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Attorneys for Defendant

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

13 THE MAGNAVOX COMPANY,)
14 a Corporation and)
15 SANDERS ASSOCIATES, INC.,) Civil Action No.
16 a Corporation,) C82 5270 TEH
17 Plaintiffs,)
18 v.)
19 ACTIVISION, INC.,)
20 a Corporation,)
21 Defendant.)

22 DEFENDANT'S RESPONSE TO PLAINTIFFS' INTERROGATORIES

23 COMES NOW, defendant, Activision, Inc., and in response to Plaintiffs'
24 Interrogatories to Defendant served on or about February 23, 1983, submits as follows:

25 Interrogatory No. 1(a): State the date upon which Activision, Inc. was
26 incorporated.

27 Answer: October 1, 1979

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Cheryl Reed: Assistant Secretary - July 19, 1982 to the present;
Barbara Hazlett: Assistant Treasurer - June 19, 1982 to the present;
Thomas W. Pomeroy: Vice President Planning - June 28, 1982 to the present;
Harvey Gillis: Vice President Finance - Treasurer - February 2, 1983 to the present.

Interrogatory No. 1(f): State the business of Activision, Inc.

Answer: Designer and manufacturer of computer software.

Interrogatory No. 1(g): Identify every corporation in which Activision, Inc. owns a controlling interest, and as to each such corporation, state the business of that corporation.

Answer: Activision International, Inc., international sales and Activision Caribe, Inc., dormant.

Interrogatory No. 2(a): Does defendant contend that the patent in suit or any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62 thereof is invalid, void, or unenforceable for any reason under 35 U.S.C. 102 or 103? If so, state each and every reason, ground, or basis known to defendant to support each such contention and fully identify each and every item of prior art upon which defendant bases that contention.

(b) To the extent not included in defendant's response to subparagraph (a) of this interrogatory, identify each and every item of prior art supporting the contentions stated by defendant in paragraphs 15 and 16(a)-(e), (g) & (h), 17, 18, and 19 of the "Affirmative Defenses" in defendant's Answer and Counterclaims" filed in this action.

Answer: Yes. As presently advised, defendant relies in part upon the prior art presented in Magnavox Co. et al v. Bally Manufacturing Corp. et al, a suit consolidating Civil Actions 74 C 1030, 74 C 2510, 75 C 3153 and 75 C 3933 in the

1 United States District Court for the Northern District of Illinois, Eastern Division.
2 More specifically, defendant relies upon the prior art presented in the Notice by
3 Defendants Bally, Midway and Empire of Prior Art Pursuant to 35 U.S.C. §282(4) filed
4 23 April 1976 and the Notice of Prior Art by Atari, Inc. and Sears, Roebuck &
5 Company filed on or about 25 May 1976.

6 Defendant also relies in part upon the prior art presented in Civil Action
7 No. 80 C 4124 entitled, The Magnavox Company et al v. Mattel, Inc., et al filed in the
8 District Court for the Northern District of Illinois, Eastern Division.

9 Defendant also relies in part upon the prior art cited in Baer Reissue
10 Application, Serial No. 810,538, filed June 27, 1977 and U.S. Patent No. 3,728,480,
11 filed March 22, 1971.

12 Defendant will identify the prior art it considers most pertinent after a
13 detailed analysis of all prior art presented. In addition, pursuant to 35 U.S.C. §282
14 defendant will notify plaintiff of any other prior art it intends to use but which is not
15 now known to defendant.

16 Interrogatory No. 3(a): Does defendant contend that the patent in suit or
17 any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62 thereof is invalid, void or
18 unenforceable for any reason under 35 U.S.C. 103? If so, state each and every reason,
19 ground, or basis known to defendant to support each such contention including a
20 statement of what defendant contends is the art to which the subject matter patented
21 in the patent in suit pertains and what defendant contends was the level of skill of a
22 person of ordinary skill in that art at the times the invention of the patent in suit was
23 made and the application for the original patent in suit was filed.

24 (b) To the extent not included in defendant's response to subparagraph (a)
25 of this interrogatory, state each and every reason, ground, or basis known to defendant
26 to support the contentions stated by defendant in paragraph 16(e) of the "Affirmative
27 Defenses" in defendant's "Answer and Counterclaims" filed in this action.

1 Answer: See answers to Interrogatories 2(a) and (b).

2 Interrogatory No. 4(a): Does defendant contend that the patent in suit or
3 any of claims 25, 26, 44, 45, 51, 52, 60, 61 or 62 thereof is invalid, void, or
4 unenforceable for any reason under 35 U.S.C. 112? If so, state each and every reason,
5 ground, or basis known to defendant to support each such contention, including a
6 statement of each and every alleged deficiency or omission in the written description
7 of the invention in the patent in suit and why such alleged deficiency or omission
8 would prevent any person skilled in the art to which the invention of the patent in suit
9 pertains or is most nearly connected from making and using the same, each mode of
10 carrying out the invention of the patent in suit which was contemplated by the
11 inventor named in the patent as better than the mode or modes set forth therein, and
12 each ambiguity, unclarity, or other manner in which the claims of the patent in suit
13 fail to particularly point out or distinctly claim the subject matter which the inventor
14 regarded as his invention, and identify every act, fact, or occurrence relied upon by
15 defendant to support each such reason, ground, or basis.

16 (b): To the extent not included in defendant's response to subparagraph (a)
17 of this interrogatory, state each and every reason, ground, or basis known to defendant
18 to support the contentions stated by defendant in paragraphs 17(f) & (i) of the
19 "Affirmative Defenses" in defendant's "Answer and Counterclaims" filed in this action
20 and identify every act, fact, or occurrence relied upon by defendant to support each
21 such reason, ground, or basis.

22 Answer: Yes. As presently advised, the patents in suit fail to sufficiently
23 disclose how to make and use a coincidence detecting means or how to impart a
24 distinct motion to a "hit" symbol. In addition, the application was indefinite because
25 of the uncertain meaning of "distinct motion", "hit" and "hitting". Moreover, as
26 plaintiffs presently seem to interpret the claims, each of the "means" clauses of the

1 Answer: As presently advised, defendant has not sufficiently reviewed the
2 massive materials presently available to it to respond in any greater detail than as set
3 forth in its Answer and Counterclaims. However, defendant does intend to rely on the
4 proofs offered in support of the allegations of fraud, as set forth in the application for
5 Reissue of Baer patent No. 3,728,480.

6 Interrogatory No. 7: Identify each and every television game product
7 which defendant has manufactured, used, and/or sold by (i) stating its name or title,
8 (ii) stating its model or type number, (iii) identifying each television game console with
9 which the television game product may be used, (iv) stating the date on which
10 defendant first began to manufacture and/or sell that television game product, (viii)
11 identifying the persons responsible for preparing or writing any programs included in
12 that television game product.

13 Answer:

14 (i)	(ii)	(iii)	(iv)	(viii)
<u>Name</u>	<u>Model No.</u>	<u>System</u>	<u>Month/Year First Shipped</u>	<u>Game Designer</u>
17 Dragster	AG-001	Atari 2600	07/80	David Crane
18 Boxing	AG-002	"	07/80	Bob Whitehead
19 Checkers	AG-003	"	07/80	Alan Miller
20 Fishing Derby	AG-004	"	07/80	David Crane
21 Skiing	AG-005	"	12/80	Bob Whitehead
22 Bridge	AX-006	"	12/80	Larry Kaplan
23 Tennis	AG-007	"	03/81	Alan Miller
24 Laser Blast	AG-008	"	03/81	David Crane
25 Freeway	AG-009	"	07/81	David Crane
26 Kaboom!	AG-010	"	07/81	Larry Kaplan
27 Stampede	AG-011	"	12/81	Bob Whitehead