

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

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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/US2022/048677

International filing date (day/month/year)
02.11.2022

Priority date (day/month/year)
24.11.2021

International Patent Classification (IPC) or both national classification and IPC
INV. B65D51/16 B65D79/02 B65D41/04

Applicant
OWENS-BROCKWAY GLASS CONTAINER INC.

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:



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Date of completion of
this opinion

see form
PCT/ISA/210

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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 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.
 - b. ☐ furnished subsequent to the international filing date for the purposes of international search (Rule 13*ter*.1(a)),
 - ☐ accompanied by a statement to the effect that the sequence listing does not go beyond the disclosure in the international application as filed.
4. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established to the extent that a meaningful opinion could be formed without a WIPO Standard ST.26 compliant sequence listing.
5. Additional comments:

Box No. V Reasoned statement under Rule 43*bis*.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>2, 3, 5, 10, 11</u>
	No: Claims	<u>1, 4, 6-9</u>
Inventive step (IS)	Yes: Claims	<u>2, 5, 11</u>
	No: Claims	<u>1, 3, 4, 6-10</u>
Industrial applicability (IA)	Yes: Claims	<u>1-11</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

Reference is made to the following documents:

- D1 DE 41 13 428 A1
- D2 US 4 887 730 A
- D3 DE 195 15 687 A1.

- 1 The present application does not meet the criteria of Article 33(2) PCT, because the subject-matter of claim 1 is not new.
- 1.1 D1 discloses a package, comprising:
a container (see lines 4-22 of column 5) including a container neck finish having a radially inner surface, a radially outer surface, and an axial outward end surface extending between the radially inner and outer surfaces, wherein the radially outer surface includes a straight cylindrical upper portion and a threaded cylindrical lower portion including one or more external threads (all these features are not depicted but are implicit since the third paragraph of page 5 mentions a container with a mouth area and threads on an outer wall); and
a closure (1) including a base wall (3) engaging the axial outward end surface of the container neck finish, an external skirt extending away from the base wall and having a threaded section with internal threads (see lines 4-22 of column 5) engaging the external threads of the container neck finish, and a pleated (15, 17, 19) section between the threaded section and the base wall (3). All the technical features of claim 1 are known from D1. The subject-matter of claim 1 is not novel in view of D1.
- 1.2 D3 discloses a package, comprising:
a container (bottle) including a container neck finish having a radially inner surface, a radially outer surface, and an axial outward end surface extending between the radially inner and outer surfaces, wherein the radially outer surface includes a straight cylindrical upper portion and a threaded cylindrical lower portion including one or more external threads (2); and
a closure (3) including a base wall (6) engaging the axial outward end surface of the container neck finish, an external skirt (4) extending away from the base wall and having a threaded section with internal threads engaging the external

- threads (2) of the container neck finish, and a pleated (8) section between the threaded section and the base wall (3). All the technical features of claim 1 are known from D3. The subject-matter of claim 1 is not novel in view of D3.
- 2 The present application does not meet the criteria of Article 33(2) PCT, because the subject-matter of claim 7 is not new.
- 2.1 D1 discloses a threaded and pleated closure (see lines 3-22 of page 5) , comprising:
a base wall (3); and
an external skirt (5) extending away from the base wall and including:
an open end distal the base wall,
an internally threaded section distal the base wall and proximate the open end (see again lines 3-22 of page 5), and
a pleated section (15, 17, 19) axially between the internally threaded section and the base wall. All the technical features of claim 7 are known from D1. The subject-matter of claim 7 is not novel in view of D1.
- 2.2 D2 discloses a threaded and pleated closure (10), comprising:
a base wall (14); and
an external skirt (16, 18) extending away from the base wall and including:
an open end distal the base wall,
an internally threaded section (20) distal the base wall and proximate the open end, and
a pleated section (22, 24, 26, 28) axially between the internally threaded section and the base wall. All the technical features of claim 7 are known from D2. The subject-matter of claim 7 is not novel in view of D2.
- 2.3 D3 discloses threaded and pleated closure (3), comprising:
a base wall (6); and
an external skirt (4) extending away from the base wall and including:
an open end distal the base wall,
an internally threaded section distal the base wall and proximate the open end, and
a pleated (8) section axially between the internally threaded section and the base wall. The subject-matter of claim 7 is not novel in view of D3.
- 3 Dependent claims 3 ("glass container", choice of such a container is not inventive), 4 (see D1, col 3, line 13: Aluminium), 6 (the pleated skirts of D1-D3 serve as pressure relief features to allow venting), 8 (see D1, col 3, line 13: Aluminium), 9 (see D1, col 3, line 13: Aluminium), 10 (a plurality of pleats is

obvious) 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.

- 4 The combination of the features of dependent claims 2,5 and 11 is neither known from, nor rendered obvious by, the available prior art.

Re Item VII

Certain defects in the international application

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.

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

Re Item VIII

Certain observations on the international application

Claim 11 is not clear because of the wording " wherein the pleated section is elongated during application of the closure to a container impose an axial bias force on a lip of the container by the base wall of the closure". A word seems to be missing.