PARTICIPANTS:

PPAC Members:

JULIE MAR-SPINOLA, Chair
JENNIFER CAMACHO, Vice Chair
STEVEN CALTRIDER
BERNARD CASSIDY
JEREMIAH CHAN
TRACY G. DURKIN
MARK GOODSON
DAN LANG
JEFFREY SEARS

Union Representatives:

KATHLEEN DUDA
CATHERINE FAINT

USPTO:

ANDREI IANCU, Under Secretary of Commerce for Intellectual Property and Director of the USPTO
SCOTT BOALICK, Chief Judge, Patent and Trial and Appeal Board
JACKIE BONILLA, Deputy Chief Judge, Patent Trial and Appeal Board
ANDREW FAILE, Deputy Commissioner for Patent Operations
PARTICIPANTS (CONT'D):

JAY HOFFMAN, Chief Financial Officer

JAMIE HOLCOMBE, Chief Information Officer

NICK MATICH, Senior Legal Advisor

SHIRA PERLMUTTER, Chief Policy Officer and Director for International Affairs

RAMAN SARNA, Portfolio Manager, PE2E

DEBBIE STEPHENS, Deputy Chief Information Officer

WILLIAM STRYJEWSKI, Patent Senior Information Technology Expert

MATTHEW SUCH, Director, Technology Center 2800

VALENCIA MARTIN WALLACE, Deputy Commissioner for International Patent Cooperation

ROBIN EVAN, Deputy Commissioner for Patent Quality

STEFANOS KARMIS, Director, Office of Patent Quality Assurance

MICHAEL KIM, Acting Vice Chief Judge, Patent Trial and Appeal Board

BISMARCK MYRICK, Director of the Office of EEO & Diversity

BRADEN RITCHIE, Director, Office of Government Affairs and Oversight

KIMBERLEY ALTON, Deputy Director, Office of Government Affairs and Oversight
PARTICIPANTS (CONT'D):

LAURA PETER, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO

NELSON YANG, Senior Advisor, International Patent Business Solutions

DREW HIRSHFELD, Commissioner for Patents

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PROCEEDINGS

(9:03 a.m.)

MS. MAR-SPINOLA: All right. We are --

good morning. We're going to start the session.

Welcome everyone to PPAC's third quarterly

meeting, our second virtual meeting in PPAC's

history. I am Julie Mar-Spinola Chair of PPAC

2020. We have a packed agenda today to cover in 4

hours or 4-1/2 hours. So I will just take three

minutes to share my observations and thanks before

I introduce PPAC 2020 members and turn the mic

over to Director Iancu.

While the pandemic is still keeping us

close to home, and I hope it hasn't been without

benefits and blessings for each of you, in this

quarter, the PPAC is focused on preparing our

annual report, which is due for publication on

November 2nd and which occurs before our fourth

quarterly meeting scheduled for November 19. The

report will focus on the events of fiscal year

2020 and share a glimpse into what we think or

hope fiscal year 2021 may bring.
Looking back at this year thus far it is -- you will hear more from our presenters today.
The Patent Office has done an exemplary job of meeting the myriad of challenges brought on by this historic pandemic. Director Iancu, the USPTO leadership, staff, and entire workforce have demonstrated a level of responsible stewardship of our patent system worthy of replication by other agencies and organizations.

An example is the PTO's ability to transition nearly 100 percent of its workforce to teleworking seamlessly and effectively without any significant disruption to its pre-pandemic operation. Other notable progress has -- was made in the areas of that PTO's patent quality, IT, artificial intelligence, and diversity, just to name a few. We would be remiss if the PPAC didn't thank those that could not telework with a special shout out to the essential workforce for keeping the office's infrastructure running smoothly during these times.

All right. It's time for me to
introduce the members of PPAC 2020. First, vice chair Jennifer Camacho. Cochair of artificial intelligence subcommittee, Barney Cassidy. Chair of finance subcommittee, Dan Lang. Chair of PTAB subcommittee, Jeff Sears. Cochair of artificial intelligence, Jeremiah Chan. Chair of IT subcommittee, Mark Goodson. Chair of patent quality and pendency subcommittee, Steve Caltrider. Chair of international subcommittee, Tracy Durkin.

And our union representatives, Catherine Saint and Kathleen Dudas.

And with that, I will turn the mic over to director Iancu. Good morning Andre.

MR. IANCU: Good morning, Julie. How are you? Good to see everybody. Good to see you. It's good to see everyone in their homes or offices, but I'm a little sad that we can't see all of you in person. But hopefully, sooner than later we can resume in person meetings. Although, I should say that we are blessed with this technology that allows us to be able to continue
the business of the PTO including meetings like this one, uninterrupted and on schedule.

By the way, as an aside, all this is possible with the incredible innovation from the United States that has been going on for long time. So we are the beneficiaries of that.

And as you said Julie, the business of the PTO has really been continuing for the past several months seamlessly and uninterrupted despite the fact that virtually all of our employees are working from home. As you can see, I am in the office today along with a few others, but we are slowly beginning to come back to the office. But by and large, almost everyone is still teleworking.

So I do want to start with giving tremendous kudos to our IT infrastructure, all of the employees of our IT group that really enable us to do what we do and have been able to do it seamlessly and uninterrupted for the past several months.

The USPTO is currently still in what we
call phase I at our Alexandria headquarters here in the national capital headquarters. We are also in phase I in Detroit and Dallas. What this means is that the buildings are still closed to the public. Most of the employees -- I mean all of the employees really, are encouraged to telework to the maximum extent possible except for those for whom it's mission critical to be present in the office such as IT folks in our command and control center that you mentioned a bit earlier Julie.

And the Detroit and Silicon Valley office is still remain in the gating period where those offices are completely closed and folks there are on mandatory telework. For the rest of us in phase I, what it means is that the buildings are still closed to the public. And as I said, employees are still encouraged to telework with the maximum extent possible. However, if you need to be in the office, you can seek leave from your supervisor, give the reason, and then come in, up to a maximum capacity of 25 percent of maximum
occupancy. We haven't, despite the fact of being
in phase I here at headquarters for several weeks
now, we haven't come close to that 25 percent mark
yet. Whether and when we moved to phase II and
then ultimately phase III depends on a lot of
factors including local conditions on the ground.
So we are watching what happens locally as well as
in the rest of the federal government. Along the
way, we have extended the excused absence for
dependent care leave, also known as EADC leave,
for USPTO employees who qualify.

And in the meantime, our employees
continue to support our mission from their home
offices. And as you know, the mission doesn't
stop. It's fostering innovation and economic
competitiveness. And they really have been doing
this in an extremely productive manner with the
utmost diligence and professionalism.

As I imagine you will hear from our
Commissioner, our productivity is steady. In
fact, it's been slightly up as well during the
pandemic. And that is really good to see.
Videoconferences such as this one have been the lifeblood of our agency frankly, during this time of maximum telework. So again, hats off to the IT team for ensuring that this platform and all collaboration tools --

MR. IANCU: -- continue to work well.

As I have mentioned before, the built-in IT infrastructure -- if I may ask all the members pleased to mute yourselves if you haven't. I would very much appreciate it. Please take a second to look and see if you have a red microphone on your name. And if you don't, please mute yourselves. Thank you.

By the way, two phrases that everybody is becoming familiar with during this time; one is, can you hear me, and the other one is, are you still hearing me. And please mute yourselves. So we are all on -- we are still getting used to some of this.

So it's not just our IT infrastructure that has enabled us to do this, but our long-term experience with telework for the past many years
has been really helpful to enable us to jump to
the full telework that was necessary a few months
ago and continues to this day.

All right. So now on to the business of
the Patent Office. As you will hear a lot more
from the commissioner, we are still on track for
the upcoming changes to examination time,
application routing, and implementation of the new
time, application routing, and implementation of the new
examiner performance appraisal plan known as the
PAP. These changes are scheduled to take effect
in October. They are some of the more -- most
meaningful changes in a very long time on these
issues. Our examiners are currently being given
extensive training in anticipation of this major
rollout.

Additionally, we continue to place
significant focus on improving examiner search
capability during the examination of applications,
ensuring that their searches are thorough and
complete and as early as possible during the
examination process. These changes will guarantee
even greater confidence in the quality of the
patents that we grant.

Commissioner for patents, Drew Hirshfeld, mentioned at the last PPAC meeting, we are transitioning to place greater emphasis on patent term adjustments time frames. This will be done during the processing and examination of patent applications with an eye to providing a greater amount of certainty for everyone involved. Again, the goal is to be 90 percent compliant with all patent term adjustment time frames which means minimizing patent term adjustment extensions that are required. So we hope to get to 90 percent compliance by 2025.

As the examination time, application routing, and PAP changes mainly pertain to pendency and quality. We will hear more details about these topics from Commissioner Hirschfeld and other speakers.

Let me take this opportunity to mention to those of you who don't know. We did give a public announcement a few weeks ago. Commissioner Hirschfeld's term has been extended for an
additional five years. So congratulations to
Drew. Very well deserved.

All right. Turning now to the fee
package that will take effect on October 2nd of
this year. PPAC has played a critical role in the
development of the fee package, as usual. As
noted in a patent alert we sent to stakeholders
this July, this process is taken several years and
required extensive consideration of many, many
factors including the state of the U.S. economy as
well as the operational needs of the Agency.

Balancing all of those considerations along with
the public comments we received during the notice
of proposed rulemaking process, which we published
last July, so July 2019. So based on all those
consideration, the publication of the final rule
was delayed from the planned release date of April
to now. So we just published it recently.

And the final effective date, as I
mentioned, has been delayed to October 2, 2020.
This extension is in line with various other
relief we provided to mitigate the impact of the
pandemic while maintaining the resources necessary for Agency operations. As I said quite a few times, ultimately our goal is to ensure not only that businesses and entrepreneurs can weather the economic downturn, but that they can hit the ground running as it passes.

So this is the first fee adjustment in about 3 years, 2-1/2, 3 years or so. To that end, the ruling includes an across-the-board adjustment to patentees of about 5 percent on average to help the USPTO keep up with inflation in order to achieve strategic goals. By the way, this represents approximately 2 percent annual increase from the last time these were adjusted.

Also includes targeted adjustments to existing fees, some at higher levels than what I just mentioned, to encourage the effective administration of the IT system and permit cost recovery for those specific services. Also includes some near fees, for example, to appear pro hac vice in an AIA trial proceeding and for non DOCX patent filings. Though by the way, based
on public comments and other issues, the non- surcharge will not be effective until 2022. And the package includes a discontinuation, elimination of several existing fees. All in, we estimate that the patent fee adjustments will generate $280-300 million in additional annual revenue. The final rule will enable the USPTO to continue operations at the highest levels of excellence including high-quality examination in a timely manner, as well as the modernization of our IT systems and infrastructure. A bit later you will hear from Jay Hoffman, our CFO and PPAC finance subcommittee chair Dan Lang, who will discuss our finances and budgets while chief information officer, Jenny Holcomb, and several others, will discuss IT system updates again, a bit later in the meeting today. Let me turn on to some other issues that we have been working on. Hopefully, you have all had a chance to see the most recent report from
our chief economist on U.S. women inventor patentees. This is a report that was published just a few weeks ago and it's an update to a prior report we published earlier in 2019, and this update as approximately three years of additional data.

All in, the good news is that more women are now entering and staying active in the patent system than ever before. The percentage for example, of total U.S. women inventor patentees grew from 12.1 percent in 2016 to 12.8 percent in 2019. The percentage of new women inventor patentees rose from 16.6 percent in 2016 to 17.3 percent in 2019. And the gender gap in the number of inventor patentees that stayed active by patenting again is decreasing. This is a new measure that we calculated for the purposes of this report and the numbers are interesting. In 2014 for example, 46 percent of women patented again within five years of their first patent, therefore by 2019, versus 52 percent of men. In 1980, the gap was 28 percent for women versus 38
percent for men.

Despite all these movements and improvements, of course there is much, much more room for improvement. Our hope is that based in parts of these data points, the public discussion will focus on how to better engage this untapped potential within the innovation community. It is critically important for our country for many, many reasons. For the United States to maintain its technological edge for example, we must broaden our innovation ecosystem and we must broaden it demographically, and geographically, and economically. In short, as I've said many times, we need all hands on deck.

The USPTO stands ready to lead in this effort, but we must have the committed participation of industry, academia, and other interest groups. You will hear a lot more about these efforts during the innovation expansion discussion later today during the meeting.

Another way we are highlighting the importance of diversity within the IT community is
through the new legal experience and advancement program, also called LEAP. Leap is a new program from the PTAB that we just -- that was just launched in May. It was designed with the next generation of patent practitioners in mind.

We wanted to create opportunities for junior lawyers, those newer to the legal profession, to gain the proper skills and experience in oral arguments before the PTAB. Leave grants at a time for junior lawyers on oral argument to encourage parties to give their newer practitioners a chance for standup speaking opportunities. And I'm certain that these practitioners who go through this program will benefit not just before the PTAB, but in other courts as well.

LEAP also provides these practitioners the tools and training necessary to excel in their professional careers with events such as webinars, training sessions, and practicums. In fact, we held our first ever mock argument and practicum last week over videoconference. It was a
tremendous success I think, and it's already received a lot of positive feedback. Many PTAB judges participated. I was one of the judges I can tell you firsthand that the LEAP practitioners who appeared in my group were extremely well prepared. And I'm certain that they are ready to stand up at real hearings. I'm very much encouraged that the future of the IPBAR is bright indeed.

All right. Let me turn now with a bit of an international update. Our deputy commissioner for international patent cooperation, Valencia Martin Wallace, and I and the number of others attended the old virtual IP five heads meeting on July 21. For those of you who don't know, the IP five are the five IP jurisdictions around the world that handle the vast majority, almost 90 percent, of patent applications that includes the United States, the European patent office, Japan, China, and Korea.

This was the first virtual meeting of the IP five heads with IP -- with these five IP
offices participating from across the world, translators and the works. It worked out very well in the meeting was quite productive. Valencia will provide more details.

But let me just mention one project, the PCT collaborative search project. I found that to be particularly successful. Having several offices provide comments to the international search report and written opinion allows participants to have more confidence in determining the viability of their inventions. We also discussed collaborative efforts during the pandemic and exchanged best practices. As I said, you will receive other updates on other IP five programs, initiatives, and projects throughout the day.

Finally, as we kick off the rest of the quarterly meeting, let me leave you by thanking the PPAC members once again for your hard work, dedication, and public service. The long-standing partnership between the USPTO and PPAC is extremely important. Your insights and guidance
on a number of issues continues to be invaluable.
We are looking forward to and relying on your
continued support in the months ahead. I hope you
have a great rest of the session today. Thank you
again for your service on the committee. And
Julie, if there is time, I'm happy to answer any
questions, but that's obviously up to you. Thank
you.

MS. MAR-SPINOLA: Thank you, Andre. We
appreciate that. And we do have a few minutes.
So are there any questions for the director from
PPAC or from the audience? And remember, you
might be on mute. So please look at your screen.
Andre, I do want to ask because given
the COVID pandemic, I asked a -- not a very
substantive question, but wonder if you can
identify one of the largest challenges for the
patent office that you felt was successful and
that the patent office didn't miss a beat on.
MR. IANCU: During the pandemic as I
mentioned, right?

MS. MAR-SPINOLA: During this pandemic,
MR. IANCU: Look. We -- let me just talk a bit about the leadership and then speak about the examiners and the employees. We are very much used to come into the office and meeting in this conference room actually, and the executive committee is just one example. All of us and the business of the office, day-to-day, traditionally takes place in person and right here. Then all of a sudden on day one, we all went home and worked from home. I tell you that we decided on that day one for the first few weeks anyway, that the executive committee will meet every day in the morning. We decided to dress up in suits and ties and business attire.

I see Drew smiling. I don't know that everybody was smiling when that decision was made, but it worked out very well. And we stayed in touch through these collaborative tools throughout, from beginning to this day. And it really has helped us, this ability to see each other virtually as it may be. But it really seems
like we were in the office speaking to each other
in this conference room. The bigger question was,
how are we going to deal with 13,000 employees
that all of a sudden have to do this. How is the
IT system going to handle an almost doubling of
the network traffic at any given moment across our
network throughout the United States? That was a
big question.

And Jamie, our CIO, and his team jumped
on it from the beginning. They immediately went
to improve our network bandwidth on day one, and
improve these types of collaborative tools. They
went through a number of improvements, and it's
paid off. I don't want to say, Julie, that there
were no hiccups. Of course there were along the
way, but we overcame them. We had to deliver.

As I said, most of our employees
telework anyway. Percent telework full-time
pre-pandemic. And then another percent telework
at least one day a week. So 85, 88 percent of our
folks were already equipped for teleworking, but
not everybody. So very quickly we had to secure
the equipment and deliver it to people's homes to
enable them to jump back into work right away.
And we did that. To me, that was the biggest --
really the biggest practical challenge, overcoming
the network issues. And that's why I mentioned it
from the beginning. Big kudos to the IT group for
being able to do that.

MS. MAR-SPINOLA: A Herculean task I
think. So we have one more question from Jeff
Sears.

MR. SEARS: Thank you very much, Julie.
Yes, director, I have a question for you about the
PTAB and discretionary denials of IPRs. As you
may know, certain industry groups sent a letter to
Congress earlier this summer regarding what they
view as the PTAB's increasing trend of using its
discretion to deny institution of IPRs, of patents
that are involved in concurrent litigation. We
understand that the PTAB is currently in a
data-gathering mode on these topics and we also
recognize the PTAB's discretionary denial is a
fact specific inquiry. We recognize that briefing
by the parties is the most important and most
salient way to highlight the facts that are
relevant to the inquiry for the PTAB.

We feel however, that the industry
reference to such a trend may give the stakeholder
community the wrong appearance about the work of
the PTAB. Would you like to make any comments on
how the PTAB is exercising its discretion in this
regard?

MR. IANCU: Thank, you Jeff. Well, so
as you know, the AIA statute gives broad
discretion to the PTO to -- and the PTAB to decide
whether to institute a post grant proceeding such
as an IPR if the petition meets the threshold.
What we have done over the past couple of years is
to provide a clear guideline and transparency to
our judges, our petitioners, our patent owners,
and the public, to know what factors we are
considering when we make these institution
decisions. Ultimately what we want to achieve is
to make sure that the statutory intent is met,
which is for the PTAB to provide an alternative to
district court litigation, and that the appropriate balance is achieved with fairness to all, the petitioner, the patent owner, the public, and the like.

So what we have -- some of the criteria we have provided, for example, is to consider when would we institute or deny institution of multiple petitions, whether they are serial petitions or parallel petitions. So we have provided factors for all these different circumstances, so the judges have some guidelines, as well as the parties. They can brief the issues and the decisions can be made in a transparent manner.

Most recently as another example, we have provided guidelines for how to consider parallel district court litigation. About 85 percent or so of IPR or patents that are in IPR here at the PTAB have parallel, concurrent district court litigation going on. So we recently issued a presidential decision to outline the factors to consider it as to when we would institute or deny institution when there is
co-pending litigation. Because ultimately, we want to make sure that PTAB proceedings are an alternative to district court litigation and not an ad on second bite of the apple to district court litigation which is precisely what that's what the statutory intent was, being an alternative. And statute expressly made clear that we should not have second bites of the apple.

But these are a balance of many factors that we consider along with the merits of the case. And ultimately, we're going to see what types of cases we get, what decisions are made based on these factors as we go forward, and we can make adjustments as necessary. What I can tell you is that from the data that we see, the various sets of factors that we have put out on all these issues, whether it's a parallel district court litigation, whether there is multiple serial petitions, parallel petitions and the like. So far it's working out very well, so that we can address the meritorious cases while at the same time avoiding duplicative litigation and multiple
bites of the apple.

I'm sure that more on this can be said and will be said by our PTAB Chief Judge and leadership later during this meeting if folks want more details.

Thanks for the question Jeff. It's a very important topic.

MS. MAR-SPINOLA: Thank you. Thank you Director and thank you Jeff for the question. If there aren't any more, and I don't -- Dan, do you have a question?

MR. LANG: No, I was just going to make a comment and urge the public to actually read the industry letters for themselves that outline the view on the part of many of us, particularly the discretionary denials relating to parallel district court litigation. It's the view of many of us that this is created effectively an end run around the process that creates motivation for plaintiffs to go to fast-moving courts to avoid having their patents subject to IPR in the way that was intended by Congress.
And also that the Congress had in fact intended for the possibility of parallel district court litigation and IPRs when it set forth statutory sections citing a one-year time limit, deciding not to have a mandatory stay, and creating a system of estoppel.

MS. MAR-SPINOLA: Thanks for that Dan.

You know, as a middle child, I would say I would encourage everybody to read all sides of this topic or this issue to be informed and to look at things fully informed. But your point is well taken. Okay.

Director, anything else before we move on to patent quality?

MR. IANCU: Nothing else for me Julie. Hope you all have a very good meeting. I'm sure there are a lot of important topics coming up. So I encourage folks to stay tuned in.

MS. MAR-SPINOLA: Thank you so much.

MR. IANCU: Thank you.

MS. MAR-SPINOLA: Okay. All right.

Thanks everyone. So we're going to move on now to
pendency and quality. This will be conducted by Steve Caltrider our chair of the subcommittee, Commissioner Drew Hirschfield. And we have a whole list there; Andy Faile, Robin Evans, Stephanie -- sorry -- Stephanie (sic) Karmis, and Matt Such. Forgive me if I mispronounced any names.

Steve?

MR. HIRSCHFELD: Okay. Thank you, Julie. This is Drew. I will jump in. What you see on the screen is an update that Andy Faile is going to give. Well now the screen has changed. Andy Faile is going to jump in in a few minutes and he's going to start a discussion about some statistics that we find most critical and important at PTO.

I wanted to start and give a few preliminary words before I kick it over to Andy. And let me first say what an honor it is to be here. As Andre said earlier, it is the beginning of a second term for me. I don't forget for a minute how completely honored it is to -- I am to
be Commissioner for patents and what a fantastic opportunity this is for me. So thank you to Andre and Secretary Ross for your confidence in me for a second term. And thank you to all the wonderful people that I've worked with and have made this and continue to make this such a wonderful experience for me. Again, I am literally honored every day to be in this position.

It is also my pleasure to announce some personnel updates in the patents organization. And to that end, I'm very pleased to announce that Robin Evans has very recently, as in this is like breaking news in the last days, has been promoted to the position of deputy commissioner for patent quality. As you all know, Valencia Martin Wallace was in that position and is now on the international side. Dan Reiman had been acting in that role and again has agreed to act as we were looking for a full-time person and Robin has recently been chosen.

By way of background, Robin was a group director in PC 2800. By the way, my old
technology center as well. She has recently been acting associate commissioner for patent quality and additionally she has experience in the regional offices. In Detroit she was actually the first head of the regional offices office as we stood up the offices. So she was literally the first person to be in charge of the regional office when we stood them up. Then she also spent time as the interim director of the Rocky Mount regional office.

So I'm thrilled to announce the selection of Robin Evans and looking forward to continuing to work with her and working with her in the new capacity as she is deputy commissioner.

I also wanted to say a word about Dan Reiman who had been acting in that role. Shortly before acting in that role, Dan was actually promoted to the position just below deputy commissioner. And when we needed somebody to step in, we asked Dan, or I asked Dan, to do so. And I cannot say enough good words and positive words about Dan Reiman. What a superstar along with
Robin.

So Dan, thank you for stepping in as you are literally learning a new role stepping into yet another role to help us out at the agency. It's people like you that really keep us moving forward. So Dan will now go back to the role he was given as associate commissioner for patent quality. And again, thank you Dan for all the great work that you did and everything you do for the office.

I will transition now to my words on the functioning of the office during the recent months since March when we have been in either a mandatory telework, or a maximum telework situation. And I will just tell you how proud I am of the employees all across PTO and certainly the examiners within the patents organization about how they have continued to work and work professionally. And I know anecdotally, I hear routinely from practitioners how available examiners are, how thankful they are that the examiners are continuing their work. And so kudos
to everyone for transitioning and accepting this challenge and doing the best we can under very challenging situations.

As you heard Andre mentioned earlier, examiner productivity is actually slightly higher than what we modeled. You will see in a few minutes from Andy Faile and I know most people who are involved in this meeting, routinely involved in the meeting, so you all know we keep very detailed statistical analysis and staff on examiners on everything we do. Examiners literally are -- get a production report and their supervisors get a production report every bi-week about how they are working, how much work they've produced. So we know very much in real time how we are performing. And examiners have done extremely well and again we are -- have actually produced slightly above what we modeled.

Now to be completely clear, it is very -- while it's a good story that we are producing higher than what we have modeled for, to be very clear, it is really not a fair comparison to
compare the last few months or even this whole
year because of the pandemic to last year. The
playing field certainly is different. What I mean
by that is, as Andre mentioned, we provide
certainly to employees when they have dependent
care issues that they did not have before the
pandemic.

So for example, examiners and other
staff at USPTO and others throughout the
government actually are able to take more time to
carry out the functions that -- for dependent care
that they would not be able to do if they did not
have this leave. We also know that employees are
not taking annual leave vacations. Some are, but
they're usually much more limited than in the
past.

This is actually an issue where a -- I
don't know if his problem, but it's something the
companies are doing with -- throughout not only
the United States, but the world, and we are no
different. So we do know that at some point, what
people feel more comfortable traveling, they are
likely to take additional leave. So again, that will be a decrease in productivity at that point and we are monitoring that as well. But suffice it to say at this point, we are in what I think is a very, very good situation given the challenges of the pandemic.

As far as other functioning, we do continue to operate. Andre mentioned that I was smiling when he was talking about our dress code and our daily meetings when we started. I was actually smiling because we were meeting daily and many of us were meeting nightly and weekends because it was quite an effort to make sure the office was transitioned. But again, very proud of the way we handled that. We are completely functioning in so many respects.

And I would like to point out that one of the big changes that we've made recently is when we went to maximum or mandatory telework in March, we actually had a new class of examiners that had just started. We transitioned them to be fully remotely of course, working remotely like
everyone else was. And then recently we've
actually hired an entire class of new examiners
totally remotely. So we are continuing to bring
in the staff we need. We are doing the training
remotely. And it has been a success and I won't
say there has been bumps in the road. There have
been certainly, but it has been an overall
complete success and a very good transition.

And a quick note about our telework
programs. It's very easy to recognize the benefit
of telework such as in a pandemic or not even
having to keep the same real estate footprint.
But there is another benefit that is very
important to speak about when we discussed
telework. That's the fact that I am 100 percent
convinced that the USPTO, because of our flexible
schedules, because of our ability to telework, we
get candidates for these jobs that we would not be
getting otherwise.

And I have actually had discussions with
attorneys that one of the best quality initiatives
we have is our telework program, because we are
able to attract and retain highly qualified people who really want to have the ability to work from their homes. And that is only magnified as recent events as you might imagine. So kudos to our telework program and we at USPTO have trying to expand the over the years and taking steps to expand that. And I think we've been fortunate for that.

I'm going to close my remarks by just talking about one more topic. I did want to mention something that Andre discussed, and he mentioned that October 1st we are on the cusp of that we will be having significant changes. We have discussed all of these changes in prior PPAC meetings, but this will be the last meeting that we have before those October 1st changes.

To summarize those changes, we will make the second part of time changes to examiners. We actually made some changes to their production requirements or the time they get to do their work last October.

This October we are making additional
changes. Suffice it to say that we are entirely
crashing over to the cooperative patent
classification system. Our time will be based on
a much better technological look at the cases. So
it will be much more refined time. I think this
is a very important change for the patent system.

We are also changing examiner
performance appraisal plans, which have not been
changed in a long time prior to this change.
While there are many changes in their, particular
areas of focus or the patentability search and
also the clarity of the record. I won't get into
the details here because we discussed these in
prior PPAC's, but these are significant changes
which we feel is the right thing for the patent
system.

And then the third change will be the
routing of applications. And I will tell you that
I recently did a webinar just on this routing
because there is a lot of interest from the public
about how we are routing applications. And to
summarize the difference compared what we have now
to what we will have come October, is right now we
are routing applications and assigning them to
examiners based on a single data point of the
United States patent classification system. So a
single symbol goes on the case and it goes to the
examiner.

What we will be able to do after October 1st, is we will be able to create a technological profile based on the CPC symbols, a much more granular look at the cases. We will be able to create a profile for every incoming application based on this technology. We also have been and are working on now, profiles for every examiner based on the actual work, the actual applications that they have been completing. And we will be able to match these profiles together to ensure that the case gets to the right examiner.

This is a much more refined system that will have a lot of benefits starting with ensuring that the best -- or the case gets to the best examiner. But it also lets us handle such issues as workload and workload balancing. So for
example, if you have five qualified examiners to
do a case and they are all equally qualified, you
would then go to the next criteria which could
include such aspects as the other cases or docket
size that they have. So we make sure that we are
ensuring the first in first out into the system.

So these are very significant and
impactful changes that I'm looking forward to. As
Andre mentioned, we are in the midst of training
everybody on the upcoming changes. And I'm
looking forward to them and know we will have a
smooth transition. I will end there and just say
thanks to the examiners for taking on these
changes during the pandemic as well. They
continue to do great work and I'm honored to be
remaining as commissioner representing them. So
with that I will and that I will pass it over to
Andy Faile who will discuss some of these
statistics. Thank you everyone.

MR. FAILE: Thank you Drew, and good
morning everyone. Julie and Steve, just by way of
process, to keep us on time I will go through the
pendency and stats update. We will do the quality updates and then we can do questions at the very end if that's okay with you guys.

MR. SEARS: That sounds great.

MS. MAR-SPINOLA: Yeah, thank you Andy.

MR. FAILE: Okay. Okay, no problem. So let's dive into some pendency updates. We had a request last PPAC on different look -- a different look at continuation practice. And so we got some slides that are cutting cons in different ways. So we will walk to that today as well.

Next slide please. Okay. So starting at the top. The Director and the Commissioner mentioned some of these stats, but I will walk to them on a high level. Again, our serialized growth rate at the end of quarter three, these stats are through the end of our third quarter which was June 20th. We are still up a little bit, 1.3 percent. That starting to edge down as both the Commissioner and Director noticed. We've had a little while to be bouncing up and down with our serialized growth rates or incoming filings,
roughly 1.3 percent in the third quarter down a little bit now.

Also mentioned by the Director and the Commissioner is our overall productivity. We are slightly up. This is productivity through the third quarter of June 20th compared to last year. We're basically on par with a quote/unquote normal year. We are about a half a percent of. That number again has ebbed and flowed, valleys and peaks in that number, since March.

Moving on to our pendency goals. We have a number of different pendency goals. Let me just walk through each one. As the Director mentioned, we are looking more and more closely at our patent term adjustment goals. We have an overall goal of being 90 percent compliant in our mailed actions and 90 percent compliant in our inventory, i.e. the inventory living within the 14 444 36 PTA goals by the year 2025. And we're marching towards that goal year-to-year. We are making pretty good progress there. Our overall progress in the mailed actions at the end of the
third quarter was 84 percent, 88 percent in the remaining inventory, compliance in inventory. So we're doing pretty good there.

Looking at our average first action pendency goals, we are at 15.9 months at the end of third quarter. That's a little bit of a decrease from the same time we were in last year. And then our overall total pendency goal, we are at 23.1 months. Again, a little bit down from where we were last year. So we're doing pretty good again, in keeping pendency, keeping pendency on the front burner, keeping our forward progress in the pendency.

If you look at our attrition rate, we still have a pretty healthy attrition rate. 4.4 percent is very good in this time. And we see that number being relatively stable throughout the year. More of a volatility in our first year examiners. After you get past the first year, those attrition rates go down quite low.

Next. Taking a little bit more of a look at the filing trends, so again, we are 1.3
percent above last year through the end of our
third quarter. Those fighting rates are starting
to come down. As of 8/11, we were up about a half
a percent. So we are starting to see a little bit
of a muting of the filings coming in in the front
door of the work that we need to work on and
process. For our RC e-filing, good news here. We
are 7.7 percent down on RC e-filing. Again, less
rework, more that firepower can be used work on
newer applications. And as of 8/11, that number
has actually come down a little bit more to 8.2
percent. So pretty good news on our RCE filings.

Provisional filings, we got a little bit
of an increase, 2.4 percent. That number seems to
move up and down between one and two and 2-1/2
percent. Not much of a news story there.

Our design filings, we've had a decrease
in design filings. If you remember from the last
PPAC, we reported on a downward trend in design
filings. We are actually a little bit less than 1
percent compared to last year. They have come --
the design filings have come up as the 11th of the
month, a little bit up,.4 percent up. So they are bopping right along that line.

Next, please. Okay. So the second part of the presentation, we will be talking about continuation filing. So we've cut the continuation data a number of different ways. And a big thanks Steve, to you and PPAC for teeing up this topic and for guiding us on the data that would be of interest to not only PPAC, but to the public in general.

This is a slide I showed last time. One of the big takeaways from this presentation is the graph on the right and the dramatic rise of filings of continuation applications throughout the years. This graph charts us from 2009 to present. So in the last 10 years, you can see the blue line of regular continuations dramatically rising. Right now they're getting close to about 25 percent of our incoming workload. We will have some of the graph showing historical rise of cons as well.

Continuation in part, that kind of
pinkish line down at the bottom is roughly flat over this time period. Our divisional filings roughly flat. A little bit muted towards the right end of the graph. The more cons we had the more work we're doing on the case where theoretically we have done some work on the case before in a parent case, less work we can move towards the front of the pipe working on quote/unquote newly filed inventions. So cons do represent an increase in part of our workload that we all want to be cognizant of as we spread that firepower out across our cases.

Another bullet, and we will dive into this little bit more. 70 percent of our cons have a patented parent and 26 percent of issued parents actually spawn a continuation or have a continuation file from them. We will dive into this data a little bit more in the following slides.

Next slide, please. Okay. So let's look at the historical continuation filings.

Starting with the graph on the right, these are
our continuation filings as a percent of serialized filings. So in the door we have regular serialized filings. They are a makeup of quote/unquote regular new cases and then our continuation cases. And as you can see, this is a long-term graph in 1981 until last year. As you can see, starting at about 1999 and particularly at about 2009, our continuation filings are an increasing percentage of our overall incoming caseload.

Going back to that slide we showed a couple of slides ago, more and more of our incoming caseload which we bring our 8,000 examiners to bear on, or represented by continuation filing. Looking at the left, the kind of entities that make up these filings, as you can see in the blue, the large entities are really spiking. They contribute a lot to the continuation filings. We are getting a trend starting about 2009 or so in the red of our small entity filers also being more heavily represented in cons. The micro entities, the green on the
bottom is roughly flat, very small percentage anyway and roughly flat over that time period.

Next, please. Okay. So now let's take a look at the parentage or the chain of continuations. So this is a graph. Let's start on the right. The percentage of cons that have a single parent application. This is an interesting trend throughout the years. Again, very long-term graph, 1981 all the way to last year, 2019. So back in 1981 or so, about 85 percent of parentage of cons had a single parent application. So you had an application and a con.

As we move through the years, last year that number had come down about 20 percentage points to 65 percent meaning that within the chain of a con we are getting more cons in that chain. So that's kind of a trend has been developing over time. Some dips in there and some rises in there, but basically decreasing the number of single parents for any con chain. If you look over to the right and kind of chart that out starting at about 2001 to present, you can see that these are
the cons file per year. In the blue, this is one con in the chain and the red, this is two cons in the chain. Green, three, four or, more purple, et cetera.

A couple of things here. Those cons still have a one con in the chain. You can see that the green and the red are starting to increase. That's shown on the graph on the right as well. So we are starting to see cons with con chains with more cons in that chain.

Next slide, please. Okay. Let's look at patented parents. And for this, we're looking at how a given con, how many cons within that chain actually turn out to be allow cases or patented cases. So if you start with the graph on the left, these are the cons. And then above them, all the cons in that chain. If you see a zero, that means there is no patent in that chain. That parents and did not become a patent likely abandon. Or if you are closer to the right in the graph, potentially still in prosecution. One would be one patent resulting from that chain in
red. Green would be two, et cetera, et cetera.

Jumping to the right, just kind of look at this trend. There's a couple of different interesting things here. What you see on the right is the number of cons filed per year. And again, that's approximately at this point getting close to 25 percent of all of our incoming cases. But this is just looking at the cons themselves. In the blue, zero meaning that there are no patterns in that con chain. In the red, one patent and the green, two patents, et cetera.

A couple of interesting trends. First of all, the majority of the cons still have a single allow parent in that chain. However, if you look from about 2012 on over on the graph in the right, you start to see the green and the purple becoming more and more a piece of that line as you move to the right. We are getting more cons that more patented cases within that con chain. This is an interesting take away on this slide that even though a plurality of our cons have a single allow parents and that chain, we are
starting to see a trend developing of more
patented cases within that particular con chain.

Next slide, please. Another way to look
at this is also look at the origin of these
continuation filings. So the graph on the left,
these are all the cons filed in the given years on
the bottom axis. The blue is a U.S. origin con.
A red is foreign origin con. And as you can see,
over time, generally it's about 60 percent of our
cons have a U.S. origin. And then the balance, 40
or so percent, are of foreign origin.

If you contrast that with the total
incoming serialized filings, as more 50/50. So in
general, our total caseload coming in is roughly
split equal between U.S. and foreign origin. If
you just pull the cons out of that and look at
that, we are a little bit more represented in U.S.
Origin and our cons to the tune of about 60
percent to 40 percent. Moving to the graph on the
right, these are the countries that make up the
filings of those foreign filed cons. A couple of
different stories here. As you can see in the
blue line, Japan has always been a heavy user -- heavy user of the continuation practice. They continue to file cons and they are actually starting to come back out to where they were and about 2015, had a little bit of a dip there. So Japan continues to lead the way with a number of cons.

A real emerging story you can see in the red line is China. Look at about 2017 plus, you see a very sharp increase in China using the continuation practice. So that's something we will be looking at very carefully in the future. That trend seems to be continuing in 2020 as well. All the other countries are basically down at the bottom. They are all increasing. To a certain degree, their increasing is a little bit more muted compared to Japan and China.

Next slide, please. Okay. Another request is to look at bypass cons.

These are cons filed off of a PCP application. Pretty dramatic story here. There's been a huge increase in the use of bypass
continuations. An over six fold increase since --

since 2000. Taking a look at the graph on the

left showing the numbers file per year. Again, if

we look at that by filed by PCT office, again, two

leading contributors, Japan and China on the graph

on the left.

Next slide. I believe our last slide

here is that there was a request to cut this by

TCs. So look at the cons file per TC and kind of

the trends there. So at the bottom in a very busy

graph, very colorful graph, very busy graph, we

have all of our TCs from 1600 to 3700. And a

very, very high level quick high level key to the

TCs. If there is a 1 in front of it, is generally

a chemical or biotech PC. If you see a 2, is

roughly an electrical TC. If you see a 3, is

roughly a mechanical TC. And there are certainly

deviations from that, but just at a very high

level you are seeing chemical, mechanical,

electrical.

TC 1600, the biotech organic chemistry

pharma area, has had a long history of using cons.
That the blue line. As you can see on the left, the blue line is above everyone else. They can -- TC 1600 continues to get a large number of cons as a percentage of serialized filings.

Some of the interesting stories are if you see the purple line, it's the highest line on the right, that's TC 2400. That's largely computer networking, cable television, computer security, compression of data used in the network, et cetera, multiplexing. They are really on the rise. They are having a sharp use of cons in that particular sector.

If you also look, most of the electrical TC's, 2100, 26, 2800, they are all on the rise and the filing of cons as well. This kind of gives you a little bit of a look on the technology split, who's using the continuation practice. And I think even more interesting, what trends are developing there with 2400 over the last several years really being kind of the leader and having continuation as part -- as a percentage of their serialized filings.
I believe the next slide -- I believe that's the last one. Okay. So as a quick summation, continuations are becoming a larger and larger part of our incoming serialized filings. We are getting close to 25 percent. That number has sharply risen. Some of the other data that we're seeing, we are getting long -- more continuations within a single continuation chain and we are starting to see a trend of more patents emerging from a single continuation chain.

China and Japan are the leaders in the foreign filings of these. The news there, China being very much on the upswing as of late. Japan has always been a leading country, a leading user of the continuation practice.

So thanks very much to PPAC. Steve, thanks for your guidance on this and look at cons and breaking this down. Let me turn it over to Robin Evans now to talk about some of our quality initiatives. Hopefully we will have some time at the end for questions. Thank you.

Robin.
MS. EVANS: Thanks Andy. And let me just say, I am excited to join the ranks of deputy commissioner for patents alongside Andy, Valencia, Rick, and Bob. I share their same drive and commitment to ensuring that we issue reliable patents. I also wanted to say that I'm not new to PPAC. I have presented at PPAC on a number of occasions across the years. Just to jog some of your memories, about this same time last year I sat before you providing information on the training that we give to examiners throughout their careers here at the office. So I am committed to ensuring that we continue to provide education, information, and training both internally and externally. So I look forward to working with all of you in this new role as we continue to bridge gaps, explore ways to meet the needs of the community, and improve our processing and systems.

And as we discuss and talk about training, one of our focuses in assuring that we continue to provide high-quality examinations is
search. We all know that a complete and thorough search is one of the most important factors in providing quality examination.

And so today, we would like to give you an update on two of our search initiatives. The first one is search immersion. So Stefanos Karmis, director of the office of patent quality assurance, or OPQA, will discuss search immersion. I believe last year you all heard about the search feedback pilot and this search immersion is the next phase stemming from that effort.

Following Stefano, we will hear from Matthew Such a director in technology center 2800. He will give us an update on the peer search collaboration pilot. So with that, I say thank you and I will turn it over to Stefano.

MR. KARMIS: All right. Thank you for that introduction Robin. It was a great intro to what I was going to say about the search immersion really being a continuation of a report out that PPAC got in November regarding the OPQA search feedback pilot.
So if you can actually go to the first slide here, I want to spend just a slide or two to recap last year's pilot for your memory. And also I want to begin a little bit by just reminding you a little bit about OPQA. So the office of patent quality assurance is staffed by about 65 reviewers. These reviewers tend to be former examiners who had a lot of experience in their careers that ultimately move on to OPQA. They spend about half their time doing random reviews for our statutory compliance metrics. And the other half of their time they spend doing special views, case studies, and assisting the TCs.

This pilot last year fell into that extra bucket of reviews that they were doing. And just to go over a recap of what's done in that pilot last year, what we essentially asked our reviewers to do was to conduct an independent prior art search in a pilot application. So this was an application that was not part of their regular statutory compliance reviews. Then we
also asked him to evaluate the examiners recorded
search strategy and history via a search feedback
form and send that back over to the examiner.

When the examiner received as a feedback
form, at their discretion, have the option to
request a meeting with our reviewers where they
did discuss feedback from the reviewer and also
share best practices.

If you can go to the next slide. Just
one more slide here on last year's survey just to
refresh your memory. There was 590 randomly
selected applications that were reviewed by OPQA
and 34 percent of those, so I think about just
under 200 of them, we did a meeting between the
reviewer and the examiner. And then when the
pilot was over, we did a post pilot survey which
is -- was the big focus of the November meeting
with PPAC.

And just to highlight a couple of things
from those surveys, 75 percent of the examiners
expressed an interest in having the search
feedback form as part of their regular OPQA
reviews. And despite maybe only 34 percent taking part in the one-on-one sessions, 66 percent did express may be an opportunity to have future collaborations between reviewers and OBQA and also the examiners. We also did have some other really positive feedback as part of the survey that the search feedback form is really easy for the examiner to understand, that the sharing of best practices and different ways to search and the resources used to search were all very helpful.

If you go to the next slide. And so as Robin pointed out, I mentioned at the beginning, we really wanted to take the lessons learned from that pilot and apply them this year. So we have ultimately come up with something that we call search immersion that we started in the fourth quarter of fiscal year '20. It operates similar to the pilot, but it is a little bit different. So we are asking our reviewers to conduct an independent search in 10 percent of the applications that they review. They actually already do an independent search or are required
to do an independent search in 10 percent of the applications that they do. They actually do a little bit more than that just how their own discretion and to give feedback. One of the issues we have is that our master review form in which our reviewers record their searches is definitely not as robust as the feedback forms that were created for the OPQA search feedback form. So rather than use the MRF for that 10 percent, we are asking that they use the documents from before. Again, they will evaluate the recorded search strategy of the examiner and send everything back through a feedback form.

One thing that is different though for right now, as we're not going to do the optional meetings. We did get feedback that it was helpful to have these as part of our regular random reviews and there was some thoughts on how to best collaborate. So as we tried to build this program up and the number of hours that would be involved, if we do 10 percent, that's upward of 1,200 hrs. in theory that can be applied to these one-on-one
meetings. I think we really want to rethink the best way for our reviewers and examiners to collaborate at the beginning not only on search, but as well as other things. So for this immediate ask, we are not going to do the meetings, but that is something we're going to evaluate in the future.

Next slide. So some of the goals of what we are going with the search immersion, very similar to last year. We still want to provide meaningful search feedback to both managers and examiners. This is particularly important now as search takes on a bigger role in the examiner's performance appraisal plan in the future. We also just want it for overall quality improvement. We do want to consider what the impact is that not having those meetings. Are we still going to have good feedback going to be examiners as well as the feedback that goes from the examiners back to the (inaudible).

And as I mentioned, we are not using the MRF now. We are using a specialized form.
Ultimately, whatever we do, we want to get put into the MRF so we have this information available at this data available for easier access. So this will help us finalize some of those inquiries for the master review form. You can go to the next slide.

So I'm just going to give you a few minutes here, a review of our works a little bit more detail. So what we are asking our reviewers to do, since these reviews instead of going directly to the examiner, are actually going over to the manager, we are first asking our reviewers to search the application before they do their review of the application to assist with some of the things that maybe we are missing from the one-on-one discussion.

We are having our reviewers write a few sentences of what they think the inventive concepts are or the inventive concept is, and also some information regarding the CPC classification. These are two particular areas where the discussions often focused on. So if we can put
this in writing, we are hoping we can make up for any of that loss discussion.

And then there will be a summary of the reviewer's search. So they will have the check boxes that they are letting the examiner know which databases they searched and also some search strategies that the reviewer used such as CPC interactions, intersections, sorry, and other things, and whether they consulted with any other experts, which our reviewers don't often do, but we had that on there. So this will really document what our reviewer searched when they searched the case.

And then the next slide. So in addition to that form, there is also a search immersion form. This is really where the reviewer will do their analysis of what the examiner searched and record the examiners search strategies and then we will do a comparison of the reviewer search strategies to the examiner search strategies and identify what some of the differences were so that we can sort of have improvements on both sides.
really from the examiners and the reviewers.

I will just go one more slide. I'm trying to save some time for Matthew. This is actually my last flight. So during the fourth quarter, we expect to do about 325 of these. I think we're getting close to doing about 120 of them. We will do an assessment in fiscal year '21 and determine whether we are going to pivot at all. We do want to do some surveys with the examiners to see if they are still getting the feedback that they get. We also want to do some surveys with our reviewers as our reviewers really benefit from the discussions with examiners who were maybe more experts in a particular technology. We will run this for a little bit and do these assessments.

And I think that's mostly what I have for you today. So I think I'm turning it over to Matt and seven questions for the end.

MR. SUCH: Thank you Stefanos. So I also want to thank Robin as well for the introduction, and fate the committee for the time
to present some updated results from the Pearson collaboration pilot.

If you can, move to the next slide. So this is just a recap. We have presented some of the initial results from this pilot at a previous PPAC session. And we would like to just briefly go through the program itself. So an examiner that was participating in the program to add an application had the opportunity to select that application to get a search assistance with a peer during the pilot program. So they were given some time to be able to do some collaborations.

The secondary examiners we referred to in the pilot program who is providing that additional search assistance would get some time to also complete that search. Then there was some discussions to facilitate an interaction about the findings of the search.

We did run the pilot last fiscal year and found that examiners that participated were actually quite judicious with the applications that they were selecting for the pilot. We noted
that we had about 130 applications go through the pilot out of a maximum possible number of 240. So if you can, go to next slide.

Previously we have presented results on surveys that were conducted and focus sessions that were conducted with all the participants and we saw some very strong survey results. So we wanted to follow to see how the prosecution of these applications actually proceeded afterwards to see if we could measure what the potential impacts might be. And so that is updated results are going to be the discussion focus for today. You can move to the next slide.

So one of the highlighted results that we wanted to point out, we did share this last time, was that examiners reporting that the peer search pilot was yielding references that they had not found themselves during their search. And this is true for both the secondary examiner providing additional references to the primary examiner or the lead examiner on the case and vice versa. And we wanted to understand how this was
actually showing up and manifesting itself in prosecution. So we've had OPQA provide quality review of the applications in the actually found a statistically significant increase in the number of references that were cited in applications from six to half up to about 8.2 percent or a point to references in the nonfinal office action that was issued directly after the pilot collaboration. You can move to the next slide.

So this is just a review of some of the survey findings. We found that 96 percent of the examiners that participated in the pilot to the surveys recommended that this type of interaction would be appropriate depending on a couple of different circumstances. We wanted to understand a little bit further about some of the reasons why examiners that were assigned the case for nominating a case for the pilot and seeking assistance.

And we found that the vast majority was some sort of additional request for additional assistance with either the overall inventive
concept or there is a particular limitation in the claimed subject matter that they really wanted their peers searchers to focus their attention on.

We found that about half of the applications that were in the pilot itself for the peer collaboration were actually pairing together to examiners from different technology centers. And so we recognized that there was a little bit of a multidisciplinary effect in terms of some of the applications that were being shared in this program. So if you can, moved to the next slide.

So as I mentioned before, OPQA provided us some review of the nonfinal applications that were collaborated. Now these reviews were done merely on the nonfinal spirit we did not look at the allowances. There was a reason for that and that was the allowances were actually very few since there was 130 applications. I think we had five allowances on first action.

The other thing I would note in terms of our compliance rate numbers for a sample, a representative sample of cases from the same
examiner group prior to the pilot and after the pilot, is that we used a slightly modified review process to make sure that we were focusing and capturing information on the search itself. So what I would note is the magnitude of the numbers here may be a little bit different than what you're used to seeing with our quality statistics. We did not see any statistically significant differences for the compliance rate. And we did look at the clarity metrics as well and did note some, either equal or nonsignificant increases in some of those metrics that were of interest. But we had a very small sample sizes and so that's an area that we would like to focus on in the future. You can move to the next slide.

We also follow the prosecution of these applications all the way until either the terminal disposal three RCE or at -- or until the RCE itself. And one of the things we were interested in learning about was effective having a -- this additional search assistance in these additional references on compact prosecution. While we did
see a slight uptick in the allowance rate and a
slight uptick in the terminal disposal rate, I
would note that while these are not specifically
significant, we did find that this was quite
interesting and would like to explore this further
given that -- to see if this holds. We are
interested to see if the additional references or
perhaps the references that are yielded were
providing some benefit in terms of the overall
compact prosecution of our applications. And so
if we can, moved to the next slide. So our next
desks are as follows; as I mentioned, we had some
very, very positive survey data that indicated
strong support amongst the examiners. However, we
weren't able to -- and while we weren't able to
measure statistically significant differences in
the statutory compliance clarity or compact
prosecution. We did get some indications that
there may be something here worth looking at a
little bit further. And some of those limitations
were just due to the smaller sample sizes we had
for our metrics.
And so we're actually proceeding with further piloting and we're looking very carefully at some very specific use cases that can potentially bring us a lot of value, as well as increasing our sample sets to be able to increase that physical confidence. So we're looking at these use cases right now; very interested in feedback and ideas about some things that we could consider for inclusion into the next steps for the program as we continue to go forward.

Additionally, we also noted -- I want to note that there was a significant investment that was made for each of these applications that were in the pilot program and as part of that we are looking at different processes that we'd like to be able to explore to see if there's more cost effective ways to be able to engage in these types of collaborations between examiners to facilitate a patent search.

So with that I'd like to thank everybody, and I think we have a few moments for questions.
MR. CALTRIDER: Thank you to Stefanos and Matt for a great presentation, and Andy as well.

I want to thank on behalf of the subcommittee, Drew, Andy, Robin for your leadership and for your engagement with the subcommittee and all of the staff because we share the objective of securing patents in a timely, predictable, and durable -- and the work has really been outstanding.

I also want to make sure I pause for a moment before we get into the Q&A and thank Dick Rieman for his service as the acting deputy commissioner of patent quality. We've had a transition of leadership this year and in view of that and we haven't missed a beat, and it's really gone fantastic and Dan, I think that's really due to your leadership and stepping in during this time, so I really appreciate that.

One last point before we get into the continuation -- or into the Q&A is on the continuation practice. We'll hear more about that
in the future as the best project matures and get
into more of a root cause analysis and
understanding that deeply when 25 percent of your
filings are continuations, I think it's worthy of
more discussion and more consideration on why and
what's happening and what's driving that. And so
the subcommittee will be reporting out on that in
the future as well.

So we're running out of time, but let's
pause for a moment for any questions that anyone
may have.

MS. MAR-SPINOLA: Steve, this is Julie
Mar-Spinola. We have a question; I believe it is
appropriate at this time. And the question is,
could exemplary searches done by OPQA examiners be
available to the public?

MR. KARMIS: So the work that OPQA does,
the reviews that we do and the feedback that we
give has historically not been part of the public
record.

MS. MAR-SPINOLA: Is there --

MR. HIRSCHFELD: Yeah, Stefano, this is
Drew. I'm not sure if that question is actually referring to searches that are done as part of an application review, which is information that relates to the performance of the examiner, which we do not make public and it's for training purposes. But the question may also be focused on just having examples of exemplary searches period. So not necessarily tied to a specific case. Don't know the answer to that. It's -- to the extent that the question is about the latter, I think it's a very good question and we will certainly take that back about how do we best have exemplary searches shown to all, so people can see what we are -- what we believe at PTO is an exemplary search. I think it's a great idea.

MR. CALTRIDER: Considering --

MS. MAR-SPINOLA: Thanks. Thanks, Drew, for that.

MR. CALTRIDER: I think a related question to that, and I'm not sure if it's Matt or Stefanos, or Drew, or Robin, to answer this, but we don't have any external benchmarking to
understand -- I mean there's a lot of external
search providers and we don't have any external
benchmarking to know how a PTO search stacks up to
whether it's the European patent office, the
Japanese patent office, or an external search
vendor?

MR. HIRSCHFIELD: I am not aware of any
Steve. I'll jump, in. I'm not -- that doesn't
necessarily mean that others haven't been looking
into that but I'm personally not aware of that.

MS. MAR-SPINOLA: Okay.

MR. HIRSCHFIELD: It's not a look
that I'm aware of that was done.

MS. MAR-SPINOLA: I'm sorry, my dog was
barking.

MS. MARTIN WALLACE: I'll just jump in a
little bit about international offices where that
type of data is not commonly shared. We don't
have metrics from other areas on their search and
application quality.

MS. MAR-SPINOLA: Thank you,

Valencia. Yes, we have two questions. One from
Dan Lang, and then one from Jeff.

Dan.

MR. LANG: These are great presentations and I, you know, I'm really happy to hear about the progress in the search initiatives. And the continuation data is interesting, albeit sobering in some ways. There's a lot of suspicion that many continuations are not, in fact supported -- well supported by the original filing and as continuations progress, second, third, and so on. You know, what we can often see is that claims are moving into areas that cover things that were, in fact, developed after the continuation -- I'm sorry, after the current application was originally filed.

Can you speak to any initiatives or thoughts about how to better police section 112 support in successive continuation filings?

MR. FAILE: Sure, I'll start, Drew, if (inaudible) so I think it's a great observation, Dan. I think what we're diving into and looking into the cons now, it's kind of baselining. We're
trying to get the data and trying to see what kind of data we have and what kinds of trends we are seeing.

I think our next step with the subcommittee would be trying to get into some of the root cause analyses of why the data is the way it is. And then, maybe the third step is, are there things that we should be doing different in examination, kind of operationalize some of that data. And section 112 is definitely an area to look at. It might be interesting, I would think, to now that we know we have an increasing trend of the number of cons in a particular chain, those second, third, fourth plus cons, it might be interesting to do a study on that and see, number one, how are those claims deviating from the original parent case into these cons that are way down the chain.

And then, maybe, number two, taking a look from an examination practice, how are examiners reacting to those later cons? There's nothing that I know of, and Drew might can
illuminate on this a little bit better than I can, there's nothing I know of that we are doing, particularly a lot different than looking at a second, third, or fourth con in terms of support under section 112 at the moment. That might be an area we want to take a look at if we're starting to see something in the examination there that needs to be looked at. I think that would be an interesting area of study.

MR. HIRSHFELD: Yeah, I'll only add that it is something that we've heard similar thoughts to what Dan has articulated. Our reviews of cases, whether they're from supervisors or the office of patent quality assurance does evaluate to make sure that the examiners look for proper support in continuation chains. So it is something we're focused on and I also agree that as continuations continue to rise in percentage it's something we should continue to be more focused on.

MS. MAR-SPINOLA: Okay. Thank you for that. We're running over time, but I want to
allow a couple more questions to come in given
that quality and pendency is so important and
overarching in the entire Patent Office actually,
for the stakeholders.

So Jeff, before I go to you, Jennifer,
do you have a question?

MS. CAMACHO:  Yes, we have a couple of
questions from the public. I put them both out
there and then perhaps we can answer them in turn.

The first one relates to search tools,
and we talked a lot about making improvements to
the search tools that are available to the
examiners. The question is could this tool be
made available -- the search tools that are made
available to the public be also improved? For
example, proximity operators.

And then, let me put out the second
question too. And that's with respect to the
difference between what OPQA reports of compliance
versus what's coming out of the PTAB. And the
question is, should PTAB decisions go through
similar quality control review as well? So if we
could start with the first one on the search tools, and then move over to the quality control review question, please?

MR. HIRSCHFELD: I'll be happy to start there. And I'm looking -- I'm trying to scan the participant list to see if Rick Seidel is currently on because he can certainly add more details than I have about the search tool.

But we are actually in the process of rolling out the initial phases of rolling out a brand-new search tool for examiners. And we're actually rolling this out in a way of --

MR. SEIDEL: I'm here.

MR. HIRSCHFELD: -- getting early adopters from the core and getting their feedback. And my understanding is the initial feedback is very positive. I have shared that exact -- you know, in a few sentences with many people and the question I always get is about well, is this going to be available for the public.

As we continue to roll this out and ensure the tool, it's functioning properly, which
again, we are off to a great start here, and ensure that it scales up, my understanding is that the intent is that we will -- we are trying to make sure that the public has the same platform and ability as to what the examiners have. So that's a long way to say that we're well cognizant of members from the public asking for an improved tool and are working towards that. But just making sure that the tool -- the new tool that we have will scale appropriately.

And Rick, I'm not sure if you're on. It's hard to just scan the list but if you --

MR. SEIDEL: No, I'm here, Drew.

MR. HIRSHFELD: You're absolutely right.

MR. SEIDEL: No, we are certainly on track. It doesn't make sense to maintain separate systems with separate platforms and challenges. So I won't say our immediate plan, but our short-term plan, or maybe midterm plan is to do exactly that; mirror what the examiners tools look like for a public facing search tool.

MR. HIRSHFELD: The second question,
Jennifer, I think would be more appropriately addressed by Scott Boalick if --

Scott, are you on? Sorry to put you on the spot here, but I think the second question about quality control at PPAC would be best answered by PTAB rather than Patent.

MR. BOALICK: Yes, Drew, I'm on. So yes -- I mean, I think there are a couple of things that are aspects of quality for PTAB decisions. You know, one is that every decision is made by a panel of three judges. So there's two other reviewers of every single decision. Another is if someone's dissatisfied with a PTAB decision they can request for hearing from the panel, or they can request review by the presidential opinion panel of that decision.

And, of course, there's always review depending on what kind of appeal you have. You know, if you're in an ex parte prosecution appeal, you can go both to the district court and federal circuit. And, of course, for AIA trial you can get review of those decisions by the -- at the
federal circuit. So those are things that somebody who's dissatisfied with a particular PTAB opinion can do, if they disagree with it.

MS. MAR-SPINOLA: Thank you. Thank you, Scott, Drew, and Rick.

Okay, thank you for that. Scott, you're going to be next after this question. Thank you.

MR. BOALICK: All right.

MS. MAR-SPINOLA: Hold on. Is Jeff there?

MR. SEARS: Yes, thanks. A quick comment, and a quick question. First, the comment on the root causes of the increasing continuation trends. It might be interesting to overlay the trends against significant developments outside of the Patent Office, for example, significant case law developments in 101, perhaps at the Supreme Court or the fed circuit. And also, significant developments in Congress, for example, AIA legislation providing for IPRs. That might help explain the increase in the trends.

Here's the question for Drew and Andy.
I understand that cons are becoming a larger and larger percentage of the filings at the office. Can you help us understand why that should be a concern? Do cons not pay the same fees as regular filings? What's the concern with cons becoming a larger and larger percentage?

MR. HIRSHFELD: Thanks, Jeff. So it's a great question and let me first go to the comment. I have no doubt that part of the rise in continuations are the number of external factors such as the 101 case law because I've heard directly from practitioners that this is a strategy to keep applications pending. I also think there's generally a strategy to always have an application pending, or try to maximize the time you have something pending in case you feel like you need to alter the scope of your claims or get another claim that, as you are trying to enforce the patent. I'm not saying these are good or bad strategies, I'm just saying that I hear from practitioners that these are strategies that are being used. So I have no doubt that's playing
into the equation.

As to your question, you know, it is --

again, I won't pass judgment on whether it's a
good or bad thing, but it is something that we
need to be very cognizant about and cognizant
about the impacts to the system. So it takes us
-- well, having this level of continuation, I
don't have the exact number, but I actually had
our staff person pull this number, actually means
that we need to have well over 1,000 additional
examiners just to do the level of work of
continuations.

Now that's an overly simplistic
statement, we don't have examiners that just do
continuations. But what I'm talking about is the
added work from the continuations resulted in us
needing significantly more staff, well over 1,000
examiners to be able to keep the same, throughput
in pendencies if we didn't have those
continuations. So without passing judgment on
whether continuations are good or bad, the
question I think is a valid one for the patent
system where cases that we've seen that are, in
many instances, rework.

And we're not talking about continuations
in part here. We're talking about straight
continuations, for cases that in many instances
are rework, is that right for the system? And as
a fee funded agency when we hire examiners it
relates to your fees, right, so user fees. So I
think there's a very important discussion to be
had about what is best for the patent system here.
And that's what we anticipate and would like to
foster that discussion. Again, not passing
judgment, but in the end here it's a really
important point to have because the number of
continuations relates to the number of examiners
which is a direct correlation to fees.

I don't know if any other -- if anybody
at has anything to add, please feel free.

MR. CALTRIDER: Well, I'll try to add
and try to wrap this up. This has been a great
discussion. The part I'll add to your answer to
Jeff is the uncertainty. If one mark of a
high-quality patent is timeliness and having continuations pending is uncertainty to the public on whether or not there will be claims issued, or won't be issued and I think, in theory of examination, the day that application was filed, if examination were instantaneous could be issued that would provide the most certainty to the public on what's patented and what's not patented. So I think the uncertainty question is an additional consideration in addition to just the burden on the office and the staff. As I stated in my comments -- as I mentioned in my comments the continuation announced is just beginning. This is kind of the baseline of the data, we are going to continue to dig into the data. I think a couple of people have commented we're going to root causes and then step back from the root causes and say well, are there things the office can do differently, or should do differently in view of those root causes?

So it's going to be -- stay tuned would
be my message to the rest of the feedback and to
the public and the subcommittee is taking this
issue up and it's really one that I think is
important given the burden on the office and the
uncertainty it creates in the public domain.

Thank you, everyone, for an outstanding
discussion of pendency and quality. And again, I
appreciate everybody's engagement on those
important topics. With that, I'm will turn it
back over to Julie and then we can move on to
PTAB.

MS. MAR-SPINOLA: Thank you. And then
let me apologize in advance. Thanks to virtual
and working from home I have the gardener out
there with his leaf blower so I really -- and the
dog is over here, so I apologize. I'll hit the
mute as often as I can.

Now, we are running about 15 to 20
minutes behind, but that's not to take away from
the quality conversation. I think that it is
absolutely vital that we have this kind of
exchanges, and I think that the public for sending
us questions. We do try our very best to put the
questions in and to answer -- to raise them at the
appropriate time and also to frame them so that
ey they resonate with the broader audience that we
have here.

To give Scott and the PTAB team their
full 30 minutes, what I propose is that we'll
forgo the break and since we're all at home and we
can turn our screen off for a break, I would just
say please do that instead and just come back
after a few minutes. But I want to give Scott his
time.

So Scott, with that, that wasn't very
graceful of me, but please proceed. I think it's
with -- starts with Jeff Sears as our subcommittee
chair. Jeff, and Scott.

MR. SEARS: Yes, thanks very much Julie.

We have a very good presentation today focusing
primarily on ex parte appeals. PTAB has done
great work in this area, particularly in reducing
pendency and continuing to focus on quality. And
I will turn it over to Scott and the PTAB.
MR. BOALICK: All right. Well thank you Julie and Jeff. Appreciate the time and will be sure to keep to our 30 minutes. Of course, were happy to answer questions at the end. I wanted to say along the lines that the director mentioned this morning and also comments that Julie, from I know, at least you, Drew, and some others. These have been some challenging times for PTAB due to the COVID-19, but we've made the transition to full telework and then back into phase 1 at certain locations seamlessly. We've transitioned our hearings to all virtual hearings which is still the posture of hearings, and we've been able to meet all of the statutory rules of the AIA and appeals. The inventory has been steady, to slightly declining, and then we've been able to improve the overall average pendency of the decided appeals. So we've also been able to provide relief to about 120 parties who asked for it under the CARES Act and the other Covid provisions there.

So I just wanted to say that by way of
introduction before I turn the floor over to Acting Vice Chief Mike Kim who's going to talk about the ex parte appeals pendency, the -- and our fast track appeals pilot program.

And then Deputy Chief Judge Jackie is going to talk about some other PTAB updates to wrap up. So I'll go ahead and turn things over to Acting Vice Chief Mike Kim.

MR. KIM: Thank you, everyone. It is a pleasure to be here.

If we could go to the next slide, please? Great. So yes, these are the general three topics we'll be talking about today. I'll be covering the first two. Go to the next slide, please? And one more. Okay. So we have been managing ex parte appeals at the board very aggressively for a long time. And just to give everyone an overview, what we really want to do is allow you, the stakeholder, to make informed decisions of when you get to file an objection, on whether to appeal, whether to file an RCE, so that you can tell your client with some certainty. And
we also want to enable you to do that regardless of what technology the particular application or appeal would be in.

So for a while, our goal has been we would like a 12 month average pendency for decided appeals. Now, we know, 12 months can be parsed in several ways. You could have two decisions mailed at 12 months and be 12 months. You could have one that's mailed at one month, one mailed at 23 months, that's also 12 months. I think certainly we would prefer the former over the latter.

So another thing we watch out for carefully is something called maximum pendency. So again, we want to give you -- everyone some certainty as to when your appeal would be decided regardless of technology. And just for an overall terminology -- when we say pendency we measure it from the date that the application, or appeal, is received at PTAB, which is roughly about the time that a docketing appeal number is assigned to the mail decision date. So when you get the decision.

Next slide. So there are primarily
three tools we have used to manage our ex parte appeal pendency inventory. Technology rebalancing, court of appeals closeout, and just in time docketing. And I'll just go briefly through each one of these in the next couple of slides.

Next slide, please. So the first one is technology rebalancing. And to back up a little bit I will say that a lot of the information here is going to refer to our standard operating procedure 1. So that is a document that was put out, I think, two years ago at this point, that really put out, you know, how do we assign cases. Both an ex parte appeal, as well as AIA. And the long and short of it is that it's a very dense document and there's a lot of things we consider. Here, we're focusing on technology and so just to give you an overview, so again, you know what you're looking at.

The way we assign appeals to judges is that the judges actually self-identify in two specific technology clusters that roughly
correspond to the technology centers in patents. And so the way we manage it is these five areas here, biotech, chemical, electrical, mechanical business methods, and mechanical itself, excluding business methods.

Can we go to the next slide, please? So these are sort of those three relevant provisions of SOP1s for this. We have a paneling team that assigns cases to panels of judges and they, of course, try to assign to a panel of judges having the appropriate technological preferences as practical.

Now, having said that, you know we -- you all are the ones who are filing appeals, so we try, you know, they come from whatever technology they come from and certainly we try our best but sometimes there's perhaps not a perfect correlation between the judges' self-identify technologies as well as the appeals coming in. So when that happens, you know, we do do some shifts in the technology distribution to make sure that we do meet our pendency goal.
To the next slide, please. So this is sort of the high level overview of this.

So in the colored lines you see the different technology areas where we pretty much group our appeal. On the left, we start in the first quarter of the fiscal year 2016, and on the right -- the far right we have the third quarter of this year, fiscal year 2020. And as you can see, there's two main observations. So one, the trend line is generally down, which is good.

That's something that we are very proud of and we know that you, the stakeholder committee has been asking for.

But more specifically to technology rebalancing, we also have done things to reduce the spread. So if you look at FY '16 Q1, roughly the two outliers, if you will, the biotech is roughly 34 months. Pendency, and then the chemical dockets was roughly 25 months, so that's about an 11 month spread. But if you look all the way to the right you'll see that that has narrowed considerably. So actually, the closest quarter
was FY '20 Q2, where there was roughly a four
month spread between the electrical docket with
the highest pendency, and then the
mechanical/chemical docket kind of about the same
with the lowest pendency.

Now, it is starting to spread a little
bit FY '20 Q3, so now there's five months. For
our view, we still think that's acceptable, and
this is just one of those things where there's
just a lot of moving parts. And so we do do
adjustments, which I'll go over in a second. But
the reality is that these are all going to
fluctuate a little bit within a margin of error,
but our hope is that we can minimize that spread
as much as possible.

If we could go to the next slide,
please. So to give you an example, in quarter 2
of FY '17, here where the average pendency is by
technology, and here were the two biggest
outliers. So electrical was a little under 14
months, while business methods was 28-1/2 months,
and mechanical was a little under 26 months. So
obviously, this is not something that's ideal, so what do we do? Well, we decided to shift some of the business method and mechanical fields to electrical clusters.

Now certainly, we understand that, you know, the electrical clusters they primarily deal with electrical cases. They self-identify under electrical and so, you know, maybe they weren't going to be immediately familiar with them. We knew that, so we provided the resources, and we provided training to the electrical clusters so that if they had questions, a lot of the issues they deal with are legal issues and so those are the same across technologies. However, inasmuch as there were specific, perhaps technical questions they had we made sure that the judges were comfortable in deciding those areas.

Go to the next slide, please. So we do this basically on a quarterly basis and just to give you an update for the most recent quarter, we actually reduced the number of our business subset of appeals decided by electrical clusters, the...
reason being that, as you saw, electrical now has
the highest pendency. Business methods had one of
the lowest, so we figured the electrical judges
should decide more electrical cases again. And
this is something we had done previously; we had
the biotech cluster deciding some business method
appeals. For now, we have maintained it because
of the trend lines right now seem relatively
acceptable to us.

Next slide, please. Okay. So I'm now
going to go to our quarterly appeals closeout
program. And again, this program is a little
different in that what we're trying to do is
maintain, or reduce maximum pendency. So in one
sense, it's kind of very straightforward. Each
quarter we set a maximum pendency target and we
decide all the appeals older than that target. So
when we started this program at roughly the end of
the second quarter of fiscal year '18, we had
roughly a 27 month maximum pendency, and as of the
last quarter, quarter three of FY 2020, we had a
roughly 22 month maximum pendency. So we're very
proud of the progress we have made there.

And if you go to the next slide, please.

What you can sort of see -- so this data is from the end of Q3 is at that number one, there is sort of this nice slope down, which we really like. And really, at the 22 months to 23 months you see that it really flattens. So that really is the goal of the quarterly appeals closeout.

Now, I know we've gotten the question before that there are a few cases that are older than that. That is true. Any system is going to have some outliers. Some reasons for that are they are related appeals where we decide, you know, one we have one on our docket, but one is coming down the pipeline and we would like to decide them together so maybe we wait. Other times, there are hearings that we schedule but for whatever reason, maybe the appellants can't make it, and so that gets pushed out. So, you know, we're going to certainly minimize those as much as possible, but they're always going to be there.

Next slide, please. So the third tool
I'm going to talk about for our appeals pendency is just in-time docketing. So what we try to do is try to maintain a baseline inventory of cases on a judge's docket so that, you know, they are all going to be in various states of work. Some of them the judges are going to be starting on, working on immediately, others they have conferenced, others they are going to be writing up. So these are all going to be in various stages in judges very much work in multiple appeals in parallel. So we want to give them enough work so that they can keep doing this on a basis. So for example, one of their colleagues isn't available to conference on a particular day, they can just go ahead and work on another case until that colleague is available.

That's certainly true for first party appeals. It's also true for AI trials as well. But that's a little different in that it sort of a poll system. So where as we -- what we call it is hop off a judge who currently does ex parte appeals. For those who do AI trials, perhaps the
case settled and, you know, there is a blank spot in their docket, they can go ahead and request some appeals from their preferred technology area, from our paneling and we will give them those cases.

So what we've done here, if you go to the next slide. Is what we did is last quarter was we reduced the maximum number. So what we found is through really no fault of anyone's own, you know, life happens. Is that sometimes, for example, let's say I'm an AI trial judge and I had settlements and terminations, so I decide I'm going to work some appeals, but then all of a sudden some very complicated motions come up in one of my cases all of a sudden.

So sometimes I have to set those appeals down and go work on the motions which, you know, are working on -- AI trials with statutory deadlines. You know, we need to get to those in a more timely manner. Sometimes those appeals would sit longer than I would have liked, in those situations. Now that's always going to happen,
and for example, we don't want to do too much
rework so just because I had to turn away
momentarily to work on some AI trial cases, I've
already invested in these appeals so I'm already
kind of up to speed on the case and is more
efficient for me to complete the case.

However, what we did was is we set the
maximum numbers lower so that even if something
like that were to happen, we try to minimize the
number of cases that's happened. And the
operational reality is all that really means is
that I just have to ask for cases more often,
which is fine. I mean that's just something that
we can readily adapt.

The next slide, please. So that's it on
the ex parte appeals pendency. I didn't know if
there were any questions. Okay. So what I'll go
over now is our fast track appeal pilot program.
So this was a one year pilot program that started
on July 2. A brief overview, I'll go more into
details later. It comes with a $400 petition fee.
Our goal is to issue a decision six months from
the day that the bid tuition is granted. Right now, we have, for the pilot program, we have 125 granted petition limit per quarter, roughly 500 total for the year. And hearings are permitted, but there are several caveats there.

If you go to the next slide, please. So a general overview, the big points of what the program is not. So again, PTAB doesn't actually get jurisdiction on a case until an appeal number is assigned. And that's pretty much only after all three things have finished in the case. So it doesn't have any impact on procedures before that docket being issued -- notice is issued. So in practical matters, that doesn't change anything in the briefing before the examiner. That all continues as the same schedule.

Next slide, please. So what appeals qualify? The short answer is pretty much any appeal as long as a docketing notice is issued and there is an appeal number it qualifies. It's not limited, for example, to appeals only filed after a certain date. They could have been there for a
month, it could have been there for a year, most
are eligible.

The one major carve out to it is that
anything that is already special within the
office, and those are listed in the MPEP section
listed, those are not included. So there's --
there's the general flavor of those. Anything
where a petition made special is granted to help
the inventor, reissues, reexaminations, those
actually already carry special dispatch
requirements. So here at PTAB we already do treat
them sort of specially in that we know we should
try to do those faster. So those are not included
under the program, but any other appeal is.

Next slide. So what are the
requirements? So this is a petition to a chief
judge under a 30 and that where the $400 fee comes
from. We try to make it pretty streamlined. All
you really need are the application appeal numbers
to certify that the appeal is qualified, again,
which just basically means it's not already
treated as special. So one thing we will say is
this is not refundable. So even if the petition is denied, unfortunately, we are going to keep the money.

Next slide. As far as the form of the petition, pretty much there's various ways to do it. The way we recommend is a form PTO/SB/451 which I'll go into. I have a couple of screenshots later. It's not required though, as long as the petition includes the information that I had in the previous slide we'll accept it. The petitioner will be notified of the grant or denial. And the one caveat is you can petition again if it's denied for whatever reason, but the filing date does not become retroactive. So you only get the filing date of the petition -- of the petition that's actually granted, not of a previous one, unfortunately.

Next slide, please. So all this information is on our fast track web page. Just put in your search engine USPTO PTAB fast track. This is pretty much what pops up.

If you go to the next slide, please.
Here is the petition form I was talking about is linked to on our website. It is a form field PDF so again; we think it's pretty user-friendly.

Next slide, please. So program limits. We did put some limits on the program because we didn't know how popular it was going to be, and we wanted to make sure that -- we were sure there were probably things that we didn't think about in the way, and we wanted to work out all those issues. So these are the limits that we put on the program, just put some definitions on it. The quarter is a three month program, and the first quarter started July 2nd so it will go to October 2nd. And let's say, hypothetically, here are the 126 petitions in a quarter, we're just going to hold those in abeyance until the following quarter at which point they will be considered first.

Next slide, please. So the question has come up, you know, why have sort of limits at all? We wanted a balance of a lot of things. So certainly we wanted to provide you, the stakeholder, the opportunity to flip to the front
of the line those applications in appeals and that
you really valued. So we certainly wanted a
robust participation, so we don't want to make it
too low. However, we also didn't want to make it
too high because, for example, we just want all of
our appeals to roughly come out at the same time.
So we didn't want to make this a, you have to do
this in order to get your appeal in a timely
manner system.

The regular appeal system works fine.

We've shown you all the statistics on our current
pendency and they're all trending in the right
direction. So this is really just an added bonus
for those few applications we think you think are
that important. And we also got the question, you
know, I don't want to be the 126th appeal. How do
I know? So for that we -- you can track the
progress on our fast track webpage.

If you can go to the next slide. So
here are the numbers as of August 3rd. If you
want to do a pace, it's roughly about one a day,
although it slowed down recently. And so the most
recent information we've had 38 petitions received in a quarter. We have had some denied and mostly they've been denied because they were too early. So one thing -- one of the requirements was we do need an appeal number assigned, and some people, it seems, jumped the gun a little bit. And so they knew they were going to appeal a petition so those are denied at the moment. But certainly, once an appeal number is assigned that is something that can be petitioned again.

Next slide, please. Hearings. Do hearings count? Yes. Heard cases can be fast tracked and in the hearing request we know this environment, perhaps not as relevant, but you can include a time and location preference with the request. We will do our absolute best to accommodate that request. Having said that, we do have resource limitations as to office locations, judges, you know whether it can do it by video or telephone. So just know that, you know, we'll do our best, but we may not be able to give you your exact preference.
Next slide. And one of the things, unfortunately, is once we grant the petition and then once we give you a hearing date, time, and location, unfortunately you cannot -- we cannot request -- accept a request for rescheduling of the hearing in order to stay in the pilot program. Now, that's not to say there aren't options. So for example, you can decide that you know, the hearing is very important, and you absolutely want to make it work. That's fine. You know, the case will just be out of the fast track program and will be put on a sort of normal schedule. Certainly relevant today, you can just request that it be by video or telephone so that's a location independent, and so we can accommodate it that way.

Another option is just to waive the hearing at that point and continue along the fast track. And as we all know, for now, the default for all hearings, appeals hearings, including fast track is telephonic and sort of you can track the status of that at the USPTO corona virus website.
Next slide. So again, just some links to the Federal Register notice as well as our fast track website which again, has frequently a asked questions section. So hopefully we'll be able to respond to most of them. We know there's always going to be exceptions, so there is contact information, and email addresses at that page as well. So feel free to refer to that.

Next slide, please. So with that, my portion is completed unless there are any questions.

MS. BONILLA: I thought I'd wait a quick second to see if there are any questions on that part before we move on.

Well, in any event, people can continue to ask questions after we go. In the interest of time we thought we would just cover the next two slides, but we do have extra slides at the end that go into more details about what we're going to cover here. What we thought we would just mention really fast is that we've had a lot of stuff going on at PTAB and we just wanted to
mention some of the new initiatives that we've been working on.

Of course, one of them is the fast track appeal pilot that Mike Kim just mentioned. And another one, of course, is the -- what we call the LEAP, which is the legal experience advancement program. The director spoke about this earlier today. But I just wanted to mention this program started on May 15th and we are very excited about it. We've made -- we've had a lot of people being involved in it. About 11 practitioners have asked to be involved so far and have all had their hearings. So far it's been going very, very well.

Just a reminder, if a LEAP practitioner requests to participate in these parties receive 15 minutes of extra argument time. And I just want to underscore that this is for any case. In any case that's appeared, where there are no more hearings before the board. So this is those AI cases, ex parte appeals. And in the ex parte realm that's pretty significant because normally an appellate has 20 minutes of argument time. If
they have a LEAP practitioner involved they get an extra 15 minutes so it's quite notable and worth keeping in mind.

And also, we tell folks when we did, you know, try and promote the program is that you can still have an experienced co-counsel there. And if needed, the person with less experience needs a little bit of help, they can get it. For example, the experienced co-counsel can step in if needed and clarify any statements as needed. So please keep that in mind if you're going to be arguing before the Board. We are very excited about that program.

I just want to mention, of course everybody knows about our motion to amend pilot. We talked about this program before. It started back in March of 2019, it's for any AIA cases that are instituted after March 15th of that year. It's two new options for patent owners; either they can request preliminary guidance from the Board, or they can -- whether they request preliminary guidance or not, they can file a
second revised motion to amend if they wish based
on the information they got, either from
petitioner or the Board in that preliminary
guidance.

And so far in the program, 83 motions to
amend have been filed. About 85 percent of them
have actually, if they were filed during the pilot
program, they actually requested preliminary
guidance. So a lot of people are taking advantage
of the motion to amend program. We've issued
about 44 preliminary guidance is so far, and
patent owners have filed about 31 revised motions
to amend. And nearly all of those were after
receiving preliminary guidance. We've been
starting to trickle in a few of the final written
decisions, but not many so far. And once we have
a little bit more participation we'll provide some
statistics there.

We also want to know we have two pending
notice of appeals rule making, one related to
burdens in the motion to amend space as well. We
have a second one that's addressing institution of
AI trials and for example, it conforms with SAP, you know the all or nothing institution. And also, responsive briefings such as sur-reply.

So we've received all the comments on those NPRNs and we're carefully considering them now, so stay tuned on those.

If we go to the next slide.

MR. SEARS: Jackie, can in interrupt for a moment, Jackie?

MS. BONILLA: Sure. Absolute.

MR. SEARS: This is Jeff. I just want to be mindful of the time. We are at 12:46, and we haven't gotten to questions yet. Could we just jump over to questions at this point?

MS. MAR-SPINOLA: Absolutely.

MS. BONILLA: Absolutely.

MR. SEARS: Thank you very much for a great presentation. Julie, I'll turn it over to you for the questions. I think Tracy may have one.

MS. MAR-SPINOLA: Yes, thank you. And Jackie, apologies. Feel free if there's anything
in particular that you want to add, I don't want to cut you off prematurely there. But let me ask Tracy Durkin to pose her question and then we can go from there.

MS. DURKIN: Sure. My question has to do with the study on the ex parte appeals pendency. And I noticed that PC2900 was not included, 2900, as you know was a design patent center. So Mike, I wondered if there was a reason why they were not part of the study?

MR. KIM: Sure. So we certainly do track that. The reason -- but we actually, if you go to our regular -- we -- PTAB page on statistics, that is included in there as well. The short answer is because there's so few, they jump around all over the place. And so far as management goes we do have a set of, like I said, a set of judges who work on them. But yeah, if you see the numbers, I mean they sort of vacillate like crazy based on what comes in.

So it is something we're tracking. It's not something we track as closely as far as
technology rebalancing goes because those are sort of like the lumbering behemoth compared to design.

MS. DURKIN: Thanks.

MS. MAR-SPINOLA: Jeff and Jackie, you know we have two more minutes. Do you want to close up? Again, I feel bad for Jackie.

MR. SEARS: Jackie, I yield my remaining two minutes to you.

MS. BONILLA: No worries at all. I was just going to talk a little bit about other updates. Some extension of deadlines under the CARES Act. Most of those automatic extensions have actually expired so we have -- we tell people -- we say, look, you know if you need an extension on a case-by-case basis in any of our cases just to reach out and that we'll address that. So even though they aren't automatic at this point they still do exist.

And then all else I was going to talk about was, you know, just a recent top decision at (inaudible) which relates to motions to amend. And also, that we just issued other important
precedents on informed decisions. But a lot of that is actually covered in the slides so we can slide right by that.

MS. MAR-SPINOLA: Thanks, Jackie, appreciate it. Jeff, any closing comments?

MR. SEARS: I want to thank the PTAB today for a great presentation. I know usually our presentations focus a lot on what's happening in AIA trials and I really appreciate the change of pace today focusing on ex parte appeals and really highlight the great work that the PTAB is doing on reducing pendency while maintaining quality. Thank you very much for the presentation.

MR. BOALICK: All right. And thank you, Jeff.

MS. MAR-SPINOLA: Thank you.

MR. BOALICK: Thanks for the opportunity.

MS. MAR-SPINOLA: Thanks, Scott. Okay so we're going to transition over to innovation expansion. Jennifer Camacho, our vice chair and
Valencia Martin Wallace is up next. Thanks.

MS. CAMACHO: Thank you, Julie. I just want to very quickly, thank the whole subcommittee on the new innovation expansion and make the point that we've been through a tremendous time here commensurate with the COVID pandemic. But the commitment and the dedication of the subcommittee and Director Iancu and the PTO as a whole has been amazing. We have very a important issue with innovation expansion that will be noted, but more importantly we have a really terrific opportunity there with the impact potential that the director talked about this morning. So with that, I'd love to hand that over to Valencia and let's get an update.

MS. MARTIN WALLACE: Okay. Thank you, Jennifer. Yes, I agree with what Jennifer said. It's such an important issue and needs to be addressed. So with everything happening with the pandemic, with moving to this virtual space for work and for meetings it's been a bit of a challenge for us. We purposely was respectful of
everyone's time the opportunity they needed to
focus on just the day-to-day functioning of an
organization. So we had a bit of a lull in
preparing for the national council for expanding
innovation. We originally planned for April
inaugural meeting and because of everything
happening -- I apologize for that. But everything
happening that was not possible. And my dog hates
the fact that we didn't do it either. I
apologize.

So what we have done in the meantime
though -- I'll tell you -- I'll give you an update
on the Council but also, I wanted to let you know
that in the meantime we really took that
opportunity where we weren't spending as much time
meeting and discussing with the members of our
community to really focus on the research minded
we needed in order to stand up the national
strategy. Because the whole purpose of the us
pursuing the council was to make sure that we were
developing the most comprehensive, the most
practical strategy that we would plan to release
to our community.

So we've been spending a lot of time with developing just the concept that we would like the council to weigh in on the direction to go. So we have not been wasting time even though we really haven't they been as visible as we wanted to be over the last few months. So with that said, I'd like to share where we are with the council.

So we are -- I'm very, very happy today. We are confirmed for September 14th for our inaugural meeting with our chair, Secretary of Commerce Ross, as well as our Vice Chair Director Ianco. We have committed 22 members to our council, and you know when we first started this we were thinking somewhere between 15 to 20 members on the council as we move forward.

And as we've been sharing what we want to do, the reasons why, the energy around it, everyone has wanted to be a part of this. Not just the moving forward on what do we do within this arena to make a more inclusive environment
for innovation. Because everyone that we are
talking to has put together programs, initiatives,
and so much on their own that it's the collective
that's coming together we're sharing what's being
done. Sharing the successes.

Sharing the areas that maybe weren't so
successful so that we can avoid those, or at least
understand why. And making sure that we are
moving together so the energy around this has been
amazing. Twenty-two committed council members,
and among that group we have the administrator of
the office of administration. We have the
director of NSF. We have university presidents.
We have from industry we have C suite members of
large, small, medium corporations including CEOs.
We have members of professional organizations as
well as members of nonprofit organizations who are
striving in this area as well. Now, I'm not
giving any names at this point because we will
have our reveal. So I'm going to have the
anticipation growing so you keep going with us and
keep tuning in.
We have a webpage for expanding American innovations that will be going live very soon.

We're just finishing up clearances on that. So I will be sending out notice when we go live on our webpage, that will share many things about this movement, not just the council. So we will share the members of our council along with their background, but we'll also share our events calendar. And the events calendar will let everyone who goes to our site no when the different events we're doing, the different initiatives not just within the council but just in general within the arena to make sure we get as many people as possible to participate, and to give their feedback.

We're also going to have a section of our webpage that shares how to get involved. So being a member of our council and working on strategy is just one very small portion of this giant movement. And there will be many, many ways that our community can get involved. And we want to share what we know, share what others are
doing, and how they can get involved, and how they can help us give feedback to what we're doing as well as get input as to what they feel we should be addressing as part of the strategy. So that will be coming out very soon.

We also, as I mentioned, are looking forward to September 14th and we're finalizing the details on that. I did mention that we're looking for everyone to get involved so part of that comments, ideas, data, projects, so we do have an email address, and I'll say it slowly. It's short, but I'll say it slowly because I don't believe it's -- I see it up here. It's nceai@uspto.gov. So is the initials of our counsel, nceai@supto.gov; that is constantly maintained we are looking for as much comments coming in as possible to share with us so that we can make sure that everyone's voice is heard on the strategy.

And with the strategy, we are looking forward to a publication of the strategy this winter, and after that. So I don't want to get
too far ahead of myself so we will be planning

events around the publication of the strategy and

socializing the strategy and answering questions

and awareness. So that's where we are now with

the update. I do believe we have a presentation

by Bismark Myrick that's coming next. I don't

know if you want to have any questions from me now

or just wait until the end.

    MS. CAMACHO: Valencia said there is one

question from the public. And that's, without

spoiling your big reveal, the question relates to

the consideration that was given to the makeup of

the council overall. For example, does it include

actual inventors, who are inventors themselves?

    MS. MARTIN WALLACE: Absolutely. We

actually do. We have independent inventors

because we weren't looking for just large

corporations, big government, you know, to be part

of this. It's every aspect of the innovation

community. So we have reached out to venture

capitalists, we have reached out to small

businesses, large businesses, independent
inventors. We've reached out to professional organizations in all of the STEM fields, along with industry and government, and academia. So we have made sure that our council represents the diversity that we are looking for in our innovation community.

MS. CAMACHO: Thank you, Valencia. And if there's no other questions at this point, let's turn to Bismarck. Bismark?

MR. BOALICK: Good afternoon. I hope you can hear me.

MS. CAMACHO: Yes, we can, thank you.

MR. BOALICK: Oh good. Great. My name is Bismarck Myrick and I work in -- work for the USPTO as the director of the office of equal employment opportunity I came to USPTO from the Equal Employment opportunity commission where I worked as a civil rights attorney focused on the areas of the federal sector.

Each of you, on the TPAC are, and represent important stakeholders. I can personally vouch because I have a distinction as
being the longest serving member on USPTO's executive committee. I can personally vouch for the fact that every decision that I witnessed being made has stakeholders' interests in mind.

I do want, however, for just a moment to think about a dimension that stakeholders might not immediately think about. And that is to think about the USPTO as a large employer. A large employer with 13,000 -- approximately 13,000 employees who are majority minority. About 26 percent of our employees are Asian American, a little more than 20 percent are African American, we're one third female. So that's my perspective on the workforce of USPTO.

Within our office, the office of EEO and diversity, we have three major functions. The first function is to process complaints of employment discrimination. And every federal executive branch agency has an office that set up to process complaints. And I'm not going to talk in detail about that, but I do believe that you must have, in order to have an effective diversity
program, you must be able to respond quickly to complaints raised of employment discrimination. So we process those complaints.

The second thing we do is we ensure that individuals with disabilities and job seekers have the accommodations that they are entitled to under the law. And then the third thing, and what I'd like to talk to you about today that we'll focus on this afternoon is one responsibility that we have which is to leverage the diversity of the workforce for optimum engagement. And I'll talk a little bit more about what that means to me.

If it's okay, could we advance to slide 2? In an attempt to leverage the diversity of our workforce for optimal engagement there are a couple of initiatives that we have underway that I wanted to highlight. The first thing is that we know that nothing gets done at USPTO without our people. And we know that our people are some of the most sought after workers in the American economy, mainly they are STEM workers and lawyers, and often -- and in many cases both.
In order for the USPTO to kind of win what I call the war for talent, but which could be -- maybe you could say something a little bit nicer about it, to compete for talent. One area that we leverage is we leverage our diversity program. It is part of our recruitment strategy. It's part of the way that we market the USPTO as an employer. It's part of how we encourage our employees to reach out through their own personal networks.

And we seek out these diverse candidates, many diverse candidates, it's kind of a self-fulfilling process. When you have a diverse workforce you then leverage the word of mouth recruitment from that workforce to continue to recruit diverse and highly qualified job seekers. So that's one aspect of how we are leveraging the diversity of our workforce.

Another aspect of our diversity program, a proactive program is that we conduct an annual audit with the goal of identifying, reducing, and where possible, removing barriers to the equality
of employment opportunity. So we use a kind of a checklist where we are looking for barriers, looking for triggers, things that cause us to ask questions about equality of employment opportunity. And then we develop a strategy each year to help to lower, reduce, and hopefully, then, remove barriers to equality of opportunity.

And then the third thing -- the third kind of strategy that we use in this regard is that we are really dedicated to ensuring that our managers and supervisors have the tools that they need to manage a diverse workforce. That means we provide educational programs for our hiring officials, our supervisors, for our employees we try to provide our employees and our managers with job skills training, implicit bias training, and other trainings to make sure that they are effective in managing and leading people, and managing and leading a diverse workforce.

Kind of our final focus in establishing and leveraging the diversity at USPTO is that we really want USPTO to be thought of in all of
government as the employer of choice when it comes to diversity and inclusion. And in this regard, one thing comes to mind that happened almost just one week ago, is we had our annual community day celebration. For the first time we were able to host that celebration entirely virtually and this was really a showcase of the diversity of the USPTO from a remarkable perspective, not just from race and national origin, but also covering diversity in interests.

So there were different groups that set up virtual tables for our employees who are encouraged to visit those tables and consider joining organizations. And we had over 9,000 hits of our 13,000 member workforce we had 9,000 unique hits to our community day landing page for our first ever virtual community day. And those are the kind of initiatives that we want to continue to highlight so that the USPTO remains top-of-the-line when it comes to diversity and inclusion in the federal sector.

If it's okay, I would like to skip slide
and move directly to slide 4, because I wanted to talk mainly about one of our strategies that is particularly effective. The slide that you see here are the logos of our very best affinity groups at USPTO. These are voluntary employee organizations and unlike other organizations that are bound together by a shared interest that employees have, these groups are bound together by a sense of shared identity. And I wanted to talk a little bit about the history of how these groups came to be and how we are leveraging these groups for the benefit of the office.

So several years ago I thought it would be a good idea for us at the USPTO to establish a government chapter of the National Society of Black engineers. I saw many, and continue to see many benefits of establishing such an organization. First, I thought having a chapter of a primarily collegiate organization would help us to establish a kind of a gateway, or a pipeline to the USPTO from engineering schools. But I also thought that we could use the
beneficial Society of Black engineers also to foster within the USPTO a peer support network that would help to encourage high performance and engagement. So this was a very easy thing for us to do. We kind of put an announcement out if anyone would be interested in joining the National Society of Black Engineers, and we had a tremendous response in employees joining that organization.

After announcing and helping to establish that chapter of the National Society of Black Engineers, the idea of establishing affinity groups and joining together really exceeded my expectations. There were groups that I never thought would ever come into existence that were coming to see me about banding together. And I started to take the approach, and I still continue this approach today, that the more groups that we have the better. Our goal is to reach everyone. To make everyone feel uniquely included and valued.

And I wanted to kind of share with you
some of the ways in which our groups are working.  
Our military Association, as just an example, has  
helped in the USPTO to better support our veterans  
who leave active duty and transfer into the  
civilian sector of the federal government, and  
there helping us to improve the way that we help  
them to transfer their leave and retirement  
balances into the federal space.

Our network of executive women is doing  
some fantastic work because we all know it's not  
just about recruiting and advancing women into  
senior positions, but we want those women in the  
senior-level positions to remain there. And so  
our network of executive women is helping to  
provide the support that women need to stay, to  
remain in the executive sector and to contribute  
to the greatest -- to the maximum possible degree.

Our APAnet, or Asian, Pacific, American  
network is one of our largest affinity groups.  
Asians are our largest minority group at USPTO.  
And they have done, and continually do fantastic  
groups. They have over 900 dues paying members.
They are able to put on career development seminars with the dues that they collect, and they add something that's very important, that's food. Food is a great way to get people into places to hear the messages about career advancement.

Our LGBTQ PTO chapter is helping us, for example most recently, helping us to create policies that make sure that our workforce is inclusive for people in the LGBTQ community. Most recently they helped us to develop a policy that helps to make sure that there is a smooth transition for people who are transitioning genders in the workplace.

Our National Society of Black Engineers developed a prep course for a promotion exam from GS12 in the government to a GS13. Our employees, our patent examiners, are expected to pass the certification exam and the National Society of Black Engineers created the preparation course for that exam, and that course has subsequently been adopted by the office of the best practice.

One group that I just really want to
tell you about, our society of Ethiopian American Engineers and Scientists. Again, not a group that I was kind of helping to encourage the form, or not a group that I had in my mind as being a group that we needed to encouraged to form, but once they did establish themselves we've been doing -- we've been able to reach more -- a workforce that we didn't -- we've been able to reach a group that we would not have previously been able to reach.

I'll just pause here and just give you one anecdote about this group. They approached me about having kind of an intellectual property overview on a Friday at 5:00 during the springtime. And they asked me if you can reserve our largest auditorium space, that Clara Barton auditorium at USPTO's headquarters. There was no way that I thought that anyone would show up at 5:00 on a spring Friday. They even asked me if I could help them to secure parking.

And I thought that this was kind of a trivial pursuit. That after all, who would come to such an event, just a general overview. On the
date of the event on that Friday, we had over 300
members of the Ethiopian American community down
in our largest auditorium just to hear about an
overview of intellectual property. And, you know,
this event was advertised using empiric language
media in the Washington, D.C. area and we were
even able to stream them using the Voice of
America.

We have received feedback from Ethiopia.
We have an engineering professor who taught some
of our examiners who contacted us and said that
they actually watched the presentation in Ethiopia
that we were broadcasting from our Clara Barton
auditorium.

You talk about the reach. I could go on
and on, are Society of Hispanic Professional
Engineers, we started the first ever government
chapter. They are really helping us with our
Hispanic recruitment initiative. One of the
things that they're doing is they're going out to
Dulles Airport and picking up our new recruits
from the University of Puerto Rico and helping
them find a place to live and showing them where
they could buy a jacket. And I mean, our groups
are doing fantastic things.

I'll just share with you one other
story. We have a Caribbean Intellectual Property
Association. Another group that I didn't think
that we needed at the USPTO. But once formed,
just had an incredible reach. I was in
Tallahassee, Florida visiting my alma mater,
Florida State University, and when I was there I
got into an airport shuttle with some women who
asked me where I worked. And I told him I worked
for a small bureau of the Department of Commerce.

Then they asked me well, which bureau?
And I said, well, I work for the Patent and
Trademark Office. And they said, oh really?
Well, we have been to the Patent and Trademark
Office as a guest of the Caribbean Intellectual
Property Association. I was just so taken with
the fact that our groups have extended our reach
to help to share information about protecting
intellectual property and help to kind of help
with our organizations core mission.

I don't know how much more time that I have. But this might be a good time to kind of opened it up to see if there are questions.

MS. CAMACHO: Yes, perfect timing, Bismarck. I was just reminded of the time so to the extent that anyone might have questions, now is a great time to ask them. And let's -- was that a question?

MR. CHAN: Yeah, I had a question. This is Jeremiah. Bismarck, thank you very much. It's great to hear some of those anecdotes and the initiatives that you've kind of outlined. You talked a bit about kind of the importance of diverse recruiting, and really kind of seeking talent from all segments of the country. I'm just wondering how you consider looking at diverse representation as you move up the ranks in the organization as well? Thank you.

MR. MYRICK: That has frankly been a challenge for us, and one that I am working on, and have been working on for some time. In a
challenge, frankly, that our director has tasked me and others on the executive committee with looking at.

I think that there are kind of three important components to ensuring that we see diversity in the executive ranks, that we see in the work force at large. We've got to make sure that people are interested in positions, that everyone with the talent becomes interested in providing more to the organization in the form of becoming an executive and working there. We also have to make sure that everyone is provided with the preparation, or access to the preparation to be competitive as they seek to kind of climb the career ladder.

And the third thing that we have to do is we have to make sure that our selection process itself is fair and open to everyone.

And so those are the kind of three focuses that the three kind of pillars of our strategy on ensuring that the senior level is as diverse as our work force at large.
These are our --

MS. MARTIN WALLACE: Can I just add a little bit to the --

MR. MYRICK: Yeah, uh-huh. Yes, go ahead.

MS. MARTIN WALLACE: Just add a little bit to what Bismark is saying. He's done such an amazing job with the affinity groups getting them involved, engaged and feeling accountable and responsible for our Agency and PTO as a whole, as part of what he did to what Jeremiah is asking that I thought was just brilliant. You know, because most of our affinity groups are our examiners, or the employees, we have managers as well as part of them, but the majority are our employees, our examiners.

And he matched an affinity group -- each affinity group with an executive advisor so that there is a connection between our employees and the executives in making sure that there is mentoring and coaching from our highest level within our organization to those who are coming up
through the ranks. And I am going to brag a
little bit because some of my coworkers are
deputies are executive advisors. Rick Seidel,
Robin Evans, Andy Faile are all executive advisors
helping to promote our employees and guide them
through.

MR. MYRICK: Valencia Martin Wallace is
also an executive advisor.

MS. CAMACHO: I'd like to thank you
both, not only for the great presentations today
but all the work that you do every day there.
It's really very much appreciated and very much n
needed. Thank you.

MS. MAR-SPINOLA: Okay. Thanks to
Jennifer, and Valencia, and Bismark. That was
very interesting. And Bismark, we need to give
you some more time to connect on all those
organizations. They're good to know. They're
important to know. And I think the more the
Patent Office is able to highlight that I think
you're going to have just an incredibly robust
activity there. So good work on that. Thank you.
Okay. So --

MR. MYRICK: Thank you.

MS. MAR-SPINOLA: -- we're trying to keep on time and we're almost there. We're going to transition now to legislative updates and that will be with Branden Ritchie and Kimberly Alton. Branden.

MR. RITCHIE: Hello everyone. Branden here. And Kim is normally right by my side on these and today having some technical difficulties, so I'll represent for OGA today. But I will certainly miss Kim's guidance. So with that I will go ahead and start. And let's see if we can go to the next slide?

MS. MAR-SPINOLA: I want to ask if everybody can hear Branden very well. You're a little --

MR. RITCHIE: Oh, I'm sorry. Is that better?

MS. MAR-SPINOLA: Better, much better, thank you.

MR. RITCHIE: Okay. Sorry about that.
MS. MAR-SPINOLA: Now, you sound like okay. Thank you.

MR. RITCHIE: Okay. Great. Great. So we'll first go through some of the legislative activity that has been going on since last we spoke. And there's been a lot. We have -- the House passed bill to create a new incentive for the Patents for Humanity program that we do at the PTO, awards for individuals and companies that invent things that can help with global humanitarian problems.

And so currently, the folks that receive the award receive an acceleration certificate for patent examination, and there's a bill that passed in the House and is now pending in the Senate which we expect will pass, at some point, that would -- that will allow that acceleration certificate to be transferable to others by the awardee, including for compensation. And that would just provide a little more flexibility.

Sometimes the inventors have but one invention and it's already been examined but it
would give inventors that invent things to solve these needs a little more flexibility for what they can do. So that is a bill that we were watching.

In addition, the House and the Senate has -- they have both now introduced -- I'll update the slide here, legislation that would help to provide more information with respect to the demographic backgrounds of folks that are named inventors in the patent application. And we are providing technical assistance on that. We agree with the concept of the bill that we do need more information and our SUCCESS Act studied that we filed with Congress last year. That was one of the main conclusions, that there's not a lot of publicly available information on the rates of inventing for folks in these groups. So were working with Congress on that and monitoring that as well.

We're also monitoring bills, right now, as we're getting toward the end of the Congress, there's a lot of activity and with respect to
COVID related legislation and also drug pricing related legislation, and we are very aggressively monitoring those bills to see what the potential impact might be on IP rights. So that's something that were constantly working on and monitoring.

Could you go to the next slide? Another -- one of our big initiatives has been to permanently extend the TEAPP program which allows our examiners to work from anywhere in the country. In the best way to describe that is, you know, without TEAPP we can recruit the best and brightest scientist and attorneys from all over the nation that want to come to DC. But with TEAPP we can recruit the best and brightest across the nation period. And it results in tremendous savings to the office, and benefits to the employees. And there's a lot of -- there's consensus that that should be extended.

We've had a lot of progress, so in the House the bill to make it permanent was included as an amendment in the national defense authorization act. So that House -- and it was
passed by the House. So the house has put their stamp of approval on this legislation. And in the Senate the committee of jurisdiction is the Homeland Security and Government Affairs Committee, and they had a markup of the bill last month, and it passed out of committee unanimously without amendment.

So there's a lot of support for this on the Hill. And we are hoping that there's to pass that the legislation can take, either as a standalone bill, or as part of the NDAA. And so we're hoping, and working hard, to make sure that gets signed into law before the end of the year just to provide certainty to the agency so that we can do our planning and make that program as robust as it can be. So a lot of progress was made there.

With respect to the appropriations bill the House did mark up the CJS appropriations bill and provided 3.7 billion for the PTO. Jay, I'm sure, will go into further detail about -- or he either has or will about the fee situation.
But no surprises with the appropriation.
The annual appropriation had the same language
that we've been used to for the past many years.
And they matched what we had expected that we
would collect in the revenue. So that passed the
committee and it also passed the house. And so
that awaits further reconsideration. I will say
that most folks believe that there will be a CR
that lasts for a few months into the new fiscal
year, most likely until December. That's what
we're hearing. So the actual language might not
be done until after that, but the House did pass
our language.

And in that light, with COVID and those
-- the difficulties and adjustments in fee
revenues and things like that that we saw, we have
been providing regular updates to both the
judiciary committees and the appropriation
committees about the status of our fee collections
on a regular basis ever since the beginning of the
pandemic. So we continue to do that as well. And
they've really appreciated that, and they
appreciated the transparency and open
communication on those issues, which has been good
for the Agency.

We can go to the next slide. Okay.

Beyond that, a couple of other just quickly on
legislative efforts. In the Senate the Senate
judiciary committee has been focused a lot on
examining the Digital Millennium Copyright Act.
That's a copyright issue so I won't spend much
time on that today. But they are reviewing that
to see if it's still working as intended. And
they're also looking at, and discussing the
potential legislation to create more enforcement
mechanism by making it a felony to stream digital
content. So we're monitoring those efforts and
those discussions, trying to stay on top of that
as well.

We also received, in April, a letter
from the chairman and ranking members of the
judiciary committees in the (inaudible)
subcommittees of the judiciary committees, and
they wanted to get more information about how the
transition to telework went and also cost cutting measures we had to do, and in addition, a little more information on our fee situation. And so we replied to that with a letter to those members a couple of months ago. And it was -- the letter was good, and it actually started by thanking the PTO for the great efforts that they did in the transition and the leadership and proactive leadership that we had to make that as smooth as possible. And that was really a good indication that they're closely watching us. And they were, you know, they were appreciative of the proactive efforts that we took. So I thought that was great.

Okay. We can go to the next slide. We also received a request from Senator Tillerson and Senator Leahy's office. They asked us to do some research into the instances of states willfully infringing patent and trademark rights. And so they asked us to do some research on that and get back to them by April 30th of 2021. So Jeremiah has -- or will talk about that further because OPI
is taking the lead on doing the research and
analysis on that issue. But I'll just say it as a
placeholder here today, that's an inquiry that is
ongoing that is pending that we're working on.

So we can go to the next slide. So as
we mentioned before, one of our big efforts right
now legislative is TEAPP and getting that
permanently extended. That fits within our
continuity of services priority. Another one is
our statute that provides for relief on timing
deadlines when there are emergencies. And so
we've been working on language to update that to
clarify that it covers instances beyond what the
face of the statute currently says.

And we had some success with that in the
CARES Act package. And we were able to work with
Congress and they provided us the authority to
grant relief to stakeholders due to the COVID-19
pandemic. So that was a very useful tool that the
Agency used to provide relief to stakeholders --
relief from timing deadlines. And so we would
like to continue to work on this and be able to
provide relief in instances beyond just COVID-19
because that language was very narrowly drawn
because that's how the bills were being written,
very narrowly tailored to the COVID-19 emergency
and no further. But that was good that we had
that that was a success. A legislative success
for us.

We're also continuing to work on our IP
attaché rank issue. Make sure that they are able
to have the appropriate rank to be in meetings
overseas to have even more weight to the messages
that they carry. And we're actively and
aggressively working on that.

I talked about the TEAPP extension
already, and then just generally providing
technical assistance regarding patent related and
frankly the trademark and copyright related
legislation. That's an ongoing process, we do
that all the time and we'll continue to do that as
well.

So with that, I think hopefully we can
get you guys back on schedule. Ours was brief.
As you can see there's a lot going on but hopefully that was a good summary and I'm happy to take any questions.

MR. GOODSON: Hi. This is Mark Goodson. How are you?

MR. RITCHIE: Great. How are you?

MS. MAR-SPINOLA: Go ahead, Mark.

MR. GOODSON: Yes. I noticed there was not a mention of the STRONGER Patents Act. Did that just go away? Or what is the status of the STRONGER Patents Act?

MR. RITCHIE: So that legislation was introduced in the Senate, as you know, and it's still a pending measure. And we're monitoring that as well. The status of that hasn't changed. We haven't heard of that moving forward at this point, but we're continuing to monitor it, for sure.

MR. GOODSON: Does the Office have a position on it? Or they're just going to monitor it?

MR. RITCHIE: At this point we're
monitoring it, so I think we don't have an
official position on that particular piece of
legislation at this point, but as the process
unfolds on The Hill we'll continue to take a look.
Often these things change amendments and things
like that, and markups if they make it to that
point. And so we'll continue to talk with
stakeholders like yourself, and others, as that
 progresses.

MS. MAR-SPINOLA: Branden, thank you
very much for laying out all the pending matters
that are going on right now. It's good news about
the appropriations, and would love to hear more
about that as it progresses. And thank you for
doing it in a way that allows me to stay on time.
But I think that all the things that are going on,
again, shows that the COVID-19 and the pandemic
isn't really slowing much down at all which is
great, in terms of -- in terms of the Patent
Office, I should say. I don't want to speak too
broadly on that.

But we thank you for your report. We
miss Kimberley. And look forward to our next quarter's meeting.

MR. RITCHIE: If I may? That brings up one last thing that I feel like would be good to mention. And that is, through our conversations with The Hill and other agencies that affected, one thing that has come out in our discussions, and it was included in the letter that the Director sent back to the Judiciary Committee leadership, was that, you know, through the leadership of Jay Hoffman, we have discovered that there was in fact -- there is in fact a very large sum of previously-collected user fees from before 2011 when Congress ended CIDA (phonetic) Version for the Agency that amounts to about $1 billion. And that is sitting in a Treasury account at Treasury, in our account. And so that was a huge discovery, and a huge progress as we had been talking with folks on The Hill, they've acknowledged that as well. And so, we'll continue to work on that, and to look at options for accessing that, but I shouldn't end this update
without mentioning that, which was huge progress that we made that wasn't known before, so an exciting development.

MS. MAR-SPINOLA: Well, it is. And I wish that we all have a Jay Hoffman looking at our accounts and finding extra money. But, no, that is a very good and exciting turn of events for us. And the fact that Congress is acknowledging that that money is in the account, it says even more, it's very favorable. Thank you.

I think what we can do is to utilize the extra five minutes for an official break. And if we can come right back at 10:45/1:45 that would be great. Thank you, Branden. Much appreciated.

MR. RITCHIE: Thank you.

MS. MAR-SPINOLA: Debbie, hello? Are you on?

MS. STEPHENS: Yes. Julie, can you hear me?

MS. MAR-SPINOLA: Yes. Now I can. So, are we ready to resume?

MS. STEPHENS: Yes.
MS. MAR-SPINOLA: Okay, all right. So, it's now 10:45, 1:45 Eastern. And now we're going to shift over to IT. The Subcommittee Chair is Mark Goodson. And then we have Debbie Stephens. I believe Jamie Holcombe will be on, and William Stryjewski. Sorry.


MS. MAR-SPINOLA: Okay. Well, let me turn it over -- you're welcome. Let me turn it over to Mark.

MR. GOODSON: Well, we have a number of things we're going to hear about today. I think the first order of business is, you know, once again, tremendous work on the part of the IT section in terms of this COVID. You were well prepared for it. I've heard no complaints about your work, none. And so I think we'll start by talking about the Search rollout. What's happening on Search?

MR. STRYJEWSKI: Ah. Jimmie, do you want to pull up the slides?
SPEAKER: Sure.

MR. STRYJEWSKI: Thanks so much. So, go to the second slide? Thank you. So, we're moving to the next gen, where we're kind of already down the road. That's replacing our legacy tools EAST and WEST that was established in 1999. We have approximately 1,500 to 2,000 examiners using the tool. It's really important to get these early adopters on to the tools so we can provide the feedback and make the improvements.

The performance has looked really good for us, so we're very excited that we're going to continue through the rest of the year, and get a majority of the examiners on the system before the end of the calendar year. We're also incorporating, since we have a new system that is more on a modern platform, we can add more data, therefore allowing examiners to find those references that are so important to them.

We're including 60 additional full countries with translations in them, and we've loaded the French office, WIPO and the Chinese
office, and it's not just a subset of the documents, it's a fully-translated, complete version of the documents. So, we've always had an ability to search abstracts and metadata the documents, but in this case it's all them.

So, we're going to continue the rollout through the rest of the fiscal year, all the way into the New Year, working with the union to make sure that they're getting the appropriate training, and we're hitting all the marks. We're going to complete the ingest of all the IP5 offices within the next -- the fiscal year, and then continue to PCT min after that. So, again, we really feel that the Search tool is going to be a cornerstone in improving quality over time.

Any questions about the Search system?

MR. GOODSON: A comment. It was mentioned earlier today that the plan, long term, is to have the same search tool the examiners use available to the public. But my understanding is that we're talking several years off. Is that correct?
MR.STRYJEWSKI: No. We're not talking several years off. We're planning on using the same code base in the cloud, again, using a MANO (phonetic) platform we can use the code based in the cloud for the public. So it'll be a lot of the similar features. There are some limitations of providing a full tool set to the public, but we're going to use the same code base.

Also some of the data that we provide to the examiners are ones that we purchased in our licensing agreements might restrict us providing all the data that the examiners have. But certainly we're going to replace our very outdated external Search tools for patents, for U.S. patents and U.S. grants. And we're expected to do that in the next fiscal year.

MR. GOODSON: Okay. Well, that's sooner than I expected. Congratulations on that. And I assume this is probably not in your bailiwick, but someone is going to be responsible for training the public. Who would that be?

MR. STRYJEWSKI: We have a dissemination
group, and they do outreach through our repositories, and we would probably leverage that network. It's obviously a little bit sketchy with the COVID situation since, you know, a lot of those repositories are public libraries in different states, or sponsored universities, and we will probably have online stuff, and certainly a variety of things.

So, I think we'll have a training program for it. We're hoping it's fairly intuitive, but certainly it's a powerful tool and it will need some sort of training. So, we haven't congealed all those plans. What I think is important for us is to get off this legacy system that we know is a risky item to continue to lean on for our patentability decisions.

So, you know, job number one is to get off the old system for the examiners, and then to offer that same type of tool and power to the public. But we will have change management plan as we roll it out to the public.

MR. CALTRIDER: Well, if I may ask a
question before you move on from this slide in Search. When you say foreign data ingest from IP5 countries and begin PCT minimum countries. What do you mean by that?

MR. STRYJEWSKI: So, you know, we have lots of resources on campus and, you know, the IP5 countries are the European Patent Office, Japanese Patent Office, Korean Patent Office, and European -- I think I got them all -- and Chinese Patent Office. And what we're doing is we're taking -- we've always had abstracts and a percentage of the documents in the Search system. Here we're going to have a complete document, a complete image set, all translated into English.

So, this way the examiners can parse the whole document as opposed to just the abstract part of the document. And we're going to continue, down the road, with more foreign art into the search system to allow for the examiners to parse the whole set of document through the whole collection. Does that answer --

MR. CALTRIDER: Is that something that's
new -- updates going to the foreign patent office
as you're -- would it be a regular --

MR. STRYJEWSKI: It will be updated monthly. Yeah.

MR. CALTRIDER: Okay.

MR. STRYJEWSKI: We'll have it updated monthly. Yeah.

MR. CALTRIDER: Got you.

MR. STRYJEWSKI: So it's the back file and the front file. That's what we call it, the back file, it's everything that's been published in the past, and the front file is everything that continues to go ongoing. Some offices have different timeframes.

MR. CALTRIDER: Okay.

MR. STRYJEWSKI: But we'd be updating them monthly. Yeah.

MR. CHAN: Hi, Bill. It's Jeremiah.

MR. STRYJEWSKI: Hi, Jeremiah.

MR. CHAN: Would you mind sharing a little bit of the preliminary feedback from the examiners who've been able to use the neutral, you
know? Are they finding more prior art? Are they finding that it's reducing the amount of time to search?

MR. STRYJEWSKI: I think the speed, I think we have a feature that has found an efficiency and a quality improvement that I could speak to that makes sense. We have a thing called highlight text on image, so everyone knows that the U.S. references are two-column with line numbering in them. Right? And in the past what we do is we had and XML instance where we showed and we highlighted the terms that they put in their query string to allow them to identify what part of the reference do they want to cite in their Office Action.

Well, they would have to go back to the image of the patent to kind of find that position in there, and determine that line and column line so they could cite it in their Office Action right now. What we've done is, we've created the -- we've actually, in the image, created those positioning points to identify where that text is,
and when we highlight that text on image, they can actually just go right to the image and get that information from the patent.

Therefore, when they disclose either why this is patentable, or why this is rejected, they pick up the line and column point, and it saves a lot of time for the examiner, and to the quality of that. So that's been a winning requirement for us in a while. So, we're hoping we're going to continue to get those benefits, and more importantly on the modern platform we can build more items into, and the features into it. We were very hamstrung in the older platform.

MR. CHAN: Yeah. That sounds great, Bill. I think after the broader rollout it will be great to see some of those benefits kind of quantified and shared. I think a lot of folks would be thrilled to see some of that.

MR. STRYJEWSKI: And we'll definitely do that, Jeremiah.

MR. CHAN: Thanks.

MR. HIRSHFELD: Hi. This is Drew. I
can't give you a specific feedback if Bill can.

But I will tell you that I routinely hear from
examiners how much they like this tool, and I've
not heard a single examiner say otherwise, that
they're not happy with the tool. And the kind of
feedback I get is, I've had examiners tell me that
-- they'll apologize and say, I know I wasn't
supposed to do that, but I told all my friends in
art unit, people about how to access the tool
because they think it's so great and they want to
be able to share with others.

MR. CHAN: Well, that's good -- that's
good feedback.

MR. STRYJEWSKI: Actually the numbers
show that, by the way. So, we've trained a set
amount of people, and more people are using it
than there are trained.

MR. HIRSHFELD: If you build it they
will come, right?

MR. STRYJEWSKI: Yeah. That's true.

We've been talking about for a while. So, again,
it's too early to completely put the wind up/down,
but we're feeling very good about this one.

If there're no more questions about Patent Search I'll move on to Patent Center.

Could we go to the next slide?

MS. MAR-SPINOLA: That'll be great.

MR. STRYJEWSKI: Thank you. So we've had the beta release at Patent Center that went out in April, and the Patent Center, as everyone knows, replaces the filing tool EFS-Web, and the access tool private PAIR, and we're trying to create more of a one-stop shop for our applicants and the public for filing and getting data from us. So, it allows for that merging, and hopefully to find some more use cases to save some efficiencies for the applicant side.

So, this is our new look and feel, we've tried to streamline it a little bit more. Again, we're looking for feedback as we go on, and you'll see this also in the PTAB realm, this new look and feel.

If we can go to the next slide, I can talk about the program a little bit. So, we want
to just, you know, say a thank you. There's a lot of feedback that goes into these tools. A lot of focus sessions, a lot of understanding of what the shortfalls of the old tool is. As I mentioned, we did the beta in April for everyone, we will keep this in production, and eventually phase out the EFS-Web private PAIR thing.

We're trying to look for, obviously, a parity of all the features and functions in the EFS-Web and PAIR environment, and then, therefore we'll see how long we'll run them in duality, but we're really hoping that there's a larger adoption towards Patent Center over time. The beta allows the applicants to utilize those features. And again, your feedback goes into this tool, and we really hope we get as much feedback as possible so we can build the best tools for you.

Are there any questions about the beta release, or about Patent Center?

MR. GOODSON: This is Mark. Listen, I'll just comment. I'm using it every day much, much improved over public FAIR, much better.
MR. STRYJEWSKI: Thank you, Mark. I'll definitely mention it to the team. I'll just bring up one thing related to the Patent Center. Obviously, Docx is used in Patent Center, it is a file format for us to receive patent applications for, we believe there's a large benefit to the IT community at large by exchanging text with one another. It was part of a lot of discussions in the international realms for many years, so we feel we're kind of -- you know, starting that conversation, it's part of the rules package, and that was published on August 3rd.

We delayed the implementation of Docx until January 2, 2022. And during this timeframe we really want, again, feedback from you of what do you like, what are you concerned about. We've gotten a lot of feedback from early adopters on the tool, that they like the idea of just attaching one Docx file. And then it separates the different sections of the applications, the spec claims and abstract, and it simplifies that type of uploading feature.
So, again, Docx is part of our future and our vision with respect to managing text throughout the pipeline, and improving quality both of examination and publication.

Does anyone have any questions about Patent Center?

MS. MAR-SPINOLA: So, we have a couple more minutes and I think we -- where are we on the agenda? Are we at the PTAB system? Or do we have a couple more?

MR. STRYJEWSKI: We have PTAB, and then we have -- the least thing is just the Alternative Site Processing.

MS. MAR-SPINOLA: Okay. So, please proceed. Thanks.

MR. STRYJEWSKI: Okay. The next slide, please. So, the PTAB system, what's in the system today for AIA PTAB, the PTAB end-to-end system is used to file papers, conduct business with the AIA and with PTAB, and the paralegals and administrators use it for case management, and the judges view the documents. For ex parte appeals
PTAB is used for paralegals and administrators to perform case management, and the judges do use the document.

So, we're looking at trying to modernize the appeals into the PTAB environment. Again, this is the same type of look and feel that you saw with Patent Center, and hopefully, again, we're going to try to bring a consolidated view to help applicants file and manage their cases.

Can you go to the next slide, please?

So in 2009 PTAB Center replaced the old system for ex parte appeals. It's going to be integrated for both appeals and AIA. We need to migrate the AIA functions in data to PTAB Center. At the moment a critical PTAB operations in data outcomes are collected and stored in multiple locations.

And that's really the talking point here. The energy that the PTAB team, and the leadership in PTAB to bring that data together, so they can have the better response to data calls, and understanding of the activities in PTAB is their priority number one. Consolidating the AIA
functions in data and to PTAB Center, expanding
PTAB into the robust, centralized data source.

So we're trying to manage the
operational risks and to address the fast-pace in
policy and legal changes that happen in PTAB
regularly. So I am new to the PTAB world. And
the energy and the executive sponsorship they have
to IT changes, has been really refreshing, and I
hope I can contribute to helping them achieve
their goals.

Any questions about PTAB IT?

MS. MAR-SPINOLA: This is Julie. I do
have a question, William, about just the timeline
for the next steps. When do you think it -- do we
have a roadmap on that?

MR. STRYJEWSKI: We do have a roadmap of
changes and improvements. A lot of the roadmap is
backend data consolidation. So, I don't know if
it's anything that the public or applicants will
see immediately. I think over time we'll be
getting more information out from that backend
reporting through the dissemination perspective of
the Agency.

Is there something in particular that you were asking? Or was it just, you wanted a more of a timeline understanding?

MS. MAR-SPINOLA: Well, is it the overall goal that PPAC has been focused on, on behalf of the general stakeholders has been improving quality. Not only the quality of the patent examination, but also to ensure the quality of the patent asset itself as it travels from patent prosecution to the PTAB for either IPR proceedings or, you know, the AIA proceedings.

And so, part of it has been, I think, a somewhat of -- PTAB has been hampered by a lack of some of the tools to do that. So, the bigger question -- and thank you for making me clarify this -- the big question, the big objective that we have here is to be able to have a very holistic system for the Patent Office where examinations are -- the quality has increased there, and we just want to make sure that when it comes to post-grant proceedings that the PTAB is afforded,
and the stakeholders are afforded the similar tool
to ensure that.

MR. STRYJEWSKI: Yeah. So, I guess, what I can talk to is, my new role is called the Patent Product Line Lead, and in doing so, I am responsible for that end-to-end part, right, not only patents but PTAB IT. And I'm fortunate enough to meet with Chief Judge Scott Boalick, and the Deputy Chief Judge Jackie, and we --


MR. STRYJEWSKI: Yes. Jackie Bonilla, and we work -- and I worked with the lead product owner who is the judge, to make sure that their IT needs are being fulfilled, and that their resources are being sponsored through the Agency. So, again, I'm new to this position, but I think that what is now -- what was in the past where Patent and PTAB were two separate entities in the IT budget, now they're together as an entity in the budget.

I hope I'm bringing some of the shared understandings from the patent side, which is
obviously a much larger piece of the pie than the 
PTAB side, sharing some of the data and 
functionalities, hopefully, and some of the 
processes and experiences. That I think time will 
tell if I'm successful at this job. But I think 
we set up a structure of responsibility and 
accountability in the new ways of working in that, 
and to bring to PTAB.

MS. MAR-SPINOLA: That's great. We're 
rooting for you. So, thank you.

MR. STRYJEWSKI: Thank you. Thank you.

MS. MAR-SPINOLA: Okay.

MR. STRYJEWSKI: I'm going to pass it on 
to Debbie Stephens for the last slide, if that's 
okay?

MS. MAR-SPINOLA: Sure.

MS. STEPHENS: Thank you. Hi. Good 
afternoon. And thank you, Bill for your insights. 
The final slide is the alternate processing site 
update. And in our new ways of working and in our 
-- or continue our journey for stabilization and 
modernization with the USPTO, we are looking at an
alternative processing site, and in order to
ensure increased resiliency for the Agency as well
as potential disaster recovery efforts.

So certainly it's not lost on us that
our mission- critical applications not only need
to be stable and modern, and as well as resilient.
So in that frame of mind, we're looking at an
alternate site, and enabling a more efficient data
center with a reduction or consolidation in our
current footprint, as we look to the data center
of the future, combined with any potential hybrid
cloud environment that we can leverage, and
perhaps any additional infrastructure or
container-type of solution.

So, with that type of information, and
with the high-level background, our current status
as we continue on this journey, we are currently
evaluating proposals for a primary and alternate
site.

And we are on track for an award here at
the end of the month, August 2020. And with that
award we'll continue down the assessments of
potential sites for any potential relocation,
timeline, migration. That's going to be a huge component of this process, as you can image. Not only determining what that current footprint looks like, what a footprint in the future looks like, as well as any of that migration efforts.

And ultimately our goal is to have the alternate site up and running in 2021. So that's the update on alternate processing. Questions?

MS. MAR-SPINOLA: Thanks, Debbie, for that. Mark, do you have questions or comments before we close?

MR. GOODSON: No. I'm very pleased with what -- very pleased with what's happening.

MS. MAR-SPINOLA: Okay. Debbie, one quick question from me which is --

Hey, Jamie, I see you. Double thumbs up. So, Debbie, the quick question is -- and I've asked this before -- I know that the sites are on the East Coast. Where are we? Are we getting close to something on the West Coast?

MS. STEPHENS: Yes. Certainly we're
going to look for something. We're actually
thinking West of the Mississippi is our general
location right now. But certainly that's in the
plans and will be part of that assessment effort,
absolutely.

MS. MAR-SPINOLA: Okay. Thanks.
Thanks. It's always good to hear from IT. And,
Jamie, while you're on there, I want to say thank
you on behalf of PPAC for managing all this in
light of the pandemic, and we talked about it at
the beginning of the meeting. And great work.

MR. HOLCOMBE: Thank you very much. We
have a great team. There's no doubt.

MS. MAR-SPINOLA: Okay. Thanks. So, if
you don't mind. We're going to move on to
Artificial Intelligence. This is going to be
conducted by Jeremiah Chan and Bernie Cassidy,
co-chairs. And we have deputy undersecretary of
Commerce for IP, and deputy director of USPTO,
Laura Peter. Welcome. And Coke Stewart, senior
counsel to the director, Office of the
Undersecretary; and director -- and Matt Such,
director of TC 2800. Welcome.

MR. CASSIDY: Well, thank you.

MS. PETER: Thank you.

MR. CASSIDY: Go ahead, Laura.

MS. PETER: I was just going to say, thank you for having us here today, and following IT is very appropriate because our Artificial Intelligence team, on the tool side anyway, works so closely, and have had wonderful support from the IT group, and from Jamie's group.

As you know, artificial intelligence has been a focus of this administration, and as the director, and I have had the pleasure of kind of being the lieutenant in organizing the teams as they press forward in IT policy around artificial intelligence and around tools.

And so with that, I will turn it over to our able team members, and let the co-chair of the Committee would like to say something first?

MR. GOODSON: No, please, please proceed.

MS. PETER: Well, I'll turn it over at
this point to Coke Stewart who is senior counsel to the director. And she's going to talk a little bit about IT policy and our progress with the RC (phonetic). Coke, are you there? All right, can you hear me now?

SPEAKER: Yes.

MS. MAR-SPINOLA: Okay.

MS. STEWART: As Laura was saying, AI has been a really important policy issue for the Agency for many reasons, but one of the most significant reasons is because we as an Agency want to ensure that we're continuing to incentivize innovation in these emerging areas, and artificial intelligence is certainly one of the top areas that we're keeping an eye on.

So, in that regard, last year in August and October, we issued two requests for comments on artificial intelligence policy. The first one dealt primarily with patent policy issues, the second one dealt primarily with trademark, copyright, trade secrets, data protection and other non-patent IT issues.
And our response was -- you could just close that slide for now, Patrick, the opening slide. The response to the RC was terrific. We got almost 200 unique comments. You can find them on our AI Landing page on USPTO.gov. And what we really wanted to take advantage and focus on today was the issue of artificial intelligence and inventorship. It seems to be the topic that everyone's reading about in the news.

And we at USPTO have had our own patent examination issues relating to inventorship. So, what we wanted to do is just quickly walk through one of the cases that we've been dealing with, because we think it really presents nicely from the policy issues in this area.

So, the case that we're going to refer to is involving an artificial intelligence machine called DABUS, and this slide just gives you an overview of some of the procedural history in the case. So, you know, after the application is filed, there's preexamination processing, so here we were able to discern that the filer was
identifying the machine as the inventor.

And that raises some unique issues for the Agency, and we had some back and forth with the applicant or the person, you know, submitting the application to the Agency, and ultimately decided that we needed a natural person to be named on the application in order to process it.

And if we can go to the next slide: So some of the arguments that our filer was making from this policy argument is that, you know, we want to have, obviously, standards for the tribunal, and we want to recognize accurately the contributions that our inventors are making to the patent system.

So, here, the applicant or the filer felt that the machine was really doing the work and they -- so they didn't really feel comfortable identifying themselves as contributing to the invention because they felt like the machine was really doing the work. So that's a question that we're facing which is: How do we appropriately acknowledge the contributions on these
machine-learning systems and the humans that are working with them?

And then also, what are the requirements under law that we're trying to work with, that we're trying to follow? And, you know, these are new issues. In one of the earlier meetings we talked about the very well-known Monkey Selfie (phonetic) case in the copyright context where it was asserted that an animal was really an author because it had taken a picture of itself. And could it be recognized as an author? And could it uphold the copyright?

Well, now we have a similar question before the Office. If we have a machine as an inventor, can the machine be recognized under the law? And so we want to make sure that we're not, you know, creating any additional requirements under the U.S. patent law, that we're following the laws on the books.

So, if we can go to the next slide, Patrick? So, in assessing this question of inventorship as presented to the Agency, you know,
we really have to look at what the laws are on the books. We spent a lot of time talking about policy and we want to stay, you know, one step ahead of what might be coming down the pike. But obviously we need to work within the confines of the law.

So, it was our analysis that the patent laws and the binding precedence from the Federal Circuit as well, they're in regulations and manual of patent examining procedure, really requires that we have a natural person as an inventor.

So, for that reason we weren't able to work with the particular application as filed because the applicant felt like a human hadn't made the requisite contribution, that it was really all at the -- you know, the work of the machine. So, as a result, we were not -- we were not able to proceed with the examination, and we were able to issue a final agency action determining that we could not proceed with the examination of the application.

Do you want to go to the next slide?
So, this issue of artificial intelligence inventorship raises a lot of interesting questions that we talk about on a regular basis, which is, you know, are we really at a point in society where we have artificial general intelligence? There are a lot of experts who feel that maybe it's happening now, there are many people who feel like this is really something that's way off in the future, that we're really using machine learning in a much more narrow way.

But if machines could invent, what do we do with that? You know, how do we encourage innovation in this area? Would recognizing machines as inventors, would it promote innovation? Or would it discourage innovation? And what do we do about humans that are using these machines as tools?

I think another interesting analog in the copyright context was the use of a camera. So, you know, it's obviously the photographer is choosing the lighting, he's choosing, you know, where to aim the camera, but a lot of the work has
been done by the camera. So, you know, do we
think of these machines more like tools to be used
by humans? Or are we thinking of the machines
more as doing the work, the creative work?

Then, you know, if machines are doing
this work, what kind of legal rights do they have?
You know, if they're thinking and they're
producing, should they be able to earn the right
to their own creative work?

So these are all questions that we're
working through with the USPTO, you know, spend
time thinking about from the legal perspective and
the policy perspective, even engaging with experts
in that field and the stakeholders on it. We've
received a lot of really thought-provoking
feedback on these questions that we'll be
procuring a report for the community to look at
very soon.

And, you know, we're just welcoming your
engagement on this issue, and I think much like
the monkey selfie piece generated many hotlines
about the question of animals as authors. We
think that "machines as inventors" is going to be an issue that we'll all be following closely in the legal press in the coming years.

MS. MAR-SPINOLA: So, consistent to remarks (inaudible) and this is an incredible issue and topic that I think we'll be talking about from here on; right. And so, one of the things that I think we've been focused on right now, is the application or the ownership of the inventorship. I do think that the IT asset, as a whole, when we look at it, we have to look at the questions of enforcement and the ability to enforce it.

Also, even on the prosecution side, is the duty of candor to the Patent Office. How can a computer comply with that obligation, right? On the enforcement side, it's really about, does the computer, or can the computer, inventor be able to enforce a patent, and be a witness, and give testimony, and about inventorship, or anything like that.

And I think we talked about this
yesterday, is that the District Court action that is pending in this case, you know, who is the plaintiff? Is the computer the plaintiff? Or is it the owner of the computer that's the plaintiff?

So, there are so many issues that I encourage the discussion and the thought of policy to include the entire life of that patent and not just the creation. Of course, the beginning is necessary, but so is -- assuming that an asset is granted, how can it be protected? How can it bring value to the inventor? My two cents on that.

MS. STEWART: Thank you, Julie.

MS. MAR-SPINOLA: Any other questions?

Or let me give me give it back to Bernie and Jeremiah. I'm sorry. I didn't mean to take over.

MR. CASSIDY: I'm trying to --

MS. MAR-SPINOLA: Yeah.

MR. CASSIDY: I am trying to demute. It takes a moment or two.

MS. MAR-SPINOLA: Okay.

MR. CASSIDY: Thank you. And thank you,
Coke. That's very helpful. I don't have any questions. Jeremiah or Jeff from the Committee, or Subcommittee, or if anyone from the Committee has questions for Coke, this would be a good time.

Hearing none, perhaps we should move on. So, Laura did Matt -- Matt, do you want to present now.

MS. PETER: Yes, indeed. So, we'll now have a discussion on our own implementation, and trial of artificial intelligence tools to aid in examination. Matt, are you there?

MR. SUCH: I am. Thank you, Laura. And thank you to the Committee for your time and attention. Certainly we've gotten some wonderful feedback from the Committee since the inception of this session. I'm going to talk today about two of the efforts that are ongoing in patents right now, leveraging artificial intelligence to operationalize aspects in our patent process. So, if we can move forward.

The first is the auto-classification system. So, we've covered and introduced this
effort in the past, and where we stood was -- at the last meeting -- was that we had a prototype that was leveraging machine learning that we're using to classify patent documents in the cooperative patent classification system.

Since that time we've been actively assessing the output of the machine, the maturing functionality in the AI models of the prototype with inputs from classification experts. Additionally, we have a pretty exciting opportunity before us, as we get into the next fiscal year, the Agency is, as you're probably all well aware, changing our routing to use CPC for the routing of applications.

And in concert with that, there are some changes to some of our quality assurance processes around making sure that the correct examiners and the right examiners are getting the applications based on the classifications. And as we move into that realm, we recognize that there's a real opportunity for us to be able to leverage that information, as a way to collect feedback from
examiners and classification experts on the
performance of our systems, and then use that
information to help us improve our AI models.

And so we kind of view that this
particular effort is going to mature hand-in-hand
with our business processes that have been
developed. And the advantage here is that by
leveraging the existing processes that we're
already putting in place for CPC routing, it gives
us the opportunity to collect this data without
incurring significant additional costs.

If you can move, on slide 4, please?

So, based on the assessments that we've doing of
the auto-classification tool, we've kind of
identified a couple of big areas for value. So
the first is quality assurance, and one of the
things we talk about here in the Agency around
classification is this concept of correct,
complete and consistent classification, the three
Cs. And we've identified that the tool can
provide us some opportunities here to advance our
goals here.
This helps of course with making sure that cases are ending up to the right examiner when we route applications, but also is a very important -- classification is a very important search tool, and so having correct, complete and consistent classification assist the examiners with retrieval of documents.

Additionally, we're looking at this question of ROI, and the possible operational or efficiency gains beyond the quality component that might be attained through the leveraging of an auto-classification system.

And I'll say a couple things about that. The Agency does incur costs to attain, use and distribute classification information for the purposes of running our operations and providing a tool for examiners to search. And one of the things that's really been on the horizon is this change to the CPC routing, and we very much have our eye on that, those processes that we're going to use to do any corrections of classification symbols, or updates of classification that might
be necessary in order to best drive applications
to the right examiners.

And those are all components that were
feeding into our particular model here for an ROI,
from the perspective of the internal costs that
are incurred through using auto-classification
systems.

So, those pieces of information are
things that we're very much looking forward to as
we get into the new fiscal year, and as we see the
process mature a bit, and we see the
auto-classification mature into various aspects of
where we use CPC data, we'll have a very good
sense of how those numbers are coming out.

So, if you can move forward, please?

So, the next is our AI prototype to assist with
patent search. So, as a little bit of background
once again, we are integrating our artificial
intelligence capabilities directly within the new
-- excuse me -- the PE2E Search tool. And that's
in order to provide kind of a one-stop shop for
the examiners.
We are taking advantage of cloud-based technologies to access our AI models, and we've been focusing our efforts around a couple of key features that the AI can offer to help our examiners identify prior art as early as possible in prosecution. And that is that AI can help identify documents that they're searching for, as well as suggest potential areas for them to consider building a search strategy around.

The other thing we've noted is much like the auto-classification effort, is our ability to mature and prove the effectiveness of the AI models over time, is very, very important, and so the system is actually also being built to be able to capture feedback from our users automatically, both passively as well actively, if they choose to contribute, in order to be able to benchmark where the AI models are, and identify areas where those models can be improved.

Back in March we did release the tool to about 500 users or so, in our User Centered Design Council, and they've been actively testing and
providing feedback on the tool itself. We've gotten some great feedback from examiners, we've gotten suggestions for making improvements, some of those have already been incorporated into the prototype, and we're going to continue to leverage those results to help inform our path forward.

If you can move to the next slide? So, based on the assessments we're seeing where we've identified some opportunities for value here as well. And they revolve around the potential for increasing our search effectiveness and we're developing metrics to be able to identify the contribution that the AI makes to that search effectiveness.

In particular we're focused on efficiency. And what I mean by that is the ability for the AI system to make contributions to increase the retrieval of relevant prior art, while at the same time reducing the retrieval of irrelevant prior art, because we don't necessarily want to have a system that places more references in front of the examiner, if those references
aren't useful for the purposes of their examination.

Some of the tools that have been prototyped and we're getting feedback on, is to assist the examiners in actually reviewing prior art more quickly and more efficiently. Examiners do spend time going through search results when they're writing queries and reviewing prior art, and we want the tools to be able to help them with that process so that they can focus their attention on higher value-added activities until search and examination.

As I mentioned before, we're certainly collecting a system to collect feedback in order to improve the search models over time. In terms of an ROI equation here, the search systems using the AI were very much focused on maturing our AI system to advanced patent quality; and building our metrics around ways that we can ensure that we're seeing the contributions of our AI to each of these potential search effectiveness is a very important step for us to continue to move forward.
So, with that, I'd like to thank everybody. And I think we have a few moments for questions.

MR. CASSIDY: Thank you, Matthew. And Jeremiah or Jeff, if you have any questions; and if anyone else on the Committee has any questions this would be good time to speak up. While people are formulating that, I want to thank the Deputy Director Laura Peter, and Matthew, and Coke for keeping us updated on these significant progress steps that are being taken. And we really appreciate it and we look forward to working with you. Are there any questions now?

MR. CHAN: Yeah. I have one, Bernie. This is Jeremiah. Thank you for the -- thank you for the update. Matt, on the auto-classification, my understanding is that so far the preliminary results have been very, very positive. Can you comment at all on kind of the performance of the auto-classifiers relative to any targets that the Agency has set?

MR. SUCH: Certainly. So, the targets
that we set, I can just speak a little bit about
the way that that actually works. Obviously, we
have a need for patent quality, and there is a
certain degree of subjectivity that can exist in
classification of subject matter, depending on
what is viewed as most important.

And so the way that we're actually
handling that is by looking at the impacts to how
the new routing system may induce costs, or if we
have insufficient classification quality, right.
And so what that does is that allows us to kind of
translate the quality metrics that we have from
our classification system, and our sourcing
directly into a way to kind of balance out what
the best place to attain classification data may
be.

And so, as we've moved forward with
this, we've been testing based on a model that is
as similar as we can get prior to the actual
launch of the new routing system, and we're seeing
in some of the used cases that we are envisaging
for auto-classification on some very good
benchmarks. And what I mean by that is based on what classification data we do have, we're able to see that our auto-classification system is approaching the same level of quality.

MR. CHAN: That's great to hear, Matt. Based on the great performance that you've been seeing so far, has it caused you to kind of rethink the timeline for going full production?

MR. SUCH: Well, certainly we're being very aggressive with this, because we do see a good opportunity here, and the progress to date has been pretty remarkable, to stand up the system, to be able to build the models, and to be able to get assessments on the output of those models. We're very much interested in, you know, proceeding as quickly as we can, as we need each of these different benchmarks, we're absolutely going to be looking to be aggressive to continue to move forward.

In terms of the, you know, exact dates, and times, and all that, it might be a little early to say, but we're certainly anticipating
some good things on the horizon.

MR. CHAN: Thank you, Matt.

MS. MAR-SPINOLA: All right. So we are running a few minutes behind. We have two more sections, International and Finance/Budget. And I want to give them their 20-minute allotments each. So, if you don't mind, we're going to move on.

Thank you for -- Laura, and Coke, and Matt for giving us this very, very important news, and in fact was good news. Again similar thing is, before the similar theme which is, progress is being made notwithstanding the shelter in place, and pandemic. So thank you very much for that.

So let me introduce now, Tracy Durkin and Jeff Sears, co-chairs of International, along with Valencia Martin Wallace, and Shira Perlmutter, and will speak on the topic of international matters now. Thank you.

MS. DURKIN: Great, thank you, Julie. Let me just make a quick introduction on this one. And compliments so far to the Office, and I wanted to share mine as well as someone, Julie, who's
working daily with the Office, it's really been an incredibly impressive how quickly, seamlessly (phonetic), the office as an organization, and as individuals, have been able to pivot to working remotely on such a large scale.

My personal practice had me interfacing with almost offices around the world, our key offices around the world, where I can say, if I can, that the U.S. office had maintained a much more reliable pace of service than anything else that I've seen throughout this time that we've been dealing with the pandemic.

So, despite these challenges, we're going to hear today how the Office has continued to leverage its strong relationships with other offices, and their leadership position around the world to keep projects, not only moving, but also to begin some really exciting projects as well.

And so I think, Valencia, you're going to start with the presentation?

MS. MARTIN WALLACE: Yes. Thanks, Tracy. So let's move on to the next. And I will
go very quickly through mine. I'm just going to
give you a quick update or a briefing on the IP5
Heads Meeting, that was July 21st, and it was the
13th IP5 Heads Meeting.

Please move on to the next: So here is
the agenda, so really it was the main parts of it
to really speak of is a response from each heads
on COVID-19 went through very briefly with
response from each of the offices. Another part
was an endorsement of the progress or next steps
of the working group.

So, really, the only thing we had,
really, where there was an endorsement of the
change was with the PCT CS&E, which is
Collaborative Search and Examination program, a
pilot program that's going on right now was to
extend out by a year the assessment phase of the
search and examination pilot where we have all
five offices were participating in the review of
the PCT application.

So it was extended out mainly to allow
for national- staged cases to have an assessment
of the effect on them as well. So, that was the
only endorsement of a change. The others were
really endorsements of further consideration and
we can -- the one that I wanted to speak mostly on
was the progress of the PHEP.

So, if you can go to the next slide?

So, the PHEP is the group that works with
industry, the IP5 and industry on any type of
issues that needed to be taken up, or any topics
taken up. So there was an endorsement that the
PHEP group would take up the following three
topics for further consideration.

One, being the global assignment which
is something that we heard, and we've heard for
many, many years about having some type of
uniformed, harmonized form for assignment to
address any type of financial and just
time-wasting concerns with having to address
assignments in separate offices.

The second being a harmonization of
claim formalities, and once again, is different
from formal type of issues surrounding claims that
we can work on, and consider having within offices. Something that's a little bit more consistent for an applicant in order to not have to deal with some things that they really shouldn't have to from one office to the next.

And the third was harmonization of drawings, and what is allowable for drawings. And it's the same type of issue where, you know, there are different requirements based on the office, and it can be something as simple as how you identify each of the drawings. That's why it's a financial burden and a time burden for an applicant to do those.

So those are the three topics that are being taken up for further consideration by the PHEP Group for changes. So, I was hoping that maybe we could talk a little bit about it. I know we're very tight on time now. But I do ask that if there are any comments, any suggestions, to please send them to me, so that they can be considered as part of this discussion with the PHEP Group.
And I believe it's later on this year, in the fall, that the PHEP Group will take these up for consideration. So there's some time, but I would suggest that you send comments to me that we can then identify and put up for consideration when the Group meets.

So I know that I went through that really fast. If you want me to back up with anything I can. But that was the gist of it. We also talked about virtual meetings and how moving forward to address having more virtual meetings, even if we are outside of this particular pandemic and concern that we have now, that it really is more efficient and cost-effective in some ways, and having some type of combination of virtual meetings and in-person meetings. So, the IP5 also endorsed considering that and taking that up for consideration.

So, I'll stop there, and see if there're any questions for now. Or, as I said, please send any comments, suggestions to me.

MS. DURKIN: Thanks, Valencia. I think
we can move on to the R-CADE, and then we take
questions at the end.

MR. YANG: Sure. So, I can take over
for the repository for common access to data
elements. And if we go to the next slide: I just
wanted to give a little bit of background on the
genesis of this initiative. And a lot of this
came about from feedback we received from the
industry and the burden associated with the
population and filing of forms for when filing
applications at different IP offices.

Based on this feedback, we began
engaging with WIPO and the other IP offices to see
how we could reduce this burden. And one of the
concepts we came up with was the development of
our centralized data repository.

If we go to the next slide: The focus
of this repository would be -- there would be
three main objectives. Primarily, it will be
applicant-driven of the issuing of information, so
applicants would be responsible for populating and
managing the data in the repository. And this
repository could then be used for the
pre-population of office-specific forms, and
potentially for offices to retrieve the
information the applicants request during the
filing of applications. We think this would allow
for the creation of efficiencies in the filing of
applications at different IP offices.

And if we go to the next slide we can
see some of the benefits associated with that.
The primary focus we kind of want to emphasize is
that this information would be applicant-driven
and managed. While this would ensure the
consistency the applicant would have full control
of the data, and it would also them to kind of
manage the data, and how it would be entered at
different IP offices.

The second benefit we kind of envisioned
is that this would be application-independent.
So, while this information could be used in the
filing of applications it would, hopefully,
mitigate some of the legal issues associated with
unpublished data, and at the same time this
information could be used for different use cases outside of the filing of the applications.

And I'll be happy to answer any questions that people may have with regard to this topic.

MS. DURKIN: Okay, great. Thank you, Nelson. With that, we're turning then, and it's over to the next issue, or two issues. Shira, you're going to cover together.

MS. PERLMUTTER: Yes. Thank you very much. Can you hear me?

MS. DURKIN: Yes.

MS. PERLMUTTER: Great. So, if we can go to the next slide. I was very pleased to hear that there was interest in learning more about the IP Attaché Program. It's one of my favorite programs. The IP Attachés are IP experts and diplomats who are posted at American embassies and missions all around the world.

And you might wonder how this program began, it was during the TRIPS negotiations in the '90s when we sent one IP attaché to Geneva, and
the program has expanded since then.

So, we now have 13 posts based in 10 countries, and we're about to add one more. Now, the attachés, we've discovered over the years as the program has developed, they've really been a tremendous asset, first to U.S. Stakeholders, but also to the Agency and to the government as a whole. And we regularly get very positive feedback about the program especially from individual companies who they've helped.

So, what do the attachés do exactly?

They, first of all, promote U.S. IP polices in the regions where they're post is, first by working with local governments, and that is both policymakers and enforcement officials, and also by organizing education and awareness programs.

They also, and this is, I think, very important to all of you, they help American stakeholders -- and we may be up to the second slide now -- the next slide, sorry. Great. So, the second thing they do is to help American stakeholders both establish and maintain their
foreign markets for their goods, because they help
them navigate the IP landscape in those markets,
and figure out how to deal with problems that may
arise, often promising enforcement, but not only.

And then, last but not least, I would say the attachés are essentially our eyes and ears
on the ground abroad. So they really have been a
critical source of information on IP developments
in real time before they report it in the press,
for the benefit of everyone in the U.S.
Government, all the agencies that work on these
issues, and also for stakeholders.

So, if we can go to the next slide?
This slide shows you the coverage of the IP
Attaché Program around the world. It's nicely
color-coded. And as you can see, we actually have
coverage from most of the world. We are in the
process of opening a new office in Johannesburg
which will cover Sub-Saharan Africa, and at that
point I think we will be up pretty consistently
everywhere.

And even though each attaché is based in
a particular city or country, as you can see the areas of coverage typically encompass multiple countries in an entire region. And they become expert in the IP systems of both the country where they're located and also the region. The one exception is Geneva, where our two attachés cover the international intergovernmental organizations, namely, WIPO and the other UN agencies, and the WTO.

Now, I did want to make the point, because this has been very important to the program, that over the past five years in particular, we've done a lot of work to spread the word about this program, and what the attachés do. And we've done that in a number of ways. So, first, as many of you know, the attachés come back to headquarters every year for a week of consultations and debriefing, and they meet with other government agencies, with The Hill, and with a long list of stakeholder groups, as well as, in the last couple of years, with PPAC and TPAC.

And the Chamber of Commerce actually
sponsors an annual half-day (phonetic) program to
display the insights of the
attachés, and in fact that's opened to all Chamber
members. Second, we've started to schedule over
the last few years outreach visits, at least twice
a year, to other parts of the country could get
the attachés outside of the Washington area to
reach out to people who don't necessarily know
what's going on in D.C. And so we've been working
with our regional offices to set these up, and by
now we've had the attachés do outreach programs in
more than 20 cities in the United States.

Those visits include meetings with a
wide range of businesses, and with inventors, and
trade associations, and participation in AIPLA and
INTA programs. We also have a dedicated page on
the PTO website, which includes contact
information for each of the attachés and we're
using social media to describe the program and the
services that are available.

Then last but not least, we started to
prepare and distribute brochures and other
materials about the programs and indeed it's an extensive recruitment effort because it's not that easy to get really well qualified people for these important positions.

So, I just wanted to say, that we always welcome any ideas or any additional opportunities that publicize the attaché program. We really want to make as many people as possible aware of how the attachés can be helpful when they do business abroad or have IP problems in other countries.

And so if we can go to the next slide: This is just to say that there is additional detailed information about the program, and contact information on our website, and I also wanted to introduce, for those of you who don't know him, Dom Keating, who directs the program. And it's available both now and later to enter any follow-up questions.

So, I don't know. Should I pause for a minute to see if there are follow-up questions, or given the time, just move on?
MS. DURKIN: Thanks, Shira. Unless Jeniffer or Julie had questions, we should probably keep going and then we'll wrap up at the end.

MS. PERLMUTTER: Okay. So let's go to the next slide. And I just wanted to mention for anyone who hasn't yet seen it, PTO's Web-based Patents 4 Partnerships program, which was launched in May. It can be found on our website as part of the COVID-19 Response Resource Center, and it's essentially a platform to facilitate contact between potential licensors and licensees.

It's a mechanism for them to connect and to facilitate contact by providing a centralized and easily accessible place to list American patents, U.S. patents and patent applications, publications that have identified as available for licensing.

So, the platform offers a searchable database of available technologies now related to COVID-19, and that includes any patents or patent applications, publications that have been
indicated as available for voluntary licensing, on
external public website, or in our Official
Gazette notices.

The platform also offers contacting
information, or links to sources that include the
licensing information, and if this technology --
if the availability for licensing is listed as
unknown, that means we currently don't have
information about the licensing status.

So, I just wanted to say that while the
initial focus is on technologies that are broadly
related to COVID-19, and that is technologies that
have to do with prevention, or treatment, or
diagnosis, but also personal protective equipment,
and medical devices, and contact with
interactions, so very broadly interpreted. And
drug development tools of course.

Our hope is that this will be very
useful in bringing products to market more quickly
to address the current health crisis. But I
wanted to make the point that depending on the
input we receive and the level of interest among
stakeholders, we could expand the platform in the
future to include other technologies as well.

And we want to invite all IP owners to
submit additional technologies, the list is
growing rapidly, and we encourage all of you to
take a look at the tool, and send us any comments
through the "contact us" link that's provided on
the main page.

And I also wanted to introduce Marina
Lamn, who is primarily responsible for developing
the platform is also here, and can answer any
questions now or going forward, it's
Marina.Lamn@USPTO.gov.

And I know, because we're short on time,
and I don't want to spend time on it, but Branden
Ritchie mentioned and Sovereign Immunity Study
that we've been asked to do by Congress, by
Senators Tillis and Leahy.

And just to say that as you mentioned
the copyright office had issued the request for
comments already on copyright infringement by
state entities, and we will be soon issuing a
similar request for comments on patent and
trademark infringement by state entities where
there is an inadequate remedy under state law. So
stay tuned for that as well.

So, I'll stop here. And if there's
time, happy to take any questions.

MS. MAR-SPINOLA: Shira, just a few
remarks. It's Julie Mar-Spinola. Glad to see
you, and thank you for the information, very
helpful. On the last one, the Patents 4 Partners
-- sorry, the last slide, Patents 4 Partnerships.

MS. PERLMUTTER: To go back -- go back?

MS. MAR-SPINOLA: Yeah.

MS. PERLMUTTER: Yeah.

MS. MAR-SPINOLA: It's right there now.

So, for this program I understand it is mainly to
address the COVID-19 issues and supplies, and I
heard you say that this could be expanded to other
technologies, which wouldn't be a bad thing. On
the website that you referred to, are there
criteria that people have to meet in order to be
on this program?
MS. PERLMUTTER: It's really a self-selection process. It's identifying that these are technologies that are related to COVID-19, and that are available for licensing. So, we're not doing any kind of review and clearance. So, Marina, if you're on, would you like to address this any further?

MS. LAMN: Hello. Sure. So, it self-identified as Shira said, although there were a couple of patents or patent applications that were in no way, shape or form related to COVID-19, such golf equipment, or anything like that. And in that case we just requested an explanation from the owner by email, and they never came back and explained how is it related.

But this is a very rare case, that were in the very beginning, maybe people misunderstood the purpose of it, but by and large they all were related, well in a broad sense, to health crisis.

MS. MAR-SPINOLA: Okay, great.

MS. PERLMUTTER: Who are the (inaudible) in particular.
Great. Thank you. Thank you. So, we do need to move on for our last segment which is finance and budget. Are there any last-minute questions? Or Tracy, would you like to close?

MS. DURKIN: No. That's fine, Julie. Go ahead. Thank you.

MS. MAR-SPINOLA: Okay. So, thank you everyone on the International panel. We appreciate the information. Next and last but not least, is our Finance and Budget Subcommittee chaired by Dan Lang, and we have Jay Hoffman, the CFO for Patent Office, to present. And so we are going to go over about 15, 20 minutes to give Jay enough time to present his section.

MR. HOFFMAN: Great. Thank you very much, Julie. Can everyone hear me okay?

MS. MAR-SPINOLA: Yes.

MR. HOFFMAN: Great. Okay. Well, let's go ahead and get into it here so that we can conclude the meeting. Next slide, please? All right, so today I will give you a quick status on
where we stand with fiscal year 2020, which just
as a reminder, the government's fiscal year runs
from October 1st to September 30th, so fiscal year
2020 is nearly completed.

I will give you an update on where we
stand with FY 2021, our financial planning and
operating plans are well under way for that. I
will also give you a brief update on what to
expect with the 2022 budget which is well
underway. And lastly, I'll end on the fee
rulemaking, which I imagine was discussed this
morning in the opening remarks.

Next slide, please? So, FY 2020 as I
mentioned, the fiscal year is almost over. Right
now, in terms fee collection revenues the
dead-of-the-year patent revenue forecasts are
between 3.1 billion and 3.6 billion. And when
this slide was put together it was dependent on
the final timing of the fee rule implementation.
As you know the fee rule was approved the Director
on August 3rd, and to go into affect in early
October, October 3rd.
As a result of that we expect the patent revenues to be close to the 3.6 billion by the end of this fiscal year, there's typically a surge in maintenance fee payments the last -- a few weeks before the rule goes into effect. So, probably on the upper end of that range, through June 30th, our patent fee collections were roughly 99 percent of plan, or about 1 percent below plan through to the end of the third quarter.

Expenses were right in line with expectations. Patent expenses were retracted at 3.15 billion, down from 3.18 billion at the beginning of the year. The reason for that is, we had adjusted our operating levels downward in response to the potential revenue risks related to the COVID-related downturn. This included deferring some patent examiner hiring, as well as reducing some of our operating expenses.

Next slide, please. Very quickly here, in terms of the revenue links, a recap on where we are since the third quarter, these capture as of June 30, 2020. After June 30th patent revenue
stood at about 2.3 and $3 billion, that was our
planned collections, actual collections were
$2.315 billion, so about $21 million below plan.
As I mentioned on the prior slide, we're within 1
percent of that expectation.

Spinning was a little bit ahead of
revenue that's not uncommon, we're sitting at
about $2.47 billion, and it's just to say --
resolve the way the contracting process works. I
would just note that since June we have continued
to see a gradual decline in our patent revenues.
In fact, the gradual decline started in late
spring, and has continued.

It's not a lot different, but I would
say, we're probably close 2 percent below plan
right now, and something that we're watching very
closely. I'll say a little bit more about that in
a minute, when I talk about 2021.

Next slide, please? I just want to give
you a quick update on our operating reserve
position for FY 2020, that it's important because
the operating reserve has implications for how we
start FY 2021. Let me first acclimate here to the
graph that's on this slide, and then I'll describe
the analytics of it.

So, first, the X-axis of this chart are
in months of the fiscal year, as well as three
prior fiscal years where the operating reserve
balance ended. The Y-axis on this chart
represents the operating -- the patents' operating
reserve in millions of dollars.

The bars on this chart, they are where
we project the end-of-year operating reserve
balance to be, and the line on this charge is
where the operating reserve balance is at the end
of that particular month. So as the year
progresses you would expect the two to converge
and be the same, which is exactly what we're
seeing.

So, currently the patent operating
reserve is projected to be between 388 million and
$410 million by the end of the fiscal year. I
would note that as a result of the prepayments
that we're going to see on maintenance fees, I
expect an additional $400 million will be in the patent and trademark fee reserve fund to start the fiscal year as well. Those will not immediately be part of the operating reserve because it requires a congressional reprogramming to access those fees, and that's something that we will be working on.

But the punch line is, that the minimum operating reserve for patents is roughly $300 million that will be a very strong financial position with respect to our operating reserve for patents will be well over $400 million in available funds to start the year on October 1st of this year.

Next slide, please? I'm going to be very brief on this slide, just in the interest of time, but I wanted to give you an update on where we were at with the CARES Act relief that the Agency had begun in the springtime. And we've done a number of extensions on that. As you probably know the USPTO has extended, from July 1st to September 30th, the time for small and
micro entities to pay certain patent-related fees
that would have been due on or after March 27,
2020.

Prior to this extension we had offered a
number of different types of relief for large
entities as well. And when the CARES Act was
passed, and didn't really have a sense of what to
expect, or how much of the subscription we would
have for this relief. Well, we've been able to
populate some estimates which is what this table
shows.

If you look at the table below, April,
May, June, at the left-hand side of the table
where it says, total patent fees, these are all
the patent fees that we collected, either planned
and collected by month for those three months, and
that's during the height of when the CARES Act
relief was being offered.

On the right-hand side of the table that
you see here, where it says, eligible fees, this
is separating out only those where CARES Act
relief was applicable, and again, we do the same
comparison of what we expected to collect versus what we actually collected.

What was interesting about this is that the total impact of the CARES Act relief, and this is, again, just an estimate, it was only about $2.3 million for the relief offered. So it was quite a bit much than what a lot of our original projections were. That said, we had a lot of positive feedback. So that I think while it may have been large dollars to the Agency, I think that those that took advantage of it, and again, I realize it wasn't all funds that would come on with deadlines and things like that. It does seem to have been well received, but the financial impact was pretty modest.

Next slide, please. All right, with respect to FY 2021, the Agency has reviewed the revised FY 2021 spending requirements, in consideration of projected revenue collection targeted to operating reserve levels. Right now the Agency is expecting that current economic environment is still pretty unsettled, and that's
having a negative impact on what we project demand
to be for next year.

So, what I'd like to do is just take a
moment and address a couple items that aren't
explicitly on the slide but I think they're of
interest to the PPAC, and to probably those
watching. And that is, what is the near-term
impact of the current economic environment on our
near-term priorities? As well as how the Agency
adjust (inaudible) next year, and we wanted to
make sure that we, you know, stay within our
funding profile.

So, with respect to our priorities next
year, I think the good news is we're on relatively
strong footing, our macro priorities largely
remain the same. That may (inaudible) the life on
predictable patents, managing our training
academy, and patent -- enhancing patent
administrative appeal and post-grant processes has
continued to invest in our information technology
stabilization and modernization efforts.

So that's a positive. With respect to
how we're adjusting the budget, it's really a
three-part approach for FY 2021. The first is we
are adjusting operating levels commensurate with
expected demand for past services. Look, demand
in FY 2021 for patent services is expected to be
lower than it was this year.

As a result of that we have a production
level where we adjust hiring levels as well as
others that work in contract costs, so that we can
right size our budget commensurate with the demand
that we expect, and that's what we have done. And
this has had a material impact on the size of the
budget for next year. That it will be lower as a
result of expected lower demand.

The second thing is what I alluded to on
the prior slide, and that is, we're going to begin
the fiscal year with a very strong operating
reserve balance, to mitigate the ongoing risks of
economic uncertainty.

I mean, one thing that we've been done
that's been very smart this year, we've been very
conservative in our approach to FY 2020. We
scaled back some of our hiring expending as the consumers of the economy were unclear, and as a result of that the operating reserve is going to end the year in a very strong position, as I pointed out in the prior slide.

Secondly, the fee increase that was just approved by the Director is also going to help most of the operating reserve. Based on some sensitivity analysis that we've done, we are reasonably confident that we can withstand further reductions in the demand for patent services beyond those for which we planned. Obviously, we're hoping that's not the case, but the operating reserve will be in a strong enough position to buffer those.

Lastly, any prudent business, of course, hopes for the best but plans for the worst, we've been developing contingency plans both in the patent organization, as well as the important units looking at potential deferrals that we could make should the economic situation not accrue but it -- or worse yet, deteriorate further, that we
could make.

We're not planning on implementing those contingencies at this time, but we're also not going to wait until there's a problem before we -- before we look at all of our options. Those are all things that we're doing to try to mitigate the risk in FY 2021 so that the contours of the recovery make themselves more clear.

With respect to the appropriation process for FY 2021, the House has completed their work, the markup occurred on July 8, 2020, and the marks that they gave us were consistent with the numbers in the President's request. The Senate markup has not occurred at this time. It should happen later this summer. I'm sure Branden Ritchie in his presentation probably mentioned that with all likelihood we'll be a continuing resolution for at least three months, and that could extend longer.

We had looked at our financial requirements through the first quarter, and the CR poses no problem for our operation. I don't think
we'll see any material impact if we are under a
CR.

Next slide, please. FY 2022, the budget
that will go into effect roughly
a-year-and-two-months from now, the USPTO has
worked all summer on finalizing requirements for
the FY 2022 budget submission that goes to the
Office of Management and Budget on September 14th.
We're going to be providing advanced copies for
those documents through PAC, as well to the
Department of Commerce sometime here in the next
couple of weeks. Again, we will wrap those up and
send them off to OMB by September 14th.

I would note that this is the first of
two 2022 budgets we do. So, we're going to
continue to work and refine the FY 2022 budget
deep into the fall. And as we get refined revenue
forecast this budget is probably going to change a
decent amount between now and when it's ultimately
submitted. But something that staff have been
hard at work on, and (inaudible). Final slide,
please. So, I think there is probably -- you've
probably have already gotten an update on the
Director approving the fee rule on August 3rd. I
just wanted to note that the new fees will be
effective August 2nd, which I believe is a Friday,
and the beginning of the next fiscal year. We
appreciate the PAC's support and feedback that
they've given us throughout this process.

And with that, that concludes my
presentation. I think, Julie, I'm under your
15-minute wish.

MS. MAR-SPINOLA: Well, okay. I
appreciate that. I think you said August 2nd for
it to take effect. It's October 2nd, correct?

MR. HOFFMAN: October, October 2nd.

Thank you. I've got all this online.

MS. MAR-SPINOLA: No. That's okay. But
I appreciate it. So, Dan, let me turn it to you
to make sure that -- your comments and feedback,
as well as closing remarks.

MR. LANG: Sure. This, I thought was
incredibly informative, and efficient presentation
of the financial view. I'd like to point out to
the public that a crisis like the one we're facing now, places the USPTO in a very special kind of situation. The USPTO as a public mission, but it's funded by users, and user activity is variable, and it is linked to what's going on in the economy.

So the OCFO has been incredibly active and engaged on a daily basis since this crisis broke out, in managing expenditures, and watching the revenue come in, and how that's changing our generating forecasts, and generating contingency plans.

So, I'd like to, first of all offer thanks, from me and from the community to the OCFO for a lot of hard work, a lot of great work in managing the PTO's financial situation.

Everything else that we talked about today in the meeting depends on robust finances. I think that the presentation actually answered some of the questions I had seen on from financial things when you look at the (inaudible) in terms of, you know, contingency plan and prioritization,
which was great.

   My own personal comment was that I'm
happy that the reserve is going to be --
operations is going to be above its minimum, but I
would like to remind us that there's also --
there's a minimum level, but there's also target
level, that's somewhat higher. I think that that
-- my only wish is that over the longer term the
operating reserve is peaking higher, than what is
projected for the end of the fiscal year to make
the PTO's financials even more robust. Those are
my comments.

   MS. MAR-SPINOLA: Okay. Fair comments,
I appreciate it. And Jay, to have the ability to
have a strong start of the new fiscal year is an
amazing feat, given all the challenges that we are
all going through and what the Patent Office is
going through. So thank you for that.

   And I think that if there aren't any
more questions, I'm going to call adjournment of
the meeting. Do I have a second?

   MS. DURKIN: Second.
MS. MAR-SPINOLA: Thank you everyone.

Please be safe and well. And we'll see you in a couple of months again. Take care. Appreciate it.

(Whereupon, at 3:15 p.m., the PROCEEDINGS were adjourned.)

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

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