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D E C I S I O N
of 7 October 2002

Case Number: T 0573/98 - 3.4.3

Application Number: 92305531.3

Publication Number: 0529772

IPC: H01L 21/331

Language of the proceedings: EN

Title of invention:

Method of producing high reliability heterjunction bipolar transistors

Applicant:

TRW INC.

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 56, 84

Keyword:

"Withdrawal of the request for oral proceedings"
"No comment in the appellant's response on the preliminary opinion expressed in the Board's communication"
"Reasons for the dismissal of the appeal incorporated by reference to the Board's communication"

Decisions cited:

T 0784/91, T0290/97, T 0766/97, T 1058/97, T 1069/97,
T 0230/99

Catchword:

-



Case Number: T 0573/98 - 3.4.3

D E C I S I O N
of the Technical Board of Appeal 3.4.3
of 7 October 2002

Appellant: TRW INC.
1900 Richmond Road
Cleveland
Ohio, 44124 (US)

Representative: Alden, Thomas Stanley
A.A. Thornton & CO.
235 High Holborn
London WC1V 7LE (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 21 January 1998
refusing European patent application
No. 92 305 531.3 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: M. Chomentowski
Members: V. L. P. Frank
M. J. Vogel

Summary of Facts and Submissions

I. The appeal lies against the decision of the examining division dated 21 January 1998 refusing the European patent application No. 92 305 531.3. The grounds for the refusal were that the subject-matters of the claims did not involve an inventive step (Article 56 EPC) having regard *inter alia* to the following prior art documents:

D1: "Proceedings of the Seventeenth International Symposium on Gallium Arsenide and Related Compounds", Jersey, Channel Islands, 24-27 September 1990, Institute of Physics Conference, Series No 112, Chapter 3, pp. 99-104,

D2: Journal of Crystal Growth, Vol. 97, No. 2, September 1989, pp. 415-429,

and furthermore that claim 14 contained subject-matter that was not disclosed in the application as originally filed (Article 123 (2) EPC) and that claims 1 and 7 were not supported by the description (Article 84 EPC).

II. The appellant (applicant) lodged an appeal on 23 February 1998, paying the appeal fee on 6 March 1998. The statement setting out the grounds of appeal was filed on 21 May 1998. The appellant requested the grant of a patent on the basis of the claims 1 to 11 filed on 4 July 1996 and claims 12 to 14 filed with the statement of grounds of appeal. Oral proceedings were requested before any adverse decision be issued.

III. In a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal dated 17 May

2002, annexed to the summons for oral proceedings to be held on 2 October 2002, the Board informed the appellant that, after having considered the appellant's submissions, it was of the provisional opinion that for the reasons given in the communication the subject-matter of claim 1 did not involve an inventive step and that claims 1 and 7 were not supported by the description.

- IV. With the letter dated 26 September 2002 the appellant informed the Board that he had been instructed not to attend the oral proceedings and not to take any further action in respect of the application, in particular, not to file any amendments. He therefore withdrew the earlier request for oral proceedings and requested that the procedure be continued in writing and a decision be issued on the basis of the file as it stands.

The oral proceedings were therefore cancelled.

Reasons for the Decision

1. The appeal is admissible.
2. In the communication of the Board, the appellant was informed in detail of the reasons for the Board's preliminary view that the subject-matter of claim 1 did not involve an inventive step having regard to document D2, being regarded as the closest prior art, in combination with document D1 and the reasons for considering that claims 1 and 7 were not supported by the description.
3. The appellant did not comment in its reply on the

preliminary opinion of the Board, but stated that he would not attend the oral proceedings and that he awaited a decision on the basis of the file as it stands.

4. Having reconsidered the objections raised in the communication the Board sees no reason to depart from them. Consequently, the request of the appellant to set aside the decision of the examining division is not allowable. The reasoning presented in the communication is incorporated in the present decision by reference as the board does not consider it necessary to reproduce it here (cf. T 784/91, T 290/97, T 766/97, T 1058/97, T 1069/97 and T 230/99).

Order

For these reasons it is decided:

The appeal is dismissed.

The Registrar:

The Chairman:

R. Schumacher

M. Chomentowski