

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

ANASCAPE, LTD.

Plaintiff,

v.

MICROSOFT CORPORATION, and  
NINTENDO OF AMERICA, INC.,

Defendants.

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Hon. Ron Clark

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

**ORDER ON DEFENDANTS' OBJECTIONS TO  
PLAINTIFF'S TRIAL EXHIBITS [Doc. #283]**

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
<b>PX9</b> 07/02/1999 E-mail from B. Armstrong to T. Holmdahl re: more thorough product demos (Holmdahl Deposition, 10/18/2007, Ex. 178) [MS-ANAS159894 -MS-ANAS159895]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Email chain between Brad Armstrong and Todd Holmdahl corroborates meeting between the two on May 5, 1999. The fact that a Microsoft employee met with Mr. Armstrong goes to show the value of his technology, and is evidence of the value of the technology in a hypothetical negotiation. This is evidence of licensing activity, which rebuts assertions that Anascape is only interested in litigation. Shows knowledge of Armstrong's technology, supporting Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn</b>
<b>PX10</b> 08/12/1999 E-mail from T. Holmdahl to B. Armstrong re: Going	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule	This email shows that Holmdahl had considered Armstrong's technology,	<b>Exhibit Withdrawn</b>

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Forward (Holmdahl Deposition, 10/18/2007, Ex. 179) [MS-ANAS159893]	403 (Prejudice, Confusion, Waste of Time).	but had decided to look at their "full plate of products." This shows awareness of Armstrong's inventions, and supports Anascape's willfulness case.	
<b>PX11</b> 08/23/1999 E-mail from T. Holmdahl to P. Lovell forwarding B. Armstrong information (Holmdahl Deposition, 10/18/2007, Ex. 180) [MS-ANAS159847]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	This email shows Holmdahl sharing 10 emails between him and Brad Armstrong with another Microsoft employee. This shows Microsoft's interest in the technology, and is evidence of the value of the technology in a hypothetical negotiation. This supports a finding that Microsoft knew of the '700 Patent before the litigation, and supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn</b>
<b>PX12</b> 10/18/1999 E-mail from T. Holmdahl to P. Lovell re: Brad (Holmdahl Deposition, 10/18/2007, Ex. 181) [MS-ANAS159836]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	This is an email between Todd Holmdahl and Paul Lovell, sharing Mr. Armstrong's contact information. This shows interest, and therefore the value, of Armstrong's technology, and also supports Anascape's willfulness case.	<b>Exhibit Withdrawn</b>
<b>PX37</b> 12/13/2001 Letter from K. Tyler to B. Stolar recapping their 12/13/2001 telephone conversation (Stolar Deposition, 12/20/2007, Ex. 287) [ANS0007792]	<b><u>Sony-Anascape Settlement:</u></b> Defs' MIL 1 (Sony-Anascape Settlement); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 408 (Settlement); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	This letter shows that Kelly Tyler retained Mr. Stolar to help them license its technology. This document does not discuss settlements whatsoever, and therefore does not offend Rule 408. This rebuts Defendants' assertion that Anascape is only interested in litigation.	<b>Exhibit Withdrawn</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
		This may be authenticated by Kelly Tyler.	
<b>PX38</b> 11/29/2004 Affidavit of B. Stolar with attachments (Stolar Deposition, 12/20/2007, Ex. 291) [ANS0027856 - ANS0027859]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).  Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	This is a document signed by Bernie Stolar, and is a recorded recollection of his providing Nintendo with copies of some of Mr. Armstrong's patents. This shows knowledge of Armstrong's technology, which supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn</b>
<b>PX42</b> Undated - letter from B. Armstrong to Kelly (Tyler Deposition, 10/16/2007, Ex. 104) [ANS0053009 - ANS0053010]	Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authenticity).	This exhibit shows licensing activity by Armstrong, which will rebut Defendants' assertion that Anascape is a company primarily interested in litigation. Furthermore, this shows Armstrong's then existing plan and mental feelings regarding the future of his patented technology, satisfying 803(3). Anascape may authenticate this document through Brad Armstrong or Kelly Tyler.	<b>Authenticate at trial.</b>
<b>PX45</b> 12/28/1998 E-mail from K. Tyler to D. de la Torre, re: Sending of 100K, Attachment: Limited Partnership 5.doc and Conditional Assignment 5.doc (Tyler Deposition, 10/16/2007, Ex. 110) [ANS0063656 - ANS0063673]	<del>Rule 403 (Confusion, Prejudice);</del> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authenticity).	This document corroborates evidence of ownership, and shows the structure of Anascape. This exhibit may be authenticated through Brad Armstrong or Kelly Tyler.	<b>Authenticate at trial.</b>
<b>PX46</b> 12/23/1999 Anascape Certificate of	<b><u>Sony-Anascape Settlement:</u></b> Defs'	The Sony/Anascape agreement was a license	<b>Overruled.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
Limited Partnership (Tyler Deposition, 10/16/2007) [ANS0028168 - ANS0028182]	MIL 1 (Sony-Anascape Settlement); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 408 (Settlement); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication). <sup>1</sup>	agreement, and Rule 408 is not implicated. This document shows ownership of the patents, and shows the structure of Anascape. This document may be authenticated through Brad Armstrong or Kelly Tyler.	
<b>PX54</b> 04/20/2004 Patent License Agreement between, on the one hand, Sony Computer Entertainment America Inc. and Sony Computer Entertainment Inc., and on the other hand, Anascape, B. Armstrong and K. Tyler (Tyler Deposition, 10/16/2007, Ex. 129) [ANS0004667 - ANS0004679]	<b><u>Sony-Anascape Settlement:</u></b> Defs' MIL 1 (Sony-Anascape Settlement); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 408 (Settlement); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	This license was not reached in the context of litigation, and is not subject to Rule 408. This license is relevant as evidence of a hypothetical negotiation, shows evidence of industry respect for the patents (secondary indicia of nonobviousness). Additionally, this license shows Anascape's willingness to license its patents, which will rebut Defendants' assertion that Anascape is a company primarily interested in litigation. Anascape may authenticate this agreement through Brad Armstrong, who it intends to call live.	<b>Overruled.</b>
<b>PX55</b> 06/26/2002 Letter from K. Tyler to M. Perlis enclosing Issued Patent Portfolio (list of 18 Anascape Patents), 6 Claim Charts (Tyler Deposition, 10/16/2007, Ex. 133) [ANS0027688 - ANS0027691]	Rule 802 (Hearsay)	This document would be used to show Anascape's attempts to contact other manufacturers, specifically, Mad Catz.	<b>Overruled.</b>
<b>PX56</b> 09/09/2002 Letter from K. Tyler to T. Hoff (Logitech) enclosing	Rule 802 (Hearsay)	This document would be used to show Anascape's attempts to contact other	<b>Overruled.</b>

<sup>1</sup> Defendants have informed Anascape that they have no objection to this Exhibit until ANS0028179 onward.

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
Issued Patent Portfolio (list of 18 Anascape Patents), 6 Claim Charts (Tyler Deposition, 10/16/2007, Ex. 134) [ANS0007855 - ANS0007856]		manufacturers, specifically, Logitech.	
<b>PX57</b> 11/29/2001 Affidavit of B. Stolar (Tyler Deposition, 10/16/2007, Ex. 139) [ANS0007846]	<p><b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p>Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).</p> <p><b><u>Sony-Anascape Settlement:</u></b> Defs' MIL 1 (Sony-Anascape Settlement); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 408 (Settlement Discussions).</p>	This document does not mention Sony, or the license agreement between Anascape and Sony. This is a document signed by Bernie Stolar, and is a recorded recollection of his providing Nintendo with copies of some of Mr. Armstrong's patents. This shows knowledge of Armstrong's technology, which supports Anascape's pre-filing willfulness case.	<b>Overruled.</b>
<b>PX58</b> 10/05/2001 Letter from B. Fischbach to S. Quan (Microsoft Corporation) re: Anascape (Tyler Deposition, 10/16/2007, Ex. 140 [ANS0007849 - ANS0007850])	<p><b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p>Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).</p>	This is a letter from Mr. Fischbach (retained by Anascape) to Stacy Quan, a Microsoft attorney. To the extent that Microsoft attempts to point to Armstrong as copying Microsoft's technology, this document, which references the "upcoming" Xbox, rebuts that assertion. This also supports willfulness, and shows Anascape's attempts to license the patents.	<b>Exhibit Withdrawn.</b>
<b>PX59</b> 04/23/2002 Letter	<b><u>Pre-Suit Interactions:</u></b>	Letter to Microsoft that	<b>Exhibit</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
from K. Tyler to B. Bach enclosing Issued Patent Portfolio (list of 14 issued Anascape Patents) (Tyler Deposition, 10/16/2007, Ex. 141) [ANS0007851 - ANS0007852]	<p>Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p>Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).</p>	states "we have notified Microsoft of our US-issued Patents which are at this time available for licensing." Shows licensing activity, which rebuts Defendants' allegations regarding litigiousness. Supports Anascape's pre-filing willfulness case, as it discusses "pending" patent applications. Anascape may authenticate this document through Kelly Tyler.	<b>Withdrawn.</b>
<b>PX60</b> 04/30/2002 Telephone message - S. Quan (Microsoft Corporation) - wants list of claims that we are concerned about (Tyler Deposition, 10/16/2007, Ex. 142) [ANS0007853]	<p><b><u>Pre-Suit Interactions:</u></b>  Defs' MIL No. 5 (Pre-suit Interactions) (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p>Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).</p>	Shows communications with Microsoft, supports a finding of licensing activity by Anascape.	<b>Exhibit Withdrawn.</b>
<b>PX74</b> Undated - Presentation by R. Holmdahl "Xenon Peripheral Plan" (Martinez Expert Report) [MS-ANAS164516 - MS-ANAS164533]	<p><b><u>Overall and Foreign Sales/Profits:</u></b>  Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	This document shows a "peripheral plan" authored by Todd Holmdahl, one of the witnesses Microsoft is bringing to trial. Among other things, this document shows the importance of peripherals and controllers, and supports Anascape's position regarding a hypothetical negotiation. This does not show Microsoft's company-wide sales, and does not focus on foreign sales.	<b>Exhibit Withdrawn.</b>

<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
<b>PX76</b> 02/02/2007 Chart re: identified products: Xbox Controller; Total US Revenue; Microsoft Corporation November, 2000 -December, 2006 (Martinez Expert Report) [MS-ANAS165685 - MS-ANAS165705]	<b><u>Pre-Suit Sales:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (only as to portion of document showing pre-suit sales).	The total sales of the products show commercial success of the products, which are relevant secondary indicators of nonobviousness. Furthermore, this shows the potential size of the market, which is relevant to a hypothetical negotiation.	<b>Exhibit Withdrawn.</b>
<b>PX77</b> 02/02/2007 Chart re: identified products: Xbox Controller; Total Worldwide Licenses; Microsoft Corporation November, 2000 - December, 2006 (Martinez Expert Report) [MS-ANAS165706 - MSANAS165726]	<b><u>Foreign Sales/Profits:</u></b> Defs' MIL No. 17 (Foreign Sales/Proifits); Rule 403 (Prejudice, Confusion, Waste of Time).	The total sales of the products show commercial success of the products, which are relevant secondary indicators of nonobviousness. This does not show company-wide sales of Microsoft, nor does it focus or call out foreign sales. Furthermore, this shows the potential size of the market, which is relevant to a hypothetical negotiation.	<b>Exhibit Withdrawn.</b>
<b>PX78</b> 02/02/2007 Chart re: identified products: Xbox Controller; Total Worldwide Revenue; Microsoft Corporation November, 2000 - December, 2006 (Martinez Expert Report) [MS-ANAS165727 - MS-ANAS165747]	<b><u>Foreign Sales/Profits:</u></b> Defs' MIL No. 17 (Foreign Sales/Proifits); Rule 403 (Prejudice, Confusion, Waste of Time).	The total sales of the products show commercial success of the products, which are relevant secondary indicators of nonobviousness. This does not show company-wide sales of Microsoft, nor does it focus or call out foreign sales. Furthermore, this shows the potential size of the market, which is relevant to a hypothetical negotiation.	<b>Exhibit Withdrawn.</b>
<b>PX81</b> 02/27/1997 Letter from B. Armstrong to M. Paul re: patents for 6 DOFF controllers (Martinez Expert Report)	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of	This letter between Brad Armstrong and Mike Paul, discussing two of his earlier game controller patents, provides context to	<b>Exhibit Withdrawn.</b>

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[ANS0041787 - ANS0041789]	Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted).	the other communications between Todd Holmdahl and Brad Armstrong, and also provides supporting evidence for Anascape's pre-filing willfulness case.	
<b>PX91</b> 03/11/2007 Nintendo's Privilege Log (Anascape's Motion to Compel Production to Nintendo, 10/29/2007, Ex. 13)	<b><u>Privilege Log:</u></b> Defs' MIL No. 13 (Negative Inference from Privilege); Rule 403 (Prejudice, Misleading, Confusion, Waste of Time); Defs' MIL No. 8 (Cheng Meeting).	Fact that communications occurred regarding Armstrong's technology pre-suit supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX92</b> 07/12/2007 Nintendo's Supplemental Privilege Log (Anascape's Motion to Compel Production to Nintendo, 10/29/2007, Ex. 14)	<b><u>Privilege Log:</u></b> Defs' MIL No. 13 (Negative Inference from Privilege); Rule 403 (Prejudice, Misleading, Confusion, Waste of Time); Defs' MIL No. 8 (Cheng Meeting).	Fact that communications occurred regarding Armstrong's technology pre-suit supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX112</b> 12/23/1999 Anascape's Limited Partnership Agreement (Martinez Expert Report, 03/03/2008) [ANS0004718 - ANS0004729]	<b><u>Sony-Anascape Settlement:</u></b> Defs' MIL 1 (Sony-Anascape Settlement); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 408 (Settlement); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	Sony Agreement was a license, 408 not implicated. Shows structure of Anascape, corroborates ownership. May authenticate through Brad Armstrong.	<b>Overruled.</b>
<b>PX114</b> 05/13/1993 Joint Venture Agreement between Key Tonic Corporation and Global Devices and S. Bowman (Bowman Deposition, 10/03/2007, Ex. 87) [ANS0008091 - ANS0008106]	<b><u>Non-Comparable Licenses:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	The question of "comparability" is one for the jury, not for Defendants. The agreement shows the structure of an agreement that Armstrong proposed, and is thus relevant evidence in a hypothetical	<b>Overruled.</b>



Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
		negotiation. Anascape may authenticate through Brad Armstrong.	
<b>PX115</b> 09/20/1993 Letter agreement from R. Loiter to B. Armstrong and S. Bowman modifying 05/13/1993 Joint Venture Agreement (Bowman Deposition, 10/03/2007, Ex. 88) [ANS0040276 - ANS0040277]	<b><u>Non-Comparable Licenses:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	This is a supplementation to PX114, and is admissible for the same reasons.	<b>Overruled.</b>
<b>PX121</b> Undated - Letter from B. Armstrong to Howard in Response to NODE (Cheng Deposition, 10/17/2007, Ex. 145) [ANS0055067]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authenticity).	This letter between Armstrong and Howard Cheng at Nintendo. Armstrong's then-existing mental impressions ("I am very pleased that Nintendo is interested in this technology . . .") are useful to show Nintendo's interest in the patent technology, and shows value. This also supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX122</b> Undated - Letter from B. Armstrong to Howard in Response to NODE (Cheng Deposition, 10/17/2007, Ex. 146) [ANS0055066]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authenticity).	This letter between Armstrong and Howard Cheng at Nintendo. Armstrong's then-existing mental impressions ("I am very pleased that Nintendo is interested in this technology . . .") are useful to show Nintendo's interest in the patent technology, and shows value. This also supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX123</b> 08/27/1997 Handwritten notes re: Nintendo Technology Development, Howard Cheng (Cheng Deposition, 10/17/2007, Ex. 147)	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Defs' MIL No.	Corroborates that Howard Cheng received a controller prototype from Armstrong (notebook reads "digital 6DOF sample." Supports pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>

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[NAA00014643 - NAA00014644]	8 (Cheng Meeting).	Is evidence of meeting, which suggests value of the technology.	
<b>PX124</b> Undated - articles entitled "Global Navigator vs. Space Ball," and "Fundamental Advantages of the Extreme 6DOF Patent Portfolio" (Cheng Deposition, 10/17/2007, Ex. 148) [NAA00014645 - NAA00014647]	<p><b><u>3<sup>rd</sup> Party Article:</u></b>  Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).</p> <p><b><u>Pre-Suit Interactions:</u></b>  Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Defs' MIL No. 8 (Cheng Meeting).</p>	This document, describing Armstrong's prototypes, was found in Cheng's files. The fact that he kept this document for so long is evidence of the value of it to him. This also supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX125</b> Undated - Patent Server IBM detailed view of 5565891: Six degrees of freedom graphics Controller (Cheng Deposition, 10/17/2007, Ex. 149) [NAA00014648 - NAA00014660]	Rule 403 (Prejudice, Confusion) (conditioned on the grant of Defendants' motion for summary judgment of no willful infringement)	Supports a finding of pre-filing willful infringement.	<b>Exhibit Withdrawn.</b>
<b>PX129</b> 11/12/2000 Newsweek article "Now It's Nintendo's Turn" (Harrison Deposition, 11/09/2007, Ex. 263) [NAA00017341 - NAA00017343]	<p><b><u>3<sup>rd</sup> Party Article:</u></b>  Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901 (Authentication).</p>	Shows praise for features found in the inventions, shows importance of controller features, which is relevant for determining the value of the inventions.	<b>If this is a Newsweek article, it's not on disk given to court as PX 129.</b>
<b>PX130</b> 05/16/2001 MSNBC article "Biggest fight in video game history kicks off this week" (Harrison Deposition,	<p><b><u>3<sup>rd</sup> Party Article:</u></b>  Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602</p>	Shows praise for features found in the inventions, shows importance of controller features, which is relevant for determining	<b>Authenticate at trial.</b>

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11/09/2007, Ex. 264) [NAA00017746 - NAA00017748]	(Lack of Personal Knowledge); Rule 901 (Authentication).	the value of the inventions.	
<b>PX136</b> 03/03/1999 Fax from K. Tamura to Mr. Koshiishi re: controller (Harrison Deposition, 11/09/2007, Ex. 285) [NCA00003041 - NCA00003045]	Rule 802 (Hearsay)	Document shows that Nintendo employees thought that certain controller features were important, which is evidence of value in a hypothetical negotiation. To the extent that Nintendo claims that its controllers were completely original, this document rebuts by showing the "inspiration" for the GameCube controller.	<b>Overruled.</b>
<b>PX138</b> Undated - Facsimile from B. Armstrong to M. Paul at Microsoft re: Thanks for meeting at CGDC and Good News! (Holmdahl Deposition, 10/18/2007, Ex. 156) [ANS0051502]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	Letter claims broad patent protection covering 3-D graphic image controllers, which supports a finding of pre-suit willfulness.	<b>Exhibit Withdrawn.</b>
<b>PX140</b> 04/15/1999 E-mail from T. Holmdahl to M. Van Flandern re: Useful New Products (Holmdahl Deposition, 10/18/2007, Ex. 160) [MS-ANAS159953 - MS-ANAS159954]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Corroborates Brad Armstrong's 1999 meeting with Microsoft.	<b>Exhibit Withdrawn.</b>

<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
<b>PX141</b> 04/18/1999 E-mail from B. Armstrong to T. Holmdahl re: Meet (Holmdahl Deposition, 10/18/2007, Ex. 161) [MS-ANAS159869]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	Shows that Holmdahl received Armstrong's contact information from Mike Paull, and provides context to the other communications between Holmdahl and Armstrong.	<b>Exhibit Withdrawn.</b>
<b>PX142</b> 04/22/1999 E-mail from B. Armstrong to T. Holmdahl re: Meet (Holmdahl Deposition, 10/18/2007, Ex. 162) [MS-ANAS159864 - MS-ANAS159866]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	Corroborates Brad Armstrong's 1999 meeting with Microsoft.	<b>Exhibit Withdrawn.</b>
<b>PX143</b> 04/26/1999 E-mail from T. Holmdahl to M. Van Flandern and S. Plank re: Meet (Holmdahl Deposition, 10/18/2007, Ex. 163) [MS-ANAS159936 - MS-ANAS159938]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Corroborates Brad Armstrong's 1999 meeting with Microsoft.	<b>Exhibit Withdrawn.</b>

<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
<b>PX144</b> 04/26/1999 E-mail from B. Armstrong to T. Holmdahl re: Meet (Holmdahl Deposition, 10/18/2007, Ex. 164) [MS-ANAS159859 - MS-ANAS159863]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	This a responsive email from Armstrong to Holmdahl regarding whether their meeting would be in the "public domain." This email supports Anascape's pre-filing willfulness case.	<b>Exhibit Withdrawn.</b>
<b>PX145</b> 05/05/1999 E-mail from T. Holmdahl to S. Plank, P. Lovell, C. Ledbetter, S. Kaneko re: idea (Holmdahl Deposition, 10/18/2007, Ex. 167) [MS-ANAS159922]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Email from Holmdahl to other Microsoft employees shows his interest in Armstrong's technology, undercuts any assertion that Armstrong's technology does not have value.	<b>Exhibit Withdrawn.</b>
<b>PX146</b> 05/06/1999 E-mail from S. Kaneko to T. Holmdahl, P. Lovell, C. Ledbetter re: idea (Holmdahl Deposition, 10/18/2007, Ex. 168) [MS-ANAS159921]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Responsive email to PX145, shows agreement with assertion that Armstrong's technology has value.	<b>Exhibit Withdrawn.</b>
<b>PX147</b> 05/06/1999 E-mail from C. Ledbetter to T. Holmdahl re: Orca "Z" control idea (Holmdahl Deposition, 10/18/2007, Ex. 169) [MS-ANAS159920]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Responsive email to PX145, shows agreement with assertion that Armstrong's technology has value.	<b>Exhibit Withdrawn.</b>
<b>PX148</b> 05/07/1999 E-mail from B. Armstrong to P. Lovell, T. Holmdahl re: Thanks for meeting with	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice,	Shows that Microsoft provided an NDA to Armstrong, suggests value to Armstrong's patented	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
me. (Holmdahl Deposition, 10/18/2007, Ex. 170) [MS-ANAS159857]	Confusion, Waste of Time).	inventions. Specifically mentions future "patent pending" material, supporting Anascape's pre-filing willfulness case.	
<b>PX149</b> 05/18/1999 E-mail from B. Armstrong to T. Holmdahl, P. Lovell re: Ready to sign the NDA (Holmdahl Deposition, 10/18/2007, Ex. 171) [MS-ANAS159856]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	Shows that Microsoft provided an NDA to Armstrong, suggests value to Armstrong's patented inventions.	<b>Exhibit Withdrawn.</b>
<b>PX150</b> 05/20/1999 E-mail from T. Holmdahl to B. Armstrong, P. Lovell re: Ready to Sign the NDA (Holmdahl Deposition, 10/18/2007, Ex. 172) [MS-ANAS1599913]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Shows communications from Microsoft that further negotiates the NDA provided to Brad Armstrong. Shows that Microsoft is interested in Armstrong's technology, which shows value of those features.	<b>Exhibit Withdrawn.</b>
<b>PX151</b> 05/24/1999 E-mail from B. Armstrong to T. Holmdahl re: Ready to Sign the NDA? (Holmdahl Deposition, 10/18/2007, Ex. 173) [MS-ANAS159852]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also	Shows further communications regarding the NDA addressed in PX149 and PX150.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).		
<b>PX152</b> 06/15/1999 E-mail from B. Armstrong to P. Lovell, T. Holmdahl re: NDA - Status? (Holmdahl Deposition, 10/18/2007, Ex. 174) [MS-ANAS159851]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).	Shows further communications regarding the NDA addressed in PX149 and PX150.	<b>Exhibit Withdrawn.</b>
<b>PX153</b> 06/16/1999 E-mail from T. Holmdahl to B. Armstrong, P. Lovell re: DNA [sic] - Status? (Holmdahl Deposition, 10/18/2007, Ex. 175) [MS-ANAS159903 - MS-ANAS159904]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Shows further communications regarding the NDA addressed in PX149 and PX150.	<b>Exhibit Withdrawn.</b>
<b>PX154</b> 06/20/1999 E-mail from B. Armstrong to T. Holmdahl, P. Lovell re: More Thorough Product Demos? (Holmdahl Deposition, 10/18/2007, Ex. 176) [MS-ANAS159848 - MS-ANAS159850]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (to the extent communications of B. Armstrong or Anascape are included and offered for truth of matters asserted; also	Corroborates 1999 Holmdahl meeting, supports pre-filing willfulness allegations.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	hearsay to extent communications of Microsoft are included and offered for truth of matters asserted and against NOA).		
<b>PX155</b> 07/01/1999 E-mail from T. Holmdahl (Holmdahl Deposition, 10/18/2007, Ex. 177) [MS-ANAS159897- MS-ANAS159899]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Corroborates 1999 Holmdahl meeting, supports pre-filing willfulness allegations.	<b>Exhibit Withdrawn.</b>
<b>PX173</b> 09/27/2001 Article: IGN: Dual Shock 2 Review (Rebuttal Expert Report of R. Howe, 03/03/2008)	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).	This is evidence of praise, and of value of controller features. The fact that a ign.com writer wrote a helpful review is evidence of praise.	<b>Overruled.</b>
<b>PX174</b> 10/26/2000 Article: Sony DualShock 2 Analog Controller (Black) - CNET review (Rebuttal Expert Report of R. Howe, 03/03/2008)	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).	This is evidence of praise, and of value of controller features. The fact that a cnet.com writer wrote a helpful review is evidence of praise.	<b>Sustained as to authenticity.</b>
<b>PX183</b>	Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (alleged statements by Mitsumi)	Shows importance of rumble, as it is shown as a relatively expensive part, and shows copying of the Sony Dual Shock.	<b>Exhibit Withdrawn.</b>
<b>PX184</b> 10/15/1999 E-mail from W. Mack to R. Vingerelli, B. Friedrich (HRDW/USA), M. DuCoeur, T. Schafenacker re: Tilt and X-box matters	Rule 403 (Prejudice, Confusion, Waste of Time).	Shows copying of the Sony Dual Shock.	<b>Exhibit Withdrawn.</b>



Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
(Rebuttal Expert Report of R. Howe, 03/03/2008) [MS-ANAS0031852]			
<b>PX185</b> 08/22/2005 Xbox 360 Accessories Roadmap (Rebuttal Expert Report of R. Howe, 03/03/2008) [MS-ANAS161260 -MS-ANAS161286]	<b><u>Overall and Foreign Sales/Profits:</u></b> Defs' MIL 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	This does not show Microsoft's company-wide sales, and does not call out Microsoft's foreign sales. This shows Microsoft's plans for xbox 360 accessories, and is relevant and helpful for the jury.	<b>Exhibit Withdrawn.</b>
<b>PX201</b> 07/15/1993 and 07/20/1993 Global fax cover sheets (2) from S. Bowman of Global Devices to M. Phalen of Key Tronic Corporation re: (1st fax) Development unit and Computer-Aided Engineering Buyer's Guide and (2nd fax) an Atari article [ANS0040164]	Rule 802 (Hearsay) (only if offered for truth of matters asserted).	Shows communications that led to, and provides context for, a licensing agreement between KeyTronic and Mr. Armstrong.	<b>Overruled (object at trial if offered for truth)</b>
<b>PX202</b> 07/20/1993 Global Fax Cover Sheet from S. Bowman to M. Phalen for J. DeWenter re: Here's an article I thought would be of interest to you..... (re new Atari game) [ANS0040165]	Rule 802 (Hearsay) (only if offered for truth of matters asserted).	Shows communications that led to, and provides context for, a licensing agreement between KeyTronic and Mr. Armstrong.	<b>Overruled (object at trial if offered for truth)</b>
<b>PX203</b> 07/28/2003 Website article, San Jose, Calif., "Microsoft Licenses Immersion's Haptic Patent Portfolio, Agreements Settle Legal Differences, Provide Microsoft Broad Licensing Rights to Sense of Touch Patents on Multiple Platforms" (immr.client.shareholder.com/ReleaseDetail.cfm?ReleaseID=114868&printable=1)	<b><u>Immersion Settlement:</u></b> Defs' MIL No. 2 (Microsoft-Immersion Settlement); Rule 403 (Prejudice, Confusion, Waste of Time).  <b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal	If the Court grants the motion to compel the Microsoft/Immersion license agreement, this is relevant to show the terms of those licensing agreements. Shows Microsoft's interest in haptic technologies.	<b>Sustained.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).		
<b>PX204</b> Undated - Website article "Does this week's injunction, halting all imports of PlayStation product, have Sony shaking, rattling, or rolling? We ask Immersion boss Victor Viegas to explain if it's game over for Sony" (www.gamespot.com/news / 6121323.html?&print=1) (K. Ugone Rebuttal Expert Report, 03/03/2008)	<b><u>Immersion Litigation:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time).  <b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).	Shows what parties would understand as an appropriate royalty rate for force feedback related technologies.	<b>Sustained.</b>
<b>PX216</b> 03/31/2001 - 09/30/2007 Nintendo of America, Inc. Monthend Income Statement Summary (Meador Deposition 11/8/2007, Ex. 246) [NAA00023081 - NAA00023129]	<b><u>Overall Sales/Profits:</u></b> Defs' MIL No. 16 (Overall Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Does not show Nintendo's company-wide sales. This is the type of sales information that is useful in computing damages, and is not overly prejudicial.	<b>Overruled.</b>
<b>PX217</b> 10/00/2005 - 12/00/2006 Microsoft Corporation Identified Products: Common Controller Total US Licenses and Revenue (Moline Deposition 10/14/2007, Ex 203) [MS-ANAS165479 - MS-ANAS165482]	<b><u>Pre-Suit Sales:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (only as to portion of document showing pre-suit sales).	Defendants' pre-suit sales are relevant for showing commercial success, and for showing the importance of the technology.	<b>Exhibit Withdrawn.</b>
<b>PX219</b> 07/07/2006 Home & Entertainment Product P&L FY06 Actual Trent US Dollars In Thousands (Moline Deposition 10/14/2007, Ex. 206) [MS-ANAS165489 - MS-	<b><u>Foreign Sales/Profits:</u></b> Defs' MIL 17 (Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Microsoft provided this document, showing profits and losses on a worldwide basis. Parts of this document show domestic sales information, and the foreign sales portions of it	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
<b>ANAS165544]</b>		are not unduly prejudicial.	
<b>PX220</b> 01/17/2007 Home & Entertainment Product P&L FY07 YTD Dec Actual Trent US Dollars In Thousands (Moline Deposition 10/14/2007, Ex. 207) [MS-ANAS165548 - MS-ANAS165663]	<b><u>Overall and Foreign Sales/Profits:</u></b> Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Microsoft provided this document, showing profits and losses on a worldwide basis. Parts of this document show domestic sales information, and the foreign sales portions of it are not unduly prejudicial.	<b>Exhibit Withdrawn.</b>
<b>PX221</b> 11/00/2000 - 12/00/2006 Microsoft Corporation Identified Products: Total US Licenses (Moline Deposition 10/14/2007, Ex. 208) [MS-ANAS165664 - MS-ANAS165747]	<b><u>Pre-Suit Sales:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (only as to portion of document showing pre-suit sales).	Relevant for commercial success, and for showing importance of features. Also, parts of this document show relevant sales information, and the remaining portions are not unduly prejudicial.	<b>Exhibit Withdrawn.</b>
<b>PX 222</b> 07/10/2000 Microsoft Consolidated P&L Div: Xbox FY00 Actual Trend US Dollar In Thousands (Moline Deposition 10/14/2007, Ex. 209) [MS-ANAS165748 - MS-ANAS165765]	<b><u>Overall and Foreign Sales/Profits:</u></b> Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).  <b><u>Pre-Suit Sales:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (as to portion of document showing pre-suit sales).	Microsoft provided this document, showing profits and losses on a worldwide basis. This does not show overall sales of Microsoft. Parts of this document show domestic sales information, and the foreign sales portions of it are not unduly prejudicial.	<b>Exhibit Withdrawn.</b>
<b>PX223</b> 07/05/2002 Product FY02 Actuals vs FY01 Actuals for the Months of January-December US Dollars In Thousands Div: Xbox (Moline Deposition 10/14/2007, Ex. 210) [MS-ANAS165766 - MS-ANAS165816]	<b><u>Overall and Foreign Sales/Profits:</u></b> Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).  <b><u>Pre-Suit Sales:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (as to portion of document showing pre-	Microsoft provided this document, showing profits and losses on a worldwide basis. This does not show the overall sales of Microsoft. Parts of this document show domestic sales information, and the foreign sales portions of it are not unduly prejudicial. Pre-suit portions are relevant for commercial success.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	suit sales).		
<b>PX224</b> 07/09/2003 Home & Entertainment FY03 Actual Trend US Dollars In Thousands Div: Xbox (Moline Deposition 10/14/2007, Ex. 211) [MS-ANAS165817 - MS-ANAS165868]	<p><b><u>Overall and Foreign Sales/Profits:</u></b>  Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p><b><u>Pre-Suit Sales:</u></b>  Rule 403 (Prejudice, Confusion, Waste of Time) (as to portion of document showing pre-suit sales).</p>	Microsoft provided this document, showing profits and losses on a worldwide basis. This does not show the overall sales of Microsoft. Parts of this document show domestic sales information, and the foreign sales portions of it are not unduly prejudicial. Pre-suit portions are relevant for commercial success.	<b>Exhibit Withdrawn.</b>
<b>PX225</b> 07/14/2004 Home & Entertainment FY 04 Actual Trend US Dollars In Thousands Div: Xbox (Moline Deposition 10/14/2007, Ex. 212) [MS-ANAS165869 - MS-ANAS165928]	<p><b><u>Overall and Foreign Sales/Profits:</u></b>  Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p><b><u>Pre-Suit Sales:</u></b>  Rule 403 (Prejudice, Confusion, Waste of Time) (as to portion of document showing pre-suit sales).</p>	Microsoft provided this document, showing profits and losses on a worldwide basis. This does not show the overall sales of Microsoft. Parts of this document show domestic sales information, and the foreign sales portions of it are not unduly prejudicial. Pre-suit portions are relevant for commercial success.	<b>Exhibit Withdrawn.</b>
<b>PX226</b> 12/26/2002 E-mail from K. Tyler to <a href="mailto:Tom@inteclink.com">Tom@inteclink.com</a> encl. outline of potential agreement (Bratic Expert Report 02/11/2008) [ANS0007809 - ANS0007811]	<b><u>Unaccepted License Offers:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time) (unaccepted license offer); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	This license offer to Intec shows terms that Anascape would find acceptable in a hypothetical negotiation. This is not unduly prejudicial, and may be authenticated. Also shows Anascape's willingness to license.	<b>Sustained.</b>
<b>PX227</b> 01/15/2003 E-mail from K. Tyler to T. Kruszewski re: proposed agreement (W. Bratic's Expert Report 02/11/2008)	<p>Rule 106 (Remainder/ Related Writing)</p> <p><b><u>Unaccepted License Offers:</u></b> Rule 403</p>	This license offer to Intec shows terms that Anascape would find acceptable in a hypothetical negotiation. This is not unduly	<b>Sustained.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
[ANS0007815]	(Prejudice, Confusion, Waste of Time) (unaccepted license offer); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	prejudicial, and may be authenticated. Also shows Anascape's willingness to license.	
<b>PX232</b> 02/08/2001 E-mail string from J. DeYoung re: final controllers? (Mark Baldwin, Baldwin Consulting, 02/11/2008) [MS-ANAS0156437]	Rule 802 (Hearsay) (only if offered for truth of matters asserted).	Shows importance of features to the success of the controller, supports a finding that Microsoft copied the Dual Shock 2 controller, shows praise of the Dual Shock 2 controller.	<b>Exhibit Withdrawn.</b>
<b>PX235</b> 01/08/2007 "National Television Academy Announces Emmy Winning Achievements: Honors Bestowed at 58th Annual Technology & Engineering Emmy Awards" (Mark Baldwin, Baldwin Consulting, 02/11/2008) [ANS0069316 - ANS0069319]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901 (Authentication).  Rule 403 (Prejudice, Confusion, Waste of Time).	Shows praise of the Dual Shock controller, which practices at least one of the asserted claims.	<b>Make objection at trial.</b>
<b>PX236</b> 01/24/2008 Answers from Laptop Experts, "Growth of gaming in 2007 far outpaces movies, music" (Mark Baldwin, Baldwin Consulting, 02/11/2008) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901 (Authentication).	Shows size and importance of the video game industry, supporting Anascape's damages case. This article uses NPD data which Defendants' witnesses have admitted they use on a regular basis in the industry.	<b>Make objection at trial.</b>
<b>PX237</b> 09/29/2006 Memorandum from T. Grankcom to Xenon Competitive Trends/ Information re: Immersion-Sponsored Survey Highlights Force Feedback	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901	This is a communication between Microsoft employees, which includes a link to a 3d party article. The fact that this article is being disseminated between company	<b>Sustained.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
Interest (Mark Baldwin, Baldwin Consulting, 02/11/2008) [MS-ANAS0141891 - MS-ANAS0141892]	(Authentication).	employees shows that a Microsoft employee found the information herein worth sharing, which includes the importance of force feedback in game controllers.	
<b>PX241</b> 01/02/2008 Declaration of Michael Thumm [ANS0068799 - ANS0068800]	Rule 802 (Hearsay)	This is a business records affidavit.	<b>Overruled.</b>
<b>PX242</b> 05/21/2007 - STMicroelectronics LIS3L02AE 3-Axis Accelerometer - MEMS Process Review [ANS0068699 - ANS0068798]	<b><u>Unreliable Expert Testimony:</u></b> Rule 802 (Hearsay); Rule 803(6) (Record lacking trustworthiness); Rule 702 (Expert testimony); Fed. R. Civ. P. 26(a).	This is a business record, not an expert opinion.	<b>Sustained.</b>
<b>PX243</b> 02/14/2006 - Analog Devices ADXL330 Three-Axis $\pm 2$ g MEMS Accelerometer Process Review [ANS0068555 - ANS0068698]	<b><u>Unreliable Expert Testimony:</u></b> Rule 802 (Hearsay); Rule 803(6) (Record lacking trustworthiness); Rule 702 (Expert testimony); Fed. R. Civ. P. 26(a).	This is a business record, not an expert opinion.	<b>Sustained.</b>
<b>PX247</b> Undated - "Extreme 6DOF Controllers The Best in 3D Image Control" [No Bates]	Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	Shows Anascape's marketed its willingness to license. May be authenticated by Brad Armstrong.	<b>Authenticate at trial.</b>
<b>PX250</b> 03/20/1989 TO 05/08/1992 "Inventor's Notebook"	Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	Brad Armstrong's invention notebook corroborates conception.	<b>Overruled.</b>
<b>PX252</b> 04/14/1999 E-mail string from T. Holmdahl to S. Ashmun, K. Empey, G. Bacon re: Useful New Products [MS-	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of	Corroborates 1999 meeting with Todd Holmdahl.	<b>Exhibit Withdrawn</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
<b>ANAS159959]</b>	Time).		
<b>PX253</b> 04/14/1999 E-mail string from G. Bacon to T. Holmdahl re: Useful New Products [MS-ANAS159957-MS-ANAS159958]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time).	Corroborates 1999 meeting with Todd Holmdahl.	<b>Exhibit Withdrawn.</b>
<b>PX254</b> Undated - GameInformer Magazine "World Exclusive God of War 2" [ANS0068553 - ANS0068554]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901 (Authentication).  Rule 701 (Opinion Testimony by Lay Witness).	Shows the market's awareness of features of the accused devices. Defendants have admitted that they track market awareness. This is not an opinion on invalidity or infringement such that rule 701 is implicated. An actual copy of the magazine will be used for the trial exhibit (self authenticating document).	<b>Make objection at trial.</b>
<b>PX260</b> Nintendo game, 1942, for Atari	<b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	1942 is a publicly available game for use with the Nintendo Entertainment System, and did not need to be produced by Anascape. Defendants have not shown any prejudice by this game.	<b>Sustained.</b>
<b>PX261</b>	<b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	This document was from Nintendo's website, and is therefore publicly available, and need not be produced by Anascape. Furthermore, this documents shows Nintendo's marketing of one of its products, which mentions an accused controller.	<b>Sustained.</b>
<b>PX262</b> 06/21/2002 Correspondence from K. Tyler at Anascape to S. Quan at Microsoft re: remaining patents (and	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of	Supports pre-filing willfulness case, shows willingness to license.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
claims) on attached list of issued US patents in regards to Microsoft's X-box Console, Controllers, and Software, Microsoft's Sidewinder Game Pad Pro, Microsoft's Intellimouse Explorer and Microsoft's Trackball Explorer [MS-ANAS0019338 - MS-ANAS0019339]	Time).  Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).		
<b>PX264</b> 02/12/2007 Microsoft's Privilege Log, <i>Anascape v. Microsoft &amp; Nintendo</i> [No Bates]	<b><u>Privilege Log:</u></b> Defs' MIL No. 13 (Negative Inference from Privilege); Rule 403 (Prejudice, Misleading, Confusion, Waste of Time).	Fact of communications about Armstrong's technology before Anascape filed suit supports Anascape's allegations of pre-filing willfulness.	<b>Exhibit Withdrawn.</b>
<b>PX267</b> 12/31/1996 United States Patent 5,589,828 (Anascape Response to Defendants' Motion for Summary Judgment re: No Willful Infringement) [NAA00014681 - NAA00014700]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Defs' MIL No. 8 (Cheng Meeting).	Fact that Cheng kept Armstrong's patents in his file supports a finding of pre-suit willfulness, and shows a finding that some of the features in this patent were valuable and important.	
<b>PX271</b> Undated - Nintendo Co., Ltd.'s Privilege Log [No Bates]	<b><u>Privilege Log:</u></b> Defs' MIL No. 13 (Negative Inference from Privilege); Rule 403 (Prejudice, Misleading, Confusion, Waste of Time).	Fact of communications about Armstrong's technology before Anascape filed suit supports Anascape's allegations of pre-filing willfulness.	<b>Exhibit Withdrawn.</b>
<b>PX272</b> 07/12/2007 Nintendo Co., Ltd.'s Supplemental Privilege Log [No Bates]	<b><u>Privilege Log:</u></b> Defs' MIL No. 13 (Negative Inference from Privilege); Rule 403 (Prejudice, Misleading, Confusion, Waste of Time).	Fact of communications about Armstrong's technology before Anascape filed suit supports Anascape's allegations of pre-filing willfulness.	<b>Exhibit Withdrawn.</b>
<b>PX277</b> 11/27/2007 Defendant Microsoft's Second Supplemental	Rule 106 (Remainder/ Related Writing) (some of these responses were	Anascape will redact out of the document references to "infringed" in the	<b>Exhibit Withdrawn.</b>



Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
Response to Anascape's Interrogatory Nos. 1-19 [No Bates]	supplemented later); Rule 403 (Prejudice, Confusion, Waste of Time) (at least responses 1, 2, 3, 7, 10-17) contain some material not relevant to issues at this trial that would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence.	
<b>PX278</b> 10/19/2007 Defendant Nintendo of America, Inc.'s First Supplemental Responses to Plaintiff Anascape, Ltd.'s Corrected First Set of Interrogatories (Nos. 3, 4, 10, 13, 16 and 17) [No Bates]	Rule 106 (Remainder/ Related Writing) (some of these responses were supplemented later); Rule 403 (Prejudice, Confusion, Waste of Time) (some responses contain material not relevant to issues at this trial that would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Nintendo infringed patents"); Rule 802 (Hearsay) (only if offered against Microsoft).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence.	
<b>PX279</b> Undated - Xbox.com, "Discover greater precision, comfort and control, Xbox 360 Controller™ for Windows"	<b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403	Publicly available on Microsoft's website. No prejudice, as it is Microsoft's marketing of its own products.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
[No Bates]	(Prejudice, Confusion, Waste of Time).		
<b>PX313</b> Undated - Controller for Howard Cheng's files	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Defs' MIL No. 8 (Cheng Meeting).	This controller, which Armstrong provided to Cheng fully assembled, was produced in this litigation dismantled. This suggests that someone at Nintendo dismantled and examined the controller. This supports a finding of pre-suit willfulness, copying, and suggests the importance of the features of that controller.	<b>Sustained.</b>
<b>PX314</b> 01/31/2008 Press Release - U.S. Video Game and PC Games Sales Exceed \$18.8 Billion [No Bates]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 901 (Authentication).	Defendants monitor NPD data, and this recitation of NPD data shows that Defendants were aware of this information. Not being offered for the truth of the matter but to show what information the market and Defendants were aware of relating to the size of the relevant markets.	
<b>PX315</b> Undated - U.S. Console Market Shares (Units) graph [No Bates]	Rule 802 (Hearsay) (as to underlying data not from Microsoft or Nintendo); Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX316</b> Undated - Profitability of Microsoft's Accused Products [No Bates]	<b><u>Foreign Sales/Profits:</u></b> Defs' MIL 17 (Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Summary Chart, damages expert will authenticate.	<b>Exhibit Withdrawn.</b>
<b>PX317</b> Undated - Profitability of NOA's Accused Products [No Bates]	<b><u>Foreign Sales/Profits:</u></b> Defs' MIL 17 (Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Summary Chart, damages expert will authenticate.	
<b>PX318</b> Undated -	Defs' Bratic Daubert	Summary Chart, damages	<b>Exhibit</b>

<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
Microsoft Damages [ <b>No Bates</b> ]	Motion (Dkt. # 212).	expert will authenticate.	<b>Withdrawn.</b>
<b>PX319</b> Undated - Xbox Controller S Royalty Base [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	<b>Exhibit Withdrawn.</b>
<b>PX320</b> Undated - Xbox 360 System Controllers Royalty Base for 2006 and 2007 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	<b>Exhibit Withdrawn.</b>
<b>PX321</b> Undated - 360 System Controllers Royalty Base for 2006, 2007E and 2008E [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	<b>Exhibit Withdrawn.</b>
<b>PX322</b> Undated - NOA Damages from 7/31/2006 to 5/4/2008 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX323</b> Undated - NOA Damages - U.S. from 7/31/2006 to 5/4/2008 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX324</b> Undated - NOA Damages - Latin America from 7/31/2006 to 5/4/2008 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX325</b> Undated - NOA Damages - Canada from 7/31/2006 to 5/4/2008 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX326</b> Undated - Estimated NOA Controllers in Canada for 4/1/2006 to 3/31/2007 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX327</b> Undated - Estimated NOA Controllers for 4/1/2007 to 3/31/2008 [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX328</b> Undated - Imputed Per Unit Royalty Rate [ <b>No Bates</b> ]	Defs' Bratic Daubert Motion (Dkt. # 212).	Summary Chart, damages expert will authenticate.	
<b>PX329</b> 11/27/2007 Defendant Microsoft's Second Supplemental Response to Anascape's Interrogatory No.1[ <b>No</b>	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
Bates]	interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) (contains some material not relevant to issues at this trial that would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	
<b>PX330</b> 11/27/2007 Defendant Microsoft's Second Supplemental Response to Anascape's Interrogatory No. 6 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) (contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	<b>Exhibit Withdrawn.</b>
<b>PX331</b> 11/27/2007 Defendant Microsoft's Second Supplemental Response to Anascape's Interrogatory No. 7 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) (contains some material not relevant to issues at this trial that	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	answers and any incomplete answer.	
<b>PX332</b> 11/27/2007 Defendant Microsoft's Second Supplemental Response to Anascape's Interrogatory No. 15 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) (contains some material not relevant to issues at this trial that would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	<b>Exhibit Withdrawn.</b>
<b>PX333</b> 11/27/2007 Defendant Microsoft's Second Supplemental Response to Anascape's Interrogatory No. 22 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) (contains some material not relevant to issues at this trial that	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	would prejudice Defendants and confuse the jury; document also contains inflammatory characterizations such as "Microsoft infringed patents"); Rule 802 (Hearsay) (only if offered against Nintendo).	answers and any incomplete answer.	
<b>PX334</b> 1/29/2007 Defendant Nintendo of America, Inc.'s Responses to Plaintiff Anascape, Ltd.'s Corrected Interrogatory No. 1 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) Rule 802 (Hearsay) (only if offered against Microsoft).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	
<b>PX335</b> 1/29/2007 Defendant Nintendo of America, Inc.'s Responses to Plaintiff Anascape, Ltd.'s Corrected Interrogatory No. 6 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) Rule 802 (Hearsay) (only if offered against Microsoft).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	
<b>PX336</b> 1/29/2007 Defendant Nintendo of America, Inc.'s Responses to Plaintiff Anascape, Ltd.'s Corrected Interrogatory No. 7 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice,	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are	

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	Confusion, Waste of Time) Rule 802 (Hearsay) (only if offered against Microsoft).	properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	
<b>PX337</b> 10/19/2007 Defendant Nintendo of America, Inc.'s First Supplemental Response to Plaintiff Anascape, Ltd's Corrected Interrogatory No. 13 [No Bates]	Rule 106 (Remainder/ Related Writing) (this document is incomplete and includes partial responses to some interrogatories); Rule 403 (Prejudice, Confusion, Waste of Time) Rule 802 (Hearsay) (only if offered against Microsoft).	Anascape will redact out of the document references to "infringed" in the interrogatories and the general objections and specific objections; Interrogatory responses are properly admissible into evidence; Anascape will redact out of the document interrogatories without answers and any incomplete answer.	
<b>PX339</b> 02/2002 Article entitled Innovation and Competition in Standard-Based Industries: A Historical Analysis of the U.S. Home Video Game Market (Bratic Report) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX340</b> 10/06/2007 Article from Georgia Institute of Technology entitled Georgia Tech Boosts Video Gaming Industry (Bratic Report) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX341</b> 06/04/2007 Article from techonline entitled Opportunities abound in nex-gen gaming platforms (Bratic Report) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602	Shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary	<b>Authenticate at trial.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	(Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX342</b> 05/00/2002 Wedbush Morgan Security, article entitled Content Is King An In-Depth Look at Interactive Entertainment Software (Bratic Report) [No Bates]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX343</b> 03/30/2005 CNet Networks Entertainment Gamespot News: Q&A: Immersion Corp. Pres and CEO Vic Viegas (Bratic Report) [No Bates]	<b><u>Immersion Litigation:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time).  <b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX347</b> 01/00/2001 gamesinvestor Sega exits the console business: Durlacher Comment (Bratic Report) [No Bates]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows Defendants' awareness of the connection between game console hardware and software, shows Defendants' awareness of the competitiveness of the video game industry, which supports secondary indicia of nonobviousness, and suggests value for technologies that enhance gaming experiences.	
<b>PX348</b> 11/12/1999	Rule 802 (Hearsay)	Shows Defendants'	



<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
Immersion Corp. Amendment No. 5 to Form S-1 Registration Statement Under the Securities Act of 1933 (Bratic Report) [No Bates]	(only if offered for truth of matters asserted).	knowledge of the market with regards to competitors in the market.	
<b>PX354</b> 02/28/2005 Presentation by G. Guthrie "Project Guthrie (Simple Controller) BCR" [MS- ANAS164901 - MS- ANAS164944]	Rule 403 (Prejudice, Confusion, Waste of Time).	Presentation by Microsoft regarding the marketing plans and success for Xbox 360 products, relevant to show value of features of those products.	<b>Exhibit Withdrawn.</b>
<b>PX356</b> 10/21/2004 Presentation by S. Loomis "Xbox Hardware Xenon 3P Strategy - KI Review" [MS-ANAS164482 - MS- ANAS164491]	<b><u>Non-Comparable Licenses:</u></b> Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).  <b><u>Foreign Sales/Profits:</u></b> Defs' MIL 17 (Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).	Shows Microsoft's knowledge regarding the features and benefits of controllers, goes to value of those features. Shows marketing intentions of Microsoft related to the accused products. Foreign sales are not separate out, and any included evidence is not unduly prejudicial.	<b>Exhibit Withdrawn.</b>
<b>PX362</b> Undated - GameInformer Magazine "Exclusive Mass Effect Review Inside" and "World Exclusive Brutal Legend" [ANS0068548 - ANS0068550]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).  <b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	This is publicly available, and Anascape need not produce it. This document shows a summary of NPD data, and thus shows Defendants' awareness of data relating to those games. An actual copy of the magazine will be used at trial, and is a self- authenticating publication.	<b>Sustained.</b>

<b>Plaintiff's Trial Ex. No.</b>	<b>Defendants' Objections</b>	<b>Plaintiff's Response</b>	<b>Court's Ruling</b>
<b>PX364</b> Undated - Slide entitled "Reasonable Royalty Damages Due from Nintendo of America" <b>[No Bates]</b>	<p>Defs' Bratic Daubert Motion (Dkt No. 212); Rule 1006 (Improper Summaries).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	Summary slide, provided at Bratic's deposition, that Bratic will authenticate.	<b>Overruled.</b>
<b>PX367</b> Undated - Slide entitled "Reasonable Royalty Damages Due from Microsoft" <b>[No Bates]</b>	<p>Defs' Bratic Daubert Motion (Dkt No. 212); Rule 1006 (Improper Summaries).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	Summary slide, provided at Bratic's deposition, that Bratic will authenticate.	<b>Exhibit Withdrawn.</b>
<b>PX369</b> Undated - Presentation "XBox 360 Accessory Licensing" (Harmon Deposition, 11/01/2007, Ex. 235) <b>[MS-ANAS169880 - MS-ANAS00169890]</b>	<p><b><u>Overall and Foreign Sales/Profits:</u></b>            Defs' MIL Nos. 16-17 (Overall and Foreign Sales/Profits); Rule 403 (Prejudice, Confusion, Waste of Time).</p> <p><b><u>Pre-Suit Sales:</u></b>            Rule 403 (Prejudice, Confusion, Waste of Time) (as to portion of document showing pre-suit sales).</p>	Pre-suit sales show commercial success, does not show overall Microsoft company-wide sales, and does not call out foreign sales whatsoever. Shows importance of accessories to Microsoft, shows values of products and inventions.	<b>Exhibit Withdrawn.</b>
<b>PX371</b> 05/02/2000 Schedule 14A (Rule 14a-101), Information Required in Proxy Statement for Immersion Corporation; filed 06/06/2000 <b>[No</b>	Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted).	If Motion to Compel granted, would provide context to Immersion/Microsoft agreements.	<b>Sustained.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
<b>Bates]</b>			
<b>PX390</b> Undated - Memo from K. Lobb regarding Controller Questions [NCA00003775 - NCA00003776]	Rule 802 (Hearsay) (only if offered for truth of matters asserted).	Email from Nintendo employee. His comments to problems with the GameCube controller is evidence of teaching away from the patented invention, that is a relevant secondary consideration of obviousness.	<b>Overruled.</b>
<b>PX398</b> 3/16/2006 Presentation by RCB Capital Markets re: "Microsoft Corporation Battleground: Microsoft Marches On" (Bratic Report) [ <b>No Bates</b> ]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).  Rule 403 (Prejudice, Confusion, Waste of Time).	Offered to show the knowledge of the market and Defendants, not for the truth of the matter. Specifically, financial status of the Defendants as perceived in the market. Mr. Bratic is an expert under FRCP.	<b>Exhibit Withdrawn.</b>
<b>PX399</b> 11/12/2001 Presentation by HSBC re: "Nintendo, Heavenly rewards" (Bratic Report) [No Bates]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).	Offered to show the knowledge of the market and Defendants, not for the truth of the matter. Specifically, financial status of the Defendants as perceived in the market. Mr. Bratic is an expert under FRCP.	<b>Sustained.</b>
<b>PX400</b> 09/25/2006 Presentation by ARS Technical re: "Survey says: Gamers want rumble by Jeremy Reimer" (Bratic Report) [No Bates]	Duplicate of PX111 <b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay	Shows praise, shows importance of features in the patents, which is relevant to the hypothetical negotiation, shows how hardware affects popularity of consoles and games, shows Defendants' awareness of the same. There is no indication that	<b>Overruled.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	Opinion); Rule 901 (Authentication).	this was not based on personal knowledge, or is an improper lay opinion.	
<b>PX401</b> 12/17/2007 Report by Wedbush Morgan re: "Nintendo (7974.JP / NTDOY.US) Initiating Coverage With A BUY Rating and ¥78,000 Price Target" (Bratic Report) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Improper Lay Opinion); Rule 901 (Authentication).	Offered to show the knowledge of the market and Defendants, not for the truth of the matter. Specifically, financial status of the Defendants as perceived in the market. Mr. Bratic is an expert under FRCP.	<b>Sustained.</b>
<b>PX403</b> 07/26/2007 Website re: Financial Analyst Meeting 2007 by Robbie Bach (Bratic Report) [No Bates]	Rule 403 (Prejudice, Confusion, Waste of Time).	This are statements from a Microsoft employee regarding marketing and importance of various features associated with the Xbox. This is not unduly prejudicial.	<b>Exhibit Withdrawn.</b>
<b>PX404</b> 10/04/06 Website re: Column: High-stakes competition in video game industry leaves no room for mediocrity" by Rhian Hibner (Bratic Report) [No Bates]	<b>3<sup>rd</sup> Party Article:</b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).	Shows perception of competitiveness of the video game industry, which supports Anascape's secondary indicia of nonobviousness, as one participating in the marketplace would perceive the industry as being competitive, shows Defendants' knowledge of the same.	<b>Overruled.</b>
<b>PX420</b> Press Release (Global Devices 3D)	Rule 802 (Hearsay); Rule 901 (Authentication).	Anascape will authenticate this exhibit; the exhibit is not being offered to show the truth of the matter asserted therein, but rather to show that Global Devices, one of Mr. Armstrong's companies, held itself out to the public as being willing to license its technology (rebutts Defendants' "litigation	<b>Authenticate at trial.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
		only" characterization of Anascape)	
<b>PX421</b> 05/11/2002 Article: "Xbox Controller S Review" by Louis Bedigian from <i>Xbox News</i> [No Bates]	<b><u>3<sup>rd</sup> Party Article:</u></b> Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 602 (Lack of Personal Knowledge); Rule 701 (Opinion Testimony by Lay Witness); Rule 901 (Authentication).  <b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	Shows perception of Xbox products, shows Defendants' knowledge of the same, there is no indication of a lack of personal knowledge or an improper lay opinion.	<b>Exhibit Withdrawn.</b>
<b>PX430</b> 06/21/2002 Letter from K. Tyler to S. Quan re: '584, '891, 606 and '356 Microsoft does not infringe these patents [Tyler Ex. 143] [ANS0007854]	<b><u>Pre-Suit Interactions:</u></b> Defs' MIL No. 5 (Pre-suit Interactions); Rule 403 (Prejudice, Confusion, Waste of Time); Rule 802 (Hearsay) (only if offered for truth of matters asserted); Rule 901 (Authentication).	Anascape will authenticate this exhibit; exhibit is relevant to Microsoft's pre-suit knowledge of the '700 patent; exhibit shows that Anascape was interested in licensing its technology to Microsoft (non-hearsay purpose)	<b>Exhibit Withdrawn.</b>
<b>PX431</b> NOA Damages (Bratic Dep. Ex. 371)	<b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).  <b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	(Prejudice, Confusion, Waste of Time).		
<b>PX432</b> Microsoft Effective Royalty Rate on Royalty Base that Includes Controllers and Systems (Bratic Dep. Ex. 372)	<p><b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	<b>Exhibit Withdrawn.</b>
<b>PX433</b> Nintendo of America Effective Royalty Rate on Royalty Base that Includes Controllers and Systems (Bratic Dep. Ex. 373)	<p><b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	
<b>PX434</b> Corrected Ugone Scenario - Royalty Base (Bratic Dep. Ex. 374)	<p><b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).</p> <p><b><u>Undisclosed</u></b></p>	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	<b><u>Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).		
<b>PX435</b> Corrected Martinez Exhibit 5A (Bratic Dep. Ex. 375)	<b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).  <b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	<b>Exhibit Withdrawn.</b>
<b>PX436</b> Documents Relied Upon for Supplemental Exhibits (Bratic Dep. Ex. 376)	<b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).  <b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	
<b>PX438</b> Microsoft Damages (Bratic Dep. Ex. 378)	<b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	<b>Exhibit Withdrawn.</b>

Plaintiff's Trial Ex. No.	Defendants' Objections	Plaintiff's Response	Court's Ruling
	<p>contained with his report).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>		
<b>PX439</b> Imputed per Unit Royalty Rate (Dep. Ex. 379)	<p><b><u>Untimely Expert Report:</u></b> Rule 26; Scheduling Order; Defs' Upcoming Motion to Strike (opinions by Bratic not contained with his report).</p> <p><b><u>Undisclosed Document:</u></b> Local Rule CV-26 (Not Disclosed During Discovery); Rule 403 (Prejudice, Confusion, Waste of Time).</p>	Disclosed in Bratic's deposition; opposing counsel cross examined Bratic during deposition on this exhibit.	

Many of the objections were overruled because they were multifarious. The court is not going to dig through multiple objections looking for a good one. If there is no ruling, Defendant should make objections at trial if it wants to.

So **ORDERED** and **SIGNED** this **2** day of **May, 2008**.




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Ron Clark, United States District Judge