

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, June 5, 2015

PARTICIPANTS:

TPAC Members:

MAURY TEPPER, Chair

WILLIAM BARBER

JODY DRAKE

DEBORAH HAMPTON

JONATHAN HUDIS

TIM LOCKHART

KATHRYN BARRETT PARK

DEE ANN WELDON-WILSON

ANNE CHASSER

USPTO:

RUSSELL SLIFER, Deputy Under Secretary and
Deputy Director

MARY DENISON, Commissioner for Trademarks

SHIRA PERLMUTTER, Chief Policy Officer,
Office of Policy and External Affairs

GERARD ROGERS, Chief Administrative
Trademark Judge

RAJ DOLAS, Portfolio Manager for Trademark

DANA COLARULLI, Director, Office of
Governmental Affairs

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

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PARTICIPANTS (CONT'D):

SHARON MARSH, Deputy Commissioner for
Trademark Examination

JOHN OWENS, II, Chief Information Officer

ANTHONY SCARDINO, Chief Financial Officer

Union Members:

CATHERINE FAINT, NTEU 245

HAROLD ROSS, NTEU 243

Other Attendees:

TANYA AMOS

SOPHIA LYNCH

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P R O C E E D I N G S

(9:00 a.m.)

CHAIRMAN TEPPER: Good morning. I just wanted to let everyone know we are going to start in just a minute. I would like to call to order this meeting of the Trademark Public Advisory Committee.

I wanted to just take a quick moment to introduce you to our members of the Public Advisory Committee. We do have, I think, one member not able to make it today, a couple out, but I just want to introduce these folks to you. They are volunteers. They are serving three-year terms to help represent the trademark community to advise the Office on its practices, matters of budget and personnel, and so I want to thank everyone for their service.

I'm going to start over on my side here, and I'll just -- I'll introduce the members that I see to you at the moment.

Kathryn Barrett-Park is our vice chair. She works for a little company called General Electric in her day job. You probably use one or two of their products. And if you don't, I would

like to hear how you manage that, so.

Jody Drake, right over next to here with Sughrue Mion here in town, in D.C. Judy is on her second term on the TPAC now.

Tim Lockhart. He's not quite a rookie. Tim started back with us this year, but Tim has previously served on TPAC. We're really glad to have him. He comes from Norfolk with Wilcox & Savage.

Deb Hampton, right over at my corner here. Deb is Chemours. I hope I've pronounced that correctly. This is a newly formed company that has just spun out from DuPont, and so Deb has got her hands full. She is also on her second term with us.

I'm Maury Tepper with Tepper & Eyster in Raleigh, North Carolina, and I am, I am told, a lame duck. I have one more meeting as chair. It's been very nice to get to work with the Office here.

And coming around here, Bill Barber. Bill is with Pirkey Barber in Austin. He came up in spite of rough conditions and flooding downtown. He is also, I believe, the only law

firm where both named partners have chaired the AIPLA. That's probably a distinction not to be repeated. (Laughter)

Dee Ann Weldon-Wilson also had to find her way out of Texas, and she is currently halfway between Dallas and Houston. She picked the two cities that are most impacted with a little company called Exxon Mobile. Again, I trust you have utilized and relied on many of their offerings.

And I'm going to shift back, with apologies to the cameraman, Jonathan Hudis, our true rookie. Jonathan started with TPAC this year. He, until just this week, had the shortest commute but now has to come in from D.C. He is a partner with Quarles & Brady. That being said, I'd like to get us caught back up on time.

I'm going to make an introduction and give a thank-you as well. We are very pleased today to have our new deputy director. Russell Slifer has been with PTO for --

Well, you've been with the PTO for a long time. You've been deputy director for two months now?

Okay. So, this is the first chance we have met since the appointment, and we're very pleased that Russell could join us this morning.

MR. SLIFER: Thank you, Maury. I guess I'm the true rookie here. I joined the Patent Office here in March when Director Lee swore me in. Before that I had opened up the Denver office, the satellite office in Denver, last July. Prior to that, though, I was in corporate practice for 12 years for Micron Technology in Boise, Idaho. I was the chief patent counsel there. And then prior to that I was a private practice attorney in Minnesota. So, most of my experience has been in the patent side of things, not the trademark, but I have had some experience both early in my career and then of course with the PTO in the satellite office on trademarks. So, it's my pleasure to be here, and I'm hoping that the sky is clear for the Nats game tonight when I get off.

Let me give you a brief introduction -- or update I should say -- on our satellite offices, and I wanted to touch on that this morning.

As you know, we've got two satellite offices up and running. The one in Detroit has been open for three years. The office in Denver we opened, as I said, last July. We've also got two offices in -- the regional office in Texas -- it's going to open later this year -- and one in San Jose. Now, we've got judges in all four locations, so at least we've got presence in Dallas and San Jose.

But the purpose of these offices, and I'll touch on them a little bit more in a second, but the purpose of the offices really is to provide a connection to the communities, to provide outreach, not just to have our patent examiners and our PTAB judges in those locations but to provide outreach connection and allow the regions, innovative regions, to have direct access to the PTO and the offerings that we have here.

We have a new director in Detroit. Dr. Christal Sheppard was actually one of our PPAC members that joined us, and she's now building a great network in Detroit.

My vacancy is actively being filled in

Denver. John Cabeca, who's spent a nice career with the Patent and Trademark Office, is our regional director in San Jose, and we're actively recruiting for the position in Dallas.

So, when we open the satellite offices in San Jose in October and follow that up with Dallas in November, we'll start hiring our patent examiners in those locations. And I would say, of course, by early next year we'll have all four offices up and running, staffed, and starting active outreach in those communities.

Now, as you know, we don't have trademark personnel in the offices, but as I found out when I started doing outreach in the Colorado region, trademarks is an extremely important area that most people don't have access to the information that they should.

Mary visited Denver twice in the last several months and also provided some resources for the World IP Day to have one of our trademark examiners put on a presentation then, too.

So, we've got a need. We're working actually on providing access to trademark information at the sites through a video

connection, so we're excited to be able to start providing more trademark information to those communities.

Let's see, what else did they -- they gave me a list of things they like me to talk about, but --

You know, really, I guess what I wanted to kind of kick this off -- and I know we're a little behind schedule -- is the trademark operation at the Patent and Trademark Office is world class. Everywhere I go when I talk to people, they tell us how fantastic the trademark operation is and the resources and how it's running, and I can attest to the fact that even though I've only been on the job for less than a few months, Trademark is running extremely smoothly, and Mary's doing a wonderful job on it, so it makes my life much easier.

So, that's about all I really had to say this morning. Just wanted to give you an update on where those offices were, introduce myself a little bit. If there's maybe a quick question or two, I'm happy to do that before we turn it over to Dana to give you a legislative update.

CHAIRMAN TEPPER: Okay, Russell, thank you very much.

Do we have questions for our deputy director? All right.

MR. SLIFER: No? Thank you. I hope the day is very productive and it stops raining so when you do leave you've got a sunny day. Thank you.

CHAIRMAN TEPPER: Thank you. I suppose I'll hope for rain at least through the lunch hour so we keep people indoors and focused on the meeting. But, Russell, we appreciate your being here. We are looking forward to working with you, and we're grateful for your leadership at the Office.

I do need to make one new administrative announcement. I neglected this in opening up. We have new microphones today, folks, so to help those who are listening online and to help anyone be able to hear you when you ask a question, I am told, and I'm experiencing this, you don't need to be as close to the mic as usual, so about 12 inches is good. Please do be sure to turn your microphone on so that you can be heard online and

they can get you on the transcript when you speak. And please be sure to turn it off when you're finished, because too many microphones on at once will cause some great feedback, and it will sound like my son rehearsing with his band in the garage, which you may not necessarily want to hear this morning.

All right, well, I would say, you know, starting off and honoring the Nats tradition, if Russell's our celebrity guest today, Dana is always our lead-off hitter. Glad to have Dana Colarulli join us today. We're going to get a legislative update. Even when it might seem to you that there's not a lot of legislation moving a lot, there's always activity on the Hill. It's good to know that Dana is advocating for the PTO and keeping an eye on things.

So, thanks for joining us today with the update.

MR. COLARULLI: Absolutely. Thanks, Maury. Good morning, everyone.

So, let me go through quickly and kind of update some of the things you've seen before in terms of the legislation. Not a lot new in the

trademark area, but of course as Maury said, my office is always very, very active and very, very busy on a number of other issues that are very important to the office.

So, I'll start with just reviewing the legislation that's been introduced this Congress, in the 114th Congress. We're in the first session of the Congress. Bills that I've highlighted before are still pending. No additional activity both in the House and in the Senate.

Bills to provide registration for marks at the state and local levels, flags, coats of arms, and other official insignia are still under discussion. A couple of Members are continuing to discuss. They have brought us in as they've tried to figure out what direction they want to go in with this legislation to help their home state, their home cities. Unclear where that may go but certainly something that we're continuing to watch along with legislation relating to the Redskins issue, and related to Cuba and opening trade relations with Cuba. A number of pieces of legislation you've seen previously.

Over the last few months, at least since I was here, **again additional** attention on ICANN, in particular, the IANA transition, the contract held by the Department of Commerce to manage the WHOIS database. A lot of focus there. In addition, focus on the top-level domains. The House Judiciary Committee held recently a hearing on the .sucks domain. It creates fun theater in front of Judiciary Committee hearings when folks start to say, "Well, for example" (laughter), and there is a whole host of things you can think of that follow my sentence there.

So, I think there will continue to be congressional interest and oversight on ICANN issues. Interestingly, the FY16 appropriations bill includes a prohibition for any dollars to be spent by the administration, by the Department of Commerce, on this issue. This is something, as you might imagine, the Administration opposes, and they said so in a Statement of Administration Position on the bill itself. We'll see what happens as that measure moves forward, but it's certainly something to watch.

The last bill we saw here - introduced

by the Ranking Member of the House Judiciary Committee, Mr. Conyers from Michigan. I had the pleasure of moderating the Ranking Member on the panel in our Detroit office recently, and he spoke about this bill. He wants to make sure that we keep the fees that we collect. He wants to make sure that operations are running. So, this is a bill he's introduced previously. It also was in the patent litigation reform discussions, an opposition bill. He said we really shouldn't be focusing on these other issues; here's what we should be focusing on. And the issue he picked was to make sure that we keep the fees that we collect and that we can run our operations. So, we certainly appreciate that from the Ranking Member and former Chairman.

I mentioned last year the creation of the Congressional Trademark Caucus. They are still building membership. It creates a great opportunity to talk about trademark issues and, frankly, educate both staff and Members. So, we're looking forward to them doing some more things hopefully later this year. They've been talking about various programs that might involve

PTO, so we'll wait to see what those are.

I think a great opportunity to really bring industry up as well and talk about the challenges that industry faces in the trademark area. So, they haven't done anything yet. We're looking forward to some activity there, and we want to support. It also may create an opportunity, Maury, for me to have another picture with the costumed characters on the Hill in various locations. So, we're planning that out now.

CHAIRMAN TEPPER: We can hope. I did want to clarify it. I hate to break your stride, but the photo -- those are not congressmen that you see in the photo.

MR. COLARULLI: They are not. They are not. It's step by step. We get to the staff first and then to the Members of Congress. It does feature a former Trademark Commissioner, Debbie Cohn, so one of the things on my list that Mary has said is she wants a picture on the Hill with these costumed characters. (Laughter) So, I'll work on that. It's now in my performance plan. (Laughter)

Just, for interest, a congressional snapshot -- most of the activity by Congress or bills sent to the President's desk happens in the second session of a congress. We're currently in the first session. There had been some statistics averaging around 49 percent of all the legislation introduced during the Congress gets done in those last five months of the term. I expect the same probably this year. We hope there's an exception with patent litigation reform. We'll see if that's the case.

But your update as of right now, as of yesterday: Bills have been signed into law. But those included a few must past bills, Homeland Security appropriations bill, the Surveillance Act that was passed just within the last few weeks. And then a number of other things that Congress does: Gold medals, naming federal buildings, and reappointment for boards, like the Smithsonian. So, they are doing things, a few things. We hope that there will be some additional congressional activity hopefully on IP issues, in particular, the administration priority on patent litigation reform.

So, other areas of focus include that I've been spending a lot of my time on that, as has my staff and Director Lee, trying to help make sure that the conversation is based on facts, certainly making sure that we're responding to staff who are looking at various proposals to try to move the legislation forward and proposals that will benefit the PTO and not undermine some of the things that we think have been successful. So, we're continuing to work there. There was a procedural success yesterday in moving a bill through the Senate Judiciary Committee. That will move to the floor. The House is moving in parallel as well. But throughout the process we've certainly provided us as a resource to staff on both sides of the Hill and certainly to help moderate the stakeholder discussions.

I'll mention copyright policy and discussions around what modernizations might be warranted for the Copyright Office. Not unlike the PTO in the past, they suffer some challenges in ensuring they're investing in IT, that they're running the Office. There are a lot of discussions about changing their

structure -- moving them out of the Library of Congress; certainly giving them some more authority over their budget. There have also been discussions of moving the Office into the Department of Commerce or the PTO. We'll watch those conversations closely. Yesterday two members of the House Judiciary Committee circulated a discussion draft to try to further this discussion of what should happen to the Copyright Office. Again, we're looking at that draft and watching the issue closely.

Russ started off his remarks talking about the satellite offices. I'll end there, although I'll try to get a baseball reference in there -- two more. Great opportunity for us to highlight what the Office is doing. Mary had the opportunity to go out to Detroit and Chicago recently. Great thirst from those communities to understand what we do and to get some further education. And, frankly, there are a lot of folks outside of the PTO doing great education work. To the extent that we can support those, we'd like to. Satellite offices are a great platform to do that.

Russ mentioned Silicon Valley, October; Dallas, probably November. That's our running date right now. My challenge in addition to getting Mary up to the Hill with the costumed characters is to get a great congressional delegation there to help us open the Office and to start the Office off right. This great new resource is in your local area, so we expect we'll get a great turnout in Silicon Valley. There's already been a great interest in Dallas as well.

With that, Maury, I'll end. I hope I hit a homerun for you. (Laughter) I'm happy to answer any questions.

CHAIRMAN TEPPER: You're good at this game, Dana. Thank you. That's why we put him up first; he never fails to reach base. And thank you. Thank you for the update. And I think you can see, even though it might seem like quiet times, there is a lot to do on the Hill. Do we have any questions for Dana this morning from the Committee?

Yes, Deb.

MS. HAMPTON: Good morning, Dana.

MR. COLARULLI: Good morning.

MS. HAMPTON: Two hopefully quick questions. The first one concerns the Copyright Office, and I probably should know this but I don't, but has the Copyright Office ever considered an advisory committee, you know, something similar to TPAC or PPAC?

MR. COLARULLI: So -- thank you. Statutorily, structurally they do not currently have an advisory committee like we do. It certainly could be something they could consider in the future.

The status of the Copyright Office is interesting. As many of you know, the Copyright Office is technically part of the legislative branch. It does function as an executive agency in some respects. There have been recent court cases that have clarified that. But they have not had an advisory board of stakeholders, although they engage with stakeholders, as I understand, quite a bit.

They also do a lot of outreach as well. But they play a role of advising the Congress. They do issue reports, issue policy. They don't advise the administration on policy that the U.S.

government should take, but we certainly work with them to try to figure out what are the right policy positions to play. So, I think they might benefit from a similar body as this.

MS. HAMPTON: Oh, definitely.

MR. COLARULLI: And that may be part of the discussion.

MS. HAMPTON: Okay. And then my second question is one of clarity. It's the bill concerning official insignia for the U.S. Is that sort of an updating for what's already there?

MR. COLARULLI: It's not updating for what's there. The effort, as I understand it -- and they did pull us in to try to think about what they might do here -- it is to give state and local governments the ability to acquire and enforce their rights. Now, there are a number of other responsibilities that come along with that, and I think that's one of the things that have held up the discussion, is understanding what those things are, what it means. And I think that's one of the reasons why it hasn't moved forward.

MS. HAMPTON: All right. Thanks, Dana.

MR. COLARULLI: Sure. You're welcome.

CHAIRMAN TEPPER: Thank you. Do we have other questions for Dana. Questions from the public today. All right.

Thank you as always, Dana.

MR. COLARULLI: Absolutely.

CHAIRMAN TEPPER: And you have not only hit the homerun, you got us right back on time as well. I'm impressed.

We're going to turn now to financial matters. You know, when you put your batting order together, you've got to have your strong hitters up front, and we'll talk about our cleanup hitters later this afternoon, too.

Tony Scardino is with us, the CFO. We are grateful for your presence today. You know, it is the middle of 2015, and I always lead this off. I don't know why we only give him ten minutes to cover all of this, but most of you are keeping up with how you're doing this year. You might take a look at the midpoint of the year at your checkbooks for the year.

Tony and his group are keeping track of

three years of budget at any given time, and you're going to hear a little bit about the interplay and not just what's happening now, but we'll be talking -- yes, I think even about 2017 before we're done.

So, Tony, thank you for joining us.

MR. SCARDINO: Thank you for having me. It's always a pleasure to be here.

If we're going to do the baseball analogy, I went to the Washington Nationals game Wednesday night and they lost 8- 0. They couldn't bat or pitch. So, I'm going to try to do better than that.

As Maury mentioned, we are in the middle of three budget years, right? We just passed the midyear point a few months ago on fiscal 2015. That means we do a midyear review and look at revenues, fee collections, as well as expenditures, and I'm happy to say that Trademarks is pretty much right where we had planned within, you know, a couple -- not even, less than a percentage point. So, that's really good. Here are the actual numbers that you'll see here.

We're pretty much on pace with last year. Just a slight decrease in terms of anticipated--planned--fee collections. But trademark activity is on the rise, as you know, in terms of applications. So, we are in a really, really positive place there.

In terms of spending, we've been spending more money on information technology, per demand, let's say, for the organization as well as in trademarks. That will level off in coming years, but fiscal 2015 and even '16 are big years for IT development for USPTO -- and also for hiring, at least in trademarks. We have hired quite a bit this year for trademarks -- 43 trademark attorneys -- and we're going to hire more before the end of the year, which is a very positive sign obviously for the economy as well as, you know, USPTO.

So, the chart here just gives you -- at the end of the year we still project a healthy carryover -- we call it an operating reserve now -- of over \$91 million. That's about four months of operating expenses. So, if -- knock on wood -- the government ever shut down again, or

that kind of thing -- that's how we try to measure it -- we can continue to operate for another four months, which is a very healthy reserve. But, again, the reserve is going to go kind of up and down, as spending requirements are variable as well as fee collections are.

So, moving into '16, we actually had a lot of work progress. Dana and his crew have helped to facilitate this. Both the House and the Senate have marked up the President's Budget for 2016. I'm happy to announce that we were fully supported. In fact, we were supported to a slightly higher level than we even requested, which is wonderful. You know, back in the day, that used to be a struggle to get our appropriation, and then people would whisper things like fee diversion and such. Now we've got two avenues that (a) we've been appropriated the last couple of years more than the President's even requested and (b) we have the fee reserve fund which we successfully tested and used, last fall, I guess it is. So, things are very positive in that respect.

And as Maury mentioned, yes, we are

actively working the 2017 budget formulation. All federal agencies are. We spend the spring and the summer formulating a budget. It eventually has to go to the Office of Management and Budget the second Monday in September, so we're on target for September 14th. TPAC will see our draft budget on August 8, like always. We wholeheartedly ask for your comments and thoughts, because it's a work in progress even when we give it to OMB, because we get to refine it a little before it goes in the Congress the first Monday in February of next year.

And one other small thing we're involved in, and I say that somewhat facetiously -- it's a large undertaking -- is our biennial fee review. This is the first time we've actually done it since we set new patent fees two years ago in 2013. So, as part of that, you look at all your current fees and you look to see if you should introduce new fees, eliminate fees, increase fees, decrease fees. So, it's a large undertaking, and we're currently in the process of reviewing some new proposals. We'll spend the summer doing that. And TPAC may see a

fee proposal in the fall. And if so, that will trigger some work, so I wanted to run through that a little bit.

You know, TPAC's role varies depending on whether we introduce new fees or raise fees, then TPAC has to have a public hearing and such. If we reduce fees or eliminate fees, it's a lesser role. But if such authority is employed and we do introduce new fees or raise fees, then TPAC will have 30 days to consider the proposals and then actually have a public hearing and accept written comments from the public. We went through this a couple of years ago on the patent side. We did reduce fees of course earlier this year on the trademark side and didn't have to go through that when you just reduce fees. And then of course following the initial comments from TPAC we would draft a Notice of Proposed Rulemaking. And that goes through a process internally within the Department of Commerce, Small Business Administration, and the Office of Management and Budget before it's published in the Federal Register, and there's a 60 day comment period there. So, it will take some time. If we

do introduce new fees or increase fees, we anticipate that they'd go into effect not until early 2017.

I know that -- again, I always say this but I'm from New York so I speak quickly, and I do like to stay on time. Maury always appreciates that. But I'm always welcome to take any questions you may have.

CHAIRMAN TEPPER: Tony, thank you. I suspect you may have gotten everyone's attention with the TPAC. Might need to do work, so I'll see if there are questions.

MR. SCARDINO: I hope that wasn't a shocker. Sorry.

CHAIRMAN TEPPER: Do we have any questions from the Committee today for our CFO?

MS. FAINT: Just had a question about hiring.

SPEAKER: Turn your mic on, please.

MS. FAINT: Sorry. There are 43 projected vacancies but 43 attorneys were hired. Is that covering those vacancies or those vacancies are in addition those hired?

MR. SCARDINO: We've had 43 hires so

far, but I'm not --

MS. DENISON: We're not hiring any more examining attorneys this fiscal year. We will be hiring in the next fiscal year. The others are not related to the examining attorney position -- the other vacancies.

MS. FAINT: I see. Thank you.

MR. SCARDINO: That's helpful. Okay, thank you. Any other questions from the Committee? Yes, Bill.

MR. BARBER: Tony, any prediction on how likely it is that you will be proposing new trademark fees or increased trademark fees this year?

MR. SCARDINO: Wow, hmm. That's a tough question. Since my boss is not here, ultimately --

MS. DENISON: Want me to answer that?

MR. SCARDINO: Yes please, Mary. I would love that.

MS. DENISON: We are considering a variety of fees, but it's really too early to talk about whether we're going to go forward with it or not.

MR. LOCKHART: Maury, I wonder, should we go ahead. We obviously don't know if we'll have to have this special meeting to consider new future fee increases. But should we go ahead and put something tentatively on the calendar for planning purposes? We can always cancel that if we don't need it, but we don't want to scramble if we have to have something in August and get -- especially given summer vacations and all that.

CHAIRMAN TEPPER: We'll take that suggestion up, but we'll organize. But, yes, supposedly scheduling the TPAC Christmas party just in case. (Laughter) And so you all can come to Raleigh if you'd like. We'll fix something nice at the house.

Do we have any other questions about our budgeting or reporting? Questions from the public today.

Well, Tony, that's all right. We all know you. We don't need the name badge.

(Laughter) I do -- I just want to -- I want to take just a second to thank you and your office. It's an extraordinary amount of work.

Tony mentioned that we'll be seeing the budget submission for 2017 in August. That is about a 200-page document, folks. It makes my head hurt to go through all of those numbers, but I do want to at least -- although I can't discuss the numbers -- to let you all know the level of detail at which the CFO's office is able to track, monitor, predict, and sort of provide data to the Office is extraordinary. The fact that although things **are** -- we're happy to hear they're going well.

There are externalities in government -- government shutdowns; continuing resolutions where you don't you have your budget, you have to keep spending last year's budget; all sorts of scenarios that would drive anyone in the private sector absolutely over the edge is just routine here, so we really appreciate the work that you guys do, and it has been very, very helpful to those of us on TPAC to have the information and the insight that you provide. So, thanks for your time today.

MR. SCARDINO: Thank you.

CHAIRMAN TEPPER: All right. Now, see

this -- you know, a third of the rotation -- you all know this is an important slot. You need your strong hitters here. She is in her rookie season, but she has proven to be an exceptionally strong hitter. So, I'm going to have to drop the baseball analogies here pretty soon, guys. But, nevertheless, we're very happy to be joined today by -- I can still say 'newly minted' I hoped by our Commissioner for Trademarks, Mary Dennison, and she will have an update on trademark operations.

MS. DENISON: Thank you so much, Maury. I'll do my best to follow Dana and Tony, who hit it out of the park.

(Laughter) It's a hard act to follow. So, I just wanted to start off and reassure that we're meeting our goals. We are right on track for pendency as of the end of April, and as you know we have the Dashboard up, so we update that every quarter. So, if you ever need to see where we are in our statistics, please go to the website and look for the Dashboard. So, we're doing well in pendency thanks to lots of hard work by examining attorneys. And we're also doing

really well in terms of quality.

So, just to reiterate, when we look at quality for first action compliance and final action compliance, we look at whether the examining attorney got it right. When we look at the exceptional office action, we look at a lot more. We look at the quality of the search, the quality of the evidence, the quality of the writing, and the decision-making. So, it's a much higher goal, and the attorneys are doing really well with that now, so I'm very proud of them.

Recently we have had some rulemakings on collective and certification marks, and the final rulemaking notice will be coming out very shortly. The most important thing to note is that the certification mark owners will have to file maintenance documents, including certification standards if they were not in the record in the past.

New applications. They are coming in like crazy. At the end of April we were up 10 percent over last year. That is very significant. We have our fabulous forecasting

team. Nabil Chbuki over here is an amazing forecaster, and last year he was so close we could not believe it in the forecast.

How many were you off? Ten applications or something? Seventeen. Seventeen classes, okay. Unbelievable.

We had 455,000 as a prediction, I think, and he had -- oh, no, 455,000 was a prediction; we got 455,017. So, it really doesn't get any better than that. It's a hard act for him to follow this year, but we're confident he can do it. We want less than 17 this year. No pressure. (Laughter)

Anyway, we're thinking things are going to go down a touch, and so we're hoping that at the end of year it'll probably be around 6 percent increase. But if you look at the chart, you'll see that we are predicting that applications are going to keep coming in, so we're at a record rate this year, and we're thinking that the next fiscal year will be even higher.

So, to do that, we mentioned a moment ago that we had hired 43 examining attorneys this fiscal year, so some started in March and the rest

started in May, and we are going to need to hire to keep up with these applications coming in next fiscal year. So, you can expect that we will be advertising sometime in the fall for new examiners and we'll probably be hiring more than we did this year to keep up.

We have examining attorneys in 29 different states now. They can't be in Hawaii or Alaska, but they are scattered throughout the country. When I go out on the road talking to different groups, I try to call the examining attorneys in the area and meet with them, which has been really fun for me, and I've been learning a lot from the various examiners, and it's been a great initiative.

We have done something different. Traditionally, when people come in as an examining attorney, they go into what we called TEAL, and they're there for about six weeks. And it's been a basic training class. We are experimenting, and now we have something called Law Office 120, and it is all new examining attorneys in one law office instead of one or two going into an already established law office.

And we're trying this out as an experiment to see how it works, and so far it seems to be working really well, and we're changing some of the training, so this is an experiment we're piloting, and we're going to see whether we think it works better than the traditional training that we've offered. So, stay tuned, and we'll let you know how that goes.

EGovernment. We are at 99.6 percent of all applications coming in electronically, but we're only at about 81 percent of applications being processed completely electronically. So, this is something that I'm very interested in, because it costs us more to process paper, and it is not as efficient for you or for us.

So, I'm encouraging people to go fully electronic if they can. And one of the ways we are encouraging people is in January we introduced the TEAS reduced fee application. And we heard that people avoided TEAS Plus because they had to pick off the pick list. So, now we've offered TEAS RF as an option, and the reason that people like it is they don't have to pick off the pick list but they're still saving money -- it's

cheaper than regular TEAS -- and the catch is they have to agree to communicate with us a hundred percent electronically.

So, what's interesting is the next slide, and this shows how the filings have changed. So, you'll see at the very top it's red, and that was TEAS. And you see there's a dramatic change when we introduce TEAS RF. So, TEAS started going down and is now under 10 percent of our filings. And TEAS Plus is up slightly, and TEAS RF is really picking up most of the slack.

So, we're hoping that that means that our 81 percent overall electronic filing number will increase. Of course it's really too soon to tell. It will take about a year for us to see the true impact, but this is sort of a preliminary view. And of course with forecasting wizards like Nabil, we knew what to expect, and it seems to be living up to things, so we've very pleased with that.

We have also been listening to customers about assignments. One of the things people complained about was they would send in documents, and a number of them would be signed

at a closing and they would all have the same date and sometimes we would record them in the wrong order. And so it made the chain of title more difficult. So, we now give the customer the ability to set the order of recordation of documents with the same date.

We've also introduced some new conveyance types, and we've also give the customer the ability to add special characters. So, if your company's name is XYZ!, you can now have the correct name.

In addition, sometimes people's efforts to record are bounced. And in the past when people did not do everything perfectly, they would get a Notice of Nonrecordation. Now, when they get a Notice of Nonrecordation, they get this letter with a document ID and access code, and it allows correction online so people do not have to start the process all over.

We also are having our specialists call people if they see an obvious mistake so that things can be fixed over the phone. So, we've gotten some really positive feedback on that program.

As you may recall from TPACs, we did a pilot where we picked out 500 post-registration filings and we asked for additional specimens. The results are in, and all categories -- all filing bases had some issues, some significant issues. So, we are still considering what to do. We are going to be probably issuing some recommendations in the near future on where we're going to go with that. Some people have suggested we ask for a specimen for each good in the application; other people have suggested we put a checkbox by each item on it so that people pay more attention to this. Other people have liked the idea of a Section 45 Canadian-type expungement proceeding. So, we have lots of different ideas. We are not going to necessarily pick one. We may pick multiple ones, so stay tuned on that front. You will be hearing from us on that.

In addition, we have for several years been hearing from our users about post-registration amendments to IDs. Traditionally, one cannot expand one's ID post-registration. And so -- but people are

saying, I'm still selling Elvis music, I'm just doing it differently and I can't maintain my registration. So, we are going to be trying a pilot probably, I believe, in the fall --

Is that right, Cynthia?

CYNTHIA: Yeah.

MS. DENISON: Probably coming out with this in the fall. In very limited circumstances, we would permit the post-registration changes to the IDs, and what it would require would be that the registrant declare that due to technology change they cannot share use in the original goods but that the content is the same, and if they were not allowed to make the change they would be forced to delete the goods or services and possibly not get a renewal. So, this will be coming out in the next few months, so stay tuned for that as well.

The TM5 is an annual meeting at the United States Patent and Trademark Office as well as the Japan Patent Office; the European Union OHIM; the Chinese Trademark Office; and KIPO, the Korean Intellectual Property Office, and we have quite a few projects going on.

The U.S. is the host this year. It rotates among the five members. And we will be hosting December 1st and 2nd. We will be having a user session with bar groups being represented at the annual meeting. We just held a meeting at -- our mid-term meeting. It was held during INTA's annual meeting in San Diego. And if you're not familiar with this group, I recommend that you take a look at the website. We're doing lots of great things.

The U.S. is leading an ID project where we have over 14,000 terms that have now been agreed upon by all five members of TM5. And you can find which terms they are by looking at our ID manual and looking for a T. So, it will make -- and we're continuing to expand that list, so we hope that you will be aware of that and that it will make your life a little bit easier when filing internationally.

We're also continuing with our outreach. We think it's very important to educate small businesses and entrepreneurs and make them think about trademarks very early in the process of starting a new business. And we're

doing that through speaking engagements. We have Jason Lott and Craig Morris out on the road doing that on a weekly basis and working on videos. We have a Basic Facts video that we created a year or so ago, and it's gotten almost 300,000 hits. So, that's really very exciting because that's a lot more than we can cover just with people going out and speaking to groups.

Regional offices. Russ kind of has covered that, but we are trying to have more of a trademark presence with these offices, because there is a demand for trademark information at those offices.

I also wanted to talk about something that I am very interested in. As many of you know, I was a user of the system a number of years before coming to the PTO, and I want to start a conversation about enhancing the customer service experience. You know, how can we do this? What do you want? What would make your experience better with us? We're talking about simplifying problem resolution, making it easier to figure out who to call if you have an issue, improving website instructions, expanding

customer service training for our staff. So, we're just starting on this, but I wanted to use this as an opportunity to invite the public to comment on things that they think would improve the customer experience.

We know that our examining attorneys and our specialists and everyone who has contact with the public is doing a really good job. But there may be things that we haven't thought of. And so I want to take it to an even higher level, because I think that we can always improve no matter how good we are. So, I'd like for people to give it some thought, and please let me know how we can enhance your experience as users.

And that's all I've got, but I'm happy to answer questions.

CHAIRMAN TEPPER: Thank you, Mary. Do we have questions for our commissioner? I see one already. Kathryn?

MS. PARK: Okay, I actually have three questions.

(Laughter) And my first question is about Law Office 120, and I do think it sounds like a great idea, and as you were talking it sort of

reminded me of being a first-year associate and everybody comes in together and there's a lot of training that goes on and camaraderie, and it's good for morale. But is it the plan that you'll keep opening successive new law offices, or those people will stay in that law office for just a finite period of time so when you have your new group coming in, in the next fiscal year, they would go there? What's sort of the plan of action?

MS. DENISON: The plan for Law Office 120 is that they would stay forever together.

MS. PARK: Okay.

MS. DENISON: Unless they want to move, of course. But that is the plan. So, we may -- well, we'll have to see how it goes, but we may use it again with another group. So, maybe Law Office 121 would be the same model. But we're also going to have -- you know, we have people who retire and that sort of thing. No one ever leaves otherwise. (Laughter) You know, we do have some vacancies in other law offices, so we will also probably be slotting people in the traditional way as well.

MS. PARK: My second question is on the ID project that the TM5 has undertaken. And I just can't remember, but I think you told us, maybe at the last meeting, that other countries can sort of sign on to this list, and I wondered where that stood.

MS. DENISON: I don't remember the names of all the countries. Brunei I think is on there; Canada is on there. Is New Zealand on there -- or New Zealand's been invited. I'm sorry, I do not have the list on the tip of my tongue.

SPEAKER: There's been no change.

MS. DENISON: It's no change, nothing new. But there are a number of countries that have signed up, and there are others that are considering it. The catch is that you have to sign on in 90 percent of what everyone else has already accepted, so you have to do a lot of study before even wanting to sign up.

MS. PARK: And my last question is on the customer service inquiry and outreach. Will there be something on the USPTO website, like a suggestion box or a button or something that you

can click if you have suggestions? Because, you know, we're listening to it in the room and we'll go back and talk to people, but I do think for users of this system to invite it in that way might be helpful.

MS. DENISON: Okay, good idea, hadn't thought of that but we're happy to consider that. I don't know how complicated it is IT-wise. That's my hesitation.

I also meant to say this at the very beginning and failed to do so. I have a new Deputy Commissioner for Trademark Operations. Meryl Hershkowitz, can you stand up in the back? (Applause) Meryl has worked at the Office for many years, and she is really a fabulous member of the team. She's been a group director for a long time. She was an examining attorney. She was president of the union. She's had lots of experience here. She's worked for the TTAB. So, she brings a broad range of experience, and I'm delighted to have her on the senior management team. So, thank you.

Does anyone else have questions?
Kathy, did you -- were you raising your hand?

KATHY: No.

MS. DENISON: Jody?

MS. DRAKE: Yes, I had a question about the proof-of-use pilot results, very interesting results, and I know that you're taking under consideration some ways to address the issues that were raised. And I wondered in the meantime -- there'll be a gap in time, obviously, between the end of the first pilot and then what would be implemented. Is there consideration in that gap time of running a second pilot, or is there some procedural way to kind of, without rule changing or anything too formal, kind of continuing that process of monitoring post-registration?

MS. DENISON: We have not really considered a second pilot, but we are happy to talk about that. What we're trying to do is just make a decision and move forward about what we're going to do. We have a meeting, actually, set up for next week to do that. So, I'm hoping we won't need another pilot, that we can actually make some changes fairly quickly.

MS. DRAKE: Thank you.

CHAIRMAN TEPPER: Bill?

MS. DENISON: Bill?

MR. BARBER: Yes, thanks. Just a couple of questions. On the post-registration amendments to IDs due to technology evolution, you said you're going to do some sort of pilot in the fall. I just wondered what you meant by "pilot." Does that mean, for example, that you'd only accept a certain number of applications for that or that it's only going to run for a certain period of time? What about it is going to be a pilot?

MS. DENISON: No, it's not going to be a limited period of time.

Sophia, do you want to come up and address that? This is Sophia Lynch, who is our policy -- Oh, God, what's your title? (Laughter)

MS. LYNCH: Administrator for Policy and Procedure.

MS. DENISON: Thank you.

MS. LYNCH: I think we're tentatively thinking this will be through the petition process, that we would just open it up on a trial basis and allow, you know, allow for petitions to

come in. I think it's going to pretty in line with what we put out as a proposal for folks and the only possible exception being that we are tentatively planning, at least during the pilot period, to publish on the website as part of an official gazette online notice what technology evolution amendments are requested on petition so that there would be some opportunity for us to consider third-party input as to potential third-party harm that might result. So, we would just, you know, give ourselves the opportunity through the pilot to assess, you know, that process and procedure and see how many of them we get.

MR. BARBER: The other question was similar to Kathryn's question about giving you input on enhancements to customer experience. How would you prefer that we provide that input to you -- telephone call, email, and to whom should we direct it?

MS. DENISON: Tmsuggestuspto.gov.
Sorry, tmfeedback. Thank you.
Tmfeedback@uspto.gov.

MR. LOCKHART: Can I -- I have a

follow-up kind of along the same line as Bill and Kathryn raised. Have you been getting many folks to fill out that survey that pops up on the website about "Do you want to take the survey that evaluates your experience using the website?" Are many people responding to that?

MS. DENISON: Those results go to CIO, and I don't know the answer to that. Sorry.

MR. LOCKHART: No. 1, I'm very glad they're going to OCIO, because that was -- I was going to ask if in fact, like, if you were getting them, you know, if you were sharing those with OCIO, I'm glad that they're going over there. So, I'll ask that Raj that question when we get to his part of the presentation. But I'd be curious to know how many people are responding and what there their general feedback is.

MS. DENISON: Yes, we -- as part of this, also, we -- the agency is -- I'm not sure where we are in the process, but we are planning to have a customer-based survey that would go out I'm hoping before the end of the calendar year.

MR. LOCKHART: And, Mary, is that just directed on the website or overall or what would

that cover?

MS. DENISON: That's not clear, because it's going to be done on an agencywide basis and --

Sharon, do you have any more information on the survey timing, the user survey?

So, anyway, stay tuned. I don't have all the details yet, because I'm not in control of it.

Other questions.

CHAIRMAN TEPPER: Thank you. Do we have other questions for our commissioner?

I can't resist making a few of my own -- more comments than questions. And first of all, in keeping with the great tradition here in Trademarks, I'm glad to see that when we meet our performance objectives we continue to raise the bar, and I do applaud you for that.

In particular, this customer service initiative. I know that when Mary asks for your feedback, she wants it, so I hope that you will take her up on that. I have to say I think she exemplifies customer service. She's out there

representing the Office. When she's in town making a presentation, she makes a point of meeting examining attorneys working in a region. So, we have a good model. I know she's sincere about this.

And I also need to recognize the fact that it's always good to improve the experience. It's already a pretty darned good experience, so when I heard that we have 729 employees in trademarks right now, I just wanted to test things out. I filed two applications while Mary was talking.

(Laughter) Just to show you how easy things are, it goes that smoothly, but it would not work. It is -- you know, filings are at an all-time high, and we're keeping up on every measure. That does not happen without everyone's efforts, and so I would be remiss if I did not thank all of the folks in Trademark Operations, all the employees that we don't get to see every day, for your hard and consistent work. So, when we hear about initiatives to improve things, we understand that things are already working exceptionally well. You know,

I've heard Trademarks referred to as the little engine that could within the PTO. We may be 10 percent of patents, but we are not that little, and we definitely can. So, happy to hear about these new initiatives.

My other point in the two applications that I filed -- I did it right here with this, guys. Those of you who are using paper, we have statistics, and I am glad that the new TEAS RF filings are going up. You're agreeing to use the electric systems? We hope that you will. I really do challenge anyone who has a reason that you need to use paper. Where the PTO systems will not allow for electronic systems, please bring that forward. Some enhancements that have been made in the past, I know Trademarks will listen and we'll make those changes. But it is much more efficient for everyone when you use electronic systems. So, and not to put too fine a point on it, you are costing the rest of us money when you choose to use paper, because we all pay the same filing fees, so I really do encourage anyone who can stay with the electronics, and if you find a reason that you can't, please do bring it forward,

make it known.

I don't know that I'm allowed to offer a prize or a bounty for that, but I do really want to encourage anyone who has recommendations or suggestions to further enable use of the electronic systems to do that and to bring it forward.

I did not announce this in advance. I do have my usual though -- if you can find a statistic that they're not already on top of, I want to give a prize to our TPAC members. I know that Mary did not immediately have a list of all of the countries that have voluntarily signed on to the TM5, but I don't think I'm going to count that one as a performance statistic. That was a very brave attempt to mention Brunei, and she started right off the top of her head. So, I'm still going to continue the challenge for our future meetings.

And, Jonathan, do you have a question?

MS. DENISON: It's on now.

MR. HUDIS: Thank you. Mary, I just wanted to go over the discussions we had on post-registration technology amendments.

MS. DENISON: Mm-hmm.

MR. HUDIS: You know, a package slide -- it's slide 37. It seems to me -- and I did bring this up when we discussed this in our subcommittee meetings -- that if you comply with this and the PTO says, no, you didn't meet the requirements, it seems like your client's registration would be dead, because it has your requirement of proof of extraordinary circumstances. Due to technology change, one cannot show use of the original goods and services, but the mark is still being used on technological goods and services where the content is the same and if not allowed to make the change petition would be forced to delete the goods or services. So, if you put that in assigned writing to the PTO and the PTO says, well, you didn't prove it, basically your client's registration is dead. So, I'm sort of nervous that we're setting our clients up for a fall. I had said this before, but I -- I mean, this was something -- I thought the bar was just raised too high.

MS. DENISON: Well, as with pilots, you

know, the idea is to see how it works. We were trying to be very measured in our foray into this area, because we have had some people that felt strongly that we shouldn't do anything in the past --

MR. HUDIS: Hmm.

MS. DENISON: -- because if you did a search and you found a registration for eight-track tapes, you probably ignored it, okay? So, there is some downside to this. So, we're going to open it up. If you, as a lawyer, assess the risk and think it's not worth it, then you won't apply and maybe no one will apply, and then we'll reconsider whether we should expand the program. But I think that we -- this is as far as we feel comfortable going in an initial foray into the area.

MR. HUDIS: That's fair, thank you.

CHAIRMAN TEPPER: Thank you, Jonathan, for the good input. And, by the way, I was going to make a joke about the fact that nobody said "eight-track tapes" today, so thank you for the opportunity to get that in. (Laughter)

MS. DENISON: May I add one more --

CHAIRMAN TEPPER: Absolutely.

MS. DENISON: I wanted to add one more thing, which is -- I should have mentioned this -- in July we're going to be changing the evidence attachment size. So, when users are sending an office action, the limitation has been 5 megs, and it's going to 30. So, that will make life much easier, I hope, for the outside bar.

CHAIRMAN TEPPER: Thank you. Do we have any other questions for our commissioner?

How about questions from the public today? All right. Well, in that case, thank you very much, Mary, for keeping us up. We're going to move forward. I do want to remind anyone who may be watching or participating online we welcome your questions as well, and so when I ask for those you are free to email your questions in at any point. We'll try to make sure to address as we go forward.

We're going to have a policy update. These are my two favorite parts -- our seventh-inning stretches just shortly ahead of us. We'll be taking a break after this. But we have a trio for you today, so we're very grateful

to have Shira Perlmutter, and I believe Amy Cotton and Sharon Marsh are here with her. Some interesting things going on, and I think we'll --

Shira, I think you were our designate, so thank you for bringing the news to us.

MS. PERLMUTTER: Thank you. So, I thought I would report on two things of the highest interest probably on the policy and international side. One is to give you an update on the attaché funding issue, because we have reported on that in the last couple of meetings. And then the other is to talk about the recent conclusion of a new act, the Geneva Act of the Lisbon Agreement, and what it means and what happened exactly, at least the highlights -- or the low lights, depending on how you look at it.

So, to start with the attachés because that's the most straightforward: At the last meeting we reported that we had a new way of having the attachés report their time, which would give more information and be more inclusive of everything they do, because in the past they had just been reporting major events and not all the things they were spending their day on. We

reported on the figures that we had been able to collect over a three-month period of putting in place that new, more extensive reporting mechanism.

And at that point in the first quarter, we showed that they were spending 42 percent of their time directly on trademark matters, and then including the share of issues other than patents and trademarks, the trademark allocation came up to 52 percent, which was 3 percent below the traditional allocation. But we said because that was all preliminary and it was the result of just three months, that we wanted to come back to you with more data.

So, we now have another three months' data, the second-quarter results, and they're fairly consistent except slightly lower in terms of the trademark share. What we saw over the past three months was that the attachés were spending an average of 39 percent of their time on trademark-specific issues, 18 percent on patents, 27 percent on copyright, and 16 percent on other, which includes enforcement issues that can't be divided specifically by topic. This

includes trade secrets. It includes management and admin functions that they engage in or embassy-wide meetings, those kinds of things.

So, the trademark allocation, when you look at the percent of direct work and then a quarter of the nonspecific trademark or patent-specific time, comes to 49.75 percent. That's 2.25 percent lower than in the first quarter and 5.25 percent lower than the traditional 55 percent allocation.

But what we are going to do going forward is, rather than just say now let's reduce the 55 percent to 50 percent, or something like that, we're going to be more refined and nuanced about it. What we will do is that the ABI team is going to calculate the split quarterly from now on. And so that will be done in a very similar way to how we handle the Global IP Academy, the Office of the Chief Economist and our overall enforcement activities. I think that makes a lot of sense. I hope that makes sense to all of you, and happy to answer any other questions about it.

CHAIRMAN TEPPER: Okay. At this point -- well, I first want to say thank you for

that effort. I think that just the -- this has been a developing program and a growing program, and putting the tools in place to actually help track and report on those activities is obviously -- I know, Tony is not here with other obligations, but CFO will -- it will make their lives easier, and we really appreciate the efforts. We know it's additional work, but the information that it provides I hope will be very useful to your group, as well as to the rest of the Office.

I'll mention at this point, too, it was nice to see at the INTA annual meeting very prominent presence from a number of our attachés. They were involved in some sessions. They were accessible. You know, one of our goals upon learning about the program is to make sure that the trademark community has a higher degree of awareness of this valuable resource and what our IP attachés are doing for us abroad and that they understand how best to contact, seek help from, and interact with the attachés, and it was very nice to see that actually taking place, so we're very encouraged with that.

MS. PERLMUTTER: Well, thanks, and I would add we have, in part based on the input we've received from you, done more and more to try to make sure the attachés are engaging with the corporate community and people are aware that they're there and get to know them and to interact with them. We always brought them to Washington for a week every year for consultations, and they would spend a day at the Chamber of Commerce, and we've been setting up meetings with INTA, AIPLA, a lot of different groups.

Did they meet specifically with TPAC last time they were here or not separately?

SPEAKER: We were not separately.

CHAIRMAN TEPPEL: We were included in the session in December with the associations.

MS. PERLMUTTER: And what we've now done starting last year is to bring them also to our Silicon Valley office. Recently a few of them were in L.A. meeting with industry, and when they come back this year -- we're trying to start bringing them to all the places where we have satellite offices as well so they'll be able to interact with the communities there. Yesterday

the Association of Corporate Counsel was here, and I gave a presentation and also talked to them about the program so that they would be aware of it. So, we are trying to do as much as we can to beef up our outreach.

We're also very excited because at the moment we have eleven attachés in eight countries, and we are about to add two countries and two attachés, with one starting in August. She'll be based in Brussels and she'll be covering the E.U. There's so much happening right now in Europe, having someone who's actually there is incredibly helpful for us even in terms of not having to keep sending people and flying them in for programs. It's going to be Susan Wilson, who some of you may know, who has had a long career with the government. She's worked at USTR; she's worked at the International Trade Administration. And so we're very lucky to have her. She'll be great.

We're also going to be placing someone in Lima, Peru, next year at -- I think in the first quarter, hopefully, of next year. It depends on how long it takes to go through the clearance

process. And we're still pursuing a South Africa position as well. **XXX BEGIN TRACK 1002 XXX** We've had an attaché based in Moscow, and the embassy there has decided to scale back the staff for political reasons, and so we are no longer going to be able to have the attaché posted in Moscow, and are looking to move that position to Kiev instead and still have them cover the region. We think they'll be able to be effective there. We will probably still have a staffer in Moscow who's dedicated to the IP issues and will work with the attaché in Kiev. So, that's been a bit complicated, but that's the goal at this point.

CHAIRMAN TEPPER: Thank you, and I know that we can do nothing more than adapt to the political climate that we operate in.

MS. PERLMUTTER: Which is why, you know, originally we were planning to put our Middle Eastern attaché in Cairo, and instead now she's in Kuwait City for similar reasons.

CHAIRMAN TEPPER: Do we have any other questions about the attaché program before we turn to Geneva?

I want to promise you guys, this is a

bit of a soap opera, so you will want to stay tuned for -- I know when you start with Geneva you have pictures of neutrality and civility and (laughter) that is often the case.

But Shira, why don't we -- we're going to have to talk about that.

MS. PERLMUTTER: Sure. I know you've been briefed before on the fact that there was a move afoot to revise the Lisbon Agreement, which dates back to 1958, for the protection of appellations of origin. Particularly the European members of the Lisbon Union decided to revise it to broaden the coverage so it covers all geographical indications. This is essentially the latest chapter in a global chess game, which is a trade battle mostly between the U.S. and the E.U., and a conflict of two completely different approaches for protecting geographical indications whether it's through a trademark-based system like ours or a sui generis system like the European version. I was saying the other day, when I first got involved in this issue, I thought this is the only form of IP that's so absolute and strong, where one country just

gets to decide that they are protecting their own GIs and send lists to others, to force them to protect them no matter what their own system, and the rights are perpetual, and there are essentially no defenses. It's extraordinary.

The way I'd present this is that essentially I'm going to give you bad news but bad news that I think was as good as possible in the circumstances. The Lisbon revision went through. The Geneva Act of the Lisbon Agreement was adopted by the 28 Lisbon union members over very strong objections by the United States and many other WIPO members.

So, let me list all the ways in which this is bad news, and then I'll list the ways in which there is relatively good news to temper it.

The bad news is that we now have a WIPO agreement, a multilateral agreement with the imprimatur of being a WIPO treaty, which enshrines the sui generis approach to GIs.

It is inconsistent in several fundamental respects with trademark-based systems like ours, and that means that many major countries will not be able to join. This is

completely contrary to the usual way that WIPO treaties are done where they're meant to be bridges among different national approaches to issues that enable there to be an overlapping international architecture. And this was despite the fact that all the Lisbon Union members kept professing their desire to come up with a treaty that would be appealing and attractive to countries all around the world.

The other negative is that we had tried very hard to ensure that the treaty would be self-funding. We got confirmation in a fairly dramatic way from the controller at WIPO that essentially -- we knew that the existing Lisbon Union has been operating at a deficit since the outset, and we had suspected that WIPO was using funds from their other registration systems, primarily the PCT and the Madrid system to fund it, and sure enough that was confirmed. There were gasps in the room when this was revealed by the controller. So, we have this anomalous system where there's this treaty with a tiny membership, which is not compatible with our system, where U.S. stakeholders are among the

main funders of the system.

The other bad news is that it's a terrible precedent for WIPO as a matter of process, because for 25 years all treaty negotiations at WIPO have been open to all WIPO members, and this time you had this small club of less than 15 percent of the membership -- 28 out of 188 countries -- who chose not to let the others in. You will hear, from them, that this was a very open, inclusive, transparent process and everyone was in the room. That's true. We were all in the room, but we weren't in the room on equal terms. We were there as observer delegations. We could speak but only after the Lisbon Union members spoke. Anything we proposed was treated as a suggestion rather than a formal language proposal that would be reflected in brackets in the text for negotiation. And of course at the end of the day we had no vote. And I have to say, I think this was the sixth treaty negotiation I've been part of, and it's very odd to be in a treaty negotiation where you have no bargaining power whatsoever. So, they wanted to say they were being inclusive.

They would point to things that they did to improve the text at our suggestion. But, at the end of the day, we weren't able to control, obviously.

The other bad news is that clearly the goal of at least the European Union is to take this treaty and to incorporate it into all of their bilateral FTAs with other countries and to require them to sign it so it will be used as a way to further expand the sui generis system around the world to the detriment of our trade interests and our exporters.

Finally, it's a bit of a setback to the TTIP negotiations, because it's very difficult to say we're negotiating over this issue in good faith when WIPO was used in this way at the same time as the negotiations were proceeding.

So, what are the good news aspects? I'm not just doing this to make myself feel better; I really think there is some good news. We went to Geneva knowing that that was the situation and we couldn't change it, so we did what we could. And one thing we were able to do was to improve the text considerably so that at

least in countries that do adopt it the situation for our exporters won't be as bad as it might have been. We also were able to make sure that there was a very clear record of what happened, and we will use that to explain why this is not a legitimate multilateral WIPO treaty.

And then, finally, we were able to establish a very strong group of allies that we dubbed the "Friends of Inclusiveness," or FOI, and we met with them every morning including the last day before the signing ceremony. We met to plot strategy going forward, and then we all boycotted the signing ceremony, which was very satisfying, if anyone noticed. (Laughter) To tell you who the allies were: Australia was extremely strong. We had Canada and New Zealand. Japan and Korea were extremely strong with us. And then a group of Latin American countries -- notably, Argentina, Chile, Panama, and Uruguay. So, it was a very good group. They're very interested in continuing to work together going forward. We also had some help along the way at various points in time from a slightly unlikely group of countries, including

Saudi Arabia, India, Russia, and China. China, which was quite strongly on our side and extremely vocal in a way they usually are not in WIPO discussions, seemed to change course at the very end and gave a positive closing statement after having been very critical all along. So, that was interesting to see.

We're now developing a strategy for what we do next going forward. And I would say there are essentially three things we're looking to do, broadly speaking. One is to continue to attack the legitimacy of the Geneva Act and to try to improve the funding situation. The way it was left, rather than having guarantees of the treaty being self-funding, even though a lot of lip service was given to that being a good idea, the Lisbon Union members left it completely open to themselves to decide in the future how the funding would work. But we want to make absolutely sure that that's not done through PCT and Madrid stakeholder money.

And then we need to work to undermine the appeal of the treaty to third countries, including the very simplistic message mostly the

European Lisbon Union members were delivering to developing countries, which was that this was a very good thing for development, that they should join because it would help their small producers. The two pieces that are missing from that message are, of course, that you can also get protection for your GIs through a trademark-based system. It doesn't have to be the sui generis approach. And, second, that protection itself, being on a list itself, won't do you any good in the marketplace if consumers don't recognize the GI. So, you can be on a list but you're not going to make any money, you're not going to sell in the United States if Americans don't know what your coffee is and what your region is.

Second, we are going to look to establish alternative systems that we can hold out to countries as a different way to go, and that might be done at the Standing Committee on Trademarks at WIPO. It might be done through the Madrid system. And it might be done outside of WIPO. We have to see what's the best way to proceed.

And then, finally, we want to work

closely with industry to help educate industry both in the United States and in other countries, first of all, on how to avoid the pitfalls in the Lisbon System and, second, how to make arguments to their governments about other approaches that would be better in various ways.

So, that's essentially where it stands, and I'd be happy to answer any questions.

CHAIRMAN TEPPER: Thank you, Shira. I have to say, Oliver Stone could not write a better script, and I do -- we do appreciate and admire, you know, our good representation going in to a situation, knowing you're going to lose in advance, but I think we have sort of ably done the best that we can in that. So, this is far more than the wine and cheese hour, as you can see, and we'll look forward further updates and seeing just how we're able to progress with this.

I have to say, it is disappointing to understand that when we file in the Madrid system we're contributing to the operation of this. I cannot endorse anyone withholding fees not using Madrid, but we certainly want to pay attention. And the fact that the U.S. is -- I believe we're

number two in the Madrid system.

MS. PERLMUTTER: Yes.

CHAIRMAN TEPPER: The second largest user is very relevant as we look at how this system is being funded and who is contributing. So, maybe that at least will give us the tiny bit of leverage that we have been lacking thus far.

Do we have any questions? Yes, Bill?

MR. BARBER: Just a -- okay, a quick question. You mentioned on the good news, so to speak -- the first one was that we had improved the text considerably in some areas. Can you just give a couple of examples or what was the most noteworthy change we were able to make there?

MS. PERLMUTTER: Yes, that's a good question, and I should have looked it over again before I came in. I know we have improved it in some ways in terms of getting it to be more consistent with some of the procedural aspects of our law, including authorization to use an intent to use system and authorization to charge maintenance and renewal fees. The words "maintenance" and "renewal" don't appear, but it says, I think, "administrative fees," which we

would interpret to encompass both of those. So, that's a good thing.

There's also language in there about phasing out prior trademark uses, which seems to suggest that it would not be appropriate to require them to stop immediately. At least that's a positive. So, there are a few things like that that are improvements.

The two areas that are the most fundamentally inconsistent with U.S. law include the treatment of genericism where there's a flat statement that says once the GI's on the list, and the list is accepted, it can never become generic. And the standard for infringement is overly broad in various respects, and they just refused to narrow it. We were trying to keep it to something that was consistent with, likelihood of confusion plus dilution. And it seems to be broader than that.

CHAIRMAN TEPPER: Do we have any other questions? All right, any questions from the public at this point?

In that case, thank you very much for the update, and we do look forward to seeing what

we're able to do on this issue. I know that there will be more to come.

Everyone's favorite part of the day: I'm happy to announce our ten-minute break. We're pretty close to on time. I never manage to get you guys on just ten minutes, but let's do our best. We'll try to convene just at about 10:37.

(Recess)

CHAIRMAN TEPPER: All right, I'm going to issue the two-minute warning for everyone. We are going to try to reconvene here in just a moment, so if everyone can finish up the important duties of your break and make your way back, we'll start up in just a minute.

All right, thank you. I think we will reconvene at this point, and thanks to those of you who are back. If you come back after the break, it means you are hard core. But I do hope that everyone enjoyed their seventh inning stretch. Since the Chicago Cubs are in town, I will pay homage and mention that nobody can sing "Take me Out to the Ballgame" like the late, great Harry Caray, so I will not try that today for you. But actually I did go to high school with a

gentleman who got to be in the booth with him later in his career. So, if you missed out on that, just go get a recording online somewhere and enjoy that.

Very happy now to **sort of** -- when you are late in the game and you need assistance, you've got to turn to your power hitters. Chief Judge Gerry Rogers is here with us today, and looking forward to --

There's actually a lot going on, Gerry, so I'll give you time for the updates.

CHIEF JUDGE ROGERS: Thank you, Maury. I'll guess we'll get right into the statistics trying to keep everyone on schedule and getting everyone off to where they have to be for the rest of the day. Some of the points I want to cover will be natural outgrowth of the statistical review, but then I'll go over other points after we get through some of these numbers.

The first line on this chart is our staffing, and since the last TPAC meeting we have added two staff attorneys to our contingent of attorneys handling contested motions. They're actively being trained, and we're hopeful that

they are going to contribute greatly to the resolution of contested motions at the board in the near future.

We also have a vacancy announcement that was posted since the last meeting for judge hiring. That announcement closed. The applications were screened and reviewed, and I have a list of the top candidates before me for review and recommendation to -- eventually recommendation to the front office about who we would be interested in hiring. So, that's -- not much more I can say about that except that it's ongoing, and I expect that we'll make good progress on that front in the month of June. I think we have a deadline sometime in July from the HR Department to move on that. So, June will be active in that respect.

And so we think that that staffing will be good for us as we run through some of the other numbers. We'll see a few little fluctuations in pendency and inventory, but I think the staffing levels will be right. And we have known for a long time that these increases in trademark application filings will ultimately result in

more work for the board. It's just very difficult for us to predict as accurately as Trademarks can what our filing levels are going to be like and for the cases that come in the front door how many of them are going to result in contested motions that attorneys need to decide and how many are going to go all the way through the process and require disposition on the merits by a panel of three judges.

So, we do the best we can, and we kind of monitor the filing levels on a monthly basis, and I'll actually next week be getting the May report done, so that will help influence my decision about the hiring of the judges and how many we hire out of that vacancy announcement.

Next line on this chart is the filing levels. As you can see, this is a year-to-date snapshot of where we stand for incoming notices of appeal, extensions of time to oppose, oppositions and petitions to cancel. When you take this snapshot at any given month, we do it quarterly and post those results on the Dashboard on the website, but for these meetings I like to give it to you as close to current as I can get

it. The year-to-date snapshots can vary a good deal from month to month. So, last month or at the end of March at the mid-year, appeals were up by double digits over last year based on year-to-date levels. And then the rate of increase dropped from 12 percent to 6 percent when you took the snapshot this month. So, again, it's just an indication of how difficult it is to really predict what the filing levels are going to be. But while this slide shows that some are up and some are down, the general trend for the last few years has been at least incremental increases in everything: Appeals, oppositions, cancellations.

Last year, for example, in fiscal 14 we had a double-digit increase in petitions for cancellations. So, it doesn't surprise me when the increases are sometimes being reported as 1 percent, sometimes 11 percent. They're going to fluctuate. But the trend is generally up, as could be expected.

The next line on this chart is total pendency, and remarkably the year-to-date figures through April are pretty much spot on with

what we had for the full year last year in terms of commencement to completion pendency or end-to-end pendency for both appeal and trial cases. So, that's a good sign. It seems like we've kind of gotten to a point of equilibrium and we're able to maintain it.

ACR cases always move faster. The number of ACR cases this year is a little bit below last year's high water mark. Does not mean that we don't have as much interest in ACR. We've got quite a few other ACR cases in the pipeline, but, again, it's just kind of a natural fluctuation, and I think we still see many parties discussing and agreeing to the efficiencies that are typical of an ACR case in many of our trials cases.

The next slide here, the pendency measure for final decisions -- we're within target there, and that's just a measure of the work that the judges do on appeal and trial cases when they're ready for final decision. So, we're just measuring that finite portion of the end-to-end process that involves the judge work. So, that's a pendency measure that we're happy with, because we're on target.

The contested motion pendency for the attorneys -- you can see the target is eight to nine weeks, a very tight target I will point out. Not much leeway there. But we're just slightly over at 9.5 weeks as of this snapshot taken at the end of April, so that's a few days, essentially, over target, and we expect, of course, by the third quarter, end of the third quarter, and at the end of the year we will be within target as we were last year.

And the attorneys are to be commended for the focus that we brought to the contested motions last year and are continuing this year to ensure that no contested motions get too old. And so that's why we have this additional contested motion pendency goal of ensuring that nothing really ever gets older than about 12 weeks. So, that's another pendency target that we were in compliance with as of the end of April.

The next slide -- we have our production figures, so cases decided on the merits by the judges, number of precedential decisions issued, contested motions decided, uncontested motions processed with the variance being the production

this year compared to, in the instance of precedential decisions, the goal, which is stated here on the slide, but in the other three categories compared to last year or 7/12ths of last year.

Nothing really unusual there. The fluctuations are kind of normal. The precedential decisions -- you might say, well, they're down 30 percent, we should be further along. We actually are a lot further along than this slide shows. We've got quite a few precedential decisions, or decisions that have been written and identified as suitable candidates for issuance as a precedent that are in various stages of review and in circulation for issuance as precedence. So, we expect that if we take this snapshot at the end of May, it would be up; and at the end of June it's going to be up, so we'll be probably closer, between 25 and 30 precedence, I would think, by the end of June. So, not something that I'm worried about, and I'm sure we'll hit the goal by the end of the year.

The next two items on this slide -- well, actually, before I move on, there's

one other point I wanted to make. You see this in production, the uncontested motions processed, and those are the uncontested and the consented filings that are primarily handled by either ESTTA, because it approves certain things automatically, or our paralegals. And one of the initiatives that we worked on this year was to run all of the paralegals and all of our customer service staff, the information specialists that handle the phones and respond to public inquiries, through a very extensive set of two-hour classes. I think we had 15, 16 classes of two hours each on everything from pleading and motions and the federal rules and the trademark rules to exercise of professional discretion and how to decide particular matters that may not fit as easily as the paralegals sometimes think and to form orders -- what do you do when you get those situations.

So, we've had a real focus when you see how much work the paralegals handle to ensure that that work is done and in really high-quality fashion. And Deputy Chief Judge Susan Richey was in charge of getting that curriculum together,

and it was taught by some of the attorneys from the Trademark Quality Review Unit and some of our attorneys and some of our judges. So, we're hopeful that you'll see high quality in the orders that come from the paralegals as we move forward.

Back to the inventory figures. The inventory for cases waiting to be finally disposed of by the judges on the merits -- a little bit above target there. I'm not particularly concerned about it in part. This is a function of the fact that we've had a number of judges working on the revision of the TBMP, but our senior attorney, Cheryl Butler, now has that done. The content has been reviewed and cleared, and it's just a matter of getting it loaded into the system and posted upon the Web page. But those judges -- some of those judges have also been working with Deputy Chief Judge Richey and Cheryl Butler on our review and kind of reaction to our February roundtable with stakeholders. And by that I mean things, which I'll talk about in a little bit more detail in a minute, such as reviewing and revising our standard protective order and thinking about what rules might need to

be changed or updated, that sort of thing. So, some of the judges have been working on this package a little bit, too, and so the inventory has cropped up a little bit, but that's another reason why we're also hiring some judges. So, again, by the end of the year I expect the inventory to be where it needs to be within the target range.

Contested motions. We're within the target range, and the customer service staff is doing pretty well on handing calls -- incoming coming calls and emails.

So, that's it for those measures. I'll stop there for a minute, and if anybody has any questions about them before I go onto other things, I'm happy to take them.

CHAIRMAN TEPPER: Thank you, Gerry. Do we have any questions for Chief Judge Rogers about our performance measures? I do want to thank you for the explanations. It's incredibly helpful to understand where there is a variance that you're on top of it, and I think that the fact that there aren't any questions reflects the comprehensive nature of your update. So, glad to

see that.

All right.

CHIEF JUDGE ROGERS: And the other thing to keep in mind, too, is that I think our variances sometimes seem a little bit more dramatic, because our numbers are smaller, much smaller than the trademark numbers, and so it can have a very dramatic effect when things change. But, again, that's what happens when you take monthly snapshots, and it's much better to kind of watch it on a monthly basis and be aware of what's going on. But for planning purposes, I think focus on the quarterly and the annual trends that are appearing.

So, as I said, the TBMP has been revised, and that should be posted, we hope, by the end of this month as we have done the last few years. We have also, in terms of updating and improving operations at the board, come up with a draft, a redraft, of the standard protective order, which, if some of you will recall, was drafted quite a few years ago and was originally posted as something that the parties could adopt if they wanted to or we would deploy it when there

was an impasse in discovery to help break the impasse and keep discovery going. But it was not automatically applicable to board trial cases until we amended our rules in 2007. But at that time -- a number of things have changed since then, and so we felt it was time to revisit that standard protective order and update it.

So, some highlights of what we have included in a redrafted standard protective order are that it now specifically states that it's automatically imposed unless the parties agree to something else in board trial proceedings. There are greater statements encouraging the parties to sign it so that they have, essentially, a contract that will be enforceable between the parties in regard to their handling of material that is shared under the auspices of the agreement. We have scaled it back from an agreement that identifies three tiers of confidential material to one that identifies two. There was some confusion in the past about the very highly confidential level and what that meant and what qualified there. We've attempted to include some more explanatory material about

what would be appropriate to designate under each of the two remaining levels of confidentiality in the agreement. And we've included some information about electronically stored information and the disposition of materials that are shared with an adversary during a proceeding once the proceeding has been terminated.

Now, of course, this is just a draft. It's open for comment. We certainly welcome comments from the TPAC, and we will also eventually, when we finish tinkering with it and have something that's in a little more final form, get it up on the Web page in IdeaScale and take comments from other stakeholders and the public as well.

So, that's one concrete example, I think, of something that came out of the February roundtable and some of these prior discussions we've had with stakeholders about areas where we needed to update our operations a little bit.

Another thing that we've done since that roundtable is redrafted the statement -- or the list of grounds for opposition, grounds for cancellation, for registrations five years old or

less, and those which are five years old or older. And this would be the pick list, essentially, for ESTTA -- a new pick list for ESTTA. That's not the only improvement. We are hopeful that we will be able to deploy for ESTTA, because as you may recall in addition to our February roundtable we also had a January ESTTA users forum, and so we're working on a package of improvements to the TTABIS, which is our internal name for what you know as TTABVUE and ESTTA. So, we're working on improvements for both of those systems, and the redrafted statement of the grounds for opposition cancellation is the first concrete product that's come out of that.

I think that's pretty much most of what I had to say. I did want to also note that we are trying to engage in a little bit more outreach, because we know that we are changing the standard protective order.

I'm thinking about updating rules to reflect case law developments and anticipate the deployment of new federal rules at the end of this year. So, we know this is the time -- it's an appropriate time to think about these things.

And so we have begun -- Deputy Chief Judge Richey and myself, and we hope Cheryl Butler will participate, too, in more of the USPTO inter-roundtables.

I was up in Boston recently, and Deputy Chief Judge Richey will be in Phoenix. And so we're going to participate more in those roundtables and have more opportunities to hear from stakeholders about these changes that we're thinking of making or that we're getting ready to propose.

We have some other outreach opportunities in September. I've been invited to the Midwest IP Institute and the IPO annual meeting, and we're planning a program in November, a TTAB-specific program at Loyola Law School in California. So, we're looking to get out and talk to more stakeholders about all of this activity that we're engaged in. And we want to be very deliberate, as we were when we amended the rules in 2007, and make sure we get a lot of comment and a lot of input and improve our operations in a way that will be helpful for us in our ability to manage cases but will also make

them still valuable proceedings that people believe provide, as the Supreme Court said in the B&B v. Hargis case, a full and fair opportunity to litigate these trademark disputes.

So -- and of course that's the elephant in the room, I guess, B&B v. Hargis, and all the other cases that are pending at the Fourth Circuit and the Federal Circuit. We are not overreacting to any case law developments. I think we need to take a measured approach to them. We will just deal with case law as it's developed, and we're not as concerned about the potential fallout of the B&B v. Hargis decision as many commentators seem to be. We think it means that many practitioners will have a few more twists and turns to navigate and a few more complications in their strategic decision-making. There may be some parties who will choose to go to District Court rather than the board or do both and then get the board proceedings suspended while they go through District Court first. There may be more parties who will pursue a de novo review in District Court if they are unsuccessful at the board rather than go to the Federal Circuit. But

a lot of that is really going to be a matter between client and counsel to discuss the perceived risks and rewards of the different approaches. But for us, for our internal operations, we don't anticipate changing our operations in any significant way based on the case law that's developing.

CHAIRMAN TEPPER: Thanks very much, Gerry, and thank you for mentioning that we did have an elephant joining us today. I think, you know, we'll probably leave it to the private practitioners to overreact, but we're glad to see you're certainly aware of the options and potential impact, and it will be an interesting time to watch and see how things develop.

So, in the meantime, I suppose the -- I believe it's an ancient Chinese curse: "May you live in interesting times." And we do. So, this will certainly to the level of interest in the coming years.

Any questions for Chief Judge Rogers today?

MR. LOCKHART: It is also said, and I'm not sure if this apocryphal or not, but the

Chinese character for "crisis" is also the Chinese character for "opportunity."

I can't top that guy's -- I didn't have a baseball reference, so I'm using what I've got, okay? (Laughter)

CHAIRMAN TEPPER: That was a curve ball coming at me or definitely some type of change of pitch.

So, do we have questions for Chief Judge Rogers today?

All right. You are a quiet group today. I did want to mention -- thank you for the update, and it's good to know you all are staying on top of things, always thinking about where we stand with our rules. So, we will look forward to having input.

Gerry mentioned that the protective order will find its way to IdeaScale in the future, so do -- those of you in the public who wish to have input or make comments, keep your eyes on the website. I think that one of the great things about the Office is they always do ask for and seek input from the public. We need to give it, folks. I think IdeaScale is a

wonderful tool, and it is an underutilized tool. So, anyone who has the opportunity, I do encourage you to keep your eyes out and participate in the process. If you don't, we can't -- if you don't give your feedback, we certainly can't consider it.

Do we have questions from the public at this point? All right, Gerry, thank you very much. Yes, and we're going to go with one additional update real quick. Raj, come on up and join us. I'll introduce you in a second.

MS. DENISON: I just wanted to give a better answer to Kathryn's question. (Laughter) So, she asked you who participated in the TM5 IdeaList. So, Canada, the Philippines, Singapore, Mexico, and the Russian Federation; and new participants are Colombia and Chile. They are working on their votes. And we have quite a few countries with outstanding invitations that have not finalized the decision to join, and that would be Brunei, Cambodia, Brazil, Indonesia, Lao, PDR, Malaysia, Thailand -- did I say Brazil -- Peru, Vietnam, Australia, and New Zealand.

So, anyway, if anyone wants the list again, I'm happy to give it to you afterward. So, I'm sorry I couldn't answer initially, but there's the information for you. So, there are quite a few countries that are either onboard already or considering it. So, it's kind of exciting that more are going to participate.

CHAIRMAN TEPPEL: Thank you for that. And I think, you know, obviously the important thing here is it's great to see the impact, not just within the major offices, that TM5 is having in the countries that are being influenced by this initiative and standardization. So, we will hope to see that continue.

That being said, we are going to turn to -- you know, it is now bottom of the ninth. We need our power hitters to come up. (Laughter) So, we are happy to hear from our chief information officer.

And, actually, John Owens -- his doctors have prior claim on him today, so I want to wish John well. We'll hope he gets good reports and good marks today.

But we are ably represented by Raj

Dolas, who is our Trademark Next Generation Project Portfolio manager, and Raj will be giving us an update, so.

MR. DOLAS: Thanks, Maury. Good morning, everyone. Trademark Next Generation IT Portfolio has a fairly broad scope on accomplishing modernization of all trademark IT systems. As with any IT portfolio that's as large in scope as this one, things are broken down into programs, and each program has multiple projects in it. So, at any given time, we have several projects running in parallel.

The way we represent this up here is TMNG and TMNG-2 focus solely on developing IT systems or modernizing IT systems for internal users, internal Trademark users. TMNG external focuses on developing and modernizing IT systems for our external users, and Trademark trial and appeal boards is a separate entity to manage the work that is associated with that.

The internal work that we're currently accomplishing is all focused on Trademark examiners, the examination capabilities that are necessary for doing their daily tasks. Today we

use a legacy system, whose acronym is F-A-S-T, FAST and the goal of TMNG examiner is really replacing that FAST system with a modernized version of capabilities that are necessary for examiners.

The main thing about TMNG examiner capabilities is the user interface is modernized so that its Web based and it uses a Web browser. All the back-end systems are modernized, and they use new-generation technologies. What this is going to allow us to do is not deploy any software on examiners' laptops. We can make enhancements, we can patch things up on the back-end servers and users get to see this pretty quickly. We don't have to go through a painful deployment process for them.

CHAIRMAN TEPPER: Good.

MR. DOLAS: The user interface that is developed for the examiners, as I said, is Web based. We use a user centered design process, which takes into account or takes into the design process input that users are giving us to say, here is how this should look like; this is what the user's experience with the system should be.

On the back end, we have several components that are hidden behind the covers. Content management system is one of the largest ones. We're modernizing the content management system, and we're bringing all the documents that exist in our legacy content management system into the next-generation system.

We are up to 150-odd million documents. And documents are generally office actions, submissions, receipts. Everything that you have that's a document is stored in our legacy content management system. That has to be brought over into the next-generation CMS.

We're up to 78 percent in that migration right now. About 155 million documents have been migrated.

We have a separate content management system today in our legacy world for managing the mark images. That is also integrated into the next-generation CMS. All those images have been brought over -- a hundred percent.

The third area that we maintain our content in today is for multimedia files. It's maintained in a separate system. We will be

bringing that into the next-generation CMS and making sure that there's an one-stop shop for everything that is content driven.

The integration of the content and its availability, accessing the content is built into the browser interface. The examiners or the users of TMNG internal don't have to step outside or start a new application or start a new IT system to look at the content. It's all integrated together.

Just like the content management system, the back- end databases have been modernized. We're bringing -- we actually have brought over all the data that exists in our legacy side, our mainframe, into the next-generation databases. As with the content management system, the database work is transparent to the user. It is available -- all the data fields are available on the browser in an easy- to-read, easy-to-use manner.

So, that's TMNG for examiners. Another group that we're working on for internal users is Madrid. We started the project a few months ago. We are in a stage where the process

flow for Madrid -- it is a fairly complicate system, sending applications to IB and receiving applications from IB and processing them is not as easy as one would think. So, the process for outbound, if you will, applications that originate in the U.S. and go to IB is fairly well understood by the team right now.

The team is working on implementing -- developing and implementing what we call an auto-certification capability. This allows an applicant to use a base application and if there are no changes, it's auto-certified to be sent to IB. It makes the job easier for folks. And with the priorities that we have in front of us, we'll continuously start or continuously will develop and implement other capabilities that are necessary for Madrid folks.

Switching gears and looking at some of the work that we have done for external users:

TMNG ID Manual -- we demonstrated ID Manual way back in October. It has been in beta since then, and what we have been doing since then is including and enhancing based on feedback that we have received from customers from outside,

from users from outside, enhancements to the user interface and enhancements to search and filtering capabilities; and for internal users who manage the system, enhancing the editing, scheduling, and publishing work flow.

The editor is a large portion of the work that is being done right now by ID Manual to make sure that the definitions of IDs and everything that are displayed outside are appropriate -- you know, hyperlinks and boldes and all that wonderful stuff that we want to display to the users outside.

The Electronic Official Gazette has been in production for several years now -- two years now almost. We continue to improve and enhance the EOG based on feedback that we receive from users. A large amount of enhancements that we have done in the recent time are related to search, and we use an open-source search product that allows external users to search on a variety of search criteria. When the search results are returned, there's a faceted navigation available through this product that we leverage so you can filter things down further. So, you can get

search results, and if they're too large, there are a variety of facets that are available that you can select to turn on/turn off and you can narrow the search results down.

We will use that same search product across all TMNG components. So, when we go to eFile, we'll have a similar search capability that will be available. In eFile, this eFile is our modernization effort for filing and submission. Today we use TEAS and TEASi for that. EFile is going to modernize and improve on the way the user experience is with the TEAS/TEASi products. The focus on eFile has been on attorney forms. So, we're improving the way the user experience is for attorney forms and all the actions that you can take: Withdraw an attorney, add a new attorney, replace an attorney with another one.

We're introducing what is called a work space metaphor, if you will. So, you have a work space that you work with. You can search. You have, again, faceted navigation. You can tune down or filter down some of the results that come back, select the appropriate trademarks that

you're interested in, and apply an action such as withdraw an attorney. So, instead of doing it one at a time, you'll be able to select them -- select the trademarks that you're interested in withdrawing an attorney in a bulk and apply that bulk process to that.

The main thing that we're trying to do here is the user experience. We want to make this as easy as possible. Again, the user center design has been implemented or has been used extensively here. We want to make sure that the user experience of this system is very easy, very intuitive. We're at a stage where we'll be doing internal testing very soon for withdrawing the attorney actions, and we would love to get input from you folks, and we're going to make this beta with IdeaScale, just like you heard before, for improvements on the user interface and user experience.

While we are focused so much on Trademark Next Generation, we cannot forget our existing legacy systems that are in production and support our users today.

There are several enhancements that are

happening in the TEAS world. They are related to certification marks, and we have a proposed release sometime in July time frame for the certification marks.

Listening to what users have been telling us about TEAS, here's a user-based enhancement that's on the next bullet, which is increasing the size of attachments from 5 megabytes to 30 megabytes going forward. Again, that will be implemented in July time frame. We heard that loud and clear in many open forums. In TTAB open forum this was one of the main things we heard very loudly. So, that's an improvement that we'll be putting in, in July time frame.

I talked about the content management system that we have on the legacy side. When the user starts -- when the internal user starts using TMNG as their main system, they will be creating content in TMNG. We want to make sure that content created in TMNG is available to folks who are still using the legacy applications. So, we have a legacy content management migration project. In that project, what we have done is created a case content viewer that is integrated

with our legacy applications. The case content viewer was created as part of TMNG. The integration with legacy application is happening as part of this project. What that will allow our users to do is look at content or make content available, content that is created in TNMG available to folks who are still using legacy applications.

They still have to see the legacy content. It doesn't go away. But this is a combined view of next generation content as well as legacy content.

Madrid enhancements. We have a prioritized list of Madrid enhancements and bug fixes. We have been taking a bite out of that on an iterative basis. We had one deployment earlier this year. We have a second deployment coming up in this month. No, we actually had one -- sorry.

TTAB enhancements -- there are two enhancements that we're working on. We actually deployed one enhancement to automate the quality review process and to improve the tracking and reporting of proceedings quality. And we are

working on enhancing the dissemination of proceeding information to TTABVUE, which is an internal system.

Is it internal or is it external?

CHIEF JUDGE ROGERS: External.

MR. DOLAS: TTABVUE is external, sorry. TTABis is internal.

For distributing all the pending and terminated TTAB proceedings. Basically, this will allow to view all the related cases when you're viewing one proceeding.

Is that right, Gerry? Did I say it right?

CHIEF JUDGE ROGERS: Yes.

MR. DOLAS: I want to make sure I'm not saying something wrong.

So, that is a work in progress. What we will be doing in the next few months is various numbers of deployments. We will be deploying the TMNG examiner application to a law office and eventually migrating or rolling other law offices to use TMNG, we'll be deploying iteratively TMNG Madrid capabilities for inbound as well as outbound based on the priorities that we have

today. For TMNG external, ID Manual will be deployed as a real system. It will no longer be in beta it will go live. The EOG enhancements that I mentioned earlier will be deployed in July time frame. EFile attorney forms for withdrawal especially will go into a beta mode, and we'll be leveraging IdeaScale to get your input and then make it final, make it a production-based system.

On the legacy side, we'll be deploying the content viewer, the TMNG content viewer with legacy. It has been deployed in testing phase right now, but it will get rolled out to a broader set of users, and we'll deploy the enhancement that are being made to TTABIS.

And that's all I have.

CHAIRMAN TEPPER: Thank you, Raj, for the update. You know, it's always dangerous to select a metaphor, but I think sometimes helpful, too, and since I struggle with IT issues, I -- hopefully you all notice when you watch a house being built it always seems like nothing much happens, and then at very end every happens rapidly, and I think that we are certainly approaching that window here in our IT work,

particularly internal side. So, we are hopeful to see -- you heard from the CFO earlier. These are a couple of very significant years. We're going to have our last couple of big investments in IT over the next couple of years, so we're very interested to see progress.

I do want to make sure that I understood or just maybe you can help me with this piece, Raj. I see the data migration, and it's encouraging to see the systems and the databases we've all been sort of working and designing and building, that data's being moved in there and you're about 78 percent of the way there. And you talked about the viewer that will be available for those using legacy systems. I think that what follows, then, is that once we are at a hundred percent, we'll actually be using the trademark next generation data bases, and those will remain current and those will be live and legacy systems will access up-to-date data from the next-generation database. Is that right, or am I making a guess that might be misinformed about that?

MR. DOLAS: So, let me make a slight correction there. I was talking about the

content management system, which has documents and images and multimedia submissions in there. The legacy content management migration project, which will integrate the TMNG content viewer, will allow everyone inside -- internal users of trademark -- to view content that is created in TMNG and content that already exists. It will all be migrated to one location, but we have to make sure that from that location, internal users can view everything. Same thing holds true for external users, obviously, because if content is created in TMNG -- an office action is written using TMNG. We want to make sure that external users can view that office action as well.

So, enhancements will be made to your interface, which is TSDR, so that TSDR can display information or content, if you will, from TMNG as the last from legacy -- content created in TMNG versus content created on the legacy side. So, that is your -- for external user, TSDR is your user interface for that.

CHAIRMAN TEPPER: Okay, thank you, because I do -- for some period of years, we're going to be operating with both systems as we have

been, so I think, you know, obviously we have a keen interest in making sure that to the extent there has to be replication we're keeping up and everything will be current when the switch is flipped. But one day, hopefully, there will be no more legacy.

Let me -- do we have questions for Raj today for our CIO update? I see a couple of -- oh, by the way, I should have warned you, I know there is one question, because we had a question about these surveys that show up on the website, and that question was asked of Mary and we were told that those actually go to use on --

MS. DENISON: I didn't say they went to Raj.

CHAIRMAN TEPPER: No.

MS. DENISON: They go to CIO, so I don't know if Raj knows the answer.

CHAIRMAN TEPPER: I do know there was some interest, though, in understanding some information about the survey offers that are on the website. Maybe we'll start with Tim.

MR. LOCKHART: You know the survey we're talking about? It's when an external user

accesses the website and it says, "Do you want to take the survey?" You check yes or no. I assume that some people are checking yes. They're filling out the survey questions. Mary says the results of the surveys go to, you know, not necessarily to you or your team but to OCIO generally. Do you have any sense of how many people are filling those out? What kind of feedback you're getting? Any feedback for us on those surveys?

MR. DOLAS: You are right. They do go to a group within OCIO. It's our user experience, user-centered design group, who's involved in managing and monitoring those. Unfortunately, I don't have the numbers that you're looking for, but I'll certainly get back to you with those.

MR. LOCKHART: Well, thank you for that. In a more general way, to the extent that you're getting feedback through those surveys that would be of use to you and your team in designing the internal interface for TMNG, is that something that you could factor in, you will factor in -- to the extent that the feedback is

useful? I mean, maybe it's the feedback's inapplicable to what you're doing for TMNG, I don't know, but just is that something that you would have an opportunity to factor in?

MR. DOLAS: Yes and no. Some of the feedback that we get about how the external website looks and feels and behaves, that is certainly useful, and we take that into account. Our user-centered design folks, our user-experienced folks always are looking at ways to improve the user experience.

The surveys that we are more interested in will be specific to trademark next generation user interface for internal users. External user interface -- those surveys that are being collected today are definitely applicable for that. But these --

MR. LOCKHART: You say are -- they are applicable?

MR. DOLAS: They are.

MR. LOCKHART: Okay.

MR. DOLAS: But there is also a specific need for TMNG--centric survey. So, when we go out with eFile replacement for TEAS,

we want specific input on the user experience for eFile. When we went out with TMOG, we had a specific survey about how TMOG's working, and we'll continue to do that. So, it's an add-on, if you will, for the surveys. That is for our general website.

CHAIRMAN TEPPER: Deb?

MS. HAMPTON: Hi, Raj.

MR. DOLAS: Hi.

MS. HAMPTON: I just have a couple of questions about the Madrid enhancements, and if my memory serves me correctly, I think there were maybe between seven and nine priorities related to the enhancements to Madrid, and I just wanted to know how many of those have been completed. And for the upcoming deployment, what is that going to be and when?

MR. DOLAS: We had two stabilization deployments that were planned for this year. We completed one earlier. I'm sorry -- there were two stabilization projects that were planned. One was completed earlier. And the one for this year was broken into two separate deployments. We deployed one.

Let me make sure that I'm saying the right thing.

(Pause)

MR. DOLAS: So, we deployed one enhancement or stabilization for last year, and we deployed one last week, which had 19 in it -- 19 user stories in it, or 19 priorities, if you will, in it.

Does that answer your question, Deb?
Sort of?

MS. HAMPTON: Ultimately, I guess I'm trying to get at -- in terms of all the issues that you've been dealing with as far as Madrid stabilization -- how far along are you? And with the upcoming deployment, you know, how much closer does that get you to improving overall the Madrid system and getting rid of some of the issues that you've been having?

MR. DOLAS: So, between the MPS 1 -- that was last year -- and MPS 2 -- that's this year -- I think we have tackled the most critical issues that exist, because they were at the top of the priority list. The list is, unfortunately, fairly long. And I don't think

we'll be able to get through all of them. But we have taken a bite out of a significant amount of issues that are critical issues, if you will.

As you know, we also have TMNG Madrid effort ongoing. So, we'll have to make sure that we balance the time and effort that is spent on both projects.

There will be a cutoff time that will come sometime this year probably that says we have fixed enough issues in the legacy Madrid, and we have enough foundation built on TMNG Madrid either this year or early next year, and we'll be able to switch users to use that. Obviously, all these time frames are unknown at this time, because we're still -- we just started development of that TMNG Madrid.

MS. HAMPTON: Thanks, Raj.

MR. DOLAS: You're welcome.

CHAIRMAN TEPPER: Okay, thank you for that clarification. This is some important stuff.

So, do we have other questions today from the committee?

MR. LOCKHART: I have a couple. Raj,

I want to touch on one thing that came up in the February meeting. At that time, I think OCIO had approximately 160 empty billets, and I know you were making strong efforts to try to fill some of those. Do you have any sense for the progress, you know, within OCIO for filling those empty billets?

MR. DOLAS: I don't, but I can get back to you on that one.

MR. LOCKHART: Okay, and, you know, I apologize. That's not something that we touched on in yesterday's subcommittee meeting, so I can understand that you'd need to check on that. But I'd just be interested in getting some feedback on how you're coming along with filling those billets, because, obviously, the more you can fill the faster --

MR. DOLAS: One thing I can add, though, is what we have done is kept rolling openings instead of opening and closing the positions. We have kept it open and continuous. So, we always go out and try to hire more and more people. We recently had a veterans job fair here. I don't have the numbers -- exact numbers

for that, but that was very successful from what I hear.

MR. LOCKHART: If you could just maybe get back to us at the September meeting with whatever statistics --

MR. DOLAS: Sure, absolutely.

MR. LOCKHART: -- whatever statistics you have at that time, that would be great.

MR. DOLAS: Sure.

MR. LOCKHART: And one thing you touched on in your briefing is the identifications of goods and services. In the past, there was some disconnect, I think, between the IDs that are in the manual and the IDs that are available through TEAS Plus. They largely synchronize, but they didn't synchronize a hundred percent. Do you know if they now synchronize absolutely? And maybe that's a question for Mary, I'm not sure. Has anyone else had that experience, that you can go through the manual -- at least this was true some months ago -- you could find IDs in the manual and then if you did a TEAS Plus application, the IDs that were available to you through TEAS Plus were not

absolutely synchronized, it was close, but it wasn't absolute overlap.

MR. DOLAS: Tim, we have Tanya Amos, who's willing to answer that question.

MS. AMOS: I think there are a couple of items that were deliberately excluded from our TEAS Plus, and those would be things like clothing mainly. IDs are open ended like the 000. I can give you a complete list. There are definitely some items that we specifically excluded, and we have not synched those up, because the requirement for TEAS Plus is that you file a good ID at the time of the initial application. And for example, if you have something where classification is dependent on further categorization, then it can't be a definite ID at that point. Clothing was just too broad. We were getting too many open-ended items, so we specifically excluded that from the TEAS Plus ID Manual. To the extent that you're seeing additional IDs that aren't synching up, please let me know, because there -- like I said, I'll send over to you all the list of items that aren't specifically excluded. In the form, there's a

notice that identifies them, and if we're missing anything else, I'd like to know.

MR. LOCKHART: Okay, great.

Obviously, you've taken a look at that, and so you have a system in place to address it. So, that's good to know.

Okay, well, Raj, I just wanted to thank you and your colleagues, including John Owens, who couldn't be with us today, but thanks to all of you for what I thought was a great meeting yesterday. We certainly covered a lot of ground in the limited time that we had available, and I very much appreciate your team putting together the demo of the new examiner tool. That looks like a great product. I'll be very interested to see what the reaction of the examiner corps is, but certainly from perspective you've covered all the bases. It looks like you've got all the tools there the examiners will need all in one place. It certainly looks to me like it would greatly enhance the efficiency of the examination operation. I thought that was really impressive. So, thank you for taking time to show that to us. Does that have a name? In the

slide it says "examiner tool." Because we are trademark, so we have FAST. So, if we're going to have something now, you know, like -- maybe I'm as a FAST-ER (laughter) but we need a name for that. But the new examiner tool, okay? So, by September maybe we'll have a name for the new tool.

So, your goal is, to reiterate what I heard yesterday, you're going to start testing with a select group of folks in July. If that goes well, you're going to have testing by a law office in August, and then with a deployment, we hope, by the end of the calendar year -- if all goes according to plan?

MR. DOLAS: First of all, thank you for your compliments. My team is going to love when they hear this. They have been working very hard trying to get this thing completed.

MR. LOCKHART: It shows. I can tell a lot of thought and a lot of work and a lot of long hours went into that. It was really an impressive product.

MS. HAMPTON: And I echo what Tim said.

MR. LOCKHART: Thank you.

MR. DOLAS: Thank you. Also, the credit goes to Trademarks where they have awesome product owners they have assigned to this. So, their priority is in making sure that we get everything done that is necessary for us.

MR. LOCKHART: Well, what I saw looks like a car that was designed with input from the people who were going to drive the car.

MR. DOLAS: Correct. Absolutely.

MR. LOCKHART: And that is exactly the right approach.

MR. DOLAS: Yes, thank you. So, we'll try to maintain the schedule that we have.

It's a tentative schedule, but we'd love to maintain that, which is doing testing, beta testing with users in July-August time frame, bring on a law office in the same period, and then starting rolling deployments, if you will, to others. And, obviously, Mary has more say in that than we do. We'll work with her to schedule appropriate law offices in appropriate time frames.

What we're also doing right now is train the trainers. We will begin that soon, sometime

in June time frame. It may roll in-to July, depending on availability of our environments, but we want to get that done as quickly as possible so the trainers are up to speed with the way TMNG works and they can train the users as soon as possible.

MR. LOCKHART: Okay, that sounds great. We would appreciate getting some feedback at the September TPAC meeting about how the testing in July and August goes and obviously what your projection is for rolling it out at that time. But everything that we saw and heard yesterday certainly sounds very positive.

And I especially want to thank John in absentia but want to thank him for the briefing that he gave us on Agile. That was certainly new information to me. I suspect it may have been to my fellow subcommittee members, but very interesting briefing about how you're now approaching development of IT systems as contrasted to the older waterfall system. So, that was certainly very useful information. As I said I would, I shared the briefing slides with my fellow TPAC members. And, you know, I think

that was of interest to them as well. So, we appreciate your taking time to put that together and add that in to the other material that you presented yesterday.

And I was very interested to hear your preliminary thoughts, and I realize they are very preliminary at this point, about the My USPTO Portal and how eventually for external users they may go in through this portal and they'll have a common set of trademark tools and then they can customize that to some extent, depending on what their particular needs are. So, as you continue to develop those plans and think more about how that might work, we would be very interested in getting more information about that as it develops.

And I can see from your briefing that you've got a lot of moving parts. You've got the things you're doing internally. You've got the things that you're doing externally. You've got the things that you're doing for legacy systems, and you're also taking care of the TTAB. So, we understand there's a lot going on, and we appreciate the information we got yesterday, the

information we got today, and so we look forward to hearing the progress reports as you go forward.

Oh, and I'd love to take you up on that offer of a demo in September if that's possible -- the My USPTO Portal -- to the extent that you've got something there that you think would be of interest for us to take a look at, because we do enjoy seeing these demonstrations, and that gives us a much better idea than we would otherwise have of -- you know, in which direction you're headed.

MR. DOLAS: We'll certainly take that to heart.

MR. LOCKHART: Thanks so much.

MR. DOLAS: Okay.

CHAIRMAN TEPPER: Do we have any other questions today for Raj? Any questions from the public?

All right, well, I want to thank you -- one of the things that I have to say we've learned serving on TPAC: There's a lot of things that lawyers don't know. We don't know numbers, and we definitely don't speak IT. And so we appreciate I think the efforts that Raj and his

colleagues have had to go to to orient us and help answer sometimes dumb questions, but you make sure that we are understanding and following the process. I believe that it is also reflective of the way that they as IT professionals have needed to learn to speak trademark. (Laughter) This is a very, very complex system that they are designing for, and so I think, you know, we have some small sense of the effort required, but I do want to compliment your group and Trademark's. The ongoing dialog is critical for making sure that we get this right, that we get the system that we need, and so it's I think other than continue to struggle with us, and you guys continue to struggle together, it's been an enlightening experience certainly for me. And I'm sure I'll have another dumb question or two in September just to finish that out.

We are pleased with where we are.

Obviously, there is a good amount of work to go, and these are going to be a couple of significant years. So, we look forward to working with you all on that.

That being said, I am -- just one final

announcement for folks. We will be meeting again here on Friday, September the 25th. I haven't looked to see what's going on in town, but it should be a great time of year.

In the meantime, your TPAC will not be on summer break. We, as you saw, will be looking over 2017 budget drafts and preparing that. We'll be working on our annual reports, so we look forward to rejoining in September with some news. And as for today, though, we are going to adjourn the meeting at this point. I hope everyone enjoys the improving weather, and thank you all.

(Whereupon, at 11:40 a.m., the
PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)

**Notary Public, in and for the Commonwealth of
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My Commission Expires: August 31, 2017

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