

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In re

Subpoena Duces Tecum  
dated April 4, 2014

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**PUBLIC**

File No. 131 0214

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**Supplement to Petition of Star Pipe Products Ltd. to Limit Subpoena Duces Tecum**

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Dated: May 22, 2014

This Supplement is submitted as to the Petition to Limit the Subpoena Duces Tecum (“Petition”) filed by Star Pipe Products Ltd. (“Star”) on April 4, 2014.

In proceeding to provide documents under the Subpoena, Star determined that Star has approximately 20 terabytes of data contained in approximately 123 old electronic backups of its email systems. These backups have not been restored and are not among the documents Star is reviewing for responsiveness.

The production of documents from the backups would be extremely costly and burdensome to Star. Before each backup can even be reviewed, it must go through an extraction and restoration process that is both time-consuming and expensive, and that involves Star employees and third-party vendors. Completing this process for just one backup can take weeks and cost thousands of dollars; completing this process for all of the backups, which does not even include review of the documents therein, would be an incredible undertaking. Star’s objection to the Subpoena includes any unreasonably broad requirement to review and/or produce documents from these backups in response to the Subpoena.

Star has restored and is reviewing the back-up closest in time to the end date of the Subpoena’s one-year time period. Considering that much of the data on these old backups—by the inherent definition of a “backup”—will be merely duplicative of data that is already being reviewed, the time and expense necessary to effectuate a review of old backups far outweigh any likely benefit.

As mentioned in the Petition, Star is in ongoing discussions with counsel for the FTC to limit Specifications contained in the Subpoena and to modify the Subpoena. In order to ensure that its objections are preserved, however, Star submits this Supplement to its Petition.

The Code of Federal Regulations states that the Commission may issue a subpoena

directing the recipient to produce “documentary material.” 16 C.F.R. § 2.7(a). It defines “documentary material” as including “all documents, materials, and information, including ESI, *within the meaning of the Federal Rules of Civil Procedure.*” 16 C.F.R. § 2.7(a)(2) (emphasis added). In turn, the Federal Rules of Civil Procedure direct that “[a] party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost.” FED. R. CIV. P. 26(b)(2)(B). This limit is also approved of in other parts of the Code of Federal Regulations, which echo the language of Rule 26. *See, e.g.*, 16 C.F.R. § 3.31(c)(3) (“A party or third party need not provide discovery of electronically stored information from sources that the party or third party identifies as not reasonably accessible because of undue burden or cost”). Furthermore, the Federal Rules state that discovery *must* be limited if “the burden or expense of the proposed discovery outweighs its likely benefit...” FED. R. CIV. P. 26(b)(2)(C)(iii).

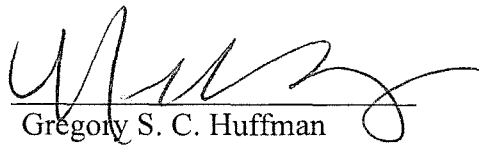
As stated above, Star has identified the backups as both (1) not reasonably accessible, and (2) as sources of information the benefit of which would be outweighed by the burden and expense. Pursuant to 16 C.F.R. § 2.7 and Rule 26(b), Star should be protected from the Subpoena to the extent of any requirement to review old backups.

Star respectfully requests that the FTC grant the Petition, inclusive of this Supplement, and limit the Subpoena issued to Star based on the objections set forth by Star. Star also requests any other relief to which it may be entitled.

Dated: May 22, 2014

Respectfully submitted,

**THOMPSON & KNIGHT LLP**

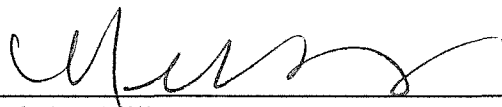
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### Statement of Conference

This is to certify that counsel for Star has conferred with FTC staff in good faith to resolve by agreement the issue raised by this petition and have been unable yet to reach agreement on the issues noted in this petition.

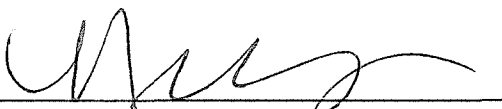


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Nicole L. Williams

### Certificate of Service and Regarding Electronic Copy

This is to certify that on May 22, 2014, I caused the original and 12 copies of the foregoing document (and all attachments), along with a CD containing an electronic copy of the same, to be sent for delivery by delivery service to the Federal Trade Commission, Office of the Secretary, Room H-113, 600 Pennsylvania Avenue, NW, Washington, DC 20580, and one copy to Commission Counsel at the Federal Trade Commission, Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. I certify that the electronic copy is the same as the paper original copy.



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