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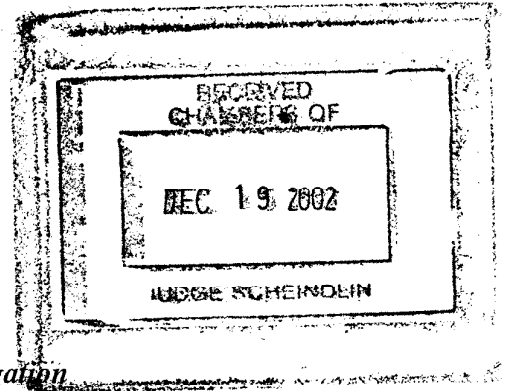
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December 19, 2002

BY HAND

Hon. Shira A. Scheindlin
United States District Court Judge
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007



Re: *In re Initial Public Offering Securities Litigation*
21 MC 92 (SAS)
(*Electronic Data Preservation Protocol*)

Dear Judge Scheindlin:

I write as Plaintiffs' liaison counsel on electronic preservation issues in connection with Plaintiffs' and the Underwriter Defendants' discussions concerning an appropriate protocol for the preservation of electronic data that may be subject to discovery in these actions.

I am pleased to report that Plaintiffs and the majority of Underwriter Defendants have resolved all points of dispute concerning the proposed electronic data preservation protocol, which was previously presented to the Court, and the associated preservation questionnaire, which is proposed by the parties at the Court's suggestion. The parties' agreed-upon proposal is reflected in proposed Case Management Order Relating to Preservation of Electronic Data, which is submitted herewith.

As Your Honor will note, while plaintiffs consent to the proposed CMO, certain smaller Underwriter Defendants ("smaller" in terms of either institutional size or number of actions in which they are defendants) object to certain provisions of the protocol. These objecting Underwriter Defendants have designated two liaisons to communicate with plaintiffs in an effort to address their concerns. Plaintiffs have spoken with the objecting Underwriter Defendants' liaison counsel and will continue to do so over the next 30 days. Plaintiffs will return to the Court at that point with a preservation proposal



Hon. Shira A. Scheindlin

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for these objecting Underwriter Defendants in the event their objections have not been withdrawn.

Moses Silverman of Paul Weiss, who has acted as the liaison to the majority group of Underwriter Defendants, has reviewed this letter and, on behalf of the consenting underwriters, joins in plaintiffs' request for entry of the enclosed CMO. Counsel for the parties are of course available to address any questions raised by the parties' proposed order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David R. Buchanan".

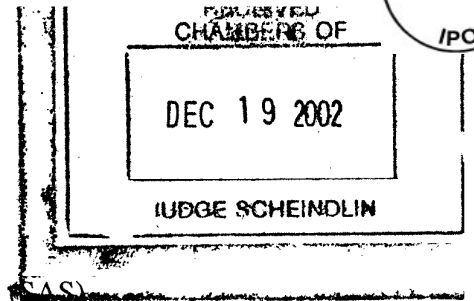
David R. Buchanan

cc: All Counsel (via Verilaw)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re
INITIAL PUBLIC OFFERING
SECURITIES LITIGATION

This Document Relates to All Cases

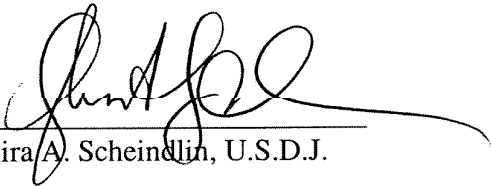


21 MC 92 (SAS)

**PROPOSED CASE
MANAGEMENT ORDER
RELATING TO
PRESERVATION OF
ELECTRONIC DATA**

SHIRA A. SCHEINDLIN, U.S.D.J.:

Annexed hereto as Exhibit 1 is a Protocol for the Preservation of Electronic Data ("Protocol") that has been submitted by the parties listed in Schedules A and B thereto. IT IS HEREBY ORDERED that the parties identified in Schedules A and B to the Protocol abide by the provisions thereof.



Shira A. Scheindlin, U.S.D.J.

Dated: December 19, 2002
New York, New York



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**Plaintiffs' and Underwriter Defendants'
Joint Proposed Electronic Data Preservation Protocol**

1. As used herein, the term "potentially discoverable electronic information" refers to Underwriter Defendants' and Institutional Named Plaintiffs' electronic "documents" that contain or potentially contain information relating to facts at issue in the litigation, where the term "documents" is used as it is defined in Fed. R. Civ. P. 34(a).¹

2. During the pendency of these actions, the Underwriter Defendants and the Institutional Named Plaintiffs shall securely maintain, to the extent that they currently exist and may contain potentially discoverable electronic information: (i) e-mail back-up tapes, and (ii) network back-up tapes (together, the "Back-Up Tapes") created in the ordinary course of business during the period from August 1997 through August 2002 as set forth in the following sentence. The Underwriter Defendants and the Institutional Named Plaintiffs shall be obligated to retain only one day's Back-Up Tapes among all Back-Up Tapes created in the ordinary course during a given month, provided that such day's Back-Up Tapes represent a complete back-up of the data contained on the subject servers on that day (as opposed to merely an incremental back-up of the subject servers). If only incremental back-up tapes have been retained for a given month, then all such incremental tapes shall be retained. All Back-Up Tapes other than those specifically required to be preserved pursuant to this paragraph and paragraph 3 below may be recycled, overwritten, or erased, as the case may be, pursuant to each Underwriter Defendant's and Institutional Named Plaintiff's otherwise applicable retention schedule.

3. All electronic information or data archived or backed up during the period from August 1997 through August 2002 as part of a special back-up (a back-up made other than in the ordinary course of business by an Underwriter Defendant or Institutional Named Plaintiff), whether due to system upgrade, transition planning, system migration, disaster recovery planning, Y2K testing, or any other reason, that potentially contains potentially discoverable electronic information shall be securely retained, to the extent that they currently exist, for the remainder of the litigation.

4. All current or legacy software and hardware necessary to access, manipulate, print, etc., potentially discoverable electronic information that either is "live" or has been archived or backed up shall be securely retained, to the extent that they currently exist, for the remainder of the litigation.

¹ The Underwriter Defendants consenting to this protocol are set forth in Schedule A, annexed hereto. The agreed-upon Institutional Named Plaintiffs subject to this protocol are set forth in Schedule B, annexed hereto.

5. The Underwriter Defendants and the Institutional Named Plaintiffs shall circulate retention notices designed to ensure the preservation of potentially discoverable electronic and other information to those employees potentially possessing such information. Thereafter, the Underwriter Defendants and the Institutional Named Plaintiffs shall quarterly re-notify their employees of their continuing obligation to preserve such information.

6. The Underwriter Defendants and the Institutional Named Plaintiffs shall take the following measures to secure and retain, to the extent that it exists, the potentially discoverable electronic information that is on the desktop and laptop hard drives of their respective employees. Either: (i) hard drives containing potentially discoverable electronic data shall be retained with all potentially discoverable electronic data contained therein retained intact; or, (ii) employees shall be instructed to copy all potentially discoverable electronic information to a secure, backed-up network storage device or back-up medium for the remainder of the litigation, making all reasonable efforts to retain all meta-data (file creation dates, modification dates, etc.) associated with the potentially discoverable electronic information at issue. The periodic retention notifications disseminated pursuant to paragraph 5 above shall advise employees potentially possessing potentially discoverable electronic information of their obligation to store discoverable electronic information on a secure, backed-up network storage device or back-up medium to ensure its preservation and instruct such employees in the manner of doing so in accordance with this paragraph.

7. Plaintiffs within 15 days of receiving the list of business units referred to below shall identify by name, title, or departmental category employees of each Underwriter Defendant for which the respective Underwriter Defendant shall be responsible for maintaining the hard drive, or a mirror image copy (*i.e.*, a bit by bit copy) of such hard drive, during the pendency of this litigation. Defendants shall within 15 days of receiving the list of business units referred to below identify by name, title, or departmental category of employees of Institutional Named Plaintiffs for which the respective Plaintiff shall be responsible for maintaining the hard drive, or a mirror image copy (*i.e.*, a bit by bit copy) of such hard drive, during the pendency of this litigation. In no event shall the number of computers subject to the provisions of this paragraph be greater than 40 for each Underwriter Defendant and 5 for each Institutional Named Plaintiff. The hard drives or image copies of such hard drives preserved pursuant to this paragraph shall be labeled to identify the employee who primarily used the computer associated with that hard drive. In order to facilitate the identification of the appropriate employees, the parties will provide to each other identification by business unit and positions the employees they reasonably believe could have potentially discoverable electronic information. The parties will meet and confer in good faith and exchange additional information as may be necessary to facilitate the identification, and limit the number, of employees for whom the provisions of this paragraph shall be applicable.

8. To the extent that any Underwriter Defendant or Institutional Named Plaintiff has implemented a system for the purpose of preserving external emails (emails sent to or received by a given Underwriter Defendant's or Institutional Named Plaintiff's employees) in an easily accessible form, other than an email server or the Back-up Tapes

identified in paragraph 2 or 3 above, all emails that were created during the period from August 1997 through August 2002, that contain potentially discoverable electronic information, and that are stored on any such system as of the date hereof, shall be preserved during the pendency of this litigation.

9. Within 45 days, each Underwriter Defendant and each Institutional Named Plaintiff will provide written answers to the best of its ability to the questions concerning information system and electronic document retention practices set forth in attached Schedule C. Should any Underwriter Defendant or Institutional Named Plaintiff believe that it cannot in good faith answer any of the questions as posed, the relevant parties will confer to resolve any disputes and, if necessary, seek Court intervention.

10. By agreeing to preserve potentially discoverable electronic information in accordance with the terms hereof, none of the Underwriter Defendants and none of the Institutional Named Plaintiffs are waiving any objection to the ultimate discoverability of such information at such point when discovery is authorized in these actions.

11. Nothing herein shall be deemed to affect the Underwriter Defendants' and Institutional Named Plaintiffs' obligations to preserve hardcopy documents pursuant to paragraph V of the Court's August 8, 2001 Order. If counsel to an Underwriter Defendant or an Institutional Named Plaintiff learns that potentially discoverable hardcopy documents pertaining to a given public offering were destroyed by such party subsequent to being named as a party in, and receiving a copy of, a complaint pertaining to that public offering, counsel for such party shall notify opposing counsel in writing of such destruction within two weeks of learning so.

12. Nothing herein shall preclude any party from raising with counsel or the Court the limitation or modification of the foregoing in response to particular facts relevant to that party.

13. Nothing herein relieves any other party of its obligations under the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act, or any other applicable law.

SCHEDULE A

**Underwriter Defendants Consenting to
Plaintiffs' and Underwriter Defendants'
Joint Proposed Electronic Data Preservation Protocol**

1. Banc of America Securities, LLC (f/k/a NationsBanc Montgomery Securities)
2. The Bear Stearns Companies Inc. and Bear, Stearns & Co. Inc.
3. CIBC World Markets Corp. (f/k/a CIBC Oppenheimer Corp.)
4. Credit Suisse First Boston Corp.
5. Dain Rauscher Wessels (acquired by Royal Bank of Canada in September 2000 and renamed RBC Dain Rauscher, Inc.)
6. Deutsche Bank Securities Inc. (f/k/a Deutsche Bank Alex. Brown and BT Alex. Brown)
7. Epoch Partners (acquired by The Goldman Sachs Group, Inc. in June 2001)
8. E*Offering Corporation (merged into Wit SoundView Corporation, a subsidiary of Wit SoundView Group, Inc., in October 2000; subsequently known as SoundView Technology Corporation)
9. Everen Securities Holdings, Inc. (a subsidiary of Everen Capital Corporation, acquired by First Union Corporation in April 1999)
10. The Goldman Sachs Group, Inc. and Goldman, Sachs & Co.
11. J.C. Bradford & Co. (acquired by Paine Webber Group, Inc. in April 2000)
12. J.P. Morgan Securities Inc. (Hambrecht & Quist, LLC, Chase Securities, Inc., and J.P. Morgan Securities merged into a single entity)
13. Lazard Freres & Co., LLC
14. Lehman Brothers Holdings, Inc. and Lehman Brothers, Inc.
15. Merrill Lynch & Co., Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Merrill Lynch International
16. Morgan Stanley Dean Witter & Co., Morgan Stanley & Co. and Morgan Stanley Online
17. Needham & Company, Inc.
18. Paine Webber Group, Inc. (acquired by UBS Warburg, LLC in November 2000 to form UBS Paine Webber, Inc.)
19. Prudential Securities Incorporated (individually and as successor in interest to Volpe Brown Whelan & Co., LLC)

20. Raymond James & Associates
21. Robert Fleming Inc. (acquired by Chase H&Q in August 1999)
22. Robertson Stephens, Inc. (f/k/a BancBoston Robertson Stephens, Inc. and FleetBoston Robertson Stephens, Inc.)
23. Salomon Smith Barney, Inc.
24. SG Cowen Securities Corp.
25. SoundView Technology Group, Inc. (a wholly owned subsidiary of Wit Capital Group, Inc. as of January 2000; subsequently known as Wit SoundView Corporation and SoundView Technology Corporation)
26. SunTrust Robinson Humphrey Capital Markets a division of SunTrust Capital Markets, Inc.
27. Thomas Weisel Partners, LLC
28. Tucker Anthony Inc. (acquired by the parent of RBC Dain Rauscher Inc. in November 2001 and merged into RBC Dain Rauscher Inc. in March 2002)
29. UBS Paine Webber, Inc. (formed by November 2000 acquisition of Paine Webber Group, Inc. by USB Warburg, LLC)
30. UBS Warburg, LLC (formed by June 1998 merger of SBC Warburg and Union Bank of Switzerland)
31. U.S. Bancorp Piper Jaffray, Inc.
32. Wit Capital Group, Inc. (subsequently known as Wit SoundView Group Inc., and SoundView Technology Group, Inc.)
33. Wit SoundView Group Inc. (formerly known as Wit Capital Group, Inc.)

SCHEDULE B

Institutional Plaintiffs

Issuer	Docket Number	Plaintiff
Avanex	01 Civ. 6890	International Brotherhood of Electrical Workers
eBenX, Inc.	01 Civ. 9411	Rennel Trading Corp.
eGain Comm., Corp.	01 Civ. 9414	Rennel Trading Corp.
Eloquent, Inc.	01 Civ. 6775	Pond Equities
GRIC Communications, Inc.	01 Civ. 6771	Colbert Birnet, LP
InforMax, Inc.	01 Civ. 10834	Coastline Corporation, Inc.
Internet Capital Group, Inc.	01 Civ. 3975	AFA Management Partners, LP
Metasolv Software, Inc.	01 Civ. 9651	Colbert Birnet, L.P.
Numerical Technologies	01 Civ. 9513	Pond Equities
On Semiconductor Corp.	01 Civ. 6114	Fuller & Thaler Asset Management
Palm, Inc.	01 Civ. 5613	Plumbers and Pipefitters National Pension Fund
Perot Systems Corp.	01 Civ. 6820	Robinson Radiology Ltd. Profit Sharing Plan and Trust
Radio One, Inc.	01 Civ. 10160	Colbert Birnet, L.P.
Wireless Facilities, Inc.	01 Civ. 4779	Fuller & Thaler Asset Management

SCHEDULE C

Plaintiffs' and Underwriter Defendants' Proposed Document Retention Questionnaire

Network Servers

The below questions concern the current and former database and file servers on your network that now store or previously stored discoverable electronic data (hereinafter referred to as "network servers").

1. Do you have at least one complete (i.e., non-incremental) backup of each of your network servers for each month since August 1, 1997 to the present?
 - 1.1. If not, for which months do you not have at least one complete backup?
 - 1.2. For those months, if any, for which you do not have a complete backup, do you have incremental backups or other backups from which a full backup can be created of all data as of a given date in each such month?
 - 1.3. If so, please describe the nature of such incremental or other backups and identify the months for which you have them.
2. Can specific files contained on network backups be selectively restored?
3. As a matter of firm policy, do you overwrite, reformat, erase, or otherwise destroy the content of the backups of your network servers on a periodic basis?
 - 3.1. If so, what is the rotation period?
 - 3.2. If the rotation period has changed since August 1, 1997, describe the changes.

Email Servers

The below questions concern the current or former servers on your network ("email servers") that now or previously stored discoverable electronic internal or external peer-to-peer messages, including email, Bloomberg email, other third party email sources, and instant messages (collectively, "email").

4. Identify the systems (client and server-side applications) used for email and the time period for the use of each such system.
5. Are end-user emails that appear in any of the following folders stored on (i) the end-user's harddrive, (ii) an email server, or (iii) a server of a third party application service provider:

- “In Box”?
 - “Sent Mail”?
 - “Delete” or “trash” folder?
 - End user stored mail folders?
6. If any of your emails systems have changed since August 1, 1997, identify the legacy system, the new system, and the date of the last backup made with the legacy system.
 7. Do you have at least one complete (i.e., non-incremental) back up of each of your email servers for each month since August 1, 1997 to the present?
 - 7.1. If not, for which months do you not have at least one complete backup?
 - 7.2. For those months, if any, for which you do not have a complete backup, do you have incremental or other backups from which a full backup can be created of all data as of a given date in each such month?
 - 7.3. If so, please describe the nature of such incremental or other backups and identify the months for which you have them.
 8. Does each complete email backup contain all messages sent or received since creation of the immediately prior complete email backup?
 - 8.1. Do your email backups contain the messages that are in each employee’s “in box” as of the time such backup is made?
 - 8.2. Do your email backups contain the messages that are in each employee’s “sent mail” folder as of the time such backup is made?
 - 8.3. Do your email backups contain the messages that are in each employee’s “delete” or “trash” folder as of the time such backup is made?
 - 8.4. Do your email backups contain the messages that are in each employee’s stored mail folders as of the time such backup is made?
 9. Can specific email boxes contained on email backups be restored selectively?
 10. As a matter of firm policy, do you overwrite, reformat, erase, or otherwise destroy the content of the backups of your email servers on a periodic basis?
 - 10.1. If so, what is the rotation period?
 - 10.2. If the rotation period has changed since August 1, 1997, describe the changes.

11. Do you have a computer system that maintains electronic copies of all emails sent or received by certain of your employees?
 - 11.1. If so, describe the system(s) and the date(s) of first use.
 - 11.2. If so, does such system(s) contain copies of all emails captured from the date of first use until the present?
 - 11.3. If so, does such system(s) capture a copy of all emails sent or received by employees in investment banking, equity research functions, or senior management?

Hard Drives

The below questions concern the current and former local or non-network drives contained in current or former employees' laptop and desktop computers or workstations

12. As a matter of firm policy, are employees' desktop and laptop hard drives backed up in any way?
 - 12.1. If so, under what circumstances?
 - 12.2. If so, how long are such backups retained?
13. As a matter of firm policy, are employees permitted to save files, emails or other data (excluding system and application generated temporary files) to their desktop or laptop hard drives?
14. Since August 1, 1997, has it been technically possible for firm employees to save files, emails, or other data (excluding system and application generated temporary files) to their desktop or laptop hard drives?
15. Do you implement technical impediments to minimize the opportunity for employees to save files, emails or other data (excluding system and application generated temporary files) to their desktop or laptop hard drives?
16. As a matter of firm policy, are employees' desktop and laptop hard drives erased, "wiped," "scrubbed" or reformatted before such hard drives are, for whatever reason, abandoned, transferred or decommissioned?
 - 16.1. If so, are, as a matter of firm policy, files, emails or other data stored on such hard drives copied to the respective employee's replacement drive, if any?
 - 16.2. If so, are, as a matter of firm policy, such files, emails or other data copied on a "bit-by-bit" basis?

Non-Firm Computers

17. Does firm policy permit, prohibit or otherwise address employee use of computers not owned or controlled by the firm to create, receive, store or send work-related documents or communications?
 - 17.1. If so, what is that policy?
18. Is there any technical impediment to employees using computers not owned or controlled by the firm to create, receive, store or send work-related documents or communications?