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APPLICATION NUMBER:

75706

APPROVAL LETTER

ANDA 75-706

FEB 21 2003

Andrx Pharmaceuticals, L.L.C.
Attention: Janet Vaughn
4955 Orange Avenue
Ft. Lauderdale, FL 33314

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated September 21, 1999, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Loratadine and Pseudoephedrine Sulfate Extended-release Tablets, 10 mg/240 mg (24-Hour Formulation) (OTC).

Reference is also made to our Tentative Approval letter dated July 9, 2002, and to your amendments dated August 28, August 29, September 30, and December 26, 2002; and January 6, January 7, and January 29, 2003.

The listed drug product (RLD) referenced in your application, Claritin-D® 24-Hour Extended-release Tablets of Schering Corporation (Schering), is subject to periods of patent protection. As noted in the agency's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations, (the Orange Book), U.S. Patent 4,659,716 (the '716 patent) is scheduled to expire on October 21, 2004, U.S. Patent 4,863,931 (the '931 patent) is scheduled to expire on March 15, 2009, and U.S. Patent 5,314,697 (the '697 patent) is scheduled to expire on April 23, 2013. Your application contains patent certifications under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture, use, or sale of Loratadine and Pseudoephedrine Sulfate Extended-release Tablets, 10 mg/240 mg (24-Hour Formulation), will not infringe on the claims of the '716, '931, or '697 patents, or that the claims of these patents are invalid or unenforceable. Section 505(j)(5)(B)(iii) of the Act provides that approval of an abbreviated new drug application shall be made effective immediately, unless an action is brought against Andrx Pharmaceuticals, L.L.C. (Andrx) for infringement of any of the patents ('716, '931, or '697) that were the subject of the

paragraph IV certifications. This action must be brought against Andrx prior to the expiration of forty-five (45) days from the date the notice provided by Andrx under Section 505(j)(2)(B)(i) is received by the patent and NDA holders.

You have notified the Agency that Andrx complied with the requirements of Section 505(j)(2)(B) of the Act. As a result, in March 2000, Schering initiated a patent infringement suit against Andrx involving the '716 and '697 patents in the United States District Court for the District of New Jersey (Schering Corporation v. Andrx Corporation, Andrx Pharmaceuticals, Inc. and Andrx Pharmaceuticals LLC, Civil Action No. 00-CV-1439 (JAG)).

The Agency recognizes that the 30-month period identified in Section 505(j)(5)(B)(iii) of the Act, during which time FDA was precluded from approving your application, has expired as to the litigation involving the '716 and '697 patents. The Agency also recognizes that no legal action regarding the '931 patent was brought against Andrx within the statutory forty-five day period.

We have completed the review of this abbreviated application and have concluded that the drug is safe and effective for Over-the-Counter (OTC) use as recommended in the submitted labeling. Accordingly, the application is approved. The Division of Bioequivalence has determined your Loratadine and Pseudoephedrine Sulfate Extended-release Tablets, 10 mg/240 mg (24-Hour Formulation) to be bioequivalent to the listed drug Claritin-D® 24-Hour Extended-release Tablets of Schering Corporation. Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your application. The "interim" dissolution tests and tolerances are:

> The dissolution testing should be conducted in 900 mL of 0.10% Tween 80 in SGF at 37°C using USP Apparatus 1 (basket) at 100 rpm. The test product should meet the following interim specifications:
>
> | | | |
> |---|---|---|
> | Loratadine | NLT | % (Q) in 30 minutes |
> | Pseudoephedrine | 1h | % |
> | | 2h | % |
> | | 4h | % |
> | | 8h | % |
> | | 16h | NLT % |

The "interim" dissolution test and tolerances should be finalized by submitting dissolution data from the first three production size batches in a supplemental application. A "Special Supplement - Changes Being Effected" (CBE-0) should be submitted when there are no revisions to be proposed to the "interim" specifications or the proposed final specifications are tighter than the "interim" specifications. In all other instances, a Prior Approval Supplement should be submitted.

With respect to 180-day generic drug exclusivity, we note that Andrx was the first applicant to submit a substantially complete ANDA containing a paragraph IV certification to the '716, '931, and '697 patents. Therefore, with this approval, Andrx is eligible for an initial 180-days of market exclusivity for this drug product with respect to the '716, '931, and '697 patents, as provided for under Section 505(j)(5)(B)(iv) of the Act. Such exclusivity will begin to run on the earlier of either (1) the date Andrx begins commercial marketing of its Loratadine and Pseudoephedrine Sulfate Extended-release Tablets, 10 mg/240 mg (24-Hour Formulation), or (2) the date of a decision of the appellate court affirming a decision of the district court that the contested claims of the '716, '931, and '697 patents are invalid, unenforceable, or not infringed.

With respect to the "first commercial marketing" trigger for the commencement of exclusivity, please refer to 21 CFR 314.107(c)(4). The agency expects that you will begin commercial marketing of this drug product in a prompt manner. Please submit correspondence to this ANDA stating the date you commenced commercial marketing of the drug product.

If you have any questions concerning the effective date of approval of an ANDA and the elimination of the requirement that an ANDA applicant successfully defend a patent infringement suit to be eligible for 180-days of marketing exclusivity, please refer to the interim rule published in the November 5, 1998 Federal Register (Volume 63, No. 214, at p. 59710).

Under 21 CFR 314-70, certain changes in the conditions described in this abbreviated application require an approved supplemental application before the change may be made.

Post-marketing reporting requirements for this abbreviated application are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

Sincerely yours,

/S/

Gary Buehler 2/21/03
Director
Office of Generic Drugs
Center for Drug Evaluation and Research