

copies by comparison with the originals or

(2) Offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the documents and things may be used in the same manner as if annexed to the certified transcript.

The exhibits shall then be filed as specified in §1.653(i). If the weight or bulk of a document or thing shall reasonably prevent the document or thing from being annexed to the certified transcript, it shall, unless waived on the record at the deposition by all parties, be authenticated by the officer and forwarded to the Commissioner in a separate package marked and addressed as provided in this paragraph.

[49 FR 48455, Dec. 12, 1984; 50 FR 23124, May 31, 1985, as amended at 60 FR 14533, Mar. 17, 1995]

§1.677 Form of an affidavit or a transcript of deposition.

(a) An affidavit or a transcript of a deposition must be on opaque, unglazed, durable paper approximately 21.8 by 27.9 cm. (8½ by 11 inches) in size (letter size). The printed matter shall be double-spaced on one side of the paper in not smaller than 11 point type with a margin of 3.8 cm. (1½ inches) on the left-hand side of the page. The pages of each transcript must be consecutively numbered and the name of the witness shall appear at the top of each page (§1.653(e)). In transcripts of depositions, the questions propounded to each witness must be consecutively numbered unless paper with numbered lines is used and each question must be followed by its answer.

(b) Exhibits must be numbered consecutively to the extent possible and each must be marked as required by §1.653(i).

[60 FR 14533, Mar. 17, 1995]

§1.678 Time for filing transcript of deposition.

Unless otherwise ordered by an administrative patent judge, a certified transcript of a deposition must be filed in the Patent and Trademark Office within one month after the date of deposition. If a party refuses to file a cer-

tified transcript, the administrative patent judge or the Board may take appropriate action under §1.616. If a party refuses to file a certified transcript, any opponent may move for leave to file the certified transcript and include a copy of the transcript as part of the opponent's record.

[60 FR 14533, Mar. 17, 1995]

§1.679 Inspection of transcript.

A certified transcript of a deposition filed in the Patent and Trademark Office may be inspected by any party. The certified transcript may not be removed from the Patent and Trademark Office unless authorized by an administrative patent judge upon such terms as may be appropriate.

[60 FR 14533, Mar. 17, 1995]

§1.682 Official records and printed publications.

(a) A party may introduce into evidence, if otherwise admissible, an official record or printed publication not identified in an affidavit or on the record during an oral deposition of a witness, by filing a copy of the official record or printed publication or, if appropriate, a notice under §1.671(e). If the official record or printed publication relates to the party's case-in-chief, it shall be filed or noticed together with any affidavits filed by the party under §1.672(b) for its case-in-chief or, if the party does not serve any affidavits under §1.672(b) for its case-in-chief, no later than the date set by an administrative patent judge for the party to file affidavits under §1.672(b) for its case-in-chief. If the official record or printed publication relates to rebuttal, it shall be filed or noticed together with any affidavits filed by the party under §1.672(b) for its case-in-rebuttal or, if the party does not file any affidavits under §1.672(b) for its case-in-rebuttal, no later than the date set by an administrative patent judge for the party to file affidavits under §1.672(b) for its case-in-rebuttal. Official records and printed publications filed under this paragraph shall be assigned sequential exhibit numbers by the party in the manner set forth in

§ 1.683

37 CFR Ch. I (7-1-99 Edition)

§ 1.672(b). The official record and printed publications shall be accompanied by a paper which shall:

- (1) Identify the official record or printed publication;
- (2) Identify the portion thereof to be introduced in evidence; and
- (3) Indicate generally the relevance of the portion sought to be introduced in evidence.

(b) [Reserved]

(c) Unless otherwise ordered by an administrative patent judge, any written objection by an opponent to the paper or to the admissibility of the official record or printed publication shall be filed no later than the date set by the administrative patent judge for the opponent to file objections under § 1.672(c) to affidavits submitted by the party under § 1.672(b). An opponent who fails to object to the admissibility of the official record or printed publication on a ground that could have been raised in a timely objection under this paragraph will not be entitled to move under § 1.656(h) to suppress the evidence on that ground. If an opponent timely files an objection, the party may respond by filing one or more supplemental affidavits, official records or printed publications, which must be filed together with any supplemental evidence filed by the party under § 1.672(c) or, if the party does not file any supplemental evidence under § 1.672(c), no later than the date set by an administrative patent judge for the party to file supplemental affidavits under § 1.672(c). No objection to the admissibility of the supplemental evidence shall be made, except as provided by § 1.656(h). The pages of supplemental affidavits and the exhibits filed under this section shall be sequentially numbered by the party in the manner set forth in § 1.672(c). The supplemental affidavits and exhibits shall be accompanied by an index of witnesses and an index of exhibits of the type required by § 1.672(b).

(d) Any request by an opponent to cross-examine on oral deposition the affiant of a supplemental affidavit submitted under paragraph (c) of this section shall be filed no later than the date set by the administrative patent judge for the opponent to file a request to cross-examine an affiant with re-

spect to an affidavit served by the party under § 1.672 (b) or (c). If any opponent requests cross-examination of an affiant, the party shall file notice of a deposition for a reasonable location within the United States under § 1.673(e) for the purpose of cross-examination by any opponent. Any redirect and recross shall take place at the deposition. At any deposition for the purpose of cross-examination of a witness, the party shall not be entitled to rely on any document or thing not mentioned in one or more of the affidavits filed under this paragraph, except to the extent necessary to conduct proper redirect. The party who gives notice of a deposition shall be responsible for providing a translator if the witness does not testify in English, for obtaining a court reporter, and for filing a certified transcript of the deposition as required by § 1.676. Within 45 days of the close of the period for taking cross-examination, the party shall serve (but not file) a copy of each deposition transcript on each opponent together with copies of any additional documentary exhibits identified by the witness during the deposition. The pages of deposition transcripts and exhibits served under this paragraph shall be sequentially numbered by the party in the manner set forth in § 1.672(d). The deposition transcripts shall be accompanied by an index of the names of the witnesses, giving the number of the page where cross-examination, redirect and recross of each witness begins, and an index of exhibits of the type specified in § 1.672(b).

[60 FR 14533, Mar. 17, 1995]

§ 1.683 Testimony in another interference, proceeding, or action.

(a) A party may introduce into evidence, if otherwise admissible, testimony by affidavit or oral deposition and referenced exhibits from another interference, proceeding, or action involving the same parties by filing a copy of the affidavit or a copy of the transcript of the oral deposition and the referenced exhibits. If the testimony and referenced exhibits relate to the party's case-in-chief, they shall be filed together with any affidavits served by the party under § 1.672(b) for its case-in-chief or, if the party does