

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TLIF, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. _____
	)	
ALPHATEC HOLDINGS, INC., and	)	
ALPHATEC SPINE INC.	)	
	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	
_____	)	

**AMENDED COMPLAINT**

Plaintiff TLIF, LLC (“TLIF”) hereby complains of defendants Alphatec Holdings, Inc., and Alphatec Spine, Inc. (“Alphatec” or “Defendants”) as follows:

**PARTIES**

1. Plaintiff TLIF, LLC (“TLIF”) is a company organized under the laws of the State of Texas with its principal place of business located at 719 W. Front Street, Suite 244, Tyler Texas 75702.

2. Defendant Alphatec Holdings, Inc., is a corporation organized under the laws of the State of Delaware with its principal place of business located 5818 Camino Real, Carlsbad, CA 92008. On information and belief, defendant Alphatec Holdings, Inc., regularly conducts business in this judicial district at least through its offers for sale, and sales of infringing devices by itself or on its behalf.

3. Defendant Alphatec Spine, Inc., is a corporation organized under the laws of the

State of California with its principal place of business located at 5818 Camino Real, Carlsbad, CA 92008. On information and belief, defendant Alphatec Spine, Inc., regularly conducts business in this judicial district at least through its offers for sale, and sales of infringing devices by itself or on its behalf.

### **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court may exercise personal jurisdiction over Alphatec based upon its contacts within this forum, including regularly conducting business in this judicial district, by, *inter alia*, selling/offering for sale infringing devices in this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c), (d) or 1400(b).

### **BACKGROUND**

8. United States Patent No. 6,143,032 (“the ‘032 patent”) entitled “Intervertebral Implant,” issued on November 7, 2000 to inventors Mr. Bernd Schafer and PD Dr. Henry Halm. Mr. Schafer was founder of Schafer Micomed, GmbH and Dr. Halm was senior consultant of the Department for Spine Surgery at the Medical Center of Neustadt/Holstein, and previously senior physician at the University of Münster, Spine Service of the Department of Orthopedic Surgery.

9. The '032 was assigned to Schafer Micomed, GmbH in Goppingen, Germany. Schafer Micomed, GmbH commercialized and sold the patented product as the "TIF-Cage".

10. DePuy Spine SARL acquired the '032 family as part of its acquisition of the assets of Schafer Micomed, GmbH and Mr. Schafer. The patent assignment to DePuy Spine SARL was recorded on November 30, 2004.

11. The '032 family was acquired by Orthophoenix, LLC in a transaction with DePuy Synthes in July 2014 and then acquired by TLIF, LLC a Texas LLC, in September 2014. Assignment to TLIF, LLC was recorded by the USPTO on September 09, 2014.

### **THE '032 PATENT**

12. TLIF owns United States Patent No. 6,143,032 ("the '032 patent") entitled "Intervertebral Implant," which was duly and legally issued by the United States Patent & Trademark Office on November 7, 2000. A copy of TLIF's '032 patent is attached to this Complaint as Exhibit A.

### **DEFENDANTS' INFRINGING ACTIVITIES**

13. Without TLIF's authorization, Alphatec has made or imported, used, offered for sale and sold in the United States intervertebral implants which infringe one or more claims of the '032 patent (hereinafter, the "Accused TLIF Devices"). The Accused TLIF Devices include, but are not limited to Alphatec's Novel-TL product.

14. TLIF has been and will continue to be irreparably harmed by Alphatec's infringement of the '032 patent.

**COUNT 1: PATENT INFRINGEMENT**

15. TLIF re-alleges each and every allegation above, and incorporates them by reference herein.

16. Alphatec has directly infringed and continues to directly infringe at least claims 1-5, 8, 11- 14 of the '032 patent under 35 U.S.C. §271(a), by making and/or importing, using, offering to sell, and selling the Accused TLIF Devices in or into the United States.

**JURY DEMAND**

17. TLIF requests a trial by jury of all issues so triable.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff TLIF respectfully prays for:

A. Judgment that Defendants have and are infringing United States Patent No. 6,143,032 in violation of 35 U.S.C. § 271(a);

C. An award of damages adequate to compensate Plaintiff TLIF for the patent infringement that has occurred pursuant to 35 U.S.C. § 284;

D. An assessment of costs, including reasonable attorney fees, pursuant to 35 U.S.C. § 285, with prejudgment interest;

E. Such other and further relief as this Court deems just and proper.

Dated: September 10, 2014

/s/Andrew W. Spangler

Andrew W. Spangler  
Spangler Law P.C.-Longview  
208 N. Green Street, Suite 300  
Longview, TX 75601

Tel: 903-753-9300  
Fax: 903-553-0403  
[spangler@spanglerlawpc.com](mailto:spangler@spanglerlawpc.com)

Thomas C. Wright  
Texas Bar No. 24028146  
Martin E. Rose  
Texas Bar No. 17253100  
M. Ross Cunningham  
Texas Bar No. 2400762  
ROSE•WALKER LLP  
3500 Maple Avenue, Suite 900  
Dallas, Texas 75219  
Tel: 214-752-8600  
Fax: 214-752-8700  
[twright@rosewalker.com](mailto:twright@rosewalker.com)  
[mrose@rosewalker.com](mailto:mrose@rosewalker.com)  
[rcunningham@rosewalker.com](mailto:rcunningham@rosewalker.com)

**ATTORNEYS FOR PLAINTIFF  
TLIF, LLC**