

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
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Applicant's or agent's file reference
934.371201

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/BR 15/00005

International filing date (day/month/year)

20 January 2015 (20.01.2015)

Priority date (day/month/year)

20 January 2014 (20.01.2014)

International Patent Classification (IPC) or both national classification and IPC

IPC(8) - B65D 77/04 (2015.01)

CPC - A47K 10/185

Applicant KIMBERLY-CLARK BRASIL INDUSTRIA E COMERCIO DE PRODUTOS DE HIGIENE LTDA.

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 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 66.1 bis(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.

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Date of completion of this opinion

08 September 2015 (08.09.2015)

Authorized officer:

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Box No. I Basis of this 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 43*bis*.1(a)).

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

- a. ☐ forming part of the international application as filed:
☐ in the form of an Annex C/ST.25 text file.
☐ on paper or in the form of an image file.
- b. ☐ furnished together with the international application under PCT Rule 13*ter*.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
- c. ☐ furnished subsequent to the international filing date for the purposes of international search only:
☐ in the form of an Annex C/ST.25 text file (Rule 13*ter*.1(a)).
☐ on paper or in the form of an image file (Rule 13*ter*.1(b) and Administrative Instructions, Section 713).

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

5. Additional comments:

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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)	Claims	1-20	YES
	Claims	None	NO
Inventive step (IS)	Claims	None	YES
	Claims	1-20	NO
Industrial applicability (IA)	Claims	1-20	YES
	Claims	None	NO

2. Citations and explanations:

Claims 1-20 lack an inventive step under PCT Article 33(3) as being obvious over US 2012/0118905 A1 to Lindbergh (hereinafter referred to as Lindbergh) in view of WO 2010/068590 A1 to GOJO Industries, Inc. (hereinafter referred to as GOJO).

Regarding claim 1, Lindbergh discloses a sheet material dispenser (abstract) comprising: a rigid container (22) including an interior region (200) defined at least partially by a back wall (lower wall of section 22 as shown in Fig. 5) and sidewalls (the walls on the left and right extending between the lower wall and upper wall as shown Fig. 5) extending outwardly from the back wall (as shown in Fig. 5), the rigid container further including first (2) and second (3) front plates (as shown in Fig. 1) configured to be slideably coupled to at least one of the sidewalls such that the first and second front plates are movable relative to one another (Paras. 0019 and 0054) between an opened position (Fig. 1), wherein the first and second front plates are positioned in a distal relationship relative to one another (as shown in Fig. 1), and a closed position (Fig. 2), wherein the first and second front plates are positioned in an adjacent relationship relative to one another (as shown in Fig. 2), the first and second front plates each including a top surface (upper surface as shown in Fig. 2), a bottom surface (the inside surface of top and sides of bodies 2 and 3 as shown in Fig. 2) and inner (complimentary contacting edges of bodies 2 and 3 as shown Fig. 2) and outer sides (sides of bodies 2 and 3 facing down and out of the page and up and into the page respectively as shown in Fig. 1) extending between the top and bottom surfaces (as shown in Fig. 1); and a flexible pouch (5) configured to contain a stack of sheets (Para. 0066), the flexible pouch being configured to be received within the interior region of the rigid container (Para. 0066), the flexible pouch defining a dispenser opening (50).

Lindbergh fails to disclose of including a resealable cap for intermittently exposing and resealing the dispenser opening, wherein portions of the first and second front plates are configured to be positioned directly below a portion of the resealable cap when the first and second front plates are moved to the closed position.

GOJO discloses a sheet material dispenser (Abstract; Figs. 7-14) and discloses of including a resealable cap (cap 124 and fitment 138) for intermittently exposing and resealing a dispenser opening (140; Pg. 8, Para. 3), wherein portions of a first (114) and second (116) front plates are configured to be positioned directly below a portion (cap 124; unnumbered flange extending, from the far side of fitment 138, up and into the page as shown in Fig. 8; and unnumbered flange extending, from fitment 138, down and out of the page as shown in Fig. 8) of the resealable cap when the first and second front plates are moved to the closed position (the top surface 122 is below the cap 124 as shown in Fig. 9; the unnumbered tab extending to the left from the cover 114 near the upper end of the cover 114 and below and adjacent to the unnumbered flange extending to the right from fitment 138 as shown in Fig. 9; and the unnumbered tab visible through opening 120 in cover 116 as shown in Fig. 8 and positioned directly under the unnumbered flange of fitment 138 extending to the right of fitment 138 in the closed position as shown in Figs. 9 and 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include on the flexible pouch and to configure the front plates of Lindbergh a resealable cap and front plates configured to be positioned directly below a portion the resealable cap as taught by GOJO in order to prevent the wipes from drying out and retain the opening of the pouch in position with the opening in the resealable cap.

Regarding claim 2, the modified Lindbergh discloses the sheet material dispenser of claim 1, and Lindbergh discloses of wherein the first and second front plates are movable relative to one another in a direction substantially parallel to the back wall (Paras. 0019 and 0050; Figs. 1 and 2).

Regarding claim 3, the modified Lindbergh discloses the sheet material dispenser of claim 1, but Lindbergh fails to disclose of wherein the flexible pouch is configured to be inserted within the interior region when the first and second front plates are moved to the closed position. GOJO discloses of wherein a flexible pouch (134) is configured to be inserted within an interior region (118) when the first and second front plates are moved to the closed position (pouch bag 134 could be inserted through opening 140 as shown in Fig. 8). It would have been obvious to one of ordinary skill in the art at the time of the invention to configure the front plates of Lindbergh such that the pouch can be inserted when the front plates are closed as taught by GOJO in order to more quickly replace the pouch.

Regarding claim 4, the modified Lindbergh discloses the sheet material dispenser of claim 1, and Lindbergh discloses of wherein the inner sides of the first and second front plates each include a first side portion (portion on side facing down and out of page as shown in Fig. 2), a second side portion (portion on side facing to the left and into the page as shown in Fig. 2) and a central portion (portion on side facing up and out of the page as shown in Fig. 2) extending between the first and second side portions (as shown in Fig. 2).

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

-Box V.2 - Citations and Explanations-

Regarding claim 5, the modified Lindbergh discloses the sheet material dispenser of claim 4, and Lindbergh discloses of wherein the first and second side portions of the inner side of the first front plate are configured to contact the adjacent first and second side portions of the inner side of the second front plate when the first and second front plates are moved to the closed position (as shown in Fig. 2).

Regarding claim 6, the modified Lindbergh discloses the sheet material dispenser of claim 5, and Lindbergh discloses of wherein an alignment tab (42) extends outwardly from at least one of the first side portion or the second side portion of the inner side of the first front plate (Para. 0058; Fig. 5), the alignment tab being configured to be received within a corresponding slot (44 and 46) defined in at least one of the first side portion or the second side portion of the inner side of the second front plate when the first and second front plates are moved to the closed position (Para. 0058).

Regarding claim 7, the modified Lindbergh discloses the sheet material dispenser of claim 4, and Lindbergh discloses of wherein the central portion of the inner side of each of the first and second front plates has a non-linear configuration (Para. 0029; Fig. 2). Lindbergh fails to disclose of the non-linear configuration is such that a cap opening is defined between the central portions of the inner sides when the first and second front plates are moved to the closed position. GOJO discloses of a cap opening (120) is defined between the central portions of inner sides (two sides of upper surface 122 as shown in Fig. 8) when the first and second front plates are moved to the closed position (Pg. 7, Para. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the front plates of Lindbergh the opening as taught by GOJO in order to allow the withdrawal of tissues when the front plates are closed.

Regarding claim 8, the modified Lindbergh discloses the sheet material dispenser of claim 7, and Lindbergh discloses of wherein the non-linear configuration corresponds to a curved profile extending between the first and second side portions of each respective front plate (Para. 0029; Fig. 2).

Regarding claim 9, the modified Lindbergh discloses the sheet material dispenser of claim 7, but Lindbergh fails to disclose of wherein a shape of the cap opening generally corresponds to a shape of a portion of the resealable cap. GOJO discloses of wherein a shape of the cap opening generally corresponds to a shape of a portion of the resealable cap (as shown in Figs. 8-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the front plates of Lindbergh the cap opening as taught by GOJO in order to allow the withdrawal of tissues when the front plates are closed.

Regarding claim 10, the modified Lindbergh discloses the sheet material dispenser of claim 7, but Lindbergh fails to disclose of wherein the cap opening defines a cross-wise dimension that is less than a cross-wise dimension defined by the portion of the resealable cap. GOJO discloses of wherein the cap opening defines a cross-wise dimension that is less than a cross-wise dimension defined by the portion of the resealable cap (as shown in Fig. 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the front plates of Lindbergh the cap opening as taught by GOJO in order to allow the withdrawal of tissues when the front plates are closed.

Regarding claim 11, the modified Lindbergh discloses the sheet material dispenser of claim 10, but Lindbergh fails to disclose of wherein the cross-wise dimension of the cap opening is selected such that an overhanging portion is defined around an outer perimeter of the cap opening along which a top surface of the first and second front plates is configured to engage a bottom surface of the resealable cap. GOJO discloses of wherein the cross-wise dimension of the cap opening is selected such that an overhanging portion (upper surface 122) is defined around an outer perimeter of the cap opening (as shown in Fig. 8) along which a top surface of the first and second front plates is configured to engage a bottom surface of the resealable cap (as shown in Fig. 9). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the front plates of Lindbergh the cap opening as taught by GOJO in order to allow the withdrawal of tissues when the front plates are closed.

Regarding claim 12, the modified Lindbergh discloses the sheet material dispenser of claim 1, but Lindbergh fails to disclose of wherein the resealable cap includes a bottom cap portion coupled to a wall of the flexible pouch and a top cap portion pivotally coupled to the bottom cap portion, the first and second front plates being configured to be engaged against the bottom cap portion when in the closed position. GOJO discloses of wherein the resealable cap includes a bottom cap portion (138) coupled to a wall of the flexible pouch (Pg. 8, Para. 2) and a top cap portion (124) pivotally coupled to the bottom cap portion (Pg. 7, Para. 4), the first and second front plates being configured to be engaged against the bottom cap portion when in the closed position (the unnumbered tab extending to the left from the cover 114 near the upper end of the cover 114 and below and adjacent to the unnumbered flange extending to the right from fitment 138 as shown in Fig. 9; and the unnumbered tab visible through opening 120 in cover 116 as shown in Fig. 8 and positioned directly under the unnumbered flange of fitment 138 extending to the right of fitment 138 in the closed position as shown in Figs. 9 and 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to include on the flexible pouch and to configure the front plates of Lindbergh a resealable cap and front plates configured to be positioned directly below a portion the resealable cap as taught by GOJO in order to prevent the wipes from drying out and retain the opening of the pouch in position with the opening in the resealable cap.

Regarding claim 13, the modified Lindbergh discloses the sheet material dispenser of claim 1, and Lindbergh discloses of wherein the sidewalls include a first sidewall having a first retention lip (half of lower side of section 22 as shown in Fig. 5) extending outwardly therefrom (as shown in Fig. 5) and a second sidewall having a second retention lip (other half of lower side of section 22 as shown in Fig. 5) extending outwardly therefrom (as shown in Fig. 5).

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

-Supplemental Box - Box V.2 - Citations and Explanations-

Regarding claim 14, the modified Lindbergh discloses the sheet material dispenser of claim 13, and Lindbergh discloses of wherein the first and second front plates each include a first retention arm (half of bottom sides of bodies 2 and 3 extending from side facing out of page as shown in Fig. 2) and a second retention arm (half of bottom sides of bodies 2 and 3 extending from side facing into page as shown in Fig. 2), the first retention arm extending outwardly from the bottom side of the respective front plate to a location adjacent to the first sidewall such that a portion of the first retention arm is positioned behind the first retention lip (as shown in Fig. 1), the second retention arm extending outwardly from the bottom side of the respective front plate to a location adjacent to the second sidewall such that a portion of the second retention arm is positioned behind the second retention lip (as shown in Fig. 5).

Regarding claim 15, the modified Lindbergh discloses the sheet material dispenser of claim 14, and Lindbergh discloses of wherein the first and second retention arms are configured to be engaged behind the first and second retention lips in order to limit movement of the first and second front plates in a direction perpendicular to the back wall (Para. 0021; Figs. 1 and 2).

Regarding claim 16, the modified Lindbergh discloses the sheet material dispenser of claim 1, but Lindbergh fails to disclose of wherein a gripper tab is defined along the outer side of each of the first and second front plates. GOJO discloses of wherein a gripper tab (128) is defined along an outer side (as shown in Figs. 8-10; Pg. 7, Para. 4) and further discloses that the tab makes it easier for a person to grip it (Pg. 7, Para. 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include on the outer side of each of the first and second plates of Lindbergh a gripper tab as taught by COJO in order to make it easier for a person to grip it.

Regarding claim 17, Lindbergh discloses a method for using a sheet material dispenser (Abstract) including a flexible pouch (5; Para. 0066) and a rigid container (22) configured to receive the flexible pouch (Para. 0056), the flexible pouch defining a dispenser opening (50), the rigid container including an interior region (200) defined at least partially by a back wall (lower wall of section 22 as shown in Fig. 5) and sidewalls (the walls on the left and right extending between the lower wall and upper wall as shown Fig. 5) extending outwardly from the back wall (as shown in Fig. 5), the method comprising: positioning a first front plate (body 2) of the rigid container around a portion of the flexible pouch (as shown in Fig. 1); positioning a second front plate (body 3) of the rigid container around a portion of the flexible (as shown in Fig. 1), the first and second front plates being disposed in a closed position relative to one another when the first and second front plates (as shown in Fig. 2); and slideably coupling the first and second front plates to the sidewalls of the rigid container (Paras. 0019 and 0054) such that the first and second front plates are movable relative to another between the closed position (Fig. 2) and an open position (Fig. 1).

Lindbergh fails to disclose of the flexible pouch including a resealable cap for intermittently exposing and resealing the dispenser opening, positioning the first front plate the rigid container around a portion of the flexible pouch such that a portion of the first front plate is positioned directly below a portion of the resealable cap, positioning a second front plate of the rigid container around a portion of the flexible pouch such that a portion of the second front plate is positioned directly below the portion of the resealable cap, the first and second front plates engaged against the resealable cap.

GOJO discloses of a flexible pouch (pouch bag 134, cap 124, and fitment 138) including a resealable cap (cap 124 and fitment 138) for intermittently exposing and resealing the dispenser opening (140; Pg. 8, Para. 3), positioning a first front plate (114) of the rigid container around a portion of the flexible pouch (as shown in Fig. 9) such that a portion (the unnumbered tab extending from the cover 114 below and adjacent to unnumbered flange extending from fitment 138 as shown in Fig. 9) of the first front plate is positioned directly below a portion of the resealable cap (unnumbered flange extending, from the far side of fitment 138, up and into the page as shown in Fig. 8), positioning a second front plate (116) of the rigid container around a portion of the flexible pouch (as shown in Fig. 9) such that a portion (the unnumbered tab extending from cover 116 visible through opening 120 in cover 116 as shown in Fig. 8) of the second front plate is positioned directly below the portion of the resealable cap (as shown in Figs. 9 and 10), the first and second front plates engaged against the resealable cap (as shown in Figs. 9 and 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include on the flexible pouch and to configure the front plates of Lindbergh a resealable cap and front plates configured to be positioned directly below a portion the resealable cap as taught by GOJO in order to prevent the wipes from drying out and retain the opening of the pouch in position with the opening in the resealable cap.

Regarding claim 18, the modified Lindbergh discloses the method of claim 17, and Lindbergh discloses of further comprising sliding the first and second front plates relative to the sidewalls from the closed position to the open position (Para. 0019), the first and second front plates being disposed in a distal relationship relative to one another when in the open position (Para. 0055; Figs. 1 and 3-6).

Regarding claim 19, the modified Lindbergh discloses the method of claim 18, and Lindbergh discloses of further comprising removing the flexible pouch from between the first and second front plates when the first and second front plates are in the open position (Para. 0056).

Regarding claim 20, the modified Lindbergh discloses the method of claim 17, and Lindbergh discloses of further comprising inserting the flexible pouch within the interior region of the rigid container before or after the first and second front plates are moved to the closed position (Para. 0056).

Claims 1-20 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.