DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

ANDA 76-745

NOV 9 2006

IMPAX Laboratories, Inc.
Attention: Mark C. Shaw
Vice President, Regulatory Affairs
30831 Huntwood Avenue
Hayward, CA 94544

Dear Sir:

This is in reference to your abbreviated new drug application (ANDA) dated May 22, 2003, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Oxybutynin Chloride Extended-release Tablets, 5 mg, 10 mg, and 15 mg.

Reference is also made to the tentative approval letter issued by this office on February 1, 2005, and to your amendments dated May 19, and September 17, 2004; August 29, August 31, and October 12, 2005; and January 12, and January 23, 2006. We also acknowledge receipt of your correspondences of dated July 19, August 12, and September 14, 2005, and August 31, 2006, addressing the patent issues noted below.

We have completed the review of this ANDA as amended, and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly, the ANDA insofar as it pertains to your Oxybutynin Chloride Extended-release Tablets 15 mg is approved, effective on the date of this letter. Because of a 180-day generic drug exclusivity issue explained below, we are unable to approve your Oxybutynin Chloride Extended-release Tablets, 5 mg and 10 mg at this time. These strengths will remain **tentatively approved** and will not be eligible for final approval until the 180-day generic drug exclusivity issue noted below has been satisfactorily resolved.

The reference listed drug (RLD) upon which you have based your ANDA, Ditropan XL, Extended-release Tablets, 5 mg, 10 mg, and 15 mg, of ALZA Corporation, is subject to periods of patent protection. The following patents and expiration dates (with

pediatric exclusivity added) are currently listed in the Agency's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book") for this drug product:

U.S. Patent Number	Expiration Date
5,674,895(the '895 patent)	November 22, 2015
5,840,754(the '754 patent)	November 22, 2015
5,912,268(the '268 patent)	November 22, 2015
6,124,355(the '355 patent)	November 22, 2015
6,262,115(the '115 patent)	November 22, 2015
6,919'092(the '092 patent)	November 22, 2015

Your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the Act stating that each listed patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Oxybutynin Chloride Extended-release Tablets, 5 mg, 10 mg, and 15 mg, under this ANDA. Section 505(j)(5)(B)(iii) of the Act provides that approval of an ANDA shall be made effective immediately unless action was brought against IMPAX Laboratories, Inc. (IMPAX) for infringement of one or more of the patents that were the subjects of paragraph IV certifications. This action must have been brought against IMPAX prior to the expiration of 45 days from the date the notice you provided under section 505(j)(2)(B) was received by the NDA/patent holder(s).

You notified the agency that IMPAX complied with the requirements of section 505(j)(2)(B) of the Act and that litigation for infringement of the '355 patent was brought against IMPAX within the statutory 45-day period in the United States District Court for the Northern District of California [ALZA Corporation v. IMPAX Laboratories, Inc., Civil Action No. C03-04032]. We note that IMPAX was not sued within the 45-day period on any of the other listed patents. You have also notified the agency that the district court entered a summary judgment of non-infringement in favor of IMPAX on October 6, 2005. Therefore, under section 505(j)(5)(B)(iii)(I), this court decision renders the ANDA eligible for approval. Furthermore, you informed the agency that on October 11, 2005, Alza appealed the district court decision, and that on September 6, 2006, the U.S. Court of Appeals for the Federal circuit affirmed the district court's holding that IMPAX's product does not infringe the asserted claims of the patent and that the asserted claims are invalid.

I. Approval of Oxybutynin Chloride Extended-release Tablets 15 mg

The Division of Bioequivalence has determined your Oxybutynin Chloride Extended-release Tablets, 15 mg, to be bioequivalent and, therefore, therapeutically equivalent to the listed drug (Ditropan XL Extended-release Tablets, 15 mg, of ALZA 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 specifications are as follows:

The dissolution testing should be conducted in:

(b)(4)

The "interim" dissolution test(s) and tolerances should be finalized by submitting dissolution data from the first three production size batches. These data should be submitted as a "Special Supplement - Changes Being Effected" when there are no revisions to the "interim" specifications or when the final specifications are tighter than the "interim" specifications. In all other instances, the information should be submitted in the form of a Prior Approval Supplement.

With respect to 180-day generic drug exclusivity, IMPAX was the first ANDA applicant to submit a substantially complete ANDA for Oxybutynin Chloride Extended-release Tablets, 15 mg, containing paragraph IV certifications to each patent currently listed in the "Orange Book". Therefore, with this approval, IMPAX is eligible for 180-days of market exclusivity for the Oxybutynin Chloride Extended-release Tablets, 15 mg. This exclusivity,

which is provided for under section 505(j)(5)(B)(iv) of the Act,[1] will begin to run from the earlier of the commercial marketing or court decision dates identified in section 505(j)(5)(B)(iv). Please submit correspondence to the ANDA informing the agency of the date the exclusivity begins to run.

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

Postmarketing reporting requirements for this ANDA 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.

Promotional materials may be submitted to FDA for comment prior to publication or dissemination. Please note that these submissions are voluntary. If you desire comments on proposed launch promotional materials with respect to compliance with applicable regulatory requirements, we recommend you submit, in draft or mock-up form, two copies of both the promotional materials and package insert directly to:

Food and Drug Administration
Center for Drug Evaluation and Research
Division of Drug Marketing, Advertising, and Communications
5901-B Ammendale Road
Beltsville, MD 20705

We call your attention to 21 CFR 314.81(b)(3) which requires that all promotional materials be submitted to the Division of Drug Marketing, Advertising, and Communications with a completed Form FDA 2253 at the time of their initial use.

---

[1] Because your ANDA was filed before enactment of the Medicare Prescription Drug, Improvement and Modernization Act (MMA)(Public Law 108-173) on December 8, 2003, this reference to the 180-day exclusivity provision is to the section of the Act as in effect prior to December 8, 2003. See MMA § 1102(b)(1).

II. Tentative Approval of Oxybutynin Chloride Extended-release Tablets 5 mg and 10 mg

We are unable at this time to grant final approval to your ANDA at this time insofar as the 5 mg and 10 mg products because a different applicant's ANDA for Oxybutynin Chloride Extended-release Tablets, 5 mg and 10 mg, containing paragraph IV certifications was received by this office prior to the receipt of your ANDA. Accordingly, as provided for in section 505(j)(5)(B)(iv) of the Act, the agency will issue a final approval of your ANDA no earlier than 180 days after the date the Secretary receives notice from the other applicant that either of the commercial marketing or court decision events provided for in section 505(j)(5)(B)(iv) has occurred.

Our decision to continue the tentative approval status of your Oxybutynin Chloride Extended-release Tablets 5 mg and 10 mg is based upon information currently available to the agency, i.e., data in your ANDA and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacture and testing of the drug product. This decision is subject to change on the basis of new information that may come to our attention.

To reactivate your ANDA with respect to the 5 mg and 10 mg strengths prior to final approval, please submit a "MINOR SUPPLEMENT - FINAL APPROVAL REQUESTED" 90 days prior to the date you believe that these products will be eligible for final approval. Your supplement must provide a summary of the legal basis upon which you believe the ANDA should be approved, as well as:

1. updated information related to final-printed labeling or chemistry, manufacturing and controls data, or any other change in the conditions outlined in this ANDA, or
2. a statement that no such changes have been made to the ANDA since the date of tentative approval.

Any changes in the conditions outlined in this ANDA and the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (cGMPs) are subject to Agency review before final approval of your Oxybutynin Chloride Extended-release Tablets 5 mg and 10 mg will be made. Such changes should be categorized as representing either "major" or "minor" changes, and they will be reviewed according to OGD policy in effect at the time of receipt.

In addition to the supplement requested above, the agency may request at any time prior to the final date of approval that you submit an additional supplement containing the requested information. Failure to submit either supplement may result in rescission of this tentative approval determination, or delay in issuance of the final approval letter.

Your Oxybutynin Chloride Extended-release Tablets, 5 mg and 10 mg, may not be marketed without final agency approval under section 505 of the Act. The introduction or delivery for introduction into interstate commerce of a drug before the effective final approval date is prohibited under section 501 of the Act. Also, until the agency issues the final approval letter, the 5 mg and 10 mg products will not be listed in the "Orange Book."

For further information on the status of this ANDA, or prior to submitting additional supplements, please contact Simon Eng, PharmD, Project Manager, at 301-827-5848.

Sincerely yours,

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