

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 45

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SIMON E. KADIJK,
ERIC N.J.O. QUINT,
and
HIDDO H. HANENBURG

Appeal No. 2003-1474
Application No. 09/024,631

ON BRIEF

Before PAK, WARREN and MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 1, 4, 8, 9, and 12-16. Claims 2, 3, 10, and 11 have been canceled, while claims 5-7 have been withdrawn from consideration. Thus, only claims 1, 4, 8, 9, and 12-16 are before us on this appeal.

REPRESENTATIVE CLAIM

The appellants have indicated (Brief, page 6) that, for the purposes of this appeal, the claims will stand or fall together.

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Consistent with this indication, Appellant has made no separate arguments with respect to the remaining claims. Accordingly, all the claims will stand or fall together, and we will select claim 1, the broadest independent claim as representative of all of the claims on appeal. Note In re Dance, 160 F.3d 1339, 1340 n.2, 48 USPQ2d 1635, 1636 n.2 (Fed. Cir. 1998); In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). It reads as follows:

1. A shaving apparatus comprising at least two shaving heads, each having an external cutting member and an internal cutting member which is drivable relative to said external cutting member, each external cutting member having at least one shaving field consisting of hair-entry apertures of a first shape for cutting long hairs and at least one shaving field consisting of hair-entry apertures of a second shape for cutting short hairs, wherein, in at least two adjacent external cutting members, the shaving fields are arranged to form an area wherein shaving fields consisting of hair-entry apertures of the same shape are located proximate to each other.

The References

In rejecting the claims under 35 U.S.C. § 103(a), the examiner relies upon the following references:

Driessen et al. (Driessen)	3,564,715	Feb. 23, 1971
Bakker et al. (Bakker)	4,168,570	Sep. 25, 1979

The Rejections

Claims 1, 4, 8, 9, and 12-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bakker in view of Driessen.

The Invention

The invention relates to a shaving apparatus which comprises at least two shaving heads, each shaving head having an external cutting member and an internal cutting member, drivable relative to the external cutting member. In this shaving apparatus each of the external cutting members has shaving fields with hair-entry apertures of different types, one shaving field having a plurality of hair entry apertures for cutting long hairs and another shaving field having a plurality of hair-entry apertures of a different type for cutting short hairs. (Appeal Brief, page 2, lines 9-19).

The Rejection of Claims 1, 4, 8, 9, and 12-16 Under 35 U.S.C.

§ 103

The examiner has found that Bakker discloses a shaving apparatus with almost every structural limitation of the claimed invention including at least two shaving heads, but lacks hair entry apertures having different shapes. (Examiner's Answer, page 3, lines 11-13). The examiner has additionally found that Driessen discloses a shaving apparatus with hair entry apertures of different shapes and sizes and teaches that such a configuration provides several benefits including a reduction in grazing of the skin. Id., page 3, lines 13-15).

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The examiner thus concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide [Bakker] with the shaving head configuration of Driessen for its benefits. (Id., page 3, lines 15-17).

The appellant urges that the combination of references does not teach or suggest the claimed subject matter (Appeal Brief, page 7, lines 8-10). More specifically, Bakker is said to fail to teach the claimed shaving fields (Id., page 7, lines 18-24), while Driessen is said to not show an arrangement of two, adjacent shear plates proximate to a shaving field of the same type of hair entry apertures in the other adjacent shear plate (Id., page 7, last line through page 8).

The appellants position is without merit. The Appellants argue each reference individually, instead of considering the art as a whole. The test for obviousness involves consideration of what the combined teachings, as opposed to the individual teachings, of the references would suggest to those of ordinary skill in the art. In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991); In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). If each reference alone disclosed the claimed invention, the rejection would have properly included a rejection under 35 U.S.C. § 102.

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However, the rejection at issue is an obviousness rejection under 35 U.S.C. § 103. Here, the examiner has provided motivation for making the combination (the external heads of Driessen are said to reduce grazing of the skin), and the two cited references are clearly in the same field of endeavor. The claimed subject matter is clearly disclosed by the combination, and the appellants have provided no compelling evidence or argument otherwise. Accordingly, this rejection is affirmed.

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Summary of Decision

The rejection of claims 1, 4, 8, 9, and 12-16 under 35 U.S.C. § 103(a) over Bakker in view of Driessen is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

CHUNG K. PAK)	
Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
CHARLES F. WARREN)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JAMES T. MOORE)	
Administrative Patent Judge)	

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