

Bogotá, D.C., 27 de octubre

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



No. 14-174700- -00002-0000

Fecha: 2014-10-27 14:04:12 Dep. 2020 DIR.NUEVASCR
Tra. 11 PATENTEIYII Eve: 379 FASENACIONALII
Act. 444 RESPUESTAREQUE Folios: 9

Señor

Jose Luis Salazar Lopez

Director de Nuevas Creaciones

Superintendencia de Industria y Comercio

Carrera 13 No. 27-00

Bogotá, Colombia

E.

S.

D.

REFERENCIA: Solicitante: PHIBO DENTAL SOLUTIONS, S.L.
Título: PILAR DENTAL PARA EL SOPORTE DE PRÓTESIS
DENTALES Y MÉTODO DE FABRICACIÓN DEL MISMO
Expediente: 2014-174700

RESPUESTA REQUERIMIENTO

Estimado doctor Salazar,

1. Me refiero al oficio No. 10354, notificado por fijación en lista de fecha 26 de agosto de 2014, mediante el cual se solicita:

1.1 Allegar el poder otorgado al abogado que aparece en la solicitud como apoderado.

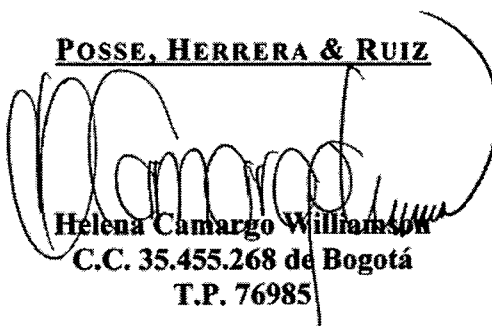
1.2 Aclarar si la solicitud corresponde al capítulo I o II del PCT

2. Encontrándome dentro del término legal, adjunto a la presente sírvase encontrar el poder que me faculta para actuar en el presente asunto, debidamente firmado por el representante legal de la sociedad **PHIBO DENTAL SOLUTIONS, S.L.**

3. A su vez me permito adjuntar la petición de examen preliminar tramitada bajo el capítulo II del PCT.

Del Señor Director,

POSSE, HERRERA & RUIZ



Helena Camargo Williamson
C.C. 35.455.268 de Bogotá
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petitions, appeals, administrative or judicial cancellation actions, nullity actions, consumer protection actions, protection of industrial secrets and other actions related to rights derived from the above mentioned matters and against unfair competition and restraint of trade, actions related to obtaining or exploiting licenses, as well as intervention in civil, commercial, criminal, administrative contentious and police proceedings, all in relation to actions or proceedings initiated by the grantor or by third parties against or in relation to the grantor; 5. Conciliate, cancel, settle, compromise, desist, receive and take possession of the subject matter of litigation and renounce or desist rights granted or in the process of being granted, and admit the facts in legal proceedings; 6. Ratify or not the acts undertaken by a self-appointed agent; 7. Receive service of process and appoint attorneys, resign and substitute the present power of attorney and revoke the substitutions. The Attorneys are empowered to carry out all the acts required to finalize the tasks entrusted to them, as well as to receive, desist, substitute and reassume this power of attorney, settle, resign, and in general, for any other act in defense of the rights of the grantor. The grantor shall pay each and every one of the attorneys for the costs, claims, expenses and liabilities of any nature, incurred by each one of the attorneys in relation with this power of attorney and shall ratify and confirm all acts undertaken by the attorneys in relation with this power of attorney, except in the cases of default, negligence or acts carried out in contradiction to the express instructions of the grantor. This power of attorney shall be ruled and interpreted by the laws of the Republic of Colombia, which govern it in its entirety. Given and signed at _____ today, the _____ of _____ of 2014. By _____	4. Ejercer acciones de oposición, observación, reclamo, reconsideración, reposición, apelación, cancelación administrativa o judicial, nulidad, protección al consumidor, concesión de licencias, protección de secretos industriales y demás acciones y recursos relacionados con derechos derivados de los asuntos arriba indicados y en contra de la competencia desleal y de las restricciones al comercio, acciones derivadas de la obtención o explotación de licencias, así como intervenir en juicios civiles, comerciales, penales, contencioso-administrativos y de policía, todo lo cual podrá darse en acciones o juicios promovidos por la otorgante o en su contra; 5. Conciliar, cancelar, transigir, comprometer, desistir, recibir y tomar posesión de la cosa objeto de litigio y renunciar o desistir a derechos concedidos o en curso de concesión, y admitir los hechos del proceso; 6. Ratificar o no la agencia oficiosa; 7. Recibir notificaciones y designar apoderados judiciales o extrajudiciales, renunciar y sustituir el presente poder y revocar las sustituciones que hicieren. Los Apoderados quedan facultados para llevar a cabo todas las actuaciones que sean necesarias para llevar a buen término la tarea que les ha sido encomendada, así como para recibir, desistir, sustituir y reasumir este poder, transar, renunciar y en general, para cualquier otra actuación que tienda a defender los derechos de la compañía que represento. El otorgante pagará a cada uno de los apoderados por los costos, reclamaciones, gastos y obligaciones de cualquier naturaleza, en que incurra cada uno de ellos en relación con este poder y ratificará y confirmará los actos realizados por ellos en relación con este poder, excepto en los casos de incumplimiento, negligencia, o de actos llevados a cabo en contradicción con las expresas instrucciones del otorgante. Este poder se registrará e interpretará de acuerdo con las leyes de la República de Colombia, la cual lo regula en su integridad. Dado y firmado en <u>SENTENA</u> hoy, <u>21</u> de <u>OCTUBRE</u> de 2014. Firma 
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 20130108		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/ES2013/070101		International filing date (day/month/year) 19.02.2013		Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC INV. A61C8/00				
Applicant Phibo Dental Solutions, S.L.				
1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: a. ☐ (sent to the applicant and to the International Bureau) a total of sheets, as follows: ☐ sheets of the description, claims and/or drawings which have been amended and/or sheets containing rectifications authorized by this Authority, unless those sheets were superseded or cancelled, and any accompanying letters (see Rules 46.5, 66.8, 70.16, 91.2, and Section 607 of the Administrative Instructions). ☐ sheets containing rectifications, where the decision was made by this Authority not to take them into account because they were not authorized by or notified to this Authority at the time when this Authority began to draw up this report, and any accompanying letters (Rules 66.4bis, 70.2(e), 70.16 and 91.2). ☐ superseded sheets and any accompanying letters, where this Authority either considers that the superseding sheets contain an amendment that goes beyond the disclosure in the international application as filed, or the superseding sheets were not accompanied by a letter indicating the basis for the amendments in the application as filed, as indicated in item 4 of Box No. I and the Supplemental Box (see Rule 70.16(b)). b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see paragraph 3bis of Annex C of the Administrative Instructions).				
4. This report contains indications relating to the following items: ☒ Box No. I Basis of the report ☐ Box No. II Priority ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability ☐ Box No. IV Lack of unity of invention ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement ☐ Box No. VI Certain documents cited ☐ Box No. VII Certain defects in the international application ☒ Box No. VIII Certain observations on the international application				
Date of submission of the demand			Date of completion of this report	
20.12.2013			22.09.2014	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Fax: +49 89 2399 - 4465			Authorized officer Salvatore, Claudio Telephone No. +49 89 2399-7194	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/ES2013/070101

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a) and (b))
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-9 as originally filed

Claims, Numbers

1-5 as originally filed

Drawings, Sheets

1/9-9/9 as originally filed

- ☐ a sequence listing - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since either they are considered to go beyond the disclosure as filed, or they were not accompanied by a letter indicating the basis for the amendments in the application as filed, as indicated in the Supplemental Box (Rules 70.2(c) and (c-bis)):
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
5. ☐ This report has been established:
 - ☐ taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rules 66.1(d-bis) and 70.2(e)).
 - ☐ without taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91(Rules 66.4bis and 70.2(e)).

INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY

International application No.
PCT/ES2013/070101

6. ☒ With regard to top-up searches (Rules 66.1 ter and 70.2(f)):
- ☒ A top-up search was carried out by this Authority on 01.09.2014 (all discovered documents are listed in the Supplemental Box Relating to Top-up Search).
 - ☐ No top-up search was carried out by this Authority.
7. ☐ Supplementary international search report(s) from Authority(ies) has/have been received and taken into account in establishing this report (Rule 45bis.8(b) and (c)).

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	<u>1-5</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-5</u>
Industrial applicability (IA)	Yes: Claims	<u>1-5</u>
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

- D1 US 5 527 182 A (WILLOUGHBY ANDREW J M [BS]) 18 June 1996 (1996-06-18)
- D2 MX 2010 001 829 A (KIM JUNG HAN [KR]) 11 March 2010 (2010-03-11)
- D3 EP 0 473 262 A1 (MARLIN GERALD M [US]) 4 March 1992 (1992-03-04)
- D4 US 5 145 372 A (DAFTARY FEREIDOUN [US] ET AL) 8 September 1992 (1992-09-08)
- D5 US 5 316 477 A (CALDERON LUIS O [US]) 31 May 1994 (1994-05-31)

2 The present application does not meet the requirements of Art. 33(2) PCT because the subject matter of claims 1-5 are not new in the sense of Art. 33(2) PCT.

Independent claims

2.1 Documents D1, D3, D4 and D5 all disclose the subject matter of claim 1. D1 is taken to exemplify this (the references in parenthesis apply to this document) :

"A dental post (22) for supporting dental prostheses (26) comprising at least one upper hole (figures 2-5) into which a retaining screw (42) is screwed for fixing the prosthesis (26) on the post (22), characterized in that said upper hole can be located at any point of the surface of the post once said post has been customised in terms of the shape thereof and type of retention to the prosthesis depending on the mechanical and aesthetic needs of the type of rehabilitation suitable for each particular case (see, for example, col 33, lines 11-29)"

Consequently, document D1 contains all the technical features of claim 1, which is therefore not novel (PCT Art. 33(2))

As already stated, claim 1 also cannot be considered novel in view of any of the documents D3-D5, which were cited in the ISR. For example, D3 anticipates the objective sought in the main claim, that is to say *"said upper hole can be located at any point of the surface of the post once said post has been customised in terms of the shape thereof and type of retention to the prosthesis depending on the mechanical and aesthetic needs of the type of rehabilitation suitable for each particular case"*, as can be seen in column 1, lines 37-40, or in column 11, lines 14-20.

- 2.2 Claim 2 also lacks novelty under (PCT Art. 33(2)) in view of D1, which discloses a method of producing a post as is claimed in claim 2. D1 anticipates (the references in parenthesis apply to this document) :

"Method for the manufacture of a post (22) for supporting dental prostheses (26), comprising at least one upper hole into which the retaining screw (42) is screwed for fixing the prosthesis (26) on the post (22), characterized in that it comprises the steps of :

- taking an impression of the patient's mouth (optical impression),*
- designing the post (22) with the data of the patient obtained in the preceding step, customizing the shape thereof and type of retention to the prosthesis (26) depending on to the mechanical and aesthetic needs of the patient, and calculating the ideal position of the upper hole (42) by means of simulating the masticatory loads and the aesthetic requirements of the patient (processing by the CAD program, column 52, lines 11-25),*
- transferring the file with the information obtained from the preceding step of designing to the step of planning (column 52, lines 28-29) for manufacture of the post (22); and*
- manufacturing the post (22) itself (machining, computer aided machine CAM tool, column 52, lines 26-33)"*

Consequently, document D1 contains all the technical features of claim 2, which is therefore not novel (PCT Article 33(2)).

- 2.2.1 Claim 2, relating to the production method, also appears to lack at least inventive step (PCT Article 33(3)), in view of document D2, cited in the ISR, since this document anticipates a method for producing a dental post including the method steps in this claim (see, for example, page 5, lines 5-15; page 8, line 5 - page 13, line 14). In the case of document D2, the pillar

obtained is attached to the prosthesis by means of a dental adhesive (**cemented; page 15, lines 16—18**), instead of being screwed, and therefore the pillar obtained does not comprise "*at least one upper hole for receiving a retaining screw for attaching the prosthesis to the post*", but since it is the same method, it seems obvious that a person skilled in the art would consider using the method described in document D2 to produce a post of the type described in the application, that is to say a post screwed into the prosthesis, without having to exercise inventive skill.

Dependent claims

- 2.3 Claims 3-5 are dependent on claim 2, which relates to the production method, and define a series of additional features of some of the steps of the method. The subject matter of these claims, in combination with the features of claim 2 upon which they are dependent, lack novelty (PCT Art. 33(2)) in view of document D1, and at least lack inventive step (PCT Art. 33(3)) in view of D02, since they relate to details that were previously disclosed in documents D1 and D2, either explicitly or implicitly.

Re Item VIII

- 1 Claim 1 lacks clarity because the entire characterizing portion of claim 1 starting from the phrase "*characterized in that*" is a mere statement of the desired results which the device is to reach, without claiming clear technical features of the device itself or how these results are to be achieved (PCT GL §5.35).
The only clear technical features of claim 1 are that the dental post comprises at least one upper hole into which a retaining screw is set.