

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

WARSAW ORTHOPEDIC, INC.,
Plaintiff,
vs.
NUVASIVE, INC.,
Defendant.

CASE NO. 3:08-CV-1512-CAB
(MDD)
ORDER GRANTING JOINT MOTION
FOR DISMISSAL
[Doc. No. 599]

WHEREAS Plaintiff Warsaw Orthopedic, Inc. and Defendant NuVasive, Inc. (collectively “the Parties”) seek dismissal of the counts in this action that pertain to Warsaw’s United States Patent No. 5,772,661 (“the ‘661 patent”); **IT IS HEREBY ORDERED**, pursuant to Fed. R. Civ. Proc. Rule 41(a)(1)(A)(ii) and (a)(1)(B), that:

1. Warsaw’s claims and defenses in this action that pertain to the ‘661 patent are dismissed in their entirety with prejudice.
2. NuVasive’s defenses and counterclaims in this action that pertain to the ‘661 patent are dismissed in their entirety without prejudice.
3. Each party shall bear its own costs and attorney’s fees relating to the ‘661 patent.

IT IS SO ORDERED.

DATED: July 12, 2013


CATHY ANN BENCIVENGO
United States District Judge