PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing (day/month/year) see form PCT/ISA203

Applicant's or agent's file reference see form PCT/ISA220

FOR FURTHER ACTION See paragraph 2 below

International application No. PCT/US2009/051513

International filing date (day/month/year) 23.07.2009

Priority date (day/month/year) 25.07.2008

International Patent Classification (IPC) or both national classification and IPC INV. A61B17/00

Applicant ETHICON ENDO-SURGERY, INC.

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 usually 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/ISA220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA220.

3. For further details, see notes to Form PCT/ISA220.

Name and mailing address of the ISA:

European Patent Office
Gitschiner Str. 103
D-1058 Berlin
Tel. +49 30 25901 - 0
Fax: +49 30 25901 - 840

Date of completion of this opinion see form PCT/ISA203

Authorized Officer
Nice, Philip
Telephone No. +49 30 25901-508

Form PCT/ISA237 (Cover Sheet) (April 2005)
Box No. 1  Basis of the 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 and necessary to the claimed invention, 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:
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.

because:

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

*see separate sheet*

☐ 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 the whole application or for said claims Nos. ___

☐ 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 Rules 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
**Re Item III**

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The claims relate to subject-matter considered by this Authority to be covered by the provisions of Rule 39.1(iv) / 67.1(iv) PCT.