



ANDA 211890

ANDA APPROVAL

Ascend Laboratories LLC
U.S. Agent for Alkem Laboratories Limited
339 Jefferson Road
Parsippany, NJ 07054
Attention: Hindy Schiff
Authorized U.S. Agent

Dear Madam:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on April 2, 2018, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Ibuprofen and Famotidine Tablets, 800 mg/26.6 mg.

Reference is also made to the tentative approval letter issued by this office on December 23, 2019, and to any amendments thereafter.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug meets the requirements for approval under the FD&C Act. Accordingly, the ANDA is **approved**, effective on the date of this letter. We have determined your Ibuprofen and Famotidine Tablets, 800 mg/26.6 mg, to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Duexis Tablets, 800 mg/26.6 mg, of Horizon Medicines LLC (Horizon).

The RLD upon which you have based your ANDA, Horizon's Duexis Tablets, 800 mg/26.6 mg, is subject to periods of patent protection. The following patents and expiration dates are currently listed in the Agency's publication titled *Approved Drug Products with Therapeutic Equivalence Evaluations* (the "Orange Book"):

<u>U.S. Patent Number</u>	<u>Expiration Date</u>
8,067,033 (the '033 patent)	July 18, 2026
8,067,451 (the '451 patent)	July 18, 2026
8,309,127 (the '127 patent)	July 18, 2026
8,318,202 (the '202 patent)	July 18, 2026

8,449,910 (the '910 patent) July 18, 2026

8,501,228 (the '228 patent) July 18, 2026

Your ANDA contains paragraph IV certifications to each of the patents under section 505(j)(2)(A)(vii)(IV) of the FD&C Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Ibuprofen and Famotidine Tablets, 800 mg/26.6 mg, under this ANDA. You have notified the Agency that Alkem Laboratories Limited (Alkem) complied with the requirements of section 505(j)(2)(B) of the FD&C Act. Litigation was initiated within the statutory 45-day period against Alkem for infringement of the '033, '451, '127, '202, '910, and '228 patents in the United States District Court for the District of Delaware [Horizon Medicines LLC v. Alkem Laboratories Ltd., Civil Action No. 18-01014]. You have notified the Agency that, on July 9, 2019, the court entered a Stipulation and Order of Dismissal of Certain Claims, Counterclaims and Affirmative Defenses, which dismissed all claims of infringement with respect to the '127, '202, '910, and '228 patents. You have also notified the Agency that, on November 30, 2020, the court entered a Final Judgment in favor of Alkem finding that its proposed product “has not infringed, does not infringe, and would not, if marketed, infringe claims 1, 8, 11 and 14 of the '033 patent” and that these claims “are invalid under 35 U.S.C. § 103.”¹ The Final Judgment also included a finding that Alkem’s proposed product “has not infringed, does not infringe, and would not, if marketed, infringe claims 1-3 and 8-10 of the '451 patent” and that “all claims for infringement of any claim of the '033 patent or the '451 patent that is not expressly enumerated above are dismissed with prejudice.”²

Under section 506A of the FD&C Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

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

REPORTING REQUIREMENTS

Postmarketing reporting requirements for this ANDA are set forth in 21 CFR 314.80-81 and 314.98 and at section 506I of the FD&C Act. The Agency should be advised of any change in the marketing status of this drug or if this drug will not be available for sale after approval. In particular, under section 506I(b) of the FD&C Act, you are required to notify the Agency in writing within 180 days from the date of this letter if this drug will not be available for sale within 180 days from the date of approval. As part of such written notification, you must include (1) the identity of the drug by established name and proprietary name (if any); (2) the ANDA number; (3) the strength of the drug; (4) the date on which the drug will be available for sale, if known; and (5) the reason for not marketing the drug after approval.

PROMOTIONAL MATERIALS

You may request advisory comments on proposed introductory advertising and promotional labeling materials prior to publication or dissemination. Please note that these submissions are voluntary. To do so, submit, in triplicate, a cover letter requesting advisory comments, the proposed materials in draft or mock-up form with annotated references, and the package insert (PI), Medication Guide, and patient PI (as applicable) to:

OPDP Regulatory Project Manager
Food and Drug Administration
Center for Drug Evaluation and Research
Office of Prescription Drug Promotion
5901-B Ammendale Road
Beltsville, MD 20705

Alternatively, you may submit a request for advisory comments electronically in eCTD format. For more information about submitting promotional materials in eCTD format, see the draft Guidance for Industry (available at: <https://www.fda.gov/media/128163/download>).

You must also submit final promotional materials and package insert(s), accompanied by a Form FDA 2253, at the time of initial dissemination or publication [21 CFR 314.81(b)(3)(i)]. Form FDA 2253 is available at: <https://www.fda.gov/media/73013/download>. Information and Instructions for completing the form can be found at: <https://www.fda.gov/media/132152/download>. For more information about submission of promotional materials to the Office of Prescription Drug Promotion (OPDP), see: <https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/opdp-ectd>.

ANNUAL FACILITY FEES

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions³ with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1st of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the *Federal Register* notice announcing facility fee amounts.

All finished dosage forms or active pharmaceutical ingredients manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those responsible, injunctions, or seizures of

misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

CONTENT OF LABELING

As soon as possible, but no later than 14 days from the date of this letter, submit, using the FDA automated drug registration and listing system (eLIST), the content of labeling [21 CFR 314.50(l)] in structured product labeling (SPL) format, as described at <http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm>, that is identical in content to the approved labeling (including the package insert, and any patient package insert and/or Medication Guide that may be required). Information on submitting SPL files using eLIST may be found in the guidance for industry titled “SPL Standard for Content of Labeling Technical Qs and As” at <https://www.fda.gov/media/71211/download>. The SPL will be accessible via publicly available labeling repositories.

We remind you that you must continually monitor available labeling resources such as DRUGS@FDA for changes to your reference listed drug’s labels and labeling and make any necessary revisions to your labels and labeling. More information on post-approval labeling changes may be found in the guidance for industry titled “Changes to an Approved NDA or ANDA” at <https://www.fda.gov/media/71846/download>.

Sincerely yours,

{See appended electronic signature page}

For Edward M. Sherwood
Director
Office of Regulatory Operations
Office of Generic Drugs
Center for Drug Evaluation and Research

¹ Final Judgment, *Horizon Medicines LLC v. Alkem Laboratories Ltd.*, Civil Action No. 18-01014 (D. Del., Nov. 30, 2020), at 2.

² *Id.*

³ Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).



Catherine
Poole

Digitally signed by Catherine Poole

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