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NOTICE OF ALLOWANCE AND FEE(S) DUE

22242 7590 07/13/2018
FITCH EVEN TABIN & FLANNERY, LLP
120 SOUTH LASALLE STREET
SUITE 2100
CHICAGO, IL 60603-3406

EXAMINER

YANG, ANDREW

ART UNIT

PAPER NUMBER

3775

DATE MAILED: 07/13/2018

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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15/058,695

03/02/2016

Matthew P. Gephart

7115-137965-US

2942

TITLE OF INVENTION: BONE COMPRESSION DEVICE AND METHOD

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1000	\$0	\$0	\$1000	10/15/2018

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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SUITE 2100
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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/058,695	03/02/2016	Matthew P. Gephart	7115-137965-US	2942

TITLE OF INVENTION: BONE COMPRESSION DEVICE AND METHOD

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1000	\$0	\$0	\$1000	10/15/2018

EXAMINER	ART UNIT	CLASS-SUBCLASS
YANG, ANDREW	3775	606-281000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.	2. For printing on the patent front page, list (1) The names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____ (2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____ 3 _____
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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
☐ Applicant asserting small entity status. See 37 CFR 1.27
☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____



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15/058,695	03/02/2016	Matthew P. Gephart	7115-137965-US	2942
22242	7590	07/13/2018	EXAMINER	
FITCH EVEN TABIN & FLANNERY, LLP			YANG, ANDREW	
120 SOUTH LASALLE STREET			ART UNIT	PAPER NUMBER
SUITE 2100			3775	
CHICAGO, IL 60603-3406				

DATE MAILED: 07/13/2018

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 15/058,695	Applicant(s) GEPHART, MATTHEW P.	
	Examiner ANDREW YANG	Art Unit 3775	AIA (First Inventor to File) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment filed 1 June 2018.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
3. ☒ The allowed claim(s) is/are 2-30. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some *c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. ☐ Notice of References Cited (PTO-892) | 5. ☐ Examiner's Amendment/Comment |
| 2. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>6/1/2018</u> | 6. ☐ Examiner's Statement of Reasons for Allowance |
| 3. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 7. ☐ Other _____. |
| 4. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____. | |

/ANDREW YANG/
Primary Examiner, Art Unit 3775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 15/058,695	)	
	)	Confirmation No. 2942
Filed: March 2, 2016	)	
	)	
Inventor: Matthew P. Gephart	)	<u>CERTIFICATE OF EFS-WEB</u>
	)	<u>TRANSMISSION</u>
Title: BONE COMPRESSION DEVICE AND METHOD	)	
	)	I hereby certify that this correspondence is
Art Unit: 3775	)	being transmitted via the United States Patent
	)	and Trademark Office (USPTO) electronic
Examiner: Andrew Yang	)	filing system (EFS-Web) to the USPTO on
	)	May 1, 2018.
	)	
	)	<u>/Jonathan H. Urbanek/</u>
	)	Jonathan H. Urbanek
Attorney Docket: 7115-137965-US	)	Registration No. 60,686
	)	Attorney for Applicant(s)
Customer No.: 22242	)	
	)	

Mail Stop AMENDMENT
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

AMENDMENT

Sir:

In response to the Non-Final Office action of February 2, 2018, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper; and

Remarks begin on page 9 of this paper.

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Canceled)
2. (Currently Amended) The surgical kit of claim ~~[[1]]~~ 4 wherein the bone anchor receiving portions of the bone plate include lobes and the distal end portions of the manipulators includes sockets sized to receive the lobes.
3. (Currently Amended) The surgical kit of claim ~~[[1]]~~ wherein each of the manipulators includes a fulcrum portion and a leverage portion spaced apart from each other on opposite sides of the cannula of the manipulator, the fulcrum portion being configured to contact an upper surface of one of the bone anchor receiving portions of the bone plate and the leverage portion being configured to contact a lower surface of the one bone anchor receiving portion.
4. (Currently Amended) ~~[[The]]~~ A surgical kit of claim 1 comprising:
a plurality of bone anchors;
a bone plate having bone anchor receiving portions with through openings sized to receive the bone anchors, the bone plate having a flexed configuration and an unflexed configuration;
a plurality of elongated manipulators having distal end portions configured to be connected to the bone anchor receiving portions of the bone plate and proximal end portions opposite the distal end portions; and
cannulas of the manipulators extending between the distal and proximal end portions thereof and being aligned with the through bores of the bone plate when the distal end

portions of the manipulators are connected to the bone anchor receiving portions of the bone plate, the cannulas being sized to permit the bone anchors to be advanced through the cannulas and into the through bores of the bone plate,

wherein the bone anchor receiving portions of the bone plate include lips and the distal end portions of the manipulators include side walls with openings therein sized to receive the lips of the bone anchor receiving portions.

5. (Currently Amended) [[The]] A surgical kit of claim 1 comprising:

a plurality of bone anchors;

a bone plate having bone anchor receiving portions with through openings sized to receive the bone anchors, the bone plate having a flexed configuration and an unflexed configuration;

a plurality of elongated manipulators having distal end portions configured to be connected to the bone anchor receiving portions of the bone plate and proximal end portions opposite the distal end portions; and

cannulas of the manipulators extending between the distal and proximal end portions thereof and being aligned with the through bores of the bone plate when the distal end portions of the manipulators are connected to the bone anchor receiving portions of the bone plate, the cannulas being sized to permit the bone anchors to be advanced through the cannulas and into the through bores of the bone plate,

wherein the bone plate bone anchor receiving portions include lobes and the bone plate includes a narrowed, intermediate portion extending between the lobes; and

the distal end portions of the manipulators include sockets sized to receive the lobes of the bone plate and the sockets include notches that receive the intermediate portion of the bone plate.

6. (Currently Amended) The surgical kit of claim [[1]] 4 wherein the bone plate bone anchor receiving portions include lobes and the manipulator distal end portions include

sockets sized to receive the lobes with the lobes and sockets being configured to form a mating, non-rotatable fit when the distal end portions of the manipulators are connected to the bone anchor receiving portions of the bone plate.

7. (Currently Amended) The surgical kit of claim ~~[[1]]~~ 4 wherein the bone plate includes a resilient intermediate portion connecting the bone anchor receiving portions and the intermediate portion has a straight shape with the bone plate in the flexed configuration thereof and a bent shape with the bone plate in the unflexed configuration thereof.

8. (Currently Amended) The surgical kit of claim ~~[[1]]~~ 4 wherein the unflexed configuration of the bone plate orients the bone anchor receiving portions of the bone plate to extend transverse to each other and the flexed configuration of the bone plate orients the bone anchor receiving portions of the bone plate to be coplanar with each other.

9. (Currently Amended) ~~[[The]]~~ A surgical kit of claim 1 further comprising
a plurality of bone anchors;
a bone plate having bone anchor receiving portions with through openings sized to receive the bone anchors, the bone plate having a flexed configuration and an unflexed configuration;
a plurality of elongated manipulators having distal end portions configured to be connected to the bone anchor receiving portions of the bone plate and proximal end portions opposite the distal end portions;
cannulas of the manipulators extending between the distal and proximal end portions thereof and being aligned with the through bores of the bone plate when the distal end portions of the manipulators are connected to the bone anchor receiving portions of the bone plate, the cannulas being sized to permit the bone anchors to be advanced through the cannulas and into the through bores of the bone plate; and
a restraint having portions configured to be connected to the manipulators.

10. (Original) The surgical kit of claim 9 wherein the portions of the restraint include openings sized to receive the proximal portions of the manipulators.
11. (Original) A method of stabilizing a plurality of bones, the method comprising:
pivoting manipulators connected to a bone plate to flex the bone plate;
positioning the flexed bone plate adjacent bones;
guiding bone anchors into through bores of the bone plate using the manipulators; and
securing the flexed bone plate to the bones with the bone anchors.
12. (Original) The method of claim 11 wherein guiding the bone anchors into the through bores of the bone plate using the manipulators includes advancing the bone anchors through cannulas of the manipulators and into the through bores of the bone plate.
13. (Original) The method of claim 11 wherein the manipulators are connected to end portions of the bone plate having the through bores therein; and
pivoting the manipulators to flex the bone plate includes flexing an intermediate portion of the bone plate between the end portions.
14. (Original) The method of claim 11 wherein pivoting the manipulators to flex the bone plate includes reconfiguring the bone plate from a bent configuration to a substantially flat configuration.
15. (Original) The method of claim 11 wherein pivoting the manipulators connected to the bone plate to flex the bone plate includes engaging distal portions of the manipulators with notched profiles of the bone plate and shifting proximal handle portions of the manipulators together.

16. (Original) The method of claim 11 wherein positioning the flexed bone plate adjacent the bones using the manipulators includes positioning the bone plate using the manipulators while lobes of the bone plate are received in openings of the manipulators and the bone plate lobes and manipulators form mating, non-rotatable connections therebetween.

17. (Original) The method of claim 11 wherein the manipulators are elongated and pivoting the manipulators to flex the bone plate includes pivoting the manipulators from a first orientation wherein the manipulators extend transverse to each other to a second orientation wherein the manipulators extend substantially parallel to each other.

18. (Original) The method of claim 11 further comprising connecting a restraint to the manipulators to fix the manipulators relative to each other while positioning the flexed bone plate adjacent the bones and guiding the bone anchors into the through bores of the bone plate using the manipulator.

19. (Original) The method of claim 18 further comprising disconnecting the restraint from the manipulators to permit the manipulators to move relative to each other and be disconnected from the bone plate.

20. (Original) A method of stabilizing a plurality of bones, the method comprising:
positioning a deformed bone plate adjacent bones using manipulators connected to the deformed bone plate;
advancing bone anchors through cannulas of the manipulators connected to the deformed bone plate and into through bores of the deformed bone plate; and
driving the bone anchors into the bones to secure the deformed bone plate to the bones.

21. (Original) The method of claim 20 wherein positioning the deformed bone plate

adjacent the bones using the manipulators includes keeping the cannulas of the manipulators aligned with the through bores of the deformed bone plate.

22. (Original) The method of claim 20 wherein positioning the deformed bone plate adjacent the bones using the manipulators includes maintaining end portions of the deformed bone plate having the through bores therein at least partially within openings of the manipulators.

23. (Original) The method of claim 20 further comprising deforming the bone plate by moving the manipulators relative to each other.

24. (Original) The method of claim 23 wherein deforming the bone plate includes reconfiguring the bone plate from a bent configuration to a substantially flat configuration.

25. (Original) The method of claim 20 further comprising disconnecting the manipulators from the deformed bone plate and permitting the deformed bone plate to urge the bones together.

26. (Original) The method claim 20 further comprising fixing the manipulators relative to each other and keeping the manipulators fixed relative to each other and connected to the deformed bone plate while positioning the deformed bone plate adjacent the bones and advancing bone anchors through the cannulas of the manipulators.

27. (Original) The method of claim 26 wherein fixing the manipulators relative to each other includes connecting a restraint to the manipulators.

28. (Original) The method of claim 20 wherein advancing the bone anchors through cannulas of the manipulators and into the through bores of the deformed bone plate includes

connecting a driver instrument to one of the bone anchors and advancing the connected driver and bone anchor through the cannula of one of the manipulators.

29. (Original) The method of claim 20 further comprising providing the deformed bone plate, wherein providing the deformed bone plate includes chilling the bone plate.

30. (New) The surgical kit of claim 5 wherein the intermediate portion is resilient and has a straight shape with the bone plate in the flexed configuration thereof and a bent shape with the bone plate in the unflexed configuration thereof.



UNITED STATES PATENT AND TRADEMARK OFFICE

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22242 7590 02/02/2018
FITCH EVEN TABIN & FLANNERY, LLP
120 SOUTH LASALLE STREET
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EXAMINER

YANG, ANDREW

ART UNIT	PAPER NUMBER
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3775

MAIL DATE	DELIVERY MODE
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02/02/2018

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 15/058,695	Applicant(s) GEPHART, MATTHEW P.	
	Examiner ANDREW YANG	Art Unit 3775	AIA (First Inventor to File) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1-29 is/are pending in the application.
5a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 11-29 is/are allowed.
- 7) ☒ Claim(s) 1-3 and 6-8 is/are rejected.
- 8) ☒ Claim(s) 4,5,9 and 10 is/are objected to.
- 9) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 2 March 2016 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date 5/31/2016.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 4) ☐ Other: _____.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a)(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

Claim(s) 1-3 and 6-8 is/are rejected under 35 U.S.C. 102(a)(1) as being anticipated by Burckhardt et al. (U.S. Publication No. 2015/0289918).

Kolb et al. discloses a surgical kit comprising: a plurality of bone anchors (paragraph 12); a bone plate (40) having bone anchor receiving portions with through openings (46) sized to receive the bone anchors, the bone plate having a flexed configuration and an unflexed configuration (Figures 3-4); a plurality of elongated manipulators (10a, 10b) having distal end portions configured to be connected to the bone anchor receiving portions of the bone plate and proximal end portions opposite the distal end portions; and cannulas (20) of the manipulators extending between the distal and proximal end portions thereof and being aligned with the through bores of the bone plate when the distal end portions of the manipulators are connected to the bone anchor receiving portions of the bone plate, the cannulas being sized to permit the bone anchors to be advanced through the cannulas and into the through bores of the bone

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plate. It is noted that it is considered that the channel 20 is capable of directing a bone screw and that since the manipulators can slide along the bone plate, there is a configuration that the bores of the bone plate and the channel 20 are aligned.

The bone anchor receiving portions of the bone plate include lobes and the distal end portions of the manipulators includes sockets sized to receive the lobes (Figure 3).

Each of the manipulators (10a, 10b) includes a fulcrum portion and a leverage portion spaced apart from each other on opposite sides of the cannula of the manipulator, the fulcrum portion being configured to contact an upper surface of one of the bone anchor receiving portions of the bone plate and the leverage portion being configured to contact a lower surface of the one bone anchor receiving portion (Figure 3).

The bone plate bone anchor receiving portions include lobes and the manipulator distal end portions include sockets sized to receive the lobes with the lobes and sockets being configured to form a mating, non-rotatable fit when the distal end portions of the manipulators are connected to the bone anchor receiving portions of the bone plate (Figure 3).

The bone plate includes a resilient intermediate portion (the small connections between the bone anchor holes) connecting the bone anchor receiving portions and the intermediate portion. Since the bone plate is pliable, it can be considered that when the bone plate is straight it is in the flexed position and when the bone plate is bent, it is in the unflexed position. As such, the unflexed configuration of the bone plate orients the bone anchor receiving portions of the bone plate to extend transverse to each other and

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the flexed configuration of the bone plate orients the bone anchor receiving portions of the bone plate to be coplanar with each other.

Allowable Subject Matter

Claims 11-29 are allowed.

Claims 4, 5, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW YANG whose telephone number is (571)272-3472. The examiner can normally be reached on IFP.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Truong can be reached on (571)272-4705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANDREW YANG/
Primary Examiner, Art Unit 3775