

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

AL BRUNN,

Plaintiff,

v.

DAIMLERCHRYSLER CORP.,

Defendant

CIVIL NO. 2001/125

TO: Lee J. Rohn, Esq./Pamela Colon, Esq.  
Britain H. Bryant, Esq./Rachael Witty, Esq.  
Gregory G. Theiss, Esq. - Fax 708-865-5430

ORDER ON PLAINTIFF'S MOTION TO RECONSIDER  
DENIAL OF MOTION TO COMPEL BOSCH

THIS MATTER came for consideration on Plaintiff's motion to reconsider denial of Plaintiff's Motion to Compel Robert Bosch Corporation ("Bosch") (Order dated August 2, 2002). No response is required.

By Order dated July 23, 2002, the Court noted that it may not have jurisdiction herein and ordered that Plaintiff clarify such jurisdiction within five (5) days of such Order (*i.e.* by July 30, 2002). Plaintiff did not do so and accordingly the August 2, 2002 order stated that presumptively the Court lacked jurisdiction in this matter and denied Plaintiff's Motion to Compel without prejudice. This motion was filed on August 5, 2002.

Plaintiff's motion attaches the subject subpoenas *duces*

*tecum* but does not otherwise clarify the court's jurisdiction with regard hereto. Plaintiff's exhibit 2 is a subpoena to Robert Bosch Corporation with a Michigan address under banner of U.S. District Court for Michigan (**without specification of district**). The subpoena bears the caption and civil number of this matter and requires production of documents in an attached notice of deposition *duces tecum* to be made on February 25, 2002 at Law Office of Lee J. Rohn. c/o Robert Lutren, Inc., 31050 Pine Cone Drive, Farmington, Michigan. The attached notice of deposition *duces tecum* is captioned with full District Court of the Virgin Islands, St. Croix caption and specifies the documents that Plaintiff requests to be produced.

Plaintiff's exhibit 3 is a note that Bosch would not accept service at the Michigan address and must be served at their headquarters (with address given) in Broadview, Illinois.

Plaintiff's exhibit 4 is a subpoena to Bosch at the Illinois address under banner of U.S. District Court for Illinois (**without specification of district**). The subpoena bears the case caption and civil number of this matter and requires production of documents in an attached notice of deposition *duces tecum* to be made on March 8, 2002 at Law Offices of Lee J. Rohn (without address). The attached notice of deposition *duces tecum* is the

same as in exhibit 2.

Plaintiff's Motion to Compel relates to a subpoena *duces tecum* served on Robert Bosch Corporation on February 26, 2002. Per the return of service (at Plaintiff's exhibit "4") this would be the Illinois subpoena. Plaintiff's Motion to Compel asserts Bosch's failure to produce the subpoenaed documents and requests that this court compel Bosch to do so.

Bosch is not a party in this case. Bosch is apparently located in Michigan or Illinois but clearly not in the Virgin Islands. Fed. R. Civ. P. 45(a)(2) provides that a subpoena *duces tecum* shall issue from the court for the district in which the production is to be made. *Echostar Communications Corp. v. The News Corp., Ltd. et al.*, 180 F.R.D. 391, 397..."Only the issuing Court has the power to act on its subpoenas ...subpoenas are process of the issuing court...and nothing in the rules even hints that any other court may be given the power to quash or enforce them. *In Re: Sealed Case*, 141 F.3d 337, 341 (D.C. Cir. 1998) [internal citation omitted].

Accordingly, it is hereby;

**ORDERED** as follows:

1. Plaintiff's Motion to Reconsider denial of Motion to Compel Bosch is GRANTED in so far as the Court will

reconsider the August 2, 2002 Order.

2. Upon reconsideration thereof, Plaintiff's Motion to Compel Bosch is DENIED for lack of jurisdiction.
3. Nothing herein shall be determinative of Plaintiff's right to seek to compel Bosch or otherwise enforce Plaintiff's subpoena in any other appropriate district.

ENTER:

Dated: August 7, 2003

\_\_\_\_\_/s/\_\_\_\_\_  
JEFFREY L. RESNICK  
U.S. MAGISTRATE JUDGE

ATTEST:  
WILFREDO MORALES  
Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk