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SAN FRANCISCO

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9 Attorneys for Defendants

10 IN THE UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ATARI, INC., )  
13 a corporation, )  
14 Plaintiff, )

15 vs. )

16 THE MAGNAVOX COMPANY, )  
a corporation and )  
17 SANDERS ASSOCIATES, INC., )  
a corporation, )  
18 Defendants. )

Civil Action No.  
C-75-1442 RFP

ANSWER AND COUNTERCLAIM

19  
20 Defendants, the Magnavox Company and Sanders Associates,  
21 Inc., through their undersigned attorneys, hereby respond as follows to  
22 the "Complaint for Declaratory Judgment of Patent Invalidity and  
23 Non-Infringement" in the above-identified action:

24 1. Defendants admit the allegations of paragraph 1 of the  
25 complaint herein.

26 2. Defendants deny that defendant The Magnavox Company has  
27 a place of business at San Francisco, California, but admit that defendant  
28 The Magnavox Company has a place of business within this judicial district  
29 and otherwise admit the allegations of paragraph 2 of the complaint herein.

30 3. Defendants admit the allegations of paragraph 3

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1 of the complaint herein.

2 4. Defendants admit the allegations of paragraph 4  
3 of the complaint herein.

4 5. Defendants are without sufficient information to  
5 form a belief as to the truth of the allegations contained in  
6 paragraph 5 of the complaint and, therefore, deny each and every  
7 one of same.

8 6. Defendants are without sufficient information to  
9 form a belief as to the truth of the allegations contained in  
10 paragraph 6 of the complaint and, therefore, deny each and every  
11 one of same.

12 7. Defendants admit the allegations of paragraph 7  
13 of the complaint herein.

14 8. Defendants admit the allegations of paragraph 8  
15 of the complaint herein.

16 9. Defendants admit the allegations of paragraph 9  
17 of the complaint herein.

18 10. Defendants admit the allegations of paragraph 10  
19 of the complaint herein.

20 11. Defendants admit the allegations of paragraph 11  
21 of the complaint herein.

22 12. Defendants admit the allegations of paragraph 12  
23 of the complaint herein.

24 13. Defendants admit the allegations of paragraph 13  
25 of the complaint herein.

26 14. Defendants admit the allegations of paragraph 14  
27 of the complaint herein.

28 15. Defendants admit the allegations of paragraph 15  
29 of the complaint herein.

30 16. Defendants deny each and every one of the allegations  
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1           7. On April 25, 1972, United States Letters Patent  
2 3,659,285 issued to defendant Sanders Associates, Inc. as assignee  
3 of Ralph H. Baer, William T. Rusch, and William L. Harrison for an  
4 invention in Television Gaming Apparatus and Method, and since that  
5 date defendant Sanders Associates, Inc. has been and still is  
6 the owner of those Letters Patent 3,659,285.

7           8. By an agreement entered into between defendant  
8 Sanders Associates, Inc. and defendant The Magnavox Company  
9 effective January 27, 1972, defendant The Magnavox Company has  
10 been and still is the exclusive licensee under said United States  
11 Letters Patent 3,659,284, 3,659,285, and Re. 28,507.

12           9. Plaintiff has been for a long time past and still is  
13 infringing, contributing to the infringement of, and inducing  
14 the infringement of said United States Letters Patent 3,659,284,  
15 3,659,285, and Re. 28,507, and will continue to do so unless  
16 enjoined by this Court.

17           10. Plaintiff's infringements of said United States  
18 Letters Patent 3,659,284, 3,659,285, and Re. 28,507 were and  
19 are willful and with full knowledge of said Letters Patent.

20           11. Defendants have placed the notice prescribed at  
21 Title 35, United States Code, Section 287(a) on all gaming apparatus  
22 manufactured and sold by them under said United States Letters  
23 Patent 3,659,284 and 3,659,285 and has given written notice to  
24 plaintiff of said infringement of said Letters Patent 3,659,284 and  
25 3,659,285.

26           WHEREFORE, defendants demand a preliminary and final  
27 injunction against continued infringement of said United States  
28 Letters Patent 3,659,285 and Re. 28,507 by plaintiff, an accounting  
29 of the damages to defendants and the profits to plaintiff caused  
30 by said infringements, an assessment of three times the damages  
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1 and profits so determined, an award of reasonable attorney fees,  
2 and an assessment of interests and costs against plaintiff.

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James T. Williams, both of  
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Carl E. Hoppe of  
ECKHOFF, HOPPE, SLICK, MITCHELL  
& ANDERSON

Attorneys for Defendants

By \_\_\_\_\_

PROOF OF MAILING

1  
2 I, the undersigned, hereby declare this 24 day  
3 of January, 1983, at San Francisco, California,  
4 under penalty of perjury, that the following statements are  
5 true and correct:

6 1. My business address is 225 Bush Street,  
7 San Francisco, California 94104. My mailing address is  
8 P.O. Box 7880, San Francisco, CA 94120. I am employed in  
9 the City and County of San Francisco, State of California,  
10 over the age of eighteen years, and I am not a party to the  
11 cause entitled upon the document hereinafter referred to.

12 2. I served a copy of the annexed Plaintiffs' proposed  
13 Form of Order on Motion to Disqualify Defendant's Counsel; Notice  
14 of Motion and Plaintiffs' Motion to Disqualify Defendant's Counsel;  
15 Memorandum in Support of Plaintiff's Motion to Disqualify Defendant's  
16 Counsel  
17 upon [each of] the following named attorney[s] in said action  
18 by depositing on January 24,, 1983, [~~ka~~] true [~~copy~~]  
19 [copies] thereof in the United States mail at San Francisco,  
20 California, said [~~copy~~] [copies] being then and there  
21 enclosed in [~~a~~] sealed envelope[s] with the proper postage  
thereon prepaid.

22 3. Said envelope[s] [~~was~~] [were] addressed as follows:  
23 Flehr, Hohback, Test, Albritton and Herbert  
24 Aldo J. Test  
25 Thomas O. Herbert  
26 Edward S. Wright  
27 Suite 3400, Four Embarcadero Center  
28 San Francisco, California 94111  
Wilson, Sonsini, Goodrich and Rosati  
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Sandra Covell