

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

03-CV-00003-AF

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THENDIC ELECTRONICS COMPONENTS,
et al.,

Plaintiffs,

v.

AMIGA INC.,

Defendant.

No. C03-0003L

ORDER DENYING DEFENDANT'S
MOTION FOR RELIEF FROM
JUDGMENT AND CLARIFYING
ORDER GRANTING SPECIFIC
PERFORMANCE

This matter comes before the Court on "Amiga, Inc.'s Motion for Relief from Judgment." Pursuant to Fed. R. Civ. P. 60(b), the Court may relieve a party from final judgment for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . . ; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied . . . ; or (6) any other reasons justifying relief from the operation of the judgment.

Defendant argues that the Court should vacate its "Order Granting Plaintiffs' Motion for Summary Judgment" and "Order Granting in Part Plaintiffs' Motion to Modify Order" because plaintiffs presented misleading evidence to the Court in support of their motion to modify, misrepresented facts to the public, brought this lawsuit for an improper purpose, and misused

ORDER DENYING DEFENDANT'S
MOTION FOR RELIEF FROM JUDGMENT

1 Amiga's trademarks. The only malfeasance that could possibly justify a finding of "fraud on the
2 court" is plaintiffs' use of evidence they allegedly knew was forged. The Court finds, however,
3 that neither the original summary judgment (which was entered before the tainted evidence was
4 presented to the Court) nor the order granting modification were obtained through fraud: the
5 allegedly fraudulent posting had no impact on the Court's decision regarding modification.
6 Defendant has not met its burden under Fed. R. Civ. P. 60(b).

7 In large part due to defendant's failure to participate in this litigation, plaintiffs
8 obtained specific performance as requested in the complaint, "i.e., integration of Amiga's DE
9 Operating System into Thendic's Pegasos and/or other products in question" (Complaint at 2)
10 and defendant was ordered to "grant plaintiffs rights and possession of the DE Operating
11 System, along with the 'Enhancements,' 'Updates,' 'Upgrades,' and 'Documentation' that are
12 related to that system, for integration into Pegasos" (Order Granting in Part Plaintiffs' Motion to
13 Modify at 2). The Court did not specify how Amiga DE Operating System was to be integrated
14 into Pegasos, however, and did not intend to alter the substantive terms of the OEM Software
15 License Agreement in that regard. The Court hereby clarifies that Paragraph 5.1 of the
16 Agreement governs the process through which integration shall occur.

17
18 For all of the foregoing reasons, defendant's motion for relief from judgment is
19 DENIED.

20 DATED this 15th day of July, 2004.

21
22 
23 _____
24 Robert S. Lasnik
25 United States District Judge
26