DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville, MD 20857

ANDA 079075

Watson Laboratories, Inc.
Attention: Janie M. Gwinn
Director, Regulatory Affairs
311 Bonnie Circle
Corona, CA 92880

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated July 10, 2007, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Fentanyl Buccal Tablets, 100 mcg, 200 mcg, 300 mcg, 400 mcg, 600 mcg, and 800 mcg.

Reference is made to your amendments dated July 14, 2008; July 10, and September 16, 2009; and January 23, February 27, March 11, March 25, April 28, May 11, and May 12, 2010. We also acknowledge receipt of your correspondence dated January 29, and June 17, 2008; and February 12, March 25, and May 11, 2010, addressing the patent issues associated with this ANDA.

We have completed the review of this ANDA, including the risk management plan (RMP), as amended, 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 noted below. Therefore, the ANDA 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 reference listed drug (RLD) upon which you have based your ANDA, Fentora Buccal Tablets of Cephalon, Inc., is subject to periods of patent protection. As noted in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"), U.S. Patent Nos. 6,200,604 (the '604 patent) and 6,974,590 (the '590 patent) are both scheduled to expire on March 26, 2019.

To each of these patents your ANDA contains a paragraph IV certification under section 505(j)(2)(A)(vii)(IV) of the Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Fentanyl Buccal Tablets, 100 mcg, 200 mcg, 300 mcg, 400 mcg, 600 mcg, and 800 mcg, 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 Watson Laboratories, Inc. (Watson) for infringement of one or more of the patents that were the subject of the paragraph IV certifications. You notified the agency that Watson complied with the requirements of section 505(j)(2)(B) of the Act, and that litigation for infringement of the '604 and '590 patents was brought against Watson within the statutory 45-day period in the United States District Court for the District of Delaware [Cephalon, Inc., and CIMA Labs, Inc. v. Watson Pharmaceuticals, Inc., and Watson Laboratories, Inc., Civil Action No. 08-330.

Therefore, final approval cannot be granted until:

1. a. the expiration of the 30-month period provided for in section 505(j)(5)(B)(iii)[1]

   b. the date the court decides[2] that the patents are invalid or not infringed (see sections 505(j)(5)(B)(iii)(I), (II), and (III) of the Act), or

   c. the listed patents have expired, and

[1] Because information on the '604 and '590 patents was submitted to FDA before August 18, 2003, this reference to section 505(j)(5)(B)(iii) is to that 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).

[2] This decision may be either a decision of the district court or the court of appeals, whichever court is the first to decide that the patent is invalid or not infringed.

2. The agency is assured there is no new information that would affect whether final approval should be granted.

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 should include a copy of a court decision, or a settlement or licensing agreement, as appropriate. It should also identify changes, if any, in the conditions under which the ANDA 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 ANDA, or may result in a delay in the issuance of the final approval letter.

Any significant 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 OGD policy in effect at the time of receipt. The submission of multiple amendments prior to final approval may also result in a delay in the issuance of the final approval letter.

In accordance with section 505-1(i) of the FDCA, an ANDA is required to have a Risk Evaluation and Minimization Strategy (REMS) if the applicable listed drug has an approved REMS. The RLD, Fentora, in addition to other oral transmucosal fentanyls, have been required to develop and implement a REMS. Pursuant to section 505-1(i) of the FDCA, a drug that is the subject of an ANDA and the listed drug it references must use a single shared system for elements to assure safe use unless FDA waives that requirement. We suggest that you contact Cephalon to pursue a

single shared system for the elements to assure safe use in your future REMS.

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 301 of the Act. Also, until the agency issues the final approval letter, this drug product will not be deemed to be approved for marketing under section 505 of the Act, and will not be listed in the "Orange Book."

For further information on the status of this application, or prior to submitting additional amendments, please contact Bob Gaines, Project Manager, at 240-276-8494.

Sincerely yours,

*{See appended electronic signature page}*

Keith Webber, Ph.D.
Deputy Director
Office of Pharmaceutical Science
Center for Drug Evaluation and Research

| Application Type/Number | Submission Type/Number | Submitter Name | Product Name |
|---|---|---|---|
| ANDA-79075 | ORIG-1 | WATSON LABORATORIES | FENTANYL CITRATE |

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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

06/22/2010

Deputy Director, Office of Generic Drugs
for Keith Webber, Ph.D.