

*To the Copenhagen Stock Exchange*

## **Bavarian Nordic Appeals Delaware Order Dismissing Claims Related To Acambis' Misuse of Viral Sample**

On May 16, 2007, the U.S. Federal District Court of the District of Delaware dismissed Bavarian Nordic's pending claims of conversion, unfair competition and unfair trade acts on summary judgment. Only days before the start of a jury trial, the District Court ruled that there were no facts in dispute and that no existing case law supports a finding in favour of Bavarian Nordic. Bavarian Nordic has alleged that Prof. Anton Mayr, the pioneering creator of Modified Vaccinia Ankara (MVA) used to make Bavarian Nordic's smallpox vaccine IMVAMUNE<sup>®</sup>, had supplied a specific sample to a scientist for research purposes only. Acambis received reproduced MVA virus material from this specific sample which it used to produce its smallpox vaccine MVA3000. The order holds that subsequent passages turns reproduced biological material into different personal property and that such material therefore cannot be converted. Virus material is produced by reproduction and, thus, the District Court's ruling, if upheld, would eliminate the value of man made biological material.

The order issued yesterday has no impact on the patent case pending at the U.S. International Trade Commission (ITC). Earlier this year, the ITC Commission reversed the Administrative Law Judge's Initial Determination in a case in which Bavarian Nordic's patents on MVA were found to be infringed but invalid. The ITC Commission remanded the entire case on grounds that the ALJ had made clear errors of law and fact. This patent case awaits an assignment of a new trial date.

The order issued yesterday has no significance on the final discussions with the US Department of Health and Human Services (HHS) on the sole-award contract for an MVA-based smallpox vaccine.

Commenting on the Delaware order, Peter Wulff, President and CEO of Bavarian Nordic, said: "We are confident that this decision will be reversed on appeal. The dismissal of the conversion claim is untenable. The order basically holds that anyone can use a live biological material as the starting material, however obtained, and avoid liability for conversion by simply reproduce the material. In effect, a competitor could obtain a live virus sold in the market for use in patients, reproduce the virus and sell the millions of doses obtainable from it as his own. Such law would jeopardize the free research as well as impeding R&D investments in the field of biological materials with life saving potentials for patients."

Kvistgård, 16 May 2007

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### **About Bavarian Nordic A/S:**

*Bavarian Nordic (CSE: BAVA) is a leading international biopharmaceutical company developing and producing innovative vaccines to prevent and treat infectious diseases and cancer. With operations in Denmark, Germany, the USA, and Singapore, Bavarian Nordic employs over 200 people. Bavarian Nordic's patented technology, MVA-BN<sup>®</sup>, is as been demonstrated in clinical studies, one of the world's safest, multivalent vaccine vectors for the development of vaccines against various infectious diseases such as smallpox, HIV/AIDS, as well as against breast and prostate cancer. For more information please visit [www.bavarian-nordic.com](http://www.bavarian-nordic.com)*

### **"Safe Harbour" Statement Under the Private Securities Litigation Reform Act of 1995:**

*Except for the historical information contained herein, this release contains "forward-looking statements" within the meaning of the Private Securities Reform Act of 1995. No "forward-looking statement" can be guaranteed, and actual results may differ materially from those projected. Bavarian Nordic undertakes no obligation to publicly update any "forward-looking statement", whether as a result of new information, future events, or otherwise. Additional information regarding risks and uncertainties is set forth in the current Annual Report, which we incorporate by reference.*

### **Stockwise Resumé**

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