DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 41
[Docket No.: PTO–P–2008–0054]

Clariﬁcation of the Effective Date
Provision in the Final Rule for Ex Parte
Appeals

AGENCY: United States Patent and
Trademark Office, Commerce.

ACTION: Interpretation and effective date
clarification.

SUMMARY: On June 10, 2008, the United
States Patent and Trademark Office
(Office) published the ﬁnal rule that
amends the rules governing practice
before the Board of Patent Appeals and
Interferences (BPAI) in ex parte patent
appeals. The effective date provision in
the ﬁnal rule states that the effective
date is December 10, 2008, and the ﬁnal
rule shall apply to all appeals in which
an appeal brief is ﬁled on or after the
effective date. The ﬁnal rule requires, in
part, appeal briefs in a new format
relative to the format required prior to
the rule revision. The Ofﬁce has received
appeal briefs in the new format under the
ﬁnal rule before the effective date. The Ofﬁce
will not hold an appeal brief as non-
compliant solely for following the new
format even though it is ﬁled before the
effective date.

Accordingly, appeal briefs ﬁled before
December 10, 2008, must either comply
with current 37 CFR 41.37 (in effect
before December 10, 2008) or revised
37 CFR 41.37 (in effect on or after
December 10, 2008). Appeal briefs ﬁled
on or after December 10, 2008, must
comply with the revised 37 CFR 41.37.
A certiﬁcate of mailing or transmission
in compliance with 37 CFR 1.8 will be
applicable to determine whether the
appeal brief was ﬁled prior to the
effective date in order to determine
which rule applies. For any appeal brief
ﬁled in the new format under the revised
37 CFR 41.37, the Ofﬁce will provide an
examiner’s answer in the new format
under revised 37 CFR 41.39 if the
appeal is maintained.

Similarly, a notice of appeal ﬁled
before December 10, 2008, in
compliance with revised 37 CFR 41.31
(in effect on or after December 10, 2008)
will be accepted by the Ofﬁce. Thus
a notice of appeal ﬁled before
December 10, 2008, must either comply
with current 37 CFR 41.31 (in effect
before December 10, 2008) or revised
37 CFR 41.31 (in effect on or after
December 10, 2008), regardless of the
date of ﬁling of the appeal brief. However,
a notice of appeal ﬁled on or after
December 10, 2008, must comply with the
revised 37 CFR 41.31 (e.g., the notice of
appeal must be signed in accordance with
37 CFR 1.33(b)).

The Ofﬁce has held a few appeal
briefs ﬁled in the new format prior to
the publication of this clariﬁcation
notice non-compliant. Any appellant
who has received a notice of non-
compliant appeal brief may request
that the notice of non-compliant appeal
brief be withdrawn if the sole reason for
non-compliance is that the appeal brief
was presented in the new format.


Jon W. Dudas,
Under Secretary of Commerce for Intellectual
Property and Director of the United States
Patent and Trademark Ofﬁce.

[SFR Doc. E8–27357 Filed 11–19–08; 8:45 am]

BILLING CODE 3510–16–P

FEDERAL COMMUNICATIONS
COMMISSION

47 CFR Part 73

[FR 2008–205; MB Docket No. 04–219; RM–
10986]

Radio Broadcasting Services;
Evergreen, AL and Shalimar, FL

AGENCY: Federal Communications
Commission.

ACTION: Final rule; denial.

SUMMARY: This document denies an
Application for Review ﬁled by Quantum
of Fort Walton Beach License Company,
LLC directed to the Memorandum
Opinion and Order in this proceeding.
With this action, the proceeding is
terminated.


FOR FURTHER INFORMATION CONTACT:
Robert Hayne, Media Bureau, (202) 418–
2177.

SUPPLEMENTARY INFORMATION: This is a
synopsis of the Memorandum Opinion
and Order in MB Docket No. 04–219,
adopted September 5, 2008, and
released October 31, 2008. The full text
of this decision is available for
inspection and copying during normal
business hours in the FCC Reference
Information Center at Portals II, CY–
A257, 445 12th Street, SW.,
Washington, DC 20554. The complete
text of this decision may also be
purchased from the Commission’s copy
contractor, Best Copy and Printing, Inc.,
445 12th Street, SW., Room CY–B402,
Washington, DC 20554, telephone
1–800–378–3160 or http://
www.BCPWEB.com. The Commission
will not send a copy of this
Memorandum Opinion and Order
pursuant to the Congressional Review
Act, see 5 U.S.C. 801(a)(1)(A), because
the adopted rules are rules of particular
applicability. This document does not
contain new or modiﬁed information
collection requirements subject to the
Paperwork Reduction Act of 1995
(PRA), Public Law 104–13. In addition,
therefore, it does not contain any new
or modiﬁed “information collection
burden for small business concerns
with fewer than 25 employees,” pursuant
to the Small Business Paperwork
Relief Act of 2002, Public Law 107–190,
see 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[SFR Doc. E8–27665 Filed 11–19–08; 8:45 am]

BILLING CODE 6712–01–P