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February 14, 2005

Via Federal Express

Peter G. McCabe
Secretary
Administrative Office of the U.S. Courts
One Columbus Circle, NE
Washington, DC 20544

RE: Proposed Amendments to the Federal Rules of Civil Procedure:
Electronic Discovery

Dear Mr. McCabe:

Starbucks Coffee Company is appreciative of the effort that the Advisory Committee is undertaking to strike an appropriate balance between litigants' need for discovery and the unreasonable burdens and expense that unbridled electronic discovery can impose. I am the vice president and assistant general counsel for Starbucks. In this role, I oversee Starbucks litigation. Starbucks, in response to requests for comments to the proposed amendments to the Federal Rules of Civil Procedure, submits the attached letter from Ed Amdahl, its information security manager. We believe that the amendments that would require a blanket preservation order and the *identification* of "inaccessible data" would result in a significant burden on Starbucks that would be unlikely to yield significant, additional discoverable information. For these reasons, we request that the contemplated changes to the rules be further refined to avoid unnecessary expense and hardship to all litigants.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lucy Lee Helm".

Lucy Lee Helm
vice president and asst. general counsel
Litigation & Employment

Enclosure



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February 14, 2005

Via Federal Express

Peter G. McCabe
Secretary
Administrative Office of the U.S. Courts
One Columbus Circle, NE
Washington, DC 20544

RE: Proposed Amendments to the Federal Rules of Civil Procedure:
Electronic Discovery

Dear Mr. McCabe:

I am employed by Starbucks Coffee Company as information security manager, and am sometimes called upon to search for and reconstruct computer data for Starbucks. It is my understanding that the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States is considering certain proposed amendments to the Federal Rules of Civil Procedure that would govern the requirements for parties to litigation when dealing with documents and data that are computer-based. For the reasons set forth below, it would be a significant hardship for Starbucks to comply with a blanket preservation order, to search preserved data that is intended to be accessed only in the event of a disaster or to attempt to identify "inaccessible data" with any particularity.

Starbucks purchased and installed computer systems in response to the evolving needs of our coffee business and its numerous departments and locations. Globally, Starbucks operates hundreds of servers running various operating systems, including, Unix-based variants, IBM iSeries mid-range computers and Windows-based servers, several enterprise and departmental business applications and their supporting databases, and thousands of end-user desktop workstations. Our primary product is coffee, served at more than 9,000 cafes by over 92,000 employees (which we refer to as "partners"), not computer software or information technology. We also sell tea, pastries and confections, music products, stored value cards, and coffee-related accessories and equipment in multiple and growing numbers of countries and channels of trade. As the numbers of our partners, products, locations and associated business requirements grew, new computer systems, applications, and databases were added, often by our information technology

department, but sometimes by the technology groups within the business units themselves. These systems were purchased to, again, respond to evolving business needs. Thus, unlike some organizations, we do not run one system (ERP-Suite) to process all of our data. The growth in the amount and complexity of data, and the increase in multiple platforms and operational systems all connected by a network, make the model incredibly complex. Searching for isolated types of records would be a very cumbersome, if not impossible task, as the systems are designed to process the company data in ways necessary for us to manage our daily business, not unanticipated data compilations and searches. In addition, many of these systems are replaced or modified as the business needs change. Finally, many of our partners are mobile and there is, of course, turnover.

Starbucks information technology environment is designed to support our operational requirements. In order to ensure the continuation of business functions during periods of disaster, such as the 2001 Nisqually earthquake centered near our Seattle headquarters, we established disaster recovery capabilities available through daily creation of back-ups to tape which are taken offsite for safe-keeping. We do not access the back-up data in the regular course of business and such back-up tapes are recycled on a regular basis. Starbucks identified our business critical applications, and created support plans with a third-party provider to allow us to return business critical applications to a level of limited operations during a disaster scenario. Currently, we use over one hundred tapes to back-up our systems every night – at the cost of approximately \$9,500 per day. Each year we would be required to keep, rather than recycle, back-up tapes would cost us in excess of \$3.5 million. This cost does not include our anticipated rapid growth or new businesses. The costs for back-up tapes would likely increase with our increased growth.

For other, non-critical applications, such as email, the recovery of functionality does not necessarily involve the restoration of previous data. The disaster recovery plans provide for recovering the loss of the operational environment, not the continued performance of the operational environment while at the same time restoring data to the back-up services or facilities. To have both sites active, as we would have to do if required to preserve and search for certain data, additional expenses would be incurred for licensing fees for the operating systems and software. In a disaster, only one system is running operations at a time. If we were to activate the “hot site” and continue with operations in Seattle, additional extraordinary fees would be required to pay for the use of the two systems simultaneously.

Based on our disaster recovery plans and capabilities, to recover our systems would require Starbucks to declare a disaster situation to activate our third-party “hot-site” service provider for the purposes of restoring data to their equipment. This would require that Starbucks send a number of technical support staff responsible for normal operations to an off-site location. Our disaster recovery plans include returning to limited operational mode, with most critical systems running and with the various business units

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expected to use manual work-arounds to keep the business operational. Thus, while such steps may provide some data to be available for recovery to an "electronic searchable form" to do so would be extraordinarily time-consuming and expensive. In addition, having to "identify inaccessible data" accurately in any particular situation would likely be impossible.

As discussed above, it would be very burdensome and expensive for Starbucks to comply with a blanket preservation order, to search data that is designed to be preserved and accessed only in the event of a disaster and then, only at great expense, or to attempt to identify "inaccessible data" with any particularity.

Very truly yours,



Ed Amdahl
information security manager