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November 2, 1984

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Neuman, Williams, Anderson & Olson  
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Re: Magnavox v. Activision

Dear Jim:

In my letter to you of September 10, 1984, I provided further answers to several interrogatories propounded to Activision by Magnavox. In answer to Interrogatory No. 8 we answered, in part:

"... there is no 'distinct motion' imparted to the 'hit symbol' upon coincidence with the 'hitting symbol', as those terms were developed during the prosecution of the '284 patent."

The answer goes on to indicate that even if there is distinct motion imparted by the hitting symbol to the hit symbol in some Activision games, there is "[n]evertheless" no such motion imparted (or at best meaningless, incidental motion) in "Fishing Derby," "Dolphin," "Decathlon," and "Keystone Kapers."

Although the above answer to Interrogatory No. 8 completely and accurately describes Activision's contentions, we decided in reviewing it recently that it might cause you to believe that Activision, by the "nevertheless" clause, was limiting its contentions to the four games mentioned. Therefore this letter is sent to clarify Activision's response so that you can prepare for trial adequately.

James T. Williams, Esq.  
November 2, 1984  
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In the course of prosecution of the 284 patent, the patent applicant filed a document entitled "Amendment B" in response to the patent examiner's March 29, 1971 office action. In that document, the applicant defined the terms "hit spot," and "hitting spot," and included a definition of the nature of the distinct motion imparted to the hit spot. Under the doctrine of file wrapper estoppel, the patent applicant (and thus Plaintiffs here) are bound to those definitions and descriptions. (Of course, under the same doctrine, Plaintiffs are bound to all definitions and statements made in the prosecution of their application for the patent in suit.) Activision specifically contends, in addition to and in amplification of the answer provided on September 10, 1984, that no distinct motion is imparted by the hitting symbol to the hit symbol in "Barnstorming," "Enduro," "Grand Prix," "Sky Jinks," and "Stampede."

Sincerely yours,



MARLA J. MILLER

MJM:cal