

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. IPR2019-00362
U.S. Patent No. 8,361,156**

**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

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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:

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