PARTICIPANTS:

TPAC Members:

ELISABETH ROTH ESCOBAR, Chair
CHRISTOPHER KELLY, Vice Chair
STEPHANIE BALD
JENNIFER KOVALCIK
ANNE GILSON LaLONDE
SUSAN NATLAND
TRICIA THOMPKINS
DONNA TOBIN
KELLY WALTON

Union Members:

JAY BESCH, NTEU 245
HAROLD ROSS, NTEU 243

TPAC POPA:

PEDRO FERNANDEZ

USPTO:

ANDREI IANCU, Under Secretary of Commerce for Intellectual Property and Director of the USPTO

KIMBERLY ALTON, Deputy Director Office of Governmental Affairs and Oversight
PARTICIPANTS (CONT'D):

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

GREG DODSON, Deputy Commissioner for Trademarks Administration

DAVID GOODER, Commissioner of Trademarks

MERYL HERSHKOWITZ, Acting Commissioner for Trademarks

JAY HOFFMAN, Chief Financial Officer

JAMIE HOLCOMBE, Office of Chief Information Officer

SHARON MARSH, Trademark Policy/Office of Policy and International Affairs

SEAN MILDREW, Chief Financial Officer

LAURA PETER, Deputy Director, USPTO

BRANDEN RITCHIE, Director, Office of Governmental Affairs

GERARD ROGERS, Chief Administrative Trademark Judge

EUNICE WANG, Office of Chief Information Officer

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CHAIR ESCOBAR: Welcome, everyone, to the final TPAC Public Meeting of 2020. My name is Elisabeth Escobar. I am the Chair of TPAC, and I am honored to be hosting my last meeting as chair of TPAC. Before I introduce the rest of the committee, I wanted to go over a few housekeeping details.

The participants, I ask that you please stay on mute when you are not speaking, so we can minimize background noise. The chat feature is not available during this session. So, for members of the public who are attending, if you have questions that you would like to ask, please send them by email to TPAC, t-p-a-c, @uspto.gov. That mailbox will be monitored throughout the meeting and office staff will be collecting the questions and giving them to me and to Commissioner Gooder to address at the end of the session.

I have to say that I have mixed emotions
about this meeting; it being my very last one. It has been an honor and a privilege to participate on the Trademark Public Advisory Committee, both because I have such tremendous respect for the office and for its innovative efforts and for the way it has handled this unprecedented period in our history; and also because my fellow TPAC members are such a wonderful group of hardworking and thoughtful people it has been an absolute joy to work, both with office leadership and with my fellow members in TPAC.

And so, with that, I will introduce my fellow members of TPAC: First, is Chris Kelley, who is a partner at Wiley Rein, he is the Vice Chair of TPAC, and he has been a tremendous vice chair throughout the year; second, is Stephanie Bald, who is a partner at Kelly IP in Washington, D.C.; also with us is Jen Kovalcik, who is Vice President at Community Health Systems in Nashville, Tennessee; Anne Gilson-LaLonde, who is the author of "Gilson on Trademarks" and she hails from Vermont; Susan Natland, who is a partner at
Knobbe Martens in California; and Donna Tobin, who is -- oh, and I forgot to mention -- Anne Gilson-LaLonde is also completing her term of service on TPAC, as is Donna Tobin, who is a partner at Royer Cooper Cohen and Braunfeld in New York; and Kelly Walton, who is Vice President of Trademark and Copyright at Dell in Austin, Texas.

We also have two union representatives with us, Jay Besch, who is from NTEU Chapter 245, and Pedro Fernandez, with POPA. Last, but not least, I am delighted to welcome the newest member of TPAC, Tricia Thompkins, she is Executive Vice President and General Counsel at Perry Ellis.

Before I turn it over to Commissioner Iancu -- excuse me -- Director Iancu -- I wanted to mention that two senior members of the USPTO will be retiring at the end of the year: Sharon Marsh and Meryl Hershkowitz.

I have had the privilege of working with both of them for many years, both as a stakeholder, a customer at the office, and in connection with INTA's activities and now, as
recently, as part of my work on TPAC.
    And I have tremendous respect for both
Meryl and Sharon, who have devoted their
profession careers to the Trademark Office and
have seen it through a tremendous amount of
innovation and change over the years.
    With that, I would like to turn the
microphone over briefly to Chris Kelly, our Vice
Chair, who actually has known and worked with them
for even longer than I have, to say a few words.
Chris, are you on?
    MR. KELLY: Can you hear me?
    CHAIR ESCOBAR: Yes.
    MR. KELLY: Okay, good. Sorry, okay.
Well, thank you. I wanted to follow up on
Elisabeth's words about Sharon and Meryl. As
Elisabeth said, I had the pleasure of working with
both of them -- I don't know -- but it's probably
longer than we would -- all of us would care to
admit -- back in my day at the PTO, and just to
say that they are outstanding people; they were a
tremendous help to me.
When I was an examining attorney, they have always been available through the years as I have been in private practice, when I have needed to reach out to them. And it has been wonderful to sort of reconnect with them through TPAC. I hope that, as Elisabeth said, we all on TPAC would like to thank you for your really invaluable assistance to us. You are always willing and able to address any questions or needs that we have. And we have no doubt that your successors as well will find you both to be very hard acts to follow.

And while we're on the subject of hard act to follow, as Elisabeth mentioned, she is completing her term on TPAC this year, and her time this past year as Chair. And, Elisabeth, I certainly speak for everyone on TPAC when I say that you have done an outstanding job in what has been -- to say the least, a challenging year -- and we want to thank you very, very much on this public record for a job very well done.

CHAIR ESCOBAR: Thank you so much, Chris. That's very, very kind of you. I really
appreciate your thoughtfulness.

MR. KELLY: Well deserved.

CHAIR ESCOBAR: Thank you. So, with
that -- oh, before I move on, Anne Gilson-LaLonde
was just texting me. Webex tech, I hope you can
help her. She, apparently, is listed as an
attendee rather than a panelist. And I think that
will affect her ability to participate. So if you
could get that fixed so that we can have the
benefit of Anne participating, I would appreciate
it.

I would like to turn this over now to
Andrei Iancu, the Under Secretary of Commerce for
Intellectual Property, and, of course, the
Director of the United States Patent and Trademark
Office. I believe, Director Iancu, you are coming
up on your third anniversary here with the office.
And I have to say it's been a pleasure working
with you.

I know that you have been a big
supporter of TPAC. And we really appreciate that
support and your continued participation in our
meetings. So, with that, let me thank you for
joining us and turn the mike over to you.

MR. IANCU: Great, thank you, Elisabeth.

Good afternoon, everyone. Good morning, on the
west coast, and welcome to our -- what's turning
out, to be our third all-virtual TPAC public
hearing session. And thank you for the warm and
kind introduction, Elisabeth.

Before we get into too many details in
this meeting, I would like to have the honor to
swear in our newest member, Tricia Thompkins.
And, welcome, Tricia, to the TPAC Community. And
as you have heard from Elisabeth, Tricia is the
Executive Vice President, and General Counsel, and
Secretary of Perry Ellis International.

And even more importantly, for our
purposes here, she is a former trademark examining
attorney and senior attorney with the USPTO.
Tricia is completing Dinisa Folmar's term,
following Dinisa's untimely death in June. So to
make Tricia's service official, we need to swear
her in, which we will do so now publicly.
So, Tricia, I will ask you to stand up. We have to organize a little bit here with the cameras, and all of that, so. Okay. Very good. Are you ready? Raise your right hand.

MS. THOMPKINS: Yes, yes.

MR. IANCU: Okay. All right. I do solemnly swear.

MR. THOMPKINS: I do solemnly swear.

MR. IANCU: That I will go forth support and defend the Constitution of the United States.

MR. THOMPKINS: That I will go forth support and defend the Constitution of the United States.

MR. IANCU: Against all enemies, foreign and domestic.

MR. THOMPKINS: Against all enemies, foreign and domestic.

MR. IANCU: That I will bear true faith and allegiance to the same.

MR. THOMPKINS: That I will bear true faith and allegiance to the same.

MR. IANCU: That I take this obligation
freely.

MR. THOMPKINS: That I take this obligation freely.

MR. IANCU: Without any mental reservation or purpose of evasion.

MR. THOMPKINS: Without any mental reservation or purpose of evasion.

MR. IANCU: And that I will well and faithfully discharge.

MR. THOMPKINS: And that I will well and faithfully discharge.

MR. IANCU: The duties of the office on which I am about to enter.

MR. THOMPKINS: The duties of the office on which I am about to enter.

MR. IANCU: So help me God.

MR. THOMPKINS: So help me God.

MR. IANCU: Congratulations (applause).

Shaking hands virtually.

MS. THOMPKINS: Thank you.

MR. IANCU: And, welcome, to the committee, and welcome back to the USPTO. Well,
hail and farewell, is a military term for honoring both incoming and departing members at the same time.

It's particularly fitting as we welcome Tricia, and also say farewell to valued TPAC members, as we have heard already comments from both Elisabeth and Chris, Donna Tobin, Anne Gilson-Lalonde, and TPAC chair, Elisabeth Escobar, herself. As their terms come to a close this December.

We know that furthermore serving on TPAC is a significant commitment of your time and we very much appreciate the many meaningful contributions you have made through your service. On behalf of the USPTO and the United States, thank you for sharing your wisdom, your advice, and your counsel, and for the professional and collegial conversations that help inform much of our work over the last three years.

It is now my privilege to present to you a small token of our appreciation for your dedication to the TPAC and the preservation of our
exceptional system of intellectual property. So we have Certificates of Appreciation for all of you.

You know, we need new innovation to be able to transmit them virtually somehow. But here they are. This is what they look like. We have one for Donna, and one for Anne, and, of course, one for Elisabeth. We will send them. I will make sure that they get to YOU. So, thank you all.

And for Elisabeth, hold on a second.

There we go.

(Laughter) That's a new technology right there.

CHAIR ESCOBAR: Wonderful, thank you.
MS. GILSON-LALONDE: Thank you.
MR. IANCU: And for Elisabeth, our outgoing chair, I want to present to you this flag. It's a USPTO flag. It looks like -- and when it's opened up it looks like -- just like you're on my left. It flew last week outside of
the USPTO headquarters in honor of your chairmanship. Again, our gratitude to all of you for your service to the TPAC, and USPTO, and our nation. Thank you. (Applause)

Well, I think most of you know, and you have already heard from both, Elisabeth and Chris, that this is likely to be the last TPAC executive session for Sharon Marsh and Meryl Hershkowitz. They both have remarkably distinguished careers with the USPTO. Sharon is the Deputy Commissioner for Trademark Examination Policy and has 37 years of service with the USPTO.

Those of you who have worked with Sharon know that she has a great legal mind, and her opinion on both any and all legal policy matters, is highly valued across the USPTO in domestic and global IP communities. Sharon's steady leadership and ability to stay calm under pressure is an inspiration to all of us.

Meryl is the Deputy Commissioner for Trademark Operations and has 30 years of service with the USPTO. Compared to Sharon, Meryl is a
newbie and she should have another at least seven years to go. (Laughter)

So, never mind, we'll take it as is. And for all of you, who have worked with Meryl, you know that she is highly analytical and incisive and full of energy as she pursues her work as deputy commissioner. She's a trailblazer who pushes the office to greater heights and couches pushes others to push for those same high standards.

Sharon and Meryl, I hope you know that you have made an indelible mark on this agency and your legacy, your leadership will be an inspiration to countless others to aspire to your high standards. Thank you for your dedication and invaluable service presence to the USPTO to the trademark community and to the United States.

(Appause) And, with that, I would like to turn this over to my colleague and friend, the USPTO Deputy Director, Laura Peter, who will give opening remarks. Thank you all. Have a
great meeting.

MS. PETER: Thank you, Director Iancu, for those remarks. And let me extend my thanks also to Sharon Marsh and to Meryl Hershkowitz for their service to the USPTO and also to the retiring TPAC members that have served so ably this year.

Director Iancu, a special thanks to you for your inspired leadership throughout this administration. And I am not sure if everyone on TPAC knows this, but Director Iancu received the highest achievement award two weeks ago from the American Intellectual Property Law Association.

So it's very well-deserved and we are very proud that he has been so honored. And with Under his guidance, the USPTO and the U.S IP EcoSystem is now ranked number one in the world in the 2020 International IP Index. To all of the members on this advisory committee, welcome and thank you for your role in advancing the development of the American system of trademarks.

It's remarkable that this is our third
all-virtual TPAC quarterly meeting. And I really
do hope the next time we will be meeting in
person. It is also my seventh consecutive TPAC
meeting that I have attended since I started my
tenure at the USPTO two years ago.

But, however, the pandemic has changed
much of our social and work lives. As Sam Adams
is one of our American revolutionary leaders so
wisely said, "We cannot make events. Our business
is to wisely improve them." And we have adapted
adjusted well at the USPTO. Since the lockdowns
were mandated in March, all of our over 123,000
13,000 employees have made a smooth transition to
working more remotely.

And, thankfully, after some anxious
months, our business is bouncing back along with
the economy. Trademark filings are setting
records. As we discussed at the last TPAC meeting
earlier this year, just after the onset of the
pandemic, filings took a precipitous drop. But
over the summer and continuing into recent months,
they have bounced back.
In fact, July, August, and September were our third highest filing months on record. This past September was our biggest filing month in history with 92,600 classes of files. And in our fiscal year 2020 that just ended in September, the USPTO received 738,112 trademark applications. That is our single highest filing year in history, and it was up by a strong 9-1/2 percent over 2019.

We're tracking other trends as well. Trademark renewals continue on a downward trajectory that began in 2017. And if our Applicants move for toward the pro se small and one-time filers and foreign filers, we are expecting lower trademark renewal rates in the future. These trends may be a reflection on the unprecedented growth of online commerce on and the rapid cycles that online commerce brings.

In reference response to the record number of filings, we hired 53 new examining attorneys in the file fall of 2020 (phonetic) of attorney assignments. And earlier in the month of October, we hired an additional 23. We have plans
to hire 54 new examining attorneys soon; we need them.

I am pleased to announce that we also have onboard a new senior leader for emerging technologies named Jerry Maas, and he officially started this past Monday. Mr. Maas's main role will be to advise our chief information officer on the most effective means of utilizing automated digital technology such as, artificial intelligence and Blockchain, and applying them throughout our operations.

Our goal is to accelerate the examination of both trademarks and patents by reducing mundane administrative tasks and eliminating waste. Technology can help create an even more positive work environment for all of our staff and improve the stakeholders' satisfaction.

As we deal with record filings, we are actively applying new technology to all of our processes. Several AI-related efforts are being piloted for implementation to improve examinations. These include: A new image search
tool; and an automated specimen analysis project for detecting doctored specimens.

Both of these are high priorities because they will help counteract fraudulent filings. Our Trademark Filing Trial and Appeal Board has also remained as productive as ever. In fiscal year 2020, they kept set more precedential opinions than in any other of the past five years. TTAB closed out the year with 43 opinions.

Some of these issues addressed include:

The application of the U.S. castle Council (phonetic) rule standing; who can bring a case; and how cases could be considered with respect to the same mark.

Although we have had to work remotely over the past eight months, there are some definite positive outcomes that we didn't anticipate when we started this adventure back in March. We're reaching more stakeholders and individuals than ever before through our virtual network.

For instance, our last TPAC meeting in
July had around 300 attendees. This is far more than could ever fit in a conference room here at the USPTO. Also during the 2020 fiscal year that's just ended, the regional offices greatly expanded their outreach to trademark stakeholders meeting with over 125 of the top filing trademark companies in the United States representing over a 40 percent increase over fiscal year 2019.

Eventually Additionally, in fiscal year 2020, the regional offices continued to partner fiscal their partnership with trademark operations to offer over 100 trademark training and education programs drawing attendees from all 50 states and Puerto Rico.

In the coming year, the regional offices will work with trademark to further expand American innovations by offering even more trademark educational programming with a particular focus on regions' stakeholders in geographically diverse regions not just to the small traditional innovation centers.

When the pandemic finally evades, we
intend to continue broadcasting these events. This engagement of so many more interactive interested parties bodes well for the future. We need to bring many more people into the innovation economy and this is one way we can do it; to it helped propel the USPTO into the leading agency involved in expanding the innovation economy.

In closing, we look forward to your suggestions on how we can continue this and then some momentum. Our common goal is to incentivize innovation for people from all walks of life to create new possibilities for competition and economic growth.

As we go forward, remember that American philosopher, Ralph Waldo Emerson, once said, "Do not be pushed by your problems, but instead be loved led by your dreams." Together we can build the this future we dream of for that both maintains ing our country's place as a world leader in IP and creates opportunity for all to innovate.

I am delighted that TPAC will be our
partner on this journey. I am confident that these sessions will continue to provide insightful and informative resources for all of its participants and I want to warmly welcome each of you. Thank you so much. And now it's my honor to introduce to you, Commissioner Gooder, who will update you on trademark operations.

MR. GOODER: Thank Laura very much.

Good afternoon, everyone. Good morning. My name is Dave Gooder and I am the Commissioner for Trademark. And, today, what we are going to do is -- next slide please -- we are going to cover a number of topics that have to do with trademark operation generally, but in a slightly different way.

So the first thing we will do is cover the operation, the metrics, how to proclaim (phonetic) fiscal 20 what the year looked like, how it ended. The next area though, instead of a separate presentation, what we are bringing in the financial performance of the business itself. And that's, Jay Hoffman, the CFO, will present about
that.

But the two topics that are so incredibly tied together that we really felt like they ought to be presented side-by-side, much the way a Board of Directors would look at the performance of a business.

The next area we are going to talk about will be just to touch on the status of the Free Rule. The next area are three programs that are very important to me, and I know to the office and to the trademark community, which is: How we protect and build the integrity of the Trademark Register.

The next area, we will discuss is the things we are doing to help customers during the period of COVID-19; and next, too, how we are trying to protect customers dealing with these trademark scams -- you all know them. And, finally, we will close with the new initiative that we are undertaking, and then move on from there into the other parts of the Agency.

So, with that, let's start on business
operations metrics in the Trademark Office. Now, the first thing I want to talk about is with the staffing; that these are, as previously Deputy Director Peter mentioned, attorney hiring. You can see here that we finished reduced hiring in 2020 because of the pandemic, and then since the fiscal year started on October 1st, has now brought -- started the class of '23, those were held from the prior fiscal years.

And I want to thank them for their patience and endurance as we rode through the year not really knowing what the economy was going to do. The view now also is we will hire an additional upwards of 50 examiners because the skyrocketing and unprecedented filings has left a large inventory.

There are currently 940 trademark employees. That's about seven percent of the PTO; 623 of those people are examiners; and 100 percent of the employees have the option to telework during this pandemic and most are doing exactly that.
Next slide please. Now, one thing we have learned by digging deeper into our own metrics, et cetera, is a different way to look at who trademark owners are in the U.S. -- excuse me -- who they are at the U.S. Trademark Office because many are U.S. and many come from outside.

The thing that's fascinating is if you look at this chart what you see over the last five, six years -- and including this year -- 75 percent -- I believe that's -- yep -- 76 percent are either small filings or the people who have less than nine trademark filings, nine or less, and one-time filers, who are people with one filing.

That means the vast majority of people who own a trademark filing, a registration application, or whatever, are an individual or a very small business. If you look at the very top bar, those are large filers and those are companies, most companies -- some individuals, but mostly companies, who own more than 100 filings, and they actually are a fairly small percent.
So, as we think about how the Trademark Office works and our programs, et cetera, we have to keep in mind this vast growth bulk of people who are small-, mid-size enterprises, individuals, et cetera, as well as who are the large owners of famous trademarks.

Next slide please. One of things that I have learned since joining the office in March is how closely trademark filings track the S&P 500 and is it too you can see over -- this goes back to '93 that you can see economy and in the trademark filings literally tracking along very closely together: The bluish line are trademark filings and the reddish line is USP the S&P. At the times, you can see that one outdistances the other but not by much and certainly not over time.

Next slide please. So, now, we then look at what happened this year. And we originally budgeted that we would have roughly about, I think, 1625,000 classes. And when the economy started dropping that would have been the case and would have been about a seven percent
decrease.

But what actually happened though was turning out, as Deputy Director Peter said, 738,000 classes were actually filed. And that turned out to be a 9-1/2 percent increase. What that looked like, well though, when you break it that down a bit, is quite interesting.

Next slide. This is what actually happened through the year. Now this goldish orange line at the bottom is what was projected. And you can see that the year is not an even thread spread (phonetic) of filings and you would expect that. You would expect it to drop some over the holidays, et cetera.

And what you really see here is how filings track the pandemic. They dropped, starting dropping, right as the mid-year, in January, February, climbed up a bit in March, and then dropped again. But ever since May, trademark filings have been on the increase. And so, as you see the end of the year, considerably higher than any one would have ever imagined. And what this
tells us is really a tale of two halves of the year.

Next slide please. What we saw is this:

In the first half, we saw a sustained negative growth for the first time since the credit crunch showed in 2008, the last great recession.

But in the back half of the year, it was absolutely unprecedented growth. Now, April and May, it looks like they were down, but actually that's when the pieces finally filings started to climb. So you can see a tremendous -- in different halves of the year.

Next slide please. Who drove that growth is an interesting area to look into to. It's likely to extend (phonetic)Like you would expect from our overall population of trademark owners. One-time filers and small filers accounted for 75 percent on of the filings, and also the most growth, and especially one-time filers.

Again, I agree that the comments that a lot of how we purchased and sold this year, the
being so heavily done on e-commerce is driving a lot of that. You can see the filing phases and the kinds of entities. Interestingly, the growth was in the individuals. By the way Finally, while the U.S. certainly is the largest share, the second biggest country filing in the U.S. is China.

And if you look -- the next slide please -- you'll see that the international side is broken out of it. So the top line is the United States or Applicants based in the U.S. The red line at the bottom is China, and the yellow or greenish line going through the middle is the rest of the world.

And you can see that the rest of the world really remains, plus or minus, fairly stable throughout the year; whereas, you can see China's incredible climb toward the end of the year.

Next paragraph -- or next slide, sorry. It puts a lot of pressure on the system with our examiners. What we do see is that pendency full life (phonetic) in the middle of where it should
be, both first action, and with disposal. And I really want to commend the examining corps. They're an incredible group of people. I have now met with virtually all of them. And I have never met a more dedicated group of professionals. And for them to deal with bugging out entirely, work from home during the pandemic, everything they did, and to maintain their productivity and their pendency numbers -- and as you will see, didn't affect their quality. They just did an outstanding job.

Next slide. And what you can see also with pendency is that the blue line is the average of pendency over 10 years; the red line is this year. And we have been able to hold fairly tightly to that. Now inventory has grown because of the last few months of the year. And so we will be working incredibly hard to keep that pendency in a good range.

Next slide. As you will see here also is that the quality metric also stayed exactly where they were, on target, in fact, meeting our
target. And, again, I think that's down to the
dedication and professionalism of the examiners,
the managing attorneys, new attorneys, and all up
and down the trademark operations area.

So that's pretty much what 2020 looked
like; it was incredibly unpredictable. It has
boggled the mind as to how it might have gone, and
how it could go. And we are working incredibly
hard to now figure out and drive forward with the
business to make sure that things continue
regardless of what the economy does in a
productive way that keeps pendency where it needs
to be, it where it needs to be; and as you will
see in a little bit, solve some of the challenges
we are doing.

Now we have talked about some metrics
from the trademark side of the business. Now I
want to switch to the financial side. And for
that I will introduce Jay Hoffman, who is the CFO
of the USPTO.

MR. HOFFMAN: Great, thank you, Dave.
And thank you for that presentation. That was
terrific. For those of you online, if there is any background noise, I apologize in advance. The middle school band is warming up in the basement, and I am not sure what is going on in the high school class upstairs, but seems to be rearranging furniture.

All right. Next slide please. Go one more. Okay. So, as Dave mentioned, we are going to walk through a fairly substantive recap of the 2020 financials. Our fiscal year ended on September 30th, and so we are now in fiscal year '21. So I am going to walk you through what the financial implications are, the performance-oriented update that Dave just gave.

And then I am going to transition and talk to you a little bit about what is on tap for fiscal year 2021, which has now started; and, finally, give you a quick update on the preparations we are making for our 2022 budget formulation, as well as an update on the fee rule, basically, status.

Next slide please. Okay. So, in FY
2020, prior to the pandemic, we had started with a plan that expected to have revenue collections of about $369 million against the expenses of $434 million. The reason expenses were higher than planned revenue is we were, at the outset of the year, planning to make a fairly significant step in the trademark IP system using funds from the operating reserve.

In addition, we had anticipated that the trademark fee increase would be going into effect roughly in August 2020. That's not the year that we actually had, however. I am sure many of you can appreciate that.

What actually happened is in the March and April timeframe -- and I will show you slides here in a moment -- we saw a lot of revenue volatility, particularly, downward revenue volatility and this forced us to adjust our spending plans. We took reductions in the market for a timeframe in the areas of reduction-related costs, the examiner hiring that Dave mentioned. We deferred that major IP investment upgrade. We
eliminated travel and training and cutback on a
number of miscellaneous contracts, and then we
just had sort of general belt-tightening all
around.

And so, what you can see here from this
table is that the actual collection, even though
they were down and then subsequently up big in the
summertime, we collected $358 million; $11 million
below our original plan. But we significantly
reduced spending. The actual spending for FY 2020
was $364 million or $70 million below what the
original plan was.

As the result of those decisions and the
uppick in revenue that we experienced the last
three or four months, the Agency is actually in
pretty strong financial position with respect to
its reserves. We have been able to actually
retain the reserves well above the minimum level.

And I think that that will help us
mitigate the ongoing risks associated with the
economic uncertainty as the contours of economic
recovery take shape. So I will show you some
additional slides on this.

Next slide please. In FY 2020, what this chart shows you here is that the blue bar is that the FY 2020 authorized collection covers actually up to us the authority to assume the collection. A blue bar reflects the level of authority that they gave us, which was about $3.45 billion.

The green bar on this chart shows the collections that we actually have, the revenue that we receive from our ratepayers, both patent and trademark. And as you can see here, the collections actually exceeded the authority that was provided by Congress and that wasn't unexpected.

The reason for that is two-fold: One is there was a fee increase on the patent side and some patent holders took advantage of the lower prices as they did their maintenance fee renewal and they submitted those payments early; the second reason is that trademark revenues actually ended up a little bit above plan for the year by
about $16.5 million. When that happened these funds flow into a separate holding account called the Patent and Trademark Fee Reserve Fund. And we have to work with Congress to move them from that account into our general spending account. And that process is underway right now.

No concern that the Patent and Trademark Fee Reserve Fund, it's really just sort of an asymmetry in the timing of when these were collected.

Next up, next slide please. As I mentioned, the operating reserve is in pretty good shape for FY 2020. Let me just quickly acclimate you to the chart. What this chart shows is the ending balance of the operating reserves for fiscal years 2017 to 2020.

The minimum operating reserve is $75 million. And that's what the red dashed line shows. And then the optimal operating reserve is closer to $180 million, which is what the green dashed line shows you.
As you can see from this slide, we were able to retain our operating reserve in FY 2020, above the minimum. We ended the year at about $110 million. Granted that's a little bit down from where we were in 2019, but all things considered I think it's a pretty good result given the revenue volatility that we experienced.

Next slide please. One of Dave's last slides really showed the roller coaster that we were on, in terms of demand for our trademark services. What this slide shows you is the trademark adjusted revenue rate for the year. It's really the fiscal-odometer (phonetic), if you will, of the rate at which revenue was coming in: The X-axis is for the fiscal year; the Y-axis is in millions of dollars.

And as you can see with this chart, we have started the year and we are collecting between 330 and $340 million up and down, as the year went along, in terms of our rate. This chart doesn't do justice for the sort of volatility that we experienced in the spring.
And I will show you a slide on that in a moment. But what the chart does show you is that starting at about May, or so, a dramatic acceleration upward, in terms of our revenue rates. We ended the year at about $359 million. So that's pretty impressive considering where we started.

Next slide please. So this chart gets into the volatility that we were describing in some of our performance centers. Let me quickly acclimate you to this slide. What this slide shows you is trademark application filing revenue. So we have basically two types of revenues that we received, to oversimplify the revenue file we received.

If I am doing a trademark, a ratepayer comes in and files an application, and then we receive revenue when they renew, when they renew them. This is just focused on the application phase of it. The X-axis, again, here is much of the fiscal year; the Y-axis is actually the percent above or below the end of the R on this
20-day moving average. And that's what the blue line shows is our 20-day moving average.

And as you can see along about the bottom quarter of the chart, there is a horizontal line; that's the plan. Ideally, what you would see is all of these datapoints sort of fluctuate right around that horizontal line. But that's not what we saw.

You can see two sharp downward movements in this slide. The first half is in December and January, where trademark revenues fell 20 percent below plan on this moving average basis before recovering in late February and the first part of March; and then a second steep decline in March through the first part of May, where once again they got down to more than 20 percent below plan before taking a steady climb up for the balance of the fiscal year and ultimately ended up 50 percent above plan upon a daily rate basis, which is just unbelievable.

And for the year, we actually ended up higher than what we had expected on our trademark
application revenues by a percent or two, meaning that we were able to make up all of the losses that we incurred throughout the year relative to our planned position so that it was really a pretty remarkable result, you know, and a lot of volatility on the way there.

Next slide please. So this slide really shows the second half of the revenue equation. This is the renewal, the trademark renewal revenue, above or below plan. The chart reads exactly the same way. And this chart is actually more pronounced.

You can see that in the December/January timeframe, we see a big drop in our renewal revenues. We were already 10 percent below plan for the year. It dropped, you know, down to more than 20 percent below plan before spiking back up in February and March.

And then I think this is really interesting the way it behaved. You can see a classic V-shape, where in the March/April timeframe, the revenue takes a very steep dive
downward and then dramatically when the fiscal and monetary stimulus that the Congress and the Federal Reserve applied to the economy, again, it very quickly in a V-shape moved back up to the pre-pandemic levels. And it was essentially flat at those levels for the remainder of the year.

Unfortunately, we ended up below plan for the entire year by about 13 or 14 percent for renewal revenue. So it's kind of a mixed story. And this is important because renewal revenues are where we make up for some of the additional costs that we incur on the application side.

Next slide please. We will pivot now and talk for just a moment about FY 2021. The USPTO has submitted a budget proposal with Congress. That was done last February. We have requested that Congress provide us $3.7 billion and authority to spend fees that we collect and of that we had recommended $444 million be allocated to trademarks.

As you probably know, Congress has not yet enacted a budget for fiscal year 2021, and
instead has enacted a temporary continuing resolution or a CR, as it's often called. The CR is just a formula that uses the spending level enacted for the prior year, in our case, fiscal year 2020, and multiplies it by the percentage of the year covered by the continued resolution.

So, as you can see from this table, last year we had received money from Congress of $3.45 billion. They have passed the continuing resolution through December which, if you have ever done this math, it turns out that December 11th is 19.7 percent on the way to the calendar year or fiscal year. You multiply the 19.7 percent by what you got last year and that gives the Agency a CR now of $680 million of which $67 million is for trademarks.

But keep in mind, we also have the operating reserve that's unaffected by the CR. We add that amount to the CR level. For trademarks, it's $168.9 million and that gives the trademark business line $184.2 million to work with while we are under the continuing resolution.
We are optimistic that we will see Congress enact a budget later this year. And, in addition, that $16.4 million that I mentioned to you that would receive Congressional approval to move into our general spending account, that would add to this totally and hopefully will be available to us in the next couple of months.

Next slide please. The current FY 2021 revenue e-collection estimate for trademarks is $362.9 million and it fills implementation of the new fee rule on January 1, 2021. I would caution, however, that this particular forecast was developed in the summertime and we did not have as much data as what I just showed you. That upward trend had not fully taken form yet.

So we are in the process of actually updating that revenue forecast. That will be done in the next few weeks and you will see some of that our next TPAC meeting. But the long and short of it is, I expect the forecast for trademarks to be higher than this number when we actually put our next plan and budget proposal
forward for FY 2021.

Right now, the spend plan for trademarks is $393.9 million for this fiscal year. That's higher than the revenues that we were expecting under this forecast. But I think that will probably even out when we do the revised forecast here. In fact, we have some more to come on that next time when we actually have the numbers finalized.

Next slide please. Dave had mentioned staffing. When we will look at the staffing plan for FY 2021, the trademark organization has approximately 950 employees. They plan to do some additional hiring in FY 2021: 15 examining attorneys and then 16 non-examining staff.

With respect to the FY 2022 budget, the budget requests should be submitted to Congress on February 8, 2021. That will be the FY 2022 budget. It's highly likely that there will be some Congressional Oversight Hearings on that budget. That would be the normal course of things. And you will be seeing, the TPAC members
will be seeing that budget some time in the late January timeframe.

Next slide please. And then, lastly, the USPTO is currently finalizing its trademark rulemaking package. The submitted plan, a shift in the final rules effective by January 2021. The rulemaking is currently in the internal clearance process in the Executive Branch and we are hopeful that it will make it through those dates soon.

At some point in FY 2021, the Agency plans to begin a biennial review of fees, again, to ensure that the Agency recovers the costs of the service need it provides and maintains about its operating reserve.

And the reason we are jumping into another fee rulemaking is, even though we are starting in 2021, realistically, it takes two or more years to get through the entire process. So by the time we get to the end of two years from now, we will obviously have incurred inflationary adjustments and those sorts of things.

So that concludes the slides that I have
for you this afternoon. But, thanks, Dave, for
the opportunity to brief the team.

MR. GOODER: Thanks, Jay, very much.

Okay. Next slide. Next one please. And picking
up a little bit on what Jay was talking about with
the fee rules -- go ahead, yeah, thanks. It is a
two-year process and this one actually started a
little over a year ago. And so, it was published
in June, comments ended August 3rd.

Move on please. Yeah, you continued
online if you -- and this is the notice. But next
slide please. Going forward, the new rule now is
making its way through the approval process; and
it goes through that path; and then it published;
and then 45 days later becomes effective on this
date then. The target is January 1, based on all
of the calculations.

We appreciate the comments and inputs
that we received. A lot of people made
suggestions, et cetera. We have listed all of
those. We really looked at how the economy is
impacting this and looking also at presently, what
does it cost us to do different things?

And so, what you will see coming out has

been enough incentive and you will see that in the

next couple of months.

Next slide please. The next story I

want to turn to is during this year some programs

that we did to help customers of the Trademark

Office.

Next slide. And what I want to talk

about is the program referred to as Priority

Examination. And this was launched in June. And

it covered products that fight COVID-19, whether

that's in diagnosis, treatment, prevention, et

cetera, they are FDA covered.

They are entitled to have the initial

examination advance ahead. And the petition for

you to do that is waived. And, in fact, there has

been 191 petitions already received; 92 of them

were granted; 55 percent have already passed the

publication. And their examination went through

in about 30 days, as opposed to about 90. So you

will see this has been quite useful. We have
heard positive comments about it and we will keep it going for the time being.

Next slide please. I want to turn to a subject that's important to me, near and dear to my heart, so to speak.

Next slide. And that's how to protect the integrity of the Trademark Register. Now there may be a fellow on the line who are not from the U.S. and this is just a reminder that in order to obtain, for the most part, opportunity to maintain U.S. Trademark Registration, use in commerce is a requirement of that.

And to protect to make sure the register has the integrity that we all need, we have to make sure that actually this is proven in filings and renewals, et cetera, otherwise, as you all know all too well, the register becomes cluttered with what we affectionately call "deadwood."

And that could be entire registrations or it could be parts of registration, meaning, goods and classes that are no longer in use. Either way, it becomes -- it interferes
significantly with trademark clearance and with --
the ability of the trademark system to function
properly and efficiently. So, right now, we are
going at this with a three-pronged approach and I
will talk to you about each of these prongs now.

Next slide please. The first area is to
deal with the problem of specimens that meet the
requirement. And we have to ensure that the
specimens they use are legally acceptable. And
the problem is some Applicants have been trying to
submit specimens that are computer-generated,
easily altered, fake, you name it.

Examiners are determined to spot these
and refuse them, but there are so many ways that
this can be done that it's quite difficult. And I
have to say that sometimes these rules, you know,
it's a legitimate filers fault, you know, sort of
what they need to do.

In some of the last external work I did
before going into the office, one of the company's
I was working with had done exactly that. It just
didn't understand. But, unfortunately, there are
companies and Applicants that are trying to use modern technology and so you get around the rules. So we have just now launched an AI-assisted tool called ASAP that will be used in the examining operation in order to find substantive patterns so that when we find something that looks suspicious this tool will help us find everywhere else where that same specimen, whether it's an image, whether it's a mark, et cetera, that they used, and then help us compare whether it is actually a problem going on or whether it's actually legitimate. Like I said, that's rolling out just now.

We have also released today a revised examination procedure. And if you haven't seen it, I urge you to look at it. It was redesigned really to protect good faith filers to make sure that they are able to solve the issue they stumbled on and still demand quick proof when it's really warranted. And when you approach people if you are aware of fake specimens being used by an Applicant to report it. You can send them to us
at this email address. There is also the Letter
of Protest, et cetera.

Next slide. While the next area that
we're engaging to try and protect the register is
the Proof of Use Audit Program. And that's in the
post-registration. And while the program started
in 2017, it was based on a pilot path that showed
that roughly 50 percent of registrations were
being renewed without proper use, either of the
mark itself and all that what was sent (phonetic),
or parts of the registration.

So the program was put into play
full-time and currently it has resulted in over
12,000 first actions being issued by the examiner
to work on the project auditing you see; 9200
responses worth in fact, and on those you can see
the numbers, but significant numbers to these
responses deleted goods or services which
indicates that the renewal was filed for without
having proper use.

Next slide please. And if you look a
little deeper into statistics, all you will see of
the application where the original filing basis was based on use, half of them were (inaudible) deleted business services at renewal. And the numbers there were higher when you start looking at (inaudible) or a Madrid filing.

So it's not hard to understand that people who whose native system doesn't require use may not understand it, but the problem is that we have to make sure that they are being properly represented and properly counseled so that the register it stays -- has integrity that it needs and also so does the registration.

Next paragraph -- or next slide rather. Now the other way we did that is by U.S. counsel and that rule was enacted last summer. Non-U.S. Applicants must use the U.S.-licensed attorney to essentially file documents.

People have asked about the results of it. And I'll just tell you two simple things. First of all, the refusals. The rule is working the way it was intended. That's the number of refusals meaning the amount of refusals being
issued that have to do with substantive issues.

We are now down to about 2.1 percent of all 1(a) applications. That's a very tiny number. And it has gotten -- it was considerably higher prior to the counsel rule.

But also trademark owners have reported to me that they are actually having to oppose fewer applications. And they attribute that directly to -- that a lot of foreign Applicants and Applicants in general are getting properly counseled about what they are filing.

So, in terms of the U.S. counsel rule, is it's view was -- now, next slide. Unfortunately, there are those who were trying to get around it. And these kind of programs include a number of things.

The next slide. First of all, there is unauthorized use of actual attorney information. There are improper signatures and uses of credentials being maildrops and false domiciles are being used by some Applicants.

You would be surprised sometimes how
many Applicants can exist at a mailbox; entirely false Applicants are showing up. In Alaska, what we are seeing is unauthorized changes of correspondence information. Now all of those are creating problems for the register and for Applicants and their counsel.

Next slide please. And so what we are doing is a number of things. First of all, we are developing policy and procedures and technological solutions that help to fight the problem, but also solve it when it does occur.

We have talked about the mandatory login for the register, and then would also give you the tools out there right now such as -- next slide please. The non-USPTO account and the app itself, the USPTO app, provides updates, status changes, et cetera. It is used at a lot of filings. It is not a perfect solution but it's -- I think it's a really good start. And you will see a lot of improvements over time.

Next slide please. The biggest thing we are dealing with is to get at the certain
(phonetic) innovative schemes and also the scams that -- which we will talk about in a moment -- is that a special path for us was formed last year. It's, I believe, up to 17 lawyers at any given time. They do a couple of things.

First of all, they investigate. While this starts with examiners finding problems, some of this comes out of the post-registration audit; some comes from the outside as well. But they investigate what's going on, and then they take action. That comes in the form of Show Cause Orders with almost roughly 500 of those issued this year; referrals to the Office of Enrollment and Discipline for their action.

They, in turn, if they discover, conclude, that there really is unauthorized practice going on or someone refer to the State bar, and then we work with the lawyer whose identities have been compromised and helping them solve those problems.

That's not enough. And, to me, I have been lining up to amp up what we do about this.
And so we are looking at additional ways that we can take action at the USPTO to fight some of this and we are doing it in a number of ways. So you will see more about it in the future, but to me it is a growing problem.

We can't conclude that all foreign filings, no matter how much the increase are also of bad behavior. There are some, that's for sure. And we just want to make sure that what's going on in the system is by the rules. And we're going to start looking at more ways to make sure that happens.

And one more. As part of a trademark scam, these have been an annoyance to me from the whole time I have been practicing law. And they didn't abate when I went in-house because they would just get sent to the accounting department, who would oftentimes just pay them.

But scams are proliferating, they're changing forms, just like all other kinds of trademark piracy. They are going online. We see them on social media. We are seeing them
communicated by text, by Twitter, Instagram, you
name it.

And, unfortunately -- next point -- and, actually, next slide. The USPTO has a fairly
limited authority to deal with them. That said, there is a bunch of things we are doing. The
first is in the education and outreach area, let's call it. And that is a webpage resource that
keeps a list of known solicitation scams.

You can advance the bullet please. So this has actually been pretty useful in a number
of cases. And I will tell you about more in a second. We are also including warnings to filers
in Office Actions and at registration to watch out for these things.

We have made it a topic of discussion or events with our good (phonetic) business owners,
TPAC meetings, everywhere, and are writing and publishing more about it. And there is also now a
dedicated mailbox to look forward to notifications when they are received.

Next bullet. Now one thing that we have
also done is we have -- because we don't have a
police power, so to speak, we then work with other
agencies to enforce. And that could be both, the
DOJ, the U.S. Postal Inspection Service, the

Next bullet please. And that has
resulted, that cooperation has resulted in a
prosecution currently pending in South Carolina.
And it's an interesting story that you can read
about in the complaint. But, essentially, the
Bank, who had gotten suspicious about what was
going on, was able to find the name of the company
on the PTO's website.

We, then, had some attorneys, who were
on detail to the DOJ, helping with this. And they
were able to get the gentleman who was responsible
for this, who was based in Lithuania, to come to
the U.S., where he was arrested and this case is
now pending.

We want to see more of that kind of
activity. And will look for your help in not only
finding it, but also ideas about how well you
think we might be able to get at this problem because I know it affects everybody in the trademark community.

Finally -- the next slide -- and one more. There is a couple of initiatives that are going on. We are looking at converting the registration certificates entirely to an electronic version. There will still be an option to kind of print it, if people want it. But this will not only save the Agency a lot of money, but we have heard from stakeholders that they actually would prefer to just have it electronically.

There will be lots of opportunity to weigh-in on this and we will hear more about it. The other thing is this week you saw an examination guide was issued on Generic.tld.

Next slide. Finally, what are my priorities for fiscal '21? And, essentially, they are the -- we are going to keep our employees safe, supported and engaged, even they are working through some pretty challenging times, especially with teleworking and bringing that into this
century and the ways we can do that.

I want to make sure we continue to meet
our pendency and quality objectives. That's going
to be a challenge with the inventory targeted. We
want to drive the key fiscal '21 initiative
support customers.

So the CARES Act programs that are still
in effect, who challenges the integrity of the
register fighting scams, and then stabilizing and
modernizing our public and private side of our IT
system. We've got to. We've got to do that.

And, finally, we want to ensure that our
trademark organization has the structure that it
needs and the adequate funding to optimize
everything we want to do to achieve all of those
priorities so that the trademark community and the
Trademark Office both are getting out of the
system what they want and need.

I thank you for your time and your
attention on this. We are running just a shoulder
ahead of schedule. But, at this point, Elisabeth,
I will turn it back to you, unless you want me to
hand it over to Amy.

CHAIR ESCOBAR: So thank you so much, Dave. I think that this is a good point at which to pause and see if TPAC members have any questions for you and/or Jay.

MR. GOODER: Sounds good.

CHAIR ESCOBAR: And I'll give people a minute to get off of mute. I have got one or two things I wanted to ask. One is a simple question. And I apologize that it's so basic. But how funds get into the operating reserve?

Is it automatic, in terms of any overflow or -- does it happen automatically if there is something leftover after expenses? Does it automatically go into the operating reserve, or is there a process?

MR. GOODER: I am going to let Mr. Hoffman answer that one. Jay, are you still on the call?

CHAIR ESCOBAR: Jay, are you still with us? (No response)

CHAIR ESCOBAR: He may not be.
MR. GOODER: I think he may have dropped off.

CHAIR ESCOBAR: Okay.

MR. GOODER: We can find out the answer.

To my knowledge, in the private sector, each month and each quarter, they are looking at revenue versus expenses. And I do not know whether the money is moving in and out on a constant basis.

But as far as I understand, it is monthly and quarterly as needed. So the balance, as you can imagine, during the year is going -- is increasing and decreasing depending on the need. We tend to start out in the beginning of year utilizing some of it.

And you saw the income lines throughout the year, the collections go up and down and the operating reserve helps smooth that out, especially when we had the huge drop in the spring. So, to my knowledge, it's a constantly flowing account, if you will.

CHAIR ESCOBAR: Mm-hmm. Another question that I had had to do with the audit
program, the Proof of Use Audit Program. You had mentioned that 987 registrations were cancelled since the audit requests were made. Is that because people failed to respond entirely to the audit requests?

Because as you know, the audit would not have been triggered had it not been for a Statement of Use with some sort of adequate good specimen attached for something in the registration.

MR. GOODER: Yes, so it triggered an audit. And when it was requested or the audit was issued, the person just defaulted and didn't reply. If that's your question?

CHAIR ESCOBAR: Yes.

MR. GOODER: Honestly, I have seen people look at it and they say, "Eeesh, maybe I don't exactly have what I thought I needed to have," and let it go.

CHAIR ESCOBAR: Hmm. My final point was more a comment than a question. Jay mentioned that renewals have been consistently dropping
since 2017. And I think it was mentioned also
that our funding mechanisms for making the numbers
penciled (phonetic) relied heavily on renewal
fees. I know it's been a longstanding policy of
the option -- of the Office to keep entry, various
entry, as low as possible.

And as part of that, the Office has
tried to keep application filing fees as low as
possible but that has resulted in a situation
where applications are going up and we lose money
on each application and renewals are going down,
which is where we tend to make up that money.

And I'm wondering if it isn't time for
the Office to consider rebalancing a little bit so
that it's not taking quite so much of a bath on
applications because the cost for application is
way below the filing fee.

MR. GOODER: Yeah, absolutely it is, and
that's going to be sort of item number one, as we
look at those fees in the future. That balance
that was struck many years ago just doesn't exist
anymore in the same way -- people filing and
behaviors are different, our registration behaviors, how long marks are in.

And when you think that 70-something percent of them are by individuals and small businesses, a lot of them just don't have the same longevity as, let's say, a large brand they have. So it surprised me when I first got here that renewals were decreasing like they were, and then a higher percentage than you might think were actually being renewed. So, yeah, I think we need to rebalance that.

CHAIR ESCOBAR: Mm-hmm. Thank you. So I'm going to give my fellow members one more opportunity to ask any questions they may have before we move on to OPIA.

MS. LALONDE: I have a question. It may be (inaudible), but I will try, sorry. For the fees that are collected above the appropriated amount, is that money that we most certainly get back from Treasury? We just have to jump through some hoops to get it back, or is there any question that -- you know, is there any
possibility we may not be receiving those funds again?

MR. GOODER: I'm not sure if Jay is on. But I think Michelle Picard is on. Are you on, Michelle? Are you able to talk? (No response) That's a good question. Well, Branden?

MR. RITCHIE: Yes, I'm here, Dave.

MR. GOODER: I'm sorry, not Branden -- Brendan. I was thinking that (laughter) --

MR. RITCHIE: Oh, oh, I'm sorry.

MR. GOODER: That's okay -- not that we don't want to hear from you. We're looking forward to it.

MR. RITCHIE: And I heard Branden, if you thought --

MR. GOODER: Yeah, well, I think we'll have to wait. Yeah, thank you. Okay.

CHAIR ESCOBAR: All right. Any other questions from TPAC?

MS. WALTON: Yes, this is Kelly. Can you hear me?

CHAIR ESCOBAR: Yes, we can.
MS. WALTON: Okay. I tried before, but I couldn't get on, so apologies. But I had a question. And, again, this may be for Jay. But on the operating reserves that we looked at -- back on the budget -- so we think the optimal was six months.

And so anything below that was presumably correlated to not having six months. Do we know, looking at what we have right now, are we looking at three months, or four months, or five months? I know it's under six months. But any thoughts on that?

MR. GOODER: Yeah, the desire -- Sean, are you on the line also? Are you on the call? (No response) So, as I understand the optimal amount is about 175 million. The end of the year is somewhere north of 100 million which was better than we thought. We know that it will -- even with the fee it will take us two, three fiscal years to get to reach that optimal level.

How many months exactly it is depends, varies by how many that -- you know, the size of
personnel, et cetera. So I'm not sure if I can
equate it sitting here without the help from the
finance people about how many months that actually
pans out to.

MS. NATLAND: Hi, can you guys hear me?
It's Susan.

MR. GOODER: Yeah.

MS. NATLAND: I just have a couple of
comments. I'm not too sure of that budget destiny
(phonetic) so -- and I asked that same question
to Jay yesterday. And with respect to the
overage, my understanding is it's fairly automatic
that you should be expecting to receive that. I
think that it was 16.5 million or so, for
trademark, back into our account. But that's my
understanding.

MR. GOODER: All right. Thank you.

MS. NATLAND: I also ask the operating
reserve question, too. And I believe the minimum
with the 75 million right now is about three
months, and I think that the optimal is six
months. And I think we are at about 111 million.
So probably around four months or so, at this point, is where we are at on that. So that's my understanding from asking very similar questions yesterday.

I do have a comment, Dave, as well. And I just want to commend the Office for its actions with the scams -- really, very important topic. And as a TPAC member, I know I can speak for all of TPAC, we really look forward to working with the Office on trying to address this issue as best we can.

I think we have all had friends or colleagues, accounting department, you know, having feud with these horrible scams that often actually completely mimics the PTO's emblem and name. And so we really look forward to working with you.

So thank you for your focus on that issue. I think that's very important for the community, and especially for the small- and medium-sized companies that may not appreciate this view as much as we may.
MR. GOODER: Yeah, absolutely. Thank you. I appreciate that.

CHAIR ESCOBAR: Okay, last call. Anyone else? (No response) All right. So we are just a touch -- we are almost exactly on track. Now I believe we will hear from Amy Cotton, who is at the Office of Policy and International Affairs.

MS. COTTON: Yep, thank you. It's good to be with you today. Shira Perlmutter usually has been in this slot, but she has now moved on to become the Register of Copyrights. We are very excited for her and delighted. It's a well-deserved achievement and we wish her well.

The new Acting Chief Policy Officer for the USPTO will be Mary Critharis. And she's been the head of the OPIA patents team for many, many years. So we think it will be a very seamless transition. But in the meantime, I'm delighted to be with you today. I wanted to share some important meeting developments in the policy and international arena with you.

Next slide please. The Madrid Working
Group. This is the working group on the legal
development of the Madrid system for the
international registration of marks. It was
hosted by the World Intellectual Property
Organization, October 12th through the 16th.

The meeting was held in a hybrid format.
So you had the Geneva-U.S. mission folks, or the
other missions from the other countries. They
were participating in-person at WIPO. And you had
officials from Capital participating virtually.
The working group agreed to a few amendments to
the current regulations that I want to share with
you today.

The first one is about emails. It
actually occurred in September. There was a bit
of urgency because the WIPO International Bureaus
for the ID, they wanted to require applicant
holders and their representatives to indicate an
email address in the international application and
a separate communication appointing a
representative or in a request for the recording
of a change of ownership.
So, if you recall, the postal system in Switzerland was shutdown due to COVID-related shutdown. With that halt in mail delivery, the International Bureau was stuck. They had to try to quickly find email addresses in order to contact holders and representatives when there was no address in the file. They needed to send out notifications in order to be timely. So they were really pressed to try to contact Applicants.

Now, at the USPTO, if you recall, we moved to a mandatory electronic communication world before the pandemic hit. So we were feeling very smug that we were ahead of the curve.

We did not run into the problem of not being able to send out regular mail to Applicants in those countries that were experiencing postal mail disruptions, with the exception of the paper registration certificate, where we did have some issues. But those will eventually all be mailed out when service is restored in those countries.

But just so you know, from a privacy perspective, the IB will not be including the
email address of Applicant holders or representatives. In the Madrid information services this would be done through a monitor of the Madrid real-time status and they will not publish this information in the WIPO design of international marks. This rule will enter into effect February 1, 2021. So don't be surprised if you are asked to include email addresses in your international registration.

The next rule was about the appointment of a representative. Because holders have been allowed to appoint representatives in various different communications that appointment was not always displayed consistently in WIPO's Madrid system.

So to ensure that each appointment has a distinct transaction displayed in the systems, Applicants and holders will no longer be able to appoint representatives in a subsequent designation or in the request under Rule 25, other than new holders in request for reporting a change of ownership. However, Applicants may still
appoint a representative in the international application.

The next rule is also somewhat COVID-related. This is the excuse and delay in meeting time limits. Rule 5 will be amended to align with and provide the same revenues as to missed time limits as provided in the Patent Cooperation Treaty system.

So this rule will excuse a delay in meeting the International Bureau's deadline for responding or taking action when there are widely recognized forced majeure events. And they will allow the response or action as soon as reasonably possible and not later than six months from the expiry of the limits concerned.

So this is supposed to help users who does not meet the IB's deadlines due to forced majeure event, such as the COVID-19 pandemic in 2020. Both WIPO and the U.S. Devised and offered temporary relief measures during the pandemic but because the rules did not actually cover those forced majeure events but they will now.
Our last rule at WIPO, Rule 9: New Means of Representation. For those interested in filing international applications for non-traditional mark, there were some rule changes to provide a bit more flexibility in the reproduction or the drawing requirements for these types of marks.

Different contracting parties have different requirements for representation. Some have a graphic representation requirement; some have a non-graphic representation requirement.

This was difficult for international Applicants to figure out to represent the mark in the international application so that it actually matches the basic marks, as well as conform to drawing requirements as the designated contracting party.

Now this issue has not been particularly urgent because they are not a lot of E-Marks being filed internationally but that may change. So the working group is considering just how to make images a little bit easier to use for
non-traditional marks.

The working group agreed to amend the rules to eliminate the graphics reproduction of the mark requirement and replace it with their representation requirement. The reproduction would be a drawing and a representation would encompass more than just a drawing, perhaps a description, or a sound file, or something like that.

Number two, they were going to require only one representation of the mark in color, if the color is plain; and number three, eliminate the requirement that the office of origin certify that the mark in the international application, in the basic app or registration is the same, but instead certify that the mark correspond.

The Treaty actually uses the word "correspond," but the rule said, "the same as."

And, of course, then people were implementing very strictly when there is actually a little bit more wiggle room in the Treaty. So these rule changes will enter into force February 1, 2023.
Lastly, the issue of languages has arisen. The proposal from some demands is to add all six UN languages into the Madrid system either as filing languages or as working languages. So right now you have English, French and Spanish that are both filing and working languages of the system. There are calls for adding Arabic, Chinese and Russian into the system.

If you add it as a filing language, then the Applicants who file an application in their language, if it's one of those six, the IB will translate it and then it moves through the system in only one of three working languages. If you add all six working languages into the system, then the IB is responsible for translating every piece of paper that comes through the system into all six languages.

The argument is that the UN organizations all use all six working languages and so the Treaty should as well. However, the Hague System only has two working languages; PCT has a bit of a hybrid and they don't work in all
six languages all of the time either.

So this is, of course, a very big potential cost to the system which, of course, would be passed on to users. So this is something that we will be discussing in the coming months, probably coming years, and it will be an interesting topic of discussion.

Next slide please. ICANN 69 took place last week, week before last. I wanted to give you an update on a few topics: WHOIS. WHOIS domain name registration record. So you remember after the European Union's General Data Protection Regulation, GDPR, went into effect in May, a lot of domain name registration records went dark pretty much.

So there has been a lot of discussion about how to allow intellectual property (technical difficulty) -- but there was an agreement on a centralized system for disclosure of that information. So we can agree that we should be able to request it, but we are not able to agree that we are going to be able to disclose
So that's still an ongoing discussion of whether we can get access to this information. The ICANN Board will now consider the various recommendations that are coming through. But a new process, of course, is expected to start shortly to address some of these ongoing questions and also what kind of data relating to legal versus the natural person's need to be provided.

On the issue of domain name system abuse, DNS abuse, this is malware, botnet, phishing, pharming and spam, certainly is a continued concern going on at ICANN, particularly, with COVID, are scams out there. And they are continuing to talk about how the contract provisions between the various parties might be improved to address this issue.

Lastly, on the Rights to Protection Mechanisms Working Group and RPM is short for it. The working group that's dedicated to reviewing the RPMs generally agreed that no major changes should be made. These RPMs, in particular, that
were at issue were the Trademark Clearinghouse, the Sunrise Claim Service, and the Uniform Rapid Suspension System or URF.

So this is good news. These RPMs were created to help trademark owners address the anticipated increase in cybersquatting for the launch of the new GTLB. We didn't want to see any watering down of these critical features.

Also you should know the working group agrees that geographical indications should not be recorded in the Trademark Clearinghouse. There is a lot of uncertainty about these rights and it was decided to keep them out for now. The working group conclusions will move to the GNSO Council and then the ICANN Board will take a decision on this review process. But they haven't even gotten to the UDRP yet. That review should begin in the second quarter of next year.

Next slide please. TM5. We had a successful virtual TM5 annual meeting earlier this week. This was Monday, Tuesday, Wednesday of this week, starting bright and early for the U.S. But
we had China, Japan, Korea, and the EU all on the phone, so we had to find a time that worked for everybody.

Director Iancu opened the meeting, welcomed the participants. Commissioner Gooder chaired the meeting. And it was a really nice surprise because we had the World Intellectual Property Organization's Director General, Daren Tang, attend to provide some welcoming remarks. And he recognized the importance of trademarks to the global economy.

So that was really a lovely surprise for us. During that meeting, we discussed the cooperative projects and we approved a new project called, Joint Communication Action. Here are some highlights for you. WIPO announced that the TM5 ID list, which has about 20,000 pre-approved IDs in it, now it is incorporated in the Madrid Goods and Services Manager at about a 95 percent rate. It will advance about 100 percent in the next few months. Since the USPTO requires a bit more specificity in our IDs than many other countries,
we want to encourage our level of specificity in any global use of IDs. So we're happy about that.

The TM5 is working on a searchable database of fraudulent solicitation examples on the TM5 website. So we're collecting all kinds of different solicitations and creating a database. And we're hoping that this will continue to help prosecutors investigate these potential incidents.

We found that our website actually found what fraudulent solicitations was used by investigators to figure out that somebody they were investigating was involved in these scams as well.

On the non-traditional mark project, the TM5 recently published to the TM5 website guidelines for 3D mark application requirements in each offices. So it basically sets out what each office requires when applying for a 3D mark so that users can have a better idea of what they're facing.

The next slide will be how to search for non-traditional marks in each office. Because, as
you know, they are not necessarily indexed and coded in the same way. And after that, we're going to move on to color marks. And so we're creating a catalogue of information about non-traditional marks and how they're handled.

On the User Involvement Project, the partners have voted to approve the JPO proposal for the fifth user workshop, for instance, in San Diego. This workshop will be on tips for avoiding refusals in the partner offices. So we think you will find that very interesting.

Wanted to let you know that TM View, this is a catalogue created by EUIPO, basically, a global brand search system. It now includes data from 70 countries with 60 million marks. But the most exciting thing is that EUIPO announced that the Chinese trademark registrations will all be integrated into TM View by 2021; that you will be able to search China trademark data within TM View by 2021.

The new project is the Joint Communication Action Project and it will start
immediately. It is designed to improve communications between users and TM5 partners.

Just so you know, we had the TM5 user session on the last day -- Elisabeth was there -- we had about 160 representatives logged in to here updates from the partner offices and to participate in an interactive question and answer session with the partner offices and WIPO. China is the next host. It rotates every year and China will take over host and secretariat.

One more thing on the TM5 is Brexit actually. The EUIPO reported that as of December 31, 2020, the transition period is over and users will fully feel the impact of Brexit. As of that date, EU trademarks will cease to have affect in the UK. Anything that happens in the UK is irrelevant for EU trademarks.

The UKIPO will create mirrored trademark rights; that is, EU trademarks will be converted into UK trademark registration. UK representatives can no longer act before the EUIPO and trademark owners will need to appoint new
European economic area-based attorneys. There is one exception for ongoing proceedings where the UK reps can continue to act for the holder before the EUIPO if the proceeding is already going on.

For non-EU domicile customers, they only need to appoint when there is an action to which the Applicant must respond. And if they just hold the registered trademark there is no reason to appoint a rep until the procedure is initiated on that registration.

Next slide. And, lastly, I just wanted to highlight some of our upcoming webinars and meetings, and simply to show you that the work of OPIA has not slowed down. With regard to the pandemic, we have got WIPO meetings that we are doing -- holding virtually.

The Lisbon Union is really coming up next week. And we have got a webinar with the Georgian Trademark Office on TTAB practice. We have got an office with -- a meeting with Bhutan about relative exam.

We are planning training for Chinese
examiners that (phonetic) examination. And we
have just got a bunch of activities going on with
various processes around the world. And we're
continuing to train, and we're continuing to meet
and spread the word.

So just wanted to let you see what we
are doing here. Well, that's all I have for
today. I'm happy to take any questions.

CHAIR ESCOBAR: Thank you, Amy. That
was quite a lot. I had one question for you.

After the TM5 user session, I ran over to the TM5
website, which is at tmfive.org, to look for the
searchable database on solicitations and I
couldn't find it. Is there a timeframe for when
that's going to go live?

MS. COTTON: That is a good question. I
am going to have to get back to you on that,
unless my colleague, Lee, is going to IM me and
let me know. (Laughter)

CHAIR ESCOBAR: Okay.

MS. COTTON: But I will let you know. I
don't have it at the ready.
CHAIR ESCOBAR: All right. Thank you so much. Do the other members of TPAC have any questions or comments for Amy?

MS. NATLAND: Hi, Amy. It's Susan. I have just a quick comment and a question. I want to volunteer myself to go to Japan, if you ever need me or need a traveler.

(Laughter) I have always wanted to go there. And I don't even know if you can get any of the details -- put me on a list.

My question is -- and this is more of a practical question. I don't know if you know the answer. But is the TM View the same database as the WIPO global brand database? Are those two things the same? Okay. We'll go get that.

MS. COTTON: There is a bit of a -- I don't know -- competition there for help.

MS. NATLAND: Okay.

MS. COTTON: And they both have different searchable interfaces, so different algorithms that they are using. But they are two
different things. So if you search one, it's
going to be different results than when you search
another one, the other one.

MS. NATLAND: Thank you.

CHAIR ESCOBAR: Other questions?

(No response) All right. Well,
thank you, Amy, very much, for
sharing your time with us. It's
always a wealth of information.
There is so much going on at OPIA.
We look forward to hearing from you
next time.

I am going to turn the mike over to --
the virtual mike over to Michelle Picard, who is
going to pick up a question that was asked earlier
concerning operating reserve.

MS. PICARD: Hi. First of all, I want
to apologize. Jay got pulled away, and then I
wasn't connected to the mike. So, sorry for the
CFO's snafus in the financial questions. So I
just want to make sure I test them all. Because I
was also feverishly trying to connect my voice to
everything I was hearing from you guys.

I want to commend David and Susan. Both
of you guys answered well. I can hear everything
you were saying. I think the first question was
related to the operating reserve and if anything
that went unspent, does it automatically go into
it, or do we have to do something about that? And
I think Dave handled that really well.

It is kind of a continuous flow, as he
said. So there is no legislative appropriation,
anything. The way that our funds are given to us
in a year, they're available until expended. So
if we don't spend them, we just get to hold on to
them to use in future years. And there is no
additional hoops we have to jump through to do
that.

The other question I heard was about the
Patent and Trademark Fee Reserve Fund. So the
amount of money that we collect in excess of the
appropriation in 2020, is there -- I think I was
hearing -- is there risks with us getting it?

And we have had to go through this two
or three other years. And so far we haven't had any issues whatsoever, so and we are not expecting any this year. We have already submitted the requests up to get the money transferred to us. And we haven't heard any indications that there will be any challenges this year.

And I think there was a third one that I am not sure that I remembered.

MR. GOODER: Yeah, I think, Michelle, it was. Yeah. I think it was about the lengths of the reserve and in terms of weeks of months and what the target is. I believe six months. That's where we are at kind of now with 110 million, add another million in there.

MS. PICARD: Yeah, so it is about half. So we are at about three months right now and continue to watch it. And we're looking at our trajectory and our plan to try to get to the six months. And I think that if our plans continue to work out, we think we are in a good place to get to the optimal level again. We're at probably --

CHAIR ESCOBAR: Fee counts?
MS. PICARD: Sure. And I think there was something related to fees. Oh, no, Dave, you took that, the front-end, back-end, with renewals and applications -- yep, agreed.

Anything else? Any other questions while I'm on? Again, I apologize. (Pause) Jen, did you have a question?

MS. KOVALCIK: Yes. Can you hear me now?

CHAIR ESCOBAR: Yes.

MR. GOODER: Yes.

MS. PICARD: Yes.

MS. KOVALCIK: When it comes to renewal, as you are preparing budgeting and looking forward, how are you trending, or what trends are you noticing with respect to renewals? I understand that they have been going down for a few years. Is it a pretty steady decreasing here? Are you noticing that the amount of renewals are actually increasing by how much they are decreasing, if that makes sense?

MS. PICARD: We are definitely losing
revenue with renewals. So by the amounts that they are increasing is not likely it passed the increases or anything or recovering that. So we are looking at the pace at which they are going down really closely, as we are projecting into the future.

And also, as we are doing our current fee review right now trying to figure out, do we need to make any adjustments with that, and then kind of relate it to the balance that you were talking about on the front-end with application filings and finding that right balance between the two.

So it's not steep or drastic. It's not dropping off immediately but we are -- every year it is a little more, and a little more, and a little more going down. So we are keeping an eye on it.

MR. GOODER: Jen, the bigger drop is in the six years renewal, so Section 8 (phonetic) six years filings is a bigger drop than the 10-year renewals.
MS. PICARD: Correct.

MS. KOVALCIK: Thank you.

CHAIR ESCOBAR: Any other questions from TPAC? (No response) Okay. Well, Michelle, thank you so much for dropping in. We really appreciate it.

MS. PICARD: Sure. And, again, I apologize. Thanks. Have a great day.

CHAIR ESCOBAR: No worries -- you, too.

Let's see. We are a few minutes behind schedule. But I think we should go ahead and fit in our last presentation before a brief break. And that's going to be from Branden Ritchie and Kimberly Alton of the Legislative Office. Take it away. (Pause) Branden and/or Kim, if you're speaking, you're on mute.

MR. RITCHIE: Hello.

CHAIR ESCOBAR: Hi, great.

MR. RITCHIE: There we go, thank you.

My mute button was stuck, for some reason, sorry about that. Hello, everyone. Kim is out all day, unfortunately. So I apologize for that. I will
do my best to cover the topics here today.

And we can go on to the next slide. So we have had a lot of work and had a lot of progress on some of our legislative initiatives just in the past three months and past quarter. The first I'll talk about is the Telework for U.S. Innovation Act, which was the name given to the legislation that would extend our telework authority for the TEAPP Program, which is the program that allows examiners to work from virtually anywhere in the United States and territories.

And that has been such a beneficial program for the PTO. It's a wonderful benefit for the employees. It achieved tremendous cost avoidance for the office. And it's a real win-win. It was authorized in 2010. And then in 2018, it was reauthorized for another two years. And now we are seeking a permanent authorization. And so that legislation was introduced both in the House and the Senate in a bipartisan fashion. And the House, it was included as an
amendment to the National Defense Authorization Act. And in the Senate, the relevant committee, which is the Homeland Security and Government Affairs Committee, they passed that bill by unanimous consent as well.

So we are currently awaiting further action on those. We understand that the Senate is trying to get unanimous consent to pass the bill in the Senate and then it would go -- the standalone bill, that is, that would then go to the House and we would continue working on it there. But since it passed the House already, hopefully, that would be something that can be accomplished before the end of the year.

And then the second item is the Trademark Modernization Act. That's the legislation that would create new proceedings for stakeholders to challenge marks when they have never been used in commerce or have not been used by the relevant date.

Last year, the House Judiciary Committee took the lead on constructing that legislation.
They held multiple roundtables with stakeholders and then they released the draft to introduce the bill in March of this year. And that was also introduced on a bicameral, bipartisan fashion.

The Judiciary Committee, in September, then went ahead and marked up the bill and it passed before its vote and so further action is pending; and, clearly, you know, would waive (phonetic) the bill, the November/December timeframe, in Congress. And we are monitoring that without any technical assistance as requested.

Dave, I think mentioned this. But there is currently a CR that runs through mid-December, and then once the members come back after the election in November, you know, we will know a lot more about what the next step is for the funding mechanism.

We can go to the next slide. I will say about the funding that we have been -- one of the things you reported that we have been seeking the Congressional committees of the Judiciary
Committee and the Appropriation Committee updated. We have had regular updates with them about the fee revenue situation on both the patent and the trademark side.

And that's been very important because the more updated and the more information they have, the more they would, you know, understand the dynamics here at the PTO. And then when we go to make reprogramming requests, they understand the context.

And the reprogramming requests is where we request that money in the Patent and Trademark Fee Reserve Fund. So we have been doing our due diligence to make sure they are up-to-speed on everything.

So we also had a request from Senators Tillis and Senator Leahy to do a study. And the study was with respect to safe harbor immunity. They wanted us to study the extent to which patent and trademark owners are experiencing infringements, I think, and its views about adequate remedies under state law, and it
contemplates the extent to which that infringement is intentional or reckless. And they asked us to do a study and then produce a public report by the end of April 2021.

So we have already begun that process. We're doing research, on the legal side, in the cases. And very soon we will be putting out a Federal Register Notice seeking information from stakeholders, from all stakeholders.

And we encourage everyone who has comments they would like to submit to submit those comments. They will be very important to that study. And that's something we're aggressively working on right now as well.

You can go to the next slide. So we have talked about some of these already. I will make this short because I know we are pressed for time and there is a break coming up. I don't like to get in between breaks and everybody.

So we continue to monitor and try to work on or IP attaché rank which, you know -- as you all know, we have talked about this in the
past. Our IP attaché's are not able to always acquire the means at the levels they need to be as influential sometimes as their foreign counterparts. And so we have been working on that aggressively. And then, of course, we have the TEAPP extension and the Trademark Modernization Act.

So, I think, the next slide is the last one. So I think that concludes this summary. I tried to expedite it, but I'm happy to answer any questions you have.

CHAIR ESCOBAR: Anyone? Yes, go ahead.

MS. BALD: So I know that you talked about the Trademark Modernization Act. And I understand that funding is down the road. But has there been any production as to what implementation of that Act would cost, in terms of the Office? Obviously, it was introduced in U.S. (inaudible), since the future which (inaudible) would require additional resources and woman power, as I like to say.

MR. RITCHIE: Yes, I can refer to Dave
on this, too, or Meryl, and Sharon. But I know that we have been contemplating the costs. The bill contemplates that within a year we will have regs to implement with the statute if it should pass. And part of that, you know, would be attempting to address the costs, I believe, of the proceedings. I don't have those numbers for you right now though.

MS. BALD: Thank you.

MR. GOODER: Yeah, it's being studied and analyzed at the moment.

MS. THOMPKINS: Branden, this is Tricia. Could you send the equal share with regard to this that there are no state sovereignty issue, and particularly as it relates to the portion of these requests made by the Senator that has been intentionality, any infringement(phonetic) that might be taking place?

Do you have a sense of kind of the background or the rationale behind that requests?

I wouldn't imagine that they would have asked about the intentionality unless there is some
indication of such. And, again, I understand that
you may not be able to share a lot. But I
appreciate any insight that you can provide.

MR. RITCHE: Thanks for that question.

This request came after the Supreme Court's
decision on the copyright issue of state
sovereignty, where the Supreme Court kind of laid
out a test that Congress would have to show in
order to aggregate state property.

And part of that test was the extent to
which states are engaged in this infringement
without adequate remedies of state law. And I
believe -- but I hesitate to say this -- but I
believe that perhaps intentionality was mentioned
in the case as well.

And so this report kind of was
subsequent to that Supreme Court case, and the
Congress also asked the Copyright Office to do a
similar study. And so they asked us to do it for
patents and trademarks and the Copyright Office to
do it for copyrights.

MS. THOMPKINS: Thank you for that.
MS. COTTON: This is Amy. Let me just chime in. I think it relates to the idea of trying to figure out whether states are using their immunity to, you know, infringe. And it's based on what I have seen in past discussions that seems to be the issue that they are getting at.

MS. THOMPKINS: Thank you.

MS. NATLAND: Just another question on TMA. Did you make (inaudible) through -- you know, assuming a (inaudible) and continued bipartisan support about when we might expect the laws to be enacted, just so we get a sense of timing?

And then, sort of a follow-up question is: I know there has been opportunity for comment by stakeholders and the public. But if there are still some comments, I have been approached by a few stakeholders who have some additional comments. What would be the best way to (inaudible) apologize on (inaudible) at this point in the process?

MR. RITCHIE: Thank you. Those are both
great questions. So, timing is really hard to predict. This year, in particular, it's even more difficult. After the elections, everyone will come back. The members will have to try to get on with the various committees they want to be on, leadership elections, leadership of committees.

We are going to be very busy. But it is the hope -- my understanding is, it is the hope for the House to move forward on it. If they were to do that and the bill could come to the floor of the House of Representatives and pass, then the Senate would have to take it up.

Because of the bipartisan introduction and bicameral introductions, there seems to be interest in the Senate. And so it would really depend on the appetite of the members to get things done in the Lame Duck sessions; and then, you know, whether there are any road bumps that occur on the way throughout that process.

But it's one item that has an opportunity to get funded potentially. But everybody is going to be buying for time, so it's
uncertain. But I know there is the will to move it forward and that's good in a bipartisan, bicameral fashion.

On the comment, as I mentioned, there was a process that the committee on the House side went through to solicit comments before they introduced it. And they made a lot of changes to the bill, according to those comments, and introduced it in March.

They marked it up in September. That's kind of another time period in the Congressional world. So right now is a good time. If you have comments, or any folks have comments that they really want to share, I think the best path at this point would be to reach out to the Judiciary Committees and share those thoughts, as they are contemplating moving forward.

MS. NATLAND: Thanks, Branden.

CHAIR ESCOBAR: Any last questions before we break? (No response) Okay. Well, thank you, as always, Branden. We really appreciate your time.
MR. RITCHIE: Thank you.

CHAIR ESCOBAR: It is 2:55. And we are running just a few minutes behind schedule, so let's break for 10 minutes and be back at 3:05. Thanks, everyone.

(RECESS)

MS. ESCOBAR: Can everyone hear me?

Great then. We welcome back everyone.

It is time now for us to turn over to Chief Judge Gerald Rogers to hear from the TTAB.

Gerry, are you ready to go?

MR. ROGERS: I'm ready to go as soon as the slides come up. Okay, great.

So before we turn on the slides, I will just give a couple of the (inaudible) current events or, the late breaking things that people should know about regarding the TTAB.

Some of you know that we issued a vacancy announcement for an administrative trademark position not too long ago. That announcement closed and we are now in the process of working through the applications and creating a
list of the seven qualifying candidates from which we could make a selection if we need to make a selection.

Some of you may know that since Lorelei Ritchie separated from Federal service to teach earlier in the fiscal year and so, that interim position we might want to fill, and we also have positions available in the (inaudible) year moving forward. So, it is in our interest to maintain a list, plus any hiring of judges would depend on work flow issues and whether we absolutely need to fill Judge Lorelei Ritchie's position.

The other thing that I would point out which is one of the slides, but I wonder if you are aware of, you heard earlier, that Deputy Director Peter mentioned that the TTAB had issued 43 precedents this year, an increase from last year of almost 13 percent and we are pleased to be able to continue our dialogue with the (inaudible) groups about the right number of precedents on particular issues. We are not so much focused on the numbers, but we are instead focused on making
sure that we get precedents out on the issues that the state courts (phonetic) think are important. And the courts will always limit it to the issues that are presented by an occasion that come before us (phonetic), whether the right party appeals, or trial cases, so that always influences our ability to get any particular number of precedents out.

So, those are just the two of a lot of cases. More are in the slides and I wanted to make sure that we covered them, so I did them right up front. Now we can go to the next slide, please?

So, in terms of FY '20, and we had had a chance to forego (phonetic) this month and look back at FY '20 and compared it to other years and scenes of what FY '20 and other years have shown us in terms of the courts work load.

We have heard from Commissioner Gooder about the significant increase in trademark application filings. We just wanted to provide everyone and remind them that we have seen these levels of the increases in appeals and trial case
filings over the three year period from '17 to '19. The appeals increases every year were on the order of 2 percent, 3 percent, something like that. So the accumulative (inaudible) rate, as you can see, was near seven percent. Trial case increases before the past fiscal year were much more significant, including one year a 13 percent increase in cancellations alone. So that was the situation that we faced moving into FY '20. Next slide please?

These are the final levels for new proceedings at the TTAB as of the end of fiscal 2020. Appeals for the first time in recent years came in at a higher rate than either of the two types of trial cases that we have. So, appeals were up 4 1/2 percent. Oppositions were actually down slightly and petitions to cancel, while they increased, increased at the slowest rate in the last four years. So, we will have to look at the situations as we go through FY '21 and see whether this is an indication (phonetic) of the change in the direction of incoming filings, or whether it
might have been effected by economic considerations affecting our customers during the pandemic. So that may be temporary in fact, and things might continue to go up as you would expect them to, based on the number of applications coming into Trademarks. So, it's just something we will be monitoring as we move forward. Next slide please?

Okay, we set some new goals for FY '20. So, these were goals that at the beginning of the year we knew were logically going to be difficult to meet because of, as you will see on this particular slide, the inventory of cases that we had, which as you saw on the first slide, we have been getting trial cases, a lot of trial cases for years. More trial cases mean more motions in trial cases and more work for our interlocutory attorneys. We also had an inventory of cases waiting for decisions on the merits by a panel of judges that was very trial case happy. So the goal that we set for processing contested motions and for processing final decisions in both appeals
and trial cases were more significant in the sense
that they were predicated to be a challenge for us
in the first couple of quarters of the year and we
were hoping to meet some by the end of the year.

So, on this slide the processing time
for contested motions trial cases, you will see
that we set the goal for 8 to 12 weeks. We did
not meet it in the first two months, but we were
very close to it. We were barely over 12 weeks in
the first two quarters, I should say, of the year.
And in the third quarter we actually met the goal.
We did not meet it in the fourth quarter because
of the unexpected discovery, although we clearly
made a thorough search of all of the electronic
files which includes a number of undocketed
motions.

So, we made the decision in the fourth
quarter to go ahead and process all those older
undocketed motions that were older (inaudible) to
make sure that we would start at FY '21 with a
clean slate. Unfortunately, that pushed up the
contested motions tendency average event in the
fourth quarter and kept us from meeting the follow
up for the full year. So, we were over by about
three days on our goal, but we are well positioned
to meet the processing goal for contested motions
in FY '21. Next slide please?

This is an easy way to see what I just
told you and that is that the attorneys worked
pretty diligently in FY '21, judges even pitched
in at the end of the year, processing some
contested motions to put us in the best possible
position to start FY '21, but we increased the
number of decisions issued. We increased the
number of motions resolved by those decisions and
again, we never changed the average tendency goal
in the first quarter and worked through a lot of
open cases in the fourth quarter. So, we're about
finishing for FY '21. Next slide please?

This slide focuses on the other end of
the process and these were the cases that were
sealed and trial cases that had come in the front
door at the Board and now are at the other end
because they are ready for decision on the merits
by a panel of judges. But we've talked about the
order of trial cases and appeals cases maturing to
writing for decisions. In the third column, FY
'19, has a very significant increase. It now was
in hindsight like FY '19 was a bit of a bubble
(phonetic) year because you can see that we had
decreases in the number of cases maturing through
writing court decisions in '17 and '18, and again
in '20, but '19 was a big increase year.

At the bottom of the '18 and '19 columns
you will see the percentage of all cases waiting
for decision on the merits at the start of fiscal
year, the last two fiscal years, that were trial
cases. So we started '19 and '20 with over 40
percent of our cases waiting to be decided on the
merits as trial cases, which takes longer for us
to decide. So, those were significant challenges
for us facing, you know, the period FY '20 and at
the end of FY '20 we had significantly brought
down the inventory in total, including both appeal
and trial cases, but we had also significantly
reduced the inventory down, sorry but, if anyone
is out there doing the math you will see that the bottom box on this last row, I'm going to pull up the actual numbers on my own slide, okay, the 126 cases in inventory does not add up when you add up 118 and 40 so, the numbers are off there. What we really ended up with for 89 appeal cases and 37 trial cases, some 30 percent of the cases that we started FY '21 with are trial cases. So, it's not as low as these numbers show you, but we are passing a third of the trial cases waiting for disposition on the merits. Next slide please?

What we did in terms of setting the goals for processing those cases that were ready for decision on the merits was to set the 10 to 12 week target for processing appeals and a 12 to 16 week target for processing trial cases. You can see that for the two year average we met the goal for appeal cases. We did not meet it for trial cases. Next slide please?

This will give you a little bit more of an idea of what we did accomplish and what the breakdowns were on a quarterly basis. In the last
two years, as we had those two years where we started each year with a significant number of trial cases waiting for decision on the merits, the judges increased production twice by percentages that were in double digits, and we decided 200 or more trial cases in each of the last two years. That is what allowed us to bring that inventory down that we saw on the previous slide for only 126 cases that we started this year with and only 30 percent of them were trial cases. The average tendency on the appeal processing was above goal in the first two quarters, each of them, but not so significantly that we did not have an opportunity to reach the goal at the end of the year and we brought the average patency for appeal processing down significantly in quarters three and four, which allowed us to meet the processing goal for the entire year, but in terms of the trial case processing goals, we had so many trial cases to process and the ones we processed since the beginning of the year were so old that no matter what we did in the last two quarters
where we actually did meet the processing goal, it was not enough to offset the age of the cases at the beginning of the year. But, again, for both of these measures, we are now well positioned to meet them, the goals, in FY '21. Next slide please?

While we do not have a particular goal, we still want to be cognizant of our end to end, or commencement to completion processing time. So, we were up about a month, or four weeks or so in end to end processing of appeals, which are still well under a year. We actually reduced pendency end to end processing in the trial cases because we worked up so many of them during the year. By the end of the year we were working on more current trial cases. Next slide?

For the next two slides I just want to address some of the issues that come up for those of you who use our electronic filing system. One of the things that we have noted is that there are some filers who use auto forwarding. So we will send a notice out to an email address that is of
record, either as a primary email address or, a secondary email address, but then it will be auto-forwarded by the recipient email address to still another email address that we do not have a record of. When those emails bounce back to us we do not know what to make of them because they are not in our system. So, we recommend that filers do not use any auto-forwarding. If you have another email address that you want something to go to, please just go into the system and list it as a secondary email address along with whatever other secondary email addresses you have. Also, make sure that we do not get bounce back emails from you because your spam filters are not set to except emails from us.

At the bottom of this one, you can see the two email addresses from our end that you should be setting your filters to accept. The first is for the primary email that you listed in TTAB records and the second is for all the secondary email addresses. Next slide please?

Some of the common problems that we have
had to deal with, the situation where people, or attorneys who are going to represent somebody in a board proceeding, let's say, expecting (phonetic) to take care of an opposition to an application when they were not the prosecuting attorney on the application, or they entered an appearance to defend a cancellation case after that person instituted and we had served the owner of the registration directly.

We sometimes have the attorney who thinks that by entering an appearance in a trademark it too will be in the application or the registration at issue, that that information is going to roll over to the TTAB and it does not. So, what we always urge you to do if you are going to step into a TTAB trial proceeding, or even appear as an applicant counsel in an appeal authority pending, is to go into ESTTA and do not file an appearance or a revocation (phonetic) or power of attorney simply by signing some file (inaudible) you are making, or filing the power of attorney in a revocation under the general filing
options for ESTTA, but instead go through the correspondence to update form and give us all of the information we need to make sure that we have your postal address, your email address and if necessary, your bar information as well, to make sure that you are the counsel who is not going to be an issue for you. You can still file if you want it in the records, a revocation or a power of attorney as a general filing, but do not expect all of the information in that to rollover into the correspondence address field in TTAB fields, so that you want to make sure you get what you need from TTAB. Do that filing, but also use the correspondence update address form. Next slide?

The point on this slide is basically that if you are representing a foreign domicile authority, the system will recognize that and will want you to work your way through the correspondence update field and require you to enter your bar information. If you are representing a U.S. domicile authority then you need complete something in the correspondence
address field. Make sure you check the box that says, the party is represented by counsel, and that will take you to the (inaudible). So again, so if representing a foreign domicile party that box will be checked automatically because of the address for the foreign party, but for domestic filers, the domestic parties, you will need to check the box and that will take you to the screen for updating correspondence and for information. And if you have the time to do it in your practices, it will always help you if you can go back and check files for cases commenced prior to July of 2020 and make sure that any information is up to date. Next slide please?

What we're doing is, we know that Trademark and TTAB systems do not always talk to each other as well as we would like for them to, that said, the storage flow of function of the (inaudible) systems were developed independently and ever since they were developed we have been trying to make them talk to each other as well as we can, but in doing that we always have to
balance the need to enhance (inaudible) with the
desire to create next generation systems and where
we send our resources. So, we are doing what we
can by monitoring on a regular basis, upticks
(phonetic) that are filed by attorneys in
trademark applications or registration files for
applications and registrations that we know are
involved in court proceedings, but we can minimize
our requests of parties, or of attorneys,
providing us information, say for example, about
the U.S. counsel rule compliance if you take it
and track it and we will be doing our part,
checking on our end, with Trademark and we will
always be doing diligent searches for defendants'
contact information to make sure that we do not
enter notices to default, or default judgments, or
we do now help any case in every possible step to
make sure that we can get service effective on the
party, or the attorney that we may find out is
representing the party. Next slide please?

This is the last one for today. As we
discussed at the last TPAC meeting when we were
just getting ready to deploy the new TTAB Reading
Room for TTAB decisions. That has now been out
for a while and we heard some positive reviews of
the Reading Room. We hope it is working well for
those of you who have tried it. But, I will tell
you, we are already working on some additional
enhancements and improvements for the Reading
Room. So, as you use it, as you experiment with
it, if you have additional suggestions, please
make sure you send them to us and we are happy to
consider them for future enhancements of the
Reading Room.

That's it Elizabeth, for TTAB.

MS. ESCOBAR: Thank you so much Gerry.

Do we have any questions from TPAC?

MS. NATLAND: Hi, I have one little
question. I noticed a raise in cancellations in
the system. You mentioned they can get 30 percent
or so (inaudible) in the last few years. Do you
all track basis for those absents? Do we know if
they are mostly not used often? Do you guys have
that information? I'm just curious what that
would breakdown to.

MR. ROGERS: I am certainly as curious as you are and wish I knew the answer. Well, I know the answer to the questions, but, I can't say that we know the things they use for all of the cancellation petitions that are filed. We did study this, but we had to do it in a very labor intensive way when we were running the expedited cancellation pilot program. We completed that this year and based on two years of data we were able to discover that by 35 to 40 percent, I think, non-user abandonment was the most prevalent claim in cancellation filing, but that (inaudible) cancellation part of the program. We were only focused on cancellation cases that serviced only non-user, abandonment. So, we do not have a really sense of how many cases serve multiple claims or only other claims because they are on the ESTTA cover sheet when people select certain (inaudible) or testifiers, but the system does not capture that information. So we will be developing next generation systems for your
(inaudible) for while that will capture that information. But what we do know from the escalated cancellation file was that not only do we have non-user abandonment as the most frequent claim, we also know that the default raised when the only claim in on non-user abandonment go as high as 55 to 60 percent. So, a lot of those cancellations cases that are focused on abandonment and/or non-used result in default judgment pretty quickly.

MS. NATLAND: Yes, and that could be a result of the flawed registration by (inaudible) and maybe that is what is pushing those numbers so much this period, you know, what is causing it to increase so rapidly.

MR. ROGERS: Well, one thought I had was that given what we know from the random audit to Trademark about the extent of non-use for registered marks, anyone who is interested in removing a blocking registration knows that if they do their due diligence and they can find no evidence that a mark that's been registered is
still in use, and if you know the default rate
that we are getting, that should have the most
expedited proceeding that you can get. If the
file is positioned for cancellation on abandonment
and there will be a very good chance that you will
get a default judgment just as there is a pretty
significant incidence of people abandoning whole
classes or registration when they can't produce
appropriate responses for the random audit
inquiries.

MS. NATLAND: Thank you so much.

MR. ROGERS: Sure.

MS. ESCOBAR: Do we have any other
questions before we move along? Well, okay. So,
I think some of you might not be on mute, we are
hearing a bit of background noise. If you are
not, if we could ask you to please put yourself on
mute. Thank you.

Last, but definitely not least, we are
going to hear from the office of the Chief
Information Officer, Jamie Holcombe and I believe
Eunice is presenting today, so, welcome Eunice.
MS. WANG: Thank you. Jaime did you want to discuss anything you heard beforehand?

MR. HOLCOMBE: Sure, I just wanted to say that I am very impressed with the Trademark IP progress. We are actually going through almost like a reserve of new ways of working and as such, (inaudible) and Eunice Wang have been instrumental in crafting a new way forward. We should have more to come, but wow, I am really happy with what we have done and where we are going. And with that, I would like to turn it over to Debbie Stephens, who would also like to say a few words.

MS. WANG: I am not sure if she can use, as far as a panelist, if she has to observe this through -- okay, it is confirmed that she can just sit as an attendee and if we are able to do interface (phonetic) with her, I guess, and I will speak on her behalf and that. I will share our TEAS for this TPAC meeting. I just want to start off first with that we want to really thank Elisabeth for her leadership of this TPAC and also to Donna for her leadership and involvement with
the TPAC IP Server Committee (inaudible). So, those issues We wanted to thank you for bringing your energy to these teams which has really made a positive impact for our TPAC and IP Server Committee. Thank you.

MS. ESCOBAR: Okay. All right.

MS. WANG: I shall speak on initial (phonetic) highlights, some of the major accomplishments of this past year, acknowledging the supportive nature initiative as we planned during the year. We did have to make a major pivot as a result of the pandemic. We reported to you our (inaudible). We worked virtually to ensure the accuracy (inaudible). We found we also supported the integration (inaudible) that (inaudible) COVID-19 effort. We made some (inaudible) support through CARES Act which was an extension of US Trademark (inaudible). We also made some changes to support the COVID-19 trial case payments examination program that (inaudible) and (inaudible) spoke about a little bit earlier this past two days. We also made some security
changes by strengthening it by implementing a
two-step authentication search key. This was done
in October 2019 when the integrated team that is
my USTPO and so since then users must be a
registered user and realize the two-step
authentication process when logging into to see.
This past February we implemented then into
electronic filing. This was a huge endeavor.
That occurred in February and as a result of this
we have been able to decrease the number of paper
filings which then helps ensure the accuracy of
the filings. This is likely to result in a more
complete submission. Ultimately, this helps us in
expediting the processing and shorting the
pendency.

And lastly, the (inaudible) appealing
efforts (inaudible) we have increased user up
time, meaning your performance, by replacing out
of the servers and upgrading operating systems for
both Trademark and TPA VUE systems. We have made
some adjustments to increase some of the abilities
so that our viewers are able to access (phonetic)
The system, and as a result, we reduced the number of major incidents as a single (inaudible) party (phonetic). The next slide please? All right, this slide is (inaudible) a little bit more on the activities that are specific to this past quarter, since our last TPAC meeting. So this past August we proposed (phonetic) the TTAB Reading Room that (inaudible) has been boasting about. So this provides a searchable (inaudible) on TTAB files extensions and orders and it helps to replace the former TTAB employer web page. So, this has a more powerful searching ability. Users are able to find and get information more quickly in (inaudible). We have also matched the older email address, that was a high priority for our customers. In fact, we received it earlier in the year. We have made changes to the cost forms in order to reduce court procedures to our customers. We also made these changes for the TTAB position task goal.

We have also employed and used a dedicated response (phonetic) to offer actually,
two (inaudible) matter forms, and to allow (inaudible) to applicants to give their responses to the post registration action questions. And similar to the other things that we have been working on, this helps the team on processing. That information was changed. The feature dramatically improved it.

We have also implemented a CSCR (phonetic) (inaudible) to download bulk data. So, in order for someone to download this CSCR bulk data in full, that ACIC (phonetic) is now required. The implementation of this allows for the bulk data to not impact the end users and that changes things such as system downtime.

And lastly, in terms of improved technology we are continuing our efforts to stabilize Trademark entry (inaudible). A major accomplishment that we have done this past quarter was the stabilization of (inaudible). It wasn't just an effort, or placement of one day-to-day experiment, but we have actually impacted over 20 dependent systems and involved over 32. So, it
was an enormous effort on both the (inaudible) and
the businesses efforts to get this accomplished.

Next slide please?

All right, then of those (inaudible) we
have been seeing a larger phase (phonetic) two
advantage processing effort. We are working with
the vendors to currently test to improve fruition,
and identify optimal solutions. One of the things
that we are definitely ensuring is that these
vendors are (inaudible) certified. We wanted to
make sure that we were implementing the correct
securities procedures and timers around the
solution. And we are continuing with our
modernization of stabilization as directed by the
business priorities. Similar to and tagging along
with the news talking about in-search
transformation and physical leasing (phonetic)
tools through, you know, before we tell our
customers first, we want to just one of the
changes that we are going through right now, is
the decision and taking more of a leadership role.

And so that, you know, many of our, in terms of
our business partnerships, the goal of the lead parts owners are sold by a decision, and so with that, you know, we are able to, you know, continue on our endeavor with some modernizations, you know, and get the business priorities developed with technical solutions per their recommendations.

And then lastly with the leadership DevSecOps model, this is also issued with how we are doing our development. You know, security was always integrated, but this is a deeper and more focused security composed with the development and the operations model, as this continues our (inaudible). So, with these changes we hope our customers will be able to use this (inaudible) of what we are delivering and what we are producing in the TEAS (phonetic) community and I think we are done and I am happy to open it up for questions.

MS. ESCOBAR: So, my fellow TPAC members, do you have any questions for Eunice?

MS. KOVALCIK: Hi Eunice, I wonder if
you might explain a little bit more if you are
sending today the DevSec model a little bit more
how that results with paying and how users might
be a greater impact?

MS. WANG: Yes, it is so, I guess it is
a change from the prospective of a mentality
change. The change has been very important to us
as an organization. I think one of the various
(inaudible) that we have made specifically, we
have had, you know, it started a security
(inaudible), having security officers directly
reporting to (inaudible), that is one example.
And also, it has always been part of our entire
process, but what it will do is that there is now
more end data (phonetic) in 15, as opposed to
those (inaudible) developing everything and then
having to securities come in like, after the fact,
to view the scans and whatever they need to do,
but they are now integrated and embedded in the
(inaudible). You know, throughout the process of
its design and the planning and the, you know,
throughout the testing and implementation.
MS. KOVALCIK: I see that you are working on next status priorities for your business owners. Do you have any information today that you are able to share, or, to highlight, to forecasting on what we might expect your team to be working on next?

MS. WANG: We are working with businesses right now to prioritize our high level efforts. So, I think that in terms of specific deliverables we are still defining that in time to get that all online. But, for now we are current with what we have.

MS. THOMPKINS: Hi Eunice, this is Tricia. So, provide us some insight into why the change system today that you refer to the ESTA system, do not speak to each other today. And I understood that the historical background. Can you provide any more insight into perhaps the long term goals in that TTAB system that is more about the rational for keeping them apart, especially since I am new to the committee, so that I have a better understanding of the long term view on this
MR. HOLCOMBE: I would like to take one Eunice. Can I take that one? And the only reason I would like to take it is because I love you talking about the ESTA business result from IP efforts and development questions. The question is about the additions in the future and why. Why or why, tell me why. I will tell you that it is major thing that are burdened with carrying the legacy of former additions into the future and that is pretty okay because what we done is to stabilize the systems to the point where they do not go down. Now, do they perform as well as we know, no, and that is why we need to improve in place. At the same time the modernization is won, but we are talking about, definitely not and now we are changing the ESTA mindset, but it is all to include the fact that if we do have the goal of being out on the Internet, and using new Internet and quasi technology, then we actually have to re-factor the code because the current code does not allow us to include those great Internet and
Cloud based (inaudible) messages. In doing so though, we have to do it in a phased transition. It is easy to do greenfield involvement. It is hard to synchronize old into new, and that is what we have chosen to do. So in doing that, security number one, it is not a question of if, you did breach, it is a question of when. So, because of that we have to have our contingency plans ready so that when a breaching occurs, and we do not have to see that daily, we are trying to ensure that everything is able to read on a contingency basis that when it happens, we can deal with it.

Another big thing about the future is the fact that we are moving through it fast. We are moving into new facilities such that, God forbid, the entire USPTO headquarters is overtaken by some unheard of events and we cannot operate our current (inaudible) that are located in our advances. What we are going to be doing is putting them in physically in other stations such that we can have resiliency. So, if one place goes down, you will never even notice because the
other place picks it up. That is the benefit of
the new Internet Cloud and the way that the
modernized application pays. If you can sit your
cellphone on your nightstand and it update
overnight without you even knowing it, that is
what the goal is for Trademark applications. Is
that a lofty goal, yes, but it takes a whole
different mindset to figure out how to get there
from maintaining the current system and keeping
those operations in place, meanwhile separating
the individual toolsets and slowly synchronize the
end with a new, wider era. I hope I answered that
question.

   MS. THOMPKINS: Thank you, I think that
gives me some appreciation.

   MS. ESCOBAR: Okay, other questions?

   Well, with that, TPAC would like to thank you
   Eunice and Jamie for sharing your time with us.
   Well, that brings to an end our scheduled
   presentations. We have received a couple of
   questions over the Internet from the public. One
   of the questions had to do with email addresses, a
perennial topic of interest. Specifically,
whether the PTO was considering a proposal to
shield attorneys' email addresses and if so, would
users have an opportunity to weigh in. Dave,
would you like to take a stab at that one?

MR. GOODER: Yes, sure. The answers to
my knowledge begin with seasoning proposals, but
we are already looking at it, along the same lines
as we are dealing with this on an applicant
consider it to current protectives. We are
looking for everywhere email addresses could be
seen, so, that is something that is in the works
as people give comments on it. Please continue to
send them to us, but otherwise, I think it is
something that will hopefully come to fruition in
the next calendar year.

I have got to say also that one of the
things that I have had to learn is, and to Jamie's
point about how we have these sorts of legacy
systems and newer systems that to create change in
the legacy system while we are at the same time
trying to create the new system is quite a
challenge. So, sometimes it takes a little bit longer than we think that it otherwise do it, but it definitely on the list.

MS. ESCOBAR: The only other questions that we got in the email box that had to do with meeting, is specifically whether USPTO will be posting slides and the video from the meeting. The answer to both questions is, yes. The video will go up in about a week, maybe a little bit longer. The slides will also be posted to the USPTO website.

That is it for questions from the public. I would like to give TPAC members one last opportunity to ask any questions you may have.

MR. BESCH: I have one. This is Jay. I would just like to make a couple of comments real quick. First of all I would like to congratulate you and Donna for your spending time and pursuing your (inaudible) today. I'm glad to hear that you and Andrew were on this year. Hopefully, we have an opportunity to have our TPAC dinner at some
point in the future. We can all get together. I also wanted to congratulate Meryl and Sharon on their upcoming retirement. They both have very impressive careers. I think on behalf of the union, you know, we wish them the best in the next chapter of just going on and we all appreciate their efforts and they have made the Office a better place to be. And finally, but definitely not last here, I would like to really recognize, you know, their impressive efforts. Dave had already mentioned earlier all the impressive things they have done throughout the year and how dedicated they have been, you know, while abrogating new policies, the pandemic and their own difficult personal circumstances, you know, I am blown away by their dedication and work ethic and it is great job for me to have to represent them and, you know, I will say this, and, you know, other people may take issue with it, but I would put our people up against anybody in the public or private sector as being one of the hardest working people, you know, in any section.
So, with that, thank you all and I do wish all of you the best.

MS. ESCOBAR: Thank you so much Jay, I appreciate your kind words. I am going to dismiss TPAC for lunch but I know it is in good hands. I would also like to second your comments about the Office. It has been a leader in innovation in the federal government for a long time and the way everyone in the Office, but especially the front line workers, the examining attorneys, the way they were able to seamlessly, at least, in terms it was viewed by customers, transitioned to 100 percent telework very, very quickly during the pandemic was incredibly impressive. I know it was not as easy as it looks to those of us who were processing your applications, but, the Office has done a fantastic job dealing with a very difficult situation and it speaks to other examples of how incredibly terrific the USPTO is. I work with offices all over the world, literally, and USPTO is in a class by itself. So, I would just like to say one more time how much I have enjoyed getting
to know the Office even better and I have been
doing this for a very long time and I still
learned a lot when I joined TPAC. I would like to
thank the Office for the opportunity to have
served on TPAC for the last three years and wish
everyone the best, and with that, I will turn it
over to Commissioner Gooder for his returning
comments.

MR. GOODER: Thank you Elisabeth, I
appreciate that. I won't take long here because
it is coming up on our time. I just want to make
mention three things. The first is, and this is
to everybody on the call, but also, TPAC members I
know you already know this, but to everybody else
who is listening in today, I will just say, help
us, send us your comments. It is comments like
what we receive from practitioners that helps us
hear what is frustrating you regarding (inaudible)
procedure dealing with the problem that presents
and that is what led to the amended and revised of
what you saw this week. Please share your ideas
with us. Some of them, and no idea is too crazy,
and we are often finding that a combination of ideas helps us move the needle somewhere that it needs to be moved, so please do that. The second thing I would like to say is, I would like to thank Elisabeth for her work as chairman. You have been invaluable to me in learning about TPAC because I was never on it and so, my initial time as commissioner, you kind of letting me see it from your side and you have a very calm guiding hand that was greatly appreciated. I am sure your other members feel the same way. The third thing I would like to say a few words about is Meryl and Sharon. Both of them started their careers as examining attorneys and worked their way up to becoming deputy commissioners. Now, they are attempting retirement at the same time. A lot of you know these really talented leaders. And they could have retired before now. They could have had careers in the private sector if they wanted, but the fact that they stayed with the agency, to me that is a testament to their dedication. Honestly, the Trademark Office and I think the
Trademark community had been the beneficiary of their dedication. I have had the good fortune of working closely with them over the past seven months and a few things became very clear to me. They are bright. They have a vast spring to choose from of knowledge. It is kind of a (inaudible). They really are a part of the brain trust here. They have seen the organization change so much over the years. Meryl was at one point, union president. They both have the passion. The contributions they have made. We could not add them up, but it has grown so much over the years, in fact, I think it is fair to say Meryl has seen the place grow from typewriters to artificial intelligence and the number of processes, so, they have championed engagement with our customers and working with the international offices in other countries. It is obvious to me that they care very deeply. They have touched the lives of hundreds of people here and we have all relied on their guidance and wisdom, etcetera. Their absence will be
absolutely felt. We are not going to let them go any sooner than they have to. So, for the moment I will just raise a virtual toast to Sharon and Meryl and look forward to an in-person one at some point. Okay, sorry, forcing (inaudible), I want to say thank you to all of the TPAC members. Thank you to our support team and to Anastasia Johnson and Christine Cooper from my staff who were bystanders of this meeting. They are like the producers at the Academy Awards with their headsets on running around like crazy. We thank you. We appreciate your efforts and grace in handling work under pressure and with that, I will say thank you and back to Elisabeth.

MS. ESCOBAR: Thank you and we are adjourned.

MR. GOODER: We are done. Thank you everyone.

(Whereupon, at 3:57 p.m., the PROCEEDINGS were adjourned.) * * *

* * * CERTIFICATE OF NOTARY

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

(Signature and Seal on File) Notary Public, in and for the Commonwealth of Virginia My Commission Expires: August 31, 2021 Notary Public Number 122985

(Whereupon, at 3:57 p.m., the PROCEEDINGS were adjourned.)

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(Signature and Seal on File)

Notary Public, in and for the Commonwealth of Virginia

My Commission Expires: August 31, 2021

Notary Public Number 122985