

EXHIBIT 56

**TO DECLARATION OF WENDY L. DEVINE
IN SUPPORT OF NUVASIVE, INC.'S
OPPOSITION TO DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

From: [Nisbet, Brian J.](#)
To: [Devine, Wendy](#); [Dalke, David P.](#); [Carlson, Erik](#); [Wickramasekera, Nimalka](#); [Tsukerman, Lev](#); [Raghavan, Saranya](#); [Hockman, Cori Stone](#)
Cc: [Andrew Graben](#); [Bub Windle](#); [Trent Tanner](#); [Michael Hilgers](#); [WSGR - NUVA/ATEC](#); [Skogg, Gregory B.](#); [Quan, Liberty](#)
Subject: RE: NuVasive, Inc. v. Alphatec Holdings, Inc. et al. - Prior Art References
Date: Thursday, January 9, 2020 8:55:16 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Wendy,

We have withdrawn certain prior art references as required by the Court in response to NuVasive's reduction in asserted claims. The information you seek is clearly contained in Alphatec's expert reports, as NuVasive itself expressly recognized in its (denied) motion to strike Alphatec's invalidity contentions, now minus the certain prior art references that have been withdrawn. Nothing further is required from Alphatec.

Brian J. Nisbet

Partner

Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601-9703

D: +1 312-558-3254

F: +1 312-558-5700

[Bio](#) | [VCard](#) | [Email](#) | [winston.com](#)



From: Devine, Wendy <wdevine@wsgr.com>
Sent: Wednesday, January 08, 2020 5:24 PM
To: Dalke, David P. <DDalke@winston.com>; Carlson, Erik <ecarlson@wsgr.com>; Wickramasekera, Nimalka <NWickramasekera@winston.com>; Tsukerman, Lev <LTsukerman@winston.com>; Raghavan, Saranya <SRaghavan@winston.com>; Nisbet, Brian J. <BNisbet@winston.com>; Hockman, Cori Stone <CHockman@winston.com>
Cc: Andrew Graben <agraben@hilgersgraben.com>; Bub Windle <bwindle@hilgersgraben.com>; Trent Tanner <ttanner@hilgersgraben.com>; Michael Hilgers <mhilgers@hilgersgraben.com>; WSGR - NUVA/ATEC <nuva/atec@wsgr.com>; Skogg, Gregory B. <GSkogg@winston.com>; Quan, Liberty <LQuan@winston.com>
Subject: RE: NuVasive, Inc. v. Alphatec Holdings, Inc. et al. - Prior Art References

Counsel,

I write regarding the below purported narrowing of Alphatec's prior art based invalidity positions. As all of Alphatec's contentions allege obviousness, please provide a list of the combinations of

references that Alphatec continues to assert for each asserted claim. Please provide this information no later than close of business tomorrow.

Regards,

Wendy

**WILSON
SONSINI**

Wendy Devine | Partner | Wilson Sonsini Goodrich & Rosati

One Market Plaza Spear Tower Suite 3300 | San Francisco, CA 94105 | direct: 415.947.2027 |

mobile: 858.527.8101 | wdevine@wsgr.com



From: Dalke, David P. <DDalke@winston.com>

Sent: Friday, January 3, 2020 1:28 PM

To: Carlson, Erik <ecarlson@wsgr.com>; Wickramasekera, Nimalka <NWickramasekera@winston.com>; Tsukerman, Lev <LTsukerman@winston.com>; Raghavan, Saranya <SRaghavan@winston.com>; Nisbet, Brian J. <BNisbet@winston.com>; Hockman, Cori Stone <CHockman@winston.com>

Cc: Andrew Graben <agraben@hilgersgraben.com>; Bub Windle <bwindle@hilgersgraben.com>; Trent Tanner <ttanner@hilgersgraben.com>; Michael Hilgers <mhilgers@hilgersgraben.com>; WSGR - NUVA/ATEC <nuva/atec@wsgr.com>; Skogg, Gregory B. <GSkogg@winston.com>; Quan, Liberty <LQuan@winston.com>

Subject: RE: NuVasive, Inc. v. Alphatec Holdings, Inc. et al. - Prior Art References

Counsel,

In accordance with the Court's order at the 12/5/2019 hearing (D.I. 214) and in response to NuVasive's election of claims dated 12/13/2019, Alphatec will no longer rely on the prior art references identified in the table below to demonstrate invalidity of the asserted claims as set forth in the Opening Expert Report of Charles L. Branch, Jr., M.D., served 11/1/2019. Nonetheless, Alphatec reserves the right to rely on the disclosures of the references identified below to demonstrate background, state of the art, and/or the common knowledge available to a POSA as of the time of the alleged inventions.

Note that based on NuVasive's election of claims for the '270 patent, Alphatec intends to rely on the prior art references and combinations as described in Dr. Branch's report for the '270 patent.

'832 patent	Kossmann, Obenchain, Foley
'801 patent	Kossmann, Obenchain, Foley '871, Sand
'780 patent	Kossmann, Obenchain
'227 patent	Kossmann
'859 patent	Kossmann, Obenchain
'531 patent	Kossmann, Obenchain, Roehm, Mathews, Crainich, Michelson '661, Foley '180, Spears

Thank you,

David

David P. Dalke

Of Counsel

Winston & Strawn LLP

T: +1 213-615-1700

D: +1 213-615-1938

F: +1 213-615-1750

winston.com

**WINSTON
& STRAWN**
LLP

From: Carlson, Erik <ecarlson@wsgr.com>

Sent: Friday, December 13, 2019 9:07 PM

To: Wickramasekera, Nimalka <NWickramasekera@winston.com>; Dalke, David P. <DDalke@winston.com>; Tsukerman, Lev <LTsukerman@winston.com>; Coorg, Shilpa A. <SCoorg@winston.com>; Raghavan, Saranya <SRaghavan@winston.com>; Nisbet, Brian J. <BNisbet@winston.com>

Cc: Andrew Graben <agraben@hilgersgraben.com>; Bub Windle <bwindle@hilgersgraben.com>; Trent Tanner <ttanner@hilgersgraben.com>; Michael Hilgers <mhilgers@hilgersgraben.com>; WSGR - NUVA/ATEC <nuva/atec@wsgr.com>

Subject: NuVasive, Inc. v. Alphatec Holdings, Inc. et al. - Election of claims

Counsel:

In accordance with the Court's order at the 12/5/2019 hearing (D.I. 214), NuVasive elects to

proceed with the following asserted claims:

'270 patent: Claims 1, 2, 3, 6, and 12

'801 patent: Claims 1, 2, 15, 16, and 26.

'780 patent: Claims 21, 22, 24, 25, and 27.

'832 patent: Claims 1, 3, 9, 10, 12, 14, and 16.

'227 patent: Claims 2, 6, 13, 15, 17, 22, and 28.

'859 patent: Claims 1, 21, 30, 32, and 36.

'531 patent: Claims 1, 5, 10, 32, and 39.

Regards,
Erik

WILSON SONSINI

Erik J. Carlson • Associate • Wilson Sonsini Goodrich & Rosati

633 West Fifth Street • Suite 1550 • Los Angeles, CA 90071 • direct: (323) 210-2940 • ecarlson@wsgr.com



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