

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC.
Petitioner

v.

NUVASIVE, INC.
Patent Owner

Case IPR2013-00506
Patent 8,361,156

**MOTION FOR OBSERVATION REGARDING CROSS-EXAMINATION
OF RICHARD A. HYNES, M.D.**

EXHIBITS

Ex. #	Exhibit Description
NUVA 2101	U.S. Patent No. 7,905,840 to Pimenta et al.
NUVA 2102	Declaration in Support of the <i>Pro Hac Vice</i> Admission of Michael A. Amon; Declaration of Charles Forthaus (Not Filed)
NUVA 2103	Vetebral Spacer-PR Brochure (Not Filed)
NUVA 2104	Forthaus Memo regarding Vertebral Spacer-PR Brochure (Not Filed)
NUVA 2105	myspinetools.com front page (Not Filed)
NUVA 2106	myspinetools.com Terms of Use (Not Filed)
NUVA 2107	Launch Binder (Not Filed)
NUVA 2108	Webpage Toad MySQL (Not Filed)
NUVA 2109	Reserved
NUVA 2010	U.S. Patent 8,512,408 (Hynes) (Not Filed)
NUVA 2011	Synthes SVS-PR Guide
NUVA 2012	Medtronic Sofamor Danek Boomerang brochure
NUVA 2013	Hynes Deposition Transcript
NUVA 2014	510(k) Summary Medtronic Sofamor Danek K122037
NUVA 2015	510(k) Summary Telamon® PEEK Spinal System K110562
NUVA 2016	Synthes Vertebral Spacer – AR Brochure
NUVA 2017	DePuy Spine Saber Surgical Technique Brochure
NUVA 2018	Declaration of Barton L. Sachs, M.D. in IPR2013-00206

NUVA 2019	Moro, et al., “An Anatomic Study of the Lumbar Plexus with Respect to Retroperitoneal Endoscopic Surgery”
NUVA 2020	Declaration of Dr. Hansen A. Yuan, M.D.
NUVA 2021	Curriculum Vitae of Dr. Hansen A. Yuan, M.D.
NUVA 2022	NuVasive - CoRoent XL Brochure
NUVA 2023	Redacted Engineering Drawings
NUVA 2024	Redacted Deposition of Steven DeRidder
NUVA 2025	Clydesdale® Spinal System Brochure
NUVA 2026	Clydesdale® Spinal System Images
NUVA 2027	Medtronic Direct Lateral Interbody Fusion DLIF Surgical Technique Brochure
NUVA 2028	Medtronic DILF-Direct Lateral Interbody Fusion Brochure
NUVA 2029	Clydesdale® Spinal System Image
NUVA 2030	Declaration of Patrick Miles
NUVA 2031	Declaration of Theodore G. Obenchain, M.D.
NUVA 2032	The Relationship between Cross Sectional Area and Strength of Back Muscles in Patients with Chronic Low Back Pain
NUVA 2033	Printout, U.S. News & World Report
NUVA 2034	Lumbar Vertebral Body Replacement
NUVA 2035	Lumbar – Minimally Invasive Approach (PLIF)
NUVA 2036	Mathews Deposition Transcript (non-confidential portion)
NUVA 2037	Second Hynes Deposition Transcript
NUVA 2038	Josse Deposition Transcript

NUVA 2039	Patent Owner's Objection to Evidence Under 37 CFR § 42.64(b)(1), dated 9/12/2014
NUVA 2040	Email from Michael A. Amon to Jeff E. Schwartz, dated 9/9/2014

NuVasive, Inc. (“Patent Owner”) submits this motion for observation regarding cross-examination during the September 30, 2014 deposition of Richard A. Hynes, a reply declarant of Medtronic, Inc. (“Petitioner”). Patent Owner submits the following observations based on Dr. Hynes’ testimony.

Observation #1

In Ex. 2037, at 26:23-29:10 and 185:8-12, Dr. Hynes testified to his financial relationship with Petitioner and in particular at 185:8-12 he testified that he may have been paid \$767,000 in a single twelve month period. That testimony is relevant to ¶ 1 of Dr. Hynes’ first declaration where he claims to be an independent expert because it is evidence that Dr. Hynes cannot be a truly independent, unbiased expert on matters involving Medtronic as a party.

Observation #2

In Ex. 2037, at 176:24-177:11 and 178:2-6, Dr. Hynes testified that he knows Dr. Hal Mathews and thinks highly of him. That testimony is relevant to the expertise and credibility of Dr. Hansen Yuan, who provided expert testimony in Ex. 2020. The testimony is relevant because of Dr. Mathews’ under oath testimony in Ex. 2036 (deposition transcript where Dr. Mathews was testifying on behalf of Petitioner in a different proceeding) praising Dr. Yuan’s accomplishments and

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