

(k) *Objections to admissibility:* Subject to the provisions of paragraph (j) of this section, objection may be made to receiving in evidence any deposition, or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence from consideration. Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony must be raised at the time specified in Rule 32(d)(3)(A) of the Federal Rules of Civil Procedure. Such objections will not be considered until final hearing.

(1) *Evidence not considered.* Evidence not obtained and filed in compliance with these sections will not be considered.

[37 FR 7607, Apr. 18, 1972, as amended at 41 FR 760, Jan. 5, 1976; 48 FR 23139, May 23, 1983; 54 FR 34899, Aug. 22, 1989; 54 FR 38041, Sept. 14, 1989; 63 FR 48099, Sept. 9, 1998; 68 FR 14337, Mar. 25, 2003; 68 FR 48289, Aug. 13, 2003; 68 FR 55767, Sept. 26, 2003; 72 FR 42262, Aug. 1, 2007]

§ 2.124 Depositions upon written questions.

(a) A deposition upon written questions may be taken before any person before whom depositions may be taken as provided by Rule 28 of the Federal Rules of Civil Procedure.

(b)(1) A party desiring to take a testimonial deposition upon written questions shall serve notice thereof upon each adverse party within ten days from the opening date of the testimony period of the party who serves the notice. The notice shall state the name and address of the witness. A copy of the notice, but not copies of the questions, shall be filed with the Trademark Trial and Appeal Board.

(2) A party desiring to take a discovery deposition upon written questions shall serve notice thereof upon each adverse party and shall file a copy of the notice, but not copies of the questions, with the Board. The notice shall state the name and address, if known, of the person whose deposition is to be taken. If the name of the person is not known, a general description sufficient to identify him or the particular class or group to which he belongs shall be stated in the notice, and the party from whom the discovery deposition is to be taken shall designate one or more persons to be de-

posed in the same manner as is provided by Rule 30(b)(6) of the Federal Rules of Civil Procedure.

(c) Every notice given under the provisions of paragraph (b) of this section shall be accompanied by the name or descriptive title of the officer before whom the deposition is to be taken.

(d)(1) Every notice served on any adverse party under the provisions of paragraph (b) of this section shall be accompanied by the written questions to be propounded on behalf of the party who proposes to take the deposition. Within twenty days from the date of service of the notice, any adverse party may serve cross questions upon the party who proposes to take the deposition; any party who serves cross questions shall also serve every other adverse party. Within ten days from the date of service of the cross questions, the party who proposes to take the deposition may serve redirect questions on every adverse party. Within ten days from the date of service of the redirect questions, any party who served cross questions may serve recross questions upon the party who proposes to take the deposition; any party who serves recross questions shall also serve every other adverse party. Written objections to questions may be served on a party propounding questions; any party who objects shall serve a copy of the objections on every other adverse party. In response to objections, substitute questions may be served on the objecting party within ten days of the date of service of the objections; substitute questions shall be served on every other adverse party.

(2) Upon motion for good cause by any party, or upon its own initiative, the Trademark Trial and Appeal Board may extend any of the time periods provided by paragraph (d)(1) of this section. Upon receipt of written notice that one or more testimonial depositions are to be taken upon written questions, the Trademark Trial and Appeal Board shall suspend or reschedule other proceedings in the matter to allow for the orderly completion of the depositions upon written questions.

(e) Within ten days after the last date when questions, objections, or substitute questions may be served, the

party who proposes to take the deposition shall mail a copy of the notice and copies of all the questions to the officer designated in the notice; a copy of the notice and of all the questions mailed to the officer shall be served on every adverse party. The officer designated in the notice shall take the testimony of the witness in response to the questions and shall record each answer immediately after the corresponding question. The officer shall then certify the transcript and mail the transcript and exhibits to the party who took the deposition.

(f) The party who took the deposition shall promptly serve a copy of the transcript, copies of documentary exhibits, and duplicates or photographs of physical exhibits on every adverse party. It is the responsibility of the party who takes the deposition to assure that the transcript is correct (see § 2.125(b)). If the deposition is a discovery deposition, it may be made of record as provided by § 2.120(j). If the deposition is a testimonial deposition, the original, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be filed promptly with the Trademark Trial and Appeal Board.

(g) Objections to questions and answers in depositions upon written questions may be considered at final hearing.

[48 FR 23139, May 23, 1983]

§ 2.125 Filing and service of testimony.

(a) One copy of the transcript of testimony taken in accordance with § 2.123, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be served on each adverse party within thirty days after completion of the taking of that testimony. If the transcript with exhibits is not served on each adverse party within thirty days or within an extension of time for the purpose, any adverse party which was not served may have remedy by way of a motion to the Trademark Trial and Appeal Board to reset such adverse party's testimony and/or briefing periods, as may be appropriate. If the deposing party fails to serve a copy of the transcript with exhibits on an adverse party after having been ordered to do

so by the Board, the Board, in its discretion, may strike the deposition, or enter judgment as by default against the deposing party, or take any such other action as may be deemed appropriate.

(b) The party who takes testimony is responsible for having all typographical errors in the transcript and all errors of arrangement, indexing and form of the transcript corrected, on notice to each adverse party, prior to the filing of one certified transcript with the Trademark Trial and Appeal Board. The party who takes testimony is responsible for serving on each adverse party one copy of the corrected transcript or, if reasonably feasible, corrected pages to be inserted into the transcript previously served.

(c) One certified transcript and exhibits shall be filed with the Trademark Trial and Appeal Board. Notice of such filing shall be served on each adverse party and a copy of each notice shall be filed with the Board.

(d) Each transcript shall comply with § 2.123(g) with respect to arrangement, indexing and form.

(e) Upon motion by any party, for good cause, the Trademark Trial and Appeal Board may order that any part of a deposition transcript or any exhibits that directly disclose any trade secret or other confidential research, development, or commercial information may be filed under seal and kept confidential under the provisions of § 2.27(e). If any party or any attorney or agent of a party fails to comply with an order made under this paragraph, the Board may impose any of the sanctions authorized by § 2.120(g).

[48 FR 23140, May 23, 1983, as amended at 54 FR 34900, Aug. 22, 1989; 63 FR 48099, Sept. 9, 1998]

§ 2.126 Form of submissions to the Trademark Trial and Appeal Board.

(a) Submissions may be made to the Trademark Trial and Appeal Board on paper where Board practice or the rules in this part permit. A paper submission, including exhibits and depositions, must meet the following requirements:

(1) A paper submission must be printed in at least 11-point type and double-