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

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

Plaintiffs,

v.

ACTIVISION, INC.,
a Corporation
Defendant.

Civil Action
C 82 5270 TEH

~~(Proposed)~~ ORDER ON MOTION FOR RECONSIDERATION
OF MOTION TO DISMISS SECOND COUNTERCLAIM

The Court having considered Plaintiffs' Motion for Reconsideration of Motion to Dismiss Defendant's Second Counterclaim and the memoranda of the parties with respect thereto; and the Court being fully advised in the premises:

NOW, THEREFORE, IT IS ORDERED:

Plaintiffs' Motion for Reconsideration of Motion to Dismiss Defendant's Second Counterclaim is hereby denied.

Date: February 18, 1983

John J. Hend

United States District Judge

4/17/83
FEB 17 1983

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

14 THE MAGNAVOX COMPANY,)
15 a Corporation, and)
16 SANDERS ASSOCIATES, INC.,)
17 a Corporation,)
18 Plaintiffs,)
19 v.)
20 ACTIVISION, INC.,)
21 a Corporation)
22 Defendant.)

Civil Action
C 82 5270 TEH

23 MEMORANDUM IN OPPOSITION TO PLAINTIFFS'
24 MOTION FOR RECONSIDERATION OF MOTION TO
25 DISMISS SECOND COUNTERCLAIM

26 Plaintiffs' motion for reconsideration should be denied. The request for
27 reconsideration offers no ground to dismiss the counterclaim which has not already
28 been argued and considered. Defendant is still willing to dismiss the counterclaim
provided plaintiffs stipulate that the Baer original patent, as it stands, is invalid.
Plaintiffs' proposed alternative to that stipulation of invalidity merely confirms

- 1 A. State the date(s) of the consideration;
2 B. Identify the patent(s) considered;
3 C. Identify the product(s) and/or activities of
4 Activision considered;
5 D. State whether each of the product(s) and
6 activities identified in response to part C of
7 this interrogatory was determined to
8 constitute an infringement, and set forth in
9 detail the reason(s) for this determination;
10 E. Identify all persons having knowledge of the
11 subject matter of parts A through D of this
12 interrogatory;
13 F. Identify all communications relating to the
14 subject matter of parts A through E of this
15 interrogatory; and
16 G. Identify all documents which refer or relate in
17 any way to the subject matter of parts A
18 through F of this interrogatory.

19 No response required.

20 INTERROGATORY NO. 28

21 Do Magnavox and Sanders admit that Activision has
22 not infringed U.S. Patent 3,728,480?

23 If plaintiffs' motion to dismiss Activision's Second
24 Counterclaim is granted and Activision's Second Counterclaim
25 is dismissed with prejudice, neither of plaintiffs will sue
26 Activision for infringement of either any claim of the original
27 U.S. Patent No. 3,728,480 or any claim of any reissue of the
28 U.S. Patent 3,728,480 which claim is identical to any claim
presently in the original patent for any activity of Activision
in relation to its television game cartridges which were on the
market prior to October 25, 1982.

1 To the extent this interrogatory requests any
2 further response, plaintiffs object to it as requesting
3 information which is neither relevant to the subject matter
4 involved in this action nor reasonably calculated to lead to
5 the discovery of admissible evidence and as being premature.

6
7 INTERROGATORY NO. 29

8 If the answer to INTERROGATORY NO. 28 is other than
9 an unqualified affirmative, set forth in detail the basis for
such answer, including the following:

- 10 A. Identify all claims believed to be infringed;
11 B. Set forth in detail the manner in which each of
12 the claims identified in the response to part A
13 of this interrogatory is believed to be
infringed;
14 C. For each of the claims identified in response
15 to part A of this interrogatory, identify the
16 products of Activision which are believed to
constitute an infringement, either direct or
contributory;
17 D. Identify all claims of the patent which are not
18 believed to be infringed by Activision;
19 E. Set forth in detail the reasons why each of the
20 claims identified in response to part D of this
21 interrogatory are not infringed;
22 F. Identify all persons having knowledge of the
23 subject matter of parts A through E of this
interrogatory;
24 G. Identify all communications relating to the
25 subject matter of parts A through E of this
interrogatory; and
26 H. Identify all documents which refer or relate in
27 any way to the subject matter of parts A
through G of this interrogatory.

28 No response required. See also the objection stated
in plaintiffs' response to interrogatory 28.

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of San Francisco, I am over the age of eighteen years and not a party to the within above entitled action; my business address is Suite 3400, Four Embarcadero Center, San Francisco, California 94111. On February 17, 1983 I served MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF MOTION TO DISMISS SECOND COUNTERCLAIM and (Proposed) ORDER on attorneys for plaintiffs by hand delivering a copy thereof to the offices of:

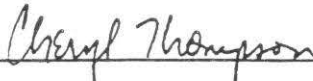
Pillsbury, Madison and Sutro
Robert P. Taylor
225 Bush Street
San Francisco, California 94120

and by depositing a copy thereof in the United States mail, first class Express Mail, postage prepaid, addressed as follows:

Neuman, Williams, Anderson and Olson
Theodore W. Anderson
James T. Williams
77 West Washington Street
Chicago, Illinois 60602

I, CHERYL THOMPSON, declare under penalty of perjury, that the foregoing is true and correct.

Executed on February 17, 1983.



Cheryl Thompson

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(Proposed) ORDER ON MOTION FOR RECONSIDERATION
OF MOTION TO DISMISS SECOND COUNTERCLAIM

The Court having considered Plaintiffs' Motion for Reconsideration of Motion to Dismiss Defendant's Second Counterclaim and the memoranda of the parties with respect thereto; and the Court being fully advised in the premises:

NOW, THEREFORE, IT IS ORDERED:

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Date: _____

United States District Judge