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JUL 14 2004

Office of Regulatory Policy
HFD - 13
5600 Fishers Lane,
Rockville, MD 20857

Attention: Claudia Grillo

Dear Ms. Axelrad:

The attached application for patent term extension of U.S. Patent No. 5,817,338 was filed on August 19, 2003, under 35 U.S.C. § 156.

The assistance of your Office is requested in confirming that the product identified in the application, Prilosec OTC® (omeprazole magnesium), has been subject to a regulatory review period within the meaning of 35 U.S.C. § 156(g) before its first commercial marketing or use and that the application for patent term extension was filed within the sixty-day period after the product was approved. Since a determination has not been made whether the patent in question claims a product which has been subject to the Federal Food, Drug and Cosmetic Act, or a method of manufacturing or use of such a product, this communication is NOT to be considered as notice which may be made in the future pursuant to 35 U.S.C. § 156(d)(2)(A).

Our review of the application to date indicates that the subject patent would be eligible for extension of the patent term under 35 U.S.C. § 156 of the active ingredient is omeprazole magnesium, not omeprazole.

Inquiries regarding this communication should be directed to the undersigned at (703) 306-3159 (telephone) or (703)872-9411 (facsimile).

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Leslie Morioka
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