

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

NUVASIVE, INC.

Petitioner

v.

WARSAW ORTHOPEDIC, INC.

Patent Owner

---

Case IPR2013-00206

Patent No. 8,251,997

---

**MOTION FOR OBSERVATION REGARDING CROSS-EXAMINATION  
OF MR. MILES**

Mail Stop "PATENT BOARD"  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

## Exhibits

<u>Exhibit No.</u>	<u>Description</u>
WARSAW2001	Excerpts from Deposition of Dr. Michelson, dated November 19, 2010
WARSAW2002	Letter to Dr. Michelson from J. Pafford, dated March 28, 1994.
WARSAW2003	Memorandum from Larry Boyd re: Michelson Devices - Interbody Fusion Devices, dated January 26, 1994
WARSAW2004	Dezider Imre Invoice, dated December 26, 1993
WARSAW2005	Memorandum from Larry Boyd re: Meeting with Dr. Gary Karlin Michelson, dated January 11, 1994
WARSAW2006	Memorandum from Larry Boyd re: Notes on Threaded Dowel Concepts of Dr. Michelson, dated January 11, 1994
WARSAW2007	Letter to Dr. Michelson from L. Boyd, dated January 13, 1994
WARSAW2008	Excerpts from Trial Testimony - <i>Warsaw Orthopedic, Inc. v. NuVasive, Inc.</i> , Case No. 08-CV-1512 MMA (MDD)
WARSAW2009	License Agreement between Sofamor Danek Group, Inc. and Karlin Technology, Inc., dated December 31, 1993
WARSAW2010	U.S. Patent No. 5,860,973

- WARSAW2011 Memorandum of Decision Following Bench Trial on Inequitable Conduct, *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD), dated February 14, 2012
- WARSAW2012 Excerpts from NuVasive's Reply in Support of Its Renewed Motion for Judgment as a Matter of Law or A New Trial, *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD), dated December 23, 2011
- WARSAW2013 Excerpts from NuVasive's Memorandum of Points and Authorities in Support of Its Renewed Motion for Judgment as a Matter of Law or a New Trial, *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD), dated October 27, 2011
- WARSAW2014 Excerpts from NuVasive's Closing Argument Regarding Inequitable Conduct Committed During the Prosecution of the '973 Patent, *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD), dated December 23, 2011
- WARSAW2015 Excerpts from NuVasive's Proposed Findings of Fact and Conclusions of Law Regarding the Unenforceability of U.S. Patent No. 5,860,973 for Inequitable Conduct, *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD), dated December 23, 2011
- WARSAW2016 Letter to R. Jansen from P. McAfee, M.D., dated January 16, 1995
- WARSAW2017 Excerpts from Deposition of Dr. Bruce E. Van Dam, dated January 27, 2011

::

WARSAW2018 U.S. Patent No. 4,573,448

WARSAW2019 Excerpts from Deposition of L. Boyd, dated February 18, 1999 from Sofamor Danek Holdings, Inc. v. U.S. Surgical Corp., Case No. 98-2369 GA (JSG) (W.D. Tenn.)

WARSAW2020 Excerpts from Deposition of L. Boyd, dated December 3, 2010 from *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD) (S.D. Cal.)

WARSAW2021 Excerpts from Deposition of D. Imre, dated October 5, 2001 from *Medtronic Sofamor Danek, Inc. v. Osteotech, Inc.*, Case No. 99-2656-GN (W.D. Tenn.)

WARSAW2022 Excerpts from Deposition of B. Estes, dated November 10, 2003 from *Medtronic Sofamor Danek, Inc. v. Karlin Technology, Inc.*, Case No. 01-2373-JPM (W.D. Tenn.)

WARSAW2023 Excerpts from Deposition of G. Michelson, dated November 19, 2010 from *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD) (S.D. Cal.)

WARSAW2024 Excerpts from Deposition of J. Pafford, dated April 3, 2003 from *Medtronic Sofamor Danek, Inc. v. Karlin Technology, Inc.*, Case No. 01-2373-JPM (W.D. Tenn.)

WARSAW2025 Excerpts from Trial Testimony- *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD) (S.D. Cal.)

WARSAW2026 Stipulation dated November 2, 2010 from *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD)

...

(S.D. Cal.)

- WARSAW2027 Excerpts from Deposition of L. Boyd, dated November 13, 2003 from *Medtronic Sofamor Danek, Inc. v. Karlin Technology, Inc.*, Case No. 01-2373-JPM (W.D. Tenn.)
- WARSAW2028 Excerpts from Trial Testimony- *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD) (S.D. Cal.)
- WARSAW2029 Ortho SuperSite entitled Migrated XLIF Cage: Case Report and Discussion of Surgical Technique, dated September 11, 2011
- WARSAW2030 Declaration of Dr. Paul McAfee. M.D . M.B.A (206)
- WARSAW2031 Declaration of Dr. Paul McAfee. M.D . M.B.A (208)
- WARSAW2032 U.S. Patent 8,251,997 (annotated)
- WARSAW2033 Excerpts from Trial Testimony- *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 08-CV-1512 MMA (MDD) (S.D. Cal.) (annotated)
- WARSAW2034 U.S. Patent 5,015,247 (annotated)
- WARSAW2035 Ortho SuperSite entitled Migrated XLIF Cage: Case Report and Discussion of Surgical Technique, dated September 11, 2011
- WARSAW2036 Dr. McAfee's Handwritten notes made during his deposition of December 7, 2013 and December 8, 2013

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.