

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC.,
Petitioner,

v.

NUVASIVE, INC.,
Patent Owner.

Case IPR2014-00074
Patent 8,192,356

**PATENT OWNER NUVASIVE, INC.'S NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. §§ 141(c) and 142, NuVasive, Inc. (“Patent Owner”) respectfully gives Notice that it hereby appeals to the United States Court of Appeals for the Federal Circuit the April 3, 2015 Final Written Decision of the Patent Trial and Appeal Board (“Board”) in IPR2014-00074 that claims 21, 22, 24, 30 and 33-37 of U.S. Patent No. 8,192,356 (“the ’356 patent”) are unpatentable, and all other underlying orders, decisions, rulings, and opinions that are adverse to Patent Owner. Patent Owner received the Final Written Decision electronically on the day the decision was entered.

For the limited purpose of providing the Director with the information specified in 37 C.F.R. § 90.2(a)(3)(ii), issues on Patent Owner’s appeal may include the Board’s determination that claims 21, 22, 24, 30 and 33-37 of the ’356 patent have been shown to be unpatentable under 35 U.S.C. § 103 in view of the grounds of unpatentability identified in the Board’s Final Written Decision, challenges to any findings supporting that determination, the Board’s failure to properly consider evidence of record, the Board’s legal errors in undertaking the obviousness analysis, the Board’s findings that conflict with the evidence of record and are not supported by substantial evidence, the Board’s findings with respect to objective indicia of non-obviousness, and other issues decided adversely to Patent Owner.

Simultaneous with this filing and in accordance with 37 C.F.R. § 90.2(a)(1), this Notice of Appeal is filed with the Director of the United States Patent and Trademark Office, filed with the Board, and served upon Petitioner in accordance with 37 C.F.R. § 42.6(e). In addition, this Notice of Appeal, along with the required fees,

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is being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit in accordance with Fed. Cir. R. 15(a)(1).

Dated: June 2, 2015

Respectfully Submitted,

/Michael T. Rosato/

Michael T. Rosato

Reg. No. 52,182

CERTIFICATE OF FILING

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's PRPS, the foregoing "PATENT OWNER NUVASIVE, INC.'S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT" was filed by Express Mail on this 2nd day of June, 2015, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel, United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF FILING

I hereby certify that a true and correct copy of the foregoing "PATENT OWNER NUVASIVE, INC.'S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT" was filed electronically by CM/ECF on this 2nd day of June, 2015, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, D.C. 20439

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), this is to certify that I caused to be served a true and correct copy of the foregoing “PATENT OWNER NUVASIVE, INC.’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” on the Petitioner at the correspondence address of the Petitioner as follows:

Justin J. Oliver
Brian L. Klock
FITZPATRICK, CELLA, HARPER & SCINTO
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Washington, D.C. 20004
spine-ipr@fchs.com

Dated: June 2, 2015

/Michael T. Rosato/
Michael T. Rosato
Reg. No. 52,182