

ANDA 75-416

March 17, 2000

Andrx Pharmaceuticals, Inc.
Attention: Diane Servello
4001 S.W. 47th Avenue
Fort Lauderdale, FL 33314

Dear Madam:

This is in reference to your abbreviated new drug application dated July 16, 1998, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Naproxen Sodium Extended-release Tablets, 500 mg (base).

Reference is also made to your amendments dated September 30, and October 27, 1998; June 21, September 27, October 12, and November 19, 1999; and January 14, and February 7, 2000.

We have completed the review of this abbreviated application and have concluded that based upon the information you have presented to date, the drug is safe and effective for use as recommended in the submitted labeling. Therefore, the application is 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, Naprelan Extended-release Tablets, 500 mg (base), of Elan Pharmaceutical Research Corporation, is subject to a period of patent protection which expires on June 10, 2014, (U.S. Patent No. 5,637,320). Your application contains a Paragraph IV Certification to this patent under Section 505(j)(2)(A)(vii)(IV) of the Act. This certification states that your manufacture, use, or sale of this drug product will not infringe on the patent. Section 505(j)(5)(B)(iii) of the Act provides that approval of an abbreviated new drug application shall be made effective immediately, unless an action is brought against Andrx Pharmaceuticals, Inc. (Andrx) for infringement of the patent that is the subject of the certification (the '320 patent). This action must be taken before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(I) is received. You have notified the Agency that Andrx has complied with the requirements of Section 505(j)(2)(B) of the Act, and that as a result, litigation is currently underway in the United States District Court for the Southern District of Florida involving a challenge to the

'320 patent (Elan Corporation, PLC v. Andrx Pharmaceuticals, Inc., Civil Action No. 987164). Therefore, final approval cannot be granted until:

1.
 - a. The expiration of the 30-month period provided for in section 505(j)(5)(B)(iii) since the date of receipt of the 45-day notice required under section 505(j)(2)(B)(i), 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 of a court decision [505(j)(5)(B)(iii) (I), (II), or (III)], or,
 - c. the '320 patent has expired, and
2. The Agency is assured there is no new information that would affect whether final approval should be granted.

Because the Agency is granting a tentative approval for this application, please submit a MINOR 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 be clearly designated in your cover letter as a minor amendment. It should identify changes, if any, in the conditions under which this drug product was tentatively approved, and should include updated information such as final-printed labeling, chemistry, manufacturing and controls data, as appropriate. Alternatively, a statement that no such changes have been made to this application should be made, if appropriate. The amendment should also provide a copy of an order, judgement, or a settlement agreement between the parties, whichever is applicable, or a licensing agreement between you and the patent holder, or any other relevant information. This amendment also serves to reactivate the application prior to final approval.

Any significant changes in the conditions outlined in this abbreviated application as well as the status of the manufacturing and testing facilities' compliance with current good manufacturing procedures (CGMPs) are subject to Agency review before final approval of the application will be made.

In addition to, or instead of, the amendment referred to above, the Agency may, at any time prior to the final date of approval, request that you submit an additional amendment containing the information described above. Failure to submit either or, if requested, both amendments may result in rescission of this tentative approval determination, or a delay in issuance of the final approval letter.

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 into interstate commerce of this drug before the effective 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 amendment should be designated as a MINOR AMENDMENT in your cover letter. Before you submit the amendment, please contact Bonnie McNeal, Project Manager, at (301) 827-5848, for further instructions.

Sincerely yours,

Janet Woodcock, M.D.
Director
Center for Drug Evaluation and Research

TENTATIVE APPROVAL