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

ANASCAPE, LTD.,

Plaintiff,

Plaintiff,

V.

MICROSOFT CORP. and
NINTENDO OF AMERICA INC.,

Defendants.

Plaintiff,

Short Hon. Ron Clark

Civil Action No.: 9:06-CV-00158-RC

Short Hon. Ron Clark

Civil Action No.: 9:06-CV-00158-RC

Short Hon. Ron Clark

Short Hon. Ron Clark

Defendants.

JOINT MOTION TO FURTHER AMEND THE SCHEDULING ORDER

The parties respectfully request that the Court amend the Scheduling Order governing this action as follows:

- 1. The deadline for "Parties with burden of proof to designate Expert Witnesses other than claims construction experts, and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(2)(B)" currently scheduled for November 16, 2007, now shall be December 18, 2007.
- 2. The deadline for "Parties to Designate Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(2)(B)" currently scheduled for December 7, 2007, now shall be January 21, 2008.
- 3. The deadline to "File Dispositive Motions and any other motions that may require a hearing" currently scheduled for January 9, 2008, now shall be January 22, 2008.

- The Discovery Deadline currently scheduled for December 13, 2007, now shall be January 25, 2008.
- 5. The Expert Discovery Deadline currently scheduled for December 20, 2007, now shall be February 7, 2008.
- 6. The deadline to provide "Notice of intent to offer certified records" currently scheduled for January 28, 2008, now shall be February 11, 2008.
- 7. The date by which "Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented parties to determine how they will prepare the Joint Final Pretrial Order" currently scheduled for January 28, 2008, now shall be February 11, 2008.
- 8. The due date for "Video Deposition Designation" currently scheduled for February 4, 2008, now shall be February 18, 2008.
- 9. The due date for "Motions in limine" currently scheduled for February 11, 2008, now shall be February 25, 2008.
- 10. The due date for "Responses to motions in limine" currently scheduled for February 18, 2008, now shall be March 3, 2008.
- 11. "Docket call and Final Pretrial" for the parties' first trial currently scheduled for March 3, 2008, now shall be March 17, 2008.
- 12. "Jury Selection and Trial" for the parties' first trial currently scheduled for March 10, 2008, now shall be March 18, 2008.

These changes have no effect on deadlines for, or the date of, the parties' second trial, which is currently set to begin on May 12, 2008. The text of a proposed Order is attached as Exhibit A.

Dated: November 6, 2007

By:_/s/_Derrick W. Toddy__

J. Christopher Carraway (pro hac vice)
christopher.carraway@klarquist.com
Joseph T. Jakubek (pro hac vice)
joseph.jakubek@klarquist.com
Richard D. Mc Leod (Bar No. 24026836)
rick.mcleod@klarquist.com
Derrick W. Toddy (pro hac vice)
derrick.toddy@klarquist.com
KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, Oregon 97204

J. Thad Heartfield (Bar No. 09346800)
thad@jth-law.com
LAW OFFICES OF J. THAD
HEARTFIELD
2195 Dowlen Road
Beaumont, Texas 77706

Clayton E Dark Jr. (Bar No. 05384500)
clay.dark@yahoo.com
CLAYTON E DARK JR., LAW OFFICE
207 E Frank Ave # 100
Lufkin, TX 75901

Stephen McGrath, Esq. (pro hac vice) MICROSOFT CORPORATION One Microsoft Way, Building 8 Redmond, Washington 98052-6399

ATTORNEYS FOR DEFENDANT MICROSOFT CORP.

AGREED TO BY:

By: /s/ Luke F. McLeroy (with permission, by Derrick W. Toddy)

Sam Baxter Lead Attorney

Texas State Bar No. 01938000

sbaxter@mckoolsmith.com

MCKOOL SMITH, P.C.

P.O. Box O

505 E. Travis, Suite 105

Marshall, Texas 75670

Telephone: (903) 927-2111 Facsimile: (903) 927-2622

Theodore Stevenson, III Texas State Bar No. 19196650

tstevenson@mckoolsmith.com

Luke F. McLeroy

Texas State Bar No. 24041455

lmcleroy@mckoolsmith.com

MCKOOL SMITH, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000 Telecopier: (214) 978-4044

Robert M. Parker

Texas State Bar No. 15498000

rmparker@pbatyler.com

Robert Christopher Bunt

Texas State Bar No. 00787165

rcbunt@pbatyler.com

Charles Ainsworth

Texas State Bar No. 00783521

charley@pbatyler.com

PARKER, BUNT & AINSWORTH P.C.

100 E. Ferguson Street, Suite 1114

Tyler, Texas 75702

Telephone: (903) 531-3535 Telecopier: (903) 533-9687

ATTORNEYS FOR PLAINTIFF ANASCAPE, LTD.

AGREED TO BY:

By: <u>/s/ Robert J. Gunther, Jr. (with permission,</u> by Derrick W. Toddy)

Robert J. Gunther, Jr. (pro hac vice)

robert.gunther@lw.com

James S. Blank (pro hac vice)

james.blank@lw.com

LATHAM & WATKINS LLP

885 Third Avenue, Suite 1000

New York, NY 10022-4802

Robert W. Faris (pro hac vice)

rwf@nixonvan.com

Joseph S. Presta (pro hac vice)

jsp@nixonvan.com

NIXON & VANDERHYE P.C.

901 North Glebe Road, 11th Floor

Arlington, VA 22203

Lawrence L. Germer

llgermer@germer.com

Charles W. Goehringer, Jr.

cgoehringer@germer.com

GERMER GERTZ, L.L.P.

550 Fannin, Suite 500

Beaumont, TX 77713

ATTORNEYS FOR DEFENDANT NINTENDO OF AMERICA INC.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this, the 6th day of November, 2007. Any other counsel of record will be served by first-class mail.

/s/ Derrick W. Toddy_____