

COMMISSIONER'S DECISION

Section 36 - Adjustable Fairlead Roller System

The system relates to a log skidder which uses a winch cable to drag logs, and particularly to the adjustability of the fairlead roller or guide on a logging arch. An amendment suggested by the Board was accepted by the Applicant.

Final Action: Affirmed - Amendment accepted.

Patent application 222,731 (Class 254-107), was filed on March 21, 1975, for an invention entitled "Adjustable Fairlead Roller System." The inventor is Eugen J. Bexten, assignor to International Harvester Company of Canada, Limited. The Examiner in charge of the application took a Final Action on October 17, 1978, refusing to allow it to proceed to patent. In reviewing the rejection, the Patent Appeal Board held a Hearing on April 16, 1980, at which the Applicant was represented by Mr. J. Singlehurst.

The invention relates to a log skidder which uses a winch cable to drag logs. More particularly, it concerns the adjustability of the fairlead roller on a logging arch. The fairlead roller is a device which acts as a guide for the winch cable.

In the Final Action the Examiner refused the claims because, in his view, they are indefinite and therefore fail to comply with Section 36 of the Patent Act.

In response to the Final Action the Applicant argued that the refused claims were not open to the objection made by the Examiner. As a result of this he asked for a Review and a Hearing before the Patent Appeal Board.

The consideration before the Board is whether or not the claims satisfy the requirements of Section 36(2) of the Patent Act.

At the Hearing, Mr. Singlehurst argued that, in his view, the claims satisfy Section 36(2) of the Patent Act. He did, however, go on to say that he was willing to amend the claims to more clearly define the invention if a suitable

amendment could be decided on without unduly restricting the invention defined.

Following the Hearing an amendment to the claims was suggested by the Board to Mr. Singlehurst. The amendment basically consists of adding to the independent claims, the following: "... the spacing between said pivot aperture and said at least one other aperture in each set of apertures in the logging arch being equal to the spacing of the corresponding apertures in the fairlead roller assembly...." Other minor amendments were made to coincide with the wording of the above amendment.

The proposed amendments to the claims were taken into consideration by Mr. Singlehurst and, after due deliberation, he advised the Board that the amendments, with minor changes, would be acceptable.

Accordingly, on June 16, 1980, Mr. Singlehurst filed a voluntary amendment cancelling all of the claims and replacing them with amended claims 1 to 13. The amendments made to these claims removed any doubt of whether or not these claims comply with Section 36(2) of the Patent Act.

Amended claim 1 reads (the added portions are underlined):

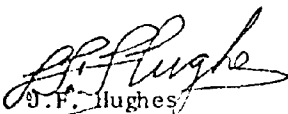
An adjustable fairlead roller system for a log skidder having a frame and a power source mounted on the frame, said system comprising:

- a logging arch having a pair of substantially vertical walls rigidly attached to said frame and having at least one set of apertures in said substantially vertical walls, each set of apertures being in predetermined array including a pivot aperture and at least one other aperture spaced from said pivot aperture;
- a fairlead roller assembly having a pair of substantially vertical walls and having at least one set of apertures in said substantially vertical walls, each set of apertures being in a predetermined array including a pivot aperture and at least one other aperture spaced from said pivot aperture;
- the spacing between said pivot aperture and said at least one other aperture in each set of apertures in the logging arch being equal to the spacing of the corresponding apertures in the fairlead roller assembly;
- attaching means for connecting said fairlead roller assembly to said logging arch through aligned selected ones of said respective pivot apertures and of said respective other apertures in said fairlead roller assembly and said logging arch;

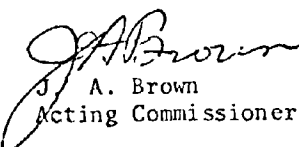
- one of said logging arch and fairlead roller assembly having a plurality of said respective set of apertures, the spatial relationship between adjacent sets of apertures of said plurality of sets and the spatial relationship between each pivot aperture and an associated at least one other aperture of each set of said plurality of sets of apertures being such that pivotal and walking substantially vertical position adjustment of the fairlead roller assembly relative to said logging arch is provided;
- the walking substantially vertical position adjustment being effected upon selected aligned said other apertures of said fairlead roller assembly and said logging arch being used as secondary pivots in the vertical position adjustment from the pivot aperture of one set of apertures to the pivot aperture of an adjacent set of apertures in said plurality of sets of apertures;
- adjusting means connecting the power source and said fairlead roller assembly for providing power to selectively pivot said fairlead roller assembly about attaching means in selected aligned apertures to pivotally walk and adjust the vertical position of said fairlead roller assembly relative to said logging arch.

The amendments made to the new claims, as mentioned, clearly overcome the objections raised in the Final Action. No further discussion is therefore necessary.

We recommend to the Commissioner of Patents that the amended claims, referred to above, be accepted.


J.F. Hughes
Assistant Chairman
Patent Appeal Board, Canada

I concur with the reasoning and findings of the Patent Appeal Board. The amended claims are acceptable. The application is now remanded to the Examiner to resume prosecution in accordance with this decision.


J. A. Brown
Acting Commissioner of Patents

Agent for Applicant
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Dated at Hull, Quebec

this 24th. day of July, 1980