

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NUVASIVE, INC., a Delaware
corporation,

Plaintiff,

v.

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

Defendants.

Case No.: 18-CV-347-CAB-MDD

VERDICT FORM

Answer each of the following Questions 1 through 6 following the jury instructions and the instructions given on this Verdict Form.

- “The ‘832 patent” refers to U.S. Patent No. 8,439,832.
- “The ‘801 patent” refers to U.S. Patent No. 7,819,801.
- “The ‘531 patent” refers to U.S. Patent No. 9,974,531.

We, the jury in the above-entitled action, find the following verdict on the questions submitted to us:

QUESTION 1 – INFRINGEMENT

Did NuVasive prove by a preponderance of the evidence that Alphatec infringed the following claims of the ‘801 and ‘531 patents?

Checking “Yes” below is finding for NuVasive on the issue; checking “No” below is finding for Alphatec on the issue.

‘801 Patent	(For NuVasive)	(For Alphatec)
Claim 1	Yes <u> ✓ </u>	No <u> </u>
Claim 2	Yes <u> ✓ </u>	No <u> </u>
Claim 15	Yes <u> ✓ </u>	No <u> </u>
Claim 16	Yes <u> ✓ </u>	No <u> </u>
Claim 26	Yes <u> ✓ </u>	No <u> </u>
‘531 Patent	(For NuVasive)	(For Alphatec)
Claim 1	Yes <u> ✓ </u>	No <u> </u>
Claim 39	Yes <u> ✓ </u>	No <u> </u>

Continue to Question 2.

QUESTION 2 – WILLFUL INFRINGEMENT

Did NuVasive prove by a preponderance of the evidence that Alphatec willfully infringed the ‘832, ‘801, or ‘531 patents?

Checking “Yes” below is finding for NuVasive on the issue; checking “No” below is finding for Alphatec on the issue.

	(For NuVasive)	(For Alphatec)
‘832 Patent	Yes <u> ✓ </u>	No <u> </u>
‘801 Patent	Yes <u> </u>	No <u> ✓ </u>
‘531 Patent	Yes <u> ✓ </u>	No <u> </u>

QUESTION 3 – INVALIDITY

Did Alphatec prove by clear and convincing evidence that any of the claims of the '832, '801, or '531 patents are invalid as obvious?

Checking "Yes" below is finding for Alphatec on the issue; checking "No" below is finding for NuVasive on the issue.

'832 Patent	(For Alphatec)	(For NuVasive)
Claim 1	Yes _____	No <u>✓</u>
Claim 3	Yes _____	No <u>✓</u>
Claim 9	Yes <u>✓</u>	No _____
Claim 10	Yes _____	No <u>✓</u>
'801 Patent	(For Alphatec)	(For NuVasive)
Claim 1	Yes _____	No <u>✓</u>
Claim 2	Yes <u>✓</u>	No _____
Claim 15	Yes <u>✓</u>	No _____
Claim 16	Yes <u>✓</u>	No _____
Claim 26	Yes _____	No <u>✓</u>

'531 Patent	(For Alphatec)	(For NuVasive)
Claim 1	Yes _____	No <u> ✓ </u>
Claim 39	Yes <u> ✓ </u>	No _____

For the '832 Patent, if you answered "No" for Question 3 (Invalidity) for any claim, then proceed to answer Questions 4-7.

For the '801 or '531 Patents, if you answered "Yes" for Question 1 (Infringement) for any claim, and answered "No" for Question 3 (Invalidity) for the same claim, then proceed to answer Questions 4-7.

Otherwise, do not answer the remaining questions and proceed to check and sign the Verdict Form at the end of this form.

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