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# D E C I S I O N
# of 12 July 2002

**Case Number:** T 0735/97 - 3.4.3

**Application Number:** 92101454.4

**Publication Number:** 0497305

**IPC:** H01L 29/812

**Language of the proceedings:** EN

**Title of invention:**
GsAs FET with resistive AlGaAs

**Applicant:**
TEXAS INSTRUMENTS INCORPORATED

**Opponent:**
-

**Headword:**
-

**Relevant legal provisions:**
EPC Art. 56
RPBA Art. 11(2)

**Keyword:**
"Board's provisional finding of lack of an inventive step in a communication pursuant to Article 11 RPBA - not disputed by the appellant in its response informing the Board of its decision not to pursue the case further and not to attend the oral proceedings"
"Dismissal of the appeal on the grounds communicated to the appellant"

**Decisions cited:**
T 0784/91, T 1069/67, T 0230/99

**Catchword:**
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Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

**Case Number:** T 0735/97 - 3.4.3

**D E C I S I O N**
**of the Technical Board of Appeal 3.4.3**
**of 12 July 2002**

**Appellant:** TEXAS INSTRUMENTS INCORPORATED
13500 North Central Expressway
Dallas
Texas 75265 (US)

**Representative:** Schwepfinger, Karl-Heinz, Dipl.-Ing.
Prinz & Partner GbR
Manzingerweg 7
D-81241 München (DE)

**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted 11 February 1997 refusing European patent application No. 92 101 454.4 pursuant to Article 97(1) EPC.**

**Composition of the Board:**

**Chairman:** R. K. Shukla
**Members:** E. Wolff
J. H. Van Moer

## Summary of Facts and Submissions

I. European patent application No. 92 101 454.4 was refused by a decision of the examining division dated 11 February 1997.

The applicant's main request was refused for lack of clarity (Article 84 EPC) and lack of novelty with respect to prior art document EP-A-0 205 164.

The only auxiliary request was refused on the ground that the independent device claim 1 and the independent method claim 6 lacked an inventive step over the combined teaching of the following two documents:

D1: IEEE Electron Device Letters, EDL-7 (1986), Nr. 11, pages 638 and 639

D4: EP-A-0 205 164

II. The appellant (applicant) lodged an appeal on 10 April 1997 and paid the appeal fee on the same day. The statement setting out the grounds of appeal was filed on 12 June 1997.

The appellant's request is that a patent be granted on the basis of claims 1 to 9 of the auxiliary request refused by the examining division. Oral proceedings were requested in the event that the Board intended to reach an adverse decision.

III. In a communication pursuant to Article 11(2) Rules of Procedure of the Boards of Appeal, dated 21 February 2002, annexed to the summons for oral proceedings to be held on 11 July 2002, the Board informed the appellant

of the Board's preliminary view that the invention as claimed did not appear to involve an inventive step having regard to the combined teaching of documents D1 and D4.

IV. With the letter dated 19 April 2002, the appellant informed the Board of his decision not to pursue the case further and not to attend the oral proceedings. The Board thereupon cancelled the oral proceedings and on 29 April 2002 informed the appellant accordingly.

## Reasons for the Decision

1. The appeal is admissible.

2. In the communication of the Board dated 21 February 2002, the appellant was informed in detail of the reasons for the Board's view that the invention as claimed did not involve an inventive step having regard to the disclosures of document D1 and document D4.

3. As mentioned under item IV, the appellant did not dispute the finding of lack of an inventive step in his response and indicated that he no longer wished to pursue the case. Following the approach taken in decisions T 784/91 of 22 September 1993, T 1069/97 of 24 January 2000 and T 230/99 of 7 May 2001, the Board takes this to be a clear expression of the appellant's wish not to present any further arguments and to have the decision taken on the basis of the application documents on file.

4. Having reconsidered the objections raised in the communication of 21 February 2002 the Board sees no

reason to depart from its preliminary finding, left unchallenged by the appellant, that the invention as claimed lacks an inventive step. The detailed reasons for this conclusion are set out in full in the Board's communication of 21 February 2002 pursuant to Article 11(2) RPBA and, accordingly, are known to the appellant. The Board consequently considers it sufficient to incorporate those detailed reasons here by reference to the above communication without repeating them in full.

## Order

## For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

D. Spigarelli R. K. Shukla