

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)

PUBLIC MEETING

Alexandria, Virginia

Friday, March 12, 2021

1 PARTICIPANTS:

2 TPAC Members:

3 CHRISTOPHER KELLY, Chair

4 SUSAN NATLAND, Vice Chair

5 STEPHANIE BALD

6 DAVID CHO

7 TRACY DEUTMEYER

8 JOMARIE FREDERICKS

9 JENNIFER KOVALCIK

10 TRICIA THOMPkins

11 KELLY WALTON

12 Union Members:

13 JAY BESCH, NTEU 245

14 HAROLD ROSS, NTEU 243

15 TPAC POPA:

16 PEDRO FERNANDEZ

17 USPTO:

18 DREW HIRSHFELD, Performing the Functions and  
19 Duties of the Under Secretary of Commerce for  
20 Intellectual Property and Director of the  
United States Patent and Trademark Office

21 DAVID GOODER, Commissioner for Trademarks

22 DAN VAVONESE, Deputy Director for Trademark  
Operations

## 1 PARTICIPANTS (CONT'D):

2 AMY COTTON, Acting Deputy Commissioner for  
3 Trademark Examination Policy4 GREG DODSON, Deputy Commissioner for Trademark  
5 Administration

6 JAMIE HOLCOMBE, Chief Information Officer

7 OSMAN TURAN, Acting TM Product Line Manager

8 KIMBERLY ALTON, Acting Director, Office of  
9 Governmental Affairs10 KARIN FERRITER, Deputy Chief Policy Officer and  
11 Deputy Director for International Affairs12 THE HONORABLE GERARD ROGERS, Chief  
13 Administrative Trademark Judge, Trademark  
14 Trial and Appeal Board15 COKE STEWART, Acting Deputy Undersecretary of  
16 Commerce for Intellectual Property and Acting  
17 Deputy Director of the USPTO18 MARK THURMON, Deputy Chief Administrative  
19 Trademark Judge20 MARY CRITHARIS, Chief Policy Officer and  
21 Director for International Affairs

22 SEAN MILDREW, Deputy Chief Financial Officer

MICHELLE PICARD, Senior Advisor for Financial  
Management

CHRISTINE COOPER, Trademarks Chief of Staff

ANASTASIA JOHNSON, Executive Assistant

\* \* \* \* \*

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

2 (1:00 p.m.)

3 CHAIRMAN KELLY: Hello and welcome to  
4 the first TPAC meeting of 2021. My name is Chris  
5 Kelly. I am a partner at Wiley Rein in Washington  
6 D.C., and it is my great honor to serve this year  
7 as the Chair of TPAC. I took over from last  
8 year's stellar chair, Elisabeth Escobar. Before  
9 we begin today, I would like to introduce the  
10 other TPAC members beginning with this year's Vice  
11 Chair, Susan Natland. Susan is a partner at  
12 Knobbe Martens firm in Irvine, California. Moving  
13 on in order of seniority, Stephanie Bald.  
14 Stephanie is a partner at Kelly IP in Washington,  
15 D.C.

16 Next is Kelly Walton. Kelly is Senior  
17 Counsel at Electronic Arts in Austin, Texas. Next  
18 is Jennifer Kovalcik. Jennifer serves as Vice  
19 President, Technology and Intellectual Property  
20 Counsel at Community Health Systems in Franklin,  
21 Tennessee. Next is Tricia Thompkins. Tricia  
22 serves as General Counsel at Shoe Show in

1 Charlotte, North Carolina. Moving on, I would  
2 like to introduce the newly appointed TPAC members  
3 beginning with David Cho. David is Assistant Vice  
4 President and Senior Legal Counsel for trademarks  
5 and copyrights at AT&T in Dallas.

6 Tracy Deutmeyer. Tracy is a shareholder  
7 at the Fredrikson & Byron firm in Des Moines and  
8 Jomarie Fredericks. Jomarie serves as Deputy  
9 General Counsel and Chief Intellectual Property  
10 and Brand Counsel at Rotary International in  
11 Evanston, Illinois. I would also like to  
12 acknowledge our union representatives, Jay Besch  
13 and Harold Wilson from NTEU and Pedro Fernandez  
14 from POPA.

15 Welcome to you all and thank you for  
16 being here today. Our first order of business is  
17 the swearing in of our new members and that will  
18 be done by Acting USPTO Director and Commissioner  
19 for Patents, Drew Hirshfeld. I believe, Director  
20 Hirshfeld, you are also going to provide us with  
21 some opening remarks.

22 So on behalf of TPAC, thank you very

1 much for being here today and for your support.  
2 We all appreciate it very much and, with that, I  
3 will turn it over to you.

4                   DIRECTOR HIRSHFELD: Thank you, Chris.  
5 I'm looking forward to having some remarks from  
6 you today and swearing in the new members. I  
7 would like to give just a few remarks. First of  
8 all, let me share that it is my pleasure to be  
9 here with all of you today. As Chris mentioned,  
10 this is the first TPAC that we've had this year.

11                   It's actually the first since October of  
12 -- last October. So, it is great to have you all  
13 together even virtually. The office continues to  
14 be virtual as you know primarily and we are doing  
15 very well virtually continuing to do the work that  
16 we need to do. It has been since the last October  
17 many significant events have taken place and I'm  
18 going to get to some of those in a second.

19                   I did want to mention one significant  
20 event, as Chris said, is we've had the change in  
21 administration which has put me temporarily in the  
22 role of performing the functions of the Under

1 Secretary and Director. That is quite an honor  
2 for me to do that. I am comforted by the fact  
3 that I have a wonderful executive team at PTO and  
4 feel we are able to proceed while we are waiting  
5 for true political leadership at the PTO without  
6 missing -- without missing a beat.

7 I wanted -- I know most of you don't  
8 likely know me very well because I've been my  
9 whole career I've been 26-plus years on the patent  
10 side and I want to just share two fundamental  
11 beliefs that I have and one of those is to be very  
12 transparent with everybody and to be very  
13 collaborative. So I'm grateful for all the  
14 efforts of the members of TPAC and also TPAC on  
15 the patent side. I'm grateful for interactions  
16 with the public and I hope that you will see in  
17 everything I do in this position or in my day job  
18 as commissioner for patents or as long as I'm in  
19 any role at the agency. I will continue to be  
20 transparent and collaborative with everybody.

21 So greatly looking forward to that. By  
22 the way, we were fortunate this week to have newly

1 appointed, newly confirmed Secretary Raimondo  
2 visit the USPTO or at least virtually visit the  
3 USPTO. She and I did a fireside chat and she said  
4 a phrase which I'm going to repeat here because I  
5 loved what she said. At the end of our chat, I  
6 asked if she had anything to add for us and she  
7 said well, I'd like to say that I'm unusually  
8 accessible which I felt was quiet fascinating  
9 because, one, I pride myself on being accessible  
10 so I love to hear the same thing from her.

11 Two, the fact that she was six days on  
12 the job and yet having a fireside chat at PTO I  
13 thought was wonderful and, by the way, we had over  
14 5,000 people in attendance at that fireside chat  
15 and we heard her wonderful remarks and her support  
16 for IP and so that was a wonderful start with the  
17 new secretary. As Chris mentioned, we have three  
18 new members. I'd like to welcome the three new  
19 members.

20 Of course, as Chris mentioned, David  
21 Cho, Tracy Deutmeyer, and Jomarie Fredericks.  
22 Let's start now before we get on to some other



1 remarks that I will give, but let's jump right in  
2 and start with a swearing in of our three new  
3 members. So if I can ask you all -- I know it's a  
4 little awkward to do this virtually, but if I can  
5 ask you all to raise your right hand and repeat  
6 after me so hopefully not on mute of course. All  
7 right. So I'll start now. So please repeat after  
8 me. I do solemnly swear --

9 (New members were sworn.)

10 Congratulations to David, Tracy,  
11 and

12 Jomarie. I can't think of a more  
13 awkward way to swear people in than remotely, but  
14 thank you. You all handled that very well and  
15 we're thrilled to have you as new TPAC members.  
16 Congratulations also to Chris for your new role as  
17 Chair and our new Vice Chair, Susan Natland.

18 So congratulations to all of you and  
19 thank you to all of the TPAC members for the great  
20 work that you either have done and the new members  
21 that you will do together with the new -- with the  
22 new group. So a few remarks before we get into

1 the main event. I had mentioned some significant  
2 activities have taken place. Of course, the top  
3 of the list of significant activities is the  
4 passage of the Trademark Modernization Act.  
5 (Inaudible) from Dave Gooder and his staff and we  
6 are actively moving forward with our short period  
7 of one year for implementation. So we have to the  
8 end of December to have a full implementation.  
9 That by the way as I know you all know is the most  
10 comprehensive change in trademark law and  
11 operations in greater than 15 years. I've heard  
12 others say much longer. I guess it depends on  
13 perspective.

14 But it is a very significant change and  
15 we look at that as job one quite frankly on the  
16 trademark side. Now a few -- a few words.  
17 Normally, what we would like to do in a rule  
18 making process such as this is we'd like to have a  
19 request for comments, a notice of proposed rule  
20 and then a final rule. That way, you have a lot  
21 of opportunity to have a back and forth with the  
22 public, to hear comments and to make the most

1       educated final rule that we can do. With a one  
2       year implementation time, we're really tight in  
3       that schedule.

4               As a matter of fact, there really is no  
5       time to do all three of those steps. So we cannot  
6       do the request for comments to start, but sticking  
7       with my goals of transparency and collaboration,  
8       we've been really working hard to see how we can  
9       ensure that we have the most informed final rule  
10      and we are engaging with the public and we are  
11      hearing your comments. So we've taken a number of  
12      steps that I wanted to address with all of you  
13      today to make sure that we are getting as much  
14      feedback as possible so we make the most educated  
15      final rule that we can do.

16             First of all, I know that David Gooder  
17      and his team have been receiving emails and I know  
18      they've set up an email box for people to give  
19      feedback on as soon as the rule came out and I  
20      think that was extremely helpful. I know they've  
21      spoken to many people as well. We've also had a  
22      round table which hopefully you all participated

1 in. That was on March 1st. We had 378 attendees  
2 which I think is a wonderful number. We had 13  
3 speakers who represented large and small  
4 practices, small business owners, multi-national  
5 corporations.

6 I thought it was a fantastic round table  
7 and we were able to get a great deal of feedback  
8 to help us to move forward. So thank you to  
9 everyone who participated in that and provided us  
10 feedback. And then of course our next step will  
11 be a notice of proposed rule which will come out  
12 and what we are hoping for around the late May  
13 time frame and I do think that this is an  
14 opportunity for us to use this to get the best  
15 comments back from the public and the most varied  
16 comments that we can get and let me explain what I  
17 mean.

18 Normally, in a notice of proposed rule,  
19 you say here's what our -- here's what we are  
20 intending to do. And then people have an  
21 opportunity to comment on that. Since we are  
22 short in time here and not able to have that

1 request for comments which normally comes before  
2 the notice of proposed rule or often comes before  
3 that, what we are going to do in the notice of  
4 proposed rulemaking is we're going to lift our  
5 preferred way of moving forward and then we're  
6 also going to have in areas where we think its  
7 helpful list options or alternatives that we  
8 either have considered or are still considering or  
9 we feel would be helpful to get public comment on.

10           This is a slightly different step than  
11 we normally take at PTO when we make rules.  
12 However, I think it is really important here that  
13 we do so. This will give the public and anyone  
14 who wants to comment the best insight into  
15 everything that we're thinking about and  
16 everything that is possible for us to do and so  
17 they can make the most educated comments possible  
18 and then of course we on the other side will be  
19 able to get the benefit of those comments and make  
20 the most educated final rule.

21           So we are still months away from being  
22 at a point where that will be published, but we

1 are actively working on it and we are keeping in  
2 mind the goal of how do we foster a public  
3 discussion and a back and forth on that. So I  
4 think we have a very good step and approach that I  
5 hope you will all appreciate. I'm thankful to  
6 Dave and Amy who are working very hard on this and  
7 helping us to move forward. Dave and his team  
8 will talk more later on in the meeting about the  
9 Trademark Modernization Act and our next steps  
10 with the notice of proposed rulemaking.

11 The other significant or another  
12 significant occurrence is just the fascinating  
13 increase in the number of filings that the  
14 trademarks have seen. I even struggle saying this  
15 without, you know, pausing, hesitating, double  
16 checking my numbers because, as the Commissioner  
17 for Patents, I know this hasn't happened on the  
18 patent side of the house. I don't know how we  
19 would be able to make it through those to be  
20 honest with you, but trademarks have seen  
21 unprecedented growth in their filings.

22 New applications are up by 75 percent

1 compared to the same time last year, which is an  
2 absolutely remarkable number. I know last year  
3 was I believe down a little bit, but still no  
4 matter how you get to its down but how you get to  
5 75 percent is absolutely fascinating to me. It's  
6 an increase of 136,000 more applications compared  
7 to last year. A great deal of that is, of course,  
8 due to the pandemic, to people doing a lot more  
9 online shopping and online retail sales where  
10 these platforms do require people to have  
11 trademark registration.

12 So that is certainly helping to drive  
13 this but that is, quite frankly, an absolutely  
14 fascinating number and one that I know that Dave  
15 and his team are focused on to make sure that we  
16 minimize the impact to pendency. I'm sure there  
17 -- I know there will be. There already are some  
18 quite frankly impacts to pendency and that is, of  
19 course, inevitable but we also want to make sure  
20 that there are no impact to quality. The  
21 trademarks team does a wonderful job and their  
22 examining attorneys do a great job of high quality

1 and they will continue the quality regardless of  
2 the number of filings we have and certainly  
3 tendency is likely to be impacted some.

4           With that, more from Dave and his team.  
5 So with that, I will just say welcome to all of  
6 you for being here. Welcome to our new members.  
7 Thank you very much for giving me the opportunity  
8 to address you all and I look forward to  
9 continuing to work with you and feel free to reach  
10 out and let me know how I can be helpful to you  
11 anything you are working on. So with that, I will  
12 pass it over to Dave.

13           MR. GOODER: Thanks, Drew. I appreciate  
14 all the comments and yes, the growth is pretty  
15 amazing. Can you all hear me okay? Good.  
16 Wonderful. I wanted to just kind of step back and  
17 as we look at everything today and we'll be  
18 digging into a lot of numbers. We'll be digging  
19 into a lot of what's happening and what's going on  
20 in the economy, of what's going on at the  
21 trademark office, what's going on with TMA. It is  
22 a really, really crazy time. Actually, it's a



1 great time to be a trademark person in the U.S.

2           There's a lot happening and lots of good  
3 things. Welcome to the first TPAC meeting of  
4 2021. It's hard to believe that as I sat  
5 preparing for this that just literally a bit over  
6 year ago I was sworn in. A year ago this week,  
7 the entire PTO pivoted to start working entirely  
8 remotely and I was -- I was absolutely impressed  
9 at how flawlessly that seem to occur.

10           And I realize a lot of people were  
11 already set up to do it, but there were people who  
12 weren't. It's the new normal that created at  
13 least for year's new normal has really allowed us  
14 to keep moving and in a way that I never thought  
15 it could. So the trademarks out of the office  
16 it's been a year of change, of incredible  
17 resilience by the people who work here, and  
18 adaptation to different ways of doing things. At  
19 the same time, with an absolute roller coaster of  
20 filings and the economy et cetera. And we'll talk  
21 a little bit about why that uniquely affects  
22 trademarks quite directly.

1           You'll hear a lot about the fees today  
2           and, with that, let's go ahead and dive in. Next  
3           slide please. So today what we'll do in the  
4           course of our updates here we're going to talk a  
5           little bit about the business of the Trademark  
6           Office and some of the metrics. We will hear from  
7           Jay Hoffman, the CFO of the agency, talking about  
8           the trademark business financial performance.  
9           We'll explain a little bit about what our chief  
10          priorities are for fiscal '21 which we are now  
11          five months into for the fiscal year.

12           And, then inside of that, we will talk  
13          some of those will do the Trademark Modernization  
14          Act, the surge of filings that we are  
15          experiencing, et cetera. After that, we will hear  
16          from our Chief Information Officer, Jamie Holcomb,  
17          and then our Office of Government Affairs Office  
18          of Policy and International Affairs. And then  
19          we'll wrap it up at the end of the day with Jerry  
20          Rogers again talking about the Trademark Trial and  
21          Appeal Board (TTAB) and at then at end of that we  
22          will have time for questions if there are any.

1       So, with that, let's move along to the business of  
2       trademarks inside the office. First of all, we'll  
3       talk about there obviously are some new faces.  
4       You will remember that the Chairman of Trademarks  
5       retired at the end of last year.

6                   I'm very happy to announce that Dan  
7       Vavonese is now the Deputy Commissioner for  
8       Trademark Operations. Dan has been in the office  
9       I think 25-plus years. He was the examining  
10      attorney and managing attorney. He was the  
11      director of a lot of different things. We're  
12      thrilled that he can join us. I'm also happy to  
13      announce that Amy Cotton is now the full -- not  
14      just the acting -- but the full Deputy  
15      Commissioner for Trademark Examination Policy. We  
16      were able to steal her away from the Office of  
17      Policy and International Affairs which has been a  
18      real benefit as we deal with this the very first  
19      thing to drop into her lap was the TMA and we'll  
20      go into a bit more detail with that. So that's  
21      some of the new faces you'll hear from today.  
22      Next slide please.

1           So the office itself is just under 1,000  
2           people. In fact, by mid-April we will be slightly  
3           over 1,000 employees. There are 639 examining  
4           attorneys. That number is about to go up by 47 in  
5           mid-April with the new class that starts. All  
6           employees have the option of telework and almost  
7           everybody is. There are protocols that people  
8           need and want to come into the office, but for the  
9           most part, people are safely ensconced at home and  
10          their adapted new office space.

11           Next slide please. So some people have  
12          heard me talk about this before, but this is kind  
13          of a fascinating thing. If you look at the S&P  
14          500 over a long range, you see the trademark  
15          filings really do track what's going on, not only  
16          in the stock market but also in the economy. And  
17          you can see things like the financial crisis in  
18          2007, '08, '09. And what you see as you move to  
19          the right is that the trademarks filings continued  
20          on up and up.

21           The trademark filings are obviously good  
22          thing. You'll see where we are today and it's not

1       only tracking the S&P but we've shot way above it.  
2       We have dropped below it and it would be very  
3       interesting to see where this tracks out. This is  
4       sort of an analytical, data driven way of saying  
5       trademarks are really at the tick of the economic  
6       sphere not only in our country but around the  
7       world because lots of trademark offices have a  
8       similar phenomenon. Next slide please.

9                So if we look at applications filing  
10       levels again this is taking us back 14 years in  
11       fiscal '20 we received 738,000 classes. That's  
12       not applications of classes. We track things by  
13       the number of classes in the applications because  
14       it ties more closely to the workload. Before I  
15       came to the office, I didn't really have an  
16       understanding of classes as we sorted applications  
17       but from the inside it's a little different. So  
18       it was a healthy increase in 2020, but what you  
19       see in the second is actually what was on 2020.

20               Fiscal year to date so far we're up to  
21       about 416,000. That's going to exceed one of the  
22       protections were last fall. We're up over --

1 well, depending on how you measure, it's up easily  
2 60 percent year to date. Next slide please. So  
3 if you think about last year it really was a tale  
4 of two halves. So they first half of the year you  
5 can see that really with the minor exception in  
6 December typically does --there are ups and downs  
7 but if you kind of look in January onward, we were  
8 -- we were declining quite steadily including  
9 especially in March. And then what we saw was we  
10 were still down in April and May, but it was less  
11 so and then literally from June forward we had  
12 steadily increasing months and at the end of  
13 September and August, it shot up. Next slide  
14 please.

15           And if you look at this now over a whole  
16 from January all the way through to today we see  
17 that climb. We built in to the extent so you can  
18 see what the left looks like which is the blue one  
19 slightly in front of the orange line. I'm  
20 colorblind so pardon me if I am describing these  
21 colors incorrectly. Gray is the rest of the world  
22 and the green line is the European Union or the

1 black. Really what you see is a lot of growth in  
2 the U.S. side. The rest of the world really  
3 fairly -- is up and down fairly but then you see  
4 China. And that's the topic that a lot of people  
5 have focused on. A lot of interest in that, but  
6 you will see two significant spikes. One at the  
7 end of our fiscal year.

8           That one is not as easily understood is  
9 the one that is at the end of the calendar year  
10 which we think pretty much ties to the fee  
11 increase that went into effect on January 2nd. So  
12 a lot of people were trying to get filings in.  
13 You saw the same climb with the U.S. side. Next  
14 slide please. So, in terms of those daily  
15 filings, we had -- our plan have been adjusted for  
16 about 789,000 filings and, if you look at this,  
17 this is all countries and everything in there.  
18 You will see the huge spike. In January, it has  
19 come back down a little bit, but it is still well  
20 up above plan for the year.

21           So some good things first of all it  
22 enables us to put back online most notably the

1 modernization of our IT functions, the ones  
2 internally but especially the ones on the external  
3 side. All of that had the explosion. You  
4 remember me talking about that last summer at the  
5 last TPAC meeting. We had to literally follow  
6 that so we've been able to bring things back  
7 online. Its moving along at a healthy pace. We  
8 don't know what the rest of the year will look  
9 like, but all signed are positive. Next slide  
10 please.

11           What's interesting when you look at who  
12 the trademark registration applications owners of  
13 the U.S. Trademark office and what you find is  
14 that one time filers -- that's people who file one  
15 time -- one registration, one application account  
16 for 33 percent of all filings. People with less  
17 than 10 account for 43 percent. So that means 76  
18 percent of all of the cases are owned by people  
19 with less than 10 applications and that has a huge  
20 impact when you start looking at filing growth  
21 because, obviously, this growth when you see --  
22 next slide please -- when you look at the growth



1 that we've been watching we try to understand  
2 that.

3 Well, certainly the type of applicant  
4 that's the largest growth areas are the small  
5 filers and one time filers. They're largely  
6 filing on the basis of use and that's pretty  
7 consistent with the filings we see from China.  
8 Most of them are use based and are not intent to  
9 use. In terms of the entity types so to speak,  
10 they are largely individuals.

11 Lots of people filing with new business  
12 ideas. We're correlating it with startup of  
13 business, et cetera. And then finally where  
14 they're coming from and where a lot of the growth  
15 is from China and secondly the U.S. China has  
16 historically been somewhat in the 15 percent range  
17 of our filings. This year, it's about 29 percent  
18 which is -- it is quite a jump. Next slide  
19 please. So Director Hirshfeld mentioned quality.  
20 We're going to talk about pendency again and we'll  
21 talk about pendency in a minute.

22 The good news on quality is on all three

1 of our measures that are used we are on target or  
2 exceeding target with the quality and that is just  
3 I think an amazing accomplishment by the examining  
4 corps and all the people who support it because to  
5 do that under the current not only the pressure of  
6 all the applications surge, but also during the  
7 pandemic and everybody working from home. I mean  
8 it's just quite an impressive accomplishment and  
9 I'm really proud of everyone for that. Next slide  
10 please.

11 So at this point, we talked about kind  
12 of the -- the kind of measurements the trademark  
13 people understand a little bit, but I want to turn  
14 it over to Jay Hoffman who will now take us  
15 through what does that mean in terms of dollars  
16 and cents and the financial help for the office.  
17 Jay, are you there?

18 MR. HOFFMAN: Yes. Can everybody hear  
19 me okay?

20 MR. GOODER: Sure can.

21 MR. HOFFMAN: Okay. All right. It's  
22 the perfect set up, Dave. Thank you very much.

1 Let's go ahead and dive right into it. Next slide  
2 please. Okay. So I'm just very briefly I'm going  
3 to walk you through our FY 2021 appropriations  
4 data and then we'll quickly shift gears and talk  
5 about the financial position and status of the  
6 visits, what Dave was alluding to. Let's do a  
7 number of slides.

8 I'm going to give you a little bit of  
9 insight on what's over the horizon with respect to  
10 our P-setting and then lastly just a very brief  
11 update on the TPAC on next steps with the FY '22  
12 and FY '23 appropriations also. Next slide  
13 please. Okay. So when we last met in October,  
14 the Government was funded under the Committee  
15 Resolution through December 11th. The Government  
16 was funded under four additional short term CRs  
17 through December 28th until the passage of the  
18 full year omnibus December 27th.

19 So the good news is that bill funds the  
20 USPTO at \$3.695 billion which aligns with the  
21 amount the agency requested in the FY 2021 budget.  
22 So the language in that bill requires that fees

1 collected for this amount go under the Patent and  
2 Trademark Fee Reserve Fund. As you recall, we had  
3 a small amount go into that fund last year. In  
4 addition, we'll be transferring \$2 million to the  
5 Office of the Inspector General. That's a fairly  
6 standard amount and \$13,500 for official reception  
7 and representation. This is an increase from last  
8 year but only slightly. Next slide please.

9           So Dave did a great job of giving you a  
10 sense of the trademark business. Just to emphasis  
11 some of the points that he made. Trademark  
12 application filings increased by 62.5 percent in  
13 FY 2021 through January compared to FY 2020 and  
14 year to date fee collections are 28 percent above  
15 plan. That includes the \$22 million. Should  
16 collections continue to outpace our plans for the  
17 remainder of the year, they could exceed our plans  
18 by anywhere from \$50 to \$70 million.

19           On the renewal side, our year to date  
20 fee collections are 9 percent above planning  
21 levels. This is about \$3 million and should  
22 collections continue to outpace our plans there

1 for the remainder of the year, they could be 7 to  
2 \$10 million. We did implement a fee increase on  
3 January 2nd, and those fee rates are now in  
4 effect.

5 We are monitoring the impact of those  
6 fees and those changes that I'm going to show you  
7 on a slide here in a moment that gets at some of  
8 those behaviors that we're monitoring. Next slide  
9 please. So this graph here is based on data as of  
10 February 12th and it displays the aggregate  
11 revenues for the trademark business. Let me  
12 quickly acclimate some of the viewers to this  
13 slide and then I'll brief you on the results of  
14 this. So what this slide shows on the Y axis is  
15 the millions of dollars of trademark revenue.

16 The X axis are weeks of this fiscal year  
17 starting in November. You'll see three lines on  
18 the chart. There is a green line which our  
19 planning line, a horizontal line that runs across  
20 the bottom. Our plan for the year is about \$445  
21 million of trademark revenue. The blue line is an  
22 annualized reflection of the 25 day moving average

1 for trademark revenues. The pink line is our  
2 extrapolated end of year projection. So what you  
3 can see here is that right now we have projected  
4 to be above plan in the aggregate for the  
5 trademark revenues.

6 One interesting thing that you see is --  
7 you saw this on Dave's slide -- there was a large  
8 increase as we get into December and the revenues  
9 you can see that blue line quickly steps down in  
10 January as the revenue rates fall. The reason we  
11 believe that that happened is what Dave was saying  
12 is that we had a lot of filers trying to file  
13 their applications right before the trademark fee  
14 increase and potentially taking advantage of the  
15 trademark sale price, if you will, and then those  
16 applications that otherwise would have been  
17 received in January happened in December.

18 We are continuing to monitor those  
19 revenue rates. As you can see here they are  
20 starting to tick back up again but our year-end  
21 predictions are very, very strong at this point.  
22 Next slide please. So let's take a look at our

1 spending situation in trademarks, this chart shows  
2 our revenue collections relative to our spending  
3 for the year. The X axis is again the millions of  
4 dollars in spending. The Y axis -- excuse me --  
5 the Y axis is the millions of dollars in spending.

6 The X axis is the time. There is a  
7 green bar running across the top and that's the  
8 planned level spending for the year. The blue  
9 bars represents spending. The red bars represents  
10 revenue. We are on track for our annual spending  
11 target. The blue bar is our forecast and will  
12 potentially match the spending planned by the end  
13 of the fiscal year. Revenues will actually exceed  
14 planned spending for the year at the current pace.  
15 What that means is that we can expect to have  
16 deposits in the operating reserve further  
17 strengthening the reserve position.

18 I would note that spending in the first  
19 quarter of the year has been a little higher than  
20 revenues. That's pretty good typical. The way  
21 our spending plans work is that our spending is  
22 frontloaded and that will even itself out as we go

1 through the year. Next slide please. Okay.

2                   When we met last time, I had briefed you  
3 on the operating reserve and the operating reserve  
4 condition was not where we wanted it at the time  
5 that I had told you that there was some additional  
6 analysis that we were doing as a result of these  
7 revenues so. That's what this slide is to update  
8 you on what has happened since our last TPAC  
9 meeting. So this chart shows you our operating  
10 reserve balance projections for fiscal year '21  
11 and fiscal year '22.

12                   The x-axis here is in millions of  
13 dollars in reserve. The Y axis is FY 2021 and  
14 next year FY 2022. You'll see two lines in this  
15 chart. There is a green-colored line which is the  
16 minimum operating reserve of \$75 million in about  
17 two and half months of operation and there is a  
18 blue line. That's our optimal reserve level and  
19 we like to get the trademark reserve and that  
20 includes about \$215 million for six months of  
21 operating expenses.

22                   A few months ago the operating reserve



1 for trademarks which is reflected by the green bar  
2 you see on this chart in both fiscal year '21 and  
3 fiscal year 2022 we were projecting the operating  
4 reserves for trademarks to be below minimum level.  
5 However, that information did not incorporate our  
6 new revenue projections and the strong demand that  
7 we have seen. We have updated those forecasts for  
8 the operating reserve and that is reflected by the  
9 green bars that you see here. As you can see, we  
10 are projected to be significantly above the  
11 minimum operating reserve level for trademarks for  
12 the FY '21 and FY 2022 exceeding \$150 million in  
13 both years.

14 With the change of course, we could see  
15 a downturn in trademark demand, but I'll tell you  
16 that our spending profile is relatively  
17 conservative when compared to the demand that we  
18 are seeing. That coupled with the fee increase  
19 and the strength of these reserve levels I think  
20 we can navigate any sort of economic disruption  
21 should that happen but, again, none of our models  
22 at this point are showing that. So we have a very

1 strong position in terms of our cash position.

2 Next slide please. All right.

3 So as I mentioned previously, the agency  
4 is monitoring the impact of the recent fee rate  
5 increase that went into effect on January 2nd and  
6 on revenue collections and applicant behavior.  
7 Any time we change prices, you can see changes in  
8 applicant behavior. It's too soon to draw any  
9 conclusions. We expect that the annual impact of  
10 the fee increase will be \$75 million once it's  
11 fully implemented on an annualized basis.

12 We do have one international applicant  
13 fee related to the Madrid protocol. That fee  
14 increased from \$400 to \$500 but that fee increase  
15 did not go into effect until February 18th of this  
16 year. There was a notification period that we had  
17 to go through before we could make that rate  
18 final. Next slide please.

19 So although we just set new fees in  
20 January, we are constantly looking at our fee  
21 structure and we will soon start evaluating  
22 proposals. We are conducting analysis on

1 potential adjustments to current fees. We have to  
2 start this work now because it takes a  
3 considerable amount of time to go through a fee  
4 setting rulemaking. That can take up to two years  
5 for those of you who have been on the TPAC for a  
6 while and it just takes time to start our analysis  
7 and go through the different rulemaking as Drew  
8 discussed in his opening remarks. So we are  
9 planning to engage with the TPAC soon on our plans  
10 and we currently target the late fall of this year  
11 for a public hearing.

12 Under the fee setting process, once the  
13 public hearing occurs the TPAC will issue a report  
14 and public comments are given. The comments will  
15 be considered and notice of proposed rulemaking  
16 will then be posted. A public comment period on  
17 the NPRM system is given and, finally, the agency  
18 drafts and issues the following ruling. So it's a  
19 lengthy process.

20 The fee structure must ensure the cost  
21 recovery. Excuse me. Must ensure cost recovery.  
22 And what the agency proposes and works with on the

1 TPAC will be decided. So, additionally, Dave also  
2 mentioned the Trademark Modernization Act. I  
3 won't repeat here on the slide, but you can see  
4 here there are a number of fees that Drew was  
5 alluding to. Is well and that are going to be  
6 dated as a result of the Trademark Modernization  
7 Act and, as previously discussed, that will likely  
8 impact us. All right. Let's go ahead and take a  
9 look at the next slide.

10 So just a little bit of a primer before  
11 we get into that fall meeting. I thought it would  
12 be useful for the audience to have a sense of what  
13 drives trademark fee collection. So as you can  
14 see here more than 50 percent of all trademark  
15 fees are derived from applications. 20 percent  
16 are from renewals, 11 percent are from six month  
17 extensions for statement of use, 4 percent are for  
18 statement of use and alleged use. Everything else  
19 accounts for just 14 percent of trademark revenue.

20 So there is more than 100 trademark fees  
21 in total. It's really less than 10 that account  
22 for the vast majority of all the trademark

1 revenues that we receive. So as we get into this  
2 analysis in the summer and fall with you, it's  
3 good to sort of keep in mind what the big blocks  
4 are in terms of trademark revenue production.

5 Next slide please.

6 Last topic for this morning or excuse me  
7 for this afternoon is the next step in our  
8 budgeting process. So we principally in this  
9 discussion up to now have been focusing on the  
10 current year and what's been happening. Looking  
11 on to next year, the USPTO is in the process of  
12 finalizing its requirements for the FY '22  
13 President's Budget Commission. Generally, we  
14 submit the President's budget in February.  
15 However, as you know, we had a change in  
16 administration this year and so that position has  
17 been delayed as the new administration sort of  
18 gets their legs under them. We are expecting  
19 final guidance from the administration in June on  
20 issuing our budget and we think that it will  
21 probably go to the Hill sometime in late April or  
22 early May. And, once that happens, there will

1 likely be appropriations hearings through the  
2 Department of Commerce.

3 We don't anticipate a lot of USPTO  
4 questions but, to the extent that there are  
5 questions from our oversight committees we will be  
6 sure to pass that information along to the TPAC.  
7 Looking over the horizon, the FY 2023 budget  
8 appropriations process will be kicking off this  
9 spring here with many agencies. So those of you  
10 who have been on the TPAC before you know that  
11 we've put the budget together with our latest  
12 revenue projections and demand projections over  
13 the summer and you would see something in the  
14 August timeframe prior to us advancing that budget  
15 to OMB for those. So we'll have more  
16 conversations on what those timelines and  
17 milestones are in the weeks ahead.

18 So I believe that concludes all the  
19 slides that I have for this afternoon. I'll pause  
20 there and turn it back over to Dave or take any  
21 questions that you like.

22 CHAIRMAN KELLY: Jay, thank you very

1 much. Any questions from TPAC members?

2 MS. NATLAND: Hi. It's Susan Natland.  
3 I have a quick question, Jay. Great job. Thank  
4 you so much. It's very helpful. We spent some  
5 time talking about the increase in trademark  
6 applications, the surge regarding it. I noticed  
7 on your report also has an increase in new revenue  
8 level plan. I'm kind of curious. How do you  
9 decide what the plan is? Are you making some  
10 assumptions based on historical annual data? How  
11 do you determine that?

12 MR. HOFFMAN: Yes. So actually we did a  
13 work forecast from the trademark group side. Dave  
14 Gooder and his team have an analyst that projects  
15 what the application and renewal rates are. My  
16 team then takes that same data and we translate it  
17 into dollars for expected revenue. So I think if  
18 Dave's folks are on the call what they would tell  
19 you is that a lot of this is highly correlated to  
20 economic activity.

21 You saw that on the S&P 500 chart that  
22 Dave showed. Without getting too much into the

1 details though, the ratio of applications to  
2 renewals has been changing over time. That's what  
3 we're paying a lot of attention to, but overall  
4 it's a good new story for FY 2021 to be in the  
5 position that we are right now.

6 MS. NATLAND: All right. Thank you.  
7 That was my understanding as to how (inaudible)  
8 may be going down in the future but just because  
9 of the cyclical nature of income stream  
10 (inaudible) interested to see if it's a plan with  
11 all of you. Thank you.

12 MR. HOFFMAN: Sure.

13 MR. GOODER: Susan, to add to that when  
14 the analysts have been looking at this, they're  
15 taking multiple economic forecasts and trying to  
16 kind of make educated decisions without which ones  
17 seem to be more in line. If you ever liked  
18 economics in college, you should sit in the  
19 discussions because the thinking and the debating  
20 and different agency and government forecasts it  
21 the differently.

22 The private sector forecasts



1 differently. So our folks are literally trying to  
2 sift all of that out and then come to some to some  
3 projections that make sense and you are correct  
4 that, as a percentage, renewals are actually on  
5 the decline a bit even though we are doing more of  
6 them because there are more filings, but it is an  
7 interesting phenomenon. And, actually, we're  
8 looking into that and trying to understand what is  
9 the phenomenon that is causing that. We may have  
10 more to report on that in a future meeting.

11 Any other questions for Jay? Okay. If  
12 we could get the slides back up and go through the  
13 next one please. So a lot of people were asking  
14 when I came in what are your priorities and for  
15 most of last year I told people that my first  
16 priority was to listen and I was obviously very  
17 skeptical of people who came into a new position  
18 and immediately figured they knew what the new  
19 priorities were without a lot of insight into it.

20 I don't think you can do that, but  
21 through the year I have now literally spoken to  
22 every group in the trademarks organization. I've

1 met with lots of stakeholders and bar associations  
2 and et cetera and just literally listened to what  
3 we do well, where we are struggling, et cetera.  
4 And so now for fiscal '21 -- and a lot of this  
5 will go into fiscal '22. There are essentially  
6 some huge priorities that I will tell you about  
7 today. The first one is, given the growth of the  
8 trademark operation over the years, and you saw  
9 that the curve is just enormous, we are going to  
10 look at how we're managing that how we are  
11 structured to manage it, et cetera.

12 I mean we've gone from an organization  
13 of a few hundred people to 500 people and now  
14 we're over a thousand. And anybody who has been  
15 in an organization public or private that has that  
16 kind of growth you typically understand that the  
17 structure evolves with that and that's really what  
18 we're talking about here is the evolution. It's  
19 not a revolutionary change. It's an evolutionary  
20 change but it is designed to really improve how  
21 what we do in the areas of communication, in the  
22 areas of protecting the register, and dealing also

1 with IT and with the understory about the fees.

2 So the next slide.

3 So the evolution is at the core of that  
4 but there are four primary priorities here. The  
5 first is that we have to attack our application  
6 surge. The good news is that there are a ton of  
7 filings. The bad news is that there are a ton of  
8 filings. And so we've got to deal with that. The  
9 good part of that is that is stretching I think  
10 our thinking of what is possible.

11 We can't just handle it the way we  
12 handled it formerly. The numbers are too big. I  
13 don't know if they will ever decline  
14 significantly. So we've got to look at IT  
15 solutions, examination processes, how we staff  
16 things, how everything literally to try to find  
17 what is a better way to do this. So we're going  
18 to hear more about that when we hear from Dan  
19 because this area is uniquely tied to trademark  
20 operations.

21 The next if you move to your right and  
22 you've heard a lot we have to implement the

1 Trademark Modernization Act. We've got a deadline  
2 to do it by 27 December. So that obviously by  
3 definition makes it a huge priority. As I  
4 mentioned when trademark filings fell off last  
5 spring, I still remember this. I was only with  
6 the agency for about two or three weeks. We go to  
7 a meeting and Jay Hoffman walked up to me and he  
8 goes I have a little problem I need to talk to you  
9 about.

10 I'm thinking what could it be. And it's  
11 like we're about to lose \$40 million out of the  
12 budget because we didn't know it was happening.  
13 Well, a lot of that had to do with how we  
14 modernized IT. We made sure to prioritize  
15 maintaining and keeping everything running well  
16 and the modernization part of it the part that  
17 impacted everyone. Whether you're inside the  
18 agency or outside the agency, you deal with our  
19 systems.

20 That's the part we are dealing with.  
21 That is now back on track and we'll hear more  
22 about that from Greg Dodson this afternoon. The

1 next thing is we've got to boost our trademark  
2 register protection and that's a concept -- I am  
3 talking about it differently because I think it  
4 fits. I came from a world where brand protection  
5 was an enormous issue; for the brands, for the  
6 companies, for the industry, and, if you look at a  
7 lot of the problems we deal with with regard to  
8 the register and filing and deadwood and all that  
9 kind of stuff -- scams, et cetera -- we have got  
10 to protect our register better and that's what  
11 we're going to do.

12 There has been lots of great work done  
13 but some people say sometimes kick it up a notch  
14 and I'll be talking more about that in a minute.  
15 So at this point, I'm going to turn it over to Dan  
16 Vavonese to talk about how we're dealing with what  
17 we're calling the surge of '21. Dan?

18 MR. VAVONESE: Good afternoon everyone  
19 can everyone hear me?

20 MR. HOFFMAN: Yes. We can.

21 MR. VAVONESE: Good. All right. Next  
22 slide. What I'm going to do is talk a little bit

1 more about, you know, we've heard a lot a lot  
2 about the surge in the number of applications  
3 we've gotten. A lot of details from the data on  
4 that. I want to go into more specifically how  
5 that impacted operations and what we're, you know,  
6 at several different levels and what we're really  
7 doing about it both short-term and long-term what  
8 we're going to do to make -- to really deal with  
9 the issues coming up. Next slide.

10 So the first thing we've done in the  
11 surge is the final showing is the unexamined  
12 application inventory in classes. This is the  
13 number of applications that are basically sitting  
14 in our queue. These are the new applications that  
15 have not been examined yet by an examining  
16 attorney. And as you will see from this chart, we  
17 are generally in the 150,000 application classes  
18 range. That has always been a comfortable level  
19 for us to make sure we had a steady inventory and  
20 keep within what has traditionally been three to  
21 three and a half months for first batch of  
22 pendency that we've had for almost 15 years now.

1                   This surge had such an impact on us to  
2                   the point that we couldn't keep up with those  
3                   filings and then what happened was our inventory  
4                   started to continue to go up and you will see just  
5                   a giant spike that we've had since about summer  
6                   which equates with the dates that you now you were  
7                   shown on the other slides but we're now at 326,000  
8                   which is 200,000 applications more than what we  
9                   are accustomed to. Next slide.

10                   And as a result as you've seen, our  
11                   first pass pendency has gone up. I mean we have  
12                   prided ourselves on being in the three to three  
13                   and a half months range and again we've been that  
14                   for about the last 15 years. That pendency has  
15                   continued to rise over the last -- over the last  
16                   six months. We are currently at about 4.7 months  
17                   on our first action pendency and, based on that  
18                   inventory, that first action pendency will go up  
19                   more before we are able to get it back down  
20                   because we have to get through that huge backlog.

21                   So we're working extremely hard on it,  
22                   you know. At all levels of productivity is where

1 we want it to be. It's just a huge amount of work  
2 and I'll talk a couple of minutes about what we're  
3 doing to try to help move forward. Next slide.  
4 So you know this is, again, this is just our  
5 general target. While traditionally our goal for  
6 a first action pendency is about two and half to  
7 three and half months, we recently changed that to  
8 two and a half to four and a half months to look  
9 at the realities of where we are to give us more  
10 flexibility moving forward in how we are reviewing  
11 and how we're dealing with our caseload.

12 The good news is that our disposal  
13 pendency which is we continue to keep well below  
14 our goals on that at under 10 months. So the good  
15 news is that while our first action pendency is  
16 going up, our disposal pendency to either  
17 abandonment or publication is continuing at the  
18 numbers that we expect. Next slide. So I'll talk  
19 about surge. You know. Most of these have  
20 already been addressed. So far, you know, the  
21 growth of online sales and, you know, the  
22 requirement to join brand registry to get on to



1 various sales sites. The fee increase at the end  
2 of calendar FY '20. Everybody was trying to beat  
3 that. And then the government of China, you know,  
4 the Chinese government subsidies have certainly  
5 had an impact in the increase as well as there  
6 have been more marketing being done directly to  
7 the Chinese to identify various different lawyers  
8 and law firms to get more individual applications  
9 within China for small enterprises in the United  
10 States. Next slide.

11 So what is the impact? Because we  
12 talked about the first action pendency, the  
13 examination of the first examination, you know, of  
14 the application itself but the thing is this is a  
15 lot more than just the application. A lot of the  
16 new application surge is also a result of surges  
17 across all areas of trademarks. This is  
18 everything from amended filings that are coming  
19 in, post registration filings, Madrid filings.  
20 Everything. All areas of trademarks are  
21 experiencing increases and, you know, the first  
22 action pendency that we just talked about, yes.

1           We are now, you know, just under five  
2 months. Regarding new applications being uploaded  
3 into TSCR, I think there were some issues at the  
4 beginning of the calendar year but we wanted to  
5 clarify that, you know, generally when you file an  
6 application through TEAS that application is  
7 uploaded to TSCR within a week. There are rare  
8 situations where it is taking longer. Generally  
9 when there is not an international classification  
10 associated with it, but we are generally uploading  
11 the new applications with the data that has been  
12 provided with TEAS within one week.

13           The other big impact here is in our  
14 processing of our amendments in responses to the  
15 office actions. We pride ourselves on a 14-day  
16 turnaround and although our examinations core  
17 staff has been working as hard as they can, it's  
18 just a huge, huge filings and responses. We are  
19 now around 90 days or so, but we are working hard  
20 to catch up on that timeframe and we do -- I want  
21 to reemphasize, you know, we do process all  
22 responses and everything within the order --

1 within the order that they are received.

2 We really don't go out of order because  
3 as soon as we start doing that, that just impacts  
4 -- it impacts being able to keep up you know with  
5 the older style. Next slide. So what actions are  
6 we taking? You know, so again I'm going to  
7 continue to emphasize I mean this impacts the  
8 costs of trademarks but this is a lot more than  
9 just what we're doing in the law offices. Within  
10 our trademark services and support staff, we are  
11 organizing workloads among the staff to focus on  
12 where we need to prioritize the work and deal with  
13 the biggest backlog.

14 We are also reevaluating our staffing  
15 and all trademark services and support staff to  
16 make sure that we are setting ourselves up for  
17 both short-term and long-term for what we need  
18 when it comes to when it comes to -- when it comes  
19 to keeping up with not only normal workload, but  
20 moving forward. At the -- at the law office level  
21 we are hiring of 50 examining attorneys that are  
22 starting in the beginning of April. So we're

1 hoping that that's going to give it a nice boost  
2 by the summertime and getting into some of this  
3 backlog and then we have plans moving forward for  
4 regular hiring over the next -- over the next  
5 couple of fiscal years to make sure that's steady,  
6 the steady increases of new staff are coming to  
7 help across all trademark.

8           We have also increased overtime  
9 opportunities to try to keep up with the work that  
10 we need to be done. I wanted to quickly emphasize  
11 also the importance several times we have  
12 mentioned quality, we are not going to jeopardize  
13 quality to increase -- to increase the work that  
14 needs to get done here. We pride ourselves on the  
15 quality of the product we're putting out and I  
16 want to thank all of our employees across all the  
17 trademarks for continuing to focus on quality even  
18 in the midst of the huge surges and in the midst  
19 of everything that has gone on this past year.  
20 You know.

21           The multi-prong approach is a lot more  
22 than just hiring and adding resources. We are

1       also looking at various IT solutions and  
2       processing improvements, costs across all of  
3       trademarks not only in automation of certain tasks  
4       if we can do that, but also adding tools,  
5       efficiency tools, so that will assist our  
6       employees in more quickly being able to process  
7       the work that they need to do to get out. You  
8       know. Greg Dodson will talk more about from the  
9       IT standpoint, you know, our larger IT plan.

10               And then, finally, from the transparency  
11       and communication standpoint, we are going to be  
12       -- we are finalizing communications that we are  
13       going to be getting out both internally and  
14       externally as far as where we are on our pendency,  
15       on our backlog. We want to get some notices out  
16       to our external sites so that we can just set  
17       expectations for all of our customers, all of our  
18       stakeholders on where we are. What they can --  
19       what they can do if they have questions. And  
20       really just make sure that everybody understands  
21       the time frames we're talking about.

22               And, finally, we're launching the new

1 monthly pendency metric for all of our internal  
2 processing across all areas of the trademarks, not  
3 only at the law office level but across all areas  
4 and services and with an examiner support in post  
5 registration so that not only internal employees  
6 but then we are also adding links for external  
7 customers as well so that you can look and see  
8 where the time frames are for the different -- for  
9 the different filings that you may have submitted.  
10 So that something that we are hoping that will be  
11 coming soon. Next slide.

12           And this is just a quick preview of --  
13 we'll get a nicer version of this and probably get  
14 a link up on our dashboard in the next few weeks,  
15 but this is a preview at least to show kind of  
16 generally what kind of metrics we're talking about  
17 on posting very soon. Next slide. And that's it  
18 from operations. Next will be on to Amy Cotton to  
19 talk about the Trademark Modernization Act unless  
20 there are any questions.

21           CHAIRMAN KELLY: Any questions from TPAC  
22 members?

1                   MS. BALD: Hi, Dan. This is Stephanie  
2 Bald. Thanks for that really helpful presentation.  
3 I have a question about the anticipated hiring and  
4 current productivity. I understand the due to  
5 COVID there is currently a program in place where  
6 people who have dependent care and examining  
7 attorneys who have dependent care needs are not --  
8 are able to basically have reduced productivity  
9 level.

10                   I'm not sure of the details of that, but  
11 I'm wondering of projections in terms of hiring 50  
12 new examining attorneys whether assumptions made  
13 about the program -- I understand it's a temporary  
14 program -- were there assumptions made that people  
15 will be back up 100 percent with the COVID  
16 protocols eliminated or how did that factor into  
17 the hiring analysis?

18                   MR. VAVONESE: It was factored in, but  
19 like you said it is temporary. It has been  
20 extended I think through May right now but it's  
21 back up to 20 hours provided for all employees.  
22 Yes. That is an available benefit. You know. We

1 have to -- we're still meeting our current  
2 productivity numbers in spite of that which just  
3 shows how hard our employees are working but yes.

4 I mean that is -- that's not the only  
5 thing that we have to plan for as far as how we  
6 project, I mean there are a lot of other areas  
7 where people have leave and, you know, time frames  
8 of those especially at the end of the end of the  
9 calendar year is when people have a lot of use it  
10 or lose it, but yes. I mean it's something --  
11 it's something that we planned for in the midst of  
12 knowing that that is a temporary and we don't know  
13 -- we don't know when that will eventually go away  
14 just like with things with the pandemic.

15 MS. BALD: Right. Yes. I was just  
16 wondering if it would be helpful obviously if  
17 people are at reduced levels right now and we have  
18 this huge surge is part of the pendency due to,  
19 you know, people rightfully taking advantage of  
20 the program. I mean it's a great program. I  
21 think the question is more just in terms of how it  
22 gets factored into pendency.



1                   MR. VAVONESE:  Again, I mean our budget  
2                   people look at an average amount of how much at  
3                   least at the law office level how much examination  
4                   is done across the entire corps and this is taking  
5                   into consideration not only how much leave they  
6                   have during the year, how much on average they are  
7                   going to take and then additional -- additional  
8                   opportunities, whether that's, you know, whether  
9                   that's leave through the dependent care options or  
10                  additional sick leave options that have come up as  
11                  a result of the pandemic.

12                  So that, you know, when we get new --  
13                  when we have new leave options like that, you  
14                  know, and our budget people look at those and try  
15                  to -- try to reevaluate -- to re- evaluate that  
16                  that, but in the planning projections especially  
17                  going forward we are trying to look at numbers to  
18                  bring in that aren't so focused on the ups and  
19                  downs but more focused on making sure that we are  
20                  having a good steady -- a good steady hiring plan  
21                  going forward.  So even if we have a drop we're  
22                  still keeping those numbers up and that's really

1       our plan moving forward.

2                   MS. BALD: Thank you.

3                   MR. GOODER: Stephanie, Hi. It's Dave.  
4       Also not 100 percent of the Trademark workforce  
5       uses what is referred to the ADC. I don't know --  
6       don't hold me to that number but I remember being  
7       actually a bit lower than I thought. So it  
8       doesn't have as big an impact as it might.  
9       Certainly if 100 percent of all that examiners and  
10      support people are taking it would have an impact  
11      you'd feel more, but they don't and I just don't  
12      recall what the percentage is.

13                   MS. THOMPCKINS: Hi, Dan. This is Tricia  
14      again. On your presidency, again, congratulations  
15      on the promotion.

16                   MR. VAVONESE: Thanks, Tricia.

17                   MS. THOMPCKINS: This is kind of on with  
18      Stephanie's question with regards to the hiring  
19      and the potential impact on pendency. It sounds  
20      like the office takes into consideration leave and  
21      the special programs that examiners may avail  
22      themselves of.

1                   Can you explain if the office has  
2                   decided to hire at least in this class of 50  
3                   attorneys, do you have a hard number or hard  
4                   (inaudible) that examiners take advantage of all  
5                   of these? Let's say as to what the impact would  
6                   be on pendency. So we see that if its 50 percent  
7                   or higher how much of an impact do you anticipate  
8                   hiring 50 attorneys would have?

9                   MR. VAVONESE: I mean as far as first  
10                  action pendencies?

11                  MS. THOMPkins: Yes.

12                  MR. VAVONESE: I mean I did say that,  
13                  you know, it is likely that our pendency is going  
14                  to go up before we can get it back down. It is  
15                  likely that it will get up over five before it  
16                  gets back down. The 50 that we're talking about  
17                  for April, that's to get us through. That's to  
18                  get us through the rest of the fiscal year, but we  
19                  are we are planning to hire at least that number  
20                  or more in the fiscal year and the fiscal year  
21                  thereafter but, again, we never commit to those  
22                  numbers until very close to the actual hiring so

1 that we can update that as necessary.

2 But we have -- our budget is planned.  
3 Our budget is planning for continued increase  
4 hiring as necessary to cover but we need --  
5 because our goal is to obviously try to get our  
6 percent for pendency back down below four.

7 MS. THOMPCKINS: Thank you.

8 CHAIRMAN KELLY: Go ahead. Go ahead,  
9 Kelly.

10 MS. WALTON: Okay. Sorry. Hi. This is  
11 Kelly Walton from TPAC. I know we -- there is  
12 probably no way to predict the COVID or the China  
13 incentives for filing, but I did notice that some  
14 of the surge is attributable to people wanting to  
15 get in in before the fee increases took effect and  
16 I know that that happens from time to time. Is  
17 that something that you are regularly see and, if  
18 so, how do you address it?

19 MR. VAVONESE: Well, I think normally --  
20 I can't speak as to the last time we had a fee  
21 increase. I mean I still that would generally  
22 happen with a fee spike. I think it was a

1 combination of the Chinese spike in December with  
2 the fee increase. So it wasn't a single -- it  
3 wasn't a single factor. We anticipated an  
4 increase but we didn't anticipate the extended --  
5 the extended increase. The extended surge that  
6 we've had.

7                   And we need to anticipate better and I  
8 think, again, what I'm talking about with its  
9 whether it's in our increased hiring and in our  
10 process efficiency, we want to put in advancing  
11 towards the future we want -- we want to put plans  
12 in place so we can weaken weather these types of  
13 larger storms going forward.

14                   MS. WALTON: Okay. Thank you.

15                   MR. GOODER: Kelly, I asked that  
16 question. I asked that question, too, a lot  
17 through the years and I know Jay's people have  
18 tracked it but when you saw the size of that spike  
19 that was so far beyond what people reasonably  
20 would have thought especially based on our  
21 financial projections. This is going to stump the  
22 economy. It's going to become a case study I

1 think in business school about it.

2 MS. WALTON: Right. Right. Thank you.

3 MR. GOODER: Tricia, in answer to your  
4 question, they do look at it. Nabil Chabuki  
5 (phonetic), who runs this area, looks at the stuff  
6 and he does test it in varying levels because he  
7 is also the person doing the economic projections.  
8 So his team thinks that way and tries to narrow it  
9 into the most what they view as the most  
10 reasonable draw and then work that way.

11 MS. THOMPkins: Dave, thank you for  
12 that. I thought as much because, you know, it's  
13 almost it sort of has to be some kind of actuarial  
14 thing that is going on behind the scenes. The  
15 question of how it pertains to our stakeholders  
16 and the expectations. So I hear Dan saying that  
17 it's more likely to go up and down. I think it's  
18 a question of how close you can get to  
19 communicating for pendency a decrease, if you  
20 will, because it's such an important metric that  
21 our stakeholders have come to expect to be fairly  
22 low having been so over the years.

1 MR. GOODER: Yes.

2 MS. NATLAND: I think this -- while this  
3 conversation is extremely relevant and helpful, I  
4 just I have a more minor point question and  
5 somewhat tied to it. So Dan you mentioned the 90  
6 day period to process (inaudible) for example. I  
7 just want to understand what does that mean? Is  
8 that the examining attorneys? Is that what you  
9 mean by processing?

10 MR. VAVONESE: Right. The responses --  
11 a response is filed with the office and, you know,  
12 a chunk -- a chunk of the responses are auto  
13 process depending on whether applicants are just  
14 submitting the responses with using the form  
15 fields in the TEAS response form. The ones that  
16 are not, especially if they are sending  
17 attachments, those have to be further processed  
18 before they had to go to the examining attorneys.

19 So they are processed by our examination  
20 support unit and then -- and then once they are  
21 done with the processing they often have to enter  
22 additional data that wasn't put into the proper

1 data field and then they go on to -- then they get  
2 put into the examining attorney's office.

3 MS. NATLAND: Thank you.

4 CHAIRMAN KELLY: Any other questions for  
5 Dan from TPAC members? I guess not Dan thank you  
6 very much.

7 MR. VAVONESE: Thanks.

8 CHAIRMAN KELLY: Next up I believe is  
9 Amy Cotton.

10 MR. DODSON: Yes. We're running about  
11 minutes behind so we'll try to -- try to catch up  
12 on some of that.

13 MS. COTTON: Yes. I'm happy to be here  
14 with you today to tell you a little bit about the  
15 updates to the TMA and the statute. If you all  
16 have been watching the increasing links of  
17 identification of goods and services really over  
18 the last 10 years and some of you might remember  
19 in 2010 the USPTO held a roundtable along with  
20 George Washington University on the what we called  
21 the future of the youth-based register.

22 You actually can look at our website.



1       There is a record of it and a lot of stakeholder  
2       suggestions about what we should do to make sure  
3       we improve the accuracy of our youth based  
4       register. You would be fascinated as I was to go  
5       back and I was there so I should have remembered  
6       this but we've actually implemented almost every  
7       single one of the suggestions that we got from  
8       stakeholders all the way up to the point of what  
9       is in the TMA.

10               Actually, it was suggested back then  
11       that we implement a non-youth cancellation  
12       procedure like Canada and I think that's actually  
13       represented in the TMA. So look back if you're  
14       curious because I think there are some interesting  
15       things that we've done since then. In 2018  
16       though, we started getting a surge of sort of  
17       sketchy specimens. Congress held hearings and  
18       asked us what we might need from them to help us  
19       respond to it. So we actually asked for the tools  
20       that are in the TMA.

21               First, we asked for the letter of  
22       protest procedure to be codified so that we could

1       have the clear authority to charge a fee. We  
2       asked for the authority to shorten the standard  
3       six months response time so we could move  
4       suspicious applications through the system faster  
5       and we asked for the non-youth cancellation  
6       proceeding to work faster and cheaper than a  
7       contested proceeding before the TPAB. Next slide  
8       please. So first starting with the letter  
9       protest, you know this procedure has been in place  
10      for years.

11                 All the TMA does is codify that practice  
12      with a few minor tweaks. Remember, this is a way  
13      for third parties to bring something to our  
14      attention, some evidence to our attention that may  
15      be relevant to a brand refusal, something that we  
16      may have missed or that they just want to call  
17      attention to. The two tweaks are now we have the  
18      authority to charge a fee which is \$50 as of the  
19      Trademark Fee Adjustment Act on January 2 of this  
20      year.

21                 We also have now a two-month deadline  
22      time limit for sending the relevant evidence to

1 the examining attorney when we find that it's  
2 relevant but everything else is exactly the same  
3 as it's always been. No big changes there. Next  
4 slide please.

5 As for the flexible response period, you  
6 know, we normally have six months for an applicant  
7 to respond to an office action, but our data  
8 suggests that, while some applicants take full  
9 advantage of the six months, others actually move  
10 more quickly to respond to an office action. So  
11 you know in some situations, it suggests the  
12 six-month time period is reasonable and even  
13 necessary for complex office action but for those  
14 office actions with refusals or simple  
15 requirements six months was just too long. The  
16 last time means that these applications are taking  
17 up space in our system longer than they need to.

18 So the TMA allows us the authority to  
19 shorten the response time to increase examination  
20 efficiency and decrease pendency how. Shortening  
21 this time, and when shorter periods should be  
22 offered, those are all topics that are going to be

1 addressed in our rules and we're hoping to receive  
2 a lot of input from you all to help us shape those  
3 different options. Next slide please.

4 The TMA includes two new mechanisms for  
5 getting deadwood off the register. The key things  
6 to remember about these new proceedings is that  
7 they are not abandonment proceedings. So the  
8 intent to resume the user commenced use is not  
9 relevant. They are non-use cancellation  
10 proceedings where use was required as of a certain  
11 date and there is evidence that the mark was not  
12 in use as of that date. And, number three, these  
13 proceedings are before the director without having  
14 to file a petition of cancellation at the board.  
15 The goal is to create processes that are  
16 potentially quicker and cheaper than a contested  
17 board proceeding.

18 There are two targets of this procedure.  
19 Those marks that were never used and those that  
20 were not used as of the relevant date. Keep in  
21 mind that the expenses claimed will also be  
22 available before the trigger trial appeal board

1 with the new Section 14 ground for cancellation  
2 when the mark was never used in commerce as of the  
3 relevant date. Now, these claims -- this benefit  
4 claim that the board does not supplant or replace  
5 existing non-use claims at the board. So those  
6 will continue to remain available in the timelines  
7 that they typically are available. Next slide  
8 please.

9           So the petition to request institution  
10 of an extension of an expungement or  
11 re-examination proceeding has these elements.  
12 Obviously, this is pretty slim information here  
13 but the rule will expand on that and tell us a  
14 little bit more about what will be required in the  
15 petition, but to start the proceeding before the  
16 director -- a third-party or the director -- must  
17 submit a request to institute expungement or  
18 reexam proceeding.

19           The request can cover some or all of the  
20 goods or services in the registration and, of  
21 course, the rules will request a bit more here  
22 than you see here. Next slide please. Under the

1 statute, any person can request that a proceeding  
2 be instituted. This means there is no standing  
3 requirement. The director may also request a  
4 proceeding be instituted against a registration.  
5 Expungement proceedings can be requested at the  
6 (inaudible) registration as well as those under  
7 Section 44 Paris or 1666 Madrid.

8 Re-examination proceedings can be  
9 requested as to use-based registrations where use  
10 was required at the filing or the SORUAA stage.  
11 If the registrant submitted specimens to us that  
12 were accepted but based on other evidence should  
13 not have been, a third-party or the director can  
14 request a re-examination of that claim of use  
15 during the application stage. Next slide please.

16 The request for institution of these  
17 proceedings can only happen during certain windows  
18 of time. For expungement, that year -- that  
19 window is year three to year 10 post registration  
20 and for re--exam is from year zero to year five  
21 post-registration, where the registrant cannot  
22 establish use of the challenged goods or services,

1 those goods or services will be canceled from the  
2 registration. Next slide. The registrant may  
3 appeal any resulting cancellations from the  
4 director through the TTAB and then through the  
5 Court of Appeals for the Federal Circuit. As for  
6 reviews provisions, the statute provides that when  
7 the goods or services have been attacked and  
8 survived because use is established, those goods  
9 or services can never be attacked again. Next  
10 slide.

11 We are drafting the rules right now to  
12 design these proceedings and address the response  
13 period. We're looking for feedback on any aspect  
14 of TMA implementation, but we're especially  
15 interested to hear from you all on the issue of  
16 here which are what should constitute a reasonable  
17 investigation, what are the general types of  
18 evidence that could support a prima facie case,  
19 and what should the response in extension time  
20 period to be, what limits should be set on the  
21 number of petitions for a particular registration,  
22 if any, how should an expungement or

1 re-examination proceeding relate to other  
2 proceedings concerning that same trigger  
3 registration Next slide please.

4 We have one year to implement. We are  
5 working on the draft rule package. Actually, I'm  
6 working on it right now as we speak. I will be  
7 sending it to clearance within the administration  
8 in the coming months. As I said, we are going to  
9 be issuing a notice of proposed rulemaking in the  
10 late spring. It will go out on the  
11 FederalRegister.gov site. Once the NPRM issues,  
12 we will have public roundtables to collect  
13 feedback on the actual text so that, when we have  
14 the rules in front of us, you can give us your  
15 opinions about that.

16 The public comments at that stage should  
17 be submitted in writing to the FederalRegister.gov  
18 site and we will, of course, assimilate those  
19 comments and responses when we issue the final  
20 rule which will publish in December. We are  
21 required to implement the expungement and  
22 re-examination proceedings by December 27, 2021.



1           A letter of protest procedures are also  
2           required to be implemented but those already are  
3           actually as of the January 2nd Trademark Fee  
4           Adjustment Act rule. After the response period,  
5           there is no deadline for implementation so we have  
6           a little bit more flexibility there. Next slide.  
7           So please consult our website where we've got  
8           information about TMA. We are posting all of our  
9           stakeholder input on that website. You can review  
10          what people have already said about it. We have  
11          an email box for anyone to submit comments to us  
12          right now as were drafting the rule. Please use  
13          that email box and send us your comments. We will  
14          post those on our website as well but, of course,  
15          we will do the full consultation process once the  
16          MPR issues so that we can then assimilate that  
17          into the final rule. So that's all I have for  
18          now.

19                 CHAIRMAN KELLY: Thank you, Amy. Any  
20                 questions from TPAC members?

21                 MR. CHO: Yes. David Cho. Amy, thank  
22                 you again for that well thought out presentation.

1 One question I have is you said the expungement  
2 proceedings would go to the Director's Office.  
3 Could you explain right now the current plan and  
4 how that it is going to be handled then by the  
5 Director's Office?

6 MS. COTTON: Well, that is actually --  
7 the procedures are going to be in the rule and at  
8 this point I can't tell you anything about the  
9 specifics of it because, if I share them with you,  
10 I have to basically make them publicly to everyone  
11 and they are being developed right now. So the  
12 idea though is that there would be an examiner who  
13 would look at the petition, determine whether it  
14 meets the filing requirements, and then decide at  
15 that point whether to institute a proceeding. And  
16 then it would move forward back and forth with the  
17 registrar back to the evidence of use but that's  
18 about all I can tell you right now.

19 MR. CHO: Thank you. Premature for me.  
20 Thank you.

21 CHAIRMAN KELLY: Thanks again, Amy. Any  
22 other questions? Okay.

1 MS. BALD: Chris?

2 CHAIRMAN KELLY: Yes.

3 MS. BALD: This is Stephanie Bald from  
4 TPAC. Amy, I just wanted to make the comment that  
5 I think from what I'm hearing from stakeholders  
6 they have been very appreciative to the PTO's  
7 involvement with the IG Bar Association in the  
8 process of coming up with how exactly the  
9 rulemaking is to unfold. Obviously, the TMA has a  
10 lot of potential but a lot can depend on how it is  
11 implemented.

12 And I would just from what I'm hearing  
13 basically complement the office for involving  
14 stakeholders and encourage the office to continue  
15 to do so as we get further along with this  
16 process. I would hope that we can have robust  
17 comments being submitted by the IG Bar Association  
18 and all the other types of stakeholders as we go  
19 down this road.

20 MS. COTTON: We welcome that input and  
21 it certainly been very useful so far to us. Thank  
22 you.

1                   CHAIRMAN KELLY: Any other questions? I  
2                   guess, Dave, back over to you.

3                   MR. GOODER: Yes. Back to me. And if  
4                   you can pull the slides up the next topic is going  
5                   to be about the concept I mentioned of registry  
6                   protection. Next slide. U.S. Practitioners  
7                   certainly understand but often times we have to  
8                   step back and say well, does the accuracy -- well,  
9                   how much does it really matter? I mean we have  
10                  filings, yes.

11   (inaudible) and really, if you  
12   think about it, the trademark  
13   registry in the U.S. is unique in  
14   the sense that there is an indicia  
15   of what marks at least that are in  
16   use or should be in use in commerce  
17   at some point when they were filed  
18   or when they file amendments of use  
19   or statements of use or new use, et  
20   cetera.

21   And it's a really useful tool. A lot of  
22                   -- a lot of registries aren't that way. So if

1 you've got inaccurate claims, you end up in -- I  
2 mean someone can lose their registration but you  
3 end up with a really cluttered register which is  
4 something that has aggravated me for years and it  
5 really diminishes the register's ability to be a  
6 tool for a business and the public. So it matters  
7 a lot. Next slide please.

8           The second question really that you get  
9 into is the integrity of it and really one of the  
10 biggest things about it to me is maintaining a  
11 registration by any means other than what we need  
12 a really good -- the registrant and that's to  
13 their advantage, I mean in a way it's a bit of a  
14 form of competition in some ways. Challenging and  
15 properly grounded registration is expensive. It's  
16 time consuming. If you've ever had to clear a  
17 mark and deal with that type of thing, you know  
18 what that takes.

19           And the other area that is has  
20 unfortunately growing are the scams that are aimed  
21 at either targeting the PTO or customers of the  
22 PTO and all of that is nothing but, you know,

1 (inaudible) victimize customers, et cetera. So  
2 when you look at all of these things together, you  
3 put based on that separate problems suffered  
4 initially but I don't like doing that to step back  
5 and adapt this more of a ground protection  
6 approach. Next slide. So a lot of that has been  
7 going on, but here's a taste of the kind of  
8 behaviors we're talking about and I've kind of put  
9 it into two buckets.

10 It's the sloppy behavior and the greedy  
11 behavior or dodgy or whatever the legal term is.  
12 So on the sloppy side we've seen a growth of over  
13 claiming of goods and services in registration or  
14 in applications. We have people who would do  
15 things like put goods into a certain class  
16 application and clearly they should be in a  
17 multiclass application. Improper specimens that  
18 everyone is familiar with, whether that is  
19 altered, whether that's fake, whether that's just  
20 not knowing the rules and submitting a  
21 computer-generated image of the product. Improper  
22 appointment of attorneys has been something that

1 has impacted numbers of attorneys where applicants  
2 are putting in attorney details that are aren't  
3 accurate.

4           And, again, to some degree at some point  
5 it becomes unauthorized practice of law. You see  
6 it with filing and things like that. On the worst  
7 side of the column here, there are applicants  
8 claiming false domicile, meaning their location is  
9 bogus. Their name may be bogus. We have seen an  
10 uptick and an increase in bad actors trying to  
11 make unauthorized changes of address to redirect  
12 communications from the office. Credit card  
13 charge backs scams and then the scams and  
14 solicitations and it used to be more along the  
15 line of the sort of solicitations you get when you  
16 got a registration.

17           We've seen it totally changed. It has  
18 now become, as I'll tell you in a second,  
19 literally a business opportunity being exploited  
20 by foreign criminal groups. So next slide. So  
21 we've had a number of things going for a while to  
22 follow that behavior. We have we already have a

1 special task force that tracks the activities and  
2 scams, et cetera. It's in operation with law  
3 enforcement and then education and outreach.  
4 We're going to focus on those in a second, but  
5 also the efforts to require now log into a  
6 database and the increasing levels of security  
7 that that would take and the (inaudible). On the  
8 accuracy side, you have counsel rules. I think  
9 its been effective in bringing foreign applicants  
10 to better knowledge of what the rules are and  
11 trying to improve the substance of the  
12 applications. The specimen refusals of the  
13 educated examiner and they are the front line and  
14 a lot of this. Those are the ones who see this,  
15 et cetera. Post- registration audit program that  
16 went permanent a couple of years ago. It is  
17 absolutely aimed at the deadwood problem and then,  
18 of course, the Trademark Modernization Act. Next  
19 slide please.

20                   There has been a lot written recently in  
21 the press about things the agency should do better  
22 and what I want everybody to understand is there



1 is a team that already is doing the stuff and they  
2 do an amazingly good job and it is led by a former  
3 examiner and policy lawyer. There are other  
4 attorneys who support that along with analysts.  
5 That is one of the areas we are increasing our  
6 resources in. They have been supported by the  
7 Office of the General Counsel, the Office of  
8 Enrollment and Discipline, the CIO especially to  
9 extend and start implementing cybersecurity and  
10 then, of course, the communications area. Next  
11 slide.

12                   When you look at how this works,  
13 basically the left side something will come in.  
14 Something is suspicious in an application. An  
15 attorney might make a complaint. The office might  
16 make a complaint. We might find something to do a  
17 latter and analytics, et cetera. It tends to come  
18 into the examining attorney or maybe a trademark  
19 policy attorney or analytics people et cetera or  
20 even the Trademark Assistance Center. It then  
21 goes for the special task force and they are the  
22 ones who will look at what is going on,

1 investigate it, and figure out which way then we  
2 go with it. If it is criminal fraud, it goes up  
3 to the Office of the PTO General Counsel and they  
4 will engage law enforcement if necessary.

5           If it is attorney misconduct, that goes  
6 to the Office of Enrollment and Discipline who  
7 then will deal with it (inaudible). If it has to  
8 do with the violation of let's say a new CVP  
9 (phonetic) or something like that, the managing  
10 attorney and examining attorney will deal with it  
11 and then, finally, if it appears to be a very  
12 intentional violation of the rules or something  
13 bordering on fraud, we will then issue show cause  
14 orders that can lead to orders of termination. So  
15 the task force is critical in basically triaging  
16 all these types of activities. Next slide please.

17           In terms of agency cooperation, we work  
18 with, you know, the DOJ, the U.S. Postal Service,  
19 the SEC, and really any kind of protection agency  
20 and cooperate with U.S. and even non-U.S. law  
21 enforcement when we're trying to understand.  
22 There was an action that we recently did against

1 one individual named Victor Sikorskofsky  
2 (phonetic) in South Carolina. That case has now  
3 reached a plea bargain. It was an incredibly good  
4 result, especially in the restitution area, et  
5 cetera.

6 I won't go into detail. You can find it  
7 online if you're interested. Next slide please.  
8 The biggest area that were trying to develop even  
9 more is education and outreach. We're (inaudible)  
10 resources so it's not just a listing of non-scams.  
11 There is more guidance about what people can do.  
12 We are warning applicants and registrants, you  
13 know, at registration time. It is better to watch  
14 out for these things. We are talking about it. I  
15 hear literally there has been a presentation I do  
16 where we talk about this. And there (inaudible).  
17 There has been for a few months now a dedicated  
18 mailbox and that's pmscams@uspto.gov for people to  
19 report it. Next slide please.

20 And we went through in terms of how we  
21 are educating -- and back to that 76 percent  
22 figure -- of how many applicants are individuals

1 or small filers. We have now launched a trademark  
2 basics boot camp that we run four or five times a  
3 year. It's a six week, one day a week for a few  
4 hours, session that has now done its first run and  
5 had incredible participation and we're hoping that  
6 that will help educate people.

7 There are video series, new filer  
8 programs and programs for experienced filers, et  
9 cetera but the more we talk about this issue and  
10 the more that we educate brand owners about it  
11 that's one way to really help fight this so people  
12 aren't taken advantage of as much. Next slide  
13 please. And of course the tools are available for  
14 PTO. There is an app on your phone that you can  
15 put in field numbers and we are encouraging people  
16 to do this.

17 Obviously if you are a law firm with a  
18 lot of filings, it's probably 76 percent of our  
19 customers. The app is really quite useful. Next  
20 slide please. I think at this point I'm going to  
21 turn it over to Greg. Oh, well. I guess we pause  
22 a second. Are there any questions on this area?

1                   MS. BALD: Commissioner Gooder, this is  
2                   Stephanie Bald. I'm always interested in the bad  
3                   behavior task force. I see so much bad behavior  
4                   and I know the office is trying to very hard with  
5                   the U.S. Consul and it's a little bit like  
6                   whack--a-mole. You solve one problem and, you  
7                   know, scammers come up with a way to circumvent  
8                   that rule. So you mentioned that you would be  
9                   expanding the resources of that task force.

10                   So how many people are on that task  
11                   force now and what are the plans in terms of  
12                   expansion because it seems like such a critical  
13                   area. You know. And, honestly, a hyper important  
14                   one given how egregious and troubling some of that  
15                   behavior is.

16                   MR. GOODER: Yes. You raise a really  
17                   good question, Stephanie. So right now the task  
18                   force is five lawyers and analysts have just  
19                   joined it and then you add -- they pull in more  
20                   resources if they need it. And then, on top of  
21                   that, that's not counting the people who are  
22                   assigned to the projects from the other groups.

1       So for instance there is an investigator in the  
2       CIO's office who is incredibly good at working his  
3       way around the internet and all the places that  
4       these kinds of things tend to hide.

5                 We are looking at adding additional  
6       analysts and investigators because there is so  
7       much digging that has to be done, as you know  
8       from, any kind of brand protection work. What you  
9       see on the surface is not what is going on down  
10      below and it does migrate. It does become -- the  
11      scams weeks off for five years ago or even two  
12      years ago are not the same as we're seeing today.

13                So I want to see the group get  
14      significantly bigger. We are also adding some  
15      database management solutions that help connect  
16      the dots more so that they can find things.  
17      That's one of the tools that is going on this year  
18      with the task force which is an AI driven tool.  
19      So when suspicious specimens are notified to them,  
20      this tool will go out and look across the entire  
21      database of the office and find every specimen  
22      that is identical or highly similar to it so they

1 can then take that specimen and see where else  
2 does this occur and who else is involved. What is  
3 going on with it? But that investigation is slow  
4 going sometimes as any trademark lawyer who has  
5 had any kind of work done knows. It's just time  
6 consuming. Does that answer your question?

7 MS. BALD: It does. And on that the  
8 follow on goes to potentially the digitally  
9 altered specimens. Is there -- I understand  
10 recently the pilot program was discontinued for  
11 the evals you could email in tips on the hotline.  
12 There was good communication I thought when the  
13 notice went out that letters of protest cannot be  
14 used in lieu of that process, but, in terms of the  
15 examiner training, what is going on? Is there  
16 any, you know, increased effort to really, you  
17 know, have examiners not be used so that examiners  
18 are not having to do the heavy lifting in terms of  
19 the word in the office issues?

20 MR. GOODER: The answer is yes. So when  
21 we issued the revised specimen guide that was  
22 coupled internally with a lot more education. We

1 are also looking at how do we take a key group of  
2 people who have become really specialized in what  
3 is the current trend of these things so that we  
4 can communicate throughout the force? One thing  
5 that is better actually this month is the scam of  
6 the month for examiners so that people all over  
7 trademarks understand what is happening now  
8 because, for instance, on the specimen side the  
9 fraudulent specimen entry years ago is not the  
10 same issue that it is today because, you know,  
11 people adapt. So yes. It is a big thing because  
12 you don't want it flowing down examiners. You  
13 want them to -- they aren't the investigators.

14 So we want them to be able to quickly  
15 stop the issue and then know what to do with it.  
16 Dan, do you want add anything to that? Did I miss  
17 anything?

18 MR. VAVONESE: I think you covered it.  
19 I mean it is about adapting and updating.  
20 Updating and adapting to new types of specimen  
21 scams that are coming out.

22 MS. BALD: Thank you.



1                   CHAIRMAN KELLY: All right. Any other  
2 questions? If not. We'll jump to Greg quickly  
3 and take it from here, Greg. Thank you.

4                   MR. DODSON: All right. Thank you,  
5 David. Quick comms check. Thanks. Very good.  
6 Thank you everybody. Welcome. Good afternoon.  
7 As the Commissioner said, I have the extreme honor  
8 of being the Deputy for Trademark Administration.  
9 I'm going to spend a few minutes and when I say  
10 few I mean a few minutes talking to you quickly  
11 about our IT modernization because I know I'm the  
12 only thing standing between you and a little bit  
13 of a break so with that, the next slide please,  
14 Anastasia. All right.

15                   So trademark future of IT. David is  
16 calling this IT modernization and the  
17 intensification of it. I couldn't agree more. If  
18 you are paying attention earlier in the brief,  
19 both the Commissioner and the CFO mentioned that  
20 we have taken quite a hit due to the pandemic in  
21 early part of the year to the tune of \$40 million  
22 which is a lot of money in anybody's checkbook and

1 we recently were put in a position where we  
2 couldn't reestablish the program at the end of the  
3 last calendar year.

4 And just a few days before the turn of  
5 the new year, the vehicle that is known as the  
6 Alliant 2 IT contract was signed and after a  
7 rigorous amount of analysis and source selection,  
8 four really qualified IT teams, three of which  
9 were in the USPTO construct for some time, and a  
10 new vendor were selected and brought on board. We  
11 got extension within the cycle. The way you may  
12 hear it in federal system and certainly  
13 (inaudible) and then you've got Booz Allen  
14 Hamilton (inaudible) sometimes General Dynamics  
15 Information technology is DDIT and then REI  
16 Systems is the new one.

17 REI Systems we are very excited about.  
18 It's a company that was working very closely with  
19 NASA and has been working very closely on that  
20 side of the ledger for a great number of years and  
21 has a great success with the program. So we are  
22 very excited to have the team on board. As well,

1       you are going to hear about this next after the  
2       break from Jamie Holcomb and his staff. We  
3       haven't brought (inaudible) this process a new way  
4       to work with it.

5                       What trademark business unit  
6       specifically has done to kind of help get us there  
7       is we have created an organization with a new  
8       director for information technology who is a  
9       senior executive service member who has been  
10      managing IT from soup to nuts, from birth to  
11      death, from inception to burial and we're hoping  
12      that that new process is going to allow the IT  
13      development process to go all the way from design  
14      to development to sustainment and finally to sun  
15      down under the watchful eye of a dedicated group  
16      of professionals. Let's talk about that dedicated  
17      group of professionals.

18                      I have a (inaudible) and it's not  
19      because there is a footnote at the end of this  
20      thing or test that you're going to have to take.  
21      Dedicated means two things to us. They are  
22      dedicated in the sense that instead of asking

1 people to do two jobs and wear two hats, they have  
2 an additional responsibility of IT plus their  
3 normal job.

4           This is what their role is. This is  
5 what their function is. We have asked them to  
6 take this on and they have we have dedicated their  
7 job to this role and so we are expecting good  
8 things out of that. As well, we didn't force  
9 anybody into this business. So we offered an  
10 opportunity to them. We gave them some time to  
11 think about this and they volunteered for this.  
12 So they're dedicated in the sense that this is  
13 their job and they are dedicated in the sense that  
14 they are taking on this role.

15           We've educated them. We've sent them to  
16 off-campus schooling. We brought in teams. Jamie  
17 had his folks from the CIO have brought in folks  
18 to come in and teach our people how to do this  
19 better and how to take this on and go all the way  
20 through the process. So we think we're going to  
21 make some progress there. We have empowered these  
22 folks so that decisions that could be made at the

1 lowest level are made at the lowest level.

2 We don't want the developer and the  
3 product owners and all the folks that to be  
4 looking to be looking at management to make  
5 decisions that we know that they can make upfront  
6 and keep the process moving. So we've empowered  
7 our folks to do that. That little bullet right  
8 there -- the smaller bullet -- who these people  
9 are. These are lead product owners. Product  
10 owners, tech leads, subject matter experts. The  
11 entire tapestry, if you will, of people that will  
12 bring IT to life are included in this group of  
13 people.

14 Jamie himself -- Jamie and his folks are  
15 a more robust agile methodology than those of you  
16 maybe who were involved in this process earlier  
17 within the PTO. Smaller teams, more autonomy as  
18 we said. The ability to make decisions. The  
19 ability to look at new options and new  
20 opportunities and put those into play without  
21 asking whether or not that something that we  
22 really need to consider.

1                   So lots of good things there.  
2           Development (inaudible) Development, security, and  
3           operations. They've seen the very beginning.  
4           Right? It's this process of taking the entire  
5           package of what we are trying to do and make sure  
6           that we develop it instead of trying to put the  
7           security component on it after the fact of putting  
8           it in the middle and then taking it right  
9           operations and see how it works.

10                   They're using best practices from both  
11           industry and government and we're actually doing  
12           at this time and not just talking about it as we  
13           done in the past. And then one thing that is  
14           really, really important is we understand that  
15           failing isn't failure. People in the IP business  
16           -- and it doesn't matter if you're in the  
17           government side of this or the corporate side of  
18           this -- IT is tough sometimes. And you fail at it  
19           and we don't want people to believe that just  
20           because they fail, they're going to have to go  
21           find a new job. We want them to understand that  
22           failing isn't failure. Next slide please,

1 Anastasia.

2           This is cool -- no. This is the next to  
3 coolest slide. This is kind of the way we focused  
4 it. We are doing six business focused centers to  
5 build out. So we'll have a trademark center which  
6 if you think about it is the external work that we  
7 do. The application work. The work of being able  
8 to take a look at what the databases -- those  
9 things. That's the trademark center.

10           Exam services really where the rubber  
11 meets the road. This is the pre-exam folks, the  
12 examining attorneys, the post registration people.  
13 This is the heart and soul of what we do and this  
14 is where the bulk of the effort is being made.  
15 And we were thankful enough that Dan's  
16 predecessor, Marilyn Robery (phonetic) and her  
17 team -- a shout out to Marilyn -- were able to  
18 give us a highly qualified, you know, very, very  
19 capable attorney to run this program for us and we  
20 are very excited about that. I think Chief Judge  
21 Rogers is going to talk to you about the TTAB  
22 center a little bit later.

1                   Suffice it to say that a very  
2                   experienced TTAB judge is running this program for  
3                   the Chief Judge. Also TTAB has all of those  
4                   capabilities in league with what we're doing so  
5                   its seamless and connected and only (inaudible) in  
6                   those very specific areas where it doesn't need to  
7                   be public. So we are very, very excited about  
8                   this. Trademark Internal Center, Madrid, WIPO,  
9                   the World International Property Office, the  
10                  International Bureau. All of that interconnects.  
11                  We've got a group setting up that. The kind of  
12                  work I do, trademark data and analytics this is  
13                  leading edge kind of stuff.

14                  This is where your artificial  
15                  intelligence, your machine learning, your robotics  
16                  process automation -- all of those things happen  
17                  as well as those things that kind of drive what  
18                  we're doing. The reports, the analysis, and that  
19                  work is all going to be done in here. And then,  
20                  finally, the foundation of all of this that  
21                  underpins this content management which was TRN,  
22                  the old database TRN, which is our new database,



1 all the admin counsels in the way we're going to  
2 make this work.

3 Finally, the next slide please,  
4 Anastasia. Trademark AI, artificial intelligence,  
5 machine learning, and robotics process automation  
6 efforts, we can talk to that ASAP. You'll notice  
7 for those of you who (inaudible) before we used to  
8 call it the project. Now, it's a product because  
9 we've actually put it on the street. It's a  
10 limited use with the special task force for  
11 improper activities.

12 We're kind of building it up. We're  
13 putting a better user interface on and then were  
14 going to try and open the aperture and see what  
15 we've got, but this is a customized commercial  
16 image searching software that our folks -- one of  
17 the really, really smart attorneys on the  
18 trademark administration side -- has sat down with  
19 the developers of this and built a product that we  
20 think is going to really really help us take a  
21 look at that entire corporate specimen that we  
22 have and compare and contrast it to the ones that

1 are coming in.

2 We're really excited about this. Most  
3 of you know that we've had a couple of requests  
4 for information out on the street. One is an  
5 internally developed product that we are working  
6 with some folks with Jamie, the CFO, has under  
7 contract to try to improve. And then we got  
8 another one which is a true classically built, if  
9 you will, vendor supply capability that we are  
10 looking out from the outside and we are in the  
11 right stages of acquisition for that one as well  
12 the one previous to that. Then, of course,  
13 Chatbots, robots, and something new which is  
14 Cobots. You know. Chatbots for those people who  
15 have engaged the Trademark Assistance Center, you  
16 know, some of those very basic questions that the  
17 team has to answer they're trying to build the  
18 process and the capabilities so those questions  
19 can be answered up front. You know.

20 Robots are a robotic process automation  
21 as you know. You've got plenty of examples with  
22 that in cobots. Things are collaborative robots,

1 right? They're working side by side with the  
2 human next to it. We're thinking that we can do  
3 some great work here with design coding and some  
4 other things. I kind of had that professional  
5 really efficient and effective, you know, working  
6 side by side with the automated capability.  
7 That's all I have. I'm standing by for any  
8 questions from anybody. Sorry it was as quick as  
9 it was, but I'm trying to get you back on track.

10 CHAIRMAN KELLY: Any questions for Greg?  
11 Greg, thank you very much.

12 MR. DODSON: Thank you, Chris.

13 MR. CHO: One quick question, Greg?

14 MR. DODSON: Yes.

15 MR. CHO: Just I'm the new guy. At the  
16 very beginning you mentioned that new team and the  
17 devoted deputy. No. Group director. Correct?

18 MR. DODSON: Yes.

19 MR. CHO: So if I can understand in  
20 layman's terms, you've got a team in IT that is  
21 going to be a doing this job 100 percent. Right?  
22 Nothing else. This is their sole job?

1                   MR. DODSON: Yes. So you remember from  
2 your time here the group directors that manage the  
3 managing attorneys and they manage the law  
4 offices. Right? We looked at the construct of  
5 the way that our organization was set up and  
6 realized over the last fall into this period of  
7 time we had senior executive service members in  
8 charge of it. We've got -- we've got five GS-15  
9 manager subordinates at the SPS.

10                   Every one of them has a role. Every one  
11 of them has a function. Everyone has a  
12 professional staff subordinate to them focused on  
13 IT. All focused on getting them from A-to-Z in  
14 the most efficient and effective way possible.

15                   CHAIRMAN KELLY: Any other questions for  
16 Greg? We are about approximately 30 minutes  
17 behind schedule which is great that there is so  
18 much to talk about and lots of good questions. So  
19 my question is do we want to break for five  
20 minutes or do people want to take the full 10?

21                   MS. BALD: I think five makes sense.

22                   CHAIRMAN KELLY: Yes. Okay. Anybody

1 else? I don't want to speak for the group.  
2 Everybody has been sitting for a while. I'm  
3 sorry. What was that, David?

4 MR. CHO: Five is fine.

5 MS. THOMPCKINS: I agree.

6 CHAIRMAN KELLY: All right. Well, it  
7 sounds like that's the consensus. So its 2:52.  
8 Can we meet back at 2:57?

9 MS. THOMPCKINS: Okay.

10 (Recess)

11 CHAIRMAN KELLY: I was just saying it  
12 looks like we're back and so we're ready to move  
13 on to Jamie and his group I believe.

14 MR. HOLCOMBE: Good afternoon,  
15 everybody. I'm going to go through these slides  
16 quickly and I want to turn it over to Os as soon  
17 as I can. So next slide. Next slide. Hey, the  
18 top three priorities in the IT realm are  
19 cybersecurity, resiliency, and moving to the  
20 cloud. When I say that, I'm very proud of what  
21 Greg was talking about.

22 The new ways of working and how we are

1 leading cybersecurity and the design and  
2 architecture of trademarks registered such that  
3 it's protected, especially in the cybersecurity  
4 realm. We're also going to be talking about  
5 resiliency where were moving to a new datacenter  
6 where we'll have a new backup facility which will  
7 eventually turn into our alternative processing  
8 site such that we will have business continuity of  
9 operations throughout.

10 In other words, in our new datacenter in  
11 Alexandria datacenter what will happen is if one  
12 goes out, the other one takes it up without  
13 anybody knowing. So that is our goal. And,  
14 finally, we're going to try to move through the  
15 cloud to reduce our footprint in our own  
16 datacenter and push that out to the cloud for all  
17 the advantages not only in cost but efficiency and  
18 performance as well. And so with, go Os go.

19 MR. TURAN: All right. Thank you, sir.  
20 Good afternoon everyone. I just want to make sure  
21 you all can hear me. Just click thumbs up. Thank  
22 you. All right. My name is Os Turan. I am the

1 Acting Product Line Manager supporting trademarks.  
2 I will try to provide some additional IT  
3 highlights. I'll keep this short and try to see  
4 if we can get us back on track here. This slide  
5 here just some additional information about  
6 cybersecurity that Mr. Holcombe just covered.

7 One area I did want to focus on is  
8 focusing on improving and accelerating IT security  
9 awareness training to protect against phishing  
10 emails, insider threats, and privacy protection  
11 and one of the goals for this year is to establish  
12 an insider threat program and achieve an initial  
13 operating capability for monitoring and responding  
14 to these types of threats to help improve business  
15 operations security and also help protect the  
16 integrity of the register. Next slide.

17 The datacenter Jamie just covered that  
18 although I did want to point out that the move to  
19 Manassas will not only greatly allow us to improve  
20 our network resiliency but at the same time our  
21 throughput as now we will now be able to leverage  
22 NOAA's N-wave network. Okay. Next slide.

1                   A little bit more information about the  
2                   new ways of working which is helping our  
3                   operations across the board to improve how we  
4                   deliver business value. Last year, we started a  
5                   new enterprise level agile delivery office to  
6                   support successful delivery using agile best  
7                   practices. Another significant benefit of this  
8                   initiative is the use of innovated agile  
9                   contracting methods which has helped us improve  
10                  the speed and efficiency in how we acquire IT  
11                  goods and services for trademark submissions. As  
12                  Greg had mentioned, the Alliant contract vehicle  
13                  that we're now using is highly flexible, fully  
14                  self-contained, has strong vendor performance  
15                  metrics, and it also allows us to quickly ramp up  
16                  additional agile teams to support emergent  
17                  requirements such as the Trademark Modernization  
18                  Act. Next slide.

19                  Now, a few additional highlights for the  
20                  last TPAC public meeting in October, as mentioned  
21                  earlier, ID proofing of login filing credentials  
22                  is a critical priority for the OCIO. We did award



1 a contract last December to acquire ID proofing  
2 services from a third-party vendor. We're  
3 currently working to integrate that service in a  
4 tool which will release in a beta, a limited beta.  
5 Only about 15 to 20 participants around the  
6 May/June time frame and we'll be using that beta  
7 to collect valuable feedback to incorporate into  
8 our final product which the future deployment date  
9 is TBD at this time.

10 Next, we have implemented system changes  
11 to support the FY 2021 final trademark fee rule  
12 adjustments. Specifically, those changes affected  
13 the TNT (phonetic) Guide systems as well as  
14 (inaudible). Other enhancements for trademark  
15 exam include a petition or a letter a protest  
16 enhancement for TECL0. This provides the  
17 petitions the ability to send electronic office  
18 action correspondence in response to protests.  
19 And, finally, we have also implemented some new  
20 enhancements for evidence handling and also made  
21 some improvements to the next generation X search  
22 image display. All right. Next slide. All

1 right.

2 Looking ahead, our main priority this  
3 year, of course, is implementing the required IT  
4 capability to support the Trademark Modernization  
5 Act. At the same time, we don't want to forget  
6 the ongoing modernization efforts as well to  
7 continue to improve our overall support. ID  
8 proofing also, of course, remains a top priority  
9 and we should be having limited data rolling out  
10 in the third quarter of this fiscal year. Next,  
11 we also have some enhancements coming right around  
12 the corner. We'll be supporting TECL0 by allowing  
13 email notifications for informals or mis-assigned  
14 cases instead of requiring a paper-based office  
15 action. And, finally, we've got the best  
16 stabilization deployment in April which completely  
17 rewrites the software code into a modern language  
18 and this benefit, of course, is for improved  
19 long-term performance and stability. All right.  
20 So I went through that pretty quick and that  
21 concludes my presentation. At this point, I will  
22 pause to see if there any questions.

1                   CHAIRMAN KELLY: Any questions for Oz?

2                   MS. KOVALCIK: Hi, Oz. This is Jen  
3 Kovalcik from TPAC. I understand when COVID hit  
4 and filings decreased, the IT budget took quite a  
5 hit. Now, that filings have recovered and we're  
6 back to focusing on modernization efforts, could  
7 you give just at a high level some functionality  
8 that practitioners might be looking forward to  
9 with the modernization effort?

10                  MR. TURAN: Well, based on the available  
11 capacity that we have, we are working with the  
12 lead product owners to find the most valuable  
13 efforts like, for example, the enhancements that I  
14 mentioned for trademark exams, those that are  
15 coming around the corner. We would like to take a  
16 look at modernizing some of our, you know, very  
17 long in the tooth systems like the TRN database.  
18 We're still in planning on that. Realizing that  
19 some of the features will need to be balanced with  
20 stabilization and modernization of our legacy  
21 systems, the foundational work is, of course,  
22 going to be a big part of that.

1                   The loss of money a couple of years ago  
2                   -- the \$40 million -- unfortunately, that did send  
3                   us behind in terms of modernizing the systems.  
4                   With TMA, we were keeping our eye on the ball with  
5                   TMA, but at the same time, we were able to get  
6                   some additional funds within the agency to ensure  
7                   we stay focused on TMA but at the same time keep  
8                   other modernization efforts going. I don't know  
9                   if, Jamie, you had some other specific thoughts in  
10                  terms of issues that would like to stay focused  
11                  on.

12                  MR. HOLCOMBE: Not right now because  
13                  we're right in the middle of that issue planning  
14                  and we are trying to prioritize those to go to the  
15                  top. We are not done with that process, but by  
16                  the next trademark public committee meeting, we  
17                  will be.

18                  MR. TURAN: Thank you, sir.

19                  MS. BALD: This is Stephanie Bald.  
20                  Teeing off Jen's excellent question, is there  
21                  anything in the foreseeable future plans for the  
22                  TTAB's IT systems?

1                   MR. TURAN: One of -- I do know that the  
2                   TTAB Center is expanding its move to the cloud.  
3                   Beyond that, I don't have any specifics at this  
4                   time as we are still doing the foundational work.  
5                   I just saw a mock webpage so it's still very much  
6                   a work in progress. So there is a push in line  
7                   with the priorities that Jamie mentioned earlier  
8                   about moving to the cloud. You know. Getting off  
9                   the legacy systems. Getting them into better  
10                  platforms, more resilient platforms to include the  
11                  cloud. We can certainly get back to you with  
12                  additional specifics with respect to TTAB of  
13                  course.

14                 MS. BALD: Thank you.

15                 MR. ROGERS: And if I may just jump in  
16                 and supplement Oz and Jamie's response, Stephanie,  
17                 we have -- Oz just mentioned a fast stabilization  
18                 deployment that is going to go out in April.  
19                 There is also going to be a stabilization  
20                 deployment in April for ESTA and TTAB. So this is  
21                 going to be the last stabilization effort that  
22                 we're doing for our systems and that everything is

1 pretty much going to be focused on modernizing our  
2 systems.

3 As you probably recall, our current  
4 systems don't give us a lot of analytical tools,  
5 don't give us a lot of opportunities to capture  
6 data that would help our work and those are the  
7 kinds of things that David Mermelstein as our  
8 designation to the group that Greg Dodson was  
9 talking about is working on in the new ways of  
10 working. We're trying to present interfaces to  
11 our external customers that will work better, but  
12 we also want backend processes that will allow us  
13 to capture data.

14 And, as Jamie says, to be completely  
15 secure. No one can monkey with them and we can  
16 provide you with the information you need. So we  
17 can talk about that more again. I'm happy to talk  
18 with TPAC off-line. I think we might even have an  
19 operations session scheduled after this meeting  
20 and I'll give you more details than.

21 MS. BALD: Thank you, Chief Rogers. I  
22 always like to specifically mention TTAB when it

1 comes to IT because I know it's a priority of the  
2 judges. I know it's a priority of stakeholders in  
3 terms of interfacing with the PTO and I think it  
4 requires a different approach instead of the other  
5 issues we're talking about and I'm very happy to  
6 hear to hear that we might be moving from the  
7 stabilization to the modernization phase. So  
8 thank you for that. And I look forward to seeing  
9 what Jamie and his team can do. We are all  
10 waiting. We're excited.

11 MR. ROGERS: Yes. And one of the things  
12 that we are focused on in the team that David  
13 Mermelstein is a part of is not having two  
14 separate systems that you spend years trying to  
15 have talk to each other and instead to have a  
16 content management system that serves the  
17 trademark and TTAB and our common customers and  
18 that information can flow more smoothly back and  
19 forth between trademarks and TTAB. So those are  
20 the things that we are really kind to focused on  
21 in the future so that it will make it easier for  
22 an applicant's counsel, for example, who is

1 involved in an ex parte appeal to know precisely  
2 do I file this request for remand through TEAS?  
3 Do I file it through ESTA? What do I do? How  
4 does it get to the person that needs to look at  
5 it. That's all going to become crystal clear the  
6 future.

7 MS. BALD: Wonderful. Thank you.

8 CHAIRMAN KELLY: Any other questions for  
9 Jamie or Oz? And thank you, Judge Rogers. Okay.  
10 Well, then I think next up is a legislative update  
11 with Kimberly Alton. Jamie and Oz, thank you very  
12 much.

13 MS. ALTON: Great. Well, good afternoon  
14 everyone. I am Kim Alton, serving as the Acting  
15 Head of the Government Affairs Office and I am  
16 happy to give you all an overview of some of the  
17 legislative activity that EGA has been working on  
18 over the past few months. So if you can please go  
19 to the next slide. So we'll start with just a  
20 quick recap.

21 December and January were very busy  
22 times for us in Government Affairs. As you can



1 see, the different bullets highlight some of the  
2 bills that were passed in Congress and that were  
3 ultimately signed into law. So that we had the  
4 patents for humanity improvement act, permanent  
5 authorization of TEP, and that's our telework  
6 program that's really popular at the PTO. It's  
7 been a pilot for a few years and it is permanent  
8 now. So we were really pleased about that. It's  
9 a popular program with employees and with  
10 management.

11 Also of course, the Trademark  
12 Modernization Act the Case Act that deals with  
13 establishing a small claims copyright court within  
14 the copyright office and then a bill -- the title  
15 of it is Protecting Lawful Streaming Act that  
16 really would increase the criminal penalties for  
17 illegal streaming and then, finally, you see that  
18 last bullet. We were able to work with Congress  
19 to elevate the rate of four of our IP attaches  
20 that work at different embassies across the world.

21 So that elevation -- that change in rank  
22 -- will really help them as they work with their

1 counterparts in different countries to really  
2 assist our stakeholders who are doing business in  
3 those different countries. Next slide please. So  
4 looking ahead the 117th Congress started in  
5 January and we did see some changes in terms of  
6 leadership on the committees that we have that  
7 have jurisdiction over the PTO.

8           So in the Senate, the Senate Judiciary  
9 Committee is now chaired by Senator Richard "Dick"  
10 Durbin and the ranking member now is Charles  
11 Grassley. So that's -- that's new leadership on  
12 the committee. The IP Subcommittee of the Senate  
13 Judiciary Committee will be chaired by Senator  
14 Patrick Leahy. So he is going to be taking over  
15 for Senator Coons was the previous ranking member  
16 of the committee and then Senator Thom Tillis from  
17 North Carolina will continue to serve on the  
18 committee as the -- on the subcommittee as the  
19 ranking member.

20           Turning to the House, not a lot of  
21 changes on the House side. We still have Chairman  
22 Nadler and ranking member Jordan in the House

1        Judiciary Committee and then Chairman Hank Johnson  
2        as the Chair of the IP Subcommittee. We did have  
3        one retirement with Congressman Robey so Darryl  
4        Issa will be the new ranking member of the IP  
5        Subcommittee in the House. So before we move to  
6        the next slide, I just want to flag for you all  
7        some of the things that we are hearing that  
8        Congress will be focused on this year are issues  
9        related to enforcement, counterfeiting, trade  
10       secret theft. Of course, drug pricing innovation,  
11       inclusion.

12                    So those are all issues that we've  
13        worked on for quite some time and we do expect  
14        that we will see a lot of activity around those  
15        areas. In fact, coming up this Wednesday the  
16        House Judiciary IP subcommittee will hold a  
17        hearing on the Shop Safe Act and the title of the  
18        hearing is stemming the rising tide of unsafe  
19        counterfeit products online.

20                    So that hearing again is this Wednesday,  
21        March 17 at 10:00 a.m. We have not seen the  
22        witness list yet, but we will be monitoring that

1 hearing and that issue. You all may remember the  
2 Shop Safe Act is legislation that was introduced  
3 last year that would establish liability --  
4 contributory liability -- for online platforms  
5 with counterfeit products are sold on those  
6 websites. So we will watch that and are happy to  
7 provide updates on that legislation. Next slide  
8 please.

9           So also looking ahead, we did just have  
10 our Commerce Secretary confirmed on March 2nd. So  
11 Secretary Raimondo is in place and we are working  
12 closely with our counterparts in the legislative  
13 affairs shop at the Commerce Department and, just  
14 this past Wednesday, there was a hearing for her  
15 deputy and the nominee is Don Graves. And we will  
16 be following his process as he moves through the  
17 committee process and in the through vote in the  
18 full Senate.

19           So again he has a very interesting  
20 history. I'll just share quickly that he -- this  
21 is Don Graves, the nominee for Deputy Secretary.  
22 To share some of his family's ties to the Commerce

1 Department, it's very interesting story about the  
2 location of the current Commerce Department is  
3 where his family at one point had a business in  
4 downtown DC. So I think he will be a real ally of  
5 the office. His family -- the family who are  
6 patent holders it goes back I think his great-  
7 great-great grandfather. So we look forward to  
8 working with the new leadership at Commerce on  
9 advancing the PTO's legislative priorities. Any  
10 questions?

11 CHAIRMAN KELLY: Sounds like there are  
12 not any, Kim. Thank you very, very much.

13 MS. ALTON: You're welcome.

14 CHAIRMAN KELLY: And kudos again. I  
15 know we talked about this I think at a previous  
16 TPAC, but kudos again for getting the attaches  
17 elevated. That is such an important program.

18 MS. ALTON: Yes. We're really excited.  
19 I know the attaches are really pleased. So it was  
20 something that we were really glad to accomplish  
21 last year.

22 CHAIRMAN KELLY: Well, thank you again.

1 MS. ALTON: Thank you. Take care.

2 CHAIRMAN KELLY: So next up we have  
3 policy and international update with Karin  
4 Ferriter.

5 MS. FERRITER: Hi. Thank you. My name  
6 is Karin Ferriter. I'm the Deputy Chief Policy  
7 Officer for the Office of Policy and International  
8 Affairs. I'm pleased to be here with you today.  
9 Next slide please. As you can see, I have a  
10 number of entries and, in the interest of time, I  
11 will not read through the whole agenda and will  
12 skip to the next slide. So the OPIA priorities  
13 will be familiar to you. They are really USPTO  
14 priorities. As Commissioner Gooder noted, the  
15 office is interested in the behavior of trademark  
16 applicants and bad actors and he has spent some  
17 time talking about what the USPTO is doing in that  
18 regard.

19 In the Office of Policy and  
20 International Affairs, we're exchanging  
21 information with foreign trademark offices  
22 regarding ways to address improper filing. We are

1       also planning an international virtual meeting  
2       with foreign international policy offices to  
3       discuss the handling trademark scams, including  
4       both trademark size members and their intellectual  
5       property offices. This program will likely take  
6       place in April.

7                 We continue also to advance essential  
8       elements for foreign governments to geographical  
9       indications protection regimes. Among more recent  
10       projects, the trademark team filed comments in  
11       2020 on draft GIA laws in China regarding the  
12       determination of generic terms in the protection  
13       of GIAs in the draft protections on the protection  
14       of geographical indication. As I will discuss at  
15       the end of this presentation, the office has been  
16       very busy with a lot of training activities to  
17       support increased quality for trademark  
18       examination.

19                 Next slide please. In particular today,  
20       we are going to provide some information regarding  
21       foreign pendency. The numbers are not all quite  
22       matching up because, for example, China doesn't

1 track first action tendency. They track the time  
2 from filing until final decision, but we have  
3 provided the information here so you would have it  
4 for comparative purposes. Next slide please. I'd  
5 like to give a plug for the TPAC International  
6 Committee. In that committee, we spent time  
7 talking about the recent paper of the USPTO  
8 trademarks and patents in China where we studied  
9 in depth filing trends and the darn (phonetic)  
10 market factors that were driving Chinese filings  
11 in China as well as in the USPTO.

12 We had such an interesting conversation  
13 we just decided that TPAC should have another  
14 session just on China so we could think more  
15 carefully together about Chinese filings. We will  
16 continue work on this area and we invite subject  
17 matter experts to help us suggest other themes for  
18 future research on what motivates filing behavior  
19 of applicants in China. Clearly, with CNIPA  
20 reporting 8.78 million applications having been  
21 examined in 2020 and 5.7 million registrations  
22 issued, it's a huge number of applications and it



1       could be a concern in the USPTO. Next slide  
2       please.

3                    Another area where the USPTO is spending  
4       significant time is whether the Madrid system  
5       should have additional working languages.  
6       Currently, not all of the U.N. Languages are  
7       represented in the Madrid system. It's currently  
8       only English, French, or Spanish. Speakers of  
9       Arabic, Chinese, and Russian have an interest in  
10      having their language represented in the Madrid  
11      system. However, this would be a significant  
12      expense to the system which would have to be  
13      shouldered by Madrid system applicants so we've  
14      been spending some time to think about this  
15      carefully and try to consider whether the needs  
16      and interests of potential users of the Madrid  
17      system need again Arabic, Chinese, or Russian  
18      whether any of those needs could be addressed in  
19      other ways. Next slide please.

20                   Another area which OPIA has been  
21      spending some time together with trademark  
22      operations is TM-5. CNIPA is the Secretariat for

1 2021 and upcoming we plan to have a meeting May  
2 25th to 26th and the annual meeting will be in  
3 November. One significant accomplishment that we  
4 wanted to highlight was that Canada has joined the  
5 USPTO led GFI comment status indicators project  
6 with this project it shows the status of trademark  
7 applications and registrations using a set of  
8 stoplight color-coded status and symbols for each  
9 trademark record to immediately visually indicate  
10 the current status of the trademark without having  
11 to read through the text or unfamiliar pages.

12 Canada is the first non-TM5 country to  
13 implement these user-friendly icons on status  
14 pages. So we want to congratulate Canada for  
15 that. TM5 partners are also working to improve  
16 the TM4 website and user experience including  
17 redesigning some pages to make the information  
18 easier to find. Also the partners have begun to  
19 work on a new project on improving TM5  
20 communications with users as partners agreed at  
21 the 2020 annual meeting. Partners have also begun  
22 studying FMA resources at each TM5 office in WIPO.

1 Next slide please.

2 Another area of USPTO work is attending  
3 meetings of the Internet Corporation for Assigned  
4 Names and Numbers or ICANN. That the meeting is  
5 coming up later this month. The USPTO has been an  
6 active participant of ICANN since 1999 and  
7 provides IP advice and counsel to the U.S.  
8 Department of Commerce National Telecommunications  
9 and Information's Administration or NTIA, the U.S.  
10 Government lead on domain name issues within  
11 ICANN.

12 The USPTO is part of a large interagency  
13 team with ICANN. OPIA is closely monitoring the  
14 development of a new framework that would provide  
15 friendly access to who is registration data. This  
16 is information that a team may know that as a  
17 result of the EU General Data Protection  
18 Regulation in May 2018 WHO's data went dark in the  
19 generic level domain space which made it very  
20 difficult for rights holders to address their  
21 concerns.

22 ICANN has recently reviewed its review

1 of the rights protection mechanism such as the  
2 trademark clearinghouse claims of sunrise  
3 applicable to the generic top-level domains  
4 launched under the 2012 program as part of the  
5 review expected to begin later this year, a look  
6 at uniform domain name dispute resolution policy  
7 and we are also winding up work involving  
8 subsequent procedures for new generic top-level  
9 domains. We do believe that there will be a new  
10 round of GLDs although it may not be for a couple  
11 of years.

12 We understand the number of trademark  
13 applicants are strongly supporting expansion.  
14 Next slide please. This is my last slide if you  
15 are worried about time. I'm wrapping up down now.  
16 As I noted on the first substantive slide, OPIA  
17 has a priority to provide training. We provide  
18 training both to the U.S. stakeholders to increase  
19 their awareness of foreign intellectual property  
20 systems and we also provide a significant number  
21 of training programs to foreign government  
22 officials. Within OPIA, our trademark team

1 provides training to about 17 percent of our  
2 overall people trained which is a very good  
3 turnout compared to their relative size within  
4 OPIA. And that's all for me for now. I'm  
5 available with support from other members of the  
6 trademark team for any questions that people might  
7 have.

8 CHAIRMAN KELLY: Sounds like there are  
9 no questions Karin. Thank you very, very much.  
10 Very helpful.

11 MS. FERRITER: You're welcome. Thank  
12 you so much.

13 CHAIRMAN KELLY: And informative. So  
14 next up we turn to Judge Rogers for the TTAB  
15 update.

16 MR. ROGERS: Thank you, Chris. I'm  
17 going to just quickly -- I'm not going to run  
18 through all the slides because I don't think that  
19 it's necessary to do so. I have a small number of  
20 them anyway, but I do want to follow up first on  
21 some of the IT issues that we were talking about.  
22 In addition to the stabilization deployment that

1 will go on in just a few weeks in early April, we  
2 also are going to be reconfiguring some of the  
3 wiring, if you will, the connections between the  
4 new TTAB.

5 I will come back to the slides,  
6 Anastasia, in a minute, but I just want to cover  
7 these IT issues first and then I'll go through our  
8 pendency measures and filing levels which are in  
9 the slides. So in early May we are going to be  
10 redoing some of the connections, the wiring, the  
11 support for the TTAB reading room which was  
12 deployed last July 31st. I understand that not  
13 everyone has probably had a chance to look at that  
14 reading room, but I really commend it to you.  
15 It's a really big improvement over what used to be  
16 called the E--FOIA I'm reading room. It's much  
17 more searchable. It's much more user-friendly and  
18 please give us any feedback about the reading room  
19 through TTABfeedback@USPTO.gov in terms of any  
20 future enhancements you would like to see to the  
21 reading room.

22 It was built so its kind of is an early

1 example of a next-generation application for TTAB  
2 that came out last year. It was built with  
3 flexibility that allows us to make changes to it  
4 that we couldn't really make to the E-FOIA reading  
5 room that was in use for a long time until last  
6 July.

7           For the stabilization effort that will  
8 occur in April, if you have any problems on the  
9 external side of using ESTA or with TTAB view we  
10 know that sometimes when we're doing cleanup group  
11 work or remedial work or stabilization work on the  
12 backend of our processes, they can result in  
13 issues on the front end or the external side of  
14 the processes. So, again, use the  
15 TTABfeedback@uspto.gov email address or the  
16 ESTA@uspto.gov email address and let us know of  
17 any problems that may manifest themselves for you  
18 after these deployments occur in April for the  
19 stabilization and in May for the reading room.

20           These things are all tested very  
21 thoroughly before they are deployed so we don't  
22 expect any problems, but if there are and we're

1 not aware of them, we can't do anything about  
2 them, so let us know if you experience any  
3 problems, the other two things I'm going to  
4 mention are we heard from Greg earlier about the  
5 six centers that were being worked on under the  
6 new ways of working, one of which is the TTAB  
7 center. And the first thing that we are going to  
8 be working on in developing the new TTAB center,  
9 which essentially is going to be a replacement for  
10 using ESTA to send things to the TTAB, and the  
11 beginnings of the replacement for one on the  
12 inside for us known as TTAB I asked and on the  
13 outside to you as TTAB view, the electronic file  
14 system.

15           So the electronic filing system where  
16 you send things to us and then the electronic file  
17 system for the actual repository for everything  
18 that you send and everything that we send out. So  
19 the new TTAB center is going to start with the new  
20 filing form for notices of opposition and we are  
21 going to be working on that throughout the rest of  
22 '21 into '22 to get that specified and designed in



1 the way that will work the best for our filers.

2           The other thing that you should know in  
3 regard to our interface with the public is we are  
4 scheduled different business units of USPTO have  
5 been going through webpage redesigns. If you look  
6 at a business unit in the office that has a  
7 different-looking homepage than TTAB does, you're  
8 not confused. That's the way it is. All the  
9 business unit webpages have not yet been  
10 redesigned but TTAB is one of the next business  
11 units on deck for redesign of our webpage. So  
12 that something that will be coming hopefully later  
13 this year, but will be working on that.

14           So that's its kind of for IT systems and  
15 things that you should be aware of. We do have a  
16 lot of tips in the ESTA technical help section for  
17 your paralegals or your support staff or others  
18 who are going to be using ESTA to file things so  
19 we really commend regular review of the ESTA  
20 technical help and guidance section. So that's it  
21 for the IT stuff and things that are coming up.

22           Anastasia, if you can bring up the

1 slides, I'll run to the filing and pendency  
2 numbers for everybody and so we go -- yes. Right  
3 to that one. This one I've just I put up just to  
4 provide some context. We've heard earlier about  
5 the very significant recent surge in trademark  
6 application filings, but many of you will remember  
7 that there was a graph that we saw earlier that  
8 showed increases in application filings every year  
9 since about 2008 or 2009 when we had an economic  
10 dislocation, but they have been going up every  
11 year since then. So those early years of the 2010  
12 to 2020 decade. Those increases in trademark  
13 application filings eventually resulted in very  
14 significant increases in the number of cases  
15 coming to the board and they kind of hit a peak in  
16 fiscal years '17, '18 and '19 and, not just in  
17 appeals coming from examining internal refusals,  
18 but in trial cases as well. We had this really  
19 significant uptick in trial cases during these  
20 three years.

21 That left us with a lot of trial cases  
22 and a lot of motion practice and trial cases that

1 we were struggling to handle in fiscal '19 and  
2 '20. Next slide, Anastasia. So what we were able  
3 to accomplish in fiscal '20 as we were really  
4 knuckling down to tackle this work was we  
5 increased motion decisions of the attorneys. The  
6 interlocutory attorneys did a great job to  
7 increase motion decisions by 7 percent. The  
8 motions resolved by 8.5 percent. Pendency was  
9 still above where we wanted it to be above in FY  
10 '20 above the levels of '19. So motion practice  
11 pendency was growing through '19 and '20 but it  
12 stabilized in '20 and we reduced the inventory of  
13 pending motions waiting to be decided over the  
14 course of the year.

15           And at the end of fiscal year '20, we  
16 had cleared out everything that was older than 12  
17 weeks pendency. So we started the current fiscal  
18 year in great shape as we'll see two slides down  
19 in a moment. I'll go to the next slide now and  
20 this tells you what the judges were able to  
21 accomplish in '19 and '20 to deal with this really  
22 large influx of trial cases that occurred in '17

1 and '18 and '19 and resulted in appeals of trial  
2 cases that needed to be decided in '19 and '20 on  
3 the merits. So the judges had two years in a row  
4 -- I really have to commend them -- where the  
5 increase in the number of cases in the percentage  
6 -- the percentage increase in the number of cases  
7 was decided within the double digits in both  
8 fiscal '19 and fiscal '20.

9           Two years in a row deciding 200 or more  
10 trial cases both really high water marks for the  
11 TTAB. As you can see in the third bullet on the  
12 quarterly breakdown in terms of our processing  
13 time for ex parte appeals, from the time those  
14 cases were ready to be decided by a panel of  
15 judges, the pendency came down of the course of  
16 the year and we met our goal at the end of the  
17 year which was to be under 12 weeks processing  
18 time for the appeals.

19           We didn't quite meet our goal for  
20 processing of trial cases. Again, we brought the  
21 numbers down during the course of FY '20. Our  
22 goal was to get them by the end of the year have

1 an average of full year of 15 weeks processing  
2 time. We were above that at 17.7 weeks, but we  
3 were well-positioned for at the beginning of this  
4 fiscal year with these achievements of both the  
5 attorneys and the judges in '19 and '20. Next  
6 slide.

7           And what we've seen so far was those  
8 increases in fiscal '17, '18 and '19 of new cases  
9 coming in the front door TTAB, the appeals, the  
10 trial cases that began to moderate in FY '20. So  
11 the appeals continued to increase in a percent  
12 that is probably expected given the increases in  
13 trademark application filings, but we actually saw  
14 fewer oppositions come in in FY '20 than in FY '19  
15 and earlier years.

16           Petitions to cancel increased a bit, but  
17 not nearly as much as they had been increasing.  
18 So things were moderating throughout FY '20 at  
19 least in terms of what was coming in the front  
20 door which helped a lot because it enabled us to  
21 concentrate on getting out the work that was  
22 already in the pipeline and so far this year in

1 the first quarter and in January and February of  
2 the second quarter, we've seen similar filing  
3 rates. So we haven't seen significant upticks  
4 yet. We may see them in the future based on more  
5 current filing increases in trademarks, but right  
6 now, we seem to have a breather where, if we go to  
7 the next slide, I can show you that we met all of  
8 our pendency goals in the first quarter of FY '21.

9 We have goals of processing contested  
10 motions within weeks or less. Ten to 12 weeks is  
11 the goal there. Appeals decision pendency we have  
12 a goal of 10 to 12 weeks. We came in at 8.2 weeks  
13 on appeal decision pendency and the trial  
14 decisions we have a goal of getting those decided  
15 from the time that, again, that they are ready for  
16 decision between 12 and 15 weeks and we were even  
17 under the low end of the goal. We met those goals  
18 again in January and February. So we seem to be  
19 on a secure path for this fiscal year and we  
20 expect that we'll be able to maintain our  
21 commitment to these pendency processing measures  
22 and we'll just continue to watch the incoming

1 filings and what may come out in trademarks given  
2 the recent surge and focus on hiring accordingly,  
3 but right now we're pretty much right size in  
4 terms of the staffing.

5 So I think that's enough of an update  
6 for TTAB and I'll be happy to take any questions  
7 if you still have time left before Coke gives her  
8 closing remarks.

9 CHAIRMAN KELLY: I don't think we have  
10 any questions. Last chance. Judge Rogers, thank  
11 you very much. Appreciate it. Informative and  
12 helpful as always. So now we will receive closing  
13 remarks by USPTO Deputy Director, Coke Stewart.

14 MS. STEWART: Hey, everybody. Can you  
15 hear me okay?

16 CHAIRMAN KELLY: Yes.

17 MS. STEWART: We were behind and then  
18 things started to move so quickly. It's a really  
19 action-packed meeting. So thanks so much for  
20 giving me a few minutes just to say hello to  
21 everyone. As you said, I'm performing the duties  
22 of the Deputy Director and assisting Drew

1 Hirshfeld in transition to the new administration  
2 and I just really wanted to take a few minutes to  
3 complement Commissioner Gooder, Deputy  
4 Commissioners Amy Cotton, Dan Vavonese and Greg  
5 Dobson and all the business unit leaders that  
6 presented today for the information they shared  
7 with the public.

8 I think the information shared today  
9 particularly I have to say the slides that Dave  
10 Gooder walked us through really captured the  
11 challenges and the opportunities that we are  
12 facing here at the USPTO which, you know, are very  
13 significant as we all know. I'd also like to take  
14 a moment to recognize the new TPAC members and  
15 returning members. So hello and thank you to  
16 Stephanie and David and Tracy and Jomarie and  
17 Jennifer and our Chair, Chris, and Vice Chair  
18 Susan. Thank you for your willingness to serve on  
19 this important committee and for sharing the  
20 benefit of your experience with the agency and, by  
21 extension, our customers. It's really a  
22 tremendous public service for you, for us, and for



1       you to serve the government on these advisory  
2       committees and we're so appreciative of you and  
3       everyone who raises their hand to apply to serve  
4       on the PACs. And I can tell you from my  
5       involvement, significant involvement in that  
6       application process, our PAC members are among the  
7       best in their respective fields.

8                   And, finally, I wanted to say a big  
9       thank you to our stakeholders, employees, and  
10      members of the public who have tuned in today.  
11      With the passage of the Trademark Modernization  
12      Act, the partnership of our agency leaders, our  
13      PAC members and our stakeholders is critically  
14      important at this historic moment in the  
15      development of trademark law. The trademark team,  
16      the office of General Law and the Solicitor's  
17      Office and many other groups within the USPTO are  
18      working incredibly diligently on the  
19      implementation of the TMA. They have been and  
20      will continue to be engaged with you and  
21      stakeholders to obtain feedback.

22                   The feedback that we very much need to

1       implement the TMA in a way that works well for  
2       everyone. I think the TMA process here just  
3       serves as a good reminder that USPTO is and should  
4       always be open to public feedback through formal  
5       means like rulemaking and through informal means  
6       and please know that any member of the public can  
7       always reach out to TPAC members, to Dave Gooder  
8       and his team, to Drew Hirshfeld and myself, and,  
9       of course, to our new politically appointed  
10      leaders when they arrive.

11                As I listened to the presentations this  
12      afternoon, I was reminded how critical our mission  
13      is, how vital our efforts are to our nation's  
14      economy and growth to ensure that brand members  
15      are able to protect their intellectual property  
16      and succeed in the U.S. and global markets.

17                Before I wrap up, I just wanted to note  
18      one last item. I wanted to promote an item which  
19      is this year's celebration of the 75th anniversary  
20      of the Lanham Act or Trademark Act. This, as you  
21      know, forms the basis of federal trademark law in  
22      the United States and was named for Representative

1 Fritz Lanham, a member of Congress from Fort  
2 Worth, Texas.

3 To acknowledge this special anniversary,  
4 USPTO will partner with the State Bar of Texas IP  
5 section on educational and commemorative  
6 activities this year. So I hope you will be able  
7 to participate in one or more of these events. We  
8 will be providing more information through social  
9 media, subscriber alerts, and other outreach to  
10 you.

11 With that, thank you again to the  
12 members of TPAC, your devotion to civic service,  
13 and to all of those engaged in what continues to  
14 be a very exciting and dynamic time for  
15 trademarks. On behalf of everyone here at the  
16 USPTO, I look forward to seeing you at the next  
17 TPAC meeting in May. Thank you so much for having  
18 me.

19 CHAIRMAN KELLY: Thank you again for  
20 coming today. So that concludes our formal  
21 presentation. I do understand that we have at  
22 least one question that was sent in from the

1 public but it's a very government-specific  
2 question that Commissioner Gooder believes, and I  
3 agree, might be dealt with by a phone call to this  
4 person rather than taking up the time of the TPAC  
5 meeting. In addition to that one question, have  
6 we received any others? I don't believe so, but I  
7 just want to confirm.

8 MR. GOODER: Christine -- excuse me.  
9 Christine is texting me that no, there are no  
10 other questions.

11 CHAIRMAN KELLY: Okay. So before we  
12 wrap up, any -- any questions from TPAC members?  
13 Going once, going twice. I guess there are not  
14 any. So that concludes our first TPAC meeting of  
15 2021. Our next meeting is Friday, May 21st and,  
16 Commissioner, if I can just say on behalf of  
17 everyone at TPAC we understand the time and effort  
18 that goes into preparing for these meetings on the  
19 PTO side and we thank you and we appreciate it  
20 very, very much.

21 MR. GOODER: Thanks, Chris. We're glad  
22 to do it.

1                   CHAIRMAN KELLY: With that, I think  
2 we're out. Thank you everyone very much. Have a  
3 good weekend.

4                   (Whereupon, at 3:49 p.m., the  
5 PROCEEDINGS were adjourned.)

6                   \* \* \* \* \*

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

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, 2021

22 Notary Public Number 122985

