

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

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

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/ES2016/070559

International filing date (day/month/year)
22.07.2016

Priority date (day/month/year)
23.07.2015

International Patent Classification (IPC) or both national classification and IPC
INV. A61C1/08

Applicant
AVILES OSBORNE, PABLO

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 43*bis*.1(a)(i) with regard to novelty, inventive step and 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 66.1*bis*(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.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0
Fax: +49 89 2399 - 4465

Date of completion of this opinion

see form
PCT/ISA/210

Authorized Officer

Fouquet, Michèle

Telephone No. +49 89 2399-0



Box No. I 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, this opinion has been established on the basis of a sequence listing:
 - a. forming part of the international application as filed:
 - in the form of an Annex C/ST.25 text file.
 - on paper or in the form of an image file.
 - b. furnished together with the international application under PCT Rule 13ter.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
 - c. furnished subsequent to the international filing date for the purposes of international search only:
 - in the form of an Annex C/ST.25 text file (Rule 13ter.1(a)).
 - on paper or in the form of an image file (Rule 13ter.1(b) and Administrative Instructions, Section 713).
4. In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that forming part of 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. 14-18

because:

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

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. 14-18

a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

furnish a sequence listing in the form of an Annex C/ST.25 text file, and such listing was not available to the International Searching Authority in the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

furnish a sequence listing on paper or in the form of an image file 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 the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

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).

See Supplemental Box for further details

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)	Yes: Claims	<u>8</u>
	No: Claims	<u>1-7, 9-13</u>
Inventive step (IS)	Yes: Claims	<u>8</u>
	No: Claims	<u>1-7, 9-13</u>
Industrial applicability (IA)	Yes: Claims	<u>1-13</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

1 **Re Item V**

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1.1 Reference is made to the following documents:

- D1 EP 2 168 529 A2 (BAGAMBISA FRANK [DE]) 31 March 2010 (2010-03-31)
- D2 US 5 868 572 A (LAZZARA RICHARD J [US] ET AL) 9 February 1999 (1999-02-09)
- D3 KR 2014 0058830 A (NEOBIOTECH CO LTD [KR]) 15 May 2014 (2014-05-15)
- D4 ES 2 553 678 A1 (TALON GRACIANI ANTONIO [ES]; AVILES OSBORNE PABLO [ES]) 10 December 2015 (2015-12-10)
- D5 WO 2007/129955 A1 (NOBEL BIOCARE SERVICES AG [CH]; BRAJNOVIC IZIDOR [SE]) 15 November 2007 (2007-11-15)
- D6 US 2012/028215 A1 (WADE CURTIS K [US] ET AL) 2 February 2012 (2012-02-02)
- D7 DE 10 2005 032933 A1 (UNIV GIESSEN JUSTUS LIEBIG [DE]) 18 January 2007 (2007-01-18)

1.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-7, 9-13 is not new in the sense of Article 33(2) PCT.

Among other documents, see the search report, US2012/00282215 discloses a system for guided implantoplasty (fig. 16), characterised in that it comprises an elongated drilling body (24) that may axially rotate on the longitudinal axis (E2) thereof, the drilling body being equipped with at least one rough grinding portion (32, 52); an elongated guide body that may be positioned longitudinally in and partially projecting from the inside of a prosthetic fastening hole of an implant (28), the guide body comprising fastening means that may be linked to the prosthetic fastening hole (94), wherein the drilling body and the guide body are configured, at least partially, such that they are complementary to each other such that there is a male-female relationship between them when in use (fig. 16).

US2012/00282215, the figures and the paragraphs 6, 7, 42-47, 50, 51, 121, 139 further discloses all the features of claims 2-7, 11-13.

DE102005032933, figures 3a-8c; §1, §39 §53 , §59 discloses all the features of claims 1-3, 5, 6, 9, 10, 12, 13. The stop element as defined in claims 9 and 10 is disclosed in the second half of §41.

The feature of claim 8 is neither know nor taught in the cited prior art documents and as such seems to fulfil the requirements of Art. 33(2)-(4) PCT.

2 Re Item III

A meaningful search is not possible on the basis of claims 14-18 because these claims are directed to a method for treatment of the human or animal body by surgery (Rule 39.1(iv) PCT).

Especially step d) of claim 14, reading "drilling (in the human bone) using the drilling body on the portion of the implant (already installed in the bone) to be treated". Also the dependent claims 15-18 refer to that drilling step.