

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.

IPR2019-00362
Patent 8,361,156 B2

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

POTHIER, *Administrative Patent Judge*.

ORDER
Granting Request to Expunge
37 C.F.R. §§ 42.5, 42.7

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On January 17, 2019, Petitioner filed Petitioner's Notice of Submission of Corrected Exhibit and Request to Expunge ("Request"). Paper 6. The Request states Petitioner "is concurrently submitting a replacement Exhibit 1018, which is a copy of the Final Written Decision entered in IPR2013-00208." Request 1. Petitioner further indicates that "the originally-filed Exhibit 1018 . . . was a duplicate of Exhibit 1008" and requests the original submission be expunged and replaced with the concurrently-submitted version of Exhibit 1018. *Id.*

Exhibit 1018 was originally submitted on December 13, 2018 ("the original Exhibit 1018") and is entitled "Ex. 1018 – IPR2013-00208, Final Written Decision, Paper No. 62." The original Exhibit 1018 actually is United States Patent Application Publication No. 2003/0028249 A1, which is the same document as Exhibit 1008. On January 17, 2019, another Exhibit 1018 ("the replacement Exhibit 1018") was uploaded entitled "Ex. 1018 (Corrected) – IPR2013-00208, Final Written Decision, Paper No. 62." The replacement exhibit is the Final Written Decision in IPR2013-00208.

Patent Owner does not address Exhibit 1018 in this regard in its Preliminary Response or other briefing. Papers 11, 27, 40, and 41. Patent Owner thus presents no opposition to Petitioner's request to expunge.

In order to correct the record, Petitioner's request to expunge the original Exhibit 1018 is *granted*.

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ORDER

It is hereby:

ORDERED that Petitioner's request is *granted* and the original Exhibit 1018 filed December 13, 2018, shall be expunged.

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