

Lifeport Sciences LLC
c/o Dechert LLP
Robert W. Ashbrook, Jr., lead counsel
Kevin M. Flannery, backup counsel
Cira Centre, 2929 Arch Street
Philadelphia, PA 19104-2808
telephone (215) 994-2215
telephone (215) 994-2814
facsimile (215) 994-2222
robert.ashbrook@dechert.com
kevin.flannery@dechert.com

January 28, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENDOLOGIX, INC.
Petitioner

v.

LIFEPORT SCIENCES LLC
Patent Owner

IPR2015-01722
United States Patent No. 8,192,482

**PATENT OWNER'S NOTICE IN RESPONSE TO
THE BOARD'S JANUARY 28, 2016 ORDER**

Pursuant to the Patent Trial and Appeal Board's Order dated January 28, 2016 (Paper 7), Patent Owner Lifeport Sciences LLC hereby gives notice that the '482 patent expired on (i.e., was terminally disclaimed beyond) September 1, 2015, as set forth below.

The '482 patent claims priority under 35 U.S.C. § 120 to an application filed on September 27, 1994. Under 35 U.S.C. § 154(a)(1), the term of the '482 patent would preliminarily be calculated as continuing until twenty years after the filing date of that priority application, i.e., until September 27, 2014. This is the date that Petitioner erroneously stated in the petition.

However, the term of the '482 patent has been adjusted by 1,263 days pursuant to 35 U.S.C. 154(b). The adjusted patent term for the '482 patent is therefore calculated to continue until March 13, 2018.

However, the '482 patent is subject to a terminal disclaimer with respect to any term beyond the statutory term of U.S. patent no. 5,800,508. See 35 U.S.C. § 154(b)(2)(B) (applying a terminal disclaimer after any patent term adjustment).

The '508 patent issued from an application filed on June 5, 1995, which is before the date that is 6 months after the date of the enactment of the Uruguay Round Agreement Act (i.e., before June 8, 1995). Under 35 U.S.C. § 154(c)(1) (1998), the term of the '508 patent is the longer of the 20-year term as provided in 35 U.S.C. § 154(a), or 17 years from grant. The '508 patent claims priority under

35 U.S.C. § 120 to an application filed on September 27, 1994, and therefore the 20-year term would continue until September 27, 2014. However, the '508 patent issued on September 1, 1998, and therefore 17 years from grant is September 1, 2015. Therefore the term of the '508 patent continued until the latter of those two dates, i.e., September 1, 2015.

Therefore, the term of the '482 patent expired on (i.e., has been disclaimed beyond) September 1, 2015. The expiration date stated by Petitioner in the petition is incorrect.

Respectfully submitted,

Dated: January 28, 2016

/ Robert W. Ashbrook Jr. /
Robert W. Ashbrook Jr., reg. no. 52,572
Kevin Flannery, reg. no. 35,871
Dechert LLP
Counsel for Patent Owner

Certificate of Service

I certify that today in

Endologix, Inc. v. Lifeport Sciences LLC, IPR2015-01722

I caused to be served a copy of:

Patent Owner's Notice in Response to the Board's January 28, 2016 Order
Certificate of Service

upon:

Endologix, Inc.
c/o Sanjay K. Murthy, Robert J. Barz, and Katherine L. Hoffee
K & L Gates LLP
70 W. Madison St., Suite 3100
Chicago, IL 60602
sanjay.murthy@klgates.com
robert.barz@klgates.com
katy.hoffee@klgates.com

via:

electronic service to the email addresses above

Dated: January 28, 2016

/ Robert W. Ashbrook Jr. /

Robert W. Ashbrook Jr., reg. no. 52,572

Kevin Flannery, reg. no. 35,871

Dechert LLP

Counsel for Patent Owner

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