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&
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U.S. PATENT & TRADEMARK OFFICE**

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- Jeff Samuels, Former Assistant Commissioner for Trademarks
- Marybeth Peters, Register of Copyrights
- And I would certainly remiss if I didn't recognize former Commissioner Don Banner, who's with us here today, as well.

INTRODUCTION

Thank you very much, Greg. It's great to be back with all of you again. In keeping with what has become the tradition of this Conference, I would like to devote my remarks today to discussing the state of the U.S. Patent and Trademark Office and to summarizing the events at the Office during the last year.

I had the honor of delivering the "State of the USPTO" address for the first time at last year's meeting in San Francisco, and it's a pleasure to be addressing you now, especially as a result of all of your hard work in convincing Congress to pass the

American Inventors Protection Act, as Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office.

I think this title is particularly significant in that it recognizes the increasing importance of intellectual property in public policy and administration, and I am very proud to be the first to carry it. I can only hope that I will do you all proud for the time that I am in this position, and honor the trust that's been placed in all of us at the USPTO.

We are the keepers of the dreams of a nation. And as one of the principal guardians of the system, and the integrity of it, I am proud to report that we have taken our responsibility seriously, and have stood our ground to defend the responsibilities that have been entrusted to us.

Today, half way through the first year of the new century and nearing the end of the eight years of the Clinton-Gore Administration, it is my pleasure to report to you on the dividends of your trust, which are many.

Unfortunately, it also falls to me to report on a potential threat to that trust which now hangs over us.

OVERVIEW

Today, we stand at an intersection of developments that have and will continue to profoundly change the way intellectual property is created and protected, and way in which its principal systems are administered. It sounds almost like a cliché to say that we are at a crossroads, but I truly believe that historians will one day look back on this time as one of the most significant periods in the history of intellectual property -- and the USPTO.

As we see so clearly a few miles from here in areas like the Route 128 corridor, information-based industries -- biotechnology, telecommunications, microelectronics, and the like -- are now the #1 driver of our economy. No less an authority than Federal Reserve Board Chairman Greenspan has credited technological development with providing the productivity increases that have fueled the longest period of economic growth in our nation's history.

No matter how you look at it, the old adage “knowledge is power” has never been more true than it is today. And I am quite proud of where we find ourselves today in dealing with the issues and balance demanded by such an equation

During the seven and a half years of the Clinton-Gore administration, the public policy profile of intellectual property and the need and expertise of our Office to help administer its systems has risen to unprecedented heights.

In the international arena, in particular, due in no small part to the lasting legacy of my predecessor, Commissioner Bruce Lehman, the leadership that the United States has shown the world, both developed and developing, has been unparalleled. While much work remains, we have helped lead the way to a global environment which now clearly recognizes the importance of intellectual property to economic development and to the prosperity that naturally flows from it.

We’ve strengthened patent, trademark, and copyright protection and enforcement -- at home and abroad -- and made it made it easier to secure that protection in markets around the worlds.

And we have continued to successfully adapt our centuries old systems to the new realities of technology, even as we continue to educate the public on the reasons for and benefits of those adaptations.

Consider a few examples of just how far we've come:

Eight years ago, our Office was, as the media likes to characterize it, a fairly backwater agency. Very few people, aside from you all of course, paid much attention to us, and patents and trademark issues rarely made news. Today, we're hard-pressed to stay out of the headlines. While not always a good or comfortable thing, but a reflection of the new realities of our work.

Eight years ago, the internet didn't even exist for all practical purposes. In fact, the President likes to point out that when he took office there were something on the order of 100 websites, where today there are estimated to be hundreds of millions. Our customers weren't able to file patent or trademark applications electronically -- or check on their status over the Internet. They couldn't pay for our services or fees with credit cards. And they couldn't search our patent and trademark databases -- free of charge -
- on our website.

The number of patent applications as a function of research and development expenditures was actually decreasing.

Eight years ago, the budget of the USPTO was \$474 million, on receipts of \$498 million. Today, the President, at least, has proposed a budget that has more than doubled to \$1.04 billion. Our trademark examining corps was half the size it is today and patent examiner Corps was almost 70% smaller, and our examiners didn't have desktop access to patent text and image databases for easy and thorough on-line searching.

Eight years ago, no surveys of our customers were conducted in order to measure the quality of our work. There was no such thing as PTO University, which partners with academic institutions such as Johns Hopkins University and Syracuse University, to provide undergraduate and graduate programs for our employees.

Eight years ago, there was no TRIPs Agreement, no Trademark Law Treaty, no Patent Law Treaty, no WIPO Copyright Performers and Phonograms Treaty, no U.S. participation in the Hague Agreement for the Protection of Industrial Designs and the

Madrid Protocol. There was no American Inventors Protection Act and no Digital Millennium Copyright Act.

CURRENT HIGHLIGHTS

I could go on, but suffice it to say, the last seven and a half years have been quite a ride. And focusing on the more immediate past, this year has been no exception. As our professional staff who are here today can tell you, we haven't had a dull moment all year.

Just within the last several months, we have seen the enactment of the most sweeping patent reform legislation in a half-century, the transformation of our Office into the leader for government reinvention. After much protracted litigation, public debate and approvals and continuing Congressional inquiry, we have signed the lease to allow us to move to new modern, consolidated facilities in Alexandria, hopefully sometime in 2004.

On the international front, we have continued to champion initiatives that will provide for stronger, more affordable and accessible intellectual property protection in markets around the world.

For example, we're working closely with developing economies to bring their domestic laws into compliance with the TRIPs Agreement, and have sponsored extension programs dealing with international enforcement.

To grapple with the myriad of domestic enforcement issues that seem to grow by the day, we also now serve as co-chair, along with the Justice Department, of the new National Intellectual Property Law Enforcement Coordination Council.

In the patent area, we've put forward a proposal to simplify the Patent Cooperation Treaty, hopefully leading to greater and cheaper usage, while looking ahead to the day when a true global system of patent protection can emerge. We were instrumental in helping secure the recent adoption of the Patent Law Treaty, which, although limited to procedural matters, brings us even closer to the day when the rights of inventors will be universally recognized and protected. I am particularly pleased that, consistent with our government's move to e-government, we secured a major concession in the PLT which will allow us to require electronic patent filing in five years, rather than the ten year moratorium provided for in the original treaty draft.

In Trademarks, we've seen ratification and implementation of the Trademark Law Treaty, which harmonizes the procedures of national trademark offices worldwide. And very shortly the Madrid Protocol will be sent to the Senate for ratification, and we're also hopeful that we will soon be able to begin implementing it, allowing applicants worldwide to file in the office of their choice, another important measure for simplifying the international trademark registration process.

On the copyright front, we have deposited our instruments of ratification for the WIPO Copyright Treaty and the WIPO Performers and Phonograms Treaty -- the WCT and the WPPT -- key measures for protecting copyrighted works in the digital environment. We are now preparing for the WIPO Diplomatic Conference on the Protection of Audiovisual Performances, which will be held in Geneva this December, where we hope to resolve issues left open by the WCT and the WPPT.

And last summer, we joined 22 other nations in signing a new Act of the Hague Agreement Concerning the International Registration of Industrial Designs.

DOMESTIC ISSUES

Here at home, we've been busy, too. Especially this past year.

For example, in order to provide our customers with more efficient, user friendly service, we've made a number of exciting improvements in our automation technology. This includes becoming the first national intellectual property office in the world to offer electronic filing for trademarks, the piloting of electronic patent filing, and implementation of on-line systems that allow our customers to check on the status of their patents and trademark applications or trademark registration. We also now accept credit cards for all our fees and services, in essence allowing Mastercard and Visa to reconcile your deposit account, no small matter to your accounting departments, I'm sure.

And speaking of fees, last December we reduced patent filing fees by \$70 and patent maintenance fees by \$110. It's the second year in a row we've lowered our fees, saving inventors about \$30 million annually. While we did increase trademark fees, it was the first time since 1992, and was with the active involvement and support of the trademark community.

To better serve the needs of America's independent inventors, we established the Office of Independent Inventor Programming, and to nurture the next generation of inquisitive minds -- we have created websites devoted specifically to independent inventors and children. To help protect our innovative entrepreneurs, we also have launched new TV and radio spots to fight invention promotion firms scams.

We have designated four new Patent and Trademark Depository Libraries (PTDLs), bringing our total to 87. And we have increased public access to automated systems in our Public Search Facilities by more than doubling the number of workstations.

In an area of particular concern to you and your clients, we've continued to bring down the backlog at our Board of Patent Appeals and Interferences and the Trademark Trial Appeal Board.

So far this year, the BPAI has reduced the number of pending appeals by nearly 1,200 to 7,150 -- the lowest level since fiscal year 1996. At the same time, its inventory of pending interferences has been reduced by 40 to 297 -- also the lowest level in almost four years.

At the TTAB, while we still have a long way to go, we've seen a major reduction in the time it takes to issue final decisions. The current average pendency now stands at 26 weeks, down from an average pendency of 44 weeks a year ago.

As part of our heightened focus on quality management, we've expanded our customer outreach efforts through focus sessions, written surveys, interviews, roundtables, partnerships, and technology fairs. Sometimes I get the feeling that you are in our offices as much as we are – and that's a good thing. We've have adopted the balanced scorecard methodology for all our major operating units, to better track and optimize operational performance.

And we have made a renewed and expanded commitment to quality and customer. We have asked you which was more important, pendency or quality, and we have universally heard quality and we have responded. Fortunately, from everything that we see, this focus on quality and customer service is paying off.

A study by the National Partnership for Reinventing Government, in cooperation with the federal Office of Personnel Management, has ranked our Office #1 in the federal government in six different areas it

surveyed, including having service goals aimed at meeting customer expectations.

Our surveys of our customers corroborate that, as well. Last Fall we recorded the largest increases in the history of our annual customer surveys. And we continue to receive very positive, unsolicited feedback from customers. For example, one gentleman emailed us to say that we had “renewed [his] confidence in the government bureaucracy.”

I’m hopeful that the results of this year’s surveys, which will be available this September, will be even higher than last year’s. And if you have received a survey and haven’t filled it out, please take a few minutes to do so. We want your feedback.

The increases in satisfaction with our Office, I’m pleased to say, haven’t been limited to our external constituencies. Within the Office itself, we’ve seen a substantial improvement in the labor-management partnership, having reestablished our Partnership Council, and I meet regularly with our union representatives. As just one example of , the percentage of our employees that report they are happy with their jobs has doubled in the last year, as has their satisfaction with the management-union relationship.

I am extremely proud of these achievements. But believe me, no one knows better than I that much work remains and that quality management is a process of continuous improvement. I am pleased with where we find ourselves today, but eager to get to work on the challenges of tomorrow. And while we still have a ways to go, but we're well on our way to making the USPTO a standard-bearer for excellence in government.

Secretary Daley's charge to all of us as we entered this last year of the Clinton Administration was to try and leave things better than we found them, a reasonable and pragmatic goal, very much like the Secretary himself. We're not done with this Administration yet, but as for where they are right now, I'd like to think that we have met that challenge.

AIPA

Of course, one of the most important achievements of the last year was the enactment of the “American Inventors Protection Act of 1999.” As many of you know, this bill was the product of about five years of often acrimonious debate, in which you were all intimately involved. Hayden Gregory, from your Washington staff in particular, deserves enormous credit for his vision and strategic engagement in that process. Right up until the final voter, the prospects for an agreement or a favorable vote seemed almost hopeless. But fortunately, the parties were able to come to a consensus, and pass it did, resulting in this landmark legislation’s adoption last November.

As you’d expect, the implementation of the AIPA has in many ways been the most significant item on our agenda this past year. We recently completed the first phase of rulemaking on the major substantive elements of the bill, including pre-grant publication of patents, patent term adjustment, and expanded third party (inter partes) reexam. We did so under very tight timeframes and a number of budget constraints. This act unfortunately, was unfunded at the time of enactment, and we are faced with about a \$15 million unfunded liability in FY2000 and approximately \$40 million in FY2001, mostly from

Pregrant Publication. We can recoup much of this at the time of Notice of Allowance, but, given the timing, this still leaves us with significant cash-flow issues.

We had to make a number of tough decisions in the rulemaking, as you can imagine. I am pleased, however, that the initial feedback we've received from the comments have been positive.

As you can tell from the rules package, we are guided by several overarching principals, such as being strict on interpretation of Patent Term Adjustment, and the opt-out provisions of Pre-grant publication. As a former practitioner, I was also mindful of the challenges many of the provisions and the rules can present to your practice. Hopefully, we can minimize the opportunities, if that's the right word, for inequitable conduct exposure.

We're currently reviewing all the public comments and preparing the final rulemaking packages. We appreciate the ABA's participation in the rulemaking, working with us to ensure that the regulations are clear and fair, and let me assure you that the Section's concise and insightful comments will be thoroughly considered during formulation of the final rules.

Let me also take this opportunity to again thank Steve Kunin, our Deputy Commissioner for Patent Examination Policy, and his team who have worked so hard on these packages. They have done an outstanding job.

Before I turn to talk about the other significant component of the bill -- the performance-based provisions -- I would like to say a few words about reexaminations.

One of the great opportunities in the draft statute, which was only partially realized in the final version, was the possibility of lowering litigation costs, and increasing the ultimate quality of our product, was the expansion of third party reexamination. While it was not as complete as many would have desired, in fact, this debate continues, as various commentators this year, such as Jeff Bezos and Tim O'Reilly, have raised the issue of a European-style brief post-examination reexamination period. Driven by issues of particular concern in the area of software-implemented business method patents, there has been this renewed public debate, which should be carefully observed.

This is not to say that even with our current *inter partes* reexamination practice there are not opportunities for positive change. I am a strong believer in the reexamination process and the potential it brings for cost-effective quality improvement in our work. Some have worried that this means that we did not perform the job right the first time; on the contrary, we do the best we can with the resources at hand. If there is new prior art out there, as I challenge our critics in the media, especially, bring it on. We are eager to make our patents the strongest in the world and reexam is a key piece of that.

So in addition to the final rulemaking packages regarding *inter partes* reexam, I am pleased to announce today that we are also initiating changes in our current policy for initiating and examining *ex parte* reexamination cases.

[We always like to make a little news, if possible.]

I would like to give a preview of this initiative, which we will formally unveil very soon, once internal approvals are complete. The initiative will very likely include the following:

1. Finally resolving one of the biggest, or at least most widely expressed, concerns, all newly filed *ex parte* reexamination proceedings will be assigned to a different examiner than the examiner(s) of record in the application.
2. We will require the holding of a senior level conference, similar to our current appeal conference, before issuance of a final rejection, and we will require a Notice of Intent to Issue a Reexamination Certificate in each reexam case.
3. For interpartes reexamination, we will have the reexamination performed by specially-assigned senior staff, and will use this a pilot for the possibility of an expert panel or board to handle all *ex parte* reexaminations, as well.
4. In an effort to better utilize the Director Ordered Reexamination process, prior art submitted pursuant to 35 U.S.C. 301 and 37 CFR 1.501 will be reviewed at the Group Director level, with an

eye towards serving as a possible basis for Director Ordered Reexaminations.

Many of these changes are ones that you have asked for, and we are pleased to deliver.

And with respect to Director Ordered Reexaminations, let me just comment parenthetically on actions of the past year. Many of you may recall that I ordered the reexamination of the so-called Dickens patent back in December, which claims were directed to a windowing “fix” for Y2K computer problems. Since then, two additional requests for reexamination of this patent have been filed by third parties and a reissue application has been filed by the patentee. More recently, on March 3, and apparently over-looked we ordered the reexamination of a patent assigned to Sony Corp. on which there had also been significant public comment, concerning an *Apparatus and Method of Automatically Downloading and Storing Internet Web Pages*. The patent owner has since filed a statement and an amendment in the reexamination.

PBO

Moving from reexam to reinvention, the other major element of the AIPA was the establishment of our

office as a performance-based organization (PBO) -- only the second -- and the largest -- PBO in the entire federal government.

Although we're subject to policy direction by the Secretary of Commerce, we've secured a rather extraordinary amount of independence from the Department. Bound by the terms of a Memorandum of Understanding between myself and Secretary Daley, we now enjoy full autonomy in decision-making about the management and administration of our operations in areas such as budgeting, personnel, and procurement. That's no small feat, because -- as you can imagine -- bureaucrats don't give up their turf easily.

The USPTO and the intellectual property community owe a great debt of gratitude to Secretary Daley and Deputy Secretary Robert Mallet for their leadership and support in securing this independence. Secretary Daley has been a great friend of our office and an important ally in the Administration. We will miss him as he moves on to new challenges. Fortunately, Deputy Secretary Mallett has also been extraordinarily supportive.

I know some cynics have been a little bit skeptical of the importance of our being a PBO, but it really marks an important milestone in our agency's history. We're breaking free from "one-size-fits-all" regulations that get in the way of doing our job -- and give government a bad name.

We now have two very able Commissioners -- Anne Chasser and Nick Godici -- for Trademarks and Patents, respectively, who essentially serve as chief operating officers for their respective Offices. They will be managing according to an agreed upon set of performance standards, defined in terms of both quality and pendency. These are captured in formal Performance Agreements with the Secretary, the drafts of which are now with the Secretary's office for finalization, and which will be made public.

In order to align our performance objectives and measures throughout the USPTO, we are also in the process of renegotiating the performance plans with our unions, consistent with those performance agreements.

The managerial and operational freedoms we now enjoy will help us to attract and retain the best and the brightest employees -- through greater

flexibilities in compensation, work hours, work-at-home programs, and the like. I think some of this actually may begin to be paying off. While attrition is still a significant issue in Patents, attrition of Trademark Examining Attorneys is actually down to about 8%, a fairly extraordinary figure in this economy. [Please don't let that give you any ideas. We would like to retain them.]

In order to make the PBO real at all levels of the organization, we have made what might at first glance to be seemingly minor changes -- such as the elimination of sign-in and sign-out sheets, expansion of flexible hours, and the establishment of casual dress Fridays -- but ones which the workforce has been wildly enthusiastic about and ones which, I believe are important in giving an employee more personal control over their work life, while enabling us to recruit and retain the best folks in this very tight labor market, and which is, in turn, critical to ensuring the quality of our examination.

With our new freedom, we will soon be expanding programs, such as telecommuting "Work At Home" programs, which if you know anything about traffic in Washington, are becoming increasingly popular. We already offer "Work At Home" to some of our

Trademark examiners. In fact, we have one who works out of his home in Harrisburg, Pennsylvania!

So, we've very energized about some of the things we will be able to do -- now that we're a PBO -- to make the Office a more efficient and appealing place to work.

Before we move from the PBO legislation, let me also mention that we will soon have two Advisory Committees to oversee and help us with our work. Fortunately, we have received a number of excellent nominations, with a wide variety of appropriate backgrounds, and the selection process is nearing completion. The Secretary will make the final selections and the Committees will hopefully get up to speed quickly thereafter.

BUDGET

Now, every story usually has another side. And this one is no different.

Quite simply, there's a cloud hanging over us as we start this new chapter in our agency's history. In some ways, it has the potential to become a very dark cloud. Not surprisingly, it has to do, as many things do in Washington, with money.

The one key feature that we still lack as a PBO is control over all of our fee revenue. Contrary to some people's impressions, this matter was not taken care of in last year's legislation.

Since 1991, our entire budget has been derived solely from patent and trademark user fees. We receive no general taxpayer funds. But a sizeable portion of our fees are still annually withheld in the congressional appropriations process and diverted to other government programs. Although technically these funds appear to be placed in escrow for our use at a later date, they are ultimately used to offset other needs.

This year we are unable to access about \$230 million of our patent and trademark fee revenues -- about 20% of our total revenue base. These are funds you and your clients pay for a service you've been delayed in receiving.

We had hoped to hire another 700 patent examiners this year, in addition to the 1,500 hired over the last two years. Because of these budget reductions, however, we've had to limit our hiring to attrition hiring only -- primarily in the computer and biotech

areas. This is clearly hindering our ability to bring down pendency.

By the end of the year, we also had hoped to expand our patents on the Web so that our customers can retrieve patent images all the way back to the very first one in 1790. This is now very much in jeopardy.

As troubling as these situations are, the signs coming from Capitol Hill point to the real possibility of draconian budget shortfalls next year.

On June 14, the House Appropriations Committee, which allocates funding for the federal government, approved legislation which would withhold 25% of our total fee revenue in fiscal year 2001. It would siphon off \$295 million, \$182 million more than the amount proposed by the Office of Management and Budget. Our total budget under this bill would be about \$904 million.

This action occurred despite the fact that, last month, the House Judiciary Committee unanimously approved legislation sponsored by Chairman Howard Coble that would allow us to access all our fees without prior authorization in appropriation bills.

Now, while a lot can still happen between now and when the final budget is signed by the President, and let me mention that the Administration has stated that the President will veto the Commerce-State-Justice appropriations bill, and our proposed mark is listed as one of the grounds for such a possible veto.

However, if these cuts survive, we have been asked to detail the impact that a \$904 mark would have on our operations. Needless to say, this budget level will have a major impact on our operations. Some of these impacts include:

- All hiring would be curtailed. We would have hired 1000 people next year, including 600 examiners and examining attorneys. With attrition, that means both examining corps will shrink, in spite of our rapidly expanding workload.

This in turn, would mean that:

- More than 48,000 patent applications would be denied an initial examination.
- 34,000 patents would not be allowed, and an additional 68,000 patents would not issue.
- Approximately 60,000 trademark registrations would not issue.
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- The time it takes us to render a first action on the merits of both patent and trademark applications would increase significantly. For trademark applications, the time would almost double. For patent applications, it would increase by almost one-third.
- The terms of many patents would be prolonged, potentially driving up costs to all Americans in such vital areas as health care and pharmaceuticals.

In addition to the impact on pendency, new and existing automation projects would be curtailed, including electronic filing of patent applications and possibly our award-winning patents and trademarks on the Internet.

- Support for the 87 Patent and Trademark Depository Libraries would be curtailed.
- And training for our examiners would be significantly reduced..

Our allies in Congress are working very hard to reverse these budget cuts, in fact the vote of the full house on an amendment to restore our budget to the President's mark will voted on today, it's a very tough job. This in spite of a newly re-projected 10 year surplus of over \$1 trillion.

As I said, a lot can change between now and the start of the fiscal year on October 1. I am hopeful that the final funding level will provide us with the resources we need to do our job. Still, all of you should be aware of what's happening on Capitol Hill. This is our biggest challenge -- and the stake for our nation's intellectual property system are quite high.

USPTO WORKLOAD

The other major challenge for our Office right now, which is very much intertwined with the budget, is managing our workload. As you've probably heard me say a hundred times, our total workload is up nearly 70% since the beginning of the Clinton-Gore Administration -- thanks to a wave of invention and innovation arguably greater than any other in history.

Since January 1993, we've issued more than 900,000 U.S. patents, including the six millionth patent last December. And the time it took to reach that milestone was cut in half since the five millionth patent was issued in 1990.

We've registered more than 650,000 Trademarks (including classes) since 1993.

Last year, we received 270,000 patent applications and granted 161,000 patents -- that's a 25% increase in applications over 2 years. During the same period, we received 290,000 Trademark applications and registered 104,000 classes -- a one-year increase of 27%.

There is no sign that these increases are letting up. Quite the opposite, in fact. So far this year, trademarks are up 37% and patents are up 12.5%. We'll easily surpass the 300,000 mark for patent applications and trademark applications this year.

While we still issue about four new wheel patents every week, our Office routinely examines patent applications in such cutting-edge areas as gene fragments, combinatorial chemistry, and methods for using the Internet. Earlier this year, we received an electronic biotech application with a sequence listing equivalent in size to 400,000 pages of paper.

To manage this increase in the volume and complexity of our workload, we are implementing state-of-the-art technology to allow customers to secure our products and services over the Internet.

As I mentioned earlier, we now offer electronic filing of trademarks through our award-winning TEAS system. It allows trademark customers to submit applications over the Internet and use credit cards to pay filing fees – 24 hours a day, 7 days a week, 365 days a year -- without ever leaving the comfort of their home or office. We've received more than 51,000 applications on TEAS, and 15% of our applications are now electronic.

More recently, TEAS has been expanded to permit not only the electronic filing of initial applications, but also all intent-to-use and post-registration documents. We will soon also permit the electronic filing of responses to Office actions.

Because of TEAS, we've recently been named as a semifinalist in the Innovations in American Government Awards competition sponsored by the Ford Foundation.

To increase the usage of electronic systems such as TEAS and TARR, which allows customers to access trademark application status, mark, ownership, and prosecution information via the Internet, we recently introduced the Trademark Electronic Business Center. This is a single place on our website where

you can access everything you need for the entire registration process.

By the end of next month, we also hope to have up and running our Trademark E-Commerce Law Office. Under this system, electronic applications will be routed directly to an e-commerce focused law division for all initial processing, examination, intent-to-use processing, and publication for opposition. These applications will receive prompt examination, often much faster than their paper counterparts. That alone should be an incentive to break free from the old paper system.

On the patent side, we also continue to implement state-of-the-art Information Technology. For example, last Fall we deployed the Electronic Filing System in Biotechnology. EFS BIO eliminates the cost and delay of physically handling, processing and delivering gene sequence listings, such as the 400,000 page one I cited earlier. And it offers our customers automated assistance in preparing their transmittal information and provides real time acknowledgment of submissions.

We also have deployed electronic patent filing to some of our largest patent filers. Last December, a patent attorney from the law firm of Birch, Stewart,

Kolasch & Birch submitted the first utility patent application over the Internet using EFS.

And, I am very pleased to announce today that we plan to offer electronic filing of patents to all of our customers beginning October 1.

[pause]

Yes, in case you think you didn't hear me correctly, the long-cherished move to electronic filing is moving forward. So get ready. Please.

Our work and our service to you and your clients can be greatly improved, and costs significantly reduced, by electronic filing, so please take the time to learn it and use it. We have made an investment of over \$1 billion of your clients money over the last decade on our automated systems, and we need to realize the potential promised by that investment.

Speaking of getting ready, in order to use EFS or PAIR, our on-line system for checking on the status of your patent applications, you will need to get a digital certificate and a customer number. You can access those items by going to our webpage and clicking on the "Patent Electronic Business Center" link.

It's important that you do so, because we will make electronic filing mandatory for early publication and re-submissions associated with Pre-Grant Publication. PGPUB filings will start around December 1st.

I must admit that I've been a little disappointed -- and actually a little baffled -- at the reluctance to use our automated systems. 15% usage for TEAS, for example, is nothing to write home about.

These electronic systems are very user friendly, but law firms, in particular, aren't taking advantage of them. Not liking how the digital certificate looks is just a poor excuse for staying with the status quo. I really think it's indefensible.

So, please, take a few minutes, give these systems a try, and get on board.

USPTO RESOURCES

The last item I'd like to talk about today concerns the debate that's underway about how we do our work -- a topic of considerable discussion lately. Quite honestly, I've been a more than a little dismayed by the significant misinformation associated with much of the debate. In particular, a lot of misinformation has been put out there about the skills of our examiners and the resources they have at their disposal, spread by those who have never taken the time to examine the facts closely. I don't mind fair and constructive criticism, but it ought to be informed criticism.

Our examiners, which now total about 3,200, have access to more prior art than at any time in our history. Our in-house patent database and our commercial database provider provides access to more than 1,000 databases, including Westlaw, Lexis-Nexis, and Chemical Abstracts. From their desktop computers, patent examiners can also search the full text of over 2.5 million United States patents issued since 1971; images of all U.S. patent documents issued since 1790; English-language translations of 3.5 million Japanese patent abstracts; English-language translations of 2.2 million

European patent abstracts; IBM technical bulletins; and over 5,200 non-patent literature journals.

We've also deployed a more advanced Patent text search system and a new Patent image search system for our examiner Corps. As some of you may recall, we encountered some initial problems last Fall when we deployed these systems, known as EAST and WEST. I'm pleased to report that those problems haven't been resolved and that most examiners now report that they are better than the old systems. Incidentally, just since October 1st, we've added about 5 million documents to our patent text search databases.

Now, don't get me wrong, I am certainly not saying that we are perfect. In quickly evolving technologies, such as business methods and genomics, we still need to do more to expand our examiners' access to prior art. That's why, for example, I announced a new Business Methods Action Plan earlier this year, which includes a customer partnership with the e-commerce industry and other stakeholders such as the Information Technology Association of America, the Business Software Alliance, and the Securities Industry Association. And next month, on July 27th, we'll be hosting a Business Method Patents

Roundtable to pursue more opportunities for partnership.

We'll also be expanding these outreach initiatives throughout our Tech Centers. So, stay tuned.

CONCLUSION

As I indicated in the beginning, it's been quite a year -- and quite an eight years -- for us at the USPTO. So much is happening right now in the intellectual property arena, it's almost impossible to fathom all the changes that will take place in the next twenty years, let alone the next one hundred.

As for what the future holds, some of you may know that my predecessor as Patent Commissioner one hundred years ago, Charles Duell, is widely misquoted as saying that "everything that can be invented has been invented." That statement has taken on a life of its own. I've been trying to set the record straight for poor Mr. Duell, but it's hard to do so -- even a century later.

Given his experiences, I'm a little reticent to make predictions. But let me close with this thought:

The future is full of promise, but the success or failure of our Office really hinges on whether we will have the resources we need to do the job that we have been entrusted to do -- and that you, our customers, pay for.

Will we boldly move forward into the 21st century, as the preeminent global provider of intellectual property rights, serving our customers through the seamless application and awarding of patents and trademarks? Will we be able to offer true “one-stop” electronic shopping that provides America’s innovators with high quality, intellectual property protection in a virtual world?

The answers to these questions will be determined, in large measure, by the decisions made on Capitol Hill in the coming weeks.

But even with that possibility, it is my great pleasure to report that the State of the USPTO as we meet here today, is very good indeed. And we very much appreciate, and I very much personally appreciate, the tremendous support we receive from you all. You know us best, and that support is very gratifying indeed.

Thank you all, very much.

