1.997), no paper shall be filed prior to the first Office action. If an unauthorized paper is filed by the patent owner or third party requester, it will not be considered in making the determination under § 1.923 and will be returned.

§ 1.941 Amendments by patent owner and their effective date.

(a) Any proposed amendment to the description and claims must be made in accordance with § 1.121(f) and be accompanied by an explanation of the support for the proposed amendment in the disclosure of the patent. No amendment may enlarge the scope of the claims of the patent or introduce new matter. No amendment may be proposed for entry in an expired patent. Moreover, no amendment will be incorporated into the patent by certificate issued after the expiration of the patent.

(b) Amendments made to a patent during a reexamination proceeding will not be effective until a reexamination certificate is issued.

§1.943 Length of responses and briefs.

Responses and appellant briefs by the patent owner (including amendments) and third party requester, if any, shall not exceed 50 pages in length, excluding Appendix of claims and reference materials such as prior art references. All further briefs by any party shall not exceed 35 pages in length.

§1.945 Response by patent owner.

The patent owner will be given at least thirty (30) days to respond to any Office action. Such response may include arguments in response to any rejections and/or proposed amendments or new claims to place the patent in condition where all claims, if amended as proposed, would be patentable.

§1.947 Response by third party requester to patent owner's response.

If the patent owner files a response to an Office action, any third party requester may once file written comments within a period of one month from the date of service of the patent owner's response. These comments shall be limited to issues covered by the action or the patent owner's response.

§ 1.949 Examiner's Office action closing prosecution.

Upon consideration of the issues and/ or grounds of rejection a second or subsequent time, or upon allowance of all claims, the examiner shall issue an Office action treating all claims present in the reexamination proceeding, which may be an action closing prosecution. An action will not normally close prosecution if it includes a new ground of rejection which was not previously addressed by the patent owner, unless the new ground was necessitated by an amendment.

§1.951 Responses after Office action closing prosecution.

After any action closing prosecution issued by the examiner, the third party requester may once file written comments limited to the issues raised in the Office action closing prosecution. Such comments must be filed within the time set for response in the action closing prosecution. When the third party requester does file such comments, the patent owner may file comments responding to the third party requester's comments within one month from the date of service of the third party requester's comments on the patent owner.

(b) After any action closing prosecution issued by the examiner, the patent owner may once file written comments limited to the issues raised in the reexamination proceeding and/or present a proposed amendment to the claims which amendment will be subject to the criteria of § 1.116 as to whether it shall be entered and/or considered. Such comments and/or proposed amendments must be filed within the time set for response in the action closing prosecution. Where the patent owner does file such comments and/or proposed amendment, the third party requester may file comments responding to such comments and/or proposed amendments by the patent owner within one month from the date of service of patent owner's comments and/or proposed amendment on the third party requester.

§ 1.953 Examiner's Right of Appeal Notice.

Upon considering the responses of the patent owner and any third party requester subsequent to the Office action closing prosecution, or upon expiration of the time for submitting such responses, the examiner shall issue a "Right of Appeal Notice," unless the examiner reopens prosecution. The "Right of Appeal Notice" shall include a final rejection and/or final decision favorable to patentability which shall identify the status of each claim and reasons for patentability or grounds of rejection for each claim. It shall set a 30day or one month time period, whichever is longer, for either party to appeal. If no appeal follows, the reexamination proceeding will be terminated and the Commissioner will proceed to issue a certificate under § 1.997 in accordance with the last action of the Office.

Interviews

§1.955 Interviews in reexamination proceedings.

(a) Interviews in reexamination proceedings pending before the Office between examiners and the owners of such patents or their attorneys or agents of record must be had in the Office at such times, within Office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews should be arranged for in advance. A third party requester may not initiate an interview. A third party requester has a right to participate in an interview initiated by the patent owner or the examiner and must be given adequate notice and opportunity to participate. A senior level Office official will be present when the interview is attended by a third party requester.

(b) Interviews for the discussion of the patentability of claims in patents involved in reexamination proceedings will not be initiated by the patent owner prior to the first Office action thereon.

(c) In every instance of an interview with an examiner, each party must present a statement of the issues which were discussed. An interview does not remove the necessity for response to Office actions as specified in § 1.111.

Extensions of Time and Revival of Proceedings

§1.957 Extensions of time and cause for termination in reexamination proceedings.

(a) The time for taking any action by a patent owner or third party requester in a reexamination proceeding will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the patent owner or third party requester is due, but in no case will the mere filing of a request effect any extension. See § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit.

(b) If the patent owner fails to file a timely and appropriate response to any Office action in a reexamination proceeding, the reexamination proceeding will be terminated and the Commissioner will proceed to issue a certificate under § 1.997 in accordance with the last action of the Office, unless there is a third party requester and claims are found patentable.

(c) If there is a third party requester and claims are found patentable, and the patent owner fails to file a timely and appropriate response to any action in a reexamination proceeding,