PARTICIPANTS:

TPAC Members:

SUSAN NATLAND, Chair
DAVID CHO, Vice Chair
TRACY DEUTMEYER
JOMARIE FREDERICKS
JENNIFER KOVALCIK
TRICIA MCDERMOTT THOMPKINS
ADRAEA BROWN
DANA BROWN NORTHCOTT
RODRIK ENNS

Union Members:

JAY BESCH, NTEU 245
PEDRO FERNANDEZ, POPA
HAROLD ROSS, NTEU 243

USPTO:

AMY COTTON, Deputy Commissioner for Trademark Examination Policy
MARY CRITHARIS, Chief Policy Officer and Director for International Affairs, USPTO
GREG DODSON, Deputy Commissioner for Trademark Administration, USPTO
DAVID GOODER, Commissioner for Trademarks, USPTO
PARTICIPANTS (CONT'D):

JAMIE HOLCOMBE, Chief Information Officer, USPTO

ANASTASIA JOHNSON, Executive Assistant, Office of the Commissioner for Trademarks, USPTO

GERARD ROGERS, Chief Administrative Trademark Judge, Trademark Trial and Appeal Board, USPTO

DAN VAVONESE, Deputy Director for Trademark Operations, Office of the Commissioner for Trademarks, USPTO

MARY CRITHARIS, Chief Policy Officer and Director for International Affairs

NANCY OMELKO, Senior Trademark Counsel for International Policy

BRANDEN RITCHIE, Domestic Policy Senior Trademark Counsel for Domestic Policy

LISA HILTON, Trademarks Product Line Manager

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CHAIRWOMAN NATLAND: Welcome everyone to the second quarterly meeting of the USPTO Trademark Public Advisory Committee. My name is Susan Natland, and I am Chair of TPAC and a partner of the law firm of Knobbe Martens. First, I would like to welcome my esteemed TPAC colleagues to the meeting, starting with my wonderful vice chair of TPAC David Cho, who is Assistant Vice President Senior Legal Counsel of Trademarks at AT&T. And, then in order of seniority, welcome Jennifer Kovalcik, Vice President of Technology and Intellectual Property counsel for Community Health Systems. Next, Tricia McDermott Thompkins, General Counsel of Shoe Show, welcome Tricia. Tracy Deutmeyer, a shareholder of Frederikson and Byron, Jomarie Fredericks, Deputy General Counsel and Chief Intellectual Property and Brand Counsel for Rotary International. And moving on to our 3 newest members of TPAC. I'd like to welcome Adraea
Brown, Vice President Assistant General Counsel at H-D U.S.A. / Harley-Davidson, Dana

Brown-Northcott, Vice President and Associate General Counsel at Amazon.com and Rodrick Enns, a partner and Enns and Archer. I'd also like to introduce and welcome our three union reps. Jay Besch, of the National Treasury employee union, local 245, Harold Roth of the National Treasury union local 243, and Pedro Fernandez, of POPA, the patent office professional association. Welcome TPAC members! Next, I would like to congratulate Kathi Vidal on her recent confirmation. I, and I know the rest of TPAC, very much look forward to working with Director Vidal. I would also like to thank Acting Director Hirshfeld for his service and dedication to his role. It has been a true pleasure to work with him this last year. And finally, I would like to thank Director Gooder and the USPTO leadership. It has been a career highlight to work with such high performing leaders at the USPTO for the common goal to support IPR and the US worldwide. I'd also like
to remind you that if you have any questions to submit during our meeting today, please go ahead and email them to TPAC@usapto.gov, again TPAC@uaspto.gov, and with that I would like to turn the floor over to Commissioner David Gooder.

MR. GOODER: Thanks Susan very much for that introduction, I appreciate it. Can you hear me, okay? Yes, okay, good thank you. Welcome everyone to the --

CHAIRWOMAN NATLAND: Commissioner, I think you may be muted.

MR. GOODER: Again, can you hear me okay? Okay, good. Anyway, thanks again, and welcome everyone. We look forward to these meetings because it really, gives us a chance to kind of look at a lot things going on with the trademark office and the USPTO in general, and to hear from you all, so, let's dive in. We're going to talk today about our year-to-date business operations, updates, and a bit about the performance with regard to filings and staffing, etc. Our CFO will then, come in and give a bit on
the financial side of that equation, and then we'll talk about some more management-oriented updates. Some that are more general in nature, some in regard to operations policy, administration, IT, etc. So, we've got a full -- a full batch of things, so let's go ahead and get rolling. Next slide, please. Now, we can go one more. There we go, okay, and next slide. Thanks. All right. So, if this is a look at how trademarks operations have gone over a long period of time, all the way back to fiscal 1990. And what I just want to highlight with this is, you can see that in fiscal 21 which hit an amazing high point, and you've all -- you've been attending TPAC meetings or keeping an eye on things, you know that that's had an enormous impact on the office, and we'll talk about that impact on the office and what things we are doing to try to mitigate that. This fiscal year to date, thought is a healthy level although, it's a notch below last year, which is actually a good thing. I caution people to compare -- in
comparing too much to 21 because it was so
abnormally high, so anything below that its going
to look like applications are down, when compared
to fiscal 20, we are up a very healthy 18 percent.
So, it's -- it's the increase or the level of
filing this year, and we're only halfway through
the year, but so far, we are very much on par with
the kind of growth we've seen over the years. So,
next slide please, all right what is interesting
is -- I thought I would share that with you all,
this is a historic look at the months of the year
and essentially when trademark applications tend
to come in. And, what I find interesting is that
the first 5 months of the year are typically below
the norm, below par, whatever you want to call it,
sort of the zero line, and then from March onward,
you see filing generally above that. And, that's
been consistent looking all the way back to fiscal
13. What is interesting is that there are certain
months that are certainly higher, notably March,
and then summer months, and in the first half of
the year, you'll see October and December a bit
low, and the reason that that exists this year is because of the abnormally high levels of filing in fiscal 21. Both months were high, so excuse that a bit. But, it's interesting and there's a lot of speculation, as to why March is such a bump, but there's lot of theories about that, but it does give you an idea of how our fiscal year tends to roll and given the volume of applications, that's obviously very indicative of what's happening with the trademark owners and the economy, etc. Next paragraph, please. I mean, next slide. So, this gives you an idea of sort of where, national origin of those applications, so far this year. The blue top line is the US, and you can see it is slightly up to 63 percent and on an uptick. The yellow line right below is China, and you can see the huge spikes that I had just mentioned that occurred in the September and December of last year. They -- applications from China are back down to 16 percent that's, pretty historically about where China has been over the last 5 years. Next, is the sort of purple line, which is the
rest of the world, so to speak, because the green
line is the European Union and in that -- in the
broad sense, so including UK, Switzerland, Norway,
countries that are technically part of the EU, and
they are slightly up as well, so it's -- this is
an interesting look, because people often say
where does everything come from and this helps you
understand that. Next slide, please looking at
fiscal 22 compared back to 21, what you can see is
that both the US and China are slightly lower than
they were last year, even though they are healthy.
The US to some extent, China to a significant
degree, but what's very interesting is how healthy
filings are coming in from Europe. And secondary
from the Americas, not counting the US, so, Latin
American, Central, South America, Canada, Mexico,
etc. Next slide, please. In terms of staffing,
we are now over 1000 employees, 1084 pushing
almost 1100 and we are about 735 examiners and 32
more were hired and onboard in March, just a
couple of weeks ago. The crew that started in
last October are still part of what we refer to as
the Trademark Academy, but we are now, in a
standard production and working and amping up to
become more and more efficient as the months go
by. We are still in a state of what we call,
maximum telework. The Department of Commerce has
issued a notice that we will move to, so called
phase 3, and the PTO will move back to phase 3 on
May 25th. That impacts things like occupancy in
the building, ability to have visitors, that type
of things. The vast majority of people on
trademark, in the trademark office, were
teleworking prior to the pandemic, are still
teleworking. And, there may be some changes that
people decide to make over -- now that people will
be able to go back to the office, but most will
probably continue to telework, I would imagine.
So, anyway, next slide please, at this point I
want to pass the mic over to Jay Hoffman who is
our Chief Financial Officer, for the PTO and Jay
will take us through look at the financial side of
what I have just discussed. Good morning, Jay.

MR. HOFFMAN: Good morning, I hope you
all can hear me okay --

MR. GOODER: Yep.

MR. HOFFMAN: As we're -- a quick stage reset on the slides as -- I'll Wait for those to pop up. I -- now they -- I know they had to make a last minute change, Dave on this slide, so that might be why there is a delay.

MR. GOODER: There we go.

MR. HOFFMAN: Okay, great. All right, thank you for your patience. If you could please advance to the next slide. My name's Jay Hoffman I'm the Chief Financial Officer of the USPTO, I'll walk you through quick financial update, so, first good news. The President signed the consolidated appropriations acts, on March 15, this is important because the USPTO, a congressional appropriation, in order to have the authorization to spend the fees that we collect. That appropriation was made at 4.058 billion dollars. Which is in line with the agency's fee collection estimate for FY 2022. There are some provisions in that appropriations bill which are fairly
routine at the point. The appropriations provides that any amounts that we collect, in excess of the 4.085 billion, will go into the patent and trademark fee reserve fund, meaning that should we collect more than we expect the agency, will still be able to obtain those funds, for spending in the subsequent fiscal year. We have 2 million dollars that is being transferred to the Office of Inspector General to carry out investigations and audits. Again, this is a typical amount. And we have $13,500 for official reception and representation expenses, again a fairly standard amount. So, overall, we are fairly pleased with where we landed in the appropriation this year with the omnibus. Next slide, please. Let me walk you through what this means for the trademark organization, we're going to focus principally on the center column labeled 'Trademarks' here. This is the total financing that we project to be available for the trademark's business. We start with the first line, our fee collection estimate for trademarks in the budget, was $450 million.
We've since updated that fee collection estimate to $495 million dollars, and we think we'll be slightly above budget levels, if that does in fact, happen those funds would be put in the trademark and patent trade fee reserve fund. We have $218 million dollars to start the year in our operating reserve, this gives us total available funds for the trademark business project for FY 2022 $668.3 million dollars. Spending requirements for trademarks are $460 million dollars meaning that we have more than adequate financing sources available to cover all financing requirements for the trademark business and we anticipate that we should, end the year with an operating reserve balance in excess of $200 million dollars. Next slide, please. This is a look at our FY 22 revenue and spending. Let me acclimate you to this slide, the Y axis is millions of dollars, the x axis is in the fiscal years. Our fiscal years runs October through September. You'll see 2 different bars on this chart. The blue bars are our spending in the
trademarks area, the red bars are our fee collections, our revenue that we are getting year to date, for trademarks, and the green line that you see going across the chart, is our spending target, our total spending plan, as I said before, we are planning to spend about $460 million dollars, this year. The takeaway is as follows. Our revenues, should exceed spending by the rest of the fiscal year, meaning that we will be able to grow our operating reserve, and 2022 spending is right on target. There's nothing anomalous in our spending at this point, we're on target to spend the $460 million. Next slide, please, let's quickly take a look at where we stand with trademark revenue. Let me acclimate you to the slide first, the x axis is in millions of dollars, the Y axis is in months. You see a blue line here that is a 25-days moving average of the trademark revenue rate, meaning that this is annualized, and then the purple line is our target of $495 million in revenue collections for the year. As you can see from the chart, the revenue rates for
trademarks, is tracking slightly below our
expectation. We're tracking at about $482 million
dollars which is 2.7 percent below planned. We've
been below planned all year, we are continuing to
monitor this. It's certainly well within the
tolerance for our financing expectation for this
year so, we'll continue to update you if we see
any continual degradation, but as you can see from
the chart, it's fairly flat at about $480 million
dollars. Next slide please, this is the trademark
operating reserve balance. As you can see here,
the 25-day moving balance, as you can see here,
the 25-day moving average for the trademark
operating reserve balance is about $224 million
dollars. Our minimum operating reserve balance is
$120 million, that's where we set our minimum
threshold, that equates to about 3 or so months of
trademark operations. Our optimal reserve balance
which equates to 6-7 months of operations is about
$269 million dollars, as you can see, we are well
above our minimum thresholds, we are making good
progress towards reaching our optimal levels, the
takeaway here is that from a financial perspective, the trademark business is in very strong position. Next slide, please, I know Dave has talked about in different sessions, trademark tendencies, this is something we look at because of the correlation to our revenues and our differed revenues. The current trademark average pendency is right now tracking at about 12 1/2 months at least, as at the end of February, with a goal of 13 1/2 months, while the first action tendency is about 7.6 relative to a target of 7.5 strong application filings, largely resulted in this increases in pendency. As the trademark business cools a little bit from a revenue perspective, we're hoping that these curves will flatten out or perhaps even come down in the near to midterm. Next side, please. I want to talk a little bit about the FY 2023 budget requests, so the while the omnibus for FY 2022 it was just passed a few weeks ago. We're already off and running on our budget request for next year, starting in October. We, not just USPTO, but the
entire federal government submitted budgets to Congress in March. The FY 2023 budget request for the USPTO expects total revenues to be about 4.23 billion dollars in FY 2023. We think that breaks down to about 3.7 billion dollars for patents, and about $542 million dollars for trademarks, you can see from this slide the big takeaway is over the 5-year budget horizon, we're projecting that total fees both patents and trademarks will continue on an upward trend. Next slide please, looking at some of the spending that is in the FY 2023 budget. The overall budget including patents, trademarks, and mission support for about 14,363 positions at the agency and total spending of about 4.15 billion dollars. We are a people driven organization so about two-thirds of all of those dollars are about compensation, and about 1/3 are for non-compensation costs like contracts, information technology, leases. You can see here on the right there is a pie chart that breaks out that spending for trademarks of that total 1.4 billion $504 million in planned spending for
trademarks, again that 2/3 - 1/3 split between compensation and non-compensation, about $331 million dollars for comp and the balance going to non-compensation. Next slide please, we're already thinking about the year after that, we're always looking over the horizon the FY 2024 budget formulation process is actually kicking off now, and will get underway in earnest through the spring and summer. This will include a rebase lining of our 2023 requirements and revenue estimates, which means we'll just take a fresh look before the 2023 year starts in make any adjustments upward or downward that we need to. We'll of course, be coming back to the TPAC to provide our budget requests and get your insights on them, that'll happen in the August timeframe, and we ultimately submit these initial budget requests for FY 2024 to the office of management and budget in September. So, Dave and Susan that is all I had for you this morning. I will stop there. Thank you very much.

MR. GOODER: Thanks Jay, very much. Any
questions from the TPAC for Jay before we before
we let him go?

CHAIRWOMAN NATLAND: Just to thank you
Jay, really appreciate all the effort and
providing that information to us in a way that is
very easy to understand. Thank you.

MR. HOFFMAN: Thank you Susan,
appreciate it. Have a wonderful meeting.

MR. GOODER: Thanks Jay, and if we can
pull the primary slide back up. That'll be great.
And, we'll talk about some kind of additional
management related updates with regard to the
trademarks not financial things. So, there we go.
We'll talk about 3 things. The -- first of all --
just hold for a second, e registration, electronic
registration certificates that are coming soon and
an update on our ID verification project that has
been going on. The first thing I just wanted to
mention you -- probably heard that we have really
really pivoted -- how we deal with the scams that
are aimed at the agency, at customers, whether
that's customers or registrants, etc., and they
come from all different places, they are growing in sophistication, they are growing in frequency, literally like any company that has faced a counterfeiting problem, you realize that it takes a while for it to really gain momentum to the point, where you really cannot deal with the that way you used to, and that's what's been going on the last three years. One of the things we did this year, which I wanted to -- just mentioned is that Amy Cotton, who you will hear from in a second, joined up at EYPO and has a thing called the anti-scam and it is a network. And, it's a network of all the countries that have a -- the EYPO. And, why this is important, and I wanted to mention it, because more and more of the scams that we see are, have an international bend to them, they don't just come from the US, if you had seen the two really significant sanction orders we issued in the last couple -- three months, one originated out of China, one originated out of Pakistan. So, we've had a significant criminal action that went to trial and the defendant, is
now serving time and he was from Latvia. We met
with all the European countries including Europol
and, in order to, exchange what is happening with
all of us, because the one thing that we know, is
that the more we cooperate the more effective we
can be at fighting these issues. And we learned
some very interesting things. The US situation is
a bit bigger and more involved than most of the
countries in Europe are seeing. So, it was really
helpful for both sides to hear what's happening,
and it's not just these kinds of things, that we
all see where you get a notice where you file
something, or register something where somebody's
trying to get you to do things, there's all sorts
of fraud that is happening. The Polish trademark
office actually reported that they are having
judicial decisions being forged, things like that
so, it's the cooperation -- is really important
and we are really pleased to be a part of that.
The next thing I want to talk about, and you can
change slides here, is the electronic registration
certificates. We mentioned this in a prior
meeting, but I wanted to mention again, because it is coming up fairly soon. We had received over a few years requests, continuous requests from our customers to issue electronic registration certificates, for a variety of reasons and we currently print about upwards -- more toward the 8,000 a week level. So, it's a lot of paper, it's a lot of printing, it's a lot effort, etc. and what we've heard from customers, is that we really don't need the paper. Some really like it, depending on how many of these you have to deal with, so there's a lot of benefit in moving to an electronic registration that has a digital signature to it. Next bullet please, so that change is coming fairly soon, it right now, we're on target to cross over on May 31 of this year, so anything filed on or after that date will get an electronic certificate. Next bullet, and they'll be issued as you can see with a digital seal, people and customers can still buy a presentation copy, the nice printed sealed copy if people want it, and we'll of course track how that goes. But,
we think this is a really good step -- we are
getting good feedback about it, and we just want
to remind everybody about the May 31 crossover
date. Next slide, please. Right, there we go. I
want to move to either application, which is part
of our program to help strengthen the register.
And, as you if you've been around the trademark
world in the US a long time, our systems, our
database and system has been a very open system.
And, we -- we have a very and we've relayed a lot
on peoples' good faith over the years, frankly.
And, with all the increases I mentioned in fraud,
in scams, and these are scams like I said, aimed
at both customers and directly sometimes at us,
many of these scams involve some sort of
manipulation of trademark filing records. And, so
with that what we put into motion and something
that Amy will explain in a second, next slide
please. Essentially a 3-phase plan that improves
the security of our systems. The first one is the
creating the myuspto.gov account so anyone had to
have an account to do it. The second phase is
verifying people's ids, so that it's clear that
who you say you are, is actually who you are, in
the system and then the third phase would be
authorization to work with certain records. At
this point Amy, I'll turn it over to you to
explain where we're headed. And, about the
different phases and what we are doing.

MS. COTTON: Okay, so we are in phase
one right now, or we've completed phase one, we're
going to phase two. So, phase one of a three
phase project, this is our log in project. As you
know you have to have a USPTO.gov account in order
to access the trademark forms. What that does for
us is -- that allows for us to track submissions,
it allows us to link an improper submission to a
specific account, that we can block. However,
this is limited, which is why this is a three
phase project, TPO this is limited because it
doesn't prevent the blocked actor from creating a
new account because we are not identifying --
we're not verifying their identify in phase one
right, so they just keep popping up, it's
whack-a-mole, as you see with counterfeiting.

Also, anyone can create a USPTO.gov that means anyone can access, any of the electronic forms, including the change of correspondence, address. Right, so if they file a CAR form through one of these USPTO accounts, and they change the correspondence address, these bad actors start receiving an application or a particular registration, so, we -- just having a log in does not prevent unauthorized parties from making submissions on files, right. It's not locked down. Also, phase one log in does not prevent multiple individuals, from using one account. Each -- one person - one account, that's the rule, that's what is supposed to be happening, we have anecdotal evidence that that's not happening, that multiple people are using a single account. And, we want to be able to isolate bad actors, to a single account. So, we're moving to phase -- we're in phase 2 in the middle of it right now. Next slide, that's identity verification. Right now, identify verification is voluntary -- we're
in a voluntary phase. So, what is identify verification for? Well, it allows us to make sure the person -- the one person with the USPTO.gov account is who they say they are -- and, that they are accountable for whatever activities they are doing in front of the office. We need to be able to figure out the bad actors, and stop them from continuing to act. So, what we can do with identify verification though, once it goes mandatory, we can prevent new accounts from being created. That is significant -- that is very, very important for our fraud investigators to be able to block an account, take down and stay down, that's what we want. It also, because there is a user role feature, which I'll get to momentarily, the account holders have to identify their role, and when we get to that point, then we can have a situation where unauthorized parties are not able to have a USPTO.gov account and file submissions, because they are unauthorized. So, that's a part of the first verification as well as phase two. But, what does -- it not do -- what does phase 2
not do? It does not prevent someone who is verified, but not authorized. So, it could be that a person verifies their account, verifies their identity, but they can continue to file, but they are not authorized to do so, they can still highjack other people’s applications, they can still file submissions, that they are not entitled to file, because they are not supposed to be representing parties before the USPTO, they do not speak on behalf of the owner. So, next slide please, so this has a user role component, again, we are in the voluntary phase, and we will be doing more outreach on what these user rules are, but phase two user roles, set the stage for phase 3. So, I wanted to introduce that now to you all. There are four user roles: owner user, licensed attorney, Canadian attorney or agent, or attorney support staff. There are only four user roles, so, to the extent that you are verifying your account, you have to choose one of these roles, and you need to be one of these entities. So, if you do not fit into one of these entity
categories, you should not be verifying your account because you are not authorized to make submissions to the office. So, first account owner, a person who is an individual and the owner of the mark, a person who can bind the owner to an obligation and/or any agreement with whoever, like a corporate officer, and as well, a person who is employed by, a jurisdiction entity owner. So, we understand the different configurations, corporations, LLC's, sole proprietorships, all these different interactions we have to, take into account, in this owner role. So, if you have, you know the general, a principal officer of a corporation, and they can have an owner account, that person could have an owner account and they would be making submissions. Now to the extent that -- that person generally doesn't make trademark submissions, it goes to the general counsel, or the trademark counsel, or even a trademark paralegal within that corporation, all of those entities can have an owner account, they speak on behalf of the owner, it's certainly --
they can make submissions on behalf of the owner and verify all of the information, in the application, as being the owners intent. The second category, US licensed attorney, I think this speaks for itself. Active member in good standing, US licensed attorneys can have an account and US licensed attorneys can have an attorney support staff, they can sponsor their support staff, so I'm going to jump to the third category. The US sponsored attorney can sponsor their support staff, the support staff can have their own account, but those accounts are tied together. So, if the support staff account is used for improper behavior, that behavior inures to the non-benefit of the attorney. And the attorney is responsible for any activity -- any improper activity by their support staff. The support staff does not have to be ID verified by -- to the processes that we set out, but the attorney support staff has to be verified by the attorney. So, in that situation, again the attorney is responsible for all the activities,
their support staff accounts are engaged in. The Canadian attorney or agent account, that is a holdover from a reciprocal agreement we had with Canadians dated -- in back to 1935, I want to say. And, so we have a situation where we will reciprocally recognize practitioners from each jurisdiction for limited roles. So, we did create an account for a user role for the Canadian attorney agents, they are very limited in what they can do, they can file an application on behalf of a person located in Canada, but after that everything else has to go through a US attorney. So that account is limited in what it can do, by virtue of the fact that, it is a reciprocally recognized Canadian attorney or agent. So, these are the four user roles, now to the extent again, if you do not fall into one of these categories it means that you are not supposed to be representing parties before the USPTO. We are -- we have the authority regulating conduct of proceedings before the office, to the extent that we are receiving submissions that do
not appear to be submissions that the owner would want, because they are rife with rule violations that invalidate the application, we need to clamp down on who is filing submissions, because we have a lot of non-attorney entities who are filing, we have a lot of foreign filing firms who are filing, and these are entities that we do not allow to make submission to the USPTO because they do not, they are not authorized to represent parties before the USPTO. We will be doing a webinar that will lay out a lot of this information in the coming months. Next slide, phase 3 -- this is why user roles are important. So, to the extent that there is an owner user role, that owner will eventually -- when we get to 3 -- phase 3 they will only be able to touch the files they own. The owner, accounts will only be able to interact on their own applications or their own registrations, the owner account will not be able to interact on anybody's else's applications, and registrations which makes sense, because they have no business doing so. This prevents high jacking,
if you can imagine, you can't file a CAR form on somebody's else's application, right. So that's designed to lock down who can touch which files, who has access to which files, so the owner would only have submission rights for their owner. An attorney would only have rights to only the application or registrations where the attorney is of record, and similarly with the attorney staff support staff account, they would only have submission rights, where the applications or registrations where their sponsoring attorney is of record. So, an attorney support staff has to be sponsored by multiple attorneys, if there are multiple files that they are working on for more than one attorney, again, this is going to prevent hijacking, which we are seeing quite a bit of, and it will make it so that you obviously touch the files that you are authorized to touch, and then if something goes wrong, if something goes wrong -- that we have a way to track it, and lock down those accounts. So, these are all designed -- these phases are all designed to get us to the
point, where we know who we are interacting with, if we don't like what we are seeing because they are filing improper submissions, that are essentially invalid, they are doing bad behavior. We can lock them out of the system and eventually then move to phase 3. So, all of these are designed to protect the integrity of the registry. So, that is the long and short form my standpoint, so Dave back to you.

MR. GOODER: So, where we -- where Amy mentioned we're currently in the part of phase 2, where people are voluntarily verifying what will become, that period will end in the next few weeks, and the progress has been really significant and encouraging. So, there's essentially two - three ways you can get verified. One is to do this automated version, and that so far, about 19,000 people, more than that, since this slide was written, have been verified automatically, some if there is a problem with matching, the selfie with the driver's license or passport or whatever documents they use, they pass
through a video chat agent, and almost 2,300
people have verified that way. Some were what we
call, pre-verified and that's where they were
already part of the verification system that ID.me
uses from another federal agency, so, they might
have been at the VA, they might have been
elsewhere. So, they've already been verified that
way, so they didn't need to do it again. So,
there is a paper process that requires
notarization, etc. roughly 600 people have done
that, and then about a little over 10,000 people,
have come into this system via the patent side who
verifies identify when you take the patent bar,
etc. As Amy mentioned there is a webinar being
planned to go into more detail about user roles
and other slide, please, I think at this point,
I'm going to pass the mic over to Dan Vavonese
who's the Deputy Commissioner for Trademark
Operations. And, so Dan, over to you.

MR. VAVONESE:  Good morning, if we can
go to the next slide. So, Commissioner Gooder has
talked about the filings and the continued
increases, and again, it's been a welcome respite that we have dropped from our huge filings of 2021, but again as a reminder, if you look at it over the last 2 years, we're still at almost 18 percent increase over the last 2 years, and then we had a 9 percent increase, in 2020, as well. So, we do continue, to see increases in overall filings, and we're looking at approximately 850,000 classes for this fiscal year. You heard if you've gone to TPAC over the last year, you've probably seen a lot regarding this inventory slide where we were in a comfortable 150-200,000 classes on one exam with applications, and ever since the huge filing started in 2020, that inventory has continued to rise despite hiring, despite other processes we have put into place. The good news, I'm not going to speak too soon on this though, but the good news is though -- that we have started to level off, and that's really important when you'll see for pendency soon, you know we are starting to level off. It's thanks to all of our employees, who are just doing an incredible job
trying to keep up with the work, but our numbers are starting to level off. We're at 533,000 classes which again, is a huge number that have to continue to get down, but the good news is that we are starting to level off. If you go to the next slide, the next slide on pendency. Yes, so again, you'll see that these numbers are continuing to go up, but they are starting to level off as well. For our overall pendency, you know we do, have a goal of 13. 13 and a half months this year. We are right around 12 1/2 months as of the end of March, and we are hoping that that's going to continue to level off and hopefully start to go down a little bit. First action pendency actually, as of the end of March, we went up another 10th of a month from February, we're at 7.7 months, we have a goal of 7 1/2 months, and again between the hiring that we've had of examining attorneys, increased productivity and again, some less filings this year's fiscal year, we are looking and hoping that that number is going to level off and start to get down, so we
are at least below 7 1/2 months, at the end of this fiscal year, I want to stress with the pendency though, that we are looking at this number, through the end of this fiscal year, we are going to be working on plans to get to continue to get that number down, over, the next, over the next couple of years, I'll talk about some things we are doing in a few slides, but we are -- we want -- we are trying to set that expectation now, that we are in the 7 months range for this fiscal year, and we are going to do everything we can to be transparent, and keep our stakeholders informed on what's going on and put other processes into place. But, the good news, we hope is that the that number will level off and, at least get down into the 7 -7 1/2 month range, for the remainder of the fiscal year.

MR. CHO: I thought I'd catch you right here --

MR. VAVONESE: Yes.

MR. CHO: Real short question, Dan. The prior graph, Commissioner Gooder showed,
indicating that while overall numbers are down on
the filings, it is still showing that it's keeping
pace with the historical rate, and so I'm just
wondering if the rate of increase you are seeing
is more normal right now and that's all factored
in -- that's just a quick question, if that makes
sense?

MR. VAVONESE: Yes, it is actually on
Commissioner Gooder's slide, it showed that over
the last 15-20 years, our annual growth rate on
average has been in the 6 1/2 to 7 1/2 percent
range, and really over the last 3 years, it's been
closer to 9 percent on average. If you look, if
you combine all the last few years together, so it
has been a little higher over the last few years,
but it is, again the numbers of levelling off.
Over January and February, we were in the low
60,000 classes per month, but then in March we
were back up to 76,000 classes. So, we'll see how
the second half of the fiscal year, we'll see how
that continues, and if it stays on pace.

MR. CHO: Thank you Dan.
MR. VAVONESE: Next slide. I want to make sure that we talk about quality because everybody -- productivity is such a huge part of the discussion, because we understand our stakeholders and how important it is that you get timely decisions on your cases, so you can make your own business decisions and get your products to market. But it is just as important to us to make sure we are putting out a quality product. We want that registration certificate to be as valuable as possible, and that's by putting out -- making sure the quality of work that is being done on the -- in our work is also excellent, I'm going to say, and we are continuing to meet all 3 of our quality metrics on first action and final action complaints, which is, did we make the right decision on the case, on all of our substitutive decision-making, and then for exceptional office actions -- are we putting out an office action that fully explains in writing all -- you know, so that the applications understand what the reasons are for any requirements and any refusals and then
also are we giving an appropriate amount of
evidence to support those decisions. So, again, I
want to thank our employees, the examining
attorneys for all the work they are doing to keep
this quality at such a high point. Next slide,
processing timelines. Again, we already talked
about first actions and disposal at around 7.7 in
12 1/2 months respectively. The -- we have done
in the rest of the areas, we have done an
incredible job of getting back up to speed. New
applications and amendments we are totally back on
track, you know, from the backlogs we had of last
year. The -- to the point -- that we don't
anticipate that being a problem ago, so you may
not hear me talking about that again. But, if we
go to the next slide, we will continue to keep our
internal metrics updated every month, so that our
customers know at any stage of the process -- how
much time it is taking for any different
communications to get processed. The one area
that I want to point out that we still need help
is in post-registration. We are still behind in
processing maintenance filings, so, we're at about
90 days on many of our maintenance filings, we are
looking at everything from staffing, to cross
training, to other process improvement and post
registration, to get back up to speed to get those
numbers back to -- to speed within our targets,
which have historically been in the 30-day range.
So, you know, we'll continue to focus strongly on
post registration. Next slide, again, I -- this is
the dashboard, you can always go to our website to
see any of our internal metrics, especially the
dashboard, which gives us -- which gives a larger
view, at our various inventory and pendency
numbers. And, then the next slide that I want to
focus on, is what we are continuing to do to try
to improve the numbers, try to get our pendency
back on track. Hiring is obviously the number one
thing that we do. We have hired 91 examining
attorneys in this fiscal year in two classes, and
just for some perspective, when we have
approximately 700 examining attorneys, and we are
hiring 90-100 -- that's approximately a 15
percent increase, that we are looking at in our examining attorney base. And, we will likely be continuing that over the next several years depending on how filings are going. We have a Trademark Academy that we have kicked off this fiscal year, we've always had a training group that is focused on our examining attorneys, but his Trademark Academy is a new model that we have put into place, to really get dedicated instructors, dedicated manager training these new examining attorneys over their first year in the office, to make sure that they are consistently trained, with a focus on both quality and on ramping up -- getting up to speed on the examining attorney position, right after the first year, they return to the law office. So, it's been a big success this first year, I want to thank everybody who has been involved in that academy, and I want to thank the new examining attorneys that have started and worked through that model and provided us great feedback that we will continue to work on improving that model as well.
TM Flex, I've talked about this before, this is a group of contractors that we brought in, we're looking at various different areas of the examination process, but since we need so much help in bad faith investigations right now, that is where we have been focusing their efforts so far, and they've been a big help to our policy area, and even in operations as well, to assist us in getting those investigations underway, so we can collect the evidence we need to assist the deputy commissioner patent's group in their whole sanctions process. So, that's something we continue to evaluate and continue to assess moving forward. Automation both in artificial intelligence and in our robotic process automation, we are -- we've been working on implementing several different new tools. One -- we've been looking at a design code tool to assist in the design coding of new applications that come in, but another thing, also in the bad faith area, is in looking at questionable addresses, and using this bot as we call it, to look at questionable
addresses and get information to the examining attorneys, so they are not spending their time investigating the addresses. We have a bot that can look at this information. So, that's been a big help - it's just been implemented in -- a few weeks ago, so that was another welcome automation tool that we have just added. And, then you'll hear more from Deputy Commissioner Dotson on this, but we have a third party continue to assess our examination process. We are -- they've finished the first step on this as far as looking at our overall process, they are going to be doing a deeper dive into this. We can use their results, both on -- our business side on how to improve in our process, improve you know, where there are time shortages, or other ways we can cut our time frame, and then also from out IT side, implementing certain new tools and certain new automation into our process. I just want to say in closing that, you know, I thank the stakeholders for continuing to bear with us through this. We know that you, over the years,
that you've grown accustomed to a 3-month pendency
that we strive to eventually get back to, but it
is going to take a while for our employees, and
this is across the board from operations to policy
to administration, are just working so hard to try
to keep up with the work while balancing,
productivity, quality, and register protection to
make sure that -- that registration really means
something. So, please continue to bear with us,
please continue to provide feedback on any other
-- on anywhere else we can improve, even as far as
the transparency, to continue to get the
communication out there on where we are. So, I
think that's my last slide. Yeah. Any questions?

CHAIRWOMAN NATLAND: Hey, Dan. I just
want to commend you and I know you guys are well
aware of the pendency issue and understand
completely with the massive inventory that you
guys are going through. So, just want to thank
you for your continued focus on that issue. I do
think that the trademark side of the business will
continue to increase at a pretty high rate over
time, even though it's seen a little dip this year.

So, I know you guys are leaning into it and are going to have just continue to lean in pretty significantly. But, thank you so much for focusing on it. I know you know that it's, you know, something not everyone wants to bring down. So.

MR. VAVONESE: We do. We do. And we will continue to. It's number one priority.

CHAIRWOMAN NATLAND: I know it is.

MR. VAVONESE: You know that, but we appreciate it.

CHAIRWOMAN NATLAND: But, thank you for that. Yeah. Just want to underscore, you know, we know it is and I think you guys are taking a lot of great steps to deal with the situation in doing, you know, everything that you guys can do right now. So.

MR. VAVONESE: Thanks.

MR. GOODER: Yeah, I just want to add one thing to it. We look at a lot of the numbers
that you've seen and they look at quality and pendency and all that type of thing. And the fact that those numbers have stayed so consistently strong throughout the pandemic when, you know, like everyone, we're all of a sudden dealing with things we never had to deal with in the workplace, you know, taking care -- family care, childcare, education, you name it. Just dealing with all of the last couple of years for our examining quarter have maintained and actually exceeded large targets during that period of time is really an amazing, very professional feat.

But what's not in those numbers is the whole side of the trademark operations that supports a lot of that. That supports the website, that supports Policy, the Petitions people, all that. Don't get measured quite the same way and they were also doing the exact same thing during that same time. And when a lot of, you know, as applications go up, so goes everything else we have to do. You know, petitions go up proportionately. The fraud has
gone up. All those kinds of things.

So, I want to just really, really congratulate all of and thank all of our people whether you see it reflected in those numbers or not. You know, it's approximately, you know, it's about 1100 people who have to work together to make everything happen for people when they file, et cetera. So, all right, thank you, Dan.

At this point, I will turn it over to Amy Cotton, who you heard from a little bit earlier. But Amy's our Deputy Commission for Trademark Examination Policy. That's a very short title for a very broad area that includes not only Policy, but Petitions, Quality, our Trademark Assistance Center, all the register protection, so the title doesn't quite do it justice. But Amy, I'll turn it over to you.

MS. COTTON: Great, thank you. Next slide, please. Another one. Okay. So, we're ahead of schedule. Usually, we're behind. So, I can stretch out a little bit which is nice which maybe means that I won't speak so quickly, but
don't count on it. All right, let's talk about scams. I feel like we've talked about scams before in this forum, but I'm going to go over them a little bit more about what we're seeing. So, there's basically four different scam types that we're seeing. Broad categories.

So, the first one is where the scammers are misleading our customers to pay inflated fees or unnecessary services. The scam that you see with the renewal notice, the fake renewal notices. So, in this one, we actually had a huge win. You might remember this. This is a Latvian national named Victor Sakorakov (phonetic). He actually was convicted for mail fraud.

In this situation, he had Patent and Trademark Office, LLC, and Patent and Trademark Office Bureau, LLC, and they sent out fake trademark renewal invoices. And he sent them out ahead of time, before they were actually due. He used a fake QR -- actually a real QR code that linked directly to the USPTO. So, it made everybody think that it was us who was asking for
these. He received somewhere between $1.5 million and $3.5 million from customers, victims, in the Canada and the U.S. About 2900 victims in total.

Now, when a suspicious bank employee in South Carolina looked at those names on the bank accounts for this guy, Patent and Trademark Office, LLC, got a little suspicious, went to our website, poked around a little bit, and found our list of misleading solicitations. So, we collect solicitations from our customers that are potentially misleading. We post them on our website so that folks can go and say, oh, you know, ah, yeah, this guy. I got a notice from this guy and then they know to not do it.

So, the bank employee found that on our website, referred it to authorities, authorities started investigating, and eventually they shut down the bank accounts. Mr. Sakorakov came to LaGuardia to try and get the money, the undeposited checks, back from the bank, but was seized by authorities in that airport. He's in jail now, so that's kind of nice. He was ordered
to pay $4.5 million in restitution. He was
sentenced to 52 months in federal prison, 24
months' probation. So, that is a pervasive scam
that's been going on for a long time and that's
what a lot of the other countries have also been
seeing. But things have gotten a little bit more
complicated, nuanced, sneaky, since then.

So, the second scam type we see is those
who are posing as the USPTO. Now, Mr. Sakorakov
was kind of posing as the USPTO, but if you read
the fine print, you could see that he says, we're
a private company. And so from that standpoint
then, it's a little harder to get authorities
interested in going after that when it says on the
misleading solicitation that they are a private
company somewhere in the fine print. But, of
course that just ticks us all off because nobody
reads the fine print, right? But we did get a win
in the Latvian case.

But, the second scam type of scammers
posing as the USPTO, this has come up with this
Pakistani ring. So, this is a bunch of Pakistani
websites. They look like they're not Pakistani. They look like they're, you know, U.S. based, but they're really not. So, they're offering low cost filing services and people go for it. Forty-nine dollars. Too good to be true for a filing service.

Then, what happens, though, is they don't provide the applicant's email address in the application to the USPTO. They'll file one, but all the information is usually wrong or it is the Pakistani entities' correspondence information. So, they're intercepting correspondence that comes on the application from the USPTO. It's going to the websites, to the Pakistani bad guys, and then, they change it, they doctor it. They make it look like the USPTO is charging higher fees and then they send it to the applicant, get the applicant to pay the higher fees to a fake USPTO fee portal. So, they're holding themselves out as the USPTO. A lot of times they're saying they're sponsored by the USPTO, but they're collecting a whole lot of these fees. They're not sending all of the fees
to the USPTO, and they're not doing a very good job for their customers because, you know, they're scammers.

So, we have heard from customers about our trademarks assistors that have gotten a lot of these complaints and we started investigating. Ultimately, after months of investigation, we sanctioned these particular websites. We terminated 5500 applications that were just rife with rule violations that invalidated the applications.

Now these applicants didn't necessarily know what was going on. But if they ever received a registration based on what we saw, it would have been invalid and unenforceable. It was not worth the paper that it would be printed on, although we're going to e-registration certificates, so it wouldn't be printed on paper anymore.

Anyway, so, they were unenforceable. We have sent the matter to law enforcement, but we're taking our own actions. We're trying to do our own thing. So, we've also talked to platforms
about these particular entities and these particular applications and they've taken action against these bad actors. Now, we only had, you know, a drop in the bucket as to the website. Every time we go after one particular bad website, then, of course, they pop up with more and more and more. But that's scam type two.

Let me go to scam type three. I've talk
about hijacking, right? Hijacking applications and registrations. So, we've had this in the clone scheme, we call it. So, we've had entities who have, in particular, one we sanctioned and you can go on our website and look at it. A Chinese trademark agent filed applications for a bunch of famous marks and everything in the application was as if it were the mark holder. Everything, except one email address had one changed letter and that changed letter went to the bad guy.

So, he was getting the correspondence information. Now, why would this be useful? Why would this, you know, be a useful heist? Well, we think they were doing it to get into e-commerce
brand registry enrollments and trying to get in and then take down their competitors. Now, it would only last for a day or two, but if they could take down their competitors for a few days selling Harry Potter blankets, or Star Wars toothbrushes, or whatever it was, they could earn a lot of money in those two days.

Now, Amazon got, you know, wind of it and it's -- and Dana can tell you -- but it's gone. They don't do that anymore. But yet, we have these applications that are just sitting there and taking up space and the true mark owner does not like them just sitting there. So, we sanctioned those and we terminated the applications. So, that's a way for us to get out of the system. If that happens to you, send an email to us, TMScams@USPTO.gov, and we have our fraud folks looking at it and, you know, pulling those out and making sure they don't move forward.

But, it is a waste of everybody's time because the scam doesn't even work anymore. So, they just take up a lot of real estate.
Scam type four, this is where scammers are hijacking or renting attorney credentials. This is what ticks off, you know, all of the multitude of ethical attorneys are watching these, you know, unethical attorneys do really bad things or ignorant things, I should say, as well. In a situation that we addressed through our sanctions program, we had a Chinese trademark agent firm filed 14,000 applications and they were using -- well, first of all, they came in with fake addresses to try to get around the U.S. Counsel Rule. And they used the same fake address in 10,000 applications. The examiners pushed back and said no, not a good address. They gave us another address and we said, no, no good. And then U.S. Attorneys started appearing, but these U.S. attorneys, then, are doing bad things as well. They appear to be rented attorneys who are not reviewing the filings.

So we have entered sanctions against 14,000 applications and registrations in this particular scheme and we've referred, obviously,
the attorneys who were involved, referred them 
over to our Office Enrollment and Discipline. So, 
that was a preamble to this slide here that you're 
looking at. What are our strategies for dealing 
with these things? You've heard a little bit as 
I've talked about the scams. You've heard a 
little bit about what we're doing. 

But, the first thing I want to talk 
about is rethinking, reorganizing the Trademark 
Registration System. This is the pivot I've 
talked about in the past. Dave's talked about 
this in the past. We're pivoting. We never 
wanted to deal with fraud. Fraud is something 
that happens in litigation, right, because it's 
evidence-based. It's fact-based. And our 
examining attorneys, you know, really don't have 
that kind of time. You know, they're trying to 
get your applications through the system and if 
they have to become a detective extraordinaire on 
each case, that's difficult. 

So, we had to rethink that we wanted to 
address fraud. This is not okay. The whole
system sort of, you know, loses integrity if we
don't address it. So, we've had to rethink how
we're doing things and that means a lot of work.
That means building a machine, you know, to deal
with fraud and every time you turn around, there's
another place where fraud pops up and you, then,
have to create some sort of workflow or policy to
address it.

So, that's what's been taking a lot of
our time over the last year and a half. At the
same time, we've got, you know, we had this surge
and a backlog of applications. But we really do
have to rethink into sort of a brand protection
mode to be able to deal with the new challenges.

Strategy number two. Administrative
Sanctions Program plus Attorney Misconduct
Disciplinary Action plus law enforcement. I'll
talk a little bit about that, but we had to create
a whole system for investigating and going after
bad guys and, you know, invalidating applications
that were tainted essentially. When attorneys pop
up in this situation, and we are able to identify
that there's some real violations that are
happening and an attorney is involved with that,
then we will actually refer that attorney over to
OED and then, they take it from there and their
investigation may start. We just sort of are
collecting, you know, evidence of filings that are
problematic, but they deal with the attorneys
themselves.

And we do have an engagement with law
enforcement. The Office of the Inspector General
from the Department of Commerce now is paying
close attention to what we're doing. And when we
have any sort of sanctions order that comes up, we
let them know that it's coming and then, they
decide whether to take it to other law enforcement
to see if there's any interest in pursuing
criminal charges in those particular cases. So,
we've sort of created this whole network of fraud
investigation and workflows that are totally new.

Strategy three. Communications. Of
course, we have a lot of upset applicants. We're
terminating their applications. We're sanctioning
their registrations. They may not have known what was going on, but we've had to make sure that we are letting them know what is happening and, hopefully, preventing it from happening in the first place. Education, education, education. Also reaching out to platforms. Letting them know about the sanction program. Go look at our sanctions orders. See what you want to do with that information. Whatever, you know, whatever your platform wants to do, but know that this is happening and to the extent that they were relying on trademark applications from the USPTO as a condition of getting on the platform, I think that's pretty relevant. So, we're letting them know about that.

Strategy four. Access controls. We've talked about that, right. And strategy five, post-registration audit. Deletion fee. Non-use cancellation. So, let's go through a little bit of what more of the updates that we've had since the last time we've talked.

Next slide. I think I'm talking too
fast again. I said I wouldn't do that, but I am.

Okay. Next slide. Yes, there we go. Strategy
one. Rethinking, reorganizing. So, yes, I told
you that we're sort of pivoting to brand

enforcement, brand management. Little things that
we're trying to do here. Here's an update since
last time and I'm, you know, really, really

pleased with our data analytics folks and our
examining attorneys and our policy attorneys who
were able to make this happen. This is great.

Automation, right? Automation, who

knew? This is great. So, there is a U.S. Postal
Service database that has address validation. And
so, we actually have a license to this database
and we have started pinging the address data field
coming in on unassigned applications. Pinging
that against the USPS caste database to see if the
address is improper. We had already started -- I
think I told you this -- P.O. boxes, in care of
boxes. So, we started about six months to a year
ago. So, we were checking for those. The
commercial mail receiving agencies or the
registered agents were a little tougher because this looks like a regular address, but it's usually a UPS Store or it's a, you know, Mailboxes, Etc.

So, they're using an improper address to try to get around the U.S. Counsel Rule, right? We don't want that to happen because we want the attorney, the U.S. attorney, to file because we want to be able to hold that attorney accountable for bad behavior. Okay. So, this database that we're pinging against, the commercial mail receiving agencies, we have started on April 1st. In the first go 'round, it looked at -- let's see -- 115,000 unassigned applications and it found 8500 commercial mail receiving agency addresses. So, right there, 7.6 percent of that pool of 115,000, it pinged.

Now, what happens then? That triggers an internal note into the file for the examiner, who's ultimately fined, to say, oh, this is an improper address. I don't have to go look it up. It just tells me it is. And then, they can't move
that application forward until they, you know, say, yep, I address this. I issued a refusal on the address and we're going to, you know, have the applicant come back with an answer. Maybe the USPS database is wrong or something or maybe they're going to amend their address. Who knows?

We want to expand the use of this bot to other, you know, to other submissions and it's going to take a little bit of time to do that, but we're really excited about this because automation is key. Okay.

Next slide. All right. I told you about our task force, our special task force and it's got people over in the Operations Managing Attorney side, it's got people in Policy, it's got people in Petitions. All kinds of different people working on this. The inputs, right, what are the inputs. Suspicious filing. An examining attorney says, hmm, this isn't, you know, something's wrong here or I know this guy, this is a bad guy. They will send an internal email to the task force and say, can you take a look at
this. We may get it in a complaint from, you
know, through a customer from the Trademark
Assistance Center or through one of our mailboxes,
and then we refer it to the task force. We might
find it in data analytics, right. If we're
running reports and we can see that there's the
same address in 10,000 files, there's something
going on there. There's somebody who's, you know,
got some fingerprints are showing up.

And remember, the examining attorney's
only seen one or two files, right. So, how do we
make sure that we're pulling in, you know, the
data -- that one filing. How do we make sure that
we're connecting the dots and that's what the task
force is doing. So, then they start using
internal tools to try to figure out, okay, what
USPTO.gov account filed this, and then, what else
did they file on that day, or, how was it signed.
Was it directly signed, but yet, the applicant is
purportedly in the United States, but, you know,
the IP address is in China, or, what are we doing
here? You know, what's going on?
So, they'll connect the dots and they start segregating those cases. All of the applications, put them in a holding docket while they're doing the investigation and figure out what's going on there. Is it mistake? Is it intentional? What are the rule violations that we're talking about? And what's the best way to proceed? And it could be, if there's criminal activity, they go to the Office of the Inspector General and say, hey, there's criminal activity. Would you like to look at this? And then, they decide, you know, the OIG will decide how to liaise with other law enforcements.

If there's an attorney involved with a whole bunch of rule violations, we may refer the issue to OED, the Office of Enrollment and Discipline. Then, they take it from there. They have the ability to discipline the attorney, following investigation. And even can refer the matter to the State Bar for reciprocal discipline. So, it could be that, ultimately, the attorney is disbarred at their state level. But, you will
have seen, you know, there's certainly a bunch of settlement agreements that these attorneys who have been caught in these schemes have entered into with OED.

Now, there's also attorneys who may be going into litigation, so you won't see it for a couple years as it goes through the litigation process. But rest assured, that we have referred about 21-22 cases over to OED in the last year and a half or so.

So, I know you guys get really angry at those bad guys and when they're attorneys, we're going after them. We want to shut this down. This is not a lucrative business model for an attorney right out of law school to start renting their credentials to a filing firm that is basically setting them up to be disbarred. That's not a good deal.

The special task force might say, okay, in this instance, this is a bad address that's showing up in a bunch of files. They might just direct the examining attorneys to issue a refusal
and see what happens, you know. If there's not extensive rule violations, we might just say, okay, let's play this out. But again, we don't want to saddle the examining attorneys with a lot of this investigation or, you know, even much of it because they have bigger fish to fry. This is something that we can pull and have our investigators look at.

And so, then we go to the last option, Commissioner for Trademarks. The ability to look at these suspicious filings, figure out how many rule violations are involved to the point where it invalidates the application or calls into question the validity of the registration. So, with a Show Cause Order, ask the respondents that the entity or the person responsible for all of those rule violations, ask them to tell us, okay, is there a way you can explain all of this evidence that we have that shows you're violating our rules and it looks to be intentional? And if they don't respond, then we would move to an Order for Sanctions and there's a bunch of different
sanctions we could offer. We can block their USPTO.gov account. We can preclude them from appearing before the office. We can terminate the proceedings, abandon the application, you know, all of those different things depending on what we're looking at.

So, that's significant, you know, internal authority that we have within the office without having to rely on law enforcement to get interested. Without having to rely on other people, we can do it ourselves and we're certainly building the capacity to do so.

Next slide, please. I told you about scams. I'm going to breeze over this quickly. But, please go to our website and look at all the new pages we have on scams. We've done a lot of work. The Comps Team has been fantastic and web designers, trying to make it more accessible. I hope you've noticed that the information on trademarks is a lot more accessible than it used to be. And, certainly on scams, we've just spent a lot of time and attention to try to make sure
we're telling, you know, customer, hey, watch out
for these scams. Check TSDR. You know, if you
don't know if what you got was real from the
USPTO, call TAC. They'll tell you. They'll walk
you through it.

And so, we really want to make sure
we're getting the word out. So, certainly
subscribe for our alerts, if you haven't already,
and then any time a new web page comes up, you
know, you'll hear about it.

Next slide. But here's the thing. A
lot of these applicants are not subscribers. They
don't go to our website regularly. They don't
know what we're doing and they don't know about
these scams. So, we really were trashing around,
trying to figure out, how do we reach these
people? What avenue? So, in the case of the
ADTEC (phonetic) scam where there were 5000, you
know, affected applicants, how do we get out
there? So, we recorded a video and pushed it
through social media, trying to get it, you know,
to where it needed to go and will continue to use
social media to try to alert folks to the scams that we're seeing. We just don't want people to keep falling for these scams because it's just horrifying to watch from the inside and we want to make sure that we're stopping it.

Next slide, please. We already talked about access controls, but again, this is part of our strategy. I wanted to hit all of our strategies and say what we're doing here. We're really excited about, you know, identity verification because as you all know, right, that if you take down a site and it pops back up, you're just deflated. And this keeps happening to us. We take down an account and then it shows up. You know, the same guy is doing something under another name. We want to stop doing that. It's a waste of our resources that we could be spending on other things and we really want to get to that point.

We also want to make sure that we don't have applicants relying on parties who are not authorized to file submissions and, you know, are
not speaking on behalf of the owner. We want to regulate the conduct of those in front of us and we really think that rule-based access controls will help us with that.

Next slide. All right. TMA. Non-use Cancellation Proceedings. So, December 18th, the Non-use Cancellation Proceedings went live. Here, I'm only going to focus on the proceedings before the director. As you know, there is a new Non-use Cancellation Claim before the Trademark Trial and Appeal Board for expungement. I don't do Board. I do the proceedings before the director. That's what I want to focus on today.

So, go to our web page on TMA. It talks about what the proceedings are all about. When we have new information to share, it will be on this page. We put some new information recently about best practices. You know, hey, what are the constraints of these proceedings as you try to weigh which avenue you want to use. Do you want to go to the board? Do you want to go with Non-use Cancellation? Do you want to go with
Letter of Protest? You know, you need information from us to make those decisions. We're trying to put that out to you as fast as we can to make sure you have the information that you need.

But, understand that these proceedings are new. They are new. You guys don't know what you're doing on these. We don't know what we're doing on these. We're learning together. What evidence will it take to establish a prima facia case? What are we looking for? An index, we're looking for an index of evidence. What, you know, what is it that we can learn together as we go along here and we want to share that information.

Just last week, we did a webinar on TMA on these particular proceedings. What have we seen? What would we like to see? What do we want you to start doing? What do we want you to stop doing, because it will definitely make things easier as we go along, if we stay in contact with each other to make these proceedings work. And believe me, we want these proceedings to work. They really, really are important and we spent a
lot of time and effort.

Let's go to the next slide. So, how do you find them? First thing I want you to know, there is no data field that you can search and test to see when a petition has been filed. You can't just see all of the petitions that are going to be filed in tests. There is no data field for that. So, you know, we had to come up with a work around. Right now, we have a web page that has all of the petitions that we've received. It's updated weekly. You can click on the registration number, it'll take you to the TSDR file, the proceeding prosecution history, and you can see what has been happening in that particular case.

So, that's certainly, we think, will be very helpful for you to track what's been filed and how we've responded to it. Did we institute? Did we not institute? And you can see these numbers, we've had 65 petitions so far, 36 expungements, 29 reexamination. We've issued about 29 Notices of Institution or Non-Institution. One director initiated
proceedings -- actually, I think we have two now. I think one just issued. We have a team of six highly, highly skilled petitions and policy attorneys who are working through these cases. We have four of them, actually supervisors, who we all meet twice a week and we go through the facts, and we go through the evidence, and we decide what we need to do.

We'll bring in the TTAB. We'll bring in the Solicitor's Office and get input on various issues, but I know folks were worried. Who's examining these? You know, is it going to be, you know, really experienced? Yes, it's very experienced people. And it's a fascinating process to listen to the back and forth and how we weigh the evidence, and, you know, how to factor in certain things. What does the statute allow us to do? What do the rules allow us to do? What do customers want? What do petitions want us to do? What to registrants wants us to do? So, it's a lot of balancing. Very exciting conversations that are happening.
But, I really would urge you to look at these actions. Look at the petitions filed. Look at the evidence filed. Look at what we did with that. Particularly, you might want to look at the director-initiated ones because, in that situation so far, these are the ones where the petition evidence wasn't good enough. But, we wanted to institute. So, we got the evidence that the petitioner didn't give us. We got the evidence, and then we put it in and did a director-ordered. So, that's the evidence we want. What we put in that director-ordered is the evidence we want to see. So, I would urge you to look at those particular cases to get an idea of what we're looking for.

Next slide, please. Oh, and I want to tell you one thing. We are working on a database of decisions. So, it'll probably be about six to eight months in development. But, it'll be a database of decisions. All the sanctions decision because I know that orders for sanctions page is funky. But we're going to have a database where
all the sanctions orders, all regular 2.146
petitions will be, and all of the TMA petition
decisions. So, Notices of Institution and
examiner decisions. So, you'll see all of that in
one database eventually because we really need to
be as transparent as possible with you all so you
know what's going on and you know how to use these
proceedings.

But, little bit. I got -- still have
I think I already said this. Index, index. We
have people just throwing, you know, evidence at
us and it's hard to tell what does the evidence go
for, what evidence goes to what. In the rule, we
said we wanted it indexed. We really want it
indexed. So, you know, connect the evidence in
the index to the evidence that you have provided.
Don't capture the screen too small because it's
hard for us to see it. Make sure you've got the
URL and the date of access.

What we see a lot is people tell us all
the investigation they did, but they don't show us
what they did. They don't give us the documented evidence to substantiate the investigation. They say, I went on Amazon. Okay, well, what did you search on Amazon and what did you find on Amazon? If you found nothing, give us the screen shot that shows that you didn't find anything. But we want to know what search you did because that's how we know if it was reasonable. If you just did one search for the word, and nothing else, maybe not so reasonable. So we want to see. So, remember, the affidavit is testimonial evidence, but it needs to be corroborated by documentary evidence. So, you've got to give us the documentary evidence.

One more thing I want to talk about is, there is an expectation that if a petitioner just says, hey, this specimen that was originally submitted is bad, look, it's fake, but they attack the whole class, not enough. Okay, you know, sure, yes, that specimen, if you give us good evidence that it was digitally altered, okay. That addresses that good or goods that are sort
of, you know, potentially, you know, substantiated by that specimen. But it doesn't address the whole class.

I do understand that, okay, well, then, there's no specimen for the whole class left in the file. But, the way that I read the statute, it doesn't create a presumption that one bad specimen, then, you know, invalidates the whole class. That's fraud. That's not what we're doing. We're doing non-use. So, we need more evidence in addition to that bad specimen, if you want to attack the whole class. So, you know, if you go to the webinar recording, when it finally comes up, you'll see I discuss that a little bit. And the web page that I showed you earlier with lessons learned, best practices, that also discusses it as well.

And, as we get more experience, we'll put more information out for you to know what we're seeing and what's going to work and what's not going to work. We're also seeing data dumps, you know. We'll see, in some cases, they give us
no evidence. In other cases, they give us an entire litigation or administrative proceeding file, and there's just one little part of one page that's relevant. And they don't show us that.

So, you know, Gerry Rogers tells me that this is some of his complaints at the board proceedings as well. So, I guess this is just the way it works. But, you know, we want these proceedings to work for you. So, hopefully, we can provide what you need, the information you need to have a successful petition because that's what we all want.

I would say one last thing. On the director-initiated proceeding, don't rely on the USPTO to clean up a bad or deficient petition. We will do that a little bit now as we sort of try to teach everybody what we're looking for. But as the registrants response starts coming in, we're not going to be able to do that. We're not going to have the resources to do that and we have our own desire to go after specific cases that we've discovered through our fraud investigations.
That's where we want to use our director-initiated resources for. So, you know, if you can increase the quality of the petitions, you know, hopefully with the guidance that we're providing, then we won't have to necessarily, you know, fill in the gaps for you. But, as we're in this learning phase, you know, we recognize that we want these proceedings to work.

So, that was a whole lot. So, sorry about that. Still spoke very fast. But we're really excited about all of these initiatives that are supporting our register protection journey. And we're going to continue to chip away at it and make sure that we are able to prevent the fraud from coming in the office, you know, at the outset.

Happy to take any questions. We have a few more minutes. David Cho.

MR. ENNS: This is Rod Enns. Great presentation.

MS. COTTON: Oh, Rod.

MR. ENNS: Thank you very much. Two
quick questions, if I could. One, with regard to
the filings for expungement or reexamination that
you've seen so far, I know when the TMA was
working its way through Congress, the user
community had concerns that because there was no
standing requirement for filing these petitions,
that it might be open to abuse by outsiders or
people who were looking just to create costs or
create trouble for legitimate trademark owners.
Based on the filings you've seen so far, have you
seen any particular evidence of that?

MS. COTTON: No, I haven't. Thank you
for the question. I have seen deficient
petitions. Very thin petitions. But I haven't
seen any digitally altered evidence. You know,
that may come. We have our ways to try to figure
that out. But what is happening is that our TMA
examiners are sort of -- they're not always going
to do this, but they're recreating searches, and
they're trying to figure out if there is, you
know, if this is a meritorious petition. You
know, in one case, we were able to find the mark
that the petition was saying was not in use. We actually found it in our own searches.

But we have not seen any harassment. Again, I will say, if the prima fascia case is established, it doesn't matter who filed it. The identity of the person who filed it does not matter to me because the fact is, if the prima fascia case is made, the statute says, we institute. That's it, right? And so, you know, we're doing our due diligence to make sure that prima fascia case is made and that the evidence that we're looking at is valid evidence. And, as I said, very high-level folks who are working on these cases. So, no evidence of bad faith yet, but we certainly will keep an eye out. If we see it, we have our sanctions program and we can certainly refer over to the sanctions program where we can block USPTO.gov accounts so that these petitions cannot be filed by that individual anymore.

MR. ENNS: That's great to hear. Yeah, my other question related to the topic of scams,
generally. And it just made me wonder, if users encounter evidence of what appears to them to be inappropriate behavior or scam behavior, maybe they even have an application that they filed hijacked, or maybe they just encounter a potential application for opposition that has earmarks of being filed in bad faith, is there a way they can report that to you all, and if so, what's the most effective way for users to do that?

MS. COTTON: Well, there's a couple different ways. The Letter of Protest is always available. Now, there is no ground for fraud that the examiner looks at. So, what happens if you file a Letter of Protest and identify particular, you know, indicia of fraud, the petitions folks will look at it. They may deny your Letter of Protest, but they'll tell you that they're referring it over to the investigators. So, that is one avenue.

The other avenue is TMScams@USPTO.gov. That box goes to the investigators and they're looking at it as well. So, that's another way to
report it. I do worry about turning on the spigot that anybody who's ticked off at somebody, their competitor will start sending this stuff in to us and overwhelm our investigators. We have a small team. So, hopefully, it's only used for those cases where, you know, that there's good faith on the protestor's side.

But those are two good avenues.

Generally, a petition to the director, that's on your own application. It's not on somebody else's. So, that's not the way to go. But the protest and the TMScams@USPTO would be the way to get that stuff in front of us.

MR. ENNS: Great. Thanks very much.

MS. COTTON: David.

MR. CHO: Amy, yes. I have two questions. They're different, somewhat related. If you could go back to the slide where it showed the statistic 65 petitions received.

MS. COTTON: Yes. Ricardo, can you go back? There we go. Nope.

MR. CHO: Nope.
MS. COTTON: One more. That --

MR. CHO: Perfect. So, we saw the breakdown. Is the other bits of information, 36 expungements, 29 reexaminations, are they part of the 65 total or in addition? That was one clarifying question.

MS. COTTON: Thirty-six and 29 equals

65, right?

MR. CHO: Right.

MS. COTTON: That should be -- yeah. So, yeah, there part of the total. I just want to make sure my math was right.

MR. CHO: Yeah, that's what I was thinking, too. So, then the 14 and 15 and 1 are all part of the 65, correct? You gave us a breakdown.

MS. COTTON: Those were the responses, right. So, you could tell that we have acted on half of the petitions that we've received. About half.

MR. CHO: Got it. The second question is, generally, what was -- I mean is the volume
what you expected? Higher, lower? I know it's
all new, but I'm sure there was some planning,
right, on what you were expecting on --

MS. COTTON: David, I'm going to admit. There was very little planning because we had no
idea what we were going to get. But I have some
fantastic people who are flexible, right? So,
I've got my Petitions staff, and my Policy staff.
And I've got people I can draw from. So, I put
out the call. Hey, I need a couple more folks to
work on these, and they answered the call, and
they come in, and it's a fantastic policy
discussion. So, people want to be involved with
that. So, we started out with four folks working
on these. We've expanded to six, and we can
expand even more depending on the volume that
we've got. But, we wanted it to be really
flexible because we just didn't know how to plan
for these, and how much time it was going to take,
and how much extra work it was going to be for
each file.

So, I think we've done pretty well
because it's pretty elastic. Our workforce is so fantastic. They just adapt. And this is fun for them. They like this, as you would imagine. So, it's been -- we've handled the workload pretty well. I would like to get these out, Notices of Institution and Non-Institution, faster. But, you cannot rush this discussion, right? This is, you know, you want us to be careful. We're developing policies every, every time we talk. So, it has to be delivered. It will speed up.

Right now, we want to get it right and not get it done fast. And I know these proceedings were supposed to be fast, so we've got to find that balance, right? And we will, but every time we talk, there is a new policy issue that we are establishing. So, we write it down and then we put it on our website so you can see what it is that we decided.

MR. CHO: Thank you very much.

MS. COTTON: You bet.

MR. GOODER: I'll jump in and say Amy's being modest. There was an enormous amount of
planning. The unknown was how to create it in a way that you could dial it up and down so that -- because we had no idea what we would receive. And so, now looking at this basically three months in, you know, a little three and a half months, et cetera, you know, is it more than we thought, less than we thought? Honestly, we really didn't have an idea of how many people would really take advantage of it.

You know, lots of people talked about it, but we'll see. And whether it goes up and down over the years, now we will track it, obviously, and keep that and post that information as well.

CHAIRWOMAN NATLAND: Amy? Just a few things. Number one, you're amazing. I love your energy. I love your commitment. It's just -- it's contagious and if I could work for you, I would. Secondly, I just wanted to have you, maybe, remind -- I know you sort of mentioned it, but I think you are going to be holding another webinar soon. I don't know exactly when on kind
of what you've seen so far.

    MS. COTTON:  Well, I just did last week
and I will do it again.

    CHAIRWOMAN NATLAND:  Oh, okay.

    MS. COTTON:  I just did last week. It
hasn't been posted yet. So, you will -- when we
post it, we'll put out an alert and you can see
it. We got a bunch of questions in, and so, we're
looking at FAQs, you know, trying to do the FAQs
and post those as well. So, stay tuned. I don't
remember exactly how long it takes us to get the
recording up. But, I did promise that routinely
we would do these, so we can stay in touch.

    CHAIRWOMAN NATLAND:  Awesome. The
webinars are terrific. Secondly, on the being
able to search for these actions and the
decisions, are we going to or are you considering
on the next updated version of tests making it a
field so that it will be searchable? That might
be kind of easier, too, so it doesn't have to be
managed.

    MS. COTTON:  Harder than you think.
CHAIRWOMAN NATLAND: Yeah.

MS. COTTON: And, the looks that I got when I asked for it, I decided not to go that way. So, you know, I have to look into whether TSDR, you can search on the prosecution history. You know, not sure if that's doable in light of all the other I.T. Priorities we have. So, again, trying to do the work around to get you the information. In the meantime, we'll look into ways to make it a little bit easier to find them, just sort of generally.

CHAIRWOMAN NATLAND: Okay. Great. And then my last --

MS. COTTON: You know that look from the I.T. people, right, when you ask for something? You know that look I'm talking about.

CHAIRWOMAN NATLAND: Yeah. Just to kind of plant a little seed. And then, on the scammer front again. I know there's so many different scams that are out there and you guys are doing a great job of attacking all of them. You know, you're publicizing information to users about how
to avoid being scammed, but I did see on your page, you know, one link to a criminal consequences.

I'm wondering if there's a way to promote the consequences a little bit more. Maybe you are. But, you know, maybe people will see it. Maybe lawyers will see it and decide, you know, I don't want to lose my license to practice law. You know, I don't want to get thrown in jail potentially. Is there a way to publicize that as well on social media as well as on that page?

MS. COTTON: We certainly can do that. The OED Director, Will Covey (phonetic), and I are doing an internal panel on this and he goes around and talks about what are the implications of violating U.S. Counsel Rule, running out, that sort of thing. So, we are doing, you know, presentations on that. Figuring out how to put that on the website is a cautionary tale. I think we'll have to, you know, think about that a little bit more as we get more -- OED settlement agreements are great.
But, what else do we have? And so, you know, we're building that inventory and I think that would be a good suggestion to figure out how to put that together as the cautionary tale for attorneys who are thinking about this. Yeah. We'll do that.

CHAIRWOMAN NATLAND: Thank you.
MS. COTTON: Now I got us off schedule again.
MR. GOODER: But we're back right on schedule. It's perfect.
MS. COTTON: Oh, okay. Good.
MR. GOODER: All right. Any other questions for Amy?
MS. TOMPKINS: I had a question, Commissioner Gooder.
MR. GOODER: Yeah, go for it.
MS. TOMPKINS: Trisha. Amy, again, fantastic job. And lots of information and you packed it all in. You know, just going back to the scammers, and some of the victims of the scams. This may be outside of the purview of your
office, but has there been any consideration with respect to helping those who've been victims, especially when they think they've received a certificate and it's not a valid certificate to help them to kind of get back on track? Is there anything that your office can do?

   MS. COTTON: Well, we have a specialized unit in the Trademark Assistance Center designed to do that, to provide help and assistance to these folks. You know, there's a limited amount that we can do in terms of, you know, as you know, our backlog is significant. Our pendency is significant. So, you know, putting these folks to the front of the line or fee waivers and this sort of thing, we can't really justify doing that at this point. You know, they picked a bad horse to ride at the beginning and it's hard, then, to put them to the front of the line.

   But, we want to provide all the support that we can in terms of refiling. If they want to do it by themselves without the bad actor involved, we have specialists to help them with
that, without providing legal advice, of course.
And, you know, we have customer service
representatives in our Petitions staff who can
really help with other questions if they want to
understand the why a little bit more. But,
certainly, we have lots of information on our
website. Self-help kind of information.

But that's what, you know, what we're
trying to do because we certainly have a lot of
sympathy for these folks, but we just want to make
sure they don't get into these situations and how
can we do that which is why, you know, talking to
the platforms. I think recently Google took down
ads from a lot of these websites that we had
sanctioned. So, we were really pleased to see
that. But Dave might have a little bit more to
say.

MR. GOODER: Yeah, I think also when you
look at what's on the website, a lot of the
additional stuff was aimed at what do I do, what
steps can I take, et cetera. And while there's
this general line somewhere that says, you know,
we can't provide legal advice in a particular case, we've pushed that, I think, farther now to be able to just sort of advise people.

For instance, if an application you own was in the sanction program or was sanctioned, refile. Your best solution is get refiled as fast as you can and making those kind of recommendations. And then, in the Trademark Assistance Center, people are the other -- as Amy was saying -- there's really the other best way. We do get a lot of questions from lawyers who are seeing this and people are coming to them, which is great, to see that these applicants are getting away from the, you know, the scam and they're not staying connected to them, which is helpful.

Although we do know that one of the scammers basically was getting a hold of some of the information and writing to their already victim and telling them they had to pay, so the scammer firm could reply to the sanction order. It just --

MS. TOMPKINS: Terrible.
MR. GOODER: It's pretty astounding the level of this. So, that's why we wanted to redesign and rewrite a lot of what's on the website. And raising your question about using social media more, Susan, I think it's actually a good idea. As much as we can publicize those kind of things. I think it's good. Because, as Amy was saying, the trademark community will see certain avenues of that information, but we know that roughly 25 percent, maybe a little higher, of all applicants don't use counsel. So, they typically are not going to be the ones who see that. And that's the aim now, is how do we get at helping communicate to those folks and that's where lots of social media sites come in handy. So, our Communications office has a pretty robust program on that and every time we can get anything in there, we do.

MS. THOMPKINS: Thank you for that.

MR. GOODER: Anything else? All right. Thank you, Amy, very much. And now we will change slightly and head over to Greg Dodson who is the
Deputy Commissioner for Trademarks Administration
and Glen Brown who works for him as our Group
Director for Information Technology, and they're
going to update you on what's happening on the IT
business side of things. Greg, over to you.

MR. DODSON: Thank you, Dave. Can I get
a thumbs-up if the sound is working.

MR. GOODER: We're good.

MR. DODSON: Fantastic. All right.

Well, Glen and I promise to keep you on time. So,
we'll do this in 8 minutes as per the schedule.
First of all, thanks Dave for giving us the
opportunity to speak; and yes, we have never
really given Glen an opportunity to come out from
deep down in the dark trenches of the USPTO
Building doing the IT work; so, we're going to let
Glen kind of give everybody kind of a wave top
view of what we're working on from the product
perspective; and so, I'll give most of the time to
Glen. Next slide, please.

A couple of issues that we've kind of
wanted to illustrate for everybody. You've heard,
and thank you to Dan and thank you to Amy and
thank you to Dave for kind of acknowledging all
the work that the team has done. You know, some
of these new capabilities that you've heard about
today; the robotic process automation tools, the
CMRA that Amy mentioned that does the address
checks, and some things like that are all
capabilities that we think are going to continue
to make a big dent in the process as we go
forward. You saw the slide that Dave showed. We
were closing in last year on a million classes;
and so, a little bit down this year, but business
is good and we're going to try to help everybody
get there. So, those are the internal things.

We wanted to kind of touch on an
external product today. We want to talk about
image search. Susan, you mentioned TESS; we'll
put that in there. I scribbled it down -- I wrote
it down -- and we'll take a look at this. But you
know, alongside a TESS -- as we go into the
business of allowing people to get a little bit
more of an aperture to kind of take a look at
things -- we are integrating the trademark vision
took that as many of you know is a Clarivate
product; we're integrating that into the system.
So, we hope -- and we are on track -- to have that
integrated into the network here -- into the
infrastructure here. We've been using it in a
test capacity through Clarivate's capability, but
we're hoping to get that done and we think we're
on track to get that in by April. In the next
month or two we're going to give that over to John
Linkowski's team -- the Innovation Law Office --
Law Office 130 -- to kind of kick the tires and
see how it's going; and then as we are wanting to
do, we're going to give it to our IT subcommittee
with TPAC. Thank you very much for lending your
expertise to that process and we'll get a little
bit more of a wire brush on the system. Then we
might give it to a few other people who are
trusted agents to us in the external communities
in the stakeholder side of the house to kind of
take a look; and then hopefully, by September or
October we're going to implement this across the
board and give it out to the public community out there, and we're really excited about this because this is a nice capability. If you're not good at TESS, if you're not good at Boolean logic, this is really kind of a pointy-taiky, kind of a click on something and you'll be able to take a look at it. So, this should be very-very nice; especially for a lot of our pro se applicants who are just kind of looking at the ecosystem of what exists out there. So, we're excited about that.

We're also excited, as Dan mentioned, about the capability working with your Booz Allen vendor colleagues on the business process analysis; right, breaking down what we do, kind of taking a look at where the bumps are in the process where maybe there's a little bit of inefficiency, a little bit of ineffectiveness; and try to smooth flow that a little bit. That may not be an automated process, that may be working through the workflow and smooth flowing that a little bit; but we're working really closely with our Booz Allen colleagues on that. You can see
that a sample of almost 2 million applications
over the course of 4 fiscal years, and they've
broken that down, and we're really taking a good
hard look at that. They've already mentioned --
and given us some opportunities to look at -- some
capabilities out there, and then we sat down with
the commissioner just a couple of weeks ago and
offered some opportunities to take a look at other
areas of the work that we do; and Dave has given
us permission to go and take a look at those. So,
we are going to get ready and get started on that
thing as well too.

And with that, I will save the last 5
minutes or so -- unless there are any questions
for me -- to Glen to kind of break down the
product lines; because I know we're a little bit
behind schedule now. Nothing? All right, Glen,
over to you, sir.

MR. BROWN: Thank you, Greg. First
thing up is the sound check. Can you all hear me?
Okay, great. So, I'm here today to basically give
you the overview of the Trademark product lines
and give an extract of accomplishments and
whatnot. But, to do that; there are four areas I
want to basically cover to kind of orient
everybody about how things are working, how we do
our updates, and how we do our IT.

The first thing I want to give you is an
overview of how we develop IT at USPTO now -- it
won't take long -- because it's going to be very
high level. The second thing I want to do is
introduce you to the product lines that you see on
the screen and kind of explain what's going on in
each one -- again -- at a high level. Next, I
want to tell you about three of the major goals
that these product lines are working on for
Trademarks. These -- we call them internally "the
big rocks" -- but they're the major goals that we
have focused on for the next couple of years of
what we really-really want to get done for the IT,
and they're very high level. There's a lot going
on underneath of them, but I want to kind of get
them in front of you so you know what our focus is
on. And then finally, I'm going to give you a
brief update of activities from each product line to just -- again -- try to orient you on what's coming down the pike, what's been done, and what not.

So, with that, the first thing up that I'm going to start off with is a brief explanation of how we do our IT at USPTO. At the USPTO in the past couple of years we have fully adopted the use of agile software development concept to do all our work. Specifically, we use what's called the DevSecOps version of that, which stands for development, security, and operations; and all that really means is -- it used to be just DevOps -- development and then operations -- but, the industry as a whole interjected the idea that you really need to include security in there -- thank goodness we did -- because that's obviously a big-big concern with our IT. So, DevSecOps ensure that security is a shared responsibility throughout the IT development life cycle. That's all that really means is that everybody that's on one of these agile teams is also focused on an
element of security from cradle to grave. This also means that we have many small teams -- that we call our scrum teams -- that develop the functionality for our end-user. So, all these major goals I'm going to talk about and then the product lines. There's a lot of individual smallish teams -- between 5 to 12 -- we want to try to keep them smaller -- but that's what a scrum team comprises of, and for Trademarks there's -- I think -- we're around 20 scrum teams across our product lines, or maybe more. But, what it also means in this new ways of working -- as we call it -- is that Trademarks -- and all the other business units at USPTO -- are really much more in control of their development efforts because the teams are really managed from the business units. We have lots of people from the business serving as what they call the product owner and subject-matter experts that are on the team day-to-day and then we get coaching and oversight from our OCIO; and it's been very positive. We've made some huge process, we were
able to make the Trademark modernization goal last year using this methodology and that was pretty amazing. In Trademarks we've organized our IT assets -- all of our IT has been grouped into what we call six product lines -- that you'll see depicted on the slide here -- and again -- those are made up of multiple scrum teams.

Okay. So, now I want to tell you about just real high level what each product line focuses on so you kind of get the orientation of what -- if we present this again -- if I'm invited back to brief you all again -- this is kind of the structure of which I present to you all. So, the Trademark exam product line, they focus on the development of the functionality -- all the functionality -- needed by our examining attorneys and the rest of the business units -- internal for examination. It includes the search tool, the office action editors, all that stuff; and the docketing. The TM external product line supports the public facing filing systems and search systems and EOG and whatnot, so that's where you
see in this product line. This is where TESS, where T's, TSI -- all those systems -- kind of fall under the support -- is picked up from that product line. The content management services product line basically maintains the databases and the content storage. They're more of a backend team that all these other teams need to grab content or data from, or put into those databases and content storage.

And then, the Trademark international team. This product line supports the exchange of data with the international bureau, specific to the Madrid Protocol. So, that's all this team is working on is that Madrid Protocol -- the filing process and exchange with the international bureau. There's a specific system that they support for that.

Trademark data and analytic product line develops and supports the data analytics platform to provide metrics and insight into trademark filings, operation monitoring, employee production, and much-much more. This is like
where Nabil lives and breathes -- where they've
dug all the modeling for us, they do the
projections and whatnot -- but it's also going to
be where we figure out what the employee
production will be like from day-to-day. And then
finally, the TTAB. They provide the end TM
systems for the filing and processing of the
submissions to the TTAB. So, six product lines
and at least two to three teams per product line.

All right. So, next up I want to tell
you about the major goals that all these teams are
working on. Right now the Trademark product lines
are focused on supporting three major goals for
trademarks. These are three very high level -- we
call them "big rock" -- goals. The Trademark
executives all kind of got together and said "This
is what we really- really need to get done at a
high level over the next couple of years"; and the
first one of course -- and you're going to sense a
theme as I go through them.

The first goal is modernizing -- as no
surprise -- our trademark examining tools with an
emphasis this year on delivering the flexible
response times that we spelled out in the
Trademark Modernization Act. We're kind of trying
to get that done -- that specific flexible
response time -- by December. Our second major
goal is to modernize the trademark filing
experience. So, we want to ultimately -- over the
next year to two years or so -- improve and/or
replace the T's and TSI filing system with a more
modernized experience. And then finally, our
third goal is the retirement of the TRAM Legacy
mainframe which is -- for the past 40 years or
about -- that's been the backbone of where we
store our data, manage a lot of our content, do
our business rules -- kind of evolved from that
mainframe where we need to get off of it. So, we
need to get off of it soon and it's essentially
the backend of the modernization effort that needs
to happen. So, the theme of course overall for
all of those is -- as you guessed -- the
modernization. We're trying to modernize
everything we do so that we can keep up with the
All right. So finally, I wanted to provide a brief update from each product line of upcoming events and their real near term focus. So, from the Trademark exam product line is focused on implementing -- as I mentioned earlier -- their focus right now on implementing the flexible response times for the Trademark Modernization Act by December. They are also working on refining the modernized tool that's already been built for our examiners. So, there's a new tool for our examiners. They've got this Legacy tool they've used for years and years, but to coincide with this December flexible response time implementation we're trying to get all the examining services to switch to this new tool so that the flexible response times are facilitated out of this new tool and we wouldn't have to reinvest in our Legacy systems to do that. So, there's a couple more tweaks that they need to make to that tool to make it the best experience and the most efficient tool it can be to help Dan
and company out so that we don't get negatively impacted when we make this switch with the backlog and whatnot. So, that's another big bucket of activity that these teams are working on, to make sure that that tool is best of breed, so to speak. And then later this calendar year we anticipate that we'll be able to begin building the user interface for a new search tool. Right now the examiners use a product called BRS Open Text. We've got a new open-source tool called Elasticsearch that's in the lab and it's pretty near as far as it can go with basically being a replacement, but we've got to build a frontend to refine that tool. I'm going to come back and talk about this again in a minute because I think one of the questions from the audience was specifically about search, because there's a similar effort on the external side as well. Under the Trademark external product line -- as we mentioned earlier in today's meeting -- we continue to work on implementing the identity verification. This team's also working on the e-
Registration targeting the end of May to make that live for everybody to use, and then those teams have also started the modernization effort for the trademark filing experience. This part of the effort will focus on the initial application form to begin with. The last thing that this team has started to look at is building a simplified search interface that would make use of this Elasticsearch backend that would replace TESS.

Now, I'm going to pause here and kind of talk about these together a moment because I think it came up in the questions and answers from the audience. Right now we're thinking it's probably going to be the end of the calendar year before we can start getting people in front of these tools because we're talking about whether to get it in front of our examining attorneys first or our public customers first. What we'd prefer to do is kind of do it in the same time, but we're kind of looking at what reality is for both of these and what makes the best sense to do and in which sequence. So, stay tuned on this. I'm hoping we
can get it out a little bit sooner than that for people to look at so we can get that valuable feedback on how we can improve this thing and make it -- again -- the best of breed. We want to lead the world on all this stuff of course. So, I hope that kind of addressed the question from the audience, but we'll pause at the end and take more questions as necessary.

Moving on to the content management system. They've been working on the changes for the TMA flexible response times. They have setup a couple services just recently and made some document code changes so that -- again -- the backend that everybody relies on in the databases is ready to go. Trademark international -- this is kind of cool. They've been building their new workflow completely in the cloud. They picked out a tool a while ago to replace the legacy workflow engine that drives that Madrid Treaty protocol data exchange and they're targeting the end of August to do their first production deployment for two major transactions of that data exchange, and
then they'll go on one big transaction at a time
and replace all the backend, and then the plan is
that once they finish replacing the workflow
ey're going to swing back around and do the user
interface refresh. And then finally, the TTAB
team is -- they're continuing of course to support
the overall flexible response times. I don't
think they have a whole lot of work to do there
for the TMA flexible response times, but more
importantly their work continues on modernizing
their experience as well. So, the thread through
all these is that we're trying to modernize
everything, adopt new platforms so that we can be
the best of breed and continue to keep up with our
customer's needs and whatnot.

So, with that, that's the end of my
presentation. I hope I didn't kill the 8 minutes.
Greg and I are open for questions.

MR. GOODER: Thanks, Glen. Any
questions from TPAC?

MS. KOVALCIK: This is Jen. I first
wanted to commend you guys. I know you are
working so hard and have so many overlapping and
parallel task efforts as you're managing the
backload and planning for the future, working to
modernize and implementing new changes to comply
with the updates to the Modernization Act. So, I
know you guys are working so hard. I'm very
interested in trying the beta for the image search
tool when it becomes available as well. I thought
I might ask if you could provide an update on
where we are with ID.me verification and how the
implementation of that is going?

MR. DODSON: Sure. Thanks, Jen. I'll
briefly touch on that. So, we implemented the
voluntary component of that on the 8th of January,
right. The plan was actually -- I guess -- today
was going to be the date that we were going to
make it mandatory. We extended the voluntary
period, but you saw the results of the
verification so far, right. We've done quite a
bit -- frankly, more than we thought -- from a
voluntary perspective right now. So, we're very
excited about what's going on with that. We are
waiting for permission to go mandatory right now. We're working through a few different things that we've got to accomplish here to kind of get people squared away with that; but once we do, what you can anticipate at that point is that we will then be in a place where our customers can either continued the automated process, they can go to a direct-to -- the trusted referee component -- which is part of the fail-safe process that we have right now, we're going to work to get them there directly; and then of course, the paper process will be in place as well too.

We're very comfortable and we're very satisfied with the work that our vendor -- ID.me -- is doing for us right now. They've been more than gracious in supporting us through the last couple of months as we've been working through this, and they are working with other federal agencies -- I think Dave mentioned the Veteran's Administration. They're also doing the IRS, they're also part of the Social Security Administration, as well as a number of state and
corporate clients as well too. So, we really feel
that our relationship and our collaboration with
the vendor is probably as good as it's every going
to be. And so, we look very much forward to
instituting this in a mandatory way and we think
what it's really going to do -- and I think
everybody that has spoken today thus far has said
"fraud" at one point or another -- we really think
that this is going to help us get through some of
that and make the work easier for both Amy's team
and for Dan's team as we go forward. And then
fundamentally, what we're really accountable and
responsible for is the integrity of the register
and we think that's really going to make a
difference.

So, hopefully that helps. I can
definitely talk offline if you want to. I know we
are 3 minutes into the CIO's time after having
supposed to have broken for a quick break, but
does that help?

MS. KOVALCIK: Yes, thank you. We don't
have to do it now, but maybe at a future meeting
-- or even perhaps a webinar -- there can be a little more information about the trusted referee process. My personal experience going through ID.me was very easy, it was very streamlined, it didn't have any issues; but I know some of us on TPAC did have to go through the trusted referee and it also made it very easy and were able to complete successfully their registration. So, I don't know if anybody has any hang-ups about that process, but at least our experience is that it worked well for us.

MR. DODSON: Thank you, Jen. That's great feedback. We very much appreciate it.

MR. GOODER: Yeah, I think the response we've gotten so far has been overwhelmingly positive about it; especially within the Trademark community who understand why this is so important. Any other questions for Greg or Glen? All right. At this point we are going to take a 10 minute break and then we'll resume about 1:14 with an update from our CIO. Thanks.

(Recess)
CHAIRWOMAN NATLAND: Okay. Welcome back everybody. I hope you enjoyed your break. We are now going to turn to an update from the Office of the Chief Information Officer. We have Debbie Stephens who is filling in for Jamie Holcombe. Debbie is the Deputy Chief Information Officer, and we have the amazing Lisa Hilton who is the Trademark Product Line Manager. I'll hand it over to you.

MS. STEPHENS: Thank you, Susan. I appreciate your time and the TPAC committee member's time this afternoon. As you always can imagine, Jamie and I are very excited to share information on our IT journey with Trademark specifically. As Glenn Brown mentioned earlier about the Trademark "big rocks", it should be no surprise that IT has some very specific "big rocks" that we are considering an opportunity and a challenge to move forward with the Agency; and those two particular "big IT rocks" are the data center migration and our Cloud migration; and Lisa Hilton will be able to share more details with the
committee here. So Lisa, if you would please?

MS. HILTON: Thank you, Debbie. Comms check, can you hear me? All right. Next slide, please. All right. So, as Debbie has mentioned, and Glenn and Greg as well; Trademarks has some big efforts that are happening this year; and with those "big rocks", so does CIO. Two of them are our data center move and our Cloud migration. So, understand that with Trademarks and all of its goals that it needs to accomplish, all of those teams still have to support the data center move and the Cloud migration. So, as they build their agile environments, as they build out their plans; they're also including these components into those plans as they build out what they're doing individually, how it affects the larger OCIO and a larger USPTO. So, as I mention these two things, I'm going to put them in context of Trademarks, but also the larger picture.

So, our data center move. We are moving our data and all of our equipment from the Alexandria location to a Manassas location; and
that move, it is in progress and a lot of the bundles that they're building together and products together, they're going to be moving in bundles. About 45 percent of the bundles that need to be planned out to move have been completed. There's lot of skids of equipment that needs to be moved. Five of the six skids of equipment have been moved and positioned into the new location, and also that Cloud migration team had to actually figure out exactly how much needed to be moved. There's over 149 products that need to be migrated into this data center move. So, a lot of work has been done, but we still have a lot of work to continue and our Trademark teams are supporting that along with what they're doing for the business line. What we have planned next is continuing to work with the product teams to adjust bundles as need be. If schedules or priorities for business happen, we have to make shifts sometimes and move things around so that we're not impacting the business, but that we're also getting all the move done to be completed in
a timely manner. And so, they're actually moving and starting to install a lot of that equipment in the new data center and also looking at our high value assets -- of which Trademarks have several of them within the product line -- and deciding which one Trademarks will move first. So, Glenn -- with Greg -- is deciding -- based on the plans for Trademarks -- what needs to happen when. So, sometime this summer there will be a Trademark application that moves and our public partners should see nothing in that. It should be seamless to them and it will just be behind the scenes, us building it out, moving it, testing it; and when things are working, cutting over.

The second item is our cloud migration. We have a big initiative with cloud. We're utilizing that we're partnering with Amazon, Azure and Google. Right now, we're with Amazon in production and we're starting to also see some cost savings and improvements. About 35 percent in FY 21' based on the work that happened in FY 20'; and a lot of our product teams are building
out their lab and production environments in 21',
and already in 22' an additional six lab accounts
and another additional six product in production.
We're also building out lab accounts in Azure and
Google Cloud. So, there's options, it's not just
one cloud environment, there are multiple based on
the needs of the product that it needs to support.
As we continue in this excellence with our cloud
initiative, we are looking upfront to ensure where
can we save dollars. Savings in the Elastic Cloud
compute -- which we experienced in February 22' by
25 percent. It allows us to ramp up virtual
servers when need be, bring them back down when we
don't need them any longer; so we're not holding
out dollars or spending costs when the need is not
there. Also, in our various types of data,
whether it be relational databases; in which
instances, what team needs what; and so, we're
building out reserves. So, we have reserves
there, so we have money set aside for that, but
we're not just spending everything up front. So,
that allows us to experience savings also; and
mandatory tagging.

Mandatory tagging allows us to manage the Cloud environment better. We just don't have our teams loading up items in the Cloud just in any way; we just want to make sure that there is a foundation -- a framework -- when they're putting things in the Cloud and we can manage that well.

CyberOps. CyberOps integration from beginning to end. We all understand the impacts on cyber and the tenants that we need to continue to support as we move into the Cloud, and then as we continue to mature these Cloud environments -- whether they be in AWS, Google or Microsoft Cloud -- we want to make sure that we continue to update our processes, publish those processes to the teams; and also we have setup a shared environment for teams to go and look -- what are the best practices, what are the boundaries, what's already been built out there for us -- so they're not building things themselves and starting from scratch over and over again. So, as we learn, we are continuing to improve and build out and set
foundations for the USPTO so we're continuing to build in excellence. So, that's my brief and are there any questions?

CHAIRWOMAN NATLAND: No questions?

Thank you so much, Lisa.

MS. HILTON: Thank you.

CHAIRWOMAN NATLAND: Thank you very much, Debbie and Lisa; appreciate that report.

So, we're going to now turn to a report from the Office of Policy and International Affair -- OPIA -- and I will hand it over to Mary Critharis.

MS. CRITHARIS: Good afternoon everyone.

Can you hear me? Okay, great, thanks so much.

It's a pleasure to be here. I welcome the opportunity to provide you with some international updates. I'm joined by our Senior Counsel's Nancy Omelko and Branden Ritchie, who I know you both know them very well, but I just want to thank them joining us as well today. Can we go to the next slide, please?

So, here are a few issues we wanted to discuss. We've received a lot of questions on
Russia, so hopefully we have a chance today to answer some of those questions. We are going to provide you with some updates from ICANN, the recent SCT meeting at WIPO, TM5 developments, share with you our upcoming Trademark training programs, as well as highlights from the Elster decision. Next slide, please.

So, first I wanted to talk about our engagements with Russia, as well as -- not just the office dealings -- but also public dealings with the Russian IP Office -- commonly referred to as Rospatent. So, earlier in March we put a public notice out that we have terminated our engagement with Rospatent -- the Eurasian patent organization -- as well as the national IP office of Belarus. So, we no longer will be having meetings directly with these offices. I will say thought that in a multilateral context -- like in WIPO, for example -- we are able to participate in these discussions. However, for smaller meetings where Rospatent was party to those meetings, we are not participating in more smaller group
meetings. This guidance of course comes from our State Department, and I just wanted to share -- I know it's not relevant to Trademarks -- but we do have our flagship work sharing arrangement which is called Global Patent Prosecution Highway Arrangement where work performed by Rospatent is used to accelerate work in the USPTO. We are no longer granting requests under that program, and we also kind of warned our PCT applicants that they shouldn't elect Rospatent as a search or examination authority because we're concerned about processing and also payments under the PCT. So, that's what the office is doing. I know there's been a lot of questions about making payments to Rospatent for filing fees, renewal fees, etc. and all of those questions are really handled by the Office of Foreign Assets Control of the Department of Treasury. We are working very closely with OFAC to try to determine whether payments can be made. So, this is still an ongoing discussion. What I can share with you at this time is that all payments to Rospatent go
through the CBR -- which is Central Bank of
Russia. The CBR is a sanctioned entity and
therefore payments to sanctioned entities are
prohibited under U.S. law. However, there is a
general license -- it's called General License 13
-- that allows U.S. citizens and entities to make
payments as long as they're for registrations,
certifications and licenses to conduct day-to-day
operations. So, we are engaging with OFAC to make
the determination whether maintaining your IP
portfolios in Russia falls within that rubric of
day-to-day operations. So, you can please feel
free to reach out to OFAC. Understandably they
are incredibly overwhelmed -- not just with IP
questions -- but all of these business-related
questions. As soon as we get more guidance from
them -- we have given them broad descriptions --
the purpose of the fees and how this really
impacts operations; and in particularly
Trademark-related operations for companies. So, I
think they're well aware of the issue, they are
trying to make a legal determination whether the
payments will fall under that license, and then you can continue to go make those payments. But we do recognize that this is a challenging time and we encourage you to please reach out to me or Nancy or Branden if you have any questions, and we'll update our notice as well. Next slide, please.

So, I also wanted to talk a little bit about what Russia's been doing with respect to IP. So, they've been taking some retaliatory measures. Our understanding is there is over 600 companies that have pulled out of Russia because of their invasion of Ukraine, and there has been some retaliatory measures with respect to IP that I just wanted to bring to your attention. These are all still kind of in progress and we're still trying to get some developments; it's a little bit challenging at the moment. One thing is Russia has authorized the use of compulsory licensing for patents without any compensation. Under international norms and TRIPS Agreement they're supposed to at least provide some renumeration;
they said there would be zero compensation for use
of foreign patents. They're also taking a lot of
actions to deny or dilute IP protections. One
such measure is they have enacted a law making it
legal to import grey market goods. These are
legitimate goods in other territories, but they
need to be approved before entering into the
market in Russia, and they're saying that that's
no longer required, they don't have to prove the
legitimacy or the authorization of those grey
market goods. The Ministry of Trade will be
identifying the list of goods that qualify and our
understanding is that will be really linked to
what the consumer need is. So, I think that's
just something to be on the lookout, that they'll
be identifying goods that will be permitted to
to enter the market regardless of whether they were
authorized to be there or not.

Another thing that we're seeing is there
is a lot of people taking advantage of the fact
that the U.S. brands are pulling out of Russia,
and our understanding is trademark applications
are actually being filed on these well-known marks. These include marks like McDonald's, Coca-Cola, Apple and Starbucks. It's not clear whether Rospatent will issue trademarks on these well-known marks, but that's just something to follow. Even more troubling is we just received word that there was a case that was filed by a British company claiming trademark and copyright infringement and the case was dismissed by the court on the grounds that the actions from the U.K. -- their sanctions were very harmful to Russia -- and therefore they deemed that to be an abuse of right; and the case was dismissed on those grounds. So, here we're seeing an IP action being dismissed due to the fact that some sanctions are being posed by the government. So, that's just something to be on the lookout for. That was one case we've heard -- we don't know if it's going to continue to be a trend -- but we are encouraging the stakeholders to continue to monitor these unauthorized uses or abuses of trademarks in Russia, and to keep up to date on
procedures for preventing export of infringing
goods from Russia to other markets; and please
feel free to reach out to us as these developments
arise so that we can do our best to try to address
them or get some more information. Next slide,
please.

This is just some trade-related actions
that the U.S. government is doing to kind of
address some of the concerns. May of you are
probably aware that President Biden called for the
U.S. to revoke Russia's MFN -- most favorite
nation -- status, which would downgrade Russia as
a trade partner and open the door for increased
tariffs. There are bills in the House and Senate
to revoke Russia's MFN status. If it's obviously
approved by the Senate -- approves the House bill
-- it will then go to the President for signature.
In response to those actions, our understanding is
there is a bill pending in Russia in order for
Russia to leave the WTO. If that's successful,
then they will not be bound by the TRIPS Agreement
as well and will not have to live up to their
international obligations for IP.

I thought I'd stop now. I know -- in case there are any questions on Russia -- I thought this would be a good opportunity for you to ask those.

CHAIRWOMAN NATLAND: Mary, I do have a question. I'm not sure if we're able to know this or not, but -- and it sounded like maybe we don't -- is there any prediction of when we may hear back as to whether the carve-out will be made so that U.S. companies can maintain their rights in Russia? I know in the past with other situations -- I believe in Venezuela -- in the past when we've had sanctions -- different situation obviously -- there has been that carve-out; so we have some precedent for that?

MS. CRITHARIS: Thanks, Susan. So, we're hopeful of that. I wish I could give you some more information on timing; we've been speaking with them all week, we've given them a whole host of information. I will say, they feel comfortable with all the information provided; so
they're just going to regroup and make a decision. I'm not really sure -- we will check in with them next week -- so as soon as we know, we'll definitely try to share the news with everybody.

CHAIRWOMAN NATLAND: Okay, thank you so much.

MS. CRITHARIS: And I just will add to that. There is a provision in the general license that this is only in effect until -- I believe -- June 23rd. So, there's also that concern, and I asked them whether that would be extended; they said that was also up for discussion. So, just to keep everybody posted on that as far as dates. People were concerned that they needed to make sure that they acted pretty quickly, but I think it's under consideration whether to extend that as well. Okay, so then; next slide.

I'll talk a little bit about our ICANN activities. So, ICANN Board is currently evaluating the need for a community proposed model for access to and disclosure of who is -- domain name registration record information for
legitimate interests. ICANN is also studying the subsequent procedures for the new generic top level domain names in preparation for the round in early to mid-2024. They also introduced the experimental global public interest framework to assist policy development processes and the intergovernment organizations work track on the protection of IGO names and acronyms is expected to be complete -- its' final report April -- and ICANN is also seeking public comment on the uniform domain name dispute resolution policy status by April 19th. The next ICANN meeting will be held in June; it'll be in a hybrid format. So, next slide, please.

Just a few updates on the WIPO SCT meetings. So, we had this meeting just last week and the next meeting will be in November. One thing that's talked about is -- again -- these generic top level domain names -- and country development use and enforcement of nation brands is also a topic under discussion; and on the margins of the SCT, there is some information
sessions -- which I think are really helpful and useful to all the participants at WIPO -- having a GI information session, and also possible future information sessions on nation brand protection will also be proposed. One highlight I just wanted to share is, typically our General Assembly in WIPO meets in the fall. This year they will be meeting in July -- I think trying to change up the schedule -- so, that will also set the budget and program for the upcoming year; but I just wanted to highlight kind of a change in schedule.

So, I'm now going to turn over the TM5 developments to Nancy Omelko.

MS. OMELKO: Thanks, Mary. The TM5 is meeting on the margins of intel, and TM5 is the group of countries -- the largest Trademark offices -- which would include Japan, Korea, the Europe IPO office -- EU -- sorry; also, the U.S. And China; and because China isn't appearing in person, we are going to have to start virtual meetings for them early in the morning. And then the midterm user session is May 01, 2022. This is
the first time that the partners have met in person since 2019. Some of the projects that are under discussion are raising awareness about trademark infringement -- also, fraudulent solicitations -- and we are continuing to do work on goods and services; trying to harmonize so that applicants can file in many countries of the five -- possibly all five countries -- using the same identification of goods. Next slide, please.

And then we also had some training highlights -- this is just highlights as noted in the subject line. There was a webinar for Oceania Customs Organizations -- member states -- on trademark protection. These island nations -- although it does include Australia and New Zealand -- the smaller islands are really new to IP systems and so we're trying to work with them and possibly get some type of regional work done as well. There was also a webinar on well-known marks and bad faith with ASEAN. Well-known marks and bad faith continue to be hot topics around the world, and so we're very happy to engage on those.
There was also a webinar with the Philippines on the GI -- Geographical Indications Policy -- on generic terms and disclaimers. We really want to help our producers -- mostly of cheese and processed meat, and also wine -- to be able to trade in other countries where their use of generic terms is perceived as counterfeiting or abusing geographical indications from primarily the EU. We also had a webinar on distinctiveness, descriptiveness, nontraditional marks and TTAB overview, and appeals, and oppositions and cancellations with Pakistan. Well-known marks and also nontraditional marks are very hot topics; and so, understanding how to describe nontraditional marks -- some of which are not graphically represented. We go into that pretty much in detail with those other partners. We also had a webinar on TTAB overview and appeals, and also the Madrid Protocol with Bhutan -- and I know that Gerry Rogers is following us, so I want to say that we don't overstep, we just talk about the basics.
And that's my part of the presentation.

Now over to you, Branden.

MR. RITCHIE: Okay. Thank you. Next slide. Thank you. So, one development that happened since the last TPAC meeting that is worthy of note -- and we will be just providing a summary today of the holding -- was the Elster decision by the Court of Appeals for the Federal Circuit; and in that case there was a refusal that the office issued against the mark TRUMP TOO SMALL, and one of the refusal was under Section 2C of the Lanham Act -- and that's the provision that prohibits the registration of marks that include names that identify particular living individuals without their consent -- and the applicant appealed that and the TTAB affirmed the refusal. The applicant then appealed to the Court of Appeals for the Federal Circuit and that court issued an opinion in February that held that not the statute itself, but the statute as applied to refuse this mark was unconstitutional because it was an unconstitutional restriction on the
applicant's free speech right. One of the main arguments the court made was that the rights of privacy and publicity were not sufficient for restricting speech when the person that the speech is about is a public or political figure, without the showing of actual malice. So, that is one we're watching -- PTO is discussing -- and we just wanted to highlight that at the summary level for TPAC this time.

That is all I have. So, back to Mary.

MS. CRITHARIS: Well, we just want to know if anybody has any questions -- or actually -- any developments that they want to share with us? We'd just like to take this opportunity to also get some feedback on international developments that we're not aware of.

CHAIRWOMAN NATLAND: Anything from TPAC?

Okay. Well, thank you very much. You guys are all over it as far as I can see; so, great work on -- I know you guys have a lot of balls in the air at once -- and I really appreciate that. So, thank you very much; and with that, I think we
will move on to the report from the TTAB, and
Chief Judge Rogers; over to you.

JUDGE ROGERS: Thank you, Susan. Given
Branden's reference to the Elster decision, I
might just point out one thing before I go into
the slides; and that is that the Department of
Justice essentially acts as the USPTO's attorneys
when they're defending a statute passed by
Congress against a constitutional challenge. So,
normally the Solicitor's Office attorneys here
within the USPTO would defend -- at the Federal
Circuit -- the decisions that the TTAB issues in
an ex parte appeal from an examiner's refusal of
registration because the Solicitor's Office
attorneys act as our advocates in the appeal of
these ex parte matters to the Federal Circuit.
However, when a constitutional challenge arises,
the Department of Justice attorneys step in -- and
of course they work with the Solicitor's Office
attorneys as well. I point this out because
Branden noted that the decision issued -- and some
people may be wondering "well, what's next?"
Well, of course there's always the possibility that the Department of Justice doing its job in regard to defending statutes passed by Congress might want to seek a review at the Supreme Court and might file a petition for a writ of certiorari. I'm not saying that they are doing that or they're planning to do that, I'm just acknowledging that this is a possibility and that this is not necessarily the last word on Section 2C; and of course, if the Department of Justice wants input from the USPTO, then the USPTO will be able to provide that through the Solicitor's Office attorneys. So, that's all we need to say about Elster; and we'll move on to the TTAB status report.

So, the next slide I -- you may be wondering -- those of you who don't come to TPAC meetings on a regular basis -- why am I starting with figures that relate to fiscal 20'? Well, because I want to make two points. One is that in previous meetings we've had with the public advisory committee we've noted the really
significant increases in the TTAB's workload that
came in fiscal 17', 18', 19'; and frankly, we had
8 to 9 year run-ups in new proceedings being
commenced -- new appeals, new oppositions, new
cancellations. So, it was significant that in
fiscal 20' -- of course -- we entered into the
pandemic and we began to see moderating filings.
There were -- of course -- economic consequences
for our entry into the pandemic, and so in fiscal
20' while we still saw some increases in appeals
and petitions to cancel, the increases stopped in
oppositions and the increases even in petitions to
cancel were lower than they had been in previous
years. Next slide, please.

In fiscal 21' -- the fiscal year that
ended last September -- we saw continuing
moderation of new cases being commenced at the
Board. So, there was a slight increase in
appeals, but we saw on the previous slide a larger
increase in the previous year. So, appeals --
while they increased in number -- were going down
from the previous year, and everything else also
declined; although the opposition decline is very minor and they're pretty steady. Next slide, please.

So, that brings us to the current fiscal year and the question whether these declines that we've been seeing for the last couple of years are continuing this year or are things going to be changing and moving up? You might think about this question -- knowing that we heard earlier in the Trademark's presentation about the tremendous surge in applications -- and Commissioner Gooder pointed out -- that that has ramifications for other parts of the office -- for petitions and post registration, and all sorts of other areas; and of course that surge in trademark application filings has the potential to create more appeals for the TTAB and more trial cases. You would not see that if you look at these figures for the first half of this fiscal year; but then again, we have to keep in mind that a trademark surge will take a year or two before we start seeing more filings at the TTAB. So, based on these figures,
we don't see the effects of the surge hitting TTAB just yet. However, I will point out that in March alone -- the most recent month -- we had the highest level of petitions to cancel filed for the entire fiscal year. We also had the highest level of notices of opposition. So, even though these two categories -- new cases -- are showing a downward trend for the year, it might be starting up. So, we'll just have to keep an eye on it and see. Next slide, please.

This slide and the next one are included simply to illustrate in a different way than just these numbers on slides kind of the fluctuation -- if you will -- in terms of the filing. So, this just covers this period I've been talking about from 2021 and the first half of this fiscal year during the pandemic. So, you can see on the top line that oppositions have gone up and down, and we expect that they will continue to fluctuate, but they will probably stay pretty steady between 1,600 to 1,800 coming in each quarter; and so, the fluctuations are within a certain range. We can
see on the appeals line in the middle also some
fluctuations up and down; but again, between 800
and 1,000 appeals per quarter coming in.
Cancellations around 600 a quarter are going to be
coming in. Next slide, please.

This shows not the incoming new work for
the Board, this slide shows the total number of
pending cases that are pending at the Board at any
one point in time; and of course, we know that for
most of our trial cases, they are not going to be
active cases most of the time. So, even though we
have between 5,000 and 6,000 oppositions pending
at any one point in time before the Board, it's a
small fraction of those which are actively being
litigated involving motion practice and involving
the need for Board attorneys and judges and
paralegals to work on them. Of course, most trial
cases at the Board -- just like most civil
litigation -- ends up settling or being disposed
of long before we need to do a significant amount
of work on the cases. But, I thought this slide
was useful to show that even though we have these
kind of quarterly fluctuations in terms of the new cases coming in, the overall levels of work at the Board have been steady throughout the pandemic in terms of the total number of cases on our docket that have the potential to require attention by the Board. Next slide, please.

So, we have pendency goals because we want to make sure that we're doing things in a timely fashion. Our pendency goals focus on the parts of our processes that are completely within our control. So, in trial cases we have a goal for deciding contested motions within a certain period of time from when they are ready for decision and we have goals for how long it takes panels of judges to decide cases -- both appeals and trial cases -- on the merits from the time they are ready for decision. So, in fiscal 21' -- the previous fiscal year that closed last fall -- we met all our goals. All of these figures you see are well below the goals. Twelve weeks is the goal for motion pendency processing. Twelve weeks is the goal for getting out decisions in appeal
cases when those cases are ready for decision; and

trial decision pendency, the goal is under 15

weeks on average. So, we met the figures and

we're keeping pace with the work -- again --

because we have not yet seen a big impact from the

trademark filing surge. Next slide, please.

So far in end-to-end processing -- again

-- still this is the previous fiscal year. This

is not so much a goal -- we don't have complete

control over the processing time from the

commencement of a case to the completion of a case

-- so these figures -- we track them because we

think that they are useful for counseling clients

and for parties to know how long things are going

to be pending at the Board; and these are -- again

-- average figures and median figures, and we

exclude from the calculations a small percentage

of cases that involved anomalous prosecution

histories. So, in fiscal 21' you can see that it

took around 35 weeks or so for an average appeal

-- one that didn't involve an anomalous

prosecution history -- to be decided from the time
it was commenced. Now of course not all appeals need to be decided, but for those that were decided, they were decided in about 35 weeks; and you can see the average pendency and median pendency for trial cases, oppositions and cancellations ran about 3 years or a little less. Next slide, please.

So, the pendency goals -- turning from these pendency goals and end-to-end processing figures in 21' -- now we're looking at the first half of this fiscal year. Again, we are meeting all of the pendency goals for processing contested motions and issuing decisions and appeals in trial cases, and we are -- again -- cognizant of the fact that we may yet see more cases and we may have more work that ultimately will challenge us a little bit more to meet these goals; but we're pretty confident that we're going to meet them all by the end of this fiscal year and then we'll just be monitoring filing levels and work levels as we move forward. Next slide, which I believe is the last one with numbers.
So, this is the end-to-end processing time for the first half of this year. So, up a little bit in processing of appeals; but actually down a little bit in terms of the processing of trial cases. Let me move on quickly, and try and save some time for questions.

So, if we can go to the next set of slides on the pilot program; and the next slide will help. I'll just briefly mention the pilot. I've mentioned this at previous public advisory committee meetings, and the Board is preparing to enter into a pretrial conference pilot. This would be a conference that the parties would enter into with a Board judge and a Board attorney after the close of discovery and prior to the onset of trial; and we will focus on cases with indications having manifested themselves during the pleading or discovery phases as likely to create large or redundant or unfocused or unwieldy records -- which if we go to the next slide -- we can talk about the fact that that does not help anybody -- it doesn't help us, it doesn't help the parties.
So, the goals for this pilot are to save the time and resources of the parties and the Board, and to foster effective presentation of cases. We can move a few slides ahead to the first one with an image from the PTO website. We can keep going, one more I think; there we go, there's the first one.

So, I skipped over those slides because I want you to know that the content on those slides -- and more detailed versions of it -- will soon be on the PTO's website and the TTAB page in particular. So, if you've found yourself at the TTAB webpage, on the main TTAB webpage you see in this middle column, practice and procedure; and the second carrot under practice and procedure lists final rules and pilots. If you clicked on that link from the TTAB webpage -- and we can go to the next slide now -- you will see on a portion of the page that you get to the pilot's portion. The pilot's portion within the next few weeks will have a listing for the final pretrial conference pilot. If you clicked on that link, you would get
all of the background information, what our goals
are for the pilot, and that sort of thing; plus
you would see a template, which is a form of order
that the parties would discuss and bring to the
final pretrial conference with the Board, attorney
and judge; and so, on this page -- the pilots and
final rules page -- you would see the information
on the pilot plus the model format for the order.
Next slide, please.

If you clicked on the final pretrial
conference pilot bullet this is what you will see.
This is not accessible via the TTAB webpage now,
but -- again -- it soon will be; and with this
dropdown menu you can find out everything you'll
need to know about the pilot and how it will work,
what we hope to accomplish; and what we really
want to encourage is people to go to this page, to
look at this material, to look at the final
pretrial conference order template, and to give us
input. We've already had some input in our
discussions with TPAC and we value input from all
of our customers and stakeholders.
So, that's it, Susan. I know we're running up against the 2:00 hour, but I hope you still have a little bit of time for your questions and answers; if you've gotten any from the public.

CHAIRWOMAN NATLAND: Thank you so much, Chief Judge. Is there any questions from TPAC for Judge Rogers? Okay. Well, thank you very much.

Commissioner Gooder, I'd like to hand it over to you to address any public questions that have not yet been addressed.

MR. GOODER: Oh, thanks, Susan. Excuse me. We just got a very few questions. Some of them were direct ones that we've passed to our Trademark Assistance Center and the Petitions office to handle directly with the person who asked them because of the nature of the question -- it's not really a group-wide question -- and there was one question -- I think Glenn has pretty much answered in his talk -- about what's being modernized, etc. -- except to add one thing to it -- and that is, as we modernize -- as we bring these new systems on -- mobile accessibility is a
priority. So, it's not just going to be browser compatible with a lot of what we do. That takes time to make sure those things happen, but it's a priority to us.

I think that's it. I don't see any -- no other -- questions that came in.

CHAIRWOMAN NATLAND: Okay. Great. Well, we have a minute or so left. I actually just have a quick question with respect to the recent report on intellectual property in the U.S. Economy, focusing on IP intensive industries. I really just want to flag it, number one. It's a great report and I think anybody in the IP community should read it. I've read it, it's excellent. It underscores the value of IP -- in particular trademarks -- for us here -- to the U.S. economy and how IP and -- again -- trademarks being a huge part of that helps drive the U.S. Economy. I believe that was authored by the Chief Economist Office and that's part of the OPIA, so I don't know if anybody from OPIA wants to maybe just comment real quick -- a summary of it --
maybe just a few words; and I do believe it's on the USPTO website.

MS. CRITHARIS: Thanks, Susan; we appreciate you raising the report. This was published last year -- the data goes back to 2019 -- but as you know, it's a great report, I really encourage everybody to read the report and also use the data in the report. It has already been circulated to our different agencies and they'll be pulling the data from the report, but I think it really highlights the importance of IP to the American economy; and it accounts for over 7 trillion dollars at the GDP and our workforce in IP intensive industries is significant and they get paid better; accounts for better healthcare benefits. So, it's a great report to see. The next thing that we did in this report also is we highlighted different companies and different industries, so I encourage you to -- like I said -- everyone to really look at the report and use the data in there.

CHAIRWOMAN NATLAND: Thank you so much
for that great work and I believe it can be relied
on by a lot of different companies, practitioners,
USPTO -- it's very well done. Any other questions
from TPAC members? I don't think we're going to
explode or anything if we go a little bit over. I
don't know if anybody else has any questions?
Okay. All right. Well, we're on the hour
basically; so I want to thank everybody again.
This will adjourn our meeting for today. I'd like
to give another special thanks to the USPTO
leadership, as well as the staff -- including
Anastasia Johnson -- who is sort of the glue that
keeps this meeting together -- with a lot of other
people who do a lot of work behind the scenes for
this meeting. So, thank you to everybody for your
assistance. Thank you to the public for attending
-- I think it's the most I've seen. I feel like
every TPAC meeting I've been involved with there
seems to be more and more attendees; which is
fabulous because it really is a great resource.
And with that, I just wish everybody a great
weekend and look forward to seeing you next
quarter.

MR. GOODER: Thanks, Susan. Thanks, everyone.

CHAIRWOMAN NATLAND: Thank you.

(Whereupon, at 2:02 p.m., the PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

I, Kendra Hammer, 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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