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CHAIRMAN RIVETTE: I have got 2:25. I want to welcome everybody that is here to the public session. We are going to end promptly at 4:00. Max, you are leaving in about half an hour?

MR. GRANT: Yes, sir, and I apologize in advance.

CHAIRMAN RIVETTE: We will end promptly at 4:00 because otherwise most of us won't make our airplanes.

What I would like to do now is turn it over to Mr. Doll.

MR. DOLL: Thanks. What I would like to do is talk about some of initiatives that we are doing in the patent corps, and I have got a list of things that I can talk about, but I am also willing to talk about anything that you would like to hear about. Any of the initiatives or efforts that you think we are doing or you heard we are doing or you would like more explanation on, I will be more than happy to talk about that.
would also like to take questions at any point in time. I can talk for the next half-hour or we can engage in a conversation about any of these.

The first thing I would like to talk about is a program that we started back in August of 2006 which has been extremely successful, I think, and that is accelerated examination. That was an idea that the Under Secretary had where pendency really does matter to a certain group of people, and what we did is put together a program that would ensure the applicant would get a final decision within 12 months.

Now there is some heavy lifting that is required to get into the program. You are required to submit an examination support document. You have to file a Petition To Make Special. That support document has to be accepted by the Office. It is reviewed by a special Program Examiner or a Quality Assurance Specialist to make sure that it is useful for the examiner. Also, in the program, you have to be willing to have an interview before first action.
So the program started in August, and as you would expect, a lot of the information that came in wasn't accepted. It was rejected. But right now we have a Frequently Asked Questions.

Andy Faile -- I wanted to introduce the people who are making these programs happen because Peggy, Jon and I have a lot of ideas, but it is really the directors who I will point out, who bring these programs to fruition and really make them work. So, thanks to Andy.

What we have now is we have three applications that are ready to issue, and they are from a large multi-international corporation. I guess it is an international corporation, not a multi-international corporation. It is in a complex technology. They are coming out. They will issue in less than 12 months. It took about 120 days, 3 months from the time they were filed until the examiner and the attorney had come together and agreed what was patentable in these applications. There was at least one, sometimes as many as three interviews in these applications.
to make sure that the cases were put in condition for allowance. So they will issue in less than six months, and that is phenomenal in some industries where you are talking about an average time to issue of over three years or more that you could file an application and actually have the patent in your hand in six months.

CHAIRMAN RIVETTE: How did you handle the work load and the resources?

MR. DOLL: The work load and resources are actually worked out fairly well because what we did is we required only newly filed applications to be accepted into the program. The application had to be filed by EFS. We have had about 170 applications filed so far.

One of the biggest concerns that Jon and Steve had in the beginning was what happens if the program is really successful. What happens if it really takes off? I said, that would work. We did 330,000 applications last year, so we could do 330,000 accelerated examinations this year. Everybody else would wait, but the ones that
brought in the information, we could move through very quickly.

One of the biggest questions that comes up is do you also have accelerated publication, and the answer is no. But the thing I wanted to tell you or share with you is that what happens is the average time to publish a patent from the time the examiner allows it right now is about 128 to 130 days, give or take. Now that has been as high as 210. RTIS and Dave Talbott who is back here along the wall also worked very hard to bring that number down to about 128, but 72 days of that 128 days is waiting on the attorney to pay the issue fee. So if you want your cases to issue within two months from the time the examiner sends it, send in your issue fee the very next day and you will get your patent in probably 55 to 60 days. Right, Dave?

MR. PINKOS: And all that counts in the pendency.

MR. DOLL: Yes, absolutely, and Steve brought up the point where all that counts in the
pendency. So when we talk about pendency to issue abandonment on how long it takes to get a patent, those 72 days are counted against our pendency.

SPEAKER: Before 128?

MR. DOLL: Before 128, yes, the four months, but it wasn't too long ago that it was close to six months that it would take to issue a patent because they had fallen behind and had some problems.

I think it is a really successful program. I mentioned this in New Orleans at the AIPLA. There is a lot of people in the room, shaking their head, thinking well, that might be a good idea for me because originally there were a lot of people saying accelerated examination will never work. Nobody will ever do it. Nobody will ever take the risk of inequitable conduct of filing an EOESD. The examiner support document is a fairly high hurdle, but we have got 170 people that are more than willing to do it in art areas that take a long time to get their patents.

MS. NORTON: John?
MR. DOLL: Yes.

MS. NORTON: Have you ever heard the idea? There is a lot of people who still won't take that chance of inequitable conduct under the current rules. Have you explored the idea of at the examiner's option, letting them have a pre-first office action interview as well just to kind of move things along and talk to the inventors?

MR. DOLL: Right, we have, and it was about 15, 16 months ago when we actually changed the MPEP because before the examiner could say no, but we have actually put it in the MPEP right now where the examiner can have an interview on an originally filed application before first action. So if you would like to have an interview, if you want to make sure the examiner is on board, give the examiner a call and say, I would like to come in and talk.

MS. NORTON: Do you think it would be helpful to have the examiner actually call the applicant because sometimes if you are trying to
track things, you don't really know? You can find out who they are assigned to, but it is hard to track. It might be helpful if they understand it is perfectly appropriate to and in most cases the applicant would love it if they would call when they pick up the case and say, hey can I talk to you about this in person or over the phone for 20 minutes.

MR. DOLL: Right, that is a great idea, and we do try to get that word out, and a lot of examiners do that. When I was in biotech, there was a small cadre of examiners that had a high percentage of first action allowances, and they did it exactly that way. They would do their search. They would call the attorney and say: Hey, this is allowable. This is not allowable. Are you interested?

Then they would work out a deal for what was allowable and move the case on, and that is really well accepted by a lot of attorneys. Some attorneys, though, see a first action allowance as selling your house on the first day it is on the
market. I didn't ask enough.

MS. NORTON: It depends on what allowed, yes. Usually, they love it because there is no history there that can come around and bite them in litigation.

MR. DOLL: Right, but if you want to talk to an examiner before first action, get in the accelerated examination program. I will make sure you get a call.

MR. PINKOS: The MPEP was changed on all that?

MR. DOLL: The MPEP, yes, it was. Yes, it was.

CHAIRMAN RIVETTE: Have you found that the examiners are calling more or that they are getting more calls?

MR. DOLL: No, but it is something that we work on very hard in the academy right now with the new examiners that we are bringing in. We are trying to instill that communication where they actually call people, work with people a lot more, where it isn't adversarial, where you are not
afraid to talk to the attorney, where actually we are both working for the same person and we ought to be working together. We are trying to get that attitude, and I think you will see that change over the years with all the new people that we are hiring.

The next issue or the next initiative is the Peer Review Pilot, and I think a lot of you have heard about that, the community patent review, and Jack Harvey is heading that up for us. Jack is here. He is one of our directors in Tech Center 2100. This is a great opportunity, I think, also to improve the overall quality of the patents that we issue. What we are trying to do here is make sure we get the best art in front of the examiner because I think if you look at litigation history and you look at all the cases where somebody got sued or somebody tried to show that a patent was either valid or invalid or infringed, the examiner made the right decision when they had the best art in front of them. The examiner's job is difficult, for those of you who
took the tour yesterday. We ask them to do a lot
in the average of 20 hours, 20.4 hours that we
give them. Any way that you can help them, make
sure that they see and understand what the best
art, I think that is the best thing you can do to
improve the quality of the patents that you
receive. That might hurt the litigation side of
your law firm, but it certainly does help patent
quality up front.

This is, I think, going to be a great
pilot. What we are going to do is concentrate
this in Technology Center 2100. We are going to
try to focus on the software because software is
one of those areas in the Office where we have a
difficult time finding prior art simply because a
lot of times it is not documented. It is in
databases that are difficult to access. It is in
databases that if we do access, they are not
properly date coded so we know exactly what the
date of publication is so that we can use it as a
printed publication. But what we hear from the
programmers and from the software engineers is: I
have seen that sub-routine. You know, my friend, Joe, did it three years ago.

And so, there is a lot of knowledge out there, and that is where a lot of this came from. We have got the Software Institute. We have got Red Hat. We have a lot of people that are participating in this project. Of course, Beth Novak and IBM have been really big supporters on this project.

One of the things that they are doing that works out well for the Office is they are trying to create a gap between collecting the information, analyzing the information and the submitting it to the Office. So the Office is not part of that. The Office is hands-off. What we have is a separate group of people that are going to take the submission, and then they are going to evaluate it. They are going to judge it, and they are going to judge it based on their standing in the community, how good their reputation is, how much they know about this particular topic. They are going to weight the references and make one
submission to the Office. Ten references will
come into the examiner.

Again, I think this is probably the best
opportunity we have to improve quality in an area
where we get criticized a lot. A lot of times the
criticism is valid because the examiner didn't
have the art or really didn't have a fair chance
of finding that piece of art. I think this will
really help.

Hopefully, the pilot will be launched
sometime in Spring of 2007. We are going to run
it for probably 18 months, and then we will be
reporting out to PPAC as soon as we start
collecting data to get your feedback because again
this could be expanded anywhere in the Office, and
I think this is our best opportunity for quality in
the patent system.

Any of the directors, this is your
pilot, and if I am not saying anything, feel free
to jump in. Andy, it is too late for you.

CHAIRMAN RIVETTE: What has the reaction
so far been from the community?
MR. DOLL: Outside?

CHAIRMAN RIVETTE: Outside, because I have heard mixed reviews whether people like it or they don't.

MR. DOLL: Right.

CHAIRMAN RIVETTE: Do they think it is too few submissions and references and that sort of thing? What do you, what does the Office hear?

MR. DOLL: Jack, why don't you take that.

MR. HARVEY: I didn't hear the entire question.

MR. DOLL: What has been the view of the outside?

MR. HARVEY: Well, it has been skeptical. Some are excited; some are skeptical. I think it is going to be well received. What I have heard is just mixed reactions, some reservation as to who is going to participate. I know that there is at least 10 companies right now that are signed up to participate. So I think, initially, we are going to get some reaction, and
it will flow from there. As long as the peers submit comments and submit the prior art, I think it will be a stone rolling downhill. I think it will gain momentum, and then we will go from there.

CHAIRMAN RIVETTE: Any companies here that you see that haven't signed up?

MR. HARVEY: I don't know offhand.

CHAIRMAN RIVETTE: I was just wondering.

MR. HARVEY: I know IBM has.

CHAIRMAN RIVETTE: I know that, but I was just wondering if there was anybody around the table or around the room that should be.

MR. HARVEY: I think that is a clear indication they should.

MR. DOLL: This is also a great opportunity to get your application moved to the front of the line because to get the data that we need, rather than waiting until the application comes due to be acted on, we are going to move the applications of the people that volunteered to the front of the line, act on them within the next 12
to 18 months so that we can do a real-time
evaluation, one more way to move to the front of
the line. So now Lisa says?

(Laughter)

MS. NORTON: Actually, it was a positive
thing I was thinking. I like it when the Patent
Office -- I think it is great and it makes your
job a lot easier -- when you give people the
option, if you want to do this. I think that
is because lot of times anything you say, people
are just going to be resistant to any change. But
if you say, hey, you can do this and if you do
this, we will give you enough of an incentive
where everyone else doesn't scream but less that
you can still do it. I think that is great,
especially for a pilot program obviously, but it
is a great way to do it because then you remove.
Then people are making their own decision, and
they don't feel like it is something the
government is forcing on them.

CHAIRMAN RIVETTE: Actually, every time
he said something, I am very negative.
MS. NORTON: I am not.

MR. DOLL: Thank you, Lisa.

MR. PINKOS: John, the statement you made quite often, if the examiners have the art in front of them.

MR. DOLL: They make the right decision the vast majority of times.

MR. PINKOS: Who I am curious to hear from is those that represent the applicants, if they think that is true or if they think it is that they more often have a competent examiner as to how they are interpreting that particular piece of art vis-à-vis that individual patent application. We don't have to answer that now, but I think that there might something there.

CHAIRMAN RIVETTE: There might be something we want to put into some of the questions we ask just as aside, as quality check.

MR. PINKOS: Because it also goes to what information may be more helpful to the examiners then or the examination process, just a search report, a characterization of that search...
report, again, a more descriptive type of
application.

MS. NORTON: Most applicants, if they
are really serious about what they are doing, they
are going to do a very intensive search ahead of
time and submit it. What they don't want to do is
characterize anything. Again, that is expensive
for them, but I don't think that is a huge
problem. It is when they are forced to say this
is the best art we found. This is a
characterization of this. Again, I think it is a
best practice for applicants to do their own
searching because they are the experts. Patent
examiners actually, as you know, have a lot of
expertise because they are focused on an area and
probably the only person that can beat them is the
inventor. Certainly, nobody else can really come
close.

So providing the search, I think for a
lot of people, it is expensive to do and you might
run into opposition there, but it really is a best
practice for the inventor and the law firm to sit
down and try to find the prior art ahead of time.
The problem comes and the most resistance
obviously is in characterizing that or saying this
is the best that we have found because that can,
as you know, create problems down the line.

MR. PATTON: I am getting into murky
waters for me because I am going to ask a question
about patent law and so forth. Has there been
something done by the USPTO or is it just known by
all patent attorneys regarding of the percentages
of patents that are granted, has there been an
analysis of format and art that has been published
that says of the ones that were done this way,
these move the quickest or these had the best
action? Has there been any format analysis that
is published to let everyone know that this would
move it quicker or this would give it a better
response or that even possible?

MR. DOLL: I don't know of any data like
that or any study that we have done that
correlated.

MR. PATTON: Because I keep hearing the
best art, and I keep thinking well, what. Your best art up front is doing everything in the most organized fashion. If there was a format or something that said of the ones that went quick, this is how they were done and it is USPTO recommendation to do it this way to accelerate it.

MR. PINKOS: We have gone partially down the road with the accelerated examination because we are defining --

MR. DOLL: Best practices.

MR. PINKOS: Well, yes, the areas of art that should be searched, et cetera, but I don't know that we have a general model for an application.

MR. PATTON: What I am just thinking is sometimes I have heard that your output is as good as in your input. So if you create a format and let everyone know you can do it any way you want, and we are not recommending you do it this way, but all the ones that did, they went quicker or they had better actions, or I don't even know. That is why I say it is murky water for me. I
don't know.

MR. DOLL: That is a great question.

CHAIRMAN RIVETTE: Actually, that is a really good question because most of us sitting around the table have been steeped in this. We know what the best practice is. We know what we should be doing those reports and all that, but I wonder if a lot of the other smaller companies and the smaller entities don't understand what the best practice is. I had never thought of it as an education issue. I think most patent attorneys should do it. I have one or two patent attorneys who are the most stellar people in the world.

That is interesting. I mean I don't know where we go with it, but it is an interesting point. I really hadn't thought of it that way.

MR. PATTON: I was thinking it could be a statistical observation of what has happened. It doesn't have to be biased. It says this is what has happened. Is that possible to analyze on what has been done before or do you have to start with what is coming in if you were to do that?
MR. DOLL: We could do it either way.

MR. GRANT: I was just going to say that there is a lot of nuance that is inherent in what you are saying, Doug. People have different business objectives in getting patents just like we have talked about. Some people want to hang them on the wall. Some people want an extremely strong patent that they are willing to devote millions of dollars in R and D in support of. When you are talking about what is the best practice in terms of doing prior art searches prior to a submission to the PTO, well, it depends in part on what your objective is whether you are trying to have a patent that you can go to financiers and say, look, we have patents.

Or, whether you are saying, no, no, this is in a crowded art and we are going to be subject to be sued by someone else. We want to make sure we have a very strong patent and it is necessary that we practice it from defensive purposes. The scope of it needs to be clearly defined outside of the prior art.
Then even another one which is we want a strong, enforceable patent which we can go after other people with.

Those are very different business objectives, and the scope of the sort of work that you do on the front end is entirely dependent upon the business objectives that you want on the back end.

MR. PATTON: In other words, pretty much an impossible thing to do. You mentioned five different aspects.

MR. GRANT: It depends what you want.

MR. PATTON: Right, of course.

CHAIRMAN RIVETTE: It is an interesting point, though.

MR. DOLL: I have got 90 percent to go and only 10 minutes.

CHAIRMAN RIVETTE: You actually can take as much time as you need.

MR. DOLL: I am kidding. The Flat Goal Pilot, what I would like to do there is I gauge how good the pilots are by Bob Budens' blood.
pressure, and we have worked really well with POPA on a lot of issues.

(Laughter)

MR. DOLL: My challenge is to get Robert to sign up. Jackie Stone is our director lead on this, and Jackie has done a great job in rolling it out. We are actually doing meetings today because what we are trying to do is to pilot a new concept. We are trying to manage the examiners' time, the examiners' productivity, get rid of some of the administrative burdens. We are trying to set flat goals where they know exactly how much work they have to produce in a quarter.

In exchange for this, we have actually modified the awards program where you can now get up to $5,000 a quarter in awards, plus you can get 3 percent of your salary SAA at the end of the year, plus a 1 percent pendency reduction award at the end of the year for a total of almost $25,000 at the end of a year, which is close to twice as much as you can get under the current award systems that we have. So there is a lot of
Again, like Lisa said, this is a pilot. This is voluntary. We are not asking anybody to join. We are telling them what the options are, what the advantages are. We are having meetings. We are having meetings today, and POPA is there, and POPA doesn't exactly like this idea yet. I think it is because we haven't perfected it yet, but we are going to continue to work on it until Robert is carrying the banner to sign up for Flat Goal. I haven't sold you yet?

MR. BUDENS: No. So you understand, there is two sides to this. One particular issue, examiners are very, very much against this program because the goals that were set, the calculations for the flat goals, we believe do not accurately reflect what examiners do in their day to day operations. It is set at a much higher standard. It is basically, nothing more, folks, than a blatant way to try and increase our production by anywhere from 5 to 25 percent, depending on the individual. We are sitting here. We have been
talking all day about we can't take away time from
examiners, and a lot of people feel examiners need
more time. This is actually, in effect, putting a
great deal of anxiety on examiners.

I was telling Peggy during the break
that the feelings of examiners right now towards
the Flat Goal is almost nullifying the increase in
morale that came from the 7 percent pay increase,
and the reason being is because nobody believes
this is just a pilot. Everybody believes that
once the agency gets their data, they are going to
roll this out and make it mandatory for the whole
examining corp. It is in the strategic plan as
one of their major strategic initiatives. You are
getting briefed on it today as a major strategic
initiative.

I am getting emails right and left from
examiners who doing the numbers, looking at what
ey they did last quarter and then trying to see what
ey they would have done on the Flat Goal, and they
all would have lost their jobs so far. So it is
very dangerous.
MR. DOLL: We have run a lot of numbers for people, and we think that it is a great program. It is actually an advantage. One of the biggest selling points is the increased flexibility as to where and when you do your work. There is a difference opinion. We will see what happens with the pilot. We have got about 75 people signed up already.

MS. FOCARINO: Almost 100.

MR. DOLL: Almost 100 people signed up already. We are asking for 300 maximum, I think is where we are going.

MS. FOCARINO: Right.

MR. DOLL: We are already one-third there. The pilot should start in early April. I think it is going to be a great success, and I think the next time we get together, Robert is going to be singing the praises.

MR. FRIEDMAN: Why is it called Flat Goal?

MR. DOLL: It is called Flat Goal, and actually Jon Dudas came up with that because what
MR. FRIEDMAN: And he is not here.

MR. DOLL: Yes, I always blame Jon when he is not here. What he was looking for is more of a law firm type goal where you have got a set goal that you have to do.

MR. GRANT: Set goal of what, hours?

MR. DOLL: Production units, how much work are you going to do in this one quarter period? What we did was take an average of the average amount of sick leave, the average amount of annual leave, average amount of training time, and just sort of rolled it in for everybody to get a generic flavor of what would be fair.

How many Budget Disposals (BD's) would we expect the average examiner to do in a quarter? You set that goal. So you accomplish that, and you determine how much training you want to take during that time period, when you want to take annual leave, when you come and go from the campus that you don't have to be here inside the security zone, 80 hours a pay period.
I was hoping Robert would let me go on to the Laptop Pilot because that is going to make him really happy.

MR. PINKOS: Well, I can say that, in our view, a pilot is just that. A pilot is an opportunity to try something to see if it works, and we do it out of the goal to try to improve what the USPTO does. Not every type of pilot is the one that Congress mandates and we do them whether we think they are going to be good or not. But we don't know. We don't know if it will prove to be beneficial to the agency, and we will see.

Robert, I can assure you that is what it is. It is a trial.

MR. BUDENS: I have no doubt that you are marketing it as a pilot, Steve. The issues are what happens when the pilot is done. The pilot has been designed from its conception, as near as we can tell. We have been looking at it for a while. It is designed to be a success, okay. People have already been told in the briefings if they get into trouble on it, they are
going to be taken off of the program if they can't
do. Well, all you are doing is stacking the
numbers and stacking the deck. You are taking
only volunteers. You are not doing a random
sampling across the agency. This program is
designed to give successful data and hence give
the agency the data it needs to go and argue in
favor of expanding it to the entire examining
corps. That is where the dangers are to the
examiners.

Not only that, it is based on
assumptions of those times. It is basically
telling examiners they are going to have to
operate at an 80 percent examining time when
historically we have always operated at a lower
level.

CHAIRMAN RIVETTE: Gerry?

MR. MOSSINGHOFF: I just want to make
sure the record shows that I am against any pilot
designed to be a failure.

MR. PINKOS: Me too. Obviously, there
are issues that we agree on and disagree on.
From Jon's and my perspective, we would never, it would never be our goal to implement something that we don't believe would be successful for the agency or try to rig an outcome of something when we are trying to see whether it would work or not. It is just not in our interests. Ultimately, I think let us see how it goes, and we will talk more about it down the road.

MR. DOLL: I am going to move on to a topic that will bring Robert's blood pressure back down, and that is the Laptop Pilot. I think I talked to you at the last PPAC meeting. This has been extremely successful. We have worked with POPA. It was a great idea where we thought we would just hand out laptops. Being from a business unit, it was my initial impression that we are to give laptops to people that were willing to do a certain amount of overtime on this laptop off-campus to pay for the equipment, and that just made good business sense to me. But I took it to the Management Council, which Steve leads, and
much to my surprise, they said: Why don't you just hand them out? See what happens. Take 300 laptops. Give them out randomly and see what you get.

It was interesting. When we talked to POPA, POPA agreed with that. We did a random distribution, and it is amazing. The equipment cost us about $2,000, a little over $2,000, $2,200. We have got about five pay periods of data, and in those five pay periods of data, people have worked five and a half hours per pay period per person more than they worked in the last two years. So we tracked those 300 people, and the people love it. There is an increase in productivity, and there is a tremendous increase in morale.

What has happened is if you gauge how much revenue we have generated by the five and a half hours of overtime, we have already paid for all of the laptops that we have handed out in just five pay periods. So what we are doing now is building a business case. We are going to go back
to the IT Investment Review Board which is chaired again by Steve, and we are going to make a request to hand these out to everybody who is eligible.

But it is interesting because when you look at the statistics, we did an examiner survey where we got 94 percent participation. That is the highest survey we have ever had, where 94 percent of the people responded. Eight-six percent of them strongly agreed that their job satisfaction had improved simply because they had the laptop. Eighty-five percent said their morale had improved because they got a laptop. Seventy-four percent said there was less stress in their lives on meeting production goals. Sixty-five percent indicated that the quality of their work increased significantly, just from having a laptop.

We heard that from a lot of people, that they would have just love to go home and finish their email or they were in a carpool and they couldn't stay and finish writing that examiner's answer, but if they could go home and do it.

This was an idea also that came from an
examiner. This didn't come from management. This wasn't something we dreamt up. An examiner said:

My husband is getting an MBA, and there are just these holes in my weekend where it is just down time. If I could log onto the Office's system, if you will just give me the software, I would do overtime simply because it is there. I am not going to drive into the Office. It is too far away, too inconvenient, but if I could do it at home.

That is what we are finding, that people, on average, are working five and a half hours per pay period more overtime than they were. That is a big concern for Peggy and I because what has been happening over the last few years is overtime has always been modeled at a 125 hours and then it dropped to 100 and it was below 80 last year. Overtime is increasing this year with respect to the Laptop Pilot. So I think this is going to be a real winner for three reasons. Robert and I are both really happy about that.

MR. BUDENS: That, I would agree with.
My blood pressure is returning to normal.

CHAIRMAN RIVETTE: Steve, what kind of life expectancy are you looking at with these laptops.

MR. PINKOS: I don't know. I think David is here, but it does lead to a broader question. There are multiplicity of concerns that arise with thousands of laptops being out there. First and foremost, there was a study done recently for the Department of Commerce, and fortunately we fared well, but there was a tremendous loss of property and potentially PII and it was all over the papers, at least in Washington. It was a big embarrassment for the Department. That concern clearly is out there and then just the expense.

But David may know the specifics as to the life expectancy.

DAVID: Typically, for work stations, we hope for at least three years. Unfortunately, with laptops, the technology changes so quickly, but I think we are pushing for at least a
three-year life cycle on the laptops.

MR. DOLL: So it would be a tremendous payback. I also want to say that the point of contact here is Steve Goodman, and he is in the back of the room also. Did I get everything, Steve?

MR. GOODMAN: Yes.

MR. PINKOS: I guess it is worth just adding, as we talk about trying to bring down pendency and address the timeliness issue, every little thing helps. This actually could add up. If more people are encouraged to work overtime to produce more, it helps. There are a lot of bigger issues, obviously, hiring 1,200 people a year, et cetera, but we are looking from the large initiatives like work-sharing with offices around the globe and hiring 1,200 people a year to things that are very much here at home that we can control like handing out laptops.

MR. DOLL: Steve's point is really well taken because one of the numbers I didn't share is that we have had the program in place for five pay
periods, ten weeks, and what we have done in those
ten weeks is generated 478 production units. That
means 478 more first actions were done, and 478
more disposals were taken care of in that time
period. So we have got almost 100 production
units per pay period from just 300 people. That
is a real boost.

CHAIRMAN RIVETTE: What do you
anticipate extrapolating this? You are not going
to see that same curve because these were
volunteers and that sort of thing.

MR. DOLL: They were randomly picked
volunteers.

CHAIRMAN RIVETTE: Oh, they were
randomly picked, okay.

MR. DOLL: Yes, we went through and did
a random sample of different grades from overtime
usage from the people that did overtime to the
people that did over 500 hours last year and
randomly picked from each one of those bands.

MR. BUDENS: I will actually volunteer
to take a little heat off of John on that
question. The fact of the matter is I am inundated with questions, with comments from examiners, going when are we going to get the laptops and how soon and why couldn't I get in on the pilot? The attitudes from examiners on this one is one of great interest, and I think it is going to be a very, very successful program for the agency.

CHAIRMAN RIVETTE: Excellent.

MR. DOLL: We were hoping that I could get the investment decision paper done before Christmas because Robert had agreed to dress up. We were going to dress up as Santa and an elf and hand out the laptops out front.

(Laughter)

MR. DOLL: The next initiative is the patents hoteling program, and I can either continue talking. The hoteling program again, and Kris Vice is our lead on that. She is our acting administrator, and she is not here right now.

The hoteling program is where people are
allowed to work at home all the time except for
one hour per week, and they come in. We have got
about 506 examiners out right now. We hope to do
another 500 this year and another 500 every year
through 2011. It is an extremely successful
program. It is something, again, that the union
really supports.

We have got some real pluses, but one of
the things that we discussed this week when we met
with POPA was the concern about some people are
going home and not continuing the training that
they have been doing in the art unit. One of our
biggest resources is the talented, experienced
primary examiners that we have, and we need them
to continue to train our new people, but it has
become a little more difficult, it seems, and we
are getting a few more complaints. We heard this
early on. Peggy and I did a town hall meeting
with junior examiners that were reporting to a
primary who was at home, and we had almost no
concerns. That was about three or four months
ago. They actually said they enjoyed the fact
that they could get to their primary any time on email. They thought it was great. They had an email response. But we are starting to get some data that may be contrary to that, so we are going to be looking into that to see what we can do to maintain the training of the people that go home.

A lot of times you go home, and you go: Life is good. I don't have anybody bugging me. I don't have any question to answer. I don't have anybody wanting me to review their work.

So we need to work on that. We have never forced anybody to train, but it appears maybe just from rumor or hearsay that perhaps trainers aren't doing as much as they used to.

It is like a chess club.

MR. BUDENS: My turn? Yes, I would agree. We are in favor of hoteling. I think employees want to have the option to do it. We have two real concerns, one of which you have heard throughout yesterday and today on the issue of having to come in for one hour and who is going to pay for commuting and the issue of duty
station. Another issue was what was going to
happen if an employee was in hoteling and got in
workflow trouble or production trouble and will
they get called in or back in? So far, to the
best of my knowledge, the Office has played pretty
low key about these issues. That is a concern.
We have not reached agreement with the agency
officially on hoteling, but I think we are working
in that direction.

The biggest concern that now is arising
is the one that we did share with John and Peggy
last week, that we are starting to see pockets
where we might have sent too many senior people
home and have lost the critical mass that we need.

CHAIRMAN RIVETTE: There are a number of
organizations, and I have been part of a couple of
them that have extensive hoteling programs. I
mean IBM does, Boston Consulting Group does, and
there are training programs. We have taken a look
at reaching out to industry to find out how that
works because there are mentoring programs that
you can do, and you have got now a lot of the
actual infrastructure necessary to do this in an easy manner.

To the people that are in the public session, a number of us went through yesterday and had a tour of the Patent Office, a day in the life of an examiner kind of approach. We were very pleased. We saw a lot of improvement over the last 12 to 24 months.

Peggy, is she around here?

MR. DOLL: She is working.

CHAIRMAN RIVETTE: She is working. She did a great job.

MR. PINKOS: Peggy has been looking quite extensively at the issues you just talked about, though. I am not sure who in the private sector she has talked to.

MR. DOLL: Fred, do you know?

MR. SCHMIDT: We are doing a survey now with a number of companies outside -- SYSCO, Microsoft, IBM, folks that are using people working remotely very extensively to build role models for us.
CHAIRMAN RIVETTE: I will put you in touch with the Boston Consulting Group. As a consulting group, they are dispersed almost all the time. If you find them in the office, you start to wonder what are they doing.

MR. SCHMIDT: That would be great.

CHAIRMAN RIVETTE: They also have mentoring programs. There is a requirement that there is mentoring going on online because these guys don't have offices. Literally, at IBM and other places, there is not an office. Their duty station is home. They have mobile ports they can go into. They can get their computers checked. They can moan and groan at somebody over coffee, but it is literally just a cubicle, and they plug in, download whatever they need and then leave.

So, if you want, just check with me and I'll do the BCG thing.

MR. DOLL: That is Fred Schmidt, one of our directors in 3700.

The other idea we have is we have managers working. We have a patent managers
telework program where all of our supervisors have
the full suite of equipment at home. They can
access their desktop from home, and so they can
update their email. They can read their email.
They can review office actions. That way, we get
more work out of them when they are at home.

But the idea has been extended a little
further, and this is another that Jon Dudas has
supported, and that was the virtual art unit.
Peggy, right now, is working on a plan to see if
we couldn't actually take an entire art unit, move
them off campus -- primary examiners, middle
level, journeymen and junior examiners with their
SPE -- allow them to move off campus and then
monitor how the training works in what we are
going to call a virtual art unit. That is still
very premature, but it is something Peggy is
working on.

CHAIRMAN RIVETTE: That is virtual in
the sense of they can be dispersed across the
country?

MR. DOLL: Yes.
CHAIRMAN RIVETTE: So they don't have to be located in any specific area?

MR. DOLL: Yes, because all along, what Steve and Jon have talked about is where you have got a manager who lives in Ohio because it is a best state to live in, but then you have got people in Michigan and Tennessee, Kentucky. There might even be somebody in California.

CHAIRMAN RIVETTE: I wouldn't go that far. You are going to have a lot of technical people out there.

What you are talking about, if you put it BCG speak, is a case team approach which these people are all virtual.

MR. DOLL: Right, and that forces a lot of the issues that are just sort of tangential when you only have your primaries out. If you take everybody off this campus, you are going to be able to observe issues that you wouldn't be in just this hit and miss that we have right now. So it is something that we are working towards.

Hopefully, we will know more about that next time.
CHAIRMAN RIVETTE: When did this program start?

MR. DOLL: The idea started just a couple weeks ago.

CHAIRMAN RIVETTE: Okay.

(Laughter)

MR. DOLL: It was one of those ideas where we were talking, and Jon says: Well, go ahead and do it. Don't talk about it. Do it. Then Peggy took the lead on that, so she has been running her math for the last couple weeks. We don't have much on that, other than just the basic idea. We would just like to try it which is really another opportunity.

You talked about the initiatives that we are doing. We do have a lot of things going on, but I think that is to the credit of Steve and Jon because they are willing to take risks. They are willing for the first time in a long time to let the managers and the commissioners and the deputy commissioners go out there and really do some things that are on the edge, that could possibly
fail. We don't do things that would intentionally fail.

MR. MOSSINGHOFF: So you agree with me now I am against those.

MR. DOLL: Before I leave, I want everybody to agree with me on at least one issue, remote regional offices, another really great idea. We started on that six months ago. We came out of the box probably a little fast and made a few mistakes. I made some assumptions that the regional office we needed, a brick and mortar presence, that we actually needed it west of the Mississippi. When you think about that, it really became unfair because we were prejudicing the entire idea. Jon's idea is that you hire the best people. You give them the best training possible. You retain the investments. Then you let them work anywhere they want, a nationwide workforce. So that might fly in the face of a brick and mortar presence somewhere. If you could bring people here or if you could do just a store-front training in a certain location just long enough to
bring them up to speed and then allow them to go home.

But when you look at Trademarks, and Trademarks has really been a good example here because what they have is 85 percent of all the people that are eligible to work at home, work at home; 15 percent of the people that are eligible do not because they have made the active choice to come into the office and they would prefer to come here. There is a host of reasons why. Whether you have a spouse at home, whether you have kids at home or you have a set of golf clubs at home, that you just can't stay away from, there are some people that need to come to an office. So we may well have a brick and mortar presence somewhere for a small cadre of people that could also be a training center on the West Coast somewhere to allow people to expand from there.

MR. WESTERGARD: What qualifies as eligible for working at home?

MR. DOLL: Right now, you have to have passed the GS-12 certification exam. What we did
is we started with the GS-14s. When all the
GS-14s that were eligible to apply or volunteer,
there weren't enough of those, and we moved it
down to GS-13. We are working in the GS-13 band
right now, and we will probably get to or start
touching some of the GS-12.

Fred Schmidt is leading the business
case on this. Fred is working with a contractor
to put together the business case as to whether or
not we should have a brick and mortar presence,
whether or not the nationwide workforce might be
sufficient to answer all of our problems because
what we would really like to do is to tap into a
pool of applicants that we normally don't have
access to. We don't get a great opportunity to
bring people from California or the western
states. They just tend not to want to move here.

Now there could be a lot of reasons.

CHAIRMAN RIVETTE: What are we doing
here?

MR. PATTON: I am just here for a couple
days.
MR. DOLL: You love us.

MR. PINKOS: Going back to your balmy

80-degree weather.

CHAIRMAN RIVETTE: It is 90 degrees

right now.

MR. PATTON: It was about 75 when I

left. It was 80 the past few days though.

MR. DOLL: I am losing sympathy for you.

I think this, again, is going to be another great

idea. It is a program that we are looking into.

What we are looking for is that business case that

when Jon and Steve take it down to the Secretary

of Commerce and they read it, they go, yes, this

makes sense. The issue then will be Steve is

going to have to convince 50 Senators that it

should go to one place and not in each one of the

50 states, but that is Steve's job.

MS. NORTON: If it is just a store

front, then the Commerce Committee should

appropriate it.

MR. DOLL: The store front is a really

interesting idea but to really make that work, we
have to take the training academy and not graduate people that have a GS-12 level of skill. We actually have to almost have a primary examiner. That might be a two-year program. But it is an idea that we are willing to entertain, that we move in somewhere, whether it be San Antonio, Denver or Boise. The Governor of Idaho sent us a letter that said, well, why haven't you come and visited us, John? I said, I will be there during ski season.

MR. WESTERGARD: You have another two months.

MR. DOLL: That is the basic principle. Again, I think it is a great opportunity to get to a whole new group of people and maybe have a presence on another place in the United States.

MR. PINKOS: And, importantly, retain more.

MR. DOLL: I am glad you mentioned that because again that is a great idea. I was in Detroit a few months ago at a bar, at a bar association meeting.
MR. DOLL: We were drinking, but what happens is that there were three attorneys there, and they had worked at the Office. They said: I would have stayed at the Office, but I wanted to come back to Detroit. I liked the job. I thought it was a great job. I wanted to move back to this area. So I went to law school specifically to come back to Detroit.

If we had a program of hoteling where we could have trained them here and they would have been here to become primaries and allowed them to go back to Detroit -- you are looking at me.

CHAIRMAN RIVETTE: I am just trying to process it, okay.

MR. MOSSINGHOFF: You may be well off without these guys.

MR. DOLL: Good point. Fred, note that when we are doing the study.

Outsourcing, we are doing quite a bit of outsourcing. The reason we are outsourcing, there is really only one reason, and that is to free up
examiners to examine national stage cases.

Examiners do a lot of things. What we would like
to do is take duties away from them that they do
and they do extremely well, but what we want to do
is let them do what they do best, make
patentability determinations.

The first outsourcing pilot is PCT
Outsourcing, and Rick Seidel, who is over here on
the right wall, he is heading up that.

What we are doing right now is we
actually ran and we reported out to you, a pilot.
We had a telephone conference with you, Gerry, and
some people on a pilot that we ran last year and
failed. The pilot was implemented on PCT
applications, but it was implemented with the
Berman-Sensenbrenner restrictions where it had to
be done by U.S. citizens on U.S. soil by a U.S.
corporation. The project failed. It didn't work.
We abandoned the project, but we went out and
recompeted.

We now have two companies, Landon and
Cardinal Law, with a group of attorneys in Chicago
that are doing PCT cases for us. Their quality is really good. They are asking for more work. This looks like a very successful pilot. Rick has done a great job, he and his team, of making this a real opportunity to free up a lot of examiner time.

The next one is a reclassification.

MR. MOSSINGHOFF: Free up examiner time for the PCT or free it up generally as expanded?

MR. DOLL: We are trying to take PCT work away from examiners so that they can spend more time doing U.S. national stage cases, not PCT cases.

MR. MOSSINGHOFF: Okay, but it is limited to PCT.

MR. DOLL: It is limited strictly to PCT, and those cases, when they come back to the Office, they are subjected to a strict QR program, a Training Quality Assurance Specialist (TQAS) or a specialist reads every one to make sure that it is correct before we sign off on it. This is still in the pilot stage, program so we are going to make really sure that when we sign
that, it has the quality that we need. But it is
really interesting that the quality we are getting
this time around is very good, and we are very
happy with it, and the two corporations are asking
for more and more work.

CHAIRMAN RIVETTE: What is the
difference between this pilot and the last one?
Why is this one working?

MR. DOLL: There are a couple reasons,
and Rick, help me. The first reason is we don't
have the Berman-Sensenbrenner restrictions, so
they don't have to be done by U.S. citizens, by
U.S. Corporations.

MR. PINKOS: That was just for national
stage searches.

MR. DOLL: That was for national stage.

MR. PINKOS: There were more companies.

This isn't going to be more predictable or less
because, as John said, less restrictions on what
they look at, who can do it, and you get more
predictable work. The other program for national
stage was truly a pilot. So the way it worked was
you would have to do it for 18 months. Stop for a
certain period.

MR. DOLL: Stop for 18 months.

MR. PINKOS: Report to PPAC. PPAC would
report to Congress. Companies weren't willing, I
think, to really ramp up to be able to do a whole
lot under that program because they weren't sure
whether it would be long-term.

With his, what do we have, 50,000 PCT
applications a year?

MR. DOLL: We are going to do about
28,000 this year, right?

MR. SEIDEL: No. Well, yes, in the
Office we are going to receive about 25,000. This
year, we have outsourced about 10,000.

Ultimately, we will get up to 20,000 to 25,000 in

MR. DOLL: Do you want to talk about
some of the other aspects about why you think the
quality is better?

MR. SEIDEL: Well, I think there are two
reasons. The first one, as John said, we awarded
contracts to two companies, and the first company
was actually involved in the past pilot. I think
part of it is a lot of lessons learned from the
past pilot, plus the fact that they were able to
rebid. I think that had a lot to do with it.
Maybe they grossly underestimated what it would
take to run the program in the initial outsourcing
effort.

Then the second one was by lifting a lot
of the restrictions, we opened up the pool.
Actually, this other company out in Chicago, they
did quite a bit of work for, I don't know, various
large corporations. So they had quite a few
contacts. They had a very good internal process
to absorb work, farm it out to remote workers and
various other things that I think we are learning
from hoteling and so on. Have a remote workforce,
establish a lot of contacts, yet keep everything
consistent within their headquarters in a
 nutshell.

I think there are the two biggest
reasons why.
MR. DOLL: We are also outsourcing applications to IP Australia, and that is a much smaller pilot. We are doing about 11,000 this year to Landon and Cardinal, and we are going to do up to 1,200 to IP Australia. They are an international searching authority, so you have a set level of quality there, and we are working with them. Jon was just there a few weeks ago and signed a Memorandum of Understanding to do up to 1,200 cases this year. But our goal, I think, is to get as many PCTs outsourced to a competent searcher, somebody that can do the work for us as soon as possible, again to free up the examiners to do U.S. national stage applications and attack our backlog.

MR. MOSSINGHOFF: Is Korea involved in some idea of this?

MR. DOLL: Korea has just become an international searching authority. They are really not part of this pilot, but they are a very inexpensive ISA. So you can file in the United States and request either the EPO or Korea to do
the search and prepare the report for you.

MR. MOSSINGHOFF: Not apropos to what
you are reporting on, but I attended a breakfast
-- I don't think you were there -- which they
eyear in connection with the AIPLA. It was
the PCT Breakfast. One of the ideas that was
surfaced there was the fact that maybe we want to
bring Brazil and Argentina and other countries who
don't seem to be terribly enthusiastic about
intellectual property into PCT searching on a
ground theory I had, and I think it is a very good
theory. If you start getting a bright cadre of
professionals in the country who understand
intellectual property and whose livelihood depends
on intellectual property, you have got a good team
of people who might start talking to the
policymakers about the fact that they ought to
change their policies.

I think it is worth looking into, I
really do, to see if there is not some way to draw
in PCT work by countries who you wouldn't normally
think of, namely Brazil and Argentina, India and
MR. DOLL: Interesting idea, thanks. Do you want to head that pilot?

MR. MOSSINGHOFF: I would recommend Maximilian Grant to be the Chair.

MR. DOLL: You have done that once today.

(Laughter)

MR. DOLL: Our next outsourcing is reclassification, and reclassification is when an examiner looks at a particular class and sub-class and says, there are too many patents; there is just no way I can easily go through there with a class, sub-class search. So they break it down.

What we are doing is we have outsourced that. We have Andrologic (?) to which we just awarded a contact in August. What they will be doing is the reclassification projects with help from primary examiners and supervisory primary examiners to make the determination as to what needs to be done, but they will develop the schedules rather than our examiners developing
them. The thing that really takes us time is when you go through and you read every patent and you place it under new classes and sub-classes. They will be doing that.

We are actually evaluating some work that Denmark is doing for us in that area also. They were very interested.

That is another opportunity, not only to help the quality by doing more reclass work that we really haven't done in the past few years. Reclassification has really dropped off, and a lot of the public searchers and a lot of the examiners that do class, sub-class searches have complained that you are not really keeping the classes and sub-classes. Here is an opportunity to improve quality for outside-inside and take work off the examiners' desk so they can do what they do best.

PG pubs, when we do an 18-month publication, we go through and we classify it to say what are the subject matters set forth in the claim that would be classified. That requires an examiner, again, to sit down, read the
application, go through it and do the class, subclass indication. We are going to hire somebody else to do that. We awarded a contract to SI International in September. Again, that will take a lot of time away from examiners that they were spending classifying PG pub applications and allow them again to do the searches that are so important.

That contract has not started yet. We are hoping that maybe by April. David Freeland (?) is working with the company right now to get through with their certification and accreditation. He is working with Don Hajec (?).

Where is Don? Don Hajec, here, Don is doing our reclass and our PG pub.

MR. FREELAND: I am just doing the PG pubs. Rick is doing the reclass.

MR. DOLL: Sorry, Rick.

MR. SEIDEL: That is okay.

MR. DOLL: Whoever prepared my notes, sorry. EFS Web, I think everybody here thinks that EFS Web is great, at least from the ones that
I have talked to. Right now, we are running at over 40 percent of all the applications that are filed are filed electronically.

CHAIRMAN RIVETTE: Over 40?

MR. DOLL: Over 40. Very soon, within the next few months, we predict that over 50 percent of all the applications that are filed will be filed electronically, and that will really be a milestone because just a couple years ago, we were lucky to get 1.2 percent of our applications filed.

MR. PINKOS: A year ago, right, in March, last March?

MR. DOLL: You are right.

MR. PINKOS: Yes, a couple years ago, it was less than that.

MR. DOLL: That is why he is the Deputy and I am just.

MR. PINKOS: We used to combine them with Trademarks and say that roughly 50 percent of the applications that come in the PTO are electronic, 99 percent, Trademarks and 1 percent,
Patents. Now it is closer to 75 percent.

MR. DOLL: Right, I think what we ought to do is we ought to have a PPAC initiative where everybody in here commits to filing 100 percent electronically on EFS Web. You already did it.

Five of the ten largest IP firms in America have committed to filing 100 percent EFS. That was really a big coup on our part.

CHAIRMAN RIVETTE: Is IBM committed to that?

MR. DOLL: Yes, some of your divisions are.

MR. PINKOS: It depends on the law firm.

MR. DOLL: But even in-house, you have pockets.

CHAIRMAN RIVETTE: Do we still have pockets?

MR. DOLL: Yes, Kris isn't here, so I don't have an exact number for that.

MR. MOSSINGHOFF: Are there lessons to be learned from why it took so long?

Congratulations on what you are, but what was the
MR. DOLL: The delay was really that the Office made the decision, what we needed to get to a text-based search system, and we tried to force-feed it to applicants to say, you had to file the applications in an XML tagged type environment. It was just so kludge, so hard to work with that the public never accepted it and said I am not going to do it.

So this time around, rather than us telling the public what we think they needed and what we think they should do, we went out and asked them. We had roundtables, town halls and said, what would it take to get you to buy in to an EFS filing system?

And they told us, give us something that is simple, something that is client-light, something where I don't have to load software, something that I can come in through your firewall. I can save it. I can file at any time. There is no restrictions, and it is easy. I can use any word processor I want.
We developed a system around their suggestions, and it has worked out really well.

MR. GULBRANDSEN: And you can get a filing receipt.

MR. DOLL: And you can get a filing receipt within 15 minutes.

MS. NORTON: I think because of that, you are probably going to see up to 90 percent within probably the next two years if not a year because just for malpractice purposes, you have got it right there. You are not having to courier it.

MR. DOLL: You are absolutely right because even on Private PAIR, once you file your application electronically, within 15 minutes and usually within 5, you can go online, make sure that every page is there, every document is there, that every graph came through clean and clear so you know exactly what was there.

MR. MOSSINGHOFF: What is the encryption? Who? That was a big issue, I thought, that there wasn't sufficient encryption...
or something for these trade secrets. Is it PDF?

MR. DOLL: David?

DAVID: We are going through and using web browser SSL right now and are probably going to beef that up. It is coming through a secure software layer right now. That is how we are handling that now, establishing a session between the filers' desktop and our servers here. So it is encrypted when it gets in that way.

MR. DOLL: Correct me if I am wrong, David, but that is the same encryption system they use with Amazon.com and almost all of the internet buying services.

DAVID: True, for when you are putting in your credit card number.

MR. DOLL: So you are putting in your credit card.

DAVID: Now we are having to beef up some of our security due to some of the government requirements on our browser front end, and that is fine. Actually, that will help improve this even more.
CHAIRMAN RIVETTE: You are going to do that also for the hoteling?

DAVID: Hoteling is a little bit different because we come in through a secure VPN, virtual private networks. That is a very good program right now. It is working very solidly. There are some improvements we need to make on that or plan to make over the few years coming up. Security on the workers out or examiners scattered around, that is very important to us right now, to make sure that we have our privacy held and our security in being able to get into that. So we are always looking to improve how we do the security systems.

MR. DOLL: The best part of EFS Web is that always whenever we go out and talk, we run into an attorney that says, I am no longer scared when my paralegal or secretary goes home because I know 8:00 at night I can file an amendment.

Right now, we are tracking applications filed, and very soon we will also have over one million follow-on papers filed through EFS Web.
It isn't just the filing. The follow-on papers have been a huge success also.

Public PAIR, we have made some real improvements in Public PAIR. We rolled out PAIR 7.0, and there is a lot of self-administration advantages to that. I think everybody here who uses Private PAIR, we just have nothing but compliments on that, and 7.0 has actually made it just a little more secure, a little more user-friendly to take allow you to take care of things like your customer numbers and your attorney docket numbers.

We have a search pilot that we have talked about a couple times where Sarah is going out and talking to corporations about what is the best way to search. We have gone out to FDA so far this year to find out exactly if there are pockets of technology on how certain art areas search a particular art area.

We are also going to go out and do an RFP or an RFI to see who would be interested in coming in and rolling out what would work best for
us, and we have had responses from LexisNexis,
from Thomson Scientific and the IBM patent café
have expressed an interest to come in and talk to
us about the way we search and some of our search
tools.

What we use right now, as you saw
yesterday, the ones that took the tour, are
east-west. That was developed in the nineties.
We really haven't made any major improvements, but
when you look at the internet right now, what you
see is just huge improvements in search engines,
search logic and display and customization. So we
are looking to take advantage of a lot of that.

MR. MOSSINGHOFF: Are we connected with
Google at all for the Google Initiative on Patent
Files?

MR. DOLL: No.

MR. MOSSINGHOFF: They just did that on
their own. Their patent database, they just did
it on their own?

MR. DOLL: Well, they access our
database, but they didn't buy it, unfortunately.
We give it away for free.

DAVID: They bought it.

MR. DOLL: Oh, they bought it?

DAVID: A large portion of it, yes.

MR. DOLL: That is the difference between David and I. I would give it away for free. He charges.

MR. MOSSINGHOFF: Let us vote for him.

MR. DOLL: The last thing that I wanted to talk about very quickly was the ABA came in recently. The ABA came in and they talked to us in our business methods area. What they did is they brought in some very high priced talent to talk to our examiners about tax strategies, tax shelters and how to examine in the business method area when we are ready to do taxes. It was extremely well received by the examiners. The examiners love it when experts in the field come in. They had the dean of a law school.

Do you remember they were, Liz?

LIZ: I don't.

MR. DOLL: We had the dean of a law
school. We had a law professor. We had a practicing tax attorney. These were big names, and it was really a good interaction. It worked out so well, and the ABA, they were so satisfied with the feedback from their end, that they came in and offered to go out and look for other people to come in and work with the examiners. I would like to make that offer to PPAC also, that if you have any idea where you would like to come in and train, where you see an interest in the Office, whether it is software searching, whether it is business methods, whether it is pharmaceuticals on what we could do better. The examiners love that kind of one-on-one training, and we would be more than willing to entertain that.

MS. NORTON: John, I just had three quick suggestions for pendency. I don't know if the Office has given any thought to it.

First of all, I know a lot of people will file and then the company -- you see this a lot from the dot.coms -- the company has gone bankrupt. The examiner goes through the first
office action. Have you given any thought to how
to try to catch those so that you are not wasting
time?

MR. DOLL: Last year, when we were
looking at our initiatives, that was one of the
ideas we had, but we had to just contact everybody
who had a case in their backlog and said: Are you
still interested? Maybe you went out of business.
Maybe that technology is no longer important to
you.

So we didn't do a really scientific
study. What we did is we called a bunch of people
that we knew. We said, what do you think of this
idea? Overwhelmingly, the attorneys said to us it
would cost more than you could refund. It is
easier for us and easier for the corporation to
just sit back, wait on the first action and then
not respond. If you have to go through a law firm
that then has to take it to a corporation that
then has to make a decision, it isn't worth the
$200 that we could refund.

Even the one law firm that she would do
it for free said that it wouldn't be worth it to
the corporation. It would take more than $200
worth of their time. It is easier just to take
the first actions.

MS. NORTON: But if it is not a refund
and it is just a simple paper that when an
examiner picks it up, please let us know. In most
situations, if they have gone abandoned, all the
law firm has to do -- they are probably not going
to love it but they will like it a lot more than
some of the other pendency issues. Just say, let
us know if this is still something you want us to
pursue and maybe save that examiner five or ten
hours.

The second one was with the issues that
people have with deferred exam. What were the
biggest issues with deferred exam?

MR. DOLL: I don't know because I wasn't
part of that road show.

John Love, do you know?

MR. LOVE: Well, part of the concerns
that I have heard was they would like to have the
patent regs established and they don't like the
uncertainty of deferred applications being out
there without the patent regs being established.

MS. NORTON: So was the term getting
extended at all with deferred exam?

MR. DOLL: Not in our opinion.

MS. NORTON: Not in yours, okay. All
right, I was just asking.

MR. MOSSINGHOFF: There would just be
more and more potential defendants, right? You
just want to see the idea. You just want to see
if this thing is going to end up being rather than
seeing a filed application. That is the question
in my view.

MS. NORTON: Okay.

MR. PINKOS: We wrestled with it
internally because almost everything we are
promoting is to create greater certainty in the
system, and that is what is important for
innovation. Everybody knows what has been
patented, what is pending, what hasn't been run
forward and have that certainty as quickly as
possible.

MR. WESTERGARD: Deferred runs counter to that. With deferred in the deferred context, was the application was still published in 18 months?

MR. PINKOS: Yes.

MR. WESTERGARD: So it still was, okay.

The other criticism was deferred examination, from a defendant's perspective, if you are facing that patent, it allowed for late claiming and raises similar kinds of concerns that were raised in connection with the continuation issue.

MS. NORTON: I was just wondering how if the term, how much that played, if the term was getting extended and if that was causing a lot of it.

The third thing is I know with the government, that you are under certain criteria where people have to be in the system to hit a certain pay level and I assume that impacts recruiting. But I would guess around the country, maybe particularly in this area your
hoteling, there might be a lot of people that are
in law firms or doing other things that haven't
worked for the government that would love the move
ability and move back to Tidewater or whoever
wants to go back there.

MR. MOSSINGHOFF: Detroit.

MS. NORTON: Or Iowa, I hear.

SPEAKER: The Pistons are playing well
again.

MS. NORTON: And Ohio, apparently, is
popular as well.

SPEAKER: A hot spot.

MS. NORTON: Again, if it is some sort
of OMB regulation or something, but you might be
missing out on a huge pool of opportunity of
people. Have you guys tried to looking at that?

MR. DOLL: We are looking at second
careers. Actually, when Steve spoke to the last
new academy class, it was amazing for how many
people this was their second or third career. I
think there was somebody in there that was 72. We
hired a guy. We are getting more and more people
where it is their second career because they do see the benefits.

It was interesting because you talked about training academy legal. We had one of the attorneys from the training academy that had just come to the Patent Office, and he came and talked to me. He says, you are really missing a grand opportunity because you are not heavily recruiting in law firms. He got out of law school. He wanted to get into a law firm. He went in, and all of a sudden there was this big litigation case, and he lost his weekends for an entire summer. He says, I am not going to live like this.

CHAIRMAN RIVETTE: Only a summer?

MR. DOLL: He quit at the end of the summer.

MR. PINKOS: There are all sorts of benefits that could come from more of a national workforce, and one of those would be not just retaining people who may have started a career here but in many other parts of the country, 80,
90, 100, 110, certainly $140,000 a year, which
some examiners make, is more than lawyers make or
as much as lawyers make in Topeka or Wichita
Falls. So they may be more likely to come to PTO.

MR. DOLL: To Steve's point as well, when we were in Denver, the Governor of Colorado
invited us out, so we went out there. When we
were talking to them, they said that the average
patent attorney makes $120,000 a year in the
Denver area. Well, the GS-14 step one is $102,000
a year. It is a tough job, but you could do it in
40 hours a week. They go up to, as Steve said,
$143,000 a year. So we may well become the
employer of choice in certain parts of the
country.

MS. NORTON: But don't they now? I
think you have to start, if you come into the
government. Say you are an attorney, a second or
third-year associate. If you come into the
government, don't you have to start at a lower
level because of the government rules?

MR. DOLL: It depends on your education,
whether you are a B.S., M.S. or Ph.D. and then it
depends on the years experience on the outside,
but coming in at anything higher than the GS-12 is
extremely difficult and rare.

MR. PINKOS: As a patent examiner, you
mean?

MR. DOLL: Yes, yes.

MR. GULBRANDSEN: That is something we
can work with. We have attorneys that come in at
gs-15 levels. So those are just they have been in
a law firm for 10 years and decide they want to
come in here and work on international issues,
they want to work on the board or somewhere else.
Those types of hurdles aren't insurmountable.

SPEAKER: Just because Jon says kill all
the attorneys.

MR. GULBRANDSEN: Actually, that is not
a bad sentiment for a politician. It really
isn't.

MR. MOSSINGHOFF: Now it is out in the
public session.

MS. NORTON: I was thinking that might
be good. You have the training recruiters who
call all the time to these law firms. You might
want to have a training recruiter from the PTO
calling and saying, hey, you could go, you could
come do this.

MR. DOLL: We had a great idea where we
were going to send a flyer out with every office
action, advocating how wonderful of a place it was
to work. I said: Why waste our time? It will
never get past the docket person. It will be
stripped down and thrown in the trash can.

(Laughter)

MR. ROSS: I have a comment or concern
in reference to the pendency. I have been hearing
a lot of focus on the attorneys and on the upper
management staff, but I think there needs to be
greater focus on the support staff as well. In
order to reach their pendency goals, the attorneys
rely on support staff. Their numbers as well go
towards the pendency. I have seen our account at
about maybe 10 initiatives in reference to the
attorneys, and I haven't seen any in reference to
the support staff. It seems like the attorneys are given all the initiatives and all the incentives and all the attention, but with the lack of attention that is being focused on support staff, it is becoming a problem because they have no incentives, because they have no means of upward mobility, because they have no means of having their work included or being appreciated like the attorneys' work is being appreciated. I do believe there needs to be more focus especially on the support staff. As you know, they have very little upward mobility right now. As you know, we are training contractors to come in and do our jobs. When job announcements are being submitted or vacancy announcements come out, these same people who we train are being hired for these positions, allowing for my people who are GS-5s, GS-6s and GS-7s, remaining in those positions. There needs to be more initiatives with us. I am a support staff member, so I know firsthand. Any type of initiative. You are doing so many pilots, so many things for the attorneys
to do, but you have support staff who are feeling like we are left out.

I can totally tell you that morale is an all time low. I can totally tell you that people who have been here for 15 or 20 years, are GS-5s or GS-6s because they don't have the upward mobility to move anywhere else. The pendency rate can go down if you show these people some incentive, if you show these people the work they are doing is appreciated. I think there needs to be greater focus on that as well.

MR. DOLL: You are absolutely right, and I agree with you. I apologize because there were a couple things that I didn't mention that I should have, that were in my notes, that I missed. When I talked about the hoteling program, we just recently started a hoteling program for TSS, where not only the examiners have the opportunity to go home, but we have the tech support that are working at home, an extremely popular pilot. The ladies and men that are on the pilot from tech support are extremely happy with that because they
have the same suite of products and they are doing
their work at home. I think that is going to be
successful.

The other thing that we are doing right
now is the document verification program where we
are actually working with the tech support staff
because one of the biggest problems we have is
getting cases through pubs. What happens is the
case goes to pub with an error in it, and then it
is kicked back, and it winds up just sitting in
the corps for a long period of time. So we are
doing a higher level of training. It is 2800 and
1600 right now where we have two works groups that
are actually doing a much higher level of work in
document verification, and we have taken the error
rate from over 30 percent down to 10 percent in
that. The tech support has done a wonderful job
there.

You are absolutely right. We need to
look for more opportunities like that, and we
would be more than willing to look at whatever
ideas you have in that respect. Thank you for
MR. ROSS: I have quite a few ideas as well.

MR. DOLL: Well, great, my office is right across the hall. Next week, I will be in the Bahamas, so stop down. We will have a drink on the beach.

MR. MOSSINGHOFF: There goes pendency.

(Laughter)

CHAIRMAN RIVETTE: Any other questions, concerns? We have a couple minutes left. Anyone from the public want to make any comments or have any questions? You are awfully quiet. Going once.

ROD: Actually, I did have a question.

(Laughter)

ROD: Rod doesn't have a question? Lisa Norton came up with a really good idea of asking applicants whether or not they are still interested. John mentioned that the law firms said it would exceed their costs. Apparently, you were only offering about $200 as a refund. I
always thought examination was probably worth
closer to $1,000 than $200. Do you think you
would get the same result if you offered them a
grand?

MR. DOLL: Under the statute, we are
only allowed to refund the search fee on cases
that were filed after December 8th of -- help me,
John. It is set by statute what we can refund,
and it was just the search fee which was $200 of
the total filing fee.

MS. NORTON: I am not sure that you have
to give them money. I mean you might just require
they have to submit a paper. I am not advocating
any additional fees, but I can understand the law
firms say it is just too much hassle, but at least
it requires you to go out, find out. They ask
their client, and they have to certify they are
still interested.

MR. DOLL: Aren't the attorney and the
applicant going to be upset because now we are
forcing you to do work. You are going to have to
charge for that. The applicant is going to have
to pay for it. Why are they asking me a stupid question? Of course, I want the patent.

MR. MOSSINGHOFF: I can see that with big law firms, this could really be a burden which they would view as unnecessary.

MR. DOLL: I have never aggravated them, so I don't want to start.

MR. MOSSINGHOFF: Is piling on the right thing?

MS. NORTON: I think if you asked them if they would rather have this or some other proposal, they would probably rather file a piece of paper. It would be interesting to do a study to see how much time you are saving, by how many people don't respond to that first action.

MR. DOLL: The number of people that don't respond to the first action is down around the 12.

MS. NORTON: Twelve percent?

MR. DOLL: Twelve to fifteen percent, it is amazing, amazingly low.

MR. MOSSINGHOFF: It would be a lot
lower that you don't even want it because a lot of
people perhaps react to a very unfavorable first
action.  So some percentage of that 12 is just
because of what the first action is.  They are
trying to dynamite the reference.

MR. DOLL:  You are right.

MR. MOSSINGHOFF:  I could very well see
a law firm having to correspond with foreign
applicants as just another thing that can fall
through the cracks, time involved and all that.
So I could see some real concern.

MR. PINKOS:  What if we offered $2,000?

MR. MOSSINGHOFF:  Earmark it for a
senior counsel.

(Laughter)

MR. PINKOS:  I am glad Lisa brought it
up because it is something we talked about, gosh,
John, over a year ago.  Maybe it merits more
examination or at least more discussion because if
it were 5 percent and again if there was an
efficient way to do it, and Gerry brings up some
important concerns.  It sounds like some of the
same things John heard. But if it were 5 percent,
then that is significant considering our backlog.

MR. WESTERGARD: One of the things that
we got back, Doug and I, from the solicitations
that we sent out was from the fellow who had previously
led the Japanese patent office. He recommended a request
for examination as a mandatory condition precedent
to any examination at all, and suggested the request has
to be made sometime within the first three years according
to his proposal. That is the kind of input that I
expected we would get back from some of these
guys and see where they go.

MR. DOLL: Interesting idea.

MS. NORTON: Most countries or a lot of
countries have that.

MR. DOLL: But that is an additional
burden on you and on the applicant.

(Laughter)

SPEARER: But they only handed out 3,000
patents last year.

MR. PINKOS: Did Jon speak about
international efforts at all? I didn't know. The
Office, what we are doing are work-sharing and all that?

CHAIRMAN RIVETTE: Yes. Anything else?

If there is nothing else, I will declare us closed and over, and we can all run for our airplanes.

MR. GULBRANDSEN: Kevin, I would just like to say that this has been a great meeting. I appreciate it.

CHAIRMAN RIVETTE: Thank you and thanks to everybody.

(Whereupon, at 3:50 p.m., the PROCEEDINGS were adjourned.)

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