

JJM/MPM/DK

John Knightley Esq.,  
Digital Displays Ltd.,  
Blatchford Close,  
Redkilyn Way,  
Horsham, Sussex.

19th July, 1974.

Dear John,

After much consideration and deep thought, the Board and Management of the Mermaid Theatre have come to the following conclusions:

That whilst we appreciate that the board, if it could be made to work to our specification, would be what we consider an extremely useful and worthwhile piece of equipment, they must regretfully set a final deadline by which time the equipment must be working entirely to our satisfaction, and an adequate supply of spare parts and documentation be made available to us. This date is to be mid-day on 24th August 1974.

If this deadline cannot be met, then the Mermaid Theatre will make arrangements for the replacement of the equipment, and steps will be taken to recover all monies so far paid, and also all costs incurred by us.

Yours sincerely,



JONATHAN JAMES-MOORE,  
General Manager.

President: Sir Alec Guinness. Chairman: Sir Val Duncan. Governors: Lord Beeching, James Cameron, Bernard Delfont, David Freeman, Leo Genn, S. Mervyn Herbert, Michael Jordan, Eddie Kulukupdis, Alan Lamboll, Sir Bernard Miles, Jonathan Miller, Louis Mintz, John Murphy, Cyril Stein, G.T. Whyte and Josephine Wilson.

Mermaid Theatre Trust Limited Reg. No. 754018.

V.A.T. Reg. No. 243742075

# DIGITAL DISPLAY EQUIPMENT LTD.

P.O. Box 20  
Blatchford Close  
Horsham, Sussex RH13 5RG  
Tel. Horsham (STD0403) 64959

Our ref. JLK/BRK

Your ref. JJM/JPM/DK

22nd July, 1974

Mr. J. James-Moore,  
General Manager,  
Mermaid Theatre,  
Puddle Dock,  
Blackfriars,  
London, EC4V3DB.

Dear Jonathan,

Thank you for your letter of the 19th July, 1974 and we can understand the step you have taken to set a deadline for the 24th August, 1974. We have, in fact, worked on the equipment this last weekend and consider it now to be 100% operational.

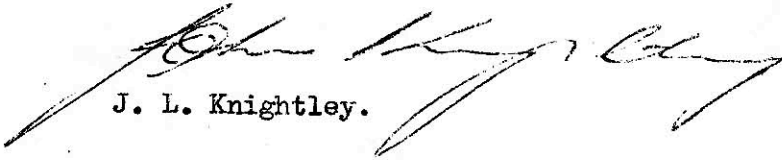
I think we would both agree, with hindsight, that the conditions of sale and installation should have been much more clearly defined. We therefore welcome your move as a means of rationalising the situation. As we have previously, verbally stated, a number of the faults have been the direct result of mal-treatment of the equipment. You will recall the multiplexing output boards being damaged because of incorrect Mermaid wiring (this had shown faults on the original Electrosonic Board) and the changing of the manual master levers etc.

We would therefore, formally confirm the verbal requests previously made.

1. The equipment shall be permanently sited in the one position and not moved or dismantled to accommodate such equipment as film projectors.
2. Adequate ventilation be provided; we have supplied a fan and requested that a hole be cut in the floor to increase the air flow.
3. Consistent with the siting, we shall have access to the equipment for the purpose of routine maintenance as opposed to panic calls.
4. The Mermaid shall stock the minimum spares as defined in our quotation. (We have in fact supplied approximately 50% of these without a formal order.)
5. We have discussed with Dorian the documentation and have agreed to increase the level of documentation held by the Mermaid to a much greater technical depth. You will appreciate that at this level we are vulnerable and would ask that you respect the technical confidence.

I am sure that you will take this letter in the spirit in which it is intended Jonathan, and that the existing good relationship will continue to prevail between our two organisations.

Yours sincerely,

  
J. L. Knightley.

Directors: J. L. Knightley C.Eng., M.I.E.E., B. R. Knightley

Reg. in England No.932376 Reg. Office 82 Eden Street, Kingston-upon-Thames, Surrey. VAT Reg. No.210 8115 17

# DIGITAL DISPLAY EQUIPMENT LTD.

P.O. Box 20  
Blatchford Close  
Horsham, Sussex RH13 6RG  
Tel. Horsham (STD0403) 64959

Our ref.

JLK/ERK

Your ref.

16th August, 1974.

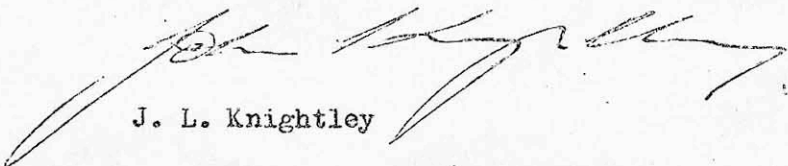
Mr. J. James-Moore,  
General Manager,  
Mermaid Theatre,  
Puddle Dock,  
Blackfriars,  
London, EC4V 3DB.

Dear Jonathan,

Further to our letter of the 22nd July, 1974, we would advise that no attempt had been made to increase the ventilation in the Control Room and consequently we cut a small hole in the floor and fitted the fan to the equipment on Sunday, the 4th August, 1974. In spite of requests this has still not been increased to the correct size and we have to advise that as a direct result the equipment is being over-heated.

We would reiterate that the equipment should not be moved without our prior approval.

Yours sincerely,

  
J. L. Knightley

Directors: J. L. Knightley C.Eng., M.I.E.E., B. R. Knightley

Reg. in England No.932376 Reg. Office 82 Eden Street, Kingston-upon-Thames, Surrey. VAT Reg. No.210 8115 17



# Mermaid Theatre

Puddle Dock, Blackfriars, London, EC4V 3DB.

Box Office: 01 248 7656 Restaurants: 01 248 2835 Offices: 01 236 9521

BM/JK

22nd August 1974

Dear John,

Forbes has passed me your letter of August 16th. We admit the small shortcoming on our side and would in return grant you an extra week's grace, which would seem to be reasonable?

*in the matter of completion*

All the same you must know the very great distress and dislocation your operation has caused here. Your very confident and positive sales talk prior to, during and following the demonstration at Horsham a year ago, has really fallen so far short of performance that I am at a loss for words. It has cost us here, apart from our payments to you, vast internal headaches, much overtime, at least one near breakdown and an intollerable addition to production costs.

I think to raise this tiny matter of the size of a hole and overheating of equipment should really have been beneath your dignity.

I hope you can get the whole thing in order very shortly so that we can off-load our huge weekly hiring bill and get back on the rails.

Yours sincerely,

SIR BERNARD MILES

John Knightley, Esq.  
Digital Display Equipment Ltd.  
P.O.Box 20,  
Blatchford Close,  
Horsham,  
Sussex RH13 5RG.

Our ref. JLK/BRK

Your ref.

18th September, 1974.

Sir Bernard Miles,  
The Mermaid Theatre,  
Fuddle Dock,  
Blackfriars,  
London WC4V 3DB.

Dear Sir Bernard,

It was requested that we attend a meeting at the Mermaid Theatre on Tuesday, the 17th September, 1974 to finally resolve the control board situation. Apart from carrying out further tests, no useful purpose was achieved since, in spite of the meeting being called by the Mermaid, no management personnel were available.

Judging from the tone of your letter of the 22nd August, 1974 I can only assume that you are not aware of the magnitude of the problems attributable to the Mermaid personnel and/or environmental conditions. A very complete log has been kept of the time expended and events since the initial installation, totalling well in excess of 600 man hours of engineering.

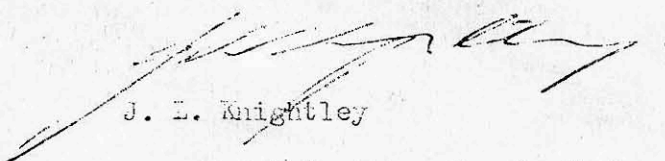
We would re-iterate that the equipment was supplied to the Mermaid at a reduced price of £10,000, as opposed to the full market price of £12,500 to offset any possible teething problems.

In particular, it should be appreciated that the board was in a fully operative memory mode immediately prior to the commencement of "Cole". During that working weekend we were informed by telephone at 2 a.m. that a wire had "come off". On subsequent investigation it was established that not only had it come off but had soldered itself onto the wrong terminal! This "freak" condition resulted in numerous integrated circuits being damaged. Whilst the resultant faults were being eliminated by D.D.E., the Mermaid control cables and dimmers were being renewed by your personnel, together with the refrigerator unit. You will appreciate that this is an admission that the wiring, dimmers and temperature control were previously not up to the required standard.

On Sunday, the 8th September, 1974 I personally wrote the tape for "Cole", which should have been used since that time. Unbeknown to us your personnel had not used the board in memory because of so called "stepping". We explained at the meeting of the 17th September, that this was not due to the board.

After joint consultation with the National Research Development Corporation and our legal representative, it is requested that the outstanding monetary balance due against the original equipment and spares supplied is settled in full within the next seven days.

Yours sincerely,

  
J. L. Knightley

c.c. N.R.D.C. Attn. Mr. P. Hawkes  
C.c. Tuck, Mann & Co. Attn: Mr. S. E. Mann.

Directors: J. L. Knightley C.Eng., M.I.E.E., B. R. Knightley

Reg. in England No.932376 Reg. Office 82 Eden Street, Kingston-upon-Thames, Surrey. VAT Reg. No.210 8115 17

cc Donan

GRINDALL HOUSE  
25 NEWGATE STREET  
LONDON EC1A 7LH

**FRESHFIELDS**

TELEPHONE  
01-806 6677

TELEGRAMS  
FRESHFIELDS LONDON TELEX  
TELEX 886400

CABLES  
FRESHFIELDS LONDON EC1A 7LH

PARIS OFFICE  
82 AVENUE MARCEAU  
75008 PARIS  
PARIS TELEPHONE  
723 72 46  
TELEX 61418

OUR REFERENCE PML/JCP/SPC

FILE NO 5922-001

YOUR REFERENCE

25th February 1975

Dear Mr. Nelson,

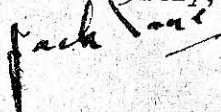
Thank you for your letter of 4th February enclosing the first part of Dorian Kelly's diary of events re Digital Display.

Thank you also for the tickets and for giving my wife and I the opportunity of seeing COLE which we both thoroughly enjoyed as also did Tom Morison and his wife.

Unfortunately we were not able to see you and make arrangements for Mr. Morison and myself to call and inspect the lighting board. However, I will contact you about this aspect of the matter in order to make some arrangement in due course.

There is not so much urgency now because the Plaintiffs have withdrawn their application for judgment under Order 14. The case will now progress in a normal manner and come before an Official Referee at a date and time which I will notify you of as soon as it is appointed by the Official Referee.

Yours sincerely,



Forbes Nelson Esq  
Production Manager  
Mermaid Theatre  
Puddle Dock  
Blackfriars  
LONDON EC4V 3DB

D. L. STEBBINGS G. T. CLARK T. C. H. RETALLACK H. S. K. PEPIATT A. C. L. SMITH P. C. PEDDIE D. O. BATES D. A. REDFERN G. A. WHALLEY  
J. K. GRIEVES J. M. ROMANES J. M. H. HUNTER R. J. C. SHUTTLEWORTH J. X. MCCALL R. W. HARRIS W. N. PARKER P. M. LEONARD  
J. C. NOWELL-SMITH G. R. SHAW J. PART J. C. T. FOSTER M. L. H. CLUDE M. M. McCABE M. A. FREEHAN P. W. GOODWIN

SIR CHARLES WHISHAW

RESIDENT IN PARIS: N. D. TARLING

A/MPM

D R A F T

25th September, 1974.

Dear John,

Thank you for your letter of 18th September 1974 to which we have given careful consideration and our comments are given below.

1. The Meeting on 17th September, which was postponed from 24th August, at our suggestion (to allow the balance of new dimmers to be installed in order to have the full 100 dimmers available for test) was designed specifically to put the board through a specific series of tests in order to assess whether the board was up to specification, and fully functional or not. The Mermaid Theatre Chief Electrician, Dorian Kelly, was present at the tests as being the most qualified member of staff to assess the above.

This series of tests revealed the following faults:

- a) The recall from tape is at best 80% accurate which for a show such as COLE makes the board almost unusable as a computer board, as more than 100 memories are required. This sort of error rate is anyway totally unacceptable (one error in 10,000 is nearer the mark).
  - b) The so-called 'Stepping' exists, the exact cause is by no means certain.
  - c) Recording from memory to memory entails up to 20% light loss. The same applies in switching from auto - manual - auto.
2. Your comments concerning the amount of work attributable to Mermaid Personnel and for environmental conditions leads me to the conclusion that you are totally unaware of the considerable amount of trouble to which <sup>the</sup>Mermaid Theatre has been put as a direct result of the board not working properly since it was installed in February, in itself 4 months late. Specifically on COLE it is costing us about £80 per week in hiring an additional lighting board and operator.

Referring to environmental conditions, it was suggested by the Mermaid Theatre almost as soon as the board arrived, that perhaps the board should be connected to the ventilation system, but DDS rejected the idea. Clearly to then suggest that we accepted that the temperature control was not up to the required standard is both misleading and inaccurate.

Cont/....

The incident of the loose wire is likewise inaccurate. The loose wire was not soldered at all by any member of the Mermaid staff. They only did work on the interior of the board in order to effect temporary repairs to allow the show to be performed, where possible the staff contacted DDE, prior to carrying out any repairs. An example of this was the falling of a fader (inadequately fastened) causing a short circuit, causing a transistor to burn out. The Mermaid Theatre staff had to replace this in order to have any lighting for the show at all.

3. Prior to the opening of COLE, we were prepared to try the board using the dynamic mode only, knowing that 2 circuits were not working. The tape was charitably 50% accurate and therefore unusable.
4. You further state that by making permanent the existing temporary equipment, and also adding further dimmers to make up the capacity of the board, is an admission ~~that~~<sup>by</sup> the Mermaid that the system was not electrically up to the required standard. The Mermaid Theatre makes no such admission, and in fact the work carried out has resulted in no improvement in the operation of the board.

FORBES NELSON



R. J. WAKELY  
A. H. HOOLE  
E. J. H. GEFFEN  
E. GLYN GEORGE  
S. M. SOUTHGATE  
N. B. BENDER  
D. B. MORRIS  
F. T. A. HOLE  
P. H. THORNE  
P. J. SUMMERS  
H. J. MALINS

Consultant:  
S. E. MANN

## TUCK & MANN

SOLICITORS · COMMISSIONERS FOR OATHS

SWEECH HOUSE · GRAVEL HILL · LEATHERHEAD · SURREY KT22 7HF

Telephone: Leatherhead (STD 037 23) 74148-9 74140

OFFICES ALSO AT: DORKING 81256-7-8 · BOOKHAM 52159 & 52150 · EPSOM 26526-7 · LONDON 01-405 5042

PLEASE QUOTE REF: SEM/JGD YOUR REF:

7 October 1974

Mermaid Theatre Trust Ltd  
Mermaid Theatre  
Puddle Dock  
Blackfriars  
London EC4V 3DB

For the attention of Sir Bernard Miles

Dear Sirs

We have been instructed by our clients, Digital Display Equipment Limited, regarding their account due from you amounting to £3,301.25 for the balance of £3,000 remaining of the cost of the Plotlite modular lighting controller sold to you and £301.25 due for goods sold etc and invoiced to you on the 7th June last.

We have before us a copy of your letter of the 19th July 1974 and other correspondence. Our instructions are that a meeting was held on the 17th September 1974 for the purpose of your making a final check in the presence of your operational staff that the controller was functioning correctly with a view to acceptance of the equipment and the settlement of the outstanding account. However, as stated in our clients' letter of the 18th September last, none of your management personnel were present at the meeting.

Nevertheless, when at this meeting the appropriate acceptance test was made, the controller was shown to be functioning satisfactorily. Our clients therefore consider that you have now no justification in withholding your formal acceptance of the equipment and settlement of the outstanding account.

Our clients have been expecting to hear from you accordingly in reply to their letter of the 18th ultimo. We appreciate that Sir Bernard Miles has been abroad and that this may have been a cause of the delay. Our clients cannot, however, agree to a settlement of the account being further postponed and we are instructed to ask that payment be made forthwith.

We are also instructed to refer to the fact that our clients have been required to carry out a substantial amount of extra work on effecting repairs to the controller of damage and defects for which, not they, but your own personnel were responsible. Our clients are fully entitled to make an extra charge for this work and they reserve the right to do so if settlement of their account is further delayed. Our clients naturally desire to dispose of this matter amicably and we trust therefore that we may hear from you very shortly.

Yours faithfully,

*Tuck & Mann*

BM/JK

17th October 1974

Dear Sirs,

Digital Display Equipment Limited

Further to your letter of October 14th; a week ago I discussed the above matter on the phone with John Knightly - who agreed to set up a complete demonstration of his equipment in my presence and that of two referees. He accordingly made contact with our Production Manager Forbes Nelson who explained to him that while we are running the production of COLE simultaneously with our twice-daily children's performance of SPARKS, it would be impossible to mount the agreed demonstration, but that this could happen as soon as the production of SPARKS goes on tour viz. any time from November 4th onwards. It would seem to me that this was an eminently correct procedure and naturally if the demonstration fulfils the specification, payment will be made.

Meanwhile, I have placed the matter and all correspondence relating to it in the hands of our Trust's Solicitors.

Yours faithfully,

SIR BERNARD MILES

Messrs. Tuck & Mann,  
Sweech House,  
Gravel Hill,  
LEATHERHEAD,  
Surrey.  
KT22 7HP.

THE MERMAID THEATRE TRUST LIMITED

A D V I C E

1. There are a number of missing documents and a few gaps in the history of the dispute.

2. I am unclear about the contractual documents

(1) The Plaintiffs produced a leaflet headed "A Fresh Conception in Programmed Modular Lighting Control". They prepared their first proposal, annexed to their letter of May 2nd 1973, together with a quotation for £8,000. I gather that their quotation was rejected.

(2) A second "proposal" was submitted which was "basically but not totally accepted by the Mermaid Theatre" (the Mermaid). I have not seen the revised agreed proposal. On July 10th 1973 an oral discussion took place between Sir Bernard Miles and Mr. Knightley who swears that he is a director of the Plaintiffs (though his Company's writing paper does not state who the directors are). It appears that that the Mermaid orally agreed to buy the Plotlite equipment for £10,000, that agreement to be confirmed in writing. The letter of confirmation (dated 10th July 1973) refer to "the agreed specification". I do not have that specification nor do I know when it was agreed.

(3) It appears that, subsequently, alterations were made to the second proposal (see the letter of 19th October 1973). I am not sure

whether the second proposal was originally accepted in full and then subsequently altered or whether the second proposal was altered before the oral agreement and then re-altered in October 1973. The letter of 19th October refers to "the formal order" - did the Mermaid ever put in the formal order; if so, could I see a copy of it ?

(4) In their letter of 22nd July 1974, the Plaintiffs state "4. The Mermaid shall stock the minimum spares as defined in our Quotation".

To what document are the Plaintiffs referring ?

3. It is clearly important to establish the terms of the contract. It may be possible to allege that the equipment has never been accepted because (to use the words of the proposal) there has not been "satisfactory completion" of "satisfactory commissioning". If the equipment has not been accepted it can be rejected and the price is not payable. If the equipment can be rejected the sooner the formal act of rejection (solicitors' letter to this effect) takes place the better.

4. In my papers there are references to the cost of hiring alternative equipment - see the letter from Sir Bernard Miles dated 22nd August 1974 and the draft letter dated 25th September 1974. Are these <sup>these</sup> documents to support the cost of hiring and could I be told what equipment had to be hired ? I assume that the Plotlife equipment has never been operated during a play on "automatic". Can this be confirmed. Do the clients intend to replace the equipment. Have any other expenses been incurred during the equipment's teething problems ?

✓ 5. I assume that the Plaintiffs' letter of 18th September 1974 was not answered and that the draft letter prepared by Mr. Fortes Nelson (dated 25th September 1974) was not sent.

✓ 6. I would like a short conference with, if possible, Mr. Fortes Nelson and Mr. Dorian Kelly. Following this, an affidavit can be quickly prepared. Basically, the Mermaid have a good defence to the claim for the purposes of O.14 proceedings. Before filing an affidavit we should check on the point mentioned above.

cc Donnan

GRINDALL HOUSE  
25 NEWGATE STREET  
LONDON EC1A 7LH

TELEPHONE  
01-606 6677

TELEGRAMS  
FRESHFIELDS LONDON TELEX  
TELEX 885400

CABLES  
FRESHFIELDS LONDON EC1A 7LH

PARIS OFFICE  
82 AVENUE MARCEAU  
75008 PARIS  
PARIS TELEPHONE  
723 72 45  
TELEX 61418

**FRESHFIELDS**

OUR REFERENCE PML/JCP/SPC

FILE NO 5922-001

YOUR REFERENCE

25th February 1975

Dear Mr. Nelson,

Thank you for your letter of 4th February enclosing the first part of Dorian Kelly's diary of events re Digital Display.

Thank you also for the tickets and for giving my wife and I the opportunity of seeing COLE which we both thoroughly enjoyed as also did Tom Morison and his wife.

Unfortunately we were not able to see you and make arrangements for Mr. Morison and myself to call and inspect the lighting board. However, I will contact you about this aspect of the matter in order to make some arrangement in due course.

There is not so much urgency now because the Plaintiffs have withdrawn their application for judgment under Order 14. The case will now progress in a normal manner and come before an Official Referee at a date and time which I will notify you of as soon as it is appointed by the Official Referee.

Yours sincerely,

Forbes Nelson Esq  
Production Manager  
Mermaid Theatre  
Puddle Dock  
Blackfriars  
LONDON EC4V 3DB

D. L. STEBBINGS G. T. CLARK T. C. H. RETALLACK H. S. K. PEPIATT A. C. L. SMITH P. C. PEDDIE D. O. BATES D. A. REDFERN G. A. WHALLEY  
J. K. GRIEVES J. M. ROMANES J. M. H. HUNTER R. J. C. SHUTTLEWORTH J. K. McCALL R. W. HARRIS W. N. PARKER P. M. LEONARD  
J. C. NOWELL-SMITH G. R. SHAW J. PART J. C. T. FOSTER M. L. H. CLODE M. M. McCABE M. A. FREEMAN P. W. GOODWIN

SIR CHARLES WHISHAW

RESIDENT IN PARIS: N. D. TARLING