

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HÅKAN LANS,)	
Ringvagen 56E)	
SE-133 35 Saltsjobaden,)	
Sweden)	
and)	
UNIBOARD AKTIEBOLAG,)	
Ringvagen 56E)	Civil Action No. 1:02CV02165 (JGP)
SE-133 35 Saltsjobaden,)	
Sweden)	
)	
Plaintiffs,)	
v.)	
)	
ADDUCI, MASTRIANI &)	
SCHAUMBERG, LLP.,)	
1200 17th St NW)	
Washington, DC 20036)	
and)	
LOUIS S. MASTRIANI, ESQ.,)	
1200 17th St NW)	
Washington, DC 20036)	
and)	
V. JAMES ADDUCI, ESQ.)	
1200 17th St NW)	
Washington, DC 20036)	
and)	
TOM M. SCHAUMBERG)	
1200 17th St NW)	
Washington, DC 20036)	
and)	
ADVOKATFIRMAN DELPHI & CO.)	
Sergels Torg 12, 7th Floor, P.O. Box 1432)	
SE-111 84 Stockholm, Sweden)	
and)	
PETER UTTERSTROM)	
Sergels Torg 12, 7th Floor, P.O. Box 1432)	
SE-111 84 Stockholm, Sweden)	
and)	
TALBOT LINDSTROM)	
Sergels Torg 12, 7th Floor, P.O. Box 1432)	
SE-111 84 Stockholm, Sweden)	

Defendants.

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THIRD AMENDED COMPLAINT AND JURY DEMAND

For their Complaint against Defendants Adduci, Mastriani & Schaumberg, LLP (“AMS”), Louis S. Mastriani, Esq., V. James Adduci, II, Esq., Tom M. Schaumberg, Esq., (the “AMS Persons”; AMS and the AMS Persons will collectively be termed the “AMS Defendants”), Advokatfirman Delphi (“Delphi”), Peter Utterstrom, Esq. and Talbot Lindstrom, Esq. (collectively, the “Delphi Defendants”), Plaintiffs Dr. Håkan Lans and Uniboard Aktiebolag (“Uniboard”) allege:

NATURE OF THE ACTION

1. From July 1996 until October 16, 2001, the AMS Defendants and the Delphi Defendants acted as counsel for Plaintiffs in connection with the pursuit of infringers of U.S. Patent No. 4,303,986 (the “‘986 Patent”; the pursuit of infringers of the ‘986 Patent will be termed “the ‘986 Patent Litigation”).

2. The ‘986 Patent Litigation led to lawsuits being filed in this Court, but the lawsuits were dismissed on summary judgment because the Defendants failed to properly investigate and clarify the ownership of the ‘986 Patent and, as a result, filed the lawsuits in the name of the wrong party. After granting summary judgment, this Court awarded attorney fees to the claimed infringers to be paid by Dr. Lans and Uniboard only. This miserable outcome resulted from the negligence, professional malpractice, and racketeering activity of AMS, the AMS Persons, and the Delphi Defendants.

3. On August 13, 1999, as counsel for Dr. Lans and Uniboard, Mastriani, acting as a partner of AMS in the conduct of AMS's representation of Dr. Lans, and to benefit AMS, declared under penalty of perjury in Case Number 97-2523 (JGP) in the United States District Court for the District of Columbia:

Inasmuch as I and other counsel to Mr. Lans have been repeatedly informed by Mr. Lans that no assignment had ever taken place with respect to the Lans patent, we are investigating the circumstances surrounding the referenced Assignment.

4. Mastriani's declaration was false. On February 19, 1997 – 8 months before the complaint was filed – Dr. Lans wrote to Mastriani concerning a licensing agreement with IBM:

As you know the licenses has been signed with a company (UNIBOARD AB) and not with me as an individual (the patent has been transferred to the company for many years ago and the agreement with IBM was made with UNIBOARD AB).

5. As reflected by his own handwritten notes, also dated February 19, 1997, denoting the "Uniboard assignment," Mastriani understood from Dr. Lans's e-mail that Dr. Lans assigned the patent to Uniboard.

6. Mastriani's false statement was part of a pattern of conduct designed corruptly to influence a judge of a United States Court, and obstruct or impede the due administration of justice within the meaning of 18 U.S.C. § 1503. Mastriani sent his false sworn statement and subsequent false statements through the United States mail to numerous individuals and transmitted his false statements by wire to his co-conspirators the Delphi Defendants, violating 18 U.S.C. §§ 1341 and 1343. Mastriani's violations of the law were aided and abetted by the remaining AMS Persons, each of whom listed themselves as counsel in the papers filed in court and transmitted through the mail and by wire that built upon Mastriani's perjury.

7. Mastriani's false statement did corruptly influence the Court and obstruct justice.

Relying upon the falsehood, the Court concluded:

Lans was in control of all information regarding the assignment since it was executed . . . Lans was able to inform his attorneys of the license to IBM but then . . . conveniently forgot . . . the assignment.

* * * *

The Court cannot escape the conclusion that Lans chose to conceal all information about the assignment, possibly even from his attorneys, until confronted with irrefutable evidence that the assignment had occurred.

Lans v. Gateway 2000, 84 F. Supp. 2d 112, 122 (D.D.C. 1999). The Court then dismissed Plaintiffs' valuable patent claims and ruled that Plaintiffs only, and not the AMS Defendants, would be required to pay the attorney fees of the companies Plaintiffs had accused of infringing their patent.

8. The AMS Defendants converted funds received in trust for Plaintiffs, and sent fraudulent statements by means of the United States mail and wire purporting to justify the conversion. The AMS Defendants and the Delphi Defendants each received income, directly or indirectly, from the AMS Defendants' unlawful conversion of Plaintiffs' funds. In connection with AMS's unlawful conduct, the AMS Persons, and the Delphi Defendants, conducted or participated, directly or indirectly, in the conduct of AMS's affairs.

9. Defendants' racketeering activity was designed to benefit AMS and each Defendant and to avoid the consequences of Defendants' negligence in representing Plaintiffs' efforts to protect the '986 Patent.

10. As law firms and as lawyers representing a patent holder against infringers, the AMS Defendants and the Delphi Defendants had obligations to meet the standard of care for such attorneys. Such care included giving notice of infringement in the name of the patent holder, preventing any confusion in patent ownership by clarification of ownership before notice

was given, and filing any litigation in the name of the patent holder. Defendants also had obligations to make certain that any settlement and/or license agreements not have the effect of extinguishing the patent holder's claims against infringers not parties to the agreement.

11. The AMS Defendants and the Delphi Defendants knew that Dr. Lans, a Swedish citizen and the sole shareholder of Uniboard, a Swedish company, had little knowledge of American law. Dr. Lans therefore placed his trust and confidence in the American lawyers, and trusted the Swedish lawyers to work closely with the American lawyers to protect Plaintiffs' interests. Sadly, Defendants failed to meet the standard of care. The AMS Defendants' and the Delphi Defendants' breaches of their duty of care include:

- a. failing adequately to investigate and clarify ownership of the '986 Patent before giving notice to infringers;
- b. failing adequately to investigate and clarify ownership of the '986 Patent before suing infringers;
- c. failing adequately to investigate and clarify ownership of the '986 Patent once the issue was raised in litigation; and
- d. drafting and/or advising Dr. Lans to sign agreements with one infringer that may have had the effect of preventing Dr. Lans and Uniboard from collecting damages from other infringers, without informing Dr. Lans of the potential effect of the agreements.

12. As counsel for Plaintiffs, and under the rules of the District of Columbia and Swedish Bars, the AMS Defendants and the Delphi Defendants had fiduciary duties of honesty, good faith, care, and loyalty to their clients. Plaintiffs were entitled to rely on and expect the

highest standard of conduct from the AMS Defendants and the Delphi Defendants. These Defendants were obligated to fulfill their legal and ethical duties to Plaintiffs, and to ensure that they did not engage in any conflict of interest, self-dealing, or other potentially serious legal or ethical problems. The AMS Defendants and the Delphi Defendants abused that confidence and betrayed that trust by repeatedly breaching their duties of care and loyalty to Plaintiffs. These Defendants' breaches of duty include:

- a. negligently drafting notice of infringement letters in Dr. Lans' name only;
- b. negligently failing to clarify the ownership issue concerning the '986 Patent;
- c. entering into a fee splitting Agreement that violates the rules governing the conduct lawyers in the District of Columbia, and conspiring with Swedish lawyers to violate the rules governing the conduct of lawyers in Sweden;
- d. refusing to provide any information to, and fraudulently concealing information from, Plaintiffs about the division of fees agreement, in violation of District of Columbia Rule of Professional Conduct 1.5(e);
- e. negligently filing litigation alleging infringement of the '986 Patent in the name of the improper party;
- f. negligently drafting settlement agreements that broadly released claims non-settling parties under the '986 Patent;
- g. violating District of Columbia Rule of Professional Responsibility 1.6 by purporting to reveal confidential communications with Dr. Lans, and

presenting false testimony to a United States court about those communications, specifically, that Dr. Lans had never informed his attorneys about Uniboard's interest in the '986 Patent;

- h. failing to inform Plaintiffs that there was a conflict of interest that should have required Plaintiffs to obtain independent counsel in connection with the motions to dismiss Dr. Lans' claims on summary judgment;
- i. failing to inform Plaintiffs that there was a conflict of interest that should have required Plaintiffs to obtain independent counsel in connection with the appeal of the dismissal of Plaintiffs' claims;
- j. perpetuating the falsehood that the AMS Defendants had no knowledge of Uniboard's interest in the '986 Patent in order to have sanctions imposed solely against Plaintiffs;
- k. failing to inform Plaintiffs that there was a conflict of interest that should have required Plaintiffs to obtain independent counsel in connection with the sanctions hearing;
- l. refusing to further represent Plaintiffs in litigation concerning the '986 Patent unless Plaintiffs paid an additional \$250,000 over the amount set forth in their Fee Agreement;
- m. refusing to pay to Plaintiffs amounts obtained under settlement agreements with infringers and owed under the Fee Agreement, and converting funds from the Client Trust Account holding such settlement amounts;

- n. refusing to represent Plaintiffs in challenging the Court's sanctions order unless Defendants were paid \$203,662, plus \$75,000 as a retainer (in violation of the Fee Agreement), and in addition, demanded that Plaintiffs release Defendants from any obligation to pay further monies from the Client Trust Account, when Defendants had already converted substantial sums without informing their clients;
- o. recommending that Dr. Lans give up all rights in all his present and future inventions, including those entirely unrelated to the '986 Patent, as a means of resolving cases ruined by the AMS Defendants' negligence; and
- p. continuing to perpetuate the falsehood that the AMS Defendants had no knowledge of Uniboard's interest in the '986 Patent in opposing Plaintiffs' efforts to have the Court reconsider its sanctions order;
- q. failing promptly and completely to provide Plaintiffs with all papers upon termination of the lawyer-client relationship, in violation of District of Columbia Rules of Professional Conduct 1.16(d) and 1.8(i);
- r. failing properly to account for funds held in trust Plaintiffs; and
- s. interfering with and refusing to cooperate with successor counsel.

13. As a direct and proximate result of the Defendants' racketeering activity and professional negligence, Plaintiffs lost all rights in the '986 Patent, have become liable to the claimed infringers of the Patent for their attorneys fees, and have lost monies due them through the Defendants' conversion of client trust funds. The AMS Defendants acknowledge in their own documents that the *settlement* value of the '986 Patent was more than \$100 million.

JURISDICTION AND VENUE

14. Subject matter jurisdiction exists under 18 U.S.C. § 1964 over Plaintiffs' claims for racketeering damages against Defendants. The Court has Supplemental Jurisdiction under 28 USC § 1367 over Plaintiffs' other claims because they are so related that they form part of the same controversy. Venue is proper in this District under 28 U.S.C. § 1391(a).

THE PARTIES

15. Dr. Lans is one of the most well regarded scientists in Sweden.
- a. Dr. Lans is best known for his development of the technology underlying the worldwide standard for air traffic control and the worldwide standard for automatic avoidance systems for collision avoidance of ships at sea, or automatic identification system ("AIS). In the mid-1980's, Dr. Lans started to work on the development and exploitation of satellite navigation systems. The challenge was to develop the software and hardware needed to integrate navigation technology with different types of communication, navigation and surveillance systems. This technology is now internationally known as Self Organizing Time Division Multiple Access ("STDMA") datalink and has been chosen as the world standard within the United Nations special agencies International Civil Aviation Organization and International Maritime Organization. The STDMA technology is also subject to European standardization within the European Telecommunications Standard Institute and European Organization for Civil Aviation Equipment. Worldwide patent protection

for Dr. Lans' inventions in STDMA was filed for in the early 1990's and patents have now been granted in many countries (see, e.g., United States Patent No. 5,506,587). The system has also been installed, tested and evaluated by the United States Air Force (published in the magazine SIGNAL in February 1995, see <http://www.gpc.se/press/signal2.htm>) and the United States Navy (published in the magazine SIGNAL in August 1998, see <http://www.gpc.se/press/signal98-1.htm>). The system is a mandatory standard for all sea-going ships.

b. On November 25, 2002, President Bush signed the Maritime Transportation Security Act of 2002, which compels commercial vessels to be equipped with and operate an AIS system when navigating on the waters of the United States as well as a long range vessel tracking system for vessels on international voyages that include United States waters to ensure that we can affirmatively track vessel movements.

c. Just since 1990, Dr. Lans has been recognized with the following honors:

1990 Named Swedish Inventor of the Year.

1992 Elected as a member of the Swedish Inventors College.

1993 Received the International Seatrade Award for the most important innovation for maritime safety, presented by the Duke of York.

1993 Awarded the gold medal by The Royal Swedish Academy of Engineering Sciences, presented by Princess Liljan in Stockholm.

1994 Selected for the American Laurels Award 1993 in Electronics "for inventing and testing of the Global

Positioning and Communications System, which transmits GPS positions by an unusual and high capacity data link using time-division multiple-access transmission that has many possible uses including collision avoidance and airport surface tracking". *Aviation Week and Space Technology*, January 24, 1994.

- 1994** Nominated as one of three candidates in the category Aerospace Personality of the Year when the Swedish Civil Aviation Administration was selected as a finalist in the Aerospace Industry Awards, Infrastructure category because of the system developed by Dr. Lans and his team.
- 1995** Received the Polhems Prize for excellence in engineering science, a prize that has been awarded to individuals from time to time since 1876.
- 1995** Awarded a prize as the Swedish Pilot of the Year for his leadership in the development of the GNSS Transponder for aviation.
- 1996** Received the so-called "Large Prize" by the Swedish Royal Institute of Technology for his long record of achievements in science and inventions.
- 1996** Elected a permanent member of The Royal Swedish Academy of Engineering Science.
- 1997** Elected a permanent member of The Royal Swedish Academy of Defense Sciences.
- 1997** Facilitated the grant of the Aerospace Industry Awards (Infrastructure category) to the Civil Aviation Administration of Sweden and SAS by developing the ADS-B system.
- 1997** Named Swedish Aviator of the year due to his development of GNSS Transponder for aviation.

- 1998** Facilitated the grant of the Aerospace Industry Awards (Infrastructure category) for the second time to the Civil Aviation Administration of Sweden, again by his development of the ADS-B system.
- 1998** Received the Positive Sweden prize, presented by the King Carl XVI Gustav of Sweden.
- 1998** Received the Carl August Wicander award from The Royal Swedish Aero Club.
- 1999** Received the Thulin award from The Swedish Society of Aeronautics and Astronautics.
- 2000** Awarded the title "Swede of the World 2000."
- 2001** Awarded the degree Ph.D. honoris causa (teknologie doktor) by the University of Uppsala, Sweden.
- 2001** Elected a member of The Royal Swedish Society of Naval Sciences (one of the Swedish Royal Academies).
- 2002** Awarded His Majesty the King of Sweden's Gold Medal with High Blue Ribbon.

d. Dr. Lans is also the subject of the following writings:

Swedish Profiles (ISBN 91-520-0574-7): In 1999, the Swedish Institute published the book *Swedish Profiles* containing 82 Swedish "celebrities" and official persons. The book describes people from the Swedish King and Queen, Prime Minister to artists and scientists and includes Håkan Lans, representing science and inventions.

Welcome to Innovative Sweden (ISBN 91-973846-6-6) (published 2001): The introduction made by Bengt Samuelsson, Chairman of the Nobel Foundation, described the long tradition of Swedish inventions and describes Håkan Lans as the inventor of two world standards both for aviation and maritime applications.

År 100dets svenskar (ISBN 91-1-300494-8): The book "År 100dets svenskar" names 100 famous Swedish people from the 1900s, including Håkan Lans for his work in research and

development. It notes that the U.S. Air Force has installed his prototypes in the C5 Galaxy.

Ett Svenskt Geni (ISBN 91-7588-369-4) [A Swedish Genius] by David Lagercrantz (Bokförloget Forum AB, Sverige, 2000): The book became a best seller and a pocket version followed (ISBN 91-7643-765-5) (published 2001).

16. Plaintiff Uniboard is a Swedish corporation with its principal place of business located at Ringvägen 56E, S-133 35 Salsjöbaden, Sweden. Since at least 1985, Dr. Lans has been the Managing Director and sole shareholder of Uniboard.

17. AMS is a District of Columbia law firm organized as a limited liability partnership. On its website at <http://www.adduci.com>, AMS touts itself as being “Successful, Experienced, Specialized” in matters relating to patents and intellectual property. AMS represents that it focuses on “listening to its clients.” AMS claims expertise in “[p]reparing, filing and prosecuting U.S. patent applications,” and providing “[p]atent validity and patent infringement opinions and patent and technology licenses.” AMS claims to have extensive experience in patent matters that enables it to offer the full range of protection and assistance that companies and individuals require in the competitive global marketplace. AMS claims to be a “full service provider for obtaining valid patents, trademarks and copyrights.” AMS represents that its expertise allows it to navigate applications and respond quickly to obtain enforceable, commercially important intellectual property rights, and to keep clients advised on patent protection and how to avoid intellectual property disputes in the future. AMS also represents, “[c]onstant communication with clients is a priority at the firm whereby a system has been put in place to protect clients from overlooking crucial filing deadlines.” AMS also claims to have extensive experience in litigating patent matters.

18. Mastriani is a principal of AMS. Mastriani claims that he counsels and assists clients in domestic and worldwide licensing and enforcement programs for intellectual property rights, with an emphasis on high technology patent portfolios.

19. Schaumberg is a principal of AMS. Schaumberg claims that he counsels and represents clients on licensing and trade policy issues and conducts intellectual property litigation in the federal courts.

20. Adduci is a principal of AMS. Adduci is an experienced lawyer, and he is the current Chairman of the International Trade Committee of the Federal Circuit Bar Association.

21. Delphi is a Swedish lawfirm, located in Stockholm Sweden. On its website at <http://www.delphilaw.com>, Delphi represents: "Delphi & Co is one of Sweden's largest commercially oriented law firms. The firm is active within all branches of the law and provides a broad spectrum of quality legal services. Delphi & Co emphasizes a high level of service in providing for the needs of its clients. To Delphi & Co, every client is an important client. Whether the matter involves a complex business arrangement or a legal point, the clients of Delphi & Co receive the help they require."

22. Utterstrom is Delphi's Managing Partner.

23. Lindstrom is an American lawyer affiliated with Delphi "of counsel." Lindstrom is a member of the District of Columbia Bar.

THE '986 PATENT

24. In the mid-1970s, Dr. Lans began working on the development of a color graphics system for computers and data processing and display systems. At that time, only monochromatic display systems for computers were generally available. Dr. Lans invented and

built prototypes of his color graphics system invention to establish that his ideas worked. On January 9, 1979, Dr. Lans filed a patent application in the United States that covered his invention. That patent application disclosed to the world that Dr. Lans had invented “[a] system and apparatus for managing the picture memory of a digital color graphics imaging system.”

25. Dr. Lans filed additional patent applications on his invention in Germany, Denmark, Finland, Italy, Japan, and Norway.

26. Dr. Lans is the inventor and registered owner of the '986 Patent, entitled “Data Processing System and Apparatus for Color Graphics Display,” granted on December 1, 1981. The '986 Patent was valid and enforceable until it expired on January 9, 1999, which is twenty years from the filing date of the patent application.

27. There are 30 separate claims in the '986 Patent. Among other things, the inventions in claims 23 and 29 of the '986 Patent optimize and accelerate the performance of color graphics subsystems in contemporary computers and other devices.

28. Independent Claim 23 of the '986 Patent discloses:

A data display system comprising: memory means for outputting a video data signal; first register means for selectively storing and outputting said video data signal; second register means for selectively storing and outputting a blink mask signal; comparator means for selectively outputting a mask signal responsive to detecting an equivalence between said blink mask signal and said video data signal; means for forcing said first register means to output a pre-defined video data signal responsive to said mask signal; display means for providing a visual display responsive to said video data signal as output from said first register means.

29. Independent Claim 29 of the '986 Patent discloses:

A digital color graphic imaging system comprising a control unit (40) and a display monitor (30) characterized in that the system includes: a video memory (50) organized as a number of matrixes (M1-M16) for storing binary information units defining different columns in definite points of the monitor (30) and for

storing binary units defining write prohibition information in said definite points; a circuit arrangement (64) coupled to said video memory for transmitting color information from an external controlling computer (20) to said display monitor; an arithmetic and logic unit (436) coupled to said video memory and the controlling computer for producing picture information by combining information from the controlling computer with previously stored information in order to decrease the load on the computer; circuit means (300, 304, 308, 312) coupled to said video memory for incrementing or decrementing by "1" the address information in X and/or Y display monitor direction upon receiving said color information from said controlling computer in order to plot a continuous curve on the monitor; and, circuit means (324) coupled to said video memory for arbitrarily selecting addresses defining the starting point of a curve.

THE UNIBOARD ASSIGNMENT AND LICENSE TO IBM

30. On October 19, 1989, in connection with negotiations with IBM concerning licensing of the '986 Patent, Dr. Lans assigned rights in the '986 Patent to Uniboard. On October 19, 1989, Uniboard entered into a non-exclusive agreement to license the '986 Patent to IBM.

31. On October 27, 1989, Dr. Lans, on his own behalf and as the sole owner of Uniboard, signed a document entitled Clarification Contract that clarified his retention of the ownership of the '986 Patent while transferring the licensing rights under the '986 Patent to Uniboard.

THE FEE AGREEMENT

32. In 1995, Utterstrom, Dr. Lans' next-door neighbor, approached Dr. Lans about enforcing the '986 Patent and convinced Dr. Lans to meet with him and Lindstrom to discuss the project.

33. During that time, Lindstrom contacted AMS, after which Lindstrom and Utterstrom of Delphi and Mastriani and Schaumberg of AMS began to correspond about the

possibility of pursuing infringers of the '986 Patent. During this period, Dr. Lans had no attorney-client relationship with either Delphi or with AMS.

34. As part of their review of the '986 Patent in 1995, Delphi, Lindstrom and Utterstrom determined that IBM had entered into a non-exclusive license agreement to use the '986 Patent. Delphi informed AMS of the IBM license.

35. In March 1996, AMS and Mastriani wrote to Dr. Lans and tried to sell him on the idea of pursuing infringers of the '986 Patent, while acknowledging that Dr. Lans had told Delphi and its lawyers that he had no interest in being personally involved in litigation. Mastriani wrote that litigation could be brought in the name of a company to which Dr. Lans could assign the '986 Patent.

36. On May 9, 1996, Mastriani faxed Lindstrom a request that he set up a meeting with Dr. Lans on May 17, 1996 in Stockholm. That day, Mastriani also faxed a proposal to Dr. Lans requesting that Delphi and AMS represent him in connection with pursuing infringers of the '986 Patent in United States federal court and other proceedings.

37. AMS and Delphi worked in concert and as partners in all negotiations and dealings with Dr. Lans.

38. On May 17, 1996, Dr. Lans met with Mastriani and Schaumberg of AMS, and with Utterstrom and Lindstrom of Delphi. Mastriani and Schaumberg told Dr. Lans that they and their firm were experts in U.S. patent law and in protecting the rights of patent holders. Dr. Lans again told the lawyers that he had neither the time nor the money to pursue the project. The lawyers ensured Dr. Lans that his involvement in both time and money would be minimal.

39. On May 29, 1996, Mastriani sent a proposal to Dr. Lans for notifying and suing

infringers of the '986 Patent. Mastriani acknowledged that the '986 Patent would expire in December 1998 (the actual expiration date was January 9, 1999). Mastriani also acknowledged that Dr. Lans did not want to be responsible for financing any litigation. Mastriani proposed that Lans would receive 51% from all proceeds and the lawyers and "investors" would receive a contingent fee of 49%. The 49% contingent fee was unreasonably excessive. Dr. Lans rejected Mastriani's proposal.

40. AMS and Mastriani then drafted a fee agreement that Utterstrom presented to Dr. Lans on or about July 23, 1996 ("Fee Agreement") and which Dr. Lans eventually signed.

41. Under the Fee Agreement, Dr. Lans was to receive 67% of all recoveries from infringers of the '986 Patent, and the attorneys were to receive 33%, to be divided as they chose. All expenses of the project were to be borne by the "Advisors," defined as AMS, Delphi and third parties from whom AMS and Delphi might seek assistance.

Of the gross license fees paid under a Qualifying License Agreement a fee of thirty-three (33) percent of same will be immediately paid to the Firms, which fee shall be allocated among and between them in such manner as they shall have agreed among and between themselves.

The Advisors shall bear all expenses incurred by them in the project [pursuit of infringers under the '986 Patent]. For the purposes of this agreement "expenses" shall include not only out of pocket, travel, hotel, per diems and similar costs and expenses but also fees due to or charged by experts and other specialists engaged by the Advisors. Any costs and expenses incurred by you in the Project shall be borne by you.

42. The Fee Agreement gave AMS and Delphi the right of access to all licensing and litigation concerning the '986 Patent family anywhere in the world.

43. The Fee Agreement gave AMS and Delphi complete discretion in the conduct of negotiations concerning licensing strategy:

The firms are being retained by you for the purpose of identifying potential infringers of the Patent and negotiating license agreements with these potential infringers. The strategy for obtaining the licenses will be determined by AM&S, in consultation with Delphi, with the final terms of such licenses to be subject to your reasonable approval. If requested by a potential infringer, these license agreements may include the foreign counterparts to the Patent.

44. The Fee Agreement both limited Dr. Lans' involvement in any litigation, and gave AMS sole and exclusive discretion in the conduct of litigation:

The second phase will involve more aggressive activities -- e.g. legal action through Section 337 at the US international Trade Commission and federal court(s). Your personal involvement in this phase will be limited to testimony, depositions and technical guidance. The decision as to whether or not to pursue such litigation will be subject to the sole and exclusive discretion of AM&S.

45. Dr. Lans signed the Fee Agreement on or about August 9, 1996.

46. The AMS Defendants and the Delphi Defendants did not inform Plaintiffs of the division of fees between AMS and Delphi. After Plaintiffs terminated AMS as counsel, Plaintiffs learned that Delphi received nearly \$1 million in connection with the '986 Patent Litigation. The division of fees between AMS and Delphi was not in proportion to the services performed by each firm. Accordingly, under District of Columbia Rule of Professional Conduct 1.5(e), Delphi assumed joint responsibility for Plaintiffs' representation. As a member of the District of Columbia Bar, Lindstrom was or should have been aware of this Rule.

47. On December 18, 1996, in a letter to Mastriani, Utterstrom admitted that Delphi was not permitted under the Swedish Bar's Canon of Ethics to finance the expenses of a client. Delphi violated this Canon, Swedish Canon of Ethics §25, by entering into a contingency fee agreement where Delphi shouldered all of its own expenses.

48. At Mastriani's request, on January 23, 1997, Dr. Lans sent Mastriani a written confirmation that the Fee Agreement applied to all license fees, whether or not they were to be

obtained through litigation. On September 23, 1997, Mastriani, Utterstrom and Lans signed a document that, among other things, confirmed the Fee Agreement.

NOTICE OF INFRINGEMENT LETTERS

49. From September 1996 through March 1997, AMS sent approximately 100 letters giving notice of the '986 Patent to potential infringers solely in Dr. Lans' name ("Notice of Infringement Letters").

DEFENDANTS' KNOWLEDGE OF THE UNIBOARD ASSIGNMENT

50. As early as December 7, 1995, the Delphi Defendants were aware that IBM had entered into a non-exclusive license agreement to use the '986 Patent, and the Delphi Defendants informed the AMS Defendants of the IBM license. On March 20, 1996, Mastriani wrote to Dr. Lans and asked for a copy of the IBM licensing agreement "so that we may formulate a more comprehensive course of action for your consideration." Thereafter, Dr. Lans sent the AMS Defendants a copy of the IBM licensing agreement.

51. The licensor of the IBM agreement was Uniboard and the agreement made no mention of Dr. Lans.

52. On January 22, 1997, Mastriani wrote Utterstrom that there was an important issue regarding the scope of the IBM license, and Mastriani attached portions of the IBM license for Utterstrom to review, including the license grant language specifying that Uniboard was the licensor. The "important issue" was whether the IBM license was broad enough to extinguish infringement claims against companies that purchased chips made by IBM's subsidiary.

53. Dr. Lans again reminded the AMS Defendants of Uniboard's interest in the '986

Patent when he wrote to Mastriani on February 19, 1997, concerning the Uniboard assignment:

As you know the licenses has been signed with a company (UNIBOARD AB) and not with me as an individual (the patent has been transferred to the company and for many years ago and the agreement with IBM was made with UNIBOARD AB).

54. On April 8, 1997, Mastriani filed a Declaration under penalty of perjury in *Micron Electronics, Inc. v. Hakan Lans*, No. CIV96-0523-S-BLW in the United States District Court for the District of Idaho. The Declaration was made to support a motion to dismiss a declaratory judgment action against Dr. Lans for lack of personal jurisdiction. Mastriani declared, "I have reviewed and am familiar with the patent license agreement negotiated in Europe in 1989 between a company wholly owned by Hakan Lans located in Saltsjobasden, Sweden and International Business Machines Corporation ("IBM") located in Purchase, New York, under U.S. Patent No. 4,303,986."

55. On April 7, 1997, Schaumberg sought permission from Dr. Lans for the AMS Defendants to act on behalf of Uniboard concerning the issue of the breadth of the IBM licenses. On April 9, 1997, Schaumberg wrote to IBM "on behalf of Uniboard" to discuss Uniboard's claim that IBM had exceeded the scope of the license agreement. Dr. Lans sent a fax to Mastriani agreeing to attempt to clarify the agreement between IBM and Uniboard. On April 18, 1997, Schaumberg again wrote IBM on behalf of Uniboard seeking information about an IBM license to Cirrus Logic:

Since the MiCrus joint venture with IBM appears to be key to Cirrus Logic's claims, it is important that IBM's licensor, Uniboard, understand the nature of the joint venture and, thereby, the basis for Cirrus Logic's position.

56. On April 9, 1997, Schaumberg also wrote to a German lawyer, Klaus Vorwerk, to obtain advice under German law regarding clarification of the IBM/Uniboard license.

Correspondence regarding Uniboard's rights was sent between Schaumberg, Klaus and Lindstrom, where Vorwerk's analysis specifically discusses Uniboard's, not Dr. Lans', rights.

57. On April 17, 1997, Utterstrom wrote Mastriani confirming that all licensing fees for the patent were to be paid to Uniboard.

58. On August 7, 1997, Utterstrom sent a letter to Mastriani regarding the licensing fees being taxable to Uniboard under Swedish law.

59. On August 8, 1997, Utterstrom sent a letter to Mastriani regarding an issue of the taxation and foreign tax credits where he admitted: "[t]he starting point is the fact that HL did ask us – the two firms – to represent him/Uniboard in the collection of license fees from the infringers, with an arrangement where we split the gross revenue."

DEFENDANTS DECIDE TO SUE IN DR. LANS' NAME ONLY

60. On or about July 1997, Utterström and Lindstrom met with Mastriani, Adduci and Schaumberg in AMS's offices in Washington, D.C. Among other things, these lawyers discussed whether the suit should be brought in Dr. Lans' name or in the name of Dr. Lans' company, Uniboard. The AMS Defendants and the Delphi Defendants decided that the lawsuit should be filed in Dr. Lans' name only. The lawyers did not consult with Dr. Lans in making this decision.

61. On October 24, 1997, AMS filed suit only in Dr. Lans' name in the United States District Court for the District of Columbia against Dell Computer Company ("Dell") in Case Number 97-2526, against Gateway 2000 Inc. ("Gateway") in Case Number 97-2523, against Digital Equipment Corp. in Case Number 97-2493, against Hewlett-Packard Co. in Case Number 97-2524, against Packard Bell NEC, Inc. in Case Number 97-2525, against Compaq Computer

Corp. in Case Number 97-02527, against Acer America Corp. in Case Number 97-2528, against AST Research, Inc. in Case Number 97-2529, and against Olsy North America in Case Number 97- 2530. On January 9, 1998, AMS filed suit in Dr. Lans' name only in the United States District Court for the District of Columbia against Siemens Nixdorf, Case Number 98-0050 (collectively, the "Lans Lawsuit").

**DEFENDANTS' FAILURE PROPERLY TO ADVISE DR. LANS AND UNIBOARD
REGARDING THE UNIBOARD ASSIGNMENT**

62. The AMS Defendants hold themselves out to the public as being able to file and prosecute patent applications at the United States Patent and Trademark Office. AMS represents that it has very specific professional qualifications not possessed by ordinary lawyers. Such qualifications include understanding the need to have patent ownership and the right to sue established before sending out notification letters and filing suit.

63. On Delphi's website, Lindstrom represents that he is a member of the District of Columbia Bar, and the Bars of the Supreme Court of United States and California. The Delphi website also advertises Lindstrom's expertise in United States law.

64. The standard of care for a lawyer filing a litigation in a United States Court requires that the lawyer ensure that the plaintiff has standing to sue the defendant.

65. The standard of care for an attorney sending out infringement notification letters and/or filing a patent lawsuit requires the attorney independently to investigate and determine that notice is being given and/or the suit is being brought in the name of the patent owner.

66. Under these standards of care, the IBM license agreement gave Defendants a duty to inquire as to the basis for Uniboard's right to license the '986 Patent to IBM. Paragraph 6.1 of

the license agreement made IBM's payment to Uniboard contingent upon "receipt by IBM of satisfactory documentary evidence of UNIBOARD's right to grant the said license and immunities." Furthermore, if Dr. Lans was not able to provide the "satisfactory documentary evidence" to his lawyers, then these attorneys had an obligation under the standard of care to contact IBM and obtain the document(s) themselves in order to understand the basis for Uniboard's right.

67. The standard of care also required all of the Defendants to locate and review documents concerning ownership of the '986 Patent, including documents in the files of Dr. Lans' European advisors. Had Defendants met the standard of care, they would have discovered the Clarification Contract before the notice of infringement letters were sent out or any lawsuits were filed. Failing to meet this standard of care, Defendants never discovered the Clarification Contract until sometime after November 23, 1999, after the Court dismissed Dr. Lans' complaint on summary judgment, as discussed below.

68. The standard of care for an attorney professing familiarity with preparing, filing and prosecuting United States patent applications, when faced with confusion or ambiguity regarding ownership of a patent, is to clarify the ownership issue by creating and filing appropriate documentation with the Patent and Trademark Office.

69. Had Defendants met the standard of care, at a minimum, they would have determined that the Uniboard assignment created confusion and ambiguity regarding ownership of the '986 Patent that needed to be clarified before infringement notices were sent and/or litigation was filed.

70. Under the standard of care, the IBM license agreement alone signaled confusion

and ambiguity regarding ownership of the '986 Patent that Defendants were required to clarify before infringement notices were sent and/or litigation was filed.

71. For Defendants to send out infringement notification letters on behalf of Dr. Lans, knowing of the IBM license agreement and being familiar with its terms, without obtaining the documentary evidence of Uniboard's right to grant the license to IBM, was below the standard of care.

72. For Defendants to send out infringement notification letters on behalf of Dr. Lans, knowing of the IBM license agreement and being familiar with its terms, without preparing and filing documents necessary to clarify ownership of the '986 Patent, was below the standard of care.

73. For the AMS Defendants to file patent litigation on behalf of Dr. Lans, knowing of the IBM license agreement and being familiar with its terms, without obtaining the documentary evidence of Uniboard's right to grant the license to IBM, was below the standard of care. It was also below the standard of care for the Delphi Defendants, who were jointly responsible for representing Plaintiffs, to allow the Lans Lawsuit to be filed without obtaining the documentary evidence of Uniboard's right to grant the license to IBM.

74. For the AMS Defendants to file patent litigation on behalf of Dr. Lans, knowing of the IBM license agreement and being familiar with its terms, without preparing and filing documents necessary to clarify ownership of the '986 Patent, was below the standard of care. Without the preparation and filing of such documentation, it was also below the standard of care for the Delphi Defendants to allow the Lans Lawsuit to be filed.

75. Dr. Lans' email of February 19, 1997, and the IBM license agreement each

independently created an obligation on the part of Defendants to create and file an assignment of the '986 Patent rights either from Dr. Lans to Uniboard, or from Uniboard to Dr. Lans. An assignment from Uniboard to Dr. Lans made subject to the IBM License Agreement would have complied with ¶ 9.2 of that agreement. Defendants' failure to create and file such an assignment was below the standard of care.

76. The standard of care for lawyers holding themselves out as being experts in the procedures of the patent office was to determine whether the "change of registration" referred to in Dr. Lans' letter of February 19, 1997 had taken place. If Defendants had checked, and had discovered that the assignment had not occurred, they should have so advised Dr. Lans and recommended that the assignment to Uniboard be recorded. Had this been done there would have been no question about the ownership of the '986 Patent and the AMS Defendants would have filed the infringement actions without questions about the name of the actual patent holder.

77. When Defendants failed to advise Dr. Lans to create and file an assignment of the '986 Patent rights either from Dr. Lans to Uniboard, or from Uniboard to Dr. Lans, they acted below the standard of care.

78. At a minimum, the standard of care required Defendants to send out infringement notification letters and to file litigation in the names of both Dr. Lans and Uniboard. Defendants failed to meet even this minimum standard of care.

79. No Defendant ever told Dr. Lans that in America there is a concept of standing that requires a patent infringement suit be brought in the name of the assignee of the patent, even if that person or firm is different from the registered owner of the patent. It was below the standard of care for Defendants to fail to do so.

THE NEGLIGENT LICENSE AGREEMENT WITH MICRON-DIAMOND

80. On November 27, 1996, Micron Electronics, Inc. and Diamond Multimedia Systems, Inc. filed a declaratory judgment action against Hakan Lans on the '986 Patent in the United States District Court for the District of Idaho. *Micron Electronics, Inc. v. Hakan Lans*, No. CIV96-0523-S-BLW. The AMS Defendants represented Dr. Lans in this lawsuit.

81. The complaint states that "Diamond manufactures and sells video cards which are incorporated into computer products. Micron manufactures computer products, some of which incorporate video cards sold to Micron by Diamond." The AMS Defendants understood the relationship of Diamond and other suppliers of video cards to the OEM computer suppliers and the impact that any settlement would have on infringers using Micron or Diamond components.

82. In August of 1998, the AMS Defendants stated in a memorandum to their damage expert for the Micron lawsuit, "we are only interested in a reasonable royalty from Micron for its computer sales and would not license Diamond, its supplier of graphics cards. Mr. Lans' policy has been to offer a license to computer system manufacturers only, and not to computer component suppliers such as Diamond."

83. Nevertheless, in September of 1998, the AMS Defendants prepared settlement, license, and non-assertion agreements that gave Micron and Diamond and all of their customers a broad world-wide fully paid up license and release under the '986 Patent and all of its foreign counterparts. Relying upon the advice of the AMS Defendants, Dr. Lans signed the settlement, license, and non-assertion agreements with Micron and Diamond ("Micron-Diamond Agreement"). However, in order to make certain that the settlement agreement was not overly broad, Dr. Lans sent the document to the Delphi Defendants, and asked Utterstrom to review and

approve it before forwarding it to AMS.

84. The effect of the Micron-Diamond Agreement was to give a release and immunity from suit to all companies that purchased otherwise infringing components from Micron-Diamond, including companies that had received Notice of Infringement Letters.

85. The impact of the Micron-Diamond Agreement and the AMS Defendants' and the Delphi Defendants' negligence is illustrated in the German patent lawsuit in which Dr. Lans (through the AMS Defendants, the Delphi Defendants, and their German correspondent firm) had asserted the German equivalent to the '986 Patent against Dell Computer GmbH. In September of 2001, a German appeals court ruled that the Diamond-Micron settlement agreement protected Dell Computer GmbH sales in Germany because Dell purchased video graphic components from Diamond, and Dell was protected from claims of infringement because of the Micron-Diamond settlement agreement.

86. The standard of care for attorneys preparing and reviewing settlement and/or licensing documents in a patent infringement lawsuit requires the attorneys to prepare an agreement that is not overly broad and protects the patent holder's right to sue non-settling infringers. The AMS Defendants and the Delphi Defendants understood the issue and danger of Plaintiffs entering into overly broad settlement and/or licensing agreements concerning the '986 Patent. Nevertheless, breaching the standard of care, the AMS Defendants and the Delphi Defendants prepared, reviewed, and advised Dr. Lans to sign an overly broad agreement that severely damaged Plaintiffs' ability to seek damages from many other infringers.

**DEFENDANTS ABANDON DR. LANS, AND MISLEAD THE COURT, IN ORDER TO
CONCEAL THEIR NEGLIGENCE**

87. The '986 Patent expired on January 9, 1999. After that date, if Defendants acknowledged Uniboard's ownership interest in the Patent, under United States law, the case would be dismissed. Plaintiffs had never explained this law to Dr. Lans.

88. On January 29, 1999, Dr. Lans was to serve answers to interrogatories posed by Compaq Computer Corp. asking if he had ever assigned the '986 Patent. On the evening of January 28, 1999, Mastriani sent Dr. Lans the interrogatories and draft answers. They arrived in Sweden on January 29, 1999, the day the answers were due. On this short notice, Dr. Lans reviewed them and commented on the response to Question 10,

I have studied the document and it is correct. However, the response to interrogatory number 10 could maybe be changed from "I am the sole owner of the '986 patent" to "The company Uniboard AB is the owner of the '986 patent but the patent is still registered in Hakan Lans name. Consequently, Mr. Lans has the sole right to sign license agreements."

89. The AMS Defendants ignored Dr. Lans' email and served interrogatory answers without Dr. Lans' suggested change. Dr. Lans accepted the AMS Defendants' judgment that the more complete response was not necessary, and concluded that the question did not concern the Håkan Lans/Uniboard relationship, but rather whether he had done anything with the '986 Patent that would make him unable to sign a license. Because Dr. Lans owned all of Uniboard, he knew that he could sign on behalf of Uniboard.

90. Meanwhile, in defending the Lans Lawsuit, Gateway did what Defendants were required, but failed, to do under the standard of care: Gateway asked IBM for a copy of the

document under which Uniboard claimed the right to assign rights in the '986 Patent to IBM. IBM gave Gateway a copy of the Uniboard assignment.

91. On August 4, 1999, Gateway filed a motion to dismiss the complaint based upon a lack of standing and attached the assignment from Lans to Uniboard in support of its motion. Mastriani telephoned Dr. Lans to discuss Gateway's motion. Dr. Lans told Mastriani that he did not have a copy of the assignment, and did not recall the details of the document. Dr. Lans reminded Mastriani of their discussions about the Uniboard assignment in early 1997. Mastriani in substance told Dr. Lans, "if you can't recall the details of the document, as a matter of law, that means you don't recall the document." Dr. Lans signed the document, believing it to be accurate, based upon Mastriani's legal advice.

92. Mastriani then abandoned Dr. Lans and lied to the Court. On August 13, 1999, Mastriani filed an Emergency Motion for Extension of Time to Respond to Gateway's motion and filed a supporting affidavit in which he falsely swore:

Inasmuch as I and other counsel to Dr. Lans have been repeatedly informed by Dr. Lans that no assignment had ever taken place with respect to the Lans patent, we are investigating the circumstances surrounding the referenced Assignment.

Mastriani never sent Dr. Lans a copy of this declaration. Dr. Lans never saw the document until the AMS Defendants transferred AMS' files to Dr. Lans' successor counsel.

93. Mastriani's false swearing was doubly noxious. Not only did he engage in perjury and obstruction of justice, but he also waived his client's attorney client privilege without consent. If Mastriani's statement were true (which it was not) the standard of care would have required AMS to inform both the Court and Dr. Lans that they had an irreconcilable conflict of interest that required substitute counsel for Dr. Lans. Of course, substitute counsel would have

discovered Mastriani's perjury, which eventually, substitute counsel did.

94. The AMS Defendants failed to inform the Court of their knowledge of the IBM/Uniboard Agreement and also failed to tell the Court of their representation of Uniboard in negotiations with IBM about the scope of the IBM license agreement, despite their obligation to do so.

95. The Delphi Defendants had an obligation to review the statements filed in Court on behalf of their client and make certain that the statements were factually accurate. By failing to correct the sworn falsehood of the AMS Defendants, the Delphi Defendants negligently or intentionally furthered the perjury and obstruction of justice.

THE COURT DISMISSES DR. LANS' CASE

96. On November 23, 1999, the Court dismissed the Lans Lawsuit and claims against Gateway, Dell Computer Corp., Hewlett-Packard Co., Packard Bell NEC, Inc., Digital Equipment Corp., Compaq Computer Corp., Acer America Corp., and AST Research, Inc. for lack of standing, based on the assignment to Uniboard. The Court also refused to permit Uniboard to be substituted for Dr. Lans as the real party in interest under Federal Rule of Civil Procedure 17(a). In its decision, the Court was influenced by at least two falsehoods by the AMS Defendants: (1) the false declaration that the AMS Defendants and Lans' "other counsel" knew nothing about the assignment to Uniboard before the suit was filed, and (2) the failure to disclose to the Court that the AMS Defendants knew the details of the IBM license agreement, including that IBM's agreement was with Uniboard, not with Dr. Lans. The Court stated, 84 F. Supp. 2d 112 at 114:

Apparently, even when confronted with defendant's repeated discovery requests surrounding any assignment, Lans neglected to inform even his attorneys that an assignment had taken place. See Declaration of Louis S. Mastriani in Support of Emergency Motion for Extension of Time to Respond to Motions by Gateway ("Mastriani Decl.")(dated Aug. 13, 1999) at ¶ 3("Inasmuch as I and other counsel to Dr. Lans have been repeatedly informed by Dr. Lans that no assignment had ever taken place with respect to the ['986] patent..."). Finally, after being confronted by defendant with a copy of the assignment, "Lans recalled that he had signed the document approximately ten years ago in the context of granting a license to IBM under the Lans patent. As such, Dr. Lans now understands that the patent is owned by his wholly-owned company, Uniboard." Lans Motion for Leave to Amend at 3.

84 F. Supp. 2d 112 at 122:

The Court is unable to reach the conclusion that failure to sue in the name of Uniboard was an honest and understandable mistake. Lans argues simultaneously that he both forgot that he had made the assignment and that he thought the assignment was invalid--the Court finds this dual position untenable. Lans was in control of all the information regarding the assignment since it was executed. As previously noted, Lans was able to inform his attorneys of the license to IBM, but then appears to have conveniently forgotten the assignment to Uniboard, which was a vital aspect of that transaction. Prior to the declaration in support of his motion to amend, Lans never expressed any doubts as to the assignment's validity. In any event, it was entirely within Lans's ability to verify the validity of the assignment, establish ownership of the patent, and sue in the name of the proper plaintiff. **When Lans's attorneys inquired as to whether he had made any assignments of the patent, Lans should have told them about the assignment to IBM and his belief that the assignment was invalid.** If he had done that, counsel might have proceeded differently, and avoided this present situation. **The Court cannot escape the conclusion that Lans chose to conceal all information about the assignment, possibly even from his attorneys, until confronted with irrefutable evidence that the assignment had occurred.** Therefore, the Court cannot hold that Lans's failure to join or sue in the name of Uniboard was an honest and understandable mistake. [FN9] Due to this determination, Lans's motion to amend based on Rule 17(a) is denied. (Emphasis added).

In the files that AMS transferred to successor counsel, there is no record that the AMS

Defendants ever sent Dr. Lans a copy of the Court's opinion dismissing the Lans Lawsuit.

97. The Delphi Defendants acted in concert with the AMS Defendants in misleading the Court about Defendants' knowledge, before the Lans Complaint was filed, of Uniboard's interest in the '986 Patent.

98. If Defendants had performed their duties within the standard of care, and had (a) investigated the basis for Uniboard's license to IBM, *or* (b) had prepared documentation clarifying ownership of the Lans Patent and filed it with the U.S. Patent and Trademark Office, the cases would have proceeded on their merits and none of the grounds found by the Court to justify its exceptional case finding would have existed.

99. At a minimum, had Defendants been unable to clarify the ownership of the '986 Patent between Dr. Lans and Uniboard, then AMS, Mastriani and Schaumberg could have sent out notification letters and sued in both names. Their failure to do so brings their actions below the standard of care.

100. District of Columbia Rule of Professional Conduct 1.3 requires that a lawyer not intentionally prejudice or damage a client during the course of the professional relationship. The AMS Defendants violated this Rule and standard of care in misleading the Court about their communications with Dr. Lans and their involvement with the IBM license.

101. Sweden's Code of Conduct for Lawyers § 1 requires that a lawyer pursue his clients interests without letting his conduct be influenced by considerations of his own advantage and § 18 requires that a lawyer be faithful and loyal to his client. The Delphi Defendants violated these rules and the standard of care in not informing their client and the Court of Defendants' negligence and the AMS Defendants' misleading and false testimony statements.

**DEFENDANTS FILE THE UNIBOARD COMPLAINT
WITHOUT PLAINTIFFS' CONSENT**

102. After the Court dismissed the Lans Lawsuit, Defendants decided that they could correct the effects of their negligence by filing a separate action for infringement of the '986 Patent, but substituting Uniboard for Dr. Lans as the plaintiff.

103. On November 29, 1999, after the '986 Patent expired on January 9, 1999, the AMS Defendants filed suit on behalf of Uniboard against Acer America Corporation, AST Research, Inc., Compaq Computer Corporation, Dell Computer Corporation, Digital Equipment Corporation, Gateway 2000, Inc., Hewlett Packard Company, Packard Bell NEC, Inc. in the United States District Court for the District of Columbia, Civil Action Number 99-3153 (the "Uniboard Lawsuit"). Defendants did not tell Plaintiffs that they were filing this lawsuit. When the AMS Defendants finally did inform Plaintiffs of the Uniboard lawsuit, Defendants did not tell Plaintiffs that there was any problem under American law in Uniboard's filing of the lawsuit.

104. On December 17, 1999, three weeks after the AMS Defendants filed the Uniboard lawsuit, Mastriani sent Dr. Lans a document asking him to agree that AMS represented Uniboard for the purpose of litigation.

105. The standard of care requires a lawyer practicing patent litigation to know that the patent statute requires that actual or constructive notice of infringement be given by the patent holder before the patent expires in order for damages to be available. Before the '986 Patent expired, Defendants gave notice of infringement only in Dr. Lans' name.

106. On August 31, 2000, the Court dismissed Uniboard's lawsuit on the ground that the patent had expired by the time Uniboard first gave the infringers notice of infringement – by the filing of Uniboard's complaint on November 29, 1999.

107. The Federal Circuit affirmed dismissal of both the Lans and Uniboard lawsuits on June 4, 2001.

THE COURT AWARDS ATTORNEY FEES AGAINST DR. LANS AND UNIBOARD ONLY

108. Following the dismissal of the Lans lawsuit, defendants Gateway and Dell moved for an award of attorney fees against Dr. Lans and against AMS. Following the dismissal of the Uniboard lawsuit, defendants amended their motion to request attorney fees against Uniboard as well.

109. The standard of care requires that a lawyer inform a client when the lawyer's self-interest conflicts with the interests of the client. The standard of care for an attorney representing a client in litigation also requires the attorney to raise the advice of counsel defense where it applies. The advice of counsel defense applied to Gateway's and Dell's request for attorney fees against Dr. Lans and Uniboard.

110. When Gateway and Dell filed motions for attorney fees against Dr. Lans and Uniboard, and against AMS, Defendants had an obligation to inform Dr. Lans and Uniboard that there was a conflict of interest that prevented AMS and Mastriani from effectively representing their clients. The AMS Defendants also had an obligation to raise the advice of counsel defense on behalf of Dr. Lans and Uniboard. The Delphi Defendants had obligations to review the material filed in response to the motion for attorney fees and to make sure it was factually accurate, and to assure that their clients were made aware of the conflict of interest inherent in the motion, and the advisability of raising the advice of counsel defense.

111. The AMS Defendants never raised the advise of counsel defense nor informed Dr.

Lans that it should be raised. None of the Defendants ever informed Dr. Lans or Uniboard that the lawyers had a conflict of interest in representing both themselves and Dr. Lans and Uniboard in response to defendants' motions for attorney fees. Instead, the AMS Defendants, with the complicity of the Delphi Defendants, acted intentionally to harm their clients.

112. The AMS Defendants concealed from the Court their knowledge of the IBM license and Dr. Lans' repeatedly informing them of an assignment to Uniboard and argued that they had "conducted a reasonable inquiry under the circumstances ... and did not discover any facts that were inexplicably contradictory to Mr. Lans' claim to the Lans patent." The AMS Defendants thus further mislead the Court and obstructed justice, and acted contrary to their clients' interests. The Delphi Defendants acted in complicity with the AMS Defendants in neglecting to take any action to prevent the AMS Defendants' conduct in abandoning and harming their clients. The Delphi Defendants had actual knowledge of the falsity of the AMS Defendants' repeated statements that Dr. Lans had concealed the Uniboard assignment from his lawyers. The Delphi Defendants also had actual knowledge of the AMS Defendants' denials of knowledge of the details of the IBM license agreement with Uniboard.

113. The AMS Defendants never advised the Court that they knew about the Uniboard assignment well before filing the complaints in October 1997, and never advised the Court that they represented Uniboard in connection with the IBM licensing agreement. The Delphi Defendants never advised Plaintiffs or the Court of the AMS Defendants' false testimony. Instead, Defendants jointly perpetuated the Court's false belief that Dr. Lans had withheld from his lawyers both the fact of the assignment to Uniboard and the details of the IBM license.

114. The AMS Defendants never informed the Court that the lawyers made the

decision to file the complaint on behalf of Uniboard without Dr. Lans' or Uniboard's knowledge or consent. The Delphi Defendants never advised Plaintiffs or the Court that the lawyers decided to file the Uniboard complaint without Plaintiffs' consent. Instead, Defendants jointly perpetuated the Court's false belief that Uniboard was responsible for filing its complaint.

115. Based upon the falsehood of the AMS Defendants and the Delphi Defendants, the Court erroneously concluded:

Upon dismissal of the Lans cases, Lans and Uniboard embarked on two separate tracks, although they both continued to be represented by the same counsel.

116. On September 6, 2001, the Court determined that both the Lans and Uniboard lawsuits were "exceptional" within the meaning of 35 U.S.C. § 285, and decided to assess attorney fees against Dr. Lans and Uniboard, but not AMS. The Court based its decision to assess attorney fees against Dr. Lans on the mistaken belief, created by Defendants' falsehoods, that Dr. Lans was in control of the litigation and had withheld information regarding the Uniboard assignment and details of the IBM license from AMS (Order of September 6, 2001):

Lans was in control of all the information regarding the assignment since it was executed. As previously noted, Lans was able to inform his attorneys of the license to IBM, but then appears to have conveniently forgotten the assignment to Uniboard, which was a vital aspect of that transaction. Prior to the declaration in support of his motion to amend, Lans never expressed any doubts as to the assignment's validity. In any event, it was entirely within Lans's ability to verify the validity of the assignment, establish ownership of the patent, and sue in the name of the proper plaintiff. When Lans's attorneys inquired as to whether he had made any assignments of the patent, Lans should have told them about the assignment to IBM and his belief that the assignment was invalid. If he had done that, counsel might have proceeded differently, and avoided this present situation. **The Court cannot escape the conclusion that Lans chose to conceal all information about the assignment, possibly even from his attorneys,** until confronted with irrefutable evidence that the assignment had occurred. (Emphasis added).

117. The Court decided not to award attorney fees against AMS because it concluded erroneously, based upon Defendants' falsehoods, that AMS did not represent Uniboard in discussions with IBM about the scope of the license. If the AMS Defendants had not concealed their representation of Uniboard in these discussions, the Court would have recognized that AMS as a matter of law should have known that the lawsuit should not have been brought in Dr. Lans' name personally. If the Delphi Defendants had come forward to advise the Court that the AMS Defendants were acting contrary to their clients' interests, at the least, the Court would have recognized the presence of a conflict that required independent counsel for Plaintiffs, and as a result the Court may not have been misled. If the Delphi Defendants had come forward and candidly advised the Court of their actual knowledge of the AMS Defendants' falsity, the Court would not have been misled.

118. The Court also awarded attorney fees against Uniboard, but not against AMS, for the AMS Defendants' filing of the Uniboard lawsuit. The Court determined that Uniboard should have known that its suit was frivolous. The AMS Defendants failed to inform the Court that they filed the Uniboard lawsuit without the consent of their clients and without their client's knowledge. The Delphi Defendants failed to come forward and advise the Court that the AMS Defendants filed the Uniboard lawsuit without the consent of their clients and without their client's knowledge. The '986 Defendants knew or should have known that Plaintiffs had not consented to the filing of the Uniboard complaint.

119. The Court recognized that "Adduci engaged in conduct which the Court [found] disturbing." September 6, 2001 Order, pg. 17. Had Defendants met the standard of care and honored their duty to their clients and the Court, the Court would have recognized that the AMS

Defendants had obstructed justice and abandoned their clients.

DEFENDANTS ABANDON THEIR CLIENTS, AGAIN

120. On July 13, 2001, Mastriani sent an email to Dr. Lans stating that AMS would file a petition for certiorari with the United States Supreme Court only if Dr. Lans paid AMS an additional up front fee of \$250,000.

121. On August 22, 2001, Schaumberg faxed a proposed settlement agreement with Gateway to Dr. Lans. The agreement, if executed, would have given Gateway rights to all of Dr. Lans current and future inventions, whether related to the '986 Patent or not – including Dr. Lans' SDTMA technology. Schaumberg was insistent that Dr. Lans sign the document and fax it to him immediately, and send the original by overnight delivery. Dr. Lans changed the language of the agreement so that only patents relating to his color graphics technology would be licensed. Utterstrom sent the original executed copies the draft agreement back to Schaumberg. When Dr. Lans telephoned Schaumberg to object to the breadth of the proposal and discuss Dr. Lans change to the agreement, Schaumberg told him that the language could not be changed and had to be accepted that day. Defendants never informed Dr. Lans that the proposed settlement would indenture him, and that Defendants had a conflict of interest in advising him about settlement. Nevertheless, Dr. Lans insisted that any settlement be confined to the '986 Patent's technology.

122. On September 20, 2001, Mastriani wrote Dr. Lans and told him that he and AMS would refuse to represent Dr. Lans in any appeal of the dismissal of a German action (managed by the AMS Defendants and the Delphi Defendants and dismissed on the basis of the negligently drafted Micron/Diamond Agreement), in connection with defendants' fee petitions in the Lans Lawsuit and Uniboard Lawsuit, on any appeal from the Court's September 6, 2001, Order

granting attorney fees against Dr. Lans and Uniboard, or in any petition for a writ of certiorari to the United States Supreme Court.

123. On September 28, 2001, Mastriani sent a memo to Dr. Lans and the Delphi Defendants stating that AMS would represent Dr. Lans on appeals for the grant of attorney fees to Gateway and Dell, but only if Dr. Lans paid another \$279,000. Defendants had already received nearly \$8 million in fees for representing Dr. Lans under the terms of the Fee Agreement, and had improperly converted an additional amount of over \$1 million from Dr. Lans in violation of the terms of the Fee Agreement.

124. Defendants' demand that Dr. Lans pay additional fees of \$250,000 and \$279,000 to file a petition for a writ of certiorari and file an appeal violated the standard of care set forth in District of Columbia Rule of Professional Conduct 1.16 and breached the Fee Agreement. The demand also violated rules governing the behavior lawyers in Sweden and the European Union.

125. The AMS Defendants' refusal to represent Dr. Lans and Uniboard, without an explanation of the conflict of interest between these attorneys and their clients, was an abandonment of these clients in violation of District of Columbia Rule of Professional Conduct 1.16, the standard of care, and breached the Fee Agreement. The Delphi Defendants had an obligation to act on behalf Plaintiffs to assure that Plaintiffs continued to receive representation under the terms of the Fee Agreement, but failed to do so.

CONVERSION OF CLIENT FUNDS

126. On September 23, 1997, Dr. Lans entered into an Escrow Agreement with the AMS Defendants and the Delphi Defendants. Among other things, the Escrow Agreement provided that Dr. Lans and the AMS Defendants and the Delphi Defendants would loan the

project their respective shares of the sum \$0.39 million. Such amount was to be repaid to Dr. Lans or to the AMS Defendants and the Delphi Defendants with priority before any other payments were made. The Escrow Agreement also required the AMS Defendants to make continuous progress reports on the use of funds for actions in Germany and Italy.

127. The AMS Defendants did not make continuous progress reports to Dr. Lans and did not repay the amount loaned by Dr. Lans under the Escrow Agreement.

128. The AMS Defendants and the Delphi Defendants also received fees from license agreements negotiated with infringers of the '986 Patent. The AMS Defendants were required to dispense these funds in accordance with Fee Agreement.

129. The standard of care for an attorney receiving funds in which a client has an interest is to promptly notify the client that funds have been received, and promptly to deliver to the client all funds that the client is entitled to receive. Upon request, the lawyer is to render a full accounting regarding such property. District of Columbia Rule of Professional Conduct 1.15 required AMS and Mastriani promptly to deliver to Plaintiffs funds they were entitled to receive under the Fee Agreement.

130. From March 19, 1997, through March 2, 2001, the AMS Defendants and the Delphi Defendants received a total of \$20.93 million in licensing fees and interest from other infringers of the '986 Patent. Of this amount, the Fee Agreement required the AMS Defendants and the Delphi Defendants to pay Plaintiffs 67%, or \$14.02 million. The AMS Defendants and the Delphi Defendants paid Plaintiffs \$12.33 million. The AMS Defendants and the Delphi Defendants owe Plaintiffs the sum of \$1.69 million, but have refused to pay Plaintiffs the money entrusted to them that they owe him.

131. Of the \$20.93 million in license fees and interest the AMS Defendants and the Delphi Defendants received from infringers of the '986 Patent, AMS and Delphi were entitled to 33%, or \$6.91 million. The escrow account balance as of April 30, 2002 was approximately \$0.53 million. This means that the AMS Defendants and the Delphi Defendants overpaid themselves the sum of \$1.15 million.

132. Plaintiffs repeatedly requested that the AMS Defendants pay the money owed to them and the AMS Defendants have repeatedly refused to do so. The Delphi Defendants have failed to pay Plaintiffs the money owed them under the Fee Agreement and have done nothing to require the AMS Defendants to pay Plaintiffs.

133. Plaintiffs have repeatedly requested that the AMS Defendants explain the disposition of funds held in trust by these attorneys, but the AMS Defendants have repeatedly refused to do so.

134. The Delphi Defendants, as signators of the Fee Agreement, and being jointly responsible for the representation of Plaintiffs, had an obligation to assure that Plaintiffs were paid in accordance with the terms of the Fee Agreement. The Delphi Defendants failed to honor this obligation, and are jointly responsible for the conversion of Plaintiffs' funds.

135. On August 9, 2002, through counsel, Plaintiffs sought the following information from the AMS Defendants concerning the "accounting" documents provided on May 9:

- 1) Who created the Escrow Activity Reports? What underlying documents were used to create them?
- 2) Are all currencies listed in the Activity Reports expressed in U.S. Dollars?
- 3) Page 3 of the "LANS Escrow Activity Report Europe Account May 6, 1997 to April 30, 2002" is missing.

- 4) Is there a ledger that shows receipt of all funds, so we can verify that all of the funds that were supposed to be deposited into one of the escrow accounts have, in fact, been deposited?
- 5) Were any funds distributed to anyone, or in any other way withheld, before they are deposited into any of the escrow accounts?
- 6) Were any taxes taken out of any of the funds before they were deposited into one of the escrow accounts?
- 7) How is the interest earned on these accounts distributed among the various parties?
- 8) Are the "America," "Europe" and "General" accounts the only accounts that have been used? Have there ever been any other escrow accounts?
- 9) Why were three escrow accounts ultimately established (e.g., why were the America and Europe escrow accounts set up even though the General escrow account had already been established)?
- 10) What determined into which escrow account incoming funds were deposited? What determined from which account disbursements were made?
- 11) What were the reasons why funds were transferred from one of the escrow accounts into another?
- 12) On September 18, 1997, \$260,131.28 was reported as transferred out of the LANS General account under the description: "Transfer LANS America to separate account." These funds do not appear to have been deposited into any of the other escrow accounts. Where did the funds go and why?
- 13) On December 10, 1997, \$310,851.17 was reported as being transferred from LANS General to LANS Europe under the description: "Transfer to Crestar Securities LANS Europe." The European Account Activity Report has no record of receiving it. What happened to these funds?
- 14) Why is it that in some situations funds were transferred through Crestar and in other situations they were not?
- 15) What records verify that the two-thirds, one-third split has been accurately applied when distributions were made?

- 16) Please identify each party receiving distributions from the escrow accounts and the reason why each distribution was made. What documents exist to show that these payments were authorized and were in fact disbursed?
- 17) Who is June Collier and why has June Collier both deposited (e.g., February 14, 1997 General Account) and withdrawn funds (e.g., May 9, 1997 General Account) from the Hakan Lans escrow accounts?
- 18) Are any distributions made for expenses that either Adduci, Mastriani & Schaumberg or Advokatfirman Delphi was obligated to pay under the fee agreement? If so, please identify them.

136. Through counsel, the AMS Defendants refused to provide any of the requested information or any other information.

137. Defendants were responsible for hiring and overseeing German counsel to pursue the German counterpart of the '986 Patent in the German courts. Defendants failed to provide information to Plaintiffs concerning that litigation. On September 17, 2002, through counsel, Plaintiffs asked the AMS Defendants to provide all documents concerning the German action filed on behalf of Dr. Lans. The AMS Defendants never answered the letter, and never provided the documents.

138. On September 17, 2002, through counsel, Plaintiffs also asked the AMS Defendants to send Plaintiffs' counsel the Non-Assertion-Agreement between Hakan Lans and Diamond Multimedia Systems Inc. dated September 12, 1998, negotiated by AMS, and all documents concerning that agreement, and all agreements negotiated on behalf of Dr. Lans and/or Uniboard by AMS. The AMS Defendants never answered the letter, and never provided the documents.

139. On September 18, 2002, through counsel, Plaintiffs asked the AMS Defendants to transmit copies of all the September 1996 notice of infringement letters it sent on behalf of Dr.

Lans, as all of the documents had never been provided. The AMS Defendants never answered the letter, and never provided the documents. The AMS Defendants and the Delphi Defendants were responsible for hiring and overseeing Italian counsel to pursue the Italian counterpart of the '986 Patent in the Italian courts. The AMS Defendants and the Delphi Defendants failed to provide information to Plaintiffs concerning that litigation. On October 22, 2002, through counsel, Plaintiffs asked the AMS Defendants to transmit copies of the judgment/opinion in the Italian action. The AMS Defendants never answered the letter, and never provided the documents.

VALUE OF THE '986 PATENT

140. In 1986, VGA (Video Graphics Array, sometimes also referred to as Video Graphics Adapter) became the *de facto* standard for handling color graphic imaging. In 1989, IBM took a license on the '986 Patent from Uniboard and paid over a million dollars for a non-exclusive right to use the technology covered by the Lans invention. Thereafter, a number of other licensees paid millions of dollars for the right to use the '986 patented invention. The AMS Defendants recognized the broad scope of the Lans invention when they took on the representation of Dr. Lans.

141. In early 1997, Mastriani stated in an interview with Electronic News “[t]he patent covers VGA and subsequent evolutions ... virtually all graphics systems in use today.” According to Mastriani, “Mr. Lans essentially invented VGA.” In letters to approximately a hundred potential infringers, Mastriani described the '986 patented invention as one with pioneering status. The AMS Defendants understood the commercial value of the '986 patented invention.

142. The AMS Defendants represented that license fees for the '986 Patent would be more than \$100 million in settlements with defendants in the Lans Lawsuits only.

**FIRST CAUSE OF ACTION
RICO**

143. Plaintiffs incorporate and reallege ¶¶ 1 through 142 as though fully set forth herein.

144. The AMS Persons, and the Delphi Defendants are “persons” within the meaning of 18 U.S.C. § 1962 and as defined by 18 U.S.C. § 1961.

145. AMS is an “enterprise” within the meaning of 18 U.S.C. § 1962 and as defined by 18 U.S.C. § 1961.

146. AMS is engaged in, and its activities affect, interstate commerce.

147. The AMS Persons conducted or participated, directly or indirectly, in the conduct of AMS’s affairs through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962 (c), namely:

- a. The AMS Persons caused AMS to file Mastriani’s material false statement in the Lans Lawsuit, and caused AMS to file related statements confirming Mastriani’s material sworn falsehood, in violation of the obstruction of justice statute, 18 U.S.C. § 1503, which constitutes an act of racketeering under 18 U.S.C. § 1961.
- b. The AMS Persons caused Mastriani’s material false testimony, and subsequent affirmations of that false testimony, to be sent by mail and wire to numerous persons, in violation of the mail and wire fraud statutes,

18 U.S.C. §§ 1341 and 1343, which are acts of racketeering under 18 U.S.C. § 1961.

148. The Delphi Defendants participated, directly or indirectly, in the conduct of AMS's affairs through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962 (c), and conspired with the AMS Persons to engage in a pattern of racketeering activity in violation of 18 U.S.C. § 1962 (d). The Delphi Defendants knew that the AMS Persons caused AMS to file Mastriani's material false statements in the Lans Lawsuit, and caused AMS to file related statements confirming Mastriani's material false statements. The Delphi Defendants had an obligation to correct the misstatements, but did nothing, furthering the AMS Person's obstruction of justice in violation of 18 U.S.C. § 1503, which is an act of racketeering under 18 U.S.C. § 1961.

149. AMS received income derived directly or indirectly from the patterns of racketeering activity as alleged above and used such income in the operation of the enterprise (AMS) in violation of 18 U.S.C. § 1962 (a).

150. As a direct and proximate result of the racketeering activities in violation of 18 U.S.C. § 1962, *et seq.*, by the AMS Persons and the Delphi Defendants, Dr. Lans and Uniboard were injured in their business and property, namely the '986 Patent and the enforcement thereof, and, therefore, Dr. Lans and Uniboard are entitled to threefold recovery of damages and the costs of suit, including attorney's fees under 18 U.S.C. § 1964 (c).

**SECOND CAUSE OF ACTION
BREACH OF CONTRACT (DR. LANS)**

151. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth

herein.

152. Dr. Lans entered into a written contract with the AMS Defendants and the Delphi Defendants.

153. Defendants breached the written contract with Dr. Lans.

154. As a direct and proximate result of Defendants' breach of contract, Dr. Lans has been damaged.

**THIRD CAUSE OF ACTION
BREACH OF IMPLIED COVENANT OF GOOD FAITH
AND FAIR DEALING (DR. LANS)**

155. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

156. Dr. Lans' contract with the AMS Defendants and the Delphi Defendants contained an implied covenant that these attorneys would deal with their client in good faith and fairly.

157. Defendants engaged in conduct, separate and apart from their performance of obligations under the contract, without good faith and for the purpose of depriving Dr. Lans of his rights and benefits under the contract.

158. As a direct and proximate result of Defendants' breach of the covenant of good faith and fair dealing, Dr. Lans has been damaged.

**FOURTH CAUSE OF ACTION
BREACH OF CONTRACT (UNIBOARD)**

159. Uniboard incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

160. The AMS Defendants and the Delphi Defendants entered into a contract to

represent Uniboard in connection with the '986 Patent.

161. Defendants breached their contract with Uniboard.

162. As a direct and proximate result of the Defendants' breach of contract, Uniboard has been damaged.

**FIFTH CAUSE OF ACTION
BREACH OF IMPLIED COVENANT OF GOOD FAITH
AND FAIR DEALING (UNIBOARD)**

163. Uniboard incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

164. Uniboard's contract with the AMS Defendants and the Delphi Defendants contained an implied covenant that these attorneys would deal with their client in good faith and fairly.

165. Defendants engaged in conduct, separate and apart from their performance of obligations under the contract, without good faith and for the purpose of depriving the Uniboard of its rights and benefits under the contract.

166. As a direct and proximate result of the Defendants' breach of the covenant of good faith and fair dealing, Uniboard has been damaged.

**SIXTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

167. Plaintiffs incorporate and reallege ¶¶ 1 through 142 as though fully set forth herein.

168. As attorneys for Plaintiffs, Defendants had a fiduciary duty of trust and loyalty to their clients.

169. Defendants breached their fiduciary obligations to Plaintiffs.

170. As a direct and proximate result of Defendants' breach of their fiduciary duty, Plaintiffs have been damaged.

171. In addition, as a result of Defendants' breach of fiduciary duty, Plaintiffs are entitled to a disgorgement of all fees paid to Defendants.

172. Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Plaintiffs' rights, justifying an award of punitive damages.

**SEVENTH CAUSE OF ACTION
MALPRACTICE**

173. Plaintiffs incorporate and reallege ¶¶ 1 through 142 as though fully set forth herein.

174. In their representation of Plaintiffs, Defendants owed Plaintiffs the duty to use the care and skill ordinarily exercised in like cases by reputable members of the legal profession practicing in the area of patent protection and patent litigation, and the duty to use reasonable diligence and their best judgment in the exercise of skill and the application of learning.

175. In their representation of Plaintiffs, Defendants failed to perform these duties, and committed professional malpractice.

176. As a direct and proximate result of Defendants' malpractice, Plaintiffs have been damaged.

177. Plaintiffs are also entitled to a disgorgement of all fees received by Defendants in connection with the '986 Patent Litigation.

178. Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Plaintiffs' rights, justifying an award of punitive damages.

**EIGHTH CAUSE OF ACTION
FRAUD AND DECEIT (DR. LANS)**

179. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

180. In falsely representing to the Court that the AMS Defendants had no knowledge of the Uniboard assignment, and in perpetuating that fraud, the AMS Defendants engaged in fraud and deceit.

181. The Delphi Defendants had a duty to Dr. Lans and to the Court to correct the false statement made by the AMS Defendants.

182. The representation was false.

183. The AMS Defendants and the Delphi Defendants knew that the representation was false when it was made.

184. The AMS Defendants intended the Court to rely upon their false representation, and the Delphi Defendants reasonably understood that the false statement was made with the intention of having the Court rely upon it.

185. The false representation was material to the Court's decision.

186. The AMS Defendants intended that the false representation would harm Dr. Lans, and the Delphi Defendants knew that the false representation, if uncorrected, would harm Dr. Lans.

187. The Court relied upon the AMS Defendants' false representation, aided by the Delphi Defendants' silence, to Dr. Lans' detriment.

188. As a direct and proximate result of the AMS Defendants' and the Delphi

Defendants' fraud, Dr. Lans has been damaged.

189. The AMS Defendants' and the Delphi Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Dr. Lans' rights, justifying an award of punitive damages.

**NINTH CAUSE OF ACTION
FRAUDULENT CONCEALMENT (DR. LANS)**

190. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

191. The AMS Defendants and Delphi Defendants fraudulently concealed from the Court that they knew of the Uniboard assignment by February 1997 at the latest, and that the AMS Defendants had represented Uniboard in its discussions with IBM concerning the scope of IBM's license.

192. The facts concealed were material.

193. The AMS Defendants and Delphi Defendants had a duty both to Dr. Lans and to the Court to disclose the facts they concealed.

194. The AMS Defendants and Delphi Defendants concealed these facts with the intention of defrauding the Court to Dr. Lans' detriment.

195. The Court was unaware of the true facts and was not in a position to learn the true facts without Defendants honesty.

196. The Court would have acted differently had it known the truth about the facts that the AMS Defendants and Delphi Defendants concealed.

197. As a direct and proximate result of the AMS Defendants' and the Delphi Defendants' fraudulent concealment, Dr. Lans has been damaged.

198. Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Dr. Lans' rights, justifying an award of punitive damages.

**TENTH CAUSE OF ACTION
FRAUDULENT CONCEALMENT (UNIBOARD)**

199. Uniboard incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

200. The AMS Defendants and Delphi Defendants fraudulently concealed from the Court that the AMS Defendants made the decision to file the Uniboard Lawsuit independently of Dr. Lans and Uniboard, and did not inform Dr. Lans or Uniboard of the decision until after the Uniboard Lawsuit was filed.

201. The facts concealed were material.

202. The AMS Defendants and Delphi Defendants had a duty both to Uniboard and to the Court to disclose the facts they concealed.

203. The AMS Defendants and Delphi Defendants concealed these facts with the intention of defrauding the Court to Uniboard's detriment.

204. The Court was unaware of the true facts and was not in a position to learn the true facts without the AMS Defendants' and the Delphi Defendants' honesty.

205. The Court would have acted differently had it known the truth about the facts that the AMS Defendants and Delphi Defendants concealed.

206. As a direct and proximate result of the AMS Defendants' and the Delphi Defendants' fraudulent concealment, Uniboard has been damaged.

207. The AMS Defendants' and the Delphi Defendants' conduct was malicious and

willful, wanton and/or in reckless disregard of Uniboard's rights, justifying an award of punitive damages.

**TWELFTH CAUSE OF ACTION
CONVERSION (DR. LANS)**

208. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

209. Defendants received a total of \$20.93 million in licensing fees and interest from other infringers of the '986 Patent.

210. Dr. Lans has a right to \$1.69 million received by Defendants but withheld from them.

211. Dr. Lans has demanded that the AMS Defendants pay him the \$1.69 million owed.

212. Defendants misappropriated and converted \$1.69 million that they owe Dr. Lans under the Fee Agreement, and have failed to pay him.

213. Defendants have misappropriated and converted \$1.15 million from the Attorney Trust Account holding client funds.

214. Defendants' misappropriation and conversion of Dr. Lans' funds was knowing and intentional.

215. As a direct and proximate result of Defendants' conversion of Dr. Lans' property, Dr. Lans have been damaged.

216. Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Dr. Lans' rights, justifying an award of punitive damages.

**THIRTEENTH CAUSE OF ACTION
ACCOUNTING (DR. LANS)**

217. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

218. As fiduciaries, Defendants must account to Dr. Lans for all funds received in connection with the '986 Patent Litigation.

**FOURTEENTH CAUSE OF ACTION
CONSTRUCTIVE TRUST**

219. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

220. Defendants have been disloyal fiduciaries to Dr. Lans, and profited and were enriched by their disloyalty.

221. As disloyal fiduciaries who profited as a result of their disloyalty, Defendants are deemed to hold the funds and benefits they have received in connection with the '986 Patent Litigation, and the interest and proceeds obtained on the use of the funds they wrongfully received, in constructive trust for the Dr. Lans' benefit.

**FIFTEENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (DR. LANS)**

222. Dr. Lans incorporates and realleges ¶¶ 1 through 142 as though fully set forth herein.

223. Defendants' conduct toward Dr. Lans was extreme and outrageous, and intentionally or recklessly caused Dr. Lans severe emotional distress.

224. Defendants' conduct was malicious and willful, wanton and/or in reckless disregard of Dr. Lans' rights, justifying an award of punitive damages.

WHEREFORE, Plaintiffs request that the Court enter judgment in their favor and against Defendants as follows:

- A. That Plaintiffs be awarded actual and treble damages, and attorney fees for Defendants' racketeering activities.
- B. That Plaintiffs be awarded damages for Defendants' breaches of contract.
- C. That Plaintiffs be awarded all damages caused by Defendants' breaches of the implied covenants of good faith and fair dealing in their contracts with Defendants.
- D. That Plaintiffs be awarded damages for fraud and fraudulent concealment.
- E. That Plaintiffs be awarded all damages caused by Defendants' breaches of fiduciary duty.
- F. That Defendants be required to disgorge all fees received as a result of their activities in connection with the '986 Patent Litigation.
- G. That Plaintiffs be awarded all damages caused by Defendants' malpractice;
- H. That Plaintiffs be awarded all damages caused by Defendants' conversion.
- I. That a constructive trust be imposed on all funds received and retained by Defendants in connection with the '986 Patent Litigation, and on any and all proceeds obtained as a result of the use of such funds;

- J. That Dr. Lans be awarded all damages caused by Defendants' intentional infliction of emotional distress upon him.
- K. That Plaintiffs be awarded exemplary and punitive damages against Defendants in an amount sufficient to punish Defendants and to deter others.
- L. That Dr. Lans and Uniboard be awarded such other relief, including prejudgment interest, costs, disbursements and attorney fees, as permitted by law.

Dated: September 30, 2005

/s/

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JURY DEMAND

Plaintiffs Håkan Lans and Uniboard Aktiebolag demand a trial by jury.

Dated: September 30, 2005

/s/

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