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FEDERAL EXPRESS

May 7, 1984

Charles E. Quarton, Esq.
N.A.P. Consumer Electronics Corp.
Interstate 40 and Straw Plains Pike
P.O. Box 6950
Knoxville, Tennessee 37914

Re: Magnavox v. Activision

Dear Chuck:

Enclosed are the original and one copy of the final form of the supplemental interrogatory responses. Please have Tom Haffner execute the responses for Magnavox tomorrow and send them by Federal Express to Lou Etlinger at Sanders.

We are asking Lou Etlinger by carbon copy of this letter to execute the original responses on behalf of Sanders and forward them to Mr. Vincent P. Finigan, Jr. at Brobeck, Phleger & Harrison, Spear Street Tower, One Market Plaza, San Francisco, California 94105, by Federal Express on Wednesday.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By James T. Williams

JTW:kc
Enclosure

cc: Algy Tamoshunas, Esq. (w/encl.)
Thomas A. Briody, Esq.
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9 Attorneys for Plaintiffs
The Magnavox Company and
10 Sanders Associates, Inc.

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

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

15 Plaintiffs,)

16 v.)

17 ACTIVISION, INC., a corporation,)

18 Defendant.)

No. C 82 5270 JPV

PLAINTIFFS' SUPPLEMENTAL
RESPONSE TO DEFENDANT'S
INTERROGATORIES

19
20 Plaintiffs herewith supplement their responses to
21 defendant's interrogatories 32-37, 39-41, 53, 65, 76-78, 84-87,
22 101-116, 126-134, 138, 139, 154, 159-162, and 169-174. This
23 supplementation is without waiver of any of the objections stated
24 in plaintiff's initial responses to those interrogatories in
25 "Plaintiffs' Response To Defendant's First Set of Interrogatories
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PLAINTIFFS' SUPPLEMENTAL
RESPONSE TO DEFENDANT'S
INTERROGATORIES

1 (Nos. 1-125)" served on Defendant on February 7 and 15, 1983 and
2 "Plaintiff's Response To Defendant's Second Set of Interrogatories
3 (Nos. 126-182)" served on Defendant on August 15, 1983.
4

5 INTERROGATORY NO. 32

6 Has Magnavox or Sanders ever made a study with regard to
7 the validity or enforceability of any of the claims of the patents
8 identified in response to INTERROGATORY NO. 1 or INTERROGATORY NO.
9 3?

10 RESPONSE:

11 Yes.
12

13 INTERROGATORY NO. 33

14 If the answer to INTERROGATORY NO. 32 is other than an
15 unqualified negative, identify each such study, including:

- 16 A. The patent(s) and claims(s) involved;
17 B. When the study was made;
18 C. Identify all persons participating in the study;
19 D. Describe the study in detail, including the outcome
20 of the study;
21 E. Identify any prior art considered in connection
22 with the study;
23 F. Set forth the circumstances under which the study
24 was made, including the reason that the study was
25 made;
26 G. Describe any action taken as a result of the study;

- 1 H. Identify all persons having knowledge of the study;
2 I. Identify all communications relating to the study;
3 and
4 J. Identify all documents which refer or relate in any
5 way to the subject matter of parts A through I of
6 this interrogatory.
7

8 RESPONSE:

- 9 A. U.S. Patent 3,728,480.
10 B. 1977.
11 C. Counsel for Sanders Associates and Ralph H. Baer.
12 D. The study concerned the possible effect of newly
13 discovered prior art, i.e., U.S. Patent 3,135,815
14 and its German counterpart; application for reissue
15 of U.S. Patent 3,728,480 was filed in the United
16 States Patent and Trademark Office.
17 E. U.S. Patent 3,135,815 and its German counterpart.
18 F. The study was made to evaluate the effect of the
19 newly discovered prior art shortly after it was
20 brought to plaintiffs' attention.
21 G. An application for reissue of U.S. Patent 3,728,480
22 was filed in the United States Patent and Trademark
23 Office.
24 H. The principal persons having such knowledge are
25 Ralph H. Baer and counsel for Sanders Associates.
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1 I. and J. All communications and documents relating to the
2 study are immune from discovery under the attorney-
3 client privilege or as attorney work product. The
4 requested documents will be identified.

5 Although not specifically called for by this
6 interrogatory, Magnavox had a prior art search conducted for it on
7 the general subject of television games in connection with the
8 decision to enter into its license agreement with Sanders. That
9 search was performed prior to the reissue of either of U.S.
10 Patents 3,728,480 or Re. 28,507 (or its original patent,
11 3,659,284). The prior art developed is listed on Exhibits A and B
12 attached hereto. Plaintiffs' counsel also gave consideration to
13 items of prior art as they have been called to plaintiffs'
14 attention during various litigations relating to U.S. Patent Re.
15 28,507.

16
17 INTERROGATORY NO. 34

18 Has Magnavox or Sanders ever formed a conclusion that
19 any of the claims of the patents identified in response to
20 INTERROGATORY NO. 1 or INTERROGATORY NO. 3 is or might be invalid
21 or unenforceable for any reason?
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RESPONSE:

Yes.

INTERROGATORY NO. 35

If the answer to INTERROGATORY NO. 34 is other than an unqualified negative, for each claim thought to be invalid or unenforceable:

- A. Identify the claim and the patent in which the claim is found;
- B. Set forth in detail the reason why the claim is or was thought to be invalid or unenforceable;
- C. Set forth the circumstances under which the claim was determined to be invalid or unenforceable;
- D. Describe any action taken with respect to the claim once it was determined to be invalid or unenforceable;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

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RESPONSE:

- A. It was thought that at least the broadest claim or claims of U.S. Patent 3,728,480 may be invalid.
- B. U.S. Patent 3,135,815 and its German counterpart.
- C. See response to interrogatory 33.
- D. Once it was determined that at least some claim or claims of the patent may be invalid, an application for reissue of U.S. Patent 3,728,480 was filed in the United States Patent and Trademark Office.
- F. and G. The communication and documents are those referred to in plaintiffs' response to interrogatory 33.

INTERROGATORY NO. 36

Has anyone ever suggested to Magnavox or Sanders that any of the claims of the patents identified in response to INTERROGATORY NO. 1 and INTERROGATORY NOS. 3 might be invalid or unenforceable?

RESPONSE:

Yes.

INTERROGATORY NO. 37

If the answer to INTERROGATORY NO. 36 is other than an unqualified negative, identify each suggestion of invalidity or unenforceability, including the following:

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- A. Identify the claim(s) suggested to be invalid or unenforceable;
- B. Identify the person(s) suggesting that the claim was invalid or unenforceable;
- C. Set forth in detail the grounds upon which the claim was said to be invalid or unenforceable;
- D. Which of the grounds identified in response to part C of this interrogatory were or are of the greatest concern;
- E. State why the grounds identified in response to part D of this interrogatory are of the greatest concern;
- F. Describe in detail the circumstances under which the suggestion of invalidity or unenforceability was made;
- G. Describe in detail any action taken by Magnavox or Sanders in connection with or as a result of the suggestion or invalidity or unenforceability;
- H. Identify all persons having knowledge of the subject matter of parts A through G of this interrogatory;
- I. Identify all person having knowledge of the subject matter of parts A through H of this interrogatory;
and

1 J. Identify all documents which refer or relate in any
2 way to the subject matter of parts A through I of
3 this interrogatory.
4

5 RESPONSE:

6 The principal suggestions of claim invalidity or
7 unenforceability as to U.S. Patents Re. 28,507 and 3,728,480 were
8 made during the course of the civil actions relating to those
9 patents. Those contentions are included in the formal papers
10 filed by the parties to those litigations. Those papers have
11 previously been produced for inspection and copying by defendant.
12 Moreover, the most important ones of those contentions with
13 respect to U.S. Patent Re. 28,507 and the Court's rulings thereon
14 are set forth in The Magnavox Co. v. Mattel, Inc., 216 U.S.P.Q. 28
15 (N.D.Ill. 1982) and The Magnavox Co. v. Chicago Dynamic
16 Industries, 201 U.S.P.Q. 25 (N.D.Ill. 1977). Neither plaintiff is
17 able to state that any ground or grounds were of any greater
18 concern than any other, since each ground, if established, would
19 have the same effect on plaintiffs' patents.
20

21 INTERROGATORY NO. 39

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

25 A. The activities of Activision which constitute
26 infringement;

1 B. State when and under what circumstances each of the
2 activities identified in response to part A of this
3 interrogatory came to the attention of Magnavox
4 and/or Sanders.

5 C. Identify each television game cartridge made, used
6 and/or sold by Activision which constitutes an
7 infringement of the claim either by itself or in
8 combination with a television game console;

9 D. For each of the game cartridges identified in
10 response to part C of this interrogatory, state
11 precisely where each element of the claim is found
12 in the cartridge or cartridge/console combination;

13
14 RESPONSE:

15 Plaintiffs are at this time unable to fully state what
16 contentions they will make at trial as to the subject matter of
17 Interrogatory 39. This interrogatory seeks information as to
18 plaintiffs' contentions with regard to infringement of the Re.
19 28,507 patent. Plaintiffs have not completed their discovery as
20 to the television game products manufactured, used, and/or sold by
21 Activision, so they have been unable to fully formulate their
22 contentions as to infringement. Plaintiffs hereinafter state
23 their contentions as they are presently best able to determine
24 them in light of the information presently available to them; they
25 specifically reserve the right to alter these contentions when
26 more complete information becomes available. To the extent

1 interrogatory 39 presently requires any further response than that
2 given hereinafter, plaintiffs object to the interrogatory as
3 premature.

4 A. The making, using, selling, and offering for sale
5 of the following Activision television game
6 cartridges:

7	Tennis	Ice Hockey
8	Boxing	Fishing Derby
9	Dolphin	Keystone Kapers
10	Decathalon	Stampede
	Grand Prix	Barnstorming
	Sky Jinks	Enduro
	Pressure Cooker	

11 B. As presently advised, personnel of plaintiffs
12 associated with the prosecution of this action
13 first became aware of the earliest such activities
14 of defendant Activision in early 1981 by becoming
15 aware of Activision marketing efforts with respect
16 to some of its television game cartridges. Other
17 personnel of plaintiffs may have had earlier
18 knowledge.

19 C. As presently advised, plaintiffs contend that the
20 manufacture, use, and/or sale of the following
21 Activision game cartridges in combination with a
22 television game console and, where appropriate, a
23 television receiver, constitutes an act of
24 infringement of the stated claim of U.S. Patent Re.
25 28,507.

1 Claim 25: Tennis, Ice Hockey, Boxing, Fishing Derby,
2 Dolphin, Stampede, Pressure Cooker.

3 Claim 26: Tennis, Ice Hockey, Boxing, Fishing Derby,
4 Pressure Cooker.

5 Claim 51: Tennis, Ice Hockey, Boxing, Fishing Derby,
6 Dolphin, Stampede, Pressure Cooker.

7 Claim 52: Tennis, Ice Hockey, Boxing, Fishing Derby,
8 Pressure Cooker.

9 Claim 60: Tennis, Ice Hockey, Boxing, Fishing Derby,
10 Dolphin, Keystone Kapers, Decathalon, Stampede, Grand
11 Prix, Barnstorming, Sky Jinks, Enduro, Pressure Cooker.

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

13 Claim 62: Tennis, Ice Hockey.

14 D. The information requested is provided in
15 plaintiffs' responses to interrogatories 126-134.
16

17 INTERROGATORY NO. 40

18 Referring to the Activision video game cartridge catalog
19 attached to these interrogatories as Exhibit A, identify each of
20 the games described therein which does not infringe any of the
21 claims of United States Letters Patent Re. 28,507.
22

23 RESPONSE:

24 Plaintiffs are at this time unable to fully state what
25 contentions they will make at trial as to the subject matter of
26 Interrogatory 40. This interrogatory seeks information as to
27

1 plaintiffs' contentions with regard to infringement of the Re.
2 28,507 patent. Plaintiffs have not completed their discovery as
3 to the television game products manufactured, used, and/or sold by
4 Activision, so they have been unable to fully formulate their
5 contentions as to infringement. Plaintiffs hereinafter state
6 their contentions as they are presently best able to determine
7 them in light of the information presently available to them; they
8 specifically reserve the right to alter these contentions when
9 more complete information becomes available. To the extent
10 interrogatory 40 presently requires any further response than that
11 given hereinafter, plaintiffs object to the interrogatory as
12 premature.

13 As presently advised, plaintiffs do not assert that any
14 activity of Activision with respect to the Activision television
15 game cartridges other than Tennis, Ice Hockey, Boxing, Fishing
16 Derby, Dolphin, Keystone Kapers, Decathalon, Stampede, Grand Prix,
17 Barnstorming, Sky Jinks, Enduro or Pressure Cooker constitutes an
18 act of infringement of U.S. Patent Re. 28,507.

19
20 INTERROGATORY NO. 41

21 For each of the games identified in response to
22 INTERROGATORY NO. 40, state the reasons why the game does not
23 infringe the patent.

1 RESPONSE:

2 As to each of the Activision television game cartridges
3 not alleged to form the basis for a charge of infringement of U.S.
4 Patent Re. 28,507, which plaintiffs have to date completed their
5 examination, plaintiffs have not found elements in the game, the
6 game cartridge, and the game cartridge in combination with a
7 television game console, which respond to every element of any
8 claim or the equivalent thereof. Plaintiffs' examination of at
9 least the "Pitfall" game cartridge is not yet completed.

10
11 INTERROGATORY NO. 53

12 For each claim identified in response to INTERROGATORY
13 NO. 52, state specifically where each element of the claim is
14 found in the game console and cartridge.

15
16 RESPONSE:

17 The information requested is provided in plaintiffs'
18 responses to interrogatories 184-192 and supplemental responses to
19 interrogatories 126-134.

20
21 INTERROGATORY NO. 65

22 If the answer to INTERROGATORY NO. 64 is other than an
23 unqualified negative, set forth in detail the manner in which the
24 use of the cartridge in the licensed console constitutes an
25 infringement.

1 RESPONSE:

2 The use of the combination of an accused Activision
3 television game cartridge and a television game console, either by
4 itself or in further combination with a television receiver, by
5 one who is not licensed under U.S. Patent Re. 28,507 is an act of
6 infringement of that patent. The manufacture of the television
7 game console by a party licensed under the patent does not change
8 the users status as an infringer; the user does not receive an
9 unlimited license to practice the patented invention in any way he
10 sees fit through the purchase of a television game console
11 manufactured by a licensee.

12
13 INTERROGATORY NO. 76

14 For each of the claims identified in response to
15 INTERROGATORY NO. 38, set forth in detail the manner in which
16 Magnavox and Sanders contend that the claim defines patentable
17 subject matter over the references and other prior art identified
18 in INTERROGATORY NO. 74.

19
20 RESPONSE:

21 Plaintiffs are unable to fully respond to this
22 interrogatory. It is the burden of the defendant to demonstrate
23 how the prior art upon which it relies applies to the claims of
24 the patents in suit, and plaintiffs may then refute that
25 demonstration. Defendant has as yet made no such demonstration in
26 this action. The plaintiffs specifically reserve the right to

1 alter, amend, supplement, or change this interrogatory response
2 after defendant demonstrates how it applies the prior art to the
3 claims and its other assertions with respect to the prior art.

4 As presently advised, the principal differences between
5 the items of purported prior art and the asserted claims of patent
6 Re. 28,507 include at least the following:

7 A. The work leading to U.S. Patent 3,728,480:

8 (a) no teaching of hit or hitting symbols or means
9 for generating such symbols;

10 (b) no teaching of varying the horizontal and
11 vertical positions of a hit symbol or means providing control
12 signals therefor;

13 (c) no teaching of detecting coincidence between
14 hit or hitting symbols or means for doing so;

15 (d) no teaching of imparting a distinct motion to a
16 hit symbol or any symbol upon coincidence or means for doing so.

17 B. Decus Proceedings:

18 (a) no teaching of hit or hitting symbols or means
19 for generating such symbols;

20 (b) no teaching of varying the horizontal and
21 vertical position of a hit symbol or means providing control
22 signals therefor;

23 (c) no teaching of detecting coincidence between
24 hit or hitting symbols or means for doing so;

25 (d) no teaching of imparting a distinct motion to
26 a hit symbol or any symbol upon coincidence or means for doing so;

1 (e) no apparatus in combination with a standard
2 television receiver or for use with a television receiver;

3 (f) no means for generating horizontal or vertical
4 synchronization signals;

5 (g) no means responsive to such synchronization
6 signals for generating a raster;

7 (h) no means coupled to any synchronization means
8 for generating any symbols;

9 (i) no means for detecting a coincidence between
10 any symbols;

11 (j) no raster or any means for causing a symbol to
12 travel across a raster;

13 (k) no means for imparting a distinct motion to
14 any symbol in response to any coincidence;

15 (l) no structure or apparatus, or program
16 therefor, of any type disclosed.

17 C. Spacewar Game:

18 (a) no teaching of hit or hitting symbols or means
19 for generating such symbols;

20 (b) no teaching of varying the horizontal and
21 vertical positions of a hit symbol or means providing control
22 signals therefor;

23 (c) no teaching of detecting coincidence between
24 hit or hitting symbols or means for doing so;

25 (d) no teaching of imparting a distinct motion to
26 a hit symbol or any symbol upon coincidence or means for doing so;

1 (e)no apparatus in combination with a standard
2 television receiver or for use with a television receiver;

3 (f) no means for generating horizontal or vertical
4 synchronization signals;

5 (g) no means responsive to such synchronization
6 signals for generating a raster;

7 (h) no means coupled to any synchronization means
8 for generating any symbols;

9 (i) no raster or any means for causing a symbol to
10 travel across a raster;

11 (j) no means for imparting a distinct motion to
12 any symbol in response to any coincidence.

13 D. Battling Spaceship game: Insufficient information
14 is available to plaintiffs concerning the design, construction, or
15 operation of the game to fully state plaintiffs contention as to
16 that game. As presently advised, the claims of U.S. Patent Re.
17 28,507 differ from this game in the same manner as they differ
18 from the game of paragraph C.

19 E. Brookhaven National Laboratory Game:

20 (a) no teaching of hit or hitting symbols or means
21 for generating such symbols;

22 (b) no teaching of varying the horizontal and
23 vertical positions of a hit symbol or means providing control
24 signals therefor;

25 (c) no teaching of detecting coincidence between
26 hit or hitting symbols or means for doing so;

1 (d) no teaching of imparting a distinct motion to
2 a hit symbol or any symbol upon coincidence or means for doing so;

3 (e) no apparatus in combination with a standard
4 television receiver or for use with a television receiver;

5 (f) no means for generating horizontal or vertical
6 synchronization signals;

7 (g) no means responsive to such synchronization
8 signals for generating a raster;

9 (h) no means coupled to any synchronization means
10 for generating any symbols;

11 (i) no means for detecting a coincidence between
12 any symbols;

13 (j) no raster or any means for causing a symbol to
14 travel across a raster;

15 (k) no means for imparting a distinct motion to
16 any symbol in response to any coincidence.

17 F. U.S. Patent 3,135,815 (Spiegel):

18 (a) no teaching of hit or hitting symbols or means
19 for generating such symbols;

20 (b) no teaching of varying the horizontal and
21 vertical positions of a hit symbol or means providing control
22 signals therefor;

23 (c) no teaching of detecting coincidence between
24 hit or hitting symbols or means for doing so;

25 (d) no teaching of imparting a distinct motion to
26 a hit symbol or any symbol upon coincidence or means for doing so;

1 (e) no means for detecting coincidence between any
2 symbols.

3 G. U.S. Patent 2,847,661 (Althouse):

4 (a) no teaching of hit or hitting symbols or means
5 for generating such symbols;

6 (b) no teaching of varying the horizontal and
7 vertical position of a hit symbol or means providing control
8 signals therefor;

9 (c) no teaching of detecting coincidence between
10 hit and hitting symbols or means for doing so;

11 (d) no teaching of imparting a distinct motion to
12 a hit symbol or any symbol upon coincidence or means for doing so;

13 (e) no means for detecting coincidence between any
14 symbols.

15
16 INTERROGATORY NO. 77

17 Identify all documents in the possession, custody or
18 control of Magnavox and/or Sanders which refer or relate in any
19 manner to the references and prior art identified in INTERROGATORY
20 NO. 74.

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RESPONSE:

The principal ones of such documents are, in the case of the publications, themselves, and, in the case of other references, the deposition transcripts relating to them and the exhibits marked during the course of the depositions. Copies of the deposition transcripts have been supplied to defendants.

INTERROGATORY NO. 84

Do Magnavox and Sanders consider the disappearance of a symbol from the screen of a television receiver to constitute imparting a distinct motion to the symbol within the meaning of Claim 51 of United States Letters Patent Re. 28,507?

RESPONSE:

Plaintiffs are at this time unable to fully state what contentions they will make at trial as to the subject matter of Interrogatories 84-87 in part because of the incomplete nature of the hypotheticals in interrogatories 84 and 86. These interrogatories seek information as to plaintiffs' contentions with regard to the interpretation of the Re. 28,507 patent in a hypothetical context. Plaintiffs have not completed their discovery as to the television game products manufactured, used, and/or sold by Activision, so they have been unable to fully formulate their contentions as to infringement. Plaintiffs hereinafter state their contentions as they are presently best able to determine them in light of the information presently

1 available to them; they specifically reserve the right to alter
2 these contentions when more complete information becomes
3 available. To the extent interrogatories 84-87 presently require
4 any further response than that given hereinafter, plaintiffs
5 object to the interrogatories as premature and as unreasonably
6 speculative and hypothetical.

7 As presently advised, plaintiffs do not assert in this
8 action that either the mere disappearance of a symbol from the
9 screen of a television receiver or a mere change in color of a
10 symbol on the screen of a television receiver is sufficient by
11 itself, to constitute imparting a distinct motion to the symbol
12 within the meaning of claim 51 of United States Letters Patent Re.
13 28,507. There may be instances, however, where such a
14 disappearance or change in color occurs, and the symbol is
15 considered to have a distinct motion imparted to it. See, for
16 example, the description of the Mattel Football and Baseball games
17 and the court's findings with respect thereto in The Magnavox
18 Company v. Mattel, Inc., 216 U.S.P.Q. 28 (N.D.Ill. 1982).

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20 INTERROGATORY NO. 85

21 If the answer to INTERROGATORY NO. 84 is other than an
22 unqualified affirmative, state fully the reason(s) for such
23 answer.

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RESPONSE:

See the response to interrogatory 84.

INTERROGATORY NO. 86

Do Magnavox and Sanders consider a change in the color of a symbol on the screen of a television receiver to constitute imparting a distinct motion to the symbol within the meaning of Claim 51 of United States Letters Patent Re. 28,507?

RESPONSE:

See the response to interrogatory 84.

INTERROGATORY NO. 87

If the answer to INTERROGATORY NO. 86 is other than an unqualified affirmative, explain fully the reason(s) for such answer.

RESPONSE:

See the response to interrogatory 84.

INTERROGATORY NO. 101

During the examination and prosecution of the application which led to Reissue Patent 28,507, did anyone acting on behalf of Magnavox or Sanders ever disclose the existence of

1 U.S. Patent 3,728,480 and its teaching of coincidence to Examiner
2 Trafton or any other Examiner involved in the examination of this
3 application?
4

5 RESPONSE:

6 Yes.
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8 INTERROGATORY NO. 102

9 If the answer to INTERROGATORY NO. 101 is other than an
10 unqualified negative, identify each such disclosure, including:

- 11 A. The date of the disclosure;
- 12 B. The form in which the disclosure was made;
- 13 C. Identification of the person(s) who made the
14 disclosure;
- 15 D. Identification of the Examiner(s) to whom the
16 disclosure was made;
- 17 E. The full substance of the disclosure;
- 18 F. Identify all persons having knowledge of the
19 subject matter of parts A through E of this
20 interrogatory;
- 21 G. Identify all communications relating to the subject
22 matter of parts A through F of this interrogatory;
23 and
- 24 H. Identify all documents which refer or relate in any
25 way to the subject matter of parts A through G of
26 this interrogatory.

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RESPONSE:

The existence of U.S. Patent 3,728,480 and its teaching of coincidence was disclosed to Examiner Trafton at least by reference to the application for U.S. Patent 3,758,480 when the application for U.S. Patent Re. 28,507 was filed on April 25, 1974. The application for reissue of U.S. Patent Re. 28,507 stated at pages 14-15 "one embodiment of said coincidence detector and crow-bar circuit is disclosed in said Patent Application Serial No. 697,798." Other references to the application for U.S. Patent 3,728,480 were also included; see plaintiff's response to Interrogatory 175. Additionally, references to the application for U.S. Patent 3,728,480 and its teaching of coincidence were made in the application which led to U.S. Patent 3,659,284 and during the prosecution of that application before Examiner Trafton.

INTERROGATORY NO. 103

During the examination and prosecution of the application which led to Reissue Patent 28,507, did Examiner Trafton or any other Examiner who participated in the examination of the application ever indicate to Magnavox or Sanders or anyone acting on their behalf that he was aware of U.S. Patent 3,728,480 and/or the teaching of coincidence in that patent?

1 RESPONSE:

2 Yes. During the prosecution of the application which
3 issued into U.S. Patent 3,659,284, Examiner Trafton indicated in
4 writing in the file history of that application that he was aware
5 of both the applications which led to U.S. Patent 3,728,480 and
6 its teaching of coincidence. See at least the Office Action of
7 March 29, 1971, of Paper No. 6, pages 2-3, and the Examiner's
8 Amendment of January 12, 1972, Paper No. 12. The personnel of
9 Sanders and Sanders' counsel most directly concerned with the
10 examination and prosecution of the application for the reissue of
11 U.S. Patent 3,659,284 which led to Reissue Patent 28,507 do not
12 presently recall any other such indication. However, Examiner
13 Trafton attended a demonstration of equipment conducted in
14 connection with the prosecution of the application which led to
15 U.S. Patent No. 3,728,480 and also indicated orally an awareness
16 of that application to at least one of plaintiffs' Sanders
17 counsel, Richard I. Seligman, plaintiffs are presently unable to
18 supply further details regarding such indications.

19
20 INTERROGATORY NO. 104

21 If the answer to INTERROGATORY NO. 103 is other than an
22 unqualified negative, identify each such indication including:

- 23 A. The date of the indication;
24 B. The nature of the indication;
25 C. Identification of the Examiner who made the
26 indication;

- 1 D. Identification of the person(s) to whom the
2 indication was made;
- 3 E. The full substance of the indication;
- 4 F. Identify all persons having knowledge of the
5 subject matter of parts A through E of this
6 interrogatory;
- 7 G. Identify all communications relating to the subject
8 matter of parts A through F of this interrogatory;
9 and
- 10 H. Identify all documents which refer or relate in any
11 way to the subject matter of parts A through G of
12 this interrogatory.

13

14 RESPONSE:

15 See plaintiff's response to Interrogatory No. 103.

16

17 INTERROGATORY NO. 105

18 Describe the spaceship game observed at Stanford
19 University by James T. Williams, now one of the attorneys of
20 record for plaintiff, including the following:

- 21 A. A detailed description of the game and the manner
22 in which it was played;
- 23 B. A description of the apparatus with which the game
24 was played;
- 25 C. The date(s) the game was observed by Mr. Williams;
- 26

- 1 D. The circumstances under which the game was
2 observed;
- 3 E. Identification of all persons who were present when
4 Mr. Williams observed the game;
- 5 F. Identification of all persons having knowledge of
6 the subject matter of parts A through D of this
7 interrogatory;
- 8 G. Identify all communications relating to the subject
9 matter of parts A through F of this interrogatory;
10 and
- 11 H. Identify all documents which refer or relate in any
12 way to the subject matter of parts A through G of
13 this interrogatory.
14

15 RESPONSE:

16 Plaintiffs' only source of information for responding to
17 this interrogatory are the personal recollections of James T.
18 Williams. These recollections are set forth hereafter.

19 A. A description of the game and the manner in which
20 it was played is included on pages 76-80 of the deposition of
21 James T. Williams taken March 22, 23, and 26, 1976, copies of
22 which are attached hereto as Exhibit C. The testimony of Mr.
23 Williams contained therein responsive to paragraph A of this
24 interrogatory 105 is incorporated by reference.
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1 B. Plaintiffs are unable to supply the information
2 requested by paragraph B of this interrogatory. Mr. Williams was
3 informed at the time that the apparatus used was a PDP-1 computer,
4 but he has no personal knowledge that this was so or whether, if
5 it was so, what modifications, alterations, or changes may have
6 been made to that computer. A cathode ray tube display of the
7 point plotting or VECTOR type was a part of the apparatus.

8 C. On one occasion sometime between approximately
9 September, 1961 and June, 1964.

10 D. An informal visit with a friend to the Stanford
11 University Computation Center.

12 E. Plaintiffs are unable to supply the information
13 requested by paragraph E of this interrogatory.

14 F. James T. Williams.

15 G. No such communications are known.

16 H. No such documents are known.

17
18 INTERROGATORY NO. 106

19 Set forth in detail any differences between the
20 spaceship game observed at Stanford University by Mr. Williams and
21 the Spacewar game described in the Decus publication identified in
22 INTERROGATORY NO. 74.

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RESPONSE:

Because of the incomplete information available to plaintiffs concerning the game observed by Mr. Williams, it is not possible for plaintiffs to set forth all the differences between that game and the game referred to in the Decus publication referred to. Differences between Mr. Williams' recollection of what he observed and the game referred to in the Decus publication should be readily apparent to defendant by a comparison between plaintiffs' response to interrogatory 105 and the Decus publication, and defendant may make that comparison for itself. However, and without limitation of plaintiffs' right to rely on further differences shall they become important in this action, it is clear that Mr. Williams has no recollection of what appeared on the screen when a torpedo approached a spaceship, and that he has no recollection of the description(s) of this event included in the Decus publication. Further, his recollection includes nothing corresponding to the descriptions in the publication under the headings "The Spaceship", "The Heavy Star", "The Stars of the Heaven", and much of the material under the heading "The Game".

INTERROGATORY NO. 107

Has James T. Williams ever discussed the spaceship game which he observed at Stanford University with any other person?

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RESPONSES:

Yes.

INTERROGATORY NO. 108

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

- A. Identification of each person involved in the discussion, including the relationship of each such person to Magnavox and/or Sanders;
- B. The date and place of the discussion;
- C. The circumstances under which the discussion was held;
- D. The substance of the discussion;
- E. Any action taken by Magnavox and/or Sanders as a result of the discussion;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

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RESPONSE:

Mr. Williams discussed the game he observed during the taking of his deposition on March 22, 23, and 26, 1976. Copies of the appearance pages are attached hereto as Exhibit D. Plaintiffs are unable to supply the remaining information requested in this interrogatory because they are unable to determine for themselves whether any additional discussion occurred.

INTERROGATORY NO. 109

Did James T. Williams ever disclose to the Patent Office the spaceship game which he observed at Stanford University?

RESPONSE:

Not in connection with the application which matured into U.S. Patent Re. 28,507.

INTERROGATORY NO. 110

If the answer to INTERROGATORY NO. 109 is other than an unqualified negative, identify each such disclosure, including:

- A. Identification of the person(s) in the Patent Office to whom the disclosure was made;
- B. The relationship, if any, of each person identified in response to part A of this interrogatory to the examination of the application which led to Reissue Patent 28,507;
- C. The date of the disclosure;

- 1 D. The manner in which the disclosure was made;
2 E. Identify all persons having knowledge of the
3 subject matter of parts A through D of this
4 interrogatory;
5 F. Identify all communications relating to the subject
6 matter of parts A through E of this interrogatory;
7 and
8 G. Identify all documents which refer to relate in any
9 way to the subject matter of parts A through F of
10 this interrogatory.
11

12 RESPONSE:

13 No response required.
14

15 INTERROGATORY NO. 111

16 Did anyone acting on behalf of Magnavox or Sanders,
17 other than James T. Williams, ever disclose to the Patent Office
18 the spaceship game observed by James T. Williams at Stanford
19 University?
20

21 RESPONSE:

22 Not in connection with the application which matured
23 into U.S. Patent Re. 28,507.
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1 INTERROGATORY NO. 112

2 If the answer to INTERROGATORY NO. 111 is other than an
3 unqualified negative, identify each such disclosure, including:

- 4 A. Identification of the person(s) making the
5 disclosure;
- 6 B. Identification of the person(s) in the Patent
7 Office to whom the disclosure was made;
- 8 C. The relationship, if any, to Magnavox and/or
9 Sanders of each person identified in response to
10 part B of this interrogatory;
- 11 D. The date of the disclosure;
- 12 E. The manner in which the disclosure was made;
- 13 F. Identify all persons having knowledge of the
14 subject matter of parts A through F of this
15 interrogatory; and
- 16 G. Identify all documents which refer to relate in any
17 way to the subject matter of parts A through G of
18 this interrogatory.
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RESPONSE:

No response required.

INTERROGATORY NO. 113

During the examination and prosecution of the application leading to Reissue Patent 28,507, did Examiner Trafton or any other Examiner ever indicate to Magnavox or Sanders that he was aware of the spaceship game which James T. Williams had observed at Stanford University?

RESPONSE:

Personnel of plaintiffs presently have no knowledge of any such indication.

INTERROGATORY NO. 114

If the answer to INTERROGATORY NO. 113 is other than an unqualified negative, identify each such indication, including:

- A. Identification of the Examiner giving the indication;
- B. Identification of the person(s) to whom the indication was given;
- C. The date(s) of the indication;
- D. The manner in which the indication was given;
- E. The substance of the indication;

- 1 F. Identify all persons having knowledge of the
2 subject matter of parts A through E of this
3 interrogatory;
4 G. Identify all communications relating to the subject
5 matter of parts A through F of this interrogatory;
6 and
7 H. Identify all documents which refer or relate in any
8 way to the subject matter of parts A through G of
9 this interrogatory
10

11 RESPONSE:

12 No response required.
13

14 INTERROGATORY NO. 115

15 Does Magnavox and/or Sanders have any reason to believe
16 that during the examination of the application leading to Reissue
17 Patent 28,507 Examiner Trafton or any other Examiner participating
18 in the examination was aware of either U.S. Patent 3,728,480 or
19 the spaceship game which James T. Williams had observed at
20 Stanford University.
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RESPONSE:

Yes.

INTERROGATORY NO. 116

If the answer to INTERROGATORY NO. 115 is other than an unqualified negative, set forth in detail the reason(s) for such belief.

RESPONSE:

During the prosecution of U.S. Patent 3,659,284, Examiner Trafton had clearly indicated his knowledge of the application which resulted in U.S. Patent 3,728,480; such applications were cited to him during the examination of the application leading to U.S. Patent 28.507. See plaintiffs response to at least interrogatories 101-104 and 175.

INTERROGATORY NO. 126

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 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 are at this time unable to supply all the
19 information requested in Interrogatory 126. Plaintiffs have not
20 completed their discovery as to the television game cartridges
21 manufactured, used, and/or sold by Activision, and the television
22 game consoles with which those cartridges are used, and are thus
23 unable to fully state what contentions they will make at trial as
24 to the subject matter of this interrogatory. Plaintiffs object to
25 this interrogatory as premature.
26

1 However, in order to advance the progress of this
2 action, plaintiffs further respond to interrogatory 126 as follows
3 while reserving the right to alter, amend, supplement or change
4 the response after discovery is completed and prior to trial.
5 Each response refers to the combination of the indicated
6 Activision television game cartridge and the Atari VCS Model 2600,
7 the Sears Tele-Game Video Arcade, the Colecovision game console
8 with the Coleco Expansion Module 1, or the Coleco Gemini
9 television game console.

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

12 Ice Hockey: The player symbols.

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

15 Fishing Derby: The end of the fishing line symbols.

16 B. Tennis, Ice Hockey, Boxing and Fishing Derby: At
17 least the Activision television game cartridge, the
18 joystick, the microprocessor, the peripheral
19 interface adapter, and the television interface
20 adapter.

21 C. Tennis: The ball symbol.

22 Ice Hockey: The puck symbol.

23 Boxing: The boxer symbol under control of the
24 game.

25 Fishing Derby: The fish symbols.

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D. Tennis, Ice Hockey, Boxing and Fishing Derby: At least 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: At least 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.

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

4 Fishing Derby: The motion of the fish symbol
5 following coincidence with the fishing line symbol.

6 H. Tennis, Ice Hockey, Boxing and Fishing Derby: At
7 least the Activision game television cartridge and
8 the microprocesor.

9
10 INTERROGATORY NO. 127

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

- 23 A. A variation in the horizontal position of the
24 hitting symbol;
25 B. A variation in the vertical position of the hitting
26 symbol; and

1 C. Means for providing horizontal and vertical control
2 signals for varying the horizontal and vertical
3 positions of said hitting symbol.
4

5 RESPONSE:

6 Plaintiffs are at this time unable to supply all the
7 information requested in Interrogatory 127. Plaintiffs have not
8 completed their discovery as to the television game cartridges
9 manufactured, used, and/or sold by Activision, and the television
10 game consoles with which those cartridges are used, and are thus
11 unable to fully state what contentions they will make at trial as
12 to the subject matter of this interrogatory. Plaintiffs object to
13 this interrogatory as premature.

14 However, in order to advance the progress of this
15 action, plaintiffs further respond to interrogatory 127 as follows
16 while reserving the right to alter, amend, supplement or change
17 the response after discovery is completed and prior to trial.
18 Each response refers to the combination of the indicated
19 Activision television game cartridge and the Atari VCS Model 2600,
20 the Sears Tele-Game Video Arcade, the Colecovision game console
21 with the Coleco Expansion Module 1, or the Coleco Gemini
22 television game console.

23 A. Tennis: The player symbols under control of the
24 human player may be moved horizontally.

25 Ice Hockey: The player symbols may be moved
26 horizontally.
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1 Boxing: The boxer symbol under human control may
2 be moved horizontally.

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

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

7 Ice Hockey: The player symbols may be moved
8 vertically.

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

11 Fishing Derby: The end of the fishing line symbol
12 may be moved vertically.

13 C. Tennis, Ice Hockey, Boxing and Fishing Derby: At
14 least the Activision game cartridge, the joystick,
15 the microprocessor, and the peripheral interface
16 adapter.

17
18 INTERROGATORY NO. 128

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

1 plaintiffs contend constitutes an infringement of Claim 44 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 baseball game;
6 B. Apparatus for playing a baseball type game;
7 C. A hit spot;
8 D. Means for displaying a hit spot;
9 E. A hitting spot;
10 F. Means for displaying a hitting spot;
11 G. An adjustment in the vertical position of said
12 hitting spot;
13 H. Means for adjusting the vertical position of said
14 hitting spot;
15 I. A serving of the hit spot;
16 J. Means for serving said hit spot;
17 K. A variation in the vertical position of the hit
18 spot;
19 L. Means for varying the vertical position of said hit
20 spot;
21 M. Coincidence between said hit and said hitting spot;
22 N. A reversal of directions by the hit spot; and
23 O. Means for denoting coincidence between said hit and
24 said hitting spots whereby said hit spot will
25 reverse directions.

1 RESPONSE:

2 Plaintiffs are at this time unable to supply the
3 information requested in interrogatory 128. Plaintiffs have not
4 completed their discovery as to the television game cartridges
5 manufactured, used, and/or sold by Activision, and the television
6 game consoles with which those cartridges are used, and are thus
7 unable to respond to this interrogatory. Plaintiffs object to
8 this interrogatory as premature.

9
10 INTERROGATORY NO. 129

11 For each combination of the games identified in response
12 to Interrogatory No. 38 of Defendant's First Set of
13 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",
14 "Tennis" and "Ice Hockey") and the consoles identified in response
15 to Interrogatory No. 50 of Defendant's First Set Of
16 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,
17 the Sears Tele-Game Video Arcade, and the combination of the
18 Colecovision game console and the Expansion Module 1) which
19 plaintiffs contend constitutes an infringement of Claim 45 of the
20 United States Patent Re. 28,507, identify the elements which
21 plaintiffs contend correspond to the following elements of the
22 claim:

- 23 A. A hockey type game;
24 B. Apparatus for playing a hockey type game;
25 C. A first hitting spot;
26 D. Means for displaying a first hitting spot;

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- E. A second hitting spot;
- F. Means for displaying a second hitting spot;
- G. [Omitted]
- H. A hit spot;
- I. Means for displaying a hit spot;
- J. Control of the position of the first hitting spot;
- K. Control of the position of the second hitting spot;
- L. Means for controlling the position of said first and second hitting spots;
- M. Controlling of the position of the hit spot;
- N. Means for controlling the position of said hit spot;
- O. Coincidence between the first hitting spot and the hit spot;
- P. Coincidence between the second hitting spot and the hit spot;
- Q. Means for ascertaining coincidence between either of said hitting spots and said hit spot;
- R. A distinct motion imparted to said hit spot upon coincidence; and
- S. Means for imparting a distinct motion to said hit spot upon coincidence.

1 RESPONSE:

2 Plaintiffs are at this time unable to supply the
3 information requested in interrogatory 129. Plaintiffs have not
4 completed their discovery as to the television game cartridges
5 manufactured, used, and/or sold by Activision, and the television
6 game consoles with which those cartridges are used, and are thus
7 unable to respond to this interrogatory. Plaintiffs object to
8 this interrogatory as premature.
9

10 INTERROGATORY NO. 130

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

- 23 A. A hitting symbol;
24 B. Means for generating a hitting symbol;
25 C. A hit symbol;
26 D. Means for generating a hit symbol;

- 1 E. Coincidence between said hitting symbol and said
2 hit symbol;
- 3 F. Means for ascertaining coincidence between said
4 hitting symbol and said hit symbol;
- 5 G. A distinct motion imparted to said hit symbol upon
6 coincidence; and
- 7 H. Means for imparting a distinct motion to said hit
8 symbol upon coincidence.
- 9

10 RESPONSE:

11 Plaintiffs are at this time unable to supply all the
12 information requested in interrogatory 130. Plaintiffs have not
13 completed their discovery as to the television game cartridges
14 manufactured, used, and/or sold by Activision, and the television
15 game consoles with which those cartridges are used, and are thus
16 unable to fully state what contentions they will make at trial as
17 to the subject matter of this interrogatory. Plaintiffs object to
18 this interrogatory as premature.

19 However, in order to advance the progress of this
20 action, plaintiffs further respond to interrogatory 130 as follows
21 while reserving the right to alter, amend, supplement or change
22 the response after discovery is completed and prior to trial.
23 Each response refers to the combination of the indicated
24 Activision television game cartridge and the Atari VCS Model 2600,
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1 the Sears Tele-Game Video Arcade, the Colecovision game console
2 with the Coleco Expansion Module 1, or the Coleco Gemini
3 television game console.

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

6 Ice Hockey: The player symbols.

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

9 Fishing Derby: The end of the fishing line
10 symbols.

11 B. Tennis, Ice Hockey, Boxing and Fishing Derby: At
12 least the Activision television game cartridge, the
13 joystick, the microprocessor, the peripheral
14 interface adapter, and the television interface
15 adapter.

16 C. Tennis: The ball symbol.

17 Ice Hockey: The puck symbol.

18 Boxing: The boxer symbol under control of the
19 game.

20 Fishing Derby: The fish symbols.

21 D. Tennis, Ice Hockey, Boxing and Fishing Derby: At
22 least the Activision television game cartridge, the
23 television interface adapter, and the
24 microprocessor.

- 1 E. Tennis: The coincidence between the human
2 controlled player symbol and the ball symbol by
3 which the player hits the ball.
4 Ice Hockey: The coincidence between the player
5 symbol and the puck symbol by which the player
6 intercepts the puck.
7 Boxing: The coincidence between the human
8 controlled boxer symbol and the game controlled
9 boxer symbol by which the human controlled boxer
10 hits the game controlled boxer.
11 Fishing Derby: The coincidence between the fishing
12 line symbol and the fish symbols by which the fish
13 are caught.
- 14 F. Tennis, Ice Hockey, Boxing and Fishing Derby: At
15 least the Activision television game cartridge, the
16 microprocessor, and perhaps the television
17 interface adapter.
- 18 G. Tennis: The motion of the ball symbol following
19 coincidence with the human controlled player
20 symbol.
21 Ice Hockey: The motion of the puck symbol
22 following coincidence with player symbol.
23 Boxing: The motion of the game controlled boxer
24 symbol following coincidence with the human
25 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: At
4 least the Ativision game television cartridge and
5 the microprocesor.
6

7 INTERROGATORY NO. 131

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 52 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.

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RESPONSE:

Plaintiffs are at this time unable to supply all the information requested in Interrogatory 131. Plaintiffs have not completed their discovery as to the television game cartridges manufactured, used, and/or sold by Activision, and the television game consoles with which those cartridges are used, and are thus unable to fully state what contentions they will make at trial as to the subject matter of this interrogatory. Plaintiffs object to this interrogatory as premature.

However, in order to advance the progress of this action, plaintiffs further respond to Interrogatory 131 as follows while reserving the right to alter, amend, supplement or change the response after discovery is completed and prior to trial. Each response refers to the combination of the indicated Activision television game cartridge and the Atari VCS Model 2600, the Sears Tele-Game Video Arcade, the Colecovision game console with the Coleco Expansion Module 1, or the Coleco Gemini television game console.

- A. Tennis: The player symbols under control of the human players may be moved horizontally.
- Ice Hockey: The player symbols may be moved horizontally.
- Boxing: The boxer symbol under human control may be moved horizontally.
- Fishing Derby: The end of the fishing line symbol may be moved horizontally.

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- A. A vertical synchronization signal;
- B. A horizontal synchronization signal;
- C. Means for generating vertical and horizontal synchronization signals;
- D. Means responsive to said synchronization signals for deflecting the beam of a cathode ray tube to generate a raster on the screen of the tube;
- E. A first symbol on said screen;
- F. A position for the first symbol which is directly controlled by a player;
- G. Means coupled to said synchronization signal generating means and said cathode ray tube for generating a first symbol on said screen at a position which is directly controlled by a player;
- H. A second symbol on the screen which is movable;
- I. Means coupled to a said synchronization signal generating means and said cathode ray tube for generating a second symbol on said screen which is movable;
- J. A first coincidence between said first symbol and said second symbol;
- K. Means couple to said first symbol generating means and said second symbol generating means for determining a first coincidence between said first symbol and said second symbol;

1 L. A distinct motion imparted to said second symbol in
2 response to said coincidence; and

3 M. Means coupled to said coincidence determining means
4 and said second symbol generating means for
5 imparting a distinct motion to said second symbol
6 in response to said coincidence.
7

8 RESPONSE:

9 Plaintiffs are at this time unable to supply all the
10 information requested in Interrogatory 132. Plaintiffs have not
11 completed their discovery as to the television game cartridges
12 manufactured, used, and/or sold by Activision, and the television
13 game consoles with which those cartridges are used, and are thus
14 unable to fully state what contentions they will make at trial as
15 to the subject matter of this interrogatory. Plaintiffs object to
16 this interrogatory as premature.

17 However, in order to advance the progress of this
18 action, plaintiffs further respond to Interrogatory 132 as follows
19 while reserving the right to alter, amend, supplement or change
20 the response after discovery is completed and prior to trial.
21 Each response refers to the combination of the indicated
22 Activision television game cartridge and the Atari VCS Model 2600,
23 the Sears Tele-Game Video Arcade, the Colecovision game console
24 with the Coleco Expansion Module 1, or the Coleco Gemini
25 television game console.
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- A. Tennis, Ice Hockey, Boxing and Fishing Derby: The vertical synchronization signals at the outputs of the television interface adapter and the television game console.
- B. Tennis, Ice Hockey, Boxing and Fishing Derby: The horizontal synchronization signals at the outputs of the television interface adapter and the television game console.
- C. Tennis, Ice Hockey, Boxing and Fishing Derby: The Activision television game cartridge, the microprocessor, and the television interface adapter.
- D. Tennis, Ice Hockey, Boxing and Fishing Derby: At least the horizontal and vertical deflection circuitry of the associated television receiver.
- E. Tennis: The player symbols under control of the human player.
Ice Hockey: The player symbols.
Boxing: The boxer symbol under control of the human player.
Fishing Derby: The end of the fishing line symbols.
- F. Tennis, Ice Hockey, Boxing and Fishing Derby: The position of the first symbol.

1 G. Tennis, Ice Hockey, Boxing and Fishing Derby: At
2 least the Activision television game cartridge, the
3 joystick, the peripheral interface adapter, the
4 television interface adapter, and the
5 microprocessor.

6 H. Tennis: The ball symbol.

7 Ice Hockey: The puck symbol.

8 Boxing: The boxer symbol under control of the
9 game.

10 Fishing Derby: The fish symbols.

11 I. Tennis, Ice Hockey, Boxing and Fishing Derby: At
12 least the Activision television game cartridge, the
13 television interface adapter, and the
14 microprocessor.

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

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

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

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

4 K. Tennis, Ice Hockey, Boxing and Fishing Derby: At
5 least the Activision television game cartridge, the
6 microprocessor and perhaps the television interface
7 adapter.

8 L. Tennis: The motion of the ball symbol following
9 coincidence.

10 Ice Hockey: The motion of the puck symbol
11 following coincidence.

12 Boxing: The motion of the game controlled boxer
13 symbol following coincidence.

14 Fishing Derby: The motion of the fish symbol
15 following coincidence.

16 M. Tennis, Ice Hockey, Boxing and Fishing Derby: At
17 least the Activision television game cartridge and
18 the microprocessor.

19
20 INTERROGATORY NO. 133

21 For each combination of the games identified in response
22 to Interrogatory No. 38 of Defendant's First Set of
23 Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing",
24 "Tennis" and "Ice Hockey") and the consoles identified in response
25 to Interrogatory No. 50 of Defendant's First Set Of
26 Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600,

1 the Sears Tele-Game Video Arcade, and the combination of the
2 Colecovision game console and the Expansion Module 1) which
3 plaintiffs contend constitutes an infringement of Claim 61 of the
4 United States Patent Re. 28,507, identify the elements which
5 plaintiffs contend correspond to the following elements of the
6 claim:

- 7 A. A third symbol on the screen of the cathode ray
8 tube;
- 9 B. Player control of the position of the third symbol;
- 10 C. Means coupled to said synchronization signal
11 generating means and said cathode ray tube for
12 generating a third symbol on said screen at a
13 position which is controlled by a player;
- 14 D. A second coincidence between said third symbol and
15 said second symbol;
- 16 E. Means coupled to said third symbol generating means
17 and second symbol generating means for determining
18 a second coincidence between said third symbol and
19 said second symbol;
- 20 F. A first coincidence between said third symbol and
21 said second symbol;
- 22 G. A distinct motion imparted to said second symbol in
23 response to the second coincidence; and
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1 H. Means coupled to said second and third symbol
2 coincidence determining means and said second
3 symbol generating means for imparting a distinct
4 motion to said second symbol in response to said
5 second coincidence.
6

7 RESPONSE:

8 Plaintiffs are at this time unable to supply all the
9 information requested in Interrogatory 132. Plaintiffs have not
10 completed their discovery as to the television game cartridges
11 manufactured, used, and/or sold by Activision, and the television
12 game consoles with which those cartridges are used, and are thus
13 unable to fully state what contentions they will make at trial as
14 to the subject matter of this interrogatory. Plaintiffs object
15 this interrogatory as premature.

16 However, in order to advance the progress of this
17 action, plaintiffs further respond to Interrogatory 133 as follows
18 while reserving the right to alter, amend, supplement or change
19 the response after discovery is completed and prior to trial.
20 Each response refers to the combination of the indicated
21 Activision television game cartridge and the Atari VCS Model 2600,
22 the Sears Tele-Game Video Arcade, the Colecovision game console
23 with the Coleco Expansion Module 1, or the Coleco Gemini
24 television game console.

25 A. Tennis: The second player symbol under control of
26 a human player.
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Ice Hockey: The second player symbol.

Fishing Derby: The end of the second fishing line symbol.

B. Tennis: The position of the symbol is controlled by the player.

Ice Hockey: The position of the symbol is controlled by the player.

Fishing Derby: The position of the symbol is controlled by the player.

C. Tennis, Ice Hockey, Boxing and Fishing Derby: At least the Activision television game cartridge, the joystick, the peripheral interface adapter, the television interface adapter, and the microprocesor.

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

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

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

- 1 E. Tennis, Ice Hockey, and Fishing Derby: At least
2 the Activision television game cartridge, the
3 microprocessor and perhaps the television interface
4 adapter.
- 5 F. The reference to a "first" coincidence between the
6 second and third symbols in the context of Claim 61
7 is not understood.
- 8 G. Tennis: The motion of the ball symbol following
9 the second coincidence.
10 Ice Hockey: The motion of the puck symbol
11 following the second coincidence.
12 Fishing Derby: The motion of the fish symbol
13 following the second coincidence.
- 14 H. Tennis, Ice Hockey and Fishing Derby: At least the
15 Activision television game cartridge and the
16 microprocessor.

17
18 INTERROGATORY NO. 134

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

1 D. Tennis and Ice Hockey: At least the Activision
2 television game cartridge and the microprocess.
3

4 INTERROGATORY NO. 138

5 Identify all portions of the subject matter described in
6 U.S. Patent 3,728,480 which Magnavox and Sanders contend are not
7 prior art with regard to United States Patent Re. 28,507.
8

9 RESPONSE:

10 This interrogatory has been limited by defendant to the
11 portions of U.S. Patent 3,728,480 enumerated in this response.
12 Circuits as described at column 4, lines 16-21; column 6, lines
13 7-22 and 45-58; column 9, line 39 - column 10, line 15; column 12,
14 lines 23-26, 44-48, and 57-60; Claims 13-23; Claims 26-30, and
15 Claim 41 of U.S. Patent 3,728,480 were built and used with a color
16 television receiver by the inventor thereof prior to the
17 commencement of reasonable diligence toward reduction to practice
18 of the claimed subject matter of U.S. Patent Re. 28.507.
19

20 INTERROGATORY NO. 139

21 For each portion of the subject matter of U.S. Patent
22 3,728,480 identified in response to Interrogatory No. 138:

23 A. Set forth in detail the basis of the contention
24 that the portion of the subject matter is not prior art;
25
26
27

1 (e) Identify all documents in the possession, custody or
2 control of Magnavox and/or Sanders which refer or relate in any
3 way to each such game.
4

5 RESPONSE:

6 The extent of plaintiffs' information concerning the
7 subject matter of this interrogatory is set forth in the
8 deposition transcripts of Stephen Russell, Peter Samson, Stewart
9 Nelson, Michael Levitt, John McKenzie, Donald Levy, Norma Newshom,
10 Digital Equipment Corporation, John Sauter, William Gasper,
11 Williams Pitts, Alan Kotok, and James T. Williams, copies of which
12 have previously been supplied to defendants.
13

14 INTERROGATORY NO. 159

15 What do plaintiffs contend constitutes a "hitting
16 symbol" in the context of Claims 25, 26, 51 and 52 of United
17 States Letters Patent Re. 28.507.
18

19 RESPONSE:

20 Plaintiffs contend that some examples of "hitting
21 symbols", "hit symbols", "hitting spots", and "hit spots" referred
22 to in each of Interrogatories 159 through 162 are set forth in the
23 specification of U.S. Patent Re. 28,507. The prosecution file
24 histories of the original patent of U.S. Patent Re. 28,507, i.e.,
25 U.S. Patent 3,659,284, includes additional statements which define
26 those symbols and spots, including at least the following:
27

1 "Principally, in this application Applicant teaches how
2 to generate two functionally different spots which he
3 calls a "hitting" spot and "hit" spot. The "hitting"
4 spot is controlled by, for example, a pair of knobs on
5 potentiometers and allows this spot to be moved over the
6 screen of the television receiver by direct manipulation
7 of the knobs. That is, the viewer directly controls the
8 position of this spot. This spot may be used to
9 simulate a hand, a paddle, a bat, a hockey stick, or
10 other implementation directly controlled by a player in
11 a game.

12 "The second functional spot is referred to as a
13 "hit spot" and this spot is not directly controlled by
14 the viewer but its position, movement, etc., is
15 determined in part by other electronics signal
16 generating means in the unit, including signal
17 generating means response to the position, direction,
18 etc. of the so-called "hitting" spot. This type of spot
19 represents, for example, a ball, a hockey puck, etc. In
20 the games described in the body of the application,
21 various different control signals are set forth to cause
22 this "hit" spot to move in different patterns, as, for
23 example, one control causes it to automatically go from
24 an off-screen left position to an off-screen right
25 position and vice versa continually unless coincidence
26 is made with a "hitting" spot, whereby it would reverse

1 direction, or, alternatively, the "hit" spot will remain
2 in a steady position until "hit" by a "hitting" spot
3 whereupon it will travel in a direction and with a
4 velocity proportional to the direction and velocity of
5 the "hitting" spot, causing it to move toward an off-
6 screen position, whereupon it will bounce away from the
7 screen in the same fashion as a ball would."

8 * * *

9 "Applicant teaches and recites in his claims two
10 functionally different types of spots which he generates
11 on the screen of a television receiver. A first spot is
12 called a "hitting" spot and is a spot which is directly
13 controlled by the viewers. Its position is varied by a
14 viewer directly manipulating potentiometers. A viewer,
15 by changing the position of a joy stick, or two
16 individual knobs, generates control signals which change
17 the position of the "hitting" spot on the screen of the
18 television receiver.

19 "A second spot, generally referred to as a "hit"
20 spot, is also generated on the screen of the receiver.
21 However, the viewer does not directly control the
22 position of this spot by moving potentiometers. Rather,
23 the position of this spot and its travel is determined
24 by control signals which are either separately
25 generated, such as the aforementioned controls for
26 causing the spots to move back and forth between
27

1 predetermined positions, or the control signals for
2 "hit" spots are obtained from the signals which
3 represent the "hitting" spots such that the position,
4 direction of movement, shape of path, etc. of the "hit"
5 symbol is determined by the position and the moving
6 direction of the "hitting" symbol. The "hit" symbols
7 represent a device which goes in a particular direction
8 at a particular speed, etc., determined by "contact"
9 (actually electrical coincidence) with the "hitting"
10 symbol.

11 "The "hitting" symbol is a spot which, for the
12 playing of games, represents a "hitting" device such as
13 a ping pong paddle or a hockey stick. The "hit" symbol
14 is a spot which, for the playing of games, represents a
15 "hit" device such as a ball or hockey puck."

16 * * *

17 "A "hitting" spot is one under the control of the
18 viewer and represents things generally directly
19 controlled by a user in a game such as a racket, a bat,
20 a stick, etc. A "hit" spot is one that operates in
21 conjunction with a "hitting" spot and not under direct
22 control of the viewer and represents things not
23 generally directly controlled by a user in a game such
24 as a ball, a puck, etc."

1 Plaintiffs' contention as to what constitutes the
2 symbols and spots referred to in interrogatories 159-160 are set
3 forth in the Re. 28,507 patent and the prosecution history of the
4 applications which resulted in that patent and its original U.S.
5 Patent 3,659,284 as stated above.

6
7 INTERROGATORY NO. 160

8 What do plaintiffs contend constitutes a "hit symbol" in
9 the context of Claims 25, 26, 51 and 52 of United States Letters
10 Patent Re. 28,507.

11
12 RESPONSE:

13 See plaintiffs' response to Interrogatory 159.
14

15 INTERROGATORY NO. 161

16 What do plaintiffs contend constitutes a "hitting spot"
17 in the context of Claims 44 and 45 of United States Letters Patent
18 Re. 28,507.

19
20 RESPONSE:

21 See plaintiffs' response to interrogatory 159.
22

23 INTERROGATORY NO. 162

24 What do plaintiffs contend constitutes a "hit spot" in
25 the context of Claims 44 and 45 of United States Letters Patent
26 Re. 28,507.

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RESPONSE:

See plaintiffs' response to Interrogatory 159.

INTERROGATORY NO. 169

Referring to plaintiffs' response to Parts (c)(3) and (c)(4) of Interrogatory No. 100 of Defendant's First Set of Interrogatories to Plaintiffs, set forth in detail the background to the reissue application about which the conversation with the Examiner centered, including a complete narrative of what was said about the background by each party to the conversation.

RESPONSE:

The information requested in Interrogatories 169 and 170 is set forth at pages 147-151 of the deposition of Richard I. Seligman taken on April 7 and 8, 1976, and at pages 257-263, 266-267 and 296-297 of the deposition of James T. Williams taken on March 22, 23, and 26, 1976, copies of which are attached hereto as Exhibit E. The testimony of Messrs. Seligman and Williams contained therein responsive to interrogatories 169 and 170 is incorporated by reference.

1 INTERROGATORY NO. 170

2 Referring to plaintiffs' response to Parts (c)(3) and
3 (c)(4) of Interrogatory No. 100 of Defendant's First Set of
4 Interrogatories to Plaintiffs, state the objects to be achieved by
5 the reissue application, and state what was said by each party to
6 the conversation with regard to each of these objects.

7

8 RESPONSE:

9 See plaintiffs' response to Interrogatory 169.

10

11 INTERROGATORY NO. 171

12 Was any written record ever made of the discussion which
13 Richard I. Seligman and James T. Williams had with Examiner
14 David L. Trafton about April 23, 1974 and referenced in
15 plaintiffs' response to Parts (b) and (c) of Interrogatory No. 100
16 of Defendant's First Set of Interrogatories to Plaintiffs.

17

18 RESPONSE:

19 No, except for the deposition transcript to Messrs.
20 James T. Williams and Richard I. Seligman.

21

22 INTERROGATORY NO. 172

23 If the response to Interrogatory No. 171 is other than
24 an unqualified negative, identify the written record and the
25 person(s) making the same.

26

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1 RESPONSE:

2 No response required.

3
4 INTERROGATORY NO. 173

5 Identify any prior art other than the references cited
6 on the face of United States Letters Patent Re. 28,507 which was
7 considered by Magnavox and/or Sanders during the prosecution of
8 the application leading to that patent and which was determined
9 not to be material to the examination of the application.

10
11 RESPONSE:

12 All references which were considered by personnel of
13 Sanders and Magnavox in connection with the prosecution of the
14 application for U.S. Patent Re. 28,507 were cited to the Patent
15 and Trademark Office; no references were considered and not cited
16 because they were deemed to be immaterial.

17
18 INTERROGATORY NO. 174

19 For each item of prior art identified in response to
20 Interrogatory No. 173, identify the following:

- 21 (a) All persons who considered such prior art;
22 (b) The person(s) who determined that the prior art was not
23 material to the examination of the application;
24 (c) State in detail the basis upon which the prior art was
25 determined not to be material; and

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(d) Identify all documents which refer or relate in any way to the consideration of the prior art and/or the determination that it was not material.

RESPONSE:

No response required.

_____, 1984 _____
The Magnavox Company

Subscribed and sworn to before me
this ___ day of _____, 1984,
in _____.

Notary Public

My Commission Expires: _____

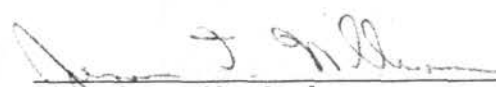
_____, 1984 _____
Sanders Associates, Inc.

Subscribed and sworn to before me
this ___ day of _____, 1984,
in _____.

Notary Public

My Commission Expires: _____

The foregoing objections and contentions are asserted or stated on behalf of plaintiffs by:



Theodore W. Anderson
James T. Williams
NEUMAN, WILLIAMS, ANDERSON & OLSON
Attorneys for The Magnavox Company
and Sanders Associates, Inc.
77 West Washington Street
Chicago, Illinois 60602
(312) 346-1200

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2,668,057	3,091,869	3,588,108
2,957,695	3,143,811	3,599,221
3,315,962	3,145,378	3,582,544
3,582,077	3,191,317	2,188,145
157,258 (Sweden)	3,257,741	3,329,948
2,455,992	3,284,659	3,479,454
2,474,177	3,280,243	3,483,302
2,502,834	3,337,218	3,560,644
2,572,975	3,477,145	3,614,766
2,720,712	3,483,636	3,019,289
2,838,850	3,500,024	3,404,222
2,843,381	3,512,037	2,978,540
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