

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**  
**717 MADISON PLACE, N.W.**  
**WASHINGTON, D.C. 20439**

Jan Horbaly  
Clerk of Court

202- 633-6550  
202-633-9623 (F)

December 3, 2007

Dear Reader:

Effective December 1, 2007, Federal Rule of Appellate Procedure 25 has been amended. The amended rule is enclosed. On September 19, 2006, the Judicial Conference approved several changes to the Court of Appeals Miscellaneous Fee Schedule to become effective January 1, 2007. The revised fee schedule is enclosed. Also enclosed are revised Federal Circuit Rule 47.3, effective September 1, 2006, and the addition of Federal Circuit Rule 32.1 effective December 1, 2006, which should be inserted into the RULES OF PRACTICE dated May 1, 2006. Current Federal Circuit Rule 47.6 is now deleted.

The change to Federal Circuit Rule 47.3 applies to attorneys representing the government. The rule has been revised to provide that government officials who are listed on a brief in their ex officio capacity by reason of their status as supervisor or head of an office need not enter an appearance.

Federal Circuit Rule 32.1 is adopted in response to Fed. R. App. P. 32.1, which allows the citation of nonprecedential dispositions issued after January 1, 2007. Federal Circuit Rule 47.6 prohibited the citation of nonprecedential dispositions.

The amendment to Federal Rule of Appellate Procedure 25 concerns privacy protection for cases governed by Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2, and Federal Rule of Criminal Procedure 49.1.

Notice of Correction

On June 13, 2003 changes to Federal Circuit Rule 28(e) were announced to the public but never incorporated into the May 1, 2004 and May 1, 2006 editions of the rules.

These changes were to eliminate the requirement to include in briefs parallel citations to United States Patents Quarterly.

The revised rule is stated below:

- (e) **Citations.** Opinions of this court and its predecessors should be cited as found in the Federal Reporter. Parallel citations to any other reporters are discouraged. Examples of acceptable citations are:

Guotos v. United States, 552 F.2d 992 (Ct. Cl. 1976).

In re Spoppable, 405 F.2d 578 (CCPA 1969).

South Corporation v. United States, 690 F.2d 1368 (Fed. Cir. 1982) (en banc).

Doe v. Roe, No. 12-345, slip op. (Fed. Cir. Oct. 1, 1982).

Suggestions regarding the court's Rules of Practice should be submitted to:

Clerk of Court  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20439

or

[rules@cafc.uscourts.gov](mailto:rules@cafc.uscourts.gov)

Sincerely yours,

/s/ Jan Horbaly  
Jan Horbaly

## Federal Circuit Rule 47.3

### Rule 47.3. Appearance

- (a) Party and Amicus Curiae Must Be Represented; Pro Se Party; Attorney of Record; Of Counsel.** An individual (not a corporation, partnership, organization, or other legal entity) may choose to be represented by counsel or to represent himself or herself pro se, but may not be represented by a nonattorney. An individual represented by counsel, each other party in an action, each party seeking to intervene, and each amicus curiae must appear through an attorney authorized to practice before this court and must designate one attorney as the principal attorney of record. Any other attorney assisting the attorney of record must be designated as “of counsel.” Every attorney named on a brief must enter an appearance, except that the filing of an entry of appearance does not apply to government officials who, by reason of their status as supervisors or heads of offices, are listed on briefs in their ex officio capacity. Documents that are sent by the court will be sent only to the principal attorney of record.

## Federal Circuit Rule 32.1

### Rule 32.1. Citing Judicial Dispositions

**(a) Disposition of Appeal, Motion, or Petition.** Disposition of an appeal may be announced in an opinion; disposition of a motion or petition may be announced in an order. An appeal may also be disposed of in a judgment of affirmance without opinion pursuant to Federal Circuit Rule 36. A nonprecedential disposition shall bear a legend designating it as nonprecedential. A precedential disposition shall bear no legend.

**(b) Nonprecedential Opinion or Order.** An opinion or order which is designated as nonprecedential is one determined by the panel issuing it as not adding significantly to the body of law.

**(c) Parties' Citation of Nonprecedential Dispositions.** Parties are not prohibited or restricted from citing nonprecedential dispositions issued after January 1, 2007. This rule does not preclude assertion of claim preclusion, issue preclusion, judicial estoppel, law of the case, and the like based on a nonprecedential disposition issued before that date.

**(d) Court's Consideration of Nonprecedential Dispositions.** The court may refer to a nonprecedential disposition in an opinion or order and may look to a nonprecedential disposition for guidance or persuasive reasoning, but will not give one of its own nonprecedential dispositions the effect of binding precedent. The court will not consider nonprecedential dispositions of another court as binding precedent of that court unless the rules of that court so provide.

**(e) Request to Make an Opinion or Order Precedential; Time for Filing.** Within 60 days after any nonprecedential opinion or order is issued, any person may request, with accompanying reasons, that the opinion or order be reissued as precedential. An original and 6 copies of the request must be filed with the court. The request will be considered by the panel that rendered the disposition. The requester must notify the court and the parties of any case that person knows to be pending that would be determined or affected by reissuance as precedential. Parties to pending cases who have a stake in the outcome of a decision to make precedential must be given an opportunity to respond. If the request is granted, the opinion or order may be revised as appropriate.

**(f) Public Records.** All dispositions by the court in any form will be in writing and are public records.

## **Court of Appeals Miscellaneous Fee Schedule**

*(Issued in accordance with 28 U.S.C. §1913)*

The following are fees to be charged for services provided by the courts of appeals. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 2, 4 and 5. No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and Bankruptcy Administrator programs.

(1) For docketing a case on appeal or review, or docketing any other proceeding, \$450. A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee. A docketing fee shall not be charged for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. § 1292(b), unless the appeal is allowed. A docketing fee shall not be charged for the docketing of a direct bankruptcy appeal or a direct bankruptcy cross appeal when the fee has been collected by the bankruptcy court in accordance with Item 15 or Item 21 of the Bankruptcy Court Miscellaneous Fee Schedule.

(2) For every search of the records of the court and certifying the results thereof, \$26. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.

(3) For certifying any document or paper, whether the certification is made directly on the document, or by separate instrument, \$9.

(4) For reproducing any record or paper, 50 cents per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.

(5) For reproduction of recordings of proceedings, regardless of the medium, \$26, including the cost of materials. This fee shall apply to services rendered on behalf of the United States if the reproduction of the recording is available electronically.

(6) For reproduction of the record in any appeal in which the requirement of an appendix is dispensed with by any court of appeals pursuant to Rule 30(f), F.R.A.P., a flat fee of \$71.

(7) For each microfiche or microfilm copy of any court record, where available, \$5.

(8) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$45.

(9) For a check paid into the court which is returned for lack of funds, \$45.

(10) Fees to be charged and collected for copies of opinions shall be fixed, from time to time, by each court, commensurate with the cost of printing.

(11) The court may charge and collect fees commensurate with the cost of providing copies of the local rules of court. The court may also distribute copies of the local rules without charge.

(12) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.

(13) Upon the filing of any separate or joint notice of appeal or application for appeal from the Bankruptcy Appellate Panel, or notice of the allowance of an appeal from the Bankruptcy Appellate Panel, or of a writ of certiorari, \$5 shall be paid by the appellant or petitioner.

(14) The court may charge and collect a fee of \$200 per remote location for counsel's requested use of videoconferencing equipment in connection with each oral argument.

(15) For original admission of attorneys to practice, \$150 each, including a certificate of admission. For a duplicate certificate of admission or certificate of good standing, \$15.

**AMENDMENT TO THE FEDERAL  
RULES OF APPELLATE PROCEDURE**

**Rule 25. Filing and Service**

**(a) Filing.**

**(5) Privacy Protection.** An appeal in a case whose privacy protection was governed by Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2 or Federal Rule of Criminal Procedure 49.1 is governed by the same rule on appeal. In all other proceedings, privacy protection is governed by Federal Rule of Civil Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extra ordinary writ is sought in a criminal case.