
EUROPEAN QUALIFYING EXAMINATION 2002

PAPER D – PART II

This paper comprises:

- * Client's letter 2002/DII/e/1-4
- * Annex – Calendars for 2001 and 2002 with indication of the days on which at least one of the EPO filing offices is not open for the receipt of documents 2002/DII/e/5-6

45% of the marks available for Paper D are awarded for Part I,
55% for Part II.

You are a European patent attorney and have today had a meeting with Dr Wichtig, managing director of your new client SILWAFE AG, Munich, DE, which you validly represent in proceedings before the EPO. Dr Wichtig has informed you about the following facts:

5 “SILWAFE AG is a supplier of silicon wafers to the electronic industry. These wafers are thin discs of about 0.5 mm thickness and 15 or 20 cm diameter. In our factory, they are produced by sawing from monocrystalline silicon rods. My company's R&D department is in charge of developing and improving the sawing processes we use; however, we do not ourselves manufacture the sawing devices for use in production, but have them made by external
10 engineering companies.

The patent affairs of my company have, in the past, been entrusted to our employee Dr Zornig. At the end of last month, I informed him that his job was to be taken over by an external patent attorney from 2003 on, for reasons of rationalization. Dr Zornig was furious.
15 He immediately left his work place and will no longer be available to do any work for the company. Since Dr Zornig left us, all we have been able to do is to carry out a stock-taking of the present situation, with the following result:

During the last few years, our R&D department has been developing a new sawing process
20 MULTISAW, in which the silicon rods are not cut by a single saw blade as in the state-of-the-art processes, but simultaneously with a plurality of parallel saw blades. Thus we obtain, instead of only one wafer per sawing step, several wafers at the same time. This process will revolutionize the sawing technology in the field of wafer sawing and will, as we hope, give us a considerable advantage over our competitors. We have also developed a new cooling
25 composition COOLMIX which turned out to be especially suitable for this process. This composition is sprayed into the sawing gap during the sawing, for removal of heat and abraded material.

Dr Zornig had on 29 November 2000 and in the name of SILWAFE AG filed an application
30 MULTISAW-DE claiming and describing the sawing process and the device for carrying out the process, and an application COOLMIX-DE claiming and describing the cooling composition, at the German Patent and Trademark Office. Both applications are still

pending. On 27 November 2001 and each claiming the corresponding priority, the following applications were filed: applications MULTISAW-EP and COOLMIX-EP at the EPO, both designating all contracting states; applications MULTISAW-US and COOLMIX-US in the US and applications MULTISAW-JP and COOLMIX-JP in Japan. Dr Zornig had intended
5 the content of these MULTISAW applications to be the same as that of the respective priority application. Only in the case of application COOLMIX-EP further embodiments were described wherein COOLMIX was mixed with several types of surfactants. It should be noted that no reference to the MULTISAW process is made in the COOLMIX applications. We have also found no indication in our files that an official communication or
10 a search report was issued on any of the above mentioned applications.

While checking our internal files we noted that Dr Zornig made a mistake when MULTISAW-EP and COOLMIX-EP were filed. In both cases, the application documents contained a request for grant of a patent which was correctly filled in. In the case of
15 COOLMIX-EP, the correct claims, description and drawings were filed. Unfortunately, the claims, description and drawings pertaining to COOLMIX-EP were erroneously also filed in the case of MULTISAW-EP instead of the correct claims, description and drawings. The respective priority data were correctly filled in, in both cases, but apparently no priority documents were filed at the filing date, since the certified copies of MULTISAW-DE and
20 COOLMIX-DE are still in our internal files. We hope that, having the correct priority document for MULTISAW-EP in our hands, we will be able to prove what we had in fact intended to file, so that we can continue the case as intended. Contrary to the EP cases, the correct application documents and the certified copies of MULTISAW-DE and COOLMIX-DE were duly filed in the corresponding US and JP cases.

25

Some of our conventional sawing devices are manufactured by the Japanese company NIPPON SAWS KK. They have recently informed us that they have filed, on 2 October 2000, an international patent application CLEAN-PCT as a first filing in Japanese at the Japanese Patent Office, designating all contracting states. This application concerns the cleaning of used
30 saw blades. It discloses, amongst others, a mixture of a composition identical to COOLMIX with a surfactant which was not described in our COOLMIX-EP. We are now worried since we have recently realised that mixtures of COOLMIX with any surfactant are not only very

efficient in cooling, but also have excellent properties in subsequently cleaning the sawn wafers. Therefore, we believe that mixtures of COOLMIX with any surfactant should be protected by us. We are highly interested in such protection, but in EPC contracting states only.

5 Mr Klug from our R&D department informed me earlier today that he and a colleague have been developing, since the beginning of this year, an improved MULTISAW-process. In this embodiment BLOWSAW, a computer control unit compares the actual saw blade positions during sawing with the desired, ideal positions, and regulates the intensity of a stream of air laterally blown towards the saw blades by a system of nozzles, to compensate for deviations
10 from the desired cutting line. The BLOWSAW technique has given surprisingly good results in our tests. By the way, the computer program controlling the process was developed by a student during a period of practical training in Mr Klug's group in our company. The student had signed an employment agreement which gives us all rights for inventions developed during the course of the employment. He has meanwhile left our company and the university for a job in a Silicon
15 Valley computer company, and has moved to the United States with unknown address.

On 6 December 2000, shortly after the filing of MULTISAW-DE and COOLMIX-DE, Mr Klug, the inventor, had been visiting the Swiss engineering company Zähnli AG. We have a long and successful working relationship with this company; they have for
20 instance fabricated a number of the sawing machines we presently use in our production process. In the meeting, Mr Klug presented the MULTISAW-process, but did not mention the COOLMIX composition. He handed over documents marked "confidential" including a description of the process and sketches of the sawing machines. He asked Ing. Listig, head of the development of Zähnli AG, whether Zähnli AG would be able to produce such
25 a machine. Ing. Listig replied that this task was highly interesting for his company in view of the possibility of worldwide commercialisation of the sawing machines. Mr Klug stated that such a worldwide commercialisation would only benefit our competitors and was not in the interest of SILWAFE AG. On 10 January 2001 Zähnli AG had given their written agreement for producing the machines for us and since January this year we have been
30 testing three of the new sawing machines produced by them and we intend to start commercial use of the new process in October.

5 Last week I met Dr Bissig, the managing director of Zähnli AG at the semiconductor fair SEMITEC 2002, where he told me that one of his employees, Ing. Listig, had invented a new sawing process. Zähnli AG had filed an international patent application CUT-PCT for this process as a first filing with the International Bureau on 20 December 2000 for EP, JP and
10 US. Dr Bissig provided me with a copy of the text of the application since he believed the process – which is still a trade secret – might be of interest to our company. The text has meanwhile been carefully reviewed by Mr Klug. The process according to CUT-PCT appeared to him to be very similar to our MULTISAW-process. When we checked our files, we noted that part of the description of CUT-PCT is almost a word-for-word copy of the documents we
15 had handed over at the first meeting. Some of the drawings, too, are only fair copies of the sketches we had handed over. There are claims to a multiple blade sawing process and to multiple blade sawing machines which are drafted in such a general way that they cover our MULTISAW process and device. However, CUT-PCT also contains a description and claims for a special type of saw blade unknown to us, for use in a multiple blade sawing process.

20 In my opinion, the way Ing. Listig of Zähnli AG has acted is very annoying, when you consider the long and good business relations between our companies. Therefore, I have arranged a meeting with Dr Bissig on Wednesday next week in order to clarify the situation. Personally, I would strive to maintain good business relations. However, I do not know if this is achievable and therefore want to be prepared for all possibilities.

In preparation of this meeting, I would like you to report in writing and as soon as possible on

- 25
- 1. your assessment of the patent situation concerning the above applications;**
 - 2. what options we have, and how we should proceed with Zähnli AG concerning our MULTISAW-invention; and**
 - 3. what steps you would take in order to protect our interests.“**

2001

**INFORMATION FROM THE
EUROPEAN PATENT OFFICE**

Notice from the President of the European Patent Office dated 18 October 2000 concerning the days on which EPO filing offices are closed in 2001.

1. Under Rule 85(1) EPC time limits expiring on a day on which at least **one** of the filing offices of the EPO is not open for receipt of documents (closing days) are extended until the first day thereafter on which **all** the filing offices are open for receipt of documents and on which ordinary mail is delivered.

2. The EPO's filing offices in Munich, The Hague and Berlin will be closed for the receipt of documents on every Saturday and Sunday. The other closing days in 2001 are listed below.

JANUARY

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JULY

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Tage/Days/Jours 2001		München Munich	Den Haag The Hague La Haye	Berlin
Neujahr - New Year's Day - Nouvel An	01.01.01	x	x	x
Karfreitag - Good Friday - Vendredi Saint	13.04.01	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	16.04.01	x	x	x
Nationalfeiertag - National Holiday - Fête nationale	30.04.01		x	
Maifeiertag - May Day - Fête du travail	01.05.01	x	x	x
Christi Himmelfahrt - Ascension Day - Ascension	24.05.01	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	04.06.01	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	14.06.01	x		
Mariä Himmelfahrt - Assumption Day - Assomption	15.08.01	x		
Tag der Deutschen Einheit - Day of German Unity - Fête Nationale	03.10.01	x		x
Allerheiligen - All Saints' Day - Toussaint	01.11.01	x		
Heiliger Abend - Christmas Eve - Veille de Noël	24.12.01	x	x	x
1. Weihnachtstag - Christmas Day - Noël	25.12.01	x	x	x
2. Weihnachtstag - Boxing Day - Lendemain de Noël	26.12.01	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.01	x	x	x

2002

INFORMATION FROM THE EUROPEAN PATENT OFFICE

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FEBRUARY

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APRIL

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JULY

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AUGUST

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SEPTEMBER

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OCTOBER

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NOVEMBER

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DECEMBER

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Karfreitag - Good Friday - Vendredi Saint	29.03.02	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	01.04.02	x	x	x
Nationalfeiertag - National Holiday - Fête nationale	30.04.02		x	
Maifeiertag - May Day - Fête du travail	01.05.02	x	x	x
Christi Himmelfahrt - Ascension Day - Ascension	09.05.02	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	20.05.02	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	30.05.02	x		
Mariä Himmelfahrt - Assumption Day - Assomption	15.08.02	x		
Tag der Deutschen Einheit - Day of German Unity - Fête Nationale	03.10.02	x		x
Allerheiligen - All Saints' Day - Toussaint	01.11.02	x		
Heiliger Abend - Christmas Eve - Veille de Noël	24.12.02	x	x	x
1. Weihnachtstag - Christmas Day - Noël	25.12.02	x	x	x
2. Weihnachtstag - Boxing Day - Lendemain de Noël	26.12.02	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.02	x	x	x