

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/EP2019/067459

International filing date (day/month/year)
28.06.2019

Priority date (day/month/year)
13.07.2018

International Patent Classification (IPC) or both national classification and IPC
INV. B60R9/058

Applicant
THULE SWEDEN AB

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
Gitschiner Str. 103
D-10958 Berlin
Tel. +49 30 25901 - 0
Fax: +49 30 25901 - 840

Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Ekblom, Henrik

Telephone No. +49 30 25901-0



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>9</u>
	No: Claims	<u>1-8, 10-15</u>
Inventive step (IS)	Yes: Claims	<u>9</u>
	No: Claims	<u>1-8, 10-15</u>
Industrial applicability (IA)	Yes: Claims	<u>1-15</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

1 **Re Item V**

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

1.1 Reference is made to the following documents:

D1 US 7 367 481 B2 (ROOF RACK IND PTY LTD [AU]) 6 May 2008
(2008-05-06)

1.2 Furthermore, the above-mentioned lack of clarity notwithstanding, the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT, and the criteria of Article 33(1) PCT are therefore not met.

1.2.1 Document D1 discloses a roof rack foot (11) for securing a cross bar (10) to a roof of a vehicle, the cross bar (10) comprising a bottom wall (wall on which reference 20 shows in figure 2) with a slot (15) extending in the longitudinal direction of the cross bar (10) and a cavity (see figure 2) for forming an abutment surface on the inner side of the bottom wall (wall on which reference 20 shows in figure 2) adjacent the slot (15) in widthwise direction of the cross bar (10), wherein the slot (15) comprises a centerline, the roof rack foot (11) comprising

a supporting surface (46,47) for supporting the bottom wall (wall on which reference 20 shows in figure 2) of the cross bar (10) thereupon;

a first and a second clamping portion (16,26) for clamping the roof rack foot (11) to the roof of the vehicle, preferably for clamping a roof rail therebetween, the second clamping portion (26) comprising an anchoring arm (21,24), preferably a plate-like anchoring arm, and being configured to extend through the slot (15) into the cavity (see figure 2) and lock the cross bar (10) to the supporting surface (46,47) of the roof rack foot (11) by an engagement of the anchoring arm (21,24) with the abutment surface of the cross bar (10);

wherein, when the cross bar (10) is locked to the roof rack foot (11), the anchoring arm (21,24) stands upright on the abutment surface (see figure 2) and, in a top view on the abutment surface (see figure 2), at least partially extends away from the centerline (c) of the cross bar (10) at an extension angle (see figure 2).

The subject matter of claim 1 is not new.

- 1.3 Dependent claims 2-8, 10-15 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, see document D1
- 1.4 Given the clarity issues mentioned below, it is not clear what could constitute basis for a new and clear claim. To the examiner it seems as if claim 9 could provide the additional features necessary for a claim which is both clear and novel over document D1.

2 Re Item VII

Certain defects in the international application

- 2.1 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 (see 1.2.1 above) being placed in the preamble (Rule 6.3(b)(i) PCT) and the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 2.2 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in document D1 is not mentioned in the description, nor are these documents identified therein.

3 Re Item VIII

Certain observations on the international application

- 3.1 The application does not meet the requirements of Article 6 PCT, because claim 1 is not clear.
- 3.1.1 In claim 1 is the expression "the anchoring arm stands upright on the abutment surface and, in a top view on the abutment surface, at least partially extends away from the centerline of the cross bar at an extension angle." not clear.
- 3.2 The vague and imprecise statement in the description on page 32, second paragraph to page 36 implies that the subject-matter for which protection is sought may be different to that defined by the claims as the statement is formulated as claims, thereby resulting in a lack of clarity of the claims (Article 6 PCT) when the description is used to interpret the claims. This statement should therefore be deleted to remove this inconsistency