

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
[List name if applicable]

No. [Case No]

B E T W E E N:

[Name or company]

Plaintiff

- and -

[Name or company]

Defendant

DRAFT PROTOCOL

Date sworn: [date]
Filed on behalf of: The plaintiff

Prepared by: [Lawyer's name and address and email address]
Solicitor's code: DX
Tel: [number]
Ref:

LEGAL REPRESENTATIVES

PARTY	PARTY NAME:	SOLICITOR ACTING:	FIRM NAME & DETAILS
Plaintiff			
Defendant			

PROTOCOL INTRODUCTION:

The protocols set out below conform to the Supreme Court Practice Direction No. 1 of 2007. They are designed to minimise the document management and technology costs. This document,

therefore, specifies protocols for electronic exchange between the abovementioned parties with respect to discovery in this matter.

The protocols ensure that each party can use their own software to view its own and other parties' documents. It is proposed that parties be responsible for providing their own systems for viewing the documents, database and images.

It is proposed that hard copy discovery lists will be exchanged in addition to the electronic data provided in accordance with these protocols. These protocols do not go beyond electronic discovery.

If these matters are not resolved before the next directions hearing the parties will review and submit any proposals they wish to make regarding the treatment of Witness Statements, Court Documents, and providing documents for inclusion in the Court Book electronically in the format required by the Supreme Court. The courts technology requirements can be found on the Supreme Court of Victoria website, www.supremecourt.vic.gov.au.

The protocols outlined in this protocol document cover the following aspects:

- 5.1 Exchange regime
- 5.2 Proposed Party Codes
- 5.3 Document numbering
- 5.4 Imaging standards
- 5.5 Updating or adding additional data/images
- 5.6 Tables to be exchanged
- 5.7 General Provision of data

5.1 **EXCHANGE REGIME**

5.1.1	Document Exchange of Court Documents, Witness Statements or any other document held in these formats, be provided as such	Microsoft Word (read only)
5.1.2	Data File Format	Microsoft Excel Spreadsheet. There should be 1 file per table. Zipped files are acceptable or as agreed between the parties.

5.1.3	Disk Medium	CD-ROM
5.1.4	Disk Contents	2 Files – One items table and one image table. A header record should be included for each file.
5.1.5	Disk Label	Name of proceedings, disk number, filename(s), date, description of data and whether it is additional or replacement data.

5.2 PROPOSED PARTY CODES:

PARTY	PARTY CODE (AAA)
Plaintiff	
Defendant	

DOCUMENT NUMBERING:

- 5.3.1 The following document numbering regime will be used as the unique document ID for all documents. The document ID will appear as a barcode and in human readable format or as agreed between the parties (i.e. human readable label only). The numbering regime will also appear on the images. This regime has four levels, AAA.BBBB.FFFF.PPP where –

AAA is the “Party” code, which identifies the party in the proceedings. Padded characters will not be used.

BBBB is the box or bundle number. Padded with zeros, maximum value of 9999 (e.g. 0099).

FFFF is the folder or file number. Padded with zeros, maximum value of 9999 (e.g. 0020)

PPP is the unique “page” identifier within the document. Padded with zeros, maximum value of 999 (e.g. 099). It should be noted that the first page number in each document will become the document ID.

5.3.2 Where pages have been inserted, the following convention will be used to accommodate a suffix.

Fifth level where a suffix (two numerals, padded zero, preceded with an underscore) will be inserted. For example AAA.BBBB.FFFF.001_01; a page has been inserted after AAA.BBBB.FFFF.001 yet before AAA.BBBB.FFFF.002.

IMAGING:

5.4.1 Discovered documents will be scanned except when the document is larger than A3 size. These documents will not be scanned but will be available for hardcopy inspection upon request. Information about these documents will appear in the database and discovery list when appropriate.

5.4.2. The image file formats and exchange should be set out as follows –

ITEM:	DESCRIPTION:
CD Volume Name	Each CD-ROM to have a unique volume name consisting of the party ID and a 3 digit, padded zero, sequentially in file number order (i.e.: AAA001)
Disk Format	ISO-6990
Composition of File	Single page Tiff files (i.e. a four page document will have four distinct images).
Resolution of Image	Black and White Images – 200 dpi sub-type CCITT group 4 compressed, 1 bit (bi-tonal)
Image Directory Structure	Images must reside in directories and sub directories. The sub directory structure must reflect the levels in the numbering style (i.e.: AAA.BBBB.FFFF.003.tif where AAA is the party code; BBBB is the box/bundle number; FFFF is the folder/file number; 001 is the page number)
Suffix Page Numbering	In the event that additional pages are required to be inserted after barcoding (or labelling) and imaging, the suffix pages convention will be applied to images as per 5.3.2

UPDATING OR ADDING ADDITIONAL DATA/IMAGES:

5.5.1 After the initial data and images have been exchanged between the parties, if errors are found in the data or images, then the responsible party should re-issue the entire record that has been changed including table references. For images, only the single Tiff file or the affected page(s) should be re-issued in the appropriate directory structure named herein.

Any updates should be accompanied with a letter outlining the Document ID and the information that has been changed.

5.5.2 If additional data or images are found after the initial data and images have been exchanged, they should be issued in the format outlined in these protocols.

TABLES TO BE EXCHANGED:

5.6.1. The following two tables should be exchanged for all imaged documents required for the exchange of discovery between the parties

MAIN TABLE

FIELD NAME:	DATA TYPE:	EXPLANATION	EXAMPLE
Document ID	Text & Number	The unique identifier for each document (record) in the database	AAA.BBBB.FFFF.PPP
Document Date	Date Field	<p>The date of the document as it appears on the document in the format DD-MMM-YYYY.</p> <p>If there is no way of ascertaining the date of the document or it is illegible – leave <i>field</i> blank</p> <p><i>Discoverable documents</i> with no discernible date will be coded as “Undated” by leaving the date <i>field</i> blank.</p> <p>It should be noted that in a true date <i>field</i> “00” is not an acceptable value and <i>Discoverable documents</i> with only the month and year (e.g. August 1997) will be coded as undated unless otherwise agreed</p> <p><i>Discoverable documents</i> with the day and month but no year are considered undated.</p> <p><i>Discoverable documents</i> with a date range will be coded as undated unless otherwise agreed.</p>	21-Mar-1997

Document Type	Text	A simple classification of a document such as a letter, agreement, minutes of meeting – to be agreed by the parties. Attached to these protocols and set out in Attachment A is a draft list of suggested document types – this list may need to be extended depending on the document types of the discoverable documents	Agreement
Author	Text	Person or persons who authored the document. To be completed using information on the face of the document. Last name First initial Comma must separate multiple entries.	Ritzenhoff B
Author Organisation	Text	Organisation sending the document. Comma must separate multiple entries.	Dalmickon Pty Ltd
Addressee	Text	Person or persons who authored the document. To be completed using information on the face of the document. Last name First initial Comma must separate multiple entries.	Short, G
Addressee Organisation	Text	Organisation receiving the document. Comma must separate multiple entries.	Wonder Windows Inc
Title	Text 254 or as appropriate	Title of a document	Report on Technology
Host ID Number	Text and Number, 17 Length depending on the document id. structure	Where a document is attached to another (“host”) document in this field insert the Doc ID. There will never be multiple entries in this field, as each attachment should only ever have one host document.	XXX.0001.0001.001
Document Group	Text, 3	HWA - Host with Attachment UNA – Unattached document ATT – Attachment If a document is Document Group	HWA

		ATT then you must complete the Host ID field	
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5.6.2 The image table lists and the filename for every page is every imaged document. This table should not contain any entries for privileged documents

5.6.3 In order to derive the correct order of pages to a document, the database query should select the images matching the Item ID, ordered by the path.

IMAGE TABLE:

FIELD NAME	DATA TYPE	EXPLANATION	EXAMPLE
Item ID	Text and Number	Document ID	AAA.BBBB.FFFF.001
Path	Text (100 character)	File name of the image file. There will be a single file for each page of each document. The format is AAA/BBBB/FFFF/PPP.tif or AAA/BBBB/FFFF/PPP_01.tif (suffix page)	AAA/BBBB/FFFF/001.tif

GENERAL

5.7.1 VIRUS RESPONSIBILITY

It shall be the responsibility of the recipient of the electronic data to test for viruses. The sender should take all reasonable precautions to ensure that their data is virus free.

5.7.2 VALIDATION OF DATA – RESPONSIBILITY

It is the responsibility of the sender to validate the information prior to sending it through to the other party.

5.7.3 RESPONSIBILITY FOR COSTS

It is the responsibility of each party to bear the cost of producing the electronic data as outlined in these protocols, subject to any costs orders, which may ultimately be made in the proceedings.

5.7.4 CONSULTATIVE COMMITTEE

Representatives from all parties on the matter will form a consultative committee to –

1. Determine codes to be set for any additional parties who may be added to the proceedings and to organise exchange of data with any such parties.
2. Attempt to resolve any issues, which arise in the course of the application of these protocols.
3. Consider and agree the following if required:
 - a. Management of Redacted documents
 - b. Image resolution (default currently 200 dpi)
 - c. Color Images (compression)
 - d. Management of Oversized Documents
 - e. Management of Unprintable Information (e.g. Databases)
 - f. Management of Confidential information
 - g. Management of multi media files
 - h. Management of Forensically Gathered Information.
4. Determine the way in which pleadings and witness statements are to be exchanged.
5. Each party will submit the name of the representative (and an alternative representative) to the parties to create a committee.

Meetings will be convened as required.

ATTACHMENT A

DOCUMENT TYPES LIST

These should be agreed by the parties based on the documents they are managing in their litigation but below are examples of how this list should be put together.

DOCUMENT TYPE	DESCRIPTION/EXAMPLE
Agreements	Includes Contracts, Deeds etc
Agenda	<ul style="list-style-type: none"> Outline of meeting, business, seminar, or conference events scheduled to take place. They may be handwritten. DO NOT use for corporate Closing Agenda – it is Corporate Document, or for Schedule – it is Appendix.
Appendix	<u>Includes</u> appendices, schedules, annexes that were original part of a larger document, usually a report or contract, but have become separated from the body of the larger document.
Budget	Material giving financial details or breakdowns of projects, staffing, statement of resources, allocation of resources, etc. Usually called a budget. See also Financial Documents.
Business Card	Code the personal name in the author field and the company name in the Title field.
Certificate	<ul style="list-style-type: none"> Use for actual certificates such as birth or marriage certificates. DO NOT use for Share Certificates – they are Corporate Documents. DO NOT use for Notarial Certificates – they are Legal Documents.
Chart/Table	Any document in chart or table form separated from a larger report.
Court Documents	Includes Statements of Agreed Facts, Affidavits of parties admitting liability.
Electronic Document	Documents culled from an electronic source such as backup files, hard-drives, etc. Usually will be a computer directory list and may have a path name: c:\my documents\work file.
Email	<ul style="list-style-type: none"> Code from the first message at the top of the page when there is a chain of emails. Email attachments are coded to the appropriate doctype (letter, report, etc.)
Exhibit	Use only for documents labelled Exhibit A, etc.
Financial Document	<ul style="list-style-type: none"> Use for individual reports containing financial information – the information must be financial and not simply a list of numbers such as 234, 456, 147. Examples: balance sheets, operating costs, A/P, A/R, reconciliation records, income statements, all banking documents, exchange rates, consolidated statements. This doctype may also be used for single page documents that primarily contain financial information. DO NOT use for Audits, Budgets, Cheques.
Graphics	Documents that are primarily visual, not textual. <u>Includes</u> illustrations, photographs and diagrams. DO NOT include engineer plans (doctype Plan), charts or tables.
Invoice	<ul style="list-style-type: none"> Any bill or receipt. <u>Includes</u> Purchase Orders, any record of goods or services sold or ordered. Doctitles: for true invoices, enter the invoice number in the title: 234. DO NOT include the word Number or No. or the #. DO NOT include

	<p>the word Invoice.</p> <ul style="list-style-type: none"> If both Sold To: and Ship To: is indicated on the document, code the company it was sold to as the recipient.
Legal Document	Litigation pleadings, affidavits, etc. <u>Includes</u> all documents filed in court or that have a case name on them. DO NOT include legislation.
Letter	Must have an addressee and a signature line, and usually has an address block. Letter of Agreement = Contract. Letter of Credit = Contract.
Manual	<u>Includes</u> procedural manuals, service manual, maintenance manual, user guide, operating instructions, guidelines, specifications. DO NOT include Standard Operating Procedures.
Map	<u>Includes</u> geographical directions, may be hand drawn.
Media	<ul style="list-style-type: none"> Internal government documents - <u>includes</u> Media Analysis, Media Backgrounder, Media Report, Media Call, Media Options, Media Inquiry. Doctitle will be the Media _____ and the subject or re: line. Example: Media Report – Environment Ministry announces reorganization. See also Media Line.
Memo to File	Titled as such.
Memorandum	<ul style="list-style-type: none"> Usually formatted To: From: Re: Date: Does not have an address block, but it may be signed. <u>Includes</u> Inter-office memos, Inter-department memo, handwritten forms with Send To, From, and Reply sections. Handwritten notes that are dated and indicate they are TO and FROM someone are coded as Memorandum. Telephone messages
Note	Brief, informal comments or notations – can be typed or handwritten.
Organizational Chart	Describes the hierarchy of an organization – usually in “tree” form.
Presentation	Materials used for presentations, such as Power Point deck, overheads, etc. DO NOT include speeches or speaking notes.
Plan	Engineer's, architect's, or builder's drawings, plans, blueprints. <u>Include</u> aerial photographs of buildings or land.
Report	<ul style="list-style-type: none"> Usually has a formal title and indicates who prepared it (the author) and when: <ul style="list-style-type: none"> Productivity of the Coding Department in 1998 and 1999. Prepared by PFA February 2000 It may be a document that is not as formal in appearance, but it reports on certain findings or events, including project timelines. For example, a two-page report on the findings of a certain study: Recent scanning statistics. Note that financial reports of any length are coded to Financial Document. May also be titled Study, Summary, Results, or Presentation. DO NOT use for corporate documents such as Closing Reports or Annual Reports.
Transcript	Verbatim report of hearings or legal proceedings. <u>Includes</u> transcriptions of media programs, such as radio interviews.
Web page	Use primarily for website or www informational or marketing material. DO NOT include articles downloaded from the internet – see Abstract, Publication, Scientific Study.

ATTACHMENT B

METHODOLOGY FOR HOST/ATTACHMENT DETERMINATION

1. DOCUMENT DELIMITING

- 1.1. ANNEXURES, ATTACHMENTS AND SCHEDULES, WHICH FORM PART OF AN AGREEMENT, WILL NOT BE CODED AS SEPARATE DOCUMENTS, BUT WILL BE CONSIDERED PART OF THE AGREEMENT.
- 1.2. ANNEXURES, ATTACHMENTS AND SCHEDULES, WHICH FORM PART OF A REPORT, FINANCIAL REPORT OR ANNUAL REPORT, WILL NOT BE CODED AS SEPARATE DOCUMENTS, BUT WILL BE CONSIDERED PART OF THE REPORT.
- 1.3. ANNEXURES ATTACHMENTS AND SCHEDULES, WHICH FORM PART OF LEGAL DOCUMENTS, INCLUDING AFFIDAVITS, WITNESS STATEMENTS, PLEADINGS ETC WILL NOT BE CODED AS SEPARATE DOCUMENTS, BUT WILL BE CONSIDERED PART OF THE LEGAL DOCUMENT.
- 1.4. ANNEXURES, ATTACHMENTS AND SCHEDULES, WHICH FORM PART OF THE MINUTES OF MEETINGS OR MEETING AGENDA, WILL NOT BE CODED AS SEPARATE DOCUMENTS, BUT WILL BE CONSIDERED PART OF THE MINUTES OR AGENDA.
- 1.5. THE BACK OF PAGES WITH ANY TEXT OR MARKINGS WILL NOT BE DELIMITED AS SEPARATE DOCUMENTS.

2. HOST / ATTACHMENT / UNATTACHED

- 2.1. A HOST DOCUMENT MUST BE IMMEDIATELY FOLLOWED WITH ONE OR MORE ATTACHMENT DOCUMENTS.

- 2.2. AN ATTACHED DOCUMENT CAN ONLY FOLLOW A HOST DOCUMENT.
- 2.3. AN UNATTACHED DOCUMENT CANNOT BE FOLLOWED BY AN ATTACHED DOCUMENT.
- 2.4. A DOCUMENT WILL ONLY BE DELIMITED AS A HOST DOCUMENT IF IT IS CLEARLY ASCERTAINABLE FROM THE FACE OF THE DOCUMENT THAT ONE OR MORE OF THE DOCUMENTS IMMEDIATELY FOLLOWING IT IS AN ATTACHMENT TO IT. THE SOURCE DOCUMENT MUST CONTAIN A SENTENCE, WHICH MENTIONS EITHER THE WORD ENCLOSED OR ATTACHED. THE SOURCE DOCUMENT MUST CONTAIN THE WORDS "ENCLOSED", "ATTACHED", "FOLLOWING" OR DERIVATIVES THEREOF. FOR EXAMPLE, PLEASE FIND ENCLOSED, PLEASE FIND ATTACHED, ENCLOSED HEREWITH ... ETC.
- 2.5. ALL DOCUMENTS THAT ARE NEITHER HOST OR ATTACHMENT DOCUMENTS ('UNATTACHED DOCUMENTS') WILL CAUSE THE HOST ID AND ATTACHMENT ID FIELDS TO BE LEFT BLANK.
- 2.6. IF A DOCUMENT IS INTERRUPTED BY ANOTHER UNRELATED DOCUMENT, THE UNRELATED DOCUMENT AND THE SECOND HALF OF THE ORIGINAL DOCUMENT WILL NOT BE CODED AS ATTACHMENT TO THE FIRST HALF OF THE ORIGINAL DOCUMENT. THESE DOCUMENTS WILL BE DELIMITED AS THREE SEPARATE UNATTACHED DOCUMENTS.
- 2.7. GROUPS OF SIMILAR DOCUMENTS WILL NOT BE BUNDLED, BUT CAPTURED AS SEPARATE DOCUMENTS.
- 2.8. IF THERE IS MORE THAN ONE DOCUMENT ON A PAGE, THE PAGE WILL BE DELIMITED PER THE TOP DOCUMENT.