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**DECISION**  
**of 23 November 2004**

**Case Number:** T 1166/02 - 3.4.3

**Application Number:** 95201765.5

**Publication Number:** 0690501

**IPC:** H01L 23/433

**Language of the proceedings:** EN

**Title of invention:**

Integrated circuit package with diamond heat sink

**Applicant:**

Saint-Gobain Industrial Ceramics, Inc.

**Opponent:**

-

**Headword:**

Heat sink/SAINT-GOBAIN

**Relevant legal provisions:**

EPC Art. 54, 56

RPBA Art. 11(1)

**Keyword:**

"Request for a decision on the basis of the documents  
presently on file"

"The reasons for the non-allowability of the application  
incorporated in the decision by reference to the communication  
under Article 11(1) RPBA"

**Decisions cited:**

T 0882/00

**Catchword:**

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Case Number: T 1166/02 - 3.4.3

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.3  
of 23 November 2004

**Appellant:** Saint-Gobain  
Industrial Ceramics, Inc.  
1 New Bond Street  
P.O. Box 15138  
Worcester  
MA 01615-0138 (US)

**Representative:** Leidescher, Thomas, Dr.  
Zimmermann & Partner  
Postfach 33 09 20  
D-80069 München (DE)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 21 December 2001  
refusing European application No. 95201765.5  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** R. K. Shukla  
**Members:** G. L. Eliasson  
P. H. Mühlens

## Summary of Facts and Submissions

I. European patent application No. 95 201 765.5 was refused in a decision of the examining division dated 21 December 2001 on the ground that the main request and the auxiliary request filed at the oral proceedings before the examining division did not meet the requirements of novelty and inventive step (Articles 52(1), 54 and 56) having regard to the prior art documents

D1: Patent Abstracts of Japan, vol. 017, No. 556 [E-1444] 6 October 1993 & JP-A-05 160304 and a translation in English;

D2: Patent Abstracts of Japan, vol. 016, No. 004 [E-1151] 8 January 1992 & JP-A-03 227 535;

D4: EP-A-0 515 094;

D5: EP-A-0 435 603; and

D6: Microelectronics Packaging Handbook, Ed. R. Tummala et al. (1989), pages 31, 32, and 36.

II. The appellant (applicant) lodged an appeal on 9 January 2002, paying the appeal fee the same day. A statement of the grounds of appeal was filed on 19 April 2002.

III. The appellant requested that the decision under appeal be set aside and a patent be granted on the basis of one of the following requests:

**Main Request**

Claims 1 to 20 according to the main request filed at the oral proceedings before the examining division on 26 June 2001;

Description and Drawings as filed.

**Auxiliary Request**

Claims 1 to 20 according to the auxiliary request filed at the oral proceedings before the examining division on 26 June 2001;

Description and Drawings as filed.

As an auxiliary measure, oral proceedings were requested.

- IV. In a communication under Article 11(1) of the RPBA dated 6 September 2004 and annexed to summons to be held on 23 November 2004, the Board informed the appellant of its provisional opinion that it agreed with the decision under appeal that the main request and the auxiliary request did not meet the requirements of novelty and inventive step.
- V. With a letter dated 6 October 2004, the appellant requested the cancellation of the oral proceedings and a decision by the Board on the basis of the documents as presently on file.
- VI. In a communication dated 21 October 2004, the Board informed the appellant that the oral proceedings due to take place on 23 November 2004 were cancelled.

## **Reasons for the Decision**

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is therefore admissible.
2. In the official communication of the Board mentioned under item IV above, the Board gave detailed reasons as to why the appellant's submissions in the statement of the grounds of appeal regarding novelty and inventive step were not convincing having regard to the cited prior art and the arguments presented in the decision under appeal.
3. The letter of the appellant dated 6 October 2004 requesting that the oral proceedings be cancelled and a decision be made on the basis of the documents as presently on file does not contain any comments on the case thereby indicating that the appellant does not wish to make any further observations in writing.
4. Having reconsidered the reasons which were given in the official communication of 6 September 2004, the Board sees no reason to depart from them. Therefore, the main request and the auxiliary request do not meet the requirements of Article 52(1) EPC for the reasons given in the above-mentioned official communication dated 6 September 2004 which are hereby incorporated in the decision (cf. decision T 882/00 and the decisions cited therein, as well as "Case Law of the Boards of Appeal of the European Patent Office", 4th Edition, 2001, Chapter VII.D.8.2). Therefore, the main and the auxiliary requests are not allowable.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:

P. Cremona

R. K. Shukla