

time to reply for *ex parte* reexamination proceedings.

#### §41.52 Rehearing.

(a)(1) Appellant may file a single request for rehearing within two months of the date of the original decision of the Board. No request for rehearing from a decision on rehearing will be permitted, unless the rehearing decision so modified the original decision as to become, in effect, a new decision, and the Board states that a second request for rehearing would be permitted. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Arguments not raised in the briefs before the Board and evidence not previously relied upon in the brief and any reply brief(s) are not permitted in the request for rehearing except as permitted by paragraphs (a)(2) and (a)(3) of this section. When a request for rehearing is made, the Board shall render a decision on the request for rehearing. The decision on the request for rehearing is deemed to incorporate the earlier opinion reflecting its decision for appeal, except for those portions specifically withdrawn on rehearing, and is final for the purpose of judicial review, except when noted otherwise in the decision on rehearing.

(2) Upon a showing of good cause, appellant may present a new argument based upon a recent relevant decision of either the Board or a Federal Court.

(3) New arguments responding to a new ground of rejection made pursuant to §41.50(b) are permitted.

(b) Extensions of time under §1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See §1.136(b) of this title for extensions of time to reply for patent applications and §1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

#### §41.54 Action following decision.

After decision by the Board, the proceeding will be returned to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the proceeding may

require, to carry into effect the decision.

### Subpart C—*Inter Partes* Appeals

#### §41.60 Definitions.

In addition to the definitions in §41.2, the following definitions apply to proceedings under this subpart unless otherwise clear from the context:

*Appellant* means any party, whether the owner or a requester, filing a notice of appeal or cross appeal under §41.61. If more than one party appeals or cross appeals, each appealing or cross appealing party is an appellant with respect to the claims to which his or her appeal or cross appeal is directed.

*Filing* means filing with a certificate indicating service of the document under §1.903 of this title.

*Owner* means the owner of the patent undergoing *inter partes* reexamination under §1.915 of this title.

*Proceeding* means an *inter partes* reexamination proceeding. Appeal to the Board in an *ex parte* reexamination proceeding is controlled by subpart B of this part. An *inter partes* reexamination proceeding is not a contested case subject to subpart D.

*Requester* means each party, other than the owner, who requested that the patent undergo *inter partes* reexamination under §1.915 of this title.

*Respondent* means any requester responding under §41.68 to the appellant's brief of the owner, or the owner responding under §41.68 to the appellant's brief of any requester. No requester may be a respondent to the appellant brief of any other requester.

#### §41.61 Notice of appeal and cross appeal to Board.

(a)(1) Upon the issuance of a Right of Appeal Notice under §1.953 of this title, the owner may appeal to the Board with respect to the final rejection of any claim of the patent by filing a notice of appeal within the time provided in the Right of Appeal Notice and paying the fee set forth in §41.20(b)(1).

(2) Upon the issuance of a Right of Appeal Notice under §1.953 of this title, the requester may appeal to the Board with respect to any final decision favorable to the patentability, including