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CHAIRMAN RIVETTE: Welcome, everybody here. Since it's a small group, could we go around and kind of state who's here? Can we start on this side?

MR. WALSH: Hi, my name is Chris Walsh. I'm an attorney here in Washington with Stern Kessler.

MR. KEY: Hi, my name is Stephen Key, and I'm with Searching.

MR. NOY: I'm Steve Noy with AIPLA.

MR. KAZENSKE: Kaz Kazenske, Microsoft.

MS. ASAKI: I'm Yoko Asaki, Washington Core.

MR. BARRETT: I'm Glen Barrett, Exxon Mobil.

CHAIRMAN RIVETTE: Over on that side?

MR. RILEY: I'm Ron Riley. I'm the president of the Professional Inventors
Alliance, and the executive director of Inventor Ed.

CHAIRMAN RIVETTE: Perfect.

MR. HAJEC: I'm Don Hajec. I'm a group director in TC 3600.

MR. STERN: I'm Ron Stern, and I help out with POPA.

CHAIRMAN RIVETTE: Good.

MR. MORSE: Greg Morse, SPE on detail with John Doll's office.

MR. JOHNSON: Bob Johnson. OCIO, PTO.

Ms. Alston: Donnetta Alston Office Manager, Commissioner for Patents.

MS. AUSTIN: Chaunte Austin, Staff Assistant, Office of the Under Secretary and Director.

MR. SEWELL: Al Sewell, Acting Director (off mike).

OPENING REMARKS

CHAIRMAN RIVETTE: Perfect. So, what I'd like to do now is start going
through -- John, if you wouldn't mind, some strategic overview. Or we can go with the patent operations -- whichever one you feel like. Then we'll kind of go through a recap of what we've done today.

COMMISSIONER DOLL: Why don't we do operations first, because I think that will set the stage on where we were last year, where we'd like to go this year. And then I'll talk about where we want to go two, three five years from now.

CHAIRMAN RIVETTE: Before we start that, is there anyone here that wants to make a statement, wants to say anything? Raise your hand now or forever hold your peace. Is there anybody that came in?

COMMISSIONER DOLL: Darn -- we're actually going to have to talk the whole time.

CHAIRMAN RIVETTE: Okay. My name's Kevin Rivette, if anybody wanted to know.

Carl, are you still there on the phone?
(No response)

CHAIRMAN RIVETTE: I guess not.

COMMISSIONER DOLL: He went with Dean.

CHAIRMAN RIVETTE: That's what I'm wondering. So we lost two members at the break. So why don't we start in.

PATENT OPERATIONS OVERVIEW

MR. LOVE: My name is John Love. But for the next 40 minutes, if you can imagine me being Peggy Focarino, that would help.

(Laughter)

CHAIRMAN RIVETTE: John -- let's back that one up. Peggy's not able to be here today, so I'm going to present to you some of the facts and figures and goals, and give you an idea of where we are in terms of pendency, and number of examiners, and so forth -- for this year, or if you want to go to next year -- in our operations. There should be a copy of the PowerPoint that was
handed out as part of your packet. And I think we have paper copies for the public session. I'll just go through it very quickly. If you have questions, please interrupt, and we can talk about it. And I'll try not to use too many acronyms.

At the end of the year -- and we've had a lot of talk about this -- the backlog of applications that are awaiting first action -- that means they have not had a first office action on the merits yet, did surpass the 700,000 number, hence the concern about the backlog and where we are with that. With the hiring of 1,200 examiners, we are up to 4,883 patent examiners; we have 397 supervisors -- and these include what we call "SPEs" -- special program examiners -- and quality assurance examiners. We have 29 Patent Academy trainers. That's in the new training academy; and 22 TC group directors.

CHAIRMAN RIVETTE: How large is that academy? How many people are we running
through it?

MR. LOVE: This past year I think we ran about half of our hires through, with about 600.

CHAIRMAN RIVETTE: About 600? And where is it located?

MR. LOVE: Throughout the campus. We've had to basically -- really find space in all areas. And actually we went out and got some new space, too, that's adjacent to the campus. Okay -- so let's in the operations, we're going to talk about the 2006 filings, the 2006 goals and results, and then some of the initiatives that we undertook in 2006.

(Slide)

CHAIRMAN RIVETTE: What's it? UPR filings? That's utility --

MR. LOVE: Plant and reissue filings. You can see we've had a steady increase. And in '06 -- a rough number, but pretty accurate -- is 417,000 filings. And
since what we've put out was in the 300,000 area, so you can see again that we're not able to keep up with what's coming in the door each year, let alone get to the backlog from the previous year. (Slide.) And the filing growth rate was over 8 percent for this past year.

CHAIRMAN RIVETTE: What was it?

COMMISSIONER DOLL: 8.7.

MR. LOVE: 8.7.

MR. MORSE: Preliminary 8.7. I think there's another 2,000 filings. I think it's up around --

MR. LOVE: How many precincts have reported in?

(Laughter)

MR. LOVE: 9 percent of the --

CHAIRMAN RIVETTE: Are we pretty close to 9? Or closer to --

MR. MORSE: My best guess is 9.1.

(Slide.)

MR. LOVE: The next slide shows you
the continuation filing rates. The top graph there is the continuations, which includes straight continuations, continuing prosecutions applications which are phased out; requests for continued examinations; and divisionals.

CHAIRMAN RIVETTE: Why are we seeing such an increase, John?

MR. LOVE: Well, I think --

(Laughs.)

CHAIRMAN RIVETTE: No, I'm serious.

MR. LOVE: Well, there's a lot of reasons. We think that people are -- one of the things that the rules package was addressing was the increase in the number of continuations being filed. And there's various reasons and strategies why our users are doing that. Some of the reasons that are out there is that applicants want to keep the case pending longer so that they have more options, so that they can understand where they are in terms of what the real embodiment
is that they need to protect, the scope of
the claims and so forth. Some will say that
because of the youth of our examiners that
they're not getting to the real issues early
enough and it's causing more continuations.
That's a concern of some individuals.

COMMISSIONER DOLL: What's
interesting, though, is that when we go out
and talk to bar associations, we hear that it
takes two, three, four continuations before
the examiner understands the invention. When
I come back and we have town halls with the
examiners, the examiners say: it takes us
three, four, five continuations to get the
claims narrowed down to something that's
reasonable that we can search and that we can
actually give a good office action on. And
both those statements are probably true,
because we have a spectrum of problems, and
we have a spectrum of quality. And I think
both are true.

CHAIRMAN RIVETTE: Robert, are you
seeing the same thing? From your site?

MR. BUDENS: I think what John has said I would tend to agree with. And, also, the trunk of that is just prosecution in some of the tech centers; you know, 1,600 -- we have a lot of continuations just because prosecution continues on while the companies are looking for FDA approval, for example. They just keep the cases alive.

CHAIRMAN RIVETTE: Do we have any breakdown on this by TC?

MR. LOVE: Yes.

CHAIRMAN RIVETTE: Have we? Where are we finding the most continuations?

MR. LOVE: Well, the first continuations are relatively even across the TC's: it's 1600s that subsequent really stick out.

MS. NORTON: Do you think that's related significantly to the quality initiatives? That more rejections are going out because of quality review?
MR. LOVE: No, I don't think so. But I don't have the experience in 1600s, so I couldn't really say.

CHAIRMAN RIVETTE: Well, we were talking right over here.

MR. LOVE: Yes.

MR. BUDENS: I don't think -- I mean, the quality initiatives are playing a part in the last two years, but I think the other issue really is a case of the companies' taking time to overcome enablement rejections; for example, collecting the data they need in order to overcome the rejections that are being made. That would be my view from an examiner's point of view. We can get the industry point of view also, but -- but that's, I think, where we mostly would see them.

MS. RYAN: And I think it's a combination of things. I think that there's a great pressure in the pharmaceutical and biotech industry to file early, and there's
the weighing of do you have enough to file?
Do you wait? And so there is that balance.

MR. BUDENS: In reply to that, too,
I would also point out: this one also
includes divisionals; 1600 does a lot of
restrictions and stuff, and some of the
electrical areas do. So by factoring in the
divisionals in that statistic, you've also
increased that somewhat.

CHAIRMAN RIVETTE: So let's just --
for the people that are just joining us --
one of the things we're trying to do is get
rid of the acronyms, get rid of the
priesthood jargon. Doug, are you familiar
with what a "continuation" is, and what a
"divisional" is?

MR. PATTON: Yes.

CHAIRMAN RIVETTE: Okay. Fine.

Thanks.

MR. LOVE: Okay, moving on then to
the next slide -- this, Jerry, shows some of
the targets of the past year in terms of
quality goals. The goal for '06 was to be
less than 4 percent with respect to our
allowance error, and to be greater than 86
percent in the in-process compliance number.
And that has to do with -- the difference is,
allowance error has to be with allowed
applications that are reviewed by our quality
review examiners. The in-process review
compliance number has to do with reviews of
applications before they're allowed; in other
words, first office actions, restriction
requirements, final rejections -- that sort
of thing. So that's the two different
numbers and what they're looking. And in '06
you see -- and, by the way, one of the things
we really want to do, and we'd like the
board's input -- the PPAC -- go from
characterizing it as an "allowance error" to
a compliance factor for allowances also.

One goal is expressed in terms of
"compliance," and the other is "error rate."

So we'd like to be consistent and also
express it in terms of compliance with respect to the allowance error rate. But the overall is 3.5 percent for the corps for the allowance error rate, which is below the 4 percent, which means we surpassed our goal -- significantly. And the compliance rates for the in-process reviews were 90 percent, which is again exceeding the goal by a significant amount.

CHAIRMAN RIVETTE: Why don't you give us an idea of what the numbers are. 1600 is bio?

MR. LOVE: It's biotech-1700 is traditional chemistry; 21 is computer software, computer architecture; 26 is telecommunication -- any communication-type system; 28 is the traditional electrical areas; 3600 is -- they have business methods, they have civil engineering -- a lot of the traditional transportation arts; then 3700 has the other mechanical arts.

CHAIRMAN RIVETTE: So you get
software in 21 and 26?

MR. LOVE: Yes.

CHAIRMAN RIVETTE: 36?

MR. LOVE: 36 has the business methods area.

CHAIRMAN RIVETTE: So, as I look at this, in the high-tech area it looks like we're doing real well? Is that what I'm seeing? And the question then becomes: why is that different than 1600 and 1700? Is it we've got different people? Is it the problems are different? Are we attacking it differently?

MR. LOVE: Well, it's the same review process. There are different reviewers that specialize in certain technologies.

CHAIRMAN RIVETTE: Because you get a 2 percent differential.

MR. LOVE: Right.

CHAIRMAN RIVETTE: It seems like a lot -- especially when you're talking about
the high-tech stuff. I mean, I commend the
office; 2.8 is great. I just wonder why the
4.8 -- why the difference of almost 50
percent. Any ideas?

MR. LOVE: Well -- in the complex
arts, the people that file the applications
really know what the state of the art is, and
perhaps the examiners start from a better
point in terms of what the state of the art
is. And the other areas, where they don't
get enough information that's good
information up front, and it certainly may be
a little bit more difficult to search and to
find the art; whereas in the high tech, it's
a narrow field, the scope of the art is
really pretty well defined, and they might be
in a better starting point than the other
examiners.

COMMISSIONER DOLL: One of the
things that I like to mention -- and this
relates to the chemical and the biotech, is
that the number one error that we have is
that quality review finds prior art that the
examiners did not find. And they find prior
art the examiner did not find because the
examiner misinterpreted the scope of that
claim; they didn't read the claim broadly
enough. When you get into the extremely
complex areas -- digital encryption, computer
architecture -- things are much better
defined. When you look at a Markush claim
that contains, you know, 10 to the 6,000
species, it's hard to search the scope of
that claim; it's hard to appreciate. We're
working on -- and those are some of the
things about, quality initiatives to help the
examiners search, help them understand the
scope of a claim -- and in the higher tech
art areas, such as the satellite
communications, things seem to be much better
defined, which gives the examiner a much
better opportunity to zero in on what they
should search. Because they don't have a
claim that reads "On the sun, the moon and
the stars," which is the typical pharma or
biotech case.

MR. PATTON: I have a layman's
question: are there Google-like search
gengines designed for each one of these areas
by the Patent Office to do this? It would
seem that with technology now -- is that
something that exists? Or not?

COMMISSIONER DOLL: We have search
ingines. We usually use East or West, which
is our primary search engines. We search
databases such as Dialogue, Questell. I
mean, we search every database that's
possible. Mostly it's through Boolean logic.
Again, one of the strategic initiatives that
we're looking at is going out to
universities, corporations, and art-specific
areas to see: what are they using to search
their particular art to see if we couldn't
important that technology here to help in a
particular area, or to see what's the best
search engine for mechanical devices, or
medical devices, or chemical compounds.

MR. PATTON: But something like

that is used by the examiners.

MR. LOVE: Right. And for

non-patent literature, for example, each area

has a collection of databases that the

examiners are directed and encouraged to

examine.

CHAIRMAN RIVETTE: One of the

things that may be useful is next time we get

together, Doug, would you feel like spending

maybe an extra half-day or something? And

anybody else who wants to -- maybe, John, you

take us through a day-in-the-life, and we

walk through it?

COMMISSIONER DOLL: We'd be happy

to.

CHAIRMAN RIVETTE: Because we won't

do it in the full meeting, but maybe you and

I and a couple -- on a Thursday, and we'll go

through it? Because I think it will give us

a much better feeling of exactly what the
issues are.

MR. PATTON: Okay. Sure.

COMMISSIONER DOLL: I would recommend that for anybody who hasn't examined, to actually understand what a day in the life of an examiner is.

MR. GRANT: Well, we can take a couple examiners out for a couple beers, and then they can really tell us.

COMMISSIONER DOLL: We'll take the Commissioner out for a few margaritas and he'll tell you.

MR. GRANT: He'll probably tell us stuff we don't want to know.

CHAIRMAN RIVETTE: The Commissioner's a pretty good guy. Go ahead.

MR. BUDENS: Yes, I wanted to add one more comment on one of the concerns I have with some of these numbers, because while we recognize, to some extent, that perhaps some technology's a little better defined, I'm also concerned that these
numbers perhaps reflect just the difference
-- as John kind of alluded to -- the
difference of reviewers. It's very hard for
me to understand how 1600 and 1700, which are
relatively senior tech centers, with a lot of
senior people are going to have a higher
error rate than 21 an 26, where more than
half of the examiners have under two years of
experience in the office. Okay? They're all
junior examiners and they're learning the job
still. And I'm worried that this reflects a
little bit of -- you know, either whether the
reviewers aren't calling as many errors, or
the way the process is designed to allow
argument between the managers and the
examiner and the reviewers and stuff to
modify the errors but not call them. The way
the process works may not always accurately
reflect exactly what's going on in a
particular tech center. These numbers are a
little bit of a concern to me, that they
would be that low in those two tech centers,
for just those kinds of reasons. These are very young tech centers.

CHAIRMAN RIVETTE: Have you taken a look at the process they're using for evaluating the error rates?

MR. BUDENS: Oh, yes. It was something we had to negotiate and fight over for quite awhile. So we're familiar with the processes that go on.

CHAIRMAN RIVETTE: So your concern is that they're not following the process?

MR. BUDENS: No, I think the concerns could be that -- they may be following the process but, for example, if you have reviewers in 2100 and 2600 who aren't calling as many errors as they could -- okay -- it artificially skews the numbers. Maybe they don't know the art as well because they haven't been around that long. These two tech centers are very young tech centers, with a pretty small number of really senior people. One of the reasons why the Patent
Academy was first used for the 2100 and 2600 examiners, because we don't have enough primaries over there to train the people on. So it's just another issue that I think we need to keep in the back of our minds as we're looking at these processes. Gerry said quality's a difficult thing to measure, and it's a concern that we have.

CHAIRMAN RIVETTE: Okay.

COMMISSIONER DOLL: I can't help but add a comment -- is that when you look at the QR examiners and I know them -- there's a spectrum: some are very good, and some are okay. And every technology center has one really hard-ass that, you know, is just really, really good at what they do, and then they have some average ones. Because I've heard that argument, as well: "We have Mr. X, and he's just horrible. He tears us up."

But when I look at every technology, there is at least one, if not two, really hard-nosed, hard-core great QR reviewers. And so I think
the spectrum is pretty well distributed across. I'm just sticking up for your POPA members and our QR examiners.

MR. BUDENS: No, QR examiners aren't POPA members. But that's a different hat.

CHAIRMAN RIVETTE: Okay, so let's just -- we'll put it in the back of our heads. (Slide.)

MR. LOVE: Okay -- with respect to production, the 2006 goal was roughly 350,000 balanced disposals. And for those of you who aren't familiar with that term, the way we credit examiners with work is: first action on the merits of an application, and a disposal of the applications -- which is typically abandonment of the application, an application, or an examiner's answer. So for a first action on the merits, and then a disposal, that's consider one balanced disposal. The goal was 348,000, as you can see. And we got over that. That was an
aggressive goal, and we were able to achieve 341,664. And the goal for 2007, based on the hires and the rather sophisticated model, is 363,900 Bds. Questions?

MR. STERN: Can a member of the audience ask questions?

CHAIRMAN RIVETTE: Yes, please.

MR. STERN: Does this include just UPR? Or does this include designs and PCTs, or -- what's included in this number?

MR. LOVE: This does not include -- I don't believe it includes PCTs. This is UPRs.

CHAIRMAN RIVETTE: What's a "UPR?"

MR. LOVE: "Utility, plant and reissue."

MR. MOSSINGHOFF: The interesting thing about the production chart is that group 2800 has damn near double the amount of balanced disposals as all the other groups.

MR. LOVE: Because they're damn near twice as large.
MR. MOSSINGHOFF: Have you thought about breaking these in half, or is this going to --

CHAIRMAN RIVETTE: That's a good point.

MR. LOVE: I know that's under consideration -- we talk about this -- as to how large do we want a TC to become before it gets unmanageable.

MR. MOSSINGHOFF: It really does stick out.

MR. LOVE: About four years ago, 2700 was split into 2100 and 2600, because that was a rapidly-growing area, and we split it up into 2100 and 2600. It gets to a critical mass, and then it splits.

CHAIRMAN RIVETTE: Do you have criteria that you're looking at as to when you find it's time to split them?

MR. LOVE: We don't have any specified criteria, no.

CHAIRMAN RIVETTE: Okay.
MR. LOVE: Okay, "Patent Pendency"

-- there you can see the average first action
pendency for '06, and the average total
pendency by TC. The target for FY'06 -- the
average pendency to first action, 22 months,
and we achieved 22.6. That's the only goal
we didn't make this past year. But of the
overall total pendency, the target was 31.3,
and we achieved 31.1. So we came under that
goal. And you can see, there's some
difference in where the TCs are in terms of
individual first action pendency and total
pendency -- the highest being in 2100, which
is 44 months.

CHAIRMAN RIVETTE: Right -- so,

why?

MR. LOVE: It's because -- you
know, we talk about average increase in
filings, but it's so much more in those
areas, in 2100 and 2600. And it's just
trying to keep up hiring the people to keep
up with it, and, you know, chasing the
rabbit.

CHAIRMAN RIVETTE: How many examiners have we got in 2100 and 2600?

MR. LOVE: Paul, do you know?

MR. SEWELL: (off mike) 700.

MR. LOVE: Okay, we'll have that information in the next -- coming up.

CHAIRMAN RIVETTE: Okay.

MR. LOVE: But in 2100, end of year staff was 908; in 2600, 925; 2800 is 1045.

CHAIRMAN RIVETTE: 908 in 2100?

2600? Oh, you've got it in the back. I'm sorry.

MR. LOVE: It's in the next slide.

CHAIRMAN RIVETTE: Gee, I hate that.

MR. LOVE: Well, thank you.

MR. BUDENS: Kevin?

CHAIRMAN RIVETTE: Yes.

MR. BUDENS: I think an interesting point on this slide though -- we were looking at it a year ago, too -- is that you look at
the average total pendency, and it looks
gigantic.

CHAIRMAN RIVETTE: Yes.

MR. BUDENS: But it's being driven
by the pendency to first action. If you look
at those numbers, we average in a year,
across the corps -- once we pick up an
action, it's done in nine to 13 months. It's
how long it sits around before we pick it up
that's really the issue that's driving that
total pendency number.

MR. PATTON: I have a question: for
like 2100, which is the highest first action
pendency -- this is the average. What might
be the top 10 percent number for the longest
pendency action. I mean, you have some
numbers like -- what are more the longer
pendencies? 40 months?

MR. LOVE: Paul?

MR. SEWELL: The encryption area is
running at 40 months.

MR. PATTON: 40 months?
COMMISSIONER DOLL: We actually have that number, and we'd be willing to share it. What we call it is an "inventory." What we've done is -- pendency is an interesting number. Pendency is: we take the work that we did in a particular quarter, and then look back and see when those applications were filed, to get what the average pendency is. Examiners don't always pick up the oldest case first. They mix and match. If they're searching a particular technology, they might take some of the newer cases with one of the very old ones. So it's a mix. But the inventory that we did, is we took the total number of cases pending in a particular art area, and divided that by the fire-power of that art unit; the average amount of work that they do per month -- divided it. The higher numbers were in business methods -- 3620 -- we have in the finance area, where right now, if we did nothing, it would be 130 months to first
action. Now, we've doubled the number of art units there last year. We're going to double the number of art units again this year. We've hired over 50 people in that area. So are if we do nothing. And I didn't realize we hadn't put that number in here, but it's a much more shocking graph to show what the really high pendency areas are, and what some of the really big numbers are. And we can share that. I apologize that it's not in here.

MR. PATTON: There's a lot of things I've been working that's so high above the average, I was just curious.

COMMISSIONER DOLL: And the average is an average for the entire tech center. And you get like 3600, where you've got some art areas -- what's the lowest one you have, Don?

MR. HAJEC: 14, 15 months.

COMMISSIONER DOLL: 14, 15 months -- he's also got business methods, that can
be 130. So that average number is really -- it's fairly useless.

MR. MOSSINGHOFF: 10 years?

MR. LOVE: That's not actual pendency. John was saying that that's if you look at it today, based on the manpower and the inventory, that if we did nothing it would take 13 years to get there. But obviously we don't do nothing; we staff up, we balance dockets and transfer cases. But if you look at the actual pendency in business methods -- yes, it's probably around 33; right now it's probably about 34 months to first action. In other words, if you got an action in a business method case today from the examiner, it was probably filed 33 to 36 months ago.

MR. MOSSINGHOFF: We used to report the oldest case. And, in fact, we did -- among other reasons -- because Randy Tagmyer would then call the -- we're about to report you with the oldest case, and you have to do
some work between now and tomorrow morning.

CHAIRMAN RIVETTE: Really?

MR. MOSSINGHOFF: Really. Yeah.

CHAIRMAN RIVETTE: What is the oldest case? Do we know?

MR. LOVE: Well, that date is available. We don't tabulate it on a regular basis. You know, it's like anything else -- that's a misleading number, too.

MR. MOSSINGHOFF: It wasn't misleading to guy who got the call from Randy Tagmyer.

CHAIRMAN RIVETTE: Misleading and motivating.

MR. LOVE: I mean, all that says is you have one case that's at this date. And could have been something, for example, a missing parts case that they've just got a serial number on it. It was lost -- of course, we don't lose them anymore, but --

CHAIRMAN RIVETTE: That's what it meant, Gerry. It meant that that case would
be done in a day.

MR. MOSSINGHOFF: But it didn't do
you much good for -- Yes, every week we used
to report that: who had the oldest case.
Have we had enough fun on this one?
(Laughter)

CHAIRMAN RIVETTE: I'm not done
having fun. Other offices around the world
-- have we compared data? Have we got a
chart: here is approximately where EPO, JPO,
Germany? Have we ever done that?

COMMISSIONER DOLL: We do have that
number also. With the deferred examination
in Japan, it's really not a fair comparison
-- with the high drop-out rate that they
have, it's a bad comparison. And even in the
EPO, I think we're actually better. We can
supply that number. I just don't have it.

CHAIRMAN RIVETTE: I think we
should take a look at it. And if you know
the drop-out rate or deferred, and stuff --
that may go to a couple of the other
initiatives.

COMMISSIONER DOLL: Exactly.

CHAIRMAN RIVETTE: And I think we should have those numbers -- with caveats.

COMMISSIONER DOLL: And we do have the drop-out.

CHAIRMAN RIVETTE: But put it on a one-pager.

COMMISSIONER DOLL: Deferred is interesting, because the argument against deferred was that it just promotes people filing anything, because then they just put their mark in the sand, and then they drop out. And I think Japan right now has a 30 to a 40 percent drop-out rate from their deferred. We'd be thrilled if we had a 10 percent drop-out rate.

CHAIRMAN RIVETTE: I'd just be interested in those numbers.

COMMISSIONER DOLL: And we have those. I just didn't bring them.

MS. NORTON: Yes, I think that's --
I mean, I know that there's a problem with the submarine patent issue with those, but I think if you're only talking a couple years to defer, you have a lot of companies that would love those two years to save up the money for prosecution costs, or that go bankrupt or have other things come up. And I think that might help. And certainly in other countries, like Japan, there's precedence for it.

CHAIRMAN RIVETTE: I'd just be interested in seeing what they look like.

MS. NORTON: I was going to say it's also good because then it's the patent application owner who's making the decision, which is going to be a lot easier to get through.

MR. MOSSINGHOFF: I would say that the issues involving a deferred system -- which, again, was recommended 50 years ago by this Johnson Presidential commission; it recommended a lot of things that were good
ideas and have been enacted since then. That should be, I think, handled separately from the so-called suite, or menu of things which are a super-exam, and a petit exam and all the rest. Those are very controversial, and nobody important has -- you know, there's no commission, there's no recommendation to kind of latch onto. Whereas deferred -- one, you've got a recommendation; two, it's been done internationally. And so I think in terms of us considering it, we ought to probably consider two separate things. One is: deferred -- which is pretty well-defined, even thought the AIPLA has been opposed to it, it's pretty well defined, and you've got a high-level Presidential commission recommending it, and the Japanese are doing it -- versus the whole suite of products, which is probably a 20-year effort to bring about. So I think -- my recommendation would be: we consider those two as very separate ideas.
CHAIRMAN RIVETTE: I'd be interested in seeing the numbers all stacked up on the same page.

MR. MOSSINGHOFF: Yes, I mean, we could look at them. But it seems to me that the one becomes Herculean political task to bring about; the others, a lot less so.

CHAIRMAN RIVETTE: Okay. John?

I'm done playing.

MR. LOVE: Okay. (Slide.) Next, page two. This summarizes the hires and attritions by TC over the past few years. You know, the hiring goal in '06 was 1,000. At mid-year we actually -- informally, if you will -- raised it up to 1,200, and we did -- well, we fell seven short of that raised goal.

COMMISSIONER DOLL: For UPRs, for UPRDs, we exceeded.

MS. NORTON: UPRs --

MS. RYAN: But he remembers.

That's good.
MR. PATTON: And the "D" is "design" -- right?

COMMISSIONER DOLL: Right. And for '07, we're again -- the target is to hire 1,200 examiners?

CHAIRMAN RIVETTE: Do you think you'll make it?

MR. LOVE: Yes. It's a big effort, but we have quite a bit of resources devoted to it, and we've already been going out to colleges and job fairs. It's a terrific effort, but I think we'll make it again.

MR. MOSSINGHOFF: What was the goal on attrits for '06?

CHAIRMAN RIVETTE: Yes.

MR. LOVE: Yes, I'm going to go down that path, too, in a couple minutes. Well, I think what was modeled -- I don't believe we had a goal. Well, I'll kick that up to --

COMMISSIONER DOLL: We modeled 10 percent.
CHAIRMAN RIVETTE: And you made --
COMMISSIONER DOLL: 10.6.
CHAIRMAN RIVETTE: 10.6. How do I read this chart? Just walk me through it for a cycle.

MR. LOVE: We'll start with the top one. It would be fiscal year '04, end-year staff. That would be September 30th, how many examiners were on board -- plus it includes examiners, SPEs and academy trainers. So that's the end-of-year number.

CHAIRMAN RIVETTE: So what we don't have here is we don't have goals for the year, and we don't have percentage or attritions. Is that right?

MR. LOVE: Right.

CHAIRMAN RIVETTE: Right -- okay.

MR. LOVE: Although I believe we sent out a package that did have. For the '06 hiring goal, we split that up. The initial 1,000 was split up; like, for example, 1600 was allocated 75 slots; 1700,
35; and then we grouped the three electrical TCs together: 690 in 3600 and 3700. The next line there would be how many we actually hired in each TC for '06. The next line would be the FY'06 attrits, and the total of that would be 510 for the corps. And the next line, '06 end-of-year staff would be, then, the net gain, and the number of bodies on board as of September -- well, the number of bodies on board as of September 30th this year.

CHAIRMAN RIVETTE: Well, it's not a net gain, it's just the raw number -- right?

MR. LOVE: Right. That's correct. And then the next line would give you the percent of hires in '06 as a percentage of your end-of-year staff in '05.

CHAIRMAN RIVETTE: So, in that number you've also got the attrits? So you went down by approximately 10.6, but you hired into it, so that you've actually got an up-tick of 19?
COMMISSIONER DOLL: Well, no, I think that 19 percent just means you hired 96 people in '06, and that's 19 percent of your 504. In other words, at the end of '05, your staff was 504.

CHAIRMAN RIVETTE: Right.

COMMISSIONER DOLL: And you hired 96, and that's 19 percent of the 504.

CHAIRMAN RIVETTE: 96 can't be.

Because you lost --

COMMISSIONER DOLL: It's not a net increase. It's just the number of hires as a percent of you rend-of-year staff. In other words, I had 504 people at the end of '05, and --

CHAIRMAN RIVETTE: And 545, which is a 19 percent increase -- right?

COMMISSIONER DOLL: No.

CHAIRMAN RIVETTE: That's what I'm saying -- yes.

MR. GRANT: Well, your question, I think, is what's the relevance of this not
including the attrits.

COMMISSIONER DOLL: Well, we could -- I mean, maybe we need another line that says --

MR. GRANT: How many junior people you have.

CHAIRMAN RIVETTE: Right -- that's what I'm looking at. That might be the relevance.

COMMISSIONER DOLL: We could put a line in there that gave you your net increase over your '05 staff, because that's what you might be looking for: what's your net increase -- which would be more like 10 percent.

CHAIRMAN RIVETTE: Because I think Max's point is well taken, which is: how many young examiners have you got in these units? And if we keep saying that basically it's just staffed by young people, that will probably be an indicator that we needed to do something. Because you're going to have that
for awhile, hiring 1,200 people.

COMMISSIONER DOLL: One of the things that we can share is the attrits from first year, second year, third year. Those are our three highest years of attrition, is in those first three years. If we keep somebody four to five years, we generally keep them for the long haul. And our attrition rate in the first year can average 15, 17, 19 percent, that we lose of our first-year hires. Second year, it drops down to 10 to 15; and third year it drops down a little bit more. So the vast majority of our losses are those first three years. That's the highest percentage. And we can share that data. I thought we had sent that out.

CHAIRMAN RIVETTE: You did. I was just looking at this. Again, have we benchmarked at all against other offices?

COMMISSIONER DOLL: Not against other offices, because the other offices really won't share that kind of data. They
also don't share quality data, so it's hard
to benchmark against JPO and EPO. And we're
having a difficult time benchmarking against
industry, because there's nobody like us that
has this many people, that hires this many.
But we looked at it government-wide.

CHAIRMAN RIVETTE: What about IBM?

COMMISSIONER DOLL: What?

CHAIRMAN RIVETTE: IBM.

COMMISSIONER DOLL: In the IT
industry, according to the Bureau of Labor
Statistics, it's over 20 percent attrition
rate for IT-specific people. You guys seem
to be very mobile. When you look at the
government-wide, the Federal government last
year, it was 15.3 percent was the total
attrition rate. So we actually exceeded
that. But when you look at high-tech
companies that hire large numbers of people,
the attrition rates seem to be higher than
what we're having. So we're not satisfied
with that, and we're always going to try to
drive it lower, but it looks like we're being
very competitive.

MR. GRANT: The real question is
what's your peer group?

COMMISSIONER DOLL: Yes, you're
absolutely right.

MR. GRANT: And I don't know how to
get there right now, in the next five
minutes.

COMMISSIONER DOLL: And it's unfair
to compare us to the EPO, because they make
much more money, they have different
requirements. It's almost the job of choice
in Europe to work at the EPO, whereas in the
United States, in this area, patent attorneys
seem to make a lot more than examiners, so we
tend to be a farm club -- which is one of the
reasons we'd thought about doing a remote
office. Because if we got to the West --

MR. GRANT: I continue to think
that's a fabulous idea. To me the only
question is: what needs to be done to make
that happen?

CHAIRMAN RIVETTE: I was in China meeting with the commissioner over there, and he and I were talking, Gerry -- and I said, "So, what's your attrit rate?" And he said 3 percent. Of course they can't move.

COMMISSIONER DOLL: "You will not quit."

CHAIRMAN RIVETTE: So maybe we get the same sort of --

COMMISSIONER DOLL: You'd have to bring that to the bargaining unit, I think.

CHAIRMAN RIVETTE: I think that might be an issue at that point.

MR. PATTON: John, just a note -- are there statistics, in terms of we're talking about another patent office somewhere in the United States, of where most of the patents are coming from, by state?

COMMISSIONER DOLL: We do that data every year. We do it by university, we do it by area, we do it by state.
MR. PATTON: California, just off the top of your head?

COMMISSIONER DOLL: California's very high. I don't remember -- Greg, do you know the numbers?

MR. MORSE: I can find it. It's in the annual report.

CHAIRMAN RIVETTE: Doug, half of them are yours.

MR. PATTON: Pardon me?

CHAIRMAN RIVETTE: Doug, half of them are yours.

COMMISSIONER DOLL: The other half are IBM's.

MR. MOSSINGHOFF: Well, that also, though -- that second office -- raises the issue, I think immediately, of: do they examine across the board, or do they specialize. One of the great luxuries of a big office like the U.S. is that each examiner can examine in a very narrow field of technology and become very good in that
field, and not be good in a lot of other fields. And it's why the U.S. government, I think, still takes the position that if a foreign country wants to set up a patent system -- and it's a very small country, Bangladesh being a classic example -- the U.S. government actually discouraged it on the theory that they'd have one mechanical, one electrical and one chemical examiner, and they would each of them -- however brilliant -- would do a terrible job of examining. You can't examine across all fields. So -- has that matured at all? The idea of how you would handle a small branch office?

COMMISSIONER DOLL: We have a business case that investigates both possibilities: the possibility of having a cross-section that we would never allow an examiner to examine things that they weren't well-versed in, or that wasn't their art area. So if we did have a regional office, we could have a cross-section of examiners,
but they might not be able to examine every technology that's filed. We would always file that with the examiner that was most qualified. We'd also thought about doing regional offices, where you might do Silicon Valley, and just do a particular segment of what we examine. You might do the Boston area and do biotech. And that's all part of the business case.

MR. LOVE: I'd like to add, actually -- in the age of electronic files, it's really not a problem because where you examine is really irrelevant. You just give it a docket in a certain area, and it doesn't matter.

MR. MOSSINGHOFF: I hope there's an appreciation for the fact that you don't have a really small office that does a good job across the board.

COMMISSIONER DOLL: Right.

MR. MOSSINGHOFF: I think that's fundamental.
COMMISSIONER DOLL: You're absolutely right, Gerry. We totally agree.

CHAIRMAN RIVETTE: So you're going to specialize in the offices.

MS. NORTON: I think that's also got to help examiners with examining if they're very, very familiar with an area of law. It should help them when they're examining.

MR. MOSSINGHOFF: Like bird-feeders. That's right -- the 20.4 hours means a lot less, because if a person (off mike), if the guy or gal ever picked up to examine, that's not enough time.

MS. NORTON: As opposed to the (off mike).

MR. GRANT: But, Gerry, is your point that you should have the remote office that specializes in a specific art unit? Or is your point: you can specialize in whatever you want. You just pick where you live, and we'll just send you electronically your
docket -- in Boise or Colorado rather than across the street, if that's where you're living. And so you may have widely dispersed people, in terms of technical specialty, in a remote office.

MR. MOSSINGHOFF: I don't know. John?

COMMISSIONER DOLL: We've looked at going both ways.

MR. MOSSINGHOFF: You're talking about a physical office in Denver -- that's the one I keep hearing.

COMMISSIONER DOLL: Well, west of the Mississippi is what we would like to do. We haven't selected a site.

MR. MOSSINGHOFF: Well, you're talking about a physical office, not just somebody's living in Denver.

MR. GRANT: Correct. Right. But my point is: rather than saying, okay we're now going to now take the 2600 art unit, and that's going to Silicon Valley. Rather it
would be: well we've got a Silicon Valley
facility, and people from our art units would
be there. It wouldn't really matter. It's
just a question of who wants to live out
there.

MR. LOVE: That's correct. Or --
it could be either way.

CHAIRMAN RIVETTE: So it's really
an extension, what you're saying. It's just
a remote office.

MR. LOVE: You wouldn't necessarily
know where your application was examined.
It's all electronic.

MR. MOSSINGHOFF: Would they work
out of the office or out of their home?

COMMISSIONER DOLL: The vision is
both. We've got, you know, different
programs going right now. And Jon's vision
is that you hire the best, you do the best
training you can, you retain them, then let
them work wherever they want to work. We
have a great patents hoteling program where
people can work at home up to 39 hours a week
right now, only having to come in the office
one hour a week. We're thinking about
getting rid of that coming into the office
one hour a week, so that people could live in
Michigan or Kentucky or California --
wherever they want to live. Because as John
Love said, when you're living in an
electronic world, it doesn't matter where you
are.

MR. MOSSINGHOFF: Why would you
have an office, then?

COMMISSIONER DOLL: There are some
people that just can't work at home, because
of the golf clubs in the corner, or the car
in the garage. They need that discipline, or
they're social animals -- which I don't
understand. They actually like being around
people. They actually want to come into the
office.

MR. MOSSINGHOFF: Spoken like a
true humanist.
COMMISSIONER DOLL: That's my warm
and fuzzy side.

MS. FAINT: There's also a
collaborative side to it. As examiners, we
need to interact with other examiners, and we
don't have all the electronic tools to do
that.

CHAIRMAN RIVETTE: That's one of
the things I think we're going to have to, at
some point, talk about is: do we have
internal wikis so that we can start spreading
the collaborative ideas around. Because
exactly what you're saying is, I think,
something that's got to be dealt with as we
move more and more towards this. I think we
need it now, to be honest with you.

COMMISSIONER DOLL: We met
yesterday. We're signing a contract in the
next couple weeks to do a pilot program in
the training academy, and in an art unit, to
actually set up wikis for art-specific areas.
So we'll be moving in that direction very
quickly.

MS. RYAN: What is a wiki?

MR. PATTON: What's a wiki?

MS. RYAN: Ahh -- I asked first.

Then I can tell you.

CHAIRMAN RIVETTE: Well, have you seen the -- like Wikipedia?

MS. RYAN: Oh, yes -- okay. I do know that.

CHAIRMAN RIVETTE: It's a collaborative way to get and disseminate knowledge from large groups. And it's self-regulating. So you can have a long thread which says -- I see this prior art as really great on this claim, and this issue. And then you could have three other guys say, "You gotta be outta your mind." And then somebody else can say, "Well, yeah, actually you're right -- but if you use it here -- ." So, in other words, we're going to start to hopefully get some of the ideas behind why people make these decisions and be able to
propagate them throughout the corps.

MR. PATTON: For patent examiners,
do they have someone that they can -- that
they know -- how do I put this? Let's say
there is some background statistic that
patent examiners can log in: "I've done like
300 of software architecture patents;" "I've
done 400 hardware-related software." Do you
send patents to people and build their
expertise after they have it? Or if
someone's new, can they access like an hour
of someone's time to say: hey, I need some
help. You're the senior person. What
happens?

COMMISSIONER DOLL: There's art
recognized experts, where if you have a
particular question -- you know, "Sam down at
the end of the corner, he's the expert on azo
dyes. He's worked in them for years. So I
have that in one of my computer printer
cartridges." So you go down and talk to him.
But that's actually what we're trying to do
with the wiki. Examiners, for years, have had what's called "unofficial digests," where they have a drawer of patents that show that you can't patent life forms, or that a chimeric antibody doesn't have enablement. And that's what we're looking to do through the wiki: make that electronic, rather than having it as a file in your lower desk drawer, it's actually on-line where everybody can access that. Examiners also have always had their own case file for case law that's pertinent to a particular area of technology. That would then be open and accessible to anybody who wanted to dial in to that. That would also involve -- like I said, Sam at the end of the hall who is an expert in a particular art area; or you've got a transgenic animal expert over here. And those things would be listed so you would know where to go.

CHAIRMAN RIVETTE: You also see their names as they enter; you know -- that
guy, I really need to talk to him, because it was really close to what I'm doing. So it may not be the ultimate expert, but he may have run across --

MR. PATTON: So you can do that.

If you have 20.5 hours, can you tell someone, "I'm going to give you half an hour of my time to talk with me and advise me?"

COMMISSIONER DOLL: We give primary examiners other time when they train junior examiners. So if you're training a junior examiner, when you're working with that junior examiner, you're not on production time. If I go down the hall to you and ask about a particular marketing process, a business method process, and you sit down and work with me, you're eligible to claim other time for that time that you spend with me helping me.

MR. PATTON: But that doesn't take away from that person's 20.5 hours?

COMMISSIONER DOLL: The 20.5 hours
is based on the time that they're on the
clock, production time. "Other time" is
where you're doing things that are not
examining-related that actually subtracts
from your 80 hours of production time.

MR. PATTON: A complex process.
COMMISSIONER DOLL: Yes.
MR. BUDENS: And you haven't heard
the half of it.

CHAIRMAN RIVETTE: Robert was
restraining himself.

MR. MOSSINGHOFF: I think you're
right -- if you go to somebody else, they can
take some time off from their production
time. But you don't either gain or lose any
time. You have the same production time for
yourself.

COMMISSIONER DOLL: Yes.
MR. MOSSINGHOFF: You just get help
from a more senior examiner who tells you,
"Yeah, there's this, this and this." So it's
not as complicated as it could be. You could
make it doubly complicated. It's only singly
complicated.

MR. BUDENS: I think it's even more
complicated than that, though. Because, as
John pointed out, are you assigned to train a
junior examiner? If you come to me as a
junior examiner and I'm assigned to train you
-- yes, I can get some of that time. If you
just come down the hall and ask me a question
because you found out that I'm an expert in
widgets, the odds of me getting time for
sitting down and answering your questions is
pretty darn small. The other thing I hope
this group keeps in mind all through these
conversations as we talk about things like
bringing wikis on, and other databases and
other tools is: it's a good thing to keep
providing us with better ways and more ways
of getting information. But if you don't at
some point realize that you're going to have
to give us some time to look at that
information and analyze it, and make the best
use of it -- you know, examiners only have, right now, 20.4 hours. You give me 10 more databases to search and you don't give me any more time to look at them and look at the data, you're not going to get the search out of them. They're only 20.4 hours I have. And so we can think and talk in this group about bringing more of these tools on line, bringing better processes and stuff. But if we don't also have an ability for the examiner to have the time to use them, they're not going to be effectively used. And I think that's something we have to keep in the back of our minds.

MR. PATTON: Let me ask the question -- I'll just use, like, our software department: if I had 10 people with limited -- let's say five years' experience doing software, letting them do it autonomously, it's the worst danger in the world in creating some new software system. If the head senior software guy, and at least a
couple more person, other people, are there
directing them -- because the worst thing
that I've seen in technology is when you let
incredibly talented inexperienced people do
whatever they want without a lot of
direction. Even when you have very
experienced people doing it without
direction, it could even be worse, because
there's higher diversity. Is there -- you
said that you don't get -- someone goes down
the hall, that person that they ask questions
of -- say it's not like a junior, it's two
senior examiners, but I know that you are the
guru of widgets. And I know if I could only
talk with him for a half an hour it's going
to save me a lot. Is there a structure like
that where, just like in business, like the
top software guy runs it. He has a middle
person that interacts, and then none of the
lower-end people are free will? Or highly
directed? Or not.

COMMISSIONER DOLL: All office
actions that go out are signed by an examiner that has a certain degree of signatory authority. Junior examiners don't send office actions on their own. They have to be reviewed and signed off on by somebody who has signatory authority. And we have two levels of signatory authority: partial signatory authority, where an examiner is allowed to sign restriction requirements, first actions on the merits, and second action on finals; and then we have our primary examiners that can independently sign any office action, or review the work of a junior examiner and sign off on it.

MR. PATTON: So you have that.

COMMISSIONER DOLL: Yes.

MR. PATTON: Okay.

COMMISSIONER DOLL: I guess I could have just said "yes."

MR. PATTON: Okay -- thanks. Thank you.

MR. MOSSINGHOFF: And when a
primary examiner is doing that, that doesn't count against the primary examiner's production time -- right?

COMMISSIONER DOLL: You're correct.

Yes.

MR. PATTON: Thank you.

CHAIRMAN RIVETTE: Never thought that one would take so long, huh?

MR. LOVE: You never know.

(Slide.) Okay, so moving on to some of the important initiatives that we started in '06 -- the electronic filing, switching over to the new EFS web system was tremendously popular and successful. The number of cases that are being filed electronically continues to increase.

CHAIRMAN RIVETTE: Are you requiring electronic filing at any point?

COMMISSIONER DOLL: No.

CHAIRMAN RIVETTE: Are you thinking about that?

COMMISSIONER DOLL: That's a tough
road. What we'd like to do is build a system that's so well accepted that it becomes almost viral, where it just infects the community. And we seem to be getting great growth right now. What John was getting ready to say was that we started in March at 2.2 percent electronically. We ended the year at almost 30 percent of the applications' being filed electronically -- which averaged 14.2 percent over the entire year. It's catching on and growing. Law firms are really buying into it. So we're hoping that much like what Trademarks did, it's sort of infectious -- and Trademarks is now at over 90 percent. They're at 94 percent. We're hoping the Patent system does the same. But we hadn't really thought about -- we're really nice and warm and fuzzy. There's none of this Draconian "we're going to make you file electronically."

CHAIRMAN RIVETTE: Yes, but then you can actually run other programs against
it to look for potential quality problems
fast and up front, which could give some real
benefits.

MS. RYAN: I think some companies
are going to mandate it. So I agree with
John that this has been wildly popular. I
lived through the days when you got all --
not you, but the office got the black eyes.
And I know within J&J there's this serious
discussion about: it is not an option. You
just do it that way.

MS. NORTON: That's my sense, as
well is: it's bad to make them do it, but if
you just give them the option, pretty soon
that's going to be the status quo for a large
percentage. And then you don't have to fight
with the small inventors and everyone about
mandating something.

COMMISSIONER DOLL: We had a tough
week last week because things were going
really well, the system slowed down and we
weren't sure exactly why. We had rolled out
some improvements and it really dramatically
slowed the system down. One of our largest
electronic files called and said, "We're
going to quit filing electronically unless
you straighten the system out." So we put a
tiger team together and we straightened it
out. And for the past week it's been a
dramatic improvement in performance. So
we're very concerned about losing major
filers because the system slows down, so
we're doing a much better job of monitoring
that.

MS. NORTON: And my sense is that
there are some glitches --

COMMISSIONER DOLL: Yes.

MS. NORTON: -- and some slow
periods during the day. But my sense is
that's all going to get worked out over the
next couple years. It's just going to take a
little bit of time.

MR. MOSSINGHOFF: It's a pure and
simple PDF system, isn't it?
COMMISSIONER DOLL: Yes. It's interesting, because I was in Chicago recently and I was talking to an attorney. And what he said was: "I no longer have an anxiety attack when my paralegal or secretary goes home at the end of the day because I know at eight o'clock at night I can file. It's that simple."

MS. NORTON: Or you don't worry about the person picking up your package to drop it off at the Patent Office.

CHAIRMAN RIVETTE: Why don't you tell them the situation you got this week.

COMMISSIONER DOLL: Yes, that was interesting.

CHAIRMAN RIVETTE: You think!?

COMMISSIONER DOLL: We sent out some international mail that was mailed from the office October 26th and 27th, was in a truck on its way to JFK to be mailed. The truck was in an accident and burned. We lost about 500 pieces of international mail -- and
we're not sure how many --

CHAIRMAN RIVETTE: Look at Gerry.

COMMISSIONER DOLL: Well, they were all international, Gerry.

MR. MOSSINGHOFF: The hell with them, right?

COMMISSIONER DOLL: The sad part is we're not sure what was on that truck at this point in time because it was a U.S. Postal Service truck. It wasn't one of our trucks. They said 500 pieces of mail were lost. They don't know how many of them were ours. So -- it will be fun. But that could help pendency, because then --

MS. NORTON: And you don't need statutory approval for that.

CHAIRMAN RIVETTE: Okay.

MR. LOVE: Okay, the next initiative was the pre-appeal brief conference that was started in '05, and we continued it and extended it in '06.

CHAIRMAN RIVETTE: Why don't you
explain that one.

MR. LOVE: Yes -- it's a new procedure that allowed applicants, prior to filing an appeal brief, to basically ask for reconsideration of the final rejection. The submission will be limited to, I believe, five pages or less. It's a quick check. Once that request was filed we'd have a conference with the examiner and a quality assurance specialist, or other manager, and the SPE to take a look at the case -- take a look at the main argument from the applicant -- and just make a decision as to whether or not we should proceed with the appeal, or if the final rejection had merit. So it's a quick check, short of filing an entire appeal brief. And actually in the beginning -- well, for the 5,600 conferences that have been conducted, for the last three months of '06 we did end up proceeding with 65 percent of the cases. But prior to that -- for example, for the life of the program, only 55
percent were forwarded. So there was a higher percentage in the earlier part of the program -- I think it was down around 40 -- where we only proceeded with 40 percent. So it did identify an issue, problem, in the office with respect to the final rejections. But I guess the good news is: hopefully, we're learning from that and we're making better finals, so that -- ironically, the success of the program would be that we would forward more to the Board. That's basically the way it works. Now, in addition to this, last year we established at least one position in each one of the TCs called an "appeals conference specialist." Their sole role is to participate in both pre-appeal brief conferences and appeal brief conferences as an independent party, and to make a call on whether or not the case should proceed to the Board of Appeals. We've given them training, and we are going to give them training from the Board in terms of what
makes a good examiner's answer; what weak
points are, what strong points are. And that
program has been implemented and is also
going along with this one.

CHAIRMAN RIVETTE: So you guys are
happy with this. Okay.

MS. NORTON: (off mike) public has
really liked it.

CHAIRMAN RIVETTE: Do you like it?

MS. NORTON: Yes -- it's great.

MS. RYAN: Yes, I've heard very
good things about it.

MS. NORTON: Especially since it
usually takes -- it has taken in the past a
couple years sometimes to get an appeal
heard, or a written appeal answered. And
this way you get a very early decision.

MR. MOSSINGHOFF: John, what is the
documentation of that? Let's assume that the
decision was not to go to the Board; to allow
the case, to have it be granted the patent,
and then you have a prosecution history after
that. What do you see with respect to the
pre-appeal brief conferences?

    MR. LOVE: There's a paper and a
record that is mailed describing the outcome
of the conference.

    MR. MOSSINGHOFF: And it has the
names of the people involved?

    MR. LOVE: I think it does.

    MS. NORTON: Yes, I think it
usually has the three people involved.

    MR. MOSSINGHOFF: Fully documented?

Good.

    MS. RYAN: I just had a question.

You say 65 percent of the time you decided to
proceed to the Board. Do you have a
statistic on whether the applicant continued?
Of that 65 percent, did the applicant drop
out?

    MR. LOVE: Oh, I'm not sure.

    MS. RYAN: My data point of one --

I used it as a -- I wanted to use the system

-- it was a case that if you folded at the
Board and sent it back and agreed with the applicant, that was it. But you ruled against us and it was sent to the Board, but we abandoned the case. So I imagine other people will do that. It was a marginal case, and I used it to help my management make a decision.

MS. NORTON: Yes, I think that happens quite a bit, as well.

MS. RYAN: So that would mean that of the 65, they don't all proceed to the Board.

MS. NORTON: Yes, exactly.

MR. LOVE: Okay, moving on to the training academy: we decided to take a new look at how we were going to train all our new examiners. The old model of one-on-one training didn't seem to be able to do the job for us, especially in the electrical areas where the number of primaries is low to begin with, and the hiring was large. It just wasn't enough resources to do a one-on-one
traditional type of training, so we developed
the training academy, which is kind of like a
college experience where they're isolated,
and for an eight month period they're given
intensive training as a group. Each class
would be, typically, 128 examiners and that
would, I think, broken up into eight groups,
and they would be given a trainer and a
technical assistant at some point along the
way. We are continuing that effort -- well,
right now, the first class graduated in
September, I believe. And so we're doing an
evaluation of how well that went, in terms of
how well they're being able to be assimilated
into the corps; what skills level they have
after going through this program. We were
planning on continuing this process for the
1,200 that we're going to hire in '07.

MR. MOSSINGHOFF: John, do they
actually do examination during that?

MR. LOVE: Yes, they do -- I think
between two and three months they're assigned
actual applications. Now, they start out doing it in a team environment, and then as they go along they'll be doing it on their own. The preliminary results from the students: they love it. They love being in a group of people. That's how they're used to learning. And they love the team examination part of it where they're working with other people. And then we kind of wean them on to where they're going to be looking at this independently -- with, of course mentors. When they get into the TCs they'll be assigned mentors or primary examiners to oversee their work at that point.

MS. NORTON: Because it's an eight-month program, are you running into any problems where they go through all the training for eight months and then quit when they actually start?

MR. LOVE: The attrition rate has been very low in these classes. People leave for a lot of different reasons. Some people
just can't pick it up and weren't meant to be examiners. And we understand that. Some have other opportunities come up. Others have family issues. So there's a lot of different reasons for attrition. But I believe it was less than six or eight in this first class, which is very low.

CHAIRMAN RIVETTE: China's got an academy that they just set up over the last two years. They're training 800 a year. Have we benchmarked against that? I mean, we may not be able to. I just thought it would be interesting to at least see how they're approaching the same problem?

COMMISSIONER DOLL: I think John has already talked to them. But they started after we did, so it would be an interesting comparison to see how they're doing.

CHAIRMAN RIVETTE: We can talk about that.

COMMISSIONER DOLL: That would be a great idea, to see exactly what their
curriculum is, and their agenda is.

CHAIRMAN RIVETTE: Because they said they'd share that with me when I was over there.

COMMISSIONER DOLL: And we're more than willing to share anything we have, also.

CHAIRMAN RIVETTE: Have you seen their facility?

COMMISSIONER DOLL: No.

CHAIRMAN RIVETTE: They have twin rooms that look like hotel rooms --

COMMISSIONER DOLL: They don't let me out of town very often.

CHAIRMAN RIVETTE: You were in Singapore.

MS. NORTON: Hey, John, do you have statistics on how many applications? I'm just wondering how much those new examiners are helping with pendency. How many actual applications do they take care of in those eight months?

MR. LOVE: I don't have the numbers
with me right now, but we do keep track of that, and it's compared to traditional training methods.

MS. NORTON: Okay.

CHAIRMAN RIVETTE: Go ahead -- yes.

Absolutely.

MR. BUDENS: I can tell you that we did some spot-checking from the point of view of the examiner, how they were doing throughout. They look like they didn't do near the number of patent applications during that eight months that an examiner would have done going through our old training. I think the examiners liked the training that they got because it gave them a lot more experience in the areas. What I don't think it gave them -- in at least the first round that has graduated -- was the actual hands-on experience. Some of them had done, in their months, a number of cases that traditional examiners would have been doing in six months in a by-week; you know, six cases or so. So
I think from my point of view I'm concerned a little bit about how much hands-on experience they're going to have going into the tech centers, and then have the tech centers go: "Hmm -- they had lots of training, but now we're going to have to --"

CHAIRMAN RIVETTE: Train them again.

MR. BUDENS: Right -- teach them how to actually examine the applications. So I was concerned. But I share the agency's interest in the training academy. I'm not against it at this point. We've got to do something to train 1,200 examiners a year. But I think, from our point of view, the jury is still way out on the success of it.

CHAIRMAN RIVETTE: I think what I'd like to know, coming back to this group, is: what do we think the success rate was? What was the productivity drop? And do they pick it up afterwards?

MR. LOVE: You shouldn't focus on
productivity alone. I think there are
retention benefits with this type of
approach.

CHAIRMAN RIVETTE: But I think
there should be a pickup.

MR. LOVE: And you have to look at
it for more than just the initial nine
months. I think you need to look at it for a
two-year period.

MR. BUDENS: Yes, there I would
agree with John. We're way too early in this
process -- even just looking at the first
group to come out. And I know management has
done some adjustments in the subsequent
groups, in starting them into cases a little
earlier in the process, stuff like that. My
biggest concern with this is that we're
putting all of our apples in this cart, and I
think the jury's going to be out for a while
yet to see whether it's truly, a really
successful method of training them.

MS. NORTON: Has the office
considered a shorter amount of time
initially? Maybe a two-month training
period, letting them work for six months, and
then going back for two months?

MR. LOVE: Well, that's actually
close to the old model. We would have a
two-week what we called a PEIT session, and
then various modules throughout their first
year.

MS. NORTON: Oh, okay.

MR. LOVE: And what motivated us to
go to this model, though -- as I mentioned --
is the fact that -- the sheer volume of the
examiners, and the lack of experienced
mentors that were available in some of the
technology centers. So this approach is
something that we wanted to try out.

MS. NORTON: Well, it sounds like
you're talking to the examiners and keeping
good records on what they think is helpful.

MR. LOVE: And then they do an
evaluation, I believe, every two weeks under
modules that they're given -- and every week
now.

SPEAKER: (off mike)

MR. LOVE: And it's a learning
curve. We're into our sixth one, so we've
learned things from the first that we're
incorporating as we go into subsequent
sessions.

COMMISSIONER DOLL: And we've made
a lot of changes throughout the process. And
the idea is that they would go slower through
the class, but when they came out of that
class -- the vision has been very clear, and
I articulate this to every class and every
one of the trainers: when they're done in
that eight months, I want them to be able to
come out, pick up a case, read it, understand
it, go through the claims, formulate the
search, do the search, analyze the
references, and do a first office action
draft form. Now, that has two things: one is
that you're releasing an examiner that has a
much higher skill set. Even though they were not as productive during those first eight months, as Kevin said, they hit the ground running faster. That's what we're looking for. What that does is takes a big training load off of the primary examiners that are now in the tech center so that they can do other supervisory work and more training. And the jury is out. We're not sure exactly if this is successful or not. But we put a lot of resources, a lot of people into it, and sunk a lot of money because we think this is the answer and we have to make it work. And we'll keep modifying and making changes until it is successful, because it has to work.

MR. LOVE: Lastly, we have asked for -- we have a contractor who's come in and looking and the operation, and giving us some advice on how it should be administratively set up; things like adult education techniques and so forth. So we're in the
process of evaluating that. And that's the end. Thank you very much.

CHAIRMAN RIVETTE: Well good.

Thank you. Do you want to take five minutes?

COMMISSIONER DOLL: That would be great.

CHAIRMAN RIVETTE: Let's take five minutes.

(Recess)

CHAIRMAN RIVETTE: Back on the record. Okay, let's start up again.

MR. KAMEN: I go away for one hour, and you guys take a break.

CHAIRMAN RIVETTE: Yes, that's exactly right, Dean. Nothing got done.

MR. KAMEN: The last time I talked to you I was in New Hampshire. I'm now in a car on the way to Manhattan to be a guest on Stephen Colbert's Report tonight.

CHAIRMAN RIVETTE: Are you really?!

Good for you.

MR. KAMEN: We'll try to make the
point that intellectual property is the
future.

MR. BUDENS: The gift to the next
generation.

MR. KAMEN: I like it. I'd
trademark that, except I might have some
conflicting evidence.

CHAIRMAN RIVETTE: The gift that
just keeps giving.

MR. KAMEN: Yep.

CHAIRMAN RIVETTE: Okay -- John, do
you want to kind of go through these
strategic initiatives?

COMMISSIONER DOLL: Yes.

CHAIRMAN RIVETTE: We are going to
end at five -- if not before. I mean, you
don't have to take the whole time.

COMMISSIONER DOLL: I'm done. Any
questions?

STRATEGIC PLAN INITIATIVES

COMMISSIONER DOLL: I would like
this to be interactive. If you have any
questions, stop me at any time. I'm going to
go through the strategic plan, and I'm going
to do it at a fairly high level, but I'm
willing to drill down and give you as
detailed answers as you'd like to have, or go
into more detail on any part of it. (Slide.)
But we're starting the strategic plan by
saying what we would like to do is improve
quality. Quality is our number one concern.
At the same time, what we'd like to do is
somehow gain efficiencies in the system, or
work on the backlog and reduce pendency
because that's what we're hearing on the
outside that we think is really important to
patentees. So the first thing that we're
thinking about doing with quality is actually
improving the examiner search; giving the
examiner some kind of tool; giving them some
help so that they do a better job. As I said
erlier, the number one error that we have is
over new art that the examiner did not
consider. I think if you look at the cases
that are litigated, I think the vast majority
of times that the examiner had the best prior
art in front of them they made the right
decision. I think the examiners are doing a
good job when they have that art. So what we
would like to do is increase their chances of
having the best prior art. Search strategy
is one of those areas where we're going to
try to beef up our internal staff to help
examiners come up, formulate a better search,
and to get the prior art in that case. We're
going to do that with in-group or
in-technology center search experts. We're
also looking at different search systems, as
I said earlier also. We're looking at
universities and technology-specific areas
where someone might have a particular search
gine to search for amino acids or proteins,
or they might have graphic design where we're
searching for design, or we're searching for
mechanical applications. And we're willing
to look at any of that. And we have teams
that are going to move in those directions. The other thing about quality that's interesting is that really would like to develop a meaningful quality metric. Because it's interesting: when our quality numbers are bad and we're up there in that 6, 7 percent error rate, people look at us and say, "You're bad by your own numbers. I mean, just look at how bad you are. You admit you're bad." But when the numbers get very good, and we're measuring the same way today that we've measure for 30 years, and we come in at 3.5 percent, people say: "Well, your measures suck. You're just not doing a very good job. Your quality is much worse than that."

CHAIRMAN RIVETTE: Do you ever feel it's a Catch-22 issue? Is that what you're telling us?

COMMISSIONER DOLL: Did I say that?

I can't win? But one of the things that we would really like to do also is have some
town hall sessions, some meetings where we could actually focus on: what do you expect? What should our quality be? The average examiner has 20.4 hours. You've paid $1,000. What can you reasonably expect to get in that amount of time, and for that amount of money? What can you expect? What should you expect. So we go back to the suite of products again, where we think we could give you different levels of certainty on that presumption of validity. That's one of the driving forces. (Slide.) External validation -- one of the things that I would love to do was to set up some kind of a panel that was external to the U.S. PTO where they did a quality review the same way we did a quality review, so they could say: yes, we were at 3.5 percent also on the cases that we reviewed, within a set quality metric. So we could say we are doing a good job. And I know there's a lot of conflict of interest questions there on how you would do that. But there's ways that
we're willing to discuss; a
quasi-governmental organization that would do
nothing but quality review. You also have
the option of contracting it out to an
independent firm that would check our
quality. One of the options that I like
would be where we would ask the bar to put
attorneys on sabbatical; allow them to come
into the office and just do nothing but
quality review on a rotating -- you're
looking at me funny, Lisa.

MS. NORTON:  (Laughs)
COMMISSIONER DOLL:  You must be a
partner.  (Laughter) But give up some of the
resources; send your prosecutors in. Let
do the QR with us, by the standards that
we've established, that we've agreed on, are
good quality metrics, and see how they come
out; see exactly what our quality is.

CHAIRMAN RIVETTE:  She said she's
going to sign up.

COMMISSIONER DOLL:  I want to make
her an examiner. There's no doubt about that.

CHAIRMAN RIVETTE:  Second career here.

COMMISSIONER DOLL:  This is just a way of us to look at the way we're measuring quality. Because we're very serious out about handing out a quality product. But it has to be within the confines that we have at this point in time: the time, the money and what should you reasonably expect. (Slide.) When you look at what we examine, though, we could use a lot of help from you. Because some of the inventions that come in here are absolutely phenomenal. You look at the recent Nobel prize for medicine, where Dr. Fire had interference RNA; a phenomenal invention that was filed in tech center 1600. But then you look, and you look across at what we get. And I don't have to look very far to find a bathroom reservation system -- that I'm personally against, because that was
based on how much you paid for your seat.

But when I want to go, or I gotta go, because I paid $49 for my fare, I don't want to stand in line. But then you look at other ones, where you have intergalactic space flight, with anti-matter, that was filed by a Park Avenue law firm -- a New York City law firm; you look at -- oh, reincarnation. And the claim read something about "reincarnation through the gifts of a loving couple." That was filed by a patent attorney. At some point in time I think the bar needs to look across the table and say, "Close your checkbook. I'm not filing it." Because we don't have the option --

MR. KAMEN: What do you have against loving couples?

COMMISSIONER DOLL: There's a lot of things I could say, Dean, but --

MR. BUDENS: Good old Dean, he always cuts to the chase.

COMMISSIONER DOLL: But what I'd
like to see is -- as Jon Dudas has talked
about a lot -- better quality coming in.
When I was an examiner I had an attorney that
used to call me and say, "John, I need a
reference that shows this," because somebody
was trying to file and application. And he
says, "I just don't want to file it. It
doesn't make any sense. It's too
elementary." And I think that kind of a
partnership, where we actually should
monitor, and I think the bar could help.
Now, there's not a great deal of applications
like that, but for every one of those
applications that I find that really is
silly, it's difficult for the examiner to
examine; it's hard as hell to find
reincarnation prior art. And then we get
criticized because we're spending a huge
amount of time on what I consider to be a
silly application, as compared to a real
patent application. So possibly -- I guess
there's a recurring theme here, and that's my
suite of products. Let them come in, let
them get the lowest level of protection. It
makes them happy. They can hang something on
the wall. And then we can move on to the
applications that deserve a real level of
examination.

MS. NORTON: John, how many -- I
mean, I know this is hard to say, but if you
had to characterize frivolous applications,
what percentage are you getting?

COMMISSIONER DOLL: It's a low
percentage; it's a small number.

CHAIRMAN RIVETTE: Under 10? Above
10?

COMMISSIONER DOLL: Oh, absolutely
above 10. It's in the thousands.

CHAIRMAN RIVETTE: No, I mean
percentage.

COMMISSIONER DOLL: Oh, no -- it's
probably not 10 percent. But, you know, we
were looking at doing claims, or
continuations -- the Notice of Proposed
Rulemaking -- for claims we were hoping to get a 5 percent efficiency gain out of that. We were hoping to reduce the total number of applications that was filed by 5 percent. That's a huge number of applications. And if we could reduce it any at all, it helps us move on to those applications that were filed that really were important. That lets us get to them faster. It's interesting -- because I didn't mean to launch into this -- but the difference between allowing one continuation and allowing two continuations, as a matter of right, is 140 experienced examiners a year. That's the difference. That's a huge difference. And that's what we were looking at. I was looking at it from an operational point of view: how much could I save, and how many other examiners didn't I have to hire to come in to take care of that work that those 140 examiners would do. So that was some of the logic behind where we were. But then it goes on to the suite of products also, which
I think is probably the biggest thing that we can do for quality. When it comes to issuing a quality patent what we'd like to do -- the idea that we have -- is to let applicant elect and then pay for whatever they would like; whether you just want something to hang on the wall; you'd like a little more examination to get venture capital; maybe it's just a 102 search; maybe it's just a patentability report, where we just give you a quick review -- always with the option of coming through for regular examination. But what we call the bulletproof patent, or the platinum-plated product, where you come in -- and you've paid $30,000, or $50,000 to have a team of two, three or four examiners -- an expert on practice, an expert on the technology, an expert on the law -- review that application and really kick the tires for a couple hundred hours, not just for 20 hours, so that when you left the Patent Office you had a product that had an
extremely high certainty that that
presumption of validity was going to
withstand a challenge in court. And those
are some of the ideas that we had for just
moving on towards quality. (Slide.) The next
issue that I was going to talk about was the
automation efforts -- and these aren't in any
particular order. This is actually a talk
that I gave in Galveston, Texas. So that's
what I'm working from. But enhancing
automation -- one of the best things we could
do for examiners was move to a fully
electronic patent file wrapper, where what we
have right now is an image. You can't search
an image. You can't go back and look for
antecedent basis.

CHAIRMAN RIVETTE: Well, wait a
minute. I thought it was a PDF. And a PDF
can have all searchable text in it. We don't
require that it be searchable?

COMMISSIONER DOLL: No.

CHAIRMAN RIVETTE: Why?
COMMISSIONER DOLL: What we're doing is we were trying to move to an electronic system that would get people hooked on electronic filing. A lot of the PDFs do have searchable text behind them. Most do, some don't. We're looking at taking that text right now, and mining it and processing that. And we're going to move in a very slow, measured fashion to try to get to that point. The other thing that we're trying to do right now is that we do an 18-month publication. And at 18 months what we do is we take the text and we put it in a fully text-searchable XML tag format. What we're doing right now is we're moving that to the front end so that examiners will have full text searchable, and that will allow them to do antecedent basis searching, if you have claim to look through. It allows better for a 102-E search as to whether or not you're working with (off mike). One of the biggest problems we have in the Office of
Quality Review -- when I was in 1600, the
top one error that we had was ODPs that
examiners missed; an obviousness double
patenting rejection. Because they couldn't
do an effective search. What an examiner has
to do right now is do a name search. So you
go in PALM, and you put in an inventor's
name, and you get a list of all the
applications that were filed by that
particular inventor. From that list you have
to go into IFW and call up every one of those
sets of claims and see if those claims
interfere or overlap.

MR. PATTON: What is IFW?

COMMISSIONER DOLL: "Image File
Wrapper" -- that's where we are right now;
the applications that we have right now are
pure images. So what the examiner has to do
is then go through each one of those
applications. Well, if you have a prolific
inventor, that's a lot of work. When we move
to PFW, which is a Patent File Wrapper, a
fully-text-searchable file wrapper, what the
examiners can then do is just search through
the claims for certain terms or expressions
that would show overlap. That would make
that job a lot easier if you could limit it
by inventors.

CHAIRMAN RIVETTE: John -- I would
suggest that you run as hard as possible to a
fully electronic based one. I would probably
suggest not going through -- I mean, run as
hard as possible. Because one of the things
-- the old Manion Napier stuff used to have a
natural language search. So you'd take the
whole darned claim and stick it in there and
see what it comes up with.

COMMISSIONER DOLL: Yes.

CHAIRMAN RIVETTE: Those are the
sort of things, the tools, that I'm thinking
would really help start weeding out some of
the efficiency problems. Because then you
could actually do what you're talking about,
which is go back against other prior filings
quickly. And if you set the right parameters
in natural language, you'll pick up most of
the other ones, and then they can make a
decision off of that --

COMMISSIONER DOLL: Right.

CHAIRMAN RIVETTE: -- instead of
having to read everything. So my gut is to
go to the electronic version of this thing.
I would push as far as fast.

MR. WESTERGARD: Is this a
question, John, of imposing an obligation on
an applicant that you're not sure they're
ready for? Or is it an issue of Patent
Office resources? Because why not simply
impose that as a requirement for electronic
filing?

COMMISSIONER DOLL: We've never
done very well with electronic filing,
because what we did is we went out and told
applicant what we wanted, and didn't make it
mandatory. We wanted XML tag documents
coming in. Well, it was voluntary; we had
1.5, 2 percent filing rates. And what we did was move to the PDF to get the electronic filing rates up. Because there is an efficiency gain there. But back to what Kevin said: we are running as hard as we can. We set $30 million aside in the budget to go back, and what we started with was 500 cases a week to see if RTIS could go in; to see if they could go in up front and create the PG-pub document that is fully searchable. And then we went to 1,000. And I think real soon we're going to be up to steady state with what is currently being filed. And then we're going to go back and start to capture the backlog. And we've got about 350,000 cases in prosecution right now. We've got a 700,000-case backlog. And we will be going back and capturing them. But I think it's --

SPEAKER: You've also got a pilot of art units going, with the text search tools, where we have scanned the back files. They are working toward that.
COMMISSIONER DOLL: Right. We're focusing on those, where every case filed in those art units is scanned; is put into that text searchable file immediately so that we can get results from that. And I think it's a one-year or two-year project to capture the entire back file, where we then do have the fully-tagged, text-searchable document.

CHAIRMAN RIVETTE: I think it's critical. Because otherwise all of these things -- it's a manual process.

COMMISSIONER DOLL: Understood. But to go back to what you said, we're looking at that also. We're looking with the CIO right now to develop a program where, when there is text behind that PDF, to actually take that and incorporate that.

CHAIRMAN RIVETTE: Absolutely.

COMMISSIONER DOLL: So that we don't have to pay a contractor to go back from the image --

CHAIRMAN RIVETTE: You can create a
COMMISSIONER DOLL: And the vast majority do have it, if you use word or WordPerfect. So we are going to start to capture that, also. So, great idea, and where we're actually moving.

CHAIRMAN RIVETTE: Great idea, we're already doing it.

COMMISSIONER DOLL: Well, we're moving about as fast as we can. (Slide.) E-filing -- we talked about e-filing. We have a substantial savings there. There's also a quality component to when you e-file: nothing's lost, nothing is misplaced, nothing is scanned improperly. A lot of the problems that we have right now is because of poor scanning, where you have an intricate electronic diagram, or you have a design, or you have a table --

CHAIRMAN RIVETTE: Are you guys working at all with the image recognition software?
MR. KAMEN:  John?

CHAIRMAN RIVETTE:  Dean, I'm wondering if they're working with the image recognition software, which has progressed substantially in the last three years, so that you can actually look at images and -- you know, different mechanical, different chemical, all of those in the drawings. It would be nice to be able to just let that go, kind of like a fingerprint scan, and say, "What do you come up with that's close?"

COMMISSIONER DOLL:  And that's part of the search system that I talked about in our initiative where we're actually going to go and look at search systems, and they're moving towards working with designs, and they're working with some of the plant people and the electrical people for the circuitry that they examine.

CHAIRMAN RIVETTE:  Because obviously it's not just circuitry, it's mechanical -- I mean there's a lot of stuff
that comes in where you cannot do a word

COMMISSIONER DOLL: Right. And

that's one of the things that they will be
looking at. And we've actually moved fairly
fast on the design part of that. So it's
working fairly well.

CHAIRMAN RIVETTE: Because I think
there's a lot of efficiencies to be gained
from a fully electronic system that can
actually do a lot of the searching and give
the examiner a much better first cut.

COMMISSIONER DOLL: Right.

CHAIRMAN RIVETTE: Because I think
you're right: once they've got the first cut
-- and if it's a good first cut -- they know
what to do with it.

COMMISSIONER DOLL: There's a
tremendous number of advantages for the
patent file wrapper, and we're trying to
capture those. And we've got a fairly
aggressive program. We're working with the
CIO, we're working towards a fully electronic patent file wrapper, where it comes in the front door, it's automatically assimilated into a usable form where you take the text, you post it, you build automatically that PG-pub document, so we don't have to pay somebody to create that PG-pub document; working where every amendment comes in, the amendment would automatically be entered into the application because they'd be tagged fields and it would be very easy to replace the claims, replace part of the specs.

CHAIRMAN RIVETTE: Well, you could also then go back over it and take -- structurally you could take the CFR, Title 35, and the MPEP, and run all of those parameters against it every time it changes. Because one of the problems I've always seen is you get three exams down the road and the examiner changed, and "we forget to put this in," and then suddenly we're going to go litigate it. You've never seen that, I know.
And it's nothing more than: "We just forgot."

And now we've got a litigation that's going to go on forever because of it. Whereas I think we could truly improve quality in a very measurable way if we could take and do the antecedent check; if we could do this stuff right here. And if we've got terms that we know are ambiguous, we could pop them out of the claims. You know: "These terms are typically ambiguous." We could then look them up, and we could look them up against the specification. I think at that stage you suddenly get a lot higher measurable quality against a structural problem.

COMMISSIONER DOLL: Right. With the fully electronic file wrapper one of the things that we're working with right now is called "plus searching," where a machine will take the terms from a claim, they'll compare that to the literature, they'll compare that to the prior patents, and then do an analysis as to how close that claim is to some of the
prior art. So that when the examiner gets
the case, there's already been a rough cut,
first search, done on the prior art; the
literature, or whether it would be patent
literature.

MS. NORTON: Does that search, does
that look for similar terms?

COMMISSIONER DOLL: Yes, it does a
term comparison. One of the other things
that we're working on right now --

CHAIRMEN RIVETTE: Does that have a
lexicon in it, though?

COMMISSIONER DOLL: It will have a
thesaurus.

CHAIRMEN RIVETTE: Yes, that's what
I'm saying -- okay.

COMMISSIONER DOLL: One of the
things that we're working on right now, we're
proposing a new rule, where we're going to
consider requiring everything that comes in
that is not text, to come in in a
computer-readable format -- much like we do
in biotechnology, when you have a protein sequence or a DNA sequence, we require you to submit it in paper, but also submit it in a computer-readable format so we can automatically do the database searching for that. People right now -- we do an incredibly poor job, because we have an applicant that creates chemical formal using ChemDraw. And then they dumb it down. They photograph it. They put it on the page, and then they send it in. And then when we publish it, we go back in and we create --

CHAIRMAN RIVETTE: Try to create --

exactly.

COMMISSIONER DOLL: So if we require large tables -- anything that isn't pure text -- to come in on a computer readable format, that would be much easier for us to use in our database for our examiners to search with the ChemDraw, and to publish. Because what we'd ultimately like to do is to get to push-button publication.
CHAIRMAN RIVETTE: Oh, exactly.

That would solve some of those problems, also.

COMMISSIONER DOLL: Right. Right now we're running at about 140 to 160 days from the time an examiner decides an application is allowable until you get your patent. And it was over 200. And one of the things that we had done last year was we reduced it from over 200 to down to about 160.

CHAIRMAN RIVETTE: IBM talked to you about that.

COMMISSIONER DOLL: Oh, yes. And they actually were one of the companies that brought it to our attention. But it's unbelievable to me that it takes almost as long to print a patent as it does to examine a patent. Because Robert talked a little while ago about the average being between nine and 13 months to examine an application.

You know, corps-wide, it's about 10 months.
And it's pretty steady, the average, across the corps: once we pick it up, 10 months later we've either issued it, or it's been abandoned, or you've refilled that application. But a lot of the things that we'd like to do is that push-button publication so that you can know exactly when you're going to get your patent, and it can be one day, two days after you pay that issue fee. You pay your fee, we send you a galley proof. You look at it. You go, "Yes, the information is correct" -- because we spend a huge amount of resources proofreading these patents to make sure that they're 99.996 accurate. I'm going to let you tell me: is this what you want published?

CHAIRMAN RIVETTE: Oh, I agree.

COMMISSIONER DOLL: And then you come back and you say, "Yes. Here's my issue fee." We'll give you your patent the next day. Not a problem. Some of the electronic things we're looking at. (Slide.) Retention
is one of those issues that is extremely
important to us -- and Jon Dudas has spent a
great deal of time working with us on that.
And I'll talk a little bit about regional
offices. Because the idea that we have is to
take a regional office. And we think what
we're going to get -- and I started to go
down this path earlier but I didn't finish --
is that I think we're going to get a much
bigger pool of candidates, and a better pool
of candidates. Because right now we recruit
-- we recruit nationwide, but we really don't
do well except east of the Mississippi. We
just don't get that many people from the
California schools that want to come here and
live on the East Coast. So if we did have a
regional office we think we'd have a much
better pool to select from --

MS. NORTON: You'd get all your
people from D.C. moving to Denver.

COMMISSIONER DOLL: And that's a
possibility. And it's interesting, because
we've talked to a couple places, and we actually visited Denver. And Denver says, "Well, California people won't move to D.C., but they will move to Denver."

CHAIRMAN RIVETTE: Oh, they'll move to Denver.

COMMISSIONER DOLL: So that opens up a whole new pool of potential applicants for examiners. So that works out really well for us. It's a great retention tool. One of the other things that we're thinking about is a local regional office, where examiners who don't want to commute from Gaithersburg, or Harpers Ferry or Winchester -- they don't want to commute in here to Alexandria, but they really can't work at home. And there's a large number of people that either choose not to work at home, or they simply can't work at home because they have a spouse there, they have kids there -- they can't do it. So we're looking at the GSA Regional Centers, where they could commute to that
center. We'd have the full suite of products there that they could then examine from that location. And we think that might be a great retention tool also.

MS. NORTON: Yes, that's a great idea.

COMMISSIONER DOLL: One of the things that we're doing right now is that we're developing a business case. Because what we have to do in this arena is first be able to go down to the Secretary of Commerce, and then go to OMB and go to Members of Congress and say: it makes sense to have a regional office because -- here's the business case as to why we should do it. Once they buy into that, then the political fight starts as to whether it's Senator Byrd, or whether it's Senator Hatch, or which state it's going to wind up in. From my perspective, I don't think it makes sense to go to Delaware, or to go to West Virginia. But, again, moving somewhere west of the
Mississippi, over a thousand miles away, would create a lot of opportunity. So that's what we're trying -- yes, Robert?

MR. BUDENS: What's your timeframe on this, John, at this point? When are you going to select a city, and build the first office? And how big is it going to be? You know -- are you envisioning?

COMMISSIONER DOLL: My plan was to actually try to do something in '07. That's been slipping. It's taken longer to build the business case than I thought it should. Before we actually do a site selection -- and we've done some preliminary studies into site selections. We've got a contractor that specializes in that -- a GSA contractor that will tell you where you should go for these criteria. We thought we'd better first get buy-in from the Secretary of Commerce, OMB, and Congress on that: "Hey, this is a good idea." Once you say it's a good idea to do this, then making the selection becomes an
awful lot easier. And that's the path that
we're going. I would love to, by the end of
this year, have everybody buy into the
business case, do the site selection -- which
is actually a fairly quick process -- and
then move towards setting up an office there.
The idea would probably be: just transfer
enough examiners out there for a shell, and
then hire 128 people out there, in a training
academy environment; train them. They would
then stay there. We'll hire another class,
then go to 256.

MS. NORTON: Is your vision that
you would have ultimately several of these
around the country?

COMMISSIONER DOLL: That's in the
business plan, because it could just be one,
or it could be -- as we said earlier -- one
in Silicon Valley, one where there's heavy
biotech -- and we've gotten a lot of
interest. We've got a letter from the
Governor of Idaho, the Governor of Texas, the
Governor of Colorado -- we visited when we were there. We've gotten letters from Delaware, from Pennsylvania. I got an offer for tickets for the All-Star Game if I wanted to come. I probably shouldn't do that. But there's been a lot of interest. But what we thought we'd do is be prudent -- and Jon was correct when he made the call: before you get into the political fight, establish that it is a good idea, and then go to the Hill and try to gain support.

CHAIRMAN RIVETTE: Robert -- what do the examiners think? Have they heard about this?

MR. BUDENS: Yes.

CHAIRMAN RIVETTE: Are they enthusiastic?

MR. BUDENS: Yes, the word's going out. I don't think -- I mean, I think a lot of people are interested in seeing how it turns out. As with most cases between management and the examiners, the devil is in
the details.

CHAIRMAN RIVETTE: Right -- but as
a general concept.

MR. BUDENS: But I think a lot of
the examiners are looking forward to seeing
what comes out of this. And I think Lisa
probably hit it on the nose: we'll probably
have a fight to see who -- how many are
leaving here.

MS. NORTON: They'll sell they're
house here and buy a mansion out in --

MR. BUDENS: I threatened John
myself, if it happened, if he really wanted
to get rid of me -- because I have family out
in Denver. I think that strengthened his
commitment.

COMMISSIONER DOLL: After we came
back from Denver it was amazing, because the
word spread like wildfire throughout the
campus. And within a day, I had one
director, four SPEs and 17 examiners say,
"Sign me up, Coach. I'm on the way." They
went home and their wife said, "If they open an office, we're going." There's no doubt about it. So there is a lot of interest. It's an extremely expensive proposition, though, to pick people up and move them if we were going to move 200. But, again, what we would like to do is we're finalizing the business case. I would like to share it with you, because I really would like to have you kick it around and make sure that when we do show it to the Secretary or Commerce, or to Members of Congress, that they just can't say: no it's not a good plan. "Yes, this makes sense. You ought to go ahead." So I would like to share that, and hopefully I can do that in the next week or so. Jon's gone next week, so it will probably be a week or so after that.

MS. NORTON: Now, is the reason this is expensive because of the OMB procedures for moving people?

COMMISSIONER DOLL: Yes.
MS. NORTON: Can you get some sort of waiver? Or --

MR. KAMEN: What is an OMB procedure?

MS. NORTON: Oh, I'm sorry -- OMB, Office of Management and Budget. I don't even know what the real name is for a lot of these. Well, you can probably tell it better, John. But they require certain things to happen when Federal employees move, which can be very, very expensive.

COMMISSIONER DOLL: And we're looking into that.

MR. KAMEN: But they're hiring new people, they're not moving.

CHAIRMAN RIVETTE: But you've got to move some of them.

MS. NORTON: -- to train.

MR. KAMEN: And you can't do it like any business does? You figure out what it actually costs to move, and you reimburse them for that?
MS. NORTON: Of course not.

COMMISSIONER DOLL: We may well have to pay, you know, selling costs for their home here. We may have to pay for trips out there for them to look for new housing. We may have to pay closing costs out there. We may have to pay realtor's fees. We're looking at possibly how much money do we have, and how much can we spend. And that's why I thought we'd send just possibly a seed group out that could start the training there. We are also looking into people who are extremely interesting in going, if maybe they would voluntarily move -- if we could do that. I don't know if that's legal.

MS. NORTON: Well, it seems like if you could get something -- you know, Congress could provide you some sort of waiver, that if people voluntarily sign up to go and they're qualified --

COMMISSIONER DOLL: That you
wouldn't have to pay. That's an option, and we will be looking into that.

The other part of this, though --

MR. KAMEN: (off mike) --

CHAIRMAN RIVETTE: Dean? Go ahead.

MR. KAMEN: If he's (off mike) talking about are smart enough to realize what a huge opportunity it would be to have a place there, maybe they could offer up funds to offset your one-time cost for building an operation, and let them sort of bid on it, the way they do for being an Olympic host city.

COMMISSIONER DOLL: And I'm not sure, because I'm not an expert, and Jim Toupin's not here -- oh, there is Jim --

MR. TOUPIN: I was hiding.

COMMISSIONER DOLL: I think there are some problems -- to put it up for bid I think may be a problem -- right, Jim?

MR. TOUPIN: I think so.

CHAIRMAN RIVETTE: All you've got
to do is let them put their trademark on yours.

MS. NORTON: Just put it on e-Bay and see what happens.

MR. BUDENS: Just put the great seal of California --

CHAIRMAN RIVETTE: Exactly.

COMMISSIONER DOLL: One of the other options that we talked about, and that we'd like to do also is to partner with universities. Because what we do right now is we hire examiners that are engineers and scientists. They know nothing about patent law. We bring them in here and fully train them. The idea that we had was to partner with a university -- and we've talked to five different universities right now -- about possibly having a minor in IP, where you have an electrical engineer who actually has studied intellectual property as a minor. We could bring them in at a higher rate. We had talked also about doing a co-op program,
where much like an engineering co-op, where
you could take your engineering courses; you
could actually come here and work for a month
or two months, and then go back to the
university next quarter and go back and
forth.

CHAIRMAN RIVETTE: Did you talk to
University of Santa Clara?

COMMISSIONER DOLL: No, we haven't.

CHAIRMAN RIVETTE: Because they did
that with Intel, and Intel actually ran
almost 35 percent of all of their engineers
kind of a co-op course at Santa Clara for IP.

COMMISSIONER DOLL: Okay.

CHAIRMAN RIVETTE: God -- 20 years
ago. I just wondered -- they may have some
ideas on how that's done, and why. And you
can talk to Intel, too.

MS. NORTON: John, are you also
looking at law schools?

COMMISSIONER DOLL: Yes -- and we
actually talked a lot to William and Mary,
because William and Mary used to have an LLM program in intellectual property, where they actually taught intensive courses on prosecution techniques. They dropped the program, and we went back and talked to them. And they wanted a huge amount of money to restart the program. So we're still talking to them, but it's a huge start-up. We've got some really successful talks going right now with North Carolina, who's extremely interested in doing a pilot program on intellectual property.

MS. NORTON: But it seems like if you could provide the course materials, and it's all the same -- it's just another class; maybe patent practitioner, pick up and teach.

COMMISSIONER DOLL: Right.

CHAIRMAN RIVETTE: (off mike) Have you thought about --

MR. KAMEN: Speak up, please?

CHAIRMAN RIVETTE: Franklin Pierce

-- it's up in your neck of the woods.
They've got an LLM in IP, and they're turning out what appear to be pretty good graduates. That might be one. I think Gerry's on the Board.

COMMISSIONER DOLL: We'll touch base. But that's the idea -- get people that would come in, that would hit the ground running, that would understand, where we didn't have to train them from ground zero. And so that's just sort of a high level of what we would like to do.

CHAIRMAN RIVETTE: Can we send Dean back?

COMMISSIONER DOLL: I heard he was untrainable. Are you there, Dean?

MR. KAMEN: Yes, I am.

COMMISSIONER DOLL: Am I dead meat?

MR. KAMEN: No, no, no.

CHAIRMAN RIVETTE: Oh, he is untrainable.

MS. NORTON: I think, John, these are all great ideas. They're things that you
can tap into markets that you haven't been able to get before. So I think it's great that the PTO is looking at this.

COMMISSIONER DOLL: One of the things that we'd like to do that Kevin's talked about a lot is actually have some of you help us with these. If you're interested in any of these -- we gave you all of the initiative papers -- and if there's something that you would like to help us on, that you would like to champion, I would love to see somebody step up and say, "I want number 14. I will make that happen. I will work with you and I will deliver a product on that."

Or "I will go out and contact Franklin Pierce," or "I'll go out and talk to Santa Clara University." That's what we're looking for from PPAC. That's what we haven't had in the past, is that active participation, where all of a sudden now the PTO has nine experts out there in the field that are willing to go out and help us and actually make a
difference, and deliver products to us.

MS. NORTON: I think that's probably something we could talk about, because between all of us, I'm sure we have some good contacts.

CHAIRMAN RIVETTE: I can talk to Santa Clara and Intel. So let's talk about that afterwards.

COMMISSIONER DOLL: Okay, great.

That's the high level view. I didn't go into every initiative; I just tried to hit them at a high level. And I have 16 minutes.

CHAIRMAN RIVETTE: I think we're good.

CLOSING REMARKS

CHAIRMAN RIVETTE: So, we've been through a different type of process. People like it? They don't like it? What do you feel about today?

MR. PATTON: Well, it's my first time. I'm very excited. I think, on one side, I'm incredibly excited about
opportunities, and on the other side it's kind of like cold water in your face: the huge complexity and difficulty. You know, being basically an inventor at heart, I think being basically an inventor at heart, I think everything is solvable -- and quickly; and there's a way to do it. And I realize, the more I work in politics, that is not the case. It's a very long, long process. But I still can't believe that. I still adhere to the value that there's got to be ways of not taking 10 years to do --

CHAIRMAN RIVETTE: I'm with you.

We can't afford 10 years.

MR. PATTON: Yes -- that's exactly it. That's exactly it. So I think this is very exciting. And what's fun about it is we get to define a little bit on our own what the best contribution could be for each of us.

MR. GRANT: I, for one, really missed going through the rule packages.

CHAIRMAN RIVETTE: Okay -- next
time we're doing the rule packages.

        MR. GRANT: I can set you up.

        CHAIRMAN RIVETTE: But do you like it enough that we'll do it again next time?

        Does the format work for you? Or not?

        MS. NORTON: I think it's very good. I really enjoyed having Judge Rader here. It was very interesting to get his input.

        CHAIRMAN RIVETTE: So next time we're going to figure out, by consensus, who we want next. Because I think -- I mean, the body's good enough, the people --

        MR. KAMEN: Louder?

        CHAIRMAN RIVETTE: I said the body's good enough, the people are good enough -- the committee is good enough, Dean -- that we should be able to get good quality people like Randy to provide their views to us at lunch. And I think we should all put people's hats in the ring and see who do we want next.
MR. KAMEN: I liked your original idea this morning of bringing in people from like the patent office in China, of -- because for one thing, besides being interesting and we learning from them, we might be able to talk to them -- negotiate with them in some way to figure out what it is that we can do that, while we're fixing our own system, use it as leverage to make them more responsive to us, which would then get back to having our business community, and our leadership and Congress be more interested in helping, if we were not just getting rid of the lemons in our system, but again making lemonade out of getting better compliance and conformity internationally.

CHAIRMAN RIVETTE: Yep.

MR. KAMEN: Is it someone beyond the scope or useability of us as advisors?

CHAIRMAN RIVETTE: I don't think so --

MR. KAMEN: To bring in and
interact with senior people in other patent offices?

CHAIRMAN RIVETTE: I don't think so, Dean. I talked to you and Jon Dudas. I think it's doable. I've actually had conversations with the Chinese commissioner. He's actually looking at potentially trying to set up a PPAC for China now. So -- I think it's doable, Dean. I just think now is the time to work on the next one.

MR. KAMEN: Yes.

CHAIRMAN RIVETTE: So -- but if this works for people, than I'd say let's do it again like this. John, I want to thank you very much for having the materials out beforehand. I think that was great -- so we actually had discussions, and got to be able to have an interactive period today.

So, thank you very much for coming. I'll declare the session closed if everybody's okay with it. Okay -- we're done 10 minutes early.
(Whereupon, at 4:50, the
PROCEEDINGS were adjourned.)

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