IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION OF	)	
	)	
RALPH H. BAER	)	
	)	Examining Group 334
SERIAL NO. 810,538	)	
	)	Examiner: V. Hum
FILED: JUNE 27, 1977	)	
	)	
FOR: TELEVISION GAMING APPARATUS	)	

The Honorable Commissioner
of Patents and Trademarks
Washington, D. C. 20231

Sir:

PRIOR ART STATEMENT

Applicant submits this Prior Art Statement to bring to the attention of the Patent and Trademark Office the following references copies of which are attached hereto as the indicated exhibits:

A. U.S. Patent No. 3,135,815 to F. Spiegel;

B. Patent No. 1,119,152 of the Federal Republic of Germany; and

C. A translation into English of the Exhibit B reference.

Both of references A and B relate to guided missile simulators apparently intended for use in military applications. Neither relates to or suggests apparatus useful for the playing of games in the home on standard, broadcast television receivers having the features called for in the claims of this application and those claims, therefore, are allowable thereover.

In addition to this Prior Art Statement, applicant is also submitting herewith a document entitled "Letter of Information" setting forth, among other things, certain facts

relating to civil actions concerning U.S. Patent 3,728,480, the patent sought to be reissued by this application, and patents related thereto. Because of the particular importance attached by the defendants in some of those actions to "computer games" such as are referred to in Exhibits 9, 10, 14 and 22 to that Letter, particular attention is drawn to those Exhibits. Each of those Exhibits relates to a game played on a digital computer in conjunction with point-to-point or x-y plotting cathode ray tube displays rather than standard, broadcast television receivers of the type called for by the claims in this application.

Applicant's undersigned attorney spoke with Examiner V. Hum by telephone on September 21, 1977 concerning the applicability of the three month period provided for in 37 C.F.R. § 1.97 for the filing of prior art statements when the application is one for a reissue patent in view of the requirement of 37 C.F.R. § 1.176 that a reissue application not be examined sooner than two months after announcement of its filing in the Official Gazette. In this case, the announcement of its filing was published in the Official Gazette on August 23, 1977, so that the two month period of § 1.176 expires after the three month period of § 1.97. Applicant's attorneys were unable to submit this Prior Art Statement prior to September 27, 1977 due to unexpected difficulties in obtaining copies of some of the exhibits to the Letter of Information referred to therein and delays in the mechanics of assembling those exhibits.

Respectfully submitted,

Richard I. Seligman
Associate Attorney for Applicant
Registration No. 22,613

October 18, 1977
Washington Telephone: 347-5577
Extension: 5-5186

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION OF	)	
	)	
RALPH H. BAER	)	
	)	Examining Group 334
SERIAL NO. 810,538	)	
	)	Examiner: V. Hum
FILED: JUNE 27, 1977	)	
	)	
FOR: TELEVISION GAMING APPARATUS	)	

Honorable Commissioner of
Patents and Trademarks
Washington, D. C. 20231

Sir:

LETTER OF INFORMATION

Applicant submits this Letter of Information to (1) inform the Patent and Trademark Office of the existence and status of the civil actions relating to U.S. Patent No. 3,728,480, the patent sought to be reissued by this application, and patents related thereto and (2) bring to the attention of the Patent and Trademark Office prior art and other matters raised by parties having a position adverse to those same patents.

The following civil actions have been filed in the stated United States District Court concerning U.S. Patent No. 3,728,480 and/or patents related thereto. Pertinent information concerning those actions is stated in summary form.

A. Midway Mfg. Co. v. The Magnavox Company and Sanders Associates, Inc., Civil Action No. 74 Civ. 1657 in the Southern District of New York; action for a declaratory judgment of invalidity and noninfringement of U.S. Patent Nos. 3,728,480, 3,659,284, 3,659,285, and 3,778,058 and including a counterclaim for infringement of U.S. Patent Nos. 3,659,284 and 3,659,285 and the reissues thereof, Re. 28,507 and Re. 28,598; filed on April 12, 1974, and terminated on or about May 20, 1976 prior to trial, (hereinafter the "Midway" case);

B. The Magnavox Company and Sanders Associates, Inc. v. Bally Manufacturing Corporation, Chicago Dynamic Industries, Inc., Empire Distributing, Inc., and Midway Mfg. Co., Civil Action No. 74 C 1030 in the Northern District of Illinois, Eastern Division, for infringement of U.S. Patent Nos. 3,659,284 and 3,659,285 and the reissues thereof, Re. 28,507 and Re. 28,598, and including counterclaims for declaratory judgments of invalidity and non-infringement of those same patents and alleged violations of the antitrust laws; filed on April 15, 1974 and terminated on July 15, 1977 (hereinafter the "Bally" case);

C. The Magnavox Company and Sanders Associates, Inc. v. Seeburg Industries, Inc., The Seeburg Corporation of Delaware, Williams Electronics, Inc. and World Wide Distributors, Inc., Civil Action No. 74 C 2510 in the Northern District of Illinois, Eastern Division; action for infringement of U.S. Patent Nos. 3,659,284 and 3,659,285 and the reissues thereof, Re. 28,507 and Re. 28,598, and including counterclaims for a declaratory judgment of invalidity and noninfringement of those same patents and alleged violations of the antitrust laws; filed on September 3, 1974 and terminated on June 15, 1977 (hereinafter the "Seeburg" case);

D. Atari, Inc. v. The Magnavox Company and Sanders Associates, Inc., Civil Action No. 75 C 1442 RPF in the Northern District of California and transferred to the Northern District of Illinois, Eastern Division, Civil Action No. 75 C 3933; action for a declaratory judgment of invalidity and noninfringement of U.S. Patent Nos. 3,659,284 and 3,659,285 and including a counterclaim for infringement of those same patents and Re. 28,507; filed July 11, 1975 and terminated on June 9, 1976 (hereinafter the "Atari" case);

E. The Magnavox Company and Sanders Associates, Inc. v. Sears, Roebuck & Co., Civil Action No. 75 C 3153 in the Northern District of Illinois, Eastern Division for infringement of U.S. Patent Nos. 3,728,480, 3,659,284, 3,659,285, and Re. 28,507; filed on September 22, 1975 and terminated on June 9, 1976 (hereinafter the "Sears" case);

F. The Magnavox Company and Sanders Associates, Inc. v. Allied Leisure Industries, Inc. and Tandy Corporation, Civil Action No. 76-2221 CIV-NCR in the Southern District of Florida, Miami Division for infringement of United States Patent Nos. 3,728,480, 3,659,284, 3,659,285, Re. 28,507 and Re. 28,598 and including a counterclaim for a declaratory judgment of invalidity and noninfringement of those same patents; filed on December 9, 1976 and still pending (hereinafter the "Allied Leisure" case);

G. The Magnavox Company and Sanders Associates, Inc. v. APF Electronics, Inc., Unisonic Products Corp., Executive Games, Inc., Taito America Corporation, Universal Research Laboratories, Incorporated, Control Sales, Inc., Venture Electronic International Ltd., Jewel Companies, Inc., Osco Drug, Inc., Turn-Style, Inc., Bennett Brothers, Inc., and Jay-Kay Distributors, Inc., Civil Action No. 77 C 3159 for infringement of United States Patent No. 3,659,284 and the reissue thereof, Re. 28,507; filed on August 25, 1977 and still pending (hereinafter the "APF" case).

The Bally, Seeburg, Atari, and Sears cases, items B, C, D, and E listed above, were treated as consolidated cases and will hereinafter be referred to collectively as the "Chicago" case. A trial was held in the Chicago case before the Honorable John F. Grady which terminated on January 10, 1977. Prior to the time of that trial, the Atari and Sears cases had been terminated

and Bally Manufacturing Corporation, Empire Distributing, Inc., and Midway Mfg. Co. had been dismissed from the Bally case. On January 10, Judge Grady rendered an oral decision concerning the validity and infringement of patents Re. 28,507 and Re. 28,598 (the reissues of patents 3,659,284 and 3,659,285, respectively) and on June 1, 1977 a formal order was signed finding certain claims of patents 3,659,284 and Re. 28,507 valid and infringed and certain claims of patents 3,659,285 and Re. 28,598 invalid. A copy of the transcript of Judge Grady's oral opinion is included as "Exhibit 1" in the "Supplement to Letter of Information" being filed herewith and a copy of the formal order is included as "Exhibit 2" in the same supplement.

Applicant desires to make available to the Patent and Trademark Office information available to applicant or his assignee concerning the above stated civil actions and hereby offers to supply such information requested by the Office. In order to inform the Office of the prior art relied upon by the parties adverse to the patents in those actions, copies of the following documents are being supplied herewith as the indicated exhibits in the supplement to this letter:

3. "Notice By Midway Mfg. Co. of Prior Art Pursuant to 35 U.S.C. §282(4)" filed in the Midway case;

4. "Notice by Defendants Bally, Midway, and Empire of Prior Art Pursuant to 35 U.S.C. § 282(4)" filed in the Bally case;

5. "Notice of Prior Art by Atari, Inc. and Sears, Roebuck and Co." filed in the Atari and Sears cases;

6. "Notice by the Defendants of Prior Art Pursuant to 35 U.S.C. § 282" filed in the Bally and Seeburg cases and being the notice filed in preparation for the trial of the Chicago case;

14. Defendants' Exhibit 10 in the Chicago case being a collection of documents and deposition transcript portions relating to a game known as "Space War" allegedly used and known at Massachusetts Institute of Technology as early as 1961 or 1962 and at Stanford University as early as 1963 and entitled "Space War Computer Game Deposition and Documents";

15. U.S. Patent No. 2,455,992 to T. T. Goldsmith, Jr., et al.;

16. U.S. Patent No. 2,847,661 to C. F. Althouse;

17. U.S. Patent No. 3,017,625 to W. E. Evans, et al.;

18. U.S. Patent No. 3,158,858 to J. R. Ragen, et al.;

19. U.S. Patent No. 3,189,889 to A. W. Bridgett;

20. U.S. Patent No. 3,249,796 to L. R. Moffitt;

21. U.S. Patent No. 3,334,236 to J. R. Bacon; and

22. Defendants' Exhibit 13 in the Chicago case being a collection of documents and deposition transcript portions relating to a game intended to simulate pool allegedly played at the David Sarnoff Research Center of RCA Corporation in September-October, 1967 and entitled "RCA Corporation Computer Pool Game Documents". (One of the documents referred to in this exhibit but which is not included therein is a 16 mm, sound motion picture. Applicant offers to make this film and facilities for viewing it available to the Office at a convenient time and place should the Office deem this desirable.)

Exhibits 15-21 are patents cited as references during the Office proceedings which lead to the issuance of the two reissue patents, Re. 28,507 and Re. 28,598, in suit in the Chicago case and/or the original patents corresponding thereto. The plaintiff in the Chicago case also responded to a number of requests for admission under Rule 36, F.R.C.P., relating to the alleged games referred to in Exhibits 9, 10, 14 and 22. If the

Office desires, copies of these responses will be supplied One of those plaintiffs, Sanders Associates, Inc., is the assignee of the original patent sought to be reissued by this application. Further, additional depositions, deposi portions, and deposition exhibits relating to the alleged referred to in Exhibits 9, 10, 14 and 22 also exist and ap offers to supply copies thereof to the Office. At the tri of the Chicago case, expert testimony was given concerning references and their relationships to the patents there in

The following purported references (in addition the patents of exhibits 11 and 15) have been cited by pros licensees or sublicensees under the patent sought to be re this application and copies thereof are submitted herewith indicated exhibits:

23. U.S. Patent No. 3,241,120 to Amdahl;

24. U.S. Patent No. 3,404,222 to Rupley;

25. U.S. Patent No. 3,333,147 to Henderson;

26. U.S. Patent No. 3,431,458 to Christopher;

27. U.S. Patent No. 3,462,639 to French;

28. U.S. Patent No. 3,319,227 to Evans;

29. Hendrickson, "A High-Precision Display Syste Command and Control", Information Display, July/August 196 pages 32-36;

30. Graham, "Using a Standard Television Monitor an Alpha-Numeric Display", Information Display, May/June 1 pages 59-61;

31. Southworth, "Outline Generator for Education Television", Electronics, April 3, 1959, pages 52-53;

32. Southworth, "A New Method of Television Waveform Display", Journal of the SMPTE, copy undated but after May 5, 1966;

33. Southworth, "A Television Bar Graph Generator", Journal of the SMPTE, February, 1966, pages 99-102;

34. Mertz, "Long-Haul Television Signal Transmission", Journal of the SMPTE, September, 1966, pages 850-855;

35. Kazuma, et al., "TV Dissolve Wiper", Electronics, September 6, 1963, pages 40-42;

36. Cohen, "Converter Produces Television Bar Display", Electronics, November 3, 1961, pages 45-47; and

37. Puik, Nam June, collection of materials.

Three lists of potential references against this application are included in Exhibit 38.

There are also included as exhibits in the supplement hereto the following documents:

39. Documents relating to the "Saturn V Operational Display System" designed and constructed by applicant's assignee prior to the effective filing date of the application for the patent here sought to be reissued (A summary description of the display system is included as the first of these documents; it is followed by selected portions of the manuals relating to the system. Further portions of the manuals and other information concerning the display system may be made available to the Office by applicant's assignee if requested.);

40. "Particulars of Objections" filed by the defendant in the civil action Sanders Associates Inc. and The Magnavox Company v. Gift Boutiques Limited, 1974 S. No. 7336, pending

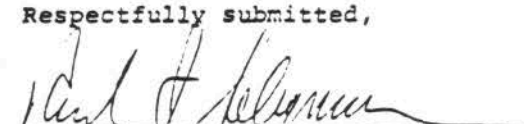
in The High Court of Justice, Chancery Division, Group B, England and stating the objections of the defendant to the validity of patents 1,268,821 and 1,319,410 of Great Britain, which patents correspond to U.S. patents 3,728,480 and 3,659,284 and the reissue thereof, Re. 28,507, respectively;

41. Allen, "Something New in Color Generators", Radio Electronics, May, 1967, pages 42-44;

42. Oppositions filed in the German Patent Office against application Serial No. P1917 437.9-31, which application corresponds to U.S. patent 3,728,480, copies of the references referred to in the opposition and translations of the oppositions and the references; and

43. "Particulars of Objections" filed by the defendants in the civil action Sanders Associates, Inc. and The Magnavox Company v. General Electronics and Digitek Electronics Ltd., 1977, No. 1667, pending in The Supreme Court of Hong Kong, High Court, and stating the objections of the defendants to the validity of patent 1,268,821 which corresponds to U.S. patent 3,728,480.

Respectfully submitted,



Richard P. Seligman
Associate Attorney for Applicant
Registration No. 22,613

October 18, 1977
Washington Telephone: 347-5577
Extension: 5-5186