

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

NUVASIVE, INC.  
Petitioner

v.

WARSAW ORTHOPEDIC, INC.  
Patent Owner

Patent Number: 8,251,997 B2

Issue Date: August 28, 2012

Title: METHOD FOR INSERTING AN ARTIFICIAL  
IMPLANT BETWEEN TWO ADJACENT VERTEBRAE  
ALONG A CORONAL PLANE

---

Case IPR2013-00206

Case IPR2013-00208

---

**PATENT OWNER'S PRESENTATION**

*NuVasive, Inc. v. Warsaw Orthopedic, Inc.*

United States Patent and Trademark Office

Patent Trial and Appeal Board

Case Nos. IPR2013-00206 and IPR2013-00208

Patent Owner's Presentation  
U.S. Patent No. 8,251,997

Case Nos.

IPR2013-00206 and IPR2013-00208

June 5, 2014

# Overview Of The Claims

- Direct lateral path
- Introduction of three surgical instruments in said path, one over the next
- Insertion of an implant that spans the full or substantially the full transverse width of adjacent vertebral bodies

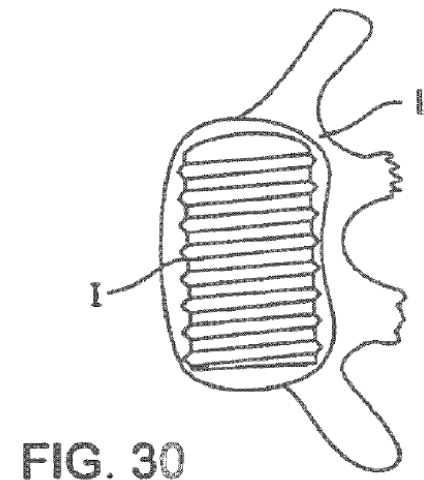


FIG. 30

'997 patent, Figs. 26 and 30  
Ex. 1002 at 19-20 (IPR2013-00206) (IPR2013-00208)  
Paper 32 at 3, 6-7, 9, 11, 19 (IPR2013-00206)  
Paper 29 at 3, 6-7, 9, 11, 19 (IPR2013-00208)

# "a path having an axis lying in a coronal plane passing through a lateral aspect ... to the transverse processes"



(12) **United States Patent** (10) Patent No.: **US 8,251,997 B2**  
**Michelson** (45) Date of Patent: **Aug. 28, 2012**

(54) **METHOD FOR INSERTING AN ARTIFICIAL IMPLANT BETWEEN TWO ADJACENT VERTEBRAE ALONG A CORONAL PLANE**

(75) Inventor: **Gary Karlin Michelson, Venice, CA (US)**

(73) Assignee: **Warsaw Orthopedic, Inc., Warsaw, IN (US)**

(\* Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **13046,583**

(22) Filed: **Nov. 29, 2011**

(65) **Prior Publication Data**  
 US 2012/0071984 A1 Mar. 22, 2012

**Related U.S. Application Data**

(60) Continuation of application No. 10/371,757, filed on Feb. 21, 2003, now Pat. No. 8,086,705, which is a continuation of application No. 08/180,461, filed on Jun. 7, 1995, now Pat. No. 7,491,205, which is a division of application No. 08/594,836, filed on Feb. 27, 1995, now Pat. No. 5,772,661.

(51) Int. Cl. (2006.01)  
**A61P 1/04**

(52) U.S. Cl. **606/53; 606/60; 606/245**

(58) **Field of Classification Search** **606/53; 606/60; 86 A; 246-250; 61; 62M16; 17**  
 See application file for complete search history.

(56) **References Cited**  
 U.S. PATENT DOCUMENTS  
 356,420 A 10 1885 Dille  
 1,137,585 A 4 1915 Craig

2,065,659 A 12 1936 Cullen  
 2,181,746 A 11 1939 Sebach  
 2,241,718 A 5 1941 Moore  
 2,514,685 A 7 1950 Mylar  
 2,537,070 A 1 1951 Longfellow  
 2,541,740 A 3 1951 Hays et al.  
 2,677,369 A 5 1954 Kowles  
 2,754,390 A 12 1956 Cleveland  
 2,789,558 A 4 1957 Rush  
 2,832,343 A 4 1958 Mose  
 2,842,131 A 7 1958 Smith  
 2,878,809 A 3 1959 Inace  
 2,919,692 A 1 1960 Ackerman 600-567  
 3,128,768 A 4 1964 Gostaus  
 3,298,372 A 1 1967 Furburg  
 3,426,304 A 2 1969 Lamb  
 3,486,505 A 12 1969 Monson  
 3,604,467 A 9 1971 Gilbert  
 3,605,123 A 9 1971 Haka  
 3,614,611 A 11 1971 Uban  
 3,709,219 A 1 1973 Hataea

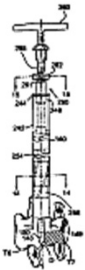
**FOREIGN PATENT DOCUMENTS**  
 DE 1 961 531 7 1970  
 (Continued)

**OTHER PUBLICATIONS**  
 U.S. Appl. No. 08/219,626, filed Mar. 1994, Michelson.  
 (Continued)

Primary Examiner — Michael A. Brown  
 (74) *Amosy, Egort, or Firo — Martin & Ferraro, LLP*

(57) **ABSTRACT**  
 A method for inserting an artificial implant between two adjacent vertebrae along a coronal plane.

**30 Claims, 14 Drawing Sheets**

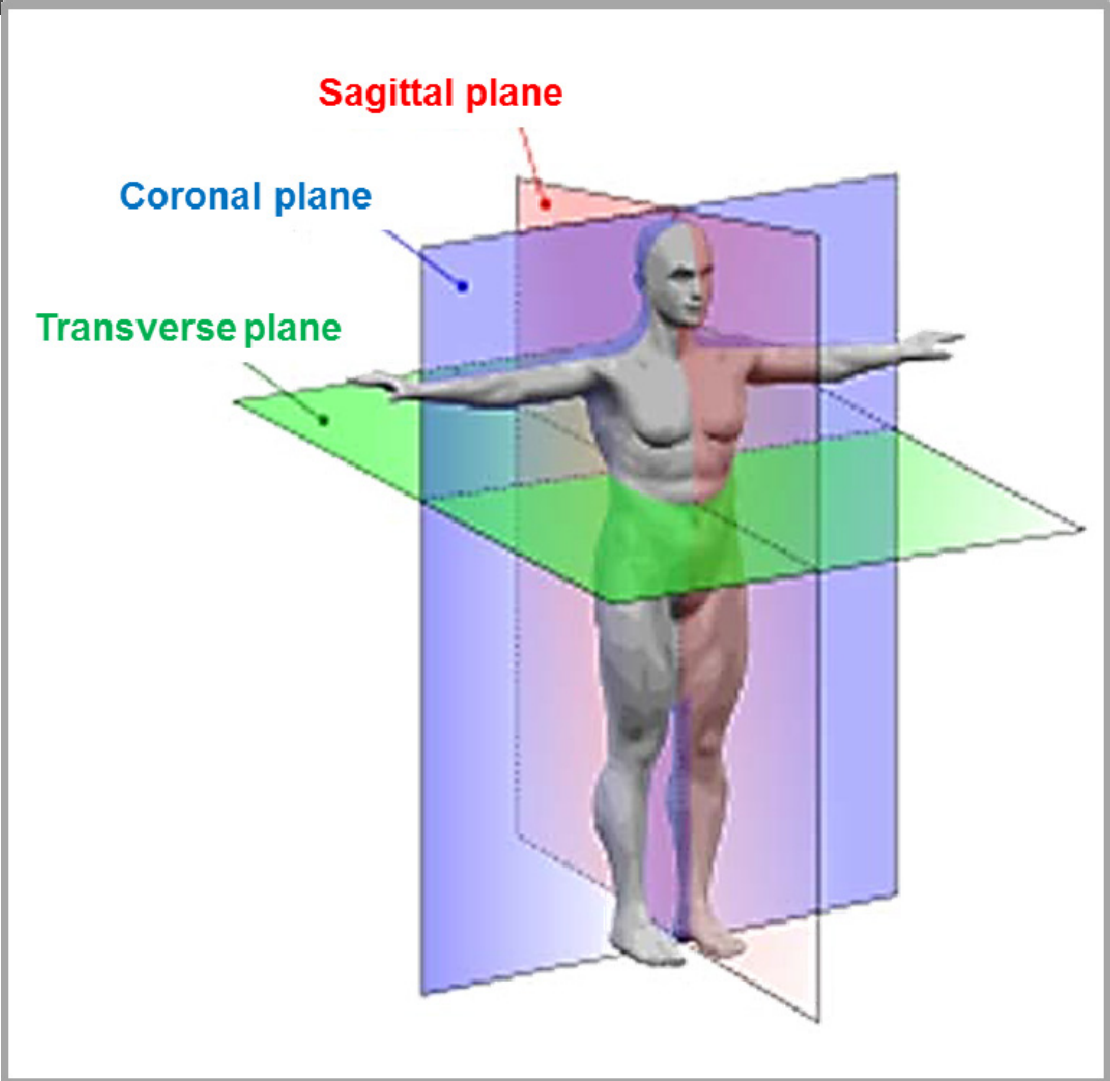


I claim:

1. A method comprising:  
 making an incision in skin of a patient's body to gain access to a disc space between two adjacent vertebrae located within a portion of one of a human thoracic or lumbar spine, said portion of one of the human thoracic or lumbar spine defined by the two adjacent vertebrae having an anterior aspect and a posterior aspect being divided by a first plane through transverse processes of the two adjacent vertebrae, the disc space having a depth measured from an anterior aspect to a posterior aspect of the disc space, each of the two adjacent vertebrae having a vertebral body having a transverse width perpendicular to the depth of the disc space, said incision being proximate an intersection of the skin and a path having an axis lying in a coronal plane passing through a lateral aspect and a medial aspect of the two adjacent vertebrae and anterior to the transverse processes;

'997 Patent at 22:47-23:30  
 NUVASIVE 1002 at 32-33 (IPR2013-00206) (IPR2013-00208)  
 Paper 32 at 10, 38 (IPR2013-00206)  
 Paper 29 at 7-8 (IPR2013-00208)

*“a path having an axis lying in a coronal plane passing through a lateral aspect ... to the transverse processes”*



# 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.