DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

ANDA 207693

ANDA TENTATIVE APPROVAL

Accord Healthcare, Inc.
1009 Slater Road Suite 210-B
Durham, North Carolina 27703
Attention: Sabita Nair
Senior Director, Regulatory Affairs

Dear Madam:

This is in reference to your Abbreviated New Drug Application (ANDA) submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Cabazitaxel Injection, 60 mg/1.5 mL (40 mg/mL) Single-dose Vial.

Reference is also made to your amendments dated October 31, 2014; November 10 and December 18, 2015; and January 20, May 13, July 12, and October 14, 2016.

We have completed the review of this ANDA, and based upon the information you presented to date we 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 manufacturing and testing of the drug product) and is therefore subject to change on the basis of new information that may come to our attention. This letter does not address isues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the FD&C Act.

The reference listed drug (RLD) upon which you have based your ANDA, Jevtana (cabazitaxel) Injection, 60 mg/1.5 mL of Sanofi-Aventis U.S. LLC, is subject to periods of patent protection. The following patents and expiration dates are currently listed in the Agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"):

U.S. Patent Number	Expiration Date
5,847,170 (the '170 patent)	March 26, 2021
7,241,907 (the '907 patent)	December 10, 2025
8,927,592 (the '592 patent)	October 27, 2030

Your ANDA contains paragraph IV certifications to the '170, '907 and '592 patents[1] under section 505(j)(2)(A)(vii)(IV) of the FD&C Act stating that the patents are invalid, unenforceable,

[1] The agency notes that the '592 patent was submitted to the agency after submission of your ANDA. Litigation, if

or will not be infringed by your manufacture, use, or sale of Cabazitaxel Injection, 60 mg/1.5 mL (40 mg/mL), under this ANDA. You have notified the Agency that Accord Healthcare, Inc. (Accord) complied with the requirements of section 505(j)(2)(B) of the FD&C Act, and that litigation was initiated within the statutory 45-day period against Accord for infringement of the '170 patent in the United States District Court for the Middle District of North Carolina, Durham Division [Sanofi-Aventis U.S. LLC, Aventis Pharma S.A. and Sanofi v. Accord Healthcare, Inc., Civil Action No. 1:15-cv-0018] and in the District of New Jersey [Sanofi-Aventis U.S. LLC, Aventis Pharma S.A. and Sanofi v. Accord Healthcare, Inc., Civil Action No. 3:14-cv-08079].

Therefore, final approval cannot be granted until:

1. a. the expiration of the 7.5-year period provided for in sections 505(j)(5)(B)(iii) and 505(j)(5)(F)(ii),

   b. the date the court decides[2] that the '170 patent is invalid or not infringed (see sections 505(j)(5)(B)(iii)(I), (II), and (III) of the FD&C Act), or

   c. the '170 patent has expired, and

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

Please note that if FDA requires a Risk Evaluation and 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 FD&C Act.

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

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any, with respect to this patent would not create a statutory stay of approval.

[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.

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 cGMPs are subject to agency review before final approval of the ANDA 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.

This drug product may not be marketed without final agency approval under section 505 of the FD&C 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 FD&C Act. Also, until the agency issues the final approval letter, this drug product will not be deemed approved for marketing under section 505 of the FD&C Act, and will not be listed in the "Orange Book."

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1 of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the Federal Register notice announcing facility fee amounts. All finished dosage forms (FDFs) or active pharmaceutical ingredients (APIs) manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those responsible, injunctions, or seizures of misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

In addition, we note that GDUFA requires that certain non-manufacturing sites and organizations listed in generic drug submissions comply with the self-identification requirement. The failure of any facility, site, or organization to comply with its obligation to self-identify and/or to pay fees when due may raise significant concerns about that site or organization and is a factor that may increase the likelihood of a site inspection prior to approval. FDA does not expect to give priority to completion of inspections that are required simply because facilities, sites, or organizations fail to comply with the law requiring self-identification or fee payment.

Additionally, we note that the failure of any facility referenced in the application to self-identify and pay applicable fees means that FDA will not consider the GDUFA application review goal dates to apply to that application.

For further information on the status of this ANDA or upon submitting an amendment to the ANDA, please contact Loreto Corazon Y. Lim, Regulatory Project Manager, at (240) 402-4055.

Sincerely yours,

{See appended electronic signature page}

Carol A. Holquist, RPh
Deputy Director
Office of Regulatory Operations
Office of Generic Drugs
Center for Drug Evaluation and Research

Carol Holquist

Digitally signed by Carol Holquist
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