

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959, as amended at 34 FR 18857, Nov. 26, 1969; 47 FR 41278, Sept. 17, 1982; 49 FR 48452, Dec. 12, 1984; 65 FR 54676, Sept. 8, 2000; 65 FR 76774, Dec. 7, 2000; 69 FR 50000, Aug. 12, 2004; 77 FR 46625, Aug. 6, 2012]

§ 1.182 Questions not specifically provided for.

All situations not specifically provided for in the regulations of this part

will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(f).

[69 FR 56544, Sept. 21, 2004]

§ 1.183 Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f).

[69 FR 56544, Sept. 21, 2004]

§ 1.184 [Reserved]

APPEAL TO THE PATENT TRIAL AND APPEAL BOARD

AUTHORITY: Secs. 1.191 to 1.198 also issued under 35 U.S.C. 134.

§ 1.191 Appeal to Patent Trial and Appeal Board.

Appeals to the Patent Trial and Appeal Board under 35 U.S.C. 134(a) and (b) are conducted according to part 41 of this title.

[77 FR 46625, Aug. 6, 2012]

§§ 1.192–1.196 [Reserved]

§ 1.197 Termination of proceedings.

(a) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action except:

(1) Where claims stand allowed in an application; or

(2) Where the nature of the decision requires further action by the examiner.

(b) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the