

**The U.S. Patent & Trademark Office
Patent Appeals Center
Board of Patent Appeals and Interferences**

TOP EIGHT REASONS APPEAL BRIEFS ARE NON-COMPLIANT

- 1. RELATED APPEALS AND INTERFERENCES -- Missing or Defective**
Appellant must provide “A statement identifying by application, appeal or interference number all other prior and pending appeals, interferences, or judicial proceedings known to appellant, the appellant’s legal representative, or assignee which may be related to, directly affect or be directly affected by or having a bearing on the Board’s decision in the pending appeal.” See 37 CFR 41.37(c)(1)(ii).
- 2. STATUS OF CLAIMS -- Missing or Defective**
Appellant must provide “A statement of the status of all claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected, canceled) AND an identification of those claims that are being appealed.” (emphasis added).
See 37 CFR 41.37(c)(1)(iii).
- 3. STATUS OF AMENDMENTS -- Missing or incomplete**
Appellant must provide “A statement of the status of any amendment filed subsequent to final rejection” in the brief. See 37 CFR 41.37(c)(1)(iv). NOTE: Any amendments that have NOT been entered by the examiner should not be presumed as entered at the time of filing of the brief.
- 4. SUMMARY OF CLAIMED SUBJECT MATTER -- Missing or incomplete**
Appellant must provide “A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 USC 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing if any, by reference characters.” See 37 CFR 41.37(c)(1)(v).
NOTE: Appellant’s reference to a corresponding PreGrant Publication is not proper.
- 5. CLAIMS APPENDIX – Missing or incomplete**
Appellant must provide “An appendix containing a copy of the claims involved in the appeal.” See 37 CFR 41.37(c)(1)(viii).

- 6. EVIDENCE FILED UNDER 37 CFR 41.33(d)(1) and (d)(2) -- Untimely filed**
An affidavit or other evidence filed after the date of filing an appeal pursuant to 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made.” 37 CFR 41.33(d)(1). All other affidavits or other evidence filed after the date of filing an appeal pursuant to 41.31(a)(1) through (a)(3) will not be admitted except as permitted by 41.39(b)(1). 37 CFR 41.33(d)(2).
- 7. EVIDENCE APPENDIX -- Missing**
In the brief, appellant must provide “An appendix containing copies of any evidence submitted pursuant to 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied on by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner.” See 37 CFR 41.37(c)(1)(ix).
- 8. RELATED PROCEEDINGS APPENDIX -- Missing**
Appellant must provide “An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR 41.37(c)(1)(ii).”