

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALPHATEC HOLDINGS, INC. and ALPHATEC SPINE, INC.,
Petitioner,

v.

NUVASIVE, INC.,
Patent Owner.

IPR2019-00361 (Patent 8,137,334 B2)
IPR2019-00362 (Patent 8,361,156 B2)
IPR2019-00546 (Patent 8,137,334 B2)¹

Before DENISE M. POTHIER, HYUN J. JUNG, and
SHEILA F. MCSHANE, *Administrative Patent Judges*.

POTHIER, *Administrative Patent Judge*.

ORDER
Revised Scheduling Order
37 C.F.R. § 42.5(c)

¹ We exercise our discretion to issue one Order to be entered in each proceeding. The parties are not authorized to use a multiple-case caption.

IPR2019-00361 (Patent 8,137,334 B2)

IPR2019-00362 (Patent 8,361,156 B2)

IPR2019-00546 (Patent 8,137,334 B2)

The Board requested, via email, that Alphatec Holdings Inc. and Alphatec Spine, Inc. (“Petitioner”) and Nuvasive, Inc. (“Patent Owner”) indicate their availability for an oral hearing on Friday, April 3, 2020 and indicate whether they agree to have the oral hearing as part of the PTAB/TTAB Stadium Tour program being held at the University of Oregon School of Law.

Both parties indicated, via responsive emails, that they are amenable to changing the oral hearing date to April 3, 2020 and to participating in the Stadium Tour program.

Accordingly, the date for oral hearing for these proceedings is modified to April 3, 2020 at 4pm PT, and the hearing will be part of the PTAB/TTAB Stadium Tour program being held at the University of Oregon School of Law, 70 NW Couch St., Portland, OR 97209. Because of the overlap in issues, Petitioner and Patent Owner each will be allocated forty-five (45) minutes of total argument time for all three proceedings. Petitioner’s and Patent Owner’s requirement to request oral argument by Due Date 4, as per the original Scheduling Order (Paper 20²), is considered satisfied. Specific information for the oral hearing will be set forth in an oral hearing order to be issued at a later date. Petitioner and Patent Owner may contact the Board for any additional questions. The parties’ joint stipulations to modify the original Scheduling Order are reflected in the DUE DATE APPENDIX attached to this Order.

² Citations are to IPR2019-00361 unless otherwise indicated.

IPR2019-00361 (Patent 8,137,334 B2)

IPR2019-00362 (Patent 8,361,156 B2)

IPR2019-00546 (Patent 8,137,334 B2)

Accordingly, it is:

ORDERED that Due Date 8, the date for oral argument for the above-listed proceedings, is changed to April 3, 2020 at 4 pm PT, and oral arguments will be heard as part of the PTAB/TTAB Stadium Tour program being held at the University of Oregon School of Law, 70 NW Couch St., Portland, OR 97209; and

FURTHER ORDERED that the DUE DATE APPENDIX attached to this Order supersedes the DUE DATE APPENDIX in the Scheduling Order and shall govern this proceeding going forward.

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REVISED DUE DATE APPENDIX

DUE DATE 2 January 29, 2020

Petitioner's reply to patent owner's response to petition

Petitioner's opposition to motion to amend

DUE DATE 3 February 24, 2020

Patent owner's sur-reply to reply

Patent owner's reply to opposition to motion to amend

DUE DATE 4 February 24, 2020

Petitioner's sur-reply to reply to opposition to motion to amend

Motion to exclude evidence

Request for oral argument (may not be extended by stipulation)

DUE DATE 5 March 16, 2020

Opposition to motion to exclude

DUE DATE 6 March 23, 2020

Reply to opposition to motion to exclude

Request for prehearing conference

DUE DATE 7 March 30, 2020

Reply to opposition to motion to exclude

DUE DATE 8 April 3, 2020

Oral argument

IPR2019-00361 (Patent 8,137,334 B2)

IPR2019-00362 (Patent 8,361,156 B2)

IPR2019-00546 (Patent 8,137,334 B2)

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