

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 AMIGA, INC., a Delaware corporation,

11 Plaintiff,

12 v.

13 HYPERION VOF, a Belgium corporation,

14 Defendant.

CASE NO. C07-631RSM

ORDER ON MOTION TO JOIN ITEC,  
LLC AS A COUNTERCLAIM  
DEFENDANT

15  
16 This matter is before the Court for a ruling on defendant's motion for leave to join Itec, LLC  
17 ("Itec"), as a counterclaim defendant. Dkt. # 41. Plaintiff has opposed the motion.<sup>1</sup> The facts of this  
18 dispute have been set out in the Court's previous Order denying plaintiff's motion for a preliminary  
19 injunction, and need not be repeated here. Dkt. # 38. From those facts, it appears that joinder of Itec as  
20 a counterclaim defendant is appropriate, as Itec claims an interest relating to the subject of this action,  
21 and defendant may otherwise incur inconsistent obligations relating to this party's interest.  
22 F.R.Civ.Proc. 19(a)(2).  
23

24 <sup>1</sup>Defendant has moved to strike plaintiff's opposition as untimely. Dkt. # 53. The Court finds  
25 that the opposition was indeed filed one day late. Local Rule CR 7(d)(3). Moreover, the opposition is  
26 unsigned, in that counsel's signature does not comply with the signature requirements of the Electronic  
27 Filing Procedures for Civil and Criminal Cases, Amended 6/1/06 ("ECF Procedures"). *See*, ECF  
28 Procedures, Paragraph III.K. Defendant's motion to strike is accordingly GRANTED. However, in the  
interest of fairness to plaintiff, the Court has considered the arguments set forth in the opposition.

ORDER ON MOTION TO JOIN ITEC, LLC -

1

1 Defendant's motion for leave to join Itec, LLC as a counterclaim defendant is accordingly  
2 GRANTED. Defendant shall file an amended Answer and Counterclaim within two weeks of the date of  
3 this Order. Such mended Answer and Counterclaim shall not alter the counterclaims already asserted  
4 against plaintiff Amiga, Inc, except that counterclaims already asserted against Amiga, Inc., may be  
5 deleted.

6 Plaintiff's pending motion for judgment on the pleadings (Dkt. # 50), which is a motion to dismiss  
7 certain counterclaims, shall be RE-NOTED by plaintiff on the Court's calendar for the fourth Friday after  
8 counterclaim defendant Itec, Inc., has filed either an answer or other responsive pleading

9  
10 Dated this 6<sup>th</sup> day of September, 2007.

11 

12 RICARDO S. MARTINEZ  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27