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DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, GT, HN,

HR, HU, ID, IL, IN, IS, JP, KE, KG, KM, KN, KP, KR,
KZ, LA, LC, LK, LR, LS, LT, LU, LY, MA, MD, ME,
MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ,
OM, PE, PG, PH, PL, PT, QA, RO, RS, RU, RW, SC, SD,
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SM, TR), OAPI (BF, BJ, CF, CG, CI, CM, GA, GN, GQ,
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Declarations under Rule 4.17:

- as to the identity of the inventor (Rule 4.17(i))
- 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))
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21 November 2013

(54) Title: TISSUE THICKNESS COMPENSATOR FOR A SURGICAL STAPLER COMPRISING AN ADJUSTABLE ANVIL

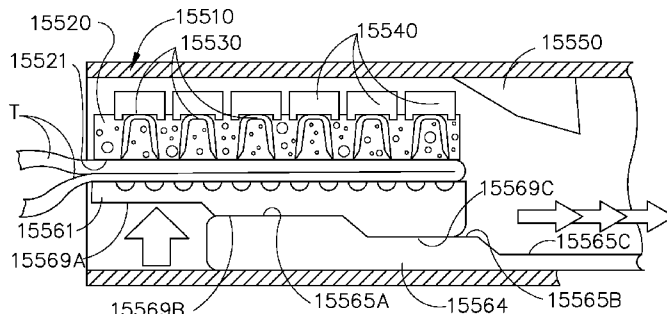


FIG. 356

(57) Abstract: A fastener cartridge can comprise a support portion, a tissue thickness compensator positioned relative to the support portion, and a plurality of fasteners positioned within the support portion and/or the tissue thickness compensator which can be utilized to fasten tissue. In use, the fastener cartridge can be positioned in a first jaw of a surgical fastening device, wherein a second jaw, or anvil, can be positioned opposite the first jaw. To deploy the fasteners, a staple-deploying member is advanced through the fastener cartridge to move the fasteners toward the anvil. As the fasteners are deployed, the fasteners can capture at least a portion of the tissue thickness compensator therein along with at least a portion of the tissue being fastened.

WO 2012/148668 A3

INTERNATIONAL SEARCH REPORT

International application No
PCT/US2012/032976

A. CLASSIFICATION OF SUBJECT MATTER
INV. A61B17/072
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 practicable, search terms used)
EPO-Internal, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2008/082124 A1 (HESS CHRISTOPHER J [US] ET AL) 3 April 2008 (2008-04-03) paragraphs [0346], [0384]; figures 27,30 -----	1-6
Y	EP 2 165 656 A2 (ETHICON ENDO SURGERY INC [US]) 24 March 2010 (2010-03-24) paragraphs [0036], [0037]; figures 2,18 -----	1-6
A	US 6 273 897 B1 (DALESSANDRO DAVID A [US] ET AL) 14 August 2001 (2001-08-14) the whole document -----	1-6
A	US 7 708 180 B2 (MURRAY MICHAEL A [US] ET AL) 4 May 2010 (2010-05-04) paragraph [0048] -----	1-6
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Further documents are listed in the continuation of Box C. 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	"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
"E" earlier application or patent but published on or after the international filing date	"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
"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)	"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
"O" document referring to an oral disclosure, use, exhibition or other means	"&" document member of the same patent family
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search 8 October 2013	Date of mailing of the international search report 17/10/2013
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Name and mailing address of the ISA/ European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Fax: (+31-70) 340-3016	Authorized officer Barton, Simon
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INTERNATIONAL SEARCH REPORT

International application No PCT/US2012/032976

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	EP 1 064 883 A1 (ETHICON INC [US]) 3 January 2001 (2001-01-03) paragraphs [0015], [0016] -----	1-6
X,P	US 2012/080498 A1 (SHELTON IV FREDERICK E [US] ET AL) 5 April 2012 (2012-04-05) the whole document -----	1-6

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US2012/032976

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.: 7-20
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:
see FURTHER INFORMATION sheet PCT/ISA/210

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:

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.:

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

Continuation of Box II.2

Claims Nos.: 7-20

It is noted that the present application includes 244 pages of description, 222 pages of figures and four independent claims 1,7,11,18. It is further noted that the claims do not include the reference signs in parentheses required for clarity by Article 6 PCT in combination with Rule 6 PCT, which would provide the examiner with an indication as to where in the 244 pages of description and 222 pages of figures to look for the supporting description, noting the requirement of Article 6 PCT for full support of the claims by the description.

It is further noted that the description generally introduces technical features by phrases such as "in various embodiments", "in at least one such embodiment" etc, without giving a clear indication of any particular combination of features unambiguously present in any single embodiment.

As a result, the applicant was invited to provide arguments as to how a single independent claim finds full support (as required by Article 6 PCT) in a particular passage of the description (and similar arguments relating to any claims dependent on that independent claim that the applicant wishes to have searched).

The applicant declined to provide arguments as to how a single independent claim finds the required support, leaving it unclear to the examiner which single independent claim should be used as the basis of the present search.

As a result the examiner used the first independent claim, together with its dependent claims 2-6, as the basis of a search, interpreting these claims in the light of para.670-672 and figures 351-357.

However, element 15561 is sometimes referred to as an (adjustable) anvil plate and sometimes as an anvil adjustment plate.

The examiner chose to interpret claims 1-6 assuming that element 15561 is an (adjustable) anvil plate, element 15564 being the adjustment plate.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guidelines C-IV, 7.2), should the problems which led to the Article 17(2) declaration be overcome.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No

PCT/US2012/032976

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