



APR 13 2001  
4 35 3 01 MAY 15 P2:30

Barry R. Walker, M.D., F.A.C.P.  
7 14 Pennstone Road  
Bryn Mawr, Pennsylvania 19010

Dear Dr. Walker:

This letter is in response to your submission to the Food and Drug Administration (FDA) dated February 23, 2001. Your submission appears to be intended as a notification under 21 U.S.C. 343(r)(6) (section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the Act)) and 21 CFR 101.93(a).

Your letter notified FDA of your intent to market a product named "Ismigen" containing killed, freeze-dried lysates of cultured bacteria (*Staphylococcus aureus*, *Streptococcus pyogenes*, *Streptococcus viridans*, *Klebsiella ozaenae*, *Haemophilus influenzae* serotype B, *Neisseria catarrhalis*, and *Diplococcus pneumoniae*). You state that Ismigen will be marketed as a dietary supplement.

Ismigen does not meet the statutory definition of a dietary supplement in that it does not contain one or more "dietary ingredients" as defined in 21 U.S.C. 321(ff)(1). Section 321(ff)(1) lists the following as dietary ingredients: vitamins, minerals, herbs or other botanicals, amino acids, dietary substances for use by man to supplement the diet by increasing the total dietary intake, and concentrates, metabolites, constituents, extracts or combinations of any of the ingredients described above. The ingredients in your product are not vitamins, minerals, herbs or other botanicals, or concentrates, metabolites, constituents, extracts; or combinations of these substances. Further, the ingredients in your product are not "dietary substances" because they are not substances that are found in the food supply and used as food. Rather, the substances in your product are pathogenic microorganisms. Although pathogens may be found in food as contaminants, they are not used for food.

Although Ismigen is not a dietary supplement, it is a drug under 21 U.S.C. 321(g)(1)(C). The submission states that Ismigen is intended "for use in supporting normal immune system responses. In clinical studies, Ismigen has been found to increase the production and activation of a different kind of Ig, (Immunoglobulins Ig.A, Ig.M, Ig.G), important elements to maintain a healthy respiratory tract." This statement evidences that the product is intended for use as an article (other than food) intended to affect the structure or any function of man and, therefore, is a drug under 21 U.S.C. 321(g)(1)(C) and is subject to regulation under the drug provisions of the Act.

97S 0163 LET 492

Page 2 - Dr. Barry R. Walker

Please contact us if you have any questions concerning this matter.

Sincerely,



John B. Foret  
Director

Division of Compliance and Enforcement  
Office of Nutritional Products, Labeling  
and Dietary Supplements  
Center for Food Safety  
and Applied Nutrition

cc:

Pirri Pharma Canada, Inc.  
597, boul, Laurier  
Mont-Saint Hilaire, Quebec J3H 6C4  
Canada

cc:

FDA, Center for Drug Evaluation and Research, Office of Compliance, HFD-300  
FDA, Office of the Associate Commissioner for Regulatory Affairs, Office of  
Enforcement, HFC-200  
FDA, Philadelphia District Office, Office of Compliance, HFR-MA140  
FDA, New York District Office, Office of Compliance, HFR-NE140

cc:

HFA-224 (w/incoming)

HFA-305 (docket 978-0163)

HFs-22 (CCO)

HFS-800 (file, r/f)

HFS-810

HFS-8 11 (file)

HFD-40 (Behrman)

HFD-3 10

HFD-3 14 (Aronson)

HFS-605

HFM-400 (Egan)

HFV-228 (Benz)

GCF- 1 (Nickerson)

r/d:HFS-811:RMoore:3/7/01

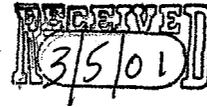
Init:GCF-1:LNickerson:4/5/01

docname:74770.adv:disc56

F/T:LBarr:HFS-810:4/10/01

**Barry R. Walker, M.D., F.A.C.P**  
**714 Pennstone Road**  
**Bryn Mawr, PA 19010**  
Telephone: 610-527-0327  
Fax: 610-527-9236

74770



February 23, 2001

Center for Food Safety and Applied Nutrition  
Food and Drug Administration  
HFS-810  
200 C Street, SW  
Washington, DC 20204

Pirri Pharma Canada, Inc of 597, boul, Laurier, Mont-Saint Hilaire, Quebec, Canada J3H 6C4 seeks to introduce "Ismigen" to the U.S. dietary supplement market by May 1, 2001. A proposed label for the product is enclosed.

Included in the labeling will be this statement, "For use in supporting normal immune system responses. In clinical studies, Ismigen has been found to increase the production and activation of a different kind of Ig (Immunoglobulins Ig.A IgM, IgG), important elements to maintain a healthy respiratory tract." This statement is supported by the work of Palmieri et al. in an article entitled "Immunomodulating effects of a bacterial lysate in elderly subjects" published in Current Therapeutic Research, Vol 4 in 1987. I have reviewed this article and found that the information is accurate and upholds the claim made in the labeling of Ismigen. The product was deemed safe and effective in humans. A copy of the article is enclosed for your review.

I am the U.S. representative for Pirri Pharma. Please direct any questions about this product to me at (610)527-0327.

Sincerely,

*Barry R. Walker*

Barry R. Walker, M.D., F.A.C.P

"For use in supporting normal immune system responses. In clinical studies, Ismigen has been found to increase the production and the activation of different kind of Ig, (immunoglobulins Ig.A, Ig.M, Ig.G), important elements to maintain a healthy respiratory tract." This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

## Supplement Facts

Serving size **Take 1 tablet** per day for 10 days before meals. Dissolve tablet under tongue.

Amount per capsule: Extracts from a variety of killed cultured bacteria. One tablet contains 50 mg of lyophilized bacterial lysate, of which 7mg correspond to:

Species	Content of bacterial extract
Staphylococcus aureus	6 billion
Streptococcus pyogenes	6 billion
Streptococcus viridans	6 billion
Klebsiella ozaenae	6 billion
Haemophilus influenzae serotype B	6 billion
Neisseria catarrhalis	6 billion
Diplococcus pneumoniae	6 billion

Other ingredients: microcrystalline cellulose, bibasic phosphate calcium, silicium bioxyde, magnesium stearate, ammonium glycyrrhizinate, essence of ment-powder. Support for lyophilization process: glycine 43 mg

PIRRI PHARMA CANADA INC  
Mont-Saint-Hilaire, Quebec, Canada J3H 6C4