IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KYPHON, INC., Plaintiff, v. DISC-O-TECH MEDICAL TECHNOLOGIES, LTD. and DISC ORTHOPAEDIC TECHNOLOGIES, INC., Defendants.	Civil Action No. 04-0204-JJF **REDACTED – PUBLIC VERSION**

DEFENDANTS DISC-O-TECH MEDICAL TECHNOLOGIES, LTD.'S and DISC ORTHOPAEDIC TECHNOLOGIES, INC.'S CLAIM CONSTRUCTION AND SUMMARY JUDGMENT PRESENTATIONS

MORRIS, NICHOLS, ARSHT & TUNNELL

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April 27, 2005

KYPHON, INC. v.
DISC-O-TECH MEDICAL TECHNOLOGIES, LTD. et al.
(Civil Action No. 04-0204-JJF)

CLAIM CONSTRUCTION & SUMMARY JUDGMENT HEARING
April 19, 2005

PRESENTATION ON BEHALF OF DISC-O-TECH

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Claim Construction of the '404 and '888 Patents – All Claims Require a Balloon

Intrinsic Evidence - entirely focused on balloons (inflatable devices) as a way of compacting in order to increase a passage in a fractured bone:

- Specification
- Prosecution History
- Record of Invention

Extrinsic Evidence – confirms DOT's interpretation:

- Inventor Testimony
- '043 Patent Specification

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Claim Construction of the '043 Patent

- All Claims Require a Balloon
- "Internal Restraint" Limitation Requires A Second Structure Connected to the Balloon
- "Two Materials" Means A Balloon and an Attached Restraint Material

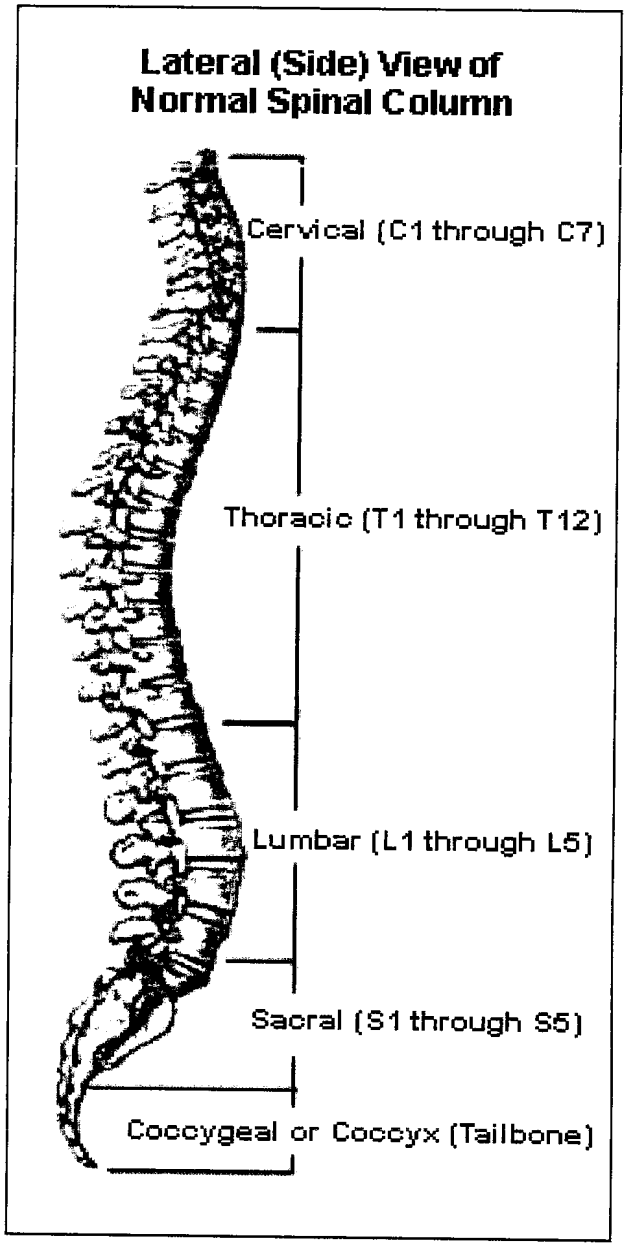
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BACKGROUND OF SPINAL ANATOMY

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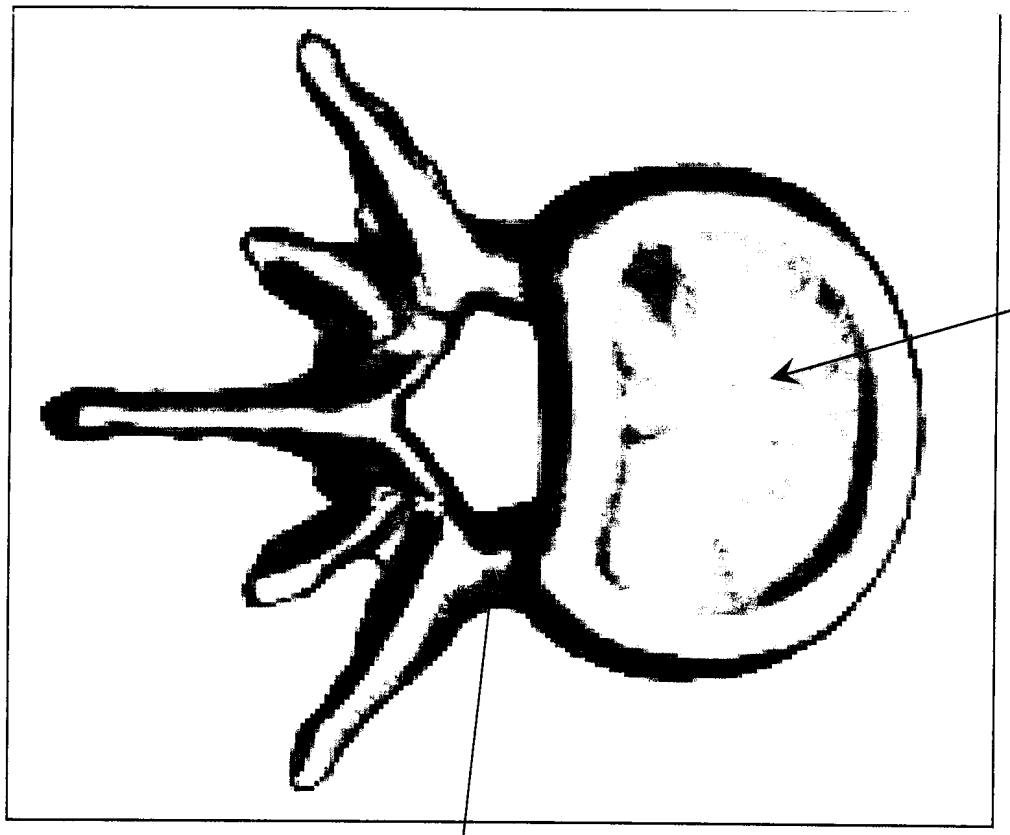
Background of Spinal Anatomy

- Devices and Patents Relate to Fixation of Bone Fractures
- Most Commonly used in Vertebral Compression Fractures in the Spine



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Background of Spinal Anatomy
Vertebra



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Background of Bone Anatomy

- Components of Bone
  - Cortical Bone
  - Cancellous Bone
  - Bone Marrow

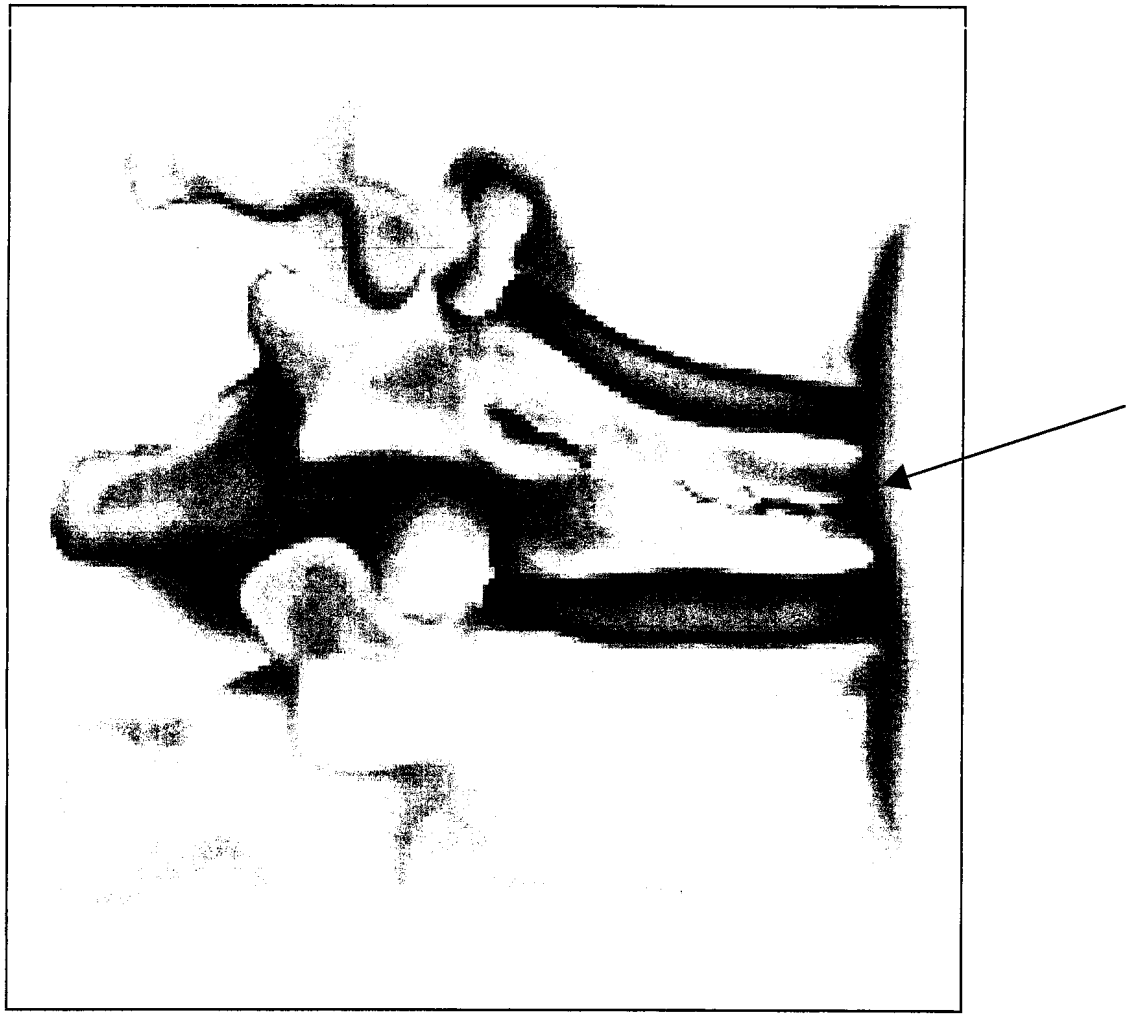
Cancellous Bone



Spaces containing bone marrow and blood vessels

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Vertebral Compression Fracture



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