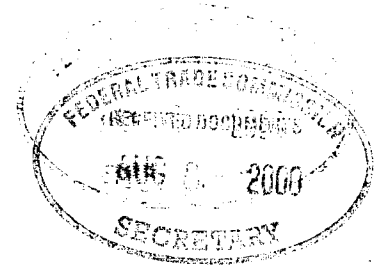


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION



\_\_\_\_\_  
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

**ORDER DENYING MOTION BY ANDRX  
TO CLARIFY OR RECONSIDER THE JULY 5 ORDER**

On June 12, 2000, third party Proskauer Rose LLP (“Proskauer”) filed a motion to quash the subpoena served on it by Respondent Andrx Corporation (“Andrx”). While the basis for Proskauer’s motion was that Andrx was unwilling to consent to an order assuring Proskauer, or its client Biovail Corporation International, that the documents at issue would receive the same level of confidential treatment as required under the protective order in the multi-district litigation pending in the Eastern District of Michigan (the “MDL”), the relief requested by Proskauer was to quash the subpoena issued by Andrx.

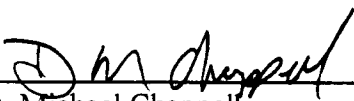
Commission Rule 3.22(c) requires that within ten days after service of any written motion, the opposing party shall answer or shall be deemed to have consented to the granting of the relief asked for in the motion. 16 C.F.R. § 3.22(c). Andrx did not file an opposition and Andrx did not notify the Court that the underlying dispute had been resolved. Proskauer did not withdraw its motion. This Court ruled on Proskauer’s motion, by Order dated July 5, 2000. The effect of granting Proskauer’s motion was to give Proskauer the relief requested in its motion – to quash the subpoena issued by Andrx.

On July 6, 2000, Andrx filed the instant Motion for An Order Clarifying or Reconsidering the Court’s July 5 Order Concerning the Proskauer Subpoena. In this motion, Andrx asserts

“Proskauer never sought to quash the Proskauer Subpoena insofar as it sought production of documents and, therefore, quashing the subpoena in its entirety was not the relief sought.” Proskauer rebutted this statement in its Opposition filed on July 17, 2000, asserting that the “relief sought was to quash the subpoena, and demonstrably was not to enforce the subpoena subject to resolution of Proskauer’s confidentiality issues.” Andrx has not presented sufficient grounds for the Court to reconsider its July 5 Order. To the contrary, the Opposition filed by Proskauer confirms the propriety of the Court’s July 5 Order.

For the foregoing reasons, it is HEREBY ORDERED that the Motion of Andrx is DENIED.

ORDERED:

  
\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

Date: August 8, 2000