

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)

PUBLIC MEETING

Alexandria, Virginia

Friday, April 8, 2022

1 PARTICIPANTS:

2 TPAC Members:

3 SUSAN NATLAND, Chair

4 DAVID CHO, Vice Chair

5 TRACY DEUTMEYER

6 JOMARIE FREDERICKS

7 JENNIFER KOVALCIK

8 TRICIA MCDERMOTT THOMPkins

9 ADRAEA BROWN

10 DANA BROWN NORTHCOTT

11 RODRICK ENNS

12 Union Members:

13 JAY BESCH, NTEU 245

14 PEDRO FERNANDEZ, POPA

15 HAROLD ROSS, NTEU 243

16 USPTO:

17 AMY COTTON, Deputy Commissioner for  
Trademark Examination Policy

18 MARY CRITHARIS, Chief Policy Officer and  
19 Director for International Affairs, USPTO

20 GREG DODSON, Deputy Commissioner for Trademark  
Administration, USPTO

21 DAVID GOODER, Commissioner for Trademarks, USPTO

22

1 PARTICIPANTS (CONT'D):

2 JAMIE HOLCOMBE, Chief Information Officer, USPTO

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

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

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

10 MARY CRITHARIS, Chief Policy Officer and  
11 Director for International Affairs

12 NANCY OMELKO, Senior Trademark Counsel for  
13 International Policy

14 BRANDEN RITCHIE, Domestic Policy Senior  
15 Trademark Counsel for Domestic Policy

16 LISA HILTON, Trademarks Product Line Manager

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## 1 P R O C E E D I N G S

2 (11:00 a.m.)

3 CHAIRWOMAN NATLAND: Welcome everyone to  
4 the second quarterly meeting of the USPTO  
5 Trademark Public Advisory Committee. My name is  
6 Susan Natland, and I am Chair of TPAC and a  
7 partner of the law firm of Knobbe Martens. First,  
8 I would like to welcome my esteemed TPAC  
9 colleagues to the meeting, starting with my  
10 wonderful vice chair of TPAC David Cho, who is  
11 Assistant Vice President Senior Legal Counsel of  
12 Trademarks at AT&T. And, then in order of  
13 seniority, welcome Jennifer Kovalcik, Vice  
14 President of Technology and Intellectual Property  
15 counsel for Community Health Systems. Next,  
16 Tricia McDermott Thompkins, General Counsel of  
17 Shoe Show, welcome Tricia. Tracy Deutmeyer, a  
18 shareholder of Frederikson and Byron, Jomarie  
19 Fredericks, Deputy General Counsel and Chief  
20 Intellectual Property and Brand Counsel for Rotary  
21 International. And moving on to our 3 newest  
22 members of TPAC. I'd like to welcome Adraea

1 Brown, Vice President Assistant General Counsel at  
2 H-D U.S.A. / Harley- Davidson, Dana  
3 Brown-Northcott, Vice President and Associate  
4 General Counsel at Amazon.com and Rodrick Enns, a  
5 partner and Enns and Archer. I'd also like to  
6 introduce and welcome our three union reps. Jay  
7 Besch, of the National Treasury employee union,  
8 local 245, Harold Roth of the National Treasury  
9 union local 243, and Pedro Fernandez, of POPA, the  
10 patent office professional association. Welcome  
11 TPAC members! Next, I would like to congratulate  
12 Kathi Vidal on her recent confirmation. I, and I  
13 know the rest of TPAC, very much look forward to  
14 working with Director Vidal. I would also like to  
15 thank Acting Director Hirshfeld for his service  
16 and dedication to his role. It has been a true  
17 pleasure to work with him this last year. And  
18 finally, I would like to thank Director Gooder and  
19 the USPTO leadership. It has been a career  
20 highlight to work with such high performing  
21 leaders at the USPTO for the common goal to  
22 support IPR and the US worldwide. I'd also like

1 to remind you that if you have any questions to  
2 submit during our meeting today, please go ahead  
3 and email them to TPAC@uspto.gov, again  
4 TPAC@uaspto.gov, and with that I would like to  
5 turn the floor over to Commissioner David Gooder.

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

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

12 MR. GOODER: Again, can you hear me  
13 okay? Okay, good. Anyway, thanks again, and  
14 welcome everyone. We look forward to these  
15 meetings because it really, gives us a chance to  
16 kind of look at a lot things going on with the  
17 trademark office and the USPTO in general, and to  
18 hear from you all, so, let's dive in. We're going  
19 to talk today about our year-to-date business  
20 operations, updates, and a bit about the  
21 performance with regard to filings and staffing,  
22 etc. Our CFO will then, come in and give a bit on

1 the financial side of that equation, and then  
2 we'll talk about some more management-oriented  
3 updates. Some that are more general in nature,  
4 some in regard to operations policy,  
5 administration, IT, etc. So, we've got a full --  
6 a full batch of things, so let's go ahead and get  
7 rolling. Next slide, please. Now, we can go one  
8 more. There we go, okay, and next slide. Thanks.  
9 All right. So, if this is a look at how  
10 trademarks operations have gone over a long period  
11 of time, all the way back to fiscal 1990. And  
12 what I just want to highlight with this is, you  
13 can see that in fiscal 21 which hit an amazing  
14 high point, and you've all -- you've been  
15 attending TPAC meetings or keeping an eye on  
16 things, you know that that's had an enormous  
17 impact on the office, and we'll talk about that  
18 impact on the office and what things we are doing  
19 to try to mitigate that. This fiscal year to  
20 date, thought is a healthy level although, it's a  
21 notch below last year, which is actually a good  
22 thing. I caution people to compare -- in

1 comparing too much to 21 because it was so  
2 abnormally high, so anything below that its going  
3 to look like applications are down, when compared  
4 to fiscal 20, we are up a very healthy 18 percent.  
5 So, it's -- it's the increase or the level of  
6 filing this year, and we're only halfway through  
7 the year, but so far, we are very much on par with  
8 the kind of growth we've seen over the years. So,  
9 next slide please, all right what is interesting  
10 is -- I thought I would share that with you all,  
11 this is a historic look at the months of the year  
12 and essentially when trademark applications tend  
13 to come in. And, what I find interesting is that  
14 the first 5 months of the year are typically below  
15 the norm, below par, whatever you want to call it,  
16 sort of the zero line, and then from March onward,  
17 you see filing generally above that. And, that's  
18 been consistent looking all the way back to fiscal  
19 13. What is interesting is that there are certain  
20 months that are certainly higher, notably March,  
21 and then summer months, and in the first half of  
22 the year, you'll see October and December a bit



1 low, and the reason that that exists this year is  
2 because of the abnormally high levels of filing in  
3 fiscal 21. Both months were high, so excuse that  
4 a bit. But, it's interesting and there's a lot of  
5 speculation, as to why March is such a bump, but  
6 there's lot of theories about that, but it does  
7 give you an idea of how our fiscal year tends to  
8 roll and given the volume of applications, that's  
9 obviously very indicative of what's happening with  
10 the trademark owners and the economy, etc. Next  
11 paragraph, please. I mean, next slide. So, this  
12 gives you an idea of sort of where, national  
13 origin of those applications, so far this year.  
14 The blue top line is the US, and you can see it is  
15 slightly up to 63 percent and on an uptick. The  
16 yellow line right below is China, and you can see  
17 the huge spikes that I had just mentioned that  
18 occurred in the September and December of last  
19 year. They -- applications from China are back  
20 down to 16 percent that's, pretty historically  
21 about where China has been over the last 5 years.  
22 Next, is the sort of purple line, which is the

1 rest of the world, so to speak, because the green  
2 line is the European Union and in that -- in the  
3 broad sense, so including UK, Switzerland, Norway,  
4 countries that are technically part of the EU, and  
5 they are slightly up as well, so it's -- this is  
6 an interesting look, because people often say  
7 where does everything come from and this helps you  
8 understand that. Next slide, please looking at  
9 fiscal 22 compared back to 21, what you can see is  
10 that both the US and China are slightly lower than  
11 they were last year, even though they are healthy.  
12 The US to some extent, China to a significant  
13 degree, but what's very interesting is how healthy  
14 filings are coming in from Europe. And secondary  
15 from the Americas, not counting the US, so, Latin  
16 American, Central, South America, Canada, Mexico,  
17 etc. Next slide, please. In terms of staffing,  
18 we are now over 1000 employees, 1084 pushing  
19 almost 1100 and we are about 735 examiners and 32  
20 more were hired and onboard in March, just a  
21 couple of weeks ago. The crew that started in  
22 last October are still part of what we refer to as

1 the Trademark Academy, but we are now, in a  
2 standard production and working and amping up to  
3 become more and more efficient as the months go  
4 by. We are still in a state of what we call,  
5 maximum telework. The Department of Commerce has  
6 issued a notice that we will move to, so called  
7 phase 3, and the PTO will move back to phase 3 on  
8 May 25th. That impacts things like occupancy in  
9 the building, ability to have visitors, that type  
10 of things. The vast majority of people on  
11 trademark, in the trademark office, were  
12 teleworking prior to the pandemic, are still  
13 teleworking. And, there may be some changes that  
14 people decide to make over -- now that people will  
15 be able to go back to the office, but most will  
16 probably continue to telework, I would imagine.  
17 So, anyway, next slide please, at this point I  
18 want to pass the mic over to Jay Hoffman who is  
19 our Chief Financial Officer, for the PTO and Jay  
20 will take us through look at the financial side of  
21 what I have just discussed. Good morning, Jay.

22 MR. HOFFMAN: Good morning, I hope you

1 all can hear me okay --

2 MR. GOODER: Yep.

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

8 MR. GOODER: There we go.

9 MR. HOFFMAN: Okay, great. All right,  
10 thank you for your patience. If you could please  
11 advance to the next slide. My name's Jay Hoffman  
12 I'm the Chief Financial Officer of the USPTO, I'll  
13 walk you through quick financial update, so, first  
14 good news. The President signed the consolidated  
15 appropriations acts, on March 15, this is  
16 important because the USPTO, a congressional  
17 appropriation, in order to have the authorization  
18 to spend the fees that we collect. That  
19 appropriation was made at 4.058 billion dollars.  
20 Which is in line with the agency's fee collection  
21 estimate for FY 2022. There are some provisions  
22 in that appropriations bill which are fairly

1 routine at the point. The appropriations provides  
2 that any amounts that we collect, in excess of the  
3 4.085 billion, will go into the patent and  
4 trademark fee reserve fund, meaning that should we  
5 collect more than we expect the agency, will still  
6 be able to obtain those funds, for spending in the  
7 subsequent fiscal year. We have 2 million dollars  
8 that is being transferred to the Office of  
9 Inspector General to carry out investigations and  
10 audits. Again, this is a typical amount. And we  
11 have \$13,500 for official reception and  
12 representation expenses, again a fairly standard  
13 amount. So, overall, we are fairly pleased with  
14 where we landed in the appropriation this year  
15 with the omnibus. Next slide, please. Let me  
16 walk you through what this means for the trademark  
17 organization, we're going to focus principally on  
18 the center column labeled 'Trademarks' here. This  
19 is the total financing that we project to be  
20 available for the trademark's business. We start  
21 with the first line, our fee collection estimate  
22 for trademarks in the budget, was \$450 million.

1 We've since updated that fee collection estimate  
2 to \$495 million dollars, and we think we'll be  
3 slightly above budget levels, if that does in  
4 fact, happen those funds would be put in the  
5 trademark and patent trade fee reserve fund. We  
6 have \$218 million dollars to start the year in our  
7 operating reserve, this gives us total available  
8 funds for the trademark business project for FY  
9 2022 \$668.3 million dollars. Spending  
10 requirements for trademarks are \$460 million  
11 dollars meaning that we have more than adequate  
12 financing sources available to cover all financing  
13 requirements for the trademark business and we  
14 anticipate that we should, end the year with an  
15 operating reserve balance in excess of \$200  
16 million dollars. Next slide, please. This is a  
17 look at our FY 22 revenue and spending. Let me  
18 acclimate you to this slide, the Y axis is  
19 millions of dollars, the x axis is in the fiscal  
20 years. Our fiscal years runs October through  
21 September. You'll see 2 different bars on this  
22 chart. The blue bars are our spending in the

1 trademarks area, the red bars are our fee  
2 collections, our revenue that we are getting year  
3 to date, for trademarks, and the green line that  
4 you see going across the chart, is our spending  
5 target, our total spending plan, as I said before,  
6 we are planning to spend about \$460 million  
7 dollars, this year. The takeaway is as follows.  
8 Our revenues, should exceed spending by the rest  
9 of the fiscal year, meaning that we will be able  
10 to grow our operating reserve, and 2022 spending  
11 is right on target. There's nothing anomalous in  
12 our spending at this point, we're on target to  
13 spend the \$460 million. Next slide, please, let's  
14 quickly take a look at where we stand with  
15 trademark revenue. Let me acclimate you to the  
16 slide first, the x axis is in millions of dollars,  
17 the Y axis is in months. You see a blue line here  
18 that is a 25-days moving average of the trademark  
19 revenue rate, meaning that this is annualized, and  
20 then the purple line is our target of \$495 million  
21 in revenue collections for the year. As you can  
22 see from the chart, the revenue rates for

1 trademarks, is tracking slightly below our  
2 expectation. We're tracking at about \$482 million  
3 dollars which is 2.7 percent below planned. We've  
4 been below planned all year, we are continuing to  
5 monitor this. It's certainly well within the  
6 tolerance for our financing expectation for this  
7 year so, we'll continue to update you if we see  
8 any continual degradation, but as you can see from  
9 the chart, it's fairly flat at about \$480 million  
10 dollars. Next slide please, this is the trademark  
11 operating reserve balance. As you can see here,  
12 the 25-day moving balance, as you can see here,  
13 the 25-day moving average for the trademark  
14 operating reserve balance is about \$224 million  
15 dollars. Our minimum operating reserve balance is  
16 \$120 million, that's where we set our minimum  
17 threshold, that equates to about 3 or so months of  
18 trademark operations. Our optimal reserve balance  
19 which equates to 6-7 months of operations is about  
20 \$269 million dollars, as you can see, we are well  
21 above our minimum thresholds, we are making good  
22 progress towards reaching our optimal levels, the



1       takeaway here is that from a financial  
2       perspective, the trademark business is in very  
3       strong position. Next slide, please, I know Dave  
4       has talked about in different sessions, trademark  
5       tendencies, this is something we look at because  
6       of the correlation to our revenues and our  
7       differed revenues. The current trademark average  
8       pendency is right now tracking at about 12 1/2  
9       months at least, as at the end of February, with a  
10      goal of 13 1/2 months, while the first action  
11      tendency is about 7.6 relative to a target of 7.5  
12      strong application filings, largely resulted in  
13      this increases in pendency. As the trademark  
14      business cools a little bit from a revenue  
15      perspective, we're hoping that these curves will  
16      flatten out or perhaps even come down in the near  
17      to midterm. Next side, please. I want to talk a  
18      little bit about the FY 2023 budget requests, so  
19      the while the omnibus for FY 2022 it was just  
20      passed a few weeks ago. We're already off and  
21      running on our budget request for next year,  
22      starting in October. We, not just USPTO, but the

1 entire federal government submitted budgets to  
2 Congress in March. The FY 2023 budget request for  
3 the USPTO expects total revenues to be about 4.23  
4 billion dollars in FY 2023. We think that breaks  
5 down to about 3.7 billion dollars for patents, and  
6 about \$542 million dollars for trademarks, you can  
7 see from this slide the big takeaway is over the  
8 5-year budget horizon, we're projecting that total  
9 fees both patents and trademarks will continue on  
10 an upward trend. Next slide please, looking at  
11 some of the spending that is in the FY 2023  
12 budget. The overall budget including patents,  
13 trademarks, and mission support for about 14,363  
14 positions at the agency and total spending of  
15 about 4.15 billion dollars. We are a people  
16 driven organization so about two-thirds of all of  
17 those dollars are about compensation, and about  
18 1/3 are for non-compensation costs like contracts,  
19 information technology, leases. You can see here  
20 on the right there is a pie chart that breaks out  
21 that spending for trademarks of that total 1.4  
22 billion \$504 million in planned spending for

1 trademarks, again that 2/3 - 1/3 split between  
2 compensation and non-compensation, about \$331  
3 million dollars for comp and the balance going to  
4 non-compensation. Next slide please, we're  
5 already thinking about the year after that, we're  
6 always looking over the horizon the FY 2024 budget  
7 formulation process is actually kicking off now,  
8 and will get underway in earnest through the  
9 spring and summer. This will include a rebase  
10 lining of our 2023 requirements and revenue  
11 estimates, which means we'll just take a fresh  
12 look before the 2023 year starts in make any  
13 adjustments upward or downward that we need to.  
14 We'll of course, be coming back to the TPAC to  
15 provide our budget requests and get your insights  
16 on them, that'll happen in the August timeframe,  
17 and we ultimately submit these initial budget  
18 requests for FY 2024 to the office of management  
19 and budget in September. So, Dave and Susan that  
20 is all I had for you this morning. I will stop  
21 there. Thank you very much.

22 MR. GOODER: Thanks Jay, very much. Any

1 questions from the TPAC for Jay before we before  
2 we let him go?

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

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

9 MR. GOODER: Thanks Jay, and if we can  
10 pull the primary slide back up. That'll be great.  
11 And, we'll talk about some kind of additional  
12 management related updates with regard to the  
13 trademarks not financial things. So, there we go.  
14 We'll talk about 3 things. The -- first of all --  
15 just hold for a second, e registration, electronic  
16 registration certificates that are coming soon and  
17 an update on our ID verification project that has  
18 been going on. The first thing I just wanted to  
19 mention you -- probably heard that we have really  
20 really pivoted -- how we deal with the scams that  
21 are aimed at the agency, at customers, whether  
22 that's customers or registrants, etc., and they

1       come from all different places, they are growing  
2       in sophistication, they are growing in frequency,  
3       literally like any company that has faced a  
4       counterfeiting problem, you realize that it takes  
5       a while for it to really gain momentum to the  
6       point, where you really cannot deal with the that  
7       way you used to, and that's what's been going on  
8       the last three years. One of the things we did  
9       this year, which I wanted to -- just mentioned is  
10      that Amy Cotton, who you will hear from in a  
11      second, joined up at EYPO and has a thing called  
12      the anti-scam and it is a network. And, it's a  
13      network of all the countries that have a -- the  
14      EYPO. And, why this is important, and I wanted to  
15      mention it, because more and more of the scams  
16      that we see are, have an international bend to  
17      them, they don't just come from the US, if you had  
18      seen the two really significant sanction orders we  
19      issued in the last couple -- three months, one  
20      originated out of China, one originated out of  
21      Pakistan. So, we've had a significant criminal  
22      action that went to trial and the defendant, is

1 now serving time and he was from Latvia. We met  
2 with all the European countries including Europol  
3 and, in order to, exchange what is happening with  
4 all of us, because the one thing that we know, is  
5 that the more we cooperate the more effective we  
6 can be at fighting these issues. And we learned  
7 some very interesting things. The US situation is  
8 a bit bigger and more involved than most of the  
9 countries in Europe are seeing. So, it was really  
10 helpful for both sides to hear what's happening,  
11 and it's not just these kinds of things, that we  
12 all see where you get a notice where you file  
13 something, or register something where somebody's  
14 trying to get you to do things, there's all sorts  
15 of fraud that is happening. The Polish trademark  
16 office actually reported that they are having  
17 judicial decisions being forged, things like that  
18 so, it's the cooperation -- is really important  
19 and we are really pleased to be a part of that.  
20 The next thing I want to talk about, and you can  
21 change slides here, is the electronic registration  
22 certificates. We mentioned this in a prior

1 meeting, but I wanted to mention again, because it  
2 is coming up fairly soon. We had received over a  
3 few years requests, continuous requests from our  
4 customers to issue electronic registration  
5 certificates, for a variety of reasons and we  
6 currently print about upwards -- more toward the  
7 8,000 a week level. So, it's a lot of paper, it's  
8 a lot of printing, it's a lot effort, etc. and  
9 what we've heard from customers, is that we really  
10 don't need the paper. Some really like it,  
11 depending on how many of these you have to deal  
12 with, so there's a lot of benefit in moving to an  
13 electronic registration that has a digital  
14 signature to it. Next bullet please, so that  
15 change is coming fairly soon, it right now, we're  
16 on target to cross over on May 31 of this year, so  
17 anything filed on or after that date will get an  
18 electronic certificate. Next bullet, and they'll  
19 be issued as you can see with a digital seal,  
20 people and customers can still buy a presentation  
21 copy, the nice printed sealed copy if people want  
22 it, and we'll of course track how that goes. But,

1 we think this is a really good step -- we are  
2 getting good feedback about it, and we just want  
3 to remind everybody about the May 31 crossover  
4 date. Next slide, please. Right, there we go. I  
5 want to move to either application, which is part  
6 of our program to help strengthen the register.  
7 And, as you if you've been around the trademark  
8 world in the US a long time, our systems, our  
9 database and system has been a very open system.  
10 And, we -- we have a very and we've relayed a lot  
11 on peoples' good faith over the years, frankly.  
12 And, with all the increases I mentioned in fraud,  
13 in scams, and these are scams like I said, aimed  
14 at both customers and directly sometimes at us,  
15 many of these scams involve some sort of  
16 manipulation of trademark filing records. And, so  
17 with that what we put into motion and something  
18 that Amy will explain in a second, next slide  
19 please. Essentially a 3-phase plan that improves  
20 the security of our systems. The first one is the  
21 creating the myuspto.gov account so anyone had to  
22 have an account to do it. The second phase is



1 verifying people's ids, so that it's clear that  
2 who you say you are, is actually who you are, in  
3 the system and then the third phase would be  
4 authorization to work with certain records. At  
5 this point Amy, I'll turn it over to you to  
6 explain where we're headed. And, about the  
7 different phases and what we are doing.

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

1 whack-a-mole, as you see with counterfeiting.  
2 Also, anyone can create a USPTO.gov that means  
3 anyone can access, any of the electronic forms,  
4 including the change of correspondence, address.  
5 Right, so if they file a CAR form through one of  
6 these USPTO accounts, and they change the  
7 correspondence address, these bad actors start  
8 receiving an application or a particular  
9 registration, so, we -- just having a log in does  
10 not prevent unauthorized parties from making  
11 submissions on files, right. It's not locked  
12 down. Also, phase one log in does not prevent  
13 multiple individuals, from using one account.  
14 Each -- one person - one account, that's the rule,  
15 that's what is supposed to be happening, we have  
16 anecdotal evidence that that's not happening, that  
17 multiple people are using a single account. And,  
18 we want to be able to isolate bad actors, to a  
19 single account. So, we're moving to phase --  
20 we're in phase 2 in the middle of it right now.  
21 Next slide, that's identity verification. Right  
22 now, identify verification is voluntary -- we're

1 in a voluntary phase. So, what is identify  
2 verification for? Well, it allows us to make sure  
3 the person -- the one person with the USPTO.gov  
4 account is who they say they are -- and, that they  
5 are accountable for whatever activities they are  
6 doing in front of the office. We need to be able  
7 to figure out the bad actors, and stop them from  
8 continuing to act. So, what we can do with  
9 identify verification though, once it goes  
10 mandatory, we can prevent new accounts from being  
11 created. That is significant -- that is very,  
12 very important for our fraud investigators to be  
13 able to block an account, take down and stay down,  
14 that's what we want. It also, because there is a  
15 user role feature, which I'll get to momentarily,  
16 the account holders have to identify their role,  
17 and when we get to that point, then we can have a  
18 situation where unauthorized parties are not able  
19 to have a USPTO.gov account and file submissions,  
20 because they are unauthorized. So, that's a part  
21 of the first verification as well as phase two.  
22 But, what does -- it not do -- what does phase 2

1 not do? It does not prevent someone who is  
2 verified, but not authorized. So, it could be  
3 that a person verifies their account, verifies  
4 their identity, but they can continue to file, but  
5 they are not authorized to do so, they can still  
6 hijack other people's applications, they can  
7 still file submissions, that they are not entitled  
8 to file, because they are not supposed to be  
9 representing parties before the USPTO, they do not  
10 speak on behalf of the owner. So, next slide  
11 please, so this has a user role component, again,  
12 we are in the voluntary phase, and we will be  
13 doing more outreach on what these user rules are,  
14 but phase two user roles, set the stage for phase  
15 3. So, I wanted to introduce that now to you all.  
16 There are four user roles: owner user, licensed  
17 attorney, Canadian attorney or agent, or attorney  
18 support staff. There are only four user roles,  
19 so, to the extent that you are verifying your  
20 account, you have to choose one of these roles,  
21 and you need to be one of these entities. So, if  
22 you do not fit into one of these entity

1 categories, you should not be verifying your  
2 account because you are not authorized to make  
3 submissions to the office. So, first account  
4 owner, a person who is an individual and the owner  
5 of the mark, a person who can bind the owner to an  
6 obligation and/or any agreement with whoever, like  
7 a corporate officer, and as well, a person who is  
8 employed by, a jurisdiction entity owner. So, we  
9 understand the different configurations,  
10 corporations, LLC's, sole proprietorships, all  
11 these different interactions we have to, take into  
12 account, in this owner role. So, if you have, you  
13 know the general, a principal officer of a  
14 corporation, and they can have an owner account,  
15 that person could have an owner account and they  
16 would be making submissions. Now to the extent  
17 that -- that person generally doesn't make  
18 trademark submissions, it goes to the general  
19 counsel, or the trademark counsel, or even a  
20 trademark paralegal within that corporation, all  
21 of those entities can have an owner account, they  
22 speak on behalf of the owner, it's certainly --

1 they can make submissions on behalf of the owner  
2 and verify all of the information, in the  
3 application, as being the owners intent. The  
4 second category, US licensed attorney, I think  
5 this speaks for itself. Active member in good  
6 standing, US licensed attorneys can have an  
7 account and US licensed attorneys can have an  
8 attorney support staff, they can sponsor their  
9 support staff, so I'm going to jump to the third  
10 category. The US sponsored attorney can sponsor  
11 their support staff, the support staff can have  
12 their own account, but those accounts are tied  
13 together. So, if the support staff account is  
14 used for improper behavior, that behavior inures  
15 to the non-benefit of the attorney. And the  
16 attorney is responsible for any activity -- any  
17 improper activity by their support staff. The  
18 support staff does not have to be ID verified by  
19 -- to the processes that we set out, but the  
20 attorney support staff has to be verified by the  
21 attorney. So, in that situation, again the  
22 attorney is responsible for all the activities,

1 their support staff accounts are engaged in. The  
2 Canadian attorney or agent account, that is a  
3 holdover from a reciprocal agreement we had with  
4 Canadians dated -- in back to 1935, I want to say.  
5 And, so we have a situation where we will  
6 reciprocally recognize practitioners from each  
7 jurisdiction for limited roles. So, we did create  
8 an account for a user role for the Canadian  
9 attorney agents, they are very limited in what  
10 they can do, they can file an application on  
11 behalf of a person located in Canada, but after  
12 that everything else has to go through a US  
13 attorney. So that account is limited in what it  
14 can do, by virtue of the fact that, it is a  
15 reciprocally recognized Canadian attorney or  
16 agent. So, these are the four user roles, now to  
17 the extent again, if you do not fall into one of  
18 these categories it means that you are not  
19 supposed to be representing parties before the  
20 USPTO. We are -- we have the authority regulating  
21 conduct of proceedings before the office, to the  
22 extent that we are receiving submissions that do

1 not appear to be submissions that the owner would  
2 want, because they are rife with rule violations  
3 that invalidate the application, we need to clamp  
4 down on who is filing submissions, because we have  
5 a lot of non-attorney entities who are filing, we  
6 have a lot of foreign filing firms who are filing,  
7 and these are entities that we do not allow to  
8 make submission to the USPTO because they do not,  
9 they are not authorized to represent parties  
10 before the USPTO. We will be doing a webinar that  
11 will lay out a lot of this information in the  
12 coming months. Next slide, phase 3 -- this is why  
13 user roles are important. So, to the extent that  
14 there is an owner user role, that owner will  
15 eventually -- when we get to 3 -- phase 3 they  
16 will only be able to touch the files they own.  
17 The owner, accounts will only be able to interact  
18 on their own applications or their own  
19 registrations, the owner account will not be able  
20 to interact on anybody's else's applications, and  
21 registrations which makes sense, because they have  
22 no business doing so. This prevents high jacking,



1 if you can imagine, you can't file a CAR form on  
2 somebody's else's application, right. So that's  
3 designed to lock down who can touch which files,  
4 who has access to which files, so the owner would  
5 only have submission rights for their owner. An  
6 attorney would only have rights to only the  
7 application or registrations where the attorney is  
8 of record, and similarly with the attorney staff  
9 support staff account, they would only have  
10 submission rights, where the applications or  
11 registrations where their sponsoring attorney is  
12 of record. So, an attorney support staff has to  
13 be sponsored by multiple attorneys, if there are  
14 multiple files that they are working on for more  
15 than one attorney, again, this is going to prevent  
16 hijacking, which we are seeing quite a bit of, and  
17 it will make it so that you obviously touch the  
18 files that you are authorized to touch, and then  
19 if something goes wrong, if something goes wrong  
20 -- that we have a way to track it, and lock down  
21 those accounts. So, these are all designed --  
22 these phases are all designed to get us to the

1 point, where we know who we are interacting with,  
2 if we don't like what we are seeing because they  
3 are filing improper submissions, that are  
4 essentially invalid, they are doing bad behavior.  
5 We can lock them out of the system and eventually  
6 then move to phase 3. So, all of these are  
7 designed to protect the integrity of the registry.  
8 So, that is the long and short form my standpoint,  
9 so Dave back to you.

10 MR. GOODER: So, where we -- where Amy  
11 mentioned we're currently in the part of phase 2,  
12 where people are voluntarily verifying what will  
13 become, that period will end in the next few  
14 weeks, and the progress has been really  
15 significant and encouraging. So, there's  
16 essentially two - three ways you can get verified.  
17 One is to do this automated version, and that so  
18 far, about 19,000 people, more than that, since  
19 this slide was written, have been verified  
20 automatically, some if there is a problem with  
21 matching, the selfie with the driver's license or  
22 passport or whatever documents they use, they pass

1 through a video chat agent, and almost 2,300  
2 people have verified that way. Some were what we  
3 call, pre-verified and that's where they were  
4 already part of the verification system that ID.me  
5 uses from another federal agency, so, they might  
6 have been at the VA, they might have been  
7 elsewhere. So, they've already been verified that  
8 way, so they didn't need to do it again. So,  
9 there is a paper process that requires  
10 notarization, etc. roughly 600 people have done  
11 that, and then about a little over 10,000 people,  
12 have come into this system via the patent side who  
13 verifies identify when you take the patent bar,  
14 etc. As Amy mentioned there is a webinar being  
15 planned to go into more detail about user roles  
16 and other slide, please, I think at this point,  
17 I'm going to pass the mic over to Dan Vavonese  
18 who's the Deputy Commissioner for Trademark  
19 Operations. And, so Dan, over to you.

20 MR. VAVONESE: Good morning, if we can  
21 go to the next slide. So, Commissioner Gooder has  
22 talked about the filings and the continued

1 increases, and again, it's been a welcome respite  
2 that we have dropped from our huge filings of  
3 2021, but again as a reminder, if you look at it  
4 over the last 2 years, we're still at almost 18  
5 percent increase over the last 2 years, and then  
6 we had a 9 percent increase, in 2020, as well.  
7 So, we do continue, to see increases in overall  
8 filings, and we're looking at approximately  
9 850,000 classes for this fiscal year. You heard  
10 if you've gone to TPAC over the last year, you've  
11 probably seen a lot regarding this inventory slide  
12 where we were in a comfortable 150-200,000 classes  
13 on one exam with applications, and ever since the  
14 huge filing started in 2020, that inventory has  
15 continued to rise despite hiring, despite other  
16 processes we have put into place. The good news,  
17 I'm not going to speak too soon on this though,  
18 but the good news is though -- that we have  
19 started to level off, and that's really important  
20 when you'll see for pendency soon, you know we are  
21 starting to level off. It's thanks to all of our  
22 employees, who are just doing an incredible job

1       trying to keep up with the work, but our numbers  
2       are starting to level off, We're at 533,000  
3       classes which again, is a huge number that have to  
4       continue to get down, but the good news is that we  
5       are starting to level off. If you go to the next  
6       slide, the next slide on pendency. Yes, so again,  
7       you'll see that these numbers are continuing to go  
8       up, but they are starting to level off as well.  
9       For our overall pendency, you know we do, have a  
10       goal of 13. 13 and a half months this year. We  
11       are right around 12 1/2 months as of the end of  
12       March, and we are hoping that that's going to  
13       continue to level off and hopefully start to go  
14       down a little bit. First action pendency  
15       actually, as of the end of March, we went up  
16       another 10th of a month from February, we're at  
17       7.7 months, we have a goal of 7 1/2 months, and  
18       again between the hiring that we've had of  
19       examining attorneys, increased productivity and  
20       again, some less filings this year's fiscal year,  
21       we are looking and hoping that that number is  
22       going to level off and start to get down, so we

1 are at least below 7 1/2 months, at the end of  
2 this fiscal year, I want to stress with the  
3 pendency though, that we are looking at this  
4 number, through the end of this fiscal year, we  
5 are going to be working on plans to get to  
6 continue to get that number down, over, the next,  
7 over the next couple of years, I'll talk about  
8 some things we are doing in a few slides, but we  
9 are -- we want -- we are trying to set that  
10 expectation now, that we are in the 7 months range  
11 for this fiscal year, and we are going to do  
12 everything we can to be transparent, and keep our  
13 stakeholders informed on what's going on and put  
14 other processes into place. But, the good news,  
15 we hope is that the that number will level off  
16 and, at least get down into the 7 -7 1/2 month  
17 range, for the remainder of the fiscal year.

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

20 MR. VAVONESE: Yes.

21 MR. CHO: Real short question, Dan. The  
22 prior graph, Commissioner Gooder showed,

1       indicating that while overall numbers are down on  
2       the filings, it is still showing that it's keeping  
3       pace with the historical rate, and so I'm just  
4       wondering if the rate of increase you are seeing  
5       is more normal right now and that's all factored  
6       in -- that's just a quick question, if that makes  
7       sense?

8                   MR. VAVONESE: Yes, it is actually on  
9       Commissioner Gooder's slide, it showed that over  
10      the last 15-20 years, our annual growth rate on  
11      average has been in the 6 1/2 to 7 1/2 percent  
12      range, and really over the last 3 years, it's been  
13      closer to 9 percent on average. If you look, if  
14      you combine all the last few years together, so it  
15      has been a little higher over the last few years,  
16      but it is, again the numbers of levelling off.  
17      Over January and February, we were in the low  
18      60,000 classes per month, but then in March we  
19      were back up to 76,000 classes. So, we'll see how  
20      the second half of the fiscal year, we'll see how  
21      that continues, and if it stays on pace.

22                   MR. CHO: Thank you Dan.

1                   MR. VAVONESE: Next slide. I want to  
2                   make sure that we talk about quality because  
3                   everybody -- productivity is such a huge part of  
4                   the discussion, because we understand our  
5                   stakeholders and how important it is that you get  
6                   timely decisions on your cases, so you can make  
7                   your own business decisions and get your products  
8                   to market. But it is just as important to us to  
9                   make sure we are putting out a quality product.  
10                  We want that registration certificate to be as  
11                  valuable as possible, and that's by putting out --  
12                  making sure the quality of work that is being done  
13                  on the -- in our work is also excellent, I'm going  
14                  to say, and we are continuing to meet all 3 of our  
15                  quality metrics on first action and final action  
16                  complaints, which is, did we make the right  
17                  decision on the case, on all of our substitutive  
18                  decision-making, and then for exceptional office  
19                  actions -- are we putting out an office action  
20                  that fully explains in writing all -- you know, so  
21                  that the applications understand what the reasons  
22                  are for any requirements and any refusals and then



1 also are we giving an appropriate amount of  
2 evidence to support those decisions. So, again, I  
3 want to thank our employees, the examining  
4 attorneys for all the work they are doing to keep  
5 this quality at such a high point. Next slide,  
6 processing timelines. Again, we already talked  
7 about first actions and disposal at around 7.7 in  
8 12 1/2 months respectively. The -- we have done  
9 in the rest of the areas, we have done an  
10 incredible job of getting back up to speed. New  
11 applications and amendments we are totally back on  
12 track, you know, from the backlogs we had of last  
13 year. The -- to the point -- that we don't  
14 anticipate that being a problem ago, so you may  
15 not hear me talking about that again. But, if we  
16 go to the next slide, we will continue to keep our  
17 internal metrics updated every month, so that our  
18 customers know at any stage of the process -- how  
19 much time it is taking for any different  
20 communications to get processed. The one area  
21 that I want to point out that we still need help  
22 is in post-registration. We are still behind in

1 processing maintenance filings, so, we're at about  
2 90 days on many of our maintenance filings, we are  
3 looking at everything from staffing, to cross  
4 training, to other process improvement and post  
5 registration, to get back up to speed to get those  
6 numbers back to -- to speed within our targets,  
7 which have historically been in the 30-day range.  
8 So, you know, we'll continue to focus strongly on  
9 post registration. Next slide, again, I -- this is  
10 the dashboard, you can always go to our website to  
11 see any of our internal metrics, especially the  
12 dashboard, which gives us -- which gives a larger  
13 view, at our various inventory and pendency  
14 numbers. And, then the next slide that I want to  
15 focus on, is what we are continuing to do to try  
16 to improve the numbers, try to get our pendency  
17 back on track. Hiring is obviously the number one  
18 thing that we do. We have hired 91 examining  
19 attorneys in this fiscal year in two classes, and  
20 just for some perspective, when we have  
21 approximately 700 examining attorneys, and we are  
22 hiring 90- 100 -- that's approximately a 15

1 percent increase, that we are looking at in our  
2 examining attorney base. And, we will likely be  
3 continuing that over the next several years  
4 depending on how filings are going. We have a  
5 Trademark Academy that we have kicked off this  
6 fiscal year, we've always had a training group  
7 that is focused on our examining attorneys, but  
8 his Trademark Academy is a new model that we have  
9 put into place, to really get dedicated  
10 instructors, dedicated manager training these new  
11 examining attorneys over their first year in the  
12 office, to make sure that they are consistently  
13 trained, with a focus on both quality and on  
14 ramping up -- getting up to speed on the examining  
15 attorney position, right after the first year,  
16 they return to the law office. So, it's been a  
17 big success this first year, I want to thank  
18 everybody who has been involved in that academy,  
19 and I want to thank the new examining attorneys  
20 that have started and worked through that model  
21 and provided us great feedback that we will  
22 continue to work on improving that model as well.

1       TM Flex, I've talked about this before, this is a  
2       group of contractors that we brought in, we're  
3       looking at various different areas of the of our  
4       examination process, but since we need so much  
5       help in bad faith investigations right now, that  
6       is where we have been focusing their efforts so  
7       far, and they've been a big help to our policy  
8       area, and even in operations as well, to assist us  
9       in getting those investigations underway, so we  
10      can collect the evidence we need to assist the  
11      deputy commissioner patent's group in their whole  
12      sanctions process. So, that's something we  
13      continue to evaluate and continue to assess moving  
14      forward. Automation both in artificial  
15      intelligence and in our robotic process  
16      automation, we are -- we've been working on  
17      implementing several different new tools. One --  
18      we've been looking at a design code tool to assist  
19      in the design coding of new applications that come  
20      in, but another thing, also in the bad faith area,  
21      is in looking at questionable addresses, and using  
22      this bot as we call it, to look at questionable

1 addresses and get information to the examining  
2 attorneys, so they are not spending their time  
3 investigating the addresses We have a bot that can  
4 look at this information. So, that's been a big  
5 help - it's just been implemented in -- a few  
6 weeks ago, so that was another welcome automation  
7 tool that we have just added. And, then you'll  
8 hear more from Deputy Commissioner Dotson on this,  
9 but we have a third party continue to assess our  
10 examination process. We are -- they've finished  
11 the first step on this as far as looking at our  
12 overall process, they are going to be doing a  
13 deeper dive into this. We can use their results,  
14 both on -- our business side on how to improve in  
15 our process, improve you know, where there are  
16 time shortages, or other ways we can cut our time  
17 frame, and then also from our IT side,  
18 implementing certain new tools and certain new  
19 automation into our process. I just want to say  
20 in closing that, you know, I thank the  
21 stakeholders for continuing to bear with us  
22 through this. We know that you, over the years,

1 that you've grown accustomed to a 3-month pendency  
2 that we strive to eventually get back to, but it  
3 is going to take a while for our employees, and  
4 this is across the board from operations to policy  
5 to administration, are just working so hard to try  
6 to keep up with the work while balancing,  
7 productivity, quality, and register protection to  
8 make sure that -- that registration really means  
9 something. So, please continue to bear with us,  
10 please continue to provide feedback on any other  
11 -- on anywhere else we can improve, even as far as  
12 the transparency, to continue to get the  
13 communication out there on where we are. So, I  
14 think that's my last slide. Yeah. Any questions?

15 CHAIRWOMAN NATLAND: Hey, Dan. I just  
16 want to commend you and I know you guys are well  
17 aware of the pendency issue and understand  
18 completely with the massive inventory that you  
19 guys are going through. So, just want to thank  
20 you for your continued focus on that issue. I do  
21 think that the trademark side of the business will  
22 continue to increase at a pretty high rate over

1 time, even though it's seen a little dip this  
2 year.

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

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

11 CHAIRWOMAN NATLAND: I know it is.

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

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

20 MR. VAVONESE: Thanks.

21 MR. GOODER: Yeah, I just want to add  
22 one thing to it. We look at a lot of the numbers

1 that you've seen and they look at quality and  
2 pendency and all that type of thing. And the fact  
3 that those numbers have stayed so consistently  
4 strong throughout the pandemic when, you know,  
5 like everyone, we're all of a sudden dealing with  
6 things we never had to deal with in the workplace,  
7 you know, taking care -- family care, childcare,  
8 education, you name it. Just dealing with all of  
9 the last couple of years for our examining quarter  
10 have maintained and actually exceeded large  
11 targets during that period of time is really an  
12 amazing, very professional feat.

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



1       gone up. All those kinds of things.

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

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

18              MS. COTTON: Great, thank you. Next  
19       slide, please. Another one. Okay. So, we're  
20       ahead of schedule. Usually, we're behind. So, I  
21       can stretch out a little bit which is nice which  
22       maybe means that I won't speak so quickly, but

1 don't count on it. All right, let's talk about  
2 scams. I feel like we've talked about scams  
3 before in this forum, but I'm going to go over  
4 them a little bit more about what we're seeing.  
5 So, there's basically four different scam types  
6 that we're seeing. Broad categories.

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

15           In this situation, he had Patent and  
16 Trademark Office, LLC, and Patent and Trademark  
17 Office Bureau, LLC, and they sent out fake  
18 trademark renewal invoices. And he sent them out  
19 ahead of time, before they were actually due. He  
20 used a fake QR -- actually a real QR code that  
21 linked directly to the USPTO. So, it made  
22 everybody think that it was us who was asking for

1 these. He received somewhere between \$1.5 million  
2 and \$3.5 million from customers, victims, in the  
3 Canada and the U.S. About 2900 victims in total.

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

15 So, the bank employee found that on our  
16 website, referred it to authorities, authorities  
17 started investigating, and eventually they shut  
18 down the bank accounts. Mr. Sakorakov came to  
19 LaGuardia to try and get the money, the  
20 undeposited checks, back from the bank, but was  
21 seized by authorities in that airport. He's in  
22 jail now, so that's kind of nice. He was ordered

1 to pay \$4.5 million in restitution. He was  
2 sentenced to 52 months in federal prison, 24  
3 months' probation. So, that is a pervasive scam  
4 that's been going on for a long time and that's  
5 what a lot of the other countries have also been  
6 seeing. But things have gotten a little bit more  
7 complicated, nuanced, sneaky, since then.

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

20 But, the second scam type of scammers  
21 posing as the USPTO, this has come up with this  
22 Pakistani ring. So, this is a bunch of Pakistani

1 websites. They look like they're not Pakistani.  
2 They look like they're, you know, U.S. based, but  
3 they're really not. So, they're offering low cost  
4 filing services and people go for it. Forty-nine  
5 dollars. Too good to be true for a filing  
6 service.

7           Then, what happens, though, is they  
8 don't provide the applicant's email address in the  
9 application to the USPTO. They'll file one, but  
10 all the information is usually wrong or it is the  
11 Pakistani entities' correspondence information.  
12 So, they're intercepting correspondence that comes  
13 on the application from the USPTO. It's going to  
14 the websites, to the Pakistani bad guys, and then,  
15 they change it, they doctor it. They make it look  
16 like the USPTO is charging higher fees and then  
17 they send it to the applicant, get the applicant  
18 to pay the higher fees to a fake USPTO fee portal.  
19 So, they're holding themselves out as the USPTO.  
20 A lot of times they're saying they're sponsored by  
21 the USPTO, but they're collecting a whole lot of  
22 these fees. They're not sending all of the fees

1 to the USPTO, and they're not doing a very good  
2 job for their customers because, you know, they're  
3 scammers.

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

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

19 Anyway, so, they were unenforceable. We  
20 have sent the matter to law enforcement, but we're  
21 taking our own actions. We're trying to do our  
22 own thing. So, we've also talked to platforms

1 about these particular entities and these  
2 particular applications and they've taken action  
3 against these bad actors. Now, we only had, you  
4 know, a drop in the bucket as to the website.  
5 Every time we go after one particular bad website,  
6 then, of course, they pop up with more and more  
7 and more. But that's scam type two.

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

19 So, he was getting the correspondence  
20 information. Now, why would this be useful? Why  
21 would this, you know, be a useful heist? Well, we  
22 think they were doing it to get into e-commerce

1 brand registry enrollments and trying to get in  
2 and then take down their competitors. Now, it  
3 would only last for a day or two, but if they  
4 could take down their competitors for a few days  
5 selling Harry Potter blankets, or Star Wars  
6 toothbrushes, or whatever it was, they could earn  
7 a lot of money in those two days.

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

20           But, it is a waste of everybody's time  
21 because the scam doesn't even work anymore. So,  
22 they just take up a lot of real estate.



1           Scam type four, this is where scammers  
2           are hijacking or renting attorney credentials.  
3           This is what ticks off, you know, all of the  
4           multitude of ethical attorneys are watching these,  
5           you know, unethical attorneys do really bad things  
6           or ignorant things, I should say, as well. In a  
7           situation that we addressed through our sanctions  
8           program, we had a Chinese trademark agent firm  
9           filed 14,000 applications and they were using --  
10          well, first of all, they came in with fake  
11          addresses to try to get around the U.S. Counsel  
12          Rule. And they used the same fake address in  
13          10,000 applications. The examiners pushed back  
14          and said no, not a good address. They gave us  
15          another address and we said, no, no good. And  
16          then U.S. Attorneys started appearing, but these  
17          U.S. attorneys, then, are doing bad things as  
18          well. They appear to be rented attorneys who are  
19          not reviewing the filings.

20                 So we have entered sanctions against  
21                 14,000 applications and registrations in this  
22                 particular scheme and we've referred, obviously,

1 the attorneys who were involved, referred them  
2 over to our Office Enrollment and Discipline. So,  
3 that was a preamble to this slide here that you're  
4 looking at. What are our strategies for dealing  
5 with these things? You've heard a little bit as  
6 I've talked about the scams. You've heard a  
7 little bit about what we're doing.

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

21 So, we had to rethink that we wanted to  
22 address fraud. This is not okay. The whole

1 system sort of, you know, loses integrity if we  
2 don't address it. So, we've had to rethink how  
3 we're doing things and that means a lot of work.  
4 That means building a machine, you know, to deal  
5 with fraud and every time you turn around, there's  
6 another place where fraud pops up and you, then,  
7 have to create some sort of workflow or policy to  
8 address it.

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

15           Strategy number two. Administrative  
16 Sanctions Program plus Attorney Misconduct  
17 Disciplinary Action plus law enforcement. I'll  
18 talk a little bit about that, but we had to create  
19 a whole system for investigating and going after  
20 bad guys and, you know, invalidating applications  
21 that were tainted essentially. When attorneys pop  
22 up in this situation, and we are able to identify

1       that there's some real violations that are  
2       happening and an attorney is involved with that,  
3       then we will actually refer that attorney over to  
4       OED and then, they take it from there and their  
5       investigation may start. We just sort of are  
6       collecting, you know, evidence of filings that are  
7       problematic, but they deal with the attorneys  
8       themselves.

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

20                Strategy three. Communications. Of  
21       course, we have a lot of upset applicants. We're  
22       terminating their applications. We're sanctioning

1        their registrations. They may not have known what  
2        was going on, but we've had to make sure that we  
3        are letting them know what is happening and,  
4        hopefully, preventing it from happening in the  
5        first place. Education, education, education.  
6        Also reaching out to platforms. Letting them know  
7        about the sanction program. Go look at our  
8        sanctions orders. See what you want to do with  
9        that information. Whatever, you know, whatever  
10       your platform wants to do, but know that this is  
11       happening and to the extent that they were relying  
12       on trademark applications from the USPTO as a  
13       condition of getting on the platform, I think  
14       that's pretty relevant. So, we're letting them  
15       know about that.

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

22                    Next slide. I think I'm talking too

1 fast again. I said I wouldn't do that, but I am.  
2 Okay. Next slide. Yes, there we go. Strategy  
3 one. Rethinking, reorganizing. So, yes, I told  
4 you that we're sort of pivoting to brand  
5 enforcement, brand management. Little things that  
6 we're trying to do here. Here's an update since  
7 last time and I'm, you know, really, really  
8 pleased with our data analytics folks and our  
9 examining attorneys and our policy attorneys who  
10 were able to make this happen. This is great.

11 Automation, right? Automation, who  
12 knew? This is great. So, there is a U.S. Postal  
13 Service database that has address validation. And  
14 so, we actually have a license to this database  
15 and we have started pinging the address data field  
16 coming in on unassigned applications. Pinging  
17 that against the USPS caste database to see if the  
18 address is improper. We had already started -- I  
19 think I told you this -- P.O. boxes, in care of  
20 boxes. So, we started about six months to a year  
21 ago. So, we were checking for those. The  
22 commercial mail receiving agencies or the

1 registered agents were a little tougher because  
2 this looks like a regular address, but it's  
3 usually a UPS Store or it's a, you know,  
4 Mailboxes, Etc.

5           So, they're using an improper address to  
6 try to get around the U.S. Counsel Rule, right?  
7 We don't want that to happen because we want the  
8 attorney, the U.S. attorney, to file because we  
9 want to be able to hold that attorney accountable  
10 for bad behavior. Okay. So, this database that  
11 we're pinging against, the commercial mail  
12 receiving agencies, we have started on April 1st.  
13 In the first go 'round, it looked at -- let's see  
14 -- 115,000 unassigned applications and it found  
15 8500 commercial mail receiving agency addresses.  
16 So, right there, 7.6 percent of that pool of  
17 115,000, it pinged.

18           Now, what happens then? That triggers  
19 an internal note into the file for the examiner,  
20 who's ultimately fined, to say, oh, this is an  
21 improper address. I don't have to go look it up.  
22 It just tells me it is. And then, they can't move

1 that application forward until they, you know,  
2 say, yep, I address this. I issued a refusal on  
3 the address and we're going to, you know, have the  
4 applicant come back with an answer. Maybe the  
5 USPS database is wrong or something or maybe  
6 they're going to amend their address. Who knows?

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

12 Next slide. All right. I told you  
13 about our task force, our special task force and  
14 it's got people over in the Operations Managing  
15 Attorney side, it's got people in Policy, it's got  
16 people in Petitions. All kinds of different  
17 people working on this. The inputs, right, what  
18 are the inputs. Suspicious filing. An examining  
19 attorney says, hmm, this isn't, you know,  
20 something's wrong here or I know this guy, this is  
21 a bad guy. They will send an internal email to  
22 the task force and say, can you take a look at



1 this. We may get it in a complaint from, you  
2 know, through a customer from the Trademark  
3 Assistance Center or through one of our mailboxes,  
4 and then we refer it to the task force. We might  
5 find it in data analytics, right. If we're  
6 running reports and we can see that there's the  
7 same address in 10,000 files, there's something  
8 going on there. There's somebody who's, you know,  
9 got some fingerprints are showing up.

10 And remember, the examining attorney's  
11 only seen one or two files, right. So, how do we  
12 make sure that we're pulling in, you know, the  
13 data -- that one filing. How do we make sure that  
14 we're connecting the dots and that's what the task  
15 force is doing. So, then they start using  
16 internal tools to try to figure out, okay, what  
17 USPTO.gov account filed this, and then, what else  
18 did they file on that day, or, how was it signed.  
19 Was it directly signed, but yet, the applicant is  
20 purportedly in the United States, but, you know,  
21 the IP address is in China, or, what are we doing  
22 here? You know, what's going on?

1           So, they'll connect the dots and they  
2           start segregating those cases. All of the  
3           applications, put them in a holding docket while  
4           they're doing the investigation and figure out  
5           what's going on there. Is it mistake? Is it  
6           intentional? What are the rule violations that  
7           we're talking about? And what's the best way to  
8           proceed? And it could be, if there's criminal  
9           activity, they go to the Office of the Inspector  
10          General and say, hey, there's criminal activity.  
11          Would you like to look at this? And then, they  
12          decide, you know, the OIG will decide how to  
13          liaise with other law enforcements.

14                 If there's an attorney involved with a  
15          whole bunch of rule violations, we may refer the  
16          issue to OED, the Office of Enrollment and  
17          Discipline. Then, they take it from there. They  
18          have the ability to discipline the attorney,  
19          following investigation. And even can refer the  
20          matter to the State Bar for reciprocal discipline.  
21          So, it could be that, ultimately, the attorney is  
22          disbarred at their state level. But, you will

1 have seen, you know, there's certainly a bunch of  
2 settlement agreements that these attorneys who  
3 have been caught in these schemes have entered  
4 into with OED.

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

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

19 The special task force might say, okay,  
20 in this instance, this is a bad address that's  
21 showing up in a bunch of files. They might just  
22 direct the examining attorneys to issue a refusal

1 and see what happens, you know. If there's not  
2 extensive rule violations, we might just say,  
3 okay, let's play this out. But again, we don't  
4 want to saddle the examining attorneys with a lot  
5 of this investigation or, you know, even much of  
6 it because they have bigger fish to fry. This is  
7 something that we can pull and have our  
8 investigators look at.

9           And so, then we go to the last option,  
10 Commissioner for Trademarks. The ability to look  
11 at these suspicious filings, figure out how many  
12 rule violations are involved to the point where it  
13 invalidates the application or calls into question  
14 the validity of the registration. So, with a Show  
15 Cause Order, ask the respondents that the entity  
16 or the person responsible for all of those rule  
17 violations, ask them to tell us, okay, is there a  
18 way you can explain all of this evidence that we  
19 have that shows you're violating our rules and it  
20 looks to be intentional? And if they don't  
21 respond, then we would move to an Order for  
22 Sanctions and there's a bunch of different

1 sanctions we could offer. We can block their  
2 USPTO.gov account. We can preclude them from  
3 appearing before the office. We can terminate the  
4 proceedings, abandon the application, you know,  
5 all of those different things depending on what  
6 we're looking at.

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

13 Next slide, please. I told you about  
14 scams. I'm going to breeze over this quickly.  
15 But, please go to our website and look at all the  
16 new pages we have on scams. We've done a lot of  
17 work. The Comps Team has been fantastic and web  
18 designers, trying to make it more accessible. I  
19 hope you've noticed that the information on  
20 trademarks is a lot more accessible than it used  
21 to be. And, certainly on scams, we've just spent  
22 a lot of time and attention to try to make sure

1 we're telling, you know, customer, hey, watch out  
2 for these scams. Check TSDR. You know, if you  
3 don't know if what you got was real from the  
4 USPTO, call TAC. They'll tell you. They'll walk  
5 you through it.

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

11 Next slide. But here's the thing. A  
12 lot of these applicants are not subscribers. They  
13 don't go to our website regularly. They don't  
14 know what we're doing and they don't know about  
15 these scams. So, we really were trashing around,  
16 trying to figure out, how do we reach these  
17 people? What avenue? So, in the case of the  
18 ADTEC (phonetic) scam where there were 5000, you  
19 know, affected applicants, how do we get out  
20 there? So, we recorded a video and pushed it  
21 through social media, trying to get it, you know,  
22 to where it needed to go and will continue to use

1 social media to try to alert folks to the scams  
2 that we're seeing. We just don't want people to  
3 keep falling for these scams because it's just  
4 horrifying to watch from the inside and we want to  
5 make sure that we're stopping it.

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

20 We also want to make sure that we don't  
21 have applicants relying on parties who are not  
22 authorized to file submissions and, you know, are

1 not speaking on behalf of the owner. We want to  
2 regulate the conduct of those in front of us and  
3 we really think that rule-based access controls  
4 will help us with that.

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

14 So, go to our web page on TMA. It talks  
15 about what the proceedings are all about. When we  
16 have new information to share, it will be on this  
17 page. We put some new information recently about  
18 best practices. You know, hey, what are the  
19 constraints of these proceedings as you try to  
20 weigh which avenue you want to use. Do you want  
21 to go to the board? Do you want to go with  
22 Non-use Cancellation? Do you want to go with



1 Letter of Protest? You know, you need information  
2 from us to make those decisions. We're trying to  
3 put that out to you as fast as we can to make sure  
4 you have the information that you need.

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

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

1 lot of time and effort.

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

15 So, that's certainly, we think, will be  
16 very helpful for you to track what's been filed  
17 and how we've responded to it. Did we institute?  
18 Did we not institute? And you can see these  
19 numbers, we've had 65 petitions so far, 36  
20 expungements, 29 reexamination. We've issued  
21 about 29 Notices of Institution or  
22 Non-Institution. One director initiated

1 proceedings -- actually, I think we have two now.  
2 I think one just issued. We have a team of six  
3 highly, highly skilled petitions and policy  
4 attorneys who are working through these cases. We  
5 have four of them, actually supervisors, who we  
6 all meet twice a week and we go through the facts,  
7 and we go through the evidence, and we decide what  
8 we need to do.

9 We'll bring in the TTAB. We'll bring in  
10 the Solicitor's Office and get input on various  
11 issues, but I know folks were worried. Who's  
12 examining these? You know, is it going to be, you  
13 know, really experienced? Yes, it's very  
14 experienced people. And it's a fascinating  
15 process to listen to the back and forth and how we  
16 weigh the evidence, and, you know, how to factor  
17 in certain things. What does the statute allow us  
18 to do? What do the rules allow us to do? What do  
19 customers want? What do petitions want us to do?  
20 What to registrants wants us to do? So, it's a  
21 lot of balancing. Very exciting conversations  
22 that are happening.

1                   But, I really would urge you to look at  
2 these actions. Look at the petitions filed. Look  
3 at the evidence filed. Look at what we did with  
4 that. Particularly, you might want to look at the  
5 director-initiated ones because, in that situation  
6 so far, these are the ones where the petition  
7 evidence wasn't good enough. But, we wanted to  
8 institute. So, we got the evidence that the  
9 petitioner didn't give us. We got the evidence,  
10 and then we put it in and did a director- ordered.  
11 So, that's the evidence we want. What we put in  
12 that director-ordered is the evidence we want to  
13 see. So, I would urge you to look at those  
14 particular cases to get an idea of what we're  
15 looking for.

16                   Next slide, please. Oh, and I want to  
17 tell you one thing. We are working on a database  
18 of decisions. So, it'll probably be about six to  
19 eight months in development. But, it'll be a  
20 database of decisions. All the sanctions decision  
21 because I know that orders for sanctions page is  
22 funky. But we're going to have a database where

1 all the sanctions orders, all regular 2.146  
2 petitions will be, and all of the TMA petition  
3 decisions. So, Notices of Institution and  
4 examiner decisions. So, you'll see all of that in  
5 one database eventually because we really need to  
6 be as transparent as possible with you all so you  
7 know what's going on and you know how to use these  
8 proceedings.

9 But, little bit. I got -- still have  
10 time left. Wow. Crazy. Okay. Petition mistakes.  
11 I think I already said this. Index, index. We  
12 have people just throwing, you know, evidence at  
13 us and it's hard to tell what does the evidence go  
14 for, what evidence goes to what. In the rule, we  
15 said we wanted it indexed. We really want it  
16 indexed. So, you know, connect the evidence in  
17 the index to the evidence that you have provided.  
18 Don't capture the screen too small because it's  
19 hard for us to see it. Make sure you've got the  
20 URL and the date of access.

21 What we see a lot is people tell us all  
22 the investigation they did, but they don't show us

1        what they did. They don't give us the documented  
2        evidence to substantiate the investigation. They  
3        say, I went on Amazon. Okay, well, what did you  
4        search on Amazon and what did you find on Amazon?  
5        If you found nothing, give us the screen shot that  
6        shows that you didn't find anything. But we want  
7        to know what search you did because that's how we  
8        know if it was reasonable. If you just did one  
9        search for the word, and nothing else, maybe not  
10       so reasonable. So we want to see. So, remember,  
11       the affidavit is testimonial evidence, but it  
12       needs to be corroborated by documentary evidence.  
13       So, you've got to give us the documentary  
14       evidence.

15                    One more thing I want to talk about is,  
16       there is an expectation that if a petitioner just  
17       says, hey, this specimen that was originally  
18       submitted is bad, look, it's fake, but they attack  
19       the whole class, not enough. Okay, you know,  
20       sure, yes, that specimen, if you give us good  
21       evidence that it was digitally altered, okay.  
22       That addresses that good or goods that are sort

1 of, you know, potentially, you know, substantiated  
2 by that specimen. But it doesn't address the  
3 whole class.

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

18 And, as we get more experience, we'll  
19 put more information out for you to know what  
20 we're seeing and what's going to work and what's  
21 not going to work. We're also seeing data dumps,  
22 you know. We'll see, in some cases, they give us

1 no evidence. In other cases, they give us an  
2 entire litigation or administrative proceeding  
3 file, and there's just one little part of one page  
4 that's relevant. And they don't show us that.

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

13           I would say one last thing. On the  
14 director-initiated proceeding, don't rely on the  
15 USPTO to clean up a bad or deficient petition. We  
16 will do that a little bit now as we sort of try to  
17 teach everybody what we're looking for. But as  
18 the registrants response starts coming in, we're  
19 not going to be able to do that. We're not going  
20 to have the resources to do that and we have our  
21 own desire to go after specific cases that we've  
22 discovered through our fraud investigations.



1 That's where we want to use our director-initiated  
2 resources for. So, you know, if you can increase  
3 the quality of the petitions, you know, hopefully  
4 with the guidance that we're providing, then we  
5 won't have to necessarily, you know, fill in the  
6 gaps for you. But, as we're in this learning  
7 phase, you know, we recognize that we want these  
8 proceedings to work.

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

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

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

21 MS. COTTON: Oh, Rod.

22 MR. ENNS: Thank you very much. Two

1 quick questions, if I could. One, with regard to  
2 the filings for expungement or reexamination that  
3 you've seen so far, I know when the TMA was  
4 working its way through Congress, the user  
5 community had concerns that because there was no  
6 standing requirement for filing these petitions,  
7 that it might be open to abuse by outsiders or  
8 people who were looking just to create costs or  
9 create trouble for legitimate trademark owners.  
10 Based on the filings you've seen so far, have you  
11 seen any particular evidence of that?

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

1       that the petition was saying was not in use. We  
2       actually found it in our own searches.

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

21               MR. ENNS: That's great to hear. Yeah,  
22      my other question related to the topic of scams,

1 generally. And it just made me wonder, if users  
2 encounter evidence of what appears to them to be  
3 inappropriate behavior or scam behavior, maybe  
4 they even have an application that they filed  
5 hijacked, or maybe they just encounter a potential  
6 application for opposition that has earmarks of  
7 being filed in bad faith, is there a way they can  
8 report that to you all, and if so, what's the most  
9 effective way for users to do that?

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

20 The other avenue is TMScams@USPTO.gov.  
21 That box goes to the investigators and they're  
22 looking at it as well. So, that's another way to

1 report it. I do worry about turning on the spigot  
2 that anybody who's ticked off at somebody, their  
3 competitor will start sending this stuff in to us  
4 and overwhelm our investigators. We have a small  
5 team. So, hopefully, it's only used for those  
6 cases where, you know, that there's good faith on  
7 the protestor's side.

8 But those are two good avenues.  
9 Generally, a petition to the director, that's on  
10 your own application. It's not on somebody  
11 else's. So, that's not the way to go. But the  
12 protest and the TMScams@USPTO would be the way to  
13 get that stuff in front of us.

14 MR. ENNS: Great. Thanks very much.

15 MS. COTTON: David.

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

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

22 MR. CHO: Nope.

1 MS. COTTON: One more. That --

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

7 MS. COTTON: Thirty-six and 29 equals  
8 65, right?

9 MR. CHO: Right.

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

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

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

21 MR. CHO: Got it. The second question  
22 is, generally, what was -- I mean is the volume

1       what you expected? Higher, lower? I know it's  
2       all new, but I'm sure there was some planning,  
3       right, on what you were expecting on --

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

22               So, I think we've done pretty well

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

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

19                 MR. CHO: Thank you very much.

20                 MS. COTTON: You bet.

21                 MR. GOODER: I'll jump in and say Amy's  
22      being modest. There was an enormous amount of



1 planning. The unknown was how to create it in a  
2 way that you could dial it up and down so that --  
3 because we had no idea what we would receive. And  
4 so, now looking at this basically three months in,  
5 you know, a little three and a half months, et  
6 cetera, you know, is it more than we thought, less  
7 than we thought? Honestly, we really didn't have  
8 an idea of how many people would really take  
9 advantage of it.

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

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

1 of what you've seen so far.

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

4 CHAIRWOMAN NATLAND: Oh, okay.

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

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

22 MS. COTTON: Harder than you think.

1 CHAIRWOMAN NATLAND: Yeah.

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

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

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

17 CHAIRWOMAN NATLAND: Yeah. Just to kind  
18 of plant a little seed. And then, on the scammer  
19 front again. I know there's so many different  
20 scams that are out there and you guys are doing a  
21 great job of attacking all of them. You know,  
22 you're publicizing information to users about how

1 to avoid being scammed, but I did see on your  
2 page, you know, one link to a criminal  
3 consequences.

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

12 MS. COTTON: We certainly can do that.  
13 The OED Director, Will Covey (phonetic), and I are  
14 doing an internal panel on this and he goes around  
15 and talks about what are the implications of  
16 violating U.S. Counsel Rule, running out, that  
17 sort of thing. So, we are doing, you know,  
18 presentations on that. Figuring out how to put  
19 that on the website is a cautionary tale. I think  
20 we'll have to, you know, think about that a little  
21 bit more as we get more -- OED settlement  
22 agreements are great.

1                   But, what else do we have? And so, you  
2                   know, we're building that inventory and I think  
3                   that would be a good suggestion to figure out how  
4                   to put that together as the cautionary tale for  
5                   attorneys who are thinking about this. Yeah.  
6                   We'll do that.

7                   CHAIRWOMAN NATLAND: Thank you.

8                   MS. COTTON: Now I got us off schedule  
9                   again.

10                  MR. GOODER: But we're back right on  
11                  schedule. It's perfect.

12                  MS. COTTON: Oh, okay. Good.

13                  MR. GOODER: All right. Any other  
14                  questions for Amy?

15                  MS. TOMPKINS: I had a question,  
16                  Commissioner Gooder.

17                  MR. GOODER: Yeah, go for it.

18                  MS. TOMPKINS: Trisha. Amy, again,  
19                  fantastic job. And lots of information and you  
20                  packed it all in. You know, just going back to  
21                  the scammers, and some of the victims of the  
22                  scams. This may be outside of the purview of your

1 office, but has there been any consideration with  
2 respect to helping those who've been victims,  
3 especially when they think they've received a  
4 certificate and it's not a valid certificate to  
5 help them to kind of get back on track? Is there  
6 anything that your office can do?

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

19 But, we want to provide all the support  
20 that we can in terms of refiling. If they want to  
21 do it by themselves without the bad actor  
22 involved, we have specialists to help them with

1 that, without providing legal advice, of course.  
2 And, you know, we have customer service  
3 representatives in our Petitions staff who can  
4 really help with other questions if they want to  
5 understand the why a little bit more. But,  
6 certainly, we have lots of information on our  
7 website. Self-help kind of information.

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

18 MR. GOODER: Yeah, I think also when you  
19 look at what's on the website, a lot of the  
20 additional stuff was aimed at what do I do, what  
21 steps can I take, et cetera. And while there's  
22 this general line somewhere that says, you know,

1 we can't provide legal advice in a particular  
2 case, we've pushed that, I think, farther now to  
3 be able to just sort of advise people.

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

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

22           MS. TOMPKINS: Terrible.



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

19                   MS. THOMPkins: Thank you for that.

20                   MR. GOODER: Anything else? All right.  
21 Thank you, Amy, very much. And now we will change  
22 slightly and head over to Greg Dodson who is the

1 Deputy Commissioner for Trademarks Administration  
2 and Glen Brown who works for him as our Group  
3 Director for Information Technology, and they're  
4 going to update you on what's happening on the IT  
5 business side of things. Greg, over to you.

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

8 MR. GOODER: We're good.

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

21 A couple of issues that we've kind of  
22 wanted to illustrate for everybody. You've heard,

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

15 We wanted to kind of touch on an  
16 external product today. We want to talk about  
17 image search. Susan, you mentioned TESS; we'll  
18 put that in there. I scribbled it down -- I wrote  
19 it down -- and we'll take a look at this. But you  
20 know, alongside a TESS -- as we go into the  
21 business of allowing people to get a little bit  
22 more of an aperture to kind of take a look at

1 things -- we are integrating the trademark vision  
2 took that as many of you know is a Clarivate  
3 product; we're integrating that into the system.  
4 So, we hope -- and we are on track -- to have that  
5 integrated into the network here -- into the  
6 infrastructure here. We've been using it in a  
7 test capacity through Clarivate's capability, but  
8 we're hoping to get that done and we think we're  
9 on track to get that in by April. In the next  
10 month or two we're going to give that over to John  
11 Linkowski's team -- the Innovation Law Office --  
12 Law Office 130 -- to kind of kick the tires and  
13 see how it's going; and then as we are wanting to  
14 do, we're going to give it to our IT subcommittee  
15 with TPAC. Thank you very much for lending your  
16 expertise to that process and we'll get a little  
17 bit more of a wire brush on the system. Then we  
18 might give it to a few other people who are  
19 trusted agents to us in the external communities  
20 in the stakeholder side of the house to kind of  
21 take a look; and then hopefully, by September or  
22 October we're going to implement this across the

1 board and give it out to the public community out  
2 there, and we're really excited about this because  
3 this is a nice capability. If you're not good at  
4 TESS, if you're not good at Boolean logic, this is  
5 really kind of a pointy-talky, kind of a click on  
6 something and you'll be able to take a look at it.  
7 So, this should be very-very nice; especially for  
8 a lot of our pro se applicants who are just kind  
9 of looking at the ecosystem of what exists out  
10 there. So, we're excited about that.

11 We're also excited, as Dan mentioned,  
12 about the capability working with your Booz Allen  
13 vendor colleagues on the business process  
14 analysis; right, breaking down what we do, kind of  
15 taking a look at where the bumps are in the  
16 process where maybe there's a little bit of  
17 inefficiency, a little bit of ineffectiveness; and  
18 try to smooth flow that a little bit. That may  
19 not be an automated process, that may be working  
20 through the workflow and smooth flowing that a  
21 little bit; but we're working really closely with  
22 our Booz Allen colleagues on that. You can see

1       that a sample of almost 2 million applications  
2       over the course of 4 fiscal years, and they've  
3       broken that down, and we're really taking a good  
4       hard look at that. They've already mentioned --  
5       and given us some opportunities to look at -- some  
6       capabilities out there, and then we sat down with  
7       the commissioner just a couple of weeks ago and  
8       offered some opportunities to take a look at other  
9       areas of the work that we do; and Dave has given  
10      us permission to go and take a look at those. So,  
11      we are going to get ready and get started on that  
12      thing as well too.

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

19                   MR. BROWN: Thank you, Greg. First  
20      thing up is the sound check. Can you all hear me?  
21      Okay, great. So, I'm here today to basically give  
22      you the overview of the Trademark product lines

1 and give an extract of accomplishments and  
2 whatnot. But, to do that; there are four areas I  
3 want to basically cover to kind of orient  
4 everybody about how things are working, how we do  
5 our updates, and how we do our IT.

6           The first thing I want to give you is an  
7 overview of how we develop IT at USPTO now -- it  
8 won't take long -- because it's going to be very  
9 high level. The second thing I want to do is  
10 introduce you to the product lines that you see on  
11 the screen and kind of explain what's going on in  
12 each one -- again -- at a high level. Next, I  
13 want to tell you about three of the major goals  
14 that these product lines are working on for  
15 Trademarks. These -- we call them internally "the  
16 big rocks" -- but they're the major goals that we  
17 have focused on for the next couple of years of  
18 what we really-really want to get done for the IT,  
19 and they're very high level. There's a lot going  
20 on underneath of them, but I want to kind of get  
21 them in front of you so you know what our focus is  
22 on. And then finally, I'm going to give you a

1       brief update of activities from each product line  
2       to just -- again -- try to orient you on what's  
3       coming down the pike, what's been done, and what  
4       not.

5                 So, with that, the first thing up that  
6       I'm going to start off with is a brief explanation  
7       of how we do our IT at USPTO. At the USPTO in the  
8       past couple of years we have fully adopted the use  
9       of agile software development concept to do all  
10      our work. Specifically, we use what's called the  
11      DevSecOps version of that, which stands for  
12      development, security, and operations; and all  
13      that really means is -- it used to be just DevOps  
14      -- development and then operations -- but, the  
15      industry as a whole interjected the idea that you  
16      really need to include security in there -- thank  
17      goodness we did -- because that's obviously a  
18      big-big concern with our IT. So, DevSecOps ensure  
19      that security is a shared responsibility  
20      throughout the IT development life cycle. That's  
21      all that really means is that everybody that's on  
22      one of these agile teams is also focused on an



1 element of security from cradle to grave. This  
2 also means that we have many small teams -- that  
3 we call our scrum teams -- that develop the  
4 functionality for our end-user. So, all these  
5 major goals I'm going to talk about and then the  
6 product lines. There's a lot of individual  
7 smallish teams -- between 5 to 12 -- we want to  
8 try to keep them smaller -- but that's what a  
9 scrum team comprises of, and for Trademarks  
10 there's -- I think -- we're around 20 scrum teams  
11 across our product lines, or maybe more. But,  
12 what it also means in this new ways of working --  
13 as we call it -- is that Trademarks -- and all the  
14 other business units at USPTO -- are really much  
15 more in control of their development efforts  
16 because the teams are really managed from the  
17 business units. We have lots of people from the  
18 business serving as what they call the product  
19 owner and subject-matter experts that are on the  
20 team day-to-day and then we get coaching and  
21 oversight from our OCIO; and it's been very  
22 positive. We've made some huge process, we were

1 able to make the Trademark modernization goal last  
2 year using this methodology and that was pretty  
3 amazing. In Trademarks we've organized our IT  
4 assets -- all of our IT has been grouped into what  
5 we call six product lines -- that you'll see  
6 depicted on the slide here -- and again -- those  
7 are made up of multiple scrum teams.

8           Okay. So, now I want to tell you about  
9 just real high level what each product line  
10 focuses on so you kind of get the orientation of  
11 what -- if we present this again -- if I'm invited  
12 back to brief you all again -- this is kind of the  
13 structure of which I present to you all. So, the  
14 Trademark exam product line, they focus on the  
15 development of the functionality -- all the  
16 functionality -- needed by our examining attorneys  
17 and the rest of the business units -- internal for  
18 examination. It includes the search tool, the  
19 office action editors, all that stuff; and the  
20 docketing. The TM external product line supports  
21 the public facing filing systems and search  
22 systems and EOG and whatnot, so that's where you

1 see in this product line. This is where TESS,  
2 where T's, TSI -- all those systems -- kind of  
3 fall under the support -- is picked up from that  
4 product line. The content management services  
5 product line basically maintains the databases and  
6 the content storage. They're more of a backend  
7 team that all these other teams need to grab  
8 content or data from, or put into those databases  
9 and content storage.

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

18           Trademark data and analytic product line  
19 develops and supports the data analytics platform  
20 to provide metrics and insight into trademark  
21 filings, operation monitoring, employee  
22 production, and much-much more. This is like

1 where Nabil lives and breathes -- where they've  
2 dug all the modeling for us, they do the  
3 projections and whatnot -- but it's also going to  
4 be where we figure out what the employee  
5 production will be like from day-to-day. And then  
6 finally, the TTAB. They provide the end TM  
7 systems for the filing and processing of the  
8 submissions to the TTAB. So, six product lines  
9 and at least two to three teams per product line.

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

21 The first goal is modernizing -- as no  
22 surprise -- our trademark examining tools with an

1 emphasis this year on delivering the flexible  
2 response times that we spelled out in the  
3 Trademark Modernization Act. We're kind of trying  
4 to get that done -- that specific flexible  
5 response time -- by December. Our second major  
6 goal is to modernize the trademark filing  
7 experience. So, we want to ultimately -- over the  
8 next year to two years or so -- improve and/or  
9 replace the T's and TSI filing system with a more  
10 modernized experience. And then finally, our  
11 third goal is the retirement of the TRAM Legacy  
12 mainframe which is -- for the past 40 years or  
13 about -- that's been the backbone of where we  
14 store our data, manage a lot of our content, do  
15 our business rules -- kind of evolved from that  
16 mainframe where we need to get off of it. So, we  
17 need to get off of it soon and it's essentially  
18 the backend of the modernization effort that needs  
19 to happen. So, the theme of course overall for  
20 all of those is -- as you guessed -- the  
21 modernization. We're trying to modernize  
22 everything we do so that we can keep up with the

1 business at hand.

2 All right. So finally, I wanted to  
3 provide a brief update from each product line of  
4 upcoming events and their real near term focus.  
5 So, from the Trademark exam product line is  
6 focused on implementing -- as I mentioned earlier  
7 -- their focus right now on implementing the  
8 flexible response times for the Trademark  
9 Modernization Act by December. They are also  
10 working on refining the modernized tool that's  
11 already been built for our examiners. So, there's  
12 a new tool for our examiners. They've got this  
13 Legacy tool they've used for years and years, but  
14 to coincide with this December flexible response  
15 time implementation we're trying to get all the  
16 examining services to switch to this new tool so  
17 that the flexible response times are facilitated  
18 out of this new tool and we wouldn't have to  
19 reinvest in our Legacy systems to do that. So,  
20 there's a couple more tweaks that they need to  
21 make to that tool to make it the best experience  
22 and the most efficient tool it can be to help Dan

1 and company out so that we don't get negatively  
2 impacted when we make this switch with the backlog  
3 and whatnot. So, that's another big bucket of  
4 activity that these teams are working on, to make  
5 sure that that tool is best of breed, so to speak.  
6 And then later this calendar year we anticipate  
7 that we'll be able to begin building the user  
8 interface for a new search tool. Right now the  
9 examiners use a product called BRS Open Text.  
10 We've got a new open-source tool called  
11 Elasticsearch that's in the lab and it's pretty  
12 near as far as it can go with basically being a  
13 replacement, but we've got to build a frontend to  
14 refine that tool. I'm going to come back and talk  
15 about this again in a minute because I think one  
16 of the questions from the audience was  
17 specifically about search, because there's a  
18 similar effort on the external side as well.  
19 Under the Trademark external product line -- as we  
20 mentioned earlier in today's meeting -- we  
21 continue to work on implementing the identity  
22 verification. This team's also working on the e-

1 Registration targeting the end of May to make that  
2 live for everybody to use, and then those teams  
3 have also started the modernization effort for the  
4 trademark filing experience. This part of the  
5 effort will focus on the initial application form  
6 to begin with. The last thing that this team has  
7 started to look at is building a simplified search  
8 interface that would make use of this  
9 Elasticsearch backend that would replace TESS.

10 Now, I'm going to pause here and kind of  
11 talk about these together a moment because I think  
12 it came up in the questions and answers from the  
13 audience. Right now we're thinking it's probably  
14 going to be the end of the calendar year before we  
15 can start getting people in front of these tools  
16 because we're talking about whether to get it in  
17 front of our examining attorneys first or our  
18 public customers first. What we'd prefer to do is  
19 kind of do it in the same time, but we're kind of  
20 looking at what reality is for both of these and  
21 what makes the best sense to do and in which  
22 sequence. So, stay tuned on this. I'm hoping we



1 can get it out a little bit sooner than that for  
2 people to look at so we can get that valuable  
3 feedback on how we can improve this thing and make  
4 it -- again -- the best of breed. We want to lead  
5 the world on all this stuff of course. So, I hope  
6 that kind of addressed the question from the  
7 audience, but we'll pause at the end and take more  
8 questions as necessary.

9           Moving on to the content management  
10 system. They've been working on the changes for  
11 the TMA flexible response times. They have setup  
12 a couple services just recently and made some  
13 document code changes so that -- again -- the  
14 backend that everybody relies on in the databases  
15 is ready to go. Trademark international -- this  
16 is kind of cool. They've been building their new  
17 workflow completely in the cloud. They picked out  
18 a tool a while ago to replace the legacy workflow  
19 engine that drives that Madrid Treaty protocol  
20 data exchange and they're targeting the end of  
21 August to do their first production deployment for  
22 two major transactions of that data exchange, and

1       then they'll go on one big transaction at a time  
2       and replace all the backend, and then the plan is  
3       that once they finish replacing the workflow  
4       they're going to swing back around and do the user  
5       interface refresh. And then finally, the TTAB  
6       team is -- they're continuing of course to support  
7       the overall flexible response times. I don't  
8       think they have a whole lot of work to do there  
9       for the TMA flexible response times, but more  
10      importantly their work continues on modernizing  
11      their experience as well. So, the thread through  
12      all these is that we're trying to modernize  
13      everything, adopt new platforms so that we can be  
14      the best of breed and continue to keep up with our  
15      customer's needs and whatnot.

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

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

21                 MS. KOVALCIK: This is Jen. I first  
22      wanted to commend you guys. I know you are

1 working so hard and have so many overlapping and  
2 parallel task efforts as you're managing the  
3 backload and planning for the future, working to  
4 modernize and implementing new changes to comply  
5 with the updates to the Modernization Act. So, I  
6 know you guys are working so hard. I'm very  
7 interested in trying the beta for the image search  
8 tool when it becomes available as well. I thought  
9 I might ask if you could provide an update on  
10 where we are with ID.me verification and how the  
11 implementation of that is going?

12 MR. DODSON: Sure. Thanks, Jen. I'll  
13 briefly touch on that. So, we implemented the  
14 voluntary component of that on the 8th of January,  
15 right. The plan was actually -- I guess -- today  
16 was going to be the date that we were going to  
17 make it mandatory. We extended the voluntary  
18 period, but you saw the results of the  
19 verification so far, right. We've done quite a  
20 bit -- frankly, more than we thought -- from a  
21 voluntary perspective right now. So, we're very  
22 excited about what's going on with that. We are

1 waiting for permission to go mandatory right now.  
2 We're working through a few different things that  
3 we've got to accomplish here to kind of get people  
4 squared away with that; but once we do, what you  
5 can anticipate at that point is that we will then  
6 be in a place where our customers can either  
7 continued the automated process, they can go to a  
8 direct-to -- the trusted referee component --  
9 which is part of the fail-safe process that we  
10 have right now, we're going to work to get them  
11 there directly; and then of course, the paper  
12 process will be in place as well too.

13 We're very comfortable and we're very  
14 satisfied with the work that our vendor -- ID.me  
15 -- is doing for us right now. They've been more  
16 than gracious in supporting us through the last  
17 couple of months as we've been working through  
18 this, and they are working with other federal  
19 agencies -- I think Dave mentioned the Veteran's  
20 Administration. They're also doing the IRS,  
21 they're also part of the Social Security  
22 Administration, as well as a number of state and

1 corporate clients as well too. So, we really feel  
2 that our relationship and our collaboration with  
3 the vendor is probably as good as it's every going  
4 to be. And so, we look very much forward to  
5 instituting this in a mandatory way and we think  
6 what it's really going to do -- and I think  
7 everybody that has spoken today thus far has said  
8 "fraud" at one point or another -- we really think  
9 that this is going to help us get through some of  
10 that and make the work easier for both Amy's team  
11 and for Dan's team as we go forward. And then  
12 fundamentally, what we're really accountable and  
13 responsible for is the integrity of the register  
14 and we think that's really going to make a  
15 difference.

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

21 MS. KOVALCIK: Yes, thank you. We don't  
22 have to do it now, but maybe at a future meeting

1 -- or even perhaps a webinar -- there can be a  
2 little more information about the trusted referee  
3 process. My personal experience going through  
4 ID.me was very easy, it was very streamlined, it  
5 didn't have any issues; but I know some of us on  
6 TPAC did have to go through the trusted referee  
7 and it also made it very easy and were able to  
8 complete successfully their registration. So, I  
9 don't know if anybody has any hang-ups about that  
10 process, but at least our experience is that it  
11 worked well for us.

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

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

22 (Recess)

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

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

1 committee here. So Lisa, if you would please?

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

20 So, our data center move. We are moving  
21 our data and all of our equipment from the  
22 Alexandria location to a Manassas location; and



1 that move, it is in progress and a lot of the  
2 bundles that they're building together and  
3 products together, they're going to be moving in  
4 bundles. About 45 percent of the bundles that  
5 need to be planned out to move have been  
6 completed. There's lot of skids of equipment that  
7 needs to be moved. Five of the six skids of  
8 equipment have been moved and positioned into the  
9 new location, and also that Cloud migration team  
10 had to actually figure out exactly how much needed  
11 to be moved. There's over 149 products that need  
12 to be migrated into this data center move. So, a  
13 lot of work has been done, but we still have a lot  
14 of work to continue and our Trademark teams are  
15 supporting that along with what they're doing for  
16 the business line. What we have planned next is  
17 continuing to work with the product teams to  
18 adjust bundles as need be. If schedules or  
19 priorities for business happen, we have to make  
20 shifts sometimes and move things around so that  
21 we're not impacting the business, but that we're  
22 also getting all the move done to be completed in

1 a timely manner. And so, they're actually moving  
2 and starting to install a lot of that equipment in  
3 the new data center and also looking at our high  
4 value assets -- of which Trademarks have several  
5 of them within the product line -- and deciding  
6 which one Trademarks will move first. So, Glenn  
7 -- with Greg -- is deciding -- based on the plans  
8 for Trademarks -- what needs to happen when. So,  
9 sometime this summer there will be a Trademark  
10 application that moves and our public partners  
11 should see nothing in that. It should be seamless  
12 to them and it will just be behind the scenes, us  
13 building it out, moving it, testing it; and when  
14 things are working, cutting over.

15 The second item is our cloud migration.  
16 We have a big initiative with cloud. We're  
17 utilizing that we're partnering with Amazon, Azure  
18 and Google. Right now, we're with Amazon in  
19 production and we're starting to also see some  
20 cost savings and improvements. About 35 percent  
21 in FY 21' based on the work that happened in FY  
22 20'; and a lot of our product teams are building

1 out their lab and production environments in 21',  
2 and already in 22' an additional six lab accounts  
3 and another additional six product in production.  
4 We're also building out lab accounts in Azure and  
5 Google Cloud. So, there's options, it's not just  
6 one cloud environment, there are multiple based on  
7 the needs of the product that it needs to support.  
8 As we continue in this excellence with our cloud  
9 initiative, we are looking upfront to ensure where  
10 can we save dollars. Savings in the Elastic Cloud  
11 compute -- which we experienced in February 22' by  
12 25 percent. It allows us to ramp up virtual  
13 servers when need be, bring them back down when we  
14 don't need them any longer; so we're not holding  
15 out dollars or spending costs when the need is not  
16 there. Also, in our various types of data,  
17 whether it be relational databases; in which  
18 instances, what team needs what; and so, we're  
19 building out reserves. So, we have reserves  
20 there, so we have money set aside for that, but  
21 we're not just spending everything up front. So,  
22 that allows us to experience savings also; and

1 mandatory tagging.

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

8           CyberOps. CyberOps integration from  
9 beginning to end. We all understand the impacts  
10 on cyber and the tenants that we need to continue  
11 to support as we move into the Cloud, and then as  
12 we continue to mature these Cloud environments --  
13 whether they be in AWS, Google or Microsoft Cloud  
14 -- we want to make sure that we continue to update  
15 our processes, publish those processes to the  
16 teams; and also we have setup a shared environment  
17 for teams to go and look -- what are the best  
18 practices, what are the boundaries, what's already  
19 been built out there for us -- so they're not  
20 building things themselves and starting from  
21 scratch over and over again. So, as we learn, we  
22 are continuing to improve and build out and set

1 foundations for the USPTO so we're continuing to  
2 build in excellence. So, that's my brief and are  
3 there any questions?

4 CHAIRWOMAN NATLAND: No questions?

5 Thank you so much, Lisa.

6 MS. HILTON: Thank you.

7 CHAIRWOMAN NATLAND: Thank you very  
8 much, Debbie and Lisa; appreciate that report.  
9 So, we're going to now turn to a report from the  
10 Office of Policy and International Affairs -- OPIA  
11 -- and I will hand it over to Mary Critharis.

12 MS. CRITHARIS: Good afternoon everyone.  
13 Can you hear me? Okay, great, thanks so much.  
14 It's a pleasure to be here. I welcome the  
15 opportunity to provide you with some international  
16 updates. I'm joined by our Senior Counsel's Nancy  
17 Omelko and Branden Ritchie, who I know you both  
18 know them very well, but I just want to thank them  
19 joining us as well today. Can we go to the next  
20 slide, please?

21 So, here are a few issues we wanted to  
22 discuss. We've received a lot of questions on

1 Russia, so hopefully we have a chance today to  
2 answer some of those questions. We are going to  
3 provide you with some updates from ICANN, the  
4 recent SCT meeting at WIPO, TM5 developments,  
5 share with you our upcoming Trademark training  
6 programs, as well as highlights from the Elster  
7 decision. Next slide, please.

8           So, first I wanted to talk about our  
9 engagements with Russia, as well as -- not just  
10 the office dealings -- but also public dealings  
11 with the Russian IP Office -- commonly referred to  
12 as Rospatent. So, earlier in March we put a  
13 public notice out that we have terminated our  
14 engagement with Rospatent -- the Eurasian patent  
15 organization -- as well as the national IP office  
16 of Belarus. So, we no longer will be having  
17 meetings directly with these offices. I will say  
18 thought that in a multilateral context -- like in  
19 WIPO, for example -- we are able to participate in  
20 these discussions. However, for smaller meetings  
21 where Rospatent was party to those meetings, we  
22 are not participating in more smaller group

1 meetings. This guidance of course comes from our  
2 State Department, and I just wanted to share -- I  
3 know it's not relevant to Trademarks -- but we do  
4 have our flagship work sharing arrangement which  
5 is called Global Patent Prosecution Highway  
6 Arrangement where work performed by Rospatent is  
7 used to accelerate work in the USPTO. We are no  
8 longer granting requests under that program, and  
9 we also kind of warned our PCT applicants that  
10 they shouldn't elect Rospatent as a search or  
11 examination authority because we're concerned  
12 about processing and also payments under the PCT.  
13 So, that's what the office is doing. I know  
14 there's been a lot of questions about making  
15 payments to Rospatent for filing fees, renewal  
16 fees, etc. and all of those questions are really  
17 handled by the Office of Foreign Assets Control of  
18 the Department of Treasury. We are working very  
19 closely with OFAC to try to determine whether  
20 payments can be made. So, this is still an  
21 ongoing discussion. What I can share with you at  
22 this time is that all payments to Rospatent go

1 through the CBR -- which is Central Bank of  
2 Russia. The CBR is a sanctioned entity and  
3 therefore payments to sanctioned entities are  
4 prohibited under U.S. law. However, there is a  
5 general license -- it's called General License 13  
6 -- that allows U.S. citizens and entities to make  
7 payments as long as they're for registrations,  
8 certifications and licenses to conduct day-to-day  
9 operations. So, we are engaging with OFAC to make  
10 the determination whether maintaining your IP  
11 portfolios in Russia falls within that rubric of  
12 day-to-day operations. So, you can please feel  
13 free to reach out to OFAC. Understandably they  
14 are incredibly overwhelmed -- not just with IP  
15 questions -- but all of these business-related  
16 questions. As soon as we get more guidance from  
17 them -- we have given them broad descriptions --  
18 the purpose of the fees and how this really  
19 impacts operations; and in particularly  
20 Trademark-related operations for companies. So, I  
21 think they're well aware of the issue, they are  
22 trying to make a legal determination whether the



1 payments will fall under that license, and then  
2 you can continue to go make those payments. But  
3 we do recognize that this is a challenging time  
4 and we encourage you to please reach out to me or  
5 Nancy or Branden if you have any questions, and  
6 we'll update our notice as well. Next slide,  
7 please.

8           So, I also wanted to talk a little bit  
9 about what Russia's been doing with respect to IP.  
10 So, they've been taking some retaliatory measures.  
11 Our understanding is there is over 600 companies  
12 that have pulled out of Russia because of their  
13 invasion of Ukraine, and there has been some  
14 retaliatory measures with respect to IP that I  
15 just wanted to bring to your attention. These are  
16 all still kind of in progress and we're still  
17 trying to get some developments; it's a little bit  
18 challenging at the moment. One thing is Russia  
19 has authorized the use of compulsory licensing for  
20 patents without any compensation. Under  
21 international norms and TRIPS Agreement they're  
22 supposed to at least provide some remuneration;

1 they said there would be zero compensation for use  
2 of foreign patents. They're also taking a lot of  
3 actions to deny or dilute IP protections. One  
4 such measure is they have enacted a law making it  
5 legal to import grey market goods. These are  
6 legitimate goods in other territories, but they  
7 need to be approved before entering into the  
8 market in Russia, and they're saying that that's  
9 no longer required, they don't have to prove the  
10 legitimacy or the authorization of those grey  
11 market goods. The Ministry of Trade will be  
12 identifying the list of goods that qualify and our  
13 understanding is that will be really linked to  
14 what the consumer need is. So, I think that's  
15 just something to be on the lookout, that they'll  
16 be identifying goods that will be permitted to  
17 enter the market regardless of whether they were  
18 authorized to be there or not.

19 Another thing that we're seeing is there  
20 is a lot of people taking advantage of the fact  
21 that the U.S. brands are pulling out of Russia,  
22 and our understanding is trademark applications

1 are actually being filed on these well-known  
2 marks. These include marks like McDonald's,  
3 Coca-Cola, Apple and Starbucks. It's not clear  
4 whether Rospatent will issue trademarks on these  
5 well-known marks, but that's just something to  
6 follow. Even more troubling is we just received  
7 word that there was a case that was filed by a  
8 British company claiming trademark and copyright  
9 infringement and the case was dismissed by the  
10 court on the grounds that the actions from the  
11 U.K. -- their sanctions were very harmful to  
12 Russia -- and therefore they deemed that to be an  
13 abuse of right; and the case was dismissed on  
14 those grounds. So, here we're seeing an IP action  
15 being dismissed due to the fact that some  
16 sanctions are being posed by the government. So,  
17 that's just something to be on the lookout for.  
18 That was one case we've heard -- we don't know if  
19 it's going to continue to be a trend -- but we are  
20 encouraging the stakeholders to continue to  
21 monitor these unauthorized uses or abuses of  
22 trademarks in Russia, and to keep up to date on

1 procedures for preventing export of infringing  
2 goods from Russia to other markets; and please  
3 feel free to reach out to us as these developments  
4 arise so that we can do our best to try to address  
5 them or get some more information. Next slide,  
6 please.

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

1 international obligations for IP.

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

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

17 MS. CRITHARIS: Thanks, Susan. So,  
18 we're hopeful of that. I wish I could give you  
19 some more information on timing; we've been  
20 speaking with them all week, we've given them a  
21 whole host of information. I will say, they feel  
22 comfortable with all the information provided; so

1       they're just going to regroup and make a decision.  
2       I'm not really sure -- we will check in with them  
3       next week -- so as soon as we know, we'll  
4       definitely try to share the news with everybody.

5                   CHAIRWOMAN NATLAND:  Okay, thank you so  
6       much.

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

18                   I'll talk a little bit about our ICANN  
19      activities.  So, ICANN Board is currently  
20      evaluating the need for a community proposed model  
21      for access to and disclosure of who is -- domain  
22      name registration record information for

1 legitimate interests. ICANN is also studying the  
2 subsequent procedures for the new generic top  
3 level domain names in preparation for the round in  
4 early to mid-2024. They also introduced the  
5 experimental global public interest framework to  
6 assist policy development processes and the  
7 intergovernment organizations work track on the  
8 protection of IGO names and acronyms is expected  
9 to be complete -- its' final report April -- and  
10 ICANN is also seeking public comment on the  
11 uniform domain name dispute resolution policy  
12 status by April 19th. The next ICANN meeting will  
13 be held in June; it'll be in a hybrid format. So,  
14 next slide, please.

15           Just a few updates on the WIPO SCT  
16 meetings. So, we had this meeting just last week  
17 and the next meeting will be in November. One  
18 thing that's talked about is -- again -- these  
19 generic top level domain names -- and country  
20 development use and enforcement of nation brands  
21 is also a topic under discussion; and on the  
22 margins of the SCT, there is some information

1 sessions -- which I think are really helpful and  
2 useful to all the participants at WIPO -- having a  
3 GI information session, and also possible future  
4 information sessions on nation brand protection  
5 will also be proposed. One highlight I just  
6 wanted to share is, typically our General Assembly  
7 in WIPO meets in the fall. This year they will be  
8 meeting in July -- I think trying to change up the  
9 schedule -- so, that will also set the budget and  
10 program for the upcoming year; but I just wanted  
11 to highlight kind of a change in schedule.

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

14 MS. OMELKO: Thanks, Mary. The TM5 is  
15 meeting on the margins of intel, and TM5 is the  
16 group of countries -- the largest Trademark  
17 offices -- which would include Japan, Korea, the  
18 Europe IPO office -- EU -- sorry; also, the U.S.  
19 And China; and because China isn't appearing in  
20 person, we are going to have to start virtual  
21 meetings for them early in the morning. And then  
22 the midterm user session is May 01, 2022. This is



1 the first time that the partners have met in  
2 person since 2019. Some of the projects that are  
3 under discussion are raising awareness about  
4 trademark infringement -- also, fraudulent  
5 solicitations -- and we are continuing to do work  
6 on goods and services; trying to harmonize so that  
7 applicants can file in many countries of the five  
8 -- possibly all five countries -- using the same  
9 identification of goods. Next slide, please.

10 And then we also had some training  
11 highlights -- this is just highlights as noted in  
12 the subject line. There was a webinar for Oceania  
13 Customs Organizations -- member states -- on  
14 trademark protection. These island nations --  
15 although it does include Australia and New Zealand  
16 -- the smaller islands are really new to IP  
17 systems and so we're trying to work with them and  
18 possibly get some type of regional work done as  
19 well. There was also a webinar on well-known  
20 marks and bad faith with ASEAN. Well-known marks  
21 and bad faith continue to be hot topics around the  
22 world, and so we're very happy to engage on those.

1       There was also a webinar with the Philippines on  
2       the GI -- Geographical Indications Policy -- on  
3       generic terms and disclaimers. We really want to  
4       help our producers -- mostly of cheese and  
5       processed meat, and also wine -- to be able to  
6       trade in other countries where their use of  
7       generic terms is perceived as counterfeiting or  
8       abusing geographical indications from primarily  
9       the EU. We also had a webinar on distinctiveness,  
10      descriptiveness, nontraditional marks and TTAB  
11      overview, and appeals, and oppositions and  
12      cancellations with Pakistan. Well-known marks and  
13      also nontraditional marks are very hot topics; and  
14      so, understanding how to describe nontraditional  
15      marks -- some of which are not graphically  
16      represented. We go into that pretty much in  
17      detail with those other partners. We also had a  
18      webinar on TTAB overview and appeals, and also the  
19      Madrid Protocol with Bhutan -- and I know that  
20      Gerry Rogers is following us, so I want to say  
21      that we don't overstep, we just talk about the  
22      basics.

1                   And that's my part of the presentation.

2                   Now over to you, Branden.

3                   MR. RITCHIE: Okay. Thank you. Next  
4                   slide. Thank you. So, one development that  
5                   happened since the last TPAC meeting that is  
6                   worthy of note -- and we will be just providing a  
7                   summary today of the holding -- was the Elster  
8                   decision by the Court of Appeals for the Federal  
9                   Circuit; and in that case there was a refusal that  
10                  the office issued against the mark TRUMP TOO  
11                  SMALL, and one of the refusals was under Section  
12                  2C of the Lanham Act -- and that's the provision  
13                  that prohibits the registration of marks that  
14                  include names that identify particular living  
15                  individuals without their consent -- and the  
16                  applicant appealed that and the TTAB affirmed the  
17                  refusal. The applicant then appealed to the Court  
18                  of Appeals for the Federal Circuit and that court  
19                  issued an opinion in February that held that not  
20                  the statute itself, but the statute as applied to  
21                  refuse this mark was unconstitutional because it  
22                  was an unconstitutional restriction on the

1 applicant's free speech right. One of the main  
2 arguments the court made was that the rights of  
3 privacy and publicity were not sufficient for  
4 restricting speech when the person that the speech  
5 is about is a public or political figure, without  
6 the showing of actual malice. So, that is one  
7 we're watching -- PTO is discussing -- and we just  
8 wanted to highlight that at the summary level for  
9 TPAC this time.

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

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

17 CHAIRWOMAN NATLAND: Anything from TPAC?  
18 Okay. Well, thank you very much. You guys are  
19 all over it as far as I can see; so, great work on  
20 -- I know you guys have a lot of balls in the air  
21 at once -- and I really appreciate that. So,  
22 thank you very much; and with that, I think we

1 will move on to the report from the TTAB, and  
2 Chief Judge Rogers; over to you.

3 JUDGE ROGERS: Thank you, Susan. Given  
4 Branden's reference to the Elster decision, I  
5 might just point out one thing before I go into  
6 the slides; and that is that the Department of  
7 Justice essentially acts as the USPTO's attorneys  
8 when they're defending a statute passed by  
9 Congress against a constitutional challenge. So,  
10 normally the Solicitor's Office attorneys here  
11 within the USPTO would defend -- at the Federal  
12 Circuit -- the decisions that the TTAB issues in  
13 an ex parte appeal from an examiner's refusal of  
14 registration because the Solicitor's Office  
15 attorneys act as our advocates in the appeal of  
16 these ex parte matters to the Federal Circuit.  
17 However, when a constitutional challenge arises,  
18 the Department of Justice attorneys step in -- and  
19 of course they work with the Solicitor's Office  
20 attorneys as well. I point this out because  
21 Branden noted that the decision issued -- and some  
22 people may be wondering "well, what's next?"

1 Well, of course there's always the possibility  
2 that the Department of Justice doing its job in  
3 regard to defending statutes passed by Congress  
4 might want to seek a review at the Supreme Court  
5 and might file a petition for a writ of  
6 certiorari. I'm not saying that they are doing  
7 that or they're planning to do that, I'm just  
8 acknowledging that this is a possibility and that  
9 this is not necessarily the last word on Section  
10 2C; and of course, if the Department of Justice  
11 wants input from the USPTO, then the USPTO will be  
12 able to provide that through the Solicitor's  
13 Office attorneys. So, that's all we need to say  
14 about Elster; and we'll move on to the TTAB status  
15 report.

16 So, the next slide I -- you may be  
17 wondering -- those of you who don't come to TPAC  
18 meetings on a regular basis -- why am I starting  
19 with figures that relate to fiscal 20'? Well,  
20 because I want to make two points. One is that in  
21 previous meetings we've had with the public  
22 advisory committee we've noted the really

1 significant increases in the TTAB's workload that  
2 came in fiscal 17', 18', 19'; and frankly, we had  
3 8 to 9 year run-ups in new proceedings being  
4 commenced -- new appeals, new oppositions, new  
5 cancellations. So, it was significant that in  
6 fiscal 20' -- of course -- we entered into the  
7 pandemic and we began to see moderating filings.  
8 There were -- of course -- economic consequences  
9 for our entry into the pandemic, and so in fiscal  
10 20' while we still saw some increases in appeals  
11 and petitions to cancel, the increases stopped in  
12 oppositions and the increases even in petitions to  
13 cancel were lower than they had been in previous  
14 years. Next slide, please.

15 In fiscal 21' -- the fiscal year that  
16 ended last September -- we saw continuing  
17 moderation of new cases being commenced at the  
18 Board. So, there was a slight increase in  
19 appeals, but we saw on the previous slide a larger  
20 increase in the previous year. So, appeals --  
21 while they increased in number -- were going down  
22 from the previous year, and everything else also

1       declined; although the opposition decline is very  
2       minor and they're pretty steady. Next slide,  
3       please.

4               So, that brings us to the current fiscal  
5       year and the question whether these declines that  
6       we've been seeing for the last couple of years are  
7       continuing this year or are things going to be  
8       changing and moving up? You might think about  
9       this question -- knowing that we heard earlier in  
10      the Trademark's presentation about the tremendous  
11      surge in applications -- and Commissioner Gooder  
12      pointed out -- that that has ramifications for  
13      other parts of the office -- for petitions and  
14      post registration, and all sorts of other areas;  
15      and of course that surge in trademark application  
16      filings has the potential to create more appeals  
17      for the TTAB and more trial cases. You would not  
18      see that if you look at these figures for the  
19      first half of this fiscal year; but then again, we  
20      have to keep in mind that a trademark surge will  
21      take a year or two before we start seeing more  
22      filings at the TTAB. So, based on these figures,



1 we don't see the effects of the surge hitting TTAB  
2 just yet. However, I will point out that in March  
3 alone -- the most recent month -- we had the  
4 highest level of petitions to cancel filed for the  
5 entire fiscal year. We also had the highest level  
6 of notices of opposition. So, even though these  
7 two categories -- new cases -- are showing a  
8 downward trend for the year, it might be starting  
9 up. So, we'll just have to keep an eye on it and  
10 see. Next slide, please.

11 This slide and the next one are included  
12 simply to illustrate in a different way than just  
13 these numbers on slides kind of the fluctuation --  
14 if you will -- in terms of the filing. So, this  
15 just covers this period I've been talking about  
16 from 2021 and the first half of this fiscal year  
17 during the pandemic. So, you can see on the top  
18 line that oppositions have gone up and down, and  
19 we expect that they will continue to fluctuate,  
20 but they will probably stay pretty steady between  
21 1,600 to 1,800 coming in each quarter; and so, the  
22 fluctuations are within a certain range. We can

1 see on the appeals line in the middle also some  
2 fluctuations up and down; but again, between 800  
3 and 1,000 appeals per quarter coming in.  
4 Cancellations around 600 a quarter are going to be  
5 coming in. Next slide, please.

6 This shows not the incoming new work for  
7 the Board, this slide shows the total number of  
8 pending cases that are pending at the Board at any  
9 one point in time; and of course, we know that for  
10 most of our trial cases, they are not going to be  
11 active cases most of the time. So, even though we  
12 have between 5,000 and 6,000 oppositions pending  
13 at any one point in time before the Board, it's a  
14 small fraction of those which are actively being  
15 litigated involving motion practice and involving  
16 the need for Board attorneys and judges and  
17 paralegals to work on them. Of course, most trial  
18 cases at the Board -- just like most civil  
19 litigation -- ends up settling or being disposed  
20 of long before we need to do a significant amount  
21 of work on the cases. But, I thought this slide  
22 was useful to show that even though we have these

1 kind of quarterly fluctuations in terms of the new  
2 cases coming in, the overall levels of work at the  
3 Board have been steady throughout the pandemic in  
4 terms of the total number of cases on our docket  
5 that have the potential to require attention by  
6 the Board. Next slide, please.

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

1 cases when those cases are ready for decision; and  
2 trial decision pendency, the goal is under 15  
3 weeks on average. So, we met the figures and  
4 we're keeping pace with the work -- again --  
5 because we have not yet seen a big impact from the  
6 trademark filing surge. Next slide, please.

7           So far in end-to-end processing -- again  
8 -- still this is the previous fiscal year. This  
9 is not so much a goal -- we don't have complete  
10 control over the processing time from the  
11 commencement of a case to the completion of a case  
12 -- so these figures -- we track them because we  
13 think that they are useful for counseling clients  
14 and for parties to know how long things are going  
15 to be pending at the Board; and these are -- again  
16 -- average figures and median figures, and we  
17 exclude from the calculations a small percentage  
18 of cases that involved anomalous prosecution  
19 histories. So, in fiscal 21' you can see that it  
20 took around 35 weeks or so for an average appeal  
21 -- one that didn't involve an anomalous  
22 prosecution history -- to be decided from the time

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

8               So, the pendency goals -- turning from  
9       these pendency goals and end-to-end processing  
10       figures in 21' -- now we're looking at the first  
11       half of this fiscal year. Again, we are meeting  
12       all of the pendency goals for processing contested  
13       motions and issuing decisions and appeals in trial  
14       cases, and we are -- again -- cognizant of the  
15       fact that we may yet see more cases and we may  
16       have more work that ultimately will challenge us a  
17       little bit more to meet these goals; but we're  
18       pretty confident that we're going to meet them all  
19       by the end of this fiscal year and then we'll just  
20       be monitoring filing levels and work levels as we  
21       move forward. Next slide, which I believe is the  
22       last one with numbers.

1           So, this is the end-to-end processing  
2 time for the first half of this year. So, up a  
3 little bit in processing of appeals; but actually  
4 down a little bit in terms of the processing of  
5 trial cases. Let me move on quickly, and try and  
6 save some time for questions.

7           So, if we can go to the next set of  
8 slides on the pilot program; and the next slide  
9 will help. I'll just briefly mention the pilot.  
10 I've mentioned this at previous public advisory  
11 committee meetings, and the Board is preparing to  
12 enter into a pretrial conference pilot. This  
13 would be a conference that the parties would enter  
14 into with a Board judge and a Board attorney after  
15 the close of discovery and prior to the onset of  
16 trial; and we will focus on cases with indications  
17 having manifested themselves during the pleading  
18 or discovery phases as likely to create large or  
19 redundant or unfocused or unwieldy records --  
20 which if we go to the next slide -- we can talk  
21 about the fact that that does not help anybody --  
22 it doesn't help us, it doesn't help the parties.

1       So, the goals for this pilot are to save the time  
2       and resources of the parties and the Board, and to  
3       foster effective presentation of cases. We can  
4       move a few slides ahead to the first one with an  
5       image from the PTO website. We can keep going,  
6       one more I think; there we go, there's the first  
7       one.

8               So, I skipped over those slides because  
9       I want you to know that the content on those  
10       slides -- and more detailed versions of it -- will  
11       soon be on the PTO's website and the TTAB page in  
12       particular. So, if you've found yourself at the  
13       TTAB webpage, on the main TTAB webpage you see in  
14       this middle column, practice and procedure; and  
15       the second carrot under practice and procedure  
16       lists final rules and pilots. If you clicked on  
17       that link from the TTAB webpage -- and we can go  
18       to the next slide now -- you will see on a portion  
19       of the page that you get to the pilot's portion.  
20       The pilot's portion within the next few weeks will  
21       have a listing for the final pretrial conference  
22       pilot. If you clicked on that link, you would get

1 all of the background information, what our goals  
2 are for the pilot, and that sort of thing; plus  
3 you would see a template, which is a form of order  
4 that the parties would discuss and bring to the  
5 final pretrial conference with the Board, attorney  
6 and judge; and so, on this page -- the pilots and  
7 final rules page -- you would see the information  
8 on the pilot plus the model format for the order.  
9 Next slide, please.

10 If you clicked on the final pretrial  
11 conference pilot bullet this is what you will see.  
12 This is not accessible via the TTAB webpage now,  
13 but -- again -- it soon will be; and with this  
14 dropdown menu you can find out everything you'll  
15 need to know about the pilot and how it will work,  
16 what we hope to accomplish; and what we really  
17 want to encourage is people to go to this page, to  
18 look at this material, to look at the final  
19 pretrial conference order template, and to give us  
20 input. We've already had some input in our  
21 discussions with TPAC and we value input from all  
22 of our customers and stakeholders.



1                   So, that's it, Susan. I know we're  
2                   running up against the 2:00 hour, but I hope you  
3                   still have a little bit of time for your questions  
4                   and answers; if you've gotten any from the public.

5                   CHAIRWOMAN NATLAND: Thank you so much,  
6                   Chief Judge. Is there any questions from TPAC for  
7                   Judge Rogers? Okay. Well, thank you very much.  
8                   Commissioner Gooder, I'd like to hand it over to  
9                   you to address any public questions that have not  
10                  yet been addressed.

11                  MR. GOODER: Oh, thanks, Susan. Excuse  
12                  me. We just got a very few questions. Some of  
13                  them were direct ones that we've passed to our  
14                  Trademark Assistance Center and the Petitions  
15                  office to handle directly with the person who  
16                  asked them because of the nature of the question  
17                  -- it's not really a group-wide question -- and  
18                  there was one question -- I think Glenn has pretty  
19                  much answered in his talk -- about what's being  
20                  modernized, etc. -- except to add one thing to it  
21                  -- and that is, as we modernize -- as we bring  
22                  these new systems on -- mobile accessibility is a

1 priority. So, it's not just going to be browser  
2 compatible with a lot of what we do. That takes  
3 time to make sure those things happen, but it's a  
4 priority to us.

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

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

1 maybe just a few words; and I do believe it's on  
2 the USPTO website.

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

22 CHAIRWOMAN NATLAND: Thank you so much

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

1 quarter.

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

4 CHAIRWOMAN NATLAND: Thank you.

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

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1 CERTIFICATE OF NOTARY PUBLIC

2 COMMONWEALTH OF VIRGINIA

3 I, Kendra Hammer, notary public in and  
4 for the Commonwealth of Virginia, do hereby certify  
5 that the forgoing PROCEEDING was duly recorded and  
6 thereafter reduced to print under my direction;  
7 that the witnesses were sworn to tell the truth  
8 under penalty of perjury; that said transcript is a  
9 true record of the testimony given by witnesses;  
10 that I am neither counsel for, related to, nor  
11 employed by any of the parties to the action in  
12 which this proceeding was called; and, furthermore,  
13 that I am not a relative or employee of any  
14 attorney or counsel employed by the parties hereto,  
15 nor financially or otherwise interested in the  
16 outcome of this action.

17

18 (Signature and Seal on File)

19 Notary Public, in and for the Commonwealth of  
20 Virginia

21

22

