



## **Intuitive Surgical Wins All Key Summary Judgment Disputes Against Computer Motion in Delaware**

July 30, 2002

SUNNYVALE, Calif., Jul 30, 2002 (BUSINESS WIRE) --

### ***Judgment of Literal Infringement Entered Against Computer Motion in Surgical Robot Voice Control Patent Litigation; All Four of Computer Motion's Own Requests for Judgment Denied***

Intuitive Surgical, Inc. (Nasdaq:ISRG), the industry leader in operative surgical robotics, announced today that in its joint litigation with International Business Machines ("IBM") Corporation against Computer Motion, Inc., the Delaware District Court has entered summary judgment of literal infringement against Computer Motion, concluding that both of Computer Motion's AESOP and ZEUS products literally infringe Intuitive's 6,201,984 patent on voice-controlled surgical robots. The Court also entered judgment that Computer Motion's HERMES product, when used with either AESOP or ZEUS, literally infringes the 984. In addition, the Court has denied all four of the summary judgment motions Computer Motion filed on the 984 patent, including its motion on "prosecution laches." These rulings now pave the way for trial to begin on August 12, 2002.

"We are pleased with how the motions phase of this case turned out," explained David Shaw, Intuitive's Vice President, Legal Affairs and Corporate Counsel. "Since the Court has already concluded that infringement exists, it is now up to Computer Motion to try to demonstrate at trial what it could not demonstrate by motion, namely that our 984 patent is somehow invalid or unenforceable by clear and convincing evidence. If it cannot carry its burden, Computer Motion will be liable for patent infringement."

The trial will be conducted in two phases. The first phase, before a jury, will begin on August 12 and will address whether Computer Motion can show that the 984 patent is invalid by clear and convincing evidence, and if not, the amount of damage that its infringement has caused. Because the Court denied both parties' cross-motions on prosecution laches, the second phase of the trial, to be held before the judge only immediately after the jury phase concludes, will address Computer Motion's "prosecution laches" defense.

In early May 2002, Computer Motion filed four motions for summary judgment, one each on the issues of "prosecution laches," invalidity for violation of the "best mode" requirement, and invalidity for "lack of enablement." Computer Motion's fourth motion challenged Intuitive's "standing" to sue as a co-plaintiff with IBM. The Court was not persuaded by any of these arguments on the records presented, and so denied all four of Computer Motion's requests for judgment.

#### About Intuitive Surgical's da Vinci(TM) Surgical System

First cleared by the FDA in 1997 for assisting surgery and in July 2000 for performing surgery, the da Vinci Surgical system is still the only operative robotic surgery system cleared by the FDA to perform surgery. The system consists of a surgeon's console, a patient-side cart, a high performance 3-D vision system and Intuitive Surgical's proprietary EndoWrist(TM) articulating instruments. By integrating computer-enhanced robotic technology with the technical skills of the surgeon, we believe that our system enables surgeons to perform better surgery in a manner never before experienced. The da Vinci Surgical System seamlessly translates the surgeon's natural hand and wrist movements on instrument controls at the console into corresponding micro-movements of instruments positioned inside the patient through small puncture incisions, or ports.

The da Vinci Surgical System is the only commercially available technology that can provide the surgeon with the intuitive control, range of motion, fine tissue manipulation capability and 3-D visualization characteristic of open surgery, while simultaneously allowing the surgeon to work through the small ports of minimally invasive surgery.

The statements contained in this release may be deemed to contain "forward-looking statements." Such statements are indicated by words or phrases such as "anticipates," "estimates," "projects," "believes," "intends," "expects" and similar words and phrases. Actual results may differ materially from those expressed or implied in any forward-looking statement as a result of certain risks and uncertainties, including, without limitation, competition and market acceptance of the Company's products, ability to obtain regulatory approvals and third- cautioned not to place undue reliance on such forward-looking statements.

Note to Editors: da Vinci(TM), EndoWrist(TM), Intuitive(R) and Intuitive Surgical(R) are trademarks of Intuitive Surgical, Inc.

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