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January 12, 2004

Clerk
United States District Court
Western District of Washington
215 U.S. Courthouse
1010 5th Ave
Seattle, WA 98104

FILED ENTERED
LODGED RECEIVED

JAN 12 2004 KN

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY _____ DEPUTY

Re: Thendic v. Amiga, 003-0003

Dear Clerk:

The attached Declaration of Bill Buck does not bear Mr. Buck's signature as he resides out-of-state and we have had difficulty transmitting it. Please note that we will be supplementing this Declaration by adding his signature. Thank You.

Sincerely,



Mark A. Arthur
Assistant to Richard Hughes

maa
c.c. Bill McEwen

03-CV-00003-DECL

CHITTO JUDGE 199

The Honorable Robert Lasnik

FILED ENTERED
LODGED RECEIVED

JAN 12 2004 KN

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

THENDIC ELECTRONICS COMPONENTS,)
a foreign corporation, and GENESI SARL, a)
foreign corporation,)

Plaintiffs;

vs.

AMIGA INC., a corporation in the state of)
Washington,)

Defendant.)

NO. 03-003

DECLARATION OF BILL BUCK

I, Bill Buck, am over 18, reside in Paris, France and am competent to declare as follows:

1. Contrary to Amiga's unsupported subjective belief, Amiga and "Thendic" expressly contemplated integrating Amiga's DE Operating System into "Thendic" products regardless of whether such "Thendic" products were running on a Windows CE Operating System. Appendix A of the OEM Software License Agreement includes a list of various "Thendic" products that, pursuant to the OEM Software License Agreement, were entitled to integration with Amiga's DE Operating System. See *OEM Software License Agreement, P. 18, Appendix A*. The list is not, and was not, intended to be exhaustive of "Thendic" products entitled to integration. The terms "other" and "future" products support this interpretation. Moreover, Amiga and "Thendic" intended that any of "Thendic's" current or future products were entitled to integration as requested, regardless of the

DECLARATION OF BILL BUCK

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1 Operating System they ran on. Appendix A is a list of then existing "Thendic" products with a
2 cursory narrative of the product and its functionality. Of all the products listed in Appendix A, only
3 SmartBoy operates on Windows CE. However, at the time the OEM Software License Agreement
4 was executed, and per the terms of Appendix A, SmartBoy was to run on Amiga DE. Since Amiga
5 DE was never integrated into SmartBoy, it ran solely on WindowsCE. All other products employ
6 other, non-Windows CE based proprietary Operating Systems. The contract language clearly
7 indicates that Amiga and "Thendic" contemplated integration of Amiga DE into "Thendic" products,
8 regardless of the Operating System each product ran on. Moreover, Amiga and "Thendic" agreed to
9 integrate Amiga's DE Operating System into both existing and future products.

10 2. Of the "Thendic" products listed in Appendix A, to date, despite my repeated requests for
11 integration on behalf of "Thendic," not a single product unit has been integrated with Amiga's DE
12 Operating System.

13 3. The repeated requests were wholly reasonable as Amiga DE was specifically designed and
14 developed to work on a computing platform. Amiga DE was created for no other reason than
15 integration into computing platforms such as the ones provided by "Thendic." Subsequent to
16 Amiga's unreasonable withholding of consent, and within the last two years, Amiga formed a
17 partnership with Eye Tech, a company that sells products in direct competition with the "Thendic"
18 products once available for integration.

19 I swear under penalty of perjury that the above is true and correct to the best of my personal
20 belief and knowledge.

21
22
23 DATED: January 8, 2004.

24
25 _____
26 Bill Buck

27
28 DECLARATION OF BILL BUCK

29 Page -2-

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