



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JUL 28 1998

Charles E. Van Horn
Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, D.C. 20005-3315

In Re: Patent Term Extension
Application for
U.S. Patent No. 4,309,445

NOTICE OF FINAL DETERMINATION

A determination has been made that U.S. Patent No. 4,309,445, which claims a method of use of the human drug product REDUX® (dexfenfluramine hydrochloride), is eligible for patent term extension under 35 U.S.C. § 156. The period of extension has been determined to be 1,343 days.

A single request for reconsideration of this final determination as to the length of extension of the term of the patent may be made if filed within one month of the date of this notice. Extensions of time under 37 CFR § 1.136(a) are not applicable to this time period. In the absence of such request for reconsideration, the Commissioner will issue a certificate of extension, under seal, for a period of 1,343 days.

The period of extension has been calculated using the Food and Drug Administration determination of the length of the regulatory review period published in the Federal Register of February 28, 1998 (62 Fed. Reg. 9198). Under 35 U.S.C. § 156(c):

$$\begin{aligned}\text{Period of Extension} &= \frac{1}{2} \text{ (Testing Phase) + Approval Phase} \\ &= \frac{1}{2} (541) + 1,072 \\ &= 1,343 \text{ days}\end{aligned}$$

Since the regulatory review period began December 1, 1991, after the patent issue date (January 5, 1982), the entire period has been considered in the above determination. No determination of a lack of due diligence under 35 U.S.C. § 156(c)(1) was made.

Neither the five year limitation of 35 U.S.C. § 156(g)(6)(A) nor the 14 year limitation of 35 U.S.C. § 156(c)(3) operate to reduce the period of extension determined above.

Upon issuance of the certificate of extension, the following information will be published in the Official Gazette:

| | | |
|---|---|-----------------|
| U.S. Patent No. | : | 4,309,445 |
| Granted | : | January 5, 1982 |
| Original Expiration Date ¹ : | : | June 16, 2000 |
| Applicant | : | Wurtman et al. |

¹Subject to the provisions of 35 U.S.C. § 41(b).

Owner of Record : Massachusetts of Technology
Title : D-Fenfluramine for Modifying Feeding Behavior
Classification : 514/654
Product Trade Name : REDUX™ (dexfenfluramine hydrochloride)
Term Extended : 1,343 days
Expiration Date of Extension : February 19, 2004

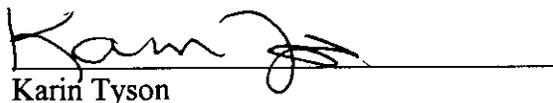
Any correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box Patent Ext.
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries related to this determination should be directed to the undersigned at (703) 306-3159.



Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

cc: Ronald L. Wilson, Director
Health Assessment Policy Staff
Office of Health Affairs (HFY-20)
Food and Drug Administration
5600 Fishers Lane, Room 15-22
Rockville, MD 20857

RE: REDUX™
FDA Docket No.: 96E-0265