

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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HAKAN LANS,

Plaintiff

Civil Action No.: 97-2523 (JGP)

Civil Action No.: 97-2526 (JGP)

v.

GATEWAY 2000, INC.  
DELL COMPUTER COMP.,

Defendants

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UNIBOARD AKTIEBOLAG

Plaintiff,

Civil Action No.: 99-3153 (JGP)

v.

ACER AMERICA CORP., ET AL.

Defendants.

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AFFIDAVIT OF LOUIS S. MASTRIANI

DISTRICT OF COLUMBIA

) ss:

I, LOUIS S. MASTRIANI, here certify that I am over eighteen (18) years of age and am competent to testify about and have personal knowledge of the matters contained in this affidavit.

1. I am an attorney licensed to practice in the District of Columbia and the States of California and New York.

2. I am a partner of the law firm of Adduci, Mastriani & Schaumberg, L.L.P.

3. My practice consists primarily of litigating Section 337 investigations before the U.S. International Trade Commission and disputes in federal district court, as well as conducting antidumping and countervailing duty cases. I also counsel and assist clients in licensing and enforcement of intellectual property rights with an emphasis on high technology patent portfolios. I also lecture extensively and publish articles on international trade issues and intellectual property protection.

4. On or about December 1995, an attorney with the Swedish law firm Advokatfirman Delphi ("Delphi"), contacted me regarding its client, Hakan Lans ("Lans"), in connection with his desire to exploit his U.S. patent governing computer graphics. The idea for exploitation of U.S. Patent No. 4,303,986 ("the '986 patent") was not conceived by any attorney at Adduci, Mastriani & Schaumberg ("AMS"), but by Lans.

5. The Delphi attorney, Tal Lindstrom ("Lindstrom"), who is admitted to practice in and has practiced in jurisdictions in the United States, provided me with information relating to Lans' color graphics '986 patent in a December 11, 1995, letter, which attached a December 10, 1995, Memorandum by another Delphi attorney, Peter Utterstrom ("Utterstrom"), and a listing of informational items regarding Lans' color graphics '986 patent.

6. Thereafter, the attorneys from Delphi and I had several communications regarding options available to Lans in licensing the '986 patent and its related foreign counterparts, which were previously issued to Lans. No communications occurred regarding an entity known as "Uniboard" nor was any suggestion made that anyone other than Lans owned any of the color graphics patents.

7. In a March 20, 1996, letter I raised with Lans, as an option to asserting the '986 patent in his own name, assigning a partial interest in the '986 patent to a company. Notwithstanding the fact that I raised the idea of assigning some ownership rights in the '986 patent to another entity, Lans never informed me or otherwise mentioned that an assignment of ownership in the '986 patent had ever taken place.

8. At the preliminary stage of the proposed enforcement project for the '986 patent, the Delphi attorneys, Lans, and I had several meetings and extensive correspondence to develop a plan of action. My partner, James Adduci, and I attended an early May 1996 meeting in Stockholm, Sweden, with Lans, Lindstrom,

Utterstrom, and other attorneys from Delphi to discuss available options. We explained to Lans, and he clearly understood, that under U.S. law the legal owner of the '986 patent was responsible for notifying infringers of infringement and filing suit against any infringer that refused to take a license under the patent. In that regard, Lans made it clear at that meeting that, other than being identified as the sole owner of the '986 patent and its foreign counterparts, he, "did not wish to be directly involved in managing these activities because of commitments to other projects," or "be responsible for financing these enforcement efforts, including litigation." At that juncture, Lans informed us that AMS would be responsible for organizing the legal team, identifying potential licensees and infringers, finding the necessary investors to finance the enforcement efforts and both conducting and coordinating the enforcement efforts, including litigation.

9. In the March 20, 1996, letter referenced above, I requested certain information from Lans to ascertain the present state of infringement of the '986 patent. In so doing, I requested from Lans a list which identified companies that Lans believed were infringing the patent, as well as copies of the already existing license agreements with IBM and Hitachi, to assist in the formulation of a course of action for Lans' consideration. I also informed Lans that the "U.S. patent law permits a patent owner to seek royalties/damages from infringers going back six years from the date of written notice of patent infringement."

10. My firm and I made extensive efforts to perform the fact investigation necessary prior to enforcement of the '986 patent and its related foreign

counterparts. These efforts included, but were not limited to, questioning Lans, a worldwide assignment search using the *Derwent* database, research on ownership of the '86 patent by searching the U.S. Patent and Trademark Office ("PTO") patent and assignee database, a review of the original prosecution files from the '86 patent, as well as a review of license agreements entered into prior to my involvement and of litigation files from German litigation related to the European counterpart of the '86 color graphics patent. The results of these efforts indicated that Lans was the sole owner of the '86 patent and its related foreign counterparts.

11. From the initiation of my firm's representation of Lans to the time of sending notice of patent infringement letters on September 27, 1996, Lans was consistent in representing himself to me and to attorneys in my firm and Delphi that he was, and always had been, the sole owner of the '86 patent and its related foreign counterparts. I had no knowledge with respect to any assignment of ownership in the '86 color graphics patents to an entity known as Uniboard.

12. As part of our investigation, the late Raymond Powell, who, along with Robert Westerlund, was "of counsel" to my firm, and I met with Lans at his office, located in his home, in Sweden for two days in early September 1996, to conduct a thorough interview regarding the '86 patent and its foreign counterparts. In response to a series of questions Lans stated that he had never assigned or transferred any ownership interest in the '86 patent or its foreign counterparts, had never granted any security interest in the patents and had never pledged or encumbered these patents. In discussing the '86 patent license agreement entered

into in 1989 between Uniboard and IBM, when questioned about the existence of any underlying or related document, such as that referred to in Section 6.1 of the agreement, Lans stated that he was aware of no other documents that had been created and assured us that none was in his possession or in the possession of any third parties. Nevertheless, I requested the attorneys at Delphi to contact the widow of the deceased attorney who represented Uniboard in the IBM negotiations, Gunnar Berg, to investigate the existence of any relevant documents. Delphi did contact Mrs. Berg and informed me that none of her husband's files apparently existed any longer. During this trip to Sweden, Raymond Powell and I also met with Dr. Bertil Grennberg, Lans' Swedish patent attorney. We interviewed Dr. Grennberg and reviewed his Lans patent files. Dr. Grennberg always referred to Lans as the owner of the patents and his files confirmed that fact.

13. I first became aware of an entity called Uniboard upon receipt of the IBM license agreement from Delphi prior to the September 1996, meeting with Lans. The license agreement stated that it was entered into on October 19, 1989, between a company named Uniboard and IBM. Upon a careful reading of this license agreement, there was no indication, warranty or representation that Uniboard was the owner of the '86 patent, merely that it had the power to grant the license. Moreover, when Lans was subsequently questioned about the IBM Agreement, my colleagues and I were assured by Lans that he exclusively owned the patent and that Lans only transferred to Uniboard the receipt of revenue. Lans also had represented to us that he was the sole shareholder and officer of Uniboard,

and that he and his wife were the only directors. This was confirmed by Delphi and the corporate records for Uniboard. Furthermore, other documentation provided by Lans, including a license agreement with Hitachi executed in 1995 and decisions entered by the Court in the German litigation, confirmed Lans' statement that he was the owner of the patent.

14. In the winter of 1996, Robert Westerlund, Raymond Powell and I discussed by speaker phone with Lans, as an element of the enforcement strategy for the '986 patent, the proposed filing of a patent-based Section 337 complaint before the U.S. International Trade Commission against certain foreign computer companies. Lans strongly rebuffed my suggestion that Uniboard be named as co-complainant, stating that Uniboard was not the owner of, nor had it ever had any ownership interest in the '986 patent and, therefore, should not be part of the case. The complaint was not formally filed because the companies to be named as proposed respondents entered into licenses under the '986 patent

15. On or about February 19, 1997, I received an email from Lans regarding service on him under the Hague Convention of a declaratory judgment action with respect to the '986 patent that was filed in Idaho in late November 1996 by Micron Corporation and Diamond Multimedia. I immediately contacted Lans, who was concerned that he was the named defendant in the action and who wanted to know whether Uniboard could be substituted as the defendant. When I asked about his statement in the email that "the patent has been transferred to the company," meaning Uniboard, Lans confirmed that there was no assignment or



transfer to Uniboard, or any grant of an ownership interest in the '986 patent to Uniboard. Lans referred again to the previously identified arrangement whereby Uniboard was to receive revenues from the patent. Lans reiterated that this arrangement was reflected in Uniboard's annual reports. I explained to Lans that, because he was the sole owner of the '986 patent, and Uniboard had no legal interest in the patent, he could not legally be replaced by Uniboard as the defendant in the Idaho action.

16. I also asked Lans about the statement in his February 19, 1997, e-mail that he "signed a paper for changing registration at the U.S. Patent Office. Dr. Grennberg will send you this document." Lans was unclear in his explanation to me of this alleged document. Therefore, I determined to investigate the matter further. I contacted Dr. Grennberg who responded that he was unaware of any such document changing registration in the PTO, and that Lans had always been the owner of the '986 patent. We also confirmed this fact again by reviewing the PTO database which showed that no such assignment document had been filed.

17. In July 1997, a meeting was held in Washington, D.C. to discuss litigation options and strategy related to the '986 patent, as well as with respect to the German and Italian counterpart patents. In attendance were myself, Jim Adduci, Tom Schaumberg, Robert Westerlund, Raymond Powell, Swedish counsel, Peter Utterstrom and Tal Lindstrom for Delphi, and Italian Counsel, Mario Franzosi and Guistino DeSanctis. Lans also participated by speaker phone. During that meeting, there was extensive discussion about the feasibility of Lans assigning

his legal ownership in the '86 patent, as well as the foreign counterparts, to Uniboard. Lans insisted that he continue to be the owner of the patents and the sole plaintiff in any infringement suits asserting the patents. He repeated that Uniboard had no ownership interest in the '86 patent or its foreign counterparts. Accordingly, the decision was made to initiate both Italian and German litigation in the name of Lans.

18. On or about January 29, 1999, I received an e-mail from Lans responding to draft responses to Compaq interrogatories. These interrogatories had been previously sent to Delphi attorneys in late 1998 and had been extensively discussed by them with Lans. The draft responses sent to Lans on January 29, 1999, were the product, in large part, of the discussions in prior meetings between Lans and the Delphi attorneys.

19. When I read Lans' suggestion that the response to Interrogatory No. 10 could perhaps be changed from "I am the sole owner of the '86 patent" to "the company Uniboard (sic) AB is the owner of the '86 patent rights but the patent is still registered in Mr. Hakan Lans name", I immediately contacted him by telephone. I asked Lans what he meant by Uniboard "is the owner of the '86 patent rights." Consistent with his many prior statements and Uniboard's annual reports, Lans again stated that this referred to Uniboard's receipt of revenues from the patent. Lans again confirmed that he was the sole owner of the patent and Uniboard had no ownership rights. I distinctly recall that Lans was very annoyed that he had to repeat this statement to me. I explained to Lans that this

interrogatory required information regarding ownership of the title to the patent, and, based on his consistent statements, that Uniboard did not have any ownership interest in the '986 patent, Lans agreed that the draft response to Interrogatory No. 10 was correct and that he would sign the verification for the interrogatories.

20. In my many meetings with Lans, and in extensive correspondence and telephone discussions with him, he clearly demonstrated fluency in spoken and written English and appeared sophisticated and knowledgeable about business and legal affairs. He frequently reminded my colleagues and me of his credentials as a scientist and of his high stature and reputation in Sweden. As a result of these factors, my colleagues and I were confident of the reliability and truthfulness of the statements and representations made by Lans to us during the course of our representation.

21. Until the filing of Gateway's Motion to Dismiss on August 6, 1999, which attached a copy of a document which appeared to assign all right, title, and interest in the '986 patent to Uniboard, neither I nor my colleagues had any reason to believe that Lans was less than truthful about his statements regarding his consistent, exclusive ownership of the '986 patent.

22. When we were served on August 6, 1999, with the Gateway motion and the attached document, we were stunned. We immediately contacted Lans by telephone. When I informed Lans of the assignment document and the relief requested by the motion, Lans replied that he did not recall any such assignment document. I informed Lans that the assignment document and the declaration of

IBM's attorney, Peter Evans, were being faxed to him and that he should call us back as soon as he reviewed it. Lans called us back within the hour and acknowledged that, upon seeing the document, he remembered it and did not dispute the substance of the declaration of IBM attorney, Peter Evans.

23. I have reviewed the Declaration of Hakan Lans Supporting Motion of Hans Lans and Uniboard Aktiebolag for Reconsideration of the Courts (sic) September 6, 2001, Order Concerning Attorneys Fees. In addition to noting the many other false statements contained therein, I unequivocally state that the statements in paragraph 18 of the Lans Declaration are categorically false. The declarations signed by Lans in opposition to the Gateway motion, and his subsequent Rule 60(b) motion, were wholly the product of Lans' factual responses to interviews by Delphi and my firm. No one put words in Lans' mouth or statements in his declaration that were not based on his recollection of the facts

24. Based upon an assessment of the probability of the granting of the Gateway motion, our firm and Delphi recommended to Lans in approximately late October 1999, that Uniboard be prepared immediately to file suit against Gateway and the remaining computer companies in the event of a dismissal. It was explained to Lans there was a high probability that, as a result of the dismissal of his suit, the computer companies, following the examples of Micron in Idaho and Compaq in Texas, could file declaratory judgment actions against Uniboard in several jurisdictions throughout the United States. Additionally, I expressed my concern about the applicability of the doctrines of laches, estoppel and waiver on a

delay in filing suit on behalf of Uniboard. As managing director of Uniboard, Lans authorized our firm to draft a complaint on behalf of Uniboard and to be ready to file that complaint in the event of a final dismissal of the Lans cases against the computer companies.

25. Once the Court dismissed the Lans cases and held that Lans was less than forthcoming, Lans became even more persistent about his ownership of the '986 patent. This included Lans' adamant request to testify in the appeal of the Court's dismissal of the Lans and Uniboard actions. I informed Lans that it was not possible to testify in the appeal to the U.S. Court of Appeals for the Federal Circuit because the evidentiary record was closed. When Lans subsequently expressed an interest after the appeal in testifying before the Court in connection with the motion for attorney's fees, I informed him that he could do so if the Court held an evidentiary hearing and wanted to hear his testimony.

26. On November 5, 2000, Lans sent an e-mail to me, which attached his "summary" purporting to clarify issues regarding ownership of the '986 patent. That document is entirely consistent with his repeated statements throughout the course of my representation of Lans that he, and he alone, held title to the '986 patent.

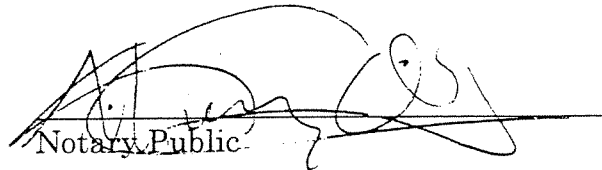
I SOLEMNLY AFFIRM under the penalties of perjury that the foregoing is true and correct based upon my personal knowledge and belief.

May 10, 2004

  
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LOUIS S. MASTRIANI

I hereby certify that on this 10<sup>th</sup> day of May, 2004, before me the subscriber, a Notary Public of the District aforesaid, personally appeared LOUIS S. MASTRIANI, known to me and satisfactorily proven to be the person whose name is subscribed within instrument acknowledged that he executed the same for the purposes therein contained.

NOTARY SEAL



Notary Public

**My Commission Expires**  
**February 28, 2005**

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