

**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  
U.S. Patent No. 8,187,334**

---

**PETITIONERS' MOTION TO WITHDRAW AND  
SUBSTITUTE COUNSEL**

## **I. STATEMENT OF RELIEF REQUESTED**

Pursuant to 37 C.F.R. § 42.10(e) and the Board's May 6, 2019 email authorizing this motion, Petitioners ALPHATEC HOLDINGS, INC. and ALPHATEC SPINE, INC. respectfully requests that the Board authorize the withdrawal of Andrew R. Sommer as counsel of record in this proceeding.

## **II. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE BOARD TO AUTHORIZE WITHDRAW OF COUNSEL**

Mr. Sommer has left the law firm of Winston & Strawn LLP. Petitioners continue to retain the law firm of Winston & Strawn LLP to represent it in further proceedings. New lead counsel from Winston & Strawn are identified in Petitioners' Supplemental Power of Attorney filed along with the present motion. Lead counsel, Jovial Wong, is registered to conduct business before the United States Patent and Trademark Office and the Board.

It is not expected that the withdraw of counsel or the addition of new counsel from Winston & Strawn LLP will impact the schedule for proceedings in this matter. Updated Mandatory Notices are being concurrently filed with this motion.

## **III. REASONS FOR RELIEF REQUESTED**

"Counsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal." 37 C.F.R. § 42.10(e). Given Mr. Sommer is no longer with Winston & Strawn LLP, but Petitioners continue to retain the law firm

of Winston & Strawn LLP in connection with this proceeding, it is appropriate to allow Mr. Sommer to withdrawal as counsel of record in this proceeding.

Patent Owner has been consulted about the relief sought in this motion and has indicated it does not object to the withdrawal of Mr. Sommer. Thus, Petitioners believe that granting this motion will not hinder the economy, integrity of the patent system, or the efficient administration of the Office. *See* 35 U.S.C. § 316(b).

#### **IV. CONCLUSION**

Petitioners respectfully requests that the Board grant its motion to authorize Mr. Sommer's withdrawal as counsel of record in this proceeding and to replace him with additional counsel identified in Petitioners' Updated Mandatory Notices and Power of Attorney.

\* \* \* \* \*

Date: May 7, 2019

Respectfully submitted,

/David Dalke/

David Dalke

Reg. No. 40,980

WINSTON & STRAWN LLP

333 South Grand Avenue

38th Floor

Tel: (213) 615-1700

Fax: (213) 615-1750

Email: [ddalke@winston.com](mailto:ddalke@winston.com)

*Back-Up Counsel for Petitioners*

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a), I certify that, on May 7, 2019, true and correct copies of the foregoing **MOTION TO WITHDRAW AND SUBSTITUTE COUNSEL**, was served by via email to the following counsel for the Patent Owner:

Michael T. Rosato (Reg. No. 52,182)  
WILSON SONSINI GOODRICH & ROSATI  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104  
Tel.: 206-883-2529  
Fax: 206-883-2699  
Email: mrosato@wsgr.com

Paul D. Tripodi II (Reg. No. 40,847)  
WILSON SONSINI GOODRICH & ROSATI  
633 West Fifth Street, Suite 1550  
Los Angeles, CA 90071  
Tel.: 323-210-2902  
Fax: 866-974-7329  
Email: ptripodi@wsgr.com

Sonja R. Gerrard (Reg. No. 72,802)  
WILSON SONSINI GOODRICH & ROSATI  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104-7036  
Tel.: 206-883-2649  
Fax: 206-883-2699  
Email: sgerrard@wsgr.com

Jad A. Mills (Reg. No. 63,344)  
WILSON SONSINI GOODRICH & ROSATI  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104-7036  
Tel.: 206-883-2554

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.