

# News Release



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## **Federal Circuit Court Upholds Lower Court Decision Preventing Sale of PureVisionä Contact Lenses in the U.S.**

*Affirms Ruling that Bausch & Lomb Product Infringes Harvey Patent*

Atlanta, 12 February 2003 – CIBA Vision Corporation, the eye care unit of Novartis AG (NYSE: NVS), announced today that the Court of Appeals for the Federal Circuit (CAFC) upheld the United States District Court for the District of Delaware ruling on June 26, 2002 that Bausch & Lomb's (NYSE: BOL) PureVision™ contact lenses infringe CIBA Vision's Harvey patent. The ruling by the Court of Appeals today means that Bausch & Lomb cannot resume manufacture or sale of its PureVision contact lenses within the United States at least until 2005, when the Harvey patent expires.

"CIBA Vision and Wesley Jessen have a long history of research and development of innovative products in the contact lens industry including the development of Focus® NIGHT & DAY™, Focus® DAILIES®, Focus® DAILIES® Progressives, Focus® DAILIES® Toric, and the entire FreshLook® line of colored lenses," said Scott Meece, CIBA Vision's General Counsel. "The patent system and enforcement of patent rights promote investment in research and development of new products benefiting consumers. We are proud of our intent to continue investing millions each year to bring new technology to our customers -- eye care professionals -- and to consumers."

The patent infringement lawsuit, which CIBA Vision's Wesley Jessen subsidiary originally filed on May 3, 2001, claimed that Bausch & Lomb's PureVision product infringes U.S. Patent No. 4,711,943, issued to Thomas Harvey III. On June 26, 2002, the District Court ruled that Bausch & Lomb's PureVision contact lenses infringe the Harvey patent and ordered the company to discontinue the manufacture and sale of the product in the United States. Bausch & Lomb filed its appeal of the order with the CAFC on June 27, 2002.

In addition to this lawsuit filed on behalf of Wesley Jessen, CIBA Vision has had litigation pending against Bausch & Lomb since 1999 for infringement of four U.S. patents that protect its breakthrough Focus NIGHT & DAY technology, which allows up to 30 nights of continuous wear. If CIBA Vision prevails in this U.S. case, Bausch & Lomb's PureVision lenses will remain off

the market until at least 2014. CIBA Vision has also initiated litigation against Bausch & Lomb in several other countries.

Intellectual property lawyers at McDermott, Will & Emery represented Wesley Jessen at trial in the lower court, as well as during the appeal before the CAFC.

With worldwide headquarters in Atlanta, CIBA Vision is a global leader in research, development and manufacturing of optical and ophthalmic products and services, including contact lenses, lens care products and ophthalmic surgical products. CIBA Vision products are available in more than 70 countries. For more information, visit the CIBA Vision web site at [www.cibavision.com](http://www.cibavision.com).

CIBA Vision is the eye care unit of Novartis AG (NYSE: NVS), a world leader in pharmaceuticals and consumer health. In 2002, the Group's businesses achieved sales of CHF 32.4 billion (USD 20.9 billion) and a net income of CHF 7.3 billion (USD 4.7 billion). The Group invested approximately CHF 4.3 billion (USD 2.8 billion) in R&D. Headquartered in Basel, Switzerland, Novartis Group companies employ about 72 900 people and operate in over 140 countries around the world. For further information please consult <http://www.novartis.com>

**Forward-Looking Statement**

The foregoing statement contains forward-looking statements that involve known and unknown risks, uncertainties and other factors that may cause the actual results to be materially different from any future results, performance, or achievements expressed or implied by such statements. The statement references patent litigation filed by CIBA Vision and our views on the nature and likelihood of success of that litigation. The statement reflects the view of the Company as of today. It is impossible to predict with certainty the outcome of patent litigation and the risks presented thereby. Should one or more of these risks or uncertainties materialize, actual results may vary materially from those described herein as anticipated, believed or expected.

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