

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 05 NOV 2004
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To:

see form PCT/ISA/220

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**
(PCT Rule 43*bis*.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/GB2004/003218	International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 23.07.2003
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International Patent Classification (IPC) or both national classification and IPC
E04G21/18, E04G21/00

Applicant
BARRON, Maurice

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*bis*.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 usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, 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 three 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.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:

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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, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. The following document has not been furnished:
- copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
 - translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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	1-9
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-9
Industrial applicability (IA)	Yes: Claims	1-9
	No: Claims	

2. Citations and explanations

see separate sheet

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-A-5 253 839 (MCCLURE ALEX R) 19 October 1993 (1993-10-19)

D2: GB 680 308 A (BECORIT GRUBENAUSSBAU GMBH) 1 October 1952 (1952-10-01)

D3: AU 753 074 B (ASHBY GREGORY ERIC JOHN) 10 October 2002 (2002-10-10)

D4: "Brauer Clamping Products" September 2001 (2001-09), BRAUER , MILTON KEYNES , XP002302050

D5: DE 76 33 286 U (SCHROER OTTO) 14 April 1977 (1977-04-14)

D6: GB-A-1 234 390 (ANTHONY DAVID WILSON GOOD) 3 June 1971 (1971-06-03)

D7: US-A-3 883 106 (SIMONSEN OLE FINN) 13 May 1975 (1975-05-13)

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

2.2 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):

A [removable reusable] frame [for defining an opening in a wall], said frame comprising a first vertical member (for instance (17) on the left of fig. 1) [defining a first lateral extremity of the opening], a second vertical member (for instance (17) on the left of fig. 1) [defining a second lateral extremity of the opening], more horizontal links (25, 27, 49) that are of adjustable length interconnecting the second vertical member (17) to the first vertical member (17) and locking means (29, 47) [for securing the position of a first part of each link relative to a second part of each link], the locking means comprising a releasable clamp that has a base secured to the first part (the base is actually the wall of the external arm (25, 27, 49) on the left of fig. 1) and has an arm (shaft of the bolt (29, 47)) that carries a clamping member (tip of the bolt (25, 27, 49) [that can engage the second part of each link and clamp onto the second part and thereby lock them together].

It is noted that the expressions in square brackets are non-distinctive characteristics of intended use (cf. PCT Guidelines 5.23 and 12.05) of the frame, for which the device of D1 is perfectly suitable as it is actually used for the same purpose.

- 2.4 The subject-matter of claim 1 therefore differs from this known frame in that the clamp is a "snap clamp".
- 2.5 First of all, it is noted that this term "snap clamp" is unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers (does it mean that the clamp makes a sharp noise when locked and/or released; or does it mean that its locking and/or releasing is combined with an abrupt motion?), thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT. The applicant could not rely on this term alone to distinguish the claimed invention from the prior art (cf. PCT Guidelines 5.34).
- 2.6 It is furthermore noted that the entire contents of the application are such as to convey the impression that a "snap clamp" is a device as shown on fig. 4 or which features are described on p.7/l.17-p.8/l.6 or in claim 5, with no intimation that alternative means are envisaged. The expression "snap clamp" should therefore be clarified, for instance by the features of claim 5 (cf. PCT Guidelines 5.56). It is noted that although the device shown in fig. 4 is indeed a particular example of a "toggle clamp", the term "toggle clamp" for indicating this generic concept of clamp is not present in the application as filed.
- 2.7 The problem to be solved by the present invention may however still be regarded as providing an alternative clamping means securing the relative position of the parts of the link.
- 2.8 The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons.
- 2.9 The feature of a "snap clamp" is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed. The skilled person would consider the clamps disclosed in:
- D2, fig. 1 which discloses a toggle clamp used for securing the relative

position of two telescoping parts (on a device which is also known to the man skilled in the art in the field of construction); or

- p.84-86 of D4 (which disclose clamps which are similar to the one described on p.7/l.17-p.8/l.6, claim 5 and fig. 4 of the application); or
- D5, fig. 2 and 3 (which seems to fall within the broadest possible scope of the expression "snap clamp", as its release is combined with an abrupt motion);

as such a possibility.

3.1 The dependent claim do not contain any features which, in combination with the features of any claim to which they refer, seem to meet the requirements of the PCT in respect of novelty and/or inventive step, the reasons being as follows:

- D1 already discloses the features of claims 2, 3, 4, 7, 8, 9;
- D4 already discloses the features of claim 5;
- D3 already discloses the features of claim 6.

3.2 It is furthermore unclear which non-obvious combinatory effect could be obtained by the combination of the features of claims 1-9 which would be above the addition of the normal effects obtained by each feature on its own.