some matter or compliance with some
requirement has been inadvertently
omitted, an opportunity to explain and
supply the omission may be given.

[65 FR 76777, Dec. 7, 2000, as amended at 72
FR 18906, Apr. 16, 2007]

§ 1.958 Petition to revive inter partes
reexamination prosecution terminated for lack of patent owner re-
sponse.

(a) If a response by the patent owner
is not timely filed in the Office, the
delay in filing such response may be
excused if it is shown to the satisfac-
tion of the Director that the delay was
unavoidable. A grantable petition to
accept an unavoidably delayed re-
sponse must be filed in compliance
with § 1.137(a).

(b) Any response by the patent owner
not timely filed in the Office may be
accepted if the delay was uninten-
tional. A grantable petition to accept
an unintentionally delayed response
must be filed in compliance with
§ 1.137(b).

§ 1.959 Appeal in inter partes reexam-
ination.

Appeals to the Board of Patent Ap-
peals and Interferences under 35 U.S.C.
134(c) are conducted according to part
41 of this title.

[69 FR 50002, Aug. 12, 2004]

§§ 1.961–1.977 [Reserved]

§ 1.979 Return of Jurisdiction from the
Board of Patent Appeals and Inter-
fences; termination of appeal pro-
ceedings.

(a) Jurisdiction over an inter partes
reexamination proceeding passes to the
examiner after a decision by the Board
of Patent Appeals and Interferences
upon transmittal of the file to the ex-
aminer, subject to each appellant’s
right of appeal or other review, for
such further action as the condition of
the inter partes reexamination pro-
ceeding may require, to carry into ef-
fact the decision of the Board of Patent
Appeals and Interferences.

(b) Upon judgment in the appeal be-
fore the Board of Patent Appeals and
Interferences, if no further appeal has
been taken (§ 1.983), the prosecution in
the inter partes reexamination pro-
ceeding will be terminated and the Di-
rector will issue and publish a certifi-
cate under § 1.997 concluding the pro-
ceeding. If an appeal to the U.S. Court
of Appeals for the Federal Circuit has
been filed, that appeal is considered
terminated when the mandate is issued
by the Court.

[69 FR 50002, Aug. 12, 2004, as amended at 72
FR 18907, Apr. 16, 2007]

§ 1.981 Reopening after a final deci-
sion of the Board of Patent Appeals
and Interferences.

When a decision by the Board of Pat-
ent Appeals and Interferences on ap-
peal has become final for judicial re-
view, prosecution of the inter partes re-
examination proceeding will not be re-
opened or reconsidered by the primary
examiner except under the provisions
of § 41.77 of this title without the writ-
ten authority of the Director, and then
only for the consideration of matters
not already adjudicated, sufficient
cause being shown.

[69 FR 50002, Aug. 12, 2004]

§ 1.983 Appeal to the United States
Court of Appeals for the Federal Circuit
in inter partes reexamina-
tion.

(a) The patent owner or third party
requester in an inter partes reexamina-
tion proceeding who is a party to an
appeal to the Board of Patent Appeals
and Interferences and who is dissatis-
fied with the decision of the Board of
Patent Appeals and Interferences may,
subject to § 41.81, appeal to the U.S.
Court of Appeals for the Federal Cir-
cuit and may be a party to any appeal
thereof taken from a reexamination
decision of the Board of Patent Appeals
and Interferences.

(b) The appellant must take the fol-
lowing steps in such an appeal:

(1) In the U.S. Patent and Trademark
Office, timely file a written notice of