

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

Anascape, Ltd.,

Plaintiff,

v.

Microsoft Corp., and
Nintendo of America, Inc.,

Defendants.

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

JURY TRIAL REQUESTED

**ANASCAPE'S OBJECTIONS TO
DEFENDANTS' TRIAL EXHIBITS**

Anascape hereby discloses and serves the following Objections to Defendants' Trial Exhibits pursuant to the Court's scheduling order. Pursuant to Ms. Chen's April 3, 2008 e-mail to the parties, Anascape has not listed objections based on relevance or materiality. Anascape hereby expressly reserves the right to supplement, augment, or otherwise modify these objections based on circumstances as they may evolve prior to the commencement of trial. Anascape further reserves the right to offer into evidence any trial exhibit listed on Defendants' trial exhibit list.

Anascape has not yet received the copies of Defendants' exhibits listed with the exhibit numbers (DX1, DX2, etc.). Anascape reserves the right to object to documents that have incorrect labeling, misleading labeling, or other technical defects.

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 7 Microsoft's Request for Reexamination of U.S. Patent No. 6,906,700	Admission of this document is subject to Anascape's Motion in Limine No. 17		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
dated 5/4/07	(reference to the reexamination of the patent-in-suit). This statement is Microsoft's counsel's views on why the patent is invalid, and is therefore objectionable hearsay, and states numerous legal conclusions. Finally, this is objectionable under 403, as the multiple proceedings in front of the patent office will confuse the jury, and is unfairly prejudicial, in light of its minimal probative value.		
DX 8 PTO Order dated 10/9/07 granting reexamination of U.S. Patent No. 6,906,700	Admission of this document is subject to Anascape's Motion in Limine No. 17 (reference to the reexamination of the patent-in-suit). This statement is a preliminary statement by the patent office as to why the patent is invalid, and is therefore objectionable hearsay, and states numerous legal conclusions. This exhibit is objectionable under 403, as the multiple proceedings in front of the patent office will confuse the jury, and is unfairly prejudicial, in light of its minimal probative value. Furthermore,		

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	the jury may become confused about the presumption of validity in light of this second, preliminary statement of the patent office.		
DX 9 File History of Reexamination of U.S. Patent No. 6,906,700 (Reexamination Control No. 95/000,221)	Admission of this document is subject to Anascape's Motion in Limine No. 17 (reference to the reexamination of the patent-in-suit). The file history of the reexamination should not be admitted for the same reasons listed for DX7 and DX8.		
DX 10 PTO Order dated 7/10/07 granting reexamination of U.S. Patent No. 6,222,525	This exhibit is objectionable under FRE 403, as the multiple proceedings in front of the patent office will confuse the jury and is unfairly prejudicial in light of its minimal probative value, especially considering that the '525 Patent is no longer asserted against either defendant.		
DX 11 File History of Reexamination of U.S. Patent No. 5,222,525 (Reexamination Control No. 90/008,767)	<i>See</i> objections to DX9 and DX10.		
DX 19 Red-lined comparison chart of applications of U.S. Patent Nos. 6,906,700 and 6,222,525	Not authenticated; demonstrative without foundation.		
DX 26	This exhibit is an		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Defendant Nintendo of America Inc.'s Answer and Counterclaims dated September 25, 2006	argument regarding Defendants' position, states numerous legal conclusions, and cannot be used by Defendants as evidence. This exhibit is hearsay if offered to prove the truth of the contents listed therein. The exhibit is objectionable under FRE 403, as the jury may consider the pleading as evidence instead of argument, and is therefore unduly prejudicial, given the minimal probative value of the exhibit.		
DX 27 Defendant Nintendo of America Inc.'s First Amended Answer and Counterclaims dated October 16, 2006	<i>See</i> objections to DX26.		
DX 28 Defendant Nintendo of America Inc.'s Answer and Counterclaims to Anascape, Ltd.'s First Amended Complaint dated December 6, 2006	<i>See</i> objections to DX26.		
DX 29 Anascape, Ltd.'s Objection and Responses to Nintendo of America Inc.'s First Set of Interrogatories (Nos. 1-8) dated January 26, 2007	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 30 Anascape, Ltd.'s Supplemental Objections and Responses to Nintendo of America	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Inc.'s First Set of Interrogatories (Nos. 1-8) dated July 31, 2007	403).		
DX 31 Anascape, Ltd.'s Objections and Responses to Nintendo of America Inc.'s Second Set of Interrogatories (Nos. 9-17) dated December 3, 2007	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 32 Anascape's Supplemental Objections and Responses to Nintendo of America Inc.'s Second Set of Interrogatories (Nos. 9-14, 16) dated March 19, 2008	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 33 Anascape Ltd.'s Objections and Responses to Nintendo of America Inc.'s First Set of Requests for Admission (Nos. 1-21) dated December 3, 2007	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 34 Anascape Ltd.'s Objections and Responses to Nintendo of America Inc.'s Second Set of Requests for Admission (Nos. 22-25) dated February 22, 2008	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 35 Anascape's 2nd Supplemental Response to Microsoft's 1st Interrogatories (1/24/08)	This exhibit is objectionable because the legal objections within the exhibit have not been redacted (FRE 403).		
DX 36 Anascape's Original Response to Microsoft's	This exhibit is objectionable because the legal objections		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
1st Interrogatories (11/19/07)	within the exhibit have not been redacted (FRE 403).		
DX 37 U.S. Patent No. 4,414,537, Dezmelyk Ex. 4	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 49 U.S. Patent No. 4,386,914, Dezmelyk Rebuttal Ex. 29	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 50 U.S. Patent No. 5,128,671, Dezmelyk Rebuttal Ex. 32	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 51 U.S. Patent No. 4,555,960 ANS0019417-24	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 52 U.S. Patent No. 5,298,919 ANS0019187-19206	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 53 U.S. Patent No. 6,004,134 (MSANAS0005268-78)	This exhibit is objectionable because Defendants appear to offer it as alleged prior art but Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 54 Fiorito Summary Exhibit D	Demonstrative without foundation. Additionally, this exhibit should not be admitted before the jury, because inequitable conduct will be tried to the Court (Docket No. 219).		
DX 55 Cyberman 3D Controller Programming Supplement Version 1.0 NAA00005399- 5429 Dezmelyk Ex. 24	Not authenticated, hearsay, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 57 Bristow Exhibit: Armstrong Declaration in Sony litigation regarding CyberMan, Bristow Ex. Q	Not authenticated, hearsay.		
DX 58 Bristow Exhibit:	Demonstrative without foundation.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Annotated Photograph of Logitech CyberMan Controller, Bristow Ex. R			
DX 59 Bristow Exhibit: Annotated Photograph of Sega Saturn 3D Control Pad, Bristow Ex. W	Demonstrative without foundation.		
DX 60 Bristow Exhibit: Annotated Photograph of Sony "Flightstick," Bristow Ex. X	Demonstrative without foundation.		
DX 62 Bristow Exhibit: Annotated Photograph of Sony Dual Shock 2 Controller, Bristow Ex. BB	Demonstrative without foundation.		
DX 63 Bristow Summary Exhibit: 6DOF Summary Exhibit, Bristow Ex. LL	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 64 Bristow Summary Exhibit: Prior Art Invalidity Claim Chart, Bristow Ex. MM	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 65 Bristow Exhibit: Official U.S. PlayStation Magazine, excerpts from November 1999 issue, including "Two-rific article", Bristow Ex. RR	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not produced or identified until March 20, 2008.		
DX 66 Bristow Exhibit: GameFan magazine, excerpts from January 1996 issue, including photos of Sony "Flightstick", Bristow Ex. TT	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not produced or identified until March 20, 2008		
DX 68 Bristow Exhibit: Official U.S. PlayStation Magazine, additional excerpts from November 1999 issue, Bristow 2d Suppl. Ex. WW	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not produced or identified until February 20, 2008.		
DX 70 Bristow Exhibit: Official U.S. PlayStation Magazine, 1999-2000 Publishing Schedule, Bristow 2d Suppl. Ex. XX	Not authenticated, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 71 Bristow Exhibit: Ziff-Davis Publication	Not authenticated, Defendants failed to timely identify or		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Schedule 2008-2009, Bristow 2d Suppl. Ex. YY	produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 72 Bristow Exhibit: Google Groups website printout regarding Sony PlayStation Magazine November 1999 Issue, Bristow 2d Suppl., Ex. ZZ	Hearsay, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3- 6, not authenticated.		
DX 73 Bristow Summary Exhibits on 6DOF, Bristow Rebuttal Ex. 2	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 74 Bristow Summary Exhibits on 6DOF, Bristow Rebuttal Ex. 3	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	evidence, and should be excluded from the record pursuant to 403.		
DX 75 Bristow Summary Exhibits on 6DOF, Bristow Rebuttal Ex. 4	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 76 Bristow Summary Exhibits on 6DOF, Bristow Rebuttal Ex. 5	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 77 Bristow Summary Exhibits on 6DOF, Bristow Rebuttal Ex. 6	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 79 Bristow Summary Exhibits on 6DOF/Xbox only 2.5 DOF, Bristow Rebuttal Ex. 8	This appears to be Defendants' expert testifying by a video clip created for purposes of the instant litigation. This is hearsay, and the Court should require Defendants' expert to testify live at trial, rather than through a video. Additionally, this is a demonstrative without foundation, and is argument, not evidence, and should be excluded from the record pursuant to 403.		
DX 80 Bristow Exhibit: U.S. Patent No. 4,353,552, Bristow Rebuttal Ex. 10	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,		
DX 81 Information Disclosure Statement Re: Patent Application of Brad A. Armstrong, undated Dezmelyk Ex. 23	This exhibit is objectionable because it has an exhibit number on it from Defendants' expert report (i.e., if Defendants remove the exhibit number the		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	exhibit will not be objectionable).		
DX 82 Magellan 3D Controller Manual NAA00005306-5355 Dezmelyk Ex. 13	Not authenticated.		
DX 86 Translation of JP PlayStation® Manual	Not authenticated.		
DX 87 Japanese Patent No. 5-87760 (Japanese, English, Certificate)	This exhibit is objectionable because there is nothing attached to the purported translation.		
DX 88 Translation of JP Laid-Open Utility Model Publication S61103836	Not authenticated. Furthermore, this exhibit is objectionable if relied on by Defendants' technical experts, as it is not referenced in their expert reports.		
DX 89 Documents obtained from the website The Internet Archive (http://web.archive.org)	This exhibit is only a placeholder stating "This exhibit will be replaced with the certified copy when it is received from the Internet Archive." Defendants have not disclosed what this exhibit will be, therefore it is untimely. Also, this exhibit was not specifically disclosed in Defendants' notice of intent to offer certified records (Docket No. 245). Anascape reserves its right to offer additional objections to this "exhibit" once		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	Defendants have obtained and disclosed the certified copy.		
DX 90 Bell Laboratories Video, Dezmelyk Ex. 12	Not authenticated.		
DX 91 Sony Playstation manual with translation, Dezmelyk Ex. 11	Not authenticated.		
DX 92 Internet pages on Robotron: 2084, Dezmelyk Rebuttal Ex. 28	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 93 Internet pages on Twin Rifles Arcade Game, Dezmelyk Rebuttal Ex. 30	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 97 Sony Press Release for DS dated 6/19/98 (Ex. 311)	Hearsay, not authenticated.		
DX 98 Sony Press Release for DS2 dated 9/13/99 Ex 296	Hearsay, not authenticated.		
DX 99 Sony Data Sheet for DS2 dated 10/26/00 Ex 308	This exhibit is objectionable because the exhibit provided by Defendants to Anascape corresponding to this entry is to the "Nintendo Revolution controller Core plan" and not the "Sony Data Sheet for DS2." Anascape reserves its right to offer additional objections once the		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	proper exhibit corresponding to this entry has been provided by Defendants.		
DX 100 Model Airplane Remote Controllers, Dezmelyk Rebuttal Ex. 35	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 101 Playstation Analog Joystick (“Flightstick”) (Dep. Ex. 299)	Not authenticated.		
DX 102 Flightstick Pro, Dezmelyk Rebuttal Ex. 31	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 104 Sony Dual Shock with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 106 Sony Dual Shock 2 with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 107 Logitech Magellan, Dezmelyk Ex. 16	Not authenticated.		
DX 109 Coleco Gemini Controller, Dezmelyk Ex. 18	Not authenticated.		
DX 110 1982 ColecoVision controller, Dezmelyk Ex. 19	Not authenticated.		
DX 111 Kraft Thunderstick, Dezmelyk Ex. 25	Not authenticated.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 112 Sega Saturn 3D control pad (Dezmelyk Ex. 28) with Sega Nights Into Dreams Game	The “Nights into Dreams” not timely identified or produced as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 113 Sega Dreamcast Controller (with rumblepack) (on sale 9/9/99)	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 115 Super Nintendo Controller, Dezmelyk Ex. 30	Not authenticated.		
DX 116 NES Controller, Dezmelyk Rebuttal Ex. 8	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 117 NES Advantage Controller, Dezmelyk Rebuttal Ex. 9	Not authenticated.		
DX 118 Nintendo 64 controller (Dep. Ex. 303) with Rumble Pack	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 119 Nintendo 64 controller with interior exposed	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, no picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection, likely not authenticated.		
DX 120 Nintendo 64 Console	Defendants failed to timely identify or		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 121 Super Mario 64 game	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 122 Famicom controller	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 124 Armstrong drawing Dep. Ex. 353	This exhibit should be excluded under 403, as the jury could be confused as to whether Armstrong's later changes to the claim affects the scope of the claim as drafted.		
DX 125 U.S. Patent No. 6,102,803 Dep. Ex. 304	This patent covers one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 128 U.S. Patent No. 7,040,986 Dep. Ex. 313	This patent covers one of Defendants' game controllers. This exhibit should be		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent. This patent issued too late to be considered as prior art. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 129 U.S. Patent No. 6,872,139 NAA00016896- 16927	This patent covers one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent. This patent issued too late to be considered as prior art. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 130 U.S. Patent No. 6,811,489 B1 NAA00016853-16895	This patent issued too late to be considered as prior art. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 131 JPA No. 254-134042 NAA00014859- 14871	The translation of this document has not been authenticated. Furthermore, this		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	document was not cited in Defendants' expert reports, thus, its experts cannot rely on this document.		
DX 132 U.S. Patent No. 5,207,426 NAA00007045- 7056	This patent covers one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 133 U.S. 2007/0066394 Patent Application	This patent application features one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent.		
DX 134 U.S. 2007/0050597 Patent Application	This patent application features one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	patent.		
DX 135 U.S. D559,254 S	This design patent covers one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent.		
DX 136 U.S. Patent No. 4,687,200	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 137 U.S. Patent No. 5,184,830	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 138 U.S. Patent No. 5,207,426	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 139 U.S. Patent No. 5,396,225	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 140 U.S. Patent No. 5,552,799	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 141 U.S. Patent No. 5,602,569	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 142 U.S. Patent No. 5,963,196	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 143 U.S. Patent No. 5,984,785	This patent covers one of Defendants' game controllers. This exhibit should be excluded under 403, as the jury may be confused as to whether a controller that is covered by one patent can infringe another patent. Also, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 144 U.S. Patent No. 6,155,926	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 145 U.S. Patent No. 6,482,010 dated 11/19/02 MS-ANAS0007345	This patent issued too late to be considered prior art, and thus may confuse the jury under rule 403. This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 146 U.S. Patent No. D453,932	This patent issued too late to be considered prior art, and thus may confuse the jury under rule 403. This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 147 U.S. Patent No. D522,011	This patent issued too late to be considered prior art (issued 2006), and thus may confuse the jury under rule 403. This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 151 U.S. Patent No. 6,005,551	This patent issued too late to be considered prior art, and thus may confuse the jury under rule 403. This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 153 U.S. Patent No. 6,452,586	This patent issued too late to be considered prior art, and thus may confuse the jury under rule 403.		
DX 156 U.S. Patent No. 5,643,087	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 158 Nintendo GameCube	No picture provided by Defendants; Anascape		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
controller with interior exposed	reserves the right to object to this exhibit upon inspection.		
DX 160 Nintendo GameCube Wavebird Wireless controller with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 163 Wii Nunchuk controller with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 166 Wii Classic controller with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 168 Wii Remote controller with interior exposed	No picture provided by Defendants; Anascape reserves the right to object to this exhibit upon inspection.		
DX 177 Xbox 360 - Annotated Internal Photographs	Demonstrative without foundation.		
DX 178 MS Sidewinder 3D Pro Joystick (on sale 1996)	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,, not authenticated.		
DX 179 MS Sidewinder Game Pad (on sale 10/96)	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,, not authenticated.		
DX 180 MS Sidewinder Force Feedback Pro Joystick (on sale 9/97)	This exhibit is Defendants failed to timely identify or produce this reference		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	as required by P.R. 3-3, 3-4, and 3-6,, not authenticated.		
DX 181 MS Sidewinder Dual Strike (on sale 11/99)	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,, Defendants only provided a photo of what appears to be a package of this controller, Anascape reserves the right to object to this exhibit upon inspection, likely not authenticated.		
DX 182 MS Sidewinder Freestyle Pro (on sale 11/98)	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,, Defendants only provided a photo of what appears to be a package of this controller, Anascape reserves the right to object to this exhibit upon inspection, likely not authenticated.		
DX 183 MS Sidewinder Game Pad Pro dated 5/99 (on sale 11/99) (controller)	This exhibit is Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6,, Defendants only provided a photo of what appears to be a package of this controller, Anascape		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
	reserves the right to object to this exhibit upon inspection, likely not authenticated.		
DX 184 Nintendo Gamecube Controller Guidelines, NAA 494-501 Dep. Ex. 25	Not authenticated.		
DX 188 Wii Terminology document, with attachments, NAA 1008 – NAA 1021 Dep. Ex. 40	Not authenticated.		
DX 189 Nintendo Revolution controller Core plan Ver. 0.4.21 NCA00012365 – 472 Dep. Ex. 308	Not authenticated.		
DX 196 Paper Mario Game from Nintendo.com, Dezmelyk Rebuttal Ex. 24	Only a placeholder, not an actual exhibit.		
DX 199 “Fundamentals of Interactive Computer Graphics” by J.D. Foley and A. Van Dam, Dezmelyk Rebuttal Ex. 27	Only shows the front cover of the book, and is therefore incomplete. Hearsay, and Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 202 STP2163 Firmware Specification for Xbox Controller and Xbox Controller S (5/23/01) (MSANAS0017180)	Not authenticated.		
DX 203 9/12/01 Duke Product Specification v 1.0 (MS-ANAS 0017221-44)	Not authenticated.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 204 9/4/00 Duke Game Pad (with Alamo Chipset) Firmware Specification (MSANAS0065266)	Not authenticated.		
DX 205 Krypton (Xbox 360 wired) Firmware Specification v. 1.10 (MS-ANAS 105584)	Not authenticated.		
DX 212 Printout of archived ign.com website Dep. Ex. 350	Not authenticated, hearsay.		
DX 215 12/13/99 Letter Armstrong to Tyler ANS0056425 through ANS0056426 Dep. Ex. 135	This letter discusses the PSVC Patents, not the '700 Patent or any of its parent patents. As a result, it could confuse the jury, and should be excluded under rule 403.		
DX 219 Letter from Anascape counsel to Microsoft counsel dated 11/20/07	Introducing letters between counsel is overly prejudicial in light of the minimum probative value of such documents, and should be excluded under FRE 403.		
DX 220 Letter from Anascape counsel to Microsoft counsel dated 11/26/07	<i>See</i> objections to DX 219.		
DX 221 4/6/99-4/14/99 E-mail string between Brad Armstrong and Mike Paull (Ex. 158)	Not authenticated.		
DX 223 5/3/99 E-mail Todd Holmdahl to Brad Armstrong (Ex. 165)	Not authenticated.		
DX 224	Not authenticated,		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
5/5/1999 Calendar for Todd Holmdahl (MS-ANAS175885)	produced well after the discovery deadline, on March 28, 2008.		
DX 226 5/5/99 E-mail from Todd Holmdahl to large group reminding them of 5/5/99 2pm meeting (MS-ANAS175738)	Not authenticated.		
DX 227 5/5/1999 E-mail from Todd Holmdahl regarding his comments on recruit he interviewed from 5/5/99 3-4pm (MS-ANAS17587779)	Not authenticated.		
DX 228 5/5/1999 E-mail from Todd Holmdahl on 5/5/99 morning DX saying he has meeting/interview scheduled 2pm-4pm (MS-ANAS175891)	Not authenticated.		
DX 229 4/6/04 Voice-mail (transcribed) from Brad Armstrong to Todd Holmdahl (MS-ANAS 175225)	Not authenticated, use of the transcription of a voicemail is a violation of the best evidence rule.		
DX 230 5/5/99 E-mail chain between Todd Holmdahl and Scott Plank (MS) (Ex. 166)	Not authenticated.		
DX 231 6/15/99 E-mail from Brad Armstrong to Todd Holmdahl (Ex. 174)	Not authenticated.		
DX 232 8/12/99 E-mail from Todd Holmdahl to Brad Armstrong (Ex. 179)	Not authenticated.		
DX 233 Email collecting 5/99 E3	Not authenticated, hearsay, includes		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
news stories dated 5/21/99 MS-ANAS 159909	information about controllers (such as the Dualstrike), which Defendants failed to timely identify or produce as required by P.R. 3-3, 3-4, and 3-6.		
DX 234 Email, Matthew Stipes (MS) to Kurt Nielsen, cc Rob Walker dated 10/7/98 MS-ANAS 161104	Not authenticated.		
DX 235 Email, Jerry Gotway (InDesign), to Microsoft personnel dated 2/8/99 MS-ANAS 161063	Not authenticated.		
DX 236 Email, Kurt Nielsen (Microsoft) dated 3/18/99 MS-ANAS 161035	Not authenticated.		
DX 237 Email, Kurt Nielsen (Microsoft) to InDesign, cc Rob Walker dated 4/5/99 MS-ANAS 161031	Not authenticated.		
DX 240 12/9/99 Xbox Peripherals Project Plan (MS-ANAS 0025987-91)	Not authenticated.		
DX 242 Duke Project Status 11/7/00 (MSANAS 0066099-101)	Not authenticated.		
DX 243 Duke Project Status 12/9/99 (MSANAS 0066071)	Not authenticated.		
DX 244 Chart—Top 20 “Biggest Buzz” Wii Games, Ugone Ex. 4	Demonstrative without foundation.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 245 Chart—Games Released at the Launch of Wii, Ugone Ex. 5	Demonstrative without foundation.		
DX 246 Chart—Scenario I: “All Asserted Claims” or “Only Claim 19” Are Found to Be Valid and Infringed, Ugone Ex. 7	Attached expert report, which the Court specifically excluded. If just chart, it is a demonstrative without proper foundation.		
DX 247 Chart—Scenario II: “All Asserted Claims Except Claim 19” Are Found to Be Valid and Infringed, Ugone Ex. 8	Attached expert report, which the Court specifically excluded. If just chart, it is a demonstrative without proper foundation.		
DX 253 10/23/97 Patent License Agreement between Microsoft and Metamorfyx (MS-ANAS 16117280)	Not authenticated.		
DX 256 Martinez Summary Exhibit 4: U.S. Market Share	Demonstrative without proper foundation.		
DX 257 Martinez Summary Exhibit 5 (AF)	Demonstrative without proper foundation.		
DX 258 Martinez Summary Exhibit 6: Demand Drive	Demonstrative without proper foundation.		
DX 259 Martinez Summary Exhibit 7: Licensed Anascape Patents and Applications	Demonstrative without proper foundation.		
DX 261 March 1998 Spreadsheet of royalties paid to Metamorfyx (MS-ANAS 175221-24)	Demonstrative without proper foundation.		
DX 263 Immersion Corporation,	Not authenticated.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Form 10K, for year ending December 31, 2005			
DX 267 Wii TV Commercial— Los Angeles	Not authenticated.		
DX 268 Wii TV Commercial— Middle of Nowhere	Not authenticated.		
DX 269 Wii TV Commercial— Welcome to Naperville, Illinois	Not authenticated.		
DX 270 7-26-06 Wii Pre-Launch Evaluaton, Highly Confidential, NAA00021382 – 411 Dep. Ex. 277	Not authenticated.		
DX 271 Wii Q1 2007 Marketing Plan, presented 10-17-06, Highly Confidential NAA00021656 – 686 Dep. Ex. 278	Not authenticated.		
DX 272 February 2002 Knowledge Networks document Titled “Nintendo GameCubeAwareness & Usage Tracking Study, Wave I,” Highly Confidential NAA00022104 – 188 Dep. Ex. 281	Not authenticated, hearsay.		
DX 273 September 2002 Knowledge Networks document Titled “Nintendo GameCube Awareness & Usage Tracking Study, Wave II,” Highly Confidential	Not authenticated, hearsay.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
NAA00022352 – 431 Dep. Ex. 282			
DX 274 Photocopy of 1-5-07 Zanthus Powerpoint presentation re Post- Purchase Satisfaction Study, Nintendo Wii, Highly Confidential NAA00023203 – 228 Dep. Ex. 283	Not authenticated, hearsay, many parts of the exhibit are illegible.		
DX 275 Nintendo of America Virtual Console Demand Study 2.28.06 NAA00021267-327	Not authenticated, hearsay.		
DX 276 Nintendo of America RDD Demo Tracking Study November 2006 NAA00021433-479	Not authenticated, hearsay.		
DX 277 Wii Pre-Launch Evaluation Study Qualitative Summary June 29, 2006 NAA00023229-243	Not authenticated, hearsay.		
DX 278 “Next Generation Consoles – Awareness and Purchase Intent – Round II”, dated December 2001. NAA00022068 – 082	Not authenticated, hearsay.		
DX 279 NOA Launch Strategy July 2006 NAA00021776-799	Not authenticated, hearsay.		
DX 280 Console Comparison NAA0023189-202	Not authenticated, hearsay.		
DX 281 Letter from Ken titled Controller Comments	Not authenticated.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
NCA00012909 – 910 Dep. Ex. 152			
DX 282 Undated Photo of Walker and team for major Xbox event (MS-ANAS 0039420, 23, 24)	Not authenticated.		
DX 284 Usability Research Report comparing PS2 and Xbox Controller S (Feb 2003) (MSANAS 111981-96)	Not authenticated, hearsay.		
DX 286 2/7/06 Launch Results PPT for Xbox 360 (MS-ANAS 163417-62)	Not authenticated, hearsay.		
DX 287 June 2003 Xbox Customer Research PPT (MS-ANAS 169294-487)	Not authenticated, hearsay.		
DX 289 10/26/00 PS2 Launch Date (Ex. 308)	Not authenticated.		
DX 290 9/23/95 Gamex Blog Post (Ex. 312)	Not authenticated.		
DX 291 “The Ultimate Game Cube FAQ” (Ex 351)	Hearsay.		
DX 292 Declaration of Brad A. Armstrong dated 5/6/04 from Immersion v. Sony litigation	Should not be shown to the jury, as it goes primarily to inequitable conduct, which will be tried to the Court.		
DX 293 Labeled photographs of Cyberman ANS0017586-96	Not authenticated.		
DX 294 Drawing of Wii Remote controller, exploded view NCA00002795	Not authenticated.		
DX 295	Not authenticated.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
Drawing of Wii Classic controller, exploded view NCA00002793			
DX 296 Drawing of Nunchuk, exploded view NCA00002794	Not authenticated.		
DX 297 Drawing (Wii Remote) NCA00004273	Not authenticated.		
DX 298 Drawing (Wii Remote) NCA00004389-90	Not authenticated.		
DX 299 Drawing (Wii Remote housing) NCA00004392-4393	Not authenticated.		
DX 300 Drawing (GameCube) NCA00013320-22	Not authenticated.		
DX 301 Dolphin Controller Ver. 2.4 NCA00013751-65	Not authenticated.		
DX 302 Evans, AR and Matson, RD, "Remote Subscription Services" dated 6/94 NCA00012912-13	Not authenticated.		
DX 303 Dolphin Document (in Japanese) NCA00013019-21	Not authenticated.		
DX 304 Ver. 3.0 dated 6/6/00 (Japanese document) NCA00013677-91	Not authenticated.		
DX 305 Application for U.S. Patent No. 6,004,134	Not authenticated, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not on list of certified records.		

TRIAL EXHIBIT	OBJECTIONS	RESPONSE	COURT RULING
DX 308 Nintendo Gameboy	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 309 Kirby Tilt n Tumble game (Gameboy)	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		
DX 310 CNN.com Holiday Buying Guide article dated December 14, 1999.	Hearsay, not authenticated, Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6.		
DX 311 MadKatz Dual Force Controller	Defendants failed to timely identify or produce this reference as required by P.R. 3-3, 3-4, and 3-6, not authenticated.		

DATED: April 18, 2008

Respectfully submitted,

McKOOL SMITH PC

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed with the Court on April 18, 2008, and was thus sent to counsel that have registered with the Court's ECF system.

/s/ Anthony M. Garza
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