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

10 United States District Court for the
11 Northern District of California

12	THE MAGNAVOX COMPANY, a Corpora-)	
13	tion, and SANDERS ASSOCIATES,)	
14	INC., a Corporation,)	
)	
	Plaintiffs,)	
15)	
	vs.)	No. C 82 5270 TEH
16)	
17	ACTIVISION, INC., a Corporation,)	INTERROGATORIES TO
)	<u>DEFENDANT</u>
18	Defendant.)	
)	

19 INTERROGATORIES TO DEFENDANT
20 Plaintiffs, The Magnavox Company and Sanders
21 Associates, Inc., propound the following interrogatories to
22 the defendant, Activision, Inc., under Rule 33, F.R.Civ.P.
23

24 DEFINITIONS
25 (a) The term "document" is used herein as defined in
26 Rule 34(a)(1), F.R.Civ.P., and thus includes but is not limited
27 to any letter, intra-company communication, note, memorandum,
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1 report, record, minutes of meetings, patent, patent
2 application, printed publication, article, instruction, work
3 assignment, notebook, draft, worksheet, drawing, sketch,
4 photograph, chart, advertisement, catalog, brochure, news
5 release, trade publication, invoice, and any other written,
6 recorded or graphic material however produced or reproduced
7 and, in the absence of the original, a copy thereof and any copy
8 bearing markings thereon not present in the original or other
9 copy thereof.

10 (b) When the word "identify" is used in connection
11 with documents, other than patents or publications, it is
12 understood to mean the identification of documents by:

13 (1) title;

14 (2) date;

15 (3) name, address and position of the
16 author(s) or originator(s);

17 (4) name, address and position of the
18 recipient(s);

19 (5) name, address and position of the
20 addressee(s), distributee(s) and any other
21 person(s) to whom copies were directed;

22 (6) description of the subject matter
23 and content(s);

24 (7) location of the present depository or
25 depositories of the document;

26 (8) name and address of the present
27 custodian(s) of the document;

28

1 (9) description of the circumstances under
2 which the document was received or prepared; and

3 (10) location where it was received or
4 prepared.

5 (c) When the word "identify" or "identification" is
6 used with respect to any person, it is to be understood to mean
7 the following information is to be provided:

- 8 (1) full name;
- 9 (2) present or last known home address;
- 10 (3) present or last known business address;
- 11 (4) occupation and title; and
- 12 (5) present or last known employer.

13 (d) When the word "identify" is used with respect
14 to any patent of either the United States or another country,
15 state the number of the patent, the country which issued the
16 patent, the title of the patent, the owner of the patent, and
17 the inventors shown on the patent (if any).

18 (e) When the word "identify" is used with respect
19 to any printed publication, state the name of the publication,
20 the author of the publication, the date of publication, the
21 number or numbers of the pertinent volume and pages of the
22 publication, and identify the publisher.

23 (f) When the word "identify" is used with respect
24 to any act, fact, or occurrence, state what defendant contends
25 was the substance of such act, fact, or occurrence and identify
26 all persons known to defendant who were witnesses to the
27 alleged act, fact, or occurrence and all documents known to

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1 defendant relating to the occurrence or nonoccurrence of such
2 alleged act, fact, or occurrence.

3 (g) The word "defendant", as used herein, includes
4 the party named as a defendant in this action and responding to
5 these interrogatories, any corporation, company or entity
6 which has been or is now owned by or owns the named defendant,
7 in whole or in part, all officers, employees, counsel, agents,
8 representatives, inventors, assignors, independent
9 contractors, principals, and consultants of any such
10 defendant, corporation, company, or entity, together with any
11 party in privity with such defendant, corporation, company, or
12 entity, and other parties controlled by such defendant.

13 (h) The phrase "the patent in suit", as used
14 herein, includes United States Patent Re. 28,507 and its
15 original Patent 3,659,284.

16 (i) The phrase "prior art," as used herein,
17 includes any knowledge or use by others in this country,
18 patenting or description in a printed publication in this or a
19 foreign country, public use or on sale in this country,
20 description in a patent granted on an application for patent by
21 another other than the inventor named in the patent in suit
22 filed in the United States Patent and Trademark Office,
23 invention in this country by another other than the inventor
24 named in the patent in suit who had not abandoned, suppressed,
25 or concealed it, and any patenting, publication, act, fact, or
26 occurrence which defendant contends renders the patent in suit
27 or any claim thereof, either when considered by itself or in
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1 combination with any other item(s) of prior art, invalid under
2 35 U.S.C. § 102 and/or § 103.

3 (j) The term "television game product" as used
4 herein includes television or video games, any apparatus
5 useful in any one or more modes of operation as a television or
6 video game, and television or video game cartridges or
7 cassettes or other devices or accessories for use in combin-
8 ation with such television or video games or apparatus.

9
10 INTERROGATORIES

11 1. (a) State the date upon which Activision, Inc.
12 was incorporated.

13 (b) Identify the incorporators of Activision, Inc.

14 (c) Identify any person, corporation or other
15 entity which presently owns more than fifteen percent of the
16 voting stock of Activision, Inc.

17 (d) Identify every person who has served as a
18 member of the board of directors of Activision, Inc., and as to
19 each such person, state the period of time during which he was
20 such a member.

21 (e) Identify every person who has been an officer
22 of Activision, Inc. and, as to each such person, identify the
23 office(s) he has held with Activision, Inc. and state the
24 period(s) of time during which he held that office.

25 (f) State the business of Activision, Inc.

26 (g) Identify every corporation in which
27 Activision, Inc. owns a controlling interest, and as to each
28 such corporation, state the business of that corporation.

1 2.(a). Does defendant contend that the patent in
2 suit or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62
3 thereof is invalid, void, or unenforceable for any reason under
4 35 U.S.C. § 102 or § 103? If so, state each and every reason,
5 ground, or basis known to defendant to support each such
6 contention and fully identify each and every item of prior art
7 upon which defendant bases that contention.

8 (b) To the extent not included in defendant's
9 response to subparagraph (a) of this interrogatory, identify
10 each and every item of prior art supporting the contentions
11 stated by defendant in paragraphs 15 and 16(a)-(e),(g)&(h),
12 17, 18, and 19 of the "Affirmative Defenses" in defendant's
13 "Answer and Counterclaims" filed in this action.

14
15 3.(a) Does defendant contend that the patent in
16 suit or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62
17 thereof is invalid, void or unenforceable for any reason under
18 35 U.S.C. § 103? If so, state each and every reason, ground,
19 or basis known to defendant to support each such contention
20 including a statement of what defendant contends is the art to
21 which the subject matter patented in the patent in suit
22 pertains and what defendant contends was the level of skill of
23 a person of ordinary skill in that art at the times the
24 invention of the patent in suit was made and the application
25 for the original patent in suit was filed.

26 (b) To the extent not included in defendant's
27 response to subparagraph (a) of this interrogatory, state each
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1 and every reason, ground, or basis known to defendant to
2 support the contentions stated by defendant in paragraph 16(e)
3 of the "Affirmative Defenses" in defendant's "Answer and
4 Counterclaims" filed in this action.

5
6 4.(a) Does defendant contend that the patent in
7 suit or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62
8 thereof is invalid, void, or unenforceable for any reason under
9 35 U.S.C. § 112? If so, state each and every reason, ground, or
10 basis known to defendant to support each such contention,
11 including a statement of each and every alleged deficiency or
12 omission in the written description of the invention in the
13 patent in suit and why such alleged deficiency or omission
14 would prevent any person skilled in the art to which the
15 invention of the patent in suit pertains or is most nearly
16 connected from making and using the same, each mode of carrying
17 out the invention of the patent in suit which was contemplated
18 by the inventor named in the patent as better than the mode or
19 modes set forth therein, and each ambiguity, unclarity, or
20 other manner in which the claims of the patent in suit fail to
21 particularly point out or distinctly claim the subject matter
22 which the inventor regarded as his invention, and identify
23 every act, fact, or occurrence relied upon by defendant to
24 support each such reason, ground, or basis.

25 (b) To the extent not included in defendant's
26 response to subparagraph (a) of this interrogatory, state each
27 and every reason, ground, or basis known to defendant to
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1 support the contentions stated by defendant in para-
2 graphs 17(f)&(i) of the "Affirmative Defenses" in defendant's
3 "Answer and Counterclaims" filed in this action and identify
4 every act, fact, or occurrence relied upon by defendant to
5 support each such reason, ground, or basis.

6
7 5. Does defendant contend that the patent in suit
8 or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62 thereof is
9 invalid, void, or unenforceable for any reason under 35 U.S.C.
10 § 251 or § 252? If so, state each and every reason, ground, or
11 basis known to defendant to support such contentions and
12 identify every act, fact, or occurrence relied upon by
13 defendant to support each such reason, ground, or basis.

14
15 6.(a) Does defendant contend that the patent in
16 suit or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62
17 thereof is or at any time was invalid, void, or unenforceable
18 against defendant or others for any reasons other than those
19 stated in defendant's responses to interrogatories 2-5 hereof?
20 If so, state in detail each and every such other contention,
21 state each and every reason, ground, or basis known to
22 defendant to support each such contention, and identify every
23 document, act, fact, or occurrence relied upon by defendant to
24 support each such reason, ground, or basis.

25 (b) To the extent not included in defendant's
26 response to subparagraph (a) of this interrogatory, state each
27 and every reason, ground, or basis known to defendant to
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1 support the contentions stated by defendant in paragraphs 15
2 and 39 of the "Affirmative Defenses" and "Third Counterclaim"
3 in defendant's "Answer and Counterclaims" filed in this action
4 and identify every document, act, fact, or occurrence relied
5 upon by defendant to support each such reason, ground, or
6 basis.

7
8 7. Identify each and every television game product
9 which defendant has manufactured, used, and/or sold by (i)
10 stating its name or title, (ii) stating its model or type
11 number, (iii) identifying each television game console with
12 which the television game product may be used, (iv) stating the
13 date on which defendant first began to manufacture and/or sell
14 that television game product, (v) stating the date on which
15 defendant last manufactured and/or sold that television game
16 product, (vi) identifying the manufacturer(s) of and the
17 party(ies) from whom defendant purchased that television game
18 product, (vii) identifying the present employees of defendant
19 having the greatest knowledge of the operation of the
20 electrical circuitry of that television game product, (viii)
21 identifying the persons responsible for preparing or writing
22 any programs included in that television game product, (ix)
23 identifying the present employees of defendant having the
24 greatest knowledge of the function and operation of any
25 programs included in that television game product, (x)
26 identifying the present employees of defendant having the
27 greatest knowledge of the structure, circuitry, programming,
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1 function, and operation of the television game console with
2 which the television game product may be used, (xi) identifying
3 the person or persons responsible for deciding which game or
4 games were included in that television game product, (xi)
5 describing the game or games played thereon as they appear to
6 the player, and (xii) stating for each calendar or fiscal year
7 defendant's sales volume of that television game product in
8 terms of units and dollars.

9
10 8.(a) Does defendant contend that the manu-
11 facture and/or sale of any television game product identified
12 in defendant's response to interrogatory 7 hereof is not an act
13 of infringement of, contributory infringement of, or
14 inducement to infringe any of claims 25, 26, 44, 45, 51, 52, 60,
15 61 or 62 of the patent in suit for any reason other than the
16 alleged invalidity or unenforceability of the claim or the
17 patent in suit? If so, state specifically with respect to each
18 such claim each and every reason, ground, or basis known to
19 defendant to support such contention including a statement of
20 any language of the claim which defendant contends is not met
21 by the television game product, and if defendant asserts there
22 is any estoppel with respect to the stated language,
23 specifically identify each and every act, fact, or occurrence
24 and each limitation, interpretation, admission,
25 representation, proceeding, argument, amendment, or other item
26 which defendant contends resulted in any such estoppel.

1 (b) To the extent not included in defendant's
2 response to subparagraph (a) of this interrogatory, state
3 specifically with respect to each of the patent claims referred
4 to in subparagraph (a) of this interrogatory each and every
5 reason, ground, or basis known to defendant to support the
6 contentions of paragraphs 19, 20 and 28 of the "Affirmative
7 Defenses" and "First Counterclaim" in defendant's "Answer and
8 Counterclaims" filed in this action, and specifically identify
9 each and every statement, admission, representation, or other
10 matter in the prosecution history and/or file wrapper of the
11 patent in suit which defendant contends resulted in any
12 estoppel alleged in said paragraph 20, and identify the
13 language of the claims referred to in subparagraph (a) of this
14 interrogatory to which each such statement, proceeding,
15 admission, representation, or other matter relates.

16
17 9. Identify each person whom defendant expects to
18 call as an expert witness at the trial in this civil action and
19 as to each expert witness state the subject matter or subject
20 matters on which he is expected to testify, the substance of
21 the facts and opinions as to which the expert is expected to
22 testify, and summarize the grounds for each such opinion; and
23 identify each person whom defendant has retained or specially
24 employed in anticipation of this civil action and/or in
25 preparation for trial in this civil action.

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1 10.(a) State each and every reason, ground, or basis
2 known to defendant to support the contention of paragraph 39(a)
3 of its Third Counterclaim that plaintiffs brought this lawsuit
4 in bad faith, and identify each document, act, fact, or
5 occurrence relied upon by defendant to support each such
6 reason, ground, or basis.

7 (b) State each and every reason, ground, or basis
8 known to defendant to support the contention of paragraph 39(a)
9 of its Third Counterclaim that plaintiff brought this lawsuit
10 with full knowledge that no infringement of any valid claims of
11 United States Letters Patent Re.28,507 exists, and identify
12 each document, act, fact, or occurrence relied upon by
13 defendant to support each such reason, ground, or basis.

14 (c) State each and every reason, ground, or basis
15 known to defendant to support the contention of paragraph 39(b)
16 of its Third Counterclaim that plaintiffs misled customers of
17 defendants and others in the industry to believe that United
18 States Letters Patent Re.28,507 is of a scope to cover
19 virtually all television gaming apparatus and identify each
20 document, act, fact, or occurrence relied upon by defendant to
21 support each such reason, ground, or basis.

22 (d) Identify each and every customer of defendant
23 and each and every other in the industry referred to in the
24 allegation of paragraph 39(b) of defendant's Third
25 Counterclaim.

26 (e) State each and every reason, ground, or basis
27 known to defendant to support the contention of paragraph 39(c)
28

1 of its Third Counterclaim that plaintiffs falsely claimed and
2 asserted to others, including defendant's customers and
3 potential customers, with intent to injure defendant, that
4 certain products sold by defendant are an infringement of
5 United States Letters Patent Re. 28,507, and identify each
6 document, act, fact, or occurrence relied upon by defendant to
7 support each such reason, ground or basis.

8 (f) Identify each and every one of defendant's
9 customers and potential customers referred to in the
10 allegation of paragraph 39(c) of defendant's Third
11 Counterclaim.

12 (g) Identify by type and amount each and every
13 element of injury or damage to defendant from the facts alleged
14 in defendant's Third Counterclaim, and identify each document,
15 act, fact, or occurrence relied upon by defendant to support
16 each such element of injury or damage and the amount thereof.

17 DATED: February 23, 1983

PILLSBURY, MADISON & SUTRO
ROBERT P. TAYLOR

19 By _____

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