

BEFORE THE PATENT TRIAL AND APPEAL BOARD  
UNITED STATES PATENT AND TRADEMARK OFFICE

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4	MEDTRONIC, INC.,	)	
5		)	Case IPR2014-00034
6	Plaintiff,	)	Case IPR2014-00073
7		)	Case IPR2014-00074
8	VS.	)	Case IPR2014-00075
9		)	Case IPR2014-00081
10	NUVASIVE, INC.,	)	Case IPR2014-00087
11		)	
12	Defendant.	)	
13	_____	)	

DEPOSITION OF PATRICK S. MILES  
San Diego, California  
Thursday, September 4, 2014

Job No: 83789  
Reported by: NIKKI ROY  
CSR No. 3052

1 THE WITNESS: That it responded to the  
2 requirements of the respective surgery.

3 BY MR. OLIVER:

4 Q. And how did it do that?

5 MR. MILLER: Objection; form and scope.

6 THE WITNESS: You would have to tell me  
7 exactly what implant you're describing.

8 BY MR. OLIVER:

9 Q. The CoRoent XL implant.

10 A. There are multiple CoRoent XL implants.

11 Q. Different sizes?

12 A. Yes.

13 Q. Okay. Can you give me an example of one?

14 A. One of -- one of many. In terms of a size,  
15 do you want a size?

16 Q. Sure.

17 A. 10 by 22 by 55.

18 Q. Okay. And what features of that particular  
19 implant were specialized so as to pioneer the market  
20 for lateral transpsoas interbody fusion?

21 MR. MILLER: Objection; form and scope.

22 THE WITNESS: One of them was that there is  
23 an anti-expulsion mechanism.

24 BY MR. OLIVER:

25 Q. And what's an anti-expulsion mechanism?

1           A.     In the -- a screw that engaged the  
2 intervertebral body.

3           Q.     Is there a screw that engaged the  
4 intervertebral body?

5           A.     Yes.

6           Q.     What features did you personally design of  
7 the CoRoent XL implant?

8           MR. MILLER:   Objection; form and scope.

9           THE WITNESS:   10 years ago, I wrote the  
10 requirements for it. I don't specifically recall the  
11 individual contributions to the specific implants in  
12 2004 or 5.

13 BY MR. OLIVER:

14           Q.     And turn to page 8 of that declaration,  
15 still within the same paragraph 10. Do you see in  
16 the second and third lines, it says (reading):

17                       The total CoRoent XL implant  
18 revenues from 2005 through 2013  
19 totaled hundreds of millions of  
20 dollars.

21                       Do you see that?

22           A.     Yes.

23           Q.     Yes. When you refer to the hundreds of  
24 millions of dollars of revenue, does that include all  
25 interbody fusion products?

1 MR. MILLER: Objection; form and scope.

2 THE WITNESS: I'd say the intended  
3 reflection of that statement is the entire portfolio  
4 of CoRoent XL.

5 BY MR. OLIVER:

6 Q. Does it exclude, for instance, biologics?

7 MR. MILLER: Objection; form and scope.

8 THE WITNESS: The intended reflection of  
9 that communication was to demonstrate commercial  
10 success, which is the end of that sentence, and so  
11 the intention was to -- to communicate that -- that  
12 the acceptance of the procedure was very high.

13 BY MR. OLIVER:

14 Q. I'm asking specifically about the number you  
15 mention you mentioned, hundreds of millions of  
16 dollars. Is that for implant sales alone or does it  
17 include other sales?

18 MR. MILLER: Objection; scope.

19 THE WITNESS: I don't recall exactly whether  
20 the hundreds of millions of dollars meaning have we  
21 sold -- have we sold -- have we created a lot of  
22 revenue from the procedure? We have. You know, the  
23 intent was that oftentimes the currency of what  
24 people pay for is the implant, and so I think I was  
25 intending to say there was great commercial success

1 based upon a revenue contribution.

2 BY MR. OLIVER:

3 Q. Okay. And revenue contribution from the  
4 implant?

5 MR. MILLER: Objection; form and scope.

6 THE WITNESS: The intent of that comment was  
7 to communicate commercial success. And -- and did we  
8 generate revenue with a myriad of implants? We did.  
9 Beyond that, I -- I'm not sure exactly what you're  
10 getting at.

11 BY MR. OLIVER:

12 Q. Okay. That's fine.

13 Can you turn to, in the binder in front of  
14 you, Exhibit 1032. Can you identify this document?

15 A. It appears like a 10-K.

16 Q. From NuVasive?

17 A. It appears as such.

18 Q. And it's from 2005; is that correct?

19 A. Yes.

20 Q. Can you turn to page 18 of that document?

21 The middle paragraph there, beginning "Our fixation  
22 system," do you see that?

23 A. I do.

24 Q. It states, (reading):

25 Our fixation systems have been

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