

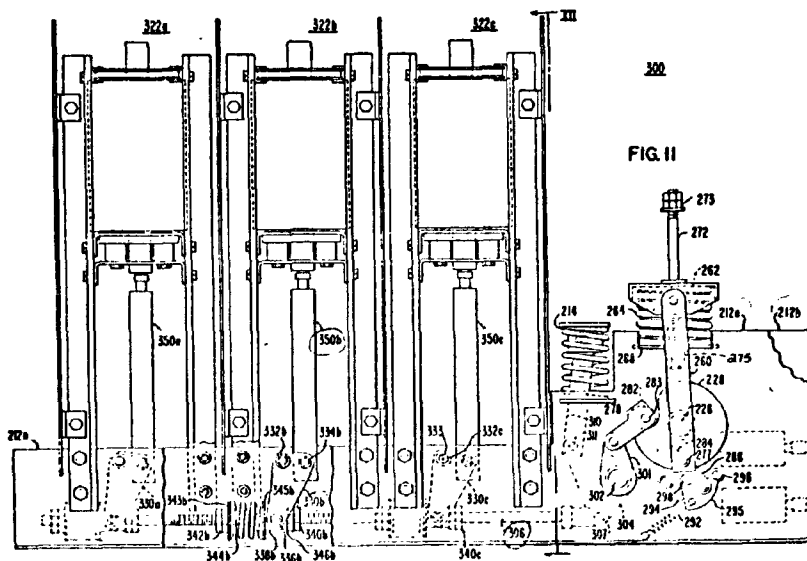
## COMMISSIONER'S DECISION

Indefinite Claiming: The Board suggested terminology to define the invention which was accepted by Applicant. Rejection affirmed, amendment accepted.

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This decision deals with Applicant's request for review by the Commissioner of Patents of the Examiner's Final Action on application 275,017 (Class 306-327), filed on March 29, 1977, by Westinghouse Electric, entitled "Vacuum Circuit Breaker Apparatus Having Elongated Support Members." The inventors are Fred Bould and Peter M. Kowalik. The Examiner in charge issued a Final Action on July 30, 1980, refusing the application.

The application relates to circuit breaker apparatus for opening and closing separable electrical main contacts. It includes parallel spaced-apart supports 212a, 212b, which support an operating mechanism at one end. Bell crank means, e.g. 330b, are mounted along the supports and are connected to actuating linkage 306 driven by the operating mechanism. When the bell crank moves, insulating rod 350b, which is disposed vertically between the supports and is connected to the bell crank means, moves to close the circuit breaker contacts of pole pieces 322b. Figure 11 below shows the structure of the circuit breaker.



In the Final Action the Examiner refused claim 1 as being indefinite, incomplete, and contrary to Section 36(2) of the Patent Act. No prior art was applied.

In the Final Action the Examiner stated, in part:

The refusal of claim 1 is maintained because

- a) It is indefinite and incomplete, and therefore contrary to Section 36(2) of the Patent Act, for failing to recite sufficient elements for proper operation of the invention, i.e. it does not define the location and the structural relationship of the "supports" with other parts of the circuit breaker.
- b) The statement contained in paragraph (c), contrary to Rule 25 of the Patent Rules, is supported neither by the descriptive part of the disclosure nor by the drawings. The claim states clearly that the "connecting rod" is "supported by said supports at one end", i.e. that the connecting rod is resting directly on the supports. Fig. 4, however, shows an operating rod (such as 110b) pivotally supported at one end between the two levers 16b by means of pin 112. Levers 16b are in turn fixed to the shaft 14 rotatably mounted in bearings 24 located in supports 12, and the disclosure states on page 6, lines 1-9, that owing to the proximity of the levers 16b to the shaft bearing 24, a substantial deflection of the shaft 14 is prevented.

The applicant argues that since the connecting rod 110b is supported by the levers 16b, which are supported by the shaft 14, which in turn is supported by the supports 12, it could be said that the connection rod itself is supported by the supports 12. This argument is purely an academic one, and following it to its logical conclusion, it may be said that since the supports 12 are ultimately supported by the ground, the connecting rod also is supported by the ground which obviously is absurd. It is also obvious that an arrangement with the connecting rod 110b having one end directly supported or connected to the supports 12 would be inoperable since the supports are stationary and the connecting rod must be able to move in order to operate the contacts. Claim 2 is also rejected because the statement "said spaced supports comprise two members of the same general size and shape" renders it indefinite and inexplicit, since neither the shape nor the size is defined.

The Applicant did not agree with the Examiner, and argued (in part):

...

While the applicant does not concur with the Examiner's contention that objects supported on a second object which in turn is supported on a third object are not for all intents and purposes supported by said third object, nevertheless the claim has been amended to

clarify the relationship between the operating means and the contact means to make it clear that the essence of the invention lies in the common support means for both of these devices.

...

The issue before the Board is whether or not newly proposed claim 1 properly defines the scope of monopoly of the invention described in the disclosure and illustrated in the drawings.

The Board thoroughly reviewed the application, and concluded that some amendments to new claim 1 were still necessary to define the invention in terms sufficient to satisfy the requirements of Section 36(2) of the Patent Act. We telephoned the Agent, Mr. R. Fox and discussed certain amendments with him. After due consideration, Mr. Fox submitted a further amendment substituting claim 1 for that of record. Amended claim 1 reads:

A circuit interrupter with separable main contacts comprising:  
a) a pair of elongated, generally parallel, one piece spaced supports;

b) operating mechanism means mounted on said supports at one end thereof;

c) a separable main contacts connecting rod of insulating material vertically disposed along and between said supports;

d) bell crank means pivotally mounted on the supports, one end of said rod engaging the separable main contacts, the other end of said rod pivotally connected to said bell crank;


e) an actuating linkage means interconnecting said operating mechanism means and said bell crank, the movement of said connecting rod and the consequent opening or closing of said contacts being actuated through said bell crank by the movement of said linkage means in response to appropriate operations in said operating mechanism means.

On the record before us it is our view that the amended claim now presents a definite and complete definition of the structure disclosed. In particular, by pivotally positioning the bell crank means on the spaced support means, and by attaching the actuating linkage means and the main contacts connecting rod at their respective points to the bell crank means, an operable arrangement is claimed. Therefore, the objections made in the Final Action have been overcome, and no further discussion appears to be necessary.

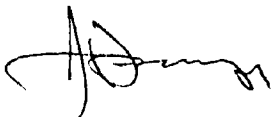
We recommend that amended claim 1 be accepted.



G.A. Asher  
Chairman  
Patent Appeal Board, Canada

  
M.G. Brown  
Member

I concur with the reasoning and findings of the Patent Appeal Board. Accordingly, I direct that the prosecution proceed on the basis of the amended claims.



J.H.A. Gariépy  
Commissioner of Patents

Dated at Hull, Quebec  
this 16th. day of December, 1981

Agent for Applicant

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