Paper No. ____
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALPHATEC HOLDINGS, INC. and ALPHATEC SPINE, INC.,
Petitioners,

v.

NUVASIVE, INC.,
Patent Owner.

Case No. IPR2019-00361
Patent No. 8,187,334

PATENT OWNER'S OBJECTIONS TO PETITIONER DEMONSTRATIVES

I. INTRODUCTION

Pursuant to the Board's hearing order (Paper 44, 3), NuVasive, Inc. ("Patent Owner") submits the following objections to Alphatec Holdings, Inc. and Alphatec Spine, Inc. ("Petitioners)'s demonstrative slides, and any reference to or reliance on the foregoing by Petitioners.

II. OBJECTIONS.

1. Left side panel of slide 6

This is an improper new argument because the Petition (at 47) does not cite this image and does not cite paragraph 22 of the Branch Declaration and Petitioner identifies no paper where this is cited.

2. Left side panel of slide 12

This is an improper new argument because the Petition (at 9-12) does not cite EX1032 (Michelson), 6:36-37 and Petitioner identifies no paper where this is cited.

3. Reliance on paragraph 3 of EX1038 on slide 15

This is an improper new argument because the relied upon paragraph does not appear on the cited paper page of the cited paper and Petitioner identifies no paper where this is cited.

4. Reliance on paragraph 27 of EX1038 on slide 16

This is an improper new argument because the relied upon paragraph does not appear on the cited page of the cited paper and Petitioner identifies no paper where this is cited.

5. Reliance on EX1054 in slides 18, 26, 34, 75, 106 and any slides relying on EX1054.

EX1054 was improperly submitted by Petitioner in reply and Petitioner improperly attempts to rely on EX1054 to raise new theories of unpatentability.

6. Reliance on EX1053 in slides 20, 27 and any slides relying on EX1053

EX1054 was improperly submitted by Petitioner in reply and Petitioner improperly attempts to rely on EX1054 to raise new theories of unpatentability.

7. Slide 43

Paragraphs 40-56 of the Branch declaration are not cited in the Petition and Petitioner has identified no paper where these paragraphs are cited, making this citation an improper new argument**.**

8. Slide 47

The red text on slide 47 asserts unsupported claims constructions that were not provided in the petition and are improper new arguments.

9. Slide 48

The red text on slide 48 asserts an unsupported claim constructions that was not provided in the petition and is an improper new argument.

10. Slide 51

The red text on slide 51 asserts unsupported claims constructions that were not provided in the petition and are improper new arguments.

11. Slide 52

The red text on slide 52 asserts unsupported claims constructions that were not provided in the petition and are improper new arguments.

12. Slides 63 and 86

The depicted text was not cited in the petition and is an improper new argument.

13. Slides 66 and 144

The red text "Petitioner never suggested inserting 2 implants each having 18.95 mm width" is an improper new argument not made in the petition.

Left side panel of slide 70

This is an improper new argument not made in the petition.

14. Slide 73

Petitioner's paper citations do not demonstrate this testimony was relied upon in a timely manner and the slide is thus an improper new argument.

15. Red text on slide 90

Petitioner's paper citations do not demonstrate the arguments in the two red bullet points were made in a timely manner

16. Slide 91

No petition citation supports this improper new argument

17. Slide 94

The relied upon text is not cited in the cited paper, Petitioner's paper citations do not demonstrate this testimony was relied upon in a timely manner, and the slide is thus an improper new argument.

18. Title of slide 95

The title of slide 95 is argumentative and misleading.

19. Bottom left panel of slide 100 and of slide 146

The cited pages of the Petitions do not cite EX1007 (Brantigan), 7:4-6, Petitioner's paper citations do not demonstrate this citation was relied upon in a timely manner, and the inclusion of that panel on these slides is thus an improper new argument.

20. Slide 104

Petitioner's paper citation indicates this text was relied upon for the first time in its Supplemental Sur-Sur Reply, which reliance was therefore not presented in a timely manner and the slide is thus an improper new argument.

21. Slide 105

Petitioner's paper citation indicates this text was relied upon for the first time in its Supplemental Sur-Sur Reply, which reliance was therefore not presented in a timely manner and the slide is thus an improper new argument.

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