

**EXHIBIT 5**  
**TO TRENT TANNER DECLARATION ISO**  
**NUVASIVE'S COMBINED MOTIONS IN LIMINE**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

NUVASIVE, INC., a Delaware  
corporation,

Plaintiff,

v. Case No. 3:18-CV-00347  
-CAB-MDD

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

Defendants.

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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF SCOTT ROBINSON

ALPHATEC'S HOLDINGS, INC. RULE 30(b)(6) WITNESS

SAN DIEGO, CALIFORNIA

NOVEMBER 4, 2020

Reported By:  
PATRICIA Y. SCHULER  
CSR No. 11949

Page 2

1 UNITED STATES DISTRICT COURT  
 2 SOUTHERN DISTRICT OF CALIFORNIA  
 3 SAN DIEGO DIVISION  
 4  
 5 NUVASIVE, INC., a Delaware  
 corporation,  
 6  
 Plaintiff,  
 7  
 v. Case No. 3:18-CV-00347  
 8 -CAB-MDD  
 ALPHATEC HOLDINGS, INC., a  
 9 Delaware corporation and  
 ALPHATEC SPINE, INC., a  
 10 California corporation,  
 11 Defendants.  
 12  
 13 Videotaped deposition of SCOTT ROBINSON, taken  
 14 on behalf of the Plaintiffs via ZOOM, San Diego,  
 15 California, at 10:04 a.m. and ending at 1:58 p.m.,  
 16 on November 4, 2020, before PATRICIA Y. SCHULER,  
 17 Certified Shorthand Reporter No. 11949.  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 APPEARANCES:  
 2 FOR PLAINTIFF:  
 3 WILSON SONSINI GOODRICH & ROSATI, P.C.  
 4 BY: WENDY L. DEVINE, ESQ.  
 5 BY: CHRISTINA DASHE, ESQ.  
 6 One Market Plaza, Spear Tower  
 7 Suite 3300  
 8 San Francisco, California 94105  
 9 wdevine@wsgr.com  
 10 FOR DEFENDANTS:  
 11 WINSTON STRAWN LLP  
 12 BY: SARANYA RAGHAVAN, ESQ.  
 13 BY: NIMALKA R. WICKRAMASEKERA, ESQ.  
 14 333 South Grand Avenue  
 15 Los Angeles, California 90071-1543  
 16 nwickramasekera@winston.com  
 17  
 18 Also Present:  
 19 Jason Hamilton  
 20 Videographer:  
 21 Michael Spade  
 22  
 23  
 24  
 25

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1 I-N-D-E-X  
 2 WITNESS: EXAMINATION  
 3 SCOTT ROBINSON PAGE  
 4 MS. DEVINE 7  
 5  
 6  
 7 E-X-H-I-B-I-T-S  
 8 PLAINTIFF'S PAGE  
 9 Exhibit 1 NuVasive's 3rd Amended Notice of 11  
 Rule 30(b)(6) Deposition  
 10  
 Exhibit 2 Defendants' Supplemental 17  
 Responses to Plaintiff NuVasive,  
 11 Inc.'s Interrogatories (Nos.  
 12 1,2,3,7,8, and 17)  
 13 Exhibit 3 Zimmer Biomet Timberline Lateral 47  
 Fusion System Surgical Technique  
 Guide Bates-stamped  
 14 ATEC\_LLIF000965436 through 487  
 15  
 Exhibit 4 Alphatec Spine Management 59  
 Presentation Bates-stamped  
 16 ATEC\_LLIF000854436 through 524  
 17  
 Exhibit 5 Battalion Lateral Implant Guide 64  
 Bates-stamped ATEC\_LLIF000004935  
 18 through 942  
 19  
 Exhibit 6 Battalion LLIF Design Team 76  
 Feedback Analysis dated 6.26.15  
 20 Bates-stamped ATEC\_LLIF000854919  
 through 956  
 21  
 Exhibit 7 Battalion LLIF Implant System 79  
 Project Memo Project No. 15-004  
 22 dated 12.16.16 Bates-stamped  
 23 ATEC\_LLIF000292275 through 295  
 24  
 25

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1 E-X-H-I-B-I-T-S (CONTINUED)  
 2 PLAINTIFF'S PAGE  
 3 Exhibit 8 Product Development Agreement 83  
 dated 3.14.13 Bates-stamped  
 4 ATEC\_LLIF000895078 through 166  
 5 Exhibit 9 Alphatec Direct Lateral Cage 84  
 Concepts & Key Features dated  
 6 2.4.13 Bates-stamped  
 ATEC\_LLIF000004530 through 573  
 7  
 Exhibit 10 Alphatec Protocol: Evaluation of 87  
 Tyber Medical & In'Tech Medical  
 8 Lateral Lumbar Interbody Fusion  
 Systems Doc No. TP100505  
 9 Bates-stamped ATEC\_LLIF000855575  
 through 604  
 10  
 Exhibit 11 Transcend LIF Lateral Approach 95  
 Implant Guide Bates-stamped  
 11 ATEC\_LLIF000964710 through 717  
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1 SAN DIEGO, CALIFORNIA; WEDNESDAY, NOVEMBER 4, 2020

2 10:04 a.m.

3 THE VIDEOGRAPHER: We are now on the

4 record. Participants should be aware that this

5 proceeding is being recorded, and as such, all

6 conversations held will be recorded unless there is

7 a request and agreement to go off the record.

8 Private conversations and/or attorney-client

9 interactions should be held outside the presence of

10 the remote interface.

11 For the purpose of creating a

12 witness-only video, the witness has been

13 spotlighted on your video screen. We ask that the

14 witness not be removed from the spotlight as it may

15 cause other people to appear in the final video.

16 For anyone who does not want the witness

17 to take up a large part of your screen, you may

18 click the "gallery view" button in the upper right

19 corner.

20 This is the remote videorecorded

21 deposition of Scott Robinson being taken by counsel

22 for the Defendant. Today is Wednesday, November 4,

23 2020, and the time now is 10:04 a.m. in the Pacific

24 time zone. We are here in the matter of NuVasive

25 against Alphatec Holdings. My name Michael Spade,

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1 remote video technician with U.S. Legal Support. I

2 am not related to any party in this action.

3 At this time, will the reporter,

4 Patricia Schuler, with U.S. Legal Support please

5 swear in the witness.

6

7 SCOTT ROBINSON,

8 having been administered an oath, was examined and

9 testified as follows:

10

11 EXAMINATION

12 BY MS. DEVINE:

13 Q. Good morning, Mr. Robinson.

14 A. Good morning, Wendy.

15 Q. Can you hear me?

16 A. I can hear you just fine, thanks.

17 Q. Great. If you can't hear me at any

18 point, would you please just let me know?

19 A. Will do, yes.

20 Q. Sure.

21 Would you please state and spell your

22 name for the record?

23 A. Scott Robinson, S-C-O-T-T,

24 R-O-B-I-N-S-O-N.

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1 address? Work or home is fine.

2 A. 1281 -- 1-2-8-1, -2 Crest Drive,

3 Encinitas, California 92024.

4 Q. Do you recall that you were deposed just

5 about a year ago in this same matter?

6 A. I recall being deposed. I believe the

7 topics of that deposition were different than the

8 topics to be discussed today.

9 Q. Do you have an understanding of what

10 matter you're here to be deposed about today?

11 A. I believe it's the nonprivileged

12 testimony related to implant development.

13 Q. Do you have an understanding of -- well,

14 do you understand that I represent NuVasive? You

15 know that?

16 A. Yes.

17 Q. And do you understand that NuVasive has

18 sued Alphatec for patent infringement?

19 A. Yes.

20 Q. And do you understand that your

21 deposition here today is related to that lawsuit?

22 A. Yes.

23 Q. Since your deposition last October, have

24 you been deposed, other than sitting here today?

25 A. No. This is, thankfully, my first time

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1 back.

2 Q. And since your deposition last year, has

3 your job changed?

4 A. No. My job is the same.

5 Q. So your title is the same?

6 A. Yes, Manager, Research and Development,

7 Alphatec Spine.

8 Q. Got it.

9 And your job responsibilities, would you

10 say they are the same as they were in October of

11 last year?

12 A. Generally the same, yes.

13 Q. So I won't spend a bunch of time going

14 over logistics for today because we just did this

15 last year. But just briefly, do you understand

16 that you need to give a verbal answer to questions?

17 A. Yes, I do.

18 Q. And if you don't understand my question,

19 would you please let me know?

20 A. Yes, I will.

21 Q. And do you understand that if you do not

22 let me know that you do not understand the

23 question, that I will accept that you did

24 understand the question?

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1 A. I understand that, yes.  
2 Q. And do you understand that you are  
3 providing testimony under oath today?  
4 A. Yes, I do.  
5 Q. And do you understand that I am entitled  
6 to the complete truth, to the best of your  
7 recollection?  
8 A. Yes.  
9 Q. Is there any reason why you cannot give  
10 your most truthful, accurate, and complete  
11 testimony today?  
12 A. I don't see any reason that that should  
13 not be the case.  
14 Q. Do you understand that you are testifying  
15 as a corporate representative of Alphatec today?  
16 A. Yes.  
17 Q. And do you have -- we shipped you some  
18 documents. Do you have a box of documents?  
19 A. I do. I have it here.  
20 Q. Great. Have you opened that box yet?  
21 A. I have not, no.  
22 Q. Would you please just go ahead and open  
23 the box?  
24 A. (Witness complies.)  
25 Q. Thank you.

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1 Mr. Robinson, do you see that there are a  
2 number of sealed, numbered envelopes there?  
3 A. I do, yes.  
4 Q. So when we go through documents today, I  
5 will let you know which envelope has the document I  
6 am referencing so you will have it in hard copy.  
7 We're also going to put it up on a shared Box  
8 folder that will allow you to pull it up on your  
9 screen, if that's your preference.  
10 Is that all right?  
11 A. Yes, I like that option.  
12 Q. Okay. You prefer looking at it on the  
13 computer?  
14 A. Probably. Just probably a little quicker  
15 than digging through the stack here.  
16 (Exhibit 1 was marked for identification.)  
17 BY MS. DEVINE:  
18 Q. Sure. Makes sense.  
19 We're going to mark Tab 1 as Exhibit 1.  
20 Let's see if we can get it pulled up here. It  
21 should show up in the Box.  
22 A. I've got it here.  
23 Q. There it is.  
24 Mr. Robinson, do you recognize Exhibit 1?  
25 I believe -- I believe --

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1 Q. Could you tell me what it is, please?  
2 A. I believe it's the district court filing  
3 that is accusing Alphatec of patent infringement on  
4 accused implant products.  
5 Q. Sure.  
6 If you go to Page 5 of this document.  
7 A. Um-hmm.  
8 Q. It actually -- It's No. 5 at the bottom.  
9 It's actually more than Page 5 because there is a  
10 big introductory page.  
11 A. Page 5 of the --  
12 Q. Do you see --  
13 A. Page 5 of the document --  
14 Q. Well --  
15 A. -- or Page 5 of the PDF?  
16 Q. It's going to be Page 8 of the PDF which  
17 has a No. 5 at the bottom. It says "Matters for  
18 Examination," at the top.  
19 A. Got it.  
20 Q. There are a number of topics here. And  
21 I'm just going to walk you through the topics that  
22 I understand that you are designated to testify on  
23 behalf of Alphatec about; is that all right?  
24 MS. RAGHAVAN: And for the record I'll  
25 state that all of Mr. Robinson's testimony today

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1 will be subject to Alphatec's objections and  
2 responses to NuVasive's --  
3 MS. DEVINE: Fine.  
4 BY MS. DEVINE:  
5 Starting with Topic 1, which reads, "When  
6 and under what circumstances Alphatec first became  
7 aware of each of the implant patents in suit and  
8 what actions Alphatec took upon becoming aware of  
9 the implant patents in suit."  
10 Do you understand that you're designated  
11 to testify on behalf of Alphatec regarding that  
12 topic?  
13 A. Yes, I do.  
14 Q. And regarding that topic, what can you  
15 tell me?  
16 MS. RAGHAVAN: Objection. Vague.  
17 THE WITNESS: Could you restate the  
18 request?  
19 BY MS. DEVINE:  
20 Q. Sure.  
21 So I understand that you're designated to  
22 testify on behalf of Alphatec regarding when  
23 Alphatec first became aware of each of the implant  
24 patents in suit.  
25 Can you tell me when that was?

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