

**AFFIDAVIT OF MRS. NIMALKA R. WICKRAMASEKERA IN SUPPORT  
OF MOTION FOR PRO HAC VICE ADMISSION**

I, Nimalka R. Wickramasekera, being duly sworn and upon oath, hereby attest to the following:

1. I am a member in good standing of the Bar of California and Illinois, as well as the following Federal Courts:

U.S. Court of Appeals, Federal Circuit; U.S. Court of Appeals, Ninth Circuit; U.S. District Court, Central and Southern Districts of California; and U.S. District Court, District of Colorado.

2. I have not been suspended or disbarred from practice before any court or administrative body;

3. I have never had an application for admission to practice before any court or administrative body denied;

4. No sanction or contempt citation has been imposed against me by any court or administrative body;

5. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R.;

6. I will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a);

WARSAW 2063

7. I have applied to appear *pro hac vice* before the Office in the following proceedings in the last three (3) years:

*NuVasive, Inc. v. Warsaw Orthopedic, Inc.*, IPR2013-00395 (granted on February 25, 2014; Paper 18)

*NuVasive, Inc. v. Warsaw Orthopedic, Inc.*, IPR2013-00396 (granted on February 25, 2014; Paper 19);

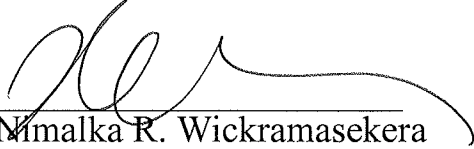
*NuVasive, Inc. v. Warsaw Orthopedic, Inc.*, IPR2013-00206 (filed concurrently herewith); and

8. I am an experienced litigation attorney, with experience in numerous lawsuits involving patent infringement in District Courts across the country, including experience in discovery, *Markman* hearings, dispositive motions, and jury and bench trials in patent infringement litigation. In particular, I have represented Patent Owner Warsaw in multiple patent infringement cases. My biography is attached hereto as Exhibit A.

I am counsel for Warsaw in the co-pending litigation in which U.S. Patent No. 8,251,997 is asserted against NuVasive, Inc. I am familiar with the subject matter at issue in this proceeding, including the prior art on which Petitioner relies in its request. Additionally, I have a B.S. in Molecular, Cell & Developmental Biology and several years of work experience as a biologist.

Respectfully Submitted,

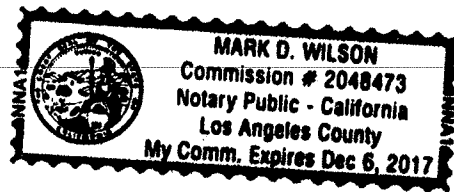
Dated: March 4, 2014

  
Nimalika R. Wickramasekera  
KIRKLAND & ELLIS LLP  
333 South Hope Street  
Los Angeles, CA 90071  
Telephone: (213) 680-8400

Sworn to and subscribed before me,  
this 4<sup>th</sup> day of MARCH, 2014.

  
Notary Public

My Commission Expires:



# EXHIBIT A



## Partner, Intellectual Property

Kirkland & Ellis LLP

Los Angeles, California

t: +1 213-680-8246

f: +1 213-680-8500

[nimalka.wickramasekera@kirkland.com](mailto:nimalka.wickramasekera@kirkland.com)

### Education

John Marshall Law School, J.D., 2006

- *magna cum laude*
- *The John Marshall Law Review*, Member
- Recipient of Dean's Scholarship & Fred F. Herzog Scholarship Awards

University of California, Los Angeles, B.S. Molecular, Cell & Developmental Biology, 1999

### Admissions & Qualifications

2006, Illinois

2009, California

### Courts

U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the Southern District of California

U.S. District Court for the Central District of California

U.S. District Court for the District of Colorado

United States Court of Appeals for the Ninth Circuit

## Nimalka Wickramasekera

Nimalka Wickramasekera's practice focuses on biotechnology and medical device patent litigation and technology-related matters for clients such as Amgen and Medtronic. Nimalka has successfully represented high-profile clients and examined technical and fact witnesses during complex intellectual property trials in Federal District Court; taken and defended key depositions of inventors, prosecution counsel and technical experts; written and successfully argued a variety of motions; briefed and prepared argument for claim construction issues; and prepared key fact and expert witnesses for trial. Recently, Nimalka successfully second-chaired the trial against NuVasive, Inc. in a patent dispute on behalf of Medtronic.

Nimalka concentrates her practice on patent and other technology-related litigation with a particular focus on chemical, pharmaceutical, biotechnology, and medical device matters. Representative of Nimalka's experience in these areas would be patent matters involving gene expression, protein synthesis, monoclonal antibodies, intracellular transcription factors, fuel tank inerting technologies, refrigerant technologies, and devices and instruments for use during surgery. Nimalka has also worked on a variety of copyright and trademark cases. She previously authored an article entitled "The Biosimilars Are Coming-But Is It By Land Or By Sea?" published in the Kirkland & Ellis LLP Biotech Update Spring 2009 edition.

### Publications and Speaking Engagements

"The Biosimilars Are Coming: But Is It By Land Or By Sea?" Biotech Update, May 2009.

"Public Use or Experimental Use: Are Clinical Trials Susceptible to Another Attack Similar to That in *Smithkline Beecham, Corp. v. Apotex Corp.*," 39 J. Marshall L. Rev. 149 (2005)

### Prior Experience

Research Biologist, Eli Lilly & Company, 2002–2003

Product Specialist, Abbott Laboratories, 2000–2002