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

20 THE MAGNAVOX COMPANY, )  
a Corporation, and )  
21 SANDERS ASSOCIATES, INC., )  
a Corporation, )  
22 )  
Plaintiffs, )  
23 )  
v. )  
24 )  
ACTIVISION, INC., )  
25 a Corporation )  
Defendant. )  
26 \_\_\_\_\_ )

Civil Action  
C 82 5270 TEH

ORIGINAL  
FILED

MAR 15 1983

WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

27 STIPULATED PROTECTIVE ORDER

28 Stipulated Protective Order

1           Upon stipulation of the parties to this action, it is hereby ORDERED that:

2           1. Any document or portion thereof, or other form of evidence contem-  
3 plated under Rules 26 through 37 of the Federal Rules of Civil Procedure including  
4 deposition testimony and transcripts thereof, for which a claim of confidentiality or  
5 trade secrecy is made on behalf of the party producing same at the time of production,  
6 shall be designated as CONFIDENTIAL UNDER PROTECTIVE ORDER. At the time a  
7 document or portion thereof is produced for inspection by counsel, it is sufficient  
8 designation for this purpose that a container holding tangible objects, a file or an  
9 individual document bear a written label marked CONFIDENTIAL UNDER  
10 PROTECTIVE ORDER or the like and any object, file or document so marked shall be  
11 handled as hereinafter set forth. At the time a deposition is being taken, it is  
12 sufficient designation for this purpose that a statement be made on the record that the  
13 testimony or portions thereof is CONFIDENTIAL. Any copies of such documents,  
14 deposition transcripts, or other tangible things so designated which are thereafter  
15 requested by and supplied to a party shall be subject to the following conditions.

16           2. Documents and other tangible things designated CONFIDENTIAL  
17 UNDER PROTECTIVE ORDER, copies thereof, and the information contained therein,  
18 and any analysis or report pertaining thereto, shall be made available to and/or  
19 inspected by lawyers and clerical personnel of outside counsel of the parties to this  
20 action and independent testing laboratories or independent experts not associated  
21 directly or indirectly with a party and shall be used only for the purposes of the above  
22 entitled civil action. Specific documents and other tangible things designated  
23 CONFIDENTIAL UNDER PROTECTIVE ORDER, copies thereof, and the information  
24 contained therein, and any analysis or report pertaining thereto, may also be made  
25 available to attorney employees of the parties to this action, James H. Levy, President  
26 of Activision, Inc., and Ralph W. Staup, Vice President and General Manager, Odyssey,  
27 of N.A.P. Consumer Electronics Corp., if such specific documents and other tangible  
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1 things are specified for such treatment under this sentence by the party producing  
2 same. Documents and things produced under the terms of the preceding sentence shall  
3 also be used only for purposes of the above entitled civil action.

4 3. The documents or other tangible things, designated CONFIDENTIAL  
5 UNDER PROTECTIVE ORDER, copies thereof, or the information contained therein  
6 and analyses or reports pertaining thereto, shall not be disclosed to other than those  
7 named in paragraph 2 hereof, until and unless:

8 (A) Counsel for the party producing same waives in writing the claim of  
9 confidentiality thereof, or

10 (B) Such information is or was otherwise rightfully acquired by and on  
11 behalf of the party receiving the documents or things under this Order, or

12 (C) Such information becomes or has become public knowledge, other than  
13 by act or omission of the party receiving the documents or things under this  
14 Order, or

15 (D) A Court Order releases the confidentiality.

16 4. If any party to this litigation concludes that for the purpose of this  
17 action, they need to disclose any of said confidential material, or the information  
18 contained therein or derived therefrom, to any person not specified in paragraph 2  
19 herein, or to offer it in evidence in this action, they may request the producing counsel  
20 to grant permission to do so for specified documents or information. To be effective,  
21 such consent must be granted in writing with respect to specified documents or  
22 information by producing counsel and the provisions of this Stipulated Protective  
23 Order shall thereby be modified as to such specified documents or information. If  
24 counsel cannot agree as to the disposition of such a request, application to the Court  
25 for ruling on such a request may be made and on such application this Stipulated  
26 Protective Order shall be without prejudice to the rights of any party in any respect.  
27 Furthermore, it is a specific understanding that if said Court's assistance is sought in  
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1 expediting discovery and completion of this litigation it is agreed:

2 (A) That the mere designation of a document by counsel or a party as  
3 being "confidential" cannot alter or enhance the nature of that document or its  
4 confidentiality or create any presumption of confidentiality;

5 (B) In the event that the parties disagree on the propriety of classifying a  
6 document as confidential, the party seeking classification other than confidential  
7 shall submit a request in writing to the Court for in-camera consideration of the  
8 document and a determination of the desirability of releasing the document for  
9 further use in this litigation; and

10 (C) The Court may release the document for use in this litigation and for  
11 disclosure to the other parties to this litigation if the Court finds that the  
12 document is relevant and material to the issues, subject only to such further or  
13 alternate protective provisions as the Court may deem just in the circumstances.

14  
15 Date:


3/14/83



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Attorneys for Plaintiffs

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18  
19 Date:

3/14/83



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Attorneys for Defendant

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24 IT IS SO ORDERED:

25 **THELTON E. HENDERSON**

26 \_\_\_\_\_  
United States District Judge

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