

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Tuesday, October 31, 2017





PARTICIPANTS:

**USPTO:**

JOSEPH MATAL, Undersecretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office

MARY BONEY DENISON, Commissioner for  
Trademarks

DEE ANN WELDON-WILSON, Chair, TPAC

WILLIAM G. BARBER, Vice Chair, TPAC

MARK KRIEGER, Acting Deputy CFO

GERARD ROGERS, Chief Administrative  
Trademark  
Judge

DANA COLARULLI, Director, Office of  
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SHIRA PERLMUTTER, Chief

ROBERT HARRIS, OCIO

PAMELA ISOM, OCIO

RAMESH PAI, OCIO

MEGAN ARTHUR, OCIO

HEATHER HOGUE, OCIO

**Union Members:**

HOWARD FRIEDMAN, NTEU 245

**TPAC Members:**

TIMOTHY J. LOCKHART



PARTICIPANTS (CONT'D) :

JODY DRAKE

MEI-LAN STARK

JONATHAN HUDIS

\* \* \* \* \*



P R O C E E D I N G S

(9:00 a.m.)

CHAIRPERSON WELDON-WILSON: Hello.

Would everyone take their place, and we'll get started today.

I'm Dee Ann Weldon-Wilson, and I want to welcome you to the TPAC meeting today. Those of you sitting at home may notice on the slide it shows October 30th, and it's actually Halloween. I think we were just trying to obscure that fact from you. So, it's actually the 31st. You are in the right place at the right time. We are glad you're here today.

I'd like to take just a very quick minute to introduce you to some of our TPAC members:

We have Bill Barber here. He's a founding member of the firm of Pirkey Barber, and he is also past president of AIPLA.

And next to him we have Jonathan Hudis, who's a partner at Quarles Brady. He prosecutes and litigates trademark matters before many different courts as well as the TTAB.

And next to him we have Ilene Tannen.



She is of counsel at Jones Day, and her practice focuses primarily on trademarks, copyrights, and unfair competition.

Other TPAC members include Jody Drake, and this is the last meeting of her second term. It is also the last meeting for Jonathan Hudis' first term as well. Jody is a partner at Sughrue Mion, and she concentrates on U.S. and international trademark law.

And Mei-lan Stark, who is now at NBC, and she is the intellectual property counsel there, and she is a past president of INTA.

There are so many accolades. I'm not going to tell everybody's accolades; I'll just throw in one here and there.

Howard Friedman, who is a union representative with -- I don't want to get your number wrong, Howard -- it's NTEU 245.

And Tim Lockhart, who is a partner at Willcox Savage, and he is a board member of the IP section of the Virginia State Bar as well.

So, we're delighted to be here today. Our other members that are not here are sorry they were not able to make it. A couple of them are

traveling to other IP activities today.

We are extremely pleased to have opening remarks today from Joe Matal. Would you mind, please, welcoming him? He is performing the nonexclusive duties and functions of USPTO director.

And we very honored that you came today.

MR. MATAL: Thank you, Dee Ann. And good morning, everyone. It's great to see you all again.

As usual, they have a very impressive lineup of speakers for you, so it should be a productive morning.

I'd like to start just by congratulating Trademarks on meeting all of its goals again this year. I think this is the 12th consecutive year in a row. So, great job, Mary and your team.

Also wanted to mention in passing that recently the international team and I attended the WIPO General Assembly. Had a good, productive meeting with the EUIPO. Discussed a whole range of issues.

We're still fighting efforts to spread

this Lisbon Treaty and this idea of geographical indications. To be parmesan cheese it doesn't have to come from Parma. We all know what parmesan cheese is, and that term has become generic.

Just one little update. People have been asking where we are in the Shared Services Initiative. That's still up in the air. We've had discussions with the Commerce Department. We're not sure. The Secretary is just considering the matter, taking in information. We've presented our case on the issue.

I've had a number of you folks from industry come to me over the last couple of months and describe your own companies' experience with similar initiatives, and we've also heard from the Canadian, European, and Australian IP offices, which have dealt with the same scheme. And apparently it's, you know, quite the trend to try to collectivize administrative services. And the reports we've heard from those three other IP offices I mentioned -- UK, Australia, and Canada -- were quite negative. They said it hadn't quite worked out for them. And I heard the

same thing from a number of companies that it seems like it's this management consulting fad that's all the rage in both government and business.

But it often just doesn't work out in practice and, you know, we think we do a really good job of providing services to our bureaus -- hiring and IT -- and, you know, we'd hate to see the quality of those services decline. Hopefully we can learn from business's experience and from other IP offices and learn from other people's mistakes and continue to provide the high-quality services that we now provide internally. But this is just a matter that still remains to be resolved.

An update on the patent fee package. Folks have also asked about that. That's currently at OMB and has hit a few snags over technical issues, but we expect to be able to resolve that internally.

And then, finally, I was talking to Tim Lockhart earlier, and he said one of the issues that's the greatest interest to you all is TMNG. No, we're not there yet.

Still working on it, right, Larry?

It's proven to be just a lot more technically complex and demanding than we'd ever anticipated. You know, this would have been a lot easier if we had nothing in the first place and were just starting from scratch. But the challenge of not only building a new system but linking it up the old system and synchronizing them has proven an incredible technical challenge. The CIO even took me on a tour of the computer facilities and showed me TRAM -- you know, the Trademarks databasing system. It looks like this innocent little thing, but it's the one system that we have that's apparently still programmed in COBOL and ALGOL, and it's getting increasingly difficult just to find parts to keep the system operating. And, again, synchronizing it with the new system for the transition has proven to be an immense technical challenge.

In other IT news, some of you may have heard our CIO recently resigned and is moving on, and as part of that transition and finding a new CIO we'll probably revisit some of these issues of, you know, how we manage these IT

modernizations and what can we do better to make this go more smoothly. It's been frustrating for everyone. Huge delays. Huge cost overruns. And we really need to take a hard look internally as to how we can do this better.

Interestingly, we had a visit just last week from Andrei Iancu, the President's nominee for the permanent director position. He met with the CIO and seemed very interested in IT issues, so I think the incoming leadership is going to have a real focus on IT and what we're doing and, again, with the change at the top of OCIO and our recent experiences with TMNG, the time really is ripe to take a second hard look at these issues.

And just to be clear, the incoming director -- his name is pronounced Andrei Iancu. It's almost as if that initial I were a Y, so want to get him off on the correct pronunciation with everyone. Seems like a really impressive guy. We're looking forward to his upcoming hearing. Unfortunately, unlike other commerce bureaus, we go through the Judiciary Committee where you're competing for hearing space with judges. So, that seems to delayed his getting a hearing. But

that will happen sometime shortly, and we look forward to having him here at PTO.

And with that, I'll wrap up and hand it back to you, Dee Ann.

CHAIRPERSON WELDON-WILSON: Thank you so much. We appreciate you coming today and appreciate your comments and a little peek at some of the things that may be important that are ongoing. We appreciate that very much.

Well, then, let's move on to our policy and international update.

We have Shira Perlmutter with us today. She is the Chief Policy Officer and Director for International Affairs, and we're all eager to see what part of the world we're going to today.

MS. PERLMUTTER: Thank you, Dee Ann. Is this working? There we go. Well, for something a little bit different, instead of continuing the tour through the world we thought we would focus on something very timely and immediate right now, which is the proposed Hague Convention for the Recognition and Enforcement of Foreign Judgments. And I think most of you are generally familiar with the issue, but I wanted

to bring you up to date on where we are and what some of our concerns are.

As you know, the draft convention would require recognition and enforcement of a judgement issued in one country's court and all the other countries that are members that sign up. Now, it was of course developed as a general set of rules for civil and commercial matters without specific regard to the particulars of intellectual property, and unfortunately those who drafted it didn't really understand how specific and particular intellectual property is. So, the question we've been looking at is whether intellectual property judgments should or should not be included and, in particular, how do the potential benefits from the convention compare to the risks that it poses?

Now, INTA recently issued a board resolution -- and I see Debbie's here -- in support of including both registered and unregistered trademarks in the scope of the convention and made the point that cross-border enforcement would allow brand owners to follow the infringer to a place of business or location



of assets and enforce compliance with injunctions. So, we can certainly see the benefit from that.

But let me make the point that INTA at this point is the only IP stakeholder in the United States that has supported including IP in the convention. And all the rest that we've heard from in our request for public comments in the letters that have been sent -- and that includes AIPLA -- have opposed including IP and some of them quite strongly, especially the patent community.

Now, we are part of the U.S. delegation to the Hague, and the delegation is led by the State Department. And the reason this is so urgent right now is that we are about to participate in two weeks in the last substantive negotiating session before the convention moves to a diplomatic conference that's expected to take place toward the end of next year.

Now, we certainly can see that the draft convention presents some opportunities for trademark owners along the lines of what INTA has pointed out, but we also see that it presents

significant risks. Now, I would encapsulate this as just saying: Look, the fundamental problem is that there's a lack of harmonization of IP rights which are territorially based and defined. And as a result -- and when you have a world global markets and global competition, that can lead to mischief.

So, let me explain the concerns. In this country our courts would be required to recognize and enforce a judgment of another contracting state whose IP system or enforcement regime may be incompatible with ours and possibly even incompatible with our obligations under TRIPS or Paris. So, that could mean that we have to enforce here a judgment resulting from a foreign adjudication of trademark rights that may not even be seen as legitimate under U.S. law.

And internationally our IP goals could be undermined in global markets if a foreign judgment that's incompatible with our laws is carried over to a third jurisdiction where it's recognized and enforced. In a way, it allows for sort of a viral spread of different approaches than the approach that we take here in the United

States.

Now, the Foreign Court might even end up being convinced that the flawed judgment and its underlying rationale provide an appropriate basis for interpreting its own domestic policies and international obligations. So, again, it could begin deciding domestic cases according to the other country's approach.

Now, of course that could happen today. But the convention would exacerbate and speed up that type of problem. And when I think about it, my major concern is that at the end of the day the convention could be used as an anti-competitive weapon against businesses that are competing in global markets. So, a foreign company could choose a jurisdiction where the law is favorable to its interests; obtain a judgment; and then enforcement it against a trademark owner in the United States that would cause harm to its bottom line or to its market share. Even if it's just a financial judgment, it would hurt it financially. So, you can imagine the damage that could be done, for example, by bad faith filers in countries where that type of conduct may be

tolerated.

So, given these concerns, the U.S. government and most of our IP stakeholders have not been convinced that the draft convention is a solution to the challenges that U.S. Companies face when they're engaged in global IP enforcement. So, our position has been as a government, so far, that we'd like to see IP excluded from the convention, especially as it moves forward on this short timeline to a diplomatic conference next year.

What we've tried to do in the meetings is to explain to other countries the complexities that are involved in applying this to IP, because these are not IP experts that are, by and large, in the room. And we've also urged other governments to consult with their IP stakeholders -- their own IP stakeholders.

Now, you know, after all, the United States tends to believe more strongly than other countries in the importance of consultation with stakeholders, but in particular, in this case, this is a treaty that's intended to help private litigants. So, the views of private litigants

should be extremely important in any country's determination of their position.

So, let me just end, because I don't have much time, by just noting two particular problems that we're worried about, and one is risks for those businesses that are using generic terms that conflict with EU GIs, and the other is risks for Internet companies in facing global injunctions.

In terms of GIs, you know, of course while there is relatively good international harmonization with respect to traditional trademarks, that is certainly not the case for treatment of GIs. Yet, the European Union is proposing to include in the convention all IP that's required to be registered -- so, definitely including GIs.

Now, as you can imagine, if judgments in GI cases are carried across borders, it will be problematic for U.S. dairy and meat and wine producers against whom they're enforced. And that could be true whether we're talking injunctions or just damages. It would also be problematic more generally because the overbroad

protection of GIs in the E.U. and in some of their trading partners would spread to other countries and influence their courts and legislatures.

In terms of injunctions, the current draft would require recognition and enforcement of injunctive relief as well as judgments for monetary damages -- although not statutory or punitive damages, just actual damages.

We are concerned about the potential this has to encourage global overbroad injunctions. That's already a concern today in some recent cases, but the convention would exacerbate it. A court normally wouldn't issue an injunction if it couldn't enforce it through a contempt order against a defendant found elsewhere. But if the defendant could be reached by virtue of recognition enforcement pursuant to the convention's obligations, that would change the calculus. So, you could end up with more overbroad global injunctions that can be carried across borders to reach online operations in countries that may have extremely different laws and legal systems and where the same conduct wouldn't have led to liability.

So, I would just end by saying it seems likely that if it is brought into force, the convention would result in companies looking to preemptively litigate in the jurisdictions that have IP regimes best suited to their interests and then take advantage of the convention's rules to obligate courts in other countries to recognize and enforce the judgments that are issued, to the detriment of their competitors.

So, think about this, but we are worried about the gamesmanship and forum shopping that would result. So, the U.S. is requesting a carve-out of IP at this point, and we will continue to do that at the November meeting in two weeks. Happy to answer any questions that people may have.

CHAIRPERSON WELDON-WILSON: I believe Jonathan Hudis had a question.

MR. HUDIS: Shira, thank you for that presentation. My question is one of timing. Supposing at the negotiations in two weeks the U.S. government is unsuccessful in getting the carve-out. I believe you said that the diplomatic conference would be at the end of 2018.

What is the earliest that the Hague convention would be put into force?

MS. PERLMUTTER: If there were a successful negotiation at the end of 2018, normally -- and you'll have to forgive me, because I'm less of an expert in the procedural rules at the Hague Conference than I am at WIPO -- normally it would take at least a year, a couple of years, to get enough countries to implement before it actually is brought into force. So there would be some time. And I should say while this is the last formal negotiating session, there are likely to be informal stocktaking or discussion sessions between now and the diplomatic conference. So, it's not as if nothing will -- that everything will be set in stone after this session.

It's also my understanding from talking to the State Department leads that in the Hague as well as at WIPO it's a consensus-based organization normally, and in theory the U.S. Could block going forward. But that's not the way the conference has normally worked, that countries don't block, that rather there's an attempt to achieve consensus and to avoid having



to be isolated and blocked. But I think it is a possibility.

MR. HUDIS: If the Hague convention did go into force, for the United States to be subject to it, because it is a Convention, would the United States Congress have to ratify it?

MS. PERLMUTTER: Yes.

CHAIRPERSON WELDON-WILSON: Thank you. And Mei-lan Stark has a question as well.

MS. STARK: Shira, thank you. That was so informative and articulate.

I have two questions. One is whether the public comment period is still open for the U.S. government to be receiving public comment and when that might close. And, secondly, if you have an idea -- I know the European position is in favor, but I'm wondering if we have a sense of other countries and countries that, you know, are sort of the major IP countries and where they might stand on this.

MS. PERLMUTTER: Our comment -- our formal comment period was months ago, so it is over, but we are still taking anyone's submissions as is the Hague Conference itself. I

know that INTA and AIPLA have submitted comments directly to them. There is also an opportunity to get accredited to be present as a nongovernmental actor at the conference, and there are some organizations that are doing that as well. But certainly any letters or comments you want to submit to us, to the State Department, to the Hague Conference would be greatly appreciated.

In terms of other countries, the E.U. seems to be the strongest demander for this, for including IP, and it was primarily European academics who drafted the language that would have included IP. Other countries I think are listening to some of our concerns, and so one question is whether there might be some proposals to find some middle ground -- for example, excluding all injunctions -- and limiting the application to IP to just judgments based on acts in the country that grants the IP so that you're not exporting your IP system, and the argument would be then you're just exporting the actual judgment that's -- amount of damages that have been reduced to judgement. So, it's like a debt.

So, that would be, I think, what we will find in other countries saying that that would be a compromise, which we will have to deal with.

And as to more specifics of particular countries, I can get you that if you're interested.

CHAIRPERSON WELDON-WILSON: Are there any other questions for Shira?

Thank you very much for coming. We appreciate all the information and the update. Thank you.

Well, let's move on to our legislative and governmental affairs update. Dana Colarulli is here with us today. He's the Director of the Office of Governmental Affairs.

And we look forward to your always entertaining and educational update.

MR. COLARULLI: Well, unfortunately I'm not in costume today, but Happy Halloween. And I have a brief update but hopefully it'll be entertaining, so thank you and good morning, everyone.

So, this is kind of a brief update. IP issues generally, not limited to trademark

issues, continue to not be the hot button question that Congress is looking at, but there certainly is some activity, and we've both been monitoring some legislation and had some opportunities to engage on some issues that both Joe and Shira have raised already with you today.

Top of the list certainly is supporting and trying to help facilitate the confirmation of the next director. As Joe mentioned, he was in town. I thought I'd just focus on kind of process -- certainly a nominee by the President will engage with the committee that's going to vote on him and do some courtesy meetings, and we understand the nominee's been doing that.

There's a hearing in front of the Senate Judiciary Committee -- members have an opportunity to ask questions -- followed by a committee vote generally a somewhat short time after that committee hearing and then a full vote by the Senate. So, that process is in its way. We hope by the end of the year to make a little bit more progress there, but the committee is working towards confirming the head of the agency, and I think it's fair to say, in talking

to staff, they understand the importance of having a head at the agency for the system stability. So, we're happy to see that moving forward in trying to support staff as they have questions.

Just to give you some context, certainly we're operating right now under continued resolution. Discussions in the Congress continue on questions of tax reform, of finalizing some appropriations for the remainder of the fiscal year.

I mention AFTA up there as well. Right now not an issue for Congress, but they're certainly paying a lot of attention, and whatever action is finally adopted would require some congressional ratification and potentially implementation of legislation.

I didn't mention up there but also expect over the next three months DACA and immigration issues to continue to be kind of in the forefront of members' minds.

So, I think that's where the mindset of most members is right now on the issues that they'll be focused on. But, as I said, there are

still some opportunities for us to do some education.

Both Joe and Shira mentioned the Lisbon Treaty and activities at WIPO continuing. Congress is very interested in this issue. Both members of the House and of the Senate sent two letters -- one before, one after the Lisbon Treaty was adopted by WIPO. We had an opportunity to brief the Senate and somehow staff along with industry on the impact of the Lisbon Treaty about geographic indications overall. Another kind of in a series of us trying to get up there and at least facilitate the conversation, inform the conversation, make staff aware of the concerns that we're seeing and the impact on the IP system.

We also participated in a relaunch of the Congressional Trademark Caucus with INTA.

And, Mary, I know you get up there as well to, again, highlight the importance of trademarks, talk about counterfeiting issues as well.

Generally, we've been trying to support the activities of the Congressional Caucus, and members have generally been very interested in

understanding what's happening in the trademark system. So, anything we can do there we're continuing to support.

And then last category: Legislation. Now, the main piece of legislation we've been following and encouraging is a short-term extension of some of our telework authority -- otherwise, the TEAPP authority -- for a three-year period. It does look like, at this point, the House Oversight and Government Reform Committee -- this is the committee, as you remember, that provided considerable oversight over PTO on time and attendance issues in recent years -- generally satisfied that we're managing our workforce and addressing the issues raised by the report, is moving forward on legislation to extend TEAPP authority for an addition three years. We expect that bill to be introduced as soon as today, marked up in the committee -- the House Oversight and Government Reform Committee -- on Thursday and hopefully quickly be passed by the House and over to the Senate.

Now, it's a very quick schedule. The

authority expires on the 8th. We hope the Congress will move with due speed, and we're trying to help encourage that meeting with folks in the Senate and the House to talk about the importance of telework for PTO and the benefit of this short-term extension. So, I'm more hopeful on this issue than I'd been in the past, but it has yet to be seen whether it will move forward.

There certainly have been other bills that we've been monitoring but nothing else that's really moving at this point, but I'm happy to answer any questions that folks have on Congress.

CHAIRPERSON WELDON-WILSON: Do any TPAC members have any questions at this point?

Mei-lan Stark.

MS. STARK: Hi, Dana.

MR. COLARULLI: Hi.

MS. STARK: Thanks for all that. So, I understand that the fee-setting authority for the Office expires next year, and so I was wondering what you anticipate seeing happen with that.

MR. COLARULLI: Absolutely. Thanks



for that question.

So, the America Invents Act set a sunset on fee- setting authority for the Office. We're now engaged in two fee-setting processes, as Joe mentioned, on the patent side. We're still waiting for the patent package to move forward. It does expire on the anniversary of the America Invents Act, September 16, 2018. It's an issue we've raised to build our House, and their Senate Judiciary are authorizing folks. So, we're hopeful that they'll move forward, but they will have to in some positive legislation either make fee-setting authority permanent or further extend it, so we're encouraging them to take up the issue sooner rather than later. Provides a level of stability for our operations, although there's nothing like a deadline to get Congress to move. So, we'll continue to try to get their attention sooner or later at the beginning of next year.

CHAIRPERSON WELDON-WILSON: Are there any other questions?

Thank you once again.

MR. COLARULLI: Absolutely. Happy

Halloween.

CHAIRPERSON WELDON-WILSON: Happy Halloween to you as well.

We'll move on to our operational news and updates. Mary Denison, who is the Commissioner for Trademarks, will be -- oh, am I in the wrong --

COMMISSIONER DENISON: No, I'm looking for the clicker.

CHAIRPERSON WELDON-WILSON: Mary Denison, our Commissioner for Trademarks, will be giving us an update.

COMMISSIONER DENISON: Thank you, Dee Ann, and Happy Halloween, everybody.

I wanted to start off by recognizing the service of the three people whose terms are coming to an end, and so I wanted to call Jody and Tim and Jonathan up here to get a certificate from us. And I want to say thank you for your service.

Jody took my spot on TPAC. That's how long I've been at the office. It's so hard to believe, but, yeah, she's done great work for us. And Tim was on TPAC with me, eventually, in a non-consecutive term and, you know, he's done a

great job on IT. And Jonathan has joined us more recently, but we've been very grateful to you for your hard work, particularly on the TTAB. So, I'm just going to present you with these certificates.

(Applause)

MR. HUDIS: Thank you very much.

MR. LOCKHART: Thank you very much.

MS. DRAKE: Thank you.

COMMISSIONER DENISON: Thank you so much. We really appreciate their service and also everyone on TPAC, because I know that everybody who's on TPAC is extremely busy with their other life.

And so we appreciate your contributions to making the PTO a better place. Thank you.

So, let me get going. As you can see, we have hired more people this year.

We're almost 550 examining attorneys now, and we are planning to hire more. This slide says 50. We have revised our estimates, and we're now in the 60 to 65 range. So, we have to keep up, and we will be starting interviews next week. We've advertised, and so we will be

bringing in lots of new examining attorneys to keep up with what we think is going to be a continuing increase.

If you take a look at this slide, you'll see that we had 594,000 classes filed this year. That was a 12 percent increase this year. And as you can see from the slide, we're expecting it to continue to keep going up. So, it's pretty impressive, the amount that we've increased this year.

Now, with regard to performance, even though we had this 12 percent increase due to the hard work of our employees, we still met our goals, and that's very impressive to me. We're supposed to be between 2 1/2 and 3 1/2 months for first action pendency, and we're end of the year at 2.7 months. So, I am really, really proud of all the hard work that our employees did to make this happen, particularly since we did not anticipate 12 percent. We had been anticipating more like 7 percent. So, it really was a surprise, and there was a lot of filing at the end of the year. So, our employees have done a great job to meet these goals.

And of course we don't just care about the numbers process. We care about getting it right, and as you can see from the chart we have really knocked it out of the ballpark, and we're doing great on quality as well as the numbers that we're processing. And as someone said earlier, our 12th year in a row for meeting all of our goals.

So, one of the most --

MR. HUDIS: Commissioner, if I could stop you there.

COMMISSIONER DENISON: Mm-hmm.

MR. HUDIS: This really does merit some callout here. If you go back two slides where you show --

COMMISSIONER DENISON: Which one?

MR. HUDIS: -- the anticipated increase in filings.

COMMISSIONER DENISON: Mm-hmm.

MR. HUDIS: You are keeping within your goal of first action pendency to between 2 1/2 and 3 1/2 months, excluding suspended inter partes proceedings?

COMMISSIONER DENISON: Yes.

MR. HUDIS: Yet, disposal pendency was reduced from 12 months to 9 1/2 months. That is nothing short of spectacular. And then if you go to the next slide, concomitant with all of those benchmarks your quality seems to be going up. So, that really does merit a special callout. So, as a member of TPAC I think you really should pat yourself on the back, your whole team.

COMMISSIONER DENISON: Thank you very much, Jonathan.

All right, e-government. So, some years back we set a goal -- I think it was before I got here, probably under Debbie's leadership -- of moving to filing their applications electronically. And once we got up in the high 90s, we shifted that goal to making people -- making a goal of having people go through the whole process electronically, not just file the application electronically. And so right now we are doing really well in terms of the applications. We're at 99.9 percent.

Let me flip to a slide. Look at the numbers. Those are monthly numbers of paper applications. This is not the process. This is

just the applications. So, we have really been getting very few paper applications each month. In fact, we had two weeks this year where we got zero paper applications. And that was the first time ever. So, that was kind of exciting.

But in terms of the process itself, what we have been trying to do is bring people along slowly. And so what we did in 2015 was we reduced the fee for TEAS Plus, which is the most efficient form of application, and we introduced TEAS's reduced fee and that was our encouragement for people to go fully electronic. We then followed that by a change in fiscal year '17 where we said you've got to pay extra if you want to file on paper. And so you can see from this chart up there where we have been going.

So, we're going in the right direction. Right now if you file on paper -- say you file a paper application, you pay \$600 for a class, you are still being subsidized by the electronic filers, and we don't really think that's fair. So, we have talked to all the bar groups, and we have decided to make it mandatory to go fully electronic. The Trademark Trial and Appeal

Board has led the way in that, and they have implemented it.

There will of course be certain exceptions when we will accept paper: If there's a hurricane or the Office has an outage for example.

So, you should expect to hear from us in the next few months with a Notice of Proposed Rulemaking on making it mandatory to file all your documents electronically.

One thing that people need to know: If anyone was planning to rush to the Office with bags of cash to pay for applications, you'll no longer be able to do that as of tomorrow. We're getting just a very small amount of money. I think Karen told me it was \$13,000 last year, and it cost us more to set up the process to accept cash than we were taking in. So, we will no longer be taking cash.

Of course there are many other ways to pay. You can pay by electronic funds transfer, deposit account, credit card, checks -- so, there are lots of other ways to pay. But we will not be taking cash anymore. So, I just wanted to make



sure that people were aware of that.

Now, in a few minutes you're going to see a demonstration of my.uspto.gov. We are very excited about this. I'm not going to say too much, because I'll leave it to our IT people to give you a further demo. But I would encourage you to use it and test it. We have about 2500 users right now on my.uspto.gov and I think we're adding about 50 a week. But I would encourage everybody to please try it out. It gives you the opportunity to put your docket online. This was originally envisioned as a system for pro ses who didn't have a docket, but we're finding very few pro ses are using it and instead lawyers are using it as backup docket systems, which is interesting to us. We also hope that the pro ses will eventually adopt it, and were working on a plan for that.

But right now you can put up to a thousand applications and registrations in one collection, which is just a group, and then you will get an email notification when there's a status change on any of those files.

In addition, you can store your

Official Gazette search -- lot of lawyers do weekly Official Gazette searches -- and the system will send you an email notification when there are new hits on your safe search. So, we think that will be of tremendous use to people.

In terms of what's coming, we have what I refer to as the USPTO equivalent of a 1040EZ form. We are working on a simplified application. It would be for standard character wordmarks that were filed on an intent-to-use basis. And so that will be coming later this year.

And we're also working on a form finder since people have been giving us feedback that they are having trouble finding forms on the website.

So, those are some of the things that are going to be coming with regard to my.uspto.gov.

There's a one-time setup, and you just register once, and then you can sign in and you can access all USPTO systems. And what we really want is once you get on, we want you to sign up, and then we want you to give us feedback, because

this is in beta form, and now is your chance to fix whatever you think needs to be fixed. And it's much easier for us if we do it in this beta phase. So, please, please -- we've been listening to feedback; we've been changing things; we increased the number of applications that could be put together in one group -- but please, please, take a look and ask your paralegals and associates to take a look and give us feedback.

MR. HUDIS: Mary, could you say a word or two about the form finder?

COMMISSIONER DENISON: I'm going to leave that to the team when they do the presentation, if that's okay.

MR. HUDIS: Okay.

COMMISSIONER DENISON: I also wanted to mention that we have open source code on Github, and you can receive a push any time there's a -- if you sign up for this, you can get a push any time there's a status change on your trademark application. So, we'd encourage people to use that.

And now also I've been asked questions

about whether we are going to put something in the app store, and the answer is no, we have restrictions that prevent us from doing that. However, I am aware that there is a product called CheckMarks in the app store that you may want to consider using. Of course we can't endorse a product, but I wanted to let you know that that does exist.

Now, with regard to the trademark rules of practice, we have posted an update to the TMEP. We do it twice a year, and the October 2017 update is now out. One thing that we do that we think will be helpful to people is we have a changes index that is up. It's up on the slide, and you can find it quite easily so that you can skim through and see if there's anything that would change that would be of interest to you.

We have also been updating the ID Manual. The ID Manual, as you may recall, is a next-generation system, and you can now download the entire contents of the manual into Excel or HTML or XML, and you can customize the content when downloading it. You should be aware, though, if you download it and then use it

internally to search, we will be updating it again to implement Nice changes January 1st of 2018. So, I just wanted to let you know about that.

And this is a screen shot showing the ID Manual. Already mentioned the fact that we're going mandatory. Proposed rulemaking will be coming out early calendar year 2018.

Now, as you may recall, the Trump administration has a regulatory reform initiative, so we have at the USPTO a working group on regulatory reform. Sharon Marsh and others from Trademarks are participating in that initiative, and our first effort in Trademarks is to -- we propose the removal of interferences. This was Gerry Rogers -- Chief Judge Rogers' idea. Since he told me that --

I think -- was the last time one was granted was 1983, Gerry? Yeah.

CHIEF JUDGE ROGERS: (Nodding)

COMMISSIONER DENISON: So, we didn't think that people would miss that. We thought that was unnecessary and fit the definition of an unnecessary regulation that we could get rid of. So, that has been published in the Federal

Register, and comments are due by November 17. We're not expecting much in the way of reaction to that removal, but if you have thoughts on it please feel free to send us your comments. We welcome them.

MR. HUDIS: Mary, just for the public record, I read that announcement in the Federal Register. There still is a general provision in the Rules for a petition to the director that can be used for declaring an interference that way.

COMMISSIONER DENISON: Gerry?

CHIEF JUDGE ROGERS: Right. If we didn't include that in the NPRM, then it's something that I think we might be able to include in a final rulemaking, because you can normally expand a bit from an NPRM to a final rule to anything within the scope. And certainly a declaration of an interference by the commissioner is a precondition for the institution of an interference at the board, so I think that they're integrally related enough. We'd have to check with OGL and make sure that we wouldn't be exceeding our rulemaking authority in adding that if necessary.

You could also view these provisions as distinct in the sense that what we were carving out were the rules that would govern the conduct of an interference proceeding at the TTAB simply because we haven't had one declared in all of this time, and that wouldn't preclude us from either carving out the petition to declare the interference in the Notice of Final Rulemaking or in some other later rulemaking.

MR. HUDIS: Yes, I asked the question of Mary, because I did notice that in the NPRM that there was a general provision for declaring a trademark interference, I believe it was Rule 2.146. That Rule provides, even though we're taking out the specific rules on trademark interferences, this is still available as a petition, I believe, to the director.

CHIEF JUDGE ROGERS: Yes.

COMMISSIONER DENISON: Okay, we'll take a look at that. Thank you, Jonathan.

I also wanted to mention: As people may have picked up from Dana's conversation, early December is going to be a very interesting time for us, because we have the continuing

resolution that's expiring. We have TEAPP, which is expiring. And we have TPAC terms ending. So, it's going to be an interesting time for us. And just so people understand what TEAPP is, it's the Telework Enhancement Act of 2010, and it allowed employees to waive the right to travel expenses for a reasonable number of mandatory trips to the USPTO. And as Joe mentioned, we are working with Congress, and we are optimistic that we're going to get this extended for a period of three years.

Now, back to exam guides, these ultimately come out as exam guides, and they ultimately end up in the TMEP, so we have had four this year, and I just wanted to bring them to your attention. Not going to go into detail about these, but of course we had to issue one after the decision in *Matal v. Tam* on disparaging marks, and that is limited to disparaging marks because we are still awaiting the decision in *Brunetti*, which is on scandalous marks, and that was argued on August 29th at the Federal Circuit. So, we have that one out.

And we also had one on merely



informational matter. This one clarifies how to handle proposed marks that convey information and are not source significant and therefore fail to function as trademarks.

In addition, we have one on petitions and reinstatement and surnames combined with wording. The surnames was triggered by a number of precedential decisions from the Trademark Trial and Appeal Board that have been issued in the last year or so.

Also wanted to mention "The Slants," which is the mark at question in the Matal v. Tam case. That has been published. There's been no opposition, so we're expecting it to issue some time in November. And the Blackhorse case will be allowed to proceed based on the Tam decision.

Now, we have changed the conversation wording for decluttering of the Federal Register. We used to call it "clearing the deadwood," but we've decided to change the verbiage to match what the rest of the world is talking about, which is "decluttering." So I just wanted to explain that to you.

So, we have been working on three

different ways to attack this problem:

Increasing the readability of the declaration;  
continuing random audits, and expedited  
cancellation proceedings.

So, with regard to the random audit, this was put into the rules earlier this year, and we will be implementing this in the next week or so. We are starting to train right now. So, what will be subject to audit is any single-class registration that has four or more goods in the class. In addition, we'll be looking at random selection of multi-class registrations that have at least two classes with two or more goods. So, that's what's subject to the potential retrieval in the random audit. Then an examining attorney will look at these randomly pulled files and identify any deficiency that's in the affidavit or declaration and will require proof of use for two additional goods or services for each class.

Now, the most important thing you can know if you get one of these is: Please respond. Because if you don't respond and the statutory filing period has expired, your registration will be canceled in the entirety. That's very

important. Don't just ignore it. If your client doesn't want to pay for it, they should be aware that there is a risk that the entire registration will be canceled, even for something that you had proved use on. If there is a timely response that's not filed but the time remains in the statutory filing period, you can file a new maintenance filing. Of course, you're going to have to pay more fees. So, I just wanted to bring that to your attention.

In addition, we've already implemented the declaration changes. We continue to be open if people have suggestions about how to change the declaration, but we are pleased that people are now reading the declaration, which they weren't doing before.

And the third part is the expedited cancellation proceedings. I'm not going to really talk about this. Judge Rogers, I'm assuming, will address this later.

Fraudulent solicitations. I remember when I was on TPAC many years ago, people were complaining about this, and we were not in a position at that time to really do very much about

it. But since then we have taken the bull by the horns and we have become quite active. So, what are we doing to help with this problem?

First of all, there's a general warning in Trademarks. There's a web page and a video for Trademarks. There's also a Patents section that has a warning, and in the filing receipt, in the cover email for Trademark office actions and with each paper registration there is a warning. So, those are the ways that we are trying to get the word out to people who are working with us to warn them.

But, of course, there's another side to that, and that is we're trying to attack this problem from two ends. One is warning people don't fall into this trap, but the other is to catch the people who are doing this. So, we held a roundtable with TPAC July 26. A lot of bar groups were there and other government agencies; we had the Federal Trade Commission, the Department of Justice, the U.S. Postal Inspection Service, Small Business Administration, Customs and Border Patrol. And Joe Matal was kind enough to kick off the event for us, for which we were

grateful to him for doing that.

DOJ has convicted, I believe, five people this year. One guy got eight years, and so we are now working with DOJ to have some USPTO lawyers go over and work with them. The Fraud Section doesn't have the manpower to pursue very many of these cases. They take a long time and a lot of work, so we have candidates over there being considered by the Department of Justice right now. They've had interviews, and I think they're reviewing writing samples right now. So, that process is underway, and we're helpful that we will get some people in DOJ for a year or so to help send a message to the criminals that this is not acceptable.

In addition, the way that the original criminal prosecutions came about was that we participate in an informal interagency working group combatting fraudulent solicitation. So, we have a rep in this group, and through that they met some of the intergovernmental contacts, and so that's been very helpful to us. So, we're trying to use our power as a convening authority, and that was the thinking behind the July 26 event

to attack this problem as well. So, stay tuned.  
We are working very hard on this.

Yes, Jonathan.

MR. HUDIS: Mary, where it says "The USPTO website with a dedicated webpage and video," is there a link that if one of my clients receives a fraudulent solicitation I can email it to the PTO?

COMMISSIONER DENISON: Yes, there is. But we would prefer, actually, that you give the notice to the Federal Trade Commission --

MR. HUDIS: Okay.

COMMISSIONER DENISON: -- because the Federal Trade Commission is tracking these, and if people do not complain to the Federal Trade Commission they don't think it's a problem. So, we are very much interested in people reporting it and that helps the Department of Justice decide who to pursue.

MR. HUDIS: Do you know which office in the FTC, by chance?

COMMISSIONER DENISON: I don't, but is there a link? I think the link is on our website.

MR. HUDIS: Thank you.

COMMISSIONER DENISON: You're welcome. Okay, I'm very interested in enhancing the customer experience at the USPTO, so in the last year we have hired a chief customer experience administrator.

I attended a fabulous event on Thursday and Friday in Tarrytown, New York, put on by the Partnership for Public Service on government customer experience, and I learned that there are only four or five chief customer experience administrators throughout the government so far. So, we're kind of on the cutting edge of this, and I'm excited about that.

And I came back with all sorts of great ideas about how we can do things better for our customers, and you'll be hearing more about that probably at the next meeting. But we did hire a chief customer experience administrator, who is here -- Jill Wolf -- and we also have two plain language writers working on the website, and part of this initiative is the simplified ITU application I mentioned in my.USPTO.gov and the form finder. So, we are very interested in this, and we will be working on it.

International. We have a TM5 meeting coming up. The host this year -- each year it rotates around to one of the five members -- the host this year is the EUIPO, so we will be traveling to Eliconto, Spain, November 30th and December 1st, and we have invited the various U.S. bar groups to participate with us. The next host next year will be the Korean government, so KIPO will be hosting next year. We don't have any dates for those meetings. But the TM5 -- it has Japan, Korea, China, Europe, and the U.S., and we exchange information on trademark-related matters and undertake cooperative activities. We've got quite a few projects going on, and one of the most exciting ones is image searching. So, Deputy Commissioner Greg Dodson will be traveling to Tokyo with Glen Brown, whose title I can't remember but who's a senior leader, in the next couple of weeks to be meeting with the other TM5 technical people to talk about where we are on image searching. So, we're very interested in that.

Uh-oh, what did I do? Here we go.  
Okay, sorry. And see if anybody has come up with



something that we would find to be acceptable. We have checked out different technology in the past and have found it not to be up to our standards. But we're hopeful with all the progress that's being made in artificial intelligence that maybe there'll be something new that we can use.

We continue to work on bad faith, which as one of our TPAC members yesterday told me is the primary problem they see, particularly with China, and we've had a number of seminars on this. The Japanese are in charge of this, but we are a very active member in this project.

We have these icons. The USPTO proposed these, and they have now been adopted by the Chinese, the Europeans, and the Japanese; and the Koreans are in the process of implementing these onto their website. What they are is they're universal symbols. So, if you go into TSDR and you see one of these symbols and it's red, that means that the file is dead; and if it's green, that means that the file is live. If you see a file folder, that means it's an application. If you see a ribbon, that means it's a

registration.

So, we are hoping that these will be adopted not just by the TM5 but by other IP offices around the world. And when I met with the Turkish government a couple months ago, I asked them to consider it, and I think they are considering adopting this as well. So, we're hoping to sort of spread the word and make it easier for people when they go to foreign IP office websites to really understand what the status is without having to fully understand the language. Even if the language is English, sometimes different words are used that may not make it as easily understandable as one would think.

China. We have five different issues going on with China. We have the unauthorized practice of law. We have the huge influx of filings. We have specimen issues, counterfeiting, bad faith filing. And I am running out of time, so I will quickly go through this. But we are very concerned about applications being handled by foreign attorneys. With the exception of Canada, that is not allowed, so we are working with our International

Department and with our General Counsel's office to address this problem.

There's been a dramatic increase on Chinese filings. A lot of seem to be not legitimate. Just take a look at this chart showing the influx of Chinese filings. It is a really dramatic increase and expected to continue to go up.

But one of the things that hits our examining attorneys on a daily basis is specimens, because people are sending in fake specimens. So, they're filing a (inaudible) spaced application and sending in a photograph of, say, some shoes with a tag on them. It looks like a great specimen until you see the same pair of shoes with the same shadow in the photograph 10 times filed by different applicants with different marks. And then you realize, gee, somebody's gaming the system. So, we have an examining attorney on detail full time to try to find these. We are also working on an email box for people to be able to report to us. If they see these, it's going to be called [tm\\_suspicious\\_specimens@uspto.gov](mailto:tm_suspicious_specimens@uspto.gov).

Did I get that right? Yes? Good.  
And of course you can file a letter of protest.  
So, stay tuned. You'll be hearing more about  
this very soon. And of course if you do send in  
a fake specimen, this can cause all sorts of  
problems for your subjective practitioner to  
discipline. It could be a basis for finding  
fraud. We could refuse registration if it's in  
the application process. And, of course, it  
could impact the validity of a registration.

So, that's all I've got. I'm sorry I  
ran over, but I'm happy to take questions.

CHAIRPERSON WELDON-WILSON: Well, we  
certainly don't mind you running over a few  
minutes, because there was a lot of information  
you needed to report.

Do any TPAC members have a question?  
Bill Barber.

MR. BARBER: Yeah, I know we're running  
short of time, but this is a quick question -- or  
two questions -- on the random audit program.

COMMISSIONER DENISON: Mm-hmm?

MR. BARBER: When do you expect to  
start sending out these office actions? And what

percentage of the eligible applications will be randomly audited?

COMMISSIONER DENISON: We are training this week, so I would think as early as next week or so we would start sending out some of these. We are authorized to pull up to 10 percent. Realistically, that is a bit of a stretch goal for us, so we are just sort of feeling our way along. But that's the maximum that we would pull. Thank you.

CHAIRPERSON WELDON-WILSON: Are there any other questions?

Well, thank you very much for your time today. We appreciate you being here and giving us such a positive and active report.

Let's move next to our OCFO update. Mark Krieger, who's the acting Deputy Chief Financial Officer, is able to be with us today. We appreciate that.

MR. KRIEGER: Thank you very much, Dee Ann. Tony sends his regards. He could not be here today. He had a conflict. That's why I'm here today.

MR. HUDIS: Can you make sure your mic

is on?

MR. KRIEGER: Absolutely.

MR. HUDIS: Okay, it's on.

MR. KRIEGER: For the agenda, we're going to talk about '17, a little bit about '18, and just a tidbit for '19 -- we have three budget cycles going at once -- a little bit about fee setting authority and any other topics.

At a high level, the Trademark organization is in a very healthy financial condition. So, that's the good news story. For '17, we ended collections at 305 million. We have some adjustments to revenue, and we had the carryover, which was approximately 106 million going into '17. We had some other income, so the end result is we ended the year with \$120.6 million in operating reserve. That is well above the minimum level and right around the optimal level for '17. For '18 we'll have to increase that, because the requirements adjust.

I'm also pleased to announce that for '17 the fees collected -- we were right there according to plan. Couldn't do much better if we tried. That was .4 percent within the plan.

Also for '16, compared to '17 we're nearly 10 percent above the collections for '16. That's a big number, and that's right around what they're projecting for going in for '18. It's about another 10 percent. Interestingly enough, of that '17 number, 1.2 percent was for the fee increase. That accounted for 1.2 percent of the 9.9.

For '18, we are under a CR, as I think Dana mentioned earlier. We are held at the level that we were for '17 at 3.23 billion plus carryover, which is very important. That gives us the flexibility to spend as we need carrying over. We are still limited, though, by a percentage as of December 8th.

Both the House and the Senate committees are recommending appropriating \$3.5 billion for 2018. That is slightly below our President's budget request of 3.586. We do not anticipate any significant adverse actions from that at all. Our requirements for '18 in the President's budgets were \$3.5 billion as well.

Now, to dig down a little deeper, our estimated collections for 2018 were 3.586. Of

that, Trademarks was \$336 million. The spending requirements are 327 million based on the FY 2018 President's budget. That's going to have to be adjusted as workload and things come up in the future, so with '18 they're going to have to make changes perhaps, depending on workload and what happens. But as of the President's budget, we're looking at adding \$8-9 million to the operating reserve.

For '19, the OMB budget request was submitted on September 11th. The USPTO is working on our 2019 budget request. The TPAC will view a draft in January to give comments and provide any input as they see fit, and a final budget will be submitted on February 5th to Congress.

The only thing else that I wanted to add was the fee-setting authority. I know Dana covered that, but I think it's important to note, because that gives us a lot of flexibility for our fees.

With that, I know it's a short presentation but, like I said, at the high level it's a good news story. With that, are there any



questions?

CHAIRPERSON WELDON-WILSON: Mei-lan Stark has a question.

MS. STARK: It's really less of a question than a comment, so the first thing I would say is I think the TPAC is always very pleased to see what great financial health the organization is in. The part of the reason that I think that is true, being one of the budget committee members, is because the partnership between Karen Strohecker's organization and the CFO's office is a very strong partnership. And as we have seen through some of the other presentations this morning, we are seeing some filing trends that are really changing the landscape of how we can think about fee collection over the whole life of a trademark. And so I really commend Karen in your office -- Mark, you and Tony and others -- for really kind of taking that into account in your models and your forecasting.

I think it really does accentuate, however, the importance about being able to have that fee-setting authority, because as we look at

what may happen in these trends of filings with the Office and where the expenses match up with the fees that are collected on how we gear our operations, I think it's going to be evermore important to have that ability to tailor the fees to match what we're seeing happening in our filings.

CHAIRPERSON WELDON-WILSON: Thank you. Bill Barber?

MR. BARBER: Yeah, I just had a question about the appropriations process. You mentioned that the appropriators are recommending \$3.5 billion, which is less than what you're estimating the collections would be. So, I know you said it won't cause a significant problem for the Office, but it's still \$86 million difference. So, if you collect what you're expecting to collect, \$86 million more than what has been appropriated, what happens to that \$86 million?

MR. KRIEGER: So, that goes in the Patent and Trademarks Fee Reserve Fund, and we have to go through a reprogramming effort to get that moved into the operating reserve. That

would be the only shortcoming of that.

CHAIRPERSON WELDON-WILSON: Are there any other questions?

MR. KRIEGER: Thank you.

CHAIRPERSON WELDON-WILSON: Well, thank you very much for coming today, and you actually have us ending just in time for our break.

And so we'll take a 10-minute break, and if everyone will reconvene at 10:25 we'll keep trying to stay on schedule and get everyone out on time so they can move on with other activities. Thank you so much.

(Recess)

CHAIRPERSON WELDON-WILSON: I'd appreciate it if everyone would make their way to their seats, and we'll start shortly.

(Pause)

CHAIRPERSON WELDON-WILSON: I'd like to welcome everyone back from our break. We look forward to the next part of our meeting.

Before we go to the TTAB update, I would like to turn the meeting over to Bill Barber, our

vice-chair, who has a couple of comments to make.

MR. BARBER: So, keeping with the Halloween theme, we were informed by a little ghost or goblin, who will remain nameless, that our very own Chief Judge Rogers is going to be honored by the State Bar of California all the way on the other side of the country. Their IP section is awarding him one of four IP Vanguard Awards. This is the award for the judiciary, which is -- and I'll just read it here in quotes -- "presented to an outstanding judge or judicial officer who has rendered decisions that affect IP laws practiced in California, even if the individual is not a member of the California bar." So, I think it's quite remarkable that the California State Bar is honoring Judge Rogers in this way.

And we're certainly proud of you and all the work that you and your team do at the TTAB. I think this is a well-deserved honor.

(Applause)

MR. BARBER: We do have one member of the California State Bar here with us today, and I'm sure she agrees.

(Laughter)

CHIEF JUDGE ROGERS: Yes, very familiar with this award.

CHAIRPERSON WELDON-WILSON: Congratulations, and we're very pleased to have you with us here today.

CHIEF JUDGE ROGERS: Well, I do have to add the disclaimer that when I was called about this, I immediately thought I was being punked, and I said -- you know, the qualifications say the main focus is on recent decisions -- and I said: I've been pouring over spreadsheets much more in recent years than writing decisions, so are you sure I'm actually qualified for this. So, they insisted I was. And even though the Vanguard name is attached to it, the Ethics Department in Commerce has assured me there's no monetary compensation. This is not a Vanguard fund or anything like that, so it's all aboveboard.

(Laughter)

CHAIRPERSON WELDON-WILSON: Well, that's fantastic. We're pleased that you are receiving this award and are very proud to know you.

With that, may we ask you for a TTAB update? For those who are not familiar, this is Gerald Rogers, who is our Chief Administrative Judge for the TTAB.

CHIEF JUDGE ROGERS: And I will add -- thank you, Dee Ann, for that introduction -- that the reason I actually think receiving this award, if I can continue on that theme for a moment, is important is I wouldn't really want it for myself, but I do want it for the recognition of all the hard work that everybody at the board has done in the time that I've been in this position. I mean, the judges and the attorneys, the paralegals, our senior attorney, our deputy chief judge -- everyone has done such great work that I think it's a great way to acknowledge their work and kick off what will be the 60th anniversary of the creation of the board in 2018, which is something that we hope to celebrate. So, that's what we'll try and do.

So, I will thank the team. We'll go through some of the performance measures in a minute and the smooth roll-out of the amended rules that we've gone through this year and our

continuing focus on quality and our continuing willingness to consider new ways of doing things as we work through some of the slides. But I do have to say that we wouldn't have had the successful year that we have had without the management team of Deputy Chief Judge Richey and Karen Smith, our administrator -- now Karen Young -- and Ken Solomon, our managing attorney; Eric McWilliams, our supervising paralegal; and Angie Pope, who, as you will see on the slides, her information specialists have handled a lot more calls and inquiries this year along with the amended rules, so they've all done great work.

So, let's look at a few of those numbers, and you'll see our staffing hasn't changed. Our filings are of course the thing that we have to monitor to figure out whether our staffing is appropriate. It's not unusual that most of these numbers have increased this year because of the continuing increases in applications and trademarks. We would expect to see increases.

Interestingly -- and this kind of speaks, I think, to the cluttering problem that

Commissioner Denison alluded to earlier -- the area that has increased the most in the last three years are petitions for cancellation. In fiscal '15, which is not shown on this slide, we had about a 21/2 percent increase in petitions for cancellation. In fiscal '16 it was a 5 percent increase in cancellations, and this year you can see we had an almost 14 percent increase in petitions for cancellation. So, I think this is some evidence, perhaps, of the cluttering problem that we have on the register, and so we may anticipate that petitions for cancellation are going to continue to increase as marks make their way onto the Register.

In terms of what we've put out this year, the number of final decisions is down slightly from last year. Last year, fiscal '16 was a remarkable year in which we had 687 cases mature to ready for decision by a panel of judges, and they decided 688. I couldn't have programmed it any better. They just were tremendous in fiscal '16. And this year, while the production numbers were down, the inventory control is right there. We didn't really need to produce any more



decisions than we did this year.

As the next slide will show, we ended the season, ended the year with only 93 cases in inventory waiting for decision, well under our inventory control goal. So, the number of decisions has been great -- the contested motions that have been decided again down a little bit. I'll take that as a testament to the fact that our interlocutory attorneys are doing a great job managing those cases, not letting them get out of hand, and not letting motion practice get out of hand. So, to me, that's a good thing when contested motions go down a little bit. It shows control over those cases.

The uncontested motions processed -- that's something that our paralegal staff and of course the online filing system, ESTA, handle ESTA's program to handle a lot of consented matters, and then anything else that's not contested is typically handled in the first instance by the paralegals. And they've done a great job keeping up with that work, because -- well, the cases coming in the front door have increased, and we never really know for

sure how much we're going to get in terms of contested motion practice or how many of those cases that come in the front door will require ultimate disposition on the merits.

We know that they all require extensions of time and suspensions and other monitoring and care and feeding, if you will, of these cases to keep them going, and the paralegals handle that pretty well. And I'll also give them some kudos, because we've -- I mentioned earlier we've had a focus on quality, and we've seen significant increases in paralegal quality this year and just worked with NTEU 243 to institute a new quality award for the paralegals. So, hopefully you've seen that in the orders that issue for the cases in which you're involved.

The number of calls answered and the number of service requests -- this is also handled by other members of NTEU 243, our information specialists, and you can see the number of calls answered was up significantly this year. I'm going to assume that that was related to the deployment of the new rules in January and that we're getting more calls as a result of that.

And the number of service requests -- what that really means is we're tracking the emails and the phone calls to make sure that we know what people are inquiring about, what information they want, that sort of thing. It's going to help our data analysis and our management of the staff -- a great deal to be capturing that. So, that's our focus there.

In terms of pendency and inventory control, I will give you a footnote, if you will, to all these pendency measures I talk about. I used the shorthand on the slides of excluding from the pendency measures cases that involved decisions that were issued as precedents of the board. But that also means decisions that were issued as precedence decisions that were considered for issuance as precedent and the occasional anomalous case that just had a very odd prosecution history, because what we want to do with any of the pendency figures is provide information that counsel can use in counseling their clients in letting them know what's going to happen in a board proceeding. So, we think this way of producing the numbers provides a

better picture of the kind of average or the typical case, because we exclude the outliers or the things that take a longer period of time to handle.

But in terms of the contested motions, again, the interlocutory attorneys did a great job this year keeping the processing of contested motions under goal so they beat the 8- to 9-week target. We also have a stretch goal of making sure that at the end of any quarter when we take our quarterly snapshot we have no contested motion older than 12 weeks pending, and at the end of this fiscal year when we took the most recent snapshot, the oldest pending motion was under that goal at only 10.7 weeks. And the attorneys kept the inventory of contested motions within the target range, at the very low end of the target range, and we know that inventory control is a way to realize the pendency measures that we hope to maintain.

In terms of what the judges were doing: Just pure serendipity coincidence here. A 7.8 pendency. It's not a typo. The attorneys got a 7.8 weeks' pendency measure on contested motions.

The judges, they didn't want to be outdone, so got a 7.8 weeks' pendency measure on final decisions as well. They did a great job, well in excess of their goal, and the 93 cases left in inventory are well under our goal. So, that's a great measure, too.

In terms of the end-to-end pendency that we have focused on for a number of years now, we did see a very slight increase this year in end-to-end pendency and trial cases. I think that's the first year in five years that we've seen any kind of an increase in end-to-end pendency. It may be an aberration this year. I know we did work through a number of older cases that had been pending on the docket for a while, and they just happen to all need a final decision on the merits during this fiscal year. So, I'm hopeful that we'll realize a return to reducing end-to-end pendency in trial cases in FY 18, but we'll just have to wait and see.

And I've mentioned here before at some of our meetings that if we really want to focus on achieving patent board type end-to-end pendency that they realize in AIA proceedings,

the only way we can do that is to become perhaps a bit more restrictive in terms of the number of extensions and suspensions that we're willing to grant parties. But we know that our stakeholders don't want that and that they like having the board as a more relaxed alternative to district court, so we certainly wouldn't do that just in the service of a reduced end-to-end pendency number if it was not going to be useful for our stakeholders and those who practice before us.

So, that's it for the numbers. Before I just run through a few highlights of things that have been handled through precedential decisions since the amended rules came out, if there are any questions about any of these numbers I'd certainly like to hear them.

CHAIRPERSON WELDON-WILSON: Bill Barber?

MR. BARBER: Yeah, Judge Rogers, I had a question about the cases ready for final decision. You mention it's 93 cases, which is pretty significantly under the target you have of 130 to 160, and it seems like it's sort of a double-edged sword. It sounds like that's a great

result. I mean, your judges are obviously efficient in getting out decisions. But is there a concern that it might get so low that you wouldn't have enough work for your judges to do?

CHIEF JUDGE ROGERS: No, I usually find ways to keep them busy, and actually the number is a little bit higher than it was at the end of fiscal 16 and it's kind of the natural fluctuations that we have, especially in a production-based system in the PTO. Everybody's pretty much on production. Everyone has to earn their credits, and the judges are no different. So, in that respect, those who are sprinting towards the finish line at the end of the fiscal year will be putting out a lot more decisions in the fourth quarter, and sometimes in the second quarter getting to the mid-year. So, we see inventory typically reach low points at the mid-year and at the end of the year but then bounce up.

So, again, last year we ended with an even lower inventory figure, but during the first quarter, you know, it tends to rise. So, I'm looking at the number compared to what we've gone

through in the past, and I'm not really concerned about it. I know it will go up during the first quarter, in part because we have a lot of people who will have vacation time that they will be using at the end of the first quarter; partly, they may be a little tired in October after all of the decision writing that they were doing in August and September near the end of the year.

So, they'll just catch their breath a little bit, and then they'll be taking vacations in December, so inventory will probably be where it needs to be at the -- you know, back in that range by the end of the first quarter.

MR. HUDIS: So, Judge Rogers, just doing simple math, if you take 649 cases decided at the end of fiscal year 2017 divided by 24 judges, that's on average about 27 cases a judge a year?

CHIEF JUDGE ROGERS: Yeah, I wouldn't use 24 as the division. Our most recently appointed judge has still been primarily handling contested motions while he gets ready to transition to full-time judging, keeping control of that docket and training some of the new



attorneys, mentoring some of the new attorneys. So, I don't really count him as one of the numbers that you would use to figure the average. And one of our other judges, David Mermelstein, has a performance plan that actually focuses him more on system improvements and IT developments. We've had to ramp up our involvement in legacy system improvements. Every time we do a rules change, we have to adapt a system to accommodate the new rules, and we certainly have to plan for next generation developments. So, his pretty much full-time work is on those systems as well, so it's really more like 22 judges who are focused on it. But, yes, the middle of the range, if you will, is in the 25 to 30 decisions a year.

MR. HUDIS: So, if you were to take those two judges out -- Judge Mermelstein and your newest judge -- you're then looking at 649 divided by 22 judges, you're getting close to 30 decisions a judge per year.

CHIEF JUDGE ROGERS: Yeah, and of course some are going to be in excess of that; some may be less. But keep in mind a number of the judges put in significant hours on the rules

package, so in the first quarter of this fiscal year, they would have been working on that. And we've also put out two revisions of the TBMP this year, which takes a lot of judge time reviewing those chapters of the manual to make sure that they've been updated and revised appropriately. But we thought because the inventory was under control that we had the time to do a revision of the manual to coincide with the deployment of the amended rules in January and not wait for the annual revision in June to accommodate the changes brought by the new rules. So, you know, there are other projects that judges are working on, too, that take up a significant amount of their time.

Okay, let's just take a quick look. I am not going to go through these slides as I would if I was doing a new rules presentation at a bar event or CLA program, but I did want to just highlight some of the issues that we have dealt with through decisions that have come up under the amended rules. And we expect, of course, that any time we do rulemaking there will be some gap filling that needs to occur through

decision-making after the new rules take effect.

So, one of the early issues we have to deal with is when's the last day you can serve discovery? And since we have collapsed discovery activities a little bit to try and ensure that discovery gets done within the discovery period, and your responses are due by the end of the discovery period, that means anyone who requests discovery has to do it earlier to allow the responding party the time to meet that deadline within the discovery period. So, this decision addresses that, and basically the idea is at least 31 days before the end of the discovery period, because that's the only way the responding party is going to have the full 30 days to respond. So, this decision is helpful on that. This was also another decision on motions to compel.

Motions to compel. We became a little bit more restrictive on when they could be filed. The idea is we get discovery done during discovery, and then we get motions relating to the discovery period and motions for summary judgment handled before we get into pretrial disclosures

and trial preparation and planning. So, in this case although this didn't issue as a precedent, it was the first instance we had where we had to deal with a motion to compel and whether it was timely or not because it didn't come in before the pretrial disclosure deadline.

So, what we did was we then issued a clarification notice in July, prompted in part by what arose in that Nautica case, and we clarified that the motion to compel needs to be filed at least one day before the pretrial disclosure deadline. So, that's now clarified, and that's what we had always intended the rule to mean, but we clarified the language in the rule to make sure that everybody was on the same page, so to speak.

And that same clarification also affects the deadlines for motions for summary judgment, which also have to be filed the day before the pretrial disclosures are due. And these deadlines apply motions to compel, motions for summary judgment equally to plaintiff and defendant. Of course we're talking about the plaintiff's pretrial disclosure deadline, because theirs comes first, but it doesn't really

matter whether you're the plaintiff or the defendant, we're going to apply these rules equally to both parties.

We've also had some issues come up with cross-examination, which I think we expected. Now that parties can introduce testimony by affidavit or declaration, we provided of course the option to cross-examine those declarants or those affiants. So, we've had a few issues come up about where the cross-examination was going to occur; who pays for some of the expenses associated with it; that sort of thing.

This one was a mystery to me. The declarants were here in D.C. for the Postal Service, and counsel for the other side wanted to cross-examine them in Santa Monica, California, and I thought, well, why didn't they readily agree to go to Santa Monica and be cross-examined? Wouldn't they rather do that and go out to sunny California, get away from D.C. for a few days? But the Postal Service didn't want to foot that bill and send them out there. So, we dealt with that issue, and ultimately they were cross-examined here in D.C. But it's a good

decision to look at for that.

We also had issues come up with Notices of Reliance, because one of the things that we tried to do was facilitate the introduction of more evidence by notice of reliance, and so this Barclays Capital and Tiger Lily case deals with the amended requirements for Notices of Reliance, so I can recommend this to everybody for reading.

Future changes. Of course we've talked about cluttering of the register, and we talked about the petitions for cancellation having gone up in the last three years, and so to deal with this the Office of course is thinking of a streamlined version of a cancellation proceeding that could be accomplished through rulemaking and without need to change the statute. So, while we say that -- and it's true, of course, that the goal is part to improve the accuracy of the register and get rid of the dead wood that is cluttering the register, we recognize that the streamlined cancellation proceeding is not going to clear all the dead wood off the register, but it is a possible tool that could be useful for some petitioners in

particular circumstances. So, it's just, you know, kind of one tool in the toolkit that might be useful in combatting this problem.

And so we -- just to bring everybody up to date, we had the request for comments on the possible deployment of such a proceeding. We received those comments. They're all posted on our website if anyone wants to look at them.

And we then had a public meeting September 25th where we did a report-out on those comments and had a very good discussion with representatives of the IP stakeholder groups. INTA was there -- IPO, AIPLA, ABA IP section -- and we had a very good discussion there.

The comments that we had received and that were noted on the earlier slide were relatively few in number, and they were somewhat mixed, and so I think it was useful for us to have this follow-up public meeting where we could discuss with various participants those comments and try to figure out how significant some of them were. And while the comments were somewhat mixed and raised a lot of questions about extensions and possible counterclaims and how much discovery

should be allowed, et cetera, I think we kind of came back to earth during the public meeting, and there was a reaffirmance I think by pretty much everyone in the room that we need to focus on a very streamlined expedited proceeding that there won't be -- it won't be useful if there's a lot of discovery, if there are a lot of extensions. Counterclaims should probably not be considered. But what we're doing now is actually reviewing the transcript from that public meeting, and we will then get that posted for everyone to access on the TTAB website once it's been edited. We have the internal participants in the meeting reviewing their comments and statements now, and then we'll circulate it to the outside participants as well once we have that updated.

And then the last thing before I take any questions on the amended rules, the streamlined proceeding, or the standard protective order is we've posted in Idea Scale our standard protective order, which is applicable in all trial cases unless the parties agree to something else. We amended it last year. We've had it in place for about a year now, and so we



posted it to provide another opportunity for comment on that standard protective order to see how it's been working and whether we should consider any further changes to it.

So, that's the extent of our outreach.

CHAIRPERSON WELDON-WILSON: Thank you very much. We appreciate the report.

Jonathan Hudis has a question or comment.

MR. HUDIS: Thanks. Judge Rogers, to keep us on time I'll make these questions as short as possible. For the next time we meet on the standard protective order, there are two issues you could poll your interlocutory attorneys on. First, how many issues they have had about the protective order with respect to pro se parties? Second, how many issues they have encountered regarding the rights of in-house versus outside counsel having access to the adverse party's confidential material, realizing that the Federal Circuit has already spoken to this issue. We'd like to have the observations of the interlocutory attorneys -- so that we can make any internal recommendations.

CHIEF JUDGE ROGERS: Sure. We'll have Ken Solomon, the managing attorney, poll the interlocutories.

MR. HUDIS: The second question I had was on the Barclays case and the Notice of Reliance. In that case in particular or in general the Board's policy, if a party is not specific enough in its statement of relevance of the appended material to the Notice of Reliance, will the Board in its final decision in a given case strike the Notice of Reliance material?

CHIEF JUDGE ROGERS: Well, as any good lawyer would say, that depends.

MR. HUDIS: Okay.

CHIEF JUDGE ROGERS: I think it depends on the circumstances; depends on the material being introduced by the Notice of Reliance, whether they're -- you know, when the Notice of Reliance was filed; whether there was an opportunity to cure the Notice of Reliance; if a timely objection had been made at the time that it was filed. So, again, depending on the nature of the material and the nature of the objection, it might be something that could have been cured.

It might be something that really couldn't have been cured. And so we'll just take all of those factors into consideration.

MR. HUDIS: So, given what you just said, Judge Rogers, then if an insufficiently prepared Notice of Reliance did not have a specific enough statement of relevance, it would be good practice for the opposing party to file a motion to strike because that is a curable procedural defect, rather than waiting until the party's brief on final hearing or in an accompanying appendix.

CHIEF JUDGE ROGERS: Yes. Anything that is a curable defect, and of course we would have to decide that matter if came before us, should be raised at the time the Notice of Reliance was filed.

MR. HUDIS: All right, final question, Judge Rogers, implementation of the streamlined cancellation proceedings -- a most optimistic timeline in your view. After you have reviewed and finalized the transcript from the public meeting, when do you think we would see a Notice of Proposed Rulemaking on the proposed

streamlined proceedings?

CHIEF JUDGE ROGERS: I think you'll see something in the current fiscal year and hopefully sooner rather than later, because we think that the best way to advance the conversation about the possible utility of this kind of proceeding is to put something out there in an NPRM that people can react to. So, obviously, the comments we received in response to the Request for Comments were a reaction to that. We now know from those comments and from the public meeting some of the fine-tuning that we have to do and some of the things that we need to address in a Notice of Proposed Rulemaking. But then that will allow us for essentially another round of discussion about the possibility.

MR. HUDIS: So, we're looking basically late spring, early summer of 2018?

CHIEF JUDGE ROGERS: That's hopeful, yeah. I think that's doable.

MR. HUDIS: Thank you, Judge Rogers.

CHAIRPERSON WELDON-WILSON: Are there any other questions for Judge Rogers?

We seem to have a very thorough presentation, and we appreciate you coming today, and congratulations on your award.

CHIEF JUDGE ROGERS: Thank you.  
Thanks.

CHAIRPERSON WELDON-WILSON: While we're getting set up for the next presentation, Mary Denison would like to make an additional comment.

COMMISSIONER DENISON: A couple of people today mentioned that fee-setting authority is expiring, and I thought it was worth noting that for Trademarks we have fee-setting authority outside of AIA under 15 USC 1113. We want to have fee-setting authority continued, because it gives us more flexibility. But we do have an independent basis for fee setting. Thank you.

CHAIRPERSON WELDON-WILSON: Thank you for that clarification.

We will now move to our OCIO update, and Rob Harris is here today. He is the acting TMNG, or Trademark Next Generation, portfolio manager.

We appreciate you being with us here

today.

MS. ISOM: So, before we get started, I'm Pam Isom. I'm sitting in for the CIO today, and then Ramesh is here as well. Remesh is going to speak a little bit on MyUSPTO, and then Rob Harris, whom you've already introduced, will talk to us about TMNG. And as before, I'll be here to help answer any questions and support these two fine gentlemen.

CHAIRPERSON WELDON-WILSON: Thank you, Pam. We appreciate that.

MR. HARRIS: So, I'm going to cover TMNG very quickly. I know we're running a few minutes behind. I certainly want to give time for Remesh to walk through all of the great work MyUSPTO's team has done. So, I've scaled back a bit on the information we usually cover.

First of all, I'll just summarize our accomplishments that we'll highlight since we were together in July.

The five on the screen first. The last time we were together we were talking about making a decision on replacing our TMNG custom editor with CKEditor. That work has started.

Development started in August, late August. It's been running through September and October, and we have made significant progress, and we are on schedule. A lot of that is thanks to having in-sprint testers. We have two examining attorneys and two seniors helping us and are working very closely with the development team, and that's really helped us make the progress we've made so far.

Secondly, from a content perspective, we have migrated into the TMNG Content Management System all registered marks and multimedia marks back from 1974, as well as all TTAB documents from 1974.

We did have a small enhancement to the printing process for the electronic Official Gazette. We've also deployed the maintenance tab that I believe you all are familiar with on the TSGR application. And, lastly, just as a reminder, our ID manual now is used for both internal and external customers, and that's been in place since January.

SPEAKER: Last we were together, we spoke some of the Path Forward team and the

objectives that team had, so I'm happy to report today that the six objectives that Mary and John laid out for us have been achieved.

The CKEditor work -- the evaluation's complete. Certainly made that selection. We have defined a set of critical success factors that we will walk through here in just a moment. We've taken those critical success factors and broken them down into work items, inserted those work items in upcoming sprints the development team will be working on. We have set testing expectations, and lastly we have a schedule. We'll walk through a high level here as to when to expect those various work products and various success factors to be delivered and to be accepted.

Those CSFs, the Critical Success Factors -- there are two, four, six of them. The first I'm just going to highlight is ensuring that the right information is routed to the right people within TMNG. The second has to do with display to make sure what our external customers are seeing is consistent with what our internal examining attorneys are seeing. Third is



dockets, and docketing has been the one that has had most of our attention and making sure that the docketing from our current production systems (inaudible) from TMNG are consistent and the contents of the docketing, especially in TMNG, are what the examining attorneys are expecting. We have hit some road bumps there, and we've been addressing -- identifying business rules and needed changes and improving those incrementally as we go through.

Data integrity obviously remains a top priority from a business perspective.

System performance. We're now down to the point of identifying how long the system's response should be when ordering a new case, when creating an office action, what flip rate when examining, and other criteria such as that.

And, lastly, the last critical success factor has to do with the tool the examiners are using the desktop and that's the CKEditor piece that we already spoke of.

Each of these critical success factors is a work in progress now, and we are scheduled to have deployed the capability and accept that

capability in the coming months. So, by the time we're together in January, we should have a significant update on progress to be made and have a product accepted by our Trademark customers.

Looking lastly to a look ahead as to what's on the horizon, CKEditor is a tool that has already been implemented in two external products, which are electronic Official Gazette and ID Manual. It is using an older version of CKEditor, so it was asked and an item we are working on now is upgrading those two products to use the latest version of CKEditor to ensure consistency across all of our external and internal TMNG products.

The second quarter of FY18 is when we expect to complete all development related to those critical success factors I just identified, so that is development and integration of CKEditor into TMNG as well as addressing the remaining docket work, form paragraph work, and a few other odds and ends there.

When Developments ends in the second quarter, we then have to go through a test and acceptance period in quarter three. That

results in deployment back to the current set of beta testers, and that is the 70+ beta testers that we've discussed in this forum prior.

Assuming acceptance in quarter three, that puts us in a position to rule out the TMNG examination product to an expanded user group that will be defined by Mary and team as to the size and the contents of that group but certainly are looking forward to having a larger user base for TMNG examination in a production environment by the end of FY18, and assuming success there, it naturally rolls into about a four-month process starting in the first quarter of '19 and rolling into the second quarter of '19 where we would deploy TMNG examination to all of the Trademark law offices.

Over and above TMNG exam, eFile still remains on our plate. We expect to start development again in the spring, and that will put us in a position to have --

The Trademark business team has been working to define a solid set of business requirements, so we'll have the development team coming on in spring, have a set of requirements,

and hit the ground running there. We expect that eFile development to start in '18 and run into FY19.

And then we cannot lose site of our existing production systems, and our FY18 docket includes work in three key areas, and that is across the legacy Madrid system, TEAS, and that is to -- in TEAS it's to help support what Mary mentioned earlier, the implementation of mandatory electronic filing next fall.

And, lastly, our TTAB systems, both internal and external.

So, I know I flew through that. I wanted to give Ramesh some time, so I'll open it up for questions now before we hear from the MyUSPTO team.

CHAIRPERSON WELDON-WILSON: Tim Lockhart?

MR. LOCKHART: Well, Pam and Rob, I want to thank you very much for coming in today. Appreciate that good update on TMNG, and we certainly look forward to the presentation on MyUSPTO.

I know John Owens had a conflict this

morning, and so he was not able to be here for the meeting. But we were very pleased to have a chance to thank him in person yesterday at our subcommittee meeting for all of his hard work and contributions over, I believe, 10 years here at the USPTO. So, I just want to note for the public record that we certainly do appreciate all that John did for OCIO and for the Office as a whole, and we certainly wish him well in his future endeavors.

Specifically, with regard to TMNG, Rob, I just want to touch again on the integration of the CKEditor and just follow-up on our conversation yesterday. But thus far is it correct to say that the integration is going well and you anticipate that that is going to be a smooth process?

MR. HARRIS: Yes, absolutely.

MR. LOCKHART: Okay, I appreciate very much that you've got your detailed schedule all the way through the second quarter of FY19, and we'll look forward seeing, you know, how that goes. We hope it goes very well.

I suppose you're not at the point yet

where you can begin to develop a schedule for the TTAB portion of TMNG. And there are certain other portions beyond the examiner tool, so if you're not at a point now when you can begin to flesh out the schedule for that, do you anticipate that perhaps next calendar year you would be able to put some dates against that development?

MR. HARRIS: So, we are just starting now to do some preliminary work looking out at the planning horizon, out in to FY19 and '20, beyond. So, that plan is something that we owe to our internal and external customers. It's a work in progress. I expect -- yes, over the next six months or so would be a reasonable expectation for us to lay out and have a discussion around those big chunks and how they line up and how we plan to address them.

MR. LOCKHART: Okay, well, we certainly will look forward to getting those dates when you're in a position to start to put those together.

MR. HARRIS: Mm-hmm.

MR. LOCKHART: And I just want to follow up on Mr. Matal's comments from this

morning. I mean, obviously the USPTO will be getting a new director. CIO will be getting a new chief executive for that particular office, so I know you've got a lot going on. There are a lot of moving parts. And we'll be looking forward to seeing how these developments play out and how you and your team continue to move forward with TMNG. But thanks again for coming in and giving us a very thorough update.

MR. HARRIS: Thank you.

MR. PAI: Hi, there. My name is Ramesh Pai. I'm the product manager for the MyUSPTO product line. I have with me here Megan Arthur, who is the project manager for MyUSPTO. And we also have Heather Hogue, who's the user experience lead for MyUSPTO.

I'd like to start off by thanking the TPAC chair and the Trademark commissioner, Amy Denison, for inviting us to present today.

The last update that we gave to this public forum was about a year ago in September, so an update is actually long overdue.

For this update today with the time that we have, we're going to start off by talking about

the work that was done in 2017 -- but the main highlights -- and then talk about our plans for 2018. We are especially interested in getting some feedback on our proposed plans, and we are completely flexible on (inaudible) feedback and adopting it, accordingly.

So, I wanted to actually start off by handing this off to Megan, and she's going to start with FY17 highlights.

MS. ARTHUR: Thank you, Ramesh. The last time we spoke to you guys was about a year ago, and we are going to provide you guys with the updates that have occurred on the Trademark docket widget as well as the TMOG widgets since then. A lot of the significant improvements were based on that initial feedback that you guys provided us last year, so we do really appreciate it.

The first change that I want to bring to your attention is the Trademark docket widget. As some of you might have remembered, this actually went out as two separate dockets, one for applications and one for registered marks last year. We've merged the functionality into a



single widget, so you can now track applications through post- registration and beyond in one central location. We have about 2700 active users using this docket on a regular basis, and we get about 50 new users per week.

Another enhancement that has been made to this docket is how you can locate and add items to your collections. Initially we went live with allowing users to edit by serial or registration number, one at a time. Based on your initial feedback, we've changed that. Users can now add records in bulk. They can also do this by searching for mark literal or attorney name and owner. So, if you're working for a firm, you can put in your firm name, quickly see the 700 items that are associated with it, and add it to your collection at the same time.

Another enhancement that has been made is the increase to collection limits. So, based on your initial feedback we went live with a 20-item limit. You guys let us know that that would probably not meet the mark for many of your users, so we've increased that to a thousand. So, now you can have a thousand items per

collection, and you can still have an unlimited amount of collections. So, really, it's limitless how many items you can be tracking.

And the third feature we want to bring to your attention is the status notifications. We allow users to be notified of a status change in two separate ways. One is an on-screen notification. So, it's a little small, but if you can see that green bell, upon login the user will be notified of any trademark that hasn't had a status change in the last two weeks with a green bell. So, you're quickly drawn to those with the most recent changes.

We also autosort your docket for you based on status state, so you can see the records that have the most recent changes up top.

In addition to on-screen notifications, we allow users to now enroll in email notifications. So, if you're not someone who can log on daily, you see in the right-hand corner of the docket, you can toggle the email notification. But (inaudible) email notifications, one, an item you're tracking has changed. We allow you to customize this, so you

can say for a particular collection you want to receive email notifications and for another one that you might not be interested being notified via email. You can turn that off.

MR. PAI: Megan?

MS. ARTHUR: Yes.

MR. PAI: Before you go there, I just want to clarify that the docket referenced here is different from the docket referenced for the TMNG internal. This is more for the public. The other one is more for the internal folks.

MS. ARTHUR: Thanks, yeah. We reviewed the Official Gazette widget with you guys last year, so it's still there. You can add watches to your collection, and the results are updated each week when a new issue is published. Something that's changed is that we've added email notifications to this widget as well. This was based on the fact that over half are users who are using the Trademark docket have enrolled for email notifications. So, we've added this feature to this widget as well, so every Tuesday you can be reminded that, hey, a new issue has come out; check out the updated results.

Okay, so while we've had a wonderful FY17, we are now looking to the FY18 project, which started this week. We are currently in consideration of multiple enhancements based on the internal Trademark team here as well as the external feedback that we got after our idea scale site and other outreach efforts.

I do want to be clear that the implementation of these concepts is obviously subject to investment and product owner approval, as well as determining that everything is technically feasible. I'm going to review a few of the items that we're considering for FY18, and then I'm going to pass it off to my colleague, Heather.

So, the first concept that we're considering is the idea of additional personalization. Something that's going to go live next month is that when a new user enrolls for a USPTO.gov account, they're going to be able to indicate their business interest. So, they can say that they're interested in just trademarks or just patents or both, and then we're going to customize their home page based on that

preference. So, if you're a trademark user, you will see just trademark widgets along with our general USPTO widgets already laid out for you. You can change this preference at any time, but we feel that by customizing it for you, you'll have a better experience, more personalized to your needs.

Another concept that we're considering is the idea of personalized workspaces. So, we've heard from users that they would actually like the ability to have, say, the trademark widget across multiple workspaces. So, you could have one home page that's for a particular client, and you could create a completely separate workspace with additional or replicated dockets for another client in a separate workspace.

The second concept that we're considering right now is an enhancement to the existing trademark docket. We've heard from users that oftentimes the next step for a registered mark is months or years down the road, and that would be helpful, but it's clear to them which forms are due and when. So, we are

providing -- well, we're considering a next step instruction to that trademark docket, so for the items that are in your collection you can see the suggested forms along with those associated due dates.

Another feature that we're considering for the Trademark docket is the ability to share dockets with other MyUSPTO users. We understand that oftentimes attorneys and paralegals work closely together and the idea that if a paralegal went to the trouble to create a collection that they would be able to share these applications or registered marks with an attorney that they work with.

The third concept I want to talk about is actually a new widget. It's the Trademark Forum Finder widget. We deployed something similar for the Patents group last year that's been well received, and the concept behind this is we know that it's a pain point for both experienced and novice users to locate the correct form to submit quickly. So, we're going with two different concepts right now. One is for the experienced user. If you know the form

that you need to submit you could do a -- type ahead, find. The example here is "office." You see all the forms with that word in the title. And the second concept is for those non-experienced users that we would recategorize the forms by actions. So, we're working with their plan language experts to determine which actions are most commonly used and understood, and the user would then see the forms associated a particular action they're trying to respond to. We hope that this allows users to understand which forms are due for which actions.

Again, those are the concepts that we're exploring now. I'm going to pass it off to my colleague Heather Hogue, who's going to go over another widget that we are working on.

MS. HOGUE: Would you mind hitting that? All right, thanks, Megan. This next widget we're talking about is a trademark application widget, and we're actually it called Trademark Simple File. Some of the goals here are to streamline, reduce time, plan language where we can contact sensitive health, and we would like to start in a really small approach

where we're looking only at Section i(b)RTU, wordmark only, and TEAS RF. I'd like to take you through a couple of the screen shots and talk through the rest of the slide here.

I'd like to take you through a couple of the screen shots and talk through the rest of this slide here.

So, if we can just go to the next one. All right, what you're seeing here is how this would be displayed in a mobile view and then also a desktop view. And the great thing about this is that the system will actually know and adjust accordingly. What you also see is that we have these very clearly defined simple steps and as you go through them they would complete. So, very simple. We also have a help area for those who need it. Perhaps we could have things like video, relevant notes, and of course for those are more frequent fliers we would the ability to go ahead and turn that off.

Okay, next slide. A couple other quick things I'd like to talk about are -- you know, we would have some integration to -- this example here is the ID manual. So, let's say, for



example, that you would go ahead and have shirts. You would type in "shirts" as your class of goods and services, and they would pre-populate and then you could pick-pick-pick and then choose, and there they would be.

The other concept we are exploring is workflow. So, what we're looking at here, No. 2 at the bottom, you're at the end of an application, so let's say maybe you would like to add that to your docket. Maybe you would actually like to create a docket and add it to that docket or start a new one or maybe go to lunch. That's what your options are right here. So, workflow will be included.

One last thing is No. 3. We have this prefilled data, and the great thing about this concept is because you're signed into the MyUSPTO, a lot of your data's already there, so it will be prepopulated. And that's a big timesaver for you, not only a timesaver but then you might not accidentally type in something that you don't want to.

One quick thing I wanted to say about this really, really small scaled approach first

with this RF work mark only intent to use is this is this is actually a nice percentage of our current filing, so as we get feedback on this if we decide to go through and work on this piece is we'll get feedback and we'll be able to launch and add more and then also use this on some of the larger efforts moving forward.

So, that's a few screen shots. I know we're way over. I would like to go to the next slide and say none of this is actually possible without feedback from people like you. So, if you would like to participate in usability evaluation, if you have any suggestions, any comments, please let us know, and thank you very much.

Did you have anything else that you wanted to say at this point?

MR. PAI: Just wanted to clarify a couple of things. In Rob's slide, he referenced the eFile effort. So, this will complement the work that's going on over there. And we started off by basically seeing the top 10 issues, top 10 pain points, trying to see how we can address some of those earlier before the actual eFile rollout

happens, and some of these solutions are actually targeted to where it's those top pain points. Plus some of the things that we can do today that were not possible a few years ago, because we have a lot of the infrastructure built up through services that make some of these things possible.

So, that was it from me.

CHAIRPERSON WELDON-WILSON: Well, thank you very much for the presentation all of you -- Pam, Rob, Ramesh, Macon, Heather. Thank you all for coming today and introducing this topic to us and showing us all the progress that you've made on existing ones and continue to be making on your new ones. It's very helpful.

Are there any questions from TPAC members?

MR. LOCKHART: I just have a quick comment. I think this is absolutely great. I just want to commend Ramesh, you and your team and everybody within OCIO who's worked on this. I love how it is so user-centric. I mean, it's just wonderful for trademark owners and practitioners to have this tool. It's going to greatly increase our efficiency and effectiveness, and we

really appreciate that you've gone to the trouble to do this, and you've obviously sort of put yourself in the position of a trademark owner-practitioner and thought: How would it work best for them? And so that's so, you know, customer directed. I just love it and wanted to really applaud you for all that good work.

MR. PAI: Thank you.

CHAIRPERSON WELDON-WILSON: Well, thank you very much. We appreciate it.

We're coming to the end of our meeting. Does anyone on TPAC have any further questions or comments that they would like to make before we adjourn? And if not, I will turn it over to the public. Are there any public comments or questions? Well, then, we are adjourned. Thank you very much. See you at the next meeting.

(Whereupon, at 11:25 a.m., the PROCEEDINGS were adjourned.)

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COMMONWEALTH OF VIRGINIA

I, Carleton J. Anderson, III, 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: November 30, 2020**

**Notary Public Number 351998**