

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RAYMOND C. WELLS and FRANK T. SECCO D'ARAGONA

Appeal No. 98-0278
Application No. 08/535,680¹

ON BRIEF

Before KIMLIN, PAK and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

REQUEST FOR REHEARING

¹ Application No. 08/535,680, filed September 28, 1995, for reissue of U.S. Patent No. 5,131,968, issued July 21, 1992, based on Application No. 07/565,761, filed July 31, 1990. According to appellant, the present application is a continuation of Application No. 08/276,189, filed July 15, 1994, now abandoned.

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Appellants request rehearing of our decision of June 23, 1998, wherein we sustained the examiner's rejection of claims 11-14 and 21 under the description requirement of 35 U.S.C. § 112, first paragraph, as well as the examiner's rejection of claims 15-17 under 35 U.S.C. § 103.

Appellants take issue with our agreement with the examiner "that the original specification does not provide descriptive support for applying positive pressure to the backside of the semiconductor wafer while the wafer is in contact with the polishing pad" (page 4 of Decision). According to appellants, "claim 11 does not require the wafer to be in contact with the polishing pad while positive pressure is applied to the backside of the wafer" (page 2 of Request). Although claim 11 recites placing the rotatable polishing chuck . . . such that the front-side of the semiconductor wafer is in contact with the polishing pad; and using the rotatable polishing chuck to apply a positive pressure on the backside of the semiconductor wafer . . . , appellants contend that the open-ended "comprising" phrase of the claim leaves the claim open to additional steps between the "placing" and "using" steps, "such as removing the

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semiconductor wafer from the polishing pad, and placing the wafer in contact with a second wafer prior to applying positive pressure on the backside of the semiconductor wafer" (page 3 of Request).

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However, it cannot be gainsaid that the explicitly recited steps of claim 11 encompass processes wherein positive pressure is applied to the backside of the semiconductor wafer while the wafer is in contact with the polishing pad. Indeed, appellants acknowledge at page 15 of the principal brief, last sentence, that rotation of the polishing pad during the application of positive pressure is not excluded from the scope of claim 11. Hence, we remain of the opinion that the original specification does not provide descriptive support for such a process, and appellants make no argument to the contrary. While appellants cite the original patent specification, column 3, lines 35-62, for description of removing the polishing pad before pressure is applied, that is not at issue here. Although the specification provides descriptive support for removing the pad before applying pressure, it does not describe applying pressure when the pad is in contact with the wafer. Since claim 11 is sufficiently broad to embrace both embodiments, the original specification must describe both embodiments. Since the specification must be as broad as its broadest claim, we will maintain the rejection of claims 11-14 and 21 under § 112, first paragraph.

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In re Eickmeyer, 602 F.2d 974, 981, 202 USPQ 655, 662 (CCPA 1979).

Appellants submit that our finding that "claims 15-17 encompass the application of positive pressure to remove the wafer from the chuck" is not "an accurate reading of claim 15" because "[c]laim 15 specifically recites that the semiconductor wafer remains in contact with the rotatable polishing chuck while the positive pressure is being applied (page 3 of Request)." However, inasmuch as claims must be given their broadest reasonable interpretation during prosecution, we find that claim 15 reasonably embraces processes wherein means are used to keep the wafer in contact with the chuck during the application of positive pressure for a limited period of time, after which the means are removed in order to allow removal of the wafer from the chuck. Claim 15 does not require that the wafer remain in contact with the chuck throughout the application of positive pressure. Accordingly, we do not subscribe to appellants' position that claim 15 does not encompass applying positive pressure to remove the wafer from the chuck.

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In conclusion, based on the foregoing, appellants' request is denied with respect to making any change in our original decision.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

DENIED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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CHUNG K. PAK)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
TERRY J. OWENS)	
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