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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE MAGNAVOX COMPANY, )  
a Corporation, and )  
SANDERS ASSOCIATES, INC., )  
a Corporation, )  
Plaintiffs, )  
v. )  
ACTIVISION, INC., )  
a Corporation )  
Defendant. )  
\_\_\_\_\_ )

Civil Action  
C 82 5270 TEH

Hearing: January 10, 1983  
10:00 a.m.

AFFIDAVIT OF THOMAS E. SMITH

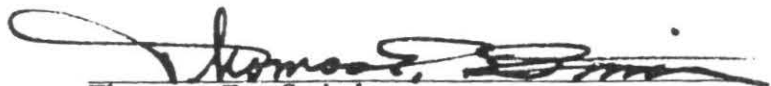
Thomas E. Smith being duly sworn deposes and says:

1. That he is a member of the Bar of the State of Illinois and a member of the Bar of the United States District Court for the Northern District of Illinois, and is a partner in the firm of Lee, Smith & Jager, 150 South Wacker Drive, Suite 950, Chicago, Illinois 60606;

2. That he has examined the docket sheets and official pleadings in various items of litigation in which The Magnavox Company has alleged infringement of the various Sanders' patents, and has prepared the attached chart showing the litigation files examined, the filing date of the complaint, the documents examined in each item of litigation, and the Sanders' patents involved for each item of litigation;

3. That in each item of litigation where reissue patent No. 28,507 was involved, its original patent No. 3,659,284 was also involved and in each instance where reissue patent No. 28,598 was involved, its original patent No. 3,659,284 was also involved.

FURTHER deponent sayeth not.

  
Thomas E. Smith

SUBSCRIBED AND SWORN TO before me  
this 23rd day of December, 1982

  
Notary Public

My Commission Expires Nov. 10, 1985

**MAGNAVOX PATENT LITIGATION ON THE SANDERS PATENTS  
IN U.S. DISTRICT COURT FOR THE NORTH DISTRICT OF ILLINOIS**

<u>Case No.</u>	<u>Filing Date</u>	<u>Documents Examined</u>	<u>Exhibit No.</u>	<u>Sanders' Patents Involved</u>
74C1030	4/15/74	Docket Sheets and Answer of Defendant Midway to Second Amended Complaint	A B	3,659,284 3,659,285 Re. 28,507 Re. 28,598
74C2510	9/3/74	Answer of Defendant Midway to Second Amended Complaint	B	3,659,284 3,659,285 Re. 28,507 Re. 28,598
75C3933 (See Cal. case C-75-1442)	7/11/75	Answer and Counter- claim in California Case C75-1442 Transferred to ND Ill.	C	3,659,284 3,659,285 Re. 28,507
75C3153	9/22/75	Complaint	D	3,659,284 3,659,285 3,728,480 Re. 28,507
77C3159	8/25/77	Amended Complaint	E	3,659,284 Re. 28,507
78C4951	12/13/78	Amended Complaint Notice under 35USC290	E F	3,659,284 Re. 28,507
78C5041	12/19/78	Complaint	G	3,659,284 Re. 28,507
80C2409	5/13/80	Complaint Plaintiff's First Amended Complaint	H I	3,659,284 Re. 28,507
80C4124	8/5/80	Complaint	J	3,659,284 Re. 28,507



- (P-1) THE MAGNAVOX COMPANY,  
a corporation
- (P-2) SANDERS ASSOCIATES, INC.  
a corporation

vs.

- 1) (D-1) BALLY MANUFACTURING  
CORPORATION, a corporation
- (D-2) CHICAGO DYNAMIC INDUSTRIES,  
INC., a corporation
- 1) (D-3) EMPIRE DISTRIBUTING, IND.,  
a corporation
- 1) (D-4) MIDWAY MFG. CO., a corporation

(Per second amended complaint 11/4/75)

ATTORNEYS

PLAINTIFF

DEFENDANTS

Neuman, Williams, Anderson  
& Olson  
77 W. Washington St.  
FI 6-1200

Molinare Allegretti Newitt  
& Witcoff  
125 S. Wacker Dr.  
60606 372-2160

REFERRED TO  
MAGISTRATE BALOG

CONSOLIDATED WITH  
NOS. 74 C 2510, 75C3153  
and 75 C 3933 for  
TRIAL PURPOSES

PROTECTIVE ORDER  
confidential info re  
Bally, Empire, and Midway  
and inspection of documents  
by counsel

11/21/74

2/15/75  
2-4-76

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date: / /

D. C. Form No. 106A Rev.

~~REASSIGNED JUDGE FLAUM 1/21/75~~

7001220

TITLE OF CASE

ATTORNEYS

(P-1) THE MAGNAVOX COMPANY, a corporation,  
Plaintiff

VS

(D-1) BALLY MANUFACTURING CORPORATION,  
a corporation,  
(D-2) CHICAGO DYNAMIC INDUSTRIES, INC.,  
a corporation,  
{ (D-3) ATARI INC., a corporation,  
{ (D-4) ALLIED LEISURE INDUSTRIES, INC.,  
a corporation, and  
(D-5) EMPIRE DISTRIBUTING, INC., a  
corporation,

Defendants

(D-6) MIDWAY MFG CO, a corporation. 5/22/74

Chicago Dynamic Industries,  
Counterplaintiff

Vs.

The Magnavox Company,  
Counterdefendant,  
(6/10/74)

THE MAGNAVOX COMPANY, a  
Corporation, and SANDERS  
ASSOCIATES, INC., a  
Corporation,

Defendants,

EMPIRE DISTRIBUTING, INC.,  
CHICAGO DYNAMIC INDUSTRIES,  
INC., a Corporation,  
EMPIRE DISTRIBUTING, INC.,  
a Corporation, and MIDWAY MFG.  
CO., a Corporation,

Defendants.

Second amended complaint  
11/4/75

For plaintiff:

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Financial 6-1200

Molinare Allegretti Newitt & Witco  
125 S. Wacker Dr.  
372-2160 60606

For defendant:

(Atari Inc.)

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Chicago, Ill. 60606~~

~~(Bally Mfg.) (Midway Mfg)  
Donald Welsh and A. Sidney Katz  
Fitch, Even, Tabin and Luedeka  
135 S. LaSalle St. John F. Fla.  
Chicago, ill 372-7842~~

(Allied Leisure)  
George Gerstman and Gerald S.  
135 S. LaSalle St.

Chicago, Ill. 60603  
(Chicago Dynamic) 726-3280  
~~Edward Threedy, -111-W, -Washin-~~

withdrawn 12-27  
REC. DISB.

S. 5 mailed

S. 6 mailed

Basis of Action: Patent  
Infringment.  
# 3,659,284  
# 3,659,285.

Action arose at:

COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
Clerk				
Marshal				
Docket fee				
Witness fees				
Depositions				



92

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY, et al.,	)	
	)	
Plaintiffs,	)	CONSOLIDATED
	)	CIVIL ACTION NOS.
v.	)	
	)	74 C 1030
BALLY MANUFACTURING CORPORATION,	)	74 C 2510
et al.,	)	
	)	
Defendants.	)	

ANSWER OF DEFENDANT MIDWAY TO  
SECOND AMENDED COMPLAINT

Now comes Defendant Midway Mfg. Co. (MIDWAY) and, for its answer to Plaintiff's Second Amended Complaint for Patent Infringement, states as follows:

Complaint ¶ 1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

RESPONSE: Defendant admits that this action was brought by Plaintiffs under the patent laws of the United States, and that jurisdiction of this Court is based on 28 U.S.C. § 1338(a).

Complaint ¶ 2. Plaintiff The Magnavox Company is a corporation organized and existing under the laws of the State of Delaware.

RESPONSE: Defendant admits that Plaintiff The Magnavox Company (MAGNAVOX) is a corporation of the State of Delaware.



Complaint ¶ 3. Plaintiff Sanders Associates, Inc. is a corporation organized and existing under the laws of the State of Delaware.

RESPONSE: Defendant admits that Plaintiff Sanders Associates, Inc. (SANDERS) is a corporation of the State of Delaware.

Complaint ¶ 4. Defendant Bally Manufacturing Corporation is a corporation organized and existing under the laws of the State of Delaware.

RESPONSE: Defendant admits that Defendant Bally Manufacturing Corporation (BALLY) is a corporation of the State of Delaware.

Complaint ¶ 5. Defendant Chicago Dynamic Industries, Inc. is a corporation organized and existing under the laws of the State of Illinois.

RESPONSE: Defendant does not have sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 5.

Complaint ¶ 6. Defendant Empire Distributing, Inc. is a corporation organized and existing under the laws of the State of Illinois.

RESPONSE: Defendant denies that Empire Distributing, Inc. (EMPIRE) is a corporation of the State of Illinois, but states that it is a corporation of Delaware.

Complaint ¶ 7. Defendant Midway Mfg. Co. is a corporation organized and existing under the laws of the State of Illinois.

RESPONSE: Defendant admits that MIDWAY is a corporation of the State of Illinois.

Complaint ¶ 8. On April 25, 1972, United States Letters Patent 3,659,284 issued to plaintiff Sanders Associates, Inc. as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date, and until August 5, 1975, plaintiff Sanders Associates, Inc. was the owner of that Letters Patent 3,659,284.

RESPONSE: Defendant admits that U.S. Patent 3,659,284 issued on April 25, 1972 to Plaintiff SANDERS as assignee of William T. Rusch; denies that said patent discloses or claims any invention; and does not have sufficient knowledge or information to form a belief as to the truth of the allegation that Plaintiff SANDERS was the owner of that patent since that date and until August 5, 1975.

Complaint ¶ 9. On August 5, 1975, United States Letters Patent 3,659,284 was reissued as United States Letters Patent Re.28,507 to plaintiff Sanders Associates, Inc. and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of that Letters Patent Re.28,507.

RESPONSE: Defendant admits that U.S. Patent 3,659,284 was reissued as Reissue Patent Re.28,507 to Plaintiff SANDERS on August 5, 1975; and does not have sufficient knowledge or

information to form a belief as to the truth of the allegation that Plaintiff SANDERS is and has been the owner of the Reissue Patent Re.28,507.

Complaint ¶ 10. On April 25, 1972, United States Letters Patent 3,659,285 issued to plaintiff Sanders Associates, Inc. as assignee of Ralph H. Baer, William T. Rusch, and William L. Harrison for an invention in TELEVISION GAMING APPARATUS AND METHOD and since that date, and until October 28, 1975, plaintiff Sanders Associates, Inc. was the owner of that Letters Patent 3,659,285.

RESPONSE: Defendant admits that U.S. Patent 3,659,285 issued on April 25, 1972 to Plaintiff SANDERS as assignee of Ralph H. Baer, William T. Rusch, and William L. Harrison; denies that said patent discloses or claims any invention; and does not have sufficient knowledge or information to form a belief as to the truth of the allegation that Plaintiff SANDERS was the owner of that patent since that date until October 28, 1975.

Complaint ¶ 11. On October 28, 1975, United States Letters Patent 3,659,285 was reissued as United States Letters Patent Re.28,598 to plaintiff Sanders Associates, Inc. and since since that date plaintiff Sanders Associates, Inc. has been and still is the owner of that Letters Patent Re.28,598.

RESPONSE: Defendant admits that U.S. Patent 3,659,285 was reissued as Reissue Patent Re.28,598 to Plaintiff SANDERS on October 28, 1975; and does not have sufficient knowledge or information to form a belief as to the truth of the allegation

that Plaintiff SANDERS is and has been the owner of the Reissue Patent Re.28,598.

Complaint ¶ 12. By an agreement entered into between plaintiff Sanders Associates, Inc. and plaintiff The Magnavox Company effective January 27, 1972, plaintiff The Magnavox Company has been and still is the exclusive licensee under said United States Letters Patent 3,659,284, 3,659,285, Re.28,507, and Re.28,598, with the right to bring actions for infringement of said Letters Patent.

RESPONSE: Defendant does not have sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 12.

Complaint ¶ 13. Defendants Chicago Dynamic Industries, Inc. and Midway Mfg. Co. have been for a long time past and still are separately and independently infringing said Letters Patent 3,659,284, 3,659,285, Re.28,507, and Re.28,598 by making, using, and selling gaming apparatus embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

RESPONSE: Defendant denies each and every allegation of Paragraph 13.

Complaint ¶ 14. Defendants Bally Manufacturing Corporation, Empire Distributing, Inc., and Midway Mfg. Co. have been for a long time past and still are jointly infringing said Letters

Patent 3,659,284, 3,659,285, Re.28,507, and Re.28,598 by making, using, and selling gaming apparatus embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

RESPONSE: Defendant denies each and every allegation of Paragraph 14.

Complaint ¶ 15. Defendants Bally Manufacturing Corporation and Empire Distributing, Inc. have been for a long time past and still are jointly infringing said Letters Patent 3,659,284, 3,659,285, Re.28,507, and Re.28,598 by selling gaming apparatus manufactured by others of the defendants herein as well as other parties and embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

RESPONSE: Defendant denies each and every allegation of Paragraph 15.

Complaint ¶ 16.

RESPONSE: There is no Paragraph 16 in the Second Amended Complaint, and thus no answer is required.

Complaint ¶ 17. Each of defendant's infringements of said Letters Patent 3,659,284, 3,659,285, Re.28,507, and Re.28,598 were and are willful and with full knowledge of said Letters Patent.

RESPONSE: Defendant denies each and every allegation of Paragraph 17.

Complaint ¶ 18. Plaintiff The Magnavox Company has placed the notice prescribed at Title 35, United States Code, Section 287(a) on all gaming apparatus manufacturing and sold by it under said Letters Patent and has given written notice to defendants of said infringements of said Letters Patent.

RESPONSE: Defendant admits that it has been given written notice of infringement of Patents 3,659,284; 3,659,285; Re.28,507 and Re.28,598 by the service of Plaintiffs' Second Amended Complaint for Patent Infringement on its attorneys; and, with respect to the remaining allegations of Paragraph 18, Defendant does not have sufficient knowledge or information to form a belief as to the truth of the allegations.

Further and affirmatively answering the Second Amended Complaint, Defendant states:

1. Defendant has not infringed any of the patents or reissue patents in suit, Nos. 3,659,284; 3,659,285; Re.28,507 and Re.28,598, and denies that the manufacture, use or sale of any of its amusement devices constitutes infringement of said patents, or that such devices embody the subject matters of the claims of said patents.

2. Each and every claim of the patents, Nos. 3,659,284; 3,659,285; Re.28,507 and Re.28,598 are invalid and void for one or more of the following reasons:

(a) The applicants for said patents were not the original and first inventors or discoverers of any material or substantial

part of the subject matter of the claims of said patents.

- (b) The subject matter of the claims of said patents insofar as the same may have been original with the applicants was not sufficiently new and useful to warrant the issuance of a patent thereon.
- (c) The descriptions of the alleged inventions of the claims of said patents are not made in such full, clear, concise and exact terms as to enable one skilled in the art to make and use the same, nor do said patents set forth the best mode contemplated by the applicants for carrying out the alleged inventions.
- (d) The claims of said patents fail to point out particularly and to claim distinctly what the applicants regard as their inventions.
- (e) The subject matter of the claims of said patents, prior to the supposed invention or discovery thereof by the applicants, or more than one year prior to the filing of the respective applications therefor, was described in patents and in printed publications.
- (f) The subject matter of the claims of said patents was described in application(s)

- for patents of the United States filed by another prior to any date of invention to which said applicants may be entitled for such claims.
- (g) The subject matter of the claims of said patents, more than one year prior to any filing date to which said applicants may be entitled for such claims, was in public use or on sale in the United States.
  - (h) The subject matter of the claims of said patents, before the alleged invention or discovery thereof by said applicants, (1) was invented by others in the United States who had not abandoned, suppressed, or concealed the same, and (2) was known or used by other in the United States.
  - (i) Said applicants did not themselves, as alleged in each of said patents, invent the subject matter patented in any of the claims of said patents in suit.
  - (j) Any differences between the subject matter of said claims and the prior art are such that the subject matter as a whole would have been obvious to a person of ordinary skill in the art to which the claimed subject matter pertained at the time of the alleged invention thereof by said applicants.



(k) The applicants for said patents have unlawfully extended the patent monopoly by obtaining more than one patent on the same, or merely colorable variations of the same, alleged invention.

(l) Said patents are invalid, void and unenforceable on the ground of double patenting.

3. Defendant avers that the state of the prior art at the time of the alleged invention of the subject matter of the claims of said patents in suit was such; and the proceedings in the United States Patent & Trademark Office which resulted in the issuance of the claims of said patents were such; and the disclosures in said patents are so limited, that the claims of said patents cannot properly be construed to cover any subject matter made, used or sold by Defendant or sold or used by any of its customers, mediate or immediate, subsequent to the issuance of any of said patents in suit.

4. Defendant avers that, by reason of the proceedings in the United States Patent & Trademark Office during the prosecution of the applications which resulted in the patents in suit, and the admissions and the representations therein made by or on behalf of the applicants for said patents in order to induce the grant of a patent, Plaintiffs are estopped to claim for any of the patents a construction, even if this were otherwise possible, which would cause the patent to cover or include the acts of Defendant of which Plaintiffs have complained.

5. If said patents in suit are construed to cover coin-operated amusement games and/or devices manufactured and sold by Defendant, the patents are invalid for want of patentable invention in view of the prior art, knowledge and uses.

6. Defendant avers that the Reissue Patents Re.28,507 and Re.28,598 are invalid and void for the following additional reasons:

- (a) That, although the original patents 3,659,284 and 3,659,285, were "partly inoperative by reason of a defective specification" and contained claims which were "inadequate to fully protect" the alleged invention, as stated by the applicants for said reissue patents in their respective Declarations filed in the U.S. Patent & Trademark Office on April 25, 1974, such defects and inadequacies did not, in fact, occur "through error and without any deceptive intention" as stated by said applicants in their Declarations.
- (b) That each of said reissue patents is not for the same invention as was disclosed in the corresponding original patent.
- (c) That said applicants applied for said reissue patents only after being informed

of the amusement devices of the Defendant or others, which did not employ the subject matter patented in said original patents, and then said applicants sought to improperly extend said original patents to cover the devices through reissue of said patents.

- (d) That said Declarations filed in the U.S. Patent & Trademark Office to induce it to reissue said original patents contained false statements, and that such statements were made intentionally and willfully, and render said reissue patents invalid.

7. Defendant avers that it has "intervening rights" and other rights provided under Title 35, U.S. Code § 252, which provide for the absence of any liability for infringement of said reissue patents in suit.

8. Defendant avers that it has the right to continue the manufacture, use and sale of the accused devices made, purchased or used, and the accused devices for the manufacture, use or sale of which substantial preparation was made, before the grant of said reissue patents.

9. Defendant avers that reissue patents Re.28,507 and Re.28,598 are invalid by reason of the applicants' non-compliance with the provisions of Title 35, U.S. Code § 251 relating to the reissue of inoperative, defective and invalid patents.

10. Defendant avers that the Patent & Trademark Office did not cause a proper examination to be made as to the purported inventions recited by the claims of said Patents 3,659,284; 3,659,285; Re.28,507 and Re.28,598, and each of said patents was inadvertently and erroneously issued, and had such proper examination been made, it would have appeared that the applicants for each of said patents was not entitled thereto, and said patents in suit would not have issued.

11. Defendant avers that said patents in suit are invalid and unenforceable and that, in violation of the duty of the applicants for said patents and of the Plaintiffs herein, the Patent & Trademark Office was not fully informed by the applicants or the Plaintiffs of the true state of the relevant prior art and the pertinency thereof or of the true nature of the alleged inventions during the prosecution of the respective applicants<sup>(s)</sup> for the patents in suit; that the applicants as well as the Plaintiffs herein well knew or should have known of such prior art and of its pertinency and of the true nature of the alleged inventions during the prosecution of the respective applications for the patents in suit; that the failure to supply such information and the lack of knowledge by the Patent & Trademark Office was a material factor in the decision by the Patent & Trademark Office to issue said patents; and that the omissions were such that the Patent & Trademark Office would not have issued said patents in suit if it had been correctly and completely informed by the applicants or Plaintiffs of such omissions of fact.

12. Defendant avers that said patents in suit are unenforceable because of Plaintiffs' misuse of said patents by their attempts to impose a "package license" on the Defendant and others.

13. Defendant avers that said patents in suit are unenforceable against Defendant because Plaintiffs have misused said patents by wrongful exploitation, including, inter alia, attempting to enforce them against Defendant and, upon information and belief, others, including Seeburg Industries, Inc., The Seeburg Corporation of Delaware and Williams Electronics, Inc., knowing that such patents are not infringed, are invalid, void and improperly issued and by attempting by economic coercion to compel Defendant, The Seeburg Corporation of Delaware, to pay for a license under said patents as well as certain other patents allegedly owned by Plaintiff Sanders Associates, Inc. and under which Plaintiff The Magnavox Company allegedly had an exclusive license with a right to sublicense even though Defendant, The Seeburg Corporation of Delaware, had informed The Magnavox Company that it had no conceivable interest in this entire group of patents.

14. Further answering the Second Amended Complaint, Defendant avers that said patents in suit are invalid and void because of fraud in their procurement, and that Plaintiffs have disentitled themselves from seeking any relief in this Court because of their unclean hands, and because they have been and are subverting the public policy of the patent laws of the

United States by misusing said patents in suit through the attempted enforcement of said fraudulently procured patents.

15. WHEREFORE, Defendant denies that Plaintiffs are entitled to any relief sought in the prayer of their Second Amended Complaint, or relief of any kind against Defendant, and pray that said Complaint be dismissed for want of equity, that judgment be entered against Plaintiffs, and that Defendant be awarded its taxable costs, attorneys fees and other disbursements on account of this litigation, and such other and further relief as justice may require.

MIDWAY MFG. CO.

By Donald L. Welsh  
Donald L. Welsh  
A. Sidney Katz  
Fitch, Even, Tabin & Luedeka  
135 South LaSalle Street  
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Attorneys for Defendant  
Midway Mfg. Co.

*spira*

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9 Attorneys for Defendants

10 IN THE UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ATARI, INC., )  
13 a corporation, )  
14 Plaintiff, )

15 vs. )

Civil Action No.  
C-75-1442 RFP

16 THE MAGNAVOX COMPANY, )  
a corporation and )  
17 SANDERS ASSOCIATES, INC., )  
a corporation, )  
18 Defendants. )

ANSWER AND COUNTERCLAIM

19 Defendants, the Magnavox Company and Sanders Associates,  
20 Inc., through their undersigned attorneys, hereby respond as follows to  
21 the "Complaint for Declaratory Judgment of Patent Invalidity and  
22 Non-Infringement" in the above-identified action:

23 1. Defendants admit the allegations of paragraph 1 of the  
24 complaint herein.

25 2. Defendants deny that defendant The Magnavox Company has  
26 a place of business at San Francisco, California, but admit that defendant  
27 The Magnavox Company has a place of business within this judicial district  
28 and otherwise admit the allegations of paragraph 2 of the complaint herein.

29 3. Defendants admit the allegations of paragraph 3  
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31  
32

1 of the complaint herein.

2 4. Defendants admit the allegations of paragraph 4  
3 of the complaint herein.

4 5. Defendants are without sufficient information to  
5 form a belief as to the truth of the allegations contained in  
6 paragraph 5 of the complaint and, therefore, deny each and every  
7 one of same.

8 6. Defendants are without sufficient information to  
9 form a belief as to the truth of the allegations contained in  
10 paragraph 6 of the complaint and, therefore, deny each and every  
11 one of same.

12 7. Defendants admit the allegations of paragraph 7  
13 of the complaint herein.

14 8. Defendants admit the allegations of paragraph 8  
15 of the complaint herein.

16 9. Defendants admit the allegations of paragraph 9  
17 of the complaint herein.

18 10. Defendants admit the allegations of paragraph 10  
19 of the complaint herein.

20 11. Defendants admit the allegations of paragraph 11  
21 of the complaint herein.

22 12. Defendants admit the allegations of paragraph 12  
23 of the complaint herein.

24 13. Defendants admit the allegations of paragraph 13  
25 of the complaint herein.

26 14. Defendants admit the allegations of paragraph 14  
27 of the complaint herein.

28 15. Defendants admit the allegations of paragraph 15  
29 of the complaint herein.

30 16. Defendants deny each and every one of the allegations  
31

32



1 of paragraph 16 of the complaint herein.

2 17. Defendants deny each and every one of the allegations  
3 of paragraph 17 of the complaint herein.

4 18. Defendants admit the allegations of paragraph 18  
5 of the complaint herein.

6 19. Defendants admit that a genuine and justiciable  
7 controversy exists between plaintiff and defendants, but otherwise  
8 deny each and every one of the allegations of paragraph 19 of the  
9 complaint herein.

10 Defendants further respond to the complaint herein  
11 by setting forth a counterclaim seeking affirmative relief  
12 against plaintiff as follows:

13 1. This counterclaim arises under the patent laws  
14 of the United States, Title 35, United States Code. Jurisdiction of  
15 this Court is based on Title 28, United States Code, Section 1338(a).

16 2. Defendant The Magnavox Company is a corporation  
17 organized and existing under the laws of the State of Delaware.

18 3. Defendant Sanders Associates, Inc. is a corporation  
19 organized and existing under the laws of the State of Delaware.

20 4. Plaintiff, Atari, Inc., is a corporation organized  
21 and existing under the laws of the State of California.

22 5. On April 25, 1972, United States Letters Patent  
23 3,659,284 issued to defendant Sanders Associates, Inc. as assignee  
24 of William T. Rusch for an invention in Television Gaming Apparatus  
25 and since that date and until August 5, 1975, plaintiff Sanders  
26 Associates, Inc. was the owner of those Letters Patent 3,659,284.

27 6. On August 5, 1975, United States Letters Patent  
28 3,659,284 was reissued as United States Letters Patent Re. 28,507  
29 to defendant Sanders Associates, Inc. and since that date  
30 defendant Sanders Associates, Inc. has been and still is the owner  
31 of those Letters Patent Re. 28,507.

32

1           7.    On April 25, 1972, United States Letters Patent  
2    3,659,285 issued to defendant Sanders Associates, Inc. as assignee  
3    of Ralph H. Baer, William T. Rusch, and William L. Harrison for an  
4    invention in Television Gaming Apparatus and Method, and since that  
5    date defendant Sanders Associates, Inc. has been and still is  
6    the owner of those Letters Patent 3,659,285.

7           8.    By an agreement entered into between defendant  
8    Sanders Associates, Inc. and defendant The Magnavox Company  
9    effective January 27, 1972, defendant The Magnavox Company has  
10   been and still is the exclusive licensee under said United States  
11   Letters Patent 3,659,284, 3,659,285, and Re. 28,507.

12           9.    Plaintiff has been for a long time past and still is  
13   infringing, contributing to the infringement of, and inducing  
14   the infringement of said United States Letters Patent 3,659,284,  
15   3,659,285, and Re. 28,507, and will continue to do so unless  
16   enjoined by this Court.

17           10.   Plaintiff's infringements of said United States  
18   Letters Patent 3,659,284, 3,659,285, and Re. 28,507 were and  
19   are willful and with full knowledge of said Letters Patent.

20           11.   Defendants have placed the notice prescribed at  
21   Title 35, United States Code, Section 287(a) on all gaming apparatus  
22   manufactured and sold by them under said United States Letters  
23   Patent 3,659,284 and 3,659,285 and has given written notice to  
24   plaintiff of said infringement of said Letters Patent 3,659,284 and  
25   3,659,285.

26           WHEREFORE, defendants demand a preliminary and final  
27   injunction against continued infringement of said United States  
28   Letters Patent 3,659,285 and Re. 28,507 by plaintiff, an accounting  
29   of the damages to defendants and the profits to plaintiff caused  
30   by said infringements, an assessment of three times the damages

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1 and profits so determined, an award of reasonable attorney fees,  
2 and an assessment of interests and costs against plaintiff.

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Theodore W. Anderson and  
James T. Williams, both of  
NEUMAN, WILLIAMS, ANDERSON & OLSON

Carl E. Hoppe of  
ECKHOFF, HOPPE, SLICK, MITCHELL  
& ANDERSON

Attorneys for Defendants

By \_\_\_\_\_



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FILED ..

SEP 22 PM 4 27

CLERK  
U.S. DISTRICT COURT

THE MAGNAVOX COMPANY, a  
Corporation, and SANDERS  
ASSOCIATES, INC., a  
Corporation,

Plaintiffs,

vs.

SEARS, ROEBUCK AND CO., a  
Corporation,

Defendant.

CIVIL ACTION NO.

COMPLAINT FOR  
PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff The Magnavox Company is a corporation organized and existing under the laws of the State of Delaware.

3. Plaintiff Sanders Associates, Inc. is a corporation organized and existing under the laws of the State of Delaware.

4. Defendant, Sears, Roebuck and Co., is a corporation organized and existing under the laws of the State of New York.

5. On April 25, 1972, United States Letters Patent 3,659,284 issued to plaintiff Sanders Associates, Inc. as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date, and until August 5, 1975, plaintiff Sanders Associates, Inc. was the owner of those Letters Patent 3,659,284.

6. On August 5, 1975, United States Letters Patent 3,659,284 was reissued as United States Letters Patent Re. 28,507 to plaintiff Sanders Associates, Inc. and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of those Letters Patent Re. 28,507.

7. On April 25, 1972, United States Letters Patent 3,659,285 issued to plaintiff Sanders Associates, Inc. as assignee of Ralph H. Baer, William T. Rusch, and William L. Harrison for an invention in TELEVISION GAMING APPARATUS AND METHOD and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of those Letters Patent 3,659,285.

8. On April 17, 1973, United States Letters Patent 3,728,480 issued to plaintiff Sanders Associates, Inc. as assignee of Ralph H. Baer for an invention in TELEVISION GAMING AND TRAINING APPARATUS and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of those Letters Patent 3,728,480.

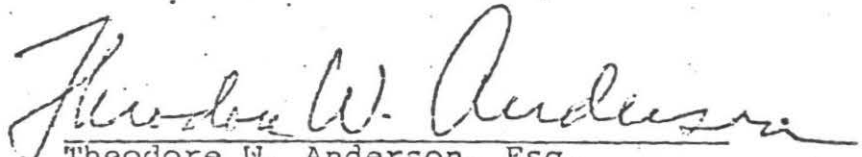
9. By an agreement entered into between plaintiff Sanders Associates, Inc. and plaintiff The Magnavox Company effective January 27, 1972, plaintiff The Magnavox Company has been and still is the exclusive licensee under said United States Letters Patent 3,659,284, 3,659,285, 3,728,480, and Re. 28,507.

10. Defendant, Sears, Roebuck and Co., has been and still is infringing said United States Letters Patent 3,659,284, 3,659,285, 3,728,480 and Re. 28,507 by making, using, selling, and/or offering for sale television gaming apparatus embodying the subject matters of the claims of said Letters Patent. Defendant's infringements of United States Letters Patent 3,659,285, 3,728,480 and Re. 28,507 will continue unless enjoined by this Court.

11. Defendant's infringements of said United States Letters Patent 3,659,284, 3,659,285, 3,728,480, and Re. 28,507 were and are willful and with full knowledge of said Letters Patent.

12. Plaintiff has placed the notice prescribed at Title 35, United States Code, Section 287(a) on all gaming apparatus manufactured and sold by it under said United States Letters Patent.

WHEREFORE, plaintiffs demand a preliminary and final injunction against continued infringement of said United States Letters Patent 3,659,285, 3,728,480 and Re. 28,507 by defendant; an accounting of the damages to plaintiffs and the profits to defendant caused by said infringements of said Letters Patent 3,659,284, 3,659,285, 3,728,480 and Re. 28,507; an assessment of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against defendant; and any other relief which the Court may deem just under the circumstances.



Theodore W. Anderson, Esq.  
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77 West Washington Street  
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September 22, 1975

Of Counsel:

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The Magnavox Company  
1700 Magnavox Way  
Fort Wayne, Indiana

Louis Etlinger, Esq.  
Sanders Associates, Inc.  
Daniel Webster Highway, South  
Nashua, New Hampshire 03060



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY, a  
Corporation, and  
SANDERS ASSOCIATES, INC., a  
Corporation,

Plaintiffs,

v.

APF ELECTRONICS, INC.,  
a Corporation,  
MONTGOMERY WARD & CO., INCORPORATED,  
a Corporation, and SEARS, ROEBUCK  
AND CO., a Corporation

Defendants.

JAN 23 1981  
Consolidated Civil  
Action Nos.  
77 C 3159  
78 C 4951 ✓  
78 C 5041

JUDGE JOHN POWERS CROWLEY

FILED  
JAN 29 1981  
H. Stuart Cunningham, Clerk  
United States District Court

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs herewith state their amended complaint in Civil Action No. 78 C 5041 against the defendants APF ELECTRONICS, INC., MONTGOMERY WARD & CO., INCORPORATED, and SEARS, ROEBUCK AND CO. as follows:

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff THE MAGNAVOX COMPANY is a corporation organized and existing under the laws of the State of Delaware.

3. Plaintiff SANDERS ASSOCIATES, INC. is a corporation organized and existing under the laws of the State of Delaware.

4. Defendant APF ELECTRONICS, INC. is a corporation organized and existing under the laws of the State of New York. Defendant APF ELECTRONICS, INC. has intervened as a defendant in this Civil Action No. 78 C 5041.

5. Defendant MONTGOMERY WARD & CO., INCORPORATED is a corporation organized and existing under the laws of the State of Illinois and having places of business within this District at 140 South State Street, Chicago, Illinois and 535 West Chicago Avenue, Chicago, Illinois, among others.

6. Defendant SEARS, ROEBUCK AND CO. is a corporation organized and existing under the laws of the State of New York and having places of business within this District at 403 South State Street, Chicago, Illinois and Sears Tower, 233 South Wacker Drive, Chicago, Illinois, among others.

7. On April 25, 1972, United States Letters Patent 3,659,284 was duly and legally issued to plaintiff SANDERS ASSOCIATES, INC. as assignee of William T. Rusch for

an invention in TELEVISION GAMING APPARATUS and since that date and until August 5, 1975, plaintiff SANDERS ASSOCIATES, INC. was the owner of those Letters Patent 3,659,284.

8. On August 5, 1975, United States Letters Patent 3,659,284 was duly and legally reissued as United States Letters Patent Re. 28,507 to plaintiff SANDERS ASSOCIATES, INC. and since that date plaintiff SANDERS ASSOCIATES, INC. has been and still is the owner of those Letters Patent Re. 28,507.

9. By written agreement entered into between plaintiff SANDERS ASSOCIATES, INC. and plaintiff THE MAGNAVOX COMPANY, effective January 27, 1972, plaintiff THE MAGNAVOX COMPANY has been and still is the exclusive licensee under said United States Letters Patent 3,659,284 and Re. 28,507.

10. On April 15, 1974, plaintiff THE MAGNAVOX COMPANY filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company v. Chicago Dynamic Industries, Inc., et al., Civil Action No. 74 C 1030, which complaint was subsequently amended to add as a party plaintiff the plaintiff

here SANDERS ASSOCIATES, INC., and on September 3, 1974, plaintiffs THE MAGNAVOX COMPANY and SANDERS ASSOCIATES, INC. filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company, et al. v. Seeburg Industries, Inc., et al., Civil Action No. 74 C 2510. The original complaints in both of those actions alleged infringement by the defendants named therein of United States Letters Patent 3,659,284 and were subsequently amended to allege infringement of United States Letters Patent Re. 28,507.

11. On September 22, 1975 plaintiffs THE MAGNAVOX COMPANY and SANDERS ASSOCIATES, INC. filed a complaint against the defendant here SEARS, ROEBUCK AND CO. in the United States District Court for the Northern District of Illinois in the action The Magnavox Company and Sanders Associates, Inc. v. Sears, Roebuck and Co., Civil Action No. 75 C 3153, which complaint alleged infringement of said United States Letters Patent 3,659,284 and its Reissue Re. 28,507, among others. Said Civil Action No. 75 C 3153 was consolidated with said Civil Action Nos. 74 C 1030 and 74 C 2510 and on June 9, 1976, the parties thereto having compromised their differences, said Civil Action No. 75 C 3153 was dismissed.

12. On January 10, 1977 and after a trial on the merits in Civil Action Numbers 74 C 1030 and 74 C 2510 before the Honorable John F. Grady, a decision was rendered finding said Letters Patent Re. 28,507 valid and infringed by the defendants in those actions and on June 1, 1977, a final judgment to that effect was entered which, among other things, enjoined certain of the defendants therein from further infringing said Letters Patent Re. 28,507.

13. Each of the defendants in this action (1) has infringed said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is infringing said United States Letters Patent Re. 28,507 by making, using, selling and/or offering for sale television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent; (2) has actively induced infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is actively inducing infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus; and/or (3) has committed acts of contributory infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is committing

acts of contributory infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus. Defendants' infringements, inducements to infringe, and contributory infringements of United States Letters Patent Re. 28,507 will continue unless enjoined by this Court.

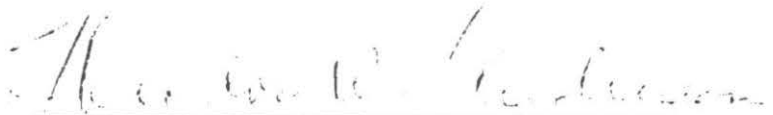
14. Defendants' infringements, inducements to infringe, and contributory infringements of said United States Letters Patent 3,659,284 and/or Re. 28,507 were and are willful and with full knowledge of said Letters Patent.

15. Plaintiff THE MAGNAVOX COMPANY has placed or caused to be placed the required statutory notice on television games manufactured or sold by it under said United States Letters Patent. Defendant APF Electronics, Inc. has received notice of said United States Letters Patent from plaintiff THE MAGNAVOX COMPANY.

WHEREFORE, Plaintiffs demand a preliminary and final injunction against continued infringement of said United States Letters Patent Re. 28,507 by defendants; an accounting of the damages to plaintiffs and the profits to

defendants caused by said infringements of said Letters Patent 3,659,284 and/or Re. 28,507; an assessment of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against defendants; and any other relief which the Court may deem just under the circumstances.

January 29, 1981



Theodore W. Anderson (Id. No. 62)  
James T. Williams (Id. No. 3556)  
Attorneys for Plaintiffs

Neuman, Williams, Anderson & Olson  
(Id. No. 355)  
77 West Washington Street  
Chicago, Illinois 60602  
(312) 346-1200





# United States District Court for the

NORTHERN DISTRICT OF ILLINOIS  
~~EASTERN DIV.~~

COMMISSIONER OF PATENTS,  
Washington 25, D. C.

SIR:

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 USC 290), you are advised that there was filed on the 13th day of December, 1973, in this court an action, No. 73 C 4951, entitled:

Name The Magnavox Company State of Delaware, Plaintiff,  
Sanders Associates, Inc., State of Delaware  
Address

versus

Name Bally Manufacturing Corporation, 2640 W. Belmont, Chicago, Defendant,  
Midway Mfg. Co., 10750 Grand Ave. Franklin Park, Ill  
Address

brought upon the following patents:

PATENT NO.	DATE OF PATENT	PATENTEE
3,659,284	4-25-72	Plaintiff-Sanders
3,629,284	reissued 3-5-75	
2	Letters Patent 2,850,757	
3,659,284	Written agreement	entered on 1-27-72 between plaintiffs.
4		
5		

In the above-entitled case, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the following patents have been included by \_\_\_\_\_ (insert amendment, answer, cross bill, or other pleading):

PATENT NO.	DATE OF PATENT	PATENTEE
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In the above-entitled case the following decision has been rendered or judgment issued:



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY, a Corporation,  
and SANDERS ASSOCIATES  
INC., a Corporation,

Plaintiffs,

v.

FAIRCHILD CAMERA AND INSTRUMENT  
CORPORATION, a Corporation,  
MONTGOMERY WARD & CO., INCORPORATED,  
a Corporation, and SEARS,  
ROEBUCK AND CO., a Corporation,

Defendants.

301

Civil Action No.

78C 5041

COMPLAINT FOR PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff THE MAGNAVOX COMPANY is a corporation organized and existing under the laws of the State of Delaware.

3. Plaintiff SANDERS ASSOCIATES, INC. is a corporation organized and existing under the laws of the State of Delaware.

4. Defendant FAIRCHILD CAMERA AND INSTRUMENT CORPORATION is a corporation organized and existing under the laws of the State of Delaware and having places of business within this District at 2400 East Devon Avenue, Des Plaines, Illinois; 9950 Lawrence Avenue, Schiller Park, Illinois; 10 Gould Center, Rolling Meadows, Illinois; 30 Gould Center, Rolling Meadows, Illinois; and 85 Gordon, Elk Grove Village, Illinois.

5. Defendant MONTGOMERY WARD & CO., INCORPORATED is a corporation organized and existing under the laws of the State of Illinois and having places of business within this District at 140 South State Street, Chicago, Illinois and 535 West Chicago Avenue, Chicago, Illinois, among others.

6. Defendant SEARS, ROEBUCK AND CO. is a corporation organized and existing under the laws of the State of New York and having places of business within this District at 403 South State Street, Chicago, Illinois and Sears Tower, 233 South Wacker Drive, Chicago, Illinois, among others.

7. On April 25, 1972, United States Letters Patent 3,659,284 were duly and legally issued to plaintiff SANDERS ASSOCIATES, INC. as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date and until August 5, 1975, plaintiff SANDERS ASSOCIATES, INC. was the owner of those Letters Patent 3,659,284.

8. On August 5, 1975, United States Letters Patent 3,659,284 were duly and legally reissued as United States Letters Patent Re. 28,507 to plaintiff SANDERS ASSOCIATES, INC. and since that date plaintiff SANDERS ASSOCIATES, INC. has been and still is the owner of those Letters Patent Re. 28,507.

9. By written agreement entered into between plaintiff SANDERS ASSOCIATES, INC. and plaintiff THE MAGNAVOX COMPANY, effective January 27, 1972, plaintiff THE MAGNAVOX COMPANY has been and still is the exclusive licensee under said United States Letters Patent 3,659,284 and Re. 28,507.

10. On April 15, 1974, plaintiff THE MAGNAVOX COMPANY filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company v. Chicago Dynamic Industries, Inc., et al., Civil Action No. 74 C 1030, which complaint was subsequently amended to add as a party plaintiff the plaintiff here SANDERS ASSOCIATES, INC., and on September 3, 1974, plaintiffs THE MAGNAVOX COMPANY and SANDERS ASSOCIATES, INC. filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company, et al. v. Seeburg Industries, Inc., et al., Civil Action No. 74 C 2510. The original complaints in both of those actions alleged infringement by the defendants named therein of United States Letters Patent 3,659,284 and another and were subsequently amended to allege infringement of United States Letters Patent Re. 28,507.

11. On September 22, 1975 plaintiffs THE MAGNAVOX COMPANY and SANDERS ASSOCIATES, INC. filed a complaint against the defendant here SEARS, ROEBUCK AND CO. in the United States District Court for the Northern District of Illinois in the action The Magnavox Company and Sanders Associates, Inc. v. Sears, Roebuck and Co., Civil Action No. 75 C 3153, which complaint alleged infringement of said United States Letters Patent 3,659,284 and its Reissue Re. 28,507, among others. Said Civil Action No. 75 C 3153 was consolidated with said Civil Action Nos. 74 C 1030 and 74 C 2510 and on June 9, 1976, the parties thereto having compromised their differences, said Civil Action No. 75 C 3153 was dismissed.

12. On January 10, 1977 and after a trial on the merits in said Civil Action Nos. 74 C 1030 and 74 C 2510 before the Honorable John F. Grady, a decision was rendered finding said Letters Patent Re. 28,507 valid and infringed by the defendants in those actions and on June 1, 1977, a final judgment to that effect was entered which, among other things, enjoined certain of the defendants therein from further infringing said Letters Patent Re. 28,507.

13. Each of the defendants in this action (1) has infringed said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is infringing said United States Letters Patent Re. 28,507 by making, using, selling and/or offering for sale television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent; (2) has actively induced infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is actively inducing infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus; and/or (3) has committed acts of contributory infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is committing acts of contributory infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus. Defendants' infringements, inducements to infringe, and contributory infringements of United States Letters Patent Re. 28,507 will continue unless enjoined by this Court.

14. Defendants' infringements, inducements to infringe, and contributory infringements of said United States Letters Patent 3,659,284 and/or Re. 28,507 were and are willful and with full knowledge of said Letters Patent.

WHEREFORE, Plaintiffs demand a preliminary and final injunction against continued infringement of said United States Letters Patent Re. 28,507 by defendants; an accounting of the damages to plaintiffs and the profits to defendants caused by said infringements of said Letters Patent 3,659,284 and/or Re. 28,507; an assessment of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against defendants; and any other relief which the Court may deem just under the circumstances.



Theodore W. Anderson (Id. No. 62)  
James T. Williams (Id. No. 3556)  
Attorneys for Plaintiffs

Neuman, Williams, Anderson & Olson  
(Id. No. 355)  
77 West Washington Street  
Chicago, Illinois 60602  
(312) 346-1200





IN THE UNITED STATES DISTRICT COURT.  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SANDERS ASSOCIATES, INC. )  
a Corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
K MART CORPORATION, )  
a Corporation, )  
 )  
Defendant. )

80 (E) 2409  
80 C 2409

Civil Action No.

COMPLAINT FOR PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff, SANDERS ASSOCIATES, INC., is a corporation organized and existing under the laws of the State of Delaware.

3. Defendant, K MART CORPORATION, is a corporation organized and existing under the laws of the State of Michigan and having places of business within the State of Illinois and in this District at the following locations and others:

6435 West Diversey Avenue, Chicago  
7024 South Pulaski Road, Chicago  
3335 Sheridan Road, Zion  
400 Town Line Road, Mundelein  
3110 Belvidere Road, Waukegan  
5100 123rd Street, Alsip  
17335 Torrence Avenue, Lansing  
7325 79th Street, Bridgeview  
571 West Lincoln Avenue, Chicago Heights  
1000 East Sibley Boulevard, Dolton  
West 183rd Street & Kedzie Avenue, Homewood  
17825 South Halsted, Homewood  
159th Street & Harlem Avenue, Tinley Park  
4104 West 95th Street, Oak Lawn  
8711 South 77th Avenue, Bridgeview  
571 West 147th Street, Chicago Heights  
990 West Algonquin Road, Arlington Heights  
1215 Dundee Avenue, Elgin  
900 Irving Park Road, Hanover Park  
2300 West Higgins Road, Hoffman Estates  
537 North Hicks Road, Palatine  
16 East Golf Road, Schaumburg  
780 West Dundee Road, Wheeling  
1155 Oakton Street, Des Plaines

2400 Main Street, Evanston  
2099 Skokie Valley Road, Highland Park  
8500 Dempster Street, Niles  
10220 Grand Avenue, Franklin Park  
901 North Avenue, Melrose Park  
2200 Harlem Avenue, North Riverside  
Plainfield Road & Kingery Highway, Willowbrook  
300 West North Avenue, Villa Park  
20 West 215 Lake, Addison  
610 East North Avenue, Carol Stream  
Ogden Avenue & Williams, Downers Grove  
42 Ogden Avenue, Downers Grove  
575 West St. Charles Road, Elmhurst  
345 West Roosevelt Road, Lombard  
316 South Lincoln Way, North Aurora  
1199 East Ogden Avenue, Naperville  
320 South Lincoln Way, North Aurora.

4. On April 25, 1972, United States Letters Patent 3,659,284 were duly and legally issued to plaintiff, SANDERS ASSOCIATES, INC., as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date and until August 5, 1975, plaintiff, SANDERS ASSOCIATES, INC., was the owner of those Letters Patent 3,659,284.

5. On August 5, 1975, United States Patent 3,659,284 were duly and legally reissued as United States Letters Patent Re. 28,507 to plaintiff, SANDERS ASSOCIATES, INC., and since that date plaintiff, SANDERS ASSOCIATES, INC., has been and still is the owner of those Letters Patent Re. 28,507.

6. In 1974, plaintiff, with its licensee under said United States Letters Patent 3,659,284 and Re. 28,507, filed in the United States District Court for the Northern District of Illinois Civil Action Nos. 74 C 1030, and 74 C 2510 for patent infringement. The original complaints in both of those actions alleged infringement by the defendants named therein of United States Letters Patent 3,659,284 and were subsequently amended to allege infringement of United States Letters Patent Re. 28,507. On January 10, 1977, after a trial on the merits in Civil Action Numbers 74 C 1030 and 74 C 2510 before the Honorable John F. Grady, a decision was rendered finding said Letters Patent Re. 28,507 valid and infringed by the defendants in those actions and on June 1, 1977, a final judgment to that effect was entered which, among other things, enjoined certain of the defendants therein from further infringing said Letters Patent Re. 28,507.


7. Defendant in this action has infringed said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is infringing said United States Letters Patent Re. 28,507 by making, using, selling and/or offering for sale television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent. Defendant's infringement of United States Letters Patent Re. 28,507 will continue unless enjoined by this Court.

8. Defendant's infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 was and is willful and with full knowledge of said Letters Patent.

9. Plaintiff has placed or caused to be placed the required statutory notice on television games manufactured or sold by it or its licensees under said United States Letters Patent; defendant has received notice of said United States Letters Patent.

WHEREFORE, Plaintiff demands a preliminary and final injunction against continued infringement of said United States Letters Patent Re. 28,507 by defendant; an accounting of the damages to plaintiff and the profits to defendant caused by said infringements of said Letters

Patent 3,659,284 and/or Re. 28,507; an assessment of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against defendant; and any other relief which the Court may deem just under the circumstances.

  
Theodore W. Anderson (Id. No. 62)  
James T. Williams (Id. No. 3556)  
Attorneys for Plaintiff

Neuman, Williams, Anderson & Olson  
(Id. No. 355)  
77 West Washington Street  
Chicago, Illinois 60602  
(312) 346-1200



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SANDERS ASSOCIATES, INC. )  
a Corporation, )

Plaintiff, )

v. )

K MART CORPORATION, )  
a Corporation, )

Defendant and Third-Party )  
Plaintiff, )

v. )

MAURICE LOWINGER, an individual, )  
NORTH AMERICAN FOREIGN TRADING )  
CORPORATION, a Corporation, )  
UNISONIC PRODUCTS CORP., a )  
Corporation, ROYAL STAR, LTD., )  
a Corporation, and ROBERTS )  
ELECTRONICS, INC., a )  
Corporation, )

Third-Party Defendants, )

SANDERS ASSOCIATES, INC. )  
a Corporation, )

Plaintiff, )

v. )

MAURICE LOWINGER, an individual, )  
NORTH AMERICAN FOREIGN TRADING )  
CORPORATION, a Corporation, )  
UNISONIC PRODUCTS CORP., a )  
Corporation, and ROYAL STAR, )  
LTD., a Corporation )

Third-Party Defendants )

Civil Action No. 80 C 2409

JUDGE JOHN POWERS CROWLEY

DOCKETED

MAR 26 1981

DOCKETED

JUN 12 1981

PLAINTIFF'S FIRST AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT AGAINST THIRD-PARTY DEFENDANTS  
LOWINGER, NORTH AMERICAN, UNISONIC, AND ROYAL STAR

43



Plaintiff herewith states its amended complaint against the third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. as follows:

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff, SANDERS ASSOCIATES, INC., is a corporation organized and existing under the laws of the State of Delaware.

3. Defendant MAURICE LOWINGER is an individual residing in the State of New York.

4. Defendant NORTH AMERICAN FOREIGN TRADING CORPORATION is a corporation organized and existing under the laws of the State of New York.

5. Defendant UNISONIC PRODUCTS CORP. is a corporation organized and existing under the laws of the State of New York.

6. Defendant ROYAL STAR, LTD. is a corporation organized and existing under the laws of the State of New York.

7. On April 25, 1972, United States Letters Patent 3,659,284 was duly and legally issued to plaintiff, SANDERS ASSOCIATES, INC., as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date and until August 5, 1975, plaintiff, SANDERS ASSOCIATES, INC., was the owner of that Letters Patent 3,659,284.

8. On August 5, 1975, United States Patent 3,659,284 was duly and legally reissued as United States Letters Patent Re. 28,507, to plaintiff, SANDERS ASSOCIATES, INC., and since that date plaintiff, SANDERS ASSOCIATES, INC., has been and still is the owner of that Letters Patent Re. 28,507.

9. In 1974, plaintiff, with its licensee under said United States Letters Patent 3,659,284 and Re. 28,507, filed in the United States District Court for the Northern District of Illinois Civil Action Nos. 74 C 1030, and 74 C 2510 for patent infringement. The original complaints in both of those actions alleged infringement by the defendants named therein of United States Letters Patent 3,659,284 and were subsequently amended to allege infringement of United States Letters Patent Re. 28,507. On January 10, 1977, after a trial on the merits in Civil Action Numbers 74 C 1030

and 74 C 2510 before the Honorable John F. Grady, a decision was rendered finding said Letters Patent Re. 28,507 valid and infringed by the defendants in those actions and on June 1, 1977, a final judgment to that effect was entered which, among other things, enjoined certain of the defendants therein from further infringing said Letters Patent Re. 28,507.

10. On May 13, 1980 plaintiff filed its complaint in this action against the defendant and third-party plaintiff, K MART CORPORATION, for infringement of United States Letters Patent Re. 28,507 and its original United States Letters Patent 3,659,284 by the making, using, selling, and/or offering for sale of television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent.

11. On or about December 19, 1980, the defendant and third-party plaintiff, K MART CORPORATION, filed pursuant to leave of Court a third-party complaint against third-party defendants MAURICE LOWINGER, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. for indemnification from those third-party defendants for the electronic television games purchased by the defendant and third-party plaintiff, K MART CORPORATION, from those third-party defendants. Third-party defendant

NORTH AMERICAN FOREIGN TRADING CORPORATION has now asserted that it sold the electronic television games purchased by K MART CORPORATION from third-party defendants UNISONIC PRODUCTS CORP. and ROYAL STAR, LTD. to those third-party defendants.

12. On or about March 24, 1981, the defendant and third-party plaintiff, K MART CORPORATION, filed its First Amended Third-Party Complaint against third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. for indemnification from those third-party defendants for the electronic television games purchased by the defendant and third-party plaintiff K MART CORPORATION from those third-party defendants.

13. The third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. have infringed said United States Letters Patent 3,659,284 and/or Re. 28,507 and still are infringing said United States Letters Patent Re. 28,507 by making, using, selling and/or offering for sale television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent. Said third-party defendants' infringement of United States Letters Patent Re. 28,507 will continue unless enjoined by this Court.

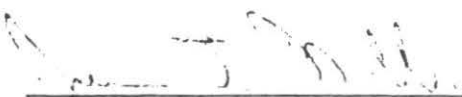
14. The infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 by the third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. was and is willful and with full knowledge of said Letters Patent.

15. Plaintiff has placed or caused to be placed the required statutory notice on television games manufactured or sold by it or its licensees under said United States Letters Patent; the third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD. have received notice of said United States Letters Patent.

WHEREFORE, Plaintiff demands a preliminary and final injunction against continued infringement of said United States Letters Patent Re. 28,507 by the third-party defendants MAURICE LOWINGER, NORTH AMERICAN FOREIGN TRADING CORPORATION, UNISONIC PRODUCTS CORP., and ROYAL STAR, LTD.; an accounting of the damages to plaintiff and the profits to said third-party defendants caused by said infringements of said Letters Patent 3,659,284 and/or Re. 28,507; an assessment

of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against said third-party defendants; and any other relief which the Court may deem just under the circumstances.

March 26, 1981

  
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Theodore W. Anderson  
James T. Williams

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Attorneys for Sanders Associates, Inc.

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Chicago, Illinois 60602  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY, )  
a Corporation, and )  
SANDERS ASSOCIATES, INC., )  
a Corporation, )

Plaintiffs, )

v. )

MATTEL, INC., a Corporation, )  
MATTEL SALES CORP., a )  
Corporation, S-W DISTRIBUTORS, )  
INC., a Corporation, )  
BRUNSWICK CORPORATION, a )  
Corporation, )  
ROZEL INDUSTRIES, INC., a )  
Corporation, and )  
WILLIAM A. LINZ ASSOCIATES, )  
INC., a Corporation, )

Defendants. )

CIVIL ACTION NO.

80C4124

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COMPLAINT FOR PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff THE MAGNAVOX COMPANY is a corporation organized and existing under the laws of the State of Delaware.



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY, )  
a Corporation, and )  
SANDERS ASSOCIATES, INC., )  
a Corporation, )  
Plaintiffs, )

v. )

CIVIL ACTION NO. )

MATTEL, INC., a Corporation, )  
MATTEL SALES CORP., a )  
Corporation, S-W DISTRIBUTORS, )  
INC., a Corporation, )  
BRUNSWICK CORPORATION, a )  
Corporation, )  
ROZEL INDUSTRIES, INC., a )  
Corporation, and )  
WILLIAM A. LINZ ASSOCIATES, )  
INC., a Corporation, )  
Defendants. )

COMPLAINT FOR PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff THE MAGNAVOX COMPANY is a corporation organized and existing under the laws of the State of Delaware.

3. Plaintiff SANDERS ASSOCIATES, INC. is a corporation organized and existing under the laws of the State of Delaware.

4. Defendant MATTEL, INC. is a corporation organized and existing under the laws of the State of Delaware.

5. Defendant MATTEL SALES CORP. is a corporation organized and existing under the laws of the State of California.

6. Defendant S-W DISTRIBUTORS, INC. is a corporation organized and existing under the laws of the State of Illinois.

7. Defendant BRUNSWICK CORPORATION is a corporation organized and existing under the laws of the State of Delaware.

8. Defendant ROZEL INDUSTRIES, INC. is a corporation organized and existing under the laws of the State of Delaware.

9. Defendant WILLIAM M. LINZ ASSOCIATES, INC. is a corporation organized and existing under the laws of the State of Illinois.

10. On April 25, 1972, United States Letters Patent 3,659,284 were duly and legally issued to plaintiff SANDERS ASSOCIATES, INC. as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date and until August 5, 1975, plaintiff SANDERS ASSOCIATES, INC. was the owner of those Letters Patent 3,659,284.

11. On August 5, 1975, United States Letters Patent 3,659,284 were duly and legally reissued as United States Letters Patent Re. 28,507 to plaintiff SANDERS ASSOCIATES, INC. and since that date plaintiff SANDERS ASSOCIATES, INC. has been and still is the owner of those Letters Patent Re. 28,507.

12. By written agreement entered into between plaintiff SANDERS ASSOCIATES, INC. and plaintiff THE MAGNAVOX COMPANY, effective January 27, 1972, plaintiff THE MAGNAVOX COMPANY has been and still is the exclusive licensee under said United States Letters Patent 3,659,284 and Re. 28,507.


13. On April 15, 1974, plaintiff THE MAGNAVOX COMPANY filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company v. Chicago Dynamic Industries, Inc., et al., Civil Action No. 74 C 1030, which complaint was subsequently amended to add as a party plaintiff the plaintiff here SANDERS ASSOCIATES, INC., and on September 3, 1974, plaintiffs THE MAGNAVOX COMPANY and SANDERS ASSOCIATES, INC. filed a complaint in the United States District Court for the Northern District of Illinois in the action The Magnavox Company, et al. v. Seeburg Industries, Inc., et al., Civil Action No. 74 C 2510. The original complaints in both of those actions alleged infringement by the defendants named therein of United States Letters Patent 3,659,284 and were subsequently amended to allege infringement of United States Letters Patent Re. 28,507. On January 10, 1977, after a trial on the merits in Civil Action Numbers 74 C 1030 and 74 C 2510 before the Honorable John F. Grady, a decision was rendered finding said Letters Patent Re. 28,507 valid and infringed by the defendants in those actions and on June 1, 1977, a final judgment to that effect was entered which, among other things, enjoined certain of the defendants therein from further infringing said Letters Patent Re. 28,507.

14. Each of the defendants in this action (1) has infringed said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is infringing said United States Letters Patent Re. 28,507 by making, using, selling and/or offering for sale television gaming apparatus which are not licensed under said Letters Patent and which embody the subject matter of the claims of said Letters Patent; (2) has actively induced infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is actively inducing infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus; and/or (3) has committed acts of contributory infringement of said United States Letters Patent 3,659,284 and/or Re. 28,507 and still is committing acts of contributory infringement of said United States Letters Patent Re. 28,507 by reason of its activities with respect to said television gaming apparatus. Defendants' infringements, inducements to infringe, and contributory infringements of United States Letters Patent Re. 28,507 will continue unless enjoined by this Court.

15. Defendants' infringements, inducements to infringe, and contributory infringements of said United States Letters Patent 3,659,284 and/or Re. 28,507 were and are willful and with full knowledge of said Letters Patent.

16. Plaintiff THE MAGNAVOX COMPANY has placed or caused to be placed the required statutory notice on television games manufactured or sold by it under said United States Letters Patent. Defendants MATTEL, INC. and BRUNSWICK CORPORATION have received notice of said United States Letters Patent from plaintiff THE MAGAVOX COMPANY.

WHEREFORE, Plaintiffs demand a preliminary and final injunction against continued infringement of said United States Letters Patent Re. 28,507 by defendants; an accounting of the damages to plaintiffs and the profits to defendants caused by said infringements of said Letters Patent 3,659,284 and/or Re. 28,507; an assessment of three times the damages and profits so determined; an award of reasonable attorney fees; an assessment of interest and costs against defendants; and any other relief which the Court may deem just under the circumstances.

  
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