

NEUMAN, WILLIAMS, ANDERSON & OLSON

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CHICAGO, ILLINOIS 60602



COPY

September 13, 1984

Algy Tamoshunas, Esquire
North American Philips Corporation
580 White Plains Road
Tarrytown, New York 10591

Re: Magnavox v. Activision

Dear Algy:

We have prepared and enclose herewith a draft of Plaintiffs' Pretrial Statement. Under the Local Rules, it is not served on the opposition.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

James T. Williams
James T. Williams

JTW:de
Enclosure

cc: T. A. Briody, Esq. - w/o encl.
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Attorneys for Plaintiffs
The Magnavox Company and
Sanders Associates, Inc.

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.)
No. C 82 5270 JPV
PLAINTIFFS' PRETRIAL
STATEMENT

(a) Party.

This statement is submitted on behalf of the plaintiffs,
The Magnavox Company and Sanders Associates, Inc.

PLAINTIFFS' PRETRIAL STATEMENT

(b) Jurisdiction and Venue.

Jurisdiction and venue for plaintiffs' claim of patent infringement are based on 28 U.S.C. §§1338(a) and 1400(b). Jurisdiction for defendant's first counterclaim for declaratory judgment of patent invalidity and noninfringement is based on 28 U.S.C. §§1338(a), 2201, and 2202. No party disputes jurisdiction or venue on those claims. Plaintiffs understand that defendant is no longer pursuing its first or second counterclaims in this action.

(c) Substance of the Action.

This is an action for infringement of United States Letters Patent Re. 28,507. The sole issue plaintiffs will raise in their prima facie infringement case is:

Does the use of the combination of the Activision television game cartridges listed in the following table and a television game console capable of using those cartridges constitute acts of infringement of the stated claims of U.S. Patent Re. 28,507, and does the sale of each cartridge listed in the following table constitute an act of contributory infringement of the stated claim of that same patent:

<u>Cartridge Title</u>	<u>Claims</u>
Tennis	25,26,51,52,60,61,62
Ice Hockey	25,26,51,52,60,61,62
Boxing	25,26,51,52,60
Fishing Derby	25,26,51,52,60,61
Stampede	25,51,60
Pressure Cooker	25,26,51,52,60

Dolphin	25,51,60
Grand Prix	60
Barnstorming	60
Sky Jinks	60
Enduro	60
Keystone Kapers	60
Decathlon	60

Defendant alleges that the Re. 28,507 patent is invalid and has not been infringed, and seeks a declaratory judgment to that effect. The validity and infringement by Activision of the Re. 28,507 patent are the principal issues to be decided.

(d) Undisputed Facts.

THE PARTIES AND THE PLAINTIFFS'
BASIC ALLEGATIONS OF INFRINGEMENT

1. This case is an action for infringement of United States Patent Re. 28,507 (hereinafter "the '507 patent").
2. The '507 patent is a reissue patent. It was originally issued on April 25, 1972 as United States patent 3,659,284 entitled "Television Gaming Apparatus" to the plaintiff Sanders Associates, Inc., as assignee of the named inventor William T. Rusch from application Serial No. 828,154 filed on May 27, 1969. The application for reissue, Serial No. 464,256, was filed on April 25, 1974.
3. The '507 patent relates in general to apparatus for playing games on television receivers.

4. The plaintiffs in this action are The Magnavox Company (hereinafter "Magnavox") and Sanders Associates, Inc., (hereinafter "Sanders"). At all times relevant here Sanders is and has been a corporation of the state of Delaware and the owner of the '507 patent and the corresponding patents in foreign countries. At all times relevant here Magnavox is and has been a corporation of the state of Delaware and the exclusive licensee of Sanders under the '507 patent and the corresponding patents in foreign countries.

5. This is the third action for infringement of the '507 patent which has been litigated and decided. The two prior opinions are The Magnavox Co. v. Chicago Dynamic Industries, 201 U.S.P.Q. 25 (N.D. Ill. 1977) and The Magnavox Co. v. Mattel, Inc., 216 U.S.P.Q. 28 (N.D. Ill. 1982). There have been approximately ten other actions concerning infringement of that patent, all of which were settled or otherwise disposed of prior to trial.

6. In the Chicago Dynamic Industries case, the Honorable John F. Grady of the Northern District of Illinois decided the issues of validity of the '507 patent over the prior art presented to him and the infringement of that patent by the television games these involved. Trial of that case commenced on November 4, 1976 and terminated on January 10, 1977.

16b.	<u>Cartridge Title</u>	<u>Claims</u>
	Tennis	25,26,51,52,60,61,62
	Ice Hockey	25,26,51,52,60,61,62
	Boxing	25,26,51,52,60
	Fishing Derby	25,26,51,52,60,61
	Stampede	25,51,60
	Pressure Cooker	25,26,51,52,60
	Dolphin	25,51,60
	Grand Prix	60
	Barnstorming	60
	Sky Jinks	60
	Enduro	60
	Keystone Kapers	60
	Decathlon	60

THE DEVELOPMENT WORK LEADING
TO THE '507 PATENT

17. The '507 patent resulted from work done by William T. Rusch while Rusch was an employee of the plaintiff Sanders in the period beginning 1967.

18. Rusch's work leading to the '507 patent was performed while Rusch was a member of a group of Sanders employees working on television games. That group included primarily, besides Rusch, Ralph H. Baer and William L. Harrison.

19. The Sanders television game group was started by Baer in early 1967. Baer started the group as a result of early ideas he had concerning television games in September, 1966. By June, 1967, the first television game by the group had been

completed. That work led to United States patent 3,728,480 entitled "Television Gaming and Training Apparatus" showing Baer as the inventor.

20. Rusch joined the Sanders television game group in April or May, 1967; he commenced work on the project by the end of October, 1967. His work resulted in the '507 patent.

21. By January, 1968, an apparatus had been constructed and successfully operated embodying some of Rusch's work. That apparatus generated a display on the screen comprising a television picture including a symbol on the right side of the screen representing a first player, a symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball. Player controls were provided so that each human player could move his corresponding player symbol on the face of the television screen. Each human player manipulated his corresponding player symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed.

22. In the television game apparatus operated in January, 1968, and embodying some of Rusch's work, the horizontal motion of the ball was reversed so that it traveled back toward the other player. Each player had an "English" control which permitted him to alter the vertical motion of the ball after he had intercepted it.

23. Apparatus such as described in paragraphs 35 and 36 hereof is described in the '507 patent.

24. From 1968 through 1971, Sanders demonstrated television game apparatus using various pieces of equipment and playing various games to parties it thought might be interested in entering into some type of arrangement to commercialize the work it had done. Demonstrations of that work were made to representatives of Teleprompter Corporation, RCA Corporation, Zenith Radio Corporation, General Electric Company, Motorola, Inc., Warwick Electronics, Inc., The Magnavox Company, and others.

THE DEVELOPMENT OF THE
TELEVISION GAME INDUSTRY

25. In March, 1971, Sanders and Magnavox entered into an agreement under which Magnavox received an option for an exclusive license under the pending United States patent application which eventually resulted in the '507 patent, other Sanders United States patent applications relating to television games, and corresponding applications in foreign countries.

26. Magnavox made a limited number of television games and market tested them at a few locations around the country following the March, 1971 agreement. After these market tests, Magnavox commercially introduced the product.

27. By an agreement effective January 27, 1972, Magnavox exercised its option and became the exclusive licensee of Sanders under the United States patent application which eventually resulted in the '507 patent, other Sanders United

States patent applications relating to television games, corresponding applications in foreign countries, and the patents to issue therefrom.

28. Since entering into the exclusive license agreement referred to in paragraph 27 hereof, Magnavox has manufactured and sold television games in the United States under the trademark "ODYSSEY." The ODYSSEY television games are intended for use by consumers with their home television receivers.

29. The first model ODYSSEY television game commercially introduced by Magnavox was the Model 1TL 200; the Model 1TL 200 ODYSSEY television game was first placed on sale by Magnavox in 1972.

30. In the 1972 Magnavox ODYSSEY television game, the display shown on the television picture tube screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball or similar playing piece. Player controls were provided so that each human player could move his corresponding player symbol on the face of the television screen both horizontally and vertically. Each human player manipulated his corresponding player symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the

ball was reversed so that it traveled back toward the other player. Each player had an "English" control which permitted him to alter the vertical motion of the ball after he had intercepted it.

31. The 1972 Magnavox ODYSSEY television game could be made to play different games by inserting different game cards into the game unit. Thus, it was a programmable game.

32. The Magnavox ODYSSEY television game Model 1TL 200 was nationally demonstrated to Magnavox dealers, distributors, sales personnel, and other persons at shows around the country during May, 1972. The first such show began on May 3, 1972, in Phoenix, Arizona. One such show occurred on May 23-25, 1972, in Burlingame, California.

33. The first television game manufactured by any party other than Magnavox alleged to infringe the '507 patent in suit was the game known as "Pong" which was manufactured and sold by Atari, Inc. (hereinafter "Atari").

34. Pong was designed and built by Nolan K. Bushnell and Allen Alcorn of Atari.

35. Prior to August 21, 1969, Nolan K. Bushnell had had extensive experience in the field of coin-operated amusement games, had been employed as a television technician, and had had experience in the programming of general purpose, stored program, digital computers operated in conjunction with cathode ray tube displays.

36. Prior to August 21, 1969, Bushnell had not invented, designed, built, or constructed any apparatus for playing games using a television type, raster scan display.

37. Prior to August 21, 1969, Bushnell had no knowledge of the existence of any apparatus for playing games using a television type, raster scan display.

38. Prior to August 21, 1969, Bushnell had no knowledge of the existence of any apparatus using a cathode ray tube display for simulating the playing of the game table tennis or ping pong.

39. On May 24, 1972, while employed by Nutting Associates, Inc., Mountain View, California, Bushnell attended the demonstration of the Magnavox ODYSSEY television game in Burlingame, California, and saw a demonstration of the game. Bushnell went to that show for the specific purpose of seeing the Magnavox ODYSSEY television game.

40. At the May 24, 1972 show, Bushnell saw the ODYSSEY television game in use to play a game simulating ping pong and actually played that game.

41. Some time after June 26, 1972, Allen Alcorn became an employee of Atari and Bushnell gave Alcorn the assignment of developing a video game which would simulate a tennis game.

42. The arcade video game Pong was first manufactured and sold by Atari in 1973.

43. In the Pong television game, the display shown on the picture tube screen included a white rectangular symbol on the right side of the screen representing a first player, a white

47. In 1975, Atari commercially introduced a Pong game for use by consumers in the home which was intended to be attached to a broadcast television receiver.

48. In the consumer Pong television game, the display shown on the television screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball. Player controls were provided so that each human player could move his corresponding player symbol on the face of the screen. Each human player manipulated his corresponding symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the ball was reversed so that it traveled back toward the other player.

49. In 1975, Magnavox commercially introduced the ODYSSEY 100 and ODYSSEY 200 home television games, the Models YF7010 and 7015, respectively.

50. In the ODYSSEY 100 and ODYSSEY 200 television games, the display shown on the television screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball. Player controls were

provided so that each human player could move his corresponding player symbol on the face of the screen. Each human player manipulated his corresponding symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the ball was reversed so that it traveled back toward the other player.

51. In 1976, General Instrument Corporation, New York, New York (hereinafter "General Instrument") commercially introduced an electronic integrated circuit component which included in a single integrated circuit device the great majority of electrical components previously needed to manufacture a television game. That integrated circuit component was designated by General Instrument as the AY-3-8500 component.

52. The basic design of the General Instrument AY-3-8500 component was done by Gilbert Duncan Harrower of General Instrument.

53. The presence on the market of the General Instrument AY-3-8500 integrated circuit component permitted the manufacture of television games with many fewer components, and, thus, at a much lower cost, than was previously possible.

54. The General Instrument AY-3-8500 integrated circuit component included within it a read only memory or ROM. The read only memory was used in part to define the size and shape of the symbols which were displayed on the television screen.

55. In the television games which could be constructed using the General Instrument AY-3-8500 integrated circuit component, the display shown on the television screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball. Player controls were provided so that each human player could move his corresponding player symbol on the face of the screen. Each human player manipulated his corresponding symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the ball was reversed so that it traveled back toward the other player.

56. In 1976, Magnavox commercially introduced the ODYSSEY 300, ODYSSEY 400, ODYSSEY 500, and ODYSSEY 3000 television games, the Models BG 7500, BG 7516, BG 7520, BH 7514, respectively, and the Model BG 4305, a television receiver having a built-in television game.

57. In the ODYSSEY 300, ODYSSEY 400, ODYSSEY 500, and ODYSSEY 3000 television games and the Model BG 4305 television receiver, the display shown on the television screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a white

rectangular symbol which moved across the screen representing a ball. Player controls were provided so that each human player could move his corresponding player symbol on the face of the screen. Each human player manipulated his corresponding symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the ball was reversed so that it traveled back toward the other player.

58. In 1977, Magnavox commercially introduced the ODYSSEY 2000 and ODYSSEY 4000 television games, the Models BG-7510 and BH 7511, respectively.

59. In the ODYSSEY 2000 and ODYSSEY 4000 television games, the display shown on the television screen included a white rectangular symbol on the right side of the screen representing a first player, a white rectangular symbol on the left side of the screen representing a second player, and a symbol which moved across the screen representing a ball. Player controls were provided so that each human player could move his corresponding player symbol on the face of the screen. Each human player manipulated his corresponding symbol to intercept the path of the ball as it moved across the screen. When the player symbol intercepted the ball symbol, i.e., two symbols appeared to be

coincident on the screen, the motion of the ball was changed and, in particular, the horizontal motion of the ball was reversed so that it traveled back toward the other player.

60. The Magnavox ODYSSEY 300, ODYSSEY 2000, ODYSSEY 3000, and ODYSSEY 4000 television games utilized the General Instrument AY-3-8500 component. The Magnavox ODYSSEY 300 is a typical one of the games using that component.

61. Prior to the commercial introduction of television games including microprocessors, most of the television games sold for use in the home were of the type known as "ball and paddle" games. The 1972 ODYSSEY, ODYSSEY 100, ODYSSEY 200, ODYSSEY 300, ODYSSEY 400, ODYSSEY 500, ODYSSEY 2000, ODYSSEY 3000, ODYSSEY 4000, and Atari's consumer Pong television games are examples of such games.

62. The ball and paddle television games formed the basis for the establishment of the home television game industry prior to the commercial introduction of home television games including microprocessors.

63. Commencing in 1977, various manufacturers commercially introduced television games which included microprocessors. Those manufacturers included Atari, Fairchild, and Bally.

64. The use of a microprocessor in a television game permitted construction of a television game console which could be readily made to play a variety of television games. Cartridges are provided which can be plugged into the television game console

and thereby connected to the circuitry within the console. Different cartridges are provided for different games. Each cartridge contains a read only memory, also known as a ROM.

65. The read only memories included within television game cartridges include information used by the circuitry of the television game console to define the game to be played when that cartridge is plugged into the console. The cartridge manufacturer defines the game to be played with a particular cartridge by the information placed into the read only memory used in that cartridge when the read only memory is manufactured.

66. The consumer user of a television game console is unable to alter the information stored in the read only memory of the game cartridge and thus is unable to alter the definition of the game which may be played using that cartridge.

67. Atari was a party in the Chicago Dynamic Industries action which came to trial in 1976 and 1977 and has taken a license under the '507 patent.

68. Bally and Fairchild were defendants in the Mattel action but settled out prior to trial. Fairchild took a license under the '507 patent. Bally, having stopped manufacturing and/or selling the television games which formed the basis for the charge of infringement of the '507 patent, took an option for a license under the '507 patent if it should resume those activities. Judgments on consent of the parties thereto were entered as to

both Fairchild and Bally that television games that they manufactured and that included a microprocessor infringed the '507 patent, and that the patent was valid.

69. In 1978, Magnavox commercially introduced the ODYSSEY² television game which included a microprocessor.

70. Plaintiffs' Exhibit 59 is a game cartridge for the ODYSSEY² television game entitled Volleyball! That game is accurately described in plaintiffs' Exhibit 60. The ODYSSEY² Volleyball! game was demonstrated during the trial as one example of how ODYSSEY² used a microprocessor system to play a game covered by the '507 patent.

71. In the television game formed by the combination of the Activision Tennis cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the upper portion of the screen representing a first player with a tennis racquet, a symbol on the lower portion of the screen representing a second player with a tennis racquet, and a symbol which moves up and down the screen representing a ball.
- (b) Player controls are provided so that each human player can move his corresponding player symbol on the face of the screen and cause that player symbol to appear to swing its racquet.

- (c) Each human player manipulates his corresponding symbol to intercept the path of the ball as it moves across the screen and, at the same time, cause the player symbol to appear to swing its racquet.
- (d) When the player successfully intercepts the ball symbol, i.e., the player and racquet symbol appears to hit the ball symbol on the screen, the motion of the ball is changed and, in particular, the motion of the ball is reversed so that it travels back toward the other player.

72. In the television game formed by the combination of the Activision Ice Hockey cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the upper portion of the screen representing a first player with a hockey stick, a symbol on the lower portion of the screen representing a second player with a hockey stick, and a symbol which moves up and down the screen representing a puck.
- (b) Player controls are provided so that each human player can move his corresponding player symbol on the face of the screen and cause that player symbol to appear to swing its hockey stick.

- (c) Each human player manipulates his corresponding symbol to intercept the path of the puck as it moves across the screen and, at the same time, cause the player symbol to appear to swing its hockey stick.
- (d) When the player successfully intercepts the puck symbol, i.e., the player and hockey stick symbol and the puck symbol appear to be coincident on the screen, the motion of the puck is changed and, in particular, the motion of the puck is changed to whatever motion the intercepting player has.
- (e) After a player successfully intercepts the puck, the human player may cause the player to shoot the puck by pushing a button on his player control.

73. In the television game formed by the combination of the Activision Boxing cartridge and a television game console in a single player mode:

- (a) The display shown on the television screen includes a symbol facing the right side of the screen representing a boxer under control of the human player and a symbol facing the left side of the screen representing a boxer under control of the game.

- (b) A player control is provided so that the human player can move his boxer symbol on the face of the screen and, by pushing a button on the player control, cause that boxer symbol to appear to punch forward by extending his arm.
- (c) The human player manipulates his boxer symbol to place it close to and in front of the other boxer symbol and, at the same time, cause the boxer symbol to appear to punch forward.
- (d) When the player successfully punches the game controlled boxer symbol, i.e., the glove of the boxer symbol appears to hit the head of the game controlled boxer symbol on the screen, the motion of the game controlled boxer symbol is changed and, in particular, the game controlled boxer symbol moves backward and away from the player controlled boxer symbol for a period of time.

74. In the television game formed by the combination of the Activision Fishing Derby cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the right side of the screen representing a first fisherman with a fishing line dangling in the water, a symbol on the left side of the screen representing a

second fisherman with a fishing line dangling in the water, and symbols which move across the screen representing fish.

- (b) Player controls are provided so that each human player can move the end of his corresponding fishing line symbol up and down the face of the screen.
- (c) Each human player manipulates the end of his fishing line symbol to intercept the path of a fish as it moves across the screen.
- (d) When the player successfully catches a fish symbol, i.e., the end of the fishing line symbol and the fish appear to be coincident on the screen, the motion of the fish is changed and, in particular, the motion of the fish is changed to the motion of the end of the fishing line symbol on which it was caught.

75. In the television game formed by the combination of the Activision Stampede cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the right side of the screen representing a horse and rider or cowboy and symbols which move across the screen from right to left representing cattle.

- (b) A player control is provided so that the human player can move the cowboy symbol vertically on the face of the screen and, by pushing a button on the player control, cause that player symbol to appear to throw a lasso.
- (c) The human player manipulates the cowboy symbol as the cattle symbols move across the screen and, at the same time, cause the cowboy symbol to appear to throw his lasso to attempt to make the end of the lasso coincident with the cattle symbols; the object of the game is to lasso as many cattle as possible.
- (d) To achieve a high score, the human player must "herd" the cattle by manipulating the cowboy symbol to intercept the path of the cattle symbols as the cattle symbols move across the screen.
- (e) When the player successfully intercepts a cattle symbol, i.e., the cowboy and cattle symbols appear to be coincident on the screen, the motion of the cattle symbol is changed and, in particular, the horizontal motion of the cattle symbol is reversed so that it travels backward away from the cowboy symbol for a period of time.

76. In the television game formed by the combination of the Activision Pressure Cooker cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the screen representing a cook and symbols which move across the screen from right to left representing condiments.
- (b) A player control is provided so that the human player can move the symbol on the face of the screen and assemble hamburgers from the condiments.
- (c) The human player manipulates the cook symbol to intercept the path of the condiments as they move across the screen; the player loses points when he misses a condiment symbol and he may either accept or reject a particular condiment.
- (d) When the player successfully intercepts a condiment symbol, i.e., the cook and condiment symbols appear to be coincident on the screen, the motion of the condiment is changed and, in particular, if the player rejects the condiment by pushing a button on the player control, the horizontal motion of the condiment symbol is reversed so that it travels backward away from the cook symbol, or

changed and, in particular, the horizontal motion of the windmill, barn, and flying geese symbols is reversed so that they travel backward and away from the airplane symbol for a period of time.

80. In the television game formed by the combination of the Activision Sky Jinks cartridge and a television game console:

- (a) The display shown on the television screen includes a symbol on the screen representing an airplane and symbols which move vertically down the screen representing pylons, trees, and balloons.
- (b) A player control is provided so that the human player can move the airplane symbol horizontally on the face of the screen.
- (c) The human player manipulates the airplane symbol to fly around the pylons, trees, and balloons and to avoid contact with each of the pylon, tree, and balloon symbols.
- (d) When the airplane symbol intercepts any of the pylon, tree, or balloon symbols, i.e., the airplane symbol appears on the screen to be coincident with one of the pylon, tree, or balloon symbols, the motion of the pylon, tree, and balloon symbols is changed and, in

- (a) The display shown on the television screen during the hurdles events includes a symbol representing a hurdler and symbols which move horizontally across the screen from right to left representing hurdles.
 - (b) A player control is provided so that the human player can move his corresponding player symbol on the face of the screen and, by pushing a button on the player control, cause the hurdler symbol to appear to jump.
 - (c) The human player manipulates the hurdler symbol to jump over the hurdle symbols and to avoid contact with each of the hurdle symbols.
 - (d) When the hurdler symbol contacts any of the hurdle symbols, i.e., the hurdler symbol appears on the screen to be coincident with one of the hurdle symbols, the motion of the hurdle is changed and, in particular, the hurdle falls backward.
 - (e) Disputed Factual Issues.
 - (f) Relief Prayed.
- Plaintiffs seek:

1. Mr. Ralph H. Baer will testify concerning the development of television games at Sanders Associates, Inc., including the subject matter of the patent in suit, and the development of the television game industry.

2. Dr. William B. Ribbens will testify as an expert witness concerning the '507 patent, the Activision television game alleged to infringe that patent, and his conclusions as to the question of infringement.

3. Mr. Thomas A. Briody will testify concerning the licenses granted under the '507 patent and the royalty income received from such licenses.

4. Anybody from Activision?

5. Nolan Bushnell?

The above list of witnesses assumes that defendants will enter into reasonable stipulations as to document authenticity.

(j) Exhibits, Schedules and Summaries.

1. United States Patent Re. 28,507

2. Sanders television game model, Chassis No. 1 (S/ADX 24, CDIPX 55, MDX 28, MPX 2)

3. Sanders television game model, Chassis No. 2 (S/ADX 28, CDIPX 56, MDX 29, MPX 3)

4. Sanders television game model, Chassis No. 3 (S/ADX 29, CDIPX 57, MDX 30, MPX 4)

5. Sanders television game model, Odd/Even decoder (S/ADX 31, CDIPX 58, MPX 5)

18. Sanders Laboratory Notebook No. 4224 of W.T. Rusch (S/ADX 17, CDIPX 68, MDX 24, MPX 16)
19. Sanders Laboratory Notebook No. 4958 of W.T. Rusch (S/ADX 18, CDIPX 69, MDX 25, MPX 17)
20. Sanders Laboratory Notebook No. 5021 of W.T. Rusch (S/ADX 19, CDIPX 70, MDX 26, MPX 18)
21. File of television game development documents maintained by R.H. Baer labelled "CATVG," 54 pages (S/ADX 22, CDIPX 71, MPX 19)
22. File of television game development documents maintained by R.H. Baer labelled "TVG Negotiations", 125 pages (S/ADX 21, CDIPX 72, MPX 20)
23. File of television game development documents maintained by R.H. Baer labelled "Magnavox License Support", 107 pages (S/ADX 20, CDIPX 73, MDX 37, MPX 21)
24. R.H. Baer audio magnetic tape cassette (CDIPX 74A, MPX 22)
25. Transcript of portion of Exhibit 22 (S/ADX 27, CDIPX 74B, MDX 36, MPX 23)
26. Sanders Independent Research and Development file for project NKM, "(TVG) Special Display Techniques" (S/ADX 26, CDIPX 75, MDX 27, MPX 24)
27. Magnavox ODYSSEY Model 1TL 200 (CDIPX 7A, MPX 25)
28. Instruction Manual for Magnavox ODYSSEY Model 1TL 200 (MPX 25A)

29. Flier for Magnavox ODYSSEY Model 1TL 200 (CDIPX 93A, MPX 26)
30. Service Manual for Magnavox ODYSSEY Model 1TL 200 (MPX 27)
31. Instruction Manual for Magnavox ODYSSEY 100 (MPX 28)
32. Instruction Manual for Magnavox ODYSSEY 200 (MPX 29)
33. Flier for Magnavox ODYSSEY 100 and ODYSSEY 200 (CDIPX 93B, MPX 30)
34. Service Manual for Magnavox ODYSSEY 100 and ODYSSEY 200 (MPX 31)
35. Magnavox ODYSSEY 300 (MPX 30)
36. Instruction Manual for Magnavox ODYSSEY 300 (MPX 33)
37. Flier for Magnavox ODYSSEY 300 (CDIPX 93D, MPX 34)
38. Flier for Magnavox ODYSSEY 300, ODYSSEY 400, and ODYSSEY 500 (MPX 35)
39. Service Manual for Magnavox ODYSSEY 300 (CDIPX 93I, MPX 36)
40. Instruction Manual for Magnavox ODYSSEY 400 (MPX 37)
41. Flier for Magnavox ODYSSEY 400 (CDIPX 93E, MPX 38)
42. Service Manual for Magnavox ODYSSEY 400 (MPX 39)
43. Instruction Manual for Magnavox ODYSSEY 500 (MPX 40)

44. Flier for Magnavox ODYSSEY 500 (MPX 41)
45. Service Manual for Magnavox ODYSSEY 500 (MPX 42)
46. Flier for Magnavox ODYSSEY 2000 (MPX 44)
47. Service Manual for Magnavox ODYSSEY 2000 (MPX 45)
48. Instruction Manual for Magnavox ODYSSEY 3000 (MPX
46)
49. Flier for Magnavox ODYSSEY 3000 (MPX 47)
50. Service Manual for Magnavox ODYSSEY 3000 (MPX 48)
51. Instruction Manual for Magnavox ODYSSEY 4000 (MPX
49)
52. Flier for Magnavox ODYSSEY 4000 (MPX 50)
53. Service Manual for Magnavox ODYSSEY 4000 (MPX 51)
54. Instruction Manual for Wonder Wizard Bulls Eye and
Sharp Shooter television games (MPX 51A)
55. Deleted
56. Flier for Magnavox ODYSSEY (Built-In) (MPX 53)
57. Magnavox ODYSSEY² (MPX 55)
58. Instruction Manual for Magnavox ODYSSEY² (MPX 56)
59. Flier for Magnavox ODYSSEY² (MPX 57)
60. Service Manual for Magnavox ODYSSEY² (MPX 58)
61. Volleyball! game cartridge for ODYSSEY² (MPX 59)
62. Instruction Manual for Volleyball! game cartridge
for ODYSSEY² (MPX 60)
63. Article on Magnavox ODYSSEY from the Wall Street
Journal for May 11, 1972 (CDIPX 7B, MPX 78)

64. Article on Magnavox ODYSSEY from the Television Digest for May 15, 1972 (CDIPX 7C, MPX 79)
65. Article on Magnavox ODYSSEY from Time Magazine for May 22, 1972 (CDIPX 7D, MPX 80)
66. Guest Book, "The Magnavox Profit Caravan 1972", Airport Marina Hotel, Burlingame, California, May 23-25, 1972 (CDIPX 8, MPX 81)
67. Schematic diagram of Atari's "Pong" (Atari Dep. Ex. 152, CDIPX 12A, MPX 83)
68. Flier for Atari's "Pong" (Atari Dep. Ex. 12, CDIPX 12B, MPX 84)
69. Flier for Atari's "Pong" (Robbins Dep. Ex. 2, CDIPX 12C, MPX 85)
70. Flier for CDI's "TV Ping Pong" (J. Koci Dep. Ex. 22, CDIPX 35B, MPX 86)
71. Flier for CDI's "TV Tennis" (J. Koci Dep. Ex. 14, CDIPX 36B, MPX 87)
72. Flier for CDI's "Olympic T.V. Hockey" (J. Koci Dep. Ex. 10, CDIPX 37B, MPX 88)
73. Flier for CDI's "T.V. Goalee" (J. Koci Dep. Ex. 6, CDIPX 38B, MPX 89)
74. Flier for Seeburg's "Paddle Ball" (Macie Dep. Ex. 4, CDIPX 41B, MPX 90)
75. Flier for Seeburg's "Pro Hockey" (Macie Dep. Ex. 5, CDIPX 42B, MPX 91)

76. Flier for Seeburg's "Pro Tennis" (Macie Dep. Ex. 6, CDIPX 43B, MPX 92)
77. Flier for Seeburg's "Olympic Tennis" (Macie Dep. Ex. 3, CDIPX 44B, MPX 93)
78. Flier for Allied Leisure's "Tennis Tourney" (Robbins Dep. Ex. 11, CDIPX 45B, MPX 94)
79. Flier for Ramtek's "Hockey" (Ramtek Dep. Ex. 9, CDIPX 48C, MPX 95)
80. Flier for Ramtek's "Soccer" (Ramtek Dep. Ex. 10, CDIPX 49D, MPX 96)
81. Flier for Allied Leisure's "Paddle Battle". (Robbins Dep. Ex. 10, MPX 97)
82. Flier for Midway's "Winner" (Blahuta Dep. Ex. 4, MPX 98)
83. Flier for Midway's "Playtime" (Blahuta Dep. Ex. 37, MPX 99)
84. Atari consumer Pong Model No. 637.25796, Serial No. A55800 (MPX 100)
85. Instruction Manual for Atari consumer Pong (Atari Dep. Ex. 60-2, MPX 101)
86. Sears, Roebuck & Co. mailer for consumer Pong (Produced by Sears, MPX 102)
87. General Instrument Corporation, Micro Electronics 1978 Data Catalog, Section 7 "TV Games" (PGIDX 3, MPX 103)
88. General Instrument Corporation, Gimini Video Game Circuits Catalog, Second Season (PGIDX 12, MPX 104)

89. General Instrument Corporation, Customer Procurement Specification, AY-3-8500/8500-1 (PGIDX 9, MPX 105)
90. Schematic drawing of General Instrument AY-3-8500 (PGIDX 13, MPX 106)
91. Flier for Universal Research Laboratories "Video Action" (Polanek Dep. Ex. 2, MPX 107)
92. Flier for Universal Research Laboratories "Video Action III" (Polanek Dep. Ex. 7, MPX 108)
93. Instruction Manual for Universal Research Laboratories "Video Action" (Polanek Dep. Ex. 3, MPX 109)
94. Flier for First Dimension FD3000-W (MPX 110)
95. Flier for First Dimension Video Sports (MPX 111)
96. Flier for Coleco Industries Telstar (MPX 112)
97. Flier for Fairchild's Video Entertainment System (MPX 113)
98. Flier for Atari television games (MPX 114)
99. Flier for Bally Professional Arcade (MPX 115)
100. Magnavox Royalty Income Status Reports
101. Resume of Dr. William B. Ribbens
102. First chart of plaintiffs' expert witness (CDIPX 79, MPX 142)
103. Second chart of plaintiffs' expert witness (CDIPX 80, MPX 143)
104. Third chart of plaintiffs' expert witness (CDIPX 81, MPX 144)

105. Fourth chart of plaintiffs' expert witness (CDIPX
82, MPX 145)
106. Fifth chart of plaintiffs' expert witness (CDIPX
83, MPX 146)
107. Sixth chart of plaintiffs' expert witness (CDIPX
84, MPX 147)
108. Seventh chart of plaintiffs' expert witness (CDIPX
85, MPX 148)
109. Eighth chart of plaintiffs' expert witness (CDIPX
86, MPX 149)
110. Ninth chart of plaintiffs' expert witness (CDIPX
87, MPX 150)
111. Tenth chart of plaintiffs' expert witness (CDIPX
88, MPX 151)
112. Eleventh chart of plaintiffs' expert witness (CDIPX
89, MPX 152)
113. Twelfth chart of plaintiffs' expert witness (CDIPX
91A, MPX 153)
114. Thirteenth chart of plaintiffs' expert witness
(CDIPX 91B, MPX 154)
115. Fourteenth chart of plaintiffs' expert witness
116. Fifteenth chart of plaintiffs' expert witness
117. Sixteenth chart of plaintiffs' expert witness
118. Seventeenth chart of plaintiffs' expert witness
119. Eighteenth chart of plaintiffs' expert witness
120. Nineteenth chart of plaintiffs' expert witness

121. Form Magnavox Sublicense Agreement (Portion of MDX 92)
122. Sample General Instrument Corporation AY-3-8500-1 Integrated Circuit Component
123. Sample Intel Corporation 8048 Integrated Circuit Component
124. Sample 6520 Integrated Circuit Component
125. A six-page photocopy of a Notice to Take deposition of James H. Levy in the subject action (PDX 1)
126. A two-page photocopy of a document entitled, "NEWS" (PDX 2)
127. A two-page document consisting of a photocopy of a photograph, and the second page being the caption for the photograph (PDX 3)
128. A ten-page photocopy of an Activision NEWS document entitled, "A New Creative Medium, Activision Backgrounder" (PDX 4)
129. A three-page photocopy of an Activision News Press Release dated April 25, 1980 (PDX 5)
130. A three-page photocopy of an Activision News entitled, "Activision's First 100 Days" (PDX 6)
131. A two-page photocopy of an Activision News dated September 18, 1980 entitled, "Activision Announces Two New Video Game Cartridges" (PDX 7)

132. Photocopies of a group of documents bearing the numbers AV 642 through AV 757, the top document being a handwritten memo to the Flehr firm from J.C. Shaw dated March 17, 1976 (PDX 8)

133. A two-page Activision letter dated November 10, 1980 to Mr. Meinken from James Levy (PDX 9)

134. A one-page Activision letter dated January 30, 1981 to Mike Staup from James Levy (PDX 10)

135. A one-page photocopy of a Magnavox Company letter dated March 23, 1981 to James Levy from Edward Goodman (PDX 11)

136. A one-page photocopy of an Activision letter dated March 30, 1981 to Edward Goodman from James Levy ((PDX 12)

137. Activision, Inc. Hardware Manual (#AV438-AV447, (PDX 13)

138. A one-page photocopy of a Activision letter dated April 14, 1981 to Edward Goodman from James Levy (PDX 14)

139. A two-page photocopy of a Magnavox Company letter dated May 18, 1981 to James Levy from Edward Goodman (PDX 15)

140. A two-page photocopy of a Flehr, Hohbach, Test, Albritton & Herbert letter dated June 10, 1981 to Edward Goodman from Aldo Test (PDX 16)

141. A one-page photocopy of a Magnavox Company letter dated June 26, 1981 to Aldo Test from Edward Goodman (PDX 17)

142. A one-page photocopy of a letter dated July 15, 1981 to Edward Goodman from Aldo Test (PDX 18)

143. A multi-page photocopy of the United States Patent Document for Reissued Patent Re. 28,507, dated August 5, 1975 (PDX 19)

144. A multi-page photocopy of the U.S. Patent 3,728,480 dated April 17, 1973 (PDX 20)

145. A two-page photocopy of a Magnavox Company letter dated September 11, 1981 to Aldo Test from Edward Goodman (PDX 21)

146. A multi-page photocopy of a document entitled, "Nonexclusive Sublicense Agreement for Home Video Game Devices" (PDX 22)

147. A two-page photocopy of a Flehr, Hohback, Test, Albritton & Herbert letter dated November 24, 1981 to Edward Goodman from Aldo Test (PDX 23)

148. A two-page photocopy of a Magnavox Company letter dated May 28, 1982 to Aldo Test from Robert Mayer (PDX 24)

149. A one-page photocopy of a Flehr, Hohback, Test, Albritton & Herbert letter dated June 21, 1982 to Robert T. Mayer from Aldo Test (PDX 25)

150. A one-page photocopy of a Magnavox Company letter dated August 3, 1982 to Aldo Test from Robert T. Mayer (PDX 26)

151. A two-page photocopy of a Magnavox Company letter dated April 26, 1983 to James Levy from Thomas A. Briody, with a two-page attachment (PDX 27)

152. A one-page Magnavox Company letter dated July 27, 1983 to James Levy from Thomas Briody (PDX 28)

153. A color catalogue entitled, "The Spirit of Activision" (PDX 29)
154. Notice To Take Deposition - Rule 30(b)(6) - Activision, Inc. (PDX 30)
155. VIC Programming Manual (#AV889-971, PDX 31)
156. MOS Microcomputers Programming Manual (#AV190-AV437, PDX 32)
157. MOS Microcomputers Hardware Manual (#AV1-189, PDX 33)
158. Disassembled Mattel Executive Program (#AV448-489, PDX 34)
159. CH.10 The MOS Technology MCS6500 (PDX 35)
160. Activision "Tennis" Instructions (PDX 36)
161. Activision "Tennis" Source Code (#AV1129-1177, PDX 37)
162. MagiCard Instruction Manual (PDX 38)
163. Signal Description List, Atari Model 2600, Cartridge Connector (PDX 39)
164. Signal Description List, Atari Model 2600, Microprocessor (PDX 40)
165. Approximate Address Map, Atari Model 2600 (PDX 41)
166. Activision "Ice Hockey" Instructions (PDX 42)
167. Activision "Ice Hockey" Source Code (#AV-1019-AV1096, PDX 43)
168. Activision "Enduro" Source Code (#AV1661-AV1738, PDX 44)

169. Activision "Boxing" Source Code (#AV-1097-AV1128,
PDX 45)
170. Activision "Boxing" Instructions (PDX 46)
171. Activision "Stampede" Instructions (PDX 47)
172. Activision "Stampede" (Mattel version) Instructions
(PDX 48)
173. Activision "Stampede" Source Code (PDX 49)
174. Activision "Stampede" Draft of Instructions (PDX
50)
175. Customer Procurement Specification for AY-3-8900-1
STIC MOS I.C. (PDX 51)
176. Activision "Stampede" (Mattel version) Source Code
(#AV1223-AV1266, PDX 52)
177. Activision "Sky Jinks" Instructions (PDX 53)
178. Activision "Sky Jinks" Instructions (#AV1395-
AV1431, PDX 54)
179. Activision "Dolphin" Instructions (PDX 55)
180. Activision "Dolphin" Source Code (#AV1432-AV1495,
PDX 56)
181. Activision "Enduro" Instructions (PDX 57)
182. Activision "Barnstorming" Instructions (PDX 58)
183. Activision "Barnstorming" Source Code (#AV1267-
AV1334, PDX 59)
184. Deposition Subpoena - Rule 30(b)(6) - Coleco, Inc.
(PDX 60)
185. Blueprint drawing #84D] 907 (PDX 61)

186. Blueprint drawing #91049 (PDX 62)
187. Specification For Manufacturing The Colecovision Expansion Module #1 Model 2405 #C00569-C00493 (PDX 63)
188. Documents #C00485, C99486, C00491, & C00493 (PDX 64)
189. Atari Video Computer System Programming Manual C00971-01131 (PDX 65)
190. Schematic Drawing #75741 (PDX 66)
191. Notice To Take Deposition - Rule 30(b)(6) - Atari, Inc. (PDX 67)
192. Atari - Blueprints - CX2600A PCB Sub-assembly (PDX 68)
193. Atari - TIA - 1A Logic Diagram - Blueprints - sheet 1 of 5 (PDX 69)
194. Atari - TIA - 1A Logic Diagram - Blueprints - sheet 2 of 5 (PDX 70)
195. Atari - TIA - 1A Logic Diagram - Blueprints - sheet 3 of 5 (PDX 71)
196. Atari - TIA - 1A Logic Diagram - Blueprints - sheet 4 of 5 (PDX 72)
197. Atari - TIA - 1A Logic Diagram - Blueprints - sheet 5 of 5 (PDX 73)
198. The Stella System Training Manual - Version 1.1. (PDX 74)
199. Stella Package - Organization & Introduction (PDX 75)

200. Atari - Blueprints - PCB Assy & Schematic PSA
(Stella - sheet 3 of 3) (PDX 76)
201. Atari - Video Computer System Programming Manual
#J00355-J00496 (PDX 77)
202. Diagram (PDX 78)
203. Diagram (PDX 79)
204. Hand Drawn Diagram (PDX 80)
205. Activision "Pressure Cooker" Instructions (PDX 81)
206. Activision "Pressure Cooker" Source Code (#AV1739-
AV1806, PDX 82)
207. Activision "Keystone Kapers" Instructions (PDX 83)
208. Activision "Keystone Kapers" Source Code (#AV1496-
AV1563, PDX 84)
209. Activision "Fishing Derby" Instructions (PDX 85)
210. Activision "Fishing Derby" Source Code (#AV976-
AV1018, PDX 86)
211. Activision "Grand Prix" Instructions (PDX 87)
212. Activision "Grand Prix" Source Code (#AV1335-
AV1394, PDX 212)
213. Activision "Decathlon" Instructions (PDX 89)
214. Activision "Decathlon" Source Code (#AV1564-AV1660,
PDX 90)
215. Videotape of Activision "Tennis" Game
216. Videotape of Activision "Ice Hockey" Game
217. Videotape of Activision "Fishing Derby" Game
218. Videotape of Activision "Boxing" Game

219. Videotape of Activision "Stampede" Game
220. Videotape of Activision "Pressure Cooker" Game
221. Videotape of Activision "Dolphin" Game
222. Videotape of Activision "Barnstorming" Game
223. Videotape of Activision "Grand Prix" Game
224. Videotape of Activision "Sky Jinks" Game
225. Videotape of Activision "Keystone Kapers" Game
226. Videotape of Activision "Enduro" Game
227. Videotape of Activision "Decathlon" Game
228. "Notice by Defendants Bally, Midway, and Empire of
Prior Art Pursuant to 35 U.S.C. §282(4)" in Civil Action No. 74
C1030, et al., United States District Court for the Northern
District of Illinois, Eastern Division.

229. "Notice of Prior Art by Atari, Inc. and Sears,
Roebuck & Co." in Civil Action No. 74 C 1030, et al., United
States District Court for the Northern District of Illinois,
Eastern Division.

230. "Third Statutory Notice by Mattel Pursuant to 35
U.S.C. §282" in Civil Action No. 80 C 4124, United States District
Court for the Northern District of Illinois, Eastern Division.

(k) Further Discovery or Motions.

Defendant has filed a motion to compel further
interrogatory responses.

(l) Stipulations.

The parties have proposed to each other and agreed to
the following stipulation:

1. Plaintiffs agree that neither of them will assert U.S. Patent 3,728,480, or any claim of any reissue of that patent which is identical to any claim presently in that patent, against Activision in the future, and defendant agrees to dismissal of its second counterclaim in this action.

2. All deposition testimony or trial testimony taken in any previous civil action involving the validity or infringement of U.S. Patent Re. 28,507 may be used as though it were deposition testimony taken in this action.

(m) Amendments, Dismissals.

Defendant's second counterclaim should be dismissed pursuant to stipulation stated in paragraph (l) above.

Defendant's third counterclaim should be dismissed as defendant has stated it will not rely on the allegations of paragraph 39 therein.

Paragraph 15 of defendant's Answers and Counterclaims should be stricken as defendant no longer relies upon the allegations stated therein.

(n) Settlement Discussion.

(o) Agreed Statement.

(p) Bifurcation, Separate Trial of Issues.

(q) Reference to Master or Magistrate.

(r) Appointment and Limitation of Experts.

(s) Trial.

(t) Estimate of Trial Time.

(u) Claim of Privilege or Work Product.

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(v) Miscellaneous.