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

13 THE MAGNAVOX COMPANY,)
a Corporation and)
14 SANDERS ASSOCIATES, INC.,) Civil Action No.
a Corporation,) C82 5270 TEH
15)
Plaintiffs,)
16 v.)
17 ACTIVISION, INC.,)
a Corporation,)
18)
Defendant.)
19

20 DEFENDANT'S RESPONSE TO PLAINTIFFS'
21 REQUEST FOR PRODUCTION

22 COMES NOW defendant and in response to Plaintiffs' Request for
23 Production, served on or about February 23, 1983, submits the following:

24 Request No. 1: Copies of all schematic diagrams, circuit diagrams,
25 wiring diagrams and descriptions of the operation of all television game products
26 or television game product models or types made, used, or sold by defendant
27 since August 25, 1972.

28 Defendant's Response to
Request for Production

1 Response: Copies of the requested documents will be made available
2 for the games alleged by plaintiffs as those whose manufacture, use or sale
3 constitute contributory and/or induced infringement (Fishing Derby, Boxing,
4 Tennis and Ice Hockey). Such production will be made available at times and
5 places mutually agreeable to the parties under the protective order herein. As
6 to other games defendant objects to production on the grounds that information
7 relevant to such games is highly confidential, is irrelevant and immaterial to this
8 litigation and is not likely to lead to any relevant or material evidence.

9 Request No. 2: Copies of all instruction manuals, assembly manuals
10 and assembly instructions, alignment or service manuals and alignment or service
11 instructions, quality control standards and quality control specificatins, set-up
12 manuals and set-up instructions, installation manuals and installation instructions
13 for all television game products or television game product models or types
14 made, used or sold by defendant since August 25, 1972.

15 Response: Except for instruction manuals which are included in
16 response to Request No. 1, this request is objected to as being directed to highly
17 confidential business and technical information which is immaterial and irrele-
18 vant to this litigation and is not likely to lead to material or relevant evidence.

19 Request No. 3(a): Copies of all schematic diagrams, circuit dia-
20 grams, wiring diagrams, program listings and descriptions of the function and/or
21 operation of all television game consoles useful with any television game product
22 or television game product model or type made, used or sold by defendant since
23 April 25, 1972.

24 (b) Copies of all documents provided or otherwise made available by
25 defendant to its employees or programmers which, in any way, describe the
26 function and/or operation of any television game console, or component thereof,
27 useful with any television game product or television game product model or

1 type made, used or sold by defendant since April 25, 1972, or the manner of
2 programming such television game product or television game product model or
3 type.

4 Response: Defendant has a manual which it has purchased under
5 agreement not to distribute to others. Such manual is available for purchase
6 from the author and is entitled "VIC Programming Manual" by Jesse F. Cable III,
7 3250 Almansa Court, San Jose, California 95127. To such extent, defendant
8 objects to this request as being directed to information which is proprietary to
9 others and available to plaintiffs by direct purchase.

10 Other materials in response to this request and in defendant's
11 possession will be made available on the terms set forth in response to Request
12 No. 1.

13 Request No. 4(a): Copies of all program listings in any language
14 (specifically including, but not limited to, source language programs) for all
15 television game products or television game product models or types made, used
16 or sold by defendant since August 25, 1972.

17 (b) Copies of all documents which describe, show or explain the
18 operation of any program, or portion thereof, for all television game products or
19 television game product models or types made, used or sold by defendant since
20 August 25, 1972.

21 Response: Defendant will make available copies of its source listings
22 for the games and under the terms set forth in response to Request No. 1.
23 Defendant objects to providing additional information in response to this request,
24 including source program comments and designer's notes, as being directed to
25 highly confidential business and technical information which is immaterial and
26 irrelevant to this litigation and is not likely to lead to material or relevant
27 evidence.

1 Request No. 5: Copies of all player or participant instructions for all
2 television game products or television game product models or types made, used
3 or sold by defendant since August 25, 1972.

4 Response: See response to Request No. 1.

5 Request No. 6: Copies of all advertising or promotional materials
6 including, but not limited to, brochures, pamphlets, handouts, fliers, leaflets,
7 mailers, information sheets, advertisements, movies, television tapes, slides and
8 catalog sheets relating to all television game products or television game
9 product models or types made, used or sold by defendant since August 25, 1972.

10 Response: This information will be made available at times and
11 places mutually agreeable to the parties.

12 Request No. 7: All documents and things relating to the conception,
13 design and/or development of all television game products or television game
14 product models or types made, used or sold by defendant since August 25, 1972.

15 Response: Defendant objects to this request as being directed to
16 highly confidential business and technical information which is immaterial and
17 irrelevant to this litigation and is not likely to lead to material or relevant
18 evidence.

19 Request No. 8: All documents which refer or relate to the patent in
20 suit, the subject matter of the patent in suit, the applications for the patent in
21 suit, the validity or enforceability of the patent in suit or any claim or claims
22 thereof, or defendant's consideration of any of the aforementioned matters or
23 the offer or offers to defendant of a license under the patent in suit.

24 Response: Other than privileged correspondence between defendant
25 and its attorneys and attorneys' work product, such material will be produced at
26 times and places mutually agreeable to the parties.
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1 Request No. 9: Documents showing by type or model and month the
2 number of television game products sold by defendant.

3 Response: This request is objected to as being directed to highly
4 confidential business information which is immaterial and irrelevant to this
5 litigation and is not likely to lead to material or relevant evidence.

6 Request No. 10: Documents showing by type or model and month the
7 dollar value of television game products sold by defendant.

8 Response: This request is objected to as being directed to highly
9 confidential business information which is immaterial and irrelevant to this
10 litigation and is not likely to lead to material or relevant evidence.

11 Request No. 11: All documents relating or referring to any consider-
12 ation by defendant of the possibility of commencing and the decision of
13 defendant to manufacturer to sell any television game product.

14 Response: To the extent this request is understood, there are no such
15 documents.

16 Request No. 12: All documents relating or referring to any consider-
17 ation by defendant or its customers or potential customers or its suppliers or
18 potential suppliers of any television game or television game product as a
19 product or potential product of defendant and concerning or referring to the
20 specifications of any such television game or television game product, the
21 features to be included within any such television game or television game
22 product, the nature of the games to be played with any such television game or
23 television game product, the manner of play of any such television game or
24 television game product, or the games to be played with any such television
25 game or television game product.

26 Response: To the extent this request is understood, there are no such
27 documents.

1 Request No. 13: All documents relating or referring to any consider-
2 ation by defendant or its customers or potential customers or its suppliers or
3 potential suppliers of the specifications desired of a television game product, of
4 the features desired to be included within a television game product, the nature
5 of the games desirably included within a television game product, the desired
6 manner of play of a television game product, or the games desired to be played
7 with a television game product.

8 Response: To the extent this request is understood, there are no such
9 documents.

10 Request No. 14: All documents consisting, relating or referring to
11 market surveys or market studies concerning television game products.

12 Response: This request is objected to as being directed to highly
13 confidential business information which is immaterial and irrelevant to this
14 litigation and is not likely to lead to material or relevant evidence.

15 Request No. 15: All documents and things which support each
16 allegation, contention, reason, ground or basis stated in paragraphs 13 through 19
17 of defendant's "Affirmative Defenses" included in defendant's "Answer and
18 Counterclaims" that the patent in suit and each of the claims thereof are invalid,
19 void and unenforceable including, without limitation, (a) all items of prior art
20 which defendant presently relies upon in support of the contention that any of
21 claims 25, 26, 44, 45, 51, 52, 60, 61 and 62 of the patent in suit is invalid, void or
22 unenforceable for any reason under 35 U.S.C. §§ 102 or 103 and (b) all items of
23 prior art defendant relied upon in making the pleading of said paragraphs 13
24 through 19.

25 Response: At the present time such documents are only those
26 included in response to Request No. 8.

1 Request No. 16: All documents and things which support each
2 allegation, contention, reason, ground or basis stated in paragraph 28 of
3 defendant's "Affirmative Defenses" included in defendant's "Answer and
4 Counterclaims" that defendant has not infringed the patent in suit including,
5 without limitation, (a) all such documents and things which defendant presently
6 relies upon in support of those allegations, contentions, reasons, grounds or bases
7 with respect to any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62 of the patent in
8 suit and (b) all such documents and things defendant relied upon in making the
9 pleading of said paragraph 28.

10 Response: At the present time such documents are only those
11 included in response to Request No. 8.

12 Request No. 17: All licenses which defendant has entered into, either
13 as licensor or licensee or otherwise, under patents, copyrights, trade secrets or
14 any other form of intellectual property, and relating to television games or
15 television game products and all correspondence or other documents relating to,
16 recording or reporting communications with other parties to such licenses which
17 correspondence or communications relate either to the entry into such license or
18 any actual or proposed modification or termination of such license.

19 Response: Other than an agreement between defendant and Atari,
20 Inc., such licenses will be produced at times and places mutually agreeable to the
21 parties. The Atari agreement will be produced only by order of the Court.

22 Request No. 18: A sample of each and every television game product
23 or television game product model or type defendant has manufactured and/or
24 sold since August 25, 1972.

25 Response: Such samples will be produced at times and places
26 mutually agreeable to the parties.

1 Request No. 19: All documents and things which refer to or relate in
2 any manner to the alleged infringement (direct, contributory and/or induced) by
3 defendant of the patent in suit, or to the charge that defendant or the television
4 games or television game products it manufactures and/or sells infringes in any
5 manner the patent in suit.

6 Response: As understood, this request is objected to as being
7 directed only to such documents as are privileged correspondence between
8 defendant and its attorneys and attorneys' work product.

9 Request No. 20: All documents and things which constitute, refer to,
10 or relate in any manner to communications between plaintiffs, or either of them,
11 and defendant, its employees, agents or counsel, which relate in any manner to
12 the patent in suit, to the television games or television game products manu-
13 factured and/or sold by defendant, or to the charge of infringement against
14 defendant.

15 Response: Such documents will be produced at times and places
16 mutually agreeable to the parties.

17 Request No. 21: All documents and things which refer or relate in
18 any manner to the patent in suit and any relationship or application of the patent
19 in suit to the television games or television game products manufactured and/or
20 sold by defendant.

21 Response: At the present time such documents are only those
22 included in response to Request No. 8.

23 Request No. 22: All documents and things which refer or relate in
24 any manner to any consideration by defendant of either the patent in suit or any
25 other patent owned by either of plaintiffs and relating to television games, or to
26 any consideration by defendant of the activities of plaintiffs or either of them to
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1 enforce either the patent in suit or any other patent owned by either of plaintiffs
2 and relating to television games against defendant or others.

3 Response: At the present time such documents are only those
4 included in response to Request No. 8.

5 Request No. 23: All documents and things which constitute, refer or
6 relate in any manner to any communication between defendant and any other
7 party and relating to either the patent in suit or any other patent owned by
8 either of plaintiffs and relating to television games or the activities of plaintiffs
9 or either of them to enforce either the patent in suit or any other patent owned
10 by either of plaintiffs and relating to television games against defendant or
11 others.

12 Response: At the present time such documents are only those
13 included in response to Request No. 8.

14 Request No. 24: All documents and things which refer or relate in
15 any manner to or evidence in any manner any loss or damage to, or threatened
16 loss or damage to, or injury to the business or property of, or threatened injury
17 to the business or property of defendant as a result of any of the purported acts
18 of plaintiffs or either of them referred to in any of paragraphs 13 through 23 and
19 37 through 40 of defendant's Third Counterclaim included in defendant's "Answer
20 and Counterclaims."

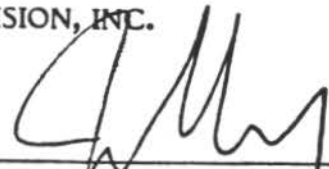
21 Response: At the present time such documents are only those
22 included in response to Request No. 8.

23 Request No. 25: All documents and things requested to be identified
24 in plaintiffs' "Interrogatories to Defendant" being served herewith.

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Response: Such documents are included in response to the above requests.

ACTIVISION, INC.

By 
James H. Levy, President
and Chief Executive Officer