

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN MODIFIED VACCINIA  
ANKARA (“MVA”) VIRUSES AND  
VACCINES AND PHARMACEUTICAL  
COMPOSITIONS BASED THEREON**

**Investigation No. 337-TA-550**

**NOTICE OF COMMISSION DECISION  
TO REMAND THE FINAL INITIAL DETERMINATION  
FINDING NO VIOLATION OF SECTION 337  
AND TO EXTEND THE TARGET DATE  
FOR COMPLETION OF THE INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to remand the final initial determination (“final ID”) of the presiding administrative law judge (“ALJ”) finding no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), in the above-captioned investigation and to extend the target date for completion of the investigation to October 19, 2007.

**FOR FURTHER INFORMATION CONTACT:** James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** This investigation was instituted on September 23, 2005, based on a complaint filed by Bavarian Nordic A/S of Denmark (“Bavarian Nordic”). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain Modified Vaccinia Ankara (“MVA”) viruses and vaccines and pharmaceutical compositions based thereon by reason of infringement of various claims of United States Patent Nos. 6,761,893 and 6,913,752. The complaint also alleged violations of section 337 in the importation of certain MVA viruses and vaccines and pharmaceutical compositions based thereon or in the sale of such articles by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complaint named a single respondent, Acambis PLC (“Acambis”) of the United Kingdom. Only the patent allegations remain in this investigation.

After a hearing and post-hearing briefing, the ALJ issued a final initial determination (“final ID”) on September 6, 2006, finding no violation of section 337. The ALJ held that the patents were infringed but invalid.

Bavarian Nordic, Acambis, and the Commission investigative attorney filed petitions for review of the final ID. By notice of November 22, 2006, the Commission determined to review the final ID in its entirety, as well as Order No. 10, and to ask the parties for briefing on the issues on review and on remedy, public interest and bonding. The parties submitted their initial and reply briefs on December 12 and December 22, 2006, respectively.

By notice of January 19, 2007, the Commission requested briefing on whether this investigation has become or will shortly become moot, and if so, whether the investigation should be terminated. The parties submitted briefing on January 26, 2007.

The Commission has determined to remand the final ID to the ALJ and to extend the target date for completion of the investigation by eight months to October 19, 2007.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.45(c), 210.51(a) of the Commission’s Rules of Practice and Procedure (19 CFR §§ 210.45(c), 210.51(a)).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: February 21, 2007