NEWS RELEASE

ZAP Surgical Deals Two More Blows to Elekta in IP Suit, Removing Barriers to Mass Adoption of the ZAP-X Radiosurgery Platform

9/28/2023

Third and Fourth Court Rulings Continue to Find in Favor of ZAP. Is This the Final Nail?

SAN CARLOS, Calif.--(BUSINESS WIRE)-- ZAP Surgical Systems, Inc., a leading innovator in the field of surgical robotics, has achieved significant legal victories in its ongoing patent litigation against its much larger competitor, Elekta, solidifying the continued availability of the groundbreaking ZAP-X® Gyroscopic Radiosurgery® platform in global markets.

In April 2019, Elekta alleged that the ZAP-X infringed upon its patent 7,296,648, which described a theoretical design for a radiosurgery device that was never brought to market. Elekta’s lawsuit against ZAP Surgical sought monetary damages with a three-fold enhancement for willful infringement, as well as an injunction prohibiting the importation, manufacture, use and sales of the ZAP-X.

The pivotal moment in this legal dispute occurred in April 2021 when the United States Patent and Trademark Office (USPTO) ruled that Elekta's original patent claims were invalid, casting doubt on the basis of Elekta's initial allegations.

On September 21, 2023, the U.S. Federal Court of Appeals delivered a final judgment on Elekta's appeal, reaffirming the USPTO's 2021 decision and affirming that the claims made in patent 7,296,648 are unpatentable due to "obviousness." The judicial panel meticulously reviewed Elekta's arguments and found them “unpersuasive”, thus settling the matter conclusively in favor of ZAP Surgical.

Additionally, ZAP Surgical celebrated another significant victory on September 14, 2023, when the German Federal Patent Court in Munich declared Elekta's European patent 1 680 023, which pertains to the same technology, as invalid. This German decision echoes the sentiments expressed by the U.S. courts, further strengthening ZAP Surgical's position in this protracted legal battle.

In response to the recent legal victories, Dr. John R. Adler, Jr., Stanford Professor of Neurosurgery, and Founder & Chief Executive Officer of ZAP Surgical Systems commented, "We are pleased with the outcome of these legal proceedings, which reaffirm the integrity and innovation behind the ZAP-X platform."

"True innovation is difficult and fraught with failure. Not surprisingly, our legal system is overburdened with frivolous patent lawsuits by companies who have forgotten how to innovate, where the objective may not be to prevail, but to simply outspend, distract and forestall much smaller more thinly capitalized competitors," added Adler. "Who suffers most? Global healthcare systems, and more importantly, patients. No matter, ZAP Surgical remains undeterred in its mission to improve the lives of patients through innovative and cost saving medical technologies, redoubling efforts to provide the ZAP-X platform to medical professionals worldwide."

Initiating its first patient treatments in just 2019, the ZAP-X platform has seen remarkable success with more than 55 system installations and orders. Using a modern linear accelerator to generate radiation, ZAP-X stands out as a pioneer with the sole dedicated cranial radiosurgery system that eliminates the need for Cobalt-60 radioactive sources. This groundbreaking feature not only eliminates substantial expenses related to hosting, securing, and regularly replacing volatile radioactive isotopes, but also aligns with **the International Atomic Energy Association's (IAEA) stance**, which strongly discourages the use of radioactive materials in medicine due to various global security and environmental concerns.

ZAP-X is also renowned for being the first and only self-shielded radiation delivery system, thereby eliminating significant expense to build costly shielded radiation treatment rooms.

About ZAP Surgical Systems, Inc.

ZAP Surgical Systems, Inc. designs and manufactures the ZAP-X® Gyroscopic Radiosurgery® platform. ZAP was founded in 2014 by Dr. John R. Adler. In addition to being CEO of ZAP, Dr. Adler is Emeritus Dorothy & TK Chan Professor of Neurosurgery and Radiation Oncology at Stanford University. Dr. Adler is also renowned as the inventor of the CyberKnife® system and founder of Accuray, Inc. The ZAP-X platform incorporates a unique vault-free design that typically eliminates the need for costly shielded treatment rooms. ZAP-X also utilizes a modern linear accelerator to eliminate legacy use of Cobalt-60. Learn more at **ZAP Surgical** and follow us on **LinkedIn**.

Mark Arnold, ZAP Surgical Systems, Inc.

Senior Vice President, Marketing
+1 650 492 7797, ext. 101
Email: **info@zapsurgical.com**

Source: ZAP Surgical Systems, Inc.