

UNITED STATES OF AMERICA

14 2000

FEDERAL TRADE COMMISSION

In the Matter of

On June 19, 2000, Plaintiff filed a motion to quash and a cross-motion for preliminary injunction ("the Motion") against Defendants, Biovail, Inc., and Biovail, Inc.'s opposition counsel, Gwin Joint, LLP ("Gwin Joint").

Plaintiff has moved to quash the Motion, asking in the alternative that, in the event that the Motion is denied, Plaintiff's opposition counsel, Gwin Joint, be prohibited from representing Plaintiff in this case.

Defendant Biovail has moved for preliminary injunction, asking in the alternative that, in the event that the Motion is denied, Plaintiff's opposition counsel, Gwin Joint, be prohibited from representing Plaintiff in this case.

Biovail's motion to quash.

For the reasons set forth below, the motion

enforce an investigative subpoena served on a foreign citizen in a foreign nation).

"The exercise of jurisdiction by any governmental body in the United States is subject to

duct." *Saint-Gobain-Pont-A-Mousson*, 636 F.2d

the particular statute governing that body's con-

at 1315. At the time the investigatory subpoena at issue in *Saint-Gobain-Pont-A-Mousson* was

*Saint Gobain Pente 4 Mousson requires that the subpoenas issued against its Canadian subsidiary*

*BES must not violate international law.*

*The testimony of witness or the production of documents in this case, trial, or hearing, will not seek to nominate*

*evidence that would letter or letter of a party to the annexed*

*Information, and the evidence may be used to establish that the party to the annexed*

*has not challenged BES's representations of facts in violation of Canadian law.*

*and Cancellara by Andressen et al., do not violate Canadian law. Accordingly, because the subpoenas served on BES*

*with Canadian law, they are hereby quashed.*

### III.

*Service upon Melnyk, for whom service was made with his name and address*

*on June 20, 2000, is hereby quashed. Accordingly, because the subpoena to serve Melnyk with Canadian law, for the rea-*

*sons set forth above, the subpoenas served on Melnyk are hereby quashed.*

*for the rea-*

### IV.

*Complainant asks, in the alternative, that Complainant's cause be precluded from offering BES's*

*(through any of its representatives) and Melnyk and Cancellara as witnesses at trial if these*

*witnesses are called to testify in this case. Accordingly, because the subpoena to serve BES with Canadian law, for the rea-*

*sons set forth above, the subpoena to serve BES with Canadian law, for the rea-*

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D. Michael Chappell

D. Michael Chappell  
Administrative Law Judge

ORDERED:

Dated: July 14, 2000