

NEUMAN, WILLIAMS, ANDERSON & OLSON

ATTORNEYS AND COUNSELORS

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WASHINGTON OFFICE

CRYSTAL PLAZA ONE - SUITE 308

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ARLINGTON, VIRGINIA 22202

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COUNSEL

VAN METRE LUND  
ASSOCIATE COUNSEL

September 10, 1984

Marla Miller, Esq.  
Howard, Rice, Nemerovski,  
Canady, Robertson & Falk  
Three Embarcadero Center - 7th Floor  
San Francisco, California 94111

Re: Magnavox v. Activision

Dear Marla:

Your letter of August 22, 1984 requests with reference to interrogatories 140-152 identification of prototypes and physical models of Magnavox's alleged inventions. The work leading to both the '480 and '507 patents was performed, of course, at Sanders Associates by its personnel. We assume you are seeking identification of the prototypes and models constructed at Sanders during the course of the early television game work as you stated during our subsequent telephone conference.

Seven television game models were constructed. They have been labelled as Chassis Nos. 1-7, and have been identified during deposition and trial proceedings as follows:

| <u>Chassis</u><br><u>No.</u> | <u>S/ADX</u><br><u>No.</u> | <u>CDIPX</u><br><u>No.</u> | <u>MDX</u><br><u>No.</u> | <u>MPX</u><br><u>No.</u> |
|------------------------------|----------------------------|----------------------------|--------------------------|--------------------------|
| 1                            | 24                         | 55                         | 28                       | 2                        |
| 2                            | 28                         | 56                         | 29                       | 3                        |
| 3                            | 29                         | 57                         | 30                       | 4                        |
| 4                            | 30                         | 59                         | 31                       | 6                        |
| 5                            | 33                         | 60                         | 32                       | 7                        |
| 6                            | 34                         | 61                         | 33                       | 8                        |
| 7                            | 35                         | 62                         | 34                       | 9                        |

- S/ADX = Exhibit number assigned during deposition of Sanders Associates' personnel taken by Midway and Atari in first Chicago action.
- CDIPX = Plaintiffs' exhibit number assigned during trial in first Chicago action, i.e., Magnavox v. Chicago Dynamic Industries.
- MDX = Exhibit number assigned during deposition of Sanders Associates' personnel taken by Mattel in second Chicago action.
- MPX = Plaintiffs' exhibit numbers assigned during trial in second Chicago action, i.e., Magnavox v. Mattel.

Some accessories for use with these models, such as an "odd/even" decoder (S/ADX 31, CDIPX 58), photocell light guns or rifles (S/ADX 33A, CDIPX 63), and a circuit for giving a hit spot a velocity proportional to the velocity with which it was hit (MDX 35) also exist.

The models have suffered the effects of time. Chassis 7 is the only one known to be presently operative. It is now located in Nashua, New Hampshire. The remaining units are here in Chicago at our offices. Each of the Chassis 2-7 included the subjects matter of interrogatories 140 and 149, and each of the Chassis 4-7 included the subjects matter of interrogatories 141-152.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

  
James T. Williams

JTW:de

cc: Robert L. Ebe, Esq.  
Theodore W. Anderson, Esq.

NEUMAN, WILLIAMS, ANDERSON & OLSON

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SIDNEY NEUMAN  
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COUNSEL

VAN METRE LUND  
ASSOCIATE COUNSEL

September 5, 1984

Louis Etlinger, Esquire  
Director, Patents and  
Licensing  
Sanders Associates, Inc.  
Daniel Webster Highway, South  
Nashua, New Hampshire 03061

Re: Magnavox v. Activision

Dear Lou:

Enclosed herewith for execution by Sanders is Plaintiffs' Third Supplemental Response to Defendant's Interrogatories. Kindly see that they are appropriately executed by Sanders and then forward the original on to Chuck Quarton at Magnavox for execution by Magnavox. By carbon of this letter we are requesting Chuck to return the responses to us for filing after he has executed them. We would like to have the documents back in our offices by Monday, September 10.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

  
James T. Williams

JTW:de

Enclosure

cc: Charles E. Quarton, Esq. - w/o encl.  
Algy Tamoshunas, Esq. - w/encl.  
Thomas A. Briody, Esq. - w/o encl.  
Theodore W. Anderson, Esq. - w/o encl.

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6 James T. Williams  
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7 Chicago, IL 60602  
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8  
9 Attorneys for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

10  
11 United States District Court For The  
Northern District Of California  
12

13 THE MAGNAVOX COMPANY, a corporation, )  
and SANDERS ASSOCIATES, INC., )  
14 a corporation, )  
15 Plaintiffs, )  
16 v. )  
17 ACTIVISION, INC., a corporation, )  
18 Defendant. )

No. C 82 5270 JPV  
PLAINTIFFS' THIRD  
SUPPLEMENTAL RESPONSE TO  
DEFENDANT'S  
INTERROGATORIES

19  
20 Plaintiffs herewith supplement their responses to  
21 defendant's interrogatories 38, 39, 50, 54, 98, 100(e), 108, 119,  
22 126-127, 130-134, 138, 139, 184, 185, and 188-192.  
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28  
PLAINTIFFS' THIRD  
SUPPLEMENTAL RESPONSE TO  
DEFENDANT'S INTERROGATORIES

1 INTERROGATORY NO. 38

2 Identify the claims of United States Letters Patent Re.  
3 28,507 which Magnavox and Sanders contend have been infringed by  
4 Activision.

5  
6 RESPONSE:

7 Plaintiffs' contend that the manufacture, use, or sale  
8 by Activision of the following television game cartridges  
9 constitute acts of contributory infringement and inducement to  
10 infringe claims 25, 26, 51, 52, 60, 61, and 62 of United States  
11 Patent Re. 28,507:

|                    |                 |
|--------------------|-----------------|
| 12 Tennis          | Ice Hockey      |
| 13 Boxing          | Fishing Derby   |
| 14 Dolphin         | Keystone Kapers |
| 15 Decathlon       | Stampede        |
| 16 Grand Prix      | Barnstorming    |
| 17 Sky Jinks       | Enduro          |
| 18 Pressure Cooker |                 |

19 INTERROGATORY NO. 39

20 For each of the claims identified in responses to  
21 INTERROGATORY NO. 38, set forth in detail the manner in which the  
22 claim has been infringed by Activision, including:

23 A. The activities of Activision which constitute  
24 infringement;

1 C. Identify each television game cartridge made, used  
2 and/or sold by Activision which constitutes an  
3 infringement of the claim either by itself or in  
4 combination with a television game console;

5  
6 RESPONSE:

7 A. The making, using, selling, and offering for sale  
8 of the following Activision television game  
9 cartridges:

|                 |                 |
|-----------------|-----------------|
| 10 Tennis       | Ice Hockey      |
| 11 Boxing       | Fishing Derby   |
| Dolphin         | Keystone Kapers |
| 12 Decathlon    | Stampede        |
| Grand Prix      | Barnstorming    |
| 13 Sky Jinks    | Enduro          |
| Pressure Cooker |                 |

14 C. Plaintiffs contend that the manufacture, use,  
15 and/or sale of the following Activision game  
16 cartridges in combination with a television game  
17 console and, where appropriate, a television  
18 receiver, constitutes an act of infringement of the  
19 stated claim of U.S. Patent Re. 28,507:

20 Claim 25: Tennis, Ice Hockey, Boxing, Fishing Derby,  
21 Dolphin, Stampede, Pressure Cooker.

22 Claim 26: Tennis, Ice Hockey, Boxing, Fishing Derby,  
23 Pressure Cooker.

24 Claim 51: Tennis, Ice Hockey, Boxing, Fishing Derby,  
25 Dolphin, Stampede, Pressure Cooker.

1 Claim 52: Tennis, Ice Hockey, Boxing, Fishing Derby,  
2 Pressure Cooker.

3 Claim 60: Tennis, Ice Hockey, Boxing, Fishing Derby,  
4 Dolphin, Keystone Kapers, Decathlon, Stampede, Grand  
5 Prix, Barnstorming, Sky Jinks, Enduro, Pressure Cooker.

6 Claim 61: Tennis, Ice Hockey, Fishing Derby.

7 Claim 62: Tennis, Ice Hockey.  
8

9 INTERROGATORY NO. 50

10 Identify each television game console which Magnavox and  
11 Sanders contend constitutes an infringement of United States  
12 Letters Patent Re. 28,507 when one of Activision's game cartridges  
13 is used in combination therewith.

14 RESPONSE:

15 The combining of any television game console compatible  
16 with any one of the television game cartridges referred to in  
17 plaintiffs' response to INTERROGATORY NO. 38 with such a cartridge  
18 and the use of that combination with a television receiver  
19 constitute acts of infringement of the claims of United States  
20 Patent Re. 28,507 stated in that response. Such consoles of  
21 which plaintiffs are aware include each of those identified by  
22 Activision as being useful with its television game cartridges and  
23 are the Atari VCS Model 2600, the Sears Tele-Game Video Arcade,  
24 the Coleco Gemini, the combination of the Coleco Colecvision  
25 television game console and the Expansion Module 1, the  
26 combination of the Atari Model 5200 and the Model 2600 adapter,  
27

1 the Mattel Intellivision game console, and the Sears, Roebuck &  
2 Co. and Tandy Corporation (Radio Shack) versions of the Mattel  
3 console.

4  
5 INTERROGATORY NO. 54

6 Referring to Paragraph 11 of the Complaint, set forth in  
7 detail the basis for the allegations that the alleged  
8 infringements, inducements to infringe and contributory  
9 infringements were:

10 A. Willful; and

11 B. With full knowledge of United States Letters Patent  
12 Re. 28,507.

13 RESPONSE:

14 Prior to the filing of the complaint in this action,  
15 plaintiff Magnavox informed Activision of its need for a license  
16 under the patent in suit, but Activision continued its acts of  
17 infringement without taking such a license up until the time the  
18 complaint was filed. The allegations are additionally supported  
19 by the facts and circumstances set forth in the deposition of  
20 James H. Levy taken on September 16, 1983 in this action and the  
21 exhibits marked during that deposition, the facts and  
22 circumstances set forth in the deposition of Charles S. Paul taken  
23 on February 22, 1982 in this action and the exhibits marked during  
24 that deposition, the provisions of the settlement agreement  
25 between Atari, Inc., and Activision, Inc., concerning files,  
26 documents, and information relating to the patent in suit, the



1 interrogatory responses of Activision, Inc., executed on April 18,  
2 1983 in this action, the representation of Activision, Inc., by  
3 former counsel for Atari, Inc., and the communications between  
4 Activision, Inc., and The Magnavox Company concerning U.S. Patent  
5 Re. 28,507 prior to the filing of this action.

6  
7 INTERROGATORY NO. 98

8 With regard to the decision to reissue U.S. Patent  
9 3,659,284:

10 D. Describe in detail the circumstances under which  
11 the decision was made;

12  
13 RESPONSE:

14 D. The circumstances under which the decision was made  
15 to file an application for reissue of U.S. Patent 3,659,284 are  
16 fully set forth in the declaration which was filed with and as a  
17 part of the reissue application.

18  
19 INTERROGATORY NO. 100

20 With regard to the examination and prosecution of the  
21 application on which Reissue Patent 28,507 issued:

22 E. Identify any prior art other than the references  
23 cited on the face of the reissue patent which was  
24 considered the prosecution of the application and  
25 determined not to be material to the examination of  
26 the application;

1                    RESPONSE:

2                    E.    See plaintiffs' response to defendant's  
3    INTERROGATORY NO. 173.

4  
5                    INTERROGATORY NO. 108

6    If the answer to INTERROGATORY NO. 107 is other than an  
7                    unqualified negative, identify each such discussion, including:

- 8                    A.    Identification of each person involved in the  
9    discussion, including the relationship of each such  
10     person to Magnavox and/or Sanders;  
11                    B.    The date and place of the discussion;  
12                    C.    The circumstances under which the discussion was  
13    held;  
14                    D.    The substance of the discussion;  
15                    E.    Any action taken by Magnavox and/or Sanders as a  
16    result of the discussion;  
17                    F.    Identify all persons having knowledge of the  
18    subject matter of parts A through E of this  
19    interrogatory;  
20                    G.    Identify all communications relating to the subject  
21    matter of parts A through F of this interrogatory;  
22    and  
23                    H.    Identify all documents which refer or relate in any  
24    way to the subject matter of parts A through G of  
25    this interrogatory.

1                    RESPONSE:

2                    This interrogatory has been limited by defendant to  
3 discussions occurring prior to the date of issue of U.S. Patent  
4 Re. 28,507. No such discussions are known to have occurred other  
5 than those identified by Mr. Williams in his deposition referred  
6 to in plaintiffs' response to INTERROGATORY NO. 107.

7  
8                    INTERROGATORY NO. 119

9                    Did Magnavox and/or Sanders ever consider reissuance of  
10 U.S. Patent 3,728,480 in view of U.S. Patent 2,847,661 (Althouse)?

11  
12                    RESPONSE:

13                    No.

14  
15                    INTERROGATORY NO. 126

16                    For each combination of the games identified in response  
17 to Interrogatory No. 38 of Defendant's First Set of  
18 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",  
19 "Tennis" and "Ice Hockey") and the consoles identified in response  
20 to Interrogatory No. 50 of DEFENDANT'S FIRST SET OF  
21 INTERROGATORIES TO PLAINTIFFS (namely, the Atari VCS Model 2600,  
22 the Sears Tele-Game Video Arcade, and the combination of the  
23 Colecovision game console and the Expansion Module 1) which  
24 plaintiffs contend constitutes an infringement of Claim 25 of the

1 United States Patent Re. 28,507, identify the elements which  
2 plaintiffs contend correspond to the following elements of the  
3 claim:

- 4 A. A hitting symbol;
- 5 B. Means for generating a hitting symbol;
- 6 C. A hit symbol;
- 7 D. Means for generating a hit symbol;
- 8 E. Coincidence between said hitting symbol and said  
9 hit symbol;
- 10 F. Means for ascertaining coincidence between said  
11 hitting symbol and said hit symbol;
- 12 G. A distinct motion imparted to said hit symbol upon  
13 coincidence; and
- 14 H. Means for imparting a distinct motion to said hit  
15 symbol upon coincidence.

16  
17 RESPONSE:

18 Plaintiffs' responses to this interrogatory are based on  
19 their present knowledge and understanding of the Activision  
20 television game cartridges and the television game consoles and  
21 adapters referred to. Each response refers to the combination of  
22 the indicated Activision television game cartridge and the Atari  
23 VCS Model 2600 television game console, the Sears Tele-Game Video  
24 Arcade television game console, the Colecovision television game

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Ice Hockey: The coincidence between the player symbol and the puck symbol by which the player intercepts the puck.

Boxing: The coincidence between the human controlled boxer symbol and the game controlled boxer symbol by which the human controlled boxer hits the game controlled boxer.

Fishing Derby: The coincidence between the fishing line symbol and the fish symbols by which the fish are caught.

F. Tennis, Ice Hockey, Boxing and Fishing Derby: Essentially the Activision television game cartridge, the microprocessor, and perhaps the television interface adapter.

G. Tennis: The motion of the ball symbol following coincidence with the human controlled player symbol.

Ice Hockey: The motion of the puck symbol following coincidence with player symbol.

Boxing: The motion of the game controlled boxer symbol following coincidence with the human controlled boxer symbol.

1 Fishing Derby: The motion of the fish symbol  
2 following coincidence with the fishing line symbol.

3 H. Tennis, Ice Hockey, Boxing and Fishing Derby:  
4 Essentially the Activision television game  
5 cartridge and the microprocessor.  
6

7 INTERROGATORY NO. 127

8 For each combination of the games identified in response  
9 to Interrogatory No. 38 of Defendant's First Set of  
10 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",  
11 "Tennis" and "Ice Hockey") and the consoles identified in response  
12 to Interrogatory No. 50 of Defendant's First Set Of  
13 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,  
14 the Sears Tele-Game Video Arcade, and the combination of the  
15 Colecovision game console and the Expansion Module 1) which  
16 plaintiffs contend constitutes an infringement of Claim 26 of the  
17 United States Patent Re. 28,507, identify the elements which  
18 plaintiffs contend correspond to the following elements of the  
19 claim:

- 20 A. A variation in the horizontal position of the  
21 hitting symbol;  
22 B. A variation in the vertical position of the hitting  
23 symbol; and  
24 C. Means for providing horizontal and vertical control  
25 signals for varying the horizontal and vertical  
26 positions of said hitting symbol.

1                    RESPONSE:

2                    Plaintiffs' responses to this interrogatory are based on  
3 their present knowledge and understanding of the Activision  
4 television game cartridges and the television game consoles and  
5 adapters referred to. Each response refers to the combination of  
6 the indicated Activision television game cartridge and the Atari  
7 VCS Model 2600 television game console, the Sears Tele-Game Video  
8 Arcade television game console, the Colecovision television game  
9 console with the Coleco Expansion Module 1, the Coleco Gemini  
10 television game console, or the Atari Model 5200 television game  
11 console with the Model 2600 adapter.

12                    A.    Tennis: The player symbols under control of the  
13 human players may be moved horizontally.

14                    Ice Hockey: The player symbols may be moved  
15 horizontally.

16                    B.    Boxing: The boxer symbol under control of the  
17 human player may be moved vertically.

18                    Fishing Derby: The end of the fishing line symbols  
19 may be moved vertically.

20                    C.    Tennis, Ice Hockey, Boxing and Fishing Derby: At  
21 least the Activision game cartridge, the joystick,  
22 the microprocessor, and the peripheral interface  
23 adapter.



1 INTERROGATORY NO. 130

2 For each combination of the games identified in response  
3 to Interrogatory No. 38 of Defendant's First Set of  
4 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",  
5 "Tennis" and "Ice Hockey") and the consoles identified in response  
6 to Interrogatory No. 50 of Defendant's First Set Of  
7 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,  
8 the Sears Tele-Game Video Arcade, and the combination of the  
9 Colecovision game console and the Expansion Module 1) which  
10 plaintiffs contend constitutes an infringement of Claim 51 of the  
11 United States Patent Re. 28,507, identify the elements which  
12 plaintiffs contend correspond to the following elements of the  
13 claim:

- 14 A. A hitting symbol;  
15 B. Means for generating a hitting symbol;  
16 C. A hit symbol;  
17 D. Means for generating a hit symbol;  
18 E. Coincidence between said hitting symbol and said  
19 hit symbol;  
20 F. Means for ascertaining coincidence between said  
21 hitting symbol and said hit symbol;  
22 G. A distinct motion imparted to said hit symbol upon  
23 coincidence; and  
24 H. Means for imparting a distinct motion to said hit  
25 symbol upon coincidence.  
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RESPONSE:

Plaintiffs' responses to this interrogatory are based on their present knowledge and understanding of the Activision television game cartridges and the television game consoles and adapters referred to. Each response refers to the combination of the indicated Activision television game cartridge and the Atari VCS Model 2600 television game console, the Sears Tele-Game Video Arcade television game console, the Colecovision television game console with the Coleco Expansion Module 1, the Coleco Gemini television game console, or the Atari Model 5200 television game console with the Model 2600 adapter.

A. Tennis: The player symbols under control of the human players.

Ice Hockey: The player symbols.

Boxing: The boxer symbol under control of the human player.

Fishing Derby: The end of the fishing line symbols.

B. Tennis, Ice Hockey, Boxing and Fishing Derby:

Essentially the Activision television game cartridge, the joystick, the microprocessor, the peripheral interface adapter, and the television interface adapter.

C. Tennis: The ball symbol.

Ice Hockey: The puck symbol.

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Boxing: The boxer symbol under control of the game.

Fishing Derby: The fish symbols.

D. Tennis, Ice Hockey, Boxing and Fishing Derby: Essentially the Activision television game cartridge, the television interface adapter, and the microprocessor.

E. Tennis: The coincidence between the human controlled player symbol and the ball symbol by which the player hits the ball.

Ice Hockey: The coincidence between the player symbol and the puck symbol by which the player intercepts the puck.

Boxing: The coincidence between the human controlled boxer symbol and the game controlled boxer symbol by which the human controlled boxer hits the game controlled boxer.

Fishing Derby: The coincidence between the fishing line symbol and the fish symbols by which the fish are caught.

F. Tennis, Ice Hockey, Boxing and Fishing Derby: Essentially the Activision television game cartridge, the microprocessor, and perhaps the television interface adapter.

1 G. Tennis: The motion of the ball symbol following  
2 coincidence with the human controlled player  
3 symbol.

4 Ice Hockey: The motion of the puck symbol  
5 following coincidence with player symbol.

6 Boxing: The motion of the game controlled boxer  
7 symbol following coincidence with the human  
8 controlled boxer symbol.

9 Fishing Derby: The motion of the fish symbol  
10 following coincidence with the fishing line symbol.

11 H. Tennis, Ice Hockey, Boxing and Fishing Derby:  
12 Essentially the Activision television game  
13 cartridge and the microprocessor.  
14

15 INTERROGATORY NO. 131

16 For each combination of the games identified in response  
17 to Interrogatory No. 38 of Defendant's First Set of  
18 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",  
19 "Tennis" and "Ice Hockey") and the consoles identified in response  
20 to Interrogatory No. 50 of Defendant's First Set Of  
21 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,  
22 the Sears Tele-Game Video Arcade, and the combination of the  
23 Colecovision game console and the Expansion Module 1) which  
24 plaintiffs contend constitutes an infringement of Claim 52 of the  
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Boxing: The boxer symbol under human control may be moved horizontally.

Fishing Derby: The end of the fishing line symbols may be moved horizontally.

B. Tennis: The player symbols under control of the human player may be moved vertically.

Ice Hockey: The player symbols may be moved vertically.

Boxing: The boxer symbol under control of the human player may be moved vertically.

Fishing Derby: The end of the fishing line symbols may be moved vertically.

C. Tennis, Ice Hockey, Boxing and Fishing Derby:

Essentially the Activision television game cartridge, the joystick, the microprocessor, and the peripheral interface adapter.

INTERROGATORY NO. 132

For each combination of the games identified in response to Interrogatory No. 38 of Defendant's First Set of Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing", "Tennis" and "Ice Hockey") and the consoles identified in response to Interrogatory No. 50 of Defendant's First Set Of Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600, the Sears Tele-Game Video Arcade, and the combination of the Colecovision game console and the Expansion Module 1) which

1 plaintiffs contend constitutes an infringement of Claim 60 of the  
2 United States Patent Re. 28,507, identify the elements which  
3 plaintiffs contend correspond to the following elements of the  
4 claim:

- 5           A. A vertical synchronization signal;  
6           B. A horizontal synchronization signal;  
7           C. Means for generating vertical and horizontal  
8           synchronization signals;  
9           D. Means responsive to said synchronization signals  
10           for deflecting the beam of a cathode ray tube to  
11           generate a raster on the screen of the tube;  
12           E. A first symbol on said screen;  
13           F. A position for the first symbol which is directly  
14           controlled by a player;  
15           G. Means coupled to said synchronization signal  
16           generating means and said cathode ray tube for  
17           generating a first symbol on said screen at a  
18           position which is directly controlled by a player;  
19           H. A second symbol on the screen which is movable;  
20           I. Means coupled to a said synchronization signal  
21           generating means and said cathode ray tube for  
22           generating a second symbol on said screen which is  
23           movable;  
24           J. A first coincidence between said first symbol and  
25           said second symbol;

- 1 K. Means coupled to said first symbol generating means  
2 and said second symbol generating means for  
3 determining a first coincidence between said first  
4 symbol and said second symbol;  
5 L. A distinct motion imparted to said second symbol in  
6 response to said coincidence; and  
7 M. Means coupled to said coincidence determining means  
8 and said second symbol generating means for  
9 imparting a distinct motion to said second symbol  
10 in response to said coincidence.  
11

12 RESPONSE:

13 Plaintiffs' responses to this interrogatory are based on  
14 their present knowledge and understanding of the Activision  
15 television game cartridges and the television game consoles and  
16 adapters referred to. Each response refers to the combination of  
17 the indicated Activision television game cartridge and the Atari  
18 VCS Model 2600 television game console, the Sears Tele-Game Video  
19 Arcade television game console, the Colecovision television game  
20 console with the Coleco Expansion Module 1, the Coleco Gemini  
21 television game console, or the Atari Model 5200 television game  
22 console with the Model 2600 adapter.

- 23 A. Tennis, Ice Hockey, Boxing and Fishing Derby: The  
24 vertical synchronization signals at the outputs of  
25 the television interface adapter and the television  
26 game console.



- 1 B. Tennis, Ice Hockey, Boxing and Fishing Derby: The  
2 horizontal synchronization signals at the outputs  
3 of the television interface adapter and the  
4 television game console.
- 5 C. Tennis, Ice Hockey, Boxing and Fishing Derby:  
6 Essentially the Activision television game  
7 cartridge, the microprocessor, and the television  
8 interface adapter.
- 9 D. Tennis, Ice Hockey, Boxing and Fishing Derby:  
10 Essentially the horizontal and vertical deflection  
11 circuitry of the associated television receiver.
- 12 E. Tennis: The player symbols under control of the  
13 human players.  
14 Ice Hockey: The player symbols.  
15 Boxing: The boxer symbol under control of the  
16 human player.  
17 Fishing Derby: The end of the fishing line  
18 symbols.
- 19 F. Tennis, Ice Hockey, Boxing and Fishing Derby: The  
20 position of the first symbol.
- 21 G. Tennis, Ice Hockey, Boxing and Fishing Derby:  
22 Essentially the Activision television game  
23 cartridge, the joystick, the peripheral interface  
24 adapter, the television interface adapter, and the  
25 microprocessor.
- 26 H. Tennis: The ball symbol.

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Ice Hockey: The puck symbol.

Boxing: The boxer symbol under control of the game.

Fishing Derby: The fish symbols.

I. Tennis, Ice Hockey, Boxing and Fishing Derby:  
Essentially the Activision television game cartridge, the television interface adapter, and the microprocessor.

J. Tennis: The coincidence between the human controlled player symbol and the ball symbol by which the player hits the ball.

Ice Hockey: The coincidence between the player symbol and the puck symbol by which the player intercepts the puck.

Boxing: The coincidence between the human controlled boxer symbol and the game controlled boxer symbol by which the human controlled boxer hits the game controlled boxer.

Fishing Derby: The coincidence between the fishing line symbol and any of the fish symbols by which the fish are caught.

K. Tennis, Ice Hockey, Boxing and Fishing Derby:  
Essentially the Activision television game cartridge, the microprocessor and perhaps the television interface adapter.

1 L. Tennis: The motion of the ball symbol following  
2 coincidence.

3 Ice Hockey: The motion of the puck symbol  
4 following coincidence.

5 Boxing: The motion of the game controlled boxer  
6 symbol following coincidence.

7 Fishing Derby: The motion of the fish symbol  
8 following coincidence.

9 M. Tennis, Ice Hockey, Boxing and Fishing Derby:  
10 Essentially the Activision television game  
11 cartridge and the microprocessor.  
12

13 INTERROGATORY NO. 133

14 For each combination of the games identified in response  
15 to Interrogatory No. 38 of Defendant's First Set of  
16 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",  
17 "Tennis" and "Ice Hockey") and the consoles identified in response  
18 to Interrogatory No. 50 of Defendant's First Set Of  
19 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,  
20 the Sears Tele-Game Video Arcade, and the combination of the  
21 Colecovision game console and the Expansion Module 1) which  
22 plaintiffs contend constitutes an infringement of Claim 61 of the  
23 United States Patent Re. 28,507, identify the elements which  
24 plaintiffs contend correspond to the following elements of the  
25 claim:  
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- A. A third symbol on the screen of the cathode ray tube;
- B. Player control of the position of the third symbol;
- C. Means coupled to said synchronization signal generating means and said cathode ray tube for generating a third symbol on said screen at a position which is controlled by a player;
- D. A second coincidence between said third symbol and said second symbol;
- E. Means coupled to said third symbol generating means and second symbol generating means for determining a second coincidence between said third symbol and said second symbol;
- F. A first coincidence between said third symbol and said second symbol;
- G. A distinct motion imparted to said second symbol in response to the second coincidence; and
- H. Means coupled to said second and third symbol coincidence determining means and said second symbol generating means for imparting a distinct motion to said second symbol in response to said second coincidence.

NEUMAN, WILLIAMS, ANDERSON & OLSON

77 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60602

COPY



September 4, 1984

Algy Tamoshunas, Esquire  
North American Philips Corporation  
580 White Plains Road  
Tarrytown, New York 10591

Re: Magnavox v. Activision

Dear Algy:

We have been pursuing Activision in an attempt to obtain further information in response to our interrogatories. We have received from Marla Miller of the Howard, Rice firm a letter dated August 28, 1984 purporting to supply some of the information requested. Since we believe we require further information as to certain ones of the interrogatories, we have prepared and filed a motion to compel further responses and supporting papers, copies of which are also enclosed.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By \_\_\_\_\_

James T. Williams

JTW:de  
Enclosures

cc: T. A. Briody - w/o encls.  
L. Etlinger - w/encls.  
T. W. Anderson - w/o encls.

OLD COPY TREE  
UNION IN

COPY

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2 ROBERT L. EBE  
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3 Three Embarcadero Center  
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4 Telephone: (415) 393-2000

5 THEODORE W. ANDERSON  
JAMES T. WILLIAMS  
6 NEUMAN, WILLIAMS, ANDERSON & OLSON  
77 West Washington Street  
7 Chicago, Illinois 60602  
Telephone: (312) 346-1200

8 Attorneys for Plaintiffs  
9 The Magnavox Company and  
Sanders Associates, Inc.

ORIGINAL  
FILED

AUG 30 1984

WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13

14 THE MAGNAVOX COMPANY, a corporation,  
15 and SANDERS ASSOCIATES, INC.,  
a corporation,

16 Plaintiffs,

17 vs.

18 ACTIVISION, INC., a corporation.

19 Defendant,  
20

) No. C 82 5270 JPV

) NOTICE OF MOTION AND  
) MOTION BY PLAINTIFFS  
) TO COMPEL RESPONSES  
) TO INTERROGATORIES

) Hearing Date:  
) September 21, 1984

) Time: 1:30 p.m.  
)

21  
22 PLEASE TAKE NOTICE that, on September 21, 1984 at  
23 1:30 p.m., or as soon after that time as the matter may be  
24 heard before United States Magistrate F. Steele Langford,  
25 the plaintiffs Magnavox Company and Sanders Associates, Inc.  
26 will seek an order requiring the defendant Activision, Inc.

NOTICE OF MOTION AND MOTION BY PLAINTIFFS TO COMPEL  
RESPONSES TO INTERROGATORIES

1 to give complete responses to plaintiffs' Interrogatory Nos.  
2 2, 3, 7(xii), 8 and 9.

3 This motion is made on the ground that defendant  
4 has failed to give full and complete answers to  
5 interrogatories as required by the Federal Rules of Civil  
6 Procedure.

7 This motion is based upon Rule 37(a) of the Federal  
8 Rules of Civil Procedure, upon Local Rule 220-6 (because  
9 this motion is related to the subject matter of a motion  
10 brought by defendant for hearing at the same date and time)  
11 and upon the accompanying Declaration of James T. Williams,  
12 Memorandum of Points and Authorities in support,  
13 Certification in Compliance with Local Rule 230-4(a), a  
14 proposed form of order and all papers, pleadings and records  
15 on file in this action.

16 Date: August 30, 1984.

17 McCUTCHEN, DOYLE, BROWN & ENERSEN

18  
19 By 

Attorneys for Plaintiff  
The Magnavox Company

20  
21  
22  
23  
24  
25  
26



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8  
9 Attorneys for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

10  
11 United States District Court For The  
12 Northern District Of California

13 THE MAGNAVOX COMPANY, a corporation, )  
and SANDERS ASSOCIATES, INC., )  
14 a corporation, )  
15 Plaintiffs, )  
16 vs. )  
17 ACTIVISION, INC., a corporation, )  
18 Defendant. )

No. C 82 5270 JPV

PLAINTIFFS' PROPOSED  
FORM OF ORDER ON  
PLAINTIFFS' MOTION TO  
COMPEL RESPONSES TO  
INTERROGATORIES

19  
20 The Court having considered plaintiffs' motion to compel  
21 defendant to respond to interrogatories, and it appearing to the  
22

23 PLTS.' PROP. FORM OF ORD. ON PLTS.'  
24 MOT. TO COMPEL RESPNS. TO INTERR.  
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RECEIVED

MAR 30 1984

CLERK, U.S. DISTRICT COURT  
SAN FRANCISCO



1 Court that good cause has been shown in support of plaintiffs'  
2 motion:

3 NOW, THEREFORE, IT IS ORDERED:

4 That plaintiffs' motion is hereby granted and defendant  
5 shall answer plaintiffs' interrogatories 2, 3, 7(xii), 8, and 9  
6 fully and completely within four calendar days of the date of this  
7 order. Dated: September \_\_, 1984.

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John P. Vukasian, Jr.  
United States District Judge

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PLTS.' PROP. FORM OF ORD. ON PLTS.'  
MOT. TO COMPEL RESPNS. TO INTERR.

28

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AUG 30 1984

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WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8  
9 Attorneys for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

10  
11 United States District Court For The  
12 Northern District Of California

13 THE MAGNAVOX COMPANY, a corporation, )  
and SANDERS ASSOCIATES, INC., )  
a corporation, )

Civil Action  
C82 5270 JPV

14 Plaintiffs, )

Hearing Date:

15 v. )

September 21, 1984

16 )  
Time: 1:30 p.m.

17 ACTIVISION, INC., a corporation, )

DECLARATION OF

18 Defendant. )

JAMES T. WILLIAMS

19 I, JAMES T. WILLIAMS, declare and state as follows:

20 1. I am a partner in the firm of Neuman, Williams,  
21 Anderson & Olson, attorneys for plaintiffs in this action, and I  
22 have been directly involved in substantially all of plaintiffs'  
23

1 efforts to obtain discovery in this matter.

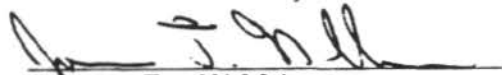
2           2. I prepared the Memorandum in Support of Plaintiffs'  
3 Motion to Compel Responses to Interrogatories, and I am personally  
4 familiar with all of the factual matters discussed in that  
5 Memorandum. To the best of my knowledge and belief, those factual  
6 matters are truly and correctly set forth in the aforesaid  
7 Memorandum.

8           I declare under the penalty of perjury that the  
9 foregoing is true and correct to the best of my knowledge and  
10 belief.

11

12

13 Date: August 29 1984

  
James T. Williams

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COPY

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WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
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9 Attorneys for Plaintiffs  
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a corporation, )

Civil Action  
C82 5270 JPV

14 Plaintiffs, )

Hearing Date:  
September 21, 1984

15 v. )

Time: 1:30 p.m.


17 ACTIVISION, INC., a corporation, )

CERTIFICATE OF COMPLIANCE  
WITH LOCAL RULE 230-4(a)

18 Defendant. )

19 I hereby certify that I have complied with the  
20 requirements of Local 230-4(a) by conferring with counsel for  
21 defendant as set forth in the Memorandum in Support of Plaintiffs'  
22 Motion To Compel Responses To Interrogatories.  
23

24 Date: August 29, 1984

  
James T. Williams  
One of the Attorneys for  
Plaintiffs

27  
28 CERTIFICATE OF COMPLIANCE

1 McCUTCHEM, DOYLE, BROWN & ENERSEN  
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WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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9 Attorneys for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

11 United States District Court For The  
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and SANDERS ASSOCIATES, INC., )  
14 a corporation, )  
15 Plaintiffs, )  
16 v. )  
17 ACTIVISION, INC., a corporation, )  
18 Defendant. )

No. C 82 5270 JPV  
MEMORANDUM IN SUPPORT  
OF PLAINTIFFS' MOTION TO  
COMPEL RESPONSES TO  
INTERROGATORIES  
Hearing Date:  
September 21, 1984  
Time: 1:30 p.m.

21 This motion seeks to obtain from the defendant,  
22 Activision, Inc., full and complete responses to plaintiffs'  
23 interrogatories 2, 3, 7(xii), and 8 and 9. Plaintiffs'

25 MEMO. IN SUPP. OF PLT'S MOT.  
TO COMPEL RESPNS. TO INTERR.

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1 interrogatories 1-10 were served early in this action. Defendant  
2 responded to interrogatories 2, 3, 8 and 9 only incompletely  
3 and indicated the subjects matter thereof were still under  
4 investigation and review. As trial in this case is now imminent,  
5 defendant's investigation and review must now be completed and  
6 full and responsive answers supplied. As to interrogatory 7(xii),  
7 defendant has supplied plaintiff with only incomplete information;  
8 the information requested must ~~now~~ be supplied in its entirety.  
9 Copies of Activision's interrogatory responses (which responses  
10 include copies of the interrogatories) are attached hereto as  
11 Exhibit A; a letter dated August 28, 1984 from defendant's counsel  
12 purporting to supply further information in response to some of  
13 the interrogatories is attached hereto as Exhibit H.

14  
15 BACKGROUND

16 This is an action for infringement of U.S. Patent Re.  
17 28,507 (the '507 patent). That patent relates to television  
18 games. It is owned by the plaintiff Sanders Associates, Inc. and  
19 is exclusively licensed to the plaintiff The Magnavox Company.  
20 Activision is in the business of designing, manufacturing, and  
21 selling television game cartridges. Plaintiffs allege that  
22 Activision's sales of approximately thirteen of its television  
23 game cartridges in the United States constitute acts of  
24 infringement of the '507 patent.



1 conference on August 23, 1984. On August 29, 1984, plaintiffs  
2 received a letter (Exhibit H) purporting to supply further  
3 information as to at least some of the interrogatories, but even  
4 the responses as supplemented are insufficient, requiring the  
5 filing of this motion.

6  
7 INTERROGATORIES 2 AND 3

8 Interrogatories 2 and 3 seek the basis for defendant's  
9 contention that the '507 patent is invalid over the prior art. In  
10 part, they seek the identification of the items of prior art which  
11 defendant relies upon as rendering the '507 patent invalid.  
12 Activision responded by referring to lists of prior art presented  
13 in prior lawsuits on this same patent and a pending U.S. patent  
14 application. These lists are attached hereto as Exhibit B (Notice  
15 of Bally, Midway and Empire), C (Notice of Atari and Sears,  
16 Roebuck & Co.), D (Notice of Mattel), and E (Prior art in Baer  
17 reissue application). Mere reference to only Exhibit C makes  
18 preposterous any claim that Activision will rely on all the prior  
19 art referred to in those lists. That exhibit identifies some 115  
20 U.S. patents, 8 foreign patents, 20 publications, and 9 other  
21 alleged activities. Surely Activision does not intend to rely on  
22 all those items of prior art. Activision's August 28 letter  
23 merely aggravated the problems; it included another list of some  
24 31 alleged items of prior art.



1           Indeed, Activision's formal response to interrogatory 2  
2 explicitly recognized that it would not rely on all the items of  
3 prior art in the lists there referred to. That response stated,  
4 in part:

5           "Defendant will identify the prior art it  
6           considers most pertinent after a detailed  
7           analysis of all prior art presented."

8 The August 28 letter further stated that Activision's statement of  
9 the prior art it intends to use at trial is still to come.  
10 Defendant should make the promised identification now.

11           Interrogatory 3 requests a statement of any contentions  
12 of defendant that the '507 patent is invalid under the provisions  
13 of 35 U.S.C. §103. That statutory section provides that a patent  
14 is invalid:

15           "If the differences between the subject matter  
16           sought to be patented and the prior art are  
17           such that the subject matter as a whole would  
18           have been obvious at the time the invention  
19           was made to a person having ordinary skill in  
20           the art to which said subject matter  
21           pertains."

22           The U.S. Supreme Court has stated a three step factual  
23 analysis to arrive at a legal conclusion as to whether a patent  
24 will survive a challenge to its validity under 35 U.S.C. §103.

25           "Under §103, the scope and content of the  
26           prior art are to be determined; differences  
27           between the prior art and the claims at issue  
28           are to be ascertained; and the level of  
29           ordinary skill in the pertinent art resolved."

30 Graham v. John Deere Co., 383 U.S. 1, 17 (1966).

1 Interrogatory 3 specifically seeks, among other things,  
2 defendant's contention as to the pertinent art and the level of  
3 ordinary skill in that art at the relevant times. The requested  
4 information is highly relevant to the issues of this action, and  
5 should be provided now.

6  
7 INTERROGATORY 7(xii)

8 Interrogatory 7(xii) requests that Activision set forth  
9 on a yearly basis its sales of its television game cartridges.  
10 Activision objected to this interrogatory on the grounds that it  
11 requests information on Activision cartridges which are not in  
12 issue. Plaintiffs restrict the interrogatory to those thirteen  
13 cartridges which plaintiffs allege are infringements. Further,  
14 since it is only plaintiffs' United States patent which is in  
15 issue, it is only sales in the United States which should be  
16 included in the response.

17 Defendant has previously supplied plaintiffs with some  
18 of the information requested. With a letter dated February 9,  
19 1984, Activision's counsel provided plaintiffs with the total of  
20 domestic and international sales for the four television game  
21 cartridges then being charged with infringement (Exhibit F  
22 hereto<sup>1</sup>). Plaintiffs then identified further game cartridges as  
23 being charged with infringement and asked for sales information as

24  
25 <sup>1</sup> The actual sales numbers are expurgated from Exhibit F due to  
26 Activision's claim of confidentiality.



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CONCLUSION

In none of the interrogatories which are the subject of this motion is there even a claim that plaintiffs are not entitled to full and complete responses. Plaintiffs should receive such responses promptly.

Dated: August 30, 1984.

By 

One of the Attorneys for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

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