

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

NuVasive, Inc.,

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Plaintiff,

)

)

v.

)

Case No. 18-cv-0347-CAB-MDD

)

Alphatec Holdings, Inc. and Alphatec

)

Spine, Inc.,

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Defendants.

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**EXPERT REPORT OF BLAKE INGLISH
REGARDING COMMERCIAL SUCCESS
CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER**

November 1, 2019



Blake B. English

HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

“Revenues have increased over time due primarily to continued market acceptance of our products within our MAS platform...”²²

“Revenues have increased over time due primarily to continued market acceptance of our products within our MAS platform.... The continued adoption of minimally invasive procedures for spine has led to the continued expansion of our innovative lateral procedure known as eXtreme Lateral Interbody Fusion, or XLIF®, in which surgeons access the spine for a fusion procedure from the side of the patient’s body, rather than from the front or back.”²³

17. NuVasive’s revenue attributable to its XLIF procedure has continued to grow, such that it has generated approximately \$130 million to \$143 million annually from 2013 to 2018.²⁴ A recent industry report noted that “NuVasive’s popular XLIF® approach, which accounts for the vast majority [of] NuVasive’s revenue, is the most popular product in the LLIF segment.”²⁵ In addition, below is an excerpt from the March 30, 2018 declaration of Matt Link that provides insights into NuVasive’s sales revenue and volume sold of its MAS Platform/XLIF procedure:

Declaration of Matt Link²⁶

Today, however, NuVasive leads the minimally invasive lateral spinal fusion commercial market it created, conservatively estimated as a \$250-300 million dollar market, and many surgeons perform XLIF procedures on thousands of patients every year. Since its launch, over 163,000 XLIF procedures have been performed in the U.S. alone.

The driving force for NuVasive’s growth since 2003 has been XLIF. Ex. 19 (Excerpt from Minimally Invasive Interbody Device Market, iData Research Inc. (2010)) at 289 (“The majority of NuVasive’s revenue is directly related to XLIF procedures and its related devices. The XLIF procedure is the most rapidly growing MIS interbody fusion procedure, and comprised the vast majority of LLIF market share in 2009.”). The XLIF procedure historically and still today is a key component to NuVasive’s overall business success.²⁷

²² NuVasive Form 10-K for the years 2006 and 2007, p. 35.

²³ NuVasive Form 10-K for the years 2008 and 2009, p. 39.

²⁴ 2013: \$130 million, 2014: \$134 million, 2015: \$139 million, 2016: \$143 million, 2017: \$136 million, 2018: \$141 million. (NUVA_ATEC0236430).

²⁵ “U.S. Market Report Suite for Minimally Invasive Spinal Implants”, iData Research, June 2019, p. 173.

²⁶ 3/30/18 Declaration of Matthew Link in Support of Motion for Preliminary Injunction and supporting exhibits.

²⁷ 3/30/18 Declaration of Matthew Link in Support of Motion for Preliminary Injunction, para. 33-34.