

**Fawcett, Susan**

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**From:** Alan Heimlich [alanheimlich@heimlichlaw.com]  
**Sent:** Sunday, July 20, 2008 6:34 PM  
**To:** Fawcett, Susan  
**Subject:** Appeal Timing Estimates Part 1320 - re: Proposed Appeal Rules 37 CFR Part 41 [Docket No. PTO-P-2007-0006] RIN 0651-AC12

**Follow Up Flag:** Follow up  
**Due By:** Saturday, July 19, 2008 3:30 AM  
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Ms. Fawcett,

Please consider my comments below.

I first note for the record that I personally am averaging 1 appeal a month, at least for the last year, and looking forward anticipate this to increase to 15/year this year.

Regarding the collection of information:

Appeal Briefs - our experience to date suggests that 30 hours must be for a very small application with very few claims. Our briefs ON AVERAGE take 71 hours each. Our low was 35 hours and our longest was over 150 hours.

Petition for Extension of Time for Filing Paper After Brief - 15 hours seems a little high. More like 12.

Petition to Increase Page Limit - 15 hours. About right.

Reply Briefs - 5 hours. WAY OFF BASE. Here's what happens, the Examiner states a new ground and/or new arguments almost universally. This necessitates an entirely new reply that takes 80% as long as the original. 20% is saved in evidence, summary of the invention, etc. SO, reply briefs average about 55 hours.

Requests for Rehearing Before the BPAI - 5 hours. About right.

Our estimate of the time is: 158 hours or about a month, which is pretty much what it works out to. (Your estimate is 70 hours which we consider at least 2x low.)

Using your estimated annual responses (which we think are low) our estimates in table form are:

Item	Estimated time	Estimated	Estimated
Estimated	for response	annual	annual
	(hours)	responses	
burden hours .			
Appeal Briefs	71	23,145	1,643,295
Petition for Extension of Time for Filing Paper After Brief	12	2,298	27,576
Petition to Increase Page Limit	15	1,315	19,725
Rely Briefs	55	4,947	
272,085			
Requests for Rehearing Before the BPAI	5	123	615
Total		31,828	
1,963,296			

Basically 2 million hours.

Contact me if you have any questions.

Regards,

Alan Heimlich  
Reg 48808

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