

**EXHIBIT P**



## AmigaOS 4.0 The Final Update available

**Leuven, Belgium, 24 December 2006.**

Hyperion Entertainment is very pleased to announce the immediate availability (for registered AmigaOne customers) of Amiga OS 4.0, The Final Update.

Originally released in May of 2004, Amiga OS 4.0 ([www.amigaos4.com](http://www.amigaos4.com)) is the most stable, modern and feature-rich incarnation to date of the multi-media centric operating system launched by Commodore Business Machines (CBM) in 1985 with which it still retains a high degree of compatibility.

Amiga OS 4.0, The Final Update is the culmination of 5 years of development and takes the form of a stand-alone ISO image which contains a full installation of all Amiga OS 4.0 components.

A list of new features can be found here (baseline: Update #4).

Availability of PowerPC hardware suitable for operation with Amiga OS 4.0 will be announced by third parties early 2007.

The Hyperion Entertainment management would like to take this opportunity to wish all our customers and supporters a pleasant holiday season!

Amiga OS 4.0 © 2001-2006 Hyperion Entertainment VOF, developed under license from Amiga, Inc. "Amiga" is a registered trademark of Amiga, Inc.

**EXHIBIT Q**

Int. Cl.: 9

Prior U.S. Cls.: 26 and 38

**United States Patent and Trademark Office** **Reg. No. 1,401,045**  
Registered July 15, 1986

**TRADEMARK  
PRINCIPAL REGISTER**

**AMIGA**

COMMODORE-AMIGA, INC. (CALIFORNIA  
CORPORATION)  
983 UNIVERSITY AVENUE  
LOS GATOS, CA 95030

COMPUTER MONITORS, AND COMPUTER  
MODEMS, IN CLASS 9 (U.S. CLS. 26 AND 38).  
FIRST USE 7-23-1985; IN COMMERCE  
8-6-1985.

FOR: COMPUTERS, COMPUTER DISK  
DRIVES, RAM EXPANSION CARTRIDGES,

SER. NO. 571,532, FILED 12-4-1985.  
G. T. GLYNN, EXAMINING ATTORNEY

**United States Patent and Trademark Office**

Home Site Index Search Guides Contacts eBusiness eBiz alerts News Help

**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 8**Serial #: 73571532 Filing Dt: 12/04/1985 Reg #: 1401045 Reg. Dt: 07/15/1986Registrant: COMMODORE-AMIGA, INC.Mark: AMIGA**Assignment: 1**Reel/Frame: 1366/0596 Received: 07/31/1995 Recorded: 06/26/1995 Pages: 8Conveyance: ASSIGNMENT OF AN UNDIVIDED PART OF ASSIGNORS INTERESTAssignors: COMMODORE ELECTRONICS LIMITED

Exec Dt: 05/01/1995

Entity Type: CORPORATION

Citizenship: DELAWARE

COMMODORE AMIGA, INC.

Exec Dt: 05/01/1995

Entity Type: CORPORATION

Citizenship: CALIFORNIA

COMMODORE BUSINESS MACHINES, INC.

Exec Dt: 05/01/1995

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: ESCOM AGPIERGARTENSTRASSE 9  
HEPPENHEIM, GERMANY D-64646

Entity Type: CORPORATION

Citizenship: GERMANY

Correspondent: ALLAN RATNERRATNER & PRESTIA  
500 NORTH GULPH ROAD, P.O. BOX 980  
VALLEY FORGE, PA 19482**Assignment: 2**Reel/Frame: 1746/0455 Received: 06/30/1998 Recorded: 06/09/1998 Pages: 3Conveyance: ASSIGNS THE ENTIRE INTERESTAssignor: ESCOM AG

Exec Dt: 05/19/1998

Entity Type: CORPORATION

Citizenship: GERMANY

Assignee: AMIGA DEVELOPMENT LLC600 NORTH DERBY LANE  
NORTH SIOUX CITY, SOUTH DAKOTA 57049Entity Type: A DELAWARE LIMITED  
LIABILITY COMPANY

Citizenship: NONE

Correspondent: JENKENS & GILCHRIST, P.C.P. WESTON MUSSELMAN, JR.  
1445 ROSS AVENUE, STE. 3200  
DALLAS, TX 75202-2799**Assignment: 3**Reel/Frame: 2037/0095 Received: 03/21/2000 Recorded: 02/15/2000 Pages: 3Conveyance: ASSIGNS THE ENTIRE INTERESTAssignor: AMIGA DEVELOPMENT LLC

Exec Dt: 12/29/1999

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: AMINO DEVELOPMENT CORPORATION23800 SE KENT KANGLEY ROAD, SUITE 3  
MAPLE VALLEY, WASHINGTON 98038

Entity Type: CORPORATION

Citizenship: WASHINGTON

**Correspondent:** JENKENS & GILCHRIST, P.C.  
 P. WESTON MUSSELMAN, JR.  
 1445 ROSS AVENUE, STE. 3200  
 DALLAS, TEXAS 75202-2799

**Assignment: 4**

**Reel/Frame:** 2037/0080      **Received:** 03/21/2000      **Recorded:** 02/15/2000      **Pages:** 2

**Conveyance:** CHANGE OF NAME

**Assignor:** AMINO DEVELOPMENT CORPORATION

**Exec Dt:** 01/07/2000

**Entity Type:** CORPORATION

**Citizenship:** WASHINGTON

**Entity Type:** CORPORATION

**Citizenship:** WASHINGTON

**Assignee:** AMIGA, INC.

23800 SE KENT KANGLEY ROAD, SUITE 3  
 MAPLE VALLEY, WASHINGTON 98038

**Correspondent:** JENKENS & GILCHRIST, P.C.  
 P. WESTON MUSSELMAN, JR.  
 1445 ROSS AVENUE, STE. 3200  
 DALLAS, TEXAS 75202-2799

**Assignment: 5**

**Reel/Frame:** 3569/0638      **Received:** 06/27/2007      **Recorded:** 06/25/2007      **Pages:** 6

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ADDRESS FOR THE RECEIVING PARTY ON CHANGE OF NAME DOCUMENT PREVIOUSLY RECORDED ON REEL 002037 FRAME 0080. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

**Assignors:** AMINO DEVELOPMENT CORPORATION

**Exec Dt:** 01/07/2000

**Entity Type:** CORPORATION

**Citizenship:** NONE

AMIGA, INC.

**Exec Dt:** 08/30/2004

**Entity Type:** CORPORATION

**Citizenship:** NONE

**Assignees:** AMIGA, INC.

24403 256TH AVENUE SE, P.O. BOX 887  
 RAVENSDALE, WASHINGTON 98051

KMOS INC.

225 FOSTER AVENUE  
 KENTFIELD, CALIFORNIA 94904

**Entity Type:** CORPORATION

**Citizenship:** NONE

**Correspondent:** DARREN B. COHEN  
 599 LEXINGTON AVENUE  
 29TH FLOOR  
 NEW YORK, NEW YORK 10022-7650

**Assignment: 6**

**Reel/Frame:** 3211/0093      **Received:** 12/15/2005      **Recorded:** 12/15/2005      **Pages:** 14

**Conveyance:** ACQUISITION OF INTELLECTUAL PROPERTY

**Assignor:** KMOS INC.

**Exec Dt:** 08/30/2004

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

**Assignee:** AMIGA, INC.

24403 256TH AVENUE SE, P.O. BOX 887  
 RAVENSDALE, WASHINGTON 98051

**Entity Type:** CORPORATION

**Citizenship:** WASHINGTON

**Correspondent:** DARREN B. COHEN  
 599 LEXINGTON AVENUE  
 29TH FLOOR  
 NEW YORK, NY 10022-7650

**Assignment: 7**

**Reel/Frame:** 3211/0156      **Received:** 12/15/2005      **Recorded:** 12/15/2005      **Pages:** 3

**Conveyance:** CHANGE OF NAME

**Assignor:** KMOS INC.

**Exec Dt:** 01/31/2005

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Entity Type:** CORPORATION

**Citizenship:** WASHINGTON

**Assignee:** AMIGA, INC.

24403 256TH AVENUE SE, P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

**Correspondent:** DARREN B. COHEN  
599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NM 10022-7650

**Assignment: 8**

**Reel/Frame:** 3237/0792

**Received:** 01/31/2006

**Recorded:** 01/31/2006

**Pages:** 7

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ADDRESS AND STATE OF INCORPORATION FOR THE RECEIVING PARTY ON CHANGE OF NAME DOCUMENT PREVIOUSLY RECORDED ON REEL 003211 FRAME 0156. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

**Assignor:** KMOS INC.

**Exec Dt:** 01/31/2005

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

**Assignee:** AMIGA, INC.

167 MADISON AVENUE  
SUITE 301  
NEW YORK, NEW YORK 10016

**Correspondent:** DARREN B. COHEN  
599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650

Search Results as of: 11/07/2007 01:25 PM

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Web interface last modified: April 20, 2007 v.2.0.1

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**EXHIBIT R**



Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,369,059

**United States Patent and Trademark Office**

Registered July 18, 2000

**TRADEMARK  
PRINCIPAL REGISTER**



AMIGA DEVELOPMENT LLC (DELAWARE LIMITED LIABILITY COMPANY)  
600 NORTH DERBY LANE  
NORTH SIOUX CITY, SD 57049

FOR: COMPUTERS, COMPUTER PERIPHERALS, AND COMPUTER OPERATING SYSTEMS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 9-0-1997; IN COMMERCE 9-0-1997. STIPPLING IN THE DRAWING IS A FEATURE OF THE MARK AND IS NOT INTENDED TO INDICATE COLOR.

SN 75-343,350, FILED 8-19-1997.

BARBARA BROWN, EXAMINING ATTORNEY



## United States Patent and Trademark Office

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### Assignments on the Web > Trademark Query

## Trademark Assignment Abstract of Title

#### Total Assignments: 9

Serial #: 75343350 Filing Dt: 08/19/1997 Reg #: 2369052 Reg. Dt: 07/18/2000

Registrant: AMIGA DEVELOPMENT LLC

Mark: POWERED BY AMIGA

#### Assignment: 1

Reel/Frame: 1672/0340 Received: 01/13/1998 Recorded: 12/29/1997 Pages: 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: AMIGA, INC.

Exec Dt: 12/11/1997

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: A DELAWARE LIMITED LIABILITY COMPANY

Citizenship: NONE

Assignee: AMIGA DEVELOPMENT LLC

600 NORTH DERBY LANE  
NORTH SIOUX CITY, SOUTH DAKOTA 57049

Correspondent: JENKENS & GILCHRIST, P.C.  
P. WESTON MUSSELMAN, JR.  
1445 ROSS AVENUE  
SUITE 3200  
DALLAS, TX 75202-2799

#### Assignment: 2

Reel/Frame: 2037/0095 Received: 03/21/2000 Recorded: 02/15/2000 Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: AMIGA DEVELOPMENT LLC

Exec Dt: 12/29/1999

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: WASHINGTON

Assignee: AMINO DEVELOPMENT CORPORATION  
23800 SE KENT KANGLEY ROAD, SUITE 3  
MAPLE VALLEY, WASHINGTON 98038

Correspondent: JENKENS & GILCHRIST, P.C.  
P. WESTON MUSSELMAN, JR.  
1445 ROSS AVENUE, STE. 3200  
DALLAS, TEXAS 75202-2799

#### Assignment: 3

Reel/Frame: 2037/0080 Received: 03/21/2000 Recorded: 02/15/2000 Pages: 2

Conveyance: CHANGE OF NAME

Assignor: AMINO DEVELOPMENT CORPORATION

Exec Dt: 01/07/2000

Entity Type: CORPORATION

Citizenship: WASHINGTON

Entity Type: CORPORATION

Citizenship: WASHINGTON

Assignee: AMIGA, INC.  
23800 SE KENT KANGLEY ROAD, SUITE 3  
MAPLE VALLEY, WASHINGTON 98038

Correspondent: JENKENS & GILCHRIST, P.C.  
P. WESTON MUSSELMAN, JR.  
1445 ROSS AVENUE, STE. 3200  
DALLAS, TEXAS 75202-2799

#### Assignment: 4

**Reel/Frame:** 3569/0654      **Received:** 06/27/2007      **Recorded:** 06/27/2007      **Pages:** 4

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ADDRESS FOR THE RECEIVING PARTY PREVIOUSLY RECORDED ON REEL 002037 FRAME 0080. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

**Assignor:** AMINO DEVELOPMENT CORPORATION      **Exec Dt:** 01/07/2000  
**Entity Type:** CORPORATION  
**Citizenship:** NONE

**Assignee:** AMIGA, INC.  
24403 256TH AVENUE, SE  
P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

**Correspondent:** DARREN B. COHEN, ESQ.  
599 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10022

**Assignment: 5**

**Reel/Frame:** 3569/0661      **Received:** 06/27/2007      **Recorded:** 06/26/2007      **Pages:** 4

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNEE'S ADDRESS PREVIOUSLY RECORDED ON REEL 002037, FRAME 0080. ASSIGNOR HEREBY CONFIRMS THE CHANGE OF NAME.

**Assignor:** AMINO DEVELOPMENT CORPORATION      **Exec Dt:** 01/07/2000  
**Entity Type:** CORPORATION  
**Citizenship:** NONE

**Assignee:** AMIGA, INC.  
24403 2565TH AVENUE, SE  
P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

**Correspondent:** DARREN B. COHEN, ESQ.  
599 LEXINGTON AVENUE  
NEW YORK, NY 10022

**Assignment: 6**

**Reel/Frame:** 3211/0093      **Received:** 12/15/2005      **Recorded:** 12/15/2005      **Pages:** 14

**Conveyance:** ACQUISITION OF INTELLECTUAL PROPERTY

**Assignor:** KMOS INC.      **Exec Dt:** 08/30/2004  
**Entity Type:** CORPORATION  
**Citizenship:** DELAWARE

**Assignee:** AMIGA, INC.  
24403 256TH AVENUE SE, P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

**Correspondent:** DARREN B. COHEN  
599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650

**Assignment: 7**

**Reel/Frame:** 3567/0962      **Received:** 06/26/2007      **Recorded:** 06/26/2007      **Pages:** 22

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE THE ACQUISITION OF INTELLECTUAL PROPERTY PREVIOUSLY RECORDED ON REEL 003211 FRAME 0093. ASSIGNOR(S) HEREBY CONFIRMS THE ACQUISITION OF INTELLECTUAL PROPERTY.

**Assignor:** AMIGA, INC.      **Exec Dt:** 08/30/2004  
**Entity Type:** CORPORATION  
**Citizenship:** NONE

**Assignee:** KMOS, INC.  
225 FOSTER AVENUE  
KENTFIELD, CALIFORNIA 94904

**Correspondent:** DARREN B. COHEN, ESQ.  
599 LEXINGTON AVENUE  
NEW YORK, NY 10022

**Assignment: 8**

Reel/Frame: 3211/0156 Received: 12/15/2005 Recorded: 12/15/2005 Pages: 3

Conveyance: CHANGE OF NAME

Assignor: KMOS INC.

Exec Dt: 01/31/2005

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Entity Type: CORPORATION

Citizenship: WASHINGTON

Assignee: AMIGA, INC.

24403 256TH AVENUE SE, P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

Correspondent: DARREN B. COHEN

599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NM 10022-7650

**Assignment: 9**

Reel/Frame: 3237/0792 Received: 01/31/2006 Recorded: 01/31/2006 Pages: 7

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE ADDRESS AND STATE OF INCORPORATION FOR THE RECEIVING PARTY ON CHANGE OF NAME DOCUMENT PREVIOUSLY RECORDED ON REEL 003211 FRAME 0156. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

Assignor: KMOS INC.

Exec Dt: 01/31/2005

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: AMIGA, INC.

167 MADISON AVENUE  
SUITE 301  
NEW YORK, NEW YORK 10016

Correspondent: DARREN B. COHEN

599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650

Search Results as of: 11/07/2007 01:31 PM

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Web interface last modified: April 20, 2007 v.2.0.1

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**EXHIBIT S**

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,802,748

**United States Patent and Trademark Office**

Registered Jan. 6, 2004

**TRADEMARK  
PRINCIPAL REGISTER**

**AMIGA**

AMIGA, INC. (WASHINGTON CORPORATION)  
34935 SE DOUGLAS STREET, SUITE 210  
SNOQUALMIE, WA 98065

FOR: COMPUTER SOFTWARE USED TO FACIL-  
ITATE DEVELOPMENT OF SOFTWARE APPLICA-  
TIONS THAT CAN RUN ON MULTIPLE  
PLATFORMS AND OTHER ELECTRONIC DEVI-  
CES; OPERATING SYSTEM SOFTWARE FOR PER-  
SONAL COMPUTERS AND OTHER ELECTRONIC

DEVICES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND  
38).

FIRST USE 12-27-1999; IN COMMERCE 12-27-1999.

OWNER OF U.S. REG. NOS. 2,319,266 AND  
2,369,059.

SN 76-096,557, FILED 7-11-2000.

MICHAEL ENGEL, EXAMINING ATTORNEY

**United States Patent and Trademark Office**

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**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 4**Serial #: 76096557

Filing Dt: 07/11/2000

Reg #: 2802748

Reg. Dt: 01/06/2004

Registrant: Amiga, Inc.

Mark: AMIGA

**Assignment: 1**Reel/Frame: 3211/0093

Received: 12/15/2005

Recorded: 12/15/2005

Pages: 14

Conveyance: ACQUISITION OF INTELLECTUAL PROPERTY

Assignor: KMOS INC.

Exec Dt: 08/30/2004

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: WASHINGTON

Assignee: AMIGA, INC.24403 256TH AVENUE SE, P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

Correspondent: DARREN B. COHEN

599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650**Assignment: 2**Reel/Frame: 3596/0427

Received: 07/24/2007

Recorded: 06/27/2007

Pages: 23

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNOR AND ASSIGNEE NAME, PREVIOUSLY RECORDED ON REEL 003211 FRAME 0093. ASSIGNOR HEREBY CONFIRMS THE ACQUISITION OF INTELLECTUAL PROPERTY.

Assignor: AMIGA, INC.

Exec Dt: 08/30/2004

Entity Type: CORPORATION

Citizenship: NONE

Entity Type: CORPORATION

Citizenship: NONE

Assignee: KMOS, INC.225 FOSTER AVENUE  
KENTFIELD, CALIFORNIA 94904

Correspondent: DARREN B. COHEN, ESQ.

599 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10022**Assignment: 3**Reel/Frame: 3211/0156

Received: 12/15/2005

Recorded: 12/15/2005

Pages: 3

Conveyance: CHANGE OF NAME

Assignor: KMOS INC.

Exec Dt: 01/31/2005

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Entity Type: CORPORATION

Citizenship: WASHINGTON

Assignee: AMIGA, INC.24403 256TH AVENUE SE, P.O. BOX 887  
RAVENSDALE, WASHINGTON 98051

Correspondent: DARREN B. COHEN

599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650**Assignment: 4**Reel/Frame: 3237/0792

Received: 01/31/2006

Recorded: 01/31/2006

Pages: 7

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ADDRESS AND STATE OF INCORPORATION FOR THE RECEIVING PARTY ON CHANGE OF NAME DOCUMENT PREVIOUSLY RECORDED ON REEL 003211 FRAME 0156. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

**Assignor:** KMOS INC.

**Exec Dt:** 01/31/2005

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Assignee:** AMIGA, INC.

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

167 MADISON AVENUE  
SUITE 301  
NEW YORK, NEW YORK 10016

**Correspondent:** DARREN B. COHEN  
599 LEXINGTON AVENUE  
29TH FLOOR  
NEW YORK, NY 10022-7650

Search Results as of: 11/07/2007 01:31 PM

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**EXHIBIT T**



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## Trademarks > Trademark Electronic Search System (TESS)

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# AMIGA

Word Mark AMIGA

Translations The foreign wording in the mark translates into English as female friend.

Goods and Services

IC 009. US 021 023 026 036 038. G & S: Computer software used to facilitate development of software applications that can run on multiple platforms and other electronic devices; operating system software for personal computers and other electronic devices; electronic magazines in field of computers and computer technology recorded on computer media; computers, computer peripherals; telecommunications and computer communications equipment, namely, telephones, fax machines, modems and telecommunication switches; computer network routers, computer network hubs and computer network switches and communications servers; computer operating systems; computer disk drives; RAM expansion cartridges and external memory devices, namely, optical disc drives and memory expansion modules; computer application software, computer operating software and computer operating systems for use in wired and wireless devices for a wide range of audio-visual and multimedia technologies, including cellular and mobile telecommunications, smart phones, PDAs, web-based servers, television entertainment, entertainment, games and gaming consoles, personal computing, word processing, Internet applications including web browsing, calculators and related devices and technologies; developer support kits consisting primarily of computer software development tools, for use in developing computer software

IC 016. US 002 005 022 023 029 037 038 050. G & S: Magazines in the field of computers and computer technology

IC 035. US 100 101 102. G & S: On-line retail and wholesale store services featuring application and operating software and systems for use in wired and wireless devices for a wide range of audio-visual and multimedia technologies

IC 038. US 100 101 104. G & S: Providing on-line forums for transmission of messages among computer users concerning computers and computer technology

IC 042. US 100 101. G & S: Technical support services for software developers, namely, consulting and troubleshooting of computer software problems; computer software consultation

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design** 26.09.21 - Squares that are completely or partially shaded  
**Search Code** 27.03.01 - Geometric figures forming letters, numerals or punctuation  
**Serial Number** 78940426  
**Filing Date** July 28, 2006  
**Current Filing Basis** 1B  
**Original Filing Basis** 1B  
**Published for Opposition** October 9, 2007  
**Owner** (APPLICANT) Amiga, Inc. CORPORATION DELAWARE Suite 301 167 Madison Avenue New York NEW YORK 10016  
**Attorney of Record** Darren B. Cohen  
**Prior Registrations** 1401045;2319266;2369059;AND OTHERS  
**Description of Mark** The color(s) black and red is/are claimed as a feature of the mark. The color black appears in the word AMIGA, and the color red appears in the square design above the letter l of the word AMIGA in the mark.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**EXHIBIT U**



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## Trademarks > Trademark Electronic Search System (TESS)

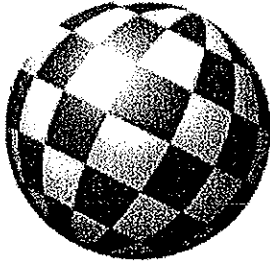
TESS was last updated on Wed Nov 7 04:06:54 EST 2007

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[Logout](#) Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)



**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software used to facilitate development of software applications that can run on multiple platforms and other electronic devices; operating system software for personal computers and other electronic devices; electronic magazines in field of computers and computer technology recorded on computer media; computers, computer peripherals; telecommunications and computer communications equipment, namely, telephones, fax machines, modems and telecommunication switches; computer network routers, computer network hubs and computer network switches and communications servers; computer operating systems; computer disk drives; RAM expansion cartridges and external memory devices, namely, optical disc drives and memory expansion modules; computer application software, computer operating software and computer operating systems for use in wired and wireless devices for a wide range of audio-visual and multimedia technologies, including cellular and mobile telecommunications, smart phones, PDAs, web-based servers, television entertainment, entertainment, games and gaming consoles, personal computing, word processing, Internet applications including web browsing, calculators and related devices and technologies; developer support kits consisting primarily of computer software development tools, for use in developing computer software

IC 016. US 002 005 022 023 029 037 038 050. G & S: Magazines in the field of computers and computer technology

IC 035. US 100 101 102. G & S: On-line retail and wholesale store services featuring application and operating software and systems for use in wired and wireless devices for a wide range of audio-visual and multimedia technologies

IC 038. US 100 101 104. G & S: Providing on-line forums for transmission of messages among computer users concerning computers and computer technology

IC 042. US 100 101. G & S: Technical support services for software developers, namely, consulting and troubleshooting of computer software problems; computer software consultation

**Mark**  
**Drawing Code** (2) DESIGN ONLY  
**Design Search Code** 21.03.01 - Balls including playground balls, beach balls, billiard balls, tennis balls, bingo balls and lottery balls; Beach balls; Billiard balls; Bingo balls; Lottery balls; Paddle balls; Playground balls; Table tennis balls; Tennis balls  
 25.03.01 - Checker board pattern; Checkerboard patterns  
**Serial Number** 78940434  
**Filing Date** July 28, 2006  
**Current Filing Basis** 1B  
**Original Filing Basis** 1B  
**Published for Opposition** October 9, 2007  
**Owner** (APPLICANT) Amiga, Inc. CORPORATION DELAWARE Suite 301 167 Madison Avenue New York NEW YORK 10016  
**Attorney of Record** Darren B. Cohen  
**Description of Mark** The color(s) red and white is/are claimed as a feature of the mark. The mark consists of the design of a checkered ball. The mark consists of a ball logo, in which the color red appears in the checkered design within the ball design of the mark, and the color white appears in the checkered design within the ball design of the mark.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)

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[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**EXHIBIT V**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Margbeth Peters*  
 Register of Copyrights, United States of America

**Form TX**  
 For a Non-dramatic Literary Work  
 UNITED STATES COPYRIGHT OFFICE  
 TX 6-587-397  
  
 EFFECTIVE DATE OF REGISTRATION  
 4 27 07  
 Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**1** TITLE OF THIS WORK  
 AMIGA Operating System (OS) and software Version 3.1

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work

If published in a periodical or serial give Volume Number Issue Date On Pages

**2 a** NAME OF AUTHOR  
 Commodore Amiga, Inc.

DATES OF BIRTH AND DEATH  
 Year Born Year Died

Was this contribution to the work a work made for hire?  
 Yes  No

AUTHOR'S NATIONALITY OR DOMICILE  
 Name of Country  
 OR Citizen of USA  
 OR Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
 Anonymously?  Yes  No  
 Pseudonymously?  Yes  No

**NOTE**

Under the law the author of a work made for hire is generally the employer, not the employee (see instructions). For any part of the work that was made for hire check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part and leave the space for dates of birth and death blank.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.  
 entire computer program including text and artwork on screen displays \*

**b** NAME OF AUTHOR

DATES OF BIRTH AND DEATH  
 Year Born Year Died

Was this contribution to the work a work made for hire?  
 Yes  No

AUTHOR'S NATIONALITY OR DOMICILE  
 Name of Country  
 OR Citizen of  
 OR Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
 Anonymously?  Yes  No  
 Pseudonymously?  Yes  No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

**c** NAME OF AUTHOR

DATES OF BIRTH AND DEATH  
 Year Born Year Died

Was this contribution to the work a work made for hire?  
 Yes  No

AUTHOR'S NATIONALITY OR DOMICILE  
 Name of Country  
 OR Citizen of  
 OR Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
 Anonymously?  Yes  No  
 Pseudonymously?  Yes  No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

**3 a** YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED  
 1994

**b** DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK  
 Month: MAY Day: 1 Year: 1994  
 USA

**4** COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.  
 Amiga, Inc.  
 167 Madison Avenue Suite 301  
 New York, New York 10016

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.  
 Claimant is successor at interest through a series of change of ownership documents and chain of title documents descending from the Author.

APPLICATION RECEIVED  
 APR 27 2007  
 ONE DEPOSIT RECEIVED  
 APR 27 2007  
 TWO DEPOSITS RECEIVED  
 FUNDS RECEIVED

MORE ON BACK Complete all applicable spaces (numbers 5-9) on the reverse side of this page. See detailed instructions. Sign the form at line 8.

DO NOT WRITE HERE  
 Page 1 of \_\_\_\_\_ pages



\* Amended by C.O from phone call from Darren Cohen on 7/24/07

EXAMINED BY <u>ET7</u>	FORM TX
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR COPYRIGHT OFFICE USE ONLY
<input type="checkbox"/> Yes	

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE. USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

Yes  No If your answer is Yes, why is another registration being sought? (Check appropriate box) ▾

a  This is the first published edition of a work previously registered in unpublished form

b  This is the first application submitted by this author as copyright claimant

c  This is a changed version of the work, as shown by space 6 on this application

If your answer is Yes, give Previous Registration Number ▸

Year of Registration ▸

5

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▾

Previous versions AMIGA OS and AMIGA OS 3.0 \*

Material Added to This Work Give a brief general statement of the material that has been added to this work and in which copyright is claimed ▾

Revised computer program, including editorial revisions other revisions and additional text of computer program including but not limited to: new programming text, also new disc packaging. \*

a 6

See instructions before completing this space

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account Name ▾ Account Number ▾

a 7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name / Address / Apt / City / State / Zip ▾

Darren B. Cohen Esq. c/o Reed Smith LLP  
599 Lexington Avenue  
New York N.Y. 10022

Area code and daytime telephone number ▸ 212 549 0346

Fax number ▸ 212 521 5450

Email ▸ dcohen@reedsmith.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ▸

- author
- other copyright claimant
- owner of exclusive right(s)
- authorized agent of AMIGA, Inc.

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Name of author or other copyright claimant, or owner of exclusive right(s) ▾

8

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date

Darren B. Cohen Esq.

Date ▸ April 18, 2007

Hand written signature ▾

Certificate will be mailed in window envelope to this address

Name ▾	Darren B. Cohen Esq. c/o Reed Smith LLP
Number/Street/Apt ▾	599 Lexington Avenue 29th Floor
City/State/Zip ▾	New York, N.Y. 10022

Complete all necessary steps. Run your application in space 8

1. Application form
2. Non-refundable filing fee in check or money order payable to Registrar of Copyrights
3. Deposit material

Library of Congress Copyright Office  
101 Independence Avenue SE  
Washington, DC 20540-4072

9

17 USC §206(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409 or in any written statement filed in connection with the application shall be fined not more than \$2,500

**EXHIBIT W**

Iste blad ↗

Ch. VANHEUKELEN, P. HENDRIX & F. DAVIDTS  
GERECHTSDEURWAARDERS  
Vital DECOSTERSTRAAT 83  
3000 LEUVEN  
BELGIE  
☎ 0032/16/29.89.56 - FAX 0032/16/20.76.18  
IBAN : BE 15 4310.0653.4130  
BIC KREDBEBB

V3589-07

DAGVAARDING ZOALS IN KORT GEDING

Het jaar tweeduizend en zeven, op vierentwintig mei,

Ten verzoeke van :

1. De heer Thomas FRIEDEN, wonende Schlosstrasse 176, 54296 Trier, Duitsland,
2. De heer Hans-Joerg FRIEDEN, wonende Schlosstrasse 176, 54296 Trier, Duitsland,
3. De heer Andrea VALLINOTTO, wonende Via N. Costa 4, 10123 Torino (Turijn), Italië,

Allen woonplaats kiezende op het hierna vermelde kantoor van hun raadslieden,

Hebbende als raadslieden Meester Daniel GYBELS en Meester Steve PARYS (telefoon : 0032/2/255.08.08 – fax : 0032/2/255.08.07 – referte : 9701/SP/SP), beiden kantoor houdende te 1800 Vilvoorde (België), Schaarbeeklei 17,

Heb ik ondergetekende Charles VANHEUKELEN, gerechtsdeurwaarder te 3000 Leuven (België), er kantoor houdende aan Vital Decosterstraat 83,

DAGVAARDING GEGEVEN AAN :

1. de Vennootschap onder Firma HYPERION, vennootschap naar Belgisch recht, ingeschreven in de kruispuntbank der ondernemingen onder het nummer 0466.380.552, met zetel van de vennootschap gevestigd te 3000 Leuven, Brouwersstraat 1 bus 19,

alwaar zijnde en er sprekende met :

alzo verklaard, die tektent,

Aangezien het exploit niet kon betekend worden overeenkomstig de artikelen 33 tot en met 35 van het Belgisch Gerechtelijk Wetboek en er niets op wijst dat gedaagde haar zetel verlaten zou hebben, vernits er zowel op de brievenbus als op de bel vermeld staat "HERMANS HYPERION LEGEND" heb ik op de voormelde zetel van gedaagde de voor haar bestemde kopie achtergelaten, overeenkomstig artikel 38 § 1 van het Belgisch Gerechtelijk Wetboek, onder gesloten omslag en overeenkomstig artikel 44, eerste lid van hetzelfde wetboek, om uur, haar meldend dat ik haar een bericht zal zenden in een ter post aangetekende omslag, om gebeurlijk nog een voor eensluitend verklaard afschrift van het exploit op mijn kantoor te komen afhalen, binnen de termijn en op de wijze hierin vermeld.

2de blad

7

→ 2) AMIGA INC., vennootschap naar het recht van de Verenigde Staten van Amerika en meer bepaald van de staat Delaware, met zetel te 167 Madison Avenue, Suit 301, New York, N.Y. 10016, Verenigde Staten van Amerika,

vennootschap waarvan verzoekers geen maatschappelijke zetel, filiaal, bedrijfszetel of gekozen woonplaats in België kennen,

Aangezien verzoekers van tweede gedaagde geen maatschappelijke zetel, filiaal, bedrijfszetel of gekozen woonplaats in België kennen en tweede gedaagde haar zetel in de Verenigde Staten van Amerika heeft, heb ik, gelet op het Internationaal Verdrag inzake de betekening en de kennisgeving in het buitenland van gerechtelijke en buitengerechtelijke stukken in burgerlijke zaken en in handelszaken, ondertekend te 's Gravenhage op 15 november 1965, door België goedgekeurd bij de wet van 24 januari 1970 (Belgisch Staatsblad van 9 februari 1971), ten aanzien van de Verenigde Staten van Amerika in werking getreden op 10 februari 1969, de betekening gedaan als volgt :

A. ik heb, overeenkomstig artikel 3 van het voormeld Verdrag, een aangetekende brief, met bericht van ontvangst, per prioritaire zending, wat neerkomt op een verzending per luchtpost, vandaag neergelegd op het postkantoor te Leuven Centrum, toegezonden aan de door de Centrale Autoriteit van de Verenigde Staten van Amerika, land van bestemming, aangewezen bevoegde instantie, te weten :

→ de PROCESS FORWARDING INTERNATIONAL  
910 5<sup>th</sup> Avenue  
Seattle  
WA 98104  
USA,

met als inhoud :

1° een behoorlijk in het Engels ingevulde aanvraag tot betekening, overeenstemmend met het modelformulier dat als bijlage aan het voormeld Verdrag werd toegevoegd,

2° een in het Engels opgestelde verklaring waarin ik de voornoemde PROCESS FORWARDING INTERNATIONAL machtig om zich via mijn VISA CARD een bedrag van US \$ 95 te doen betalen,

3° twee afschriften van mijn exploit, beide met een Engelse vertaling van mijn exploit, beide vergezeld van een formulier, overeenstemmend met het modelformulier als bijlage aan het voormeld verdrag toegevoegd, dat aard en onderwerp van het exploit weergeeft,

met het verzoek,

a) één afschrift van mijn exploit met een Engelse vertaling van mijn exploit te doen betekenen aan de erin vermelde bestemming, te weten :

AMIGA INC., met zetel te 167 Madison Avenue, Suit 301, New York, N.Y. 10016,

zulks met inachtneming van de vormen, in de wetgeving van de aangezochte Staat voorgeschreven voor de betekening of kennisgeving van stukken die in dat land zijn opgemaakt en bestemd zijn voor zich aldaar bevindende personen, dit overeenkomstig artikel 5, eerste lid, a) van het voormeld Verdrag,

3de blad 7

- b) mij het andere exemplaar te willen terugsturen, met een verklaring, overeenkomstig artikel 6 van het Verdrag, waarin bevestigd wordt dat aan de aanvraag uitvoering is gegeven, met vermelding van de vorm waarin, de plaats waar en het tijdstip waarop dit is geschied, alsmede de persoon aan wie het stuk is afgegeven, of, in voorkomend geval, de omstandigheden die de uitvoering van de aanvraag hebben belet.

Het bewijs van die aangetekende zending heb ik aan het origineel van mijn exploot gehecht.

B. En aangezien artikel 10 a) van het voormeld Verdrag de bevoegdheid onverlet laat gerechtelijke stukken rechtstreeks over de post toe te zenden aan de zich in het buitenland bevindende personen heb ik vandaag tevens één afschrift van mijn exploot met een Engelse vertaling van mijn exploot, vergezeld van een formulier, overeenstemmend met het modelformulier als bijlage aan het voormeld verdrag toegevoegd, dat aard en onderwerp van het exploot weergeeft, aangetekend, met bericht van ontvangst, per prioritaire zending, wat neerkomt op een verzending per luchtpost, neergelegd op het postkantoor te Leuven Centrum, verzonden naar het adres van de bestemming.

Het bewijs van die aangetekende zending heb ik eveneens aan het origineel van dit exploot gehecht.

Om te verschijnen op VRIJDAG ACHTENTWINTIG SEPTEMBER AANSTAANDE OM NEGEN UUR DERTIG VOORMIDDAG voor de Voorzitter van de Rechtbank van Eerste Aanleg zetelende te Brussel (België), *zoals in kort geding*, zitting houdende in het gewoon lokaal der zittingen, zaal 0.13, in het Justitiepaleis, Poelaertplein te Brussel (België),

- ten einde -

Gedaagden gingen op 3 november 2001 een overeenkomst aan genaamd "OEM Software License and Development Agreement" met het oog op de ontwikkeling door eerste gedaagde van een besturingssysteem voor computers uitgerust met PPC processoren van o.a. IBM en Freescale. Eerste gedaagde bedong uitdrukkelijk dat zij voor de realisatie van deze software een beroep mocht doen op onderaannemers.

In het kader van deze overeenkomst van 2001 sloot eerste gedaagde met de heren Thomas Frieden en Hans-Joerg Frieden (respectievelijk eerste en tweede verzoekers) op 3 januari 2002 een overeenkomst af naar Belgisch recht, genaamd "Software development & license agreement". In artikel 2.02 van deze overeenkomst van 3 januari 2002 behielden eerste en tweede verzoekers zich uitdrukkelijk alle intellectuele eigendomsrechten voor op de ontwikkelde software met uitzondering van de in art. 2.03 aan eerste gedaagde verleende beperkte licentie. De door eerste en tweede verzoeker ontwikkelde software ("ExecSG") wordt beschreven in Annex I van de overeenkomst van 3 januari tussen eerste gedaagde en eerste en tweede verzoekers.

Eveneens in het kader van de overeenkomst van 3 november 2001 tussen gedaagden sloot eerste gedaagde met derde verzoeker op 10 oktober 2001 een overeenkomst af eveneens naar Belgisch recht, genaamd "license agreement", waarbij derde verzoeker in art. 2.01 (1) aan eerste gedaagde een beperkte licentie verleende op de door hem ontwikkelde software maar hij zich voor het overige in art. 2.03 alle eigendomsrechten voorbehield. De door derde verzoeker ontwikkelde software ("HDSCSIToolkit") wordt beschreven in Annex I van de op 10 oktober 2001 tussen eerste gedaagde en derde verzoeker afgesloten overeenkomst.

Tussen gedaagden is sedertdien een geschil ontstaan i.v.m. de eigendomsrechten, reproductie- en distributierechten van het door eerste gedaagde met medewerking van verzoekers ontwikkelde besturingssysteem "Amiga OS 4.0".

4de blad 7

In het kader van dit geschil maken gedaagden aanspraken op de door verzoekers ontwikkelde software die verder gaan dan de beperkte rechten die hen op grond van de respectievelijke overeenkomsten tussen eerste gedaagde en verzoekers werden verleend. Inzonderheid doet tweede gedaagde zich t.a.v. derden voor als titularis van alle intellectuele rechten op de door verzoekers ontwikkelde software en heeft zij reeds te kennen gegeven te willen overgaan tot wereldwijde commerciële distributie van deze software zonder enige toestemming en vergoeding van verzoekers.

Overeenkomstig art. 1 van de Wet van 30 juni 1994 houdende omzetting in Belgisch recht van de Europese richtlijn van 14 mei 1991 betreffende de rechtsbescherming van computerprogramma's worden computerprogramma's, het voorbereidend materiaal daaronder begrepen, auteursrechtelijk beschermd en gelijkgesteld met werken van letterkunde in de zin van de Berner Conventie voor de bescherming van werken van letterkunde en kunst.

Verzoekers kunnen als houders van de auteursrechten op de door hen ontwikkelde software bijgevolg aanspraak maken op de bescherming van de Wet van 30 juni 1994 betreffende het auteursrecht en de naburige rechten en inzonderheid art. 87 van deze wet luidens hetwelk de voorzitter van de rechtbank van eerste aanleg het bestaan vaststelt van een inbreuk op het auteursrecht of op een naburig recht en beveelt dat daaraan een einde wordt gemaakt.

In dit verband moet bovendien gewezen worden op art. 18 van het Gerechtelijk Wetboek dat bepaalt dat de rechtsvordering kan worden toegelaten, indien zij, zelfs tot verkrijging van een verklaring van recht, is ingesteld om schending van een ernstig bedreigd recht te voorkomen.

Verzoekers vorderen dan ook de staking van de inbreuken op hun auteursrechten ex art. 87 Auteurswet en dit op straffe van een dwangsom van 10.000 euro per inbreuk.

Luidens art. 12 van het Wetboek internationaal privaatrecht onderzoekt de rechter bij wie de zaak aanhangig is gemaakt, ambtshalve zijn internationale bevoegdheid.

Krachtens art. 5 van hetzelfde Wetboek internationaal privaatrecht zijn de Belgische rechters bevoegd indien de verweerder bij de inleiding van de vordering zijn woonplaats of gewone verblijfplaats in België heeft. Indien er verschillende verweerders zijn, zijn de Belgische rechters bevoegd indien een van hen zijn woonplaats of gewone verblijfplaats in België heeft, tenzij de vordering slechts werd ingesteld om een gedaagde te onttrekken aan de rechter van zijn woonplaats of zijn gewone verblijfplaats in het buitenland.

Eerste gedaagde heeft haar zetel in België en bovendien voorzien de overeenkomsten tussen eerste gedaagden en verzoekers in de bevoegdheid van de Belgische rechtbanken.

Bovendien zijn de Belgische rechtbanken bevoegd op grond van art. 96 2° van het Wetboek internationaal privaatrecht aangezien een inbreuk op het auteursrecht een onrechtmatige daad is en de inbreuk zich eveneens in België voordoet of dreigt voor te doen en ook de schade zich aldaar voordoet of dreigt voor te doen.

De Voorzitter van de Rechtbank van Eerste Aanleg te Brussel is bevoegd omdat de inbreuk en de schade zich ook in zijn ressort voordoet en aangezien eerste gedaagde haar zetel heeft in Leuven.

Om deze redenen en alle andere te doen gelden in de loop van het geding en hier uitdrukkelijk voorbehouden, onder alle voorbehoud en zonder enige nadelige erkenning en onder betwisting van elk niet uitdrukkelijk erkend feit,

Sde blad 7

Overeenkomstig art. 87, §1 van de Auteurswet van 30 juni 1994 voor recht te horen verklaren dat gedaagden gezamenlijk inbreuken hebben gepleegd op de auteursrechten van verzoekers door zich als titularis van alle intellectuele rechten op de door verzoekers ontwikkelde software voor te doen.

Te horen zeggen voor recht dat verzoekers de auteursrechthebbenden zijn van alle door hen ontwikkelde software zoals deze beschreven staat in Annex I van de door hen met eerste gedaagde afgesloten overeenkomsten;

Gedaagden te horen veroordelen om elke distributie en mededeling aan derden zonder toestemming van verzoekers van deze software te staken, zulks op straffe van een dwangsom van 10.000 euro per inbreuk, dwangsom die gedaagden solidair, in solidum of de ene bij gebreke aan de andere verschuldigd zullen zijn;

Gedaagden verder solidair, in solidum of de ene bij gebreke aan de andere te horen veroordelen tot betaling aan verzoekers van de gerechtskosten, weze de kosten van deze akte (zie onderaan deze akte), de kosten van de betekening in de Verenigde Staten van Amerika en de wettelijke rechtsplegingsvergoeding zijnde 364,40 euro,

Waarvan akte.

Kosten : 703,62 euro,

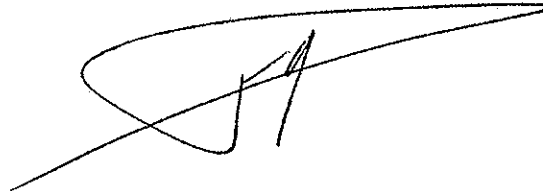
te vermeerderen met de kosten van de aangetekende zendingen, hetzij

hetzij in totaal

te vermeerderen met de kosten van de betekening in de Verenigde Staten van Amerika.

VR	072,32
3 X COP	043,38
VACB	009,79
RS	011,44
RINL	006,09
UINL	014,88
REG	025,00
PLZ	003,70
ROLZ	082,00
RROLZ	012,14
AR	004,82
VERT	418,06
	703,62

Charles VANHEUKELEN, gerechtsdeurwaarder



6 de 6 lnd y

C. VANHEUKELEN, P. HENDRIX & F. DAVIDTS  
JUDICIAL OFFICERS  
Vital DECOSTERSTRAAT 83  
3000 LEUVEN  
BELGIUM  
☎ 0032/16/29 89 56 FAX 0032/16/20 76 18  
IBAN: BE 15 4310.0653.4130  
BIC KREDBEBB

V3589-07

**SUMMONS AS IN SUMMARY PROCEEDINGS**

In the year two thousand and seven, on the twenty-fourth of May

At the request of:

1. Mr. Thomas FRIEDEN, residing at Schlosstrasse 176, 54296 Trier, Germany
2. Mr. Hans-Joerg FRIEDEN, residing at Schlosstrasse 176, 54296 Trier, Germany
3. Mr. Andrea VALLINOTTO, residing at Via N. Costa 4, 10123 Torino (Turin), Italy,

All electing domicile at the office of their attorneys indicated hereinafter.

Having as counselors Daniel GYBELS and Steve PARYS (telephone: 0032/2/255.08.08 – fax 0032/2/255 08 07 – reference: 9701/SP/SP), both with offices at Schaarbeeklei 17, 1800 Vilvoorde, Belgium,

I, the undersigned, Charles VANHEUKELEN, Judicial Officer in 3000 Leuven, Belgium, with offices at Vital Decosterstraat 83,

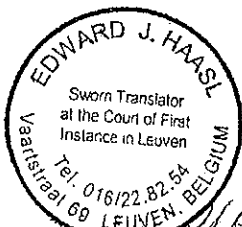
HAVE ISSUED SUMMONS TO:

1. The partnership HYPERION, a company under Belgian law, registered in the *Kruispuntbank der Ondernemingen* under number 0466.380.552, with headquarters of the company established at Brouwersstraat 1 Bus 19, 3000 Leuven,

being there and speaking with

so declared, who does not sign.

Whereas the writ could not be served in accordance with Articles 33 through 35 of the Belgian Judicial Code and nothing shows that the summoned party would have left its headquarters, since both on the mailbox and on the doorbell is indicated "HERMANS HYPERION LEGEND", I have left at the aforesaid headquarters of the summoned party the copy intended for it in accordance with Article 38 §1 of the Belgian Judicial Code, under sealed envelope and in accordance with Article 44, first paragraph of the same Code, at hours, stating that I will send it a notice by registered mail to come to my office to obtain an authenticated copy of the writ if necessary, within the period and in the manner indicated herein.





7 de study

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→ 2) AMIGA INC, a company under the law of the United States of America and more specifically the State of Delaware, with headquarters at 167 Madison Avenue, Suite 301, New York, N.Y. 10016, United States of America

a company whereof the petitioners know of no company headquarters, subsidiary, operational headquarters, or elected domicile in Belgium,

Whereas the petitioners know of no headquarters, subsidiary, operational headquarters or elected domicile of the second summoned party in Belgium and whereas the second summoned party has its headquarters in the United States of America, I have, attentive to the International Convention regarding the service and the notification abroad of judicial and extra-judicial documents in civil and commercial matters signed at The Hague on 15 November 1965, ratified by Belgium by the Law of 24 January 1970 (*Belgisch Staatsblad* of 9 February 1971), having entered into force with respect to the United States of America on 10 February 1969, performed the service as follows:

A. I have, in accordance with Article 3 of the aforesaid Convention, sent a registered letter with notice of receipt by priority mail, which is equivalent to sending by airmail, deposited this day at the post office of Leuven Center, to the authorized agency indicated by the Central Authority of the United States of America, the country of destination, i.e.:

→ PROCESS FORWARDING INTERNATIONAL  
910 5<sup>th</sup> Avenue  
Seattle, WA 98104  
USA

with the content:

1. a request for service, properly completed in English, in accordance with the model form added to the aforesaid Convention as an appendix,
2. a declaration drawn up in English in which I authorize the aforesaid PROCESS FORWARDING INTERNATIONAL to have an amount of US\$95 paid to it via my VISA CARD,
3. two copies of my writ, both with an English translation of my writ and both accompanied by a form, corresponding to the model form appended to the aforesaid Convention that states the nature and the subject of the writ,

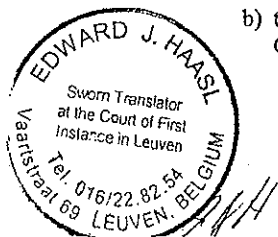
with the request:

a) to have served one copy of my writ with English translation on the addressee cited therein, that is:

AMIGA INC., with headquarters at 167 Madison Avenue, Suite 301, New York, N.Y. 10016,

such with observance of the forms prescribed by the law of the petitioned State for the service or notification of documents that have been drawn up in that country and are intended for persons there, this in accordance with Article 5, first paragraph, a) of the aforesaid Convention;

b) to return to me the other copy with a declaration, in accordance with Article 6 of the Convention, confirming that the request has been executed and indicating the form in



8<sup>ste</sup> Clad

which, the place where, and the time when this has occurred as well as the person to whom the document has been given or, as the case may be, stating the circumstances that have prevented the execution of the request.

I have attached the proof for this registered mail to the original of my writ.

B. And since Article 10 a) of the aforesaid Convention does not hinder the capacity to send judicial documents directly through the mail to persons abroad, I have this day also sent one copy of my writ with an English translation of my writ, accompanied by a form corresponding to the model form appended to the aforesaid Convention that states the nature and subject of the writ by registered mail with notice of receipt, by priority mail, which is equivalent to sending by air mail, deposited at the post office of Leuven Center, to the address of the addressee.

And I have also attached the proof for this registered mail to the original of this writ.

To appear on FRIDAY THE TWENTY-EIGHTH OF SEPTEMBER THIS YEAR AT NINE O'CLOCK AND THIRTY MINUTES IN THE MORNING before the Chairman of the Court of First Instance sitting in Brussels, Belgium, as in summary proceedings sitting in the ordinary room for hearings, Room 0.13, in the Courthouse, Poelaertplein in Brussels, Belgium,

– for the purpose of –

The summoned parties entered into an agreement on 3 November 2001 called the "OEM Software License and Development Agreement" with a view to the development by the first summoned party of an operating system for computers equipped with PPC processors of IBM, Freescale, and others. The first summoned party stipulated explicitly that it could call upon subcontractors for the development of this software.

In the context of this agreement of 2001, the first summoned party concluded an agreement under Belgian law with Messrs Thomas Frieden and Hans-Joerg Frieden (the first and second petitioners, respectively) on 3 January 2002, called "Software development & license agreement". In Article 2.02 of this agreement of 3 January 2002, the first and second petitioners explicitly reserved to themselves all intellectual property rights on the developed software with the exception of the restricted license granted in Art. 2.03 to the first summoned party. The software developed by the first and second petitioners ("ExecSG") is described in Annex 1 of the agreement of 3 January between the first summoned party and the first and second petitioners.

Also in the framework of the agreement of 3 November 2001 between the summoned parties, the first summoned party concluded an agreement with the third petitioner on 10 October 2001, also under Belgian law, called "license agreement" whereby the third petitioner in Art. 2.01 (1) granted to the first summoned party a restricted license on the software developed by him but, for the rest, in Art. 2.03 he reserved all ownership rights to himself. The software developed by the third petitioner ("HDSCSIToolkit") is described in Annex 1 of the agreement concluded between the first summoned party and the third petitioner on 10 October 2001.

Between the summoned parties since then a dispute has arisen regarding the ownership rights, reproduction rights, and distribution rights of the operating system "Amiga OS 4.0" developed by the first summoned party in collaboration with the petitioners.

