

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NEUROGRAFIX, a California corporation;
NEUROGRAPHY INSTITUTE MEDICAL
ASSOCIATES, INC., a California corporation;
IMAGE-BASED SURGICENTER
CORPORATION, a California corporation; and
AARON G. FILLER, individual

Plaintiffs,

vs.

BRAINLAB, INC., a Delaware corporation;
BRAINLAB AG, a German corporation;
BRAINLAB MEDIZINISCHE
COMPUTERSYSTEME GMBH, a German
corporation,

Defendants.

Civil Action No. 12-cv-6075

Hon. Matthew F. Kennelly, Presiding

Magistrate Judge Jeffrey Cole

PLAINTIFFS' NOTICE OF APPEAL

Plaintiffs Neurografix, Neurography Institute Medical Associates, Inc., Image-Based Surgicenter Corporation and Aaron G. Filler (collectively, "Plaintiffs") hereby appeals to the United States Court of Appeals for the Federal Circuit from; (1) portions of the Order of the Multi-District Litigation Court of the District of Massachusetts, Hon. Richard G. Stearns ("MDL Court") dated and entered August 1, 2016 (Case No. 1:13-md-02432-RGS, MDL Dkt. No. 328 (D. Mass.) – Early Motion for Summary Judgment of NonInfringement as to independent medical practitioners; (2) the Order of the MDL Court dated and entered May 25, 2018 (Case No. 1:13-md-02432-RGS, MDL Dkt. No. 484 (D. Mass.) - Motion for Summary Judgment of NonInfringement; (3) the Order of the MDL Court dated and entered June 20, 2018 (MDL Dkt.

No. 491) (D.Mass.) – Motion for Reconsideration of Motion for Summary Judgment of NonInfringement; and (4) portions of the Order of the Northern District of Illinois District Court, Hon. Matthew F. Kennelly (“N.D. Ill.”) dated and entered August 7, 2018, (N.D. Ill. Dkt. No. 112) relating to the N.D. Ill. Court’s denial of Plaintiffs’ Renewed Motion for Reconsideration. The Order of the N.D. Ill. Court dated and entered August 7, 2018 (Dkt. No. 112), is a final judgment on the merits for this matter.

Date: September 6, 2018

By: /s/ Aaron G. Filler

Aaron G. Filler, MD, PhD, FRCS, JD
(California State Bar #302956)
Alex R. Straus, Esq. (pro hac vice)
(Cal Bar 321366, MA Bar 677434)
Tensor Law P.C.
2716 Ocean Park Blvd. #1060B
Santa Monica, CA 90405
Tel: 310.450.9689
afiller@tensorlaw.com

*Attorneys for the Plaintiffs Neurography
Institute Medical Associates, Inc., Neurografix,
Image-Based Surgicenter, and Aaron G. Filler*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document PLAINTIFFS' NOTICE OF APPEAL was served on September 6, 2018 as follows:

Via Filing Via this Court's CM-ECF System, which caused a copy to be served on all registered users by E-mail:

Jay R. Campbell (admitted pro hac vice)
Brian K. Brookey (admitted pro hac vice)
Marissa M. Ennis (admitted pro hac vice)

TUCKER ELLIS LLP

950 Main Avenue, Suite 1100
Cleveland, OH 44113-7213
Tel: 216.592.5000
Fax: 216.592.5009
E-mail: jay.campbell@tuckerellis.com

David L. Ferrera (631183)
Heather B. Repicky (663347)
NUTTER, MCCLENNEN & FISH, LLP
Seaport West
155 Seaport Boulevard
Boston, MA 02210-2699
Tel: 617-439-2000
Fax: 617-310-9000
E-mail: dferrera@nutter.com
hrepicky@nutter.com

Counsel for Defendants:
Brainlab AG;
Brainlab, Inc.

/s/ Aaron G. Filler