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Declarations under Rule 4.17:

[Continued on next page]

(54) Title: SURGICAL INSTRUMENT COMPRISING AN ELECTRODE

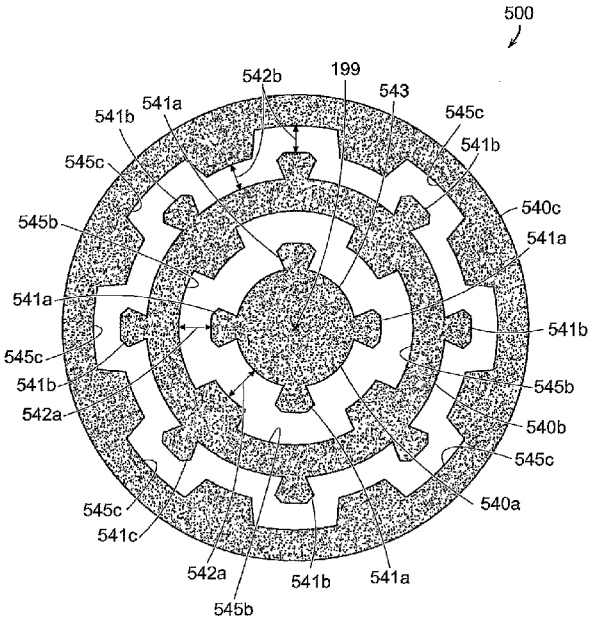


FIG. 3A

(57) Abstract: A surgical instrument can comprise a first electrode, a second electrode positioned about the first electrode, and a third electrode positioned about the second electrode. In various embodiments, a surgical instrument can comprise a biopsy punch shaft and one or more electrodes mounted to the outside of the shaft. In certain embodiments, a surgical instrument can comprise a cylinder configured to be rolled over a tissue surface wherein electrodes extending from the cylinder can contact and/or penetrate the tissue. In various embodiments, a surgical instrument can comprise at least one rotatable electrode wherein the electrode can be rotated to grasp and pull tissue.

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— *as to the identity of the inventor (Rule 4.17(i))*

— *as to applicant's entitlement to apply for and be granted a patent (Rule 4.17(ii))*

— *as to the applicant's entitlement to claim the priority of the earlier application (Rule 4.17(iii))*

Published:

— *with international search report (Art. 21(3))*

— *before the expiration of the time limit for amending the claims and to be republished in the event of receipt of amendments (Rule 48.2(h))*

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INTERNATIONAL SEARCH REPORT

International application No
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A. CLASSIFICATION OF SUBJECT MATTER
INV. A61B18/14
ADD.

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
A61B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 3 595 239 A (PETERSEN ROY A) 27 July 1971 (1971-07-27) the whole document column 1, lines 5-10 column 2, line 1 - column 3, line 21 -----	1-6
X	WO 2008/151237 A1 (TERUMO CORP [JP]; TAIMISTO MIRIAM H [US]; KUMAR UDAY N [US]; VEGESNA V) 11 December 2008 (2008-12-11) abstract; figures 2A-B, 3B paragraph [0002] paragraph [0037] - paragraph [0038] paragraph [0047] - paragraph [0051] paragraph [0054] - paragraph [0061] paragraph [0065] - paragraph [0074] ----- -/--	1-6

[X] Further documents are listed in the continuation of Box C.

[X] See patent family annex.

* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
27 April 2011	30/08/2011

Name and mailing address of the ISA/	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Fax: (+31-70) 340-3016	Molina Silvestre, A

Form PCT/ISA/210 (second sheet) (April 2005)

INTERNATIONAL SEARCH REPORT

International application No
PCT/US2011/021815

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	WO 99/00060 A1 (ADVANCED CORONARY INTERVENTION [US]) 7 January 1999 (1999-01-07) the whole document	1-6
A	US 2003/225403 A1 (WOLOSZKO JEAN [US] ET AL) 4 December 2003 (2003-12-04) the whole document	1-6
A	US 4 269 174 A (ADAIR EDWIN L) 26 May 1981 (1981-05-26) the whole document	1-6

Form PCT/ISA/210 (continuation of second sheet) (April 2005)

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US2011/021815

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:

3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.

2. ☐ As all searchable claims could be searched without effort justifying an additional fees, this Authority did not invite payment of additional fees.

3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:

4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

1-6

Remark on Protest

☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.

☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.

☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-6

   Surgical instrument comprising a handle, first and second conductors and first, second and third electrodes, wherein the electrodes are arranged in a surrounding relationship and define specified gaps between them.

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2. claims: 7-11

   Biopsy tool comprising a handle, first and second conductors and first and second electrodes, the tool further comprising a shaft having an aperture configured to receive tissue.

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3. claims: 12-16

   Surgical instrument comprising a handle, first and second conductors and a plurality of electrodes, the instrument further comprising a rotatable member rotatably mounted to the handle and wherein the electrodes are positioned within apertures of a cylinder body of the rotatable member.

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4. claims: 17-21

   Surgical instrument comprising a handle, first and second conductors and first and second electrodes, wherein the electrodes are rotatable electrodes rotatably mounted to the handle and wherein the instument further comprises a motor configured to rotate the first electrode in order to pull tissue into a specified position.

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5. claim: 22

   Surgical instrument comprising a conductor and first, second and third electrodes, the instrument further comprising a biasing member configured to ensure appropriate relative positioning of the electrodes.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No
PCT/US2011/021815

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 3595239 A	27-07-1971	DE 2009093 A1	15-10-1970
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		WO 03068311 A2	21-08-2003
US 4269174 A	26-05-1981	NONE	