DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville, MD 20857

ANDA 78-088

Kali Laboratories, Inc.
(A wholly owned subsidiary of Par Pharmaceutical Companies, Inc.)
Attention: Janis A. Picurro
Director, Regulatory Affairs
One Ram Ridge Road
Spring Valley, NY 10977

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated December 23, 2005, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Alprazolam Orally Disintegrating Tablets, 0.25 mg, 0.5 mg, 1 mg, and 2 mg.

Reference is also made to your amendments dated March 3, 2006, June 30, 2006, August 15, 2006, August 30, 2006, October 6, 2006, December 6, 2006, January 8, 2007, April 30, 2007, May 1, 2007, June 13, 2007, June 22, 2007, and June 26, 2007.

We have completed the review of this ANDA, and we 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. However, we are unable to grant final approval to your ANDA at this time because of the patent issue noted below. Therefore, the ANDA is tentatively approved. This determination is based upon information available to the agency at this time (i.e., information in your ANDA and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacturing and testing of the drug product) and is therefore subject to change on the basis of new information that may come to our attention. This letter does not address notice issues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the Act.

The reference listed drug product (RLD) upon which you have based your ANDA, Niravam, Tablets, 0.25 mg, 0.5 mg, 1 mg, and 2 mg of Schwartz Pharma, is subject to periods of patent protection. As noted in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the “Orange Book”), U.S. Patent Nos. 6,024,981 (the '981 patent) and 6,221,392 (the '392 patent) are scheduled to expire on April 9, 2018.

Your ANDA contains paragraph IV certifications to the ‘981 and ‘392 patents under section 505(j)(2)(A)(vii)(IV) of the Act stating that both patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Alprazolam Orally Disintegrating Tablets,

0.25 mg, 0.5 mg, 1 mg, and 2 mg, under your ANDA. Section 505(j)(5)(B)(iii) of the act provides that approval of an ANDA shall be made effective immediately, unless an action is brought against Kali Laboratories, Inc. (Kali) for infringement of one or more of the patents that were the subjects of the paragraph IV certifications. This action must have been brought against Kali prior to the expiration of 45 days from the date the notice you provided under section 505 (j)(2)(B)(i) was received by the NDA/patent holder(s). You notified the agency that Kali complied with the requirements of section 505(j)(2)(B) of the Act, and litigation for infringement of the '981 and '392 patents was brought against Kali in the United States District Court for the District of New Jersey [CIMA LABS, Inc. v. Par Pharmaceutical, Inc. and Kali Laboratories, Inc., Civil Action No. 06-1970] and SCHWARZ PHARMA, INC., and CIMA LABS Inc. v. Par Pharmaceutical Companies, Inc., Par Pharmaceutical, Inc. and Kali Laboratories, Inc., Civil Action No. 06-1999].

Therefore, final approval cannot be granted until:

1. a. the expiration of the 30-month period provided for in section 505(j)(5)(B)(iii)[1]

   b. the date the court decides[2] that the patent(s) is/are invalid or not infringed. See sections 505(j)(5)(B)(iii)(I), (II), and (III) of the Act, or,

   c. the listed patents have expired, and

   2. The agency is assured there is no new information that would affect whether final approval should be granted.

To reactivate your ANDA prior to final approval, please submit a "MINOR AMENDMENT – FINAL APPROVAL REQUESTED" 90 days prior to the date you believe that your ANDA will be eligible for final approval. This amendment should provide the legal/regulatory basis for your request for final approval and should include a copy of a court decision, or a settlement or licensing agreement, as appropriate. It should also identify changes, if any, in the conditions under which the ANDA was tentatively approved, i.e., updated information such as final-printed labeling, chemistry, manufacturing, and controls data as appropriate. This amendment should be submitted even if none of these changes were made, and it should be designated clearly in your cover letter as a MINOR AMENDMENT – FINAL APPROVAL REQUESTED.

In addition to the amendment requested above, the agency may request at any time prior to the date of final approval that you submit an additional amendment containing the requested

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[1] Because information on the '981 and '392 patents was/were submitted to FDA before August 18, 2003, this reference to section 505(j)(5)(B)(iii) is to that section of the Act as in effect prior to December 8, 2003, when the Medicare Prescription Drug, Improvement and Modernization Act (MMA) (Public Law 108-173) was enacted. See MMA § 1101(c)(3).

[2] This decision may be either a decision of the district court or the court of appeals, whichever court is the first to decide that the patent is invalid or not infringed.

information. Failure to submit either or, if requested, both amendments may result in rescission of the tentative approval status of your ANDA, or may result in a delay in the issuance of the final approval letter.

Any significant changes in the conditions outlined in this ANDA as well as changes in the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (cGMPs) are subject to agency review before final approval of the application 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. The submission of multiple amendments prior to final approval may also result in a delay in the issuance of the final approval letter.

This drug product may not be marketed without final agency approval under section 301 of the Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under section 301 of the Act. Also, until the agency issues the final approval letter, this drug product will not be deemed to be approved for marketing under section 505 of the Act, and will not be listed in the "Orange Book."

For further information on the status of this application, or prior to submitting additional amendments, please contact Rosalyn Adigun, Project Manager, at 301-827-5754.

Sincerely yours,

{See appended electronic signature page}

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

This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.

/s/

Robert L. West
7/16/2007 02:21:05 PM
for Gary Buehler