



ANDA 206210

ANDA APPROVAL

Actavis Laboratories FL, Inc.
2945 West Corporate Lakes Blvd., Suite B
Weston, FL 33331
Attention: Alberto Rivalta
Senior Director of Regulatory Affairs

Dear Alberto Rivalta:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on April 3, 2014, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Topiramate Extended-Release Capsules, 25 mg, 50 mg, 100 mg, and 200 mg.

Reference is also made to our letter dated March 10, 2023, granting final approval to your Topiramate Extended-Release Capsules, 200 mg and granting tentative approval to your Topiramate Extended-Release Capsules, 25 mg, 50 mg, and 100 mg, 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. We have determined your Topiramate Extended-Release Capsules, 25 mg, 50 mg, and 100 mg to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Trokendi XR Extended-Release Capsules, 25 mg, 50 mg, and 100 mg, of Supernus Pharmaceuticals, Inc. (Supernus).

The RLD upon which you have based your ANDA, Trokendi XR Extended-Release Capsules, 25 mg, 50 mg, and 100 mg, of Supernus, 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>
8,298,576 (the '576 patent)	April 4, 2028
8,298,580 (the '580 patent)	November 16, 2027

8,663,683 (the '683 patent)	November 16, 2027
8,877,248 (the '248 patent)	November 16, 2027
8,889,191 (the '191 patent)	November 16, 2027
8,992,989 (the '989 patent)	November 16, 2027
9,549,940 (the '940 patent)	November 16, 2027
9,555,004 (the '004 patent)	November 16, 2027
9,622,983 (the '983 patent)	November 16, 2027
10,314,790 (the '790 patent)	November 16, 2027

Your ANDA contains paragraph IV certifications to each of the 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 Topiramate Extended-Release Capsules, 25 mg, 50 mg, and 100 mg, under this ANDA. You have notified the Agency that Actavis Laboratories FL, Inc. (Actavis) 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 Actavis for infringement of the '576, '580, and '683 patents in the United States District Court for the District of New Jersey [Supernus Pharmaceuticals, Inc. v. Actavis, Inc., et al., Civil Action No. 14-06102]. You have also notified the Agency that on March 16, 2017, the court ordered that “[t]he U.S. Patent Nos. 8,298,576, 8,298,580, [and] 8,663,683... and all the claims contained therein, are not infringed by the product described in ANDA No. 206210”.²

Under section 506A of 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. ANDAs that identify at least one facility that is referenced in an approved ANDA are subject to the self-identification requirement and to 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.

In addition, we note that GDUFA requires that certain non-manufacturing sites and organizations listed in generic drug submissions comply with the self-identification requirement. The failure of any facility, site, or organization to comply with its obligation to self-identify and/or to pay fees when due may raise significant concerns about that site or organization and is a factor that may increase the likelihood of a site inspection prior to approval. FDA does not expect to give priority to completion of inspections that are required simply because facilities, sites, or organizations fail to comply with the law requiring self-identification or fee payment.

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

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- ¹ The Agency notes that the '248, '191, '989, '940, '004, '983, and '790 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 Consent Judgment and Stipulation of Dismissal, Supernus Pharmaceutical, Inc. v. Actavis, Inc. et al., Civil Action No. 14-06102 (March 16, 2017).
 - ³ Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).



John
Ibrahim

Digitally signed by John Ibrahim

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