UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NUVASIVE, INC.
Petitioner

v.

WARSAW ORTHOPEDIC, INC.
Patent Owner

Patent Number: 8,444,696
Issue Date: May 21, 2013
ANATOMIC SPINAL IMPLANT HAVING
ANATOMIC BEARING SURFACES

Case IPR2013-00395

DECLARATION OF CHARLES L. BRANCH, JR., M.D.

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I, Charles L. Branch, Jr., M.D. of Winston-Salem, North Carolina declare that:

I. ASSIGNMENT.

1. I serve as Professor and Chairman of the Department of Neurosurgery at Wake Forest University School of Medicine. As illustrated below, my practice, teaching, and research interests have focused upon the treatment of spinal diseases and injuries.

2. I have been retained by counsel for Warsaw Orthopedic, Inc. ("Warsaw"). I understand that the Patent Trial and Appeal Board ("PTAB") has instituted two *inter partes* reviews of Warsaw's U.S. Patent No. 8,444,696 (the "'696 patent") based upon petitions filed by NuVasive, Inc. ("NuVasive" or "Petitioner"). The first *inter partes* review, IPR2013-00395, is directed to claims 1-6 (including independent claims 1 and 4) of the '696 patent, and the second *inter partes* review, IPR2013-00396, is directed to claims 7-12 (including independent claims 7 and 10) of the '696 patent.

3. I have been asked to opine on the subject of the validity of claims 1-12 in light of the grounds of rejection at issue in IPR2013-00395 and IPR2013-00396. I have also been asked to review and respond to the Declarations of Dr. John W. Brantigan, M.D. ("'395 Brantigan Declaration" and "'396 Brantigan Declaration") submitted in support of NuVasive's petitions for *inter partes* review.

4. In forming my opinions as set forth in this Declaration, I have relied upon my education, research, training, and experience in the area of spinal surgery. I have also relied upon my review and analysis of the prior art and information provided to me in connection with this case.

5. I am being compensated for my work as an expert with respect to this *inter partes* review, but my compensation is not contingent in any way on the content of my opinions or the outcome of this proceeding.

II. QUALIFICATIONS.

6. Presently, I am the Eben Alexander, Jr. Professor and Chair, Department of Neurosurgery, Wake Forest School of Medicine, and Co-Chair, Neuroscience Service Line, Wake Forest Baptist Medical Center. I am also currently serving my second term as a member of the Governing Board of the School of Biomedical Engineering of Wake Forest University and Virginia Polytechnic Institute, and my second term as member of the Board of Regents of Pepperdine University. I also serve as a founding Director of the Collaborative Spine Research Foundation, a multidisciplinary effort to establish funding resources for clinical spine research.

7. I received my Doctorate of Medicine from University of Texas Southwestern Medical University in 1981. My postdoctoral training included an internship at the Department of General Surgery at North Carolina Baptist Hospital

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