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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 WARSAW ORTHOPEDIC, INC.; MEDTRONIC)
12 SOFAMOR DANEK U.S.A., INC.; MEDTRONIC)
13 PUERTO RICO OPERATIONS CO.; and)
14 OSTEOTECH, INC.,)

15 Plaintiffs,)

16 vs.)

17 NUVASIVE, INC.,)

18 Defendant.)
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CASE NO. 3:12-cv-02738-CAB (MDD)
**PLAINTIFFS' REQUEST FOR CASE
MANAGEMENT CONFERENCE
PURSUANT TO LOCAL RULE 16.1 &
PATENT LOCAL RULE 1.4**

1 Pursuant to Local Rule 16.1.c.1 and Patent Local Rule 1.4, Plaintiffs Warsaw Orthopedic,
2 Inc., Medtronic Sofamor Danek USA, Inc., Medtronic Puerto Rico Operations Co., and Osteotech,
3 Inc. hereby request a case management conference to assist in the expeditious handling of the above-
4 captioned matter.

5 On August 17, 2012, Plaintiffs filed this case in the Northern District of Indiana against
6 Defendant, NuVasive, Inc., alleging patent infringement by NuVasive's manufacture and sale of
7 certain medical devices and procedures used in spinal surgery. (Dkts. 1 & 17.) On September 5,
8 2012, NuVasive filed a motion to transfer to the Southern District of California and a motion for an
9 extension of time to file a responsive pleading. (Dkts. 21-23.) The Northern District of Indiana
10 granted NuVasive's motion for extension of time and set NuVasive's deadline to answer or
11 otherwise respond to Plaintiff's First Amended Complaint ("FAC") at 21 days after a ruling on
12 NuVasive's motion to transfer. (Dkt. 26.) On November 8, 2012, the Northern District of Indiana
13 granted the transfer motion and transferred this case to the Southern District of California. (Dkt. 32.)
14 Accordingly, NuVasive's response to the FAC was due on November 29, 2012, but NuVasive has
15 filed no answer or other response to the FAC.

16 On September 14, 2012, NuVasive filed with the United States Patent & Trademark Office
17 ("USPTO") a request for *inter partes* reexamination of the claims of United States Patent No.
18 8,021,430, one of the three patents-in-suit. On November 29, 2012, the USPTO granted NuVasive's
19 request and issued a non-final office action rejecting the claims. (*See* Application Control No.
20 95/002,380.)

21 Accordingly, Plaintiffs request that a case management conference be set for this case as
22 soon as the Court's docket permits. At the requested case management conference, the parties and
23 the Court could address, *inter alia*, the schedule of this case going forward, the setting of discovery
24 and pretrial deadlines, and coordination with other patent infringement litigation currently
25 proceeding between the parties in this Court. Plaintiffs believe that such a case management
26 conference would assist with the reduction of expense and delay associated with litigation of the
27 patents-in-suit and in the efficient resolution of this matter.
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1 DATED: November 30, 2012

Respectfully submitted,

2
3 /s/ Nimalka R. Wickramasekera

4 Nimalka R. Wickramasekera
KIRKLAND & ELLIS LLP

5 Attorneys for Plaintiffs
6 WARSAW ORTHOPEDIC, INC.; MEDTRONIC
7 SOFAMOR DANEK USA, INC.; MEDTRONIC
8 PUERTO RICO OPERATIONS CO.; AND
9 OSTEOTECH, INC.
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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 333 South Hope Street, Los Angeles, California 90071.

On November 30, 2012, true and correct copies of the foregoing document were served to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5.4. Any other counsel of record will be served by electronic mail, facsimile, U.S. Mail and/or overnight delivery.

FEDERAL: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 30, 2012, in Los Angeles, California.

/s/ Nimalka R. Wickramasekera
Nimalka R. Wickramasekera