

determined that the EC's were adequate for preparation of a competitive specification or purchase description, DPSC returned the form 1 to the Board.

Had it been determined that no further data could be acquired, and that total available information was inadequate for preparation of a competitive specification, the case would have been returned to the services. Upon their recommendations, a determination would have been made to discontinue action, or to process the item indicating a limited source of supply.

Parenthetically, a recommendation for a limited source of supply may originate with a service, DPSC or DMMB. This action may be taken only in those instances where it has been professionally determined that the product of a specified supplier or suppliers is required to provide for the health and welfare of Armed Forces personnel or their dependents. The decision must be concurred in by all three military medical services. Such determinations normally derive from an accumulation of clinical experience, and may relate to experience prior to type classification of the drugs, or to those in the system which have accumulated a significant complaint history. I shall speak again of limited source items when I reach the statistical portion of my presentation.

Mr. GORDON. May I ask a question at this point? Turn back to Titralac, which you mentioned before. You said that Riker advised that the product was patented but it agreed to provide information you wanted.

Now, for one thing, did anybody examine the patent to see if it was a valid patent or if it, at least on the surface, looked like a valid patent? Or did you just take the word from Riker that they had a valid patent?

Admiral ETTER. Mr. Gordon, I cannot answer that from personal knowledge, but I would assume that when they said it was patented it was, but they provided the information which was necessary to write the specification. This satisfied the requirements of the DPSC and the board.

Mr. GORDON. With respect to the physical and chemical characteristics, is it not correct that when somebody files for a patent, that person has to give a sufficient amount of information so anybody in the field could duplicate it once the patent expires? In fact, as I understand it, disclosure is one of the reasons why we give a patent.

I cannot understand why you had to go to them and get this information when it should have been available in the patent application itself.

Admiral ETTER. Mr. Gordon, I cannot answer that question directly.

Mr. GORDON. Do you have anybody here who can?

Admiral ETTER. I would like to ask if Colonel Snyder or Captain Pflag could provide any information on that subject.

Colonel SNYDER. I am Colonel Snyder, Chief of the Medical Procurement Division, DPSC. Generally speaking, when a solicitation is made like this, or an offer is made, I cannot speak for the first inquiry when they are closing EC's, and so on, but when a solicitation is made and a patent reported on the solicitation, it is then referred to DSA Headquarters.