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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 AMIGA, INC., a Delaware corporation,

12 Plaintiff,

13 vs.

14 HYPERION VOF, a Belgium corporation,

15 Defendant.
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CAUSE NO.: CV-07-0631-RSM

**DECLARATION OF WILLIAM MCEWEN
IN SUPPORT OF PLAINTIFF AMIGA,
INC.'S REPLY TO HYPERION'S
OBJECTION TO AND MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION
FOR EXPEDITED DISCOVERY**

**NOTE ON MOTION CALENDAR:
MAY 11, 2007**

COURT: HON. RICARDO MARTINEZ

McEWEN DECLARATION

Case No. CV07-0631-RSM

CABLE, LANGENBACH, KINERK & BAUER LLP
1000 SECOND AVENUE BUILDING, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206 292-8800)

1 I, William McEwen, declare:

2 1. I am the acting President and of Amiga, Inc ("Amiga"). I make this Declaration
3 in support of Amiga's Reply to Hyperion's Objection to and Memorandum in Opposition to
4 Plaintiff's Motion for Expedited Discovery.

5 2. I have personal knowledge of the matters set forth in this Declaration. If called as
6 a witness, I could and would competently testify to these matters.

7 3. On or about November 3, 2001 Amiga entered into the "(OEM) License and
8 Software Development Agreement," (the "Agreement") with Hyperion VOF ("Hyperion") and
9 Eyetech Ltd. ("Eyetech") for the development of OS 4.0 along with certain licenses for Hyperion
10 to market OS 4.0 and to use Amiga's trademarks in the development, promotion and sales of
11 products in narrowly defined markets and platforms.

12 4. The Agreement was executed in English.

13 5. All communications that I have had with Hyperion concerning performance and
14 breach of the Agreement were in English. This includes both oral and written communications.
15 Attached hereto as Exhibit A is a true and correct copy of an email correspondence between
16 myself and Evert Carton, CEO of Hyperion, in English.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.
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4 DATED: 5/10/07
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7 William McEwen
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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

William A. Kinsel
Law Offices of William A. Kinsel, PLLC
Market Place Tower
2025 First Avenue, Suite 440
Seattle, WA 98121

/s/
Lawrence R. Cock, WSBA No. 20326
Attorney for Plaintiff
CABLE, LANGENBACH, KINERK & BAUER, LLP
Suite 3500, 1000 Second Avenue Building
Seattle, Washington 98104-1048
(206) 292-8800 phone
(206) 292-0494 facsimile
lrc@cablelang.com

EXHIBIT A

From: Evert Carton [evertc@hyperion-entertainment.biz]
Sent: Saturday, September 23, 2006 10:57 AM
To: bill@amiga.com
Subject: Re: Lets get together and back to a partnership

Bill,

I am also eager to resolve the situation, but I really don't see how we could now, all of a sudden and literally overnight, resolve our issues and come to a solid and sound agreement.

We are preparing a concise response, including several clearcut proposals on our part, to the latest 4 page letter of your attorney.

Kind Regards,
Evert

On Thu, 2006-09-21 at 12:53 -0700, Bill McEwen wrote:

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> Evert:
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> I think that this is getting rather silly. We entered into a
> partnership that would better both of our companies, and now we have
> lawyers going back and forth.

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> I really would prefer that we come up with a 'solution; that we can
> both be happy with and get it done quickly so that we can make an
> announcement in Italy that will really shake up Bill Buck!

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>
> I would be interested in your thoughts

>
>
> Bill McEwen

> Amiga, Inc.

> bill@amiga.com

> Tel: 425.557.9600 x23

> Fax: 425.557.0090

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> Important: This electronic mail message may contain information or
> have one or more attachments containing information that is
> confidential, proprietary and/or legally privileged information. This
> message is intended only for the addressees clearly indicated as
> intended recipients and if you have received this message in error, if
> you are not the intended recipient (or an employee or agent
> responsible for delivering it to the intended recipient), or if you
> aren't sure, you are hereby on notice that you have received this
> message in error and you may not review, use, download, store,
> disclose, disseminate, transmit, distribute, save or copy this message

> or any attachment. If you received this message in error, doing any of
> these things could be a violation of Federal and State law and subject
> you to criminal and/or civil prosecution. If you have received this
> message in error, the only thing you are permitted to do is to notify
> the sender* immediately by reply to this message or by telephone if a
> number is provided and then immediately delete the original message,
> attachment(s) and any copies, including any copies made by you or any
> automated system for backup, recovery or any other purpose. Thank you
> for your compliance and your cooperation.

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