but on the applicants. Look, every time you send an action out, somebody's paying for that response, and we try to make them understand the impact and how important their decisions are. You know, they sit in their offices, they have their docket, and they get into that ritual and sometimes forget about that.

We have a lot of things as far as training, bringing in guest speakers from the outside, taking the examiner on trips, the SEE trips, where they go out and they get to meet inventors and attorneys and see that they really exist and that it's impactful. You know, the biggest impact that I've seen on examiners, when I was in SPE I took my examiners on a SEE trip and

the inventor -- we went to California, actually to the Silicon Valley -- had took the patents that were issued to them from my art unit so it had the examiner's name on it and said we are so proud of these. And they saw, they got to meet the people that they were working on their applications and saw the direct impact that they were having. So we do try in every way we can for them to take ownership and to be prideful and understand the impact that they are having on the IP community as a whole, on innovation, and that every decision they make, although it may seem very simple to them, has an impact on the outside. So we do do that in the trenches daily.

MR. HIRSHFELD: I just wanted to jump in with two cents on that because we have been making a concerted effort, as Sandie is saying, to have our examiners understand the big picture. And I'll say that we've done a number of forums for examiners on what you're getting today, in other words the evolving programs. And at each one of those we've had somebody there, it's been Russ very often, and Michelle has done the same even as late as -- as recent as yesterday with our

700 managers where we talk through a lot of the reasons and drivers behind this.

For example, Russ and Michelle have been talking to examiners and the managers about the changing landscape that Michelle was talking about today, why Clarity of the Record is very important, what it means to the applicants. Michelle even went through yesterday with the 700 managers at our management meeting about her views from the outside prior to coming to the Office and why this is so critical. So the more we can do, the better. I think it's good feedback for us to hear that the more we can do, the better, but we are certainly headed down that path.

MS. LEE: Well, I'm not sure who hit the red button first, but -- and further on this point, as we looked at training, we're not just training on the substantive 112(f) and 112(a). We're also looking to, as I think Sandie said, but I want to hit it more squarely, we're bringing in practitioners, we're bringing in litigators. What happens to the patent after it leaves the walls of the USPTO? How might this patent be construed and how was it construed in a

litigation? We're not revisiting any particular case, but how can things evolve and how are businesses using these assets after they leave these walls?

MR. SOBON: That's great. I think you can't do enough of that because I think having the examiner core engaged and understanding what the effect is of how they operate is really critical and it's probably not completely obvious to them how that is. So I think doing that and investing as much time as possible within your overall constraints is really critical there.

I'm reminded of several years ago we had one of our round trips -- hearings we had in the Silicon Valley had a very impassioned, emotional example of a small entrepreneur woman whose business she had to lay off people because patents were being put into RCE and, therefore, because she couldn't get definite patents out, her venture capitalists were reducing funding for her venture because they couldn't be assured of protection for her company. And that sort of real-life example of how those effects really do affect not only business formations, but jobs, I

think gives the examiner core realism about the effects of what they do.

The other thing we've mentioned before is on quality is I really encourage the Office -- you now are going to be having increasingly rich data sets with the global dossier and comparisons to the international community in a very direct way, so anything you can do to really crisply invest in how you compare outcomes because they should be more and more comparable now, both with substantive harmonization, but just procedural harmonization, to see what things were found in Japan versus the United States searches or in the EPO. And being able to see quality comparisons that way I think is going to be a challenge, but I think a very, very great opportunity for the Office in the next few years.

MS. LEE: Just one quick follow-up. So on that note, on the training from the outsiders to our examiners, if you all have ideas of good people, I have my ideas, I mean, the team has its ideas, but if you can think of good people for that, we'd welcome that.

MR. THURLOW: Just on that point I haven't attended all of them, but I have attended several workshops where it's a combination of people and industry and the examiners at the Patent Office. They have it on business methods, they had a medical device, and I've always found them a very good exchange of information so the examiners hear directly from people that really find the need for their patent so critical and vice versa. So that to the extent encourages more from a training even here at the Patent Office, that's very helpful.

Just to build on what everyone said yesterday, I wasn't going to say it, but it just came up, we got a patent yesterday for a client and the chain of emails that went around about the excitement of getting the patent and the importance of funding and all the issues that Wayne eloquently described, it's real and it's true.

I do have a question about the Master Review Form. It's something that's new. I don't know if there's a timeline to implement it. I think it's a very good idea. Is it something

that just the Office of Patent Quality Assessment is doing? Is it something that the SPE's going to have? I think the need for uniformity is really good.

MS. SPYROU: So the form has been developed now and we recently had the IT Smart Form, I guess is what it's being called, and we're testing it now with OPQA reviewers. But the idea is that it will eventually go out to all, to SPEs, TEA classes, R classes, that it would be a universally used form. We want to be able to have people answering the questions in the same way so we can sum those data point and we can make that a rich minable field of data.

Also, leveraging all of these reviews that we are already doing, so we're already doing all of these reviews and we want to be able to leverage those, but everybody kind of using the same mechanism to document the reviews. And then also to get everybody kind of on the same standard with regard to reviews. So it's in its, I guess, beta testing stage is what you could kind of call it right now, but we are hoping to have it up and operational for all of the OPQA reviewers very

soon. And then we will start to immediately after that pilot it with some select SPEs, and then expand the (inaudible) SPEs that are using it till it's being used -- the final goal universally as a -- you know, I guess Master Review Form isn't the great -- or maybe Universal Review Form would have been better, everybody's going to use that same review form in doing these reviews.

MR. THURLOW: Thank you.

MS. JENKINS: Thank you. One thing on training is you need to remind us in the user community how much training is going on in the Office because I can remember many years ago when I started, you really didn't know the training, what it was, and now it is just tremendous. And we are fortunate being on PPAC, we really understand and appreciate all that training that's going on. But I think the user community needs to be repeatedly reminded what the examining core is going through and it's, I think, a wonderful initiative and should be praised.

Sandi, we're going to go on to --

MS. SPYROU: Okay. So, I'm going to

move to the second bucket. So that was a great break. Maybe that's what I can do. Thank you, Drew, for that.

The second bucket is with regard to examiner resources, tools, and training. So our goal is to get the best training, the best resources, the best tools in front of every examiner so that they can do the highest quality job with regard to prosecution. So what we're looking at is the first program under examiner resources tools and training is the automated pre-examination search pilot. And in the recent past we've had great strides forward with linguist tools, with artificial intelligence, and we're looking to kind of leverage those advances in the IT world in order to do an automated pre-examination search.

So the idea here is when the examiner opens up that file to do the first action on the merits, that automated kind of linguistic-type tool will already have the results in the application for the examiner to see and to look at, to have a pool of very pertinent art right there, right up front, with the goal being that

that's a jumping off point for the examiner. So we're not going to eliminate the duty of the examiner to do their own prior art search, but just especially in emerging technologies, areas that are heavily on NPL, we would have a pool of what we believe are the best or most pertinent prior art there as a starting point in their prosecution in the record.

And, of course, we want to make sure those tools then will be piloting that to assure that it's a quality, that we're not just doing these searches to have them in there, but the references that are there are of high caliber, that they are pertinent and useable to the examiner. So we're going to pilot that and see about making that available to all examiners.

The second thing in this bucket is a STIC, or Scientific Technical Information Center. There's one of these for every technology center in the Office and they support the examiners with regard to information technology or retrieval tools.

A lot of the comments that we got from our internal stakeholders was, we would love to

have a tool that does this or does that, we'd love to have this tool or that tool, and a lot of these we already had, we already had these available through STIC.

So what we realized is maybe we're not doing such a great job getting out into the examiners' knowledge, into their awareness that there are all these tools already available to them. So what we're going to do is refocus. We're going to do a STIC awareness program and rather than having examiners coming to the STIC to find out information that they have or tools, we're going to go out to the examiners. We're going to do an awareness program, we're going to hopefully build these into our training modules that they can use some of their training bucket hours in order to take these classes and learn more about these tools that are already available.

The next one is this clarity of record training, and we've talked a little bit already about all the training we're doing and we're going to continue to train on best practices with regard to clarity of the record.

Recently we've done a lot of training with regard to 112. We've done 112(f), 112(a), we're finishing both written description as well as enablement, we're finishing those up. We'll be starting next quarter or sooner than that with regard to the 112(b). And then we'll have additional trainings after that to continually focus on clarity of the record and to assure that the examiners are aware of best practices and with regard to reasons for allowance, interview, and a lot of clarity of the record topics. So we're going to continue this process of having either quarterly or regularly scheduled training with regard to best practices, with regard to clarity of the record.

Post-grant outcomes. This is a program where -- and I think this is getting back to what we already discussed here, is how important it is that the examiners understand that the decisions that they are making have a life after them in the sense that -- what happens. A lot of time they know what happens during prosecution, the filing and when they allow it, not so much about what's happening post grant.

So we want to have a mechanism by which we can -- these post grant proceedings, especially the proceedings that are happening at the PTAB, you know, a lot of the AIA proceedings post-grant, a mechanism by which we can funnel those back to the examiners, both to make them aware of what happens post-grant, post their decisions, but also a lot of evidence and prior art is made available during these proceedings. And it would be great to be able to have that data, to have those references, have a mechanism to funnel those back into related applications or continuations or other applications that are directly related to those proceedings that are happening. So we want to come up with a mechanism of post-grant outcome kind of mechanism where we have a systematic way of funneling this information back to the examiners.

Lastly, with regard to interview specialists, as you know, and we talked about already, examiners are located throughout the country now. We have a lot of examiners who don't have reporting requirements to the USPTO facilities either here in Alexandria or other

duty stations that are on the TEA program. And yet you still want to have these face-to-face interviews. So one of the straw men that we went without with was asking the public about interview practice and about having in-person interviews, and what we heard back from our constituents is that interviews are very important, not so much the mechanism by which we hold the interview, but the quality of those interviews is really important. We want to have these interviews be meaningful, people come to the table prepared and willing to negotiate and move forward in prosecution, and maybe moving forward is we come to a resolution, maybe moving forward is we agree to disagree, but everybody understands what the next steps are and what needs to happen in the prosecution.

So we have been re-emphasizing our efforts to make available and train the public, our public stakeholders, on our video conferencing tools, and we've been going around in our roadshows demonstrating our video conferencing -- we use WebEx -- how you can have not only the attorney one place, the inventor a

different place, the examiner one place, the SPE a different, and you can all come together in the WebEx environment to have a very meaningful interview where we move forward prosecution.

But also what we've done is establish these interview specialists through out the TC's where if a stakeholder is having an issue with regard to having an interview or the IT component of the interview, the WebEx or just wants to know more about what interview policy is we have these point of contacts within each TC where you can go to. Their names are all on the Internet now. Call them and one of their roles is to help facilitate and to improve the quality of the interviews that are taking place, whether that is supporting the video conferencing, letting you know what the rules are with regard to, or even being as a back-and-forth between the examiner and the speed to assure that the interview is set up, that the WebEx tools are working, that the interview is moving forward in an effective way. So we've been getting a lot of great feedback when we go around on the roadshows, when we go around on the roundtables, demonstrating the

capabilities of the WebEx tool, using them regularly. They're wonderful tools. There's a little learning curve on it, but once you get past that they're really a great tool. In fact, some of my co-workers even though we're here we love to do our meetings by WebEx because we can edit documents, we can draw, and it's really a great way to work through issues.

So the interview specialist positions, they are up. They're all listed on the Internet, you can go there and find them. This is a program that's already off and running and we're getting a lot of really great feedback with regard to the interview specialist.

So that's the end of this bucket. Is there any questions with regard to any of the programs in this bucket?

MR. JACOBS: I wanted to make a comment and then maybe ask a question about the automated examiners search pilot.

First of all, I have to qualify that I did my Ph.D. Work in artificial intelligence, natural language (inaudible), so I spent decades developing and testing search engines.

MS. SPYROU: Let me write your name down.

(Laughter)

MR. JACOBS: Yes, I'd be happy to help. So, trying not to get down in the weeds too much, I have to distinguish between -- first of all, just like a lot of great things going on here, some of which have great promise to show positive results. For example, 112(a) training, I think you train people in written descriptions enablement, I'll bet you the examiner is going to do a better job of issuing high-quality patents that will fulfill Section 112 and probably do a better job with 112 projections, right? And that contrast with something, for example, like the pre-search pilot, which is really kind of a forward looking experiment. We don't really know whether these tools work. It would certainly be setting an unfair -- unrealistic expectation to say advances in artificial intelligence technology, for example, allow us to replace the searching that examiners do with automated search. Right? It's nothing like that at all. So this is really, in my view, the

first stage of an experiment to try to learn how new tools might potentially assist examiners when deployed in the right way long term.

So the question then is, okay, how do you manage something like that, which is really different from this sort of pilot, like an after final pilot or something where you're just tweaking a process or something like that, where you're really doing this forward-looking, more scientific type of experiment?

MS. SPYROU: Well, if you have suggestions we would love to hear them with your background. We have a team that has gone out and done a lot of market research at this point, this is where we are in this evolving program. They've identified various tools that are out in the commercial venue that they feel would be applicable to certain technologies. And what we will do -- and we're working closely in concert with the unions to work through how this pilot will work with regard to its impact, of course, on the examiners putting extra art in the case for them to look at.

But the idea would be to look at -- come

up with a systematic way that we're putting or figuring out which tools work for which areas and then testing that by putting the art in the case, having the examiners give us the feedback or looking at the art that's ultimately used. maybe looking at global dossier and comparing it to that or comparing it to other tools to evaluate. So I think everything is on the table at this point. We're very preliminarily just kind of have identified what tools are out there commercially, and we're trying to move forward in the most systematic way that we can to assess these tools.

You know, we don't want to just put extra art in the case just to say we did a pre-examination search. We want to make sure that there's a benefit to it. And the way that my IT people are explaining it to me is we may be looking at this as a pre-examination search and lot of people will say, okay, we need a tool to do this, but really it's a lot of multiple tools under that, and for different technologies it may be different tools and we're needing to figure out which fits where and is there a cost effectiveness here.

And like you said, there are a lot of complex issues here and we need to move forward very systematically to evaluate it. So it's in the very preliminary stages and as we move forward we'll be sure to be adding and updating you on as the program evolves.

MR. THURLOW: So, this is a silly comment here, take it for what it's worth. I'm reading Steve Jobs' bio again by Walter Isaacson. It's sort of famous. It's a great book. And Steve Jobs was huge on design and so on. I'm just thinking of clarity of the record. I had the pleasure of working with Drew for so many years I think he's just drilled that saying into me and many others and I've heard it so much.

It's such an important topic when you discuss reasons for allowance claim clarity, different things. You kind of get lost in the weeds but the overall concept of the clarity of the record is very critical to the patent system. So my crazy thought is how -- is there any nontraditional ways of promoting that common theme, whether it be competitions, writings, or anything about the importance of that? I think

to make some of the patent stuff exciting is difficult, but, for example, the IPO does a competition where they have high school students do video about the importance of IP. And I'm just thinking of nontraditional ways to somehow get people focused on the overall topic and the importance of it. I don't know the answer, but I just think I have ideas that are a bit strange, but I think it's something to maybe consider.

MS. SPYROU: I think we're certainly open to everything. And I can tell that in the comment that we've gotten in regard to clarity of the record and in response to the EPQI and the Federal Register notice is there was a lot of the spectrum, right? There were people who gave us suggestions of let's video record every single interaction the examiner has with anybody on that and transcribe it and get it into the record. Then there were a lot of, you know, one end of the spectrum to the other end. I don't want to have anything in that record, you know.

And I think, like you said, I don't know -- there is a solution out there, nontraditional/traditional, and we're going to

try to find it by doing pilots, by asking for comments, by going to the public stakeholders, and we're willing to certainly investigate any and all of them to see what works. Some may not work and that's fine, too, but, you know, trial and error, certainly. And that's the idea of the pilot that I'm going to talk about in just a minute, Clarity of the Record pilot.

MR. LANG: How much of the communication with the examiner core has gone to the issue of, you know, if your patent issues and something is unclear about the record and there are two possible interpretations of the claim term we -- that in and of itself could lead to litigation that could have been avoided. Or it may cause more expense to be added to the litigation in terms of arguing in a Markman hearing and so on. Is it crystal clear what's at stake?

MS. SPYROU: Yes, we certainly message that to the examiner every opportunity that we have and we've just recently done a ton of, literally a ton of, 112 training where we talk about why it's important, why is it important with

regard to functional claiming, why is it important to put on the record the interpretations and to question when things are not clear.

And certainly, it's a changing landscape. And when I go out on the roadshows and there are panels of practitioners talking about best practices, I oftentimes hear from them that, you know -- and I've been at the Office 26 years. When I started, you know, the less on the record, the better; the vaguer, the better; the broader, the better. And that has changed because the vaguer, the broader, the more likely you're going to be called into some post-grant proceedings. And I'm hearing that at the panels when I'm going to the roadshows where the practitioners are telling each other if you're still practicing that way, you're at risk, right?

So we want the record to be clear and that certainly is a pendulum within the examining core, less willingness to maybe use 112 as a tool and trying to say, no, this is a great tool, it's always been around, and you should feel free to be using it when there's legitimate questions in

the application.

MR. LANG: Yes, that's a very healthy shift in the mood and the more that it happens in the Office and within the examining core, the more it's essentially forced into the applicant community as well.

MS. SPYROU: Right. I think Michelle wanted to say something.

MS. LEE: So it's your point specifically, Dan. I mean, I think that's what we were talking about earlier, right, to the extent that we can bring in people from the outside who can give concrete examples because there is the application of the law and, yes, we always want correct and clear. But what does that mean if it's not in a particular case or what does it mean -- what happens when a patent issues? What does it mean to an inventor's ability to establish a business and build and get funding? I mean, both sides, right? What happens when it's too broad and vague and how it costs a business and what happens, how a patent that's well issued can lead to funding, entrepreneurship, and economic development? So

concrete examples is really what we're looking to bring home to our examiners who are already applying the laws per the training.

MR. WALKER: One aspect of that. Let me say, I'm very excited about this. I know (inaudible) slides about clarity of the record and your blog was terrific because I think on this clarity of the record issue, because one aspect beyond the litigation is there is nothing more frustrating than you're doing a freedom to operate analysis for a new product and there is a patent out there and it may just be pending, and you look at the prior art and you tell your client this is no problem because for sure this thing will not be granted, and then you see an examiner's summary record and it's very terse and the thing gets granted.

So it's not just the litigation cost, but it's the lost opportunity cost for new products to be going into the market because some of these areas of product development are very tight. And then you have a business leader who's looking at risk analysis for this versus something else and it may be shifting innovation

dollars in a direction that doesn't make sense. So just add on to your point, Michelle, I think it's not just a litigation or getting the patent, but, also, this innovation that can be impeded by lack of clarity in the record.

MS. SCHWARTZ: Thanks. I just wanted to remind everybody how complicated these issues are, how short the amount of time is that is available to an examiner to do an examination, and also -- which can be as short as 10 to 15 hours per entire prosecution including the search. And, also, that there has been a history, maybe not in the last year or so, I don't know exactly what the timing is, but certainly in the last few years I hear a lot from examiners about the criticism they get if they make a 112, and there are lots of areas in the Office where 112s have been totally discouraged over the last number of years, so that we really do need a shift in the culture to say it's okay to make the 112s.

And also, in an era where the quality initiatives have a whole layer of quality review being added, which will be more criticism, potentially more criticism of the examiner's

individual work, we need to free up the examiners to, at least early in the prosecution, to make 112s where they may or may not be sure that 112 should be made because just putting it in the record and having applicants, representatives respond to it does clarify the record on the issue. And then, if the 112 is improper or once explained should not be retained, have the examiner then not repeat the 112 rejection. But we need to give examiners a little bit of leeway to try to get the record clarified using the law.

MR. THURLOW: Just real quick, one of the best things about PPAC is that POPA is on PPAC with us. And one of the things we've learned over the last couple of years is the enhanced focus on Section 112 training and the importance of it. And I can say in a lot of applications I'm involved in there's been more. So at least from the outside it's always better to get that Section 112 rejection. I can't understand any desire not to get 112 rejections. Any clarity we can get from the examiner and someone is always deemed helpful that we get it, as Michael said, during prosecutions so in litigation it's not one of

those outstanding issues.

So at least from my perspective no one likes getting rejections at all, but we sure prefer it in prosecution rather than when we do opinions or other things that it's not clear. So if anything, from the outside we encourage it from a broad basis.

MS. SPYROU: All right. Thank you. So I'm going to move on to the last bucket here, which is changes to process and product. And this is where with talking again about the change in the landscape and do we need to adjust kind of our bars with regard to the products that we're putting out the door?

So the first items here, and I want to spend a little bit of time on this, is the clarity of the record pilot. And we've touched on this a lot in the discussions already that we've had here. This is the concept of, let's -- we all recognize that clearer is better, clear is going to take more resources, more time. Where should that bar be? We know we don't want to go extremely to one end or to the other end. We want to find whatever that sweet spot is and we want

to figure out how much it's going to cost us internally as an agency, you guys in responding, and if that weighs to the benefits we get out of that with regard to post-grant proceedings, but also with regard to the immediate return on it. Are we speeding up prosecution, less going to appeal, less RCEs? We get to allowance quicker with more confidence in that patent. So the idea here is to test it out and try to figure out what this kind of sweet spot is, so to speak.

So the idea is what we heard is that examiners and applicants together can build a complete and clear record of the claim construction through prosecution. So we did go out and we asked the public very specific questions. We said, what about explicit claim construction in the record? What about memorializing the oral discussions? And we asked all these and what was very telling to me is a lot of the comments we got back weren't really directed to the questions we asked, but were just do a better job during prosecution laying out the decisions that are being made because in doing that, in doing item-to-item matching, in doing

the five-step 103 analysis, in responding fully to the arguments, you are putting in the record the claim construction. You are putting the meaning of the terms in the record by doing these actions that you already do, but laying them out at a higher bar, clearer. Okay.

So there was a very much recognition that together during the discourse of prosecution that the examiners and the applicants together, from a well formulated, filed application, with good claims to good prosecution back and forth, response to arguments, we can do a better job with the clarity of the record and issue patents that we have more confidence in.

The truth is that patent examination is not an exact science. What we mean to that is, the comments said, look, we understand there's going to be disparate opinions in prosecution, we get that, okay. And that's okay. That's part of the process, and we can handle that, and we know what to do with that, but when we don't understand what your position is that's where we can't live with that. We need to know what your position is, even if we don't agree with it, we'll know what

to do, but we need to understand the positions that the agency is taking and the why, so to speak. Why are you taking them? So want to have clearly articulated rejections. That's critical to the clarity of the record.

So the idea here is to establish clarity of the record best practices and what do those look like. In other words, where is that bar? Where do we want to move it to? Maybe today it's here, and that's just, you know, in today's landscape -- IP landscape -- that's not okay. We really need it to be higher. So what is that bar going to be? So, let's establish some best practices. Let's draw a line, determine what resources are needed to implement these best practices, and then determine the impact. What additional resources do we need? How does it impact the length of prosecution? Do we get gains? How does it impact post-grant proceedings? Are we having less that are going to AIA trials? Do we have less that are getting in litigation? I mean there's still going to be some of that, but can we minimize it through having better clarity of the record?

And so we're going to draw the line, and we may get it right the first time and we may need to tweak it, but we're going to do a systematic evaluation through this pilot to train up some examiners on these best practices; ask them to do it; keep track of what the additional time is; and then look at these different data points and decide which ones are worth it, which ones are not, which ones should we tweak. And maybe it's an iterative process where we'll need to go through it a couple of times to really figure out where the sweet spot is before we take those best practices and say now we'd like to have these go out throughout the entire core. There's a substantial benefit to these weighing the gains, the negatives and the positives, and take them out as a universal practice throughout the core.

And we are working very closely with the union and this pilot team to establish what these best practices are, to come up with ways to capture the data with any additional resources, and then at the backend, of course, to do the analysis and figure out what the findings are from this clarity of the record pilot.

So, kind of the general framework -- and again, all of this is open. We're still -- it's very evolving and we're negotiating and we're working all the details through, but to provide certain examiners with this additional training; to mentor them on what these best practices are, in other words, figure out where this bar is; mentor them on how to achieve that higher bar with regard to claim construction, with element interpretation, again, through the prosecution, enhanced interview summaries, detailed reasons for allowance, or indication of a liability. So those are three primary kind of prongs that we're looking at right now to kind of focus in on the pilot.

And we would love to hear your feedback and your thoughts with regard to the pilot. And as it evolves, we will certainly be going out to the public and saying, hey, this is what's happening, this is how we're rolling it out, this is how we will be doing our data analysis, and getting your feedback each step of the way with regard to the pilot.

MR. THURLOW: Sandie, just a quick

comment on the reasons for allowance. It's been an issue much debated over the years by PPAC and many others, and subject to much debate during the Patent and Quality Review. Just the one use of the word "detailed" the reasons for allowance. I think there's a feeling that we don't even need some detail, even just a general statement. I don't want to get caught putting too much detail, just, you know, focus on the critical prior art and reasons, the combination of the features with respect to the claim. We don't need the reasons for allowance to be a few pages, just a short paragraph of what the relevant art was, combination of features.

MS. SPYROU: You know, once when I was a more junior examiner SPE, I went and I listened to some judges talk about clarity of the record, and this is years and years ago before it's recent, and they said that patent prosecution oftentimes is like a mystery novel where the last chapter is missing, right? So you've got all of the characters set up, and I don't remember which judge it was who said that. I wish I could attribute it to them, but it really stuck with me

as a more junior employee at the Office. But you have all of your characters set up with your references. You've got all of the -- okay, who did what in what room with what weapon, all of that, and you've got the defense and then you don't know what did it. Who did it? What happened? What was the end? And a lot of times we're not really sure, and with reasons for allowance, you know, I think --

MR. THURLOW: It was the butler.

MS. SPYROU: It's always the butler, right? Yeah, I know, who did it? Sometimes that is missing and I think that's what we are looking at. I don't think we are looking at overburdening the prosecution history or overburdening the examiner, but making it clear who did it. Right?

And I often, when I am teaching at the Academy or working with new examiners, is reasons for allowance should make the record more clearer. If your reasons for allowance makes the record less clear, don't put them in there. Right? And I think it's just a reasonableness with regard to that. How do we get that

reasonable level out there? How do we train to that reasonable level? Reasonableness, of course, is in the eye of the beholder. I understand that, but I think we are going to try to figure that out in this pilot and look at it from that perspective. Did it make the record clearer? Did it put more of a burden on the applicant? Did it put too much of a burden on the examiner? And really investigate this with -- you know, there's got to be, there is, kind of a sweet spot, and trying to figure out what that spot is. So, I think we're all trying to come at it with that reasonable standard.

MR. SOBON: I have a question, maybe a suggestion. A number of these trainings are probably -- may not all yet be in the form of oral kind of training room, training ship. I would imagine some of them will become that way and that you have other trainings that are. It might be helpful -- I have never seen any training -- it might be helpful for the PPAC if some of those trainings could be arranged so they would happen like on the Wednesday or so before these meetings and we could attend a one-hour or two-hour session

to see in actual operation how you are training the examiners and get a realism or sense of that, if that's possible?

MS. SPYROU: That's a really great point that you made. When I was out on a roadshow recently, actually in Detroit, I was at Wayne State talking to some individuals there. They brought up that same idea of -- and I guess we would need to investigate it a little bit more, about wouldn't it be great to have some trainings where we both have practitioners and examiners in the same room getting the same training?

You know, and I don't know how that would play out, you know, and I think we'd have to talk it through, certainly. But, you know, it lets the attorney see the concerns of the examiners and what they're struggling with, and it lets the examiners see the concerns of the attorneys and what they're struggling with. It would be really kind of interesting to maybe pilot that and see how that plays out.

But also to your point, a lot of our trainings are -- the materials are on the Internet and you can certainly see them, and some of them

are in CBT where you can watch them. We've been trying to put all of our, you know, our ALAS and our 112s and a lot of that training materials are all out on the Internet and a lot of them are also in CBT format where you could watch them. But I think that is a great suggestion, and I think I have to --

MS. JENKINS: Sandie, I know the videos are on there, but it's like -- as my grandfather would say, you can lead a horse to water, but you can't make him drink. Okay? So, trying to get practitioners out there to look at these training materials, even though you say it over and over again, is like a thankless task, you know. So, I think I really like Wayne's idea. I think that would be great if you could get something like that going.

MS. SPYROU: Yeah, excellent ideas.

MR. SOBON: Yeah, the only thing I would add -- and it's an interesting idea, Wayne -- and I was also going to mention the CBTs, but I get your point Marylee, also -- is that we have done actually at some of the partnerships where we've stepped through training and you get

feedback from both sides and it ends up being a great discussion. I don't recall who here mentioned some of the meetings where we had both the public -- I think it was some of the quality forum meetings where you had SPEs and some examiners and practitioners in there, and there were just fantastic discussions back and forth. Anyway, point well taken. Certainly continue with the partnerships, and we'll explore the idea of having wider (inaudible).

MR. SOBON: You know, (inaudible) us as an oversight committee to see those things, I think would be very helpful.

MR. SPYROU: One last point about training before I move on is what we're realizing is, you know, we do a lot of training and we want it to be very effective. And we want to do the training and then be able to see a return on that in the actions that are happening, and we're doing a lot of that kind of assessment. But what we're finding out is, you know, adult education -- and I guess the point that you're saying, Marylee -- is with adult education you have to train in a different way, getting up in front of

the classroom and just kind of pouring information out. And we've been doing a lot more interactive classes, a lot more workshops, a lot more where there is more discussion going on, and that seems to have a lot better impact, too. So, we're actually changing kind of the formula of how we train. There's some lecture, there's some hands-on, there's some workshop, there's some QEM quality enhancement-type meetings that go with it, to try to really get to kind of the adult education premises or principles.

Okay, so moving on. I'm sure I'm like way past my time.

MS. JENKINS: You still have time. We gave you a lot of time. (Laughter)

MS SPYROU: All right, good. Excellent. In reevaluating the AFCP -- so that's the After Final Continuation Pilot -- the pre-appeal conferences, as well as the QPIDS. So, what we've heard is that there's a lot of -- people like these programs. They like the After Final Consideration Program, the pre-appeal, and the QPIDS, but there are definitely room for improvement in these

programs, and we've heard that. We've heard with wanting to have a lot more transparency to the conferences that are occurring, some sticks in the QPIDS, we're getting refunds for the RCEs or with the After Final. So, we're reevaluating all of these programs in order to make them more efficient and more effective and more transparent to the applicants.

And then lastly is the design patent publication or image quality, and we've heard a lot back. In design patents, the image is the claim. The image is the clarity of the record. And in the conversion process, somewhere in the IT conversion process, the image quality is being degraded. And we're hearing that both externally -- and, like I said, I've read all the comments, and I continue to read all the comments -- I hear it both from the examiners, from design examiners, design SPEs, from external stakeholders, so throughout all of the design stakeholders I'm hearing this. And we are really looking into that. I know that it is evolving. I've been talking with Debbie Stephens most recently that they have some options for some

immediate improvements, and we're working forward and we'll definitely be getting you those solutions as they evolve. But we heard it, and we're doing our best to very quickly improve the quality of those design images with regard, again, with an eye to the clarity of the record. That is the clarity in the design patent.

So that's the last bucket there, is changes basically to the product and the process. Is there any questions on that last bucket? I know that you -- yeah.

MR. WALKER: I have just a general question. Can I go back to just a general topic.

MS. SPYROU: Sure.

MR. WALKER: So, another real world example, and I just wonder if this is something that the quality initiative would pick up. One of the frustrating things that happens is when applications are pending and pending and pending, and then there is a later invention that sometimes is patented itself, and then the early patent applicant goes back and tries to amend an application that has been pending for a long time to try to capture that later product, those cases

are rife with 112 issues. And I know of a litigation where these issues have come up and these patents have gone down on 112. It's always been a point of frustration, I've heard, in the chem-bio area. Is there anything that particularly flags those types of cases for looking at potential 112 issues, something that has been pending for a long time? Where you can kind of tell that they are trying to capture something that was not the intent of the original application.

MS SPYROU: So I was talking a little bit before about the Quality Index Report, which is transactional data; and certainly we review that with regard to what we call churned cases. That would be cases that are going through a lot of non-finals or that are being reopened. And that data is available and we look at it regularly, and we say, okay, there's issues here, let's dig into it. Certainly applications that are up for 3+ or longer than 36 months pending, there's a provision in the NPP for supervisors to get involved in those and see what's going on. So, we do have ways to kind of say, okay, there

are these certain applications that have been kind of dragging on forever, have been churning. And, you know, but again, that's just data, right? Data is data. There could be a very valid reason why there's multiple -- you know, there's been a change in the 101 patent eligible, and that it was the right thing to do those multiple ones or it was the right thing to reopen and prosecute. So, again, we have to be very careful when we use that data to make sure we are using it effectively, validating what the problem is, and getting to the root cause.

Today, we don't really have a readily available mechanism to just say, okay, I want to see every case that has a 112(a) in it that's been pending longer than a certain amount. I am hoping that when we get a lot of our new IT tools, and everything is tech-searchable, that's going to be a lot easier for us to do kind of those fine searches to say, okay, we want to look at this ballpark of cases. For a lot of reasons, to see the effectiveness of our training, to be able to look at applications that have rejections in them post-training, to see if they are following best

practices and things; but also to identify maybe cases we need to dig into.

So that's a lot to say not a great way to identify those. However, we have been, again, re-emphasizing 112, bringing a lot more awareness to examiners to try to culturally change maybe a stigma to using 112. Talking about, you know, not only written description with regard to original possession, but with regard to new matter, talking about enablement, and also 112(b). So there is a re-emphasis on that throughout the Office. Was that good? Okay.

MR. HIRSHFELD: I was also going to also go to the training because I think your issue really is -- the way I understand it -- is perhaps there hasn't been enough scrutiny in the 112, particularly with regard to written description, and that's what's causing this problem, and that's where we are exactly training on. So, I do think our training will address the issue that you've brought up. 1010, you just mentioned that.

MR. WALKER: That's awesome, Drew. Because, obviously, there's going to be new set

of claims that come in there, and that to me would be kind of a trigger with seeing what's already been granted. But you see a new set of claims that potentially is covering a lot different subject matter than the original case. But it is a written description issue.

MS. SPYROU: Right.

MR. JACOBS: Yeah, so, I want to comment. First of all, I want to comment that the Office here is doing some great things, and then I want to point to an area for improvement. So, I mean, one of the greatest things I think that we've seen in the last year -- not for longer, is the Office is doing a great job of listening to us and to the user community. I think that the outreach fits more than just the sharing of ideas if it resulted in actions, and we are now not only seeing those actions carried forward, but I think we are harvesting some of the fruits of the actions. We've talked about those in some of the training as gone on in some of the pilots and many of the other areas discussed today. So, that's all great.

A weak link right now in terms of the

timing is with respect to the measurement; and this is where I think listening to us may have been a double-edged sword because, to be honest, a lot of people didn't like the quality composite, and you listened to us, and so we don't have it anymore. But I think I share Director Lee's observation that the quality of product is pretty good and we are going to make it better. But I think it's pretty important that we prove that -- that we actually show some numbers that we agree are important, that we work those back into these presentations on a regular basis so that we can convince the skeptics that -- well, first of all, we are measuring the right thing, and second of all, we are showing improvement in what we are measuring. And I've said this before, but I'm like a firm believer that once you start measuring the right things and paying attention to the measures, that helps to drive the process of improvement and right now, we are kind of missing that piece.

MS. SPYROU: Yes, certainly. There's a principle, and I'm drawing a blank on it, but when you shine a light on something, that's where

you get the improvement. Absolutely. So, I'm sure we are working through what those quality metrics will be like for fiscal '16. It will certainly be a transition year for the clarity measures. We're certainly going to still report out our compliance numbers and our transactional QRI numbers. So, I don't want you to feel like we have nothing to report out, and we're going to have numbers that we've had before. We're just not going to roll them up into that weighted composite. And then we're going to add to it some clarity measures as they evolve from the use of this master review form. Okay.

So, I'm probably, I hope, within the next month or so, we'll actually have those measures for '16. Some of them will have goals, some of them will be baseline, some of them will be very familiar to you from '15, and some will be new clarity measures. But I don't want you to leave here thinking you're not going to get data this year. We love data. You should probably have learned that. We have a -- it's funny when I hear about using big data cause I think, gosh, I've been here 26 years we've always used big

data. We just didn't call it that, right.

And, you know, we measure everything. Every transaction that happens, we get data points on it. So, we will certainly be giving you data. There will be continuity from last year to this baseline year, and then from this baseline year moving forward. And we are diligently working on those right now. I know many meetings about it, and probably, I hope, within the next month or so, we will have something to report out to the public on that for expectations for '16, and moving forward.

MR. HIRSHFELD: I just wanted to add a couple of comments to that. What one of the -- and I'll couch it as a negative of the quality composite, and I don't want to pick on the quality composite either because I do think there is a lot of good information there. But one of the concerns about the composite from my perspective is that people really believe that that was the sum and total of what we're reviewing and paying attention to, and to me that does a disservice to the whole system because we, as Sandie just mentioned, we capture everything and

we have so many measures, and maybe the composite by shining a light on a certain combination of seven measures created a disservice in people understanding what we look at. But we have many, many measures, and just because we are discontinuing the composite, we haven't discontinued any of those measures that we're doing -- any of those individual measures -- and those all continue. And, in fact, if we do anything to that group, we are only adding to that group.

What we're working on now is how do we want to best portray a subset or even do you want to best portray a subset? And I think you probably do because it's overwhelming. So, what do we want to say? Here's our focus for upcoming in '16 and maybe even beyond, and that's what we're working on. But in the big picture, we haven't stopped measuring anything that we were measuring before, continuing to do it and continuing to have those available to everybody. It's just not in the form of the composite.

MR. FAILE: Just to add into it, I think that Paul raises a great point about the metrics

in which you're measuring. I'm kind of looking at it from a different perspective. Instead of starting with the metrics and going down, kind of starting here and going up, I think the first thing we need to do in the master review form at the start of that process is we need a more robust consistent set of data to which to start the process from. Once we have that, then we'll be able to draw conclusions at more than just the aggregate core level. Be able to get into TCs to sub-components we'll be able to say this particular part of clarity in TCX is maybe out of line with the statistical norm, and then we can start doing some action plans there. So, from an operations point of view, having the data and then being able to use that intelligently to go in and do training and look at areas that need to be looked at gives us a huge way forward.

And then looking at the metrics part, we have a product part and then a process part. And I think that is not only a little simpler than the quality composite, but gives us a little bit more of a direct look at what we've heard through all of our different comments in the quality

summit, that you need to pay attention to product quality and process quality, are not necessarily the same things. So, the metric is built on those two kind of pillars to move us forward. So, I think that was a great comment.

MS. JENKINS: Thank you. Sandie, that was so informative and we look forward to next initiatives and updates. So, maybe if it is possible in February for our meeting, maybe something, a very specific example of this is how far we've come and this is what we're looking at, and, you know, honing it down just a little bit because real-world examples, as Mike said, are always good and easy to take back to the user community.

MS. SPYROU: Absolutely. Looking forward to it.

MS. JENKINS: Great. Thank you so much.

MS. SPYROU: Thank you very much. Appreciate it.

MS. JENKINS: So, our next presentation is by Bob Bahr, acting deputy commissioner for Patent Examination Policy,

comments on Section 101 Guidance. I am not sure you'll get as much love as Sandie. (Laughter) So, I'm just warning you.

MR. BAHR: Well, good morning.

(Laughter) Basically, as you probably know, we published interim eligibility guidance back in December of 2014. We sought public comment on them. Got comments, and then published an update to that guidance in July. We again sought public comment and this is basically where we're at. We've got roughly 33 public comments received in response to the update. Those comments are all posted on our website. This just numerically represents half the number of comments we received in response to the December eligibility guidance. I feel kind of small compared to the 1200 comments on the quality initiative. Still 33 comments, and we are currently in the process of evaluating these comments right now.

I don't want to oversimplify things. I came here just to give you a complete summary of all of the comments but generally, the comments -- there were obviously some comments that felt that we were still finding things

abstract that the case law does not require us to find abstract; and we are looking at that. But many of the comments went more towards what's necessary in an Office action that contains a rejection under Section 101, and also comments about the consistency of the application of the guidance across the examining core. So, in one respect, the comments -- while certainly the comments are across the board -- the center of weight have somewhat shifted a little bit more from the guidance to how it is being reflected in Office actions that are being issued. So, from some respects that's a positive in my mind because you wouldn't worry about consistency if you didn't like the guidance at all.

Here's basically how the comments breakout. I've done a number of rulemakings where we request comments. And this is, I'm going to say, somewhat of a typical spread. There seems to be more IP organizations than normal, fewer companies than normal. But, normally, there are a lot of individual comments and then IP organizations and companies are the next most, and then you have all firms that come

in as a group.

That's basically my presentation. If you have any questions, I'm happy to answer them. As I said, the comment period only closed three weeks ago, so we really don't have answers on how we plan to react to those comments; but we are studying them to see what we can and should do in response to these comments.

MR. THURLOW: Hey, Bob, you may not be able to say -- you may be able right off the top of your head -- there's some case that we're watching, we discussed the Arioso case. Is there a list of cases that you guys are watching closely that can be provided to us so that we make sure that we're watching closely or any other bigger developments? Since the courts have such a major impact in this area -- Supreme Court, Federal Circuit, and, of course, all of the District Courts -- any information you can share with us to make us understand what you guys are grappling with would be helpful.

MR. BAHR: Sure. We certainly have a list of cases that are pending before the Federal Circuit, and also, I think there is one that have

the Supreme Court citation -- obviously, they are looking into them. Obviously you mentioned the Arioso case and you can see by -- I'll explain with that case you can see some of the difficulty we have in coming up with guidelines. That decision was rendered in June. We made somewhat of a tactical decision to not include that in our guidelines because we knew that there was going to be a request for en banc prehearing. Obviously, it came in, there was a reply to that, and it's now months from July, or months from June, and there's still not a decision by the Federal Circuit, even whether to take it up en banc. We're pretty confident that whoever is the loser ultimately, will file a cert petition, and so this case is not that close to ending. But we still have to provide guidance to examiners. We can't sit and provide no guidance. So, we are struggling with these issues of how to handle those cases. Again, we are watching them.

MR. THURLOW: Yeah. Is there a list of cases that you could provide?

MR. BAHR: Sure.

MR. THURLOW: I only say that because

it's helpful for us to know what you guys are -- we have our list of cases and I just want to make sure they match up.

MR. BAHR: Okay. I mean sometimes you have a list of cases -- this is the problem, too, with us, is we are sort of waiting for a decision to be issued. You can't wait forever for every decision because you'd never issue guidance. You have to do your job. You know, you have to provide instructions. Also, sometimes you wait, and you wait, and you wait for a decision and when it comes out its just stamped affirmed.

(Laughter) You just got to sit back and say, oh thank you.

MR. THURLOW: We say the same thing.

MR. BAHR: Okay. So we can provide the list of cases, but sometimes it's not as helpful as you might think.

MR. HIRSHFELD: I think part of the struggle that we're having is why a lot of the District Court cases may rise up to the Federal Circuit, we only look at the Federal Circuit and Supreme Court cases, and don't have a particular list of District Court cases that we're really

keeping an eye on -- don't think that would necessarily be appropriate for us to say these District Court cases are more important than any other ones. But anything at the Federal Circuit, Supreme Court, certainly, we're going to keep an eye on.

MR. THURLOW: Yeah, the CBM case is anything that you used 101 to validate patents in the petition? All of those cases have been shot down. So, it's something that we are always looking at to see trends and 101 has been tough.

MS. JENKINS: Okay. Any other questions, comments? Nothing? Bob you got off real easy.

MR. BAHR: I got off easy. (Laughter)

MS. JENKINS: Got off easy.

(Laughter) I would flee while you can.

(Laughter) We actually have time. We are actually a little early, and so we have time for a break, and we will start again at 10:55. Okay. Thank you.

(Recess)

MS. JENKINS: So she's trying to keep me on time, which is always a challenge. So, I

would love to start. Yes, please.

Don, are we ready for operations update, patent statistics. Are we ready?

MR. HAJEC: I'm ready as I'm going to be.

MS. JENKINS: I am going to introduce you as -- I like that. The humor today is very good. Just wait until this afternoon we'll see what happens. But you are assistant deputy commissioner for Patent Operations. Are you indeed? Yes?

MR. HAJEC: That is correct.

MS. JENKINS: Great. So, tell us all about operations.

MR. HAJEC: Okay. Well, good morning, everyone. I have a few slides that I'll present some statistics and some data on some of our programs. Unfortunately, I think I have more than the two slides that Bob Bahr had, (Laughter) but hopefully not too many. Okay, so the first slide up today is the Unexamined Patent and Application Inventory, and you can see it's trending down. I think the important thing to note here is that from 2011 to the end of fiscal

year 2015, we reduced that inventory down by 25 percent, so it is pretty significant. Somebody had asked, what's our ideal inventory? And it really depends on our staffing levels. So, the ideal inventory would be 10-month inventory for the staff at-hand, which right now, based on our numbers, would be about 350,000 applications.

Now this shows the RCE inventory, and you can see it continues to trend downward in a positive manner. A couple interesting points is you can see in October it jumped up slightly, and that's pretty typical. Most Octobers, if you look over the course of the years, you'll see each October a little uptick, and that can be attributed to the end-of-year push, and then the second feature is that examiners during the last pay period of the fiscal year can opt to have RCE abandonments held off until the next fiscal year. So that's why you typically see in October a little bit of an uptick, but we anticipate that trend downward as well.

Here are our pendency numbers, and as we move towards our goal of 20, and 20-month total pendency, 10-month first action pendency, but

2019 you can see we are moving nicely towards those targets. At the end of the fiscal year, our first action pendency was at 17 months, and the total pendency was at 26.6. If you have any questions along the way, please feel free to jump in and ask.

MS. JENKINS: Actually, I do. Just real quick. On that slide, are we seeing any movement yet for decrease in filings at all or will that not move till maybe next year or the year before. Still too soon? I'm looking at Andy.

MR. FAILE: Yes, it's still too soon. It's a bit of a trail there.

MS. JENKINS: Got it. So, do we have any -- are we anticipating when we might see a difference in those?

MR. FAILE: We'll probably be starting to see that somewhere around mid-yearish of next year. So, you're talking early spring.

MS. JENKINS: Thank you.

MR. HAJEC: This shows the examiner attrition rates. And while it moved up slightly from 2012, '13, it did level out as we progressed through the year so that's a good thing from our

perspective. But we're still at a very low historical levels of attrition. The two lines: The dark line is the total attrition; the red line subtracts out the transfers, meaning they've moved to other positions in the agency, or retirees. You do see a little bit of a divergence between the two lines, and government-wide there has been a trend of increased retirees, so we're not sure yet if this is an indicator that that's going to be happening here, so we'll keep monitoring that trend going forward. The one thing with losing the retirees, you're typically talking about your most senior staff. So, one they're the most productive and they have the knowledge base. So it's something we're going to monitor closely. The core is currently at 8,200 examiners, and the hiring goal for this year is 275. Predominantly, we're going to start with the regional offices and then we'll fill the balance here in Alexandria. So, the hiring goal for this year will be 275. It is important to note that our attrition rate is below the government-wide attrition rate of 6.2 percent.

This shows the serialized filings for

the last fiscal year through October of 2015. So, you can see on a monthly basis the serialized filings are variable. That's pretty typical. The overall filing rate for the serialized filings was up 1.1 percent for last fiscal year; the RCEs you can see are a little more steady. But last year, we experienced a decline of 3.7 percent in RCE filings. So, the overall filing rate was down negative.3 percent. One thing to note -- I know at the last PPAC when Andy presented some of the stats, there was a thought that the yearly filing rate would be down 1.8 percent. So, we did come up a little bit towards the end of the year to negative.3. So, I think is a good trend going forward. This year, we are modeling a 1 percent growth. One point to note with respect to the RCEs, you can see a slight uptick in October and the RCE filings comparing the last October to this October were up 9.9 percent. So, we'll keep an eye on that. It might be an Alice factor, but something to take note of.

Also I wanted to share the design filings. The design filings were up last year, 4.1 percent. Interesting enough, there wasn't

much impact from the Haig Agreement, however. This shows the unexamined design inventory and you can see it leveled out during the last two to three quarters of the year. This could be attributed to the hirers that we put into the design group. They are up to 171 examiners. We hired 30 new design examiners. So that's a pretty significant influx of new examiners there; and they were able to keep the inventory steady, and we believe that will start coming down.

This shows the pendency in designs, and you can see the first action in the pendency, the green line did come down and that's a result of the hirers that we put towards the inventory. The overall pendency still is continuing to rise, but that's pretty typical when we do hire and put a large volume of hirers in. You see the first action pendency come down first, and then the total pendency will catch up, and we expect that to come down as well. And you can see the numbers there, first action pendency was 15.3 months in June, and total pendency, 19.4.

And now I'm going to touch on some of our programs. So the Track 1 filings, as you know

there is a 10,000 application cap, and while we thought we were going to come close to that, for last fiscal year, we wound up just under 9,300 applications. There is talk whether that will come down as we move towards 10-month pendency. In some of the discussions, it seems to be -- probably not because, as you can see here -- just from the turnaround times that we are providing on the Track 1, it is still an attractive option. So, just to reiterate some of the pendency numbers for the Track 1: Average time from filing to petition grants, 1.3 months; to first action from that petition grant, 2.4; to final dispositions from petition grant, 6.5; and to allowances, 5.2 from petition grants. So, our average pendency is pretty solid on the Track 1s. Last year, we were just under 98 percent of the Track 1 applications were handled within the 12-month target.

This slide shows some of the cumulative Track 1 results. So, you can see about an equal number go to final rejection as to allowances. As far as the notice of appeals at 6.6 percent of the Track 1 -- applications have a notice of

appeal filed in them; and this is actually pretty consistent with regular-filed applications -- maybe just a hair higher than our normal applications filings. The number of abandonments is somewhat low, but that can be attributed in large part to the relative newness of the program.

MR. HIRSHFELD: So, Don, I'm going to loop back before we leave Track 1 just to pick up on a point that Don made. We were slightly under 9,300 filings on Track 1 last year. For modeling purposes, we are trying to, you know, model through the out years all of our different assumptions; and one assumption we are making, and if we can get some feedback from you guys on, is that as we move towards a 10-month first action, 20-month overall pendency world, we also see kind of a commensurate decline in the use of Track 1, as shorter pendency is available. To more, we see the Track 1 usage actually coming down. So, it's kind of modeling that in coordination with each other; but I would be interested in any input from PPAC on that particular assumption.

MR. THURLOW: So, I think Mark and I, and many others, have said over the PPAC meetings, what a big fans we are of Track 1, and just, you know, the pendency numbers are still -- even though the overall numbers are coming down -- the Track 1 is still much lower and even a difference of six months or a year makes a big difference, as far as raising capital and getting a patent instead of having a patent application. So, from a personal experience, I can say in the next few weeks, we will probably file seven applications, all Track 1; and two different clients involved. So, it's something we are big fans of, and we hope to use more.

MR. FAILE: Thanks, Pete.

MR. HAJEC: Okay. Next, touch on another one of our programs is the First Action Interview Program. Now, it is interesting to note that these are the total -- the cumulative -- since the program has been implemented. So, the total number is relatively low considering the program's now been in existence for over five years. So, the total number of applications that have entered the

First Action Interview Program is just over 6,000. You can see the other numbers on the communication in the interviews that have been held.

One thing that I think is important to note is that the First Action Allowance Rate on the First Action Interview Program applications is 30 percent as opposed to greater applications sitting at 12 percent. So, there is a significant benefit, it seems, to those applications that enter the program. But just looking at the sheer numbers, we are not getting the volume of applications entering as you might expect, particular when you consider the positive outcome that is resulting from it.

MR. YANG: I'm surprised that the program hasn't seen greater uptake. I mean, our experience is uniformly positive. You know, we see reduced costs, shorter pendency, because of the in-depth communication with the examiner early in the case; and you know, we have been driving it throughout our prosecution program. So, I think somehow the word is not getting out about how beneficial this is. I mean directly to

the applicant.

MR. HAJEC: And that's something that I think is pretty apparent that we can do a better job marketing the program; and, you know, you've experienced success, and the numbers speak for themselves on the First Action Allowance Rate. So, it's something that we can look into how we can better communicate and market the program.

MR. SOBON: This may be more for Andy than for you Donald -- but has any further thought or progress been made about the notion of having a -- even going one step further -- in having a pre-search initial interview process available?

MR. FAILE: Not really significantly, since we last met. I'm not sure of where that shakes out in the current set of quality initiatives. I don't think there is one directed specifically to that. The kind of the pre-interview part of the First Action Interview Program does seem to be of pretty high value, both internally and externally. So, it's certainly something we ought to be looking at and building on. But not much discussion since we last met, particularly on the pre-first action interview

construct the orientation interview that we have been discussing.

MR. SOBON: Just to remind folks who weren't involved in those earlier discussions, the notion is that a lot of practitioners experience oftentimes the first search and the first interview are a process that is not as successful as it could be because there's just misapprehension of what the focus of the invention is; there maybe 112 issues involved with the claims, and having some sort of process before there is even a search done to allow an interchange between applicant and examiner to clarify any confusion and also allow the examiner an important time -- so you don't blow an entire first action -- trying to solve some very threshold issues of confusion of 112, or apprehension of the invention before -- prior to search. And the notion is that that could save time, money, energy, and confusion for what oftentimes is a frustrating first action. So, that's the main impetus behind something like that. I know there's various issues that need to be resolve on that, but I still encourage the

Office to really try to focus on that sort of a process as one way to really resolve both the quality, as well as expense, and time, and frustration.

MR. HIRSHFELD: I do know that for the clarity of the Record Pilot Program that's something that is being discussed. I don't know, again, we are at the early formation of that in discussions with POPA, et cetera. So, I don't know where we will end up with that as we go, but it is something that we are discussing for the same reasons as you're bringing up.

MR. SOBON: Right.

MR. POWELL: I just want to jump in -- in 1994, and a long time ago when I first became a SPE -- that was actual tried in old group 2300. In our discussions with the then director of the group, a bunch of stakeholders, we said that, you know, we really have to fight to try this to set it up. And then when we set it up as a pilot -- no takers -- nobody in the end would do it. So, of course, that was many, many years ago, so things may have changed, but as a historical reference.

MR. SOBON: As with a number of these things, and even with this First Action Interview, part of the process kind of relates to what Marylee said at the beginning is you can lead a horse to water but, you know, people don't remember these things. You know, they're focused on their practice and they don't keep it in front of mind. So, anything you can do, even in your banners of the main website, if you can change them and say, remember. You can actually do First Action interviews. You know, I think you need to constantly remind people of some of these techniques exist and that they should be encouraged. It's just a human factors problem with a very wide group of people around the country.

MR FAILE: I think that's a great point. I often hear the same experiences that Dan just talked about in the use of the program. It seems to be pretty -- there seems to be a lot of value added in the program. People that use it do seem to like it. So, the fact that it doesn't have as wide spread of use as one may think goes down to some level of awareness, at least.

So, certainly, we could do better in that regard.

MR. THURLOW: I'll confess, I haven't used it. I don't know if you have used it. Is it good? Yeah, I've heard mixed reviews that you really wouldn't change an examiners review, but I'm happy to hear that you guys think it's good.

MS. JENKINS: Wayne, echoing your comments, I think one of the pluses and minuses of all the activity at the Office is there is so much. So, really, to get people -- unless they actually need to use it and we have a problem to get them to pay attention to it, I think also, too, I try to subscribe to all of the PTO emails and, you know, all sorts of different tools that our firm uses to keep track of information, PTO. And I think the messaging needs to be very consistent within the Office. I find that some messaging -- I love email -- I've already said that; that's been very consistent in my messaging. (Laughter) You know, I think that some of the messaging is inconsistent about what the Office sends out. So, you know, that's something that the Office can think about being more consistent about how they send it out, when

they send it out, because then people may pay more attention to what you're doing. Wayne.

MR. SOBON: I just had a brainstorm thought. I don't know if you do this, but, you know, one thing the Office could think about doing -- we can't reach everybody, but, you know, sort of 80/20 -- you might have some regular webinar sessions maybe once a quarter. Just get a list service of all the major practice group heads of all the major firms in the United States, and have a list service -- there's IP practice heads of almost every major firm -- and where you can actually, on a quarterly basis, reinforce to them what they should be telling their troops on the key things like this that are available. And that would keep -- that then can cascade downward, and then they have something -- pieces that they can transmit out to their groups in one place rather than all the various little pieces they get. And they can also share information back to you about what they are seeing.

MS. JENKINS: To be fair, too, I even make it easier than that for my group. I even take parts of what we do here and don't even give

all of it. I say, here is what I think is the most relevant for the meeting. I'm parsing it down and this is what you need to focus on. So, I even, you know, feed them the information.

MR. FAILE: So, these are great comments. I appreciate that. Particularly, the recurring webinars may be focused on some of the programs where you can get a little in depth in each one. One thing I would point out, that we've tried to do -- and again, maybe this is another awareness piece -- is we did develop a tool -- this was back when we were doing the RCE outreach called the Patent Application Initiative as part of our website where we basically map out all the programs in a one-stop shop. And we use a timeline of prosecution.

Here's everything that's generally available before prosecution, during prosecution, and after final after allowance, et cetera. It's kind of a pictorial that shows all of the programs, you know, FAI, Track 1, et cetera. And the intent is a one-stop shop where you can go and see the programs that are available, click on that particular program, and

get all the specifics about that program. We might want to re-engage an effort to publicize that because that drives all the traffic to one place where one can get any information without having to remember which web page you need to go to. So, that's another thing if you guys can help with the publication of -- or publicizing -- its Patent Applications Initiative. I believe, if you just put PAI in the search box on our main page, you'll go right to it. Again, it's a graphical representation of the prosecution timeline and all the different programs that are available during that timeline with links to each one of those.

MR. WALKER: I'd just say, that's a great point, Andy, because one of the comments made at one of our subcommittee meetings yesterday was -- when you talked about the big firms -- but just over the past month, I've had interactions with three solo practitioners or chief IP counselor, their own in-house counsel, and the number of programs of the Patent Office for them is overwhelming. And so, in terms of like a small entity program like the one that PPAC

has, it's very hard to think about that when there are so many rule changes that people are trying to process at the same time. So, that sounds like a great tool if it's all in one place where it's easy for them. Because it's hard to keep up with all the changes as it is.

MR. FAILE: I think that's a great point. I mean, the good part of the website is that there is so much information there. If you know how to find it, you can find almost anything. And the bad part is that there is so much information there that, you know, it could be a needle in a haystack.

MR. HAJEC: Okay, I'll continue on and wrap things up. So the last program that I'll touch on is the Patent Prosecution Highway, and this is consistent with some of the work sharing efforts going on in the Agency. And this just shows cumulative, the number of the applications with petitions under PPH, and you can see its pretty steady stayed -- the nice steady curve going forward from its inception to current. And these are the last 12 months. You can see it's pretty consistently between 6- to 700

applications a month petitions filed under PPH. And much like some of the other programs, what we find is the allowance rate, which sits at 84 percent, is much higher for these applications under PPH than regular applications, which the allowance rate is at 53 percent. First Action Allowance Rate on PPH applications is at 18 percent; again, that compares to the 12 percent for regular filings. So, again, these are all programs that show a benefit to applicant and you can see there's various degrees of usage among them. Any questions or comments?

MS. JENKINS: Any other questions?

MR. SOBON: Those statistics are what I was just going to ask you for. So, providing those -- you know, how comparing the PPH results to -- I think that's very salient for people that understand how valuable the program is. So, the more you can publicize that, the better.

MR. HAJEC: And I believe, Mark, your shop is setting up a dashboard that's going to have a lot of this data up on the website?

MR. POWELL: Yes, that's true. And, you know, what you're seeing here are overseas

customers enjoying the benefits of PPH here in our office; but, in view of our normalization of PPH under the so-called global PPH principles, the U.S. stakeholders are getting enormous benefits overseas.

And, lastly, we actually are working out, it looks like, a PPH agreement with Brazil, which is incredibly important. Brazil has a patent office with virtually no staff, and an 11- to 12-year first action pendency. And so, we are hoping that some of our American stakeholders -- if we can get something going with that we'll, you know, at least get some examination in before their stuff expires.

MS. JENKINS: Okay, great. Thank you. Next, we are going to go the Regional Offices Update. I see Christal Sheppard, former PPAC member. A little applause. (Applause) Director of the Midwest Regional Office. We no longer say satellite. And I think John Cabeca, he is director of Silicon Valley Regional Office. He is phoning in, so to speak.

MR. CABECA: Hello, everyone.

MS. JENKINS: Hi, John. So, did you

and Christal draw straws of who's going to start first?

MS. SHEPPARD: John, why don't you go first, if you don't mind?

MR. CABECA: Okay, yeah. I have some introductory slides, so let me go ahead and go first, if that's okay.

MS. SHEPPARD: Great. Yes, thank you.

MR. CABECA: Okay. So, I believe I need to be made the presenter. Okay. And can everybody see that on the screen?

MR. FAILE: Yes.

MR. CABECA: Okay, great. Thank you. Hello, everyone. What I thought I would do, just briefly as an overview, just to say how excited we are that now we can say that American Invents Act is fully implemented. Not only with the opening of the Silicon Valley office in October, but the Dallas office just opened last week. So, all four regional offices are up and running. One of the focuses of having a regional presence was to ensure that the regional offices weren't essentially just a cookie-cutter headquarters, but instead took on the culture and the needs of

each of our respective regions. So in the Silicon Valley, we're in the heart of the Silicon Valley -- right downtown in City Hall of San Jose -- and we have been very fortunate to have the City of San Jose as a partner. This is just a view of the City Hall campus with the tower and the Rotunda on the left, and this 3-story building on the right; and we occupy most of this 3-story building, about 36,000 square feet of space.

The entire first floor -- and this is a shot of the street-side view -- the entire first floor of our regional office is focused on outreach and education for the community. And the regional office is for outreach and education purposes actually covers more than just the Silicon Valley and the San Francisco Bay area, but the State of California and also the surrounding states of Oregon, Washington, Nevada, Arizona, Alaska, and Hawaii.

So, as you walk down the street we've captured our regional presence through some education material. And as you walk down the street of the City Hall -- 4th Street -- down the side of City Hall, you will see a little fact as

it relates to intellectual property and not just patents and trademarks, but also enforcement. So, to try to encourage people to come into our space and take advantage of our products and services. And this is just another shot, which I know is difficult to read the small text, but at least to give you a sense of the enticing text to encourage people to read on and then come in and learn more about the USPTO and what we have to offer the local community.

Some of the outreach services that all of the offices provide are: Walk-in services for the public to obtain information about the agency, to learn the basics of patents and trademarks. We actually have search stations in each of our regional offices where you can search the trademark register and use the very same tool that our patent examiners use for searching for prior art and their applications. Each of the offices also provide -- have conference center, conference training centers, where we not just train our patent examiners when we are bringing them up to speed, but we also use those facilities to help train and engage with the community

through a variety -- at all levels, at a variety of different forums. So, whether it be a conference or a roundtable or a workshop, we are set up to support all of that.

I've also been working in the Silicon Valley office with our local federal partners, like the Small Business Administration, as well as ITA, the International Trade Administrations Export Assistance Center. And we'll be hosting them, along with our own experts within the Agency, and allow the public to come in and sign up for one-on-one dialogue, not just with the USPTO to learn more about patents and trademarks as it relates to their own innovations, but, also, our other federal partners that have programs that are designed to support and foster the small business and entrepreneurial communities.

Some of the services at the Office, where otherwise you would need to go to headquarters to take advantage of these services, is we have a hearing room and -- not just for the Patent Trial and Appeal Board, but we will also use the hearing room on occasion to administer trademark trial and appeal board cancellation

proceedings.

In the Silicon Valley office, we have two interview rooms which are available for our patent examiners working out of the office, but, more importantly, for our stakeholders in the region and to connect our stakeholders in the region to the patent examiners working elsewhere. And our virtual interview rooms are a state-of-the-art facility and I have some pictures I'll show you of our space; but they've been specifically designed to help replicate, as best as we can, that in-person experience you get with a face-to-face interview. And so, we have some added features in the interview room here in the Silicon Valley that allows the applicants actually demonstrate how a product works or point to specific features within an application, or perhaps even to make, you know, line-item edits on the fly. And the examiner is able to see all of that taking place.

So, to just give you a quick photo shoot of our new facility, since we're very excited about it. This is the main entrance, and we tried to build in an education component throughout our

space. So, you can see, we have inventors around the perimeter, which some of them are inductees to the National Inventors Hall of Fame, some of them are recipients of the President's Medal of Technology and Innovation, and others are contemporaries also recognized for their amazing innovations. And we call this group a select group to the catalyst of innovation. So, where their innovations have helped to spur technology, spur competition, and spur follow-on innovation; and then we have some education materials that we're building into our site, not just with the video of all that you see on the left where you can learn more about these 16 inventors, but also some exercises for when we have students coming in to challenge them to try to encourage them to pursue careers in science, technology, engineering and math fields.

So, the Silicon Valley office will house about 80 patent examiners, plus a patent management team, and we'll have over 25 patent trial and appeal board judges. Right now, we have 21 judges on board with us here in the Silicon Valley office, and our first class of patent

examiners started on October 19th. So, we have 20 examiners currently in the training lab, and they'll be in that training lab for the first four months of their career here at the USPTO, and then they'll transition to their offices after which we will bring in another group of 20 patent examiners.

Here's just some other shots of the facility, our public search room on the top right, and then the bottom right is the training -- the front view of the training and conference center. Here is kind of a blowup view of the training center. It houses the 20 patent examiners, as you can see here; and when we are not training our patent examiners, we'll use this and convert this space into a conference center that can seat up to about 175 people.

On the top right, we have one of our interview rooms that we use, again, as I mentioned, to connect applicants to patent examiners working either at another office or from their homes somewhere around the country. And on the right you can see a typical examiner setup, and some of the other conference room and

pantry facilities at our space.

This is just some more conference space. We've held, actually in this room, held numerous roundtables already where Secretary Pritzker, when she was visiting, we hosted an autotech council roundtable for autonomous vehicle technologies. That was very exciting. And we've also hosted some venture capital roundtables; some patent litigation reform roundtables; and one most recently with WIPO on alternative dispute resolution.

This is the third floor where you come up to actually participate in patent trial and appeal board proceedings; and this is the hearing room that we have in our facility here in California.

So, I mentioned earlier that we try to make sure that we are addressing the needs of every aspect of each of the region's innovation ecosystem, and we worked really hard to do that; and so, as I mentioned some of these things, but here is just another example. Some of our focus areas where we've been reaching out to the community, not only receiving feedback from the

community but also sharing with the community our initiatives; our programs; our priorities; and educating them on intellectual property and the need to incorporate an intellectual property strategy into any business' business strategy.

And this is the last slide, but just to give you a sense of what we've done in the past 30 days of being open; and you can see without me having to go through all of this, you can see that we've tried to cover the spectrum when it comes to meeting with our stakeholder community. And then, on top of this, we are also building more programs to encourage classrooms to come visit the USPTO and take advantage of our outreach and education center, and with the focus of bridging that gap between creativity and innovation, and encouraging kids to pursue careers in STEM education.

And with that, I will pause -- and oops, here are some more things we just did -- I will pause and see if there is any questions or, perhaps, pass it to Christal, and then we can take questions together afterwards. Whichever you'd like to do.

MS. JENKINS: Actually, I'd like to give you your moment in the sun, so to speak. So, can we ask questions to John since he's remote, which I think is great, sort of?

MR. CABECA: All right, sure.

MR. THURLOW: Hey, John, it's Peter, nice job as always. Can you give us some idea of the outreach, you know, the universities are so key -- what universities you're working with? And then a more basic question for you or Christal is, the examiners in your office, obviously they're not just examining applications from your regional area. Can you just discuss that? How they get the application they review based on technology, subject matter, or so on?

MR. CABECA: Sure. So, the first question on universities. We've been actively engaged with universities across the region and not just the local universities. We have San Jose State -- is actually right next door to us. We've partnered with them on some biotechnology programs in the past. I've actually gone to speak to some of their engineering classes, as well. We are a very close partner with Santa

Clara University and their high tech law institute, as well as with Stanford University, UC Hastings. We actually met with Michelle Lee, and I met with President Napolitano, the head of the UC System just to express our desire to work across the State of California in building programs to support their efforts within their respective campuses, and the accelerators that are on campus, how we can help them integrate some of the USPTO programs into some tech transfer that's going on within the universities.

And then, just a couple weeks ago, I was at the University of Arizona. I've been at the University of Nevada, as well; and we continue our engagement. Last year, was in Washington, and was at the University of Washington, and then also in Portland and did a program there with their rain accelerator, which is an accelerator that's in collaboration with the University of Oregon and Oregon State University. So, we've been very actively engaged with the academic presence across the region.

We've also been fortunate to bring on one of our regional outreach officers who's

actually from academia as well, from Santa Clara University; and so she has also been extremely helpful in helping us engage further with the academic institutions in the region.

On your second question, all of the offices are essentially conduits of headquarters. So, a patent manager, whether the patent manager is working from home or -- and most of them are still working out of headquarters -- but a patent manager, say in graphical-user interfaces may have patent examiners working down the hall from them; working down the street from them; working in any one or more of the regional offices; or working from their homes somewhere around the country. And we do that to ensure consistent mentoring and leadership in each of the technology centers, especially as, you know, as we employ new initiatives, and to make sure that we are as consistent as we can possibly be regardless of where the examiner is.

So, a supervisor in a technology area will get cases and assign cases to the examiner based on the oldest cases that are on the docket

yet to be examined. And that's been our goal even with establishing a regional presence across the country -- our goal is not to have multiple backlogs. Yeah, we would like to have the supervisor that's in charge of that main docket for that technology area -- we'll just assign the next oldest case to an examiner regardless of where that examiner is. We have been in discussions because we want to make sure that no one inventor or applicant is hindered by otherwise allocating applications regionally.

And just taking California, for example, we have about 8,400 patent examiners at the USPTO. They'll be 80, you know, at the end of this year working out of the space here in Silicon Valley; but yet 16.5 percent of the 580,000 applications we received last year, came out of the State of California alone. So, it really becomes an economy of scale issue for us to try to have a regional -- to limit applications regionally.

So, again, we don't want multiple backlogs, and I think the other priority is we're going to cast away to more heavily weight an

examiner's docket with cases from a region but without trying to negatively impact any of the other applicants. So, we're looking into that but that's down the line, and once we get all of our offices up and running for a while, we can test some other options.

MR. THURLOW: Thank you.

MS. JENKINS: You were running a little late, so, Mark, quickly.

MR. CABECA: Sorry about that.

MS. JENKINS: Mark Goodson.

MR. GOODSON: I will tell you -- and I am an inventor -- there is a serious misconception, and that is in the inventor community that if you design something for autos, it's probably going to the Detroit center; if you design something using silicone, it's either going to Dallas to be examined or to San Jose. My only point being somehow that misconception needs to be addressed.

MR. CABECA: Thank you. I do get this question a lot, and I do -- I don't know where the misconceptions are coming from because I think we've been very consistent in our messaging with

respect to how the cases are being allocated to our patent examiners; and the real focus is being able to connect the applicant to the patent examiner through the regional office regardless of where that examiner is working.

MS. JENKINS: Great. Thank you, John. I am going to have to segue, sorry. Great presentation. Very excited. Love the new furniture. (Laughter)

MS. SHEPPHARD: Yes. We do, too.

MS. JENKINS: I'll segue to Christal. Thank you.

MS. SHEPPARD: And thank you. John did a great job of kind of talking about the plan and our setup and now I'm going to talk about the implementation of that plan, which is -- our office is the office that's been in -- it's the most mature of the offices, we've been there for three years. Let me see. There we go.

So, this is by the numbers. As Sandie said earlier, we are all numbers junkies, and so you'll see a bunch of numbers here because we do love numbers. Hopefully, they'll stay up. Okay.

We've hired 154 employees since opening in July 2012, and brought 367 jobs to the area, patent examiner jobs. We've held over 20 site visits, meaning people coming to our site. We have public tours every third Friday of the month and invite the public in. But if there's someone who wants to come at a different time, we will set that up as long as we have team members available.

Recently, BASF had some of their IP counsels in from Germany, and they brought them to the office and we got to speak with them. It was a really -- that's kind of how we want the offices to work.

We've held over 120 outreach events in 2015 throughout the Midwest region. We will be impacting over 500 K-12 students, and you'll hear more about that. And so far, we have directly spoken with over 10,000 stakeholders in the Midwest just this year.

So, the most important thing about the offices is the examiners. Okay, it's not working. Can someone just go to the next slide, please? So it's the examiners. What I say in the office is, there is no -- yeah, it's too far.

Go back. Now we're both doing it. Okay, let's see if it's working now. There we go.

Without you, meaning the examiners, there is no USPTO. So we do focus a lot on our examiners because many of them were hired for the Detroit office, the Elijah Day McCoy Office, and had never been to Alexandria. So we try and make them feel as included as possible.

We've had many, many events with them and, in fact, they've had direct access to the highest levels of the PTO. Commissioner Andrew Hirshfeld was out there. Let's see. Bob Oberleitner came out. Pope has been out several times. Michelle Lee was out there. The chief of staff was out there. So they feel very included as part of the, you know, the mothership. They feel like we're all one organization, and we work towards that every single day.

Again, with the numbers, so our examiners have received over 11,000 cases -- oh, this is an older slide, so in any event, you have to add those two numbers together. It's 25,594 total cases that have gone through our office. Yes, it's -- one of the points of these offices

was to help with the backlog, and we're absolutely contributing to that.

But an important piece of what the offices do is outreach. And we did not -- well, I shouldn't say "we," I wasn't here at the time -- the office did not anticipate the amount of the public wanting outreach from us.

In fact, for our office, the Detroit office, we do not have a separate outreach room, as you saw in Silicon Valley with John. They have a dedicated room. We don't have a dedicated room. We are double-dutying in a lot of things. They learn from our experiences.

But we've held many, many events. I'm not going to go through all of them, obviously. We reach every segment of the population. Our plan is -- except for we haven't figured out a way yet to get to babies. But we reach K-12, undergraduates, grad students, law school students. We also reach the historical traditional industries, new industries, new inventors, startups, and we reach our seniors.

We had an event recently that were senior citizen inventors. We went to that event

and spoke with them. Unfortunately, the pictures aren't that great, they're not showing up well, but you can see one where we were speaking with some senior citizen inventors.

One of the things we learned by going out and talking to the public is learning what they wanted from us instead of just pushing out information to them. And what they really wanted that we weren't, and I'd say prepared for, is trademarks. Every time I go out, people ask us about trademarks.

So, we worked really well with Commissioner Denison and her team, specifically Dora Best -- I really have to say thank you, Dora -- to put together the Trademark Assistance Center program. We just had the first one in combination with the San Jose office, where you can see on the video people from the trademarks office will talk to people who come into our office and have a live conversation about trademarks. So that was the first time we did it. It was a small kind of set up to make sure that it was going to work out. We had over 102 views of the event site. On the first day we posted it,

15 people RSVP'd and there were 16 on the waiting list. So you can tell we're meeting a need here.

K through 12 outreach is really something that's really close to my heart. One of the things that I really am very passionate about is the fact that this country, in order to remain strong in a global market, like a car, you can't -- if you have a car, if you have eight cylinders, you don't want to run in a race only using two, three, or four of them. You want to use all of the things that you have available to you. So by leaving -- having certain communities underrepresented or underserved, we're basically running on four cylinders when we can run on eight.

So, we have put together events with various organizations, although there's some girls from Camp Invent. And we have memorandums and understanding in progress, almost in place some of these, for all of these organizations that work with kids, K through 12, in the Detroit area. And we actually have another one as of yesterday.

These are the audiences which we've reached. And I know we don't have much time, so

I'm going to go quickly through this. So we are doing quite a bit to reach the audience. It's still -- it's about 10,000 since I arrived. The previous two years, because we weren't ramped up, we weren't ready for the outreach component, and we hired a director to really kind of push its outreach component and have almost doubled the amount of people we've reached in that six months from the prior two years.

These last two slides I'm not going to go over. We don't have much time. This was the patent activity in the Midwest. People often ask me, you know, why Michigan, that sort of thing. Michigan, next to Illinois, has the most patents in the region. And in fact, these are just patent applications filed by state per year.

Oops -- and these are the patent applications actually granted by state by per year. When you see Michigan, it actually comes up higher than Illinois. So, we're doing something right in Michigan.

So, in any event, back to my teams work. And I will tell you without, you know, a fantastic team and some good contractors who really care

about the area -- they are from Detroit, they're really helping us out. Contractors often don't get the same acknowledgment as the people who are here. And you all know the people that are here are really come to be to this, but without Sean Hagan and Mackenzie Reid, I couldn't have talked to 10,000 people. So, thank you for giving me this time to talk.

MR. SOBON: This is great, and it's great presentations from both John and Christal. It's great to see you again, Christal.

On the theme of outreach, I've raised the question -- I was at the opening for the Silicon Valley office, and it was fantastic. And the level of excitement and engagement by the local community was clear. I made the suggestion, I think to Drew and some others at that meeting, that I think it would be very, very useful to have at least one or two, during the year, of these quarterly PPAC meetings in the satellite offices. Not here at headquarters.

And so, if that can be arranged so we'd have a meeting, like say, in the Silicon Valley office maybe in the spring of this coming year,

where we could actually engage in this process in those local regions as well, and get other people to come actually to the meeting, would be another further element of that level of outreach.

And there's great facilities there, and I wouldn't have to fly across the country. You guys would. (Laughter) But then I could just drive. (Laughter)

SPEAKER: Do it.

MR. SOBON: Exactly. Yes, exactly, do it. So I think it would be a very, very good thing for us to work on.

MS. JENKINS: Dan mentioned that as well, yesterday. So, clearly, there's a cabal going on. (Laughter)

MS. SHEPPARD: There's no self-interest there, I'm sure, but --

MR. SOBON: No.

MS. SHEPPARD: -- we would, I mean, actually have to ask these people over here. But we'd be happy to host you. We've had Michelle Lee, all kinds of really great people come out.

And because the people -- I hate to say this, you look around the room, we don't have that

many people from the community coming here. If you came up to Detroit, you'd have a bunch of people.

MR. SOBON: Exactly right.

MR. LANG: I'm going to talk about something else. Just another question.

(Laughter) Although, I wholeheartedly support the idea of moving the meeting closer to my house.

Just out of curiosity, what was the Indianapolis Patent Hub? I noticed that on one of the slides and I wasn't sure, if maybe you could elaborate?

MS. SHEPPARD: Oh, yeah, so that's great. So, what the Indianapolis Patent Hub is it's the pro bono program. So, the pro bono programs have hubs. And I was there for their opening, and it was a filled room. And it was a law school auditorium that was packed. The governor came -- the governor or assistant governor -- and the patent pro bono program working together with their law clinic was openly this hooray. There should have been balloons and confetti by the community. So that's what that was.

MS. JENKINS: I personally have a quick question. I noticed in John's slide that he said that interviews with examiners in the region. What does that mean?

MS. SHEPPARD: I think what he probably meant by that is -- so the examiners are -- if you ask for WebEx, they have to do WebEx. However, they don't have to show up anywhere to meet you in person. And the only place where they can meet in person is a USPTO facility. So it would have to be here, in this office, or in the satellite offices. So people can come in and do interviews. In one of my slides, we've had over I think 120 people come to our office to do in-person interviews in our office.

The offices are regional offices, but that said, you can go to any of the offices. We're not proprietary -- if you're in Detroit and you want to go to California for the weather, or vice versa, you can go to any office. So, when you say the region, that's who the region is.

MS. JENKINS: I guess one of the issues that we had recently is that we couldn't get -- we wanted an in-person interview and the examiner

was just a little too far. So we were unable to determine whether we had any clout to actually bring her in or not. So that's why I was wondering. All right, so. So, is that a Drew question? (Laughter)

MS. SHEPPARD: So this came up during the patent quality discussion forum, and we thought this was one of the proposals -- that to have people in the region come to the regional offices to do in-person interviews. And it turned out that, generally, the stakeholders really didn't care that much about that. But the Andrews --

MS. JENKINS: Andrew's passing it to Andy.

(Laughter) Anything you want to say, or no?

MR. FAILE: Well, Christal's right. I mean, as Sandi talked about this morning, it seemed to be the quality of the interview was more important than the actual face-to-face being in the same room piece of it. Having said that, there was a healthy discussion at the quality summit about having face-to-face interviews.

So, I think our first movement in that direction is to make sure the current tools we have, the WebEx interview experiences is rich as it can be on the exchange of information. So, I think that's where we're going.

As far as examiners coming in for a face-to-face interview, it'd really depend on where they were, if they were close enough to the regional office. As Christal said, they've had a number of interviews already in Detroit, and the other satellite offices I'm sure will follow. It just depends on the distance away from any particular regional office.

MR. WALKER: Christal, just a quick question about K to 12. So, you know, one of the things that I think we all see is that a lot of people are anti-patent. And children understanding about the importance of intellectual property, and Peter referred to it earlier about some of these video things that have gone on. So, in your site you talk about innovation, but is it talking about the patent system, too, and the value of patents? Or is it innovation or the combination?

MS. SHEPPARD: The combination, but absolutely the value of patents and how important it is to the economy in the region and in the country.

So, we do things like the egg drop, where they have to use materials to figure out how to stop the egg from bursting on the ground. And they get really into that. And then we talk about, well, how could you protect that from the other group to stealing it from you, and that's what, you know, the government provides, this whole patent system.

It's very much a part of our message, and in general, the students these days are all about innovating and being able to protect their innovations. Copyright the whole different deal, for obvious reasons.

The law students, also, are understanding that patents are important. I think what you're talking about a lot of the times is the law faculty, and that's another conversation.

MS. JENKINS: Okay, we'll stop right there.

(Laughter) Thank you. I know we could go on for much longer, and I think I

Share we are all very excited about the regional offices. We think there's so much opportunity there, and it's always good to see you. Thank you for coming.

So let us segue. I'm sorry we're running a little late, so we're just not going to eat as long, guys.

So, but very close to my heart, International, as you all know. So who's going first? Shira. So I'm going to -- Shira Perlmutter, chief policy officer and director for International Affairs.

MS. PERLMUTTER: Thank you. What I'm going to do in my short period of time is to talk about the patent-related provisions of the Trans-Pacific Partnership. And also the key outcomes from this year's annual meeting of the World Intellectual Property Organization's General Assemblies that relate to patent issues. That just happened in October; all of this just happened in October. So this will be a very quick

tour given time constraints, but I would, of course, be happy to take questions from anyone afterwards.

The Trans-Pacific Partnership was finally concluded, after five intense years of negotiations, in October. It involved 12 countries from along the Asia-Pacific Rim at all levels of development, ranging from Vietnam and Malaysia and Brunei, to Canada and Japan and Australia, in addition, of course, to the United States.

Like our bilateral free trade agreements, it has a number of provisions dealing with patents. The highlights are as follows.

First of all, consistent with most of our FTAs from the past, the TPP includes a commitment for parties to provide a 12-month grace period. This is major for us because, of course, it will help further the idea of a 12-month grace period as an international norm, and that will feed into our patent harmonization discussions.

Second, unlike past FTAs, there are also some additional provisions. There's a

provision dealing with first to file. There's one dealing with publication of applications. And there are provisions about furnishing information related to published applications and to patents, such as search and examination results. All of these provisions are entirely consistent with U.S. law, but do provide an additional level of harmonization.

The text is available of the USTR website now, if anyone wants to go and take a look at it. They've also got some Q&A up there, as well.

Another very significant achievement was the inclusion of a provision requiring parties to provide for patent term adjustment to compensate for unreasonable delays in issuing a patent. And that will be a substantial benefit for U.S. stakeholders who are seeking protection in TPP countries.

We are going to be working with USTR and the larger inner-agency group on technical assistance, particularly for the developing countries that are TPP parties, so we can help them amend their laws to fully implement all of

these obligations. That will be a major project for the U.S. Government over the next year or two.

So, that's TPP. And then at WIPO -- so a number of interesting things happened in October. It was a successful --

MR. THURLOW: Shira, can I just interrupt you --

MS. PERLMUTTER: Sure, of course.

MR. THURLOW: -- just on TPP? As we discussed with Danny yesterday, as Bob and I were just discussing, you know, it is recent these developments, and we understand you're working with the USTR. To the extent we could ask anything information going forward that you can share to the public. You know, we're all active in bar associations around the country with our companies and law firms, and so on. But I could tell you there is definitely a keen interest on the TPP, how it affects the consistencies, inconsistencies with the AIA, U.S. law. And most of us work in the area of not just U.S., but the global implications of the IP. So we understand this is a process, but anything you can help us, provide information to educate us, would be

appreciated.

MS. PERLMUTTER: Thank you. We know that would be very useful, so we're trying to work with USTR to make sure that we're not treading on any toes and that we're dealing with it appropriately in that context, but trying to be as helpful as we can. So I will take that back, and bear in mind. And we'd be happy to come in and keep reporting on developments.

MR. THURLOW: Thank you.

MS. PERLMUTTER: At WIPO, a number of things were decided that will be relevant to all of you. One has to do with geographic indications; geographic terms to identify the source of products. Now, that's not a patent issue, but the reason you should be concerned is that a new treaty was adopted at WIPO in May by a very small group of countries, not including the United States, to put in place a system that's inconsistent with U.S. law, and that we are not pleased about.

It is harmful to U.S. exporters and trademark owners, but the reason it also affects patent owners is that we discovered during the

course of these negotiations that the predecessor treaty to this new version -- which is the Geneva Act of the Lisbon Agreement -- the predecessor treaty was never financially self-sufficient, and, in fact, was being funded by WIPO using fees paid by stakeholders for PCT and Madrid applications.

So, in essence, our patent owners and trademark owners were subsidizing this system. While it was a very small system and it didn't matter that much, now they're expanding it to cover all geographic indications. We were very concerned about making sure that didn't continue to happen, especially since it's a treaty we were not permitted to vote for or fully participate in the negotiation of, and which is not consistent with our legal system.

So we pushed this very hard at the WIPO General Assemblies. We threatened to block the entire budget over it. And at the end of the day, we were successful. We have an agreement that the Lisbon system will need to be self-sustaining going forward, and that to the extent that it's not, any shortfall will not be made up by

diverting fees from patent and trademark owners and from the PCT and Madrid systems. So, reassurance to all of you that that will no longer be happening.

The standing committee on Patents, just a few words about what's happening. That's the main forum at WIPO for discussing patent law. The U.S. has worked with other industrialized countries to put forward a number of constructive topics for discussion, and those include patent quality, work sharing, patentability criteria such as inventive step, and cross-border recognition of attorney-client privilege.

There's been a lot of pushback. On the other side, developing countries have put forward the topics of exceptions and limitations, patents and health, and technology transfer.

So, there's good and bad news, and both the good and bad news are the same, which is that there are no actual work projects on the agenda of the SCP at this point in time. But rather, there will be a number of studies and member state discussions of most of those topics, both the ones that we've put forward and the ones developing

countries have put forward. So, we'll continue to have these discussions. It's unclear whether anything further will happen in the SPC any time in the near future. And obviously, we're looking to other forums to make more progress these days.

There's also been a proposal by the Latin American countries to revise WIPO's old model patent law, and we've been pushing back on this. We're concerned about it for a number of reasons.

First of all, we're concerned that the result would be a document that focuses primarily on patent flexibilities in a way that might not be particularly helpful.

And second, in our view, we'd up with something that's too much of a blunt one-size-fits-all instrument that isn't appropriate to deal with different circumstances and different countries.

So, we've been resisting that, and so far that hasn't been adopted as a project.

Also, on the Patent Cooperation Treaty, there were amendments adopted to a number of the regulations that will provide greater

accessibility and flexibility for applicants, in certain respects, and should facilitate the sharing of the results of work performed by different offices.

And then, the Design Law Treaty. This relates to design patents as well. There have been discussions going on for six years at WIPO about a possible adoption of a design law treaty that would require parties to adhere to certain requirements with respect to the formalities involved in industrial design applications.

We've been making a lot of progress. The substance of provisions were all essentially done. But a year or two ago, there was an unexpected proposal from the African group to include a mandatory disclosure requirement in the draft text, requiring applicants to disclose any traditional knowledge that was used in conjunction with a design. Now, that may sound a little odd. We do find it odd, so our position and that of a number of other countries, is that this would be contrary to the whole purpose of the DLT, which is to simplify formalities.

We have another problem, which is that

some delegations are insisting that the treaty include a provision requiring technical assistance. Of course, we support technical assistance, but we don't like the idea of setting a precedent that technical assistance has to be obligatory in any norm setting process at WIPO. We also don't want to suggest that this treaty or other treaties don't have value to developing countries, other than obtaining technical assistance. So we're happy to have technical assistance, but we don't want it to be included in the treaty.

So what's happening on this issue is that there was an agreement that a diplomatic conference will be convened in the first half of 2017, but contingent upon successful resolution of these two issues at the Standing Committee on Trademarks in the interim.

And then, the last issue at WIPO, there were some positive developments on external offices. As you may know, there have been discussions for the last couple of years about the conditions on which WIPO will establish offices outside of Geneva. We've been insisting, along

with a number of other countries, that there have to be guiding principles put in place for the establishment of any such offices. It can't just be done by the Director General without consultation, and there have to be rules that we all agree to ahead of time as to when these offices will be approved.

One of the principles we were concerned about is that we wanted to make sure that the offices would not process patent applications, because we didn't want confidential information to be at risk. We were very happy that this year also at the General Assemblies we were able to see the adoption of guiding principles that we do find acceptable, and they include the principle that there will be no processing of patent applications. So that's very good in terms of safeguarding all of your valuable confidential information.

One last point I wanted to mention was that we are going to be hosting a new forum for discussing design protection, the ID5, Industrial Design 5. We're hosting it here the first week of December. It's modeled on the

existing IP5 and TM5 forums, and involves the same five offices: the U.S., E.U., Japan, Korea, and China.

This reflects the increasing economic importance of industrial designs. So, we're very happy to be taking that forward.

MS. JENKINS: Great. Thank you, Shira. As always, it's just amazing what the office is doing and involved in, and we commend you for all of your activity and support of these initiatives.

And for the ID5, very exciting, too. And something I want to say to PPAC is if there's anyone that's interested in attending, please let me know so we can let them know as well, so we can include you to the invite. Because it's a very -- I think there's a public forum, but at the end, right? Is that right? I think on the second day.

MS. PERLMUTTER: Yes. There'll be a session with stakeholders, yes.

MS. JENKINS: Great. Mark, we are going to segue to you, but I think you're going to segue again. So, Mark is deputy commissioner

for International Patent Cooperation. So you have the ball.

(Laughter)

MR. POWELL: I'll be very brief in introducing my colleague, Nelson Yang. Nelson is a patent business analyst in our IT Solutions shop, under me, and a former primary examiner in biotech. And he will explain where we are today, and where we will be tomorrow at midnight. Right, Nelson? Okay, go ahead, Nelson.

MR. YANG: Hi. So, just to give a brief introduction about Global Dossier. It's an initiative that was being discussed and planned among the IP5 offices, which is the EPO, JPO, KIPO, SIPO, and USPTO.

So, when we look at the number of filings over the past 10 years, you can see a dramatic increase in the filings. And this highlights the need for a simple, efficient, and cost-effective way to help our stakeholders monitor and manage all these applications. And so this is one of the underlying goals of the Global Dossier Initiative, how we can provide these services that will provide the maximum

benefit to our stakeholders.

And so, in doing so, we want to meet with -- the IP5 offices are meeting not just with each other, but also with our industry groups and with WIPO to determine the direction and services that we want to be providing so that we can provide as much benefit as possible.

And so, one of the first releases that we're having, which Mark eluded to -- which will be released tomorrow at midnight, and we should be sending out the press release shortly after that -- is what we call "Dossier Access." And what this does is it actually allows a user to look at an application from any of the participating offices, along with any related applications. And they can do this by selecting the office, selecting whether it's an application or publication, and then entering the number.

We also provide an info tool tip that will provide guidance if they're not familiar with the number format of that particular application. And what you see is this screen, which contains the application or publication number that they entered, along with all related

applications that share a common priority document.

I just wanted to highlight a couple items on this screen. The first one is that we actually provide a description of the application or publication that was entered, along with the total number of members in the family, and the number of family members that are currently shown.

As a default, we only show members that are from the IP5 offices, because those are where they can get the application data from. But a user can adjust the filters to show all the other applications that are available in the patent family.

In addition, they are able to sort by certain columns, and we also provide information when there's an office action available in that particular application. And we also provide a number of documents that correspond to office action documents based on the information that the corresponding office talks gives us.

We also provide links to the publication for U.S. Applications. And we also

allow users to download the list of patent family members if they want to keep a record for their own -- later on to review or look at.

What we see here is the quick view, and the users can access this by clicking on these white boxes next to the numbers. They can also view all the applications by clicking on the black box at the top. And what this does is it actually shows the three most recent documents that were entered into the file wrapper of that particular application. And they can actually view those documents in the screen.

And there's another thing I wanted to highlight, which is for applications that are in a foreign language, we will provide the machine translations of those documents. These machine translations are provided by the respective office, because we believe that they would be able to provide the most effective, efficient translations of their own language.

In addition, we allow users to open these documents in a new window, to download those documents onto their hard drive so that can view or review them at a later time, and we allow them

to add these things to what we call "collections." So they can add an individual document or they can add the entire application. And what this does is that when they go to the collection screen, they are able to view all the applications -- whether they be from a single family or from multiple families -- that they have added to collections, so that they can review those documents or applications at a later time.

I should note that to ensure the users' privacies, we make sure that once they leave the Global Dossier, all of this information is deleted so that they don't have to worry about someone else coming in and looking at those documents that they have added or saved.

In addition, we also have a history so that users can go back and look at documents or applications or publications they had looked at previously, so that they can go and review additional information if they need to do so. Like with the collections, this is only for the time they are on the Global Dossier. And once they leave, we will delete this information to ensure their privacy.

The next screen I want to show is what we call the "dossier view." And what this is, it is a way for a user to drill down deeper and to get a more in-depth look at the dossier contents of a particular application. And what you can see here is that when they select the document, we will highlight that document and it will show on the screen.

In addition to that, if they want to switch to other applications within that patent family, they are able to do so from this screen by selecting that drop-down box.

We also allow them to download the list of documents in this application if they need to have a copy for their own records.

And at the top, what we have is a way for them to switch among the different screens, from the patent family, the dossier view, and what we're going to talk about next -- the classification and citation document.

So, by clicking on the classification and citation, they're able to get to this next screen. And what this screen provides is information on the classification that was

assigned to that particular application, as well as any citations that were made either by examiners or by applicants in that particular application.

For CPC classes, we actually provide links that provide a brief description of what those classes and subclasses corresponds to. And we think this is useful because as the CPC is a relative new initiative, we wanted to be able to provide our users with information on what those classes and subclasses corresponded to.

In addition, with the citation data, we actually provide information on who cited the particular reference. And if the citation happens to belong to one of the IP5 offices, the user can actually retrieve the patent family of that citation or view the actual application dossier of that citation. And if it happens to be a U.S. publication, we will also provide a link to the actual publication.

So, as I mentioned earlier, because all of this data is being retrieved in real time, there will be instances where an office may be down or their services may be unavailable when the

user is trying to retrieve that information. So we wanted to make sure the users are aware of this and we provided several tools to do so.

One of them is to provide our service hours so that people know the hours of availability for each of the offices. In addition, we have a tool that the user can go in and actually check not only the schedule status, but also the actual status, so that if there was a catastrophic downtime -- for example, if our office was down for another reason that wasn't scheduled -- the user could still go in and check to see whether it was up or down. In addition, if an office is scheduled to be down, we provide information at the top of the screen in a banner, so that the user is aware without having to go in and actually check these statuses.

Now, we have been presenting this tool to our user groups and to our stakeholders, through info sessions, through focus sessions, and we've gotten a lot of feedback. Some of this feedback will be relatively easy to implement. Others will be a little bit more involved and require a lot more consideration and may be more

difficult. But we wanted to acknowledge that we are listening to our stakeholders, and we are looking at if and how we can address those issues that they have brought to our attention.

So, one of them is a timeline view of applications so that they can actually monitor the progress of all the applications in the patent family throughout the entire prosecution history of that group of applications.

In addition, we've got lots of requests to be able to view the foreign publication information, and we are looking at ways into how we can do that.

We have also had requests for an enhanced office action indicator, where users want to be able to access the office actions directly and from the office action indicator without having to go through to the dossier view or to search through a long list of documents. So, they want the office actions and responses immediately at their disposal. And they also want the ability to exchange citation data among the offices.

Like we said, we're releasing it in

November. Tomorrow night.

And just to touch briefly on the Global Dossier Task Force, we have met with our industry groups earlier this year and these were some parties that they set forth for us onto the next services that we should be looking into for the Global Dossier Initiative. And very nicely, they decided to set on five -- one for each office.

And so, the USPTO took on the challenge of providing proof of concept for document exchange, so where our offices can share documents amongst each other upon initiation by the applicant. The EPO decided to look at alerting, where if a document is entered into the file wrapper of a particular application, the other offices and the applicants are notified of those entries.

JPO is looking into XML, which is to provide text-based versions of the image documents that are currently available in Global Dossier. KIPO is looking at applicant name standardization, and SIPO is looking at legal status.

So, the benefits of Global Dossier is

that it actually provides a single location to look at all these applications and to manage all these applications. And we believe in the process we will be improving patent quality -- we're providing a more consistent scope of the patent so you have more a higher value of patents. We hope to decrease the time to file these applications internationally. And we hope to improve the ease of use so that applicants don't have to run around to all these different offices to find out how they're going to file these applications.

MS. JENKINS: Great. Nelson, I'm going to stop you there. We're running late.

So, do we have any questions? This is obviously very exciting for the user community. And we hope it all works at midnight.

MR. YANG: Yes.

MR. POWELL: Thank you. And we will certainly take any questions afterwards or, you know, by email.

MS. JENKINS: It was a lot very quickly.

MR. POWELL: Just phase one here,

folks, by the way.

MS. JENKINS: Yeah. Great. We're going to segue. Thank you. Thank you, International. (Laughter)

We're now going to go to PTAB update rulemaking. Nathan Kelley, who's acting chief judge of PTAB.

We're going to run into lunch. Sorry.

MR. KELLEY: Good afternoon. I'm Nate Kelley. I'm the acting chief judge of the Patent Trial and Appeal Board. And with me here today is Deputy Chief Judge Scott Boalick; and a number of our lead judges, Judge Gianetti, Tierney, and Mitchell; and also our board executive, Adam Ramsey. So, if there's any questions that I can't answer, one of us will be able to.

In the interest in time and your lunch, I'm going to go through this pretty quickly, so please interrupt me whenever you want to if you have any questions that I'm not covering that you want me to.

I wanted to start with our ex parte appeal backlog. As you can see, 2015 we were down 4,000 cases from the beginning of the year, which

is a much steeper drop than even we had hoped for. We're now down to 2010 levels, and we have every expectation of continuing to drop in that manner. And hopefully, what people will see this year is a shortening of the period that they're waiting. I mean, we're working off the back end of our appeals still, and so our pendency for appeals is still in the 20+ range. And hopefully, as we move through 2016, the fiscal year, and that number continues to drop more and more, we will start to see that backlog time go down. Yes.

MR. GOODSON: Yeah, I was at the Dallas office when the new judges were sworn in. How many new judges have you all brought on board this past year?

MR. KELLEY: The past year, I think we've brought on board approximately 36 judges. We're now over 240.

And obviously -- let me go back a slide -- when we were -- there -- when we were back in 2010, we were at the number 17,000. We're actually at 21,000 now, better situated than we were then because of the size of our organization. The backlog, if we could get down to a number like

12,000, that's an extremely manageable number of cases with 240+ judges.

We do track it week-to-week, and I won't go through these numbers except to show you it steadily goes down. Our numbers for November 17th, I've looked at today, and they were down to 21,150, which is a 150 drop over about 2 weeks ago. So, we saw a little leveling off at the beginning of the fiscal year, and that's completely expected based on the surge at the past fiscal year. So, the numbers on the ex parte appeal side are moving exactly the way we want them to.

MR. THURLOW: Nate, just to stop you for a second.

MR. KELLEY: Yes.

MR. THURLOW: Just to emphasize that point. Those numbers are pretty dramatic, and to the extent we could just say hopefully it continues, and that's huge. The PTAB office has been criticized for years, so what you guys deserve credit for those significant drop. Let's hope it continues, and if we could speed up the process, kudos twice, I guess. I just want to emphasize that's a huge drop, and it's really

positive.

MR. KELLEY: Thanks, Peter. And as I get to the end, I'll talk about some of the initiatives we have to speed that up even more.

Let me step out to the AIA trial statistics, for a minute. The petitions are still where they have been. About 90 percent of them are for IPRs, about 10 percent for CBMs. Our post-grant review petitions are starting to trickle in. You see we've already had 13, and maybe by the end of this fiscal year we'll have enough of them so we have an actual percentage number.

The petition filing rate, I won't say it has leveled off, but has not risen dramatically. We're still always in the mid-100s. The chart on the lower right is our total number of petitions, and you'll see it had been kind of ping-ponging up and down between the number like 140 or 120, to a high number like 195 or 192. But it has not ever crest to 200. And up until now in November, we have 88, as of today. And so, we forecast out that'll be another number in the mid probably 120s or 130s.

So, we're hopeful that while we haven't leveled, we're not going to see a continual increase beyond the 200 mark, and we think we're well situated for that also.

And then you can see our total petitions per year. And as I said, we can draw a straight line almost from Fiscal Years 2013, '14, '15, and I'm fairly sure we're not going to see that continuous rise into 2016. And that's good news for us. I think it's probably good news for everybody.

Let me see this clicker. So this is the breakdown of petitions in the technology areas that they're in. Still about three quarters of our petitions are in the electrical, computer, and business method area, and that's been about steady since the beginning.

Oops. Sorry I'm going so fast, I just -- there's a delay. Okay.

And so, I don't want to spend too long on this. This is the number of preliminary responses that we see. One thing that's interesting about the preliminary responses is as the settlement rate goes up, we have noticed

there's sort of a positive correlation, maybe not surprisingly, to the lack of a patent owner response and pre-institution settlement. More anecdotal than anything.

As we get out into the out years -- you know, we have 2014 under our belt, 2015 under our belt -- you can now start to see the trends that everyone was looking for in the first six months. And the trends aren't totally clear yet, but for example, what you can see in the institution rate is at first the grant rate was about three-quarters, and now the grant rate has come down to sort of for 2015 a little under two-thirds. And you can't see the numbers yet because we're still so early in 2016, but I anticipate that trend will continue as more and more people settle earlier in the proceedings.

And these are the settlement numbers, and what you'll see, again -- so in 2014, the green numbers of our cases settled before institution, the yellow column are cases settled post-institution. In the beginning, it was about 50- 50, and now what you can see is the numbers, at least with IPRs, are skewed heavily

towards settlement in the institution phase. People see what the other side has and they make a decision at the point, I suppose. I can't explain the 2015 numbers for CBM settlements, why it's so much higher after institution, except obviously that we know for a fact there's a litigation in those cases and they just tend to run on longer, I guess.

This chart, I just want to stop and explain it again because I think people still -- I still get questions about it. This is a chart that we created to take the subset of petitions -- and there's one for PGRs, there's one for CBMs, I'll just talk about the IPR chart -- those petitions that have lived their life cycle and essentially left the board. So, it's not that there's 2,203 total petitions that have ever been filed. There's 2,203 total petitions for which that petition is now over, either because there was a settlement, there was a dismissal, there was a trial and final written decision. However you want to look at it, that petition came in our front door and has now been completely resolved one way or another.

And then if you look through this, you can get a feeling for what happens for all of these petitions. For example, fewer than half of them ever reach trial, either because they're not instituted or because the parties settle. And then once they reach trial, about a little more than half actually get to the end of the trial, and again, a little less than half are terminated during trial. Again, largely due to settlement. So, when we have 2,200 come in the door, only about 600 end up with final written decisions.

And again, these numbers are to date. As we get further along in the process, we'll start doing it year-by-year. We still find it more helpful to look at the total population because the numbers become more meaningful as, you know, they get bigger. But once we get to a steady state in petition filing, I imagine we'll start presenting this data year-by-year.

MR. SOBON: Judge Kelley, I think the one recommendation I make to this -- I think it's a great chart -- is there is a world of difference between the settlement -- breaking apart the 1137 settlement versus non-institution. And I think

it would be helpful to have two boxes there: one for things that settled, and one that there was a decision not to institute a trial. I think that would be very important to have for people to understand that.

MR. KELLEY: Okay. We'll take a look at that. Maybe it does make sense to put some more tiles off the left side.

MR. SOBON: The rest is great --

MR. KELLEY: Okay.

MR. SOBON: -- but that would be the one thing I would recommend.

MR. KELLEY: Okay. Fair enough. So, let me skip over the CBM, PGR. So, this is a chart that we've put out that sort of goes claim-by-claim for all the patents that have been petitioned -- petitions have been filed on. And so, we've counted the total number of claims from among all the patents that are in all the petitions that are filed to sort of map out what ended up happening with those claims. So, 69,000 claims that could potentially have been challenged, a little over half actually were. The institution was on fewer than a quarter, and

you can see as it goes down how the claims all got resolved.

Now, the one thing I'll say about this chart is that I have heard the criticisms about it, and the main criticism that I hear is that, well, you're double counting. People can challenge patents multiple times, and so if there's 10 claims in a patent and they challenge it 3 times, it's going to show up as 30 claims in the left column. That's true, but the problem is the way our business operates is petition by petition. We treat each petition on its face as it is. And one petition might not necessarily implicate issues in another petition, and the only reasonable way that we can look at our data is by petition by petition. And that does result in double counting of some claims, and that's just the reality of how our petition process works. People can file multiple petitions on the same claim, and do, and that's how the data is that we see. And so that's how we've presented it.

All of our data is available. All of our decisions, except those few that are sealed, are publically available. And I'm aware there's

commercial resources that comb through all our data, map it out in every which way. And for people that desire different data sets or different numbers, I'm pretty sure that that's available from other sources.

MR. THURLOW: So, just real quick on the numbers. What we hear quite often at CLE meetings and so on is that if your case gets instituted -- 80 percent of the cases or so -- those claims that get instituted are found invalid or something. So, these numbers don't seem to support that. Going through the math, it seems like it's less than 50 percent of the claims instituted or found unpatentable in a final written decision.

So, again, not to get into the math here, but I think you hear a lot of things and people playing with the -- I shouldn't say playing with the data -- but there's different ways to analyze the data and so on. But these two numbers 14,332 and 6,774 don't seem to support that. If anything, it goes the opposite way, that less than 50 percent of the claims instituted are found unpatentable, if my math is right.

MR. KELLEY: Well, what happens is that people present the numbers how they want to present them. And I'll give you an example because someone came to me recently and they said, you're invalidating a certain percentage of patents. You know, you found all these patents invalid. They said, well, the problem is that you're diminishing the value of individual claims within patents, and you're taking maybe a patent with one claim that was subject to a trial and found not to be patentable, and you're forgetting about the other nine claims in that patent. So, if you imagine a scenario where a patent has 10 claims, a petition is filed on 5, it's granted on 2, 1 is found non-patentable, the patentability is confirmed on the other, you can spin those numbers however you want to spin them. I've seen them spun in a way where someone will say that patent was invalidated, when, in fact, one claim in the patent was held unpatentable and the other nine claims survived review. In fact, five of them weren't even subject to review.

So, what we have found is however you want to spin the numbers, they're spinnable. And

so, if you really want to look at the data and derive something from it, you've got to spend a little time and dig into it. And when you dig into it, I think you find the situation is not necessarily as it's presented by some people.

So, we have the same chart for CBMs. So, the trial rulemaking update. Obviously, we had our quick fix rulemaking that we came out with earlier this year. And then on August 20th, we issued our proposed rule package.

The comments were originally due on October 19th. One of the reasons we set that date is because it was our objective, and I think it was a realistically objective, to get our final package out by the end of the year. When we started getting requests from stakeholders to extend the time, our initial hesitation was that we didn't want to sort of miss our stretch goal, if you will. But we decided it was more important to get the comments than it was to meet an end of year goal.

So we did extend the comment period out until yesterday. Because of that, I think it's unlikely we'll meet our initial objective of

getting a rule package out by the end of the year. But that doesn't mean we're going to take our foot off the gas. We're going to keep moving as quickly as possible. It just might bleed into next year.

I won't go through the details of the package at this point. I will tell you that we received -- let me see, it's not on the slides -- but for the rule package itself, we received 25 comments. A third of them were filed yesterday.

For our pilot program I'll discuss in a second, our single judge -- not our pilot program but our request for comments on a potential pilot -- we received, I think, 17 comments, and 7 were received yesterday. So we're going to go through all of these comments and assess where we are, and come out with some package later.

MR. THURLOW: So, just very quickly on the one point for the AIA rulemaking. We discussed it yesterday during the subcommittee meeting -- continued interests as motions to amend. I know you're probably sick of hearing

about this particular area, but anything that we can do to encourage the PTO to continue to provide information on the motions to amend practice would be helpful, you know, as we work with Dana and there's a lot of discussion about an off-ramp provision in legislation. Another thing is because of the perceived outside this building a lack of the PTAB to grant motions to amend. Any information that PTAB can provide on that. I think there's still four cases that everyone emphasizes and focuses on. I know they really don't become public until the final written opinion. But is there anything that can be done to discuss that? Because it has ramifications on legislation, on how people perceive what's going on in PTAB. Would be appreciated.

MR. KELLEY: I appreciate that. So, we did clarify in a decision earlier this year in our master image decision, what our PTAB panels are looking for in motions to amend. And it's, frankly, been too soon to see the outcome of that clarification, because as you say, motions to amend are not decided until the final written decision, and that's usually because they're

contingent motions to amend.

I will point out, you mentioned that there's been four granted. If you're not sort of connected to this world, it's easy to think that with these big numbers, like over a thousand petitions a year, that the four is absolutely miniscule.

And I'll just give you an example for Fiscal Year '14, because we looked at these numbers earlier this year. We received about 1,300 petitions in Fiscal Year 2014. In that same year, for final written decisions that actually reached the merits of a motion to amend, it was fewer than 50. That's because most motions to amend, we don't have to reach the merits. For one reason or another, a lot of times it's because the initial claims are found patentable, and because it's a contingent motion we don't meet the merits of the motion. So, the actual number of motions that come in are very small. The number that have to be decided because of the contingent nature of the motion is even smaller. So, you have to remember that the sort of the pool of these motions is small to begin

with. It's not a number like (inaudible).

MR. THURLOW: My only point is -- excellent point. You need to continue to emphasize that because outside these walls is a different perception. I think the way you explain it is very effective, but it needs to continue to get out there, and that's the benefit of the PPAC meeting and so on.

MR. KELLEY: Absolutely.

MR. THURLOW: There's a misconception out there that you need to struggle to correct.

MR. KELLEY: Fair enough.

MR. WALKER: I'll just add, Nate, that it was great to extend the time period for the rules, because I think in terms of representing the public, it's fair to say that a lot of people had concerns about the rules. And I think you'll see that reflected in the comments. So, you know, a thoughtful examination of, you know, some of the significant comments I know from the trade association in particular that had some concerns. It's very welcome. So, need no to rush on that because I think --

MR. KELLEY: Okay.

MR. WALKER: -- it's such an important part of the patent process. And what the PTAB is working very hard -- and from our subcommittee meeting we know the extent of work that's gone on in there, but in terms of public feedback, it was good to extend that and to get these detailed comments because I think they will be helpful.

MR. KELLEY: Okay. Thank you. I've gone over my shortened time.

I want to mention two things about our pilots. We have two pilot programs right now. There's the Expedited Patent Appeal Pilot. This is the pilot to allow someone with multiple appeals to pulse one of them out of the line. I just want to point out that in the cases we've decided so far, we've had 20 of these petitions granted, meaning 20 people sped up their appeal. Those appeals were decided on the merits in six weeks once they were sped up.

On the Small Entity Pilot program, we have had 12 petitions filed, 8 granted. There's no magic to getting your petition granted, other than you have to be one of the people that qualify. And so we had some people that didn't qualify.

The cases we've decided on the merits for the Small Entity Pilot were decided in about three weeks.

And the Small Entity Pilot, it surprises me we've had such a low turnout for this pilot because it requires very little of the applicant. As long as they're a small entity, as long as they have a single representative claim, as long as there aren't 112 issues in their case, and a few other sort of minor things in the rules, they qualify. And if they qualify, they can file a petition for free and get their appeal decided very quickly. And so I would think at least this program should get a little bit more participation than we've seen so far.

But that's where I'll end it. If anybody has any questions, I'm happy to entertain them, but you all need to eat.

MR. BAHR: Thank you very much.

MR. KELLEY: Okay. You're welcome.

MS. JENKINS: Great. Thank you. It is now --

SPEAKER: Lunchtime.

MS. JENKINS: Yeah, almost. Hold on.

So, 12:41. So, Jennifer says -- see, I'm really not in control of these meetings, so you should know this. Jennifer says we have a half-hour, so -- but we will start precisely at, I guess, 10 after. Okay?

Thank you.

(Recess)

MS. JENKINS: Okay, I'm being enforced to start. Whether anyone's ready or not, we're going to start. So, it is -- we're late, but let's go.

So, IT office -- whatever the acronym stands for -- we need you to start. So, John Owens, Debbie Stephens, David Landrith, chief information officer, acting deputy commissioner for patent administration, and PE2E portfolio manager. All yours.

MR. OWENS: Thank you. So, as normal -- if this thing will work. There we go. I'm going to hand it directly over to David Landrith, the portfolio manager for patents, and end.

MR. LANDRITH: So, you've seen this slide before, which talks about the status on our

five most highly visible projects. What we have with the docket application viewer, this time around, is reports on some of the adoption rates and the user feedback.

With official correspondence we have -- the pilot release for December is going to be an alpha release. We have some dependencies that haven't been met in terms of actually piloting it to a large group, and some delays in implementing some key features.

With the examiner search, we also have an alpha that we are releasing that corresponds to the pilot. But we have the pilot, in terms of actual examiner usage, scheduled now for March. This does not represent a large decrease in accomplishment, but rather a changing of the anticipated audience that will see what we have.

When we look at the cooperative patent classification, we have the -- we're still moving forward with retirement of CDS and enhancement, as well as IT collaboration tools to cooperate with EPO.

And then with CEDR, we're still at a phase where we're doing prototypes for

foundational services.

Going into the release stats, this is an updated slide from what we saw in August, where the adoption rate was about a third. And so we're moving closer to a half. This is, I think, a very good curve we have where you can see the grey lines. If the types a little small, those represent the holidays. So, that's where you have the predictable lulls in usage. So, I consider this to be tremendous news. Don't you, John?

MR. OWENS: Very much so. (Laughter)

MR. LANDRITH: So, OPIM, Debbie Stephens' group, conducted a survey of the examiners. And 58 percent of them are reporting using daily. So, that's a little bit higher. What we saw in the previous slide represents the raw log files. One thing that this points to is that perhaps the 47 percent that we're seeing that are using it 4+ times a week are not necessarily the same 47 percent every week. Because somebody who, say, accessed it daily two weeks ago and then maybe three times the following week, may be saying they're using it daily, right?

So this, I think, is also very good news. Nearly 60 percent are saying that they're using it daily. The smallest category, 5 percent, is never. So, that's also very good that that is small.

This is an updated slide for the user support issues. As an aggregate, this looks very much the same as what we've seen in August. And so in order to discuss how these are trending, we've added this slide. And what this shows -- the colors are little washed out right here in this room, but you can see obviously training, registration, and logistics has dropped off since we completed training in August.

What we see is over the last month is in an increase in technical system problem reports. I think that corresponds to the increased usage. It's important to note that although, for example, we had 86 reports, those are not 86 bugs that have been found, but rather mostly people reporting about the same issue. Those are being prioritized by the patents business in order to get them into the pipeline.

None of them have been identified as critical. They're mostly tweaks here and there.

When we look at suggestions, those kind have been going up and down, but that still represents, as you can see, the largest group.

With performance, performance complaints are still almost non-existent. There's a total of 22 across all of these dates. If you look at the last one, there's a two there that's almost suspended in mid-air because the bar is too thin to see. That represents the number of performance complaints for that bye week of 10-20 to 11-3.

So, going to examiner search. We've completed the release that contains all of the search collections that are currently used in EAST and WEST. That is a huge accomplishment. That totals 189 million documents and 41 terabytes of data. That was one of the major goals of this release, and the focus now turns to performance and legacy feature parity.

So, the next step is the March release that we think solved most the performance problems. We'll continue working on performance

through release and after, as we are, for example, with the document and application viewer. Still working on performance there even though it is a highly performant product. And then the legacy feature parity is obviously going to be necessary for the ultimate milestone in December of 2016.

MR. OWENS: Unlike previous ways of doing things, our new agile DevOps model allows us the time and the tools to do continuous process improvement and continuous performance improvement. So, performance test is not left to the end anymore. It's done with every build, just like it would be in a modern company. And any variation, both positive and negative, is investigated to make sure that we keep the best performance available for the customer.

MR. LANDRITH: Yeah, that's a very good point. One of the processes that we have introduced through PE2E and what John's pushing, the agile stuff -- in older style software development, you test at the end. So that when things perform poorly, it's always bad news because you're close to a deadline.

What we do now is test it continually

throughout the process so that you always have a pulse on it. And what that identifies is, at a time when you're doing work where your priority should be. And so, that is a priority. Frankly, I think that the legacy feature parity is a higher risk right now than the performance, provided that we maintain performance as a priority.

So the official correspondence, we have the -- you'll see under next steps, what we had reported in August as being on schedule to release in September, has been delayed until November -- next week. So, this actually remains fairly aggressive. And the delays are the result of wrangling with the needs that we have to provide good automated forms to the users and how best to implement those. We've had some breakthroughs in terms of how we can implement them, and I think those are going to alleviate some of the delays that we experienced while we were arriving at that solution.

Another big milestone that we have next month, December, and the following month in January of 2015, the examiner corps will be receiving Office 2013. That's important for us

because the examiners need to be using the same version of Office as their SPEs. And the examiners are currently using Office 2010. And so, that is an impediment to us releasing something to a large set of examiners. We basically have to release it to everybody or no one, if we're going to have to install Office 2013 on a subset of examiner laptops. So that resolves that key dependency.

And then, of course, the big date, December 2016.

MR. OWENS: So, just to clarify, not only to release this product did we have to update the entire agency to Office 2013, we then had to take OACS, the current office action tool, update it to use Office 2013. And then, the new tool and the old tool have to operate on the same machine at the same time, independently without conflict, because both use Office 2013.

A little tricky. Brought in Microsoft to help us out, but glad to say we got through that obstacle. And that was part of the overall delay, and the reason David mentioned earlier, we're going with a smaller subset at first of

people to make sure that this is working well with an alpha before we widen it to a beta. That's just being a little conservative and safe on our part to minimize any complications, should they occur. Even though our testing would show that we're in good standing, we like to be safe when it comes to the core.

MR. LANDRITH: So, with the following slides, I'm going to go much faster because right now we're approaching our time limit. So, please feel free to step in and ask any questions if I'm not going over something that you want to cover.

With the content management system, we're going ahead with this to provide a PE2E-based consolidated solution for content management and resolve the issue we have right now where basically every legacy system has its own content management system. That's on track, actually, slightly ahead of schedule, but is very successful.

Data for PE2E is the ongoing process that receives applications through EFS-Web and converts them to XML for IP.

With Global Dossier, our target for

November 2015 for the release of public access via the USPTO.gov website for foreign dossiers is still on track for November. It was originally scheduled for last Friday, but it hit some hang ups and so it's on track, I think fairly safely, for this Friday. So, it's scheduled for last of this.

All right. With CPC database, as I mentioned in the introduction, we're headed forward toward CDS retirement. CPC IP office collaboration tools, also heading forward.

Assignments on the web is in very good shape. Actually, I don't know if this is the right place to mention, but it was a finalist in the ACT-AIC Excellence in Government Awards.

MR. OWENS: Along with patents, by the way.

MR. LANDRITH: With the Hague and Patent Law Treaty, we're basically at a point where it says implement deferred requirements. So, we're basically tying up the loose ends. This has been highly successful. We've met all the statutory deadlines.

AIA is in the same boat. We have some

deferred requirements, basically loose ends that we're tying up, and then this should be wrapping up following this phase.

PALM Replacement is in the same status, where we're still right now laying the foundation for work moving forward.

MR. OWENS: Okay. Open for questions.

MR. JACOBS: Yeah, so before I turn to my colleague for the 10 million patent question, this is softball probably for Deb.

So, these guys have been cheering about the 47 percent now who use DAV 4 or more times a week. But when you look at the other side, there's still 10 percent or so who either have never tried or maybe used it once, right? Now, all these people have been trained. This is a system that's been years in the works, uses the latest technology. So, what's wrong with these people, right? Do they really love eDAN? I mean, what do they say?

MS. STEPHENS: I think the answer is, as you know, the end of August, the last of the staff were trained, and that approached the end of the fiscal year. So, I think our last group

just, of course, wanted to focus on their end of year production. And so they will now be, I'll say, able to be delve into the new world.

But certainly, we've had nothing but very positive, you know, response. And we, as a business, will be engaging POPA, as well as the users, in kind of a marketing campaign this fall into spring, to get those last few users to adopt the new tool.

MR. THURLOW: So, as Paul alluded to, there's been this story going around on blogs and on the web, and so on, and the question is, I guess, is the U.S. patents IT systems ready for U.S. Patent Number 10 million? So, John and I discussed it, but please you have the floor to dispel any concerns.

MR. OWENS: Yes, we will be responding formally. We're all just dotting the I's and crossing the T's. And of course, whenever you release anything in the federal government, it's got to go through a couple of rounds of review.

However, at a very high level, in our systems -- in all of our major systems, that is not actually a number. It's a text field. So,

no one has to worry about the size of a word or a double word, in computer speak, and how big that is -- even though on a 64- or 32-bit architecture, both a word and the D word are much larger than 10 million. So, there would never have been a problem.

But ever since we integrated the X patents into the system -- X being not a number, had to be text, we use a very large text field for it -- that should not have a problem.

Now, there are some type-checking in some of our systems to make sure the number that's entered is of a certain size. That won't be part of the submission system, but some of the other systems.

Just to double check, we are double-checking those to make sure they're fine. We believe that they all are. But there is no worry on our part whatsoever at this point in time, because we know that the core systems, PALM and otherwise, and the data stores, do not rely on that number for anything because it is a text field. And the text field is more than large enough to handle it. In fact, you could

quadruple it.

So, in the time we have left, we will double check. We will put out a formal statement. But there is no worry on our part. And if Debbie would like to say anything -- it's fine, really. Lots of other things to worry about, but that's not one of them.

MR. THURLOW: Thank you.

MS. JENKINS: Any other questions? I just want to say I hope Global Dossier rolls out seamlessly, and I want to commend the IT team for trying to meet not only the internal demands of the office, but also the external demands from the stakeholder community who come at you on all different levels and ways. So, you know, keep plugging along, and keep doing the great things that you do.

I personally, am a very strong supporter of making sure our IT systems are strong, capable, and secure. So, how's that for punctuation, exclamation point. (Laughter)

MR. OWENS: Well, thank you for the support, and we are here to serve. So, thank you.

MS. JENKINS: Great. Do you have

(inaudible)?

MR. SOBON: You know, somebody who's been here for quite some time and seen these projects in their nascency -- like five years ago or so, when you were starting to talk about not only agile development, but getting proper funding, and then going through sequestration and its effects on what you did -- the level of your rebound and how much you've achieved is really quite striking. And actually shows this is where money has been very well spent for -- and provides a platform for quite some time to come for the office and for the innovation community. And so it's really quite astounding, you know, for someone who has seen and watched you as you've been pulling these things together, to actually see these things come to onto online and being working and fantastic. It's really, really incredible. And I think once you get all the pieces together, it will really be quite an achievement. So, I commend you.

MR. OWENS: Thank you very much, on behalf of the team.

MS. JENKINS: Great. Thank you. So,

next is legislative update. So, that's one minute, right? (Laughter) Dana Colarulli, director, Office of Governmental Affairs, the microphone is yours.

MR. COLARULLI: Thank you. In fact, I was standing in the wings so I could be here very quickly (Laughter), so I don't add to the delay in the agenda.

So, good afternoon, everyone. Well, the congressional season for the calendar year is winding down, although there still seems to be an uptick of discussion on a lot of the issues that we care about.

So, the subcommittee had a very active discussion yesterday. Of some of these committees, I'll go over that conversation today. So, what I'll do is I'll talk through where patent litigation reform is. That's been the topic that we spent a lot of our time here at the agency. Certainly, monitoring supporting as much as we can in support of the administration's positions. And then I'll hit some of the other issues that as the year ends, as the window for making substantive progress on some of these issues gets

smaller, there's some shift to talking about those issues. So, we'll talk about those as well.

This is a slide I've put up before. The main vehicles, both in the House and the Senate, that have been discussed in terms of patent litigation reform, the focus of which is not on the operations of the PTO, but on improving the situation on enforcement in litigation. Are there ways that we can decrease the time, increase the legal certainty, as patent rights are litigated?

So, there are a couple of alternative proposals which we've talked considerably about. Those are the same bills that are actually listed in the PPAC's annual report, as well, which we've delivered on behalf of PPAC to the Hill. And I know it will be posted here in the next week or so.

The status on patent litigation reform, a lot of discussion, efforts by both the House and the Senate to move forward. I think there's still an opportunity this year. And I know that the Senate leadership -- Chairman Grassley,

Ranking Member Leahy, Senator Schumer and Cornin, certainly have been leading the discussion -- are hopeful that they'll be able to move forward.

But legislation appears and has been stalled for a few months here. Floor action is really dependent on resolution of a number of issues. On top of that is to address some concerns that have been raised by the stakeholder community about the inter partes review proceedings.

There certainly have been a very active discussion about BIO/PhRMA and their request to exempt patents in their industries from the IPR proceedings entirely. And there have been a very concerted effort by Senate staff to develop some compromise language that could address some of these concerns, but certainly not go too far. All of these things have been covered quite extensively by the local, certainly, press, as this legislation has attempted to move forward. But has not yet, so.

The last bullet on there I have is the reverse band proposal in the context of discussion -- discussing whether bio and pharma

drugs should be exempted. The burden on Congress is to ensure that any piece of legislation doesn't cost -- doesn't provide cost to the federal government. So, the conversation was how to make this bill cost-neutral. An exemption would require the U.S. Government to spend more on drugs, says the Congressional Budget Office. So, a discussion about a piece of legislation, the reverse ban legislation -- actually banning these types of agreements between brand name pharmaceuticals and generics -- has been discussed in Congress for the last four or five years. It would actually go in the opposite direction. So, the legislative discussion was really in how to make this bill cost-neutral, if you decided to go forward with an exemption of bio pharma products.

So, that's the status. That's the current discussion. I think, as I said, there is certainly a window to move forward. If not before the end of the year, I know the members that I mentioned would love to try to move this in the beginning of next year. It becomes very difficult. Next year is a presidential election

year. Certainly, the agenda in front of the Senate and the House right now is very crowded. So I think there are certainly some challenges, but I know that those members will continue to try to move this forward.

Because I like to try to make these presentations amusing, I thought I would give you a sense of the very -- strong lobbying campaigns both on the pro and the con side of patent litigation reform.

These are three that have been posted in Politico and The Hill, Roll Call -- Washington, D.C., papers that appear on my desk every morning. You'll note, these are from the Consumer Electronics Association, which recently actually changed their name to the Consumer and Technology Association. They featured real inventors being hurt. Legislation could certainly help them. I understand both of these inventors actually were on the Hill at different points over the last few months, actually helping to lobby on these issues, and they entered into staff offices as celebrities in the newspapers in D.C.

Of course, there's been just as strong

arguments on the other side in both Politico and even the Washington Post. There two are featured from the Innovation Alliance or the Save the Inventor campaign. So, I put them just to give you a sense of some of the discussion and some of the lobbying that's been occurring, not just over the last year, but more than that here in D.C., over whether legislation should move forward, what it should like, and certainly, when it should move forward.

Let me quickly just hit some of the other issues that my team has been focused on. I know Shira's team has, as well. And Shira talked about some of the issues that we're dealing with on the international side.

Domestically, our copyright policy and even modernizing the copyright office continues to be a discussion here in D.C. The House Judiciary Committee had been doing more than a year of listening tours and hearings to review the copyright system on a number of policy issues. In that period of time, they've also discussed whether there should be some changes to structure of the copyright office. So, those are issues

that continue to be talked about here in D.C. And as folks are trying to see what's going to happen on patent litigation reform, there's a little bit more attention and different stakeholders looking at these issues.

There's also discussion about implementing the two treaties that the U.S. signed now a couple of years ago on Marrakesh and Beijing -- that's the treaties for the visually impaired and on performance rights. So, we're hopeful that at least a discussion on this last one, on the treaties, that the administration will be able to forward language to actually implement the treaties to implement them under U.S. law, and the changes that are required here in the next few months.

Trade secrets enforcement and legislation. There's been legislation the last couple of Congresses. This is legislation that generally the administration has supported. I think you'll see an uptick -- we've already seen an uptick of interest, certainly from Senators Hatch and Coons, to move this legislation this Congress to create a federal right of trade secret

enforcement -- the misappropriation of trade secrets. To make sense of the patchwork of state laws that currently govern this area, a federal right would be an additional tool that intellectual property owners could use. I think you'll see some more activity there.

We're continuing to get questions and oversight, as should be expected, of the offices' workforce management. There was scheduled a hearing in front of the House Oversight and Government Reform Committee earlier this year on IG reports coming out from the PTO, along with others from DOC. That was postponed, but I would expect us to go up to the Hill again the beginning of next year and talk through some of those issues.

Mentioned the regional offices and our regional engagement. You heard from two of our regional directors. Regional offices create a great opportunity certainly for us to reach out to our congressional delegations. And they've all been very, very supportive. The Dallas congressional delegation and the local state delegation was very, very supportive, just

recently. As was the Silicon Valley.

I commented to Christal Sheppard that when we opened the Detroit office, I think that was the largest number of congressional members that we had. So, she can certainly claim that. But going forward, I expect all those members to continue to be very engaged. And certainly, we're watching our FY '16 appropriations process and hopeful that the CR will turn into full year appropriations. And I'm sure Tony can comment more on that.

So, I'll stop because I don't want to take up too much time, but I'm happy to answer any questions.

MS. JENKINS: Questions? Who will give questions?

MR. THURLOW: So, Shira --

MR. COLARULLI: Shira.

MR. THURLOW: It was very kind that we discussed yesterday, TPP, so I'll just state again the obvious, that any information on that would be helpful. There's a feeling that the patent reform has stalled, as you said, so there's a lot of interest in the trade secret legislation.

And all that stuff you're obviously aware of from our discussions yesterday.

Just going back to the off-ramp provisions that we discussed yesterday, and based on what Nate said earlier, it just seems like this whole -- there's a drive to do this off-ramp and get the CRU involved to allow amendments in the PTAB process. And based on the numbers provided by Nate this morning, I just don't know -- I know a lot of people are pushing for it, but it just seems to me instead of a parallel proceedings, we would have trilateral proceedings between district court, the PTAB, and the central examination unit, which from a system standpoint may be problematic. So, I know a lot of people are pushing for that, so continue the investigation, but it just seems to me a lot going on.

So those are my comments.

MR. SOBON: I will only make a counter comment to that which is, you know, the problem with taking too much account into the data, that the chief judge made this morning, is that it can be self-fulfilling, the fact that a lot of people

facing an IPR may have thought that it was hopeless to amend or very, very difficult, may have caused an increase in settlement rates and/or just not attempting to do it because of fear that doing so could actually hurt them.

So, part of it is maybe just further education. I think we need a lot more evidence about this. But I know the people -- the perceived view was it was very, very difficult to get amendments in the office in the process and so, you know, I think maybe people said, why try? So, there's that issue.

MR. LANG: I'll just speak briefly in defense of the off-ramp. I think, in some ways, it's a capability that's there already. It just doesn't have -- you know, it takes away the ability of the PTO to stay (inaudible). You know, compare it a more liberal amendment regime, you know, I think it's better to have new claims. Modified claims are going to merge from the office if they do so after examination, rather than after, you know, a process run by judges.

MR. COLARULLI: Thanks.

MS. JENKINS: Dana, sorry you didn't

have more time. We'll make up for it next time.
How about that?

MR. COLARULLI: No worries.

(Laughter) Thank you very much.

MS. JENKINS: Tony, you're next.
Thank you. So our final report, Tony Scardino,
chief financial officer.

MR. SCARDINO: Saving the best for
last, huh? All right. Sorry, Dana.

MR. COLARULLI: No worries.

(Laughter)

MR. SCARDINO: All right. As usual, I
will be quick because I'm from New York, and I know
that I'm the last thing standing between now, us,
and the public hearing on fees, which is near and
dear to my heart.

So, I'd like to recap FY 15, '16, and
'17, and then I'll touch on the fee hearing later
today.

You'll see here that our fee
collections came in just about what we told you
at the last quarterly hearing -- last August I
guess it was. So in total, at the aggregate
level, all \$3 billion for PTO, close to 2.7 for

patents. That's \$420 million less than what was appropriated to us, which was nice in case we'd collected more. Of course, we could dip into the fee reserve fund -- didn't have to do that for this year. But we would have obviously preferred that we collected a bit more.

You'll see here a breakout with prior year operating reserve, as well as fee collections and some other income. We had total available income exceeding \$3.2 billion, and we spent 2.8 billion and change. So, we dipped into the operating reserve, and we now have an operating reserve of \$402 million since FY 2016 started last month.

Moving to '16, of course, you know we are on a continuing resolution until to December 11th. The Bipartisan Budget Act was signed by the President, which does a couple of things for us: One, it eliminates the need for sequestration this year, which is very positive this year and next; as well as it lessens the chances for government shutdown, but doesn't completely eliminate them, of course. It may not be the funding levels that could cause something

like that, but that's beyond our control. If we did have a government shutdown, though, again, I can't say whether we will or not, but we're just saying if we did, we would dip into the operating reserves like we in 2014. So, yeah. So, we would stay open.

And regarding the '17 budget, we are still working with the Administration on the proposed budget that you reviewed back in August. We will get something what's called "passback" right after Thanksgiving, which is kind of OMB's decisions on where our 2017 budget should be. And then we'll revise our budget accordingly and send you a draft with comments due in January, so we can submit a budget to Congress the first Monday in February.

And that budget for '17 will include any proposed fee adjustments that we'll be discussing later today in the fee hearing, which, as I discussed, this fee hearing will require PPAC to provide us with a written report. We're asking for that back to us probably next March timeframe or so, because based on the comments in the report, we can finalize our fee proposals and then

publish a notice of proposed rulemaking later in the spring of 2016. The proposed effective date of any new fees, of course, wouldn't be until at least January 2017.

Any questions or comments? Yes, Wayne.

MR. SOBON: Yes, it may be what you may present later on in the hearing this afternoon, but it looks like roughly \$100 million shortfall you have for FY 2015 in patents. Are there any key themes or key areas where you see that shortfall attributing to more than other areas? You know, is it maintenance fees? Or is it -- where in your estimations do you think -- have you answers of where that \$100 million went?

MR. SCARDINO: It's actually both. Filing fees, you know, we've been seeing in the past several years, increases of four to five percent. When we initially prepared our budget for 2015, we were proposing or predicting a 6 percent growth in filing rates, and it was really closer to 0 or maybe even a little negative. Some of that, of course, was RCEs and some of that was

serial applications. But also maintenance fees were just a bit down as well.

MR. SOBON: I guess, a related question. Just maybe on behalf of Christal and the discussions about the branch offices. You know, they're doing a lot of great and increased demand on outreach. All that requires budget and travel, and work. I just want to hope to make sure they get the money they need to do that kind of really valuable work, because I think that really makes what their mission is actually effective on the ground. So, I just wanted to ask the question or just put the point out.

MR. SCARDINO: No, couldn't agree with you more. In fact, we're building that into every year's budget. Now that we have four regional offices, which we've never had before, we need to obviously support them and sustain them.

MS. JENKINS: All right. Anyone else? No, no? Well, I know you're going to stay around because we have more on the agenda. But right now, I would like to thank everyone. Great session. Sorry we didn't have more time, but you

know why. And we need to transition the room. I'm going to move to close the meeting. Do I have a second?

MR. SOBON: I second.

MS. JENKINS: Great. Thank you. So give us a little bit of time. We just have to move some people around. And we're going to start, hopefully, Jennifer, 2:00, 2:05. But please stay and don't go far.

Thank you.

(Whereupon, at 1:52 p.m., the
PROCEEDINGS were adjourned.)

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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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