

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NUVASIVE, INC.  
Petitioner

v.

WARSAW ORTHOPEDIC, INC.  
Patent Owner

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Case IPR2013-00208  
Patent No. 8,251,997

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**MOTION FOR PRO HAC VICE ADMISSION  
UNDER 37 C.F.R. § 42.10**

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

The Patent Owner (“Warsaw”) respectfully requests that the Board recognize Mr. Luke L. Dauchot as counsel *pro hac vice* during this proceeding under 37 C.F.R. § 42.10. Warsaw seeks Mr. Dauchot’s assistance because of his experience assisting Warsaw on patent-related matters and his experience on the substantive and technical issues involved in this proceeding. This motion is authorized by the Notice of Filing Date Accorded to Petition and Notice for Setting the Time Period for Filing Patent Owner Preliminary Response mailed on March 25, 2013. *See* Notice, Paper 3 at 2-3.

### **1. Statement of Facts**

Mr. Dauchot is an experienced patent litigation attorney, with over 20 years of experience in discovery, jury and bench trials, Markman hearings, and appellate oral arguments in patent infringement matters. Mr. Dauchot is a member of the American Bar Association (Intellectual Property Law and Litigation Sections), American Intellectual Property Law Association, International Bar Association, Los Angeles Intellectual Property Law Association, and Judge Paul R. Michel Intellectual Property American Inn of Court (Executive Committee member). Mr. Dauchot’s biography, including a list of representative cases, distinctions, publications, and professional activities, is attached as Exhibit A.

U.S. Patent No. 8,251,997 is currently asserted against Petitioner NuVasive, Inc. in a co-pending litigation, *Warsaw Orthopedic, Inc., et al. v. Nuvasive, Inc.*, Case No. 3:12-cv-02738-CAB (MDD) (S.D. Cal.) (the “co-pending litigation”). Mr. Dauchot is lead counsel for Warsaw in the co-pending litigation and, as such, has an established familiarity with the subject matter at issue in this proceeding. Mr. Dauchot is also lead counsel in the related matter of *Medtronic v. NuVasive*, Case No. 3:08-cv-01512-MMA-AJB (S.D. Cal.) (the “related litigation”). In the related litigation, Mr. Dauchot deposed and examined at trial the declarant relied upon by Petitioner, as well as several authors of the prior art relied upon by the Petitioner on the subject of the prior art disclosures. Petitioner has relied upon excerpts of the transcript from the jury and bench trials in the related litigation. Accordingly, Patent Owner has expended significant financial resources in the co-pending and related litigations with Mr. Dauchot as lead counsel, and Patent Owner wishes to continue using Mr. Dauchot as counsel in this proceeding.

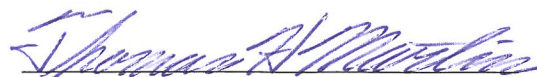
Therefore, there is good cause for the Board to recognize Mr. Dauchot as counsel *pro hac vice* during this proceeding.

**2. Affidavit or Declaration of Individual Seeking to Appear**

This Motion for *Pro Hac Vice* Admission is accompanied by an Affidavit of Mr. Luke L. Dauchot as required by the Order Authorizing Motion for *Pro Hac Vice* entered March 25, 2013.

Respectfully Submitted,

Dated: May 2, 2013



Thomas H. Martin  
Registration No. 34,383  
Attorney for Patent Owner  
MARTIN & FERRARO, LLP  
1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Motion for *Pro Hac Vice* Admission and copy of the Affidavit of Mr. Luke L. Dauchot in Support of Motion for *Pro Hac Vice* Admission was served in its entirety via electronic mail to APSI@fr.com (referencing Attorney Docket No. 13958-0112IP1):

Stephen R. Schaefer  
3200 RBC Plaza  
60 South Sixth Street  
Minneapolis, MN 55402

Michael T. Hawkins  
3200 RBC Plaza  
60 South Sixth Street  
Minneapolis, MN 55402

Date of Service: 2 MAY 13

Signature:   
Thomas H. Martin, Reg. No. 34,383