Department of Health and Human Services
Food and Drug Administration

# PATENT INFORMATION SUBMITTED WITH THE FILING OF AN NDA, AMENDMENT, OR SUPPLEMENT

***For Each Patent That Claims a Drug Substance (Active Ingredient), Drug Product (Formulation and Composition) and/or Method of Use***

Form Approved: OMB No. 0910-0513
Expiration Date: 07/31/06
*See OMB Statement on Page 3.*

NDA NUMBER

NAME OF APPLICANT / NDA HOLDER

***The following is provided in accordance with Section 505(b) and (c) of the Federal Food, Drug, and Cosmetic Act.***

TRADE NAME (OR PROPOSED TRADE NAME)

| ACTIVE INGREDIENT(S) | STRENGTH(S) |
|---|---|
| | |

DOSAGE FORM

This patent declaration form is required to be submitted to the Food and Drug Administration (FDA) with an NDA application, amendment, or supplement as required by 21 CFR 314.53 at the address provided in 21 CFR 314.53(d)(4).
Within thirty (30) days after approval of an NDA or supplement, or within thirty (30) days of issuance of a new patent, a new patent declaration must be submitted pursuant to 21 CFR 314.53(c)(2)(ii) with all of the required information based on the approved NDA or supplement. The information submitted in the declaration form submitted upon or after approval will be the only information relied upon by FDA for listing a patent in the Orange Book.

**For hand-written or typewriter versions (only) of this report:** If additional space is required for any narrative answer (i.e., one that does not require a "Yes" or "No" response), please attach an additional page referencing the question number.

***FDA will not list patent information if you file an incomplete patent declaration or the patent declaration indicates the patent is not eligible for listing.***

***For each patent submitted for the pending NDA, amendment, or supplement referenced above, you must submit all the information described below. If you are not submitting any patents for this pending NDA, amendment, or supplement, complete above section and sections 5 and 6.***

## 1. GENERAL

| a. United States Patent Number | b. Issue Date of Patent | c. Expiration Date of Patent |
|---|---|---|
| | | |

| d. Name of Patent Owner | Address *(of Patent Owner)* | |
|---|---|---|
| | | |
| | City/State | |
| | ZIP Code | FAX Number *(if available)* |
| | Telephone Number | E-Mail Address *(if available)* |

| e. Name of agent or representative who resides or maintains a place of business within the United States authorized to receive notice of patent certification under section 505(b)(3) and (j)(2)(B) of the Federal Food, Drug, and Cosmetic Act and 21 CFR 314.52 and 314.95 (if patent owner or NDA applicant/holder does not reside or have a place of business within the United States) | Address *(of agent or representative named in 1.e.)* | |
|---|---|---|
| | | |
| | City/State | |
| ☞ | ZIP Code | FAX Number *(if available)* |
| | Telephone Number | E-Mail Address *(if available)* |

f. Is the patent referenced above a patent that has been submitted previously for the approved NDA or supplement referenced above? ☐ Yes ☐ No

g. If the patent referenced above has been submitted previously for listing, is the expiration date a new expiration date? ☐ Yes ☐ No


PSC Media Arts (301) 443-1090 EF

***For the patent referenced above, provide the following information on the drug substance, drug product and/or method of use that is the subject of the pending NDA, amendment, or supplement.***

## 2. Drug Substance (Active Ingredient)

**2.1** Does the patent claim the drug substance that is the active ingredient in the drug product described in the pending NDA, amendment, or supplement? ☐ Yes ☐ No

**2.2** Does the patent claim a drug substance that is a different polymorph of the active ingredient described in the pending NDA, amendment, or supplement? ☐ Yes ☐ No

**2.3** If the answer to question **2.2** is "Yes," do you certify that, as of the date of this declaration, you have test data demonstrating that a drug product containing the polymorph will perform the same as the drug product described in the NDA? The type of test data required is described at 21 CFR 314.53(b). ☐ Yes ☐ No

**2.4** Specify the polymorphic form(s) claimed by the patent for which you have the test results described in **2.3**.

2.5 Does the patent claim only a metabolite of the active ingredient pending in the NDA or supplement? (Complete the information in section 4 below if the patent claims a pending method of using the pending drug product to administer the metabolite.) ☐ Yes ☐ No

**2.6** Does the patent claim only an intermediate? ☐ Yes ☐ No

**2.7** If the patent referenced in **2.1** is a product-by-process patent, is the product claimed in the patent novel? (An answer is required only if the patent is a product-by-process patent.) ☐ Yes ☐ No

## 3. Drug Product (Composition/Formulation)

**3.1** Does the patent claim the drug product, as defined in 21 CFR 314.3, in the pending NDA, amendment, or supplement? ☐ Yes ☐ No

**3.2** Does the patent claim only an intermediate? ☐ Yes ☐ No

**3.3** If the patent referenced in **3.1** is a product-by-process patent, is the product claimed in the patent novel? (An answer is required only if the patent is a product-by-process patent.) ☐ Yes ☐ No

## 4. Method of Use

***Sponsors must submit the information in section 4 separately for* each *patent claim claiming a method of using the pending drug product for which approval is being sought. For* each *method of use claim referenced, provide the following information:***

**4.1** Does the patent claim one or more methods of use for which approval is being sought in the pending NDA, amendment, or supplement? ☐ Yes ☐ No

**4.2** Patent Claim Number *(as listed in the patent)*

Does the patent claim referenced in **4.2** claim a pending method of use for which approval is being sought in the pending NDA, amendment, or supplement? ☐ Yes ☐ No

**4.2a** If the answer to **4.2** is "Yes," identify with specificity the use with reference to the proposed labeling for the drug product.

Use: *(Submit indication or method of use information as identified specifically in the approved labeling.)*

## 5. No Relevant Patents

For this pending NDA, amendment, or supplement, there are no relevant patents that claim the drug substance (active ingredient), drug product (formulation or composition) or method(s) of use, for which the applicant is seeking approval and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner of the patent engaged in the manufacture, use, or sale of the drug product. ☐ Yes

## 6. Declaration Certification

**6.1** ***The undersigned declares that this is an accurate and complete submission of patent information for the NDA, amendment, or supplement pending under section 505 of the Federal Food, Drug, and Cosmetic Act. This time-sensitive patent information is submitted pursuant to 21 CFR 314.53. I attest that I am familiar with 21 CFR 314.53 and this submission complies with the requirements of the regulation. I verify under penalty of perjury that the foregoing is true and correct.***

***Warning: A willfully and knowingly false statement is a criminal offense under 18 U.S.C. 1001.***

| **6.2** Authorized Signature of NDA Applicant/Holder or Patent Owner *(Attorney, Agent, Representative or other Authorized Official) (Provide Information below)* | Date Signed |
|---|---|
| | |

**NOTE: Only an NDA applicant/holder may submit this declaration directly to the FDA. A patent owner who is not the NDA applicant/holder is authorized to sign the declaration but may not submit it directly to FDA. 21 CFR 314.53(c)(4) and (d)(4).**

**Check applicable box and provide information below.**

| | |
|---|---|
| ☐ NDA Applicant/Holder | ☐ NDA Applicant's/Holder's Attorney, Agent (Representative) or other Authorized Official |
| ☐ Patent Owner | ☐ Patent Owner's Attorney, Agent (Representative) or Other Authorized Official |

| | |
|---|---|
| Name | |
| Address | City/State |
| ZIP Code | Telephone Number |
| FAX Number *(if available)* | E-Mail Address *(if available)* |

## INFORMATION AND INSTRUCTIONS FOR FORM 3542a

## PATENT INFORMATION SUBMITTED WITH THE FILING OF AN NDA, AMENDMENT OR SUPPLEMENT

**General Information**

- To submit patent information to the agency the appropriate patent declaration form must be used. Two forms are available for patent submissions. The approval status of your New Drug Application will determine which form you should use.

- Form 3542a should be used when submitting patent information with original NDA submissions, NDA amendments and NDA supplements prior to approval.

- Form 3542 should be used after NDA or supplemental approval. This form is to be submitted within 30 days after approval of an application. This form should also be used to submit patent information relating to an approved supplement under 21 CFR 314.53(d) to change the formulation, add a new indication or other condition of use, change the strength, or to make any other patented change regarding the drug, drug product, or any method of use.

- Form 3542 is also to be used for patents issued after drug approval. Patents issued after drug approval are required to be submitted within 30 days of patent issuance for the patent to be considered "timely filed."

- Only information from form 3542 will be used for Orange Book Publication purposes.

- Forms should be submitted as described in 21 CFR 314.53. An additional copy of form 3542 to the Orange Book Staff will expedite patent publication in the Orange Book. The Orange Book Staff address (as of July 2003) is: Orange Book Staff, Office of Generic Drugs OGD/HFD-610, 7500 Standish Place, Rockville, MD 20855.

- The receipt date is the date that the patent information is date stamped in the central document room. Patents are considered listed on the date received.

- Additional copies of these forms may be downloaded from the Internet at: *http://forms.psc.gov/forms/fdahtm/fdahtm.html*.

## First Section

Complete all items in this section.

## 1. General Section

Complete all items in this section with reference to the patent itself.

1c) Include patent expiration date, including any Hatch-Waxman patent extension already **grante**d. Do not include any applicable pediatric exclusivity. The agency will include pediatric exclusivities where applicable upon publication.

1d) Include full address of patent owner. If patent owner resides outside the U.S. indicate the country in the zip code block.

1e) Answer this question if applicable. If patent owner and NDA applicant/holder reside in the United States, leave space blank.

## 2. Drug Substance (Active Ingredient)

Complete all items in this section if the patent claims the drug substance that is the subject of the pending NDA, amendment, or supplement.

2.4) Name the polymorphic form of the drug identified by the patent.

2.5) A patent for a metabolite of the approved active ingredient may not be submitted. If the patent claims an approved method of using the approved drug product to administer the metabolite, the patent may be submitted as a method of use patent depending on the responses to section 4 of this form.

2.7) Answer this question only if the patent is a product-by-process patent.

## 3. Drug Product (Composition/Formulation)

Complete all items in this section if the patent claims the drug product that is the subject of the pending NDA, amendment, or supplement.

3.3) An answer to this question is required only if the referenced patent is a product-by-process patent.

## 4. Method of Use

Complete all items in this section if the patent claims a method of use of the drug product that is the subject of the pending NDA, amendment, or supplement.

4.2) Identify by number each claim in the patent that claims the use(s) of the drug for which approval is being sought. Indicate whether or not each individual claim is a claim for a method(s) of use of the drug for which approval is being sought.

4.2a) Specify the part of the proposed drug labeling that is claimed by the patent.

## 5. No Relevant Patents

Complete this section only if applicable.

## 6. Declaration Certification

Complete all items in this section.

6.2) Authorized signature. Check one of the four boxes that best describes the authorized signature.