

Form PTO-1595

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01-13-2003

HEET

U.S. Department of Commerce
U.S. Patent and Trademark Office

To the Honorable Commissioner of P



102335326

Attached original documents or copy thereof.

1. Name of Conveying Party(ies):
SIEMENS AKTIENGESELLSCHAFT

Additional name(s) of conveying party(ies) attached?
 Yes No

1-7-03

2. Name and address of receiving party(ies)
Name: **SHELL SOLAR GMBH**
Address: **Geschäftsführung
Attn: Technical Manager
Frankfurter Ring 152
80807 München, Germany**

3. Nature of Conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other: _____

Execution Date: **September 13, 2002 and August 23, 2002, respectively**

Additional name(s) and address(es) attached?
 Yes No

4. Application number(s) or patent number(s): _____

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No(s).
10/048,419; 10/111,283; 10/111,282

B. Patent No(s). _____

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Customer No.: 000466
YOUNG & THOMPSON
Second Floor
745 South 23rd Street
Arlington, VA 22202
Phone: 703-521-2297

6. Total number of applications and patents involved 3

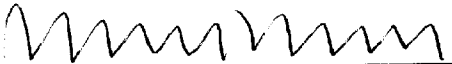
7. Total fee (37 CFR 3.41)..... **\$120.00**
 Enclosed
 Authorized to be charged to deposit account

8. Deposit Account No. **25-0120**
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Robert J. Patch  **January 7, 2003**

Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and documents: 14

01/10/2003 BTOM11 00000225 250120 10048419
01 FC:8921 120.00 CH

PATENT ASSIGNMENT AGREEMENT

AN AGREEMENT made between

SIEMENS AKTIENGESELLSCHAFT

a corporation duly organised and existing under the laws of the Federal Republic of Germany and having its seat in Berlin and Munich (hereinafter "SAG")

and

SHELL SOLAR GMBH

a corporation duly organised and existing under the laws of the Federal Republic of Germany and having its seat in Munich (hereinafter "SSG").

RECITALS

1. Pursuant to the Intellectual Property Transfer and Licence Agreement (as defined) SAG has granted SSG (formerly Siemens und Shell Solar GmbH, and before that Siemens Solar GmbH) licences in respect of the Part II Patent Rights (as defined);
2. SAG no longer wishes to prosecute and/or maintain the Part II Patent Rights and, pursuant to Clause 2.11 of the Intellectual Property Transfer and Licence Agreement, has offered to assign said rights to SSG;
3. SAG has identified certain other patent rights related to the solar business and is willing to assign said rights to SSG; and
4. SSG is willing to take assignment of said patent rights on the following terms and conditions.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

Clause 1 – Definitions and Interpretations

1.1 In this Agreement:

"Affiliate" in relation to SAG means any company which at the time in question is directly or indirectly affiliated with SAG.

"Affiliate" in relation to SSG means

- N.V. Koninklijke Nederlandsche Petroleum Maatschappij, a Netherlands company ("Royal Dutch"); and

- The "Shell" Transport and Trading Company, p.l.c., an English company ("Shell T&T"); and
- any company other than SSG which at the time in question is directly or indirectly affiliated with Royal Dutch or Shell T&T or both of them.

For the purposes of the foregoing definitions, a particular company is directly affiliated with a company or companies if the latter holds/hold shares carrying more than fifty per cent (50%) of the votes exercisable at a general meeting (or its equivalent) of the particular company, and indirectly affiliated with a company or companies (hereinafter called the "Parent Company or Companies") if a series of companies can be specified, beginning with the Parent Company or Companies and ending with the particular company, so related that each company of the series, except the Parent Company or Companies, is directly affiliated with one or more companies earlier in the series provided, however, that Affiliate shall not include any companies which are publicly listed on a stock exchange and whose shares are freely tradeable, but, in these cases, any obligations of the Parties to cause Affiliates to undertake actions shall still be "reasonable endeavours" obligations in respect of these entities;

"Agreement" means this agreement, together with all appendices thereto.

"the Effective Date" means the date on which this Agreement is executed by the later Party to execute.

"Exclusive Solar Field" means any activity which is

- (a) an activity in the field of manufacturing Solar Products; or
- (b) an activity in the field of marketing or sale of Solar Products except in respect of:
 - (i) the marketing or sale of any such products as part of or incidental to the marketing or sale of other products, systems or services marketed by SAG or its Affiliates; or
 - (ii) an activity of Affiliates of SAG existing as of 1 April 2001 based on the oral and/or written agency and/or distributorship agreements between SSG or any of its Affiliates and an Affiliate of SAG set forth in Schedule 9.3, Appendix 7.2 of the Framework Agreement in each case for so long as the agreements exist; or
 - (iii) any activity under existing and forthcoming supply agreements on Solar Products between SSG or Shell Solar Industries L.P. (formerly Siemens Solar Industries L.P.) and Affiliates of SAG in each case for so long as the agreements exist.

"Framework Agreement" means the agreement between SAG, Siemens Beteiligungsverwaltung GmbH, E.ON Energie AG and Shell Erneuerbare Energien GmbH dated 20 February 2001 relating among other things to the investment of Shell Erneuerbare Energien GmbH in SSG.

"Intellectual Property Transfer and Licence Agreement" means the agreement between SAG and SSG effective as of 1 April 2001.

"Part II Patent Rights" means the Patent Rights listed in, or based on or issuing from those Patent Rights listed in Part A of Appendix 2 to this Agreement.

"Parties or Party" means as the context requires, both or each of SSG and SAG.

"Patent Rights" means:

- (a) the patents, utility models ("Gebrauchsmuster"), design patents ("Geschmacksmuster"), topography rights and applications for any of the foregoing listed in Appendix 2;
- (b) any other applications which may later be filed based on (a) above in any country to the extent the claims thereof are directed to inventions which are used in or relate to the Solar Field;
- (c) any patents, utility models, design patents and topography rights issuing in any country from applications referred to in (a) or (b) above; and
- (d) any re-examinations, re-issues and extensions of patents, utility models, design patents and topography rights referred to in (a) or (c) above.

"Solar Field" means the manufacture, use, marketing, sale and servicing of Solar Products, including research and development in support thereof.

"Solar Products" means solar wafers, solar/photovoltaic cells (including, without limitation, CIS/thin film and dye cells) and solar modules.

1.2 The headings contained in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

1.3 Except where and to the extent that a contrary intention otherwise appears, words importing the singular number include the plural number and vice-versa, and words importing any gender include all other genders.

1.4 References to Clauses and Appendices are references to clauses and appendices of this Agreement, unless otherwise indicated.

Clause 2 – Assignment of Patent Rights

- 2.1 With effect from the Effective Date and in consideration of the licence grant in Clause 2.2, SAG hereby agrees to assign to SSG all right, title and interest of SAG in and to the Patent Rights.
- 2.2 With effect from the Effective Date, SSG grants SAG an irrevocable, transferable, fully paid-up, world-wide, non-exclusive licence, with the right to grant sub-licences to Affiliates of SAG, to practise outside the Exclusive Solar Field the inventions covered by the Patent Rights.
- 2.3 Responsibility for the further filing, prosecution, issuance, maintenance, defence and enforcement of the Patent Rights shall pass to SSG on the Effective Date. SAG shall notify any attorneys and/or agents who act for SAG in relation to the Patent Rights of the assignment of these Patent Rights to SSG and that from the Effective Date such attorneys and agents are to take their instructions from SSG and charge all fees and costs for filing, prosecuting, maintaining, defending and enforcing such Patent Rights to SSG. Such attorneys and agents shall be requested promptly to send an invoice to SAG for their fees in respect of services rendered up to the Effective Date in relation to the Patent Rights. SAG shall pay for all such services identified as being rendered prior to the Effective Date. SAG shall, and shall cause any agent acting for SAG to, transfer all case files relating to the Patent Rights to SSG or its nominee promptly after the Effective Date.
- 2.4 To the extent that any Patent Right is in the name of an Affiliate of SAG, SAG shall procure that such Affiliate assigns to SSG said Patent Right(s) as envisaged by this Clause 2, and that such Affiliate shall comply with the terms of this Clause 2. To the extent SSG transfers any Patent Rights to any of its Affiliates or a third party in accordance with this Agreement SSG shall procure that such transferee shall comply with this Clause 2 and the terms of this Agreement.
- 2.5 SSG shall be responsible for and shall bear all expenses, including but not limited to official fees, associated with recordal at the relevant patent offices, of the transfer to SSG hereunder of title in the Patent Rights. SAG agrees to co-operate with SSG in the recordal of such transfer by promptly executing required documents in a form acceptable to SAG, which shall be prepared by SSG. Upon written request from a Party, the other Party shall arrange for the execution and delivery of any other assignment documents or instruments necessary to effectuate any aspects of the assignments or licences provided for in this Clause 2.

- 2.6 SSG will have the right (but is not obligated) at its cost to bring proceedings to enforce the Patent Rights against infringement both inside and outside the Exclusive Solar Field.
- 2.7 SAG undertakes to provide such assistance as may reasonably be required by SSG in defending and/or enforcing the Patent Rights. SSG undertakes to reimburse SAG the reasonable costs incurred by SAG in providing such assistance.
- 2.8 Should SSG decide to abandon any Patent Right listed in, or based on, or issuing from those Patent Rights listed in Part B of Appendix 2 to this Agreement, SSG will offer the Patent Right to SAG at no cost prior to such abandonment and subject to SAG assuming responsibility for any employee inventor remuneration payable to the inventor named on the Patent Rights from the effective date of said assignment in accordance with German law. If SAG does not accept the offer in writing within one month after its receipt, the Patent Right may be abandoned.

Clause 3 – German Employee Inventor Remuneration

- 3.1 With effect from the Effective Date, SSG shall assume responsibility for the payment of any employee inventor remuneration in accordance with German law to the inventor named on the Patent Rights.
- 3.2 SSG confirms that the contributing factors established by SAG in a letter to Dr Volker Probst dated 29 October 1999 (a copy of which is attached as Appendix 1 to this Agreement) will continue to apply after the Effective Date.

Clause 4 – Exclusion of Liability

- 4.1 SAG hereby indemnifies and holds SSG and Affiliates of SSG harmless from and against all claims arising from or in connection with the Patent Rights in the period before the Effective Date. SAG shall not be liable under this Agreement for any claim that the Patent Rights have not been properly filed, prosecuted, issued, maintained, defended and enforced.
- 4.2 Neither Party shall be liable for any loss, damage, injury (including, to the full extent permitted by law and no further, personal injury or death), demand or expense, direct or indirect, resulting from negligence, gross negligence, strict liability or whatever the cause and arising out of or in connection with the exercise by the other Party or any Affiliate or licensee or sub-licensee of such other Party of the licences and rights granted under this Agreement.

Clause 5 – Assignment

Either Party may, without consent of the other Party, assign its full interest in this Agreement to an Affiliate of the assigning Party, but neither Party shall otherwise assign any of its rights or obligations under this Agreement without the prior written consent of the other Party, and such purported assignment without consent shall be void *ab initio*. Notwithstanding the foregoing, SSG may assign its rights and obligations under this Agreement to any successor of its business to which this Agreement relates.

Clause 6 – Miscellaneous

- 6.1 Any amendment to this Agreement must be agreed in writing or (if required by law) in the form of a notarial deed. This requirement shall also apply to the waiver of this written form requirement. The term "writing" shall not include the verbal statement of one of the Parties which is reflected in the confirmation letter of the other Party.
- 6.2 Any failure or delay on the part of any Party hereto in exercising any power or right hereunder shall not operate as a waiver thereof, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of any right or power hereunder or otherwise available at law or in equity.
- 6.3 In the event that one or several provisions of this Agreement should be invalid or unenforceable, or if this Agreement should be incomplete, the validity of and enforceability of the other provisions of this Agreement shall not be affected thereby. In such case, the invalid, unenforceable or incomplete provision hereto shall be deemed replaced by such valid and enforceable provision or by such provision completing this Agreement which is or which are commensurate with the commercial intent of this Agreement as of the date hereof.
- 6.4 All notices and other communications required or permitted hereunder shall be in writing, in the English language, and, unless otherwise provided in this Agreement, will be deemed to have been duly given when delivered in person or when despatched by mail or telefax confirmed in writing by mail simultaneously despatched to the appropriate Party at the address specified below:

If to SAG to: Siemens AG
 CF T 51
 Wittelsbacherplatz 2
 8033 München

If to SSG to: Shell Solar GmbH
Geschäftsführung
Attn: Technical Manager
Frankfurter Ring 152
80807 München

or to such other address or addresses as such Party may from time to time designate by like notice.

- 6.5 SAG undertakes not to challenge, and shall not support any Affiliate of SAG or any third party to challenge, the validity of any of the Patent Rights.

Clause 7 – Governing Law and Dispute Resolution


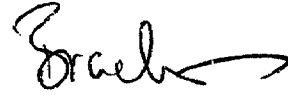
- 7.1 This Agreement and the legal relations among the Parties shall be governed by and construed in accordance with the laws of Germany.
- 7.2 All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce, Paris ("ICC") by three arbitrators, appointed in accordance with the said Rules. Each Party shall nominate one arbitrator for confirmation by the competent authority under the applicable Rules (Appointing Authority). Both arbitrators shall agree on the third arbitrator within 30 days. Should the two arbitrators fail, within the above time-limit, to reach agreement on the third arbitrator, he shall be appointed by the Appointing Authority. If there are two or more defendants, any nomination of an arbitrator by or on behalf of such defendants must be by joint agreement between them. If such defendants fail, within the time-limit fixed by the Appointing Authority, to agree on such joint nomination, the Rules shall apply. The arbitration shall be conducted in the English language. The place of arbitration shall be Zurich, Switzerland. To the extent said Rules do not provide procedural regulation, the procedural laws of this place shall apply.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

AS WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate original at the places and on the dates indicated below.

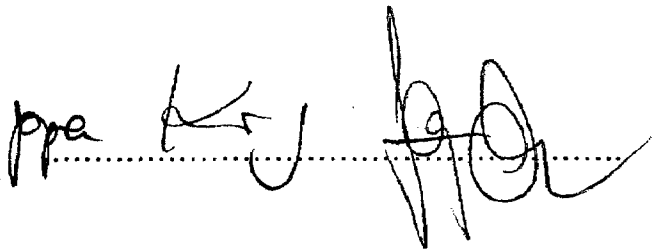
Munich, this 13 day of September, 2002

SIEMENS AKTIENGESELLSCHAFT AG

i.V.  i.V. 

Munich, this 23 day of August, 2002

SHELL SOLAR GMBH



SIEMENSAPPENDIX 1**intern**Herrn
Dr. Volker Probst

ZT EN 2

MchP

Name	Dr. Hermann Rehaber
Abteilung	ZT PA Z
Standort	Mch P/Ri
Telefon	(089) 636-83780
Fax	(089) 636-81821
E-Mail	hermann.rehaber@mchm.siemens.de

Ihr Schreiben	
Unser Zeichen	Ref
Datum	29.10.99

Patentanmeldungen, Anteilsfaktoren, Übernahme des Patents 96p2104de

Lieber Herr Probst,

anbei erhalten Sie Kopien der Patentanmeldungen, die basierend auf Ihrer „Stapelofenerfindung“ im Oktober beim DPMA eingereicht wurden (Interne Aktenzeichen 99p5089de und 99e5091de). Bitte sehen Sie sich die Anmeldungsunterlagen bei Gelegenheit zur Korrektur an. Sollte in einem Jahr entschieden werden, daß die Patentanmeldungen im Ausland nachgemeldet werden, können Ihre Änderungen und Korrekturen in einer entsprechenden „Auslandsfassung“ berücksichtigt werden.

Desweiteren erhalten Sie als Anlage eine Tabelle, aus der die zu Ihren Patentanmeldungen ermittelten Anteilsfaktoren hervorgehen. Dazu folgende Anmerkungen:

- Zu 88p8042de und 88p80443 sind Sie nicht als Dienstfinder ausgewiesen. Daher gibt es auch keine Anteilsfaktoren. Ich nehme an, daß Sie zu der Zeit, in der Sie die Erfindungen gemacht haben, bei der SAG als Doktorand oder Diplomand angestellt waren. Die Verträge mit Doktoranden und Diplomanden sehen i.d.R. vor, daß Erfindungen, die aus der Zusammenarbeit resultieren, automatisch der SAG gehören. Bitte überprüfen Sie gegebenenfalls, ob es eine entsprechende Regelung gab. Im übrigen sind die beiden deutschen Schutzrechte und die daraus hervorgegangenen ausländischen Schutzrechte in den Jahren 1989 bis 1992 fallen gelassen worden.
- Zu 96p2104de und 97p1215de: Es wurden aus bisher nicht nachvollziehbaren Gründen keine Erfindervergütungsdatensätze aufgebaut. Deshalb gibt es zu diesen Schutzrechten keine Anteilsfaktoren. Im Fall von 96p2104de wurde inzwischen auf Fallenlassen entschieden (siehe unten). Dieses Schutzrecht wurde am 27.08.98 erteilt. Mit Ihrem Einverständnis würde ich den fehlenden Erfindungsdatensatz nachträglich aufbauen, wobei bei einer Laufzeit des Patents von etwa einem Jahr das Ergebnis eine sehr geringe Vergütung sein wird. 97p1215de und die dazu gehörenden Auslandsanmeldungen wurden am 09.07.1998 auf die SSG übertragen. Ich gehe davon aus, daß es in dem zugrundeliegenden Übertragungsvertrag einen Passus darüber gibt, wonach SSG mit der Übernahme der Schutzrechte auch die Vergütung der Erfinder zu übernehmen hat. In diesem Fall müßten Sie sich an SSG wenden.
- 99p5089de wurde von mir mit einem Anteilsfaktor von 32 belegt. Ausschlaggebend für diese Bewertung ist der Punkt a), Stellung der Aufgabe. 99p5091de dagegen habe ich mit dem üblichen Anteilsfaktor 18 bewertet. Diese Patentanmeldung ist ausgehend von 99p2447de eine direkte Weiterentwicklung des Durchlaufverfahrens. Meiner Meinung nach wäre eine höhere Bewertung in diesem Fall nicht gerechtfertigt.

SIEMENSintern Brief vom 29.10.99
an Herrn Dr. Probst
Unser Zeichen Rer

Zu 96p2104de: Aus den Unterlagen zu diesem Patent geht hervor, daß Sie, nachdem von der SAG aus auf Fallenlassen entschieden wurde, am 22.04.99 mit dem Hinweis angeschrieben wurden, daß Sie das Schutzrecht übernehmen könnten. Auf dem Anschreiben vom 22.04.99 können Sie sich zur Übernahme des Patents bereiterklären. Ihre Erklärung müßten Sie einfach an die Patentabteilung schicken. Alles weitere würde automatisch ablaufen.

Sollten Sie die ein oder andere Frage zu den Themen haben, kontaktieren Sie mich einfach.

Mit freundlichen Grüßen

Anlagen

Hermann Rehaber

Tabelle: Anteilfaktoren zur Patentanmeldungen von Herrn Dr. Probst:

Internes Aktenzeichen	a) Stellung der Aufgabe	b) Lösung der Aufgabe	c) Aufgabe und Stellung des Arbeitnehmers im Betrieb	Anteilfaktor [%]	Erfindungsanteil [%]
88p8042de					20
88p8043de					20
92p1838de	2	3	3	15	50
93p1709de	2	3	3	15	70
94p1863de	3	3	3	18	50
96p1288de	3	3	3	18	33
96p2104de					100
97p1215de					
99p2447de	3	3	3	18	100
99p5089de	6	3	3	32	100
99p5091de	3	3	3	18	100

APPENDIX 2 - Patent Rights

PART A

Part II Patent Rights

<u>SAG Reference</u>	<u>Patent Application no.</u>	<u>Patent no.</u>	<u>Inventor</u>	<u>SSG Reference</u>
1999P02447 DE	19936081.2	199306081	V Probst	TS9391 GER
1999P02447 WO	PCT/DE00/02523 (designating AUS, CHN, IND, JAP, USA, GER, SPA, FIN, FRA, GBR, ITA, NET, POR)		V Probst	TS9391 PCT (plus designates)
1999P05089 WO	PCT/DE00/03720 (designating AUS, CHN, IND, JAP, USA, GER, SPA, FIN, FRA, GBR, ITA, NET, POR)		V Probst	TS9392
1999P05091 DE	19950575.6		V Probst	TS9393 GER
1999P05091 WO	PCT/DE00/03719 (designating AUS, CHN, IND, JAP, USA, GER, SPA, FIN, FRA, GBR, ITA, NET, POR)		V Probst	T9393 PCT (plus designates)
1999P03258 DE01	10017137.0	10017137	B Utz	TS9398 GER
2000P16411 DE	10041340.4		U Linnert	TS9399 GER

PART B

<u>SAG Reference</u>	<u>Patent Application no.</u>	<u>Patent no.</u>	<u>Inventor</u>	<u>SSG Reference</u>
2001P14209	10204049.4 (filed 2002-02-01)		H Calwer H Bayer G Kühne D Dlugosch	TS9394 GER
2002P08832	10137778.9 (filed 2002-08-02)		H-I Schneider F Karg H Vogt	TS9395 GER