

# Exhibit 1

# McKool Smith

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December 14, 2006

**VIA EMAIL (james.blank@lw.com)**

James S. Blank  
LATHAM & WATKINS LLP  
885 Third Avenue  
New York, New York 10022

RE: *Anascape, Ltd. v. Microsoft Corp. and Nintendo of America, Inc.*  
Civil Action No. 9:06-CV-158-RC

Dear Jim:

To assist Nintendo of America, Inc. (“Nintendo”) in complying with its disclosure obligations, and subject to any agreements reached between the parties with respect to the scope of discovery, listed below are categories of documents and information that Anascape, Ltd. (“Anascape”) expects to receive. The following is not a Rule 34 document request and is not meant to be an exhaustive list of Nintendo’s disclosure obligations. Nintendo should include all documents and things in its disclosures that are required by the Federal Rules of Civil Procedure, the Local Rules, the Court’s patent rules and otherwise. With respect to the following document categories, “Nintendo” shall include any and all related entities.

- All documents (including detailed schematics) related to the design, development, operation, engineering and functionality of all Nintendo video game or PC game controllers including, but not limited to the GAMECUBE Wavebird Wireless Controller and GAMECUBE Controller.
- All documents related to the design, development, operation, engineering and functionality of all components or parts that are included within all Nintendo video game or PC game controllers including, but not limited to the GAMECUBE Wavebird Wireless Controller and GAMECUBE Controller.
- All product manuals and packaging material for each major version or release of each of all Nintendo video game or PC game controllers including, but not limited to the GAMECUBE Wavebird Wireless Controller and GAMECUBE Controller.
- All internal and external advertising, promotional, and marketing documents related to all Nintendo video game or PC game controllers including, but not limited to the GAMECUBE Wavebird Wireless Controller and GAMECUBE Controller.

- All marketing studies, consumer surveys, and all other documents that refer to or relate in any way to consumer preference or demand for game controllers and/or game controller functionality.
- Documents sufficient to show the identity and location of manufacturing facilities for each of Nintendo's game controllers.
- All documents supporting or otherwise relating to Nintendo's contentions, if any, that Nintendo does not infringe the asserted patents.
- All documents supporting or otherwise relating to Nintendo's contentions, if any, that the asserted patents are invalid.
- All documents supporting or otherwise relating to Nintendo's contentions, if any, that the asserted patents are unenforceable.
- All documents relating to any Nintendo defense to infringement of the asserted Anascape patents.
- All documents relating to or evidencing any prior art relevant to the asserted Anascape patents.
- All documents relating to any system identified as prior art by or to Nintendo regarding any of the asserted Anascape patents.
- All documents related to any analysis or opinion as to the validity, scope, enforceability, or Nintendo's infringement of any of the of the asserted Anascape patents.
- All documents constituting or relating to any analyses or reports that have been prepared for or by Nintendo relating to any allegation or defense in this lawsuit.
- All documents that discuss or refer to Nintendo's potential liability or non-liability with respect to any of the asserted Anascape patents or any related Anascape patents.
- All documents related to efforts by Nintendo soft to design around the asserted Anascape patents.
- All documents related to the impact that any of the asserted Anascape patents could have on Nintendo, including without limitation, damages, liability, injunctive relief or required product changes.
- All documents evidencing any communications relating to the asserted Anascape patents.
- All documents relating to any meetings and/or communications between Anascape, Brad Armstrong, or anyone acting on their behalf and Nintendo.

- All documents related to when and how Nintendo first became aware of the asserted Anascape patents.
- All documents related to any communications between Nintendo and any other party regarding this litigation.
- All documents that discuss, refer to, or evidence the value of the asserted Anascape patents or damages for infringement of the asserted Anascape patents.
- All patent licenses relating to video game consoles and/or video game controllers to which Nintendo is or has been a party.
- All patent licenses that Nintendo contends are relevant to the royalty that would be reached as a result of a hypothetical negotiation with respect to any of the asserted Anascape patents.
- Documents sufficient to show (on a quarterly and annual basis) for the last six years Nintendo's revenue, quantities, profits, profit margins, and costs for each of the following Nintendo game controllers: GAMECUBE Wavebird Wireless Controller; and GAMECUBE Controller.
- Documents sufficient to show (on a quarterly and annual basis) for the last six years Nintendo's revenue, quantities, profits, profit margins, and costs for each of the following Nintendo video game systems: Nintendo GAMECUBE.
- Documents sufficient to show (on a quarterly and annual basis) for the last six years Nintendo's revenue, quantities, profits, profit margins, and costs for all accessories sold in conjunction with each of the following Nintendo video game systems: Nintendo GAMECUBE.
- Documents sufficient to show (on a quarterly and annual basis) for the last six years Nintendo's revenue, quantities, profits, profit margins, and costs for all revenue related to each of the following Nintendo video game systems: Nintendo GAMECUBE.
- All documents indicating how Nintendo allocates revenue received from sales of video game systems that include at least one video game controller.
- All documents relating to the asserted Anascape patents or any related U.S. or foreign patents, including without limitation all documents related to any analysis or opinion as to the validity, scope, enforceability, or infringement of any such patent.
- All of Nintendo's Quarterly and Annual Reports.
- All documents related to any insurance policies or indemnity arrangements relating to this lawsuit.

- Documents, such as organizational charts, sufficient to show for each of the years 2000 to present, the persons at Nintendo responsible for the following activities related to game controllers: (i) research; (ii) product development; (iii) design engineering; (iv) programming or writing software; (v) manufacturing; (vi) marketing; (vii) sales; (viii) customer technical support; (ix) quality control; and (x) competitive product analysis.

If Nintendo has additional documents or information within its possession, custody or control that are relevant to the claims or defenses asserted in this case, but not specifically set forth above, they should be produced as well.

To the extent these topics relate solely to damages-related discovery, we do not expect responses until required under the Court's scheduling order.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Luke F. McLeroy

cc: Robert J. Gunther  
J. Christopher Carraway  
J. Thad Heartfield  
Clayton E. Dark  
Robert W. Faris  
Joseph S. Presta  
R. Christopher Bunt