

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

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

To:

see form PCT/ISA/220

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/IB2007/050675

International filing date (day/month/year)
01.03.2007

Priority date (day/month/year)
20.03.2006

International Patent Classification (IPC) or both national classification and IPC
INV. A61B19/02 A61B19/04 B65D83/08

Applicant
KIMBERLY-CLARK WORLDWIDE, 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 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") 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.

3. For further details, see notes to 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 43bis.1(a))
3. 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:
 - on paper
 - in electronic form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in electronic form.
 - furnished subsequently to this Authority for the purposes of search.
4. 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.
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>2,13-30,33-36,38-43</u>
	No: Claims	<u>1,3-12,31,32,37</u>
Inventive step (IS)	Yes: Claims	<u>2,13-30,33-36,39-43</u>
	No: Claims	<u>1,3-12,31,32,37,38</u>
Industrial applicability (IA)	Yes: Claims	<u>1-43</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

Reference is made to the following documents:

D1 : US 4 773 532 A (STEPHENSON MARK [US]) 27 September 1988 (1988-09-27)

D2 : DE 87 15 996 U1 (MARTINI, ALEXANDRE, BASEL, CH) 4 February 1988 (1988-02-04)

D3 : US 2 591 855 A (NICHOLSON JERRY E) 8 April 1952 (1952-04-08)

D4 : US 2004/099623 A1 (KURTZ SCOTTY R [US] ET AL) 27 May 2004 (2004-05-27)

D5 : US 2003/230591 A1 (JORDAN EARL [US] ET AL) 18 December 2003 (2003-12-18)

1. Independent claims 1 and 31

The application may contain more than one independent claim in the same category only if the subject-matter of the application involves a plurality of inter-related products.

The dispenser and the cartridge are inter-related products, but the inter-related technical features of the dispenser and the cartridge are essential in order that independent claims **1** and **31** are allowable.

In the present application, the glove pusher of the dispenser is configured to be slidably movable across the length of the slot (70) (see page 11, lines 28-29) aligned with an opening (39) of the cartridge (see page 12, lines 25-28) and the exit port of the dispenser is positioned to be in alignment with the dispensing opening (44) of the cartridge (see page 10, lines 26-27).

1.1. Independent claim 1

1.1.1. The application does not meet the requirements of Article 6 PCT, because claim **1**

is not clear.

The term "compartment" used in claim 1 is vague and unclear and leaves the reader in doubt as to the meaning of the technical feature to which it refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.

The dispenser comprises a housing (52) which includes **a cartridge compartment (65)** configured to receive and hold a cartridge (see page 10, lines 18-24 of the description and the corresponding figures).

Only the internal compartment (35) of the cartridge is configured to hold the plurality of gloves and not the compartment of the housing (see page 8, lines 20-22).

1.1.2. It is noted that the cartridge and the plurality of gloves do not form part of the subject-matter of claim 1.

1.1.3. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document **D1** discloses (*the references in parentheses applying to this document*):

a dispenser (*see fig. 1*) for dispensing gloves (*gloves 12, see col. 2, line 46, fig. 1*), the dispenser comprising:

a housing (*protective enclosure 14, see col. 2, line 49, fig. 1*) formed to include a compartment (*see fig. 1*) therein, the housing configured to hold a plurality of gloves in the compartment, the housing including an exit port (*see fig. 1*); and

a glove pusher (*advancing crank 15 and sprocket wheel 16 associated with crank, see col. 2, lines 50-51, fig. 1*) movably coupled to the housing, at least a portion of the glove pusher configured to move within the compartment of the housing and push at least a portion of a glove disposed in the compartment through the exit port.

The attention of the applicant is drawn to the fact, that **D2-D3** also disclose the technical features of independent claim 1.

1.2. Independent claim 31

1.2.1. The application does not meet the requirements of Article 6 PCT, because claim **31** is not clear.

It is clear from the description that the following feature is essential to the definition of the invention:

the cartridge comprises an opening (39) formed by removal of the perforated area (36) opening (39) aligned with the slot (70) of the housing (52) of the dispenser (see page 12, lines 25-28 of the description).

Since independent claim **31** does not contain these features it does not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

1.2.2. It is noted that the dispenser does not form part of the subject-matter of claim **31**.

1.2.3. Furthermore, the above-mentioned lack of clarity notwithstanding, the subject-matter of claim **31** is not new in the sense of Article 33(2) PCT, and therefore the criteria of Article 33(1) PCT are not met.

Document **D4** discloses (*the references in parentheses applying to this document*):

a cartridge (*box 41, see par. 18, fig. 1*) adapted to hold a plurality of gloves, the cartridge configured to be positioned in a dispenser having a housing formed to include a compartment therein configured to hold a cartridge, the housing including an exit port, the dispenser including a glove pusher movably coupled to the housing, at least a portion of the glove pusher configured to move within the compartment of the housing to push at least a portion of a glove through the exit port, the cartridge comprising:

plurality of walls (*see fig. 1*) which cooperate to form an inner surface and an internal compartment configured to hold a plurality of gloves, the cartridge having at least one opening (*dispensing opening 42, see par. 18, fig. 1*); and

a plurality of gloves (*gloves 40, see par. 17, fig. 1*) provided in a stack disposed in the internal compartment,

wherein the cartridge is configured to be disposed into a compartment of a dispenser and the cartridge is formed to permit a portion of a dispenser to move into the internal compartment of the cartridge to move at least one of the plurality of gloves at least partially through the at least one opening in the cartridge.

The attention of the applicant is drawn to the fact, that **D5** also discloses the technical features of independent claim **31**.

2. Independent claims 2 and 3

2.1. Although claims **2** and **3** have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

2.2. Independent claim 2

2.2.1. The application does not meet the requirements of Article 6 PCT, because claim **2** is not clear for the following reasons:

- see par. **1.1.1**.

- claim **2** has been so interpreted that the housing of the dispenser includes a cartridge compartment to hold a cartridge, that the cartridge includes an internal compartment to hold a plurality of gloves and that the cartridge is configured to be disposed into the cartridge compartment of the dispenser.

2.2.2. Furthermore, the above-mentioned lack of clarity notwithstanding and in the light of the documents cited in the search report, it is considered that the subject-matter as

claimed in independent claim 2 meets the criteria mentioned in Article 33(3) PCT, i.e. it appears to be novel, involve an inventive step and be industrially applicable for the following reasons:

Prior art: Package of a multitude of flattened sterile surgical gloves provided in roll form. US 4 773 532 represents an example of such prior art.

Problem/Object: How to minimize the introduction of contaminants into the cartridge and plurality of gloves.

Solution: The introduction of contaminants into the cartridge and plurality of gloves is minimized by a dispensing system comprising a dispenser including a glove pusher and a cartridge comprising an internal compartment, at least one opening and a plurality of gloves, the cartridge configured to be disposed into the dispenser and formed to permit the glove pusher of the dispenser to move into the internal compartment of the cartridge to contact and move at least one of the plurality of gloves at least partially through the at least one opening in the cartridge and the exit port of the dispenser.

None of the cited documents hint to said solution in order to solve said problem / achieve said object.

2.3. Independent claim 3

2.3.1. The application does not meet the requirements of Article 6 PCT, because claim 3 is not clear for the following reasons:

It is clear from the description on page 8 that the cartridge and the technical features of the cartridge are essential to the definition of the invention.

The description does not disclose any embodiments without cartridge.

Since independent claim 3 does not contain these features it does not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of

the invention.

2.3.2. Furthermore, the above-mentioned lack of clarity notwithstanding, the subject-matter of claim **3** is not new in the sense of Article 33(2) PCT, and therefore the criteria of Article 33(1) PCT are not met.

Document **D1** discloses (*the references in parentheses applying to this document*):

a dispensing system (*see fig. 1*) adapted for dispensing gloves, the dispensing system comprising:

a dispenser (*see fig. 1*) including

a housing (*protective enclosure 14, see col. 2, line 49, fig. 1*) formed to include a compartment (*see fig. 1*) therein, the housing configured to hold a plurality of gloves (*gloves 12, see col. 2, line 46, fig. 1*) in the compartment, the housing including an exit port (*see fig. 1*);

a glove pusher (*advancing crank 15 and sprocket wheel 16 associated with crank, see col. 2, lines 50-51, fig. 1*) movably coupled to the housing, at least a portion of the glove pusher configured to move within the compartment of the housing; and

a plurality of gloves (*see fig. 1*) provided in a stack disposed in the compartment, wherein the glove pusher is positioned to contact and move at least a portion of one of the plurality of gloves in the stack at least partially through the exit port of the dispenser.

The attention of the applicant is drawn to the fact, that **D2-D3** also disclose the technical features of independent claim **3**.

3. Independent claim 40

3.1. The application does not meet the requirements of Article 6 PCT, because claim **40** is not clear (*see par. 2.2.1.*).

3.2. Furthermore, the above-mentioned lack of clarity notwithstanding and in the light of the documents cited in the search report, it is considered that the subject-matter as

claimed in independent claim **40** meets the criteria mentioned in Article 33(3) PCT, i.e. it appears to be novel, involve an inventive step and be industrially applicable for the same reasons as those disclosed in par. **2.2.2.**

4. Dependent claims 4-12, 32, 37 and 38

Dependent claims **4-12, 32, 37, 38** 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), see the cited passages in the search report.

5. Dependent claims 13-30, 33-36, 39 and 41-43

The combination of the features of dependent claims **13-30, 33-36** and **39, 41-43** is neither known from, nor rendered obvious by, the available prior art.

6. Remarks

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

6.2. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents **D1-D5** is not mentioned in the description, nor are these documents identified therein.

6.3. Independent claims are 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 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).

6.4. The vague and imprecise statement in the description on pages 8 and 14 implies

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AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2007/050675

that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.