

United States District Court  
For the Northern District of California

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E-FILED on 4/23/12

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SYNTHES USA, LLC (f/k/a SYNTHES  
(U.S.A.)); SYNTHES USA SALES, LLC; and  
SYNTHES, INC.,  
  
Plaintiffs,  
  
v.  
  
SPINAL KINETICS, INC.,  
  
Defendant.

No. C-09-01201 RMW

JUDGMENT

On August 19, 2011 the court dismissed the claims of Synthes, Inc. and Synthes USA Sales, LLC for lack of standing. This dismissal rendered Spinal Kinetics, Inc.'s counterclaim against Synthes, Inc. and Synthes USA Sales, LLC moot. On December 13, 2011 the jury returned its Special Verdict finding that Synthes USA, LLC did not prove that it is more likely than not that Spinal Kinetics, Inc.'s M6 Cervical and M6 Lumbar Devices included all of the limitations of independent claim 29 and dependent claims 30 and 31 of U.S. Patent No. 7,429,270 ("the '270 patent"). The jury further found that Spinal Kinetics, Inc. did prove by clear and convincing evidence that the '270 patent did not contain an adequate written description supporting independent claim 29 of the patent. Therefore,

IT IS HEREBY ordered, adjudged and decreed:

JUDGMENT  
No. 09-C-01201

1 (1) that judgment is entered in favor of Spinal Kinetics, Inc. and against Synthes USA, LLC,  
2 Synthes, Inc. and Synthes USA Sales, LLC on their Amended Complaint and that judgment is  
3 entered in favor of Spinal Kinetics, Inc. and against Synthes USA, LLC on its (Spinal Kinetics')  
4 counterclaim;

5 (2) that the counterclaim of Spinal Kinetics, Inc. against Synthes, Inc. and Synthes USA  
6 Sales, LLC is dismissed as moot;

7 (3) that Spinal Kinetics, Inc.'s M6 Cervical and Lumbar Devices do not infringe claims 29-31  
8 of the '270 patent;

9 (4) that claims 29-31 of the '270 patent are invalid; and

10 (5) that Spinal Kinetics, Inc. is the prevailing party and entitled to its costs of suit.

11 There are post-verdict motions pending.

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13 DATED: April 23, 2012

  
RONALD M. WHYTE  
United States District Judge

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