

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE MEETING

Alexandria, Virginia

Friday, March 1, 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 Union Members:

14 HOWARD FRIEDMAN, NTEU 245

15 HOWARD ROSS, NTEU 245

16 RANDALL MYERS, POPA

17 USPTO:

18 DEBORAH COHN, Commissioner for Trademarks

19 FRANK MURPHY, Deputy Chief Financial Officer

20 DANA COLARULLI, Director, Office of Governmental
Affairs

21 SHIRA PERLMUTTER, Chief Policy Officer, Office of
22 Policy and External Affairs

1 PARTICIPANTS (CONT'D):

2 SHARON MARSH, Deputy Commissioner for Trademark
Examination

3 GERARD ROGERS, Chief Administrative Trademark
4 Judge

5 JOHN OWENS, Chief Information Officer

6 RAJ DOLAS, Portfolio Manager for Trademark Next
Generation

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

2 (9:49 a.m.)

3 MR. TEPPER: All right, good morning,
4 folks. I would like to call our meeting to order
5 at this point.

6 Welcome to the first public meeting of
7 the Trademark Public Advisory Committee for the
8 calendar year 2013. I appreciate everyone being
9 here today in-person and I know we have some folks
10 who are also viewing online.

11 I'll try to mention this as we go, but
12 at various points throughout the day, we'll be
13 taking questions when we can from the public. If
14 I forget to acknowledge those who are watching
15 online, we certainly invite you to e-mail in your
16 questions to us, those will when received be
17 brought to me and I'll try to make sure that we
18 have a chance to answer any questions that you
19 have, as well. So, do feel free to use the e-mail
20 function, anyone out there in our cyber audience.

21 And I would like just to mention we have
22 had the chance now to meet several times. This is

1 a great facility. Our committee is made up of
2 volunteers from various aspects of the public. We
3 used to think we were just here advising the PTO
4 and maybe weren't that big of a deal, but I got to
5 brag a little bit and mention that whatever you
6 think about whether Congress is doing anything or
7 not, our advisory committee has been the subject
8 of legislation already this year.

9 So, we must mean something and I don't
10 think that you will see many changes those of you
11 who have been participating in or following our
12 meetings. No big changes you can notice. I
13 suspect you'll hear a little bit more about those
14 details later in the day, but we did all feel very
15 special, so, we wanted to share that with you.

16 This is obviously a time of a lot of
17 change externally, but pleased to report as you
18 will see throughout the day the PTO's doing an
19 excellent job of planning, changing, continuing
20 some very excellent operations, and we're going to
21 hear a little bit more about that throughout the
22 day.

1 I'm particularly pleased and I will
2 remind some of you at our last meeting we talked
3 with our chief financial officer and we'll be
4 hearing a little bit more in detail in this
5 meeting about just how much work goes into the
6 PTO's budgeting and cost allocation process and I
7 want to thank them in advance for bringing that
8 information to us and also just to mention that we
9 are following up on the point that we promised at
10 our last meeting, so, we will see that today.

11 I think there are no other housekeeping
12 issues, and, so, with that, I'd like to start up
13 with the more productive part of our meeting. I
14 had a tough act to follow after the background
15 music that we started off with. So, I'll give up
16 at this point, but we do want to start with a
17 legislative update and I can tell you this is an
18 up-to-the-minute update. Dana Colarulli has been
19 working literally around the clock and I say this
20 because people were updating slides to reflect
21 some changes on the Hill as recently as an hour
22 ago. So, if you want to know exactly what's going

1 on, stay tuned.

2 And, Dana, thank you for joining us this
3 morning.

4 MR. COLARULLI: Absolutely. Thank you,
5 Maury. Well, that's true. There is tremendous
6 activity on the Hill. It's unclear whether it's
7 going to be effective, but tremendous activity is
8 going on in the Hill.

9 I'll mention the other way I was going
10 to start off my remarks was to say that I'm going
11 to cut them today. They're going to be a little
12 bit shorter. I'm going to cut about 5 percent in
13 honor of the U.S. Congress, given that today is
14 March 1 and the sequester officially takes place.
15 The impact still slightly unknown and you'll hear
16 more from PTO perspective on impacts on this
17 agency from Tony Scardino a little bit later
18 today.

19 But let me start off where Maury had
20 suggested. Yes, TPAC was the subject of
21 legislation in the last days, the 112th Congress.
22 We were able to encourage the Congress to pass and

1 the president signed Technical Corrections Bill to
2 the America Invents Act. That included two
3 provisions that I think that affect the trademark
4 side. So, I'll talk a little bit about that.

5 In the beginning of the 113th Congress,
6 my staff has been very active both in trying to do
7 good outreach to members of the judiciary, as we
8 always do. There are new members of the
9 committee; I'll talk a little bit about that.
10 There are also new members to Congress who are
11 unfamiliar with our issues.

12 So, there's a lot of education that my
13 team needs to do and we're doing that both on the
14 impact of the AIA and the patent operations, but
15 also that we do more than just patents, we do
16 trademark issues and I expect that a number of
17 other issues, copyright issues in particular,
18 might also come up this year in front of the
19 Senate and the House Judiciary Committees.
20 They're still coming together with their agendas
21 where we're in communication with them as they
22 figure out what they want to focus on this year.

1 So, I'll start with a couple IP
2 legislation highlights as we begin the 113th
3 Congress. I'm not going to go through each of
4 these in detail, but I wanted to highlight a few
5 of the bills that we're watching and certainly
6 things that have been of interest to the employee
7 base here, discussions around the pay adjustment
8 for federal employees certainly had gotten some
9 attention, issues around access to federal-funded
10 research and making those publications available
11 to the public, have continued through many
12 congresses and continue this Congress.

13 This week, we saw more activity on the
14 software patent issue, something that we've been
15 focusing quite a bit at times. Representative
16 Defazio reintroduced a bill on Wednesday that
17 would offer some litigation remedy to those in
18 software patent litigation. Certainly following
19 the cyber security issues, our friends at the
20 Department of Commerce have been following that,
21 as well, and there's been activity in both houses
22 of congress and in front of the administration.

1 I think that's all I'm going to
2 highlight on this page. For those who are
3 interested in Seed Availability and the
4 Competition Act, I can provide you lots more
5 information.

6 Move on to other things that we know
7 will come up. Certainly, there's been some focus
8 on the Computer Fraud and Abuse Act after Internet
9 Activist Aaron Swartz committed suicide and the
10 question was really: Are penalties too high in
11 that area? So, we've certainly been following
12 that issue. Really a question whether some of the
13 various copyright protection, copyright
14 enforcement issues that were raised in the last
15 Congress might come up again this year. It's
16 unclear. We do expect more activity on the trade
17 secret front and the administration announced an
18 effort this past week to address trade secret
19 theft.

20 There's been some congressional
21 activity, as well, that was started by Senator
22 Cole actually. Senator Coons, with Senator Cole's

1 retirement picked up the mantle for that bill and
2 we've been in conversations with them as they look
3 to reintroduce that bill.

4 So, let me go back now and talk a little
5 bit about the AIA Technical Bill. I mentioned
6 there are two provisions I think that are
7 important for this body. One is correction really
8 to the language around the trademark fence and
9 this was not to alter the language of the
10 trademark fence; actually it was to return the
11 language back to what it was pre-AIA. It was as a
12 patent parallel to the trademark fence was added
13 to the statute in the AIA. H.R. 6621 tried to
14 return it back to the language it was. It gives
15 us that certainty that we should still read it the
16 way that we read it, that the trademark fence is
17 still solid and strong and we're really seeking
18 for a parallel with the new patent fence that was
19 provided by the AIA.

20 So, it's an issue that I had briefed the
21 TPAC on I think at the end of last year. It
22 happened, which was nice to always see legislation

1 actually get passed and signed by the president
2 and I think it gives us a bit more certainly at
3 least on how that language should be read.

4 The second and probably more important
5 for this body is flexibilities that TPAC had
6 requested and talked about in its annual report
7 for a few years going and that is more flexibility
8 on appointments and particularly the appointment
9 of the chair, but also the timing of the terms of
10 the TPAC members. So, again, language that this
11 body had weighed in on. The House and the Senate
12 thought those were wise changes. We were able to
13 make the case for them. Included in this bill
14 signed by the president at the beginning of this
15 year which was the very end of the last Congress
16 before we switched over to the 113th Congress.

17 Happy to answer any questions now or
18 later, but I think that's a good change.

19 Hopefully, it's seen by all of you as a good
20 change and provide some more flexibility.

21 Possible upcoming congressional
22 hearings. As I said, the schedule, they're still

1 coming together. We would expect once the
2 administration officially submits its budget that
3 we would be called up to testify at least in front
4 of the House CJS Subcommittee, Commerce, Justice,
5 Science Subcommittee. PTO tends to be kind of the
6 first up to bat on appropriations hearings and
7 we're regularly called up in front of that House
8 subcommittee. Possibly March, possibly beginning
9 of April, again, depending on the timing of the
10 president's budget. Certainly, we would expect
11 some more oversight hearings in House Judiciary,
12 potentially also some in the Senate, as well.

13 The House has already started their
14 schedule of substantive hearings and they've
15 started out again with a patent focus next
16 Thursday, they announced, that they'll hold their
17 first hearing of the session under the new
18 chairman, Chairman Goodlatte, who's the chairman
19 of the Full Committee. This will be a
20 subcommittee hearing that they'll hold on patent
21 litigation issues again. So, expect more
22 discussion of software and particularly litigation

1 concerns over software patents.

2 I mentioned the new chairman, Chairman
3 Goodlatte, is the new chairman we're working with
4 in the House Judiciary Committee. His ranking
5 member on the minority side remains John Conyers
6 from the State of Michigan. New leadership on the
7 subcommittee on the House, as well. Actually, the
8 return of Representative Coble heading that
9 subcommittee and Representative Watt on the
10 minority side continues.

11 On the Senate side, our leadership in
12 the Senate Judiciary Committee continues without
13 change, Senator Leahy and Senator Grassley. I
14 think I'm happy to say that I think all of those
15 six folks we have fairly good relationships with
16 and as I said, I would expect that would call us
17 up for an oversight hearing. They continue to be
18 interested in the happenings here at the agency.

19 Clearly, funding issues are always a
20 concern of ours and as I said, you'll hear a bit
21 more about the current funding situation from Tony
22 a bit later today.

1 A couple other things that my staff is
2 doing on behalf of the agency, in particular
3 really helping to provide more momentum to the
4 outreach of the satellite offices. There's a lot
5 of focus right now on Silicon Valley with Michelle
6 Lee as the new regional director there. We've
7 been giving her support as she's been reaching out
8 to folks locally and here in Washington, D.C. As
9 you might imagine, we haven't selected a
10 particular location yet for a permanent home for
11 PTO in that area and everyone wants us to be in
12 their backyard. Certainly, Michelle brings to the
13 table a lot of, again, patent background, but
14 she's being asked quite a bit. What other
15 resources will come to bear in Silicon Valley that
16 will be available not just to patent applicants,
17 but to trademark applicants and she's thinking
18 about and trying to make plans to provide other
19 resources there, too.

20 Certainly a lot of activity on
21 congressional caucus activity. Creating new
22 caucuses, the USPTO has Joyce Ward who runs our

1 education programs here at PTO, helped to launched
2 what's the new STEAM Caucus, that's STEM plus an
3 A, A for Arts. I call that the enduring legacy of
4 Steve Jobs. So, we've turned STEM into STEAM and
5 there were lots of good metaphors about the rising
6 steam of this effort. So, we helped to launch
7 them. Actually, I'm being correct here, it was
8 launched on February 14 on Valentine's Day, so,
9 yet again my metaphor, it was a steamy day up on
10 Capitol Hill.

11 Also, we've seen a Creative Rights
12 Caucus launched, we've seen the activity from
13 other caucuses that we know there's an IP Caucus,
14 an IP Piracy Caucus and we're following all of
15 those. In addition, as I mentioned, we're already
16 doing kind of individual meetings. We were up on
17 the Hill a couple of weeks ago doing a briefing
18 for all Senate Judiciary staff on PTO operations
19 and a couple of the key areas.

20 One issue in particular that folks are
21 interested in is activity in China. As you all
22 may know, there's activity on all fronts in China

1 legislatively; reform of the trademark law, reform
2 of the patent law, and reform of the copyright
3 law. So, certainly, they were interested in those
4 issues, also interested in issues like trademark
5 swatting, which we've done quite a bit of
6 education on.

7 And then there's the softer side of
8 congressional affairs. We try to find other ways
9 to engage congressional staff to get them involved
10 and interested in our issues by bringing them here
11 to the office and see the day in the life of a
12 trademark examiner, day in the life of a patent
13 examiner. We're just getting started thinking
14 about when we might do that.

15 Also taking advantage of some new
16 relationships that we have with the Smithsonian.
17 We've helped to establish two museum exhibits
18 there at the Smithsonian, one being "Build a
19 Better Mousetrap." We're going to bring some
20 staff out to see that again this year and we
21 announced earlier this year a great partnership to
22 open up an innovation pavilion in the Arts and

1 Industries Building on the Mall. Those of you
2 who've seen that, one big building always
3 perpetually under construction on Independence
4 Avenue. Well, at least part of it will be a home
5 for an innovation exhibit.

6 Lastly, we have World IP Day coming up.
7 Official World IP Day is April 26. We're looking
8 at doing some events up on the Hill earlier that
9 week and I have a team here at PTO that's actually
10 expanding it further than we've done in the past
11 doing six events around the country, one here in
12 Alexandria, one in each of the satellite
13 locations, one in New York. That's all six.

14 I think, Debbie, you're going to go out
15 to help celebrate World IP Day as well to one of
16 those locations. So, again, kind of the softer
17 way to engage our audience, congressional staff
18 who want to appreciate the work that we do and
19 understand the work that we do.

20 With that, I'll end. That's all the
21 activity that we're working on, hoping that
22 Congress will act on some of these budget issues

1 as the year goes forward. I will say for those
2 who are following the news, I think the focus now
3 after today is the next date, which is March 27.
4 That's when the current CR ends and there will
5 need to be a congressional activity in order to
6 avoid a government shutdown. So, we have eyes on
7 that, as well. As I said, Tony certainly has eyes
8 on that. He'll speak later today.

9 Maury, with that, I'll turn back the
10 mike.

11 MR. TEPPER: Dana, thank you very much.
12 Obviously, lots going on.

13 And before I ask for questions, and with
14 my apologies, I cannot resist but point out that
15 throughout the course of Dana's helpful remarks,
16 we heard the term "steamy," "Valentine's Day,"
17 "congressional affairs," and "softer side."

18 (Laughter) Now, any of you out
19 there in the media who have great
20 editing capabilities I suspect
21 could make something of that, but
22 for the rest of you, I know that

1 you're going to look forward to
2 Dana's updates in the future. And,
3 so, we could be back.

4 More seriously, I would like to thank
5 you on behalf of the committee for your help. I
6 mean, our lesson is if you want to get something
7 done, just ask Dana and it will happen for you.
8 We have excellent representation on the Hill with
9 the PTO as you can see. Dana's absolutely correct
10 that although for most of you, the sort of
11 technical amendments to our structure can be very
12 helpful for those of us on the committee. I think
13 it's going to sort of enhance our continuity and
14 our work and we appreciate that.

15 Does anyone have questions, comments for
16 Dana? Yes, please.

17 MS. HAMPTON: Good morning, Dana.

18 MR. COLARULLI: Good morning.

19 MS. HAMPTON: I just have one question
20 and I probably should know this, so, I'm going to
21 take it for those who maybe don't. Can you give
22 like a two-second summary on the Foreign

1 Counterfeit Merchandise Prevention Act? Thank
2 you.

3 MR. COLARULLI: Sure. So, it's not one
4 I worked on a lot. I'm happy to send you more
5 information. It's one of the first bills that
6 were out of the shoot this Congress.
7 Representative Poe had I believe a previous
8 version in the 112th Congress and it's escaping me
9 the actual provision. So, let me follow-up and
10 get your more information.

11 MS. HAMPTON: Thank you.

12 MR. COLARULLI: Sure.

13 MS. PARK: I have a question.

14 MR. TEPPER: Yes, Kathryn, please.

15 MS. PARK: Dana, I have a question in
16 whether or not you've heard any discussion about
17 whether they'll be hearings of any sort on what's
18 happening with ICANN and the rollout of new GTLDs?

19 MR. COLARULLI: So, it's unclear. I
20 mean, it actually is an issue I've raised with
21 House staff. You saw a number of hearings last
22 year without necessarily a goal, other than

1 raising awareness. ICANNs take an additional
2 action since then. So, I would expect the issue
3 to come up again. I know it's not the top of
4 their list. You'd most likely see this come up in
5 the House context and there's two forms actually
6 that have come up, certainly House Judiciary, but
7 there's kind of a split jurisdiction with Energy
8 Commerce, regulation of Internet. So, we might
9 see it, but we haven't heard any mumblings about a
10 hearing as of yet.

11 MR. TEPPER: Thank you. Are there other
12 questions?

13 MR. FELDMAN: I don't have a question,
14 but to piggyback on what you said, I just wanted
15 to compliment both Dana and actually TPAC members,
16 and by "TPAC members," I really mean all the other
17 members here beside me because dealing with the
18 technical amendments, it really was partnership at
19 its finest.

20 Obviously, the Hill was looking for
21 guidance from you, you were looking for guidance
22 from TPAC, and as you well know, TPAC gave you

1 comments and gave them very quickly and sometimes
2 those amendments turn into law and sometimes or
3 often they don't and in this case, they did. And
4 like you noted, we've raised this issue for a
5 number of years both in and outside the annual
6 report and it's nice to see that when it comes to
7 the composition of TPAC and the helpfulness, the
8 rotating on and off will help or will aid when it
9 comes to the writing of the annual reports. It
10 really worked out well for everybody.

11 So, I think it's a good time to thank
12 you and a good time to thank the TPAC members for
13 stepping up and stepping up so quickly.

14 MR. COLARULLI: Thanks, Howard. And
15 I'll mention the very quick response is absolutely
16 essential and to add to the splicing, it's nice to
17 see that TPAC is agile and you can move quickly
18 and very, very helpful particularly in legislative
19 process that moves quickly. We have very few
20 opportunities. I think that'll continue in this
21 congress to actually get some of the things that
22 are less sexy but important for this agency to get

1 done. So, I did it again, "sexy." (Laughter) So,
2 thank you, Howard.

3 MR. TEPPER: Thank you, Dana. Are there
4 questions from the public? I know we're just a
5 couple minutes behind, but I want to make sure,
6 are there any questions before we move on?

7 (No response)

8 MR. TEPPER: All right, many thanks to
9 all. I'm especially pleased at having been
10 labeled as "agile." Anyone who's met me will
11 probably recognize I'm very famous for falls and
12 injuries, and, so, I'm going to write this one
13 down in my book. This is a first.

14 I'd like to turn now to an update on
15 trademark operations. If you've been following
16 your agendas in the past, we've mixed it up a
17 little bit, so, I hope you'll like the fresh, new
18 format, that I do think that there will be a good
19 flow of information today, and Commissioner Debbie
20 Cohn has kindly agreed to sort of move a little
21 bit up in the batting order and we'll continue
22 with an update on operational issues.

1 MS. COHN: Great, thanks so much, Maury,
2 and good morning, everyone.

3 And I'll just get started here. If
4 you'll turn to the first page in your book under
5 this particular presentation and on the screen,
6 you'll note that we've changed the format just a
7 little bit after getting some feedback on the
8 un-readability of our previous presentations with
9 our data and statistics. We have made an effort
10 to make it more readable for people who are
11 watching online and for those of you who are
12 looking at it in our printed materials. So, I
13 hope this works for you. It's on more pages than
14 it has been in the past. So, that's the only bad
15 part, but I think it should be actually readable
16 which is very helpful when you have materials in
17 front of you.

18 So, let me just get started and the
19 first area is quality and as in the past, we have
20 broken our quality down into three components.
21 The first two have to do with legal compliance by
22 examining attorneys and they are for first office

1 actions and for final office actions, which
2 includes approvals for publication as well as
3 final refusals. And in both of those areas,
4 you'll note if you look at the last two columns
5 that we're not quite making our targets yet for
6 the fiscal year, but I would like to point out
7 that for the quality areas, the statistics or the
8 data is not really statistically significant until
9 we've reached the end of the fiscal year.

10 It's the way the cases are pulled and
11 the number of cases pulled just don't give us a
12 statistically significant result. So, this has
13 happened in the past where the first quarter or
14 the first few months shows a more negative result
15 than we actually achieved by the end of the fiscal
16 year. So, we're planning and hoping that that
17 will be the case this year, but we are also
18 looking at the data with an eye toward developing
19 appropriate training where necessary to address
20 whatever themes there might be or issues that we
21 might uncover in this first quarter quality data.
22 So, that's for first and final compliance.

1 Now, the next item in the quality area
2 is the exceptional office action and I've talked
3 about this for the last year or so, but I'll just
4 sort of remind everybody what that is and it
5 includes the legal compliance as the first two
6 measures do, but it also includes the writing, the
7 clarity of the writing of the office action, it
8 includes the appropriateness and clarity of the
9 evidence and it includes the search. And, so,
10 it's a more comprehensive look at the quality of
11 the office action and we're measuring our first
12 office actions on this because we really want to
13 focus on having a very clear and concise first
14 action for our users and our customers.

15 So, the excellent office action, as you
16 can see, we are currently at 33.8 percent
17 compliance, which is just a terrific, terrific
18 level of compliance. Examining attorneys reach
19 this level because they want to. Now, we do
20 provide full disclosure, a financial incentive for
21 them to reach this level. It's an exceptional
22 quality award and we want people to reach it, but

1 it's not an easy lift and I'm really pleased that
2 our examining attorneys are paying attention and
3 want to produce the best quality work that they
4 can and it's showing in these rising compliance
5 levels for the exceptional office action.

6 And just one more item on this, I would
7 like to point out that the trademark operation
8 actually received a gold medal from the Department
9 of Commerce this past January, just a couple of
10 months ago, for this program and Department of
11 Commerce awards gold medals for new and innovative
12 programs, all sorts of things throughout their
13 agencies and this was seen as a new and innovative
14 program for customer service for using stakeholder
15 input and quality guidelines and training to
16 provide a better product for the customer. And,
17 so, I was very pleased and proud to accept the
18 gold medal on behalf of the entire trademark
19 operation and I want to publicly thank everybody
20 involved in this project, including all of our
21 examining attorneys, managing attorneys, and the
22 folks who really plan this effort.

1 Moving onto e-government, you'll see
2 that we're doing quite well. We're at 78 percent
3 and let me remind everybody that e-government in
4 this context means complete electronic processing
5 from beginning to end of the application. So, the
6 application is filed electronically and there is
7 electronic communication, no paper is exchanged
8 throughout the process until the point of either
9 registration or abandonment or notice of
10 allowance.

11 So, this is really a great goal for us
12 to have because as you all probably know and I'm
13 sure all of you only communicate electronically
14 with us, but electronic communication really means
15 you have a better quality product, what you enter,
16 what you send us is what gets uploaded into the
17 system. We have no lost papers; that's a thing of
18 the past with electronic communication. So, and
19 it's a cheaper way to go. And, so, it's really a
20 win-win for everybody.

21 So, I hope that people are always
22 thinking about electronic communication and we in

1 connection with this put out some months ago a
2 request for comments on a possible fee change and
3 to incentivize electronic communication and the
4 response that we got from our user groups and from
5 the public was overwhelmingly positive, and, so,
6 we are currently considering those comments and
7 making additional plans to go forward with a
8 proposal that you will see probably fairly soon.

9 Next item is application filings and we
10 are on target which means filings are going up the
11 way we thought they would. I have several people
12 who work on planning; they're budget folks and
13 they work on planning what's going to happen in
14 the coming fiscal year and beyond and they have to
15 take a lot of things into consideration. It's a
16 bit of a crystal ball kind of thing, but they do a
17 fabulous job. So, they actually do have crystal
18 balls. And we're on target for their predictions,
19 and, so, we're expecting to have an increase in
20 filings throughout the fiscal year, especially
21 cumulatively throughout the fiscal year.

22 And in that connection, we're doing some

1 hiring. We just hired 30 examining attorneys.
2 Sixteen of them started this past Monday and the
3 remaining fourteen will start in the first week in
4 May and they are an excellent group of examining
5 attorneys, we got a huge response as you might
6 imagine to our job announcement. So, we're really
7 excited to get this group onboard and get them
8 trained and start producing lots of high-quality
9 work.

10 And then I'm not going to go through the
11 examiner production except to say it's pretty much
12 on target to where we expect it will be. Let's
13 turn the page here. Examiner FTE, that's
14 Full-Time Equivalent positions. We've got a
15 target of 387, and, so, that's a balance between
16 how many people we expect will probably leave
17 during the year and how many people we will hire
18 during the year. So, that's probably where we
19 will end up.

20 And I'm going to skip office disposals
21 and move to pendency to first action. As of the
22 end of January, we were at 3.3 months. We're

1 looking at this very seriously, which is why we're
2 hiring. We don't want to go above 3.5 months, so,
3 we need to be pretty proactive in this regard as
4 we plan for the future and especially for the rest
5 of this fiscal year. We did increase our
6 available overtime hours for examining attorneys
7 to try to address the issue this month and we
8 expect that that plus the hiring will help us stay
9 the course.

10 Pendency to disposal, the next two items
11 are right on track. As you can see, the second
12 one, 10.2 months is if you take out suspended and
13 inter partes cases. That's about the time that
14 you can expect to get your registration or notice
15 of allowance.

16 And then the efficiency item, you can
17 see the lower number is a better number, so, we're
18 doing well on that. It's the average cost of a
19 trademark disposal compared to all the costs of
20 operating, not just within the trademark
21 operation, but all of the related costs throughout
22 the agency, such as OCIO, space, et cetera, so,

1 that's our efficiency measure.

2 And then turning the page, I'm going to
3 run through the non-examining statistics and I
4 hate to say "non- examining" because it's not
5 really a positive term. There are a lot of
6 operations that go on within the office that
7 support the rights of trademark holders and the
8 ability to maintain registrations and the ability
9 for people to get information about how to apply
10 and register and that's everything from our
11 Trademark Assistance Center, our post-
12 registration area, our Examination Support Unit
13 that handles amendments and things as they come
14 into the office.

15 So, if you look at these, I'm not going
16 to through them in great detail, but I want to
17 point out that our support areas are doing really,
18 really well. We have very highly-motivated,
19 productive, and high-quality employees and they
20 are getting the work out and they're doing it in a
21 very high-quality manner.

22 So, if you look at this page, you'll see

1 that the people, our areas are meeting their
2 targets. If you look at the top, the ESU, that's
3 the Examination Support Unit, you'll see they have
4 a target of 14 days on amendments and publications
5 and they're at 1 day for amendments and 12 days
6 for publications. So, it's just as an example our
7 Intent to Use Unit is processing under the 15-day
8 target for all areas.

9 Turning the page now to MADRID, their
10 target is two days and they're at one day. Can't
11 get much better than that, can you? And then
12 pre-exam is at three days. They really need to
13 push to get to their target of two days, and I
14 have no doubt that they will.

15 And similarly with post-registration,
16 they actually have improved since in the last few
17 months and we'll continue to improve and they will
18 undoubtedly shortly reach their target of 15 days
19 for all of their processing.

20 And then our Petitions Office is right
21 there, one week and on all of their measures, and
22 they're within their target.

1 So, I'll pause for a second in case
2 anyone has any questions about this presentation.
3 This is the statistics and data and then I'll move
4 on to other things.

5 MR. TEPPER: Do we have any questions?

6 (No response)

7 MS. COHN: Okay, I mentioned the request
8 for comments regarding the TEAS filing fees. We
9 had another request for comments that came out
10 around the same time and that was to shorten the
11 Section 8 and 71 affidavit of use period, and if
12 you'll recall, the question was whether it should
13 be shortened from where it is now between the
14 fifth and sixth year to possibly between a third
15 and fourth year and we got a lot of response on
16 that. We got coordinated responses from user
17 groups as well as responses from individuals and
18 the responses are available, the comments are
19 available, but I would say that it was really
20 mixed, but probably overwhelmingly negative or
21 more negative than positive. People not really
22 wanting to make that change. Many of the comments

1 referred to the Section 15 filing period and
2 decoupling it with the Section 8. They were
3 concerned about that. Some said that we needed to
4 do some further research and have data on it and
5 but everybody I think agrees that the idea of
6 deadwood from the register is a good idea and will
7 only serve to make the register more valuable for
8 trademark owners and potential trademark owners in
9 the future.

10 So, we are putting a hold on that in
11 terms of activity, but we're not closing the book
12 on it. We are waiting until the end of our
13 specimen pilot which, as you may know, is a
14 two-year pilot and Sharon Marsh will talk a little
15 bit more about that in her presentation, but we're
16 waiting to see the results of that and then we'll
17 pick this issue up again and start talking about
18 it in light of those results. So, there is a
19 notice on our Web site giving information about
20 that. It was posted on January 10.

21 Moving on now to some recent
22 developments, you're on the cutting edge because

1 we are having a TSDR deployment tonight. So,
2 you're the first to hear about it, although I
3 think it was posted on our Web site. So, we're
4 going to have some new features and some of those
5 I'm just going to go through some of the
6 highlights that you'll be able to see on this
7 deployment.

8 The public will be able to view data and
9 documents about a trademark including relating to
10 TTAB and assignments from a single location.
11 You'll be able to download all of the data,
12 including TTAB and assignments. And the ability
13 to view the TTAB and assignments data will be
14 much, much easier using the document tab once this
15 deployment is made. You'll be able to book more
16 the TSDR urls for future searches using the case
17 and docket viewer and you will also be able to
18 view multiple cases, up to 25 on the same screen.

19 So, these are all positive developments
20 and I am told that this deployment is going
21 forward. If there's any late-breaking news later
22 in the day, you'll see it on our Web site, but I

1 think all systems are a go on this one.

2 At the end of January, we had a
3 migration of TEAS and TEASi forms to a new virtual
4 environment and some of the highlights and changes
5 for this included improvement to the suspension
6 forms, allowing attorneys to bypass the signed
7 declaration if none is required, global forms now
8 function properly when special characters appear
9 in the mark. That's really great that they
10 function properly. I was very happy to see that.
11 The actual word and claim of acquired
12 distinctiveness was added to any field that
13 references Section 2(f) and there were a number of
14 other enhancements and you can see them on our
15 TEAS Web page if you look under TEAS enhancements,
16 you can see more of what I'm talking about in
17 terms of enhancements.

18 Another IT issue is our idea manual
19 where, as I've said before, we're redesigning it
20 to better meet our user needs and this is
21 redesigning our current manual, although we also
22 will be working on a manual for Trademarks Next

1 Generation. We had a bit of a slow start for
2 technical reasons, but we are getting started
3 right now. I believe we've just signed a contract
4 to make some IT enhancements. One of them will be
5 to have an ID checker, which is what we call being
6 able to when you type in your ID on a TEAS form,
7 not TEAS Plus, but regular TEAS, you will be able
8 to see right away whether it's in the ID manual or
9 it's not. So, that, we think, will be a really
10 good improvement.

11 Another thing we're going to do is allow
12 users to filter out at their option the TEAS Plus
13 individual submissions that come in and sort of
14 crowd up our manual. Sometimes you may not want
15 to see all of those; so, you will be able to
16 filter those out.

17 We also had a number of suggestions from
18 internal users, from our examining attorneys that
19 we're going to try to implement, as well. So, we
20 have to strike a balance and trying to do what we
21 can to our current system, but we know that we
22 can't do too much because we're also in the

1 process of working on our Trademarks Next
2 Generation and we certainly don't want to slow up
3 those efforts, but we will have a new ID manual at
4 the end of that process, as well.

5 Continuing along the ID manual, we've
6 reached out to various industry groups to talk
7 about ways to improve the content and entries in
8 the manual and three of the topics that are
9 probably at the top of the list are social media,
10 finance, and computer terms. INTA and IPO in
11 particular are helping out with that effort to try
12 to give us some expert industry advice on how
13 things should be worded and what should be
14 included in the manual. So, we see that as a big
15 benefit to our internal users, our examining
16 attorneys, and also to the public in having the
17 most up-to-date and relevant IDs listed in our
18 manual.

19 Turning now to the TMEP, we are going to
20 have an update in April. This will be our first
21 semiannual, is that the right term, twice a year?
22 Yes. So, we're going to have semiannual updates

1 now rather than annual updates and that's because
2 we have a new tool. The technical letters are
3 RDMS. That's the new tool that not only has
4 presented the public with better search features,
5 but it allows us to much more easily update the
6 manual and control the content of the manual.

7 Now, we don't want to give you an update
8 every month. I think that would be a little bit
9 too much, but twice a year is what we're shooting
10 for, and this April, we're going to have an
11 update. It will be limited to new case law and
12 previously-issued exam guides. So, it won't be
13 overwhelming, but it will be a good update for
14 everyone to have.

15 In connection with the TMEP, we have a
16 tool that many of you probably have seen already.
17 It's a way that you can provide comments about the
18 TMEP online and you can also provide comments to
19 the exam guides that we post before they're issued
20 and we recently did that with the specimen exam
21 guide that came out in December, but before we
22 issued that exam guide, we considered all of the

1 comments that were posted by the public and by
2 examining attorneys on this tool which the brand
3 name I think I can say because it is on the Web
4 site is IdeaScale, and it's turned out to be a
5 very good tool for people to really give us some
6 valuable input before we make our exam guides
7 final. And, right now, we have TMEP chapters 1100
8 and 1700 available for comment using that tool,
9 so, if you feel so inclined, go on there and let
10 us know if you think any changes should be made.

11 Another enhancement that we're looking
12 at is the Official Gazette. So, I don't know if
13 you know this, but since we've last met with this
14 group, we have eliminated the paper OG. I know
15 that doesn't matter to any of you because none of
16 you have been using it for a long time. In fact,
17 we only had I think 150 users of the paper OG with
18 subscriptions within the past few years and 3 of
19 those subscriptions happen to be ours. I don't
20 know how that happened, but we were a little
21 surprised. Anyway, so, we got rid of that GPO.
22 Government Printing Office is no longer producing

1 that. Christmas day 2012 was the last issue of
2 the paper OG. And, so, that puts us in a position
3 where we can actually modify and enhance the
4 electronic OG because it no longer has to be
5 suitable for paper publishing.

6 And, so, the clumsy PDF format will be a
7 thing of the past. We're working on enhanced
8 search tools. We're working on a lot of things.
9 We hope to have a prototype available. I think
10 end of March is what we're looking at for people
11 to look at. It won't be an actual Official
12 Gazette, a working Official Gazette, but it will
13 be something for people to take a look at and make
14 some comments on. We're hoping to have the entire
15 project finished by the end of the fiscal year and
16 we do want to get user input on this.

17 We had a couple of focus groups in
18 October where representatives from user groups had
19 the opportunity to give us their thoughts on what
20 they thought should be contained and that's sort
21 of the basis for how we're marching forward on
22 this, but you'll have other opportunities. So,

1 that's the Official Gazette. We're very excited
2 about that project.

3 I want to move now to outreach and talk
4 a little bit about first stakeholder outreach and
5 I think you've probably noticed in the past few
6 years we've tried to have roundtables, we've tried
7 to involve our stakeholders in our decision-making
8 actually before we make those decisions. We think
9 that's a lot better than hearing the complaints
10 after we make the decisions. So, we finally got
11 it and we're moving in that direction.

12 We're also trying to have stakeholder
13 outreach sessions around the country to involve
14 people who maybe wouldn't ordinarily have the
15 opportunity to meet with us. And, so, we're
16 working on this with INTA and we're having a small
17 group, around 25 people in various cities and we
18 set up these meetings, they're several hours long,
19 and the whole purpose is to talk about whatever
20 issues are on their mind, even talking about
21 advanced practice tips, letting people share ideas
22 and letting them hear from us, but most

1 importantly letting us hear from them. And we've
2 had these stakeholder roundtables for a little
3 more than a year now. They've been very
4 successful.

5 The past couple of months, we've been in
6 Seattle, charlotte, North Carolina, Detroit,
7 Portland, Oregon. We'll be in Atlanta this month
8 and we have a few more planned and we will
9 continue to plan them as long as everyone feels
10 that they're valuable ways to spend their time and
11 so far, we've gotten excellent feedback on them
12 and we've actually made some changes and it's
13 really helped us to hear from people who user our
14 systems every day, who work with us on a regular
15 basis, and, so, if you've participated in any of
16 those, I appreciate it and thank you.

17 More outreach, and this sort of falls
18 onto something Dana mentioned. We're planning to
19 have a seminar or workshop later this year on
20 bad-faith filings. It will take place in Tokyo,
21 and it's actually being set up and coordinated by
22 JPO, the Japanese Patent and Trademark Office, and

1 targeting practitioners, of course, and we're
2 hoping to get good attendance from China and other
3 areas in Asia, and this is one of the projects for
4 the TM5, one of the seven or eight projects that
5 we have going and we're really happy that we're
6 going to continue along this line and all of the
7 participants of the TM5, including China and
8 Korea, are very anxious to get this going.

9 So, hopefully, we'll have good results
10 from that and our folks do participate. We've had
11 these in the past, and TTAB judges and
12 representatives from External Affairs, Dana's
13 area, have participated. So, we look forward to
14 that in the future.

15 Another international area I wanted to
16 mention has to do with the WIPO Global Brands
17 Database. I'm not sure whether you're aware; WIPO
18 has recently launched a Global Brands Database
19 that has I think six national offices, including
20 ours, and you can also, of course, access the
21 MADRID registrations, international registrations.

22 What I do want to mention and we were

1 able to give them our data because they were able
2 to do all of the IT work necessary to convert it
3 to make it usable for them, we do have a notice
4 posted on their Web site talking about the need to
5 actually do a search on the USPTO Web site on
6 tests for U.S. mark or for when you're filing in
7 the U.S. The WIPO Global Database does have all
8 of our data, but it's necessarily the way that you
9 would see it if you were really interested in
10 doing a proper search at the USPTO, and, so, we do
11 make that known on their Web site.

12 More outreach, I want to mention our
13 Public Educational Program and we continue to
14 explore ways to reach members of the public
15 because we have realized over the past couple of
16 years that it's much better to educate people
17 before they have entered into the process and made
18 whatever mistakes that they might make when they
19 don't know anything about trademarks and they get
20 involved in it a little too late. And, so, our
21 outreach manager, Craig Morris, has been
22 continuing to reach certain educational

1 entrepreneurial groups and other small business
2 groups that we probably wouldn't ordinarily reach
3 in our usual stakeholder outreach efforts and
4 we've also revised our basic fact booklet and
5 added some informational videos to our Web site,
6 which I know we've talked about in the past, and I
7 really encourage people to look at because they
8 explain our process in a really informative and
9 clear, plain English, and even sometimes
10 entertaining way and I've heard from law firms and
11 others that they actually used these videos for
12 training. So, I encourage even the most
13 experienced practitioners to take a look at them.
14 And we're planning to do a few more this year on
15 trademark basis.

16 So, I think that I've definitely
17 exhausted my time and I think I've covered
18 everything I would like to cover, but please, if
19 anyone has any questions, I'll be happy to
20 entertain them.

21 MR. TEPPER: Thank you very much Debbie.
22 I see a hand with a question, but I'm going to

1 exercise my prerogative just to acknowledge and
2 say thanks to not just Debbie and her staff and
3 leadership, but to Trademark Operations for
4 another excellent quarter. I suppose that our
5 next meeting will be introducing her as
6 commissioner for Trademarks and gold medal winner
7 Debbie Cohn.

8 But I was just struck as we went through
9 all of the performance measures the fact that a 1
10 percent variance in January has already been
11 focused on and dealt with training and resources
12 by the office tells you that it makes our job on
13 the Advisory Committee very easy. They pay a very
14 close mind to these, they stay on track. We
15 appreciate that. In fact, I admire that once you
16 start meeting all of your goals and targets, the
17 office is on its own setout, some more stretch
18 targets, and the excellent office action standard
19 is a good example. Twenty-five percent compliance
20 rate was what they were shooting for. They're
21 ahead of that.

22 So, we'll look forward to seeing what

1 they can do to raise the bar next time, but we do
2 appreciate it.

3 And I would like to thank the examining
4 corps, all the managing attorneys. You guys don't
5 always agree with me. I wish you did, but you're
6 very helpful and very responsive and thoughtful.
7 And, so, just on behalf of your customers, we do
8 appreciate that.

9 I'd also like to encourage everyone, you
10 heard several times in Debbie's remarks changes
11 that are coming, responses the PTO has made, and
12 in most cases, they are after public input. There
13 are roundtables and discussions and meetings,
14 there are often a quest for comments. I encourage
15 those of you in the public to take that seriously
16 and to give your feedback to the PTO.

17 As you can see, it makes a difference.
18 I appreciate that the office seeks input first.
19 And, so, for those of you, do please stay tuned.
20 We'll try to be aware of Federal Register Notices
21 or Requests when they come up, but it's a great
22 process and it makes for, I think, a better

1 outcome for everyone when you participate and
2 provide your comments to the office so that they
3 can respond.

4 With that, Deb, I think you had a
5 question.

6 MS. HAMPTON: Good morning, Debbie.
7 First of all, I just wanted to congratulate the
8 office and to say that from a user standpoint that
9 the enhancements that you mentioned this morning
10 is going to save so much money and probably so
11 much time, particularly when you talk about the
12 ID-checker. I believe a lot of the users,
13 particularly when they have long identifications
14 of goods and services for TEAS, and if there's a
15 method to do a TEAS Plus, which will shorten the
16 time to complete the application, I would not be
17 surprised to see that the number of TEAS Plus
18 applications rising and TEAS going down. So, my
19 hat off to the office.

20 MS. COHN: Thank you, Deb, and your
21 comments suggest that maybe I need to clarify what
22 the ID-checker is going to be. It will be on the

1 regular TEAS form. So, you will have the
2 advantage if you want to use regular TEAS rather
3 than TEAS Plus for any particular reason, you'll
4 have the advantage of being able to tell in that
5 regular TEAS form whether your ID is in the manual
6 and you can't do that today. So, I'm not sure
7 whether it will cause people to move to TEAS Plus,
8 as you suggest, but it will certainly make it
9 easier for them to use the regular TEAS
10 application form.

11 MR. TEPPER: Thank you. Are there other
12 questions, comments? Yes, Anne?

13 MS. CHASER: Debbie, I'd like to echo my
14 congratulations for terrific results.

15 Recently I heard that the USPTO is
16 ranked number four as one of the top places to
17 work in the federal government, and I think that's
18 a huge compliment to the leadership and also to
19 all of the employees that work here.

20 Could you give us a little background on
21 that?

22 MS. COHN: Sure, and actually, I should

1 have included that in my remarks. For some
2 reason, it didn't make it in there and I apologize
3 for that.

4 This was a huge deal for us, it was a
5 huge honor. Among the category of sub agencies,
6 which we are considered since we're part of
7 Department of Commerce, we were ranked number five
8 in the Best Places to Work Survey, which is put
9 out by the Partnership for Public Service and it's
10 based on an employee survey that goes out every
11 year to all employees, and, so, they compile the
12 answers to various questions and figure out -- and
13 it's a very complicated process -- rankings among
14 a number of categories of agencies. In our
15 category, there were more than 200 agencies. And,
16 so, to be ranked number five was just a huge honor
17 for us and I think it reflected a lot of things;
18 it reflected the employees, it reflected the
19 managers, it reflected just a lot of effort on the
20 part of our agency and it was, as I said, a huge
21 honor to be part of that. So, thank you for
22 bringing that up.

1 MR. TEPPER: Great. Are there other
2 questions? Please, Cheryl.

3 MS. BLACK: Hi, I have a question about
4 the TMOG. I was just curious if any of the 147
5 other subscribers had any comments or feedback
6 with the elimination of the printed publication.

7 MS. COHN: We have not heard directly
8 from anyone. I understand that one person may
9 have complained through INTA. I don't know who
10 that person is. And I haven't gotten any
11 information about it, but I think the level of
12 effort required of GPO and the money required to
13 produce that and the negative effect it has on our
14 ability to provide services, I think the balance
15 tips in favor of that one person just having to
16 deal with that.

17 MS. BLACK: And that's sort of hearsay
18 anyway because you didn't hear it directly.

19 MS. COHN: No, no, it's complete
20 hearsay, thank you. (Laughter)

21 MR. TEPPER: Thanks. With apologies to
22 that one person, if you exist, I think that if at

1 least one lawyer doesn't complain about something,
2 it's a sign of the apocalypse. (Laughter) So,
3 all is probably right with the world.

4 Do we have any questions from the
5 public?

6 (No response)

7 MR. TEPPER: Well, thank you very much,
8 Debbie. I know we're just a little bit behind on
9 time, but I think we had a lot of ground to cover
10 and we appreciate all of the updates and
11 information you shared.

12 And I'm also glad we are going to hear
13 next from our Chief Information Officer's Office.
14 Having learned about the roll out of TSDR tonight,
15 I'm glad we got them on early in the day because
16 they will have their hands full, I don't doubt.
17 We're joined this morning -- thank you, I see Raj
18 Dolas is coming up, who is the Portfolio Manager
19 for Trademarks Next Generation and your agenda
20 indicates, John Owen, our Chief Information
21 Officer, is going to be here. John actually does
22 have a doctor's note. I apologize, but need to

1 tell you that his physician insisted on his being
2 there instead of here this morning, but we are
3 grateful and want to thank Marcie Lovett for
4 stepping in.

5 I think you all met Marcie at our last
6 meeting in October, when she was just brand-new to
7 the office. So, we appreciate her being here
8 today to provide the OCIO update.

9 And with that, I'll turn it over to you,
10 folks.

11 MR. DOLAS: Thank you, Maury. Good
12 morning, everyone. John does send his apologies
13 that he could not make it here today. He's at the
14 doctor's office, but I will go through the
15 Trademark Next Generation portfolio and then I'll
16 hand off to Marcie for the state of our current
17 systems.

18 This is what we're doing right now for
19 Trademark Next Generation. We have six programs
20 that have numerous projects. We're doing a lot of
21 stuff right now.

22 So, the six main programs we have are

1 infrastructure improvements, the TMNG user
2 interface, which is very important, we have a Web
3 and Business Services Program, a Data Services
4 Program. Cloud computing, obviously, is very
5 important to us and Separation and Virtualization.

6 There are a number of projects in each
7 of these programs. I'll go through the projects
8 in the next set of slides and I'm just going to
9 move on to the next one.

10 So, one of the key projects that we have
11 done and it's complete, by the way; it was
12 completed in January, is single sign-on project
13 that allows us to provide access to TMNG in a
14 role-based access. So, instead of trying to
15 figure out or trying to build multiple systems, we
16 have one system that we're going to build in TMNG
17 and when you log in, based on who you are, the
18 system behaves slightly differently for each of
19 the roles. For example, managing attorney versus
20 an examining attorney or legal instrument
21 examiners. The roles will be defined based on who
22 you are and the system behaves slightly

1 differently based on that.

2 So, this product was installed in
3 December. We tested it with one our TMNG Systems
4 Trademark Quality Review System in January and
5 that also was completed and successfully tested in
6 January. So, we have one system that is working
7 using the single sign-on mechanism and production
8 environment.

9 The user interface is a key for building
10 new systems. We follow a user-centered design
11 methodology for building the user interface. We
12 have a set of volunteers who are interviewed twice
13 a week and they tell us what the system should
14 look like and how it should behave. So, their
15 input is captured and the user interface is
16 developed based on their input directly. We have
17 developed some core capabilities that are
18 necessary, such as docket management, case file
19 management, routing management which means, how do
20 you take a case from one business unit and send it
21 to the other or between employees? Those are some
22 of the core capabilities that we developed and

1 we'll continue to work on them to make them
2 better.

3 The current UI efforts are focused more
4 on writing office actions, providing a very easy
5 way of developing and writing office actions and
6 storing them in a content management system and
7 alert notifications. This is a new feature that
8 we're adding to Trademark Next Generation where
9 alerts will be used predominantly instead of
10 e-mail communication between the business units
11 and between employees.

12 Web and Business Services is where most
13 of the business logic, the workflow rules live.
14 We're currently developing workflow rules and
15 business rules for examiners and we'll continue to
16 do that for the rest of this year.

17 The Web and Business Services 2 Project
18 is responsible for building out different
19 environments for Trademark Next Generation. We
20 have built out environments for development,
21 system integration tests, functional quality
22 tests, and staging. We're currently working on

1 planning on how to build a production environment
2 and that's a goal for us to complete in this year.
3 We also have an environment for disaster recovery.
4 We're going to start planning for that in 2014 and
5 build that environment out in 2015.

6 We have a project for Trademark
7 Reporting and Datamart. So, the goal of this
8 project is to separate reporting features and
9 functions from your main systems that examiners
10 and other employees use, transfer the data into or
11 copy the data on a nightly basis into the Datamart
12 so your reports do not impact the way your main
13 systems work.

14 The current focus that we have is
15 developing reports for the Office of Quality
16 Review. We're working on examiner reports and
17 publication reports for that group.

18 Trademarks Records Management is part of
19 our Data Services Program. We will be migrating
20 data from our current system of records, our
21 mainframe which is TRAM, into Trademark Next
22 Generation Databases. We have made significant

1 amount of improvements and progress in migrating
2 data for our mark information, correspondence
3 information, goods and services, and we have about
4 59 tables that are created in the Next Generation
5 System, we have about roughly 11,000 cases that
6 have been transferred into the Next Generation
7 Database that allows us to prove that the
8 migration process is accurate and allows us to
9 check for data accuracy and consistency.

10 The rules that go into migration also
11 get validated as part of this. So, doing a
12 migration of 11,000 cases has helped us
13 tremendously in improving the rules that allow us
14 in the transformation.

15 Debbie spoke about the TSDR and document
16 retrieval system. We actually have -- it's going
17 into production today, instead of just testing
18 quality, performance and user acceptance, all
19 those tests have been completed and we're actually
20 looking forward to this system going into
21 production.

22 Electronic Official Gazette, Debbie also

1 talked about this.

2 We're all excited about this project.
3 We initialized it a couple of months ago and we
4 have selected vendors. They have started working
5 on development process. Architecture has been
6 finalized, requirements have been finalized, and
7 development has started. What we anticipate doing
8 in the next few weeks is giving you a preview of
9 what the user interface is going to look like. We
10 will put this out on the Internet, so, selected
11 members can get a preview of how the user
12 interface looks like and get your feedback on
13 improving the user interface further.

14 Separation and virtualization, we have
15 been talking about this for quite a while now.
16 Our goal is to separate all Trademark IT Systems
17 from other systems that exist in our data center.
18 The goal of that is to not just separate them, but
19 virtualize them so that we reduce our footprint
20 for all Trademark IT Systems that exist in data
21 center.

22 We're currently working on five, and

1 that is going to be the last stage in separation
2 and virtualization. We have finalized the
3 production deployment state, and in the next few
4 months, most of these systems will be separated
5 from other systems that exist in the data center
6 and they will stand on their own.

7 This is a draft of a roadmap. We
8 continuously improve this map and modify it based
9 on priorities of the business. It is very busy,
10 so, I'm not going to go through the details in
11 there, but the applications, a majority of them
12 since we're in FY13, TSDR 2.1, as you see up there
13 at the very first thing that is going to be
14 complete. The Trademark Datamart Reporting will
15 continue throughout 2013. Electronic OG has been
16 kicked off. AASSO, and this is the one in pink,
17 is complete. TRAM data migration will continue.
18 And at the bottom, we have the terminology that we
19 use that is based on Business Architecture, which
20 is value streams, development of the value streams
21 was kicked off in September and that will continue
22 throughout through the next few years.

1 And that's all I have for Trademark Next
2 Generation.

3 Do we have any questions?

4 MR. TEPPER: Okay, are there questions
5 for Raj? I would like to just pause a second and
6 just make sure that it's clear to everyone in
7 reviewing these slides and I think Marcie's, as
8 well, Trademarks Next Generation will be a single
9 system that is going to serve both internal users
10 at the PTO, examining attorneys, folks that are
11 doing their work here at the office and also the
12 external users, the public. So, some of what you
13 have seen and I think will be seeing in the slides
14 when you hear of these developments for examiners,
15 do understand some of this for those of us
16 attending or for public users will be
17 behind-the-scenes work. We may not see the
18 changes. We want you to be aware of activity that
19 is going on and some of the external phasing
20 pieces you are hearing about, as well, in
21 connection with this. So, if you hear a part of
22 you see a screen where you think I don't think I

1 use that application, that probably is the case,
2 but we want you to understand development
3 activities that are ongoing for sort of both
4 pieces in the system.

5 With that, do we have questions for Raj
6 on Next Generation activities before we transition
7 over?

8 (No response)

9 MR. TEPPER: All right, thank you. In
10 that case, Marcie, I'll let you pick up.

11 MS. LOVETT: So, in terms of some of the
12 legacy enhancements and small work requests
13 accomplishments that we've made since the last
14 time we've met, there was an initiative to update
15 the existing trademark serial numbers because the
16 existing ones were going to end. So, we've added
17 a new series code for trademarks, Code 86, which
18 would take us out a couple of years and these
19 serial codes are the ones that are generated when
20 applications are assigned.

21 Also, there's been an infrastructure
22 upgrade for compliance with IPV6, which is our

1 Internet Protocol Version and this will enable
2 better routing across the network. We did that
3 for our TEAS, TEASi applications on January 31 and
4 we also address any post deployment issues in
5 collaboration with the support teams.

6 For trademark petitions template
7 enhancements, we're currently modifying the
8 existing templates to change some content to
9 assure compliance with the law as well as
10 developing six new templates for the examining
11 attorneys. We are in the process of developing
12 two of those, which is the Letter of Protest,
13 decision, and memo.

14 The Trademark Universal Laptop
15 replacements was completed successfully on
16 February 22, so, all the trademarks are currently
17 on the same baseline.

18 In terms of the MADRID enhancements,
19 code modifications are underway to mitigate any
20 erroneous and duplicate data generated on the
21 style sheets to ensure the appropriate texts apply
22 when stating the reason for the invalidation.

1 There's also an infrastructure upgrade to help us
2 better stabilize the platform for MADRID and some
3 system enhancements are under analysis and these
4 system enhancements will help us meet some
5 additional treaty obligations as well as put some
6 things in place in the interim while we're waiting
7 to move forward with Trademark Next Generation.

8 For X-Search and TRAMcites, as you know,
9 we had initially had issues deploying this to the
10 users, so, we've addressed all of the performance
11 degradation issues and we've also deployed to the
12 trademark examiners. There are a few stragglers
13 that for various reasons we were unable to reach;
14 either they were on vacation or they were not
15 connected to the network.

16 For Fast-1 and Snag-IT, testing is in
17 progress and we're scheduled to deploy on March 4.

18 TEAS form enhancements; we're also doing
19 some analysis to make some enhancements to those.
20 Some are dealing with treaty mandates and some are
21 dealing with cumbersome manual processes that we
22 need to automate.

1 The Trademark ID Manual, Debbie spoke to
2 that earlier. This will allow us to have a Web
3 interface to retrieve and validate goods and
4 services.

5 So, does anyone have any questions?

6 MR. TEPPER: All right, yes, please.
7 Yes?

8 MS. WELDON-WILSON: I just wanted to
9 thank you for making these slides so accessible to
10 us so we can understand the progress that's been
11 made and the progress that will continue to be
12 made and you've done that in a very
13 straightforward and understandable way. So, thank
14 you.

15 MS. LOVETT: You're welcome.

16 MR. TEPPER: Sure, Cheryl, did you have
17 a question?

18 MS. BLACK: I just wanted to make the
19 comment, Marcie, I know you kind of jumped in at
20 the last TPAC meeting and you've come back and
21 shown us what has been done. I know John is not
22 here, but we really appreciate the progress that

1 we've seen. We had raised some concerns and you
2 all have addressed them and we definitely see
3 going forward that we'll continue to see that
4 progress. So, we want to acknowledge that and,
5 Raj, thank you very much.

6 MS. HAMPTON: I just want to echo what
7 Cheryl said. From the last public meeting until
8 today, the enhancements that we've heard about and
9 the changes that have been made, it's just
10 phenomenal. So, my hat's off to you, Raj, to
11 John, to the OCIO office. Thank you.

12 MS. LOVETT: Thank you.

13 MR. TEPPER: I was pleased; by the way,
14 you'll note that we saw the universal laptops have
15 now been deployed and are at least in use. I
16 don't know that we're going to miss that one. You
17 all have probably noticed we've been focusing on
18 and talking about that issue for about the last
19 year in our meetings. Understand trademarks were
20 sort of the last in the office to receive that
21 because there are some difficulties with a couple
22 of the systems that examining attorneys need to

1 use.

2 So, since it was a February 22
3 deployment, let's all hold our breath, cross our
4 fingers, and try to look the right way so that
5 everything works. That's what I do with my
6 computer when I log on and sometimes that is
7 effective.

8 But we obviously are at a midpoint here.
9 It's a little bit like being halfway through
10 constructing a house. We're really pleased to see
11 progress. We also recognize this has been a
12 significant investment on behalf of trademark
13 users and customers and we hope to see things
14 continue to progress to finish out and round out
15 these systems.

16 Do understand for those of you on the
17 outside that part of this we may be in a quiet
18 phase while some internal changes and enhancements
19 are showing up and we'll do our best to keep you
20 updated on those to be looking at those as we meet
21 here and also we'll look forward to seeing some of
22 the other changes that we get to see on the

1 outside of things.

2 So, do we have any questions from the
3 public for OCIO?

4 (No response)

5 MR. TEPPER: All right. Well, good,
6 see, you guys must be very thorough. Everyone's
7 quiet today. We appreciate that very much.

8 Thank you, and I'm going to turn now,
9 sort of continuing with my baseball analogy about
10 the way that we have structured today's meeting.
11 I believe this makes Sharon Marsh our cleanup
12 batter. If you ever had to put together a batting
13 order, you know you want someone strong in that
14 position. Sharon is sort of the last item before
15 our break. She's coming forth in the lineup. So,
16 you make sure that you have a strong hitter to
17 come in and round that out. But we do have a
18 brief update on just a couple policy issues and
19 developments and we appreciate your being here to
20 update us, Sharon.

21 MS. MARSH: Thanks, Maury. My nametag's
22 on the other side of the room, but most of the

1 committee and most of the audience is on that
2 side, so, I'm going to sit here.

3 I just have two brief items. The first
4 is what we have been calling our Post-Registration
5 Specimen Pilot. If you recall, this is our
6 attempt to gather some information about the
7 accuracy of the Section 8 affidavits that are
8 filed between the fifth and sixth year after
9 registration. And, so, for 500 unlucky
10 registrants, we have been sending them an
11 additional requirement at the time they filed a
12 Section 8 to submit proof of use for 2 additional
13 items per class.

14 The pilot is going fine. As of
15 Wednesday, the staff tells me that we have sent
16 out about 450 letters. I think actually it's a
17 little less than that. We have 68 more letters to
18 send. And these letters are going to all
19 registrants, no matter what the basis. I'm told
20 that we got a phone call from one U.S. registrant
21 who was surprised that he had received a letter.
22 He thought this pilot was only going to apply to

1 non-U.S. registrants. But it's a proportionate
2 number of queries that are going to registrants
3 under all 3 bases, Section 1, 44, or 66.

4 Probably we will be ready to report some
5 data maybe, maybe the end of the calendar year.
6 These registrants have, as you know, six months to
7 respond. So, if we haven't even sent out all the
8 letters yet, it'll be a full six months before we
9 can collect all the data.

10 The other topic was any updates on
11 MADRID protocol. I think the news with MADRID is
12 that in the last seven months, four countries have
13 become active participants in MADRID. The
14 Philippines last July, Colombia last August, New
15 Zealand in December, and then Mexico just last
16 month. I think that brings the total number of
17 MADRID protocol countries to 88, which is a really
18 good development. We have provided a little bit
19 of technical assistance to some of the new
20 countries as they come on. As you can imagine,
21 it's a very large, sometimes overwhelming project
22 to put all the systems in place to be

1 participating in MADRID.

2 Last month, two of our staff members,
3 Jennifer Chicoski and Felicia Battle, provided
4 some technical assistance to Mexico, as they
5 prepared to start accepting MADRID applications.

6 I also believe that Commissioner Cohn
7 had some very preliminary conversations with the
8 officials at the Indian Trademark Office. India
9 is also preparing to join the protocol.

10 Here in the U.S., our statistics for
11 2012 were similar to 2011. We had 5,291
12 international applications filed by U.S. trademark
13 owners and we had 13,492 MADRID registrants that
14 designed the United States, and those came in as
15 66(a) applications.

16 And, lastly, I wanted to mention we are
17 just in the planning phase, but we're working with
18 WIPO to develop as WIPO-USPTO seminar on advanced
19 MADRID protocol practice. The idea is that it's
20 kind of a complicated system sometimes, lots of
21 little rules that don't come up very often, and,
22 so, we thought that it would be useful to U.S.

1 Practitioners if that kind of program were offered
2 here. This would be done through GIPA, our Global
3 Intellectual Property Academy. So, stay tuned.
4 We will let you know as that develops.

5 I think that's about it, Maury.

6 MR. TEPPER: All right, thank you for
7 that very much.

8 I do want to remind everyone in the
9 event that you receive a letter in the specimen
10 pilot, this is a pilot that was launched only
11 after several rounds of comments and discussions.
12 I compared it last time, I think, to your chances
13 of being audited by the IRS. If you are one of
14 those people, I am very sorry. Your odds are
15 still very low.

16 So, for the rest of us, we appreciate
17 what you are doing to help us better understand
18 the system and sort of preserve the integrity of
19 our use base register and I wish I had an address
20 to direct you to, but do remember this is one of
21 those things that although we'll all hope to
22 avoid, I think some useful information will come

1 from it and I'm so far holding my breath, keeping
2 my head down, but if I get a letter, we'll be
3 responding, as well.

4 Are there questions for Sharon on these
5 developments?

6 (No response)

7 MR. TEPPER: Okay, any questions from
8 the public? Are you guys ready for a break?

9 (No response)

10 MR. TEPPER: In that case, I think one
11 of the most popular parts of our meeting and in
12 recognition of reality, I used to have a 10-minute
13 break in these meetings and I know you guys aren't
14 going to be back. I'm going to call this 15, but
15 please actually do plan to be back here at 10:45.
16 Our CFO will be providing us with an update and
17 presentation.

18 So, those of you who are watching
19 online, just understand we'll plan to reconvene at
20 10:45. Thank you.

21 (Recess)

22 MR. TEPPER: I was really intending to

1 let you sort of find your way in, but since
2 everyone's back in, why don't we with the old
3 adage you can't finish if you don't start, I would
4 like to resume our meeting.

5 Have just a quick housekeeping request
6 and hopefully, this will benefit those of you who
7 are listening to the meeting online, I do want to
8 remind our speakers we do have microphones here in
9 the room. Please be sure you push them and the
10 red light is on when you speak, but also if you
11 can speak close to the mike so that your voice
12 picks up. It will help those who are listening
13 online to be able to better hear and understand
14 the presentations and the questions.

15 And I also understand, and I may be
16 guilty of this since I'm using my phone as a clock
17 to try to watch this, if you get your PDA or you
18 smartphone too close to the microphone, it can
19 cause some interference. So, please do try to
20 avoid that. If you're playing Angry Birds, good
21 for you, but just don't do it too close to the
22 microphone.

1 All right, with that, we're going to
2 pick back up in the agenda. Again, shuffle the
3 order a little bit, but we're following up on some
4 discussion from our last meeting. Very pleased to
5 have some representatives from the Office of the
6 Chief Financial Officer here today. We are going
7 to start off with an update from Tony Scardino,
8 our CFO, but he is also joined by Mark Krieger and
9 Michelle Picard, who are going to also be giving
10 us some background on some of the work that the
11 CFO's office does.

12 You heard from Dana this morning about
13 some technical amendments to the AIA. One of
14 those dealt directly with funding and is relevant
15 to why we wanted to have this presentation. You
16 all know that for a while, there has been what we
17 call the trademark fence, which is a statutory
18 prohibition on expending trademark-related
19 revenues on non-trademark operations.

20 Now there is also a patent fence. So,
21 the CFO's office is our group that helps us attend
22 to both of those. You'll hear a lot about the

1 lengths to which they go to make sure that we
2 appropriately account for and allocate the monies
3 that come into the office and ensure that those
4 are all being handled and expended appropriately.
5 So, just wanted to give that to you as a context
6 for part of why we're going to walk through a
7 presentation on their cost- based accounting
8 methods, but first, Tony, I want to thank you for
9 being here and we'll look forward to an update.

10 MR. SCARDINO: Thank you, Mark. Good
11 morning. It's a pleasure to be here.

12 Kind of busy times in the financial
13 world of the U.S. government right now. So, I
14 always like to start out with the most positive,
15 which is that fiscal year 2013 resource status,
16 especially for trademarks, is looking very good
17 right now. Revenue is just slightly below what
18 our working estimate was for the first four months
19 of the year. We're at \$86 million. We had
20 estimated about \$90 million by now. And spending
21 is totaled \$89 million, which is about \$3 million
22 above our current year revenue, as I mentioned.

1 But we fully expect that the trademark's operating
2 reserve would cover any revenue or lower than
3 expected fee collections, so, no problems there
4 whatsoever. Reserve was \$126 million, you'll
5 recall, coming into this year.

6 Having said that, there's still
7 significant uncertainty for fiscal year 2013. As
8 you know, government agencies are operating under
9 a continuing resolution until March 27. So, we
10 are waiting to see what will happen. We fully
11 expect that Congress will probably develop a full
12 year continuing resolution, which means that
13 agencies by and large would then operate at fiscal
14 year 2012 funding levels. However, if our
15 spending rate is below our anticipated
16 collections, we have the access to the reserve.
17 So, we can do a variety of things and if we
18 collect more than is appropriated, we can also
19 then -- things would go into the Fee Reserve Fund
20 that was created with the America Invents Act, so,
21 we can request that through reprogramming. So,
22 that's always good.

1 And then we've got fiscal year 2014.
2 I'm sure folks that are following things in the
3 federal government right now, usually the
4 president submits a budget to Congress by first
5 Monday in February, and right now, that's been
6 delayed a bit. We're dealing with sequestration
7 and other things. So, we think a budget will
8 probably be submitted by the end of March from the
9 president to Congress, and, of course, we're part
10 of that process. You should see a draft budget
11 for trademarks by probably late next week. So, we
12 appreciate your comments, as always.

13 Other than that, we look to forward to
14 discussing the 2014 budget as things go into the
15 future. We expect that Acting Director Ray will
16 testify. I think Dana mentioned probably sometime
17 in April.

18 Any questions, thoughts?

19 MR. TEPPER: Do we have any questions at
20 this point for Tony?

21 I do want to remind everyone as we spent
22 a good part of the day sort of keeping up on

1 projects and operations, we sometimes lose sight
2 of the difficulty that the office faces as a
3 government agency and actually budgeting and
4 spending. They are still subject to congressional
5 appropriation. When there is not a budget and
6 there is a continuing resolution that impacts the
7 agency and its ability to plan. So, I think if
8 you keep this in mind, most businesses would tear
9 their hair out if they had to deal with this type
10 of uncertainty and this level of change. So, we
11 have been encouraged in recent years, but I think
12 you've seen language in our annual reports and you
13 will continue to.

14 I do want to remind folks that although
15 it is a user fee-funded agency, the PTO still is
16 subject to congressional appropriation and
17 authorization, and, so, when you send in money in
18 connection with an application or transaction, we
19 sort of could all simplistically assume that money
20 goes straight to the office and they can use it.
21 That is not the case. So, we appreciate the way
22 in which the office can operate. There were some

1 positive steps in the AIA, but we definitely
2 support and encourage any additional measures that
3 will allow the PTO access freer and more regular
4 and predictable access to its funds that its
5 customers provide.

6 Now, any other questions at this point?

7 (No response)

8 MR. TEPPER: All right, well, stay
9 tuned, folks. It's hard to avoid listening to the
10 news and understanding that -- I think I heard
11 this an ancient Chinese curse, may you live in
12 interesting times, and we definitely do right now.
13 So, I know that the only thing I know for sure is
14 things will be changing over the next few months
15 and we'll try to keep on top of that, but we
16 appreciate knowing that you guys are monitoring
17 that and working on that for us.

18 I think we'll continue now with a
19 presentation giving us an explanation of sort of
20 how the CFO's office reviews and accounts for
21 costs. You saw a slide earlier on I think that
22 provided you -- and I was waiting for somebody to

1 jump up with this -- on the cost of reviewing an
2 application. It came out around \$555. I don't
3 have the exact number, but I was waiting for
4 someone to notice how much bigger that is than the
5 filing fee and you were informed at the time that
6 that represented all of the agency's costs direct
7 and indirect. Stay tuned here. I think this will
8 help you understand better how we determine and
9 calculate and can manage to understand and predict
10 those costs.

11 So, thank you, Mark.

12 MR. KRIEGER: Good morning and thank
13 you. I'm Mark Krieger. I'm the director of
14 Finance here at PTO and here to talk about
15 managerial cost accounting.

16 I apologize for the dryness of this.
17 There's only so exciting you can be about the
18 managerial cost accounting.

19 On our agenda today, we're going to talk
20 about the history and overview of ABI, or
21 Activity-Based Information, how we've gotten to
22 where we are today. The Trademark Fee Study

1 Approach, I can tell you it's a very collaborative
2 effort between us and trademarks and the subject
3 matter experts. We need them to help us through
4 every step of the process.

5 And then we're going to give you a
6 shared service factsheet or an example related to
7 managerial cost accounting with our OCIO and we'll
8 show you a detailed example, but also I want to
9 illustrate that we have models for every business
10 unit and it's very comprehensive here at PTO.

11 Like I said, we've been doing this for
12 many years. It's 15-plus years, so, we're at the
13 maturity level. We're recognized as a federal
14 leader, which is very complimentary to us. Also,
15 we want to take a look at how we're doing things
16 and we had an independent review several years ago
17 and I think it's a shout out to our Steering
18 Committee, which is members from each business
19 unit, that they gave us thumbs up and gave us a
20 few suggestions which we took into account, but
21 for the most part, they said that we're doing
22 everything pretty well and that's really good.

1 We're very proud of that fact and also that we
2 have received Certificate of Excellence in
3 accountability reporting for the last 10 years.
4 So, for the federal agencies, that's a really good
5 plus.

6 There are a couple yearly things that I
7 want to point out. 2007 and 2008 were very
8 pivotal years for us. The first thing we did was
9 revitalize the Steering Committee. Like I said,
10 every business unit is represented. No driver is
11 done without voting. It's not a unilateral
12 approach. And we implemented new PPA codes. And
13 you'll hear me say that a couple of times. That's
14 a Program, Project, and Activity, and that really
15 allows us to allocate or drive costs to various
16 business units based on coding structure.

17 Also in 2009, 2010 is when we really
18 developed or enhanced our fee study approach.
19 Again, we worked with patents and trademarks
20 throughout this process, calling upon the subject
21 matter experts and I think at the end, we have a
22 great product.

1 Well, this is our flow of ABI data and
2 what I want you to get from this slide is that
3 it's a very comprehensive system for collecting
4 and reporting financial information. On the left
5 side, we have our inputs, which are timesheets,
6 any financial data, contractor invoices. All
7 those inputs are going to have PPA codes
8 associated with them. They're going to be input
9 to our system and the outputs are a variety of
10 things.

11 The first is our expense contribution
12 report, which is we can tell by three digit org or
13 by every organization how that's split is to
14 patents and trademarks. That's our jumping off
15 point for our fence calculation as well as for
16 budget formulations to 2014.

17 We also have Statement of Net Cost. For
18 those in the private sector, that's the income
19 statement. Now, that is audited. I want to keep
20 that in mind. They look at our drivers, they look
21 at our desk procedures, they make sure they're
22 onboard with the way we're doing things.

1 We also have performance reporting by
2 efficiency measure, we have model data which in
3 the trademarks case are cost objects or an end
4 result are the fee codes. That's what we result
5 from the model data.

6 We also have EDW Reports and standard
7 reports so every quarter, we have a large volume
8 of standard reports that go out to the Steering
9 Committee that talk about expenses not only
10 PTO-wide, but also by business unit that everybody
11 gets and we review it at the quarterly Steering
12 Committee meeting.

13 This is one of my favorite slides
14 because it really does summarize how we do it here
15 at PTO and that's the basic waterfall methodology
16 where we allocate all the support or shared
17 service organizations down to two buckets, patents
18 and trademarks.

19 I want to take you through an example
20 and it's a perfect segue from CIO, but if somebody
21 from CIO, an employee is working on the trademark
22 and Next Generation System, they're going to use a

1 specific PPA code that will drive not only the
2 cost associated with their payroll, but the space
3 that they incur and any OPM payment, which I'll
4 get to in a second, will drive down directly to
5 trademarks because that's the PPA code they use.
6 It's that simple.

7 OPM payment for those that don't know,
8 we have to fund all future health, life, and
9 pension costs currently. So, everybody, including
10 myself, every federal employee at the PTO, we have
11 to pay that currently.

12 We have two types of expenses; we have
13 direct expenses and indirect expenses. Now, the
14 direct have two flavors. Okay, I want to be clear
15 on this topic. The first is anything managed
16 directly within a trademarks organization. You're
17 going to have your normal stuff, payroll,
18 benefits, training, travel, contractual services.
19 Those things are directly managed by trademarks.
20 Then you're going to have your other direct costs
21 that they're allocated, but they're directly
22 associated with the products and services and

1 they're managed centrally at times and there's an
2 efficiency reason for that.

3 So, for example, rent. Instead of
4 having one requisition and each organization
5 having to pay an invoice for rent, we do it
6 centrally. Just makes sense. It's the same with
7 the OPM payment. We have one big quarterly
8 payment that we pay to OPM, we manage it
9 centrally, but we have a good driver by the
10 individual level that will drive those costs to
11 the entire organization.

12 The second piece is indirect expenses,
13 which are going to be your financial management,
14 HR, legal, things of that nature. Also included
15 in that is policy. So, for example, I know at
16 last TPAC they had Dom from the Attaché Program.
17 That would be part of the indirect costs
18 associated with it.

19 Again, another slide that I really enjoy
20 because it shows you the five-year expense trend
21 and you get a feel for where we're headed and you
22 can see for trademarks a very consistent

1 percentage. You went in 2008 at 68.2 direct
2 expenses to 69.3. So, you can see over a
3 five-year period there's not much variety there.
4 Also the same with indirect. You're at 31.8
5 versus 30.7 from 2008 to 2012.

6 The final below that, I want to show the
7 final two-way split because, like I said, in the
8 waterfall methodology, that's where we come to two
9 buckets. You'll have your trademark and patent
10 split. For 2008, it was more like 11 percent, 89,
11 and now you're at 9, 91, and that's to be expected
12 as the patent organization has grown.

13 Now, this is something we went over in
14 detail at the subcommittee yesterday because we
15 have this by actual fee code. For every fee code,
16 we have the cost incurred and what we actually
17 charge in the variance. This is a summary, and
18 we're aggregating them, to give you a high-level
19 view of where not only do we incur our expenses,
20 but where we recoup them.

21 Now, how do we get to this level?
22 Here's a good slide of trademark expenses and the

1 flow through of how it works. And what I want to
2 point out is on the resources, activities, and
3 cost objects, all those three columns, the numbers
4 are the same. It's just a different slice of
5 them. Now, how it works is you have your
6 trademark direct expenses, which we talked about.
7 You have your compensation contracts, et cetera,
8 then you have the direct portion that are managed
9 outside of the organization which is rent, your
10 OPM payment, and any CIO systems. Then you're
11 going to have your indirect CFO, CAO, and your
12 policy.

13 Now that we've talked about your
14 activity cost, how do we get to the final cost by
15 fee code? Well, it's a complicated process.
16 Again, we couldn't do it without the trademarks
17 organization. We really needed the subject matter
18 experts involved in this and that's where they
19 helped us really every step of the way.

20 But we had to create an activity to fee
21 code mapping. So, we collect the fee and what
22 activities support that fee. And then we have to

1 unitize those costs and apply any adjustment
2 factors, if necessary. Sometimes you do things
3 more than once. There has to be an adjustment
4 factor applied and we come up to a fully burdened
5 unit cost by fee code. Now, within that, we can
6 tell what portion is direct, what portion is
7 indirect. Gives you a really good feel for where
8 your costs are coming from.

9 Okay, now, CIO. When I talked about the
10 trademarks slide, it's not much different than the
11 CIO slide in the way it works, the way it
12 operates. You have your resources which are your
13 direct compensation. CIO is going to have their
14 own staff; they're going to have their own
15 contractors. They're also going to have rent they
16 take up. Data warehouse takes up space or the
17 data center takes up space. OPM payment for all
18 those employees. We used resource drivers. In
19 most cases, it's going to be PPA codes that I
20 talked about to come up with CIO activities.

21 Now, you'll see we have a lot of
22 activities. Most of that is because we have so

1 many systems. We have over 260 systems here at
2 PTO. We use those activity drivers to drive those
3 to the actual business unit.

4 Now, I want to give an example of number
5 of PTO IDs, so, PTO Net is a system, so to speak.
6 It's an infrastructure piece. We will split that
7 based on the number of PTO Net IDs that we have.
8 So, if I create an additional one in my office, my
9 office is going to get one more, okay? That's the
10 way it works.

11 I also wanted to take you through a
12 helpdesk example. If someone in trademarks
13 organization calls and says hey, I'm having a
14 problem with TRAM, that cost associated with that
15 is going to actually burden the system, which that
16 system is then going to be allocated to
17 trademarks. If someone from patents says hey, I
18 need to move my PC from here to there and they
19 call the CIO for helpdesk, that's exactly what's
20 going to happen. That cost is going to allocate
21 two patents because they requested a move.

22 That pretty much is it. I did want to

1 take one example because I love examples, and it's
2 specific to my office, but if someone is working
3 on a trademark project or something on behalf of
4 trademarks, we have a coding structure in place
5 that will allow for that. Okay, so, that cost
6 associated with whoever's time would go directly
7 to trademarks.

8 In most cases, that is not the case in
9 my office because we make payments on invoices.
10 That's for benefit of the entire organization.
11 So, what we do is we come up with a driver. That
12 would be number of invoices per business unit and
13 that's how we split that cost. We aggregate that
14 activity cost and we split it based on the number
15 per business unit. It's very logical, makes
16 sense, and that's how we do things here at PTO.

17 So, I want to open it up for any
18 questions.

19 MR. TEPPER: Thank you, Mark. I'm
20 afraid to say I actually understood that.

21 (Laughter) So, I hope that you all
22 found that as helpful as I did.

1 It's good to know and understand
2 sort of how much effort goes into
3 tracking this.

4 Do we have any questions? Questions for
5 Mark?

6 MR. FELDMAN: I would just add that in
7 spite of your opening comment about how dry the
8 subject matter was going to be, I've been at many
9 TPAC presentations and this was the most riveting
10 presentation I've ever heard on cost accounting.

11 (Laughter) And I, for one, can't
12 wait until the July presentation.

13 MR. KRIEGER: Thank you very much.

14 MR. TEPPER: I'm not sure if that was a
15 compliment. Howard may have called you the
16 coolest team on the chess team.

17 MR. FELDMAN: It was a compliment.

18 MR. TEPPER: Okay.

19 MR. FELDMAN: I can't wait for the
20 waterfall slide again.

21 MR. TEPPER: Thank you. Do we have
22 questions?

1 (No response)

2 MR. TEPPER: All right. Thank you.

3 Anything else from the CFO?

4 (No response)

5 MR. TEPPER: Thank you very much. We
6 definitely appreciate both your efforts and your
7 time today to help us and get a better
8 understanding of this.

9 In that case, I'm very happy to be ahead
10 of schedule.

11 Gerry, you're bottom of my lineup. You
12 have to be the power hitter today. So, I
13 appreciate that and I also appreciate Chief Judge
14 Rogers sort of waiting until last. Perhaps, I'll
15 move you up to the top of the line up next time.
16 We'll see how things work. Like a good manager,
17 you got to keep it fresh and try to work with
18 that.

19 But we will now turn to an update on
20 TTAB, some progress, some status reports, and
21 thank you to Chief Judge Rogers for being here
22 today.

1 JUDGE ROGERS: Thank you, Maury. I
2 actually thought you had me last because you were
3 giving me as much time as possible to recover from
4 the terrible cough I had the last time I was here.
5 And I appreciate that. It was quite a chore to
6 get through that last meeting.

7 But I am better and things are getting
8 better and looking up at the board, too, and
9 hopefully, we can talk about some of the things
10 that we have going on there and some of the things
11 that we've been doing in the long time since the
12 last meeting.

13 I'll just run through the things on the
14 agenda first since they're listed and people are
15 expecting to hear about them and then we'll run
16 through some of the slides that are up on the
17 screen.

18 So, staffing and integration of new
19 hires, again, that's something that's kind of
20 exciting times for the board because we have since
21 the last meeting added four new judges, three new
22 staff attorneys, a lead paralegal to work with our

1 supervising paralegal, a quality review team of
2 three people with a supervisor to review the many
3 thousands of uncontested and consented matters
4 that come in on inter partes cases and have to be
5 handled by our team of paralegals every year.

6 And, so, those groups that I've mentioned,
7 paralegals and attorneys and judges, if you think
8 of the workload at the board as kind of a pyramid,
9 the base of the pyramid are the 9,000, 10,000
10 matters that come in every year that require
11 processing by our paralegal team and they provide
12 the basis for the pyramid because that's what's
13 keeping all of those pending cases moving forward,
14 whether they are appeals or oppositions or
15 cancellations.

16 Then, of course, we've got the attorneys
17 who handle the contested motions that come up in
18 the trial cases. So, those cases which have a
19 hitch in them can also be kept moving and we can
20 resolve those hitches.

21 And then of course at the top of the
22 pyramid with the smaller number of work, but of

1 course much more detailed and lengthier decisions
2 are the judges. So, we'll go from 10,000
3 paralegal matters to 1,000 attorney matters to 600
4 or so judge matters at the top of the pyramid.

5 So, it's been a challenge for us to
6 integrate all of these new people, but I have to
7 say it's working very well. The new judges were
8 very productive, we were happy to have them in the
9 first quarter to help with our production in the
10 first quarter, and they've taken to writing
11 decisions very well.

12 The new attorneys that we've brought in
13 are experienced and quite capable and every report
14 I have from Ken Solomon, the managing attorney, is
15 that they and their mentors are getting along fine
16 and doing great and the attorneys are coming along
17 very well.

18 The lead paralegal has really just
19 started just shortly before this meeting and the
20 Quality Review Team is getting set and up and
21 running, and, so, we're hoping for great things
22 from them because there's been a lot of scrutiny

1 paid to the work of the judges and the work of the
2 attorneys at past meetings of the TPAC and at
3 roundtables and at other forums.

4 But one of the kind of great unknowns,
5 the unexplored territory of the board, if you
6 will, has been all of that work being done at the
7 base of our pyramid by the paralegals. And, so,
8 we're very excited to be able to focus on that
9 with the new lead paralegal and the Quality Review
10 Team. So, that's the hires we've actually brought
11 onboard and we are paying them out of our PPA
12 codes and our budget.

13 But we also have another significant
14 addition and that is Meryl Hershkowitz is kind of
15 on loan to us from the Trademark Operations and we
16 thank Commissioner Cohn very much for freeing up
17 some of Meryl's time and making her available to
18 us. Trademarks, of course, is kind of ahead of
19 the board in terms of their systems and the data
20 that they gather and can use for performance
21 measurements and workload projections and budget
22 projections.

1 We have systems that are much more
2 labor- intensive, not as useful in terms of doing
3 those kinds of projections and it's great to have
4 Meryl onboard and to have her working with myself
5 and Debbie Decker, our senior administrator, to
6 kind of assess workflow and work processes on
7 every level of our pyramid and figure out where we
8 can realize efficiencies, where we can deploy some
9 initiatives that will increase production where
10 needed and have us work more efficiently on our
11 cases. But it will also help us work with Karen
12 Strohecker and Nabil, who you heard from before in
13 various times because they're going to be helping
14 us out with coming up with formulas that we can
15 use to project workloads and staffing needs based
16 on what's coming in the front door of the PTO and
17 the trademark operations because that's kind of an
18 area of weakness for us.

19 So, again, exciting times, a lot of
20 people, difficult to integrate and keep all the
21 moving parts going, but I'm looking forward to the
22 challenges and I'm really happy to have the help

1 from trademarks and to have all the new people
2 onboard who, again, are doing very well.

3 A more specific item on the agenda that
4 also deals with kind of personnel and people is
5 the examining attorneys who have been working with
6 us on work project at the board and I want to
7 briefly touch on that. We have had two groups of
8 thee examining attorneys come and work with our
9 judges on large record inter partes cases.

10 So, the first two groups have completed
11 their work and I reported back to Commissioner
12 Cohn with the summaries from the judges who worked
13 with the first group of three, and the second
14 group of three has just recently finished up. So,
15 we'll get reports and feedback on how the judge
16 work went with those participants, too, very soon.
17 And then we have the third group of three starting
18 in April and what we will do is in the fourth
19 quarter kind of debrief the work project
20 participants, continue to debrief the judges who
21 have participated in this, figure out what the
22 best practices are, what the lessons learned have

1 been, and then we can sit down and talk with
2 trademarks and see how their staffing is going and
3 how our staffing is going and what we can work out
4 for the future. But that has been a successful
5 program at least at this point in time based on
6 the limited data and the limited time we've been
7 running it.

8 The next two items on the agenda I'd
9 like to kind of flip because one is meetings and
10 outreach and the other is the TTAB dashboards.
11 And, so, I'd like to talk about the meetings and
12 outreach first because that kind of leads into the
13 dashboard, which is an outgrowth of one of our
14 roundtables.

15 If you go to the TTAB Web page today,
16 you will see some changes in the Web page and what
17 we've tried to do is kind of rearrange some of the
18 links and some of the sources of information that
19 we have on the Web page. And, so, you will today
20 see for the first time a stakeholder outreach box
21 which didn't exist before and we're trying to
22 highlight and collect in one place all of the

1 agendas and transcripts and things like that from
2 previous outreach.

3 So, in that box, you will see the Notice
4 of Inquiry on the possible increase of the board
5 involvement and settlement talks in inter partes
6 cases, you'll see the comments received, you'll
7 see the agenda from our roundtable on processing
8 times or links to all of these things, you'll see
9 the transcript from that first roundtable. That
10 was the 2011 roundtable on processing times.

11 You'll see the agenda from the more recent
12 roundtable on accelerated case resolution and a
13 coming soon notice on a placeholder for the
14 transcript from that ACR roundtable and that
15 transcript is out now with all of the participants
16 and as soon as we get the comments back and we can
17 update that transcript, we'll get that posted.

18 The other thing that we expect to post
19 on the Web page within the coming month or so is
20 the first set of TTAB dashboards and we've worked
21 through a lot of iterations of this and I know
22 it's kind of been a long time coming. It's like

1 of like the UL deployment, as you alluded to
2 earlier, Mark. We talked about the dashboards a
3 lot, but, again, our databases and our information
4 are not as mature, not as developed as what
5 trademarks has available to them, and, so, we've
6 kind of tried to tease a lot of information out of
7 our systems, out of the manual labor that I do on
8 some spreadsheets.

9 And I think we're finally at the point
10 where we have at least a good starting set of
11 dashboards to put up on the Web site, and when
12 they go up, hopefully by the end of March, you
13 will see essentially kind of an at a glance
14 approach to some performance measures, much like
15 you see on the trademark dashboard page. So,
16 you'll see pendency figures, you'll see incoming
17 filings, you'll see inventory levels of all kinds
18 of cases, so, you can have a sense of how much
19 work is pending at the board of every type of
20 case.

21 But then we will further break it down
22 and we will have various dashboards on ex parte

1 appeals, the number of cases maturing to be ready
2 for decision, those that need to be decided by
3 judges, the total inventory of appeal cases that
4 need to be decided on the merits, the age of those
5 cases, the pie chart sharing various ages of the
6 cases. We'll do the same thing for trial cases,
7 oppositions, and cancellations so you'll be able
8 to see again the number of oppositions and the
9 number of cancellations out of our total inventory
10 of each type of proceeding that have proceeded to
11 the point where judges have to decide them on the
12 merits and how long they've been pending, that
13 sort of thing.

14 And we've also been working very
15 diligently with the managing attorney and the
16 attorneys at the board who are our source of data
17 on contested motions and TTAB opposition and
18 cancellation proceedings. Again, we don't really
19 have a way to tease that information out of the
20 system, but they enter data, the attorneys enter
21 data into a log in our Electronic File System and
22 we're able to derive from the data that they enter

1 filing information on the various types of
2 contested motions that come in, those that are
3 awaiting decision, how old they are, that sort of
4 thing.

5 And in this regard, in regard to these
6 two dashboards, we've also kind of in-house, we're
7 getting very close to deploying two new logs, data
8 collection tools within our Electronic Filing
9 System that will ease the chores of the attorneys
10 in reporting and listing the contested motions and
11 will ease, I hope, my chore in keeping track of
12 all the cases waiting to be decided on the merit.
13 So, that's a little bit of a kind of IT
14 enhancement that we have going on while we're
15 waiting for TMNG.

16 And, so, that's the kind of preview of
17 what you can expect to see on the dashboards and
18 we will, of course, have explanations of the
19 charts and the graphs and we will be soliciting
20 comment.

21 The thing I think our next step would be
22 would of course be to consider the comments and

1 consider any changes or additions that might be
2 warranted based on the comments, but also to add
3 some more historical data. The initial set of
4 dashboards are really going to focus on kind of
5 current data so that anyone who needs to advise a
6 client on how many things are pending at the board
7 and how long it's going to take for that matter to
8 be resolved, we'll be able to look at current data
9 and provide that kind of client advice, but we
10 know that there's some interest in getting more
11 historical data, so, we'll get that up on the Web
12 eventually, too, but some of that will have to go
13 back and develop and pull together to be able to
14 put up more historical charts.

15 And, of course, you will also see on the
16 Web site the revised Manual of Procedure. No
17 report here by the board would be complete in
18 recent years without a report on how we're doing
19 on revising the Board's Manual of Procedure, and,
20 of course that's available on our Web page and
21 archived versions of it are available on our Web
22 page.

1 And I do have to thank Judge Angelo
2 Licos and Cheryl Butler for the work that they've
3 done in the last couple of years and we will have
4 the next revision of the manual out in June.

5 That's our schedule and that'll be three
6 years running that we've had a successful revision
7 of the Board's Manual of Procedure after a string
8 of about seven years with no revisions. So, we're
9 happy that we seemed to have turned that corner
10 and it's no longer a question of when the
11 revisions are going to come out, but just really
12 what's going to be in them because we know that
13 they're on a good, steady schedule now.

14 Potentially something that could be
15 increased in frequency maybe to semiannual updates
16 when we're in the RDMS System and alluding to
17 another kind of IT enhancement. We will have this
18 revision that is being worked on now by Cheryl
19 Butler completed first and then rendered in PDF
20 form and posted on the Web, just like we have for
21 each of the last two revisions, and the reason
22 we've done that and we've been slow to get our

1 manual into the RDMS System is, well, part it's
2 CIO resources and the focus that they have
3 necessarily had on the patent operations and the
4 trademark operations and getting their manuals up
5 and running and in great shape through the RDMS
6 System. We also had tried earlier to convert a
7 version of our manual into xml so it could be put
8 into the RDMS System. That conversion didn't work
9 as well as we had hoped and until very recently,
10 we were thinking that we would continue to work on
11 getting that data converted, but a decision was
12 recently made in conjunction with the CIO that it
13 would be better to wait, there's a new schema
14 that's going to be deployed, I'm not quite sure
15 that I understand what a "schema" is, but I know
16 it's important. And when the new schema is
17 deployed in the RDMS System, it is I am told going
18 to make it much easier and much more efficient for
19 the board to do a conversion of the revision of
20 the manual that will come out in June and convert
21 that into xml.

22 So, we'll get that into RDMS, we'll be

1 looking to get that into the system later this
2 year. And then we'll be able to think about doing
3 future revisions through the RDMS System and I do
4 want to also note that we will get a chapter of
5 this revision of the manual up and available for
6 comment in idea scale. That will be Chapter 1200.
7 It's a discrete chapter in the manual that covers
8 all of the ex parte appeal topics and, of course,
9 many of the people who are interested in the work
10 that the TPAC does and the work that the Trademark
11 Operations do will also be interested in ex parte
12 appeal procedure at the board.

13 And, so, we will make that our first
14 chapter in IdeaScale and we don't have to wait for
15 the RDMS conversion, the xml conversion to do
16 that, but we do feel that it would be more useful
17 to get the revision of the chapter done first over
18 the next couple of months so then when that
19 complete revision is done, the whole manual will
20 be rendered into PDF and posted on the Web and be
21 searchable. And then we will take that one
22 chapter and put it into IdeaScale.

1 I've got some other topics, but I've
2 covered a lot, and, so, maybe I should stop for a
3 minute and see if there are any questions before I
4 go on with other points.

5 MR. TEPPER: Absolutely. Do we have any
6 questions for Chief Judge Rogers on the material
7 so far?

8 (No response)

9 MR. TEPPER: Gerry, I want to take a
10 second at this point to commend you for stepping
11 back, taking a look at just how big the pyramid is
12 and for being able to enlist some list and I also
13 would like to commend Trademark Operations for
14 giving you some of their best.

15 Meryl is a rock star around here. We've
16 had the pleasure of working with her. I think
17 she's filled most every role in the agency. So, I
18 know between the two of you, we'll expect to see
19 lots of great things coming down the pike and I
20 think I speak for everyone on the committee, we're
21 very excited to learn about this and we'll look
22 forward to hearing how this is working for the

1 both of you. So, we appreciate that news.

2 Are there questions before we move on?

3 (No response)

4 MR. TEPPER: All right, you must be very
5 thorough and on point today, Gerry. Thank you.

6 JUDGE ROGERS: Well, I'm trying to cover
7 what I think people are interested in.

8 The next thing I wanted to mention was
9 the number of precedential decisions that the
10 board has issued during this fiscal year. As of
11 the close of February, as of yesterday, we've had
12 13 precedential decisions in ex parte appeal cases
13 and 5 in inter partes cases. The inter partes
14 precedents can be final decisions on the merits
15 that might also be useful for procedural rulings
16 or evidentiary rulings, but they also might be
17 interlocutory orders that are designated as
18 precedential because they're considered useful
19 sources of practice information for people. I
20 expect that within the next month because of the
21 number of other decisions that are already under
22 consideration and in the pipeline or in some form

1 of review for possible precedent that will be
2 right on target at midyear for precedents. Expect
3 we'll probably have 17 precedents in ex parte
4 cases and 8 approximate figures based on the
5 numbers that I know are working their way through
6 the system.

7 So, we would be at about 25 precedents
8 by midyear, which is right where we want to be and
9 the breakdown would probably be around 17 or so ex
10 parte decisions and 8 decisions in inter partes
11 cases and I know at least 3 of those inter partes
12 ones that are now working their way through the
13 system are procedural decisions that will be
14 useful to those who practice before the board in
15 oppositions and cancellations.

16 Another thing that we talked about time
17 and again in these meetings and I think is a
18 source of some good news is the number of old
19 rules cases, if you will; the number of cases that
20 are pending under the old rules. The number is
21 down to only 135 cases and that's out of about
22 6,000 total pending oppositions and cancellation

1 proceedings. So, you can see the number is small
2 enough that we don't feel that we need to have any
3 particularly special effort to kill them all off,
4 and, in fact, there's a number of them we couldn't
5 kill off anyway because they're on appeal or
6 they're suspended for civil action, but we
7 continue to monitor them very closely and they
8 continue to drop very dramatically.

9 In fact, of the 135 cases, only 63 are
10 cases that we can really do anything about, that
11 are on track to at some point become decided on
12 the merits or settled. But the rest, 72 cases are
13 suspended for civil action or they're on appeal or
14 they're pending the appeal period or they're
15 waiting to be decided on the merits because they
16 were not settled and they have been tried, but
17 there's nothing more to do on them other than
18 decide them on the merits.

19 So, again, great progress on moving
20 those older cases out and we will continue, as we
21 have been doing, to push those cases that are
22 supposedly on track to eventual trial and decision

1 and perhaps put them on a little bit of a faster
2 track to get them decided so we can get them off
3 of our books at some point in the near future.

4 And, so, that brings me to the new rules
5 cases which are, of course, those which are all
6 the other cases pending at the board and covered
7 by the stats that I have on the slides.

8 So, the first slide you can see, this is
9 just to give you a sense of kind of where we stand
10 over the last few years and how things are looking
11 in the first quarter in terms of incoming filings.
12 Appeals based on the first quarter would be
13 slightly up from the last of the two years if they
14 continued at this pace, but they would still be
15 below the higher point of fiscal 2010. Extensions
16 of time to oppose if they continue at the current
17 trend would be the fourth year in a row that we
18 would reach a high level.

19 So, that shows that more potential
20 oppositions are out there based on, and this is
21 not surprising, based on the increased work that
22 trademarks has been seeing in the increased

1 publications. You would expect to see more
2 extensions of time to oppose. And, of course,
3 oppositions, too, which are generated from the
4 extensions of time to oppose would also at the end
5 of the year be at a four-year high. So,
6 cancellations, too, would be down a little bit
7 from last year, so, cancellations and appeals seem
8 to be the things that are the most steady, but the
9 oppositions seem to be going up a little bit.

10 So, on the other end of our process
11 where we're deciding cases on the merits, you can
12 see that in fiscal 2012, we had an increase in the
13 number of cases that worked their way through the
14 system, and these are both appeals and trial cases
15 and required decision on the merits. We, of
16 course, also increased the number of cases we
17 decided last year, so, both of those figures were
18 at highs last year and that's what those asterisks
19 show on this chart and our inventory, another key
20 on this slide is our inventory of cases waiting to
21 be decided by the judges is down and that's a good
22 thing. And what we have been concentrating on

1 working off some of those older cases, the ones
2 that have been waiting to be decided for a longer
3 period of time.

4 So, in the near future, you can expect
5 to see that the pendency figure may stay somewhat
6 elevated, may even go up a little bit, but that
7 inventory figure is going to continue to go down
8 and then the pendency figures will come down once
9 the inventory comes down, but we were at a high
10 point at one point during fiscal 2012 of over 300
11 cases waiting to be decided and we've been
12 consistently in the 250 range or so for the last
13 few quarters. And, so, that's a good sign of
14 improvement.

15 This is just appeal processing. The
16 kind of information you see in the notes to this
17 chart were prompted by the roundtable on
18 processing times, just like the dash development
19 of dashboards, and, in fact, the posting of all of
20 this kind of information on our Web page was
21 prompted by the roundtable on processing time.

22 We have cases that we know are outliers

1 and kind of skew our numbers and this is just an
2 example, these notes on the bottom are from fiscal
3 2012, and if you look at the average time to
4 disposition of appeals from the time they're
5 commenced, you can see that fiscal 2011 and the
6 first quarter this year are pretty steady. Fiscal
7 2012 was up a lot, but that was because of some of
8 these cases which are referred to in the notes
9 which were real outliers and which threw off the
10 average, so to speak.

11 And what we would like to be able to do
12 in the future is to develop our IT systems so that
13 we can kind of take the same approach that
14 trademarks does and be able to report on cases
15 that are suspended versus cases that are not
16 suspended because a lot of time that goes into
17 end-to-end calculations on appeals and end-to-end
18 calculations on trial cases, which is on the next
19 slide, is kind of beyond the board's control in
20 the sense that if the parties in an appeal, if the
21 applicant wants to file a request for recon or a
22 remand and they want to discuss with the examining

1 attorney whether they can get their application
2 approved without having to pursue a decision on
3 the merits of the appeal, that's a process the
4 office wants to encourage. The more marks that
5 can be registered, the better we don't want it to
6 have to decide any more appeals than are
7 necessary, but that's, of course, time that those
8 appeal cases are not pending at the board, they're
9 back before the examining attorney.

10 Similarly in the trial cases, which are
11 -- oh, I'm sorry, before we get to the trial
12 cases, we'll get the motion practice, but in the
13 trial cases, of course, we have little control
14 over the time that the parties spend in settlement
15 negotiations. We could crack down and provide far
16 fewer extensions and suspensions for settlement
17 talks, but we know from the roundtable on
18 processing times that not everybody would want us
19 to do that and many people like the slower pace of
20 board proceedings. But if we can adapt our IT
21 System so that some of these figures we report
22 factor out the time that is not attributable to

1 board action, but to others who are involved in
2 the proceeding, then we will hopefully have more
3 detail presentation of this data in the future.

4 This slide, the asterisks on the far
5 right in the first quarter is a mistake. That
6 should have been deleted. I've usually used those
7 on prior slides to indicate high points as
8 compared to prior years and when I recreated this
9 slide and moved some of the data around, I just
10 neglected to delete that asterisk.

11 But you can see that the attorneys
12 continue to resolve about a quarter of their
13 matters by getting the parties involved in phone
14 conferences and that's something the board is, of
15 course, committed to. The average time to
16 decision from RFD, 10.6 weeks is not particularly
17 significant over the goal of 10 weeks, however, we
18 do have to note that we expect that that figure 2
19 will probably be going up some in the coming
20 months before it starts to come down because what
21 we will be working on with the attorneys is to
22 bring down the inventory of contested motions and

1 that is something that you can see from the bottom
2 line on this chart has been increasing. And, so,
3 while we have kind of started that downward trend
4 on the final decisions that the judges have to
5 make, we haven't yet made that break on the
6 motions, but we expect to be able to do that very
7 soon and of course we have, as we said earlier,
8 three new attorneys onboard who really are just
9 kind of getting their feet wet and it takes a
10 little while for them to learn the ways of the
11 board.

12 And this, of course, is something I
13 alluded to earlier. This is just end-to-end
14 processing time in oppositions and cancellation
15 cases. And nothing particularly noteworthy to
16 talk about there.

17 And ACR trial processing, again,
18 accelerated case resolution is something that we
19 will have to revisit. Based on the roundtable,
20 we'll get all of the comments back and the
21 corrections on the transcript from the roundtable
22 on ACR. The board is, of course, committed to

1 figuring out what best practices have been in
2 those cases that have proceeded through the ACR
3 process and I have to say that at some point, we
4 may have to seriously consider some rulemaking
5 that might after we identify best practices and
6 think about incorporating some of the best
7 practices from these cases that proceed through
8 the board more quickly and adopt some of those
9 best practices into our rules for all inter partes
10 cases.

11 So, that's a little bit of a heads-up, I
12 think, to the Trademark Bar. We haven't had any
13 rulemaking since we did rulemaking in 2007. We've
14 always known that we've needed to engage in at
15 least a little bit of housekeeping rulemaking and
16 some changes, but we may take that as an
17 opportunity to also think about ACR efficiencies
18 and bring them into the rules for all inter partes
19 cases.

20 And, so, I think we've covered some of
21 these issues earlier today in the discussion of
22 stakeholder outreach, and, again, all of this

1 information is available on the Web site in a more
2 clearly identified stakeholder outreach box and I
3 didn't know that trademarks would have something
4 being deployed today, but I'm glad that we could
5 report that we have something deployed today, too.
6 So, when you come, we give gifts when the TPAC
7 comes.

8 That's it for me, but I'm happy to take
9 any other questions that people may have.

10 MR. TEPPER: Thank you, Gerry. Are
11 there questions for Chief Judge Rogers?

12 (No response)

13 MR. TEPPER: Now, I do have one and I
14 don't know the answer to this, so, of course, I'm
15 asking it at our mutual hazard, Gerry, but I
16 understand when we were talking about the
17 inventory of cases and we certainly are encouraged
18 to see that measure beginning to come down with
19 the understanding that the others will in a
20 trailing way be coming down, as well, is there a
21 target number, and I just know, for example, in
22 examination, we need to have a certain level of

1 inventory of work in the pipeline.

2 Does the board have a sense or do you
3 have in mind a range of what ought to be the
4 appropriate inventory of cases or is it we'd love
5 to see it go to zero if we can ever get there?
6 How does that impact us?

7 JUDGE ROGERS: I would not like to see
8 it go to zero because then I think I'd have 20
9 judges asking me how am I going to be paid next
10 month if there's nothing for me to do. If the
11 inventory gets low, cases, that is, to be decided
12 on the merits, both appeals and trial cases, but
13 motions are still high. We can always have judges
14 work on motions along with the attorneys, pitch in
15 and help the attorneys help. If the attorneys
16 find themselves in a position where they are
17 caught up on motions and that inventory is low,
18 it's in their performance plan that they can help
19 out writing decisions in ex parte cases.

20 So, we have some flexibility there if
21 one or another of the two significant inventories
22 falls low to kind of redeploy our labor, but I

1 think that's one of the issues that Karen
2 Strohecker and Nabil and I will have to be
3 discussing and come up with models that will help
4 us predict what kind of staffing levels we need
5 based on anticipated numbers of motions,
6 anticipated numbers of cases to be decided on the
7 merits based on trademark filings and what will
8 come from them.

9 I think our prior model which we had
10 some questions about the reliability of it was
11 designed really only to predict hiring levels,
12 staffing levels for judges. We didn't really have
13 anything that dealt with the staffing levels for
14 attorneys, and, so, I don't want to shoot from the
15 hip here and guess at what I think appropriate
16 inventory levels would be, but I can tell you that
17 I would like the inventory of contested motions to
18 go back down to what it was in fiscal 2010 and
19 2011 because the attorney group and the size of
20 it, the number of attorneys that we had in each of
21 those two fiscal years and that relatively
22 consistent inventory seemed to be a good match.

1 So, I think that might be a starting
2 point for analysis for Karen and Nabil and I to
3 discuss when we are trying to figure out contested
4 motion inventory and attorney staffing and we'll
5 just have to look at some historical data and see
6 what we can figure out about cases waiting to be
7 decided by the judges and staffing levels of
8 judges.

9 MR. TEPPER: Thank you. And I would
10 love to see us reach the point where you have to
11 start worrying about such things, but, again, we
12 are encouraged to see the trend beginning to turn
13 around and that number coming down.

14 Also want to compliment you for the
15 dashboard coming up. I'm going to give you
16 compliments in advance for the record. It'll be
17 coming out in March, but we really appreciate the
18 public having access to that kind of data. Like
19 any other project, I know there will be changes
20 and enhancements coming, which having the first
21 step out there, that will be a very welcome
22 change. So, we're glad to see that.

1 Also very pleased, I suppose if you were
2 a band, we'd be thankful that you guys are back in
3 the studio putting out releases every year now and
4 we hope that will certainly continue.

5 Are there other questions?

6 (No response)

7 MR. TEPPER: All right. Any questions
8 from the public at this point?

9 (No response)

10 MR. TEPPER: Thank you, Gerry, very
11 much. And, yes, we also are pleased for your
12 recovery.

13 JUDGE ROGERS: Thanks.

14 MR. TEPPER: We'll talk about our next
15 meeting. It'll be in the summer. I hope allergy
16 season doesn't impact you, but other than that,
17 we'll be in very good shape.

18 Well, I want to pause at this point just
19 to see if we have questions from the public about
20 anything that's come up in today's meeting. Any
21 comments or concerns?

22 (No response)

1 MR. TEPPER: Very good. With that then,
2 my last announcement for you and we will promise
3 to do a better job of getting this up on the Web
4 site. This meeting, I think we had announced at
5 our last meeting and it didn't sort of make it out
6 there as quickly as we wanted, but our next
7 meeting in keeping with our sort of throwing you
8 all curveballs and changes, is going to be on a
9 Tuesday. I know we have customarily been meeting
10 on Friday, but we will plan next to see you all on
11 Tuesday, July 9. So, mark your calendars, put a
12 circle on that. We'll have another meeting right
13 here Tuesday morning, July 9.

14 And I will point out the Web site
15 currently has July 12 up, the Friday as a date.
16 So, this is sort of following on the theme today.
17 This is late developing news. These are
18 up-to-the-minute changes. So, we'll get the Web
19 site corrected. You all are in the know and we'll
20 hope to see you all back on July 9.

21 With that, I am pleased to adjourn this
22 meeting. Thanks to all.

1 (Whereupon, at 11:43 a.m., the
2 PROCEEDINGS were adjourned.)

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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