

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

Case No. IPR2019-00362

U.S. Patent No. 8,361,156

**DECLARATION OF NIMALKA R. WICKRAMASEKERA IN SUPPORT
OF MOTION FOR PRO HAC VICE ADMISSION**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
PO Box 1450
Alexandria, Virginia 22313-1450
Submitted Electronically via the PTAB E2E

Pursuant to 37 C.F.R. § 1.68, I, Nimalka R. Wickramasekera, attest to the following:

1. I am a member in good standing of the State Bar of California and the State Bar of Illinois, and admitted to practice in the following Federal Courts:

- a. United States District Court, Central District of California;
- b. United States District Court, Southern District of California;
- c. United States District Court, Northern District of California;
- d. United States District Court, Southern District of New York;
- e. United States District Court, Eastern District of New York;
- f. United States District Court, District of New Jersey;
- g. United States District Court, Eastern District of Texas;
- h. United States District Court, Western District of Texas;
- i. United States District Court, District of Colorado;
- j. United States District Court, District of Indiana; and
- k. United States District Court, Northern District of Georgia.

2. I have not been suspended or disbarred from practice before any court or administrative body.

3. I have never had an application for admission to practice before any court or administrative body denied.

4. I have never had sanctions or contempt citations imposed by any court

or administrative body imposed against me.

5. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in Part 42 of Title 37, Code of Federal Regulations.

6. I will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

7. I have not applied to appear *pro hac vice* in the last three years in any other matter before the Board. I was previously admitted to appear *pro hac vice* in Case Nos. IPR2013-00206, IPR2013-00208, and IPR2013-00396. I am currently applying to appear *pro hac vice* in two related matters before the Board, specifically Case Nos. IPR2019-00361 and IPR2019-00546.

8. I am lead counsel for Petitioner in *NuVasive, Inc. v. Alphatec Holdings, Inc. et al.*, Case No. 3:18-cv-00347-CAB-MDD (S.D. Cal.), filed on February 13, 2018, where the '156 patent is currently being asserted. Until it settled, I was also counsel for Warsaw Orthopedic, Inc. in *Warsaw Orthopedic, Inc. et al. v. NuVasive, Inc.*, Case No. 3:12-cv-002738-CAB-MDD (S.D. Cal.), filed on August 17, 2012, in which Patent Owner previously asserted the '156 patent.

9. I am an experienced litigation attorney and have been involved in

numerous patent infringement cases in federal courts across the country. I have thirteen (13) years of litigation experience. I have experience in various aspects of patent infringement matters including all aspects of litigation leading up to jury trials and bench trials, *Markman* hearings, and other dispositive hearings. I have obtained substantial familiarity with the involved patent, the prior art, and the various issues raised in this proceeding, having litigated this technology for over ten years, including in proceedings involving the prior art patents. I have reviewed the Petition, and the cited materials, and am familiar with the subject matter involved in this proceeding. I was involved in the preparation of the Petition upon which the Board instituted trial.

10. I have a Bachelor of Science in Molecular, Cell, and Developmental Biology from UCLA, received in 1999.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 19, 2019

/Nimalka R. Wickramasekera/
Nimalka R. Wickramasekera