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11 *Attorneys for Plaintiff NuVasive, Inc.*

12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA
 14 SAN DIEGO DIVISION

<p>15 NUVASIVE INC., a Delaware 16 corporation, 17 Plaintiff, 18 v. 19 ALPHATEC HOLDINGS, INC., a 20 Delaware corporation, and ALPHATEC 21 SPINE, INC., a California corporation, 22 Defendants.</p>	<p>) Case No. 18-cv-00347-CAB-MDD)) DECLARATION OF CHRISTINA) DASHE IN SUPPORT OF) NUVASIVE, INC.’S MOTION TO) STRIKE ALPHATEC’S) INVALIDITY CONTENTIONS)) PER CHAMBERS RULES, NO) ORAL ARGUMENT UNLESS) SEPARATELY ORDERED BY THE) COURT)) Judge: Hon. Cathy Ann Bencivengo) Magistrate Judge: Mitchell D. Dembin</p>
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1 I, Christina Dashe, declare as follows,

2 1. I am an associate with Wilson Sonsini Goodrich & Rosati, and
3 counsel for Plaintiff NuVasive, Inc. (“NuVasive”) in the above captioned matter. I
4 submit this Declaration in Support of NuVasive’s Motion to Strike Defendants
5 Alphatec Holdings, Inc. and Alphatec Spine, Inc.’s (“Alphatec”) Invalidity
6 Contentions. I have personal knowledge of the facts set forth herein based on
7 information made available to me and, if called as a witness, I would be competent
8 to testify thereto.

9 2. Attached hereto as **Exhibit A** is a true and correct copy of the U.S.
10 Provisional Patent Application No. 60/557,536, filed March 29, 2004, Bates
11 numbered NUVA_ATEC0020805 – NUVA_ATEC0020853.

12 3. Attached hereto as **Exhibit B** is a true and correct copy of a webpage
13 with url <https://web.archive.org/web/20040208334016/http://nuvasive.com/> from the
14 Wayback Machine, Bates numbered NUVA_ATEC0342156. Exhibit B displays a
15 screengrab of NuVasive’s website from February 8, 2004 regarding the “CoRoent
16 Family of Radiolucent Systems.”

17 4. I initially accessed **Exhibit B** on October 18, 2020. I accessed Exhibit
18 B through the following steps:

- 19 i. Navigated to “archive.org/web.”
- 20 ii. Typed “nuvasive.com” into the “browse history” search bar.
- 21 iii. Navigated to the saved “nuvasive.com” web pages from the year
22 2004.
- 23 iv. Selected the saved “nuvasive.com” web page from February 8,
24 2004.
- 25 v. Enabled “Adobe Flash player” in the browser to load the graphics
26 on the saved “nuvasive.com” web page.

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1 vi. Selected the “Maximum Access Surgery” text on the leftmost side
2 of the top toolbar.

3 vii. Selected “CoRoent” from the drop-down menu.

4 5. Attached hereto as **Exhibit C** is a true and correct copy of
5 Defendants’ Updated Preliminary Invalidity Contentions for U.S. Patent Nos.
6 8,361,156 and 8,187,334, dated October 15, 2020.

7 6. Attached hereto as **Exhibit D** is a true and correct copy of
8 Defendants’ Final Invalidity Contentions for U.S. Patent Nos. 8,361,156 and
9 8,187,334, dated November 12, 2020.

10 7. Attached hereto as **Exhibit E** is a true and correct copy of
11 Defendant’s Supplemental Final Invalidity Contentions for U.S. Patent Nos.
12 8,361,156 and 8,187,334 with supporting excerpted Appendices A & B, dated
13 November 17, 2020.

14 8. Attached hereto as **Exhibit F** is a true and correct copy of an excerpt
15 from Defendants’ Amended Invalidity Contentions for U.S. Patent No. 8,361,156,
16 dated December 7, 2018.

17 9. Attached hereto as **Exhibit G** is a true and correct copy of an excerpt
18 from Defendants’ Amended Invalidity Contentions for U.S. Patent No. 8,187,334,
19 dated January 16, 2019.

20 10. Attached hereto as **Exhibit H** is a true and correct copy of
21 correspondence between counsel for NuVasive and counsel for Alphatec, dated
22 October 26 – November 11, 2020.

23 11. On November 11, 2020, the parties in this case met and conferred
24 pursuant to Local Civil Rule 26.1(a) regarding NuVasive’s proposed motion to
25 strike.

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12. Attached hereto as **Exhibit I** is a true and correct copy of correspondence between counsel for NuVasive and counsel for Alphatec, dated November 16 – November 17, 2020.

13. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true. Executed this 25th day of November in 2020 in San Diego, California.

By: /s/ Christina Dashe
Christina Dashe



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