

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE MAGNAVOX COMPANY, et al.,)	
)	
Plaintiffs,)	
)	Consolidated Civil Action
-v-)	
)	Nos. 74 C 1030
BALLY MANUFACTURING CORPORATION,)	74 C 2510
et al.,)	75 C 3153
)	75 C 3933
Defendants.)	

Deposition of JAMES T. WILLIAMS, taken by Defendants Bally Manufacturing Corporation, Midway Manufacturing Corporation and Empire Distributing, Inc., pursuant to notice and subpoena duces tecum, before ERNESTO R. ESPIRITU (being a disinterested person, not of counsel for or employed by either of the parties hereto, or interested in the outcome of said cause), a duly Certified Shorthand Reporter and Notary Public of the State of Illinois, at Room 900, 135 South LaSalle Street, Chicago, Illinois, commencing on Monday, March 22, 1976, at 10:00 a.m.

PRESENT:

NEUMAN, WILLIAMS, ANDERSON & OLSON,
(Suite 2000, 77 West Washington Street,
Chicago, Illinois 60602) by
MR. THEODORE W. ANDERSON,

appeared for plaintiff The Magnavox Company;

EXHIBIT C

PRESENT (Continued):

FLEHR, HOHBACH, TEST, ALBRITTON & HERBERT,
(160 Sansome Street, 15th Floor,
San Francisco, California 94104) by
MR. EDWARD S. WRIGHT,

appeared for plaintiff Atari, Inc.;

FITCH, EVEN, TABIN & LUEDEKA,
(Suite 900, 135 South LaSalle Street,
Chicago, Illinois 60603) by
MR. DONALD L. WELSH,
MR. A. SIDNEY KATZ,
MR. JOHN F. FLANNERY,

appeared for defendant Bally Manufacturing
Corporation, Midway Manufacturing Corporation
and Empire Distributing, Inc.;

MC DOUGALL, HERSH & SCOTT,
(Suite 1540, 135 South LaSalle Street,
Chicago, Illinois 60603) by
MR. MELVIN M. GOLDENBERG,

appeared for defendant Seeburg Corporation;

THREEDY & THREEDY,
(111 West Washington Street, Room 1406,
Chicago, Illinois 60602) by
MR. EDWARD C. THREEDY,

appeared for defendant Chicago Dynamics,
in Case No. 74 C 1030 only.

ALSO PRESENT:

MR. THOMAS A. BRIODY.

- - - -

Q What did the game consist of as you observed it on the display?

A As I recall there were two spaceships.

Q Have you completed your answer?

A That is what I saw being displayed.

Q Just two spaceships?

A There were two spaceships and there were torpedoes.

Q Was there anything else?

A Not that I recall.

Q Were either the spaceships or the torpedoes moving?

A Yes, they were.

Q Could you describe what happened, as you observed?

A When they moved?

Q Would you describe what you observed.

A There were two players, and as I recall it, each player had four switches which he could use to control the motion.

Q Control the motion of what?

A Of the spaceships.

Q Did each player have control of a different spaceship?

A Yes.

Q Was each player able to control the manner of movement of his associated spaceship?

A Yes.

Q What could he make the spaceship do?

A One switch caused the spaceship to rotate clockwise; one caused it to rotate counterclockwise, and the other one, that is the third one caused the application of thrust in the direction in which the

MR. ANDERSON: What happened when? I object, for lack of a foundation.

BY MR. WELSH:

Q What happened when the torpedo of one player hit the spaceship of another?

MR. ANDERSON: I still object for lack of a foundation. I don't think you have established whether the witness ever saw that event or not.

BY THE WITNESS:

A I don't have a recollection, Mr. Welsh, of what happened.

BY MR. WELSH:

Q You don't have any recollection at all, or any belief as to what happened?

A No, I don't.

Q How long did you observe this game being played?

A I believe it was on the order of five to ten minutes.

Q Did anybody win the game while you were there?

A I don't have any recollection.

Q Did the spaceships ever collide as you were observing the game?

A Not that I recall.

Q Did you manipulate any of the switches for controlling the spaceship or torpedoes while you were there?

A I don't recall having done so.

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appeared for plaintiff The Magnavox Company;

EXHIBIT D

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San Francisco, California 94104) by
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appeared for plaintiff Atari, Inc.;

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MR. DONALD L. WELSH,
MR. A. SIDNEY KATZ,
MR. JOHN F. FLANNERY,

appeared for defendant Bally Manufacturing
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and Empire Distributing, Inc.;

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ALSO PRESENT:

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THE MAGNAVOX COMPANY, et al.,)	
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-v-)	
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BALLY MANUFACTURING CORPORATION,)	74 C 2510
et al.,)	75 C 3153
)	75 C 3933
Defendants.)	

Monday, March 22, 1976

1:30 o'clock p.m.

Parties met pursuant to recess.

PRESENT:

MR. THEODORE W. ANDERSON,

appeared for plaintiff The Magnavox Company;

MR. EDWARD S. WRIGHT,

appeared for plaintiff Atari, Inc.;

MR. DONALD L. WELSH,

MR. A. SIDNEY KATZ,

MR. JOHN F. FLANNERY,

appeared for defendants Bally Manufacturing Corporation, Midway Manufacturing Corporation and Empire Distributing, Inc.;

MR. MELVIN M. GOLDENBERG,

appeared for defendant Seeburg Corporation;

MR. EDWARD C. THREEDY,

appeared for defendant Chicago Dynamics, in Case No. 74 C 1030 only.

ALSO PRESENT:

MR. THOMAS A. BRIODY.

- - - -

(The taking of the deposition of
JAMES T. WILLIAMS was resumed at
135 South LaSalle Street, Room 900,
Chicago, Illinois, as follows:)

ORIGINAL

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THE MAGNAVOX COMPANY, et al.,)	
)	
Plaintiffs,)	Consolidated
)	
vs.)	NO. 74 C 1030
)	74 C 2510
BALLY MANUFACTURING CORPORATION, et al.,)	75 C 3153
)	75 C 3933
Defendants)	

Tuesday, March 23, 1976

9:30 a.m.

Parties met pursuant to adjournment.

PRESENT:

MR. ANDERSON
MR. WRIGHT;
MR. WELSH
MR. KATZ
MR. FLANNERY
MR. GOLDENBERG
MR. THREEDY.

- - - - -

(The taking of the deposition of
JAMES T. WILLIAMS was resumed at
the law offices of Fitch, Even,
Tabin & Luedeka, Suite 900, 135
South LaSalle Street, Chicago,
Illinois as follows:)

THE MAGNAVOX COMPANY, et al.,)	
)	
Plaintiffs,)	Consolidated Action
)	
vs.)	No. 74 C 1030
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BALLY MANUFACTURING CORPORATION,)	75 C 3153
et al.,)	75 C 3933
)	
Defendants)	

Tuesday, March 23, 1976

1:30 p.m.

Parties met pursuant to recess.

PRESENT:

- MR. ANDERSON
- MR. WRIGHT

- MR. WELSH
- MR. KATZ
- MR. FLANNERY
- MR. GOLDENBERG
- MR. THREEDY.

- - - - -

(The taking of the deposition of JAMES T. WILLIAMS was resumed at the offices of Fitch, Even, Tabin & Luedeka, Suite 900, 135 South LaSalle Street, Chicago, Illinois as follows:)

ORIGINAL

MAGNAVOX COMPANY, et al.,)	
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Plaintiffs,)	
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vs.)	
)	No. 74 C 1030
BALLY MANUFACTURING CORPORATION,)	74 C 2510
et al.,)	75 C 3153
)	75 C 3933
Defendants)	

Friday, March 26, 1976

9:30 a.m.

Parties met pursuant to recess.

PRESENT:

MR. ANDERSON
MR. WELSH
MR. FLANNERY
MR. GOLDENBERG
MR. THREEDY

- - - - -

(The deposition of JAMES T.
WILLIAMS was resumed at Room 900,
135 South LaSalle Street, Chicago,
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Plaintiffs,)	Consolidated
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Defendants)	

Friday, March 26, 1976

1:00 p.m.

Parties met pursuant to recess.

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MR. ANDERSON
 MR. WELSH
 MR. FLANNERY
 MR. GOLDENBERG
 MR. THREEDY

- - - - -

(The deposition of JAMES T. WILLIAMS was resumed at Room 900, 135 South LaSalle Street, Chicago, Illinois as follows:)

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EXHIBIT E

PRESENT (Continued):

FLEHR, HOHBACH, TEST, ALBRITTON & HERBERT,
(160 Sansome Street, 15th Floor,
San Francisco, California 94104) by
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appeared for plaintiff Atari, Inc.;

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(Suite 900, 135 South LaSalle Street,
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MR. DONALD L. WELSH,
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THREEDY & THREEDY,
(111 West Washington Street, Room 1406,
Chicago, Illinois 60602) by
MR. EDWARD C. THREEDY,

appeared for defendant Chicago Dynamics,
in Case No. 74 C 1030 only.

ALSO PRESENT:

MR. THOMAS A. BRIODY.

- - - -

Q Was either of the applications discussed with any examiner prior to the filing?

A Yes.

Q When did that take place?

A ^{On} Oh, as I recall, April 23, 1974.

Q What examiner?

A Examiner Trafton.

Q Who attended the meeting? Where did the meeting take place?

A It was in an office of the United States Patent Office, and I believe it was Mr. Trafton's own office.

Q What was the purpose of the meeting?

MR. ANDERSON: Well, I think it is perhaps appropriate to ask him what happened at that meeting.

Handwritten:
6/15/76

I object to the question of what the purpose was as being work product and an attorney-client communication privilege. It is also speculative.

BY MR. WELSH:

Q Do you know what the purpose was?

A I know why I went there.

Q Why did you go there?

A We had decided that it would be appropriate to explain to the examiner the purpose for filing the reissue applications.

Q When you say "we decided," who did you mean?

A Mr. Etlinger and Mr. Anderson primarily.

Q Was that conference with Examiner Trafton ever made of record in the file of either of the reissue applications?

A I don't recall that it was, but the file will speak for itself.

Q How long did the interview last?

MR. ANDERSON: I object to the characterization of it as a "interview". I think that has some special connotations in some circles. That term was not used to describe any event that I know of.

BY THE WITNESS:

A As I recall, it was relatively short,

approximately 15 minutes.

BY MR. WELSH:

Q How would you characterize the occasion?

A How would I characterize the occasion?

Q Yes.

A It was a meeting with the Examiner.

Q A meeting with the Examiner.

Would you relate what was said by the participants in that meeting?

A As ~~✓~~ best I can recall it, Mr. Seligman introduced himself as an attorney for Sanders. I introduced myself as an attorney for Magnavox and explained the relationship between Magnavox and Sanders as patentee and exclusive licensee.

6/5/76

We told the Examiner the reason -- well, I guess first we asked the Examiner if he had seen any of the coin-operated games, video games which were then current.

We explained that Magnavox had been attempting to license or sublicense some of the manufacturers of coin-operated games, and that they had encountered a difficulty because some of those manufacturers had interpreted the words of some of the claims as not including television monitors or tele-

with
vision receivers, the RF and IF sections disabled.

We explained to the Examiner it was our feeling that the claims actually covered such devices.

Q Excuse me. You have been saying "we explained" and "we asked the Examiner if he had seen coin-operated devices."

Did you both speak at once or did one of you alone speak these things that you are relating?

A Both Mr. Seligman and I spoke to the Examiner in the interview. I don't recall specifically which one of us said what portions of the conversation that occurred during our meeting.

Q By "we" do you mean one or the other of you?

A Yes, certainly.

Q All right. Would you proceed, please.

THE WITNESS: Would you read back the last sentence, please.

(Whereupon the record was read by the reporter as requested.)

BY THE WITNESS:

A And that we wanted to put claims in the

case about which there could be absolutely no doubt and no argument.

The Examiner replied that based on his recollection of the cases when they were originally prosecuted, he was surprised that the coin-operated video game manufacturers would take such a position; that he thought our motives were honorable and we were doing or attempting to do just what the reissue statute contemplated.

He said, of course, he couldn't make any commitments until he actually saw the applications. We agreed.

Q Did you ask him for any commitments?

A No, sir, not that I recall at least.

Q Did he volunteer that he couldn't make any commitments?

A I believe so.

Q When you say the Examiner said he couldn't make any commitments, what did you understand to be the commitment he referred to, or commitments?

A He couldn't say what he would do with the application once he got it.

Q Did you make any notes of that meeting?

A No, sir. At least I don't recall having

made any.

Q Did you show the Examiner any papers?

A I don't believe so.

Q Did you have the applications with you at that time?

A I believe at that time Mr. Seligman had some applications with him.

Q Some applications?

A That is correct. Two applications.

Q What two applications were those?

A One was for the reissue of the '284 patent, and the other was for the reissue of the '285.

Q Did you show those to the Examiner?

A To the best of my recollection, we did not.

Q Did you show the declaration of either application to the Examiner?

A As I best recall, we did not.

Q Did you discuss any claims of the reissue applications with the Examiner?

A As best I recall it, we did not.

Q Did you discuss the claims at all other than in the general way that you said?

A No, I don't think we did.

Q Did you discuss how the reissue claims

differed from the claims of the patents which were being reissued?

A As best I recall, we only discussed it in very general terms and which I have already outlined.

Q Did you tell the Examiner whether you were adding new claims or changing claims which were in the applications?

A I believe we may have told him we were adding new claims.

Q Did you discuss the declarations at all?

A With the Examiner?

Q Yes, at that meeting.

A Not that I recall.

Q Did you file the applications right after that meeting?

A No.

Q Did you discuss the terms "raster" or "raster scan" with the Examiner at that meeting?

A Not that I recall.

Q When were the applications filed in relation to that meeting?

A Two days later.

Q Were any changes made in the applications

were.

Q Was it discussed between you and Mr. Seligman?

A Yes, they were.

Q While you both were still in Washington?

A Yes.

Q Were they discussed with Mr. Etlinger while you and Mr. Seligman were still in Washington?

A Yes, they were.

Q Did you participate in drafting the changes?

A Yes, I did.

Q And you do not recall now what those changes were?

A No, I don't.

Q Did you tell the Examiner of patents you were in litigation?

A I believe we did, yes.

Q Did you specify the litigation?

A I don't recall.

Q Did you identify the parties?

A I think we may have identified some of the parties.

Q Who did you identify?

A I can't specifically recall which ones

we identified.

Q How did you select Examiner Trafton as the one to go meet with?

A I believe he handled the original applications, the original patents.

Q Had you met Mr. Trafton before that meeting?

A I don't believe that I had met him.

Q You don't believe you had?

A Yes. I think I had not met him.

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Plaintiffs,)	
)	Consolidated
vs.)	
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PRESENT:

MR. ANDERSON

MR. WELSH

MR. FLANNERY

MR. GOLDENBERG

MR. THREEDY

- - - - -

(The deposition of JAMES T. WILLIAMS was resumed at Room 900, 135 South LaSalle Street, Chicago, Illinois, as follows:)

Q Returning to the meeting you had with Examiner Trafton on April 23, 1974, was there any question raised as to the motives for filing the reissue applications prior to Mr. Trafton's statement that he felt the motives were honorable?

A Was there any question raised by Mr. Trafton?

Q Anybody.

A During the course of that meeting?

Q And prior to his statement that he thought the motives were honorable.

A I don't recall there having been any question raised.

I should say that I did not mean to quote Mr. Trafton verbatim when I used the word "motives". I was trying to relate my impression of what he said. I don't remember the exact words that he used.

Q Was there a discussion as to what the re-issue statute was meant to do prior to his stating that he thought you were doing exactly what the re-

issue statute meant to do?

A No, I don't believe so.

Q Were you quoting him verbatim when you related that expression last Tuesday?

A I was not quoting him verbatim. I believe that ^{was} ~~is~~ the general tenor of his remarks.

Q Do you have any more specific recollection as to what the Examiner did say beyond your general impression?

A Well, I think it is more than a general impression. I think that perhaps "paraphrase" is a better word than "impression". I think that is the meaning he conveyed. I do not remember the exact words that he used.

Q And you made no notes of the meeting?

A I don't recall having made any notes.

Q Did Mr. Seligman make any notes during the meeting?

A I don't recall him having done so.

Q I believe you stated that you or Mr. Seligman explained that Magnavox had had difficulty sub-licensing manufacturers of coin-operated games because some manufacturers said the claims didn't cover games with monitors or TV sets with sections disabled.

Wm
6/8/76

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

MIDWAY MANUFACTURING COMPANY:		Deposition of
vs.	:	Richard I. Seligman
THE MAGNAVOX COMPANY	:	SECOND DAY
and	:	74 Civ 1657 CBM
SANDERS ASSOCIATES, INC.	:	

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

THE MAGNAVOX COMPANY, et al :		Consolidated Actions
vs.	:	74 C 1030
		74 C 2510
BALLY MANUFACTURING		75 C 3153
CORPORATION, et al :		75 C 3933

Continued deposition taken
pursuant to a subpoena and notice at the Sanders Associates,
Inc., Headquarters; Spit Brook Road, Nashua, New Hampshire;
Thursday, April 8, 1976; commencing at nine-thirty in
the forenoon.

ERNEST W. NOLIN & ASSOCIATES
General Stenographic Reporters
369 ELGIN AVE., MANCHESTER, N. H. 03104
TELEPHONE: 623-6996

ORIGINAL

PRESENT:

For Midway Manufacturing
Company, Bally Manufacturing
Corporation and Empire:

Fitch, Even, Tabin & Ludeka,
by Donald L. Welsh, Esq.,
135 South LaSalle Street,
Chicago, Illinois.

For Atari, Inc.:

Flehr, Hohbach, Test, Albritton &
Herbert, by Thomas O. Herbert,
Esq., 160 Sansome Street,
15th Floor, San Francisco,
California.

For Sanders Associates, Inc.,
and Magnavox Company:

Theodore W. Anderson, Esq.,
and James T. Williams, Esq.,
77 West Washington Street,
Chicago, Illinois.

Stenotype Reporter:

Ronald J. Hayward

MR. ANDERSON: Mr. Flannery,
before you begin, we completed a search of the
Patent Department chronological file last night
and, as I mentioned yesterday, we did find the two
letters that were sent to TelePrompter in this
file dated April 9 and April 12, 1968. Our search
covered the chronological file from January 1, '68,

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Q. There was an interview prior to filing the reissue applications, Mr. Seligman, which you attended with Mr. Williams and you interviewed the examiner, Mr. Trafton; what was the purpose of that interview?

MR. ANDERSON: I object to the question on the ground that "interview" has a special meaning and I think there is no foundation for the question in that there has been no establishment of any activity for a special meeting.

MR. FLANNERY: Use discussion for interview.

MR. ANDERSON: All right; do you want to restate the question?

MR. FLANNERY: No.

THE WITNESS: Merely to discuss with him and inform him of what we were doing.

321 Q. Why did you want to inform him of what you were doing?

A. Just to get his feelings in the matter.

322 Q. Why did you want to get his feelings in the matter?

A. With the examiner in the parent case - - -

323 Q. Would you have filed the reissue applications anyway?

A. Would we have?

324 Q. Yes.

- A. If he had given us a negative opinion?
- 325 Q. Yes.
- A. I don't know, we never discussed that question.
- 326 Q. Did you discuss the declarations with Examiner Trafton?
- A. Not in detail, we told him why we were filing the reissues.
- 327 Q. Did you show him the declarations?
- A. I don't recall showing him the declarations.
- 328 Q. Did you have any discussions with Examiner Trafton prior to the day or two before the filing of the reissue applications?
- A. Discussions with him?
- 329 Q. Yes, with respect to the filing of the reissue applications.
- A. Yes, I think we already just said that.
- 330 Q. As I understand it, you had the discussion a day or two prior to the filing of the application?
- A. Yes.
- 331 Q. Did you have a discussion prior to that time?
- A. Regarding this?
- 332 Q. Yes.
- A. I don't recall any, perhaps a phone call to

arrange this meeting.

- 333 Q. What did you say during that phone call?
A. I have no idea.
- 334 Q. Did Mr. Trafton examine the declarations at that discussion?
A. I don't believe so.
- 335 Q. Did you have any documents with you at that discussion?
A. Yes.
- 336 Q. What documents did you have with you?
A. The reissue applications.
- 337 Q. Did you submit those to the examiner?
A. No.
- 338 Q. Did you show them to the examiner?
A. I don't recall showing him.
- 339 Q. What do you recall showing the examiner?
A. I don't think we showed him anything. I think we discussed the situation with him and discussed why we were filing the reissues.
- 340 Q. What did you exactly tell him?
A. That coin-operated game manufacturers took the position that the claims did not cover their equipment.

- 341 Q. That is all you told him?
- A. I am sure the discussion went on for more than thirty seconds to make that statement, but we just discussed that general situation as best as I can recall.
- 342 Q. What did then Examiner Trafton say?
- A. There was no doubt in his mind that the claims in the original application covered coin-operated games.
- 343 Q. Did he say that in those exact words?
- A. No, sir.
- 344 Q. What did he say?
- A. I have no idea.
- 345 Q. That is your characterization of what he said?
- A. That is a pretty good characterization of what he said because certainly we liked that opinion from him.
- 346 Q. Did you know Examiner Trafton prior to the filing of the reissue applications?
- A. Sure.
- 347 Q. Where did you know him from?
- A. We had an interview with him on the original applications.



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



PATENT DEPARTMENT

May 8, 1984

VIA FEDERAL EXPRESS

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

RE: Magnavox v Activision

Dear Lou,

Enclosed is the Supplemental Response which has been executed by Tom Hafner on behalf of Magnavox. Jim Williams requested that I forward the Response to you for execution after execution by Magnavox.

Very truly yours,

Charles E. Quarteron
Patent Counsel

CEQ/dkl

Enclosure

cc: James Williams, Esq.