



## Status Update on Intuitive Surgical Patent Litigation Against Computer Motion in Delaware

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SUNNYVALE, Calif., Sep 3, 2002 (BUSINESS WIRE) -- 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., a Delaware jury of seven men and women unanimously concluded that Computer Motion failed to invalidate any claim of IBM's and Intuitive's voice-controlled surgical robot 6,201,984 patent and so awarded Intuitive \$4.4 million as compensation for Computer Motion's sales of its infringing AESOP and ZEUS products.

Immediately following the jury phase of the Delaware trial, the parties presented evidence to the Court concerning Computer Motion's equitable "prosecution laches" defense. In a schedule set by the Court, post-trial legal briefing on "prosecution laches" should conclude by early October. Afterwards, the Court will decide whether to allow the jury's verdict to stand or whether "prosecution laches" bars enforcement of the '984 patent. That decision process may take several more weeks or months, after which judgment would be entered.

The '984 patent is based on early research into voice-controlled surgical robots by Dr. Russell H. Taylor and his colleagues at IBM in the early 1990s. Computer Motion had argued to the jury that all asserted claims of the '984 patent, which Computer Motion admitted it infringed, were invalid for failure to satisfy both of the "enablement" and "best mode" requirements of U.S. patent law. The jury concluded that Computer Motion was unable to carry its burden of demonstrating invalidity of any claim on either ground by clear and convincing evidence. During trial, the Court ruled as a matter of law that Computer Motion's infringement could not have been "willful," and Computer Motion chose to abandon its "obviousness" invalidity defense.

### 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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