

September 17, 1999

ESI Lederle, Inc.
Attention: Nicholas C. Tantillo
401 N. Middletown Road
Pearl River, NY 10965-1299

Dear Sir:

This is in reference to your abbreviated new drug application dated November 27, 1996, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Buspirone Hydrochloride Tablets USP, 5 mg and 10 mg.

Reference is also made to our letter dated December 22, 1998, granting tentative approval to the 5 mg and 10 mg strengths of Buspirone Hydrochloride Tablets, USP and to your amendments dated December 23, 1998; and January 25, February 11, June 25, and July 22, 1999. These amendments provide for the addition of Buspirone Hydrochloride Tablets USP, 15 mg to this application.

We have completed the review of this abbreviated application as amended to provide for the 15 mg dosage strength, and have concluded that based upon the information you have presented to date, all three proposed strengths are safe and effective for use as recommended in the submitted labeling. Therefore, the application remains **tentatively approved**. 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), and 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 listed drug product referenced in your application is subject to periods of patent protection which expire on May 22, 2000, (U.S. patent 4,182,763, the '763 patent) and May 14, 2008, (U.S. patent 5,015,646, the '646 patent). Your application contains a Paragraph IV Certification to the '646 patent under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture,

use or sale of this drug product will not infringe the '646 patent. Section 505(j)(5)(B)(iii) of the Act provides that approval of an abbreviated application shall be made effective immediately unless an action for patent infringement is brought before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(I) is received by the owner of the new drug application (NDA) for the reference listed drug product, Buspar Tablets, and the patent holder. You have notified the agency that ESI Lederle, Inc. (Lederle) has complied with the requirements of Section 505(j)(2)(B) of the Act and that no action for infringement against the '646 patent was brought against Lederle within the statutory forty-five day period. In addition, your application contains a Paragraph III Certification to the '763 patent under Section 505(j)(2)(A)(vii)(III) of the Act. Therefore, final approval of your application, as amended, may not be made effective pursuant to 21 U.S.C. 355(j)(5)(B)(ii) of the Act until the expiration of the '763 patent, i.e., currently May 22, 2000.

Because the agency is granting a second tentative approval for this application, please submit an amendment at least 60 days (but not more than 90 days) prior to the date you believe your application will be eligible for final approval. This amendment should identify changes, if any, in the conditions under which the product was tentatively approved and should include updated information such as final printed labeling, chemistry, manufacturing, and controls data as appropriate. Alternatively, an amendment should be submitted stating that no changes have been made to the terms of this application since the date of this second tentative approval letter. This amendment should be designated clearly in your cover letter as a MINOR AMENDMENT. In addition to, or instead of, this amendment, the Agency may request at any time prior to the date of final approval of this application, that you submit an amendment containing the information described above. Failure to submit either or, if requested, both amendments may result in rescission of the tentative approval status of your application, or may result in a delay in the issuance of the final approval letter.

Any changes in the conditions outlined in this abbreviated application as amended, 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.

The drug product that is the subject of this abbreviated application may not be marketed without final agency approval under Section 505 of the Act. The introduction or delivery for

introduction of this drug product into interstate commerce before the final approval date is prohibited under Section 501 of the Act. Also, until the agency issues the final approval letter, this drug product will not be listed in the agency's "Approved Drug Products with Therapeutic Equivalence Evaluations" list, the "Orange Book".

Should you believe that there are grounds for issuance of the final approval letter prior to May 22, 2000, you should amend your application accordingly.

At the time you submit any amendments, you should contact Mr. Joseph Buccine, Project Manager, at (301) 827-5754, for further instructions.

Sincerely yours,

Douglas L. Sporn
Director
Office of Generic Drugs