

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 RAY A. AKEY IN
SUPPORT OF AMIGA, INC.'S RESPONSE
TO MOTION TO MODIFY THE ORDER
GRANTING SPECIFIC PERFORMANCE**

I, Ray A. Akey, declare as follows:

1. I am the Server Administrator and Webmaster for Amiga Inc. and provide other general technical support for Amiga Inc. as needed. I have personal knowledge of the facts contained herein and am competent to testify thereto.

2. Attached as Exhibits A through K to this declaration are true and correct copies of excerpts of postings I found on various public electronic bulletin boards. I am very familiar with public electronic bulletin boards from which these exhibits have been obtained. I personally copied posts I found on the public bulletin boards into individual documents for us as exhibits to my declaration. In the paragraphs that follow I identify each individual exhibit.

DECLARATION OF RAY A. AKEY IN SUPPORT OF
AMIGA, INC.'S RESPONSE TO MOTION TO MODIFY THE
ORDER GRANTING SPECIFIC PERFORMANCE - 1

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1 3. The bulletin boards are public forums in which people have online discussions.
2 The particular public bulletin boards in which the attached posts were made are targeted for the
3 discussion of technical topics, including Amiga's products. Bill Buck regularly posts messages
4 to the public electronic bulletin boards at issue. Mr. Buck uses the screen name "bbrv."

5 4. Attached as Exhibit A is a true and correct copy of a message posted on a public
6 bulletin board by "bbrv" in November 2002.

7 5. Attached as Exhibit B is a true and correct copy of a message posted by "bbrv" on
8 a public bulletin board on April 27, 2003.

9 6. Attached as Exhibit C is a true and correct copy of a message posted by "bbrv" on
10 a public bulletin board on March 11, 2004.

11 7. We discovered the false e-mail Bill Buck attaches as Exhibit 2 to his Declaration
12 in Support of Motion to Modify the Order Granting Specific Performance soon after it was
13 originally posted. It was first posted on a public bulletin board dedicated to open discussion of
14 topics concerning Amiga on February 25, 2004 at 16:55 GMT. The document was published
15 under the alias John Burgess. Attached as Exhibit D is a true and correct copy of the posting that
16 contained the forged e-mail.

17 8. I scanned all server logs for amiga.com for the time period up to and including
18 February 29, 2004. I found no evidence that Amiga's Chief Technology Officer, "Fleecy" Moss
19 sent the e-mail attributed to him through Amiga's mail server as indicated in the post attached as
20 Exhibit D.

21 9. Since posting the forged e-mail, Adam Ceremuga, screen name "cheese grate," has
22 admitted to being the true author of the e-mail. Attached as Exhibit I is a true and correct copy
23 of a post in which Mr. Ceremuga admits he fabricated the e-mail.

24 10. I confirmed the identify of "cheese grate" by tracing back his IP address from
25 posts in which he claimed responsibility for the forged e-mail and from messages he sent me in a

1 private internet chat. My research confirmed that “cheese grate” is Adam Ceremuga of Brisbane,
2 Australia.

3 11. Many people posting on the bulletin boards immediately called into question the
4 authenticity of the e-mail alleged to be from Amiga’s Chief Technology Officer. I provide a few
5 examples for reference. Attached as Exhibit E is a true and correct copy of a post ten minutes
6 after the forged e-mail was posted questioning its authenticity. Attached as Exhibit F is a true
7 and correct copy of a post two hours after the original post again questioning its authenticity.

8 12. In the 24 hours after the initial post of the forged e-mail, 15 people responded
9 indicating the e-mail was a fraud. In the time after the initial post until March 1, over 100 people
10 posted messages regarding the fake e-mail. As examples, attached as Exhibit G and H are true
11 and correct copies of a few posts during that time period that questioned the validity of the
12 posted e-mail.

13 13. I reviewed posts by “bbrv” between the time Mr. Ceremuga posted the forged e-
14 mail (February 25) and March 9. From February 25th through March 1st, “bbrv” posted a
15 minimum of nine times to these same public bulletin boards that contained more than 100 posts
16 regarding the forged e-mail. From the time Mr. Ceremuga claimed authorship of the fake e-mail
17 on March 4, 2004 until March 9, 2004, “bbrv” publicly posted a minimum of seven times to the
18 bulletin boards at issue.

19 14. Attached as Exhibits J and K are true and correct copies of posts by “bbrv” on a
20 public bulletin board on February 23, 2004.

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

23 DATED this 14th day of March, 2004 at Windsor, Ontario.

24
25 See Attached

Ray A. Akey

DECLARATION OF RAY A. AKEY IN SUPPORT OF
AMIGA, INC.’S RESPONSE TO MOTION TO MODIFY THE
ORDER GRANTING SPECIFIC PERFORMANCE - 3

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