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March 26, 1984

Thomas O. Herbert, Esquire  
Flehr, Hohbach, Test,  
Albritton & Herbert  
Suite 3400  
Four Embarcadero Center  
San Francisco, California 94111

Re: Magnavox v. Activision

Dear Tom:


To confirm our telephone conversation of last Thursday, we have agreed to postpone the deposition previously scheduled for Monday, March 26 to commence on Thursday, April 19. The deposition has been postponed to accommodate your schedule, as well as that of the witness. The deposition will occur on the peninsula in either your or Michael Ladra's office. You will advise us as to which office will be used.

Enclosed is a copy of Plaintiffs' supplemental responses to interrogatories 38 and 39. We understand that you will promptly forward to us copies of the documents previously requested and relating to the games newly identified in these responses.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

  
James T. Williams

JTW:de

cc: T. W. Anderson

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

11 United States District Court For The  
Northern District Of California

13 THE MAGNAVOX COMPANY, a corporation, )  
and SANDERS ASSOCIATES, INC., )  
14 a corporation, )  
15 Plaintiffs, ) No. C 82 5270 TEH  
16 v. ) PLAINTIFFS' SUPPLEMENTAL  
17 ACTIVISION, INC., a corporation, ) RESPONSE TO DEFENDANT'S  
18 Defendant. ) INTERROGATORIES 38 AND 39

19 Plaintiffs herewith supplement their response to  
20 defendant's interrogatories 38 and 39. This supplementation is  
21 without waiver of any of the objections stated in plaintiff's  
22 initial response to those interrogatories in "Plaintiffs' Response  
23 to Defendant's First Set of Interrogatories (Nos. 1-125)" served  
24 on Defendant on February 7 and 15, 1983.

1 INTERROGATORY NO. 38

2 Identify the claims of United States Letters Patent Re.  
3 28,507 which Magnavox and Sanders contend have been infringed by  
4 Activision.

5 Plaintiffs are at this time unable to fully state what  
6 contentions they will make at trial as to the subject matter of  
7 Interrogatories 38 and 39. These interrogatories seek information  
8 as to plaintiff's contentions with regard to infringement of the  
9 Re. 28,507 patent. Plaintiffs have not completed their discovery  
10 as to the television game products manufactured, used, and/or sold  
11 by Activision, so they have been unable to fully formulate their  
12 contentions as to infringement. Plaintiffs hereinafter state  
13 their contentions as they are presently best able to determine  
14 them in light of the information presently available to them; they  
15 specifically reserve the right to alter these contentions when  
16 more complete information becomes available. To the extent either  
17 of interrogatories 38 and 39 presently requires any further  
18 response than that given hereinafter, plaintiffs object to the  
19 interrogatory as premature.

20 As presently advised, plaintiffs contend that the  
21 manufacture, use, or sale by Activision of the following televis-  
22 ion game cartridges constitute acts of contributory infringement  
23 and inducement to infringe at least claims 25, 26, 44, 45, 51, 52,  
24 60, 61, and 62 of United States Patent Re. 28,507:

24	Tennis	Ice Hockey
25	Boxing	Fishing Derby
26	Dolphin	Keystone Kapers
27	Decathlon	Stampede
28	Grand Prix	Barnstorming
	Sky Jinks	Enduro
	Pressure Cooker	

1 INTERROGATORY NO. 39

2 For each of the claims identified in response to  
3 INTERROGATORY NO. 38, set forth in detail the manner in which the  
claim has been infringed by Activision, including:

- 4 A. The activities of Activision which constitute  
5 infringement;
- 6 C. Identify each television game cartridge made, used,  
7 and/or sold by Activision which constitutes an  
infringement of the claim either by itself or in  
8 combination with a television game console;
- 9 D. For each of the game cartridges identified in  
10 response to part C of this interrogatory, state  
precisely where each element of the claim is found  
in the cartridge or cartridge/console combination.


11 See the response to interrogatory 38.

12 A. The making, using, selling, and offering for sale  
13 of the television game cartridges referred to in the response to  
14 interrogatory 38.

15 C. See the response to interrogatory 38.

16 D. Plaintiffs are unable to respond to paragraph D of  
17 this interrogatory at this time. See the response to interroga-  
18 tory 38.

19 The foregoing objections and contentions are asserted or  
20 stated on behalf of plaintiffs by:

21  
22   
23 Theodore W. Anderson  
24 James T. Williams  
25 NEUMAN, WILLIAMS, ANDERSON & OLSON  
Attorneys for The Magnavox Company  
and Sanders Associates, Inc.

26 77 West Washington Street  
27 Chicago, Illinois 60602  
(312) 346-1200

1 CERTIFICATE OF MAILING

2  
3 I hereby certify that copies of Plaintiffs'  
4 Supplemental Response To Defendant's Interrogatories 38 And 39  
5 are being forwarded Federal Express courier service in envelopes  
6 addressed to the following:

7  
8 Thomas O. Herbert, Esq.  
9 Flehr, Hohbach, Test,  
Albritton & Herbert  
10 Suite 3400  
11 Four Ambarcadero Center  
San Francisco, California 94111

12 and

13 Michael A. Ladra, Esq.  
14 Wilson, Sonsini, Goodrich & Rosati  
Two Palo Alto Square  
Palo Alto, California 94304

15 on March 26, 1984.

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17 \_\_\_\_\_  
18 James T. Williams  
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