

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of

HOECHST MARION ROUSSEL, INC., a corporation,
CARDERM CAPITAL L.P., a limited partnership,

and

ANDRX CORPORATION, a corporation.

DOCKET NO. 9293

RESPONDENT ANDRX CORPORATION'S
APPLICATION FOR *IN CAMERA* PROTECTION OF
CERTAIN OF ITS CONFIDENTIAL MATERIALS

Pursuant to Section 3.45 of the Federal Trade Commission's Rules of Practice, Respondent Andrx Corporation (Andrx) hereby makes application for an Order (1) granting *in camera* protection of certain of its confidential materials; and (2) granting such other and further relief as the court deems just and proper.

The bases of this application are set forth in the accompanying memorandum of law and the accompanying Declaration of Herschel E. Sparks, Jr., executed on September 29, 2000.

Dated: New York, New York
September 29, 2000

Respectfully Submitted,

SOLOMON, ZAUDERER, ELLENHORN,
FRISCHER & SHARP

By: 

Louis M. Solomon

Hal S. Shaftel

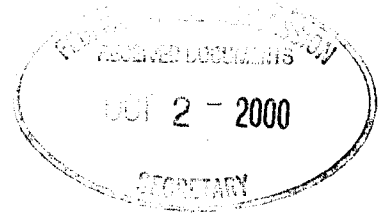
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Counsel for Respondent Andrx Corporation



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**RESPONDENT ANDRX CORPORATION'S
APPLICATION FOR *IN CAMERA* PROTECTION OF
CERTAIN OF ITS CONFIDENTIAL MATERIALS**

Respondent Andrx Corporation (Andrx) submits this memorandum, pursuant to Section 3.45 of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.45, in support of its application seeking *in camera* treatment of certain of its confidential materials.

PRELIMINARY STATEMENT

On September 8, 2000, Complaint Counsel provided Andrx with a list of documents that they assert they may use in a pleading, motion, exhibit, or other paper to be filed in this proceeding. The volume of documents identified by Complaint Counsel is massive, almost 5000 pages¹. Andrx reviewed each of the documents, and has compiled a list of the documents it believes deserve *in camera* protection².

¹ Over 4200 pages were contained on Complaint Counsel's list to Andrx. In addition over 500 pages of documents consisting of Andrx' confidential information were also contained on a similar list provided to Respondent Hoechst Marion Roussel, Inc. (HMR).

² See accompanying declaration of Herschel E. Sparks, Jr., executed September 29, 2000 (the "Sparks Decl.").

To undertake at this time to address each document that deserves *in camera* treatment individually is impracticable, and indeed likely will prove to be unnecessary, given the complete uncertainty as to which documents Complaint Counsel may use in a pleading, motion, exhibit or other paper to be filed in this proceeding, if at all. In light of the excessively broad designation of material, Andrx respectfully suggests that the appropriate course is to defer consideration of *in camera* treatment for the documents until Complaint Counsel narrows the list to documents that it actually will use in submissions.

ARGUMENT

Andrx requests that the Court defer judgment until Complaint Counsel narrows its list. As this Court has already acknowledged, these lists are “extensive” and “overbroad.” Furthermore, as reasoned by this Court in the context of the “Other” documents identified by Complaint Counsel in the September 8, 2000 list (as communicated on September 27, 2000 by Victoria Arthaud), in light of the large number of documents, the actual use of which is speculative, it would be appropriate to address the specific documents that Complaint Counsel will utilize, if such occasion arises.

I. Legal Standard for *In Camera* Treatment

“There is no question that the confidential records of businesses involved in Commission proceedings should be protected insofar as possible.” H.P. Hood & Sons, Inc., 58 F.T.C. 1184, 1186 (1961). “An applicant for *in camera* status is required to show that the information in the documents is ‘sufficiently secret’ and ‘sufficiently material’ to its business that disclosure would result in serious competitive injury.” In re E.I. DuPont de Nemours & Company, 103 F.T.C. 533, 534 (1984) (quoting Hood, 58 F.T.C. at 1188).

There are six factors considered in determining secrecy and materiality. These are:

(1) the extent to which the information is known outside of [the proponent's] business; (2) the extent to which it is known by employees and other involved in [the proponent's] business; (3) the extent of measures taken by [the proponent] to guard the secrecy of the information; (4) the value of the information to [the proponent] and to [its] competitors; (5) the amount of effort or money expended by [the proponent] in developing the information; [and] (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

In re Bristol-Myers Company, 90 F.T.C. 455, 456-57 (1977).

In addition, "a showing that the public disclosure of the documentary evidence will result in a clearly defined, serious injury to the person or corporation whose records are involved" is also required. Hood, 58 F.T.C. at 1188. Within the context of this legal backdrop, "the courts have generally attempted to protect confidential business information from unnecessary airing." Id.

Moreover, in the event of uncertainty as to the whether the documents are entitled to *in camera* treatment, there is precedent that such designation may preliminarily be made, subject to change at a later time. As explained in Bristol-Myers,

the general and fundamental policy favoring government decisions based on publicly available facts may warrant different treatment for similar information depending upon the importance of the information to an understanding of the Commission's decision making processes. Taking this into consideration, it may be reasonable in some cases, as Commission Rule 3.45(a) allows, for the law judge to grant *in camera* treatment for information at the time it is offered into evidence subject to a later determination by the law judge or the Commission that public disclosure is required in the interests of facilitating public understanding of their subsequent decisions.

Bristol-Myers Company, 90 F.T.C. at 457.

II. The Documents Referenced in the Application Merit *In Camera* Treatment

The documents that Andrx believes deserve *in camera* protection have been divided into the following six categories: (1) Scientific Documents; (2) Internal Business Documents; (3) Documents Relating to the Settlement Agreement between Respondent Hoechst Marion Roussel, Inc. (“HMR”) and Andrx; (4) Regulatory Filings or Communications; (5) Agreements and Drafts Concerning the Supply of Other Products or the Resolution of Other Patent Infringement Litigations; and (6) Documents Regarding Settlement Efforts in this (FTC) Proceeding. (A list of these documents identified by bates number, divided into the categories in which they belong, is annexed to the accompanying declaration of Herschel E. Sparks Jr. as Exhibit A. Copies of the documents themselves have been provided directly to chambers in light of their confidential and highly sensitive nature.)

Reasons for why each category deserves *in camera* protection is addressed in turn below. In addition, reasons pertaining to all the categories are also presented.

A. Scientific Documents

These documents include research and development and formulaic data. Many of these documents go to the heart of how Andrx’ products (of which all but the Cardizem CD generic have no relation to this proceeding) are launched. Within Andrx, they are not widely circulated. Only people of high level of seniority and/or on a “need to know” basis have access to these documents. The sensitive, non-public status of these documents may be inferred by the nature of the documents themselves. They, being secret formulas, processes, and other secret technical information, are inherently confidential. Sparks Decl. ¶ 5. See Hood, 58 F.T.C. at 1087.

B. Internal Business Documents

These documents detail financial information, projections, risk analyses, product strategies and products in development and/or in the pipeline. Extraordinary measures have been taken to guard the secrecy of these documents and the information contained therein. They are treated in a strict confidential manner even within Andrx. To the extent that any of them have been disclosed to third parties, Andrx has first secured promises of confidentiality. The value of the information contained in these documents to Andrx is tremendous and would provide an unfair advantage to its competitors who have not expended the financial, human and temporal resources to produce the information contained in the documents and/or who have no right to the internal business dealings, planning and strategies of Andrx. In addition, the financial and business documents contain detailed data relating to Andrx' costs, suppliers, expenditures, projections, etc., as well as possible future products or products "in the pipeline" -- information that would be invaluable to Andrx' competitors. Sparks Decl. ¶ 6.

C. Documents Relating to the Settlement Agreement between HMR and Andrx

These documents include drafts of, as well as communications relating to and concerning the performance of, the settlement agreement between HMR and Andrx. The information contained therein is not publicly available. The documents contain financial terms, with respect to, among other things, licensing arrangements. In addition, these documents reveal the negotiating positions and strategies of Andrx. These terms and strategies are commercially sensitive and disclosure would provide an unfair advantage to competitors and potential competitors. Andrx never consented to their being publicly disclosed either in connection to this proceeding or elsewhere. Sparks Decl. ¶ 7.

D. Regulatory Filings or Communications

These documents include non-public, confidential correspondence and documents filed with the Food and Drug Association (“FDA”). Great measures have been take to protect the confidentiality of the information contained in these documents, as well as the documents themselves. To the extent that any of them have been disclosed to third parties, they were provided pursuant to a confidentiality agreement and with express assurances that confidentiality would be maintained. Sparks Decl. ¶ 8.

D. Agreements and Drafts Concerning the Supply of Other Products or the Resolution of Other Patent Infringement Litigations

These documents are not only non-public and confidential, they have nothing to do with this proceeding. Similar to the internal business documents and the documents relating to the settlement stipulation between HMR and Andrx, significant measures have been taken to guard their confidentiality, and they are kept secret, even within Andrx. Sparks Decl. ¶ 9.

E. Documents Regarding Settlement Efforts in this (FTC) Proceeding

The information contained in these documents is not publicly available, nor is it readily available to any persons other than high level Andrx executives. Andrx never consented to the disclosure of these documents or information to the public either in connection with this proceeding or any other context. Furthermore, much like the documents relating to the settlement agreement between HMR and Andrx, these documents reflect the negotiating positions and strategies of Andrx, disclosure of which would create an unfair competitive advantage to its outsiders. Sparks Decl. ¶ 10.

III. Reasons for In Camera Treatment Relating to All Categories of Documents

Great measures have been taken to guard secrecy of every document for which Andrx seeks *in camera* treatment. Sparks Decl. ¶ 12. They are not already a matter of public record. They do not appear in public binders of this proceeding, nor have they been publicly disclosed in any other context. Furthermore, to the extent that any of them have been disclosed to third parties, Andrx has done so only upon first procuring assurances of confidentiality, usually by written agreement. Sparks Decl. ¶ 12.

The information is not stale and is still significant today. To the extent that some information concerning Andrx' business plans may be older, it still may be used to extrapolate current business operations, strategies and/or decision-making rationale. Similarly, to the extent some documents relate to products Andrx was developing or considering developing, such information is certainly still sensitive and worthy of protection today. Sparks Decl. ¶ 13. See In re Kaiser Aluminum & Chemical Corporation, 103 F.T.C. 500 (1984) (holding that material that is over five years old is still extremely sensitive and deserving of *in camera* protections because "a serious injury would be done by release of this information, which they have never made available to the public").

Much of the information consists of significant work product that has literally cost Andrx millions of dollars to develop. In addition to financial cost, the time and effort expended to create the information contained in these documents has been tremendous. The scientific data alone is a result of years of research and investment. Sparks Decl. ¶ 14. The value of the information contained in each of these documents is immeasurable to Andrx, as the documents reflect Andrx' business judgments and strategies on many levels. Sparks Decl. ¶ 15.

It would be extremely difficult and costly for competitors or the public to replicate or develop this information on their own. To the extent the information is financial or numerical it is not available from other sources. Sparks Decl. ¶ 16.

The public interest would not be served by making these confidential documents a matter of public record. Neither the scientific data nor the financial information contained in this documents bear any relationship to consumers or other members of the public at large. The information, however, would be highly valuable to Andrx' competitors in the marketplace and would, as a business matter, significantly prejudice Andrx' legitimate commercial interests. Sparks Decl. ¶ 17. See Kaiser Aluminum, 103 F.T.C. at 500 (holding that certain documents warranted *in camera* treatment reasoning that a "public understanding of this proceeding does not depend on access to these data submitted").

Irreparable injury to Andrx would ensue if the information contained in these documents were disclosed to the public. As demonstrated above, much of the information contained in these documents would be invaluable to Andrx' competitors and provide them with an improper advantage. The benefits of Andrx' investment and research would be unfairly reaped. Sparks Decl. ¶ 18.

IV. Expiration Date for In Camera Protection

The confidential nature of the documents will not decrease over time. Andrx' scientific research, analyses, strategies, long-term plans, internal planning documents and work product reflecting business decisions and the respective rationales therefor will continue to be commercially sensitive and confidential indefinitely. For example, there is no known date, if any, when products that are or may be in development will no longer be relevant. Similarly,

Andrx' history of decision-making and the thought processes relating thereto will always be the kind of information which would provide competitors with an unfair business advantage and which Andrx has a significant interest in protecting. Accordingly, we request indefinite *in camera* protection be granted to these documents. Sparks Decl. ¶ 19.

CONCLUSION

For the foregoing reasons, Andrx respectfully requests that this Court grant its application for *in camera* protection of the documents referenced herein.

Dated: New York, New York
September 29, 2000

Respectfully Submitted,

SOLOMON, ZAUDERER, ELLENHORN,
FRISCHER & SHARP

By: 

Louis M. Solomon

Hal S. Shaftel

Colin A. Underwood

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New York, New York 10111

(212) 956-3700

Counsel for Respondent Andrx Corporation

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**HOECHST MARION ROUSSEL, INC., a corporation,
CARDERM CAPITAL L.P., a limited partnership.**

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ANDRX CORPORATION, a corporation.

Docket No. 9293

**DECLARATION OF HERSCHEL E. SPARKS, JR. IN SUPPORT
OF RESPONDENT ANDRX CORPORATION'S
APPLICATION FOR *IN CAMERA* PROTECTION OF
CERTAIN OF ITS CONFIDENTIAL MATERIALS**

HERSCHEL E. SPARKS, JR., pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am Litigation Counsel to Respondent Andrx Corporation (Andrx).

2. I submit this declaration in support of Andrx' application for *in camera*

protection of numerous of its confidential documents that have been identified by Complaint Counsel as material and which they reasonably expect to include in a pleading, motion, exhibit or other paper to be filed in this proceeding. I have reviewed those documents and make this declaration based on personal knowledge.

3. The volume of documents identified by Complaint Counsel is massive, amounting almost 5000 pages¹. To undertake at this time to address each document that deserves *in camera* treatment individually is impracticable, and, indeed, likely will prove

¹ Over 4200 pages were contained on Complaint Counsel's list to Andrx. In addition over 500 pages of documents consisting of Andrx' confidential information were also contained on a similar list provided to Respondent Hoechst Marion Roussel, Inc. (HMR).

to be unnecessary, given the complete uncertainty as to which documents Complaint Counsel may use in a pleading, motion, exhibit or other paper to be filed in this proceeding, if at all. In light of the excessively broad designation of material, we respectfully believe that the appropriate course is to defer consideration of *in camera* treatment for the documents until Complaint Counsel narrows the list to documents that it actually will use in submissions.

4. Rather than address each document separately, we have divided the documents Andrx believes deserve *in camera* protection into six categories. Given Andrx' substantial interest in protecting the confidentiality of these documents, which contain trade secrets and other commercially sensitive information, I am available to appear at a hearing to address any questions that the court may have relating to the contents of these documents. The six categories are as follows:

Description of Six Categories

Scientific Documents

5. These documents include research and development and formulaic data. Many of these documents go to the heart of how Andrx' products (of which all but the Cardizem CD generic have no relation to this proceeding) are launched. Within Andrx, they are not widely circulated. Only people of high level of seniority and/or on a "need to know" basis have access to these documents. The sensitive, non-public status of these documents may be inferred by the nature of the documents themselves. They, being secret formulas, processes, and other secret technical information, are inherently confidential.

Internal Business Documents

6. These documents detail financial information, projections, risk analyses, product strategies, and products in development and/or in the pipeline. Extraordinary measures have been taken to guard the secrecy of these documents and the information contained therein. They are treated in a strict confidential manner even within Andrx. To the extent that any of them have been disclosed to third parties, Andrx has first secured promises of confidentiality. The value of the information contained in these documents to Andrx is tremendous and would provide an unfair advantage to its competitors who have not expended the financial, human and temporal resources to produce the information contained in the documents and/or who have no right to the internal business dealings, planning and strategies of Andrx. In addition, the financial and business documents contain detailed data relating to Andrx' costs, suppliers, expenditures, projections, etc., as well as possible future products or products "in the pipeline" -- information that would be invaluable to Andrx' competitors.

Documents Relating to the Settlement Agreement between HMR and Andrx

7. These documents include drafts of, as well as communications relating to and concerning the performance of, the settlement agreement between HMR and Andrx. The information contained therein is not publicly available. The documents contain financial terms, with respect to, among other things, licensing arrangements. In addition, these documents reveal the negotiating positions and strategies of Andrx. These terms and strategies are commercially sensitive and disclosure would provide an unfair

advantage to competitors and potential competitors. Andrx never consented to their being publicly disclosed either in connection with this proceeding or elsewhere.

Regulatory Filings or Communications

8. These documents include non-public, confidential correspondence and documents filed with the Food and Drug Association ("FDA"). Great measures have been take to protect the confidentiality of the information contained in these documents, as well as the documents themselves. To the extent that any of them have been disclosed to third parties, they were provided pursuant to a confidentiality agreement and with express assurances that confidentiality would be maintained.

Agreements and Drafts Concerning the Supply of Other Products or the Resolution of Other Patent Infringement Litigations

9. These documents are not only non-public and confidential, they have nothing to do with this proceeding. Similar to the internal business documents and the documents relating to the settlement stipulation between HMR and Andrx, significant measures have been taken to guard their confidentiality, and they are kept secret, even within Andrx.

Documents Regarding Settlement Efforts in this (FTC) Proceeding

10. The information contained in these documents is not publicly available, nor is it readily available to any persons other than high level Andrx executives. Andrx never consented to the disclosure of these documents or information to the public either in connection with this proceeding or any other context. Furthermore, much like the documents relating to the settlement agreement between HMR and Andrx, these documents reflect the negotiating positions and strategies of Andrx, disclosure of which would create an unfair competitive advantage to its outsiders.

11. A list of these documents identified by bates number, divided into the categories in which they belong, is annexed hereto as Exhibit A. I am advised by counsel that copies of the documents themselves will accompany this application.

The Balance of Considerations Favor In Camera Treatment of the Documents at Issue

12. Great measures have been taken to guard secrecy of every document for which we seek *in camera* treatment. Furthermore, to the extent that any of them have been disclosed to third parties, Andrx has done so only upon first procuring assurances of confidentiality, usually by written agreement.

13. The information is not stale and is still significant today. To the extent that some information concerning Andrx' business plans may be older, it still may be used to extrapolate current business operations, strategies and/or decision-making rationale. Similarly, to the extent some documents relate to products Andrx was developing or considering developing, such information is certainly still sensitive and worthy of protection today.

14. Much of the information consists of significant work product that has literally cost Andrx millions of dollars to develop. In addition to financial cost, the time and effort expended to create the information contained in these documents has been tremendous. The scientific data alone is a result of years of research and investment.

15. The value of the information contained in each of these documents is immeasurable to Andrx, as these documents reflect Andrx' business judgments and strategies on many levels.

16. It would be extremely difficult and costly for competitors or the public to replicate or develop this information on their own. To the extent the information is financial or numerical, it is not available from other sources.

17. The public interest would not be served by making these confidential documents a matter of public record. Neither the scientific data nor the financial information contained in this documents bear any relationship to consumers or other members of the public at large. The information, however, would be highly valuable to Andrx' competitors in the marketplace and would, as a business matter, significantly prejudice Andrx' legitimate commercial interests.

18. Irreparable injury to Andrx would ensue if the information contained in these documents were disclosed to the public. As demonstrated above, much of the information contained in these documents would be invaluable to Andrx' competitors and provide them with an improper advantage. The benefits of Andrx' investment and research would be unfairly reaped.

19. The confidential nature of the documents will not decrease over time. Andrx' scientific research, analyses, strategies, long-term plans, internal planning documents and work product reflecting business decisions and the respective rationales therefor will continue to be commercially sensitive and confidential indefinitely. For example, there is no known date, if any, when products that are or may be in development will no longer be relevant. Similarly, Andrx' history of decision-making and the thought processes relating thereto will always be the kind of information which would provide competitors with an unfair business advantage and which Andrx has a

significant interest in protecting. Accordingly, we request indefinite *in camera* protection be granted to these documents.

Conclusion

20. For the reasons set forth above and in the accompanying application, the documents referenced herein should be granted *in camera* protection.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 2000 in Fort Lauderdale, Florida.


HERSCHEL E. SPARKS, JR.

CORRECTED EXHIBIT A:
LIST OF DOCUMENTS BY CATEGORY

(Category 1) Scientific Documents

000440-446
000469-473
000490-559
007608-7612
007613-7619
007775-7777
008434-8435
008437-8450
008451-8483
008520-8523
010499-10513
010884-10892
FTC-ANDX 000071-88
FTC-ANDX 000107-115
FTC-ANDX 000187-189
FTC-ANDX 000564-565
FTC-ANDX 000638-662
FTC-ANDX 000677-681
FTC-ANDX 000994-1005
FTC-ANDX 001142
FTC-ANDX 001259-1268
FTC-ANDX 001492-1494
FTC-ANDX 001497-1499
FTC-ANDX 001730-1732
FTC-ANDX 001867-1869
FTC-ANDX 002078-2080
FTC-ANDX 002244-2274
FTC-ANDX 002281-2282
FTC-ANDX 002370-2371
FTC-ANDX 002372
FTC-ANDX 002662-2663
FTC-ANDX 002920-2931
FTC-ANDX 002934
FTC-ANDX 002947
FTC-ANDX 003239
FTC-ANDX 003595
FTC-ANDX 003702-3710
FTC-ANDX 003819-3833
FTC-ANDX 003963-3964
FTC-ANDX 004077
FTC-ANDX 004204-4208
FTC-ANDX 004244-4245

FTC-ANDX 004300-4302
FTC-ANDX 004425-4426
FTC-ANDX 004483-4484
FTC-ANDX 004563-4564
FTC-ANDX 004661-4668
FTC-ANDX 004703-4741
FTC-ANDX 004742-4744
FTC-ANDX 004826-4827
FTC-ANDX 004831
FTC-ANDX 004899-4904
FTC-ANDX 004964
FTC-ANDX 005004-5009
FTC-ANDX 005045-5080
FTC-ANDX 005415-5452
FTC-ANDX 005453-5454
FTC-ANDX 005459-5601
FTC-ANDX 005663-5666
FTC-ANDX 005729-5730
FTC-ANDX 005816-5817
FTC-ANDX 005819-5820
FTC-ANDX 005913-5914
FTC-ANDX 005993
FTC-ANDX 006007-6008
FTC-ANDX 006118-6119
FTC-ANDX 006178-6208
FTC-ANDX 006244-6277
FTC-ANDX 006356
FTC-ANDX 006484-6513
FTC-ANDX 006535-6564
FTC-ANDX 006565-6595
FTC-ANDX 006776-6812
FTC-ANDX 006813
FTC-ANDX 006814
FTC-ANDX 007155-7193
FTC-ANDX 007194-7196
FTC-ANDX 007270-7283
FTC-ANDX 007422-7423
FTC-ANDX 007424
FTC-ANDX 007425
FTC-ANDX 007508-7544
FTC-ANDX 007680-7684
FTC-ANDX 009824-9871
FTC-ANDX 009874-9896
FTC-ANDX 009897-9920
FTC-ANDX 009955-9988
FTC-ANDX 010419-10466

FTC-ANDX 010468-10487
FTC-ANDX 010576-10577
FTC-ANDX 010578-10588
FTC-ANDX 014850-14888
FTC-ANDX 014889-14921
FTC-ANDX 015039-15051

(Category 1) Scientific Documents
and (Category 2) Internal Business Documents
002687-2810
FTC 0002102-2169

(Category 2) Internal Business Documents
000225-273
000274-298 & 309-311
000345-387
000388-439
000591-668
000883-889
000905-906
000907-917
000921-982
000986-987
000992
000993
01231-1267
01699-1709
01710-1742
002370-2375
002377-2379
002533-2536
002687-2810
003092-3125
004443-4450 & 004483
004497-4554
004661-4902
004905-4926
004929-4944
005165-5182
006981-6982
007152
007197
007201
007205-7207
007214-7220
007224-7227

007496-7497
007559
007696-7724
007725-7729
008381-8386
008436
008437-8519
009749-9779
009780-9807
010249-10252
010311-10313
010363-10365
010395-10398
FTC-ANDX 015786-15789
FTC-ANDX 016069-16078
FTC 002102-2169

**(Category 3) Documents Relating to the Settlement Agreement
between HMR and Andrx**

000217-220
000221-224
001385-1395
001396-1397
001398-1409
001410-1421
001422-1436
001437-1449
001450-1462
001463-1475
001476-1486
001487-1498
001499-1500
001501-1511
001512-1523
001524-1538
001539-1541
001542-1546
001547-1560
001561-1583
001584-1600
001601-1608
001609-1623
001624-1632
001633-1648
01662-1671
01672-1675

01676-1679
01680-1684
01685-1698
004290-4301
004302-4305
004306-4308
004334
004344-4348
004358-4367
004374-4376
004397-4399
004405-4407
004411-4415
004418-4419
008485-8486
009684-9685
010494-10495
FTC-ANDX 016079-16086
8/10/97 Fax from J. Spears to L. Solomon entitled "Discussion Draft" (no bates)

[NOTE: THE FOLLOWING DOCUMENTS IN "Category 3" ARE DERIVED FROM THE LIST COMPLAINT COUNSEL PROVIDED TO HMR]

GADS 030661-680
HMRI 000001-117
HMRI 000134-138
HMRI 000140-142
HMRI 019934
HMRI 026937-26938
HMRI S5 000001-002
HMRI S5 000005-010
HMRI S5 000018
HMRI S5 000030
HMRI S5 00004760
HMRI S5 000063-0100
HMRI S7 000038-0044
HMRI S7 001317-1330
HMRI S7 001350-1360
HMRI S7 001362-1366
HMRI S7 001392-1397
HMRI S7 001495-1628
HMRI S7 001656-1678
HMRI S7 002464-2477
HMRI S7 002803-2815
HMRI S7 002984-3000
HMRI S7 003129-3133
HMRI S7 003139-3143

HMRI S7 004282-4292
HMRI S7 006126-6170
HMRI S7 006292-6315
HMRI S8 000014-000023
HMRI SPEC 20 HOSKINS 00001-00005
HMRI SPEC 20 HOSKINS 00273-00305
"Settlement Discussion Agreement: in HMR v. Andrx, Civ. Action 96-06121 (no bates)
6/8/99 letter from L. Solomon to J. Spears (no bates)

(Category 4) Regulatory Filings or Communications

000694-699
000704-708
01743-1777
01778-1782
01851-01853
004309-4311
006347-6357
008162
009140-9145
010682-10684
010688-10689
68534-68535
68586-68587

**(Category 2) Internal Business Documents
and (Category 4) Regulatory Filings or Communications**

2004-2017
2018-2041
2052-2067
68360-68373
68380
68382-68516
68579-68580
68688-68933
68934-68950
68960-69039
0082718-82729
0084447-84451
0084487-84550
0084551-84604
0086566-86567
0086568-86576
0086577
087999-88007
0085576-85594
0096412-96428

0096473-96488
0096543-96549
0096633-96634
0098308-98310
0103871-1003878
FTC 4507-4613

(Category 5) Agreements and Drafts Concerning the Supply of Other Products or the Resolution of Other Patent Infringement Litigations

003361
003805-3837
003871
008772-8776
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(Category 6) Documents Regarding Settlement Efforts in this (FTC) Proceeding

FTC 0002234-2236
FTC 0002266-2270
FTC 0002322-2330