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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR DISTRICT OF DELAWARE  
 3 C.A. NO. 12-1791 (GMS)  
 4 LIFEPORT SCIENCES LLC,  
 5  
 6 Plaintiff,  
 7 vs.  
 8 ENDOLOGIX, INC,  
 9  
 10 Defendant.

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11 Southeast Financial Center  
 12 Suite 3900  
 13 200 South Biscayne Boulevard  
 14 Miami, Florida 33131  
 15 Wednesday, July 8, 2015  
 16 8:54 a.m. - 2:54 p.m.

C O N F I D E N T I A L

17 VIDEOTAPED DEPOSITION OF GEORGE L. GOICOECHEA, M.D.

18  
 19 Taken before Darline M. West,  
 20 Registered Professional Reporter, Notary Public  
 21 in and for the State of Florida At Large,  
 22 pursuant to Notice of Taking Deposition filed  
 23 by the Defendant in the above cause.  
 24  
 25 - - -

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1 APPEARANCES:  
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 16 By: SANJAY K. MURTHY, ESQ.  
 17 and KATHERINE HOFFEE, ESQ.

18 ALSO PRESENT:  
 19 RICHARD HILLSTEAD, PH.D., FAHA - Technical  
 20 expert on behalf of the Defendant.  
 21  
 22 - - -  
 23  
 24  
 25

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1 I N D E X  
 2 WITNESS: PAGE:  
 3 GEORGE L. GOICOECHEA, M.D.  
 4 DIRECT EXAMINATION 5  
 5 BY MR. MURTHY:  
 6 CERTIFICATE OF OATH 193  
 7 REPORTER'S CERTIFICATE 194  
 8  
 9 - - -  
 10 E X H I B I T S  
 11 - - -  
 12 Description Page  
 13 Goicoechea Deposition Brochure bearing 62  
 14 Exhibit 1 Bates numbers LIFE 0754146 through 75162  
 15 Goicoechea Deposition Dr. Cragg's patent 79  
 16 Exhibit 2  
 17 Goicoechea Deposition U.S. Patent 82  
 18 Exhibit 3 No. 5,575,817 to Martin  
 19 Goicoechea Deposition Structures of 104  
 20 Exhibit 4 inducers  
 21 Goicoechea Deposition U.S. Patent 5,226,913 118  
 22 Exhibit 5 to Pinchuk  
 23 Goicoechea Deposition U.S. Patent 171  
 24 Exhibit 6 No. 6,117,167  
 25 Goicoechea Deposition U.S. Patent 172  
 Exhibit 7 No. 6,117,167  
 26 Goicoechea Deposition Letter 187  
 Exhibit 8

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1 PROCEEDINGS  
 2 - - -  
 3 VIDEO TECHNICIAN: We are now on the  
 4 video record. The time is 8:54 a.m. on  
 5 Wednesday, the 8th day of July, 2015. We  
 6 are here for the videotaped deposition of  
 7 Dr. George Goicoechea, taken at 200 South  
 8 Biscayne Boulevard, Suite 3900, Miami,  
 9 Florida, and it's taken in Case No. 12-1791,  
 10 LifePort Sciences, LLC, versus Endologix,  
 11 Inc.  
 12 The court reporter is Darline West.  
 13 The videographer is Sean Maguire, both of  
 14 Barkley Court Reporters.  
 15 Will counsel and all present please  
 16 introduce yourselves. And the court  
 17 reporter will swear the witness.  
 18 MR. MURTHY: Sanjay Murthy of K&L Gates  
 19 on behalf of Endologix, Inc., and with me is  
 20 my colleague, Katherine Hoffee, and our  
 21 technical expert, Richard Hillstead.  
 22 MR. FLANNERY: Kevin Flannery of  
 23 Dechert for Dr. Goicoechea as well as the  
 24 plaintiff.  
 25 THE COURT REPORTER: Doctor, would you

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1 A. Yes.

2 Q. Okay. Now, is one of the reasons why each

3 company had designed their own introducers for

4 deploying their products is because the products were

5 designed differently?

6 A. Yes. 'Cause that depends on the product,

7 the -- how the product is designed. Not all the

8 products are similar. And so you need different ways

9 to -- to adapt your product with -- the system to

10 your product.

11 Q. Now, at the time that you saw Dr. Cragg's

12 original stent design, do you recall whether or not

13 he was using a -- a helical designed stent? Do you

14 know what --

15 A. No.

16 Q. Do you know what -- what I'm referring to

17 when I say a helical stent?

18 A. It goes like this, right?

19 Q. Right.

20 A. No, I don't -- I don't recall that.

21 Q. Do you recall whether or not there were

22 designs that existed that had -- that were nonhelical

23 stents?

24 A. No.

25 Q. Did you have any involvement in the design

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1 of the stent that's described in your '906 patent,

2 the actual stent cage itself?

3 A. No.

4 Q. Do you recall who was involved in the

5 design of that?

6 A. John Hudson.

7 Q. Was Dr. Cragg involved at all?

8 A. Not so much in the bifurcation. Because

9 Cragg was in Minneapolis, and, you know,

10 communication was open. But we were going back and

11 forth with Dr. Mialhe, who was actually giving us

12 most of the feedback, what he interpreted to have --

13 what he liked to have on that device, since he was

14 going to be the first one to implant them anyway. So

15 he was very active in development of the product, you

16 know.

17 Q. But did Dr. Mialhe actually have

18 involvement in -- in designing the stent cage itself?

19 A. Yes.

20 Q. Okay. Was Dr. Mialhe -- did he have any

21 sort of engineering background?

22 A. Yes.

23 Q. Do you recall what it was?

24 A. I think he had an engineering degree as

25 well as being a doctor. He's -- you know, he was one

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1 of those weird guys that -- you know, that combines

2 one thing with the other. But he did have a

3 tremendous amount of know-how in engineering now. He

4 might not be able to say I need to do this this way

5 or the other way. That was John. But he was very

6 good at judging exactly what it is that he wanted to

7 have in that device, you know.

8 Q. Do you know or can you identify any

9 advantages of using a design -- a stent design that

10 is helical as opposed to one that's non-helical?

11 A. No. This is a matter of -- of doing some

12 testing and -- and all that. I -- I haven't done

13 that or I haven't seen that.

14 Q. Okay. Do you know if choosing a helical

15 versus a nonhelical design is just a matter of design

16 choice?

17 MR. FLANNERY: Object to form.

18 THE WITNESS: I believe so. I believe

19 so, yes. You see some -- some of the

20 manufacturers use a -- a -- not helical.

21 They use one -- one by one by one and so on

22 and so forth to prevent it from kinking, you

23 know. So -- and that's -- that's a very

24 well-established thing that everybody's

25 using nowadays, you know.

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1 BY MR. MURTHY:

2 Q. And there were certainly -- although maybe

3 not in a wide amount of devices available in the AAA

4 space, people had been designing stents for a long

5 time before MinTec was created in 1993; isn't that

6 true?

7 A. But not -- for that particular application,

8 I never seen -- I never seen anyone. I -- when I saw

9 Cragg at that meeting that he made a presentation on

10 that, that's how I came aware of it, you know, then

11 it -- the light came up and say, wow, this is the

12 future.

13 Q. I'm taking us away from the world of AAA,

14 though, Dr. Goicoechea.

15 People have been designing stents for the

16 treatment of stenosis, as one example, for many

17 years?

18 A. Coronaries.

19 Q. For many years before MinTec was created?

20 A. Yes. Palmaz started in the 1980s. You

21 know, the first angioplasty catheter came out of

22 Switzerland from Gruentzig. And then came out the --

23 then came the invent of the -- of the stent for

24 the -- except the nitinol stent. The self-expanding

25 stent is not good for that application. Because you

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1 need something that as a radial force to keep it  
 2 open, you know, and strong, you know. So -- but the  
 3 usefulness of nitinol comes in the small calibers,  
 4 you know, the carotids, you know, down below the  
 5 knee, et cetera.  
 6 Q. And the below-the-knee application, that  
 7 was what Dr. Cragg was already working on before  
 8 MinTec was created, right?  
 9 A. The what?  
 10 Q. The below-the-knee applications, that was  
 11 what Dr. Cragg was previously doing before MinTec was  
 12 created?  
 13 A. Yes. That's what you can see by, you know,  
 14 the data. And that's when I saw him making a  
 15 presentation in Canary Islands, when I met him.  
 16 Q. And sort of getting back to my original  
 17 question.  
 18 People had been designing stents for  
 19 multiple, different applications for many years  
 20 before MinTec was founded in 1993?  
 21 A. I -- I guess so. Not all the stents are  
 22 created equal. So, I mean, the word "stent" is one  
 23 word. But there are many different kinds of stents,  
 24 you know, esophageal, tracheal stents, biliary  
 25 stents, you know, you name it. Each one of them has

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1 a different configuration. Each one of them, I  
 2 guess, is protected by their own patents or whatever  
 3 it is, you know. I don't know, you know.  
 4 Q. Sure.  
 5 A. You know, I was not into this -- in that  
 6 market. So I was not knowledgeable.  
 7 Q. Sure. And to that point, not only had  
 8 people been designing a whole bunch of different  
 9 types of stents for many, many years prior to MinTec  
 10 being founded, but people had been patenting stents  
 11 for many, many years before MinTec was founded,  
 12 correct?  
 13 A. I guess so. I -- I...  
 14 Q. And along with that process of patenting,  
 15 people had come up with a whole bunch of different  
 16 ways of constructing a stent; isn't that true?  
 17 MR. FLANNERY: Object to the form.  
 18 THE WITNESS: I imagine they did. The  
 19 question is whether -- why do they have a  
 20 patent if this thing is common knowledge?  
 21 So if you -- if all the stents were common  
 22 to the public beforehand, why would they  
 23 issue all these patents? Somebody must have  
 24 forgot to do proper research, no?  
 25

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1 BY MR. MURTHY:  
 2 Q. Well, I -- I think that a jury's going to  
 3 have to decide that question, Dr. Goicoechea.  
 4 A. You see what I mean?  
 5 Q. Yeah. No. I do see what you mean.  
 6 So, to that point, Dr. Goicoechea --  
 7 A. I think the patents apply to specific  
 8 things, I believe. Not to -- not to a general -- a  
 9 general subject, no? I don't know.  
 10 Q. Well, Dr. Goicoechea, let me ask you a  
 11 question. You understand that, having gone through  
 12 the patenting process now multiple times, that  
 13 sometimes the patent office doesn't have all of the  
 14 relevant information at its disposal to evaluate a  
 15 patent? Do you understand that?  
 16 A. Yes, I do.  
 17 Q. Okay. And you understand sometimes the  
 18 examiner might not have the best prior art in front  
 19 of him or her?  
 20 A. Right. But today with computers and all of  
 21 that, it should be a little easier than it used to be  
 22 in the past, you know.  
 23 Q. You would think. But you'd be surprised.  
 24 A. You'd be surprised, no?  
 25 Q. We talked about the -- the stent structure

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1 itself. Now I have a more detailed question.  
 2 Stents sometimes have hoops in them? You  
 3 know what I'm talking about, the little hoops that  
 4 connect one segment to another?  
 5 A. Right. Right.  
 6 Q. Is the placement of the hoops a matter of  
 7 design choice?  
 8 MR. FLANNERY: Object to the form.  
 9 Also calls for a legal conclusion and expert  
 10 testimony.  
 11 THE WITNESS: It has to be. Because  
 12 for the application you have to have, you  
 13 know -- I guess when you're doing research,  
 14 you do several options, you know, to see  
 15 which is the one that makes the criteria at  
 16 the end, you know.  
 17 BY MR. MURTHY:  
 18 Q. And that's routine engineering that's  
 19 performed at any company, right?  
 20 A. Yes.  
 21 MR. FLANNERY: Same objections.  
 22 BY MR. MURTHY:  
 23 Q. Dr. Goicoechea, you mentioned before that  
 24 you had been deposed and you understood that there  
 25 was some dispute that had arisen.