

TRANSLATION

## PCT

(PCT Rule 43*bis*.1)

To:

Date of mailing  
(day/month/year)

See form PCT/ISA/210

Applicant's or agent's file reference

P9894pct

### FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/AT2005/000255

International filing date (day/month/year)

07.07.2005

Priority date (day/month/year)
--------------------------------

28.07.2004

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

**B61D15/06, B61D17/06, B61F1/10**

Applicant

SIEMENS TRANSPORTATION SYSTEMS GMBH &amp; CO KG

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

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

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

Box No. 1

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, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. 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

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ 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.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

Box No. II

Priority

1. ☐ The following document has not yet been furnished:

☐ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

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 3-5

YES

Claims 1-2

NO

Inventive step (IS)

Claims 3-5

YES

Claims 1-2

NO

Industrial applicability (IA)

Claims 1-5

YES

Claims

NO

2. Citations and explanations:

See supplemental sheet

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

Box No. VI

Certain documents cited

1. Certain published documents (Rule 43bis.1 and 70.10)

Application No.  
Patent No.

Publication date  
(day/month/year)

Filing date  
(day/month/year)

Priority date (valid claim)  
(day/month/year)

2. Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure  
(day/month/year)

Date of written disclosure  
referring to non-written disclosure  
(day/month/year)

See form 210

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

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 sheet

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

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 supplemental sheet

Supplemental Box

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

Continuation of:

Boxes V, VII and VIII

1. Reference is made to the following documents:

D1: WO 2004/110842 A (2004-12-23)

D2: EP-A-1 006 034 (2000-06-07)

D3: EP-A-1 394 009 (2004-03-03)

2. The subject matter of claim 1 does not meet the requirements of PCT Article 33(1).

Document D2 is considered to be the closest prior art. It discloses a rail vehicle having a climbing guard (figure 1C) which is arranged at an end region of the vehicle and extends essentially over the entire width of the vehicle.

In the present claim it is also specified that at least one anti-climbing element which partially extends the length of the climbing guard in the vertical direction is arranged at the end region of the rail vehicle, it being possible to place said anti-climbing element in engagement with the climbing guard of another rail vehicle in the event of an impact.

In view of the details in the description (page 4) according to which the climbing elements functionally form an extension of the climbing guard, also have ribs and can be constructed in one



Supplemental Box

piece with the climbing guard, it is necessary to assume that the additional features of claim 1 are also disclosed in D2: in figure 1C the two lower ribs form a climbing guard which is extended by an anti-climbing element (upper rib) in the vertical direction.

The subject matter of independent claim 1 is thus not novel (PCT Article 33(2)).

- 3.1 The additional features of claim 2 are likewise disclosed in D2 (figure 1C).
- 3.2 The subject matter of claim 3 is unclear. In the claim there is no information which would allow a person skilled in the art to understand how a climbing element arranged in the interior of an impact pillar can engage with the climbing guard. In a clarified form (see for example page 4, fifth paragraph "are ... in a preferred ...") this claim would be expected to meet the requirements of PCT Article 33(3).
- 3.3 Claims 4 and 5 ought to refer back to claim 3 (see feature "impact pillar"). In a clarified form they would also meet the requirements of PCT Article 33(1).
4. If amendments are submitted, PCT Article 34(2) (b) must be taken into account in all cases and the principles from the originally submitted letters for the amendments must be specified in the accompanying

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AT2005/000255

Supplemental Box

letter or in handwritten form on copies of the relevant parts. The amendments are to be submitted on replacement pages as prescribed in PCT Rule 66.8(a).

It is also necessary to take into account the fact that contrary to PCT Rule 5.1(a)(ii) D1 and D2 are neither cited nor briefly described in the description.

5. Pursuant to PCT Rule 70.10, D1 is cited under PCT Rule 64.3. This is to be taken into account when the European phase is entered.