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### **CD ROM "Dump" does not meet defendant's obligations.**

#### **Plaintiff Directed to Consult Electronic Evidence Expert to Make Data Searchable**

*In re Lorazepam and Clorazepate Antitrust Litig. v. Mylan Lab., Inc.*, 2004 WL 77921 (D.D.C. Jan. 16, 2004).

In a class action antitrust lawsuit, Plaintiff sought to compel discovery of electronic documents. The Defendant objected to the request arguing that the documents had already been produced. Plaintiff responded, claiming that the unindexed document "dump" produced on CD-ROM did not meet Defendant's obligation to match documents with discovery requests as closely as possible. The court required the Plaintiff to take the CD-ROMs to an electronic evidence expert before the court would require Defendant to index the information. The electronic evidence expert was to ascertain whether the electronic information could be read and searched by commercially available software or converted to a format in which it could be done.

### **CEO compelled to provide personal laptop for forensic analysis**

*First USA Bank v. PayPal, Inc.*, 76 Fed.Appx. 935 (Fed.Cir. 2003).

In a patent infringement action, the plaintiff subpoenaed the defendant's former chief executive officer, specifically requesting the court to compel his deposition and to require him to produce his laptop computer for forensic inspection. The former-CEO had used the computer while employed by the defendant and subsequently purchased it from the defendant when he left its employ. Despite objection, the magistrate judge ordered the former-CEO to be available for deposition and approved a search protocol. The search protocol allowed electronic evidence consultants to create a forensic copy of the computer's hard drive, identify any potentially relevant documents, and, if such documents were found and identified, allow the former-CEO to create a privilege log. The district court affirmed the magistrate's order and former-CEO appealed. The appellate court dismissed the former-CEO's appeal of the lower court's non-final interlocutory discovery order.