F

COLLAGENEX
pharmaceuticals

July 10, 2002

2000 '02 JUL 10 P12:43

Dockets Management Branch (HFA-305)
Food and Drug Administration
Department of Health and Human Services
Room 1061
5630 Fishers Lane
Rockville, MD 20852

CITIZEN PETITION

A. Action Requested

CollaGenex Pharmaceuticals, Inc. ("CollaGenex") submits this petition under Sections 505(j)(2)(A) and 505(j)(7)(C) of the Food, Drug, and Cosmetic Act ("FDCA") and 21 C.F.R. §§ 10.30, 314.122, 314.127(a)(11), and 314.161(a)(1) to request that, because Periostat (doxycycline hyclate) 20 mg capsules ("the capsules") were voluntarily withdrawn from sale in the United States in 2001, the Commissioner of Food and Drugs refuse to approve any ANDA for a generic version of the capsules until FDA determines that they were not withdrawn for reasons of safety or effectiveness. CollaGenex also asks that the Commissioner refuse to receive or approve any abbreviated new drug application ("ANDA") for a generic version of the capsules that is not accompanied by a petition seeking a determination about whether they were withdrawn for safety or effectiveness reasons, and rescind any previous receipt or approval of any ANDA which refers to the capsules as the listed drug.

CollaGenex further asks the Commissioner to immediately move the capsules to the "Discontinued Drug Product List" in Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the "Orange Book," and to publish a Federal Register notice announcing the withdrawal of the NDA for the capsules. Both actions should take effect retroactive to the date of the capsules' withdrawal from sale.

CollaGenex also is filing a Petition for Stay of Action asking the Commissioner to stay the receipt or approval of any ANDAs until final resolution of the issues raised in this Citizen Petition.

B. Statement of Grounds

FDA approved Periostat capsules in September 1998. The agency approved Periostat tablets in February 2001.

CollaGenex voluntarily stopped the distribution and marketing of Periostat capsules in August 2001. Since then, it has sold only Periostat tablets. In September 2001, it wrote to the agency to withdraw the new drug application (NDA) for Periostat capsules in accordance with 21 C.F.R. § 314.150(c). A copy of the letter is attached as Exhibit A. CollaGenex also filed

02P-0312

CollaGenex Pharmaceuticals, Inc., 41 University Drive, Newtown, PA 18940 USA
215-579-7388 voice 215-579-8577 fax

CP 1

under 21 C.F.R. § 314.81(b)(3)(iii) the required FDA Form 2657 regarding the capsules' withdrawal from sale. A copy is attached as Exhibit B. In short, the capsules were voluntarily withdrawn from sale, and CollaGenex submitted to FDA the required paperwork for voluntary withdrawals from sale.

FDA did not, however, publish a notice in the Federal Register announcing the withdrawal of the NDA for Periostat capsules, as it is required to do under 21 C.F.R. § 314.152. Nor did it move the capsules to the "Discontinued Drug Product List," which the Orange Book states is the appropriate list for "approved products that ... have been discontinued from marketing[.]" Orange Book, Section 2.1, p. 2-1. Thus, would-be ANDA applicants have been unable to learn from the usual public sources that the capsules were voluntarily withdrawn from sale.

FDA's regulations require an ANDA that "refers to...a listed drug that has been voluntarily withdrawn from sale in the United States" to be accompanied by a petition requesting a determination that it was not withdrawn for safety or effectiveness reasons (a "§ 314.122 petition"). 21 C.F.R. § 314.122(a). Because the capsules were voluntarily withdrawn from sale in 2001, FDA cannot receive or approve an ANDA that refers to them unless the ANDA is accompanied by a § 314.122 petition.

CollaGenex believes that at least one ANDA has been submitted for a generic version of the capsules. Specifically, it has learned that West-Ward Pharmaceutical Corporation has asked to add its version of the capsules to the New Jersey Drug Utilization Council's list of approved generic substitutions, List of Interchangeable Drug Products, August 2002 Proposed Amendments, available at www.state.nj.us/health/mgmt/rulepro0802a.htm, a step generic drug companies usually take only after submission of an ANDA. Although 21 C.F.R. §§ 10.25 and 10.30 require § 314.122 petitions to be publicly available, CollaGenex has found no such petition in FDA's dockets. It therefore believes that any ANDAs for the capsules were not accompanied by the required § 314.122 petitions.

If sponsors have submitted ANDAs not accompanied by § 314.122 petitions, it may well be due to their unawareness of the need for a § 314.122 petition, because of FDA's failure to withdraw the NDA for Periostat capsules and move the capsules to the Orange Book's discontinued list. FDA's mistakes cannot, however, justify allowing ANDAs referring to Periostat to be received or approved without an accompanying § 314.122 petition. Somerset Pharmaceuticals, Inc. v. Shalala, 973 F. Supp. 443 (D. Del. 1997).

FDA should now take all steps necessary to rectify the situation:

1. FDA should refuse to approve any ANDA for a generic version of the capsules until FDA determines that they were not withdrawn for reasons of safety or effectiveness.

2. FDA should refuse to receive or approve any ANDA that is not accompanied by a § 314.122 petition, and rescind any previous receipt or approval of any ANDA that refers to the capsules as the listed drug.

3. FDA should immediately move the capsules to the Discontinued Drug Product List in the Orange Book and publish a Federal Register notice withdrawing the NDA for the

capsules, both of which should be retroactive to the date of the capsules' voluntary withdrawal from sale.

C. Environmental Impact

The action requested qualifies for categorical exclusion from the requirement of issuance of an environmental assessment under 21 C.F.R. § 25.31(a). CollaGenex does not believe that any environmental impact will result from the granting of this petition.

D. Economic Impact

In accordance with 21 C.F.R. § 10.30(b), CollaGenex will provide data concerning the economic impact of the action sought if requested by the Commissioner.

E. Certification

CollaGenex certifies that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, and that it includes representative data and information known to CollaGenex that are unfavorable to the petition.

Christopher V. Powala/aeb

Christopher V. Powala
Senior Director, Drug Development
and Regulatory Affairs
CollaGenex Pharmaceuticals, Inc.
41 University Drive
Newtown, PA 18940
(215) 579-7388

Of Counsel:

Nancy L. Buc
Abby E. Brandel
Buc & Beardsley
919 Eighteenth Street, N/W.
Suite 600
Washington, D.C. 20006
(202) 736-3600

Exhibit A

COLLAGENEX
pharmaceuticals

September 24, 2001

Jonathan K. Wilkin, M.D., Director
Division of Dermatologic and Dental
Drug Products (HFD-540)
Food and Drug Administration
9201 Corporate Boulevard
Rockville, MD 20850

RE: NDA No. 50-744 - Periostat® (doxycycline hyclate) 20 mg Capsules
Annual Report and Withdrawal of NDA

Dear Dr. Wilkin,

During the pre-IND/NDA meeting held on October 26, 1999, CollaGenex agreed to withdraw NDA 50-744 after the transition from capsules to tablets was complete (see Attachment 1). In accord with that agreement CollaGenex Pharmaceuticals, Inc. is hereby withdrawing NDA 50-744 for Periostat® Capsules. The last batch of capsules was manufactured and released in May 2001. All capsules have been shipped from our warehouse. For your information we are also enclosing a copy of the completed Form 2657 delisting Periostat® Capsules (see Attachment 2), which was submitted to the Information Management Team on August 8, 2001.

In withdrawing the NDA, we are providing, herewith, the final Annual Report for NDA 50-744 for Periostat® (doxycycline hyclate) 20 mg Capsules.

If you have any questions, please contact the undersigned at 215-579-7388 (voice) or 215-579-8577 (facsimile).

Sincerely,

Christopher Powala, Senior Director
Drug Development and Regulatory Affairs

Exhibit B

DEPARTMENT OF HEALTH AND HUMANS SERVICES
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION

DRUG PRODUCT LISTING

(In accordance with Public Law 92-387)

Form Approved: OMB No. 0910-0045, Expiration Date: April 30, 2001. See OMB Statement on Reverse.

NAME AND ADDRESS OF FIRM
COLLAGENEX PHARMACEUTICALS, INC.
41 UNIVERSITY DRIVE, SUITE 200
NEWTOWN, PA 18940

LABELING REVISION
CHANGE OF:
☐ RTE OF ADMIN ☐ INDICATION
☐ NAME / DOSE / STR / INGR
☐ OTHER *(Specify)*

FOR FDA USE — CONTROL NO. — RECORD ID

SEC	S	U	PRODUCT TRADE NAME OR CATALOG NAME	NATIONAL DRUG CODE LABELER	NATIONAL DRUG CODE PRODUCT
01			PERIOSTAT	02T180	4007

FDA APPLICATION NO.	REPORT DATE MO	DA	YR	TYPE ACTION	TYPES OF BUSINESS OTHER *(Specify)*	PRODUCT TYPE	PRODUCT TYPE OTHER *(Specify)*	PRODUCT DISCONTINUED BNDD	LEGAL STATUS	SCHED	RX/OTC	PRODUCT DISCONTINUED OTHER *(Specify)*	BASIS OF CONCENTRATION WHOLE NUMBERS	BASIS OF CONCENTRATION DECIMAL
050TH408080	01		OTHER	MARKETER	N				Q		W			MG

DOSAGE FORM	ROUTES OF ADMINISTRATION 1	2	3	OTH	PT	SEC	S	U	SAMP	PKG CODE	PACKAGE SIZE	PACKAGE TYPE
600001						03				01100		BOTTLE
						03						
						03						
						03						

INITIAL MARKETING DATE MO	YEAR	MOST RECENT MARKETING DATE MO	YEAR	DISCONTINUED DATE MO	YEAR
				08	2001

NOTICE: This report is required by law (21 C.F.R. 207.20) Failure to report can result in imprisonment for not more than one year or a fine of not more than $1,000, or both (FD&C Act, Section 303).

SEC	S	U	TYPE	PT	ESTABLISHED NAME OF PRODUCT AND / OR INGREDIENT(S) OR BIOLOGIC PROPER NAME, TEST OBJECTIVE / EQUIPMENT / REAGENT NAME, ETC.	FDA USE ONLY INGREDIENT NO.	AMOUNT WHOLE NUMBER	AMOUNT DECIMAL	UNIT
05			A		DOXYCYCLINE HYCLATE		200		BO
05			I		MAGNESIUM STEARATE				
05			I		MYCROCRYSTALLINE CELLULOSE				
05			I		GELATIN CAPSULE				
05									
05									
05									
05									
05									
05									

SEC	S	U	SITE OR FIRM ESTABLISHMENT REGISTRATION NUMBER	ACTUAL MANUFACTURING SITE OF THE ABOVE DRUG PRODUCT	STATE	FOREIGN COUNTRY	NDC LABELER CODE	SHORT NAME
07			002T180	APPLIED ANALYTICAL INDUSTRIES INC	RC		02T180	
07								
07								

FORM FDA 2657 (10/98) PEVIOUS EDITION IS OBSOLETE.