



NDA 203797

TENTATIVE APPROVAL

Hospira, Inc.
Attention: Kristina McIntyre
Product Manager, Global Regulatory Affairs
275 North Field Drive
Department 0389/Bldg H2-2
Lake Forest, IL 60045-5046

Dear Ms. McIntyre:

Please refer to your New Drug Application (NDA) dated May 15, 2012, received May 15, 2012, submitted pursuant to section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for Daptomycin for Injection, 350 mg/vial.

We acknowledge receipt of your amendments dated August 18, 2014, December 19, and 23 (2), 2014, and January 29, and February 12, 2015.

The August 18, 2014, submission constituted a complete response to our March 15, 2013, action letter.

This NDA provides for the use of Daptomycin for Injection, 350 mg/vial for the treatment of Complicated Skin and Skin Structure Infections and *Staphylococcus aureus* Bloodstream Infections (Bacteremia), including those with Right-Sided Infective Endocarditis, caused by Methicillin-Susceptible and Methicillin-Resistant Isolates.

We have completed our review of this application, as amended. It is tentatively approved under 21 CFR 314.105 for use as recommended in the agreed-upon enclosed labeling (text for the package insert, and carton and immediate container labels). 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 product]. This determination is subject to change on the basis of any new information that may come to our attention.

The listed drug upon which your application relies is subject to a period of patent protection and therefore final approval of your application under section 505(c)(3) of the Act [21 U.S.C. 355(c)(3)] may not be made effective until the period has expired.

Your application contains certifications to each of the patents under section 505(b)(2)(A)(iv) of the Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of, this drug product under this application (“Paragraph IV certifications”).

Section 505(c)(3)(C) of the Act provides that approval of a new drug application submitted pursuant to section 505(b)(2) of the Act shall be made effective immediately, unless an action is brought for infringement of one or more of the patents that were the subject of the paragraph IV certifications. This action must be taken prior to the expiration of forty-five days from the date the notice provided under section 505(b)(3) is received by the patent owner/approved application holder. You notified us that you complied with the requirements of section 505(b)(3) of the Act.

In addition, you have notified the Agency that the patent owner and/or approved application holder has initiated a patent infringement suit against you with respect to patent RE 39,071, in the United States District Court for the District of Delaware (Civil Action No. 12-367(GMS)). Therefore, final approval cannot be granted until:

1. a. expiration of the 30-month period provided for in Section 505(c)(3)(C) beginning on the date of receipt of the 45-day notice required under Section 505(b)(3), unless the court has extended or reduced the period because of the failure of either party to reasonably cooperate in expediting the action, or
- b. the date the court decides that the patent is invalid or not infringed as described in section 505(c)(3)(C)(i), (ii), (iii,) or (iv) of the Act, or,
- c. the listed patent has expired, and
2. we are assured there is no new information that would affect whether final approval should be granted.

We note that your correspondence dated January 29, 2015, states that you have filed a notice of appeal on December 18, 2014, regarding the litigation in the U.S. District Court for the District of Delaware, as the final judgment, issued December 18, 2014, included the finding of infringement of U.S. Patent No. RE 39,071 held by Cubist Pharmaceuticals, Inc.

To obtain final approval of this application, submit an amendment two or six months prior to the: 1.) expiration of the patent or 2.) date you believe that your NDA will be eligible for final approval, as appropriate. In your cover letter, clearly identify your amendment as “**REQUEST FOR FINAL APPROVAL**”. This amendment should provide the legal/regulatory basis for your request for final approval and should include a copy of any relevant court order or judgment settlement, or licensing agreement, as appropriate. In addition to a safety update, the amendment should also identify changes, if any, in the conditions under which your product was tentatively approved, i.e., updated labeling; chemistry, manufacturing, and controls data; and Risk Evaluation and Mitigation Strategy (REMS). If there are no changes, clearly state so in your cover letter. Any changes require our review before final approval and the goal date for our review will be set accordingly.

Until we issue a final approval letter, this NDA is not deemed approved.

Please note that this drug product may not be marketed in the United States 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).

PROPRIETARY NAME

If you intend to have a proprietary name for this product, the name and its use in the labels must conform to the specifications under 21 CFR 201.10 and 201.15. We recommend that you submit a request for a proposed proprietary name review. See the guidance for industry titled, “Contents of a Complete Submission for the Evaluation of Proprietary Names”, at <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm075068.pdf> and “PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2008 through 2012”.

If you have any questions, call Maureen Dillon-Parker, Chief, Regulatory Project Management Staff, at (301) 796-0706.

Sincerely,

{See appended electronic signature page}

Sumathi Nambiar, MD, MPH
Director
Division of Anti-Infective Products
Office of Antimicrobial Products
Center for Drug Evaluation and Research

ENCLOSURE(S):

Content of Labeling
Carton and Container Labeling

This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.

/s/

SUMATHI NAMBIAR
02/18/2015