

PILLSBURY, MADISON & SUTRO
ROBERT P. TAYLOR
225 Bush Street
Mailing Address P. O. Box 7880
San Francisco, CA 94120
Telephone: (415) 983-1000

NEUMAN, WILLIAMS, ANDERSON & OLSON
THEODORE W. ANDERSON
JAMES T. WILLIAMS
77 West Washington Street
Chicago, IL 60602
Telephone: (312) 346-1200

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

United States District Court for the
Northern District of California

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

Plaintiffs herewith respond to defendant's inter-
rogatories 1-125. Plaintiffs object to each of those inter-
rogatories for at least the following reasons:

1. Plaintiffs object to interrogatories 1-125 to the extent they are deemed to be continuing or require supplementation beyond the requirements of Rule 26(e), F.R.Civ.P.

2. Plaintiffs object to the definitions of "Magnavox" and "Sanders" included in the introduction to interrogatories 1-125 to the extent those definitions and the interrogatories making use of them attempt to impose any obligation on plaintiffs to supply information beyond that required by the Federal Rules of Civil Procedure.

However, in order to advance the progress of this action and without waiver of any of the within-stated objections, plaintiffs further respond to defendant's interrogatories 1-125 in the following. The answers supplied are based on information obtained from those employees of plaintiffs believed to have knowledge of the relevant facts.

In response to certain of defendant's interrogatories, plaintiffs will produce for inspection by defendant the documents from which the requested information may be derived or ascertained. The documents will be produced at the location where they are maintained by the plaintiff producing same in the normal course of its business at a time to be mutually agreed upon. Where such documents include trade secret or other confidential or commercial information, the documents will be produced only after the entry of a suitable protective order. Where identification is requested of documents which are immune from discovery on grounds of

attorney-client privilege or otherwise, the documents will be identified at or shortly after the time of production of the documents being produced.

INTERROGATORY NO. 1

Identify each and every patent owned in whole or in part by Magnavox and/or Sanders relating to television games.

SANDERS:

<u>UNITED STATES:</u>	3,829,095*
	3,737,566*
	3,728,480*
	3,497,829*
	3,599,221*
	Re. 28,507 (3,659,284)*
	3,778,058*
	Re. 28,598 (3,659,285)*
	3,921,161*
	4,034,990*
	4,194,198*
	4,107,737
	4,077,049
	4,357,014
	4,355,814
	4,117,511
	4,355,805
	4,342,454

	4,359,223
	4,346,407
<u>ARGENTINA:</u>	201,824*
	208,872*
<u>AUSTRALIA:</u>	440,524*
	440,977*
	429,985*
	442,967*
	441,126*
	478,656*
<u>BELGIUM:</u>	739,124*
	730,002*
	751,008*
	754,932*
	815,628*
<u>CANADA:</u>	934,056*
	948,400*
	895,028*
	920,160*
	993,001*
	911,484*
	927,864*
	999,888*
	1,010,464*
	1,111,546*
	1,111,545

<u>FRANCE:</u>	69.07714*
	69.07715*
	70.19368*
	70.29350*
	74.18382*
<u>GREAT BRITAIN:</u>	1,268,821*
	1,268,822*
	1,255,224*
	1,318,051*
	1,319,410*
	1,328,223*
	1,472,480*
	1,566,337*
	1,595,852
	1,601,723
	2,033,703
<u>GREECE:</u>	45,937*
	67,248*
	46,582*
	51,156*
<u>HOLLAND:</u>	153,404*
	154,894*
	152,422*
<u>HONG KONG:</u>	75/1976*
	483/1977*
	484/1977*
	76/1976*

	77/1976*
	578/1977*
	506/1980*
<u>INDIA:</u>	136,499*
<u>ISRAEL:</u>	31,836*
	38,735*
	31,826*
	33,915*
	41,011*
	34,263*
	44,575*
<u>ITALY:</u>	897,269*
	961,012*
	893,433*
	901,545*
	1,019,625*
<u>JAPAN:</u>	765,636*
	768,992*
	778,416*
	852,060*
	811,493*
<u>KOREA:</u>	13,509*
<u>MEXICO:</u>	141,144*
	140,468*
	141,091*
<u>PHILLIPINES:</u>	13,144*

<u>SINGAPORE:</u>	380/1975*
	381/1975*
	354/1980*
<u>SWEDEN:</u>	7800417-3*
	7800418-1*
	7800419-9*
	368,467*
	364,186*
	377,889*
	7415697-7*
	7407044-2*
<u>SWITZERLAND:</u>	512,865*
	512,864*
	529,491*
	534,989*
	600,718*
<u>TAIWAN:</u>	11,669*
<u>VENEZUELA:</u>	30,146*
	39,070*
	30,171*
	33,789*
<u>WEST GERMANY:</u>	1,951,848*
	2,017,312*
	1,913,722*
	2,030,959*
	2,426,249*
	2,714,670*
	2,800,756

WEST MALAYSIA: 260/1975*
 261/1975*
 210/1981*

MAGNAVOX:

UNITED STATES: 4,006,474
 4,006,898
 4,068,847
 4,111,421
 3,809,395
 De. 233,405
 De. 234,405

Although such patents do not relate to television games, Magnavox and Sanders also own United States Patent 3,135,815 and Canadian Patent 691,432.

INTERROGATORY NO. 2

With regard to each of the patents identified in response to INTERROGATORY NO. 1, state the following:

- A. The nature of the interest owned by Magnavox and/or Sanders in the patent;
- B. The manner in which Magnavox and/or Sanders acquired its interest in the patent;
- C. The dates that Magnavox and/or Sanders held its interest in the patent;
- D. Identify all communications relating to the interest of Magnavox and/or Sanders in the patent; and
- E. Identify all documents which refer or relate in any way to the subject matter of parts A through D of this interrogatory.

A. Each of the patents identified in the response to interrogatory 1 is wholly owned by the identified plaintiff except that United States Patents 4,357,104, 4,355,814, and 4,355,805 are owned by Sanders jointly with Marvin Glass & Associates, Inc. and Magnavox and Sanders own United States Patent 3,135,815 and Canadian Patent 691,432 jointly as tenants in common.

B&C. Each of the patents identified in the response to interrogatory 1 was acquired by the indicated plaintiff by assignment from the inventor(s) of the invention thereof at or about the time of execution and filing of the application therefor (or, in the case of patents of countries other than the United States, the time of execution and filing of the corresponding United States application) except that United States Patent 3,135,815 and Canadian Patent 691,432 were acquired by assignment from APF Electronics, Inc. executed on June 18, 1982.

D&C. Plaintiffs object to paragraphs D and C of this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 3

Identify all patents relating to television games under which Magnavox and/or Sanders have ever been granted a license or immunity from suit.

Magnavox has been granted a license under the

patents identified in the response to interrogatory 1 as owned by Sanders and marked with an asterisk(*) .

Magnavox has been granted licenses under United States Patents 4,095,791, 4,026,555, and 4,155,095, Canadian Patent 1,082,351, French Patent 76.07029, and Great Britain Patent 1,535,999; Magnavox and Sanders have been granted licenses under United States Patents 4,054,919 and foreign corresponding patents, 4,045,789 and foreign corresponding patents, 4,016,362 and foreign corresponding patents, and foreign patents corresponding to United States Patent 3,793,483.

INTERROGATORY NO. 4

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

- A. The nature of the license or immunity from suit;
- B. The circumstances under which the license or immunity was acquired;
- C. The effective dates of the license or immunity from suit;
- D. The terms of the license or immunity from suit;
- E. Identify all communications relating to the license or immunity from suit;
- F. Identify all documents which refer or relate in any manner to the subject matter of Parts A through E of this interrogatory.

A-C. Magnavox's license under patents owned by Sanders: Exclusive license with the right to sublicense, acquired by negotiation, dated January 27, 1972;

Magnavox license under United States Patent 4,095,791: fully paid up, royalty free, nonexclusive; acquired as part of settlement of lawsuit with Fairchild Camera and Instrument Corporation, effective January 1, 1980;

Magnavox license under United States Patents 4,026,555 and 4,155,095, Canadian Patent 1,082,351, French Patent 76.07029, and Great Britain Patent 1,535,999: fully paid up, nonexclusive; acquired as part of settlement of lawsuit with Alpex Computer Corporation;

Magnavox and Sanders license under United States Patents 4,054,919, 4,045,789, and 4,016,632, and corresponding foreign patents and foreign patents corresponding to United States Patent 3,793,483: fully paid up, nonexclusive; acquired as part of settlement of lawsuit with Atari, Inc., effective June 8, 1976.

INTERROGATORY NO. 5

Has Magnavox and/or Sanders, other than by license, ever assigned or conveyed to another any part of its ownership, interest, license or immunity in or under any of the patents identified in response to INTERROGATORY NO. 1 and/or INTERROGATORY NO. 3?

No.

INTERROGATORY NO. 6

If the answer to INTERROGATORY NO. 5 is other than an unqualified negative, state the following:

- A. The nature of the ownership, interest, license or immunity assigned or conveyed;

- B. Identify the person(s) to whom the assignment or conveyance was made;
- C. Identify all persons having knowledge of the assignment or conveyance;
- D. Identify all communications relating to the assignment or conveyance; and
- E. Identify all documents which refer or relate in any way to the subject matter of parts A through D of this interrogatory.

No response required.

INTERROGATORY NO. 7

Have any of the assignments or conveyances identified in the response to INTERROGATORY NO. 6 been terminated?

No response required.

INTERROGATORY NO. 8

If the answer to INTERROGATORY NO. 7 is other than an unqualified negative, state the following with respect to each termination:

- A. Identify the assignment or conveyance terminated;
- B. The manner in which the assignment or conveyance was terminated and the reason(s) for such termination;
- C. The effective date of the termination;
- D. Identify all persons having knowledge of the termination;
- E. Identify all communications relating to the termination; and
- F. Identify all documents which refer or relate in any way to parts A through E of this interrogatory.

No response required.

INTERROGATORY NO. 9

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

Plaintiffs object to this interrogatory to the extent it seeks information concerning licenses or immunity grants not including United States Patent Re. 28,507 and corresponding foreign patents as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and/or premature. Plaintiff Sanders has granted a license under United States Patent Re. 28,507 and plaintiff Magnavox has granted sublicenses thereunder.

INTERROGATORY NO. 10

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

- A. The nature of the license or immunity;
- B. Identify the person(s) to whom the license or immunity was granted;
- C. The terms of the license or immunity;
- D. The effective dates of the license or immunity;
- E. Identify all persons having knowledge of the license or immunity;
- F. Identify all communications relating to the license or immunity; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

A-D&F. As to such grants including United States

Patent Re. 28,507 and corresponding foreign patents, the information requested can be derived or ascertained from the files of plaintiffs relating to the subject licenses which files will be produced according to the statement made in the introduction to these interrogatories.

E. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-D and F of this interrogatory.

G. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 11

Have any of the licenses or immunities identified in response to INTERROGATORY NO. 10 been terminated?

Yes.

INTERROGATORY NO. 12

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

- A. Identify the license or immunity terminated;
- B. The manner in which the license or immunity was terminated and the reason(s) for termination;
- C. The effective date of the termination;
- D. Identify all persons having knowledge of the termination;
- E. Identify all communications relating to the termination; and
- F. Identify all documents which refer or relate in any way to parts A through E of this interrogatory.

A-C&E. The information requested can be derived or ascertained from the files of plaintiffs relating to the subject licenses which files will be produced according to the statement made in the introduction to these interrogatories.

D. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-C and E of this interrogatory.

F. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 13

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

Plaintiffs object to this interrogatory to the extent it seeks information concerning licenses or immunities not including United States Patent Re. 28,507 and corresponding foreign patents as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and/or premature. Others have expressed a desire or interest in obtaining a license or sublicense under United States Patent Re. 28,507 or corresponding foreign patents.

INTERROGATORY NO. 14

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

- A. The patent(s) in which the interest was expressed;
- B. Identify the person(s) expressing the interest;
- C. The date(s) when the interest was expressed;
- D. The nature of the rights (e.g., assignment, license, immunity, etc.) in which the interest was expressed;
- E. Describe in detail the manner in which the interest was expressed;
- F. State whether the person(s) expressing the interest is currently utilizing the subject matter of the patent(s);
- G. Describe in detail all terms offered by Magnavox and/or Sanders for the interest, license or immunity in which interest was expressed;
- H. State in detail why the person(s) expressing the interest did not acquire the license, immunity or interest;
- I. Identify all persons having knowledge of the expression of interest;
- J. Identify all communications relating to the expression of interest; and
- K. Identify all documents which refer or relate in any way to the subject matter of parts A through J of this interrogatory.

A-H&J. The information requested to the extent available to plaintiffs can be derived or ascertained from the files of plaintiffs relating to the licenses under United States Patent Re. 28,507 or corresponding foreign patents which files will be produced according to the statement made in the introduction to these interrogatories.

I. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-H and J of this interrogatory.

K. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 15

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

Plaintiffs object to this interrogatory to the extent it seeks information concerning notification or charges of infringement not including United States Patent Re. 28,507 or a corresponding foreign patent as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and/or premature. The information requested as to United States Patent Re. 28,507 and corresponding foreign patents can be derived or ascertained from the files of plaintiffs relating to the licenses under those patents which files will be produced according to the statement made in the introduction to these interrogatories.

INTERROGATORY NO. 16

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

- A. Identify the patent(s) with respect to which the notice was given or the allegation was made;

- B. State the date upon which the notice was given or the allegation was made;
- C. Describe in detail the circumstances under which the notice was given or the allegation was made;
- D. Set forth in detail the nature of the notice or allegation;
- E. Describe in detail the response of the person to whom the notice was given or the allegation was made;
- F. Set forth in detail the outcome of the notice or allegation;
- G. Identify all persons having knowledge of the notice or allegation;
- H. Identify all communications relating to the notice or allegation;
- I. Identify all documents which refer or relate in any way to the subject matter of parts A through H of this interrogatory.

A-F&H. The information requested can be derived or ascertained from the files of plaintiffs relating to the subject licenses which files will be produced according to the statement made in the introduction to these interrogatories.

G. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-F and H of this interrogatory.

I. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 17

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

- A. The court and docket number of the action;
- B. The patent(s) involved in the suit;
- C. Identify the parties to the suit;
- D. Describe the nature of the suit;
- E. State the outcome of the suit;
- F. If the validity or enforceability of any of the patent(s) in suit was challenged, set forth in detail all of the grounds upon which the challenge was based, including any prior art relied upon;
- G. Identify all persons having knowledge of the suit;
- H. Identify all communications relating to the suit; and
- I. Identify all documents which refer or relate in any way to the subject matter of parts A through H of this interrogatory.

Plaintiffs object to this interrogatory to the extent it seeks information concerning lawsuits not including United States Patent Re. 28,507 or a corresponding foreign patent as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and/or premature. The following response is as to lawsuits including United States Patent Re. 28,507.

A-F. Much of the information requested in paragraph A-F is supplied at paragraph 3 of the Affidavit of Thomas A. Briody previously filed herein. The remaining information requested can be derived or ascertained from the pleadings files of plaintiffs and their counsel relating to the subject lawsuits which files will be produced according to the statement made in the introduction to these interrogatories.

G. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-D and F of this interrogatory.

H. Plaintiffs object to paragraph H as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence, as requesting identification of a large number of documents which are obviously subject to valid claim of attorney-client privilege and/or attorney work product, and as placing plaintiffs under an undue and unnecessary burden to supply the requested information.

I. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 18

Which of the grounds of invalidity and/or unenforceability identified in response to part F of INTERROGATORY NO. 17 were of the greatest concern to Magnavox and Sanders?

No answer required. Further, plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and, to the extent it calls for same, as requesting information subject to a valid claim of attorney-client privilege or attorney work product.

INTERROGATORY NO. 19

State the reasons why each of the grounds of invalidity and/or unenforceability identified in response to INTERROGATORY NO. 18 was of concern.

No answer required. Further, plaintiffs object to this interrogatory for the same reasons as were stated in the response to interrogatory 18.

INTERROGATORY NO. 20

Is Magnavox registered to do business as a foreign corporation in the State of California?

It is not.

INTERROGATORY NO. 21

Identify all companies which are related in any way to Magnavox, including but not limited to parents, subsidiaries and divisions.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. The parent and grandparent companies of Magnavox are North American Philips Development Corporation and North American Philips Corporation, respectively. North American Philips Consumer Electronics Corp. is a cosubsidiary of North American Philips Development Corporation and its subsidiary N.A.P. Consumer Electronics Corp. is the corporation having responsibility for the manufacture and sale of the Odyssey² television game.

INTERROGATORY NO. 22

Is Sanders registered to do business as a foreign corporation in the State of California?

?

INTERROGATORY NO. 23

Identify all companies which are related in any way to Sanders, including but not limited to parents, subsidiaries and divisions.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Sanders has no parent corporation; no companies related to Sanders deal in television games.

INTERROGATORY NO. 24

Does Magnavox and/or Sanders contend that Activision has ever infringed any of the patents identified in response to INTERROGATORY NO. 1 and/or INTERROGATORY NO. 3 other than United States Letters Patent Re. 28,507?

Plaintiffs do not contend in this action that Activision has ever infringed any patent other than United States Patent Re. 28,507. To the extent this interrogatory requires any further response, plaintiffs object to it as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 25

If the response to INTERROGATORY NO. 24 is other than an unqualified negative, for each such patent:

- A. Identify the patent and the claims of the patent which Magnavox and/or Sanders contends have been infringed;
- B. Set forth in detail the manner in which Magnavox and/or Sanders contends that the patent has been infringed;
- C. Identify any product(s) of Activision which Magnavox and/or Sanders contends constitutes an infringement of the patent;
- D. Identify all persons having knowledge of the alleged infringement;
- E. Identify all communications relating to the alleged infringement; and
- F. Identify all documents which refer or relate in any way to the subject matter of parts A through E of this interrogatory.

No response required.

INTERROGATORY NO. 26

Has Magnavox and/or Sanders ever considered charging Activision with infringement of any of the patents identified in response to INTERROGATORY NO. 1 and/or INTERROGATORY NO. 3 other than United States Letters Patent Re. 28,507?

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 27

If the answer to INTERROGATORY NO. 26 is other than an unqualified negative, for each such consideration:

- A. State the date(s) of the consideration;
- B. Identify the patent(s) considered;
- C. Identify the product(s) and/or activities of Activision considered;
- D. State whether each of the product(s) and activities identified in response to part C of this interrogatory was determined to constitute an infringement, and set forth in detail the reason(s) for this determination;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

No response required.

INTERROGATORY NO. 28

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

If plaintiffs' motion to dismiss Activision's Second Counterclaim is granted and Activision's Second Counterclaim is dismissed with prejudice, neither of plaintiffs will sue Activision for infringement of either any claim of the original U.S. Patent No. 3,728,480 or any claim of any reissue of the U.S. Patent 3,728,480 which claim is identical to any claim presently in the original patent for any activity of Activision in relation to its television game cartridges which were on the market prior to October 25, 1982.

To the extent this interrogatory requests any further response, plaintiffs object to it as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence and as being premature.

INTERROGATORY NO. 29

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

- A. Identify all claims believed to be infringed;
- B. Set forth in detail the manner in which each of the claims identified in the response to part A of this interrogatory is believed to be infringed;
- C. For each of the claims identified in response to part A of this interrogatory, identify the products of Activision which are believed to constitute an infringement, either direct or contributory;
- D. Identify all claims of the patent which are not believed to be infringed by Activision;
- E. Set forth in detail the reasons why each of the claims identified in response to part D of this interrogatory are not infringed;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

No response required. See also the objection stated in plaintiffs' response to interrogatory 28.

INTERROGATORY NO. 30

Have any of the claims of any of the patents identified in response to INTERROGATORY NO. 1 or INTERROGATORY NO. 3 ever been found to be invalid or unenforceable by a court?

Yes.

INTERROGATORY NO. 31

If the answer to INTERROGATORY NO. 30 is other than an unqualified negative, for each claim found to be invalid or unenforceable:

- A. Identify the claim;
- B. Identify the court and the proceeding in which the claim was found to be invalid or unenforceable;
- C. Set forth in detail the nature of the finding of invalidity or unenforceability, including any prior art relied upon in such finding;
- D. Identify all persons having knowledge of the finding of invalidity and/or unenforceability;
- E. Identify all communications relating to the finding of invalidity or unenforceability; and
- F. Identify all documents which refer or relate in any way to the subject matter of parts A through E of this interrogatory.

A. Claims 1, 2, 5, 6, 13, 14, 15 and 16 of United States Patent Re. 28,598. Plaintiffs have no knowledge that any claims of any of the other patents identified in response to interrogatory 3 have been found to be invalid or unenforceable by a Court.

B. United States District Court for the Northern District of Illinois; Civil Action No. 74 C 1030.

C. The finding is set forth at 201 U.S.P.Q. 25.

D. The finding was published in a publicly available reporter series.

E. Plaintiffs object to paragraph E of this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

F. Plaintiffs object to paragraph F of this interrogatory as being vague and indefinite.

INTERROGATORY NO. 32

Has Magnavox or Sanders ever made a study with regard to the validity or enforceability of any of the claims of the patents identified in response to INTERROGATORY NO. 1 or INTERROGATORY NO. 3?

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 33

If the answer to INTERROGATORY NO. 32 is other than an unqualified negative, identify each such study, including:

- A. The patent(s) and claim(s) involved;
- B. When the study was made;
- C. Identify all persons participating in the study;
- D. Describe the study in detail, including the outcome of the study;

- E. Identify any prior art considered in connection with the study;
- F. Set forth the circumstances under which the study was made, including the reason that the study was made;
- G. Describe any action taken as a result of the study;
- H. Identify all persons having knowledge of the study;
- I. Identify all communications relating to the study; and
- J. Identify all documents which refer or relate in any way to the subject matter of parts A through I of this interrogatory.

No response required. See also the objection stated in plaintiffs' response to interrogatory 32.

INTERROGATORY NO. 34

Has Magnavox or Sanders ever formed a conclusion that any of the claims of the patents identified in response to INTERROGATORY NO. 1 or INTERROGATORY NO. 3 is or might be invalid or unenforceable for any reason?

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 35

If the answer to INTERROGATORY NO. 34 is other than an unqualified negative, for each claim thought to be invalid or unenforceable:

- A. Identify the claim and the patent in which the claim is found;

- B. Set forth in detail the reason why the claim is or was thought to be invalid or unenforceable;
- C. Set forth the circumstances under which the claim was determined to be invalid or unenforceable;
- D. Describe any action taken with respect to the claim once it was determined to be invalid or unenforceable;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

No response required. See also the objection stated in plaintiffs' response to interrogatory 34.

INTERROGATORY NO. 36

Has anyone ever suggested to Magnavox or Sanders that any of the claims of the patents identified in response to INTERROGATORY NO. 1 and INTERROGATORY NO. 3 might be invalid or unenforceable?

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 37

If the answer to INTERROGATORY NO. 36 is other than an unqualified negative, identify each suggestion of invalidity or unenforceability, including the following:

- A. identify the claim(s) suggested to be invalid or unenforceable;
- B. Identify the person(s) suggesting that the claim was invalid or unenforceable;
- C. Set forth in detail the grounds upon which the claim was said to be invalid or unenforceable;
- D. Which of the grounds identified in response to part C of this interrogatory were or are of the greatest concern to Magnavox and Sanders?
- E. State why the grounds identified in response to part D of this interrogatory are of the greatest concern;
- F. Describe in detail the circumstances under which the suggestion of invalidity or unenforceability was made;
- G. Describe in detail any action taken by Magnavox or Sanders in connection with or as a result of the suggestion or invalidity or unenforceability;
- H. Identify all persons having knowledge of the subject matter of parts A through G of this interrogatory;
- I. Identify all communications relating to the subject matter of parts A through H of this interrogatory; and
- J. Identify all documents which refer or relate in any way to the subject matter of parts A through I of this interrogatory.

No response required. See also the objection stated in plaintiffs' response to interrogatory 36.

INTERROGATORY NO. 38

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

Plaintiffs are at this time unable to fully state what contentions they will make at trial as to the subject

matter of Interrogatories 38 and 39 and those other interrogatories which reference this response. These interrogatories seek information as to plaintiffs' contentions with regard to infringement of the patent in suit. Plaintiffs have not completed their discovery as to the television game products manufactured, used, and/or sold by Activision, so they have been unable to fully formulate their contentions as to infringement. Plaintiffs hereinafter state their contentions as they are presently best able to determine them in light of the information presently available to them; they specifically reserve the right to alter these contentions when more complete information becomes available. To the extent either of interrogatories 38 and 39 presently requires any further response than that given hereinafter, plaintiffs object to the interrogatory as premature.

As presently advised, plaintiffs contend that the manufacture, use, or sale by Activision of the "Fishing Derby", "Boxing", "Tennis" and "Ice Hockey" television game cartridges constitute acts of contributory infringement and inducement to infringe at least claims 25, 26, 44, 45, 51, 52, 60, 61, and 62 of United States Patent Re. 28,507.

INTERROGATORY NO. 39

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

- A. The activities of Activision which constitute infringement;

- B. State when and under what circumstances each of the activities identified in response to part A of this interrogatory came to the attention of Magnavox and/or Sanders;
- C. Identify each television game cartridge made, used and/or sold by Activision which constitutes an infringement of the claim either by itself or in combination with a television game console;
- D. For each of the game cartridges identified in response to part C of this interrogatory, state precisely where each element of the claim is found in the cartridge or cartridge/ console combination;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

See the response to interrogatory 38.

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

B. As presently advised, personnel of plaintiffs associated with the prosecution of this action first became aware of such activities in early 1981. Other personnel of plaintiffs may have had earlier knowledge.

C. See the response to interrogatory 38.

D. Plaintiffs are unable to respond to paragraph D of this interrogatory at this time. See the response to interrogatory 38.

E. The principal persons having knowledge of the subject matter of paragraph B are plaintiffs' counsel.

F. The information requested can be derived or ascertained from the files of plaintiff Magnavox relating to the negotiations with Activision which file will be produced according to the statement made in the introduction to these interrogatories.

G. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 40

Referring to the Activision video game cartridge catalog attached to these interrogatories as Exhibit A, identify each of the games described therein which does not infringe any of the claims of United States Letters Patent Re. 28,507.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this interrogatory as premature. See the response to interrogatory 38.

INTERROGATORY NO. 41

For each of the games identified in response to INTERROGATORY NO. 40, state the reasons why the game does not infringe the patent.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the

subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this interrogatory as premature. See the response to interrogatory 38.

INTERROGATORY NO. 42

Has Magnavox or Sanders ever made an examination or investigation of any of the game cartridges identified in the catalog attached as Exhibit A to determine whether the cartridge constitutes an infringement of United States Letters Patent Re. 28,507 either by itself or when used in combination with a television game console?

Counsel for plaintiffs made an examination or investigation of certain of the television game cartridges identified in the catalog attached as Exhibit A to the interrogatories prior to the filing of this action.

INTERROGATORY NO. 43

If the answer to INTERROGATORY NO. 42 is other than an unqualified negative, for each such examination or investigation:

- A. Identify the game cartridge subject to examination or investigation;
- B. State when, where and by whom the examination or investigation was made;
- C. Describe in detail the examination or investigation made;
- D. State the results of the examination or investigation;
- E. Identify any equipment, instrumentation or apparatus employed in the examination or investigation;
- F. Identify all persons having knowledge of the examination or investigation;

- G. Identify all communications relating to the examination or investigation; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence, and as requesting information which is subject to valid claims of attorney-client privilege and attorney work product.

INTERROGATORY NO. 44

Referring to Paragraph 10 of the Complaint, identify the specific activities of Activision with respect to television game cartridges which Magnavox and Sanders contend constitutes each of the following:

- A. Infringement of United States Letters Patent Re. 28,507;
- B. Active inducement of infringement of United States Letters Patent Re. 28,507; and
- C. Acts of contributory infringement of United States Letters Patent Re. 28,507.

See the response to interrogatory 38.

A. Use of the television game cartridges referred to in the response to interrogatory 38 with a television game console and a television receiver.

B. The advertising for sale, promotion, and sale of the television game cartridges referred to in the response to interrogatory 38 and associated packaging and instructional materials.

C. The manufacture and/or sale of the television game cartridges referred to in the response to interrogatory 38.

INTERROGATORY NO. 45

For each of the activities identified in response to INTERROGATORY NO. 44, state the following:

- A. The date(s) and place of the activity;
- B. The manner in which the activity came to the attention of Magnavox and Sanders;
- C. Identify all persons having knowledge relating to the activity;
- D. Identify all communications relating to the activity; and
- E. Identify all documents which refer or relate in any way to the subject matter of parts A through D of this interrogatory.

A. Activision has been carrying out such activities since at least 1980, and it is believed the activities have been carried out by Activision or on behalf of Activision throughout the United States.

B. Certain of the activities of Activision were brought to the attention of Magnavox by representatives of Atari, Inc. Those personnel of plaintiffs associated with the prosecution of this action are presently unable to document any prior knowledge of those activities. Other personnel of plaintiffs may have had earlier knowledge of these activities.

C. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraph D of this interrogatory.

D. The information requested can be derived or ascertained from the files of plaintiff Magnavox relating to the negotiations with Activision which file will be produced according to the statement made in the introduction to these interrogatories.

E. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 46

With regard to each act of contributory infringement identified in response to INTERROGATORY NO. 44:

- A. Identify the direct infringement upon which the charge of contributory infringement is based;
- B. State when and where the direct infringement occurred;
- C. State how the direct infringement came to the attention of Magnavox and Sanders;
- D. Identify any apparatus employed in the direct infringement;
- E. Identify all persons having knowledge of the direct infringement;
- F. Identify all communications relating to the direct infringement; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

See the response to interrogatory 38.

A. The placing of a television game cartridge referred to in the response to interrogatory 38 into a television game console and the use of that combination with a television receiver by purchasers of the cartridges and others.

B. Substantially continuously since at least 1980 throughout the United States.

C. See the reponse to interrogatory 45.

D. The Activision cartridges referred to in the response to interrogatory 38, the television game consoles with which they are intended and designed to operate (i.e., the Atari VCS Model 2600, the Sears Tele-Games Video Arcade and compatible systems such as the combination of the Coleco Colecovision television game console and the Expansion Module 1), and a television receiver.

E&F. It is virtually impossible to identify all the persons or all the communications referred to in paragraphs E and F of this interrogatory.

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

INTERROGATORY NO. 47

With regard to each activity identified in response to INTERROGATORY NO. 44 as constituting an inducement of infringement:

- A. Identify the person(s) induced to infringe;
- B. State whether the person(s) induced to infringe did actually infringe the patent;
- C. If the answer to part B of this interrogatory is affirmative, state in detail how the person induced to infringe did in fact infringe the patent;
- D. Identify any apparatus employed in infringing the patent by the person(s) induced to infringe;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;

- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

See the response to interrogatory 38.

A. The persons who place one of the television game cartridges referred to in the response to interrogatory 38 into a television game console and use that combination with a television receiver.

B. They did.

C. By carrying out the activities referred to in plaintiffs' response to paragraph A of this interrogatory.

D-G. The Activision cartridges referred to in the response to interrogatory 38, the television game consoles with which they are intended and designed to operate (i.e., the Atari VCS Model 2600, the Sears Tele-Games Video Arcade and compatible systems such as the combination of the Coleco Colecovision television game console and the Expansion Module 1), and a television receiver.

INTERROGATORY NO. 48

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

Plaintiffs object to this interrogatory as being vague and indefinite; only people, not things, are capable of

infringing patents. Plaintiffs also object to this interrogatory to the extent it requests information concerning patents other than United States Patent Re. 28,507 as requesting information which is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence and as being premature. See also plaintiffs' response to interrogatory 38.

INTERROGATORY NO. 49

If the answer to INTERROGATORY NO. 48 is other than an unqualified negative:

- A. Identify the game cartridge(s) and the claim(s) infringed by each such cartridge; and
- B. State specifically where each element of each claim identified in response to part A of this interrogatory is found in the game cartridge(s) infringed thereby.

No response required.

INTERROGATORY NO. 50

Identify each television game console which Magnavox and Sanders contend constitutes an infringement of United States Letters Patent Re. 28,507 when one of Activision's game cartridges is used in combination therewith.

Plaintiffs object to this interrogatory as being vague and indefinite; only people, not things, are capable of infringing a patent. The combining of any television game console compatible with any one of the television game cartridges referred to in plaintiffs' response to interrogatory 38 with such a cartridge and the use of that

combination with a television receiver constitute acts of infringement of the claims of United States Patent Re. 28,507 stated in that response. Such consoles of which plaintiffs are presently aware are the Atari VCS Model 2600, the Sears Tele-Game Video Arcade, and the combination of the Coleco Colecovision television game console and the Expansion Module 1. See plaintiffs' response to interrogatory 38.

INTERROGATORY NO. 51

For each television game console identified in response to INTERROGATORY NO. 50, identify the Activision game cartridge(s) which result in infringement.

See plaintiffs' responses to interrogatories 50 and 38.

INTERROGATORY NO. 52

For each television game console identified in response to INTERROGATORY NO. 50 and each game cartridge identified in response to INTERROGATORY NO. 51, identify the claim(s) infringed by the combination.

See plaintiffs' responses to interrogatories 50 and 38.

INTERROGATORY NO. 53

For each claim identified in response to INTERROGATORY NO. 52, state specifically where each element of the claim is found in the game console and cartridge.

See plaintiffs' response to interrogatory 38.

INTERROGATORY NO. 54

Referring to Paragraph 11 of the Complaint, set forth in detail the basis for the allegations that the alleged infringements, inducements to infringe and contributory infringements were:

- A. Willful; and
- B. With full knowledge of United States Letters Patent Re. 28,507.

Plaintiffs are presently unable to state all the acts, facts, and circumstances which support the referenced allegations because they have not yet completed their discovery of defendant as to that matter. However, prior to the filing of the complaint in this action, plaintiff Magnavox informed Activision of its need for a license under the patent in suit, but Activision continued its acts of infringement without taking such a license up until the time the complaint was filed.

INTERROGATORY NO. 55

Identify all persons having knowledge of the subject matter of INTERROGATORY NO. 54.

Those persons having the greatest knowledge will be identified in the documents referred to in plaintiffs' response to interrogatory 56.

INTERROGATORY NO. 56

Identify all communications relating to the subject matter of INTERROGATORY NO. 54.

The information requested can be derived or

ascertained from the files of plaintiff Magnavox relating to the negotiations with Magnavox, which files will be produced according to the statement made in the introduction to these interrogatories.

INTERROGATORY NO. 57

Identify all documents which refer or relate in any way to the subject matter of INTERROGATORIES NOS. 54, 55 and 56.

Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 58

Referring to paragraph XII of the Complaint, identify each and every television game manufactured or sold by Magnavox under United States Letters Patent Re. 28,507, including:

- A. The model number or designation of each such game;
- B. The date(s) each such game was manufactured;
- C. The number of each such game manufactured;
- D. The number of each such game sold;
- E. Identify the claim(s) of the patent which covers each such game;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

A&B.

<u>MODEL</u>	<u>YEAR</u>
1TL 200 Odyssey	1972-75
YF 7010 Odyssey 100	1975
YF 7015 Odyssey 200	1975
BG 7500 Odyssey 300	1976
BG 7516 Odyssey 400	1976
BG 7520 Odyssey 500	1976
BG 7510 Odyssey 2000	1977
BH 7514 Odyssey 3000	1976
BH 7511 Odyssey 4000	1977
BJ 7600 Odyssey ² (with variations)	1978-83
BG 4305 Television with built-in game	1976
PH 7704 Wonder Wizard Bulls Eye	1977
PH 7705 Wonder Wizard Sharp Shooter	1977
Game cartridges for use with BJ 7600 (with variations)	1978-83

C&D. Plaintiffs object to paragraphs C and D of this interrogatory as requesting information which is a trade secret or otherwise constitutes confidential commercial information; plaintiffs will supply the requested information under the terms of a protective order.

E. At least claims 25, 26, 44, 45, 51, 52, 60, 61 and 62.

F&G. Plaintiffs object to paragraphs F and G of this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence, and as placing plaintiffs under an undue and unnecessary burden to supply the requested information.

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

INTERROGATORY NO. 59

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

- A. Set forth each statutory notice ever placed on such game, as alleged in Paragraph 12 of the Complaint;
- B. State the number of games on which each notice set forth in response to part A of this interrogatory appeared;
- C. State the date(s) that each notice identified response to part A of this interrogatory was placed on the game;
- D. State the number of games, if any, on which the statutory notice did not appear;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

A&C. The information requested can be derived or ascertained from the drawings of plaintiff Magnavox for the

parts containing the subject notice which drawings will be produced according to the statement made in the introduction to these interrogatories.

B&D. Plaintiffs object to paragraphs B and D of this interrogatory as requesting information which is a trade secret or otherwise constitutes confidential commercial information; plaintiffs will supply the requesting information under the terms of a suitable protective order.

E. Eugene Smierly is believed to have such knowledge.

F. The information requested can be derived or ascertained from the files of plaintiff Magnavox relating to the subject notice which files will be produced according to the statement made in the introduction to these interrogatories.

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

INTERROGATORY NO. 60

Referring to Paragraph 12 of the Complaint:

- A. Set forth in detail what Magnavox and Sanders contend constitutes receipt by defendant of notice of United States Letters Patent Re. 28,507;
- B. Identify all persons having knowledge of the subject matter of part A of this interrogatory;
- C. Identify all communications relating to parts A and B of this interrogatory; and
- D. Identify all documents which refer or relate in any way to the subject matter of parts A through C of this interrogatory.

A. At least the correspondence and communications between Magnavox and Activision which occurred prior to the filing of the complaint in this action.

B. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraph C of this interrogatory.

C. The information requested can be derived or ascertained from the file of plaintiff Magnavox relating to negotiations with Activision which file will be produced according to the statement made in the introduction to these interrogatories.

D. Plaintiffs object to this interrogatory as being vague and indefinite.

INTERROGATORY NO. 61

Have any of the patents identified in response to INTERROGATORY NO. 1 or INTERROGATORY NO. 3, or any part thereof, ever been disclaimed or dedicated to the public?

Except for the claims of United States Patent Re. 28,598 referred to in the response to interrogatory 31, which were also disclaimed, plaintiffs have no knowledge of any such disclaimer or dedication.

INTERROGATORY NO. 62

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

- A. Identify the patent or part thereof disclaimed or dedicated;
- B. Set forth in detail the circumstances under which the disclaimer or dedication was made;
- C. State why the disclaimer or dedication was made, including all matters considered in connection with the disclaimer or dedication, and the identity of all persons involved in the decision to make the disclaimer or dedication;
- D. Identify all persons having knowledge of the subject matter of parts A through C of this interrogatory;
- E. Identify all communications relating to the subject matter of parts A through D of this interrogatory; and
- F. Identify all documents which refer or relate in any way to the subject matter of parts A through E of this interrogatory.

No response required.

INTERROGATORY NO. 63

Referring to Paragraph 27(b) of plaintiffs' Reply to First and Third Counterclaims:

- A. Identify the television game patents owned by Sanders which Magnavox has attempted to license;
- B. Identify each party to whom Magnavox has attempted to license each of the patents identified in response to part A of this interrogatory;
- C. State when and where each such attempt was made;
- D. Set forth the reaction of each party or person to whom Magnavox attempted to license the patents;
- E. Identify any licenses resulting from such attempts;

- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
 - G. Identify all communications relating to the subject matter of parts A through F of this interrogatory;
 - H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.
- A. Those patents marked with an asterisk (*) in plaintiffs' response to interrogatory 1.

B-E&G. The information requested can be derived or ascertained from the files of Magnavox relating to the subject licensing attempts which files will be produced according to the statement made in the introduction to these interrogatories.

F. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs B-E and G of this interrogatory.

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

INTERROGATORY NO. 64

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

Plaintiffs do not contend in this action that the use of any Activision television game cartridge infringes any

patent other than United States Patent Re. 28,507. To the extent this interrogatory requires any further response, plaintiffs object to it as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. As to United States Patent Re. 28,507, see plaintiffs' responses to interrogatories 38, 39, 44, 46, 47 and 50.

INTERROGATORY NO. 65

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

No response required.

INTERROGATORY NO. 66

Do Magnavox and Sanders contend that the subject matter claimed in United States Letters Patent Re. 28,507 constitutes a commercial success?

Yes.

INTERROGATORY NO. 67

If the answer to INTERROGATORY NO. 66 is other than an unqualified negative:

- A. Set forth in detail the basis upon which the contention is made;
- B. State whether Magnavox or Sanders has ever made a study or investigation to determine whether there has been a commercial success;

- C. If the answer to part B of this interrogatory is affirmative, describe each study or investigation in detail, including the date(s) of the study or investigation, a description of the study or investigation, and the identification of all persons participating in the study or investigation;
 - D. Identify all persons having knowledge of the subject matter of parts A through C of this interrogatory;
 - E. Identify all communications relating to the subject matter of parts A through D of this interrogatory; and
 - F. Identify all documents which refer or relate in any way to the subject matter of parts A through E of this interrogatory.
- A. The sales by Magnavox, the Magnavox sublicenses under United States Patent Re. 28,507 and corresponding foreign patents, and others of television games incorporating the invention of that patent, and the royalty income which plaintiffs have received from those sublicenses.
- B. No such study or investigation was necessary or made.
 - C. No response required.
 - D. Those personnel of plaintiffs having the greatest knowledge will be identified in the documents referred to in the response to paragraph E of this interrogatory.
 - E. The information requested can be derived or ascertained from the files of plaintiffs relating to licenses under United States Patent Re. 28,507 and royalty income therefrom, which files will be produced according to the statement made in the introduction to these interrogatories.

F. Plaintiffs object to paragraph F of this interrogatory as being vague and indefinite.

INTERROGATORY NO. 68

Do Magnavox and Sanders contend the subject matter claimed in United States Letters Patent Re. 28,507 satisfied a long-felt but unsolved need?

Yes.

INTERROGATORY NO. 69

If the answer to INTERROGATORY NO. 68 is other than an unqualified negative:

- A. Describe in detail each such need;
 - B. State how the existence of each such need was determined by Magnavox and Sanders;
 - C. Identify all persons having knowledge of the subject matter of parts A and B of this interrogatory;
 - D. Identify all communications relating to the subject matter of parts A through C of this interrogatory; and
 - E. Identify all documents which refer or relate in any way to the subject matter of parts A through D of this interrogatory.
- A. A game which could be played on a television receiver which would be sufficiently interactive to maintain the interest of players to give viability to the concept of providing an alternative use for a television receiver for game or entertainment purposes.
- B. The need was evident to personnel of Sanders.

C. The persons having the greatest knowledge are Ralph H. Baer and William T. Rusch, employees of Sanders.

D. The information requested can be derived or ascertained from the files of Sanders relating to the development of television games which files will be produced according to the statement made in the introduction to these interrogatories.

E. Plaintiffs object to paragraph E of this interrogatory as being vague and indefinite.

INTERROGATORY NO. 70

Do Magnavox and Sanders contend that others have failed to solve the problem or problems solved by the subject matter claimed in United States Letters Patent Re. 28,507?

Magnavox and Sanders contend that no others arrived at the highly desirable solution which William T. Rusch invented prior to his invention thereof.

INTERROGATORY NO. 71

If the answer to INTERROGATORY NO. 70 is other than an unqualified negative:

- A. Identify each problem solved by the subject matter of United States Letters Patent Re. 28,507;
- B. Identify each person attempting to solve each such problem prior to the conception of the invention claimed in the patent;
- C. Describe in detail each solution attempted by others to each such problem;
- D. Describe in detail the manner in which each such prior attempt failed;

- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

A. The development of a game which could be played on a television receiver which would be sufficiently interactive to maintain the interest of the players and give viability to the concept of providing an alternative use for a television receiver for game or entertainment purposes.

B. Plaintiffs at present know of none other than personnel of Sanders who were working in the development of television games prior to the conception of the invention claimed in the patent. At least Ralph H. Baer and William Harrison were such persons.

C,D,&F. The information requested can be derived or ascertained from the files of plaintiff Sanders relating to the development of television games which files will be produced according to the statement made in the introduction to these interrogatories.

E. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs A-D and F of this interrogatory.

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

INTERROGATORY NO. 72

Has the subject matter of United States Letters Patent Re. 28,507 ever been made, used or sold by anyone other than the parties to this action?

Yes.

INTERROGATORY NO. 73

If the answer to INTERROGATORY NO. 72 is other than an unqualified negative:

- A. Identify each person other than the parties to this action who has ever made, used or sold a game embodying the subject matter of the patent;
- B. Describe in detail each such game;
- C. State when each such game was made, used and/or sold;
- D. Which, if any, of the persons identified in response to part A of this interrogatory were licensed or granted immunity under the patent?
- E. Has notice of the patent been placed on all of the games made, used and/or sold by the persons identified in response to part D of this interrogatory?
- F. If the answer to part E of this interrogatory is negative, identify each game on which notice of the patent has not been placed;
- G. Which, if any, of the games identified in response to part A of this interrogatory were made, used or sold without license or immunity under the patent?
- H. What, if any, action has been taken by Magnavox and Sanders with regard to each game identified in response to part G of this interrogatory?
- I. Identify all persons having knowledge of the subject matter of parts A through H of this interrogatory;
- J. Identify all communications relating to the subject matter of parts A through I of this interrogatory; and

K. Identify all documents which refer or relate in any way to the subject matter of parts A through J of this interrogatory.

A. Magnavox, its sublicensees under United States Patent Re. 28,507 and others including Activision. Because the subject matter involved is a consumer product, it is virtually impossible for plaintiffs to identify each person who has used or sold a game embodying the subject matter of that patent.

B-H&J. The information requested and available to plaintiffs can be derived or ascertained from the files of plaintiffs relating to licenses under United States Patent Re. 28,507 and, in some cases, documents produced during litigation describing such games, which files and documents will be produced according to the statement made in the introduction to these interrogatories.

I. Those persons having the greatest knowledge will be identified in the documents referred to in the response to paragraphs B-H and J of this interrogatory.

K. Plaintiffs object to paragraph K of this interrogatory as being vague and indefinite.

INTERROGATORY NO. 74

Do Magnavox and Sanders deny that any of the following constitute prior art with regard to United States Letters Patent Re. 28,507:

- A. U.S. Patent 3,728,480 (Baer);
- B. J. M. Gratz, SPACEWAR! REAL-TIME CAPABILITY OF THE PDP-1, Decus Proceedings, 1962, pages 37-39;
- C. The Spacewar game played at Massachusetts Institute of Technology in 1962, as described

in the Decus publication identified in part B of this interrogatory;

- D. The battling spaceship game which James T. Williams observed being played on a PDP-1 computer at Stanford University in the 1960's;
 - E. The tennis game developed at Brookhaven National Laboratory about 1958 by Willy Higinbothom, utilizing an analog computer and a cathode ray tube;
 - F. U.S. Patent 3,135,815 (Spiegel); and
 - G. U.S. Patent 2,847,661 (Althouse).
- A. Yes.
 - B. Yes.
 - C. Yes.
 - D. Yes.
 - E. Yes.
 - F. No.
 - G. No.

INTERROGATORY NO. 75

If the answer to any part of INTERROGATORY NO. 74 is other than an unqualified negative, set forth in detail the reason(s) for the answer given to such part.

A. The application for U.S. Patent 3,728,480 was filed after the invention of United States Patent Re. 28,507 was conceived and reduced to practice by William T. Rusch. Plaintiffs do not deny that at least portions of the subject matter described in U.S. Patent 3,728,480 are prior art with regard to United States Patent Re. 28,507.

B. That article contains an inadequate disclosure of the device or apparatus purportedly described therein to constitute prior art.

C. Plaintiffs are unable to determine what is meant by the term "[t]he Spacewar game" and thus are unable to determine with specificity what game is referred to; plaintiffs do not deny that certain games known as "Spacewar" were played at Massachusetts Institute of Technology in the early 1960's.

D. There is inadequate information available concerning any such game to determine that it constitutes prior art or to cause it to be considered as prior art.

E. Plaintiffs are unable to determine what is meant by the term "[t]he tennis game".

F. No response required.

G. No response required.

INTERROGATORY NO. 76

For each of the claims identified in response to INTERROGATORY NO. 38, set forth in detail the manner in which Magnavox and Sanders contend that the claim defines patentable subject matter over the references and other prior art identified in INTERROGATORY NO. 74.

Plaintiffs object to this interrogatory as being premature. It requests information concerning plaintiffs' ultimate contentions on the prior art and this case is in the very beginning stages of discovery. Responses to this interrogatory shall be deferred until the case approaches readiness for trial. Moreover, it is the burden of defendant to demonstrate how the prior art upon which it relies applies to the relevant claims of the patent in suit, and plaintiffs may then refute that demonstration. Defendant has as yet made

no such demonstration in this action. Further, as shown by plaintiffs' response to interrogatory 75, many of the items referred to in interrogatory 74 are inadequately identified to permit plaintiffs to respond to this interrogatory 76.

INTERROGATORY NO. 77

Identify all documents in the possession, custody or control of Magnavox and/or Sanders which refer or relate in any manner to the references and prior art identified in INTERROGATORY NO. 74.

Plaintiffs object to this interrogatory as being vague and indefinite and, to the extent it is understood, as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 78

Identify all persons employed by either Sanders or Magnavox who have knowledge of any of the references or other prior art identified in INTERROGATORY NO. 74.

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 79

Identify all foreign patents and patent applications corresponding to United States Letters Patent Re. 28,507 and/or United States Letters Patent No. 3,659,284.

<u>COUNTRY</u>	<u>PATENT NUMBER</u>
1 - Canada	920,160
2 - Australia	442,967
3 - Belgium	751,008
4 - Great Britain	1,318,051
5 - France	7019368
6 - Holland	152,422
7 - Germany	2,017,312
8 - Israel	33,915
9 - Italy	893,433
10 - Japan	778,416
11 - Sweden	364,186
12 - Switzerland	529,491
13 - Mexico	140,468
14 - Argentina	208,872
15 - Greece	46,582
16 - Venezuela	30,171
17 - Hong Kong	484/1977
18 - Israel	41,011
19 - Great Britain	1,319,410
20 - Japan	852,060
21 - Singapore	380/1975
22 - West Malaysia	260 of 1975
23 - Hong Kong	76 of 1976
24 - Greece	51,156
25 - Canada	993,001

INTERROGATORY NO. 80

For each of the foreign patents and patent applications identified in response to INTERROGATORY NO. 79:

- A. Identify all persons who have participated in any way in the preparation, filing, examination, or prosecution of each application, including the role of such person in connection with the application;
- B. Identify all references or other prior art cited in connection with each application;
- C. Identify all communications relating to the application;
- D. Identify all documents which refer or relate in any way to the application.

A. As to each of those foreign patents and patent applications:

Richard I. Seligman
Assistant Patent Counsel
Sanders Associates, Inc.
Primary responsibility for Sanders

Louis Etlinger
Director Patents and Licensing
Sanders Associates, Inc.
Supervisory responsibility for Sanders

Ralph H. Baer
Sanders Associates, Inc.
Technical assistance upon request

The following patent law firms also represented Sanders in the prosecution of the patent applications in their respective countries:

Gowling & Henderson
160 Elgin Street
Box 466, Station A
Ottawa, Canada KIN853

Spruson & Ferguson
60 Margaret Street
Sydney, N.S.W., Australia

Bureau Vander Haeghen
63, Avenue de la Tolson d'Or
Bruxelles 6, Belgium

Baron and Warren
18 South End
Kensington
London, W8, 5BU, England

Office Bletry
2, Boulevard de Strasbourg
Paris, France

John A. Sakellarides
6, Heraklitou Street
Athens 136 Greece

Nederlandsch Octrooibureau
Jon de Wittlaan 15
Der Haag, Holland

Wilkinson and Grist
Wheelock House
12th Floor
Pedder Street
Hong Kong

Cohen, Zedek and Spisbach
29 Bezalel Street
P. O. Box 33516
Tel Aviv, Israel

Racheli and Flammenghi
CH 6900 Lugano
Switzerland
(Italian application also)

Tashiro Patent Bureau
Tokyo Tatemono Building
9-9, Yaesu 1-Chome, Chuo-ku
Tokyo 103, Japan

Bufete Sepulveda, S.C.
Plaza Comesmex - Piso 9
Blvd. M. Avila Camacho Num-1
Mexico 10, D.F.

L. A. Groth and Company
A.B. Patentbyra
Vootmannagatan 43
S-113 25 Stockholm
Sweden

Bolet & Terrero
Edeficio Venezuela
Apartado 852
Caradas, Venezuela

Donaldson & Burkinshaw
Mercantile Bank Chambers
Singapore 1

Dipl. Ing. Klaus Behn
Dipl. Phys. Robert Munzhuber
8 Munchen 22
Widenmayerstrasse 6,
West Germany

Juan Muchall and Cia
Av De Mayo 560-8°P
1380 Buenos Aires
Argentina

B. The stated references and prior art were cited
in connection with the corresponding applications listed
above:

1. U.S. Patent Nos. 2,455,992; 2,847,661
2. A television game of cricket
3. None
4. [To be supplied by NWA&O]
5. U.K. Patent 633,424; U.S. Patent 2,784,247
6. U.K. Patent 633,424; U.S. Patents 2,784,247
and 3,122,607; French Patent 1,358,474;
U.S. Application 69.04775
7. Publication "Funk und Ton", 1954, No. 4, pages 179-186
8. None
9. None
10. Publication "OKI DENKI GIHO", Vol. 34, No. 1,
Pp. 80-82
11. Swedish patent application 3520/69
12. None

13. None
14. None
15. None
16. None
17. None
18. None
19. [To be supplied by NWA&O]
20. None
21. None
22. None
23. None
24. None
25. None
26. None

INTERROGATORY NO. 81

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

Except as to item E listed in interrogatory 74, plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Items A-D, or prior art references at least as relevant as those items, were considered by United States District Court Judge John F. Grady in arriving at his conclusion that United States Patent Re. 28,507 is valid over the prior art. The Magnavox Co., et al. v. Chicago Dynamics Industries, Inc., et al., 201 U.S.P.Q. 25

(N.D.Ill. 1977). Items A-D and F, or prior art references at least as relevant as those items, were also considered by United States District Court Judge George N. Leighton in reaching a similar conclusion. The Magnavox Co., et al. v. Mattel, Inc., et al., 216 U.S.P.Q. 28 (N.D.Ill. 1982). Item G was a reference cited in the prosecution of United States Patent Re. 28,507 before the United States Patent and Trademark Office. Thus the time at which these items first came to the attention of either plaintiff can have no bearing on this action. Item E first came to the attention of Magnavox and Sanders after August 5, 1975.

INTERROGATORY NO. 82

Do Magnavox and Sanders deny that U.S. Patent 3,728,480 teaches means for ascertaining coincidence between two symbols displayed upon the screen of a television receiver?

Plaintiffs object to this interrogatory as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. The reason is stated in plaintiffs' response to interrogatory 75. However, as presently advised, plaintiffs do not so deny.

INTERROGATORY NO. 83

If the answer to INTERROGATORY NO. 82 is other than an unqualified negative, explain in detail why U.S. Patent 3,728,480 does not teach such means.

No response required.

INTERROGATORY NO. 84

Do Magnavox and Sanders consider the disappearance of a symbol from the screen of a television receiver to constitute imparting a distinct motion to the symbol within the meaning of Claim 51 of United States Letters Patent Re. 28,507?

Plaintiffs object to interrogatories 84 and 86 as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Whether any particular television game comes within the language of any claim of United States Patent Re. 28,507 must be considered within the total context of the game. It is not possible to make such a determination with knowledge of only one particular aspect of the game; any such determination that might be made would be virtually meaningless.

INTERROGATORY NO. 85

If the answer to INTERROGATORY NO. 84 is other than an unqualified affirmative, state fully the reason(s) for such answer.

No response required.

INTERROGATORY NO. 86

Do Magnavox and Sanders consider a change in the color of a symbol on the screen of a television receiver to constitute imparting a distinct motion to the symbol within the meaning of Claim 51 of United States Letters Patent Re. 28,507?

See the response to interrogatory 84.

INTERROGATORY NO. 87

If the answer to INTERROGATORY NO. 86 is other than an unqualified affirmative, explain fully the reason(s) for such answer.

No response required.

INTERROGATORY NO. 88

Do Magnavox and Sanders deny that the Spacewar game described in the Decus publication identified in INTERROGATORY NO. 74 includes means for ascertaining coincidence between two symbols and means for imparting a distinct motion to one of the symbols upon coincidence?

Yes.

INTERROGATORY NO. 89

If the answer to INTERROGATORY NO. 88 is other than an unqualified negative, explain fully the reason(s) for such answer.

The Decus publication does not include a sufficient description of any device or apparatus to make it possible to determine whether the demonstration program it purports to describe in combination with the apparatus upon which it was to be used included any such means.

INTERROGATORY NO. 90

Do Magnavox and Sanders contend that there is any difference between the apparatus defined by Claim 51 of United States Letters Patent Re. 28,507 and the apparatus disclosed in the Decus publication identified in INTERROGATORY NO. 74 other than the substitution of a television receiver for another type of cathode ray tube display?

Yes.

INTERROGATORY NO. 91

If the answer to INTERROGATORY NO. 90 is other than an unqualified negative, set forth in detail any additional differences believed to exist.

Magnavox and Sanders contend that the Decus publication fails to disclose any apparatus, so it is impossible to answer this interrogatory. See the responses to interrogatories 75 and 89. Further, plaintiffs object to this interrogatory as premature; see the response to interrogatory 76. However, it is also clear that the demonstration program it purports to describe and the apparatus upon which it was to be used did not have a hit symbol or a hitting symbol, so it could also not have had any means for generating a hit symbol, any means for generating a hitting symbol, any means for ascertaining coincidence between a hit symbol and a hitting symbol, or any means for imparting a distinct motion to the hit symbol upon such coincidence.

INTERROGATORY NO. 92

Do Magnavox and Sanders deny that the Higinbothom tennis game identified in INTERROGATORY NO. 74 included means for ascertaining coincidence between two symbols and means for imparting a distinct motion to one of those symbols upon coincidence?

Plaintiffs object to this interrogatory as being vague and indefinite; as stated in the response to interrogatory 75, plaintiffs have no way of knowing what "the Higinbotham tennis game identified in interrogatory 74 is." However, the only apparatus of which plaintiffs are aware that might respond to such a description simply did not include any

apparatus for generating any symbol representing any racquet or paddle.

INTERROGATORY NO. 93

If the answer to INTERROGATORY NO. 92 is other than an unqualified negative, explain the reason(s) for such answer in detail.

No answer required.

INTERROGATORY NO. 94

Do Magnavox and Sanders deny that U.S. Patent 3,135,815 discloses means for detecting coincidence between two symbols displayed upon the screen of a television receiver?

Yes.

INTERROGATORY NO. 95

If the answer to INTERROGATORY NO. 94 is other than an unqualified negative, explain in detail the reason(s) for such answer.

That patent neither discloses nor shows any apparatus whatever for detecting coincidence between two symbols.

INTERROGATORY NO. 96

Do Magnavox and Sanders now disagree in any way with the following statement made by William T. Rusch on page 2 of the Declaration signed by him and dated April 22, 1974 in support of the application which led to United States Letters Patent Re. 28,507:

"... that in the context of my invention and in the context of the description thereof in said Letters Patent 3,649,284 I have always understood and

believed 'television receiver' and 'standard television receiver' to mean any cathode ray tube display incorporating circuitry for a raster type scan"

Plaintiffs presently have no reason to disagree with any statement made in the subject Declaration when taken in the context of the entire Declaration at the time it was signed by Mr. Rusch.

INTERROGATORY NO. 97

If the answer to INTERROGATORY NO. 96 is other than an unqualified negative, identify any such disagreement, and explain in detail why the quoted statement is not accurate.

No response required.

INTERROGATORY NO. 98

With regard to the decision to reissue U.S. Patent 3,659,284:

- A. State when the decision was made;
- B. Identify each person who participated in the decision and the role of each such person;
- C. Identify the person(s) who originally suggested reissuing the patent;
- D. Describe in detail the circumstances under which the decision was made;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the decision to reissue the patent; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

- A. Shortly prior to April 25, 1974.
- B. The decision was made by Louis Etlinger; he was advised by other counsel for Sanders.
- C. The discussion of the possibility of reissuing the patent was initialed by counsel for Sanders.
- D. Plaintiffs object to paragraph D of this interrogatory as vague and indefinite; it is impossible to ascertain the nature or scope of the information being requested.
- E. Louis Etlinger and counsel for Sanders are the primary persons having such knowledge.
- F. The information requested may be ascertained or determined from the files of plaintiffs relating to the reissue application. Plaintiffs will produce those files in accord with the introductory notes to these responses.
- G. Plaintiffs object to paragraph G of this interrogatory as being vague and indefinite.

INTERROGATORY NO. 99

With regard to the preparation and filing of the application to reissue U.S. Patent 3,659,284:

- A. Identify each person who was consulted or participated in any way in the preparation and/or filing of the application, and identify the role of each such person;
- B. Identify any prior art which was considered in connection with the preparation and/or filing of the reissue application;
- C. Identify any prior art or other information known at the time to any of the persons identified in response to part A of this interrogatory which might have been material to

the examination of the application but was not disclosed to the Patent Office;

- D. Identify all persons having knowledge of the subject matter of parts A through C of this interrogatory;
- E. Identify all communications relating to the subject matter of parts A through D of this interrogatory; and
- F. Identify all documents which refer or relate in any way to the subject matter of parts A through E of this interrogatory.

A. Counsel for Sanders.

B. The prior art cited to the Patent and Trademark Office during the course of prosecution of that application.

C. None.

D. Counsel for Sanders are the primary persons having such knowledge.

E. The information requested may be ascertained or determined from the files of plaintiffs relating to the reissue application. Plaintiffs will produce those files in accord with the introductory notes to these responses.

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

INTERROGATORY NO. 100

With regard to the examination and prosecution of the application on which Reissue Patent 28,507 issued:

- A. Identify each person who participated in or was consulted in connection with the examination and prosecution of the application;
- B. Did anyone acting on behalf of Magnavox and/or Sanders ever have any interview, either by telephone or in person, discussion or other communication of any type whatsoever with any

Examiner or other person in the Patent Office in connection with the application, which interview, conversation or communication is not reflected in the written file wrapper of the application?

- C. If the answer to part B of this interrogatory is other than an unqualified negative, identify each such interview, conversation or communication fully, including:
- (1) Identification of each person who participated in the interview, conversation and/or communication;
 - (2) The date and place of the interview, conversation or communication;
 - (3) The nature of the interview, conversation or communication; and
 - (4) The full substance of the interview, conversation or communication;
- D. Identify any prior art or other information known at the time to any of the persons identified in response to part A of this interrogatory which might have been material to the examination of the application and which was not called to the attention of the Patent Office;
- E. Identify any prior art other than the references cited on the face of the reissue patent which was considered the prosecution of the application and determined not to be material to the examination of the application;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.
- A. Counsel for Sanders.

B. No such interview or discussion of a substantive nature was had while the application was pending. Inquiries concerning the status of the application may have been made while it was pending. Counsel for Sanders did discuss the possibility of filing such a reissue application with a patent examiner shortly prior to the filing of the application.

C(1) Richard I. Seligman, James T. Williams, and Examiner David L. Trafton participated in the conversation.

C(2) About April 23, 1974; United States Patent and Trademark Office.

C(3)&(4) The conversation centered around the background of the reissue application and the objects to be achieved by filing it.

D. None.

E. Plaintiffs object to this interrogatory as vague and indefinite.

F. Counsel for Sanders are the principal persons having such knowledge.

G. Louis Etlinger and counsel for Sanders are the primary persons having such knowledge.

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

INTERROGATORY NO. 101

During the examination and prosecution of the application which led to Reissue Patent 28,507, did anyone

acting on behalf of Magnavox or Sanders ever disclose the existence of U.S. Patent 3,728,480 and its teaching of coincidence to Examiner Trafton or any other Examiner involved in the examination of this application?

Plaintiffs object to interrogatories 101-104 as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. The subject matter disclosed in United States Patent 3,728,480 was considered by both United States District Court Judge John F. Grady in arriving at his conclusion that United States Patent Re. 28,507 is valid over the prior art, The Magnavox Co., et al. v. Chicago Dynamics Industries, Inc., et al., 201 U.S.P.Q. 25 (N.D.Ill. 1977), and by United States District Court Judge George N. Leighton in reaching a similar conclusion, The Magnavox Co., et al. v. Mattel, Inc., et al., 216 U.S.P.Q. 28 (N.D.Ill. 1982). The applications for United States Patent 3,728,480 were cited nine times in the application for United States Patent Re. 28,507. Moreover, United States Patent 3,728,480 itself is not prior art to the invention of the patent here in suit. Any facts relating to the disclosure or lack thereof to the Patent and Trademark Office are simply of no possible relevance to this action.

INTERROGATORY NO. 102

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

- A. The date of the disclosure;

- B. The form in which the disclosure was made;
- C. Identification of the person(s) who made the disclosure;
- D. Identification of the Examiner(s) to whom the disclosure was made;
- E. The full substance of the disclosure;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

See plaintiffs' response to interrogatory 101.

INTERROGATORY NO. 103

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

See plaintiffs' response to interrogatory 101.

INTERROGATORY NO. 104

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

- A. The date of the indication;
- B. The nature of the indication;
- C. Identification of the Examiner who made the indication;

- D. Identification of the person(s) to whom the indication was made;
- E. The full substance of the indication;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

See plaintiffs' response to interrogatory 101.

INTERROGATORY NO. 105

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

- A. A detailed description of the game and the manner in which it was played;
- B. A description of the apparatus with which the game was played;
- C. The date(s) the game was observed by Mr. Williams;
- D. The circumstances under which the game was observed;
- E. Identification of all persons who were present when Mr. Williams observed the game;
- F. Identification of all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

Plaintiffs object to interrogatories 105-116 as requesting information which is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. A Space War demonstration was considered by both United States District Court Judge John F. Grady in arriving at his conclusion that United States Patent Re. 28,507 is valid over the prior art, The Magnavox Co., et al. v. Chicago Dynamics Industries, Inc., et al., 201 U.S.P.Q. 25 (N.D.Ill. 1977), and by United States District Court Judge George N. Leighton in reaching a similar conclusion, The Magnavox Co., et al. v. Mattel, Inc., et al., 216 U.S.P.Q. 28 (N.D.Ill. 1982). That game is at least as relevant as the Spaceship game referred to in this interrogatory. Any facts relating to the disclosure or lack thereof to the Patent and Trademark Office are simply of no possible relevance to this action.

INTERROGATORY NO. 106

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

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 107

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

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 108

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

- A. Identification of each person involved in the discussion, including the relationship of each such person to Magnavox and/or Sanders;
- B. The date and place of the discussion;
- C. The circumstances under which the discussion was held;
- D. The substance of the discussion;
- E. Any action taken by Magnavox and/or Sanders as a result of the discussion;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 109

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

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 110

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

- A. Identification of the person(s) in the Patent Office to whom the disclosure was made;
- B. The relationship, if any, of each person identified in response to part A of this interrogatory to the examination of the application which led to Reissue Patent 28,507;
- C. The date of the disclosure;
- D. The manner in which the disclosure was made;
- E. Identify all persons having knowledge of the subject matter of parts A through D of this interrogatory;
- F. Identify all communications relating to the subject matter of parts A through E of this interrogatory; and
- G. Identify all documents which refer or relate in any way to the subject matter of parts A through F of this interrogatory.

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 111

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

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 112

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

- A. Identification of the person(s) making the disclosure;
- B. Identification of the person(s) in the Patent Office to whom the disclosure was made;
- C. The relationship, if any, to Magnavox and/or Sanders of each person identified in response to part B of this interrogatory;

- D. The date of the disclosure;
- E. The manner in which the disclosure was made;
- F. Identify all persons having knowledge of the subject matter of parts A through E of this interrogatory;
- G. Identify all communications relating to the subject matter of parts A through F of this interrogatory; and
- H. Identify all documents which refer or relate in any way to the subject matter of parts A through G of this interrogatory.

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 113

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

See plaintiffs' response to interrogatory 105.

INTERROGATORY NO. 114

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

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