

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)

QUARTERLY MEETING

Alexandria, Virginia

Friday, May 10, 2024

1 PARTICIPANTS:

2 TPAC Members:

3 ADRAEA BROWN, Chair

4 AMY HSIAO, Vice Chair

5 DANA BROWN NORTHCOTT

6 VALERIE L. CALLOWAY

7 RODRICK J. ENNS

8 DONNA GRIFFITHS

9 NEHAL MADHANI

10 DOUGLAS N. MASTERS

11 Union Members:

12 JAY BESCH

13 PEDRO FERNANDEZ

14 HAROLD E. ROSS

15 USPTO:

16 KATHI VIDAL, Under Secretary of Commerce for  
17 Intellectual Property and Deputy Director of  
the USPTO

18 GREG DODSON, Deputy Commissioner for Trademark  
Administration

19 AMY COTTON, Deputy Commissioner for Trademark  
20 Policy

21 GERARD ROGERS, Chief Administrative Trademark  
22 Judge

1 PARTICIPANTS (CONT'D):

2 DAVID GOODER, Commissioner for Trademarks

3 SEAN MILDREW, Deputy Chief Financial Officer

4 SCOTT EWALT, Director, Office of Public  
Engagement

5 DAN VAVONESE, Deputy Commissioner of Trademark  
6 Operations

7 SHARON ISRAEL, Chief Policy Officer

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

2 (11:00 a.m.)

3 MS. BROWN: Okay. Good morning,  
4 everyone, and welcome to the first public meeting  
5 of 2024 for the Trademark Public Advisory  
6 Committee. I'm sorry, Committee. I messed up the  
7 name on the first try. TPAC. Welcome, everyone.  
8 I am Adraea Brown. I am the chair of TPAC. And  
9 in my day job, I am the Assistant General Counsel  
10 of Trademarks at Harley-Davidson Motor Company.

11 It is my pleasure now to introduce the  
12 rest of TPAC, starting with my esteemed Vice  
13 Chair, who is joining us virtually, Amy Hsiao, who  
14 is the Founder and Managing Partner of Eligon IP.  
15 Next, in order of seniority, we have Dana Brown  
16 Northcott, who is the Vice President and Assistant  
17 General Counsel of IP at Amazon.com. Rod Enns,  
18 who is the Founder and Partner, Founder and  
19 Partner, I'm sorry, Founding Partner at Enns &  
20 Archer LLP. Deborah Gerhardt, Professor at the  
21 University of North Carolina School of Law, who is  
22 unable to be here today. Donna Griffiths,

1 Trademark Specialist at Schneider Electric.

2 And I'm pleased to welcome our newest  
3 members. Valerie Calloway, Associate General  
4 Counsel at IBM; Nehal Madhani, Founder and CEO of  
5 Alt Legal; and Doug Masters, Managing Partner of  
6 Loeb & Loeb's Chicago office.

7 I'm also pleased to introduce our union  
8 representatives. Jay Besch, President of NTEU  
9 245; Pedro Fernandez, from POPA; and Harold Ross,  
10 President of NTEU 243.

11 As we begin today, I just want to thank  
12 the USPTO leadership and staff for all that they  
13 have done to prepare for this meeting. And it's  
14 exciting things ahead at the PTO. And I must give  
15 a special shout out to Chet Joyner, the Chief of  
16 Staff to Commissioner Gooder, for all that he's  
17 done to help make things easy for TPAC. Thank  
18 you.

19 Bear in mind that this is a public  
20 meeting. So, with that, we are looking for  
21 comments from the public. And if you do have any  
22 questions or comments that you would like to

1 share, please feel free to send them to TPAC at  
2 USPTO dot gov. Again, that's T-P-A-C at USPTO dot  
3 gov. And we will make sure that we try to get to  
4 your questions before the meeting is up. And with  
5 that being said, I will now turn it over to  
6 recorded remarks from the Under Secretary of  
7 Commerce for Intellectual Property and the  
8 Director of the USPTO, Kathi Vidal.

9 MS. VIDAL: Thank you to all the members  
10 of the Trademark Public Advisory Committee for  
11 your service to the USPTO and to our country. And  
12 thank you to everyone in the public tuning in to  
13 this session of the TPAC. We appreciate your  
14 interest and your dedication to the protection of  
15 our nation's most valuable asset, our intellectual  
16 property.

17 We know that trademarks play a vital  
18 role in commerce. The biggest indication of their  
19 value is that we continue seeing historically high  
20 levels of new trademark applications. At the  
21 USPTO, we have devoted resources and management  
22 time into responding to this increase in demand

1 for IP protection. We plan on hiring 56 new  
2 trademark examining attorneys this year. We have  
3 accelerated the reduction of pendency. We are  
4 transitioning to new and modern IT systems, and we  
5 are proactively engaged in protecting the  
6 trademark register.

7 I want to thank members of TPAC for your  
8 role in advising us in all of these matters.  
9 Thank you also to our union representatives who  
10 are such good partners in tackling these issues,  
11 Jay Besch of NTEU 245; Harold Ross of NTEU 243;  
12 and Pedro Fernandez of POPA. We appreciate the  
13 advice and input we receive from all of our  
14 stakeholders, our unions, and our employees.

15 Our engagement with TPAC has been  
16 especially valuable in dealing with significant  
17 challenges: Pendency, major changes to the  
18 trademark law, addressing fraud, and in the fee  
19 adjustment process. Overall, this is a  
20 transformational time, not only in the economy,  
21 but at the U.S. Patent and Trademark Office. It  
22 is being driven by groundbreaking changes in

1       technology and the increasing importance of  
2       intellectual property in global commerce.

3                 As an agency, we are taking a leadership  
4       role in addressing the many IP issues associated  
5       with the burgeoning field of artificial  
6       intelligence. We are also focused on bringing  
7       those who have not traditionally participated into  
8       the innovation and entrepreneurship economy. We  
9       have just opened a new business unit called the  
10      Office of Public Engagement. Its mission is to  
11      strengthen outreach to larger groups of potential  
12      innovators and entrepreneurs wherever they are  
13      located. Scott Ewalt will provide more  
14      information on the new BU during his upcoming  
15      presentation.

16                We have found in our studies that new  
17      technologies and new businesses are forming well  
18      beyond the traditional tech hubs on the coast, and  
19      we need to be there. We've expanded our outreach  
20      efforts with the nationwide system of Patent and  
21      Trademark Resource Centers, or PTRCs, including a  
22      push to include more historically backed colleges



1 and universities and minority serving  
2 institutions. We are in the process of opening a  
3 new regional office in Atlanta and a community  
4 outreach office in New Hampshire. They should be  
5 fully operational by the end of next year, and we  
6 are reimagining the services offered by all of our  
7 regional offices.

8 We are expanding our outreach to federal  
9 agencies that are engaged in research and  
10 development. We are advising them on how to use  
11 the IP system to accelerate the transfer and  
12 commercialization of their breakthrough  
13 technologies. Within our trademark business unit,  
14 we have implemented a comprehensive initiative  
15 aimed at reducing the inventory of pending  
16 applications and with it, pendency. There are  
17 multiple phases and actions associated with this  
18 effort. It involves increasing the number of new  
19 hires, adding IT teams to address latency and bugs  
20 in our information systems, applying new resources  
21 to process bad faith mark bad faith applications,  
22 and realigning our first office action quality

1 standards.

2           As many of you know, in recent years we  
3 reached major and unprecedented milestones in the  
4 number of trademark applications. This surge was  
5 driven by individuals wanting to start new  
6 enterprises and by the increasing need for  
7 trademarks from foreign enterprises. We are  
8 making progress in reducing this backlog. First  
9 action pendency at the end of the second quarter  
10 of fiscal year 2024 has been reduced to 8.2  
11 months. Inventory at the end of the most recent  
12 quarter, ending in March was about 488,300  
13 classes. This is down 7 percent from the  
14 beginning of the fiscal year. This is fantastic  
15 progress and it is all because of the hard work of  
16 our employees who have turned the tide on  
17 pendency.

18           Our staff is truly remarkable. All of  
19 us are tremendously proud of their work. A big  
20 part of this effort is modernizing our IT systems.  
21 Retiring TRAM has been a herculean task. You will  
22 hear more about this later during the meeting, but

1 I do want to personally thank the teams that have  
2 been working nonstop on making this transition.  
3 TM Exam (phonetic) has also gone through  
4 substantial upgrades thanks to our Office of the  
5 Chief Information Officer. With their help, we  
6 have increased capacity and mitigated defects,  
7 corrected errors and improved efficiency. By the  
8 end of 2023, we onboarded an additional tech team  
9 to work on TM Exam and we have budgeted an  
10 additional \$2 million for new talent to focus on  
11 the most troublesome problem areas.

12 We are continuing to proactively address  
13 fraud in 2024. The Registered Protection Office  
14 is developing policies, procedures, and technology  
15 solutions to identify, reduce, and mitigate  
16 unauthorized submissions and to address other  
17 important or improper activities. What is truly  
18 interesting about the initiatives I've just  
19 described is that I've only scratched the surface  
20 of what we are doing as an agency. Commissioner  
21 Gooder and his team will provide you with  
22 additional details. We have come out the gate

1 strong in 2024.

2 So, again, to all the members of TPAC  
3 and to all of you in the public who are watching,  
4 thank you for your interest and your engagement  
5 with our agency. Thank you for your commitment to  
6 the protection of intellectual property rights.  
7 We look forward to your feedback, your  
8 suggestions, and your expert counsel. Thank you.

9 MS. BROWN: Thank you, Director Vidal.  
10 We will now turn it over to Commissioner Dave  
11 Gooder for agency updates.

12 MR. GOODER: Thanks, Adraea. I want to  
13 welcome all our TPAC members, whether you're in  
14 the room here or online. Thank you for devoting  
15 so much time this week to so many things, and  
16 especially to be here today. We'll talk about a  
17 number of things this morning, but I want to just  
18 welcome everybody who's going to come and speak  
19 from different parts of the Agency, as well as our  
20 audience online. I'm going to go a bit of an  
21 overview and then bring in people from different  
22 parts of trademarks and from the Agency to talk

1 about their areas of responsibility in more depth.

2 So, let's start with staffing, which is  
3 a common question we get. We are now a little  
4 over 1150 or '60 total staff, which is about 8.6  
5 percent of the Agency, and that's about 775 or '80  
6 examining attorneys. And as Director Vidal said,  
7 we had a class on board in January, and we're  
8 actually currently recruiting for a class that  
9 will start in October. So, we continue to keep  
10 those numbers going up in order to deal with the,  
11 not only increase in applications generally, but  
12 the inventory that we currently have.

13 Interestingly, our examiners are  
14 becoming a more nationally diverse group. They  
15 live in all parts of the U.S., with the exception  
16 a little bit of the upper Midwest, but as far out  
17 west as Alaska and Hawaii, and including Puerto  
18 Rico, and around the U.S. It's still very heavily  
19 oriented toward the District, Northern Virginia,  
20 Maryland area, but that's because of historic  
21 reasons. This diversity, I think, is quite a good  
22 thing as it brings more and more perspectives into

1       our examining corps, as well as being able to work  
2       with people from all parts of the U.S.

3               They are, we, the Trademark Office, are  
4       almost entirely-remote working, leadership works  
5       in and out of the office as needed. Examiners  
6       have for many years teleworked, which is part of  
7       the reason why when the pandemic hit the office  
8       generally, but especially the trademark side, it  
9       really was able to just continue on quite  
10       effectively.

11              Let's talk a little bit about our  
12       priorities for the year. We're about halfway  
13       through the fiscal year, and there are essentially  
14       five areas that we focus on, on the trademark  
15       side. The first, and you'll hear about a number  
16       of these today, the first and primary one has been  
17       to accelerate our pendency reduction. Dan  
18       Vavonese will talk more about how that actually,  
19       what that actually means in terms of the things  
20       we're doing. But essentially, in this area, we  
21       have to stay focused really on three primary  
22       things.

1                   And the first thing is new filings. So,  
2                   that's new applications that get filed, frankly,  
3                   from over 200 jurisdictions in the world. It's a  
4                   very geographically diverse group around the  
5                   world. We also keep an eye on that inventory of  
6                   pending applications or we count them as classes.  
7                   So, the number you'll hear today talked about is  
8                   typically in classes, unless we say otherwise.  
9                   And so that's, you might have an application with  
10                  three or four or five classes in it, or just one,  
11                  but we count them as classes because that's a more  
12                  accurate reflection of the work involved. And  
13                  finally, we really look at the productivity of our  
14                  whole organization in terms of handling all this,  
15                  but especially with examiners and doing the things  
16                  that we can do to help them be as productive as  
17                  possible.

18                  So, in terms of inbound applications at  
19                  this point, we are a little over half the year,  
20                  projecting about 740,000 classes in the fiscal  
21                  year. That is fairly flat with we were at 737  
22                  last year. So, this is slightly up, which is

1 healthy and helpful from a standpoint of helping  
2 us get the inventory down and reduce pendency. If  
3 you look at this from a monthly basis, you'll see  
4 that there are frequently spikes, small ones,  
5 varying parts of the year, and you can see off on  
6 the left side January '20 or December '20, January  
7 '21, you'll see that the two huge spikes that  
8 Director Vidal mentioned that drove a lot of this.  
9 But they're very healthy levels, and we've had two  
10 very healthy months in both March and April.

11 In terms of where those applications  
12 come from. The top line is the United States, and  
13 it remains sort of in the 60-plus percent of our  
14 filings. The next line down is applications that  
15 originate from China. They have been fairly flat  
16 and have now sort of picked up a bit back to sort  
17 of their historic level, which is somewhere around  
18 15 percent to 16 percent. The next line down, the  
19 gold line, or yellow, is the European Union in a  
20 sort of very broad definition. So, to include  
21 Switzerland, Norway, not just technically the EU.  
22 And then the two bottom lines are Asia, without --



1 not counting China and the Americas, not counting  
2 the U.S.

3           The next area we're going to talk about  
4 -- you'll hear from Dan in a few minutes about  
5 more about the pendency reduction itself. So,  
6 that's why I'm leaving it at this moment. The  
7 next thing we're going to talk about is two huge  
8 IT tasks. We refer to it as summitting the IT  
9 mountain because these truly have been mountainous  
10 sized goals. The first one is the retirement of a  
11 system beloved by many, not so beloved by others,  
12 depending on your, where you are in the tech  
13 world, and it's known as TRAM. And we're about to  
14 reach an enormous milestone on that. And Greg  
15 Dodson, our Deputy Commissioner for  
16 Administration, will talk about that shortly. And  
17 then the launch of something called Trademark  
18 Center, which is part where you will eventually go  
19 to do everything in terms of new filing, searches,  
20 et cetera. So, two really, both really quite  
21 large achievements going on in the it side.

22           We'll hear some from Deputy Commissioner

1 Cotton about our amplified efforts to protect the  
2 register. This has become something that has  
3 grown and grown in the last few years, and has,  
4 it's growing not only in terms of the prevalence  
5 of it, but the origins of it, the types of  
6 sophistication of it, et cetera. And any of you  
7 who have been involved in anti-counterfeiting  
8 programs for your clients or your companies  
9 understand that trajectory probably a little too  
10 well.

11 We also have a focus on employee  
12 experience this year because the one thing that we  
13 view is -- none of these are separate functions on  
14 their own. You can't have productive examiners,  
15 for instance, if the IT system isn't helping them  
16 do their job. You can't have productive IT  
17 people, if we have an employee experience that  
18 doesn't support that. So, all of these things all  
19 become a very much a holistic experience for  
20 everybody and for what we're achieving. So, we  
21 may talk more about that later in the year, but I  
22 wanted to mention it because it is a significant

1 priority.

2           And then finally, there are some  
3 projects that have been ongoing where we are  
4 looking at how we need to adjust our organization.  
5 Adding an Employee Experience Unit, for instance,  
6 is one of those, because we have grown so much in  
7 the last four years that we just, we can't be  
8 organized the same way as we were in the past.  
9 So, these are all very helpful, positive problems  
10 to have. So, those are our priorities.

11           I want to jump now to talk a bit more  
12 about the financial side of what we do with  
13 trademarks and how that fits into the Agency. And  
14 for that, I want to introduce you to Sean Mildrew,  
15 who is our Chief Financial, a Deputy Chief  
16 Financial Officer, almost promoted you there, and  
17 he'll take you over and take you through some of  
18 the financial part. And I'm passing you the  
19 remote here.

20           MR. MILDREW: Thanks, Commissioner.  
21 Appreciate that. Good morning, everyone. Glad to  
22 be here. Thank you very much. I'm going to walk

1 through status of our current fiscal year, fiscal  
2 year 2024, a snapshot of 2025, and then looksee at  
3 what's on the horizon.

4 So, for 2024, appropriations status.  
5 So, Congress passed a consolidated Appropriations  
6 Act on March 9 of this year. As most of you know,  
7 our fiscal year begins on October 1. So, this was  
8 a little bit late in coming, but it provided USPTO  
9 with our full request of \$4.196 billion of  
10 spending authority based on our fee collections,  
11 projected fee collections. And then there were  
12 some usual typical Appropriations Act provisos  
13 that were included, including the longstanding  
14 provision that allows us to deposit any  
15 collections above the appropriation amount into  
16 the Patent and Trademark Fee Reserve Fund. And  
17 that's exactly the kind of language we like to see  
18 in our appropriations bills every year, even if we  
19 don't anticipate collecting above the  
20 appropriation amount.

21 What this allows us to do, it gives us  
22 the authority, should we collect more than the

1 appropriation, to retain those fees in the Patent  
2 and Trademark Fee Reserve Fund for future use.  
3 Without that provision, those funds would not be  
4 available to us. So, it's really important. And  
5 then we have a transfer of \$2.45 million to the  
6 OIG. That's a very typical provision in the bill.  
7 And then allowing us to use official reception and  
8 representation funds.

9           The fiscal '24 status it looks like  
10 we're going to finish the year pretty strong,

11           In fact, a little stronger than we had  
12 budgeted for, which is always good. It's always  
13 better to have more money than less money than  
14 what you anticipated. And we think we're going to  
15 end our fiscal year, this current fiscal year  
16 2024, with an end of year operating reserve of  
17 \$133.9 million in our operating reserve. And  
18 that's just about where we needed to be to hit the  
19 minimum operating reserve amounts. And this is a  
20 typical display that we show. It shows a patents  
21 column, a trademarks column, and then the total  
22 agency column. So, we want to focus in that

1 middle column, the trademarks.

2           The appropriation amount was just about  
3 \$500 million, \$499.7 million. We made an  
4 adjustment to our fee estimate from the '25  
5 president's budget downward of about \$39 million.  
6 And you can see this similar adjustment on the  
7 patent side as well. See a little softening there  
8 for our revenue. And then that gives us a  
9 subtotal of \$460 million. But then we made some  
10 additional adjustments based on current year  
11 collections, right. So, upward of about \$6  
12 million, the \$5.8. And that gives us a total  
13 estimated revenue of \$466 million. And then you  
14 combine that with our operating reserves and other  
15 revenue like recoveries, parking, et cetera, that  
16 gives us an additional \$215.3 million for a total  
17 funds available this current fiscal year of \$681.8  
18 million. And our total year spending is projected  
19 to be \$547.8, or roughly \$548 million. And keep  
20 that number in mind because I'm going to show it  
21 on the next slide. And that brings us down to the  
22 operating, planned operating reserve for this

1 fiscal year a little bit better than what we  
2 anticipated. So, that's, again, a good news.  
3 Next slide.

4           So, I mentioned keeping that \$548  
5 million number in mind. That's that green line at  
6 the very top of this chart. The x-axis represents  
7 the months beginning in October, the beginning of  
8 the fiscal year. The y-axis is in millions of  
9 dollars. And you can see the dark-colored bars  
10 are for current actual spending and revenue. The  
11 spending is in blue, the revenue is in red, and  
12 the lightly colored shaded bars starting in April  
13 are estimated. And you can see that we're  
14 estimating to spend more money than we're  
15 collecting in revenue through the entire year  
16 until we get to the \$548 million green line at the  
17 very top at the end of September. So, that's a  
18 real reason for why we initiated a fee change  
19 rule, because this trend will continue without us  
20 asking for and receiving a fee adjustment.

21           Next slide shows our revenue. The green  
22 line is our 2024 appropriations level for

1 trademark, that \$500 million number that we saw at  
2 the previous chart. And the purple line is the  
3 planned revenue with that small adjustment of \$5.8  
4 million, rounded up to six in the January time  
5 frame. And the 25 day moving average is the blue  
6 wavy line that you see coming in, projected to be  
7 about \$9 million, or 2 percent above where our  
8 adjusted plan was. So, again, finishing at \$470  
9 million, which is better than what we had  
10 anticipated, which, again, is a good thing.

11 So, looking at the operating reserve.  
12 I'd mentioned this before, you know, we're looking  
13 at a better operating position than we had  
14 anticipated. Just to give you some orientation on  
15 this chart, the optimal operating reserve number  
16 is that very top line there within that green  
17 space, the \$294 million. And that's approximately  
18 50 percent of our spend. And then the bottom  
19 line, the minimum operating reserve of \$135  
20 million, that's about 25 percent of our spend.  
21 And we think anything in between that range  
22 between the minimum and the optimal, really is



1 where we want to be for risk mitigation. Because  
2 that's really why you would have an operating  
3 reserve, is to help mitigate some risks, whether  
4 it be business cycle or appropriations or what  
5 have you.

6 And if we -- so, as of March 31, which  
7 is, this report is based on second quarter  
8 information, ending March 31 of this year, our  
9 25-day moving average for our operating reserve  
10 balance is \$182. And if you just straight line  
11 that you can see, there's a gentle slope down from  
12 the beginning. X-axis shows the beginning of the  
13 fiscal year down through September 30. There's a  
14 gentle slope down. If we just straight line that  
15 we would end up at about \$139 million in our  
16 operating reserve, which is even actually a little  
17 bit better than the chart that I had shown you  
18 just a couple of slides ago, where we were at  
19 \$133.9 million. So, right around where our  
20 minimum range is, maybe even slightly above. So,  
21 again, good news.

22 So, on the horizon, we're working on

1 budget formulation right now for the fiscal year  
2 2026 budget. That process has started, which  
3 includes re-baselining our 2025 estimates. You  
4 know, as a fee-funded agency, USPTO is 100 percent  
5 fee funded. It's a very dynamic fiscal  
6 environment that we operate in. So, we're  
7 constantly reassessing our spending, our fee  
8 collections, and making adjustments as we go  
9 forward. So, that is happening right now,  
10 reevaluating our 2025 and then putting together  
11 budget estimates for the 2026 budget. We'll  
12 provide a draft budget request to the both PACs in  
13 August, and we anticipated submitting our final  
14 budget to the Office of Management and Budget in  
15 the second week of September.

16           And then just an update real quick on  
17 the trademark fee setting. So, we published a  
18 Notice of Proposed Rulemaking on March 26 of this  
19 year, which kicks off a 60-day public comment  
20 period. And if everything goes according to plan  
21 and there are no blackouts for rulemaking, we  
22 anticipate that the Agency could see its rule take

1 effect late November. And I think that's the last  
2 slide.

3 So, thank you. And I don't know if  
4 there are any questions, I'd be happy to take  
5 them.

6 MR. ENNS: Sean, Rod Enns. Thank you  
7 for that presentation. And I have to comment  
8 again, although I say this at every public  
9 meeting, but only because it's true and it's  
10 proved again every quarter, that you and your team  
11 do a phenomenal job. I mean, the more I learn  
12 about it, the more I think of the entire PTO  
13 operation as this giant clockwork mechanism with  
14 about a billion gears. And you and your team do  
15 an amazing job of helping us understand the macro  
16 trends, to draw out from that and understand where  
17 the whole mechanism is heading. So, I really want  
18 to compliment you all again on that.

19 One thing I wanted to ask you about was  
20 I think we all were relieved. At least we all in  
21 the PTO were relieved, and many others were as  
22 well, when Congress found a way to avoid the

1 fiscal cliff we were driving toward for the  
2 current year of 2024. I understand, though, that  
3 the Fiscal Responsibility Act will raise its ugly  
4 head again for 2025. Are there things we should  
5 be thinking about planning for expecting in  
6 connection with those kind of budget negotiations  
7 coming up over the next year?

8 MR. MILDREW: Yeah. Thank you, Rod, for  
9 those nice compliments. I really appreciate it.  
10 It is a team effort here at USPTO, and we work  
11 with Commissioner Gooder's entire team and the  
12 entire agency in putting together these budget  
13 requests. As you said, they're complicated,  
14 they're complex, and they're always changing. So,  
15 it really does take a whole- agency team approach  
16 here to try to do the best job we can at  
17 forecasting and risk mitigation. And we've got a  
18 real winning team here. So, it's just a thrill to  
19 be a part of this agency and working so closely  
20 with Commissioner Gooder and his team.

21 With regard to the question, it's an  
22 interesting -- so, you had mentioned the Fiscal

1 Responsibility Act of 2023. That act was passed  
2 as part of the debt ceiling negotiations on the  
3 Hill. And at the time, the Speaker of the House,  
4 Kevin McCarthy, worked a deal to allow the debt  
5 ceiling for the federal government to increase  
6 with a proviso that if annual appropriations were  
7 not completed and put into place by law by April  
8 30 of 2024 and 2025, it's a two-year deal, that a  
9 budget mechanism known as sequestration would take  
10 into effect. And sequestration is a permanent  
11 cancellation of budget authority provided through  
12 Appropriations Act. So, even though Congress  
13 would have appropriated money, sequestration  
14 permanently cancels a portion of that. And the  
15 thinking is that it's a tool that Congress  
16 sometimes uses, in the past, to bring parties  
17 together that don't often agree on much. And so,  
18 it's a draconian effort that's supposed to provide  
19 a way forward for negotiations and passing annual  
20 appropriations bills.

21 As you saw this year, we got close to  
22 that April 30 deadline. Our appropriations,

1 Consolidated Appropriations Act was passed on  
2 March 9, so it came close to that April 30  
3 deadline. The setup, though, since it was a  
4 two-year deal, is that for fiscal year '25, which  
5 begins in October, October 1, fiscal year 2025  
6 starts, Congress will have to again come to an  
7 agreement on appropriations before April 30.  
8 After April 30, a sequestration order will be  
9 issued by the Office of Management and Budget, and  
10 agencies will have their budgets reduced.

11 I think it's interesting, as a fully  
12 fee-funded organization, that we would be a part  
13 of a draconian budget drill like that, because,  
14 after all, the theory behind a sequestration is  
15 really deficit control. That's the theory, right?  
16 If you cancel appropriations, you're saving the  
17 government money. You're borrowing less to debt  
18 finance government operations. Well, we don't  
19 receive money from the Treasury. Our money comes  
20 from our user fees, the collections that folks who  
21 are seeking intellectual property rights. They  
22 pay us to do a service for them. And so, it runs

1 a little bit contrary, I think, to the philosophy  
2 and the spirit of the sequestration concept.

3 And I think there are some things that  
4 we could do. One of the administrative  
5 determinations has been that USPTO should be a  
6 part of a sequestration order. I think that would  
7 be interesting, because, you know, my contention  
8 is that these are voluntary payments. These  
9 aren't like a tax that you must pay. So, that  
10 would be one aspect of exploration, is the concept  
11 of voluntary payments, because voluntary payments  
12 for government organizations that collect user  
13 fees are exempt from sequestration. So, that  
14 would be an area to explore, Rod, and I hope that  
15 answers your question.

16 MR. ENNS: Yeah, that's great. That's  
17 very helpful. Thank you, Sean.

18 MR. MILDREW: Any other questions?  
19 Okay.

20 MS. BROWN: No. Thank you, Sean.

21 MR. MILDREW: Great. Thank you.

22 MR. GOODER: Okay, now I want to turn to

1 something slightly different before we get to the  
2 other parts of trademarks, but I want to introduce  
3 you to Scott Ewalt, who is the interim director of  
4 what's now known as the Office of Public  
5 Engagement. The office that Director Vidal  
6 mentioned has been set up inside the Agency.  
7 Scott's going to explain what they do and their  
8 path forward. So, Scott, over to you.

9 MR. EWALT: Thank you, Dave, and good  
10 morning, everyone, and thank you for the  
11 opportunity to come and address the public session  
12 of the TPAC today. I'm going to go through a few  
13 slides, give you a little overview of the  
14 organization, as Kathi mentioned, and where we  
15 started, why we're where we are, and our mission  
16 and vision for delivery for our innovators.

17 So, OPE, our Office of Public  
18 Engagement, it really represents USPTO's  
19 commitment to inclusive engagement and outreach.  
20 And we really saw this through the Unleashing  
21 America Innovators Act of 2022. But it really  
22 started in earnest prior to that. We saw



1       legislation that came out with the SUCCESS Act  
2       that required USPTO to do a study on the impacts  
3       of certain groups, women, minorities and veterans.  
4       And then it expanded through that, through  
5       executive order as well. The Biden administration  
6       put out executive orders on advancing racial  
7       equity and support of underserved communities.  
8       And that's really our charge, and that's really  
9       what we're doing. And then we saw that codified  
10      in the Unleashing American Innovators Act.

11                 And you also see that referenced and  
12      identified in our strategic plan, and then the  
13      strategic framework in which OPE plans deliver  
14      against for our innovators. And we do that  
15      through promoting inclusive innovation, through  
16      active engagement, and widespread ready access to  
17      IP resources and tools. And through that, we have  
18      basic four pillars, right. We have our efficiency  
19      to organize these resources, to strategically  
20      educate these, the American people on the  
21      innovation ecosystem, right. We have the  
22      expansion. We want to expand our outreach and

1 education through those efficiencies to those  
2 underserved and underrepresented communities. And  
3 then our delivery. We want to illuminate those  
4 resources available to bring innovation to actual  
5 impact. And you hear Kathi talk about that often  
6 in terms of the impact that we're actually driving  
7 and the value, right. The outcomes that we're  
8 actually delivering. And then our experience, and  
9 that is one of our main drivers is experience that  
10 we are providing to our innovators through this  
11 system and how we can improve that experience in  
12 every aspect. And as Dave mentioned, that's one  
13 of the focal points and the priorities of  
14 trademarks in general. And we want to be a  
15 facilitator to that. And you'll see that in  
16 further additional slides.

17           So, what do we do? So, the office of  
18 Public Engagement, our focus is on the USPTO's  
19 national partnerships, our outreach, our  
20 education, and our customer experience, as  
21 mentioned. We'll be responsible for the strategic  
22 initiatives designed to foster innovation and

1 expansion and engagement and strengthen those  
2 relationships between USPTO inventors,  
3 entrepreneurs, students, and other communities in  
4 the innovation ecosystem to improve the customer  
5 experience, and not only those in the innovation  
6 ecosystem, but those that are prospective  
7 participants in that innovation ecosystem and  
8 drawing them in and giving them the tools  
9 necessary to be able to come into the fold and  
10 also be able to be competitive in their  
11 entrepreneurship and journey.

12           So, here's a strategic framework that we  
13 applied to Office of Public Engagement. We took a  
14 lot of the tenants that we saw in these, in the  
15 legislation, in our commitment, through our  
16 strategic plan and through the administration's  
17 priorities and how we would advance this. And our  
18 vision is to have an accessible and inclusive --  
19 to be an inclusive innovation advocate for all.  
20 And we want to do that through engaging our  
21 stakeholders where they are, to deliver a tailored  
22 experience to promote innovation with all

1 communities and with particular emphasis on our  
2 underrepresented and our underserved, that have  
3 historically been underrepresented and underserved  
4 in our systems. And we want to do that through  
5 value and impact. And I hope that resonates with  
6 the TPAC. We should be doing this through value  
7 and we should be assessing the value to our  
8 innovators and to those who pay into our system.

9           Effective delivery of our agency  
10 objectives. This is obviously a critical goal and  
11 a critical focus of our efforts. And working to  
12 facilitate that throughout not only the objectives  
13 that we have in the strategic plan and our  
14 framework, but throughout our agency and how we  
15 can deliver against those mission objectives.

16           Engage the underrepresented. Obviously,  
17 that's a foundational element of the work that  
18 we're doing. And develop and mature our agency  
19 relationships, because we recognize that this is a  
20 partnership with other agencies and other groups  
21 that rely on our services. And as you saw from,  
22 from Director Vidal's message at the start, that

1 is a real opportunity for us to really bring those  
2 resources to bear through the networks and the  
3 stakeholders of other agencies that rely on our  
4 services.

5           And then widespread accessibility. And  
6 this takes many different forms. One of the  
7 focuses within the underserved is the rural  
8 community. And the accessibility of the rural  
9 community we saw through, through the bipartisan  
10 infrastructure bill, expanding broadband and  
11 access to those communities. Those communities  
12 don't have that right now. We need to figure out  
13 opportunities to be able to access and provide  
14 those services to those groups who historically  
15 have not been able to participate.

16           And then some of our values are thinking  
17 collaboratively, sharing ideas and lessons learned  
18 across space and building on those lessons learned  
19 and best practices not only within our  
20 organization, but from other, others as well.  
21 Inclusion starts from within. We want that as a  
22 mindset for all the work that we do internal to

1       our organization and then that represents us  
2       externally as well. Leverage our collaborations  
3       and pursue efficiencies which will drive our value  
4       and our impact.

5               So, the composition of OPE, also, as  
6       Director Vidal mentioned, we are opening a new  
7       Southeast Regional Office. The current regional  
8       offices and the regions that are currently in our  
9       space are coming into this organization for our  
10       regional reach. We have two divisions, which used  
11       to be our education division, and we've split it  
12       into a students and learners division and a  
13       teachers and classrooms division. And as you can  
14       see, and as you probably have all read, our new  
15       strategy, our national strategy for inclusive  
16       innovation really has a focus on the next  
17       generation of innovators. That's one of the  
18       cornerstones, and educating and empowering  
19       innovators, right. And we want to do that because  
20       that is a focus, a foundational focus of how we  
21       get those individuals into that ecosystem in that  
22       environment. And by focusing on this, it allows

1 us to really give that focused attention to  
2 teachers, in particular, and students.

3 Our Innovation Outreach Division, which  
4 does a lot of our national programs, that has also  
5 come into the fold in our organization. Our  
6 Patent Trademark Resource Centers, which Director  
7 Vidal also mentioned in her opening remarks, which  
8 we are expanding, and we're making a lot of  
9 strides in bringing those to minority serving  
10 institutions, HBCUs in particular.

11 Our Public Search Facility, which is  
12 here at headquarters. And our national -- our  
13 Council for Inclusive Innovation, which is our  
14 program office in USPTO, that really drives a lot  
15 of the initiatives and ideas that come out of the  
16 actual council that's chaired by Secretary  
17 Raimondo.

18 Our community outreach offices, which  
19 was also mentioned, our first one being in the  
20 northeast, in New Hampshire, which we plan to open  
21 in short term. And there's an opportunity for us  
22 to open other community outreach offices, which

1 was also provided in the legislation. And then  
2 our customer experience, which is obviously a  
3 priority for trademarks and is priority throughout  
4 USPTO, and how we are really working with our  
5 customers and making that a better experience.  
6 It's a highly visible element of the work that we  
7 do. OMB and DOC have taken a very focused look on  
8 the work that we're doing, and they're very happy  
9 with the current work that's being done on the  
10 trademark side and the patent side, and really  
11 trying to facilitate that and broaden that scope  
12 across USPTO with all of our customer engagements.

13           Some of our near-term objectives, we  
14 want to integrate the objectives across USPTO. We  
15 want to deliver against those commitments, not  
16 only in the national strategy for inclusive  
17 innovation, but our strategic plan in particular,  
18 and our mission and vision for OPE. We want to  
19 streamline and maximize our efficiencies. As you  
20 saw, it was one of the tenants of the UAIA in  
21 terms of bringing, doing more with less, right,  
22 essentially, and maximizing the work that we're



1 already doing and leveraging those collaborations  
2 across.

3           Strengthen and leverage our interagency  
4 relationship. We feel that this, this is an  
5 element that will really help expand our business,  
6 drive our business, and really reach more of our  
7 stakeholders across those different spaces. And  
8 then expand our national, regional, and local  
9 outreach programs. And we've really gotten into a  
10 lot of, many different areas this year in the  
11 expansion of and really targeted a lot of those  
12 underserved communities with programs that we  
13 haven't historically done in the past. And  
14 they've been very successful in really reaching  
15 out to groups, tribal, military, rural communities  
16 throughout the U.S.

17           And then some of our objectives internal  
18 are to recruit our divisional lead positions.  
19 Many of those are underway to really set the  
20 foundation for our organization and really drive  
21 some of those strategies that we're trying to  
22 develop and implement. And then build out our

1 governance for agency-wide CX. And we'll do that  
2 in close coordination with trademarks and patents  
3 and try to deliver a governance plan that is able  
4 to be leveraged and implemented across all the  
5 business units that we have.

6 So, I'd be happy to answer any questions  
7 that you may have for me, please.

8 MS. CALLOWAY: Hi, Scott. I'm Valerie  
9 Calloway.

10 MR. EWALT: Morning.

11 MS. CALLOWAY: Welcome to the team.

12 MR. EWALT: Thank you.

13 MS. CALLOWAY: We're very happy to have  
14 you. With all of the IT modernization that the  
15 commissioner talked about, customer experience,  
16 meeting customers and stakeholders where they are  
17 is going to be critical going forward.

18 MR. EWALT: Mm-hmm.

19 MS. CALLOWAY: So, I'm very happy to see  
20 that that's a focus of your team, that that's all  
21 consolidated under one business unit. And please  
22 let us know what we can do to help because we

1 think that it will be a critical part of your role  
2 moving forward.

3 MR. EWALT: Absolutely. Thank you. And  
4 I appreciate that offer.

5 MS. BROWN: And one other question, or  
6 one question from me as well, and I echo Valerie's  
7 comments. Thank you. And thank you for taking  
8 the time to come and speak with us today in terms  
9 of the outreach and education. Could you just  
10 give us a couple of examples of some of the topics  
11 that are being discussed and shared with the  
12 students in particular?

13 MR. EWALT: Well, we have -- sure, sure.

14 MS. BROWN: Yeah.

15 MR. EWALT: We have many forum. I mean,  
16 we just about a week ago, we partnered, and this  
17 is an example of how we partnered with our  
18 interagency. We partnered with NASA for the NASA  
19 HUNCH program. And it was a program where NASA  
20 provides these opportunities to high school  
21 students, usually in their junior and senior year,  
22 with problems, essentially projects and problems

1       that they need, that they want solved. And they  
2       deliver these to the students. And the students  
3       have a full aperture to be able to come up with  
4       their ideas.

5                   And we partnered with them to  
6       understand, because their charge is in engineering  
7       from an engineering standpoint. And what we come  
8       in and we talk to them about is, have they  
9       considered the intellectual property that goes  
10      along with the inventions and the work that  
11      they're doing? So, they have an idea that once  
12      these inventions or these engineering aspects are  
13      created, is there an opportunity for the  
14      intellectual property to help support that? So,  
15      that's one example.

16                   We also have our summer programs that we  
17      work in conjunction with the National Inventors  
18      Hall of Fame. And I think we had somewhere in the  
19      neighborhood of 275,000 students over the course  
20      of that time. And we go through a number of  
21      programs with them in terms of how intellectual  
22      property helps facilitate those inventions and

1 help work them through inventing, you know,  
2 invention simulations during that time and working  
3 with the teachers in that.

4 So, those are just some examples of the  
5 work that we do with students, but we do touch a  
6 lot of students across the nation and then also  
7 facilitate that with our National Summer Teacher  
8 Institute in working with the teachers to help  
9 promote innovation in their classrooms.

10 MS. BROWN: That's great. Thank you.

11 MR. EWALT: Thank you.

12 MS. BROWN: Yeah, I think we're good.  
13 Thank you.

14 MR. GOODER: Sounds good. All right.  
15 Without further ado, we'll hand the mic over to  
16 Dan Vavonese, who's the Deputy Commissioner for  
17 Trademark Operations and talk about everybody's  
18 favorite subject.

19 MR. VAVONESE: Good morning, everyone.  
20 I'm going to talk a little bit about our Pendency  
21 Reduction Plan for FY 24. Commissioner Gooder  
22 talked about we have focused on three main things.

1 We're focused on filings, inventory, and on  
2 productivity. And I'm going to go over some  
3 slides to show where we are at the mid-year and  
4 then some of the initiatives we've put into place  
5 and how -- and the impact they've had.

6 So, on filings, healthy, as Commissioner  
7 Gooder said, healthy but steady. Around 60 to  
8 65,000 classes per month. That's steady filing as  
9 opposed to big jumps up and down. That really  
10 allows us to keep on pace, so it's -- but it's  
11 been healthy. So, that's really good news as far  
12 as our overall inventory is concerned.

13 On inventory, as opposed to a few years  
14 ago where it was just going up and up and up, and  
15 then the last year where it was just stable, we  
16 couldn't seem to get consistently down. Ever  
17 since the beginning of this fiscal year, we have  
18 seen a consistent downward trend in our inventory  
19 to the point that we are actually currently at  
20 about 485,000 classes. That's our projection for  
21 this fiscal year, but we are hoping to continue to  
22 have that trend downward. That's a drop of over

1 50,000 classes just this fiscal year in our  
2 inventory.

3 The green bar is there to show a longer  
4 term goal we have. Over the next couple years, we  
5 would love to get to around 300 -- 320 to 400,000  
6 classes in the 300,000 classes range. That's  
7 around the inventory area that we think we can get  
8 to, to maintain in the four to five-month  
9 pendency. We really get in the four-month range,  
10 which is what we think are, based on what we've  
11 heard from all of our stakeholders, that's really  
12 the goal that we've heard that our stakeholders  
13 want us to get to. So, that's what we're really  
14 shooting for.

15 And on the pendency, as was already  
16 mentioned, we are below 8.2 months. We were 8.5  
17 months at the end of last fiscal year. This is an  
18 annual average. But the good news is that the  
19 trend continues downward. Actually, at the end of  
20 -- currently we're closer to 8.1 months. So, the  
21 trend continues downward and we hope that we can  
22 maintain this pace throughout the rest of this

1 fiscal year.

2 As far as productivity is concerned, we  
3 have seen a real recognizable increase in  
4 productivity from our examining attorneys  
5 especially in Q2. And that's really directly  
6 related to both our examining attorneys and our  
7 supervisors stepping up. They've really increased  
8 their productivity. They've really all worked  
9 together, employees and management and our unions,  
10 on implementing and adopting several of our new  
11 initiatives, and it's really starting to pay off.

12 Compliance, our quality continues --  
13 even with our productivity increases, our quality  
14 continues to be extremely, extremely good. I  
15 mean, we are meeting both of our compliance  
16 metrics for, and this is for decision making.  
17 This is decision making on the first action,  
18 decision making on the final action, whether it's  
19 a final Office action or an approval for  
20 publication. We're close on the line for our  
21 first action compliance, but that's actually gone  
22 up a little bit since the mid-year. And we



1 continue to work closely on these. We provide  
2 tips, we provide additional training as necessary  
3 to our examining attorneys. But this important  
4 balance to maintain quality is paramount with any  
5 production increases that we're doing.

6 I wanted to quickly go over some of the  
7 initiatives we've done as part of the Pendency  
8 Reduction Plan with the development resources that  
9 were added to TM Exam. TM Exam is a system for  
10 the examining attorneys we've had for well over a  
11 year now. There are still some performance issues  
12 and some issues in that system that slow down our  
13 examining attorneys. So we added resources to be  
14 able to work on that. Those resources working on  
15 both TM Exam and our TRAM retirement, which will  
16 be discussed in a few minutes. The goal is to fix  
17 known issues and improve that performance so that  
18 our overall examination becomes more efficient.

19 Shifting the excellent action standard  
20 to Final Action, this was about moving -- we had a  
21 very high evidentiary standard on First Action.  
22 We moved that high evidentiary standard to the

1 Final Action while maintaining our focus on First  
2 Actions to make the correct decision and provide  
3 an explanation to support that refusal. And so  
4 that's been a big shift for us, which has been  
5 highly welcomed. We continue to seek any feedback  
6 on how -- on what our stakeholders are seeing as a  
7 result of this. These are subtle changes. These  
8 aren't big changes in how the office actions are  
9 written, but any subtle changes do help.

10 Higher focus on our First Actions,  
11 providing incentives for higher productivity on  
12 First Actions. That was another big focus we  
13 started this fiscal year.

14 Hiring. As mentioned, we've hired -- we  
15 have 56 total examining attorneys coming on this  
16 year. We already hired 48. We have another eight  
17 coming on in the next week or two. We are also  
18 hiring additional support, our legal instruments  
19 examiners, both in pre-exam and in our exam  
20 support unit to help with the inventory of both  
21 the new application processing and with the  
22 amendment processing. These are the responses to

1 office actions, getting those processed quicker.

2 And then finally, in our  
3 post-registration area, we're about to hire eight  
4 new post-registration specialists. This is again  
5 to address the rising inventory in our maintenance  
6 filings.

7 Search training. Just like on the  
8 outside with a new search system, we had a new  
9 search system similarly internally, and that was a  
10 very big effort with our union and with our  
11 employees and our management to transition to this  
12 new search system. And we worked together on  
13 efficient search training for our examining  
14 attorneys to work more efficiently and do good,  
15 complete, efficient searches in that system.

16 Streamlining bad faith processing. This  
17 is the continuing effort to identify bad faith  
18 applications, move them out of the examination  
19 process and over into our new Register Protection  
20 Office. This has been a continuing effort which  
21 is really getting better and better. The quicker  
22 that we get these out of examination so they don't

1 slow up for the good applications the better.

2 Finally, incentivizing complete  
3 applications. This is everything from Trademark  
4 Center, the new electronic application system that  
5 we'll be seeing more later this fiscal year. It  
6 is the upcoming fee rule that the common period is  
7 still open on.

8 And then finally, I just wanted to  
9 quickly give a reminder about we have a process  
10 called deferred examination. This is when an  
11 application is filed, this would be a TEAS  
12 standard application, not a TEAS Plus, where an  
13 application is filed for multiple classes, the  
14 classes are clearly delineated and identified, but  
15 the applicant does not pay for all the fees. We  
16 have discretion to defer examination in those  
17 applications wherein the examiner can send an  
18 office action and indicate the applicant needs to  
19 either amend the identification to cover the  
20 classes applied for or they pay the additional  
21 fees for those additional classes. This does not  
22 happen often, but this does happen, and it's in

1 clear situations where those classes are  
2 identified. So I just wanted to remind about that  
3 process because we have gotten some questions  
4 about that. We've had this process for years, but  
5 this is something that we do have discretion to do  
6 and we do encourage it in clear situations.

7 That high level on our Pendency Plan.  
8 We continue to make changes to this and add  
9 additional initiatives. We're working hard here  
10 to try to continue to get our pendency down. And  
11 I'm happy to take any questions.

12 MS. BROWN: Dan, let me first say, this  
13 is great. This is great news. I know that you  
14 and your team and all of the examining attorneys  
15 have been working very hard to bring pendency  
16 down. It's something that we've spoken about for  
17 the past several, several meetings. So it's good  
18 to see the Reduction Plan in action, taking  
19 effect, and really bringing that trajectory down.  
20 So kudos to you and the team. Kudos to all the  
21 examiners, everyone who's been working really hard  
22 to bring that inventory down. We're all excited

1 about it and just excited to keep seeing what's  
2 going to happen as the fiscal year progresses.  
3 So, that's just my only comment. So really,  
4 really kudos to you for all the hard work.

5 MR. VAVONESE: Thank you. And I just  
6 want to add, it's more than Operations. I mean,  
7 this is Operations Policy Administration, CFO,  
8 CIO. I mean, it's really been a very big  
9 collaborative effort from several different units  
10 within Trademarks. Thanks.

11 MS. BROWN: No, thank you.

12 COMMISSIONER GOODER: Yeah, I'll just  
13 add my two cents to that as well. And that is, I  
14 want to just commend Dan and all of his team in  
15 the CFO's office and Amy's office. Like I said,  
16 this is a holistic effort because without the  
17 examiners and the support of our unions who help  
18 us figure out different ways to do things and a  
19 lot of their good ideas, and then how do you  
20 implement them in the course of retiring the  
21 single biggest system we have for Trademarks,  
22 someone I think used the expression it's like

1       rewiring the airplane while it's flying. And I  
2       think it's been a great amount of work.

3                 A couple things about it. One, it's --  
4       and thank you for your comment about it, Adraea.  
5       It's a big ship to turn. You're getting 740,000  
6       of anything in a year to process and handle, et  
7       cetera, it's not an easy thing. There's no one  
8       single thing you can do to change that, to bring  
9       pendency and inventory down, et cetera. So it has  
10      been a combination of a lot of efforts that are  
11      now sort of bearing fruit, and then to -- then  
12      amplify it starting in December, I think was the  
13      real push. So I want to thank everybody.

14                I also want to thank the Trademark  
15      community, because I think the Trademark community  
16      is a very unique group, and I think they've been  
17      -- and, I mean, brand owners, attorneys and firms,  
18      applicants, et cetera, have been understandably  
19      frustrated, but also very patient and trying to  
20      see a good solution to how we do this, and I think  
21      that's what we're seeing happen. And so I want to  
22      thank the community as well for that.

1                   Thanks, Dan, very much. Anything else  
2                   from TPAC on pendency or anything? Okay.

3                   Now I'm going to pass over to Amy  
4                   Cotton, the Deputy Commissioner for Trademark  
5                   Examination Policy. That also covers a whole lot  
6                   of things besides policy. So over to you, Amy.

7                   MS. COTTON: I lost my slide deck. I'm  
8                   lost without my slide deck. Okay.

9                   COMMISSIONER GOODER: It's coming.

10                  MS. COTTON: It was just there. Maybe.  
11                  Yeah. I don't even know what I put in there, so I  
12                  need it back.

13                  COMMISSIONER GOODER: There you go.

14                  MS. COTTON: There we go. Okay.

15                  COMMISSIONER GOODER: Quick change here.

16                  MS. COTTON: Bear with me. I think I'm  
17                  talking about Trademark Search to start with.

18                  COMMISSIONER GOODER: Yeah.

19                  MS. COTTON: All right. Yes. Wanted to  
20                  talk a little bit about our transition to  
21                  Trademark Search. I wanted to give you a little  
22                  background and history.



1                   So Trademark -- the Trademark  
2                   organization has been using a platform called BRS,  
3                   Bibliographic Retrieval System, since 1993. And  
4                   that was the underlying technology for our  
5                   internal excerpt system that our examiners use.  
6                   Now, our examiners are trained very well in trying  
7                   to figure out an appropriate search strategy to  
8                   get the results that are, you know, citable,  
9                   right, from a likelihood of confusion standpoint.  
10                  So they build search strategies based on the field  
11                  tags and the different data elements, and the BRS  
12                  system helped them do that.

13                  Now, what you all see is TES, which is  
14                  repackaged XSearch in a little bit more user  
15                  friendly way. Right? But essentially, you both  
16                  are using the same basis, which is that XSearch  
17                  BRS technology. Well, BRS retired in 2023, and we  
18                  were in a situation where we had to rebuild a  
19                  search system for our examiners, which is our  
20                  number one priority to make sure they've got the  
21                  search system in place. Because BRS retired, we  
22                  had to find a new platform, and that was Amazon

1       Web Services, which has a different search  
2       algorithm and, you know, way of working than BRS.  
3       So when we hear people say, why can't you have --  
4       why can't you just have TES? Well, it doesn't  
5       exist anymore because VRS doesn't exist anymore.  
6       So we had to start over.

7                 We have built X4. That sounds like a  
8       cool thing, X4 for our internal audience, our  
9       examiners. And of course, again, that was our  
10      number one priority is make sure that, you know,  
11      we were building a system that they could use and  
12      they could refine the results to exactly what they  
13      wanted to view, to make sure that they were seeing  
14      what they needed to see to make likelihood of  
15      confusion determinations.

16                But we also had to then rebuild an  
17      external system for you all to use, using that new  
18      Amazon Web Services platform. And that is an  
19      iterative process. It has been a challenge. But,  
20      you know, when you say, why can't we have TES,  
21      that's why.

22                Now, we always meant for this to be an

1       iterative process because we wanted to hear what  
2       our customers wanted. So we launched our search  
3       system. We have a feedback tab on there. We get  
4       feedback and we immediately work to implement it.  
5       We've done three updates a month since we launched  
6       this. We have 1 million searches, you know, per  
7       month going on. We've got a lot of activity going  
8       on. A lot of people are using this system. A lot  
9       of people are telling us what they don't -- what  
10      they like and what they don't like. There are a  
11      lot of features people like, a lot of features  
12      that they don't like. So we're working on those.

13                   And you can see on our website, we've  
14      got the search system update. We're telling you  
15      exactly what we're updating every time. And we  
16      have an enormous amount of resources available for  
17      how to use the stuff that we're putting out there.  
18      Our outreach team is doing a webinar. As you  
19      know, they did a bazillion webinars upfront.  
20      Right? And they're doing a webinar every two  
21      weeks on this to try to make sure that the message  
22      is getting out on how to use the system, but also

1 to get feedback on how to improve the system,  
2 which of course we've been doing.

3 What we were hearing, though,  
4 originally, was users receiving load error  
5 messages. Now, what was happening there was that  
6 we were getting slammed by search bots. So the  
7 volume was enormous on the search system. And so  
8 we were having to deal with that, and we'll talk a  
9 little bit about the workarounds.

10 The users wanted -- they didn't like  
11 having to go all the way to TSDR to find a summary  
12 page for the application and the registration that  
13 they found. So we heard that. Some people found  
14 the new RegEx search difficult to learn and use.  
15 And RegEx is where you're putting wildcards into  
16 the search string, and people find that difficult  
17 to use. The examiners use that all the time.  
18 That's how they're very efficient in their  
19 searching. But the outside folks weren't loving  
20 that.

21 Users were concerned that the system  
22 seems to fail to return basic search results. And

1       that's something that we need to have a  
2       conversation about today.

3                 And smart or curly quotes. I didn't  
4       even know there was a difference, but apparently  
5       you've got to use straight quotes in this  
6       particular search system for it to be successful.  
7       Let me see what I have on my next slide.

8                 Okay, but let me go back and talk about  
9       if -- yeah. No, keep going. All right. So X4,  
10      as I said, that's our internal system and that is  
11      built on field tags, right. So the examiners can  
12      put together field tags for this data field plus  
13      this data field. They can use wildcards, they can  
14      use variables, and they string together. You have  
15      to use exactly the right Boolean operators to make  
16      it work, but they're trained for that.

17                So we knew that our examiners could  
18      handle that. We didn't think the outside would be  
19      able to handle that as well. So we also built an  
20      alternative, which we called Simple Search. And  
21      the Simple Search is drop-down menus. So here's  
22      the word marked "drop down," here's the goods and

1 services, and then you can filter that way. What  
2 we heard from folks is that they wanted to use a  
3 combination of the two. They wanted to use field  
4 tags and they wanted to use -- you can't use both  
5 right now. And that was something that our users  
6 were telling us was a concern. So we're actually  
7 pretty close to launching a third option, which is  
8 a search builder which kind of combines the two to  
9 make it easier for our outside folks.

10 And I wanted to go back to that fails to  
11 return basic search results criticism that we were  
12 hearing. And I want to explain why. The outside,  
13 from what we understand, is used to these fuzzy  
14 algorithms. Of course, search mark monitor,  
15 whatever your outside vendor is, you put in the  
16 term that you want to search and they do the work.  
17 Well, we don't have that. Right? We don't have  
18 that kind of algorithm because our examiners want  
19 to know exactly what they have nodded out or  
20 they're looking at. So that's not an option for  
21 us. So our system works a bit differently than  
22 what outside vendors are doing, for obvious

1 reasons. That's not our priority. You know, our  
2 priority's for examination.

3           So when you want to use one of those  
4 filter drop-downs, wordmark, and you type in the  
5 United States Patent and Trademark Office, you  
6 just type it in, you get 5,751 results. Why?  
7 Because you're getting all of the results that  
8 have those terms in it. Right? It's not like  
9 core search, it's not like any of those vendors  
10 where you just type it in and you think you're  
11 going to get some sort of universe of what you  
12 want to look at. No, this is way too broad.

13           But when you do it with a field tag,  
14 very specifically, and I've got straight quotes in  
15 there, right, not curly quotes, straight quotes,  
16 then I get four results, which is, you know, what  
17 I would expect to get. I'm getting exact matches  
18 there.

19           So when people say they're not getting  
20 their basic search results, they think they're  
21 not, they don't trust the search results. It's  
22 because they're not using it correctly. And we

1 have a huge amount of resources to teach you how  
2 to learn it correctly. So we encourage folks to  
3 use those resources. They're there for a reason,  
4 but it is complicated and it is not what you're  
5 used to getting from your, your outside vendors.

6 So that's, again why we're moving to the  
7 search builder. Again, we've heard feedback.  
8 We're working on the feedback all the time, trying  
9 to, you know, get people what they need. Oh, I  
10 wanted to go back to one thing.

11 One of the ways to deal with the bots  
12 and one of the ways to deal with the TSDR results  
13 was for you all to log into your USPTO.gov  
14 account. Once you log in there, then you're not  
15 going to have the load error problems anymore.  
16 That was the way to preserve the load, you know,  
17 sort of fence off the bots coming in. If you go  
18 in there, you're not going to get load errors  
19 anymore.

20 You'll also, as a benefit, to encourage  
21 you to do that, if you go log into your account,  
22 you will get a summary page, so you don't no



1 longer have to go into TSDR. You get a summary  
2 page right there and then.

3 So, again, we're hearing what you guys  
4 are saying. We're trying to deal with some, you  
5 know, attacks, bot attacks, and trying to give you  
6 guys the benefits that you're looking for for the  
7 system.

8 MS. BROWN: Amy? Sorry. Adraea. Just  
9 a quick question since you mentioned that with the  
10 search page, the summary page that will come if  
11 you're logged in. Is the goal to have one of  
12 those if you're not logged in? Is that what you  
13 were saying? Or it's only for being logged in,  
14 the search summary page?

15 MS. COTTON: I can't answer that  
16 question --

17 MS. BROWN: Okay.

18 MS. COTTON: -- because I don't know how  
19 it intersects with the bots.

20 MS. BROWN: Got it.

21 MS. COTTON: So, unclear. So I'll have  
22 to get back to you on that one, but that's a good

1 question.

2 MS. BROWN: Thank you.

3 MS. COTTON: We would love everybody to  
4 log in through their account to use it, though.  
5 But we understand that some people don't have  
6 accounts because they're just poking around.  
7 Right?

8 MS. BROWN: Right.

9 MS. COTTON: Okay. So search builder,  
10 that's that evolution, right, that we're getting  
11 to. And the idea is we're trying to combine  
12 Simple Search and field tags. We want -- because,  
13 for instance, the Boolean operators, it had to be  
14 capital A and D, you know, every time, you know,  
15 trying to make that less of an issue, kind of,  
16 because you don't necessarily think about that.  
17 And we just don't want you to have to worry about  
18 the whole field tag searching that our examiners  
19 are worrying that they have to learn how to do.

20 But just to give you a preview of what  
21 it will look like when it launches -- which is  
22 really soon, I keep hearing it's very soon, so

1 look for that in the next month or so. But that's  
2 eventually what search builder will look like and  
3 we hope this, you know, satisfies the needs of a  
4 lot of folks. And if it doesn't, there is a  
5 feedback button on the webpage. Use it. We're  
6 listening. We're actually responding to this  
7 stuff.

8 Also, again, you know, if our outreach  
9 folks are out in the field all the time and  
10 they're gathering feedback and taking it back, so  
11 you certainly can let us know during those  
12 webinars that we're running. If you go to the  
13 webinar and you put questions in the chat, they'll  
14 take that back. Those are the same people who are  
15 bringing all that information back so we can work  
16 on it.

17 So that's Trademark Search. Any  
18 questions on that before I move on? Okay.

19 MR. MADHANI: I'm sorry, Amy.

20 MS. COTTON: I knew you would.

21 (Laughter)

22 MR. MADHANI: Just really quick with the

1 bots. Are there going to be other initiatives to  
2 attack and prevent those bots from slowing down  
3 non-logged in users?

4 MR. DODSON: What was the question?

5 MS. COTTON: Do we have other  
6 initiatives to slow down the bots from attacking?  
7 I was an English major. I think I told you all  
8 this yesterday.

9 MR. DODSON: Thanks, Nehal. Yeah, we  
10 do. I'm sorry, I was -- so, look, we do a lot of  
11 controlling of the data, you know, and we can  
12 meter the amount of input and output. You know,  
13 essentially, we're just blocking when we get to  
14 that point. And so we do those. The folks in the  
15 CIO on the cyber side can look and see how much  
16 activity is going on. And if they need to meter  
17 that, they will do that. There's all kinds of  
18 tools that they have available. So, yeah, we're  
19 going to keep that as part of our toolkit to go  
20 forward. Yeah.

21 MR. MADHANI: That's great. Thank you.

22 MR. DODSON: You're welcome.

1                   MS. COTTON: All right. Now moving on,  
2                   I wanted to talk about the Trademark Modernization  
3                   Act response periods. Now, if you recall well,  
4                   let me go to the screen, which tells you that. So  
5                   under the authority given to us in the Trademark  
6                   Modernization Act, we were able to go through  
7                   rulemaking and propose to shorten the response  
8                   periods for office actions for the  
9                   pre-registration side and the post-registration  
10                  side. You remember we did the pre-registration  
11                  side in 2022 and we sort of put a pin in the  
12                  post-registration side implementation. We had to  
13                  retire TRAM. You know how I feel about that. We  
14                  had to create a new docket system for the  
15                  post-registration side.

16                  As we were starting to formulate the  
17                  policy guidance, we started really digging deep  
18                  into the data about the implications of  
19                  implementing a three-month response period with an  
20                  extension in the post-registration. And where we  
21                  kind of ended up was, no, it's not worth doing.  
22                  So we are currently writing a Notice of Proposed

1 Rulemaking. It has to be a Notice of Proposed  
2 Rulemaking again because the first one was  
3 rulemaking, so we're doing another one. And we're  
4 going to indicate that we have reevaluated  
5 implementation and we don't think it's a good  
6 idea.

7           Now, why don't we think it's a good  
8 idea? We still think it's a good idea. On the  
9 pre-registration side, we did it. The idea was to  
10 shorten pendency, overall balance, disposal,  
11 pendency, and preregistration. That presumably  
12 would also be the goal on the post-registration  
13 side. However, as you know, on the  
14 post-registration side, the deadlines are  
15 different, right? It's not so clear. You have a  
16 six-month deadline in a post-registration office  
17 action, or you have the later of the one-year  
18 period for filing a maintenance document or if  
19 it's filed during the grace period, you got six  
20 months. So you can see there's a lot of decision  
21 -- you know, a lot of different possible decision  
22 deadlines in the post-registration side. So when

1       you add this new thing, this three-month response  
2       period with a possible three-month exception,  
3       you've got a lot of complexity that you're adding  
4       to the system.

5                    But the number one thing that got me was  
6       that it won't decrease overall post-registration  
7       examination pendency. Why? Because we do not  
8       cancel the registration until the end of the grace  
9       period. Right? Even if you don't respond, even  
10      if you give us an unacceptable response, we're not  
11      going to cancel till the very end because we want  
12      to make sure that you have all opportunities to  
13      let us know that you want to maintain that  
14      registration. That makes sense. Right? You  
15      know, it's a registration, it's not an  
16      application, not easy to reinstate.

17                   So if the goal is to, you know, have  
18      shorter pendency overall, but we're never going to  
19      shorten pendency because we're not going to auto  
20      cancel till the end of the grace period, then it  
21      doesn't have much effect at all. You know, it  
22      may, if somebody filed way at the end of the

1 period, of the grace period, it may have some  
2 effect, but it really just wasn't worth it. Most  
3 people file pretty early on the process and it  
4 just wouldn't have much of an impact.

5           So there's more information that you'll  
6 see in the Notice of Proposed Rulemaking that  
7 we'll put out. There'll be a comment period. You  
8 write us back, you tell us what you think, and  
9 then we move to a final rule one way or the other.  
10 But I wanted to flag that because that was  
11 something that I think people were waiting with  
12 bated breath to hear what we were going to do.  
13 No, I don't think anybody really was waiting for  
14 that, but this is where we're landing. So happy  
15 to take your comments in the Notice of Proposed  
16 Rulemaking when it issued, but it hasn't issued  
17 yet. So I, technically, just wanted to make sure  
18 you all knew that that was something we were  
19 considering in case anybody was worried about  
20 updating their dockets. Question?

21           Somebody gave me extra time, so I got  
22 more time to talk to you guys today. This is



1 nice. Okay.

2 I'm excited about this, the Trademark  
3 Decisions and Proceedings Database. You know, we  
4 used to have -- we had expungement, re-examination  
5 proceedings all in there. We had sanctions orders  
6 all in there. We had presidential director  
7 decisions. Now we have petitions to the director.  
8 Instead of going, you know, looking for them  
9 elsewhere, they are in this database. I'm very  
10 excited about this. So if you want to see what  
11 we've done in particular situations, all of that  
12 stuff is in this database. Very excited about  
13 that. And that means we can actually pull a lot  
14 of this stuff out into a dashboard as well. Now  
15 that this data is all in one place, we can create  
16 some really cool dashboard visualizations.

17 The other thing I wanted to highlight,  
18 two more things from the petition standpoint. You  
19 all remember, I think I've told you, we've really  
20 worked hard to decrease pendency for petitions to  
21 the director. We have gone from 277 days average  
22 to 102 days, 63 percent decrease. Our ultimate

1 goal is to get to 90 days for considerations of  
2 petitions to the director. So the team has done a  
3 crazy amount of work to get these down. Of  
4 course, anytime you make a change to the Trademark  
5 system, the petitions to the director goes up. So  
6 there, you know, we've expanded the staff and  
7 we've been able to respond to those changes.  
8 These are the folks who really know the ins and  
9 outs of our system. And, you know, if somebody  
10 asks for a waiver of a rule or some sort of, you  
11 know, exception, they're the ones who deal with  
12 this.

13           The other thing I wanted to show is  
14 letters of protest. If you recall, in the TMA,  
15 we're now held to -- is it 60 days -- 60 days to  
16 act on these. We actually got down to five days,  
17 so that was pretty good. I think we sort of  
18 worried about we're getting too low of an  
19 inventory, so I think we're back up at 11 days  
20 now. But we've really come down quite a bit on  
21 those. So if you wanted to file a letter of  
22 protest, it will be reviewed with alacrity at this

1 point because our backlog is way down. So I just  
2 wanted to highlight that.

3 Oh, register protection. Dave talked  
4 about that as one of our priorities, and I want to  
5 show you where we're amplifying our efforts there.  
6 We are on a tear to do a scam awareness campaign  
7 to really push out more information out to  
8 possible victims, prospective victims. We don't  
9 want them to be victims anymore. We want them to  
10 know what's what. So we're really trying to make  
11 -- to ramp up our efforts on social media and  
12 updating web pages and that sort of thing to make  
13 sure that people know, come talk to us. If you  
14 think this call that you got is sketchy, you think  
15 this email you got is sketchy, call TAC. TAC will  
16 tell you what's going on in your file. They will  
17 refer you up to the scams folks or to the  
18 petitions folks if you need more, you know,  
19 extensive information. But that's where you go to  
20 find out if what you're seeing is real. if it's  
21 from us or if it's from an imposter. Imposter  
22 schemes generally across the government are going

1 way up, and that's a real awful thing.

2 We have, I think I talked about this  
3 last time, we have a special tag with the Federal  
4 Trade Commission, so every time you report a scam  
5 to them or through us, through our links, it's  
6 tagged with USPTO. So they have now tracked, just  
7 in the last month or two, they've gotten 200  
8 reports of scams at the FTC. So from us, you  
9 know, they can see it, that it's a Trademark scam.

10 Also, Better Business Bureaus, we've  
11 been seeing some activity there where they're  
12 talking about Trademark scams. And you can go and  
13 search their database. And over the last, I  
14 guess, three or four years, they've gotten 433  
15 complaints about Trademark scams. I would have  
16 thought it would have been higher. But again,  
17 people don't know to report it or they get -- you  
18 know, they don't necessarily follow through. So  
19 we're definitely telling people -- follow through.  
20 The more data we have, the more interest we can  
21 get with law enforcement to sort of go after some  
22 of these people, because they need to know that

1       there's a volume there that's out of something  
2       that they want to focus on.

3                Like I said, we've been updating a lot  
4       of our webpages. We've got all the different  
5       common scams that we're seeing, that we're getting  
6       victim reports about. We still have fraudulent  
7       solicitations. We've got all that list of every  
8       customer fraudulent solicitation that's been sent  
9       to us. We post it. And if you want to see if  
10      something's legit or not, you know, if this  
11      company, if you see it on our webpage, don't use  
12      -- you know, don't listen to them. So that's a  
13      new webpage.

14               We have a new webpage on account  
15      shutdowns. I want folks to know that if you  
16      violate the verified account agreement, we can  
17      shut your down. We can suspend your account and  
18      we have suspended at least 260, and that's just in  
19      the last little bit, mostly for scam-related  
20      accounts. Sometimes we've suspended accounts for  
21      disciplinary orders from the Office of Enrollment  
22      and Discipline or various different sanctions.

1       Somebody's abusing the account agreement, not  
2       scam-related, but just, you know, violating the  
3       terms of the agreement. So we're definitely  
4       increasing our enforcement capacity on account  
5       violations to shut people off so they can't keep  
6       filing stuff that then we have to deal with and  
7       pull out of examination. Stop it before it  
8       starts.

9                   A little on the intersection with TMA  
10       here, so director-initiated non-use proceedings  
11       under the TMA. That's part of our scam arsenal, I  
12       should say. We have instituted 791  
13       director-initiated non-use proceedings over the  
14       last 3 years. You can see that there's dumps here  
15       and there. Right? In '23 Q4, there's a huge one;  
16       in Q2 of '23 -- whatever you can see, it's right  
17       there. What happens there is that we're targeting  
18       specimen farms. Let me remind you what the  
19       specimen -- there it is. Dave, this is your  
20       slide. You always do the graduated response here.  
21       Oh, let me go back.

22                   Okay. So this, remember the specimen

1 farm where they say they're selling a bus on  
2 there, but they're also selling a skirt? That's a  
3 little weird, right? These are the specimens that  
4 we'll see. An examiner might see the bus one and  
5 it looks legit. But when you back up and you look  
6 at the whole webpage, you can tell it's not really  
7 a functioning webpage. It's really just a  
8 mechanism to try to, you know, meet the specimen  
9 requirements for USPTO application. But a lot of  
10 these applications end up on auction sites. And  
11 this one's particularly nice. It says never been  
12 used or unused, which, of course, in U.S.  
13 Trademark parlance is it means it's invalid just  
14 at the get-go right there.

15 So what we're doing -- and by the way,  
16 this Trademark C, it had about 5,000 U.S.  
17 Registrations about a year ago. After we started  
18 targeting them with director-initiated  
19 proceedings, now there's 50 U.S. registrations and  
20 they're not those QWERTY type marks. Right?  
21 They're actually names. So they could be  
22 legitimate. Don't know. But what we were doing,

1 let me go back, you can see it, what we were doing  
2 here is targeting those specimen farm to auction  
3 site pathways, that business model, trying to  
4 attack that. So we'll create an evidence packet  
5 that we can use across multiple registrations that  
6 are implicated in that specimen farm.

7 All right, let me keep going here. Oh,  
8 wanted you to see TMA petitions, 478. I think  
9 it's actually gone out since then. These are  
10 third party petitions. The blue is expungement,  
11 the orange is re-examination. Pretty steady, but  
12 people are still getting used to the system, as  
13 you would imagine. You can always go to the  
14 Trademark Trial and Appeal Board for a non-use  
15 proceeding. If you're going to get a default  
16 there, go there. If you don't know if you're  
17 going to get a default, try a TMA proceeding and  
18 see how it works for you.

19 We've got -- where we've instituted  
20 proceedings is in 1,056 cases; where we didn't  
21 institute, 175. So that's a pretty, you know,  
22 pretty big institution rate. Where we've term --



1 the proceedings are over. Termination doesn't  
2 mean cancelled, it just means the proceedings are  
3 over. We have completed 547 of those 1,056 so  
4 far, and we have cancelled registrations either in  
5 whole or in part, 496. So it's a pretty good  
6 cancellation rate. It's a pretty good institution  
7 rate. So if you use these proceedings, I think  
8 you're going to like them and we're getting better  
9 and better at it.

10           Lastly, I want to show you that  
11 Trademark Decisions and Proceedings Database, this  
12 is the Sanctions tab. We've actually -- it says  
13 1,005. We have, I think, it's about 1,012 right  
14 now, sanctions orders that we've issued in the  
15 last 5 years. And we want that number to go up.  
16 We recently are -- we are onboarding right now  
17 four attorney advisors in the Register Protection  
18 Office, in addition to the five in the Policy  
19 Office that already work on these sanctions  
20 orders. So we're really -- we have four  
21 paralegals that we just brought on board as well  
22 to support those Register Protection attorneys in

1 these investigations. So again, we're really  
2 trying to get those sanctions orders moving, but  
3 it's a huge amount of work to get all of that  
4 review done. And these scams, as you know,  
5 include tens of thousands of tainted invalid  
6 applications or registrations.

7 So that was it for me.

8 COMMISSIONER GOODER: All right. Thank  
9 you, Amy. Any questions for Amy on any of that?

10 MS. BROWN: No, just thank you. A lot  
11 going on.

12 MS. COTTON: Yep.

13 MR. ENNS: Can I just ask a real nit,  
14 Amy? In using the new search system, I hadn't  
15 even been aware of logging in with my USPTO  
16 account before commencing a search. Is there like  
17 a prompt on the search page or something that  
18 would prompt me to do that and I just have missed  
19 it or?

20 MS. COTTON: I don't know the answer to  
21 that, but I'll get back to you.

22 MR. ENNS: Okay, thanks.

1 MS. GRIFFITHS: Hi, Amy. Great job as  
2 always. I have a question about the petition to  
3 director portal. Is that still in the development  
4 portal or is that actually on the website?  
5 Because when I went and found it, it said  
6 developer. Developer.

7 MS. COTTON: That's in the URL?

8 MS. GRIFFITHS: Yeah.

9 MS. COTTON: But it's on -- it's live on  
10 the page, though?

11 MS. GRIFFITHS: Correct.

12 MS. COTTON: Yeah, it's not -- it's  
13 there.

14 MS. GRIFFITHS: Okay.

15 MS. COTTON: The URL just says  
16 Developer. I have no idea why. That's a good  
17 question.

18 MS. GRIFFITHS: Okay, great. Thank you.

19 MS. COTTON: Yeah. Two good nits.  
20 Thank you. Let me get back to you.

21 MS. GRIFFITHS: Yeah, there's a whole  
22 bunch of stuff on that Developer.

1 MS. COTTON: Yeah, mm-hmm.

2 MS. GRIFFITHS: Thanks.

3 MS. COTTON: We like feedback.

4 COMMISSIONER GOODER: Okay. Moving  
5 along, over to Greg Dodson, who's Deputy  
6 Commissioner for Trademark Administration.

7 MR. DODSON: All right. Well, thank  
8 you, Dave. Thanks, everybody. Good afternoon.  
9 It's fantastic to see all of you and everybody  
10 online. Hi.

11 So this is an interesting day and a very  
12 auspicious day for the Trademark IT community, as  
13 Director Vidal mentioned, as Commissioner Gooder  
14 mentioned, as Deputy Commissioner Cotton, Deputy  
15 Commissioner Vavonese, and I am going to mention  
16 that today is the last time that we're going to  
17 speak about TRAM in the present. Every time that  
18 we go forward from here, we're going to speak  
19 about TRAM in the past. And it's really, really  
20 important. It's a great day. It's a great  
21 opportunity for us this month of May to be able to  
22 put TRAM -- to retire TRAM and be able to move on

1 to the next level of IT that we've got going on.

2 So the first, it's only fair that we  
3 introduce Jamie Holcomb, our agency CIO, to say a  
4 few words about TRAM as well. So, Jamie, I think  
5 you're online. Over to you, sir.

6 MR. HOLCOMBE: I am. Thank you so much,  
7 Greg. Like I said, this will be the last time to  
8 talk about the retirement of T-R-A-M. It's  
9 affectionate to us only because it served us so  
10 well over the past 40 years. But I wanted to  
11 share a few notes on the vast transformation  
12 that's been underway over the past 18 months to  
13 retire TRAM and how we're going to help meet the  
14 new demands for IP protection in the Trademark  
15 community.

16 So, our Trademarks Product Division's  
17 technical needs of all the staff are needing to  
18 shut down and retire the TRAM and replace it with  
19 TRM and our modernization efforts in moving to the  
20 cloud. We're ensuring for a smooth shutdown of  
21 TRAM, ensuring that there's no major hurdles and  
22 we are prepared for them. We're expecting them.

1       So we're going to minimize the unknowns, and in  
2       case something does, we're going to plan for it.  
3       We have a quick reaction team that are going to  
4       handle any issues that come up after the  
5       retirement. And this is our priority for the next  
6       two months.

7                   Post TRAM the team will focus on  
8       building up from what we call MVP, or minimally  
9       viable products, across all the products in  
10      Trademarks for more application resiliency and  
11      really better operations. We're going to continue  
12      to move the Trademark products into the future  
13      with modernization and cloud migration and much  
14      more. We're going to manage the E-file, the TTAB,  
15      and Madrid. Those modernization functions will be  
16      forthcoming.

17                   And I can't leave without thanking  
18      everyone. It's not just the tech guys. It's not  
19      just the business guys. It's us together as a  
20      team working hand in hand and getting over all of  
21      these issues that have really saddled us with old  
22      technology. Finally we see the end of the tunnel.

1 We're not there yet, but we see the end and we're  
2 going to go through it with fanfare.

3 Back to you, Greg. Thanks.

4 MR. DODSON: Thanks, Jamie, and  
5 appreciate everything your team has done and  
6 everything that the community out there has done  
7 for us. It's true. It's 40-plus years old.  
8 There's really no birth certificate for tram. It  
9 kind of just showed up, you know, almost  
10 immaculately. But we are finally going to put it  
11 away. So we're really excited about that. Thank  
12 you, Jamie.

13 If I may, we don't have a lot of slides  
14 today, just a couple of graphics. One of the  
15 things that Dave mentioned as part of his process  
16 is summiting the IT mountain. And we kind of took  
17 the IT mountain concept and built a graphic for  
18 it. And that's what it is. So you can see from  
19 the previous graphic that we had along the way  
20 some camps for all of our different  
21 responsibilities and the different things we  
22 needed to accomplish as we went up the mountain.

1 And as Jamie mentioned and as Dave mentioned. on  
2 the 31 May, we're going to be done with this  
3 mountain. And the explorers are now down at the  
4 bottom of the hill, at the base camp, looking up  
5 and just admiring the work that they did.

6 So we kind of took this one and we moved  
7 to our newest mountain. And so here's our next  
8 mountain to climb. And we're going to populate  
9 this and as we go forward into the rest of fiscal  
10 year '24 and into the next phase of our IT  
11 development to do the work that's to clean up the  
12 tech debt, to do the modernization work, to finish  
13 a lot of the things that we have been promising  
14 over the last 18 to 24 months, to the ops  
15 community, to the policy community, to get some  
16 things done, and certainly to our external  
17 customers, all the things that we're going to do.  
18 And we're going to answer a question about  
19 Trademark Center as an example about that in just  
20 a second. But this is our next mountain to climb  
21 and we're looking really, really forward to doing  
22 that.



1                   And I want to introduce my colleague  
2                   now, Mr. Glen Brown, who's online, who is our  
3                   group director for information technology, who in  
4                   a lot of ways has led this effort from the  
5                   business side. And he's going to talk to us real  
6                   briefly about the legacy work that we need to  
7                   complete and then into the future years for the  
8                   modernization.

9                   So Glen, if you're online, sir, over to  
10                  you.

11                 MR. BROWN: I am. Can you all hear me  
12                 okay?

13                 MS. BROWN: Yes.

14                 MR. BROWN: Okay, great. Okay. So, you  
15                 know, as Greg mentioned, you know, this new  
16                 mountainside that we're looking at, we're  
17                 contemplating what types of milestones we're going  
18                 to identify as the Trademark Business Unit that we  
19                 would share with you that we're really going to be  
20                 focusing on in the new year or so.

21                 So, as Jamie mentioned, the first thing  
22                 we got to do after TRAM is retired is we're going

1 to do what we call post MVP TRAM retirement work.  
2 So MVP stands for minimally viable product. To  
3 get us off of TRAM, we had to focus on doing like  
4 the barest minimum in some areas to get us off of  
5 TRAM by the deadline. So what we'll be focusing  
6 on once TRAM is retired is regain some of those  
7 efficiencies in our new systems by, you know, just  
8 building them out more completely, so to speak.  
9 So that's basically, you know, bringing the new  
10 tools that we have back to, you know, a product --  
11 or a functionality area where there's much more  
12 efficiency for the examining attorney and whatnot.

13 Then we'll do -- focus on, also, paying  
14 down what we call technical deb.t. That's another  
15 agile term. If you think about, you know, your  
16 iPhone or your Android phone, think of paying down  
17 technical debt is like when you do software  
18 updates on your phone or whatever and then also,  
19 you know, updating the operating system. What  
20 happens as you're doing development work in the  
21 agile world is you have to prioritize things and  
22 sometimes you can't keep up with what we call this

1 technical debt. So we'll be focusing on that to  
2 bring software versions up to date, make sure that  
3 all the latest security patches are in alignment,  
4 and things are up to snuff, so to speak, so that  
5 we're on a very stable platform.

6 We'll also then move on to -- well, and  
7 I shouldn't say that these are all going to be  
8 happening at the same time, so it's not  
9 sequential. I should try to make that clear. But  
10 we'll be working on fixing, you know, defects, bug  
11 fixes, and also just making sure that the new  
12 software is as stable as it possibly can be.

13 And then after we're done all that and  
14 starting at FY '25 especially, we're going to be  
15 resuming the modernization efforts, if you will.  
16 I kind of think of this as like a Back to the  
17 Future plan, where we're going to really focus on  
18 forward-thinking capabilities, you know, such as  
19 cloud migration, improving resiliency, maybe  
20 looking at incorporating AI down the road. But  
21 our first thing off the rip is working on cloud  
22 migration.

1                   So our TM Exam tools and the databases  
2                   that support it, those are the modern platforms.  
3                   They were built to be what is called "on-prem".  
4                   So they're -- and so we'll be looking at moving  
5                   those to the cloud. They're cloud-ready, so it  
6                   shouldn't be too big a lift, but nonetheless, we  
7                   want to get them to the cloud to basically take  
8                   advantage of all that capability that's being  
9                   cloud-based brings with it.

10                   Then we're also going to resume the free  
11                   modernization efforts. I think Jamie mentioned  
12                   this as well. That's the Madrid modernization,  
13                   the Trademark Center modernization which is a  
14                   replacement for TEAS, and, you know, what you used  
15                   to know as E-file and we'll finish off the TTAB  
16                   work. The good news on these three areas is that  
17                   we've been building those in the cloud natively.  
18                   So there's not -- there's no lift and shift,  
19                   there's no migration to the cloud. We're just  
20                   building them directly in the cloud as we go. So  
21                   we'll be resuming those and hopefully accelerating  
22                   in them as well.

1                   We'll also be supporting the fee rule  
2                   change that's, you know, coming up next. And then  
3                   we also need to build out some tools for our  
4                   Registration Protection Office group so that they  
5                   can, you know, do a much more efficient job at  
6                   addressing the fraudulent activities that have  
7                   been going on.

8                   The good news in all of this is that,  
9                   you know, it's all built on, you know, agile  
10                  framework that as we do our, you know, software  
11                  development, we call it new ways of working. It's  
12                  not so new anymore, but it's a DevSecOps flavor of  
13                  Agile. And with that comes this ability to just  
14                  continuously improve the product.

15                  So you heard Amy talk about the  
16                  Trademark Search. That's what we've been doing  
17                  with that, as soon as it rolled out. That's why  
18                  we want that feedback from our customers. We'll  
19                  be doing that internally as well because we can  
20                  just constantly improve our tools and posture.  
21                  And then if things come up, you know, we can  
22                  always juggle priorities. That's what this

1 DevSecOps, this new ways of working gives us  
2 underlying the ability. It's that continuous  
3 improvement, changing priorities, and adapting to  
4 what's really going on day to day.

5 So we're really excited about the future  
6 post TRAM and we think that this new mountain, now  
7 that TRAM will be out of the way, will be a lot  
8 easier to summit and roll things out to everybody.

9 MR. DODSON: Thank you, Glen.  
10 Fantastic. And just one of the questions that we  
11 got from the outside community was when is TM  
12 Center going to be released? And two weeks after  
13 we retire TRAM on the 13th of June, on Thursday,  
14 we're going to open up the grand opening of TM  
15 Center. So we're looking forward to that  
16 happening.

17 So with that, that concludes this  
18 portion of the briefing. Any questions before we  
19 -- when I -- before I pass the torch or the  
20 microphone?

21 MS. BROWN: The only thing I'll say,  
22 Greg, is, you know, we've been talking, as you

1       said, we've been talking about TRAM for a very  
2       long time. And even though I know that it's  
3       coming to an end, it still felt like we were  
4       having a little mini memorial here for TRAM. A  
5       little -- I feel like, you know, we're pouring one  
6       out a little bit for TRAM to say we're going to  
7       miss you, but at the same time, we're very  
8       excited. So I don't know why I had, like, a sense  
9       of like, oh, TRAM is going away, our friend of 40  
10      years. But we're very excited and we're moving on  
11      very fast. Just two weeks later, we're ready to  
12      go. It sounds like something else. So very  
13      excited. A lot of good work that the team -- it's  
14      been a collective effort. You said it, Jamie said  
15      it. There's been just a ton of work. So congrats  
16      on that. Looking forward to what happens in the  
17      future, or at least on May 30th, May 31st when  
18      everything switches over. So, yeah, kudos and  
19      looking forward to talking about our dear friend  
20      of old, TRAM, in the past in the future.

21                   MR. DODSON: Thank you, ma'am. Yeah.  
22      You know, and I appreciate your leadership as part

1 of both the previous IT subcommittee and then  
2 leading the committee now. There have been a lot  
3 of TPACs that have heard a lot of stuff about  
4 TRAM, and I think it's really cool for all of you  
5 to be part of that, you know, the New Orleans  
6 going away party. We're going to have a band and  
7 we're just going to have a big old wake for TRAM.

8 But no, it's going to be hard. I look  
9 at Jay, and I know a lot of his folks are  
10 interested in how it goes. One of Jay's  
11 bargaining unit members said in a meeting that we  
12 had that TRAM is life and TRAM is love. And  
13 that's kind of the way we feel about TRAM in a lot  
14 of ways. Right? It really did kind of perform  
15 way more than it was supposed to. If you look at  
16 it, and I've got the old requirements  
17 documentation, if you look at what it was supposed  
18 to do in the beginning and what it did over the  
19 course of those 40 years, it really matured and  
20 got significantly better and did a lot of stuff  
21 for this organization that it hadn't planned on  
22 doing. So it was a great capability. But you're



1 right, this new technology is really going to help  
2 us as we go forward, and we're looking at really  
3 kind of creating from it. So it'll be fantastic.

4 Any other questions? All right, hearing  
5 none. Chief Judge Rogers, sir, over to you.

6 CHIEF JUDGE ROGERS: Thank you, Greg.  
7 And I always so love hearing in all these CIO  
8 updates and from Glen and from you and from  
9 others, the addition of TTAB modernization to the  
10 future. So we're really looking forward to TTAB  
11 Center, just like Trademarks is looking forward to  
12 Trademark Center.

13 So let me, instead of running through  
14 all the slides in detail -- because I think I only  
15 have 10 minutes on the schedule, which is fine. I  
16 think that's all we'll really need to give you an  
17 update on TTAB. I'll just point out that there's  
18 information that's useful in the slides which you  
19 can look at or members of the public can see on  
20 the website. But I want to just -- so I may run  
21 through them quickly. I just want to focus on  
22 what people can expect, what parties can expect if

1 they're involved in any TTAB proceedings at this  
2 point in time.

3           Perhaps you're involved voluntarily  
4 because you choose to go there in an appeal, you  
5 choose to file an opposition or a cancellation.  
6 Perhaps you're dragged there because someone has  
7 challenged your application or petition to cancel  
8 your registration, but your experience is going to  
9 kind of be affected by our staffing levels, our  
10 filing levels. I mean, a lot of this sounds very  
11 similar to what your experience is going to be in  
12 Trademarks or elsewhere as well. But also the  
13 pilot programs that we have going on, the IT  
14 changes that we have going on, and so I just want  
15 to quickly highlight some of those things for you.

16           So generally, our case level in terms of  
17 incoming cases, it's pretty steady. Opposition  
18 have generally been trending down the last couple  
19 of years, but they're pretty steady. Filings by  
20 quarter in terms of new cases being commenced,  
21 generally, again, pretty steady. We had been  
22 seeing that opposition, number of oppositions

1 pending at any one point in time trending down.  
2 But this last quarter was the third highest  
3 quarter in the last two years for new oppositions.  
4 So we don't know what's going to happen. It could  
5 go up again.

6 And we get increases and decreases. And  
7 as we saw from the number of applications coming  
8 in, we had that huge year and then we've had  
9 things kind of coming back down a little bit.  
10 Pre-pandemic, we had everything going up, but now  
11 we have things going up and going down and it  
12 becomes a little harder to predict what's going  
13 on.

14 However, one of the things that we focus  
15 on are how quickly we get our work done from the  
16 time that work is ready for us to do. And so for  
17 attorneys in handling motions and trial cases,  
18 they have a goal of getting them decided on  
19 average in a particular amount of time, 12 weeks  
20 or less. And then we have goals for getting final  
21 decisions on the merits out as well.

22 In terms of meeting these goals, the

1 attorneys are doing a great job. They're part of  
2 NTEU 245, working with Mike Webster, our  
3 supervisor. And they're well under goal. So if  
4 you're in a trial case and you file a contested  
5 motion, it's probably going to get handled pretty  
6 quickly. And our end-to-end processing time, even  
7 though if you see on this slide that our appeal  
8 processing, meaning judge processing of that  
9 decision on the merits, is above goal and the same  
10 in trial processing, a little bit above goal, but  
11 not much, in our end-to-end processing times, from  
12 commencement of a proceeding to the end of a  
13 proceeding, have generally remained the same, even  
14 while we've had these fluctuations in the discrete  
15 tasks that our attorneys or judges have to  
16 complete. So many of you may not be as focused on  
17 the individual variations in how long it's taking  
18 an attorney to do something or how long it's  
19 taking a judge to do something, because the  
20 overall processing times are still largely the  
21 same that they have been for many years.

22 So in terms of cases ready for decision,

1       this is the other thing that we focus on, apart  
2       from how many new cases are being commenced, how  
3       many cases in the pipeline actually require  
4       disposition by a panel of judges. It looks like  
5       it's going down, the trend line, this year so far.  
6       However, last month, 30 more cases matured to a  
7       Ready for Decision than we decided. So these  
8       numbers can fluctuate a good deal. And that's why  
9       in terms of the staffing that I mentioned, we are  
10      in the process of bringing on new judges because  
11      we know we're going to have to work on keeping  
12      pace with the number of cases maturing to Ready  
13      for Decision by panels of judges.

14                   And we are also in the process of  
15      filling, on a more permanent basis, the Deputy  
16      Chief Judge position. So we're working on  
17      staffing and we hope that we're going to have it  
18      right sized very soon in the near future. We had  
19      three vacancies from last year. We're  
20      anticipating other vacancies this year. So we're  
21      trying to not only fill the past vacancies, but  
22      also gear up so that when we have additional

1 retirements later this year, it won't be as big of  
2 a challenge for us.

3           So some of the things that are going on,  
4 on the it front for TTAB. Well, we have TTAB  
5 Center. And I won't run through all four of the  
6 slides, but I do want to point out that this is an  
7 option for anyone who is interested in filing a  
8 Notice of Opposition. Right now it's a limited  
9 option, it's kind of a closed option. But if  
10 you're interested in getting on the list and being  
11 able to use TTAB Center, you can contact us at  
12 TTAB and we can work to have you as an attorney or  
13 as a company put on the list so that you will be  
14 able to use this feature. And it's a much more  
15 robust option than the current ESTA filing option  
16 for filing a Notice of Opposition with us. It  
17 will require anyone who wants to use it to have a  
18 MyUSPTO.gov account, which is not required for  
19 anyone using ESTA.

20           So the two options are going to be  
21 available concurrently. But MyUSPTO users who are  
22 interested in using TTAB Center can consider this

1 as an option and may find it more useful. And  
2 also, it's an opportunity to kind of get used to  
3 the way TTAB Center will work. Because over time,  
4 as we heard from Glen, we're going to have TTAB  
5 Center completely replacing ESTA in all respects.  
6 So something to think about getting used to as  
7 early as you can.

8           And by the end of this fiscal year, we  
9 will go from this closed beta where you have to  
10 get permission to use this function, to an open  
11 beta so that anyone who has a MyUSPTO.gov account  
12 will be able to use it to file a Notice of  
13 Opposition, and you don't need to get on the list  
14 and, you know, kind of get permission to use it.

15           Another pilot that we're working on,  
16 which might affect your experience if you're  
17 involved in a trial case, is our final pretrial  
18 conference pilot. And I won't go through too much  
19 about this because we've talked about it before,  
20 but this was never intended as a pilot that would  
21 capture the lion's share of trial cases. But for  
22 those cases which involve poor practice, too much

1 motion practice, or other indicia that the parties  
2 could benefit from a conference with a board,  
3 attorney, and judge in terms of getting ready for  
4 trial and creating a good trial plan, you might  
5 find your trial case pulled into the final  
6 pretrial conference. So far, since we started it,  
7 we've only pulled seven cases in: One settled,  
8 one the parties chose to use ACR, one is almost  
9 through trial, and the others are in earlier  
10 stages. But this is something to be aware of. If  
11 you find yourself involved in a hotly contested  
12 case with a lot of activity in motion practice,  
13 you might find a board, attorney, and judge  
14 calling you to talk about conferencing on that  
15 case.

16           The other thing that I think you need to  
17 be aware of is our case citation pilot. So if  
18 you're looking at TTAB decisions, whether they are  
19 decisions that are issuing in the case you're  
20 involved in, or just to stay current with TTAB  
21 decisions, so you know how we're going to be doing  
22 things in the future. We are trying to broaden



1 the number of ways in which parties can cite cases  
2 to us, depending on what research services they  
3 have and their resources, and also what we are  
4 going to be using in our decisions and our  
5 interlocutory orders as we gear up for a future  
6 that will not include us having access to the USPQ  
7 database. And so you will see decisions from us  
8 that might look a little bit different than what  
9 you've seen in the past because you might see  
10 Westlaw cites or you might see Lexis cites, you  
11 might see references to TTAB view proceeding  
12 numbers for prior TTAB decisions that we are going  
13 to call to your attention in our orders or our  
14 decisions.

15           So nothing that parties need to do here.  
16 The coming revision of the TBMP will soften the  
17 language which we used to have, which said that  
18 you should use USPQ cites in filings with the  
19 Board, but it was always a should, not a shall or  
20 a must. And so we are going to kind of soften  
21 that and make it clear that parties are as free as  
22 we are in using different forms of citation for

1 cases in our orders and decisions. You're as free  
2 to use different forms in your briefs that you  
3 file with us.

4           Ultimately, we hope we're going to  
5 settle on, to borrow a term from IT development, a  
6 new way of working for case citations, that we  
7 will have a preferred approach for our judges and  
8 our attorneys and what they're doing and for  
9 parties filing things with us, which might still  
10 include options, but we'll tell you how to use  
11 those options as we move forward.

12           So that's kind of the quick update for  
13 TTAB. And if there's time allowed, I'm willing to  
14 take questions.

15           MR. ENNS: Just a quick question, Judge,  
16 on that last topic. And thanks very much for the  
17 overview. It was very helpful.

18           Just in terms of citations, right now as  
19 we're speaking or if someone's filing a brief next  
20 week or whatever, I understand that the access of  
21 TTAB judges and interlocutory attorneys to the  
22 USPQ reporter is going to be going away very soon.

1 CHIEF JUDGE ROGERS: Yeah.

2 MR. ENNS: Like July 31?

3 CHIEF JUDGE ROGERS: July 1, I think.

4 MR. ENNS: July 1. Even sooner.

5 CHIEF JUDGE ROGERS: Even sooner. Yeah.

6 MR. ENNS: So is there -- I mean,  
7 obviously as a filer, my goal is to make it as  
8 easy as possible for the judge and the IA to be  
9 able to see the authorities that I'm citing. Is  
10 there a best way, better way, preferred way right  
11 now?

12 CHIEF JUDGE ROGERS: Right now I would  
13 say Westlaw or Lexis are available if you want to  
14 cite to a precedent as opposed to a non-precedent  
15 that we have issued in the past and you know the  
16 preceding number of that case, either because you  
17 got it through Westlaw or you got it through  
18 Lexis. You can also cite to the proceeding number  
19 and we'll find it in TTAB VUE. And now people  
20 have not been using proceeding numbers and serial  
21 numbers for ex parte cases on a routine basis, but  
22 I think you're going to see, you know, more and

1 more of that. I just would caution against  
2 overuse of proceeding numbers and serial numbers  
3 for prior decisions that reside in TTAB VUE that  
4 are not precedents. Look for the ones that are  
5 precedents. But again, Westlaw and Lexis are also  
6 fine.

7           And of course, for all Federal Circuit  
8 and Federal District Court cases, if you're  
9 involved in briefing a motion before the attorneys  
10 and need to rely on some District Court precedent  
11 that deals with motion practice, that's all the  
12 Federal Reporter cites, the F.Supps. and the  
13 F.2nds and the 3rds and the 4ths and that kind of  
14 thing. It's really the TTAB decisions that we're  
15 talking about in terms of the case citations.

16           MR. ENNS: Thank you. Very helpful.

17           CHIEF JUDGE ROGERS: Thank you.

18           COMMISSIONER GOODER: Okay. All right.  
19 Thanks, Judge Rogers.

20           All right. You all know that the Office  
21 of Policy and International Affairs deals with  
22 everything relative to statutes and treaties and

1 things outside the U.S. And our new Chief Policy  
2 Officer, Sharon Israel, is here to update us.

3 MS. ISRAEL: Thank you, Dave. I will  
4 going to give a few updates on some trademark --  
5 can you hear me now? Okay. I'll give you a few  
6 updates on some Trademark-related topics from the  
7 Office of Policy and International Affairs,  
8 starting with the TM5. I'll go over a little bit  
9 of OPIA's work in the area of AI and IP, talk  
10 briefly about the NFT report that we issued  
11 earlier this year, our upcoming Madrid program,  
12 and also give you one -- talk about one bulletin  
13 that we recently issued.

14 So first, TM5. The TM5 midterm meeting  
15 was held in Tokyo just a couple weeks ago on April  
16 23rd. And during this meeting, the partners  
17 discussed progress on a number of joint projects.  
18 One of those projects that they discussed was the  
19 USPTO-led TM5 ID list. And that's a list that  
20 contains now over 23,450 harmonized different  
21 identifications of goods and services that are  
22 preapproved and acceptable in all five partner

1 offices of the TM5 and in over 45 countries. The  
2 partners will convene in December at their annual  
3 meeting in Japan.

4 Also like to mention that we've got some  
5 activities that will be going on this month in  
6 Atlanta at the association with the INTA annual  
7 meeting. And please join us on Sunday, May 19th,  
8 for a TM5 user meeting where the partners are  
9 going to report on the latest activities and the  
10 outcome of the midterm meeting. Also on the  
11 following day, we'll have a joint TM5 workshop  
12 that will be held for users on likelihood of  
13 confusion during examination in TM5 offices.

14 Moving on and talking a little bit about  
15 our work in the area of AI and IP. So OPIA is  
16 helping to lead the USPTO's proactive policy work  
17 regarding the intersection of AI and IP policies,  
18 and this includes examining AI's implication for  
19 patent, trademark, copyright, and trade secret  
20 policies, as well as name, image, voice, and  
21 likeness or NIL policies. Pursuant to the  
22 President's executive order on AI, the USPTO will

1 provide recommendations for executive action to  
2 the President regarding AI and IP issues later  
3 this year.

4           In a way to inform the PTO's potential  
5 recommendations, the OPIA is analyzing relevant  
6 policy issues and engaging with stakeholders. As  
7 you are probably aware, in March, OPIA, in  
8 connection with the USPTO's AI and Emerging  
9 Technologies Partnership, conducted a symposium on  
10 AI and IP at Loyola Law School in Los Angeles,  
11 focusing mostly on three issues: Inventorship,  
12 authorship, and NIL-related issues. The USPTO, of  
13 course, we'll also be consulting with the  
14 Copyright Office on relevant copyright issues and  
15 taking into consideration the Copyright Office's  
16 forthcoming report on the impacts of AI on  
17 creative works.

18           Next, I will turn to our NFT report or  
19 our report relating to Non-Fungible Tokens. In  
20 March, the USPTO and the copyright office issued a  
21 joint report on NFTs and their implications for IP  
22 laws and policies. To inform our report, the

1 offices solicited written comments, conducted  
2 three public roundtables, and reviewed existing  
3 literature and case law. The NFT report found  
4 that NFTs can be used by trademark owners to  
5 expand their product offerings and brand appeal to  
6 reach new customers, and potentially to help  
7 verify the authenticity of their goods.

8           It also found that brand owners are  
9 concerned about infringement associated with NFTs  
10 and NFT platforms, and about the lack of a  
11 centralized mechanism within NFT platforms to  
12 identifying infringers and removing infringing  
13 content. However, as noted in the report, these  
14 challenges are not unique to NFTs, and similar  
15 problems have arisen in other technologies,  
16 including technologies like the Internet. So the  
17 report concluded that existing statutory  
18 enforcement mechanisms are currently sufficient to  
19 address these issues and that, at this point,  
20 NFT-specific changes to IP laws or to the Office's  
21 registration and recordation practices are not  
22 necessary or advisable.



1                   The report also describes some of the  
2                   USPTO's actions to provide NFT-related guidance,  
3                   and that includes training for Trademark examining  
4                   attorneys, educational webinars for stakeholders,  
5                   new identifications in the ID manual for  
6                   NFT-related goods and services, and international  
7                   work to harmonize identifications for NFT-related  
8                   goods and services.

9                   Let me turn next to the upcoming Madrid  
10                  program. So OPIA will be hosting a program  
11                  entitled, "The Madrid Protocol Accession,  
12                  Implementation, and Administration: The U.S.  
13                  Model." This will be a four-day program starting  
14                  on July 29th at USPTO Headquarters. It's going to  
15                  be designed for IP office officials from countries  
16                  that have decided to or are seriously  
17                  contemplating joining the Madrid protocol.  
18                  Participating IP officials will be attending a  
19                  full slate of sessions ranging from overviews of  
20                  the protocol processes to setting in place the  
21                  legal foundation necessary for joining the  
22                  protocol. And the program is intended to be

1 structured to foster deeper discussions in these  
2 complex areas and allow participants to ask  
3 questions and share their experiences.

4           And the last item I will touch on is an  
5 OPIA policy bulletin that we issued a couple  
6 months ago on -- or actually, it might have been  
7 last month, but we issued on the Gruyere decision.  
8 In March of 2023, the Fourth Circuit Court of  
9 Appeals ruled that Gruyere is a generic term that  
10 can identify and label cheese originating from  
11 outside the Gruyere region of Switzerland and  
12 France. In our recently published bulletin, we  
13 examine a TTAB and District Court decisions that  
14 led to this ruling.

15           The Fourth Circuit's ruling resolves a  
16 dispute between European dairy consortiums  
17 attempting to register Gruyere as a geographical  
18 certification mark in the United States and U.S.  
19 Dairy groups seeking to preserve the use of  
20 Gruyere as a common name for a type of cheese. So  
21 the evidence in the case had demonstrated that  
22 Gruyere cheese is produced in the U.S. and other

1 countries and had been for some time.

2 The model for protection of geographical  
3 indications in the U.S. emphasizes the importance  
4 of preserving the ability of consumers and  
5 producers to use generic terms to describe common  
6 types of products. And as demonstrated in this  
7 recently decided case, the U.S. Model relies on  
8 due process and transparency to ensure that all  
9 interested parties have a platform to provide  
10 evidence to support their claims. You can read  
11 more about that in our bulletin.

12 And unless there's any questions, that's  
13 what we have on behalf of OPIA.

14 MR. BESCH: Any questions for Sharon?  
15 No? Okay. Thank you so much for coming.  
16 Appreciate it.

17 At this point in the agenda, I'm going  
18 to turn it back over to you. But before I do,  
19 Adraea, you'd mentioned this earlier and I just  
20 wanted to kind of highlight it a little bit. I  
21 also would like to thank Chet for everything he  
22 does that keeps everybody moving and TPAC moving

1 and a lot of stuff you just never see behind the  
2 scenes. But with Chet is another group of people  
3 who work as hard, if not harder, and that is  
4 Jessica Lane, Michelle Elvis, Sonja Williams,  
5 Elatisha Warren, and Brandy Hill. So I want to  
6 thank them as well. They're all sitting back  
7 here. You can't really see them, but they're all  
8 there. (Applause) But yes. Thank you all so  
9 much.

10 Okay. So we're going to take just a  
11 short break so we can look and see what questions  
12 have come in, et cetera, and then we'll be right  
13 back.

14 MS. BROWN: Thank you.

15 (Recess)

16 MS. BROWN: Let's go back on the record.  
17 Thank you. It doesn't appear that there were any  
18 questions submitted, so before we close out, I'm  
19 going to turn it over -- oh, there was one?  
20 There's one question.

21 COMMISSIONER GOODER: Yeah, one question  
22 with three parts.

1 MS. BROWN: Okay. I'm sorry.

2 COMMISSIONER GOODER: Sorry about that.  
3 The question was, when is the new Trademark  
4 application -- electronic trademark application  
5 form, first question is, when is that going to go  
6 live? And will users be able to download OBJ  
7 files for portable data with the new application?  
8 I'll leave that to Greg.

9 MR. DODSON: So I kind of put a teaser  
10 out there. June the 13th is when the initial  
11 version will be opened. So when the final  
12 product, the TM Center across the board that does  
13 everything is going to be available to the public,  
14 we're not quite sure yet. We're still developing  
15 it. But the initial application part of that -- a  
16 portion of the initial part of the application  
17 will be available on the 13th of June. As to OBJ  
18 --

19 COMMISSIONER GOODER: In tandem with the  
20 existing.

21 MR. DODSON: Right. And TEAS will still  
22 be available as well. Yeah, exactly. OBJ files,

1 ultimately, no, we're going to get rid of those  
2 and every kind of downloadable file will go away.  
3 So we're going to have a cloud-based capability  
4 that will be there. And I think you're going to  
5 answer the RBAC question? Yeah, so those were the  
6 two.

7                   And then -- and so, hopefully, that  
8 answers it. For the person that asked the  
9 question out there, if you have any further  
10 questions about what it is, TEAS@USPTO.gov, you  
11 can send an email question to us and we'll answer  
12 it for you. Okay? All right, thank you.

13                   COMMISSIONER GOODER: Yeah, the third  
14 part of the question was, additionally, I recall  
15 that access to Trademark records will soon be  
16 restricted based on users roles in the portal.  
17 When is that happening?

18                   MS. COTTON: Thanks for the question.  
19 At this point, we call it role-based access  
20 controls. We don't have any plans to implement  
21 that right now. We've got enough things on our  
22 plate, so that added some complexity. So it's

1 still in the back of my head, you know, that we're  
2 going to do it, but we have not done it yet.

3 I will say that we are monitoring user  
4 roles and we're looking to see if the user role  
5 matches the filing activity. And we know that in  
6 many cases it does not. We are, you know, looking  
7 to figure out how best to enforce the verified  
8 account agreement and enforce the user roles.  
9 Obviously, role-based access control would be the  
10 great way to do that, to enforce those user roles  
11 so that you could only touch the files that you  
12 are authorized to touch. If you're the owner, you  
13 touch your files. If you're the attorney, you  
14 touch your client's files, but nobody else's.  
15 And, you know, that's kind of what we are aiming  
16 for. But we don't have an implementation date.  
17 We haven't started any work on that. Thanks for  
18 the question, though.

19 COMMISSIONER GOODER: And one last  
20 question got in under the wire. The question was  
21 about does USPTO expect to explore the use of AI  
22 in the Trademark Search function? One of the

1 projects that -- it said search function, yeah.  
2 And the answer is yes. There's actually a project  
3 that had to go to the sideline because of TRAM  
4 retirement that involved AI. So there will -- it  
5 is something that we're looking at doing and got a  
6 lot of other, what was the term, technical debt  
7 and things that need to get fixed on the other  
8 systems to deal with first. But yeah, it's  
9 absolutely being looked at.

10 Okay. Now I think we're actually done.  
11 So back to you, Adraea.

12 MS. BROWN: Thank you, Commissioner, and  
13 thank you for the questions as well that came in.  
14 Before we close out, I'm going to turn it over to  
15 Jay Besch, President of NTEU 245.

16 MR. BESCH: Thank you, Adraea. First of  
17 all, let me just recognize TPAC for supporting our  
18 employees and also recognizing the importance of  
19 our employees' voice in your advisory role with  
20 the office. It's really appreciated.

21 You know, I just want to also say, you  
22 know, our union, as the exclusive reps of our



1 employees, has really been instrumental in a lot  
2 of the stuff that's been going on that you've said  
3 here today, that we've heard from Dan, we've heard  
4 from Greg. And, you know, we've been really  
5 instrumental in conceiving measures such as the  
6 First Action incentives that have been implemented  
7 and made a significant impact on reducing  
8 pendency.

9           We've really been advocating and  
10 developing initiatives to realize efficiencies in  
11 examination. The prima facie case guidance was  
12 really a collaborative approach that we took with  
13 the Office. It's really been helpful. It's been  
14 well received. This search efficiency training  
15 has also been really, really well received and I  
16 think it's going to bridge the gap for some  
17 learning that I think we really had an opportunity  
18 to give to some people who haven't had search  
19 training in a while on some of the new marks and  
20 things like that that we're seeing.

21           So that's been a really good exercise  
22 and I think, you know, we hope that we continue

1 doing things like that.

2 We've been providing developmental and  
3 technical expertise in mitigating the technology  
4 changes that we've had to work with and also just  
5 making sure our people are doing, you know, the  
6 mission critical work in Trademarks and having  
7 their voices heard in the process. It's really  
8 been a lot of work for our people and especially  
9 in our board. I just want to give our board a lot  
10 of credit.

11 There's so much work that's going on in  
12 so many different places in technology, in the  
13 contract that we're negotiating, in this prima  
14 facie case, these quality measures that we're  
15 doing. Everything that we're doing, everything  
16 that we're hearing about today has been a really  
17 collaborative approach.

18 And I just want to thank the Office for  
19 being accommodating to hearing that voice and  
20 really working and seeing the power of how much  
21 working with the unions can really end up helping  
22 the agency. And we really hope that this

1 continues and improves for the foreseeable future.  
2 I mean, I think Dave and Dan have been really,  
3 really supportive of this and the other people in  
4 Trademark management.

5           And it's just really been meaningful.  
6 It's really part of what I've -- this is why I do  
7 this, is because I believe in what we're doing as  
8 a union and having our voices heard. It's helping  
9 this agency really function a lot better. And,  
10 you know, I just think there's a lot of credit to  
11 go to all the people and you're seeing the results  
12 and it's just really amazing.

13           It's not to say that we don't have more  
14 to do. The technology is going to continue to be  
15 a challenge. It's things that we need to be  
16 involved with and hopefully improve some of the  
17 processes that we have. I mean, I think having  
18 our voices early, consistently helping develop  
19 these things, you know, we hope that when we get a  
20 minimum viable product out there that that starts  
21 at the on par and then we start to increase our  
22 capabilities as we move forward.

1           I think that's really got to be  
2           someplace that we improve. I know that we will,  
3           but, you know, that's something that I think is  
4           still an opportunity.

5           So with that being said, I just want to  
6           thank everybody and TPAC's support. So thank you.

7           MS. BROWN: Thank you so much, Jay. And  
8           as we're closing out, I want to say thank you  
9           again to the USPTO. And as it -- you know, the  
10          PTO is an organization, but the organization  
11          doesn't run without people. Right? And it's you  
12          all in the room. It's you all outside of the  
13          room. It is Jay. It is NTEU. It is the  
14          examiners. It is all of the support staff that  
15          are able to make all of this work. So thank you  
16          for all of the work that you're doing. It is not  
17          taken lightly. We know it's a heavy task. It's a  
18          heavy requirement within the constraints of  
19          government regulations as well.

20          So great update, great meeting,  
21          everyone, great meeting content. And we really  
22          appreciate having the privilege really to be part

1 of TPAC and have these discussions with you.

2 So with that, I think we're going to  
3 close it out. Nothing more from me. And thank  
4 you again. Thank you.

5 (Whereupon, at 1:23 p.m., the  
6 PROCEEDINGS were adjourned.)

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1 CERTIFICATE OF NOTARY PUBLIC

2 COMMONWEALTH OF VIRGINIA

3 I, Mark Mahoney, notary public in and for  
4 the Commonwealth of Virginia, do hereby certify  
5 that the forgoing PROCEEDING was duly recorded and  
6 thereafter reduced to print under my direction;  
7 that the witnesses were sworn to tell the truth  
8 under penalty of perjury; that said transcript is a  
9 true record of the testimony given by witnesses;  
10 that I am neither counsel for, related to, nor  
11 employed by any of the parties to the action in  
12 which this proceeding was called; and, furthermore,  
13 that I am not a relative or employee of any  
14 attorney or counsel employed by the parties hereto,  
15 nor financially or otherwise interested in the  
16 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: August 31, 2025

22 Notary Public Number 122985

