

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

HAKAN LANS,

Plaintiff

v.

Civil Action No.: 97-2523 (JGP)

Civil Action No.: 97-2526 (JGP)

GATEWAY 2000, INC.  
DELL COMPUTER COMP.,

Defendants

---

UNIBOARD AKTIEBOLAG

Plaintiff,

v.

Civil Action No.: 99-3153 (JGP)

ACER AMERICA CORP., ET AL.

Defendants.

---

**PREHEARING BRIEF OF INTERVENORS ADDUCI, MASTRIANI &  
SCHAUMBERG., L.L.P., AND LOUIS S. MASTRIANI, ESQ.**

Intervenors Adduci, Mastriani & Schaumberg, L.L.P., and Louis S. Mastriani, Esq., by and through undersigned counsel, hereby submit the following Prehearing Brief in anticipation of the Court ordered evidentiary hearing scheduled for March 24, 2005.

**INTRODUCTION**

On July 26, 2001, at a time he was still counsel to Mr. Lans, Intervenor Louis S. Mastriani made two representations to the Court during the oral hearing on the computer companies' sanction motions: 1) he argued that the Court should not rule without first hearing Mr. Lans ("Lans") testify in person. (*See, e.g.*, Exhibit 1 at 43) ("if [Lans] were here you could look him in the eye and ask him. I know that Your Honor had questioned a lot of people...and you get a feel for is this person giving me the business or are they

being truthful. You haven't had the chance to do that."); and 2) he asked the Court for an opportunity to present attorney-client confidences in support of Lans as evidence *in camera* in opposition to the motions. *Id.* ("I mean I would get up there if you wanted me to and you could ask me about some of this if it didn't waive privilege or even if you wanted to do it in camera.").

Lans and his current counsel argue in the pleadings associated with their Motion for Reconsideration that Mr. Mastriani prevented Lans from addressing the Court in the underlying Sanctions Motions. According to their version of events, Mr. Mastriani purportedly interfered with Lans testifying before the Court in order to conceal his malpractice from Lans, and then perjured himself in declarations with the Court to mask his malpractice from the Court, laying the blame on Lans alone for the misconduct giving rise to sanctions.<sup>1</sup>

The arguments by Lans and his counsel make no sense in light of Mr. Mastriani's July 26, 2001, proffers to this Court of testimony by Lans and his own supporting *in camera* testimony. If Mr. Mastriani were hiding the status of the case from Lans or preventing Lans from testifying before the Court during the Sanctions Motions proceedings, as now alleged by Lans and his counsel, he would not have offered Lans' testimony. Rather, it is clear today that the Motions for Reconsideration and Prompt Decision and the Application for Referral to the United States Attorney, filed by Mr. Lans and his attorney, with all their extreme and outrageous allegations, are premised

---

<sup>1</sup> The putative malpractice was the allegedly intentional failure to bring suit in the name of Uniboard rather than on behalf of Lans personally in the infringement cases. *See* Complaint in *Lans, et al v. Adduci, Mastriani & Schaumberg, L.L.P., et al*, Civil Action No. 02-2165 (D.D.C.) (JGP). This malpractice theory is nonsensical, however, because Intervenors had no cognizable motive to bring the infringement actions in the name of the wrong party. As the Court is aware from Lans' previous pleadings (*See, e.g.*, Plaintiffs' Memorandum Supporting the Motion for Reconsideration at 3), Intervenors represented Lans on a contingency basis. Intervenors' compensation, therefore, was tied to the success of the underlying actions. They had every incentive to ensure that suit was brought in the name of the correct party.

upon testimonial evidence fabricated by Lans to facilitate his attempt to escape the consequences of his own misconduct (*i.e.*, an order requiring him to pay the computer companies' attorneys' fees).

### ANALYSIS

Lans' deposition, provided to the Court in its entirety, underscores the absence of merit in his Motion for Reconsideration, as was already clear from the extensive documentary record previously provided. Two evidentiary themes are evident from his deposition testimony: 1) he will testify to any fact he perceives to be helpful to his case, regardless of contrary documentary evidence; and 2) Lans will blame anyone but himself for his mistakes. These themes validate the Court's concerns over Lans' credibility reflected in its April 13, 2000, Memorandum. *See Lans v. Gateway 2000, Inc.*, 110 F. Supp.2d 1, 9 (D.D.C. 2000).

#### **1. Lans' Deposition Testimony Contradicts Documentary Evidence**

Lans' deposition testimony does not accurately reflect documents created contemporaneously with the underlying events. The most glaring instance of departure from verifiable facts during Lans' deposition was his denial of participation in the drafting of a memo that completely contradicts his position in this litigation.

Exhibit 4 to Intervenors' Opposition is one of the most important documents in this dispute. It is Lans' self-initiated October 8, 2000, summary ("Summary") recounting Lans' version of the ownership of the '986 patent. Lans stated in the cover email to the Summary addressed to Intervenors "Enclosed you will find a translation of *summary I have made* after request from authorities. The content is nothing but *well-known facts* with references to various documents. Please send the document to the Court of

Appeals...” *Id.* (emphasis added). This Summary, in and of itself, represents a sufficient basis to deny Lans’ Motion for Reconsideration. Lans stated in that document:

It is my opinion that the below summary clearly indicates that I

- a) not at any point in time had any intention to transfer the ownership to the Graphic Patent, and
- b) ever since 1999 – when the issue of ownership was raised for the first time – also has maintained this opinion.

*See* Exhibit 4 to Intervenor’s Opposition to Motion for Reconsideration at 2.

The explanation by Lans of his October 8, 2000, Summary offered during his January 26, 2005, deposition was characteristic: he blamed someone else. Lans testified that this document, sent from his personal electronic mail address, with his name at the end and with copies of his documents attached to it, did not reflect his version of events. Rather, he testified, the Summary was composed “purely” by Delphi attorney Peter Utterstrom. Dep. of Lans at 97-98. He explained that the document’s “hidden information” showed that Mr. Utterstrom was responsible for the document. *Id.* at 98-100. He further testified that he sent the Summary to Intervenor only because Delphi told him to. *Id.* at 104.

Intervenors obtained some of the “hidden information,” known as metadata,<sup>2</sup> during a break in Lans’ deposition. Intervenors’ counsel then confronted Lans with the metadata obtained at that time, which demonstrated that Lans had significant involvement in the drafting of the document he now disavows. *Id.* at 160-164 (and Exhibit 11 to Lans’ deposition).

---

<sup>2</sup> Metadata is information about a particular data set. Metadata is generally not reproduced in full form when a document is printed (typically referred to by the less informative shorthand phrase “data about data,” it describes the content, quality, condition, history, and other characteristics of the data). For example, a Microsoft® Word document consists of more than just text, it also can contain information about the author, revisions, date attributes and how the data is formatted, just to name a few. Further, Word automatically stores the names of the last 10 people who worked on the document. *See* Exhibit 2 (Johnson Aff.) ¶ 9.

Intervenors had provided Lans' Summary to the Court with their Opposition to the Motion for Reconsideration on May 17, 2004 (Exhibit 4 to that pleading). However, it was not until Lans' deposition on January 26, 2005, eight months after Lans' Summary was provided to the Court, that Lans attempted to explain away the damaging statements in his November 5, 2000, email. His counsel filed several pleadings during that time period, including an "Application for Referral to the United States Attorney," yet never once did Lans or his counsel dispute the authenticity of the Summary in any of those pleadings. Their eight month-long silence vitiates the contrived explanation offered by Lans at his deposition.

Lans' deposition testimony seeking to distance himself from the authorship of the Summary is further contradicted by independent expert forensic analysis. After Lans, surprisingly, for the first time, disavowed his Summary during his deposition relying upon "hidden information," Intervenors sent the electronic file containing that Summary to Kroll Ontrack, the internationally renowned computer forensic consulting firm. The Affidavit of Kroll's Computer Forensic Engineer assigned to the investigation, Barbara Johnson, is attached hereto as Exhibit 2. The testimony in that Affidavit undermines Lans' deposition testimony. Kroll's forensic analysis shows that Lans was very actively involved in the creation of the Summary. *Id.* at ¶¶12-14.<sup>3</sup>

Lans' Summary is totally consistent with his previous communications to Intervenors regarding his personal ownership of the '986 patent. In a December 17, 1999, electronic mail Lans stated "I am fully convinced that Hakan Lans own the patent and not

---

<sup>3</sup> This is hardly surprising inasmuch as Lans testified in his deposition that he had been requested by the Swedish police to "write down what you remember" and that he wrote down and sent notes to Delphi attorney Peter Utterstrom on many occasions. Dep. of Lans at 97-98. Lans also testified that he continued to write notes on this Summary memorandum. *Id.*

Uniboard AB.” Exhibit 3. In a December 20, 1999, email Lans stated “[t]he patent has not been transferred to Uniboard AB, the problem is to proof [sic] it.” *Id.* On March 3, 2001, Lans stated “it must be clear to all that Hakan Lans absolutely believed that he where [sic] and still is the owner of the patent...Remember that I have never agreed that the patent (title) is owned by Uniboard AB.” Exhibit 4. On September 6, 2001, Lans wrote “[t]he only patent that I, Hakan Lans own is the 986 patent. Uniboard own no patent at all and has newer own [sic] any patent.” Exhibit 5.

It was only when this Court imposed sanctions on Lans that his story regarding personal ownership changed. His January 16, 2002, Declaration in support of his Motion for Reconsideration was the very first time that Lans claimed Uniboard owned the '986 patent.<sup>4</sup> For two years after filing that Declaration he stood silent as Intervenors provided the Court with myriad documents reflecting Lans' representations that he personally owned the patent.<sup>5</sup> When confronted at his deposition with his own communications during the underlying litigation reflecting his consistent representations to Intervenors that he owned the '986 patent, the best Lans could do was attribute those communications

---

<sup>4</sup> Lans testified that one of his current attorneys, Forrest A. Hainline, III, was the one who actually drafted this Declaration. *See* Dep. of Lans at 214-215.

<sup>5</sup> *See* Intervenors Opposition to Plaintiffs' Motion for Reconsideration: Exhibit 33 (August 10, 1999, e-mail in which Lans declared that "the 'Assignment and declaration' submitted by Gateway 2000 is no longer valid"); Exhibit 35 (Lans answered that he "really tried hard to reassign the patent to Unibord [sic] AB but I where [sic] told by Dr. Pietzcker that I [sic] was not possible."); Exhibit 39 (December 1999 e-mail where Lans states that he never had a copy of the Assignment and Declaration and that his deceased Swedish attorney, Berg, had told him that the agreement did not include a patent transfer); Exhibit 40 (June 27, 2000, e-mail, where Lans stated that there must be some misunderstanding since "[m]any people know (including IBM) that I have never agreed that the patent has been transferred to Uniboard AB. However I accepted, but not agreed to US court decision."); Exhibit 41 (June 27, 2000, e-mail stating that the agreement AMS and the Court had seen "is a mistake (or possibly just a draft) and has been corrected" by the Clarification Contract); Exhibit 42 (September 5, 2000, e-mail stating that he was told by a former counsel that "it was possible to 'transfer the rights' but not the patent."); Exhibit 44 (June 30, 2001, letter from Lans to the "appropriate judicial authorities in the United States involved in the actions which you have brought . . . on my behalf" where Lans stated that he never had any access to either the Assignment and Declaration or the Clarification Contract, and that it was his personal belief that he "personally [is] the owner of the patent and the corporation has the economic rights." (emphasis added)).

to his Swedish attorneys.<sup>6</sup> Lans' deposition testimony and the position he is currently taking is simply not credible and he has absolutely no documentary, contemporaneous support.

## 2. Lans Refuses To Accept Responsibility

The second theme to emerge from Lans' testimony is that he attributes his misfortunes completely to those around him and accepts no responsibility himself. This theme emerged before Lans' deposition, during the December 8, 2004, hearing on the Motion for Reconsideration. During that hearing the Court inquired of Lans' counsel "Do you agree that a part of this was caused by Dr. Lans?" *See* Dec. 8, 2004, Hearing Tr. at 65. Lans' counsel, Forrest A. Hainline, III, replied "Absolutely not...maybe his records were a hodgepodge....I don't believe it was his fault." *Id.* at 65-66. Lans' testimony throughout his deposition was consistent with his counsel's refusal to acknowledge any responsibility.

His theme of blaming everyone but himself is clear. Lans blames his deceased Swedish attorney, Gunnar Berg, for failing to clarify the ownership issue when the IBM license was signed. *See* Dep. of Lans at 76-80, 86. Lans then blames Berg for not telling him that the patent had been transferred to Uniboard. *Id.* at 182. He blames Swedish attorney Peter Utterstrom for failing to find the document assigning the patent from himself to Uniboard in the effects of the late Mr. Berg. *Id.* at 95-96. Lans further blames the Delphi law firm stating that attorney Talbot Lindstrom confused his understanding of

---

<sup>6</sup> During his deposition Lans was sometimes equivocal whether he or Uniboard owned the patent. He testified, for example, that he made no distinction between himself and Uniboard (*See* Dep. of Lans at 53), that he does not know if he or Uniboard is the owner of the patent (*Id.* at 54) and that when one talks about Lans and Uniboard, to him it is the same, there is no difference except for tax purposes. (*Id.* at 87).

the validity of the Clarification Agreement, and Peter Utterstrom failed to help him clarify this issue. *Id.* at 151-152.

Lans even blames the Court for his misfortunes. There is an English-language Internet site in Sweden devoted to the case at bar entitled “The Judgment against Hakan Lans – A Planned Judicial Crime?” *See* Exhibit 6. This site recounts a vast conspiracy in the United States against Lans involving Intervenors, this Court, the United States Court of Appeals for the Federal Circuit, the CIA, the FBI and the NSA. Lans testified during his deposition that he contributed information to this site. *See* Dep. of Lans at 216. A cursory review of the site demonstrates that it could only have been assembled with the active participation of Lans or his counsel.<sup>7</sup> It contains up-to-date pleadings from this case also apparently obtained from Lans or his counsel.<sup>8</sup>

This Internet site is not the only time Lans or his counsel have involved third parties in their attempt to influence these proceedings. Appended to Lans’ Motion for Prompt Decision were two letters from a Swedish diplomat named Carl Ehrenkrona, one to the Justice Department (Exhibit B) and one to the State Department (Exhibit C). These letters represented Lans’ efforts at exerting “diplomatic” pressure on the Court to further his ends. Ehrenkrona’s letter to the Justice Department explicitly states that Lans’ attorney, Christopher A. Wall, was the genesis of the letters on Lans’ behalf.

---

<sup>7</sup> Insofar as the site implies criminal misconduct by specifically identified United States federal judges, any involvement of counsel would implicate ABA Model Rule of Professional Conduct 8.2(a) (“A lawyer shall not make a statement the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge....”).

<sup>8</sup> Lans testified during his deposition that he provided Moberg, the putative author of the Internet site, with documents related to this case. Dep. of Lans at 216.



## CONCLUSION

Acceptance of Lans' self-serving, belated version of events would require this Court to disregard the extensive documentary evidence that has been placed on the record, including the previously uncontradicted<sup>9</sup> testimony of two members of the Bar of the District of Columbia, Louis S. Mastriani and Robert A. Westerlund.<sup>10</sup> It would also require the Court to impute to the Intervenors an unfounded and illogical motive for filing the infringement suits on behalf of the wrong party. Lans, through his counsel and various third parties acting on their behalf, made extraordinarily serious allegations against Mr. Mastriani. Lans and his counsel, however, have been unable to support these allegations with any competent, let alone credible, evidence. The Motion for Reconsideration, therefore, should be denied, with the Court affirming its earlier decision to impose against Lans alone any relief it deems appropriate.

Respectfully submitted,  
ECCLESTON & WOLF, P.C.

/s/  
Aaron L. Handleman, Esquire (#48728)  
Michael P. Freije, Esquire (#468819)  
2001 S Street, N.W., Suite 310  
Washington, DC 20009  
(202) 857-1696 (Tel)  
(202) 857-0762 (Fax)  
*Attorneys for Intervenors Adduci,  
Mastriani & Schaumberg, L.L.P.*

---

<sup>9</sup> Prior to his recent deposition testimony, Lans and his attorney did not submit any evidence to contradict the Declarations of Messrs. Mastriani and Westerlund (Exhibits 1 and 2 to Intervenor's Opposition to the Motion for Reconsideration). The point-by-point averments in those Declarations remain unrebutted to this day. A year has passed since those Declarations were filed, yet no counter declaration from Lans has materialized.

<sup>10</sup> Mr. Westerlund's Affidavit is attached as Exhibit 2 to Intervenor's Opposition to the Motion for Reconsideration.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 18, 2005, I electronically filed the foregoing Prehearing Brief using the CM/ECF system which sent notification of such filing to the following:

Forrest A. Hainline III	<u><a href="mailto:fhainline@pillsburywinthrop.com">fhainline@pillsburywinthrop.com</a></u>
Christopher R. Wall	<u><a href="mailto:cwall@pillsburywinthrop.com">cwall@pillsburywinthrop.com</a></u>
David A. Super	<u><a href="mailto:david.super@bakerbotts.com">david.super@bakerbotts.com</a></u>
Jonathan G. Graves	<u><a href="mailto:jgraves@cooley.com">jgraves@cooley.com</a></u>
Brooke Clagett	<u><a href="mailto:bclagett@morganlewis.com">bclagett@morganlewis.com</a></u>
Scott F. Partridge	<u><a href="mailto:scott.partridge@bakerbotts.com">scott.partridge@bakerbotts.com</a></u>
Scott L. Robertson	<u><a href="mailto:srobertson@hunton.com">srobertson@hunton.com</a></u>

/s/  
\_\_\_\_\_  
Aaron L. Handleman