

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

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

Date of mailing
(day/month/year) see form PCT/SA/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/US2020/059717

International filing date (day/month/year)
09.11.2020

Priority date (day/month/year)
18.11.2019

International Patent Classification (IPC) or both national classification and IPC
INV. B65D71/42

Applicant
WESTROCK PACKAGING SYSTEMS, 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 43 <i>bis</i> .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 66.1 *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.

Name and mailing address of the ISA:



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Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Serrano Galarraga, J

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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. 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. 17-27

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. are so unclear that no meaningful opinion could be formed (*specify*):

☐ 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. 17-27

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

☐ furnish a sequence listing in the form of an Annex C/ST.25 text file, and such listing was not available to the International Searching Authority in the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

☐ furnish a sequence listing on paper or in the form of an image file 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 the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

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

☐ See Supplemental Box for further details

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has, within the applicable time limit:
- ☐ paid additional fees
 - ☐ paid additional fees under protest and, where applicable, the protest fee
 - ☐ paid additional fees under protest but the applicable protest fee was not paid
 - ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-16, 28

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>5-8, 11, 12, 14-16</u> |
| | No: Claims | <u>1-4, 9, 10, 13, 28</u> |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | <u>1-16, 28</u> |
| Industrial applicability (IA) | Yes: Claims | <u>1-16, 28</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

Reference is made to the following documents:

- D1 EP 0 116 891 A2 (WADDINGTONS LTD [GB]) 29 August 1984
(1984-08-29)
- D2 WO 2011/075626 A2 (GRAPHIC PACKAGING INT INC [US]; DEPAULA
ANDREA COLTRI [US] ET AL.) 23 June 2011 (2011-06-23)
- D3 US 4 190 149 A (OLIFF JAMES R [US] ET AL) 26 February 1980
(1980-02-26)
- D4 WO 96/19393 A1 (MEAD CORP [US]) 27 June 1996 (1996-06-27)

Re Item IV

1 Lack of unity of invention

This Authority considers that the application does not meet the requirements of unity of invention and that there are two inventions covered by the claims indicated as follows:

- Claims: 1-16, 28: Article carrier comprising a main panel with openings and a wing panel adhereable to the at least one article.
- Claims: 17-27: Article carrier comprising a main panel with partially toothed openings.

The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

he common concept linking together the independent claims 1,9,10 and 28 and independent claim 17 is an article carrier for packaging at least one article, the carrier comprising a main panel having an article engaging device comprising at least one top-receiving opening.

This common concept is known from the article carrier disclosed in D1.

The remaining technical features of independent **claims 1,9, 10 and 28** are the presence of at least one wing panel being hinged to the main panel and adhereable to at least one article.

The technical effect of these features is to provide an article carrier able to support greater weights without modifying its design or to increase the amount of material used.

The problem to be solved can be considered to improve the transport capabilities of an article carrier without modifying its existing design.

The remaining technical features of independent **claim 17** is the presence of a toothed perimeter section and toothless perimeter section in the top-receiving apertures wherein the toothless perimeter section has a radius of curvature which is greater than the radius of a notional circle defined by the engaging aperture.

The technical effect of this features is to provide an alternative retention aperture design with improved engaging elements.

The problem to be solved can be considered to provide an improved retention aperture profile.

As the single general concept linking the independent claims is known, this concept is not a single general inventive concept, as required by Rule 13.1 PCT. Moreover the above features of claims 1, 9, 10 and 28 on one side and claim 17, are not the same, nor are they corresponding because they do not solve the same problem. The two groups of independent claims are therefore not linked by the same or corresponding special technical features. The technical relationship between the subject-matter of the two inventions required by Rule 13.2 PCT is lacking, and therefore the requirement for unity of invention is not fulfilled.

The application, hence does not meet the requirements of unity of invention.

Re Item V

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

2.1 Independent claims 1, 9, 10, 28

The present application does not meet the criteria of Article 33(2) PCT, because **the subject-matter of independent claims 1, 9, 10 and 28 is not new.**

D1 discloses an article carrier for packaging at least one article 10, the carrier comprising a main panel 22 having at least one top-engaging article device 26 for receiving and securing the main panel to a respective article, the carrier further comprising at least one wing panel 24, the at least one wing panel being hinged to the main panel and wherein the wing panel is adhereable to the at least one article.

D1 further describes a blank for forming said article carrier and a package comprising said article carrier and one or more articles

2.2 Dependent claims

The additional features disclosed in dependent claims **2-4** (article receiving openings), **13** (pair of wing panels) are known from D1 and therefore do not meet the requirements of the PCT with respect to novelty.

The additional features disclosed in dependent claims **5-8, 11-12, 14-16** are well known in the art. The additional features disclosed in dependent claims 5-8 (end panel) are known from D2 and D3; while those disclosed in dependent claims 11-12, 14-16 (wall panel) are known from D4. Claims 5-8, 11-12, and 14-16 thus do not meet the requirements of the PCT with respect to inventive step.

Re Item VII

3 Certain defects in the International Application

Additionally, the application fails to meet the requirements of the PCT in the following respects:

- 3.1 The features of the claims are not provided with **reference signs** placed in parentheses (Rule 6.2(b) PCT).
- 3.2 The independent claim 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 the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 3.3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant **background art** disclosed in D1 is not mentioned in the description, nor is this document identified therein.