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I offer the following comments about the intention of the United States Patent and Trademark Office to change the rules regarding appeal briefs before the PTO Board of Appeals

1. The PTO has failed to provide objectively-supported estimate of the number of hours it will take to comply with the Appeal Rule. Historically, the Patent Office has severely underestimated the number of hours, and has failed to provide any analytical transparency into the sources or methods employed. Studies by a person registered to practice before the PTO indicates that the new rules will triple the time requirement to prepare a brief on appeal.

2. The PTO has failed to provide an objectively-supported estimate of the opportunity cost of each of these hours. Historically, the Patent Office has significantly understated the hourly cost of attorney time, and assumed that tasks normally performed by attorneys can be performed by lower-cost paralegals and administrative staff instead. Such assumptions are grossly inadequate at best, and pure malpractice on the part of an attorney so functioning at worst.

3. If continuation practice is changed as proposed, the appeals are expected to greatly increase. While the District Court has delayed the implementation of the Commissioner's continuation practice proposals, if these proposals are put into effect, problems that resolved by continuations must be appealed. Thus, is almost inherent that the number of the appeals will greatly increase. While the number of appeals and time to prepare the brief increase, the great difficulty also increases the appeals, contrary to PTO assertions.

4. AIPLA and IPLAC to which I belong, have not been asked for their comments. I have not seen their comments in any of their publications.

5. The requirements to cite line and page of previously submitted arguments duplicates much of the work already presented in the file. Such duplication is a major contributor to the increase in time for preparing an appeal brief.

As Abraham Lincoln said familiar time advise our stock in trade. The proposal greatly infringes on attorney's time more than is necessary and adversely

affects clients, who have limited funds. The goal of this procedure appears to favor the large entity with greater resources and discriminate against small entities. Accordingly, the changes should not be permitted.