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VAN METRE LUND
ASSOCIATE COUNSEL

September 26, 1983

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

Re: Magnavox v. Activision
No. C 82 5270 TEH

Dear Tom:

We have now received the original PLAINTIFFS' SUPPLEMENTAL RESPONSE TO DEFENDANT'S FIRST SET OF INTER-ROGATORIES (NOS. 1-125). A copy of the executed document is enclosed for your file. You already have in your file a copy of the responses in unexecuted form.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

Led

Theodore W. Anderson

TWA:jb

Enclosure

cc: Michael A. Ladra (with copy of enclosure)
Robert P. Taylor (with original and copy of enclosure)
Thomas A. Briody
Algy Tamoshunas
Louis Etlinger
James T. Williams

September 23, 1983

James T. Williams, Esquire
Neuman, Williams, Anderson & Olson
77 West Washington Street
Chicago, Illinois 60602

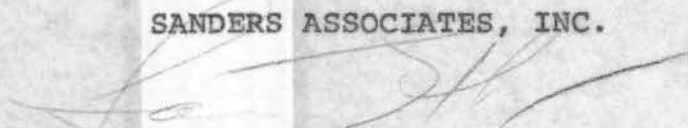
Dear Jim:

Re NAPCEC V ACTIVISION

Enclosed please find the Supplemental Response to the Activision Interrogatories which has been executed by Tom Hafner on behalf of Magnavox and which I have executed on behalf of Sanders Associates.

Very truly yours,

SANDERS ASSOCIATES, INC.


Louis Etlinger
Deputy General Counsel

LE:amc

Enclosure



CONSUMER
ELECTRONICS
CORP.

Interstate 40 and Straw Plains Pike P.O. Box 6950 Knoxville, TN 37914 Tel. (615) 521-4326

PATENT DEPARTMENT

September 20, 1983



VIA FEDERAL EXPRESS

Louis Etlinger, Esq.
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, NH 03061

Re: NAPCEC V. ACTIVISION

Dear Lou:

Enclosed is the Supplemental Response to the Activision Interrogatories, which has been executed by Tom Hafner on behalf of Magnavox. Jim Williams has requested that I forward the supplemental response to you for execution by Sanders. It should then be returned to Jim for filing with the court.

Very truly yours,

Charles Quarton
Patent Counsel

CEQ/dkl

Enclosure
cc: James Williams

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ROBERT P. TAYLOR
2 225 Bush Street
Mailing Address P. O. Box 7880
3 San Francisco, CA 94120
Telephone: (415) 983-1000
4

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5 THEODORE W. ANDERSON
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6 77 West Washington Street
Chicago, IL 60602
7 Telephone: (312) 346-1200

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

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11
12
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14

United States District Court for the
Northern District of California

15	THE MAGNAVOX COMPANY, a Corpora-)	
	tion, and SANDERS ASSOCIATES,)	
16	INC., a Corporation,)	No. C 82 5270 TEH
)	
17	vs. Plaintiffs,)	<u>PLAINTIFFS' SUPPLEMENTAL</u>
)	<u>RESPONSE TO DEFENDANT'S</u>
18	ACTIVISION, INC., a Corporation,)	<u>FIRST SET OF INTERROGATORIES</u>
)	<u>(NOS. 1-125)</u>
19	Defendant.)	
20)	

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Plaintiffs herewith supplement their responses to
defendant's interrogatories 1-125, which responses were
served on defendant on February 7 and 15, 1983. This
supplementation is without waiver of any of the objections
stated in plaintiffs' initial responses to these
interrogatories.

1 INTERROGATORY NO. 4

2 With regard to each of the patents identified in
3 response to INTERROGATORY NO. 3, state the following:

4 D. The terms of the license or immunity from suit;

5 E. Identify all communications relating to the
6 license or immunity from suit; and

7 SUPPLEMENTAL RESPONSE TO 4D&E

8 Plaintiffs object to this interrogatory to the
9 extent it seeks information concerning licenses or immunity
10 grants not including United States Patents Re. 28,507 or
11 3,728,480, or foreign patents corresponding to either of those
12 U.S. patents, as requesting information which is neither
13 relevant to the subject matter involved in this action nor
14 reasonably calculated to lead to the discovery of admissible
15 evidence. As to such grants including United States Patents
16 Re. 28,507 or 3,728,480, or foreign patents corresponding to
17 either of those U.S. patents, the information requested can be
18 ascertained from the files of plaintiffs relating to the
19 subject grants which files will be produced according to the
20 statement made in the introduction to "Plaintiffs' Response to
21 Defendant's First Set of Interrogatories (Nos. 1-125)".

22 INTERROGATORY NO. 9

23 Has Magnavox and/or Sanders ever granted a license
24 or immunity to another with respect to any of the patents
25 identified in response to INTERROGATORY NO. 1 and/or
26 INTERROGATORY NO. 3?

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1 SUPPLEMENTAL RESPONSE TO 9

2 Plaintiff Sanders has granted a license under United
3 States Patents 3,728,480 and Re. 28,507, foreign patents
4 corresponding to those patents, and plaintiff Magnavox has
5 granted sublicenses thereunder. Licenses and sublicenses have
6 also been granted under others of the patents identified in the
7 plaintiffs' responses to Interrogatory 1.

8 INTERROGATORY NO. 10

9 If the response to INTERROGATORY NO. 9 is other than
10 an unqualified negative, identify each such license or
11 immunity granted:

- 12 A. The nature of the license or immunity;
- 13 B. Identify the person(s) to whom the license or
14 immunity was granted;
- 15 C. The terms of the license or immunity;
- 16 D. The effective dates of the license or immunity;
- 17 E. Identify all persons having knowledge of the
18 license or immunity;
- 19 F. Identify all communications relating to the
20 license or immunity; and

21 SUPPLEMENTAL RESPONSE TO 10

22 A-D&F. As to such grants including United States
23 Patents 3,728,480 and Re. 28,507 and corresponding foreign
24 patents the information requested can be derived or
25 ascertained from the files of plaintiffs relating to the
26 subject licenses which files will be produced according to the
27 statement made in the introduction to plaintiffs' initial
28 responses to interrogatories 1-125.

1 E. Those personnel of plaintiffs presently
2 believed to have the greatest knowledge of the terms of such
3 licenses or immunities are, for Magnavox, Thomas A. Briody,
4 Esquire, Algy Tamoshunas, Esquire, Robert T. Mayer, Esquire,
5 and William J. Streeter, Esquire, and for Sanders,
6 Louis Etlinger, Esquire.

7 INTERROGATORY NO. 12

8 If the answer to INTERROGATORY NO. 11 is other than
9 an unqualified negative, state the following with respect to
10 each such termination:

11 D. Identify all persons having knowledge of the
12 termination;

13 SUPPLEMENTAL RESPONSE TO 12D

14 Those personnel of plaintiffs presently believed to
15 have the greatest knowledge of such terminations are, for
16 Magnavox, Thomas A. Briody, Esquire, Algy Tamoshunas,
17 Esquire, Robert T. Mayer, Esquire, and William J. Streeter,
18 Esquire, and, for Sanders, Louis Etlinger, Esquire.

19 INTERROGATORY NO. 13

20 Has anyone other than the persons identified in
21 response to INTERROGATORY NO. 6 and INTERROGATORY NO. 10 ever
22 expressed any desire or interest in acquiring an interest in or
23 a license or immunity under any of the patents identified in
24 response to INTERROGATORY NO. 1 or INTERROGATORY NO. 3?

25 SUPPLEMENTAL RESPONSE TO 13

26 Others have also expressed a desire or interest in
27 obtaining a license or sublicense under United States Patent
28 3,728,480 or corresponding foreign patents.

1 INTERROGATORY NO. 14

2 If the answer to INTERROGATORY NO. 13 is other than
3 an unqualified negative, identify each such occurrence,
4 including:

- 5 A. The patent(s) in which the interest was
6 expressed;
- 7 B. Identify the person(s) expressing the
8 interest;
- 9 C. The date(s) when the interest was expressed;
- 10 D. The nature of the rights (e.g., assignment,
11 license, immunity, etc.) in which the interest
12 was expressed;
- 13 E. Describe in detail the manner in which the
14 interest was expressed;
- 15 F. State whether the person(s) expressing the
16 interest is currently utilizing the subject
17 matter of the patent(s);
- 18 G. Describe in detail all terms offered by
19 Magnavox and/or Sanders for the interest,
20 license or immunity in which interest was
21 expressed;
- 22 H. State in detail why the person(s) expressing
23 the interest did not acquire the license,
24 immunity or interest;
- 25 I. Identify all persons having knowledge of the
26 expression of interest;
- 27 J. Identify all communications relating to the
28 expression of interest; and

1 SUPPLEMENTAL RESPONSE TO 14

2 A-H&J. The information requested to the extent
3 available to plaintiffs can be derived or ascertained from the
4 files of plaintiffs relating to licenses under United States
5 Patent 3,728,480 or corresponding foreign patents which files
6 will be produced according to the statement made in the
7 introduction to plaintiffs' original response to
8 interrogatories 1-125.

9 I. Those personnel of plaintiffs presently
10 believed to have the greatest knowledge of such expressions of
11 interest are, for Magnavox, Thomas A. Briody, Esquire,
12 Algy Tamoshunas, Esquire, Robert T. Mayer, Esquire, and
13 William J. Streeter, Esquire, and, for Sanders,
14 Louis Etlinger, Esquire.

15 INTERROGATORY NO. 15

16 Identify each person, other than Activision, which
17 has been notified or charged with infringement of any of the
18 patents identified in response to INTERROGATORY NO. 1 and
19 INTERROGATORY NO. 3.

20 SUPPLEMENTAL RESPONSE TO 15

21 The information requested as to the patents
22 identified in plaintiffs' original response to Interrogatory 1
23 can be derived or ascertained from the files of plaintiffs
24 relating to the licenses under those patents which files will
25 be produced according to the statement made in the introduction
26 to plaintiffs' original responses to interrogatories 1-125.

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1 INTERROGATORY NO. 16

2 For each person identified in response to
3 INTERROGATORY NO. 15:

4 G. Identify all persons having knowledge of the
5 notice or allegation;

6 SUPPLEMENTAL RESPONSE TO 16G

7 Those personnel of plaintiffs presently believed to
8 have the greatest knowledge of such notices or allegations are,
9 for Magnavox, Thomas A. Briody, Esquire, Algy Tamoshunas,
10 Esquire, Robert T. Mayer, Esquire, and William J. Streeter,
11 Esquire, and, for Sanders, Louis Etlinger, Esquire.

12 INTERROGATORY NO. 17

13 Identify each and every lawsuit, other than the
14 present suit, in which any of the patents identified in
15 response to INTERROGATORY NO. 1 and INTERROGATORY NO. 3 has
16 been involved, including the following information for each
17 such suit:

- 18 A. The court and docket number of the action;
- 19 B. The patent(s) involved in the suit;
- 20 C. Identify the parties to the suit;
- 21 D. Describe the nature of the suit;
- 22 E. State the outcome of the suit;
- 23 F. If the validity or enforceability of any of the
24 patent(s) in suit was challenged, set forth in
25 detail all of the grounds upon which the
26 challenge was based, including any prior art
27 relied upon;

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- 1 G. Identify all persons having knowledge of the
2 suit;
- 3 H. Identify all communications relating to the
4 suit; and
- 5 I. Identify all documents which refer or relate in
6 any way to the subject matter of parts A
7 through H of this interrogatory.

8 SUPPLEMENTAL RESPONSE TO 17

9 Plaintiffs' response to this interrogatory as to
10 United States Patent 3,728,480 and corresponding foreign
11 patents is the same as that set forth in plaintiffs' original
12 response to this interrogatory as to United States Patent Re.
13 28,507 and corresponding foreign patents. Plaintiffs continue
14 to object to this interrogatory to the extent it seeks
15 information as to any lawsuit not including an assertion by one
16 or both of plaintiffs in this action of patent infringement by
17 one or more other parties to that action.

18 G. Those personnel of plaintiffs presently
19 believed to have the greatest knowledge of such suits are, for
20 Magnavox, Thomas A. Briody, Esquire, Algy Tamoshunas,
21 Esquire, Robert T. Mayer, Esquire, and William J. Streeter,
22 Esquire, and for Sanders, Louis Etlinger, Esquire.

23 INTERROGATORY NO. 28

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

26 SUPPLEMENTAL RESPONSE TO 28

27 No.

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1 INTERROGATORY NO. 29

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

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

1 SUPPLEMENTAL RESPONSE TO 29

2 Plaintiffs do not contend in this action that they
3 are entitled to any relief against Activision based upon any
4 acts of infringement by Activision of United States Patent
5 3,728,480. To the extent this interrogatory requests any
6 further response, plaintiffs object to it as requesting
7 information which is neither relevant to the subject matter
8 involved in this action nor reasonably calculated to lead to
9 the discovery of admissible evidence.

10 INTERROGATORY NO. 48

11 Do Magnavox and Sanders contend that any of the game
12 cartridges identified in the catalog attached as Exhibit A
13 constitutes, by itself, an infringement of any of the claims of
14 United States Letters Patent Re. 28,507 or any of the other
15 patents identified in response to INTERROGATORY NO. 1 or
16 INTERROGATORY NO. 3?

17 SUPPLEMENTAL RESPONSE TO 48

18 Plaintiffs do not contend that any of the game
19 cartridges identified in the catalog of Exhibit A, by itself,
20 is covered by the claims of U.S. Patents Re. 28,507 or
21 3,728,480, but plaintiffs do contend that Activision's
22 manufacture, use, sale, and advertising for sale of some of its
23 game cartridges constitute acts of contributory infringement
24 and inducement to infringe at least certain claims of United
25 States Patent Re. 28,507. Plaintiffs object to this
26 interrogatory to the extent it requests any further
27 information as requesting information which is neither
28 relevant to the subject matter of this action nor reasonably

1 calculated to lead to the discovery of admissible evidence
2 and/or being premature.

3 INTERROGATORY NO. 59

4 For each game identified in response to
5 INTERROGATORY NO. 58:

6 E. Identify all persons having knowledge of the
7 subject matter of parts A through D of this
8 interrogatory;

9 SUPPLEMENTAL RESPONSE TO 59E

10 E. F. Eugene Simerly
11 Section Head,
12 Video Game Engineering Department
13 N.A.P. Consumer Electronics Corp.
Route 2
Box 124B
Jefferson City, Tennessee 37760

14 INTERROGATORY NO. 62

15 If the answer to INTERROGATORY NO. 61 is other than
16 an unqualified negative, for each such dedication or
17 disclaimer:

- 18 A. Identify the patent or part thereof disclaimed
19 or dedicated;
- 20 B. Set forth in detail the circumstances under
21 which the disclaimer or dedication was made;
- 22 C. State why the disclaimer or dedication was
23 made, including all matters considered in
24 connection with the disclaimer or dedication,
25 and the identity of all persons involved in the
26 decision to make the disclaimer or dedication;

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- 1 D. Identify all persons having knowledge of the
2 subject matter of parts A through C of this
3 interrogatory;
- 4 E. Identify all communications relating to the
5 subject matter of parts A through D of this
6 interrogatory; and
- 7 F. Identify all documents which refer or relate in
8 any way to the subject matter of parts A through
9 E of this interrogatory.

10 SUPPLEMENTAL RESPONSE TO 62

- 11 A. Claims 1, 2, 5, 6, 13, 14, 15 and 16 of United
12 States Letters Patent Re. 28,598.
- 13 B. A judicial finding that the claims were
14 invalid.
- 15 C. The primary reason for the disclaimer was the
16 judicial finding referred to in the response to paragraph B of
17 this interrogatory; counsel for plaintiff Sanders were the
18 primary people involved in the decision.
- 19 D. The disclaimer is a matter of public record.
20 Plaintiffs cannot identify all persons having knowledge of it.
- 21 E. Any such communications are subject to the
22 attorney-client privilege; they will be identified in accord
23 with the statements made in the introduction to plaintiffs'
24 response to defendant's first set of interrogatories.
- 25 F. Plaintiffs object to paragraph F of this
26 interrogatory as being vague and indefinite.

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1 INTERROGATORY NO. 64

2 Do Magnavox and Sanders contend that any of the
3 claims of the patents identified in response to INTERROGATORY
4 NO. 1 or INTERROGATORY NO. 3 are infringed by the use of an
5 Activision game cartridge in combination with a television
6 game console manufactured by a third party licensed under said
7 patent(s)?

8 SUPPLEMENTAL RESPONSE TO 64

9 Plaintiffs do contend that at least some claims of
10 U.S. Patent Re. 28,507 are infringed by the use of at least some
11 Activision game cartridges in combination with a television
12 game console manufactured by a third party licensed under U.S.
13 Patent Re. 28,507.

14 INTERROGATORY NO. 65

15 If the answer to INTERROGATORY NO. 64 is other than
16 an unqualified negative, set forth in detail the manner in
17 which the use of the cartridge in the licensed console
18 constitutes an infringement.

19 SUPPLEMENTAL RESPONSE TO 65

20 The use of the combination of an Activision game
21 cartridge and a television game console, either by itself or in
22 further combination with a television receiver, results in an
23 act of infringement.

24 INTERROGATORY NO. 81

25 When did each of the references or other prior art
26 identified in INTERROGATORY NO. 74 first come to the attention
27 of Magnavox and Sanders?

28

1 SUPPLEMENTAL RESPONSE TO 81

2 A. As best plaintiffs are presently able to
3 determine, at approximately the date of issue of that patent.

4 B. As best plaintiffs are presently able to
5 determine, in approximately October, 1975.

6 C&D. The extent of plaintiffs' information
7 concerning the subject matter of parts C and D of this
8 interrogatory is set forth in the deposition transcripts of
9 counsel for the plaintiff Sanders. Those deposition
10 transcripts are among the documents previously offered to be
11 produced for inspection and copying by defendant's counsel.

12 F. As best plaintiffs are presently able to
13 determine, in approximately April, 1977.

14 G. As best plaintiffs are presently able to
15 determine, no later than approximately the date it was cited as
16 a reference in the prosecution of the patent application which
17 became United States Letters Patent 3,659,284.

18 INTERROGATORY NO. 101

19 During the examination and prosecution of the
20 application which led to Reissue Patent 28,507, did anyone
21 acting on behalf of Magnavox or Sanders ever disclose the
22 existence of U.S. Patent 3,728,480 and its teaching of
23 coincidence to Examiner Trafton or any other Examiner involved
24 in the examination of this application?

25 SUPPLEMENTAL RESPONSE TO 101

26 The extent of plaintiffs' present knowledge on the
27 subject matter of interrogatories 101-104 is set forth in the
28 prosecution file history of Reissue Patent Re. 28,507 wherein

1 specific reference is made to the application for U.S. Patent
2 3,728,480, and in the transcripts of the depositions of
3 James T. Williams taken on March 22, 23, and 26, 1976 and
4 Richard I. Seligman taken on April 7 and 8, 1976. The
5 transcripts are among the documents plaintiffs have previously
6 offered to produce for inspection and copying by defendant's
7 counsel; moreover, defendant's counsel personally attended
8 those depositions.

9 INTERROGATORY NO. 102

10 If the answer to INTERROGATORY NO. 101 is other than
11 an unqualified negative, identify each such disclosure,
12 including:

- 13 A. The date of the disclosure;
14 B. The form in which the disclosure was made;
15 C. Identification of the person(s) who made the
16 disclosure;
17 D. Identification of the Examiner(s) to whom the
18 disclosure was made;
19 E. The full substance of the disclosure;
20 F. Identify all persons having knowledge of the
21 subject matter of parts A through E of this
22 interrogatory;
23 G. Identify all communications relating to the
24 subject matter of parts A through F of this
25 interrogatory; and
26 H. Identify all documents which refer or relate in
27 any way to the subject matter of parts A
28 through G of this interrogatory.

1 SUPPLEMENTAL RESPONSE TO 102

2 See plaintiffs' supplemental response to
3 interrogatory 101.

4 INTERROGATORY NO. 103

5 During the examination and prosecution of the
6 application which led to Reissue Patent 28,507, did Examiner
7 Trafton or any other Examiner who participated in the
8 examination of the application ever indicate to Magnavox or
9 Sanders or anyone acting on their behalf that he was aware of
10 U.S. Patent 3,728,480 and/or the teaching of coincidence in
11 that patent?

12 SUPPLEMENTAL RESPONSE TO 103

13 See plaintiff's supplemental response to
14 interrogatory 101.

15 INTERROGATORY NO. 104

16 If the answer to INTERROGATORY NO. 103 is other than
17 an unqualified negative, identify each such indication,
18 including:

- 19 A. The date of the indication;
20 B. The nature of the indication;
21 C. Identification of the Examiner who made the
22 indication;
23 D. Identification of the person(s) to whom the
24 indication was made;
25 E. The full substance of the indication;
26 F. Identify all persons having knowledge of the
27 subject matter of parts A through E of this
28 interrogatory;

1 G. Identify all communications relating to the
2 subject matter of parts A through F of this
3 interrogatory; and

4 H. Identify all documents which refer or relate in
5 any way to the subject matter of parts A
6 through G of this interrogatory.

7 SUPPLEMENTAL RESPONSE TO 104

8 See plaintiffs' supplemental response to
9 interrogatory 101.

10 Describe the spaceship game observed at Stanford
11 University by James T. Williams, now one of the attorneys of
12 record for plaintiffs, including the following:

- 13 A. A detailed description of the game and the
14 manner in which it was played;
- 15 B. A description of the apparatus with which the
16 game was played;
- 17 C. The date(s) the game was observed by
18 Mr. Williams;
- 19 D. The circumstances under which the game was
20 observed;
- 21 E. Identification of all persons who were present
22 when Mr. Williams observed the game;
- 23 F. Identification of all persons having knowledge
24 of the subject matter of parts A through D of
25 this interrogatory;
- 26 G. Identify all communications relating to the
27 subject matter of parts A through F of this
28 interrogatory; and

1 H. Identify all documents which refer or relate in
2 any way to the subject matter of parts A
3 through G of this interrogatory.

4 SUPPLEMENTAL RESPONSE TO 105

5 The extent of plaintiffs' present knowledge on the
6 subject matter of interrogatories 105-116 is set forth in the
7 transcript of the deposition of James T. Williams taken on
8 March 22, 23, and 26, 1976. The transcript is among the
9 documents plaintiffs have previously offered to produce for
10 inspection and copying by defendant's counsel; moreover,
11 defendant's counsel personally attended that deposition.

12 INTERROGATORY NO. 106

13 Set forth in detail any differences between the
14 spaceship game observed at Stanford University by Mr. Williams
15 and the Spacewar game described in the Decus publication
16 identified in INTERROGATORY NO. 74.

17 SUPPLEMENTAL RESPONSE TO 106

18 See plaintiffs' supplemental response to
19 interrogatory 105.

20 INTERROGATORY NO. 107

21 Has James T. Williams ever discussed the spaceship
22 game which he observed at Stanford University with any other
23 person?

24 SUPPLEMENTAL RESPONSE TO 107

25 See plaintiffs' supplemental response to inter-
26 rogatory 105.

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1 INTERROGATORY NO. 108

2 If the answer to INTERROGATORY NO. 107 is other than
3 an unqualified negative, identify each such discussion,
4 including:

- 5 A. Identification of each person involved in the
6 discussion, including the relationship of each
7 such person to Magnavox and/or Sanders;
8 B. The date and place of the discussion;
9 C. The circumstances under which the discussion
10 was held;
11 D. The substance of the discussion;
12 E. Any action taken by Magnavox and/or Sanders as
13 a result of the discussion;
14 F. Identify all persons having knowledge of the
15 subject matter of parts A through E of this
16 interrogatory;
17 G. Identify all communications relating to the
18 subject matter of parts A through F of this
19 interrogatory; and
20 H. Identify all documents which refer or relate in
21 any way to the subject matter of parts A
22 through G of this interrogatory.

23 SUPPLEMENTAL RESPONSE TO 108

24 See plaintiffs' supplemental response to inter-
25 rogatory 105.

26 INTERROGATORY NO. 109

27 Did James T. Williams ever disclose to the Patent
28 Office the spaceship game which he observed at Stanford
University?

1 SUPPLEMENTAL RESPONSE TO 109

2 See plaintiffs' supplemental response to inter-
3 rogatory 105.

4 INTERROGATORY NO. 110

5 If the answer to INTERROGATORY NO. 109 is other than
6 an unqualified negative, identify each such disclosure,
7 including:

- 8 A. Identification of the person(s) in the Patent
9 Office to whom the disclosure was made;
- 10 B. The relationship, if any, of each person
11 identified in response to part A of this
12 interrogatory to the examination of the
13 application which led to Reissue Patent 28,507;
- 14 C. The date of the disclosure;
- 15 D. The manner in which the disclosure was made;
- 16 E. Identify all persons having knowledge of the
17 subject matter of parts A through D of this
18 interrogatory;
- 19 F. Identify all communications relating to the
20 subject matter of parts A through E of this
21 interrogatory; and
- 22 G. Identify all documents which refer or relate in
23 any way to the subject matter of parts A
24 through F of this interrogatory.

25 SUPPLEMENTAL RESPONSE TO 110

26 See plaintiffs' supplemental response to inter-
27 rogatory 105.

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1 INTERROGATORY NO. 111

2 Did anyone acting on behalf of Magnavox or Sanders,
3 other than James T. Williams, ever disclose to the Patent
4 Office the spaceship game observed by James T. Williams at
5 Stanford University?

6 SUPPLEMENTAL RESPONSE TO 111

7 See plaintiffs' supplemental response to inter-
8 rogatory 105.

9 INTERROGATORY NO. 112

10 If the answer to INTERROGATORY NO. 111 is other than
11 an unqualified negative, identify each such disclosure,
12 including:

- 13 A. Identification of the person(s) making the
14 disclosure;
- 15 B. Identification of the person(s) in the Patent
16 Office to whom the disclosure was made;
- 17 C. The relationship, if any, to Magnavox and/or
18 Sanders of each person identified in response
19 to part B of this interrogatory;
- 20 D. The date of the disclosure;
- 21 E. The manner in which the disclosure was made;
- 22 F. Identify all persons having knowledge of the
23 subject matter of parts A through E of this
24 interrogatory;
- 25 G. Identify all communications relating to the
26 subject matter of parts A through E of this
27 interrogatory; and
28

1 H. Identify all documents which refer or relate in
2 any way to the subject matter of parts A
3 through G of this interrogatory.

4 SUPPLEMENTAL RESPONSE TO 112

5 See plaintiffs' supplemental response to
6 interrogatory 105.

7 INTERROGATORY NO. 113

8 During the examination and prosecution of the
9 application leading to Reissue Patent 28,507, did Examiner
10 Trafton or any other Examiner ever indicate to Magnavox or
11 Sanders that he was aware of the spaceship game which James T.
12 Williams had observed at Stanford University?

13 SUPPLEMENTAL RESPONSE TO 113

14 See plaintiffs' supplemental response to
15 interrogatory 105.

16 INTERROGATORY NO. 114

17 If the answer to INTERROGATORY NO. 113 is other than
18 an unqualified negative, identify each such indication,
19 including:

- 20 A. Identification of the Examiner giving the
21 indication;
- 22 B. Identification of the person(s) to whom the
23 indication was given;
- 24 C. The date(s) of the indication;
- 25 D. The manner in which the indication was given;
- 26 E. The substance of the indication;
- 27 F. Identify all persons having knowledge of the
28 subject matter of parts A through E of this
interrogatory;

1 Identify all communications relating to the
2 subject matter of parts A through F of this
3 interrogatory; and
4 H. Identify all documents which refer or relate in
5 any way to the subject matter of parts A
6 through G of this interrogatory.
7 SUPPLEMENTAL RESPONSE TO 114
8 See plaintiffs' supplemental response to inter-
9 rogatory 105.
10 INTERROGATORY NO. 115
11 Does Manavox and/or Sanders have any reason to
12 believe that during the examination of the application leading
13 to Reissue Patent 28,507 Examiner Trafton or any other Examiner
14 participating in the examination was aware of either U.S.
15 Patent 3,728,480 or the spaceship game which James T. Williams
16 had observed at Stanford University?
17 SUPPLEMENTAL RESPONSE TO 115
18 See plaintiffs' supplemental response to
19 interrogatory 105.
20 INTERROGATORY NO. 116
21 If the answer to INTERROGATORY NO. 117 is other than
22 an unqualified negative, set forth in detail the reason(s) for
23 such belief.
24 SUPPLEMENTAL RESPONSE TO 116
25 See plaintiffs' supplemental response to
26 interrogatory 105.
27
28

1 INTERROGATORY NO. 117

2 With regard to the reissuance of U.S. Patent
3 3,728,480:

4

5 A. When was reissuance of the patent first
6 considered by Magnavox and/or Sanders?

7 B. Identify each person who participated in or was
8 consulted in connection with the first
9 consideration of reissuing the patent;

10 C. Set forth the circumstances under which
11 reissuance of the patent was considered;

12 D. Identify all prior art considered in connection
13 with the first consideration of reissuing the
14 patent;

15 E. If an application for reissuance of the patent
16 was not filed at the time reissuance was first
17 considered, set forth in detail the reason(s)
18 that such an application was not filed;

19 F. Identify all persons having knowledge of the
20 subject matter of parts A through E of this
21 interrogatory;

22 G. Identify all communications relating to the
23 subject matter of parts A through F of this
24 interrogatory; and

25 H. Identify all documents which refer or relate in
26 any way to the subject matter of parts A
27 through G of this interrogatory.

28

1 SUPPLEMENTAL RESPONSE TO 117

2 A. During approximately April-June, 1977.

3 B. Ralph H. Baer and counsel for plaintiffs
4 including Louis Etlinger, Richard I. Seligman, Thomas A.
5 Briody, William J. Streeter, D. Dennis Allegretti,
6 Theodore W. Anderson and James T. Williams.

7 C. The circumstances as set forth in the
8 declaration of the inventor filed with the application for
9 reissue of U.S. Patent 3,728,480.

10 D. U.S. Patent 3,135,815 and German patent
11 1,119,152 were the principal references considered; other ones
12 of the references cited to the Patent and Trademark Office
13 during the prosecution of the application for reissue of U.S.
14 Patent 3,728,480 may have been given some consideration.

15 D. Those persons identified in the response to
16 paragraph B of this interrogatory.

17 E. Such an application was filed.

18 F. The principal persons having such knowledge are
19 those persons identified in the response to paragraph B of this
20 interrogatory.

21 G. The information requested may be ascertained or
22 determined from the files of plaintiffs relating to the
23 application for reissue of U.S. Patent 3,728,480. Plaintiffs
24 will produce those files in accord with the introductory notes
25 to plaintiffs' original response to defendant's first set of
26 interrogatories.

27 H. Plaintiffs object to paragraph H of this
28 interrogatory as being vague and indefinite.

1 INTERROGATORY NO. 118

2 With regard to the preparation and filing of the
3 application for reissue of U.S. Patent 3,728,480:

- 4 A. Identify all persons who participated in or
5 were consulted in connection with the decision
6 to reissue the patent;
- 7 B. Identify all discussions which took place in
8 connection with the decision to reissue the
9 patent, including:
- 10 (1) Identification of all persons
11 participating in each such discussion;
- 12 (2) The date and place of each such
13 discussion;
- 14 (3) The substance of each discussion;
- 15 (4) Describe any action taken as a result of
16 each such discussion;
- 17 C. Identify all prior art considered in connection
18 with the decision to reissue the patent;
- 19 D. Identify all persons who participated in or
20 were consulted in connection with the
21 preparation and filing of the application;
- 22 E. Identify all persons having knowledge of the
23 subject matter of parts A through D of this
24 interrogatory;
- 25 F. Identify all communications relating to the
26 subject matter of parts A through E of this
27 interrogatory; and
28

1 G. Identify all documents which refer or relate in
2 any way to the subject matter of parts A
3 through F of this interrogatory.

4 SUPPLEMENTAL RESPONSE TO 118

5 A. Ralph H. Baer and counsel for plaintiffs
6 including Louis Etlinger, Richard I. Seligman, Thomas A.
7 Briody, William J. Streeter, D. Dennis Allegretti,
8 Theodore W. Anderson and James T. Williams.

9 B. Numerous discussions occurred during
10 approximately April-June, 1977 involving the persons
11 identified in response to paragraph A of this interrogatory
12 principally in Chicago, Illinois and by telephone; the reissue
13 application was filed following such discussions. Plaintiffs
14 object to paragraph B of this interrogatory to the extent it
15 may require any further response as requesting information
16 which is immune from discovery by the attorney-client
17 privilege and/or as attorney's work product.

18 C. U.S. Patent 3,135,815 and German patent
19 1,119,152 were the principal references considered; other ones
20 of the references cited to the Patent and Trademark Office
21 during the prosecution of the reissue application may have been
22 given some consideration.

23 D. The persons identified in the response to
24 paragraph A of this interrogatory.

25 E. The principal persons having such knowledge are
26 those persons identified in the response to paragraph B of this
27 interrogatory.

28

1 F. The information requested may be ascertained or
2 determined from the files of plaintiffs relating to the reissue
3 application. Plaintiffs will produce those files in accord
4 with the introductory notes to plaintiffs' response to
5 defendant's first set of interrogatories.

6 G. Plaintiffs object to paragraph G of this
7 interrogatory as being vague and indefinite.

8 INTERROGATORY NO. 119

9 Did Magnavox and/or Sanders ever consider reissuance
10 of U.S. Patent 3,728,480 in view of U.S. Patent 2,847,661
11 (Althouse)?

12 SUPPLEMENTAL RESPONSE TO 119

13 Plaintiffs are presently unable to ascertain that
14 either plaintiff ever made any such consideration.

15 INTERROGATORY NO. 120

16 If the answer to INTERROGATORY NO. 119 is other than
17 an unqualified negative, identify each such consideration,
18 including:

- 19 A. Identification of each person who participated
20 in or was consulted in connection with such
21 consideration;
- 22 B. The circumstances under which the
23 consideration was made;
- 24 C. The date and place of each such consideration;
- 25 D. Set forth in detail the substance of what was
26 considered;
- 27 E. State in detail why an application for reissue
28 was not filed on the basis of Althouse;

- 1 F. Identify all persons having knowledge of the
2 subject matter of parts A through E of this
3 interrogatory;
- 4 G. Identify all communications relating to the
5 subject matter of parts A through F of this
6 interrogatory; and
- 7 H. Identify all documents which refer or relate in
8 any way to the subject matter of parts A
9 through G of this interrogatory.

10 SUPPLEMENTAL RESPONSE TO 120

11 No response required.

12 INTERROGATORY NO. 121

13 Set forth in detail the manner in which U.S. Patent
14 3,135,815 (Spiegel) and its German counterpart first came to
15 the attention of Magnavox and Sanders, including:

- 16 A. Describe in detail the circumstances under
17 which both the Spiegel patent and its German
18 counterpart came to the attention of Magnavox
19 and Sanders;
- 20 B. Identify the person(s) who first became aware
21 of the patent or the German counterpart;
- 22 C. Identify all persons who subsequently became
23 aware of the patent and/or its German
24 counterpart;
- 25 D. The date(s) when Magnavox and Sanders first
26 became aware of the patent and the German
27 counterpart;
- 28

- 1 E. Describe in detail any action taken by Magnavox
2 and/or Sanders when they became aware of the
3 Spiegel patent or the German counterpart;
- 4 F. Identify all persons having knowledge of the
5 subject matter of parts A through E of this
6 interrogatory;
- 7 G. Identify all communications relating to the
8 subject matter of parts A through E of this
9 interrogatory; and
- 10 H. Identify all documents which refer or relate in
11 any way to the subject matter of parts A
12 through G of this interrogatory.

13 SUPPLEMENTAL RESPONSE TO 121

14 A. German Patent 1,119,152 was brought to the
15 attention of German counsel by a letter from
16 Interessengemeinschaft Fur Rundfunkschutzrechte E.V. dated
17 March 10, 1977. Plaintiffs subsequently became aware of U.S.
18 Patent 3,135,815 by searching for any United States
19 counterpart to the German patent.

20 B. Plaintiffs are unable to identify that person.
21 As best plaintiffs are presently able to determine,
22 Louis Etlinger and Richard I. Seligman are the first employees
23 of either of plaintiffs who became aware of German Patent
24 1,119,152.

25 C. Plaintiffs are unable to identify all such
26 persons. Plaintiffs object to paragraph C of this
27 interrogatory as requesting information which is neither
28 relevant to the subject matter of this action nor reasonably

1 calculated to lead to the discovery of admissible evidence, as
2 being overly broad, and as being unduly burdensome.

3 D. As best plaintiffs are presently able to
4 determine, plaintiff Sanders first became aware of the
5 existence of German Patent 1,119,152 between March 15 and 22,
6 1977, but did not receive a translation of that patent until
7 sometime thereafter.

8 E. Sanders obtained a copy of German Patent
9 1,119,152, obtained an English translation of that patent,
10 ascertained the identity of and obtained a copy of U.S. Patent
11 3,135,815, considered the disclosures thereof, consulted with
12 its outside counsel, and prepared and filed the pending
13 application for reissue of U.S. Patent 3,728,480.

14 F. The principal person having such knowledge are
15 the persons identified in the response to paragraph A of
16 interrogatory 118.

17 G. The information requested may be ascertained or
18 determined from the files of plaintiffs relating to the reissue
19 application. Plaintiffs will produce those files in accord
20 with the introductory notes to plaintiffs response to
21 defendant's first set of interrogatories.

22 H. Plaintiffs object to paragraph H of this
23 interrogatory as vague and indefinite.

24 INTERROGATORY NO. 122

25 Do Magnavox and Sanders consider Spiegel patent
26 3,135,815 to be more pertinent than Althouse patent 3,847,661
27 to the subject matter of the claims of U.S. Patent 3,728,480?

28

1 SUPPLEMENTAL RESPONSE TO 122

2 As best plaintiffs are presently able to determine,
3 neither of plaintiffs have previously considered the subject
4 matter of this interrogatory. To the extent this interrogatory
5 may require any further response, plaintiffs object to it as
6 requesting information which is neither relevant to the
7 subject of this action nor reasonably calculated to lead to the
8 discovery of admissible evidence.

9 INTERROGATORY NO. 123

10 If the answer to INTERROGATORY NO. 122 is other than
11 an unqualified negative, identify each element found in
12 Spiegel but not in Althouse which Magnavox and Sanders
13 considered to be pertinent to the subject matter claimed in
14 U.S. Patent 3,728,480.

15 SUPPLEMENTAL RESPONSE TO 123

16 No response required.

17
18
19 Sept. 19, 1983 Thomas M. Hahn
The Magnavox Company

20 Subscribed and sworn to before me
21 this 19 day of Sept., 1983,
22 in Knoxville, TN.

23 Barbara Guffin
24 Notary Public

25 My Commission Expires: June 23, 1986

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September 23, 1983

John E. Sanders
Sanders Associates, Inc.

Subscribed and sworn to before me
this 23rd day of September, 1983,
in Nashua, New Hampshire.

Anne Marie Cookman
Notary Public

My Commission Expires: March 3, 1987

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

Theodore W. Anderson
James T. Williams

Neuman, Williams, Anderson & Olson
Attorneys for The Magnavox Company
and Sanders Associates, Inc.

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Chicago, Illinois 60602
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77 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60602

COPY

September 2, 1983

Edward S. Wright, Esq.
Flehr, Hohbach, Test,
Albritton & Herbert
Suite 3400
Four Embarcadero Center
San Francisco, California 94111

Re: Magnavox et al. v. Activision

Dear Ted:

This will confirm our previous conversations in which we agreed that the deposition of James H. Levy will proceed at 10:00 a.m. on September 16, 1983 at the offices of Pillsbury, Madison & Sutro in San Francisco. It is our understanding that Mr. Levy will be the witness produced in response to the Rule 30(b)(6) portion of the notice. If we are in error on this, kindly let us know.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By James T. Williams

JTW:jb

cc: Thomas A. Briody
Algy Tamoshunas
Louis Etlinger
Theodore W. Anderson

