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ASSOCIATE COUNSEL

May 3, 1985

The Honorable Charles A. Legge  
United States District Court  
450 Golden Gate Avenue, 19th Floor  
San Francisco, California 94102

Re: Magnavox v. Activision  
No. C 82 5270

Dear Judge Legge:

This letter supplements our letter of May 2, 1985 and confirms the telephone conferences that we have had with Anthony Foster of your staff regarding scheduling of this case for trial.

Plaintiffs' position is unchanged from that set forth in our letter of May 2, 1985. We still have a strong conviction that this case will be best presented to the Court by both parties and will be most convenient for the Court and the parties if the case can be tried continuously during a designated three week period. It is my understanding that Activision's counsel agrees with this fundamental principle. In view of that premise, we have indicated to counsel and to Mr. Foster that we would still prefer the earliest three week period that can be made available and is reasonable from all perspectives. The three week periods the Court has indicated would be available begin on July 22, September 30 and October 21.

Both we and counsel for Activision have had some scheduling problems with the July 22 date, but on balance, if those problems can be reasonably resolved that period seems to present the optimum opportunity to try this case without fragmentation.

The Honorable Charles A. Legge  
May 3, 1985  
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With respect to the period beginning July 22, Dr. Ribbens, our technical expert witness, has put the wheels in motion to change a prior consulting contract in Germany during July to make the July 22 period available. He has not yet received confirmation, but expects it on Monday. I understand that one of Activision's witnesses also finds that date inconvenient but not impossible. Mr. Glick has also advised us that one of his assistants, Mr. Escher, will not be available on the first few days of the first week and that he is responsible for preparing Activision's technical experts. The first few days of the trial will not involve any technical expert testimony but only opening statements and a fact witness, Mr. Ralph Baer, so perhaps that is not an insurmountable conflict.

The three weeks commencing September 30 and the three weeks commencing October 21 both present problems for Magnavox in that Dr. Ribbens academic program will be at its height and he will be required to rearrange class and research schedules to be available for the trial. He advises us that this will be possible and thus, from the perspective of our witnesses, either of the three week periods beginning September 30 or October 21 will be acceptable. I personally have a trial set before Judge Sharp in the Northern District of Indiana in which I will be principal trial counsel for the plaintiff, R. E. Phelon Company. That case is scheduled to begin on October 15 at 10:00 A.M. and is expected to last seven days. I have discussed this matter with Judge Sharp's Clerk and he indicates that Judge Sharp does change scheduled trials for good cause and if we filed an appropriate motion to change the South Bend trial date because of the Activision trial, this would be looked upon favorably and may well constitute good cause. We are certainly willing to move for such a change if that becomes appropriate in the circumstances.

Counsel for Activision has indicated that it will press for a fragmented trial in May, June and July rather than a continuous trial in July. We have already set forth our reactions to such a procedure in our letter of May 2 and

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above. As the Court was advised at the scheduling hearing on April 30, 1985, I have a firm trial date before Judge Reynolds of the Eastern District of Wisconsin starting May 20, 1985 at 9:30 A.M. For the convenience of the Court, we attach copies of the Order of Judge Reynolds setting Rite-Hite v. Kelley for trial beginning May 20 (to last two weeks) and the Order of Judge Sharp setting Phelon v. Wabash for trial beginning October 15 (to last seven days).

Respectfully submitted,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

  
Theodore W. Anderson

TWA/sjm  
Enc.

CC: Martin R. Glick, Esq./with enc.  
J. Thomas Rosch, Esq./with enc.

BCC: Thomas A. Briody, Esq./with enc.  
Algy Tamoshunas, Esq./with enc.  
Louis Etlinger, Esq./with enc. ✓  
James T. Williams, Esq.

FILED

MAR 30 1985

SOFRON B. NEDILSKY  
CLERKUNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSINNEW YORK PUBLIC LIBRARY  
ANDERSON WOODS  
THEODOR W. WILDENRITE-HITE CORPORATION, et al.,  
Plaintiff,

v.

SCHEDULING ORDER

KELLEY COMPANY, INC.,

C.A. No. 83-C-434

Defendant.

During the scheduling conference held in the above-entitled action on March 14, 1985, the plaintiffs, appearing by attorneys Theodore Anderson and Gilbert Church, and the defendant, appearing by attorney Glenn Starke, agreed to the entry of the following order.

IT IS ORDERED that:

1. On Friday, April 12, 1985 at 11:00 a.m., a final pretrial conference will be held in Room 471, Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wisconsin.

2. This case will be tried to the Court, and the estimated trial time is five days. The trial will begin at 9:30 a.m. on one of the following dates:

Monday, May 20, 1985 (No. 1 position); or

~~Monday, June 3, 1985~~ (~~Alternate no. 1 position~~) *gwr*Dated at Milwaukee, Wisconsin, this 30 day ofMarch, 1985.

BY THE COURT:

*John W. Reynolds*John W. Reynolds  
Chief U.S. District Judge

# United States District Court

for the

NORTHERN DISTRICT OF INDIANA

SOUTH BEND DIVISION

R.E. PHELON COMPANY, INC.

vs.

WABASH, INC.

CAUSE NO. S79-0009

Entry for FEBRUARY 5, 1985

Honorable ALLEN SHARP,  
CHIEF JUDGE

RECEIVED

FEB 11 1985

CHAPIN, NEAL AND DEMPSEY

It Is Ordered by the Court that the above entitled cause be and the same is hereby set for a 1st Setting BENCH TRIAL, on October 15, 1985 at 10:00 in South Bend, Indiana, in the 1st Floor Courtroom.

COPIES TO: Hall  
Dempsey  
Wyss  
Lorber  
Dodd  
cals.  
chambers

Any existing conflicts in schedule should be reported to the Court within FORTY-EIGHT (48) hours of the receipt of this notice.

Oral { Discovery to be completed by 7/1/85  
Pretrial order by Dep - 8/1/85  
Pretrial order by JJ - 9/13/85