IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

NUVASIVE, INC.,

Plaintiff and Counterclaim-Defendant,

C. A. No. 1:10-CV-00849-LPS

v.

GLOBUS MEDICAL, INC.,

Defendant and Counterclaim-Plaintiff.

[PROPOSED] ORDER GRANTING PLAINTIFF NUVASIVE'S MOTION FOR SUMMARY JUDGMENT AND GRANTING-IN-PART AND DENYING-IN-PART DEFENDANT GLOBUS' MOTIONS FOR PARTIAL SUMMARY JUDGMENT AND TO EXCLUDE CERTAIN EXPERT TESTIMONY

The Court, having reviewed and considered the briefs related to Plaintiff NuVasive's Motion for Summary Judgment (D.I. 185), and Defendant Globus' Motion for Partial Summary Judgment (D.I. 188), Motion to Exclude Certain Testimony of Dr. Ryan M. Sullivan (D.I. 194), and Motion to Exclude Certain Testimony of Dr. Jim Youssef (D.I.192), including the oppositions, replies, accompanying declarations, evidence, and the argument associated with those motions, and for the reasons articulated at the June 26, 2014 hearing on those motions, HEREBY ORDERS as follows:

- 1. NuVasive's Motion for Summary Judgment of No Implied License or Equitable Estoppel Regarding Globus' Defense of Implied License is GRANTED;
- 2. Globus' Motion for Partial Summary Judgment Regarding its Defense of Implied License is DENIED;

- 3. Globus' Motion for Partial Summary Judgment of No Direct Infringement of U.S. Patent Nos. 7,691,057 and 7,950,840 is GRANTED;
- 4. Globus' Motion for Partial Summary Judgment of No Indirect Infringement of U.S. Patent Nos. 7,691,057 and 7,950,840 is DENIED;
- 5. Globus' Motion for Partial Summary Judgment of No Infringement of U.S. Patent No. 7,691,057 Regarding Globus' 2012 Redesigned MARS 3V Retractor System is GRANTED;
- 6. Globus' Motion for Partial Summary Judgment of No Infringement of U.S. Patent No. 7,819,801 regarding the "rigidly coupled" limitation is DENIED;
- 7. Globus' Motion for Partial Summary Judgment of No Infringement of U.S. Patent No.
 7,819,801 regarding the "closed position" limitation is GRANTED as it relates to literal infringement, and is DENIED as it relates to infringement under the doctrine of equivalents;
- 8. Globus' Motion for Partial Summary Judgment of No Willfulness is GRANTED;
- 9. Globus' Motion for Partial Summary Judgment of Damages is DENIED;
- 10. Globus' Motion to Exclude Certain Testimony of Dr. Ryan M. Sullivan is DENIED; and
- 11. Globus' Motion to Exclude Certain Testimony of Dr. Jim Youssef is DENIED.

Agreed as to form:

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Attorneys for Defendant and Counterclaim-Plaintiff Globus Medical, Inc.

IT IS SO ORDERED this Aday of JU

____, 2014.

The Honorable Leonard P. Stark United States District Judge