

NEUMAN, WILLIAMS, ANDERSON & OLSON

77 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60602

COPY



May 2, 1985

Thomas A. Briody, Esquire  
Corporate Patent Counsel  
North American Philips Corporation  
580 White Plains Road  
Tarrytown, New York 10591

Re: Magnavox et al. v. Activision  
Our File L3137

Dear Tom:

We have kept you posted on scheduling problems by phone; as of this moment, on Thursday afternoon, we know no more about the ultimate scheduling. Mr. Foster, Judge Legge's clerk, seemed very sympathetic to our scheduling problems, as set forth in the enclosed copy of our letter to Judge Legge. Also enclosed is a copy of Marty Glick's letter which prompted our response. Glick's letter was hand delivered yesterday afternoon, ours was hand delivered today.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By

  
Theodore W. Anderson

TWA/sjm  
Enc.

CC: Algy Tamoshunas, Esq./with enc.  
Louis Etlinger, Esq./with enc. ←  
James T. Williams, Esq.

Law Offices Of

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
ROBERTSON  
& FALK

A Professional Corporation

THREE EMBARCADERO CENTER  
SEVENTH FLOOR  
SAN FRANCISCO, CA 94111  
415/434-1600  
TELEX & TWX 910-372-7214  
TELECOPY 415-399-3041

May 1, 1985

HAND DELIVERY

The Honorable Charles A. Legge  
United States District Court  
450 Golden Gate Avenue, 19th Floor  
San Francisco, California 94102

Re: Magnavox v. Activision  
No. C 82 5270

Dear Judge Legge:

After our conference yesterday afternoon regarding scheduling the trial of this action, Activision has determined that given the alternatives it would be best to adopt one of the Court's proposals that the case be tried in segments, as the Court is available, i.e., half-days on May 8 and 9, full days on May 13-16 and June 10-13, and full days from approximately July 29 through August 2. (We would appreciate it if the last few days of trial began on July 29, rather than July 22, since my co-counsel Joe Escher will not return from a trip to China until July 24.) We reached this conclusion after surveying our witnesses and discovering that the two and one half weeks beginning on July 22 (the Court's alternative to trying the case in segments) would make it very difficult for one of Activision's expert witnesses. In addition, we realized that given the Court's busy schedule, prior commitments and unexpected calendar changes, there is no guarantee that the trial could actually begin on July 22 and continue without interruption until conclusion. Because the parties had planned and are now ready to begin the trial, it also seems more efficient to start the trial next week as the Court proposes, rather than delay two and a half months and prepare again.

Plaintiffs' lead counsel, Mr. Anderson, has to this point taken the position that Plaintiffs preferred the alternative of waiting and beginning the trial on July 22. After our conference at Court yesterday, Mr. Anderson informed

HENRY W. HOWARD  
DENIS T. RICE  
HOWARD N. NEMEROVSKI  
RICHARD W. CANADY  
A. JAMES ROBERTSON II  
JEROME B. FALK, JR.  
RAYMOND P. HAAS  
ROBERT E. GOODING, JR.  
MARTIN R. GLICK  
LAWRENCE B. RABKIN  
WILLIAM T. HUTTON  
STEVEN L. MAYER  
BARBARA CORDON  
JAMES L. LOPES  
DIRK M. SCHENKMAN  
THOMAS A. LARSEN  
MICHAEL Q. EAGAN  
STEVEN E. SCHON  
JAY M. SPEARS  
KENNETH G. HAUSMAN  
H. JOSEPH ESCHER III  
ELIZABETH S. SALVESON  
H. MATHEW MOORE  
PETER J. BUSCH  
RONALD H. STAR  
JEFFREY L. SCHAFER

LYNN P. HART  
SARAH K. HOPSTADTER  
MARLA J. MILLER  
MARK D. WHITLEY  
ALAN W. SPARER  
THERESE M. STEWART  
JOHN H. MAGEE  
CHARLES P. ORTMEYER  
JULIA P. GIBBS  
MARTHA K. CUNNINGHAM  
DAVID B. GOODWIN  
MICHAEL J. DANAHY  
JANET A. NEXON  
ANN T. MACLEOD  
JONATHAN M. HULBERT  
ALISON M. NICHOLS  
JAMES C. NOONAN  
LAURENCE P. PULLGRAM  
ETHAN P. SCHULLMAN

ROBERT H. MNOOKIN  
ANN BRICK  
BRIAN E. GRAY  
OF COUNSEL

\* ADMITTED IN NEW YORK STATE

RECEIVED

MAY 2 1985

NEUMAN, WILLIAMS,  
ANDERSON & OLSON  
THEODORE W. ANDERSON

The Honorable Charles A. Legge  
May 1, 1985  
Page Two

me that he would not know his final position on the matter until tomorrow since he needed to confer further with his expert witness before making a decision. Since I was unable to reach Mr. Anderson today, this afternoon I informed Mr. Ebe, Plaintiffs' local counsel, of our position and told him that because we understand that the Court wanted to know our views on the trial schedule today, we would be sending this letter.

We appreciate the Court's efforts to reschedule this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Martin R. Glick". The signature is written in a cursive, somewhat stylized font.

MARTIN R. GLICK  
Attorneys for Defendant and  
Counterclaimant Activision, Inc.

MRG/js

cc: Robert L. Ebe (by hand)  
Theodore Anderson (by Federal Express)

NEUMAN, WILLIAMS, ANDERSON & OLSON

ATTORNEYS AND COUNSELORS

77 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60602-2954

312-346-1200

CABLE JONAD CHICAGO

TELEX 206433

TELECOPY NUMBER 312-346-5419

WASHINGTON OFFICE

CRYSTAL PLAZA ONE - SUITE 308

2001 JEFFERSON DAVIS HIGHWAY

ARLINGTON, VIRGINIA 22202-3603

703-892-8787

THEODORE W. ANDERSON  
ARTHUR A. OLSON, JR.  
JAMES R. DOWDALL  
DONALD A. PETERSON  
WILLIAM J. BIRMINGHAM  
JOSEPH P. CALABRESE  
GREGORY B. BEGGS  
NOEL I. SMITH  
JOHN J. CAVANAUGH  
HARRY J. ROPER  
MICHAEL O. WARNECKE  
JAMES T. WILLIAMS  
WILLIAM M. WESLEY  
J. BRADFORD LEAHEY  
GEORGE S. BOSY  
HERBERT D. HART III  
NICHOLAS A. POULOS  
WILLIAM H. FRANKEL  
JAMES P. NAUGHTON

LAWRENCE E. APOLZON  
VASILIOS D. DOSSAS  
EDWARD W. MURRAY  
TODD P. BLAKELY  
SUSAN K. BENNETT  
WILLIAM P. OBERHARDT  
ROBERT W. FIESELER  
SANDRA B. WEISS  
HUGH A. ABRAMS  
RAYMOND N. NIMROD  
ROGER H. STEIN

SIDNEY NEUMAN  
FRED T. WILLIAMS  
COUNSEL

VAN METRE LUND  
NORMAN M. SHAPIRO  
ASSOCIATE COUNSEL

May 2, 1985

The Honorable Charles A. Legge  
United States District Court  
450 Golden Gate Avenue, 19th Floor  
San Francisco, California 94102

Re: Magnavox v. Activision  
No. C 82 5270

Dear Judge Legge:

Following our conference with you on Tuesday afternoon concerning the trial setting in this case, we have been in telephone contact with Mr. Foster of your staff. We explained to Mr. Foster the difficulties we encountered in determining what schedule would be workable for plaintiff. This letter will confirm our conversations with Mr. Foster and respond to Mr. Glick's letter to you of May 1.

Plaintiffs face unique logistic burdens in the trial of this case. Plaintiffs' trial counsel are located in Chicago, its principal witnesses are located in Michigan, New Hampshire and New York, and house counsel who will be attending trial is also located in New York. The expenses of travel to and from San Francisco and the housing of the personnel while in San Francisco are substantial, and considerable time is involved in the travel itself. Much of the substantial documentary record generated in this action and the prior actions on plaintiffs' patent must be in San Francisco and available to counsel during trial, but returned to Chicago for counsel's use at other times. Plaintiffs shipped approximately fifty transfer cases of documents and exhibits to San Francisco last week for use during the trial which was expected to commence this week.

The Honorable Charles A. Legge

May 2, 1985

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Magnavox and Sanders gladly shoulder this burden to achieve resolution of their dispute with Activision. However, consistent with the convenience and scheduling requirements of the Court, plaintiffs want to minimize the expense and difficulties involved. The schedule proposed in Mr. Glick's May 1 letter contemplates three separate trial sessions in May, June, and late July through early August; that schedule would maximize the inconvenience and expense to plaintiffs. A frequented trial presentation will make a full understanding of the complex technical issues more difficult. Moreover, to commence trial on a half-day basis is a tremendously inefficient use of the time of plaintiffs' trial counsel and other personnel who would be away from their offices.

Plaintiffs greatly prefer starting trial in late July and proceeding into August. By starting in late July, it would appear that there is a good possibility that the trial can be started and finished in one sitting to the benefit of both the parties and the Court. We have conferred with our expert witness, Dr. Ribbens, and he informs us that his previously scheduled trip to Germany can probably be changed to accommodate this schedule. Dr. Ribbens has been unable to confirm this as he has not yet been able to contact the appropriate people in Germany. (May 1 was a legal holiday in Germany.) From Mr. Glick's letter, it appears that such a schedule would be workable for Activision.

We suggest that a telephone conference with Your Honor, Mr. Glick, and myself on Friday morning would be the most expeditious way to resolve this matter. If this appears desirable, please let us know what time would be convenient for the Court.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By



Theodore W. Anderson

TWA/cmp

CC: Martin R. Glick