

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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

Plaintiffs,

v.

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

Defendant.

NO. 003-0003

**DECLARATION OF GARRY HARE IN
SUPPORT OF AMIGA, INC.'S RESPONSE
TO MOTION TO MODIFY THE ORDER
GRANTING SPECIFIC PERFORMANCE**

I, Garry Hare, declare as follows:

1. I am the Chief Executive Officer of KMOS, Inc., a Delaware corporation ("KMOS"). I have responsibility for all facets of KMOS's business activities. I have personal knowledge of the facts contained herein and am competent to testify thereto.

2. On April 24, 2003, Itec, LLC, ("Itec") a State of New York, U.S.A., limited liability company acquired all rights and ownership to Amiga Inc.'s Operating System ("Amiga OS"). Itec's acquisition included Amiga OS source code including, but not limited to, the

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1 Classic Amiga OS, OS 3.1, OS 3.5, OS 3.9, OS 4.0 (not yet commercially available) and all
2 subsequent versions of this source code and associated trademarks. The Classic Amiga OS
3 means the operating system owned and developed by Amiga and largely based on the operating
4 system shipped with the Commodore Amiga line of computers sold in the 1980's and early
5 1990's.

6 3. In addition, Itec's acquisition specifically included "Object Code," meaning
7 software in a machine readable form that is not convenient to human understanding of the
8 program logic, and that can be executed by a computer, or other device, using the appropriate
9 operating system without compilation or interpretation.

10 4. On October 10, 2003, KMOS entered into a Stock Purchase and Sale Agreement
11 and Agreement of Assignment of Intellectual Property Rights (the "Agreement") under which it
12 acquired all Itec's interest in Amiga's Amiga OS family of products.

13 5. As part of the Agreement, KMOS specifically agreed to honor the terms of
14 Amiga's November 3, 2001 (OEM) License and Software Development Agreement with Amiga
15 One Partners: Hyperion VOF, a Belgian corporation and Eyetech Group Ltd., an English
16 corporation in regards to Amiga OS 4.0.

17 6. Except as directly associated with the Amiga OS products and all future versions
18 of Amiga OS, KMOS specifically did not acquire the rights to the Amiga name, patents,
19 intellectual property, trademarks or Amiga's DE product line. These assets remain the property
20 of Amiga Inc.

21 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
22 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

23 DATED this 12th day of March, 2004 at Kentfield, California.

24
25 See Attached
Garry Hare

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