

Excerpt of Deposition of Patrick Miles,
Taken November 8, 2010

NON-CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

WARSAW ORTHOPEDIC, INC.,

Plaintiff,

vs.

NUVASIVE, INC.,

Defendant.

CASE NO.

3:08-CV-01512-MMA (AJB)

NUVASIVE, INC.,

Counterclaimant,

vs.

MEDTRONIC SOFAMOR DANEK
U.S.A., INC.; WARSAW
ORTHOPEDIC, INC.; MEDTRONIC
PUERTO RICO OPERATIONS CO.,
and MEDTRONIC SOFAMOR DANEK
DEGGENDORF, GmbH,

Counterclaim
Defendants.

AND RELATED COUNTERCLAIMS

CONFIDENTIAL INFORMATION - PATENT PROSECUTION SENSITIVE

VIDEOTAPE DEPOSITION OF
PATRICK MILES

MERRILL CORPORATION

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11:12:29 1 A Several.
 11:12:31 2 Q Name them.
 11:12:38 3 A Myself. That's the one I most recollect.
 11:12:53 4 Q You don't recall anyone else designing the
 11:12:56 5 CoRoent XL?
 11:12:57 6 A Do I remember the specific individuals who were
 11:13:02 7 designers on the -- on the project? I don't remember
 11:13:05 8 every individual who touched it.
 11:13:08 9 Q Do you recall whose idea it was to develop the
 11:13:10 10 CoRoent XL?
 11:13:15 11 A Do I remember whose idea it was to develop the
 11:13:17 12 CoRoent XL?
 11:13:19 13 MR. MILLER: Let me just object. That question
 11:13:21 14 is also beyond the scope of the noticed topic.
 11:13:24 15 To the extent you know the answer, you can say.
 11:13:26 16 BY MS. WICKRAMASEKERA:
 11:13:37 17 Q You can answer the question.
 11:13:44 18 A Are you asking me who was part of the design?
 11:13:49 19 Q Yes. Who was part of the initial design
 11:13:51 20 efforts on the CoRoent XL?
 11:13:53 21 A There are multiple individuals, of which I
 11:13:55 22 cannot recall all of them, nor can I recall what their
 11:14:00 23 specific input was on the device.
 11:14:02 24 Q Can you recall any of them?
 11:14:12 25 A Scott Martineli.

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11:11:24 1 noticed topic.
 11:11:26 2 THE WITNESS: First conceived?
 11:11:27 3 BY MS. WICKRAMASEKERA:
 11:11:28 4 Q Yes.
 11:11:29 5 A I don't know.
 11:11:35 6 Q When did design efforts first begin on the
 11:11:38 7 CoRoent XL?
 11:11:40 8 MR. MILLER: Objection; asked and answered.
 11:11:45 9 THE WITNESS: At some point between 2002 and
 11:11:47 10 2004.
 11:11:48 11 BY MS. WICKRAMASEKERA:
 11:11:48 12 Q So you don't know at what point between 2002
 11:11:52 13 and 2004 the CoRoent XL first began in the design phase?
 11:11:57 14 A It was greater than eight years ago. It's not
 11:12:00 15 something that I pull and reflect.
 11:12:03 16 Q Is this something that you prepared on to
 11:12:06 17 provide your corporate testimony today?
 11:12:07 18 A No.
 11:12:11 19 Q Who designed the CoRoent XL?
 11:12:14 20 A Who designed the CoRoent XL?
 11:12:16 21 Q Yes.
 11:12:20 22 A What do you mean by who designed the
 11:12:23 23 CoRoent XL?
 11:12:25 24 Q Which individuals were involved with designing
 11:12:27 25 the CoRoent XL?

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11:18:23 1 possibly fall within the scope of your topics. The
 11:18:26 2 parties had an agreement that prior to 30(b)(6)
 11:18:30 3 depositions, if any specific inquiries were to be made,
 11:18:34 4 the documents would be produced. We received no
 11:18:37 5 documents. So there was nothing for Mr. Miles to review
 11:18:41 6 other than the entirety of NuVasive's document archives
 11:18:44 7 which he was not going to do and has no obligation to
 11:18:47 8 do.
 11:18:48 9 BY MS. WICKRAMASEKERA:
 11:18:48 10 Q Mr. Miles, who were the NuVasive employees that
 11:18:51 11 were involved with development of the CoRoent
 11:18:53 12 XL-Standard?
 11:18:57 13 A To the best of my recollection, it would be
 11:19:01 14 Scott Martineli, Eric Finley, Matt Curran, Jared
 11:19:20 15 Arambula, Laetitia Cousins. It's such a broad question.
 11:19:35 16 There's so many people who were associated with the
 11:19:38 17 design and development of the -- of the product that I
 11:19:41 18 can't begin to name them all.
 11:19:44 19 Q Why did NuVasive design the CoRoent
 11:19:47 20 XL-Standard?
 11:19:53 21 MR. MILLER: Objection; overbroad and vague.
 11:19:55 22 Go ahead.
 11:19:56 23 THE WITNESS: Why?
 11:19:56 24 BY MS. WICKRAMASEKERA:
 11:19:57 25 Q Yes.

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11:19:58 1 A To fulfill a clinical obligation.
 11:20:03 2 Q And what was that clinical obligation?
 11:20:06 3 A Spine surgery -- it's a spine surgery device,
 11:20:10 4 and the clinical obligation was to restore the --
 11:20:15 5 restore the disc height.
 11:20:18 6 Q Was the CoRoent XL-Standard designed
 11:20:20 7 specifically for lateral access surgery?
 11:20:23 8 A Yes.
 11:20:30 9 Q And what --
 11:20:30 10 A Specifically for XLIF.
 11:20:31 11 Q Specifically. So the CoRoent XL-Standard was
 11:20:36 12 designed specifically for XLIF?
 11:20:38 13 A Uh-huh.
 11:20:38 14 Q And just for the record, could you tell me what
 11:20:41 15 XLIF stands for?
 11:20:42 16 A EXtreme Lateral Interbody Fusion.
 11:20:46 17 Q And who came up with the name XLIF?
 11:20:48 18 MR. MILLER: Objection; beyond the scope of the
 11:20:50 19 noticed topics. Counsel, if you could tell me which
 11:20:53 20 topics you're going to be inquiring about, that would
 11:20:55 21 help me either making or not objections to scope.
 11:21:00 22 MS. WICKRAMASEKERA: I'm still on topic 2 and
 11:21:02 23 XLIF is an accused product.
 11:21:03 24 MR. MILLER: We went over to 30 and now we're
 11:21:04 25 back to 2?

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11:23:37 1 MR. MILLER: Then it's beyond the scope.
 11:23:38 2 BY MS. WICKRAMASEKERA:
 11:23:38 3 Q You can answer the question.
 11:23:40 4 MR. MILLER: If you know in your individual
 11:23:42 5 capacity, you can answer the question.
 11:23:44 6 THE WITNESS: Please repeat the question.
 11:23:45 7 BY MS. WICKRAMASEKERA:
 11:23:46 8 Q The CoRoent XL-Standard comes in a range of
 11:23:49 9 lengths from 40 to 60 millimeters in 5-millimeter
 11:23:54 10 increments; is that right?
 11:24:21 11 It's not a guessing game. I'll make this
 11:24:23 12 easier on you. I'm handing you what's been previously
 11:24:31 13 marked as Ozgur Exhibit 9.
 11:24:40 14 A I don't understand by the guessing game
 11:24:42 15 comment. What's that mean?
 11:24:43 16 Q I meant that I wasn't asking you to remember
 11:24:47 17 the lengths. I can help you out by giving you a
 11:24:50 18 document.
 11:24:51 19 A You know, what you don't understand is that
 11:24:53 20 they've been different lengths over different times. So
 11:24:55 21 I was trying to answer the specificity of your question
 11:24:59 22 rather than speculate.
 11:25:00 23 Q I see. Okay. So what was the first range of
 11:25:02 24 lengths the CoRoent XL-Standard came in?
 11:25:05 25 A It was 40.

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11:25:06 1 MR. MILLER: And the question is beyond the
 11:25:07 2 scope of the noticed topic.
 11:25:09 3 THE WITNESS: Okay.
 11:25:12 4 BY MS. WICKRAMASEKERA:
 11:25:13 5 Q You can answer the question.
 11:25:14 6 A What's the question?
 11:25:16 7 Q What is the first range of lengths the CoRoent
 11:25:18 8 XL-Standard came in?
 11:25:20 9 A 40 and 45.
 11:25:28 10 Q And why did the CoRoent XL-Standard come in
 11:25:32 11 lengths 40 and 45 initially?
 11:25:34 12 MR. MILLER: Objection; beyond the scope of the
 11:25:36 13 noticed topics.
 11:25:39 14 THE WITNESS: Because that was the defined
 11:25:41 15 requirement.
 11:25:41 16 BY MS. WICKRAMASEKERA:
 11:25:42 17 Q And who defined the requirement for the lengths
 11:25:44 18 that the CoRoent XL-Standard would come in?
 11:25:47 19 A I did.
 11:25:47 20 MR. MILLER: Just, Mr. Miles, if you can pause
 11:25:49 21 before you answer so I can interpose an objection.
 11:25:52 22 My objection to the last question, it's beyond
 11:25:54 23 the scope of topic 2.
 11:25:57 24 BY MS. WICKRAMASEKERA:
 11:26:01 25 Q Now I'm referring specifically to the range of

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11:26:04 1 lengths that the CoRoent XL-Standard was first designed
 11:26:08 2 in. On what basis did you determine that the CoRoent
 11:26:11 3 XL-Standard should come in 40 and 45 millimeters?
 11:26:22 4 A Repeat the question, please.
 11:26:23 5 Q Referring specifically to the range of lengths
 11:26:25 6 that the CoRoent XL-Standard was first designed in, on
 11:26:29 7 what basis did NuVasive determine that the CoRoent
 11:26:32 8 XL-Standard should come in 40 and 45 millimeters?
 11:26:36 9 MR. MILLER: The question is beyond the scope
 11:26:38 10 of the noticed topic. If you can answer it, you may.
 11:26:41 11 Also overbroad. Also overbroad, I'm sorry.
 11:26:54 12 THE WITNESS: So repeat the question one more
 11:26:56 13 time.
 11:26:56 14 BY MS. WICKRAMASEKERA:
 11:26:56 15 Q Sure. Let me be a little more clear then.
 11:27:00 16 Why did NuVasive first design the CoRoent
 11:27:02 17 XL-Standard in 40 and 45-millimeter lengths?
 11:27:08 18 A To maximize the implant footprint.
 11:27:11 19 Q And what do you mean by "maximize the implant
 11:27:14 20 footprint"?
 11:27:16 21 A To make for the largest possible implant
 11:27:19 22 delivered.
 11:27:21 23 Q And is it your understanding that the largest
 11:27:25 24 possible implant delivered should rest on the cortical
 11:27:29 25 ring of the vertebra?

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11:29:16 1 specifics.
 11:29:33 2 Q You testified that NuVasive designed the
 11:29:36 3 CoRoent XL-Standard initially in 40 and 45 millimeters
 11:29:40 4 to make for the largest possible implant delivered. Did
 11:29:44 5 you mean the largest possible implant delivered
 11:29:47 6 laterally?
 11:29:49 7 A You mischaracterized my comments.
 11:29:52 8 Q Can you explain -- explain to me what you
 11:29:53 9 meant?
 11:29:54 10 A I didn't -- I didn't say that.
 11:30:02 11 Q When you testified that you were designing the
 11:30:05 12 largest implant possible, what did you mean?
 11:30:10 13 A I meant the largest footprint.
 11:30:19 14 Q And by footprint, you specifically mean how it
 11:30:22 15 rests on the vertebra?
 11:30:26 16 A I mean the amount of space it takes up as it
 11:30:29 17 relates to the vertebra.
 11:30:32 18 Q Does the largest footprint also include
 11:30:35 19 increasing the surface area for fusion or maximizing the
 11:30:39 20 surface area for fusion?
 11:30:41 21 MR. MILLER: Objection; vague.
 11:30:43 22 THE WITNESS: Please repeat the question.
 11:30:44 23 BY MS. WICKRAMASEKERA:
 11:30:48 24 Q When you testified that the CoRoent XL-Standard
 11:30:54 25 was designed to provide the largest footprint, implant

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11:27:31 1 MR. MILLER: Objection; calls for expert
 11:27:32 2 testimony, beyond the scope of topic 2.
 11:27:38 3 THE WITNESS: Repeat the question, please.
 11:27:39 4 BY MS. WICKRAMASEKERA:
 11:27:40 5 Q Actually, I'll ask you a different question.
 11:27:43 6 Did NuVasive design the CoRoent XL-Standard to
 11:27:48 7 rest on the cortical ring of the vertebra?
 11:27:51 8 MR. MILLER: Objection; vague.
 11:28:00 9 THE WITNESS: I recall that to be one of the
 11:28:01 10 design requirements.
 11:28:02 11 BY MS. WICKRAMASEKERA:
 11:28:03 12 Q What were the other design requirements for
 11:28:08 13 determining the length of the CoRoent XL-Standard?
 11:28:24 14 A How that it would sit on the body of the
 11:28:26 15 vertebra.
 11:28:30 16 Q What do you mean by that?
 11:28:32 17 A How it would be positioned as it relates to the
 11:28:40 18 body of the -- of the vertebra.
 11:28:44 19 Q Anything else?
 11:28:50 20 A How to revise it.
 11:28:56 21 Q And just for the record, can you explain what
 11:28:58 22 you mean by "revise"?
 11:29:00 23 A If you had to take it out.
 11:29:05 24 Q Anything else?
 11:29:12 25 A Nothing other than normal contouring type of

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11:31:01 1 footprint, are you also referring to maximizing the
 11:31:05 2 surface area for fusion?
 11:31:17 3 A Yes. It's one of several values that that has.
 11:31:24 4 Q And what are the other values?
 11:31:27 5 A Minimizing subsidence.
 11:31:33 6 Q Anything else?
 11:31:42 7 A I'm sure there's multiple. Off the top of my
 11:31:46 8 head, no.
 11:31:49 9 Q Now, with respect to minimizing subsidence, is
 11:31:51 10 it your understanding that in order for the CoRoent
 11:31:54 11 XL-Standard to minimize subsidence, it must rest on the
 11:31:58 12 cortical ring?
 11:31:59 13 MR. MILLER: Objection; calls for expert
 11:32:01 14 testimony, beyond the scope of the noticed topics.
 11:32:04 15 To the extent you can answer in your individual
 11:32:06 16 capacity, you may.
 11:32:07 17 THE WITNESS: It depends.
 11:32:08 18 BY MS. WICKRAMASEKERA:
 11:32:09 19 Q On what?
 11:32:09 20 A Bone quality, type of application, density of
 11:32:22 21 bone, surgical technique.
 11:32:35 22 Q Anything else?
 11:32:48 23 A Not to my knowledge.
 11:32:52 24 Q Now, when you say it depends on type of
 11:32:54 25 application, what are you referring to?

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11:34:04 1 any way disrupts the end plate, it will affect it.
11:34:33 2 Q How did NuVasive -- during the design of the
11:34:38 3 CoRoent XL-Standard, how did NuVasive come up
11:34:41 4 specifically with the lengths 40 and 45?
11:34:49 5 MR. MILLER: Objection; asked and answered.
11:34:51 6 Go ahead, tell her again.
11:34:55 7 THE WITNESS: How did we come up with them?
11:34:58 8 We -- trying to maximize the surface area, and so it was
11:35:07 9 guessed that 40 and 45 would accommodate the maximal
11:35:12 10 surface area.
11:35:13 11 BY MS. WICKRAMASEKERA:
11:35:13 12 Q The maximum surface area of what?
11:35:18 13 A Of the vertebral body.
11:35:20 14 Q Whose vertebral body?
11:35:23 15 A An average population.
11:35:31 16 Q What percentage of the average population?
11:35:33 17 MR. MILLER: Objection; calls for expert
11:35:36 18 testimony, beyond the scope of topic 2.
11:35:38 19 THE WITNESS: Please repeat the question.
11:35:40 20 BY MS. WICKRAMASEKERA:
11:35:45 21 Q When NuVasive designed the CoRoent XL to come
11:35:51 22 in 40 and 45 millimeters of length, what percentage of
11:35:57 23 the average population was the CoRoent XL designed for?
11:36:04 24 MR. MILLER: Objection; calls for expert
11:36:07 25 opinion, beyond the scope of topic 2.

11:41:33 1 A I specifically don't recall.
 11:41:35 2 Q And what was the feedback?
 11:41:41 3 A That 18 would accommodate a neurologic aperture
 11:41:48 4 to deliver the largest possible footprint.
 11:41:54 5 Q And what do you mean by neurologic aperture?
 11:42:00 6 A The distance between neural elements.
 11:42:16 7 Q And where are these neural elements that you're
 11:42:18 8 referring to located?
 11:42:21 9 MR. MILLER: Objection; beyond the scope of
 11:42:22 10 topic 2, calls for expert testimony.
 11:42:27 11 THE WITNESS: Please repeat the question.
 11:42:28 12 BY MS. WICKRAMASEKERA:
 11:42:29 13 Q And where are the neural elements that you're
 11:42:31 14 referring to located?
 11:42:36 15 A In the human body.
 11:42:38 16 Q Can you be any more specific?
 11:42:40 17 A Yes.
 11:42:41 18 Q Please do so.
 11:42:42 19 A In the psoas muscle.
 11:43:04 20 Q So when you testified that the surgeon feedback
 11:43:07 21 was that an 18-millimeter wide CoRoent XL-Standard would
 11:43:11 22 accommodate the neurological aperture to deliver the
 11:43:16 23 largest possible implant, are you specifically referring
 11:43:23 24 to an incision in the psoas muscle?
 11:43:32 25 MR. MILLER: Objection; mischaracterizes

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11:40:17 1 Q Now, when you say it depends upon how they
 11:40:20 2 applied the device, are you referring to the placement
 11:40:22 3 of the device on the vertebra?
 11:40:26 4 A Yes.
 11:40:30 5 Q And --
 11:40:30 6 MR. MILLER: Move to interpose, the question is
 11:40:33 7 beyond the scope of topic 2.
 11:40:35 8 THE WITNESS: Sorry.
 11:40:35 9 MR. MILLER: That's all right. My delay.
 11:40:37 10 BY MS. WICKRAMASEKERA:
 11:40:39 11 Q And when you -- when you testified that it
 11:40:42 12 depends on what for, are you referring to the diagnosis
 11:40:46 13 or indication?
 11:40:47 14 A Yes.
 11:40:47 15 MR. MILLER: Same objection.
 11:40:48 16 That time it was your fault. Slow down just a
 11:40:51 17 little bit.
 11:40:52 18 BY MS. WICKRAMASEKERA:
 11:41:01 19 Q What was the first width that the CoRoent
 11:41:04 20 XL-Standard was available in?
 11:41:07 21 A 18.
 11:41:14 22 Q How did NuVasive determine that the CoRoent
 11:41:15 23 XL-Standard should be designed in 18-millimeter width?
 11:41:25 24 A Through surgeon feedback.
 11:41:26 25 Q Which surgeons?

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12:20:56 1 THE WITNESS: I guess I don't know what you're
12:20:58 2 getting at. If an implant is 3 feet large and a patient
12:21:07 3 is 2 feet, then likely it would -- you'd have to split
12:21:11 4 the patient in half to get it in.
12:21:14 5 BY MS. WICKRAMASEKERA:
12:21:15 6 Q As a designer of the CoRoent XL-Standard, would
12:21:17 7 you consider an implant that's 35 millimeters wide too
12:21:21 8 wide to be used in an XLIF procedure?
12:21:24 9 MR. MILLER: Objection; calls for expert
12:21:26 10 testimony, beyond the scope of topic 2, lacks
12:21:30 11 foundation, calls for speculation, vague.
12:21:33 12 THE WITNESS: It didn't come up as a
12:21:36 13 requirement to reflect the needs of the surgery, so I
12:21:40 14 don't recall its contemplation.
12:21:42 15 BY MS. WICKRAMASEKERA:
12:21:46 16 Q Was the CoRoent XL-Standard designed initially
12:21:51 17 as a vertebral body replacement device?
12:22:04 18 A The -- the original design requirement was --
12:22:11 19 was what I discussed before which was to maximize the
12:22:23 20 footprint on the vertebral body.
12:22:24 21 Q Was the CoRoent XL-Standard designed as an
12:22:25 22 interbody fusion device then?
12:22:31 23 A It was designed to restore stability and
12:22:37 24 restore vertebral body height.
12:22:57 25 Q Do you have any understanding as to whether the

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12:27:42 1 BY MS. WICKRAMASEKERA:
 12:27:45 2 Q Was the CoRoent XL-Standard implant designed to
 12:27:48 3 be used as a total vertebral body replacement?
 12:27:58 4 A I'm unfamiliar with what a total vertebral body
 12:28:01 5 replacement is.
 12:28:17 6 Q What material is the CoRoent XL-Standard made
 12:28:20 7 of?
 12:28:24 8 A PolyEtherEther-Ketone.
 12:28:27 9 Q And why did NuVasive choose this material when
 12:28:30 10 designing the CoRoent XL implant?
 12:28:33 11 A Because it was of similar biomechanical nature
 12:28:39 12 as bone.
 12:28:50 13 Q Do you have any understanding as to why
 12:28:52 14 NuVasive sought clearance of the CoRoent XL as a
 12:28:55 15 vertebral body replacement?
 12:28:59 16 MR. MILLER: I'm sorry, could you repeat the
 12:29:01 17 question.
 12:29:02 18 (Record read as follows:
 12:29:10 19 "Q Do you have any understanding as to
 12:29:10 20 why NuVasive sought clearance of the CoRoent XL
 12:29:10 21 as a vertebral body replacement?")
 12:29:12 22 MR. MILLER: Objection; beyond the scope of
 12:29:14 23 topic 2, asks for expert testimony, assumes facts not in
 12:29:21 24 evidence.
 12:29:25 25 THE WITNESS: And I should say partial

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12:29:27 1 vertebral body replacement. So yes.
 12:29:31 2 BY MS. WICKRAMASEKERA:
 12:29:32 3 Q And what is your understanding?
 12:29:34 4 MR. MILLER: Same objections.
 12:29:35 5 THE WITNESS: That it would be used in that
 12:29:36 6 application.
 12:29:37 7 BY MS. WICKRAMASEKERA:
 12:29:39 8 Q So is it your understanding that NuVasive
 12:29:41 9 sought clearance to use a CoRoent XL implant as a
 12:29:44 10 partial body replacement?
 12:29:47 11 MR. MILLER: Same objections, beyond the scope.
 12:29:49 12 THE WITNESS: Yes.
 12:29:49 13 BY MS. WICKRAMASEKERA:
 12:29:51 14 Q And what is your understanding of what a
 12:29:53 15 partial vertebral body replacement is?
 12:29:57 16 MR. MILLER: Same objections.
 12:30:00 17 THE WITNESS: A partial vertebral body is a --
 12:30:03 18 a partial vertebral body replacement removes part of the
 12:30:08 19 vertebra and replaces it with an implant.
 12:30:11 20 BY MS. WICKRAMASEKERA:
 12:30:13 21 Q Now, why did you distinguish between a partial
 12:30:15 22 vertebral body replacement and a total vertebral body
 12:30:19 23 replacement?
 12:30:20 24 MR. MILLER: Same objections.
 12:30:28 25 THE WITNESS: I'm unfamiliar with the

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12:35:38 1 clearance for as a partial vertebral body replacement,
12:35:41 2 did you consider whether the CoRoent XL implant could be
12:35:48 3 used as a vertebral body replacement?
12:35:51 4 MR. MILLER: Objection; beyond the scope of
12:35:53 5 topic 2, calls for expert testimony, assumes facts not
12:35:57 6 in evidence, lacks foundation, calls for speculation,
12:36:01 7 vague, overbroad, incomprehensible.
12:36:07 8 BY MS. WICKRAMASEKERA:
12:36:07 9 Q Go ahead.
12:36:10 10 A I don't understand the question.
12:36:11 11 Q You testified that the CoRoent XL-Standard --
12:36:13 12 withdrawn.
12:36:14 13 You testified that NuVasive had at some point
12:36:17 14 sought clearance from the FDA for the CoRoent
12:36:22 15 XL-Standard to be used as a partial vertebral body
12:36:26 16 replacement; is that correct?
12:36:29 17 A Can you read back exactly what I said?
12:36:33 18 Q Do you know the answer to the question?
12:36:36 19 A You asked if I testified to the fact, and I'm
12:36:39 20 asking you to read back what I said which would
12:36:43 21 accommodate, you know, us agreeing on what I stated.
12:36:45 22 Q Sure. Let's just ask the question again.
12:36:49 23 Did NuVasive at any point seek clearance from
12:36:51 24 the FDA for the CoRoent XL-Standard to be used as a
12:36:55 25 partial vertebral body replacement?

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12:36:58 1 MR. MILLER: Objection; beyond the scope of
12:36:59 2 topic 2.
12:37:00 3 THE WITNESS: Yes.
12:37:00 4 BY MS. WICKRAMASEKERA:
12:37:03 5 Q When designing the CoRoent XL implant for use
12:37:06 6 as a partial vertebral body replacement, did NuVasive
12:37:17 7 consider whether the CoRoent XL implant could also be
12:37:18 8 used as a vertebral body replacement?
12:37:21 9 MR. MILLER: Objection; beyond the scope of
12:37:23 10 topic 2, lacks foundation, calls for speculation, vague.
12:37:31 11 THE WITNESS: Can you repeat the specific
12:37:32 12 question?
12:37:32 13 BY MS. WICKRAMASEKERA:
12:37:33 14 Q Sure. Actually, let me rephrase the question.
12:37:40 15 Did NuVasive consider whether the CoRoent XL
12:37:43 16 implant could be used as a vertebral body replacement?
12:37:47 17 MR. MILLER: Same objections.
12:37:49 18 THE WITNESS: At what point in time?
12:37:50 19 BY MS. WICKRAMASEKERA:
12:37:51 20 Q At any point.
12:37:53 21 MR. MILLER: Same objections.
12:38:01 22 THE WITNESS: When we -- repeat the question
12:38:04 23 again.
12:38:05 24 BY MS. WICKRAMASEKERA:
12:38:09 25 Q Did NuVasive at any point consider whether the

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12:41:34 1 see around it. I guess I said that, profile. Off the
 12:41:40 2 top of my head, fundamentally that's it.
 12:41:43 3 BY MS. WICKRAMASEKERA:
 12:41:48 4 Q When NuVasive was designing the CoRoent XL
 12:41:51 5 implant and the tools for inserting the CoRoent XL
 12:41:55 6 implant, did NuVasive specifically have the lateral
 12:41:58 7 approach in mind?
 12:41:59 8 A For the CoRoent XL?
 12:42:01 9 Q Yes.
 12:42:02 10 A Yes.
 12:42:04 11 Q Could the CoRoent XL be inserted using an
 12:42:11 12 approach other than XLIF?
 12:42:14 13 MR. MILLER: Objection; beyond the scope of
 12:42:18 14 topic 2, calls for speculation, calls for expert
 12:42:21 15 testimony, lacks foundation, calls for speculation.
 12:42:26 16 THE WITNESS: Yes.
 12:42:26 17 BY MS. WICKRAMASEKERA:
 12:42:27 18 Q What other approaches can the CoRoent XL be
 12:42:30 19 used for?
 12:42:31 20 MR. MILLER: Same objections.
 12:42:36 21 THE WITNESS: Anteriorly.
 12:42:39 22 BY MS. WICKRAMASEKERA:
 12:42:40 23 Q Any other approaches?
 12:42:42 24 A Safely. Are you asking safely or any other
 12:42:47 25 approaches?

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12:42:48 1 Q Any other approaches.
 12:42:49 2 A It can be put in for several different types of
 12:42:53 3 approaches. The question is, do you want to do it
 12:42:56 4 safely or not.
 12:42:57 5 Q I see. Well, let's run through the list of
 12:43:00 6 approaches first.
 12:43:02 7 Can the CoRoent XL implant be inserted
 12:43:03 8 anteriorly?
 12:43:05 9 A Yes.
 12:43:05 10 Q Can it be inserted --
 12:43:06 11 MR. MILLER: Pause.
 12:43:07 12 THE WITNESS: Sorry.
 12:43:07 13 BY MS. WICKRAMASEKERA:
 12:43:07 14 Q Can the CoRoent XL implant be inserted using a
 12:43:13 15 PLIF?
 12:43:14 16 MR. MILLER: Objection. It's beyond the scope
 12:43:15 17 of the topics, calls for expert testimony, vague,
 12:43:19 18 overbroad as well.
 12:43:20 19 Go ahead.
 12:43:21 20 THE WITNESS: Yes.
 12:43:21 21 BY MS. WICKRAMASEKERA:
 12:43:23 22 Q Can a CoRoent XL-Standard be inserted using
 12:43:27 23 TLIF procedure?
 12:43:32 24 MR. MILLER: Same objections.
 12:43:32 25 THE WITNESS: Yes.

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15:28:24 1 with the TLIF procedure?
15:28:27 2 MR. MILLER: Objection; incomprehensible,
15:28:29 3 vague, beyond the scope.
15:28:31 4 MS. WICKRAMASEKERA: Actually, I withdraw the
15:28:33 5 question.
15:28:34 6 Q Does NuVasive market the CoRoent XL for use in
15:28:37 7 the XLIF as a significantly bigger cage than the cage
15:28:43 8 that can be used with the TLIF procedure?
15:28:49 9 A Yes, generally speaking.
15:29:07 10 Q Does the CoRoent XL implant have apertures in
15:29:11 11 it?
15:29:12 12 MR. MILLER: Objection; vague, calls for a
15:29:16 13 legal conclusion. Just a moment.
15:29:23 14 Beyond the scope, at least topic 3 which is
15:29:30 15 where we were just at.
15:29:40 16 THE WITNESS: If you're asking me if there's
15:29:42 17 holes in the cage, there are, yes.
15:29:44 18 BY MS. WICKRAMASEKERA:
15:29:44 19 Q What's that I'm asking.
15:29:45 20 What is the purpose of the openings in the
15:29:48 21 cage?
15:29:50 22 MR. MILLER: Objection; beyond the scope.
15:29:54 23 THE WITNESS: They are for the application of
15:30:02 24 biologic material, be it allograft, to provide for
15:30:12 25 predictable fusion environment.

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