

**Fawcett, Susan**

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**From:** Moore, Steven J. [smoore@kelleydrye.com]  
**Sent:** Sunday, August 10, 2008 10:09 AM  
**To:** Fawcett, Susan  
**Subject:** Comments on 73 Fed Reg No. 111., p. 32550 et seq.: USPTO Estimates time to gather the necessary information, prepare the briefs, petitions, and requests, and submit them to the USPTO

**RESUBMISSION IN CASE OF NON-RECEIPT:**

1. The USPTO is incorrect in basing its estimated total annual respondent cost burden on an associate attorney rate of \$310/Hour. \$310/hour is the rate of an incoming attorney with little or no experience. A more senior associate would be the one who would most likely be assigned the task of preparing an appeal brief. Given current rate structures, this would be an associate with an hourly rate of about \$360/hr. Further more, all associate attorney work is reviewed and reviewed by the partner in charge whose billable hour rate may be 1.5 times that of the associate who prepared the original brief. Therefore, I believe a rate of at least \$380/hr is more in order.
2. Our experience shows an appeal brief takes at least 40 hours to prepare in the present configuration, not 30 hours as set forth by the USPTO. I would anticipate at least 5 extra hours being needed given the new requirements proposed by the USPTO, or 45 hours.
3. The USPTO's estimate of time spent on a reply brief is wholly pulled out of thin air. Our experience demonstrates about 30 hours in formulating a reply brief.
4. Given the number of requests to the courts to increase page limit, it is believed that the USPTO's estimate of 1,315 requests per year is too low. It is respectfully submitted that the number should be at least twice as much.

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8/11/2008