

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, September 16, 2016

PARTICIPANTS:

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WILLIAM BARBER, Vice Chair

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JODY DRAKE

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P R O C E E D I N G S

(9:00 a.m.)

MS. WELDON-WILSON: Good morning.

I'm Dee Ann Weldon- Wilson, and I'm Chair of TPAC for the year. I also have another job. I work at Exxon Mobil Corporation as trademark senior counsel. And I'm delighted to be here.

I thought that I'd take a minute to introduce the other members of TPAC, and that way we'll have an opportunity to know who everyone is.

Let's start with Bill Barber over here. He is our vice-chair and is also a founding member of the law firm of Pirkey Barber in Austin, Texas.

Anne Chasser. Unfortunately, this is her last meeting -- we'll be very sad without you -- but she's a senior advisor at Dot Brand 360 in Cincinnati, Ohio.

And Jody Drake, just next to her, is a partner at Sughrue Mion, and she concentrates on all aspects of trademark law. She was at the USPTO for seven years so has a special relationship with the USPTO and also an insight.

Speaking of which, I failed to mention that Anne Chasser has a very special relationship

with the PTO since she served as Trademark Commissioner from 1999 to 2004, a rather important connection.

Then Deb Hampton. It's also Deb's last meeting with us, and she's finishing up her second term on TPAC. And she's a corporate trademark specialist and I believe the team lead, now, at Chemours Company in Wilmington, Delaware. She's also a past member of the Board of Directors of INTA and has chaired many INTA committees.

Jonathan Hudis is just walking in. We understand there was horrible traffic.

I'm just impressed that you got here at this point, Jonathan. I was going to put you off until the end until I just saw you walking in.

But he is a partner at Quarles & Brady, and as you can tell from my comments, he is local here in Washington, D.C. He's primarily a litigator, and he has held several roles in AIPLA, including being on the Board of Directors. He's also the Chair of the ABA's IP Law Section.

And Tim Lockhart, sitting next to him, is a member at Wilcox Savage in Norfolk, Virginia. He leads the IP Group there, and he's been a board

member -- or is a board member -- of the Virginia State Bar IP Section and is, impressive to me, a retired captain of the US Navy Reserve.

Mei-lan Stark has recently started work at NBC Universal Media LLC in Universal City, California.

I believe your title is senior VP and chief counsel IP. All right. Well, congratulations on your new job.

And she's also a former president of INTA and has previously worked at both Fox and Walt Disney.

We also have -- there she is -- Tamara Kyle, who is our representative from POPA, the Patent Office Professional Association; and Howard Friedman, who is the National Treasury Employees Union representative for Chapter 245.

And we do have another member of TPAC, who was not able to make it today -- Lisa Dunner -- and she sends her apologies. She really wishes she could but said that it is unavoidable today. So, we are sorry to miss her here.

I want to make sure I welcome everybody

and tell you how much I appreciate each of you being here. It means a lot to us and to, I believe, the USPTO that you are here and are participating.

I do have some sad news since our last meeting. The Trademark world has lost Lynn Beresford, former Commissioner for Trademarks. She passed away in June. She was a bright, dedicated, and passionate employee. She started her USPTO career as an examiner and has held many positions in the USPTO until becoming Commissioner in 2005. Among her many achievements, Lynn had significant roles in forming ICANN and drafting implementation legislation for the US to join the Madrid Protocol. She led a team on the Singapore Trademark Law Treaty, and prior to her retirement in 2010, Lynn led the Office by setting new standards of performance for the Trademark operation, which are still being met very nicely today, by the way -- and even exceeded.

Those of us who knew Lynn also know that she is a passionate Trademark advocate, a caring person, and a dedicated mother and grandmother.

She will be missed by family, friends, and the entire trademark community.

So, thank you for your time --

(Interruption)

MS. WELDON-WILSON: We're going to fix the mic before we proceed.

Thank you. We just want to make sure everyone can hear throughout the meeting.

Actually, our first update today is going to be by Dana Colarulli. He snuck in without me even seeing him. He's right over here ready to go.

It's always good to hear from you. Can you tell us what's going on the legislative front?

MR. COLARULLI: Absolutely. And good morning, everyone. Happy to kick off today's TPAC meeting.

It's been a very busy week for PTO, a busy couple of weeks with a number of activities, including a great celebration of trademarks earlier this week up on the Hill. We were testifying up on the Hill and very visibly in the news the last few weeks. We were represented very well by Michelle Lee. I'll talk a little bit

about that.

But Congress is in session this month. Afterwards, they go back out in recess through the election. So, it's been a flurry of some legislative activity. We haven't seen, and don't expect to see, much in terms of substantive legislation addressing the trademark world move forward but certainly a lot of conversations, a lot of questions for us, and things that my team is watching. So, I'll give a brief update on a number of issues that we've talked before with the Advisory Committee on.

Certainly trade secrets: A lot of activity this year. The group gave a short update at the last session.

A bill enacted into law: Director Lee was able to attend the signing at the White House for that particular measure.

Patents for Humanity: This acceleration program, advancing the program that we have -- there's pending legislation. We're hoping to see that move forward.

And then certainly patent litigation reform: It's something that's taken a lot of the

time for my team and others here at the PTO following the comprehensive measures and trying to figure out where it's going to go. I expect that conversation to continue in the next Congress, potentially with different elements. This is a good example -- and we've seen this with other legislation. As the discussion in front of Congress and in front of the committees progresses, there are developments in the court. There are developments at the agency addressing some of those same issues. So, I think the package of reforms you might see next Congress might change a little bit.

It has been an active time for us up on the Hill over these last few months -- four hearings that we've been involved in and watching closely:

- We had our China expert, Mark Cohen, testify in front of the Subcommittee on Regulatory Reform Commercial and Antitrust Law.

- Conrad Wong, one of our former attaches, also did to China. I'm talking about counterfeits and their impact on consumer health and safety in front of the Senate.

•And then our own Mary Denison up in front of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet on trademark issues in Cuba.

•And last but not least, this week Michelle Lee testified -- represented the agency in front of our subcommittee again on courts, IP, and the Internet. Oversight hearing? Last time the agency had been up to testify on general operations has been a couple of years ago, so we were due. And all issues are on the table for this type of hearing.

A few weeks ago, the Department of Commerce IG came out with a report on the PTO's workforce management. That certainly was a focus, and the director fielded the questions on that topic. She also fielded the questions on issues of quality and PTO operations issues generally so included some of the topics that were covered. She prepared for many other issues, including many trademark issues, but the committee, this time at least, was not interested in asking her too many questions on those topics.

Other issues we're watching as this

second session of the 114th Congress comes to a close:

- Yosemite National Park and a dispute that the park is having with one of their concessioners.

There's been some legislative activity around the trademarks related to the Park system. We're certainly watching that. Still, there may be some activity in appropriations bills. We would be concerned that any legislation that was passed, any report language, wouldn't have a significant impact on trademark operations, so that's one we are watching closely.

- Similarly, there's been language that's been proposed in appropriations bills addressing the Havana Club mark. So, again, something we're watching very, very closely.

- We're certainly watching the 2(a) cases and their involvement in a series of cases in front of the court right now.

- And last but not least, on this slide, having conversations with the Hill about TEAPP, making sure that we can continue operating our telework program. The authority under TEAP

flexibility in the federal travel regulations that the 2010 Act afforded the agency -- that expires at the end of 2017, so we're discussing the Hill options for an extensions and talking about what is good for the program overall. So, I expect we'll continue to do that. We've got some time. We'll talk through that the beginning of that Congress as well.

Other updates: Certainly I think as we look at the 115th Congress coming in -- and we're looking at what information we need developed for the upcoming presidential transition -- two issues that will likely, again, see activity. One is patent litigation reform. I've mentioned that. The other is conversations about copyright policy and office modernization, and there are a number of topics in that (inaudible), specifically on the operations of the Copyright Office. There's been legislation on establishing a small claims court as well at the Office, and then PTO issued earlier this year a white paper that Shira Perlmutter's team championed and included at least some recommendations on statutory damages. All those

are issues we'd expect the new Congress to take up, and we'll see some activity there.

And my team continues to work with the regional offices -- a really great opportunity to build some relationships with congressional members, local elected officials, around those offices and tout the good work of PTO Inc. The offices themselves have embraced some trademark education, and the trademark operations have helped them do that as well. So, we'll continue to support those and a lot of activity there as well.

I mentioned one celebration that related to trademarks, the 70th anniversary of the Lanham Act. We are a little delayed in our celebration for all those that raised a glass in July at the actually 70th, but this week with a number of other partners, including INTA and the Chamber, IPO, and AIPLA, we posted a session up on the Hill to mark the 70th anniversary and had three members of Congress there. Three of the four Chairs of the Congressional Trademark Caucus attended, gave remarks, and helped us raise visibility of trademark issues.

Next week we'll be celebrating the 5-year anniversary, so we've got 65 more years to go there on the AIA (laughter) -- of the America Invents Act. Today actually is the actual anniversary when the President signed that bill that had a number of very positive benefits for the Agency. Next Wednesday we'll be celebrating that. We'll have at least video remarks I think from Senator Leahy, and Representative Smith will be attending that event in person. So, mark your calendar to raise a glass today and next Wednesday.

With that, that's all the updates I'm going to provide, but I'm happy to answer any questions.

MS. WELDON-WILSON: Does anyone have any questions for Dana?

Bill.

MR. BARBER: Hi, Dana. Just one quick question on the Section 2(a) cases: I notice on your slide you said you anticipate taking the *In re Brunetti* case up to the Supreme Court with *In re Tam*, and I think the Federal Circuit still has not issued a decision in *In re Brunetti* and am just

wondering if you have any insight as to why it is taking them so long.

MR. COLARULLI: I don't have any insight. Far be it for me to guess the delay. I'm not aware that it's substantive or --.

MS. WELDON-WILSON: Are there any other questions? Well, thank you as always for a very thorough report,

Dana, we appreciate it. We're going to turn next to Policy and International and get an update, and I don't know whether Shira Perlmutter or Amy Cotton is going to do the update today, but maybe we'll get a tag team.

MS. PERLMUTTER: Here we go. Yes, you're getting a tag team.

So, we're always casting about for what topic will be the most timely and interesting for all of you to hear about, and so for today we've settled on two. One is to talk about the impact of Brexit on trademarks and, second, to talk about a particular TM5 project on taxonomy. So, I'll start with Brexit and then turn it over to Amy to talk about the taxonomy project.

So, as everyone knows, the UK voted, had

a referendum, and decided to withdraw from the European Union -- a great shock to many of us. And in terms of timing, they first have to trigger the withdrawal through a formal mechanism in the EU, and then they'll have two years to negotiate the exact terms of the withdrawal. So, there are a number of scenarios on how this might play out in term of the issues that affect trademarks, and we won't know until the negotiations are completed. But we can tell you a certain amount so far.

So, one possibility would be that the UK would negotiate a deal somewhat like the relationship of Norway to the EU, and that would be the easiest for them and for us, because that would leave them as part of the European economic area and they would be part of the free-trade zone of the EU, and it would mean that a lot of things might be easier and more possible than otherwise. On the other hand, there's no guarantee of that, and Europeans have already suggested perhaps some resistance to that kind of model for the UK for various reasons. So, it's all quite up in the air.

One thing that's for sure is that we're losing the UK as a very strong voice in EU deliberations over IP policies and rules, and that's a shame from our perspective, because they've been a very rational, strong, thoughtful, principled, pragmatic voice and probably the one in the EU that's the closest to the US perspective on those issues in the IP space. So, that's a shame.

But at the same time we do see some potential for the UK now being freer to support the US on certain issues, like possibly geographical indications where their views have tended to differ from other EU member states and where they've been more constrained in the international debates. So, we'll see how that plays out. But no matter what happens, there are certainly going to be consequences for trademark owners.

So, in particular we've looked at what the impact will be on EU trademarks. And I will say of all the areas of IP, I think trademarks are going to be the most affected by Brexit for a number of reasons. So, if you look at existing

EU trademarks, presumably they will no longer cover the UK or no longer provide rights in the UK. That means that trademark owners who want to continue to have trademark protection in the UK will have to obtain a separate national registration in the UK in addition to their EU trademark. Probably there'll be transitional agreements, arrangements put in place to allow this to happen and to allow the conversion of EU trademark rights in the UK to a national right and have some ability to retain priority. It's also possible that the UK could pass legislation that would grandfather the effect of EU trademarks that were registered already at the time of Brexit, and that would postpone the need to convert to when the trademark would be due for renewal. So, we'll see how that happens. Whatever happens, it's likely to mean additional fees.

So, that's some of the bad news. Then there's the question of new EU trademark filings, and after Brexit is completed obviously those filings would no longer cover the UK, so it would be necessary to apply for a separate UK trademark.

And of course that means increased protection and maintenance costs. You have to make two separate applications to get the same scope of geographic coverage that an EU trademark would currently give. But we'll see, because it's also possible that application fees will be adjusted to take this into account.

So, again, all up in the air, but those are the things to consider and to focus on.

There's another concern that we've been thinking about, and that is that an EU trademark that so far has only been used either solely or primarily in the UK might be subject to revocation. And, again, it's something we hope doesn't happen, but under the EU trademark regulation, a trademark can be revoked where there's been no genuine use of the mark in the EU for a continuous five-year period and there are no proper reasons for non-use. So, after Brexit, the question is: Would use in the UK count as use in the EU for purpose of defending against a non-use cancellation proceeding? And we don't know. I mean, obviously there's going to be a strong interest in trying to work these out in a

way that makes sense, but we don't know.

Then there are a number of areas where we see that there could be some impact on enforcement, and that includes increased litigation costs in a number of respects. So, European-wide injunctions that are based on EU trademark rights presumably would no longer cover the UK. The effect of the injunction would no longer cover the UK. To get a new injunction, you would have to have two sets of proceedings, which will result in increased litigation costs.

For existing injunctions, again presumably the UK will fall outside the scope of the injunction, and an EU trademark owner would have to bring proceedings then before a UK court seeking a new injunction to prohibit UK infringements which were previously covered by EU-wide injunctions -- and, again, increased cost.

And another area that we have some concern about is that it's possible UK case law could begin to diverge from EU case law, as you have to go to the UK courts, and that could increase, obviously, uncertainty and also

litigation costs if there are two different sets of precedent that would need to be taken into account.

Another issue: Exhaustion. There could be an effect on exhaustion of rights in the UK versus the EU. Under current law, if the goods are placed on the market in the European Economic Area, the EEA, with the authorization of the trademark owner, then the owner can't rely on trademark rights to prevent resale. If the terms of Brexit keep the UK within the European Economic Area -- countries like Norway and Iceland and Lichtenstein -- then presumably the exhaustion of rights would be unaffected and that rule would continue. Otherwise, it's possible there would be no exhaustion, and that would mean that trademark rights in EU member states could still be used to prevent goods first sold in the UK from being imported into and resold in EU member states. And that could also mean that trademark rights in the UK could be used to prevent goods first sold in the EU from being imported into the UK.

We're not sure what that will mean. It

could mean less parallel trade into and out of the UK. Could end up with really distinct markups and price differentials. But again a lot of this is speculative, but we just wanted to raise the potentials that we see there.

And then the last point. Here could be an effect also in customs seizure. Under EU legislation, IP owners can now partner with customs authorities in EU member states to seize and detain and ultimately destroy imported, infringing goods. Obviously, an important tool for trademark owners. But that practice may or may not change if the UK again follows that Norway model and stays in the EEA. Then, perhaps EU legislation on customs seizure will continue to bind the UK. But depending on the terms that are negotiated for Brexit, it's possible the UK could be free to determine its own border controls. And if that happens in conjunction with no exhaustion of rights, you could be better off. I mean, it might mean that it would be easier to prevent counterfeits from entering the UK. So, we'll see. And, again, there could be an impact on costs if there are two separate proceedings.

So, again, some uncertainty; a number of things to bear in mind and watch out for. And obviously we'll all be following with great interest once the negotiations commence, and trying to have some input into making sure that they go in a direction that's helpful to right holders.

Should we stop for questions now? And then we can move on to the taxonomy project.

MS. WELDON-WILSON: That might be a good time to stop. Just as a personal note, I want to say how much I appreciate you highlighting some areas of uncertainty involving Brexit, especially from the viewpoint of a US trademark owner. I think that's been very helpful. It sounds like it's going to be complicated and will take some time to work out.

Does anyone have any questions specific to Shira's presentation?

Jonathan?

MR. HUDIS: Shira, how long do you believe the process of Brexit is going to take? We're going to have to inform our clients of what's happening one way or the other with their

EU versus the UK rights. My understanding is that Brexit does not become final until two years after the trigger is pulled, and the trigger hasn't even been pulled yet. So, the questions we're getting are: What do I have to do now? What do I have to do later?

MS. PERLMUTTER: Great question and a question that's on everyone's mind. It's not just right holders.

Theresa May has said they're not going to trigger article 50, which is what it's called, which wouldn't start the process until early next year -- until 2017. It's obviously politically very sensitive in the UK, and there are still people wondering if it will happen for sure or something might change the result. The Brexit -- Brexiteers or whatever you're calling them have been saying that they will not -- they're not willing to agree on allowing free movement of people, because immigration controls is such a big part of the vote, and if that's the case then it seems unlikely that the EU will allow them to pick free trade, because they're not going to let them take just the

benefit without any of the negatives because of the impact that might have on other EU member states, you know, wanting to follow the UK's lead.

So, again, nothing is certain. But the best we can tell in terms of timing -- and Theresa May, the prime minister, has said Brexit means Brexit and she is going to proceed -- is that they're likely to pull the trigger and invoke Article 50 early next year, and then that will start the two-year clock running. So, we're probably talking about early 2019 before it's actually in force.

MS. WELDON-WILSON: Thank you very much. Are there any other questions for Shira? If not, let's go on to Amy. Thank you very much.

MS. COTTON: Thank you. Good morning. I wanted to take this opportunity to introduce you to a TM5 project we've been discussing for several years. It's called Taxonomy.

The EUIPO leads this project for the TM5, and they've asked us to get feedback from our users on this tool for classification. This tool was originally ostensibly created to address some European-specific classification problems that

they have. But it actually could have benefits for users in offices outside the EU if we choose to try to shape it. To put this TM5 project in its proper context, though, I need to raise the issue about the significance of classification. More specifically, what legal effect should the Nice Agreement classification have on the scope of the identification of goods and services? Typically, this is not an issue for the United States, but to understand Taxonomy in the global context, we need to think about this.

In the US we believe that it's unnecessary to give classification legal effect, because our specificity requirements for identifications of goods and services can and should do the entire job of defining the scope of the registration. You don't need the class number to tell you what the goods are. So, an example is you send us an application for a mark to be used on ladders. We say: That wording isn't specific enough, because the goods could fall in more than one Nice class. We ask you to tell us whether they're made of metal, plastic or wood, or rope; and then we change your ID to add

the appropriate adjective, and we assign it to the correct class or classes. Most other countries just take ladders, and that's it.

What is the effect on the scope of the registration if national offices take the ID ladders without an adjective to identify the kind of ladder? Two possible scenarios: The lack of an adjective telling third parties what kind of ladder it is means that ladders covers any ladder; or, number two, the lack of the adjective but the inclusion of the class number that's assigned tells authorities what kind of ladder it is. Class defines the scope. The second scenario looks like it gives legal effect to the class assigned by the Office.

You see this potential for legal effect specifically with national offices' pick lists. A pick list is the functional equivalent of the US ID Manual. If national offices accept ladders without specifying the materials of which they're made, the classification number the applicant chooses in the pick list next to the term "ladders" may actually have legal significance -- not in the United States

specifically but elsewhere.

Where this has become a real issue is in the Madrid system. If the application or registration for ladders in Class 20 is used as a basis for a Madrid international registration, that classification will be used for all designations, because the applicant cannot subsequently add classes to either the international registration or any of the designations.

Europe is seeking more legal certainty, because their use of broadly worded Nice class headings as IDs raises this ladder question but on a much larger scale. Several years ago, Europe began work on its convergence program to harmonize practices amongst the EU member states and the EUIPO. One work stream was to harmonize the interpretation of the scope of a broad term used in identification of goods and services.

The Court of Justice of the European Union has held that the Nice class heading means that the applicant can only claim the goods or services that are covered by the ordinary meaning of the words used. The applicant cannot claim

everything in that class when they use the class heading.

In response to that decision, the European Convergence Program has worked on developing what they call group titles, which are slightly more granular than the Nice class headings. Under these group titles, the Convergence Program has created a hierarchical tree structure, which they call taxonomy, that breaks down the goods and services that would fall under that group title based on the ordinary meaning of that group title. The structure, of course, is based on Nice classes. If the applicant uses the group title, the EU and the EU member states could interpret the group title to encompass everything that falls under that title in the taxonomy tree. Now I say "could" interpret, because right now the EUIPO says that taxonomy has no legal significance. It is purely a navigational tool.

So, here's a visual to help, because I know I needed this. The Nice class is on top. One level down is the EU defined group titles, and then under that, under the trees, you get more

granular as you go down.

Now the EUIPO has proposed that taxonomy be a TM5 project, and we've agreed. They have proposed to taxonomize the TM5 ID list, which is the harmonized list of acceptable IDs that the TM5 has been developing for a decade.

So, now we find that the EUIPO is putting a lot of stock in taxonomy as a navigational tool for applicants filing into the EU, but really they're likely positioning it as a tool for global applicants filing into any office. The EUIPO has collected foreign office trademark data into one searchable database with a multilingual interface. It's called TM class. They plan to taxonomize the entire database, which includes the US ID manual. How do we feel about that?

Certainly our feelings about taxonomy as a possible global standard must be evaluated based on whether US applicants would get any benefits from using this when they file into Europe or file outside of Europe. But we must also consider what foreign applicants -- how they might benefit from filing into the United States

when using this tool.

This is a slide that the EUIPO presented to the TM5 partners in 2014 about the benefits of taxonomy. One thing that the slide tells us is that EUIPO intends for taxonomy to help define the nature of the goods and services by where it falls in the taxonomy structure. A structure that visually assists applicants in offices in defining the nature of the goods would be helpful. But will the byproduct of the structure be that the goods will be defined by the class in which they fall?

Another thing that the slide tells us is that the common taxonomy tool will create efficiencies in examination of foreign applications via Paris or Madrid.

We can see the benefits of taxonomy for foreign filers coming into the US. A global taxonomy tool would accommodate different levels of specificity and might actually highlight the US ID practice more clearly for foreign filers. And as specificity requirements differ around the world, it certainly would accommodate the different levels. The EU might be on level 1; the

US might be on level 10. All the other offices in the world might be somewhere in between.

So, a Madrid application incoming to the US could use this tool and figure out whether they needed to file a limitation when they designate the US and avoid a provisional refusal that their ID is not specific enough.

Here's another slide that the EUIPO presented to the TM5 partners about what input is necessary from the TM5 partners for those benefits to come to pass. Taxonomy is currently updated annually by the EUIPO in its member states. The EUIPO wants the TM5 partners and its users to participate in its development in order to ensure that it accurately reflects the marketplace.

Do we want to participate in shaping this thing and making it a global tool? Do you want to participate? What will we be asked to do?

So far for the USPTO it has meant reviewing the structure and the entries that the EUIPO and its expert team have created. We haven't gotten very far with this, because it is a huge undertaking, and we want user input to see

whether it's worth all the effort.

Our initial view is that the taxonomy structure could be a good navigational tool for applicants filing into the US and for USPTO examining attorneys to use in assisting applicants to find acceptable IDs. You may know we take a lot of criticism from our global filers that our ID refusals are too high because of our specificity requirements. This tool could help diffuse some of that criticism.

Now, looking ahead 10 years to the possibility of this tool, we wonder whether taxonomy could eventually become a useful global filing pick list. Applicants could navigate the structure, clicking on the appropriate ID with the appropriate level of specificity for the country in which he wants to file an application. The structure would tell you which offices accept which ID and which translation to use.

But that is getting way ahead of ourselves. For now, the TM5 partners are considering how best to seek user input and involvement in this taxonomy project. To that end, the TM5 is considering sending out a survey

in a link to a version of taxonomy as applied to the TM5 idealist for our users to evaluate. From that, we're hoping to find out whether this is something, as a navigational tool or otherwise, that is worth devoting USPTO resources towards exploring further. We hope that we can count on the TPAC and other user groups to respond to the survey when we ultimately develop it and hope that you will be able to share your views with us so we know best how to engage.

I'm happy to take any questions. Thank you.

MS. WELDON-WILSON: Thank you. We appreciate that, and we know we're running a little over, but we think it was worthwhile having the presentation, and we are looking forward to the opportunity to comment and participate with you. We're happy to work with you, and I'm sure the public will be as well. Thank you so much for you all's presentation today.

And we're going to move on now to the trademark operations update, and Commissioner for Trademarks, Mary Boney-Denison, is going to give us a presentation.

MS. BONEY-DENISON: Thank you, Dee Ann. This is our last meeting of the fiscal year, and I want to thank all of the TPAC members for their service. In particular we will miss Bill and Anne and Deb as their terms come to an end. We'll talk more about this later in the meeting, but I just wanted to acknowledge that up front. Thank you so much for your contributions.

Now, I'm pleased to report that Trademarks is in great shape. We'll start off by talking about filings. Filings are up again. So, last year they were up over 10 percent, and this year we are predicting a 5.3 percent increase for the fiscal year, and as you can see from the chart, filings continue to increase, and it looks like they're going to keep going up. And attritions are low, and so we will need to keep hiring more examining attorneys.

We are now at 783 employees in the Trademarks business unit and over 500 examining attorneys. We have 22 who will be starting on Halloween, and then we expect to hire more later in the fiscal year. Last year we hired 60. So, we are staffing up to keep up so that we meet

pendency for you.

Traditionally, all the new examining attorneys have been placed in different law offices, so we have been experimenting and law offices 120, 121, and 122 have put all the new people in a hiring group together. So, we are continuing to watch that. Last year we did the traditional hire, as well as new law offices, and we will continue that this year. So, the October hire will be named law office 123, the group in the winter. After that will be traditional fill-ins to various ongoing offices, and then the group in the spring will likely be law office 124.

Dana made a comment about TEAPP, the Trademark Telework Enhancement Act of 2010, and what it does is it allows employees to waive the right to travel expenses for a reasonable number of mandatory trips to the USPTO. It will expire at the end of 2017, and so with Dana's able help we've been working with Congress to see what we do next. So, from Trademarks' point of view, we would either like to make the program permanent or at least extend it. We consider it's been very successful for us. We have 95 employees in 29

states, and we have just expanded it to Puerto Rico. So, we are all over the continental US, and now we're going to be in Puerto Rico. So, you should stay tuned, because we'll be talking about this more as the deadline gets closer.

Another thing that is very near and dear to my heart as a former customer of the Office is customer service. So, the agency as a whole hired Deloitte Consulting to look at the customer experience as a whole, and so Deloitte looked at six different viewpoints -- three related to filing without a lawyer and the experience that those people had, and then three were lawyers' experience with the office. So, we have received a report from them, and we are looking to hire a chief customer experience officer as a result, to establish a customer experience counsel within the agency, and we're going to be looking at improving the website, making searching more understandable, making ID selection easier, and using Wizard-based forms for filing. So, stay tuned. Those are things that we have in the works. We're also going to be looking to hire some plain language specialists to help cut down

on the amount of legalize that we are spitting out to the public.

So, the Deloitte summary is here on this poster. They said that we needed to be clear, consistent, and intuitive; and so those are the key words that we are using as we go forward with this customer experience improvement.

Pendency, I am delighted to say, is right on track. We are at 3.2 months, and we expect to make our goals for the year right in the 2.5 to 3.5 range.

And of course we know that you really care that we get it right, not just we get it quickly, and we are meeting our goals for First Action and Final Action compliance, as well as the exceptional Office Action, which looks at a lot more. It looks at the search, the evidence, the writing, and the decision-making.

E-government: As you may recall, our first goal was to get people to file the initial application electronically, and we are now at 99.7 percent of the applications coming in to us electronically, which is terrific. So, once we got pretty high up and close to a hundred, we

shifted the goal, and the goal is now to get you to communicate with us a hundred percent electronically and go through the entire process.

So, right now you can see that we're not that close to on the entire process being electronic. We're at

84.7 percent of applications being processed completely electronically. So, we're working towards getting that number up. And it has gone up. As you can see, from the end of 14 it's gone up from a little over 80 percent to close to 85, so we are inching our way up higher there.

So, one of the ways that we decided to encourage electronic filing was by introducing TEAS Reduced Fee, which did not have all the requirements of TEAS Plus. And so as you can see, we introduced that in January of '15, and it has largely replaced regular TEAS. And so the TEAS RF is the purple line at the top, which is now our most dominant way of filing.

Another way that we are trying to urge people to move forward and be fully electronic is with our fee proposal. TPAC, on very short notice, held a public hearing last year on fees,

and we were very grateful to them for both holding a public hearing and moving very quickly to write up a report. So, we issued a Notice of Proposed Rulemaking back in May. There was a comment period. We got lots of comments at the public hearing afterwards and after the rulemaking was published. So, we have made adjustments based on suggestions, and the final rule is in process. We are hoping to implement in January of 2017.

And just to give you a few highlights of the things will be changing, as I mentioned we are trying to drive people away from paper, because it costs us more, so a paper application will go from \$375 to \$600; and regular TEAS, which also costs us more, is going from 325 to 400. Another highlight is the TTAB filings. The ex parte appeal will go from \$100 to \$200. It had not been raised in 25 years. So, this slide just shows a few of the things that will be impacted. So, stay tuned for the final rule, which we hope will come out in the next month or so.

Information technology: As you may recall, we have about 35 different computer systems that we need to operate the Trademarks

Business Unit. We've been working very hard in partnership with OCIO to update those systems, and right now most of our focus is on replacing FAST1. That is a system that the examiners use to issue Office Actions. So, we have deployed it to Law Office 122. They are working in the old system and the new system. The union has generously provided us with beta testers, and they are working on TMNG as well, and we anticipate deployments to more law offices in fiscal year '17.

Next I wanted to talk about some new initiatives. So, last year about this time we started a pilot on post-registration. The users, you, had asked us if we would consider permitting post-registration amendments to IDs due to technology evolution. So, if you had a registration for eight-track tapes and you were still selling Elvis music but no longer on eight-track tapes, then would we consider letting you change that. And so what we did was we developed a pilot program, launched last September, and you had to file a petition and request waiver of the ID scope due to

extraordinary circumstances, and the slide shows some of the rules that we require.

So, what has happened since then is that 69 petitions have been filed so far. Of the 69 petitions received, 24 have been granted and 13 have been dismissed. Sixteen have been published for public comment. I think we've only gotten one public comment all year, but they are welcome.

And so take a look at the link on the website to see what we have up there. I think you'll be interested, and I urge practitioners to take a look at their clients' portfolios and see what needs to be updated. We have not made a decision on the program and whether we will adopt it permanently, but we are going to extend it for another six months. So, if you're interested and need it, please consider filing a petition, and if you have comments on the program we very much welcome them.

Here's an example of some of the things that we have posted. So, we have one, for example, prerecorded compact discs and audio cassettes of the Bible and now it's providing

online non-downloadable e-books. Same content matter, Bible and Christian religious content. So, these are just examples of proposed petitions that we have received.

Another initiative that we're very interested in relates to the integrity of the Federal Register. As you may recall, we did a pilot a couple of years back, and we pulled 500 registrations and looked at them and asked them for additional specimens. Unfortunately, in the majority of the cases we pulled, people could not provide additional specimens or did not respond. So, that showed us that we have a problem with the register. So, just looking at -- we had a lot of conversations with the public, and we asked people what should we do about this, we know we have a problem. So, two of the things on this list that we're going to do are things that we're doing at the Office, and one will give a tool to our users.

So, the first one I want to talk about is the declaration. If you look at the slide on the left, the current declaration is on the left, and you can see it's rather hard to read. It is

just a big chunk of text, and we suspect that a lot of people are just signing these documents and not really reading them. So, the revised declaration format is on the right in the slide, and you will see it is somewhat more readable. It's not yet in plain language -- for which, as I mentioned, we're hiring some plain language specialists -- but this is a first step to encourage people to actually read the declaration they are signing. That, we hope, will be implemented in January of 2017.

The second thing that we are doing is: We had a Notice of Proposed Rulemaking that would make permanent the random audits that I mentioned, and we have received comments on that and we are looking at that, and we will be formulating a random audit final rule shortly.

The third thing that we are considering is: We've been meeting with user groups to get feedback on possible expungement procedures. We have looked at the procedures in Canada and in Australia, and we have learned lessons from what they have done, and we have come up with some proposals ourselves. So, TPAC has been very

helpful to us as have the other user groups, and we are not at the stage of doing a rulemaking or doing a proposed statutory change, but we are continuing to work on this, and hopefully we will be -- since we've gathered these recent comments from the user groups, we will be further refining our proposals shortly.

On the international front, Amy mentioned one of the TM5 projects. The TM5, just to remind people, is the Japan patent office; the Korean intellectual property office; the EUIPO, which was formerly known as OHIM; the State Administration of Industry and Commerce; and China SAIC; and, of course, us. And we had a mid-term meeting in Beijing in July. There will be an annual meeting in China somewhere. It will be in either Beijing or Kunshan City in either late October or early November. We have not received official word yet on the date. I know that user groups want to know the date but, sorry, we don't yet have it or the exact location. So, we know late October, early November in China, but that is all I can tell you right now, because we don't have final confirmation yet.

Our projects continue. We are focused on the ID list the Amy mentioned. We now have 17,000-plus terms that we've all agreed to, which is fantastic. Of course there are a lot more to go. It is a long-term project, but we think that it will be very helpful to users, and so we are devoted to continuing this project.

We also know that bad faith is very important to people. We've been having seminars in Asia on bad faith filings, and we are also working to put together -- each member of TM5 is working to put together cases of examples of bad faith filings in their own countries, and we are going to be exchanging those shortly.

One of the other projects that we worked on is icons for the members to use on their website. So, on the right, you will see all the 15 different icons, and on the left you will see an example of how it appears in our system. So, right now, we're the first one to have implemented the icons. We think that it will help you when you look at a foreign website. So, you go the JPO's website, you will -- even if you can't read Japanese, you'll still be able to recognize the

icon. And so JPO has begun testing it, and the other members are a little bit farther behind, but we hope maybe within the next year that all five members will have the icons in use on their websites.

We continue to do lots of outreach. I'm really pleased that our basic fax video, which is about 45 minutes, has -- we're getting close to 600,000 views. It's about 45 minutes, and it's sort of what you need to know about trademarks when you're starting your business. And so I'm really proud of our team that worked on that, because they did a terrific job. And it allows us to expand our outreach in a way that's really not possible with human beings flying all over the country. I mean, we still continue to do that, and we've been to 49 out of the 50 states since we started the program, but this obviously opens us up to the world. So, we're very excited about that. And Craig Morris and Jason Lott continue to travel around the United States to meet with entrepreneurs and business schools and small businesses, and they're doing a terrific job between the combination of the actual

speaking engagements and the videos.

Regional offices: We have set up Trademark Tuesdays in the regional offices. I will be in Denver on Tuesday for the launch of the Denver office's first event, and we have already begun the video chat sessions in the Silicon Valley in Dallas and Detroit. So, Denver will be the last one, and that's next week. And I think Dana said I had trips planned, so I do -- Monday. (Laughter) So, I'll be in the Denver office Monday and Tuesday and then the Silicon Valley office the rest of next week. So, I will be around. I'm speaking at another group, and they said that it was a rare appearance by the Trademark Commissioner, so it -- I'm hoping it's not that rare.

(Laughter) But I think I went to California three times last year. Anyway. So, we are out and about and sending speakers to different regional offices.

This week we sent one of our managing attorneys to Denver to give a presentation in Spanish on trademarks, and there was a Spanish presentation on patents as well, and it was very

well received. So, this is a new initiative to try to reach a different group of people who may feel more comfortable speaking Spanish.

And last but not least, Trademark Expo is coming. We are moving the expo from here to downtown. It has been at the Andrew Mellon Auditorium in the past but not for a very long time, and we are going downtown in an effort to up the profile. We hope that we will get a lot of walk-in traffic from the mall, because the Andrew Mellon is right there, and we have lots of really fun exhibitors: Underarmor sending their President of Innovation, Kevin Haley, to kick us off; and we will have the D.C. Roller Girls -- I can't wait to see them -- and Coca Cola and General Electric -- you know, some big names and some small names. And so we're very excited about this event. You will see lots of our employees dressed up in costume.

I see Frank Murphy is here from the CFO, and when he got married, he came to the PTO Trademark Expo with his new bride on the day of the wedding, and there's this fabulous picture of him and the bride surrounded by all the costumed

characters. (Laughter) So, I don't know many people that spend their wedding day at the Trademark Expo, so I really do think that's noteworthy.

And that is all I've got, but I'm happy to answer questions. Thank you.

MS. WELDON-WILSON: Does anyone have any questions for Mary?

Mei lan, go ahead.

MS. STARK: Mary, it's not a question but a comment, which is: I think I can speak for TPAC to say that we were really, really thrilled to see the pendency rates right within the targets. It's, you know, kudos to Howard and the examining attorney's core but to the full office and especially when you've had both increased applications as well as some different IT challenges through the year. That you were able to keep that standard going is really impressive.

MS. BONEY-DENISON: Thank you very much.

MS. WELDON-WILSON: Excellent. Are there any other comments or questions for Mary?

(No response)

MS. WELDON-WILSON: Well, thank you very much. We appreciate your time, and as the Commissioner of Trademarks mentioned, it looks like Frank Murphy is here with us today.

Are you here to give us our OCFO update?

MR. MURPHY: I am --

MS. WELDON-WILSON: Excellent.

MR. MURPHY: I am very happy to give a financial update. The next time that we have the TPAC I may very well bring a picture, as well, of the bridal party, which includes some fantastic photos. It's proudly hanging in my office, so if any of you wish to ever take a visit up there, you'll see that picture. And my wife is very much happy to be a supporter of the Trademark organization.

So, today we're going to talk about the financial update. And as I mentioned in prior TPAC meetings, at any given time we might be dealing with two or three budgets. This happens to be one of the times that we're dealing with three budgets. So, today I'll take a look at the revenue and spending and the projected operating reserve balance for fiscal year 2016. We're

obviously a couple of weeks away -- only about two weeks away from fiscal year 2017. I'll talk about where we stand with that. And then we'll talk about the fiscal year 2018 budget and what that means in an election year. Plus I do have a slide on the fee review, the rulemaking; I know Mary's already addressed that, so I'll just do a recap on that.

So, for 2016, the data that's on this chart is as of the end of July. Our fee estimate for the year is \$282 million, and you see as a comparison to where we were last year this time, we're about 0.9 percent above that. I can tell you that the updated numbers that came in after we prepared this slide show that we're on track. We're actually slightly above where we were from last year. And when you look at the combination for our spending -- and again this data through the end of July would show that we're going to have an end-of-the-year operating reserve balance of about \$106 million. The data that came through the end of August increases that slightly. The bottom line is that the financial outlook for the trademark line of business is good.

When you look at fiscal year 2017 -- and I'm sure that it is widely known to all folks in this room and on the Web -- Congress has yet to pass appropriations for any of the federal agencies, and therefore the USPTO is in a similar boat. Both the House and the Senate, using the estimates from the Congressional Budget Office, had marked the PTO at \$3.23 billion, and they have some reporting requirements that were included in their markup. There's nothing that's of any concern there.

We have some monthly and quarterly reports that we need to do and of course some of the reforms that were associated with the inspector general reports that Dana had alluded to earlier. We do anticipate that we will be starting the fiscal year with a CR. That's almost a 99.9 percent guarantee. The current proposal is calling for a continuing resolution through December 9th.

And for fiscal year 2018, being an election year, this is a little bit different from how things would happen in the fall. The Office of Management and Budget has not required any

agencies to provide their formal budget before the election. Normally, we would have done that the second Monday in September. But we have still prepared our spending and our fee collection estimates, which we will submit to the Office of Management and Budget, and we'll be sending that to the Department and to the PACs later this month. In fact, that should be sent out today, and that will give the summary-level information on which you can opine and provide any input.

And the last slide, which is more now of a recap, is on the fee rulemaking. As Mary already alluded to, we had the NPRM published in May. The comment period ended in July. We did receive some comments, and we made some adjustments. But, in general, the commenters expressed support for PTO's efforts to make sure that we had the adequate funding to meet our strategic goals, our operational goals. We do expect the final rule to be published next month, and we look for an effective date for the new fees to be put in place in January.

And that's all that we have for today.

I'll be happy to answer any questions.

MS. WELDON-WILSON: Thank you for the report. Does anyone have any questions?

Jonathan.

MR. HUDIS: Frank, could you please turn back to your slide that is of fiscal year 2016 status -- spending? The number at the bottom, 106 million -- almost 107 -- how many months of operations does that cover?

MR. MURPHY: The short answer would be about four months. I don't have a precise -- you know, down to the weeks. But generally speaking, we are operating about \$25 million per month on the trademark line of business.

MR. HUDIS: And your office thinks that's an acceptable level of reserve?

MR. MURPHY: We do. We went through a risk analysis, looked at a variety of impacts that could occur; and on the trademark line of business, the current policy is to target a four-month operating reserve. This puts us right in line with that.

MR. HUDIS: Thank you, Frank.

MR. MURPHY: You're welcome.

MS. WELDON-WILSON: Are there any other questions? If not, thank you very much. I appreciate your being here today and giving us the report. I think we're now scheduled for a 10-minute break.

Everybody please be back and seated within 10 minutes. Thank you. XXX BEGIN T2 XXX

We certainly don't want anyone to miss the comments from Chief Administrative Trademark Judge Gerry Rogers, who's going to be with us today, and he's next up to talk about the Trademark Trial and Appeal Board.

Welcome.

MR. ROGERS: Thank you, Dee Ann, and I have to say I look at the schedule and I realize I have the biggest time slot on the schedule today -- 35 minutes. I'm really honored (laughter) that you think our work is important enough to require all of that time.

I have to say, too, that I'm going to go off script for a minute before I get into the slides and point out that I'm equally honored to represent here all of the employees of the Board, who have done just great work this year, you know,

top to bottom, side to side. Everything that everyone has done has been really tremendous whether it's the information specialists who handle thousands of phone calls and emails or requests for information; the paralegals represented by NTEU 243, who are largely responsible for handling over -- oh, about 30,000 consented or uncontested matters that come up in our trial cases and our appeals -- tremendous amount of work.

You know, the attorneys and the judges have both ramped up their production this year, because the increased filings and trademarks ultimately mean more work for us at the Board in terms of appeals, trial cases, contested motions, final decisions that have to be made on the merits. And they've all ramped up their work and, you know, increased production and met all of our pendency goals and our inventory control goals.

We've had Cheryl Butler, who's over here on the side, who has led a great team, including Judges Kuhlke and Lynch and Hightower, Zervas, and many others, in putting together our Notice of Proposed Rulemaking and what I hope

before the end of this month will be a final rule to improve the efficiency and operations of the Board in the trial cases. So, you know, they've done tremendous work.

And, by the way, a number of the judges on that team have contributed significantly to the production of final decisions while they were doing that work. Just tremendous work that they are doing.

And of course Karen Young and our administrative team and our IT team preparing the enhancements to our IT system to accommodate the new rules and helping us hire some really great attorneys and judges that have come on board during the year. It's just been a complete team operation, and I thank them all publicly, and thank you for the opportunity to do that.

MS. WELDON-WILSON: Well, we appreciate it, and we have heard preliminarily some wonderful things that you're going to report today, because you have such good, dedicated team members, and we're eager to hear about it. So, thank you.

MR. ROGERS: Great, so we'll get right

into some of the performance measures, which we'll show you what we've doing during the year.

The hiring has helped us keep pace with the increased filings and the increased workloads. I have an asterisk next to the number of judges we have, because our latest hire in the judge corps, Christopher Larkin, joins us on Monday. So, I've already upped the number just to reflect the fact that he will be with us on Monday. But we'll have 24 judges on staff, not including Deputy Chief Judge Ritchie and myself.

And some of you, if you've noticed in past presentations, we've talked about our half attorney. Well, I realize that I want to make sure that our part-time attorney gets her due. She really works 60 percent of a full-time schedule, so I bumped her up from a .5 attorney to a .6 attorney. (Laughter)

But we also have two new hires on the attorney staff who have just dived right in and are doing great, great work on the contested motions.

The filings on the bottom of this slide show that everything is basically increasing. I

mean, we're already above last year's filing levels on extensions of time to oppose and oppositions, because they're both running at 11 to 12 percent above last year's filing rates, and I'm sure they're going to be significantly above at the end of the year.

Notices of Appeal and petitions to cancel, too, while not yet above last year's level, are running at a rate above last year's level, and so by the end of September when we do the full year stats, I'm sure every filing category is going to be up above last year's levels.

So, the judges, as you can see in the first line on this slide, have helped us with a 17 percent increase in productivity this year -- really great work that they are doing -- keep pace with the issuance of final decisions on the merits. Judge Ritchie -- Deputy Chief Judge Ritchie has done a great job working with the Solicitor's Office keeping us on track to reach our goal for the number of precedential decisions that we want to issue, and we've got enough in the pipeline now that we hope by the end

of the month we will be right on target for that.

Contested motions decided by the attorneys: Productivity increase shown there. And, again, I've already mentioned the uncontested motions and consented matters being handled by the paralegal staff.

On the bottom of this slide I've changed the focus, and this is basically to report what our information specialists have done: The phone calls that they answer; the emails that they answer; the service that they provide to those who contact the Board for status inquiries or information about practice and procedure.

We used to just kind of report response times on telephone calls, but I thought it was more valuable to let you know the amount of work that they do and the amount of service requests that they handle and the fact that Latoya Brown and our quality review team who help monitor the work of the information specialists and the paralegals have helped us develop some really useful ways to track our interactions with our stakeholders and the public in terms of the quantity and the quality. And so we have this new

quality measure, too, for the interaction that the information specialists have with the public, and we've really been focused on it this year and increased the quality a good deal just in the first three quarters of using that new measure.

The pendency numbers on motion practice -- really great last year. Well, we ended the year in pretty good shape but not quite as good as we want it to be in terms of contested motions, pendency, and inventory control. So, we again did a little more hiring this year. We had the judges pitch in and handle some motions for summary judgment in December, and we are, you know, right where we want to be in terms of the pendency on contested motions and the inventory control at the bottom of this slide, because we think by making sure that we track the inventory and know what we have and what has to be decided that that's the best way for us to keep the pendency where it needs to be.

There's the one measure on this slide in the middle. We have this as kind of a reach goal where we want to make sure that no particular contested motion ever gets too old. And I

suspect that there will almost always be one motion that gets lost in cyberspace, and when you have 5,000 oppositions coming in a year, 3,000 cancellations, and all these cases pending, there are opportunities for individual cases to sometimes be sent to the wrong cue or get lost in cyberspace. And so we do -- or we did have, when we calculated this measure at the end of August, one case that had a contested motion that was over our 12-week goal. But I would rather have this goal even if there's always going to be one case that might kind of be over the limit, and it's not always over the limit. Sometimes we're lucky enough to be there. But it keeps our focus on making sure that we are on top of the inventory. And so it's a goal worth having even if there's an occasional case that gets a little older than we would like it to be.

Well, the pendency measure for time to final decision on the merits and the appeals in the trial cases -- again, better than target. Judges' increase in production has allowed us to realize this goal. And the inventory control, again, right where we want to be, one case under

the lower end. So, all of those measures that focus on the individual work that different components of the TTAB are responsible for are in great shape.

Something that everybody contributes to is how we're doing on end-to-end pendency, how long it takes us from the time cases served are instituted or commenced until they're actually decided on the merits. And, again, all of these figures -- they're figures we want to increase. We want to increase production. We want to make sure we do enough work to keep pace with inventory. These are the figures where we want reductions, and we've realized reductions in the overall processing time for appeals. If we continue this pace we're on for the overall processing time for trial cases, it will be the fifth straight year that the contributions from everybody who works on a trial case at any point in its progression, whether it's the paralegals or the attorneys or the judges, have helped us realize reductions in overall processing time for trial cases. If these measures hold, it'll be the fourth year in a row with a reduction in

overall processing time for appeals and the fifth year in a row for an overall reduction in processing time for trial cases. So, we're very pleased with that.

ACR cases -- the last line on this slide: There's an interesting story there and something I should comment on, and in fiscal '14 we had a real breakout year in terms of the parties agreeing to more efficient ways of handling a trial case. And then we kind of backslid last year. Fewer parties agreed to it in '15. But I suspected that that was just an aberration and that the upward climb of interest in accelerated case resolution would resume this year, and in fact it did. So, we've issued already probably more than 16. This slide says decisions in trial cases that followed the parties' use of some form of ACR. But when I did these numbers, we had five assigned and in process; now it's six, and I think some of those have actually been decided this month. So, again, interest is up in ACR cases.

And next we will get into our rule package, and one of the things I want to mention about ACR and the rule package before we get into

the details of the package is that one of the things we did with the rule package was try to leverage the benefits of what many parties have agreed to in ACR cases into all trial cases and have all parties involved in our trial cases have available to them the streamlined options for proceeding through trial cases and particularly the introduction of evidence in those cases.

MR. HUDIS: Judge Rogers, before you get into the proposed rules, I just wanted to say: Looking over these statistics and as someone who has practiced before the Board for the last 25 years, by every measure these are awesome statistics. Your filings are up; your production is way up; and on every measure your pendency is way down. So, you and your team should absolutely pat yourselves on the back. A wonderful job.

MR. ROGERS: It's the team, yeah. And I'll be sure to pat them all on the back. We have them all in here, in the auditorium, on Monday to talk about the coming rule package to make sure that everybody knows the content of it. Everybody will be on the same page. We'll be

ready for implementation when that comes, so I'm certainly planning to congratulate them all when we see them all on Monday.

But on the point of ACR, I just wanted to note that although the benefits of ACR have been leveraged into the rule package, there still will be opportunities for parties involved in trial cases to continue to agree to things not provided for by the rules that will allow them to pursue efficiencies. So, I don't want anyone to think that the error of ACR is now over because of this rule package. There may be fewer cases that will be categorized as ACR cases as people use the benefits available to them in the new rule package.

But there are still opportunities for parties who want to agree to, for example, present testimony or evidence and argument at the same time to make concurrent submissions of argument and evidence on kind of cross motions for summary judgment approach. And so that is typical of not all of the ACR cases but some of them, and that will continue to be, I think, a popular option for parties who are really looking to get into and out

of a Board trial proceeding pretty quickly. So, we hope that there will be continued interest in that.

So, let's turn to how things are going with the rule package. As this slide shows, we published back in April. At that time we were a little ahead of Trademarks, which was working on their fee package. But in the race to get rulemaking done this year, they've overtaken us a little bit. (Laughter) Their fee package proposal came out a little bit after ours, but they're going gangbusters with that.

We took comments through June 3rd. We want to be very deliberative about how we go forward with a rule package as significant as this, and it's of course the first time since 2007 that we've amended the rules in any substantial way at the TTAB. So, we took those comments. We received comments from firms, individuals, and stakeholder organizations. Of course we also worked very closely on numerous occasions during the formative stages of this process with TPAC, and we thank all the members of TPAC for their contributions to this, which are not necessarily

reflected in the Notice of Final Rulemaking, which has been drafted and which recites all the comments that we received and provides our responses to those comments. So, your contributions, while not necessarily reflected in the final rule, are nonetheless greatly appreciated and have helped the process.

We will also not see in the Notice of Final Rulemaking the observations and the comments made by bloggers and others in law firm newsletters, but that was nonetheless information that we took into account. We have taken into account anything and everything that people have had to say about the process. But since those were not official comments, we just don't respond to them in the Notice of Final Rulemaking.

We had a report out in June on the substance of the comments that were received on the Notice of Proposed Rulemaking. Stakeholder organizations were represented there. I think it was a good opportunity for us to follow up with many people and to get further explanation about some of the comments that we had received and to

help us figure out how to respond to those comments. So, that was a very useful and most recent example of what I hope will be a continuing series of outreach events and roundtables with our stakeholders.

So, we are at the point where we hope that the Notice of Final Rulemaking will be signed and into the Federal Register before the end of the month. The process includes final checks, if you will, at the Office of Management and Budget, Department of Commerce, General Counsel's Office, and of course in the Director's office here at the USPTO. We know we've already gotten OMB's okay on the rule package, and we expect that it will emerge from the Director's office very soon and get sent to the Federal Register by the Office of General Law for scheduled publication. It usually takes three to five days. So, if all goes well, by the end of the month we will have that in the Federal Register.

The effective date is scheduled to be January 14th. That essentially means midnight on Friday, January 13, and that gives us a three-day weekend when filings are hopefully a

little bit lower to make sure that if there are any ramifications for filing and IT changes did have to be made to accommodate the new requirements for filing under the rules, we will have an opportunity to deal with any bugs or things that might come up over that long three-day weekend before the rush back to business on Tuesday morning after the Martin Luther King holiday weekend. So, that's the schedule we're looking forward to.

And let me just -- the details of the whole package have been discussed in many forums, and we're doing a lot of outreach about it, and we have time between now and the effective date to continue that process. But I'll just make a few overarching observations about the package.

The rules will apply to all cases pending on the effective date or instituted on or thereafter. The last time we changed our rules, we ended up with an old-rules and new-rules situation, which we don't want to repeat, and as the second bullet on this slide shows you, our judges and our attorneys are being given discretion to handle any transition issues that

might come up. And this authority they have to waive or not apply the rules is intended to be for cases already pending. Obviously, all the new rules will apply to all the new cases that come in on or after the 14th of January, but we need to have discretion in the hands of the attorneys and the judges to come up with solutions for transition issues in cases that started under the rules as they exist now but will proceed under the new rules beginning in January.

We are confident that these new rules will enhance the efficiency and clarify the process and procedures in our trial and appeal cases. They will be our contribution in tandem with those being pursued by Trademarks to increase electronic filing and use of electronic filing because of our significant focus on that. And of course the rules will also now be in a better harmony with our existing practices as they've developed since the last rulemaking in the case law and federal rules changes that have occurred since that time.

The final rule promotes proportional discovery, which is something that was

highlighted in the federal rules changes from December of 2015 and completion of discovery during the discovery period to make the process more predictable for parties involved in trial cases. We tried to clearly distinguish discovery from the pretrial phase and the pretrial activities and the needs to get various kinds of motions resolved during that pretrial phase before we enter into trial. And our ACR experience has allowed us to introduce more flexibility for parties who are proceeding through trial in terms of the way that they introduce evidence into the record.

We do want to remind everybody that the final rule does not result in any changes to Board processes considered significant by the Supreme Court in the *B&B v. Hargis* decision, so the court specifically had pointed out that the availability of discovery, including depositions, testimony under oath, and the right to cross examination, the availability of oral argument, and the option for (inaudible) review in the district courts were important aspects of Board proceedings, and all of these things remain

important aspects of Board proceedings. So, we hope the rules will benefit people while maintaining all of these valued aspects of Board processes and procedures.

So, for those who are listening to the webcast, I'm sure everyone in this room is already signed up to receive the Trademark Alerts emails, but for those who are not, if you sign up we will certainly get an alert out when the Notice of Final Rulemaking is published in the Federal Register and provide a link to it.

We are also planning to do a good deal of outreach in the coming months. We have this time now between the end of this month and the effective date in January to engage in a lot of outreach, and in fact we may have a situation where Judge Hightower, who is in Amelia Island, Florida, now, speaking to the Georgia State Bar IP Association, could be speaking at this very moment to them about the content of the final rule package. So, we have wasted no time to get started with our outreach on this.

And also this week we had hearings in one of our pending cases at IPO's annual meeting

in New York, and Judge Kuhlke made a presentation on the rules there. We had a hearing and other presentations in the ABAIP Section of the Trademarks and the Section sponsored here on campus on Wednesday, and we will participate in a couple of the outreach events that Commissioner Denison will be participating in, in Denver and Silicon Valley next week as well.

So, we're going to have people out there in person preparing everybody for the implementation of the new rules, but we're also looking into working with Craig Morris and Jason Lott and perhaps preparing some computer-based training or some videos or some podcasts, something that we can post on our website about the various aspects of the new rules that might be a way for practitioners to access that information or have their docket staffs or their paralegals access information about the new rules.

And last but not least, we will be updating. Cheryl Butler has her plate full not only getting the rule package out, but now she's got to turn to revision of the Board's manual of

procedure so that we can have an updated version of the manual coincide with the implementation of the new rules. So, everybody's been doing great work, and we still have a lot of work left to do, but I'm confident that we'll get it all done.

MS. WELDON-WILSON: Well, thank you very much for your presentation. It sounds like there is a lot going on in the TTAB operation. Does anyone have any questions for Judge Rogers today?

Oh, Bill, why don't you go ahead?

MR. BARBER: Not really a question. I just want to take the opportunity to thank you, Judge Rogers, and your team, including the Deputy Chief Judge and Cheryl Butler sitting in the audience and all the judges that work on this new rules package, including Judge Hightower for not only --

MR. ROGERS: I'm sorry we had to steal her away from your firm.

MR. BARBER: You stole her away from me, but I'm glad she's moved on to bigger and better things.

But not only for all the hard work

you've done on this and all the thought you've given to it but also the very collaborative and deliberative nature of the process. I mean, you really did, I think, go to great pains to reach out not only to TPAC but also to other user groups, and I felt like you genuinely wanted our input, listened to our input, and although you didn't necessarily make all the changes in the rules that we had suggested, I felt like you certainly heard our concerns and tried to accommodate them in the best way that -- in the way that you felt was best for the Board and the user group community. So, I really do appreciate the process. I think it was very refreshing to have that sort of dialog with the Board and be able to help shape the new rules. So, thank you very much.

MR. ROGERS: Our pleasure.

MS. WELDON-WILSON: Thank you for coming today. We appreciate it. And we will now turn our attention to that OCIO update. Unfortunately, the chief information officer, John Owens, isn't able to be with us today, but we're very fortunate to have the TMNG portfolio manager, Raj Dolas, here with us today.

So, welcome, Raj.

MR. DOLAS: Thank you. Good morning. So, we actually have two items on our agenda this morning. I will give you, hopefully, a very quick update on where we stand with TMNG and then, the second agenda item, which I think is very exciting, is a demonstration of one of the systems that we're developing for public -- I'm hoping to give more time to that, but we'll see how it goes.

This slide you have seen several times before. What we try to do is make sure that the investments that are assigned for Trademark Next Generation are properly explained. We have TMNG, which was from fiscal year '11 through fiscal year '15, with a focus on design and development of examiner capabilities and building out the necessary infrastructure for Trademark Next Generation and the software framework that we use in Trademark Next Generation.

The second investment, Trademark Next Generation II, started in fiscal year '15, and at this point, our plan is to end it in fiscal year '19 where we will continue to develop and deliver

the capabilities for examiners and also deliver the capabilities for non-examiners, for internal users.

Trademark Next Generation external capabilities began in fiscal year '13 and will end in fiscal year '18 as per current plans, and the investment will focus on applications and capabilities for external users.

TTAB-NG is proposed for fiscal year '19 at this point. TMNG II accomplishments in the past three months since the last time we were here: We have trained one law office users to use the Trademark Next Generation system. We're continuing to beta test the Trademark Next Generation examiner capabilities, and we continue to add to that list of beta testers.

We have implemented business rules to make sure that data that is exchanged between our legacy mainframe and Trademark Next Generation is consistent. The business rule makes sure that as the data goes back and forth -- by the way, we maintain both systems in sync. They're running in parallel, and it's an incredibly difficult task to do so. Our business rules are very, very

important to make sure that data is consistent when it goes back and forth between the two systems.

And the last bullet is very exciting to us IT folks that we're able to demonstrate -- we have demonstrated successfully a failover capability from our data center here in Alexandria to a disaster recovery center specifically for Trademark Official Gazette. We expect to continue these tests in the future and hope to do more demonstrations within OCIO as well as for trademark executives and trademark folks who are involved in TMNG. And we expect to use the same capabilities for the entire Trademark Next Generation platform.

Any questions? TMNG

II-accomplishments. We're continuing down for non-examination capabilities. We're working on TMNG Madrid for international applications. There are several things that we have done in the past three months. Specifically, working on Notice of - Irregularities that work to create, save, and send the notice to IB has been completed. And we also are working on making

sure that the data transfer that happens between the IB, the WIPO, and us follows the standards, which is XML ST 96 standard and the processing of that standard, meaning we received the data from them and we sent the data to them according to the standards of XML ST 96, that work has been going on for a few months. We're about 80 percent complete and hope to finish that work fairly soon.

Petitions, TMNG petitions: What we are focused on here at this time is prioritizing the features in our tool that we use for capturing all the user requirements. In Agile land they're called user stories, but they're really - requirements from the legacy world. And we're updating the to-be process for petitions as we improve on the design and continue to refine the design for petitions.

Our external facing project is - TMNG-eFile. In eFile, what we are focused on is ensuring that all the requirements are captured properly and all the business rules are captured properly and, at the same time, simplifying the way external users interact with USPTO.

The intent to use forms and response

forms has been the primary focus in the last three months. In addition to that we're also looking at user role management and the content approval workflow for our internal users. This is - specifically for the eFile administrators.

Upcoming work: For TMNG the focus remains on examination capabilities and - deploying them in production. The plan is to train and roll out to the rest of the law offices in fiscal year '17. In addition to that, we'll continue to capture all the feedback from the users who are beta testing the application, gather their requirements and/or defects that they find and continuously improve on the application as we move forward.

For Madrid and petitions, throughout fiscal year '17 we'll continue to define, - develop, and deploy specific capabilities.

In Agile, we don't wait until the entire product is ready. We'll continuously deploy in staging and/or preproduction environments so you can vet and make sure that the application is designed to the user's requirements.

The disaster recovery and completion of

the disaster recovery for the entire TMNG platform is also one of the aspects that we want to complete in fiscal year '17.

For external features, TMNG eFile, we'll continue to design and develop and deploy capabilities for eFile in fiscal year '17.

For legacy applications, we will design and develop and deploy TEAS capabilities for regulatory changes. The same thing is true for TTABIS and ESTTA. And another project that we'll be working on is our legacy Madrid application whereby the digit numbers for documents are increasing, and we have to make sure that we reflect the changes that are necessary in our legacy Madrid application.

I did it -- in less than 10 minutes I think.

(Laughter) Any questions for me?

MR. LOCKHART: Raj, I want to thank you very much for coming in and giving us a very comprehensive briefing as always and getting into some detail about what your office is doing. I want to thank you and John. I know he's ill. Sorry he couldn't be with us today. I want to

thank the two of you and all of your team for all the hard work you're doing.

As we discussed yesterday in the subcommittee meeting -- and I think you alluded to this in your briefing -- the beta testing has revealed several issues with the examiner tool, and I know that you've got a beta testers who are working hard on identifying those issues and your office is working hard on trying to put the appropriate fixes into place. I just want to say I very much appreciate the OCIO's candor about addressing those issues, being very frank and forthcoming about bringing those to the table, and laying out your plan for correcting the issues moving forward. I think that's absolutely vital, so I commend you for all the hard work going on there. And I was very pleased to see the coordination between OCIO and the trademark operation in addressing those issues. I mean, obviously in a project of this scope and complexity, people have some differences of opinion. That's to be expected. But with getting everybody around the table, you know, I'm confident that those issues can be addressed and

worked out as we go forward. And so it's not necessarily going to be an easy process, but I'm pleased that we continue to see progress.

Given the problems that have come up in the beta testing, you've mentioned that deployment throughout the trademark operation of the new examiner tool in FY17, that's the plan and that's the goal, but I take it at this point there can be no guarantee that that schedule can be met, is that right?

MR. DOLAS: The plan is fiscal year '17, but you are correct that depending on the issues we discover as we deploy to multiple law offices within Trademark, it's possible that there may be challenges in front of us.

MR. LOCKHART: Well, sure, that's --

MR. DOLAS: But also the other thing I will add to that is as we go down the path of adding different offices or multiple offices, the hope is that the number of defects truly goes down, because they will be discovering the same defects early on, and the increase in user requirements goes up. Defects go down, requirements go up is what we expect to happen. But, again, there are

no -- we will have to see how things go as we deploy them to multiple offices.

MR. LOCKHART: Right. Well, I think that's a fair statement, and I know our next TPAC meeting is in January, so we will look forward to getting an update at that time on how the beta testing is going at that point and what the status is of your deployment of the tool to additional law offices.

I think that's all I wanted to touch on. Do you have any comments, anyone else?

MR. DOLAS: Okay.

MS. WELDON-WILSON: Thank you. We look forward to your presentation coming up.

MR. DOLAS: Thank you. So, our next item is a demonstration of a new capability that we're developing for all our customers, all our external users; and the goal is to offer a very personalized experience with USPTO. We call this capability -- we just recently renamed it. We call it "My Console." So, we want to provide our users a capability to come into USPTO and have a very personalized experience based on what they do with PTO -- you know, the tasks they perform

at the PTO. We have -- I want to caution you, this is an early development phase of the product. Some things -- you know, some capabilities within this product are truly alpha in nature and some of them are beta. So, some of the things are not quite production quality yet, but we're excited to show it to you as soon as we can to get feedback from you. And TPAC members have been very instrumental in providing input to the - trademark--related personalization of this console. So, without further ado, I'm going to hand it over to the My Console team and let them take it over from there.

MS. ADAMS: Great, thanks. Sure, yeah, this is Arva Adams, and I'm with the My Console team with the Office of the Chief Information Officer. So, what we have along with the new USPTO.gov account they will later incorporate many elements of the transactions that we'll have with the USPTO.

We have created a product called My Console, which will be your personalized launch pad being customized with the information and transactions that you want to have with the USPTO.

This will all make sense in a moment.

It starts out with just creating an account. It's very simple. You'll see that the form is very short that you fill out. You'll get an email to confirm it for security. And then you'll be on your way to creating an account and then logging in. When you log in, it's a typical log-in here. This is all live right now, by the way. It's on my.uspto.gov, and you can start using it today. Some of you already have, and I appreciate all the feedback we've already gotten from the committee.

So, here we have the sample of the My Console page that you can set up. You'll see that -- we'll start with the Trademark-specific widgets that we've created. We're calling all of these elements "widgets."

Here we have the trademark application docket. I've prepopulated one potential account. Our vision was -- and from feedback from you -- was that you'll have some collections based on your clients.

So, here I've created a client for a Carvel. Let's say he's one of your clients, and

where this corporation is in Carvel, you're watching three applications here: Favorlator, which has a status update of August 6, just last month, and it gives you a snapshot of the status here; and this one also tells you it was abandoned in 2011, and so forth. In addition to this view, which is a great view to have on your mobile device, while you're on the run you can also view it on the full screen for your desktop and get a snapshot all at once of all of the applications that you're watching in this collection and, if you have more collections, you can switch.

Using this drop-down menu here, if you want to add a new application, an entire new collection, you can create a new collection. Let's say that we're working now with your Hasbro account. And then you can enter the serial number here. Do a search, you'll see it come up here. This is for "Dino Roars" complete, and then you'll see the status date from just a few weeks ago of Dino Roars. The new application will be assigned to the attorney, and you can keep an eye on it here in your docket. The post-registration docket works much the same way.

Here I've prepopulated your Carvel account. You'll see that you can look at all of the post-registration marks that you're watching, when the latest status was, and what the current status is.

All of this is populated from TSDR, so if you want to know and need more - information -- here you see Sections 8 and 15 have been accepted and acknowledged -- you can click through, and it will take you to TSDR immediately. So, you don't need to consistently keep searching and clicking and entering all these numbers in the TSDR. You can keep them all right here in your console.

So, one of the trademark-specific widgets is the Trademark Official Gazette watch. This one helps you, and perhaps your paralegals, from not -- every time the Gazette comes out, they have to do a search based on, you know, the marks that you're watching and the specs that you're watching in trying to protect your marks. So, here we've got Carvel. I've pre-populated these watches. Here I've just entered Carvel. You'll see it has zero results for this week (inaudible),

September 13, 2016. So, you won't have to bother to go in there and type it, because you know nobody else has applied for a mark with Carvel, and we haven't filed that for opposition.

You'll see a difference in these two ice creams. One has 39 results, and one has 37. This one -- these are all the default watches that are in the Official Gazette right now, and this one I've just put in the goods and services, so if you just want to watch who your competitors are and what they're up to, you can look and see who's filing for marks for the goods and services of ice cream.

Now, to enter a new one and delete this one -- to enter a new collection you create one here. In this case, we'll use Nike. And let's say we just want to see who is trying to add a swoosh to their marks with all the defaults from Official Gazette, and you can customize this as you do currently with the Official Gazette online, and you'll see that six people have included swoosh probably in the description of their mark or any of the fields selected and you can click through. It'll take you straight to

the OG, and you can see what the potential confusion might be.

Another trademark-specific widget is the trademark alerts that Judge Rogers just talked about. This is the exact same alert that you get in your email. But instead we'll show the last three alerts right here on your console, and you can select this button and sign up for the emails or change your email address at any time and get those directly in your email box.

We've got a new PTO fees widget. You can see the new fees. This takes you directly to the fees page that you're already familiar with but it's a little bit faster way to get there. So, you'll go to Trademark, who would want to see the latest fees for Madrid Protocol, and it zips you right there.

We have a System Status widget that is pretty popular. It tells you the current status of our systems. The last three you can click through and get to the page for all of the system statuses, and our Planned Event so you can plan your week and weekend and maybe not work that weekend if we'll be down at midnight.

We have a Favorites widget here. This one is prepopulated. When you first sign up for your account, it has Patents and Trademark widgets, and you can customize them all here by selecting this edit button, and you can change the favorites that you use.

We've had people say that they can't often find in our navigation of the USPTO.gov what they need to find, and they have to rely on their bookmarks and their browser. This kit allows you to bookmark everything that you do specifically with our office right here in our Favorites widget. So, it's basically -- along with the lives -- if it's a launch point straight to all of the business that you do want to do with us and you don't have to come into USPTO business from any other page but this one if you choose.

So, I'll show you how to add a widget. We've got a library of widgets here on the top right. Under Add Widgets, you'll see a widget library. Some of you also do patents work. You can add some patents widgets. We've got categories here -- general; we've got social media; you can get our Twitter feed and Facebook

feed, which also gives you valuable information on our upcoming events straight here on your console page. You can get news. Today we'll have the Director's Forum, and you'll get the latest blog from Michelle Lee right here on your desktop. Now, if you don't like where the Director's Forum landed when you added it from your library, then you can personalize your docket area here and move your widgets around.

Whoops. Sorry, it slipped. There we go. So, now you can arrange your widgets how you want and then click "Done" when you're finished. We've also got a Press Releases widget, and you can see the last three press releases that the Office of the Chief Communications Officer has sent out, and you can click through this button and get all of them.

Let me show you, now, what we've got coming next. We're having monthly releases. We're very interested in feedback. You'll see up here there's a Feedback button right here that takes you to our Idea Scale website, which you may be familiar with, and anything that you want to see that we're missing, anything that you don't

like about these widgets or any of these features, please click through this feedback form and we'll get right back with you and hopefully schedule the enhancements that you'd like to see.

So, in the application docket and the post-reg docket, we've got these on-screen alerts coming up, so you can see here you've already set up your application docket. It's got all the applications you're watching, and you can log in, in the morning, and see that there are 14 status alert changes in all of your collections, so there are things to pay attention to. So, you can then click through to your collections. You'll see that there's one alert in this David Robinson client account. So, you click through and you'll see a bell here telling you that the status change has to do with this mark right here and that nothing has changed on Kelly Hughes' collection.

The other thing that's coming up is when you are in the expand mode with all your status updates. We are introducing shortly a print. You can currently print with your browser, but a print so that you have a nice, clean PDF print or export as a CSV file, which is what Excel uses or

Google -- the Google spreadsheet and (inaudible) the Apple spreadsheet. So, you can open it in any of your docketing software that you use on your computer.

Any questions or anything you'd like to see me do or go over?

Hello.

MS. WELDON-WILSON: Jonathan has a question.

MR. HUDIS: Could you go back to the Collections widget?

MR. ADAMS: Sure.

MR. HUDIS: So, I noticed to populate the Collections widget you had to put in the application serial number.

MR. ADAMS: Mm-hmm.

MR. HUDIS: Has thought been given to populate a collection by owner, because then you get --

MR. ADAMS: Yes, we have, and that's their feedback that they have given us. We would like to, in the future, be able to have a multi-add so that you do it by owner and select it and then add it. We've just got to work through the

technical details with that one. But it is in the pipeline.

MR. HUDIS: My other question is: Do you have already a TTAB widget?

MR. ADAMS: No. What would you like to see in that?

MR. HUDIS: Oh, boy. We don't have enough time.

(Laughter)

MR. ADAMS: But, please, we've all been selecting feedback.

MR. DOLAS: Jonathan, I can add to that a little bit. Judge Rogers and I have been talking about getting TTAB folks involved in the My Console project, and I also had that same conversation with the leader on that side, on the My Console side, and either next month or so in next few months we expect to hold discussions with Judge Rogers and his team to make sure that their requirements are understood and we can start developing some alpha widgets. We're just starting alpha phase for TTAB based on their needs.

MR. HUDIS: Thank you very much.

MS. WELDON-WILSON: Are there any other questions?

MR. LOCKHART: Just a question for Raj, and forgive me if you mentioned this in your introduction, but when do you expect to deploy this so that users can begin using it?

MR. DOLAS: The My Console is already in production. You can access My Console using My.USPTO.gov website, and many of those widgets that you saw today are either in alpha development mode or in beta development mode. So, to firm them up is really dependent on feedback that we get from users, such as what Mr. Hudis just gave us. We want to make sure that the widgets are serving the needs of our external customers.

MS. WELDON-WILSON: Deb Hampton has a question for us.

MS. HAMPTON: Good morning, Raj. My comment or comment would be: Could we also have an Assignments widget?

MR. DOLAS: Absolutely. (Laughter)

MS. WELDON-WILSON: Are there any other questions? Just one moment. Yes, certainly. Mary Denison.

MS. BONEY-DENISON: Yes, I would just like to commend Arva and Ramesh and the whole CIO team on this project. We are really pleased with this, and I think it's going to be a great thing for our users and, as you just heard, we're open to anything you want to put up there. You know, we'll see if we can technologically do it. So, please start using this, and please start giving us feedback, because the more feedback we receive the better the product will end up being for you.

MR. LOCKHART: And, Mary, what's the best way for members of the public to provide feedback?

MS. BONEY-DENISON: There's a Feedback tab. If you look up on the bar up top -- I know it's hard to read, but across the blue stripe, the third from the right is Feedback, and I think that's a preferred way. Right, Arva?

MR. ADAMS: Yeah, I'm zooming in here. There we go. Top right, Feedback (inaudible). Yeah, that goes straight to Idea Scale, which I think you all are familiar with, and then you can drop your feedback off, and then we'll comment right away.

MS. WELDON-WILSON: Are there any other questions or comments? If not, I'd like to add TPAC's thanks to Arva and Ramesh and also to Raj for demonstrating this to us today. I think this look like it could be a very helpful tool. So, appreciate your time today. We really do.

We are very fortunate to have the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Michelle Lee, with us today, and she was going to make a few comments to us. Thank you.

MS. LEE: Thank you Dee Ann, and good morning, everyone -- it's still morning, I think, or before noon -- including those of you who are watching remotely. It's been a while since my last appearance before this committee, so I'm thrilled to be here and to see you all again. It's a nice way to end what has been a rather busy week for me, including not one but two events on Capitol Hill that I'd like to mention briefly.

The first was my appearance, Tuesday, before the House Judiciary's Subcommittee on Courts, Intellectual Property, and the Internet;

and I always appreciate the opportunity to talk about the important work that we're doing here at the USPTO.

There was yet another opportunity to share with members of Congress the important work and progress we're making in our mission to incentivize innovation through intellectual property, and I think many of you, a couple of you, were there with me at this event.

The other event on Capitol Hill was with Commissioner Denison with Senators Coons and Grassley and Representative DelBene to commemorate the 70th Anniversary of the Lanham Act, and a number of the TPAC members were there.

As I said in my remarks at the event, the advantages enshrined in federal trademark law because of the Lanham Act are critical to competing and thriving in today's global economy. And the numbers bear that out. Some of you may recall the 2012 Industries in Focus report the USPTO coauthored with the Commerce Department colleagues at the Economics and Statistics Administration, ESA. Well, we have a new one coming out very soon that builds on that report

by taking a look at the economy four years later in 2014. While I don't want to spoil the report's findings before it's published, I will show that of the industries we identified as IP intensive, trademark-intensive industries, once again, were the largest in number and contributed the most employment with more than 23 million jobs in 2014. Those are huge numbers, and the Lanham Act played a role in making them possible.

But, of course, every one of those trademarks was also examined by an employee at this agency, and those employees face a challenging task. Each has a responsibility to faithfully apply the statute in an ever-changing legal environment to ensure that the proposed brand is deserving of the full protection of the United States of America.

Under Commissioner Denison's capable leadership, those employees have done an outstanding job keeping pendency down and quality up in spite of annual increases in filings. They've also maintained an active outreach program to small businesses and entrepreneurs around the country through speaking engagements

and a variety of instructional videos through live video sessions at our regional offices in Dallas, Denver, Detroit, and the Silicon Valley and the nationally famous Trademark Expo, which I personally look forward to each year.

That's just around the corner and will be hosted for the first time in a long time at the Mellon auditorium in downtown D.C. The Expo is always a great opportunity to highlight the importance of the value of trademarks with exhibitors from a variety of industries there to showcase their iconic brands. I'm very excited about this year's Trademark Expo, and so is my six-year-old daughter. She think it's the best thing about my job. I hope you can all make it.

And, finally, let me express how grateful I am that the members of this committee -- for all that you do and all of your work. We ask a lot of you, and time and time again you always come through. So, thank you very much. You've assisted us with our new fee package. That's on track to be implemented early next calendar year. You held a hearing for us last November, on rather short notice; provided

a report on the fee package; and gave us comments on our proposals. You have also been extremely helpful with our efforts to ensure the integrity of the Federal Register. I'm referring to what many call the deadwood issue where numerous registrations contained identification for goods and services that are really not being used. And your guidance on this issue has led us to the proposals Mary mentioned earlier today.

Having previously served two terms on our Patent Public Advisory Committee, I know how difficult it is to judge the demands of the committee along with your very full-time practices and of course personal commitments. So, for everything that you've done I say thank you. I appreciate it, and everyone at our agency appreciates it, and Secretary Pritzker appreciates it. We couldn't do it without you, so thank you so much.

MS. WELDON-WILSON: Thank you very much for your comments. That's very inspiring today to hear the summary of so many things that are going on and the outreach and the support that we're getting. We here at TPAC would

particularly like to express our appreciation for your guidance, leadership, and support of a thoughtful and balanced rollout of TMNG. This will help us to balance the need for new systems while addressing user concerns about quality and pendency, which of course is excellent at this point. But we appreciate your guidance through this difficult time in balancing all of our priorities. So, thank you, Director Lee.

MS. LEE: If I may, Dee Ann, one more item that I neglected to mention. I do know that it's the final meeting for three of the members on TPAC, and they are Anne Chaser, Deborah Hampton, and Bill Barber. So, at this time -- okay, I think Commissioner Denison and I would like to have the privilege to present you with certificates for your outstanding service and dedication to TPAC. Again, thank you again for what three of you have done and to all the TPAC members. So, with that let's take a moment and thank the three outgoing TPAC members.

(Applause)

MS. WELDON-WILSON: We certainly appreciate the service of these three

individuals, and we're going to miss each and every one of you. So, I thank you for all of your dedication and hard work.

MS. BONEY-DENISON: I just want to add that we're very grateful to you for your public service. So, thank you. You've contributed a lot, and we'll miss you.

MS. WELDON-WILSON: Well, thank you very much, and now we're going to up the meeting for any public comments. Does anyone from the public have any comments? Or does anyone from TPAC have other comments that they wanted to make?

MR. FRIEDMAN: I do.

MS. WELDON-WILSON: Howard, go right ahead.

MR. FRIEDMAN: You know, I just -- thank you, Director Lee, for coming. It's very much appreciated. I wanted to take the opportunity, particularly with TPAC here and you here, to add that Trademarks, including the stewardship of Mary Denison and the TTAB and our attorneys who are both here, have done an extraordinary job of meeting our goals and providing top-notch customer service to our

customers, including the TPAC members. And whether it's Patent or Trademark employees, we just aren't paid on our digital footprint. We're also paid to think, which doesn't always equate to how much people are using the computer. And many of our attorneys and employees and bargaining unit and non-bargaining unit employees, including managers, also work a lot of unpaid overtime, which seems to always be ignored by any reviewers on the outside or anybody who writes about the reviewers on the outside. I would also add that the (inaudible) work very closely with Director Lee and the Office to try to address any issues that are raised by any of the outside reviewers whether by the inspector general or NAPA, the National Academy Public Administration, even though none of those reports directly touch Trademarks.

And, finally, it wasn't really long ago that this agency was rated poorly in the best places to work (inaudible) or, in the past, worst places to work. And while there are a number of factors that have turned that rating around beginning a few years ago, one of the primary

drivers was improved labor relations and employee engagement, and we look forward to continuing along that path. Thank you.

MS. WELDON-WILSON: Are there any other questions or comments on anything we've discussed today? And if not, we will adjourn until our next meeting on January 13, 2017. Everyone, have a lovely year. Thank you.

(Whereupon, at 11:33 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
Virginia**

My Commission Expires: August 31, 2017

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