

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 12-119 WO	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/US2012/056063	International filing date ( <i>day/month/year</i> ) 19 September 2012 (19.09.2012)	Priority date ( <i>day/month/year</i> ) 29 September 2011 (29.09.2011)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant THE BOARD OF REGENTS FOR OKLAHOMA STATE UNIVERSITY			

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																								
<p>3. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> <p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																						

<p align="center">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 338 82 70</p>	<p>Date of issuance of this report 01 April 2014 (01.04.2014)</p>
	<p>Authorized officer</p> <p align="center"><b>Simin Baharlou</b></p> <p>e-mail: pt09.pct@wipo.int</p>

# 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/US2012/056063

International filing date (day/month/year)  
19.09.2012

Priority date (day/month/year)  
29.09.2011

International Patent Classification (IPC) or both national classification and IPC  
INV. A22C17/00 A23P1/00 A23L1/31

Applicant  
THE BOARD OF REGENTS FOR OKLAHOMA STATE UNIVERSITY

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

Authorized Officer

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**Box No. I Basis of the opinion**

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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 filed or furnished:
  - a. (means)
    - on paper
    - in electronic form
  - b. (time)
    - in the international application as filed
    - together with the international application in electronic form
    - 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 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:

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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)	Yes: Claims	<u>1-20</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	<u>7-20</u>
	No: Claims	<u>1-6</u>
Industrial applicability (IA)	Yes: Claims	<u>1-20</u>
	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 Reference is made to the following documents:

D1 US 2007/264920 A1 (LOBEL STANLEY [US]) 15 November 2007 (2007-11-15)

D2 INAC, Instituto Nacional de Carnes: "Manual de Carnes Bovina y Ovina - Handbook of Uruguayan Meat", 2004, XP002687527, Montevideo  
ISBN: 9974563232  
Retrieved from the Internet:  
URL:<http://www.inac.gub.uy/innovaportal/file/2043/1/manualdecortes.pdf>  
[retrieved on 2012-11-20]

D3 Bundesministerium für Gesundheit: "Österreichisches Lebensmittelbuch - Codexkapitel B14 - Fleisch und Fleischerzeugnisse", 1 February 2010 (2010-02-01), XP002687528, Wien  
Retrieved from the Internet:  
URL:[http://www.bmg.gv.at/cms/home/attachments/4/9/6/CH1252/CMS1167207128242/b\\_14\\_fleisch\\_und\\_fleischerzeugnisse.pdf](http://www.bmg.gv.at/cms/home/attachments/4/9/6/CH1252/CMS1167207128242/b_14_fleisch_und_fleischerzeugnisse.pdf)  
[retrieved on 2012-11-20]

2 The present application does not meet the criteria of Article 33(3) PCT, because the subject-matter of claims 1 to 6 does not involve an inventive step.

2.1 Document D1 is regarded as being the prior art closest to the subject-matter of claim 1, and discloses a method for preparing a cut of meat comprising at least a portion of a *Subscapularis* muscle (par. [0029]) by trimming portions thereof (implicitly comprising fat, connective and lean tissue, such as any muscular mass; par. [0032]).

Trimming undefined portions from all sides of the meat cut cannot be regarded as inventive. This procedure can only be regarded as inventive, if it presents unexpected effects or results in relation to existing procedures. How-

ver, no such effects or properties can be found in the broad and general features of claim 1. Hence, no inventive step is present in the subject-matter of claim 1.

In the same manner, documents D2 and D3 disclose meat products obtained from the *Subscapularis* muscle, known as *Tapa de aguja* (Chuck cover) in Uruguay (D2, p. 59) and *Kavalierspitz* in Austria (D3, p. 16 and 20). Performing the undefined cuts of claim 1 in said meat portions cannot be regarded as inventive.

The subject-matter of claim 1 is therefore not inventive (Article 33(3) PCT)

2.2 The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 2 and 5, which therefore are also considered not inventive.

2.3 Although claims 3 and 6 have been drafted as independent claims, they include all technical features of claims 2 and 5 respectively, therefore, said claims 3 and 6 are considered dependent on claims 2 and 5. The same objection applies for claims 9, 15 and 20, which are in fact dependent on claims 8, 11 and 17 respectively.

Said dependent claims 3 and 6 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 inventive step.

3 Document D1 is regarded as being the prior art closest to the subject-matter of claim 7, and discloses a method for preparing a cut of meat comprising a portion of the *Subscapularis muscle*, from which the subject-matter of claim 7 differs from in that three specific cuts are performed on the meat and is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as obtaining a valuable meat product from the *Subscapularis muscle*.

The solution to this problem proposed in claim 7 of the present application is considered as involving an inventive step (Article 33(3) PCT). The three cuts described (the first one from the ventral to the dorsal end proximate to an edge of the cranial side parallel to the caudal side edge; the second one from the dorsal end until a prominent white fissure is reached; and the third one from said white fissure to the caudal side so as to sever the fissure from the

muscle) are highly specific and are not disclosed in the prior art. The person skilled in the art would not arrive at such a procedure without the exercise of an inventive activity.

The subject-matter of claim 7 is therefore considered as inventive (Article 33 (3) PCT)

- 4 The characteristics of a meat product after performing the above mentioned cuts would be clearly differentiated from another product having being subject to a different procedure. The subject-matter of claim 8 is therefore also considered as inventive (Article 33(3) PCT)
- 5 Although claims 10, 11, 16 and 17 have been drafted as independent claims, the subject-matter underlying is basically the same. The same reasoning applies, mutatis mutandis, to the subject-matter of said claims, which therefore are also considered new and inventive.
- 6 Claims 12, 13 and 18 are dependent claims and as such also meet the requirements of the PCT with respect to novelty and inventive step.