

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, February 27, 2015

PARTICIPANTS:

TPAC Members:

MAURY TEPPER, Chair

WILLIAM BARBER

JODY DRAKE

JONATHAN HUDIS

TIMOTHY LOCKHART

KATHRYN BARRETT PARK

DEE ANN WELDON-WILSON

ANNE CHASSER

Union Members:

HOWARD FRIEDMAN, NTEU 245

HAROLD ROSS, NTEU 243

TAMARA KYLE, POPA

USPTO:

MARY BONEY DENISON, Commissioner for
Trademarks

GERARD ROGERS, Chief Administrative
Trademark Judge

RAJ DOLAS, Portfolio Manager for
Trademark Next Gen

DANA COLARULLI, Director, Office of
Governmental Affairs

SHIRA PERLMUTTER, Chief Policy Officer
and Director of International Affairs

AMY COTTON, Senior Counsel, Office of
Policy and International Affairs

SHARON MARSH, Deputy Commissioner for
Trademark Examination Policy

PARTICIPANTS (CONT'D):

JOHN OWENS, II, Chief Information Officer

FRANK MURPHY, Deputy Chief Financial
Officer

Also Present:

* * * * *

P R O C E E D I N G S

(9:00 a.m.)

MR. TEPPER: Well, we have quiet in the room and I am going to take advantage of that to welcome everyone and to call to order this public meeting of the Trademark Public Advisory Committee. I'm very happy to have everyone here today at the PTO. I know we have some folks listening in online too.

I would like to remind anyone who is watching the webcast, if you have questions or comments for our speakers, please do email those in and send them. They'll be brought to us. We will pause and try to take questions from folks throughout the day but we definitely welcome your input and questions, so feel free to take advantage of the opportunity to submit those.

I think most folks recognize the faces here. There are three new members of the TPAC that I would like to welcome and introduce to everyone. One is a familiar face, Jody Drake who you saw at our last meeting because she is now beginning her second term with us. She thought she could get away from the committee but we are

very pleased that she has been reappointed and will be continuing to work with us on TPAC.

Another face that may look familiar to those of you who remember a few years back, Tim Lockhart has started his second but non-consecutive term with TPAC. Tim is with Wilcox and Savage in Norfolk, Virginia, and many of you will remember the good work that he's done with us in the past. So we're really excited to have him back, keeping us all in order and paying attention.

And then we have our rookie. I think a man well known to many of you, Jonathan Hudis. Jonathan is with Oblon Spivak, which gives him the distinction of having the shortest commute of all of us. His office, literally, is at the corner. They are right down the street from the PTO. And we're very pleased to have Jonathan joining us for his first meeting.

There is one other rookie. And I know this is someone that you'll all know, but I'm very honored to have something of a debut today. This is the, I believe, the first public appearance of our new Commissioner for Trademarks, Mary

Denison. Mary, of course, is, very well known to many of you from her time in private practice working with associations. I know she chaired the USPTO Committee for INTA.

She has served, of course, as Deputy Commissioner for Trademark Operations. But I think, obviously, her most important distinction qualifying her for the job, she is a TPAC Alumni, as well. She served with Tim. So, we are very pleased to have continuing great leadership in Trademarks and are looking forward to hearing a little bit more about how things are going. It's been all of two months now, Mary? So I know that things will be in order, and we're looking forward to those updates, as well.

Just to remind everyone, our committee is appointed here to advise members of the PTO on operations and budget. But mostly, today, we are going to be hearing from folks about new developments, how things are going, tracking some progress. So I want to give most of the time to our speakers from the office. I thank them for their time to come in here with us, especially with all of the weather challenges that we have

had this week. So it's been an extraordinary adventure making sure everybody could get here. And we are pleased to have the opportunity to go forward with our meeting today, weather notwithstanding.

That being said, I'm going to save us just a little bit of time. The first item on your agenda this morning, I need to send regrets from our Deputy Director, Michelle Lee. Michelle was planning to be here to address the group and she has had some travel conflicts arise. So the laws of physics prohibit her from occupying two spaces at the same time, and until we solve that problem, I regret that we will not be able to have Michelle join us this morning.

However, we will start off with our tour de force, a man who thinks on his feet. I think when he needs to respond quickly to something, if you've got to wing, I supposed that makes him a winger. Dana Colarulli is our man on the Hill. We're going to have a legislative update, find out what, if anything, is happening in Congress, particularly as it relates to IP. So Dana, thanks for joining us this morning.

MR. COLARULLI: Thanks very much, Maury, and good morning. Maury referred to the adventure of the weather. I can tell you, being home with a three and a half year-old and a 7-year-old running circles around me as I'm watching two hearings and on a conference call is certainly an adventure; not one I'd like to do every day of the week.

So, Congress is trying to do some things. Let me start off there. And we try to support them in doing some good things in the IP field. Let me start out there. Since the last time the committee met, since I presented, we have a new Congress and I want to talk about the makeup of the Congress. As you all know, republicans on both sides of the house; a number of new senators, a number of new representatives as well. That creates some challenges for us, some good challenges to educate, certainly, on what it is that we do here at the agency.

We've had a number of different opportunities already this Congress, in the 114th to do that, whether it's on policy issues. And certainly, patent litigation legislation, the

conversation has restarted. There's been some Trademark legislation that's being reintroduced. And just in the first few months of the congress, we've gone up to the Hill and presented our budget. So a number different opportunities both to engage with new members of the Congress and to reeducate old members of the Congress what it is that we do here at the agency.

I will say, another opportunity -- and I'll talk about this -- is with the Senate Judiciary Committee, in particular, who took some action yesterday to report favorably Michelle Lee's nomination as Director. The next step now is for the full senate to consider her nomination and to vote. That may be a quick process, so we're hopeful it'll be a quick process. So that's the next step in the nomination process.

And that's provided some opportunities, as well, for us to do some meet and greets with members of the Judiciary Committee and talk about not just Michelle's vision for the agency, but also to talk about some of the issues that are going to be in front of the Judiciary Committee.

So I talked a lot about the Judiciary Committee because those are the committees of jurisdiction for the PTO. Of course, in recent Congresses, many other committees have taken interest in IP issues, particularly on the international front. So, I'll focus on the Judiciary Committee. Here on this slide, not too many changes.

Darrell Issa, formerly the Chair of the Government Reform and Oversight Committee. In the House, has taken the mantle of the subcommittee on IP, the courts IP and the internet. The other leadership in the House stayed relatively the same. I think, what that means is, you have someone who certainly understands the patent world. He certainly has had some oversight authority over PTO within the last year, so I think some of that will continue into this coming year.

I expect they'll be some general operations oversight hearings and questions to the PTO on follow-up from some of the IG reports. So we expect those. We also expect him to take a continuing role in some of the patent litigation

legislation that's being considered.

Moving over to the Senate, the same personalities, different chairs. We've already seen the committee start moving forward, at least, on the staff level talking about some of the substantive issues. They did this report (inaudible) out Michelle Lee yesterday. Unclear how the committee is going to work as we go forward. There certainly are some differences of opinions on some of the policy issues. But I think the issues of most interest to the PTO, some of the same dynamics still exist, particularly around patent litigation.

So, key issues; we address patent and litigation reform. Copyright statute review mostly happening in the House, a series of hearings. Another one yesterday, not on policy issues on the copyright side, but on operational issues. The Copyright Office itself is facing some challenges.

Enforcement of trade secrets; there was good action last year in both the House and the Senate on trade secret legislation. We're looking forward to that moving forward.

We had a very good symposium here at the PTO in January where we had some of the key staff working on this legislation here. They were also hopeful that they'll be able to move something this Congress.

Trade Promotion Authority, as well, not within the jurisdiction of the Judiciary Committee. This is a good example. Finance committee in the senate; the ways and means and the house clearly is going to spend quite a lot of time trying to provide trade promotion authority to the president, and defining the scope of that authority.

Hearings, I've kind of very quickly gone through. We had a second nomination hearing; a first one in December, a second one for Michelle at the end of January, two rounds of questions for the record, as well. So we created a very good public record for Michelle's nomination.

Substantive hearing, already in the patent arena, particularly the impact of Supreme Court cases on some of the legislation that was proposed last year, so a very good conversation

starting off.

Yesterday a hearing on patent demand letters. This is one of the issues that there's been a lot of support and consensus around will likely be part of any legislation, trying to make sense of the patch work of many state statutes that have been passed just within the last year to address abusive litigation tactics, particular sending multiple demand letters without much specificity on what the infringement is.

And then, I mentioned already the Copyright Office hearing yesterday. Highlighting just three relevant events to moving legislation into discussions; the Trade Secret Symposium I mentioned already. Patent Quality Summit; I think there's a very real connection between quality and some of the legislation proposals that are being discussed, so we'll look for an opportunity to talk about both of those. I wanted to highlight that.

And then, coming up probably at the end of March, although I know Shira Perlmutter is going to be speaking to the committee and can

verify a conference on copyright in the digital marketplace. This is a follow-up to a lot of the discussions that have been happening over the last year on both east coast and west coast on issues raised in the copyright green paper. So very active on all of those issues. And we're trying to do our part to inform the discussion, whether it's on the Hill or with a lot of the stakeholders.

Congressional activity on trademarks:
So, a number of pieces of legislation we've seen previously; the first is a bill on seals. It was a very active discussion last year, whether states and local municipalities should have additional, if we should change the statute, provide them with additional rights. Red Skins; I CANN. And then, in the wake of the President's announcement on Changing Relationship with Cuba, a bill was introduced to repeal Section 211. So, we'll be watching all of these.

Maury, I don't know if I can handicap any of these, whether they're actually move forward, but these certainly are the discussions in the trademark area that members of congress

want to initiate.

I won't spend too much time on this, but just for information; again, one of the major focuses for us right now is a patent litigation legislation. Legislation has been introduced in the House. We expect sometime in the next month or so the Senate to introduce their own bill, and it's unclear what the scope of that bill would be yet. But I think you could expect that a similar scope of provisions addressing litigation tactics.

Certainly, I've mentioned demand letters. Some language on increasing transparency of patent ownership will likely be part of this discussion. And then a very vigorous discussion -- and there are many disagreements over the litigation of management issues. So whether you're talking about fee shifting, which there seems to be significant support for, although there has also been some Supreme Court cases in this area. Discovery, heightened pleading requirements, they'll be an active discussion on all of those continued in the House and will be initiated in the Senate.

Meanwhile, there continue to be a lot of issues being taken up by the courts. The PTO is continuing to implement the American Invents Act, in particular, the post-grant review proceedings. The post-grant opposition proceeding itself is just really in its infancy, so it's very early to say what its impact will be on legislation. But the IPR trials have been very successful and popular. So, a lot of things going on that will impact the legislative discussion, both here in the courts and being discussed among our stakeholders.

Copyright issues, as I said, continuing a series of hearings on a number of policy issues. The Copyright Office, that last bullet under domestic activity, issued a report in February on the music marketplace and licensing addressing some of the same issues we addressed in the green paper, generally agreeing in a number of areas, as well.

I'd mentioned we're in the process of putting together a conference for spring, probably late March. And hopefully we'll be issuing a white paper at some point this year, as

well, to follow-up on the proposals made last year.

Last in the copyright side, the Beijing and Marrakesh Treaties; look like we'll be moving forward, and Shira will comment on that. She's hovering behind me. Hopefully this year, even today, we're headed up to the Hill to provide briefing to the Senate Foreign Relations Committee.

And then, just generally, a lot of activity around our satellite offices. This year you'll see opening of the permanent offices for the last two in Silicon Valley and in Dallas. John Cabeca is doing some great work out there with the stakeholder community already. And we have judges there working and contributing to the Board of Operations.

I already mentioned the budget and the CFO team and my team went up last month and presented the 2016 budget to the staff. The secretary testified this week, as well, on the DOC budget. I didn't get any questions on PTO but I'm sure they'll be some follow-ups, as well.

And then, we're doing our work, as I

mentioned, to educate staff and to members, especially new members. They'll be lots of those opportunities with World IP Day coming up this year, the 225th anniversary of the first Patent Act from April 10, 1790, so there will be lots more opportunities for us to educate staff, and we'll take those opportunities where we can get them. Thanks, Maury.

MR. TEPPER: Thank you, Dana. I think it's worth noting that a relatively quiet period for Dana involves tracking more issues than most of us ever have to deal with, so we definitely appreciate that. In some ways, it's reassuring to see that some of the issues we're keeping an eye on at Trademarks are the same ones we've been aware of. So, I'll take Dana's notion of not being able to handicap what might go anywhere. But it's not always a bad thing when people are not trying to tinker with our statute, so that can be good news.

I did have one question and I want to see if anyone else does for Dana. I believe, at least some of the patent bills that you mentioned up there, the Innovation Act and the Senate

Companion, if I'm right, there is at least a trademark issue buried in there somewhere. So we may keep an eye on that. Is that the bill that involves the revisions to the bankruptcy statute as well to address trademark licensees?

MR. COLARULLI: Yes, there is. And there are some provisions that address trademarks there. And, in fact, there were some concerns last year with the language that was proposed that I think were corrected. And Maury, I will say, as well, of the proposals that I mentioned, those are the things that Members of Congress want to raise. There may be other things that the community would come around and would like to support, in terms of positive changes, so we always encourage those conversations to move forward. There's a few that I know folks here at PTO have raised to me and we should actively continue looking at those.

MR. TEPPER: Thank you. I just wanted to get a little credit for a trademark issue in there. Any other questions for Dana this morning? All right. Do we have any questions from the public? You have been encyclopedic, as

always. Thank you, Dana.

MR. COLARULLI: It went off easy today, Maury.

MR. TEPPER: And I guess we'll return you hopefully to home and the kids will call you a survivor for making that. You're very much appreciated. We'll keep moving forward then. And we're going to have an update from the Office of the Chief Financial Officer. Tony Scardino is not able to join us in person today, but we're very glad to have Frank Murphy standing in. So if you'll note that change from your agenda. I think we're well used to hearing from Frank and he's a very busy man.

You already heard Dana mention we've given the 2016 budget to the Hill. We'll be working on that. They're actively monitoring the current 2015 budget in how we're performing and are in the process, as always, of thinking about putting together the 2017 budget. So I do want to remind you, when we go home and balance our books, you know, we usually have to think about this month or this year.____

Our CFOs are always looking at at least

three years at a time. So I supposed that might make one pull their hair out, but thank you for joining us, Frank.

MR. MURPHY: And that's an excellent segue as to why my hair is so thin. Thank you very much for that. Let me grab the clicker if I could. Thanks, Dana. As Maury mentioned, at any given time, the CFO is looking at at least two, probably three budgets. And you'll see in this presentation today, we even have some input from the FY14 budget, so we are in fact looking at three budgets and getting ready for the FY17 budget.

But we'll go through today where we're at for this current fiscal year, fiscal year '15, to talk as well about the '16 budget, and just mention some things that are going on with the biennial fee review.

If you take a look in the '15 budget, we did have the fee forecast for trademarks of \$273 million, and our collections through January are about six-tenths percent above our corresponding timeframe last year. Of particular note, of course, is that the fee decrease just took place in January and we are,

in fact, tracking to what our planned fee forecast is.

You can take a look at a little bit more of a deeper dive into the fee forecast and our fees for trademarks. These are the major data points that we have, and you can see how we break them out. We're tracking very close to what our projections were. And as I mentioned, we did have the reduction in the TEAS reduced fee application filing. That took place in mid-January. So the impact from that is right on track with where we had planned to be.

When we take a look at our forecast out through the end of the year, you can see here the breakdown in terms of where our actual carry-over was from the prior years, and that's the one point I'll make. When I had mentioned earlier that we talked multi-year, there's a portion of that which actually came from the fiscal year '14 budget. And an important distinction, just as a reminder for those who have been around for a while when we talk, the Patented and Trademark Fee Reserve Fund, and we also talk about the Operating Reserve. Especially for anyone that's new to

these terms, I just want to make the distinction.

The Patent and Trademark Fee Reserve Fund was enacted as part of the American Invents Act. And that says that for any funds, any fees that we have collected above what Congress has appropriated will go into a Patent and Trademark Fee Reserve Fund for the sole use of the PTO. And to access those fees at the beginning of the next fiscal year, we request Congress to transfer those monies, to do a reprogramming to put that back into our operating account. That's the key here, and that's that little bullet, that little asterisk that you see in terms of the new carryover. We do, in fact, have money that came from the Patent and Trademark Fee Reserve Fund. And that our normal Operating Reserve terms in the past have been called carryover, you may have heard. Maury, did you have any questions?

MR. TEPPER: Actually, this is great information. In fact, I just want to make sure for our online audience, if we can maybe get the microphone a little closer to you.

MR. MURPHY: Absolutely.

MR. TEPPER: I want to make sure that

they're picking you up well. Thank you.

MR. MURPHY: Got it. Thank you very much. I appreciate that.

MR. TEPPER: And luckily, I followed you on your explanation.

MR. MURPHY: As you can see in the end of year projection, we're looking at the carryover or that operating reserve will be \$84.4 Million. When we start looking at the out-year projections, while it's true that at any given year we are looking at three budgets -- and in this case, we're looking at the '15 budget and planning the '16 budget, which was sent to the Congress -- we actually have a five-year budget for any submission that we put forward.

And here, you can see what we put in the Fiscal Year '15 budget and the out-year projections for '16, '17 and up through '20. We also show that we actually have a very healthy trademark program with growth projected '15 through '20 in around six, seven percent, which is good news.

In the '16 budget, we sent those forward to the Congress the first Monday in February. We

requested authority to spend the fees that we're collecting, which is \$3.2 Billion, broken out by from Patents and Trademarks, as you see. And we have operating requirements that exceed that, and that our projecting spending would include dipping into that operating reserve. That's exactly the purpose for why it is there. It allows us to continue without the stops and starts in our investments so that we can maintain steady state progress to address the growth that we have anticipated. And we do anticipate as well that we'll go back to adding into the operating reserves in the out years.

The spending priorities that we have within that budget, we're going to be hiring a net of 37 new examining attorneys. And obviously, we'll be hiring more but we will have some attrition through that. We also will be increasing the TTAB staff. And you'll notice in the budget that it was a decrease in the IT portfolio for trademarks which still reflects an expansion of the Trademarks Next Gen, just not at the higher rate that we had earlier.

And the last point I wanted to make was

on the biennial fee review. We have just started this process. And there are 45 fee change proposals that have been set forth, including some that are looking to adjust trademark and TTAB fees. We have a body that is looking at those fees right now from feasibility, from impact, from legal authority to see which of these should we do a deeper dive on, and they're just now starting that process. Literally, this week we met to discuss that. So they'll be going into doing a much deeper dive, and we'll be getting feedback out probably near the end of the summer.

And I believe that wraps up the financial update. I'm happy to take any questions we may have.

MR. TEPPER: Okay. Thank you, Frank, very much. I just want to make sure, too, a couple of things to emphasize for folks. I think you heard, for next year we are requesting authority to spend our projected income. And I do want to make sure that that's clear to everyone here. The way that the PTO's budget still works, although we have been fortunate to have some good years, we haven't had the concerns about fees.

It is still true that the money that comes in the doors here cannot be used or spent unless and until Congress gives authorization to the Office to spend the money. So each year, we still have to receive authorization from Congress. The money needs to be appropriated and authorized in order for it to be put to work here. So when Frank outlined that, I just wanted to bring that out.

I do have a couple of questions to follow-up on, but let me first ask if members of the committee have any questions for Frank? Jonathan, please.

MR. HUDIS: Mr. Murphy, if you could turn to the 10th page of your slides.

MR. MURPHY: Well I have nine slides here.

MR. HUDIS: Okay. I'm looking at the one that says "Spending Priority to the Trademark Organization".

MR. MURPHY: Oh, I see the difference there. Thank you. Okay.

MR. HUDIS: So, as the rookie member of TPAC, I was grateful to get a lot of advance reading from Mr. Tepper, our Chair. It was the

consensus of TPAC, as was proven by my reading the advanced materials, that the Trademarks New Generation Project has gone less quickly than we'd like. In view of that, could you explain to us why there is an intention to spend \$18.6 Million less for the Next Generation system in Fiscal Year 2015?

MR. MURPHY: I can certainly try. I will also point that, soon hereafter, we're going to have the CIO in who can give a deeper dive into this.

MR. HUDIS: We'll be asking him those questions.

MR. MURPHY: Understood. The real key on this was in conjunction with review of the Trademark Next Gen Project. And the project officer working with the Trademark Office did a revalidation of the investment going forward. And it was a plan that is still investing in Trademarks Next Gen, but it's just at a lower level than was initially planned. So there's still an increase. There's still an investment into the Trademarks Next Gen.

The specifics as to which projects are

being delayed or which projects have been put on hold, I don't have with me. But I'd guarantee that John would be able to give you more detail on that.

MR. HUDIS: All right. Thank you, Mr. Murphy. We will be asking those questions of Mr. Owens later.

MR. MURPHY: There's just one follow-up to that, and it's something that I know John also can share. As mentioned or brought up in one of the subcommittee meetings, we had a request to do a deeper dive to provide the committee with more information about the current state for the trademark investments, and we are willing to do that.

We have a lot of information that we currently share. It may not be in the format that the TPAC is looking to receive that information, and we're going to evaluate that, make the tweaks that may be necessary and provide that information. So on a more routine basis, whether that be quarterly, monthly, semiannually or whatever that period of time will be, that we'll be providing more detailed information on the IT

investments because that clearly is a driver in the trademark budget.

MR. HUDIS: Thank you, Mr. Murphy.

MR. MURPHY: Mm-hmm.

MR. TEPPER: Thank you. Do we have other questions for Frank today? Jody?

MS. DRAKE: I have one quick question, Mr. Murphy. You talk about the biennial fee review, and there are three proposals to adjust Trademark TTAB fees. Are you able to tell us what those are, those proposals?

MR. MURPHY: I'm going to try to do the best, based on my notes. I believe the one that was from Trademarks was a petition to revive an application. And the two for TTAB -- you know, my notes are not very clear. One is an extension of time to file an opposition. And I just don't know what the third one was, and I apologize for that. I can get that information for you though, Jody, I'm sure.

MS. DRAKE: Thank you.

MR. MURPHY: Mm-hmm.

MR. ROGERS: I'll add a little bit of detail to that.

MR. TEPPER: Thank you.

MR. ROGERS: One of the things that we thought we should look at was whether fees for the few things that we actually charge for, such as appeals and oppositions and cancellations, should be adjusted. They haven't been adjusted in many, many years. So it's natural that, given the mandate to review fees, we would review those fees.

And one of the other things that involves thousands of filings a year, and which have never had a fee associated with them, are extensions of time to oppose. So we thought we would at least take a look at that. And again, as Frank mentioned in his presentation, these are just a few of many fees that the Office is considering and which will go forward. Even I can't tell you. I don't know that Frank can tell you at this point in time. So they'll be under active discussion and, obviously, we'll keep everybody informed if there's anything that we want to go forward with. And we certainly have not dealt with any of the details in terms of how much increases would be or what fees would be

charged, but we're just beginning to look at these areas.

MR. TEPPER: I want to thank you, Judge Rogers, for the clarification. And also, just to make sure -- and please correct me. I want to make sure that we all have context for this discussion because I expect there is a lot of interest when you hear fees changing what. This will be part of, as I understand it, a regular biennial process to simply take a look at our fee structure. So I don't want to give the impression that there is activity imminent or that we'll necessarily see changes. This will be part of the PTO's regular and routine review that they'll be putting into place for every two years.

MR. MURPHY: Maury, thank you. That's absolutely correct.

MR. TEPPER: Okay.

MR. MURPHY: This is a routine operation that will take place. We obviously received fee-setting authority as part of AIA. We have, as part of that, a requirement to do a biennial fee review, and it's a true evaluation. Are we in fact balancing all of the fees against

our costs and are we furthering the IP system in the manner that the community wants us to. So Gerry is absolutely correct. There has been no decision. In fact, when I say we met this week, it was just a go/no-go should we look at these, and this is part of what we will be looking at. But what those next steps will be we'll find out over the next several months.

MR. TEPPER: Great. Thank you. And I thought it was appropriate to make sure that we all keep in mind members of the public, as well. There is a procedure in the event there are any actual proposals, we will all have the opportunity to review, discuss and comment. And, in fact, I think we'll have to have a specific meeting with you all should that ever happen. I'm not expecting anything at the moment, but watch this space and stay tuned. And I think it's probably a healthy thing to create a regular review.

I know Bill has a question. I've been asked just to remind all of our speakers, when you are commenting, to make sure that your mic is on and speak into the microphone, particularly for

the benefit of those who are listening online today, so that they can hear everything. And Bill, please go ahead.

MR. BARBER: Yes. It's more of a comment than a question. But on the issue of the fee charge for filing a notice of opposition or petition for cancellation, I noticed in some of the documents that we reviewed for this meeting that the -- I believe the average cost of an opposition and cancellation at the TTAB is a little over \$2,000. So I'm not necessarily suggesting that the fee should correspond to that, but I do just note for the record that the TTAB is subsidized by basically the fees that are paid by Trademark applicants, to a large extent. Whether that's a good thing or a bad thing or whether we want to make some adjustment there, I'm not really prepared to give an opinion on. But it is something worth noting.

MR. TEPPER: Thank you. Do we have other questions for our Deputy CFO today? How about questions from the public? All right. Well thank you very much for the update. And, as always, there's a lot going on. We appreciate

your time today, Frank.

MR. MURPHY: Absolutely. Thank you.

MR. TEPPER: I am now going to -- I believe the term would be called an "audible". If you're following the agenda, this is the point where you will want to not follow the agenda. We're going to make a little bit of an adjustment. We are switching up our policy and international update both in place and time and in personnel. So we are very grateful to have Shira Perlmutter here today. She is our chief policy officer for the PTO and is going to give us -- I think many of you will remember Shira spoke with us maybe last meeting, and that was a very active and an interesting update on our IP program. You already heard Dana allude to this. She was available but needs to be on the Hill, I think, by about 11:00. So we're going to bump things up just a little bit earlier just so we can make sure to have the benefit of her participation today.

And I believe Dominick Keating is joining as well, so we look forward to your providing us an update today. And thank you.

MS. PERLMUTTER: Thanks so much more.

And thanks to everyone for their flexibility. This has to do with the Beijing And Marrakesh treaties that Dana mentioned in the copyright space. So we're going down to the Hill to explain what those treaties are about and why they're a good thing.

So I very much appreciate being invited to participate. Dom Keating and Amy Cotton and I met yesterday with the international subcommittee and went through a whole range of international issues we're working on, including geographical indications and the update of the WIPO Lisbon agreement, including what's happening in more detail on TM5 and a number of other issues. But this was the one I know that TPAC, as a whole, was most concerned about. And we began the process of looking again at the allocation of the funding for the attaché program last time and we've done our homework. We wanted to come back and report to everyone on where that stood.

So as we discussed at the last meeting, when the Attaché program was first established about 10 years ago, there was an agreement among

the commissioner for trademarks, the commissioner for patents and the head of my office, which was then, I believe, called Office of Legislation and International Affairs (OLIA), but it's changed names so many times it's hard to keep track. And the agreement then was that the cost of the program would be split between trademarks and patents with trademarks covering 55 percent and patents 45 percent. And the reason for that allocation, as I understand it -- I wasn't there -- but it was that there was an assumption or belief that the attachés would be spending somewhat more of their time helping trademark owners with their issues than patent owners.

What we did last time to try to be helpful in helping TPAC determine whether that still made sense was to provide some information, pull together and provide some information on the training and outreach programs that the attachés conduct. And when we looked at the amount of time in those programs that were spent in trademark issues, it was about 42 percent, which was obviously somewhat lower than the 55 percent.

But it was only a small piece of what the attachés do because they do the training and outreach programs. They also meet regularly with stakeholders and industry. They meet with the host governments. They do work for us on Special 301. I mean there are many, many things that the attachés do, other than the training and outreach programs.

So what we asked the attachés to do is to provide a more full report on everything that they do, not just those programs. So they've started to do that since, I guess November, since after the last meeting. And, so, we have some preliminary data.

So what we asked them to do is to track everything and provide percentage of all of their time that was spent on trademarks, on patents, on copyright and on other. And I tried to drill down on what other would mean, and it definitely includes within IP issues that are not patents, trademarks or copyrights such as trade secrets. And I'm sure that all of you are aware that that's becoming increasingly a very high priority for U.S. businesses around the world, and also for the

administration, which has put in place, as of a year or two ago, a very comprehensive strategy for dealing with trade secrets internationally.

And also, of course, a big chunk of the other time has to do with all the administrative and managerial work that the attachés have to do. They're part of internal embassy meetings. They serve as post officers. They hire and train and supervise local staff. I mean there's a lot of regular ongoing administrative and supervisory work.

So we have now a somewhat small data sample. It's three months, essentially, worth of reports from the attachés. And when we looked at it, it was quite interesting because, if you compare the amount of time the attachés spend on trademark work as opposed to patent work, it turns out it is more than twice as much time on trademarks. So the numbers came to 42 percent of their time on trademark issues, and I think it was about 18 percent on patent issues, so less than half. And that's where you can allocate it specifically to one or the other.

And what I find particularly

interesting about that is that 42 percent is exactly the same number as the percentage of the training programs and outreach that we measured before. So it was interesting that it's so consistent. Then we did an adjusted average, so again, that agreement going back 10 years had been that, for the work that was not specifically trademarks or patents, the division would be one-quarter trademarks and three quarters patents. And that sounds somewhat arbitrary but that was the judgment made at the time.

If you adjust for the other category using that traditional one-quarter/three-quarter split, it would come to trademark share being about 52 percent. So that's a bit below the current allocation, but not a lot below.

So, a few thoughts about that. So one is that that's only three months of data and that is only a fairly small window. So what we would like to do is collect at least another three months so we have half a year, and to see if the same patterns and percentages continue.

The other question that we discussed

with the international subcommittee yesterday was whether the one-quarter/three-quarter split for the other work, the non-patent and trademark work should be continued or whether that should be revisited, and maybe whether it should be revisited to make it more proportional to the percentage of our overall budget, that's trademark work versus patent work, which obviously would bring the trademark share down considerably.

So I would just say we're completely open to looking at that. What we would like to do is collect an additional three months data, look at if six months still turns out to be about the same or whether there's any adjustment, and then to present the data and the methodology to the activity-based information Steering Committee within the PTO for them to look at it.

And they had approved the past allocation, so this would be -- you know. Look, it's been 10 years; the program has grown a lot; we have a lot more data now; and let's look at whether the same percentages don't make sense. So that's what we would propose to do. And then

we would be able to come back again to your next meeting, if you so choose, to report on all of that, on what the process is in the ABI and also what the six months of data shows.

MR. TEPPER: Thank you very much. And I'd like to just amplify a couple of things. I think that we definitely appreciate the effort you all are putting in and taking a look. For anyone who's not familiar with the term ABI, this is activity-based accounting. And OCFO, I should have mentioned when Frank was speaking, they are an award-winning organization within the government. They do a really great job of paying very close attention to how to allocate each activity and the time and the effort that is being put in when we need to make a decision on sharing cost between patents and trademarks. And so, the folks in the attaché program are trying to apply this model, trying to gather the data. And we obviously understand this is very early stage but we very much appreciate the effort and attention.

The other thing I would like to comment on, just as a benefit, I think that you all have heard a couple of presentations in our past

meetings about this program. Our committee certainly became aware of the program and we applaud the progress in sort of understanding better, you know, how we're allocating the funding. But more and importantly, making sure that the trademark community is aware of this valuable resource and the good work that our attachés are doing.

And I'd like to at least let everyone know that one of the benefits, I think, there was a meeting in December when the attachés were all here at the PTO. All of the associations attended. So, I mean we had some representatives from the advisory committees, but the INTA, AIPLA, ABA -- I know some folks in the room here on behalf of the associations were able to come in and have a dialog. And we think that that will go a long way towards helping to inform what our attachés are doing out there on behalf of trademark owners, particularly since we're at the TPAC meeting today, but in also increasing and raising awareness of this resource.

The way I would like to put it, I think most of us, when we file a trademark application,

don't think about the fact that part of what we're supporting and funding are some very high level experts on the ground in a lot of widely differing regions, in terms of their legal system, how far along they are and the problems they're facing. So we are grateful for that progress, as well, and look forward to continuing to work with you guys to expand that dialog. Are there any questions for our policy folks this morning?

MR. LOCKHART: I don't have a question, but just as a comment and following up on what you just said, Maury. You know, I think that the INTA bulletin might well be interested in publicizing this program. And I don't think it's something that a lot of people know about yet, but it's a very valuable program. We ought to try and educate people, if we can.

MR. TEPPER: Thank you, Tim. I don't know if we have a bulletin editor listening but I'll take that comment. Yes, please.

MS. Perlmutter: And just to add, we do intend to continue every year having these meetings when the attachés are in town. And we've now expanded so that we are taking them out

on the road. They were in Silicon Valley, Northern California in December before they came here. And we're hoping to start bringing them to our satellite offices as well so people in those regions will have an opportunity to meet with them and talk to them.

MR. TEPPER: Great. Thank you for that. You know, I've looked into this. It's probably unlikely we're going to get to hold a TPAC meeting with the attachés in Marrakesh or Mexico City any time soon, but you never know.

MR. MURPHY: Although we would certainly be happy to do that.

MR. TEPPER: I'm open to it. Do we have any questions from the public today? All right. Well thank you folks very much. We do appreciate all the effort that you're putting in and look forward to working with you guys on that. All right.

We'll move back to our agenda now, and I want to, again, welcome Commissioner Denison. I'm really excited to hear from Mary on our update on trademark operations. I'm going to continue a challenge because I know we have every high

level of confidence. I've always asked, as we go through the updates, if any member of our committee can find a statistic that Mary is not already aware of and is not already addressing or has an answer for, I'll give you a prize. I've not specified what the award will be, but this is something we've done for a while and I have no doubt whatsoever that Commissioner Denison -- we're not going to be able to trip her up but we'll try, nevertheless. So, thank you, Mary.

MS. DENISON: Thank you, Maury. I just want to start off by saying that I'm really honored to be the new commissioner for Trademarks. As many of you know, in 2013, the USPTO was the number one best place to work. There's a reason for that. People here are wonderful. I came from a different world in 2011, and one of the first things I noticed was how great the employees are. They're smart, they're dedicated and they are doing their best to do a really great job. So it's been a real treat for me to be here and to have been elevated to commissioner is a real honor for me.

We did come in number two last year, so we're working very hard to go back. We did improve last year but we still were inched out. So I'm really hoping that we'll go back to our well-deserved number one spot, although, you sort of feel like you have a target on your back when you're number one. So, at any rate, I look forward to working with TPAC and with the public and our employees to make this a better place. Thank you.

I'm not going to go over every detail in the slides. The first slide shows what our results were from 2014, our targets for 2015 and where we are right now with our results. So if you look at the quality slides, you'll see that we are doing very well on our quality goals. We're above them in every case, and we hope to continue that and I'm sure that we will. The quality is very important to us. And we emphasize that constantly to the employees and they are obviously doing a great job.

With regard to e-government, as you know, in the past we used to measure the number of applications that were filed electronically.

Since we're over 99 percent, we switched and we now measure the use of electronic filing throughout the process. And so our target for this fiscal year is 80 percent we are at 81.1 percent now. And we're hoping that, with the new reduced fee option, which I'll talk about more in a minute, even more people will be choosing to go fully electronic for us. It's good for everybody. It's good for us. It's cheaper for us, and we think that it improves the quality if you go fully electronic with us.

Application filings are up 7.5 percent over last year. I think that's certainly good news, the fact that people are continuing to file applications.

The next slide up shows our pendency, and we like to keep it between two and a half and three and a half months for first action. And we are right on target at 3.1 months, so we're very pleased about that. And we also look at the pendency to disposal. We have two numbers on the chart. One is the disposal pendency from the date of filing to issuance of a notice of allowance, registration or abandonment, and that

includes suspended and inner-parties proceedings. That is obviously a higher number. And then, we have one that excludes the suspended and inner- parties proceedings, and that's a lower number. We are well within our targets on both of those.

MR. HUDIS: Commissioner, before you go to the next slide, the comparison of Fiscal Year '14 to '15, that can't be year-over-year comparisons, are they? So it would be the second column compared with the fourth column.

MS. DENISON: No, no, it's the target. The variance is, it's not a '14 comparison, it's within '15. So for example, on quality, if we were at 95.5 percent as our first action target goal and we're at 96.9 percent, then we are 1.47 percent above where we want it to be. So these are only Fiscal Year '15 comparisons.

MR. HUDIS: Okay.

MR. LOCKHART: Your Fiscal '15 is year-to-date.

MS. DENISON: Yes. Correct.
Correct.

MR. HUDIS: All right. So that would

be October, November, December, January.

MS. DENISON: And January. Yes.

MR. HUDIS: So it's four months.

MS. DENISON: Yes.

MR. HUDIS: Okay. Thank you.

MS. DENISON: Okay. So I mentioned a moment ago that the filings are increasing, and as a result, we're hiring 43 new examining attorneys this year. We have a group starting on March 9th and then we'll have another group starting in May. And we need to keep hiring to keep up with the filings, otherwise, we'll miss our pendency deadlines. We're excited about the new group coming in. We had over a thousand applicants when it was posted for, I think, a week. So there seems to be a continued interest in coming to work at the USPTO.

I mentioned a moment ago that we had reduced fees that went into effect on January 17th, I just want to go through those quickly for people. Paper filing fees, they have been unchanged. A regular TEAS application is also unchanged. So what is different is that we added a new fee, which is called TEAS RF, which stands

for reduced fee. It cost \$50 less than regular TEAS. And what the difference is, is that you have to file electronically, but you also have to authorize email communication with the USPTO and agree to file documents electronically during the entire prosecution of the application.

The requirements of TEAS plus that you file a complete application, and that you pick from our ID list are not present in the TEAS RF file. We do like it, of course, if people file TEAS plus. So we reduced the fee for that, as well. The TEAS RF is a new option at \$275 per class, and the TEAS plus application has gone down to \$225 per class. In addition, we have also reduced the renewal fee from \$400 a class to \$300 a class if you file electronically.

Now, John Owens and Raj Dolas will be here in a minute to talk about Trademarks Next Generation known around the office as TMNG. And we are working very hard with the Office of the Chief Information Officer to come out with new and better software products. We have 26 different systems that are needed to run the Trademarks operation. And so we have been in the process for

several years of trying to improve it and we are making progress.

While it's not so visible to the public, we do have a more stable system than we used to, and we are hoping to come out with a major system for the examiners. We call it FAST, first action - system for Trademarks. Anyway, it's the major system for issuing office actions that the examiners use. So John Owens and Raj Dolas will be giving you more information on that, coming up.

Another thing that we have done recently is we have, for the first time, started sending out curtesy email reminders for post-registration maintenance documents. So if you have an email, a current email that works, then you will get one on the first day of the statutory filing period. What it does is it notifies registrants that they have a year to file their documents or, for an additional fee, an additional six months for the grace period. And the reminders provide links to the applicable TEAS forms for making the filings.

As a lawyer, if you or your client don't want to receive the reminder, you just have to

delete the email information because it's going to all the emails that are in our record that are current. So that's the key. If you don't want your client to get it, then you'd delete their email information and then it will only come to you. And you can, of course, delete your own.

But to ensure receipt of the courtesy email reminders, I would remind people to add the USPTO to their "safe senders" list and/or confirm that the email server will accept email from the USPTO and will not treat it as junk mail or spam. We have some reminders on our website about how to do that, and we're happy to help anyone that is having problems with spam if they would let us know.

As many of you know, over the last several years, we have been conducting a post registration pilot. The purpose of the pilot was to assess the accuracy and integrity of the register. And I know that some people in the room were among the lucky 500 whose cases we selected. And what we did was, if you were selected, if your case was selected, we asked for additional specimens on your post registration filing. We

have now completed the pilot and we have an interim report that is on our website. We will issue a final report but we have -- full statistics that are now up on the slide that you can see.

You can see that more than half -- the averages are not up here, but more than half -- I believe 52 percent of the registrations were unable or did not verify use. I believe it was a total of 36 percent actually deleted goods and 16 percent did not respond. So that means a total of 52 percent did not verify previously claimed use. That is a figure that we need to address. And so we have had a roundtable to talk with the various bar groups about how we should best handle this. We have also discussed it with TPAC.

At the roundtable that we had, we looked at certain specific proposals. We looked at requiring a specimen of use for every good. We looked at increasing the solemnity of affidavits. We discussed having random audits and we also discussed permitting third-party challenges on an ex-parte basis. The primary interest in the room was the ex-parte proceeding. There was some

interest in continuing random audits in the pilot We don't look at these as mutually exclusively options. We are happy to consider what I'll call belt and suspenders options. So the ex-parte proceeding would be loosely based on the Canadian proceeding, if we were to proceed that, what is known as a section 45 in Canada of their trademark act.

Several of the roundtable participants were actually Canadian practitioners, and we also will be discussing with the Canadian government officials to get more information from their perspective. These are the things that we're considering. And we're happy to consider other options as well. If people have suggestions or strong feelings about it, please let us know because this is very much an open discussion at this point.

The next thing I wanted to discuss was what we call technology evolution issues. For several years, users have been coming to us to ask us to consider letting them update their registration to reflect changes in technology. Say, for example, if they had a registration that

was for 8-track tapes or CDs, they might want us to change that into something with more modern technology.

So we have generally received positive feedback from the public on the concept, and we have been talking about what to do about it. We had a roundtable last spring and people were very much in favor at the roundtable of us trying out something. So we then posted a specific proposal as to the way that we would handle this, which would be a petition procedure. And what would happen is someone could petition us. They would request waiver of the scope rule, due to extraordinary circumstances. They would also have to state that a third-party would not be injured and that justice would support it.

And in this petition, they would declare that, due to changes in technology, the petitioner can't show use. They would also have to say that they're still using it on the same content. And if they were not allowed to make the change, they would have to delete the goods or services. So, the comment period on this is closed and we are working on finalizing a new

procedure. And sometime in the next few months, we hope to implement this procedure. Stay tuned for that one. It's coming.

MR. HUDIS: Commissioner, before that procedure goes out, are you going to put that out in the Federal register for comment?

MS. DENISON: We have already put it out for comment, I believe.

MR. HUDIS: Oh, all right. So then, once this procedure is fully in place, then you would have to publish it again in the Federal Register, this is what we're doing?

MS. DENISON: Yes.

MR. HUDIS: Right.

MS. DENISON: Yes. But the comments have already -- they're done. Another thing I wanted to mention today was something called the TM5. Sharon Marsh and I and others from the USPTO traveled to Tokyo in December to participate in the TM5. In the past, there was a group known as the Trilateral. And that was the European Union, OHIM, and the Japan Patent Office, JPO, and us. It expanded several years ago and now includes KIPO, the Korean Intellectual Property Office,

also pronounced KIPO -- depending on who you talk to -- and the Chinese Trademark Office.

And so, now we've changed the name to TM5 and we meet annually in various locations. We are planning to host this fall. We thought we had a date but it fell through this week. So can't announced the date yet but we will be hosting sometime this fall. So I apologize, the date on the slide is incorrect. And the purpose is to promote cooperation and collaboration among the top five trademark filing offices. These offices handle more than 50 percent of all the applications worldwide.

There is a TM5 website for those who are not familiar with it. You might want to take a look at it. It's T-M-F-I-V-E.org. So I would encourage people. The Koreans have worked very hard and they have gotten the website up and running, and it will give you a lot of details about the various projects that we're working on together.

The U.S. has several projects, one of which is the common status descriptors. The group has finally agreed on the terms that we can

use so that everyone uses the same terms. So that, if you look at something in one of the five members, it will be the same word that is used in the other ones. So we're trying to make it easier for people to understand where things are in the process.

Our next step is to work on icons that would correspond to the descriptors because we think that will help with the international nature of the thing. Another project that we've been working on, the U.S. is heading up, is an ID list.

As some of you may know -- I'm not sure if you've ever noticed it and I don't know if the camera can pick this up. I don't have it up on the slide, but if you look at our ID manual, on the right side of it, it's something that says TM5. And under it is a T. And what that means is that that particular item is accepted in all the members of the TM5. So it's helpful to you in planning internationally. If you see a T, then you know you are not going to have a problem in one of the other members of TM5, in terms of the goods description.

We have recently looked at this and China has now joined, so all five members are participating. We have 14,000 IDs that are acceptable to all the partners, which is great. We also have other participants who are not members of the TM5. They are Canada, the Philippines, Singapore, Mexico and the Russian Federation. And to participate in this, they have to have agreed to accept 90 percent or more of the 14,000. We also have Colombia and Chile who have recently joined the project.

Another project that we're working on at TM5 is the indexing of non-traditional marks. We are working on a questionnaire to poll the other partners to gather information about how the partners index their non-traditional marks. And once we get that done, there will be a working group that will be formed, and we will try to define a non-exhaustive list of non-traditional marks and then try to consider how to come up with a consistent way to treat the indexing of these throughout all the members of TM5. And we think that will be helpful to people who are looking for information on non-traditional marks.

Bad faith filings is another project. That one is headed by the JPO. It remains a big concern for people. I'll define bad faith filings is when someone takes a well-known mark and another country registers it and, then, perhaps wants to ransom it back to the original owner. And JPO leads this project. We had a meeting on it in Hong Kong. We had one in Japan. I think we've had maybe two others in Beijing or somewhere in China, and we're continuing to work on this because we know it's of great interest to our users.

We're also working on a project to improve the convenience of applicants using the Madrid protocol. What we're trying to do is devise a standard chart presenting information about procedures in the various members when people are designating Madrid protocol countries. And so we're trying to work on this chart and we would hope to post it on the TM5 website when this is done.

These are just a few of the projects that are going on at TM5. As I mentioned, if you want to go to the website, you can see all the

projects. But I thought these were probably the ones of most interest.

The next TM5 meeting will actually be during the INTA meeting in San Diego in May. There will be both a TM5 meeting and a TM5 user session likely to be held on Monday, May 4th in San Diego for people who are attending the INTA meeting.

Okay. I wanted to close with one bit of information. Customers continue to receive large amounts of third-party solicitations and some of them are misleading. And I wanted to tell you what we were doing about that because we're very aware of the problem.

The TEAS filing receipt says something about it. We have an orange sheet that goes out with registration certificates. We've included it in our basic facts booklet, which is also in Spanish now. There are pop-up boxes when you're a first-time visitor to the USPTO warning you. There are courtesy reminders for maintenance filings, the ones that we started sending out, they have something in there. The Trademark Assistance Center includes it in some of their

emails. We're working on a video about it. And we have also met with an inter-agency mass marketing fraud task force to provide them with information on the issue. So we are aware of it and we're doing what we can to raise the awareness level of people.

We also have certain letters that people have received, samples, up on our website. There's one more thing, and that is that we are hosting a lot of events for entrepreneurs and trying to increase the awareness of the business community of the importance of trademarks.

When Craig Morris, who's spearheading this effort for us, when he goes out on the road, he asks people who has a business plan and everyone proudly raises their hand. And then he says, and who has trademarks in it? And most of the time no one raises their hand.

And so, we're just trying to get the word out that you need to think about trademarks early on in the process, not after you get a cease and assist letter. And so, he has a heavy travel schedule all over the country. And I think his goal by the end of the year is to have covered 48

states in the last two and a half years. I'm not sure he's going to make it but he's doing his best, and we'll continue the effort next year if he doesn't quite make it.

Another thing I wanted to mention to you is we have roundtables coming up with INTA. I'm going to be at one in Denver in March at the satellite office. I'll be also at one in New York. There will be one in September in Houston and other people from the office will be attending. We're going to be doing them in Phoenix, in Boston, in Pittsburg. We're trying to get out there and reach members of the bar. We'll also be doing a roundtable with the ABA Spring Meeting in March. And I think that is it.

MR. TEPPER: Thank you very much, Mary. It was quite a tour de force, in fact. Just a couple of comments I'd like to amplify. First of all, I think you've noticed, I want to thank the office for all of the work they do. Mary is right, this is a great staff. The folks that you see here, we have excellent leadership, as you have seen. But I want to also thank all of the examiners, the legal instrumental examiners, all

the folks who are working. I know some of you are listening today but we appreciate the fact that it takes everyone working together to make things work so smoothly.

When we look at these reports, it's really great to see how carefully we monitor things and stay on track. But that only comes from everyone's efforts. And we are very fortunate to have the talent at work that we do. Those of you in the public heard several outreach opportunities. I encourage you to take the PTO up on it.

If you have thoughts -- you heard several policy opportunities. Even the Federal Register notice on Changes in Technology, please participate and share your views with us. That always seems to be where people point out that 8-track tapes no longer exist. I don't know why that's our favorite example. I'm a little sad and I know there was some of the great music catalog that's lost. I guess we could be grateful that, I think, some of our committee members favored acts from the eighties; White Lion and Mega Death, 38 Special, Night Ranger, REO

SpeedWagon. Their music is still available digitally so we can be grateful. But if you have used, please make them known.

You heard on electronic filing, by the way. You know, we are on track on our target, and that's good. But I still want to know why 20 percent of you are sending paper into this office. All right? So if you have a reason, I know that you've heard the roundtable schedule. Our commissioner is out there and she has reached out to folks. She has sought input.

But if you have a reason to send a piece of paper in here where you can't use the electronic system, please let the office know. They really will try to do something about it for you. And if you don't have a reason, I want everyone else in this room to join me in saying, shame on you; you are costing all of the rest of us money when you fail to use the electronic systems. They are more efficient. They are cost and time saving, so I really do encourage everyone to look into that.

We ought to be at a near 100 percent electronic rate. I think it is the 21st century

and I know it has been for a while. So I do, again, invite folks to share your views or share any issues you see. But as my dad said, speak now or forever hold your peace. If you don't have those, then please do look into catching up with that, joining the rest of us in taking advantage of those efficiencies.

Finally, 48 states -- I think it's worth one thing that we -- we might not see day-to-day. I don't think Craig Morris is in the room but you need to give him thanks. He is reaching folks that you and I don't typically deal with or see, but I want everyone to remember it makes a big difference, right?

A lot of the headaches we have are from businesses who don't have the sophistication to understand trademarks and how they work. And if we can get to them before they make bad decisions, it saves all of your clients and all of your companies money in avoiding conflicts and confusion. So that goes a long way to making things work better for us. You may not notice it day-to-day, but it really does have an impact. So we are fortunate to have all of the activity

at this office that we do.

That being said, I think I've run through my comments. I'd like to see do any members of the committee have questions or comments for our commissioner?

MR. LOCKHART: Actually, I have a question, Maury, I wanted to follow-up on. Well, first of all, to echo what you said about trying to get away from paper filings whenever possible. But Mary, you indicated about 20 percent of filings are now done on paper. But apparently, applications are a pretty small percentage of that. Is there a theme for what the rest of the paper filings? Are they office action responses or is it just kind of a mixed bag? Can you characterize it in some way?

MS. DENISON: I think it's primarily office action responses.

MR. BARBER: Yes. One comment and one question. On the proof of use issue, first of all, I just want to applaud the Trademark Office for taking a hard look at this. And it's obviously a problem if 52 percent of Section 8 affidavits are incorrect and overbroad. There

are ways to address that on the back end after the Section 8 affidavit has already been filed, and there may be ways to address it on the front end to try to improve and minimize overbroad Section 8 affidavits that are being filed in the first place.

The Section 45 proceeding and the random audits do it on the back end. And I agree, these are not mutually exclusive but I'd like to try to focus some attention on improving it at the front end, as well. The one suggestion that I've heard made is requiring a specimen for each good, and that's seen by some as being very draconian or very expensive on applicants.

Another idea that I've had and like to suggest here is -- because I think that one of the problems is that it's so easy in a Section 8 affidavit just to say I'm still using all the goods, without really focusing on each particular good.

So I think, if you basically had a checkbox for each single item in the description of goods and you require the registrant to affirmatively check off each specific item under

oath that's it's using the goods on, and if you don't check a box, it's out of the Section 8 affidavit. I think that might be very helpful in improving the accuracy and getting registrants to focus on which items they really are still using the mark on if you require them to affirmatively identify it by a check-off box each item that they're still using the mark on, as opposed to requiring a specimen, which might be a little bit expensive.

MS. DENISON: Thank you. We'll look into that.

MR. BARBER: My question, if I could -- a different subject. But on the statics for efficiency, I noticed that in the first part of Fiscal Year 2015 here, the number went from \$555 in Fiscal Year 2014 to \$639 in Fiscal Year 2015, which is still on target but it's quite a bit above what it was in 2014. I was just wondering if you've identified what the reason for the increase was there.

MS. DENISON: Let me ask. I think it's more in line with what the target was the year before, the 639. But let me ask Karen

Strohecker, who's my financial head to come up and address that.

MS. STROHECKER: Hi. So the question is why the increase in the efficiency measure. First, let me explain what it is. Okay. So the efficiency measure is simply the total cost reported as a trademark share of the USPTO cost divided by the number of office disposals. Office disposals being a combination of registrations and abandonments. So the combination of increase in cost during the first quarter of Fiscal 2015 and lower than planned office disposals drives up that result. Does that answer your question? Thank you.

MS. TEPPER: Thank you very much, Karen. We appreciate that. All right. Jonathan, I believe you have a question.

MR. HUDIS: Commissioner, we spent some time on Mr. Barber's idea for the check boxes on the statements of use affidavits. Since I attended your roundtable on ways to improve the quality of these filings, would Mr. Barber's suggestion be in line with the office's proposal on enhancing the solemnity of the declaration

filed? In other words, it is forcing the signatory to go deeper into the affiant's knowledge, aside from yes, we're using the mark on all the goods, what Mr. Barber is suggesting, that the affiant must say "I or my company are using the mark on all of the goods checked."

MS. DENISON: Yes. Well we had very little interest from the public at the roundtable in increasing the solemnity. People basically said that they didn't think it would do any good. But this is sort of a variation on that that I think people might have a different reaction to. So yes, I think it fits in with that and I think it is something that we'll definitely consider.

MR. HUDIS: Because, what we were looking at at the time of your roundtable was basically enhancing the words of the declaration being signed, and that is why I believe the consensus was it wouldn't do any good. Mr. Barber's suggestion is much more granular than that.

MR. TEPPER: Thank you. Yes. This reminds me of -- I'll just saying trying to make your kids pay attention. Because certainly, my

clients are great and they pay attention to things. But I hear there are some out there that maybe don't take it quite as seriously. Well, my clients may be listening today. Katheryn, I think we have a question.

MS. BARRETT-PARK: Yes. I wanted to follow-up a little bit, Commissioner Denison, on some of the good news you reported on the TM5. And I first want to say, I think all the efforts that your office is making -- and I know Amy Cotton works tirelessly on these things, as well, to sort of further harmonize Trademarks is so critical.

One thing you mentioned was the countries like Colombia, Chile, Canada, the Philippines, Singapore, Mexico, the Russian Federation on your project for acceptable IDs. And I have two questions. Are there other countries that you're trying to entice into this project and who might be willing to join it? And is there any thought that, in the future, you would increase the size of the TM5 to be the TM6 or 7 or TM12 and bring big and emerging markets like the Russian Federation or some of the South American countries into this process?

MS. DENISON: There is no current conversation about expanding the TM5. That's not to say that there wouldn't be one in the future, but right now that has not been discussed. We're still kind of getting China and Korea integrated, and so, I think it would be premature to talk about expanding it at this point.

The other countries that are on the ID list, I think that there are some more that are considering it. I don't have the list with me but their definitely are others that are considering it. The thing is, they have to look at it. They have to look at 14 thousand things and think, can I take 90 percent or more of these in my country. So it is quite an undertaking for a country to sign on to this. It is not something they just decide to do. They have to spend a lot of time, and in some countries, the resources are limited. So, I hope that answers your question.

MS. BARRETT-PARK: Yes. Thank you. And I have one other question. You mentioned that you are working on a standards checklist or chart from Madrid that would be on the TM5 website. Again, that's something I think would

be incredibly helpful. Is that standards chart only for the members who would like to discuss standards that apply for the members in the TM5 countries or is it generally applicable to all of the members of Madrid, if that make sense?

MS. DENISON: We're certainly starting with the -- we've got it to the first five, so we're tackling one thing at a time and that's where we are right now.

MR. TEPPER: Thank you. Any other questions for our commissioner? Do we have questions from the public this morning? Thank you very much. Well in that case, I'm pleased to welcome everyone's favorite portion of the meeting, and that is your break. We'll resume in about 10 minutes. Thank you.

(Recess)

MR. TEPPER: All right, thanks to all. We are going to resume our meeting and very happy today to have Chief Judge Gerry Rogers to provide us an update on activities at the TTAB. Thank you, Gerry.

JUDGE ROGERS: Thank you, Maury, a pleasure to be here as always and relatively good

news to report, which is always a good thing.

So let me start with some of the details of our operations through the first quarter. And I know we had a question earlier about some of the statistics on the performance measures on the trademark filing, so I want to explain the variance figures on our chart. We've got our 2014 results here. We've got the 2015 results through the first quarter and the variance is how do the first quarter numbers stand up to one quarter of what we did last year in most cases if there's no target? If there's a target, then it's a variation from the target.

So staffing is the first item on this list and I wanted to bring everyone up to date. We're pretty close to being fully staffed, but we are in the process of hiring a couple of attorneys. As you know, trademark filings have gone up. Inevitably, that means TTAB filings go up, so we are very close to having start dates for two new attorneys. One is going to replace Cheryl Goodman, who was promoted to a judge position, and we just decided to add a second attorney at the same time that we're bringing one

onboard. And in this year's budget we had four judge positions and we can use those as needed for either judges or attorneys, so we decided to repurpose one of those for this second attorney position. So those two people will come onboard sometime here in the second quarter we hope or early in the third quarter. And we will then still have three additional positions that we can use for attorneys or judges during the remainder of the fiscal year, kind of keeping an eye on inventory and seeing how things go. As we'll see when we get a little further down on the chart, the inventory was up a little bit in the first quarter, within goal, but the high end of the goal and so we're kind of monitoring it closely. Of course, we're working on January and I'll work on February monthly reports this weekend, so we'll have a better sense of how things are going in the second quarter. And it should be no surprise if we decide to add another judge, too, at some point early in the year and maybe another couple later in the year. But it's all going to depend on the inventory and how it goes.

The next line of this chart shows the

incoming filings. Again, the variances are we don't have targets for filings because we don't really know how much we're going to get. One of the things that's difficult for the board is we've never had really good predictive models to figure out how much work we're going to get out of the examining operation, how many appeals we're going to get, how many oppositions. So we really never try to set targets and we just deal with what we get as best we can. I would say in regard to these first quarter filing results for appeals, extensions of time to oppose, oppositions and petitions, the increase in notices of appeal is perhaps a reflection of the fact that at the end of year examining attorneys are putting out a lot of work in the second half of the year to get their production where they want. We may get more notices of appeal in the first quarter as a result of that.

It's probably a little bit surprising that extensions of time to oppose and notices of opposition might have gone down. But, again, these are variances based on what we got in the first quarter versus one quarter of last year's

numbers and not quarter versus quarter or last quarter. And they do tend to fluctuate a good deal, which means I am not surprised at any of these figures because they can go up or down within a quarter based on one big month or one slow month.

The next line on the chart: Overall pendency, total pendency commencement to completion, again pretty standard stuff that we've been seeing for the last year and a half or so. The slight increase in overall pendency on appeals is really not statistically significant and I do not see that as a harbinger that appeals are going to start taking longer. I think this is a natural fluctuation here. Trial cases, down a little bit, again just kind of a natural fluctuation, but always a good thing when overall pendency and trial cases go down. And I would point out that for the last three fiscal years we've had decreases in overall trial pendency. So that's a trend we hope to continue. I don't know how far we can drive it down, but we'll see. At some point we'll kind of reach the limits I think absent systemic change in the way we conduct

trials, but that's another discussion we'll have later on about the roundtables that we've had recently.

Significantly, we had a really good year in accelerated case resolution, ACR cases. Last fiscal year it was 1 in 6 decisions in trial cases came as the result of the parties going through some form of ACR. That was a real validation I think of the concept and of the hard work of our interlocutory attorneys selling parties on the idea of ACR and parties warming to it. So it was a little bit of a surprise we only had one case go out following ACR in the first quarter, but there are a number of them in the second quarter. And, again, this is a figure that has tended to fluctuate quarter to quarter and year to year.

And as we move forward, proceedings of the future we envision will involve a lot of the efficiencies that we've seen people adopt in ACR cases. So we may actually see ACR numbers if you will in future years go down because we will have taken the efficiencies in most ACR cases and leveraged them into all cases. So then the ACR

cases of the future will be the real exceptions where parties, for example, submit evidence and arguments and exchanges like a cross motion for some rejudgment approach. But some of the things that now characterize a case as an ACR case, such as testimony by affidavit or declaration, increased uses of notice of reliance, that sort of thing, we hope will become standard parts of board trials. So that's going to have an effect on this statistic as we move forward.

Moving to the two things that are traditional performance measures for the board and which focus on the things that we have more control over -- in other words, how much time judges spend on getting out final decisions when an appeal or a trial case is ready to be worked on and decided on the merits, and how much time do the attorneys spend getting decisions out on contested motions when those motions are ready for decisions -- the pendency figures are good. They're well within targets. We had a 10 to 12 week target for pendency on final decisions, excluding precedential decisions, and we're well within that target for final decisions. We also

have an 8 to 9 week target. It's a tighter target. It's a tighter window for the contested motions. And we also have this secondary goal of not having any contested motion be older than 12 weeks when it's decided. That goal, that second goal, was not met in the sense that we had an outlier case that had been pending with a contested motion for 23 weeks. But keep in mind this is one motion, and we may have in any quarter at the end of the quarter a couple of motions or three motions that are older than 12 weeks. Again, they're the outliers. We would rather have this really difficult hard-to-reach goal to motivate us to stay on top of contested motions and run the risk that we're going to have a few outlier cases now and then that we can't keep up with for whatever reasons that are individual to those particular cases. But in general the pendency figure I think is the more important figure because that's the one that is telling people what's happening in 99 percent of our cases if you will.

Page 2, okay, we are on the right slide.
So production: Again, it's not unusual here.

Some of the production is low in the first quarter. As is typical with a lot of government work, you have a lot of employees who have vacation time they've saved up to take in December around the holidays and use-or-lose. So the first quarter sometimes is a slower quarter. It's pretty typical it's slower than the second quarter. The production figures for the quarter in terms of the number of cases decided on the merits and contested motions don't really alarm me even though they are down. Again, the first quarter is lower than other quarters, and the variance here that's being reported is versus one quarter of what we did last year, not versus first quarter last year. So the production figures for the first quarter might actually be pretty similar to the first quarter of last year. And what we're really focusing on is not so much the need to increase production when we have inventory controlled where we want it to be, but to control that inventory so that we don't need to increase production because we have an inventory right where we want it to be.

I report the precedential decisions

issued as expected. Again, it's a low number. We would probably prefer more to be out in the first quarter. You might recall there were a couple of Supreme Court cases that took up some agency time, trademark cases in the fall, and we were certainly consulting with the Solicitor's Office as they were consulting with the Department of Justice and the Solicitor General's Office on those cases. And the appeal work that the Solicitor's Office has means sometimes takes us a little bit longer some quarters than others to agree on and clear the precedential decisions that we want to issue as agency decisions. But, again, last year we had a similar number of precedents out in the first quarter and still met our goal at the end of the year. So this is a figure that fluctuates, and I'm not concerned that we're not going to be able to meet the goal at the end of the year.

Looking at the next two lines, the inventory numbers are goal, again, for cases awaiting decision by the judges, is inventory between 115 and 135 cases. We were at 135 cases, so we were within our target range, but that's at

the higher end and so as I said earlier, that's again something we'll keep a close eye on. It could be at the higher end because of the typical first quarter kind of production. But if it stays high during the second quarter, that's when we can go ahead and hire another judge or two as will be necessary.

The inventory for contested motions, again, also within range. We want it to be within 130 to 160 and we're at 150, so that's on target. And we're pretty close to either better than or close to target in terms of the time within which our customer service reps answer phone calls and deal with the public.

So I'll stop there for a moment and ask if there are any questions about any of the performance measures before I get into other things.

MR. TEPPER: Great. Thank you very much, Gerry. I first want to applaud you. I appreciate having the ability to monitor these targets, and I agree with your observation. If there's a variance and it's a variance we can explain, we're happy to know about that. But

it's very helpful to be able to see sort of where we are.

I'm curious and just for future planning, when we are comparing sort of our year-to-date statistics, you mentioned a couple of times that we're really comparing it to just one-fourth of last year. And I don't know if this would be possible or difficult to start tracking to comparable quarters. I heard you, for example, mentioning that towards the end of the year perhaps appeals go up and it might happen fourth quarter every year. It might be easier if we were comparing to the comparable quarter to see trends like that, to see if yes, this does happen this time of year every year, so just a general observation. But let me see, I think we might have some more substantive and relevant questions from our committee. Yes, Jonathan?

MR. HUDIS: First, Judge Rogers, having had the benefit because I'm close by the office to have attended a few of your TTAB roundtables, I want to commend the efforts of the Board that have been increasing in the last few years in reaching out and getting input from the

user groups so that the board can most effectively not only run its docket of cases, but also give service to the public who's before you every day.

In the most recent and very well put together roundtable that I attended, you basically looked at the board's performance and what happens at various stages of a board proceeding from end to end. If you had to hazard a guess, when is approximately the earliest the board might consider putting together and publishing for comment a proposed package of rules changes to effectuate some of the efficiencies that you spoke about at the beginning of your remarks?

JUDGE ROGERS: Jonathan, I think you're way ahead of where I am on this subject right now, and I actually was planning to talk to everybody about the roundtable and what we covered there to the extent that we have time to review those topics. But let me point out just generally in response to this question that the agenda was very comprehensive. We decided that we were at a point in time where it was useful for us to say that it's been seven years since our last

rulemaking. We know that some of the holes in the last rulemaking were illustrated by filings and cases and motions that came up under those rules and were handled by the precedential decisions that we've issued in recent years. Obviously, there have been case law developments in the courts, too, that need to be taken into account. We've had this increase in ACR efficiencies that people have pursued. We've had technological changes. There were a lot of reasons why we thought it would be useful to kind of just take stock of where we stand.

We also know that we have on our books, for example, rules governing the conduct of interference proceedings that haven't been used in 30 years and maybe it's time to take a look at whether we should just dispose of them if we're not going to ever have an interference again. So for various reasons we thought it was a good time for us to kind of take stock of where we've been and what proceedings of the future might look like.

It also was I think a fortuitous time to do this reexamination of the substance of what

we do and the processes that we use because, as you said, we're trying to be more transparent and reach out to stakeholders about our operations. Some of the processes that we talked about at the roundtable are not enshrined in the rules, but they are just internal things that we do. A good example of this is when parties file consented extensions or suspensions in the ESTTA system, most of them are approved automatically when there's an indication that they're consented, but some of them don't. And some of you may realize well, why do some of them get kicked out and have to be processed by a paralegal or an attorney? That's an internal process that we've set up in the ESTTA system to allow us to kind of track cases and make sure they don't pend for too long. We can change that at any given time. It doesn't mean we're going to change it precipitously without discussing and being transparent with our stakeholders about it, but it's just another example of the idea that we want to be transparent about everything that we do whether it involves rulemaking or not.

And so this roundtable was a discussion

of things that could impact rulemaking. There were some things that we discussed, such as jettisoning interferences, which would actually require statutory changes, too. And, obviously, those things move at a much slower pace than near things that we can do in our internal processes.

So that's a long answer to say that I have no definite timeframe for any rulemaking package, but as I have said before I think before this body in other forums, it would be foolish for us not to think about bringing rules up to date at some point with developments in the law and developments and changes in practice. So I think it's a foregone conclusion if you will that at some point in the near future we'll be thinking about a rule package. But we wanted to begin the discussion with the stakeholder groups even before we started blocking out any kind of rule package to figure out what things we can take care of in-house without changing rules, what things we might need to do by changing rules, what things might need statutory changes, and just get a real sense of the lay of the land if you will.

MR. TEPPER: Thank you for the

explanation. And I suppose I should remind folks while we're pausing at this moment that we're just at the end of the first verse. I don't want to steal the thunder of the awesome guitar solo that we are building towards, so questions at this point just about performance statistics, which areas covered up to this point. And do we have any other questions before we proceed? All right, in that case we're looking forward to the next part, Gerry. Thank you.

JUDGE ROGERS: Well, there's no guitar solo from me, I tell you. I had a trombone. I tried to take lessons on it in elementary school, but that didn't work. I never got into the -- I actually did have a drum pad to learn drums. That didn't work either. The music goes with my son who as we've discussed, Maury, is a luthier and a guitar builder, and I'm sure he would tell you he's very good at it.

MR. TEPPER: That's excellent. I can't resist commenting on Wagner's statement, "Never look at the trombones, it only encourages them."

JUDGE ROGERS: Let me back up prior to

the roundtable that we had. More recently we had an ESTTA users forum in January, late January. That was remarkable in regard to the number of people who signed onto the Web, and I think it shows how important electronic filing systems are to our stakeholders and how important the smooth functioning of those electronic filing systems is. We had a good, in-person turnout at the roundtable. We had a really extensive number of people who tuned into the Webcast. We had a lot of questions that were sent in. I wanted to quickly bring you up to date on what may happen as a result of that forum.

We already had in the works for this year, and it's being worked on now, a package of improvements to the TTABIS. From your point of view it's TTABIS to us internally, TTABVUE for you externally and that's, of course, our electronic case file system. We already had a number of things in the works for that, which will hopefully be in place by the end of the fiscal year or perhaps the first month of next fiscal year. Some of these, and I have a list of a dozen items here, which I'm not going to run through all of

them because some of them are only of utility for us in terms of our internal processing, but those which would be noteworthy for those of you who practice before us I will quickly review.

One would be including the assigned paralegal's name on the case file so you will know from TTABVUE who the attorney is, who the paralegal is, who you need to be able to talk to about the file. Another will standardize the issuance of notices of default within a quick timeframe when it's clear that no answer has been filed in cases.

We will also improve the communication between the examining operation and the board when it comes to ex parte appeal work. A lot of the communications that we have with the examining operation now in regard to ex parte appeal filings is conducted by email, but a lot of this will become more standardized and we will not need to use email to do this in the future with this release.

Another issue that has come up and I know has affected a number of you is when people file consented extensions or consented

suspensions. If the filer does not use all of the email addresses that are of record in the file, then not everybody whose email is in the file gets a copy of the ESTTA order approving it. So we've got tips on our Website about how to avoid that problem, but there will be a fix in the system that will automatically make sure that any email address that is of record will get any ESTTA order that goes out in the future. So it's going to take a little time, as most IT improvement projects do, but it is definitely in there.

And we also had a bit of an issue, speaking of email addresses, with the separation of email addresses between using a comma to separate them or a semicolon; that was a bit of a problem. In the future it's not going to matter whether you have a semicolon or a comma and all the email addresses will be taken care of.

So that is something that we already had in the works. Now in the more recent discussion that we had, the ESTTA users forum focused more on the electronic filing system that gets things into TTABVUE and TTABIS. And as a result of that and reviewing the transcript from that session,

we came up with a list of almost two dozen things that we could think about doing to improve the ESTTA experience if you will filing with us. We're really now in the process of figuring out which of those things we can take care of on our own without any coding changes in the systems and then also sorting out among the things that would require programmatic changes those which would involve minimal work and look at least to us as relatively easy projects compared to those that are major projects and that would likely have to wait for Next Generation systems. But one of the important reasons for having this users forum was not just to figure out what we can do to improve legacy systems, but also to get a sense of what are important issues for people who use electronic filing with the board so that we can make sure we don't repeat problems in the Next Generation systems and that we take all of this knowledge and we use it to infuse the development of the Next Generation filing systems.

So where we stand with all of that is we're still kind of sorting out which of these suggestions and concerns we can address in the

near term, which would take a longer time to address, and then we'll have to sit down and assess whether we've got the funding and the resources to handle some or many of them.

Then the more recent roundtable on February 19, it's a long agenda as Jonathan said. It was very comprehensive. I was very thankful that all of the stakeholder organization representatives who came were able to share three and a half hours with us, which is a long period of time I know in many practitioners' days. So I won't go through in great detail all of the items on the agenda that we covered, but I'll just run through quickly some of those so that anyone who wasn't able to tune into the Webcast will know what we covered. And, of course, when we get the transcript from that back and we've corrected it, we'll get it posted up on the Web and everybody will be able to look at it.

But much of what we covered was in something of linear fashion. My wife tells me that I'm too linear sometimes in our conversations. She's the more holistic person and she wants to get to the result and she says

I take too long, but that's the way I am. So I just go from the start of our cases to the end of our cases and there's a lot of things that happen in between and we have to talk about all of them.

So we talked about email service and electronic communication and how we can get more of that going and not have to if we can avoid having parties have to serve documents on each other by email and avoid having the board have to serve paper documents to people. So that was a big subject of discussion.

We talked about extensions of time to oppose, something we heard about earlier as possibly up for discussion in the biannual fee review. We did not talk about fees at the roundtable. We were really just talking about should we simplify the process of extensions of time to oppose. I think there was a great consensus not to restrict the timeframes of the extensions, but perhaps simplify how many days can be obtained on what showing and at what frequency, that kind of thing.

We had a good discussion about the use of our standard protective order and how we might

revise that going forward. Again, that's another thing that we developed after discussions with stakeholders and TPAC years ago, but it's time to take a fresh look at it and to think about improving that standard protective order.

We also talked about discovery as we always do, and I think we've heard time and again from many practitioners before the board that they kind of like the existing limits that we have in regard to discovery. They're not interested in the periodic attempts made in the federal rules to limit discovery, but there was a good deal of support for discovery being proportional to the needs of particular cases. So even if we don't have any significant changes to discovery practice other than a renewed commitment to proportionality, I think it's still useful to check in with people from time to time to see what current thinking is on the subject. And so that's what we did.

The next two subjects on the agenda involved presentation of evidence, testimony on the one hand and any kind of evidence that can be presented by notices of reliance, which are kind

of unique to board practice. And so we discussed a lot of our experience with ACR cases and how testimony by affidavit or declaration and increased use of notices of reliance might make board trial cases more efficient for everybody in the future. A lot of permutations there, a lot to be thought about as we move forward, but something that I think there's a general consensus that we need to look at seriously and think about how we can best deploy them so that the introduction of evidence is efficient in our trial cases, but the rights of the adverse parties to those who are introducing the evidence are maintained to object or to test the sufficiency of that evidence. So we will focus on that very closely.

We also had a brief discussion about whether the board should be able to take judicial notice of PTL records, something we constantly said and consistently said that we don't do. I'm not sure that it will work technically in a way that won't be a burden on our judges and our attorneys, but it's something that I know is of interest to stakeholders. And so, again, we're

willing to discuss anything that's of interest to stakeholders, so we talked about that.

Extensions and suspensions to accommodate settlement talks, again, something we talk about frequently with stakeholders. But, again, it was just something that we wanted to check in with everybody on.

Motions for summary judgment were discussed to some extent. And then we had a little bit of a discussion about the possibility of the expungement proceeding, the ex parte proceeding, not so much what Trademarks might do or what Petitions attorneys might do or what that might look like as a process and how it might be instituted, but if there was such a process offered by the office and there was a second-level review and the board would be involved, we just wanted to get people thinking about what that involvement might look like. So just a brief introduction to the possibility that if the office goes forward with this, there might be some board involvement in it.

So I think that's a lot and I don't want to get you too far off schedule, so I'll leave it

at that, but be happy to take any questions.

MR. TEPPER: Thank you very much. And as Gerry indicated, the transcript will be available for those of you that want the complete, three-and-a-half-hour, unabridged version. Keep an eye out for that, but it's obviously very good to hear the dialogue that the TTAB is engaging in and you're getting good feedback from users. I'm always glad to hear that.

Do we have questions from the committee for Chief Judge Rogers? Looks like you did have an awesome guitar solo after all, Gerry, that's great. How about questions from the public today? All right. Well, that being said, thank you for the update, Gerry. We very much appreciate it.

We'll turn now to our OCIO update, and I think I saw -- yes, glad to have our Chief Information Officer, John Owens, here today and Raj Dolas, the Trademark Next Generation Portfolio Manager. I may have mangled your title, and I apologize if I did, Raj. You can update us, but we are going to take a look now at progress on our IT systems development. I think

you heard a couple of comments earlier. Commissioner Denison touched on some of this and you also heard our CFO talk a little bit about this. So now we'll get the authoritative version. Thank you, gentlemen.

MR. OWENS: Well, good morning, everyone. I'm just going to hand it right over to Raj to get right to the meat of the subject. Here you go.

MR. DOLAS: Thanks, John. Good morning, everyone. So the Trademark Next Generation IT Portfolio --

MR. TEPPER: Raj, I'm going to ask -- we've had several people listening in online and I know we've had several requests to make sure we have the mics real close. I want to make sure that they can hear you, too. So, thank you.

MR. DOLAS: Okay. The Trademark Next Generation IT Portfolio is fairly large and in order to manage how we track it, we have divided that into four separate investments. The eventual goal or the actual goal of TMNG is to provide end-to-end electronic capabilities to

internal and external users. The side effect of that is going to be replacement of our legacy systems and legacy infrastructure.

The four investments that we'll focus on are TMNG or TMNG and TMNG 2. The entire focus of those two investments is on Trademark internal users. What we are going to do in this one is develop capabilities for all the internal users of Trademark, different business units within Trademark. TMNG external, the third investment, purely focuses on systems that are necessary for our external users. And our fourth investment focuses on Trademark Trial and Appeal Board.

Before I get into the recent accomplishments of TMNG, I want to quickly touch on what has been done on TMNG itself. When the investment started in fiscal year 2011, a good amount of work was spent on planning, finalizing the system architecture, and system design; all that has been completed. A good amount of work has been done on creating the Trademark infrastructure. We want to build an infrastructure that will be available 24/7/365, 99.9 percent available all the time. Our intent

is to build six different environments: Two for developers, two for testers, one for actual users in production, and one a disaster recovery environment. Five of those six environments have been built and are in use today. So two developer environments, two testing environments, and one production environment have been built. The disaster recovery environment, the design of that was completed last year and we are in the process of procuring hardware and then we'll build it out this fiscal year. It may bleed into next fiscal year, but that's our intent, to finish that. So if something does happen to our data center, we want to make sure the users are automatically and transparently switched over to the disaster recovery environment.

Having said that, I'm going to focus a little bit more on what was done since October for TMNG. As I mentioned, the focus is developing capabilities for examiners. So far what we have built is a complete framework that is necessary. The way we develop the TMNG capabilities, the frontend of it is designed by the users

themselves. We use what is called the "user center design" where actual users are interviewed on a regular basis. Their needs are taken into account. The system is designed based on their needs. The design is reviewed with the users and finalized based on their input.

The user interface is just the frontend. There is a tremendous amount of work that's behind the scenes, which is designing the workflow capabilities, which implements business rules, business processes, designing the database, designing the content management system. So what we have done so far is completed development of the first action approval for publication. We have developed a Web-based interface that users use today. And we have also designed and developed an ID validation tool for the examining attorneys. All these capabilities are available within a Web browser and the examiners do not have to leave that system and go to other systems to use. So it's an easy-to-use system for the examiners.

We also have completed several office actions, including our templates. We have

completed a Web-capture mechanism for evidence. We also completed development of a resource area if you will that provides links to the examiners for what they need, such as TBMP, the law libraries, and so on and so forth.

The core underlying support for examiners is ensuring that information from legacy systems has been brought over to Next Generation. It has to be seamless. So we're migrating content from our legacy content management system into the Trademark Next Generation content management system.

We talked about this last time; that is, migration of mark images from legacy content management system into the Next Generation. We did it once before. We redid it again to ensure that it works the way it's supposed to work. In addition to that we have migrated over 18 million documents from our legacy content management system into the Next Gen, and that migration of document content will continue as we move forward.

Migrating data that exists on the legacy side into Next Gen is very, very important.

That work continues as we speak. We're able to migrate almost all data into Trademark Next Generation from the legacy side. The other aspect of this is keeping the two systems, the Next Generation and legacy system, in sync with each other. It's an incredibly difficult task, but we have to do it because we will run two systems in parallel for a short amount of time before all the users migrate to Next Generation. That work continues. It's on track, and we will be able to complete all the necessary synchronization that the examiners need on a timely basis.

Talking about Trademark Next Generation external accomplishments, last time we were here we demoed a Trademark NextGen ID Manual. We deployed a beta version of that in our production environment, made it available to the public. We regularly get input from them and we take that input seriously. Enhancements are prioritized based on the input and put into effect as we are making more enhancements, additional technical enhancements, to the system. User requests and user feedback is incorporated into

that. Sometime this fiscal year or early next fiscal year the Trademark NextGen ID Manual will become the ID manual and the legacy one will be retired.

Trademark Electronic Official Gazette, this system has been in production for quite a while now. We continue to make enhancements to that system. Recently what we have been doing is ensuring that the review process of the weekly OG publication gets more and more automation instead of manual. So one thing that is mentioned here is an automated case withdrawal from publication based on procedural or legal issues that may exist before it goes to publication, before it's published.

TMNG e-File is a system for submission from external users. Our current focus has been on modifying or enhancing attorney and domestic representative information. Currently there are six or seven forms that exist today. We're changing the way the system works for external users. We want to make sure that it's very easy to use whether you're a novice user, a pro se user, or an expert user as an attorney. The goal is to

use a very simple guided system so that anybody will be able to use the system and say here's what I intend to do today. The focus is to change attorney- related information today, but that's the model we'll use for everything going forward.

E-Certification is a project that was a market study that we did to figure out how many tools exist in the marketplace today for electronic signature and electronic certification of documents. The market study was completed last year, last calendar year. We have a recommendation from the vendor of the products that meet our needs and Trademark's needs. The next step for us is to begin evaluation of their proposed solutions and figure out which meets the true needs of everybody, not just Trademark, but enterprise-wide if we can do that.

Even though we're working on Trademark Next Generation, we can't forget the legacy systems. We continue to enhance and support them. Recently, the biggest amount of work that went into them was TEAS Reduced Fee, support for that. The Reduced Fee TEAS was deployed on

January 17 on time as agreed with Trademark business. It has been working well. So far we have not heard of any issues. We also deployed a courtesy reminder. Again, I emphasize it's a courtesy reminder. It's not something that we intend to enforce, but it's for Section 8 and Section 9 renewals.

The legacy content management migration project is in place so that all our legacy systems can use the Trademark Next Generation content management system. Eventually we intend to retire the legacy content management system and use only one content management system. But it's quite possible that some of the legacy systems may still be in use, so we want to make sure that the legacy systems are refactored so they use the Next Generation content management system.

We continue to stabilize Madrid. We had one Madrid stabilization project last year. We have one this year, and the release for that project is coming fairly soon in the next few months. There are several things that we do. There's a priority list that is worked out with

the business users. We continue to chug down the priority list, and we'll continue to enhance or stabilize some of the issues that exist in Madrid.

For TTAB there are several internal capabilities that were deployed recently to production. This is what is up there, but really what it says is we reviewed those capabilities with TTAB internally before we put them in production and made sure that it met their needs.

Upcoming work for TMNG: Our goal is to complete development of examiner-related capabilities in the next few months and begin production deployment. The production deployment was going to be a phased-out approach. We'll have two beta tests with our users and then we'll slowly rollout the production use of TMNG to the examiners. That is going to happen in this fiscal year. That's our plan for beta tests.

The second effort is to start developing capabilities for other Trademark internal business units. Which business units we'll start tackling is dependent on the priorities that we agree with Trademark. Our goal is to reuse and leverage many of the

capabilities that we're developing for examiners such as dockets, for example, using content management system. It is going to be one in the same and we'll see a rapid reuse of the capabilities that have been designed for examiners for other business units.

We have started work on TMNG Madrid capabilities. That work will continue throughout the fiscal year and definitely will bleed into the next fiscal year.

The focus for TMNG external will be e-File definitely, that's the second bullet, the ability to submit submissions, appeals, assignments, and data electronically using a wizard-style approach, which is what I was saying earlier. Any user should be able to use this system quite easily.

The first bullet in TMNG external is our ability to create electronic registration certificates with a digital signature and seal. It is work that is futuristic. It's in the future I mean. We have not started that work, but we intend to start that if that is a priority for Trademark.

More work on Trademark legacy systems will continue. The two main systems that we are really focused on stabilizing are TEAS, TEASi, and Madrid. Work on that will continue. The other work will be modification of legacy systems so that the legacy systems can use the new TMNG content management system.

That is all I have.

MR. TEPPER: Raj, thank you very much. Do we have any questions? I'm going to go ahead and ask the one that I know everyone will. You did mention, and I know we have a lot of examiners listening in that are interested in the ability to have sort of access to the Next Generation internal workflow system from a single source. Sounds like it's going to be a very nice enhancement. Since you mentioned it will be this fiscal year, and the fiscal year ends September 30, I assume that's at least an outward target date. Do you have a timeline or an anticipated range on how this might be implemented and rolled out?

MR. OWENS: So obviously we work very closely with Mary and Trademarks to figure out the

rollout plan. There's got to be a certain amount of education and so on and so forth. CIO tracks what's known as production release. The system is in the production environment and ready and able to be used. It's the same way we track it on the Patent side. And, of course, then you go through your initial volunteer beta testers, people that volunteer to go first knowing that there may be problems, and then a rollout plan. Our rollout into production is June.

MR. TEPPER: Thank you for that.

Other questions today? Tim?

MR. LOCKHART: Raj, please remind me again. What is TEASi, that acronym?

MR. DOLAS: It's the TEAS international to accept international applications.

MR. LOCKHART: Okay, great. That acronym's not familiar to me and maybe not to some of the folks listening in as well. Well, I want to thank you and John and all of your staff for this presentation today, and I think we had a very productive subcommittee meeting yesterday. It was a good opportunity for us to kind of walk

through the issues and see where you are. Obviously, you're coming along and continuing to make progress.

A fact that came up yesterday that was of some concern to me is that you said that you've got about 450 plus employees in OCIO people onboard now, and you've got about 160 vacancies, which is obviously a pretty high number. I'm sure you're focused on trying to fill those. Basically, it's about 26 percent of your total jobs are vacant at the present time. How much of that is due to the sequester that was in effect? Do you have any way to quantify that?

MR. DOLAS: I'll leave that to John.

MR. OWENS: I'll answer this one. Up until the last couple of years, for a variety of reasons, the CIO's headcount number had been stagnant. And we were replacing people at the rate we were losing them usually due to retirements. I mean it was like 5, 6, 7 percent a year. But as the opportunity for increased productivity came about and being able to set our own fees with AIA and so on and so forth, I was asked what it would take to turn up the heat on

getting things done faster because obviously the number one criticism that I get all the time is well, John, when we finally get it, we love it, but why does it take so darn long to get it to you?

Well, that's fair, but a certain amount of effort has to go into it and you cannot manage an endless supply of contractors without good quality IT people looking over the subject matter being delivered. Because under federal procurement law, the way it works is if I have someone receiving work that doesn't know what that work is -- they can't read and write code, for example -- then as soon as I accept it, it's the government's fault that it doesn't work. And the contractor who handed you garbage gets away scot-free. I know it's hard to believe, but it's the truth and that's the way it's set up.

So what I have been doing is I don't believe in a constant shift just to contractors or just to government. It's got to be a balance. I need the right type of government people to actually look at the deliverables, read and write code, so on and so forth. These are highly technical people. There's about 5 percent of the

graduating students everywhere in the United States, give or take a little bit, that graduate with computer science degrees. They're a very hot commodity given all the IT that we do here in this country. And with the restrictions in the federal government, unlike private industry, I can't go to other countries and steal their people. We have to have U.S. citizens. And not to mention their pay is usually a lot higher than what I can offer. So we are looking for that special commitment-type of person that wants to make a difference -- like Raj, like myself -- that's willing to give up on a little bit of the pay to do something special.

So we are trying to find the right people over the last two years with the right skillset to properly manage. Now, the 160 number does bother me. I've been working with several programs this year that the President has set up, the Pathways Program, to encourage college students to join us. I've been working with 18F. I don't know if any of you are familiar with that program under GSA. They're the folks that are hiring the heavy hitters temporarily on a

couple- of-year appointments out of industry to come into the federal government and help. They don't have to give up their jobs, but maybe they volunteer for a couple of years. We employ them. I've been working with those folks to try to drive in.

So there are things that we're doing. It is a concerning number. I'm not going to lie to you. And if I do get those people, then we will be in a lot better situation than we are now to increasing the velocity of delivery. But we are making efforts. I wouldn't call it based on sequestration per se. In fact, when sequestration hit because it didn't touch the Trademark funding and all and there was a large reserve, we continued to hire solely Trademark-dedicated resources during that time. So that certainly didn't affect Trademark. But the whole organization, which obviously needs everyone -- and there's a lot of people that split their time between Patents and Trademarks just with infrastructure and so on and so forth -- they are part of the 160 and we do need them. We are making the efforts to hire them, but I'm not

hiring bodies. I'm hiring technical experts with real meaningful IT experience at a variety of levels, starting level all the way on up, and it's hard in the federal government to do that and it takes time.

MR. LOCKHART: Well, I appreciate that, John. I know it's a real challenge and I'm sure you'd like to have those jobs filled. And I take your point about that you can't hire just anybody. You've got to hire people who can do the work and it's very technically complex work. I certainly appreciate that.

Are you the point person for the hiring, or do you have somebody on your staff that you've delegated that to?

MR. OWENS: So we are working -- I am, of course, working with the CAO, Fred Steckler. We have appointed actually a team, a cross-functional team. My representative is Tony Chiles, my deputy, on that team along with Wynn Coggins, the Deputy CAO and the staff over there in the CAO shop and the HR shop, and they meet weekly.

MR. LOCKHART: So you're comfortable

that your office is doing all that could reasonably be done to try to reach out and get applications in and look at these people and interview and hire where it's appropriate?

MR. OWENS: A constant stream of thoughts and new ideas, and they tell me when I hit something illegal. So I don't go too far. But no, it's a constant stream. I'd also like to point out that we are hosting a veterans hiring event. It was advertised in the paper recently. Someone sent me a photograph of one of the papers last night. It's not just in one paper; it's all over the place. We in OCIO, of course, would like to continue to honor our veterans, particularly those with technical capabilities. And like we said in the advertisement, you don't have to just wear a uniform to protect this nation's assets. I mean trademarks and patents are our nation's assets. We hire more veterans than anyone else and we enjoy the veterans hiring event. I think we got 40 or 50 people out of it last year, which is not a bad chunk of that 160 if I can do it again this year. And I'm very excited about the event. I think it happens in the next couple of weeks?

Next month? April? April timeframe.

MR. LOCKHART: Okay, great. Have you been able to project -- is there any way to project of those 160 vacancies how many you might be able to fill this fiscal year? Do you have any goal, any timeline, for that? I mean obviously you want to hire as many qualified people as you can as quickly as you can, but is there a projection?

MR. OWENS: The most we've ever been able to hire ever is just shy of 100.

MR. LOCKHART: That's in a fiscal year?

MR. OWENS: But I set the goal in all of them. I don't shy away from setting goals. I told HR we want all of them.

MR. LOCKHART: I understand, I understand. And that obviously would be complete success. But do you have a number where you're saying if we can hire 70 or 80 by the end of this fiscal year, we would regard that as successful?

MR. OWENS: So I set the minimum success criteria equal to the number of hires last year, which was somewhere in the 80 to 90 area. I don't have the exact number. But I said I at

least need to do as well as I did last year.

MR. LOCKHART: Sure. And do you know what -- is there any way to quantify what your expected attrition might be from retirements or any other reason?

MR. OWENS: We hit somewhere around 6 or 7 percent; 25 percent of my staff is retirement eligible.

MR. LOCKHART: So you're hoping to plus up by 60 or 70 people by the end of this fiscal year, net?

MR. OWENS: Yes.

MR. LOCKHART: Okay, okay, great. Well, I certainly commend you in those efforts to try to bring good people in. And obviously that would make a huge impact on not only to support Trademarks, but the office as a whole. So I wish you much success filling those jobs.

What do you see as the biggest challenges in serving your internal Trademark customers? And then I'd also ask that same question for your external customers. What are the biggest challenges? We've talked about these job vacancies. Are there other things that

are of concern?

MR. OWENS: I am incredibly confident that this year we will put into production the Trademark Next Generation system for examiners, the replacement, incredibly confident. I know, though, that through the ups and downs and with a large education and the way that the new system is built and oriented, there's going to be a learning curve. So that will be a trial for all of us to get through, to make sure everyone is comfortable because change is never something that -- I don't know a lot of people that go and run around and say yeah, I have to change everything every day. I mean this is going to be a big change. It's not going to be a small change.

So I am a little concerned about that, though I am highly confident that working with Mary and her staff together we are more than capable of handling it. So I have to tell you, I'm not really worried about our deliveries this year. It's about the planning and the effort and the moving forward and the gottchas that seem to hit me year after year of various fee funding

collection problems and everything else that cause the OCIO budget to go up and down. Out of the seven years that I've been here, I was only completely given the money that I asked for one of those seven years without having to stop a significant amount of work every other year in the middle or end of the year.

MR. LOCKHART: What do you think was the average percentage shortfall if you will or the delta between what you had requested and what you got? What percentage are we talking about there, if you can quantify it, just a ballpark?

MR. OWENS: I wouldn't want to guess; tens of millions to hundreds of millions during sequestration. I mean it varies. But tens of millions of dollars is a lot of money.

MR. LOCKHART: A significant percentage then? More than 1 or 2 percent?

MR. OWENS: More than 1 or 2 percent, yes. This is real money. We're not talking lint. We're talking you have to stop projects to fund other things and so on and so forth. So, of course, that's always a worry in the back of my mind and that's related to the economy and fee

collection and a lot of unknowns and so on and so forth. But those are the things that I worry most about.

This year I don't have much. Next year we have a current set of plans. I'm very confident in those plans. We've staffed appropriately. We have more staff coming in hopefully at a good rate as we previously mentioned to take up those needs and we will do that other work. It's what can impact that work from happening that really makes me nervous.

MR. LOCKHART: And so that's true both for internal and external, same concern?

MR. OWENS: Yes.

MR. LOCKHART: And I think according to your materials, the projected completion date, full completion date, for TMNG would be the end of fiscal year 2017, meaning September of 2017? Is that right?

MR. OWENS: Yes.

MR. LOCKHART: What's your confidence factor that you're going to be able to meet that target?

MR. OWENS: Plus or minus a couple of

months, 85 percent.

MR. LOCKHART: And when you say completion, I mean that's developed, that's implemented, rolled out, available, in use. Is that right?

MR. OWENS: Developed, in production -- hopefully we won't have any difficulty rolling it out and it will be in full use -- but developed into production and used and legacy systems shut off.

MR. LOCKHART: So available both for internal and external use?

MR. OWENS: Yes.

MR. LOCKHART: And you said about 85 percent?

MR. OWENS: Yes. And it's just because there's so many varieties of -- well, I don't have everything under my control. It's kind of been a wild ride here some years and God only knows what I can expect out of those above me and Congress. We have sequestration again, which I don't think is likely, but it could. You never know.

MR. LOCKHART: Well, that's all I have.

Thank you.

MR. TEPPER: Great, thank you. Well, listen, my term on the Advisory Committee will have ended, so I will have to come up on my own then. But I want to be invited up in 2017 when we get to cut off the legacy systems. I'd love to see that.

MR. OWENS: You and me both. I'd love to see it, too, trust me.

MR. TEPPER: You'll be at the front of the line, John, but it is nice. I appreciate the questions. Obviously, there is an interest for us following along, so it's nice to see there is sort of the endpoint in sight and we'll continue to work to see what we can do.

Do we have other questions from the committee? Yes, Jonathan?

MR. HUDIS: First I want to say, Mr. Lockhart, I am very appreciative of the fact that you started your questions first because they explain a lot of things already, in addition to the backup material that the chair gave me in preparation for this meeting.

So, Mr. Dolas and Mr. Owens, I've got

to say you have embarked on a Herculean effort. I read the Next Generation plan when it was published by the Secretary of Commerce back in 2010. I am very pleased to hear that during my term on TPAC I will get to see the end result and fruits of your efforts.

I have a few follow-up questions to what Mr. Lockhart asked you, and this was a question that I started with Mr. Murphy and he -- how do I put this? -- punted to you to complete the answer, and I'll just quote from one of his slides. "Regarding the fiscal year 2016 budget, spending priorities for the Trademark organization include decrease in the Trademark IT portfolio by \$18.6 million, which reflects the continued expansion of the Trademark Next Generation system, but at a lower rate of investment than in fiscal year 2015." And when I read that, it was concerning to me -- and even now more so, particularly in light of your answers to Mr. Lockhart's questions; that at the very time your organization is going to be rolling out what we can see, feel, and touch, you're losing some of your funding.

MR. OWENS: Let me see if I can explain this, give me a second. Remind me to thank Mr. Murphy for punting toward me. So there's a poster that hangs in my office and it says "There's no such thing as an IT project. There are only business projects with IT components." It was a quote by the former CIO of Chubb Corporation, June Drewry. And I have to tell you that that is something that we do and we believe and we propagate in my office; that IT is done at the expense of the business provided by funds from the business and for a business need. And, therefore, the customer -- in this case Trademarks -- is ultimately in charge of what gets done and when. So I have shown very -- I have been very flexible over the years with spooling up and spinning down efforts based on funding. Fortunately, many of them were down, but even in some times, some of them went up, particularly last year and this year.

So that being said, I want you to know that we go through quarterly prioritizations -- my team, Mr. Dolas' representative, Mary's team, and so on and so

forth -- and we work together to set the priorities of what gets done. Now, I remember the day that Executive Council met and this is when Debbie was commissioner, Debbie Cohn was commissioner. And we had a discussion of what comfort level do we have as an agency and what type of reserve do we want to have, both in Patents and Trademarks? And a level was set in that meeting that said we really don't want to get below this level. But as you know from talking to Mr. Murphy, that level is dependent on fee collections and some years we collect more than we estimate, some years a little less, and fee collections is complicated guesswork. Let's face it, if we were good enough to get it to 100 percent, I'd use those formulas to pick Lotto and maybe you'd be talking to somebody else. So it's guesswork.

So now, multiple years -- now, this decision was in 2014 actually, the one you're reading about -- so here I am, as the CIO. Well, based on a bunch of guesses that we hope to happen two years from now and we know that our reserves need to be at this amount, what would you do?

Well, my answer was I'll do whatever work that the business wants me to do. And in this case it was more important to keep a reserve due to volatility than it was to continue to accelerate like we had in 2014 and 2015, the Trademark work.

So I haven't lost anything because this was future work. I can always just work with my customer to decide this gets done here and this gets done there. And we can stretch things out to the right as we have taken into account that funding level. It's not really a reduction. It's a reduction from year over year, but it's a reduction in that aspect, but not really. It's a planned-for allotment basically, which has been taken into account in the plans that you see here.

So I'm not going to freak out unless next year we find out we're even in a worse situation and then there's a further reduction, in which case then I'm going to tell you based on that further reduction -- not the original one -- I have gotten less than what we've agreed to use.

So I don't look at it quite the same way you do. Is more money always better? Well,

yeah, most people would say more money is always better. But the money that I had back in 2014, planned for 2016, is the number you've seen there and that number is reflected in the plans that we have presented to you today. If that number changes one way or the other, we will update our plans accordingly as we have every year in the past, and we will be very transparent about it. This is what was stopped. This is what was pushed to the right. This is what was started, et cetera, et cetera, because all of that money now compared to a decade ago is tracked in a rock solid financial system and an enterprise project management system, and I can tell you where every last penny or dime or nickel went on any one of the projects that we execute.

So I wouldn't be nervous if I was you to see that number drop a little bit. Yes, you're like well, if you had more money, you could do more. That's true, but the plans we presented to you account for that number dropping because it's fiscally responsible for the agency working with Trademarks and Patents and so on to have a reserve fund with some money in it in case there's a

problem. Like we all carry bank accounts, hopefully, that have a little bit of savings to buffer us. And I'm the type of person that appreciates having a little bit in savings because I'm a little on the fiscal conservative side of things.

Does that kind of explain that to you?

MR. HUDIS: In-deed, it does, and it provides fruitful knowledge for a few follow-up questions. Your organization -- and when I say your organization, I'm talking about what's under the purview of the CIO -- is getting to the point where we as TPAC members can see, feel, and touch what's happening. A lot of what has been happening between 2011 and 2013 was a lot of planning, 2013 to the end of last fiscal year was a lot of backend systems work, things that unless you have a depth of IT background that you and Mr. Dolas have, we wouldn't be able to see, feel, and touch.

Now, you're getting to the examiner core and then you're getting to what most of us on TPAC do every day; that is, interacting with the office's, TESS, TEAS, TSDR, and assignment

records systems. It also has been our wish for eventually a unitary file wrapper under Next Generation. And then on the board side, we interact with the ESTTA and TTABVUE systems. I additionally have been our wish that those systems adequately talk to each other. It would be really, really helpful, Mr. Dolas, when you're reporting to us, by system and by anticipated date, what's happening with the legacy systems and what's happening with the Next Generation systems that will replace them so that from meeting to meeting the TPAC can monitor what's happening. We can look at when you're a product rolling out, and when you're going to expect comments from your user base, which are our colleagues in the trademark bar. This information would be really helpful so that by the time this project is finished in September 2017, we can go back and say, hey, these were the accomplishments at various deadlines and this is what was the result, tracking progress as you went along. That would be greatly appreciated.

MR. OWENS: So I'll tell you what, I'm always hopeful and welcoming of input. So I am

more than happy to work with you and Tim and those on the IT Subcommittee to completely change the format of the presentation to meet your desire. Obviously, it has to be approved by Mary as well, and, of course, she has representatives on that team as well as herself. But I am more than happy to adjust it the way you want. This presentation doesn't look like it did when I got here in 2008, so it's not going to look this way next time we meet. All I ask is could you mark it up or in some other conveyance convey to us exactly what you just said so we develop a common understanding or work with Tim or the group. I more than happy to convey it.

MR. HUDIS: I am so glad to hear all of this. As a matter of fact, the user groups have already sent a few pieces of correspondence to the commissioner about what we'd like to see going forward, and her office is in the middle of looking at those comments, preparing her response, and sharing them with you. So this is a very good dialogue and as things roll out, it would be really, really helpful to see exactly what you've described, Mr. Owens. I'm very glad

to hear it because I had to do a lot of homework to get myself up to speed, and it just looked like there were a lot of things in the past -- and you explained it as a result of Mr. Lockhart's questions -- that were being stalled for one reason or another. I'm not saying that your organization stalled, but the projects were just moving at a pace where they weren't moving as quickly as I guess the bar would have liked. You describe your legacy system. Some of the systems that we're dealing with and interacting online with at the PTO, these are systems that were put in place when Anne Chasser was commissioner and that was in 1998.

MR. TEPPER: And I was on the TPAC back then!

MR. OWENS: As a matter of fact, I can tell you that amongst all the other stops and starts and fits, I think we've learned a lot about the legacy systems to the point where sometimes I think Raj's middle name was Indiana Jones because he and his team were discovering so much that had been forgotten about how these things worked and operated. And also remember, we have

developed a current system and complete parallel link to the legacy system without impacting the legacy system's performance. Keeping the two of them in sync is like crawling out on the wing of your plane, building another plane, having it fly next to the plane that you're flying connected by a tether. It can be tricky, so don't -- though there were a lot of fits and stops and starts and a lot of discovery along the way and it's hard to explain to someone that doesn't deal with the intermixings of IT like we do on a daily basis, there was a ton of work done in the backend just to get the data out of that old legacy content management system written in languages that for all intents and purposes are dead on a mainframe system.

MR. HUDIS: I'm just curious, were you working with fixed wing aircraft or rotary wing aircraft?

MR. OWENS: At this point, they were pretty fixed. I don't want to call them rotary. It took a lot of effort on all sides, on Trademark side as well, to make sure that all of that was done right.

And there was a certain amount of trepidation of doing it, nervousness on both sides. Are we going to get it right? Making sure, double sure, triple sure because we can't interrupt the flow of production. And every once in a while when we did break something, we do feel very bad. Of course, I get charged a bill for it, but that's okay. And we are as careful as we can be, but there was a lot of work.

I am very proud of the fact that this year we are going to be able to show you something tangible, and I'm not just talking about the ID Manual we demoed for you last time or the e-OG or those other little things that we've done along the way. The replacement effects for the examiner and the rewrite of the x-Search frontend to be compatible with the Web is massive. That is a massive accomplishment knowing that there's 10 to 50 times more work on the backend that we had to do just to get there.

So being able to demo that to make sure you understand that it's not just vaporware is a huge accomplishment for the team, one I'm hoping we will amply celebrate.

MR. HUDIS: Thank you.

MR. TEPPER: Thank you for that. By the way -- and, John, we appreciate your flexibility, your willingness to help provide information we can follow. I would like to point out to those listening the Chubb Corporation was founded in 1882. It is the eighth largest property and casualty insurer, and it is still in business and thriving. So I'm happy for you to use a quote from their CIO.

MR. OWENS: Former CIO.

MR. TEPPER: Former CIO, thank you. Do we have other questions from the committee for our CIO today? All right. How about questions from the public? I got a "no."

We are a few minutes beyond schedule. I appreciate everyone's time today. Let me just close with one announcement: I'm going to work backwards for those of you who are planning and interested. On September 25 you can join us again for a public meeting here. And before that in June we will hold another meeting, and I apologize for not being able to give you the specific date at this time. We're trying to work

around some other obligations that are beyond the control of the PTO at the moment. We will hope to have that date pinned down and very soon. So if you'll keep an eye out on the Website, we'll have a formal announcement of our next public meeting date. But it will be in June and hopefully early June, just for your planning.

That being said, I want to thank everyone for your time and participation today. There's, as always, a lot going on, but these are great things. We appreciate all of your time and all the information you guys share with us and, more importantly, what you're doing every day to keep things working smoothly for us in Trademarks.

This meeting is adjourned, thank you.

(Whereupon, at 12:03 p.m., the PROCEEDINGS were adjourned.)

* * * * *

CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)

**Notary Public, in and for the Commonwealth of
Virginia**

My Commission Expires: August 31, 2017

Notary Public Number 122985