

# EXHIBIT 42

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

Anascape, Ltd.,

Plaintiff,

v.

Microsoft Corp., and  
Nintendo of America Inc.,

Defendants.

Civil Action No. 9:06-cv-158-RC

JURY TRIAL REQUESTED

**DECLARATION OF MARK M. NEWMAN**

I, Mark M. Newman, declare and state under the penalty of perjury as follows:

1. My name is Mark M. Newman. I am over the age of twenty-one (21), have never been convicted of a felony, and am fully competent to make this declaration. I have personal knowledge of matters set forth herein and know them to be true and correct. I understand that this declaration will be attached to Anascape's Surreply to Defendants' Motion for Partial Summary Judgment of Invalidity ("Surreply").

2. Attached as Exhibit 43 is a true and correct copy of my curriculum vitae.

3. I have been provided with many materials in this case, including the file history of the '700 Patent. I have also reviewed Defendants' expert reports as to invalidity, including Mr. Fiorito's report.

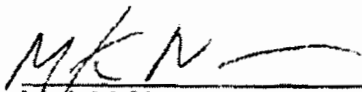
4. I have been asked to opine, *inter alia*, as to whether the Mr. Armstrong's CPA practice was proper, and whether the asserted claims of the '700 Patent are entitled to a priority date of July 5, 1996.

5. It is my opinion, based on the evidence I have reviewed, including my discussions with Dr. Howe, that the claims of the '700 Patent are entitled to a priority date of July 5, 1996.

6. I have reviewed the section of my expert report that was attached to Anascape's Omnibus Response to Defendants' Motions for Summary Judgment as Ex. 37. I still agree with

the opinions and analysis expressed therein today. I incorporate those opinions and analysis into this declaration, by reference.

7. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct, and that this declaration was executed on March 18, 2008, in Washington, D.C.

  
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Mark M. Newman