



03-CV-00003-DECL

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 IN  
SUPPORT OF PLAINTIFF'S MOTION  
TO MODIFY THE ORDER  
GRANTING SPECIFIC  
PERFORMANCE

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

1. At the time the OEM Software Agreement (hereinafter the "Agreement") was entered into and until recently, I was a Director at Thendic Electronics Components (hereinafter "Thendic").
2. The "Agreement" states that the Amiga DE Operating System shall be comprehensively integrated into "Thendic's" products including any and all "enhancements," "upgrades," "updates," "changes" and "improvements" See "AGREEMENT" ¶3.1. I am concerned with Amiga's attempts to minimize the functionality of Amiga's DE Operating System, deviating from the express terms and spirit of the "Agreement."

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1 3. When the parties executed the "Agreement," Amiga's DE Operating System was intended to  
2 be its only Operating System and the Operating System for the future. Amiga's prior Operating  
3 System, OS 3.9, was antiquated and future development of Amiga's OS was conditioned on robust  
4 sales of OS 3.9 which did not occur. Attached as **exhibit 1** is a true and accurate copy of Amiga's  
5 Executive Update dated November 22<sup>nd</sup>, 2000. To the contrary, sales of OS 3.9 were a bust.

6 4. Soon after the "Agreement" was executed, Amiga stopped referring to the Amiga DE  
7 Operating System as an "Operating System" and began referring to it as a "content-environment."  
8 "Thendic" contracted for an Operating System not a "content environment." Subsequently, Amiga  
9 introduced another Operating System, OS 4.0 and its progeny. OS 4.0 encompassed many of the  
10 functions that were to have been part of the Amiga DE Operating System.

11 5. When the "AGREEMENT" was executed, Amiga DE was touted to become a comprehensive  
12 operating system that was to be mutually enhanced by way of its integration into "Thendic" products-  
13 like Pegasos. See "AGREEMENT" p. 5, ¶ 4.2.3 ("Thendic agrees that the marketing and distribution  
14 rights granted for the Amiga DE Software are conditioned on the obligation of Thendic to add value to  
15 the Amiga DE Software...."). To that end, "Thendic" was prepared to develop and did develop  
16 products to utilize Amiga DE only to meet with Amiga's continued refusal to integrate.

17 6. Fleecy Moss is Amiga's Chief Technology Officer (CTO). Attached as **exhibit 2** is a true and  
18 accurate copy of an email written by Fleecy Moss late last week. It appears that Amiga is attempting  
19 to further marginalize the functionality of the Amiga DE Operating System so as to prevent and/or  
20 frustrate effective integration into "Thendic's" products.

21 7. Attached as **exhibit 3** is a true and accurate copy of a portion of Amiga's April 12, 2001  
22 technology update posted on Amiga's website (confirming integration of the Amiga DE Operating  
23 System with Amiga OS 4 and 4.2).

24 8. Attached as **exhibit 4** is a true and accurate copy of a portion of Amiga's July 1, 2002  
25 promotional posting as found on Amiga's website (confirming integration of the Amiga DE Operating  
26 System with Amiga OS 5.0 and beyond).

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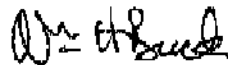
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1 9. Ironically, despite Amiga's consistent efforts to minimize its DE Operating System, it has  
2 elected to fully integrate its Operating System with Amiga DE (see exhibits 3 and 4). It is  
3 "Thendic's" position that Amiga's Operating System is part and parcel of Amiga DE and/or it is an  
4 "upgrade," "enhancement," "improvement," "change" or "update" as a result of the actual or planned  
5 integration of Amiga DE with Amiga OS.

6 10. I believe that the proposed changes to the Court's Order would better reflect enforcement of  
7 the parties' agreement, thereby limiting Amiga's ongoing attempts at obfuscation.

8 I swear, under penalty of perjury, under the laws of the State of Washington that the above is  
9 true and correct to the best of my belief and knowledge.

10 DATED: March 1<sup>st</sup>, 2004.

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Bill Buck

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