

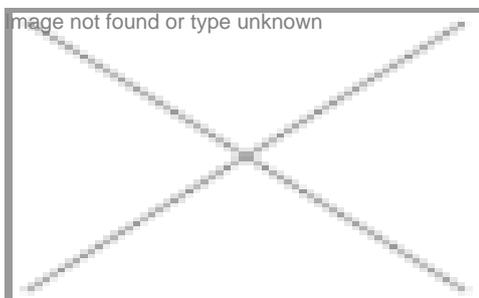


## Federal Circuit Reverses, Finds for Nintendo in Video Game Controller Patent Dispute with Anascape

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On April 13, the Federal Circuit reversed a 2008 Eastern District of Texas jury ruling in favor of plaintiff Anascape, LTD, wiping out a \$21 million judgment against defendant Nintendo of America, Inc. Anascape had accused Nintendo of infringing 12 patents covering video game controllers. Among the alleged infringing products were Nintendo's Wii Remote, Nunchuk, and Classic controllers, as well as two of its Gamecube controllers.

In 2008, an Eastern District of Texas jury found no infringement with respect to the Wii Remote and Wii Nunchuk, but held that the Wii Classic controller (pictured) and the two Gamecube controllers had indeed infringed claims of Anascape's U.S. Patent No. 6,906,700 ("the '700 patent"), a continuation-in-part of its U.S. Patent No. 6,222,525 ("the '525 patent"). Anascape was awarded a \$21 million judgment, and Nintendo was enjoined from selling its infringing controllers.



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On appeal, the Federal Circuit held that Anascape could not claim the benefit of the '525 patent's earlier filing date, as that patent was limited to "a single input member that operates in six degrees of freedom," whereas the broader specification of the '700 patent included "controllers having multiple input members that together operated in six degrees of freedom." Anascape argued that the '700 patent did not include new matter, but the Federal Circuit disagreed, stating that

[T]he changes [in the '700 patent] are extensive and substantive. A description can be broadened by removing limitations. The limitation to a single input member capable of movement in six degrees of freedom was removed, in filing the '700 application, and new claims were provided of commensurately broadened scope. This is classical new matter.

In other words, the '525 patent disclosure on its own could not support the claims of the '700 patent disclosure.

Because the '700 patent therefore was not entitled to the '525 patent's earlier filing date, and because Anascape conceded that defendant Nintendo had presented intervening prior art, in the form of two Sony controllers, that anticipated the '700 claims in question, the Federal Circuit held that the judgment against Nintendo must be reversed.

The full CAFC opinion is available [here](#).

Gamasutra has reported on Nintendo's victory [here](#).

Patent Hawk [has also blogged](#) about the decision.

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