DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

Re: Ertaczo
Docket No. 2004E-0306

The Honorable Jon Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Box Pat. Ext.
P.O. Box 1450
Alexandria, VA 22313-1450

JAN - 6 2006

Dear Director Dudas:

This is in regard to the patent term extension application for U.S. Patent No. 5,135,943 filed by Ferrer Internacional, S.A. under 35 U.S.C. § 156. The patent claims Ertaczo (sertaconazole nitrate), NDA 21-385.

In the May 12, 2005, issue of the Federal Register (70 Fed. Reg. 25091), the Food and Drug Administration published its determination of this product's regulatory review period, as required under 35 U.S.C. § 156(d)(2)(A). The notice provided that on or before November 8, 2005, 180 days after the publication of the determination, any interested person could file a petition with FDA under 35 U.S.C. § 156(d)(2)(B)(i) for a determination of whether the patent term extension applicant acted with due diligence during the regulatory review period.

The 180-day period for filing a due diligence petition pursuant to this notice has expired and FDA has received no such petition. Therefore, FDA considers the regulatory review period determination to be final.

Please let me know if we can provide further assistance.

Sincerely yours,

Jane A. Axelrad

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research

cc: Marc S. Weiner
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