

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRAIRIE LAND MILLWRIGHT SERVICES, INC.,
Petitioner,

v.

SIOUX STEEL COMPANY,
Patent Owner.

Case IPR2016-01873
Patent 8,967,937 B2

Before NEIL T. POWELL, JAMES A. TARTAL, and
GEORGE R. HOSKINS, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. *Background*

Prairie Land Millwright Services, Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–28 of U.S. Patent No. 8,967,937 B2 (Ex. 1001, “the ’937 patent”). Paper 9 (“Pet.”). Patent Owner, Sioux Steel Company, filed a Preliminary Response. Paper 46 (“Prelim. Resp.”). In view of those submissions, we instituted an *inter partes* review of claims 1–28. Paper 50 (“Institution Decision” or “Dec. on Inst.”). Subsequently, Patent Owner filed a Patent Owner Response (Paper 61, “PO Resp.”), and Petitioner filed a Reply (Paper 66, “Pet. Reply”).

We have jurisdiction over this proceeding under 35 U.S.C. § 6(b). After considering the evidence and arguments of the parties, we determine that Petitioner has not proven by a preponderance of the evidence that claims 1–28 are unpatentable. *See* 35 U.S.C. § 316(e). We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a).

B. *Related Matters*

The parties note the following related case: *Sioux Steel Co. v. Prairie Land Millwright Svcs., Inc.*, No. 1-16-cv-02212-JBG/SMF (N.D. Ill.). Pet. 7; Paper 45, 1.

C. The Pending Grounds of Unpatentability

We instituted trial based on the following grounds of unpatentability:

| References | Statutory Basis | Challenged Claim(s) |
|---|--------------------|---------------------------|
| Dixon ¹ , Berreau ² , and Borowski ³ | 35 U.S.C. § 103(a) | 1–4 and 6–11 ⁴ |
| Dixon, Berreau, Borowski, and Vander Schaaf ⁵ | 35 U.S.C. § 103(a) | 5 |
| Dixon, Berreau, Borowski, and Sudenga ⁶ | 35 U.S.C. § 103(a) | 12–28 |

Petitioner also relies on a Declaration from Bruce Meyer. Ex. 1039.
Patent Owner relies on Declarations from James E. Maness. Exs. 2001, 2012.

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¹ U.S. Patent No. 6,499,930 to Dixon, iss. Dec. 31, 2002 (Ex. 1007).

² U.S. Patent Application Publication No. 2005/0254922 to Berreau et al., published Nov. 17, 2005 (Ex. 1013).

³ Canadian Patent Application No. CA2312068 to Borowski, published Dec. 20, 2001 (Ex. 1019).

⁴ Petitioner identifies a “First Ground” as being “Obviousness of Claims 1–28 under 35 USC § 103(a) in view of U.S. Patent 6,499,930 to Dixon; U.S. Published Patent Appl’n. 2005/0254922 to Berreau et al.; Canadian Published Patent Appl’n. 2,312,068 to Borowski; U.S. Patent 3,175,676 to Vander Schaaf; and Sudenga Industries, Inc. Press Release.” Pet. 14 (emphasis omitted). Petitioner does not, however, cite each of the listed references with respect to each of the challenged claims. For example, Petitioner asserts that Dixon, Berreau, and Borowski render claims 1–4 and 6–11 obvious. *Id.* Based on the combinations of references that Petitioner cites as rendering different claims obvious, we identify the grounds as those listed in this table.

⁵ U.S. Patent No. 3,175,676 to Vander Schaaf, iss. Mar. 30, 1965 (Ex. 1032).

⁶ Sudenga Industries, Inc. “Series II Sweep Augers,” November 1, 2004 (Ex. 1035).

D. The '937 Patent

The '937 patent discloses a modular storage bin sweep system. Ex. 1001, 4:31–34. In particular, the '937 patent discloses a system using paddles to sweep particulate matter across a bin's floor. *Id.* at 4:35–37. According to the '937 patent, “[s]weep systems have been utilized in storage bins for moving particulate matter across the floor of the bin to a desired location, such as a sump located at the center of the bin, where the particulate matter may be transported under the floor and out of the bin.” *Id.* at 1:11–15. The '937 patent explains that its system “is highly suitable for use in round storage bins,” but is not limited to such use. *Id.* at 4:42–47.

The '937 patent shows a top view of one embodiment of its system in Figure 2, which is reproduced below. *Id.* at 3:33–34.

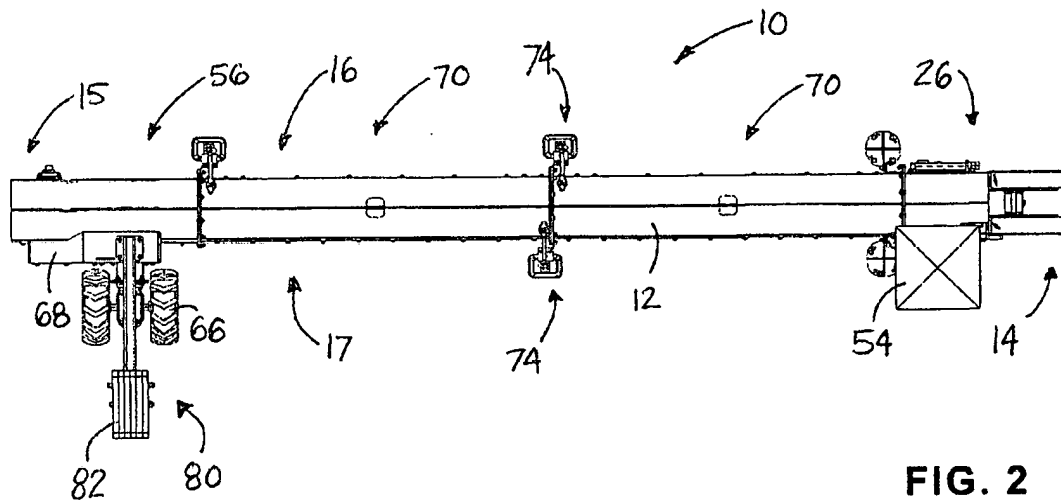


FIG. 2

Figure 2 shows system 10, including sweep assembly 12, which comprises power unit 26, drive unit 56, and linking units 70. *Id.* at 4:48–50; 5:32–33. The '937 patent discloses that sweep assembly 12 “may include two units, but often includes more than two units in the linear array.” *Id.* at 4:62–63.

The '937 patent elaborates that:

The number of units in the array of the sweep assembly may typically be a function of the distance between the central area and the peripheral area of the bin interior so that the length of the sweep assembly generally approximates the distance between the areas (which in the case of a round bin is approximately the radius of the bin interior). The units may have different lengths that may be utilized in the linear array of units to achieve substantial correspondence between the length of the sweep assembly and the radius of the bin.

Id. at 4:63–5:5.

The '937 patent also discloses that sweep assembly 12 may include paddles 18 mounted on an endless loop 20 (not shown in Figure 2) extending between inboard 14 and outboard 15 ends of sweep assembly 12.

Id. at 5:13–31. Endless loop 20 and paddles 18 are shown in Figure 8, reproduced below. *Id.* at 3:56–59, Fig. 8.

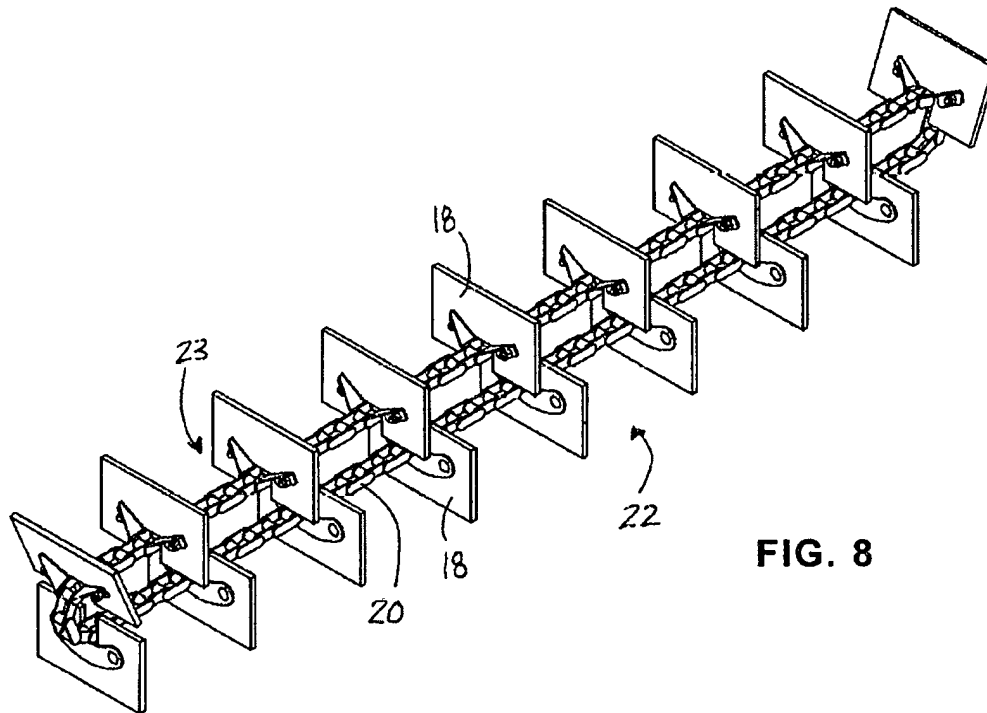


FIG. 8

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