

EXHIBIT 46

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

ANASCAPE, LTD.,

Plaintiff,

v.

MICROSOFT CORP., and NINTENDO OF
AMERICA, INC.

Defendants.

No. 9:06-cv-158-RC

Judge Ron Clark

DECLARATION OF ANTHONY M. GARZA

I, Anthony M. Garza, declare and state under the penalty of perjury as follows:

1. My name is Anthony M. Garza. I am over the age of twenty-one (21) years, 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 is submitted in support of Anascape, Ltd.'s Surreply to Defendants' Joint Motion for Partial Summary Judgment of Invalidity of Claims 19-20, 22-23 of the '700 Patent ("Surreply"). I am an Associate at the law firm of McKool Smith, P.C., attorneys representing Plaintiff Anascape, Ltd., ("Anascape") having day-to-day conduct of this litigation, and have gained knowledge of the following matters in that capacity:

2. Attached as Exhibit 44 to the Surreply is a true and correct copy of an excerpt from the Expert Witness Report of Edward G. Fiorito Pursuant to Fed. R. Civ. P. 26(a)(2)(B) Regarding Unenforceability and Priority of U.S. Patent No. 6,906,700, dated February 11, 2008.

3. Attached as Exhibit 45 to the Surreply is a true and correct copy of an excerpt from the Manual of Patent Examining Procedure.

4. 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 20, 2008, in Dallas, Texas.


Anthony M. Garza