ANDA 75-269

December 4, 2000

Keller and Heckman
U.S. Agent for Biovail Laboratories, Incorporated
Attention: John B. Dubeck
1001 G Street N.W., Suite 500 West
Washington, D.C. 20001

Dear Sir:

This is in reference to your abbreviated new drug application dated December 9, 1997, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Nifedipine Extended-release Tablets USP, 30 mg and 60 mg.

Reference is also made to the Tentative Approval letter issued June 29, 1999 and to your amendments dated November 9, 22, and 27, 2000.

The listed drug product referenced in your application, Adalat® CC Extended-release Tablets of Bayer Corporation, is subject to periods of patent protection which expire on June 8, 2008 (U.S. Patent No. 4,892,741 [the '741 patent]) and on November 23, 2010, (U.S. Patent No. 5,264,446 [the '446 patent]). Your application contains Paragraph IV Certifications to both patents under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture, use, or sale of this drug product will not infringe on these patents or that the patents are otherwise invalid. You further informed the Agency that the patent and NDA holder initiated a patent infringement suit against you (for the '446 patent) in the United States District Court for the District of Puerto Rico (Bayer AG, Bayer Corporation v. Biovail Laboratories Incorporated and Biovail Corporation International, Civil Actions No. 98-1282RLA and 98-1768HL. An additional suit (for the '446 patent) against Biovail is also pending in the United States District Court for the District of Columbia (Civil Action No. 1:98CV01681).

The Agency also recognizes that the 30-month period identified in Section 505(j)(5)(B)(iii) of the Act, during which time FDA was precluded from approving your application, has expired.

We have completed the review of this abbreviated application and have concluded that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly the application is approved. The Division of Bioequivalence has determined your Nifedipine Extended-release Tablets USP, 30 mg and 60 mg to be bioequivalent and, therefore, therapeutically equivalent to the listed drug Adalat® CC Extended-release Tablets of Bayer Corporation. Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your application. The "interim" dissolution test and tolerances are:

The dissolution testing should be conducted in 900 mL of 0.5% sodium lauryl sulfate in simulated gastric fluid (SGF), pH 1.2 using USP XXIV apparatus II (paddle) at 100 rpm.

The 30-mg tablets of the test product should meet the following tentative specifications previously proposed by the Agency:

Time (hour)	Specifications
[	]

The 60-mg strength of the test product should meet the following tentative specifications currently proposed by the Agency:

Time (hour)	Specifications
[	]

The "interim" dissolution test and tolerances should be finalized by submitting dissolution data for the first three production size batches in a supplemental application. A “Special Supplement - Changes Being Effected” (zero) should be submitted when there are no revisions to the interim specifications or when the final specifications are tighter than the interim specifications. In all other instances a Prior Approval supplement should be submitted.

We note that with respect to the 60 mg strength only of this drug product, Biovail Laboratories Incorporated (Biovail) was the first applicant to submit a substantially complete ANDA with a Paragraph IV Certification. Therefore, Biovail is eligible for 180-days of market exclusivity for the 60 mg strength. Such exclusivity will begin to run either from the date Biovail begins commercial marketing of the 60 mg strength, or from the date of a decision of a court finding the patent invalid or not

infringed, whichever event occurs earlier [Section 505(j)(5)(B)(iv)]. A court decision that can trigger the beginning of exclusivity is a decision of a court from which no appeal may be taken (which might not be the one from the district court). With respect to the "first commercial marketing" trigger for the commencement of exclusivity, please refer to 21 CFR 314.107(c)(4). The Agency expects that you will begin commercial marketing of the 60 mg strength of this drug product in a prompt manner.

If you have questions concerning the effective date of approval of an abbreviated new drug application and the Agency's elimination of the requirement that an ANDA applicant successfully defend a patent infringement suit to be eligible for 180-days of marketing exclusivity, please refer to the interim rule published in the November 5, 1998 Federal Register (Volume 63, No. 214, 59710).

Under Section 506A of the Act, certain changes in the conditions described in this abbreviated application require an approved supplemental application before the change may be made.

Post-marketing reporting requirements for this abbreviated application are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

We request that you submit, in duplicate, any proposed advertising or promotional copy which you intend to use in your initial advertising or promotional campaigns. Please submit all proposed materials in draft or mock-up form, not final print. Submit both copies together with a copy of the proposed or final printed labeling to the Division of Drug Marketing, Advertising, and Communications (HFD-40). Please do not use Form FD-2253 (Transmittal of Advertisements and Promotional Labeling for Drugs for Human Use) for this initial submission.

We call your attention to 21 CFR 314.81(b)(3) which requires that materials for any subsequent advertising or promotional campaign be submitted to our Division of Drug Marketing, Advertising, and Communications (HFD-40) with a completed Form FD-2253 at the time of their initial use.

Sincerely yours,

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

APPROVAL