

(1) Except as otherwise provided in this part or as the Board may authorize in writing, a party may:

(i) File the petition within 14 calendar days from the date of the action from which the party is requesting relief, and

(ii) File any request for reconsideration of a petition decision within 14 calendar days of the decision on petition or such other time as the Board may set.

(2) A party may not file an opposition or a reply to a petition without Board authorization.

§ 41.4 Timeliness.

(a) *Extensions of time.* Extensions of time will be granted only on a showing of good cause except as otherwise provided by rule.

(b) *Late filings.* Late filings will not be considered absent a showing of excusable neglect or a Board determination that consideration on the merits would be in the interest of justice.

(c) *Scope.* This section governs all proceedings before the Board, but does not apply to Board-related proceedings outside the Board, such as:

(1) *Seeking judicial review* (see §§ 1.301–1.304 of this title) or

(2) *Extensions during prosecution* (see § 1.136 of this title).

§ 41.5 Counsel.

While the Board has jurisdiction:

(a) *Appearance pro hac vice.* The Board may authorize a person other than a patent practitioner to appear as counsel in a specific proceeding.

(b) *Disqualification.* (1) The Board may disqualify counsel in a specific proceeding after notice and an opportunity to be heard.

(2) A decision to disqualify is not final for the purposes of judicial review until certified by the Chief Administrative Patent Judge.

(c) *Withdrawal.* Counsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal.

(d) *Procedure.* The Board may institute a proceeding under this section on its own or a party in a contested case may request relief under this section.

(e) *Referral to the Director of Enrollment and Discipline.* The Board may refer a question arising under paragraphs (a) or (b) of this section to the Director of Enrollment and Discipline for action.

§ 41.6 Public availability of Board records.

(a) *Publication.*—(1) *Generally.* Any Board action is available for public inspection without a party's permission if rendered in a file open to the public

pursuant to § 1.11 of this title or in an application that has been published in accordance with §§ 1.211 through 1.221 of this title. The Office may independently publish any Board action that is available for public inspection.

(2) *Determination of special circumstances.* Any Board action not publishable under paragraph (a)(1) of this section may be published or made available for public inspection if the Director believes that special circumstances warrant publication and a party does not, within two months after being notified of the intention to make the action public, object in writing on the ground that the action discloses the objecting party's trade secret or other confidential information and states with specificity that such information is not otherwise publicly available. If the action discloses such information, the party shall identify the deletions in the text of the action considered necessary to protect the information. If the affected party considers that the entire action must be withheld from the public to protect such information, the party must explain why. The party will be given time, not less than twenty days, to request reconsideration and seek court review before any contested portion of the action is made public over its objection.

(b) *Record of proceeding.*—(1) The record of a Board proceeding is available to the public unless a patent application not otherwise available to the public is involved.

(2) Notwithstanding paragraph (b)(1) of this section, after a final Board action in or termination of a Board proceeding, the record of the Board proceeding will be made available to the public if any involved file is or becomes open to the public under § 1.11 of this title or an involved application is or becomes published under §§ 1.211–1.221 of this title.

§ 41.7 Management of the record.

(a) The Board may expunge any paper that is not authorized under this part or in a Board order, or that is filed contrary to a Board order.

(b) A party may not file a paper previously filed in the same Board proceeding, not even as an exhibit or appendix, without Board authorization.

§ 41.8 Mandatory notices.

In an appeal (§§ 41.37, 41.67, or § 41.68) or at the initiation of a contested case (§ 41.101), and within 20 days of any change during the proceeding, a party must identify:

- (a) Its real party-in-interest, and
- (b) Each judicial or administrative proceeding that could affect, or be

affected by, the Board proceeding, specifically including judicial review of the Board proceeding.

§ 41.9 Action by owner.

(a) *Entire interest.* An owner of the entire interest in an application or patent involved in a Board proceeding may act in the proceeding to the exclusion of the inventor (see § 3.73(b) of this title).

(b) *Part interest.* An owner of a part interest in an application or patent involved in a Board proceeding may petition to act in the proceeding to the exclusion of an inventor or a co-owner. The petition must show the inability or refusal of an inventor or co-owner to prosecute the proceeding or other cause why it is in the interest of justice to permit the owner of a part interest to act in the proceeding. An order granting the petition may set conditions on the actions of the parties during the proceeding.

§ 41.20 Fees.

(a) *Petition fee.* The fee for filing a petition under this part is—\$ 130.00.

(b) *Appeal fees.*

(1) For filing a notice of appeal from the examiner to the Board:

(i) By a small entity (§ 1.27(a) of this title)—\$165.00.

(ii) By other than a small entity—\$330.00.

(2) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

(i) By a small entity (§ 1.27(a) of this title)—\$165.00.

(ii) By other than a small entity—\$330.00.

(3) For filing a request for an oral hearing before the Board in an appeal under 35 U.S.C. 134:

(i) By a small entity (§ 1.27(a) of this title)—\$145.00

(ii) By other than a small entity—\$290.00.

Subpart B—Ex parte Appeals to the Board

§ 41.30 Definitions.

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

Proceeding means either a national application for a patent, an application for reissue of a patent, or an *ex parte* reexamination proceeding. Appeal to the Board in an *inter partes* reexamination proceeding is controlled by subpart C of this part.

Applicant means either the applicant in a national application for a patent or the applicant in an application for reissue of a patent.