Paper Ref	Sheet	Percentage Mark Awarded
FD4	1 of 29	52%

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Spare set of Claims

Claims

1. A peg, comprising:

   a body portion having a tubular shaft connected to a penetrating head; and

   a side bar having a driving end, a shank, and a head end, the head end extending at an angle to the shank;

   wherein the side bar is located within the tubular shaft;

   so that when the driving end is forced along the tubular shaft, the head end is forced from the shaft in a tightly curved path.

2. A peg according to Claim 1, wherein the side bar carries a flexible cable.

3. A peg according to Claim 1, comprising a pair of side bars.

4. A peg according to Claim 1 or 2, wherein the end of the side bar is provided with an asymmetric screw thread.

5. A peg according to Claim 4, wherein the asymmetric thread has a thread pitch which increases along each of the side bars.

6. A method of securing a flexible wire, comprising:

   locating a peg in a cavity formed in a substrate, the peg comprising a side bar having an asymmetric screw and carrying a flexible thread;

   forcing the side bar along a hollow shaft of the peg so that it extends from the tubular shaft of the peg along a curved path and out of the substrate to expose an end of the flexible thread.

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[**Instruction to Candidate:** Save your Answer document to your computer as a Word document. Convert the Answer document to a PDF. Check and then Upload the PDF-ed Answer document to the PEBX system.]

All claim integers follow that in the Construction section below.

PSA = person skilled in the art; CGK = common general knowledge

Construction (for Doc A)

Claim 1

1.1 A peg, comprising:

- this is an independent claim 1

- "A peg" functions as anchor to penetrate a material or a site but not necessarily remains in the material for securing something to the material or the site – this has a broad interpretation because the peg has to include both embodiments in relation to a ground peg (see e.g. page 3 lines 2-3 and Figure 2) and a device for suturing in which the device 50 (Fig.4) will be withdrawn (page 7 lines 1-2) 1

- "comprising" means including the following features but not limited to (an "open" word)

1.2 a body portion having a tubular shaft connected to a penetrating head; and

- "a body portion having a tubular shaft" is construed as a main portion of the peg where the main portion or the body is hollow, taking its ordinary meaning, this includes a tube (see Tube 1 of Figure 2 and Tube 51 of Figure 4). There is no limitation that the body portion is circular though and can take any shape or cross-section

Page sub-total 1

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- "connected to" – this is construed as the body portion being operationally attached to, but this connection/attachment can be permanent (see Figure 2, page 4 lines 22-23 where the head 2 is part of the tube 1) or temporarily (while in use) (see Figure 4, penetrating head 52 which is said to be secured to an open-ended tube 51 – page 6 lines 10-11)

- "a penetrating head" is construed as a portion at an end of the body portion which functions to penetrate a ground or a wound, this includes being pointed but not necessarily so (see pointed head 2 of Figure 2 and penetrating head 52 of Figure 4, page 5 line 14 and page 6 lines 24-25)

1

1.3 a side bar having a driving end, a shank, and a head end, the head end extending at an angle to the shank;

- "a side bar" is construed as a deformable portion which can be deflected with force for penetrating the material/the site because this is the function of the side bar in both embodiments in relation to Figures 2 and 4 (see page 4 lines 26-28; page 6 lines 16-18)

- "having" relates to an open term meaning can include following features and more – repercussive effect from claim 4 where side bar includes asymmetric screw head.

- "driving end" is construed as an end of the side bar that is near an upper end of the tube which is being driven or forced to the ground or into the wound (page 5 lines 14-15; page 6 lines 25-26 and Figure 4)

1

Page sub-total

2

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- "a shank" – is construed as a body of the side bar (page 4 lines 7-8) since an axis of the elongated shank as shown in Figure 2 is with respect to the body or elongated body of the side bar, the body of the side bar however is not limited to be along a longitudinal axis of the tubular shaft to encompass the embodiment in relation to Figure 4 which shows that the side bars are at an angle with respect to the open-ended tube 51

- "a head end, the head end extending at an angle to the shank"

the head end is construed as a penetrating portion of the side bar/deformable portion at the side of the penetrating head of the body portion of the peg because it is stated in the claim that the head end is required to extend at an angle to the shank. This is evidenced at page 4 lines 27-28 where the bend head 6 of the side bar is said to extends at an angle to the axis of the elongate shank; 1

- the head end functions to penetrate the site/material (see page 6 lines 14-15 and Figure 4).

- "at an angle to the shank" is construed as the head/penetrating portion being deflected at an angle to an longitudinal axis of the body portion of the side bar (page 4 lines 27-28, Figure 2 with reference to parts 5 and 6 and Figure 4 with reference to parts 56, 57). 1

1.4 wherein the side bar is located within the tubular shaft;

- "wherein" – a patent term to explain or further define a following feature

- "the side bar is located within the tubular shaft" – this is construed to include being wholly within or partially within the tubular shaft of the body portion of the 1

Page sub-total 3

peg because the side bar will be deflected and extend outwardly from the tubular shaft during operation (page 5 lines 17-19) but can also be located in the tubular shaft (see e.g. Figure 4 and page 6 lines 13-14)

1.5 so that when the driving end is forced along the tubular shaft, the head end is forced from the shaft in a tightly curved path.

"so that" is construed as the preceding features providing a following effect, takes on ordinary meaning in patent language.

"when the driving end is forced along the tubular shaft"

- construed as the end of the side bar being driven or forced in a direction following a length or elongated portion of the hollow body of the peg using ordinary meaning (see Figures 2 and 4) 1

- "the head end is forced from the shaft in a tightly curved path"

- construed as the penetrating portion of the side bar for penetrating the material/the site is being pushed along a passage which has a radius of curvature and is not straight and a non-circular path (page 3 line 26; page 5 lines 17-19) – no description on how tightly it can be so construed broadly as long as the function of the side bar in securing can be performed. 1

Claim 2

2.1 A peg according to Claim 1,

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- dependent claim, construed as a peg having all the features of claim 1 and additional feature.

2.2 wherein the side bar carries a flexible cable.

- "carries" – move within the side bar (page 6 lines 19-21 and Figure 5c where the threads are shown extended from an inside of the side bars 561, 562) – the other embodiment as shown in Fig. 2 does not show thread or cable 1

- "flexible cable" – construed as flexible thread or wire, takes on ordinary which means can be bent as this is a function of the thread or wire (see Figures 5a to 5d)

Claim 3

3.1 A peg according to Claim 1,

- dependent claim, construed as a peg having all the features of claim 1 and additional feature.

3.2 comprising a pair of side bars.

- "comprising"- open ended meaning including following features and more

- "a pair of side bars" – "a pair" includes two side bars working cooperatively together (take on ordinary meaning) – when reading with claim 1, this is construed as the side bar including a pair of side bars (rather than additionally a pair or two side bars) – see page 6 lines 13 and Figure 4 1

Claim 4

4.1 A peg according to Claim 1 or 2,

- dependent claim, construed as a peg having all the features of claim 1 or claim 2 and additional feature.

4.2 wherein the end of the side bar is provided with an asymmetric screw thread.

- "the end of the side bar" is construed as the head portion or the penetrating portion of the side bar because the asymmetric screw thread is provided to decrease the bend radius R of the side bar 5 as it emerges (see page 5 lines 25-26) – also see Figures 3 and 4 where the screw thread is at the penetrating end of the side bar

- "provided with an asymmetric screw thread"

"provided with" means the penetrating portion having that feature 1

"asymmetric screw thread" can be uneven with reference to pitch of the thread (changing continuously or with different portions having different pitch) or with reference to different portions of screw thread of the penetrating portion of the side bar having thread or no thread (page 4 line 3-6)

Claim 5

5.1 A peg according to Claim 4,

DEP. 1

- dependent claim, construed as a peg having all the features of claim 4 and additional feature.

5.2 wherein the asymmetric thread has a thread pitch which increases along each of the side bars.

- construed as the asymmetric thread having a pitch that changes continuously along a length of the side bars relating to a specific embodiment as described at page 4 lines 3-6)

Claim 6

6.1 A method of securing a flexible wire, comprising:

- independent claim "method" relating to steps of a process

- "of" is not limiting and construed as "suitable for"

- "securing a flexible wire" – this relates to embodiment of Figure 4 which is the only embodiment described that is for holding down a thread or a suture material (see page 6 lines 19-21) – cannot be the side bar as side bar is mentioned separately from the flexible wire/thread as shown below

- "comprising" again is an opened end term, including the following features but not limited to

6.2 locating a peg in a cavity formed in a substrate,

- "locating a peg in a cavity" – placing an anchor to penetrate a material or a site but not necessarily remains in the material for securing something to the material or the site – this has a broad interpretation because the peg has to include both embodiments in relation to a ground peg (see e.g. page 3 lines 2-3 and Figure 2) and a device for suturing in which the device 50 (Fig.4) will be withdrawn (page 7 lines 1-2)

- "the cavity formed in a substrate" relates to an opening in a skin (see "wound" (see page 6 lines 22))

6.3 the peg comprising a side bar having an asymmetric screw and carrying a flexible thread;

- "a side bar" is construed as a deformable portion which can be deflected with force for penetrating the skin because this is the function of the side bar in both embodiments in relation to Figure 4 (see page 6 lines 16-18)

- "asymmetric screw" is construed as uneven thread of a screw (see Figure 4 features S1 and S2) which relates to a penetrating head portion of the side bar

- "carrying a flexible thread" - move within the side bar (page 6 lines 19-21 and Figure 5c where the threads are shown extended from an inside of the side bars 561, 562) – the other embodiment as shown in Fig. 2 does not show thread or cable; "flexible thread" is construed as same as "flexible wire" in the preamble for consistency. 1

6.4 forcing the side bar along a hollow shaft of the peg

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- construed as the side bar or flexible deformable portion for penetrating the wound being driven along or forced in a direction following a length or elongated portion of the hollow body of the peg using ordinary meaning (see Figures 2 and 4) – see construction 1.5

1

6.5 so that it extends from the tubular shaft of the peg along a curved path and out of the substrate to expose an end of the flexible thread.

- "so that" is construed as the preceding features providing a following effect, takes on ordinary meaning in patent language.

- "it" construed as the side bar being consistent with aforementioned feature (see 6.4 – also see Figure 5b)

- "extends from the tubular shaft of the peg along a curved path and out of the substrate"

- construed as the side bar for penetrating the wound and is being pushed along a passage which has a radius of curvature and is not straight (page 5 lines 17-19)

- "out of the substrate to expose an end of the flexible thread" takes on ordinary meaning as to pushing the side bar out of the skin (see Figure 5b) to expose an end of the flexible thread or flexible wire

CONSTRUCTION

14

MARKS AWARDED: 14

Page sub-total

1

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Infringement

A claim is infringed if all features of the claim as interpreted in the Construction Section are present, or if not present, the variant is immaterial. Whether the variant is immaterial with be decided using the Actavis questions.

P- present; A- absent

Claim 1

1.1 – P, this is because Accu-Stitch (S) is shown being an anchor that penetrate the skin or wound (see Figures A-D)

1.2 – P, this is shown in Figures A-D where the elongated body of S is a tube being connected to permanently to a rounded leading end that is capable of penetrating a wound (page 13 lines 7-8) and see Figures A-D where S is inserted into the wound. 1

1.3 – P, the flexible plastic needles of S (page 14 lines 1-2) is deformable and can be deflected with force (see also page 14 lines 3-5 where it is said that the needles are to bend upwardly. The needles therefore includes an end which is used to be forced into a wound. The needles also has a body or elongated body as shown in relation to Figures A-D. Being flexible, the penetrating portions of the needles can be deflected at an angle to an longitudinal axis of the needles and it is deflected within the body by the diverting surface (page 14 lines 3-4; Figure B). 1

1.4 – P, it is clear that the needles (interpreted as the side bar) is within partially within the body of S (see Figure B) 1

Page sub-total 3

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1.5 – P, The needles are said to be driven along the length of the body of S (construed as the peg) which causes the needles to protrude from the skin of the patient (see page 14, lines 10-11). Figures A-D show that the path being protruded out is not straight. 1

All features of claim 1 is present and so claim 1 is infringed.

Claim 2

2.1 – relates to additional feature to claim 1

2.2 – A – because the suture material is shown to couple to an end or driving portion of the needles and not through the inside of the needles 1

Claim 2 is not infringed as additional feature is absent.

Claim 3

3.1 – relates to additional feature to claim 1

3.2 – P, this is because Figures A-D show two needles of S working cooperatively 1

Claim 1 is infringed and also the additional feature of claim 3 is present, so claim 3 is also infringed.

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Claim 4

4.1 – relates to additional feature to claim 1 or claim 2

4.2 – may be present, but need to check with client – Figures E and G appear to show screw thread of the needles with symmetrical pitches, that is the pitch of the thread are not changing. However, there is no information about whether the thread is discontinuous along the length of the needles (are there portions of the needles with no thread).

Claim 4 dependent on claim 1 may be infringed if there are portions of needles with no thread (check with client).

Claim 5

5.1 - relates to additional feature to claim 4

5.2 – A, Figures E and G appear to show screw thread of the needles with symmetrical pitches

Claim 5 is not infringed because the additional feature of claim 5 is absent.

Claim 6

6.1 – P, Figures A-D shows a sequence of steps for holding down a suture material through a wound

1

6.2 – P, this involves placing the Accu-Stitch over the wound (as evidenced in Figure A) and penetrating the wound

Page sub-total

1

Examiner's use only

6.3 – A – see 2.2 and 4.2 above – need to check if there are portions of the needles without threads but in any case, the suture material is shown to couple to an end or driving portion of the needles and not through the inside of the needles

6.4 – P , the needles are said to be driven along the length of the body of S (construed as the peg) (see Figures A to D)

6.5 – P, the needles to protrude from the skin of the patient (see page 14, lines 10-11). Figures A-D show that the path being protruded out is not straight. Figures C and D show that the flexible thread (the suture material) is exposed.

1

Claim 6 is not infringed as not all features of claim 6 is present.

MARKS AWARDED: 9

DEPY 1

INFMENT

9

Page sub-total

2

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Novelty

The prior art includes Document C which was published on 24 April 2012 (i.e. before the filing date of Doc A which is 15 June 2021). 1

This also includes Page 3 lines 4 to 20 and Figure 1 of Document A – which is considered as CGK – see e.g. used of words "typically" which suggest commonly used. 1

Doc A

Claim 1

1.1 – P, the word "peg" is used and it refers to ground pegs being in the ground (see page 3 line 6) 1

1.2 – P, the ground peg are said to be tubular with a ground-penetrating head which can penetrate ground (page 3 lines 4-6)

1.3 – P, the exact word side bar is used – which is described to be driven along the tube of the peg (i.e. having an end that is being driven or forced) and along the tube suggest that the side bar also has an elongated body. The head end of the side bar is present because the side bar is said to bend and emerge from the tube (see page 3 lines 7-8). The head end is also deflected by a deflecting surface in the tube and emerge from the hold of the tube of the peg at an angle (see page 3 lines 6-11) which therefore discloses that the penetrating portion of the side bar extend at an angle to the body portion of the side bar.

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Examiner's use only

1.4 – P, the side bar is driven along the tube (i.e. body portion) of the peg (page 3 line 6) and emerged from the tube sideways through a hole in the tube wall (page 3 line 7-8) so has to be within the tube of the peg.

1.5 – P, the side bar is driven along the tube (i.e. body portion) of the peg (page 3 line 6) and emerged from the tube sideways through a hole in the tube wall (page 3 line 7-8) so has to be within the tube of the peg. It is also described at page 3 lines 10 that the side bar emerges at an angle – so it is not straight

1

Claim 1 is not novel over Doc A.

Claim 2

2.1 – in addition to features of claim 1

2.2 – A, there is no description in relation to the side bar being attached to a flexible cable – the tether or cable being attached to the ground peg and not the side bar (see page 3 line 14).

Claim 2 is novel over Doc A as additional feature not present.

Claim 3

3.1 – in addition to features of claim 1

3.2 –absent, there is no mention of using more than 1 side bar

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Claim 3 is novel over Doc A as additional feature not present.

Claim 4

4.1 – in addition to features of claim 1 or claim 2

4.2 – A, there is no mention of screw thread on the side bar, not to mention specifying asymmetric screw thread

Claim 4 is novel over Doc A as additional feature not present.

1

Claim 5

5.1 - in addition to features of claim 1 or claim 2

5.2 – A, there is no mention of screw thread on the side bar, not to mention specifying asymmetric screw thread

Claim 5 is novel over Doc A as additional feature not present.

Claim 6

6.1 – P, relates to ground peg but a cable or tether can be interpreted as a thread (see page 3 line 14)

6.2 – A, implicit that the ground peg will have to be located at a suitable site on the ground but no information about whether there is already a cavity or hole on the ground (certainly not wound)

1

1

6.3 – A, there is absent of asymmetric screw mentioned

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3

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6.4 – P, the side bar is driven along the tube (i.e. body portion) of the peg (page 3 line 6) and emerged from the tube sideways through a hole in the tube wall (page 3 line 7-8) so has to be within the tube of the peg. It is also described at page 3 lines 10 that the side bar emerges at an angle – so it is not straight

1

6.5 – A, there is no mention that the tether is driven into the ground then out of the ground, again also not with reference to a wound as construed.

1

Claim 6 is novel over Doc A as not all features are present.

Doc C

Claim 1

1.1 – P, page 16 describes a stake 2 for anchoring an object to the ground, and page 16 line 26 describes stake 2 being pressed into the ground and therefore penetrate the ground.

1

1.2 – P, Fig. 1 of Doc C shows the stake 2 having a hollow body portion (tube 3 having a tubular portion 3a – page 16 line 9) and it is permanently attached to a penetrating tip 8 for (see Fig. 1)

1.3 – P, Fig. 2 shows rods 4 where for the most part straight (i.e. elongated body portion) having a curved end 4a (see Fig. 2) which is deflected at an angle to an longitudinal axis of the body portion of the rods 4. The rods 4 are also disclosed as being pushed axially into the ground located in the end 2b of the stake 2 (page 16 lines 28-30) therefore having an end of the rods being driven

1

Page sub-total

4

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1.4 – P, Fig 2 shows rods 4 being partially within the body of the stake 2 — 1

1.5 – P, the rods 4 are disclosed as being pushed axially or driven or forced into the ground located in the end 2b of the stake 2 (page 16 lines 28-30). Page 16 lines 30-31 also discloses that the forcing tool drives or forces the rods 4 along the stake and as the rods 4 come to bear against the surface of the wall 6 then got deformed or deflected (page 16 lines 32-33). Fig. 1 shows that the deformed passage is not straight or non-circular. — 1

Claim 2

2.1 – in addition to features of claim 1

2.2 – A, there is no description in relation to the rods 4 being attached to a flexible thread or wire which can be bent. — 1

Claim 2 is novel over Doc C as additional feature not present.

Claim 3

3.1 – in addition to features of claim 1

3.2 – P, Fig.2 shows 2 rods 4.

Claim 3 is not novel over Doc C as additional feature is present and also claim 1 is not novel. — 1

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Examiner's use only

Claim 4

4.1 – in addition to features of claim 1 or claim 2

4.2 – A, there is no mention of screw thread on the rods 4 and Figs. 1 and 2 show the rods having generally smooth surfaces

Claim 4 is novel over Doc C as additional feature not present.

1

Claim 5

5.1 - in addition to features of claim 1 or claim 2

5.2 – A, there is no mention of screw thread on the rods 4 and Figs. 1 and 2 show the rods having generally smooth surfaces

Claim 5 is novel over Doc C as additional feature not present.

Claim 6

6.1 – A, there is no mention of steps for securing flexible wire or thread but a cable or tether can be interpreted as a thread (see page 3 line 14)

6.2 – A, no information about whether there is already a cavity or hole on the ground (certainly not wound) – further page 16 line 26 discloses pressing stake 2 into the ground which suggests creating a hole or cavity

6.3 – A, there is absent of asymmetric screw mentioned

6.4 – P, the rods 4 are disclosed as being pushed axially or driven or forced into the ground located in the end 2b of the stake 2 (page 16 lines 28-30).

1

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2

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6.5 – A, there is no mention of thread or wire.

1

Claim 6 is novel over Doc C as not all features are present.

Nil

MARKS AWARDED: 18

NOVELTY

18

Page sub-total

2

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Inventive Step (IS)

Assessment date for IS is the filing date of Doc A which is 15 June 2021. 1

The skilled person includes an engineer for using of an anchor to secure object to a site (this includes ground peg or a suture into a wound) 1

The CGK includes background at Page 3 lines 4 to 20 and Figure 1 of Document A. 1

Claim 1

- inventive concept: To make the radius of curvature much smaller than prior art (see page 3 line 25-26) by pre-bending the side bar (page 3 line 25) 1

- differences with respect to Doc C: Claim 1 is not novel over Doc C because the head-end extending at an angle to the shank is construed broadly and not limited to pre-bent head end since there is no explicit limitation of this in claim 1. However, if it is to be construed narrowly to be pre-bent then it may be novel as Doc C appears to show the rods being bent due to the diametrically opposed holes 9 and the walls 10 (page 16lines 16-18)

- obviousness: Doc A includes a deflecting surface to cause the bending of the side bar but there is no mention of pre-bending the side bar to cause the radius of curvature to be much smaller. The invention of Doc A is also to overcome the limitations of the background of Doc A therefore would render this to be non-obvious if a narrower construction is taken.

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However, with the broad interpretation now, Claim 1 is not novel and therefore also cannot have an inventive step.

Claim 2

- inventive concept: this is to allow the attachment of flexible threads or wires for the suturing of wound (Fig. 4 and 5a-5d; and page 6 lines 22)

- differences with respect to Doc C: the rods 4 of Doc C is not attached to any threads

1

- obviousness: Doc A shows thread or tether being attached to the peg and not directly to the side bars or rods. There is no reason to believe that the PSA referring to Doc A would tie the thread or tether to the peg particularly that is not how the peg of Doc A is described to operate (see page 3 lines 14-20)

Claim 2 is inventive.

Claim 3

- inventive concept: the pair of side bars would allow anchoring on two sides of the peg and thereby providing more area for securing the peg.

1

- differences with respect to Doc C: this additional feature of having a pair of side bars or rods (Doc C) is present.

- obviousness: It is obvious to include a pair of rods for the purpose of having more anchorage as understood by the PSA.

Claim 3 is not inventive.

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2

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Claim 4

- inventive concept: The asymmetric thread together with the bent end of the side bar act synergistically (page 4 lines 1-2); the asymmetric thread encourages the side bar to adopt a reduced radius of curvature compared to a side bar with symmetric thread or no thread at all

1

- differences with respect to Doc C: No screw thread is shown in the rods of Doc C

- obviousness: Doc A also does not teach or suggest the asymmetric screw thread providing the above function. Claim 4 is therefore not obvious.

1

Claim 4 is inventive.

Claim 5

- inventive concept: the asymmetric thread encourages the side bar to adopt a reduced radius of curvature compared to a side bar with symmetric thread or no thread at all; the thread pitch of the asymmetric thread increasing along provides flexibility as to control the radius of curvature of the side bar (page 5 lines 22-24)

1

- differences with respect to Doc C: No asymmetric thread is mentioned, not to mentioned one having a thread pitch which increases along each of the side bars

- obviousness: Doc A also does not teach or suggest the asymmetric screw thread providing the above function. Claim 4 is therefore not obvious.

1

Claim 5 is inventive.

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4

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Claim 6

- inventive concept: provides a peg suitable for use as a suturing device in a mammalian body as it includes the features of the bend end of the side bar as well as the asymmetric thread (see page 4 lines 1-2)

- differences with respect to Doc C: Doc C is not in relation to suturing of wounds but only ground pegs and does not disclose at least features of asymmetric thread as mentioned above

- obviousness: Doc A also does not teach or suggest a suturing method for wounds and is only in relation to a ground peg. Therefore a skilled person referring to Doc A with Doc C in mind will not be able or motivated to arrive at the features of Claim 6. Claim 6 is therefore not obvious.

Claim 6 is inventive.

I.STEP

10

MARKS AWARDED: 10

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Sufficiency

- No sufficiency issue is noted.

1

SUFF.

1

MARKS AWARDED: 1

Amendment

- possible amendments to Claim 4 to specify "the end of the side bar" to…

- Claim 5 to be amended to change "asymmetric thread" to "asymmetric screw thread" as this was the term used in Claim 4 for antecedence.

AMEND

0

-

MARKS AWARDED: 0

Page sub-total

1

Memo to the client (Stitch-Up Limited)

Conclusions to infringement and validity

Infringement: Claims 1, 3, 4 (upon confirmation) are infringed and claims 2, 5 and 6 are not infringed.

Claims 1 and 3 are not novel and not inventive; claims 2, 4, 5 and 6 are novel and inventive.

For use in suturing

- Claim 6 is a method of treatment claim when it is in relation to suturing and so it is unlikely to be enforceable – method of treatment is not a patentable subject method in the UK.

For ground peg use

- Claim 1 is not valid and therefore is not enforceable. However, it is possible that Leggitt can file a post-grant amendment to amend claim 1 to possibly include feature of claim 4 (please confirm the feature in relation to claim 4 as asked above). If your needles do not have symmetrical threads along the entire length of the needles (unlikely), then will infringe.

- Post grant amendment is discretionary (and has to narrow the scope) but mostly allowable by the Comptroller. Therefore, not advised to use as ground peg as is.

Leggitt's allegation

- Experiments performed to confirm proposed technique is an exempted act from infringement and do not constitute an infringement

- Threats:

Professor Leggitt allegation that client is infringing his patent is an actionable threat – client (as the recipient) is aggrieved as it has negative effect on potential inventors.

Client is not a manufacturer or an importer (since to date client only performed experiments). Client is also not making or importing the alleged infringed product. Therefore the threat is actionable (no exemption).

Possible defence by Professor Leggitt is that client's acts indeed infringed his patent – but there is no infringing act to begin with!

Remedies for actionable threats:

Seek declaration that the threat is not justifiable and to stop Professor Leggit from making future threats.

Seek damages in relation to the threats – but may be difficult to quantify this as it's relate to negative effects on potential investors.

To improve client's position:

- Perform further prior art search

- Based on the results of infringement and validity, can leveraged on the fact that the patent is not valid and if it's amended to include the asymmetric screw thread

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then your product is not infringing to get a license from Leggitt – this is to avoid litigation which can be costly (client is a new company while Leggitt's company is large – been very successful).

MARKS AWARDED: 0

ADVICE

0

Page sub-total

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