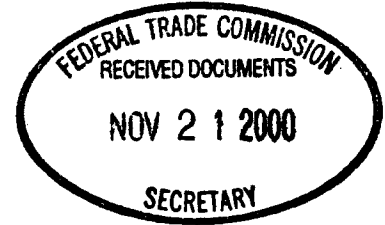


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WAYNE A. CROSS  
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November 20, 2000

## BY HAND

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington D.C. 20580

Re: *In re Hoechst Marion Roussel, Inc., et al.*

Dear Judge Chappell:

We represent Non-Party Novartis Corporation, a pharmaceutical products manufacturer, in its involvement with the above-captioned antitrust investigation. In response to a subpoena *duces tecum* dated May 17, 2000, Novartis produced 524 pages of documents to respondent, Hoechst Marion Roussel, Inc.. All of these materials were stamped Restricted, Confidential - Attorneys' Eyes Only according to the provisions of the protective order in this proceeding. Recently, Novartis was informed by the parties to this action that depositions are about to take place, and that Novartis documents may be used in the cross-examination of the parties' experts. Four of the documents Novartis produced are secret marketing contracts, material to Novartis's business, which contain Novartis's confidential commercial and trade secret information. The terms of the contracts reveal prices and competitive tactics, and their disclosure would permit Novartis's competitors to (i) understand Novartis's strategies and (ii) match or undercut Novartis's prices and terms.

Out of concern for the confidentiality of these contracts, Novartis moved on October 25, 2000 for a protective order, pursuant to Rule 3.45(b) of the Federal Trade Commission Rules of Practice, directing *in camera* treatment for the four documents. The parties then had ten days to file an opposition to our motion, giving them until Monday, November 6. FTC Rule 3.22(c). Although the time for opposition has now expired, no answer was ever filed or served upon us. The parties are thus deemed to have consented to the granting of the relief we requested. *Id.*

I enclose a revised Order in execution form for your convenience, and respectfully request that you enter the Order granting *in camera* treatment for our four

The Honorable D. Michael Chappell

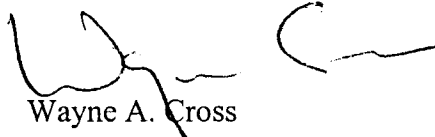
November 20, 2000

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documents as specified in our October 25 motion in light of the failure of the parties to oppose the motion.

Thank you for your time and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Wayne A. Cross', with a large, stylized initial 'W' and a long horizontal stroke extending to the right.

Wayne A. Cross

Enclosure

cc: [parties on attached service list]

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 GRANTING UNOPPOSED OMNIBUS MOTION  
OF NON-PARTY NOVARTIS CORPORATION FOR  
IN CAMERA TREATMENT OF CERTAIN DOCUMENTS**

The Commission having considered the Omnibus Motion of Non-Party Novartis Corporation for In Camera Treatment of Certain Documents, and the parties to this action having failed to oppose the motion,

IT IS HEREBY ORDERED:

That the Omnibus Motion of Non-Party Novartis Corporation for In Camera Treatment of Certain Documents is GRANTED.

IT IS FURTHER ORDERED:

That the documents NOV000098-000114, NOV000115-000121, NOV000122-000143, and NOV000144-000183 are hereby granted in camera status and

shall be withheld from the public record.

IT IS SO ORDERED.

Entered \_\_\_\_\_.

---

D. Michael Chappell  
Administrative Law Judge

## Service List

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