

Señora

Alix Carmenza Céspedes de Vergel

Jefe de División de Nuevas Creaciones

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO

E. _____ S. _____ D. _____

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



No. 09-082942- -00002-0000

Fecha: 2009-10-26 15:42:48 Dep. 2020 NUECREACION
Tra. 11 PATENTEIYII Eve: 378 FASENACIONALI
Act. 329 CTOINFORMACION Folios: 10

Referencia: Expediente No. 09.082.942

Solicitud de Patente de Invención titulada: "Método y aparato para la fabricación de artículos para fumar"

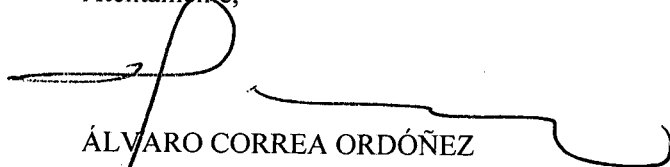
Solicitante: British Anfrican Tobacco (Investments) Limited

MEMORIAL DE COMPLEMENTACIÓN

ÁLVARO CORREA ORDÓÑEZ, mayor de edad y vecino de Bogotá D.C., identificado según aparece al pie de mi firma, en mi condición de apoderado de la sociedad en referencia, manifiesto lo siguiente:

1. El día 10 de agosto de 2009, bajo el número de radicación 09.082.942, presenté la solicitud de patente de invención de la referencia, para la cual adjunto forma PCT/IB326 IPRP, como complemento a los documentos presentados de esta solicitud.

Atentamente,


ÁLVARO CORREA ORDÓÑEZ
C.C.No.79.143.366 de Usaquén
T.P.20.281

Anexo: IPER

PATENT COOPERATION TREATY

PCT/EP2008/050553

From the INTERNATIONAL BUREAU

PCT *REK*

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)
(PCT Rule 44bis.1(c))

To:

READ, Matthew
Venner Shipley LLP
20 Little Britain
London EC1A 7DH
ROYAUME-UNI

RECEIVED
- 3 SEP 2009

Date of mailing (day/month/year)
27 August 2009 (27.08.2009)

Applicant's or agent's file reference
MCR/55262PCT

IMPORTANT NOTICE

International application No.
PCT/EP2008/050553

International filing date (day/month/year)
18 January 2008 (18.01.2008)

Priority date (day/month/year)
13 February 2007 (13.02.2007)

Applicant
BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Facsimile No. +41 22 338 82 70

Authorized officer
Agnes Wittmann-Regis

e-mail: pt06.pct@wipo.int

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference MCR/55262PCT	FOR FURTHER ACTION See item 4 below	
International application No. PCT/EP2008/050553	International filing date (<i>day/month/year</i>) 18 January 2008 (18.01.2008)	Priority date (<i>day/month/year</i>) 13 February 2007 (13.02.2007)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. 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 |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 19 August 2009 (19.08.2009)
	Authorized officer Agnes Wittmann-Regis e-mail: pt06.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing:
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2008/050553

International filing date (day/month/year)
18.01.2008

Priority date (day/month/year)
13.02.2007

International Patent Classification (IPC) or both national classification and IPC
INV. A24C5/18

Applicant
BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ 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 Rule 43bis.1(a)(i) 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

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Marzano Monterosso

Telephone No. +49 89 2399-2902



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/EP2008/050553

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ 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 (Rules 12.3(a) and 23.1 (b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material:

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material:

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing:

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/EP2008/050553

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 45,46

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 45,46 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

☐ no international search report has been established for the whole application or for said claims Nos.

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b).

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2008/050553

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	<u>4,5,12,13,16,19,25,26,28,33,34,37,40</u>
	No: Claims	<u>1-3,6-11,14,15,17,18,20-24,27,29-32,35,36,38,39,41-44</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-44</u>
Industrial applicability (IA)	Yes: Claims	<u>1-44</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

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

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)

International application No.

PCT/EP2008/050553

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: EP-A-0 405 929 (PHILIP MORRIS [US]) 2 January 1991 (1991-01-02)
- D2: GB-A-2 229 079 (ROTHMANS INT TOBACCO [GB]) 19 September 1990 (1990-09-19)
- D3: EP-A-0 558 447 (THEBAIC FAB REUNIES SA [CH]) 1 September 1993 (1993-09-01)
- D4: DE 38 21 677 A1 (REYNOLDS TOBACCO GMBH [DE]) 4 January 1990 (1990-01-04)

2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 17, 18, 22, 38, 39, 43, 44 is not new in the sense of Article 33(2) PCT.

2.1 The document D1 discloses (the references in parentheses applying to this document): an apparatus for manufacturing a smoking article comprising a conveyor (12) for tobacco rod, wherein the direction of conveyance is parallel to a central longitudinal axis of the rod, and an applicator (58) for applying a liquid to the tobacco rod on the conveyor wherein said applicator is configured such that liquid additive received into the tobacco rod has a distribution in a cross-sectional plane perpendicular to the central longitudinal axis of the tobacco rod that is substantially symmetrical about said central longitudinal axis (see figs. 6 and 7, as well as col. 4, l.41-44).

It must be concluded that all the features in the wording of **claim 1** are known from document D1. Consequently, the novelty requirements of article 33(2) PCT are not met.

2.2 Document D1 discloses as well an apparatus for manufacturing a smoking article having an applicator for applying a liquid to the tobacco rod, said applicator including a plurality of heads for simultaneously dispersing the liquid additive in the tobacco rod (see fig. 7). Thus, all the features in the wording of **claim 17** are known from document D1. Consequently, the novelty requirements of article 33(2) PCT are not met.

2.3 Document D2 discloses an apparatus for manufacturing a smoking article comprising a conveyor (3) for tobacco rod, wherein the direction of conveyance is parallel to a central

121

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2008/050553

longitudinal axis of the rod, and an applicator for applying a liquid to the tobacco rod on the conveyor wherein said applicator comprises a plough (6) for forming a furrow in the tobacco rod downstream of the plough (see p. 4, second paragraph), and a head for dispersing the liquid additive into the tobacco rod, said head being positioned so as to be located within the furrow of the tobacco rod (see p. 4, third paragraph). It must be concluded that all the features in the wording of **claim 18** are known from document D2. Consequently, the novelty requirements of article 33(2) PCT are not met.

- 2.4 The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent method **claims 22, 38 and 39**, which therefore are also considered not new.
- 2.5 It is further pointed out that the subject matter of apparatus claim 1 and method claim 22 is also anticipated by any apparatus or method in which the applicator is positioned in such a way that the additive is located substantially in the central region of the tobacco rod. Thus claims 1 and 22 are not novel over documents D2-D4 either, all said documents disclosing apparatus and method for manufacturing a smoking article having a centrally located liquid additive therein.
- 2.6 Since the applicator head can be considered as a plough which in fact opens the flow of tobacco and thereafter the nozzle disperses the additive in the opened flow, it follows that documents D1 and D3 are also novelty destroying for the subject matter of claims 18 and 39.
- 2.7 **Claims 43 and 44** are also anticipated by at least one of the documents D1-D4 for the same reasoning stated above. Consequently, the novelty requirements of article 33(2) PCT are not met.
- 3 Dependent claims 2-16, 19-21, 23-37, 40-42 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see documents D1-D4 and the corresponding passages cited in the search report.

Re Item VII

Certain defects in the international application

- 4 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2008/050553

Re Item VIII

Certain observations on the international application

- 5 The application does not meet the requirements of Article 6 PCT, because claims 45 and 46 are not clear.
Claims 45 and 46 contain references to the description and the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here.