

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Tuesday, July 9, 2013

1 PARTICIPANTS:

2 TPAC Members:

3 MAURY M. TEPPER, III, CHAIR

4 DEBORAH HAMPTON

5 CHERYL BLACK

6 DEE ANN WELDON-WILSON

7 ANNE CHASSER

8 SHARON MARSH

9 KATHRYN BARRETT PARK

10 LINDA McLEOD

11 JODY DRAKE

12 RAY THOMAS

13 ANTHONY SCARDINO

14 Union Members:

15 HOWARD FRIEDMAN, NTEU 245

16 HOWARD ROSS, NTEU 245

17 RANDALL MYERS, POPA

18 USPTO:

19 DEBORAH COHN, Commissioner for Trademarks

20 FRANK MURPHY, Deputy Chief Financial Officer

21 DANA COLARULLI, Director, Office of Governmental
Affairs

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1 PARTICIPANTS (CONT'D):

2 SHIRA PERLMUTTER, Chief Policy Officer, Office of
Policy and External Affairs

3
4 GERARD ROGERS, Chief Administrative Trademark
Judge

5 Also Present:

6 CHRIS DONINGER

7 JYOTSNA JAME

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1 P R O C E E D I N G S

2 CHAIRMAN TEPPER: By my watch, I'm about
3 six minutes behind and I will apologize for the
4 tardiness and we will do our best to make up for
5 the time. I'd like to call this meeting of the
6 Trademark Public Advisory Committee to order and
7 to thank everyone for your presence and your
8 attendance.

9 TPAC meets on a periodic basis. And our
10 next meeting will occur in October. We have been
11 very fortunate here to work with the office. And
12 you'll get to hear from a variety of folks here
13 who are active in leadership in Trademarks.

14 We monitor issues related to budget and
15 strategy and provide advice. But I think, you
16 know, one of the most valuable things are these
17 meetings where we and members of the public and
18 associations have a chance to hear from the PTO on
19 updates and projects. So I think there's a lot of
20 good information that you'll receive today.

21 I do want to invite everyone in advance,
22 if you have questions, I will try to pause at the

1 end of each presentation. We'll first ask members
2 of the Committee for any questions or comments.
3 I'll make sure to ask you. And if I don't and you
4 are either here or online, raise your hand if
5 you're here, get my attention. And if you're
6 online, please do email in your questions. I'll
7 try to remind you at the end of each presentation.
8 But we do want our members who are viewing online
9 today to participate fully. And if you have
10 questions, please do send them in to the email
11 address. They'll be brought here and we will get
12 answers for you.

13 That being said, I am going to briefly
14 introduce our TPAC members and then we'll move on.
15 To the extent you can see this, I'll work my way
16 around the room for those who are here physically.
17 And so this is my left. I don't know if that is
18 stage left, stage right, but I'll point in this
19 direction and just let you know.

20 Ray Thomas, who is with the Law Offices
21 of Ray Thomas. He is a semi local here in the
22 metro area. Anne Chasser from Cincinnati, Ohio.

1 Anne has been on our Committee for several years.
2 She was Commissioner of Trademarks in a former
3 life. Jody Drake. Jody is with Sughrue Mion,
4 also right here I'm told on this side of the
5 river. So if that helps those of you who are
6 local.

7 Also Dee Ann Weldon-Wilson. She may
8 have traveled the farthest for this meeting. She
9 is with Exxon Mobile in Texas. Cheryl Black, who
10 may have driven the farthest for this meeting.
11 She has come up from Richmond. She's with Goodman
12 Allen & Filetti. And then moving to the other
13 side of the table, Kathryn Barrett Park with a
14 little company called General Electric. You
15 probably have one or two of their products. Linda
16 McLeod, newly with the Law Offices of Kelly IP.

17 This is I think a first for us. We also
18 have Deb Hampton, who you will not see. She is
19 participating by telephone. Deb is in New York,
20 and as of yesterday, she is with a brand new law
21 firm with Katten Muchin. So we wish her good
22 luck. And if you hear a voice and you cannot

1 connect it with someone, that will be Deb. So
2 we're grateful that she was able to attend and
3 participate fully today even though she could not
4 be here physically.

5 So moving forward, you will note in our
6 agenda we're ready to start off with some comments
7 from Acting Director Terry Rea. I need to
8 apologize. Her travel schedule has prevented her
9 from being here today. So you can see why I let
10 you start six minutes late. I figured I could
11 catch this one up. So we're doing well.

12 I do want to thank Terry for her
13 leadership, her support at this time. And as you
14 hear about everything today and note that even in
15 times of great uncertainty, and there are lots of
16 challenges we face, we'll be talking about those,
17 things are going quite well for Trademarks. And
18 I've said it before, but that's due to great
19 leadership, it's due to great dedication.

20 The folks that you will see and speak
21 from today and really many, many, many folks at
22 the office that work very hard, and I want to take

1 just a second to thank those folks. I know some
2 of our examining corps, some of our attorneys may
3 be listening today.

4 You don't often get this from us because
5 we're usually either disagreeing with you or
6 asking for something from you, but I'll go ahead
7 and tip you off that we appreciate the service.
8 We know that you take your jobs very seriously and
9 we could not get things done without everyone's
10 help. So we want to give our thanks to those of
11 you who are not in the room and let you know that
12 your efforts do not go unnoticed or unappreciated.
13 But you should agree with me on all of my office
14 actions and things will obviously go great for us
15 all from there.

16 Why don't we move on? You know, we have
17 a long standing appointment here with our opening
18 act. We're pleased to have Dana Colarulli who is
19 our Director of Legislative Affairs. Dana is
20 going to give us an update on what's new out
21 there, what's coming up on the Hill, and sort of
22 provide some background for I think a couple of

1 really interesting issues out there. So thank you
2 for being here today, Dana.

3 MR. COLARULLI: Maury, thank you so
4 much. And I'm happy to be here again. I'm not
5 going to walk through bill by bill, but I thought
6 I'd give you the wide range of legislation being
7 introduced and discussed, some not yet introduced
8 on the Hill in our four areas of IP, patents,
9 copyrights, trademarks, and trade secrets. These
10 include bills and hearings that we're reviewing,
11 and monitoring.

12 There's a number of items that impact
13 intellectual property. Of course, there is a
14 heavy emphasis right now on patents and patent
15 litigation in the wake of the implementation of
16 the AIA, in the wake of legislation enacted in
17 2011. But there's increasingly a focus on a
18 number of copyright issues and some others, as
19 well.

20 So we'll start with just highlighting
21 the hearings. PTO has not testified yet this
22 year, but certainly has been active with staff on

1 a number of issues. We'll start with patents, two
2 hearings have been held on abusive patent
3 litigation as you'll see on my slides. And then
4 one on the implementation of the AIA, in
5 particular, what PTO is doing for small business.
6 That's a continuing theme both in the oversight of
7 the PTO, and our appropriators are very
8 interested, as well, making sure that we're
9 devoting at least a significant portion of our
10 resources to small business. So we've had some
11 attention and discussion there.

12 On the copyright side, there's been an
13 increased focus on copyright issues. The Chairman
14 of the Judiciary Committee in the House announced
15 that he would start a comprehensive review of the
16 copyright laws and has already started having some
17 hearings, and we expect more later in September,
18 ancillary issues like cell phone unlocking.

19 Updating legislation on satellite television have
20 also been topics of discussion in the
21 congressional hearings.

22 Again, I'll focus on the patent side. I

1 thought it would be helpful to at least briefly
2 look at some of these issues. The White House has
3 gotten engaged in this, as well. In the beginning
4 of June, the White House announced five executive
5 actions and supported seven legislative items to
6 address patent litigation abuse. The seven
7 legislative items generally reflect some of the
8 things that had already been discussed up on the
9 Hill. My slide shows a listing of the bills on the
10 right hand side. On the left, the slide gives you
11 a sense of some of the issues that are being
12 discussed.

13 Certainly congressional staffs review
14 similar litigation issues in copyright law, and
15 trademark law. Issues of patent disclosure,
16 issues of discovery, discovery costs have been of
17 particular interest. Fee shifting started off
18 this conversation actually in the last Congress
19 and even earlier this year. Is fee shifting
20 appropriate in the patent context where we had
21 seen it in other areas of IP law? So, we expect
22 that proposal to dominate at least some of the

1 discussion with staff, among other issues.

2 The next two slides are categorized
3 generally by subject, not in any particular order
4 except of interest. We created a couple buckets,
5 one being budget. And I'll spend just a minute on
6 the first bill. Representatives Honda, Lofgren,
7 and Chu, the three representatives that represent
8 the Silicon Valley area, where USPTO hopes to have
9 a permanent home at some point in the future,
10 introduced a bill that essentially would exempt
11 the USPTO from the effects of sequestration. The
12 bill does two things. It both has an immediate
13 impact in this fiscal year and then attempts to
14 add USPTO to the exemptions list in the earlier
15 version of the Budget Control Act. The
16 Administration has not taken a position on this
17 bill. Generally I'll say there's a lot of
18 hesitancy to addressing sequestration piecemeal.
19 This is a problem that faces the entire
20 government.

21 It is a poor way to manage the budget of
22 the Federal government. But as I said to my

1 friends in the Department of Commerce recently,
2 it's nice to be loved. And this bill shows that
3 at least folks are looking out for the PTO and
4 want to help address our issues as a fee funded
5 organization.

6 There are other fee funded organizations
7 within the Federal government that are in the same
8 boat as the USPTO. Again, as a bad idea of
9 managing the federal government as much as it is,
10 there's others that are impacted, as well.

11 I'll defer to my colleagues in CFO who
12 are presenting next to give an update of where we
13 are on sequestration, the amount of fees that we
14 expect to be withheld from the agency this year.
15 But that will continue to be an active discussion.
16 I've seen two editorials in Bay newspapers this
17 week, both very supportive of this bill. Again,
18 it is nice to be loved and we're glad that there's
19 at least some attention to the problems that we're
20 facing here.

21 The next category I call the Redskins
22 category, the bill that you all are likely

1 familiar with addressing the Redskins trademark.
2 Counterfeiting and design, trade secrets, again,
3 we see an up tick in activity on trade secrets, on
4 creating a private right of action there. Cyber
5 security, an issue that's of great interest to the
6 Department of Commerce, and clearly the USPTO, as
7 well, in ensuring that our protection against
8 cyber attacks are strong, which we believe they
9 are. There's been both executive action and
10 continuing congressional action on that issue.

11 And then a few other bills that I think
12 we've cited in past TPAC hearings that we've been
13 watching. I won't say too much more on those.
14 The Innovation Through Trade Act, that was
15 interesting, creates an intellectual property
16 position at the U.S. Trade Representative,
17 showing, again, Congress believes that there
18 should be more positions in the federal government
19 seeking to safeguard our intellectual property
20 rights.

21 Other considerations for the 113th
22 Congress, this is kind of my catch all. We're

1 continuing to do staff outreach to the
2 congressional staff and to new Members. We
3 continue to get a lot of interest in the satellite
4 offices, and as I mentioned, the bill that
5 Representative Honda, Chu, and Lofgren introduced.
6 There's a lot of interest in us moving to those
7 locations.

8 Sequestration has unfortunately impacted
9 our ability to move forward quickly and we've
10 delayed action there. On Silicon Valley, as I
11 described, we had taken the fewest steps. We've
12 not gotten as far in the process to establishing a
13 permanent office as we have other places.

14 Detroit, we have Denver and Dallas which
15 are somewhere in between. So we're really hoping
16 that our budget outlook will be a little bit more
17 secure as we get into the next fiscal year. And
18 we are eager to move in those locations. But our
19 congressional staff and our congressional Members
20 would like us to move faster and I think that's
21 driving some of the interest actually in our
22 funding issues.

1 I did want to mention two important
2 nominations and swearing in. One is the new
3 Secretary of Commerce, Penny Pritzker. She was
4 sworn in at the Department of Commerce 2 weeks
5 ago. And we're starting to get a sense of what
6 her goals are for the Department of Commerce as
7 she takes the helm. She's even today having
8 another session with employees at the Department
9 of Commerce to talk about those issues. And our
10 own Ray Chen, our Solicitor, still pending a
11 Senate vote, but was nominated and voted favorably
12 out of the Senate Judiciary Committee as these
13 things work to be a new judge on the Court of
14 Appeals for the Federal Circuit. We're very proud
15 of Ray Chen. He's a great addition to the Court.

16 Other things I'll mention, the first
17 bullet I skipped over. We have a series of
18 required reports and our appropriations bills,
19 we're keeping up with those and making sure that
20 we're responsive. Often times they actually
21 provide a good opportunity for us to showcase some
22 of the things that we're doing here at PTO. We're

1 embracing them with that viewpoint versus just
2 homework that we have to get done.

3 And we're doing a number of activities
4 to continue our outreach to staff, bringing them
5 in to understand both the trademark operation and
6 the patent operations, and showcase innovation
7 more generally. I'll highlight two of our
8 partnerships with the Smithsonian Institution.
9 There are other activities that we're engaging
10 with them. But one is the Arts and Industry
11 Building on the mall, a very exciting adventure.
12 Debbie and I were able to take actually a tour of
13 the building. Don't worry, we did have hard hats
14 on and nothing fell on us.

15 There is at least one quarter of that
16 building which is dedicated to an innovation
17 pavilion which we're working with the Smithsonian
18 on. But that entire building, when it opens up
19 next year, will focus on technology and
20 innovation, and we're very happy to partner with
21 the Smithsonian on that. At least as this
22 building transitions to whatever permanent use it

1 has, there's a great opportunity for us to
2 showcase what we do here at the PTO.

3 Second, we've been partnered with the
4 Smithsonian to help develop exhibits within the
5 system. One was to showcase some of the patent
6 models that had been submitted to the PTO in past
7 years. I'm bringing a number of Hill staff up
8 there on Thursday to see that, walk around with a
9 Smithsonian (Docent) and, again, be able to really
10 engage staff in a different way than just
11 responding to questions at a hearing, a little bit
12 more informal, so we'll be doing that.

13 We recently had staff also here at PTO
14 and did a "Day in the Life" of both the patent
15 operations and the trademark operations. And
16 Debbie was kind enough to share some of her time
17 and insights with that staff. We'll continue to
18 do that as we move forward.

19 MS. COHN: Dana, going back to the
20 innovation pavilion at the Arts and Industries
21 Building, just to remind everyone, because we've
22 talked about this before, we will be planning on

1 holding a trademark expo there as soon as we are
2 able to. So we're all very excited about that.
3 And for those of you listening in the room who can
4 think of companies or organizations who might want
5 to take advantage of that fabulous venue, please
6 keep it in mind for either next year or the
7 following, whenever it's ready.

8 MR. COLARULLI: I do think it'll be a
9 great opportunity for our whole community to
10 highlight all the things that we do. I think, the
11 space is fairly flexible. It sounds like the
12 Smithsonian will invite organizations to come and
13 use the space, as well, and run events. So for
14 anyone interested, I do have a picture of Debbie
15 with a hard hat. I'm happy to share or email if
16 you're interested. Maury, that's all I have for
17 my official report, but I'm happy to answer other
18 questions.

19 CHAIRMAN TEPPER: Thank you very much,
20 Dana. For those of you who are online, we'll do
21 our best to get that photo up. And I understand
22 probably our web traffic will increase

1 significantly.

2 MS. COHN: Dana, would you like to
3 mention the recently concluded VIP Treaty? I
4 think that was a big deal for this agency in terms
5 of our participation and also a big deal in terms
6 of what was accomplished.

7 MR. COLARULLI: Yes, absolutely. And,
8 Debbie, thank you for that. This is the second
9 international treaty on copyright issues that we
10 were able to really shepherd through and lead the
11 negotiations. The first was the AVP, Audio Visual
12 Treaty last year, and now a significant effort to
13 lead up to negotiations in Marrakesh that
14 concluded two weeks ago on the Treaty for the
15 Visually Impaired, again, a copyright treaty.

16 And for those who are interested, I'm
17 happy to follow up. Shira Perlmutter, our Chief
18 Policy Officer, co-led those negotiations, along
19 with Justin Hughes on behalf of the U.S.
20 government. I know from experience and a number
21 of both briefings with the Hill and discussions
22 with others in government, it was a tremendous

1 effort. This is the first international treaty
2 that actually does norm setting on exceptions and
3 limitations to copyright law. There was
4 significant concerns from the content community
5 that the treaty, because of the efforts of those
6 outside the U.S., would undercut some of our IP
7 principals. I think the delegation feels that
8 they came out with, a very good result, and were
9 able to adopt provisions that maintain the
10 obligations in previous treaties, in Berne, WCT,
11 and in TRIPS that required, significant protection
12 of intellectual property rights, but at the same
13 time, balance that need to create more media in
14 formats that are available to the visually
15 impaired.

16 So I think we see it as a great success
17 and really due to Justin and Shira, and again, I'm
18 happy to follow up with additional information.
19 We put out a good press release that talks about
20 it. As I said, we had a good result.

21 The way these things work, we adopted
22 language where the U.S. has about a year or two to

1 officially sign the treaty. That allows us to
2 bring the text back here, circulate it within the
3 government to make sure we all know what we're
4 agreeing to, and then we'll seek to move forward
5 on implementing legislation if it's needed. We're
6 actually in that process right now for the
7 previous treaty, the Audio Visual Treaty, and
8 hopefully we'll pursue that over the next few
9 months with the Administration and the Hill.

10 CHAIRMAN TEPPER: Thank you, Dana, very
11 much. Well, with that long list of issues, I
12 think you can see why we like Dana to be our
13 leadoff hitter. And obviously we need to get him
14 back to work with everything going on at the
15 moment. But I do want to take a couple minutes
16 for questions. Since I have a microphone in front
17 of me, I think I'll ask the first one.

18 I did want to go back, just follow up on
19 the Honda bill dealing with the budget and with
20 the proposal to sort of alleviate the impact of
21 sequestration on the PTO. It's probably not a
22 surprise that everyone in this room has a keen

1 interest in supporting and making sure that the
2 office has access to its funds and to the fees
3 that we sent in, we want to see them put to work.

4 Do you have an assessment or a sense,
5 Dana -- and by the way, I would encourage you all
6 obviously to read the text of these bills that are
7 mentioned up there. Read the Honda bill. It's a
8 really good read and it's a compelling read and it
9 makes a lot of sense to me when I look at it. But
10 do you have any idea or can you give us any
11 assessment on, you know, will that bill be moving
12 forward? Does it have a reasonable chance?

13 MR. COLARULLI: Yes, I think it's a fair
14 question. As I said, it's a bill that directly
15 addresses sequestration as the PTO is feeling it.
16 I think there's hesitancy for very good reasons on
17 behalf of the Administration and many in Congress
18 to address the sequestration issue piecemeal.

19 And we've seen very rare and very
20 visible exceptions to that, certainly with meat
21 inspectors. There was specific, directed
22 legislation towards the FAA. I think this follows

1 those efforts.

2 But as we move further through the
3 appropriations process, it becomes less likely
4 that these bills will move forward piecemeal. It
5 will continue to get a lot of attention and raises
6 the issue, which, frankly, personally, I think is
7 very, very important to PTO, given that we just
8 went through this eight years of discussion over
9 whether the PTO should have the ability to set its
10 fees to recover its costs and whether the PTO
11 should be able to keep the fees that it does
12 collect to support its operations. And you can
13 make very good arguments on some of the problems
14 that we see today are because of the history of
15 uncertainty in our funding. So certainly I've
16 been well spoken both in this position and before
17 on the need to get certainty in USPTO's funding.

18 I don't see a path forward right now on
19 this bill by itself. To the extent that there is
20 a push to address a number of items, a number of
21 agencies affected by sequestration, there's a
22 possibility. The administration is still looking

1 at the bill.

2 One of the things that the
3 Administration is always concerned about is
4 scoring and what cost this will have. I will note
5 that there are a number of fee organizations, not
6 quite like USPTO, that are effected. And the fees
7 that are collected don't necessarily go towards
8 the deficit. So we're stuck in this weird
9 position where we're impacted, but it's not clear
10 whether the impact actually will go to solve the
11 budget problems that really do need to be
12 addressed. So, I've given a long answer to your
13 question.

14 CHAIRMAN TEPPER: Thank you, Dana.
15 That's actually a very good answer. It does not
16 surprise me. Let me make sure, and please do
17 correct me, I just want to make sure everyone in
18 this rooms understands. Dana made a reference to
19 scoring and I will do my best to see if I can give
20 you some context on that. It may seem at first
21 blush, you know, since all of the money here comes
22 from customers, from users. You know, why are we

1 under sequestration here? Shouldn't it be a
2 simple fix? The fact is, as part of the
3 government as an agency here, scoring is basically
4 the budgeting process overall, and if we take
5 money out of the sequester, it is scored, so it
6 has to come from somewhere else. So I think that
7 if I'm close to right on that, let me know, but
8 it's basically any change here would have an
9 impact elsewhere. Whether it seems like it should
10 or would, it does, and that's what scoring is all
11 about. Did I come close, Dana?

12 MR. COLARULLI: Yes. Tony and I are
13 taking notes, because your description of scoring
14 is as good as any that we've heard.

15 CHAIRMAN TEPPER: All right. Are there
16 other questions for Dana today? Any from the
17 members of the Committee? All right. How about
18 questions from the public? All right. I do want
19 to remind our online participants, you're invited
20 to email your questions in and those will be
21 brought to me. We'll be sure to answer those. I
22 want to thank you very much for a comprehensive

1 update. These are always interesting times. I'm
2 really glad to know you're out there looking out
3 for our interests and staying on top of this and
4 we want to thank you for that. Those of you who
5 patted yourselves on the back a little bit ago for
6 our having ended diversion or the impact of
7 diversion, never forget, there's always some new
8 interesting twist and challenge to deal with. So
9 I think we'll be looking at and working on issues
10 for a good time to come. But we look forward to
11 continuing that process. Thank you.

12 Transitioning in, and I don't know why
13 I'm choosing to use baseball analogies today,
14 probably coincidental, but, you know, the
15 Nationals had a very good weekend in town, so I
16 thought I might stick with that. If you have a
17 good, strong leadoff hitter, everybody knows you
18 need a really great hitter afterwards. So, you
19 know, looking to kind of keep our order moving
20 along here, we're going to transition over to an
21 update from our CFO's office. I did see Tony come
22 in on time.

1 Frank Murphy is sitting right next to
2 him. Our deputy I think is very relieved to see
3 that you are here and prepared to follow up. You
4 know, having heard about these issues, I want to
5 get a update from our CFO. In the best of
6 situations, they have a difficult job. And we've
7 always talked about the fact that at any given
8 time, we're looking at three different years worth
9 of budgets and projections and predictions. And
10 this year we have lots of added wrinkles and
11 twists. So I'm going to turn this over to Tony
12 with thanks and, you know, let him update us on
13 just how the PTO is managing and how we're getting
14 along in this environment.

15 MR. SCARDINO: Thank you, Maury. I
16 appreciate it. It's a pleasure to be here. As
17 you did discuss or mention in the intro, it is
18 really challenging times in fiscal year 2013. I'm
19 going to go through some knowns and some unknowns
20 today, and unfortunately there are more knowns
21 than unknowns. The only thing we know is what's
22 kind of happened already the last eight months.

1 So I can kind of tell you what we've spent to date
2 and what we've collected to date.

3 So far our collections in the trademark
4 side of the house is very close to our
5 projections, a little bit below, 1.5 percent. But
6 the spending side of the house, we're actually
7 further below that, and a lot of that is actually
8 due to sequestration. So that's resulting in, you
9 see the third bullet, our operating reserves
10 actually are going to increase from the beginning
11 of the year. So it's all very positive in the
12 sense of, from a cash flow perspective, as fees
13 come in, they add to an operating reserve, so we
14 haven't had to cut back any direct spending for
15 trademarks operations.

16 We have cut back due to sequestration
17 enterprise-wide activities. And trademark's funds
18 parts of that has only cut back on an operation
19 overall. We actually spend less money on the
20 trademark side, too. So sequestration is going to
21 kind of effect us twice on the trademark side.
22 We're actually going to have to sequester a

1 percentage of our funds, it's 8.6 percent of what
2 we collect from March 1st to September 30th. We
3 estimate that to be about 13 and a half million
4 dollars.

5 We're also, due to sequestration, going
6 to spend less money, so it doesn't really affect
7 our operating reserve. They almost cancel each
8 other out in a weird way. The challenge, of
9 course, is that we still collected money that we
10 can't spend. The 13 and a half million will go
11 into, we call it kind of the sequester pot here at
12 USPTO that we can't spend. The patent side of the
13 house is a much bigger pot, as you can imagine.

14 So the challenge of sequestration, of
15 course, is, we know the 13th store, we don't know
16 the 14th store. Sequestration, again, was a 10
17 year act implemented over 9 years, so it's
18 continued until 2022, I guess it is. Of course,
19 both sides of Congress and the administration are
20 trying to remove sequestration from the picture
21 for '14 and come to a better budget resolution.
22 What that resolution will be, I think no one

1 knows, it certainly remains to be seen, but we are
2 preparing for it.

3 And the carryover, the operative reserve
4 for trademarks are roughly, we estimate it to be
5 close to \$150 million at the end of the year.

6 That will certainly help us get through any
7 effects of sequestration. So that's all in the
8 positive. But it's still challenging when you
9 don't know what's going to happen. We're planning
10 for the unknown, collectively, USPTO. So as you
11 just discussed with Dana, of course, the -- yes,
12 Debbie.

13 MS. COHN: Tony, I think it may be
14 worthwhile at this point to clarify what you meant
15 when you said that the operating reserve will help
16 us get through any effects of sequestration,
17 whether that would be an agency-wide help or a
18 trademark help.

19 MR. SCARDINO: Certainly just on the
20 trademark side, right. That money stays, you
21 know, within trademarks. I want to say it kind of
22 helps us weather the storm. You know, when

1 sequestration is -- well, it's like kind of this
2 cloud, you have hiring freezes in agencies,
3 sometimes you have furloughs, IT projects or long
4 term projects are usually delayed on the trademark
5 side. Because of the operating reserve, we don't
6 have to have those delays. On the enterprise
7 (inaudible) we've got some challenges, but on the
8 trademark side of the house, we're in good shape.

9 So again, despite the pending
10 legislation or introduced legislation, we are
11 still planning for sequestration to possibly come
12 into play in '14. It really depends on whether
13 the House or the Senate kind of -- they've both
14 got different perspectives on what we should do
15 for '14, so their budget allotment is different.

16 So tomorrow actually is the mark-up of
17 our fiscal 2014 budget request in the House. So
18 once they mark up and kind of tell you -- mark-up
19 is basically review the President's budget request
20 and they tell you what they would like to
21 appropriate for next year, that gives us a sense
22 of where the support is on the House side, and

1 then the Senate mark-up should be later this
2 month, and then, of course, they'll go to
3 conference, and then again an unknown, but it's
4 almost a certainty as a continuing resolution come
5 October 1st for 2014, which means we operate at 13
6 funding levels, and again, due to the operating
7 reserve, that doesn't effect the trademark side of
8 the house, so we can manage through that. But a
9 continuing resolution, of course, does challenge
10 us on the patent side of the house, so we're
11 trying to manage that accordingly.

12 This all leads us to the last year that
13 Maury referenced, fiscal year 2015. While we're
14 trying to manage '13, plan for '14, we have to
15 start developing a budget for 2015. We're in the
16 process of doing that. We don't anticipate any
17 significant policy shifts or changes on the
18 trademark side of the house for '15.

19 We will submit a budget actually to OMB
20 early in September and your Committee will see it
21 in August sometime, usually around August 20th.
22 Don't quote me on the date, but somewhere around

1 there we will get you a budget to review. But we
2 can always go through any questions that you have.
3 Since we won't meet formally as a group before
4 it's submitted to OMB, we can have phone calls.
5 We're happy to entertain any way that you want to
6 correspond and review the budget. So that's about
7 it. Nothing earth shattering has really developed
8 since the last time we met other than we're just
9 trying to manage fees accordingly. They continue
10 to come in more or less as we predicted for '13.

11 CHAIRMAN TEPPER: Thank you, Tony. Do
12 we have questions for our CFO? All right. Any
13 questions from the public? Yes. If you'd like to
14 come up for a microphone, please. Just be sure to
15 push the red button.

16 MS. KING: Just a quick question. Can
17 you explain what you mean when you say it could
18 effect trademark enterprise, what the enterprise
19 system is?

20 MR. SCARDINO: I said USPTO
21 enterprise-wide systems. That could be any
22 system. It could be email, it could be time and

1 attendance, it could be a mainframe that supports
2 a platform of systems throughout USPTO. John
3 Owens could give you a description later this
4 afternoon, our CIO.

5 But there are certain costs for USPTO at
6 large that support everything and it could be
7 anything. It could be security services, that we
8 closed an entrance to the building and that's paid
9 for, 10 percent from trademark funds and 90
10 percent from patents. We would save the 100
11 percent, and therefore, the patent savings, of
12 course, we needed to save so that we can actually
13 make payroll. On the trademark side, it would
14 just continue to go into the operating reserve.

15 CHAIRMAN TEPPER: Thank you. Tony, I
16 want to thank you. And obviously, lots of
17 uncertainties out there. We are grateful that
18 trademarks has the ability to manage through
19 these. I do want to assure everyone, and I don't
20 think I'm going very far out on a limb to say I
21 hope you understand trademark operations is not in
22 the business or has a goal of growing in the

1 operating reserve. We would much rather be
2 putting those funds to work on projects and
3 initiatives that you have heard about in our prior
4 meetings.

5 We are, indeed, fortunate that the
6 reserve is there and that we will be able to
7 access some of those funds to help continue
8 operations during that time. But two important
9 things to understand.

10 If you remember our prior presentations,
11 when we have sort of given breakdowns of direct
12 spending from trademarks and our share of
13 allocated costs, keep in mind, you know, nearly I
14 think about 40 percent of the funds that come in
15 are allocated. Those are our share of the overall
16 office. We're part of a large operation here. We
17 don't directly control those through trademarks.
18 And to the extent that cuts or, you know, deferred
19 spending needs to take place, that sort of impacts
20 the trademark operations. There are also other
21 projects, of course, that are office-wide we would
22 like to be able to proceed with and that we simply

1 cannot right now in this budget climate.

2 So I do want you all to know that
3 there's a lot of good news here, but there's also,
4 you know, a lot of potential problems looming out
5 there office-wide and certainly in trademarks to
6 the ability that we're going to be impacted by
7 some of these deferred initiatives, some projects
8 we simply can't take up at this time.

9 So do continue to watch this space. We
10 thank you all for your good stewardship during
11 this time. But I do want everyone to understand,
12 we need to do everything we can to make sure that
13 the office is able to access the funds and to use
14 those funds and put them to work the way that we
15 would all like for them to.

16 All right. That being said, we'll move
17 on to trademark operations update. Commissioner
18 Cohn is right here. And I think, you know, I know
19 that we're going to have a couple of charts there.
20 Bear with us. Keep an eye here. They're pretty
21 easy to follow even for a guy like me who's not
22 good with numbers. You'll be able to compare sort

1 of goals and where we stand. So, Debbie, I'd like
2 you to give us the highlights. Thank you.

3 MS. COHN: Great. Thank you very much,
4 Maury. And good morning, everyone. I'm going to,
5 as usual, go through our performance related data.
6 And I'm happy to say there's nothing too exciting
7 or earth shattering here as we're close to and
8 meeting or close to meeting most of our targets
9 here.

10 The first page you see in front of you
11 starts off with our examination statistics. And
12 as you can see in the second to the last column
13 from the right, we're reporting out through May
14 fiscal year to date, so beginning of October of
15 last year through May of this year.

16 And the first big box is quality. We
17 are right where we think we should be in most of
18 our quality metrics, with the exception of final
19 compliance. We're a little short of where we want
20 to be by the end of the year. I should mention
21 that we are within the margin of error for these
22 statistics and that, in fact, the numbers are not

1 statistically significant until we reach the end
2 of the year. So for our quality metrics in both
3 first office action and final, we're on track.
4 We're not quite there yet for everything, but we
5 are hopeful and we are planning to make our
6 targets, again, within the statistical margin of
7 error there.

8 For the exceptional office action, we're
9 quite a bit over our target. You can see in the
10 last column, we're at 40 percent over our target.
11 And this is, again, just to remind everyone, this
12 is the measure that measures not just the legal
13 sufficiency of the office action, but excellence
14 on four different levels, searching,
15 decision-making, evidence, and writing. So in
16 order to be included in this group of exceptional
17 cases, the office action has to meet all of the
18 criteria, not just one, two, or three.

19 Moving on to E-government, E-government,
20 again, measures the percentage of applications
21 that are processed, not just filed, but processed
22 completely electronically from the beginning to

1 the end, either registration, abandonment, or
2 notice of allowance. And we're currently at 79
3 percent, which is I think a really -- I'm very,
4 very happy to be at that number.

5 We have over the last couple of years
6 made a lot of effort to reach out to various
7 stakeholder groups and individual stakeholders to
8 find out what is preventing them from using our
9 electronic systems 100 percent. And there are
10 some issues that we've been working on, things
11 like adding extra email boxes to our applications
12 and increasing the capacity for submitting
13 electronic evidence and such. I know that's been
14 a difficult issue for some. So we're working on
15 every issue that we can possibly work on. We're
16 at 79 percent thus far this fiscal year. So the
17 remaining 21 percent are still filing on paper
18 some of their communications or not authorizing
19 electronic communication from us. And we hope
20 we'll convert them soon, in the next year or so.
21 There will always be a few hold-outs, we
22 understand that.

1 But again, our electronic filing number
2 for initial applications, we don't measure that
3 anymore because we have passed the 98 percent mark
4 quite a while ago. So more than 98 percent of our
5 applications do come in the door electronically.
6 And, you know, that's pretty much a done deal, I
7 think and I hope.

8 Moving on to application filings, we are
9 on target to meet our estimate of 4.3 percent for
10 the end of this fiscal year. That would be around
11 4.3 percent more than we got last year. So it
12 will be an increase. Last year we had an increase
13 over 2011. In 2011, we had an increase over 2010.
14 So we are really on track. And hopefully this is
15 a reflection of the promising economy. And we're
16 looking forward to having an increase next year
17 and we are planning on that, as well. So that's
18 all good.

19 Examiner production, I'm not going to go
20 into all the numbers on that, but examiner
21 production is pretty much where we expect it to
22 be, and that's due to the very hard work and

1 diligence not only in quality, but in quantity for
2 our examining attorneys.

3 So now I'm going to move to the next
4 slide and talk a little bit about examiner
5 positions and hiring. And so you can see where it
6 says examiner FTE, that refers to full-time
7 equivalent position and that factors in our
8 part-time positions, as well. We have a handful
9 of people who are part-time.

10 But if you look at the next line down,
11 you'll see we have 412 examining attorneys on
12 board as of the end of May, and that includes 29
13 new hires for this fiscal year. We hired a group
14 of people in February and then another group in
15 May. And the group in February I believe has
16 begun their production. And the group in May has
17 just completed their training and is moving into
18 their in-office mentoring and they will start
19 producing shortly. So we're very happy about
20 that. We do plan on hiring a similar size group
21 next fiscal year, but, you know, that's always
22 dependent on filings, pendency, inventory, lots of

1 different factors that we look at as we go along.
2 So we make our plans and we always feel flexible
3 enough to adjust them to whatever circumstances
4 are there at the moment. But that's our plan
5 right now.

6 Office disposals, I'm not going to go
7 into too much detail on that except, again, to
8 say, you know, we're relatively on track. Office
9 disposals are abandonments, registrations, et
10 cetera, and we're doing fine on that. We have 1.9
11 million active registrations now, which is quite a
12 large register, I would say.

13 Moving down to pendency, at the moment
14 we're at months pendency, 3.0 months pendency,
15 which is right on target between our 2.5 and 3.5
16 range. And we hope to stay around that number.
17 We plan to for the remainder of the fiscal year.

18 Pendency, that's our first action
19 pendency. Now, you see two boxes on pendency to
20 disposal. The first includes all cases, even
21 those that are subject to interparties proceedings
22 and have been suspended. So the total disposal

1 pendency for those cases is 12.3 months at this
2 point in time. However, when you take away those
3 suspended and interparties cases, which we like to
4 do since that's not really an accurate reflection
5 of the case moving through the process, it's been
6 held up for, you know, a very legitimate reason,
7 we go down to 10.5 months. So if you don't have a
8 suspended or interparties proceeding, the average
9 time to registration or abandonment is about 10.5
10 months.

11 And then the efficiency number, which is
12 the total cost of a trademark disposal when you
13 factor in both the direct and the indirect costs
14 that Maury mentioned a few minutes ago, sort of
15 the non-trademark operational, but agency costs
16 that trademark operation contributes to, and so
17 you want that number to be low, as low as
18 possible. And you'll see that our target was \$621
19 per disposal, and we're at \$543, so we're doing
20 well in that regard, as well.

21 Next I'm going to move to some of our
22 non-law office, non-examination, but very

1 important measures, because these are the
2 examination support areas. And the other areas in
3 the office like post registration, intent to use
4 the areas that are very, very important but don't
5 always get reported out on to Congress, to OMB, et
6 cetera, but I think it's good for you to know
7 about them anyway.

8 And then the first two boxes have to do,
9 when you see the letters ESU, that's Examination
10 Support Unit, those are our legal instruments
11 examiners that help with the entering of
12 amendments and reviewing publications, et cetera.
13 And you can see that they are pretty much right on
14 target for their pendency. For amendments,
15 they're actually at 4 days, their target is 14
16 days. And for publication review, they're at 16
17 days and trying very hard to get down to their
18 target of 14 days by the end of the fiscal year.

19 For quality, we see that they're
20 actually ahead of their targets. They have a 95
21 percent quality goal on both amendments and
22 publications and they are at a little bit above 97

1 percent, so they're doing quite well.

2 Our Trademark Assistance Center, you can
3 see that they are really quick to answer the
4 phone. Their performance measures have to do with
5 the percentage of phone calls and how quickly
6 they're answered. And so you can look down the
7 line and see that, for example, the first
8 performance measure, 85 percent of calls are
9 answered within 20 seconds of receipt, and they
10 are actually at 91 percent for those calls. And I
11 won't read all of the numbers, but you can look at
12 them for yourselves and see that they're doing
13 quite well. The next box is the intent to use
14 unit. And they are ahead of their targets,
15 beating their targets in all three categories,
16 extension request, statements of use, and
17 divisional requests.

18 Next I'll move on to the Madrid
19 Processing Unit. And they can't do much better
20 than one day pendency so we're going to try to
21 hold them to that. Their target is two days.
22 They're really doing quite well at one day. So

1 enough said about them. They're doing a terrific
2 job.

3 The Pre-Examination Unit is at four
4 days. Their pendency target is two days. The
5 good news is, I think they're going to get there
6 by the end of the year. And hopefully nobody is
7 upset about the slippage in a couple of days.
8 When we look at these numbers, we act on them
9 right away because we, even though the target is
10 very tight, we don't want it to get too far above
11 that.

12 Post registration does have some work to
13 do to move back into their target range. And I
14 know that Susan White and Rodney Mackle and
15 Tiffany Huntley in the post registration unit are
16 working towards that. I know Mary has been very
17 closely following the pendency and quality issues
18 in post registration and is doing an excellent job
19 of keeping on that.

20 The Petitions office, they are half a
21 day above their target, so we're going to have to
22 hold their feet to the fire to get them down to

1 four days. They're currently at four and a half
2 days. I didn't even know we measured in half
3 days, but there you go.

4 So those are our stats for this meeting.
5 And if anybody has any questions before I move on,
6 I'd be happy to answer them right now.

7 CHAIRMAN TEPPER: Do we have any
8 questions for Debbie? Cheryl.

9 MS. BLACK: I just have one question,
10 Debbie. You mentioned the efficiency in terms of
11 the cost for applications and processing. Do you
12 see that number going down as you're able to get
13 more applicants processing everything
14 electronically, you know, not just initial filing,
15 but through the examination process?

16 MS. COHN: Yeah, I would like to think
17 that, Cheryl. I'm not sure how much of an effect
18 it's actually going to have since so much goes
19 into that number that's not related to the actual
20 processing of the trademark application. But I
21 think it certainly could have a positive effect.
22 I just couldn't predict how much that would be.

1 Thank you.

2 CHAIRMAN TEPPER: Okay. Any other
3 questions on our operations? Well, I want to make
4 one comment. And I know we're sort of
5 mid-presentation. But if going through this, you
6 started to lose track, think, my goodness, how
7 many ways can they measure a performance, good for
8 you. You know, we appreciate and admire the
9 ability of the office to really keep on top of
10 things. You'll notice where there were variances,
11 they're going to be corrected before we have a
12 chance to get worried about them.

13 And, folks, I thanked our examining
14 corps and our staff out there earlier, but this
15 really is a reflection, too, of just what a great
16 job you're doing. Everything is proceeding on
17 target. So I think it's extraordinary just to
18 take a look.

19 And I like measuring these numbers and I
20 like being able to talk about how well things are
21 going, especially when we hear in the background
22 how quickly things are changing, how uncertain

1 things can be with, you know, our budget, and
2 spending, and the policy climate, and, you know,
3 external initiatives. I think it's even more
4 extraordinary that we're having such a great year
5 and that we're right on top of things at that
6 point. And with that, Debbie, let me let you get
7 back to your update.

8 MS. COHN: Great. Thank you very much,
9 Maury. I really appreciate that. And I do want
10 to also take this opportunity for any PTO
11 employees who are listening in, to thank you for
12 just the terrific job that you do. And we do
13 measure things this way and that way. And, you
14 know, people understand that, our employees
15 understand that, and they do their very best to
16 try to meet our targets because they understand
17 that we have that for a reason, that we are a
18 customer service organization, and it's very, very
19 important for them to meet their expectations, to
20 meet customer's expectations, so I appreciate
21 that, Maury.

22 Moving on, I wanted to mention the TMEP

1 for a moment. We had an update in April. This
2 was our first twice a year update. We're starting
3 that twice a year cycle. And the update was
4 really just to incorporate exam guides that had
5 been in process and had been published since our
6 previous update and also to incorporate
7 precedential law that was issued since the
8 October, 2012 edition.

9 I do want to mention that we have just
10 posted a new proposed examination guide that
11 people may be interested in looking at. It's on
12 geographical certification marks. We've posted it
13 on Idea Scale, which is our online comment and
14 suggestion tool. Just for those of you who need a
15 little bit of reminder, we put out our proposed
16 examination guides, and actually you can comment
17 on the TMEP anything you want to comment, but
18 really it's designed to get comments on the TMEP
19 and proposed exam guides. And we look at every
20 comment that's submitted. We don't always respond
21 to every comment, but we look at every comment,
22 and we consider it before we issue our final

1 version of the exam guide.

2 So if you want to have some input into
3 our policy and into what we're doing here, that's
4 a great opportunity, so I encourage you to do
5 that. And our examining attorneys also have that
6 same opportunity and we look at all of the
7 comments that they submit, as well. And we've
8 gotten some really good comments and have
9 incorporated them in previous exam guides.

10 Moving on, I want to talk a little bit
11 about training. We like to have periodic training
12 for our examining attorneys. We do that in a
13 variety of ways. One thing we just recently
14 completed was advanced likelihood of confusion
15 training which we had for every examining
16 attorney. It was mandatory training. It was done
17 through the law offices, through the managing
18 attorneys in our Office of Trademark Quality
19 Review. It was very well received. And we are
20 actually planning to have a more robust training
21 program in the sense that we're going to cycle
22 through the important substantive areas on a

1 regular basis. So we'll look at 2 (e) (1)
2 training. We'll have the section (d) training
3 likelihood of confusion on a more frequent basis
4 because that is something we think that people
5 really need to just get refreshers on, everybody
6 does, so we're going to have that.

7 We had some training that was
8 coordinated by INTA on GTLD's. That happened in
9 May. We had an all star panel that INTA put
10 together to come and talk to us about GTLD's. And
11 this is part of our ongoing effort to educate our
12 employees about important issues that affect
13 trademark owners, even if they're not directly
14 related to examinations. So we try to have that
15 kind of educational series, as well.

16 Next week, on July 18th, in conjunction
17 with INTA, we have our annual industry training
18 day. So every year we focus on a different
19 industry and we have representatives from these
20 various companies that are in those industries
21 come and talk directly to our attorneys about
22 current trends and evolving terminology, which, of

1 course, it's important to keep up with that, but
2 we can't always do that. So we want to get the
3 experts in and INTA has been just terrific in
4 helping us do that. This year we're focusing on
5 the entertaining industry. We have Fox, WWE, and
6 a few other companies that will be present to talk
7 to us, and we're really looking forward to it.

8 Another thing we're doing in the
9 training area is having what we call peer to peer
10 training. And this has been going on for a few
11 years. And, you know, it's really done by the
12 examining attorneys for the examining attorneys.
13 And management oversees it, of course, but they
14 focus on very specific areas of law, where recent
15 case decisions are discussed and, you know,
16 examination procedures, and it really is quite
17 helpful according to the examining attorneys, they
18 like it very much. On July 30th and August 6th,
19 we're going to have a workshop on configuration
20 marks. That's our next workshop.

21 I wanted to mention a little bit about
22 the progress on our ID manual. We're trying to

1 redesign our ID manual to better meet our user
2 needs. We have evaluated some feedback from
3 examining attorneys and we're trying to add more
4 useful notes to our individual entries for people
5 and that's an ongoing -- that has been ongoing.
6 We've been working on that this fiscal year.
7 We're also trying again with industry groups to
8 collaborate to improve the content of the ID
9 manual. We have a project ongoing with INTA and
10 with IPO where we're working with representatives
11 from those organizations to help us in specific
12 industries that are particularly challenging
13 because they change quite often and they evolve
14 with different terminology. So we're looking at
15 social media, finance, and computer terms right
16 now. And Jennifer Chicoski who heads up our ID
17 and Classification Section is working closely with
18 the representatives from these organizations.

19 We're also working on some IT
20 enhancements to our ID manual. And we're hoping
21 to see some of those later this summer, so you'll
22 hear more about that as they come up.

1 The next thing I'd like to talk about is
2 our electronic OG, our new electronic OG. And I'm
3 hoping that all of you subscribe to TM Alerts and
4 got notice of the beta version that is online and
5 that you can look at and comment on. If you don't
6 subscribe to TM Alerts, these subscription area on
7 our web site, on the front page of web site, will
8 allow you to do that.

9 So we have redesigned our Official
10 Gazette in a web based format. It's going to be
11 very different than the PDF version that you
12 currently use. And we've posted a beta version,
13 beta meaning it's just a test. Get online, take a
14 look at it. There's a way to answer a survey once
15 you're online. And let us know what your comments
16 are. We are going to have that version up until
17 probably the end of August, when we'll release
18 another version, a pre-production version. So
19 we're doing it in stages. We really want to make
20 sure it works for everyone. But it's much more
21 searchable, it's much more user friendly, it's
22 really flexible, I think you're going to love it.

1 We do plan on having both the PDF and
2 the new version up side by side for a while after
3 this is completed. So if you're a little late
4 getting out of the gate on this, don't worry,
5 things won't change overnight on you. But please
6 take this opportunity to give us your feedback and
7 comments if you have any.

8 Now switching to outreach. We have been
9 focusing for the past few years, as many of you
10 know, on enhancing and increasing our outreach to
11 stakeholders and the public. So we really have,
12 you know, a dual focus. And regarding
13 stakeholders, this spring, in April, we had what
14 we called ABA day here at the USPTO. It was April
15 24th. And we thought it went very well. I think
16 ABA thought it went very well also. We had a
17 series of speakers on a variety of topics that we
18 don't often speak about, things like letters of
19 protest, for example, and just different
20 examination topics that we thought people would be
21 interested in hearing and, in fact, they were.
22 We're planning another event for next year with

1 the ABA.

2 We are continuing on the INTA
3 roundtables. We take our show on the road on the
4 roundtables. And these are small groups, around
5 25 people, we go around the country and we try to
6 meet with experienced trademark practitioners to
7 have some very open and frank dialogue about what
8 their needs are, what our needs are, allow them to
9 share practice tips, allow us to tell them what's
10 going on. It's been a very fruitful and
11 successful endeavor so far and we do plan on
12 continuing it.

13 I think we're actually going to
14 Richmond, Glen Allen next. We're also going to
15 Minneapolis. We plan on having a second session
16 in New York in October, in the fall, and then I
17 think St. Louis is in November. And we'll be
18 planning more. So check your TM Alerts, check
19 your news and notices so that you can see where
20 we're coming.

21 And then I wanted to talk, again, about
22 our stakeholder outreach through TM5, which, as

1 you know, is our international collaboration with
2 Japan, China, Korea, and the European Union, and
3 we're trying, we obviously can't harmonize our
4 laws to any great extent, but we're trying to
5 collaborate on a number of different projects.
6 And one of the things we're doing for this fall or
7 winter, it has not yet been scheduled, is to have
8 a seminar on bad faith filing, and we're doing
9 that most likely in Tokyo or somewhere around
10 Tokyo. We've had several of those in China in the
11 past few years and we found them helpful. We want
12 to continue those efforts. And so that's in the
13 works. That's just one of the projects that has
14 been raised in the TM5 context and that we're
15 working on.

16 Let me just shift for a second to the
17 second prong of our outreach and that's our
18 educational outreach to the public. And we're
19 continuing to try to explore ways to reach the
20 public, people who wouldn't ordinarily have access
21 to trademark information because they don't even
22 know that they need it. They can have access if

1 they look at our web site, but they don't really
2 know that they need it.

3 So our goal is to reach those people in
4 other contexts. So, for example, business schools
5 and small business organizations, entrepreneur
6 groups, et cetera. And, you know, we've had this
7 program since February. Craig Morris has been
8 leading it and going out and speaking to quite a
9 number of different groups and it's been quite
10 successful. The feedback has been terrific. And
11 Craig tell us -- Craig, I'll repeat this for you,
12 when he asks in the room if anybody has a business
13 plan, everybody raises their hand, and then when
14 he asks if anybody has incorporated a trademark
15 component, nobody raises their hand. So that
16 tells you the need for the awareness in these
17 groups and so we've been doing that.

18 We also do talk about the need to get
19 trademark counsel and what that involves. And so
20 we're trying to give them a very broad brush
21 approach to it, no legal advice, of course, but
22 just telling them what they probably will need to

1 do.

2 Craig has also been going to -- one of
3 the places that he's been focusing on is this
4 SCORE organization which is funded and supported
5 by the U.S. Small Business Administration. And
6 it's around the country. There are many different
7 chapters. And what's great about that is, Craig
8 gets to talk with the people who actually train
9 other people. So, you know, it has a multiplying
10 effect. He's not just talking to small business
11 owners, he's talking to people who talk to many
12 small business owners. So I know that he has that
13 in the works for this week. I think actually
14 tomorrow in Charlottesville is the next chapter of
15 SCORE, just to give you an example of some of the
16 things we're doing. So if you know of any
17 organizations that you think would benefit by
18 this, please let us know and we will try to
19 arrange something.

20 I think that I have completed my list,
21 Maury. So I don't know if I've stayed within my
22 time. I think maybe I have not.

1 CHAIRMAN TEPPER: We're real close if
2 not.

3 MS. COHN: Okay. So thank you very
4 much.

5 CHAIRMAN TEPPER: Thank you, Debbie. A
6 lot is going on. Do we have questions for the
7 Commissioner? Any questions from the Committee?
8 Well, I want to sort of underline a couple things.
9 I know we're past time and I'll be as quick as I
10 can. I think it is encouraging to see we are up
11 to 79 percent who are doing business
12 electronically end to end with the office.

13 If you are among the 21 percent, please
14 tell the PTO why. I think obviously there have
15 been roundtables and talks and there are
16 opportunities, but I do know that the office will
17 be very interested in understanding any concerns,
18 issues, or reasons that you have for needing to
19 use paper or for, you know, sort of removing your
20 applications from the electronic system. It is
21 very efficient. But I would encourage you, if you
22 have information to share or you have viewpoints,

1 please step up and give some input.

2 I think we've seen a number of areas
3 where the office has adapted their processes, has
4 made some changes to try to address concerns that
5 customers and users have. But if you don't share
6 that, I don't think they can do anything for you
7 about that. So I would encourage you to look into
8 that. And if you're in the 21 percent, I hope
9 you'll be one of the 3 percent one day, or perhaps
10 even smaller. But I think that the office does
11 really value your feedback. And I've seen
12 obviously responsiveness when that information
13 comes in.

14 Speaking of feedback, I want to remind
15 everyone, you heard about the new exam guide that
16 is out on Idea Scale. You have the chance to
17 comment on that. If you'd like to make a
18 difference, if you want your views to be heard,
19 put your comments in there. You know, once again,
20 it's a great opportunity. I encourage you to take
21 them up on that, as well as the beta version of
22 the electronic Official Gazette. If you stick

1 around after the break, I'll give a little teaser
2 here. You're going to get to see a little
3 something about that. We'll take an advanced peek
4 today. But please do take the time to take a
5 look, share your comments and views, understanding
6 that it is a beta version. Nothing is final. You
7 have the chance to provide feedback and input to
8 make sure that things work the way you would like
9 them to. So I do want to encourage everybody out
10 there to take the office up on its good offer and
11 to provide your feedback and make your views
12 heard.

13 One last thing I want to do since I have
14 the microphone and that is to offer an amendment
15 to my earlier introductions and an apology. When
16 I went around the room and introduced our TPAC
17 members, I was sort of looking for people at the
18 PTO and people that aren't, and when I saw faces
19 that aren't, I was introducing our members. I
20 overlooked two members by doing that and two very
21 important members of our Committee.

22 I do want to remind everyone, we have

1 two non- voting members. They are our Union
2 representatives. And I apologize to both of you
3 gentlemen for not catching you in the
4 introductions. I need to make a better list in
5 the future. Just the fact that you're here at the
6 PTO, I need to remind myself not to go that
7 simplistically. Howard Friedman is here stage
8 right or to my left, and Randy Myers. They have
9 the distinction of giving us lots of good
10 perspective and input. I will tell those of you
11 in the units, they're not shy about speaking up
12 and making your views known to us. And they also,
13 although they're non-voting members, have the
14 distinction of being I think the most experienced
15 and long serving members of this Committee. I
16 believe that both have been coming to these
17 meetings since TPAC in its current form was
18 instituted in 1999. None of the rest of us can
19 say that. And thank you, gentlemen, for that, and
20 my apologies for missing you in my earlier
21 introductions.

22 Without questions, we're going to move

1 on. You know, when you've got a batting line-up,
2 the most difficult spot to occupy, you want to
3 make sure you've got some good talent in here, the
4 last speaker before our break. So, you know, we
5 go strong. We want to talk a little bit about
6 policy international updates. Sharon Marsh is
7 here with us today. And, Sharon, thank you for
8 stepping in on the touch spot, we appreciate it.

9 MS. MARSH: Thank you, Maury. At least
10 it's a short spot, just a couple minutes. Good
11 morning, everybody. I wanted to start just with
12 the Madrid comment. July 8th, which was
13 yesterday, I believe, India became a full
14 participating member of Madrid. And I'm very
15 happy to report that the USPTO's TEAS Madrid
16 international application form now allows
17 international applicants to select India as one of
18 the countries they want to designate. In
19 addition, Rwanda will become a participating
20 member in the middle of August, August 17th.

21 I also wanted to mention the Madrid
22 Goods and Services Data Base. This is a very

1 large project that WIPO has undertaken to create a
2 data base of ID's that are correctly classified by
3 the WIPO staff. And what their plan is, is to
4 have individual countries then go into the data
5 base and indicate which ID's are acceptable in
6 terms of the language, the specificity, et cetera,
7 to that national office.

8 And so the USPTO is participating in
9 this and it's obviously a very large data base and
10 we're going through it very slowly and indicating
11 which ID's the USPTO will accept. It's a good
12 project. I think they're translating it into 10
13 languages. And some day I think it will be a very
14 valuable resource for people with Madrid
15 applications, trying to complete the application
16 form. Moving to policy here at the PTO, our TMEP
17 and policy staff are working on a number of really
18 good exam guides in addition to the one that's
19 gone up for comment that Debbie mentioned on
20 geographical certification marks. We are
21 currently working on exam guides or TMEP
22 enhancements for a number of areas including

1 repeating pattern marks. These are marks that
2 appear across the entire surface or a large
3 portion of a product, for example, a repeating
4 pattern on a handbag.

5 We're also working on a TMEP enhancement
6 on marks that include government agency names and
7 other names that are federally protected by
8 federal statute. Also an exam guide on character
9 names, Cinderella, Pinocchio, et cetera. You
10 know, there are some unusual examination issues
11 around these kinds of marks. And we've had a
12 number of lively discussions about these topics.

13 And lastly, we're also doing a part two
14 web specimen guide. In December we issued the one
15 on web specimens for goods. This one will be web
16 specimens for services. So as Debbie and Maury
17 have indicated, Idea Scale is a terrific place to
18 give us some feedback on this. We try to send out
19 a trademark alert when we post these. Also, if
20 you go to the Trademark News and Notices page, we
21 put out a notice there when a new one goes up for
22 comment. We have a couple of rulemaking packages

1 that you should see in the next few months.
2 Again, you'll hear more about those as they become
3 available for public comment. They'll go through
4 the regular federal rulemaking process.

5 And then turning to our ID class office,
6 I just wanted to make one additional comment
7 beyond what Debbie had reported. One of the
8 enhancements to the ID manual that is under
9 development is a way to address the problem that
10 we have created by our ID Suggest Program. This
11 is our very valuable project where users can
12 suggest an ID for us to add to the manual and
13 that's been very successful and we're going to
14 continue it.

15 But it has resulted in a lot of noise or
16 useless ID's in the manual that sometimes make it
17 hard for users to, you know, figure out, well,
18 what is the minimum level of specificity required
19 by the PTO. And so this new enhancement is a
20 filter that will allow users to exclude those ID
21 Suggest or example, we're calling them, example
22 entries in the ID manual.

1 It actually is on the current system
2 now. You'll see a new status called X, and you
3 can, using bullion logic, you can, you know,
4 exclude the X entries from your searches. We have
5 only started the process of identifying all of the
6 entries that are in this status that are just
7 examples that you don't really need to see and we
8 have thousands of them. So it's not fully
9 operational yet, but if you want to look at the ID
10 manual, you can at least see how it works. I
11 think that's all we need to cover this morning.

12 CHAIRMAN TEPPER: Okay. Thank you,
13 Sharon. Before we turn to questions, I think
14 we've mentioned Trademark Alert a couple of times.
15 It might be good to let people know how to
16 subscribe or where they can receive Trademark
17 Alert if they are not currently doing so. And I
18 wish I knew the address. Can you help me with
19 that, Sharon?

20 MS. MARSH: Well, it's not the address.
21 If you go to the USPTO web page, in the bottom
22 right corner of that page, there is a box that

1 says subscriptions. Is that correct, Craig?
2 Yeah, subscriptions. And you'll find it there.
3 If you go through that process, you'll see TM
4 Alerts, and there's a way to sign up.

5 CHAIRMAN TEPPER: Okay. Thank you very
6 much. I know you all depend on TPAC meetings for
7 getting the latest and greatest news. But since
8 we only meet a few times a year, things might
9 happen in between. So if you're not currently
10 receiving Trademark Alerts and would like to take
11 a look at the subscription box at the bottom of
12 the page, make sure that you're able to receive
13 that. Do we have questions for Sharon today?
14 Well, thank you. It looks like you were clear and
15 complete. Thank you very much.

16 With that, we're going to come to I
17 think many people's favorite part of the meeting
18 and that is a 10 minute break. We're just a
19 couple minutes ahead. I'd like to keep us that
20 way. We can do our best to meet back here at
21 10:30, we will resume. And again, we're going to
22 have a little live demo I think that you'll want

1 to take part in and get the chance to see. So
2 we'll look forward to starting back up within 10
3 minutes.

4 Those of you who are viewing online, we
5 will be coming back. And if you do have questions
6 or comments, don't forget to email those into us.
7 We'd like to make sure that we're responding to
8 any issues that you want us to talk about, as
9 well. Thank you.

10 (Recess)

11 CHAIRMAN TEPPER: And as suspected,
12 break is everyone's favorite part of the meeting.
13 And it is nice to see everyone get the chance to
14 catch up. We've got just a good bit more to cover
15 here in our scheduled time. So I'm going to do my
16 best to keep us on time and moving forward. Very
17 pleased to move on now to an update from the
18 Trademark Trial and Appeal Board. I think you're
19 going to be impressed with what you see, I know I
20 am, not to give away too much in advance. But I
21 want to thank Chief Judge Gerry Rogers for being
22 here this morning. And, Gerry, you can give us a

1 look at how things are going.

2 MR. ROGERS: Great. I'm happy to do
3 that, Maury. And I think I'll do my best to
4 follow the agenda so those who are expecting me to
5 do so will know where I'm going. Following up on
6 your baseball analogy, I'd like to point out that
7 the first item on the agenda is the update on
8 staffing and integration. And, of course, anybody
9 knows that with a sports team, when you introduce
10 new free agents into the mix, you have to wonder
11 about how the chemistry is going to work out.

12 But I can tell you that we've had great
13 success during the current campaign. When we
14 introduced three new attorneys and four new judges
15 in the fall, and we've had great increases in
16 production and great chemistry that's resulted.
17 So there's been no adverse effects from bringing
18 in this free agent talent onto the team.

19 CHAIRMAN TEPPER: It's the mark of a
20 great manager, right?

21 MR. ROGERS: Trying to keep all those
22 personalities meshing, yes. So our staffing

1 levels I think with the attorneys and the judges
2 seems about right now as we go through the
3 statistics. I think you'll see that we're
4 bringing down inventories. And I think the hiring
5 was needed and was warranted by the increases that
6 we were seeing in the previous fiscal year. But
7 the staffing is probably going to be just about
8 right for fiscal '14. So we don't have any
9 present plans for hiring additional new judges or
10 new attorneys, but we'll certainly monitor filing
11 levels and see how things go.

12 The one area where we may be increasing
13 some staff is hiring some new paralegals. We have
14 a vacancy announcement out now for new paralegals
15 and that's because we deployed a new quality
16 review unit during the last fiscal year and some
17 of our existing paralegals were hired to staff
18 that unit and so we may need to hire some
19 paralegals to replace them. And we're kind of
20 keeping an eye on the work flow for the consented
21 and the uncontested matters that the paralegals
22 handle. And the amount of that work is something

1 that we'll cover when we go through the
2 performance statistics and the new one- page
3 document that we provided to you in the handout.

4 Other than that, I think that should
5 cover staffing and integration of new hires.

6 Although I do have to also say that Debbie Decker
7 became our administrative officer last year and
8 Ken Solomon over the last year as the managing
9 interlocutory attorney, have both come in with no
10 experience at the TTAB, and they've really
11 integrated themselves tremendously at the board.

12 They've come to understand our work and
13 they've come to understand our staff and our
14 people very well. And I don't think any of the
15 success would have been achieved without the
16 administrative efforts of Debbie and the rapport
17 that Ken has developed with the interlocutory
18 attorneys. So I want to thank them, too, for
19 their hard work.

20 The TTAB Dashboard is next on the agenda
21 and that's been rolled out since the last meeting.
22 So I hope people have had an opportunity to go and

1 look at the TTAB Dashboard.

2 We have an email address for
3 suggestions. We have not yet received any useful
4 suggestions. I've received a lot of suggestions
5 that I could, you know, be involved in, various
6 money raising schemes or purchase various
7 products, you know, things like that, but I've
8 tended to delete those out as not really relevant
9 to the development of the Dashboards.

10 So we do solicit and we do welcome,
11 though, any comments that people have about the
12 Dashboards and any suggestions for additional
13 information that would be useful to display in the
14 Dashboard.

15 Performance statistics, it's not going
16 to go up on the screen because it's not quite in
17 the fine shape that Commissioner Cohn's detailed
18 slides are in. But we have a new one-pager which
19 is in the handout. And if those of you who have
20 the handout, the materials, want to take a look at
21 that, we'll quickly run through that. And I will
22 also kind of toggle back and forth and point out

1 some other things on the slides that we have up.

2 But the new one-pager shows, in the
3 first row, our staffing level, which we've already
4 discussed. The second row covers filings, and
5 that's coincidentally what you also see on this
6 slide. So you will see that for this year. Our
7 projections are that our notices of appeal are
8 going to be higher than last fiscal year. Our
9 extensions of time to oppose will be higher than
10 last fiscal year. Our oppositions will be higher
11 than last fiscal year. And the cancellations will
12 be just about the same as last year.

13 So you can see that the workload, while
14 not dramatically increasing, is clearly going up,
15 and so that's why we will be keeping an eye on
16 staffing levels and filing levels and keep
17 everything in sync.

18 The next row on the new one-page handout
19 covers total pendency, and that is a measure of
20 average total pendency from commencement to
21 completion of various categories of cases,
22 appeals, ex-party appeals, trial cases, meaning

1 oppositions and cancellations together, and ACR
2 trial cases.

3 And there you can see on the handout
4 that appeal processing from end to end is down
5 from last year's 76.8 weeks. And let me pull that
6 up on the slide, too, because some of this
7 information is also on the slide. And there's
8 also a great number on the slide which I want
9 everyone to pay attention to.

10 But end to end processing is 50.9 weeks
11 for appeals, down from 76.8 weeks in fiscal 2012.
12 So we've dramatically reduced end to end
13 processing time on appeals. Trial cases down from
14 203 weeks to 187 weeks. ACR cases down from 140
15 to under 100 weeks. So all of those end to end
16 processing times have come down. Part of that is,
17 of course, because as we've gotten the judges to
18 work on more current inventory as we worked off
19 the backlogs, that portion of end to end
20 processing time attributable to the writing of the
21 final decision has come down. But I think we've
22 also just kind of had cases speed up a little bit

1 better.

2 And some of the efficiencies that people
3 adopt in position and cancellation cases, in ACR
4 cases, or in non-ACR cases, but the same kinds of
5 activities, the same kinds of efficiencies are
6 adopted in many trial cases, so it has sped things
7 up some.

8 The next row on the one-pager in the
9 handout focuses on pendency to final decisions,
10 and that's also what we have on this slide up
11 here. And, of course, the two significant
12 takeaways from this slide are that, for the
13 quarter just recently completed, we actually have
14 brought down pendency to final decision to within
15 goal. Our goal is 12 to 14 weeks. And so for
16 quarter three, it was within that range.

17 Now, on the one-page handout, we have a
18 different figure. This slide is showing each
19 quarter broken down and handled individually. So
20 you can compare quarter to quarter and you can see
21 progress that's being made. On the one-pager,
22 we've given you the total for all of last fiscal

1 year and the total for all of this year to date.

2 So it's through three quarters rather than just
3 the third quarter.

4 So on the one-pager, you'll see that
5 pendency to final decision is at 20 weeks compared
6 to 24 weeks last year. So obviously we're still
7 making progress there. But because the first two
8 quarters of the year were somewhat higher, the
9 overall figure for year to date remains high. But
10 clearly, by the end of the year we expect the
11 fourth quarter to also be within goal, within the
12 12 to 14 week range so that the end of year figure
13 at the end of the year for final decision pendency
14 should be a good deal below 20 weeks and closer to
15 that 12 to 14 week goal. Pendency on contested
16 motions, this is where I'm going to give you a
17 little bit more detail than we have in the
18 one-page handout or on the slides. And let me
19 pull up -- let's see, okay. One of those slides
20 was mistitled and I apologize for that. But this
21 is the contested motion information. So take in
22 this slide along with the information we have on

1 the one-pager, we have made progress on contested
2 motions, getting contested motions resolved. And
3 you won't see that in the pendency figure. If you
4 look at the slide, you'll see that the pendency is
5 going up. But the reason that's happening is
6 because we're focused very intently on working off
7 the older contested motions.

8 And I think I mentioned I think last
9 time we were just in the process of negotiating
10 with NTE U245 a pilot performance plan for the
11 interlocutory attorneys that is in place now and
12 is something they're working under during the
13 second half of the fiscal year, and they've
14 responded very well under that plan. They're
15 doing a great job targeting those older cases.
16 And I really have to commend their contributions
17 to this effort of clearing out the older cases.

18 The inventory has changed. The makeup
19 of the inventory as of January 1 of '13, it was
20 216 contested motions waiting to be decided.
21 Three dozen of them were six months or older, had
22 been pending for six months or more. And another

1 20 had been pending for 20 weeks or more.

2 As of July 1, we're down to 1 case
3 that's older than 6 months, down from 3 dozen to
4 1, and down from 20 cases over 20 weeks to only 5.
5 And the prediction projection from managing
6 attorney Solomon is that by the 15th of this
7 month, we will have none over 6 months old and we
8 will have perhaps a half a dozen or so at the 16
9 week margin. So again, the pendency figure has
10 stayed high because of our focus on working off
11 these older contested motions.

12 But I expect that we will see with the
13 contested motions the same results that we have
14 seen with the judges, where once you work off the
15 older matter and you're working on relatively
16 current matter, as we saw in the earlier slide,
17 the judges were within goal for work that they
18 were processing in this quarter because they were
19 working on relatively current matter. And once we
20 get to that point with the contested motions, the
21 pendency figure, we hope uncontested motions will
22 also come down pretty quickly.

1 So in terms of the inventory at the end
2 of the third quarter, we had 200 or so contested
3 motions waiting to be decided, which is about
4 where we started the fiscal year. So you might be
5 wondering, well, how are we doing on the
6 inventory? But our target, our projection is to
7 be down to about 170 by the end of the fiscal
8 year, which would only be about 20 more than we
9 ended each of fiscal '10 and fiscal '11 with. So
10 that would be right back in the ballpark where we
11 need to be. And it would be down about 36
12 percent, if my math is correct, from the high of
13 267 motions that we had hit during this year. So
14 it's going to be quite a significant reduction in
15 overall inventory of contested motions by the end
16 of the fiscal year.

17 On the one-pager, we also are giving you
18 the oldest pending contested motion. We're giving
19 you production figures, the number of cases that
20 have been decided during the year, the number of
21 presidential decisions issued during the year, the
22 number of contested motions decided, and the

1 number of uncontested or consented motions that
2 have been processed, many by the electronic filing
3 system, but many by our staff of paralegals.

4 We also give you inventory figures so
5 you can see where the breakdown is in terms of the
6 number of appeals, oppositions, and cancellations
7 that are pending, waiting to be decided, the
8 inventory, again, of contested motions waiting to
9 be decided. And we provide you with information
10 on our customer service representatives and how
11 quickly they're responding to inquiries from the
12 public. And they're doing a great job in that
13 respect, too.

14 So that's the new one-pager. The slides
15 that are also in the handout are also up on our
16 web page. They're pretty much the traditional
17 slides that we've had up on the web page for the
18 last year and a half or so. And we will hopefully
19 develop before the next meeting a way to take this
20 information on this new one-pager and develop it.
21 It's too much information for one slide, but we
22 can develop a series of slides as Commissioner

1 Cohn went through earlier today and hopefully have
2 it presented in a more visually appealing manner,
3 and we'll follow her lead and have those ready for
4 you at the next meeting. Any questions on -- I'm
5 sorry if I'm taking over your role, Maury.

6 CHAIRMAN TEPPER: That's quite okay.
7 Thanks.

8 MR. ROGERS: Any questions on the
9 performance measures?

10 CHAIRMAN TEPPER: Comments? Questions?
11 I think we have one.

12 MS. PARK: It's not a question, it's a
13 comment. And I wanted to commend you, Judge
14 Rogers, Chief Judge Rogers, for the work here,
15 because TPAC, in the past several of our annual
16 reports and in many of our public meetings, has
17 asked for information in this form, and it's been
18 good to see that pendency is coming down, staffing
19 levels seem to be better, and that you're setting
20 targets and reporting them and then measuring your
21 performance against those targets, which I think
22 is something we've asked for. I also wanted to

1 thank Commissioner Cohn for having been so
2 gracious as to allow one of her most valuable
3 people, Meryl Hershkowitz, to work with you,
4 because I think it's been a great partnership and
5 I think she's been a real asset to the TTAB,
6 bringing sort of her perspective from many years
7 in the office, and I think she's been a wonderful
8 partner with you, and I wanted to make sure that I
9 mentioned what I see is her contribution. So
10 thanks to you, Debbie, for making that happen, and
11 thanks to you, is she here, Meryl, there she is,
12 okay, great.

13 CHAIRMAN TEPPER: Thank you. And I
14 could not agree more. Meryl, we deeply appreciate
15 it. Gerry, you guys -- I don't have a baseball
16 analogy for this, but this is tremendous teamwork.
17 It's not a trade, we're all working on the same
18 team here, but I think we've really got a
19 talented, stable lining up and addressing this,
20 and we appreciate that. It's made a huge
21 difference. It's really, really nice to sit here
22 and see this type of information. Visual content,

1 Gerry, you can work until you're satisfied on
2 that. I want to comment that the substance is
3 tremendous, and the numbers are great. And,
4 folks, this is a lot of people coming together to
5 work. But I want to make sure, too, we recognize
6 our interlocutory attorneys, our judges who have
7 clearly been busy. We've known for a while
8 there's been a big inventory and a lot to do.
9 It's just really gratifying to see you all making
10 progress on that, to see sort of things trending
11 back into the right direction and to understand
12 and be able to compare to your targets.

13 We're really grateful for the
14 information, and also that the news is so good
15 this time. So are there other questions, comments
16 at this point? I know we want to let you finish
17 up. All right. Gerry, we'll let you continue on
18 then. Thank you.

19 MR. ROGERS: And I thank Kathryn and
20 you, Maury, for recognizing Meryl. And I want to
21 say I worked with Meryl many years ago when she
22 was an examining attorney and had come to the

1 board on a career development detail. And we had
2 a great rapport I think when she was there then.
3 And I'm sorry that we weren't able to steal her
4 away at that time and get her to stay with us for
5 good, but it's nice to have her back even on a
6 temporary basis to help us work through some of
7 our issues.

8 CHAIRMAN TEPPER: Thank you. Now, are
9 you sure you want that in the transcript? I'll
10 give you one chance to -- thank you.

11 MR. ROGERS: Well, I'm not sure that she
12 wants to join us on a permanent basis, but we're
13 happy to have her as long as we can.

14 MS. COHN: It won't be permanent, Gerry.

15 MR. ROGERS: I thought not. I thought
16 that the Commissioner had an eye for talent and is
17 not going to let a great free agent go away.
18 Okay. Outreach -- oh actually, it says ADR
19 initiatives next, and I think this is probably ACR
20 that we should talk about. So what we have done
21 since the last meeting was have the transcript for
22 the roundtable on ACR, which was held late last

1 year, delayed because of Hurricane Sandy, but then
2 eventually held. And that transcript is up and on
3 the web site.

4 And we hope that that will create
5 opportunities for many other practitioners to take
6 a look at what was discussed during the roundtable
7 and what is reported in the transcript and to
8 provide additional suggestions for efficiencies in
9 trial cases. And we posted an email address,
10 ACRsuggestions@uspto.gov. And so to the extent
11 anybody wants to offer additional comments on the
12 contents of the roundtable discussion or
13 suggestions, we're certainly willing to take all
14 comments and suggestions.

15 I think it also bears saying that we've
16 had a number of questions raised over time about,
17 well, when are we doing to do something with all
18 of the lessons that are learned and the best
19 practices that we discussed during the roundtable
20 on ACR?

21 And I think we're getting to the point
22 where we've got enough experience with enough ACR

1 cases over the last few years that we're going to
2 have to begin transitioning into, at least within
3 the board, discussing and thinking about what
4 kinds of efficiencies we see being deployed and
5 being used in many trial cases and which of them
6 we should try to incorporate into our standard
7 practices.

8 So I'm not able to at this point predict
9 when we might engage in any particular kind of
10 rulemaking. But I do think that it's the next
11 logical step for us to look at the transcripts
12 from each of the last two roundtables and to look
13 at our best practices and to take all suggestions
14 and to look at our own experience and to figure
15 out where we can expedite the processing of trial
16 cases and continue to focus on bringing down that
17 end to end processing time in trial cases.

18 So I'd say it's at this point kind of a
19 stay tuned, but don't be surprised if the board is
20 engaging stakeholders in additional consideration
21 of how we can change our rules and change our
22 practice to enhance efficiencies in trial cases.

1 And to a certain extent, while we are on
2 these initiatives that have been designed to try
3 and figure out how to be more efficient in our
4 proceedings, I also want to thank Commissioner
5 Cohn for allowing various examining attorneys to
6 come over and work with us during the past year on
7 a special work project.

8 And we also have had a number of law
9 student externs in this summer. And between the
10 examining attorneys on work projects and the
11 externs that we've had this summer, we have them
12 all working with judges on larger record cases
13 that tend to take much longer to process.

14 We're having a variety of different
15 experiences, which is what we expected. We want
16 to see how different judges work with different
17 externs or examining attorneys. And we will later
18 this year sit down and review that experience and
19 figure out what the best approaches are for
20 utilizing additional help for judges in the long
21 run handling large record cases. And so it's been
22 a very positive experience. I think we're going

1 to have to sit down with all of the judges and the
2 examining attorneys who have participated and
3 collect their comments, collect their thoughts,
4 and then figure out what we want to do moving
5 forward.

6 But I think it's been such a positive
7 experience for all involved that we don't want to
8 return to the days when the judges have to work
9 through paper dockets and clean up docket history
10 entries and do all of that very time consuming
11 work on their own. And we need to have more
12 efficient ways of having stakeholders create
13 records and file them with the office.

14 But then we also need to have more
15 permanent staffing, well, not in terms of hiring
16 new staff, but maybe it's summer interns, maybe
17 it's work projects, we'll see what it would be in
18 the future. But something will hopefully be
19 worked out that will allow us to continue with
20 these efficiencies that we've realized in handling
21 the trial cases with large records.

22 Outreach and public meetings is the next

1 subject on the agenda. We have rolled out the
2 current revision of the TBMP that came out in
3 June. We will also be rolling out by the end of
4 this month or early in August Chapter 1200 of that
5 newly revised TBMP and that will be put up in Idea
6 Scale and available for comment. We've obviously
7 talked about Idea Scale earlier today. And so
8 that will be an opportunity for anyone who would
9 like to comment on Chapter 1200, which covers
10 ex-parte appeals, and so we'll have that up we
11 hope very soon.

12 We've also been fortunate enough to
13 participate in various programs where we've had
14 hearings. And we've put on hearings of inter
15 partes cases at least twice here on campus since
16 the last meeting. The Office of Enrollment and
17 Discipline had their clinical program. And we had
18 a hearing there and made various presentations
19 about board practice during that program for the
20 law school clinical students.

21 And we also had a hearing and made
22 various presentations as part of the ABA program

1 that Commissioner Cohn mentioned earlier today.
2 So we continue to look for those opportunities to
3 provide instruction and education about board
4 practice and best practices whenever we have that
5 opportunity. The last item on your agenda for me
6 is proposals to address backlog and additional
7 resources. I think we pretty much covered that.
8 And I think we're kind of at this point where we
9 need to be. We need to stay the course and
10 continue to work on managing the inventory and
11 pendency. And I expect that we'll have good
12 results that we'll be able to report to you at the
13 end of this fiscal year and throughout next fiscal
14 year.

15 But obviously we've learned a lot of
16 lessons in seeing backlogs develop over the last
17 couple of years and figuring out how to attack
18 them. And so we will be very vigilant about
19 keeping an eye on them as we move forward.

20 CHAIRMAN TEPPER: Thank you very much,
21 Gerry. Any questions, comments at this point for
22 Chief Judge Rogers? I know I see one right here

1 now.

2 MS. PARK: I can't help myself. Again,
3 I wanted just to call out one other person,
4 because you've mentioned all the great people
5 you've added to your staff with Ken and Debbie and
6 the help of Meryl and all the great work done by
7 everybody, but I wanted to say Cheryl Butler has
8 been such a wonderful asset, because I can
9 remember not so long ago when we were concerned
10 about the frequency with which the TBMP was being
11 updated and it's nice to be able to take it for
12 granted that we have a process in place and a
13 person sort of spearheading having these regular
14 updates. I think that's fabulous and I know the
15 Bar does, too. So I just wanted to give her a
16 little credit there.

17 CHAIRMAN TEPPER: Thank you very much,
18 Kathryn. Other questions, comments? Please,
19 Gerry.

20 MR. ROGERS: If I may add, too, she's
21 also been I think a great help to Ken because, as
22 one of our more senior interlocutory attorneys,

1 she's also been very directly involved in working
2 with Ken and I on precedential decisions that
3 involve procedural issues. So her influence goes
4 beyond just the manual of procedure.

5 CHAIRMAN TEPPER: Great. Do we have
6 questions from the public at this time? All
7 right. I do want to remind folks of a couple of
8 things. First, although Dana has already talked
9 to us about, you know, their initiatives on cyber
10 security, I'm not sure how I feel about the fact
11 that I know that government email boxes are no
12 more immune to spam than ours are. But do
13 remember, you've got the chance to provide your
14 input. Gerry has given you a couple of email
15 address boxes for you to comment, make your
16 comments to the Dashboard. I'm glad we have that
17 up. If you're not checking our Dashboards, if you
18 want up-to-date performance information, both from
19 trademarks and TTAB in a very, you know, easy to
20 understand visual format, you need to take a look
21 at our Dashboards. And we welcome your input and
22 your comments on how that can be improved, any

1 information that you feel would be more helpful to
2 have in there.

3 Also, the Idea Scale, you heard that
4 earlier today, as well. But Chapter 1200, that's
5 a big one, and you've got the chance to
6 participate, to get your comments in, so I
7 encourage you to take a look at and participate in
8 that. That being said, do we have any final
9 thoughts, comments? Well, Gerry, thank you. I
10 hope you were looking forward to today as much as
11 I was. It's really great to have such positive
12 news. We applaud the hard work that everyone has
13 been doing at the TTAB and we're really pleased to
14 see this information, so we compliment all of you.
15 Thank you.

16 That being said, we're going to move on
17 to our -- we've got a little bit of a different
18 format coming up now. We're going to finish out
19 with an update from our OCIO. And I see Raj. All
20 right. Raj Dolas is with us today. He is our
21 Trademarks Next Generation Portfolio Manager. And
22 we are joined, as well, by Chris Doninger. We've

1 certainly seen Chris at lots of these meetings. I
2 don't know if I want to call you a veteran, Chris,
3 if that's -- but in the good sense, Chris has a
4 long history with the office. He's a great
5 attorney. And he has the distinction of
6 understanding technology a lot better than dumb
7 guys like me can. So he's really been, you know,
8 sort of leading user group efforts here, helping
9 to shape and test out our systems, and Chris is
10 going to be helping us out with a demonstration
11 here in just a little bit. So Raj, I'll turn it
12 over to you and I'll let you make introductions.

13 MR. DOLAS: Thank you. Good morning,
14 everyone. Unfortunately John cannot make it here
15 today. And Marcie is not here either today. But
16 in place of Marcie, we have Jyotsna Jame who is
17 the branch chief in Trademark Systems Division.
18 And also I have David Chiles who is a director in
19 the Application and Enterprise Systems Division,
20 AED as we call it. We like to use the acronyms
21 mostly.

22 I will speak to the Trademark Next

1 Generation update, and then I will hand it over to
2 Jyotsna. And then Chris Doninger will do the demo
3 for eOG for us. I used this slide last time.
4 Trademark Next Generation portfolio has several
5 programs in it, Infrastructure improvements, TMNG
6 user interface, Web and Business services, Data
7 Services, Cloud computing, and Separation and
8 Virtualization. Each program has one or more
9 projects in it. And I'll talk about some of the
10 projects as we go through the various slides in
11 the presentation. I don't intend to spend a whole
12 lot of time because I want to save some time for
13 Chris because I think that's the most exciting
14 part of our presentation today.

15 Authentication and Authorization is one
16 of our projects that was completed in December of
17 2012 and the product was installed in production.
18 What we want to do with this product is provide
19 all our internal users with a mechanism for a
20 single sign-on and have a role base access so that
21 one system can behave slightly differently based
22 on user roles.

1 We did TQRS, which is Trademark Quality
2 Review System, integration of that system in
3 February, and we'll start integration of two other
4 systems very soon. It's in the planning phase
5 right now.

6 The user interface is developed using
7 what we call user center design methodology,
8 whereby the users, you know, work regularly with
9 our UCD team and let us know how the system should
10 look like and how it should behave. This is going
11 on very well. The meetings happen twice a week
12 for two hours. And the input from users allow us
13 to design the system based on their needs.
14 Currently we're working on docket management, case
15 file management, notification and deficiency
16 identification capabilities. Now, deficiency
17 identification really is associated with how we
18 write office actions. It's a term that comes from
19 business architecture. So deficiency
20 identification is how you would write an office
21 action, how the office action gets sent to the
22 applicant or the attorney.

1 We also did usability tests for the user
2 interface that has been developed so far. What it
3 allows us to do is to ensure that the user
4 interface is being developed appropriately and the
5 user experience is what our users want the system
6 to do.

7 CHAIRMAN TEPPER: Raj, I hate to
8 interrupt the flow. I do want just to make sure,
9 since we're sort of -- our CIO apparently is not
10 able to join us today and we're sort of starting
11 in on a Next Generation update. Let me make sure
12 everyone has got some context here.

13 Of course, Trademarks Next Generation,
14 this is one of the significant projects within our
15 CIO shop. And we've been hearing, of course, but
16 do understand, Raj right now is addressing sort of
17 this piece of the project dealing with building
18 the new architecture for our IT systems. And
19 you're sort of looking at a list. But I do want
20 to also sort of call out and keep in mind, as has
21 been the case with a lot of our Next Generation
22 discussions, the analogy that I'll use since I

1 need something simple. On my commute into my
2 office they're putting up a new office building.
3 And, you know, for about forever, it seems like
4 there's just a hole in the ground there and
5 nothing seems to happen, right, and you wonder,
6 what are they spending all this time digging a
7 hole for? They're laying the foundation, they're
8 putting -- this takes forever.

9 And you wake up one morning and, you
10 know, boom, there's the architecture and it seems
11 like the structure is there. We've been having
12 these updates for a while. But I want you all to
13 understand tuning in that the user interfaces that
14 you're hearing about right now, these are internal
15 right now. There are sort of two sides to the
16 system. And the projects we're looking at right
17 now are really important systems, but systems that
18 are used here within the trademark operations and
19 within the USPTO.

20 So when you hear things like a new user
21 interface, I do want sort of our outside users to
22 understand, if nothing looks different to you, it

1 won't for a while, and that these projects and
2 interfaces deal with sort of internal customers at
3 the USPTO. And, I'm sorry for the interruption,
4 Raj. I just did want to make sure we sort of got
5 people up to date with sort of where you're taking
6 them on that.

7 MR. DOLAS: No problem. Actually, thank
8 you for doing that because we get caught up in
9 what we do every day, but laying the groundwork is
10 really helpful. Thanks for that.

11 So going back to the slide, Web and
12 Business Services is a project that allows us to
13 do work flow definition and building of the work
14 flow so that the actions that examining attorneys
15 or all trademark employees will take has a work
16 flow associated with it.

17 So currently we're working on office
18 action work flow, integrating with existing Form
19 Paragraph system. We also have a project, or
20 program really, Web and Business Services 2
21 program. The intent of that program, which has
22 several projects underneath that, is to build out

1 an entire infrastructure for several environments
2 that we will have as part of Trademark Next
3 Generation.

4 We have two development environments,
5 two testing environments, a production
6 environment, and a disaster recovery environment.
7 So we're building out six environments and it's an
8 immense amount of work that needs to get done.
9 Networking is a big piece of that. We're
10 currently working on finalizing the networking
11 architecture and ensuring that a physical and a
12 logical map of the network exists so one can refer
13 to it any time that's necessary. We're also
14 building out a business continuity and disaster
15 recovery capability environment and plans for that
16 are in progress right now.

17 A project that we have on works right
18 now is Trademark Reporting and Data mart. We
19 successfully deployed phase one of that project,
20 1.0 in June. What we made available to our
21 internal users are reports that are associated
22 with quality review for examining attorneys, for

1 support units, as well as post registration.

2 What we'll continue to do is bring data
3 from legacy systems into Trademark Next Generation
4 for reporting and data mart and continue to build
5 reports that are needed by our internal users.

6 Content Management System is another
7 project that is building a brand new content
8 management system that can hold all necessary
9 document types such as Microsoft Word, Excel, PDF,
10 various types of images, multimedia files, and the
11 goal is to make sure that this content management
12 system can meet our needs today, as well as it's
13 flexible enough to meet our tomorrow's needs. We
14 have built out services that allow us to upload
15 and retrieve images and a variety of documents
16 from this content management system.

17 This content management system will also
18 be used by our eOG, the Electronic Official
19 Gazette, when it becomes ready. And we currently
20 have about 75 percent of business categories
21 mapped from our legacy applications, our legacy
22 AIS's into TMNG.

1 Trademark Records Management, this is
2 one of our important programs where we bring data
3 from legacy mainframe into Trademark Next
4 Generation. So we have several tasks underneath
5 this project. One is to bring data and make sure
6 that the data is clean when we bring it in. The
7 second is to ensure that all Trademark Next
8 Generation components have access to the data.
9 And third is to ensure that the data is
10 synchronized between the Next Generation and the
11 legacy AIS.

12 Trademark Status and Document Retrieval,
13 most of you have used this. This is on the
14 internet right now. This is our one stop shop
15 convenience for providing access to trademark
16 status, as well as a variety of documents,
17 including TTAB and Assignments. We deployed a
18 version 2.1 in March. It allows us to provide
19 information in a WIPO-based standards format. It
20 also allows the users to access documents from
21 TTAB and Assignments. That was the main thing
22 that we did in 2.1.

1 The Electronic Official Gazette is --
2 we've been talking about it and You are actually
3 going to see the demonstration. So I'm not going
4 to spend any time talking about that at all.

5 Separation and Virtualization is a
6 project for us to separate our legacy AIS's, put
7 them in a separate environment, and virtualize
8 them to reduce the footprint. Currently the
9 schedules have been pushed out a little bit due to
10 dependencies on other projects and we're
11 finalizing the production deployment schedules for
12 all these.

13 This is a roadmap that you have seen in
14 the past. And this is a new roadmap that we're
15 going to start using. The intent of having both
16 roadmaps here is, this was created based on our
17 plans and it was hand drawn using VISIO. The new
18 format that you see here is derived off of our
19 enterprise project management system. So it's
20 tied into the way the projects are planned and
21 will be executed. So any time there's a change to
22 a project, the roadmap will reflect that. We

1 don't have to hand draw this anymore. The reason
2 I'm showing both of these maps here are, is that
3 I'm going to stop using this old roadmap as we
4 move forward and you will see only this one, the
5 one as of June. That's all I have from my
6 perspective, from TMNG. I'm happy to take any
7 questions.

8 CHAIRMAN TEPPER: Okay. Do we have
9 questions for Raj? Comments? Yes, Dee Ann.

10 MS. WELDON-WILSON: Hi Raj. I applaud
11 you and your group for reaching out to the
12 internal users to make sure that the data
13 interface is going to work. When the time is
14 right, will you also be reaching out to the
15 external users for those projects where their
16 interface will be external, as well as internal?

17 MR. DOLAS: Absolutely. And as an
18 example, when we did the eOG, the user interface
19 design, as well as the experience of EOG is driven
20 by info from our external stakeholders, as well as
21 internal stakeholders.

22 CHAIRMAN TEPPER: All right. Other

1 questions? Comments? Do we have questions from
2 the public today? All right. Let's transition on
3 then. We'll continue with -- and I apologize. I
4 mean I'm not sure who's going to deliver the next
5 section. So, Jyotsna, will this fall to you
6 today? Well, congratulations. It's nice to meet
7 you and we look forward to hearing from you in
8 that case.

9 MS. JAME: Nice to meet you, too. Good
10 morning, everybody. As Raj mentioned, Marcy
11 unfortunately wasn't able to make it. And I'm
12 Jyotsna Jame, I'm the Branch Chief for Trademark
13 Systems Division and representing updates on her
14 behalf. Basically --

15 CHAIRMAN TEPPER: Jyotsna, I'm sorry. I
16 do want to make sure, though, we are trying to
17 keep a transcript of the meeting and your
18 microphone is a little bit away from you. You
19 might want to move in just a bit closer so we can
20 all follow the content.

21 MS. JAME: Is that okay?

22 CHAIRMAN TEPPER: That's much better.

1 Thank you.

2 MS. JAME: All right. So let me start
3 with the petitions. We have been working on a
4 project to update some trademark petitions
5 template. And I'm happy to report that this
6 project is currently in beta testing. We have a
7 few volunteers from our petitions group actually
8 testing these enhancements out for us. We are
9 planning for a tentative release to everybody else
10 this weekend. Moving on to our infrastructure
11 related projects, in our last meeting we had
12 provided an update on an IPV6. This is the
13 internet protocol version 6 deployment. In April,
14 we deployed the TESS suite and the XS suite for
15 this infrastructure upgrade project. There were
16 some post deployment issues that were identified
17 following the deployment. We have been actively
18 working with the rest of the OCIO support groups
19 to address these on an active basis.

20 Moving on to our MPU stabilization
21 effort, we, in partnership with the trademark's
22 business and (inaudible) unit have formulated a

1 tiger team to kick start and address Madrid
2 stabilization needs.

3 Phase one of this project will include
4 addressing 15 prior issued. These were
5 prioritized based on the business requirements.
6 And (inaudible) activities are in progress.
7 Hopefully have more updates in the next meeting
8 for you guys.

9 Moving on, another enhancement project
10 that we have been working on is the TEAS form
11 enhancement project. This project, too,
12 (inaudible) activities are in progress, again,
13 similar to the Madrid stabilization effort. This
14 is a joint effort with trademark's business to
15 prioritize TEAS forms related issues and
16 enhancement requirements. We have tentatively
17 scheduled an August deployment date for the first
18 phase of this project. Moving on to the ID manual
19 enhancements, this project, too, is being done in
20 multiple phases. Phase one of the project, it was
21 providing the capability of doing sorts on the ID
22 manual, as well as providing the internal users

1 with the capability to provide an X value on the
2 status. If you remember when we saw it on the ID
3 manual, you get that. We are tentatively
4 scheduled to deploy this this weekend, as well.

5 Last meeting we had talked about some
6 issues related to FAST 1 and Snag-It. Snag-It is
7 a cost product which we are using. And we had
8 started deployment of the fixes for these as for
9 our last reports and happy to report that all
10 those deployments have been completed
11 successfully.

12 CHAIRMAN TEPPER: And, Jyotsna, thank
13 you. I don't want to interrupt, but I do -- I'm
14 proud that I learned one acronym. And I know you
15 tech people love those cots, that is Commercial
16 Off the Shelf Software. So if anyone else is
17 following along, she's referencing the fact that
18 we're able to use an existing program as a part of
19 this system. I just wanted to show off with that.

20 MS. JAME: That's all I had. Happy to
21 field any questions.

22 CHAIRMAN TEPPER: Okay. Thank you for

1 standing in today. Do we have questions? Going
2 once. Yeah, please.

3 MS. COHN: Jyotsna, I just have a quick
4 question regarding the TIDM enhancements. And
5 this is, you know, I'm embarrassed to say that I
6 was unaware of the July 12th date as a certainty.
7 So if you could just clarify that that's actually
8 a date certain on those two deployments.

9 MS. JAME: We are still tentative. The
10 testing activities are still outstanding. So I'm
11 hoping to hear back from date by today or
12 tomorrow.

13 MS. COHN: Okay. So just for
14 everybody's benefit, if you are looking for this
15 and don't see it, it's because it actually has not
16 been deployed on the 12th as a result of maybe
17 some issues with testing.

18 MS. JAME: That's correct.

19 MS. COHN: Okay. Thank you.

20 CHAIRMAN TEPPER: Thank you, folks. And
21 I guess if you have a pen, you may want to put ish
22 next to the 7-

1 In your handouts and we'll stay tuned
2 for further developments. Do we have other
3 questions or comments today? All right. Thank
4 you, folks. I think that means you're looking
5 forward to our closing act. And you know late in
6 the game, you need to bring in someone who can
7 throw the heat. We have done that today. But I
8 do want to draw back -- yeah, this is the Steven
9 Spielberg I think of the PTO today. Not that you
10 don't have longer endurance, Chris.

11 But Chris has been having a great
12 season. We're glad he could join us today. He
13 does always draw a crowd. And I do want to close
14 out with, you know, again reminding you of my
15 analogy.

16 A lot of development that we've seen in
17 Trademark's Next Generation has either been, you
18 know, initially appreciated more internally here
19 at the PTO among users, and believe me, they're
20 still looking forward to transitioning further
21 into our new system, or really, you know, sort of
22 building the foundation and the architecture and

1 the structure.

2 So it's nice to have something that we
3 as members of the public and external users are
4 going to be using and seeing. You saw TSDR come
5 out. I think it's nice for us to know, you know,
6 if there's one place you can get all those
7 documents and everything, that's because it's all
8 coming through one system now. Sort of the next
9 big thing for us will be the electronic OG. This
10 is in beta version. And as you heard this
11 morning, you are welcome to go to the PTO web
12 site, test drive this, participate in the survey,
13 I encourage you all to do that, and provide your
14 comments. But to get you warmed up for that,
15 Chris Doninger is going to sort of give us a
16 private tour, well, private/public tour, but an
17 advanced look at the eOG. Thank you, Chris.

18 MR. DONINGER: Thanks, Maury. And I
19 wanted to thank -- there's a huge group behind
20 this, I happen to be the one doing the demo, but
21 there's a group of 20 or 30 people associated with
22 this, everybody from OCIO to Trademarks management

1 to the actual developers. And as a result of all
2 that work from basically the beginning of February
3 until now, we've gone from concept to having an
4 actual working eOG.

5 What I'm going to show you in a couple
6 of minutes is actually real data. It's today's
7 version of the eOG. The July 9th edition went up
8 at 12:01 this morning. And you can search the
9 data. It's all the same data that you're going to
10 find in the PDF version, except it's XML tagged.
11 And we're also able to host multimedia content.
12 The PDF will just say sensory mark or something
13 like that. But actually in the eOG, you can click
14 and watch the little video and play the sound file
15 if there's one associated with it. And the nice
16 thing with that is that the record for what the
17 actual trademark that's being published is much
18 more accurate that way. Instead of having to
19 describe it or something like that, you can
20 actually experience it.

21 Two real quick things, please note the
22 address for this. It is referenced on the regular

1 OG page at USPTO.gov, so you can find it there.
2 We also have, thanks for some of the folks on the
3 team, a really good survey, and we're going to
4 gather feedback from that, and the hope is that
5 between today and September, when we put it up for
6 good, that we will make it even better than it is
7 now.

8 So this is the page. And like I said,
9 it's the July 9th edition of the OG. And what we
10 did after talking to the folks on the outside and
11 those of us who use it on the inside regularly, we
12 said, okay, what are people going to want from
13 this. And in addition to just tagging the data,
14 we want to put it in a format that's really easy
15 for folks to use and understand. So it's on the
16 standard USPTO.gov banner. We have a resources
17 page, frequently asked questions and that sort of
18 thing. We have a link to our survey in case you
19 want to get there. Sorry, the mouse is a little
20 -- and then we have notices. We have an email
21 address so that folks from other countries can
22 invite us to share our bank accounts with them and

1 get rich, but also in the hope that the folks who
2 aren't comfortable in doing the survey could share
3 directly with us, move this button, change the
4 name of that, that sort of thing.

5 What we do when you hit the page is, we
6 default to the most recent week's version of the
7 OG, which happens to be today and the cases that
8 have been published for opposition, because that
9 was, what we heard from you all, the primary
10 reason that people go to the OG.

11 You can still get to other things in the
12 OG, you just have to use the filter settings on
13 the left side here to change to what you want. So
14 you could go to an earlier edition of the OG, you
15 could go to registrations, you could go to
16 registrations cancelled, anything that is
17 available in the OG we have available here.

18 You can see it shows you how many
19 records were published for opposition this
20 morning. And then it lists them. And we happen
21 to put them in serial number order. Again, that's
22 something that we're open to change. We did

1 build in a feature so that if you want to change
2 it, you can actually reverse the serial number
3 order. As with any of these columns where the
4 arrows appear, you can sort by that column. If
5 the column placement sort of bothers you or annoys
6 you and you want to change that, we gave you the
7 ability to customize the columns so that if you
8 want to change them around to make it easier to
9 run a particular search or to hide something
10 that's just not really important to you, you can.

11 And then using the filters, you can
12 actually narrow it. So let's say that you're
13 responsible for doing a clearance search to make
14 sure that something isn't registered in a
15 particular class, and let's just say you're
16 interested in class five. So I just knocked it
17 down to all of the publish for opposition cases in
18 class 5, and you can see there's 269.

19 From any of these individual records,
20 you can click right into and it will take you to
21 TSDR from within the individual OG records. So
22 here's all the data associated with this. We

1 tried to make it look as much as possible like
2 TSDR. So there's the ID, the classes, who filed
3 it. And then you can click right into TSDR from
4 there and look at the documents, the prosecution
5 history, all that. And we were worried that
6 Gerry's shop wasn't going to have enough to do, so
7 we made it really easy if you want to file an
8 opposition. You just click the button and it
9 automatically takes you there and you can file
10 your request.

11 You also can download and save anything
12 that you've pulled down here. You can actually
13 pull it up into PDF or the XML. You can share it.
14 It will actually generate an email with a link to
15 that actual record. So like you're doing a review
16 and this is, you know, like a burning issue and
17 you want to send it to somebody immediately, you
18 can click it and it'll actually launch. I'm not
19 going to actually do it, but -- and you can print,
20 because we heard loud and clear, both internally
21 and externally, that all this electronic stuff is
22 great, but some people still like to print and

1 carry it around with them.

2 So what we're trying to do with the
3 print feature is to enable you, again, by changing
4 the columns and the data associated with the
5 searches that you've run, to be able to print just
6 what you need and not have to print extra pages
7 that you really don't need. We had mentioned that
8 we have the ability to play audio.

9 (Playing audio.)

10 MR. DONINGER: So that's a registration
11 for a sound mark that we have from Minard's.
12 That's their catch phrase that they play at the
13 end of all their commercials. And we also have
14 the ability to display motion marks. So here's a
15 video of -- and they came in for the fact that
16 these changing circles with different features in
17 them kind of swing around essential access point.

18 And this is the mark, you know. They
19 display it in the -- but this is the actual mark
20 that they applied for. And right from there, you
21 can actually click and watch it.

22 MS. COHN: Chris.

1 MR. DONINGER: Yes.

2 MS. COHN: Were you going to mention key
3 word search?

4 MR. DONINGER: Yes. That was my next.
5 Thank you. As Debbie mentioned, we have the
6 ability to -- hold on one second. You may be
7 looking for something particular in the OG as
8 opposed to going through all the records. We list
9 all the data elements that are in the OG and you
10 can actually search by them. So if you happen to
11 know one that you're looking for, so let's go to
12 the goods and services, it's -- always bring your
13 own mouse to the game, Maury, that's what you've
14 got to remember. I'm going to get some extra.
15 But let's say that you have a client and they're
16 interested in everybody who's filed an application
17 for something to do with Lupus. And luckily
18 there's only one. But here's a record and it has
19 Lupus in the identification of goods. So you
20 could select the individual identification of
21 goods and you could search for a key word and you
22 could pull it up. You could then send that right

1 to the client.

2 The other thing that we thought would be
3 really useful for the search, we built a bread
4 crumb trail up here so that if you wanted to
5 duplicate this and somebody else run a similar
6 search, you can actually see all of the filters
7 that you have in place and what you ran so that
8 you could duplicate it in case you sent it to
9 somebody and you didn't quite understand what they
10 had done.

11 So let's say you wanted to search for a
12 particular applicant, and we see what our good
13 friends, Apple, have published as of this morning,
14 and they have guided access, and it's for computer
15 software, that sort of thing. So the hope is
16 between the key word search up here that you can
17 focus in on particular data elements and the
18 filtering mechanism over here, that both external
19 and internal users will be able to take this
20 massive quantity of data that we put up every
21 Tuesday in the OG and boil it down to make it
22 useful for them, so that when they're doing

1 clearance searches and watches services and all
2 that, that they can do it very quickly and very
3 easily and very efficiently and know that they're
4 not missing anything.

5 Because while you can drop 5,000 pages
6 in front of somebody and ask them to go through it
7 looking for certain things, all of us who've had
8 to do that, your eyes glaze over and at some point
9 reading through the print, it's very common that
10 you're going to miss something, the computer,
11 because you have tagged data and you can run
12 things against it, much less likely to miss
13 things.

14 CHAIRMAN TEPPER: Thank you, Chris.

15 MR. DONINGER: Steve in the back row
16 here just reminded me, let's say the one other
17 feature that we built in is that, in talking to
18 the outside groups, it's very common for the watch
19 services and the law firms and the companies to
20 have a series of reviews done. Whether it's a
21 paralegal or an intern or something like that,
22 they will basically say, hey, I need you to go

1 through class 9 and see what these three, you
2 know, our top competitors are doing this week, see
3 what got published. And they have to go through
4 the OG and they have to identify things, and then
5 they pass it on to the person who asked them to do
6 the search for further review. What you can do,
7 you can actually check off any of the individual
8 records as you're reviewing them and you can build
9 what we call a collection, and you'll see it went
10 from zero to two up here.

11 And then you can click into that
12 collection. And just as if you can with anything
13 else, you can download just your collection. You
14 can download it as a PDF, you can download it as
15 XML, and you can send it to somebody. So that
16 instead of having 4,871 records that somebody has
17 to pour through, if you do the first cut at it and
18 you get it down to 17, you can pass on those 17.

19 You don't have to send them
20 individually, different links, you can save it as
21 a collection and pass it on to somebody so that
22 they can then look at it themselves.

1 CHAIRMAN TEPPER: All right. You know,
2 I would usually say questions or comments, but
3 here's what I want to do. I want to thank you for
4 coming in. I hope that you all are as excited as
5 I am. If you compare this to think about the old
6 days of either carrying around a booklet or
7 scrolling through a very large PDF to try to find
8 information, you need to be thinking about how
9 much better life is going to be for all of us.
10 And this is a pretty exciting advancement, more to
11 come. But in the meantime, do take a look. I
12 hope this will make you want to dig more closely
13 into the beta version that is available.
14 Participate in the survey. Make your comments
15 known. And we are very glad to be able to take a
16 look at this today. Chris, we appreciate your
17 showing this for us. And I think I do have a
18 comment for you.

19 MS. BLACK: Chris, I'm very excited
20 about the beta version. Thanks for the demo. I
21 do have a question. How long will this be
22 available for the public to view and use? Like

1 next week, will the next issue of the OG be out?

2 MR. DONINGER: Yes. Every Tuesday we're
3 going to put out the issue just as if it was in
4 production. Again, you can go back over here and
5 look at previous issues, just as you can with the
6 current PDF version. We're going to go back a
7 year. So once we've actually put up the tag
8 version for a year, we'll have a year's worth.
9 Until then, we'll just build it week by week. So
10 we were hoping that people would go in, even
11 though it's a beta, and play with it, use it, and
12 run searches against it, give us feedback so that
13 as we build it, it gets better, ahead of the
14 launch for September.

15 MS. BLACK: If you build it, we will
16 come.

17 MR. DOLAS: I want to make a comment
18 here. I've been saying a lot about user center
19 design and interactive development methodology.
20 You're seeing the results of that now. You know,
21 with input from internal and external users,
22 here's how the user interface will get developed,

1 here's how it gets modified, and it's made better
2 and better every time we get input from everyone.

3 And it's complete paradigm shift, if you
4 will. We don't wait until a certain amount of
5 work is done to put it out. We'll put it out
6 while it's beta. So we can make changes to the
7 program sooner versus later.

8 CHAIRMAN TEPPER: Thank you, Raj, very
9 much. And just sort of in time frame, I believe I
10 heard September. I know comments are always
11 welcome sooner. But the beta version will be out
12 and available through September. Is that correct?

13 MR. DOLAS: Actually, the beta version
14 is out already. We'll have one other version in
15 August. That will be an accumulation of all input
16 that we have received from users, as well as the
17 internal back end development that needs to be
18 done. And then in September, it will be a final
19 release out there.

20 CHAIRMAN TEPPER: Thank you. Any other
21 questions? Comments for our -- yes. I think we
22 have a public comment here. Thank you for using

1 the microphone.

2 SPEAKER: Is there any chance we can get
3 a display and layout like this for TESS any time
4 in the near future?

5 MR. DOLAS: The short answer, no. We
6 don't have plans to improve the user interface for
7 TESS at this point. We are making some changes to
8 TESS, I believe, and I don't know what those are
9 at this point, but there are some enhancements
10 that we're doing for TESS, aren't we? No, we're
11 not. Sorry. We're not doing an enhancement to
12 TESS at this point.

13 But as part of Trademark Next
14 Generation, we will have a new search system
15 sometime in the future which will have web-based
16 interface instead of an AIS, and it will be
17 developed using user center design methodology.

18 MS. COHN: So, Raj, I guess I would
19 amend the answer to the question to say, yes, we
20 do have plans, but not in the very immediate
21 future. It's not something that's in the works
22 right now.

1 MR. DOLAS: Thanks for the correction.

2 CHAIRMAN TEPPER: Okay. Thank you.

3 Cheryl.

4 MS. BLACK: Yeah. And I do have one
5 more comment for you, Raj, and CIO. I know John
6 is not here, but we've been pushing, as well,
7 about dates and deadlines, and to see this happen
8 as quickly and on time as you have indicated that
9 it would happen in connection with working with
10 trademarks is pretty incredible. I mean you said
11 it was going to happen, it's been on time, it's
12 been working well, and you've been responsive to
13 our feedback, so this is really a great demo and I
14 guess a great grand slam, home run, whatever you
15 want to call it, since we're in the baseball
16 vernacular. But thank you so much for this.

17 CHAIRMAN TEPPER: Thank you, Cheryl.
18 That's pretty good with the weave. And I guess if
19 I were keeping score, I would have to say Nats 11,
20 PTO, I don't know, 25. We did pretty well today,
21 folks. In the theme of keeping on time, I will
22 ask one last time, any remaining questions or

1 comments? Okay. I want to thank everyone from
2 the Advisory Committee for your participation and
3 attendance today. Members of the public, we
4 appreciate your interest and your being here. And
5 especially members of the PTO, your time is
6 valuable. We appreciate your sharing so much with
7 us. We appreciate the challenges you face. I'm
8 not sure I would want those on my to do list, but
9 we are grateful for the hard work. We know that
10 there's more ahead. And speaking of what's ahead,
11 you did hear your Advisory Committee will be busy.

12 We'll be working on commenting on budget
13 submissions in August. You will see our annual
14 report. It will be completed. It may not be
15 published by the time we are together next, but we
16 will be meeting next, circle your calendars for
17 Friday, October the 18th. And with that, our
18 public meeting is adjourned. Thanks to all.

19 (Whereupon, the PROCEEDINGS were
20 adjourned.)

21 * * * * *

22

1 CERTIFICATE OF NOTARY PUBLIC

2 COMMONWEALTH OF VIRGINIA

3 I, Stephen K. Garland, notary public in
4 and for the Commonwealth of Virginia, do hereby
5 certify that the forgoing PROCEEDING was duly
6 recorded and thereafter reduced to print under my
7 direction; that the witnesses were sworn to tell
8 the truth under penalty of perjury; that said
9 transcript is a true record of the testimony given
10 by witnesses; that I am neither counsel for,
11 related to, nor employed by any of the parties to
12 the action in which this proceeding was called;
13 and, furthermore, that I am not a relative or
14 employee of any attorney or counsel employed by the
15 parties hereto, nor financially or otherwise
16 interested in the outcome of this action.

17

18 (Signature and Seal on File)

19 Notary Public, in and for the Commonwealth of
20 Virginia

21 My Commission Expires: July 31, 2015

22 Notary Public Number 258192