



ANDA 207714

ANDA APPROVAL

Apotex Corp.
U.S. Agent for Apotex Inc.
2400 North Commerce Parkway, Suite 400
Weston, FL 33326
Attention: Kiran Krishnan
SVP, GRA

Dear Kiran Krishnan:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on November 27, 2015, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Diclofenac Sodium Topical Solution USP, 2% (w/w).

Your product is a combination product as defined by 21 CFR 3.2(e) and is comprised of drug and device constituent parts.

Reference is also made to the tentative approval letter issued by this office on August 4, 2020, 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 Diclofenac Sodium Topical Solution USP, 2% (w/w), to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Pennsaid Topical Solution, 2% (w/w), of Horizon Therapeutics Ireland DAC (Horizon).

The RLD upon which you have based your ANDA, Horizon's Pennsaid Topical Solution, 2% (w/w), 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>
8,217,078 (the '078 patent)	July 10, 2029
8,252,838 (the '838 patent)	April 21, 2028

8,546,450 (the '450 patent)	August 9, 2030
8,563,613 (the '613 patent)	October 17, 2027
8,618,164 (the '164 patent)	July 10, 2029
8,741,956 (the '956 patent)	July 10, 2029
8,871,809 (the '809 patent)	October 17, 2027
9,066,913 (the '913 patent)	October 17, 2027
9,101,591 (the '591 patent)	October 17, 2027
9,132,110 (the '110 patent)	October 17, 2027
9,168,304 (the '304 patent)	October 17, 2027
9,168,305 (the '305 patent)	October 17, 2027
9,220,784 (the '784 patent)	October 17, 2027
9,339,551 (the '551 patent)	October 17, 2027
9,339,552 (the '552 patent)	October 17, 2027
9,370,501 (the '501 patent)	July 10, 2029
9,375,412 (the '412 patent)	July 10, 2029
9,415,029 (the '029 patent)	July 10, 2029
9,539,335 (the '335 patent)	October 17, 2027

Your ANDA contains paragraph IV certifications to each of these patents¹ 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 Diclofenac Sodium Topical Solution USP, 2% (w/w), under this ANDA. You have notified the Agency that Apotex Inc. (Apotex) complied with the requirements of section 505(j)(2)(B) of the FD&C Act and that no action for infringement was brought against Apotex within the statutory 45-day period.

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.

Your product is a combination product as defined by 21 CFR 3.2(e) and is comprised of drug and device constituent parts; therefore, we remind you that you must comply with the postmarketing safety reporting requirements for an approved combination product (21 CFR Part 4, Subpart B). Additional information on combination product postmarketing safety reporting is available at <https://www.fda.gov/combination-products/guidance-regulatory-information/postmarketing-safety-reporting-combination-products>.

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 provisions² 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 The Agency notes that the '784, '551, '552, '501, '412, '029, and '335 patents were submitted to the Agency after submission of your ANDA. Litigation, if any, with respect to these patents would not create a statutory stay of approval.

² Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).



Sarah
Kurtz

Digitally signed by Sarah Kurtz

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