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16 Attorneys for Defendants
ALPHATEC HOLDINGS, INC. AND ALPHATEC SPINE, INC.
17

18 **UNITED STATES DISTRICT COURT**

19 **SOUTHERN DISTRICT OF CALIFORNIA - SAN DIEGO DIVISION**

20 NUVASIVE, INC., a Delaware
21 corporation,

22 Plaintiff,

23 v.

24 ALPHATEC HOLDINGS, INC., a
Delaware corporation and
25 ALPHATEC SPINE, INC., a
California corporation,

26 Defendants.
27
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Case No. 18-CV-00347-CAB-MDD

**DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT**

Judge: Hon. Cathy Ann Bencivengo
Courtroom: 4C

**PER CHAMBERS RULES, NO ORAL
ARGUMENT UNLESS SEPARATELY
ORDERED BY THE COURT**

1 **TO THE COURT, ALL PARTIES, AND COUNSEL OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that on March 2, 2021 in the United States
3 District Court for the Southern District of California, located at 333 West Broadway,
4 Courtroom 15A, San Diego, CA 92101, defendants Alphatec Holdings, Inc. and
5 Alphatec Spine, Inc. will and hereby do move the Court for an order granting them
6 summary judgment under Federal Rule of Civil Procedure 56.

7 Defendants bring this motion for summary judgment on the grounds that claims
8 1, 5, 10, 18, and 24 of U.S. Patent No. 8,361,156 and claims 16 and 18 of U.S. Patent
9 No. 8,187,334 are invalid as indefinite.

10 Defendants' motion is based upon this notice, the memorandum of points and
11 authorities filed concurrently herewith, the accompanying declaration of Brian J. Nisbet
12 (and all exhibits attached thereto), all pleadings, papers, and records on file in this
13 action, all matters subject to judicial notice, and such oral argument as may be presented
14 at a hearing on this matter.

15 Dated: January 26, 2021

WINSTON & STRAWN LLP

17 By: /s/ Nimalka R. Wickramasekera
NIMALKA R. WICKRAMASEKERA

18 Attorneys for Defendants
19 ALPHATEC HOLDINGS, INC. AND
20 ALPHATEC SPINE, INC.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed with the Court’s CM/ECF system which will provide notice to all counsel deemed to have consented to electronic service. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing document by mail on this day.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. Executed this 26th day of January 2021 at Los Angeles, California.

Dated: January 26, 2021

WINSTON& STRAWN LLP

By: /s/ Nimalka R. Wickramasekera
NIMALKA R. WICKRAMASEKERA