DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville, MD 20857

ANDA 090738

Mylan Pharmaceuticals Inc.
Attention: S. Wayne Talton
Vice President, Regulatory Affairs
781 Chestnut Ridge Road
P.O. Box 4310
Morgantown, WV 26504

Dear Sir:

This is in reference to your abbreviated new drug application (ANDA) dated August 8, 2008, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Cyclobenzaprine Hydrochloride Extended-release Capsules, 15 mg and 30 mg.

Reference is made to your amendments dated October 30, 2008; February 20, and November 20, 2009; July 23, 2010; and January 26, January 27, February 22, March 14, and March 16, 2011. Reference is also made to your correspondence dated October 16, 2008; September 29, 2009; February 19, and May 25, 2010; and February 11, March 7, March 8, and March 15, 2011.

We have completed the review of this ANDA, and based upon the information you have presented to date we have concluded 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 manufacture and testing of the drug product). This determination is 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, Amrix Extended-release Capsules, 15 mg and 30 mg, of Anesta AG, is subject to periods of patent protection. The following patents and their expiration dates are currently listed in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"):

U.S. Patent Number	Expiration Date
7,387,793 (the '793 patent)	February 26, 2025
7,544,372 (the '372 patent)	November 14, 2023
7,790,199 (the '199 patent)	November 14, 2023
7,820,203 (the '203 patent)	November 14, 2023
7,829,121 (the '121 patent)	November 14, 2023

Your ANDA contains paragraph IV certifications to each of these patents under section 505(j)(2)(A)(vii)(IV) of the Act stating that these patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Cyclobenzaprine Hydrochloride Extended-release Capsules, 15 mg and 30 mg, under this ANDA. Of the patents listed above, only the '793 patent was listed in the Orange Book when your ANDA was received; your paragraph IV certifications to the '372, '199, '203 and '121 patents were submitted in amendments to 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 was brought against Mylan Pharmaceuticals Inc. (Mylan) for infringement of one or more of these patents that were the subjects of the paragraph IV certifications. This action must have been brought against Mylan 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 Mylan complied with the requirements of section 505(j)(2)(B) of the Act, and litigation for infringement of the '793 patent was brought against Mylan in the United States District Court for the District of Delaware [Eurand, Inc., Cephalon, Inc., and Anesta AG v. Mylan Pharmaceuticals, Inc., Mylan Inc., Barr Pharmaceuticals, Inc. and Barr Laboratories, Inc., Civil Action No. 08-889] and in the United States District Court for the District of West Virginia [Eurand, Inc., Cephalon, Inc., and Anesta AG v. Mylan Pharmaceuticals, Inc. and Mylan Inc., Civil Action No. 08-210]. You have notified the agency that the West Virginia action was dismissed on February 23, 2009.

We note that the '372, '199, '203 and '121 patents were not listed in the Orange Book when the Office of Generic Drugs (OGD) received your ANDA on August 11, 2008, and your paragraph IV certifications were submitted in amendments to your ANDA. Therefore, the agency has determined that, under these circumstances, a 30-month stay of approval does not apply to these patents.

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)

   b. the date the court decides[1] 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 patent(s) has/have expired, and

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

Please note that if FDA requires a Risk Evaluation & Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS, See 505-1(i).

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.

[1] 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.

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 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 505 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 Sarah Nguyen, Project Manager, at (240) 276-8467.

Sincerely yours,

{See appended electronic signature page}

Keith Webber, Ph.D.
Deputy Director
Office of Pharmaceutical Science
Center for Drug Evaluation and Research