## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS LUFKIN DIVISION

ANASCAPE, LTD.,

Plaintiff.

Hon. Ron Clark

v.

§ Civil Action No.: 9:06-CV-00158-RC
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MICROSOFT CORP. and NINTENDO OF AMERICA INC.,

Defendants.

DEFENDANT NINTENDO OF AMERICA INC.'S UNOPPOSED MOTION FOR LEAVE TO FILE A FIRST AMENDED ANSWER, DEFENSES AND COUNTERCLAIMS TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 15(a), Defendant Nintendo of America Inc. ("Nintendo") moves the Court for leave to file an Amended Answer, Defenses, and Counterclaims to Plaintiff's First Amended Complaint. By the amendment, Nintendo would plead, with the specificity required by Fed. R. Civ. P. 9(b), an additional ground of inequitable conduct for its defense and counterclaim of patent unenforceability. The proposed amended pleading is attached hereto as Exhibit 1. The new allegations of inequitable conduct are plead at paragraphs 46-66 of Nintendo's Defenses and paragraphs 93-113 of Nintendo's Counterclaims.

Plaintiff Anascape, Ltd. through counsel, has indicated that it does <u>not</u> oppose Nintendo's motion for leave to file the attached amended pleading. Given that Plaintiff does not oppose the amendment, that discovery does not close for five months, and that Rule 15(a) counsels that leave to amend pleadings should be given freely when justice so requires, Nintendo respectfully request that the Court grant the requested leave to file.

Doc. 115

Dated: July 11, 2007 Respectfully submitted,

By: /s/ James S. Blank

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