

EXHIBIT 15

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18 *Attorneys for Plaintiff NuVasive, Inc.*

19 **UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 **SAN DIEGO DIVISION**

22 NUVASIVE, INC., a Delaware corporation,) CASE NO. 18-cv-00347-CAB-MDD
23)
24 Plaintiff,) **PLAINTIFF NUVASIVE, INC.’S**
25) **SUPPLEMENTAL RESPONSES**
26 v.) **TO SECOND SET OF**
27) **INTERROGATORIES**
28) **[NOS. 13-15]**
ALPHATEC HOLDINGS, INC., a)
26 Delaware corporation and ALPHATEC)
27 SPINE, INC., a California corporation,,)
28)
Defendants.)
Complaint Filed: February 13, 2018

28 NUVASIVE’S SUPPLEMENTAL RESPONSES TO 2nd SET OF INTERROGATORIES 3:18-cv-00347-CAB-MDD

1 Pursuant to Rule 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff
2 NuVasive, Inc. (“NuVasive”), by and through its undersigned counsel, hereby
3 provides supplemental responses to Defendants Alphatec Holdings, Inc. and
4 Alphatec Spine, Inc.’s (collectively “Alphatec” or “Defendants”) Second Set of
5 Interrogatories (Nos. 13-15) as follows:

6 **GENERAL OBJECTIONS**

7 In addition to any specifically stated objections, NuVasive’s responses
8 herein are subject to and incorporate the following general objections:

9 1. NuVasive asserts each of the following General Objections and
10 expressly incorporates them into each response set forth below. By providing a
11 response to any interrogatory, NuVasive does not waive or otherwise limit these
12 General Objections. Furthermore, reference to any of these General Objections in
13 any specific response shall not waive or otherwise limit the applicability of all of
14 these General Objections to each and every response.

15 2. NuVasive objects to all definitions, instructions, and interrogatories to
16 the extent that they are unduly burdensome and oppressive, overly broad, vague,
17 ambiguous and/or to the extent it is inconsistent with and/or seeks to impose upon
18 NuVasive obligations beyond those required by the Federal Rules of Civil
19 Procedure, the Local Rules of the United States District Court for the Southern
20 District of California or any Court Order in this matter, including this Court’s
21 Scheduling Order. In responding to these interrogatories, NuVasive will only
22 comply with the obligations imposed on it by the Federal Rules of Civil Procedure,
23 the Local Rules of the United States District Court for the Southern District of
24 California, any applicable orders of this Court, and any stipulation or agreement
25 between the parties.

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1 burdensome, and inconsistent with and/or seeks to impose upon NuVasive
2 obligations beyond those required by the Federal Rules of Civil Procedure.

3 **SUPPLEMENTAL RESPONSES TO INTERROGATORIES**

4 **INTERROGATORY NO. 13:**

5 Identify each product that NuVasive contends embodies any asserted claims
6 of the patents-in-suit and/or competes with any accused product, including, for
7 NuVasive products, identification of each asserted claim NuVasive contends is
8 embodied by each such product and the first (1) description in print, (2) offer for
9 sale, (3) sale, (4) public disclosure, and (5) use of each such product; and for each
10 non-NuVasive product, identification of NuVasive’s first (1) awareness, (2)
11 knowledge of any offers for sale, (3) knowledge of any sales, and (4) knowledge
12 of any use of each such product.

13 **RESPONSE TO INTERROGATORY NO. 13:**

14 NuVasive incorporates by reference each of the General Objections.
15 NuVasive objects to this interrogatory on the grounds that it contains at least nine
16 discrete subparts, is compound, and constitutes at least nine interrogatories.
17 NuVasive objects to this interrogatory as vague and ambiguous with respect to the
18 terms “competes with,” “identification,” “NuVasive’s first awareness,”
19 “NuVasive’s first knowledge,” and “any use.” NuVasive objects to this
20 interrogatory on the grounds and to the extent it is overly broad, unduly
21 burdensome, not proportional to the needs of the case, and not relevant to any claim
22 or defense in this case. Specifically, NuVasive objects to this interrogatory to the
23 extent it seeks information concerning third-party products. Relatedly, with respect
24 to the “Accused Products,” this interrogatory seeks information that is duplicative
25 of the information set forth in NuVasive’s Disclosure of Asserted Claims and
26 Infringement Contentions; to the extent this interrogatory seeks information beyond
27 such duplicative information, this interrogatory seeks information that is overbroad,
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1 not relevant to any claim or defense in this case, and is not proportional to the needs
2 of this case. NuVasive will respond to this interrogatory to the extent it seeks
3 information regarding NuVasive’s products. For similar reasons, NuVasive objects
4 to this interrogatory to the extent it seeks information regarding various “first”
5 activities to the extent such activities cannot constitute prior art to any of the
6 patents-in-suit. NuVasive also objects to this interrogatory because it is unlimited
7 as to time. NuVasive objects to this interrogatory to the extent it seeks “Privileged
8 Information.” NuVasive objects to this interrogatory to the extent it calls for legal
9 conclusions. NuVasive objects to this interrogatory to the extent it seeks
10 information that is not and/or is no longer in NuVasive’s possession, custody, or
11 control. NuVasive objects to this interrogatory to the extent it seeks information
12 that is publicly available and/or equally available to Alphatec and NuVasive, and is
13 therefore as easily obtainable by Alphatec as NuVasive. NuVasive objects to this
14 interrogatory to the extent it seeks information duplicative of the information
15 sought in Alphatec’s Interrogatory No. 3. NuVasive objects to this interrogatory as
16 premature to the extent it seeks expert testimony. NuVasive will provide expert
17 reports with its positions regarding Alphatec’s infringement of the asserted claims
18 of the patents-in-suit and NuVasive’s products’ embodiment of the asserted claims
19 of the patents-in-suit at the time set forth in the Court’s scheduling order.

20 Subject to and without waiving the foregoing objections, NuVasive responds
21 as follows: NuVasive incorporates by reference its Complaint (Doc. No. 1), its
22 Memorandum of Points and Authorities in Support of Motion for Preliminary
23 Injunction (Doc. No. 37-1), the Declaration of Jim A. Youssef, M.D., in Support of
24 NuVasive’s Motion for Preliminary Injunction (Doc. No. 37-45), NuVasive’s Reply
25 in Support of its Motion for Preliminary Injunction (Doc. No. 77), the Reply
26 Declaration of Jim A. Youssef, M.D. in Support of NuVasive’s Motion for
27 Preliminary Injunction (Doc. No. 77-56), and the Reply Declaration of Matthew

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