

**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 W10538PWO	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/EP2017/061340	International filing date ( <i>day/month/year</i> ) 11 May 2017 (11.05.2017)	Priority date ( <i>day/month/year</i> ) 13 May 2016 (13.05.2016)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant WITTE AUTOMOTIVE GMBH			

<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 5 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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	Date of issuance of this report 13 November 2018 (13.11.2018)
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From the INTERNATIONAL SEARCHING AUTHORITY

To:

**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing <i>(day/month/year)</i> <b>07 August 2017</b>	
Applicant's or agent's file reference <b>W10538PWO</b>	<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. <b>PCT/EP2017/061340</b>	International filing date <i>(day/month/year)</i> <b>11 May 2017</b>
Priority date <i>(day/month/year)</i> <b>13 May 2016</b>	
International Patent Classification (IPC) or both national classification and IPC <b>E05F 15/43(2015.01)i; E05F 15/73(2015.01)i</b>	
Applicant <b>WITTE AUTOMOTIVE GMBH</b>	

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 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/	Date of completion of this opinion	Authorized officer

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2017/061340

## 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 43*bis*.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 13*ter*.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 13*ter*.1(a)).
    - on paper or in the form of an image file (Rule 13*ter*.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:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2017/061340

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		
1. Statement			
Novelty (N)	Claims	<u>3</u>	YES
	Claims	<u>1, 2, 4-11</u>	NO
Inventive step (IS)	Claims	<u></u>	YES
	Claims	<u>1-11</u>	NO
Industrial applicability (IA)	Claims	<u>1-11</u>	YES
	Claims	<u></u>	NO
2. Citations and explanations :			
See Supplemental Box			

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**Box 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	GB 2 515 099 A (JAGUAR LAND ROVER [GB]) (2014-12-17)
D2	WO 2016/041738 A1 (VALEO SCHALTER & SENSOREN GMBH) (2016-03-24)
D3	DE 20 2010 013204 U1 (KOGEL BASTIAN) (2011-02-24)
D4	US 2004/140782 A1 (OKABE JUNICHIRO ET AL) (2004-07-22)

- [2] The present application fails to comply with the requirements of PCT Article 33(2) because the subject matter of claim 1 is not novel for the following reasons:

D1 discloses (see figure 1) an apparatus (1) having a control device (7) for controlling a drive unit (45) (see page 11, lines 16-19), wherein the apparatus (1) has a sensor system (11, 13, 21-24, 29A-D) for monitoring at least one detection region (V1, V2) and the control device (7) is designed to determine the distance of an object, which is detected in the detection region (V1, V2), relative to the sensor system (21, 22) (see page 10, lines 26-32) and to control the drive unit (45) in accordance with the determined distance for tracking a flap. (See page 11, lines 16-23)

D1 therefore discloses all the technical features of claim 1 in combination, and this claim is therefore not novel.

- [3] Documents D2 and D3 also disclose all the technical features of claim 1, and this claim is therefore also not novel over these documents. See in particular:

D2: figure 1, apparatus (2), control device (4), drive unit (5), sensor system (3)

D3: figure 1A, control device (10), sensor system (2), drive unit (4). See paragraph [0029]

- [4] Dependent claims 2-11 do not contain any features which, in combination with the features of a claim to which they refer back, meet the requirements of the PCT with respect to novelty and/or inventive step. See D1-D4. The reasons are as follows:

Claims 2 and 11: see D1: figure 1, sensor (11, 13, 21-24, 29A-D)

Claims 3-8: minor modification.

Claim 4, 5, 7 and 9: see D1: page 10, lines 26-33 and page 11, lines 25-32

Claim 6: see D1: page 12, lines 17-26. See also, for example, D4, paragraph [0064]: sensors for distinguishing between a surroundings and an object are already known from the prior art.

Claim 10: see D1: page 10, lines 8-17 and page 11, lines 25-32