

NEUMAN, WILLIAMS, ANDERSON & OLSON

77 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60602

RIS
JK

COPY



May 22, 1984

Algy Tamoshunas, Esquire
North American Philips Corporation
580 White Plains Road
Tarrytown, New York 10591

Re: Magnavox v. Activision

Dear Algy:

As we discussed on the telephone today, enclosed please find a draft further supplemental response to the outstanding Activision interrogatories. We want to be able to serve these interrogatories on Activision on Friday, the 25th.

We believe that the responses should be reviewed by the appropriate people at both Sanders and Philips to make sure they are correct. Interrogatories 37, 104, 109 through 112, 128, 129 and 154 deserve particular attention.

You will note that in interrogatories 128 and 129 we essentially dropped the infringement charge of claims 44 and 45. These claims do not recite the television or raster scan environment. We dropped them during the Mattel case because we believed that they did not add significantly to the case, and we think it is appropriate to follow a similar course here.

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Algy Tamoshunas, Esquire
North American Philips Corporation
May 22, 1984
Page 2

Also enclosed are copies of two notices of depositions. The depositions apparently relate to a prior art NASA flight simulator. They will occur Wednesday through Friday of this week in Houston and Salt Lake City. I will be attending those depositions.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By


James T. Williams

PILLSBURY, MADISON & SUTRO
JTW:debert P. Taylor
Enclosures Street

Mailing Address:
cc: T. A. Briody - w/o encls.
L. Etlinger - w/encls.
R. I. Seligman - w/encls.
T. W. Anderson - w/o encls.

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

United States District Court For The
Northern District Of California

THE MAGNAVOX COMPANY, a corporation,
and SANDERS ASSOCIATES, INC.,
a corporation,

Plaintiffs,

v.

ACTIVISION, INC., a corporation,

Defendant.

No. C 82 5270 JPV

PLAINTIFFS' SECOND
SUPPLEMENTAL RESPONSE TO
TO DEFENDANT'S
INTERROGATORIES

Plaintiffs herewith supplement their responses to
defendant's interrogatories 33, 35, 37, 77, 78, 104, 109-112, 128,

2. Memorandum; May 19, 1977; telephone message of Louis Etlinger to James T. Williams; re proposed reissue application; attorney - client privilege and attorney work product.

3. Letter; June 3, 1977; James T. Williams to Louis Etlinger with carbon copies indicated to Thomas A. Briody, William J. Streeter, Jack Oisher, and Theodore W. Anderson; re proposed reissue application; attorney-client privilege and attorney work product.

4. Letter; June 6, 1977; James T. Williams to Louis Etlinger with carbon copies indicated to Thomas A. Briody, William J. Streeter, Jack Oisher and Theodore W. Anderson; re proposed reissue application; attorney-client privilege and attorney work product.

5. Letter; June 15, 1977; James T. Williams to Louis Etlinger with carbon copies indicated to Thomas A. Briody, Jack Oisher, William J. Streeter and Theodore W. Anderson; re proposed reissue application and references telephone conversation between Messers. Etlinger and Williams on June 14, 1977; attorney-client privilege and attorney work product.

6. Meeting notes; May 6, 1977; notes of James T. Williams of meeting also attended by Thomas A. Briody, William J. Streeter, Louis Etlinger and Theodore W. Anderson; re proposed reissue application; attorney-client privilege and attorney work product.

7. Telephone conference notes; May 11, 1977; note of James T. Williams of telephone conference with Thomas T. Rooney of Bacon and Thomas; re U. S. patent 3,135,815; attorney-client privilege and attorney work product.

8. Meeting agenda; May 12, 1977; agenda prepared for meeting of plaintiffs' counsel including Thomas A. Briody, William J. Streeter, Louis Etlinger, Richard I. Seligman, Theodore W. Anderson and D. Dennis Allegretti; re Spiegel patent reference; attorney-client privilege and attorney work product.

9. Handwritten working notes; undated but believed to have been prepared by James T. Williams between April 1, 1977 and June 1, 1977; re U.S. patent 3,135,815; attorney work product.

10. Marked-up copies of U.S. patent 3,728,480; undated but believed to have been prepared by James T. Williams between April 1, 1977 and June 1, 1977; attorney work product.

11. Marked-up copies of drawing figures from Spiegel German patent; undated but believed to have been prepared by James T. Williams between April 1, 1977 and June 1, 1977; attorney work product.

12. Draft patent claims; undated but believed to have been prepared by James T. Williams between April 1, 1977 and June 1, 1977; attorney-client privilege and attorney work product.

13. Draft patent claims; undated but believed to have been prepared by James T. Williams between April 1, 1977 and June 1, 1977; attorney-client privilege and attorney work product.

14. Draft patent claims; undated but believed to have been prepared by Richard I. Seligman between April 1, 1977 and June 1, 1977; attorney work products and attorney-client privilege.

15. Multiple sets of draft patent claims; undated but believed to have been prepared and/or revised by Richard I. Seligman and James T. Williams between April 1, 1977 and June 27, 1977; attorney work product and attorney-client privilege.

16. Meeting notes; May 18, 1977; notes of Richard I. Seligman of meeting also attended by Louis Etlinger and Robert Cesari; re proposed reissue application; attorney work product and attorney-client privilege.

17. Handwritten work notes; May 17, 1977; prepared by Richard I. Seligman; re proposed reissue application; attorney work product and attorney-client privilege.

18. Four pages of handwritten work notes; undated but believed to have been prepared by Richard I. Seligman April 1, 1977 and June 27, 1977; re proposed reissue application; attorney work product and attorney-client privilege.

19. Memorandum; May 2, 1977; Richard I. Seligman to Ralph H. Baer; re Spiegel U.S. and German patents; attorney-client communications.

20. Other telephone conferences between plaintiffs' counsel relating to the study may have occurred.

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.

RESPONSE:

F. and G. See the response to interrogatory 33.

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;
- 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 of invalidity or unenforceability;

- H. Identify all persons having knowledge of the subject matter of parts A through G of this interrogatory;
- I. Identify all person having knowledge of 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.

RESPONSE:

Interrogatory 37 has been limited by defendants to U.S. Patents 3,728,480, 3,659,284, and Re. 28,507.

Various parties to the prior civil actions relating to U.S. patents 3,728,480, 3,659,284, and Re. 28.507 have set forth their contentions relating to validity or enforceability of the claims of those patents in the papers filed in those actions. Copies of the papers filed by those parties and presently believed by plaintiffs to set forth such contentions are attached to these interrogatory responses. Those papers state the information requested in paragraphs A-C of this interrogatory as to such charges. The action taken by Magnavox and Sanders as a result of the contentions contained therein included the continued prosecution of the civil actions and defense of the patents to

trial or settlement. Plaintiffs' counsel are the individuals associated with plaintiffs having the greatest knowledge of the subject matter of this interrogatory.

An additional assertion of invalidity of claims of U.S. patents 3,728,480 and Re. 28,507 was made by RCA Corporation on the basis of a computer demonstration of a pool game during negotiations between RCA Corporation and Magnavox. Magnavox continued to pursue its infringement charge against RCA Corporation and eventually settled the matter. The computer pool demonstration was disclosed by Magnavox to the defendants in the action for infringement of U.S. patent Re. 28,507 then pending in the Northern District of Illinois, No. 74 C 1030. Thomas A. Briody and William J. Streeter are the individuals associated with either plaintiff having the greatest knowledge of the assertion by RCA Corporation.

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.

RESPONSE:

Interrogatory 77 has been limited by defendants to documents reflecting searches, opinions, discussions or evaluations of the references referred to as prior art.

Plaintiffs are presently unaware of any such documents other than those identified in plaintiffs response to interrogatory 33 and the decisions in The Magnavox Co. v. Chicago Dynamic Industries, 201 U.S.P.Q. 25 (N.D.Ill. 1977) and The Magnavox Co. v. Mattel, Inc., 216 U.S.P.Q. 28 (N.D.Ill. 1982).

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 74.

RESPONSE:

Interrogatory 78 has been limited by defendant to knowledge of the inventors of U.S. patents 3,728,480, 3,659,284, and Re. 28,507, the attorneys or agents who prepared or prosecuted the applications for those patents, and other individuals substantially involved in the preparation or prosecution of the application for those patents who were associated with the inventor, the assignee, or with anyone to whom there was an obligation to assign the applicaation. Louis Etlinger, Richard I. Seligman, Ralph H. Baer, William T. Rusch, Theodore W. Anderson and James T. Williams, all have some knowledge of one or more of the references or other purported prior art identified in interrogatory 74.

*are Ted +
Jim
"employed"
by SA +
Meyerson*

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.

RESPONSE:

- F.(a) File history indication: no response required.
- (b) Equipment demonstration: Examiner Trafton, Richard I. Seligman, and Louis Etlinger.

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RHB at
the demo* →

G.(a) File history indication: plaintiffs presently have no knowledge of any such communication other than the file history itself.

(b) Equipment demonstration: plaintiffs presently have no knowledge of any such communication other than those that occurred at the demonstration.

H.(a) File history indication: the file history itself.

(b) Equipment demonstration: plaintiffs presently have no knowledge of any such documents.

INTERROGATORY NO. 109

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

RESPONSE:

No specific disclosure of Mr. Williams' personal recollection was made. The "Spacewar" game was disclosed to the Patent and Trademark Office by Sanders Associates in connection with the application for reissue of U.S. patents 3,728,480 and 3,829,095.

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 to relate in any way to the subject matter of parts A through F of this interrogatory.

RESPONSE:

No response required.

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?

RESPONSE:

No specific disclosure of Mr. Williams' personal recollection was made. The "spacewar" game was disclosed to the Patent and Trademark Office by Sanders Associates in connection with the application for reissue of U.S. patents 3,728,480 and 3,829,095.

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

RESPONSE:

No response required.

INTERROGATORY NO. 128

For each combination of the games identified in response to Interrogatory No. 38 of Defendant's First Set of Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing", "Tennis" and "Ice Hockey") and the consoles identified in response to Interrogatory No. 50 of Defendant's First Set Of Interrogatories To Plaintiffs (namely, the Atari VCS Model 2600, the Sears Tele-Game Video Arcade, and the combination of the Colecovision game console and the Expansion Module 1) which plaintiffs contend constitutes an infringement of Claim 44 of the United States Patent Re. 28,507, identify the elements which plaintiffs contend correspond to the following elements of the claim:

- A. A baseball game;
- B. Apparatus for playing a baseball type game;
- C. A hit spot;
- D. Means for displaying a hit spot;
- E. A hitting spot;
- F. Means for displaying a hitting spot;
- G. An adjustment in the vertical position of said hitting spot;
- H. Means for adjusting the vertical position of said hitting spot;
- I. A serving of the hit spot;

- J. Means for serving said hit spot;
- K. A variation in the vertical position of the hit spot;
- L. Means for varying the vertical position of said hit spot;
- M. Coincidence between said hit and said hitting spot;
- N. A reversal of directions by the hit spot; and
- O. Means for denoting coincidence between said hit and said hitting spots whereby said hit spot will reverse directions.

RESPONSE:

Based upon the information presently available to plaintiffs concerning the television game cartridges manufactured, used, and/or sold by Activision, and the television game consoles with which those cartridges are used, and as presently advised, plaintiffs do not contend that any of the combinations referred to in this interrogatory constitutes an infringement of claim 44 of U.S. patent Re. 28,507

INTERROGATORY NO. 129

For each combination of the games identified in response to Interrogatory No. 38 of Defendant's First Set of Interrogatories to Plaintiffs (namely, "Fishing Derby", "Boxing", "Tennis" and "Ice Hockey") and the consoles identified in response to Interrogatory No. 50 of Defendant's First Set Of Interrogatories

To Plaintiffs (namely, the Atari VCS Model 2600, the Sears Tele-Game Video Arcade, and the combination of the Colecovision game console and the Expansion Module 1) which plaintiffs contend constitutes an infringement of Claim 45 of the United States Patent Re. 28,507, identify the elements which plaintiffs contend correspond to the following elements of the claim:

- A. A hockey type game;
- B. Apparatus for playing a hockey type game;
- C. A first hitting spot;
- D. Means for displaying a first hitting spot;
- E. A second hitting spot;
- F. Means for displaying a second hitting spot;
- G. [Omitted]
- H. A hit spot;
- I. Means for displaying a hit spot;
- J. Control of the position of the first hitting spot;
- K. Control of the position of the second hitting spot;
- L. Means for controlling the position of said first and second hitting spots;
- M. Controlling of the position of the hit spot;
- N. Means for controlling the position of said hit spot;
- O. Coincidence between the first hitting spot and the hit spot;
- P. Coincidence between the second hitting spot and the hit spot;

- Q. Means for ascertaining coincidence between either of said hitting spots and said hit spot;
- R. A distinct motion imparted to said hit spot upon coincidence; and
- S. Means for imparting a distinct motion to said hit spot upon coincidence.

RESPONSE:

Based upon the information presently available to plaintiffs concerning the television game cartridges manufactured, used, and/or sold by Activision, and the television game consoles with which those cartridges are used, and as presently advised, plaintiffs do not contend that any of the combinations referred to in this interrogatory constitutes an infringement of claim 45 of U.S. patent Re. 28,507

INTERROGATORY NO. 138

Identify all portions of the subject matter described in U.S. Patent 3,728,480 which Magnavox and Sanders contend are not prior art with regard to United States Patent Re. 28,507.

RESPONSE:

This interrogatory has been limited by defendant to the portions of U.S. Patent 3,728,480 enumerated in this response. Circuits as described at column 4, lines 16-21; column 6, lines 7-22 and 45-58; column 8, lines 33-54; column 9, lines 39 - column

10, line 15; column 12, lines 23-26, 44-48, and 57-60; Claims 13-23; Claims 26-30, and Claim 41 of U.S. Patent 3,728,480 were built and used with color television receiver by the inventor thereof prior to the commencement of reasonable diligence toward reduction to practice of the claimed subject matter of U.S. Patent Re. 28,507.

INTERROGATORY NO. 139

For each portion of the subject matter of U.S. Patent 3,728,480 identified in response to Interrogatory No. 138:

A. Set forth in detail the basis of the contention that the portion of the subject matter is not prior art;

B. Identify all persons having knowledge of the respective dates of invention of that portion of the subject matter and the subject matter of United States Letters Patent Re. 28,507; and

C. Identify all documents which refer or relate in any way to the subject matter of this interrogatory, including all documents which support the contention that the portion of the subject matter is not prior art with regard to United States Letters Patent Re. 28,507.

RESPONSE:

No response required in view of the response to interrogatory 138.

- (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for ascertaining coincidence between a hitting symbol and a hit symbol are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry

(Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 142

With regard to the invention of means for imparting a distinct motion to the hit symbol upon coincidence, as claimed in Claim 25 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
 - (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;

- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
 - (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for reversing the direction of a hit spot are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 145

With regard to the invention of means for ascertaining coincidence between either of two hitting spots and a hit spot, as claimed in Claim 45 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
- (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;

- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for ascertaining coincidence between either of two hitting spots and a hit spot are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through

January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 146

With regard to the invention of means for imparting a distinct motion to a hit spot upon coincidence with one of two hitting spots, as claimed in Claim 45 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
- (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;

- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;

- (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for imparting a distinct motion to a hit spot upon coincidence with one of two hitting spots are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T.

Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 147

With regard to the invention of means for ascertaining coincidence between a hitting symbol and a hit symbol, as claimed in Claim 51 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
 - (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;

- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
 - (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for ascertaining coincidence between a hitting symbol and a hit symbol are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 148

With regard to the invention for imparting a distinct motion to the hit symbol upon coincidence with a hitting symbol, as claimed in Claim 51 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:

- (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;

- (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for imparting a distinct motion to the hit symbol upon coincidence with a hitting symbol are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22,

1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 149

With regard to the invention of means for determining a first coincidence between first and second symbols, as claimed in Claim 60 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
 - (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;

- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and

- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for determining a first coincidence between first and second symbols are a page of handwritten notes dated May 23, 1967 (Sanders Deposition Exhibit 23, page 23) and prepared by William T. Harrison under the direction and at the suggestion of Ralph H. Baer, and laboratory notebook entries dated May 24, 1967 (Sanders Deposition Exhibit 16, pages 44 and 45) made by William Harrison under the direction and at the suggestion of Ralph H. Baer. Additional drawings showing such circuitry and references to such circuitry are dated June 14, 1967 (Sanders Deposition Exhibit 23, page 81) July 18, 1967, (Sanders Deposition Exhibit 16, page 78) September 12, 1967 (Sanders Deposition Exhibit 16, page 89, Sanders Deposition Exhibit 9, pages 89 and 90), each of which was prepared by William Harrison under the direction and at the suggestion of Ralph H. Baer in approximately May 1967. Apparatus including such circuitry (Sanders Deposition Exhibit 28) was first constructed during the period May - June 1967.

INTERROGATORY NO. 150

With regard to the invention of means for imparting a distinct motion to the second symbol, as claimed in Claim 60 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
 - (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;

- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for imparting a distinct motion to the second are a

memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 151

With regard to the invention for determining a second coincidence between a third symbol and the second symbol, as claimed in Claim 61 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
- (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;

- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;
- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27, 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
 - (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;

- (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and
- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for determining a second coincidence between a third symbol and the second symbol are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The

suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 152

With regard to the invention of means for imparting a distinct motion to the second symbol in response to the second coincidence, as claimed in Claim 61 of United States Letters Patent Re. 28,507:

- A. What is the earliest date for each of the following:
 - (1) Conception;
 - (2) Actual reduction to practice; and
 - (3) Diligence toward reduction to practice;
- B. Describe in detail the events which constitute the conception, reduction to practice and diligence on which the dates set forth in response to Parts A(1)-A(3) of this interrogatory are based;
- C. Identify all persons who participated in each of the events described in response to Part B of this interrogatory, including the role of each such person;

- D. Identify the first person(s) to suggest the invention, state the date the invention was first suggested, and identify the person(s) to whom the invention was suggested;
- E. Identify all persons to whom the invention was disclosed prior to May 27 1969 and the date and place of each such disclosure;
- F. Identify all persons who had knowledge of the invention prior to May 27, 1969 and the date each such person learned of the invention;
- G. Identify all prototypes, laboratory models, bread-board circuits and other physical embodiments of the invention made prior to May 27, 1969, including the following:
- (1) A concise description of each;
 - (2) The date(s) each was made;
 - (3) The person(s) who constructed each;
 - (4) All persons having access to each prior to May 27, 1969; and
 - (5) The present location and condition of each.
- H. Identify all persons not otherwise identified in response to this interrogatory who have knowledge of the subject matter of any of Parts A through G of this interrogatory, and indicate the subject matter of which each such person has knowledge; and

- I. Identify all documents which refer or relate in any way to the subject matter of this interrogatory.

RESPONSE:

The earliest written record relating to the work done on television games by employees of plaintiff Sanders Associates of which plaintiffs are presently aware that shows or refers to any means for imparting a distinct motion to the second symbol in response to the second coincidence are a memorandum dated May 10, 1967 to R. Baer from W. Rusch (Sanders Deposition Exhibit 9, pages 44-50), laboratory methods entries dated September 25, 1967 through January, 1968 (Sanders Deposition Exhibits 17-19) made by William T. Rusch, and pages of handwritten notes and drawings dated in October, 1967 through January, 1968 and prepared by William E. Harrison at the suggestion of William T. Rusch. Additional drawings showing such circuitry are dated December 22, 1967 (Sanders Deposition Exhibit 23, pages 160-163) and were prepared by William Harrison at the suggestion of William T. Rusch. The suggestion for such circuitry (Sanders Deposition Exhibit 30) was made by William T. Rusch in approximately May, 1967. Apparatus including such circuitry was first constructed during the period October - December 1967; other apparatus, including such circuitry was constructed subsequently.

INTERROGATORY NO. 154

Identify each of the certain games known as "Spacewar" which plaintiffs have acknowledged at Massachusetts Institute of Technology in the early 1960's in response to Part (c) of Interrogatory No. 75 of Defendant's First Set of Interrogatories to Plaintiffs, including the following:

- (a) A description of the game;
- (b) The date(s) when each such game was played;
- (c) State when and under what circumstances Magnavox and/or Sanders first became aware of each such game;
- (d) Identify all personnel of Magnavox and/or Sanders having knowledge of each such game and the date(s) each such person acquired such knowledge; and
- (e) Identify all documents in the possession, custody or control of Magnavox and/or Sanders which refer or relate in any way to each such game.

RESPONSE:

Paragraphs (c) - (e) of interrogatory 154 have been limited by defendant to knowledge of the invention of U.S. Patent 3,728,480, 3,659,284, and Re. 28,507 the attorneys or agents who prepared or prosecuted the applications for those patents, and other individuals substantially involved in the preparation or prosecution of the applications for those patents who was associated with the inventor, the assignee, or with anyone to whom there was an obligation to assign the application.

(c) The earliest that any of the persons referred to in this interrogatory as limited by defendant obtained knowledge of the different games known as "Spacewar" is presently believed to be during the taking of the deposition referred to in plaintiffs' prior response to interrogatory 154. Plaintiffs or its counsel did receive some information relating to the games known as "Spacewar" prior to the commencement of those depositions. That information was received as follows:

1. A book entitled "II Cyberetics Frontiers" was purchased by or for plaintiffs counsel Theodore W. Anderson and James T. Williams on approximately July 15, 1975. Louis Etlinger and ^{Rich}Robert I. Seligmen^a saw at least portions of the book at a later date.

2. Interrogatory responses of Midway Mfg. Co. in Civil Action No. 74 C 1030 in the Northern District of Illinois received by plaintiffs' counsel Theodore W. Anderson and James T. Williams on approximately July 23, 1975.

3. Copies of production documents of Midway Mfg. Co. in said Civil Action No. 74 C 1030 first produced for inspection by plaintiffs' counsel James T. Williams on approximately August 1, 1975.

4. Oral and telephone conversations of Messrs. Louis Etlinger, James T. Williams, and John Sauter on approximately October 9, 1975.

6. Conference of Messrs. Louis Etlinger, James T. Williams, and personnel of Digital Equipment Corporation on approximately October 17, 1975 and document copies received as a result of that conference.

(d) See the response to paragraph (c) of this interrogatory.

(e) Paragraph (e) of this interrogatory has been limited by defendant to documents reflecting searches, opinions, discussions or evaluations of the games known as "Spacewar" as prior art. Plaintiffs are presently aware of no such documents.

_____, 1984 _____
The Magnavox Company

Subscribed and sworn to before me
this ___ day of _____, 1984,
in _____.

Notary Public

My Commission Expires: _____

_____, 1984 _____
Sanders Associates, Inc.

Subscribed and sworn to before me
this ___ day of _____, 1984,
in _____.

Notary Public

My Commission Expires: _____

The foregoing contentions are asserted or stated on behalf of plaintiffs by:

Theodore W. Anderson
James T. Williams
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