

PATENT COOPERATION TREATY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43*bis*.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/US2016/045465	International filing date (day/month/year) 04.08.2016	Priority date (day/month/year) 01.09.2015
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International Patent Classification (IPC) or both national classification and IPC
INV. G06Q10/00 G06Q10/08

Applicant
OWENS-BROCKWAY GLASS CONTAINER 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 43*bis*.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 66.1*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 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:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Fax: +49 89 2399 - 4465	Date of completion of this opinion see form PCT/ISA/210	Authorized Officer Bîrlescu, V Telephone No. +49 89 2399-0
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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, this opinion has been established on the basis of a sequence listing:
 - a. forming part of the international application as filed:
 - in the form of an Annex C/ST.25 text file.
 - on paper or in the form of an image file.
 - b. furnished together with the international application under PCT Rule 13ter.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
 - c. furnished subsequent to the international filing date for the purposes of international search only:
 - in the form of an Annex C/ST.25 text file (Rule 13ter.1(a)).
 - on paper or in the form of an image file (Rule 13ter.1(b) and Administrative Instructions, Section 713).
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 forming part of 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>1-23</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-23</u>
Industrial applicability (IA)	Yes: Claims	<u>1-23</u>
	No: Claims	

2. Citations and explanations

see separate sheet

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:

see separate sheet

Re Item VIII

Certain observations on the international application

1 Article 6 PCT (Clarity)

The application does not meet the requirements of **Article 6 PCT**, because claim 8 is not clear.

- 1.1 The independent claim 8 describe in the last paragraph that a report is created based on "customer readings, seller readings, and end user readings". It is unclear for the reader how the server is accessing the "end user readings" since it is mentioned for the first time at the end of the claim. The intended limitations are therefore not clear from this claim, contrary to the requirements of **Article 6 PCT**.
- 1.2 Dependent claim 23 relates to an erroneous claim, namely claim 31. Probably the claim that is supposed to refer is the claim 21.

Therefore, the application does not meet the requirements of **Article 6 PCT**.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

- D1 WO 2010/009448 A1 (WM GREENOPS LLC [US]; WOLFF PAUL KENNETH [US]; ZOLEZZI ANTHONY JOAQUIN) 21 January 2010 (2010-01-21)
- D2 US 2005/038710 A1 (ZIMMERMAN SHANNON M [US] ET AL) 17 February 2005 (2005-02-17)
- D3 US 6 547 137 B1 (BEGELFER LARRY J [US] ET AL) 15 April 2003 (2003-04-15)
- D4 US 2013/341228 A1 (CLICK CAROL A [US] ET AL) 26 December 2013 (2013-12-26)cited in the application

2 **Articles 33(1) and (3) PCT (Inventive Step)**

The present application does not meet the requirements of **Articles 33(1) and 33(3) PCT** because the subject-matter of the independent claims 1, 6, 8, 13, 20 do not seem to involve an inventive step.

2.1 INDEPENDENT CLAIM 8:

The subject-matter of claim 8 does not involve an inventive step over the disclosure of document **D1** which is considered to be the closest prior art, because document **D1** discloses (the references in parentheses applying to this document and the differences between claim 8 and **D1** are in strikethrough):

A system ("**The system**" paragraph [0019]) comprising:

- a central server ("**server 14**" paragraph [0021]; Fig. 1, Ref. 14);
- a database accessible by the server ("**The recyclable product information is stored in one or more databases 16 in communication with server 14**" paragraph [0021]; Fig. 1, Ref. 16) and providing storage for data relating to containers traveling within a distribution chain ("**Product Tracking Information**" Fig. 1 - 2, Ref. 16; Fig. 4); and
- a plurality of electronic code readers located at different points throughout the distribution chain, the code readers being configured to read machine-readable codes carried by the containers ("**the unique identifier is scanned using a bar code reader...laser, x-ray. UV florescent or RFID scanning.**" paragraph [0024]; Fig. 2, Ref. 46) and to electronically communicate data obtained as a result of the readings of the machine-readable codes to the central server, wherein each machine-readable code is representative of a data associated with the corresponding container ("**The recyclable product's status is updated based upon scanned information and/or other information manually or automatically entered at block 48**" paragraph [0026]; Fig. 2, Ref. 48);
- wherein the central server ("**server 14**" paragraph [0021]; Fig. 1, Ref. 14) is configured to:
 - receive from a customer to whom one or more containers were supplied, data obtained from customer-readings of the machine-readable codes of those containers by one or more of the plurality electronic code reader(s) located at the customer ("**one or more users associated with a recyclable**

product's lifecycle communicate with server 14 to access and possibly update information associated with recyclable products. Users associated with a recyclable product's lifecycle or otherwise interested in recycling, referred to herein as recycling users, include without limitation distribution facilities 20, warehouses 22" paragraph [0021]), ~~wherein the data includes data relating to the filling of the containers;~~

~~- receive from a seller of products including the containers, data obtained from seller-readings of the machine-readable codes by another one or more of the electronic code reader(s) located at the seller, wherein the data includes at least one of a date of container sale, a time of container sale ("one or more users associated with a recyclable product's lifecycle communicate with server 14 to access and possibly update information associated with recyclable products. Users associated with a recyclable product's lifecycle or otherwise interested in recycling, referred to herein as recycling users, include without limitation...retail locations 24" paragraph [0021]), or seller-specific data; and~~

~~- generate a report based on the data from the customer readings, seller readings, and end user readings.~~

2.1.1 The system described in the independent claim 8 differs from the one disclosed in document **D1** in that:

a) the functional meaning of the data communicated to the server ("the data includes data relating to the filling of the containers"; "or seller-specific data");

b) the server generates a report based on these data ("generate a report based on the data from the customer readings, seller readings, and end user readings").

What is the functional meaning of the information sent to the server is not relevant from technical point of view. No technical details beyond the conventional communication of information are stated in the application.

Creation of a report based on the data received from other devices is considered to be an administrative aspect of the process executed in an automated way by the server.

Therefore these differences are considered to be non-technical administrative aspects of the process described by the claim 8.

2.1.2 There cannot be derived any technical effect which may be achieved by the distinguishing features other than the automated execution of the administrative requirement.

- 2.1.3 The objective technical problem is therefore considered as to automate the administrative requirements in the system disclosed by **D1**.
- 2.1.4 The person skilled in the art of data processing would consider the implementation of an administrative process in a computing system to be part of his daily work. Therefore he would consider obvious to modify the system disclosed in **D1** and to implement the administrative differences identified in section 2.1.1 when receiving the administrative differences, in the form of a requirements specification, from an administrative person that has knowledge regarding tracking items in a distribution chain. The skilled person would then translate the administrative differences into the system disclosed by **D1** through use of standard data processing techniques as part of his normal daily work. He would change the system to communicate the proper data to the server and to create a report based on them and arrive at the subject-matter of claim 8 without exercising an inventive step (**Articles 33(1) and (3) PCT**).

It is pointed out that similar objections of lack of inventive step (**Articles 33(1) and (3) PCT**) can be substantiated when starting from the documents **D2** or **D3** which, like **D1**, discloses many, if not all of the aspects which are considered to be non-technical.

2.2 INDEPENDENT CLAIMS 1, 6, 13 and 20:

The objections raised in respect of the subject-matter of claim 8 apply, for similar reasons, to the subject-matter of the corresponding independent claims 1, 6, 13 and 20 (**Articles 33(1) and (3) PCT**).

2.3 DEPENDENT CLAIMS

Dependent claims 2 - 5, 7, 9 - 12, 14 - 19, 21 - 23 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the **Article 33(1) PCT** with respect to inventive step (**Article 33(3) PCT**).

- 2.3.1 Regarding claims 2, 7, 9, 18, 21, **D1** discloses that the data received by the server is associated with the container to which they correspond and they are stored in the database ("**The central server is configured to uniquely associate one or more recyclable products with unique identifiers and**

other product information stored in the database, receive tracking information associated with the one or more recyclable products, periodically store and update the tracking information in the database," paragraph [0008]).

- 2.3.2 Regarding claims 3 - 4, 19, 22, 23, **D1** discloses that the containers are scanned by different entities during the lifecycle and the data is communicated to the server ("**one or more users associated with a recyclable product's lifecycle communicate with server 14 to access and possibly update information associated with recyclable products...recycling users, include without limitation manufacturers 18, distribution facilities 20. warehouses 22, retail locations 24, consumers 26, recyclable product collection locations 28 and recapture reprocessing locations 30**" paragraph [0021]).
- 2.3.3 The additional aspects described in the dependent claims 5, 14 - 17 are considered non-technical business features and are thus not relevant for assessing inventive step..
- 2.3.4 Regarding claims 10 - 12, **D1** does not disclose that the system is generating a report based on the received information. Creation of a report based on the data received from other devices is considered to be an administrative aspect of the process and the skilled person would translate this administrative aspect into the system disclosed by **D1** through use of standard data processing techniques without exercising an inventive step.