

SUMCO press release

March 10, 2006

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SUMCO RECEIVES FAVORABLE RULING  
AGAINST MEMC ELECTRONIC MATERIALS, INC.  
IN A PATENT LAWSUIT INVOLVING  
LOW DEFECT SILICON WAFERS

The United States Federal District Court for the Northern District of California in San Francisco issued its decision on February 27, 2006 in favor of SUMCO regarding a lawsuit which U.S.-based silicon wafer manufacturer, MEMC Electronic Materials, Inc. (“MEMC”) had filed against SUMCO Corp. and SUMCO USA for infringement of its United States patent that allegedly covered low defect silicon wafers. The relevant findings by the Court are as follows:

- (1) SUMCO’s silicon wafer products do not infringe United States Patent No. 5,919,302.
- (2) United States Patent No. 5,919,302 is invalid for lack of enablement. The Court quoted SUMCO’s expert who said: “The ‘302 Patent is useless to anyone working in this field.”

This is a patent infringement lawsuit that was brought by MEMC in December, 2001. In 2004, the California Court found that SUMCO had not directly infringed

the '302 patent and had not induced infringement. MEMC appealed that decision. In August, 2005, the Court of Appeals for the Federal Circuit affirmed the California Court's finding that there was no direct infringement. The Court of Appeals reversed the lower Court's finding of no inducement and remanded the case for further proceedings on that issue. On the eve of trial, the California Court issued two Orders. The first Order found, in relevant part, that the '302 patent was not infringed for at least two independent reasons and the Court found that the '302 patent was invalid because the '302 patent fails to enable any person skilled in the art to make and use low defect silicon wafers. The Court also issued an Order precluding MEMC's expert from testifying on infringement because his testimony was scientifically unreliable.

The California Federal Court's rulings establish that there is no infringement by SUMCO of the '302 patent as alleged by MEMC. The Court's rulings also establish the lack of operability of MEMC's '302 patent.

SUMCO is pleased that its defenses of non-infringement and invalidity have been adopted by the Federal Court in California. Since the '302 patent specification has been included in several other patents that have been obtained by MEMC, it has been SUMCO's long-standing belief that the collection of MEMC patents that are based upon the '302 patent present obstacles to providing customers with low defect silicon wafers.

Based on the evidence obtained through these trials, we have filed a complaint with the California District Court (Northern District of California) separately from this case in order to claim compensation for the damages incurred due to the lawsuit brought by MEMC.