

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To: DANIELS BARBARA MEDICINELODGE, INC. 124 SOUTH 600 WEST LOGAN UT 84321 USA
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Date of mailing (day/month/year) 18 JANUARY 2010 (18.01.2010)



Applicant's or agent's file reference DUG-1 PCT	FOR FURTHER ACTION See paragraph 2 below
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International application No. PCT/US2009/047684	International filing date (day/month/year) 17 JUNE 2009 (17.06.2009)	Priority date(day/month/year) 20 JUNE 2008 (20.06.2008)
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International Patent Classification (IPC) or both national classification and IPC <i>A61B 17/70(2006.01)i, A61F 2/44(2006.01)i</i>

Applicant DUGGAL NEIL et al

1. This opinion contains indications relating to the following items:
- Box No. I Basis of the opinion
 - Box No. II Priority
 - Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - Box No. IV Lack of unity of invention
 - Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - Box No. VI Certain documents cited
 - Box No. VII Certain defects in the international application
 - Box No. VIII Certain observations on the international application
2. **FURTHER ACTION**
If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.
- If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.
For further options, see Form PCT/ISA/220.
3. For further details, see notes to Form PCT/ISA/220.

 Name and mailing address of the ISA/KR Korean Intellectual Property Office Government Complex-Daejeon, 139 Seonsa-ro, Seo-gu, Daejeon 302 -701, Republic of Korea Facsimile No. 82-42-472-7140	Date of completion of this opinion 14 JANUARY 2010 (14.01.2010)	Authorized officer KIM, Hee Seung Telephone No.82-42-481-8656	
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US2009/047684

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of :
 - the international application in the language in which it was filed
 - a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))
2. This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:
 - a. type of material
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material
 - on paper
 - in electronic form
 - c. time of filing/furnishing
 - contained in the international application as filed.
 - filed together with the international application in electronic form.
 - furnished subsequently to this Authority for the purposes of search.
4. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

WRITTEN OPINION OF THE
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application

claims Nos. 32-39 _____

because:

the said international application, or the said claims Nos. 32-39 _____
relate to the following subject matter which does not require an international search (*specify*):

The subject matter of claims 32-39 relates to a method of treatment by surgery (Rule 43 bis.1(b), Rule 67.1(iv)).

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed (*specify*):

no international search report has been established for said claims Nos. 32-39 _____

a meaningful opinion could not be formed 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).

a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

See Supplemental Box for further details.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>1-31</u>	YES
	Claims	<u>none</u>	NO
Inventive step (IS)	Claims	<u>1-31</u>	YES
	Claims	<u>none</u>	NO
Industrial applicability (IA)	Claims	<u>1-31</u>	YES
	Claims	<u>none</u>	NO

2. Citations and explanations :

Reference is made to the following documents:

D1: US 2004/49190 A1
D2: US 2005/203511 A1
D3: US 2006/247637 A1
D4: US 2006/84982 A1

1. Novelty and Inventive Step

1.1 Claims 1-31

The subject matter of claims 1 and 19 differs from these prior art documents in that a spinal stabilization implant comprises a bias element that attaches to the first bridge element and the second bridge element to provide a stabilizing force between the bridge elements. And it is not obvious to a skilled person in the art by the documents, take alone or in combination. Therefore, claims 1 and 19 meet the requirements of PCT Article 33(2) and (3) with respect to novelty and inventive step.

Claims 2-18 and 20-31 are dependant on claims 1 and 19 as such also meet the requirements of PCT Article 33(2) and (3).

2. Industrial Applicability

Claims 1-31 are industrially applicable under PCT Article 33(4).