

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

**PATENT OWNER NUVASVE INC.'S
PRELIMINARY RESPONSE**

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 A. Medtronic failed to show the primary reference (SVS-PR) cited in Ground 1 was publicly available before the priority date of the '156 patent. 14

 B. Medtronic failed to show the primary references (Telamon) cited in Ground 2 were publicly available before the priority date of the '156 patent. 15

VIII. THE PRIOR ART COMBINATIONS CITED BY MEDTRONIC UNDER ALL GROUNDS 1-2 FAILS TO PROVIDE THE CLAIMED IMPLANT WHERE THE LONGITUDINAL LENGTH IS GREATER THAN 40 MM, AS RECITED IN CLAIM 518

 A. All Grounds relying upon Frey against claim 5 fail to disclose or suggest the claimed implant having a longitudinal length greater than 40 mm 19

 B. The proposed combinations in Grounds 1-2 (regardless of whether relying upon Frey or Michelson to modify the primary implant) would not provide the claimed implant having a longitudinal length greater than 40 mm, as required by independent claim 5. 23

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