

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

Case IPR2013-00208

**OBJECTION TO EVIDENCE
UNDER 37 C.F.R. § 42.64(b)(1)**

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

In accordance with 37 C.F.R. § 42.64(b)(1), Patent Owner objects to the supplemental evidence served by NuVasive on October 21, 2013 under 37 C.F.R. § 42.62 and Federal Rule of Evidence 402 (relevance); 37 C.F.R. § 42.53 (uncompelled deposition testimony taken outside of the United States without the agreement of the parties or Board authorization); and 37 C.F.R. § 42.104(b)(5) (failure to state the relevance or identify specific portions of the evidence that support the challenge). These objections are timely served within 5 business days of NuVasive's October 21, 2013 service of supplemental evidence.

The Patent Trial and Appeal Board is hereby authorized to charge any fees associated with this proceeding to Deposit Account No. 50-3726 (Customer ID 22882).

Respectfully Submitted,

Dated: October 28, 2013

/Thomas H. Martin/

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 OBJECTION TO EVIDENCE UNDER 37 C.F.R. § 42.64(b)(1) was served in its entirety via electronic mail to APSI@fr.com (referencing Attorney Docket No. 13958-01121P1):

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: October 28, 2013

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