

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)
PUBLIC MEETING

Alexandria, Virginia
Friday, January 28, 2022

PARTICIPANTS:

TPAC Members:

SUSAN NATLAND, Chair

DAVID J. CHO

TRACY DEUTMEYER

JOMARIE FREDERICKS

JENNIFER KOVALCIK

TRICIA MCDERMOTT THOMPkins

ADRAEA BROWN

DANA BROWN NORTHCOTT

RODRICK ENNS

Union Members:

JAY BESCH, NTEU 245

PEDRO FERNANDEZ, POPA

HAROLD ROSS, NTEU 243

USPTO:

ANDREW HIRSHFELD, Performing the Functions
and Duties of the Under Secretary of Commerce for
Intellectual Property and Director of the
USPTO

AMY COTTON, Deputy Commissioner for
Trademark Examination Policy

MARY CRITHARIS, Chief Policy Officer and
Director for International Affairs, USPTO

PARTICIPANTS (CONT'D):

GREG DODSON, Deputy Commissioner for Trademark
Administration, USPTO

DAVID GOODER, Commissioner for Trademarks,
USPTO

JAMIE HOLCOMBE, Chief Information Officer, USPTO

ANASTASIA JOHNSON, Executive Assistant, Office
of the Commissioner for Trademarks, USPTO

GERARD ROGERS, Chief Administrative Trademark
Judge, Trademark Trial and Appeal Board, USPTO

DAN VAVONESE, Deputy Director for Trademark
Operations, Office of the Commissioner for
Trademarks, USPTO

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P R O C E E D I N G S

(10:00 a.m.)

CHAIRWOMAN NATLAND: Okay, well, then, we'll get going, and, again, apologies for the technical issues, everybody. Good morning, and welcome, everyone, to the first quarterly meeting of this year of the USPTO's Trademark Public Advisory Committee. My name is Susan Natland, and I am Chair of TPAC and a partner with the Law Firm of Knobbe Martens. And I couldn't be more excited about this upcoming year and working with the USPTO and stakeholders to protect and support brands and trademarks in the U.S. and abroad. So, thank you so much for this opportunity.

I'd like to start by introducing my fellow TPAC colleagues. Starting with my wonderful Vice Chair of TPAC, David Cho, who is Assistant Vice President Senior Legal Counsel of Trademarks at AT&T, and next, in order of seniority on TPAC, I'd like to welcome Jen Kovalcik, Vice President of Technology and Intellectual Property Council of Community Health Systems; next Tricia McDermott Thompkins, General Counsel of Shoe Show; Tracy Deutmeyer, a

shareholder at Fredrikson & Byron; Jomarie Fredericks, Deputy General Counsel, and Chief Intellectual Property Counsel, and Brand Counsel for Rotary International. And moving onto our three newest members of TPAC this year, Andrea Brown, Vice President Assistant General Counsel at HD-USA Harley-Davidson; Dana Brown Northcott, Vice President and Associate General Counsel at Amazon.com; and Rodrick Enns, a partner at Enns & Archer. Welcome to my TPAC colleagues. I'd also like to introduce and welcome our three wonderful Union Reps, Jay Besch, of the National Treasury Employee Union Local 245, Harold Ross, of the National Treasury Employee Union Local 243, and Pedro Fernandez, of POPA, the Patent Office Professional Association.

I would also like to take a moment to thank the USPTO and all the staff, including Anastasia Johnson and others, who helped in preparing this meeting today and supporting TPAC throughout the year. We really appreciate your assistance. In addition, I want to mention that if any members of the public have any questions they would like to submit during our meeting

today, they can go ahead and email them to TPAC@USPTO.gov, T-P-A-C-@-U-S-P-T-O.gov.

So, with that, I'm pleased to now introduce Drew Hirshfeld, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO. Director Hirshfeld will be providing opening remarks and will also be swearing in our new members, but we'll see if we might --

MR. HIRSHFELD: Yeah.

CHAIRWOMAN NATLAND: -- need to push that out a little bit, depending on how the technical issues go. But at a minimum, we'll be hearing some opening remarks. And so, with that, Director, I pass the floor over to you.

MR. HIRSHFELD: Thank you very much, Susan, and welcome, everybody, to the First TPAC of the year. Let me start off by apologizing for our IT problems that we were having. I assure you that the PTO IT systems typically work extremely well, and as a matter of fact, we have been now two years almost entirely remote, and there has rarely been a hitch. But this morning, we had

one, so, that's Murphy's Law. My apologies, and hopefully we have it worked out now, so that we can move forward with the meeting and the swearing in, which I'd really like to do.

I'd like to also thank all of the TPAC members for your time and your dedication. I know it is a lot of work for our Public Advisory Committees, and so, thank you for everything that you do. I also want to thank the Trademark Office staff and the Union members. You have -- you do excellent work, day in and day out. The time -- the last year that I've been in this position, you all know my background is -- as in the Patents Organization and Patents Commissioner. I have been really impressed and excited to be able to work with the Trademarks team because you do a wonderful job, and we all -- everybody on this call knows there are some really exciting issues going on in the -- in trademark world. So, it's been an exciting time for me, as well, to be a part of that.

We do have some personnel updates, as you heard already, from Susan. So, Susan is our new chair. So, thank you for taking on that

responsibility. And as you heard, David Cho is our new vice chair. I say that because these roles are new to them, this year. So, again, thank you for stepping up into that role. And we do have the three new members of TPAC that I would like to swear in. So, let's keep our fingers crossed and hope the IT is working.

So, let me ask if, Dana, and Adraea, and Rod, if you can at least say something, so we can tell if you can hear us or not. And if I hear all three of you, we'll proceed with the swearing in. Otherwise, we will go onto the next part. So, can each of you say something, please? Okay, so, I did not hear any of them. So, I'm assuming that the IT problems are going on here. I only see -- so, I can -- I think we're going to have to skip the swearing in, given the IT issues. We can certainly return to that.

Let me move over -- let me just say, you know, congratulations to the three new members, even though we can't do the swearing in. I would -- you know, that -- I know that we have a stellar list of candidates who applied for the TPAC and also for the PPAC, quite frankly, and it

is just wonderful that there's so much interest in joining onto our Public Advisory Committees, and it is very exclusive. So, congratulations to you because, again, they're just wonderful candidates. So, congratulations to the three of you.

Let me -- I wanted to just address some other key topics that we have going on, and I'll start, of course, with the nomination of Kathi Vidal, who has, of course, been nominated to be the political leader of the USPTO, so the seat that I'm currently temporarily in. I've had the pleasure of getting to know her over the last few weeks. I absolutely know she's going to be fantastic. I think she's the perfect person to be here. She's got wonderful Patent and Trademark experience, both in litigation and prosecution, and just really brings a wealth of knowledge and just will do a wonderful job. So, I'm very excited to have her on board.

As for timing, we did have, or she did have, the Senate Judiciary Committee vote on January 13th. She did, of course, pass that vote, and we're awaiting the next step, which will

be consideration by the Full Senate. That date is to be determined. So, we are still a little bit up in the air on timing, but hopefully that is on the sooner side, but your guess is as good as mine on the timing. We're still waiting on that, but, again, Kathi's going to be great, and I'm very excited for her to proceed to the Full Senate vote. And I hope and expect that to be successful and have her in the agency as soon as she can.

I also wanted to mention a word about the USPTO employees, as a whole. I don't know if you're all aware, but we have what's called a Combined Federal Campaign, which is a program throughout all of government, where employees can donate to charities, and there is a host of charities that you can donate to. This has been going on -- I'm in my, you know, over 27 years of PTO. It's been going on for at least that time, and I'm sure much longer. And the USPTO has a long history of donating. And I'm sharing this because it really is quite a statement about the generosity of the USPTO employees. And what I'd like to share is that this past year, or for our

Calendar Year 2021, the USPTO staff donated \$1.44 million of their own money. This is, of course, people's private donations. But PTO staff donated \$1.44 million to various charities, which is quite a statement and testament to the generosity. That is actually 36 percent of the total amount raised by the Department of Commerce. And by the way, we are about a quarter of the size, we about a quarter of the -- this is in terms of the number of employees. We're about 25 percent of all of Commerce. So, to donate 36 percent of the money is really quite a statement. So, I'd just like to share that because it's something that the public doesn't really hear about very often. But it is something that, through history, USPTO has been very dedicated to giving to charities and giving back, and especially during this time where so many people are having difficulties with the pandemic. It's just quite remarkable that the agency was that generous.

I also wanted to mention one of what's been my top initiative, quite frankly, and I know Kathi is very excited to get involved with this

initiative, as well, as are others. But this is our Council for Inclusive Innovation, which is a public-private partnership. I know you've heard about it before, so, I'll keep my remarks short on this. But a public-private partnership, it is chaired by Secretary Raimondo, and the goal is to create a national strategy for expanding innovation, particularly to groups that have been underrepresented. And there is so much that we can do, as a country, and I'm really honored that USPTO is taking a lead role with stellar people throughout the country, both in government and academia, in industry, to really work on a national strategy to see how we can move this country forward to expand innovation. Teams are hard at work on this strategy, and I am hoping that we will be able to release a strategy coming this spring. So, please, you know, stay tuned for that. That is very exciting. I think that there's much we can do, and I'm really looking forward to some next steps there.

I wanted to also talk about recent accomplishments. I have to obviously start with the TMA implementation. So, let me start by

congratulating the Trademarks Team for a successful implementation. By the way, when I first came into this role, the TMA, you know, was just -- just passed, and we had one year to do that. And the Trademarks Team did a wonderful job of implementing to make sure we met all the time limitations because those were tight. And it's my pleasure to say that everything went according to plan. We went through all the rulemaking. By the way, the Trademarks Leadership Team not only had to do all the rulemaking but took extra steps to get public input and public feedback and still remained on time, and on December 18th, we actually started to accept petitions for reexamination and expungement. To date, we have 18 petitions that have been filed, and so far, everything is going according to plan, in terms of the implementation. So, that is big news, of course, for the Trademarks Organization.

Also, I know this is not news to this group or probably anybody listening in, but we have taken many steps to combat fraud. Unfortunately, for our community, there has been

a significant uptick in fraudulent activity and people being defrauded. In December, we issued a Final Sanctions Order against Huanyee. This is a China-based organization. And just this week, we issued a final order of sanctions against a Pakistan-based company, Abtach. Together, there are thousands of applications that are impacted by this. This is an important yet difficult step and an unfortunate step but yet one that has to be done to make sure we're addressing fraudulent filings and making sure that the trademark processing system is fair and safe for everybody. I know Amy Cotton, our Deputy Commissioner for Trademark Examination Policy, will further discuss this later on today.

I also wanted to mention that TTAB, and I think you'll hear more about this, is in the process of creating a new Pro Bono Clearinghouse Program, which is wonderful. So, Thursday, this was just yesterday, we announced the launch of a new Pro Bono Clearinghouse. It's one of our responses to President Biden's Economic Relief Executive Order, that he issued in January of 2021. This will provide free legal services and

assistance to financially underrepresented individuals and business involved in Trademark Litigation before TTAB. There is an equivalent of this, if you're curious, for PTAB, as well. And I think these are great steps to increase -- the more pro bono work that can be done, the better, and I'm really excited about these steps.

So, there's, as you can tell, there's a lot going on. I would be remiss if I didn't mention trademark filings. I know you will hear more about this later, but trademark filings, as you all are well aware, have gone through the roof, quite frankly. In -- last year, we saw numbers that were higher than we have ever seen before. So, we are expecting that pendency's will increase. But I raise this because I want to assure everybody that this remains a top goal of the trademark organization. I think there are many reasons, as have been discussed over the last many months, of why there have been increased filings. I think, of course, with the pandemic and people being home and wanting to have greater registration of their trademarks and greater

opportunity, that is one of the reasons why there has been such an increase. But I assure you, this remains a top focus of the Trademarks Organization and the USPTO, as a whole, and we understand that while pendency's are likely to increase before they decrease, this is a serious focus of ours and something we will continue to watch.

So, with that, I will end my remarks. I'm hoping that Dave Gooder has had any IT issues worked out. So, Dave, I see you now, and so, I think we are set to move onto you. So, again, thank you to all the TPAC members. To the new TPAC members, congratulations. Sorry we didn't get to go through the swearing in, but I know you are actually ready to engage and continue on with the meeting. So, thank you, everyone.

MR. GOODER: Thanks, Drew, very much. Can you all hear me?

MR. HIRSHFELD: Yes.

MR. GOODER: Hey, that's good. Okay, sounds good. Welcome, everyone, to the First TPAC Meeting of 2022. And I think we've apologized enough for the technical part, so I

won't -- I won't go back over that, but I'm glad we're -- it looks like we're moving along good now.

All right, so, what we're going to do is start as we've done in the past, and I will update you all on generally the management view of the trademark side of the Office, and then we'll dive in, into each of our -- some priority areas a bit. We'll then take a break and then move from there to other parts of the agency that impact trademarks, like the Office of Policy and International Affairs, CIO, et cetera. So, next, for the -- or my Management Report, I want to talk about essentially four different areas. Next slide please, Ken. Thanks. Go ahead.

The first one is -- we're going to talk about our year-to-date operations. As Drew said, pretty much, you know, most people in the Trademark Community know about this huge surge of applications that occurred in Fiscal '21. There's now -- we'll talk a little bit about that and where we are this year and then how we're trying to deal with that. The next thing you'll hear from is Jay Hoffman and some of his crew from

the CFO's Office about the finances on the Trademark Side.

The next thing we'll talk about are a couple things about Trademarks that you might not know, that I think are interesting and hopeful to keep in mind, as we, as the Trademark Community works with us, and we, with you all, and with your clients, et cetera. And then the last thing we're going to talk about, again, is going into our key priorities and update about each of those. So, with that, let's jump into some of the numbers about where we see our year-to-date. Next slide, Ken, please.

So, you can see what's interesting here, obviously, is you can see the huge spike that occurred in Fiscal '21, that's the 943,000 applications. That was significantly higher than -- 27 and a half percent higher, when you measure it by classes, than the year prior. It was a huge jump. It pushed our inventory up higher than it's ever been, et cetera. Today, this year, the green line is what we're projecting. And so far, to date, we're just slightly below that plan. If you -- when I had

talked to people and I say, be careful comparing the '21 because '21 was such an enormous year that it can look like the Office is down, as it is, compared to '21, about nine percent. But actually, as compared to '20, it's up 16 percent. So, it's really, percentagewise, we're healthy, but what's more important is the actual numbers of applications and classes, filer amount, is very healthy. Next slide, please.

When we look at that from where these things come from, the different parts of the world, the top line, the kind of bluish color is the U.S., and you can see it, we're, so far this year, holding fairly steady, in terms of our percentage. China has dropped back down, oh, about 18 percent from last year, and then the bottom three lines deal with Europe, Asia Pacific, and the Americas, not including China-U.S., et cetera. And what's interesting about this is, if you look at the next side, please, it really gives you an idea of actually where a lot of the activity is, so far, in Fiscal '22 and where it's actually growing. It's being led by Europe, which for these calculations

includes the UK. And actually, the UK is the biggest contributor to that 27 percent. But also, it's up from all other parts of the world. So, really, China and U.S., who were really at a very high-level last year, have moderated, and that's kind of what we see so far in Fiscal '22. Next slide, please.

Now, what that has done has obviously impacted our inventory, which impacts things like first action pendency and disposal pendency. And right now, the lower part of that graphic, in blue, is where we are at first action. It's about seven and a half more, at 7.37. We are obviously working really hard to get that down. That's not something that any of us find to be a situation we want to have long-term, and so, you'll see a lot of work done on that, and you'll hear a lot about that from Dan Vavonese here, in a little bit. The top number is final disposal pendency, and it is still below our goal. Obviously, it is higher, also. It tracks first action very closely. And we're seeing the inventory of the -- I mean, I'll stop. I'll let Dan talk about that. Next slide.

The really -- I think one of the compelling things out of this is, despite all the hardship on examiners and everybody, I mean, you, your clients, us, everybody, is all this working at home and adapting your home life to your work life and trying to maintain everything. What's really -- I think it's a real compliment to the -- our examining crew is that they have maintained all of their quality metrics, despite the influx of applications, despite the impact on working from home, in their new situation. Now, most -- a good 70 percent of our people were working -- teleworking to some degree before the pandemic. So, for a lot of them, the work at home part wasn't a big shift. What was the big shift? What was going on around them. And so, to see these quality numbers stay as strong as they have been, I'm very -- I'm proud of them. I'm impressed. They're an incredible crew of people. So, next slide.

At this point, what I'm going to do is we're going to pause and switch to staffing, and that's something that we're now kind of learning more about because we have more analytics

capabilities. So, next slide, please. We often see this slide, or you've seen this slide if you've been to TPAC Meetings recently, we're a bit over 1,000 employees. There are -- 706 of those are examining attorneys, 59 of whom started in October. There'll be another 40 in the spring. We're still completely in a telework mode. But -- and we typically talk about the breakdown between all the different kinds of people, but let's switch to the next slide and look at -- look at our Trademark staffing just a little bit different.

In terms of ethnicity or race, this is -- this is kind of who we are and how we break down. Next slide, please. And this talks a little bit about what our -- our gender. We're roughly two-thirds female and a third male. And we look, also, at the distribution of our generations in the office. And this is something that -- from -- you'll see in a second, another slide that will speak a bit to this, and something that is unique, I think, about the Trademark Workforce. Obviously, no -- no Gen Z people in there yet, but when you look at -- yeah, go ahead,

Ken, it's fine. When you look at the length of service, I -- coming from private industry before here, I think it's so unusual to see people stay at the same organization for such long periods of time.

And when you look at the Trademark crew, obviously, the biggest group are hired within the last five years, but that's consistent with the growth. But when you look at the number of people who are out in the 20, 25, 30, even 35 plus year range of service, these are people who have absolutely devoted their career to serving the Trademark Community and the USPTO, and I think, again, like the quality numbers, this is -- shows just amazing dedication on their part. And I really wanted to highlight that. Next slide, please.

Okay, so, now, we've talked about filings, we've talked about our people a bit. Let's switch gears and talk about the financial aspects of the Trademark business right now. And for that, I'll turn it over to Jay Hoffman, who is our Chief Financial Officer.

MR. HOFFMAN: Great, wonderful.

Dave, thank you very much. Hello to the TPAC and the members of the public who are joining us. I am delighted to be here today to give you an update on the Trademarks Financial Performance. Let's go ahead and go to the next slide. One more, please. Okay. The presentation will largely be in two parts. I'll spend the bulk of my time giving you an update on our Fiscal Year 2022 Status, and then I will talk about just a couple issues over the horizon, that we can expect to talk more about in future meetings. Next slide, please.

So, first, I want to talk about the funding available to finance the Trademark Operation. As many of you probably know from just reading the newspaper or are listening to the political news, Congress has not yet enacted an appropriation for Fiscal Year 2022. The government is operating on a Temporary Continuing Resolution, or a CR, as it's called, and that runs through February 18th. A Continuing Resolution is just a formula that provides funding for the current fiscal year, based on a prorated amount of the prior fiscal year, as enacted

appropriation. So, last year, in Fiscal Year 2021, the USPTO received an appropriation of \$3.695 billion. The CR that runs through February 18th equates to about 38.6 percent of the current fiscal year, and that percentage translates into \$1.4 billion of appropriated spending authority for the USPTO this year, so far. The Trademarks allocation of that amount is \$171 million.

So, let's walk through this table. I'm just going to focus on the center column. These are the dollar amounts that are available to Trademarks to finance operations. So, the first number is the one I just described. We have \$171.6 million in authorized fee collections that we can spend. In addition to that, we have \$207.8 million in our operating reserve balances, this is cash on hand to further finance operations, about a million and a half dollars in other revenue sources. That brings us to a total of about \$381 million to finance Trademark Operations through February 18th. This amount is more than sufficient to finance all spending requirements and to retain acceptable operating

reserve balances. Next slide, please.

Let's talk a little bit about the FY 2022 status of spending against that Revenue Plan. So, this chart shows our spending and revenue collections for the year. The data is as of December 31st. The green line that you see here, this is our annual spend plan for the year. We project to spend approximately \$465 million in the Trademarks Business Line. The blue bars show the commitments and obligations, which is government speak for spending. We spent about \$131 million through the end of December. And the red bars are the Trademarks Revenues that we have received, again, through the end of December, and that equated to about \$114 million. So, the solid bars here show that our actual revenue and spending, the pattern bars that you see are the forecasts for the remaining months of the year. And one thing you might notice is that for the first six months or so of the year, we actually predict that spending will exceed revenue by a small amount, and then that trend reverses. That's completely expected. The start of the fiscal year coincides with a lot of

contract renewals and activity that are unique to the first and second quarter. So, typically, spending is higher in the first half of the year, and then that sort of reverses itself in the second half of the year. So, again, we're certainly right within tolerance, and as you can see, by the end of the year, revenues are projected to be above aggregate spending. So, that should result in some incremental increases to the Trademark Operating Reserve. Next slide, please.

This slide shows the status of our Trademark Revenues. The X Axis is in time, starting on October 1st, the beginning of Fiscal Year 2022. The Y Axis is in millions of dollars of revenue. And the purple line that you see here is the current Trademark Revenue Forecast. We predict it will collect \$495 million in Trademark Revenues. The blue line is a 25-day moving average of the actual revenue rate for Trademarks, so the annualized rate at which we're receiving revenue. And as you can see by looking at the righthand side of the chart, the current revenue rate, as of the end of December, is about

\$485 million, that's 2.1 percent below plan, about \$10 million below plan. The 2.1 percent variance is within acceptable tolerance levels and no adjustments to our plan are necessary, at this time. Very comfortable at this level.

Next slide, please.

The Trademark Operating Reserve is an important concept. This is the -- essentially our cash on hand, that -- in excess of the revenues that we're receiving. So, this slide shows our Trademark Operating Reserve. The X Axis, again, is in time. This goes back to October of 2020. The Y Axis is in millions of dollars available. You'll see two horizontal lines on this chart. The optimal operating reserve target is represented by the horizontal line that's running across the top of the chart. And that optimal target level is \$237 million, and this equates to approximately six months of Trademark spending. The minimum operating reserve target is represented by the horizontal bar running along the lower third of the graph. It shows \$100 million, and this equates to about three months of Trademark spending. So, if you look at the

blue area, that's the actual amount of operating reserves that are on hand. And as of the end of December, that balance was about \$219 million. As you can see from this chart, the balance has been steadily increasing toward optimal levels, and this is consistent with our planning assumptions, and the balance is expected to stay well above the minimum level, also consistent with our planning assumptions. In short, the Trademark Business is in very strong position right now. Next slide, please.

I did want to follow up on some of the charts that Mr. Gooder just presented. So, this chart is one that Dave actually just showed. This is the Trademark Performance Measure of First Action Pendency. And Dave briefed that that's been going up for the reasons he described, about 7.4 months, right now, as of the end of December. So, as we discussed on the previous slide, strong application filings have resulted in strong Trademark revenues and strong Trademark operating reserve balances. So, that's a good thing. From a financial perspective, we monitor this performance measure because it corresponds

to earned and unearned revenue. Said more simply, although we've received Trademark applications and the fee revenues associated with processing those applications, that revenue is not earned from an accounting perspective until action is taken on those applications. So, based on these averages, the applications received in the last 7.4 months have not been reviewed yet to have a first action process, and, therefore, the revenues associated with those applications have not yet been earned. So, that's an important concept, financially. Again, we don't see any sort of liquidity issues right now associated with that, but it's just an important thing that we want to monitor. Next slide.

So, and this is the total pendency. David also presented this slide. The total pendency as of the end of December was 12.3, 12.4 months, roughly. It's been on an upward trajectory, and again, similar to the prior slide, first action pendency, based on averages, the applications received over the last 12.3 months have not been fully disposed of yet. Therefore, a portion of the revenues associated

with these applications have -- are also -- remain in an unearned revenue status. Let's go to the final slide, please.

So, looking ahead, we are already thinking about next year and our FY 2023 budget. The USPTO submitted a budget proposal to the Office of Management and Budget last fall, and we expect that the Office of Management and Budget will provide us some feedback on that budget submission soon, via a process that they call the Pass Back Process. Once that feedback is received and incorporated, the USPTO will follow guidance, along with all of the Federal agencies, and submit our budget request for next year to the Congress. The timing of that submission is not yet known, however. Lastly, the USPTO continues to work on our FY '22 through 2026 strategic plan. The strategic plan is an important element of our financial planning. It guides the agency in how we allocate and prioritize spending to accomplish the mission. That concludes my presentation. Thank you for your attention and the opportunity to present to you today.

MR. GOODER: Thanks, Jay, very much.

All right. We'll move ahead to the next slide. I wanted to switch gears a little bit here and talk about two things about the Trademark world, at the Office and Trademark Registrations, that -- things you might not know. What we have learned and discovered is through a lot of our own analytics work and work with our economists. Next slide.

Previously, we focused a lot on, and still do, on the percentage of people who apply at the Office, who are acting on their own or with counsel, so, what we call pro se applicants. Currently, that number is about 25 percent of the people who apply are pro se, and that helps us track a number of things. But we wanted to dig in a little further about who really the -- our applicants' owners of Trademark Registrations are. And our data actually provides a great deal of insight. Next slide.

We went and looked at -- we -- next, Ken. We looked at our filers and looked at them a bit differently, as to who are large filers, who are medium, mediums are 10 to 99 applications, of all times. This is just their total portfolio.

Large filers are 100 plus, so, the large companies of the U.S., of the world, who come. And we -- then, we looked at small filers who are two to nine applications. And what's interesting is they account for 43 percent of all the filings. So, that's typically small business, mid-size businesses, some individuals, et cetera. And the last category is -- are these so-called one-time filers. Next, Ken. And what's fascinating is they are actually the second biggest group. And between the two of them, together, next, Ken, you're talking about 76 percent. Actually, that number has crept up a little bit even more, since this slide was done, and that's quite interesting because I think a lot of times the perception is that the Trademark Register is dominated by big companies, et cetera, and that's really not true. It's actually dominated by individuals, small business, et cetera. It's a huge percentage. And it's actually been on a growth curve. And that's a good thing, I think, because it indicates that more and more small business, and whether they're sole proprietorship or small business

partnerships, more and more are realizing that there is a value to Trademark Registration and that their business really needs that.

Now, we had a chance to kind of consider that value question a little bit this year. Next slide. And as you know, last year was the 75th anniversary of the Lanham Act, and then in connection with that, there was a panel that we were on at an INTA meeting, at the Annual Meeting. And we looked -- the panel was talking about the value of the U.S. Trademark Registration. Next.

And what we know is that there's the commonly known value, so to speak, the Trademark Lawyers and Practitioners talk about, that you obtain by a registration, presumed nationwide rights, presumption of ownership, validity, et cetera, that type of thing. And those are important. But that's kind of how we, as trademark geeks, look at it. Turning this around a little bit, about how the business world looks at it, next slide, it gets very interesting because there are some things that you might be a little surprised about. Next.

The first thing is that first time

Trademark Filers put almost double the revenue growth of versus firms that don't file for trademark protection. Next. It gets a bit better. After five years, those firms that filed have almost 50 percent higher revenues. Now, that's not to say that the Trademark -- we like to think that's because of the registration, but we all know that that's obviously something that is reflective of the kind of business that it is, and the way they think, and the value of their brands to their business. It doesn't matter where they're selling, whether they're online only, bricks and -- you know, brick and mortar stores, you know, et cetera. Next slide. And they actually employ more people than firms that don't tend to register. Next slide.

And what's kind of interesting also, next, is that when you look at so-called IP and intensive industries, I think it's very common to think that, but most of those are tech-driven or patent driven, et cetera. And actually, when you look at the numbers, they're actually dominated by trademark companies, trademark-intensive industries. And if you've done -- ever done any

evaluation work on trademarks for transfer pricing purposes or whatever, you -- you'll -- this will make sense, I think, intuitively, but it's just not something that I think us, trademark people, have always thought of because we certainly don't see this as much at the office. So, I will -- I thought those were interesting. I wanted to share them with you. I think it's significant about why we're seeing so much growth in the trademark world, et cetera. So, next slide, please.

Okay, so, there's really five big things happening right now that I wanted to touch on and delve into. The first one, next, is that -- oh, go ahead. Sorry, Ken, go ahead and load these. We'll talk about our move to electronic registration certificates. Next. The second thing is we're talking about -- Dan is going to talk about how we're digging out from the filing surge. The next one is how we're stepping up our registered protection, and Amy Cotton's going to dive into that, both on the identity verification and sanctions and a little bit about the Trademark Modernization Act (TMA), which is,

obviously, as Commissioner Hirshfeld said, excuse me, Director Hirshfeld said, is alive, one more -- a couple more things still to come on it. And then the last area we're going to talk about is modernization on the IT side, which is exciting stuff.

MR. HIRSHFELD: Yeah.

MR. GOODER: Next slide. So, with regard to electronic registration certificates, next slide, there are a number of things to think about with this. Next. The first thing is why we're doing it. Basically, this is in response to customer requests over the years and having run a large portfolio in house. Having to deal with paper registration certificates, I know, sometimes, creates, actually, additional costs and depending on where you store them, et cetera. And a lot of people love that -- you love it when you get it, but then what do you do with it? And in the current world, that's just not as necessary. So, we were printing somewhere between 5,000 and 8,000 of these a week. So, there's significant benefits, and it'll enable us to issue registration a bit faster. It does save

some money. The printers that print these things are enormously expensive. So, we don't have to incur some of those costs, as well. Next.

This is going to happen. The target date right now is the end of May, of this year. Next. And it will impact applications filed on or after that date. Now, you can still get a presentation copy, if you want. So, people will be able to do that. And so, there will be more details announced on how we -- how that will happen. But if -- those who do want them will still be able to get them, whether it's a certified copy or not. Next slide.

At this point, I'm going to turn it over to -- Dan, I think you're up next, right? And he's going to cover the next -- the next big thing on the list. So, Dan, I'll turn it over to you.

MR. VAVONESE: Good morning, everyone. We can go to the next slide. And one more slide. So, I'm going to cover updates from Trademark Operations, go into a little more detail, based on some of the numbers you were seeing from Commissioner Gooder, regarding our -- regarding our filings and regarding our pendency. And so,

just as a quick reminder, again, you know, our filings were at a 27 percent increase in FY '21, and for this year, again, I'm going to just reemphasize what Commissioner Gooder said, regarding our numbers so far this year for filings. You know, so while we are down by a couple percent, compared to last fiscal year, we are up almost 16 percent, compared to FY '20.

So, our numbers are still -- our filing numbers are still very big and along the line of what we've seen over the last several years of anywhere from a five to a 10 percent increase per year. So, this slide here talks about our unexamined application inventory. And our three-month pendency that we -- first action pendency that we have seen over the years, it's all -- it's been very connected to our unexamined application inventory, which has, over the years, been in the range of around 150,000 application classes. That's a very comfortable range for us, for the staffing we have, and we have built up our staffing over the year, as the filings have increased.

And then the huge jump that happened in

about mid-summer of 2020, you'll see that continued increase in the applications inventory over the last almost year and a half, a little longer than that, to the point that we're at over 500,000 application classes, right now. You'll see that we have started to level off a little bit, and with recent hires that I will talk about in a minute, that those -- that we're hoping that will start to level off and start to go in the opposite direction. But it is -- this is something we look at extremely closely.

If we go to the next slide, so, I had -- I've talked at several of the last TPAC meetings about our processing timelines, and I just want to give some updates on these. You know, the first two, you've already heard about our first action pendency and our disposal pendency. You know, as a reminder, we have changed our first action and disposal pendency goals for this fiscal year. Our first action pendency goal is now set at seven and a half months, and our disposal pendency goal is set at 13 and a half months. You know, the disposal pendency goal, you can always add six months to

our first action pendency because there's a six-month response period. And we'll -- you'll hear more a little later about our change at the end of this calendar year to go to a three-month response period, following, you know, when we implement the second phase of TMA. So, we are working, and I'll tell you about some of the things we're doing to try to work on these pendency's, through hiring and otherwise, but we -- I want to emphasize that this -- these timeframes for the immediate future are going to stay the same. We are going to be working as hard as we can, and I want to thank all of our employees, all of our examining attorneys, all of our professional staff, throughout Trademark Services, for everything we're doing to try to keep up with the huge workload that we have right now.

A couple of the improvements that we have had are within uploading of new applications and processing amendments. We had large backlogs last year, we hired additional staff, we cross trained people, and we have gotten those timeframes back within one week. So, I know our

customers were very concerned about that, and we were -- we have been back on track for several months now.

We continue to update our processing times on our website. I'll show you in a minute on our -- the next page, another view of that. We are doing everything we can to keep that -- keep those timeframes as transparent as possible. We -- any notices that we can provide with any updates, that's something we're going to be continuing to focus on this year.

If we go to the next slide, again, this is a quick visual. We're working on some additional dashboards for the website, but this is a current visual, as of December 2021, showing what our targets are, in all of our different areas, and then with the current pendency. And you'll see that basically in every area, we are caught up, except for post- registration. We are -- you know, the maintenance filings increased last year, too. So, we're working on staffing and improvements in those area -- in that area, as well, to work on getting our post-registration timeframes down, especially

for Section 7s, Section 8s, Section 9s. We'll continue to work on that.

And I also wanted to stress that in -- sorry, go back to the slide for a second. Assignments, we've been getting some questions about assignments. I'm not -- you know, we are on schedule, regarding getting assignments processed within, you know, three days for electronic and within two weeks for nonelectronic. So, if you are having any issues, please, please, contact our office, and we'll -- hopefully, it's a one-off, and we will continue to work on those. Next slide.

This is just another view of our dashboard. This shows more of our high-level strategic goals. You can go to the link here and not only get to the dashboard but also to the timeframes that I showed on the previous slide. Next slide.

So, what are we doing? What have we been doing? What are we doing? The main focus is, obviously, on hiring. You know, we hired a lot of examining attorneys and professional staff, last fiscal year, to catch up. This

fiscal year, we have -- we've already hired 59 examining attorneys in a large group in October. We're planning to hire another 40 in about two months. And in order to train all of those examining attorneys and also to plan for continued large clips of examining attorneys over the next few years to deal with what's projected to be continued filing increases, we've started a Trademark Academy. This is a pilot at the start, but this is something where we have all of our examining attorneys going into an academy. They're in that academy for a full year. They're trained, they're trained consistently, they're trained by a group of dedicated attorneys who focus on getting the examining attorneys consistently trained and up to speed, so that they have the best experience learning the job. And then after that year, they go back to their destination law office. So, it's been a great start. So, I want to thank all of the -- any of the new examining attorneys in the first group that are online today for working through this. We think it's going to be a great improvement to our entire training process.

A few other things we're doing here. We -- you know, you'll hear a lot more from Amy Cotton about our bad faith work. We need help in investigations. We have a large group of attorneys, both in our -- both in examination policy and in operations, that help with all of the investigation work that's needed to determine -- to get to the bottom of what -- where these bad faith schemes are. So, we did a new contract vehicle, called TM Flex. This is bringing on paralegals and investigators to actually help us with that process. They actually just got on board last -- this -- just actually the beginning of this week. We are getting them up to speed, and we're really looking forward to them getting started because they're going to be experts in the area, and also, it's going to take some pressure off of our attorneys, so they can do the work we need them to do. So, that's going to be a big help to us, going forward, and you'll hear more updates in the coming months.

We continue to look very closely at artificial intelligence and robotic process automation tools to help with various tasks

throughout our work, both in Trademark Services, we want to see where else we can help with making better applications coming in the door, as well as additional tools for examining attorneys to help them with -- to help them with their jobs to make it easier for them to do the administrative parts of the job.

Lastly, we have a lot of changes that have been coming to Trademarks, within the last few years. I keep -- you know, bad faith, we keep talking about, huge filing increases. We have brought in a third party to do -- as a consultant to assess the entire examination process. You know, even mentioning, you know, earlier, we have changes in filing types, we have changes in the -- changes in our -- in the types of filers that are coming in. This third party is looking at all aspects of our process and the types of filers that are coming in, and we're evaluating where we can add efficiencies, looking at pressure points, looking at changes across our entire process. So, this is something that is going to be a big focus this entire fiscal year, and once -- and we're going to be working closely

with this consultant to see where our -- where changes can be made to improve our process for -- not only for most -- for our employees, but also for our stakeholders, as well. Next slide.

CHAIRWOMAN NATLAND: Dan, can I just ask you a quick question?

MR. VAVONESE: Yes. Yeah, Susan.

CHAIRWOMAN NATLAND: Yeah, super helpful, obviously, all the steps that are being taken, and, you know, it's kind of like too much of a good thing almost, where we have all these filings, and trademark business is booming, and it's driving the economy, as Commissioner Gooder mentioned, with how it affects business. In terms of the third-party contractor, is there any idea of timing of when we'll get, you know, a report back or something from them?

MR. VAVONESE: Well, I -- the -- and Greg will -- Greg Dodson will talk a little bit about this, in the IT section, but that our current -- the current timeline, if I'm understanding correctly, is by the end of the second quarter. We're going to have a full -- we're going to have a full report. It

doesn't mean it's the end, but it will at least have a full initial report. We're going to be getting updates from the consultant over the next -- over the next month, but the initial report, from my understanding, is by the end of the second quarter of the -- of this fiscal year.

CHAIRWOMAN NATLAND: Okay, yeah, just wondering, generally, but, yeah, thanks so much for touching on this issue, as well, appreciate it.

MR. VAVONESE: Yeah. And I just wanted to end with a -- to just show a quick graph on our examining attorney staffing. You know, we have steadily increased our examining attorney staffing over the years, and, you know, I just wanted to emphasize that these numbers continue to increase. You know we have attrition. Each year, we have promotions, each year. Most of our -- most of the promotions within Trademarks come from the examining attorney staff. So, it's great for career development. As we plan our hires, we look at that attrition, as well. But you'll see that in early 2020, which is the yellow bar here, that showed where our numbers just

briefly were -- started to go down a little bit, and the reason for that is, at the beginning of the pandemic, the economy was going down. It looked like filings were going down. So, we actually delayed a hiring class from March of 2020 until October of 2020. So, that's why you'll see one drop between 2019 and 2020, in the total numbers. And then once 2021 started, we brought on that class in October, we brought on additional attorneys in early of calendar year of 2021 to the point that we are -- we're back on schedule, and we have, as of today, 706 examining attorneys, and then we'll have another 40 coming in two months, and we're -- that's our plan. Our plan is to continue to hire at a regular clip, which, again, as I mentioned with the Trademark Academy, is going to really help streamline the training process. So, next slide.

So, that's, you know, that's a brief overview of where we are in Trademark Operations. Again, I want to thank all of our stakeholders for their patience, as we work through these timeframes and really adjust to -- adjust to a lot of changes in how we're going to be looking at our

process, going forward. Thank you.

MR. GOODER: Thanks, Dan. Yeah, I'll just make one comment about the -- this project, looking at our whole process, et cetera. I think one of the reasons it's such a good time because when something gets so stress tested, as our whole system did over the last year and a half, two years, it is a good time to see. You know, no time like after a rainstorm to see where your roof was leaking. And I think this is -- will help us see a lot and see what can change because so much of our system was built over the last decades, where we were thinking in paper and then moving paper to electric. Now, we're at a point where it's like everything is digital for us, so it's just an incredibly good opportunity to do that. And as we get reports from the consultants, and push back to what they're thinking, and challenge assumptions, and start looking at where we can do things, this is the kind of change that will then start occurring kind of organically. It won't be all of a sudden one big change because a lot of these things are small. But when you multiply them by 900,000 classes, a small improvement

actually generates a really measurable change. So, that's why I'm really encouraged about doing this, and it's a good -- it's just great timing, so.

Any questions? We're a little bit ahead of schedule, which is great. Any questions from any other TPAC members for Dan, before we roll on?

CHAIRWOMAN NATLAND: I think David Cho was trying to ask a question, but was unable to -- okay, so, that's okay. David, if you want to message me.

MR. CHO: No.

MR. GOODER: Yeah, I see him waving, but no. Okay.

CHAIRWOMAN NATLAND: All right, well --

MR. GOODER: Okay. All right.

CHAIRWOMAN NATLAND: -- that's okay. Thank you.

MR. GOODER: All right, at this point, I'm going to switch gears, so, we're going to move over to Amy Cotton, who is our Deputy Commissioner for Trademark Examination Policy. Policy is a

very short word that covers a huge number of areas, including policy, but a lot more, and Amy's going to talk about a number of the areas that you might not logically think fall under policy, but are -- have become significant priorities for us. So, Amy, over to you.

MS. COTTON: Thank you, and good morning, everyone. Next slide, please. So, you all have been on our Register Protection Journey. For many years, we have been working very closely with our stakeholders to try to figure out how to address the increasing number of inaccurate, false, fraudulent, whatever, whatever on the spectrum you want to call it, submissions that are coming into the office. Our system was built on the good faith of our applicants. And the majority of our applicants are in good faith. The majority of our customers are in good faith. But we do have a certain segment, and it appears to be growing, those who are looking to bend the rules because maybe there has been a historical lack of enforcement of some of those rules, they're looking to try to make money, and they're looking to try to defraud custom -- our customers

and defraud the USPTO. So, you know, maybe a small group, but a disproportionately large impact, and that has led us to do a little bit of soul-searching.

You know, if you think about it, we don't -- the USPTO does not question the accuracy of the data that you all put in submissions. We don't ask you to tell us, you know, to hold up a, you know, a driver's license, historically. We have not had you prove to us who you are. We have not had you prove to us each of the data elements in an application, unless there's something fishy going on. Now, think about, though, if we did, if we asked you to prove the accuracy of, in some way, of every piece of data that you gave us. What would that do to the system? That would be hard. That would be difficult for a lot of people.

So, how do we find the right balance? And so, we've been on this journey for quite some time to try to figure out what that balance is and try to figure out how to, you know, identify the risks and identify the ways to mitigate those risks in a way that everybody is happy. And of

course, we started out slowly because there was a discomfort with changing that balance or changing the system. Change is hard. So, there has been a resistance, but over time, we have had some urgency, and that has then picked up, and we have become more aggressive with how we have been dealing with these issues.

So, you can see that over the years, we've been trying different things. Those things, those various initiatives have evolved, and it has been quite a journey. The post-registration audit was where we were testing to see if there was inaccurate submissions coming in, in maintenance filings. There were, there are, and the level has remained relatively stable, which is disappointing, but we hope to see some changes with that, over time. We've worked on updating specimen guidance to try to increase the scrutiny of specimens, but that, of course, then impacts pendency, that impacts examiners, it impacts you all. And so, we've been, again, trying to find the right balance.

We've shifted our focus to the Special Taskforce you can see in 2019 to do

investigations. So, we're looking at suspicious submissions. We're not looking at all submissions that are good faith submissions. If there's not a problem, we're not necessarily looking at it. So, we're targeting the suspicious submissions and looking at those to try to take the burden off of examiners and off of good faith stakeholders. We implemented the U.S. Counsel Rule to try to have somebody accountable for the filings that are coming in. We implemented account log in, this is USPTO.gov, is required in order to file an Electronic Trademark Form. That was in 2019.

In 2021, we implemented a deletion fee in the post-registration audit context and in the maintenance context, generally. We're still waiting to see, as -- you know, from the time of implementation to the time we start actually receiving the office actions that are impacted, we're still in that -- we're not seeing the return, quite yet, that we want to, but we think we will, going forward. And then in 2021, the Special Taskforce, we started doing sanctions, based on the investigations, and I'll talk more

about that, then, of course, you know, the Trademark Modernization Act, as to the expungement and reexamination proceedings, just started in December. I'll talk a little bit about that.

And now, we're on ID verification. I want to talk about that, actually, next. Next slide, please.

CHAIRWOMAN NATLAND: Amy, real quick, on the last slide, can we just go back one? Just two quick questions.

MS. COTTON: Yeah.

CHAIRWOMAN NATLAND: The post-registration audit, I know that's one of our older initiatives, and by the way, this is terrific. You know, all these measures are -- add up. But what is the current percentage of problematic --

MS. COTTON: It's still not where I want to see it, and as it -- the deletion fee, of course, so, that was implemented in 2021, at the beginning, well, then you've got a six-month response period for people to sort of get their act together to pay the deletion fee. So, we

haven't seen enough data to be able to tell whether there's a significant impact. I'm hoping there -- how could there not be, right? You know, it's a \$250 deletion fee, every time you're deleting. So, it's going to incentivize more accurate filings, at the get go, for the Section 8s and the Section 71s. So, we just haven't had the time period to be able to track whether it's had the impact because of the delay in responses coming in. So, when I get that data, I'm going to be, yay, because, you know, I think it's going to be really helpful. But I have not seen the needle moving the way that I want to see it yet, and so, I don't have much to report. I think the deletion rate is about, still, 50 percent of those that are audited. It's about 5,000 registrations audited a year.

Anecdotally, I do hear from my audit examiners that they're seeing more deletions at the filing stage. So, they're seeing more places where the -- you know, when people are filing, they're actually deleting those unused goods or services. But again, anecdotally, I don't have any solid data to be able to report. But I knew

that was going to take some time, but, mm, I'm ready. I want -- I'm ready to have some data to report to you, that shows that it's having an impact, but I still think we will get there.

CHAIRWOMAN NATLAND: Great, okay, thank you so much. And then on the Special Taskforce for Inappropriate Activity, can you just give the email address because I've had people ask me, who do I email to flag and surface potential --

MS. COTTON: Well, you -- you can -- there's a couple different email boxes, but I'll make it easy for you, TMscams@USPTO.gov. So, TMscams will go to the Special Taskforce. You can also send it to TMPolicy, for those of you who use that box, but certainly TMscams would be, you know, a great place to go when you want to report something like that.

CHAIRWOMAN NATLAND: Thank you.

MS. COTTON: Okay. Next slide. Okay, so, log in. Now, you all are likely familiar with ID verification, which just launched, as a voluntary initiative, January 8th. It just started January 8th. That will become

mandatory April 9th. So, presumably between January and April, you're going to have to pay a lot more attention to this. So, originally, it was a -- it's a three-phase project, mandatory account log in, starting in 2019. Now, we're in phase two, identity verification with user roles. Now, the accounts are -- all electronic forms are filed through these accounts. So, to the extent that we find a submission that is suspicious, and we determine that it is problematic, fraudulent, whatever, you know, if it violates the terms of use, we can disable that account. We can block that USPTO account, so that person cannot continue to file submissions from that account.

Now, phase one is just you have an account. We don't verify the information that you give us, up front, when you create that account, so. But if you give us false information that is grounds for us to terminate that account. But we're not examining it up front. So, what does that mean? So, right now, with phase one, we are not checking to see if a sanction -- okay, if a sanctioned party, somebody whose account is blocked because they were filing

bad submissions, they can create another account. They can give us a fake name, and they can create another account, and they can keep doing that. So, it's like whack-a-mole. It's just like counterfeiting, right? They can just keep popping up and keep making filings.

So, the idea of phase two, identity verification is to make a lot harder for them to create new accounts. They're going to have to get a new government ID, which I think it's going to be pretty tough for them, or they're going to have to get their friends to create these accounts, right? So, to the extent that we can identify who is filing, who is creating the account, and then who is filing the submissions, we can hopefully prevent them from creating new accounts, and that's the idea behind identity verification. Now, that won't be locked in place until April, of course, but we hope that people are going to move to identity verification, and not earlier, and not wait until April because we don't want to bottleneck.

So, again, we can terminate those accounts for violations of terms of use. Going

into 2021-2023, we're going to have phase three. This is role-based access controls. Now, here is where we will limit your ability to touch a file, unless you are authorized to touch that file. I think this is like the Patent Side with their Customer Numbers, right? So, if you are an attorney, and you are handling serial numbers X through X, those, now, you will be under role-based access control. Only you can touch those files. This prevents, then, the hijacker from coming in and changing your correspondence address and getting all of the correspondence sent to them, so that they can then report that, well, do whatever it is that they do with that. We do see a lot of changes of correspondence address that are unauthorized. We are stopping pretty much all of them, but it is a whack-a-mole. It is difficult to keep doing that, and we want to shut that down. So, role-based access control is phase three, and that's not coming until later 2022, 2023.

In preparation for phase three, though, right now, in phase two, we are looking at user roles. So, what are user roles? Well, user

roles are -- we are asking you, when you identity -- when you verify your identity for a USPTO.gov account, we're asking you to select a user role. And let's see, let's go to the next slide please. So, the user roles are four: Trademark Owner, U.S. License Attorney, Canadian Attorney, or Agent Attorney Support Staff. Now, the question that we're going to get is, you know, what role am I? This is my business model. This is what I do. Which model of those -- which user role do I fit in? We will be answering those questions in the next month. We will be answering them.

We went ahead and rolled out ID verification. In the meantime, we have -- because we wanted people to start using it, who were clear on who their role was, which role they were going to choose. But for those who were not sure what their role are, hold off, don't verify your identity until we issue our guidance. We've got frequently asked questions that we are, you know, finalizing right now. We have a new verified account agreement with the roles defined in them. We will be rolling that out, as well,

and so, we will be putting out a lot of coms, of communications to you all, so we can be very clear about what we're expecting.

Now, the thing that this is getting at is setting us up for phase three, right, phase three of you are a Trademark Owner, you are authorized to touch your file. You are a Licensed Attorney, you are authorized to touch the files on which you are the attorney of record. Canadians are Associate Attorneys. So, you know, they have some access, as well, and then, of course, the Attorney Support Staff are those that work for the U.S. License Attorney, under supervision. The Attorney Support Staffs are sponsored. They are sponsored by the attorney. The attorney has to do the ID verification. The Attorney Support Staff is a sponsored account. They do not have to do the ID verification with us, but they do have to do it with the attorney.

Okay, so, who's not covered here?

Those who are unauthorized to practice law, those are not covered. There is no role here for those who are doing -- are engaging in the unauthorized practice of law. Now, if you're not supposed to

be filing documents with us, if you're not supposed to be providing legal advice, if you're not supposed to be preparing applications and submitting those to us, then you are not -- you're not contemplated in these roles. Every single -- we're going to talk about our administrative sanctions process. But every single application that we have been investigating, every single bad actor, every single one of them features the unauthorized practice of law. It is a problem. And this is an effort to try to address that, to try to deter the unauthorized practice of law. And so, we will, I know this is significant, but we will be putting out a lot of communications, so that we can be very clear about what we're doing and why, and what people are supposed to do in response. So, look for that in the coming months.

Okay, can I go to the next slide, please? Actually, no, skip this one, go to the one after. Thank you. Okay, so, as you saw in our Register Protection Journey, the U.S. Counsel Rule was designed to put somebody on the hook for an application coming in, to make sure

that the information in it was accurate. We thought that the ethical obligations of attorney would make sure that the attorneys would be ethical and not commit misconduct. Well, not always the case. We have some attorneys who have been committing misconduct in FY 2021.

In FY '21, we referred, after investigation, 22 U.S. Licensed Attorneys to the Office of Enrollment and Discipline. We referred them because we could tell, based on our investigation, that these attorneys were not meeting their obligations under the Trademark Rules of Practice and the Trademark Rules of Professional Conduct. We were, on the Trademark Side, in the Special Taskforce that does this investigation. We are not handling the attorney investigation. We're sending that over to the Office of Enrollment and Discipline. Once it goes over to the Office of Enrollment and Discipline, then it's out of our hands and they're doing the investigation. Next slide, please.

But while it's a black hole, once this -- and it's in OED, some things have popped out, after their investigation, and I wanted to

share those. So, here are U.S. Licensed Attorneys who have entered into settlement agreements with the Office of Enrollment and Discipline because it was found that they were not meeting their obligations under U.S. Rules of Professional Conduct and Practice. Most recently, of course, in December, we had two attorneys who went into settlement agreements. You can see these settlement agreements, and you can see what activities were contained in that, as being problematic in these agreements. If you go to the link at the bottom, you can search for these particular names.

There are cases that are still at Office of Enrollment and Discipline that we don't know about because, like I said, it's a black hole. Some may go into litigation, some may go into settlement agreements, and some may be, after investigation, that there is no issue. But I did want to focus that I've heard, over the last couple -- year, that attorneys, good attorneys, are very upset with those attorneys who are not following the rules. And I just wanted to assure you all that we are definitely taking action on

that, whether it's Trademarks or whether it's the Office of Enrollment and Discipline. We're on it, and we are -- we're looking at this issue very carefully.

Okay, I want to go to the next slide, please. So, the administrative sanctions process, I've referred to that. Of course, the Special Taskforce investigates. And I think you might have seen in the press, recently, that after that investigation, we will issue a Show Cause Order that, if we find what we think we find, that identifies the information that we're relying on to say that a particular respondent is violating USPTO rules. There seems to be an intent to circumvent the rules. And certainly, the rule violations are problematic. We wait for the party to respond, and a lot of times they don't, and then we might move to an Order for Sanctions, where we will determine which sanctions that we should impose. And the sanctions that we will impose will depend on the evidence that we're looking at. And next slide, please.

The options before us are to strike a particular submission to terminate the

proceeding, in the case of an application, that is abandoning the application altogether. We can prevent a -- preclude a party from submitting documents. So, if you have an unauthorized practitioner who continues to show up in files, we can take their -- all of their information out of the file and block their USPTO.gov account and try to figure out whether -- when they create a new one, if we can, to block those. As I said, we refer practitioners to OED for investigation, and you can see that they're definitely working on this issue. And again, we can block USPTO.gov accounts, but, of course, it only works to block USPTO.gov accounts if they can't make new ones. ID verification, there we go, right? Okay, so, next slide.

So, here, I wanted to highlight our recent Administrative Orders. So, we just issued one three days ago, Sanctions, and this is the Pakistani filings, filing, website filing, and to -- oh, the -- it's horrible, right? It's about 40 different websites, and there are more, where they are defrauding customers, they're defrauding the USPTO. If you go to this webpage,

it's -- if you go to USPTO, Orders of the Commissioner, Sanctions, you'll -- you should find it if you just search in Google. You should be able to find it pretty quickly. You can read the PDF, the Order. You will see what the scheme is. It's pretty awful.

Now, what's really awful is that we terminated 5,500 applications and sanctioned -- of those, were about -- 70 were registrations. That's the horrible part. Most of these were U.S. applicants who were just absolutely defrauded by these companies and lied to. Their email addresses were not included in the applications. So, they never heard anything from us. And these website operators would doctor the correspondence that was sent to them, inflate fees, just horrible, horrible things. So, we are not happy about this. But we really felt we had no choice. These were fraudulently filed, fraud, I'm using the word, fraud up and down, anything that issued from us would have been invalid. Anything would -- that issued from us, after all of that, would have been unenforceable and worthless.

So, if you see, we issued the Show Cause Order on this in November, and we had -- went ahead and, you know, leaned really far forward and put on our website, just refile. If you are subject -- if your application number is in here, just refile. Start over. If you try to argue with us and try to cure submissions and all that sort of thing, it's just going to make -- you know, delay you in refile, and you really need to refile, and you need to get better counsel, not rely on one of these low-cost filing firms that's lying to you.

So, we wanted to, you know, make sure that we had lots of information up on our website to guide these affected applicants. We are -- we have put together a video that we're going to push through Instagram and social media to try to get the word out to anybody who wants to use one of these firms, that you should not do this, and we want to make sure that we are providing as much support as we can to the affected applicants. But it's -- you can see these numbers are very high, of these applications that have been terminated. We're not happy that this is where

we are, but it doesn't help anybody for us to continue prosecuting applications that are invalid and that are fraudulent. So, it's a sad day for us, but certainly, it's something that had to happen.

Now, I want to speak a little about -- I have a few minutes left. I have to speak a little bit about what we're doing and how it's impacting good faith customers. When we're doing these investigations, we are having to suspend these applications while we investigate. We are creating a machine, the Fraud Investigation Machine, and putting, piece by piece, putting this thing together. It's slow-going. I have been working on it since a year ago, when I started, and it's really, really difficult to try to get the resources we need to deal with the breadth of these investigations. So, you heard Dan talk about those TM Flex contractors. These are fraud investigators. We're bringing them in, and we're teaching them our systems, and we're saying, hey, here's a suspicious filing, track this email address through all the filings, track this IP address through all the filings that we

have, find ones that are related, let's put them all together, put them in a holding docket while we figure out what -- we're gathering evidence, and see whether we need to sanction somebody, whether we need -- there's some filing firm, some schemer, some scammer, who's behind all of these, whose fingerprints are all over it. And when we build that case, and when we build that evidence, then we go forward with a Show Cause Order. But in the meantime, these are suspended, and they're blocking you.

So, what is my goal here? To be as transparent as possible that something is suspended and why. You might have seen a Federal Register Notice that we issued not long ago about our Administrative Sanctions Program, and it's designed to tell you what to look for in TSDR, if something is suspended for an investigation or if something is terminated after an investigation in a Final Order for Sanctions. We want to create transparency, so you know what's going on. Next, we want to move these things through faster, so you're not blocked. You don't want to have to file an opposition. You don't want to sit there

and try to file a Letter of Protest, try to figure out -- you don't know how to get this thing gone. Do you have to file a Reexamination or Expungement?

I know what you're facing. I'm trying to get these things through as fast as I can. We're building capacity. We're building workflow. It takes a long time, and you can see, every time I turn around, I've got these sanctioned OED -- these disciplined lawyers, who are -- who have been responsible for thousands of applications. Well, now I have to look at all those applications and figure out where -- how many rule violations are we talking about? Are those invalid? So, you can see, every time something pops up, it creates this huge thing that we have to then go in and look at very carefully. We're not going to just invalidate things. We want to do the investigation and prove the case. So, I got an email in the TPAC@USPTO.gov box, what do we do about these suspended cases? We're moving as fast as we can to get them through and get them out of your way. Certainly, that's our goal here. But it does take time. Bear with us.

One more thing, we're going to improve this webpage, this thing where you've got -- that you see on the screen right now. We're going to improve this to make it a little bit more searchable and easier for you to find those Sanctions Orders that are pertinent. The other thing that I wanted to mention, and I forgot to on the TMA, on TMA expungement and reexamination -- actually, let's go to the next slide. Is it there? Next slide. Okay.

As you know, December 18th, nonuse cancellation tools implemented. This is reexamination and expungement. We have gotten 18 petitions so far. We're working on them. It is interesting. There are interesting filings that we knew that everything that came in was going to be a little bit different and not what we expected. So, we have a team of very experienced petitions and policy attorneys who are looking this. I'm on -- I'm in sitting in on these meetings, where we're like, okay, we didn't expect to get this issue, all right, break that down. How do we want to address this going forward? What kind of guidance do we need to

give, going forward, as how we're going to handle this, you know, down the line? There are interesting issues that are coming up.

Although, some proceedings, you can tell that they -- they're at the Board, and they want to see -- file one of these petitions and see what happens.

So, we have to work out suspensions issues and all that kind of thing. So, what is -- all this is to say we need to create some transparency, so you all know what has been filed, and how did we treat it, and then what should you do, going forward? What are the lessons learned, right, from the filings that we've already gotten? We know this. We are building a webpage that will identify the registration numbers of where petitions have been filed, and hopefully, we'll build that out, going forward, so you can see statistics and that sort of thing. Again, it takes time. Sorry about that. But we do know that it is difficult. You can't find these registrations, unless you have the registration number. So, we'll provide that to you. I will be doing a webinar when we have our lessons

learned all worked out. I'm looking at March, early March, for that, so that we can have a conversation with you all about what we're seeing, and what we think works, and what we think doesn't work. So, look for a webpage on that. Look for a webinar on that.

One other point that I want to go back to on ID verification, I said we're going to put out a lot of new coms to try to explain what -- these user roles. I'm going to do a webinar. I'm going to bring in some of my friends, and we're all going to tell you about, you know, how we look at these user roles, and how we're defining them, and take questions at that time. And that should be February timeframe because we know we want to be very clear about what our expectations are. So, from my standpoint, look for improved webpages on expungement and reexamination. Look for a webinar for best practices, lessons learned, on ID verification, on user roles. Look for more coms coming out in the short term. And look for another webinar from us, where we will take your questions. So, with that, that's all I have. I know that was a

lot. Sorry about that. And I took up more time. I took up a lot of time. Sorry about that, guys.

MR. GOODER: That's okay. We're doing fine with time, doing fine. So, any -- Susan, any questions from the TPAC for Amy, at this point, or should we roll ahead?

CHAIRWOMAN NATLAND: I think we can roll ahead. I just want to thank Amy for just everything that you do, everything you bring to the table, your focus. It's incredible. Thank you so much.

MS. COTTON: Happy to do it. Thank you.

MR. GOODER: Yes, absolutely. Okay, next on our list is Greg Dodson, who is our Deputy Commissioner for Trademark Administration, and he'll talk a bit about IT modernization and some other related highlights. So, Greg, over to you.

MR. DODSON: Thanks, Dave. Good morning, everybody. Quick com check. Are we good? All right, I see a bunch of thumbs up out there. Well, great. Morning, everybody. I am Greg Dodson. I am David's Deputy for Administration, and I'm very happy to be here, as

always, at TPAC. It's an exciting time in the -- both on the IT Side in the House and, of course, across the entire Administrative Side of what we do. And we look very, very forward to having just a few moments to kind of highlight the things that we do for the agency and for you, as our customer. So, we're very excited about that.

I am coming to you from campus. I certainly hope that sometime within the next several months we get an opportunity to actually do another one of these meetings with humans, in a kind of a 3D capacity, instead of seeing everybody on the screen. It is really, really nice when we get a chance to actually collaborate and have a collegial session in the downstairs at the Madison Building. So, I look forward to that, and I look forward to seeing everybody again in some point.

All right, so, at the risk of kind of piling on with ID verification, but no horse is too dead to beat, as we used to say when I was in the Air Force. Let's switch slides, and let's talk a little bit about ID verification from a technical and process perspective. So, as Amy

noted, on the 8th of January, we opened this capability up for a voluntary use. We've been very, very excited, so far. You can see, as of yesterday, we were just a little over 7,000. I can give you the updated numbers, as of 9:00 this morning. We've had 7,653 individuals proof themselves electronically. As Amy noted, from the Sponsorship Perspective, we've got 2,153 Sponsored Identity Verifications, 120 paper, using the process that the Patents Folks use, through the Electronic Business Center. And then finally, for those of you that are dual role attorneys, 10,500 patent attorneys have automatically been migrated over into our database and are ready to go, and that includes every, with a capital E, every attorney who made a Trademark filing in the past, in the past two years.

So, we're really working through this process well, and we're excited about that. You know, it goes without saying that this is a -- it's a collaboration with our vendor and certainly with our folks on the IT Side of the House within the CIO to be able to get this process engaged and

involved, and we're really excited about that. Just kind of as an, oh, by the way, about 10 percent of the users that are going into the electronic process are, for one reason or another, abandoning. And we anticipated some of that. And then 13 percent, thus far, are being pushed over to the Trusted Referee for any number of reasons. And we can unpack that at some point in the future, if that becomes something that people want to know.

And then finally, as, well, as Amy mentioned, in April, on the 9th, we're going to go to a mandatory verification. So, if I could do one thing for the public, it is to please, please, please, kind of get ahead of the bow wave and get your application, whether that's electronic or on paper into the USPTO to get your identity verified. You don't want to be waiting until the bitter end right there. Okay, next slide, please.

As Amy noted, phase three authorization, we're targeting for the fourth quarter of this fiscal year or early in FY '23. And as Amy noted, there's a critical dependency

from our role-based access control model that we're using, the capability that we're using right now. We're switching to a Vendor-Supplied Management Program, and that's going to be supplied by our friends and colleagues over at Okta. And then, of course, of course, as Amy mentioned, her team is going to host this webinar in -- I think she said in February. So, we're looking forward to that. We did have, for those of you that participated, and I think right now, we -- we certainly had the most well-attended webinar in the PTO, over in 2021. And I think we're kind of -- we're pretty close to having the most widely viewed webinar that the agency has ever put on. We did that in December, the -- on December 14th. We were very happy to host that. And we talked about the mechanical component of that, and then, of course, Amy and the critical next step to do the part that they're going to do for Who's Who and What's What.

All right, so, next step -- or next slide, please, for this. All right, just a few other business highlights that we want to quickly talk about. We mentioned at the last public

meeting that, through the great support of our CFO, Jay and his team, and the support of Dave, at the Commissioner level, we were able to get a little bit more money into the process, and so, we were able to plus up our Production Teams. And that kind of fulfilled David's goal to, the Commissioner's goal, to intensify the IT process, and that's exactly what we're doing. So, that increased and accelerated workload was starting to show really positive gains, and we're excited about that. And that allows us to be able to continue our focus on that outstanding work that remains from the Trademark Modernization Act, as well as an equally important moving away from our legacy/classic capabilities into our next generation capabilities.

We're very excited about our image searching capability. We demoed the tool to the Commissioner for Trademarks and his senior staff on December 16th. Many of you know that's a collaboration between Accenture and Claravay. And we're looking, hopefully, to get that on our external website in the very near future to be able to get that thing going. And it should be

highly beneficial to a lot of our customers out there. It gives you -- it's going to give you a much greater capability and capacity to be able to look at things right up front.

And then, as Dan noted, the business process analysis, we are looking, as he mentioned, and he was right on the dates. We're looking within the next couple of months to get the readout from our vendor team on that. This started out as a much more scoped effort, and then as we kind of started to kick over rocks, we realized that there was a lot more fertile ground to be able to look at. This started out as, what could we just automate? Now, we're looking at all of that white space that exists across the workflow and those places where we could kind of squeeze that capacity better and get some more work to help our customers out, as we go forward. So, we're looking forward to that. And as David mentioned in his conversation earlier about all those different things that we're working on, this is one of the big cogs in that process. So, we're looking at making that happen. I think that's my last slide. And we are pretty much well

ahead of time, I think, so.

MR. GOODER: I think you had big rocks.

MR. DODSON: Yeah, well, okay, so, just real quick. I did real -- yeah, big rocks. So, what we've done, at the request of the senior leadership within the agency, is to kind of break down, and all the different product lines are doing this, and just as a quick primer for everybody who's out there, the USPTO has four main product lines, from an IT perspective, and we, Patents and Trademarks, as you would expect, are to -- then we have the Enterprise Business Line, which is, you know, the CFO, the HR, our folks within the legal community on the General Counsel Side, all the other business units, and then finally, the critical infrastructure that underpins all of the work that we're doing. And so, at the behest of our wonderful CIO, Jamie Holcombe, who's going to entertain you right after the break, Jamie asked us to get together and kind of figure out big rocks for all of the different product lines. And so, what Glenn Brown and his team of intrepid warriors down on the IT Side, working with our -- their colleagues

over in the CIO, this is kind of the breakdown, which is the examine -- the examination tool modernization and TMA phase two, or the Trademark Modernization Act phase two, modernizing the Trademark filing experience, so taking Ts and Ts-I into the next generation and working that process.

And then finally, for those of you that are familiar with the term TRAM, the acronym TRAM, Trademark Reporting and Monitoring, that is the mainframe capability that kind of really sets the foundation for all the IT capability that we have on the Trademark Side. We are looking very forward to retiring TRAM. TRAM's been with us for 40 years, so, it's at least 10 years, maybe 20 years, past a normal retirement date. Just like Dave showed on that original slide, TRAM is one of those that you just can't get rid of because they just love working here. And so, you know, we've got TRAM around. We want to try to get TRAM retired, and so, we're working to get that done, and we're looking at trying to do that in calendar year 2024. But as you can well imagine, a system that's been around for 40 years, there's an awful

lot of workflow that's buried in there, and we've got to get that done. So, that's our IT big rocks. So, and now, I think that's the end of my slides, if I can check that real quick. In fact, it is. So, thank you very much again. Happy New Year, everybody. And I'll be available for questions at the end of the presentation. So, thanks. Bye.

MR. GOODER: Thanks, Greg. Susan, any questions from TPAC, at this point?

CHAIRWOMAN NATLAND: I don't think so. I think we can move on.

MR. GOODER: Okay, sounds good.

CHAIRWOMAN NATLAND: Excuse me. I see Adraea has a question.

MR. GOODER: Yeah.

MS. BROWN: Yes, actually, I just had a quick question for Greg. Just going back to the image search, I think you said a timeline. I was just trying to remember, what's the expected timeline for the rollout of the image search? Unless he already went away.

MR. GOODER: I don't think so. He should be there. Hey, Greg, are you there? All

right, we'll get you an answer to that here in the next little bit, and it's a good question.

Thanks, Adraea.

MS. BROWN: Yeah, no problem. He was excited about the break.

MR. GOODER: Yeah, exactly. Exactly. Any other questions from TPAC? Glad to hear your microphone working. That's great.

MS. BROWN: Me, too.

MR. GOODER: Okay, yeah. Okay, so, at this point, we're a little bit ahead, and so, I wanted to introduce you to Jay Besch, who is from the Union that represents the Trademark Examining Attorneys. And Jay wanted to make a couple of comments. Jay?

MR. BESCH: Yes, thank you, Dave. I just wanted to, you know, acknowledge the Union. It's always a great honor to represent all of these attorneys. And our numbers do keep on growing, so, I'm representing more and more people every year. But they do a great job. They've been so dedicated over this pandemic, the response to all the challenges we've been facing with the surge, and the, you know, the bad filing

behaviors, and everything that's been going on. They've been doing a remarkable job. And, you know, with those numbers that they keep on -- you know, with pendency and the quality numbers, I -- you know, they're doing a fantastic job, and I just wanted to acknowledge them, and say what a great honor it is, and how much -- and how important their input is to everything that happens here at the office, and, you know, I think it's really a huge honor for me to be able to represent their views. And I can't do it without them giving me the information and being able to pass it onto you. So, that's all I had to say, but thank you for giving me the time to say that.

MR. GOODER: There we go. Thanks, Jay. Okay, at this point, Harold Ross, are you on? We've got a -- just a couple of minutes. I don't know, Harold, if you're on, if you wanted to say anything? I didn't -- I haven't been able to look down the long list here. Okay, I don't think so. So, at this point, I think we're due for a break, and so, I think that break is 10 minutes, and it is just right at 11:45. So, we'll see you back here in 10. Thank you, everyone.

(Recess)

CHAIRWOMAN NATLAND: Welcome back, everybody, from the break. I hope you had a chance to get some water. We're going to move on to the next part of our program, which is an update from our favorite Chief Information Officer, Jamie Holcombe. Over to you.

MR. HOLCOMBE: Good morning, everybody. How are we doing this fine morning? I'm very refreshed after a break. This is outstanding. I will be followed by Lisa, our new Point of Contact and Manager for all Trademarks at the CIO. Lisa has a storied career. I'll let her introduce herself.

But I just wanted to say that I'm very happy with what we've been doing lately in the CIO. If you didn't know, the entire enterprise reacted to the Log4j vulnerability in a quick and efficient manner, such that we were only down for 12 hours, and it happened to be in the evening. So, that really worked out well for us. We were the first Government Agency to act in that regard. Two days later, the actual DHS CISA, the Cybersecurity Infrastructure Security Agency

issued a Management Directive that all of us had to, all the agencies throughout the United States, had to conform and remediate this vulnerability.

We did it before everyone, and we did it very well. Now, that's just to say that we're always diligent. We're not saying that we're completely not vulnerable, we are. We are always out there pursuing and making sure that we mitigate and minimize the exposure that we have. And so, with that, I wanted to turn it over to Lisa, give a short introduction, and then start with the specifics about the great work we've been doing in Trademarks.

MS. HILTON: Good morning. Coms check, can you hear me? All right. Good morning, welcome to the TPAC Committee members, the public, and thank you, Jamie. I'm Lisa Hilton. I'm the IT Program Manager for the Trademark Product Line. Today, we're going to talk a few things about how CIO and Trademark Business has collaborated and the things we're doing. Next slide, please.

So, I'm going to echo what the business

leaders from Trademark Business have been discussing this morning. And that is the Trademark Modernization Act. During the last quarter, the CIO in conjunction with the Business Line has implemented the Trademark Modernization Act phase one. And that is integral because we are not just a CIO Tech Team, that's working in a vacuum. We are working as collaborated teams.

The Business Line is leading that effort. Our technical teams are working, and matrix teams, and we're ensuring that not only the development, the integration, the testing, the implementation is a concerted effort across the Trademark Product Line. And that lends to the success that we've had, in December, of implementing that initiative with little to no issues. And we continue to move forward with phase two, as requirements are identified, the teams plan the out, and fit them into the schedules, that these product lines are working on to implement the products at Trademarks and for the USPTO.

The second item is we implemented the ID verification, for all the TEAS public users in

January. That team worked, through the last quarter, to get that code in place, open it up, make it available, and then, in January, we just flipped the switch to turn it on. Again, that was another effort across the Product Business Lines, leading that, along with the CIO and the technical teams, to ensure that that product was a success. And as Mr. Dodson mentioned during his presentation, mine shows as of January 19th, he showed as of today, the filings and things that have happened using that identity verification.

So, again, I wanted to say, great job to the team, to the Trademark Business Line. And these are just some things that Trademarks and USPTO is doing to ensure that our customers and the public receives quality systems, and they are able to file and do everything they need to do, when they're working with the USPTO.

The third item is we implemented a new monitoring tool. This monitoring tool allows us to -- the ability to address applications and system errors in -- on the fly. It allows us to bake in monitoring, catch issues, resolve them while we're developing. So, by the time we move

to production and implementing items, a lot of issues that normally would be found in production are found during the development stages. It also allows us to scale at real time. If there's issues in production, this monitoring system allows us to ramp up or ramp down, in the cloud, items that helps us to ensure that Trademark systems are up and available for our customers. Next slide, please.

And to continue with that, in our resiliency model, our teams in the Trademark Product Line were able to complete their DevSecOps Pipeline. These pipelines helps our development process, helps us to be able to implement, without downtime, for our customers, and just creates a tighter knit system that is a value for both PTO and our customers, at large. The last thing, as Jamie mentioned to you, is the remediated Log4j.

Just understand that during that last quarter, our teams were implementing TMA. Our teams were implementing the TEAS updates, and along with that, they did not skip a beat, into doing the analysis it took to look up anything

that could be vulnerable to Log4j, test that, implement it, in a matter of days. So, this is a testament to Trademarks, not only CIO, but Trademark Business Line, as well, as we continue to work together as a team for the benefit of the USPTO. That is my update, and I want to thank you all, and have a great rest of TPAC. Thank you.

CHAIRWOMAN NATLAND: Thank you so much. Jamie, is there anything else from your team?

MR. HOLCOMBE: No, I -- for the benefit of everyone else, you know, I'm always available for questions, and I don't know if we're going to do that now or later. But I always find that engagement is the best form of communication, and so, if anybody has -- they can reach out to me now, or they can reach out to me later. We want to make sure we're an open book here, transparent and collaborative.

CHAIRWOMAN NATLAND: Thank you. Any questions from any of the TPAC Members, who are on, at this point?

MR. ENNS: This is Rod Enns, Susan. And I did have a question for Jamie, if I could?

I think it would be interesting to the public, who's viewing, to hear a little bit about the plans of moving the hardware support to the cloud. Right now, and I think, we saw earlier, a reference to the TRAM System that is getting very long in the tooth. And could you just say a few words about what the plans are for that transition?

MR. HOLCOMBE: Sure I could. Thank you so much for the opportunity to discuss our great plans for the future. Not only are there plans, but we have results right now. Over this past summer, we actually shut down our old backup facility, in Boyers, Pennsylvania, and we opened a new facility in Manassas, Virginia, in the new Data Center Fields that have been occurring throughout the Northern Virginia area.

This is a brand-new, state of the art, very secure building, and we're transferring all of our Backup and Alternative Processing Center to this Manassas Data Center. So, we'll have the headquarters, which is Alexandria, and Manassas, as our two primary and back-up data centers. Now, we want to get to a hot, hot operation, where

both are doing at the same time. We're not there yet, due to the supply chain issues in the economy.

We have not received the networking gear, nor the physical servers that we require. But I'm understanding that it should be shipped within the next two weeks. So, we've been patiently waiting to set up and do all that work. Now, that doesn't stop us from also going out into the cloud. We have the vision to have a multi-hybrid cloud infrastructure, where we're refactoring our code behind the scenes, and putting that modern code out there, in the cloud, at AWS, Amazon Web Services, Microsoft Azure, and Google Cloud Platform.

We currently have about 26 different applications in the AWS Cloud. We have two applications out there in the GCP Cloud. So, what we're looking for is an integrative point, where we don't have a large data center, most of our infrastructure is outsourced, and we can take advantage of the new internet technologies. So, I hope that provided a little view into our vision for the future.

MR. ENNS: That's great. Thank you very much, Jamie.

MR. HOLCOMBE: My pleasure.

CHAIRWOMAN NATLAND: Okay. Well, thank you so much, Jamie and Lisa, for that excellent report. Very much appreciate it. Commissioner Gooder, did you have a comment?

MR. GOODER: No, just to say I think Greg is back, connected, if you wanted to loop back to Adraea's question, before we move on to OPIA.

CHAIRWOMAN NATLAND: Let's do it.

MR. DODSON: I am -- I'm sorry, everybody. When I clicked off my microphone and my camera, I got sent into the audience. So, I could hear, but I couldn't talk, and so, Adraea, I will buy a new motorcycle. As a longtime Harley aficionado, I'll buy a new motorcycle, and hopefully that will make amends.

So, anyways, all right, great. So, I think the question was, when can we anticipate the image searching capability to be available? Was that it?

MS. BROWN: Yes, that's it.

MR. DODSON: Okay, awesome. So, yeah, so, here's the process that we normally follow. And I'll try to just quickly tell the time and not build the whole watch. So, this is kind of the way it's going to work. When I mentioned that, on the 16th of December, David and the Senior Management Team, within Trademarks, was given a demonstration, that demonstration of the capability was utilizing Clarivate's server process in their infrastructure, right, because we've got to do some security and some cyber issues, that Jamie's team handles. For those of you that are -- know what -- haven't heard of the Fed Ramp Process, you can look at it. But we've got some work to do there.

What we're hoping is that, within the next two or three months, a quarter, about the end of the next quarter, we're hoping to have that capability resident within Jamie's infrastructure process. What we will do, at that point, is then, as the members of the TPAC Team know so well, we will reach out to them, and we'll do some testing internally, and then we'll reach out to the TPAC Team, and we'll do a very limited

beta to make sure that that capability looks and feels and acts like we need it to.

And then, we'll expand that beta to a larger group. Typically, what we do is we leverage Amy's Rolodex records, and we'll reach to INTA and AIPLA, and some of our trusted and known customers, and we'll get feedback from them. And then, you know, what I'm looking -- what we're looking at doing is, hopefully by the end of the fiscal year, that's our goal, we would have that capability open and available for external customers to use. Does that kind of cover it?

MS. BROWN: That answers my question, okay.

MR. DODSON: All right, fantastic. I'll go to the Harley Store this weekend, if it's not a blizzard and get a new bike. All right.

MS. BROWN: I might hold you to it, Greg.

MR. DODSON: Thanks, everybody. Sorry for the snafu. Bye, thanks.

CHAIRWOMAN NATLAND: Thank you, Greg. All right, anything else before we move on?

MR. GOODER: Okay, I think we're good.

CHAIRWOMAN NATLAND: Okay. Okay, excellent. So, the next portion of our meeting is going to be an update from the Office of Policy and International Affairs. So, I'd like to welcome our Chief Policy Officer and Director for International Affairs, Mary Critharis.

MS. CRITHARIS: Good morning, well, maybe good afternoon, everybody. I just want to make sure you can hear me? I had a little trouble logging on. Okay, great, fantastic. Well, thank you very much. It's a pleasure to be here with you today. And I want to thank you for serving on TPAC, and for your commitment to the USPTO, in ensuring that the U.S. remains the World's Gold Standard on Trademark Law and Policy.

As is typical, OPI was very busy this quarter. And you'll hear a lot about our engagement across the globe, as well as our focus on addressing some of the emerging technology development and their potential impacts on Trademarks rights. In a few minutes, I'm going to turn it over to Nancy Omelko and Brandon

Ritchie. But I did want to take this opportunity to share a few OPIA highlights.

First, like Jamie mentioned, I think engagement with our stakeholders is really critical. So, as we develop, and strategize, and prioritize the upcoming year, especially on, you know, engaging more with WIPO. There is some new leadership there. We want to leverage that opportunities. We want to make clear to you, please, please reach out to us. Your input is so invaluable, as we formulate and shape our priorities. So, please don't hesitate to reach out to me, or Nancy, or Brandon with ideas and concerns that you're having, across the globe, because that's the best way for us to help you address those.

Along the lines of, you know, enhancing communication, OPIA has issued a new communication tool, called the OPIA Bulletin. And one of the reasons why we did this was we know that a lot of our members, our stakeholders, are really busy, and while, you know, they follow a lot of these developments, it's a little bit challenging to really keep up to some of the

global developments and the legislative developments. So, our first issue, this Bulletin went out in November, and this really focused on the WIPO General Assemblies Meeting. I know people hear about this, but no one -- a lot of people are very confused on what happens there. There's a lot of reports. All the materials are on WIPO's website. But what we did was synthesize the materials, and we put in a two- or three-page bulletin, highlighting some of the key issues there, that affect stakeholders.

And it obviously includes not just Trademark issues, but I think a lot of them are cross cutting issues, issues related to fees, how fees are being spent, translation issues, that cut across all the different disciplines are highlighted in that. So, I just wanted to share that with you. We make that available to the public. But I just wanted to let you know that we'll be having more of these bulletins, and they will be focusing, some of them, on some of the Trademark developments.

The other thing I wanted to just highlight, from an OPIA structural perspective,

is we have kind of reorganized the office a little bit. We now have a dedicated Co-Lead, along with Nancy, to address more of the domestic issues. In the past, you know, we've always focused on domestic and international issues. But we've seen, over the years, that we've got increasing volume of work, and we wanted to make sure that both areas are getting, you know, sufficient attention.

So, we have Team Leads for domestic, as well as, international issues. This is across the board for OPIA. So, for all of the IP disciplines, there will be Co-Leads, so that we can make sure that we can best address some of the developing domestic trends, as well. And with that, I'm delighted to introduce Branden Ritchie. He's the new Senior Team Lead for Domestic Policy at OPIA.

Branden comes to us with a wealth of Trademark experience. He started his career as a Trademark Examining Attorney, but he has spent over 20 years on the Hill. He most recently served as the Chief Counsel and Deputy Staff Director for the House Judiciary Committee, where

he oversaw the committee's legislative work and has shepherded hundreds of bills through Congress. He left the Hill, back in 2018, and served as the Director of our Office of Government Affairs at the PTO. And now he has rejoined us, back as the Senior Trademark Attorney for Domestic Issues. So, with that, I'll turn it over to Nancy and Branden to give you more highlights of our recent work.

MS. OMELKO: Thanks, Mary, I'm going to start. I'm Nancy Omelko. I am the Senior Trademark Counsel for International Policy. And our team now has, I believe, 11 members. So, we hired two recently, one from the Private Sector, and one from USTR, the U.S. Trade Representatives Office. So, we have expertise around the agencies, as well as the input from private practice. So, we're very happy with our team.

We're going to be talking today about five topics. Our Trademark Team really deals with both Trademarks and international issues, such as geographical indications, as well as ICANN, and we work at the World Trade Organization, and WIPO, the World Intellectual

Property Organization, and we have meetings with the other big Trademark offices, the five -- four others, us being the fifth one, China, Korea, the EU, Japan, and us. So, TM5 is going to be part of our slide set, and then Branden is going to be talking about Trademark labeling restrictions, that are coming up, and also training that we're involved in. So, let's start with ICANN. Next slide, please.

This is the Internet Corporation for Assign Names and Numbers, and there are a lot of activities that go on here. These are meetings that are held many times a year, and much of it is accessible by the public. And most of these have been virtual meetings because of the pandemic. So, this is a list of what is being discussed. One is access to and disclosure of the (inaudible) who has domain name registration record, as long as it's for legitimate reasons. Also, the final report on Rights Protection Mechanism for new generic top-level domains, and there is a study going on about subsequent procedures for new generic level, top-level domains. And there's going to be a new set of

these coming out in 2024, at least that's the expectation. And then also, the Intergovernmental Organizations Work Track, in evaluating the public comments on an initial report for protection of Intergovernmental Organizations names and acronyms. That's coming up for a final report, as well as review of the Uniform Domain Name Dispute Resolution Policy, UDRP, sometime in 2022.

So, as I said, there's -- these are ongoing and they've been ongoing for quite some time, and continuing work is being done. And we have two experts on the Trademark Team, who attend these meetings, John Rodriguez and Susan Anthony. So, if you have any follow up questions, we'd be happy to send you in their direction. And there will be a virtual community forum held March 7th to March 12th of this year. Next slide, please.

The two major organizations that we work with are the WTO, the World Trade Organization, and the World Intellectual Property Organization. The World Trade Organization, it's in the name, is really concerned about trade. But both Trademarks and

Geographical Indications fall under the subject matter of these intellectual property rights that are also affecting trade. We have patents, we have copyrights, industrial designs, and so forth. So, this is an area where the USPTO has provided an attaché to attend these meetings, in person, and they are actually living in Geneva. We have one that just started recently. And they go to the meetings for these trade negotiations having to do with Trademarks and Geographical Indications. And this year, at the WTO, the U.S. Government is coming up for review of its laws.

And so, this is a process that takes months, and finally, I believe it's in June of this year, there will be a hearing where all the other 163 countries of the World Trade Organization can ask the U.S. Government questions. And these include questions on Trademarks and Geographical Indications. And so, we will be helping the U.S. Trade Representatives Office prepare for that.

And then also, we have the World Intellectual Property Organization. As Mary mentioned, the assemblies are held every year.

This year they'll be held earlier, in July, and so, we will be participating in those meetings. And then there's also the Standing Committee for Trademarks, Industrial Designs, and Geographical Indications. A lot of work has been done on industrial designs, and so, a Patent Team Member, Dave Gerk, goes to these meetings, along with a Trademark Team Member, and participates in those types of discussions.

So, there is one scheduled for March, late in March, and there are also information sessions, that are held on the sidelines of these meetings. One will be talking about examination of Geographical Indications, which the U.S. does, similar to its Trademark Procedure for Examination. In fact, it's in our Trademark Law. So, we will be touting the transparency and due process of how we examine and protect Geographical Indications. And then, there will be a second meeting in November, later this year. Next slide, please.

And then TM5, I mentioned earlier that there are five large countries, the largest Trademark Office countries, that participate in

this. The meeting was held in November of last year, and two new projects were approved, one, Oppositions and Appeals at the Board, and, also, archiving Trademark records. So, we'll be touching base with the Trademark Trial and Appeal Board to get some input for that. And then the EUIPO is the 2022 Secretariat. So, we switch Secretariats every year. The mid-term meeting will be in Alexandria and in Washington D.C., close to the INTA Annual Meeting, and then Mid-Term User Session will be in May of 2022. And now, I'll hand it over to Branden.

MS. FREDERICKS: Nancy?

MS. OMELKO: Yes.

MS. FREDERICK: So, a question came up yesterday and I wanted to confirm, the TM5 Meeting in Alexandria --

MS. OMELKO: I'm sorry, I'm having a little trouble hearing. Yeah, can you repeat that?

MS. FREDERICKS: I will see -- I can try to change microphones, if you still can't hear me. Is this better?

MS. OMELKO: I can see you, but, yeah,

you're just a little soft. But maybe I can turn off my mic, maybe that -- that would work.

CHAIRWOMAN NATLAND: Sorry, maybe just try to speak super loud, like --

MS. OMELKO: Okay.

CHAIRWOMAN NATLAND: -- and we can probably hear you.

MS. FREDERICKS: Yes. Can you hear me? I'm going to try to switch microphones, if I can figure out how to do that. I was asking, do you know if the TM5 Meeting in Alexandria is going to be all in-person, or if there will be a virtual component, as well?

MS. OMELKO: You know, I will check with Lee Lowery and get back to you, Jomarie. I think it's expected to be in-person and possibly have a virtual component, as well. But, you know, we still don't, with the pandemic, you know, until the very end, whether it's going to be available virtually or not. But I will have Lee answer that question for you.

MS. FREDERICKS: Thank you because it can up in some discussions yesterday. Can you hear me better with this microphone?

MS. OMELKO: Yes. Yes.

MS. FREDERICKS: Perfect. Okay,
thanks.

MS. OMELKO: Okay, thanks. Branden?

MR. RITCHIE: Okay, well, thank you.
We can go to the next slide. It's a pleasure to
be with everybody today. So, one thing that the
Trademark Team has been monitoring is this trend
in some countries in the Western Hemisphere,
particularly South America and Central America,
to enact laws to protect health and safety in food
products. But the mechanism that they're using
to do that is to restrict certain types of
Trademarks. And we're seeing it with respect to
laws in these countries that deal with foods that
contain high fat content, sugar, or caloric
content.

And in a previous life, when I worked
on the Hill, this issue came up, first, with
respect to tobacco products, and, you know, as I
think most folks here would recognize it as the
plain packaging requirements. And back then,
we -- you know, my old boss, we did letters to
other countries, and we said, you know, this is

a dangerous precedent. It's a slippery slope. What's going to be next? Alcohol, high sugar, or fat content. Everybody laughed at that one, back then, you know, and here we are today.

So, specifically, Chile passed a law in 2018, Mexico, in 2020, Argentina, most recently, in 2021. What are some of the examples of things that are prohibited? Well, first of all, one of the major pieces of the law are that they -- that companies need to put black stop signs on the products. These stop signs take up a good portion of the packaging, in some cases, depending on the size of the packaging. And so, we're hearing that companies have to adjust their packaging to accommodate those. But the Trademark-specific restrictions deal with the following types of content.

So, any logos that feature children, cartoon characters, or animated characters, prohibited. Any trademarks or logos featuring athletes, celebrity endorsements, pets, prohibited. Trademarks associated with games on boxes, or digital games, digital downloads, also prohibited. They -- all those things are

prohibited. So, you think, Tony the Tiger, you think lots of examples, where a company would not be able to use their Trademarks. We're monitoring this very closely, and Jen Chicowski, on our team, is one of the leads on this. So, we've been monitoring -- we want to hear from stakeholders. We want to hear if you have concerns about this, if you're worried about this.

So, please contact us with any concerns you might have. As Mary said, and Nancy as well, we want this to be interactive. Our job -- we can do a better job if we're hearing from folks. So, we'd love to hear from you on this. We're monitoring it, and we'll be in touch, as well. We're going to look at a couple of examples of these -- of the end result of this on the next slide. So, we can go ahead and go to the next slide.

So, here you have, on the left, the typical packaging. If you post these laws, you know, you can see. The one in the middle is the box without the Tony the Tiger logo and things like that. And you can see the stop signs there,

as well. They are for high calorie, high sugar, and other things, and they can accumulate there, you know, up to five or more of these stop signs. But the main thing we wanted to highlight today are the logo restrictions.

And you may be asking, what are these things on the right? Well, I guess the slide indicates it. These used to be Santa Clauses. But under these laws, they can't even have the Santa Claus imprint on the front of them. They kind of look like mummies now. But these started as Santa Claus, they had the packaging with Santa Claus on them, and then here we are, you see the stop signs, and the packaging. They had to take it off, and so, that's what they're left with. So, there -- it's impactful, and we'd like to hear what the businesses are facing, with respect to repackaging, costs, and things like that, and the level of concern. So, we would like to work with you on this. But considering that the last law was passed in 2021, we're very closely monitoring to see if it is going to become a broader trend. So, we can go on to the next slide.

And then the other thing we wanted to

do was just highlight some of the training that we've done from OPIA. We do a lot of training with other countries and regions, and one that we wanted to highlight is the Webinar with Oceana Customs Organization Member States, on Trademark Protection. We also did a Webinar on well-known marks and bad faith, with ASEAN Region Countries. We did a webinar on Trademarks and the Digital Economy, with ASEAN Region Countries. We did a webinar on USPTO Practice, concerning being a classification, and figurative and design elements, with Pakistan. And webinar on three dimensional marks in industrial designs for the Andean Region. And so, that was in the past quarter.

So, we're also looking at -- you know, again, I came on board in November. So, we're ramping up on domestic issues. So, as you see those and identify issues that we should be aware of, we're doing that, as well, proactively. Please contact us because we want to work together with you on all these things. With that, I'm going to turn it back over to Nancy and Mary, and we'll see if we have any questions.

MS. FREDERICKS: Actually, Branden?

MR. RITCHIE: Yes?

MS. FREDERICKS: Branden, this is Jomarie Fredericks, from TPAC. If I could, briefly, before you move on. I have attended some of your webinars. I have found them to be excellent. I did one recently on letters of protest, I think. Is -- where can people find these on your web site, and is there a way that they can be, perhaps, included on an email blast for them? And also, is there some type of regular schedule to them? Like, when can we expect them? Do they come up regularly, or is just when there is something of interest that's being done? You know, I just thought if you could talk a little bit about that, it might help people access them because the ones I have done, at least, are truly great. It seems like you're doing a lot of work in this area.

MR. RITCHIE: Yes, I am the representative speaking today, but I was not participating on these. It was before my time. So, I am going to turn it over to Nancy to answer that question.

MS. OMELKO: I was just going to jump in and say, that, you know, you haven't been here long enough to know this answer. But most of the ones that we've listed here are actually government-to-government. So, usually, before COVID, we would go to those countries and train officials of those governments. So, these are all not accessible. They're pretty, for the most part, pretty basic, and so, you would already know the content of this type of instruction. Sometimes, we get into intermediate, but for the most part, it's very basic U.S. Law and Exam Practice.

But we do have, for our -- the one -- the letter of protest one, there are, I think, Trademark Alerts might go out. Do you get Trademark -- TM Alert? That would be one way of doing it. But we do have -- we'll look into that for you to see if there could be some type of way of communicating what's coming up, that's not government-to-government, not for foreign governments, if that works?

MS. CRITHARIS: And just to add, Nancy, so, you know, we do, even though these are

government-to-government programs, we do, do some outreach. Our China Team does outreach on their road shows, that is more addressed to stakeholders, so, you know, and we do put that on our website. And hopefully those go out in a blast, but, you know, we can do a better job. Perhaps we can highlight some of the, you know, the key programs of the next quarter, at the TPAC Meetings. So, that's one way of notifying, but also, you know, putting out some more, you know, pushing something out more globally, so that people can participate. So, we appreciate that.

MS. FREDERICKS: Thank you so much. Because I do get the get the alerts, and the ones that I have done, as I said, were excellent. But I thought, the more people know about it, the more might want to participate. So, thank you.

MS. COTTON: And Jomarie, just let me jump in. For the ones that are from the Trademark Side, and not the International Side, we do have them on the calendar. They should be available. We do send out Trademark Alerts. And I think Susan raised this a couple meetings ago, we are working to try to make our webinar recordings more

accessible, easier to find. We're in discussion with OCIO and OCCO to try to figure out how to make it a little bit easier for you guys to find the Trademark Side's offerings, and it will take us a little while to get that organized, but we definitely want to make them more accessible. But again, that's the Trademark Side, the letter of protest, you know, webinar that we did for advanced stakeholders. That was our side. OBA is doing, you know, different kind of trainings for, you know, domestic outreach, as to different issues. Just wanted to highlight that.

MS. FREDERICKS: Thank you, so much. I'm sorry to have confused the two. Thank you for clarifying that.

MS. COTTON: It's understandable, no worries.

CHAIRWOMAN NATLAND: Okay. Anything else? Mary from OPIA? Or Nancy?

MS. OMELKO: Nothing from me. We just -- was there a question about the assemblies bulletin? Sorry, I just saw something pop-up in the chat, or was it an email?

MR. GOODER: Yeah, Nancy, it was in an

email, from the mailbox, and it was about the bulletin.

MS. OMELKO: Okay. And so, Mary, I -- maybe this is something that you can address. This had to do with the first bulletin that was issued for the assemblies. And then, I believe there are others in the que that are being worked on. There might have been one for industrial designs or something in the que.

MS. CRITHARIS: Yeah, sure. So, we can -- I'm not seeing that question, but we can definitely share that with the group. We can -- we'll post it on there, and there are -- definitely is one on industrial designs, that's coming up. And like I said, we're also, you know, perhaps going to do one on TM5 and some other issues, but, obviously, if there is some issue that you'd like to have us, you know, share more broadly, please -- again, don't hesitate to reach out to us.

We really want to enhance our communication, and we know that some of the issues that we work on aren't issues that people really focus on, you know, follow a little more loosely.

But I think there are some key developments there, and to the extent that, you know, they interact very closely with domestic practice, we want to make sure that, you know, we're aligned.

CHAIRWOMAN NATLAND: Excellent.

Okay, is there any other questions from the floor? Okay. Well, thank you, Mary, and Nancy, and Branden, on that presentation. You guys are always doing so many things. I know this is just probably the tip of the iceberg, but I really appreciate the report. Thank you so much.

So, we're going to move on to our next section, which is the Office of the Trademark Trial and Appeal Board, and Chief Administrative Law Judge, Judge Rogers, will be presenting.

MR. ROGERS: Can everybody hear me? Okay, good. I'm sure, well, I'm very pleased to see that you still have, significantly, well over 300 people participating in this meeting. So, TPAC is very popular these days. I'm sure at least some of those people will have matters before the TTAB, and I will try to give everyone an update on how the Trademark surge either has begun, or will in the future, affect TTAB filing

levels, and the rates at which we process work here, specifically, contested motions, and trial cases, and the issuance of final decisions on the merits, in our field and our trial cases. And I'll also brief you a little bit about a coming pilot project that the Board expects to deploy later this fiscal year. Next slide, please.

So, I'm going start in a second with this slide, and the next few that follow it, to show you what's been going on during the pandemic, while Trademark applications have been surging, what's been going on at the Board. But the background, before we start on this slide, and the ones that follow, is that for eight consecutive years, cancellation petitions, and in most of those years, oppositions have been increasing.

For nine consecutive years, appeals from examiner refusals have been increasing, not dramatic increases, along the lines of Trademark filing surge, but steady increases, as Trademark applications, even before the surge, have been steadily increasing year over year. And we saw that on a very earlier slide, in Mr. Gooder's presentation.

So, we have the eight or nine year increases, steadily, in all kinds of cases that come before the Board. One year in -- or one in three-year period, in particular, we saw a 30 percent increase in cancellation cases. So, we have had, you know, plenty of work coming into our pipeline, if you will, for many years. And then the question is, how is the surge, and how might the deployment of TMA's new proceedings and possible appeals from those proceedings affect the TTAB's workload.

So, what we saw during the first phase of the pandemic, in Fiscal '20, was filings began to moderate, after this long period of steady increases. So, appeals were still up, at pretty much the same rate, that they were -- had been increasing in earlier years. But opposition declined and petitions to cancel, while still up, were up at a much lower rate than they were during that eight- or nine-year run. Next slide, please.

So, in Fiscal '21, when we were fully invested in the pandemic for the entire year, we saw continued moderation of new cases being

commenced at the Board. Appeals went up very slightly, and much lower than it may have gone up in previous years. And extensions, you're trying to oppose, oppositions, and petitions to cancel, all went down. This may have been a function of economic uncertainty, and a willingness of perhaps less willing -- less willingness to finance trial cases at the Board. But we'll have to see how things go, as they continue. Next slide, please.

So, during the first quarter of this year, this current fiscal year, we saw ex parte appeals drop by almost 15 percent. Now, this is whether you compare it to what we got in the first quarter in '21, or whether you compare it to one quarter of what we got during the entirety of Fiscal '21. Either way you look at it, we're down -- if this rate continues, by the end the year, we will be down 15 percent, in ex parte appeals, and oppositions, which tend to be pretty steady, compared to appeals, and cancellations, they are pretty much about the same as they were, were coming in this year at about the same rate that they came in last year.

Petitions to cancel, though, have dropped. So, these two drops in the appeals and cancellations had me consult with Dan Vavonese, in the Trademark Operations, because I was kind of wondering what was going on with applications that might have influenced these apparent downturns in these kinds of filings. And one of the things that Dan and I were able to discuss is the fact that these plus applications often result in early publications through opposition. So, they don't go to final refusal, as often, and there is less need for filing an appeal, and there may be less need for filing a petition to cancel, and me blocking the registration.

But we also that there was a decline, something of a decline, in the number of final refusals issued. And maybe again, that has something to do with the increased use of the plus filing. So, we don't have any definitive answers, but we will continue to work with Trademarks on analyzing the situation that's going on in Trademark, and what may happen at the TTAB, in terms of cases coming in the front door, so to speak. Next slide, please.

So, this is just an illustration of the quarters for the last two year plus, in terms of new cases coming in, and you can see, on the top line, that oppositions have tended to go up or down, quarter to quarter. And so, that's why I don't put too much stock into the fact that the first quarter of this year saw something of a decline in oppositions and something of a decline in the fields and cancellations. We know we could easily bounce back up again, in future quarters. So, we'll just have to kind of monitor the situations and see how things are going. Next slide, please.

And the one reason why this slide illustrates one reason why I don't get overly concerned about quarter-to-quarter fluctuations. This shows the total balance of all pending cases of each of the three major types that we have at the TTAB. So, oppositions, you can see, have been pretty steady. We have a pretty steady inventory of oppositions that are pending, between 60 -- 5,500 and, say, 6,000, at any point in time, whenever you take the snapshot. Just over 2,000, or so, cancellations pending, at

any one point in time, and just under 2,000 appeals pending, at any one point in time. So, those are pretty steady, notwithstanding the quarter-by-quarter fluctuation. Next slide, please.

So, the things that we focused on in terms of whether we're doing our job properly for our customers who get involved in these cases is what can we do to make sure the things, that are within the TTAB's control, get done quickly and efficiently? And so, for example, in trial cases, there's a lot of the time that a trial case takes to get through our process, that may be influenced by the party's actions. But when contested motions come up in those trial cases, we have control over that. We want to make sure we get them done quickly and allow the case to continue on its path.

And once cases, whether they're appeals or trial cases, have gone through the entire process and become ready for decision, we want to get those decisions out as quickly as we can. So, in Fiscal '21, we got contested motion decisions out, on average, in just under 10 weeks' time,

compared to our goal of getting them decided in 12 weeks or less. When cases became ready for decision by a panel of judges, our appeal decision pendency was just under eight weeks, and that's compared to the goal of getting them within 12 weeks or less. And our trial decision pendency for trial cases, ready for decision by a panel of judges, on average, just under 10 weeks, when the goal is making sure we that we get them out under 15 weeks. At the end of that fiscal year, we were left with 186 cases, which handled motions, and 93 cases ready for decision on the merits. Next slide, please.

We also focus on end-to-end processing time, and in Fiscal '21, you can see on this slide that appeal processing averages between 35-36 weeks, from the time the appeals commence until we issue a final decision. Trial pendency is about a 150 a week, or approximately three years. Again, these are averages. Many cases go much faster than that, particularly ACR cases. But some go longer because the parties are in fist battles over very important laws and create very large presentations. But we have seen that these

average figures have tended to hold pretty steady in recent years. And we try and control all the parts of the process that we can control to make sure that we try and meet these timeframes, not because their goals, because, again, there's always things that parties do, which we don't have control over, but we're cognizant of the processing timeframes. We try to make sure they are as quick as possible. Next slide, please.

And in the first quarter of this fiscal year, we've reduced all the pendency measures, even more than we had in Fiscal '21. And one of the reasons that we're doing this, that we really worked hard to bring down these pendency measures, in the latter part of Fiscal '20, all of '21, and the first quarter this year, is because we know that that Trademark application filing surge is out there, and we are potentially going to see more appeals, and petitions to cancel, and oppositions, as that surge makes its way through the Trademark.

And of course, the Trademark expungement and reexamination proceedings, adverse decisions for registrants can be appealed

to the TTAB. So, while Amy Cotton mentioned earlier that there were only 18 new proceedings pending, so far, we expect that there will be more in the future, and that by this time next year, perhaps, we will be seeing appeals from those proceedings. So, we wanted to get all of our pendency measures down, as much as possible, so that we can weather any storm that may come from the Trademark surge or Trademark Modernization Act at appeals. Next slide, please.

I won't go through all of the slides here because I want to save some time for questions. But I will quickly run through a pretrial conference pilot that we are planning on. And hopefully we will have information up, more detailed information, in narrative form, that you can read and react to, and provide feedback on, on our website, within in the next month or so. That's the goal, at this point. Next slide, please.

This would be a pilot program, as the last bullet on slide shows, that would focus on cases, growing indications that they -- trial cases, of course, that they are likely to create

large, and I say, and redundant or unfocused, or unwieldy record. We're not too concerned about large record cases that are well organized. They don't suffer from redundancy and involve evidence that is relevant to the issues in the case, and hopefully appropriate issues in the case. But when you have a large record, and it's unfocused, and it's unwieldy, and it's presented in poor fashion, it really slows down the Board, and it doesn't do the parties to that case any good either because it just -- I mean, there's a lot of time and energy spent on irrelevant matters. Next slide, please.

So, the benefits to this pilot, and we have the goal of saving time and resources of the parties and the TTAB, that the fostered work, effective presentation of cases, which could become large or perhaps even smaller in size, but unfocused or improperly prosecuted or defended. We will engage parties, eventually, in pretrial conferences and selected cases, and we will strongly encourage them to enter into various stipulations that will make case go more efficiently and dispense with a lot of extraneous

defenses and objections. Next slide, please.

So, some of the things that will lag for us, cases that might be suitable for entry into the pilot, are cases that involve, in excess of claims or defenses, parties or counsel who are unfamiliar with TTAB practice, or proceedings that have just become too contentious with a lot of motion (inaudible). As you can see, the large majorities of TTAB attorneys and judges said all three of these are strong indicators of a case that might need some more close attention from the Board, with the contentious nature of the proceedings the greatest indicator. Next slide, please.

So, during the pretrial conferences the pilot is envisioning, the parties would bring known objections to evidence that they anticipate will be filed in the case. We will encourage parties to focus on objections to evidence that they think that they can win, as opposed to simply making them because they're available, and which might be outcome determinative, in terms of the evidence that remains in the case. And we'll certainly discourage parties from (inaudible).

Next slide, please. So, the parties would come to their final pretrial conference with a proposed order, and a trial plan, and possible amendments to their claims and their defenses. So, all of this would have to be thought about, discussed by the parties, and then discussed with the Board during the conference. And once the claims and defenses were settled, as a result of the conference, that would set the scope for the trial that would follow. Next slide, please.

So, we plan to proceed with the pilot, and experiment, and adjust over time. Again, we can expand the pilot, we can -- the fact that we can do whatever we need to do later on, but we do think this is going to be a very useful pilot. An attorney and the judge will be involved in each of the conferences that occur, as part of the pilot. The judge who participates in the conference will sit on the case at final hearing, for continuity purposes, and the conference would be held sometime after the closing, before pretrial disclosures are due, and, of course, when the parties are involved in this conference, they will not even have to make pretrial

disclosures later on. It will be already discussed in detail, what will happen in that time. Next slide, please.

So, as I said earlier, we'll get information up on our website, including the model form order, that parties would -- could use as a template, and would prepare and bring to the final pretrial conference. And you will see this at our website, hopefully by, say, the end of February, early March, and the solicit feedback from anyone who is interested in providing it, through TTABfeedback@USPTO.gov. And I think we've got about ten minutes left for TPAC to wrap up, or any other questions that maybe emailed to me, or anyone else. Thank you, Susan.

CHAIRWOMAN NATLAND: Thank you, Judge Rogers. Is there any question from TPAC? I have a short question for you, Judge Rogers. I am glad to see those pendency numbers coming down. And I think that's really smart because I agree, you are probably going to see more matters before the TTAB, with the surge. Can you share with us any hiring needs or goals of the TTAB?

MR. ROGERS: Yeah, that's a great

question, Susan. I'm glad you raised it because, as we heard from Commission Gooder earlier in the meeting, the Trademark Operations are staffed by -- you know, at least the Trademark Examining Attorneys tend to stay around and work at the Trademark -- in the Trademark Operations for a long period of time. That's also true at the Board. We have a lot of attorneys and judges who've been with us a long period of time, and we do know that some of them are already eligible to retire, and some are likely to retire, in the coming years.

And with the potential for an increasing case load and retirements, we know we're going to have to staff up. It also takes a while to bring new judges on board because they all have to be approved for entry with the service by the Secretary of Commerce. And so, it's a little bit of an involved process. But we expect to issue vacancy announcements in the near term, for both attorney positions at the Board, and our attorneys handle all the contested motions in our trial cases, and for judges. In this way, we will have at least, a list of -- for qualified

candidates, and then, as needed, we would be able to go ahead and bring candidates on board. And the budget planning for this fiscal year, and for coming fiscal years, assumes that we will be needing an extra attorney or two, or an extra judge or two, each year. If we don't need them, we don't have to fill the positions, and depending on how the retirements go, we'll see what hiring gets done this year. But I expect that there will be some hiring this current fiscal year.

CHAIRWOMAN NATLAND: Thank you, appreciate that. Do we have any other questions for Judge Rogers? Okay, I think we're good. At this point -- oh, did somebody -- I thought heard some feedback. Commission Gooder, I believe we had some questions coming into the email.

MR. GOODER: Yeah, yeah, we have. And, Ken, you can take down the slides, if you want, at this point. Yeah, so, there's -- there's been a couple. One was that someone raised the question of using things like Adobe, et cetera, to sign documents, and whether that was something we were considering or not, et cetera. And I will let Amy talk about that

because it is something that we still are looking at. It's just not as easy a catch as you'd think. So, Amy, do you want to comment on that, just briefly?

MS. COTTON: Just briefly. This was a new issue to me I had not encountered in my first year here, as fraud was more of my issue in Team A. But, no, we've been hearing this a little bit recently. My staff is telling me this is something we've been discussing for quite some time. There are legal challenges. There are technical challenges that we've been exploring. We are moving forward with e-file enhancements, so TEAS enhancement.

So, I think we'll just sort of fold this conversation up into that. Well, the question I was actually going back and forth with and asking for more information, okay, why do you like this, versus this, and that sort of thing. So, you know, if you have thoughts on that, let us know. And certainly, as we move forward with Ts enhancements, I think, we'll just fold that into the whole process. But appreciate the question. It certainly, you know, gets me going again on

this issue. So, we'll look into it a bit further and work with Greg's shop to try to manage the policy and the technical angles that we have.

MR. GOODER: Sounds good. Well, the next question we got was relative to this Process Automation Project we've got, and whether or not -- and if so, when would we be seeking public input? Currently, that's an internal process, at this stage of the work, because it obviously a long path here. But our default mode is really now to seek customer input, both publicly and also via the Trademark and IP Organizations, INTA, ABA, and AIPLA, et cetera. And if there is a change that would have an impact, some of the changes that I'll note, I'll find are internal and they're processed internally in routing and work which doesn't kind of really -- isn't really a useful thing for outside public comment. But so many things, you know, may be.

So, given that we don't know yet what recommendations will come out of the process, we can't -- I can't really comment in more detail until we see that. But just know that, like I said, our default is always to be looking for that

input and making sure that the system and what we might change works as well for customers as it does for us.

The other question I saw was -- it was a question about potential cost savings from moving to an electronic registration certificate. First of all, it's -- when you're printing in mass like that, if you've ever had a big printing project, you realize that the cost per filing, or cost per print is actually fairly low. So, this has never really been about an -- an initiative about how to save money, and it's not. It's not as big as you'd think. Consistent with our business practices, though, we will reinvest savings in one area to help business initiatives in other areas, so that operations can, obviously, can better serve customers, et cetera.

That said, also, as you're aware, something around the PTO for a while, every two-three years there is an effort to assess whether costs are where they should be, reassess, not -- or adjusted, et cetera. And certainly, that's one of the factors that would be factored

in as well, so. Did anybody else on my team have a question that we needed to -- we need to address?

MS. OMELKO: Dave, not on your team, but I do have an answer for Jomarie, about TM5, if I can jump in?

MR. GOODER: Yeah, go for it.

MS. OMELKO: Okay. Lee has responded, so, I'm just going to read her email. The user session of the TM5 Midterm Meeting will be an in-person session that is part of the INTA Annual Meeting. It is our understanding from INTA that it's not possible to have a virtual component during this session, beyond showing prerecorded video messages, in other words, no live interaction. Currently, the sessions will be held at the USPTO, and all other TM5 Mid-Term Meeting Sessions are closed, meeting Sessions that are not opened to the users. We are exploring virtual components for these sessions to accommodate delegates who do not wish to travel during the pandemic. So, that is an update. Thanks, Dave.

MR. GOODER: Great, yeah. Thanks, Nancy. There was another question, and I didn't

realize whether it's you or Branden, about whether or not you've seen any state developments with point packaging?

MS. OMELKO: A state, as in --

MR. GOODER: As in Arizona, Oregon --

MS. OMELKO: -- the United States?

MR. GOODER: -- California, yeah, U.S. States.

MS. OMELKO: Yeah. Branden, have you?

MR. RITCHIE: That's one of the things that I think we're looking into, but I don't know of any off the top of my head, at this point. But if anyone on the call or meeting is aware of those, it would be very informational for us to have that information, as we put together our thoughts and get your thoughts.

MR. GOODER: Okay, sounds good, thank you. The -- I noticed someone has their hand up. The chat is not activated. So, if you have a question, send it to TPAC, TPAC@USPTO.gov. If you can get the question in fairly quickly, we can probably get it answered. If not we'll get back to you, and answer it that way, so.

CHAIRWOMAN NATLAND: Commissioner

Gooder, can I ask a follow-up question, to maybe, probably, Amy, on the Adobe question? How about DocuSign? I've actually had some people want to sign, you know, paper Trademark applications with DocuSign, and not e-sign --

MS. COTTON: Yeah, that's one of the, you know, things that people have brought to our attention. So, we're trying to figure out, okay, what is it about DocuSign that you like better than our e-signature features, you know, what the difference? Tell me what that is, and we can sort of factor that in, as we move forward with the Ts enhancements, but we're looking for -- we'll look for information about that. You know, the -- if our e-signature stuff is not good enough, we need to know why. So, that would be helpful.

CHAIRWOMAN NATLAND: Okay.

MR. GOODER: Yeah. But I think it's a good question. David, go ahead.

MR. CHO: Yeah, Commissioner, you can hear me? Okay, good.

MR. GOODER: And see you.

MR. CHO: Good. Good. Dan, a question to you, if you can. The hiring numbers,

in dealing with the surge and also the current trend, seems, you know, great from last year, where there was so much uncertainty. So, it looks like through these big hirings, you've got a pretty good handle. Do you expect any more hirings with the current projections or anything else you can share about that? Just curious.

MR. VAVONESE: So, yeah, like I said, I mean, we have another 40 coming this fiscal year, in a couple months. We will -- we don't plan on hiring more attorneys this fiscal year. But we do have plans for the next several years to -- for hiring. Now, they hire -- you know, I add similar clips to what we're doing right now. But obviously, we continue to monitor that and adjust, based on any changes see in the projections. But we do have a plan, for the next several years, to continue hiring at these levels.

MR. ENNS: Dan, this is Rod Enns. Could I just ask a quick follow-up on that? Well, obviously, a newly hired examiner can't jump in and be immediately productive on day one. What is the typical lead in time before, you know, from

hiring until you see a meaningful impact on workflow, from a particular cohort?

MR. VAVONESE: I mean, it's hard to define meaningful, you know, because everybody has a different definition of that. But, you know, our -- we bring -- you know, like I said, we bring them into an academy. They spend the first few months in training, and we start getting them adjusted to working on real cases and ramping up at that level. The first three to four months, I mean, they are learning the job, and they are learning -- and they are starting to ramp up.

They are not on production until closer to four to six months, and it's at a little bit of a reduced level at the start. So, you know, again, it's hard to give you an exact answer on that. But, you know, it's usually at about six months, before they're really, really up to speed, you know, at that kind of level. And again, that's at the entry level. Everybody is different though.

CHAIRWOMAN NATLAND: Okay.
Commissioner Gooder, are there any more questions from the public, at this point?

MR. GOODER: We just checked the email box and don't see anything. So, if there are any other follow-up questions, please send them in, and we'll do our best to answer them.

CHAIRWOMAN NATLAND: Great. Well, I just want to thank everybody at the PTO, the leadership, all the support staff, people who were participating and preparing the presentations for today, and also presenting. It was extremely insightful. Also, all the public that attended. As Judge Rogers mentioned, I think it's the highest number, at least I've ever seen, attend a TPAC Quarterly Meeting. So, it's really great to see everybody participating. I do think these meetings are extremely informative, so, I encourage people to continue to attend. And with that, Commissioner Gooder, unless there is anything else, we can adjourn.

MR. GOODER: I think we can.

CHAIRWOMAN NATLAND: Okay.

MR. GOODER: Thank you, Susan, and thanks to everyone at the TPAC, and everyone for attending today.

CHAIRWOMAN NATLAND: Have a great weekend.

MR. GOODER: Bye-bye.

CHAIRWOMAN NATLAND: Bye.

(Whereupon, at 1:05 p.m., the PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

I, Nate Riveness, notary public in and for the Commonwealth of Virginia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

(Signature and Seal on File)

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