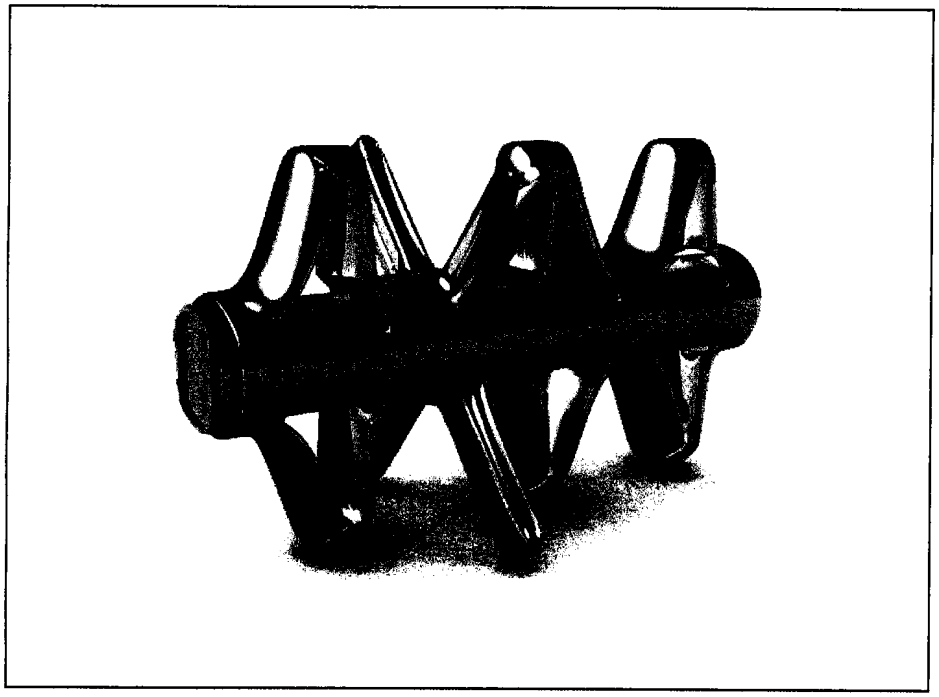
WHO IS DISC-O-TECH?

- Founded in 1998
- The company focus is on innovation in orthopedics
- Its goal is to develop minimally invasive implants and devices using patented technology in the field of metal and plastic folding and expansion

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 1 of 10

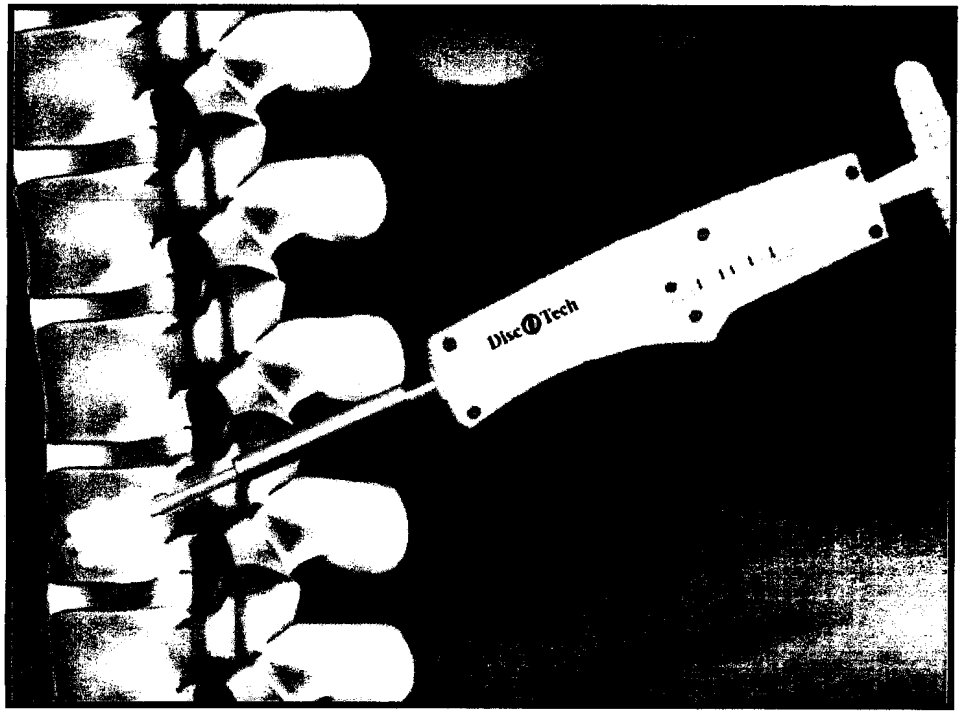
DOT'S HISTORY OF INNOVATION



- 2002 – Introduced the B-Twin Expandable Spinal System
- The B-Twin Expandable Spinal Spacer, shown fully expanded
- The SKy Device is based on the same principle

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 2 of 10

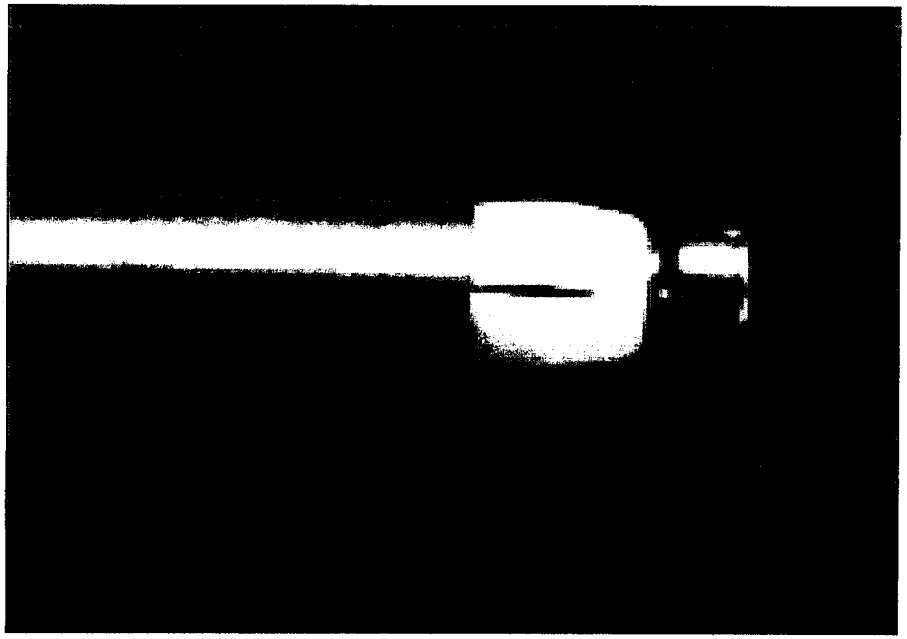
DOT'S HISTORY OF INNOVATION



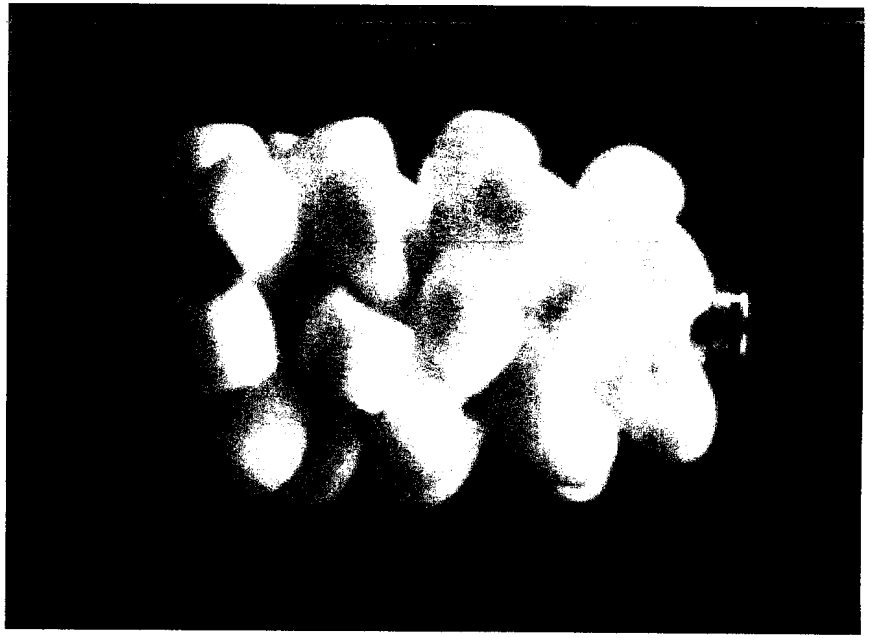
- 2004 – Introduced the SKy Device for treatment of vertebral compression fractures
- Design of SKy Device based on B-Twin, but uses expandable polymer tube instead of metal

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 3 of 10

THE SKy DEVICE



SKy Device Prior To Deployment

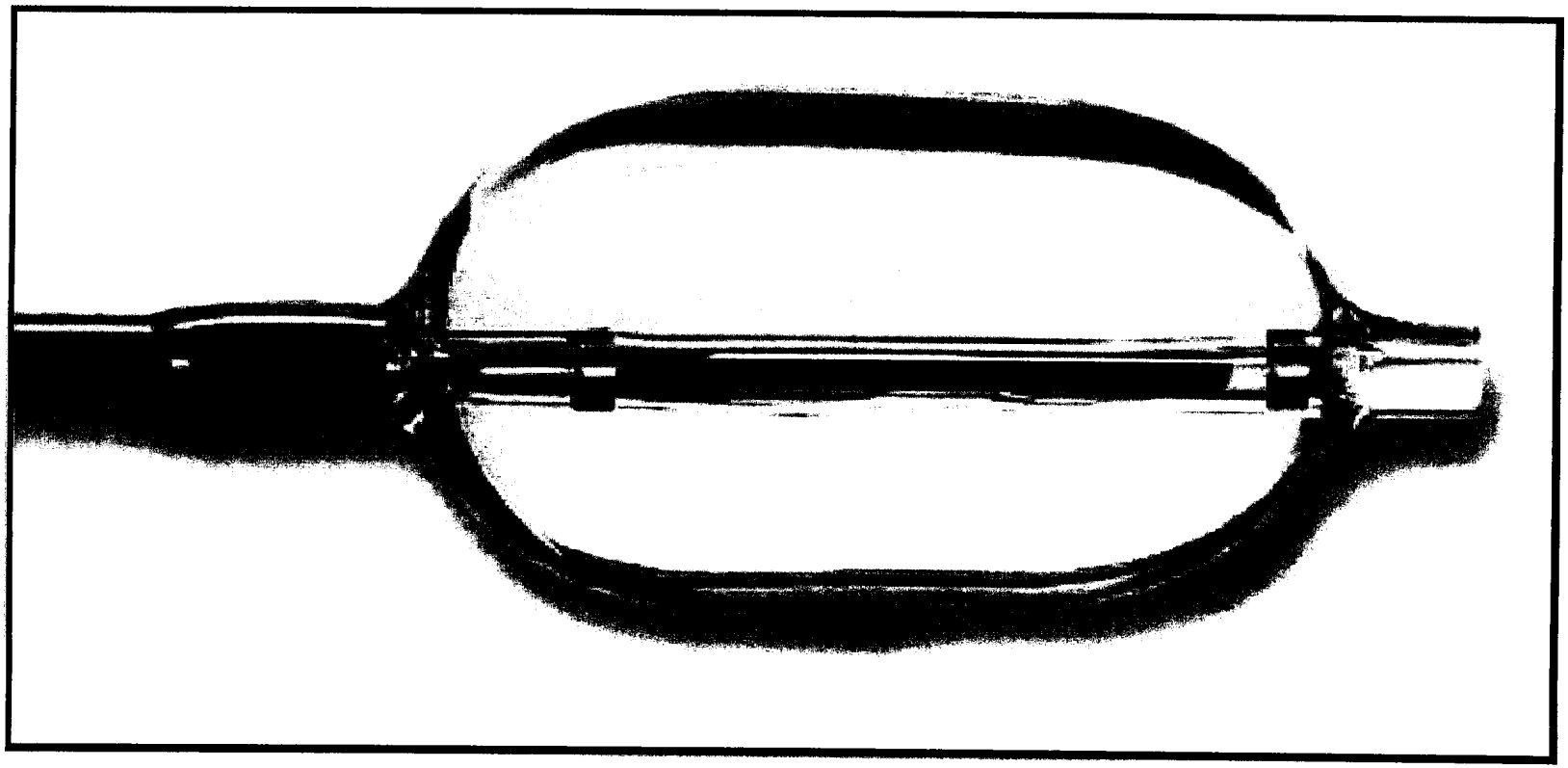


SKy Device After Deployment

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 4 of 10

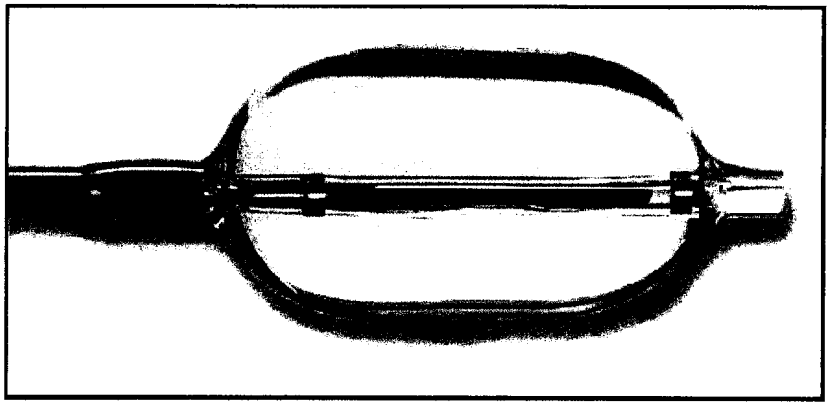
The Expansion of the SKy Device

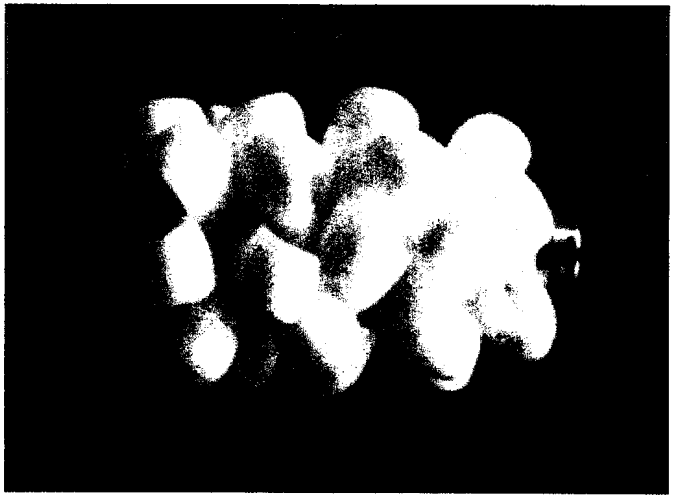
The KyphX Inflatable Bone Tamp



Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 6 of 10

Kyphon's Balloon vs. Disc-O-Tech's SKy Device





Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 7 of 10

CLAIM CONSTRUCTION OF THE '404 AND '888 PATENTS

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 8 of 10

PRINCIPLES OF CLAIM CONSTRUCTION

- Intrinsic Evidence
  - Claims Themselves – ordinary meaning unless inconsistent with specification
  - Patent Specification – provides content and context for proper construction
  - Prosecution History – consistency of construction with patentee's statements
- Extrinsic Evidence – all evidence outside of patent and prosecution history (e.g., expert testimony, treatises, dictionaries)

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 9 of 10

KYPHON'S INVENTION WAS THE USE OF A BALLOON

- As will be shown, what Kyphon invented was an inflatable device and a method of using such a device, for fixation of bone fractures
- Because Kyphon clearly and unequivocally defined its invention as such, all claims require the use of a balloon or other inflatable device

Case 1:04-cv-00204-JJF Document 196-2 Filed 04/27/2005 Page 10 of 10