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| Veröffentlichung im Amtsblatt | Ja /Nein |
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| Publication au Journal Officiel | Oui /Non |

Aktenzeichen / Case Number / N^o du recours : T 143/88 - 3.4.1

Anmeldenummer / Filing No / N^o de la demande : 81 304 319.7

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 048 610

Bezeichnung der Erfindung: Semiconductor device and its manufacture
Title of invention:
Titre de l'invention :

Klassifikation / Classification / Classement : H01L 23/52

ENTSCHEIDUNG / DECISION

vom / of / du 4 April 1990

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Kabushiki Kaisha Toshiba

Einsprechender / Opponent / Opposant :

Deutsche ITT Industries GmbH

Stichwort / Headword / Référence : Abandoned patent

EPÜ / EPC / CBE Article 111

Schlagwort / Keyword / Mot clé : "patent revoked as consequence of the patentee stating that "they wish to abandon the patent"

Leitsatz / Headnote / Sommaire



Case Number : T 143/88 - 3.4.1

D E C I S I O N
of the Technical Board of Appeal 3.4.2
of 4 April 1990

Appellant : Deutsche ITT Industries GmbH
(Opponent) Hans-Bunte-Strasse 19
Postfach 840
7800 Freiburg i. Br. (DE)

Representative :

Respondent : Kabushiki Kaisha Toshiba
(Proprietor of the patent) 72 Horikawa-cho Saiwai-ku
Kawasaki-shi Kanagawa-ken 210 (JP)

Representative : Kirk, Geoffrey Thomas et al
Batchelor, Kirk and Eyles
2 Pear Tree Court
Farringdon Road
LONDON EC1R 0DS (GB)

Decision under appeal : Decision of the Opposition Division of the European
Patent Office dated 29 February 1988 rejecting
the opposition filed against European patent
No. 0 048 610 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : K. Lederer
Members : J. Roscoe
L. Mancini

Summary of Facts and Submissions

- I. The Opposition Division rejected the opposition filed against European patent No. 0 048 610, granted upon the subject-matter of European patent application No. 81 304 319.7.
- II. The Appellant (Opponent) appealed against this decision and requested that the patent be revoked.
- III. In a reply to the Statement of Grounds, the Respondent (Patentee) requested that the appeal be rejected and the patent maintained unamended and maintained this request in an argued response to a communication from the Board.
- IV. Subsequently, following issue, with a summons to oral proceedings, of a communication from the Board pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal in which its previously expressed view that the subject-matter of at least Claim 1 of the patent was lacking in inventive step was maintained, the telecopy of a letter quoting the number of the appeal and dated 13 March 1990 was received in which the representative of the Respondent stated "The Patentee -Kabukiki Kaisha Toshiba has just informed me that they wish to abandon the patent" and that oral proceedings would consequently not be required. The original of this letter was received on 15 March 1990.

Reasons for the Decision

1. The appeal is admissible.

2. The Respondent (the firm Kabukiki Kaisha Toshiba) has stated through its representative that it wishes to abandon the patent, and the Board is satisfied that this statement has to be construed like the statement "We herewith abandon the above patent", referred to in the decision on appeal T 237/86 (cf. OJ EPO 1988, 261), as meaning that the Respondent (the patent proprietor) agrees that the patent be revoked, as consistently requested by the Appellant, and is equivalent to a request from the Respondent that the patent be revoked.

3. Accordingly, following the principles set out in the decision on appeal T 237/86, the Board has decided, in the exercise of its powers under Article 111(1) EPC, to revoke the European patent.

Order

For these reasons, it is decided that:

The contested decision is set aside and the European patent No. 0 048 610 is revoked.

The Registrar:

The Chairman:

M. Beer

K. Lederer