May 29, 1984

Edward S. Wright, Esquire
Flehr, Hohbach, Test, Albritton & Herbert
Four Embarcadero Center
Suite 3400
San Francisco, California 94111

Re: Magnavox v. Activision

Dear Ted:

Your letter of May 22, 1984 was received while I was in Houston last week to attend Activision's deposition of James Lawrence and James Smith. This is the first opportunity I have had to respond to that letter.

We are still in the process of assembling the deposition and trial exhibit copies you have requested. This process has been slowed down due to the recent flurry of deposition activity in this case. We expect to ship you the copies early next week. We will also supply you with the documents referred to in your letter as being requested at the Magnavox deposition. You have indicated that you were particularly anxious to receive copies of certain of the video tape exhibits. Copies in VHS format of Mattel deposition exhibits 94-96, Plaintiffs' trial exhibit 168 in Magnavox v. Mattel, and the RCA pool movie are being forwarded herewith.

As a result of Activision's failure to complete the Houston deposition last week, we have agreed with you to a discovery schedule which differs from that set forth in your May 22 letter. Specifically, you will resume the deposition of James Smith on Tuesday, May 29 and continue that deposition on Wednesday, May 30. The Sanders document inspection and deposition will proceed on Thursday, May 31.

Contrary to the statement included in your May 22 letter, plaintiffs do object to the Sanders deposition continuing beyond the May 31 discovery cut-off. It is true that I previously offered to proceed with the Sanders deposition on June 1 rather than May 31, but you declined that offer at the time. We believe that one day should be more than adequate to develop any relevant information Sanders may have within the scope of the deposition notice.

In our conversation during the week of May 14 concerning the Sanders deposition, you stated that you desired to inspect the documents referenced in the Sanders deposition notice and the foreign prosecution files when you are in Nashua for that deposition. We and Sanders have made our plans concerning that production accordingly, and will produce those documents not immune from production as privileged or work product.

Your letter of May 22 states that you also want to inspect all previously requested documents in the possession of Sanders. You have known that those documents were located at Sanders in Nashua for well over nine months. The lateness of your May 22 statement as well as the scheduling of the continuation of the Houston deposition will considerably complicate production of all the Sanders documents on Thursday. We will endeavor to cooperate with you and provide the documents as best we are able to in the limited time available.

As you know, plaintiffs' previously noticed Rule 30(b)(6) deposition of Activision has yet to be completed. We understand from you that Activision is producing at least two more witnesses in response to the deposition notice. For the convenience of Activision, you and I have agreed that the deposition could be completed after the discovery cut-off. We would like to proceed with those depositions during the weeks of either June 11 or June 18.

In response to plaintiffs' earlier discovery requests, Tom Herbert provided us by letter dated February 9, 1984 with sales information concerning the Activision Boxing, Fishing Derby, Tennis, and Ice Hockey cartridges. You have agreed that Activision will supply the same information as to the Dolphin, Decathlon, Grand Prix, Sky Jinks, Pressure Cooker, Keystone Kapers, Stampede, Barnstorming, and Enduro cartridges. We understand that the information may be provided after the discovery cut-off.

The sales information with Tom's February 9 letter is stated as including both domestic and international sales. That sales information, as well as the information yet to be supplied, should have the domestic (i.e., U.S.) and international (i.e., other than U.S.) sales separately stated. Please let us know promptly whether Activision will provide us with the sales information so stated.

Very truly yours,

NEUMAN, WILLIAMS, ANDERSON & OLSON

By _____
James T. Williams

JTW/sjm
Enc.

cc: Michael A. Ladra, Esquire
Robert P. Taylor, Esquire
Theodore W. Anderson, Esquire