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notification, the appeal will stand dismissed.

(35 U.S.C. 6, Pub. L. 97–247; 15 U.S.C. 1113, 1123)

[36 FR 5850, Mar. 30, 1971, as amended at 53 FR 23734, June 23, 1988; 58 FR 54510, Oct. 22, 1993; 60 FR 14518, Mar. 17, 1995]

§1.193 Examiner's answer.

(a) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to the appellant. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in §1.181.

(b) The appellant may file a reply brief directed only to such new points of argument as may be raised in the examiner's answer, within two months from the date of such answer. The new points of argument shall be specifically identified in the reply brief. If the examiner determines that the reply brief is not directed only to new points of argument raised in the examiner's answer, the examiner may refuse entry of the reply brief and will so notify the appellant. If the examiner's answer expressly states that it includes a new ground of rejection, appellant must file a reply thereto within two months from the date of such answer to avoid dismissal of the appeal as to the claims subject to the new ground of rejection; such reply may be accompanied by any amendment or material appropriate to the new ground. See §1.136(b) for extensions of time for filing a reply brief in a patent application and §1.550(c) for extensions of time in a reexamination proceeding.

(c) [Reserved]

[24 FR 10332, Dec. 22, 1959, as amended at 47 FR 21752, May 19, 1982; 57 FR 2035, Jan. 17, 1992; 58 FR 54510, Oct. 22, 1993]

§1.194 Oral hearing.

(a) An oral hearing should be requested only in those circumstances in which the appellant considers such a hearing necessary or desirable for a proper presentation of his appeal. An appeal decided without an oral hearing will receive the same consideration by the Board of Patent Appeals and Interferences as appeals decided after oral hearing.

(b) If appellant desires an oral hearing, appellant must file a written request for such hearing accompanied by the fee set forth in §1.17(g) within two months after the date of the examiner's answer. If appellant requests an oral hearing and submits therewith the fee set forth in §1.17(g), an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board. See §1.136(b) for extensions of time for requesting an oral hearing in a patent application and §1.550(c) for extensions of time in a reexamination proceeding.

(c) If no request and fee for oral hearing have been timely filed by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing and has submitted the fee set forth in §1.17(g), a day of hearing will be set, and due notice thereof given to the appellant and to the primary examiner. Hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for the appellant and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[42 FR 5595, Jan. 28, 1977, as amended at 47 FR 41278, Sept. 17, 1982; 49 FR 48453, Dec. 12, 1984; 58 FR 54510, Oct. 22, 1993]

§1.195 Affidavits or declarations after appeal.

Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

[34 FR 18858, Nov. 26, 1969]

§1.196 Decision by the Board of Patent Appeals and Interferences.

(a) The Board of Patent Appeals and Interferences, in its decision, may affirm or reverse the decision of the examiner in whole or in part on the grounds and on the claims specified by