



ANDA 208237

**ANDA APPROVAL/TENTATIVE APPROVAL**

ANI Pharmaceuticals, Inc.  
210 Main Street West  
Baudette, MN 56623  
Attention: Justin Uthup  
Senior Director, Regulatory Affairs

Dear Justin Uthup:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on May 22, 2015, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg and 28 mg/10 mg.

Reference is also made to the complete response letter issued by this office on September 15, 2022, 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 Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg and 28 mg/10 mg to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Namzaric Extended-Release Capsules, 21 mg/10 mg and 28 mg/10 mg, of Abbvie Inc. (Abbvie).

However, we are unable to grant final approval to your Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg, at this time because of the exclusivity issue noted below. Therefore, your ANDA is **approved** insofar as it pertains to Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg. Your Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg, is **tentatively approved**. This determination is based upon information available to the Agency at this time (e.g., information in your ANDA and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacturing and testing of the drug product). This determination is subject to change on the basis of new information that may come to our attention.

The RLD upon which you have based your ANDA, Abbvie's Namzaric Extended-Release Capsules, 21 mg/10 mg and 28 mg/10 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>
8,039,009 (the '009 patent)	September 24, 2029*
8,058,291 (the '291 patent)	December 5, 2029
8,168,209 (the '209 patent)	May 22, 2026*
8,173,708 (the '708 patent)	May 22, 2026*
8,283,379 (the '379 patent)	May 22, 2026*
8,293,794 (the '794 patent)	November 22, 2025
8,329,752 (the '752 patent)	May 22, 2026*
8,338,485 (the '485 patent)	November 22, 2025
8,338,486 (the '486 patent)	November 22, 2025
8,362,085 (the '085 patent)	May 22, 2026*
8,580,858 (the '858 patent)	November 22, 2025
8,598,233 (the '233 patent)	May 22, 2026*

\*with pediatric exclusivity added

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 Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg and 28 mg/10 mg, under this ANDA. You have notified the Agency that ANI Pharmaceuticals, Inc. (ANI) complied with the requirements of section 505(j)(2)(B) of the FD&C Act. With respect to your Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg, litigation was initiated within the statutory 45-day period against ANI for infringement of the '009, '291, '209, '708, '379, '794, '752, '485, '486, '085, '858 and '233 patents in the United States District Court for the District of Delaware [Forest Laboratories, LLC, et al. v. Amerigen Pharmaceuticals, Inc., Civil Action No. 15-00966]. With respect to your Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg, litigation was initiated within the statutory 45-day period against ANI for infringement of the '009, '291, '209, '708, '379, '794, '752, '485, '486, '085, '858 and '233 patents in the United States District Court for the District of Delaware [Forest Laboratories, LLC, et al.

v. Amerigen Pharmaceuticals, Inc., Civil Action No. 16-00917]. You have also notified the Agency that these cases were dismissed.

However, we are unable to grant final approval with respect to the 28 mg/10 mg strength product at this time. Prior to the submission of your ANDA, another applicant or applicants submitted a substantially complete ANDA providing for Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg, and containing a paragraph IV certification. Your ANDA for this strength will be eligible for final approval on the date that is 180 days after the commercial marketing date identified in section 505(j)(5)(B)(iv) of the FD&C Act.

Upon the foregoing, your ANDA is **approved** insofar as it pertains to the 21 mg/10 mg product. Your 28 mg/10 mg product is **tentatively approved**.

#### **I. Approval of Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg**

With respect to 180-day generic drug exclusivity, we note that ANI was a first ANDA applicant for Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg, to submit a substantially complete ANDA with a paragraph IV certification. Therefore, with this approval, ANI may be eligible for 180 days of generic drug exclusivity for Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg. This exclusivity, which is provided for under 505(j)(5)(B)(iv) of the FD&C Act, would begin to run from the date of the commercial marketing identified in section 505(j)(5)(B)(iv). The Agency notes that ANI failed to obtain tentative approval of this ANDA within 30 months after the date of which the ANDA was filed. See section 505(j)(5)(D)(i)(IV) of the FD&C Act (forfeiture of exclusivity for failure to obtain tentative approval). The Agency is not, however, making a formal determination at this time of ANI's eligibility for 180-day generic drug exclusivity. We will do so only if a subsequent paragraph IV applicant becomes eligible for full approval (a) within 180 days after ANI begins commercial marketing of Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 21 mg/10 mg, or (b) at any time prior to the expiration of the '009, '291, '209, '708, '379, '794, '752 '485, '486, '085, '858, '233 patents if ANI has not begun commercial marketing. Please submit correspondence to this ANDA notifying the Agency within 30 days of the date of the first commercial marketing of this drug product or the RLD. If you do not notify the Agency within 30 days, the date of first commercial marketing will be deemed to be the date of the drug product's approval. See 21 CFR 314.107(c)(2).

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

**COMPENDIAL STANDARDS**

A drug with a name recognized in the official United States Pharmacopeia or official National Formulary (USP-NF) generally must comply with the compendial standard for strength, quality, and purity, unless the difference in strength, quality, or purity is plainly stated on its label (see FD&C Act § 501(b), 21 USC 351(b)). FDA typically cannot share application-specific information contained in submitted regulatory filings with third parties, which includes USP-NF. To help ensure that a drug continues to comply with compendial standards, application holders may work directly with USP-NF to revise official USP monographs. More information on the USP-NF is available on USP's website as <https://www.uspnf.com/>.

**II. Tentative Approval of Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg**

Our decision to tentatively approve your Memantine and Donepezil Hydrochlorides Extended-Release Capsules, 28 mg/10 mg, is based upon information currently available to the agency (i.e., data in your ANDA and the status of current good manufacturing practice (cGMP) of the facilities used in the manufacture and testing of the drug product). This decision is subject to change on the basis of new information that may come to our attention.

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

**RESUBMISSION**

To request final approval, please submit an amendment titled "FINAL APPROVAL REQUESTED" with enough time to permit FDA review prior to the date you believe that your ANDA will be eligible for final approval. A request for final approval that contains no new data, information, or other changes to the ANDA generally requires a period of 3 months for Agency review. Accordingly, such a request for final approval should be submitted no later than 3 months prior to the date on which you seek approval. A request for final approval that contains substantive changes to this ANDA or changes in the status of the manufacturing and testing facilities' compliance with cGMPs will be classified and reviewed according to OGD policy in effect at the time of receipt. Applicants should review available agency guidance for industry related to amendments under the generic drug user fee program to determine the duration of Agency review needed to review the changes submitted. As part of this consideration, applicants should monitor any changes to the RLD that occur after tentative approval, including changes in labeling, patent or exclusivity information, or marketing status. The submission of multiple amendments prior to final approval may also result in a delay in the issuance of the final approval letter.

The amendment requesting final approval should provide the legal/regulatory basis for your request for final approval and should include a copy of a court decision, settlement or licensing agreement, or other information described in 21 CFR 314.107, 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/MAJOR AMENDMENT TO ORIGINAL #2 – FINAL APPROVAL REQUESTED.”

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 information as specified by the Agency. Failure to submit either or, if requested, both types of amendments described above may 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(j) of the FD&C 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 FD&C Act. Also, until the Agency issues the final approval letter, this drug product will not be deemed approved for marketing under section 505(j) of the FD&C Act, and will not be listed in the Orange Book.

#### **REQUIREMENTS AND RECOMMENDATIONS POST APPROVAL**

Under applicable statutes, regulations, and guidances, your ANDA may be subject to certain requirements and recommendations post approval, including requirements regarding changes to approved ANDAs, postmarketing reporting, promotional materials, and annual facility fees, among others. For information on post-approval requirements and recommendations for ANDAs and a list of resources for ANDA holders, we refer you to <https://www.fda.gov/drugs/abbreviated-new-drug-application-anda/requirements-and-resources-approved-andas>.

For further information on the status of this ANDA or upon submitting an amendment to the ANDA, please contact Tiffany Houser, Regulatory Project Manager, at (240) 402 - 4742.

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



John  
Ibrahim

Digitally signed by John Ibrahim

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