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18 **UNITED STATES DISTRICT COURT**
19 **SOUTHERN DISTRICT OF CALIFORNIA**
20 **SAN DIEGO DIVISION**

21	NUVASIVE, INC., a Delaware)	CASE NO. 18-cv-00347-CAB-MDD
22	corporation,)	
23	Plaintiff,)	AMENDED COMPLAINT FOR
)	PATENT INFRINGEMENT
24	v.)	
)	JURY TRIAL DEMANDED
25	ALPHATEC HOLDINGS, INC., a)	
26	Delaware corporation and ALPHATEC)	Original Complaint filed:
27	SPINE, INC., a California corporation,)	2/13/2018
28	Defendants.)	

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14 PRAYER FOR RELIEF153

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1 Plaintiff and Counter-Defendant NuVasive, Inc. (“NuVasive”) hereby files
2 this Amended Complaint against Defendants Alphatec Holdings, Inc. and Alphatec
3 Spine, Inc. (collectively, “Alphatec” or “Counter-Defendants”) for Alphatec’s
4 infringement of NuVasive’s U.S. Patent No. 7,819,801; U.S. Patent No. 8,355,780;
5 U.S. Patent No. 8,439,832; U.S. Patent No. 9,833,227; U.S. Patent No. 8,753,270;
6 U.S. Patent No. 8,361,156; U.S. Patent No. 9,924,859; U.S. Patent No. 9,974,531;
7 and U.S. Patent No. 8,187,334 (collectively, “the NuVasive Patents”). On personal
8 knowledge as to NuVasive’s own actions and on information and belief as to the
9 actions of others, NuVasive alleges as follows:

10 **I. THE PARTIES**

11 1. Plaintiff NuVasive is a Delaware corporation with its principal place
12 of business at 7475 Lusk Boulevard, San Diego, California 92121.

13 2. On information and belief, Defendant Alphatec Holdings, Inc. is a
14 Delaware corporation with its principal place of business at 5818 El Camino Real,
15 Carlsbad, California 92008.

16 3. On information and belief, Defendant Alphatec Spine, Inc. is a
17 California corporation with its principal place of business at 5818 El Camino Real,
18 Carlsbad, California 92008.

19 4. On information and belief, Defendant Alphatec Spine, Inc. operates as
20 a wholly-owned subsidiary of Defendant Alphatec Holdings, Inc.

21 **II. JURISDICTION AND VENUE**

22 5. This Complaint arises under the patent laws of the United States, Title
23 35 of the United States Code. This Court has subject matter jurisdiction over this
24 action under 35 U.S.C. § 271 *et seq.*, 28 U.S.C. §§ 1331 and 1338(a).

25 6. The Court has personal jurisdiction over Defendants because each
26 Defendant transacts substantial business in the State of California, directly or
27 through intermediaries, regularly does or solicits business in California, has
28 committed acts in California giving rise to the causes of action alleged in this

1 Complaint, maintains continuous and systematic contacts in California,
2 purposefully avails itself of the privileges of doing business in California, and/or
3 derives substantial revenue from goods and services provided to individuals in
4 California. In addition, each Defendant is registered to do business in the State of
5 California and maintains an agent for service of process in California.

6 7. Venue is proper in this judicial district pursuant to 28 U.S.C.
7 § 1400(b) because each Defendant: (1) resides in this District, and/or (2) has
8 committed acts of infringement and has a regular and established place of business
9 in this District.

10 **III. FACTUAL BACKGROUND**

11 **A. NuVasive—The Pioneer Of Minimally Invasive Spine Surgery** 12 **And Lateral Interbody Fusion Procedures**

13 8. NuVasive, founded in 1997, is a leading medical device company
14 focused on minimally disruptive surgical products and procedurally integrated
15 solutions for the spine. NuVasive pioneered the market for minimally invasive
16 spine surgery and lateral interbody fusion procedures. NuVasive has established
17 itself as the market leader, and has a built a reputation as an innovator, of lateral
18 spinal fusion technologies.

19 9. Spinal fusion surgery, at a basic level, is used to “fuse” two adjacent
20 vertebrae of the spine together so that they heal into a single, solid bone. It is
21 commonly performed to correct chronic back pain caused by diseased or damaged
22 intervertebral discs. The procedure involves removing some, or all, of the diseased
23 or damaged disc and inserting a spinal implant in the resulting disc space. The
24 inserted implant restores height and induces bone growth between adjacent
25 vertebrae.

26 10. NuVasive invented a spinal fusion procedure named the eXtreme
27 Lateral Interbody Fusion, or “XLIF.” Before XLIF, the surgical community
28 believed lateral approaches to the spine (*i.e.*, approaching the spine from the side

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