

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference 10197 WO		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/EP2009/003004	International filing date (day/month/year) 24.04.2009	Priority date (day/month/year) 03.11.2008
International Patent Classification (IPC) or both national classification and IPC B65G47/84 B65G47/90 B67C3/24		
Applicant KHS GMBH		

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 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/EP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

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Box No. I	Basis of this opinion
1.	<p>With regard to the language, this opinion has been established on the basis of:</p> <p><input checked="" type="checkbox"/> the international application in the language in which it was filed</p> <p><input type="checkbox"/> 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)).</p>
2.	<p><input type="checkbox"/> 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))</p>
3.	<p>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:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> on paper</p> <p><input type="checkbox"/> in electronic form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed</p> <p><input type="checkbox"/> filed together with the international application in electronic form</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search</p>
4.	<p><input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) 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.</p>
5.	<p>Additional comments:</p>

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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
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1. Statement									
Novelty (N)		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;">6</td> <td style="padding: 2px; text-align: right;">YES</td> </tr> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;">1-5, 7-11</td> <td style="padding: 2px; text-align: right;">NO</td> </tr> </table>	Claims	6	YES	Claims	1-5, 7-11	NO	
Claims	6	YES							
Claims	1-5, 7-11	NO							
Inventive step (IS)		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;">6</td> <td style="padding: 2px; text-align: right;">YES</td> </tr> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;">1-5, 7-11</td> <td style="padding: 2px; text-align: right;">NO</td> </tr> </table>	Claims	6	YES	Claims	1-5, 7-11	NO	
Claims	6	YES							
Claims	1-5, 7-11	NO							
Industrial applicability (IA)		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;">1-11</td> <td style="padding: 2px; text-align: right;">YES</td> </tr> <tr> <td style="padding: 2px;">Claims</td> <td style="border-bottom: 1px solid black; padding: 2px;"></td> <td style="padding: 2px; text-align: right;">NO</td> </tr> </table>	Claims	1-11	YES	Claims		NO	
Claims	1-11	YES							
Claims		NO							

2. Citations and explanations:	
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Reference is made to the following documents:

D1: US 2004/065525 A1 (BONATTI DAVIDE) 8 April 2004 (2004-04-08)

D2: DE 10 2007 011923 A1 (SIG) 11 September 2008 (2008-09-11)

D3: EP 0 743 267 A1 (KRONSEDER) 20 November 1996 (1996-11-20)

D4: FR 2 895 384 A1 (SIDEL) 29 June 2007 (2007-06-29)

1 See Box VIII.

2 Quite apart from the lack of clarity mentioned hereinbelow, it is also the case that the subject matter of claims 1 and 8-11 is not novel (PCT Article 33(2)), and therefore the requirements of PCT Article 33(1) have not been met.

2.1 Document D1 discloses (the references between parentheses relate to said document):

an apparatus (1) for gripping containers (2), having a driving and actuating element (52, 53) which causes the gripper arms (27) to be opened

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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

and closed, wherein the gripping apparatus (1) consists substantially of two subassemblies, wherein the first subassembly comprises the components (20-22, 27, 44, 43, 53) which are subjected to a pronounced level of wear and the second, machine-mounted subassembly comprises components (15, 18) which are not subjected to any wear, wherein the first subassembly and the second subassembly can be connected to one another such that they can be easily separated.

The subject matter of claim 1 thus lacks novelty (PCT Article 33(2)). It should also be noted that documents D2-D4 are also prejudicial to the novelty of claim 1.

2.2 Since the additional features of claims 2-5 and 7-11 are known from at least one of documents D1-D4, it is likewise the case that these claims do not meet the requirements of the PCT (PCT Article 33(1)) in respect of novelty (PCT Article 33(2)).

3 Claim 6 meets the requirements of the PCT (PCT Article 33(1)) in respect of novelty (PCT Article 33(2)) and inventive step (PCT Article 33(3)).

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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:

4 The application does not meet the requirements of PCT Article 6 because claims 1-7 are unclear:

- the expressions "subassembly", "pronounced level of wear", "machine-mounted" and "can be easily separated" are unclear and therefore cannot be used in order to delimit the invention from the prior art;

- the expression "components which are not subjected to any wear" is incorrect for characterizing a sliding rod, and the expression "mounted in a pivotable manner" does not correspond to a connection between two subassemblies, wherein two latching extensions of the bearing element of the first subassembly engage in two apertures of the installation element of the second subassembly; these expressions have therefore not been taken into consideration for the purpose of examining the claims;

- the claims disclose features without defining the technical relationships thereof to the other features.