

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT PUBLIC ADVISORY COMMITTEE MEETING

QUARTERLY MEETING

Alexandria, Virginia

Friday, June 17, 2022

1 PARTICIPANTS:

2 Patent Public Advisory Committee (PPAC) Members:

3 STEVEN CALTRIDER, Chair

4 KATHI VIDAL, Director

5 JUDGE SUSAN G. BRADEN (RET.)

6 DAN BROWN

7 JEREMIAH CHAN

8 CHARLES DUAN

9 SUZANNE HARRISON

10 HEIDI NEBEL

11 JEFFREY M. SEARS

12 Union Representatives:

13 CATHERINE FAINT

14 KATHLEEN DUDE

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

2 (1:00 p.m.)

3 MR. CALTRIDER: Good afternoon,  
4 everyone. Let's get started. Welcome to the June  
5 2022 PPAC. It's live for most of us in the room,  
6 although we have a few people attending remotely.  
7 Thank you, thank you, thank you for taking the  
8 time to meet live today. We're very, very excited  
9 about the agenda. It's a fireside chat with the  
10 undersecretary of Commerce, director of the USPTO,  
11 Kathi Vidal. We're tremendously excited about the  
12 agenda. We're excited to be here live. So,  
13 without much delay, I would like just to go around  
14 the room and on those online that are  
15 participating via -- that are PPAC members, to  
16 introduce themselves quickly. Dan?

17 MR. BROWN: Dan Brown, my second year at  
18 PPAC.

19 MS. BRADEN: Hi. Judge Susan Braden,  
20 retired, second year at PPAC.

21 MR. CHAN: Jeremiah Chan, third year at  
22 PPAC.

1                   MR. SEARS: Jeff Sears, sixth year at  
2 PPAC.

3                   MR. CALTRIDER: Steve Caltrider, chair.

4                   MS. HARRISON: Suzanne Harrison, first  
5 year at PPAC.

6                   MS. NEBEL: Heidi Nebel, first year at  
7 PPAC.

8                   MR. DUAN: Charles Duan, first year at  
9 PPAC.

10                  MS. DUDA: Kathy Duda, POPA president,  
11 and union member of PPAC.

12                  MR. CALTRIDER: And Cathy, online?

13                  MS. FAINT: Yes, hello. Catherine  
14 Faint, Vice President of NTEU 245, and union  
15 member of PPAC.

16                  MR. CALTRIDER: Thank you. And I don't  
17 think Tracy's online, at least I'm not seeing her.  
18 Okay, let's begin. The -- if I may start today's  
19 discussion, thank you for joining us. We -- we  
20 have a full agenda of questions, so we're going to  
21 go very quickly through this. But I thought it  
22 would be good just to lay a little bit of context

1 and foundation on, you know, how we came about  
2 deriving these questions. We reached out to a  
3 number of stakeholders, and Suzanne will explain  
4 our process.

5 MS. HARRISON: Yeah. So, the process  
6 that we went through was many of the listening  
7 sessions that Kathi had attended generated a  
8 number of questions, and we went through all of  
9 those. We also received questions from  
10 stakeholders as part of our communication with  
11 PPAC, and we added those.

12 We asked each of the PPAC members and  
13 the committees that they represent to generate a  
14 set of questions. We took all of those. We  
15 aggregated all of those questions into groups and  
16 we tried to find common themes and issues that  
17 seemed to be representative across a number of  
18 stakeholders. And then we came up with a list of  
19 questions that we are fortunate enough to ask  
20 Kathi today. But overall, I'd say we generated --  
21 for the questions that we have today, it came out  
22 of 100, 150 from stakeholders.

1                   MR. CALTRIDER: And thank you to the  
2 stakeholders who engaged the PPAC and -- and  
3 provided us questions. It was very, very helpful,  
4 and very insightful to see kind of the pulse of  
5 the stakeholder community on what -- what they are  
6 most interested in. I get to open with the first  
7 question, and -- and it didn't necessarily come  
8 from the stakeholders, but it's something that's  
9 in top of mind for -- for many people. And that  
10 is, why did you want this job? Why now, and can  
11 -- or what motivates you to -- to be the next  
12 undersecretary of Commerce?

13                   MS. VIDAL: So, thank you for that  
14 question, Steve. And -- and I want to thank the  
15 entire PPAC. We've been working together very  
16 closely in the last few months and -- well, not  
17 few because I've only been here for two, but at  
18 least in the last month and a half. And I just --  
19 I want to thank everybody for your contributions,  
20 and then all the stakeholders as well, who engage  
21 with the PPAC.

22                   In terms of this position, when I was

1       approached about it, it was not something that was  
2       on my bucket list. When I was approached about  
3       it, I thought long and hard about what this  
4       position means and what this country needs right  
5       now. I thought about the issues we're seeing from  
6       -- you know, in terms of counterfeits, in terms of  
7       some of the abuses. I thought about the way  
8       stakeholders saw various issues and saw an  
9       opportunity to contribute, is the bottom line.

10               And I felt that this was a -- a  
11       different and broader platform than I've ever had  
12       to -- to help make change on behalf of the  
13       country. And just the thrill of being able to be  
14       in a position where you wake up every day and want  
15       to do what's best for the country, it was one that  
16       certainly I could not turn down.

17               MR. CALTRIDER: Very exciting. Thank  
18       you.

19               MS. BRADEN: Good afternoon. This is a  
20       softball.

21               MS. VIDAL: Okay.

22               MS. BRADEN: Unfortunately, the state --



1 current state of the patent eligibility  
2 jurisprudence has had a negative impact on the  
3 predictability and reliability of patent  
4 protection in this country on --- particularly in  
5 the life sciences and software industries, and on  
6 legally to have predictable patent protection.  
7 What is your -- what are your priorities? What do  
8 you think you can accomplish to help in that area  
9 during your term?

10 MS. VIDAL: So, thank you for that. In  
11 terms of what we're doing right now, we did  
12 commission a study on whether the current 101  
13 jurisprudence is protecting and incentivizing  
14 innovation, especially in new technology areas.  
15 I've seen the results of that study. They won't  
16 surprise you, but that is something that we're  
17 going to release shortly. That was something that  
18 Congress had asked for. So, one way in which the  
19 USPTO is contributing, of course, is on the  
20 congressional side in terms of talking to Congress  
21 about potential change.

22 Another way, as everyone knows, is at

1 the supreme court level. You saw our American  
2 Axle brief that we did with the solicitor.  
3 Certainly, there is no, in my mind, perfect  
4 vehicle for solving 101, but we have to make  
5 vehicles perfect. So, we've -- we've certainly  
6 submitted a brief on that, and hope that all  
7 stakeholders in all areas think about submitting  
8 amicus briefs so that the Supreme Court has the  
9 ability to address 101 more broadly and not just  
10 limited to the type of invention that's at issue  
11 in American Axle.

12 And then, you know, certainly within the  
13 USPTO, it's been kind of coming upon us to provide  
14 guidance that's going to be used both at the  
15 examination level and at the PTAB in terms of  
16 interpreting the laws. We have that on 101. As  
17 you know, that was -- that was promulgated in  
18 2019. It's been a few years since, so we are  
19 working on taking a fresh look at it and  
20 determining what, if any, changes need to be made  
21 to that. And we will certainly get the PPAC input  
22 on that.

1                   So, those are the three areas that we're  
2 really focused on right now. I -- I agree with  
3 you, it's a terribly important thing to fix and to  
4 have more certainty when it comes to 101. And we  
5 will play whatever role that we can in that.

6                   MS. NEBEL: So, this is a similarly  
7 related question. There is much discussion about  
8 whether discretionary denials and 101 subject  
9 matter guidance have bettered the patent system  
10 for innovators, including independent inventors,  
11 small businesses, and universities. What's your  
12 position on these reforms, if you care to  
13 elucidate a little further? And do you intend to  
14 sustain or even codify them?

15                   MS. VIDAL: So, I'll take those as two  
16 separate questions, 101 and discretionary denials.  
17 I don't think I have a whole lot to add on 101,  
18 other than that -- I do believe certainty is going  
19 to be even more helpful when it comes to small and  
20 medium-sized innovators, in part because they  
21 depend even more so on funding just like the  
22 pharmaceutical industry. So, certainty in that

1 area could only be helpful when it comes to 101.

2 In terms of discretionary denials, we  
3 will be releasing something soon, providing more  
4 guidance when it comes to Fintiv and how certain  
5 other factors will be applied that should provide  
6 not only more certainty within the USPTO, but the  
7 stakeholders as well. And I look forward to --  
8 you know, to releasing that and to hearing  
9 thoughts on that.

10 It's -- it's the same thing as the other  
11 things that we produce where we're doing things MM  
12 and then final, because if we can solve for  
13 something now and make change now that we think is  
14 going to better the system, we're going to do  
15 that. But we're not going to substitute that in  
16 place of finalizing things through rulemaking.  
17 So, just like with director review, we're going to  
18 go through the rulemaking when it comes to  
19 discretionary denial, not -- not just Fintiv, but  
20 all aspects of discretionary denial.

21 MR. CHAN: Hello, Director Vidal. It's  
22 great to be in person with you.

1           MS. VIDAL: You as well. I'm going to  
2 switch -- I'm going to switch gears a little bit  
3 and move to -- to something I know that's really  
4 important to you, because you've mentioned it  
5 several times, which is better engagement of  
6 underrepresented inventors.

7           MS. VIDAL: Mm-hmm.

8           MR. CHAN: And, you know, this, I think,  
9 in many ways, started the momentum when the USPTO  
10 published the groundbreaking Progress and  
11 Potential report. And I think as a follow up,  
12 many people, including myself, were very excited  
13 about the IDEA Act potentially passing and really  
14 allowing us to have clear metrics for being able  
15 to measure progress in that area.

16                   Now that it's kind of been indefinitely  
17 delayed, how can the USPTO measure progress? How  
18 can we make sure that we're doing the right things  
19 to better engage all inventors across the country?

20           MS. VIDAL: So, Jeremiah, I appreciate  
21 that question. It's -- it's important that we  
22 make progress in -- the measuring and the making

1 of progress are both positive things. So,  
2 certainly, at this moment, we can't benchmark,  
3 given the data that we receive. We do -- we do  
4 have some information on women inventors, but not  
5 on different ethnic groups, as you know.

6 And so, in terms of moving forward, a  
7 couple things. One way that we're measuring our  
8 progress is based on our outreach. So, each of  
9 the regional offices has -- has a system that we  
10 use where they measure where they are and who  
11 they're engaging with. So, we actually have a --  
12 a heat map on that so that we can make sure that  
13 we are getting into underrepresented communities  
14 and are reaching out more broadly. So, I will --  
15 I will say that's -- that's a positive.

16 In terms of measuring progress with the  
17 PTO, we have engaged with companies. There is  
18 some thought that companies will start to  
19 self-measure and then report back, so we're  
20 looking at any way that we can benchmark and  
21 measure.

22 In parallel with that, we don't want

1       that to be the starting -- I mean, if we can  
2       measure now, that's great, but we -- we want to  
3       make progress on top of that. So, a lot of our  
4       efforts are not just focused on ways we can  
5       measure, but ways we can reach more communities,  
6       you know, ways we can make sure that we're lifting  
7       people within those communities.

8                 So, in that regard, we are working with  
9       our regional offices. We're considering an  
10      ambassador program that will be much broader than  
11      the regional offices so we can reach into more  
12      communities. And if you look at the data -- and  
13      we're looking at our pro bono programs. I'm  
14      trying to figure out how we can use them to reach  
15      more people. And our partnerships, small business  
16      association, et cetera.

17                So, we have a very concerted effort,  
18      including with the Council for Inclusive  
19      Innovation, and we're doing everything we can.  
20      And I'm going to roll out more, but it hasn't been  
21      announced yet, when it comes to reaching more  
22      deeply.

1           I will say that there are statistics  
2           that give me hope, and that's the statistics we're  
3           seeing from our pro bono program. So, whereas we  
4           know the -- within the USPTO, the number of  
5           patentees is 13 percent women across -- you know,  
6           in terms of inventors. We meet -- the individuals  
7           who are participating in our pro bono program,  
8           when we go out and meet people where they are, the  
9           number of women is 41 percent. The percentage of  
10          women is 41 percent. So, if you think about the  
11          difference between 13 percent and 41 percent, it  
12          shows that our outreach is working based on that  
13          data.

14                 And just to share a couple of the other  
15          numbers, in terms of the African Americans we're  
16          reaching through that program, 30 percent; in  
17          terms of Hispanic, 14 percent; Asian Americans,  
18          5.6 percent; Native Americans, 1.5 percent. So,  
19          although we don't know the numbers in the USPTO, I  
20          can guarantee those are not the numbers in terms  
21          of those who are patenting.

22                 So, we do have some data that suggests



1 that our outreach is working. But you're right,  
2 the more we can measure the data, the more we can  
3 benchmark and make sure that we're working to  
4 improve the numbers.

5 MR. BROWN: So, as you know, I'm the  
6 inventor representative on the PPAC. I'm the  
7 inventor representative on the PPAC. So, my  
8 question is going to be around invention, and in,  
9 hopefully, the innovation that we can -- we can  
10 see as a country from it.

11 You know, the ability for startups to  
12 compete with the market, it's -- it's largely  
13 dependent on the ability to enforce patents. And  
14 most startups don't have a lot of money, and they  
15 go into competition in larger markets against  
16 well-funded competitors, and there's a bit of a  
17 David and Goliath in that.

18 In this -- this scenario, there's a very  
19 high bar to get an injunction since 2009 with the  
20 eBay case, and that's contributed to even more  
21 challenges for small inventors to -- to protect  
22 their rights, preserve their rights. And it's

1 really been an impediment in negotiations for  
2 getting startup money, for negotiating licenses,  
3 and those type of things. And -- well, I  
4 understand the USPTO cannot overrule or modify  
5 eBay, but I'm interested in how we can advocate or  
6 modify the ability for small inventors to preserve  
7 their rights so that we can get that innovation,  
8 you know, reward that we're all looking for.

9 MS. VIDAL: So, thank you for that, Dan.  
10 And so, I think people at the PPAC know, but maybe  
11 not everybody knows, Dan has been working with me  
12 very closely to make sure that we're out there  
13 also doing listening session with inventors.  
14 That's been extremely helpful.

15 As -- as Dan knows, I've certainly  
16 represented numerous inventors and had some of the  
17 same challenges where money is tight and you have  
18 people ripping off your trademark, infringing  
19 their patents. And I've been able to resolve a  
20 lot of those cases, but it's -- it's tough and --  
21 and I -- I sympathize with -- with that.

22 I think there are two aspects of that.

1 One is the actual system, and -- and the second is  
2 what we're communicating about it. So, I think we  
3 need to do a better job when it comes to  
4 communicating about the system -- not only to  
5 innovators and prospective inventors, but also to  
6 people who are investing in companies -- about the  
7 system and the current benefits and, you know, the  
8 likelihood of getting an injunction, et cetera,  
9 because I think the system, it can be improved and  
10 we're working to improve it.

11 But it's fairly strong right now. And I  
12 just want to make sure to end -- end  
13 misperceptions, so that -- that are causing  
14 innovators not to patent, that are causing, you  
15 know, venture capitalists, and others not to  
16 invest in those innovations. So, I want to work  
17 with you on that as well. I think that's terribly  
18 important to make sure that we've got the language  
19 right and the communications right to incentivize  
20 the behavior that we know the innovators and  
21 inventors need.

22 In terms of enforcing rights, we -- we

1       need to think more about that. As you know, we're  
2       looking and watching -- as Judge Braden knows,  
3       because it is her brainchild. We're looking into  
4       a small claims court that the PTO could perhaps  
5       host. We're doing -- we're doing a study on that  
6       as to whether there is a better way of resolving  
7       some of these issues short of the cost of district  
8       court litigation.

9                 But you're right, there are a lot of  
10       barriers right now, and I -- I look forward to  
11       exploring that with you. I don't have an answer  
12       on all that other than I think there are a lot of  
13       great ideas out there, and -- and it's incumbent  
14       upon us to look into them.

15                MR. BROWN: Thanks. And I -- I have to  
16       say, I'm -- I'm very encouraged in the last six  
17       weeks with the intensity that you're bringing  
18       attention to this. And I look forward to, you  
19       know, moving the needle on this.

20                MS. VIDAL: Yeah, as do I. It's -- it's  
21       really important, so I -- I look forward to  
22       collaborating on that.

1                   MR. SEARS: Hi, I've got a question for  
2                   you about a frequent topic, post-grant  
3                   proceedings. Post-grant proceedings before the  
4                   PTAB have resulted in frustration with some  
5                   inventors who invest in filing an application and  
6                   successfully prosecuting the application to  
7                   issuance, only to have the PTAB reverse for some  
8                   or all of the claims. What are your plans to  
9                   improve the reliability of the patent right so  
10                  that reversal by the PTAB is more of an exception  
11                  than it is today?

12                  MS. VIDAL: So, there's a lot to unpack  
13                  there. As -- as you know, we've had private  
14                  sessions on some of these. So, in the first  
15                  instance, we need to do everything we can to make  
16                  sure that the patents issued in the first instance  
17                  are robust and reliable. And to me, that's a  
18                  two-way street, that part of that rests on the  
19                  applicant to make sure they're disclosing the  
20                  prior art, to make sure their lawyers are crafting  
21                  claims that comport with the specification of the  
22                  invention. And part of it is on the -- on the PTO

1 side, on the examiner side. So, we are focusing  
2 hearing on that issue.

3 For those who are not on the PPAC, the  
4 PPAC and I and a number of the folks at the PTO  
5 had a discussion about that today on how we can  
6 improve the robustness and the reliability of  
7 patents, both at that stage, but then moving  
8 forward to the PTAB to make sure that we're --  
9 we're applying with the same standards that if the  
10 right art is found and the patent is issued, then  
11 it's upheld at the -- at the PTAB because it's the  
12 same standard.

13 So, really appreciate that question.  
14 We're -- as you know, we're digging deep into that  
15 from -- everything from 112 to 103, just to make  
16 sure that we're applying the same guidance, that  
17 we're providing more clarity on how we're  
18 interpreting the law. Because in some of those  
19 areas, there's not one interpretation of the law.  
20 So, we're going to be doing as much as we can on  
21 that, because it's -- it's a critical issue.

22 And back to the definitive guidance, I

1 think that's going to help as well. And it even  
2 leads to some other information, even on our  
3 processes, to make it clear, the processes we're  
4 using to ensure consistent decisions and, you  
5 know, to -- to ensure that the way that we're  
6 making these decisions is going to result in the  
7 best work product.

8 MR. DUAN: First of all, I just wanted  
9 to echo Dan's comments. Thank you so much for  
10 your work here, for having this conversation, and  
11 for your engagement with the PPAC, and for, you  
12 know, everything you've been bringing. I think  
13 this has been a really fantastic engagement that  
14 we've seen.

15 We have a question about international  
16 harmonization efforts. And that's something,  
17 obviously, that's been very much on the patent  
18 office's docket. And then maybe if you can  
19 comment on -- on what the -- what the office is  
20 looking at doing, particularly, ways that we can  
21 increase efficiency and transparency of the patent  
22 system through these harmonization efforts.

1                   MS. VIDAL: So, thanks, Charles, for  
2                   that. I just got out of meetings with some  
3                   people, 14 others in this room, with -- with IP5.  
4                   That's an important issue not only to the U.S.,  
5                   but to other countries as well, so it's something  
6                   that we're digging in deep on. It's something  
7                   that we believe that if we meet at the highest  
8                   levels across the countries more often, that we  
9                   can -- you know, in addition to the working  
10                  groups, we can make more progress.

11                  To me, that's key in part because of the  
12                  small to medium-sized enterprises, but even for  
13                  the larger corporations to make sure that the  
14                  barriers to protecting your IP in different  
15                  countries is low, or is at least lower than it is  
16                  right now. And harmonization is a key part of  
17                  that. So, we're -- we're definitely keenly  
18                  focused on that.

19                  As we think through other issues that  
20                  aren't necessarily in that bucket, I would say  
21                  we're also looking at what other countries are  
22                  doing. When we think about 101, we're looking at



1        what other countries are doing.  When I think  
2        about design protection, we're looking at what  
3        other countries are doing.  Because it's important  
4        for us to understand that, and to understand that  
5        when people are looking at protecting their IP,  
6        it's not just a U.S. solution, it's -- it's a  
7        global solution.  And the more we can learn from  
8        each other, the more we can harmonize, the better  
9        it's going to be for all stakeholders.

10                MS. DUDA:  Okay.  So, quality search is  
11        one of the foundational elements of a thorough  
12        examination, and the office has invested in AI and  
13        Patents End-to-End, PE2E, research.  So, what is  
14        your vision of leveraging AI to further expand  
15        search in examination?

16                MS. VIDAL:  So -- so, thank you, Kathy.  
17        We -- you know, as you know, we need equip  
18        examiners with all the tools that we can so that  
19        they can perform their job efficiently and  
20        effectively.  The PTO is -- we have ongoing  
21        efforts in that regard.  So, as you mentioned,  
22        we've -- we keep introducing new search

1 capabilities. We keep broadening the prior art  
2 that's being considered during examination.

3 That effort is going to continue as we  
4 find new sources of AI tools and other tools to  
5 make the examiners' job easier. And to make it  
6 easier to identify the key art, we're going to  
7 continue to -- to use those -- those new tools.

8 So, it's front-of-mind not as a new  
9 initiative, but as a -- I think given how fast AI  
10 is improving, it needs to be a continual process  
11 improvement that we'll be doing. But it's  
12 something that's -- that's really important,  
13 because examiners have a certain amount of time,  
14 and we want them to be spending more time doing  
15 the analysis. And then we can use tools, not only  
16 on search, but just identifying issues with an  
17 application, et cetera. We're going to use  
18 technology wherever we can to make their jobs  
19 easier and to make them more efficient and  
20 effective.

21 MS. HARRISON: So, I want to come back  
22 to the topic of diversity for a little bit.

1 Earlier, Jeremiah asked about diversity in  
2 inventorship, and I want to turn to diversity in  
3 the profession.

4 MS. VIDAL: Mm-hmm.

5 MS. HARRISON: And so, as you know,  
6 there are very few women and minorities in the  
7 profession. And so, I wondered if you could share  
8 some of your thoughts about what the USPTO can do  
9 to help offset that.

10 MS. VIDAL: So, I -- I appreciate that.  
11 And, you know, this is -- this is a bigger issue  
12 that -- and I think we need to be part of the  
13 ecosystem in fixing the issue. So, we certainly  
14 welcome all the thoughts in the PPAC and  
15 stakeholders on what more we can do in our  
16 leadership position to advance that.

17 I will say there are certain things that  
18 we are focused on internally. First of all, we  
19 are looking even within the organization. We are  
20 forming a new DEIA committee that's going to  
21 consider these issues within the USPTO. We have  
22 changed our hiring practices to make sure that

1       when we do announce jobs, that we're using  
2       language that's as inclusive as possible so that  
3       people don't self-select out of that process. We  
4       are making sure that we reach into communities so  
5       that we get a wide variety of people and a diverse  
6       group of people applying for positions.

7                   And then even when it comes to  
8       advancement within the organization, we're  
9       implementing best practices, and we'll continue to  
10      research best practices to make sure that the  
11      opportunity for people to rise is -- is equal,  
12      that everybody has an opportunity to rise. I  
13      think that it's incumbent upon any organization to  
14      do that, and we are certainly doing that and have  
15      taken that on in -- in full force.

16                   In terms of beyond that, we are  
17      rethinking the standards for practicing before the  
18      PTO. There is a patent bar that we are rethinking  
19      -- I know we've -- we've changed it in some ways.  
20      We're going to consider making additional changes  
21      so that we really tie the qualifications to the  
22      types of people needed to actually produce a good

1 work product. So, we don't want -- we don't want  
2 quality to be sacrificed in any way, but for  
3 example, if somebody has a computer science  
4 degree, that might qualify as a technical degree  
5 with the -- with the rest of it.

6 We're also rethinking whether it should  
7 be the same test for design patent protection as  
8 it should be for utility patents, that there may  
9 be a wide variety of diverse people who could  
10 practice before the PTO if they're working on the  
11 design side, as opposed to some of the more  
12 technical utility patents.

13 And we're also thinking about those who  
14 practice before the PTAB, and thinking hard about  
15 -- and -- and on a lot of these, we are going to  
16 get stakeholder input. So, we're not -- we're not  
17 just going -- if it's low-hanging fruit and we  
18 think it's an easy change, like we did --  
19 actually, Drew Hirshfeld is in the room. This is  
20 his last PPAC session, so thank you for attending.

21 Like -- like Drew did before where we --  
22 we changed the standard for the patent bar in a

1 way that would not sacrifice quality, but would  
2 broaden the number of people who could practice  
3 before the PTO, we're thinking about the same  
4 thing with PTAB. Is there -- is there some other  
5 criteria that we could use, because even having  
6 the pro hac in is a barrier. And I know that  
7 sometimes even people can pro hac in, they don't  
8 consider themselves part of the PTAB bar because  
9 they have that barrier. So, we're thinking about  
10 what we can do in that regard.

11 But even beyond that, the work that  
12 we're doing with K through 12, getting into  
13 communities, we are focused on innovation, but an  
14 innovation that focuses on STEM. So, it's getting  
15 out there into communities, trying to encourage  
16 teaching in outreach so that we're reaching  
17 everybody in diverse communities. And in those  
18 communities, we're focused on things that -- that  
19 excite everyone.

20 So, just as an example, it used to be in  
21 schools that -- and maybe some of you have done it  
22 -- there were two innovation exercises they would

1 do. One was shooting up rockets, and one was  
2 dropping an egg. And the data shows that those  
3 two experiments did not tend to attract diverse  
4 interests.

5           When they changed that in schools to  
6 things like your -- your neighbor has a wheelchair  
7 and needs and implement to hold their water, or  
8 anything where there is an empathy component, the  
9 number of children who are interested was much  
10 more diverse.

11           So, just thinking through the science  
12 that they're -- and play whatever role we can to  
13 incentivize innovation at all ages is something  
14 were also focused on as well. And you're going to  
15 see much more on than that when we roll out CI<sup>2</sup> in  
16 -- in full force.

17           MS. HARRISON: And I'm sorry, but I just  
18 want to follow through with one thing that you had  
19 said, because it really is a PPAC initiative,  
20 which is, can you really clarify for everyone,  
21 when you say you want stakeholder engagement, how  
22 can they -- how can they really put that

1 information -- get that information to you? When  
2 you want comments from people -- so, you've been  
3 very consistent in all your listening sessions.  
4 And so, I think she really does mean that. And  
5 so, let's give you all the ways that -- that you  
6 can touch the USPTO and tell -- tell them what you  
7 want them to be doing or ideas that you have or  
8 ways to engage with this.

9 MS. VIDAL: Well, I appreciate that.  
10 And ideas have come to me in so many different  
11 ways. I'm open to any way, the most efficient  
12 ways, or better. So, if -- I don't know if the  
13 PPAC has an email that you can email. We have a  
14 lot of emails on the website where you can provide  
15 your feedback, and all of that is being looked at.

16 But if you do communicate with the PPAC  
17 or if the PPAC has ideas on additional listening  
18 sessions -- you know, as I've said, in many  
19 different forums, it doesn't matter where the idea  
20 comes from. If it's a good idea, you don't need  
21 to be a big company. You don't need to have a lot  
22 of signatories. You don't need to get it into the



1 press. You don't need to -- all you need to do is  
2 bring it to our attention.

3 I'm sure anybody on the PPAC, if you  
4 raise it with them -- and they're all on LinkedIn  
5 with their emails and whatnot, if you raise it  
6 with them, they will raise it, and we will solve  
7 for it. So, there's so many great ideas out  
8 there.

9 In addition to that, I am reaching out  
10 to broader groups to have listening sessions to  
11 find out, you know, what the best practices are.  
12 So -- and then -- and when I talk about  
13 stakeholders, it's not traditional USPTO  
14 stakeholders only. It's anybody out there who  
15 could potentially benefit from the innovation  
16 ecosystem, which is pretty much anybody.

17 So, we --- I just spoke with Howard  
18 University last week on what that they're doing,  
19 how we could collaborate with them. So, I'm  
20 aggressively looking for opportunities. The PTO  
21 is aggressively looking for opportunities. But I  
22 mean -- I would welcome any additional ones as

1 well.

2 MR. CALTRIDER: I'll put a little  
3 commercial in for the PPAC, at -- at this moment.  
4 Because we do have a website, you know, we -- it's  
5 part of the USPTO site, and we do have an email  
6 address. So, I would encourage any stakeholders  
7 -- broadly defined, as you said, it's -- it's  
8 virtually anyone to submit comments to the PPAC.  
9 We -- we'd like to have those comments. We route  
10 them to the appropriate people at the USPTO, or we  
11 take it up ourselves if it's an issue that the  
12 PPAC should take onboard. So, we really  
13 appreciate when we get that kind of feedback as  
14 well, so --

15 MS. VIDAL: Well, and I'll just add to  
16 that. So, that's a good point, Steve. I'll just  
17 add to that. We did launch about a week or two  
18 ago an inclusive innovation website. And that has  
19 a lot of information for individual inventors,  
20 union inventors, to connect up with the PTO, and  
21 for others to get involved in those efforts. If  
22 that does not have an email on it -- I believe it

1 does -- if it does not have an email on it, it  
2 will have an email on it within the next 24 hours.  
3 So, I believe it's there, but if not, we will have  
4 one there.

5           So, if you have any insights, ideas  
6 around inclusive innovation -- including on that  
7 page, we -- we rolled out that page with the idea  
8 that we wanted to get everything we could get out  
9 there right now about -- I'd like to get  
10 everything -- and Valencia, I'll give credit to as  
11 well, who's here. I'd like to get everything out  
12 there. Even if it's not 100 percent, we will just  
13 keep improving on it and making sure that we --  
14 we'll get things in people's hands as soon as we  
15 can.

16           MS. BRADEN: Aha, red means go. It's  
17 like putting together a Christmas toy or something  
18 the night -- the eve before. It says all -- even  
19 a five-year-old child could do it. You say,  
20 where's the five-year-old child that can do this?

21           I -- as I said before, I get all the --  
22 the more serious questions, but the life cycle of

1 software in pharmaceuticals is very different than  
2 a mechanical. You know, patent law is for --  
3 written for one size fits all. I'm sure that  
4 Judge Rich didn't think about those things in 1952  
5 or whenever it was he was writing the laws. Can  
6 you share your thoughts about that?

7 I mean, you know, there's been a lot of  
8 discussions through Sonoma. Steve's former  
9 colleague, Bob Armitage, has written about this  
10 issue a great deal. I was thinking, you know,  
11 years ago, Congress created -- I looked this up on  
12 the -- on my phone while you were talking. Like,  
13 for a copyright, they formed a commission. It was  
14 -- these -- on new technological uses of copyright  
15 works, and that was some time ago. Nothing really  
16 happened from the CONTU experiment. But I wonder  
17 if some type of commission to look at this --  
18 that's elevated beyond just the Sonoma, the Naples  
19 roundtable, those types of things -- might be  
20 warranted.

21 In that regard, I know that the  
22 Secretary of Commerce has a group of -- much

1 larger group of people involved looking at some of  
2 these issues. Maybe you can share what you're  
3 doing there and your thoughts about maybe --  
4 should there be a commission that looks at  
5 something like this? I was thinking that this  
6 happened also in the antitrust era where I --  
7 where I cut my teeth practicing law, I believe, in  
8 the Carter administration. You take a look at the  
9 -- you know, with the broader issue of -- of  
10 antitrust jurisprudence, and I thought that a lot  
11 of good stuff came out of that. So, that's a  
12 really big question, isn't it? It's not something  
13 you can answer easily.

14 MS. VIDAL: No, I have the answer.

15 MS. BRADEN: And I suppose you have the  
16 answer, so --

17 MS. VIDAL: Yes. So, first of all, I --  
18 I do think it's time to rethink everything. As --  
19 as you mentioned, the last BB was in the -- in the  
20 '50s, right? And the AIA came along. And there's  
21 been things since, but not -- not at that level.

22 And I remember from when the first

1 committee draft for AIA until the eight or nine  
2 years that it took to pass it, this was a constant  
3 discussion. Because you had pharma on one side  
4 who had certain things they wanted to achieve from  
5 the AIA, and -- you have tech on the other -- you  
6 have one -- you have tech on the other side. And  
7 their thoughts were somewhat at cross-purposes  
8 during that time, and there's a lot of discussion  
9 about maybe we need two systems.

10 It's obviously a broader issue. It's  
11 not just the U.S. We need to think globally about  
12 this, because we've got treaties and, you know,  
13 people need to abide by the -- I do think if we go  
14 back to first principles on is our system  
15 incentivizing innovation, there's two parts to  
16 that, right? There's the guarantee of the limit  
17 of monopolies so that you incentivize them, but  
18 there's also the building on it. And I think  
19 you're right, in different fields, that time point  
20 may be different, especially with the -- the rate  
21 at which technology is being developed outside of  
22 the bio space versus in the -- in the bio space.

1                   So, I -- so that would be my answer,  
2                   it's just generally, I think we should go back to  
3                   first principles. I think if you look at first  
4                   principles, a one size fits all may not be the  
5                   optimal solution, but it's -- it would take a lot  
6                   of thought, and obviously, international  
7                   collaboration and cooperation on that. So, we  
8                   welcome -- we welcome further discussion on that.  
9                   That's --

10                   MR. CALTRIDER: That's something --

11                   MS. VIDAL: And -- and I will say just  
12                   right now, we are trying to solve for all  
13                   industries, including independent inventors, in  
14                   trying to get more surgical about what we're  
15                   doing. Because sometimes when you do things at a  
16                   macro level, you're impacting people differently.  
17                   And we've always looked at the system -- and a lot  
18                   of people have -- probably not, you know, as a  
19                   zero-sum game. And I think we need to find ways  
20                   to solve these issues so that it works for all  
21                   industries, including for independent inventors.

22                   So, I'm -- I'm looking forward to

1 working with the PPAC on that and getting your  
2 thoughts and advice on that because I'm confident  
3 that we can come up with solutions that will be  
4 the right solutions for the country, which means  
5 it's going to -- it's going to work across the  
6 industry. But in terms of the timing, that's --  
7 that's obviously a bigger issue.

8 MS. BRADEN: Yeah.

9 MR. SEARS: I have a question for you  
10 about a topic I will call temporarily unavailable  
11 fees.

12 MS. VIDAL: We'd like them back. That's  
13 --

14 MR. SEARS: You know where I'm going.  
15 So, here's the question. Today, the patent office  
16 operates under the fee collection and  
17 appropriation protocol of the American Invents  
18 Act, in which the office is typically authorized  
19 to spend, in one way or another, all of the fees  
20 it collects. But before the AIA, between FY '90  
21 and FY 2011, the office collected fees that it  
22 wasn't authorized to spend. Today, these fees



1 total almost a billion dollars, and they're  
2 sitting in a USPTO account at Treasury.

3 Here's a two-part question. Have you  
4 considered whether to seek authorization to spend  
5 these fees? And if so, have you considered how  
6 these fees might be used at the patent office, for  
7 example, to offset inflationary pressures?

8 MS. VIDAL: That's a loaded two-part  
9 question. So, yes to the first one. I think in  
10 terms of if we do have the fees, how would they be  
11 used, we would -- that we have to be larger  
12 analysis. I mean, certainly, if we could get down  
13 dependencies on trademarks, et cetera, you know,  
14 patents, that would be a fruitful use of fees.  
15 But there's certainly other things I'm sure we  
16 could find to spend the money on. And so, that's  
17 -- that's where I'd love to go offline and talk  
18 about that more in terms of how do we get those  
19 fees back and what do we use them for. But that's  
20 -- that's a much -- a much larger issue, as you  
21 recognize.

22 MR. CALTRIDER: The PPAC is always

1 ready, willing, and able to engage and eager to  
2 engage on that issue if we can be of any  
3 assistance. You may appreciate, we've sent a  
4 letter to congress last year on that issue, and we  
5 -- we certainly are willing to address it again,  
6 because it's -- it's important. It's -- it's fees  
7 collected by applicants. They should be used for  
8 the office, and it's a matter of getting those  
9 appropriated so we can use them.

10 MS. VIDAL: And I appreciate that  
11 because it's -- you know, if we have full funding,  
12 it's going to -- it's going to make our mission  
13 easier to achieve.

14 MS. HARRISON: I was just going to say,  
15 Kathi, we have gone through our questions and  
16 obviously, we have a little bit of time. And I  
17 was wondering if there was anything else that you  
18 would like -- any kind of remarks you would like  
19 to make of things maybe we didn't ask that you  
20 wanted to talk about or highlight for the public.

21 MS. VIDAL: I think you've been pretty  
22 comprehensive. I -- I like your -- I liked the

1        comments you made about outreach and about hearing  
2        people's ideas. There's certainly more ideas that  
3        -- when I came here, just based on my experience  
4        working for, you know, large tech and inventors is  
5        mostly what I worked for. I didn't work as much  
6        in the pharma -- I mean, a little bit where I  
7        helped on the pharma side.

8                    I had some thoughts as to ways we could  
9        improve the system. I didn't want to presuppose  
10       that those were the right ideas, and it's been  
11       really great to hear from people both inside and  
12       outside the organization. And, you know, through  
13       that, it's helped me think through ways to focus  
14       and ways to try and make bigger impacts sooner.  
15       So, I would -- I would welcome additional ideas on  
16       that. There were things that we discussed in the  
17       PPAC session today that were just raised, that I  
18       know we're going to hit hard and quickly because  
19       we know that it can make a difference.

20                   So, I would encourage people to continue  
21       the dialogue, to -- when we do put out -- you  
22       know, when -- when we do make decisions on an

1 interim basis, we do always have an email where  
2 people can email comments. I got a comment in  
3 Houston the other day that for big organizations,  
4 they'd like to know when we're going to start to  
5 do the formal rulemaking so they can get their  
6 comments in in time. So, we've taken that to  
7 heart. And we'll make sure that we do announce  
8 that in advance, so that we say, you know,  
9 comments to the website will close on this date,  
10 so that we can actually form the questions and get  
11 something out broader.

12 I like stakeholder and PPAC input, as  
13 you know, with the PPAC along the way. I think  
14 it's a much better system when we're hearing input  
15 as we go, as opposed to just coming up with a  
16 final product and getting input at the end. I  
17 think it's harder to maneuver at that point and --  
18 and to really shape a system that's going to work  
19 for everyone.

20 So -- so I will say, I know that there  
21 are up to three positions available on the PPAC  
22 and on the TPAC. They may be filled by current

1 people, they may be filled by new people, so I  
2 would encourage people to apply for those. I  
3 think it's great that the PPAC and the TPAC have a  
4 wide variety of interests represented. That helps  
5 me do my job. You know, I -- I don't have an  
6 independent inventor that's sitting in my front  
7 office that can advise me. I don't have somebody  
8 from the, you know, the pharmaceutical industry on  
9 some of the issues that we're seeing percolate,  
10 you know -- I do have some people on that, but,  
11 you know, it's nice -- it's nice to have more.  
12 So, I'm very grateful for this. This, to me, is a  
13 very, very meaningful position to be -- you know,  
14 to be the advisors to the director on all of these  
15 key issues.

16           So, I would encourage people to apply  
17 and to support those currently in a position.  
18 These are people who are empowered to -- to  
19 provide advice on the things that we're going to  
20 be doing. And they will be with me every step of  
21 the way. So, advice you provide to them is going  
22 to filter into the process.

1 MS. HARRISON: And sorry, one last  
2 thing. Again, I think all of us on PPAC have been  
3 really excited with your use of focusing on how to  
4 make an impact, bringing stuff to impact. And so,  
5 I just wanted to ask for you to clarify for the  
6 public what do you mean by that, because that's a  
7 really important thing, and I think that would be  
8 helpful.

9 MS. VIDAL: So, that -- that's perfect.  
10 This actually gets back to Steve's first question  
11 is, why this position, why now. For me, I get  
12 energized and excited if I can make impact. It's  
13 what gets me up at 2:00 or 3:00 in the morning to  
14 start -- you know, review opinions or whatever it  
15 is that I'm doing that day.

16 And it means different things to me in  
17 different contexts. From the PTO perspective, if  
18 there's something we can do right now, I want to  
19 do it right now. And -- and that's what we did  
20 with director review. I -- we thought there could  
21 be more clarity, so we took it on immediately and  
22 we -- we updated the website very quickly on that.

1                   We did the same thing with the role of  
2                   the director, vis-à-vis the role of PTAB judges.  
3                   We did the same thing with Fintiv. If there's  
4                   things we can do -- and we've got an amazing team  
5                   that's doing this, so I have to credit all of  
6                   them, because if there's things we can do,  
7                   everybody's ready in position to do it. And so,  
8                   when I think about the impact, I think about there  
9                   are abuses of our system. How do we surgically  
10                  attack those without throwing out the baby with  
11                  the bathwater? How do we do that without hurting  
12                  the individual inventors, but make sure that our  
13                  -- that our system is strong, that the patents  
14                  that we issue are more robust and reliable, that  
15                  the PTAB is working for its intended purpose.

16                  So, any initiative that we can do on  
17                  that, we take on immediately. And we actually  
18                  focus our meetings on initiatives. So, we -- we  
19                  don't often do great, big-group meetings. When we  
20                  talk about ideas, we say, this is what we want to  
21                  achieve. How do we get there? We're having  
22                  discussions with Cathy, I know right now, about

1 specific initiatives related to examiners. And  
2 so, within the USPTO, it's about that kind of  
3 impact. Like, what's going to have the most  
4 impact and what can we take on right now.

5           Outside, when I talk about just bringing  
6 innovation to impact, it's very broad in terms of  
7 the impact. So, some of it is within -- within  
8 commerce, some of it is jobs, and economic  
9 prosperity. And I see protecting IP as the bridge  
10 between the two, protecting your ideas, protecting  
11 your -- your brands is what helps you get  
12 investment and get people behind you so that you  
13 can bring your ideas to impact which is job and  
14 greater economic prosperity.

15           When it comes to certain technological  
16 areas like the green tech space, we -- we just  
17 launched the accelerated examination for green  
18 tech. It's about building great ideas that are  
19 going to help the world to impact, to get them to  
20 market.

21           And as part of this with CI<sup>2</sup>, Council  
22 for Inclusive Innovation, it's two-part. It's



1 number one, the more people we have, the more  
2 hands on deck, the more impact were going have for  
3 the country, the higher the GDP is going to be,  
4 the more people will have jobs.

5           The other part is there's an equity  
6 component of it. And, you know, a lot of times,  
7 we focus on pro bono and what's good for the  
8 public. We focus on the back end where the system  
9 didn't work, and now someone needs housing, and  
10 they don't have money for housing. That's  
11 terribly important work.

12           I'd also love to see a huge focus on the  
13 front end. How do we deal with people from the  
14 beginning? How do we give them opportunity? How  
15 do we teach them and give them all the tools that  
16 we have at our fingertips so that they can build  
17 from the beginning? And if we -- if we move the  
18 effort there, hopefully there will be less effort  
19 to do on the backend, that we don't have to find  
20 people housing, because they've already bought it  
21 using the hard-earned money they made.

22           So, that's what I mean -- so, when I

1       define impact, it's just an easy way to say we  
2       need to make change, and we need to -- we need to  
3       find a way for everybody to be elevated -- even  
4       people within big companies, it's not just the --  
5       the underrepresented -- to make sure we're having  
6       more impact to this country.

7                   MR. CALTRIDER: To expand on that  
8       question just a bit. You've been with the office  
9       for how many weeks now?

10                  MS. VIDAL: I think almost two months.

11                  MR. CALTRIDER: Two months, or eight --  
12       eight weeks roughly. Two questions. First is,  
13       you know, have you had an opportunity to identify  
14       your priorities, in terms of what are your top  
15       three priorities? And the second question is,  
16       what surprised you in your first eight weeks? And  
17       -- and perhaps, you know, what are you pleasantly  
18       surprised about and what are you not so pleasantly  
19       surprised about?

20                  MS. VIDAL: Okay. I know I have team  
21       members in this room, if you say what are her top  
22       three priorities, they will say that there's no

1 three, because I've never prioritized that way. I  
2 -- I have a broad, overarching umbrella on what  
3 we're trying to achieve and we're going to do  
4 everything to achieve it. And we have, you know,  
5 11,500 people who are highly skilled, very  
6 motivated, smart, creative people. There's a lot  
7 we're going to get done.

8           And so -- so it's hard -- I mean, in  
9 terms of top three, you could -- you could look at  
10 the three concentric circles of, you know,  
11 incentivizing more innovation, protecting that  
12 innovation in the U.S., you know, and overseas and  
13 then bringing it to impact. But there's so much  
14 to unpack within that. So -- so, I guess if I had  
15 to pick three, I would pick those three. But  
16 they're umbrellas, and there's -- there's so much  
17 underneath it.

18           In terms of what surprised me, it didn't  
19 surprise me in terms of what I expected. It -- it  
20 surprised me in terms of the dialogue I heard that  
21 people said -- when you go into government, you're  
22 not going to be able to move at the same speed

1       that you've always moved at, that there's going to  
2       be too many barriers.

3                   And -- and if you look at what we've  
4       done as a team so far, if you can only imagine all  
5       the things we have in the hopper right now that  
6       are being rolled out, I'm not -- I'm not seeing  
7       that. I'm seeing that things are done  
8       intentionally. They're done carefully. That's  
9       important. They're done to make sure that  
10      everybody's heard. But I -- I just -- I'm not  
11      seeing barriers to making change. And so, that --  
12      if I had thought there were barriers, I would not  
13      have come here. But -- but it does -- it does --  
14      it's not the dialogue that I heard when -- when I  
15      told people that I was going into government.

16                   MR. CALTRIDER: Okay. Thank you. Other  
17      questions from PPAC?

18                   MR. DUAN: I'll -- I'll just sort of  
19      follow on to some of the things that Suzanne has  
20      said and the conversation you had about sort of  
21      outreach to outside stakeholders. I -- I -- the  
22      number one I want to just emphasize is that your

1 -- while you've been holding plenty of listening  
2 sessions, a lot of my friends have -- have had the  
3 opportunity to talk with you, I think they've been  
4 really, really appreciative of that sort of  
5 outreach.

6           And I guess, you know, I -- I know that  
7 there a lot of people out there who are probably  
8 thinking, you know, I -- I feel like I'm affected  
9 by patents, or that the innovation system is  
10 important to me, but I don't really know how to  
11 participate. I -- I guess in a sense, I kind of  
12 want to see if there's a way I can give them a few  
13 words of encouragement.

14           So, number one, are there sorts of  
15 outside stakeholders that you've met with that you  
16 didn't expect, but had interesting ideas? And  
17 number two, are there groups that you would be  
18 interested in hearing more from that you feel  
19 like, you know, aren't the kinds of people that  
20 normally would come to the patent office, but  
21 you'd like to get their views?

22           MS. VIDAL: So, those are -- those are

1 really good points. So, I have heard really  
2 interesting views from independent inventors that  
3 -- that are ones that I hadn't focused on,  
4 including, you know, the 12-month provisional  
5 application period that -- a lot of them said, 12  
6 months is not really enough time for me to figure  
7 out if this is something worth pursuing.

8           But out of that came the idea that maybe  
9 we should be pursuing track three, so that  
10 inventors who haven't yet proven that their  
11 invention is going to work or they're not yet  
12 ready to spend the money on patents can slow down  
13 the process. So -- so, we're certainly -- and  
14 nothing's been finalized. This is all really  
15 early-stage thinking in terms of what are all the  
16 ideas that could potentially help independent  
17 inventors.

18           In terms of reaching people who -- who  
19 don't normally participate in the system, I have  
20 met with some really great inventors who have told  
21 their stories and about how they connected up with  
22 IP. And -- and I want to work with them.

1                   There -- there was a woman that -- that  
2                   -- I guess she interviewed me in Denver, Colorado  
3                   -- who was -- she's the -- this is a sad  
4                   statistic, but -- it's good for her, but not good  
5                   for -- for us. But she's the only African  
6                   American female, she said, of this century in  
7                   Colorado who's received a patent. And she is so  
8                   excited. She -- she created the Tempus hood.  
9                   It's a little hood that you can put on to protect  
10                  your hair. It was some -- an issue she was  
11                  dealing with. She created it. She has a company  
12                  now. You can go buy her -- her product on the  
13                  website.

14                  We're talking to her about -- how did  
15                  you go through the process? How can we help  
16                  people? How can we go back -- if you could rewind  
17                  the clock, what -- what would you have wanted to  
18                  see along the way, even from the beginning, in  
19                  terms of knowing what was available, and then --  
20                  and then the help you've received along the way?

21                  So, there have been a number of people  
22                  like that that I have met with at some of these

1 listening sessions, because some of them have been  
2 quite broad. And for a lot of them, we actually  
3 bring in the participants who have used our pro  
4 bono program. So, they're the people that were  
5 hard to reach, that didn't have access. But to  
6 find out from them, what do we do to reach people  
7 like you? Do you want into our pro bono program?  
8 Tell us how you did it, so we can scale that. But  
9 I think that's really important.

10 And one thing we need to do is create a  
11 lot of collateral around that. We've -- we've  
12 learned about that as well. For example, when  
13 somebody gets a rejection with the PTO, she would  
14 put a cover letter to explain what it means,  
15 because certain groups, including women in certain  
16 ethnic groups, will interpret that rejection  
17 differently and self-select out of the system  
18 even after they filed a patent. And should we  
19 provide a video link -- so, you get a cover letter  
20 that explains what it means and says, go to this  
21 video to find out what's next. Should we do that  
22 if people file a patent? I think all along the



1 way we need to think not only about what's working  
2 for traditional stakeholders, but how do we hold  
3 people's hands through the process and -- and make  
4 it easy to understand and -- and easy to be able  
5 to secure the -- the protection.

6 MR. BROWN: So, since we have time,  
7 which is wonderful, I -- I'd like to do a follow  
8 up. So, on -- in the context of, say, small  
9 inventors, entrepreneurs, and -- and to tie in  
10 with your action, you know, it's always been my  
11 feeling that the best social system is a good job.  
12 I think that's a -- it's the synopsis of your --  
13 your pathway there.

14 And it's a -- it's a very difficult  
15 challenge to bring products out in the States now,  
16 because it's a global marketplace. And -- and it  
17 actually puts the small inventor at a -- a  
18 disadvantage, because while you want to make it in  
19 the States, you -- you just don't have the same  
20 cost advantages and labor -- and many times, other  
21 areas -- to support that cost difference. So, the  
22 patent becomes that much more valuable in -- in

1       that sense of personal risk or even in developing  
2       that risk.

3                       And I don't know -- maybe this is a  
4       bigger question for Commerce, in your opinion in  
5       Commerce, but is there some way that we could  
6       lessen that risk for inventors willing to bring  
7       the product out in the states and to have  
8       something there that incentivizes that creation of  
9       jobs? That -- that's a particular, I think,  
10      point, that while we -- well, protecting member  
11      rights, taking the jobs offshore -- certainly,  
12      there's going to be some jobs here. But that --  
13      getting down to the grassroots, not everybody goes  
14      to college, manufacturing-type jobs, there needs  
15      to be a better pipeline for that.

16                      MS. VIDAL: So, that -- that's a good  
17      point, Dan. And one of the things that this  
18      administration is doing is there -- there is  
19      funding for things like that, as you recognized,  
20      through Commerce and otherwise. And I'm working  
21      with various organizations on what those -- what  
22      those grants look like, what the contractual

1 language looks like.

2 ARPA-E has a very good program where  
3 there is -- you do need to manufacture in the  
4 U.S., but they give you funding for that. They  
5 give you funding to apply for the patent. And so,  
6 I've been talking to them about getting access to  
7 their language to see if there's more we can do,  
8 both in government and even in the private sector,  
9 around that.

10 I know a lot -- I've been talking to  
11 governors when I go to states. I know some states  
12 are also doing that, where they're getting out  
13 grant money. And I want to make sure that where  
14 the government is helping the innovators, that  
15 were doing so in a way that's going to benefit the  
16 country, which includes keeping, you know, jobs  
17 here, you know, as well as other benefits, and to  
18 make sure that any of the IP developed through  
19 that either benefits the individual inventor or it  
20 benefits the country if the inventor chooses not  
21 to -- not to actually make product of it. So, I  
22 think there's a lot that can be done, especially

1 if there's some role the government's playing.

2 In the private sector, it's a little  
3 harder to solve for. I think we can learn from  
4 what we're doing in the public sector -- or in,  
5 you know, the government sector. But I -- I'd  
6 love want to go offline and talk more about that,  
7 because I -- I agree with you, I'd like to see  
8 companies be better supported. I'd like to see it  
9 done in a way that -- that it does help the  
10 country. And so, I -- I would welcome further  
11 discussion on that.

12 I will say a quick, quick question -- a  
13 quick comment about ARPA-E. One thing that I love  
14 is that if people decide to manufacture outside of  
15 the U.S., they can take their patent away. So,  
16 they said that as soon as -- I said, well, have  
17 you ever sent a note? They said they can send --  
18 they can send letters to say, we understand you're  
19 now trying to offshore. If you offshore, we're  
20 going to write to the USPTO and take your patent  
21 away. They said as soon as that letter is sent,  
22 there's no offshoring. So, it's -- whatever it's

1 doing, it's -- it's working.

2 MR. BROWN: The one caveat -- or -- or  
3 just to touch on that -- is the counterfeiting  
4 that gets in. I -- I don't know -- the -- as  
5 technology changes -- so, we have a company,  
6 Bionic Wrench, and it's made in the States. You  
7 can ship a wrench from Shenzhen, a one-off, to  
8 Chicago cheaper than I can get it from my plant in  
9 Pennsylvania to Chicago. And that continual  
10 knocking off and depressing that price, it's no  
11 longer stopping containers at the border. It's  
12 just -- it's -- it's like the drug problem, but,  
13 you know, in manufacturing, and it's a real  
14 challenge.

15 MS. VIDAL: So, I agree, and that's  
16 another issue that I want to take on. I'm  
17 actually recording remarks today for a group --  
18 and it's on counterfeiting. And so, we do have  
19 campaigns going on around counterfeiting to  
20 educate consumers. That's -- that's really the  
21 USPTO's sweet spot since we're not an enforcement  
22 agency. But we are working across agencies to try

1 and do more.

2 I've -- I've spoken to the Secretary of  
3 Commerce about this, that there's no one group  
4 where -- that's going to be able to solve this,  
5 because some of the groups are focused on larger  
6 issues in terms of monetary amounts. And as you  
7 recognized, it's not even shipped in a container  
8 now. They ship it in little boxes so they'll  
9 avoid issues at Customs.

10 And so, we need to figure out how -- how  
11 across government and how with messaging to the  
12 public do we change the dialogue, do we -- do we  
13 stop the supply and the demand when it comes to  
14 counterfeit goods. So, again, welcome any  
15 thoughts on that. I -- I believe very strongly on  
16 that. I'm very concerned about the counterfeit  
17 activity, because it's -- it's -- you know, it  
18 even runs counter to the -- going back to first  
19 principles and it's cutting against all the great  
20 work we're doing. We need to do whatever we can  
21 to cut that out.

22 MR. BROWN: So, again, this is a

1 Commerce thing, not the -- the patent office, but  
2 the one thing I could say that you could represent  
3 to us as small inventors in -- in that menu would  
4 be to -- the websites or whatever that advertises  
5 goods, they will maybe take down on a trademark or  
6 whatever. But even an identical product, they  
7 don't want to say, oh, the patent wouldn't be  
8 there.

9 I mean, just even the -- to the  
10 strengthen the presumption of validity and that  
11 the patent's been issued, and allow them to apply  
12 the same thinking that they would to maybe stop a  
13 copyright or trademark violation, just -- just to  
14 do that. And that would stop it at the beginning.  
15 And you wouldn't have the -- you know, with the  
16 cybersquatting, someone could take our trade name,  
17 type it in a shopping site, and they buy -- the  
18 position would be the first on the top. People  
19 are buying an identical knockoff, and it's coming  
20 to them. And then we get complaints about how  
21 terrible the quality is of our product, and it's  
22 -- it's so frustrating. It's crazy.

1                   MS. VIDAL: So, why don't we get a  
2                   separate PPAC meeting just on that, if you don't  
3                   mind, Steve. I would love to have one just on  
4                   that topic of counterfeit goods, because there are  
5                   groups that are -- that are working on this. I  
6                   want to be an ally and then I want to do whatever  
7                   we can as government, not just as a USPTO, on  
8                   that. But that -- that seems like it warrants its  
9                   own separate discussion.

10                   MR. CALTRIDER: I agree. I agree, I  
11                   think that's a great topic. We're -- we're coming  
12                   close to our hour. Thank you very much for  
13                   appearing. I do have one order of formal business  
14                   that -- that -- I'm looking at my PPAC, that --  
15                   they aren't aware of this, but I would be remiss  
16                   if I didn't do this. Drew wasn't here when he --  
17                   we started our introductions. But when you  
18                   commented on not having any barriers in the  
19                   office, because you had highly committed and  
20                   skilled professionals, Drew certainly fits that.  
21                   He has been a highly committed public servant for  
22                   many, many years. I think I met Drew 15 or 20



1 years ago, probably, in my first --

2 MR. VIDAL: Come up here, Drew.

3 MR. CALTRIDER: And he's been absolutely  
4 dedicated to make a difference in the patent  
5 system and innovation in the United States and  
6 American competitiveness. And he's done just an  
7 absolutely fabulous job. The PPAC normally  
8 doesn't do -- (applause) normally doesn't do  
9 formal business, but I would love to entertain a  
10 formal motion of gratitude for Drew if someone  
11 would be willing to -- to move. Charles?

12 MR. DUAN: Oh, do you want to move?

13 MR. CALTRIDER: I'm -- I'm the chair, so  
14 I'm --

15 MR. DUAN: Oh.

16 MR. CALTRIDER: So, I can't move.

17 MR. DUAN: All right. I will move.

18 MR. CALTRIDER: Very good. Do we have a  
19 second?

20 MR. SEARS: Second.

21 MR. CALTRIDER: All those in favor? All  
22 right.

1                    (Applause) Thank you. Thank you,  
2                    Drew. Thank you, Drew, for your  
3                    service.

4                    MR. HIRSHFELD: So, I have to -- I have  
5                    to say, like, I -- I just want to say one thing.  
6                    So -- so, first of all, thank you to everybody.  
7                    You can imagine I'm filled with emotions at this  
8                    time. It's -- it's almost 28 years, and it's been  
9                    quite a run and really enjoyable.

10                    And I'm listening to -- to Kathi answer  
11                    all those questions, which, I think you can  
12                    probably tell, many of which, she didn't have in  
13                    advance, and watching -- watching what a wonderful  
14                    job she's done. And I -- I originally thought,  
15                    like, if a person who came into the agency to lead  
16                    the agency was really, really good, like Kathi is,  
17                    I would think it would be a lot easier to leave  
18                    the agency. But as I was watching, I thought,  
19                    it's actually harder to leave the agency, because  
20                    I'm really excited about the direction of the  
21                    agency with you. And I -- I really appreciated  
22                    all your answers today.

1                   In any case, this is -- this -- I don't  
2                   look at this as goodbye. I look at it as just a  
3                   transition to -- to next steps. And so, I look  
4                   forward to working with everybody. And I  
5                   appreciate all the wonderful people at PTO, on the  
6                   various PPACs over the years, and in the public  
7                   who I've been fortunate to deal with. I feel -- I  
8                   feel like I'm the luckiest person to have the  
9                   roles that I've had. So, thank you, everyone.  
10                  Much appreciated.     (Applause)

11                  MR. CALTRIDER: Thank you. Okay. Thank  
12                  you, everyone. We look forward seeing everybody  
13                  in August. We're going to have a virtual meeting  
14                  in August, and we'll go back, hopefully, live in  
15                  September. That's yet to be determined. So,  
16                  thank you, everyone. We're adjourned.

17                                   (Whereupon, at 1:59 p.m., the  
18                                   PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA

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

(Signature and Seal on File)  
Notary Public, in and for the Commonwealth of Virginia  
My Commission Expires: September 30, 2025  
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