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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
LINKCO, INC.,

Plaintiff,

-against-

FUJITSU LTD.,

Defendant.
----- x

00 Civ. 7242 (SAS)

: **NAOYUKI AKIKUSA'S RESPONSE**
: **TO LINKCO'S WRITTEN**
: **INTERROGATORIES**

Naoyuki Akikusa, by and through his attorneys, submits the following answers to the written interrogatories propounded by Plaintiff LinkCo, Inc., as modified by agreement of counsel. Defendant Fujitsu Limited, for whom Mr. Akikusa serves as President, is undertaking to answer certain of the interrogatories that seek information more appropriately provided by the corporation. A separate response to those interrogatories is being served simultaneously with these answers. In the following document, Mr. Akikusa's answers are in bold type; objections interposed by his counsel are in bold and italicized type.



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ANSWERS AND OBJECTIONS

1. State your name?

A: Naoyuki Akikusa.

(a) Briefly describe your career history with Fujitsu Ltd., and any related companies, including each position held over time, the years in which that position was held, and your responsibilities in that position?

(b) What has been your total compensation at Fujitsu, Ltd. each of the past three years?

(c) How many shares of Fujitsu, Ltd. stock do you own, either directly or indirectly?

(d) Describe any options that you possess, either directly or indirectly, for acquiring shares of Fujitsu, Ltd. stock?

(e) **WITHDRAWN BY LINKCO**

Fujitsu objects to parts (a) through (d) of this interrogatory because the information sought is not relevant to any claim or defense in this action and/or the questions are designed to harass and/or annoy the witness.

2. What are your duties and responsibilities as President of Fujitsu Ltd.?

A: As President of Fujitsu Limited, I am broadly responsible for providing strategic direction and leadership in the management of the company's businesses.

(a) Indicate whether the following employees report to you, either directly, or indirectly?

- (i) Executive Director Kojima
- (ii) Director Ohshima
- (iii) Director Hirose
- (iv) Director Hanme
- (v) And with respect to Exhibit F hereto (Deposition Exhibit 96)
- (vi) Mr. Okazaki
- (vii) Mr. Shibue
- (viii) Mr. Itou
- (ix) Mr. Sakai
- (x) Mr. Tamura
- (xi) Mr. Kitagawa
- (xii) Mr. Shimohala

A: Of the individuals listed in Question 2(a)(i) through 2(a)(xii), the only individuals who report directly to me in the management structure of Fujitsu Limited are Mr. Kojima and Mr. Hirose. Mr. Madarame (incorrectly translated as "Hanme") reports to Mr. Hirose. As for who among the other employees listed reports "indirectly" to me, in a sense all employees of Fujitsu Limited report indirectly to me, although for the vast majority of Fujitsu employees there are many levels of management between the president and the employee.

(b) Do you report to any of the individuals referenced in question 2(a)?
Which individuals?

A: No.

3. At Fujitsu, Ltd. what level of capital expenditure (in yen or dollars) are required to be submitted to you, as President, for your consideration and/or approval.

(a) At Fujitsu, Ltd. what level of capital expenditures (in yen or dollars) is required to be submitted to the Board of Directors for their review and/or approval?

(b) As President of Fujitsu, Ltd., what level of capital expenditures (in yen or dollars) do you expect Fujitsu employees to submit to you for your review and/or approval?

(c) At Fujitsu, Ltd. what size transaction, acquisitions or divestitures (in yen or dollars) are required to be submitted to you, as President for your review and/or approval?

(1) What level is required to be submitted to the Board of Directors for its review and/or approval?

(d) At Fujitsu, Ltd. what size expenditure, on new business developments (in yen or dollars) are required to be submitted to you, as President for review and/or approval.

(e) Describe generally what types of business decisions and what level of yen or dollars expenditures are minimally required to be submitted to the President of Fujitsu, Ltd. and the Board of Directors of Fujitsu, Ltd. for its review and/or approval.

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

4. Describe generally when and how you became aware of Fujitsu's involvement in the following projects -- 4(a) through 4(e). State who first apprised you, what you were told, what direction if any, that you gave.

(a) Fujitsu bidding and/or work on TDNet.

A: Although I cannot recall when, I became generally aware that Fujitsu got an order from the Tokyo Stock Exchange to construct its TDNet system. I do not recall who first apprised me of that project or what I was told about it beyond what I have stated in this answer, and did not give any directions regarding the project.

(b) Fujitsu bidding and/or work on EDINET.

A: I became only aware that Fujitsu failed to get an order from the Ministry of Finance to construct its EDINET system. I do not recall who first apprised me of that project or what I was told about it beyond what I have stated in this answer, and did not give any directions regarding the project.

(c) Fujitsu work on, and/or commercialization of DisclosureVision, Investors Solution, Digital Solution and/or IR Digital Solution.

A: Around the time of its press release, I became generally aware that Fujitsu was offering a solution series product named "@DisclosureVision." I am not familiar with "Investors Solution," "Digital Solution," or "IR Digital Solution." As for DisclosureVision, I do not recall who first apprised me of that project or what I was told about it beyond what I have stated in this answer, and did not give any directions regarding this project.

(d) Fujitsu work on and/or development of Meridio (spelling corrected).

A: I have no knowledge about this product.

(e) Fujitsu work on, and/or commercialization of TanshinStation.

A: I am not aware of Fujitsu's work on or commercialization of anything known as "TanshinStation."

5. Which respect to each of the above projects describe how regularly you have followed the progress of the project, who reported to you on the project, and how you have been updated on the project?

A: With respect to the projects listed in 4(a) through 4(e), I have not regularly followed the progress of those projects and have not received reports or updates on these projects.

6. When, if at all, did you first review the LinkCo lawsuit in this case, or any summary of the allegations of that lawsuit? Did you direct an investigation of the allegations of the Complaint? Did you review the results of any investigation of the allegations of the Complaint? If so, when and how?

A: I have never reviewed the LinkCo lawsuit, or any summary of allegations of the lawsuit. In January 2000, I was informed by our Legal Division that a lawsuit had been filed against Fujitsu by LinkCo. I did not direct any investigation of the allegations of the Complaint and have not reviewed the results of any investigation of the Complaint. I have never seen the Complaint.

(a) Do you know whether Fujitsu misappropriated any confidential information and/or trade secrets of LinkCo? If your answer is yes, identify what you know that supports or rebuts whether Fujitsu misappropriated any confidential information and/or trade secrets of LinkCo?

A: I do not know whether Fujitsu misappropriated any confidential information or trade secrets of LinkCo.

(b) Do you know whether any of the fundamental business concepts, technology or architecture of DisclosureVision was obtained from LinkCo or from any of LinkCo's employees or advisors? If your answer is yes, identify what you know that regarding Fujitsu's obtaining that information from LinkCo or its employees or advisors?

A: I do not.

(c) **WITHDRAWN BY LINKCO**

(d) Have you reviewed and/or approved any business plans, business decisions or expenditures relating to the DisclosureVision business? If so, identify when your involvement occurred and what form that involvement took? Identify what plans you reviewed, and what actions, if any, were taken as a result of that review?

A: I have not reviewed or approved business plans, business decision, or expenditures related to the DisclosureVision business.

(e) Are you aware that a former LinkCo employee, Kiyoto Kanda met on a regular basis with Fujitsu system engineers as they were working on the development of the DisclosureVision product?

(f) Are you aware that Kiyoto Kanda met several times with Fujitsu employees working in the area of developing corporate disclosure products while he was still employed by LinkCo.

(g) Are you aware that Kiyoto Kanda suggested to Fujitsu that it use the name TanshinStation as part of its description of the DisclosureVision product offering?

(h) Are you aware that Fujitsu sought and obtained a hold harmless agreement from Kiyoto Kanda with respect to any losses relating to services he provided for Fujitsu?

A: I do not recall ever having heard of Kiyoto Kanda, and therefore the answer is "no" to all the questions in 6(e) through 6(h).

7. When, if at all, did you read the Fujitsu reports which are attached hereto as Exhibits A, B, C and D? If you did read these reports identify what actions, if any, you took as a result of these reports?

A: I do not recall ever seeing the reports attached as Exhibits A, B, C, and D.

(a) Is there a Fujitsu policy or practice regarding what reports of business activity should be sent to the President of Fujitsu, Ltd? If so, describe the policy or practice, and whether the policy or practice is written or oral?

A: I do not believe there is a company-wide policy or practice as to what reports of business activity are sent to Fujitsu's president, either written or oral. In my experience, different departments within Fujitsu Limited might have different practices as to whom reports are circulated. I do not know whether such practices are found in written policies.

(b) Why were these reports sent to you?

A: I do not know.

(c) Have you spoken to, or received other reports of any kind from anyone about the 20 meetings that are disclosed in the reports to you (Exhibits A, B,

C and D) which were attended by former LinkCo executive, Kiyoto Kanda? If so, what additional information were you provided, and when and how was it conveyed?

A: No.

(d) Has anyone reported to you regarding Kiyoto Kanda work on behalf of Fujitsu other than in the references to the 20 meetings disclosed in Exhibits A, B, C and D? If so, what additional information were you provided, and when and how was that information provided?

(e) Have you ever met Kiyoto Kanda?

(f) Are you aware that Fujitsu has represented that Kiyoto Kanda was its collaborator?

A: As explained earlier, I have never heard of Kiyoto Kanda, so the answer to each question is no.

8. With respect to the stated purpose of the meetings described in Exhibit A (pg. FLO3570) "Disclosure System Study," what directions, if any, have you given since January 1, 1997 at Fujitsu regarding the study, development or commercialization of electronic corporate disclosure systems.

A: I have never given any instructions regarding the study, development, or commercialization of electronic corporate disclosure systems.

(a) What direction, if any, have you given at Fujitsu, since January 1, 1997, regarding the study, development or commercialization of products that allow companies to provide disclosure of information on by Internet?

Fujitsu objects to this part of Interrogatory 8 because it is vague and ambiguous in its failure to specify what "products" are the subject of the question.

A: If "disclosure" in this question refers to the filing of information electronically with an entity such as the Ministry of Finance or a stock exchange, I have not given any particular direction since January 1, 1997 regarding the study, development, or commercialization of products that allow companies to provide disclosure by Internet.

9. What directions, if any, have you given at Fujitsu, Ltd. since January 1, 1997, regarding whether Fujitsu should hire employees or consultant of other companies who have non-disclosure and/or non-compete agreements with their former employers, as to whether such employees or consultants should be placed in positions that will involve disclosure of the confidential information of their former employers. Do any Fujitsu policies exist on that subject? If so what are the policies and when there were promulgated?

A: As to the first question, I have not given any specific directions since January 1, 1997 regarding the subject matter of this question.

As to the second and third questions, Fujitsu objects on the basis that they seek

information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

10. What policy, if any, does Fujitsu have regarding Fujitsu's use of its competitor's trade secrets and/or other confidential information without the competitor's permission? Is the policy written? When was it promulgated?

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

11. What policies and practices, if any, does Fujitsu have which are designed to protect Fujitsu from claims that it improperly obtained trade secrets or confidential information from other individuals or companies? Do any written Fujitsu policies exist on that subject? If so what are the policies and when they were promulgated?

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

12. Are you aware that Fujitsu employees deposed in this case have stated that they destroyed and shredded several documents relating to the development of DisclosureVision?

A: No.

- (a) What is the policy of Fujitsu regarding destroying or shredding of documents created in the development of new products.
- (b) What is the policy of Fujitsu regarding destroying or shredding documents relating to a pending lawsuit?
- (c) What is the retention policy of Fujitsu? When was it promulgated?

Fujitsu objects to parts (a) through (c) of this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

13. Identify whether Fujitsu, Ltd. has any written ethical policies or written ethical standards for its employees, and identify what those policies and/or standards are?

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

14. With respect to the article attached hereto as Exhibit E (Deposition Exhibit 23), when if ever, did the Fujitsu Group begin to use the corporate strategy of "Everything on the Internet? Who at Fujitsu conceived of that corporate strategy? Did that strategy include a direction to develop product that would place a companies' business, financial and accounting information on the Internet.

Fujitsu objects to this interrogatory as vague and ambiguous, and because it is not relevant to the claims or defenses being litigated.

A: Since approximately June in 1999, Fujitsu has used "Everything on the Internet" as a slogan to describe Fujitsu's goal or strategy of becoming a preeminent provider of Internet-related products and services. The strategy cannot be attributed to any one individual or group of individuals at Fujitsu. The strategy did not include any specific direction to develop "DisclosureVision" or any corporate disclosure system products.

15. Has Fujitsu entered into a comprehensive program of global co-operation with Microsoft?

(a) When did it enter into such an alliance with Microsoft?

(b) Did that alliance with Microsoft have as one of its objectives to offer Windows platform solutions with greater reliability, availability and scalability to Fujitsu customers?

(c) Did that alliance with Microsoft have as one of its objectives increasing Fujitsu's Window-related corporate solutions business?

(d) Has that alliance with Microsoft resulted in any new DisclosureVision products, features, functions or services? If so identify the products features, functions or services, what revenues and profits have been realized to date, and what revenues and profits have been projected and/or targeted for the future?

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

16. What role, if any, did you play with respect to the selection or approval of Fujitsu's corporate message that "The Possibilities Are Infinite." Is that quoted statement meant to convey that Fujitsu has positioned itself to unleash the "infinite possibilities" of the Internet and to provide idea Internet solutions to Fujitsu customers? Has that corporate message been utilized in the sales and marketing of DisclosureVision products?

Fujitsu objects to this interrogatory because it seeks information that is not relevant to the claims or defenses in this case.

A: The selection of "The Possibilities Are Infinite" as a company-wide marketing slogan was made mainly by Corporate Planning and Business Development Division

at Fujitsu. In my opinion, the quoted statement is our corporate message intended to convey that Fujitsu Group can help customers achieve their highest goals. I do not know whether that slogan has been utilized in the sales and marketing of DisclosureVision products.

17. When and how did you first become aware that Fujitsu was intending to develop a corporate disclosure system? When and how did you learn that that system was intended to include the following features?

(a) That the system would permit electronic filing with the Ministry of Finance and/or with Japanese stock exchanges.

(b) That corporate information would be available in both English and Japanese.

(c) That a single centrally managed database would insure that all communication will use a single source of information.

(d) That the system would utilize the Internet to convey information to analysts, other companies, institutional and individual investor.

(e) That the system would utilize a relational database.

(f) That the system has a database combining information from accounting human resources, public relationships and other corporate departments.

(g) That the system would contain a YuhoStation and/or TanshinStation that reduces information to a formatted database that reorganizes the contents of the database to in a format that is highly searchable and suitable for drawing inferences with respect to the contents.

(h) That the system interfaces with companies ERP and accounting systems.

Fujitsu objects to this interrogatory on the basis that it is vague and ambiguous in its use of the term "corporate disclosure system" without defining that term.

A: I am not aware of the meaning of "corporate disclosure system" as used in the question, but assuming this means the DisclosureVision project, I first became aware of Fujitsu's work on the project around the time of its press release announcing DisclosureVision. Because I am not aware of any of the specific features of the DisclosureVision project, I do not know whether the specific features listed in (a) through (h) are features that were included in the DisclosureVision systems.

18. Identify any discussions that you have had since January, 1997 with either the Ministry of Finance and/or Tokyo Stock Exchange regarding issues relating to corporate disclosure. When did you have these discussions, who participated and what was said by each of the participants?

Fujitsu objects to this interrogatory on the basis that it is vague and ambiguous in its use of the term "corporate disclosure" without defining that term.

A: Even assuming "corporate disclosure" refers to the electronic filing of corporate reports with the Tokyo Stock Exchange and Ministry of Finance, I have had no discussions with representatives of the Tokyo Stock Exchange or Ministry of Finance since January 1997.

19. What policies and practices does Fujitsu follow to identify and reward those responsible for conceiving new inventions at Fujitsu?

Fujitsu objects to this interrogatory on the basis that it seeks information more appropriately supplied by the corporation than by Mr. Akikusa. Fujitsu will separately provide a response to this interrogatory as a corporation as if the request had been propounded to it under Fed. R. Civ. P. 33.

20. Have you negotiated royalty agreements as an employee of Fujitsu? With respect to those royalty agreements describe what was being licensed and what royalty rates Fujitsu agreed to pay, or agreed to accept? What considerations does Fujitsu take into account in determining when to license other parties' technology, and how much to pay for licensing that technology?

Fujitsu objects to this interrogatory on the basis that the information sought is not relevant to any claim or defense in this action, and especially Mr. Akikusa's participation in the negotiation of royalty agreements as a Fujitsu employee and the particulars of any such participation have no conceivable relevance to this lawsuit. Further, Fujitsu objects to this interrogatory insofar as disclosure of such information could cause Fujitsu prejudice in that it unnecessarily seeks confidential business information.

21. Do you deny that Fujitsu issued a statement to the public in March of 1999, that knowingly misstated the expected revenue to be generate by Fujitsu, Ltd.? If so, what is the factual basis for your denial?

Fujitsu objects to this interrogatory because it fails to identify with particularity the "statement to the public" to which the first sentence refers.

A: I do not know what "statement to the public" is referred to in this question, and therefore I have no basis to admit or deny that any statement was made.

Fujitsu objects to the following parts (a) through (c) of this interrogatory because the questions posed lack foundation in that they refer to conversations, business plans, and public statements without any degree of specificity.

(a) Are you aware that Fujitsu, Ltd. managers and supervisors told employees at Fujitsu, Ltd. that they would not be held responsible for overstating to the public the revenue expectations to be realized from DisclosureVision that were released tot he public in March, 1999?

A. No.

(b) Are business plans at Fujitsu, Ltd. supposed to be realistic in their projections of anticipated revenues, expenses and profits?

A. Yes.

(c) Are Fujitsu, Ltd.'s public statements about projected anticipated revenues supposed to be realistic? Is it ever acceptable at Fujitsu, Ltd. to knowingly represent to the public that the company expects far more

revenue from a business product, than it actually realistically expects to achieve?

A. Yes (as to first question); no (as to second question).

22. Are you aware of any alliances, joint ventures or other business relationships of any kind between Fujitsu, Ltd. and Nichimen, Inc.? If so, describe generally the relationship, the scope of the relationship and when it was formed?

(a) Have Fujitsu, Ltd. and Nichimen, Inc. had discussions regarding OCR technology, or any other technology, relating to corporate disclosure products? If so, describe what technology was discussed, when it was discussed, and by whom?

A: I am aware of a joint venture company mainly invested and established by Circle K Japan Co Ltd. and Sunkus & Associates Inc. in which Fujitsu Limited is one of other fifteen investors and in which Nichimen is also one of the investors, and that joint venture is described in the attached materials. However, I do not know why Nichimen is also an investor of the joint venture. I do not know whether Fujitsu and Nichimen have had any discussions of the kind described in paragraph 22(a).

23. What discussions have Fujitsu, Ltd. and Takara (spelling corrected) Printing had regarding or relating to DisclosureVision? Are you aware that Takara (spelling corrected) Printing has a non-disclosure agreement with LinkCo, Inc.

A: I do not know anything about Takara Printing.

24. Describe what involvement, if any, that you have had in responding to the lawsuit, other than giving these written deposition responses.

A: Other than giving these responses, I have had no involvement in this lawsuit at all.