

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

December 2, 2009

Date of Report (Date of earliest event reported)

Discovery Laboratories, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

000-26422
(Commission File Number)

94-3171943
(IRS Employer
Identification Number)

2600 Kelly Road, Suite 100
Warrington, Pennsylvania 18976
(Address of principal executive offices)

(215) 488-9300
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On December 2, 2009, Discovery Laboratories, Inc. (the "Company") received a letter from The Nasdaq Stock Market indicating that for 30 consecutive business days the Company's common stock did not maintain a minimum closing bid price of \$1.00 ("Minimum Bid Price Requirement") per share as required by Nasdaq Listing Rule 5450(a)(1).

The notification of noncompliance has no immediate effect on the listing or trading of the Company's common stock on the Nasdaq Global Market. Under the Nasdaq Listing Rules, if during the 180 calendar days following the date of the notification, or prior to June 1, 2010, the closing bid price of the Company's stock is at or above \$1.00 for a minimum of 10 consecutive business days, the Company will regain compliance with the Minimum Bid Price Requirement and the common stock will continue to be eligible for listing on the Nasdaq Global Market.

If the Company does not achieve compliance with the Minimum Bid Price Requirement by June 1, 2010, Nasdaq will provide written notification to the Company that the common stock is subject to delisting. The Company may, at that time, appeal Nasdaq's determination to a Nasdaq Hearing Panel. Such an appeal, if granted, would stay delisting until a Panel ruling. Alternatively, if at that time the Company is in compliance with all initial listing standards for the Nasdaq Capital Market other than the Minimum Bid Price Requirement, the Company could apply to transfer the listing of its common stock to the Nasdaq Capital Market and thereby receive an additional grace period to gain compliance with the Minimum Bid Price Requirement.

The Company intends to monitor the closing bid price of its common stock and may, if appropriate, consider implementing available options to regain compliance with the Minimum Bid Price Requirement under the Nasdaq Listing Rules.

On December 4, 2009, the Company issued a press release announcing its receipt of the Nasdaq deficiency letter. A copy of the please release is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

99.1 Press release dated December 4, 2009

Cautionary Note Regarding Forward-looking Statements:

To the extent that statements in this Current Report on Form 8-K are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this Current Report are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Such risks and others are further described in the Company's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Discovery Laboratories, Inc.

Date

By: /s/ W. Thomas Amick
Name: W. Thomas Amick
Title: Chairman of the Board and Interim
Chief Executive Officer

Date: December 4, 2009



Discovery Labs Receives Nasdaq Notification Related to Minimum Bid Price

Warrington, PA – December 4, 2009 -- Discovery Laboratories, Inc. (Nasdaq:DSCO) announced today that, on December 2, 2009, the Company received a letter from The Nasdaq Stock Market indicating that the Company is no longer in compliance with Nasdaq Listing Rule 5450(a)(1) because the Company's common stock did not maintain a minimum closing bid price of \$1.00 ("Minimum Bid Price Requirement") per share over the previous 30 consecutive business days.

The notification of noncompliance has no immediate effect on the listing or trading of Discovery Labs' common stock on the Nasdaq Global Market. Under the Listing Rules, if during the 180 calendar days following the date of the notification, or prior to June 1, 2010, the closing bid price of the Company's stock is at or above \$1.00 for a minimum of 10 consecutive business days, the Company will regain compliance with the Minimum Bid Price Requirement and the common stock will continue to be eligible for listing on the Nasdaq Global Market.

If the Company does not achieve compliance with the Minimum Bid Price Requirement by June 1, 2010, Nasdaq will provide written notification to the Company that the common stock is subject to delisting. The Company may, at that time, appeal Nasdaq's determination to a Nasdaq Hearing Panel. Such an appeal, if granted, would stay delisting until a Panel ruling. Alternatively, if at that time the Company is in compliance with all initial listing standards for the Nasdaq Capital Market other than the Minimum Bid Price Requirement, the Company could apply to transfer the listing of its common stock to the Nasdaq Capital Market and thereby receive an additional grace period to gain compliance with the Minimum Bid Price Requirement.

The Company intends to monitor the closing bid price of its common stock and may, if appropriate, consider implementing available options to regain compliance with the Minimum Bid Price Requirement under the Nasdaq Listing Rules.

About Discovery Labs

Discovery Laboratories, Inc. is a biotechnology company developing Surfactant Therapies for respiratory diseases. Surfactants are produced naturally in the lungs and are essential for breathing. Discovery Labs' novel proprietary KL₄ Surfactant Technology produces a synthetic, peptide-containing surfactant that is structurally similar to pulmonary surfactant and is being developed in liquid, aerosol or lyophilized formulations. In addition, Discovery Labs' proprietary Capillary Aerosolization Technology produces a dense aerosol, with a defined particle size that is capable of potentially delivering aerosolized KL₄ surfactant to the deep lung without the complications currently associated with liquid surfactant administration. Discovery Labs believes that its proprietary technology platform makes it possible, for the first time, to develop a significant pipeline of surfactant products to address a variety of respiratory diseases for which there frequently are few or no approved therapies. For more information, please visit our website at www.Discoverylabs.com.

Forward-Looking Statements

To the extent that statements in this press release are not strictly historical, all such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Examples of such risks and uncertainties are: risks relating to the rigorous regulatory requirements required for approval of any drug or drug-device combination products that Discovery Labs may develop, including that: (a) Discovery Labs and the U.S. Food and Drug Administration (FDA) or other regulatory authorities will not be able to agree on the matters raised during regulatory reviews, or Discovery Labs may be required to conduct significant additional activities to potentially gain approval of its product candidates, if ever; (b) the FDA or other regulatory authorities may not accept or may withhold or delay consideration of any of Discovery Labs' applications, or may not approve or may limit approval of Discovery Labs' products to particular indications or impose unanticipated label limitations, and (c) changes in the national or international political and regulatory environment may make it more difficult to gain FDA or other regulatory approval; risks relating to Discovery Labs' research and development activities, including (i) time-consuming and expensive pre-clinical studies, clinical trials and other efforts, which may be subject to potentially significant delays or regulatory holds, or fail, and (ii) the need for sophisticated and extensive analytical methodologies, including an acceptable biological activity test, if required, as well as other quality control release and stability tests to satisfy the requirements of the regulatory authorities; risks relating to Discovery Labs' ability to develop and manufacture drug products and capillary aerosolization systems for clinical studies, and, if approved, for commercialization of drug and combination drug-device products, including risks of technology transfers to contract manufacturers and problems or delays encountered by Discovery Labs, its contract manufacturers or suppliers in manufacturing drug products, drug substances and capillary aerosolization systems on a timely basis or in an amount sufficient to support Discovery Labs' development efforts and, if approved, commercialization; the risk that Discovery Labs may be unable to identify potential strategic partners or collaborators to develop and commercialize its products, if approved, in a timely manner, if at all; the risk that Discovery Labs will not be able in a changing financial market to raise additional capital or enter into strategic alliances or collaboration agreements, or that the ongoing credit crisis will adversely affect the ability of Discovery Labs to fund its activities, or that additional financings could result in substantial equity dilution; the risk that Discovery Labs will not be able to access credit from its committed equity financing facilities (CEFFs), or that the minimum share price at which Discovery Labs may access the CEFFs from time to time will prevent Discovery Labs from accessing the full dollar amount potentially available under the CEFFs; the risk that Discovery Labs or its strategic partners or collaborators will not be able to retain, or attract, qualified personnel; the risk that Discovery Labs will be unable to maintain The Nasdaq Global Market listing requirements, causing the price of Discovery Labs' common stock to decline; the risk that recurring losses, negative cash flows and the inability to raise additional capital could threaten Discovery Labs' ability to continue as a going concern; the risks that Discovery Labs may be unable to maintain and protect the patents and licenses related to its products, or other companies may develop competing therapies and/or technologies, or health care reform may adversely affect Discovery Labs; risks of legal proceedings, including securities actions and product liability claims; risks relating to reimbursement and health care reform; and other risks and uncertainties described in Discovery Labs' filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto

Contact Information:

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