

From the INTERNATIONAL SEARCHING AUTHORITY

To:

**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

|   |  |
|---|--|
| Date of mailing<br>(day/month/year) <b>09 April 2018</b>  |  |
| Applicant's or agent's file reference<br><b>18058/TM/mk</b>   | <b>FOR FURTHER ACTION</b><br>See paragraph 2 below                   |
| International application No.<br><b>PCT/EP2018/051569</b>   | International filing date (day/month/year)<br><b>23 January 2018</b> |
| Priority date (day/month/year)<br><b>07 February 2017</b>   |  |
| International Patent Classification (IPC) or both national classification and IPC<br><b>A43B 7/14(2006.01)i; A43B 17/00(2006.01)i</b> |  |
| Applicant<br><b>BÄUMER, Christoph</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 |
|--------------------------------------|------------------------------------|--------------------|

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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 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:

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## Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- the entire international application.  
 claims Nos. See claims listed below

because:

- the said international application, or the said claims Nos. 22-24 relate to the following subject matter which does not require an international search (*specify*):

See Supplemental Box

- the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_ are so unclear that no meaningful opinion could be formed (*specify*):

- the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

- no international search report has been established for said claims Nos. 22-24

- a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

furnish a sequence listing in the form of an Annex C/ST.25 text file, and such listing was not available to the International Searching Authority in the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

furnish a sequence listing on paper or in the form of an image file complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in the form and manner acceptable to it; or the sequence listing furnished did not comply with the standard provided for in Annex C of the Administrative Instructions.

pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rule 13ter.1(a) or (b).

- See Supplemental Box for further details.



**WRITTEN OPINION OF THE  
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International application No.

**PCT/EP2018/051569****Box No. VII      Certain defects in the international application**

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

See Supplemental Box

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## Supplemental Box

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

Continuation of: **Box No. III**

See Supplemental Box for further details.

**[1] Documents**

Reference is made to the following documents (D); the same numbering will be used throughout the remainder of the procedure:

|     |   |
|-----|---|
| D1  | EP 0 037 462 A1 (DASWICK ALEXANDER C) 14 October 1981 (1981-10-14)                            |
| D2  | WO 03/063630 A1 (HUR JUN [KR]) 7 August 2003 (2003-08-07)                                     |
| D3  | WO 99/32004 A1 (HA MU EON [KR]) 1 July 1999 (1999-07-01)                                      |
| D4  | WO 2012/046342 A1 (YAMANASHI KEN-ICHI [JP]) 12 April 2012 (2012-04-12)                        |
| D5  | US 2013/104419 A1 (HORESH HAIM [VN] ET AL) 2 May 2013 (2013-05-02)                            |
| D6  | DE 296 16 911 U1 (JUNG EVA [DE]) 5 December 1996 (1996-12-05)                                 |
| D7  | WO 2014/101883 A1 (DONGGUAN LANHUI COMMODITY TECHNOLOGY CO LTD [CN]) 3 July 2014 (2014-07-03) |
| D8  | US 2005/049533 A1 (BEIRUTI AHMAD M [US]) 3 March 2005 (2005-03-03)                            |
| D9  | US 5 894 687 A (LIN GHING-YI [TW]) 20 April 1999 (1999-04-20)                                 |
| D10 | DE 44 06 063 A1 (PRODOMO SA [LU]) 31 August 1995 (1995-08-31)                                 |

**[2] Box III****Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

[2.1] The subject matter of **claims 22-24** relates to a diagnostic method for human or animal bodies; this subject matter is excluded from the international search (PCT Article 17(2)(a)(i) and PCT Rule 39.1(iv)).

[2.2] Therefore, the search has been limited to the subject matter of **claims 1-21**.

**[3] Box V****Reasoned statement with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement**

[3.1] The present application fails to comply with the requirements of PCT Article 33(2) because the subject matter of **claim 1** is not novel.

[3.2] There is considerable novelty overflow in relation to the subject matter of **claim 1** which is clearly not novel. Each of **D1-D10** discloses the subject matter of claim 1. For example:

[3.2.1] **D1** discloses an orthopaedic foot bed for a shoe (20, figure 1) comprising

- a foot support surface (22),

- the foot support surface being formed by a planar base surface (22) having a multiplicity of knobs (23c, 24c, 25c) which are arranged in a distribution optimised in terms of foot orthopaedics (e.g. figure 8).

[3.2.2] **D1** discloses all the technical features of the subject matter of **claim 1** which therefore is not novel.

**Supplemental Box**

[3.3] Dependent **claims 2-21** 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 novelty and/or inventive step. The evaluation of novelty and inventive step is limited here to one document - for the other documents, reference is made to the search report:

- claim 2: D1, figures 8 and 10;
- claims 3, 4 and 5: D2, figure 2a;
- claim 7: D3, figures 2 and 3;
- claims 8 and 9: D4, paragraphs [29]-[32];
- claims 11 and 12: e.g. rubber; D1, page 3, lines 23-25
- claim 13: D1, figure 1;
- claim 14: D5, figure 2, [0051];
- claims 6, 10 and 15: minor structural modifications of the kind that a person skilled in the art would normally make as a matter of routine. Therefore, the subject matter of claims 6, 10 and 15 is not inventive.
- claims 16-21: the combination of different zones in different areas of the foot is part of standard practice for orthopaedic specialists. Therefore, the subject matter of claims 16-21 is also not inventive.

[4] **Box VII**

**Certain defects in the international application**

Contrary to the requirements of PCT Rule 5.1(a)(ii), the description does not cite **D1-D10** or indicate the relevant prior art disclosed therein.