

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,

Case No. 2:05-CV-01719-TSZ

Plaintiffs,

vs.

DECLARATION OF D. MICHAEL TOMKINS IN SUPPORT OF PLAINTIFFS' RESPONSE TO 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.

I, D. Michael Tomkins, declare as follows:

1. I am an attorney for Plaintiffs Tim and Penny Paterson. I have personal knowledge of the facts contained herein and am competent to testify thereto.

DECLARATION OF D. MICHAEL TOMKINS - 1

LAW OFFICES OF  
D. Michael Tomkins, P.S.  
8420 Dayton Avenue North  
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Tel. No. (206) 547-1000  
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1 2. Attached as Exhibit A are true and correct Excerpts from the Deposition of Harold  
2 Evans, Defendant in this suit, taken February 6, 2007.

3 3. Attached as Exhibit B is a true and correct copy of an excerpt from “The Online  
4 Software Museum” entitled “The History of CP/M” which was supplied by Harold Evans  
5 through discovery.

6 4. Attached as Exhibit C is a true and correct copy of Excerpts from the Research Notes  
7 of David Lefer, provided by Harold Evans through discovery. Mr. Evans relied heavily on  
8 these research notes in drafting his chapter on Gary Kildall.

9 5. Attached as Exhibit D is a true and correct copy of Excerpts from the DRI-IBM  
10 Contract, provided by Harold Evans through discovery, marked as Confidential.

11 6. Attached as Exhibit E is a true and correct copy of “Appendix B” of Gary Kildall’s  
12 memoirs, which purports to be a “Comparison of CP/M and DOS.” This was supplied by  
13 Harold Evans through discovery, and is marked “Confidential.”

14 7. Attached as Exhibit F is a true and correct copy of a comment made by Daniel Kelves,  
15 Professor of History at Yale University, regarding his thoughts on a review of Evans’ chapter  
16 on Gary Kildall, provided by Harold Evans through discovery.

17 8. Attached as Exhibit G are excerpts from a true and correct copy of the Digital Research  
18 News, First Quarter 1982 report, which includes an Order Form to purchase CP/M-86 for  
19 \$250.00. This was provided by Harold Evans through discovery.  
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23 DECLARATION OF D. MICHAEL  
TOMKINS - 2

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Respectfully submitted this 20<sup>th</sup> day of April, 2007

/S/

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D. Michael Tomkins, WSBA # 4979  
Attorney for Plaintiffs

DECLARATION OF D. MICHAEL  
TOMKINS - 3

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