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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* XIANDONG WANG, NEVILLE SONNENBERG,  
JOSEPH DePUYDT, MICHAEL J. KWICIEN, and WILLIAM JOLLEY

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Appeal 2019-000395  
Application 13/655,318  
Technology Center 3700

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Before MICHAEL J. HOELTER, BRANDON J. WARNER, and  
ARTHUR M. PESLAK, *Administrative Patent Judges*.

PESLAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–5, 7–17, 19, and 20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as The Gillette Company. Br. 1.

### CLAIMED SUBJECT MATTER

Appellant’s invention “relates to razor cartridges, and more particularly to a lubricating body, strip or cap composed of shaving aids for a razor cartridge.” Spec. 1:6–7. Claims 1, 10, and 20 are independent.

Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A razor cartridge comprising:  
a plurality of blades and at least one lubricating body in a dry state, said body having a maximum height greater than or equal to a maximum blade plane height of said plurality of blades and wherein one of said plurality of blades is most proximal to said at least one lubricating body, said most proximal blade being a low cutting force blade.

### REJECTION

The Examiner rejected claims 1–5, 7–17, 19, and 20 as unpatentable under 35 U.S.C. § 103(a) over Prochaska (US 5,524,347, issued June 11, 1996) (hereinafter “Prochaska ’347”) and Trankiem (US 6,866,894 B2, issued Mar. 15, 2005).

### DISCUSSION

Appellant argues claims 1–5, 7–11, 13–17, 19, and 20 as a group. Br. 3. We select claim 1 as representative and claims 2–5, 7–11, 13–17, 19, and 20 stand or fall with claim 1. 37 C.F.R. § 41.37 (c)(1)(iv) (2017).

The Examiner finds that Prochaska ’347 discloses most of the limitations of independent claim 1, including “lubricating body 90 and 92.” Final Act. 2. The Examiner relies on Trankiem for disclosure of “the most proximal blade 10 being a low cutting force” blade. *Id.* (citing Trankiem, 1:21–24). The Examiner concludes that it would have been obvious to one

of ordinary skill in the art to modify Prochaska '347 to provide a low force blade as the most proximal blade, as taught by Trankiem, "in order to obtain a device that maintain[s] excellent shaving performance." *Id.*

In the Appeal Brief, Appellant's arguments are directed to a rejection based on US Patent 6,473,970 B1 to Prochaska (hereinafter "Prochaska '970")<sup>2</sup> and Trankiem. *See* Br. 3, 10. In the Appeal Brief, Appellant provides a drawing previously relied upon during earlier prosecution but that is not part of the present disclosure of either Prochaska '347 or Trankiem as applied in the rejection subject to appeal.<sup>3</sup> *Id.* at 4. Appellant contends that "lubricating strip 152 *does not* have a height which is greater than or equal to the maximum blade plane height" based on what is disclosed in this drawing. *Id.* Nowhere in the Appeal Brief does Appellant point to any error in the Examiner's finding that Prochaska '347's "*lubricating body 90 and 92 . . . having a maximum height greater than or equal to a maximum blade plane height of said plurality of blades.*" Final Act. 2 (emphasis added).

Figure 1 of Prochaska '347 is reproduced below:

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<sup>2</sup> Based on our review of the prosecution history of the current application, we note that a final rejection dated October 21, 2015, was issued based on Prochaska '970 and Trankiem. *See* Oct. 21, 2015 Final Rejection 3.

<sup>3</sup> We note that in the Response section of the Final Office Action, the Examiner additionally referenced this drawing, but only as further evidence of "one of the many interpretations regarding the blade plane height." Final Act. 4. The Examiner earlier annotated this drawing to show that blade plane height "is slightly below the plane surface of the lubricating body." *Id.* However, Figure 1 of Prochaska '347 illustrates this relative positioning more clearly and without the need for any annotation.

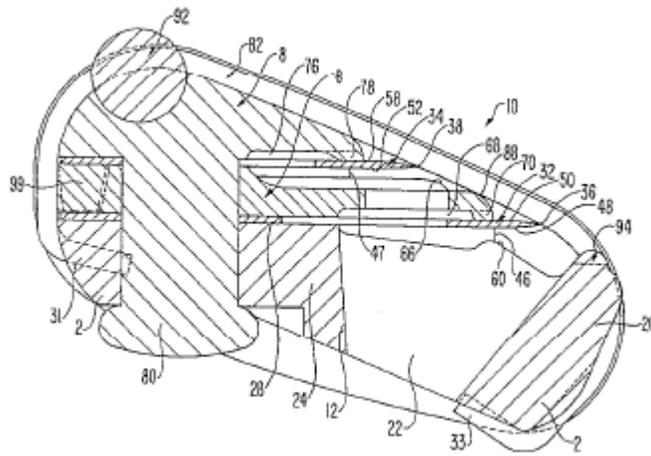


Figure 1 of Prochaska '347 is a cross-sectional view of a blade cartridge. *Id.* 3:63. Item 92 in Prochaska '347 is disclosed to be a “lubricating cylinder.” *Id.* 9:20–22. Based on our review of Prochaska '347, the Examiner’s finding that the maximum height of lubricating cylinder 92 is greater than or equal to the maximum blade plane height is supported by a preponderance of the evidence.

Appellant does not address the rejection before us for review, which is based on the combination of Prochaska '347 and Trankiem. Further, we perceive no error in the Examiner’s findings or reasoning for combining the teachings of Prochaska '347 and Trankiem. For these reasons, we sustain the Examiner’s rejection of claims 1–5, 7–11, 13–17, 19, and 20.

Appellant provides a separate argument for the patentability of claim 12. Br. 10. However, this argument suffers from the same defect in that it addresses a rejection based on Prochaska '970 and Trankiem. *Id.* Therefore, we also sustain the rejection of claim 12.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-5, 7-17, 19, and 20	§ 103(a) Prochaska '347, Trankiem	1-5, 7-17, 19, and 20	

AFFIRMED

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).