

Subject: : Too Hot to handle

Topic: : Access Denied: Amiga Inc loses first stage

Re: Access Denied: Amiga Inc loses first stage

Author: : Mitch

Date: : 2007/6/14 14:47:47

URL:

@derfs

Quote:

as i said 'no clear case for them to win'. doesnt mean they cant win, or will lose (which is what you incinuated)

That isn't what I insinuated at all. On the merits of the evidence before the court it is not likely they will succeed in the eyes of the judge. What I am trying]to get across is that not only is the judge unable to dismiss the case at this stage (it is an injunction, not an interim judgement) but that more importantly that unless Amiga Inc improve their evidence they are pretty much set up to lose as the onus is on them to prove their case. That being said, it is worth the risk for Hyperion to press on and release what they like. However Hyperion might have decided to show "good faith" and to sit and wait until the product is complete.

Quote:

i agreed with you, and now you disagree with your own point? its because they can do what they want that they are being taken to court.

I don't understand you at all. Hyperion has never been able to do what they want, they have operated within the limits of the contract (where possible *) and has not released AmigaOS4 on any other hardware than for which it was licensed under the agreement with Eyetech. This has unfortunately allowed Amiga Inc to block AmigaOS4.0 ever since Eyetech left the business of making AmigaONE hardware.

There are three main reasons for delay:

1. Amiga Inc not providing sources in a timely fashion as a prerequisite to the contract. This is the first material breach of the contract.
2. The change in prerequisite hardware, for the longest time Hyperion were without the target hardware required for the completion of the software. This is the second material breach of the contract, and this is down to

3. Quality control, the addition of additional features seen as needed to be able to market the product in the target market. Whether or not this is a third material breach depends on delays caused in the contract. It is a successor breach to (1) and (2) and it is arguable, in this context, if it constitutes a material breach.

There is a final reason for 3 years worth of delay:

4. Amiga Inc refusing to license hardware for use with AmigaOS4.0 after Eyetech left the business of making AmigaONE hardware.

It is a subtle situation and I never said that Hyperion have ever been able to do what they want, I am saying that the court will not step in and stop them.