From: "Woodcock, Janet" <Janet.Woodcock@fda.hhs.gov>
Date: November 2, 2018 at 2:22:14 PM EDT
To: "Mihael H. Polymeropoulos" <Mihael.Polymeropoulos@vandapharma.com>
Subject: RE: FDA Warning Letter - Vanda Pharmaceuticals

Thank you for writing. I will look into this issue. Janet Woodcock

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From: Mihael H. Polymeropoulos <Mihael.Polymeropoulos@vandapharma.com>
Sent: Friday, November 2, 2018 1:59 PM
To: Woodcock, Janet <Janet.Woodcock@fda.hhs.gov>
Cc: Haffer, Andrew <Andrew.Haffer@fda.hhs.gov>
Subject: FDA Warning Letter - Vanda Pharmaceuticals

Dear Dr. Woodcock,

I am writing to bring to your attention a Warning Letter that Vanda received from the FDA on October 22, which is attached for reference.

I was shocked and saddened to receive this letter, and very disappointed that we did not receive any prior communications from the FDA, formal or informal, notifying us of the Agency's concerns with our corporate website. We disagree with the positions taken in the letter, and are distressed that the Agency used its most powerful weapon of public shaming in a situation where the allegedly "false and or misleading" statements are arguably non-promotional in nature and supported by prominent references to risk information in a manner contemplated by the regulations. I also note that Vanda is one of only two companies who have received a OPDP Warning Letter in 2018 and one of just five companies in the last two years.

While we do not agree that the website content was "false and or misleading", after receiving the letter, we took immediate action to address the FDA's concerns by removing the brief description of approved uses of our drugs from the webpage. You can see the prior and current versions of the webpage in the attached PDF file. We issued a press release on November 1, 2018 (attached) to ensure that the public at large is fully informed of the existence of the letter and the immediate steps taken by Vanda to address the FDA's concerns. As requested in the Warning Letter, we will respond to Dr. Andrew Haffer (copied here, for transparency) by the due date of November 5, 2018.

However, a quick review of untitled and warning letters from 2015 through today demonstrates a fact pattern suggesting that the FDA typically reserves Warning Letters for the most egregious promotional misdeeds. A quick review of the corporate websites of other companies shows that many companies currently use the same format that Vanda was cited for in the Warning letter. We believe that the issuance of the Warning Letter to Vanda was unprecedented, disproportionate, arbitrary and inequitable.

My sincerest hope is that this action was taken by mistake and doesn't represent the current policy of the FDA with respect to these matters. Therefore, we respectfully request that the FDA carefully evaluate the facts of our situation and consider rescinding the Warning Letter. We pride ourselves of being a compliant company who has collaborated with the FDA in bringing innovative treatments to patients. The existence of this Warning Letter by the FDA is damaging Vanda's reputation as a compliant company who is focused on patient benefit above all else.

I would welcome the opportunity to have a personal discussion with you regarding our request for rescission of this Warning Letter.

Sincerely,

Mihael H. Polymeropoulos MD
CEO, Vanda Pharmaceuticals
mihael.polymeropoulos@vandapharma.com

November 5, 2018

Andrew S.T. Haffer, Pharm.D.
Division Director, Division of Advertising & Promotion Review 1
Office of Prescription Drug Promotion
Center for Drug Evaluation and Research
Food and Drug Administration
5901-B Ammendale Road
Beltsville, MD 20705-1266

Re: Warning Letter Response (NDA 022192 MA 539; NDA 205677 MA 137)

Dear Dr. Haffer,

We received a Warning Letter under your signature on October 22, 2018. The Warning Letter states that our corporate webpage[1] misbrands Fanapt® and Hetlioz® in violation of Federal law, and demands that we immediately cease misbranding those products. The Warning Letter also states that our corporate webpage contains false or misleading information because it "presents information about the benefits of Fanapt® and Hetlioz®, but fails to include **any** risk information about either drug."[2] Although our corporate webpage provided prominent references to the full prescribing information and risk information for these drugs, the Warning Letter states that those references do not "mitigate the omission of risk information from the corporate webpage."[3]

We disagree that our corporate webpage content was "false or misleading" under the relevant regulations. We are not and have not been in violation of the Food Drug and Cosmetic Act or FDA implementing regulations with respect to the corporate webpage cited in the Warning Letter. Nevertheless, we have taken the following actions in a good faith effort to comply with the FDA's demands on an interim basis until we have resolved this matter:

- Within a day of receiving the Warning Letter, we removed language on our corporate webpage describing the approved uses for Fanapt® and Hetlioz®.[4] We invite you to review the current page at the following link: http://www.vandapharma.com/products.html.

- On November 1, 2018, one day after publication of the Warning Letter, we issued a press release to ensure complete transparency to the public at large regarding these changes.[5]

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[1] http://www.vandapharma.com/products.html

[2] *See* Warning Letter at 1.

[3] *See* Warning Letter at 3.

[4] A side-by-side comparison of the former and current corporate webpage is provided in Exhibit 1.

[5] The press release can be found on the NASDAQ site at: https://www.nasdaq.com/press-release/vanda-receives-fda-letter-regarding-corporate-webpage-20181101-01176 or on Vanda's investor relations website at: http://phx.corporate-ir.net/phoenix.zhtml?c=196233&p=irol-newsArticle&ID=2374813

- We have reviewed our current promotional materials for both products and represent that all such materials contain appropriate risk information to conform with Federal regulatory requirements.

- We have reviewed our Promotion Review Committee process, and confirm that we have appropriate procedures to ensure that all promotional materials for our products conform with Federal regulatory requirements.

We believe that the actions described above should alleviate any concerns the FDA has with respect to misbranding of our products.

To our knowledge, we have not received any prior communications from FDA about our corporate website or any other promotional issues, including calls, emails, or formal letters from FDA, until the October 22 Warning Letter. Under the facts of our situation, we believe that the issuance of the Warning Letter to Vanda was unprecedented, disproportionate, arbitrary and inequitable. We respectfully request that the FDA immediately rescind the Warning Letter. We would welcome the opportunity to discuss this matter in a scheduled meeting.

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Please feel free to contact us by phone at (202) 734-3464 or by email at tim.williams@vandapharma.com should you have any questions or require additional information.

Respectfully submitted,

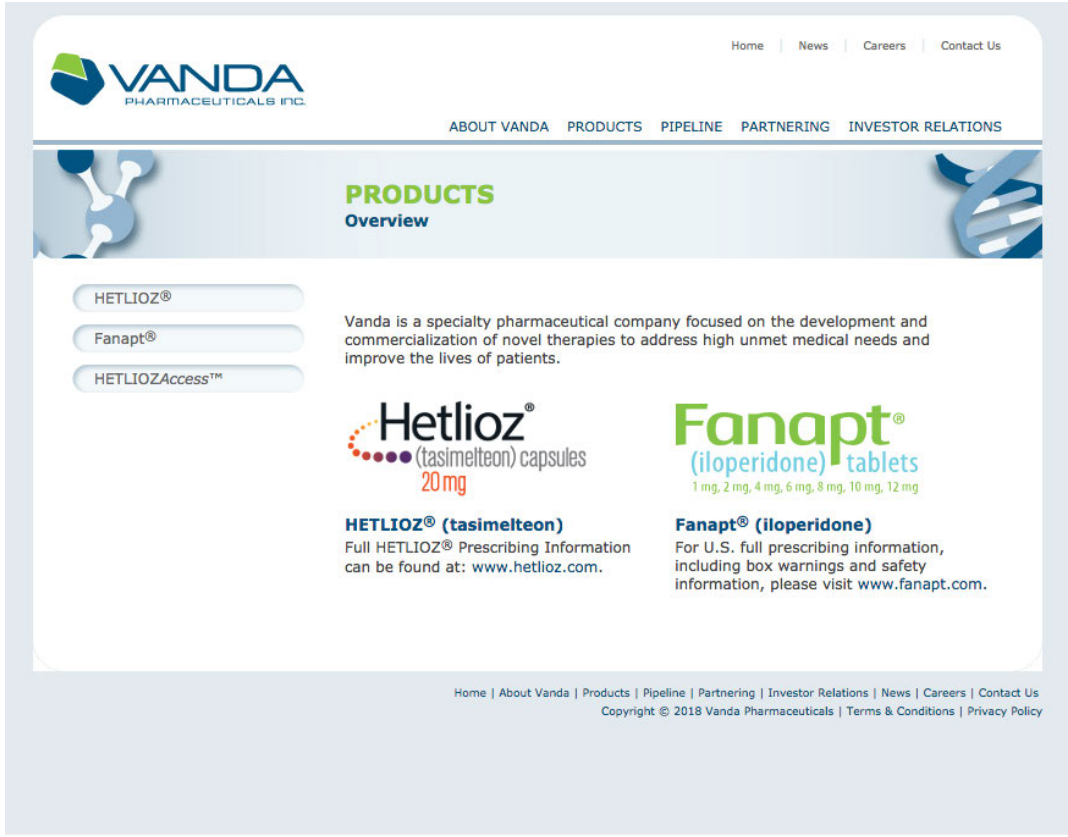
Mihael H. Polymeropoulos, M.D.
President and Chief Executive Officer
Vanda Pharmaceuticals Inc.

Exhibit 1

Vanda Corporate Website – Products Overview Page[1,2]

Before: October 22, 2018

After: October 23, 2018



1) Before: https://www.fda gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/EnforcementActivitiesbyFDA/WarningLettersandNoticeofViolationLetterstoPharmaceuticalCompanies/UCM624668.pdf
2) After: Vanda corporate website 10/23/2018. https://www.vandapharma/products.html

Dear Mr. Abrams,

I trust this message finds you well and preparing for the new year. I would like to thank you personally for your office's prompt issuance of our Close Out Letter, which we received on Nov. 21. Now that the Warning Letter is closed, I would like to collaborate with you on two matters: First, to address the ongoing reputational damage being suffered by Vanda and me personally, and second, to help the Agency evolve its warning letter practices to better serve the FDA's mission to protect the public health by ensuring the safety, efficacy, and security of human drugs.

As a fast-growing innovator, Vanda is constantly monitored by employees, job-seekers, investors, clinicians, patients and their families, and members of the media. The continued presence of the Warning Letter on OPDP's website wrongfully suggests to these groups that Vanda is an unethical company, presenting false and misleading information about our products, and unconcerned about the health and wellness of patients and the American public. In reality, everything Vanda does is designed to safely and ethically advance health science and aid patients in their pursuit of happiness. Although we still believe the Warning Letter should be rescinded, there are some interim steps that could both increase the public's awareness of the matter and ease the ongoing damage to Vanda. We respectfully request that OPDP post on its Warning Letter website the full correspondence on this matter, including our email to Dr. Janet Woodcock of Nov. 2, our formal response to your office of Nov. 5, OPDP's Close Out Letter of Nov. 21, 2018, and this email.

Further, we respectfully request that these materials be posted in the identical manner that the FDA posts company responses and Close Out Letters in its "Electronic Reading Room – Warning Letters" (found here: https://www.accessdata.fda.gov/scripts/warningletters/wlSearchResult.cfm?qryStr=&sortColumn=&Go=Go&webSearch=false). All of our communications, including this email, are appended to this letter in an electronic word processing format as contemplated in FDA's Regulatory Procedures Manual, September 2018 – Chapter 4 – Advisory Opinions, Page 16: *Requests to Post Response on Internet*. We further ask that OPDP comply with the requirement to redact our response "to the extent permitted by" FOIA, and we would welcome a discussion with you as to the redactions, if any, that might be made to our correspondence.

I want to reiterate that we continue to disagree completely with this issuance of the Warning Letter and your interpretations of our webpage. First, the webpage is non-promotional and not subject to OPDP oversight under the advertising regulations. Second, we disagree with OPDP's characterization that the webpage "creates a misleading impression about the drugs' safety", even though the webpage states the existence of a box warning and provides a link to the promotional page containing full risk and prescribing information.

I hope you agree that our requests outlined above are reasonable to undertake while we work together to rescind the Warning Letter in its entirety. I am available at your convenience to continue our collaborative dialogue on this matter.

Best Regards,

Mihael H. Polymeropoulos, M.D.
President and CEO
Vanda Pharmaceuticals