

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 IPR2019-00546
Patent 8,187,334 B2

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

JUNG, *Administrative Patent Judge*.

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

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On January 10, 2019, concurrently with the filing of its Petition, Petitioner filed an Exhibit 1041. The January 25, 2019 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response stated that “Exhibit 1041 has a page range of 1 to 113, and was filed in two parts.” Paper 3, 2. It also stated that “part 2 is identical to part 1—each is pages 1 to 100—and pages 101 to 113 were not filed” and that “[c]orrection is required.” *Id.*

On January 31, 2019, Petitioner filed a replacement Exhibit 1041 part 2. Petitioner also requested that the originally-filed Exhibit 1041 part 2 be expunged. Paper 7, 1. Patent Owner timely filed its Preliminary Response on April 25, 2019 and the Preliminary Response does not address Exhibit 1041. Paper 10. Patent Owner presents no opposition to Petitioner’s request to expunge.

In order to correct the record, Petitioner’s request to expunge originally-filed Exhibit 1041 part 2 is *granted*.

ORDER

It is hereby:

ORDERED that Petitioner’s request is *granted* and the original Exhibit 1041 part 2 filed on January 10, 2019 shall be expunged.

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