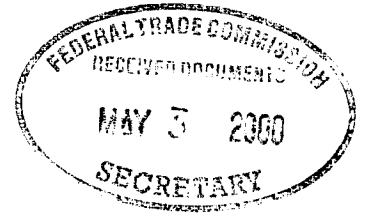


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



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

**COMPLAINT COUNSEL'S MOTION TO AMEND
PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL**

Complaint counsel respectfully requests that Your Honor amend Paragraph 3 of the Terms and Conditions of the Protective Order Governing Discovery Material, entered in this matter on April 28, 2000, to reflect that this provision also is intended to apply to materials and documents received from third parties. Specifically, we request that Paragraph 3 of the Terms and Conditions be amended as follows:

3. To the extent any such material is made part of this proceeding, all documents heretofore obtained by compulsory process or voluntarily from any Party or ~~Third Party~~, regardless of whether designated confidential by the Party or ~~Third Party~~, and transcripts of any investigational hearings, interviews and depositions, which were obtained during the pre-complaint stage of this Matter shall be treated as Confidential Discovery Material. Material previously produced by Respondents or ~~Third Parties~~ and designated as a "Confidential," regardless of whether such materials have been marked in accordance with paragraph 2 above, shall be treated as Confidential Discovery Material as provided herein. The

material referred to in this paragraph shall only be available for use in this proceeding once an independent basis has been demonstrated for such use.

The failure to include third parties in Paragraph 3 was an oversight on the part of complaint counsel in drafting and negotiating the protective order. Moreover, the proposed change also is necessary to make the protective order consistent with the protections afforded third parties under Section 21 of the FTC Act and Section 4.10(d) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 4.10(d). Finally, we are concerned that if this change is not made, we will need to delay production of third party materials to the respondents in order to give all third parties an opportunity to review the materials they submitted to the Commission during the investigation of this matter, so that they may decide which documents to designate as confidential. We already have been contacted by counsel for one third party who raised this very issue.

We have discussed the proposed modification to the protective order with respondents' counsel and have failed to achieve unanimity. Hoechst's counsel and Carderm's counsel are "neutral" on the issue of amending the protective order as proposed, and they have indicated that they "can live with the modification as proposed." Andrx's counsel is opposed to the amendment, and has indicated that they wish to schedule a telephone conference call with Your Honor to discuss this.

For the reasons stated above, we respectfully request that Paragraph 3 of the Terms and Conditions of the Protective Order Governing Discovery Material, entered in this matter on April 28, 2000, be amended to reflect that it applies to materials produced by third parties.

Respectfully Submitted,



Markus Meier
Markus Meier
Robin Moore

Counsel Supporting the Complaint

Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580

Dated: May 3, 2000

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of

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

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

ORDER

Upon consideration of complaint counsel's Motion to Amend Protective Order Governing Discovery Material, and upon consideration of Andrx Corporation counsel's opposition thereto, IT IS HEREBY ORDERED that complaint counsels' motion is GRANTED and that Paragraph 3 of the Terms and Conditions of the Protective Order Governing Discovery Material, entered in this matter on April 28, 2000, be amended as follows:

3. To the extent any such material is made part of this proceeding, all documents heretofore obtained by compulsory process or voluntarily from any Party or Third Party, regardless of whether designated confidential by the Party or Third Party, and transcripts of any investigational hearings, interviews and depositions, which were obtained during the pre-complaint stage of this Matter shall be treated as Confidential Discovery Material. Material previously produced

by Respondents or Third Parties and designated as a "Confidential," regardless of whether such materials have been marked in accordance with paragraph 2 above, shall be treated as Confidential Discovery Material as provided herein. The material referred to in this paragraph shall only be available for use in this proceeding once an independent basis has been demonstrated for such use.

D. Michael Chappell
Administrative Law Judge

Dated: May ____, 2000

CERTIFICATE OF SERVICE

I, Robin L. Moore, hereby certify that on May 3, 2000, I caused a copy of the Complaint Counsel's Motion to Amend Protective Order Governing Discovery Material to be served upon the following persons by Federal Express and facsimile.

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Robin L. Moore

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
HOECHST MARION ROUSSEL, INC.,)	
a corporation,)	
)	
CARDERM CAPITAL L.P.,)	Docket No. 9293
a limited partnership,)	
)	
and)	
)	
ANDRX CORPORATION,)	
a corporation.)	
)	

ORDER

Upon consideration of complaint counsels' Motion to Strike Certain Affirmative Defenses Set Forth in Respondents' Answers, and upon consideration of the supporting and opposing memoranda filed herein, IT IS HEREBY ORDERED that complaint counsels' motion is GRANTED and the following affirmative defenses shall be stricken:

- Andrx Corporation's Affirmative Defense numbers 2, 7, 8, 12, 14, 15, 17, 18 and 19;
- Hoechst Marion Roussel, Inc's Affirmative Defense numbers 2 and 13; and
- Carderm Capital LLP's Affirmative Defense numbers 2 and 13.

D. Michael Chappell
Administrative Law Judge

Dated: May ____, 2000