



ANDA 218866

**ANDA TENTATIVE APPROVAL**

Aurobindo Pharma USA, Inc.  
U.S. Agent for Aurobindo Pharma Limited  
279 Princeton-Hightstown Road  
East Windsor, NJ 08520  
Attention: Blessy Johns  
Vice President

Dear Blessy Johns:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on August 16, 2023, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Upadacitinib Extended-Release Tablets, 15 mg and 30 mg.

Reference is also made to the complete response letter issued by this office on July 18, 2024, 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 Upadacitinib Extended-Release Tablets, 15 mg and 30 mg, to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Rinvoq Extended-Release Tablets, 15 mg and 30 mg, of AbbVie Inc. (AbbVie) NDA - 211675.

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**.<sup>1</sup> 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. This letter does not address issues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the FD&C Act.

The reference listed drug (RLD) upon which you have based your ANDA, AbbVie's Rinvoq Extended-Release Tablets, 15 mg and 30 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>
8,962,629 (the '629 patent)	January 15, 2031
9,951,080 (the '080 patent)	October 17, 2036
9,963,459 (the '459 patent)	October 17, 2036*
10,519,164 (the '164 patent)	October 17, 2036*
10,597,400 (the '400 patent)	October 17, 2036*
10,981,923 (the '923 patent)	October 17, 2036
10,981,924 (the '924 patent)	October 17, 2036
10,995,095 (the '095 patent)	October 17, 2036*
11,186,584 (the '584 patent)	October 17, 2036
11,198,697 (the '697 patent)	October 17, 2036
11,365,198 (the '198 patent)	October 17, 2036*
11,512,092 (the '092 patent)	October 17, 2036*
11,524,964 (the '964 patent)	October 17, 2036*
11,535,624 (the '624 patent)	October 17, 2036*
11,535,625 (the '625 patent)	October 17, 2036*
11,564,922 (the '922 patent)	March 9, 2038
11,607,411 (the '411 patent)	March 9, 2038
11,661,425 (the '425 patent)	October 17, 2036
11,680,069 (the '069 patent)	October 17, 2036
11,718,627 (the '627 patent)	October 17, 2036
11,767,326 (the '326 patent)	October 17, 2036
11,773,105 (the '105 patent)	October 17, 2036

11,773,106 (the '106 patent)	October 17, 2036*
11,780,847 (the '847 patent)	October 17, 2036*
11,780,848 (the '848 patent)	October 17, 2036*
11,787,815 (the '815 patent)	October 17, 2036*
11,795,175 (the '175 patent)	October 17, 2036*
11,976,077 (the '077 patent)	October 17, 2036*
11,993,605 (the '605 patent)	October 17, 2036*
11,993,606 (the '606 patent)	October 17, 2036*
12,077,545 (the '545 patent)	October 17, 2036
12,103,933 (the '933 patent)	October 17, 2036*
12,110,297 (the '297 patent)	October 17, 2036*
12,110,298 (the '298 patent)	October 17, 2036
RE47,221 (the '221 patent)	August 16, 2033
10,344,036 (the '036 patent)	October 17, 2036**
10,550,126 (the '126 patent)	October 17, 2036**
10,730,883 (the '883 patent)	October 17, 2036**
11,535,626 (the '626 patent)	October 17, 2036**
12,091,415 (the '415 patent)	October 17, 2036**
12,116,373 (the '373 patent)	October 17, 2036**

\* only listed on the 15 mg strength

\*\* only listed on the 30 mg strength

With respect to the '629 and '221 patents, your ANDA contains paragraph III certifications to each of the patents under section 505(j)(2)(A)(vii)(III) of the FD&C Act stating that Aurobindo Pharma Limited (Aurobindo) will not market Upadacitinib Extended-Release Tablets, 15 mg and 30 mg, prior to the expiration of the patents. Therefore, final approval of your ANDA may not be granted pursuant to section

505(j)(5)(B)(ii) of the FD&C Act until the '221 patent has expired, currently August 16, 2033.

Your ANDA contains paragraph IV certifications to the '080, '459, '164, '400, '923, '924, '095, '584, '697, '198, '092, '964, '624, '625, '425, '069, '627, '326, '105, '106, '847, '848, '815, '175, '077, '605, '606, '545, '933, '297, '298, '036, '126, '883, '626, '415 and '373 patents<sup>2</sup> 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 Upadacitinib Extended-Release Tablets, 15 mg and 30 mg, under this ANDA. You have notified the Agency that Aurobindo Pharma Limited (Aurobindo) 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 Aurobindo for infringement of the '080, '459, '164, '400, '923, '924, '095, '584, '697, '198, '092, '964, '624, '625, '425, '069, '627, '036, '126, '883 and '626 patents in the United States District Court for the District of Delaware [AbbVie Inc. v. Aurobindo Pharma USA, Inc., Aurobindo Pharma Limited et al., Civil Action No. 23-01332].

Therefore, final approval cannot be granted until:

1. a. the expiration of the 7.5-year period provided for in sections 505(j)(5)(B)(iii) and 505(j)(5)(F)(ii) of the FD&C Act,
  - b. the date the court decides<sup>3</sup> that the '080, '459, '164, '400, '923, '924, '095, '584, '697, '198, '092, '964, '624, '625, '425, '069, '627, '036, '126, '883 and '626 patents are invalid or not infringed (see sections 505(j)(5)(B)(iii)(I), (II), and (III) of the FD&C Act), or
  - c. the '080, '459, '164, '400, '923, '924, '095, '584, '697, '198, '092, '964, '624, '625, '425, '069, '627, '036, '126, '883, '626, '629 and '221 patents have expired, and
2. The Agency is assured there is no new information that would affect whether final approval should be granted.

With respect to the '922 and '411 patents, your ANDA contains statements under section 505(i)(2)(A)(viii) of the FD&C Act

(b) (4)

(b) (4)

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.

## **REQUIREMENTS AND RECOMMENDATIONS POST APPROVAL**

Under applicable statutes, regulations, and guidances, if your ANDA receives final approval, it 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>.

## **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, e.g., 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 “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. Should you believe that there are grounds for issuing the final approval letter prior to August 16, 2033, you should amend your ANDA accordingly.

For further information on the status of this ANDA or upon submitting an amendment to the ANDA, please contact Megan Tychinski, Regulatory Project Manager, at (240) 402 - 2717.

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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- <sup>1</sup> With this Tentative Approval letter, the Agency informs you that FDA is continuing to evaluate whether one or more supplements to NDA No. 211675, which is the RLD cited as the Basis of Submission for this ANDA, is eligible for three-year exclusivity under section 505(c)(3)(E)(iii), (c)(3)(E)(iv), (j)(5)(F)(iii), and (j)(5)(F)(iv) of the FD&C Act. Upon making its decision, the Agency will identify any period of exclusivity for which NDA No. 211675 is eligible in the *Approved Drug Products with Therapeutic Equivalence Evaluations*, also known as the Orange Book. Please note that any determination that a supplement to NDA No. 211675 qualifies for exclusivity may affect the date on which your ANDA is eligible for Final Approval. Please also note that if you seek to omit any exclusivity-protected indication or aspect of labeling under 21 CFR 314.94(a)(8)(iv), FDA will need to evaluate the acceptability of your proposed labeling. FDA recommends that you request Final Approval in a manner consistent with recommendations in the *Guidance for Industry: ANDA Submissions-Amendments and Request for Final Approval to Tentatively Approved ANDAs* taking into account when you believe all barriers to final approval will be extinguished.
- <sup>2</sup> The Agency notes that the '326, '105, '106, '847, '848, '815, '175, '077, '605, '606, '545, '933, '297, '298, '415 and '373 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.
- <sup>3</sup> 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.



Paul  
Levine

Digitally signed by Paul Levine  
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