statement of the status of claims. If appellant's statement of the status of claims is disputed, the errors in appellant's statement must be specified with particularity.

(4) Status of amendments. A statement accepting or disputing appellant's statement of the status of amendments. If appellant's statement of the status of amendments is disputed, the errors in appellant's statement must be specified with particularity.

- (5) Summary of invention. A statement accepting or disputing appellant's summary of the invention or subject matter defined in the claims involved in the appeal. If appellant's summary of the invention or subject matter defined in the claims involved in the appeal is disputed, the errors in appellant's summary must be specified with particularity. A counter explanation of the invention may be made.
- (6) Issues. A statement accepting or disputing appellant's statement of the issues presented for review and identifying any examiner's determination not to make a rejection proposed by the third party requester. If appellant's statement of the issues presented for review is disputed, the errors in appellant's statement must be specified with particularity. A counter statement of the issues for review may be made.
- (7) Grouping of claims. A statement accepting or disputing any statement by appellant that allowed or rejected claims stand or fall together. If appellant's statement is disputed, the errors in appellant's statement must be specified with particularity. A counter statement may be made.
- (8) Argument. A statement accepting or disputing the contentions of the appellant with respect to each of the issues. If a contention of the appellant or a determination of the examiner not to make a rejection proposed by the requester is disputed, the errors in appellant's argument or examiner's determination must be specified with particularity, stating the basis therefor, with citations of the authorities, statutes and parts of the record relied on. Each issue should be treated under a separate heading. An argument may be made with respect to each of the issues stated in the counter statement of the issues. with each counter stated issue being treated under a separate heading. The provisions of §§ 1.965(c)(8)(iii) and (iv) of these regulations shall apply to any argument raised under 35 U.S.C. 102 or
- (c) If a respondent brief is filed which does not comply with all the requirements of paragraph (b) of this

section, respondent will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. If the respondent does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the respondent brief will not be received into the record and will not be considered.

§1.969 Examiner's answer.

The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the patent owner's and/or third party requester's appellant brief or respondent brief including such explanation of the invention claimed and of the references and grounds of rejection or reasons for patentability as may be necessary, supplying a copy to the patent owner and each third party requester, if any. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he or she shall so state and a petition from such decision may be taken to the Commissioner as provided in § 1.181.

§1.971 Reply brief.

(A) The patent owner and any third party requester may each file a reply brief directed only to such new points of argument as may be raised in the examiner's answer, within one month 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 directly 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.

appellant.

(b) If the examiner's answer expressly states that it includes a new ground of rejection or allowance of claims not previously allowed, the party adversely affected must file a reply thereto within one month from the date of such answer to avoid dismissal of the appeal as to the claims subject to the new ground of rejection or allowance; such reply may be accompanied by any amendment (in the case of the patent owner) or material appropriate to the new ground. See § 1.957 for extensions of time for filing a reply brief.

§ 1.973 Oral hearing.

(a) An oral hearing should be requested only in those circumstances in which the appellant, or a respondent who has filed a respondent brief under § 1.967, considers such a hearing

necessary or desirable for a proper presentation of the appeal. An appeal decided without an oral hearing will receive the same consideration by the Board of Patent Appeals and Interferences as an appeal decided after oral hearing.

(b) If appellant, or a respondent who has filed a respondent brief under § 1.967, desires an oral hearing, he or she must file a written request for such hearing accompanied by the fee set forth in § 1.17(g) within one month after the date of the examiner's answer. If appellant, or a respondent who has filed a respondent brief under § 1.967, 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 § 1.957 for extensions of time in a reexamination proceeding

(c) If no request and fee for oral hearing have been timely filed by an appellant or a respondent who has filed a respondent brief under § 1.967, the appeal will be assigned for consideration and decision. If an appellant or respondent who has filed a respondent brief under § 1.967 has requested an oral hearing and has submitted the fee set forth in § 1.17(g), a hearing date will be set, and notice thereof given to each appellant, to the primary examiner and to each respondent who has filed a respondent brief under § 1.967. The notice shall set a period within which all requests for oral hearing shall be submitted. Hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for each appellant and respondent, and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins.

§1.975 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.

§1.977 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 the examiner, or on the grounds presented by a third party requester, or remand the reexamination proceeding to the examiner for further consideration. The affirmance of the rejection or allowance of a claim on any of the grounds