

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 B1129-PCT KONDRACKI	FOR FURTHER ACTION See paragraph 2 below
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International application No. PCT/FR2013/052850	International filing date (day/month/year) 26.11.2013	Priority date (day/month/year) 30.11.2012
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International Patent Classification (IPC) or both national classification and IPC
B65D81/34

Applicant
KONDRACKI, Daniel

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. 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(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.
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		
1. Statement			
Novelty (N)	Claims	1-9	YES
	Claims		NO
Inventive step (IS)	Claims	1-9	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO
2. Citations and explanations:			
<p>1. Reference is made to the following documents:</p> <p>D1: US 5 180 894 A (QUICK JAMES R [US] ET AL) 19 January 1993 (1993-01-19)</p> <p>D2: US 2004/226941 A1 (HOPKINS GARY L SR [US]) 18 November 2004 (2004-11-18)</p> <p>D3: US 3 361 576 A (JACOBSON PAUL F) 2 January 1968 (1968-01-02)</p> <p>D4: US 5 970 851 A (MASEL RUBEN [IL] ET AL) 26 October 1999 (1999-10-26)</p> <p>D5: US 2008/087268 A1 (BURTON ALAN [US]) 17 April 2008 (2008-04-17)</p> <p>D6: WO 00/47484 A1 (UNCLE BEN S INC [US]) 17 August 2000 (2000-08-17)</p> <p>2. D1, which can be considered to be the prior art closest to</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

the subject matter of claim 1, discloses (column 3, line 20 - column 4, line 8; figures 1-5) a packaging and cooking device for food being, during use, in the form of a sheath open at both ends, produced from a cooking foil made from flexible material (10), and two opposite edges (22) of which are connected so as to form a means for gripping the package.

Consequently, the subject matter of claim 1 differs from this known device in that the gripping means is formed in a gripping strip made from rigid material associated with said edges connected over the length thereof, and in that the other two opposite edges of the foil, situated on the sides perpendicular to the rigid strip, at the openings in the sheath, are folded in order to retain the food, scraps or residual juice inside the sheath; said subject matter is therefore novel (PCT Article 33(2)).

The problems addressed by the present invention can therefore be considered that of stiffening the gripping means and preventing the dispersion of the food.

The solution to these problems proposed in claim 1, clarified as suggested in Box VIII below, would be considered to involve an inventive step (PCT Article 33(3)) for the following reasons:

- even if the production of the gripping means in a gripping strip made from rigid material associated with the connected edges of the cooking foil is known *per se* (cf. for example D2, figure 1, or D3, figure 11, or D6, figure 11), none of the documents cited describes or suggests the presence of folded edges for retaining the food inside the sheath.

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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**

Claims 2-9 are dependent on claim 1 and as such likewise meet the PCT requirements in respect of novelty and inventive step.

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Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

1. Claim 3 cannot be dependent on claim 1 and claim 8 cannot be dependent on any of the preceding claims since "the central folding line" is mentioned for the first time in claim 2 (PCT Rule 6.4).

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:

The application does not meet the requirements of PCT Article 6 since claim 1 is unclear and does not contain all the essential features of the invention. In particular, with regard to the expression "the edges (2)... are folded in order to retain the food... inside the sheath", it is not clear how the folding of the edges could be achieved in order to execute the function of retaining the food inside the sheath.

It is clear from the description, see in particular page 3, lines 26-33, that the following feature:

"the folded edges (2) each comprise a fold (8) of the foil towards the inside of the sheath, this fold being arranged so as to lie flat inside against the edges of the foil, before use, and so that the fold (8) moves away towards the outside of the sheath during use, so as to constitute a rim (8") determining with the sheath a cavity able to retain the food"

(which is at present contained in claim 2) is essential to the definition of the invention, all the more so since the description and drawings give the impression that said function can be executed only in this particular way and that no other means is envisaged.