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PATENT PUBLIC ADVISORY COMMITTEE MEETING

PUBLIC SESSION

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ANDERSON COURT REPORTING
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- 6 CARL E. GULBRANDSEN
- 7 GERALD MOSSINGHOFF
- 8 DOUGLAS PATTON
- 9 LISA K. NORTON
- 10 ROBERT BUDENS
- 11 W. DAVID WESTERGARD
- 12 JOHN LOVE
- 13 MAXIMILIAN A. GRANT
- 14 RYAN TRIPLETTE
- 15 SHARON WEST
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1 P R O C E E D I N G S

2 (2:25 a.m.)

3 CHAIRMAN RIVETTE: I have got 2:25. I
4 want to welcome everybody that is here to the
5 public session. We are going to end promptly at
6 4:00. Max, you are leaving in about half an hour?

7 MR. GRANT: Yes, sir, and I apologize in
8 advance.

9 CHAIRMAN RIVETTE: We will end promptly
10 at 4:00 because otherwise most of us won't make
11 our airplanes.

12 What I would like to do now is turn it
13 over to Mr. Doll.

14 MR. DOLL: Thanks. What I would like to
15 do is talk about some of initiatives that we are
16 doing in the patent corps, and I have got a list
17 of things that I can talk about, but I am also
18 willing to talk about anything that you would like
19 to hear about. Any of the initiatives or efforts
20 that you think we are doing or you heard we are
21 doing or you would like more explanation on, I
22 will be more than happy to talk about that. I

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1 would also like to take questions at any point in
2 time. I can talk for the next half-hour or we can
3 engage in a conversation about any of these.

4 The first thing I would like to talk
5 about is a program that we started back in August
6 of 2006 which has been extremely successful, I
7 think, and that is accelerated examination. That
8 was an idea that the Under Secretary had where
9 pendency really does matter to a certain group of
10 people, and what we did is put together a program
11 that would ensure the applicant would get a final
12 decision within 12 months.

13 Now there is some heavy lifting that is
14 required to get into the program. You are
15 required to submit an examination support
16 document. You have to file a Petition To Make
17 Special. That support document has to be accepted
18 by the Office. It is reviewed by a special
19 Program Examiner or a Quality Assurance Specialist
20 to make sure that it is useful for the examiner.
21 Also, in the program, you have to be willing to
22 have an interview before first action.

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1 So the program started in August, and as
2 you would expect, a lot of the information that
3 came in wasn't accepted. It was rejected. But
4 right now we have a frequently Asked Questions.
5 Andy Faile -- I wanted to introduce the people who
6 are making these programs happen because Peggy,
7 Jon and I have a lot of ideas, but it is really
8 the directors who I will point out, who bring
9 these programs to fruition and really make them
10 work. So, thanks to Andy.

11 What we have now is we have three
12 applications that are ready to issue, and they are
13 from a large multi-international corporation. I
14 guess it is an international corporation, not a
15 multi-international corporation. It is in a
16 complex technology. They are coming out. They
17 will issue in less than 12 months. It took about
18 120 days, 3 months from the time they were filed
19 until the examiner and the attorney had come
20 together and agreed what was patentable in these
21 applications. There was at least one, sometimes
22 as many as three interviews in these applications

1 to make sure that the cases were put in condition
2 for allowance. So they will issue in less than
3 six months, and that is phenomenal in some
4 industries where you are talking about an average
5 time to issue of over three years or more that you
6 could file an application and actually have the
7 patent in your hand in six months.

8 CHAIRMAN RIVETTE: How did you handle
9 the work load and the resources?

10 MR. DOLL: The work load and resources
11 are actually worked out fairly well because what
12 we did is we required only newly filed
13 applications to be accepted into the program. The
14 application had to be filed by EFS. We have had
15 about 170 applications filed so far.

16 One of the biggest concerns that Jon and
17 Steve had in the beginning was what happens if the
18 program is really successful. What happens if it
19 really takes off? I said, that would work. We
20 did 330,000 applications last year, so we could do
21 330,000 accelerated examinations this year.
22 Everybody else would wait, but the ones that

1 brought in the information, we could move through
2 very quickly.

3 One of the biggest questions that comes
4 up is do you also have accelerated publication,
5 and the answer is no. But the thing I wanted to
6 tell you or share with you is that what happens is
7 the average time to publish a patent from the time
8 the examiner allows it right now is about 128 to
9 130 days, give or take. Now that has been as high
10 as 210. RTIS and Dave Talbott who is back
11 here along the wall also worked very hard to bring
12 that number down to about 128, but 72 days of that
13 128 days is waiting on the attorney to pay the
14 issue fee. So if you want your cases to issue
15 within two months from the time the examiner sends
16 it, send in your issue fee the very next day and
17 you will get your patent in probably 55 to 60
18 days. Right, Dave?

19 MR. PINKOS: And all that counts in the
20 pendency.

21 MR. DOLL: Yes, absolutely, and Steve
22 brought up the point where all that counts in the

1 pendency. So when we talk about pendency to issue
2 abandonment on how long it takes to get a patent,
3 those 72 days are counted against our pendency.

4 SPEAKER: Before 128?

5 MR. DOLL: Before 128, yes, the four
6 months, but it wasn't too long ago that it was
7 close to six months that it would take to issue a
8 patent because they had fallen behind and had some
9 problems.

10 I think it is a really successful
11 program. I mentioned this in New Orleans at the
12 AIPLA. There is a lot of people in the room,
13 shaking their head, thinking well, that might be a
14 good idea for me because originally there were a
15 lot of people saying accelerated examination will
16 never work. Nobody will ever do it. Nobody will
17 ever take the risk of inequitable conduct of
18 filing an EOESD. The examiner support document is
19 a fairly high hurdle, but we have got 170 people
20 that are more than willing to do it in art areas
21 that take a long time to get their patents.

22 MS. NORTON: John?

1 MR. DOLL: Yes.

2 MS. NORTON: Have you ever heard the
3 idea? There is a lot of people who still won't
4 take that chance of inequitable conduct under the
5 current rules. Have you explored the idea of at
6 the examiner's option, letting them have a
7 pre-first office action interview as well just to
8 kind of move things along and talk to the
9 inventors?

10 MR. DOLL: Right, we have, and it was
11 about 15, 16 months ago when we actually changed
12 the MPEP because before the examiner could say no,
13 but we have actually put it in the MPEP right now
14 where the examiner can have an interview on an
15 originally filed application before first action.
16 So if you would like to have an interview, if you
17 want to make sure the examiner is on board, give
18 the examiner a call and say, I would like to come
19 in and talk.

20 MS. NORTON: Do you think it would be
21 helpful to have the examiner actually call the
22 applicant because sometimes if you are trying to

1 track things, you don't really know? You can find
2 out who they are assigned to, but it is hard to
3 track. It might be helpful if they understand it
4 is perfectly appropriate to and in most cases the
5 applicant would love it if they would call when
6 they pick up the case and say, hey can I talk to
7 you about this in person or over the phone for 20
8 minutes.

9 MR. DOLL: Right, that is a great idea,
10 and we do try to get that word out, and a lot of
11 examiners do that. When I was in biotech, there
12 was a small cadre of examiners that had a high
13 percentage of first action allowances, and they
14 did it exactly that way. They would do their
15 search. They would call the attorney and say:
16 Hey, this is allowable. This is not allowable.
17 Are you interested?

18 Then they would work out a deal for what
19 was allowable and move the case on, and that is
20 really well accepted by a lot of attorneys. Some
21 attorneys, though, see a first action allowance as
22 selling your house on the first day it is on the

1 market. I didn't ask enough.

2 MS. NORTON: It depends on what allowed,
3 yes. Usually, they love it because there is no
4 history there that can come around and bite them
5 in litigation.

6 MR. DOLL: Right, but if you want to
7 talk to an examiner before first action, get in
8 the accelerated examination program. I will make
9 sure you get a call.

10 MR. PINKOS: The MPEP was changed on all
11 that?

12 MR. DOLL: The MPEP, yes, it was. Yes,
13 it was.

14 CHAIRMAN RIVETTE: Have you found that
15 the examiners are calling more or that they are
16 getting more calls?

17 MR. DOLL: No, but it is something that
18 we work on very hard in the academy right now with
19 the new examiners that we are bringing in. We are
20 trying to instill that communication where they
21 actually call people, work with people a lot more,
22 where it isn't adversarial, where you are not

1 afraid to talk to the attorney, where actually we
2 are both working for the same person and we ought
3 to be working together. We are trying to get that
4 attitude, and I think you will see that change
5 over the years with all the new people that we are
6 hiring.

7 The next issue or the next initiative is
8 the Peer Review Pilot, and I think a lot of you
9 have heard about that, the community patent
10 review, and Jack Harvey is heading that up for us.
11 Jack is here. He is one of our directors in Tech
12 Center 2100. This is a great opportunity, I
13 think, also to improve the overall quality of the
14 patents that we issue. What we are trying to do
15 here is make sure we get the best art in front of
16 the examiner because I think if you look at
17 litigation history and you look at all the cases
18 where somebody got sued or somebody tried to show
19 that a patent was either valid or invalid or
20 infringed, the examiner made the right decision
21 when they had the best art in front of them. The
22 examiner's job is difficult, for those of you who

1 took the tour yesterday. We ask them to do a lot
2 in the average of 20 hours, 20.4 hours that we
3 give them. Any way that you can help them, make
4 sure that they see and understand what the best
5 art, I think that is the best thing you can do to
6 improve the quality of the patents that you
7 receive. That might hurt the litigation side of
8 your law firm, but it certainly does help patent
9 quality up front.

10 This is, I think, going to be a great
11 pilot. What we are going to do is concentrate
12 this in Technology Center 2100. We are going to
13 try to focus on the software because software is
14 one of those areas in the Office where we have a
15 difficult time finding prior art simply because a
16 lot of times it is not documented. It is in
17 databases that are difficult to access. It is in
18 databases that if we do access, they are not
19 properly date coded so we know exactly what the
20 date of publication is so that we can use it as a
21 printed publication. But what we hear from the
22 programmers and from the software engineers is: I

1 have seen that sub-routine. You know, my friend,
2 Joe, did it three years ago.

3 And so, there is a lot of knowledge out
4 there, and that is where a lot of this came from.
5 We have got the Software Institute. We have got
6 Red Hat. We have a lot of people that are
7 participating in this project. Of course, Beth
8 Novak and IBM have been really big supporters on
9 this project.

10 One of the things that they are doing
11 that works out well for the Office is they are
12 trying to create a gap between collecting the
13 information, analyzing the information and the
14 submitting it to the Office. So the Office is not
15 part of that. The Office is hands-off. What we
16 have is a separate group of people that are going
17 to take the submission, and then they are going to
18 evaluate it. They are going to judge it, and they
19 are going to judge it based on their standing in
20 the community, how good their reputation is, how
21 much they know about this particular topic. They
22 are going to weight the references and make one

1 submission to the Office. Ten references will
2 come into the examiner.

3 Again, I think this is probably the best
4 opportunity we have to improve quality in an area
5 where we get criticized a lot. A lot of times the
6 criticism is valid because the examiner didn't
7 have the art or really didn't have a fair chance
8 of finding that piece of art. I think this will
9 really help.

10 Hopefully, the pilot will be launched
11 sometime in Spring of 2007. We are going to run
12 it for probably 18 months, and then we will be
13 reporting out to PPAC as soon as we start
14 collecting data to get your feedback because again
15 this could be expanded anywhere in the Office, and
16 I think this is our best opportunity for quality in
17 the patent system.

18 Any of the directors, this is your
19 pilot, and if I am not saying anything, feel free
20 to jump in. Andy, it is too late for you.

21 CHAIRMAN RIVETTE: What has the reaction
22 so far been from the community?

1 MR. DOLL: Outside?

2 CHAIRMAN RIVETTE: Outside, because I
3 have heard mixed reviews whether people like it or
4 they don't.

5 MR. DOLL: Right.

6 CHAIRMAN RIVETTE: Do they think it is
7 too few submissions and references and that sort
8 of thing? What do you, what does the Office hear?

9 MR. DOLL: Jack, why don't you take
10 that.

11 MR. HARVEY: I didn't hear the entire
12 question.

13 MR. DOLL: What has been the view of the
14 outside?

15 MR. HARVEY: Well, it has been
16 skeptical. Some are excited; some are skeptical.
17 I think it is going to be well received. What I
18 have heard is just mixed reactions, some
19 reservation as to who is going to participate. I
20 know that there is at least 10 companies right now
21 that are signed up to participate. So I think,
22 initially, we are going to get some reaction, and

1 it will flow from there. As long as the peers
2 submit comments and submit the prior art, I think
3 it will be a stone rolling downhill. I think it
4 will gain momentum, and then we will go from
5 there.

6 CHAIRMAN RIVETTE: Any companies here
7 that you see that haven't signed up?

8 MR. HARVEY: I don't know offhand.

9 CHAIRMAN RIVETTE: I was just wondering.

10 MR. HARVEY: I know IBM has.

11 CHAIRMAN RIVETTE: I know that, but I
12 was just wondering if there was anybody around the
13 table or around the room that should be.

14 MR. HARVEY: I think that is a clear
15 indication they should.

16 MR. DOLL: This is also a great
17 opportunity to get your application moved to the
18 front of the line because to get the data that we
19 need, rather than waiting until the application
20 comes due to be acted on, we are going to move the
21 applications of the people that volunteered to the
22 front of the line, act on them within the next 12

1 to 18 months so that we can do a real-time
2 evaluation, one more way to move to the front of
3 the line. So now Lisa says?

4 (Laughter)

5 MS. NORTON: Actually, it was a positive
6 thing I was thinking. I like it when the Patent
7 Office -- I think it is great and it makes your
8 job a lot easier -- when you give people the
9 option, if you want to do this. I think that
10 is because lot of times anything you say, people
11 are just going to be resistant to any change. But
12 if you say, hey, you can do this and if you do
13 this, we will give you enough of an incentive
14 where everyone else doesn't scream but less that
15 you can still do it. I think that is great,
16 especially for a pilot program obviously, but it
17 is a great way to do it because then you remove.
18 Then people are making their own decision, and
19 they don't feel like it is something the
20 government is forcing on them.

21 CHAIRMAN RIVETTE: Actually, every time
22 he said something, I am very negative.

1 MS. NORTON: I am not.

2 MR. DOLL: Thank you, Lisa.

3 MR. PINKOS: John, the statement you
4 made quite often, if the examiners have the art in
5 front of them.

6 MR. DOLL: They make the right decision
7 the vast majority of times.

8 MR. PINKOS: Who I am curious to hear
9 from is those that represent the applicants, if
10 they think that is true or if they think it is
11 that they more often have a competent examiner as
12 to how they are interpreting that particular piece
13 of art vis-à-vis that individual patent
14 application. We don't have to answer that now,
15 but I think that there might something there.

16 CHAIRMAN RIVETTE: There might be
17 something we want to put into some of the
18 questions we ask just as aside, as quality check.

19 MR. PINKOS: Because it also goes to
20 what information may be more helpful to the
21 examiners then or the examination process, just a
22 search report, a characterization of that search

1 report, again, a more descriptive type of
2 application.

3 MS. NORTON: Most applicants, if they
4 are really serious about what they are doing, they
5 are going to do a very intensive search ahead of
6 time and submit it. What they don't want to do is
7 characterize anything. Again, that is expensive
8 for them, but I don't think that is a huge
9 problem. It is when they are forced to say this
10 is the best art we found. This is a
11 characterization of this. Again, I think it is a
12 best practice for applicants to do their own
13 searching because they are the experts. Patent
14 examiners actually, as you know, have a lot of
15 expertise because they are focused on an area and
16 probably the only person that can beat them is the
17 inventor. Certainly, nobody else can really come
18 close.

19 So providing the search, I think for a
20 lot of people, it is expensive to do and you might
21 run into opposition there, but it really is a best
22 practice for the inventor and the law firm to sit

1 down and try to find the prior art ahead of time.
2 The problem comes and the most resistance
3 obviously is in characterizing that or saying this
4 is the best that we have found because that can,
5 as you know, create problems down the line.

6 MR. PATTON: I am getting into murky
7 waters for me because I am going to ask a question
8 about patent law and so forth. Has there been
9 something done by the USPTO or is it just known by
10 all patent attorneys regarding of the percentages
11 of patents that are granted, has there been an
12 analysis of format and art that has been published
13 that says of the ones that were done this way,
14 these move the quickest or these had the best
15 action? Has there been any format analysis that
16 is published to let everyone know that this would
17 move it quicker or this would give it a better
18 response or that even possible?

19 MR. DOLL: I don't know of any data like
20 that or any study that we have done that
21 correlated.

22 MR. PATTON: Because I keep hearing the

1 best art, and I keep thinking well, what. Your
2 best art up front is doing everything in the most
3 organized fashion. If there was a format or
4 something that said of the ones that went quick,
5 this is how they were done and it is USPTO
6 recommendation to do it this way to accelerate it.

7 MR. PINKOS: We have gone partially down
8 the road with the accelerated examination because
9 we are defining --

10 MR. DOLL: Best practices.

11 MR. PINKOS: Well, yes, the areas of art
12 that should be searched, et cetera, but I don't
13 know that we have a general model for an
14 application.

15 MR. PATTON: What I am just thinking is
16 sometimes I have heard that your output is as good
17 as in your input. So if you create a format and
18 let everyone know you can do it any way you want,
19 and we are not recommending you do it this way,
20 but all the ones that did, they went quicker or
21 they had better actions, or I don't even know.
22 That is why I say it is murky water for me. I

1 don't know.

2 MR. DOLL: That is a great question.

3 CHAIRMAN RIVETTE: Actually, that is a
4 really good question because most of us sitting
5 around the table have been steeped in this. We
6 know what the best practice is. We know what we
7 should be doing those reports and all that, but I
8 wonder if a lot of the other smaller companies and
9 the smaller entities don't understand what the
10 best practice is. I had never thought of it as an
11 education issue. I think most patent attorneys
12 should do it. I have one or two patent attorneys
13 who are the most stellar people in the world.

14 That is interesting. I mean I don't
15 know where we go with it, but it is an interesting
16 point. I really hadn't thought of it that way.

17 MR. PATTON: I was thinking it could be
18 a statistical observation of what has happened.
19 It doesn't have to be biased. It says this is
20 what has happened. Is that possible to analyze on
21 what has been done before or do you have to start
22 with what is coming in if you were to do that?

1 MR. DOLL: We could do it either way.

2 MR. GRANT: I was just going to say that
3 there is a lot of nuance that is inherent in what
4 you are saying, Doug. People have different
5 business objectives in getting patents just like
6 we have talked about. Some people want to hang
7 them on the wall. Some people want an extremely
8 strong patent that they are willing to devote
9 millions of dollars in R and D in support of.
10 When you are talking about what is the best
11 practice in terms of doing prior art searches
12 prior to a submission to the PTO, well, it depends
13 in part on what your objective is whether you are
14 trying to have a patent that you can go to
15 financiers and say, look, we have patents.

16 Or, whether you are saying, no, no, this
17 is in a crowded art and we are going to be subject
18 to be sued by someone else. We want to make sure
19 we have a very strong patent and it is necessary
20 that we practice it from defensive purposes. The
21 scope of it needs to be clearly defined outside of
22 the prior art.

1 Then even another one which is we want a
2 strong, enforceable patent which we can go after
3 other people with.

4 Those are very different business
5 objectives, and the scope of the sort of work that
6 you do on the front end is entirely dependent upon
7 the business objectives that you want on the back
8 end.

9 MR. PATTON: In other words, pretty much
10 an impossible thing to do. You mentioned five
11 different aspects.

12 MR. GRANT: It depends what you want.

13 MR. PATTON: Right, of course.

14 CHAIRMAN RIVETTE: It is an interesting
15 point, though.

16 MR. DOLL: I have got 90 percent to go
17 and only 10 minutes.

18 CHAIRMAN RIVETTE: You actually can take
19 as much time as you need.

20 MR. DOLL: I am kidding. The Flat Goal
21 Pilot, what I would like to do there is I gauge
22 how good the pilots are by Bob Budens' blood

1 pressure, and we have worked really well with POPA
2 on a lot of issues.

3 (Laughter)

4 MR. DOLL: My challenge is to get Robert
5 to sign up. Jackie Stone is our director lead on
6 this, and Jackie has done a great job in rolling
7 it out. We are actually doing meetings today
8 because what we are trying to do is to pilot a new
9 concept. We are trying to manage the examiners'
10 time, the examiners' productivity, get rid of some
11 of the administrative burdens. We are trying to
12 set flat goals where they know exactly how much
13 work they have to produce in a quarter.

14 In exchange for this, we have actually
15 modified the awards program where you can now get
16 up to \$5,000 a quarter in awards, plus you can get
17 3 percent of your salary SAA at the end of the
18 year, plus a 1 percent pendency reduction award at
19 the end of the year for a total of almost \$25,000
20 at the end of a year, which is close to twice as
21 much as you can get under the current award
22 systems that we have. So there is a lot of

1 benefit.

2 Again, like Lisa said, this is a pilot.
3 This is voluntary. We are not asking anybody to
4 join. We are telling them what the options are,
5 what the advantages are. We are having meetings.
6 We are having meetings today, and POPA is there,
7 and POPA doesn't exactly like this idea yet. I
8 think it is because we haven't perfected it yet,
9 but we are going to continue to work on it until
10 Robert is carrying the banner to sign up for Flat
11 Goal. I haven't sold you yet?

12 MR. BUDENS: No. So you understand,
13 there is two sides to this. One particular issue,
14 examiners are very, very much against this program
15 because the goals that were set, the calculations
16 for the flat goals, we believe do not accurately
17 reflect what examiners do in their day to day
18 operations. It is set at a much higher standard.
19 It is basically, nothing more, folks, than a
20 blatant way to try and increase our production by
21 anywhere from 5 to 25 percent, depending on the
22 individual. We are sitting here. We have been

1 talking all day about we can't take away time from
2 examiners, and a lot of people feel examiners need
3 more time. This is actually, in effect, putting a
4 great deal of anxiety on examiners.

5 I was telling Peggy during the break
6 that the feelings of examiners right now towards
7 the Flat Goal is almost nullifying the increase in
8 morale that came from the 7 percent pay increase,
9 and the reason being is because nobody believes
10 this is just a pilot. Everybody believes that
11 once the agency gets their data, they are going to
12 roll this out and make it mandatory for the whole
13 examining corp. It is in the strategic plan as
14 one of their major strategic initiatives. You are
15 getting briefed on it today as a major strategic
16 initiative.

17 I am getting emails right and left from
18 examiners who doing the numbers, looking at what
19 they did last quarter and then trying to see what
20 they would have done on the Flat Goal, and they
21 all would have lost their jobs so far. So it is
22 very dangerous.

1 MR. DOLL: We have run a lot of numbers
2 for people, and we think that it is a great
3 program. It is actually an advantage. One of the
4 biggest selling points is the increased
5 flexibility as to where and when you do your work.
6 There is a difference opinion. We will see what
7 happens with the pilot. We have got about 75
8 people signed up already.

9 MS. FOCARINO: Almost 100.

10 MR. DOLL: Almost 100 people signed up
11 already. We are asking for 300 maximum, I think
12 is where we are going.

13 MS. FOCARINO: Right.

14 MR. DOLL: We are already one-third
15 there. The pilot should start in early April. I
16 think it is going to be a great success, and I
17 think the next time we get together, Robert is
18 going to be singing the praises.

19 MR. FRIEDMAN: Why is it called Flat
20 Goal?

21 MR. DOLL: It is called Flat Goal, and
22 actually Jon Dudas came up with that because what

1 he was looking for--

2 MR. FRIEDMAN: And he is not here.

3 MR. DOLL: Yes, I always blame Jon when
4 he is not here. What he was looking for is more
5 of a law firm type goal where you have got a set
6 goal that you have to do.

7 MR. GRANT: Set goal of what, hours?

8 MR. DOLL: Production units, how much
9 work are you going to do in this one quarter
10 period? What we did was take an average of the
11 average amount of sick leave, the average amount
12 of annual leave, average amount of training time,
13 and just sort of rolled it in for everybody to get
14 a generic flavor of what would be fair.

15 How many Budget Disposals (BD's) would we
16 expect the average examiner to do in a quarter? You
17 set that goal. So you accomplish that, and you determine
18 how much training you want to take during that
19 time period, when you want to take annual leave,
20 when you come and go from the campus that you
21 don't have to be here inside the security zone, 80
22 hours a pay period.

1 I was hoping Robert would let me go on
2 to the Laptop Pilot because that is going to make
3 him really happy.

4 MR. PINKOS: Well, I can say that, in
5 our view, a pilot is just that. A pilot is an
6 opportunity to try something to see if it works,
7 and we do it out of the goal to try to improve
8 what the USPTO does. Not every type of pilot is
9 the one that Congress mandates and we do them
10 whether we think they are going to be good or not.
11 But we don't know. We don't know if it will prove
12 to be beneficial to the agency, and we will see.

13 Robert, I can assure you that is what it
14 is. It is a trial.

15 MR. BUDENS: I have no doubt that you
16 are marketing it as a pilot, Steve. The issues
17 are what happens when the pilot is done. The
18 pilot has been designed from its conception, as
19 near as we can tell. We have been looking at it
20 for a while. It is designed to be a success,
21 okay. People have already been told in the
22 briefings if they get into trouble on it, they are

1 going to be taken off of the program if they can't
2 do. Well, all you are doing is stacking the
3 numbers and stacking the deck. You are taking
4 only volunteers. You are not doing a random
5 sampling across the agency. This program is
6 designed to give successful data and hence give
7 the agency the data it needs to go and argue in
8 favor of expanding it to the entire examining
9 corps. That is where the dangers are to the
10 examiners.

11 Not only that, it is based on
12 assumptions of those times. It is basically
13 telling examiners they are going to have to
14 operate at an 80 percent examining time when
15 historically we have always operated at a lower
16 level.

17 CHAIRMAN RIVETTE: Gerry?

18 MR. MOSSINGHOFF: I just want to make
19 sure the record shows that I am against any pilot
20 designed to be a failure.

21 MR. PINKOS: Me too. Obviously, there
22 are issues that we agree on and disagree on.

1 From Jon's and my perspective, we would
2 never, it would never be our goal to implement
3 something that we don't believe would be
4 successful for the agency or try to rig an outcome
5 of something when we are trying to see whether it
6 would work or not. It is just not in our
7 interests. Ultimately, I think let us see how it
8 goes, and we will talk more about it down the
9 road.

10 MR. DOLL: I am going to move on to a
11 topic that will bring Robert's blood pressure back
12 down, and that is the Laptop Pilot. I think I
13 talked to you at the last PPAC meeting. This has
14 been extremely successful. We have worked with
15 POPA. It was a great idea where we thought we
16 would just hand out laptops. Being from a
17 business unit, it was my initial impression that
18 we are to give laptops to people that were willing
19 to do a certain amount of overtime on this laptop
20 off-campus to pay for the equipment, and that just
21 made good business sense to me. But I took it to
22 the Management Council, which Steve leads, and

1 much to my surprise, they said: Why don't you
2 just hand them out? See what happens. Take 300
3 laptops. Give them out randomly and see what you
4 get.

5 It was interesting. When we talked to
6 POPA, POPA agreed with that. We did a random
7 distribution, and it is amazing. The equipment
8 cost us about \$2,000, a little over \$2,000,
9 \$2,200. We have got about five pay periods of
10 data, and in those five pay periods of data,
11 people have worked five and a half hours per pay
12 period per person more than they worked in the
13 last two years. So we tracked those 300 people,
14 and the people love it. There is an increase in
15 productivity, and there is a tremendous increase
16 in morale.

17 What has happened is if you gauge how
18 much revenue we have generated by the five and a
19 half hours of overtime, we have already paid for
20 all of the laptops that we have handed out in just
21 five pay periods. So what we are doing now is
22 building a business case. We are going to go back

1 to the IT Investment Review Board which is chaired
2 again by Steve, and we are going to make a request
3 to hand these out to everybody who is eligible.

4 But it is interesting because when you
5 look at the statistics, we did an examiner survey
6 where we got 94 percent participation. That is
7 the highest survey we have ever had, where 94
8 percent of the people responded. Eight-six
9 percent of them strongly agreed that their job
10 satisfaction had improved simply because they had the
11 laptop. Eighty-five percent said their morale had
12 improved because they got a laptop. Seventy-four
13 percent said there was less stress in their lives
14 on meeting production goals. Sixty-five percent
15 indicated that the quality of their work increased
16 significantly, just from having a laptop.

17 We heard that from a lot of people, that
18 they would have just love to go home and finish
19 their email or they were in a carpool and they
20 couldn't stay and finish writing that examiner's
21 answer, but if they could go home and do it.

22 This was an idea also that came from an

1 examiner. This didn't come from management. This
2 wasn't something we dreamt up. An examiner said:
3 My husband is getting an MBA, and there are just
4 these holes in my weekend where it is just down
5 time. If I could log onto the Office's system, if
6 you will just give me the software, I would do
7 overtime simply because it is there. I am not
8 going to drive into the Office. It is too far
9 away, too inconvenient, but if I could do it at
10 home.

11 That is what we are finding, that
12 people, on average, are working five and a half
13 hours per pay period more overtime than they were.
14 That is a big concern for Peggy and I because what
15 has been happening over the last few years is
16 overtime has always been modeled at a 125 hours
17 and then it dropped to 100 and it was below 80
18 last year. Overtime is increasing this year with
19 respect to the Laptop Pilot. So I think this is
20 going to be a real winner for three reasons.
21 Robert and I are both really happy about that.

22 MR. BUDENS: That, I would agree with.

1 My blood pressure is returning to normal.

2 CHAIRMAN RIVETTE: Steve, what kind of
3 life expectancy are you looking at with these
4 laptops.

5 MR. PINKOS: I don't know. I think
6 David is here, but it does lead to a broader
7 question. There are multiplicity of concerns that
8 arise with thousands of laptops being out there.
9 First and foremost, there was a study done
10 recently for the Department of Commerce, and
11 fortunately we fared well, but there was a
12 tremendous loss of property and potentially PII
13 and it was all over the papers, at least in
14 Washington. It was a big embarrassment for the
15 Department. That concern clearly is out there and
16 then just the expense.

17 But David may know the specifics as to
18 the life expectancy.

19 DAVID: Typically, for work stations, we
20 hope for at least three years. Unfortunately,
21 with laptops, the technology changes so quickly,
22 but I think we are pushing for at least a

1 three-year life cycle on the laptops.

2 MR. DOLL: So it would be a tremendous
3 payback. I also want to say that the point of
4 contact here is Steve Goodman, and he is in the
5 back of the room also. Did I get everything,
6 Steve?

7 MR. GOODMAN: Yes.

8 MR. PINKOS: I guess it is worth just
9 adding, as we talk about trying to bring down
10 pendency and address the timeliness issue, every
11 little thing helps. This actually could add up.
12 If more people are encouraged to work overtime to
13 produce more, it helps. There are a lot of bigger
14 issues, obviously, hiring 1,200 people a year, et
15 cetera, but we are looking from the large
16 initiatives like work-sharing with offices around
17 the globe and hiring 1,200 people a year to things
18 that are very much here at home that we can
19 control like handing out laptops.

20 MR. DOLL: Steve's point is really well
21 taken because one of the numbers I didn't share is
22 that we have had the program in place for five pay

1 periods, ten weeks, and what we have done in those
2 ten weeks is generated 478 production units. That
3 means 478 more first actions were done, and 478
4 more disposals were taken care of in that time
5 period. So we have got almost 100 production
6 units per pay period from just 300 people. That
7 is a real boost.

8 CHAIRMAN RIVETTE: What do you
9 anticipate extrapolating this? You are not going
10 to see that same curve because these were
11 volunteers and that sort of thing.

12 MR. DOLL: They were randomly picked
13 volunteers.

14 CHAIRMAN RIVETTE: Oh, they were
15 randomly picked, okay.

16 MR. DOLL: Yes, we went through and did
17 a random sample of different grades from overtime
18 usage from the people that did overtime to the
19 people that did over 500 hours last year and
20 randomly picked from each one of those bands.

21 MR. BUDENS: I will actually volunteer
22 to take a little heat off of John on that

1 question. The fact of the matter is I am
2 inundated with questions, with comments from
3 examiners, going when are we going to get the
4 laptops and how soon and why couldn't I get in on
5 the pilot? The attitudes from examiners on this
6 one is one of great interest, and I think it is
7 going to be a very, very successful program for
8 the agency.

9 CHAIRMAN RIVETTE: Excellent.

10 MR. DOLL: We were hoping that I could
11 get the investment decision paper done before
12 Christmas because Robert had agreed to dress up.
13 We were going to dress up as Santa and an elf and
14 hand out the laptops out front.

15 (Laughter)

16 MR. DOLL: The next initiative is the
17 patents hoteling program, and I can either
18 continue talking. The hoteling program again, and
19 Kris Vice is our lead on that. She is our
20 acting administrator, and she is not here right
21 now.

22 The hoteling program is where people are

1 allowed to work at home all the time except for
2 one hour per week, and they come in. We have got
3 about 506 examiners out right now. We hope to do
4 another 500 this year and another 500 every year
5 through 2011. It is an extremely successful
6 program. It is something, again, that the union
7 really supports.

8 We have got some real pluses, but one of
9 the things that we discussed this week when we met
10 with POPA was the concern about some people are
11 going home and not continuing the training that
12 they have been doing in the art unit. One of our
13 biggest resources is the talented, experienced
14 primary examiners that we have, and we need them
15 to continue to train our new people, but it has
16 become a little more difficult, it seems, and we
17 are getting a few more complaints. We heard this
18 early on. Peggy and I did a town hall meeting
19 with junior examiners that were reporting to a
20 primary who was at home, and we had almost no
21 concerns. That was about three or four months
22 ago. They actually said they enjoyed the fact

1 that they could get to their primary any time on
2 email. They thought it was great. They had an
3 email response. But we are starting to get some
4 data that may be contrary to that, so we are going
5 to be looking into that to see what we can do to
6 maintain the training of the people that go home.

7 A lot of times you go home, and you go:
8 Life is good. I don't have anybody bugging me. I
9 don't have any question to answer. I don't have
10 anybody wanting me to review their work.

11 So we need to work on that. We have
12 never forced anybody to train, but it appears
13 maybe just from rumor or hearsay that perhaps
14 trainers aren't doing as much as they used to.

15 It is like a chess club.

16 MR. BUDENS: My turn? Yes, I would
17 agree. We are in favor of hoteling. I think
18 employees want to have the option to do it. We
19 have two real concerns, one of which you have
20 heard throughout yesterday and today on the issue
21 of having to come in for one hour and who is going
22 to pay for commuting and the issue of duty

1 station. Another issue was what was going to
2 happen if an employee was in hoteling and got in
3 workflow trouble or production trouble and will
4 they get called in or back in? So far, to the
5 best of my knowledge, the Office has played pretty
6 low key about these issues. That is a concern.
7 We have not reached agreement with the agency
8 officially on hoteling, but I think we are working
9 in that direction.

10 The biggest concern that now is arising
11 is the one that we did share with John and Peggy
12 last week, that we are starting to see pockets
13 where we might have sent too many senior people
14 home and have lost the critical mass that we need.

15 CHAIRMAN RIVETTE: There are a number of
16 organizations, and I have been part of a couple of
17 them that have extensive hoteling programs. I
18 mean IBM does, Boston Consulting Group does, and
19 there are training programs. We have taken a look
20 at reaching out to industry to find out how that
21 works because there are mentoring programs that
22 you can do, and you have got now a lot of the

1 actual infrastructure necessary to do this in an
2 easy manner.

3 To the people that are in the public
4 session, a number of us went through yesterday and
5 had a tour of the Patent Office, a day in the life
6 of an examiner kind of approach. We were very
7 pleased. We saw a lot of improvement over the
8 last 12 to 24 months.

9 Peggy, is she around here?

10 MR. DOLL: She is working.

11 CHAIRMAN RIVETTE: She is working. She
12 did a great job.

13 MR. PINKOS: Peggy has been looking
14 quite extensively at the issues you just talked
15 about, though. I am not sure who in the private
16 sector she has talked to.

17 MR. DOLL: Fred, do you know?

18 MR. SCHMIDT: We are doing a survey now
19 with a number of companies outside -- SYSCO,
20 Microsoft, IBM, folks that are using people
21 working remotely very extensively to build role
22 models for us.

1 CHAIRMAN RIVETTE: I will put you in
2 touch with the Boston Consulting Group. As a
3 consulting group, they are dispersed almost all
4 the time. If you find them in the office, you
5 start to wonder what are they doing.

6 MR. SCHMIDT: That would be great.

7 CHAIRMAN RIVETTE: They also have
8 mentoring programs. There is a requirement that
9 there is mentoring going on online because these
10 guys don't have offices. Literally, at IBM and
11 other places, there is not an office. Their duty
12 station is home. They have mobile ports they can
13 go into. They can get their computers checked.
14 They can moan and groan at somebody over coffee,
15 but it is literally just a cubicle, and they plug
16 in, download whatever they need and then leave.

17 So, if you want, just check with me and
18 I'll do the BCG thing.

19 MR. DOLL: That is Fred Schmidt, one of
20 our directors in 3700.

21 The other idea we have is we have
22 managers working. We have a patent managers

1 telework program where all of our supervisors have
2 the full suite of equipment at home. They can
3 access their desktop from home, and so they can
4 update their email. They can read their email.
5 They can review office actions. That way, we get
6 more work out of them when they are at home.

7 But the idea has been extended a little
8 further, and this is another that Jon Dudas has
9 supported, and that was the virtual art unit.
10 Peggy, right now, is working on a plan to see if
11 we couldn't actually take an entire art unit, move
12 them off campus -- primary examiners, middle
13 level, journeymen and junior examiners with their
14 SPE -- allow them to move off campus and then
15 monitor how the training works in what we are
16 going to call a virtual art unit. That is still
17 very premature, but it is something Peggy is
18 working on.

19 CHAIRMAN RIVETTE: That is virtual in
20 the sense of they can be dispersed across the
21 country?

22 MR. DOLL: Yes.

1 CHAIRMAN RIVETTE: So they don't have to
2 be located in any specific area?

3 MR. DOLL: Yes, because all along, what
4 Steve and Jon have talked about is where you have
5 got a manager who lives in Ohio because it is a
6 best state to live in, but then you have got
7 people in Michigan and Tennessee, Kentucky. There
8 might even be somebody in California.

9 CHAIRMAN RIVETTE: I wouldn't go that
10 far. You are going to have a lot of technical
11 people out there.

12 What you are talking about, if you put
13 it BCG speak, is a case team approach which these
14 people are all virtual.

15 MR. DOLL: Right, and that forces a lot
16 of the issues that are just sort of tangential
17 when you only have your primaries out. If you
18 take everybody off this campus, you are going to
19 be able to observe issues that you wouldn't be in
20 just this hit and miss that we have right now. So
21 it is something that we are working towards.
22 Hopefully, we will know more about that next time.

1 fail. We don't do things that would intentionally
2 fail.

3 MR. MOSSINGHOFF: So you agree with me
4 now I am against those.

5 MR. DOLL: Before I leave, I want
6 everybody to agree with me on at least one issue,
7 remote regional offices, another really great
8 idea. We started on that six months ago. We came
9 out of the box probably a little fast and made a
10 few mistakes. I made some assumptions that the
11 regional office we needed, a brick and mortar
12 presence, that we actually needed it west of the
13 Mississippi. When you think about that, it really
14 became unfair because we were prejudicing the
15 entire idea. Jon's idea is that you hire the best
16 people. You give them the best training possible.
17 You retain the investments. Then you let them
18 work anywhere they want, a nationwide workforce.

19 So that might fly in the face of a brick
20 and mortar presence somewhere. If you could bring
21 people here or if you could do just a store-front
22 training in a certain location just long enough to

1 bring them up to speed and then allow them to go
2 home.

3 But when you look at Trademarks, and
4 Trademarks has really been a good example here
5 because what they have is 85 percent of all the
6 people that are eligible to work at home, work at
7 home; 15 percent of the people that are eligible
8 do not because they have made the active choice to
9 come into the office and they would prefer to come
10 here. There is a host of reasons why. Whether
11 you have a spouse at home, whether you have kids
12 at home or you have a set of golf clubs at home,
13 that you just can't stay away from, there are some
14 people that need to come to an office. So we may
15 well have a brick and mortar presence somewhere
16 for a small cadre of people that could also be a
17 training center on the West Coast somewhere to
18 allow people to expand from there.

19 MR. WESTERGARD: What qualifies as
20 eligible for working at home?

21 MR. DOLL: Right now, you have to have
22 passed the GS-12 certification exam. What we did

1 is we started with the GS-14s. When all the
2 GS-14s that were eligible to apply or volunteer,
3 there weren't enough of those, and we moved it
4 down to GS-13. We are working in the GS-13 band
5 right now, and we will probably get to or start
6 touching some of the GS-12.

7 Fred Schmidt is leading the business
8 case on this. Fred is working with a contractor
9 to put together the business case as to whether or
10 not we should have a brick and mortar presence,
11 whether or not the nationwide workforce might be
12 sufficient to answer all of our problems because
13 what we would really like to do is to tap into a
14 pool of applicants that we normally don't have
15 access to. We don't get a great opportunity to
16 bring people from California or the western
17 states. They just tend not to want to move here.
18 Now there could be a lot of reasons.

19 CHAIRMAN RIVETTE: What are we doing
20 here?

21 MR. PATTON: I am just here for a couple
22 days.

1 MR. DOLL: You love us.

2 MR. PINKOS: Going back to your balmy
3 80-degree weather.

4 CHAIRMAN RIVETTE: It is 90 degrees
5 right now.

6 MR. PATTON: It was about 75 when I
7 left. It was 80 the past few days though.

8 MR. DOLL: I am losing sympathy for you.
9 I think this, again, is going to be another great
10 idea. It is a program that we are looking into.
11 What we are looking for is that business case that
12 when Jon and Steve take it down to the Secretary
13 of Commerce and they read it, they go, yes, this
14 makes sense. The issue then will be Steve is
15 going to have to convince 50 Senators that it
16 should go to one place and not in each one of the
17 50 states, but that is Steve's job.

18 MS. NORTON: If it is just a store
19 front, then the Commerce Committee should
20 appropriate it.

21 MR. DOLL: The store front is a really
22 interesting idea but to really make that work, we

1 have to take the training academy and not graduate
2 people that have a GS-12 level of skill. We
3 actually have to almost have a primary examiner.
4 That might be a two-year program. But it is an
5 idea that we are willing to entertain, that we
6 move in somewhere, whether it be San Antonio,
7 Denver or Boise. The Governor of Idaho sent us a
8 letter that said, well, why haven't you come and
9 visited us, John? I said, I will be there during
10 ski season.

11 MR. WESTERGARD: You have another two
12 months.

13 MR. DOLL: That is the basic principle.
14 Again, I think it is a great opportunity to get to
15 a whole new group of people and maybe have a
16 presence on another place in the United States.

17 MR. PINKOS: And, importantly, retain
18 more.

19 MR. DOLL: I am glad you mentioned that
20 because again that is a great idea. I was in
21 Detroit a few months ago at a bar, at a bar
22 association meeting.

1 (Laughter)

2 MR. DOLL: We were drinking, but what
3 happens is that there were three attorneys there,
4 and they had worked at the Office. They said: I
5 would have stayed at the Office, but I wanted to
6 come back to Detroit. I liked the job. I thought
7 it was a great job. I wanted to move back to this
8 area. So I went to law school specifically to
9 come back to Detroit.

10 If we had a program of hoteling where we
11 could have trained them here and they would have
12 been here to become primaries and allowed them to
13 go back to Detroit -- you are looking at me.

14 CHAIRMAN RIVETTE: I am just trying to
15 process it, okay.

16 MR. MOSSINGHOFF: You may be well off
17 without these guys.

18 MR. DOLL: Good point. Fred, note that
19 when we are doing the study.

20 Outsourcing, we are doing quite a bit of
21 outsourcing. The reason we are outsourcing, there
22 is really only one reason, and that is to free up

1 examiners to examine national stage cases.
2 Examiners do a lot of things. What we would like
3 to do is take duties away from them that they do
4 and they do extremely well, but what we want to do
5 is let them do what they do best, make
6 patentability determinations.

7 The first outsourcing pilot is PCT
8 Outsourcing, and Rick Seidel, who is over here on
9 the right wall, he is heading up that.

10 What we are doing right now is we
11 actually ran and we reported out to you, a pilot.
12 We had a telephone conference with you, Gerry, and
13 some people on a pilot that we ran last year and
14 failed. The pilot was implemented on PCT
15 applications, but it was implemented with the
16 Berman-Sensenbrenner restrictions where it had to
17 be done by U.S. citizens on U.S. soil by a U.S.
18 corporation. The project failed. It didn't work.
19 We abandoned the project, but we went out and
20 recompeted.

21 We now have two companies, Landon and
22 Cardinal Law, with a group of attorneys in Chicago

1 that are doing PCT cases for us. Their quality is
2 really good. They are asking for more work. This
3 looks like a very successful pilot. Rick has done
4 a great job, he and his team, of making this a
5 real opportunity to free up a lot of examiner
6 time.

7 The next one is a reclassification.

8 MR. MOSSINGHOFF: Free up examiner time
9 for the PCT or free it up generally as expanded?

10 MR. DOLL: We are trying to take PCT
11 work away from examiners so that they can spend
12 more time doing U.S. national stage cases, not PCT
13 cases.

14 MR. MOSSINGHOFF: Okay, but it is
15 limited to PCT.

16 MR. DOLL: It is limited strictly to
17 PCT, and those cases, when they come back to the
18 Office, they are subjected to a strict QR program,
19 a Training Quality Assurance Specialist (TQAS) or a
20 specialist reads every one to make sure that it is correct
21 before we sign off on it. This is still in the pilot stage,
22 program so we are going to make really sure that when we sign

1 that, it has the quality that we need. But it is
2 really interesting that the quality we are getting
3 this time around is very good, and we are very
4 happy with it, and the two corporations are asking
5 for more and more work.

6 CHAIRMAN RIVETTE: What is the
7 difference between this pilot and the last one?
8 Why is this one working?

9 MR. DOLL: There are a couple reasons,
10 and Rick, help me. The first reason is we don't
11 have the Berman-Sensenbrenner restrictions, so
12 they don't have to be done by U.S. citizens, by
13 U.S. Corporations.

14 MR. PINKOS: That was just for national
15 stage searches.

16 MR. DOLL: That was for national stage.

17 MR. PINKOS: There were more companies.
18 This isn't going to be more predictable or less
19 because, as John said, less restrictions on what
20 they look at, who can do it, and you get more
21 predictable work. The other program for national
22 stage was truly a pilot. So the way it worked was

1 you would have to do it for 18 months. Stop for a
2 certain period.

3 MR. DOLL: Stop for 18 months.

4 MR. PINKOS: Report to PPAC. PPAC would
5 report to Congress. Companies weren't willing, I
6 think, to really ramp up to be able to do a whole
7 lot under that program because they weren't sure
8 whether it would be long-term.

9 With his, what do we have, 50,000 PCT
10 applications a year?

11 MR. DOLL: We are going to do about
12 28,000 this year, right?

13 MR. SEIDEL: No. Well, yes, in the
14 Office we are going to receive about 25,000. This
15 year, we have outsourced about 10,000.
16 Ultimately, we will get up to 20,000 to 25,000 in
17 2008-2009.

18 MR. DOLL: Do you want to talk about
19 some of the other aspects about why you think the
20 quality is better?

21 MR. SEIDEL: Well, I think there are two
22 reasons. The first one, as John said, we awarded

1 contracts to two companies, and the first company
2 was actually involved in the past pilot. I think
3 part of it is a lot of lessons learned from the
4 past pilot, plus the fact that they were able to
5 rebid. I think that had a lot to do with it.
6 Maybe they grossly underestimated what it would
7 take to run the program in the initial outsourcing
8 effort.

9 Then the second one was by lifting a lot
10 of the restrictions, we opened up the pool.
11 Actually, this other company out in Chicago, they
12 did quite a bit of work for, I don't know, various
13 large corporations. So they had quite a few
14 contacts. They had a very good internal process
15 to absorb work, farm it out to remote workers and
16 various other things that I think we are learning
17 from hoteling and so on. Have a remote workforce,
18 establish a lot of contacts, yet keep everything
19 consistent within their headquarters in a
20 nutshell.

21 I think there are the two biggest
22 reasons why.

1 MR. DOLL: We are also outsourcing
2 applications to IP Australia, and that is a much
3 smaller pilot. We are doing about 11,000 this
4 year to Landon and Cardinal, and we are going to
5 do up to 1,200 to IP Australia. They are an
6 international searching authority, so you have a
7 set level of quality there, and we are working
8 with them. Jon was just there a few weeks ago and
9 signed a Memorandum of Understanding to do up to
10 1,200 cases this year. But our goal, I think, is
11 to get as many PCTs outsourced to a competent
12 searcher, somebody that can do the work for us as
13 soon as possible, again to free up the examiners
14 to do U.S. national stage applications and attack
15 our backlog.

16 MR. MOSSINGHOFF: Is Korea involved in
17 some idea of this?

18 MR. DOLL: Korea has just become an
19 international searching authority. They are
20 really not part of this pilot, but they are a very
21 inexpensive ISA. So you can file in the United
22 States and request either the EPO or Korea to do

1 the search and prepare the report for you.

2 MR. MOSSINGHOFF: Not apropos to what
3 you are reporting on, but I attended a breakfast
4 -- I don't think you were there -- which they
5 every year in connection with the AIPLA. It was
6 the PCT Breakfast. One of the ideas that was
7 surfaced there was the fact that maybe we want to
8 bring Brazil and Argentina and other countries who
9 don't seem to be terribly enthusiastic about
10 intellectual property into PCT searching on a
11 ground theory I had, and I think it is a very good
12 theory. If you start getting a bright cadre of
13 professionals in the country who understand
14 intellectual property and whose livelihood depends
15 on intellectual property, you have got a good team
16 of people who might start talking to the
17 policymakers about the fact that they ought to
18 change their policies.

19 I think it is worth looking into, I
20 really do, to see if there is not some way to draw
21 in PCT work by countries who you wouldn't normally
22 think of, namely Brazil and Argentina, India and

1 Egypt and so on.

2 MR. DOLL: Interesting idea, thanks. Do
3 you want to head that pilot?

4 MR. MOSSINGHOFF: I would recommend
5 Maximilian Grant to be the Chair.

6 MR. DOLL: You have done that once
7 today.

8 (Laughter)

9 MR. DOLL: Our next outsourcing is
10 reclassification, and reclassification is when an
11 examiner looks at a particular class and sub-class
12 and says, there are too many patents; there is
13 just no way I can easily go through there with a
14 class, sub-class search. So they break it down.

15 What we are doing is we have outsourced
16 that. We have Andrologic (?) to which we just
17 awarded a contract in August. What they will be
18 doing is the reclassification projects with help
19 from primary examiners and supervisory primary
20 examiners to make the determination as to what
21 needs to be done, but they will develop the
22 schedules rather than our examiners developing

1 them. The thing that really takes us time is when
2 you go through and you read every patent and you
3 place it under new classes and sub-classes. They
4 will be doing that.

5 We are actually evaluating some work
6 that Denmark is doing for us in that area also.
7 They were very interested.

8 That is another opportunity, not only to
9 help the quality by doing more reclass work that
10 we really haven't done in the past few years.
11 Reclassification has really dropped off, and a lot
12 of the public searchers and a lot of the examiners
13 that do class, sub-class searches have complained
14 that you are not really keeping the classes and
15 sub-classes. Here is an opportunity to improve
16 quality for outside-inside and take work off the
17 examiners' desk so they can do what they do best.

18 PG pubs, when we do an 18-month
19 publication, we go through and we classify it to
20 say what are the subject matters set forth in the
21 claim that would be classified. That requires an
22 examiner, again, to sit down, read the

1 application, go through it and do the class, sub-
2 class indication. We are going to hire somebody
3 else to do that. We awarded a contract to SI
4 International in September. Again, that will take
5 a lot of time away from examiners that they were
6 spending classifying PG pub applications and allow
7 them again to do the searches that are so
8 important.

9 That contract has not started yet. We
10 are hoping that maybe by April. David Freeland
11 (?) is working with the company right now to get
12 through with their certification and
13 accreditation. He is working with Don Hajec (?).

14 Where is Don? Don Hajec, here, Don is
15 doing our reclass and our PG pub.

16 MR. FREELAND: I am just doing the PG
17 pubs. Rick is doing the reclass.

18 MR. DOLL: Sorry, Rick.

19 MR. SEIDEL: That is okay.

20 MR. DOLL: Whoever prepared my notes,
21 sorry. EFS Web, I think everybody here thinks
22 that EFS Web is great, at least from the ones that

1 I have talked to. Right now, we are running at
2 over 40 percent of all the applications that are
3 filed are filed electronically.

4 CHAIRMAN RIVETTE: Over 40?

5 MR. DOLL: Over 40. Very soon, within
6 the next few months, we predict that over 50
7 percent of all the applications that are filed
8 will be filed electronically, and that will really
9 be a milestone because just a couple years ago, we
10 were lucky to get 1.2 percent of our applications
11 filed.

12 MR. PINKOS: A year ago, right, in
13 March, last March?

14 MR. DOLL: You are right.

15 MR. PINKOS: Yes, a couple years ago, it
16 was less than that.

17 MR. DOLL: That is why he is the Deputy
18 and I am just.

19 MR. PINKOS: We used to combine them
20 with Trademarks and say that roughly 50 percent of
21 the applications that come in the PTO are
22 electronic, 99 percent, Trademarks and 1 percent,

1 Patents. Now it is closer to 75 percent.

2 MR. DOLL: Right, I think what we ought
3 to do is we ought to have a PPAC initiative where
4 everybody in here commits to filing 100 percent
5 electronically on EFS Web. You already did it.
6 Five of the ten largest IP firms in America have
7 committed to filing 100 percent EFS. That was
8 really a big coup on our part.

9 CHAIRMAN RIVETTE: Is IBM committed to
10 that?

11 MR. DOLL: Yes, some of your divisions
12 are.

13 MR. PINKOS: It depends on the law firm.

14 MR. DOLL: But even in-house, you have
15 pockets.

16 CHAIRMAN RIVETTE: Do we still have
17 pockets?

18 MR. DOLL: Yes, Kris isn't here, so I
19 don't have an exact number for that.

20 MR. MOSSINGHOFF: Are there lessons to
21 be learned from why it took so long?
22 Congratulations on what you are, but what was the

1 delay?

2 MR. DOLL: The delay was really that the
3 Office made the decision, what we needed to get to
4 a text-based search system, and we tried to
5 force-feed it to applicants to say, you had to
6 file the applications in an XML tagged type
7 environment. It was just so kludge, so hard to
8 work with that the public never accepted it and
9 said I am not going to do it.

10 So this time around, rather than us
11 telling the public what we think they needed and
12 what we think they should do, we went out and
13 asked them. We had roundtables, town halls and
14 said, what would it take to get you to buy in to
15 an EFS filing system?

16 And they told us, give us something that
17 is simple, something that is client-light,
18 something where I don't have to load software,
19 something that I can come in through your
20 firewall. I can save it. I can file at any time.
21 There is no restrictions, and it is easy. I can
22 use any word processor I want.

1 We developed a system around their
2 suggestions, and it has worked out really well.

3 MR. GULBRANDSEN: And you can get a
4 filing receipt.

5 MR. DOLL: And you can get a filing
6 receipt within 15 minutes.

7 MS. NORTON: I think because of that,
8 you are probably going to see up to 90 percent
9 within probably the next two years if not a year
10 because just for malpractice purposes, you have
11 got it right there. You are not having to courier
12 it.

13 MR. DOLL: You are absolutely right
14 because even on Private PAIR, once you file your
15 application electronically, within 15 minutes and
16 usually with in 5, you can go online, make sure
17 that every page is there, every document is there,
18 that every graph came through clean and clear so
19 you know exactly what was there.

20 MR. MOSSINGHOFF: What is the
21 encryption? Who? That was a big issue, I
22 thought, that there wasn't sufficient encryption

1 or something for these trade secrets. Is it PDF?

2 MR. DOLL: David?

3 DAVID: We are going through and using
4 web browser SSL right now and are probably going
5 to beef that up. It is coming through a secure
6 software layer right now. That is how we are
7 handling that now, establishing a session between
8 the filers' desktop and our servers here. So it
9 is encrypted when it gets in that way.

10 MR. DOLL: Correct me if I am wrong,
11 David, but that is the same encryption system they
12 use with Amazon.com and almost all of the internet
13 buying services.

14 DAVID: True, for when you are putting
15 in your credit card number.

16 MR. DOLL: So you are putting in your
17 credit card.

18 DAVID: Now we are having to beef up
19 some of our security due to some of the government
20 requirements on our browser front end, and that is
21 fine. Actually, that will help improve this even
22 more.

1 CHAIRMAN RIVETTE: You are going to do
2 that also for the hoteling?

3 DAVID: Hoteling is a little bit
4 different because we come in through a secure VPN,
5 virtual private networks. That is a very good
6 program right now. It is working very solidly.
7 There are some improvements we need to make on
8 that or plan to make over the few years coming up.
9 Security on the workers out or examiners scattered
10 around, that is very important to us right now, to
11 make sure that we have our privacy held and our
12 security in being able to get into that. So we
13 are always looking to improve how we do the
14 security systems.

15 MR. DOLL: The best part of EFS Web is
16 that always whenever we go out and talk, we run
17 into an attorney that says, I am no longer scared
18 when my paralegal or secretary goes home because I
19 know 8:00 at night I can file an amendment.

20 Right now, we are tracking applications
21 filed, and very soon we will also have over one
22 million follow-on papers filed through EFS Web.

1 It isn't just the filing. The follow-on papers
2 have been a huge success also.

3 Public PAIR, we have made some real
4 improvements in Public PAIR. We rolled out PAIR
5 7.0, and there is a lot of self- administration
6 advantages to that. I think everybody here who
7 uses Private PAIR, we just have nothing but
8 compliments on that, and 7.0 has actually made it
9 just a little more secure, a little more
10 user-friendly to take allow you to take care of
11 things like your customer numbers and your
12 attorney docket numbers.

13 We have a search pilot that we have
14 talked about a couple times where Sarah is going
15 out and talking to corporations about what is the
16 best way to search. We have gone out to FDA so
17 far this year to find out exactly if there are
18 pockets of technology on how certain art areas
19 search a particular art area.

20 We are also going to go out and do an
21 RFP or an RFI to see who would be interested in
22 coming in and rolling out what would work best for

1 us, and we have had responses from LexisNexis,
2 from Thomson Scientific and the IBM patent café
3 have expressed an interest to come in and talk to
4 us about the way we search and some of our search
5 tools.

6 What we use right now, as you saw
7 yesterday, the ones that took the tour, are
8 east-west. That was developed in the nineties.
9 We really haven't made any major improvements, but
10 when you look at the internet right now, what you
11 see is just huge improvements in search engines,
12 search logic and display and customization. So we
13 are looking to take advantage of a lot of that.

14 MR. MOSSINGHOFF: Are we connected with
15 Google at all for the Google Initiative on Patent
16 Files?

17 MR. DOLL: No.

18 MR. MOSSINGHOFF: They just did that on
19 their own. Their patent database, they just did
20 it on their own?

21 MR. DOLL: Well, they access our
22 database, but they didn't buy it, unfortunately.

1 We give it away for free.

2 DAVID: They bought it.

3 MR. DOLL: Oh, they bought it?

4 DAVID: A large portion of it, yes.

5 MR. DOLL: That is the difference
6 between David and I. I would give it away for
7 free. He charges.

8 MR. MOSSINGHOFF: Let us vote for him.

9 MR. DOLL: The last thing that I wanted
10 to talk about very quickly was the ABA came in
11 recently. The ABA came in and they talked to us
12 in our business methods area. What they did is
13 they brought in some very high priced talent to
14 talk to our examiners about tax strategies, tax
15 shelters and how to examine in the business method
16 area when we are ready to do taxes. It was
17 extremely well received by the examiners. The
18 examiners love it when experts in the field come
19 in. They had the dean of a law school.

20 Do you remember they were, Liz?

21 LIZ: I don't.

22 MR. DOLL: We had the dean of a law

1 school. We had a law professor. We had a
2 practicing tax attorney. These were big names,
3 and it was really a good interaction. It worked
4 out so well, and the ABA, they were so satisfied
5 with the feedback from their end, that they came
6 in and offered to go out and look for other people
7 to come in and work with the examiners. I would
8 like to make that offer to PPAC also, that if you
9 have any idea where you would like to come in and
10 train, where you see an interest in the Office,
11 whether it is software searching, whether it is
12 business methods, whether it is pharmaceuticals on
13 what we could do better. The examiners love that
14 kind of one-on-one training, and we would be more
15 than willing to entertain that.

16 MS. NORTON: John, I just had three
17 quick suggestions for pendency. I don't know if
18 the Office has given any thought to it.

19 First of all, I know a lot of people
20 will file and then the company -- you see this a
21 lot from the dot.coms -- the company has gone
22 bankrupt. The examiner goes through the first

1 office action. Have you given any thought to how
2 to try to catch those so that you are not wasting
3 time?

4 MR. DOLL: Last year, when we were
5 looking at our initiatives, that was one of the
6 ideas we had, but we had to just contact everybody
7 who had a case in their backlog and said: Are you
8 still interested? Maybe you went out of business.
9 Maybe that technology is no longer important to
10 you.

11 So we didn't do a really scientific
12 study. What we did is we called a bunch of people
13 that we knew. We said, what do you think of this
14 idea? Overwhelmingly, the attorneys said to us it
15 would cost more than you could refund. It is
16 easier for us and easier for the corporation to
17 just sit back, wait on the first action and then
18 not respond. If you have to go through a law firm
19 that then has to take it to a corporation that
20 then has to make a decision, it isn't worth the
21 \$200 that we could refund.

22 Even the one law firm that she would do

1 it for free said that it wouldn't be worth it to
2 the corporation. It would take more than \$200
3 worth of their time. It is easier just to take
4 the first actions.

5 MS. NORTON: But if it is not a refund
6 and it is just a simple paper that when an
7 examiner picks it up, please let us know. In most
8 situations, if they have gone abandoned, all the
9 law firm has to do -- they are probably not going
10 to love it but they will like it a lot more than
11 some of the other pendency issues. Just say, let
12 us know if this is still something you want us to
13 pursue and maybe save that examiner five or ten
14 hours.

15 The second one was with the issues that
16 people have with deferred exam. What were the
17 biggest issues with deferred exam?

18 MR. DOLL: I don't know because I wasn't
19 part of that road show.

20 John Love, do you know?

21 MR. LOVE: Well, part of the concerns
22 that I have heard was they would like to have the

1 patent regs established and they don't like the
2 uncertainty of deferred applications being out
3 there without the patent regs being established.

4 MS. NORTON: So was the term getting
5 extended at all with deferred exam?

6 MR. DOLL: Not in our opinion.

7 MS. NORTON: Not in yours, okay. All
8 right, I was just asking.

9 MR. MOSSINGHOFF: There would just be
10 more and more potential defendants, right? You
11 just want to see the idea. You just want to see
12 if this thing is going to end up being rather than
13 seeing a filed application. That is the question
14 in my view.

15 MS. NORTON: Okay.

16 MR. PINKOS: We wrestled with it
17 internally because almost everything we are
18 promoting is to create greater certainty in the
19 system, and that is what is important for
20 innovation. Everybody knows what has been
21 patented, what is pending, what hasn't been run
22 forward and have that certainty as quickly as

1 possible.

2 MR. WESTERGARD: Deferred runs counter
3 to that. With deferred in the deferred context,
4 was the application was still published in 18
5 months?

6 MR. PINKOS: Yes.

7 MR. WESTERGARD: So it still was, okay.
8 The other criticism was deferred examination, from
9 a defendant's perspective, if you are facing that
10 patent, it allowed for late claiming and raises similar
11 kinds of concerns that were raised in connection
12 with the continuation issue.

13 MS. NORTON: I was just wondering how if
14 the term, how much that played, if the term was
15 getting extended and if that was causing a lot of
16 it.

17 The third thing is I know with the
18 government, that you are under certain criteria
19 where people have to be in the system to hit a
20 certain pay level and I assume that impacts
21 recruiting. But I would guess around the country,
22 maybe particularly in this area your

1 hoteling, there might be a lot of people that are
2 in law firms or doing other things that haven't
3 worked for the government that would love the move
4 ability and move back to Tidewater or whoever
5 wants to go back there.

6 MR. MOSSINGHOFF: Detroit.

7 MS. NORTON: Or Iowa, I hear.

8 SPEAKER: The Pistons are playing well
9 again.

10 MS. NORTON: And Ohio, apparently, is
11 popular as well.

12 SPEAKER: A hot spot.

13 MS. NORTON: Again, if it is some sort
14 of OMB regulation or something, but you might be
15 missing out on a huge pool of opportunity of
16 people. Have you guys tried to looking at that?

17 MR. DOLL: We are looking at second
18 careers. Actually, when Steve spoke to the last
19 new academy class, it was amazing for how many
20 people this was their second or third career. I
21 think there was somebody in there that was 72. We
22 hired a guy. We are getting more and more people

1 where it is their second career because they do
2 see the benefits.

3 It was interesting because you talked
4 about training academy legal. We had one of the
5 attorneys from the training academy that had just
6 come to the Patent Office, and he came and talked
7 to me. He says, you are really missing a grand
8 opportunity because you are not heavily recruiting
9 in law firms. He got out of law school. He
10 wanted to get into a law firm. He went in, and
11 all of a sudden there was this big litigation
12 case, and he lost his weekends for an entire
13 summer. He says, I am not going to live like
14 this.

15 CHAIRMAN RIVETTE: Only a summer?

16 MR. DOLL: He quit at the end of the
17 summer.

18 MR. PINKOS: There are all sorts of
19 benefits that could come from more of a national
20 workforce, and one of those would be not just
21 retaining people who may have started a career
22 here but in many other parts of the country, 80,

1 90, 100, 110, certainly \$140,000 a year, which
2 some examiners make, is more than lawyers make or
3 as much as lawyers make in Topeka or Wichita
4 Falls. So they may be more likely to come to PTO.

5 MR. DOLL: To Steve's point as well,
6 when we were in Denver, the Governor of Colorado
7 invited us out, so we went out there. When we
8 were talking to them, they said that the average
9 patent attorney makes \$120,000 a year in the
10 Denver area. Well, the GS-14 step one is \$102,000
11 a year. It is a tough job, but you could do it in
12 40 hours a week. They go up to, as Steve said,
13 \$143,000 a year. So we may well become the
14 employer of choice in certain parts of the
15 country.

16 MS. NORTON: But don't they now? I
17 think you have to start, if you come into the
18 government. Say you are an attorney, a second or
19 third-year associate. If you come into the
20 government, don't you have to start at a lower
21 level because of the government rules?

22 MR. DOLL: It depends on your education,

1 whether you are a B.S., M.S. or Ph.D. and then it
2 depends on the years experience on the outside,
3 but coming in at anything higher than the GS-12 is
4 extremely difficult and rare.

5 MR. PINKOS: As a patent examiner, you
6 mean?

7 MR. DOLL: Yes, yes.

8 MR. GULBRANDSEN: That is something we
9 can work with. We have attorneys that come in at
10 GS-15 levels. So those are just they have been in
11 a law firm for 10 years and decide they want to
12 come in here and work on international issues,
13 they want to work on the board or somewhere else.
14 Those types of hurdles aren't insurmountable.

15 SPEAKER: Just because Jon says kill all
16 the attorneys.

17 MR. GULBRANDSEN: Actually, that is not
18 a bad sentiment for a politician. It really
19 isn't.

20 MR. MOSSINGHOFF: Now it is out in the
21 public session.

22 MS. NORTON: I was thinking that might

1 be good. You have the training recruiters who
2 call all the time to these law firms. You might
3 want to have a training recruiter from the PTO
4 calling and saying, hey, you could go, you could
5 come do this.

6 MR. DOLL: We had a great idea where we
7 were going to send a flyer out with every office
8 action, advocating how wonderful of a place it was
9 to work. I said: Why waste our time? It will
10 never get past the docket person. It will be
11 stripped down and thrown in the trash can.

12 (Laughter)

13 MR. ROSS: I have a comment or concern
14 in reference to the pendency. I have been hearing
15 a lot of focus on the attorneys and on the upper
16 management staff, but I think there needs to be
17 greater focus on the support staff as well. In
18 order to reach their pendency goals, the attorneys
19 rely on support staff. Their numbers as well go
20 towards the pendency. I have seen our account at
21 about maybe 10 initiatives in reference to the
22 attorneys, and I haven't seen any in reference to

1 the support staff. It seems like the attorneys
2 are given all the initiatives and all the
3 incentives and all the attention, but with the
4 lack of attention that is being focused on support
5 staff, it is becoming a problem because they have
6 no incentives, because they have no means of
7 upward mobility, because they have no means of
8 having their work included or being appreciated
9 like the attorneys' work is being appreciated.

10 I do believe there needs to be more
11 focus especially on the support staff. As you
12 know, they have very little upward mobility right
13 now. As you know, we are training contractors to
14 come in and do our jobs. When job announcements
15 are being submitted or vacancy announcements come
16 out, these same people who we train are being
17 hired for these positions, allowing for my people
18 who are GS-5s, GS-6s and GS-7s, remaining in those
19 positions. There needs to be more initiatives
20 with us. I am a support staff member, so I know
21 firsthand. Any type of initiative. You are doing
22 so many pilots, so many things for the attorneys

1 to do, but you have support staff who are feeling
2 like we are left out.

3 I can totally tell you that morale is an
4 all time low. I can totally tell you that people
5 who have been here for 15 or 20 years, are GS-5s
6 or GS-6s because they don't have the upward
7 mobility to move anywhere else. The pendency rate
8 can go down if you show these people some
9 incentive, if you show these people the work they
10 are doing is appreciated. I think there needs to
11 be greater focus on that as well.

12 MR. DOLL: You are absolutely right, and
13 I agree with you. I apologize because there were
14 a couple things that I didn't mention that I
15 should have, that were in my notes, that I missed.
16 When I talked about the hoteling program, we just
17 recently started a hoteling program for TSS, where
18 not only the examiners have the opportunity to go
19 home, but we have the tech support that are
20 working at home, an extremely popular pilot. The
21 ladies and men that are on the pilot from tech
22 support are extremely happy with that because they

1 have the same suite of products and they are doing
2 their work at home. I think that is going to be
3 successful.

4 The other thing that we are doing right
5 now is the document verification program where we
6 are actually working with the tech support staff
7 because one of the biggest problems we have is
8 getting cases through pubs. What happens is the
9 case goes to pub with an error in it, and then it
10 is kicked back, and it winds up just sitting in
11 the corps for a long period of time. So we are
12 doing a higher level of training. It is 2800 and
13 1600 right now where we have two works groups that
14 are actually doing a much higher level of work in
15 document verification, and we have taken the error
16 rate from over 30 percent down to 10 percent in
17 that. The tech support has done a wonderful job
18 there.

19 You are absolutely right. We need to
20 look for more opportunities like that, and we
21 would be more than willing to look at whatever
22 ideas you have in that respect. Thank you for

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1 bringing that up.

2 MR. ROSS: I have quite a few ideas as
3 well.

4 MR. DOLL: Well, great, my office is
5 right across the hall. Next week, I will be in
6 the Bahamas, so stop down. We will have a drink
7 on the beach.

8 MR. MOSSINGHOFF: There goes pendency.

9 (Laughter)

10 CHAIRMAN RIVETTE: Any other questions,
11 concerns? We have a couple minutes left. Anyone
12 from the public want to make any comments or have
13 any questions? You are awfully quiet. Going
14 once.

15 ROD: Actually, I did have a question.

16 (Laughter)

17 ROD: Rod doesn't have a question? Lisa
18 Norton came up with a really good idea of asking
19 applicants whether or not they are still
20 interested. John mentioned that the law firms
21 said it would exceed their costs. Apparently, you
22 were only offering about \$200 as a refund. I

1 always thought examination was probably worth
2 closer to \$1,000 than \$200. Do you think you
3 would get the same result if you offered them a
4 grand?

5 MR. DOLL: Under the statute, we are
6 only allowed to refund the search fee on cases
7 that were filed after December 8th of -- help me,
8 John. It is set by statute what we can refund,
9 and it was just the search fee which was \$200 of
10 the total filing fee.

11 MS. NORTON: I am not sure that you have
12 to give them money. I mean you might just require
13 they have to submit a paper. I am not advocating
14 any additional fees, but I can understand the law
15 firms say it is just too much hassle, but at least
16 it requires you to go out, find out. They ask
17 their client, and they have to certify they are
18 still interested.

19 MR. DOLL: Aren't the attorney and the
20 applicant going to be upset because now we are
21 forcing you to do work. You are going to have to
22 charge for that. The applicant is going to have

1 to pay for it. Why are they asking me a stupid
2 question? Of course, I want the patent.

3 MR. MOSSINGHOFF: I can see that with
4 big law firms, this could really be a burden which
5 they would view as unnecessary.

6 MR. DOLL: I have never aggravated them,
7 so I don't want to start.

8 MR. MOSSINGHOFF: Is piling on the right
9 thing?

10 MS. NORTON: I think if you asked them
11 if they would rather have this or some other
12 proposal, they would probably rather file a piece
13 of paper. It would be interesting to do a study
14 to see how much time you are saving, by how many
15 people don't respond to that first action.

16 MR. DOLL: The number of people that
17 don't respond to the first action is down around
18 the 12.

19 MS. NORTON: Twelve percent?

20 MR. DOLL: Twelve to fifteen percent, it
21 is amazing, amazingly low.

22 MR. MOSSINGHOFF: It would be a lot

1 lower that you don't even want it because a lot of
2 people perhaps react to a very unfavorable first
3 action. So some percentage of that 12 is just
4 because of what the first action is. They are
5 trying to dynamite the reference.

6 MR. DOLL: You are right.

7 MR. MOSSINGHOFF: I could very well see
8 a law firm having to correspond with foreign
9 applicants as just another thing that can fall
10 through the cracks, time involved and all that.
11 So I could see some real concern.

12 MR. PINKOS: What if we offered \$2,000?

13 MR. MOSSINGHOFF: Earmark it for a
14 senior counsel.

15 (Laughter)

16 MR. PINKOS: I am glad Lisa brought it
17 up because it is something we talked about, gosh,
18 John, over a year ago. Maybe it merits more
19 examination or at least more discussion because if
20 it were 5 percent and again if there was an
21 efficient way to do it, and Gerry brings up some
22 important concerns. It sounds like some of the

1 same things John heard. But if it were 5 percent,
2 then that is significant considering our backlog.

3 MR. WESTERGARD: One of the things that
4 we got back, Doug and I, from the solicitations
5 that we sent out was from the fellow who had previously
6 led the Japanese patent office. He recommended a request
7 for examination as a mandatory condition precedent
8 to any examination at all, and suggested the request has
9 to be made sometime within the first three years according
10 to his proposal. That is the kind of input that I
11 expected we would get back from some of these
12 folks and see where they go.

13 MR. DOLL: Interesting idea.

14 MS. NORTON: Most countries or a lot of
15 countries have that.

16 MR. DOLL: But that is an additional
17 burden on you and on the applicant.

18 (Laughter)

19 SPEAKER: But they only handed out 3,000
20 patents last year.

21 MR. PINKOS: Did Jon speak about
22 international efforts at all? I didn't know. The

1 Office, what we are doing are work-sharing and all
2 that?

3 CHAIRMAN RIVETTE: Yes. Anything else?
4 If there is nothing else, I will declare us closed
5 and over, and we can all run for our airplanes.

6 MR. GULBRANDSEN: Kevin, I would just
7 like to say that this has been a great meeting. I
8 appreciate it.

9 CHAIRMAN RIVETTE: Thank you and thanks
10 to everybody.

11 (Whereupon, at 3:50 p.m., the
12 PROCEEDINGS were adjourned.)

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