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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMIGA, INC., a Delaware corporation,

Plaintiff,

and

HYPERION VOF, a Belgium corporation,

Defendant.

CAUSE NO. CV07-0631RSM

DECLARATION OF LANCE GOTTHOFFER
IN SUPPORT OF ITEC'S MOTION TO
DISMISS OR TRANSFER

I, LANCE GOTTHOFFER, declare:

1. I am a partner in Reed Smith LLP, attorneys for defendant Itec LLC ("Itec"). I am fully familiar with the facts herein and submit this Affirmation in support of Itec's Motion to Dismiss Hyperion's Amended Counterclaims or, in the Alternative, to Transfer the Action to the United States District Court for the Southern District of New York.

2. Attached hereto as Exhibit 1 is a true and correct copy of *Childers v. Sagem Morpho, Inc.*, 2006 U.S. Dist. LEXIS 88425 (W.D. Wash. 2006) (Martinez, J.).

DECLARATION OF LANCE GOTTHOFFER IN SUPPORT OF
ITEC'S MOTION TO DISMISS OR TRANSFER - 1

Case No. CV07-0631RSM

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

1 3. Attached hereto as Exhibit 2 is a true and correct copy of *CooperVision Inc. v.*
2 *Intek Integration Technologies*, 2005 NY Slip Op 25060; 7 Misc. 3d 592; 794 N.Y.S.2d 812
3 (Sup. Ct. Monroe Co. 2005).

4 4. Attached hereto as Exhibit 3 is a true and correct copy of *Bachman Emmerich &*
5 *Co. Inc. v. S.A. Wenger & Co. Inc.*, 204 A.D. 282, 197 N.Y.S. 879 (1st Dep't 1923).

6 5. Attached hereto as Exhibit 4 is a true and correct copy of *CG Trading Corp. v.*
7 *Sun-Fast Textiles Inc.*, 24 Misc.2d 77, 201 N.Y.S.2d 883 (Sup. Ct. N.Y. Co. 1960).

8 6. Attached hereto as Exhibit 5 is a true and correct copy of *United States v. Aukai*,
9 2007 U.S. App. LEXIS 18995 (9th Cir. 2007).

10 7. Attached hereto as Exhibit 6 is a true and correct copy of Itec's Complaint for
11 Breach of Contract that was filed in the Supreme Court of New York, County of New York on
12 July 6, 2007.

13 8. Attached hereto as Exhibit 7 is a true and correct copy of Hyperion's
14 Memorandum of Law in support of Motion to Dismiss or Stay that was filed in the Supreme
15 Court of New York, County of New York on September 20, 2007.

16 9. Attached hereto as Exhibit 8 is the Affidavit of Evert Carton in support of
17 Defendant Hyperion's Motion to Dismiss or Stay that was filed in the Supreme Court of New
18 York, County of New York on September 20, 2007.

19 10. Attached hereto as Exhibit 9 is a Certificate of Existence from the New York
20 Department of State dated October 9, 2007, showing that Itec LLC is in existence and up-to-date
21 on all required filings.
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**DECLARATION OF LANCE GOTTHOFFER IN SUPPORT OF
ITEC'S MOTION TO DISMISS OR TRANSFER - 2**

Case No. CV07-0631RSM

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: 11/8/07



LANCE GOTTHOFFER

**DECLARATION OF LANCE GOTTHOFFER IN SUPPORT OF
ITEC'S MOTION TO DISMISS OR TRANSFER - 3**

Case No. CV07-0631RSM

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