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*APPLICATION NUMBER:*  
**ANDA 078813Orig1s000**

**APPROVAL LETTER**



ANDA 78-813

Hospira Worldwide PTY  
Attention: Laurie Wojtko  
Senior Associate, Global Regulatory Affairs  
275 North Field Drive, D-0389, Bldg H2-2N  
Lake Forest, IL 60045-5046

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated February 9, 2007, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Oxaliplatin Injection, 5 mg/mL, (Preservative-Free), packaged in 50 mg/10 mL, 100 mg/20 mL, and 200 mg/40 mL Single-use Vials.

Reference is also made to the tentative approval letter issued by this office on June 18, 2009, and to your amendments dated August 23, 2007; and June 18, and June 29, 2009. In addition, we acknowledge receipt of your correspondence dated June 30, 2009, addressing patent issues associated with this ANDA.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly, your Oxaliplatin Injection, packaged in 50 mg/10 mL, and 100 mg /20 mL Single-dose Vials is approved, effective on the date of this letter. However, because of the 180-day generic drug exclusivity issue explained below, we are unable to grant final approval to your Oxaliplatin Injection, 200 mg/40 mL strength. Your Oxaliplatin Injection, 200 mg/40 mL, remains tentatively approved and will not be eligible for final approval until the 180-day generic drug exclusivity period associated with this strength has expired.

The reference listed drug (RLD) upon which you have based your ANDA, Eloxatin Injection, 5 mg/mL, 50 mg/10 mL, 100 mg/20 mL, and 200 mg/40 mL of Sanofi Aventis U.S. (Sanofi), is subject to periods of patent protection. The following patents and

expiration dates (with pediatric exclusivity added) are currently listed in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"):

<u>U.S. Patent Number</u>	<u>Expiration Date</u>
5,290,961 (the '961 patent)	July 12, 2013
5,338,874 (the '874 patent)	October 7, 2013
5,420,319 (the '319 patent)	February 9, 2017
5,716,988 (the '988 patent)	February 7, 2016

With respect to each of these patents, your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the Act stating that each patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Oxaliplatin Injection, 5 mg/mL, packaged in 50 mg/10 mL, 100 mg/20 mL, and 200 mg/40 mL Single-use Vials, under this ANDA. Section 505(j)(5)(B)(iii) of the Act provides that approval of an ANDA shall be made effective immediately, unless an action was brought against Hospira Worldwide PTY (Hospira) for infringement of one or more of the patents that were the subject of the paragraph IV certifications. You have notified the agency that Hospira complied with the requirements of section 505(j)(2)(B) of the Act, and that litigation for infringement of the '874 patent was brought against Hospira within the statutory 45-day period in the United States District Court for the District of New Jersey [Sanofi-Aventis U.S. LLC v. Mayne Pharma Limited, Civil Action No. 3:07-CV-03409-FLW-JJH and 07-CV-04550]. You have also notified the agency that on June 18, 2009, the court decided that the '874 patent is invalid, unenforceable, or not infringed; therefore, under section 505(j)(5)(B)(iii) your ANDA is eligible for approval.

**I. Approval of Oxaliplatin Injection, 5 mg/mL, 50 mg/10 mL and 100 mg/20 mL Single-dose Vials**

The Division of Bioequivalence has determined your Oxaliplatin Injection, 5 mg/mL, packaged in 50 mg/10 mL and 100 mg/20 mL Single-use Vials to be bioequivalent and, therefore, therapeutically equivalent to the RLD, Eloxatin Injection, 5 mg/mL, packaged in 50 mg/10 mL and 100 mg/20 mL Single-use Vials.

With respect to 180-day generic drug exclusivity, we note that Hospira was one of the first ANDA applicants to submit a substantially complete ANDA with a paragraph IV certification to the '874 patent. Therefore, with this approval, Hospira is eligible for 180 days of shared generic drug exclusivity for Oxaliplatin Injection, 5 mg/mL, packaged in 50 mg/10 mL and 100 mg/20 mL Single-dose Vials. This exclusivity, which is provided for under section 505(j)(5)(B)(iv) of the Act, will begin to run from the date of the commercial marketing identified in section 505(j)(5)(B)(iv). Please submit correspondence to this ANDA informing the agency of the date the exclusivity begins to run.

Under section 506A of the Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Please note that if FDA requires a Risk Evaluation & Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS. See section 505-1(i) of the Act.

Postmarketing reporting requirements for this ANDA 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.

Promotional materials may be submitted to FDA for comment prior to publication or dissemination. Please note that these submissions are voluntary. If you desire comments on proposed launch promotional materials with respect to compliance with applicable regulatory requirements, we recommend you submit, in draft or mock-up form, two copies of both the promotional materials and package insert directly to:

Food and Drug Administration  
Center for Drug Evaluation and Research  
Division of Drug Marketing, Advertising, and Communications  
5901-B Ammendale Road  
Beltsville, MD 20705

We call your attention to 21 CFR 314.81(b)(3) which requires that all promotional materials be submitted to the Division of Drug Marketing, Advertising, and Communications with a completed Form FDA 2253 at the time of their initial use.

Within 14 days of the date of this letter, submit updated content of labeling [21 CFR 314.50(1)] in structured product labeling (SPL) format, as described at <http://www.fda.gov/oc/datacouncil/spl.html>, that is identical in content to the approved labeling. Upon receipt and verification, we will transmit that version to the National Library of Medicine for public dissemination. For administrative purposes, please designate this submission as "**Miscellaneous Correspondence - SPL for Approved ANDA 78-813**".

## **II. Tentative Approval your Oxaliplatin Injection, 200 mg/40 mL Single-use Vials.**

We are unable at this time to grant final approval to your 200 mg/40 mL strength of the drug product because another ANDA for Oxaliplatin Injection, 200 mg/40 mL Single-use Vials, containing a paragraph IV certification was received by this office prior to the receipt of your application for this strength. This other ANDA, therefore, is eligible for 180-day generic drug exclusivity for Oxaliplatin Injection, 200 mg/40 mL Single-use Vials. Accordingly, your ANDA will be eligible for final approval 180 days after the commercial marketing date identified in section 505(j)(5)(B)(iv) of the Act.

Our decision to tentatively approve your Oxaliplatin Injection, 200 mg/40 mL Single-dose Vials, is based upon information currently available to the agency, i.e., data in your ANDA and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacture and testing of the drug product. This decision is subject to change on the basis of new information that may come to our attention.

To reactivate your ANDA for the 200 mg/40 mL Single-use Vials strength prior to final approval, please submit a "Final Approval Request Amendment to Original #2" 90 days prior to the date you believe that this product will be eligible for final approval. Your amendment must provide a summary of the legal basis upon which you believe the ANDA should be approved, as well as:

1. updated information related to final-printed labeling or chemistry, manufacturing and controls data, or any other change in the conditions outlined in this ANDA, or

2. a statement that no such changes have been made to the ANDA since the date of tentative approval.

Any changes in the conditions outlined in this ANDA and the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (cGMPs) are subject to Agency review before final approval of your Oxaliplatin Injection, 200 mg/40 mL Single-dose vials will be made. Such changes should be categorized as representing either "major" or "minor" changes, and they will be reviewed according to OGD policy in effect at the time of receipt.

In addition to the amendment requested above, the agency may request at any time prior to the final date of approval that you submit an additional amendment containing the requested information. Failure to submit either amendment may result in rescission of this tentative approval determination, or delay in issuance of the final approval letter.

Your Oxaliplatin Injection, 200 mg/40 mL Single-use Vials, may not be marketed without final agency approval under section 505 of the Act. The introduction or delivery for introduction into interstate commerce of a drug before the effective final approval date is prohibited under section 301 of the Act. Also, until the agency issues the final approval letter, the 200 mg/40 mL strength product will not be listed in the "Orange Book."

For further information on the status of this ANDA, or prior to submitting additional supplements, please contact Esther Chuh, Pharm.D., Project Manager, at 240-276-8530.

Sincerely yours,

{See appended electronic signature page}

Gary Buehler  
Director  
Office of Generic Drugs  
Center for Drug Evaluation and Research

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**This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.**  
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/s/  
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ROBERT L WEST

08/07/2009

Deputy Director, for Gary Buehler