CENTER FOR DRUG EVALUATION AND RESEARCH

APPLICATION NUMBER:

ANDA 079003

TENTATIVE APPROVAL LETTERS

DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville, MD 20857

ANDA 079003

Cobalt Laboratories Inc.
Attention: Richard Sanzen, R.Ph.
Director, Regulatory Affairs
24870 S. Tamiami Trail, Suite 1
Bonita Springs, FL 34134

Dear Sir:

This is in reference to your abbreviated new drug application (ANDA) dated May 16, 2007, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Ibandronate Sodium Tablets, 150 mg (base) (Once-Monthly).

Reference is made to your amendments dated August 21, September 21, November 2, November 3, and November 13, 2009. We also acknowledge receipt of your correspondence dated October 30, 2007; January 15, November 9, and November 12, 2009, addressing the patent issues associated with this ANDA.

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 issues 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 notice 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, Boniva Tablets, 150 mg (base) of Hoffmann-La Roche Inc. (Roche), is subject to periods of patent protection. The following patents with their expiration dates are currently listed in the agency's publication titled Approved Drug Products

with Therapeutic Equivalence Evaluations (the "Orange Book") for this drug product:

U.S. Patent Number	Expiration Date
4,927,814 (the '814 patent)	March 17, 2012
6,294,196 (the '196 patent)	October 7, 2019
7,192,938 (the '938 patent)	May 6, 2023
7,410,957 (the '957 patent)	May 6, 2023

With respect to each of these patents, your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the Act stating that each patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Ibandronate Sodium Tablets, 150 mg (base), 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 Cobalt Laboratories Inc. (Cobalt) for infringement of one or more of these patents that were the subjects of the paragraph IV certifications. You notified the agency that Cobalt complied with the requirements of section 505(j)(2)(B) of the Act, and litigation for infringement of the '814, '196, and '938 patents was brought against Cobalt within the statutory 45-day period in the United States District Court for the District of New Jersey [Hoffmann-La Roche Inc. v. Cobalt Pharmaceuticals Inc. and Cobalt Laboratories Inc., Civil Action No. 07-4540(SRC)]. Furthermore, Civil Action No. 08-4054 (SRC) was brought against Cobalt in the United States District Court for the District of New Jersey for infringement of the '957 patent. This Civil Action was brought against Cobalt prior to Cobalt providing a paragraph IV certification to the '957 patent and providing notice to the patent holder(s). We note that the '957 patent was listed in the Orange Book after receipt of your ANDA; therefore, no stay of approval will apply as a result of litigation involving this patent.

With respect to the '196 patent, you informed the agency that Cobalt procured a covenant-not-to-sue from Roche, and on September 12, 2008, the claims and counterclaims related to the '196 patent were dismissed.

Therefore, final approval cannot be granted until:

1. a. pursuant to sections 505(j)(5)(B)(iii),[1] 505(j)(5)(F)(ii), and 505A(c)(1)(A)(i)(I) of the Act, the expiration of the 7.5-year period from the date of approval of NDA 21-455,

   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

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.

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[1] Because information on these patents was submitted 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.

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.

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 Benjamin Danso, Pharm.D., Project Manager, at (240) 276-8527.

Sincerely yours,

{See appended electronic signature page}

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

Application Type/Number	Submission Type/Number	Submitter Name	Product Name
ANDA-79003	ORIG-1	COBALT PHARMACEUTICALS, INC.	IBANDRONATE SODIUM

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

/s/

ROBERT L WEST
01/04/2010
Deputy Director, for Gary Buehler

DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville, MD 20857

ANDA 079003

Watson Laboratories Inc.
Attention: Joyce Anne DelGaudio
Executive Director, Regulatory Affairs
380 Mount Kimble Ave
Morristown, NJ 07962

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated May 16, 2007, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Ibandronate Sodium Tablets, 150 mg (base).

Reference is made to the tentative approval letter issued by this office on January 4, 2010. Reference is also made to your amendments dated August 19, October 1, October 13, November 1, and November 12, 2010.

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 remain unable to grant final approval to your ANDA at this time because of the patent issue noted below. Therefore, the ANDA remains **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, Boniva Tablets, 150 mg (base), of Hoffman-La Roche Inc. (Roche), 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
4,927,814 (the '814 patent)	March 17, 2012
6,294,196 (the '196 patent)	October 7, 2019
7,192,938 (the '938 patent)	May 6, 2023
7,410,957 (the '957 patent)	May 6, 2023
7,718,634 (the '634 patent)	May 6, 2023

Your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the Act stating that each of these patents is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Ibandronate Sodium Tablets, 150 mg (base), under this ANDA. You have notified the agency that Watson Laboratories Inc. (Watson) complied with the requirements of section 505(j)(2)(B) of the Act, and that litigation for infringement of the '814, '196, and '938 patents was initiated against Watson within the statutory 45-day period in the United States District Court for the District of New Jersey [Hoffman-La Roche Inc. v. Watson Laboratories Inc., Civil Action No. 07-4539 (SRC)]. Litigation was also brought for infringement of the '957 patent.[1] Claims with respect to the '196 and '938 patents were later dismissed.

Litigation regarding the '814 patent (as well as the '957 patent) remains ongoing. On November 10, 2010, prior to the expiration of the 7½-year period identified in section 505(j)(5)(B)(iii), 505(j)(5)(F)(ii), and 505A(c)(1)(A)(i)(I) of the Act, the court in Civil Action No. 07-4539 (SRC) issued an order in which it preliminarily enjoined "the commercial manufacture, use, offer for sale, or sale within the United States of any products that are the subject of [this ANDA] until this Court decides all the issue of validity and enforcement of U.S. Patent Nos. 4,927,814 and 7,410,957." Your ANDA, therefore, is not eligible for approval at this time. See section 505(j)(5)(B)(iii)(III) and (IV) of the Act; see also 21 CFR 314.107(b)(3)(B)(iv).

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

[1] We note that the '957 and '634 patents were listed in the Orange Book after receipt of your ANDA.

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 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.

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 ANDA, or prior to submitting additional amendments, please contact Benjamin Danso, Pharm.D, Project Manager, at (240) 276-8527.

Sincerely yours,

{See appended electronic signature page}

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

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

/s/

ROBERT L WEST

03/15/2011

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