

ANDA 75-934

September 28, 2001

King & Spalding  
U.S. Agent for: Genpharm Inc.  
Attention: Eugene Pfeifer  
1730 Pennsylvania Avenue, N.W.  
Washington, DC 20006-4706

Dear Sir:

This is in reference to your abbreviated new drug application dated July 26, 2000, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Nizatidine Capsules USP, 150 mg and 300 mg.

Reference is also made to your amendments dated March 19, May 24, June 29, August 27, September 5 and September 17, 2001.

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). The determination is subject to change on the basis of new information that may come to our attention.

The reference listed drug product (RLD) upon which you have based your application, Axid Capsules of Eli Lilly & Co., is currently subject to a period of patent protection [U.S. Patent No. 4,375,547 (the '547 patent)]. Your application contains a Paragraph III Certification to the '547 patent under Section 505(j)(2)(A)(vii)(III) of the Act stating that you will not market this drug product prior to the expiration of this patent. Therefore, final approval of your application may not be made effective pursuant to 21 U.S.C. 355(j)(5)(B)(ii) of the Act until the '547 patent has expired, i.e., currently April 12, 2002.

Because the Agency is granting a tentative approval for this application, please submit an amendment between 60 - 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. An amendment should be submitted even if none of these changes were made. This submission should be designated clearly in your cover letter as a MINOR AMENDMENT - FINAL APPROVAL REQUESTED. In addition to this amendment, the Agency may request at any time prior to the final date of approval 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 the tentative approval status of your application, or may result in a delay in the issuance of the final approval letter.

Any significant changes in the conditions outlined in this abbreviated application 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.

Please note that 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 501 of the Act and 21 U.S.C. 331(d). Also, until the Agency issues the final approval letter, this drug product will not be deemed approved for marketing under 21 U.S.C. 355 and will not be listed in the "Approved Drug Products with Therapeutic Equivalence Evaluations" list (the "Orange Book"), published by the Agency. Should you believe that there are grounds for issuing the final approval letter prior to April 12, 2002, you should amend your application accordingly.

Please contact Kassandra Sherrod, R.Ph., Project Manager, at 301-827-5849, prior to amending your application or to obtain information on the status of your application.

Sincerely yours,

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

