

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/US2018/028802

International filing date (day/month/year)
23.04.2018

Priority date (day/month/year)
24.04.2017

International Patent Classification (IPC) or both national classification and IPC
INV. B65D75/00 B65D75/58

Applicant
DOW GLOBAL TECHNOLOGIES LLC

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 and 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.

Name and mailing address of the ISA:



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

Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Janosch, Joachim

Telephone No. +49 89 2399-0



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, 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 13ter.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 13ter.1(a)).
 - ☐ on paper or in the form of an image file (Rule 13ter.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:

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>1-12</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	<u>10</u>
	No: Claims	<u>1-9, 11, 12</u>
Industrial applicability (IA)	Yes: Claims	<u>1-12</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

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 JP 2011 001125 A (NIHON YAMAMURA GLASS CO LTD) 6 January 2011 (2011-01-06),
- D2 KR 2003 0051568 A (LEE JEONG MIN [KR]; LEE SEONG JAE [KR]) 25 June 2003 (2003-06-25) and
- D3 US 2015/314928 A1 (WILKES KENNETH R [US] ET AL) 5 November 2015 (2015-11-05).

2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

2.1 Document D1, which is considered to represent the most relevant state of the art, discloses (cf. citations in the search report) a flexible container form which the subject-matter of claim 1 differs in that the arcuate body seal inner edge has a radius of curvature from 1.0 mm to 300.0 mm.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as to choose an appropriate curvature of the container.

The solution to this problem proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons: Since the claimed range of the radius is so large, a radius as shown in the figures of D1 (see e.g. figure 10) already discloses for a skilled person a value within this claimed range, even if a value is not explicitly mentioned in D1.

2.2 D2 (cf. citations in the search report) also suggests all features of claim 1. Consequently, the subject-matter of claim 1 cannot be based on an inventive step in view of D2.

- 2.3 Dependent claims 2-9, 11 and 12 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 (Article 33(2) and (3) PCT).
- 2.4 The prior art does not disclose or suggest the additional features of claim 10, namely that a plane through all four of the peak arc points defines a lower chamber volume that is greater than 50% of the total volume to the container.

Re Item VII

Certain defects in the international application

- 1 Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 2 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 3 According to the requirements of Rule 11.13(I) reference signs not appearing in the description shall not appear in the drawings, and vice versa. This requirement is not met in view of the all reference signs of the drawings and of the claims (the abbreviations in brackets).
- 4 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

Re Item VIII

Certain observations on the international application

- 1 The application does not meet the requirements of Article 6 PCT, because the claims are not clear.
- 1.1 The claims must not comprise abbreviations. Thus, claims 1, 3, 4 and 10 are unclear.