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Other Participants:

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MARTIN RATER

DON WATSON

KAREN YOUNG

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MS. MAR-SPINOLA: So let me start this again, sorry. Good morning. This is Julie Mar-Spinola, Chair of PPAC. Welcome to PPAC 2020, our second quarterly meeting for the year. As always, I'm excited to be here, albeit it in Brady Bunch format. And I look forward to having a robust and informative meeting today.

This will be our very first meeting held remotely. We will endeavor to run it as smoothly as possible with the support of the USPTO's conference services' team, Richard Montgomery and Christian Incognito, cool last name. And as with all our past meetings, a text feature on WebEx is enabled and available for our external stakeholders to submit questions, which PPAC Vice Chair Jennifer Camacho will monitor and convey questions as appropriate.

In addition, feel free to send us questions through our PPAC mailbox. The address of which is PPAC@uspto.gov. Again,
PPAC@uspto.gov. And Jennifer Lo will also forward questions to us throughout the meeting.

For the sake of efficiency and to ensure that each of the presentations will be complete, we will hold the questions to the end of the presentation. I will start today's meeting with a roll call of our PPAC panelists who will introduce themselves and their affiliation. So, Barney Cassidy? Barney, you're on mute.

MR. CASSIDY: Hi. This is Barney Cassidy. I'm calling in from my home office in Seattle. I'm delighted to be here, and I will go on mute.

MS. MAR-SPINOLA: Thanks, Barney. Dan Lang?

MR. LANG: This is Dan Lang, also calling in from California. Dan Lang, PPAC.

MS. MAR-SPINOLA: Jeff Sears.

MR. SEARS: Hi. This is Jeff Sears calling in from New York City, PPAC.

MS. MAR-SPINOLA: Jennifer Camacho.

MS. CAMACHO: Hi. Jennifer Camacho,
MS. MAR-SPINOLA: Mark Goodson. MR. GOODSON: Mark Goodson, Dallas, Texas, PPAC.

MS. MAR-SPINOLA: Steven Caltrider.

MR. CALTRIDER: Helps if I take myself off mute. Steve Caltrider, joining you from Indianapolis, Indiana, PPAC.


MS. DURKIN: Good morning. Tracey Durkin, member of the PPAC. Joining you from Alexandria, Virginia.

MS. MAR-SPINOLA: Catherine Faint.

MS. FAINT: This is Catherine Faint, PPAC, joining you from the Maryland suburbs.

MS. MAR-SPINOLA: And Kathleen Duda.

MS. DUDA: Kathleen Duda, joining you from Virginia, a POPA member of the PPAC.

MS. MAR-SPINOLA: Good morning, everybody. And now may I turn the meeting to the Director, Andrei Iancu.
MR. IANCU: Great. Thank you, Julie and good to see everyone, see being in quotes, but I see little images of you on my screen. And a question is being asked all across America, can you hear me? Yes, very good. Thumbs up. Very good.

As Julie mentioned, this is our first all-virtual PPAC public meeting, and despite this new way of doing business it really is great to see everyone online. I am coming from my home office as well. As you know, the USPTO is working entirely remotely as we speak. I hope that you and your loved ones are in good health at this time.

Let me start by expressing my deep sorrow for the passing of former USPTO Director Q. Todd Dickinson earlier this week. Todd was a giant in the world of IP and a mainstay in the IP community for several decades. He was also a dear friend of mine. I, the USPTO, and the entire IP community will miss him terribly.

And last month we lost another former
great head of the USPTO, an intellectual property thought leader, Gerry Mossinghoff. These two prominent Americans dedicated the better parts of their lives to intellectual property and public service. The USPTO and the United States are stronger and better today because of their service.

So let me turn to today's meeting now and I want to thank you PPAC members, USPTO employees, and the rest of you who are with us here today. During this unprecedented and challenging time we continue to press forward doing our part to support each other, to serve the public, and to promote U.S. Commerce. Indeed, the partnership between the USPTO and PPAC is more important now, than maybe ever before in our joint history.

I also like to acknowledge our incredible patent employees who continue to perform their jobs with the highest level of professionalism and energy. Indeed, since this is actually public service recognition week, I want
to commend all of the USPTO's employees for the incredible work that they are doing in support of our motion to foster innovation and economic competitiveness.

Others also recognize the hard work and dedication of our employees as well. For example, in a recent letter to the USPTO members of Congress from both chambers and from both sides of the aisle commended our work during the pandemic. They wrote, for example, "We applaud the measures the USPTO already has implemented to adapt to these unprecedented circumstances that provide relief to and ensure the safety of its employees and those who appear before the USPTO."

The efforts of our employees offer reassurance to our stakeholders and the public and enabling inventors and entrepreneurs to make progress with their work even during this time of difficulty. As you know, we have been on mandatory telework since March 23. Effectively closing our campus to all but personnel whose physical presence on campus was deemed essential.
Since then, virtually everyone has been teleworking and will continue to do so until further notice. Because the USPTO has already had a substantial number of employees that telework full time and many others who do so part time, this mandate to go on mandatory telework does not put an enormous strain on our agency. In fact, we were able to ramp up our new full time telework workforce quickly and efficiently.

For those employees who are not fully telework ready, we were able to deliver equipment to them within a short period of time so that every employee was able to continue to work effectively from home. Additionally, these has been an expansion of regular working hours for employees enrolled in the increased flextime policy program to allow them to work any time from 4:30 a.m. Until midnight. This gives our employees more flexibility in balancing their family and work responsibilities as they see fit.

We have found that the production of our patent examiners has remained steady, and in some
areas, production has actually increased during
the weeks we have been teleworking. This is a
tribute to the professionalism of our employees
throughout the agency. Thanks to all of these
efforts the USPTO remains open for business,
supporting our stakeholders and the public more
broadly, an especially important achievement
during this challenging time.

In addition to continuing our
examination and adjudication of patent and
trademark applications seamlessly, let me share
with you a few examples of the many other ways we
have been maintain business as usual at the USPTO
during these most unusual times. On April 23, for
example, we published a significant report
highlighting how actions the USPTO took in the
wake of the 2014 Supreme Court Decision Alice v.
VCLS Bank have brought greater predictability and
certainty to the determination of patent
eligibility in the technology areas most affected
by the decision.

And the results of these actions taken
by the USPTO have been, actually, remarkable. We have heard anecdotally from both examiners and applicants across the spectrum of technologies that our guidance issued last year greatly approved the Section 101 analysis. The chief economist's report now confirms this general perception, especially with its critical finding that uncertainty with respect to Section 101 examination decreased by a remarkable 44 percent.

These findings make it crystal clear that our Section 101 guidance works and largely addresses the confusion of the recent years in this important area of patent law. But we are only once branch of government, I ask all involved in our treasured patent system to come together and solve, once and for all, this fundamental issue. We have shown that the issue is, indeed, solvable.

We also recently made patent center beta available to all users. Patent center beta is a new tool for the electronic filing and management of patent applications in a single unified
interface. It provides increased functionality, better overall ease of use, and an enhanced experience for applicants, including approved processes for patent application submissions, review, and management. And in further IP use, several weeks ago we launched an artificial intelligence portal on our website. Likewise, we launched a hub on our websites for our various efforts to expand the innovation ecosphere. I urge you to check both of them out. Last week we officially launched the PTAB’s Legal Experience and Advancement Program known as LEAP. LEAP is designed to foster a development of the next generation of patent practitioners by creating opportunities to gain the property skills and experience in oral arguments before the board. The USPTO understands that stand up speaking opportunities before tribunals are limited, especially early on in ones' career, and that gaining courtroom experience is advantageous for practitioners in their career development. Plus we will have several training sessions for
LEAP practitioners for all details, including training sessions. Please check the LEAP page on our website.

Over the last few weeks with the support of several collegiate law school program, we also hosted five regional rounds in the national finals of the National Patent Drafting Competition, a contest that introduces law students to issues arising in U.S. patent law and helps develop their patent application drafting, amending, and prosecution skills. And we did this virtually.

And speaking of law school students, we know that some of their summer programs may have been disrupted this year. As a result, we have just announced an intern program for those who are able and would like to gain some invaluable IP experience this summer. Please take a look at our posting in that regard.

We are also supporting our stakeholders in other unprecedented ways. In accordance with a temporary authority provided by the CARES Act, signed by President Trump on March 27, last week
the USPTO further expanded to June 1 the time to
file certain patent and trademark documents, and
to pay certain required fees which otherwise would
have been due between March 27 and May 31. This
is in addition to the prior extension to USPTO had
announced on March 31. The extensions apply to
most, but not all, patent filings and some PTAB
filings. We have posted guidance, including FAQs,
on our website. I encourage you to look at the
guidance and the FAQs to see the details,
including what is and what is not covered, and how
you might benefit from this relief as stakeholders
and filers.

Yesterday, in other news, we announced
that we are now allowing the electronic filing of
plants patent applications. And on Monday, we
unveiled a new web-based, voluntary intellectual
property marketplace platform which we call
Patents for Partnerships to provide the public
with a user-friendly, searchable repository of
patents and printed patent applications related to
the COVID-19 pandemic that are indicated as
available for licensing.

And in March we waived the remaining
original handwritten ink signature requirements of
the USPTO. These are just some of the ways we are
supporting the public in these difficult times.
The coming weeks and months are likely to continue
to be trying for all of us, so we will continue to
monitor the situation carefully and assess the
needs for any further actions. In the process, we
want to hear from you, our stakeholders, and ideas
that you have for mitigating the fallout from this
global health and economic crisis.

We know that we can always rely on PPAC
for thoughtful advice and counsel, and for your
attention to stewardship, especially of our
patents' budget which in turn, helps us to ensure
that the USPTO's patent's organization has stable
funding to meet our stakeholders' needs. The last
time PPAC met for a public session there was
discussion of a number of important initiatives we
had hoped to complete this year, including
stabilization of our IT systems. We remain
committed to achieving these goals, but certain
expenses may be deferred in favor of maintaining
fundamental functions.

Such fundamental functions include the
continued provisional of timely and high-quality
service and the stabilization of the legacy IT
systems that we rely on every day to do our jobs,
and that our stakeholders rely on to do business
with the office. Plus, we will continue with some
of our most important projects. For example, we
continue our work on artificial intelligence. We
have recently received valuable feedback, 97
comments in fact, in response to our request for
comments on the impact of AI on IP policy. You
can find them on our new AI web portal that I
mentioned a few minutes ago.

We're currently working on reports on AI
and IP policy which will bring together these
comments, as well as feedback we received at the
AI policy conference, we had last year. And there
is so much other work we are doing, some of which
you will hear about throughout today's
presentations. In short, at the USPTO, we continue to focus on our core mission of fostering innovation, competitiveness, and economic growth, both domestically and abroad. This is critically important, especially at this time because inventors and intellectual property promotes the well-being of all Americans.

Even in the midst of a global pandemic, indeed, perhaps, especially in the midst of a global pandemic, investors, as they always do, will create new technologies that will help us overcome new and unprecedented challenges. As President Trump states in his World IP Day proclamation just a couple of weeks ago, "The importance of intellectual property has never been more apparent than it is now, as we continue the ongoing battle against the Coronavirus." And the President continues, "Relying on strong intellectual property protections, industries are able to act boldly to invent new tests, begin developing experimental treatments and vaccines, and rapidly produce and reengineer medical
equipment to help win this war."

With World IP Day just behind us, we should take a moment to recognize all inventors and entrepreneurs, and to appreciate the innovations all around us that make our lives happier, healthier, and better in so many ways. Let me end by thanking the PPAC members once more for your hard work and dedication. The longstanding partnership between the USPTO and PPAC is extremely important. And your insights and guidance on a number of issues continues to be invaluable. We're looking forward to and relying on your sustained support in collaboration in the months ahead. Thank you for your service on the committee.

Now, Julie, let me turn things over to Commissioner for Patents Drew Hirshfeld who will update you on the patent systems unit. I'm also very happy to take questions, but I understand from your remarks just a few minutes ago, Julie, that questions will have to wait until the end, but it's up to you.
MS. MAR-SPINOLA: Yes. What I meant, sorry for that, is at the end of each presentation. So we have about five minutes to take questions for you now. Before we do that though, I need to apologize because I neglected to also introduce Jeremiah Chan from PPAC. Jeremiah?

MR. CHAN: Thank you, Julie. Jeremiah, PPAC. Calling in from California. Happy to be here today.

MS. MAR-SPINOLA: Thank you and sorry about that. So let me open this to any questions for the Director. Let me see. Let me start out with, first, thanking the Director and saying how impressive the USPTO has been. I think my PPAC colleagues will agree that it is amazing, given the pandemic, how reactive and proactive the patent office has been in doing so much more than even what you have listed in your introduction, Director. There are so many things that come to light because of the pandemic, and simple things from wet hand signatures for documents or extensions of time. These are things that I think
externally we think, okay, this is very simple to do and you make it look simple, but we know from PPAC that it does take -- there's a certain process in place to do that.

And the extensions of time clearly impact the Office's operations in terms of the revenue, but you're acting on that as well. PPAC supports that and we believe that everything that you're doing is at the speed of business, at the speed of operations. We invite the public to make proposals, as you suggested, and for that we thank you. Appreciate it.

I have Jeff Sears. Jeff, do you have a question, please?

MR. SEARS: Yes. Thanks very much, Julie. Thank you very much, Director. Really wanted to commend you and the Office for the continuity of operations during these uncertain times and for the relief you've given to applicants in light of these uncertain times. My question for you is this, has the Office had any communications with foreign patent offices or
foreign patent authorities like WIPO or EPO to
discuss the types of relief that might be
available to give to applicants?

MR. IANCU: Yes, indeed. Thank you, Jeff, and thank you, Julie, for the kind comments and remarks. Before I get to Jeff's question, again, I continue to be incredibly impressed and amazed and I congratulate all PTO employees for the amazing work they do. I often comment, but this is really applicable to our PTO employees across the board that they are like ducks swimming in water, you know, doing a lot of work peddling under the water, but it appears seamless on top and to those watching. And that's, indeed, the way our operations have turned out due to their incredible work.

Yes, Jeff, we are working very closely with our colleagues across the world. I have had communications, direct communications with the heads. One-on-one calls and meetings of major offices including the EPO, JPO Japan, KIPO in Korea, and the like, and we're exchanging
thoughts, ideas, practices. In addition, WIPO has been having biweekly calls with the various major offices around the world, so we're staying in touch.

WIPO just posted a couple of days ago a tool on their website which lists the measures taken by the various offices around the world. So if somebody wants to see, for example, what the UK IPO has done, for example, in terms of extensions or other relief measures you can go directly to their website if you want, but you can also go to the WIPO website and the information is collected there. The USPTO info, of course, is listed as well.

MS. MAR-SPINOLA: Thank you. Thank you, Jeff, for the question. And I see a question from Jennifer Camacho.

MS. CAMACHO: Thank you. I have a comment to offer and an (audio drop). And I think we've also just gotten a question in from the public that I'd like to pose to you. So the comment I wanted to give you was that being in the
life sciences area in the (audio drop) area we have very active venture capital-based startup in the life sciences industry.

I and some colleagues as well have noticed a tremendous amount of collaboration and very innovative partnering spirit that have come out of the COVID pandemic among the life sciences, not only with the startups, but with the larger public pharmas and between the two. So, it's actually quite impressive, it's something that I haven't seen before and a sense of urgency and very much a partnering type attitude.

And I observed that but for the IP, the patent availability in the U.S., many of these startups wouldn't have been funded. They wouldn't have gotten investment. And that investment is what allowed them to get to the point where they're (audio drop) actually to develop such that they can partner it out. So, they've been able to bring very cutting-edge technology to a point where they are now able to actually partner with the large pharma or among themselves and join the
race to both vaccines and treatments for COVID. So, I offer that observation for whatever it's worth.

And a question then for the public which is a little bit of the flip side of that which it indicates, "Several members of Congress have proposed to eliminate patents on drugs and therapies for COVID-19. Can you comment on the implications of that policy proposal?"

MR. IANCU: Well, I haven't seen any concrete bills that expressly say those things and I couldn't comment on pending legislation anyway without significantly more detail. But just addressing the concept in general, let me refer once again to what the President said in his World IP Day proclamation. That the importance of IP has never been more apparent as it is now as we continue the ongoing battle against the coronavirus.

So as a general principle, innovation is critically important to addressing all sorts of problems and issues and improving the human
condition. And intellectual property protection is critically important to incentivizing and protecting and enabling that innovation.

MS. CAMACHO: Thank you.

MS. MAR-SPINOLA: Thank you. Thank you for that. So, let's move on to the next topic which is COVID-19 patent process impact and let me introduce or actually he's been introduced by the Director, but Commissioner Drew Hirshfeld.

MR. HIRSHFELD: Thank you, Julie.

Hello, everybody. I'm going to talk on a much broader topic than anything related to COVID. I will address some of our mandatory telework but would like to go much broader than that as well. I'll get into many of the initiatives and priorities that I have moving forward.

Let me start off by thanking PPAC for having this meeting. As we all know, this is entirely virtual. It's the first time we've done that. I think it's wonderful to continue the meeting and the discussions, as Andre said a few minutes ago. Thank you, PPAC for all of your
service and you also should be commended in public
service week as well as what you're doing in this
role. So, thank you to everyone for that.

I will tell you first-hand that the PTO
is continuing to function extremely well. And you
heard from Andre, many of the initiatives and
progress that we've made, and I will address some
others as well. Before I do dive into those, I
want to just share in the words that Andre
mentioned earlier about Todd Dickinson and Gerry
Mossinghoff, you know, his words that we're all
better off because of their work is certainly very
true and I wanted to share those sentiments as
well. So, thank you to Andre for saying that.

I know that if you're in the
intellectual property filed, you are aware of
those two gentlemen and what they have done for
all of us. And we all have great respect for them
as well.

Let me start off my remarks with just
some personnel updates. We've had a number of
changes since our last meeting. These changes
that I will address were all effective on March 1, so just some short time ago. And let me start with Valencia Martin-Wallace who has been deputy commissioner for patent quality. Has now been reassigned to the role of deputy commissioner for international patent cooperation. She is taking the role that Mark Powell has filled for so many years. Mark actually stood up that position, and so now Valencia is moving into that.

Mark, by the way, is continuing to remain as a senior advisor in OIPC. And thank you to Valencia (audio drop) the role. And thank you to Mark for all your wonderful work in setting up that office and helping to create something we're all very proud of and making now Valencia's job even easier as she transitions into that role.

Of course, when there are changes, there's always changes behind people as well. So temporarily filling Valencia's role as acting deputy commissioner for patent quality is Dan Ryman who is on this call as well. And I think many of you have had the pleasure of meeting and
working with Dan. So, thank you, Dan, for agreeing to temporarily take on that role.

And then, of course, filling Dan's role.

Dan was the associate commissioner for patent quality. Filling his role is Robin Evans who has had a variety of roles, is a group director, and she is taking on a detail to the acting associate commissioner for patent quality. And I know she's doing a wonderful job. So thank you to Robin for taking on that role as well.

Let me transition now to a quick discussion of the mandatory telework. As Andre mentioned, we are, of course, USPTO under mandatory telework. Since everyone started their discussion and introductions with saying where they are calling from, I'm in Reston, Virginia. I'd like to say I'm in my home office, but if I'm being really transparent, I'm in my wife's home office. So unfortunately for her, we now have to share this space, but we're making that work out no problem, as well.

So anyway, mandatory telework, as I
mentioned and as Andre mentioned, I think we've
done a fantastic job, quite frankly, at PTO
transitioning to the telework. The vast majority
of our employees do have some form of telework or
hoteling ability so most of them were set up. It
was only a relatively small number of people who
needed to get trained and needed to get the
equipment when you look at the vast majority of
people at PTO. So for numbers-wise we probably
had a thousand or slightly over a thousand who
needed to get some additional equipment, and then
the vast majority of folks, again, we have over
8,000 examiners do already telework in some way,
shape, or form either full time or part time. So,
the transition for them is very easy.

I will say that the examiner job which
is, of course, at the heart of what we do in
patents is completely doable at home. You can do
everything at home with the equipment that you can
do in the office. That's one of the reasons it
certainly lends itself to work at home.
Additionally, since we are on a production system
which I know we've discussed about many times over
the years with PPAC, we can, obviously, measure
and monitor employees' work. So, whether they're
working on campus or whether they're working at
home, we do have biweekly production reports that
every examiner gets, and every supervisor gets for
their examiners. And this is a good way to be
able to track and maintain work.

As you heard from Andre, our work during
this time has been extremely steady during the
mandatory telework. Quite frankly, to be honest,
steadier than I thought it would be even. As we
are going here, our overall productivity when you
compare to last year is actually slightly higher,
as Andre mentioned earlier. Now, if we look into
the reasons for that, of course, one it is because
of the ease with which in the big scheme that
we've transitioned to the mandatory telework. But
it is also we are seeing this phenomena that many
businesses and probably most businesses throughout
the country and even world are experiencing now
with people more at home and not being able to
take vacation time, etcetera, we are seeing more
work hours be put in, of course, because people
can't take vacations and aren't doing so. So, I
think part of the uptick in time that we are
seeing is, of course, due to that reason. But,
again, examiners should be commended because they
are continuing to do their work and functioning.

For many people, it wasn't a huge
transition and for those that it was, I commend
them for taking on that challenge and continuing
to work and find a way to get their jobs done. I
think we all recognize that there's hardships
throughout and they impact everyone differently.
And I'm very honored to be a commissioner for
patents and see the great work that people have
done.

And I've spoken mostly about examiners,
but I will also share in Andre's words about the
rest of the USPTO. Many people who are involved
in this call, but also on a wider view have done a
great job to get information out that we need
whether it's information for employees,
information for the public, things that we can do
to make peoples' lives easier. It has been across
the board a really good job and, knock on wood,
for all of that. I'd also like to particularly
mention IT because people like me are literally on
IT WebEx meetings almost the entire day and it has
been almost a seamless transition. Kudos to our
IT staff for making sure and enabling that that is
workable for all of us because it has been
extremely good.

So, let me move forward and talk about
some areas that I am focused on moving forward. I
certainly do not want to make all of the
discussion about the mandatory telework and let
you know that there is much that is still
continuing to go on at USPTO, as you heard Andre
mention earlier. I'll mention four areas and,
quite frankly, these should come as no surprise
from me or any other commissioner, for that
matter. But I will mention some words on quality,
pendency, of course, employee development, and
I'll, again, mention some IT developments that we
have.

So, let me start with patent quality and mention that patent quality and the work of our examiners and what they do is always at the top of my list of things to focus on, and it would be much too much to talk about all the initiative we have going on. Suffice it to say, I've been very focused over the years on training, but I wanted to look forward and discuss some topics moving forward. Before I do, however, I just wanted to mention that this afternoon or shortly, you will hear a presentation about a public perception survey that we give, I believe, twice annually. And I guess I'll spill a little bit of the beans. Sorry to the folks who are going after me. I'm taking a little bit of their thunder away, but we're seeing really good results from the perceptions of the public of our quality at USPTO. There will be more to follow on that, but I'm very honored that perception survey continues to show improved results over the years. And, again, you'll get more of that
I also wanted to mention the changes that we have been engaged in over the last couple of years that are in a phased implementation of changes to the examiner time that they have to do their jobs. I mentioned the production system, changes to the examiner performance appraisal plan which is, of course, the performance appraisal plan that every examiner is judged by and controls, basically, how they do their work, and, also, changes to the way we route applications to them.

I know we have given PPAC a detailed discussion of each of those. I'll touch them again high-level, more from the standpoint of letting you know that these changes are in-process and will continue, and the full implementation, as we stated earlier, will be October 1 for all of these changes to be fully implemented. And we still are on track to do so and I have every expectation that we will make these goals, notwithstanding any of the changes
that we've gone on with telework, so that will all continue.

Let me just summarize each of those changes as a reminder for all of you. The examiner time changes basically make a variety of changes to the time the examiners have to complete the work that they're assigned. I've mentioned the production system a number of times. Quite frankly, the production system has been in place for a long time and there were many areas that were out of date and needed to be changed. Some of the changes are technology-based, based on the classification of the application, most of these changes in time will be effective on the October 1 date coming up that I just mentioned.

We've additionally made some changes by making the time of each application more directly relate to the attributes of that particular application. So, if there's a certain number of claims the examiner may get more time or less time, dependent on how many claims there are, depending on the size of the IDS that was filed,
etcetera. So, again, I won't get in to too many
of the details, but we have this last October put
into place a system that enables the time for each
case to be more appropriate for the particular
application, and the specific attributes of that
application.

I think that these two changes are very
important to time to make sure that we can do the
highest quality job for any particular case. So,
I'm discussing the time changes under patent
quality because I think that that is a very
important change as well.

The performance appraisal plan that I
mentioned, these changes will be in effect come
this October. We are in the process of starting
to prepare and roll out the changes to examiners
in terms of training so that they all know what is
expected of them. Suffice it to say that two
areas, and again, I can't do it justice in short
remarks, but two areas that are really going to be
of focus in the new performance appraisal plan,
one is the examiner search and making sure that
the search is done thoroughly and completely.

And so, the plan does emphasize the
examiner search a great deal to make sure the best
art is in the case. I think we can all recognize
that that is a foundational piece and if the right
art is not in the piece or if it's obtained later
on there are, certainly, problems that arise that
would not arise if we had those initially. So, we
will continue to focus on research and that will
be emphasized greatly in the new performance
appraisal plan. Another area, and this should be
nothing new that I'm talking about, is elements
about making sure that there's a complete and
clear prosecution record. The new performance
appraisal plan does a much more thorough job than
the older plan about setting forth a roadmap for
examiners to have the best office action. It
tells them what we look for in an office action,
what needs to be clarified in the record so that
we can create a clear prosecution record. Those
changes, I think, are at the heart of the new
changes. They're not, of course, the full changes
that we have. There is more that is in there, but they are certainly big changes of the performance appraisal plan.

And then I just wanted to mention the application routing. As a reminder, this is a system that will permit us to electronically route, automatically route applications to the examiner. And what's great about this, I know it doesn't sound exciting so far, but it actually is to those of us at USPTO. What we'll actually be able to do is have a profile for every examiner based on the actual work that they've completed.

That profile will be based on the classifications and the cases they worked on. And then every case will have its unique profile, every application has a unique profile, and we'll be able to match the profile so that we can automatically see the right examiner for any particular case. And we can docket that case to the examiner who's best suited to do so. So, this system will certainly help us ensure that the right applications get to the right examiners and
help us move forward.

So that's what I wanted to mention on the quality front. Switching to pendency, you will also have a discussion later on today about pendency. So, I will leave most of the discussion to that which will occur shortly. I did want to mention that we have discussed with PPAC that we have been looking to change the main way that we look at pendency. And what I mean by that is historically, we've been looking at traditional first action pendency and total pendency averages, so what's the average time to a first action, what's the average time to complete prosecution? That has been our historical measures for as long as I can remember at PTO.

What we are transitioning to, we're certainly not going to completely get away from average pendency, but what we'd like to actually have a greater focus on is the patent term adjustment timeframes that are in our statutes. And these, of course, set limits on when we are supposed to be getting office actions and work out
by PTO, and if we don't meet those time limits, we
give patents an adjustment time, or potentially
give that time.

And so, we think a greater measure of
certainty for everybody is to reduce the amount of
patent term adjustment and make sure we're within
those timeframes. So, you will see a continued
focus on that. We have set goals, I believe since
the last PPAC, to be what we are saying 90/90 by
2025. And what I mean by that is we want to be 90
percent compliant with all patent term adjustment
timeframes by 2025. And the reason why I said two
90s when I first said it is, we want to talk about
90 percent of the cases that are mailed and 90
percent of what's in our inventory that has yet to
be worked on. And that way, these 90/90 numbers,
both of what we are working on in mailing and both
of what is in our inventory we believe (audio
drop) and reliability to patents because we're
really minimizing the patent term adjustment that
we're giving out.

So, I mentioned employee development as
a third topic I wanted to talk about. And I would just like to point out that there have really been two areas which I've been focusing on and really would like to continue, and expand focus on, and have plans to do so. Those two areas really are people transitioning into management. So, for the patent's organization it's mostly, not entirely, but mostly our senior examiners, our primary examiners who are considering management.

And the second area I've been focused on are the senior executives and these would be people who are SESers, if you know that terminology, but senior executive service people to make sure they're getting well-rounded development and opportunities for all of them. So those are two areas that I've been very focused on, and I'm continuing to increase the focus on this.

With the new people considering management we've developed a program as USPTO called the aspiring managers' program which I'm very proud of. It's a program where we take
people who are considering entering into management and we give them some accommodation of training, we give them some shadowing opportunities, we give them a mentor who is a supervisor to work with. And we expose them as much as we can to management.

And we've run a number of sessions. It is, of course, a labor-intensive because it's not all classroom, so we've run a number of sessions, and we usually have about 30 slots for each session, and we've had sessions that have had well over 300 people apply for them. So, you can see how limited they are. But the feedback I've gotten at every level from everyone has gone through has just been remarkable.

I think it's a really good program to help transition people into management. I will tell you that I remember when I first got into management, and it's quite the shock of changing from a non-management position to a management position, and this is geared to make sure that people are ready for that change and are able to
take it, and it's been a rousing success.

As far as the senior executives go, I am very actively trying to look for opportunities to widen the scope and development of the senior executives. I mentioned in my opening remarks about some of the changes we've had, the Dan Ryman, Robin Evans of the world who are taking on new roles. We've been very active in making sure that those opportunities are available.

We actually have somebody now, Gladys Corcoran, who's the chief communication officer. We've recently had someone who worked in procurement, and we are continuing to have those roles. And I think that getting people exposure to a variety of positions, again, helps widen their horizons and I think will help their development as they continue on.

I will end my remarks. Before I open up for any questions or comments, we have a quick couple notes on IT development. Andre mentioned artificial intelligence, we are very excited about that. I don't need to add to his remarks, other
than the fact that we are very excited, and I remain very impressed with the progress I see the teams making on that.

I also wanted to mention, I know a topic that we've discussed in PPAC very often is a new search tool for examiners and an updated tool. And we are, right now, on the cusp of rolling out the tool or starting to roll out the tool to examiners. It will be a phased approach. So it will take us some time, but suffice it to say, we do have a new tool that's been developed. The feedback I get from the examiners who have used it is absolutely wonderful, and I know that in past PPAC meetings there have been discussions of this tool and the progress. And it's my pleasure to say that we are, right now, on the cusp of starting to expand the number of examiners using it.

We had them testing it and trying it, and everything seems to be successful so far. And that tool will roll out relatively shortly, at least in a phased approach. There are a whole
varieties of advantages to the tool, one of which is it will greatly increase an examiners' access to foreign art that they are not access today, or if they are able to access it they have to go through some circuitous routes that they will not have to do with this new tool. So, I'm very excited about this tool and my excitement is stemming from the feedback I'm getting from examiners who are excited about it.

So that is what I wanted to discuss today. I wanted to discuss some of the priorities moving forward, and I think we have some time for some questions or comments. And I'm more than happy to take any of people have some.

MS. MAR-SPINOLA: Thank you, Drew. That was very comprehensive and helpful. So, I'm just looking at the roster here. We have a question from Jeff Sears.

MR. SEARS: Thanks very much, Julie. Thank you very much, Drew, for that great presentation. I have a comment for you or question about the pendency goals. I really
appreciate the Office's transition to the PTA goals. The certainty that it brings to applicants is really fantastic.

Here's my question for you. Has the Department of Commerce set any agency priority goals for the Office with respect to pendency and the PTA timelines?

MR. HIRSFELD: So thanks, Jeff, for the question. Let me give a little bit of background for folks who might not know what an agency priority goal is. But the Department of Commerce usually has a number of priority goals for its departments, its agencies. And over the years, patent pendency has been sometimes a goal at the Department of Commerce level that they've had for us.

Most recently, as of last year, we did have an agency priority goal related to average first action pendency of being less than 15 months for first action, less than 24 months for total pendency. And we did make that goal. So I feel great about making that goal. As of now, the
Department of Commerce has not set a goal of agency priority for pendency. The 90/90 that I mentioned by '25 is our goal internally, but it's not technically an agency priority goal, as that goal has meaning with the Department of Commerce. I will share my own thoughts on that is I think that because we've done such a great job in moving down pendency, and I'm not complimenting myself here, I'm complimenting my staff. And over the years, even before I've been commissioner, as we've continued to move that down I think we've been able to set our goal as to what we think is right for the five years and transition to the patent term adjustment. Right now, I won't say it won't be in the future, but right now it is not officially an agency priority goal.

MS. MAR-SPINOLA: Thank you for that.

Dan Lang, you have a question?

MR. LANG: Thanks, Julie. The inadequacy of examiner time, insufficient examiner time to process complex patent applications have been a concern for a long time of many of us in
the community. So, it's encouraging to hear about the reallocation of time for certain area. Our examiners are only now getting more time to examine patent applications. Is there anything that's being done to assess the impact of that in terms of increased examination quality, in particular, how search results may be improved by the greater amount of time?

MR. HIRSHFELD: Sure. So, where we stand right now with the time changes is there has been some of the changes that have been implemented past October. That's the attributes related to a specific case. The bulk of the time changes will actually occur this coming October, and they will coincide with the performance appraisal changes and the routing changes that I mentioned.

We absolutely will be looking to see how we can measure and ensure that the time has helped and made a difference. And, again, it will be coinciding with a new performance appraisal plan. So, I'm anticipating there would likely be some
challenges here, but we certainly will do our best to measure. And I do anticipate us measuring and seeing how we've implemented the time.

One of the additional time changes that I haven't mentioned in addition to the attributers is we actually raised the floor for some of the technologies that had lower times to do their job. For example, some of the purely mechanical areas in the past which are no longer purely mechanical as technologies have evolved also needed time changes, and I neglected to mention that previously, so I'll say that now.

But anyway, to answer your question, Dan, we absolutely will be focused on ensuring that all the changes that we make, whether they're time or changes to the performance appraisal plan, whether those changes were effective and absolutely will be monitoring that.

MR. LANG: Thanks.

MS. MAR-SPINOLA: Thank you. So we're just a minute over time, but I'd like to give Jeremiah Chan the opportunity to ask his question.
MR. CHAN: Thank you, Julie. Thanks, Drew, that was a great update. I just have one quick question. You talked a little bit about the automatic routing of applications to examiners based on this kind of created examiner profile that's established based on the work that they handle. Just wondering whether or not that's related to something we'll be talking more about later today around CPC auto classification? Is there similar technology that's being applied to both of those use cases?

MR. HIRSHFELD: So, I believe the auto classification is -- I mean they are certainly related, but that is not necessary the routing of applications. I think that is the IT tools which are going to help us classify, so the automation of that project. Now, they're certainly related because the classification of that case creates the profile that will be matched to the examiners' profile.

But that being said, what the auto classification, I believe, will have this
afternoon will be on the front-end, so to speak, as an initial step. And then once it's classified, we have the match.

MS. MAR-SPINOLA: Thank you.

MR. HIRSHFELD: We, of course, would be more than happy to have further discussions. Sorry, Julie. We would be more than happy to follow up on any of this and have further discussions with PPAC if that would be helpful.

MS. MAR-SPINOLA: Thank you. Thanks, Drew. I appreciate your update and it's very helpful. So, let's transition to the next topic which is the finance and budget. I'm going to turn this over to Dan Lang and Jay Hoffman who's the chief financial officer of the USPTO.

MR. LANG: Sure. Thanks, Julie. So of course, the USPTO functions depend on adequate funding and time and attention to finances, you know, just like in any business or any other agency. The USPTO is different than most other agencies in that it doesn't rely on taxpayer funds. It is entirely funded by patent
applicants. During these special circumstances and their associated economic impact, (audio drop). I'd like to commend Jay and associates for organization.

For example, like in last year's interruption of appropriation, you know, this year has brought many challenges for the USPTO's finances which they are managing very (inaudible) with attention to the current situation, attention to the USPTO's finances, and deferring the due dates for certain fees which has implications for expenditures going forward in what continues to be an uncertain situation.

So with that, I'm going to hand it over to Jay to give us a budget update.

MR. HOFFMAN: Great. Well, thank you very much, Dan. And I just want to do a sound check. Can everyone hear me? I see some heads nodding. I'm always holding my breath.

Okay. Let's go ahead and just dive right into it. Thank you for that opening, Dan. That was perfect. Next slide, please. Thank you.
So, what I'm going to do today is I'm going to spend the most of my time talking to you about the current year, the FY 2020 budget, our finances, what we're seeing, and, frankly, what we're not seeing in some of the economic numbers that we're looking at. I'll then transition and give you a very brief update on both the FY 2021 and FY 2022 budget processes that are underway. And then end with a quick update on our fee rulemaking that PPAC has been assisting us with for the last couple of years. Next slide, please.

So as Dan mentioned, we are a fee-funded agency. We're dependent upon revenues from our fee payers and customers, just like a private business. So, when there are changes to the economy, they're definitely consequential to the entire USPTO business. For those of you who are not aware, our fee collections are generally correlated with gross domestic product. On the patent side, that correlation tends to lag.

And what I mean by that is changes in GDP tend to take anywhere from 6 to 12 months to
manifest themselves in actual significant revenue changes on the patent side. What has our attention in this particular sudden economic downturn is the magnitude of the GDP changes that are being forecasted by some of the larger banks. Starting back in March we started seeing Q2 estimates of GDP contraction that range anywhere from negative 14 percent to negative 30 percent with diminished expectations for the remainder of FY 2020.

What makes this current situation particularly difficult to forecast is nobody really knows at this point what the contours of the recovery look like. You know, some people are speculating that it will be very rapid, others have speculated that it will be more gradual, and some economists have gone and said it will be a double dip because the Coronavirus could reemerge to some extent in the fall. The bottom line is nobody knows what the recovery is going to look like yet. We're just too early into it, but the magnitude of these GDP changes are significant,
and they want USPTO paying particular attention to
our revenues. And we're doing that at nearly an
hourly basis. We're really watching this closely.

Right now, our patent revenue forecasts
are ranging between $3 billion and $3.1 billion.
For a point of comparison, that's still very much
in line with our expectation for FY 2020. We
expect it be just a little bit over $3.1 billion
at the start of the year, and the current revenue
rates that I'm looking at our roughly consistent
with that number.

Now, our expenses are higher. Our
expenses for this year in FY 20 are expected to be
$3.2 billion and then $3.45 billion next year.
And the reason for that is the way we do our
pricing. We only do rate increases every two or
three years. And so, what happens as a result of
that is our costs go up every year, but our rates
do not go up every year. And we sort of end up
with this sideways pattern, if you will. So this
is not unexpected. We're, obviously, looking at
our expenses very closely though right now. In
fact, we're reviewing our requirements to assess whether patent expenses should be reduced in response to our revenue risk. I'll speak more about that in a moment.

Lastly, we do maintain a reserve, or for those of you in the private sector, sort of maintained earnings, if you will. Currently, our reserve is setting at about $361 million. The reserve enables us to buffer between asymmetries between revenues and expenses. And that's just sort a normal part of the business. Things do not come in evenly every day. It also enables us to maintain operations in the event that there should be some sort of a lapse in funding or authorization from Congress as we experienced last year. So, we try to target having about $300 million as a minimum reserve. There's a number of reasons for that. Right now, we're sitting above that minimum at about $361 million.

I mentioned our revenues are tracking roughly in line with expectations. So what we have here is this is as of the end of the second
quarter, as of the end of March. Planned fee
collections for the agency were just over $1.7
billion. As I mentioned, patents was $1.5
billion, tracking roughly in line with our
epectation for the year, planned versus actual
you can see there almost within a half million of
on another.

Actual spending is a little bit ahead of
that at just under $2 billion, $1.7 billion for
patents. Again, that's also not unusual for
spending to be a little bit ahead of the revenue
for the reasons I discussed previously, and also
for the way we do some of our contracting.
To just catch you up on where we're at,
so not on the fly here, but if I look at our April
data, obviously, we're got another month into
this. Patents is about 1.6 percent below plan for
the month of April. However, we're still tracking
with half a percent of planned for our year to
date numbers. So, again, we haven't seen a lot of
degradation.

So, I've been talking a lot about our
revenue rate. Let me acclimate you to this chart first and then I'll explain the analysis. So on the left hand, the Y-axis of this chart is in millions of dollars. The X-axis is in months of the fiscal year. The federal government runs a fiscal year October through September. The gray line reflects the actual revenue rate each month year-to-date. And then the dash lines are different scenarios that we have been assessing in terms of our revenue track.

So as I mentioned, we went into the year expecting to have revenues just over $3.1 billion, and the revenue tracks thus far, if you look at the gray line have been largely consistent with that, right about $3.1 billion. We are, obviously, concerned about an economic downturn so we run those scenarios. And what these three dash lines show you, let me start from the bottom and work my way up.

So, the sort of fuchsia colored line that has a downward slope this is our downside risk scenario. We are concerned that we could see
a 5 to 10 percent reduction in patent revenues over the next 12 months. And that's what this downside risk scenario represents, taking our revenues below the $3 billion to somewhere in the $2.9, to just under $3 billion range. You know, we haven't seen that revenue track yet, but it's a scenario that we're actively playing out.

The middle dash line, the yellow dash line is probably more consistent with what we're seeing today and tracks with the plan, and that's for a revenue expectation of $3.1 billion. And that track would take us through the end of this fiscal year. And then the step function dash line, the red dash line that you see would be the implementation of the fee increase that the agency has been working on.

The fee increase adds about $250 million to $300 million to our revenue track. And there is a fairly large step function increase, but it's dependent upon the timing of the implementation. And we get to July, the price of that timing is about $5.6 million a week. Meaning, for every
week that we delay the implementation, it costs
the agency about $5.6 million, and we would expect
to see a feed into that reserve. So, we're
looking at all of these scenarios right now.
We're tracking on the middle scenario, the yellow
line scenario, and thus far, it's been manageable.
So, I want to talk just for a moment about fee
relief. I know a lot of you are very familiar
with this. It seems like a lifetime ago, but just
about five or six weeks ago the President signed
the Coronavirus Aid Relief and Economic Security
Act or the CARES Act on March 27. And the CARES
Act did a number of things, but one of those, it
provided the USPTO Director with the authority to
defer deadlines and fee payments.

And, as you know, the USPTO implemented
targeted relief for both patents and trademarks at
the end of March. And just last week that relief
was, in fact, extended until June 1. The CARES
Act relief on the patent side provides broad
relief, principally for small or micro entities,
and some limited relief for larger entities. We
ran a number of analyses to determine the impact
of the CARES Act fee deferrals and the top end of
that analysis was that if we had 100 percent
participation in all the different types of relief
that the agency was offering the relief would be
about $19.5 million a week, or $163 million
through May 31. Next slide, please. And these
are the categories of fee relief that we offered
under the CARES Act. And, again, these numbers
are premised on if 100 percent of everyone who was
eligible took advantage of the relief these are
the revenue impacts, we would see. And, again,
they're deferrals. They're not lost revenue.
They're revenues deferred until such time as the
relief ends. So, if everyone took advantage, we'd
see a $3 million per week deferral filings, $4.3
million for our RCE fees, our issue fees would be
impacted $6.5 million a week, and so on. I won't
read them all.

But what I will say is we've done some
analysis on what, in fact, our subscription rates
to those fee deferrals have been. And they've
been pretty limited. We're only a month into it, and so with this extension that we just offered through June 1, you know, maybe it will pick up a little bit. But through the first month, it seems that the impact has been less than 3 percent overall on our overall revenue.

So, at this point, we haven't seen numbers anywhere close to this $19.5 million upper end estimate. Again, that could change as more people become aware of the relief and take advantage of it in May versus the number who took advantage of it in April. But the punchline is, thus far, anyway, it's been something that the Agency has been able to afford to do without damaging us financially and hurting our ability to operate. Next slide, please.

Dan mentioned at the outset, obviously we're very worried about these potential scenarios that sink our revenues down. So the USPTO has been conducting thorough spending reviews of its FY 2020 requirement with the objective to evaluate our agency priorities and ensure that we maintain
our operating reserve balances in a manner that's
sufficient to mitigate further revenue reduction
that we might see later this year or early next
year. So, to that end, the agency is assessing
where we can take these reductions, where we can
take some delays, and at the same time, we're
closely monitoring daily fee collections and
spending.

What I can tell you on the patent side
is because revenues have held relatively constant,
and because there is a lag, we haven't taken too
many actions. At this point, the actions that
we've taken on the patent side are largely related
to deferring examiner hiring. We had a class of
examiners I believe we've deferred until July.
There's some other hiring that we're putting off
until later this summer.

It's not to say that the hiring wouldn't
happen. It's simply to say that we are pushing
that hiring out into the summer. Drew can
probably speak more eloquently than I can, but
with respect to how we bring people on board and
how we train them and get them through a class, it
actually kind of makes sense to wait until we're
out of this permanent telework environment to
bring on large groups of people anyway. So, we
are getting some savings from that. And we'll
take a look towards the end of summer whether
additional reductions are going to be necessary.
Next slide, please.

So, with respect to FY 2021 which starts
on October 21, this is probably a little bit more
germane for trademarks. I realize this is the
PPAC. But any spending reductions or deferrals
that we do take in FY 2020, as well as revisions
to anticipated fee collections may very well
require us to update our assumptions for the FY
'21 budget and spending plan. As you know, we
reviewed our FY 2021 budget back in probably
December, January timeframe right before we
submitted it to Congress. So, a lot of that is
being evaluated right now.

And as part of our process of building
the FY 2022 budget which is underway, we'll
reexamine the FY 2021 spending profiles and make adjustments as needed. And those will be shared with you later this summer when those documents come forward.

When we had spoken back in, I think, February I had mentioned to you that the House and Senate subcommittees were going to be doing appropriation hearings with the commerce secretary. I can tell you that those did occur on March 4 and 5, but neither hearing resulted in any real substantive questions for the secretary with respect to USPTO. So, generally, that's a good thing. Next slide, please. I've already hinted a little bit about this on the prior slide. The USPTO is in the planning stages for the FY 2022 OMB budget submission. That submission tends to go up to OMB right after Labor Day which means that we'll be engaging you in the August timeframe to preview what that budget looks like and what the assumptions are.

As I mentioned, we're going to have to figure out what the impacts of these different
revenue conditions are and how we may need to
adjust the spending profiles in FY 2021 and '22,
and requirements that we had planned to do as a
five year window some of those may end up getting
pushed out into subsequent out years. But that's
something we're working through right now. We
just issued our budget guidance internally in the
last couple of weeks, and I know offices are
working on that assignment now. Next slide,
please.

So, lastly, as I mentioned, we do have a
fee rule making package that has been in process
for more than two years now. That rulemaking, the
status of that is that it has made its way through
a key part of the clearance process. And the next
step would be for the rule to be published in the
Federal Register. Once it's published, it could
take effect within 60 days after that, or a time
that would be determined by the director and the
Department of Commerce.

So right now, we're looking at that and
the Director will be making a decision on the
effective date of any fee changes at a later time.

So, I believe that concludes all my prepared remarks. If there's any questions, I've got about ten minutes before I'm supposed to be on the next WebEx, but I'd be happy to try to field any questions you might have.

MS. MAR-SPINOLA: Dan?

MR. LANG: Thanks, Julie. Thanks, Jay. Great presentation. Can you comment a bit on the adequacy on the operating reserves, you know, given the current situation? And particularly about the trajectory of the operating reserve and how it depends on implementing the planned fee increase?

MR. HOFFMAN: Yes, that's a good question. That's a sophisticated question. So, I'm going to look at some other data here as I'm answering. So, I'm looking at some projections and we stress test the operating reserve. So, what we do is we put the reserve under different revenue conditions and different spending conditions, and we essentially see, you know, one,
when will we cross critical thresholds? And two, when will we, in fact, run out of money?

And what I'm looking at right now is on the current track that we're on with the downside revenue risks, we won't cross what I call, sort of, the minimum critical threshold (inaudible) until probably the first quarter of FY 2021. So that would be the $300 million threshold. I don't think we'll be crossing that in this fiscal year. It's likely to happen early next fiscal year.

So, the punchline is for FY 2020 while we're understandably a little nervous, I think the reserve is sufficient and we're not seeing big degradation in the reserve, at least any more than we planned to see at this time. Now, moving into FY 2021 it's important to remember that the budget and the spending is premised on different revenue assumptions that include, one, a better economy, and two, a fee increase. And so, we would expect that without a fee increase that that would continue to decline.

Although, if I look out for, say, 12
months at least at the revenue scenarios that I presented on the slide in my presentation, I don't think that there's a huge risk that we would run out of money in the reserve. But, again, that's why I look at this every day. These numbers are very volatile. And as Andre reminded me yesterday, predictions about the future are hard to make.

MR. LANG: Thanks, Jay.

MS. MAR-SPINOLA: Any questions from the attendees or from the rest of the panel? Okay. Jay, thank you so much. That was very helpful to learn about these things. And, you know, I appreciate, I think we all appreciate the necessity of monitoring everything on a daily, if not hourly, basis right now. But, you know, the great thing, as I mentioned earlier with the Director is that there is a bit of comfort that comes with seeing the cadence of the proactivity that the patent office has put forward.

And so, we hope that the pandemic will resolve itself and that operations will go back to
normal, whatever that means nowadays. But we
thank you for keeping the watch on the money which
is, as you said about Dan, and I agree is that
it's a very sophisticated type of thinking that
you have to put forward, so thank you very much
for that.

MR. HOFFMAN: Well, thank you, Julie.
And thank you, everyone, for giving me a few
minutes to visit with you today. Good luck with
the rest of your meeting.

MS. MAR-SPINOLA: Thank you. So, this is
great. It's time for a break and we're going to
take a break and resume at 9:45. Sorry, that's
Pacific time.

(Recess)

MS. MAR-SPINOLA: Okay. Welcome back,
everyone. I hope the break, although it was short,
was useful. I think we'll try to stay on time
here and resume with IT. We have Mark Goodson our
subcommittee chair, Jamie Holcombe, Debbie
Stephens, Raman Sarna, William Stryjewski.

MR. GOODSON: Good afternoon. This is
Mark Goodson and I want to thank the committee members, as well as the general public and employees of the patent office. Our patent office has done an extremely good job during this pandemic. Then again, that's to be expected. Teleworking is not new to this agency. It's been going very well, and we continue to do that.

I'm going to take us off script for just a minute. Jaime, are you on?

MR. HOLCOMBE: Yes, I am.

MR. GOODMAN: Something not covered, I think this is quite good news. Could you give us the status, both the security system that you've been working with, the improvements there, as well as the status of off-site or remote computing?

MR. HOLCOMBE: Certainly. I don't know if most people are aware, but the USPTO enforces strict security protocols to ensure that only authorized personnel are able to access the data and the applications that they, alone, are authorized to view and to use. Also, we survey our network and systems year-round in our C-3.
It's our command, control, and communications center.

We operate that around the clock 24 hours a day all year round. So, in doing so, we have a very good understanding of the threat that's hitting us all the time, and we take our defense in death security monitoring very seriously. Also, we are USPTO on a path towards resilience. And that means that we'd like to failover in an automatic fashion to places other than our current data center.

Although we could always bring up our current databases to another place in time, we are working to automate that process so that we have something like automatic failover. Where if something happens to one site, users wouldn't even notice because the other site would be up and running and working fully without any interruption in service. In order to do that, I'm happy to announce that this July we will be having an exercise of the July Fourth weekends where we actually failover many of our important patent
applications to our Boyers facility. This is up in Pennsylvania.

In doing so, we will test in a manual fashion the automatic failover to ensure that we learn from these resiliency exercise. Because it's not just enough to design it, you really have to test it and make sure it works as you designed it. So every quarter thereafter, we will be doing more resilient exercises to the point where we will have automatic failover. We don't have it yet, but that's what we're going for. So, with that, I'll turn it back to you, Mark.

MR. GOODMAN: Well, good work, young man. What I'd like for you to tell us now is, essentially, about stabilization, modernization, as well as the status of both public and private PAIR?

MR. HOLCOMB: And for that, I'll turn it over to my team.

MS. STEPHENS: Thank you, Jaime. This is Debbie Stephens. If our slides could be advanced to the stabilization and modernization
slide, that would be great. There we go. Okay.

So, as Mark and many of you know that we've engaged in our stabilization modernization efforts over this past time period. We wanted to give you a quick update on some of the things that we're doing with regard to the stabilization effort. So you might recall that we did engage a separate vendor to address some of our more critical systems, and I'm happy to report that we have had an active engaged on 10 out of the 13 of those systems and we are on our way to completing the majority of them this calendar year.

In-house we have identified 14 systems to stabilize and there are six already complete from our in-house team, so that's really great news. As well as we're on track for the remainder of those eight systems to be completed by the end of this calendar year. So that's on the stabilization front.

On the modernization front our key accomplishments include establishing the agile deliver office, and that team is engaged across
the enterprise, the agency to help their product
owners engage in the creation of their agile teams
and some of their key performance metrics and
agile deliver metrics that we want to track along
their way as they develop and deliver IT for the
agency. So that’s one key modernization point.

Another along the new ways of working,
the team also is looking to, in the agile sense,
look at the quarterly review boards, as well as
the annual IT planning board process. And that
kind of speaks to the IT planning and acquisition
process. So, essentially, this last quarter we've
been engaged in multiple quarterly review boards
where business units across the agencies are
reviewing work from the different product lines
and asking questions and engaging in discussions
related to IT delivery.

And then, finally, of late we've held at
least three sessions with our annual IT planning
process to better align with the modernization in
our new ways or working in terms of adding
discussions and engaging in discussion to ensure
our IT for FY '21 and '22 are aligned with agency priority.

So lastly, on the cloud infrastructure, we've had an opportunity to look at assess our cloud foundation and our cloud maturity, and we've completed that initial assessment and we've identified about 20 or so improvement opportunities that will allow us to further our cloud maturity in a very thorough and consistent way forward for our cloud development.

So certainly next steps, we're going to continue to engage in our agile practices and align with the industry best practices on how to best substantiate agile, as well as complete, obviously, the stabilization effort and look forward to formulating our final budget plan for submission to the FY 21-22 OPD and DOC. So with that, that's the updates for stabilization and modernization. I can take questions now or later.

MS. MAR-SPINOLA: Thanks. I think we'll take questions at the end of the IT presentation as whole. Thanks, Debbie. Mark?
MR. GOODMAN: Yes. I was going to ask who is going to speak to the status of public and private PAIR?

MS. STEPHENS: I'll turn that over to Raman Sarna. Thank you.

MR. SARNA: Thank you, Debbie. Good afternoon, everyone. So, in the October/November timeframe of 2019, there was an increase in the number of users reporting that they were getting a high system volume message. I'm in the process of using private PAIR. The sessions were (audio drop). So subsequent to that, the OTIO team did a comprehensive code analysis and determined that the root cause was due to the fact that these connections were chewing up (inaudible) and could not be handled efficiently, thus resulting in the time out that users were seeing.

There were two remediation actions on the 16th and the 28th of February, respectively, to resolve these issues. Subsequent to that, there was a verbal touch point with multiple customers to verify the effectiveness of the
solution. The feedback there was positive. And then in addition to the verbal verification, the team continues to monitor the system logs, and the determination is that subsequent to the fixes, there is an approximately 75 percent reduction in the number of errors that were being reported. Any questions?

MS. MAR-SPINOLA: So, we'll take questions at the end of the IT presentation. Mark?

MR. GOODMAN: I think that is about it. The question I had for the team. In terms of public PAIR, we're off of IFW right now. What is the next improvement coming on in terms of public PAIR?

MR. STRYJEWSKI: I can take that. Hi, this is Bill Stryjewski. Right now, we've moved off of IFW to a platform we call content management service, CMS, in which we have all our documents contained in a modern storage capability that actually fails over to a site in Pennsylvania. So that's pretty excited because
that actually supports our examination course and
our ability to be resilient. Our next step is to
offer a cloud-based solution for the public
documents to allow for the public to receive those
documents. So therefore, bifurcating our private
and public data that we use in-house for examiners
with the public data that we want to offer the
public. Hopefully then data mine those solutions.
Right now we're exploring moving that CMS
capability to the cloud, and then, therefore,
having a future in which a much more unencumbered
requests for document data will be then provide to
the public. So, therefore, allowing for more
innovation and more data to be available.

MR. GOODMAN: Got it. One other
question or comment. There has been some rumbling
over the change from PDF to DocX. Is there any
concern that there would be a degradation of
quality in terms of the actual data that's input
from the DocX as opposed to PDF?

MR. STRYJEWSKI: No. I've been doing
this for a while. I was around when we went from
paper to image, and then we went from paper to PDF. You know, all these transitions have changes and you have to do adjustments. I think our intention is to make sure that we're able to be protective to anyone's rights.

We have no evidence right now of any issues of receiving DocX and processing DocX. We still have a lot to learn, but that doesn't mean that that step forward isn't needed. We spend a tremendous amount of resources on data capture, and we feel that this is a great way for us to move forward in getting the actual text which was the inventor's intention and the lawyer's attention directly from the source. As opposed to converting it to PDF, scanning it and converting it to PDF. So, we feel that we're getting better truth of the actual content available to the applicant.

So both policy and technically we feel like we're on firm footing to go forward. We need to continue to work out on the volume. You know, we've received lots and lots of PDFs today. We
want to make sure that we can validate and process lots and lots of DocXs in the future.

MR. GOODMAN: Something I'm not sure all the members appreciate is it's my understanding is that the PDF digitization efforts that's done by an outside contractor? Not within the office?

MR. STRYJEWSKI: So right now, we receive PDF from applicants, and then if you're talking about the publication efforts, we do have a publication contractor.

MR. GOODMAN: And I guess what I was getting at is we're looking at substantive cost savings by going to DocX?

MR. STRYJEWSKI: Yes. What we do do is for the PDFs and for even the small amount of paper we get in the door that comes in an image, we OCR those files to provide to the examiners to increase the quality of the examination. There, therefore, working in text instead of image documents. We think that we have a high accuracy rate, but there's nothing more accurate than the source document itself.
So, if we allow the examiners to either search through or reference documents that they've received in text we're going to have a much more refined, accurate information in the office action. And, therefore, better communication between applicant and attorney/inventor.

MR. GOODMAN: Okay. Well, that's all the questions I have. Anyone else from the PPAC or the public?

MS. MAR-SPINOLA: Let me see. On the board I see we have three questions. Let me start with Tracy, Tracy Durkin.

MS. DURKIN: Sure, Julie. Thank you. This morning the Director mentioned the patent center beta, and I just wondered if you might give us just an update from the office perspective how that's going.

MR. STRYJEWSKI: You know, I'm sorry. There was metrics in front of me a few minutes ago, and I'm not going to be able to go to my inbox. But we've had an uptick in information, we've been out the door for a couple of weeks now.
We want to continue to have our outreach programs for training, but we have seen an increase in some positive feedback for the implementation. I wish I had the numbers of filings of DocX and usages. I'm sorry I'm not prepared.

MS. DURKIN: That's fine.

MS. MAR-SPINOLA: Maybe we can have that posted later.

MR. STRYJEWSKI: Okay.

MS. MAR-SPINOLA: And, Jennifer Camacho, I see you have a question too.

MS. CAMACHO: I had a question that came in from the public and it's on both the online tools and a little bit about policy, so I think it goes to you or to Jaime. The comment is, while the USPTO campus is closed the patent searchers have no (audio drop) access to the (audio drop) public search facility databases. I request if it would be possible to make a remote online access to East West to registered users?

MR. STRYJEWSKI: So, I can give that a try. So we're in the midst of replacing the
search tool and we've got our first phase of internal users for the search tool. So, the search tool is, obviously, an extremely important tool for examiners and the quality of our examination. It's probably the most personalized tool, right. It's the heart of which the examiner feels he or she is determined that this is patentable or not patentable. They're finding references. They're learning the art. They're using it as a mechanism.

And part of our statute is to offer the tools in similarity to what the examiner has in both in the PDDRs, I think that's the right acronym, the libraries or repositories, and in the public search facility on campus in Madison we have terminals in which they can use the same tools, with some modification, because certain licensing agreements and technologies can't be ported to those tools would be in place.

So those tools really were developed in, I'm going to hate to say this out loud, the late 90s, early 2000s. So they don't really port well
to the web. What another process that we're trying to do, actually prototype this year and implement next year, is to take the existing tool that we built for the examiners that is web based and put that in the public domain replacing applications on the web and patents on the web that's off of our homepage.

But, also, replacing the solution that's in the search room today. So, we have a plan in place. I don't think it's feasible to port either East or West to the web right now. And it would be at all -- I don't think it's viable. I don't even think we could. The fear would be is if we did that, we would actually impact the examiners that are using East and West today. We're not happy that we're not serving the people in the search room. We don't think that porting East and West to the web would probably make them happy. It probably wouldn't work very well. So I hope that answers the question.

MS. CAMACHO: Thank you, Bill. I think that the requestor would be interested if there
are any other, sort of, accommodations that can be
made for folks who typically do use the facility?
(Audio drop) information?

MS. STEPHENS: So this is Debbie. Just
on that other topic of patent center. Just
initially, we do track the users in terms of the
practitioner versus independent vendor and
practitioner support roles. And so since April 20
I was able to pull up a quick stat going from
literally maybe a handful at any given time for
 authentications to literally, as of last week, in
the 400s range for unique authentication.

So I think we have seen a spike, and
we’ve also seen a spike in the number of actual
DocX submissions, although I don’t have the
totality of those numbers in front of me. But
we’ll certainly give you those kind of -- is that
the type of data that you’re looking for? Kind of
the number of authentications, as well as,
perhaps, number of submissions?

MS. CAMACHO: Yes, I was curious how
widely it's being used. I know on the user side
there's a lot of bugs that we're running into, as we're one of those 400. And so I was just curious if there's any way to see any of that on your end either other than the feedback that people are giving you?

MS. STEPHENS: Yes, we could definitely share as, again, we track it by those three types of users, roles, if you will. And certainly have seen spikes in both the submissions and the authentications. So if we can share that slide or information with you.

MR. SEIDEL: Hi. So this is Rick Seidel. So just one of the first weeks that we had once we opened up the patent center beta. We saw the number of new applications increase. On average, prior to that, it was about 10 applications were being submitted through DocX to EFS web, but once opened the patent center I think we saw a first week of about 240 or so new applications filed.

So that's the latest data that we have. We'll continue to watch that with great
excitement. I think this will certainly simplify how new applications can be filed. Of course, you don't have to parse it into three separate documents. Patent center beta provides you the opportunity to submit in a single document and I think that will be huge for the applicant community.

MS. MAR-SPINOLA: Okay. Thank you, Rick and Debbie. Jeff, I see that you have a question.

MR. SEARS: Yes. Thanks very much, Julie. I wanted to commend the continuity of operations. I know that's, in part, due to the IT aspect of the office. Thank you very much. I also wanted to give you some praise on public PAIR.

Lately I've noticed in the last few weeks that public PAIR whenever I seek to get in, it's up, it's running, it's comped, it's fast. It's really wonderful to see. It really makes life a lot easier. But I do have to note that Global Dossier seems to be a little haphazard. Some days I will log in and just you can't access
anything, and other days it's up and running like lightning fast. I'm just curious if the office is aware of this and if there are any attempts underway to make Global Dossier run more smoothly?

MS. STEPHENS: Bill, I think you're muted.

MR. STRYJEWSKI: I'm glad. That first sentence wasn't that good, so I'm going to get to do it again. So we are aware that Global Dossier is not functioning as reliable as we'd like it to be and we've heard the feedback. I think in our transition to the new ways of working we've been trying to realign our priorities to meet operations and maintenance as the number one priority. So as we transition, we're hoping to establish teams for stabilization later this year and early next year to address those particular systems. So it is in our roadmap of things to achieve and to build customer satisfaction for all our products. We will have a product owner just for tools like Global Dossier. So we're trying to create that focus to make sure that we're getting
business value for our IT changes, and not just
doing IT for IT sake. I'm hoping that we'll have
a better conversation. It will be possibly adding
features and functions to Global Dossier in FY
'21.

MS. MAR-SPINOLA: So let me ask this
question. Jaime was very pleased with your
answer, Bill, let me just note.

MR. STRYJEWSKI: I don't read buttons,
by the way, so.

MS. MAR-SPINOLA: Well, he was very
happy.

MR. STRYJEWSKI: Good.

MS. MAR-SPINOLA: Let me go back to the
failover, auto failover and the testing that's
contemplated over the Fourth of July weekend. And
for lack of a better -- probably my lack of
understanding, but let me ask this question, are
you planning, or do you need to do what I'm going
to call a reverse failover? In other words,
testing the second site to make sure that it is
intact? Because if you have a failover in the
main site and you go over there and if there's an issue? So is there this complete 360 testing?

MR. HOLCOMBE: Yes, of course there is. And it's funny you asked because just this past weekend we found a couple of glitches in Boyers, Pennsylvania. So we're doing that right now. We are testing to ensure that everything works so that when we do this automatic failover, whatever happens, we will learn from it and ensure it's included in our future rehearsals. Because we will do things on a scaling or incremental basis. You never do everything all at once. That's a recipe for failure. So in this experiment, we will have certain things that we will do at certain times, and then we will build upon that and move forward. So eventually, we will have a hot, hot combination. We'll have two sites that are load balanced, and we may even have a third site just in case, but that's to be determined not right now.

MS. MAR-SPINOLA: Thank you for mentioning the third site because having both
systems on the East Coast is great. It may be convenient, but it may be worthwhile looking at having the third site either on the opposite coast or something so natural disasters or anything like that you don't get a double hit, right. So just a comment there.

MR. HOLCOMBE: Yes. One of the things I want to make sure you're aware of is we don't just talk about things. We actually do them. So there was an RFI that was issued for the West Coast, I'm sorry, the Mid-West to gain access to information about different data centers and their offering in and around the Denver area. So we have that market research now and we're including that in our plans moving forward.

MS. MAR-SPINOLA: Great. That's great to hear.

MR. GOODMAN: Jaime, this is Mark. Department of Defense has spent billions of dollars on Rocky Mountain Data Center. Is that one of the options?

MR. HOLCOMBE: It is a candidate for
MR. GOODMAN: Okay. Thank you.

MS. MAR-SPINOLA: All right. So do we have any other questions? Otherwise, we're right on time. That is emblematic of IT being efficient, appreciate it. If there are no other questions, then let's move on to artificial intelligence which is somewhat related and overlaps with IT.

So let me turn it over to Jeremiah Chan and Barnie Cassidy our co-chairs in AI, Matt Such, director, and Coke Stewart, our policy advisor and acting Chief of Staff.

MR. CHAN: Thank you, Julie. So both Director Iancu and Commissioner Hirshfeld have already mentioned the progress that has been made on the AI front. And since our last public meeting back in February, I'm pleased to report that the USPTO has made significant progress on bringing the latest AI technology to the office. And I do want to commend Matt, Coke, Bill and the team for all the great work that they've been able
to accomplish.

There are two major initiatives that we'll be diving in today: AI for enhanced search and CPC auto classification. Both efforts have great potential to deliver significant ROI to the office in terms of cost savings, person hours saved, and improved quality. And one of the things that I believe Commissioner Hirshfeld mentioned is just the vast amount of access to international prior art that doesn't exist today. So, I think there's a tremendous opportunity to realize lots of benefits for the entire office here.

Director Iancu also talked about the deployment of a major revamp to the website. Sharing lots of information related to the AI efforts from the Office and, again, if you haven't visited, I would highly encourage you to do so. It's really nice. It's got lots of information. Easy to navigate and, again, you can see a pretty noticeable difference in improvement in the work that's been put in there. With that, I'll turn it
over to Matt and let you walk us through a number of these initiatives and showcase the progress that the team has made.

MR. SUCH: Sure. Thank you, Jeremiah.

My name is Matthew Such. I'm the group director in patent operations, and as Jeremiah mentioned, I'll be covering some of the efforts around using AI for enhancing search, as well as auto classifications that we're exploring and investigating here in the agency. I'd like to thank the committee for the time to be able to present this information, and certainly hope that this provides a good perspective upon which we can build going forward.

During last quarter's meeting we talked about these two different use cases and mentioned that the office had developed a strategy for proceeding forward with these.

And I'll start with the AI for enhanced search. Currently we are investigating capabilities by way of a prototype that's under development for providing some AI-based
functionality to assist examiners with their
patent searches.

These prototyping capabilities are being
targeted as being loosely coupled with our newer
search tool that's under development now, the
patent's end-to-end search tool. We are
leveraging a plug-in technology that can work with
the Chrome browser in which the PE2E search tool
resides. And the integration is very much towards
looking at ways that we can supplement the
examiners' access to information to help them make
more informed decisions about their patent search
more efficiently, as well as more thoroughly.

As of right now, we do have a prototype
that is available for us to evaluate, and we're
taking a very data-driven approach to help us
understand how the functionality that has been
currently designed provides value to the examiner
in their search process. And, of course, the
feedback that we obtain through that process will
be instrumental in us moving forward and
identifying the best features for further
maturity, as well as providing us ways to modify
features based on the best way to provide
information to the examiner relative to their
search.

We have exposed the prototype to
examiners in our user-centered design council for
that feedback process. And we are asking them to
provide their input based on how this
functionality has been designed into their search
workflow, as well as the performance of the system
itself in providing valuable insights for them to
be able to make more informed decisions about
their search.

As we go through this process we are
investigating and refining some of the key
performance indicators and metrics around which we
seek to quantify business value, as well as
quantify efficiencies that we can identify with
the examiners' search.

So before I continue, are there any
questions about this particular topic? I can take
them now, or we can wait until after we conclude.
MS. MAR-SPINOLA: I think what I'd like
to do is to continue to take the questions
afterwards. I want to make sure that Coke Stewart
also has time to do her presentation. Thank you,
Matt. Certainly. Continuing on to the auto
classification effort. If we can advance the
slide, please. Thank you.

We have developed a prototype tool for
auto classification. This is with the Cooperative
Patent Classification System and it provides two
basic outputs that are fundamental to usage of CPC
data in the office for both providing information
onto documents as well as providing information
into our other systems around the agency that
leverages CPC data. And that is the full
classification picture of symbols applied to
patent applications as well as designations, which
are called C-stars (phonetic) that are
identifications of the subset of symbols within
that full classification picture that capture the
claim scopes specifically.

Once again, we are taking a very
(inaudible) approach for evaluating that output and we have run thousands of applications as test cases through the tool, looked at the output, and comparing the with the classification pictures that have been assigned to the case or to the document as a result of our normal processes. We have examples where the tool appears to produce convergent output or output that's either on or very close to the classification picture that is currently assigned to a document and we also have a range of examples where the tool produces output that's divergent from those classification pictures. Right now our focus is on the intellectual validation process to understand the reasons why these things are happening and understand how the tool is working for each of these two different outputs where we get very close data compared to other current classification pictures as well as these divergences and trying to understand ways that we can take that information and feed it back into making improvements to the models to continue to
drive forward with providing classification quality out of the tool.

Additionally, as we are learning through this intellectual validation process, we are continuing to refine some of the key performance indicators in metrics and this is also to support identification and quantification of potential business value for the agency as a whole.

So, that concludes the update I have for both the AI for enhanced search as well as the CPC auto classification and I'd like to turn it over to Coke Stewart to continue with the topic on AI.

MS. STEWART: Yes. Can everyone hear me? Oh, I see Julie saying yes. Great. So, as everyone knows, the USPTO has been very active in the AI area and we roughly divide our efforts into two programs. One of those programs we can formally call AI tools and those are the tools that we use as an agency to improve our operations and examination of patent applications and trademark applications and that was what Matt was talking about. But we have another program that
we refer to as our AI policy program and we have a
working group that meets weekly to ensure that we
are advising the agency on Best Practices to
ensure that we're incentivizing innovation in the
AI area. So, that's the working group that I'm
involved in and that Deputy Director Peter is
sharing.

So, USPTO is one of the many federal
agencies working to ensure that the United States
is a world leader in the development of Artificial
Intelligence technology. Of course, we have long
been examining patent applications for AI
innovation, but as I noted in the last meeting we
had with PPAC, the rate of filings and examination
in that area has been really increasing
dramatically and so, we want to make sure that
were proactively working on IP policy so we're
well prepared to continue effectively examining
this Artificial Intelligence innovations.

So, as a result of that, we've been
doing our best to actively engage with our filers
and stakeholders and also experts in Artificial
Intelligence. Also, our international counterparts to make sure we're promoting innovation and predictable and reliable IP rates in the area of AI technology.

So, I just want to hit some of the highlights of that activity. You know, we had a program last January in AI IP policy conference last August; and in October, we published two sets of requests for comments to ask experts and our stakeholders to, you know, share their ideas on best practices with AI policy. More recently, just in March of this year, we launched a new kind of hub or portal for AI information on policy issues and, Patrick, maybe you can turn to that slide now so we can give everyone just a quick look at what the page looks like. So, you can access it from our homepage. There's a blue ribbon that we added across the top and these are featuring some of our major priorities in that area so you can see there's Artificial Intelligence listed so you can click through there. Patrick, can you move forward? And then, if you click through you will
come to this kind of landing page and there's the
link on the right if you want to go directly to it
and you will see it's organized in three
categories. Next slide.

So, the first category is engagement
that we have been doing on Artificial Intelligence
so that's going to have our events, blogs,
speeches, and other programs. Next slide. And
then our third category is AI resources and
there's so much going on across the U.S.
Government on Artificial Intelligence. We thought
it would be a good idea to kind of gather
everything that we could get our hands on and put
them on this page to help our stakeholders and we
are constantly updating it really on a weekly
basis so we encourage people to go here and take a
look. And then, next slide.

And then, in this category we have a lot
of different kinds of notices on Artificial
Intelligence. We have the request for comment
notices that we issued. We have the comments we
received from the public and they are almost 200
individual responses that we've received so it's a
great resource for those looking to learn more in
this area and we will be issuing a report that
summarizes those comments and discussing some in
some detail and we hope to have that out quite
soon.

And then, another good development is
that we've been able to post relevant legal
notices on the site. So, most recently, we issued
a decision on a venture ship (phonetic) with
respect to Artificial Intelligence and we've
included that also on the AI landing page under
the "Notices" category. Now, that happens to be
in an application that's unpublished so while the
public can't review the details of that particular
application, we do have authority under our rules
to publish certain decisions even if the
underlying application has been unpublished if
it's a particular interest to the public so that
is what has occurred here with respect to the
established applications and there seems to be a
lot of interest in that particular decision and I
encourage those who are following the issue to read it. They can access it here from our website.

So, as I said, our next step is really to put out the report and to continue to update this resource for our users and with that, if there are any questions, I would be happy to answer them. Jeremiah.

MR. CHAN: Thank you, Matt. Thank you, Coke. So, I want to go back, Matt, to you for a second and I know we've chatted a lot about this, but I think for the benefit of the public it would be great for you to talk a little bit more about how you measure the quality and accuracy of the two tools regarding the initiatives around AI for enhance search and CPC auto classification. Part of what I mean is, for example, the CPC auto classification, you know, one question is how are you measuring the accuracy of the auto classifier? Is it relative to a current manual classification that contractors do or is it compared to some other source of truth?
I think that would be helpful if you could talk a little bit about that.

MR. SUCH: Certainly. So, for the auto classification, we use two different data sources to help us understand how well the auto classification is producing output. One of them is, as you mentioned, comparing against the manual output that has been already assigned to documents. And so, the way that we can measure how close two different documents really are actually goes right through the schema and so, we can see in any particular document relative to the classifications that are on that document and the classifications that are suggested by the tool how far away each of those classification sets are from each other when they're viewed through the schema itself. The schema is hierarchical in nature and so, you can imagine that every step that one takes through that hierarchy can be counted quantitatively and that's a measure that we use to understand how close we're getting when we don't have, for instance, an exact match or if
we have some overlapping where we have some exact matches and some that aren't.

Additionally, we also use as a second source this kind of gold data set, which is data that we kind of triple evaluate.

So, we have a classification quality assurance processes that we use here in the agency for monitoring and ensuring our classification quality and consistency and that data is very valuable to us because it provides us deeper insights into the output of the tool itself and we additionally use all of that information to help us train. Once again, that's something that is something that we can look at through the schema itself just like we do with the current document classifications that are on each document. But we collect, as well, some actual feedback about individual symbols such as placement of where the content of that symbol might be within the disclosure itself in terms of making those matches or in the case of a mismatch, understanding perhaps from the intellectual expertise of an
examiner or a classifier the reasons why that
symbol may not be appropriate.

MS. MAR-SPINOLA: So, I have to
apologize for everybody because it's my bad to
have only allotted ten minutes for the AI
subcommittee discussion. Clearly, there is a lot
more to talk about and that there have been
significant advancements since the last meeting
and so, I will make it up to everyone. I
apologize not only to AI subcommittee, but also to
International because we've cut into their time
and one last thing though is that I want to ask
that Bob Barr, next time we get a chance to talk
about this the recent decision on the petition for
AI in inventorship, if we can continue our
discussion for the next meeting that would be
great. So, again, it's my bad, apologies to
everybody. If you don't mind, I'd like to move on
to International and thanks, Barney. Sorry about
that. And so, for International, I'm going to
turn it over to Subcommittee Chair, Tracy Durkin,
and Co-Chair, Jeff Sears, along with Shira
Perlmutter, Chief Policy Officer and Director for
International Affairs and our new kid in town for
International is Valencia Martin Wallace, Deputy
Commissioner for International Patent Cooperation.

MS. DURKIN: Sure. Thanks, Julie.

Since we're short on time, I just wanted to make
one opening comment that the Director alluded to
the fact that there has been a lot of coordination
between the U.S. Patent Office and many other IP
offices and I just want to say that at no other
time had it probably been more important for these
offices to be talking together and coordinating
and I think out strong good working relationship
with so many offices around the world is really
serving us well during this time. And so, with
that, I'll turn it over to Shira and let her tell
us what's going on in terms of the Parallel Patent
Grant. If Shira is still here.

MS. PERLMUTTER: Can everyone hear me

now? Yes?

MS. DURKIN: Yes.

MS. PERLMUTTER: Good. Okay. All
right. So, if we can go to the next slide please.

We wanted to tell all of you about a new work sharing program that we've developed with the Mexican IP office, IMPI, that we're calling the Parallel Patent Grant or PPG for a punchy acronym. So, this builds on some of the existing work sharing models we have (inaudible) Patent Prosecution Highway, but it also offers a number of different advantages and so, we wanted to tell you what those were. We started this PPG program with Mexico where we already have a very long and productive relationship with IMPI, but we do hope and plan to replicate it with other appropriate countries in the future.

So, just to give you a sense of why we developed this, we have a situation where a large percentage of Mexican patent applications are of U.S. origin probably about close to 50 percent and this provides a way to alleviate the increased workload that this causes for IMPI. And the PPG will benefit U.S. innovators by facilitating more timely patent protection in Mexico so pendency
there now can be five to six years from the start
of the examination process and with this program
the PPG, an applicant should be able to obtain a
patent within just a few months of a request
to participate so we think that will be a major
benefit.

The arrangement also furthers the United
States-Mexico-Canada agreement or USMCA, which we
recently entered into, which contains the
provisions on increased cooperation between our
respective patent offices so this is a good step
forward on that as well.

And the first phase of the
implementation should begin this Summer. We were
hoping it might even have been a bit earlier, but
because of the current pandemic situation things
have been a bit delayed. So, if we can go to
Slide 2 please, the next slide. Maybe it's 3,
sorry.

So, this slide just shows you a visually
the flow of the system. So, when you have patent
applications in both the United States and Mexico,
once the U.S. patent is granted, the applicant can petition IMPI to participate in the PPG programs and there are two avenues for doing this. One is the applicant making a direct request to IMPI and the other is IMPI inviting the applicant to participate once it's aware that there's a pending U.S. application as well. And if we can go to the next slide.

So, we really wanted to focus on how this works and what some of the advantages are of this program. So, you can see (inaudible) is a one-way program where there's reliance on IMPI on our work product in the United States, but not in the other direction and the applicant has to submit a request that's applicable to all technologies and the offices are coordinating very closely to ensure that this will work smoothly and well and to make any needed improvements as we go along. So, the advantages are obviously for applicants as I said be able to reach the patent protection in Mexico much more quickly. It may require less work on the part of an applicant than
a typical PPH program does and then, of course, IMPI also will benefit from the efficiencies in being able to leverage our search and examination results. And if we can go to the next slide please.

I just wanted to show you some of the particular characteristics of this program, the PPG program, and how it differs from either a patent prosecution highway arrangement or a patent validation agreement.

So, first of all, the workflow again is one directional. So, only the USPTO product is evasive for the parallel grant, not the work product from the partner office. Second, in terms of the triggering requirement, the PTO has to have actually granted a patent so it's not enough as far a PPH that we really have found allowable subject matter. And then, this is an interesting difference in terms of what the subsequent review is by the partner office. So, under the PPG, the partner office takes our work product from the counterpart issued patent here, but the patent
application still has to conform to national law
in terms of subject matter eligibility. So, there
will still be a review by the partner office for
that purpose. They are just using our examination
results, but they are still applying their law in
terms of eligibility. And then a counterpart
application will be necessary so unlike a
validation agreement, there has to be an
application filed in each office and in the
participating office and IMPI in this situation, I
would likely be amended to conform to the issued
U.S. patent.

So, that's the system works in a
nutshell. We are interested in rolling it out
elsewhere where it's appropriate. We think it's
an exciting development and an improvement from
many perspectives from the work sharing agreements
we have now and it really will depend on the
particular office and its circumstances as to
which model is (inaudible) for them. And, in
particular, this one is (inaudible) for an office
like Mexico that is generally beginning
examination after the USPTO either because of
backlog or because the applications are first
filed here.

So, I know we're short of time so let me
to stop there. Happy to answer questions and I
have Jesus Hernandez with me is the OPIA attorney
who was primarily responsible for negotiating this
agreement.

MS. MAR-SPINOLA: Thank you, Shira. So,
let's see, Jeff Sears. I'm sorry, Tracy.

MS. DURKIN: Did you want to take
questions now, Julie, or do you want to wait until
after Valencia Martin Wallace speaks?

MS. MAR-SPINOLA: Let's wait until after
Valencia speaks.

MS. DURKIN: Okay.

MS. WALLACE: Well, thank you very much.
I promise I will make it very short because I know
I will have opportunities at future PPAC's to
share with you this direction that we're going
with OIPC. So, just very quickly at a very high
level. One of the things that I've done in the
patent quality area was really looking at quality from a very holistic point of view and that's the same view that I'm looking International in holistically looking International and the quality to provide the same level of consistency, predictability, and reliability for our customers across other offices as they receive at the USPTO and part of what we're doing in order to get there is taking a look at work share initiatives and let me stop there and just say thank you, a very huge thank you, to Shira and to her staff at OPIA as well as the staff at OIPC who have had a wonderful relationship before I got there and is still building upon a great strong partnership in order to move in this direction and the work sharing is one that we have been working with Shira's staff to look at the future of work sharing. So, we have several very successful programs with PPH and with our search pilots as well as the search and examination through PCT and now also with this program of the parallel grant. And as Shira was mentioning, we want to expand those programs into
other offices and partnerships with other offices and identifying which ones through our assessment, our past assessment as well as future assessment, which of the programs are best suited with which of the partnerships and we're in the middle of that process so we will be reaching out to PPAC as we're going through that process to get your input in the direction that we're looking to go.

So, one of the other areas that we're looking at is our IT modernization. We've had some successes there as well with the WIPO DAS. We are in an exchange with JPO within IPA as well as KIPO now through WIPO DAS and we are in discussions with EPO to also have that same transition to WIPO DAS and to also encourage other offices to join in the use of WIPO DAS in order to have the benefits of priority document exchange and that level of consistency.

So, one of the other areas that we are really excited to look at and this is once again, OPIA and OIPC in partnership in working with WIPO on developing a common database for bibliographic
and other data. This is something that we've received a lot of comments about for quite some time from applicants and our customers of how to make easier and more consistent regardless of which office that you are filing in the same common data that is needed in making sure that it's done consistently and that it can be relied upon regardless of what office you're going and you're not going to see it in a different form. So, we're working very diligently to develop something with WIPO on that and Director Iancu as well as the Director General Gurry have already had several conversations about that and that we are moving forward on that and hopefully will have more information for you soon.

And another thing and I'll make this the last so we can save some time for any questions. With the present circumstances that we're all in, it's become very, very clear that we need to work on virtual conferencing with offices. It's, you know, we've had the opportunities to enjoy being able to be in person in the past, but we've had to
really work harder at virtual conferencing and virtual meetings in that last few months and make it more successful so that's an area that we along with OPIA have been working with other offices on the direction that we will be able to go in enhancing virtual conferencing. So, I'm going to leave at that because I know we're running a little late and as I said, I'll have plenty of opportunities to talk to you in the future, but wanted to say a huge thank you once again to Shira and her team and to my team in OIPC as well and to Drew and Director Iancu in their support of me in this new position.

MS. DURKIN: Great. Thanks, Valencia. We look forward to working with you. Lots of exciting things going on. Julie, do you want to take questions or should we move on?

MS. MAR-SPINOLA: Well, in fairness, I think we should take a question. I see that Steve has a question.

MR. CALTRIDER: Yes, if I can indulge, I actually have two questions, one for Shira, one
for Valencia. The first on the Parallel Patent
Grant and thank you. I think this is an
outstanding program and you indicated a desire to
replicate that program. I wondered if you could
give any insight on what are the priority
countries that you're looking to replicate in and
whether or not you're open to feedback on what
countries should perhaps be at the top of that
list?

    MS. PERLMUTTER: Yes, thank you. Go
ahead, sorry.

    MR. CALTRIDER: Well, I'll go ahead and
ask my question for Valencia as well so I can go
back on mute. The Director had commented that he
had sent a joint statement or the Director sent a
joint statement of support for the IP systems that
strike me as very important in the current
environment where it seems like the IP system is
under considerable attack and criticism really
without any data to support it and I'm wondering
if additional joint statements to support for
strong IP systems around the world is perhaps in
the works. Thank you.

MS. PERLMUTTER: Yes. I might just start with the second one, which is we are considering other statements as well as we peak because we do think that this is an important time to make those points clear so thank you for raising that.

On the PPG approach, the Parallel Patent Grant, at this point, we want to make sure that we have a working system so it’s still early days and we are thinking of this as part of an overall strategy in terms of with what countries does it make sense to have a PPH versus a PPG versus a tour validation agreement and that process is still underway. Those discussions are underway between OIPC and OPIA so I think it’s premature at this point to specify countries, but we would be very happy to consult and get input from Opti-Pak as we move forward with this. Thank you.

Valencia, I don't know if you want to add to that.

MS. WALLACE: All I would add to is I completely agree with everything that Shira said.
MS. PERLMUTTER: We like agreeing.

MS. MAR-SPINOLA: I look forward to the two of you working together. I think it was great before and it will be different and great continuing on and I love the holistic approach. Valencia, that approach that you took in Quality established the value of doing that way and so, we look forward to more good things coming from International and thank you, Shira, much appreciated. So, okay. Anyone else? All right. So, let's move on to Pendency and Quality. Our Chair is Steve Caltrider and with him will be Andy Faile, Deputy Commissioner for Patent Operations, Dan Ryman, Acting Deputy Commissioner for Patent Quality, Karen Young, Director for Tech Center 2900, and Brandon Rosati, Tech Center 2900. All yours, Steve.

MR. CALTRIDER: Okay, great. I'll keep my introduction short because we have a very ambitious agenda to cover in our allotted time. Commissioner (inaudible) first we will come to this morning the qualities at the top of his list
and I think it's fair to say for members of PPAC it's the qualities at the top of our list as well. The importance of reliable and predictable patent rights is really foundational to the system and I really want to start today, although it's not one of our presentations, with a shout out to the examiners and the office staff. They are both the frontlines for both Quality and Pendency and their hard work is clear and given its Public Service Recognition Week, it's certainly appropriate to recognize their efforts in this space because the trendlines are certainly moving in the right direction.

Today we are going to cover three topics. The first is pendency. The Q1 metrics and where we are in that journey. The productivity noted this morning will also be clear from this presentation and it's certainly more on track to deliver our pendency goals for year.

The second is designing this quality where we've made some improvements and a notable point on this is this is really responsive to
feedback and concerns that were raised by members of the public. So, the issue was brought to our attention and the office has been really quite responsive into looking into the situation and making some improvements to improve the design and its quality.

And the third is the external quality survey, which is of course the indicator on how the user community perceives how the office is doing on quality and again, the trendlines are all favorable, which is taking the punchline away a bit to the presenters and I apologize for that, but certainly, as a member of PPAC, I want to express my appreciation and gratitude for us moving in the right direction on these and continuing to improve our quality and pendency of our patents. With that, I'll turn it over to Andy.

MR. FAILE: Okay. Good afternoon. Everybody hear me? Just making sure. Thank you, Julie. Next slide please. So, Julie, we'll try to make up a little bit of time as we go through
three presentations that have a lot of
information. So, starting out and just taking a
look at where we are on some of our pendency
measures, I'll pick up from where Drew starting
this morning where he introduced a different way
of looking at pendency and this is something we
have been tracking for some time, patent term
adjustment. We are putting even more emphasis on
that now. You heard Drew talk about a 90/90 by
2025 is our goal. That's 90 percent compliance in
patent term adjustment by the year 2025. The
first few bullets give you kind of the sense of
where we are there. Drew also mentioned two kind
of facets of what we're looking at for patent term
adjustment. One is in the actual mailed actions
that we have. How compliant within patent term
adjustment are we with those mail backs and you
can see currently we are tracking at 83 percent
towards that 90 percent.

And the second is inventory. At the end
of this in FY 2025, how much of our inventory or
what percentage of our inventory lives within each
of the patent term adjustment, our frame markers. As you guys probably remember when we're talking about patent term adjustment, we're basically talking about five different categories. There is a tracking of compliance for how quickly we do our first action, how quickly we complete the prosecution of complete life cycle of an application, and then there's a few measures in the middle, one looking at how quickly we respond to applicant responses, one how quickly we actually mail out patent grants, and one how quickly we respond to a decision from the PTAB. Those all have four-month timeframes. So, you have a 14-month component, several four-month components, and one 36 overall month component. When you look across that entire spectrum of patent term adjustment, we're using those particular components and weighting them with the actions that occur within those particular bins, that's how you get to the 83 percent marker that we're at now. And again, for inventory, we're looking across those bins in FY '25 and we're
marching towards having a 90 percent compliance of
our inventory live within those timeframes, 14, 4,
4, 4, 36. So, so far, on track.

The next bullet is while we're doing
that, we don't want to lose any of the forward
momentum that we've building up for some years in
what we consider our traditional pendency's in
first action and total pendency, which is an
average pendency measure. As you guys probably
remember, we had marching down a path of 15 and 24
as goals having our pendency for first action be
less than 15 months, for total pendency be less
than 24 months for some time now. We hit those
markers. Last year we had average pendency less
than those two goal markers and we want to
continue that path this year. So, right now we
are 15.9 months and 23.5 months towards keeping
our first action pendency average measures within
15/24. 15.9 is greater than 15 last time I
checked my math. We are not that concerned about
that because the way the first action pendency
works is we are doing a first in and first out
throughout the fiscal year so we're burning off a lot of that older inventory so you're going to see that spiking pendency at the beginning of the year. That will come back down towards the end of the year once we burn the older inventory off and we have due inventory leftover. We have a little bit of a less of the spike, 15.9 at this point in time, than we had last year at 16.5 at the same point in time.

So, on total pendency, we're actually making up a little ground compared to where we were last year. We're at 23.5 months versus we were a little higher close to the 24 months at Quarter 2 of FY '19.

Another thing we're going to talk a little bit about today and dive into is our filing rates. We've have been watching our filing rates pretty specifically as we normally do. Particularly, in this time, we want to kind of keep up with filing rates that obviously sets our workload and we are very sensitive to filing rate changes. Currently, our serialized growth is 3.1
percent. Keep in mind all of these numbers are reported at the second quarter, largely the end of March, but 3.1 percent over where we were in March of last year.

We are doing pretty well in our attrition rate. We are at 4.4 percent for patent examiners and this counts attritions for any reason, retirements, people that are separated from the office, people that have been trained and promoted up into a manager position. If you subtract out what we call our transfers, our attrition rate is somewhere in the 3-1/2 percent. We are tracking really good be able to retain the patent examiners who are so vital to making sure we're hitting all of these measures. Next slide please. Thank you.

So, let's take a look at some filing data and this is pretty interesting stuff. So, here we're looking at filings by priority type. So, if you look at the kind of graph on the bottom, you'll see all the different types of priorities to which an application can claim and
we've kind of done a graph and kind of graphed that out so you can kind of get a sense of where we are there and where the growth is. Looking at the bar graph on the right, the blue is our last year filing rates. These were, again, mid-year to mid-year and the red is where we're tracking this year. We've broken this up into continuations, going from left to right, continuations, national stage applications, applications which have a foreign priority claim, applications which have a domestic priority claim, applications with priority claim, or brand new applications with no lineage attached, and then our divisional CIP's and reissues. The interesting part here to us is we're seeing our growth in priority types from the continuations and national stage and the applications claiming foreign priority in a little bit of a muted growth compared to last year on the other categories.

If you look at the chart at right, our CON's are the biggest growers at 8.7 percent and then we do have growth in both our national stage
and applications claiming foreign priority.

I wouldn't get too excited about the reissue growth of 11.4 percent. That number is a very small denominator. We went up from 306 to 341 thus the increase commensurate with that.

Next slide please.

So, what we really are looking at based on that last slide is our CON's and there's a really interesting story in our continuation filings. As you can see, they are graphed in the blue graph compared to continuations in part in divisionals in the red and continuation in part is kind of in the pink, the bottom line. As you can see, continuations have taken off like a rocket over the last ten years or so. They basically tripled in a decade. They are currently about a quarter of all of our incoming serialized filings. Keeping in mind, we take in about 430,000 serialized applications a year, CON's being about a quarter of that work. So, they are an increasing part of our workload from year-to-year and still seem to be climbing up. So, that is a
trend we are watching very closely that goes right into the loading of our dockets for examiners. We don't want to build up a huge backlog in CON's since they are increasing more-and-more from year-to-year. We are particularly sensitive to ensuring that they are loaded up and are worked out in filing date order as well. Next slide please.

We also looked at filings coming in by country origin so if you take a look at the chart on the right, at the very bottom that the U.S. filings or domestic filings and these are roughly -- 50 percent of our filings our domestic, 50 percent are from foreign origin. These numbers again, FY '19 to FY '20, compare the second quarter mark and as you can see, the large bulk of the filings from U.S. at the bottom there about 100k and then if you look at the other countries going to the graph on the left, you see by country kind of the filing rate increases comparing FY '20 to date to the same commensurate period in FY'19. Japan a little bit lower. Our really growth from
foreign filings come from China and Korea. As you can see, switching over to the chart, the right they're up about 22 percent for each of those countries. The rest of the countries are a little bit of the gain are relatively flat as you go down from left to right. So, a very interesting story here that are grown in foreign filings from mainly from China and Korea. Next slide please.

We also took at our filings by entity status, you know, large, small, and micro entity and as you can see from the graph, obviously, we get a lot of our filings from large entity and that is also the biggest growing category of the three entity statuses that we have all the way on the far right. So, most of our growth in entity status is coming from our large entity filers.

Again, comparing FY '20 Quarter 2 to progress in FY '19 Quarter 2. Next slide please. And that's it so I will turn it over -- that's a quick look at our stats here. Bottom line is we see things are pretty steady. Picking on what Drew said this morning, operations continue. We're are seeing
pretty steady increases. Things look, compared to
last year at this point, relatively normal in
terms of filing growth rates. We are continuing
to look at that continued CON's uptake, which is
continuing to go up and that is going to be
something increasingly feather into our calculus
of how were looking at dockets. With that, I'll
turn it over to Karen Young and Brandon Rosati who
are going to talk a little bit about design image
quality.

MS. YOUNG: Thank you, Andy. If you can
give me a thumbs up that you can hear me. All
right. Thank you. Good afternoon everyone.

Thank you for the opportunity to speak
to you about design patent image quality. It is a
topic that is extremely important to me as the
Director of the Design Technology Center 2900.
Along with us, as Andy mentioned, is Brandon
Rosati. He is the Technology Center 2900
Operations Manager and he helped spearhead the
improvement initiative that I'll be mentioning.

As noted on the slide, I'm going to
touch base on four areas today. I will begin by providing you with some background information. Then I'll discuss past changes and resulting improvements that were implemented in 2016. After that, I'll go over some of the challenges we are still facing and I'll end with the actions we are taking and we'll continue working on. The next slide please.

Moving to the background information, I'd like to briefly mention a little about image format. There are vector image file formats and raster image file formats. A vector image, such as shown on the left side, is instructed from mathematical paths and curves and point and that is versus a raster image, which is shown on the right side, which is constructed of a series of pixels. So, vector images, they are very flexible and they can be enlarged or reduced while maintaining image quality. When raster images are enlarged, they can be distorted resulting in blurry or unclear images as shown in the light where you can see the pixels in the enlarged area.
Here I have shown some examples of common file extensions and their formats. For example, many of you may be familiar with a JPEG file common to photographs. This type is listed on the right side as it is constructed of pixels. The same goes for .psd, which are files created in Adobe photoshop. Also, on the other side are other raster file types. I'll be (inaudible) back to the .tiff file type specifically in a future slide.

Contrast all the file types listed on the right with those listed on the left. For example, AI is a vector image that can be created using Adobe illustrator. Of note, is the fact that sometimes you can't always tell by the extension if an image is vector or raster. This is true, for example, with pdf, which is listed under each. Next slide.

So, back in 2016, the USPTO received feedback that the images published as part of design patent grants were degraded compared to the
images provided to the office by the applicants at
the time of filing. So, Brandon and others looked
into this issue and it was noted that during the
overall electronic processing of an application
and by that, I mean the overall process that
includes the initial receipt of the files, the
movement of the files into the examination tools,
and then the last stages, which are publications
and disseminations of patent. During that overall
process, there was a specific conversion process
where all incoming file types were converted to
another file type, a raster type. So, this
conversion was found to be mainly responsible for
the degraded quality of the images in the patent
grants. Next slide.

So, to address the issue, the USPTO
changed part of its process and moved to
preserving vector-based drawings submitted by
applicants in pdf. So, these drawings are stored
and displayed in a system called the Supplemental
Complex Repository for Examiners. That's a
mouthful. We shorten it and call is SCORE. So,
the SCORE drawings are looked at by examiners when they examine applications. The SCORE drawings are also pulled and used in the printed official paper patents that get mailed to applicants and these SCORE drawings are also loaded into the supplemental content of the electronic files of our patent applications. Those files are the ones viewable by our external stakeholders. Next slide.

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

So, here is another example where the
drawing image of the tire tread is so much better
on the right side, which is the image in SCORE.
And again, I've noted that the images preserved in
SCORE are used by examiners. They are received by
applicants in patent paper grants and they are
acceptable to our stakeholders in that
supplemental content tab.

So, what I have not mentioned, I've
repeated myself on where SCORE drawings are, where
they are not is they are not in the various search
systems and they are not disseminated for other
purposes. So, let's go to the next slide so I can
mention these challenges.

So, the USPTO adheres to a global
IP-wide recommended standard format for data
exchange. It's noted on the slide ST.33, it's in
a (inaudible) documentation handbook, and this
standard requires a raster-based image in a tiff
format produced at 300 dots per inch. So, in
order to adhere to this standard for publication
and data sharing, the vector drawing submitted by
applicants, they do go through a conversion
process to a tiff format. So, these are the
images that are disseminated and seen in various
search link systems.

So, one thing I urge all of you who are
looking at design patents to do is if you are
searching design patents and see a specific design
patent that's relevant to you, please take the
time to look up the application in the electronic
file that you have access to and view the SCORE
drawings in the supplemental content area as they
will usually provide you with a much higher
quality image.

I should note that the examiners, they
will do their general searching using the search
tools and the images they're in, but once they
identify the pertinent patents, they will look to
SCORE to view the higher image quality. Let's go
to the next slide so I can mention another
challenge.

So, we have been noticing a degradation of a small number of pdf documents during conversion, which appears to be related to various characteristics of the image such as layering features. So, layering features, they allow some content to be made visible or invisible in pdf. The next slide.

So, what we're going to do is we will continue to discuss with our publication contractor to identify some attributes such as this layering that causing degradation during the conversion and once we can pinpoint some specific things that people should avoid, we will establish a communication plan to reduce the receipt of those type of pdf drawings with those attributes. Next slide.

Another future action is we're going to continue our discussions with the global IP community. We will work with Valencia and Shira's teams with our International colleagues and we were going to work to modify that standard 33. We
will try. We would like it to be easier for applicants to submit higher quality images, which can be maintained through the prosecution and the publication and dissemination process. So, it's a long haul for some countries. We are ahead of many countries with our IP efforts so we are going so we are certainly going to continue our global discussions. That concludes my presentation and if I'm correct, I should introduce Marty Rater. He would provide a quality survey presentation.

Thank you all very much for the opportunity to speak to you.

MR. RATER: Thanks, Karen. Everybody good? Hear me? All right. So, I'm going to go ahead. I mean, we've kind of explored this survey in the past. The general nature of how we administer this survey hasn't changed and I'll kind of speak to that, but I know there's going to be a lot of questions about design and a lot about Andy's stuff and we've made you wait until roughly 2:00 o'clock before you started seeing charts so if we can kind of move all the way down to Slide 5
here that would be great where we start seeing
some data that Steve's kind of indicated. There
we go. Stop right there. As Steve mentioned and,
you know, kind of along with a lot of the other
things that are going on with the office, we're
starting to see some positive trends and some
continued and sustained improvement. Quick
reminder, this is the survey that we send to a --
semi-annual, twice a year, we send out a survey to
about 3,000 of what we call our frequent filers.
Folks that have about 10 to 15 patent applications
in the pipeline at any given time or office
actions. So, these are the folks that see day in
day out of what's going on with the office.

One of the key questions we have on the
survey is overall how would you rate examination
quality? Is it good, fair, poor, excellent, or
very poor and what we've got here in the dark blue
line that you see trending up is we are about 58
percent right now of our customer base says that
our quality is good or excellent and then in the
dotted blue line at the bottom, the lighter blue
line, we see 5 percent very poor and poor. So,

obviously, we are always for 100 percent

satisfaction, but it is a perception survey. It's

based on a lot of maybe your historic use with the

office. It could be a point in time, right? It
could have been the day. I heard some comments

earlier in this discussion, you know, slowness in
global docile, public PAIR being down. Well, if

that's the day we delivered the survey to you,

there's things like that that bleed into maybe a

perception of quality of how the office is doing.

But how we interpret this data and what

we really strive for is if you look back here to

basically 2009, back in 2009, and we've done this

survey since 2006 and it served as a very

indicator for us of how things are kind of going,

if you go back to 2009 and you can see basically

for every customer that was going to rate quality

as good or excellent, we had virtually one

customer -- an equal number of customers were

going to say it was poor or very poor and that

kind of gets in a rough environment, right,
especially if we are here. We've got 190 attendees on this particular session and if we walked out there and said, "Okay, 85 are this and, you know, 85 are that poor," whereas today we're kind of looking at one of the metrics we looked at and we kind of call it that net promoter, if you will, we roughly have 12 customers are satisfied or will report quality as good or excellent for every one that would rate poor or very poor. Now, we've done some analysis. That 5 percent, it looks like, you know, there's some significant things there where we've disappointed them in the past or they've got a particular issue that we have to prove demonstrated improvements, we also asked these customers as well, "Do you see quality improving or declining?" The good news is aside from the ratings that they gave us here in terms of what is the current level of quality perception, they also indicate that they are more likely to say quality is improving rather than declining. So, that's another positive sign and hopefully, we will continue to see this divergent
path between the poor and very poor and the good
and excellent. Now, of course, the difference in
between are those that rated fair.

The other thing to point out from this
survey, like I said, we kind of ask about multiple
things. We ask about consistency of rejections,
we ask about the clarity of rejections, and then
just the overall correctness in how well whether
or not it was appropriate for us to make those
rejections. And we ask them by statute, right?
We ask about 101's, we ask about 102's, 103's, and
112's. You can see in FY '19 we saw a bump up.
We kind of got a little bit a sharper climb there.
We did get an increase. A little bit of
satisfaction based on the eligibility guidance
that went on in January of 2019. The good news is
we've been able to sustain that. But really what
seems to be driving the perceptions right now if
we had to boil it down to one or two things, 103
rejections. 103 satisfaction with the 103
rejections we make, how often we're consistent,
how clear we are explaining the rationale and
presenting our position is really the key driver right now and just to put that in a little bit of context. If a customer says they are, lack of better terms, satisfied with the 103 rejections the office is doing and that kind of takes into account the clarity, the consistency, and the correctness, they are five to eight times more likely to say they are satisfied overall.

It's not surprising 103 rejections are in probably two-thirds of our final and non-final rejections we make, but that kind of gets us to where we want to look at our internal quality review program, are we picking up those things that are driving maybe the less desirable characteristics or the preferred characteristics in these 103's that are customers are saying. So, with that said, we'll bounce to the next slide.

These are just to give you a couple of ideas of other points that we're looking at. Citing appropriate prior art, we also ask our customers how well we're doing there. Citing appropriate prior art and (inaudible) claims, you
can see 60 percent of the customers say that we do it to a large extent of the time versus 5 percent we rarely or a small extent of the time, but, again, healthy ratio wise, 12 to 1. Treating all claims 59 percent of our customers say we do it to a large extent or most of the time. Those are significant gains over the couple years. That has actually been some areas of focus. We go back to citing appropriate prior art. You go back to all these root cause things of finding the better search tool so it's a cumulative effect of everything that was kind of talked about up to this point today.

Providing enough information to advance prosecution and subsequently addressing responses to office action. We want to point these out, not maybe our best numbers that we want to share, but this kind of ties in, which would really be my next slide, which we can skip entirely, but we use this data to kind of use what we do on our internal quality review program so we've talked about it a little bit publicly how over the past
couple years we've changed our review forms. What kind of data are we capturing of office actions. We're starting to look at things like that and point out when examiners do very well in providing enough information to advance prosecution or addressing responses to office actions and as we start building that data set and finding good examples and encouraging that and acknowledging examiners when they make that. We hope to see some of the gains there that we've seen with appropriate prior art and trading all claims.

The next slide is just the fact I've already said, which is basically this is perceptions and then we will kick it to questions of entity and care and about their presentations.

MS. MAR-SPINOLA: Thank you, Marty.

Steve, are you on mute?

MR. CALTRIDER: No, I'm not on mute.

MS. MAR-SPINOLA:

MR. CALTRIDER: Can you not hear me?

MS. MAR-SPINOLA: Now I can hear you.

Thank you.
MR. CALTRIDER: Do you want to facilitate the question period?

MS. MAR-SPINOLA: No, you go ahead.

MR. CALTRIDER: Okay. Let's start with Tracy.

MS. DURKIN: Sure, Steve. Thank you and thank you, Karen, for that really excellent explanation of not just the technology, but also of what the office is doing given the challenges. I wondered whether the office is doing any consideration of e-publications. You probably know that, you know, the European system, for example, has been electronically publishing for a long time and China even just started within the last few months. It seems like it's time for the PTO to consider that and maybe Design would be a great test set for it.

MS. YOUNG: Can you hear me? Thumbs up somebody. Okay. Tracy, I appreciate that comment very much and I do support electronic publication. I am open to Rick or Bill or anyone from the automation folks who'd like to chime in. I know
that we would like to get there. It's a balance between our other information technology priorities and trying to do it, but I appreciate your interest in it and your support so that when we can move in that direction, I know that you will be positive of our efforts.

MR. DURKIN: Absolutely. Thank you.

MR. SEIDEL: So, this is Rick. I would just concur with Karen. You know, we do have a lot of challenges. We are very interested in e-publication. I think being able to leverage text as filed, you know, and not have to do so many conversions downstream I think will go a long way in getting us to that ultimate goal of e-publication.

MR. DURKIN: Yes and certainly the (inaudible) of Design I was just going to add it's the drawings that are so important and so, you know, it's probably more important than in utility cases so if we're going to start somewhere, I suggest the Office start with design.

MS. YOUNG: Thank you, Tracy.
MR. CALTRIDER: Dan, you also have a question?

MR. LANG: Yes, so, (inaudible) they are very informative presentations. I wanted to focus on the continuations data that Andy presented. I'm very troubled actually by this rapid run-up in continuations over the last decade and had a couple of points. One, with the (inaudible) continuations, you know, the concern is that the claims, you know, can begin to drift away from the original invention and that it's going to take a lot of effort and attention to make sure that when a patent is issued, it actually reflects an invention that was reflected in the application as originally filed. You know, what we and many others see is that particularly in litigation, you know, many are confronted with patents that the products of continuations and that don't necessarily reflect the invention as already filed but did not (inaudible). So, I think with the run-up of continuations, you know, we're going to want to see a lot of attention to enforce Section
112 and making sure that we have a patent that is 
adequately enabled and described.

Two, I kind of wonder if the 
continuation increase is a reflection of, you 
know, people looking for other avenues other than 
RCE's to have continued prosecution. You know, in 
a way this represents a setback to progress that 
we thought we were making towards compact 
prosecution in, you know, having cases you know, 
this complete with a couple of actions and/or an 
appeal, but instead, you know, applicants in the 
office continuing to battle over claims and 
continuations rather than the RCE's.

MR. FAILE: Yes, so, great points all 
around, Dan. On the RCE's, on the comparison 
between continuations and RCE, that's an 
interesting thing that we should probably be 
studying because we are seeing the trend line in 
RCE's coming down. Coming down 5-6 percent from 
one of the earlier slides. If you look at our 
backlog of RCE's, we probably only have about 
23,000 in the backlog where at one point we had
100,000 or more and we started to move that down with some prior PPAC efforts in reducing that. So, we are at a pretty low state on RCE, you know, comparatively speaking. One of the questions is some of that traffic making its way into CON's. I think that's an interesting thing to study. One of the reasons I thought it would be good to highlight this slide is it does not only give us a new look at our workload analysis and how we're loading dockets and ensuring we are keeping a balance between getting new cases and CON's out. It also raises some interesting examining issues that you've mentioned. So, I think that would be a good thing maybe for us to start to focus on and maybe look at this a little differently than we have in the past given that this trendline is continuing to be a dramatic rise. So, I appreciate those comments.

MR. HIRSHFELD: This is Drew. Andy, great comments and I totally agree with what you just said. I can only share that anatomically as I've been talking to people to practitioners to
find out their views on this is I do hear a great deal of talk about a strategy to take the allowable subject matter that they can get and continue to file continuations to keep cases going and to try to seek even, you know, broader claims than they've gotten. So, I think that that strategy certainly has developed. I don't think that that necessarily is the entirety of the increase and I agree with you we need to look at the interplay between RCE's and continuations, but certainly I do believe that the strategy of taking what they can allowable, getting a patent on it, and trying to continue prosecution.

MR. CALTRIDER: Thank you, Drew. Thank you, Andy. And I'll add my two cents on this because I think, Dan, your question is also excellent that the Quality and Pendency subcommittee is going to take this up because I think it's an important issue given the volume growth and the important issue frankly on the perception of quality on some of those continuation applications or how that space has
grown. So, the Quality and Pendency subcommittee will take this up and probably report out hopefully in next quarter or the quarter after depending on how long it takes us to get through that data. Thank you. Julie, I'll turn things back over to you.

MS. MAR-SPINOLA: Thank you very much. Very interesting and I was just thinking one thing I learned here is that we cannot shortcut or take time away from these meetings and we will have to revert back to the full schedule going forward for sure. There's so much to share and to inform the public. So, thank you for that. Let me first ask or maybe just share my thinking, which is that maybe we can go over a few minutes. The current schedule is that we'll conclude at about 2:45 Eastern time. If we can go to a little past 12 noon, maybe 15-20 minutes beyond that I think we can have a full session discussion with PTAB and then my closing remarks. So, let me turn it over to Jeff Sears who is our PTAB subcommittee Chair and joining him will be Scott Boalick, Chief Judge
of PTAB, and Jackie Bonilla, Deputy Chief Judge of PTAB. Thank you.

MR. SEARS: Thank you very much, Julie. Before I take it out to PTAB, can I ask question, Andy, on the continuation slide.

MS. MAR-SPINOLA: Okay.

MR. SEARS: Okay, great. Andy, I think something we discussed in subcommittee, but I'll just leave it out there. If you are going to do a study of what the source is or the basis is of the continuation rise, I would suggest that you look at the prosecution history and find out are there any 101 issues that are in the file wrapper. The great uncertainty in 101 sometimes causes applicants to want to keep the family alive because if the law changes and my family is closed, I have a patent that could be presumptively invalid. That's all my comment for that.

MR. FAILE: That's a great point, Jeff. I think part of the rise you see here is, you know, CON's being a safe place to continue and the
uncertainty we see in the 101 space. I think one
thing that would be interesting for the
subcommittee to study is what are the other
factors that may contribute to a graph like we
saw. I do think that is a, for at least a portion
of that time slice, that's going to be a
significant contributor. So, thanks for that.

MR. SEARS: Great. Thanks, Andy.

Turning to PTAB. I'm very happy to report that
the PPAC and the PTAB have had a variety of
excellent conversations virtually over the past
few months regarding AIA trials and ex-parte
appeals and today the PTAB is going to give us a
short presentation on some recent developments of
the AIA studies and also, going to tell us about a
new program the LEAP program that the director
referred to and his opening remarks. I turn it
over to the PTAB.

MR. BOALICK: All right. Thank you,
just before I proceed, a quick sound check. Is
the audio coming through? All right. Thank you,
Julie and Jeff. So, as is true with, you know,
the rest of the office, PTAB has been functioning without interruption in these (inaudible) work times. We have been busy with many different projects and we're going to tell you about a couple here in our presentation.

Also, I just would like to mention that last Friday we had a board side chat webinar on the current state of PTAB operations. We talked about some case management aspects as well as CARES Act extensions and, you know, completely virtual hearings practice. The slides are available on the PTAB website if you didn't to attend the webinar, but would like to check out the latest on any of those topics.

Also, I just wanted to mention because it had come up is that on the ARTHREX front, we've recently issued a general order in all cases remanded from the federal circuit requiring a new panel under ARTHREX as well as any of the timely filed rehearing requests of decisions that were made prior to ARTHREX and what we're doing in those cases is we are essentially putting them in
administrative balance (phonetic) until we see whether any of the parties are entitled to seek cert at the Supreme Court do in fact seek cert and if they do, whether cert is granted. It didn't make sense to us to extend the resources to go through changing panels on somewhere over 100 different cases if it turns out that's not necessary. So, I just wanted to mention that that's a relatively recent development as well.

But the three things we're planning to talk about today are some new AIA trial statistics that PTAB has been working on in response to feedback from PPAC and from others in the public, some new precedential decisions, and, as you mentioned, the LEAP program. So, Deputy Chief Judge, Jackie Bonilla and Vice Chief Judge, Janet Gongola, are going to be presenting on these topics so I'll turn it over to Deputy Chief Judge Bonilla to talk about the trial statistics.

MS. BONILLA: Thanks, Scott and thanks, Jeff. Can you guys hear me? Thumbs up. That's helpful to say. Okay, great. Thank you so much.
So, as Scott mentioned, we're going to talk about, and obviously, there's plenty to talk about, but for today in our time we thought we would talk about three different things and I'll start with the first one if you go to the next slide the AIA trial statistics and basically, last time, if you remember, we presented a new slide that was showing a different way of presenting our stats in our AIA pieces and that was a pie chart, which is similar to what you see here today and that particular pie chart that we showed, it's currently on our stats that we have published every month on the PTAB website so you can check that out. That one actually covers al-combs of petitions from when we very first started in September of 2012 through the end of March is what we have up there right now.

Last time we met with PPAC there were some requests for whether we could see more recent data, just a snapshot of what's happening more recently and then also, there was a request if we could separate the data out rather than by
petitions to have it be by patents and also by claims if we could do that.

So, it turns out that we had actually been working for some time to try and put together that kind of similar data by patents and by claims. It turns out to be a great deal of work for us. A lot of that is actually done by hand and I wanted to introduce, he's actually here with us today too, is Bill Sain and Pete put together a group that actually did a lot of that work and, as I mentioned, it was a list and it was a lot of time to put that together and we finally have some information that we can share with you so we're excited to do that.

So, the data that we'll show today, it's data for fiscal year '19 so what you see here -- this is the first one we're going to show you. This is the information for fiscal year '19 by petition. So, this is call cases that fell into one of the categories. There was an outcome in the petition in fiscal year '19 so the pending cases are actually removed, but you can see if
there was an actual final outcome of some kind of a case, you see that here. And what you can see is somewhat consistent with what we saw for all time. About a third of our cases you see an institution is denied, about a third of our cases settle, and about a third of our cases make it to a final written decision with a small percentage, about 2 percent, being a quester adverse judgement usually by the patent owner. And then you can see what happened. If you take that third out and then you see the percentages of what happens in those outcomes in the third of the petitions that actually make it to final written decision and we broke that down in terms of what happens in final written decisions.

People talk about the stats that you see and under percentages for final written decisions. We thought it was important to show this pie chart because it actually shows what happens to all the claims and make sure that everyone remembers what actually happens to a petition as we go along down the path. If you go to the next slide.
So, this is very similar, but here it's done by patent and here we look at each patent that had a petition that reached an outcome of some kind in fiscal year '19 so it looks at the outcomes of all petitions that were challenging up to go patent. So, if a patent received an outcome of some kind of in fiscal year '19, we looked at every time it was challenged in a petition to see what happened to it. And what we also did to, if there was more than one outcome, if it turned outcome for a particular patent, if there was a final written decision, that's what we tracked it as. But if it's something left in a final written decision, it's broken out the way that you see it. And what you can see is that by patent, about 25 percent of institution was denied. That was the only thing that happened. About 20 percent of them settled. What you see there that 6 percent of mixed outcomes, that means that's a mix of outcomes that wasn't a final written decision. So, for example, if there was more than one petition, one of them settled, one of them went to
institution denied for things like that, then you
would see that as a mix so it's more than one
outcome for the thing.

And then what you can see is when you go
by patents, about 37 percent of patents that were
challenged in fiscal year '19 ended up in a final
written decision and again, that small 2 percent
was a request for adverse judgement. And there
what you can see when you break it down when you
look at that, a little over a third pie for
patents that went to a final written decision, you
can see that when you break that down that about
21 percent of those patents, all patents were
upheld, about 25 percent was a mixed outcome, and
about 55 percent all of the challenged claims were
found unpatentable.

So, we also wanted to do the similar
thing by claims. So, if you go to the next slide,
and what you see here, what we're looking at here,
these are all the claims that were challenged in
any of the patents that I just showed you above so
any -- when we talked about claims by patent in
the slide above, this is what happened to all the claims there. So, any patent that reached a final outcome in fiscal year '19, this is what happened to the claim. And, again, we had to, you know, sometimes more than one thing would happen to a claim so we had to prioritize how we were doing it if there was more than one petition. So, here if it was ever found unpatentable, it was put in a final written decision, for example, it was put in that bucket. If it was disclaimed but not found unpatentable in a final written, it was in that bucket and then, you know, patentable and if it didn't go into a final written, institution and if none of those things happened, it went to challenge, but no final written decision. So, that's what you can see there and what you can see is that only about 25 percent of the challenged claims actually were found unpatentable in a final written decision. And then as the ones went to a final written decision, 11 percent of them found unpatentable. And about a little under of a third of them, all of the claims or what ended up
happening to them is that institution was denied
so they never went on past that point. And then
there were some that there were challenged, but no
final written decision. That mostly includes
settlements so there was no determination on the
patentability. And then what you can see is in
that 35 percent that actually went to a final
written in relation to the claims, then you see
the stats that you see there. About 30 percent of
them were upheld and about 70 percent of the
challenged claims were found unpatentable. So,
it's important to realize that when people talk
about the stats about what happened by petition in
the final written decision what really is
happening to the claims. We thought it was
important to share with everybody hopefully in a
readable format that it's really only about 25
percent of the challenged when we're looking at
fiscal year '19, for example, were actually found
unpatentable. So, we go to the next slide.

Another thing we wanted to do, if you've
been following our stats, you know that back in
2017 we did a multiple petition study and that was looking at how many petitions were filed per patent. For example, what you see here for fiscal year '17. So, we wanted to compare what happened in fiscal year 2017, which was pre-General Plastic. General Plastic came out in 2017 and so did a bunch of our cases that spun off of that. So, we wanted to compare what we were seeing in terms of multiple petitions prior to General Plastics. Some of its Prodigy. Some information that we found in the Trial Practice Guide about parallel petitions that you've heard us talk about before and so, what you can see is we looked at fiscal year '17 so that is each of the patents that were challenged in fiscal year '17. We also looked at the first quarter of fiscal year 2020 and we looked at that because we wanted to make sure we were capturing everything that had happened in some of our case fell in our Trial Practice Guide. And what you can see there is that back in 2017 it was about 59 percent of the patents were challenged in one petition, 24
percent were in two petitions, and you can see the
other stats. And what you can see is since then in
fiscal year 2020 so far, about 70 percent of the
patents have only one petition filed per patent
and two petitions is 22 percent. And what you can
see in the box next to it you can see that the
change is in percentage over time. So, for
example, there was almost a 20 percent increase in
patents that had only one petition and the number
of times that a patent had two petitions or more
went down and it went more dramatically as we were
talking about more than two. So, if we could go
to the next slide.

So, I assume we can do questions at the end. At this point, I'm going to switch to some
of our more recent case law, but, Julie, you
wanted to wait until the end. Okay. We will do
that. I'm getting a thumbs up about that. All
right. So, I wanted to give you all a little bit
of update about some of our precedential and
informative cases that have come out. We've had a
few come out since we spoke last. I just thought
it would cover a few of them to make sure you know
the latest and greatest.

The first one is that Hulu did come out.
That was the one that was addressing what is
required for petition of established that a
particular reference qualifies as a printed
publication at the institution stage. And the
holding there was at institution a petition must
identify with particular sufficient evidence to
establish a reasonable likelihood that the cited
reference was publicly accessible before the
critical date of the patent for it to qualify.

In the meantime, we had Hunting Titans
(phonetic). This is our latest POP review that is
still on review before the panel. The POP review
was granted back in November. Briefings took
place by the parties and by a (inaudible) briefing
in December and in January and there was an oral
hearing in this case on February 18. This is a
case that deals with motions to amend and what
happens in relations to substitute claims and
motions to amend and I think if you go to the next
slide, there's actually a slide on it.

So, the two questions there were at what
time and under what circumstances may the Board
raise an issue of unpatentability in relation to a
substitute claim that the petitioner didn't
advance or didn't sufficiently develop and then
the second question is if the Board can raise such
a ground of unpatentability in relation to a
substitute claim, one of the Board must provide
the party notice and an opportunity to respond to
that ground before it makes its final written
decision. So, stay tuned. That's in the works
and with that we will move on to some of our other
cases. You can go to the next slide.

So, you can see here, not counting the
POP decisions or the one pending that I just
mentioned, since we had SOP 2 (phonetic), we've
had actually it turns out 21 precedential
decisions and 20 informative decisions. One of
the decisions actually was made precedential on
Tuesday so we don't have a slide for it, but I
wanted to make sure that we did talk about it a
little bit because I think it's an important case. This is a case that expands upon NHK, which is one of our precedential decisions that talks about institution factors and it mentions that one of the factors we consider during institution is whether there is a co-pending district court litigation, whether there's a trial set for the district court, and whether that district court is dealing with, you know, some of the same claims and grounds and arguments and things like that and is going to resolve before our due date for a final written decision. So, to expand on that, we had a decision that was made precedential on Tuesday. This is Apply versus SINTIV (phonetic). This is IPR 2020 00019 Paper 11. This was made precedential on May 5. It talks about six factors that the Board will consider when it's thinking about whether to apply NHK to take advantage of a discretion to deny institution under 314A. And it talks about the six factors that we will consider when determining whether NKK denial institution applies. One of them is whether the district
court has granted a stay in the case so there's
evidence that they will grant a stay if an IPR is
instituted.

The second factor is the proximity of
the district court trial date. For example, if
the trial date is in a few months, that could be
really dispositive. If the trial date isn't until
well after a final in decision, that could also
make a difference. One of the things we look at
is the investment that the parties and the court
have made in the district court proceeding. So,
for example, if the district court is pretty far
along, for example, they've done a claim
construction order and discovery are pretty far
along that will be something that we take into
consideration because it looks like a lot of
resources have been used in that case.

And then also we consider overlapping
issues, you know, whether substantially the same
claims, ground, arguments, evidence, and
particularly, the claims and were asking people to
tell us if there is overlap in the claims. That's
Another factor is whether a petitioner or defendant are the same party. That can have an impact as well. And then other circumstances such as the merits. So, for example, if the merits are really strong, that would be as part of the six factor analysis would weigh in favor of institution, but if it's something that's a really close call for us, but it turns out the factors that I mentioned weigh in favor of denying institution, then that would deny institution. All right. If you go on to the next slide.

So, we can kind of stay to these slides. If you go to the next one. These are our different ones that we have. What you can see quickly just looking at them is that in recent times we had some cases that were made (inaudible) informative in several areas. One of them was the 314A NHK one that I just mentioned to you. We have a few in the 325(d)-space including Advanced Bionics, which I'm going to talk about in a
second.

There's a few relating to obviousness and nexus and secondary considerations and then another one, a precedential one, relating to printed publications and four other informative relating to printed publications. I won't go through all of them, but I just again wanted to talk about a few because I think that they are ones that people have been discussing.

So, one of them is Advanced Bionics, which does relate to 325(d). 325(d) is when we assess whether the same or substantially the same arguments were already considered before the office and that's something that we can take into account to deny as a matter of discussion of institution.

So, in this particular case, it talks about a two-part framework that the Board is going to use in assessing how the play of 325(d). And the first prong of that test is whether the same or substantially art was previously presented to office including, for example, an IDS and/or
whether the same or substantially the same
arguments were presented before the office. And
then if it turns out it meets that particular
criteria, then we will look to see whether
petitioners demonstrated that the office has erred
in some manner of material to the patentability of
the claims. So, for example, it could be that the
petitioner identifies that there's something in
the prior art, either a new prior art or even an
existing prior art that the examiner didn't talk
about during prosecution and seeing you can tell
as part of the analysis they seemed to miss that
part of a case of prior art. That's something
that the petitioner can show as an error made by
the examiner and that could be a consideration
about whether we go forward. Okay. If we go
forward to the next slide. I just want to mention
this slide. Oticon case, that's just another one
applying the 325(d) and it talks about 325(d) and
314. I won't go into it too much, but I just
wanted to flag it. So, if we go to the next
slide.
Here's another one. There's actually two Lectrosonics precedential decisions. The first from a while ago related to motions to amend. This is the second one so I just wanted to flag to you there's a second one. This actually relates to obviousness and nexus if you go back to the prior slide. Great thanks. And application of Fox Factory, which is a recent settle circuit decision. So, in the particular case, it was interesting because it found that the patent owner in relation to the original challenged claims did not establish a nexus between the claims and the objective evidence that was provided, but it turned out in relation to the amended claims they did. So, the original claims were found unpatentable, but the amended claims were found patentable under that analysis. Okay. Next slide.

This is the last one of the precedential. This is a follow-up to Hulu, which relates to printed publications and this is just a clarification that the stand of the GC (phonetic)
for determining whether a reference is printed
publication in an AIA proceeding is not actually
the same as what you see in prosecution. We just
wanted to clarify that. In examination, there's
actually a burden shifting framework that you
don't see in AIA. The office can actually shift
the burden of production to an applicant to Code 4
with evidence if the examiner has made a
(inaudible) case of obviousness. Next slide.

All right. I just wanted to identify.

We have a few informative decisions. I'm going to
skate through the next few slides because I just
want to make sure that Janet has enough time to
talk about our LEAP program so I'll probably skip
most of these if you go forward.

The ones that we're looking at now also
have to do with public accessibility and whether
something is a printed publication. Those are
good informative cases about how we're working in
light of who -- you can keep going.

MS. MAR-SPINOLA: And the presentations
will be made available on the website as well so
folks can access the details, which are great here.

MS. BONILLA: Absolutely. And, of course, all of our precedential and informative cases are on our website. They are organized pretty well and when you go on the website, it will give you an idea about what the case is about so if you're interested in a particular topic, you can look for it that way as well. All right. Keep going. I think at this point I'm going to skip all of these slides because we could talk about all these cases all day and I know we're toward the end of the day and I want to make sure to give Janet a chance to talk about LEAP.

MS. GONGOLA: Thank you, Jackie. Are you all able to hear me? Thumbs up. Excellent. Thank you. Well, we are delighted to conclude our presentation to talking about our Legal Experience and Advancement Program. This is the first time we are really sharing the information with the public although we had an announcement about it last week. This particular program is designed to
enable those new to the practice of law or new to practice before the PTAB to begin developing their skills as an advocate. Legally, we have responsibility to train the next generation of PTAB practitioners and attorneys. In doing so, it benefits all of those who come before us, their clients, and the whole patent system. So, we've developed this program to further that effort.

Next slide please.

So, what will happen under this program is an attorney or an agent who is new to the practice of law or new to PTAB can request to have the opportunity to present oral arguments before the Board in either an appeal or in an AIA trial proceeding. Now, we have a definition for really who qualifies as a LEAP practitioner. The practitioner must have three or fewer arguments before any court including the Board and the practitioner has to have seven or fewer (inaudible) as a licensed attorney or agent. If both of those criteria are met, then the practitioner is eligible for participation in our
Now, for other senior council for a party in exchange for giving a LEAP practitioner the opportunity to argue, that party can secure 15 additional minutes for argument for their case in front of the Board. The party can utilize the argument time however they see fit. We just ask that the LEAP practitioner be given the opportunity to play a substantive role in the argument and to the extent that more senior council or the party would like some assurances that the argument will go well and there won't be any confusion or points left off the record that they'd like to put on the record, senior council has the chance to assist the LEAP practitioner during their argument time. They can jump in, answer questions. They also may make clarifying statements after the LEAP practitioner is finished arguing. Next slide please.

We tried to make is very, very easy for practitioners to participate in this program. We want to encourage it. So, you'll see on the slide
for either a trial or an appeal, a practitioner simply sends an e-mail to the (inaudible) office listed on the slide five business days before the hearing requesting to participate in the program. Now, the one thing we ask them to do is with their request they include a verification form stating that they meet the eligibility requirements. And in most cases, provided the trial schedule is open enough, we will immediately respond and give them the 15 minutes of argument time. Next slide please.

Now, the program itself is our first step in helping to develop the next generation. Another aspect of it is for our advocacy training to make sure that LEAP practitioners are comfortable presenting before the Board and additionally, that senior council and parties have a major comfort, we are going to be training LEAP practitioners about how to present in front of the Board. Our first training session will occur next Thursday, May 14, at 12:00 o'clock to 1:00 o'clock Eastern time. Free to attend. On the slide, you
see some of the topics that we are going to address. How the hearing proceeds, how to use demonstratives, how to most effectively spend the amount of time you have presenting your case before the Board. We intend to offer this training on a very regular basis so that we can continue to have a pipeline of LEAP practitioners gaining those advocacy skills before the Board. Next slide please.

And as a final aspect of our program at this time, we want to make sure that everyone knows that just because we have a provision to give extra argument time during presentation before the Board, LEAP practitioners are welcome and encouraged to be able to participate in other aspects of Board proceedings. Conference calls, depositions, all of this helps to build their experience level and get them ready for that argument when it's time for them to make it. We've created a website USPTO.gov/LEAP. It contains all of the information that I've covered today with our training schedule, copy of the
training materials. So, if you would like further
information on the program, please consult our
website and thank you very much for the chance to
talk about our program with you all today. Any
questions for Scott, Jackie, Jeff, or myself?

MS. MAR-SPINOLA: I'm not seeing any
questions, but I have a comment, which is thank
you for implementing LEAP. I think it's a
wonderful and exciting program. You know where my
feelings are about that. I think it's great and
so, I look forward to seeing its success and the
feedback I've been getting from externals is that
they're all very excited. I've already shared
with our various law firms to get their young
attorneys who are interested in developing that
skill in that practice to sign up. So, thank you
for that. Jeff, do you want to close on your
session there?

MR. SEARS: Sure. Thank you very much
and the PTAB really appreciate the presentations
today. I know the time is a little shorter than
normal, but I think the statistics you presented
really will give us an opportunity for some insight into what's happening the AIA trial side. Also appreciate, Janet, the overview of the LEAP program. I just want to underscore Julie's comments. Really appreciate the office's commitment to junior lawyers become better lawyers. Julie, over to you.

MS. MAR-SPINOLA: Thank you so much. So, I'm going to close with some remarks here, hopefully rather briefly. But thanks again to our IT conference services team and Jennifer Lo for ensuring that today's session came through relatively seamlessly. I've always believed that almost every situation presents a silver lining. Here today, with the restrictions imposed by the pandemic we've all been forced to transition from in-person meetings, which can really never be completely replaced, to digital meetings. We met together for the first time by video conference, proving that we can still deliver a meaningful, informative meeting to our stakeholders. Indeed, I was pleased to see that we had record attendance
between a low of 150 attendees with a high of 192 attendees where we averaged in the past about 80. So, that's historical in a couple of ways. More significantly, the Director and USPTO have proven that the Agency is agile and remains laser focused not only on its previously stated goals by providing reliable and predictable U.S. patents to become more durable patents, but also a willingness in acting fluidly in response to hurdles raised by the pandemic to protect and bolster our economy during these challenging times.

I'll end by saying stay well and out of harm's way. Help those in need and give what you can. Extraordinary times give rise to extraordinary people who do extraordinarily good things for others and themselves.

So, be that kind of extraordinary today. And with that, I will ask for a motion to close the meeting. Do I have a second? Great. So, the meeting is adjourned. Thank you, everybody. All right. Bye-bye.
(Whereupon, at 3:09 p.m., the
PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)
Notary Public, in and for the Commonwealth of Virginia

My Commission Expires: August 31, 2021
Notary Public Number 122985