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McCUTCHEM, DOYLE, BROWN & ENERSEN
J. Thomas Rosch
Robert L. Ebe
Three Embarcadero Center
San Francisco, CA 94111
(415) 393-2000

NEUMAN, WILLIAMS, ANDERSON & OLSON
Theodore W. Anderson
James T. Williams
77 West Washington Street
Suite 2000
Chicago, Illinois 60602
(312) 346-1200

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE MAGNAVOX COMPANY,)	
a Corporation, and)	
SANDERS ASSOCIATES, INC.,)	Civil Action No.
a Corporation,)	C-82-5270-CAL
)	
Plaintiffs,)	
)	
v.)	
)	
ACTIVISION, INC.,)	
a Corporation,)	
)	
Defendant.)	

NOTICE OF MOTION AND PLAINTIFFS' MOTION FOR
RECONSIDERATION OF THE ORDER RE FURTHER PROCEEDINGS OF
MARCH 13, 1986 AND AMENDMENT OF THE JUDGMENT

Date: April 25, 1986
Time: 9:30 a.m.

1
2 Plaintiffs, the Magnavox Company and Sanders
3 Associates, Inc. (Magnavox) hereby move this Court for
4 reconsideration of the ORDER RE FURTHER PROCEEDINGS of March
5 13, 1986 and for the entry of an Order amending the Judgment
6 to include a permanent injunction. Magnavox brings this
7 motion on the grounds that:

- 8 1. The Complaint, in the prayer for relief,
9 paragraph 1, prayed: For a preliminary and
10 permanent injunction against continued
11 infringement of United States Letters Patent
12 Re 28,507 (the '507 patent) by defendant.
- 13 2. The Judgment does not address that Prayer and
14 to that extent does not qualify as a
15 "judgment in a civil action for patent
16 infringement which would otherwise be
17 appealable to the United States Court of
18 Appeals for the Federal Circuit and is final
19 except for an accounting" as required by 28
20 U.S.C. §1292(c)(2).
- 21 3. The parties cannot proceed with an appeal
22 until this Court disposes of all issues
23 except for an accounting.
- 24 4. Paragraph 3 of the ORDER RE FURTHER
25 PROCEEDINGS dated March 13, 1986 addressed
26 Plaintiff's Reply Memorandum of February 18,
27 1986 and reads in part, "Plaintiffs' request
28

1
2 that injunctive relief be included is
3 denied... This denial is without prejudice
4 to plaintiffs' raising the issue of
5 injunctive relief during the further
6 proceedings in this case." Such deferral of
7 action on the prayer for injunctive relief
8 would be contrary to 28 U.S.C. §1292(c)(2).

9 5. A permanent injunction is appropriate in this
10 case and will avoid the needless expenditure
11 of judicial resources and the resources of
12 the parties in any future proceedings. Under
13 the present Order, Magnavox must institute a
14 separate suit to enjoin any future
15 infringement. The advantages of permanently
16 enjoining Activision and providing for
17 proceedings on a motion for contempt are
18 substantial.

19 6. Legal precedent requires that once a patent
20 is judged valid and infringed, its holder is
21 entitled to injunctive relief.

22 7. The record reflects that Activision can not
23 give any assurance it will not infringe the
24 claims of the '507 patent.

25 Magnavox will bring this motion for hearing on
26 April 25, 1986 at 9:30 a.m. in the courtroom of the

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Honorable Charles A. Legge.

Dated: March 24, 1986

Respectfully submitted,

Theodore W. Anderson
James T. Williams
NEUMAN, WILLIAMS, ANDERSON & OLSON
77 West Washington Street
Suite 2000
Chicago, Illinois 60602
(312) 346-1200

J. Thomas Rosch
Robert L. Ebe
McCUTCHEM, DOYLE, BROWN & ENERSEN
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