

NUVASIVE INC
Form 8-K
December 13, 2012

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 8-K

Current Report

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 10, 2012

NUVASIVE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction

of Incorporation)

000-50744
(Commission

File Number)

33-0768598
(I.R.S. Employer

Identification Number)

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7475 Lusk Boulevard, San Diego, California 92121

(Address of principal executive offices, with zip code)

(858) 909-1800

(Registrant's telephone number, including area code)

n/a

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 8.01 Other Events

In September 2009, Neurovision Medical Products, Inc. (NMP) filed suit against NuVasive, Inc. (NuVasive) in the U.S. District Court for the Central District of California (the District Court) alleging trademark infringement and unfair competition. NMP sought cancellation of NuVasive s NeuroVision trademark registrations, injunctive relief and damages based on NMP s common law use of the Neurovision mark. After trial of the matter, on October 25, 2010 an unfavorable jury verdict was delivered against NuVasive relating to its use of the NeuroVision trade name. On January 3, 2011, the District Court ordered a judgment be entered in the case in the amount of \$60.0 million plus attorney fees and costs, and granted a permanent injunction prohibiting NuVasive s use of the NeuroVision name for marketing purposes. NuVasive promptly appealed the verdict to the Ninth Circuit Court of Appeals (the Circuit Court) and on February 3, 2011, the Circuit Court stayed enforcement of the injunction.

On June 16, 2011, NuVasive entered into an escrow arrangement and transferred \$62.5 million of cash and investments into a restricted escrow account to secure the judgment.

On September 10, 2012, the Circuit Court reversed and vacated the District Court s judgment against NuVasive, and also reversed and vacated the injunction and the award of attorney fees and costs. The Circuit Court remanded the case for a new trial and instructed the District Court to assign the case to a different judge.

NMP s right to appeal the Circuit Court s reversal and vacation of the judgment expired on December 10, 2012 and NMP stipulated to the release of the \$62.5 million from the restricted escrow account on December 11, 2012. As a result, the full \$62.5 million was released from escrow and returned to NuVasive.

A retrial on the matter is currently scheduled to begin in front of a new judge in the District Court on June 4, 2013.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NUVASIVE, INC.

Date: December 13, 2012

By: /s/ Jason Hannon
Jason Hannon
Executive Vice President, General Counsel