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Declarations under Rule 4.17:

- 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
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(54) Title: STAPLE CARTRIDGE COMPRISING A RELEASABLE COVER

(57) Abstract:

PATENT COOPERATION TREATY

PCT

DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and Rule 39)

Applicant's or agent's file reference END7201 WOPCT	IMPORTANT DECLARATION	Date of mailing (<i>day/month/year</i>) 4 August 2014 (04-08-2014)
International application No. PCT/US2014/015293	International filing date (<i>day/month/year</i>) 7 February 2014 (07-02-2014)	(Earliest) Priority date (<i>day/month/year</i>) 8 February 2013 (08-02-2013)
International Patent Classification (IPC) or both national classification and IPC A61B17/072, A61B17/068		
Applicant ETHICON ENDO-SURGERY, INC.		

This International Searching Authority hereby declares, according to Article 17(2)(a), that **no international search report will be established** on the international application for the reasons indicated below

1. The subject matter of the international application relates to:

- a. scientific theories
- b. mathematical theories
- c. plant varieties
- d. animal varieties
- e. essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes
- f. schemes, rules or methods of doing business
- g. schemes, rules or methods of performing purely mental acts
- h. schemes, rules or methods of playing games
- i. methods for treatment of the human body by surgery or therapy
- j. methods for treatment of the animal body by surgery or therapy
- k. diagnostic methods practised on the human or animal body
- l. mere presentations of information
- m. computer programs for which this International Searching Authority is not equipped to search prior art


2. The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:

the description the claims the drawings

3. A meaningful search could not be carried out without the sequence listing; the applicant did not, within the prescribed time limit:

- furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rule 13ter.1(a) or (b).

4. Further comments:

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040 Fax: (+31-70) 340-3016	Authorized officer ULLRICH, Josef Tel: +49 (0)89 2399-8048
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FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

The present application contains 20 claims, of which 5 are independent. There is no clear distinction between the independent claims because of overlapping scope. There are so many claims, and they are drafted in such a way that the claims as a whole are not in compliance with the provisions of clarity and conciseness of Article 6 PCT, as it is particularly burdensome for a skilled person to establish the subject-matter for which protection is sought.

The non-compliance with the substantive provisions is to such an extent that a meaningful search of the whole claimed subject-matter could not be carried out (Article 17(2) PCT and PCT Guidelines 9.30).

There being no reasonable basis in the application that clearly indicates the subject-matter which might be expected to form the subject of the claims later in the procedure, no search at all was deemed possible.

Moreover, there is a strong inconsistency between the claims and the description, which leads to doubt concerning the matter for which protection is sought, thereby rendering the claims unclear, Article 6 PCT.

According to Rule 5.1(a) (iii) PCT, the description shall "disclose the invention as claimed in such terms that the technical problem and its solution can be understood by the person skilled in the art".

The present description and the corresponding figures, however, comprise extensive information which does not relate to the technical problem and the solution underlying the alleged invention.

This superfluous information cannot and does not support the skilled person seeking to understand the technical problem and its solution as presently claimed.

On the contrary, the unjustified imbalance between supporting and unrelated information renders the scope of the invention and the proposed solution obscure (Article 6 PCT).

Furthermore, according to Rule 5.1(a)(ii) PCT, the description shall "indicate the background art which, as far as is known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art.

It appears that the description and the drawings comprise many passages/figures which are contained in former already published application(s) of the same applicant. These already published passages/figures appear to represent prior art rather than disclose the invention. In this context the Applicant is already informed at this stage of the procedure that any passages/figures only reflecting prior art must eventually be replaced by a reference to the document(s) disclosing this prior art and a brief summary of the relevant contents. Therefore, the applicant is asked to clearly indicate in the response which of the figures and corresponding description contained in the present application are prior art and to indicate the documents reflecting this prior art. Moreover, the Applicant is requested to identify which passages in the description and which figures disclose the alleged invention as laid down in the present claims.

In the absence of such a statement it is impossible to carry out a meaningful search in terms of Rule (1) PCT since firstly it is not clear which figures are prior art and which figures represent the invention, and secondly the sheer amount of apparently superfluous information renders the scope of the presently claimed subject-matter obscure

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

(Article 6 PCT).

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.