

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK PUBLIC ADVISORY COMMITTEE (TPAC)

PUBLIC MEETING

Alexandria, Virginia

Friday, October 30, 2020

1 PARTICIPANTS:

2 TPAC Members:

3 ELISABETH ROTH ESCOBAR, Chair

4 CHRISTOPHER KELLY, Vice Chair

5 STEPHANIE BALD

6 JENNIFER KOVALCIK

7 ANNE GILSON LaLONDE

8 SUSAN NATLAND

9 TRICIA THOMPkins

10 DONNA TOBIN

11 KELLY WALTON

12 Union Members:

13 JAY BESCH, NTEU 245

14 HAROLD ROSS, NTEU 243

15 TPAC POPA:

16 PEDRO FERNANDEZ

17 USPTO:

18 ANDREI IANCU, Under Secretary of Commerce for
19 Intellectual Property and Director of the
USPTO

20 KIMBERLY ALTON, Deputy Director Office of
21 Governmental Affairs and Oversight

22

1 PARTICIPANTS (CONT'D):

2 AMY COTTON, Office of Policy and International
Affairs, Senior Counsel for Trademarks3
4 GREG DODSON, Deputy Commissioner for Trademarks
Administration

5 DAVID GOODER, Commissioner of Trademarks

6 MERYL HERSHKOWITZ, Acting Commissioner for
Trademarks7
8 JAY HOFFMAN, Chief Financial Officer9 JAMIE HOLCOMBE, Office of Chief Information
Officer10 SHARON MARSH, Trademark Policy/Office of Policy
and International Affairs11
12 SEAN MILDREW, Chief Financial Officer

13 LAURA PETER, Deputy Director, USPTO

14 BRANDEN RITCHIE, Director, Office of
Governmental Affairs15 GERARD ROGERS, Chief Administrative Trademark
Judge16
17 EUNICE WANG, Office of Chief Information Officer

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

2 (1:00 p.m.)

3 CHAIR ESCOBAR: Welcome, everyone, to
4 the final TPAC Public Meeting of 2020. My name is
5 Elisabeth Escobar. I am the Chair of TPAC, and I
6 am honored to be hosting my last meeting as chair
7 of TPAC. Before I introduce the rest of the
8 committee, I wanted to go over a few housekeeping
9 details.

10 The participants, I ask that you please
11 stay on mute when you are not speaking, so we can
12 minimize background noise. The chat feature is
13 not available during this session. So, for
14 members of the public who are attending, if you
15 have questions that you would like to ask, please
16 send them by email to TPAC, t-p-a-c, @uspto.gov.
17 That mailbox will be monitored throughout the
18 meeting and office staff will be collecting the
19 questions and giving them to me and to
20 Commissioner Gooder to address at the end of the
21 session.

22 I have to say that I have mixed emotions

1 about this meeting; it being my very last one. It
2 has been an honor and a privilege to participate
3 on the Trademark Public Advisory Committee, both
4 because I have such tremendous respect for the
5 office and for its innovative efforts and for the
6 way it has handled this unprecedented period in
7 our history; and also because my fellow TPAC
8 members are such a wonderful group of hardworking
9 and thoughtful people it has been an absolute joy
10 to work, both with office leadership and with my
11 fellow members in TPAC.

12 And so, with that, I will introduce my
13 fellow members of TPAC: First, is Chris Kelley,
14 who is a partner at Wiley Rein, he is the Vice
15 Chair of TPAC, and he has been a tremendous vice
16 chair throughout the year; second, is Stephanie
17 Bald, who is a partner at Kelly IP in Washington,
18 D.C.; also with us is Jen Kovalcik, who is Vice
19 President at Community Health Systems in
20 Nashville, Tennessee; Anne Gilson-LaLonde, who is
21 the author of "Gilson on Trademarks" and she hails
22 from Vermont; Susan Natland, who is a partner at

1 Knobbe Martens in California; and Donna Tobin, who
2 is -- oh, and I forgot to mention -- Anne
3 Gilson-LaLonde is also completing her term of
4 service on TPAC, as is Donna Tobin, who is a
5 partner at Royer Cooper Cohen and Braunfeld in New
6 York; and Kelly Walton, who is Vice President of
7 Trademark and Copyright at Dell in Austin, Texas.

8 We also have two union representatives
9 with us, Jay Besch, who is from NTEU Chapter 245,
10 and Pedro Fernandez, with POPA. Last, but not
11 least, I am delighted to welcome the newest member
12 of TPAC, Tricia Thompkins, she is Executive Vice
13 President and General Counsel at Perry Ellis.

14 Before I turn it over to Commissioner
15 Iancu -- excuse me -- Director Iancu -- I wanted
16 to mention that two senior members of the USPTO
17 will be retiring at the end of the year: Sharon
18 Marsh and Meryl Hershkowitz.

19 I have had the privilege of working with
20 both of them for many years, both as a
21 stakeholder, a customer at the office, and in
22 connection with INTA's activities and now, as

1 recently, as part of my work on TPAC.

2 And I have tremendous respect for both
3 Meryl and Sharon, who have devoted their
4 profession careers to the Trademark Office and
5 have seen it through a tremendous amount of
6 innovation and change over the years.

7 With that, I would like to turn the
8 microphone over briefly to Chris Kelly, our Vice
9 Chair, who actually has known and worked with them
10 for even longer than I have, to say a few words.
11 Chris, are you on?

12 MR. KELLY: Can you hear me?

13 CHAIR ESCOBAR: Yes.

14 MR. KELLY: Okay, good. Sorry, okay.
15 Well, thank you. I wanted to follow up on
16 Elisabeth's words about Sharon and Meryl. As
17 Elisabeth said, I had the pleasure of working with
18 both of them -- I don't know -- but it's probably
19 longer than we would -- all of us would care to
20 admit -- back in my day at the PTO, and just to
21 say that they are outstanding people; they were a
22 tremendous help to me.

1 When I was an examining attorney, they
2 have always been available through the years as I
3 have been in private practice, when I have needed
4 to reach out to them. And it has been wonderful
5 to sort of reconnect with them through TPAC. I
6 hope that, as Elisabeth said, we all on TPAC would
7 like to thank you for your really invaluable
8 assistance to us. You are always willing and able
9 to address any questions or needs that we have.
10 And we have no doubt that your successors as well
11 will find you both to be very hard acts to follow.

12 And while we're on the subject of hard
13 act to follow, as Elisabeth mentioned, she is
14 completing her term on TPAC this year, and her
15 time this past year as Chair. And, Elisabeth, I
16 certainly speak for everyone on TPAC when I say
17 that you have done an outstanding job in what has
18 been -- to say the least, a challenging year --
19 and we want to thank you very, very much on this
20 public record for a job very well done.

21 CHAIR ESCOBAR: Thank you so much,
22 Chris. That's very, very kind of you. I really

1 appreciate your thoughtfulness.

2 MR. KELLY: Well deserved.

3 CHAIR ESCOBAR: Thank you. So, with
4 that -- oh, before I move on, Anne Gilson-LaLonde
5 was just texting me. Webex tech, I hope you can
6 help her. She, apparently, is listed as an
7 attendee rather than a panelist. And I think that
8 will affect her ability to participate. So if you
9 could get that fixed so that we can have the
10 benefit of Anne participating, I would appreciate
11 it.

12 I would like to turn this over now to
13 Andrei Iancu, the Under Secretary of Commerce for
14 Intellectual Property, and, of course, the
15 Director of the United States Patent and Trademark
16 Office. I believe, Director Iancu, you are coming
17 up on your third anniversary here with the office.
18 And I have to say it's been a pleasure working
19 with you.

20 I know that you have been a big
21 supporter of TPAC. And we really appreciate that
22 support and your continued participation in our

1 meetings. So, with that, let me thank you for
2 joining us and turn the mike over to you.

3 MR. IANCU: Great, thank you, Elisabeth.
4 Good afternoon, everyone. Good morning, on the
5 west coast, and welcome to our -- what's turning
6 out, to be our third all-virtual TPAC public
7 hearing session. And thank you for the warm and
8 kind introduction, Elisabeth.

9 Before we get into too many details in
10 this meeting, I would like to have the honor to
11 swear in our newest member, Tricia Thompkins.
12 And, welcome, Tricia, to the TPAC Community. And
13 as you have heard from Elisabeth, Tricia is the
14 Executive Vice President, and General Counsel, and
15 Secretary of Perry Ellis International.

16 And even more importantly, for our
17 purposes here, she is a former trademark examining
18 attorney and senior attorney with the USPTO.
19 Tricia is completing Dinisa Folmar's term,
20 following Dinisa's untimely death in June. So to
21 make Tricia's service official, we need to swear
22 her in, which we will do so now publicly.

1 So, Tricia, I will ask you to stand up.
2 We have to organize a little bit here with the
3 cameras, and all of that, so. Okay. Very good.
4 Are you ready? Raise your right hand.

5 MS. THOMPCKINS: Yes, yes.

6 MR. IANCU: Okay. All right. I do
7 solemnly swear.

8 MR. THOMPCKINS: I do solemnly swear.

9 MR. IANCU: That I will go forth support
10 and defend the Constitution of the United States.

11 MR. THOMPCKINS: That I will go forth
12 support and defend the Constitution of the United
13 States.

14 MR. IANCU: Against all enemies, foreign
15 and domestic.

16 MR. THOMPCKINS: Against all enemies,
17 foreign and domestic.

18 MR. IANCU: That I will bear true faith
19 and allegiance to the same.

20 MR. THOMPCKINS: That I will bear true
21 faith and allegiance to the same.

22 MR. IANCU: That I take this obligation

1 freely.

2 MR. THOMPCKINS: That I take this
3 obligation freely.

4 MR. IANCU: Without any mental
5 reservation or purpose of evasion.

6 MR. THOMPCKINS: Without any mental
7 reservation or purpose of evasion.

8 MR. IANCU: And that I will well and
9 faithfully discharge.

10 MR. THOMPCKINS: And that I will well and
11 faithfully discharge.

12 MR. IANCU: The duties of the office on
13 which I am about to enter.

14 MR. THOMPCKINS: The duties of the office
15 on which I am about to enter.

16 MR. IANCU: So help me God.

17 MR. THOMPCKINS: So help me God.

18 MR. IANCU: Congratulations (applause).
19 Shaking hands virtually.

20 MS. THOMPCKINS: Thank you.

21 MR. IANCU: And, welcome, to the
22 committee, and welcome back to the USPTO. Well,

1 hail and farewell, is a military term for honoring
2 both incoming and departing members at the same
3 time.

4 It's particularly fitting as we welcome
5 Tricia, and also say farewell to valued TPAC
6 members, as we have heard already comments from
7 both Elisabeth and Chris, Donna Tobin, Anne
8 Gilson-Lalonde, and TPAC chair, Elisabeth Escobar,
9 herself. As their terms come to a close this
10 December.

11 We know that furthermore serving on TPAC
12 is a significant commitment of your time and we
13 very much appreciate the many meaningful
14 contributions you have made through your service.
15 On behalf of the USPTO and the United States,
16 thank you for sharing your wisdom, your advice,
17 and your counsel, and for the professional and
18 collegial conversations that help inform much of
19 our work over the last three years.

20 It is now my privilege to present to you
21 a small token of our appreciation for your
22 dedication to the TPAC and the preservation of our

1 exceptional system of intellectual property. So
2 we have Certificates of Appreciation for all of
3 you.

4 You know, we need new innovation to be
5 able to transmit them virtually somehow. But here
6 they are. This is what they look like. We have
7 one for Donna, and one for Anne, and, of course,
8 one for Elisabeth. We will send them. I will
9 make sure that they get to YOU. So, thank you
10 all.

11 And for Elisabeth, hold on a second.
12 There we go.

13 (Laughter) That's a new technology
14 right there.

15 MS. TOBIN: Wonderful. Beautiful.

16 CHAIR ESCOBAR: Wonderful, thank you.

17 MS. GILSON-LALONDE: Thank you.

18 MR. IANCU: And for Elisabeth, our
19 outgoing chair, I want to present to you this
20 flag. It's a USPTO flag. It looks like -- and
21 when it's opened up it looks like -- just like
22 you're on my left. It flew last week outside of

1 the USPTO headquarters in honor of your
2 chairmanship. Again, our gratitude to all of you
3 for your service to the TPAC, and USPTO, and our
4 nation. Thank you. (Applause)

5 Well, I think most of you know, and you
6 have already heard from both, Elisabeth and Chris,
7 that this is likely to be the last TPAC executive
8 session for Sharon Marsh and Meryl Hershkowitz.
9 They both have remarkably distinguished careers
10 with the USPTO. Sharon is the Deputy Commissioner
11 for Trademark Examination Policy and has 37 years
12 of service with the USPTO.

13 Those of you who have worked with Sharon
14 know that she has a great legal mind, and her
15 opinion on both any and all legal policy matters,
16 is highly valued across the USPTO in domestic and
17 global IP communities. Sharon's steady leadership
18 and ability to stay calm under pressure is an
19 inspiration to all of us.

20 Meryl is the Deputy Commissioner for
21 Trademark Operations and has 30 years of service
22 with the USPTO. Compared to Sharon, Meryl is a

1 newbie and she should have another at least seven
2 years to go. (Laughter)

3 So, never mind, we'll take it as is.
4 And for all of you, who have worked with Meryl,
5 you know that she is highly analytical and
6 incisive and full of energy as she pursues her
7 work as deputy commissioner. She's a trailblazer
8 who pushes the office to greater heights and
9 couches pushes others to push for those same high
10 standards.

11 Sharon and Meryl, I hope you know that
12 you have made an indelible mark on this agency and
13 your legacy, your leadership will be an
14 inspiration to countless others to aspire to your
15 high standards. Thank you for your dedication and
16 invaluable service presence to the USPTO to the
17 trademark community and to the United States.

18 (Applause) And, with that, I would
19 like to turn

20 This over to my colleague and friend,
21 the USPTO Deputy Director, Laura Peter, who will
22 give opening remarks. Thank you all. Have a

1 great meeting.

2 MS. PETER: Thank you, Director Iancu,
3 for those remarks. And let me extend my thanks
4 also to Sharon Marsh and to Meryl Hershkowitz for
5 their service to the USPTO and also to the
6 retiring TPAC members that have served so ably
7 this year.

8 Director Iancu, a special thanks to you
9 for your inspired leadership throughout this
10 administration. And I am not sure if everyone on
11 TPAC knows this, but Director Iancu received the
12 highest achievement award two weeks ago from the
13 American Intellectual Property Law Association.

14 So it's very well-deserved and we are
15 very proud that he has been so honored. And with
16 Under his guidance, the USPTO and the U.S IP
17 EcoSystem is now ranked number one in the world in
18 the 2020 International IP Index. To all of the
19 members on this advisory committee, welcome and
20 thank you for your role in advancing the
21 development of the American system of trademarks.

22 It's remarkable that this is our third

1 all-virtual TPAC quarterly meeting. And I really
2 do hope the next time we will be meeting in
3 person. It is also my seventh consecutive TPAC
4 meeting that I have attended since I started my
5 tenure at the USPTO 10 two years ago.

6 But, however, the pandemic has changed
7 much of our social and work lives. As Sam Adams
8 is one of our American revolutionary leaders so
9 wisely said, "We cannot make events. Our business
10 is to wisely improve them." And we have adapted
11 adjusted well at the USPTO. Since the lockdowns
12 were mandated in March, all of our over 123,000
13 13,000 employees have made a smooth transition to
14 working more remotely.

15 And, thankfully, after some anxious
16 months, our business is bouncing back along with
17 the economy. Trademark filings are setting
18 records. As we discussed at the last TPAC meeting
19 earlier this year, just after the onset of the
20 pandemic, filings took a precipitous drop. But
21 over the summer and continuing into recent months,
22 they have bounced back.

1 In fact, July, August, and September
2 were our third highest filing months on record.
3 This past September was our biggest filing month
4 in history with 92,600 classes of files. And in
5 our fiscal year 2020 that just ended in September,
6 the USPTO received 738,112 trademark applications.
7 That is our single highest filing year in history,
8 and it was up by a strong 9-1/2 percent over 2019.

9 We're tracking other trends as well.
10 Trademark renewals continue on a downward
11 trajectory that began in 2017. And if our
12 Applicants move for toward the pro se small and
13 one-time filers and foreign filers, we are
14 expecting lower trademark renewal rates in the
15 future. These trends may be a reflection on the
16 unprecedented growth of online commerce on and the
17 rapid cycles that online commerce brings.

18 In reference response to the record
19 number of filings, we hired 53 new examining
20 attorneys in the file fall of 2020 (phonetic) of
21 attorney assignments. And earlier in the month of
22 October, we hired an additional 23. We have plans

1 to hire 54 new examining attorneys soon; we need
2 them.

3 I am please to announce that we also
4 have onboard a new senior leading leader for
5 emerging technologies named Jerry Maas, and he
6 officially started this past Monday. Mr. Maas's
7 main role will be to advise our chief information
8 officer on the most effective means of utilizing
9 automated digital technology such as, artificial
10 intelligence and Blockchain, and applying them
11 throughout our operations.

12 Our goal is to accelerate the
13 examination of for both trademarks and patents by
14 reducing mundane administrative tasks and
15 eliminating waste. Technology can help create an
16 even more positive work environment for all of our
17 staff and improve the stakeholders' satisfaction.

18 As we deal with record filings, we are
19 actively applying new technology to all of our
20 processes. Several AI-related efforts are being
21 piloted for implementation to improve
22 examinations. These include: A new image search

1 tool; and an automated specimen analysis project
2 for detecting doctored specimens.

3 Both of these are high priorities
4 because they will help counteract fraudulent
5 filings. Our Trademark Filing Trial and Appeal
6 Board has also remained as productive as ever. In
7 fiscal year 2020, they kept set more precedential
8 opinions than in any other of the past five years.
9 TTAB closed out the year with 43 opinions.

10 Some of these issues addressed include:
11 The application of the U.S. castle Council
12 (phonetic) rule standing; who can bring a case;
13 and how cases could be considered with respect to
14 the same mark.

15 Although we have had to work remotely
16 over the past eight months, there are some
17 definite positive outcomes that we didn't
18 anticipate when we started this adventure back in
19 March. We're reaching more stakeholders and
20 individuals than ever before through our virtual
21 network.

22 For instance, our last TPAC meeting in

1 July had around 300 attendees. This is far more
2 than could ever fit in a conference room here at
3 the USPTO. Also during the 2020 fiscal year
4 that's just ended, the regional offices greatly
5 expanded their outreach to trademark stakeholders
6 meeting with over 125 of the top filing trademark
7 companies in the United States representing over a
8 40 percent increase over fiscal year 2019.

9 Eventually Additionally, in fiscal year
10 2020, the regional offices continued to partner
11 fiscal their partnership with trademark operations
12 to offer over 100 trademark training and education
13 programs drawing attendees from all 50 states and
14 Puerto Rico.

15 In the coming year, the regional offices
16 will work with trademark to further expand
17 American innovations by offering even more
18 trademark educational programming with a
19 particular focus on regions' stakeholders in
20 geographically diverse regions not just to the
21 small traditional innovation centers.

22 When the pandemic finally evades, we

1 intend to continue broadcasting these events.
2 This engagement of so many more interactive
3 interested parties bodes well for the future. We
4 need to bring many more people into the innovation
5 economy and this is one way we can do it; to it
6 helped propel the USPTO into the leading agency
7 involved in expanding the innovation economy.

8 In closing, we look forward to your
9 suggestions on how we can continue this and then
10 some momentum. Our common goal is to incentivize
11 innovation for people from all walks of life to
12 create new possibilities for competition and
13 economic growth.

14 As we go forward, remember that American
15 philosopher, Ralph Waldo Emerson, once said, "Do
16 not be pushed by your problems, but instead be
17 loved led by your dreams." Together we can build
18 the this future we dream of for that both
19 maintains ing our country's place as a world
20 leader in IP and creates opportunity for all to
21 innovate.

22 I am delighted that TPAC will be our

1 partner on this journey. I am confident that
2 these sessions will continue to provide insightful
3 and informative resources for all of its
4 participants and I want to warmly welcome each of
5 you. Thank you so much. And now it's my honor to
6 introduce to you, Commissioner Gooder, who will
7 update you on trademark operations.

8 MR. GOODER: Thank Laura very much.
9 Good afternoon, everyone. Good morning. My name
10 is Dave Gooder and I am the Commissioner for
11 Trademark. And, today, what we are going to do is
12 -- next slide please -- we are going to cover a
13 number of topics that have to do with trademark
14 operation generally, but in a slightly different
15 way.

16 So the first thing we will do is cover
17 the operation, the metrics, how to proclaim
18 (phonetic) fiscal 20 what the year looked like,
19 how it ended. The next area though, instead of a
20 separate presentation, what we are bringing in the
21 financial performance of the business itself. And
22 that's, Jay Hoffman, the CFO, will present about

1 that.

2 But the two topics that are so
3 incredibly tied together that we really felt like
4 they ought to be presented side-by-side, much the
5 way a Board of Directors would look at the
6 performance of a business.

7 The next area we are going to talk about
8 will be just to touch on the status of the Free
9 Rule. The next area are three programs that are
10 very important to me, and I know to the office and
11 to the trademark community, which is: How we
12 protect and build the integrity of the Trademark
13 Register.

14 The next area, we will discuss is the
15 things we are doing to help customers during the
16 period of COVID-19; and next, too, how we are
17 trying to protect customers dealing with these
18 trademark scams -- you all know them. And,
19 finally, we will close with the new initiative
20 that we are undertaking, and then move on from
21 there into the other parts of the Agency.

22 So, with that, let's start on business

1 operations metrics in the Trademark Office. Now,
2 the first thing I want to talk about is with the
3 staffing; that these are, as previously Deputy
4 Director Peter mentioned, attorney hiring. You
5 can see here that we finished reduced hiring in
6 2020 because of the pandemic, and then since the
7 fiscal year started on October 1st, has now
8 brought -- started the class of '23, those were
9 held from the prior fiscal years.

10 And I want to thank them for their
11 patience and endurance as we rode through the year
12 not really knowing what the economy was going to
13 do. The view now also is we will hire an
14 additional upwards of 50 examiners because the
15 skyrocketing and unprecedented filings has left a
16 large inventory.

17 There are currently 940 trademark
18 employees. That's about seven percent of the PTO;
19 623 of those people are examiners; and 100 percent
20 of the employees have the option to telework
21 during this pandemic and most are doing exactly
22 that.

1 Next slide please. Now, one thing we
2 have learned by digging deeper into our own
3 metrics, et cetera, is a different way to look at
4 who trademark owners are in the U.S. -- excuse me
5 -- who they are at the U.S. Trademark Office
6 because many are U.S. and many come from outside.

7 The thing that's fascinating is if you
8 look at this chart what you see over the last
9 five, six years -- and including this year -- 75
10 percent -- I believe that's -- yep -- 76 percent
11 are either small filings or the people who have
12 less than nine trademark filings, nine or less,
13 and one-time filers, who are people with one
14 filing.

15 That means the vast majority of people
16 who own a trademark filing, a registration
17 application, or whatever, are an individual or a
18 very small business. If you look at the very top
19 bar, those are large filers and those are
20 companies, most companies -- some individuals, but
21 mostly companies, who own more than 100 filings,
22 and they actually are a fairly small percent.

1 So, as we think about how the Trademark
2 Office works and our programs, et cetera, we have
3 to keep in mind this vast growth bulk of people
4 who are small-, mid-size enterprises, individuals,
5 et cetera, as well as who are the large owners of
6 famous trademarks.

7 Next slide please. One of things that I
8 have learned since joining the office in March is
9 how closely trademark filings track the S&P 500
10 and is it too you can see over -- this goes back
11 to '93 that you can see economy and in the
12 trademark filings literally tracking along very
13 closely together: The bluish line are trademark
14 filings and the reddish line is USP the S&P. At
15 the times, you can see that one outdistances the
16 other but not by much and certainly not over time.

17 Next slide please. So, now, we then
18 look at what happened this year. And we
19 originally budgeted that we would have roughly
20 about, I think, 1625,000 classes. And when the
21 economy started dropping that would have been the
22 case and would have been about a seven percent

1 decrease.

2 But what actually happened though was
3 turning out, as Deputy Director Peter said,
4 738,000 classes were actually filed. And that
5 turned out to be a 9-1/2 percent increase. What
6 that looked like, well though, when you break it
7 that down a bit, is quite interesting.

8 Next slide. This is what actually
9 happened through the year. Now this goldish
10 orange line at the bottom is what was projected.
11 And you can see that the year is not an even
12 thread spread (phonetic) of filings and you would
13 expect that. You would expect it to drop some
14 over the holidays, et cetera.

15 And what you really see here is how
16 filings track the pandemic. They dropped,
17 starting dropping, right as the mid-year, in
18 January, February, climbed up a bit in March, and
19 then dropped again. But ever since May, trademark
20 filings have been on the increase. And so, as you
21 see the end of the year, considerably higher than
22 any one would have ever imagined. And what this

1 tells us is really a tale of two halves of the
2 year.

3 Next slide please. What we saw is this:
4 In the first half, we saw a sustained negative
5 growth for the first time since the credit crunch
6 showed in 2008, the last great recession.

7 But in the back half of the year, it was
8 absolutely unprecedented growth. Now, April and
9 May, it looks like they were down, but actually
10 that's when the pieces finally filings started to
11 climb. So you can see a tremendous -- in
12 different halves of the year.

13 Next slide please. Who drove that
14 growth is an interesting area to look into to.
15 It's likely to extend (phonetic) Like you would
16 expect from our overall population of trademark
17 owners. One-time filers and small filers
18 accounted for 75 percent on of the filings, and
19 also the most growth, and especially one-time
20 filers.

21 Again, I agree that the comments that a
22 lot of how we purchased and sold this year, the

1 being so heavily done on e-commerce is driving a
2 lot of that. You can see the filing phases and
3 the kinds of entities. Interestingly, the growth
4 was in the individuals. By the way Finally, while
5 the U.S. certainly is the largest share, the
6 second biggest country filing in the U.S. is
7 China.

8 And if you look -- the next slide please
9 -- you'll see that the international side is
10 broken out of it. So the top line is the United
11 States or Applicants based in the U.S. The red
12 line at the bottom is China, and the yellow or
13 greenish line going through the middle is the rest
14 of the world.

15 And you can see that the rest of the
16 world really remains, plus or minus, fairly stable
17 throughout the year; whereas, you can see China's
18 incredible climb toward the end of the year.

19 Next paragraph -- or next slide, sorry.
20 It puts a lot of pressure on the system with our
21 examiners. What we do see is that pendency full
22 life (phonetic) in the middle of where it should

1 be, both first action, and with disposal. And I
2 really want to commend the examining corps.
3 They're an incredible group of people.

4 I have now met with virtually all of
5 them. And I have never met a more dedicated group
6 of professionals. And for them to deal with
7 bugging out entirely, work from home during the
8 pandemic, everything they did, and to maintain
9 their productivity and their pendency numbers --
10 and as you will see, didn't affect their quality.
11 They just did an outstanding job.

12 Next slide. And what you can see also
13 with pendency is that the blue line is the average
14 of pendency over 10 years; the red line is this
15 year. And we have been able to hold fairly
16 tightly to that. Now inventory has grown because
17 of the last few months of the year. And so we
18 will be working incredibly hard to keep that
19 pendency in a good range.

20 Next slide. As you will see here also
21 is that the quality metric also stayed exactly
22 where they were, on target, in fact, meeting our

1 target. And, again, I think that's down to the
2 dedication and professionalism of the examiners,
3 the managing attorneys, new attorneys, and all up
4 and down the trademark operations area.

5 So that's pretty much what 2020 looked
6 like; it was incredibly unpredictable. It has
7 boggled the mind as to how it might have gone, and
8 how it could go. And we are working incredibly
9 hard to now figure out and drive forward with the
10 business to make sure that things continue
11 regardless of what the economy does in a
12 productive way that keeps pendancy where it needs
13 to be, it where it needs to be; and as you will
14 see in a little bit, solve some of the challenges
15 we are doing.

16 Now we have talked about some metrics
17 from the trademark side of the business. Now I
18 want to switch to the financial side. And for
19 that I will introduce Jay Hoffman, who is the CFO
20 of the USPTO.

21 MR. HOFFMAN: Great, thank you, Dave.
22 And thank you for that presentation. That was

1 terrific. For those of you online, if there is
2 any background noise, I apologize in advance. The
3 middle school band is warming up in the basement,
4 and I am not sure what is going on in the high
5 school class upstairs, but seems to be rearranging
6 furniture.

7 All right. Next slide please. Go one
8 more. Okay. So, as Dave mentioned, we are going
9 to walk through a fairly substantive recap of the
10 2020 financials. Our fiscal year ended on
11 September 30th, and so we are now in fiscal year
12 '21. So I am going to walk you through what the
13 financial implications are, the
14 performance-oriented update that Dave just gave.

15 And then I am going to transition and
16 talk to you a little bit about what is on tap for
17 fiscal year 2021, which has now started; and,
18 finally, give you a quick update on the
19 preparations we are making for our 2022 budget
20 formulation, as well as an update on the fee rule,
21 basically, status.

22 Next slide please. Okay. So, in FY

1 2020, prior to the pandemic, we had started with a
2 plan that expected to have revenue collections of
3 about \$369 million against the expenses of \$434
4 million. The reason expenses were higher than
5 planned revenue is we were, at the outset of the
6 year, planning to make a fairly significant step
7 in the trademark IP system using funds from the
8 operating reserve.

9 In addition, we had anticipated that the
10 trademark fee increase would be going into effect
11 roughly in August 2020. That's not the year that
12 we actually had, however. I am sure many of you
13 can appreciate that.

14 What actually happened is in the March
15 and April timeframe -- and I will show you slides
16 here in a moment -- we saw a lot of revenue
17 volatility, particularly, downward revenue
18 volatility and this forced us to adjust our
19 spending plans. We took reductions in the market
20 for a timeframe in the areas of reduction-related
21 costs, the examiner hiring that Dave mentioned.
22 We deferred that major IP investment upgrade. We

1 eliminated travel and training and cutback on a
2 number of miscellaneous contracts, and then we
3 just had sort of general belt-tightening all
4 around.

5 And so, what you can see here from this
6 table is that the actual collection, even though
7 they were down and then subsequently up big in the
8 summertime, we collected \$358 million; \$11 million
9 below our original plan. But we significantly
10 reduced spending. The actual spending for FY 2020
11 was \$364 million or \$70 million below what the
12 original plan was.

13 As the result of those decisions and the
14 uptick in revenue that we experienced the last
15 three or four months, the Agency is actually in
16 pretty strong financial position with respect to
17 its reserves. We have been able to actually
18 retain the reserves well above the minimum level.

19 And I think that that will help us
20 mitigate the ongoing risks associated with the
21 economic uncertainty as the contours of economic
22 recovery take shape. So I will show you some

1 additional slides on this.

2 Next slide please. In FY 2020, what
3 this chart shows you here is that the blue bar is
4 that the FY 2020 authorized collection covers
5 actually up to us the authority to assume the
6 collection. A blue bar reflects the level of
7 authority that they gave us, which was about \$3.45
8 billion.

9 The green bar on this chart shows the
10 collections that we actually have, the revenue
11 that we receive from our ratepayers, both patent
12 and trademark. And as you can see here, the
13 collections actually exceeded the authority that
14 was provided by Congress and that wasn't
15 unexpected.

16 The reason for that is two-fold: One is
17 there was a fee increase on the patent side and
18 some patent holders took advantage of the lower
19 prices as they did their maintenance fee renewal
20 and they submitted those payments early; the
21 second reason is that trademark revenues actually
22 ended up a little bit above plan for the year by

1 about \$16.5 million.

2 When that happened these funds flow into
3 a separate holding account called the Patent and
4 Trademark Fee Reserve Fund. And we have to work
5 with Congress to move them from that account into
6 our general spending account. And that process is
7 underway right now.

8 No concern that the Patent and Trademark
9 Fee Reserve Fund, it's really just sort of an
10 asymmetry in the timing of when these were
11 collected.

12 Next up, next slide please. As I
13 mentioned, the operating reserve is in pretty good
14 shape for FY 2020. Let me just quickly acclimate
15 you to the chart. What this chart shows is the
16 ending balance of the operating reserves for
17 fiscal years 2017 to 2020.

18 The minimum operating reserve is \$75
19 million. And that's what the red dashed line
20 shows. And then the optimal operating reserve is
21 closer to \$180 million, which is what the green
22 dashed line shows you.

1 As you can see from this slide, we were
2 able to retain our operating reserve in FY 2020,
3 above the minimum. We ended the year at about
4 \$110 million. Granted that's a little bit down
5 from where we were in 2019, but all things
6 considered I think it's a pretty good result given
7 the revenue volatility that we experienced.

8 Next slide please. One of Dave's last
9 slides really showed the roller coaster that we
10 were on, in terms of demand for our trademark
11 services. What this slide shows you is the
12 trademark adjusted revenue rate for the year.
13 It's really the fiscal-odometer (phonetic), if you
14 will, of the rate at which revenue was coming in:
15 The X-axis is for the fiscal year; the Y-axis is
16 in millions of dollars.

17 And as you can see with this chart, we
18 have started the year and we are collecting
19 between 330 and \$340 million up and down, as the
20 year went along, in terms of our rate. This chart
21 doesn't do justice for the sort of volatility that
22 we experienced in the spring.

1 And I will show you a slide on that in a
2 moment. But what the chart does show you is that
3 starting at about May, or so, a dramatic
4 acceleration upward, in terms of our revenue
5 rates. We ended the year at about \$359 million.
6 So that's pretty impressive considering where we
7 started.

8 Next slide please. So this chart gets
9 into the volatility that we were describing in
10 some of our performance centers. Let me quickly
11 acclimate you to this slide. What this slide
12 shows you is trademark application filing revenue.
13 So we have basically two types of revenues that we
14 received, to oversimplify the revenue file we
15 received.

16 If I am doing a trademark, a ratepayer
17 comes in and files an application, and then we
18 receive revenue when they renew, when they renew
19 them. This is just focused on the application
20 phase of it. The X-axis, again, here is much of
21 the fiscal year; the Y-axis is actually the
22 percent above or below the end of the R on this

1 20-day moving average. And that's what the blue
2 line shows is our 20-day moving average.

3 And as you can see along about the
4 bottom quarter of the chart, there is a horizontal
5 line; that's the plan. Ideally, what you would
6 see is all of these datapoints sort of fluctuate
7 right around that horizontal line. But that's not
8 what we saw.

9 You can see two sharp downward movements
10 in this slide. The first half is in December and
11 January, where trademark revenues fell 20 percent
12 below plan on this moving average basis before
13 recovering in late February and the first part of
14 March; and then a second steep decline in March
15 through the first part of May, where once again
16 they got down to more than 20 percent below plan
17 before taking a steady climb up for the balance of
18 the fiscal year and ultimately ended up 50 percent
19 above plan upon a daily rate basis, which is just
20 unbelievable.

21 And for the year, we actually ended up
22 higher than what we had expected on our trademark

1 application revenues by a percent or two, meaning
2 that we were able to make up all of the losses
3 that we incurred throughout the year relative to
4 our planned position so that it was really a
5 pretty remarkable result, you know, and a lot of
6 volatility on the way there.

7 Next slide please. So this slide really
8 shows the second half of the revenue equation.
9 This is the renewal, the trademark renewal
10 revenue, above or below plan. The chart reads
11 exactly the same way. And this chart is actually
12 more pronounced.

13 You can see that in the December/January
14 timeframe, we see a big drop in our renewal
15 revenues. We were already 10 percent below plan
16 for the year. It dropped, you know, down to more
17 than 20 percent below plan before spiking back up
18 in February and March.

19 And then I think this is really
20 interesting the way it behaved. You can see a
21 classic V-shape, where in the March/April
22 timeframe, the revenue takes a very steep dive

1 downward and then dramatically when the fiscal and
2 monetary stimulus that the Congress and the
3 Federal Reserve applied to the economy, again, it
4 very quickly in a V-shape moved back up to the
5 pre-pandemic levels. And it was essentially flat
6 at those levels for the remainder of the year.

7 Unfortunately, we ended up below plan
8 for the entire year by about 13 or 14 percent for
9 renewal revenue. So it's kind of a mixed story.
10 And this is important because renewal revenues are
11 where we make up for some of the additional costs
12 that we incur on the application side.

13 Next slide please. We will pivot now
14 and talk for just a moment about FY 2021. The
15 USPTO has submitted a budget proposal with
16 Congress. That was done last February. We have
17 requested that Congress provide us \$3.7 billion
18 and authority to spend fees that we collect and of
19 that we had recommended \$444 million be allocated
20 to trademarks.

21 As you probably know, Congress has not
22 yet enacted a budget for fiscal year 2021, and

1 instead has enacted a temporary continuing
2 resolution or a CR, as it's often called. The CR
3 is just a formula that uses the spending level
4 enacted for the prior year, in our case, fiscal
5 year 2020, and multiplies it by the percentage of
6 the year covered by the continued resolution.

7 So, as you can see from this table, last
8 year we had received money from Congress of \$3.45
9 billion. They have passed the continuing
10 resolution through December which, if you have
11 ever done this math, it turns out that December
12 11th is 19.7 percent on the way to the calendar
13 year or fiscal year. You multiply the 19.7
14 percent by what you got last year and that gives
15 the Agency a CR now of \$680 million of which \$67
16 million is for trademarks.

17 But keep in mind, we also have the
18 operating reserve that's unaffected by the CR. We
19 add that amount to the CR level. For trademarks,
20 it's \$168.9 million and that gives the trademark
21 business line \$184.2 million to work with while we
22 are under the continuing resolution.

1 We are optimistic that we will see
2 Congress enact a budget later this year. And, in
3 addition, that \$16.4 million that I mentioned to
4 you that would receive Congressional approval to
5 move into our general spending account, that would
6 add to this totally and hopefully will be
7 available to us in the next couple of months.

8 Next slide please. The current FY 2021
9 revenue e-collection estimate for trademarks is
10 \$362.9 million and it fills implementation of the
11 new fee rule on January 1, 2021. I would caution,
12 however, that this particular forecast was
13 developed in the summertime and we did not have as
14 much data as what I just showed you. That upward
15 trend had not fully taken form yet.

16 So we are in the process of actually
17 updating that revenue forecast. That will be done
18 in the next few weeks and you will see some of
19 that our next TPAC meeting. But the long and
20 short of it is, I expect the forecast for
21 trademarks to be higher than this number when we
22 actually put our next plan and budget proposal

1 forward for FY 2021.

2 Right now, the spend plan for trademarks
3 is \$393.9 million for this fiscal year. That's
4 higher than the revenues that we were expecting
5 under this forecast. But I think that will
6 probably even out when we do the revised forecast
7 here. In fact, we have some more to come on that
8 next time when we actually have the numbers
9 finalized.

10 Next slide please. Dave had mentioned
11 staffing. When we will look at the staffing plan
12 for FY 2021, the trademark organization has
13 approximately 950 employees. They plan to do some
14 additional hiring in FY 2021: 15 examining
15 attorneys and then 16 non-examining staff.

16 With respect to the FY 2022 budget, the
17 budget requests should be submitted to Congress on
18 February 8, 2021. That will be the FY 2022
19 budget. It's highly likely that there will be
20 some Congressional Oversight Hearings on that
21 budget. That would be the normal course of
22 things. And you will be seeing, the TPAC members

1 will be seeing that budget some time in the late
2 January timeframe.

3 Next slide please. And then, lastly,
4 the USPTO is currently finalizing its trademark
5 rulemaking package. The submitted plan, a shift
6 in the final rules effective by January 2021. The
7 rulemaking is currently in the internal clearance
8 process in the Executive Branch and we are hopeful
9 that it will make it through those dates soon.

10 At some point in FY 2021, the Agency
11 plans to begin a biennial review of fees, again,
12 to ensure that the Agency recovers the costs of
13 the service need it provides and maintains about
14 its operating reserve.

15 And the reason we are jumping into
16 another fee rulemaking is, even though we are
17 starting in 2021, realistically, it takes two or
18 more years to get through the entire process. So
19 by the time we get to the end of two years from
20 now, we will obviously have incurred inflationary
21 adjustments and those sorts of things.

22 So that concludes the slides that I have

1 for you this afternoon. But, thanks, Dave, for
2 the opportunity to brief the team.

3 MR. GOODER: Thanks, Jay, very much.
4 Okay. Next slide. Next one please. And picking
5 up a little bit on what Jay was talking about with
6 the fee rules -- go ahead, yeah, thanks. It is a
7 two-year process and this one actually started a
8 little over a year ago. And so, it was published
9 in June, comments ended August 3rd.

10 Move on please. Yeah, you continued
11 online if you -- and this is the notice. But next
12 slide please. Going forward, the new rule now is
13 making its way through the approval process; and
14 it goes through that path; and then it published;
15 and then 45 days later becomes effective on this
16 date then. The target is January 1, based on all
17 of the calculations.

18 We appreciate the comments and inputs
19 that we received. A lot of people made
20 suggestions, et cetera. We have listed all of
21 those. We really looked at how the economy is
22 impacting this and looking also at presently, what

1 does it costs us to do different things?

2 And so, what you will see coming out has
3 been enough incentive and you will see that in the
4 next couple of months.

5 Next slide please. The next story I
6 want to turn to is during this year some programs
7 that we did to help customers of the Trademark
8 Office.

9 Next slide. And what I want to talk
10 about is the program referred to as Priority
11 Examination. And this was launched in June. And
12 it covered products that fight COVID-19, whether
13 that's in diagnosis, treatment, prevention, et
14 cetera, they are FDA covered.

15 They are entitled to have the initial
16 examination advance ahead. And the petition for
17 you to do that is waived. And, in fact, there has
18 been 191 petitions already received; 92 of them
19 were granted; 55 percent have already passed the
20 publication. And their examination went through
21 in about 30 days, as opposed to about 90. So you
22 will see this has been quite useful. We have

1 heard positive comments about it and we will keep
2 it going for the time being.

3 Next slide please. I want to turn to a
4 subject that's important to me, near and dear to
5 my heart, so to speak.

6 Next slide. And that's how to protect
7 the integrity of the Trademark Register. Now
8 there may be a fellow on the line who are not from
9 the U.S. and this is just a reminder that in order
10 to obtain, for the most part, opportunity to
11 maintain U.S. Trademark Registration, use in
12 commerce is a requirement of that.

13 And to protect to make sure the register
14 has the integrity that we all need, we have to
15 make sure that actually this is proven in filings
16 and renewals, et cetera, otherwise, as you all
17 know all too well, the register becomes cluttered
18 with what we affectionately call "deadwood."

19 And that could be entire registrations
20 or it could be parts of registration, meaning,
21 goods and classes that are no longer in use.
22 Either way, it becomes -- it interferes

1 significantly with trademark clearance and with --
2 the ability of the trademark system to function
3 properly and efficiently. So, right now, we are
4 going at this with a three-pronged approach and I
5 will talk to you about each of these prongs now.

6 Next slide please. The first area is to
7 deal with the problem of specimens that meet the
8 requirement. And we have to ensure that the
9 specimens they use are legally acceptable. And
10 the problem is some Applicants have been trying to
11 submit specimens that are computer-generated,
12 easily altered, fake, you name it.

13 Examiners are determined to spot these
14 and refuse them, but there are so many ways that
15 this can be done that it's quite difficult. And I
16 have to say that sometimes these rules, you know,
17 it's a legitimate filers fault, you know, sort of
18 what they need to do.

19 In some of the last external work I did
20 before going into the office, one of the company's
21 I was working with had done exactly that. It just
22 didn't understand. But, unfortunately, there are

1 companies and Applicants that are trying to use
2 modern technology and so you get around the rules.

3 So we have just now launched an
4 AI-assisted tool called ASAP that will be used in
5 the examining operation in order to find
6 substantive patterns so that when we find
7 something that looks suspicious this tool will
8 help us find everywhere else where that same
9 specimen, whether it's an image, whether it's a
10 mark, et cetera, that they used, and then help us
11 compare whether it is actually a problem going on
12 or whether it's actually legitimate. Like I said,
13 that's rolling out just now.

14 We have also released today a revised
15 examination procedure. And if you haven't seen
16 it, I urge you to look at it. It was redesigned
17 really to protect good faith filers to make sure
18 that they are able to solve the issue they
19 stumbled on and still demand quick proof when it's
20 really warranted. And when you approach people if
21 you are aware of fake specimens being used by an
22 Applicant to report it. You can send them to us

1 at this email address. There is also the Letter
2 of Protest, et cetera.

3 Next slide. While the next area that
4 we're engaging to try and protect the register is
5 the Proof of Use Audit Program. And that's in the
6 post-registration. And while the program started
7 in 2017, it was based on a pilot path that showed
8 that roughly 50 percent of registrations were
9 being renewed without proper use, either of the
10 mark itself and all that what was sent (phonetic),
11 or parts of the registration.

12 So the program was put into play
13 full-time and currently it has resulted in over
14 12,000 first actions being issued by the examiner
15 to work on the project auditing you see; 9200
16 responses worth in fact, and on those you can see
17 the numbers, but significant numbers to these
18 responses deleted goods or services which
19 indicates that the renewal was filed for without
20 having proper use.

21 Next slide please. And if you look a
22 little deeper into statistics, all you will see of

1 the application where the original filing basis
2 was based on use, half of them were (inaudible)
3 deleted business services at renewal. And the
4 numbers there were higher when you start looking
5 at (inaudible) or a Madrid filing.

6 So it's not hard to understand that
7 people who whose native system doesn't require use
8 may not understand it, but the problem is that we
9 have to make sure that they are being properly
10 represented and properly counseled so that the
11 register it stays -- has integrity that it needs
12 and also so does the registration.

13 Next paragraph -- or next slide rather.
14 Now the other way we did that is by U.S. counsel
15 and that rule was enacted last summer. Non-U.S.
16 Applicants must use the U.S.-licensed attorney to
17 essentially file documents.

18 People have asked about the results of
19 it. And I'll just tell you two simple things.
20 First of all, the refusals. The rule is working
21 the way it was intended. That's the number of
22 refusals meaning the amount of refusals being

1 issued that have to do with substantive issues.
2 We are now down to about 2.1 percent of all 1(a)
3 applications. That's a very tiny number. And it
4 has gotten -- it was considerably higher prior to
5 the counsel rule.

6 But also trademark owners have reported
7 to me that they are actually having to oppose
8 fewer applications. And they attribute that
9 directly to -- that a lot of foreign Applicants
10 and Applicants in general are getting properly
11 counseled about what they are filing.

12 So, in terms of the U.S. counsel rule,
13 is it's view was -- now, next slide.
14 Unfortunately, there are those who were trying to
15 get around it. And these kind of programs include
16 a number of things.

17 The next slide. First of all, there is
18 unauthorized use of actual attorney information.
19 There are improper signatures and uses of
20 credentials being maildrops and false domiciles
21 are being used by some Applicants.

22 You would be surprised sometimes how

1 many Applicants can exist at a mailbox; entirely
2 false Applicants are showing up. In Alaska, what
3 we are seeing is unauthorized changes of
4 correspondence information. Now all of those are
5 creating problems for the register and for
6 Applicants and their counsel.

7 Next slide please. And so what we are
8 doing is a number of things. First of all, we are
9 developing policy and procedures and technological
10 solutions that help to fight the problem, but also
11 solve it when it does occur.

12 We have talked about the mandatory login
13 for the register, and then would also give you the
14 tools out there right now such as -- next slide
15 please. The non-USPTO account and the app itself,
16 the USPTO app, provides updates, status changes,
17 et cetera. It is used at a lot of filings. It is
18 not a perfect solution but it's -- I think it's a
19 really good start. And you will see a lot of
20 improvements over time.

21 Next slide please. The biggest thing we
22 are dealing with is to get at the certain

1 (phonetic) innovative schemes and also the scams
2 that -- which we will talk about in a moment -- is
3 that a special path for us was formed last year.
4 It's, I believe, up to 17 lawyers at any given
5 time. They do a couple of things.

6 First of all, they investigate. While
7 this starts with examiners finding problems, some
8 of this comes out of the post-registration audit;
9 some comes from the outside as well. But they
10 investigate what's going on, and then they take
11 action. That comes in the form of Show Cause
12 Orders with almost roughly 500 of those issued
13 this year; referrals to the Office of Enrollment
14 and Discipline for their action.

15 They, in turn, if they discover,
16 conclude, that there really is unauthorized
17 practice going on or someone refer to the State
18 bar, and then we work with the lawyer whose
19 identities have been compromised and helping them
20 solve those problems.

21 That's not enough. And, to me, I have
22 been lining up to amp up what we do about this.

1 And so we are looking at additional ways that we
2 can take action at the USPTO to fight some of this
3 and we are doing it in a number of ways. So you
4 will see more about it in the future, but to me it
5 is a growing problem.

6 We can't conclude that all foreign
7 filings, no matter how much the increase are also
8 of bad behavior. There are some, that's for sure.
9 And we just want to make sure that what's going on
10 in the system is by the rules. And we're going to
11 start looking at more ways to make sure that
12 happens.

13 And one more. As part of a trademark
14 scam, these have been an annoyance to me from the
15 whole time I have been practicing law. And they
16 didn't abate when I went in-house because they
17 would just get sent to the accounting department,
18 who would oftentimes just pay them.

19 But scams are proliferating, they're
20 changing forms, just like all other kinds of
21 trademark piracy. They are going online. We see
22 them on social media. We are seeing them

1 communicated by text, by Twitter, Instagram, you
2 name it.

3 And, unfortunately -- next point -- and,
4 actually, next slide. The USPTO has a fairly
5 limited authority to deal with them. That said,
6 there is a bunch of things we are doing. The
7 first is in the education and outreach area, let's
8 call it. And that is a webpage resource that
9 keeps a list of known solicitation scams.

10 You can advance the bullet please. So
11 this has actually been pretty useful in a number
12 of cases. And I will tell you about more in a
13 second. We are also including warnings to filers
14 in Office Actions and at registration to watch out
15 for these things.

16 We have made it a topic of discussion or
17 events with our good (phonetic) business owners,
18 TPAC meetings, everywhere, and are writing and
19 publishing more about it. And there is also now a
20 dedicated mailbox to look forward to notifications
21 when they are received.

22 Next bullet. Now one thing that we have

1 also done is we have -- because we don't have a
2 police power, so to speak, we then work with other
3 agencies to enforce. And that could be both, the
4 DOJ, the U.S. Postal Inspection Service, the
5 Federal Trade Commission, et cetera.

6 Next bullet please. And that has
7 resulted, that cooperation has resulted in a
8 prosecution currently pending in South Carolina.
9 And it's an interesting story that you can read
10 about in the complaint. But, essentially, the
11 Bank, who had gotten suspicious about what was
12 going on, was able to find the name of the company
13 on the PTO's website.

14 We, then, had some attorneys, who were
15 on detail to the DOJ, helping with this. And they
16 were able to get the gentleman who was responsible
17 for this, who was based in Lithuania, to come to
18 the U.S., where he was arrested and this case is
19 now pending.

20 We want to see more of that kind of
21 activity. And will look for your help in not only
22 finding it, but also ideas about how well you

1 think we might be able to get at this problem
2 because I know it affects everybody in the
3 trademark community.

4 Finally -- the next slide -- and one
5 more. There is a couple of initiatives that are
6 going on. We are looking at converting the
7 registration certificates entirely to an
8 electronic version. There will still be an option
9 to kind of print it, if people want it. But this
10 will not only save the Agency a lot of money, but
11 we have heard from stakeholders that they actually
12 would prefer to just have it electronically.

13 There will be lots of opportunity to
14 weigh-in on this and we will hear more about it.
15 The other thing is this week you saw an
16 examination guide was issued on Generic.tld.

17 Next slide. Finally, what are my
18 priorities for fiscal '21? And, essentially, they
19 are the -- we are going to keep our employees
20 safe, supported and engaged, even they are working
21 through some pretty challenging times, especially
22 with teleworking and bringing that into this

1 century and the ways we can do that.

2 I want to make sure we continue to meet
3 our pendency and quality objectives. That's going
4 to be a challenge with the inventory targeted. We
5 want to drive the key fiscal '21 initiative
6 support customers.

7 So the CARES Act programs that are still
8 in effect, who challenges the integrity of the
9 register fighting scams, and then stabilizing and
10 modernizing our public and private side of our IT
11 system. We've got to. We've got to do that.

12 And, finally, we want to ensure that our
13 trademark organization has the structure that it
14 needs and the adequate funding to optimize
15 everything we want to do to achieve all of those
16 priorities so that the trademark community and the
17 Trademark Office both are getting out of the
18 system what they want and need.

19 I thank you for your time and your
20 attention on this. We are running just a shoulder
21 ahead of schedule. But, at this point, Elisabeth,
22 I will turn it back to you, unless you want me to

1 hand it over to Amy.

2 CHAIR ESCOBAR: So thank you so much,
3 Dave. I think that this is a good point at which
4 to pause and see if TPAC members have any
5 questions for you and/or Jay.

6 MR. GOODER: Sounds good.

7 CHAIR ESCOBAR: And I'll give people a
8 minute to get off of mute. I have got one or two
9 things I wanted to ask. One is a simple question.
10 And I apologize that it's so basic. But how funds
11 get into the operating reserve?

12 Is it automatic, in terms of any
13 overflow or -- does it happen automatically if
14 there is something leftover after expenses? Does
15 it automatically go into the operating reserve, or
16 is there a process?

17 MR. GOODER: I am going to let Mr.
18 Hoffman answer that one. Jay, are you still on
19 the call?

20 CHAIR ESCOBAR: Jay, are you still with
21 us? (No response)

22 CHAIR ESCOBAR: He may not be.

1 MR. GOODER: I think he may have dropped
2 off.

3 CHAIR ESCOBAR: Okay.

4 MR. GOODER: We can find out the answer.
5 To my knowledge, in the private sector, each month
6 and each quarter, they are looking at revenue
7 versus expenses. And I do not know whether the
8 money is moving in and out on a constant basis.

9 But as far as I understand, it is
10 monthly and quarterly as needed. So the balance,
11 as you can imagine, during the year is going -- is
12 increasing and decreasing depending on the need.
13 We tend to start out in the beginning of year
14 utilizing some of it.

15 And you saw the income lines throughout
16 the year, the collections go up and down and the
17 operating reserve helps smooth that out,
18 especially when we had the huge drop in the
19 spring. So, to my knowledge, it's a constantly
20 flowing account, if you will.

21 CHAIR ESCOBAR: Mm-hmm. Another
22 question that I had had to do with the audit

1 program, the Proof of Use Audit Program. You had
2 mentioned that 987 registrations were cancelled
3 since the audit requests were made. Is that
4 because people failed to respond entirely to the
5 audit requests?

6 Because as you know, the audit would not
7 have been triggered had it not been for a
8 Statement of Use with some sort of adequate good
9 specimen attached for something in the
10 registration.

11 MR. GOODER: Yes, so it triggered an
12 audit. And when it was requested or the audit was
13 issued, the person just defaulted and didn't
14 reply. If that's your question?

15 CHAIR ESCOBAR: Yes.

16 MR. GOODER: Honestly, I have seen
17 people look at it and they say, "Eeesh, maybe I
18 don't exactly have what I thought I needed to
19 have," and let it go.

20 CHAIR ESCOBAR: Hmm. My final point was
21 more a comment than a question. Jay mentioned
22 that renewals have been consistently dropping

1 since 2017. And I think it was mentioned also
2 that our funding mechanisms for making the numbers
3 penciled (phonetic) relied heavily on renewal
4 fees. I know it's been a longstanding policy of
5 the option -- of the Office to keep entry, various
6 entry, as low as possible.

7 And as part of that, the Office has
8 tried to keep application filing fees as low as
9 possible but that has resulted in a situation
10 where applications are going up and we lose money
11 on each application and renewals are going down,
12 which is where we tend to make up that money.

13 And I'm wondering if it isn't time for
14 the Office to consider rebalancing a little bit so
15 that it's not taking quite so much of a bath on
16 applications because the cost for application is
17 way below the filing fee.

18 MR. GOODER: Yeah, absolutely it is, and
19 that's going to be sort of item number one, as we
20 look at those fees in the future. That balance
21 that was struck many years ago just doesn't exist
22 anymore in the same way -- people filing and

1 behaviors are different, our registration
2 behaviors, how long marks are in.

3 And when you think that 70-something
4 percent of them are by individuals and small
5 businesses, a lot of them just don't have the same
6 longevity as, let's say, a large brand they have.
7 So it surprised me when I first got here that
8 renewals were decreasing like they were, and then
9 a higher percentage than you might think were
10 actually being renewed. So, yeah, I think we need
11 to rebalance that.

12 CHAIR ESCOBAR: Mm-hmm. Thank you. So
13 I'm going to give my fellow members one more
14 opportunity to ask any questions they may have
15 before we move on to OPIA.

16 MS. LALONDE: I have a question. It may
17 be (inaudible), but I will try, sorry. For the
18 fees that are collected above the appropriated
19 amount, is that money that we most certainly get
20 back from Treasury? We just have to jump through
21 some hoops to get it back, or is there any
22 question that -- you know, is there any

1 possibility we may not be receiving those funds
2 again?

3 MR. GOODER: I'm not sure if Jay is on.
4 But I think Michelle Picard is on. Are you on,
5 Michelle? Are you able to talk? (No response)
6 That's a good question. Well, Branden?

7 MR. RITCHIE: Yes, I'm here, Dave.

8 MR. GOODER: I'm sorry, not Branden --
9 Brendan. I was thinking that (laughter) --

10 MR. RITCHIE: Oh, oh, I'm sorry.

11 MR. GOODER: That's okay -- not that we
12 don't want to hear from you. We're looking
13 forward to it.

14 MR. RITCHIE: And I heard Branden, if
15 you thought --

16 MR. GOODER: Yeah, well, I think we'll
17 have to wait. Yeah, thank you. Okay.

18 CHAIR ESCOBAR: All right. Any other
19 questions from TPAC?

20 MS. WALTON: Yes, this is Kelly. Can
21 you hear me?

22 CHAIR ESCOBAR: Yes, we can.

1 MS. WALTON: Okay. I tried before, but
2 I couldn't get on, so apologies. But I had a
3 question. And, again, this may be for Jay. But
4 on the operating reserves that we looked at --
5 back on the budget -- so we think the optimal was
6 six months.

7 And so anything below that was
8 presumably correlated to not having six months.
9 Do we know, looking at what we have right now, are
10 we looking at three months, or four months, or
11 five months? I know it's under six months. But
12 any thoughts on that?

13 MR. GOODER: Yeah, the desire -- Sean,
14 are you on the line also? Are you on the call?
15 (No response) So, as I understand the optimal
16 amount is about 175 million. The end of the year
17 is somewhere north of 100 million which was better
18 than we thought. We know that it will -- even
19 with the fee it will take us two, three fiscal
20 years to get to reach that optimal level.

21 How many months exactly it is depends,
22 varies by how many that -- you know, the size of

1 personnel, et cetera. So I'm not sure if I can
2 equate it sitting here without the help from the
3 finance people about how many months that actually
4 pans out to.

5 MS. NATLAND: Hi, can you guys hear me?
6 It's Susan.

7 MR. GOODER: Yeah.

8 MS. NATLAND: I just have a couple of
9 comments. I'm not too sure of that budget destiny
10 (phonetic) so -- and I asked that same question
11 to Jay yesterday. And with respect to the
12 overage, my understanding is it's fairly automatic
13 that you should be expecting to receive that. I
14 think that it was 16.5 million or so, for
15 trademark, back into our account. But that's my
16 understanding.

17 MR. GOODER: All right. Thank you.

18 MS. NATLAND: I also ask the operating
19 reserve question, too. And I believe the minimum
20 with the 75 million right now is about three
21 months, and I think that the optimal is six
22 months. And I think we are at about 111 million.

1 So probably around four months or so, at this
2 point, is where we are at on that. So that's my
3 understanding from asking very similar questions
4 yesterday.

5 I do have a comment, Dave, as well. And
6 I just want to commend the Office for its actions
7 with the scams -- really, very important topic.
8 And as a TPAC member, I know I can speak for all
9 of TPAC, we really look forward to working with
10 the Office on trying to address this issue as best
11 we can.

12 I think we have all had friends or
13 colleagues, accounting department, you know,
14 having feud with these horrible scams that often
15 actually completely mimics the PTO's emblem and
16 name. And so we really look forward to working
17 with you.

18 So thank you for your focus on that
19 issue. I think that's very important for the
20 community, and especially for the small- and
21 medium-sized companies that may not appreciate
22 this view as much as we may.

1 MR. GOODER: Yeah, absolutely. Thank
2 you. I appreciate that.

3 CHAIR ESCOBAR: Okay, last call. Anyone
4 else? (No response) All right. So we are just a
5 touch -- we are almost exactly on track. Now I
6 believe we will hear from Amy Cotton, who is at
7 the Office of Policy and International Affairs.

8 MS. COTTON: Yep, thank you. It's good
9 to be with you today. Shira Perlmutter usually
10 has been in this slot, but she has now moved on to
11 become the Register of Copyrights. We are very
12 excited for her and delighted. It's a
13 well-deserved achievement and we wish her well.

14 The new Acting Chief Policy Officer for
15 the USPTO will be Mary Critharis. And she's been
16 the head of the OPIA patents team for many, many
17 years. So we think it will be a very seamless
18 transition. But in the meantime, I'm delighted to
19 be with you today. I wanted to share some
20 important meeting developments in the policy and
21 international arena with you.

22 Next slide please. The Madrid Working

1 Group. This is the working group on the legal
2 development of the Madrid system for the
3 international registration of marks. It was
4 hosted by the World Intellectual Property
5 Organization, October 12th through the 16th.

6 The meeting was held in a hybrid format.
7 So you had the Geneva-U.S. mission folks, or the
8 other missions from the other countries. They
9 were participating in-person at WIPO. And you had
10 officials from Capital participating virtually.
11 The working group agreed to a few amendments to
12 the current regulations that I want to share with
13 you today.

14 The first one is about emails. It
15 actually occurred in September. There was a bit
16 of urgency because the WIPO International Bureaus
17 for the ID, they wanted to require applicant
18 holders and their representatives to indicate an
19 email address in the international application and
20 a separate communication appointing a
21 representative or in a request for the recording
22 of a change of ownership.

1 So, if you recall, the postal system in
2 Switzerland was shutdown due to COVID-related
3 shutdown. With that halt in mail delivery, the
4 International Bureau was stuck. They had to try
5 to quickly find email addresses in order to
6 contact holders and representatives when there was
7 no address in the file. They needed to send out
8 notifications in order to be timely. So they were
9 really pressed to try to contact Applicants.

10 Now, at the USPTO, if you recall, we
11 moved to a mandatory electronic communication
12 world before the pandemic hit. So we were feeling
13 very smug that we were ahead of the curve.

14 We did not run into the problem of not
15 being able to send out regular mail to Applicants
16 in those countries that were experiencing postal
17 mail disruptions, with the exception of the paper
18 registration certificate, where we did have some
19 issues. But those will eventually all be mailed
20 out when service is restored in those countries.

21 But just so you know, from a privacy
22 perspective, the IB will not be including the

1 email address of Applicant holders or
2 representatives. In the Madrid information
3 services this would be done through a monitor of
4 the Madrid real-time status and they will not
5 publish this information in the WIPO design of
6 international marks. This rule will enter into
7 effect February 1, 2021. So don't be surprised if
8 you are asked to include email addresses in your
9 international registration.

10 The next rule was about the appointment
11 of a representative. Because holders have been
12 allowed to appoint representatives in various
13 different communications that appointment was not
14 always displayed consistently in WIPO's Madrid
15 system.

16 So to ensure that each appointment has a
17 distinct transaction displayed in the systems,
18 Applicants and holders will no longer be able to
19 appoint representatives in a subsequent
20 designation or in the request under Rule 25, other
21 than new holders in request for reporting a change
22 of ownership. However, Applicants may still

1 appoint a representative in the international
2 application.

3 The next rule is also somewhat
4 COVID-related. This is the excuse and delay in
5 meeting time limits. Rule 5 will be amended to
6 align with and provide the same revenues as to
7 missed time limits as provided in the Patent
8 Cooperation Treaty system.

9 So this rule will excuse a delay in
10 meeting the International Bureau's deadline for
11 responding or taking action when there are widely
12 recognized forced majeure events. And they will
13 allow the response or action as soon as reasonably
14 possible and not later than six months from the
15 expiry of the limits concerned.

16 So this is supposed to help users who
17 does not meet the IB's deadlines due to forced
18 majeure event, such as the COVID-19 pandemic in
19 2020. Both WIPO and the U.S. Devised and offered
20 temporary relief measures during the pandemic but
21 because the rules did not actually cover those
22 forced majeure events but they will now.

1 Our last rule at WIPO, Rule 9: New
2 Means of Representation. For those interested in
3 filing international applications for
4 non-traditional mark, there were some rule changes
5 to provide a bit more flexibility in the
6 reproduction or the drawing requirements for these
7 types of marks.

8 Different contracting parties have
9 different requirements for representation. Some
10 have a graphic representation requirement; some
11 have a non-graphic representation requirement.

12 This was difficult for international
13 Applicants to figure out to represent the mark in
14 the international application so that it actually
15 matches the basic marks, as well as conform to
16 drawing requirements as the designated contracting
17 party.

18 Now this issue has not been particularly
19 urgent because they are not a lot of E-Marks being
20 filed internationally but that may change. So the
21 working group is considering just how to make
22 images a little bit easier to use for

1 non-traditional marks.

2 The working group agreed to amend the
3 rules to eliminate the graphics reproduction of
4 the mark requirement and replace it with their
5 representation requirement. The reproduction
6 would be a drawing and a representation would
7 encompass more than just a drawing, perhaps a
8 description, or a sound file, or something like
9 that.

10 Number two, they were going to require
11 only one representation of the mark in color, if
12 the color is plain; and number three, eliminate
13 the requirement that the office of origin certify
14 that the mark in the international application, in
15 the basic app or registration is the same, but
16 instead certify that the mark correspond.

17 The Treaty actually uses the word
18 "correspond," but the rule said, "the same as."
19 And, of course, then people were implementing very
20 strictly when there is actually a little bit more
21 wiggle room in the Treaty. So these rule changes
22 will enter into force February 1, 2023.

1 Lastly, the issue of languages has
2 arisen. The proposal from some demands is to add
3 all six UN languages into the Madrid system either
4 as filing languages or as working languages. So
5 right now you have English, French and Spanish
6 that are both filing and working languages of the
7 system. There are calls for adding Arabic,
8 Chinese and Russian into the system.

9 If you add it as a filing language, then
10 the Applicants who file an application in their
11 language, if it's one of those six, the IB will
12 translate it and then it moves through the system
13 in only one of three working languages. If you
14 add all six working languages into the system,
15 then the IB is responsible for translating every
16 piece of paper that comes through the system into
17 all six languages.

18 The argument is that the UN
19 organizations all use all six working languages
20 and so the Treaty should as well. However, the
21 Hague System only has two working languages; PCT
22 has a bit of a hybrid and they don't work in all

1 six languages all of the time either.

2 So this is, of course, a very big
3 potential cost to the system which, of course,
4 would be passed on to users. So this is something
5 that we will be discussing in the coming months,
6 probably coming years, and it will be an
7 interesting topic of discussion.

8 Next slide please. ICANN 69 took place
9 last week, week before last. I wanted to give you
10 an update on a few topics: WHOIS. WHOIS domain
11 name registration record. So you remember after
12 the European Union's General Data Protection
13 Regulation, GDPR, went into effect in May, a lot
14 of domain name registration records went dark
15 pretty much.

16 So there has been a lot of discussion
17 about how to allow intellectual property
18 (technical difficulty) -- but there was an
19 agreement on a centralized system for disclosure
20 of that information. So we can agree that we
21 should be able to request it, but we are not able
22 to agree that we are going to be able to disclose

1 it.

2 So that's still an ongoing discussion of
3 whether we can get access to this information.
4 The ICANN Board will now consider the various
5 recommendations that are coming through. But a
6 new process, of course, is expected to start
7 shortly to address some of these ongoing questions
8 and also what kind of data relating to legal
9 versus the natural person's need to be provided.

10 On the issue of domain name system
11 abuse, DNS abuse, this is malware, botnet,
12 phishing, pharming and spam, certainly is a
13 continued concern going on at ICANN, particularly,
14 with COVID, are scams out there. And they are
15 continuing to talk about how the contract
16 provisions between the various parties might be
17 improved to address this issue.

18 Lastly, on the Rights to Protection
19 Mechanisms Working Group and RPM is short for it.
20 The working group that's dedicated to reviewing
21 the RPMs generally agreed that no major changes
22 should be made. These RPMs, in particular, that

1 were at issue were the Trademark Clearinghouse,
2 the Sunrise Claim Service, and the Uniform Rapid
3 Suspension System or URF.

4 So this is good news. These RPMs were
5 created to help trademark owners address the
6 anticipated increase in cybersquatting for the
7 launch of the new GTLB. We didn't want to see any
8 watering down of these critical features.

9 Also you should know the working group
10 agrees that geographical indications should not be
11 recorded in the Trademark Clearinghouse. There is
12 a lot of uncertainty about these rights and it was
13 decided to keep them out for now. The working
14 group conclusions will move to the GNSO Council
15 and then the ICANN Board will take a decision on
16 this review process. But they haven't even gotten
17 to the UDRP yet. That review should begin in the
18 second quarter of next year.

19 Next slide please. TM5. We had a
20 successful virtual TM5 annual meeting earlier this
21 week. This was Monday, Tuesday, Wednesday of this
22 week, starting bright and early for the U.S. But

1 we had China, Japan, Korea, and the EU all on the
2 phone, so we had to find a time that worked for
3 everybody.

4 Director Iancu opened the meeting,
5 welcomed the participants. Commissioner Gooder
6 chaired the meeting. And it was a really nice
7 surprise because we had the World Intellectual
8 Property Organization's Director General, Daren
9 Tang, attend to provide some welcoming remarks.
10 And he recognized the importance of trademarks to
11 the global economy.

12 So that was really a lovely surprise for
13 us. During that meeting, we discussed the
14 cooperative projects and we approved a new project
15 called, Joint Communication Action. Here are some
16 highlights for you. WIPO announced that the TM5
17 ID list, which has about 20,000 pre-approved IDs
18 in it, now it is incorporated in the Madrid Goods
19 and Services Manager at about a 95 percent rate.
20 It will advance about 100 percent in the next few
21 months. Since the USPTO requires a bit more
22 specificity in our IDs than many other countries,

1 we want to encourage our level of specificity in
2 any global use of IDs. So we're happy about that.

3 The TM5 is working on a searchable
4 database of fraudulent solicitation examples on
5 the TM5 website. So we're collecting all kinds of
6 different solicitations and creating a database.
7 And we're hoping that this will continue to help
8 prosecutors investigate these potential incidents.

9 We found that our website actually found
10 what fraudulent solicitations was used by
11 investigators to figure out that somebody they
12 were investigating was involved in these scams as
13 well.

14 On the non-traditional mark project, the
15 TM5 recently published to the TM5 website
16 guidelines for 3D mark application requirements in
17 each offices. So it basically sets out what each
18 office requires when applying for a 3D mark so
19 that users can have a better idea of what they're
20 facing.

21 The next slide will be how to search for
22 non-traditional marks in each office. Because, as

1 you know, they are not necessarily indexed and
2 coded in the same way. And after that, we're
3 going to move on to color marks. And so we're
4 creating a catalogue of information about
5 non-traditional marks and how they're handled.

6 On the User Involvement Project, the
7 partners have voted to approve the JPO proposal
8 for the fifth user workshop, for instance, in San
9 Diego. This workshop will be on tips for avoiding
10 refusals in the partner offices. So we think you
11 will find that very interesting.

12 Wanted to let you know that TM View,
13 this is a catalogue created by EUIPO, basically, a
14 global brand search system. It now includes data
15 from 70 countries with 60 million marks. But the
16 most exciting thing is that EUIPO announced that
17 the Chinese trademark registrations will all be
18 integrated into TM View by 2021; that you will be
19 able to search China trademark data within TM View
20 by 2021.

21 The new project is the Joint
22 Communication Action Project and it will start

1 immediately. It is designed to improve
2 communications between users and TM5 partners.

3 Just so you know, we had the TM5 user
4 session on the last day -- Elisabeth was there --
5 we had about 160 representatives logged in to here
6 updates from the partner offices and to
7 participate in an interactive question and answer
8 session with the partner offices and WIPO. China
9 is the next host. It rotates every year and China
10 will take over host and secretariat.

11 One more thing on the TM5 is Brexit
12 actually. The EUIPO reported that as of December
13 31, 2020, the transition period is over and users
14 will fully feel the impact of Brexit. As of that
15 date, EU trademarks will cease to have affect in
16 the UK. Anything that happens in the UK is
17 irrelevant for EU trademarks.

18 The UKIPO will create mirrored trademark
19 rights; that is, EU trademarks will be converted
20 into UK trademark registration. UK
21 representatives can no longer act before the EUIPO
22 and trademark owners will need to appoint new

1 European economic area-based attorneys. There is
2 one exception for ongoing proceedings where the UK
3 reps can continue to act for the holder before the
4 EUIPO if the proceeding is already going on.

5 For non-EU domicile customers, they only
6 need to appoint when there is an action to which
7 the Applicant must respond. And if they just hold
8 the registered trademark there is no reason to
9 appoint a rep until the procedure is initiated on
10 that registration.

11 Next slide. And, lastly, I just wanted
12 to highlight some of our upcoming webinars and
13 meetings, and simply to show you that the work of
14 OPIA has not slowed down. With regard to the
15 pandemic, we have got WIPO meetings that we are
16 doing -- holding virtually.

17 The Lisbon Union is really coming up
18 next week. And we have got a webinar with the
19 Georgian Trademark Office on TTAB practice. We
20 have got an office with -- a meeting with Bhutan
21 about relative exam.

22 We are planning training for Chinese

1 examiners that (phonetic) examination. And we
2 have just got a bunch of activities going on with
3 various processes around the world. And we're
4 continuing to train, and we're continuing to meet
5 and spread the word.

6 So just wanted to let you see what we
7 are doing here. Well, that's all I have for
8 today. I'm happy to take any questions.

9 CHAIR ESCOBAR: Thank you, Amy. That
10 was quite a lot. I had one question for you.
11 After the TM5 user session, I ran over to the TM5
12 website, which is at tmfive.org, to look for the
13 searchable database on solicitations and I
14 couldn't find it. Is there a timeframe for when
15 that's going to go live?

16 MS. COTTON: That is a good question. I
17 am going to have to get back to you on that,
18 unless my colleague, Lee, is going to IM me and
19 let me know. (Laughter)

20 CHAIR ESCOBAR: Okay.

21 MS. COTTON: But I will let you know. I
22 don't have it at the ready.

1 CHAIR ESCOBAR: All right. Thank you so
2 much. Do the other members of TPAC have any
3 questions or comments for Amy?

4 MS. NATLAND: Hi, Amy. It's Susan. I
5 have just a quick comment and a question. I want
6 to volunteer myself to go to Japan, if you ever
7 need me or need a traveler.

8 (Laughter) I have always wanted to
9 go there. And I don't even know if
10 you can get any of the details --
11 put me on a list.

12 My question is -- and this is more of a
13 practical question. I don't know if you know the
14 answer. But is the TM View the same database as
15 the WIPO global brand database? Are those two
16 things the same? Okay. We'll go get that.

17 MS. COTTON: There is a bit of a -- I
18 don't know -- competition there for help.

19 MS. NATLAND: Okay.

20 MS. COTTON: And they both have
21 different searchable interfaces, so different
22 algorithms that they are using. But they are two

1 different things. So if you search one, it's
2 going to be different results than when you search
3 another one, the other one.

4 MS. NATLAND: Thank you.

5 CHAIR ESCOBAR: Other questions?

6 (No response) All right. Well,
7 thank you, Amy, very much, for
8 sharing your time with us. It's
9 always a wealth of information.
10 There is so much going on at OPIA.
11 We look forward to hearing from you
12 next time.

13 I am going to turn the mike over to --
14 the virtual mike over to Michelle Picard, who is
15 going to pick up a question that was asked earlier
16 concerning operating reserve.

17 MS. PICARD: Hi. First of all, I want
18 to apologize. Jay got pulled away, and then I
19 wasn't connected to the mike. So, sorry for the
20 CFO's snafus in the financial questions. So I
21 just want to make sure I test them all. Because I
22 was also feverishly trying to connect my voice to

1 everything I was hearing from you guys.

2 I want to commend David and Susan. Both
3 of you guys answered well. I can hear everything
4 you were saying. I think the first question was
5 related to the operating reserve and if anything
6 that went unspent, does it automatically go into
7 it, or do we have to do something about that? And
8 I think Dave handled that really well.

9 It is kind of a continuous flow, as he
10 said. So there is no legislative appropriation,
11 anything. The way that our funds are given to us
12 in a year, they're available until expended. So
13 if we don't spend them, we just get to hold on to
14 them to use in future years. And there is no
15 additional hoops we have to jump through to do
16 that.

17 The other question I heard was about the
18 Patent and Trademark Fee Reserve Fund. So the
19 amount of money that we collect in excess of the
20 appropriation in 2020, is there -- I think I was
21 hearing -- is there risks with us getting it?

22 And we have had to go through this two

1 or three other years. And so far we haven't had
2 any issues whatsoever, so and we are not expecting
3 any this year. We have already submitted the
4 requests up to get the money transferred to us.
5 And we haven't heard any indications that there
6 will be any challenges this year.

7 And I think there was a third one that I
8 am not sure that I remembered.

9 MR. GOODER: Yeah, I think, Michelle, it
10 was. Yeah. I think it was about the lengths of
11 the reserve and in terms of weeks of months and
12 what the target is. I believe six months. That's
13 where we are at kind of now with 110 million, add
14 another million in there.

15 MS. PICARD: Yeah, so it is about half.
16 So we are at about three months right now and
17 continue to watch it. And we're looking at our
18 trajectory and our plan to try to get to the six
19 months. And I think that if our plans continue to
20 work out, we think we are in a good place to get
21 to the optimal level again. We're at probably --

22 CHAIR ESCOBAR: Fee counts?

1 MS. PICARD: Sure. And I think there
2 was something related to fees. Oh, no, Dave, you
3 took that, the front-end, back-end, with renewals
4 and applications -- yep, agreed.

5 Anything else? Any other questions
6 while I'm on? Again, I apologize. (Pause) Jen,
7 did you have a question?

8 MS. KOVALCIK: Yes. Can you hear me
9 now?

10 CHAIR ESCOBAR: Yes.

11 MR. GOODER: Yes.

12 MS. PICARD: Yes.

13 MS. KOVALCIK: When it comes to renewal,
14 as you are preparing budgeting and looking
15 forward, how are you trending, or what trends are
16 you noticing with respect to renewals? I
17 understand that they have been going down for a
18 few years. Is it a pretty steady decreasing here?
19 Are you noticing that the amount of renewals are
20 actually increasing by how much they are
21 decreasing, if that makes sense?

22 MS. PICARD: We are definitely losing

1 revenue with renewals. So by the amounts that
2 they are increasing is not likely it passed the
3 increases or anything or recovering that. So we
4 are looking at the pace at which they are going
5 down really closely, as we are projecting into the
6 future.

7 And also, as we are doing our current
8 fee review right now trying to figure out, do we
9 need to make any adjustments with that, and then
10 kind of relate it to the balance that you were
11 talking about on the front-end with application
12 filings and finding that right balance between the
13 two.

14 So it's not steep or drastic. It's not
15 dropping off immediately but we are -- every year
16 it is a little more, and a little more, and a
17 little more going down. So we are keeping an eye
18 on it.

19 MR. GOODER: Jen, the bigger drop is in
20 the six years renewal, so Section 8 (phonetic) six
21 years filings is a bigger drop than the 10-year
22 renewals.

1 MS. PICARD: Correct.

2 MS. KOVALCIK: Thank you.

3 CHAIR ESCOBAR: Any other questions from
4 TPAC? (No response) Okay. Well, Michelle, thank
5 you so much for dropping in. We really appreciate
6 it.

7 MS. PICARD: Sure. And, again, I
8 apologize. Thanks. Have a great day.

9 CHAIR ESCOBAR: No worries -- you, too.
10 Let's see. We are a few minutes behind schedule.
11 But I think we should go ahead and fit in our last
12 presentation before a brief break. And that's
13 going to be from Branden Ritchie and Kimberly
14 Alton of the Legislative Office. Take it away.
15 (Pause) Branden and/or Kim, if you're speaking,
16 you're on mute.

17 MR. RITCHIE: Hello.

18 CHAIR ESCOBAR: Hi, great.

19 MR. RITCHIE: There we go, thank you.
20 My mute button was stuck, for some reason, sorry
21 about that. Hello, everyone. Kim is out all day,
22 unfortunately. So I apologize for that. I will

1 do my best to cover the topics here today.

2 And we can go on to the next slide. So
3 we have had a lot of work and had a lot of
4 progress on some of our legislative initiatives
5 just in the past three months and past quarter.
6 The first I'll talk about is the Telework for U.S.
7 Innovation Act, which was the name given to the
8 legislation that would extend our telework
9 authority for the TEAPP Program, which is the
10 program that allows examiners to work from
11 virtually anywhere in the United States and
12 territories.

13 And that has been such a beneficial
14 program for the PTO. It's a wonderful benefit for
15 the employees. It achieved tremendous cost
16 avoidance for the office. And it's a real
17 win-win. It was authorized in 2010. And then in
18 2018, it was reauthorized for another two years.
19 And now we are seeking a permanent authorization.

20 And so that legislation was introduced
21 both in the House and the Senate in a bipartisan
22 fashion. And the House, it was included as an

1 amendment to the National Defense Authorization
2 Act. And in the Senate, the relevant committee,
3 which is the Homeland Security and Government
4 Affairs Committee, they passed that bill by
5 unanimous consent as well.

6 So we are currently awaiting further
7 action on those. We understand that the Senate is
8 trying to get unanimous consent to pass the bill
9 in the Senate and then it would go -- the
10 standalone bill, that is, that would then go to
11 the House and we would continue working on it
12 there. But since it passed the House already,
13 hopefully, that would be something that can be
14 accomplished before the end of the year.

15 And then the second item is the
16 Trademark Modernization Act. That's the
17 legislation that would create new proceedings for
18 stakeholders to challenge marks when they have
19 never been used in commerce or have not been used
20 by the relevant date.

21 Last year, the House Judiciary Committee
22 took the lead on constructing that legislation.

1 They held multiple roundtables with stakeholders
2 and then they released the draft to introduce the
3 bill in March of this year. And that was also
4 introduced on a bicameral, bipartisan fashion.

5 The Judiciary Committee, in September,
6 then went ahead and marked up the bill and it
7 passed before its vote and so further action is
8 pending; and, clearly, you know, would waive
9 (phonetic) the bill, the November/December
10 timeframe, in Congress. And we are monitoring
11 that without any technical assistance as
12 requested.

13 Dave, I think mentioned this. But there
14 is currently a CR that runs through mid-December,
15 and then once the members come back after the
16 election in November, you know, we will know a lot
17 more about what the next step is for the funding
18 mechanism.

19 We can go to the next slide. I will say
20 about the funding that we have been -- one of the
21 things you reported that we have been seeking the
22 Congressional committees of the Judiciary

1 Committee and the Appropriation Committee updated.
2 We have had regular updates with them about the
3 fee revenue situation on both the patent and the
4 trademark side.

5 And that's been very important because
6 the more updated and the more information they
7 have, the more they would, you know, understand
8 the dynamics here at the PTO. And then when we go
9 to make reprogramming requests, they understand
10 the context.

11 And the reprogramming requests is where
12 we request that money in the Patent and Trademark
13 Fee Reserve Fund. So we have been doing our due
14 diligence to make sure they are up-to-speed on
15 everything.

16 So we also had a request from Senators
17 Tillis and Senator Leahy to do a study. And the
18 study was with respect to safe harbor immunity.
19 They wanted us to study the extent to which patent
20 and trademark owners are experiencing
21 infringements, I think, and its views about
22 adequate remedies under state law, and it

1 contemplates the extent to which that infringement
2 is intentional or reckless. And they asked us to
3 do a study and then produce a public report by the
4 end of April 2021.

5 So we have already begun that process.
6 We're doing research, on the legal side, in the
7 cases. And very soon we will be putting out a
8 Federal Register Notice seeking information from
9 stakeholders, from all stakeholders.

10 And we encourage everyone who has
11 comments they would like to submit to submit those
12 comments. They will be very important to that
13 study. And that's something we're aggressively
14 working on right now as well.

15 You can go to the next slide. So we
16 have talked about some of these already. I will
17 make this short because I know we are pressed for
18 time and there is a break coming up. I don't like
19 to get in between breaks and everybody.

20 So we continue to monitor and try to
21 work on or IP attaché rank which, you know -- as
22 you all know, we have talked about this in the

1 past. Our IP attaché's are not able to always
2 acquire the means at the levels they need to be as
3 influential sometimes as their foreign
4 counterparts. And so we have been working on that
5 aggressively. And then, of course, we have the
6 TEAPP extension and the Trademark Modernization
7 Act.

8 So, I think, the next slide is the last
9 one. So I think that concludes this summary. I
10 tried to expedite it, but I'm happy to answer any
11 questions you have.

12 CHAIR ESCOBAR: Anyone? Yes, go ahead.

13 MS. BALD: So I know that you talked
14 about the Trademark Modernization Act. And I
15 understand that funding is down the road. But has
16 there been any production as to what
17 implementation of that Act would cost, in terms of
18 the Office? Obviously, it was introduced in U.S.
19 (inaudible), since the future which (inaudible)
20 would require additional resources and woman
21 power, as I like to say.

22 MR. RITCHIE: Yes, I can refer to Dave

1 on this, too, or Meryl, and Sharon. But I know
2 that we have been contemplating the costs. The
3 bill contemplates that within a year we will have
4 regs to implement with the statute if it should
5 pass. And part of that, you know, would be
6 attempting to address the costs, I believe, of the
7 proceedings. I don't have those numbers for you
8 right now though.

9 MS. BALD: Thank you.

10 MR. GOODER: Yeah, it's being studied
11 and analyzed at the moment.

12 MS. THOMPkins: Branden, this is Tricia.
13 Could you send the equal share with regard to this
14 that there are no state sovereignty issue, and
15 particularly as it relates to the portion of these
16 requests made by the Senator that has been
17 intentionality, any infringement(phonetic) that
18 might be taking place?

19 Do you have a sense of kind of the
20 background or the rationale behind that requests?
21 I wouldn't imagine that they would have asked
22 about the intentionality unless there is some

1 indication of such. And, again, I understand that
2 you may not be able to share a lot. But I
3 appreciate any insight that you can provide.

4 MR. RITCHE: Thanks for that question.
5 This request came after the Supreme Court's
6 decision on the copyright issue of state
7 sovereignty, where the Supreme Court kind of laid
8 out a test that Congress would have to show in
9 order to aggregate state property.

10 And part of that test was the extent to
11 which states are engaged in this infringement
12 without adequate remedies of state law. And I
13 believe -- but I hesitate to say this -- but I
14 believe that perhaps intentionality was mentioned
15 in the case as well.

16 And so this report kind of was
17 subsequent to that Supreme Court case, and the
18 Congress also asked the Copyright Office to do a
19 similar study. And so they asked us to do it for
20 patents and trademarks and the Copyright Office to
21 do it for copyrights.

22 MS. THOMPkins: Thank you for that.

1 MS. COTTON: This is Amy. Let me just
2 chime in. I think it relates to the idea of
3 trying to figure out whether states are using
4 their immunity to, you know, infringe. And it's
5 based on what I have seen in past discussions that
6 seems to be the issue that they are getting at.

7 MS. THOMPCKINS: Thank you.

8 MS. NATLAND: Just another question on
9 TMA. Did you make (inaudible) through -- you
10 know, assuming a (inaudible) and continued
11 bipartisan support about when we might expect the
12 laws to be enacted, just so we get a sense of
13 timing?

14 And then, sort of a follow-up question
15 is: I know there has been opportunity for comment
16 by stakeholders and the public. But if there are
17 still some comments, I have been approached by a
18 few stakeholders who have some additional
19 comments. What would be the best way to
20 (inaudible) apologize on (inaudible) at this point
21 in the process?

22 MR. RITCHIE: Thank you. Those are both

1 great questions. So, timing is really hard to
2 predict. This year, in particular, it's even more
3 difficult. After the elections, everyone will
4 come back. The members will have to try to get on
5 with the various committees they want to be on,
6 leadership elections, leadership of committees.

7 We are going to be very busy. But it is
8 the hope -- my understanding is, it is the hope
9 for the House to move forward on it. If they were
10 to do that and the bill could come to the floor of
11 the House of Representatives and pass, then the
12 Senate would have to take it up.

13 Because of the bipartisan introduction
14 and bicameral introductions, there seems to be
15 interest in the Senate. And so it would really
16 depend on the appetite of the members to get
17 things done in the Lame Duck sessions; and then,
18 you know, whether there are any road bumps that
19 occur on the way throughout that process.

20 But it's one item that has an
21 opportunity to get funded potentially. But
22 everybody is going to be buying for time, so it's

1 uncertain. But I know there is the will to move
2 it forward and that's good in a bipartisan,
3 bicameral fashion.

4 On the comment, as I mentioned, there
5 was a process that the committee on the House side
6 went through to solicit comments before they
7 introduced it. And they made a lot of changes to
8 the bill, according to those comments, and
9 introduced it in March.

10 They marked it up in September. That's
11 kind of another time period in the Congressional
12 world. So right now is a good time. If you have
13 comments, or any folks have comments that they
14 really want to share, I think the best path at
15 this point would be to reach out to the Judiciary
16 Committees and share those thoughts, as they are
17 contemplating moving forward.

18 MS. NATLAND: Thanks, Branden.

19 CHAIR ESCOBAR: Any last questions
20 before we break? (No response) Okay. Well, thank
21 you, as always, Branden. We really appreciate
22 your time.

1 MR. RITCHIE: Thank you.

2 CHAIR ESCOBAR: It is 2:55. And we are
3 running just a few minutes behind schedule, so
4 let's break for 10 minutes and be back at 3:05.
5 Thanks, everyone.

6 (Recess)

7 MS. ESCOBAR: Can everyone hear me?
8 Great then. We welcome back everyone.

9 It is time now for us to turn over to
10 Chief Judge Gerald Rogers to hear from the TTAB.
11 Gerry, are you ready to go?

12 MR. ROGERS: I'm ready to go as soon as
13 the slides come up. Okay, great.

14 So before we turn on the slides, I will
15 just give a couple of the (inaudible) current
16 events or, the late breaking things that people
17 should know about regarding the TTAB.

18 Some of you know that we issued a
19 vacancy announcement for an administrative
20 trademark position not too long ago. That
21 announcement closed and we are now in the process
22 of working through the applications and creating a

1 list of the seven qualifying candidates from which
2 we could make a selection if we need to make a
3 selection.

4 Some of you may know that since Lorelei
5 Ritchie separated from Federal service to teach
6 earlier in the fiscal year and so, that interim
7 position we might want to fill, and we also have
8 positions available in the (inaudible) year moving
9 forward. So, it is in our interest to maintain a
10 list, plus any hiring of judges would depend on
11 work flow issues and whether we absolutely need to
12 fill Judge Lorelei Ritchie's position.

13 The other thing that I would point out
14 which is one of the slides, but I wonder if you
15 are aware of, you heard earlier, that Deputy
16 Director Peter mentioned that the TTAB had issued
17 43 precedents this year, an increase from last
18 year of almost 13 percent and we are pleased to be
19 able to continue our dialogue with the (inaudible)
20 groups about the right number of precedents on
21 particular issues. We are not so much focused on
22 the numbers, but we are instead focused on making

1 sure that we get precedents out on the issues that
2 the state courts (phonetic) think are important.
3 And the courts will always limit it to the issues
4 that are presented by an occasion that come before
5 us (phonetic), whether the right party appeals, or
6 trial cases, so that always influences our ability
7 to get any particular number of precedents out.

8 So, those are just the two of a lot of
9 cases. More are in the slides and I wanted to
10 make sure that we covered them, so I did them
11 right up front. Now we can go to the next slide,
12 please?

13 So, in terms of FY '20, and we had had a
14 chance to forego (phonetic) this month and look
15 back at FY '20 and compared it to other years and
16 scenes of what FY '20 and other years have shown
17 us in terms of the courts work load.

18 We have heard from Commissioner Gooder
19 about the significant increase in trademark
20 application filings. We just wanted to provide
21 everyone and remind them that we have seen these
22 levels of the increases in appeals and trial case

1 filings over the three year period from '17 to
2 '19. The appeals increases every year were on the
3 order of 2 percent, 3 percent, something like
4 that. So the accumulative (inaudible) rate, as
5 you can see, was near seven percent. Trial case
6 increases before the past fiscal year were much
7 more significant, including one year a 13 percent
8 increase in cancellations alone. So that was the
9 situation that we faced moving into FY '20. Next
10 slide please?

11 These are the final levels for new
12 proceedings at the TTAB as of the end of fiscal
13 2020. Appeals for the first time in recent years
14 came in at a higher rate than either of the two
15 types of trial cases that we have. So, appeals
16 were up 4 1/2 percent. Oppositions were actually
17 down slightly and petitions to cancel, while they
18 increased, increased at the slowest rate in the
19 last four years. So, we will have to look at the
20 situations as we go through FY '21 and see whether
21 this is an indication(phonetic) of the change in
22 the direction of incoming filings, or whether it

1 might have been effected by economic
2 considerations affecting our customers during the
3 pandemic. So that may be temporary in fact, and
4 things might continue to go up as you would expect
5 them to, based on the number of applications
6 coming into Trademarks. So, it's just something
7 we will be monitoring as we move forward. Next
8 slide please?

9 Okay, we set some new goals for FY '20.
10 So, these were goals that at the beginning of the
11 year we knew were logically going to be difficult
12 to meet because of, as you will see on this
13 particular slide, the inventory of cases that we
14 had, which as you saw on the first slide, we have
15 been getting trial cases, a lot of trial cases for
16 years. More trial cases mean more motions in
17 trial cases and more work for our interlocutory
18 attorneys. We also had an inventory of cases
19 waiting for decisions on the merits by a panel of
20 judges that was very trial case happy. So the
21 goal that we set for processing contested motions
22 and for processing final decisions in both appeals

1 and trial cases were more significant in the sense
2 that they were predicated to be a challenge for us
3 in the first couple of quarters of the year and we
4 were hoping to meet some by the end of the year.

5 So, on this slide the processing time
6 for contested motions trial cases, you will see
7 that we set the goal for 8 to 12 weeks. We did
8 not meet it in the first two months, but we were
9 very close to it. We were barely over 12 weeks in
10 the first two quarters, I should say, of the year.
11 And in the third quarter we actually met the goal.
12 We did not meet it in the fourth quarter because
13 of the unexpected discovery, although we clearly
14 made a thorough search of all of the electronic
15 files which includes a number of undocketed
16 motions.

17 So, we made the decision in the fourth
18 quarter to go ahead and process all those older
19 undocketed motions that were older (inaudible) to
20 make sure that we would start at FY '21 with a
21 clean slate. Unfortunately, that pushed up the
22 contested motions tendency average event in the

1 fourth quarter and kept us from meeting the follow
2 up for the full year. So, we were over by about
3 three days on our goal, but we are well positioned
4 to meet the processing goal for contested motions
5 in FY '21. Next slide please?

6 This is an easy way to see what I just
7 told you and that is that the attorneys worked
8 pretty diligently in FY '21, judges even pitched
9 in at the end of the year, processing some
10 contested motions to put us in the best possible
11 position to start FY '21, but we increased the
12 number of decisions issued. We increased the
13 number of motions resolved by those decisions and
14 again, we never changed the average tendency goal
15 in the first quarter and worked through a lot of
16 open cases in the fourth quarter. So, we're about
17 finishing for FY '21. Next slide please?

18 This slide focuses on the other end of
19 the process and these were the cases that were
20 sealed and trial cases that had come in the front
21 door at the Board and now are at the other end
22 because they are ready for decision on the merits

1 by a panel of judges. But we've talked about the
2 order of trial cases and appeals cases maturing to
3 writing for decisions. In the third column, FY
4 '19, has a very significant increase. It now was
5 in hindsight like FY '19 was a bit of a bubble
6 (phonetic) year because you can see that we had
7 decreases in the number of cases maturing through
8 writing court decisions in '17 and '18, and again
9 in '20, but '19 was a big increase year.

10 At the bottom of the '18 and '19 columns
11 you will see the percentage of all cases waiting
12 for decision on the merits at the start of fiscal
13 year, the last two fiscal years, that were trial
14 cases. So we started '19 and '20 with over 40
15 percent of our cases waiting to be decided on the
16 merits as trial cases, which takes longer for us
17 to decide. So, those were significant challenges
18 for us facing, you know, the period FY '20 and at
19 the end of FY '20 we had significantly brought
20 down the inventory in total, including both appeal
21 and trial cases, but we had also significantly
22 reduced the inventory down, sorry but, if anyone

1 is out there doing the math you will see that the
2 bottom box on this last row, I'm going to pull up
3 the actual numbers on my own slide, okay, the 126
4 cases in inventory does not add up when you add up
5 118 and 40 so, the numbers are off there. What we
6 really ended up with for 89 appeal cases and 37
7 trial cases, some 30 percent of the cases that we
8 started FY '21 with are trial cases. So, it's not
9 as low as these numbers show you, but we are
10 passing a third of the trial cases waiting for
11 disposition on the merits. Next slide please?

12 What we did in terms of setting the
13 goals for processing those cases that were ready
14 for decision on the merits was to set the 10 to 12
15 week target for processing appeals and a 12 to 16
16 week target for processing trial cases. You can
17 see that for the two year average we met the goal
18 for appeal cases. We did not meet it for trial
19 cases. Next slide please?

20 This will give you a little bit more of
21 an idea of what we did accomplish and what the
22 breakdowns were on a quarterly basis. In the last

1 two years, as we had those two years where we
2 started each year with a significant number of
3 trial cases waiting for decision on the merits,
4 the judges increased production twice by
5 percentages that were in double digits, and we
6 decided 200 or more trial cases in each of the
7 last two years. That is what allowed us to bring
8 that inventory down that we saw on the previous
9 slide for only 126 cases that we started this year
10 with and only 30 percent of them were trial cases.
11 The average tendency on the appeal processing was
12 above goal in the first two quarters, each of
13 them, but not so significantly that we did not
14 have an opportunity to reach the goal at the end
15 of the year and we brought the average patency for
16 appeal processing down significantly in quarters
17 three and four, which allowed us to meet the
18 processing goal for the entire year, but in terms
19 of the trial case processing goals, we had so many
20 trial cases to process and the ones we processed
21 since the beginning of the year were so old that
22 no matter what we did in the last two quarters

1 where we actually did meet the processing goal, it
2 was not enough to offset the age of the cases at
3 the beginning of the year. But, again, for both
4 of these measures, we are now well positioned to
5 meet them, the goals, in FY '21. Next slide
6 please?

7 While we do not have a particular goal,
8 we still want to be cognizant of our end to end,
9 or commencement to completion processing time.
10 So, we were up about a month, or four weeks or so
11 in end to end processing of appeals, which are
12 still well under a year. We actually reduced
13 pendency end to end processing in the trial cases
14 because we worked up so many of them during the
15 year. By the end of the year we were working on
16 more current trial cases. Next slide?

17 For the next two slides I just want to
18 address some of the issues that come up for those
19 of you who use our electronic filing system. One
20 of the things that we have noted is that there are
21 some filers who use auto forwarding. So we will
22 send a notice out to an email address that is of

1 record, either as a primary email address or, a
2 secondary email address, but then it will be
3 auto-forwarded by the recipient email address to
4 still another email address that we do not have a
5 record of. When those emails bounce back to us we
6 do not know what to make of them because they are
7 not in our system. So, we recommend that filers
8 do not use any auto- forwarding. If you have
9 another email address that you want something to
10 go to, please just go into the system and list it
11 as a secondary email address along with whatever
12 other secondary email addresses you have. Also,
13 make sure that we do not get bounce back emails
14 from you because your spam filters are not set to
15 except emails from us.

16 At the bottom of this one, you can see
17 the two email addresses from our end that you
18 should be setting your filters to accept. The
19 first is for the primary email that you listed in
20 TTAB records and the second is for all the
21 secondary email addresses. Next slide please?

22 Some of the common problems that we have

1 had to deal with, the situation where people, or
2 attorneys who are going to represent somebody in a
3 board proceeding, let's say, expecting (phonetic)
4 to take care of an opposition to an application
5 when they were not the prosecuting attorney on the
6 application, or they entered an appearance to
7 defend a cancellation case after that person
8 instituted and we had served the owner of the
9 registration directly.

10 We sometimes have the attorney who
11 thinks that by entering an appearance in a
12 trademark it too will be in the application or the
13 registration at issue, that that information is
14 going to roll over to the TTAB and it does not.
15 So, what we always urge you to do if you are going
16 to step into a TTAB trial proceeding, or even
17 appear as an applicant counsel in an appeal
18 authority pending, is to go into ESTTA and do not
19 file an appearance or a revocation(phonetic) or
20 power of attorney simply by signing some file
21 (inaudible) you are making, or filing the power of
22 attorney in a revocation under the general filing

1 options for ESTTA, but instead go through the
2 correspondence to update form and give us all of
3 the information we need to make sure that we have
4 your postal address, your email address and if
5 necessary, your bar information as well, to make
6 sure that you are the counsel who is not going to
7 be an issue for you. You can still file if you
8 want it in the records, a revocation or a power of
9 attorney as a general filing, but do not expect
10 all of the information in that to rollover into
11 the correspondence address field in TTAB fields,
12 so that you want to make sure you get what you
13 need from TTAB. Do that filing, but also use the
14 correspondence update address form. Next slide?

15 The point on this slide is basically
16 that if you are representing a foreign domicile
17 authority, the system will recognize that and will
18 want you to work your way through the
19 correspondence update field and require you to
20 enter your bar information. If you are
21 representing a U.S. domicile authority then you
22 need complete something in the correspondence

1 address field. Make sure you check the box that
2 says, the party is represented by counsel, and
3 that will take you to the (inaudible). So again,
4 so if representing a foreign domicile party that
5 box will be checked automatically because of the
6 address for the foreign party, but for domestic
7 filers, the domestic parties, you will need to
8 check the box and that will take you to the screen
9 for updating correspondence and for information.
10 And if you have the time to do it in your
11 practices, it will always help you if you can go
12 back and check files for cases commenced prior to
13 July of 2020 and make sure that any information is
14 up to date. Next slide please?

15 What we're doing is, we know that
16 Trademark and TTAB systems do not always talk to
17 each other as well as we would like for them to,
18 that said, the storage flow of function of the
19 (inaudible) systems were developed independently
20 and ever since they were developed we have been
21 trying to make them talk to each other as well as
22 we can, but in doing that we always have to

1 balance the need to enhance (inaudible) with the
2 desire to create next generation systems and where
3 we send our resources. So, we are doing what we
4 can by monitoring on a regular basis, upticks
5 (phonetic) that are filed by attorneys in
6 trademark applications or registration files for
7 applications and registrations that we know are
8 involved in court proceedings, but we can minimize
9 our requests of parties, or of attorneys,
10 providing us information, say for example, about
11 the U.S. counsel rule compliance if you take it
12 and track it and we will be doing our part,
13 checking on our end, with Trademark and we will
14 always be doing diligent searches for defendants'
15 contact information to make sure that we do not
16 enter notices to default, or default judgments, or
17 we do now help any case in every possible step to
18 make sure that we can get service effective on the
19 party, or the attorney that we may find out is
20 representing the party. Next slide please?

21 This is the last one for today. As we
22 discussed at the last TPAC meeting when we were

1 just getting ready to deploy the new TTAB Reading
2 Room for TTAB decisions. That has now been out
3 for a while and we heard some positive reviews of
4 the Reading Room. We hope it is working well for
5 those of you who have tried it. But, I will tell
6 you, we are already working on some additional
7 enhancements and improvements for the Reading
8 Room. So, as you use it, as you experiment with
9 it, if you have additional suggestions, please
10 make sure you send them to us and we are happy to
11 consider them for future enhancements of the
12 Reading Room.

13 That's it Elizabeth, for TTAB.

14 MS. ESCOBAR: Thank you so much Gerry.
15 Do we have any questions from TPAC?

16 MS. NATLAND: Hi, I have one little
17 question. I noticed a raise in cancellations in
18 the system. You mentioned they can get 30 percent
19 or so (inaudible) in the last few years. Do you
20 all track basis for those absents? Do we know if
21 they are mostly not used often? Do you guys have
22 that information? I'm just curious what that

1 would breakdown to.

2 MR. ROGERS: I am certainly as curious
3 as you are and wish I knew the answer. Well, I
4 know the answer to the questions, but, I can't say
5 that we know the things they use for all of the
6 cancellation petitions that are filed. We did
7 study this, but we had to do it in a very labor
8 intensive way when we were running the expedited
9 cancellation pilot program. We completed that
10 this year and based on two years of data we were
11 able to discover that by 35 to 40 percent, I
12 think, non- user abandonment was the most
13 prevalent claim in cancellation filing, but that
14 (inaudible) cancellation part of the program. We
15 were only focused on cancellation cases that
16 serviced only non-user, abandonment. So, we do
17 not have a really sense of how many cases serve
18 multiple claims or only other claims because they
19 are on the ESTTA cover sheet when people select
20 certain (inaudible) or testifiers, but the system
21 does not capture that information. So we will be
22 developing next generation systems for your

1 (inaudible) for while that will capture that
2 information. But what we do know from the
3 escalated cancellation file was that not only do
4 we have non- user abandonment as the most frequent
5 claim, we also know that the default raised when
6 the only claim in on non-user abandonment go as
7 high as 55 to 60 percent. So, a lot of those
8 cancellations cases that are focused on
9 abandonment and/or non-used result in default
10 judgment pretty quickly.

11 MS. NATLAND: Yes, and that could be a
12 result of the flawed registration by (inaudible)
13 and maybe that is what is pushing those numbers so
14 much this period, you know, what is causing it to
15 increase so rapidly.

16 MR. ROGERS: Well, one thought I had was
17 that given what we know from the random audit to
18 Trademark about the extent of non-use for
19 registered marks, anyone who is interested in
20 removing a blocking registration knows that if
21 they do their due diligence and they can find no
22 evidence that a mark that's been registered is

1 still in use, and if you know the default rate
2 that we are getting, that should have the most
3 expedited proceeding that you can get. If the
4 file is positioned for cancellation on abandonment
5 and there will be a very good chance that you will
6 get a default judgment just as there is a pretty
7 significant incidence of people abandoning whole
8 classes or registration when they can't produce
9 appropriate responses for the random audit
10 inquiries.

11 MS. NATLAND: Thank you so much.

12 MR. ROGERS: Sure.

13 MS. ESCOBAR: Do we have any other
14 questions before we move along? Well, okay. So,
15 I think some of you might not be on mute, we are
16 hearing a bit of background noise. If you are
17 not, if we could ask you to please put yourself on
18 mute. Thank you.

19 Last, but definitely not least, we are
20 going to hear from the office of the Chief
21 Information Officer, Jamie Holcombe and I believe
22 Eunice is presenting today, so, welcome Eunice.

1 MS. WANG: Thank you. Jaime did you
2 want to discuss anything you heard beforehand?

3 MR. HOLCOMBE: Sure, I just wanted to
4 say that I am very impressed with the Trademark IP
5 progress. We are actually going through almost
6 like a reserve of new ways of working and as such,
7 (inaudible) and Eunice Wang have been instrumental
8 in crafting a new way forward. We should have
9 more to come, but wow, I am really happy with what
10 we have done and where we are going. And with
11 that, I would like to turn it over to Debbie
12 Stephens, who would also like to say a few words.

13 MS. WANG: I am not sure if she can use,
14 as far as a panelist, if she has to observe this
15 through -- okay, it is confirmed that she can just
16 sit as an attendee and if we are able to do
17 interface (phonetic) with her, I guess, and I will
18 speak on her behalf and that. I will share our
19 TEAS for this TPAC meeting. I just want to start
20 off first with that we want to really thank
21 Elisabeth for her leadership of this TPAC and also
22 to Donna for her leadership and involvement with

1 the TPAC IP Server Committee (inaudible). So,
2 those issues We wanted to thank you for bringing
3 your energy to these teams which has really made a
4 positive impact for our TPAC and IP Server
5 Committee. Thank you.

6 MS. ESCOBAR: Okay. All right.

7 MS. WANG: I shall speak on initial
8 (phonetic) highlights, some of the major
9 accomplishments of this past year, acknowledging
10 the supportive nature initiative as we planned
11 during the year. We did have to make a major
12 pivot as a result of the pandemic. We reported to
13 you our (inaudible). We worked virtually to
14 ensure the accuracy (inaudible). We found we also
15 supported the integration (inaudible) that
16 (inaudible) COVID-19 effort. We made some
17 (inaudible) support through CARES Act which was an
18 extension of US Trademark (inaudible). We also
19 made some changes to support the COVID-19 trial
20 case payments examination program that (inaudible)
21 and (inaudible) spoke about a little bit earlier
22 this past two days. We also made some security

1 changes by strengthening it by implementing a
2 two-step authentication search key. This was done
3 in October 2019 when the integrated team that is
4 my USTPO and so since then users must be a
5 registered user and realize the two-step
6 authentication process when logging into to see.
7 This past February we implemented then into
8 electronic filing. This was a huge endeavor.
9 That occurred in February and as a result of this
10 we have been able to decrease the number of paper
11 filings which then helps ensure the accuracy of
12 the filings. This is likely to result in a more
13 complete submission. Ultimately, this helps us in
14 expediting the processing and shorting the
15 pendency.

16 And lastly, the (inaudible) appealing
17 efforts (inaudible) we have increased user up
18 time, meaning your performance, by replacing out
19 of the servers and upgrading operating systems for
20 both Trademark and TPA VUE systems. We have made
21 some adjustments to increase some of the abilities
22 so that our viewers are able to access (phonetic)

1 The system, and as a result, we reduced the number
2 of major incidents as a single (inaudible) party
3 (phonetic). The next slide please? All right,
4 this slide is (inaudible) a little bit more on the
5 activities that are specific to this past quarter,
6 since our last TPAC meeting. So this past August
7 we proposed (phonetic) the TTAB Reading Room that
8 (inaudible) has been boasting about. So this
9 provides a searchable (inaudible) on TTAB files
10 extensions and orders and it helps to replace the
11 former TTAB employer web page. So, this has a
12 more powerful searching ability. Users are able
13 to find and get information more quickly in
14 (inaudible). We have also matched the older email
15 address, that was a high priority for our
16 customers. In fact, we received it earlier in the
17 year. We have made changes to the cost forms in
18 order to reduce court procedures to our customers.
19 We also made these changes for the TTAB position
20 task goal.

21 We have also employed and used a
22 dedicated response (phonetic) to offer actually,

1 two (inaudible) matter forms, and to allow
2 (inaudible) to applicants to give their responses
3 to the post registration action questions. And
4 similar to the other things that we have been
5 working on, this helps the team on processing.
6 That information was changed. The feature
7 dramatically improved it.

8 We have also implemented a CSCR
9 (phonetic) (inaudible) to download bulk data. So,
10 in order for someone to download this CSCR bulk
11 data in full, that ACIC (phonetic) is now
12 required. The implementation of this allows for
13 the bulk data to not impact the end users and that
14 changes things such as system downtime.

15 And lastly, in terms of improved
16 technology we are continuing our efforts to
17 stabilize Trademark entry (inaudible). A major
18 accomplishment that we have done this past quarter
19 was the stabilization of (inaudible). It wasn't
20 just an effort, or placement of one day-to-day
21 experiment, but we have actually impacted over 20
22 dependent systems and involved over 32. So, it

1 was an enormous effort on both the (inaudible) and
2 the businesses efforts to get this accomplished.
3 Next slide please?

4 All right, then of those (inaudible) we
5 have been seeing a larger phase (phonetic) two
6 advantage processing effort. We are working with
7 the vendors to currently test to improve fruition,
8 and identify optimal solutions. One of the things
9 that we are definitely ensuring is that these
10 vendors are (inaudible) certified. We wanted to
11 make sure that we were implementing the correct
12 securities procedures and timers around the
13 solution. And we are continuing with our
14 modernization of stabilization as directed by the
15 business priorities. Similar to and tagging along
16 with the news talking about in-search
17 transformation and physical leasing (phonetic)
18 tools through, you know, before we tell our
19 customers first, we want to just one of the
20 changes that we are going through right now, is
21 the decision and taking more of a leadership role.
22 And so that, you know, many of our, in terms of

1 our business partnerships, the goal of the lead
2 parts owners are sold by a decision, and so with
3 that, you know, we are able to, you know, continue
4 on our endeavor with some modernizations, you
5 know, and get the business priorities developed
6 with technical solutions per their
7 recommendations.

8 And then lastly with the leadership
9 DevSecOps model, this is also issued with how we
10 are doing our development. You know, security was
11 always integrated, but this is a deeper and more
12 focused security composed with the development and
13 the operations model, as this continues our
14 (inaudible). So, with these changes we hope our
15 customers will be able to use this (inaudible) of
16 what we are delivering and what we are producing
17 in the TEAS (phonetic) community and I think we
18 are done and I am happy to open it up for
19 questions.

20 MS. ESCOBAR: So, my fellow TPAC
21 members, do you have any questions for Eunice?

22 MS. KOVALCIK: Hi Eunice, I wonder if

1 you might explain a little bit more if you are
2 sending today the DevSec model a little bit more
3 how that results with paying and how users might
4 be a greater impact?

5 MS. WANG: Yes, it is so, I guess it is
6 a change from the prospective of a mentality
7 change. The change has been very important to us
8 as an organization. I think one of the various
9 (inaudible) that we have made specifically, we
10 have had, you know, it started a security
11 (inaudible), having security officers directly
12 reporting to (inaudible), that is one example.
13 And also, it has always been part of our entire
14 process, but what it will do is that there is now
15 more end data (phonetic) in 15, as opposed to
16 those (inaudible) developing everything and then
17 having to securities come in like, after the fact,
18 to view the scans and whatever they need to do,
19 but they are now integrated and embedded in the
20 (inaudible). You know, throughout the process of
21 its design and the planning and the, you know,
22 throughout the testing and implementation.

1 MS. KOVALCIK: I see that you are
2 working on next status priorities for your
3 business owners. Do you have any information
4 today that you are able to share, or, to
5 highlight, to forecasting on what we might expect
6 your team to be working on next?

7 MS. WANG: We are working with
8 businesses right now to prioritize our high level
9 efforts. So, I think that in terms of specific
10 deliverables we are still defining that in time to
11 get that all online. But, for now we are current
12 with what we have.

13 MS. THOMPkins: Hi Eunice, this is
14 Tricia. So, provide us some insight into why the
15 change system today that you refer to the ESTA
16 system, do not speak to each other today. And I
17 understood that the historical background. Can
18 you provide any more insight into perhaps the long
19 term goals in that TTAB system that is more about
20 the rational for keeping them apart, especially
21 since I am new to the committee, so that I have a
22 better understanding of the long term view on this

1 issue?

2 MR. HOLCOMBE: I would like to take one
3 Eunice. Can I take that one? And the only reason
4 I would like to take it is because I love you
5 talking about the ESTA business result from IP
6 efforts and development questions. The question
7 is about the additions in the future and why. Why
8 or why, tell me why. I will tell you that it is
9 major thing that are burdened with carrying the
10 legacy of former additions into the future and
11 that is pretty okay because what we done is to
12 stabilize the systems to the point where they do
13 not go down. Now, do they perform as well as we
14 know, no, and that is why we need to improve in
15 place. At the same time the modernization is won,
16 but we are talking about, definitely not and now
17 we are changing the ESTA mindset, but it is all to
18 include the fact that if we do have the goal of
19 being out on the Internet, and using new Internet
20 and quasi technology, then we actually have to
21 re-factor the code because the current code does
22 not allow us to include those great Internet and

1 Cloud based (inaudible) messages. In doing so
2 though, we have to do it in a phased transition.
3 It is easy to do greenfield involvement. It is
4 hard to synchronize old into new, and that is what
5 we have chosen to do. So in doing that, security
6 number one, it is not a question of if, you did
7 breach, it is a question of when. So, because of
8 that we have to have our contingency plans ready
9 so that when a breaching occurs, and we do not
10 have to see that daily, we are trying to ensure
11 that everything is able to read on a contingency
12 basis that when it happens, we can deal with it.

13 Another big thing about the future is
14 the fact that we are moving through it fast. We
15 are moving into new facilities such that, God
16 forbid, the entire USPTO headquarters is overtaken
17 by some unheard of events and we cannot operate
18 our current (inaudible) that are located in our
19 advances. What we are going to be doing is
20 putting them in physically in other stations such
21 that we can have resiliency. So, if one place
22 goes down, you will never even notice because the

1 other place picks it up. That is the benefit of
2 the new Internet Cloud and the way that the
3 modernized application pays. If you can sit your
4 cellphone on your nightstand and it update
5 overnight without you even knowing it, that is
6 what the goal is for Trademark applications. Is
7 that a lofty goal, yes, but it takes a whole
8 different mindset to figure out how to get there
9 from maintaining the current system and keeping
10 those operations in place, meanwhile separating
11 the individual toolsets and slowly synchronize the
12 end with a new, wider era. I hope I answered that
13 question.

14 MS. THOMPkins: Thank you, I think that
15 gives me some appreciation.

16 MS. ESCOBAR: Okay, other questions?
17 Well, with that, TPAC would like to thank you
18 Eunice and Jamie for sharing your time with us.
19 Well, that brings to an end our scheduled
20 presentations. We have received a couple of
21 questions over the Internet from the public. One
22 of the questions had to do with email addresses, a

1 perennial topic of interest. Specifically,
2 whether the PTO was considering a proposal to
3 shield attorneys' email addresses and if so, would
4 users have an opportunity to weigh in. Dave,
5 would you like to take a stab at that one?

6 MR. GOODER: Yes, sure. The answers to
7 my knowledge begin with seasoning proposals, but
8 we are already looking at it, along the same lines
9 as we are dealing with this on an applicant
10 consider it to current protectives. We are
11 looking for everywhere email addresses could be
12 seen, so, that is something that is in the works
13 as people give comments on it. Please continue to
14 send them to us, but otherwise, I think it is
15 something that will hopefully come to fruition in
16 the next calendar year.

17 I have got to say also that one of the
18 things that I have had to learn is, and to Jamie's
19 point about how we have these sorts of legacy
20 systems and newer systems that to create change in
21 the legacy system while we are at the same time
22 trying to create the new system is quite a

1 challenge. So, sometimes it takes a little bit
2 longer than we think that it otherwise do it, but
3 it definitely on the list.

4 MS. ESCOBAR: The only other questions
5 that we got in the email box that had to do with
6 meeting, is specifically whether USPTO will be
7 posting slides and the video from the meeting.
8 The answer to both questions is, yes. The video
9 will go up in about a week, maybe a little bit
10 longer. The slides will also be posted to the
11 USPTO website.

12 That is it for questions from the
13 public. I would like to give TPAC members one
14 last opportunity to ask any questions you may
15 have.

16 MR. BESCH: I have one. This is Jay. I
17 would just like to make a couple of comments real
18 quick. First of all I would like to congratulate
19 you and Donna for your spending time and pursuing
20 your (inaudible) today. I'm glad to hear that you
21 and Andrew were on this year. Hopefully, we have
22 an opportunity to have our TPAC dinner at some

1 point in the future. We can all get together. I
2 also wanted to congratulate Meryl and Sharon on
3 their upcoming retirement. They both have very
4 impressive careers. I think on behalf of the
5 union, you know, we wish them the best in the next
6 chapter of just going on and we all appreciate
7 their efforts and they have made the Office a
8 better place to be. And finally, but definitely
9 not last here, I would like to really recognize,
10 you know, their impressive efforts. Dave had
11 already mentioned earlier all the impressive
12 things they have done throughout the year and how
13 dedicated they have been, you know, while
14 abrogating new policies, the pandemic and their
15 own difficult personal circumstances, you know, I
16 am blown away by their dedication and work ethic
17 and it is great job for me to have to represent
18 them and, you know, I will say this, and, you
19 know, other people may take issue with it, but I
20 would put our people up against anybody in the
21 public or private sector as being one of the
22 hardest working people, you know, in any section.

1 So, with that, thank you all and I do wish all of
2 you the best.

3 MS. ESCOBAR: Thank you so much Jay, I
4 appreciate your kind words. I am going to dismiss
5 TPAC for lunch but I know it is in good hands. I
6 would also like to second your comments about the
7 Office. It has been a leader in innovation in the
8 federal government for a long time and the way
9 everyone in the Office, but especially the front
10 line workers, the examining attorneys, the way
11 they were able to seamlessly, at least, in terms
12 it was viewed by customers, transitioned to 100
13 percent telework very, very quickly during the
14 pandemic was incredibly impressive. I know it was
15 not as easy as it looks to those of us who were
16 processing your applications, but, the Office has
17 done a fantastic job dealing with a very difficult
18 situation and it speaks to other examples of how
19 incredibly terrific the USPTO is. I work with
20 offices all over the world, literally, and USPTO
21 is in a class by itself. So, I would just like to
22 say one more time how much I have enjoyed getting

1 to know the Office even better and I have been
2 doing this for a very long time and I still
3 learned a lot when I joined TPAC. I would like to
4 thank the Office for the opportunity to have
5 served on TPAC for the last three years and wish
6 everyone the best, and with that, I will turn it
7 over to Commissioner Gooder for his returning
8 comments.

9 MR. GOODER: Thank you Elisabeth, I
10 appreciate that. I won't take long here because
11 it is coming up on our time. I just want to make
12 mention three things. The first is, and this is
13 to everybody on the call, but also, TPAC members I
14 know you already know this, but to everybody else
15 who is listening in today, I will just say, help
16 us, send us your comments. It is comments like
17 what we receive from practitioners that helps us
18 hear what is frustrating you regarding (inaudible)
19 procedure dealing with the problem that presents
20 and that is what led to the amended and revised of
21 what you saw this week. Please share your ideas
22 with us. Some of them, and no idea is too crazy,

1 and we are often finding that a combination of
2 ideas helps us move the needle somewhere that it
3 needs to be moved, so please do that. The second
4 thing I would like to say is, I would like to
5 thank Elisabeth for her work as chairman. You
6 have been invaluable to me in learning about TPAC
7 because I was never on it and so, my initial time
8 as commissioner, you kind of letting me see it
9 from your side and you have a very calm guiding
10 hand that was greatly appreciated. I am sure your
11 other members feel the same way. The third thing
12 I would like to say a few words about is Meryl and
13 Sharon. Both of them started their careers as
14 examining attorneys and worked their way up to
15 becoming deputy commissioners. Now, they are
16 attempting retirement at the same time. A lot of
17 you know these really talented leaders. And they
18 could have retired before now. They could have
19 had careers in the private sector if they wanted,
20 but the fact that they stayed with the agency, to
21 me that is a testament to their dedication.
22 Honestly, the Trademark Office and I think the

1 Trademark community had been the beneficiary of
2 their dedication. I have had the good fortune of
3 working closely with them over the past seven
4 months and a few things became very clear to me.
5 They are bright. They have a vast spring to
6 choose from of knowledge. It is kind of a
7 (inaudible). They really are a part of the brain
8 trust here. They have seen the organization
9 change so much over the years. Meryl was at one
10 point, union president. They both have the
11 passion. The contributions they have made. We
12 could not add them up, but it has grown so much
13 over the years, in fact, I think it is fair to say
14 Meryl has seen the place grow from typewriters to
15 artificial intelligence and the number of
16 processes, so, they have championed engagement
17 with our customers and working with the
18 international offices in other countries. It is
19 obvious to me that they care very deeply. They
20 have touched the lives of hundreds of people here
21 and we have all relied on their guidance and
22 wisdom, etcetera. Their absence will be

1 absolutely felt. We are not going to let them go
2 any sooner than they have to. So, for the moment
3 I will just raise a virtual toast to Sharon and
4 Meryl and look forward to an in-person one at some
5 point. Okay, sorry, forcing (inaudible), I want
6 to say thank you to all of the TPAC members.
7 Thank you to our support team and to Anastasia
8 Johnson and Christine Cooper from my staff who
9 were bystanders of this meeting. They are like
10 the producers at the Academy Awards with their
11 headsets on running around like crazy. We thank
12 you. We appreciate your efforts and grace in
13 handling work under pressure and with that, I will
14 say thank you and back to Elisabeth.

15 MS. ESCOBAR: Thank you and we are
16 adjourned.

17 MR. GOODER: We are done. Thank you
18 everyone.

19 (Whereupon, at 3:57 p.m., the
20 PROCEEDINGS were adjourned.) * *

21 * * * CERTIFICATE OF NOTARY

22 PUBLIC COMMONWEALTH OF VIRGINIA

1 CERTIFICATE OF NOTARY PUBLIC

2 COMMONWEALTH OF VIRGINIA

3 I, Mark Mahoney, notary public in and for
4 the Commonwealth of Virginia, do hereby certify
5 that the forgoing PROCEEDING was duly recorded and
6 thereafter reduced to print under my direction;
7 that the witnesses were sworn to tell the truth
8 under penalty of perjury; that said transcript is a
9 true record of the testimony given by witnesses;
10 that I am neither counsel for, related to, nor
11 employed by any of the parties to the action in
12 which this proceeding was called; and, furthermore,
13 that I am not a relative or employee of any
14 attorney or counsel employed by the parties hereto,
15 nor financially or otherwise interested in the
16 outcome of this action.

17

18 (Signature and Seal on File)

19 Notary Public, in and for the Commonwealth of
20 Virginia

21 My Commission Expires: August 31, 2021

22 Notary Public Number 122985

