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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **WARSAW ORTHOPEDIC, INC.,**
12 **Plaintiff,**

vs.

13 **NUVASIVE, INC.,**
14 **Defendant.**

) **CASE NO. 3:08-CV-01512-CAB**
(MDD)

) **WARSAW AND MEDTRONIC**
SOFAMOR DANEK'S NOTICE
OF APPEAL

15 **NUVASIVE, INC.,**
16 **Counterclaimant,**

vs.

17 **MEDTRONIC SOFAMOR DANEK USA,**
18 **INC.**
19 **Counterclaim Defendant.**

20 **AND RELATED COUNTERCLAIMS**
21

1 Notice is hereby given that plaintiff Warsaw Orthopedic, Inc. (“Warsaw”) and
2 counterclaim defendant Medtronic Sofamor Danek U.S.A., Inc. (“Sofamor Danek”)
3 appeal to the United States Court of Appeals for the Federal Circuit. Warsaw and
4 Sofamor Danek appeal the District Court’s judgment that Sofamor Danek infringed
5 U.S. Patent No. 7,470,236 (the ’236 patent) (Dkt. Nos. 401 and 486); the District
6 Court’s Order and Judgment denying Warsaw’s motion for supplemental damages for
7 the period July 1, 2010, to the verdict (Dkt. Nos. 460 and 486); the District Court’s
8 Order and Judgment denying Warsaw’s motion for a permanent injunction (Dkt. Nos.
9 460 and 486); the District Court’s Order and Judgment setting post-trial ongoing
10 royalties (Dkt. No. 592) and the Court’s decision on the motion to clarify (Dkt. No.
11 610); the District Court’s denial of Sofamor Danek’s Renewed Motion for Judgment
12 as a Matter of Law or, in the Alternative, a New Trial (Dkt. No. 460); the District
13 Court’s Order construing the disputed claim terms of the ’236 patent (Dkt. No. 149);
14 and from all other Orders entered by the District Court in this case that are appealable
15 by Warsaw or Sofamor Danek.

16 DATED: August 20, 2013

Respectfully submitted,

17
18 /s/ Alexander F. MacKinnon

19 Luke L. Dauchot
20 Alexander F. MacKinnon
21 Nimalka R. Wickramasekera
22 KIRKLAND & ELLIS LLP

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28 Attorneys for Plaintiff/Counterclaim
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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 333 South Hope Street, Los Angeles, California 90071.

On August 20, 2013, true and correct copies of the foregoing document were served to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system per Civil Local Rule 5.4. Any other counsel of record will be served by electronic mail, facsimile, U.S. Mail and/or overnight delivery.

FEDERAL: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 20, 2013, in Los Angeles, California.

/s/ Alexander F. MacKinnon
Alexander F. MacKinnon