

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIM and PENNY PATERSON, husband and)
wife and the marital community thereof,)
Plaintiffs,)

No. 2:05-CV-01719-TSZ

v.)

**DECLARATION OF KAUSTUV
M. DAS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

LITTLE, BROWN AND COMPANY, a)
Massachusetts state corporation, TIME)
WARNER BOOK GROUP, a Delaware state)
corporation, HAROLD EVANS ASSOCIATES)
LLC, a New York state limited liability)
company, HAROLD EVANS, and DAVID)
LEFER,)
Defendants.

Kaustuv M. Das declares:

1. I am an associate in the firm of Davis Wright Tremaine LLP and one of the attorneys for the Defendants, Little, Brown and Company, Time Warner Book Group, Harold Evans Associates LLC, Harold Evans and David Lefer ("Little, Brown, et al.") in this action. I make this statement from personal knowledge and from the files and records in this case.

DECLARATION OF KAUSTUV M. DAS - 1
IN SUPPORT OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

1 2. Attached and incorporated by reference in this declaration as Exhibit A is a true and
2 correct copy of excerpts of Tim Paterson’s deposition, which was taken on January 18, 2007.

3 3. Attached and incorporated by reference in this declaration as Exhibit B is a true and
4 correct copy of the chapter “Gary Kildall: He saw the future and made it work. He was the true
5 founder of the personal computer revolution and the father of PC software” as contained in the
6 hardcopy edition of the book *They Made America* and Bates numbered HBG001164 through
7 HBG001179.

8 4. Attached and incorporated by reference in this declaration as Exhibit C is a true and
9 correct copy of an obituary written by John Markoff, *Gary Kildall, 52, Crucial Player In*
10 *Computer Development, Dies*, N.Y. Times, July 13, 1994.

11 5. Attached and incorporated by reference in this declaration as Exhibit D is a true and
12 correct copy of an article by Ray Duncan, *Advanced MS-DOS Programming 4* (Microsoft Press
13 1986).

14 6. Attached and incorporated by reference in this declaration as Exhibit E is a true and
15 correct copy of an unpublished, confidential article by Tim Paterson, *The Right Place . . . The*
16 *Right Time*. Because Plaintiffs marked this document “Confidential,” it is being filed
17 separately under seal pursuant to the Protective Order entered by this Court on May 22, 2006.

18 7. Attached and incorporated by reference in this declaration as Exhibit F is a true and
19 correct copy of an encyclopedia article on Intel’s 8086 chip, Microsoft Press, *The MS-DOS*
20 *Encyclopedia* 12 (Ray Duncan ed. 1988).

21 8. Attached and incorporated by reference in this declaration as Exhibit G is a true and
22 correct copy of excerpts from the book by James Wallace & Jim Erickson, *Hard Drive: Bill*
23 *Gates and the Making of the Microsoft Empire* 182-85 (John Wiley & Sons, Inc. 1992).

DECLARATION OF KAUSTUV M. DAS - 2
IN SUPPORT OF DEFENDANTS’ MOTION
FOR SUMMARY JUDGMENT

SEA 1962021v1 3910089-000029

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 9. Attached and incorporated by reference in this declaration as Exhibit H is a true and
2 correct copy of excerpts from Stephen Manes & Paul Andrews' book, *Gates: How Microsoft's*
3 *Mogul Reinvented an Industry-and Made Himself the Richest Man in America* 157-58
4 (Doubleday 1993).

5 10. Attached and incorporated by reference in this declaration as Exhibit I is a true and
6 correct copy of excerpts from a book by Andrew Schulman et al., *Undocumented DOS: A*
7 *Programmer's Guide to Reserved MS-DOS Functions and Data Structures* 181-82 (Addison-
8 Wesley 1994).

9 11. Attached and incorporated by reference in this declaration as Exhibit J is a true and
10 correct copy of a Letter to the Editor by Tim Paterson, *The Origins of DOS: DOS Creator*
11 *Gives His View of Relationship Between CP/M, MS-DOS*, Microprocessor Report, Oct. 3, 1994.

12 12. Attached and incorporated by reference in this declaration as Exhibit K is a true and
13 correct copy of an article by Tim Paterson, *An Inside Look at MS-DOS*. Byte, June, Vol. 8(9),
14 230-252.

15 13. Attached and incorporated by reference in this declaration as Exhibit L is a true and
16 correct copy of an article by David Hunter, *Tim Paterson: The Roots of Dos*, Softtalk for the
17 IBM Computer, March 1983.

18 14. Attached and incorporated by reference in this declaration as Exhibit M is a true
19 and correct copy of the 86-DOS Programmer's Manual that was produced by Plaintiffs in
20 response to discovery requests.

21 15. Attached and incorporated by reference in this declaration as Exhibit N is a true and
22 correct copy of the CP/M 2.0 Interface Guide.

23
DECLARATION OF KAUSTUV M. DAS - 3
IN SUPPORT OF DEFENDANTS' MOTION
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1 16. Attached and incorporated by reference in this declaration as Exhibit O is a true and
2 correct copy of the CP/M Interface Guide that was produced by Plaintiffs in response to
3 discovery requests.

4 17. Attached and incorporated by reference in this declaration as Exhibit P is a true and
5 correct copy of a newspaper article by James Wallace & Jim Erickson, *Bill Gates: Of Mind and*
6 *Money*, Seattle P-I, May 8, 1991.

7 18. Attached and incorporated by reference in this declaration as Exhibit Q is a true and
8 correct copy of an article written by Roy Duncan, *Design Goals and Implementation of the New*
9 *High Performance File System*, Microsoft System Journal, Sept. 1989.

10 19. Attached and incorporated by reference in this declaration as Exhibit R is a true and
11 correct copy of an excerpt from Bill Gates, *The Road Ahead* at 53-54 (Penguin Books 1996).

12 20. Attached and incorporated by reference in this declaration as Exhibit S is a true and
13 correct copy of an article from InfoWorld Staff, *IBM to Pounce on Micro Market*, June 8, 1991.

14 21. Attached and incorporated by reference in this declaration as Exhibit T is a true and
15 correct copy of the transcript of the PBS television program "Triumph of the Nerds," Bates
16 numbered HBG000692-710.

17 22. Attached and incorporated by reference in this declaration as Exhibit U is a true and
18 correct copy of an article by Kevin Strehlo, *Microsoft Expands, Weighs Dependence Against*
19 *Autonomy*, PC Week, Sept. 1984.

20 23. Attached and incorporated by reference in this declaration as Exhibit V is a true and
21 correct copy of Randy Dykhuis's article *DOS 4.0: Time to Upgrade?*, *Computers in Libraries*,
22 June 1990.

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DECLARATION OF KAUSTUV M. DAS - 4
IN SUPPORT OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

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1 24. Attached and incorporated by reference in this declaration as Exhibit W is a true
2 and correct copy of selected excerpts of Paul Carroll's book *Big Blues: The Unmaking of IBM*
3 (Random House, Inc. 1993).

4 25. Attached and incorporated by reference in this declaration as Exhibit X is a true and
5 correct copy of an article by Wayne Rash Jr., *A Requiem for the Father of Modern Operating*
6 *Systems*, InternetWeek, July 25, 1994.

7 26. Attached and incorporated by reference in this declaration as Exhibit Y is a true and
8 correct copy of an article by Rory J. O'Connor, *Farewell to Troubled Genius: Kildall's Work*
9 *Overshadowed by Rival*, San Jose Mercury News, July 31, 1994, at 1A.

10 27. Attached and incorporated by reference in this declaration as Exhibit Z is a true and
11 correct copy of an article by Stan Veit, *What ever Happened To . . . Gary Kildall? CP/M Disk*
12 *Operating System Developer*, Computer Shopper, Nov. 1994.

13 28. Attached and incorporated by reference in this declaration as Exhibit AA is a true
14 and correct copy of selected excerpts from Robert X. Cringley, *Accidental Empires*
15 (HarperBusiness 1996 ed.).

16 29. Attached and incorporated by reference in this declaration as Exhibit BB is a true
17 and correct copy of an excerpt from Gary Rivlin's book *The Plot to Get Bill Gates* (Time
18 Books 1999).

19 30. Attached and incorporated by reference in this declaration as Exhibit CC is a true
20 and correct copy of an excerpt from a book by Paul Freiberger & Michael Swaine, *Fire in the*
21 *Valley* (Mc-Graw Hill 2d ed. 2000).

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DECLARATION OF KAUSTUV M. DAS - 5
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1 31. Attached and incorporated by reference in this declaration as Exhibit DD is a true
2 and correct copy of an article by Garrett Romaine, *Two Books on Silicon Valley*, Technical
3 Communications, Feb/Mar. 2000.

4 32. Attached and incorporated by reference in this declaration as Exhibit EE is a true
5 and correct copy of an article on DOS written by Tim Paterson for “Encyclopedia of
6 Computers and Computer History,” which was produced by Plaintiffs in response to discovery
7 requests.

8 33. Attached and incorporated by reference in this declaration as Exhibit FF is a true
9 and correct copy of an article written by Tony Durham, *Iffy Index No Help to Fuzzy Logic*, The
10 Times Higher Education Supp., Feb. 8, 2002.

11 34. Attached and incorporated by reference in this declaration as Exhibit GG is a true
12 and correct copy of Answers and Responses to Defendants’ First Set of Interrogatories to
13 Plaintiffs, dated June 29, 2006.

14 35. Attached and incorporated by reference in this declaration as Exhibit HH is a true
15 and correct copy of excerpts of Sir Harold M. Evans’ deposition, which was taken on February
16 6, 2007.

17 I declare under the penalty of perjury of the laws of the State of Washington that the
18 foregoing is true and correct.

19 /s/ Kaustuv M. Das
20 Kaustuv M. Das

21 Executed at Seattle, Washington on Thursday, March 15, 2007.

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DECLARATION OF KAUSTUV M. DAS - 6
IN SUPPORT OF DEFENDANTS’ MOTION
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