HIGH QUALITY TRANSCRIPT

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK PUBLIC ADVISORY COMMITTEE WEBCAST
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   >> MAURY TEPPER: Good morning, folks. We are going to
start up in just a couple of minutes. Grab a cup of coffee. I
wish we had something else to provide.
   Well, that was quick. Thank you, guys.
   I would like to welcome everyone to this public meeting of
the US PTO Trademark Public Advisory Committee. Hopefully
everyone has an agenda. I know there are some folks who are
watching and participating online as well. We will be,
obviously, hearing a lot. We have a lot of ground to cover
today. If you have any questions, I will pause. If you are
online, email those questions to us. We will be getting to
those.
   Just a couple of quick housekeeping announcements. I will
remind our speakers here, you have a microphone in front of
you. If you push the button, make sure the light is on so
everyone can hear you and more importantly so that we can
appropriately transcribe everyone's comments and input. That
will help us very much.
   And I would like to point out one difference, since our last
meeting. We are very pleased to have -- I'm going to say three

new member. We have two new and one returning member. So we've had a couple of appointments, and I consider this to be the all-star team. We are lucky to have Jody Drake, who is back with us. Jody served the shortest term, filling in for the end of Mary Denison's term. She attended one meeting and then that term expired. We are happy to have Jody to work with us.

We also have Linda McLeod. Linda comes to us from Finnegan Henderson. I think she's done everything from examining to participating in the TTAB. And so we're looking to her insights and experience and we're glad to have her with us.

And Ray Thomas. Ray also has experience in the office. He's worked here examining and he's currently serving in two roles. He's with Miles and Stockbridge and he's a professor at Howard University Law School. Straddling those two worlds will give us some insights and perspectives.

We are very glad to have their participation, and we are glad to have the chance to hear from the office this morning. I think there's an agenda before you.

With that, I would like to start off and let's see, we'll start off with the CFO update, and we would like to look over the budget. We are going a little bit out of order, but Tony Scardino is with us from the CFO's office and we appreciate your time today.

I'm sorry. I was looking right at you.

>> BRUCE KISLIUK: I'm Bruce Kisliuk. I was the acting deputy CFO but we have just recently hired a new deputy CFO and I would like to introduce Frank Murphy. He has over 30 years of federal experience, most recently with H.U.D. and prior to that the Pentagon. So we are glad to have Frank. And Tony is not with us today. He's on travel, I believe, in Korea.

So let's begin.

So when we last met in August, we were anticipating the passage of the AIA. We were sitting with a budget that was relatively low agency-wide in the $2.090B range. And since then, a lot has happened and actually I have some good news regarding this year's budget but I will hold that off until -- thanks, Mark.

I will hold that off until we get a little bit farther along in the presentation.

So let's start with where we finished FY2011, and this slide shows, and you are probably used to this presentation, it's kind of a checkbook style. So on the far right is the USPTO total and to the left of that are both the patents and the trademarks column. So let's focus on the USPTO total and then

I will point out the Trademark pieces. We had an appropriation level of $2.090B and then going through the year, we ended up finishing with a carry over and this is money that is available to start FY '12 at 177 million. There's a line I would like to point out, that's collections in excess of appropriation. That number in parenthesis for the USPTO was roughly 209 million. Those are fee collections that we were unavailable to spend.

So let's go to the Trademarks line and then I guess the good news is only 21 million of the 200 plus million were unavailable Trademark fees. That's a good thing. It wasn't that high. And the other good thing is that the carry over in '12 was 103 million and that is in the range that we projected, and, again, good news. That's a steady state operation level for Trademarks. And to point out a couple of things for you that are curious about the Patents line. Because the Patents is a larger percent. They finished with a final carry over amount of 74 million. The large number of collections in excess of appropriation, that 188 million level, is a number higher than we anticipated and it was the result mostly of the timing of AIA that created kind of a -- an unexpected consequence, and that is when AIA passed, with that was a fee increase, due to the 15% surcharge on the patents. This fee increase was effective ten days -- it became effective ten days after enactment.

So AIA passed September 16th and the new patent fees went up about 15% effective on the 26th of September. What our users did is those fees that they could accelerate and pay before the fee increase, they did and mostly those were maintenance fees. Maintenance fees have a window of payment time and we estimate that roughly about $140 million of what we call the fee bubble that got moved from what we expected to collect in '12 move ahead into '11. So that -- it was, as it turned out, doubly bad, one that it occurred and worse that it went into a year above our appropriation level of which we will never be able to spend it. So it wasn't even available in '12. So it reduced, and I will explain this a little bit later, but it actually reduced our patents collections for '12 and then it's totally unavailable. That's kind of bad news.

    >> MAURY TEPPER: Bruce, and I'm likely mixing apples and oranges, but while we are on that slide, I understand the news on patents on the Trademark line, am I correct we had a $100 million carry over.

    >> BRUCE KISLIUK: That's correct.

    >> MAURY TEPPER: And then the appropriations of another 20. The future carry over is only 103. Is it -- is it safe to say

that, you know, that sort of 17 million is also gone, inaccessible?

>> BRUCE KISLIUK: The 21 is.

>> MAURY TEPPER: Okay.

>> BRUCE KISLIUK: All of the 21 is. It's measured off of two numbers, one was what was collected and one is what we spend versus available expenditures. They are measured off of two numbers. One is on the appropriated level and then one is based on expenditure versus the total collections that we have to spend. Some of that was prior year carry over. The numbers were not the same that we are subtracting over.

>> MAURY TEPPER: Thank you. We will keep those figures in mind when we get to the good news about AIA.

>> BRUCE KISLIUK: Here's an update of where we go into '12 and these are just broad numbers but as I said, because the -- as I told you, some good news about this year's appropriations is that Congress did pass last night the Senate did pass our appropriations, our full appropriations. So we are expecting the President to sign today and that's extremely good news, even historically. It's probably one of the earliest that we had a full appropriation in a number of years. I will get to the details of those in a minute.

So we go into '12 and, again, we are in the first quarter now with an agency range of $2.3 billion to roughly $2.7 billion. Let me explain why we are living in such a range and why that range is going to shrink a little bit. The patent side of -- you can see a very large range, the Trademark range, much less. And the reason the patents has such a large range at this point in time, again, the President has not signed the FY2012 appropriations bill yet. He will be signing it today so we are balancing the possibility going into the year that we would be at the CR level the entire year, which for the agency was $2.090B plus a further reduction against the President's FY2012 request level which is $2.7B. Most of that range is on the patent side. With the signing of the full appropriations, then we won't be at the bottom of the range, that 2.090B level, it will not be. So our range will move up and be a band around our fee collection estimates in FY2012. So that will be closer to where our range will be.

So it says projected end of year. So the projected end of year for this year, for '12, again for Trademarks is in the $100 million range. Again, that's steady state, good news for Trademarks. They are relatively steady, and we'll be looking at similar carry over from year to year.

And on the next section, it talks about obligations for the

year, that's kind of our estimated spending rate. You can see it's roughly 90% patents and 10% Trademarks. With our full appropriations, what we'll be looking now is at revisiting our spending to ensure that our spending rate in '12 is going to match our collection rate. Okay? And that's really a Patents -- much more of a Patents issue than a Trademark issue.

So this slide is a little -- well, I guess it's accurate now. It may not be accurate in 12 hours from now. So we are still currently in a CR. That CR expires tonight at midnight, but like I said, Congress has passed an appropriations. Now, for you who haven't been following it, there's typically 12 appropriations bills that the government passes. They carved out three of them. CJS, and then there's an agriculture bill and a transportation/H.U.D. bill. Those three got packaged together. They are calling it a mini bus. Sometimes they are omnibus bills and this one it's a mini bus, there are only three appropriations.

What they have passed is those three appropriations, we are included in the CJS. There are nine other appropriations bills that did not get signed. They will be under a CR, another CR will probably -- I don't know the timing, middle of December. So you will see news about there still being a CR but we are in the mini bus that passed. We are one of the few agencies that did get an appropriations in '12. So it's very, very good news for us, much more stable. Again, it changes our risks, puts our range of collections back into our estimates. Again, it may be lower than anticipated, particularly on the Patent side, particularly in the fee bubble but still we will know. We will have much more certainty for the year.

Okay. The CR that we were living under up until today was the 2.090B level, plus there was a further reduction on that. It was another 1.5% below that. And what we did in this first quarter to manage in that lower operating level is we were funding our contracts on a monthly basis instead of paying a full year up front, so we are going month to month. That helps us control it and we also were pretty judicious in the hiring that we have done so far. So, of course, it doesn't apply to Trademarks and TTAB. We are going ahead with those hires but on the patent side we continued with our patent examiner hires because of our pendency goals and we are moving forward with the positions needed to implement the AIA. But the other hires we have held back and are being much more judicious. And now that the bill has passed, we will be revisiting our FY2012 spending plans and going back to see how much we can do with our estimated fee collections.

Relative to the '13 budget, that process is underway. We are developing the '13 President's budget request. We are expecting our passback. Usually it's the week of Thanksgiving. The TPAC review of that will be coming up shortly in December and then we finalize that in the February time frame.

And that is it on the details. Can I help with any questions?

>> MAURY TEPPER: Thank you. I have one and since I have a microphone, I will go ahead and ask that one and I would like to see if anyone else does. Back on slide three, when you were looking over our 2012 status, I -- I'm always dangerous with numbers, Bruce, I apologize with this and I may have never noticed this before, but our obligations on Trademarks on the bottom there, 249.3 million exceeds projected fee collections by, you know, 10 to 18 million. I don't know that I've ever seen that occur before. Is that an anomaly?

>> BRUCE KISLIUK: No, what's missing, Maury is the carry over. What we are -- the fee collections are just what we collect. What we are able to spend in a year are those fee collections plus the carry over from the prior year and we carried over $100 million. So more than enough coverage in there.

>> MAURY TEPPER: I guess are there reasons we are budgeted or, you know, projected expenses are -- I know we do have access to the carry over and it's not like we can't balance the books here, but I was just curious for the reasoning behind our sort of projected obligations and operating costs to be above anticipated fee income.

>> BRUCE KISLIUK: It is -- it's operating with the $100 million carry over is kind of like a -- it's kind of a reserve that allows Trademarks particularly to be in a position to manage a bump or a hiccup similar to the one they experienced a few years ago. So it's more of a funding cushion for them that we -- we kind of need so we don't get into the bad situation we did before. We use that carry over as a balance in case we miss our estimated fee collections. We match that with our carry over and use that. Kind of manage the carry over to be a cushion from year to year for unanticipated funding issues.

>> MAURY TEPPER: Okay. Are there other questions for Bruce from the committee?

>> I guess sort of a follow-up question, and I appreciate the question is probably 11 months too soon, but putting aside the surplus that you just talked about, based on appropriations for this year, do you have any idea or can you estimate what

collections -- what the collections amount would be in excess
of appropriations for just Trademarks? I know you had
mentioned it's more of an issue for Patents, but -- and
obviously it was 20.8 million last year.
    >> BRUCE KISLIUK: Right.
    >> And can the preface it's a tad early for the year, do
you -- for the year, do you have any estimate on where it is?
    >> BRUCE KISLIUK: I don't. Yeah --
    >> (Inaudible).
    So the appropriation is 2.7 billion. Patents maybe 2.4,
with another --
    >> BRUCE KISLIUK: So please let me repeat that.
    >> MAURY TEPPER: Thank you. I was going to ask you to come
to the mic or repeat it for us.
    >> BRUCE KISLIUK: In this year, because we have a full
appropriation and we have the President's level of $2.7B, it is
very unlikely that our fee collections will be in excess of
that, on the patents or the trademarks. So we won't likely
have fee collections over the president's appropriation level.
Very unlikely.
    >> HOWARD FRIEDMAN: Obviously that's a good evidence of good
information, but when we get good information, it's always good
for people to speak into the microphone and if it's not good
information, they can continue to sit in the back.
    >> MAURY TEPPER: Thank you for that wisdom, Howard. Are
there any other questions?
    Any questions from the public?
    All right. We almost always have, you know, the dynamic
duo. We cover our budget and legislative issues together.
We're spread out for scheduling reasons today, but I will
simply mention, you will be hearing a little bit more about the
America Invents Act and some of the improvements to funding,
unfortunately the type of planning and operations that you saw
under a continuing resolution and we do feel very fortunate to
be one of the agencies who made it through with an
appropriation today. It will continue to be a fact of life and
this is simply the way the agency is going to need to plan and
manage its finances for the time being.
    So we'll hear a bit more about that later this morning.
Bruce, thank you very much for coming to share that information
with us. We do appreciate it.
    We are going to move on to an operations update. And it's
hard for her to get out of these meetings we are glad to have
Commissioner Deborah Cohn here and Debbie, I will turn it over
to you.

>> DEBBIE COHN: Thank you so much, Maury, I would like to echo the welcome to Ray and Jody, who are returning.

I will put the two-pager up on the screen. It's become a tradition in Trademark operations, especially this time of year when I can talk about the end of fiscal year 2011 and how we did on our various performance measures. So I hope people at home can see the numbers on the screen and you all have it in your books. So let's go over some of the highlights of performance here. The first couple relates to quality of examination and we were able to meet and exceed our traditional quality compliance for first quality and final action quality and that, of course, is the legal decision making on the part of the office and examining attorneys. So we are very happy to report that that came in as planned on the traditional quality measures.

Now this year we adopted a new quality measure called the excellent office action measure. And we did that to include the legal decision making, but also to recognize that the quality of an office action includes more than just the decision. It includes the -- the way the decision is communicated. It includes the evidence. It includes, of course, the quality of the search and, of course, the legal decision making. So we have this measure that we baselined last year and just started reporting on this year.

And in order to fall in that percentage of success, the examining attorney has to meet all four of the criteria you see before you. So the search, the evidence, the writing and the decision making all have to be excellent, and based on our baseline, we set a target of 15% for that. We actually came in quite a bit higher and I think that's due in part to a couple of things. One is we were able to offer an incentive award for examining attorneys to reach the excellent level, and all of these measures and the second is we started to offer training to help people know exactly how to meet that level and so we are planning on doing more of that training this year and we are hoping -- we are planning on being able to offer that incentive award again this year. So that's our quality measure.

Moving down to eGovernment, which is the percentage of applications that are processed completely electronically, not just filed into the office electronically. So that means there's no paper that goes from the office to the applicant or from the applicant to the office. And our target this year was 68%. We reached 73% and I think that was really due to a concerted effort on our part to increase usage. We did that in

a couple of ways. We formed an eGovernment task force, which looked at various components throughout the office and what we could do to increase electronic participation by applicants. We also did some outreach which I will talk to you about in a few minutes, trying to get to the bottom of why people may not want to communicate electronically with the office or authorize us to communicate with us electronically and try to fix those things that could be fixed immediately to increase that participation. I will talk you to more about that when we talk about the outreach efforts.

Moving down to application filings. Really good news this year. We came in at 8.1% above fiscal year 2010, and that was actually almost 4% higher than we had predicted at the beginning of the year. So, you know, we always subscribe to the principle that trademark applications tend to follow the economy. Luckily this past year that really didn't turn out to be the case. The economy was sort of on a roller coaster and our filings actually continued to go up. So we are very pleased about that and we have adjusted our targets for this year in order to meet some new goals with respect to filings based on new -- that new information.

And then production, we -- we were higher than predicted in production. Examiner positions, you will see that we've -- you know we've hired 11 examining attorneys. They started on September 26th. So they will be in full production mode fairly soon. The 11 people that we hired happened all to be former examining attorneys. We did focus our vacancy announcement on people who had experience in Trademark prosecution. We were looking to try to get experienced people because we felt it would make the training that much easier. People could get on production a little bit quicker and they also know what they are getting into with respect to the job. It just so happened that all of them were also former Trademark examining attorneys. So we are anxious to have them return to the office and we are very pleased to have them.

And we are planning on hiring another group of people. Probably our date is looking like March. We will not be restricting applications to experienced Trademark practitioners however reality and experience tells me that there are quite a few people out there who may be looking to join the office who do have Trademark experience and so we will probably get some more experienced people with this hire.

And then we'll take a look at hirings, as we always do and moving through time and we may do another hire after the March hire later on in the year and the number will really depend on

what our inventory and filings and other things look like.

And so moving down to pendency, we were on target, as you know, our target is 2.5 to 3.5 months for first action pendency, and we came in at 3.1 months at the end of the fiscal year. So that's all great. Our disposal pendency was also better than our target, 12.6 months if you include the suspended and inter partes proceedings and then 10.5 months excluding those cases.

Turning to our Trademark services and Trademark assistance center statistics, I'm not going to go over each one with you, but I want to say that in most cases, we met and exceeded targets and I'm hoping that all of you have noticed a quick response time in many of our areas and we are continuing to work on keeping those numbers where they should be.

So that's the performance review. I would be happy to take questions.

>> MAURY TEPPER: Are there any questions.

>> DEBORAH HAMPTON: I don't have a question so much as a comment. I want to congratulate the office for the excellent office action, coming in 23% which is way over the projected target of 15%. I think that's excellent and wanted to commend the office.

>> DEBBIE COHN: Thank you.

>> MAURY TEPPER: I want to do the smart thing and agree with Deborah. I was lucky enough to attend a meeting where I heard the president from OHIM talking about the PTO and our measures. OHIM is looking at how to evaluate their own performance and he recounted a quote from our Commissioner. If you are always taking measures and always coming in at 98% or so, it means that you need a new measure so you can have something to improve upon. So I too want to applaud the office on adopting a new look and a new measure. I'm glad we are already exceeding the expected targets for that and I compliment the core. We appreciate the change in the improvements that it brings to an already good operation. Are there other questions or comments?

>> DEBBIE COHN: All right. I will continue on. The next thing I would like to talk about is our current outreach efforts and, you know, we have really tried this past fiscal year to increase those efforts and to involve our stakeholders and user groups in giving us input at an early stage on a variety of things. We had a round table discussion back in June on disclaimer practice. We -- what we got out of that discussion was that our stakeholders are not really interested in making big changes in our practice, but they would like more

clarification and maybe better examples presented in the TMEP. Our policy group has been working very hard on an examination guide and is finalizing that now. That will be issued soon.

Again, no major changes but more clarification, more examples and hopefully, you know to get our stakeholders and users and examining attorneys on the same page as to what -- what is required in our disclaimer practice. So you will see that very soon.

We invited people and we actually targeted the participation on that. So those of you who file electronically didn't get an invitation but that's a good thing.

And the meeting was so successful, and we really got some good input. We decided we want to do this more and we want to do it around the country and, you know, hit users and folks who file applications in various parts of the country, not just in the Washington, D.C., area. So Craig Morris and Chris Peterson, one of our managing attorneys actually did a little road show in October/November and went to five cities. They went to Dallas, Chicago, New York, San Francisco and Los Angeles in a very short period of time and held sessions, again with targeted people who appear on our lists as not -- not authorizing electronic communication or filing completely electronically, and so they got some really good input and we're going to be using that in the future.

One of the ideas, or one of the issues that came to light in the earlier session was that one of the reasons people didn't authorize electronic communication had to do with the notice of publication. They like getting their notice of publication several weeks in advance which is what the paper filers got and get, rather than getting it on the day of publication which is what the electronic filers get or the electronic communicators get.

So we changed our system and now beginning late in October, people who authorize electronic communication will get actually two separate notices regarding publication. The first will come when the paper filers get their notice, several weeks prior to publication, they will get a notice that the notice of publication will issue. So it's sort of an advanced notice of notice of publication.

And then on the day of publication, they will get what they have always gotten which is the link to the Official Gazette and the confirmation that the mark has been published on that date. So that we think was a good improvement in response to what we perceived as a need for people to communicate with the office electronically. And there are more things in the works.

We'll -- but we want -- this was an example of good feedback from our users and stakeholders and we want to continue to do that.

We are also starting something new this year, working with INTA, and starting to have some conversations more of an informal nature between managing attorneys and senior attorneys and our users, just about various examination issues, no particular topics, what they would like to talk about to sort of increase the -- the ability of people to understand each other's perspectives so that the -- so that we, the line managers and the examining attorneys ultimately will understand the needs of the applicants and the applicants can better understand our process and why we do certain things. So we -- this is -- we actually had a session in July that was sort of impromptu and part of an INTA training session. And we are working with INTA on that.

And then finally, we are having on Tuesday, November 29th a public meeting on continuing legal education programs on trademark policing measures and tactics and this grows out of the litigation study, report that the PTO and DOC and IPEC had submitted to Congress back in April that I know all of you are familiar with because we had discussions about that, and one of the recommendations was to have us or DOC actually facilitate these discussions and talk about further education on this topic. And so we have invited user group representatives and the public to join us on November 29th. It is at 2:00 here at the USPTO. So you will hear more about the results after we have it.

Let's see, next I wanted to talk to you about some of our electronic enhancements and I have some -- I think some really good news to tell you about, if you don't already know. Some of our recent enhancements include the assignment system. So now all of the Trademark documents that are recorded in the assignment branch actually now appear on the web and you can actually see those underlying documents.

That was a continuing frustration for a number of years for Trademark users and we are really happy to say that that's been in effect for a few months now.

We are also collecting entity type and citizenship information for the receiving party in the assignment recordation cover sheet. That's now mandatory information and what that allows us to do is process things quicker because we don't have to go back and, you know, have somebody actually get the information. It's already there and it contributed to better and quicker processing of assignment documents.

So these are some of the changes that you should have seen, if -- I think they were effective in August. I have -- we have some upcoming changes that affect TEAS that are actually coming up this weekend. They will be deployed on November 19th, which is tomorrow, I think. Just to highlight some of them, there are actually 36 in total and they appear on the web site under news and notices. You can see what changes are coming up, but I wanted to give you a couple of the ones that I think you will want to hear most about and that is first of all, you are going to have the opportunity to give multiple email addresses in your application. So we still only have one primary email address, but you will be able to have courtesy copies sent, up to four additional courtesy copies sent.

And so for those of you who worry about losing or not seeing or having the email, you know, not go to the right person, here's an opportunity to list four additional email addresses. So now there should be no excuse for authorizing -- for not authorizing email.

Also we are starting to accept sound and motion marks directly as part of the new application form. Now, we're starting with the new application form and that's the only form that you will be able to submit it on, but we are hoping that if this works out well, which we expect it will, we'll add it to the other forms, you know, in a relatively short period of time, starting with the new application form only.

And finally, I think this is something that I have heard people cheer about. When you save your forms, you will now retain the attachments. When you save your TEAS forms, so it won't be necessary anymore to reattach your files when you have a saved action or a saved form.

So those are just three of the highlights and take a look at our web site and you will see everything else that's being deployed and really happy to report on these because I know these are things that have been asked about for quite a while and we are thrilled that it's finally coming to be.

Moving on, I wanted to summarize our recent Trademark Expo event. It was in October and it was by all accounts very highly successful. We had more than 15,000 people attending. It's a lot of people. And we had 27 exhibitors this year, we had it on both floors, the concourse and the atrium levels and I think the most exhibitors we ever had before this year was probably 17 or 18. This year we had 27. So it was quite a bit more and we do intend to hold it again next year.

So keep it in mind. It was very successful event, and we really, really stepped up, I think, the educational aspects of

the expo in the past few years. We had a number of seminars held throughout the day. What every small business should know about IP, counterfeiting and piracy, why buy legit, common mistakes made when filing for a Trademark and basic Trademark 101 course and a course related to American-Indian art and education and educating the public about that.

We thought it was a very successful event. For those who missed our web site presentations on this, we had Chubby Checker here for the opening ceremonies. He was fantastic! It was just really a lot of fun and Chubby happens to own a number of Trademark registrations. He's a very successful businessman in the food industry and so we were really pleased to have him talk about his successes and sing "The Twist" for us. So that was great.

So I wanted to mention the trilateral meeting we are holding in December. The US is hosting the trilateral it year. It's December 5th, 6th and 7th, and it's -- the trilateral traditionally has been the United States, the European Union and Japan. This year we have invited Korea to join as a member, Korea has attended in the past as an observer. And we have invited China to join as a member. They have also been in an observer in the past.

Korea has enthusiastically accepted our invitation and we expect that China will be accepting as well. We haven't heard a final word from them. And so we are obviously going to have to rename this group, but it's still called the trilateral right now. And it meets here. We go over some common projects. We are talking about common status indicators, for example, throughout the various trilateral countries, some identification and classification projects and things that will help users, we think, in all of those systems. So we are looking forward to that.

And I think that's all I have, Maury. If there are any questions, I would be happy to answer them.

>> MAURY TEPPER: Do we have questions? That's a lot of ground to cover. I have got just a couple I wanted to follow up on some points and I think it's notable, so much of what we heard today dealt with responses from public outreach and discussions with users and I applaud the office on that trend. And I know we'll hear from Chief Judge Rogers, there's been a lot of dialogue between the office and stakeholders.

>> KATHRYN BARRETT PARK: TPAC has been following disclaimers and disclaimer practice. What we can see other countries who have gone the other route, and eliminated the disclaimers are not happy with the results. We are glad to see the outcome of

that discussion.

You heard a little something about the new email notices of publication that users are receiving. Craig Morris is not here today. He's traveling but I want to compliment Craig and his team for bringing that enhancement out. I did see some emails on the user groups out there. Some are asking what is this? Why did this come? It happens because you all asked for it. By you all, I mean those filing applications and providing feedback -- those of you who are filing applications and providing feedback to the office.

I think it is nice for those who are filing electronically. It's a great improvement when we are able to respond that quickly to comments from the user community and I do want to compliment the office on achieving that.

You all will be hurrying to file new applications this weekend and take a look at all the new TEAS forms and enhancements. I'm sure we will hear a lot more about that.

Any other questions or comments?

All right. We are pretty -- pretty well on time. I am going to add one item not on your printed agenda and with her permission, I'm glad to ask Susan Anthony if she could come up and give us a brief update on some of the policy issues that the office has been monitoring with, dealing with ICANN. And Susan works in external affairs for the office. Policy maven is not the correct title but that's the one I have in my mind. I appreciate you being willing to come share with us this morning.

>> SUSAN ANTHONY: I will actually take the policy maven title. My father recently expressed his concern about my position in life. He looked at my business card and he said, I see you are an attorney advisor. So you advise attorneys? But you are not an attorney. And I thought, oh, my poor father and all of those dollars that he helped me with in law school. So I now write down simply attorney, but maybe I will change it to policy maven.

I don't believe many people are aware of the extent to which the US patent and Trademark issues. John Rodriguez and I, serve as the intellectual property advisors to the USG, to the NTIA, which represents us within the ICANN governmental advisory committee.

That all sounds like a lot of alphabet soup and I apologize for that, but suffice it to say, we are the go-to people within the agency process on intellectual property issues for the US government related to domain names, which takes us in many different places.

So Kathryn Park asked me yesterday, what's on my mind and I will share some of those things with you today, since I realize I only have a short period of time.

I believe that what's on everyone's top of mind is the anticipated roll out of new GTLDs as you probably know from reading the press, many Trademark holders are still up in arms over this. This is a fight we have fought and lost. I think it's time to move on and keep in mind that there are also many Trademark holders, we do not know how many, that are actually anxiously looking forward to the roll out as a new branding and marketing opportunity. How many? We have no idea. I have heard some absolutely wild ranges of the numbers of interests.

So I think it is a forgone conclusion that we are rolling out. We won't see the first live application until at the earliest January 2013. Now, that raises a number of issues. As you probably know, the intellectual property community also fought the long, hard fight on developing what was termed a tapestry of intellectual property rights. At the end of the take, the tapestry was frayed, torn and tattered apart in many respects and we only have some vestiges of the tapestry left and those vestiges still are coming under hot vigorous fire from the trademark community. Perhaps the most contentious of these is the uniform rapid suspense system or the URS. It's supposed to be a very modified, very quick, very inexpensive adaptation of the UDRP for clear cut cases of Trademark cyber squatting and fraud but unfortunately I believe that the URS has been so eroded that it no longer really reflects what the experts Trademark committee worked on several years ago.

All of this begs the question, well, is this going to work and how is it going to work? And it's critical that we measure the effectiveness of these intellectual property rights mechanisms but how we do that and when we do that is, of course -- are, of course, very, very big questions.

Coupled with this is the question that I know is upper most in Kathryn's mind and that is what are these rumors about changing the uniform domain name resolution -- uniformed domain name resolution policy, the UDRP system? And that also is under very hot debate. I don't think it's an if. I think it's a when. I do think there will be some revisiting of the UDRP, however, I wish to reassure you that the trademark community has reassured me that they are not afraid of this. That, in fact, if there are some concerns from the UDRP from people who do not support it, there are also some concerns from those who do support it, from the Trademark community that it could be made better.

So I think that really what we are most concerned about now, both within the intellectual property constituency and within the governmental advisory committee is when. The argument that we have made within the GAC, the argument that the IPC has made and the argument that a number of other stakeholders have made is that when we set up the intellectual property rights mechanisms when we agree to them or they were foisted upon us, or wherever we are now, it was always assumed that as part of that process, the uniform domain name dispute resolution policy process would also be in place and would remain, as we know and love it.

And so now if you want to tinker with the UDRP, this is not the time to do it, when we have these new and completely unknown intellectual property rights mechanisms that are going to roll out with these new gTLDs. I am cautiously optimistic that this message is being heard and that people are inclined to step back, including other stakeholder committees, but the -- constituencies. But this is probably the hottest issue right now, is when do we evaluate the UDRP if we have to reevaluate it at all. Let us not do it now. Let us do it later down the road.

I guess it begs the question of whether it should be done with the reevaluation or the evaluation of the IPR rights mechanisms or should it be done at a later point in time. I don't think we have begun to fully think through that yet. So that's issue number one and I see that I'm down to a half a minute.

The other issue that is of great concern is -- oh, we could talk at great length about this issue, but as you probably know, both the Olympics Committee and the Red Cross have been very vocal in asking for projection in the new gTLDs and at the end of the ICANN meeting in Singapore.

There was a ruling that there would be projection for Red Cross and the Olympic Committee so no one could apply to register those, as if anybody would be so foolish, but there are fools in the world.

What do you do with the second top level domains and this is where everything has completely broken down. The Olympics and the Red Cross are seeking protection at the second top level domain and people are very nervous, and rightly so, because where do you draw the line?

I believe the GAC has favored protections of the second top level domain but also is very concerned, I believe most GAC members are very concerned and the intellectual property community is concerned as well. How do you and where do you

draw lines? There is a nongovernmental organization -- or
pardon me, an intergovernmental organization that has cued up
already for looking for the same protection for the Red Cross
and Olympics, citing 6 TER as a basis.

I think this is an area of great concern for all of us to
watch very, very, very, carefully. Thank you for the
opportunity to speak with you.

>> MAURY TEPPER: Thank you, Susan. There's clearly a lot
that we need to be keeping our eyes on and I think we will be
hearing further.

Other questions, comments for Susan?

Thank you. We definitely appreciate the time, especially on
very short notice.

All right. Coming back to our agenda and we're pretty close
to being on time, I would like to ask Sharon Marsh to come join
us. We will hear a little bit more about some policy updates
from the office and international issues.

>> SHARON MARSH: Good morning. I just have two items this
morning that I think are fairly brief. The first regards rule
making. If you recall, last year we held a round table on the
federal circuit's Bose decision and one of the ideas that came
out of the round table was the USPTO should try to collect some
information about the accuracy of the register at the point
where registrants are filing their Section 8 affidavits.

And so we decided that we should run a short pilot program
where a small group of registrants would be asked to provide
additional specimens, just on a kind of random basis probably.
And we discovered that in order to do that, we first had to go
through a rule making process to give the post-registration
group to be able to ask for these items.

The comment period closed in September, and we got comments
from four of our major user groups as well as some other
individuals is and organizations, and there was kind of a
common theme through the comments, and that theme was that as
written, the proposed rules give the agency very broad
authority to ask for additional specimens. And there was
concern that there were no restrictions on, you know, the --
the ability to ask for additional specimens. There were no
guidelines or criteria set forth on when the agency would make
these requests and also expressed was concern was about the
additional burden this would put on registrants and the
additional costs that they would have to incur if they were
asked to provide a lot of additional information.

So what we have done is gone back to the drawing board. We
are looking to go ahead with the rule making, and issue a final

rule, but taking into account all of the comments and we are working on building in some -- some limits on the rules so that everyone will feel comfortable with -- with our plan.

So I -- next step will be the final rule.

And the other item we wanted to mention is that when we do go forward with the pilot, Commissioner Cohn has determined that we will use examining attorneys to run the pilot, to help make sure we have a group of very experienced people running this program.

So that's kind of the status of that project. If there are any questions or comments?

>> MAURY TEPPER: Yes, Kathryn?

>> KATHRYN BARRETT PARK: I wanted to say, I'm glad the pilot will go to final rule making and the pilot will be done and I do think and as a major Trademark filers with multiclass registrations and lots and lots of goods in our IDs, I share some of the concerns about the cost, but I also see it from the other perspective as someone who is clearing marks and I think there's a real value to reflect what the actual usage is and this is an important pilot and it will be very interesting to help the office evaluate the extent to which that might be a problem. So I'm glad it's moving forward.

>> SHARON MARSH: Yeah, I should note that all of the -- of the user groups expressed support for the -- having a register that's accurate and the agency, you know, trying to take steps to ensure that that situation is in place.

>> And Sharon, can you tell us, do you know how long that pilot program will run?

>> SHARON MARSH: I don't think we have made a final decision yet, but we're thinking something along the lines of for a six month period, selected Section 8 affidavits would be reviewed and asked to provide some additional information. So a very short initial period and then, of course, you know, they have to respond to office actions. So it would continue for a while after that.

>> MAURY TEPPER: Thank you, Sharon. We appreciate this moving forward. I know it is a difficult task. I think I'm guilty as everyone else of answering the question depending upon how you ask it. I, of course, want a good reliable register and I want everyone else's registrations to be accurate, as long as you are not looking at my specimens. I know we probably feel that way to a certain extent. I think it's one we often get. We spend time clearing the marks and checking the register for reliable information. So we are looking forward to seeing this move forward.

Any other comments, questions? You are a quiet group this morning. I think you want us to finish on time.

Okay. Thank you.

I think in that case, we are scheduled for a break. It is just a little bit after 10:00. So why don't we plan to reconvene in about 15 minutes, at 20 after.

(Break)

>> MAURY TEPPER: Folks we are going to try to start back up in just a couple of minutes.

All right. Thanks to everyone, we are going to reconvene. We will be starting back up. I wanted to mention one thing we had a couple of questions, and I apologize for giving some poor cues to Sharon Marsh. The second item was just an update and I will pass on that there will be a new addition of the NICE classification coming out. The 10th edition is coming out effective January 1, and the PTO will be providing some additional information about that next month.

So stay tuned for details. Watch this space.

We are glad now to have Chief Judge Gerard Rogers with us. We will cover the TTAB and hear the updates. There have been several meetings, several changes and accomplishments that I look forward to hearing further about. Jerry?

>> GERARD ROGERS: Thanks, Maury. Okay. We've got the slides up. I think on the agenda we first have the usual review of performance measures and, of course, that was a subject of our recent round table. So we'll get into the round table and discussion of measures in a more general sense shortly, but for now, we will just give you the fiscal 2011 wrap-up.

As you know, we worked with the TPAC this year to get more information like this up on our web page and expect in the future to be putting even more information up there, and to follow the trademarks' lead and develop a dashboard. For now, we have these charts up on the web page and we'll work through them here. The first one is just incoming filings, and kind of a sense of what's coming in the front door at the TTAB, and it's kind of a mixed bag. If you look at the far right column, you will see that extensions of time to oppose and oppositions were both up a little bit this year over the previous year. On the other hand, cancellations and appeals were down in fiscal '11, as compared to fiscal '10. So it's hard to kind of say whether business is -- is clearly improving as it is for Trademarks at the TTAB.

On the other hand, I look at the fourth quarter column and I see that the appeals, oppositions and cancellations all were at

their highest quarters in the fourth quarter. So it might kind
of be an indicator that some of that increased business in
Trademarks is starting to filter through to us. So we'll have
to see whether it was just an odd quarter or whether it will
continue through in 2012.

And, of course, we need to stay on top of those to make sure
that we have appropriate staffing levels. So we will be paying
close attention to those figures.

The next slide deals with our issuance of final decisions,
and during the year we had -- and this is kind of cases that
are coming out the -- close to the back door because they have
gone through the process. The appeals have been fully briefed
and argues and the trials have been briefed and/or argued and
so the first line, the maturing to ready for decision, this is
not broken out appeals from trial cases because this is really
a body of work that the judges work on and so for our internal
purposes, we don't really differentiate whether they are
writing final decisions in appeals or trial cases because we
just consider them all to be final decisions, however, in the
round table, and in other discussions, we had, it's been
suggested that it would be useful to in the future break out
these figures. And so we'll certainly be doing that in the
future.

But in terms of the number of cases that are coming to the
docket for the judges to work on, we had more come through and
mature to final decision than we did the previous year. So
that, again, is a sign that the parties are willing to either
pursue their appeals to complete decision on the merits or some
of their trial cases.

And in terms of the issued decisions during the year, we
issued just about the same number of decisions as we did the
last year, and I was actually hoping that it would be a little
bit more of an increase because as you are all aware, we had
judges, many judges working on the manual revision but that
process pretty much wrapped up in the first half of the fiscal
year and so during the second half of the year, I was hoping we
would get a little bit more production. It's something that I
have talked to each of the judges about personally during the
performance appraisal session and we have also talked about it
as a group recently and so we are certainly considering any
kind of -- many different initiatives and things that we could
do to kind of boost the number of decisions issued during the
year. So that's really going to be a focus for us during the
coming year.

And another discussion I've had with all the judges is to

try and even out the production. You can see on the issued
decisions line production was kind of lower in the first
quarter and the third quarter and higher in the second and the
fourth and that tends to be kind of a PTO model, I think, for
lots of people who are on production as they try and meet
numbers at mid-year, at the end of the year, but we are going
to try to make efforts during the year to kind of even out
production throughout the year.

     Of course, because of the backlog of cases that's been
developing, while judges were working on the manual revision
and while we also have had quite a few retirements over the
last couple of years and had to replace people and get them up
to speed, we've had something of an increase in the pendency
figure and in the number of cases awaiting decisions but,
again, they will be things we will be focusing on this year.

     The next slide, this covers the end-to-end processing time
that we have talked about here before and, you know, the trend
here and every category whether you -- well, this is broken out
ex parte and trial cases whether you look at the median figure
or the average figure, they are all up during the year. If you
look at the average in appeals, six weeks and the median in
appeals five weeks and median in trials seven weeks up from
previous years. And so much of those increases is probably
attributable to the increase in the final pendency, because as
we saw in the previous slide, we had an increase in pendency
from final decisions from around two and a half weeks to 17 and
a half to 18 weeks. So if you just take off that increase,
then we may not have had much of an increase in overall
pendency of appeals and trial cases, except on the -- on the
far end of the process when we are trying to get the final
decisions out.

     So maybe the end-to-end processing is pretty steady, except
for that increase on the end. We'll have to see.

     And this next slide deals with accelerated case resolution,
which is something we'll talk about in a little bit more in a
few minutes but accelerated case resolution is clearly a way,
if you are focused as a practitioner is on end-to-end time, to
get your case into the board and out of the board faster than a
regular case. ACR is an inter partes mechanism. It's not
something that has any impact on the ex parte appeal pendency
but for trial pendency, you are talking the FY '11 comparison
and even the FY '10 numbers are about half the time it takes to
get a regular trial case through the board.

     And while the numbers are -- have a lot of variation because
as you can see the third quarter was almost twice what the

fourth or the first quarter cases were, the numbers of cases are relatively few. So the averages can get skewed by even one case that's been pending for a while and the parties agree to ACR on the eve of trial rather than early in discovery and so they haven't saved as much time. So we hope as we have more ACR decisions that the averages and the medians will kind of settle more and people will agree to the process earlier in proceedings and we'll really see some benefits there, but even with these cases where parties agree to it on the eve of trial, again we still have an overall average that is better than for cases that go through traditional discovery at trial.

And I did want to also note in regard to this slide that we had six ACR cases require final decisions in each of the last two years, however, we had three cases in September alone mature to ready for decision after going through ACR proceedings and so, again, that may be a leading indicator or a sign that more people are interested in ACR and willing to consider it and so hopefully that is a trend that will continue throughout the year.

The last of the metric slides deals with contested motions, and this is generally, you know, pretty good news. We didn't issue as many decisions as we did the previous year, but that may just be an indication that there weren't as many motions to be decided. We held steady on the number of motions that are decided after a phone conference. We held steady pretty much on the goal that we were under goal but we were up a little bit from the previous year, and, again, as with the judges, and the final decisions, there was a little bit of kind of uneven production first and third quarters were different than second and fourth quarters, but Cindy Greenbaum was able to shift cases around on the dockets to try to manage that work flow and help ensure by the end of the year we as a unit met the goal of deciding contested motions on average under 10 weeks from pendency.

So that's where we stand with motions.

The next item I wanted to -- oh, I should I guess ask if there's any questions about those particular metrics before I go on.

>> MAURY TEPPER: Thank you, Jerry. Do we have any questions? Comments? Please.

>> KATHRYN BARRETT PARK: Chief Judge Rogers thank you very much. I wanted to say I was glad to hear you talk about as you go forward in this fiscal year, looking at ways to increase getting -- the number of final decisions and pendency addressed by having some sort of metric around that with the -- with the

judges, because I do think that is sort of an issue that's out there in the -- in the public concern, and if there's anything that TPAC can do to, you know, assist in that, we would be happy to do that. I think that's a good goal for this year and I'm glad that's being addressed.

>> MAURY TEPPER: Thank you, Kathryn. I think when I heard performance review, I think we all sat up a little straighter. We hope that these numbers will start turning around and we will look forward to that.

>> GERARD ROGERS: Okay. And on ATJ -- on the ATJ performance appraisal front, I do expect to -- in the near future fill retirement. We had Carlisle Walters retire at the end of last fiscal year and we will be able to fill that position from the existing CERT list that we had for the last couple of judge hires. So we are working through that process now and I'm hopeful that in the near future I will be able to assign a new judge on to a performance appraisal plan and we will be back up to full staffing and getting more decisions out.

>> CHERYL BLACK: I have a question too. You mentioned that part of the pendency issues had to do with the TBMP, the new one that's out. And there's -- I guess you are going to be hiring a senior attorney to manage that. Will that also greatly affect -- you know, I know in addition to -- having that person in place will help with the pendency as well. Is that correct?

>> GERARD ROGERS: We do have three staffing initiatives and that has led us into the senior level position. The senior level person will be the editor of the manual and will also work closely with myself and the managing interlocutory attorney on identifying cases in which we want to issue precedential decisions. So there will be a twofold impact on the pendency. One we won't have to have judges or attorneys work on future revisions on the manual because we will have a dedicated person who can do that. And two, we in the past have used a system where every final decision that was being readied for mailing was sent to a judge of the bi-week who will review the decision before it went out in the mail whether it should be considered as a precedence. And so we will now have the senior level person working with myself and the managing interlocutory attorney, and we won't have to have essentially one judge all the time throughout the fiscal year working on that.

It can be very time consuming. It's almost the equivalent of one judge staff year when you have somebody assigned every

two weeks to review all decisions being readied for mailing. So that will also be a boon, I hope to production and to reduction in pendency.

>> CHERYL BLACK: Okay. I was glad to hear that because it takes into consideration even the performance plan for the judges, you know, weighing both of them. I used to work at the PTO, so I'm familiar with the performance appraisal plan. I'm sensitive to that issue. Sorry.

>> GERARD ROGERS: And the last staffing issue, besides the need to replace Carlisle Walters with another judge, and to get the senior level person on board and, again, I do have a CERT list applicants. We have a vacancy announcement and we have applicants and we are in the process where we can start considering the applications that were passed through by OHR for my consideration on the senior level position. And we'll be adding an administrative officer before the reorganization that took the two boards out of OCG. We received a lot of administrative support, IT support, budget support. Now we are a little bit more on our own and, of course we get support from Trademarks but we are going to have to learn to walk on our own in regard to certain HR issues and IT issues and that's why we will be adding this administrative person as well. I hope that will free up time for the managing interlocutory attorney and myself to work with the judges and the substance and the procedural issues because we both have been having to do a lot of the HR and IT issues. And so hopefully we won't have to be spending time on those issues in the future. So I'm hoping all of this will come together and result in more precedents and more production and quicker turn around on motions and finals.

>> MAURY TEPPER: I think we might have one comment for you.

>> KATHRYN BARRETT PARK: Sorry Judge Rogers. What is the process of getting the person in the role of editor? Is that going to happen relatively soon, do you think?

>> GERARD ROGERS: And, again, the list of applicants screened and approved by HR -- well, the way it often works is there are applicants and then there's a reviewing panel that reviews all the applications and then a cutoff is drawn somewhere among all the eligible elements and then the CERT list goes out. Most of that process, the announcement process, the application process has all gone on and so it's just a matter of reviewing the applications. In short, I'm hoping to get it taken care of in the next six weeks or so. I would like somebody to be on board for the second quarter so that we can work towards that goal of getting a revision of the manual out by next spring, which would be one year from the time we issued

the revised manual.

    >> MAURY TEPPER: Thank you. We certainly look forward to
the board being up to full staff. I don't know any other
agency where you can find the title of chief judge and HR
officer. We are looking forward to you having that help.

    >> GERARD ROGERS: So the other thing that we are pretty
pleased about is we put up on the web site this week the long
awaited accelerated case resolution, whether you call them
turnkey options or plug and play options, but we have four
options up on the web site, which focus on offering parties
prescribed periods of time in which they can get into and out
of a board proceeding if you want an 11-month track or a
14-month track or a 15 to 17-month track or 16 to 18-month
track, we are offering all of those options there. We are not
offering any longer than that because our traditional discovery
and trial schedule, if you follow it, should get you in and out
within a couple of years and so we didn't really see the need
to offer any additional options Kathryn.

    >> KATHRYN BARRETT PARK: I wanted to say, congratulations on
getting that done. We have really been -- we are a proponent
on TPAC of ACR. I think it's a great thing and I think the
AIPLA options are still up. There's a list of indications, and
these are suggestions to start the process which parties want
to consider ACR. These are all ways to get people talking
about how to employ it.

    And I just wanted to add on your performance metrics when
you talk about ACR and I realize people can opt for it anywhere
in the process, I do think it would be helpful when you go to a
dashboard to have some way of footnoting or explaining or
graphing when the parties elected ACR because I think when you
look at the numbers and you see 109 weeks or whatever, it
doesn't really tell you very much about what the benefits are.
So I think it's really important to keep educating the public
as to how impactful it can be even if you elected after you
have gone through a long period of the process. So I'm really
excited that this went up on the web site I think two days ago
and hopefully everybody out there will take a look at it. So
congratulations and thank you.

    >> GERARD ROGERS: Thank you, Kathryn. Yeah, we certainly
believe and we have said I think since our 2007 rules changes
that we encourage parties to at least begin to discuss ACR in
their discovery conference whether we are involved in that
conference or not and then consistently revisit the issue as
they work through disclosures and discovery and the various
phases of the proceeding with our hope being that the more

parties discuss it, the more likely they will be to adopt it at some point when they realize that it's a good possibility for savings for them.

Our round table two we had recently, November 1st, we had a round table with stakeholders where we discussed performance measures and processing times and there were really two aspects for that round table. One we wanted to kind of get information from people about what they would like to see in a dashboard that we could develop, and what performance measures are useful for advising clients and structuring practices and so that was part of the discussion at the round table but because the focus was also on processing times we also had a very useful discussions about things we might consider doing in inter partes cases to keep proceedings moving and therefore keep processing times down. These ranged from things that we might do in terms of motion practice and handling particular kinds of motions, things that we might do to encourage parties to take motions for summary judgment that they had filed and perhaps agree to convert them into an ACR proceeding. And so we have got a number of very specific suggestions during that round table.

And what we are planning to do is we have got about a 50 page single-spaced transcript. We will have to go through, just as Trademarks did with the Bose round table and we'll be mining that transcript and trying to extract from that discussion each of the specific suggestions that were made by the various stakeholder group participants in the round table.

And I think what we will do is go back to the stakeholder groups and see if they want to supplement the remarks that were made in person by the representatives because some of the participants may have had opportunities to canvass their organizations members prior to the round table, some may not, and some also may want to be in a position to respond to some of the suggestions that other stakeholder representatives made. So we -- we may look for a little bit of supplemental response or at least offer that as an option, and then we'll be mining all of this to figure out what suggestions would be useful and then we'll have to figure out which ones would require rules changes, which ones would be -- we would just be able to affect through practice changes and, of course, we'll engage in some internal discussions and figure out which ones we could do without adverse impacts on staffing, which ones we would be able to do, which ones we might not be able to do because of staffing concerns.

So I think we'll follow pretty much the Bose approach or the

Bose round table approach to figuring out what useful things came out of that round table, but I think it was -- it was great to have it. I think everyone was pleased to be there and to participate. We have already said that we will have another round table in the spring on accelerated case resolution, and perhaps the information that we now have put up on the web site and along with the ALIPA suggestions, will generate some other suggestions and some other suggestions for ACR. So we will look forward to having a second round table on ACR in the spring.

And I don't want to promise that we'll have it any time -- any particular time soon, but there was a suggestion and I think some agreement that it might be useful to have a round table or perhaps a request for comments or something on the board's standard protective order which a number of the participants in the round table thought might need some updating and some attention. And so that's certainly something that we are willing to consider also as another outreach option.

And I think that generally covers it. If there are any other questions.

>> MAURY TEPPER: Thank you very much. Are there questions for Chief Judge Rogers?

We know you have your hands full. We appreciate the time today and we look forward to participating and providing feedback on an ongoing basis on these issues.

Now usually, you know, a coach likes to put -- when he puts his batting order together in the baseball game, you put your power hitters up front. I think you are used to hearing from Dana in the morning. We thought we would start off with a legislative update. Dana is a busy man and he's had some commitment. We are glad to have him in a different rotation in our lineup but I know this has been a very active time on the hill and Dana, we will turn it over to you.

>> DANA COLARULLI: I was going to say thank you for the flexibility. A parent-teacher conference for my 4-month-old. He hasn't gotten the Trademark dilution. I'm working on it.

>> MAURY TEPPER: I don't think any of us understand dilution this morning.

>> DANA COLARULLI: Thank you for your flexibility.

We can get the slides up here. I want to give you a little bit of an update. I will review some of the things that I know Bruce Kisliuk and Frank Murphy gave on funding. That's probably the most important thing on my mind today and I will tell you a little bit more about what's going on with other

legislation. You have the materials in your book, soI will
just start.   The first thing to mention is certainly follow
up with the AIA. We're well into implementation of the new
patent legislation and that's taken a lot of resources from the
agency.
     The team put together a great web site, following the
comments that the public made and includes the major milestones
on that legislation as it affects the patent side of the house.
And they are really doing a great job. The issue for this
group to really focus on is the schedule for fee setting
authority. – This is the first time the PTO has the authority
to reset its fees and it will be interesting the first time as
we go through this process. It will be a learning experience
for every other time in the future. And certainly the ability
to set these fees to recover costs for both the Patent
operations and Trademark operations will be a significant
change for the agency.
     So just a quick update on that. I think a lot of the public
speeches that you see PTO officials making are really focused
on how we are going to do all of this in the next year. We are
doing it in the next year, and as I said it will take a lot of
our bandwidth.
     Let me move on from the AIA. In particular, my staff is
looking at the Protect IP Act in the Senate, focusing on online
piracy and what's been determined as rogue web sites, sites set
up primarily for the purpose of facilitating piracy,
facilitating online counterfeiting. That bill introduced in
the Senate was marked up by the Judiciary Committee earlier
this year, and held before more action was taken, as the House
moves forward with its own bill. So earlier this year in
October, the House introduced a much more comprehensive bill,
SOPA, the Stop Online Piracy Act. There was a lot of attention
given to the various provisions in the bill.
     And I call it a more comprehensive act because it
incorporated a lot of the ideas that the Senate had put on the
table to address in particular online piracy, but then also
goes beyond that and includes provisions addressing the current
IP attaché program, enhancing criminal sentencing guidelines in
some areas, addressing online counterfeit drug sales, and
counterfeits in the military stream of commerce. So it
actually attempts to more broadly address the issue of
counterfeiting and piracy IP infringement, whether it's online
or off line.
     So that was the subject of a hearing this week in front of
the House Judiciary Committee.   I was going to say most of the

focus but really all of the focus was on the online piracy
issue and the Protect IP Act type of model. The House made
some changes from what the Senate had proposed.

There's quite an active dialogue, and strong feelings on
both sides of this, one on providing additional tools for IP
owners to enforce their rights, others on what is the
implication for the Internet back bone with the type of
solution that's provided and what's the impact on the DNS, the
domain name server, what's the impact on the government as we
are adopting DNS sec, the secure domain service.

So that's one issue that we are going to continue to watch.
The Department of Commerce and the administration is still
contemplating a position on the online counterfeiting
provisions. We are looking at the language on IP attaches,
trying to play a productive role here, at least on the
technical side as this legislation moves forward. I think this
week's hearing showed that the issues on the primary piece,
the online counterfeiting is quite controversial, and it may
slow down progress of this bill. Although, again, we will be
watching it and we are working with the Judiciary Committees
on this.

 In your materials, you will see a short description of
both the senate legislation and the house legislation on these
provisions and I'd be happy at the next TPAC meeting to come
back and report on the progress there.

The last thing I will talk about is funding. This is a
recap of what Bruce and Frank talked about this morning. The
good news is that the Department of Commerce and the Patent
and Trademark Office within the Department of Commerce by the
end of today will be operating on a full-year appropriations
bill. That's a benefit over a number of other parts of the
federal government which will be operating on a continuing
resolution at least through December. The House and the Senate
both acted very quickly yesterday and what was included for the
PTO was a good mark.

It includes $2.706 billion as our appropriations level. that
was the President's request when it was submitted in February
of this year for FY '12. So the PTO has communicated both
formally and informally that we don't expect to collect that
much. We expect to collect closer to $2.5 billion, but the
appropriators wanted to appropriate us at that level, I think
in part to honor the commitments they made as the America
Invents Act was moving forward that the PTO would be able to
access all of its fees. As I said, this is far over what we are
going to collect. It means that we will realize that.

It also significantly included language that was discussed
during the passage of the AIA to create a mechanism to allow
us to access any fees that we collect above our appropriations
level. So at least for this year, we wouldn't expect any fees
to come in above our stated appropriations level of $2.7
billion, but in future years, to the extent this language is
carried forward, that will serve us. It's a precedent setting
issue and that's good that this language is included this
year and will likely be carried forward in other years.

     So we were glad to see that language and it allows us to
request access to any fees. As I said,it probably won't be
used this year as in future years. The rest of the federal
government will be running on a continuing resolution but
there's a much better picture for the PTO. I will note also,
from my perspective, looking forward to FY '13, to the extent
that the federal government is again in a situation where it's
under a continuing resolution, this higher rate actually serves
us well.

     It means that our spend authority will be based on that
higher level. So we won't get into the situation that we have
gotten in past years where our spending is restricted even
though we have funds coming in the door. So this is -- this is
a good picture for the PTO, and   much better picture than
other parts of the federal government at this point.

      With that I will end and I'm happy to answer any questions
that folks have.

     >> MAURY TEPPER: Thank you, Dana. Are there questions?

     >> HOWARD FRIEDMAN One. Do you have any update on the
telework enhancement act pilot program and its status at GSA?

     >> DANA COLARULLI: Sure.   We had been working very
diligently earlier this year to come together with procedures,
you have heard me call it a corporate level cost benefits
analysis that really hasn't been done in the federal government
in order to use the flexibilities within the telework
legislation that was passed last year. We submitted this to
the GSA. We have been following up with them every week. I
think they have been going through their process and going much
slower than we had anticipated. The latest update that I have
gotten is that they are hopefully moving forward very, very
quickly. I think we are ready to help them any way we can.
Once they communicate to the Hill that they approve our
program, we still need to wait another 30 days before we can
implement. So the update is we are checking in with them every
week. The Director is very much aware of and very eager to
have GSA act as well. So we'll send another update as soon as

we have more.

But we're told GSA is nearing a decision on this.

>> MAURY TEPPER: Thank you. Other questions for Dana?

Just a couple of comments. I do want to add this has been a
very good situation for the PTO this year. I will add the
somewhat pessimistic side to the good news that Dana shared,
however. Note that we are fortunate to have passed through in
the mini bus appropriations but with the changes that AIA
brought about, one thing that did not change is we are still on
the appropriations process. So the agency will need to plan
for and expect the eventuality of operating under continuing
resolutions in the future when budgets don't work out on time.
We are pleased there is a sufficient appropriation this year
that will provide the space for us to operate, and we're also
pleased about the language, allowing the office to seek to
access any additional fees and funds collected. We will be
dependent on the good graces of Congress for that to continue
on a year-to-year basis.

We need to stay involved in this issue and we need to
continue to work to ensure that the agency is able to access
the user fees it collects and to use those. And we'll help to
provide a stable environment for that to occur as much as
possible.

The other thing that I will mention is that you heard that
we do know how fee setting authority in the agency and the
first time that happens there will be a template. Those of you
on this committee, you have all been signed up by Congress to
be the body to discuss any increase Trademark fees with the
director. So I don't know if we are hoping that the first test
case will be on the trademarks or the patent side, but we are
certainly looking forward to working with the agency when the
need arises to adjust fees.

That being said, do we have any other questions, comments
for Dana?

All right. Thank you for your time and congratulations on a
good teacher conference this morning.

>> DANA COLARULLI: Thank you very much.

>> MAURY TEPPER: That's probably the most important part of
the day.

All right. We are going to hear now from the OCIO's office,
I believe John Owens was unable to join us. But we are glad to
have Kevin Smith and Raj Dolas who is our project director
within OCIO's. You can hopefully give me a better summary of
the title.

>> RAJ DOLAS: It's actually portfolio manager.

>> MAURY TEPPER: Thank you. Portfolio manager. I like that.

>> KEVIN SMITH: Well, since we are last to go with the baseball analogy, typically the pitchers bat last for offense. So I look at us as the defense for the organization. Throwing a lot of balls, trying to get a lot of people struck out and trying to keep stuff stable for the company. We are typically last, and that may be a good place for us which is good.

I will start this off with a few openings of statistics. The last time we were here -- I think it's working. There we go. The last time we were here, it was requested that we should show some statistics of where we are. We will do some voiceovers of where we are and work on these.

This is chart is the last quarter of fiscal '11. So July, August and September, these are the availability of the statistics of the applications, most importance to the Trademark organization. These actually show the application -- the availability is up there in the 98% and 99% typically. The 99% bar is what most organizations out there shoot for and what this means is as the application is supposed to be available for use, it is.

And when you look at this and do some quick math in your head, it pretty much means over quarter four, 99% means the application was unavailable for about one working day over that entire period. You look at it from the yearly aspect, it means it was off three to four days, working days. I would say here in this organization, a lot of these applications are supposed to be on 24 hours a day for input of assignments. Those are on. And our working days also for support are 19-hour days believe it or not. These things have to be on 19, 20 hours a day most of the time and so it's a lot of effort to get to that point and a lot of man efforts, Herculean efforts to keep these systems up to the 99% number with the way they are currently designed.

As we move forward to get the availability increased even further, these are the things that the man to my left, Raj Dolas, in looking at the ways to redesign applications will redesign these things appropriate for the Trademarks organization to increase the level of ability which means these systems should be on more and more and more. And allow the examiners to process more and more of what they do on a daily basis and not have us as a problem potentially in the middle trying to keep things on all the time.

The other thing I wanted to point out on there -- it won't go back now. I will leave it on that one.

There were some issues with a Google Cloud that caused an issue. There were some issues where TDR on that first slide showed that it was not available that often. That's because we turned off the old trademark document retrieval system sometime in August but we kept polling it for statistics. TDR2 is the new interface. So during that transition it dropped off quite a bit but there's an absolute reason why it did so.

The next slide is talking about XSearch and it's talking about transaction and response times. This is basically showing what the count each month is of the number of search transactions that the trademark examiners provide. There were 380,000 transactions during September at the end of the chart and the average response time of these was within two seconds, 1.5 seconds. And that's a very good number.

It shows that 99% of the search transactions were completed within 5 seconds. There were a couple of searches that took longer than 5 seconds but on average it was a second and a half going through the system.

Next slide is TRADEUPS. It's just showing some statistics of new applications processed. What this is showing is actually the number of new trademark application filings, paper and electronic that went through TRADEUPS for processing. It doesn't necessarily represent the total number of applications received. That has to do with processing things on the back end but that's from the system aspect, how many things went through it.

There were 45,000 new trademark applications in TRADEUPS in September and this is a 5% increase over -- over last year when you look at the total years, numbers of the number of items going through TRADEUPS which is just showing an increase in workload.

Next slide for TEAS, and I have the data here in front of me. I didn't put it all on the charts. The other thing within TEAS, this is showing the number of new trademark applications submitted electronically through TEAS, over the Internet or via the mail room each month. And in September, it was 23,000, almost 24 -- it's actually 23,704 new applications submitted. And this represents 99% in the month of September of all the trademark applications were going through TEAS. So it's a very high number of applications that go through here. There's only a few that don't.

And what's interesting here is over the past two years, since fiscal year '10, there's an 8% increase in applications being filed through TEAS year over year. So an 8% growth from FY '10 to FY '11: So over the past two years, it's an 8%

growth.

>> DEBBIE COHN: Can I ask a question for clarification? I thought that the comment you just made about the 8% growth, are you saying that 8% more applications were filed on TEAS between FY '10 and FY '11? Because that -- that doesn't make sense to me unless I'm misunderstanding, because our filings with TEAS in FY '10 were about the same rate.

>> KEVIN SMITH: We will have to look at the numbers. These weren't supposed to be statistics of the applications coming in from the trademarks organizations, from the business standpoint. These were stats from what our systems are retrieving and exporting. So there may be some nuances as to why --

>> DEBBIE COHN: So is this only new applications or would this include responses and other submissions coming in through TEAS or do you know?

>> KEVIN SMITH: I would have to get the details.

So maybe I will stay away from the numbers. It's going up in the increases in trademark. But through eETAS we are seeing the same type of increases. There's steady growth of people using the system. Regardless of numbers because our numbers might -- there might somebody differences.

As you can see over the past year, it's getting higher.

So that was it from the statistical standpoint, to show some things that are happening. We will refine these to bring the availability up for the Trademarks organization.

>> MAURY TEPPER: Thank you, Kevin. Before we move on to the UL status, I wanted to kind of go back to the earlier slides you had about system availability and I will start this by acknowledging, I would a whole lot rather be a weatherman where 50% is a pretty good job than in an industry where 99% of the time you've got to be on.

I noticed a couple of systems and I will acknowledge these bars, if you just look at the graph and you see a big drop and you go, oh, my gosh and you are still looking at around 96% availability, but in particular, a couple of those systems FAST 1 and FAST 2, and XSearch. I know these are systems that the examiners need to examine the applications. Were there reasons or concerns that the rates look to be -- and I -- you know, to me 96% is a pretty good number, but when it's out and 99% is industry standard. Do you have a sense of what issues we're experiencing there or why we are falling short of where we would want to be?

>> KEVIN SMITH: Absolutely. I do not have the year-over-year stats in front of you. I actually have them

here. The availability of FAST and FAST 2. They are in the
98%, 99% over the entire year. Some issues that happened over
the past quarter due to this effect here, was basically a
hardware issue. There was a server that was running. It's an
old server we have running the applications for Trademarks and
there's a lot of things interdependent. One server had a hard
drive failure within the server and some other componentry
where we had to call the vendor. It brought down the
application for most of that day. They had to go through
manual processes which really hurt the numbers but it's the
facts on paper in front of you. That was one of the major
reasons why most of these applications all took a dip down
because a majority of the applications were affected by that
hardware outage.

And these are the things that we are going through and Raj
can state more on the design aspects when we redesign the
applications along with the business architecture, we will take
steps based on the way the technology is developed today versus
the way you would design systems five to six years ago, when
these were built, to make sure this is not an issue anymore.

These are issues, it's broke, and now we have to fix it. We
want to get out of the, "oh, it's broke now we can fix it." It
doesn't bode us well when that happens either. So we need to
take the steps to resolve that.

>> MAURY TEPPER: Thank you. I'm very glad to hear that's
not a year-long trend.

>> KEVIN SMITH: No. No. So we will go back. Someone is
doing it for me. This is magic!

All right. So for the trademark UL status, basically we are
61% completed across the agency. Last time we gave some
statistics of what parts of the agency are being worked on, the
director's office for the under secretary is completely done.
The chief communications office is completely done, and the CAO
office which is HR facilities is completely done, OCIO is very
close to being done. There's a few nuances with technology
developers, where we have to get the right tool kits in front
of them. We are at like 95% done. We have done four major
tech centers or five within Patents and the reason I say and
five is because one was just nearing completion the last 7% or
5% was to be done in that tech center. We are halfway done
with the major tech center in Patents which we need to go
through and finish to make sure the rollout is complete. You
don't want to roll it out to half the staff. You want to do it
in chunks with the most that you can with the staff that works
together. It just works better that way.

So we are going through the process to do that.

From the Trademark application status, the last time we talked about it. We were looking at how to get the deployment schedule set and we had some dependencies to get the applications to work effectively on the laptop. A few of the legacy AISs and this might be a little technical but they are built on an older technology from Microsoft which is Visual Basic 6 and it's appearing to have some problems working over the Internet. They work just fine in this building. You can't tell a difference, everything is running on the laptop and people are beta testing it, but as soon as you go home and over the Internet, you have to be tolerant to get the information a little bit slower.

The Internet goes over the public, and we secure that. These applications are not necessarily built for that "latency tolerance" is the word we use technically. So we are still looking to try to fix where these applications are freezing based on the latency within the legacy applications making systemic changes that make the most sense to get the applications to run on the laptop. We are going through fourth iteration of doing some development changes to the actual applications as they exist today for FAST and Trademarks has been working directly with us on this to go through tests and evaluations and gather data for the OCIO to make sure we make the next change and we focus in on the problem.

We are getting down to a handful or two handfuls of things that we are focusing on that could be the delay and the tolerance. We are still working on it and chugging away on it to get it done, it's the utmost importance for us to make sure it works.

What is interesting is a lot of the effects of the applications are affecting the examiners and I know that's the most important thing for the Trademarks organization. The non-examining groups, the applications they use, all are working through the beta testing. We will continue to test but they all appear to be working just fine from the people that have it today.

So within the next slide, on slide eight, what we are going through with Trademarks currently, we will resolve the application issues. That's it. Of utmost importance to do so but we will do it concurrently. We have been evaluating plans and we are getting to the point where we want to do a few things concurrently to make sure we get the applications -- the issues alleviated and the laptops and the phones rolled out.

So we are going to continue to alter the legacy

applications. We are nearing it.

We have been doing it for a while. We are getting closer and closer to having an answer or not, and we will continue going at it because we have favorable results coming back that we are getting closer.

The next thing we will do though, is we will reassess what alternatives we can do to take the current legacy applications and deliver them those applications to the end users over the Internet. In the sense put something in the middle that will make this latency not an issue for the application. There are tools out there we can select from. There's also some redesign efforts we can do that are nicely fitting into the next generation mind-set of what they are going to be doing for the design as well. So there's some assessment we are doing there to see what's in our best interest to move forward on some concurrent tasks.

And we will take a hard look at rewriting the legacy program sooner in the next generation plans. Raj will talk about what's coming down the pipe and when to do what redesign when is something that Trademarks and Raj from the portfolio management center are working heavily to come up with what's in the best interest of the organization.

What we are doing, though, we are testing right now. We will get ready to start testing the feasibility of deploying laptops and phones to everyone. There was some best interests where having the application work on the laptop was in our best interest to try to do but we are going to roll it out and go through testing the feasibility of rolling it out partially as we continue the designs to fix the applications and basically not wait to have the application fixed and start. We are going to test how can we start now while we are still fixing the legacy application and then there's safe ways to do this.

And from the home user aspect, we are going to test to see how they can use the remote access solution that they are currently using until the application issues are resolved. There's some nuances to work through to get there, but doing this, in this rollout plan will fix the legacy phone issues that are currently happening, based on the older being unsupported and actually bankrupt company that supports our phone systems. This will alleviate that issue quickly and the application stuff we will fix that, taking the least amount of risk we need to for the business as well as having the business every step of the way and voice on when we should be doing things.

From my aspect for the CIO update, I'm done. Do you want to

have questions for me at this point or wait?

>> MAURY TEPPER: I think some of the issues that you are outlining, it sounds like Raj's timeline and priorities are going to support that. Why don't we kind of continue on and then we'll talk at the conclusion.

>> KEVIN SMITH: Okay.

>> RAJ DOLAS: Okay. Thanks, Kevin. Good morning, everybody.

Okay so Trademark next generation. We are going to rely heavily on making sure that the architecture for Trademark next generation is done well. You heard all the things that Kevin was mentioning about architecting systems and applications so that they will run well over the Internet and considering that majority of the Trademark users are remote users, we need to make sure that the architecture is done soundly before we start the application development.

We have four things going on in the architecture area. Last time I was up here, business architecture was in progress. It has been completed. The business architects have done a phenomenal job of creating capability mapping and the value streams that are necessary to develop the applications.

Data architecture, enterprise architecture and solution architecture, all of these things are going to be dependent on using the business architecture while creating the application -- the applications and the solutions that we need in the future.

Data architecture is making sure that we have a sound data model so that when we create the databases and implement them, they will work well with -- with some load and load capacity in mind when we do the planning for it.

Solution architecture is where we create the application architecture in place, you know, high availability, redundancy and things like that are going to be critical when we design applications based on this architecture. So we have two main tracks in trademark next generation. One is improving and modernizing the platform and the infrastructure for trademark systems. Those are the current systems that we are doing, separating and virtualizing the current Trademark infrastructure so that it does not -- it is not impacted with whatever is happening in -- in the data center for other business units.

At the same time virtualizing it, so we reduce the footprint and reduce our power consumptions and so on and so forth, the greening of the data center. There are 25 applications for Trademark today, of which 10 are being migrated and --

separated and virtualized in the first phase. The first phase
ends in December, this coming month. So it's an aggressive
plan and we are on track with that.

The cloud computing we have an application that's running on
Google Cloud right now, TDR2 that Kevin mentioned. TSDR which
is Trademark status and data retrieval system is a new
generation of TDR2.0, we are adding more information and making
it available in a standard based platform, in a WIPO
recommended format.

Infrastructure improvement is making sure that we pick the
right technology solutions for Trademark next generation.
There is a suite of components that need to be put together so
that the application can be architected to run on top of that.
We need to verify that those tools that we picked, the
components that we pick in that stack will work well for the
technology needs for the next generation applications.

>> MAURY TEPPER: Raj, can I ask you a question about that
slide as you are moving forward? And you don't need to turn
back, I don't think, but you explained the process of
separation and virtualization and the goal there, of course, is
that all the Trademark systems are not dependent on other
resource and servers and you mentioned the 10 programs that are
being virtualized. When Kevin talked about, you know, the
universal laptop issues and sort of the newer design that will
be coming out for some of those older legally programs that --
legacy programs that just don't work well, due to being
programmed in older Visual Basic. Does virtualization describe
the process of redesigning that program or is that a much
larger and a separate effort.

>> RAJ DOLAS: That would be a separate effort. The
separation of virtualization is taking existing applications
and systems and infrastructure and physically separating them
from other business units or other areas within the agency. So
let's say patent systems is doing a deployment of a new system,
and they bring a server down, if a Trademark system runs on the
same server, it will be impacted.

Separating it out remediates those risks and at the same
time, we will put Trademark infrastructure in an area so that
the bandwidth and the other things that are necessary for the
infrastructure to run are not impacted because of other
dependencies.

>> MAURY TEPPER: Okay. Thank you.

>> KEVIN SMITH: I wanted to add one thing. This is no
longer dependent on, oh, my gosh, a hardware drive failed in a
server. This allows us to abstract the dependency of that

application on the physical server, where we can bring things back online much quicker. It doesn't change the delivery of the application to the end user. This is a big stride forward to improve the numbers we talked about earlier. I wanted to point that out.

>> RAJ DOLAS: So that was the infrastructure or the platform track that I was talking about before.

The second main track that we have is application development. And we have four things that are happening concurrently at this time. There are two prototypes that we are running. One is for TRAM migration. And the plan is for the vendor to come and approve a plan to allow us or help us to migrate the current mainframe to a more open architectural solution.

And the plan is being assessed right now, the vendor is coming up with an alternative plan and we will assess both plans that are out there and we will finalize one.

Authentication and authorization prototype is a prototype that is going to assess the way we identify users and the roles that they have available to them. Again, come up with two solutions as a recommendation, develop a prototype to prove that it's going to work.

The software that gets developed as part of the prototype, we want to make sure that we can use that in the future so it is not a throw away effort.

The Trademark Quality Review System is up with of our first agile projects that we released here to relieve some pain points in the Trademark quality review for one specific group in OTQR which is Post Registration group. The project is going on right now and we're going to implement this in production in December.

Trademark Status and Data Retrieval, this is the one I was talking about that is in Google Cloud, it's also on track and it's going to be deployed in production in December.

The IT teams -- so the next bullet is that we are working together to create a single list of all the priorities fiscal year '12 and '13 and so forth. The goal here is to make sure that all the priorities for the business, internal users, external customers, IT priorities, all of these things are consolidated into one list. So any time you take a look at, it, you know exactly what you are executing. It helps us focus on the execution.

And it is in the long run, you know, this list will be used by several areas within the CIO's office, as well as we want to make sure that any time someone asks what's going on, here it

is. It's one list. It makes things simple that way.

   I have put this out in my first outing over here, six months ago and we didn't do it last time.

   We were not very sure about the roadmap last time. It was still in flux. Many of those things are firming up as you go along. The first three bars are architecture related and all of those things are in progress right now. There's some infrastructure improvements, in the green bars. Those are going on, in progress. The prototypes, in the blue bars, they are also going on. They are in progress. The prototypes are followed by two yellow bars over there and I think that over there, it's going to say that we'll take the prototype and execute them as actual -- actual projects eventually as the prototypes are done.

   The cloud computing projects, they are going on -- oops. Over here, Trademark Status and the Data Retrieval, that's the cloud computing project and we may pick one more and decide to put one more application into the cloud.

   All the bars that you see in purple are the terminology that our business architects use and we are going to kick those off fairly soon in fiscal year '12. Those bars that you see will probably move as we move along because we are using Agile methodology and software development. We plan for very, very short term. It is a short-term planning cycle and start an execution cycle. So it's possible that some of the other bars may fall back and we will figure out how things go on down.

   That's all I have for now. Any questions for me?

   >> MAURY TEPPER: Thank you, Raj. Very pleased to see the progress you have made to date, and I'm also glad to understand that, you know, that chart is helpful to follow visually. I would be scared if it didn't change. Other questions for the CIO's office, comments?

   >> JAMES CONLEY: I have a question, Maury. So Kevin, you described this hard disk crash more or less, which, of course, inhibited searching function and I guess that was maybe manifested in some of the numbers we saw earlier. So where on this timeline will we move to a virtualization state where these kind of hard disk crashes won't bring about that problem?

   >> KEVIN SMITH: Actually from the rollout standpoint, Raj has an item up there for separation and virtualization.

   >> It's a bar, Kevin, and I need to know when.

   >> KEVIN SMITH: I will have Raj talk about when that is going to be done. The separation when will it be virtualized.

   >> RAJ DOLAS: So we have ten systems planned for Phase One. All of those ten systems will be separated and virtualized in

December of this year.

The next lot of 15 systems, they are the harder ones. We are taking the easier ones, obviously. The plan is to try to finish them in fiscal year '12. They may fall over or spill over into '13 but the current plan is to get it done in fiscal year '12.

>>JAMES CONLEY: What about FAST and the Search functions.

>> RAJ DOLAS: FAST is in the first lot right now. It's being done as we speak. It went through several phases of testing. I don't remember exactly the production schedule for rolling them out and separating them. I could get those dates for you if you are interested.

FAST 1, FAST 2, and the list of -- and, again, I have the list of systems on the separate slide which I can share with you later if you are interested.

>>JAMES CONLEY: We would like to see that, thank you, Raj.

>> KEVIN SMITH: But the point I would like to bring up too, it's a great question. This will alleviate the issues of hardware failing. It won't eliminate some of the application nuances, but it's a big step forward to remove that dependency. There is a group of easy ones that we know are going to work. There's a group of harder ones that will take a level of effort to get there and based on the way things are, there may be a couple that won't be virtualized. The game plan is for all of them to be so and we'll take the steps to make sure that this happens.

>> MAURY TEPPER: I have a comment but I think I will yield to Debbie first.

>> DEBBIE COHN: FAST 1 is a system that our examining attorneys use. FAST 2 is a system that others in the office, like our post registration examiners and, you know, others use. So just to clarify that. The problems that we're having with the universal laptop relate really to FAST 1 for examining attorneys and not FAST 2. They are two separate systems.

>> RAJ DOLAS: And I will add to, that the problems we are seeing with FAST 1 and FAST 2 are associated with the application that resides on the user's desktop or laptop, not the on the server side right now. So the -- the systems that are getting separated and virtualized in the data center are the back end of those systems on the server side of it. There's, like -- you know, I don't want to confuse the audience with the front end and back end of it.

>> MAURY TEPPER: Understood. I want to back up and compliment. I think Raj on your slide, probably we didn't emphasize this but to me one of the most significant points was

the last bullet point on the slide before this chart, IT and Trademarks working together to create a consolidated list of priorities. There's a committee from Trademark operations and IT is meeting regularly with them to discuss feedback and next steps and priorities, and I encourage both operations to maintain and continue those communications.

I think, you know, these are difficult times. People depend on technology and are frustrated with technology in the best of circumstances and I think to work through those -- you know, these types of issues as we'll continue to experience outages and bumps, it's very critical that that communication continue.

I know having heard what I heard about the -- the rollout of the universal laptops, I think if I were voting, I would definitely want to see the new versions of tickers and XSearch and FAST being developed as quickly as possible but that's just first on my. As I mentioned I'm not in the group but I'm glad to hear about those discussions, trust those will continue.

And then I had kind of a secondary question on the rollouts on that slide, you did mention some of what you are putting out there on the Trademark quality review system. I get real excited when I saw that one. The automation coming out, and then I noticed that's for the post registration group. Will that be rolled out for examination, for preregistration as a part of this process, or is there a separate initiative that will be required to implement that?

>> RAJ DOLAS: The TQR is The Trademark Quality Review system. We chose this group on purpose because we wanted to make sure that the system we developed can satisfy the needs. We will take that and expand it to all the groups within the Office of Trademark Quality Review and once that is done, it will be expanded further so that the examining attorneys have the same system for quality review within their group -- within their area. So it will become eventually the quality review systems for Trademark. It's a long-term effort and we'll just keep building on whatever we are delivering for that.

>> MAURY TEPPER: Thank you. Yes, please.

>> DEBORAH HAMPTON: I have a question. Yes, there was a comment about legacy applications being rewritten sooner in the next generation and I wanted to make sure that I didn't miss that. And I'm trying to understand exactly what that means. Is it that instead of trying to revise or amend certain software, sort of abandoning it and moving on to a new software to get us to next quicker?

>> KEVIN SMITH: I will start on the entry because I said that and say what the differences are. I'm trying to get to

the roadmap chart. I don't remember where it is.

    On the roadmap that Raj has presented, it clearly shows down on the bottom -- it doesn't show rewriting applications. It shows fulfilling business capabilities. We put the word rewrite in there because it makes the most sense. The line I put in there about reprioritizing referred to the bottom of the purple where it says document management and looking at those capabilities an determining how we can replace some of the functionality in those applications. It's more to it than just a new FAST. We have to align the capabilities of FAST to the end users and align it with what the business capability designs are to get to the end state.

    Based on the prioritization we need to really look at these applications and the way they are lined up to be replaced by the capabilities look at the right time to do it and see if we can do it earlier. I will let Raj answer it a little bit more.

    >> RAJ DOLAS: So the rewrite really is, you know, we have multiple efforts going on.

    One of the efforts that I have not been brought into the slide here is we are just going to kick it -- we are going to start that effort in December sometime. It's a user centered design approach, leading -- which is led by Marty Hearst who did a similar thing for Patents end-to-end project. What it does is gives a unified, intuitive and a very powerful user interface for all the users. And that drives the effort of not just having a nice, slick user interface for the users but it drives the efforts of developing the business logic which is behind the scene. And when we say rewrite or replace FAST 1 and FAST 2 type of applications you are replacing the front end, as well as the business logic. You take what is there today and not throw it away but encapsulate that, if you can and reuse it if possible but put a new user interface on it and if need be, put a user face on the back end of it.

    >> DEBBIE COHN: I'm just going to try to clarify a little bit. I think what Deb was referring to, correct me if I'm wrong here is on page 8, where we were -- within the discussion of the universal laptop delivery plan and the issues that we are having, sort of that issue of trying to get FAST to work sooner, and so I want to make sure that when you are answering here that you know what question she's asking.

    >> KEVIN SMITH: And part of what Raj was talking about was the alternatives to delivering the legacy system. That the last bullet, the reason I answered it the way I did. The last bullet, they are talking about considering rewriting legacy applications sooner in next generation. That is where the

design methodology and next generation is a little different than just rewriting the app.

The second bullet is rewriting the app and the third bullet is to really go through the engineering redesign that maps with the business capabilities and we are talking about including that functionality earlier on in the cycle. So it -- the descriptions were different. His was completely different than mine and that's because we answered it from different bullets.

>> MAURY TEPPER: I think I understand and we are speaking a couple of languages here. I will come back to it. I think if I had to choose among everything, making it work. Let's -- we'll start with that and if I can move that bar all the way over to yesterday, I would probably do so, again if I were on the committee. I do appreciate the other objectives of, you know, putting together the entire business logic and the overall system I think is a priority. Where we stand is to enhance stability and get us to that next point as soon as possible.

Thank you. I appreciate your patience with us trying to -- to sort of get a glimpse into the -- the type of thinking and approach that you need to make. I hope I have expressed the dumb guy concern about first and foremost, getting these delivered in a working fashion.

The questions, I think, Cheryl, did you have --

>> CHERYL BLACK: I do. I do too appreciate explaining this and being patient with this and I'm sure the people who are watching on webcast are appreciating that as well.

And I'm glad that the priority, one of the priorities is getting FAST working for examination purposes because it helps to continue pendency goals and things to that nature.

I do want to ask a point of clarification because James had asked about the separation in virtualization, the ten systems and the timeline and Raj mentioned December 2011, and the 10 systems and he included FAST 1. And so I want to make sure that I'm understanding, is FAST 1 included in those ten systems that will be separated and virtualized by the end of the year?

>> RAJ DOLAS: Again, I want to clarify. The FAST 1 that's being separated and virtualized is the back end side, the server side of the application which runs in the data center. It -- it is associated with the front end of it, but it's the back end that we're separating and virtualizing today.

>> MAURY TEPPER: Raj, I will take a stab. Would it be accurate to say that what we currently have will be housed in an independent stable environment, it will not work any differently, though?

>> RAJ DOLAS: That's correct.

>> CHERYL BLACK: Thank you.

>> MAURY TEPPER: Maybe I should get into this. Don't worry, guys. No danger of that.

Other questions?

>> A couple. If we were switching from baseball to football, I don't want to be piling on, but, you know, as we discussed briefly in yesterday's subcommittee meeting, when we are rolling out the laptops to our people, we really don't know at this time what's going to happen and I appreciate that's a broad statement but obviously you are working through legacy applications. You are working through different problems that we've had and we don't know what's going to happen when we roll it out to first a few and hopefully then to another office, and I think you had also mentioned yesterday and even if those areas we still don't know what would happen if it's rolled out to 360 examiners. So there's a lot of ifs. Obviously will be and I will and the union will be very anxious to see what takes place over the next few months.

Before you comment, the only other thing I would say, and perhaps we can talk about this later, in executive session, obviously this is one of those really critical periods for CIO and trademarks and to the extent it's a period where a subcommittee or TPAC perhaps would want to play a closer role between now and when our next meeting is, this may be one of those moments.

>> KEVIN SMITH: And just on the clarification. It's -- it's not that we don't know what's going to happen. And the word of testing -- we are testing the feasibility of the plan but at the same time, we have already tested some of this to this point. We are very confident on the non-examining workforce of trademarks working appropriately. We've had this out there. It should be fine. These things just have to go through a testing cycle to make sure the end users are seeing what they need to see. The more eyes you get on something, you find issues, but from this point of what has been done, we are very, very confident that will be fine.

The lack of confidence and we'll see what happens as we go is really folding into the rollout to the examining corps, where in a worst case situation, it will go through some testing but in a worst case situation as Maury said before, we could allow them to remote in and work the same way they are today, which really means they have a new laptop and remoting in the same way they do today, which should work the same way it does today with a couple of nuances and it just comes down

to that is a plan that's -- that's going to be able to work. We are fairly confident. We'll test it, but I'm a very high confidence level that will work very effectively.

If we can actually fix the applications before that time comes, that's in the best interest of trademarks and OCIO. So the uncertainty is when can we have the applications fixed from the FAST 1 standpoint to it runs directly on the laptop instead of someone having to remote in, just like they are today from home. And that's really the uncertainty of when that answer will be there but the backup plan is always that we can continue to operate as we do today, and Debbie can allude into that some as well.

>> DEBBIE COHN: Yeah. And just again, so the big advantage for those of you who are wondering why we just don't want to deploy the laptops and remote in as we do today, the laptops are -- work much better than our current systems but only if you are -- but only if you are not remoting in the way you are today. So the performance on the laptops would not be any better for examining attorneys if they just use the equipment and remote in. The big advantage as you said before was the phones will -- you know, we've had some major phone problems with these -- with our current systems. That would be fixed, but the optimal solution is to get FAST working on the laptop so examining attorneys and others using FAST 1 really experience the benefit of having these much better machines.

>> MAURY TEPPER: Thank you. Are there other comments or questions? It's probably an understatement to say we wish you all success. I think we are all very much hoping for that.

>> KEVIN SMITH: Thank you very much.

>> MAURY TEPPER: Thank you. We appreciate it, gentlemen. And with that, we will have just a few minutes, I will call this open mic session. Any questions, comments from the public?

All right. I do want to thank everyone for your participation and attention today. I have one announcement as we are finishing. We have taken the step of planning out our calendar so that you all can plan yours as well. Our future meetings, TPAC will be meeting here in public session on Friday, March 8th, 2012; Friday July 13th, 2012; and Friday, October 5th, 2012. So please do keep those dates on your calendar. Obviously if other events arise and the need to schedule meetings or sessions occurs, we will be providing notice of that to you, but at least just for planning purposes, our public meetings will be occurring on those dates in 2012.

With that, I will adjourn the public meeting and TPAC

members, I think based on a couple of things we heard, I will ask that you all remain. We will have a brief executive session to go over personnel and budget issues. Thank you all.
    (End of meeting).