

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MEDTRONIC, INC.

Petitioner

v.

NUVASIVE, INC.

Patent Owner

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Case IPR2013-00506

Patent 8,361,156

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**PETITIONER'S RESPONSE TO PATENT OWNER'S  
MOTION TO EXCLUDE EVIDENCE**

**EXHIBITS**

MSD 1101 – Declaration of Richard Hynes, M.D. Regarding U.S. Patent No. 8,361,156

MSD 1102 – Declaration of Mary Phelps Regarding Telamon Verte-Stack PEEK Vertebral Body Spacer

MSD 1103 – U.S. Patent Application Publication No. 2002/0165550

MSD 1104 – U.S. Patent Application Publication No. 2003/0028249

MSD 1105 – U.S. Patent No. 5,860,973

MSD 1106 – Synthes Vertebral Spacer-PR Brochure

MSD 1107 - Telamon Verte-Stack PEEK Vertebral Body Spacer Brochure

MSD 1108 – Telamon Implantation Guide

MSD 1109 – Prosecution History of U.S. Patent No. 8,187,334

MSD 1110 – Prosecution History of U.S. Patent No. 7,918,891

MSD 1111 – First Amended Complaint, filed on October 6, 2008, and Judgment Following Jury Verdict, entered on September 29, 2011, in *Warsaw Orthopedics, Inc. v. NuVasive, Inc.*, Case No. 3:08-CV-01512, Southern District of California

MSD 1112 – *Curriculum Vitae* of Richard Hynes, M.D.

MSD 1113 – S.H. Zhou et al., *Geometrical Dimensions of the Lower Lumbar Vertebrae – Analysis of Data from Digitised CT Images*, 9 EUR SPINE J 242, 244 (2000)

MSD 1114 – U.S. Patent No. 6,241,770

MSD 1115 – U.S. Patent No. 8,361,156

MSD 1116 – Declaration of Loic Josse

MSD 1117 – Jie Zhao et al., *Posterior Lumbar Interbody Fusion Using Posterolateral Placement of a Single Cylindrical Threaded Cage*, 25(4) SPINE 425 (2000)

MSD 1118 – Premarket Approval Suppl. Decision for BAK Interbody Fusion System

MSD 1119 – [Reserved]

MSD 1120 – VerteStack System Brochure

MSD 1121 – [Reserved]

MSD 1122 – [Reserved]

MSD 1123 – Butterfly Surgical Technique

MSD 1124 – [Reserved]

MSD 1125 – [Reserved]

MSD 1126 – [Reserved]

MSD 1127 – [Reserved]

MSD 1128 – [Reserved]

MSD 1129 – U.S. Patent No. 6,723,097

MSD 1130 – [Reserved]

MSD 1131 – U.S. Patent No. 8,623,088

MSD 1132 – NuVasive Maximum Access Surgery Tranforaminal Lumbar Interbody Fusion Booklet

MSD 1133 – European Patent Application No. 1290985A2

MSD 1134 – VerteStack 510k – K031780

MSD 1135 – Sulzer Spine-Tech BAK Interbody Fusion System Brochure

MSD 1136 – Shih-Tien Wang et al., *Comparison of Stabilities between Obliquely and Conventionally Inserted Bagby and Kuslich Cages as Posterior Lumbar Interbody Fusion in a Cadaver Model*, 66 J. CHIN. MED. ASSOC. 676 (2003)

MSD 1137 – Zimmer Spine BAK Interbody Fusion Systems Brochure

MSD 1138 – BAK PMA Clearance – p950002

MSD 1139 – Jie Zhao et al., *Posterior lumbar interbody fusion using one diagonal fusion cage with transpedicular screw/rod fixation*, 12 EUR. SPIN J. 173 (2003)

MSD 1140 – NuVasive XLIF Surgical Technique – MaXcess II

MSD 1141 – NuVasive XLIF Surgical Technique – MaXcess

MSD 1142 – [Reserved]

MSD 1143 – NuVasive CoRoent XL 510k – K043405

MSD 1144 – [Reserved]

MSD 1145 – NuVasive XLIF Fact Sheet

MSD 1146 – Synthes Vertebral Spacer 510k – K011037

MSD 1147 – [Reserved]

MSD 1148 – U.S. Patent No. 5,772,661

MSD 1149 – [Reserved]

MSD 1150 – U.S. Patent No. 5,484,437

MSD 1151 – [Reserved]

MSD 1152 – Excerpt of Deposition of Richard Hynes, M.D.

MSD 1153 – [Reserved]

MSD 1154 – Diagram

MSD 1155 – Diagram

MSD 1156 – Diagram

MSD 1157 – Second Declaration of Dr. Richard A. Hynes

MSD 1158 – Zdeblick Documents

MSD 1159 – Sulzer Spine-Tech 2000 Price List

MSD 1160 – Excerpt of Declaration of Dr. John W. Brantigan, M.D., filed in IPR2013-00395 as Exhibit 1001

MSD 1161 – Excerpt of Trial Transcript in *Medtronic Sofamor Danek, USA v. NuVasive, Inc.*, Case No. 08-CV-1512-MMA (S.D. Cal.) on September 1, 2011

MSD 1162 – Record of Oral Hearing in *NuVasive Inc. v. Warsaw Orthopedic, Inc.*, IPRs 2013-0026 and -00208, Paper 64 (PTAB June 5, 2014)

MSD 1163 – Excerpt of NuVasive, Inc.’s Opening Brief filed in *Warsaw Orthopedic, Inc. v. NuVasive, Inc.*, Case No. 2013-1576 (Fed. Cir.) on February 3, 2014

MSD 1164 – Excerpt of Second Declaration of Dr. Paul McAfee, filed in IPR2013-00206 as Exhibit 1029

MSD 1165 – Declaration of Patrick Miles, filed in IPR2013-00206 as Exhibit 1032

MSD 1166 – NuVasive, Inc.’s Objections and Responses to Plaintiffs’ Second Set of Interrogatories (Nos. 11-13), served July 8, 2013

MSD 1167 – NuVasive Inc.’s Answering Brief in Opposition to Globus Medical, Inc.’s Motion for Partial Summary Judgment (Dkt. No. 216), filed in

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