IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patents of: Kyle P. Moore, et al.

U.S. Patent Nos.: 9,084,601 Attorney Docket Nos.: 11030-0049IP1

8,998,058 11030-0049IP2 8,991,677 11030-0049IP3

Title: DETATCHABLE MOTOR POWERED SURGICAL

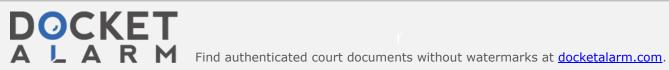
INSTRUMENT

DECLARATION OF DR. GREGORY S. FISCHER



TABLE OF CONTENTS

I.	QUALIFICATIONS	5
II.	MY UNDERSTANDING OF THE LAW	7
	A. Claim construction	
	B. Anticipation	
	C. Obviousness	9
III.	LEVEL OF ORDINARY SKILL IN THE ART	.11
IV.	BACKGROUND OF THE TECHNOLOGIES DISCLOSED IN THE CHALLENGED PATENTS	.12
V.	OVERVIEW OF THE CHALLENGED PATENTS	.20
VI.	CLAIM CONSTRUCTION	nt"
	('601 patent, claim 17)	
	B. "Means for removably attaching said housing to the surgical instrume	
	('058 patent, claim 1; '677 patent, claims 1, 16)C. "Drive means for converting the rotational motion produced by said electric motor to translational motion to eject said staples from said	.30
	staple cartridge body" ('677 patent, claims 11, 18)	.30
	D. "Contact arrangement" ('601 patent, claims 1, 11, and 17)	
	E. "Means for fastening tissue on each side of a cut line" ('601 patent,	
	claim 8)	.37
VII.	OVERVIEW OF THE PRIOR ART	.38
	A. Heinrich	
	B. Milliman	
	C. Hooven	
	D. Alesi	_
	E. Tonet	47
VIII.	THE '601 PATENT IS INVALID	.50
	A. Claims 1-2, 4-6, 8-11, 13, and 15-20 are anticipated by Heinrich or, if	•
	necessary, obvious over Heinrich in view of Milliman	
	[1.1] A surgical cutting and stapling instrument comprising:	.50
	[1.2] a housing including at least one engagement member for	
	removably coupling the housing to an actuator arrangement	
	[1.3] first and second jaws operably coupled to the housing such that	
	least one said jaw is selectively movable relative to the other said	
	jaw	.59



[1.4] an axial drive assembly movably supported for selective axial
travel relative to said first and second jaws61
[1.5] a motor supported by said housing and operably interfacing with
the axial drive assembly to selectively move said axial drive
assembly between a starting position and an ending position
relative to the first and second jaws65
[1.6] a contact arrangement supported by said housing and configured to
permit power to be supplied to the motor only when the housing is
operably attached to the actuator arrangement70
[2] The surgical cutting and stapling instrument of claim 1 wherein one
of the first and second jaws operably supports a fastener cartridge
74
[4.1] The surgical cutting and stapling instrument of claim 1 wherein
said axial drive assembly comprises
[4.2] a drive beam operably coupled to said motor
[4.3] a tissue cutting edge on said drive beam
[5] The surgical cutting and stapling instrument of claim 4 wherein one
of said first and second jaws comprises an anvil and the other of
said first and second jaws operably supports a surgical staple
cartridge therein
[6] The surgical cutting and stapling instrument of claim 5 wherein said
drive beam includes at least one camming pin configured to move
said anvil to a closed position when said axial drive assembly is
axially driven from the starting position to the ending position 77
[8] The surgical cutting and stapling instrument of claim 1 wherein one
of said first and second jaws comprises means for fastening tissue
on each side of a cut line formed therein by a portion of the axial
drive assembly79
[9] The surgical cutting and stapling instrument of claim 1 wherein the
first and second jaws are axially displaced from a portion of the
housing supporting the motor80
[10] The surgical cutting and stapling instrument of claim 9 comprising
a shaft extending between the motor and the axial drive assembly
82
[11.1] A surgical cutting and stapling instrument comprising84
[11.2] a housing including at least one engagement member for
removably coupling the housing to an actuator arrangement84
[11.3] a carrier operably coupled to the housing84
[11.4] a surgical staple cartridge operably supported in the carrier85
[11.5] an anvil movably supported relative to the carrier



[11.6] a drive beam including a distal cutting edge supported for axial
travel relative to the carrier86
[11.7] a motor supported by said housing and operably interfacing with
the drive beam to selectively move said drive beam between a
starting position and an ending position87
[11.8] a contact arrangement supported by said housing and configured
to permit power to be supplied to the motor only when the housing
is operably attached to the actuator arrangement87
[13] The surgical cutting and stapling instrument of claim 11 wherein
said drive beam includes at least one camming pin configured to
move said anvil to a closed position when said drive beam is
axially driven from the starting position to the ending position87
[15] The surgical cutting and stapling instrument of claim 11 wherein
the carrier is axially displaced from a portion of the housing that
supports the motor87
[16] The surgical cutting and stapling instrument of claim 15 comprising
a shaft extending between the motor and the drive beam87
[17.1] A surgical cutting and stapling instrument comprising87
[17.2] an end effector configured to cut and staple tissue87
[17.3] a housing coupled to the end effector and including means for
removably coupling the housing to an actuator arrangement88
[17.4] a motor supported by said housing and operably interfacing with
a portion of the end effector for selective actuation thereof89
[17.5] a contact arrangement supported by said housing and configured
to permit power to be supplied to the motor only when the housing
is operably attached to the actuator arrangement89
[18] The surgical cutting and stapling instrument of claim 17 wherein
the portion of the end effector includes a tissue cutting portion89
[19] The surgical cutting and stapling instrument of claim 17 wherein
the motor is located proximal to the end effector within the
housing89
[20] The surgical cutting and stapling instrument of claim 17 further
comprising a shaft extending between the motor and the end
effector portion89
Claims 1-2, 4-11, and 13-20 are obvious over Heinrich in view of Alesi
and, if necessary, Milliman89
[7] The surgical cutting and stapling instrument of claim 4 further
comprising a drive screw rotatably supported within the housing
in operable engagement with the motor, the drive screw in
threaded engagement with a portion of the drive beam90



В.

		[10] The surgical cutting and stapling instrument of claim 9 comprising a shaft extending between the motor and the axial drive assembly
		[14] The surgical cutting and stapling instrument of claim 11 further comprising a drive screw rotatably supported within the housing in operable engagement with the motor, the drive screw in
		threaded engagement with a portion of the drive beam96 [16] The surgical cutting and stapling instrument of claim 15 comprising
		a shaft extending between the motor and the drive beam96 [20] The surgical cutting and stapling instrument of claim 17 further comprising a shaft extending between the motor and the end
		effector portion
	C.	Claims 3 and 12 are obvious over Heinrich in view of Tonet and, if
		necessary, Milliman
		actuator arrangement comprises a portion of a handheld surgical
		instrument
		the actuator arrangement comprises a portion of a handheld
		surgical instrument99
IX.		IE '058 PATENT IS INVALID101 Claims 1-18 are obvious over Hooven in view of Heinrich101
	A.	[1.1] A disposable loading unit configured for operable attachment to a surgical instrument configured to selectively generate at least one control motion for the operation of said disposable loading unit, said disposable loading unit comprising
		[1.2] a carrier operably supporting a cartridge assembly therein104 [1.3] an anvil supported relative to said carrier and being movable from an open position to closed positions upon application of at least one control motion thereto
		[1.4] a housing coupled to said carrier, said housing including means for removably attaching said housing to the surgical instrument104
		[1.5] an axial drive assembly at least partially supported within said housing and being supported for selective axial travel through said cartridge assembly from a start position to an end position upon application of a rotary motion thereto, said axial drive assembly
		comprising
		[1.6] a rotary shaft



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