

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

PHILLIPS ORMONDE FITZPATRICK
Level 16
333 Collins Street
Melbourne, Victoria 3000
Australia

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing (*day/month/year*)
21 June 2017

Applicant's or agent's file reference

ABC0001

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/AU2017/XXXXXX

International filing date (*day/month/year*)

06 June 2017

Priority date (*day/month/year*)

06 June 2016

International Patent Classification (IPC) or both national classification and IPC

A61B 5/11 (2006.01)

Applicant

ABC CORPORATION LIMITED

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input checked="" 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 Rule 43 <i>bis</i> .1(a)(i) with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | 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 66.1*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

AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606,
AUSTRALIA
Email address: pct@ipaustalia.gov.au

Date of completion of this opinion

21 June 2017

Authorised Officer

Patents Examiner
AUSTRALIAN PATENT OFFICE
(ISO 9001 Quality Certified Service)
Telephone No. +61262830000

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/AU2017/XXXXXX

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 (under 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(b))
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:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/AU2017/XXXXXX

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: **14-15**

because:

☐ the said international application, or the said claim Nos.

relate to the following subject matter which does not require an international search (*specify*):

the subject matter listed in Rule 67 on which, under Article 34(4)(a)(i), an international preliminary examination [or a written opinion, via the application of Rule 43bis.1(b)], is not required to be carried out, including

☐ 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. **14-15**

☐ 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 a 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 a 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 INTERNATIONAL SEARCHING AUTHORITY	International Application No. PCT/AU2017/XXXXXX
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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 NONE Claims 1-13	YES NO
Inventive step (IS)	Claims NONE Claims 1-13	YES NO
Industrial applicability (IA)	Claims 1-13 Claims NONE	YES NO

2. CITATIONS AND EXPLANATIONS:

CITATIONS
D1: WO 2015/015999 A1 (ABC PTY LTD) 02 March 2015

NOVELTY (N)
Claims **1-13** are not novel and therefore do not comply with PCT Article 33(2) in light of D1.
.....
.....

INVENTIVE STEP (IS)
Claims **1-13** do not involve an inventive step and therefore do not comply with PCT Article 33(3) in light of D1.
.....
.....

INDUSTRIAL APPLICABILITY (IA)
The invention defined in claims **1-13** is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International Application No.

Box No. VII Certain defects in the international application**PCT/AU2017/XXXXXX**

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

Claims 14-15 do not comply with Rule 6.2(a) because they rely on references to the description and/or drawings.

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:

PHILLIPS ORMONDE FITZPATRICK
Level 16
333 Collins Street
Melbourne, Victoria 3000
Australia

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing (*day/month/year*)
21 June 2017

Applicant's or agent's file reference
ABC0001

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No.
PCT/AU2017/XXXXXX

International filing date
06 June 2017

Applicant

ABC CORPORATION LIMITED

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.
- Filing of amendments and statement under Article 19:**
The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):
- When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.
- How?** Directly to the International Bureau preferably through ePCT, or on paper to:
The International Bureau of WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland
(Facsimile No.: +41 22 338 82 70)
- For more detailed instructions,** see *PCT Applicant's Guide*, International Phase, paragraphs 9.004 – 9.011.
2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ **With regard to any protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.
4. **Reminders**
The applicant may **submit comments on an informal basis on the written opinion of the International Searching Authority** to the International Bureau. These comments will be made available to the public after international publication. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. Shortly after the expiration of **18 months from the priority date, the international application will be published** by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau before the completion of the technical preparations for international publication (Rules 90*bis*.1 and 90*bis*.3). Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for **entry into the national phase** before those designated Offices. In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months. For details about the applicable time limits, Office by Office, see www.wipo.int/pct/en/texts/time_limits.html and the *PCT Applicant's Guide*, National Chapters. Within **22 months from the priority date, the applicant may request that a supplementary international search be carried out** by a different International Searching Authority that offers this service (Rule 45*bis*.1). The procedure for requesting supplementary international search is described in the *PCT Applicant's Guide*, International Phase, paragraphs 8.006-8.032.

Name and mailing address of the ISA/AU

AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606, AUSTRALIA
Email address: pct@ipaaustralia.gov.au

Authorised officer

Patents Examiner
AUSTRALIAN PATENT OFFICE
(ISO 9001 Quality Certified Service)
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference ABC0001		FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/AU2017/XXXXXX	International filing date (<i>day/month/year</i>) 06 June 2017	(Earliest) Priority Date (<i>day/month/year</i>) 06 June 2016	
Applicant ABC CORPORATION LIMITED			
<p>This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.</p> <p>This international search report consists of a total of 6 sheets.</p> <p><input type="checkbox"/> It is also accompanied by a copy of each prior art document cited in this report.</p>			
<p>1. Basis of the report</p> <p>a. With regard to the language, the international search was carried out on the basis of:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> The international application in the language in which it was filed.</p> <p style="margin-left: 40px;"><input type="checkbox"/> 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)).</p> <p>b. <input type="checkbox"/> This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).</p> <p>c. <input type="checkbox"/> With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.</p> <p>2. <input checked="" type="checkbox"/> Certain claims were found unsearchable (See Box No. II).</p> <p>3. <input type="checkbox"/> Unity of invention is lacking (See Box No. III).</p> <p>4. With regard to the title,</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p style="margin-left: 40px;"><input type="checkbox"/> the text has been established by this Authority to read as follows:</p> <p>5. With regard to the abstract,</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p style="margin-left: 40px;"><input type="checkbox"/> the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.</p> <p>6. With regard to the drawings,</p> <p>a. the figure of the drawings to be published with the abstract is Figure No. 1</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> as suggested by the applicant.</p> <p style="margin-left: 40px;"><input type="checkbox"/> as selected by this Authority, because the applicant failed to suggest a figure.</p> <p style="margin-left: 40px;"><input type="checkbox"/> as selected by this Authority, because this figure better characterizes the invention.</p> <p>b. <input type="checkbox"/> none of the figures is to be published with the abstract.</p>			

INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU2017/XXXXXX

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
the subject matter listed in Rule 39 on which, under Article 17(2)(a)(i), an international search is not required to be carried out, including
2. ☒ Claims Nos.: **14-15**
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
See Supplemental Box
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a)

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying additional fees, this Authority did not invite payment of additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
- ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

 International application No.
PCT/AU2017/XXXXXX

A. CLASSIFICATION OF SUBJECT MATTER

A61B 5/11 (2006.01)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
	Documents are listed in the continuation of Box C	



Further documents are listed in the continuation of Box C



See patent family annex

* "A"	Special categories of cited documents: document defining the general state of the art which is not considered to be of particular relevance	"T"	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E"	earlier application or patent but published on or after the international filing date	"X"	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L"	document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y"	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O"	document referring to an oral disclosure, use, exhibition or other means	"&"	document member of the same patent family
"P"	document published prior to the international filing date but later than the priority date claimed		
Date of the actual completion of the international search 21 June 2017		Date of mailing of the international search report 21 June 2017	
Name and mailing address of the ISA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA Email address: pct@ipaustalia.gov.au		Authorised officer Patents Examiner AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No. +61262830000	

INTERNATIONAL SEARCH REPORT		International application No.
C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		PCT/AU2017/XXXXXX
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 2015/015999 A1 (ABC PTY LTD) 02 March 2015 Abstract, para [0037], [0039], [0042], [0061]-[0065], [0068], Figs. 3-6.	1-13

INTERNATIONAL SEARCH REPORT

International application No.

PCT/AU2017/XXXXXX

Supplemental Box

Continuation of Box II

Claims 14-15 do not comply with Rule 6.2(a) because they rely on references to the description and/or drawings.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/AU2017/XXXXXX

This Annex lists known patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document/s Cited in Search Report**Patent Family Member/s****Publication Number****Publication Date****Publication Number****Publication Date**

WO 2015/015999 A1

02 March 2015

WO 2015015999 A1

02 March 2015

End of Annex

Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.