DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

ANDA 77-297

AUG 16 2005

Sicor Pharmaceuticals, Inc.
Attention: Rosalie A. Lowe
Director, Regulatory Affairs
19 Hughes
Irvine, CA 92618-1902

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated September 28, 2004, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Granisetron Hydrochloride Injection, 1 mg/mL, packaged in 4 mg/4 mL multiple-dose vials.

Reference is also made to your amendments dated March 16, April 22, April 25, and July 29, 2005. Reference is also made to your correspondence dated November 19, and December 2, 2004; and January 24, 2005, addressing patent issues noted below.

We have completed the review of this ANDA, and based upon the information you have presented to date we have concluded that the drug is safe and effective for use as recommended in the submitted labeling. However, we are unable to grant final approval to your ANDA at this time because of the patent issue discussed below. Therefore, the application is **tentatively approved.** This determination is based upon information available to the agency at this time (i.e., information 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 determination is subject to change on the basis of new information that may come to our attention. This letter does not address issues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the Act.

The listed drug product (RLD) referenced in your application, Kytril Injection, 4mg/4 mL, of Hoffmann La Roche, Inc., is subject to periods of patent protection. The following patents and their expiration dates are currently listed in the agency's

publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"):

U.S. Patent Number	Expiration Date
4,886,808 (the '808 patent)	December 29, 2007
5,952,340 (the '340 patent)	September 14, 2016
6,294,548 (the '548 patent)	May 4, 2019

Your ANDA contains a paragraph III certification to the '808 patent under section 505(j)(2)(A)(vii)(III) of the Act stating that you will not market Granisetron Hydrochloride Injection under this ANDA prior to the expiration of the '808 patent. Therefore, final approval of your ANDA pursuant to 21 U.S.C. 355(j)(5)(B)(ii) of the Act may not occur until the '808 patent has expired, i.e., December 29, 2007.

With respect to the '340 patent, your ANDA contains a statement under section 505(j)(2)(A)(viii) of the Act that the '340 patent is a method of use patent that does not claim a use for which you are seeking approval in this ANDA.

Your ANDA also contains a paragraph IV patent certification to the '548 patent under section 505(j)(2)(A)(vii)(IV) of the Act stating that the '548 patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Granisetron Hydrochloride Injection, 4 mg/4 mL, under this ANDA. Section 505(j)(5)(B)(iii) of the Act provides that approval of an ANDA shall be made effective immediately, unless action is brought against Sicor Pharmaceuticals, Inc. (Sicor) for infringement of the patent that was the subject of the paragraph IV certification. This action must be brought against Sicor before the expiration of 45 days from the date the notice you provided under paragraph (2)(B)(i) was received by the NDA/patent holder(s). You have notified the agency that Sicor complied with the requirements of section 505(j)(2)(B) of the Act, and that no action for infringement of the '548 patent was brought against Sicor within the statutory 45-day period, which action would have resulted in a 30-month stay under section 505(j)(5)(B)(iii).[1]

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[1] Because information on the '548 patent was submitted before August 18, 2003, this reference is to a section of the Act as in effect prior to December 8, 2003, when the Medicare Prescription Drug, Improvement and Modernization Act (MMA)(Public Law 108-173) was enacted. See MMA § 1101(c)(3).

To reactivate your ANDA prior to final approval, please submit a "MINOR AMENDMENT - FINAL APPROVAL REQUESTED" 90 days prior to the date you believe that your ANDA will be eligible for final approval. This amendment should provide the legal/regulatory basis for your request for final approval, and it should also identify changes, if any, in the conditions under which the product was tentatively approved, i.e., updated information such as final-printed labeling, chemistry, manufacturing, and controls data as appropriate. This amendment should be submitted even if none of these changes were made, and it should be designated clearly in your cover letter as a "MINOR AMENDMENT - FINAL APPROVAL REQUESTED."

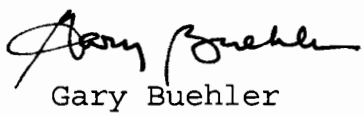
In addition to the amendment requested above, the agency may request at any time prior to the date of final approval that you submit an additional amendment containing the requested information. Failure to submit either or, if requested, both amendments may result in rescission of the tentative approval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

Any changes in the conditions outlined in this ANDA as well as changes in the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (CGMPs) are subject to agency review before final approval of the application will be made. Such changes should be categorized as representing either "major" or "minor" changes, and they will be reviewed according to the OGD policy in effect at the time of receipt. The submission of multiple amendments prior to final approval may also lead to a delay in the issuance of the final approval letter.

This drug product may not be marketed without final agency approval under section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under section 501 of the Act and 21 U.S.C. 331(d). Also, until the agency issues the final approval letter, this drug product will not be deemed approved for marketing under 21 U.S.C. 355 and will not be listed in the "Orange Book". If you believe there are grounds for issuing the final approval letter prior to December 29, 2007, you should amend your ANDA accordingly.

For further information on the status of this application or upon submitting an amendment to the application, please contact Yoon Kong, Project Manager, at 301-827-5848.

Sincerely yours,



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