

January 25, 2002

Bedford Laboratories
Attention: Molly Rapp
270 Northfield Road
Bedford, Ohio 44146

Sent by Facsimile and U.S. Mail

Dear Ms. Rapp:

This is in reference to your abbreviated new drug application (ANDA) for Paclitaxel Injection, 6 mg/mL, packaged in 30 mg/5 mL, 100 mg/16.7 mL, and 300 mg/50 mL multiple-dose vials, dated August 21, 1997, submitted pursuant to Section 505(j) of the Federal Food, Drug and Cosmetic Act (Act). This letter is to inform you that, in light of the January 24, 2002, Order entered by Judge Colleen Kollar-Kotelly in *ABI v. Thompson*, Civil Action No. 02247 (CKK), in the U.S. District Court for the District of Columbia (Order), the final approval given to Bedford Laboratories on July 27, 2001, for this application, including all amendments and supplements thereto, is hereby rescinded.

The January 24, 2002, Order is attached. It is based upon a finding that U.S. Patent No. 6,096,331 was timely filed under section 505(c)(2) of the Act at the time your ANDA was approved. Because, at that time, ANDA 75-190 did not contain a patent certification as required by section 505(j)(2)(A)(vii) of the Act, it did not meet the statutory standard for approval. Therefore, pursuant to the Order, the Agency finds that the final approval for this application, including all amendments and supplements thereto, is rescinded.

The Agency notes, that based upon the information you have presented to date, the drug described in your ANDA is safe and effective for use as recommended in the submitted labeling. Therefore, the application is **tentatively approved**. This determination is based upon information available to the Agency at this time, i.e., information in your application and the status of current good

manufacturing practices (CGMPs) of the facilities used in the manufacture and testing of the drug products, and is subject to change on the basis of new information that may come to our attention.

The listed drug product referenced in your application (RLD), Taxol® Injection of Bristol Myers Squibb Co. Pharmaceutical Research Institute, is subject to periods of patent protection which expire on August 3, 2012, [U.S. Patent No. 5,641,803 (the '803 patent), and U.S. Patent No. 5,670,537 (the '537 patent)]; May 08, 2011[U.S. Patent No. 6150398 (the '398 patent)]; and March 9, 2013 [U.S. Patent No. 5,496,804 (the '804 patent)]. Your application contains a patent certification under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture, use, or sale of Paclitaxel Injection will not infringe on the '803 '804 or '537 patents. Your application also contains statements under Section 505(j)(2)(A)(viii) of the Act indicating that the '398 patent is a methods of use patent, and that your labeling for paclitaxel injection does not claim the indications or methods of use covered by this patent. You have informed the Agency that Bedford Laboratories has complied with the requirements of Section 505(j)(2)(B) of the Act and that Bristol Myers Squibb Co. Pharmaceutical Research Institute initiated a patent infringement suit against you in the United States District Court for the District of New Jersey with respect to the '803 and '537 patents (Bristol Myers Squibb Company v. Boehringer Ingelheim Corp., Ben Venue Laboratories, Inc. and Bedford Laboratories, Civil Action No. 97CV-6050(WHW)). 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.

Taxol® is also covered by periods of Waxman-Hatch exclusivity, D-57, I-270, I-226 and I-230; and Orphan Drug Exclusivity (ODE) that are listed in Approved Drug Products with Therapeutic Equivalence Evaluations, 21st Edition (Orange Book). You have made a statement that your labeling for paclitaxel injection does not claim the indications or methods of use covered by such exclusivity.

Please note that on January 17, 2002, Bristol Myers Squibb withdrew the listing of U.S. Patent No. 6,096,331. This patent is no longer listed in the Orange Book for Taxol®, the RLD identified in your ANDA. Therefore, you are not required to submit a certification under section 505(j)(2)(A)(vii) of the Act for this patent.

Because the Agency is granting a **tentative approval** for this application, when you believe that your application may be considered for final approval, you must amend your application to notify the Agency whether circumstances have or have not arisen that may affect the effective date of final approval. To reactivate your application, please submit an amendment prior to the date you believe your application will be eligible for final approval. This amendment should identify changes, if any, in the conditions under which the product was tentatively approved, and should include updated information such as final printed labeling, chemistry, manufacturing, and controls data as appropriate. Please note that this amendment should be submitted even if none of these changes were made. The amendment should be designated clearly in your cover letter as a MINOR AMENDMENT. In addition to this amendment, the Agency may request at any time prior to the final date of approval that you submit an additional amendment containing the information described above. Any changes in the conditions outlined in this abbreviated application as well as changes in the status of the manufacturing and testing facilities' compliance with current good manufacturing procedures are subject to Agency review before final approval of the application will be made.

The drug products that are the subject of this abbreviated application may not be marketed without final Agency approval under section 505 of the Act. The introduction or delivery or introduction into interstate commerce of this drug before the effective final approval date is prohibited under section 301(d) of the Act. Also, until the Agency issues the final approval letter, these drug products will not be listed in the Orange Book.

ANDA 75-190

Please contact Cecelia Parise, R.Ph., Regulatory Policy Advisor to the Director, Office of Generic Drugs, at (301) 827-5845, for further information regarding this issue.

Sincerely yours,

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