

CD-ROM Filings at Trial and Beyond

by
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For motions and briefs, using digital formats — such as a CD-ROM format — may provide significant benefits. Very few courts, however, accept electronic documents for filing *in place of* paper documents. Thus, for now, computer media may be used only to supplement those traditional filings. This paper discusses the following issues related to CD-ROM filings: (1) when CD-ROM filings may be allowed in trial and appellate courts; (2) what the disk may and should contain; and (3) what technical requirements may apply to such CD-ROM filings.

Because CD-ROM filings are far from standard, and are sometimes unacceptable, this article is necessarily forward-looking. Still, given the rapid change in technology, the issues addressed here will almost certainly arise soon in many courts.

This article focuses on the CD-ROM format because of its widespread use and adoption. But many issues discussed in this article apply equally to filing other types of computer media.

I. BENEFITS OF CD-ROMS

One advantage asserted for CD-ROM filing is the author's ability to make the document interactive through hypertext. Hypertext contains links that enable the reader to move instantly from one point in the document to another point in that document or in another document. In this way, the reader can view material in a nonlinear fashion. On the World Wide Web, such nonlinear viewing is achieved through the HyperText Markup Language (HTML).

Many document formats, including word-processor formats, allow documents to be presented as hypertext. In any brief, a lawyer can provide hypertext references to caselaw, statutes, and exhibits. In an appellate brief, hypertext is especially valuable for easy reference to the record. In either case, a reader can examine the cited document far more quickly and easily than with a paper filing.

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Indeed, early articles on submitting briefs on CD-ROM focused on the use of hypertext as the key feature.¹ While hypertext links can be a benefit to some judges who are comfortable reading long documents on a computer screen, the effort and expense of implementing that feature may not be justified in some cases. But even without the hypertext feature, attorneys should still consider using CD-ROM technology because of its other important benefits.

The large storage capacity of a CD-ROM allows counsel to supply the court with copies of large documents in a very compact format. And if properly prepared, the disk allows the court to use the computer to rapidly search those large documents for a particular word or phrase. The third section of this article discusses how to prepare CD-ROM documents to facilitate such searches.

CD-ROMs also allow counsel to include digital copies of exhibits such as photographs and videotapes to ensure that a court has convenient access to them. Many appellate records contain poor-quality copies of photographs. And exhibits that cannot be photocopied, such as videotapes, create difficult problems for some court reporters.

Finally, because CD-ROMs are “read-only” media, there is little risk of accidental alteration by the reader. Thus, like a paper filing, a CD-ROM allows lawyers to submit a fixed presentation.

II. WHEN CD-ROM FILINGS MAY BE ALLOWED

A. On Appeal

In the late 1990s, the practice of submitting briefs on CD-ROMs began receiving significant publicity. In 1997, in a patent-infringement case in the Federal Circuit, Yukiyo, Ltd.’s counsel prepared and filed a CD-ROM counterpart to its traditional paper brief.² The disk contained a hypertext copy of Yukiyo’s brief with links to authorities and “items that are normally contained in the joint appendix,” including the trial transcript, district court’s orders, and jury instructions.³ The disk

1. See, e.g., Thomas R. Newman & Steven J. Ahmuty Jr., *CD-ROM Briefs*, N.Y.L.J., Sept. 3, 1997, at 3, 3.

2. See *Yukiyo, Ltd. v. Watanabe*, 111 F.3d. 883 (Fed.Cir. 1997).

3. *Id.* at 885.

also contained a complete copy of a videotaped deposition. Because the judicial opinions on the disk were subject to the copyright claims of West Publishing Company, Yukiyo had gone to the effort of obtaining a license to include each cited case. The disk also included instructions for installing the software necessary to view the documents.

Appellee Shiro Watanabe responded by moving to strike the CD-ROM filing.⁴ Watanabe alleged that the filing prejudiced him because his attorney did not have the equipment necessary to view the disk. Watanabe further argued that the submission violated the court's local rule 30(b), which provides that the joint appendix must omit portions of the trial transcript not cited by the parties.

In a published opinion, the Federal Circuit granted Watanabe's motion to strike.⁵ The court first noted the newly adopted Federal Rule of Appellate Procedure 25, which governs electronic filing. Although the technical standards and guidelines proposed by the U.S. Judicial Conference do not mention CD-ROM filings, the Federal Circuit concluded that Rule 25 applies to such filings, citing and quoting Rule 25(a)(2)(D):

Electronic filing. A court of appeals may by local rule permit papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purposes of applying these rules.

The court reasoned that since no local rule had been established for CD-ROM filings, "leave to file should be sought before submitting a CD-ROM brief."⁶ The court then provided guidance for parties seeking to file on CD-ROM until the adoption of local rules. For CD-ROM filings, the Federal Circuit directed parties to (1) seek the consent of the other parties, (2) provide information on how to view the disk, and (3) seek leave of court before filing. As the court explained, the other

4. *See id.*

5. *See id.* at 886.

6. *See id.*

party's consent would be a "substantial factor" in its decision on the motion for leave, but would not be determinative.⁷

7. *See id.* at 886-87.

The court declined to rule on Watanabe’s objection that the CD-ROM filing contained complete copies of the transcript and video deposition. But the court commented that the rule limiting the joint appendix to portions actually cited by the parties was intended merely to limit the size of the paper appendix.⁸ Noting that including the complete transcript would not require additional storage space, the court suggested that including the complete record “may be appropriate for a CD-ROM.”⁹

The Federal Circuit has since adopted a local rule governing the filing of what it terms a “corresponding brief on compact disk.”¹⁰ The new rule follows the *Yukiyo* guidelines and instructs a party seeking to file a corresponding brief to determine whether the other party consents to the filing. If there is no objection, the filing party need only file a “notice of intent” to file a corresponding brief. In the absence of consent, a motion for leave to file is required. Under the new rule, the motion will be granted unless the objecting party demonstrates “substantial prejudice” caused by the filing.¹¹ Finally, the rule requires instructions for viewing the brief and, as discussed below, lists permissible contents of the disk.¹²

In evaluating when a CD-ROM may be filed in a state appellate court, a lawyer should begin by determining how such a filing may be classified under the applicable rules of procedure. In Texas, *Yukiyo* is instructive. Texas Rule of Appellate Procedure 9.2(c) is similar to Federal Rule of Appellate Procedure 25(a)(2)(D). And like the Federal Circuit in 1997, no Texas appellate court has adopted local rules governing electronic filing.

If a CD-ROM filing were not treated as an “electronic filing” under Rule 9.2(c), which would appear to require the adoption of local rules, then it

8. *See id.* at 886.

9. *Id.*

10. *See* FED. CIR. R. 32(e). The full text of this rule is provided at the end of this article.

11. *See* FED. CIR. R. 32(e)(1).

12. *See* FED. CIR. R. 32(e)(2).

would be governed by Rule 9.4, on the form of filed documents other than the record. Although Rule 9.4 speaks in terms of the "paper on which the document is produced," the rule also authorizes courts to "accept another form in the interest of justice." Because documents filed on CD-ROM would clearly not meet the form requirements of Rule 9.4, a lawyer filing a disk would have to rely on this exception. In keeping with the teaching of *Yukiyo*, leave of court should be obtained in a Texas court before filing a document on CD-ROM.

Although Rule 9.4 applies to the form of all documents, including briefs, at present it is extremely unlikely that a Texas appellate court would grant leave to file a party's brief in only CD-ROM form. The court would be much more likely to grant leave if the CD-ROM were part of the appendix or, as in *Yukiyo*, a "counterpart" to the paper brief and appendix. A survey of Texas appellate court clerks supports this conclusion. The clerks were asked if they would accept for filing a brief containing a CD-ROM as part of the appendix. Of the thirteen responses received, only two clerks replied that they would file the appendix without leave of the court, three replied that they would not accept such a filing,¹³ and the rest expected the party to obtain leave of court. Other answers to the survey suggest that the negative responses were related to the courts' lack of CD-ROM drives on many of their computers. For those courts, it may not be worth the effort to seek leave to file documents on CD-ROM.

If including a CD-ROM in the appendix would be helpful, the Federal Circuit's decision in *Yukiyo* provides a good outline of what the motion for leave should contain. The first step, of course, is to seek the consent of opposing counsel. Ideally, the parties will agree on the contents of the disk and will jointly file a single disk. Courts look favorably on such cooperation and benefit from having a single source with all relevant material. The Federal Circuit's rule on CD-ROM briefs specifically encourages the parties to use a single CD-ROM.¹⁴

The motion for leave should first list the documents on the disk, either individually or by type (*i.e.*, trial court exhibits). It should also show how submission in electronic form may assist the court in deciding the appeal. Next, the motion should reflect whether opposing counsel agree to the filing and should address any objections. The motion should also identify the hardware and software required to view the materials on the disk. If the software is actually on the disk, the motion should make that clear. Further, specific installation steps for the software should accompany the disk but probably need not be recited in the motion itself. Finally, the motion should contain a prayer for leave to file. The CD-ROM should accompany the motion, and a copy of the disk and the motion should be served on opposing counsel.

13. These courts were the Court of Criminal Appeals, the Austin Court of Appeals, and the Beaumont Court of Appeals.

14. See FED. CIR. R. 32(e)(6).

Like the Federal Circuit in *Yukiyo*, the Fifth Circuit has not yet adopted rules pertaining to CD-ROM filings. Consequently, any attempt to file CD-ROM documents in that court should be accompanied by a motion for leave like that described above.

Interestingly, the Fifth Circuit's local rule 31.1 now requires any party represented by counsel to submit a copy of its brief on a 3½-inch computer disk in a word-processing format. A copy of that disk, which must not contain anything other than the brief, must be served on opposing counsel. This rule indicates that the Fifth Circuit may be willing to consider other types of similar filings, such as CD-ROM filings.

B. At Trial

So far, most of the attention has been focused on using CD-ROMs to submit documents on appeal. But some areas of trial practice could also benefit from this technology. For example, some summary-judgment motions require voluminous supporting evidence, making them good candidates for CD-ROM filings.

As in appellate courts, CD-ROM filings in the trial courts will not soon take the place of filing paper copies of evidence. Instead, such filings are merely for the court's convenience in having a concise collection of the evidence. Unlike the appellate rules, the Texas Rules of Civil Procedure do not specify the form of documents, except to require that a pleading be "on paper measuring approximately 8½ inches by 11 inches."¹⁵ This lack of specificity, however, could be as much of a hindrance as a help when a lawyer seeks to file a CD-ROM. Some clerks may view the absence of any rules on form as a basis for denying the filing.

Because there are so many trial courts, a lawyer considering a CD-ROM filing should first determine whether the court has the hardware needed to view documents on CD-ROM. And until a trial court establishes local rules on CD-ROM filings, a lawyer should always submit a motion for leave.

III. CONTENTS OF CD-ROM FILINGS

A. On Appeal

As discussed above, a CD-ROM filing should be treated as part of the appendix to the appellate brief. In Texas appellate courts, the content of the appendix is governed by Texas Rule of Appellate Procedure 38.1(j). That rule requires the appendix include the trial court's judgment or order, the jury charge and verdict (or the trial court's findings of fact and conclusions of law), the text of authorities other than caselaw on which the argument is based, and the text of any

15. TEX. R. CIV. PROC. 45(d).

contract or other document that is central to the argument. The rule requires the inclusion of these items only if they are not “voluminous or impracticable.” Of course, documents submitted on CD-ROM will never be “voluminous” within the meaning of this rule. Rule 38.1(j) also authorizes parties to include in the appendix “any other item pertinent to the issues or points presented for review, including copies or excerpts of relevant court opinions, laws, documents on which the suit was based, pleadings, excerpts from the reporter’s record, and similar material.”

The “catch-all” provision of Rule 38.1(j) appears to authorize the inclusion of virtually any relevant document. Parties sometimes include in the appendix, for example, summaries of the evidence and diagrams of complex transactions. Presumably such materials are viewed as a part of the party’s argument and would be appropriate for inclusion in an appendix presented on a CD-ROM. Appellate courts are generally limited, of course, to considering matters that appear in the trial-court record.

In a traditional paper record, nontext exhibits often present a problem for court reporters. Too often, detailed color photographs introduced in the trial court appear as little more than splotches of black and white in the appellate record. But an electronic format can ensure that the court has available an accurate copy of the image admitted in the trial court.

Court reporters also commonly have problems with videotapes, which are often introduced at trial and designated for inclusion in the appellate record. But instead of providing the appellate court with the original tape or an accurate copy, court reporters or trial-court clerks sometimes provide a photocopy of the tape cassette. Converting the video to digital format and presenting it as part of a CD-ROM appendix precludes such problems without going outside the record.

Including a hypertext copy of the brief with links to the record will appeal to some judges. But even if there are no hypertext links from the brief to the record, electronic copies of record documents are quite helpful. By including them, lawyers can provide appellate courts with a concise, accurate collection of all relevant record materials.

B. At Trial

The contents of CD-ROMs used in trial-court motion practice will necessarily be governed by the rules of each underlying motion. For example, the documents that could be included on a disk accompanying a summary-judgment motion would be dictated by the rules for summary-judgment evidence (Rule 56 in federal courts, and Rule 166a in Texas state courts). Paper copies of the evidence will probably be required in addition to any CD-ROM. But filing paper copies sometimes creates an extraordinary burden, both for courts and for lawyers.

For example, in *Deloitte & Touche v. Weller*¹⁶ — a class-action suit for accounting malpractice — a single exhibit exceeded 110,000 pages. In such a case, on a proper motion, a trial court might permit a lawyer to file a summary on paper with the full text presented on CD-ROM. And one day, trial courts may routinely allow CD-ROM filings in place of paper filings.

IV. DATA AND DISK FORMATS

A. Document Formats

16. 976 S.W.2d 212 (Tex. App.—Amarillo 1998, pet. denied).

Some commentators on CD-ROM filings for appellate briefs have prescribed, without qualification, “the” format for such documents. For example, the authors of one article stated that “CD-ROM briefs are created using World Wide Web browser software.”¹⁷ And a 1997 press release by a firm announcing its filing of a CD-ROM brief declares: “A brief prepared on CD-ROM contains hypertext links written in pdf (portable document format).”¹⁸ In contrast, when the Fifth Circuit specified the format for electronic copies of briefs, it chose a word-processing format, while the Federal Circuit’s local rule does not indicate a format preference. Clearly, then, there is no single correct format in all courts and under all circumstances.

The choice of document format depends largely on the type of document being presented. Some formats can present text, photographs, sound, and video as part of a single document. The paragraphs below discuss document types in two general categories — text and nontext. Because all Texas appellate courts, and most federal courts, use the Microsoft Windows operating system, the discussion focuses on software for that operating system.

1. Text Documents

By far the most common type of document presented to courts is one containing only text. These documents include briefs, the transcription of the trial record, various forms of discovery, contracts, and cited authority. The format for presenting text will probably be the end user’s primary means, or starting point, for viewing the entire contents of the disk.

Factors to consider in determining the best format for text documents include (1) the reader’s ability to perform text searches, (2) the availability of hypertext links, (3) the degree to which the format ensures a uniform appearance of the document, (4) the availability of software to view the format, and (5) the effort required to prepare a document in that format.

17. Thomas R. Newman & Steven J. Ahmuty Jr., *CD-ROM Briefs*, N.Y.L.J., Sept. 3, 1997, at 3, 3.

18. Jaffee Associates, *First CD-ROM Brief Filed in Federal Circuit Court* (visited Apr. 2, 2000) <<http://www.oblon.com/Press/970728.html>>.

a. Imaging

In considering formats available for presenting text, one must understand that to a computer, all text is not created equal. The fact that text appears on the computer screen does not necessarily mean that the document is stored in the computer as text. Instead, it may be stored and presented as an *image* of text. The difference is significant because a computer ordinarily cannot search for words in an image of text.

Converting the image to “real” text that can be searched by a computer requires the use of optical character recognition (OCR) software. If the original document is of poor quality, it will not be possible to convert it to text without retyping the document. The practice of storing images of paper documents in an electronic format, which is referred to as “imaging,” saves space and allows for rapid retrieval.

Documents stored in an imaging format do not allow searching of text but will preserve the document’s original appearance on the screen and in print. This may be the only option for many documents in the record (such as docket sheets and jury questionnaires) and for other documents that are not easily readable.

Several proprietary systems are available to present images of documents. A widely available one is Microsoft Imaging, which is included in current Microsoft Windows operating systems and can be obtained without cost for other versions of Windows. Microsoft Imaging stores documents in the TIFF file format. The Adobe Portable Document Format, discussed below, also supports imaging.

b. Hypertext Markup Language (HTML)

Most readers will have been exposed to HTML through their use of the World Wide Web. As with HTML documents on the Internet, HTML documents on a CD-ROM are viewed using “Web Browser” software, which is included in most users’ operating systems or can be obtained without cost.

HTML does allow basic searching within the currently open document. And extra software, such as ISYS Intradisk, will enable users to search all the HTML documents on a CD-ROM. HTML also allows for hypertext links. Indeed, it was created primarily for that purpose.

HTML does not, however, do a good job of preserving the appearance of documents. With HTML, the reader can often control items such as font size or even the font itself. Tools that convert word-processing documents to HTML, including the conversion features of the word processors, do not preserve pagination, making it difficult to maintain the layout of the paper document. This problem can be addressed to some degree by manually inserting page-break indicators (such as horizontal lines) and adding anchor tags for each page. But such procedures increase the effort required to prepare documents in HTML.

Finally, the survey of Texas appellate courts found that most have web browsers installed on their computers. But some browsers, including Netscape Communicator, require additional “plug-in” software to view video embedded in HTML documents.

c. Word-Processing Formats

For documents originally drafted by the lawyer, a word-processing format is probably the easiest one to use for CD-ROM documents. All word processors contain text-search features. And many word processors allow searching across multiple documents, although this can be slow for a large number of documents.

The most common word processors — WordPerfect and Microsoft Word — allow the creation of hypertext links within the document, and either directly or through macros, to external documents. Word-processing formats are adequate at maintaining a uniform appearance. But since most word processors format the document according to the current user’s printer, page breaks may not be preserved with any precision.

Most Texas appellate courts use WordPerfect version 7 as their word-processing software. Many federal courts and the Fifth Circuit also use WordPerfect software. Regardless of which format the lawyer uses, the document should be saved for a slightly earlier version of the software because the court may not have the very latest version. This is particularly important if the reader must convert the file from one format to another.

d. Portable Document Format (PDF)

An increasingly popular format for sharing documents is the Portable Document Format (PDF) created by Adobe. PDF is very flexible and has many important qualities for submission of documents to courts. That flexibility makes it harder to apply the factors discussed above. For example, PDF can be used to present images of documents that would not be searchable at all. It can also be used to create documents consisting of text that allows basic single-document searching. At the other end of the spectrum, the author of a PDF document can create an index allowing rapid multiple-document searches.

The PDF format allows the creation of hypertext links both within the document and to external documents, even if they are in a different format. PDF is the best format for preserving the appearance of documents, whether viewed on a computer screen or printed.

Creation of PDF documents requires Acrobat Exchange software from Adobe. For documents drafted by the lawyer, creation of a PDF version can be as simple as printing to the PDF printer driver. Preexisting documents can be scanned into Acrobat Exchange and, if they are of good quality, converted from an image of the document to text using the included OCR feature. As with any format, the addition of hypertext links will require additional time and effort.

The software used to view PDF documents is available without cost from Adobe. Unlike the publishers of many document viewers, Adobe does not require the execution of an individual license agreement to redistribute the Acrobat Reader Software, simplifying the process of including that software on the CD-ROM. And many Texas courts already have Acrobat Reader software installed on their computers.

2. Nontext Documents

Other types of source documents include photographs, sound, and video. Each has its own set of formats from which to choose. And all common formats are capable of producing good quality results. The choice of format may be dictated by the tools available.

Fortunately, the text formats discussed above usually allow images, sound, and video to be embedded in separate documents so that the reader need not be concerned with the specific format used for the nontext documents. But the viewer or listener must have the appropriate software to support the format used. The most common formats are shown below.

a. Photographs

- BMP — Windows bitmap format, which can be viewed on all Microsoft Windows operating systems.
- GIF — Graphic Interchange format, which is well supported in web browsers and allows limited animation of images (*i.e.*, short movies).
- JPG — Joint Photographer's Group format, which is supported in web browsers and features image compression to reduce file size.
- TIF — Tagged Image File Format, which is supported by many word processors and by Microsoft Imaging. Some systems, however, create occasional compatibility problems.

b. Sound

- WAV — Available on all Microsoft Windows operating systems.
- RA — Requires installation of the RealAudio player software.

c. Video

- AVI — Video for Windows, which is supported in all 32-bit Microsoft Windows operating systems and many earlier versions.
- MOV — Apple Quicktime, which uses compression to maintain high-quality images with smaller file sizes. Viewing Quicktime movies requires the installation of free software from Apple.

B. Disk Layout

The layout of content on the disk does not need to follow any particular format. But it may be helpful to group documents by type — for example, by creating separate directories for the record, the authorities, and the brief. If the parties can agree to submit a single CD-ROM, then separate subdirectories can be used for the briefs of each party, with all briefs linked to a single copy of the record. The reader may also find it helpful if the lawyers use the autoplay feature on recent versions of Microsoft Windows. This feature directs the computer to start a particular program when the CD-ROM is inserted in the drive.

C. Disk Creation

Several companies specialize in creating CD-ROMs for the legal community. As with most computer technology, however, the price of CD-ROM recorders has decreased steadily, thus making it practical for lawyers to create CD-ROMs inhouse. Today, prices for these drives range from about \$200 to \$500, making them affordable for almost any office.

The software used to create the disks, which is often included with the purchase of a recorder, has improved significantly. Most computer and office-supply stores now stock blank disks for use in CD recorders. The disks, which are called CD-R, range in price from \$1 to \$3 per disk. To create documents for filing, lawyers should use a CD-R disk, and not a CD-RW (read-write) disk, because the CD-R disk is not alterable.

Most judicial audiences will view the disk using a Microsoft Windows operating system. Thus, in creating disks, lawyers can typically rely on the default settings in the CD recorder software. One setting to check, however, is the “mode” setting. Mode 1 is a single-session format, meaning that once the disk is written, no data can be added to it. Mode 2 is a multi-session format that can allow more data to be written to the disk after its original creation. It will not, however, allow alteration of the original data. For information on virtually every aspect of CD-R and CD-RW disks, refer to Andy McFadden’s excellent FAQ (Frequently Asked Questions) file, located online at <http://www.fadden.com/cdrfaq/>.

V. CONCLUSION

Using CD-ROMs in trial and appellate practice can provide new techniques to help convince the court of the merits of a case. Because this is a relatively new practice, there will be a period of learning and adjustment for both the bar and the bench. But those who adopt this technology now will be pioneers in shaping the practice and may find advantages that their adversaries have yet to contemplate.

Federal Circuit Rule 32

Form of Briefs, Appendices, and Other Papers

- (e) **Filing Corresponding Brief on Compact Disc.** In addition to the filing of a paper brief, a party may file a corresponding brief contained on a compact disc — read only memory (CD-ROM), subject to the following requirements.
- (1) **Consent; Motion.** Within 14 days of docketing an appeal, a party intending to file a corresponding brief must ascertain whether any other party consents or objects. If the other parties consent, the filing party must promptly file with the court notice of intent to file a corresponding brief. If any other party does not consent, the party seeking to file a corresponding brief must promptly file a motion for leave with the court. If no response is filed within 7 days, the clerk will grant a motion for leave to file a corresponding brief. The court will deny a motion for leave to file a corresponding brief only if an opposing party demonstrates substantial prejudice.
 - (2) **Content.** A corresponding brief must be identical in content to the paper brief. A corresponding brief may provide hypertext links to the complete versions of material that was part of the record below. Hypertext links to other material must be confined to materials such as cases, statutes, treatises, law review articles, and similar authorities. A corresponding brief must be self-contained and static.
 - (3) **Statement Concerning Instructions and Viruses.** A corresponding brief must be accompanied by a statement, preferably within or attached to the packaging, that:
 - (A) sets forth the instructions for viewing the brief and the minimum equipment required for viewing; and
 - (B) verifies the absence of computer viruses and lists the software used to ensure that the brief is virus free.
 - (4) **Time for Filing.** A corresponding brief, if any, must be filed no later than the time for filing the joint appendix.
 - (5) **Filing and Service.** Except for the time of filing, a corresponding brief must be filed and served in the same manner and the same number of copies as the paper brief.

- (6) **Single CD-ROM.** All parties to an appeal who intend to file a corresponding CD-ROM brief are encouraged to cooperate in placing all such briefs on a single CD-ROM.
- (7) **Table of Contents.** Parties filing a corresponding brief are encouraged to include a table of contents with links to all of the items required in a joint appendix under Federal Rule of Appellate Procedure 30 and Federal Circuit Rule 30 and to all other parts of the record contained on the corresponding brief.
- (8) **Labeling.** A label with the caption of the case, the number of the case, and the types of briefs included on the CD-ROM must be included on both the packaging and the CD-ROM.
- (f) **Form of Other Papers.** Except as otherwise specifically provided in these Federal Circuit Rules, all papers, including petitions, motions, responses, and replies, must conform to the requirements of Federal Rule of Appellate Procedure 32(a)(1), (4), (5), and (6).