

THE VANCOUVER SUN

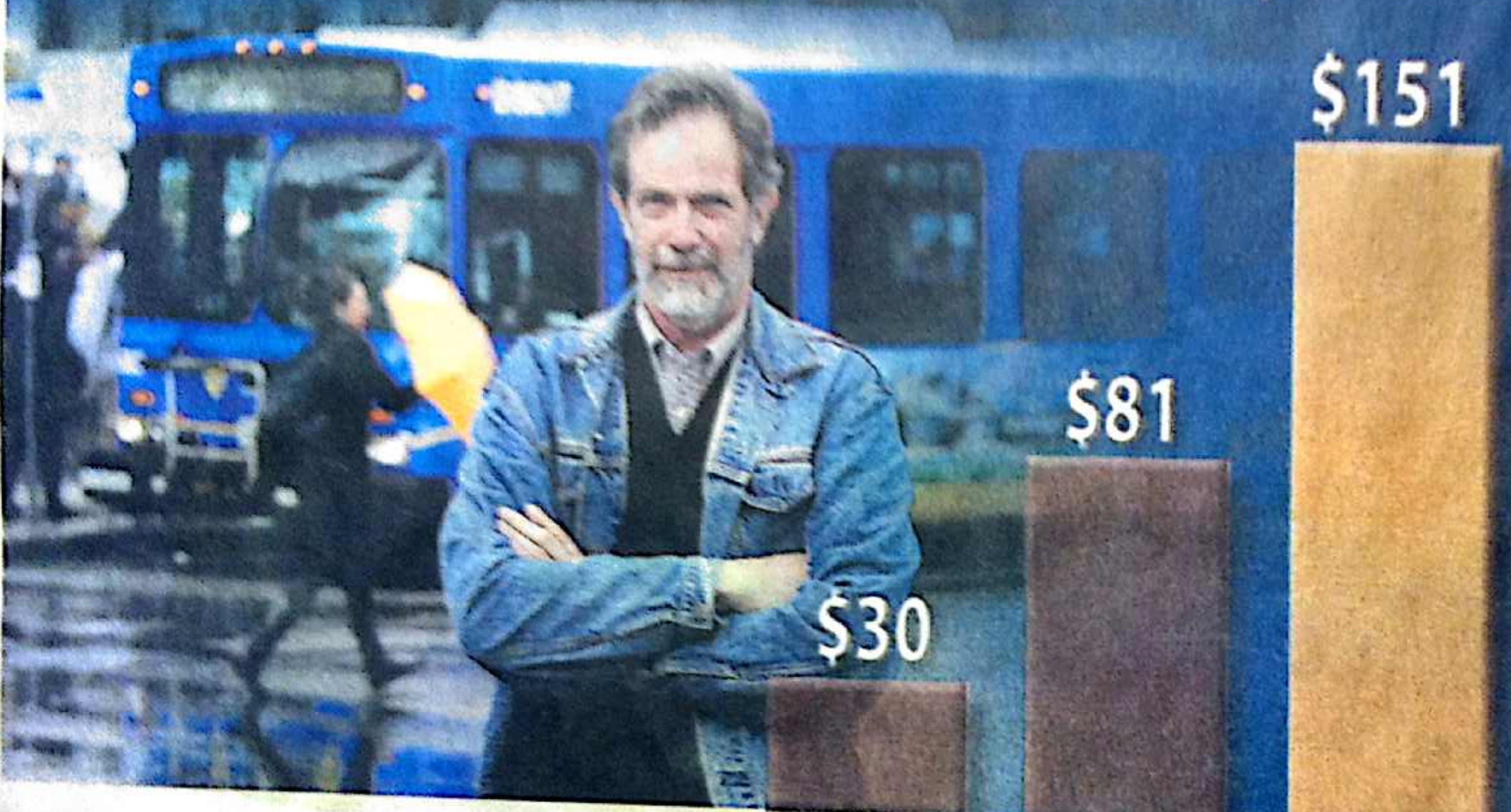
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SERIOUSLY WESTCOAST SINCE 1912

FRIDAY, JUNE 3, 2011 | FINAL EDITION

Metro taxpayers foot bill for transit passes



Longtime Burnaby Mountain resident Bruce Clayman helped design the community transit pass. He's disappointed the pass will no longer be funded and fares will go up.

MARK VAN MANEN/PHG

COMMUNITY TRANSIT PASS
(all zones, current):

COMMUNITY TRANSIT PASS
(all zones, April 2012):

METRO TRANSIT PASS
(all zones):

Burnaby Mountain residents get a free ride on transit after deal to boost ridership

BY KELLY SINOSKI
VANCOUVER SUN

Metro Vancouver taxpayers have been subsidizing transit for hundreds of Burnaby Mountain residents since 2008 through a "community transit pass" that gives them

unlimited access to the region's buses and trains for just \$30 a month. And even though TransLink plans to raise the fares for the nearly 900 resident pass-holders this fall, they will still pay significantly less than those living off the mountain for a regular three-zone fare.

The pass was initiated in 2006 through a pilot project between Vancity Trust, TransLink and the Simon Fraser University Community Trust to boost transit ridership and green development on the Uni-verCity lands.

CONTINUED ON A11

U.S. used 'unmitigated gall' and B.C. court to jail exec

Judge's stinging rebuke aimed at Cisco and U.S. prosecutors

BY IAN MULGREW
VANCOUVER SUN

The giant computer company Cisco and U.S. prosecutors deceived Canadian authorities and courts in a massive abuse of process to have a former executive thrown in jail, says a B.C. Supreme Court judge.

The point, said Justice Ronald McKinnon in a stinging decision delivered orally on Tuesday, was to derail a lawsuit launched by the former employee, and involved a series of machinations that would make a normal person "blanch at the audacity of it all."

In a rare move, McKinnon

stayed extradition proceedings against Peter Adekeye, a British computer entrepreneur who once worked for Cisco Systems, Inc.

The judge said U.S. prosecutors acted outrageously by having the respected executive bizarrely arrested in Vancouver on May 20, 2010 as he testified before a sitting of the American court he was accused of avoiding.

He called Adekeye's ordeal something out of a novel by Joseph Heller, the author of *Catch-22*.

CONTINUED ON A12

OPINION

Uncertain cancer risk no match for...

U.S. used 'unmitigated gall' and B.C. court to jail exec

The RCMP took Adekeye into custody as he was testifying before a special U.S. hearing at the Wedgewood Hotel about the very case that supposedly required his urgent extradition.

Adekeye was perp-walked through the hotel lobby to a waiting police wagon.

"This speaks volumes for Cisco's duplicity," the judge said, adding the company had "the unmitigated gall" to try to use the criminal process to humiliate and force Adekeye to abandon a civil suit.

Adekeye was held in custody for 28 days and forced to remain in Canada until this week under strict bail conditions because of the false and misleading material from the U.S., McKinnon said.

Canadian Justice Department lawyer Diba Majzub argued that it didn't matter U.S. prosecutors falsely portrayed Adekeye as a Nigerian scofflaw who was a flight risk.

He filed three thick volumes of legal precedent and emphasized that only five times since the current Extradition Act was enacted in 1999 has a judge sought to stay proceedings because of abuse of process.

A stay required extraordinary misconduct, he said.

Justice McKinnon thought this case met the test and was flabbergasted by Adekeye's "shocking" arrest during a judicial proceeding: "It is simply not done in a civilized jurisdiction that is bound by the rule of law."

This was an egregious abuse

of process and brought the administration of justice into disrepute, he concluded.

The U.S. claimed the problems were the result of the prosecutors' honestly held belief that Adekeye might flee the country, so it asked Canada to proceed under the emergency provisions of the Extradition Act.

Justice McKinnon said if Canada had known the true facts, it would not have proceeded.

"Almost nothing in the U.S. attorney's letter was true," Adekeye's lawyer Marilyn Sandford said Thursday.

McKinnon said the false material duped B.C. Supreme Court Justice Peter Leask into issuing an arrest warrant and, at the bail hearing afterwards conducted by Justice

Arne Silverman, the material was used to cast an unjustified "sinister" light on Adekeye and ensure he was kept in custody.

The judges were told Adekeye faced 97 charges of illegal computer access at five years a count — almost half a millennia in prison.

In reality, Justice McKinnon said at best the allegations should have amounted to a single charge and at most 15 years in jail.

He said the material from the Americans was full of innuendo, half-truths and falsehoods.

Sandford called the U.S. conduct Kafkaesque.

Justice McKinnon said little of what the Americans told Ottawa was true — and the supposed criminal conduct cited in their request was actually a trivial dispute that was part of the bigger legal civil battle between Adekeye and the \$7-billion computer firm.

Adekeye was accused in a civil countersuit of using a former colleague's computer code to illicitly access Cisco services worth "more than \$14,000."

Justice McKinnon said he wasn't sure about the "magic" of that number, whether it meant \$15,000 or \$1 million.

In reality, he said the arrest was orchestrated by Cisco as part of litigation strategy to derail the massive anti-trust suit Adekeye launched in December 2008 — and that, too, was kept hidden from judges Leask and Silverman.

Justice McKinnon said it was a perversion of justice to allow the criminal law to be used to

resolve a trivial civil suit and it shouldn't be countenanced.

Adekeye was hired in 2000 by the silicon Goliath in London as a senior executive and in 2003 it moved him to the U.S., where he lived until he left Cisco to form his own Silicon Valley companies in 2005.

At the time of his arrest, Adekeye was suing Cisco for allegedly forcing customers to buy a maintenance contract to cover future software-bug fixes, patches and updates for its operating system and applications.

He left the U.S. in 2008 and was denied re-entry when he attempted to return to participate in the litigation.

Cisco portrayed him as a veritable scam artist born in Nigeria in 1967 and of questionable British citizenship, which he obtained in 2004.

Adekeye tried unsuccessfully for months to gain entry to the U.S. to answer the allegations but was refused.

He even wrote without success to President Barack Obama seeking his intervention.

Justice McKinnon said that his main offence was that he "dared to take on a multinational giant."

In the end, far from trying to avoid a showdown, Adekeye flew to Vancouver to testify at a special sitting of the case ordered by the U.S. District Court for Northern California, San Jose division, because he couldn't gain legal entry to America.

The judge said it was unbelievable that Adekeye was

arrested at that hearing in front of the U.S. special master and four lawyers for Cisco.

Especially for a supposed "crime," he underscored, that was actually a mirror of the trivial civil dispute.

All the U.S. had to do was let him into the country, Justice McKinnon said, but instead astoundingly spurred Canada into launching expensive legal proceedings.

The entire incident was a planned and deliberate act by Cisco, which prevailed on U.S. prosecutors to "grotesquely inflate" a minor civil complaint into a criminal charge requiring 500 years imprisonment.

Last August — two months after Adekeye was arrested — Cisco settled the suit and abandoned its previous service-contract practice.

It dropped the allegation involving the illicit computer access.

Justice McKinnon said he found it impossible to understand how a criminal charge now could be proven when Cisco, the supposed victim, says it didn't suffer any loss.

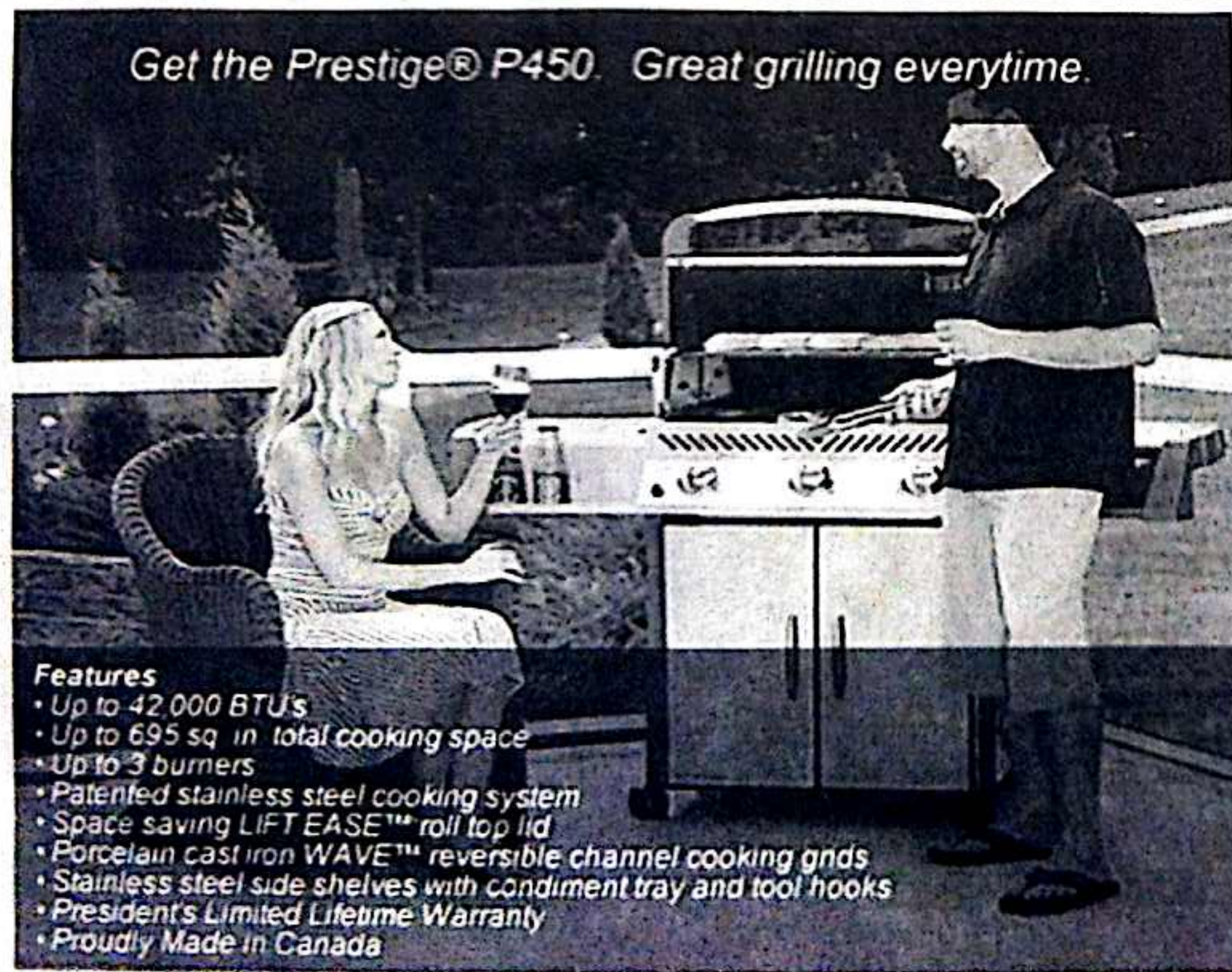
Adekeye is en route to rejoin his wife and toddler son in Zurich, Switzerland, Sandford said. "He's overjoyed," she added, and later will consider seeking redress against Cisco and U.S. authorities.

A Justice Department official said the department had no comment on the ruling but noted it had 30 days to appeal.

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