

**PUBLIC FILING – REDACTED FOR  
CONFIDENTIALITY**



### **Prior Suspensions of this Proceeding**

2. This opposition proceeding was initiated by Hasbro in August 2005. For the majority of time since then, the opposition has been suspended.

3. A series of extensions of time and suspensions were requested on consent and granted – first for settlement discussions and then pending disposition of Hasbro v. MGA Entertainment, Inc., CA No. 06-262 S, in the United States District Court for the District of Rhode Island.

4. On August 4, 2006, March 5, 2007, and September 7, 2007, the Board granted suspensions that collectively suspended the proceedings through March 3, 2008, pending settlement negotiations.

5. Before the discovery period for those suspensions closed, the parties moved to suspend the proceeding pending final determination of the MGA case. That motion was granted on May 9, 2008. All of the above orders suspending proceedings are of record.

6. On October 22, 2008 Hasbro notified the Board that the MGA case was over and attached a copy of the final judgment in that action. A copy of that judgment is attached hereto as Exhibit 1.

### **Relevant Discovery from Applicant**

7. In March 2006, before the series of suspensions began, Hasbro served document requests and interrogatories on Creative Action. A copy of Hasbro's document requests is attached hereto as Exhibit 2; a copy of Hasbro's interrogatories is attached hereto as Exhibit 3. Document Request No. 1 called for production of two samples of Creative Action's product. Only one was finally produced on October 20, 2009, and only after Hasbro agreed to pay the retail price of \$399 for it.

8. Hasbro first noticed the deposition of Dr. Ronni Sterns for June 9, 2006. A copy of the deposition notice is attached hereto as Exhibit 4. Because of the many suspensions in this proceeding, as well as stalling by Creative Action, she was not produced for deposition until October 20, 2009. It was at that deposition that Hasbro's counsel was finally able to view a sample of the Memory Magic product.

9. Creative Action and Hasbro agreed to a Stipulation And Order for Protection and Confidentiality in this proceeding, which was signed by the parties on June 5, 2006, and accepted by the Board noted the protective order on June 8, 2006, and is therefore of record.

10. A copy of the transcript of the deposition of Dr. Ronni Sterns is attached hereto as Exhibit 5. It is the only part of this Declaration that needs to be filed under seal.

11. Counsel for Creative Action exercised his right under Section 3 of the confidentiality order to designate the entire deposition transcript "Confidential" for 20 days after receipt of the transcript. This prohibits us as counsel from discussing the contents of Dr. Sterns' deposition with Hasbro's business people, but I can represent to the Board that the information disclosed about the Memory Magic product is likely to lead to a dramatic change in the focus of this proceeding from an opposition based on likelihood of confusion to one based on Section 18 of the Lanham Act, 15 U.S.C. § 1068, to correct and limit the description in the application to the actual product.

**The Document Request Creative Action Seeks to Compel**

Creative Action seeks to compel Hasbro to produce documents in response to an extremely broad request for

All documents that relate to any inter partes proceedings or litigation in which the [sic] Hasbro has been or is involved that

refers to or relates to the mark MEMORY, other than the instant proceeding, including, but not limited to, pleadings, discovery documents, documents, depositions, and transcripts relating to such proceedings or litigation.

Hasbro responded as follows:

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce publicly filed documents, if any, from inter partes proceedings or litigation in which the Hasbro has been or is involved over the right to use the MEMORY® trademark.

A copy of Hasbro's Response to Applicant's First Request for Production of Documents and Things is attached hereto as Exhibit 6.

12. Hasbro's counsel later wrote to Creative Action's counsel offering to produce the documents in the public files provided that Creative Action agreed to pay for the copying. A copy of that letter is attached hereto as Exhibit 7. Creative Action never responded to that offer.

**The Onerous Nature of the Document Request at Issue**

13. Hasbro has sued twice for infringement of its MEMORY mark.

14. The first suit was Hasbro, Inc. v. Kellogg Company et ano., 03 Civ. 3645 (LAP), in the Southern District of New York. That case was settled and voluntarily withdrawn by Hasbro pursuant to a confidential agreement in June 2003.

15. The second suit was Hasbro, Inc. v. MGA Entertainment, Inc., C.A. No. 06-262 S, in the District of Rhode Island.

16. Since Hasbro served its discovery responses, another TTAB inter partes proceeding involving the MEMORY mark was commenced. That proceeding is Hasbro v. Bold Well Industrial, Inc., Opposition Number 91189834. It is in the process of settlement.

17. To retrieve and produce all the documents from prior litigation would be daunting. Documents relating to the MGA case alone include, but are not limited to, hundreds of emails and other documents protected by the attorney-client and work-product doctrine; more than 500 documents, totaling more than 50,000 pages, exchanged by the parties during discovery; more than 200 trial exhibits and demonstratives; more than 35 motions, many of which are under seal; 17 deposition transcripts and video recordings, with more than 100 associated exhibits; transcripts from seven days of evidentiary hearings that Court ordered placed under seal; reports and related documents from seven different experts.

18. A large portion of those documents were marked Confidential or Confidential – Outside Counsel Only pursuant to the protective order in the MGA case. Such documents may not be produced to anyone not specified in the protective order and may only be used in that litigation. Accordingly, to produce them here would violate the district court's protective order. A copy of that protective order is attached hereto as Exhibit 8.

**Information About Memory Magic from Creative Action's Website**

19. Creative Action's website advertises Memory Magic as a therapeutic product. A printout from Creative Action's website is attached hereto as Exhibit 9.

20. Creative Action's website links to a document listing the diagnostic codes for which Memory Magic is reimbursable under Medicare and Medicaid. The link appears under the heading "Therapeutic Benefits & ICD9 Codes for Reimbursement," on page 1 of Exhibit 9.

A copy of this document, obtained through the link on Creative Action's website, is attached hereto as Exhibit 10.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 5, 2009, in New York, New York.



Kim J. Landsman

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

----- X  
HASBRO, INC., :  
 :  
 : Plaintiff, :  
 : C.A. No. 06-262S  
 : - against - :  
 :  
 MGA ENTERTAINMENT, INC., :  
 :  
 : Defendant. :  
 :  
----- X

**FINAL JUDGMENT**

Plaintiff Hasbro, Inc. ("Hasbro") and Defendant MGA Entertainment, Inc. ("MGA"), by their respective undersigned attorneys of record and their duly empowered officers, stipulate and agree that final judgment shall be entered in favor of Hasbro and against MGA as follows:

1. This Court has jurisdiction over the parties and over the claims asserted by Hasbro and the counterclaims asserted by MGA. Venue of this action properly lies in the District of Rhode Island.
2. This Court hereby vacates its Memorandum and Decision dated July 31, 2007, denying Hasbro's motion for a preliminary injunction. As noted in that decision, Hasbro might have at trial successfully negated MGA's attempts to prove genericness and ultimately establish its infringement claim.
3. Hasbro and MGA waive findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, except as set forth herein.

4. This Final Judgment may be entered without costs or attorneys fees as to either party and without further notice.

5. Hasbro and MGA agree not to appeal from this Final Judgment, and not to attack the validity of this Final Judgment or any provision thereof in any collateral or subsequent proceeding.

6. Hasbro is the owner of the valid, subsisting Registration Nos. 834,282 and 2,894,970 for the trademark MEMORY® for board games in the United States Patent and Trademark Office.

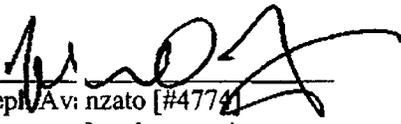
7. MGA's counterclaims filed in this action are dismissed with prejudice.

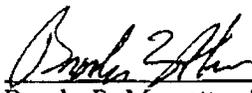
8. Pursuant to Fed. R. Civ. P. 65 and 15 U.S.C. § 1116, MGA is permanently enjoined from using the term "memory" as all or part of the name of a game, except pursuant to license from Ravensburger AG.

9. This shall constitute the final judgment in this matter, which will be closed, but the Court retains jurisdiction over the parties and this action to implement and enforce this Final Judgment.

10. The following docket entries in the Court record shall be sealed: Docket Nos. 24, 25, 26, 27, 28, 29, 33, 34, 37, 38, 39, 40, 44, 45, 46, 47, 48, 50, 53, 55, 63, 64, 65, 66, 69, 70, 71, 72, 73, 75, 76, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 104, 106, 110, 111, 112, 113, 114, 115, 116, 121, 124, 126, 128, 129, 130, and 133.

Dated: October 2, 2008

  
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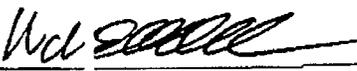
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IT IS SO ORDERED on October 2, 2008.

  
Honorable William E. Smith  
United States District Judge

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# EXHIBIT 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/359,895  
Filed: January 30, 2004  
For the Mark: MEMORY MAGIC in International Class 28  
Published in the Official Gazette: May 10, 2005 at TM 330

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HASBRO, INC.,

Opposer,

v.

CREATIVE ACTION, LLC,

Applicant.  
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Opposition No. 91/166,487

**OPPOSER'S FIRST SET OF REQUESTS TO APPLICANT  
FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer Hasbro, Inc. ("Opposer"), by its attorneys of record, Patterson Belknap Webb & Tyler LLP, hereby requests that, within 30 days, Applicant Creative Action, LLC ("Applicant"), produce at the offices of Patterson Belknap Webb & Tyler LLP, 1133 Avenue of the Americas, New York, New York 10036, the following documents and things in Applicant's or its affiliates', agents', or representatives' possession, custody or control for inspection and copying.

**DEFINITIONS AND INSTRUCTIONS**

A. "Applicant" shall refer to Creative Action, LLC and to any and all affiliates, agents, representatives, employees, attorneys, accountants, and all the persons or

entities acting or purporting to act on Creative Action, LLC's behalf or under its control, or any one of the foregoing.

B. The term "person" is defined as any natural person or any business, corporation, partnership, legal or governmental entity or association.

C. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

D. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a) and Trademark Rule 2.120, including but not limited to any written, graphic or recorded material of any kind or nature, whether drafts, originals or non-identical copies (including without limitation, audio or video tapes, cartridges, graphic matter, computer tape, computer discs or any other computer retrievable form, records of telephone messages, appointment calendars, etc.), regardless of origin.

E. The term "communication" shall mean oral, written and electronic communications (including but not limited to e-mail), as well as any note, memorandum or other record thereof.

F. The following rules of construction apply:

- (1) The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside the scope.
- (2) The use of the singular form of any word includes the plural and vice versa.

G. As to each document (or portion thereof) that Applicant declines to produce on the ground of privilege, Applicant shall provide the following information:

- (1) the type of document, e.g., letter or memorandum;
- (2) the general subject matter of the document;
- (3) the date of the document;
- (4) the author(s) of the document;
- (5) the name of each person to whom such document was addressed, given or sent, or who received such document or a copy thereof and the relationship of the author(s), addressee(s), and recipient(s) to each other;
- (6) the identity of each person having possession, custody or control of such document, or a copy thereof; and
- (7) the nature of the privilege claimed.

H. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, Applicant has a continuing duty to furnish additional and supplemental documents and responses as and where such further documents and responses become known or available between the time of the initial response thereunder and the time of the hearing or trial in this proceeding.

#### **DOCUMENTS AND THINGS REQUESTED**

1. Two samples of each and every actual or intended good or service by Applicant in the United States that bears the MEMORY MAGIC mark.
2. All documents concerning the conception, selection or decision by Applicant to use or register the MEMORY MAGIC mark, including, but not limited to, documents concerning any other names contemplated or considered, any trademark search(es)

conducted, and any comments or opinions concerning whether the mark was available or registrable, and whether anyone else had used or might have rights to the MEMORY MAGIC mark.

3. All documents concerning the decision to register or not register the MEMORY MAGIC mark.

4. All documents concerning any registration or application for registration or other attempt to protect the MEMORY MAGIC mark.

5. All documents concerning the circumstances under which the Applicant first learned or became aware of Opposer's use of its MEMORY® mark.

6. All documents concerning the actual or intended date of first use of Applicant's MEMORY MAGIC mark and, if different, the first use in commerce in the United States of Applicant's MEMORY MAGIC mark.

7. All documents setting forth, referring or relating to any business, marketing or media plans or the like prepared by or for Applicant referring or relating to any service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark.

8. All documents or things concerning Applicant's actual or intended sale, provision, distribution, marketing, advertising or promotion of each and every actual or intended good or service using, adopting or affiliated with the MEMORY MAGIC mark.

9. Samples of all the correspondence, advertisements, promotional or marketing materials, documents and things sufficient to show the cost, placement and nature of Applicant's advertising, marketing, client or consumer relations and public relations related to its MEMORY MAGIC mark.

10. Copies of any advertisements, website, promotional or marketing

materials relating to any products or services bearing, using, adopting or affiliated with Applicant's "MEMORY MAGIC" mark.

11. Documents sufficient to identify the channels of trade in the United States through which good(s) or service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark have been or will be sold or provided.

12. Documents sufficient to identify the geographic area in the United States in which good(s) or service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark have been or will be sold or provided.

13. Documents sufficient to identify the demographics of actual or intended clients and consumers for good(s) or service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark.

14. Documents sufficient to show by quarter the sales or anticipated sales and gross revenues, net revenues and revenues for each year of every actual or intended good(s) or service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark.

15. All documents concerning any actual or intended licensing or assignment arrangement between Applicant and any person concerning the use of the MEMORY MAGIC mark in the United States or elsewhere, including, but not limited to, any proposals, inquiries and/or requests by any third party in securing a license or assignment of the MEMORY MAGIC mark.

16. All documents concerning any mention by the media in the United States of Applicant's MEMORY MAGIC mark or any service(s) bearing, using, adopting or affiliated with the MEMORY MAGIC mark.

17. All documents concerning clients' or consumers' awareness of or perceptions concerning the MEMORY MAGIC mark in the United States, including but not limited to client or consumer research, studies, surveys, analysis, business plans, focus groups or market research concerning the sale, provision or marketing of any service(s) bearing the MEMORY MAGIC mark.

18. All documents that set forth, refer or relate to any actual or potential confusion or likelihood of confusion between Applicant, its affiliated businesses or partnerships, or its MEMORY MAGIC mark and Opposer or its MEMORY® mark, including but not limited to, all documents concerning letters or other communications from Applicant's agents, attorneys, affiliates, consultants, or other advisors, or actual or potential clients or consumers, evidencing actual or potential confusion or likelihood of confusion or referring to Opposer's MEMORY® mark.

19. All documents that refer or relate to Opposer or its MEMORY® mark.

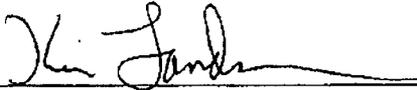
20. All documents relating to the prosecution of Applicant's application for MEMORY MAGIC, Serial No. 78/359,895, or any other application in the United States or elsewhere for MEMORY MAGIC.

21. All documents that support the contention in paragraph 31 of Applicant's Response to Notice of Opposition that Opposer's MEMORY® marks are incapable of functioning as trademarks for matching (or recall) card games.

22. All documents that support the contention in paragraph 32 of Applicant's Response to Notice of Opposition that Opposer's MEMORY® marks do not have significance as trademarks and have been abandoned.

Dated: New York, New York  
March 3, 2006

PATTERSON BELKNAP WEBB & TYLER LLP

By: 

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Michael D. Sant'Ambrogio

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*Attorneys for Opposer Hasbro, Inc.*

# EXHIBIT 3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/359,895  
Filed: January 30, 2004  
For the Mark: MEMORY MAGIC in International Class 28  
Published in the Official Gazette: May 10, 2005 at TM 330

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HASBRO, INC.,

Opposer,

v.

CREATIVE ACTION, LLC,

Applicant.  
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Opposition No. 91/166,4870

**OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer Hasbro, Inc. ("Opposer"), by its attorneys of record, Patterson Belknap Webb & Tyler LLP, hereby requests that, within 30 days, Applicant Creative Action, LLC ("Applicant") answer the following interrogatories in writing under oath.

**DEFINITIONS AND INSTRUCTIONS**

A. "Applicant" shall refer to Creative Action, LLC and to any and all agents, representatives, employees, attorneys, accountants, and all the persons or entities acting or purporting to act on Creative Action, LLC's behalf or under its control, or any one of the foregoing.

B. The term "person" is defined as any natural person or any business, corporation, partnership, legal or governmental entity or association.

C. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

D. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a) and Trademark Rule 2.120, including but not limited to any written, graphic or recorded material of any kind or nature, whether drafts, originals or non-identical copies (including without limitation, audio or video tapes, cartridges, graphic matter, computer tape, computer discs or any other computer retrievable form, records of telephone messages, appointment calendars, etc.), regardless of origin.

E. The term "communication" shall mean both oral, written and electronic communications, as well as any note, memorandum or other record thereof.

F. The term "identify" shall mean:

- (1) when referring to a person, to give the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person; and
- (2) with respect to documents, to give, to the extent known, the type of document, general subject matter, date of the document and author(s), addressee(s) and recipient(s).

G. In responding to these interrogatories, Applicant may, in lieu of identifying any document, attach a copy of the document as an exhibit to its answers to these interrogatories or produce the document for inspection and copying as if requested pursuant to Rule 34 of the Federal Rules of Civil Procedure. To the extent that a document does not constitute the complete and full answer to any interrogatory, a narrative answer supplementing the document designation shall be supplied.

H. The following rules of construction apply:

- (1) The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside the scope.
- (2) The use of the singular form of any word includes the plural and vice versa.

I. As to each document (or portion thereof) that Applicant declines to produce on the ground of privilege, Applicant shall provide the following information:

- (1) the type of document, e.g., letter or memorandum;
- (2) the general subject matter of the document;
- (3) the date of the document;
- (4) the author(s) of the document;
- (5) the name of each person to whom such document was addressed, given or sent, or who received such document or a copy thereof and the relationship of the author(s), addressee(s) and recipient(s) to each other;

- (6) the identity of each person having possession, custody or control of such document, or a copy thereof; and
- (7) the nature of the privilege claimed.

J. As to each oral communication Applicant declines to divulge on the ground of privilege, Applicant shall provide the following information:

- (1) the name of the person making the communication and the names of the persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication;
- (2) the date and place of the communication;
- (3) the general subject matter of the communication; and
- (4) the nature of the privilege claimed.

K. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, Applicant has a continuing duty to furnish additional and supplemental documents and responses as and where such further documents and responses become known or available between the time of the initial response thereunder and the time of the hearing or trial in this proceeding.

#### **INTERROGATORIES**

1. Identify separately for each category listed below the persons, including without limitation Applicant, Applicant's agents, businesses, partnerships, employees and those of Applicant's advisors, consultants, advertising agencies, public relations firms and marketing consultants, most knowledgeable about:

- a. the date and circumstances of Applicant's intended or actual first use of the MEMORY MAGIC mark, both generally and in the commerce of the United States;

- b. the decision to adopt, use, register, or not register the MEMORY MAGIC mark in the United States;
- c. Applicant's actual or intended use of the MEMORY MAGIC mark, including but not limited to, the nature of the goods or services that the MEMORY MAGIC mark is used in connection with or intended to be used in connection with by Applicant;
- d. any actual confusion or likelihood of confusion between Applicant's MEMORY MAGIC mark and Opposer's MEMORY® mark;
- e. the channels of trade for Applicant's actual or intended services bearing the MEMORY MAGIC mark;
- f. the demographics of clients or consumers for actual or intended services in the United States bearing the MEMORY MAGIC mark;
- g. the actual or anticipated revenues, sales, client or consumer relations, public relations, marketing, advertising and promotion in connection with Applicant's actual or intended services bearing the MEMORY MAGIC mark, and
- h. the printed books, magazines, journals, newsletters, computer software, business papers, brochures, seminar, workshop and conference-related materials, business, marketing or media plans and any and all other materials used in connection with Applicant's actual or intended services bearing, using, adopting or affiliated with the MEMORY MAGIC mark.

2. Identify all actual or intended goods or services to be provided, marketed or sold in the United States that the MEMORY MAGIC mark has been used or is intended to be used in connection therewith, and for each such good or service identified:

- a. identify the date and circumstances of actual or intended first use and, if different, the date and circumstance of first use in commerce in the United States;
- b. state Applicant's total annual revenues for such good or service by gross revenue, net revenue and revenue for each year the good or service was provided, or projections of total annual revenue for each year the good or service is intended to be provided;
- c. identify the geographic area(s) in which the good or service has been or is intended to be provided;
- d. identify the channels of trade through which the good or service has been or will be provided and identify any corporations, businesses, partnerships, persons or third-parties that are affiliated with or facilitate the good or service provided by Applicant;
- e. identify the actual or intended class of clients or consumers to which the good or service has been or is intended to be provided;
- f. identify all media by either name of network or television station, radio station, magazine, publication, newsletter, website(s) or newspaper in which advertising or marketing has occurred for the good or service;
- g. state separately for each calendar year the actual or intended expenditures or value of advertising, promotion, marketing, client or consumer relations, and public relations related to the good or service;
- h. identify any actual or intended licensing arrangement concerning the good or service between the Applicant and any person;
- i. identify any mention by the media of the good or service; and
- j. identify all partnerships, persons, businesses, and their respective owners, agents and employees that (1) use, adopt, are affiliated with, or license the mark

MEMORY MAGIC, or (2) are affiliated with any other partnerships, persons, or businesses using, adopting or licensing the mark MEMORY MAGIC.

3. Identify the persons principally involved in the conception, selection, development, use and adoption of the MEMORY MAGIC mark used in connection with Applicant's actual or intended good(s) or service(s) in every country throughout the world and, with respect to each person so identified, identify what role each played in conceiving, selecting, developing, using and adopting the mark.

4. State whether Applicant received an opinion concerning the availability for use, risk of liability arising out of use or intended use, and registrability of the MEMORY MAGIC mark in the United States and, if so, identify: (a) the date on which the opinion was rendered; (b) the person rendering the opinion; (c) the person receiving such opinion; and (d) all documents reflecting or referring to such opinion.

5. State: (a) the date when Applicant first acquired knowledge of Opposer's MEMORY® mark; (b) how such knowledge was acquired; and (c) the identity of the person who first acquired such knowledge.

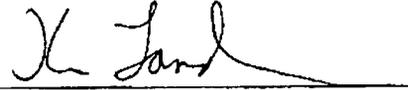
6. Identify each person who has inquired about, commented upon, or contacted Applicant regarding the source or sponsorship of any service bearing the MEMORY MAGIC mark or Opposer's MEMORY® mark.

7. Identify each person who has conducted a survey, market research study, poll, or investigation concerning confusion or potential confusion or likelihood of confusion between Applicant's good(s) or service(s) bearing the MEMORY MAGIC mark and Opposer's products bearing Opposer's MEMORY® mark.

8. Identify, by registration number or application serial number, each foreign or United States federal or state registration or application for trademark registration filed by or issued in the name of Applicant, or assigned or licensed to Applicant, for the MEMORY MAGIC mark.

Dated: New York, New York  
March 3, 2006

PATTERSON BELKNAP WEBB & TYLER LLP

By: 

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*Attorneys for Opposer Hasbro, Inc.*

# EXHIBIT 4

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/359,895  
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Opposer,

v.

CREATIVE ACTION, LLC,

Applicant.  
-----

Opposition No. 91/166,4870

**NOTICE OF VIDEOTAPED  
DEPOSITION**

To: Wayne D. Porter Jr., Esq.  
Rankin Hill Porter & Clark LLP  
925 Euclid Avenue, Suite 700  
Cleveland, OH 44115

Attorneys for Applicant Creative Action, LLC

**PLEASE TAKE NOTICE** that, pursuant to Fed. R. Civ. P. 30 and 37 C.F.R. 2.123, Opposer Hasbro, Inc. ("Hasbro") will take the deposition of Ronni S. Sterns, President of Applicant, Creative Action, LLC ("Applicant") commencing on June 9, 2006, at 9:00 a.m., and continuing thereafter until completed, at a location mutually agreed by counsel for the parties or ordered by the Board, before a Notary Public or other officer duly authorized to administer oaths, to be recorded by stenographic means and by videotape.

Hasbro reserves the right to adjourn the deposition if Applicant has not completed its production of documents and things sufficiently in advance of the deposition.

Dated: New York, New York  
May 8, 2006

PATTERSON BELKNAP WEBB & TYLER LLP

By: 

Kim J. Landsman

Michael D. Sant'Ambrogio

1133 Avenue of the Americas

New York, New York 10036-6710

(212) 336-2000

*Attorneys for Opposer Hasbro, Inc.*

# EXHIBIT 5

**Redacted for Confidentiality - Filed Under Separate Cover.**

# EXHIBIT 6

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/359,895  
Filed: January 30, 2004  
For the Mark: MEMORY MAGIC in International Class 28  
Published in the Official Gazette: May 10, 2005 at TM 330

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HASBRO, INC.,

Opposer,

v.

CREATIVE ACTION, LLC,

Applicant.  
-----

Opposition No. 91/166,487

**OPPOSER'S RESPONSE TO APPLICANT'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant 37 C.F.R. § 2.120 and Rules 26 and 34 of the Federal Rules of Civil Procedure, Opposer Hasbro, Inc. ("Hasbro"), by its attorneys of record, Patterson Belknap Webb & Tyler LLP, hereby responds to Applicant's First Request For Production of Documents and Things to Hasbro, Inc. ("Applicant's Requests"):

**GENERAL OBJECTIONS**

1. Hasbro objects to Applicant's Requests to the extent they seek to impose obligations in addition to or different from those embodied in the Federal Rules of Civil Procedure and the Trademark Rules of Practice. Hasbro further objects to Applicant's Requests to the extent that they purport to give words meanings that are inconsistent with their normal

usage so as to constitute an unreasonable expansion of the Requests, cause confusion, or place undue burden on Hasbro.

2. Hasbro objects to each request to the extent it seeks information protected from discovery by the attorney-client, work product, or other applicable privileges. The provision of any response herein is not and cannot be deemed a waiver of such or any other privilege. Hasbro will produce a privilege log for each responsive document that is withheld on the grounds of the aforementioned privileges. Hasbro will not place on the privilege log any communications between Hasbro and Hasbro's principal outside counsel because disclosing the subject matter of such communications would inherently invade the attorney-client and work-product privileges. Any inadvertent disclosures of such information shall not be deemed a waiver of any privilege or protection with respect to such information.

3. Hasbro objects to each request to the extent it seeks confidential or proprietary business or financial information or trade secrets of any kind without a suitable protective order agreed to by the parties or ordered by the Board.

4. An agreement to produce documents in response to any request should not be construed as a representation that such documents exist, only that a good faith search for responsive documents will be undertaken.

5. Hasbro's production of any documents or things in response to any request does not constitute a waiver of any objection which Hasbro may have to the admissibility, authenticity, competency, or relevance of the materials produced. For any and all materials produced in response to each request, Hasbro reserves all objections or other questions regarding the competency, relevance, materiality, privilege or admissibility of such documents as evidence in this suit or any other proceeding, action, or trial.

6. Hasbro objects to the requests to the extent that they are duplicative of other requests within the same set. Hasbro will not produce multiple copies of documents or things that are responsive to more than one request.

7. Hasbro objects to the requests to the extent that they are overbroad and unduly burdensome, oppressive, seek information irrelevant to the subject matter of this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to the requests to the extent that they seek production of "all" documents and materials related to a particular individual, transaction, or event. Such requests are palpably overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

8. Hasbro objects to Applicant's Requests to the extent that they fail to set a reasonable and relevant time period covering the documents for which the requests seek production. Because Hasbro has used the MEMORY® mark for more than 40 years, such requests are palpably overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

9. The responses herein are based on Hasbro's current knowledge and belief, and Hasbro reserves the right to supplement, amend, modify or correct these responses should additional information become available.

10. Each of the Objections and Response set forth herein is based on Hasbro's understanding of the requests. Many of Applicant's requests are vague and ambiguous. Such requests necessarily require interpretation by Hasbro in providing answers thereto. Such interpretation by Hasbro may, in some or all cases, be different from that which Applicant intended. To the extent that Applicant asserts an interpretation of any request that is inconsistent

with Hasbro's understanding, Hasbro reserves the right to supplement its objections and responses.

11. Hasbro objects to the definitions to the extent that they purport to require Hasbro to answer on behalf of its predecessors. Hasbro can only answer as to the knowledge of its employees.

All responses herein are made on an express reservation of the General Objections set forth above and any specific objections set forth below.

### **DOCUMENT REQUESTS**

#### **Document Request No. 1.**

All documents identified or described in Creative Action LLC's First Interrogatories to Hasbro, Inc.

#### **RESPONSE**

Applicant did not identify or describe any documents in its First Interrogatories to Hasbro. Therefore, there is no document to be produced.

#### **Document Request No. 2.**

All documents that relate to any answer or response that was given by Hasbro or that should have been given by Hasbro in response to Creative Action LLC's First Set of Interrogatories to Hasbro, Inc.

#### **RESPONSE**

Hasbro objects to this request as vague and ambiguous, overbroad and unduly burdensome, hypothetical, and seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

#### **Document Request No. 3.**

All documents that Hasbro referred to or relied on to prepare the Notice of Opposition and its answers to Creative Action's counterclaims herein.

**RESPONSE**

Hasbro objects to this request to the extent it seeks information inherently invasive of the attorney work-product privilege. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce copies of documents identified in its Notice of Opposition and its Answer to Counterclaims, if any.

**Document Request No. 4.**

All documents that relate to the creation, selection, and adoption of the mark MEMORY by Hasbro for each of the products and services with which they are used.

**RESPONSE**

Hasbro objects to this request as overbroad and unduly burdensome inasmuch as it seeks "all" documents that relate to the creation of a mark that has been used by Hasbro for more than 40 years on numerous products. Subject to and without waiving the foregoing and the General Objections, Hasbro responds as follows: No documents will be produced specifically in response to this request; however, documents that fall within the scope of this request may be produced in response to other requests.

**Document Request No. 5.**

All documents that relate to the first sale of each type of product by Hasbro using the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad and unduly burdensome inasmuch as it seeks "all" documents that relate to a mark that has been used by Hasbro for more than 40 years on numerous products. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce representative, responsive, relevant non-privileged documents, if any.

**Document Request No. 6.**

All documents that relate to the first sale of each type of product by Hasbro using the mark MEMORY in interstate commerce.

**RESPONSE**

Hasbro objects to this request as overbroad and unduly burdensome inasmuch as it seeks "all" documents that relate to a mark that has been used by Hasbro for more than 40 years on numerous products. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce representative, responsive, relevant non-privileged documents, if any.

**Document Request No. 7.**

All documents by which continuous use of the mark MEMORY may be established since the date it was first used.

**RESPONSE**

Hasbro objects to this request as overbroad and unduly burdensome inasmuch as it seeks "all" documents that relate to the "continuous use" of a mark that has been used by Hasbro for more than 40 years on numerous products and has achieved incontestable status. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce responsive, relevant non-privileged documents sufficient to identify Hasbro's continuous use of the MEMORY® mark, if any.

**Document Request No. 8.**

Representative sample photographs that show how the mark MEMORY is affixed by Hasbro to the products and services with which they are used.

**RESPONSE**

Hasbro objects to this request as overbroad and unduly burdensome. Subject to and without waiving the foregoing and the General Objections, Hasbro will make available to Applicant for inspection and photographing at the offices of Hasbro's counsel, Patterson Belknap

Webb & Tyler LLP, representative samples of products currently in Hasbro's product line using the MEMORY® mark.

**Document Request No. 9.**

All documents that comprise advertising or promotional material that advertises or promotes Hasbro's products and services identified by the mark MEMORY, including advertising, promotional literature, catalogues, brochures, and the like.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests, and as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing, Hasbro will produce responsive, relevant, non-confidential, non-privileged documents, if any, sufficient to show how Hasbro has advertised and promoted the MEMORY® brand.

**Document Request No. 10.**

All documents that relate to the intended sale of any of Hasbro's products and services identified by the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, vague and ambiguous, duplicative of other requests, and as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to this request to the extent that it seeks confidential business information, proprietary information, or trade secrets of Hasbro. Inasmuch as Hasbro has in fact used the MEMORY® mark for over forty years, its intention to use it is a moot point.

**Document Request No. 11.**

All documents that establish Hasbro's advertising and promotional expenditures under the mark MEMORY.

**RESPONSE**

Hasbro objects to this Request as overbroad, unduly burdensome, vague and ambiguous, duplicative of other requests, and as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to this request to the extent that it seeks confidential business information, proprietary information, or trade secrets of Hasbro. Subject to and without waiving the foregoing, and subject to a suitable protective order, Hasbro will produce summary documents sufficient to show its advertising and promotional expenditures in connection with the MEMORY® mark for a reasonable prior period.

**Document Request No. 12.**

All documents that establish Hasbro's gross revenue from sales of products and services under the mark MEMORY.

**RESPONSE**

Hasbro objects to this Request as overbroad, unduly burdensome, vague and ambiguous, duplicative of other requests, and as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to this request to the extent that it seeks confidential business information, proprietary information, or trade secrets of Hasbro. Subject to and without waiving the foregoing, and subject to a suitable protective order, Hasbro will produce summary documents sufficient to show its revenue from sales of products using the MEMORY® mark for a reasonable prior period.

**Document Request No. 13.**

All documents that establish Hasbro's profits from sales of profits and services under the mark MEMORY.

**RESPONSE**

Hasbro objects to this Request as overbroad, unduly burdensome, vague and ambiguous, duplicative of other requests, and as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to this request to the extent that it seeks confidential business information, proprietary information, or trade secrets of Hasbro. Subject to and without waiving the foregoing, and subject to a suitable protective order, Hasbro will produce summary documents sufficient to show its revenues from sales of products using the MEMORY® mark for a reasonable prior period.

**Document Request No. 14.**

All documents that comprise, relate, or refer to all trademark searches that Hasbro has conducted or has knowledge of pertaining to the mark MEMORY, or to any name or mark comprised, in whole or in part, or pertaining to the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, and vague and ambiguous. Hasbro further objects to this request to the extent it seeks information protected by the attorney-client privilege, attorney work product, or other privilege.

**Document Request No. 15.**

All documents that relate to or comprise any applications filed by Hasbro to register the mark MEMORY or any variation thereof with any governmental agency, including the United States and any of the several states thereof, or any foreign country.

**RESPONSE**

Hasbro objects to this request as overly broad, unduly burdensome, duplicative of other requests, and irrelevant to the extent that it seeks information concerning any trademark registrations other than those before the U.S. Patent and Trademark Office. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege. Subject to and without waiving the foregoing and the

General Objections, Hasbro will produce responsive, relevant, non-privileged, non-confidential documents, if any, concerning United States federal trademark registrations.

**Document Request No. 16.**

All documents that relate to any change in ownership of the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce any documents constituting or effecting a transfer of ownership of rights in the MEMORY trademark.

**Document Request No. 17.**

All documents that relate to any license agreement involving the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege, and to the extent it seeks confidential business information, proprietary information, or trade secrets of Hasbro.

Subject to and without waiving the foregoing and the General Objections, and subject to a suitable protective order, Hasbro will produce copies of any license agreements for a reasonable prior period.

**Document Request No. 18.**

All documents that relate to any permission granted by Hasbro or any other party to use the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege, and to the extent it seeks confidential business information, proprietary information, or trade secrets of Hasbro.

Subject to and without waiving the foregoing and the General Objections, and subject to a suitable protective order, Hasbro will produce responsive, relevant, non-privileged documents for a reasonable prior period.

**Document Request No. 19.**

All documents that relate to any alterations or changes made to the mark MEMORY by Hasbro.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests, and irrelevant. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce permissions to use, if any, for a reasonable prior period.

**Document Request No. 20.**

All documents that relate to any use by parties other than Hasbro of the mark MEMORY or any other mark similar thereto, as a name or as a trademark or service mark, in connection with any goods or services.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests, and irrelevant. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege.

**Document Request No. 21.**

All advertising or promotional material that advertises or promotes products and services sold by others that compete with products and services sold by Hasbro using the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, and seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

**Document Request No. 22.**

All documents that relate to any inter partes proceedings or litigation in which the Hasbro has been or is involved that refers to or relates to the mark MEMORY, other than the instant proceeding, including, but not limited to, pleadings, discovery documents, documents, depositions, and transcripts relating to such proceedings or litigation.

**RESPONSE**

Hasbro objects to this request as overbroad, unduly burdensome, duplicative of other requests, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce publicly filed documents, if any, from inter partes proceedings or litigation in which the Hasbro has been or is involved over the right to use the MEMORY® trademark.

**Document Request No. 23.**

All documents that comprise, relate, or refer to surveys, consumer reaction tests, or market research that Hasbro has conducted or of which Hasbro has knowledge that in any way relate to the channels of trade through which any of Hasbro's products and services using the mark MEMORY are sold or distributed or to the nature of the ultimate users who purchase or are expected to purchase Hasbro's products and services under the mark MEMORY.

**RESPONSE**

Hasbro objects to this request as vague and ambiguous, overbroad, unduly burdensome, duplicative of other requests, irrelevant, and not reasonably calculated to lead to the

discovery of admissible evidence. The channels of trade for Hasbro's MEMORY® game and the target demographic for it are obvious and not subject to reasonable dispute.

**Document Request No. 24.**

All documents that comprise advertising or promotional material that advertises or promotes Creative Action's products offered for sale or sold under the mark MEMORY MAGIC.

**RESPONSE**

Hasbro objects to this request as unduly burdensome because such documents should already be in the possession of -- indeed have been generated by -- Applicant.

**Document Request No. 25.**

All documents that relate or refer to any instances of actual confusion, or instances that indicate or suggest a likelihood of confusion between Creative Action's goods and services and Hasbro's goods and services.

**RESPONSE**

Hasbro objects to this request as vague and ambiguous, overbroad, unduly burdensome, and duplicative of other requests. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce responsive, relevant, non-privileged documents, if any.

**Document Request No. 26.**

To the extent not produced previously, all documents that relate or refer to Creative Action or to its products or services.

**RESPONSE**

Hasbro objects to this request as overbroad and duplicative of other requests. Hasbro further objects to the extent the request seeks information protected by the attorney-client privilege, attorney work product, or other privilege. Subject to and without waiving the foregoing and the General Objections, Hasbro will produce responsive, relevant, non-privileged documents, if any.

**Document Request No. 27.**

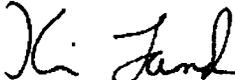
To the extent not produced previously, all documents that Hasbro intends to rely on to support its position in the present proceeding.

**RESPONSE**

Hasbro objects to this request as inherently invasive of the attorney-client privilege, attorney work product, or other privilege. Hasbro further objects to this request as premature because discovery is ongoing and the documents that Hasbro intends to rely on to support its position may change. At an appropriate, agreed-upon time, or as ordered by the Board, Hasbro will exchange with Applicant the information required by the Federal Rules and the Trademark Rules of Practice.

Dated: New York, New York  
April 14, 2006

PATTERSON BELKNAP WEBB & TYLER LLP

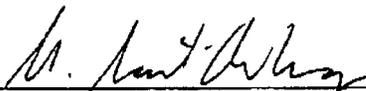
By:   
Kim J. Landsman  
Michael D. Sant'Ambrogio  
1133 Avenue of the Americas  
New York, New York 10036-6710  
(212) 336-2000

*Attorneys for Opposer Hasbro, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **OPPOSER'S RESPONSE TO APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS** was served by First Class Mail this 14<sup>th</sup> day of April, 2006 on counsel for the Applicant:

Wayne D. Porter Jr., Esq.  
Rankin Hill Porter & Clark LLP  
925 Euclid Avenue, Suite 700  
Cleveland, OH 44115

  
Michael D. Sant'Ambrogio

# EXHIBIT 7

# Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas New York, NY 10036-6710 212.336.2000 fax 212.336.2222 www.pbwt.com

June 4, 2009

By E-Mail

Kim J. Landsman  
Partner  
(212) 336-2980  
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Wayne D. Porter, Jr.  
Law Offices of Wayne D. Porter, Jr.  
1370 Ontario Street, Suite 600  
Cleveland, OH 44113

Re: Hasbro v. Creative Action LLC (Opp. No. 91,166,487)

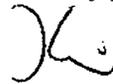
Dear Wayne:

I write in response to your email dated May 22, 2009. Hasbro is willing to produce all publicly available documents associated with Hasbro Inc. v. MGA Entertainment, Inc., Docket No. CA-06-262S (D.R.L.) as long as Creative Action agrees to pay for the expense of copying those documents. Once you have confirmed that, we will produce them promptly. Hasbro will not produce any documents that are under seal because they are not public and are subject to a confidentiality order.

Please also let me know when Creative Action will be providing its responses to Hasbro's interrogatories 2b and 2g.

Finally, as previously noticed, Hasbro intends to depose Ronni S. Sterns. I assume you will want to have her deposed in Cleveland, but please confirm. Please also provide a range of dates when Ms. Sterns will be available for deposition.

Sincerely yours,



Kim J. Landsman

# EXHIBIT 8

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

----- x

HASBRO, INC., :

Plaintiff, :

v. :

MGA ENTERTAINMENT, INC., :

Defendant. :

-----

MGA ENTERTAINMENT, INC., :

Counterclaimant, :

v. :

HASBRO, INC., :

Counterclaim-Defendant. :

----- x

CA No. 06-262 S

**STIPULATION AND PROTECTIVE ORDER GOVERNING  
CONFIDENTIALITY OF CERTAIN DISCOVERY MATERIAL**

The Parties, through their respective counsel, have agreed that it would serve their interests to conduct certain discovery in this action under a protective order pursuant to Fed. R. Civ. P. 26(c), and that certain discovery is likely to involve confidential business information. Therefore, the undersigned parties agree, and this Court orders, as follows:

1. Any party to this action, as well as any person or entity having to respond to discovery propounded in this action, who provides discovery testimony, documents, tangible things, or information (whether by producing documents, answering interrogatories, responding to requests for admission, providing testimony at a deposition, or through some other discovery device) (hereinafter "Discovery Material(s)"), or who serves or files any papers in this action containing Discovery Materials, may designate such Discovery Materials as either "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" pursuant to the procedures hereinafter set forth. Any such designation shall constitute a representation by the person making the designation, and by his, her, or its counsel, that he, she, or it has a good faith belief that the Discovery Material so designated contains or constitutes: trade secrets, confidential research, development, and/or confidential commercial information, as defined in Fed. R. Civ. P. 26(c)(7). Any party to this action may designate any Discovery Materials produced by any non-party as "CONFIDENTIAL" in accordance with the requirements of this Paragraph 1, if such party reasonably believes that they contain information that is confidential to the designating party.

2. Any party to this action, as well as any person or entity having to respond to discovery propounded in this action, may designate more limited types of Discovery Materials as "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" if they: (a) satisfy the requirements for a confidentiality designation set forth in Paragraph 1, above, and (b) contain or constitute

confidential information that is especially sensitive such that, given its nature, if disclosed to inside counsel (who are permitted to see information designated "CONFIDENTIAL", pursuant to Paragraph 12(a)(ii), below, but are not permitted to see information designated "CONFIDENTIAL - OUTSIDE COUNSEL ONLY", pursuant to Paragraph 13, below) could reasonably surrender a competitive advantage, disclose trade secrets, or foster a competitive disadvantage, including, but not limited to, disclosing confidential licensing agreement terms and the parties' negotiations with Marvel. Any party may designate any Discovery Materials as CONFIDENTIAL - OUTSIDE COUNSEL ONLY that are produced by a non-party in accordance with the requirements of this Paragraph 2, if such party reasonably believes that they contain information that is properly designated CONFIDENTIAL - OUTSIDE COUNSEL ONLY by the designating party.

3. Discovery Materials shall not be designated as either CONFIDENTIAL or CONFIDENTIAL - OUTSIDE COUNSEL ONLY if (a) they are, or become, public knowledge, as shown by publicly available writings, other than through a violation of terms of this Stipulation and Protective Order, an unlawful act, or a violation of any other obligation of confidentiality; or (b) they are acquired from a non-party in lawful possession of such information and under no obligation to the owner of the information contained in the Discovery Materials to keep it confidential, unless the non-party producing the information invokes the protections of this Stipulation and Protective Order because, even though such Discovery Materials might be in that non-party's possession lawfully and under no confidentiality obligation on his, her, or its part, someone from whom that non-party obtained those Discovery Materials, or someone before that person, did *not* obtain or disclose it lawfully, or obtained or disclosed it in violation of a confidentiality obligation.

4. The person producing Discovery materials desiring to make a confidentiality designation shall label or mark all Discovery Materials, including all pages therein, that he, she, or it wishes to so designate with the legend "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" on the face thereof, as well as on every page thereof, at or before the time of disclosure to someone other than the designating person. Inadvertent failure to so mark such materials shall not be deemed to be a waiver and the parties agree to act in good faith to correct this by thereafter making the inadvertently omitted designation on all copies of the materials from which the designation was inadvertently omitted.

5. As to depositions upon oral examination, the testimony of the witness shall be deemed designated CONFIDENTIAL, or, if counsel so states during the deposition, CONFIDENTIAL - OUTSIDE COUNSEL ONLY, until the expiration of ten (10) court days after the receipt by counsel for the deponent of a copy of the deposition transcript. Within that 10-court day period, the deponent's counsel shall then designate in writing to other counsel of record the specific pages and lines of the certified transcript that are designated as CONFIDENTIAL or CONFIDENTIAL - OUTSIDE COUNSEL ONLY. If no such designations are made within that time period, the entire transcript shall be non-confidential.

6. Any confidentiality designation of documents and other information shall be made prior to the inspection of such documents or other information by the receiving party by affixing to every page containing designated confidential information a stamp bearing the words "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" in a location that makes the designation readily apparent. The confidentiality designation may also be affixed to any documents generated in the course of this litigation, including portions of briefs, memoranda or any other writings filed with the Court, that contain or reveal any Discovery Materials that

have been so designated. Inadvertent failure to so mark such materials shall not be deemed to be a waiver and the parties agree to act in good faith to correct this by thereafter making the inadvertently omitted designation on all copies of the materials from which the designation was inadvertently omitted.

0. A party shall have the right to make a confidentiality designation for documents called for by a subpoena to a third party, in cases where the documents were in the possession of the third party pursuant to a confidentiality agreement, *provided* notice of such designation is made to the third party, and copied to the other Party, within fourteen (14) days of production of the documents to the requesting party or its counsel.

0. Unless otherwise ordered by the Court, all Discovery Materials bearing a confidentiality designation shall be used by the parties solely for the purpose of this litigation and for pursuing or defending legal rights relating to this litigation, and not for any other purpose, including, but not limited to, use in any business or commercial enterprise. In the event that the receiving party makes copies of any Discovery Materials designated confidential, all such copies shall bear the same legend as the originals from which such copies were made.

0. If documents marked with a Confidentiality Designation are called for in a subpoena by someone who is not a party to this action, the receiving party to whom the subpoena is directed shall give written notice thereof to each party that has designated the documents as confidential as soon as possible in order to provide each such designating party with an opportunity to object to the production of such documents in response to the subpoena and serve and file a motion to quash the subpoena, as necessary. The party receiving such a subpoena shall reasonably cooperate in such efforts by the party objecting to the production of such documents

in response to the subpoena.. Nothing in this Stipulation and Protective Order shall require a party to violate an obligation imposed by a governmental agency or court, or the rules thereof.

10. Notwithstanding anything in this Stipulation and Protective Order to the contrary, the designation of materials as CONFIDENTIAL or CONFIDENTIAL-OUTSIDE COUNSEL ONLY shall not prevent a party from taking discovery from any entity or individual identified in such material.

11. The term "Independent Expert" means any person with whom a Party may deem it necessary to consult concerning technical, financial, or other aspects of this case for the preparation or trial thereof, *provided* such person is not an employee of a Party or someone reasonably deemed to be a competitor of a Party.

12. Except with the prior written consent of the producing party or upon prior order of the Court obtained upon noticed motion, Discovery Materials designated as "CONFIDENTIAL" shall be shown, delivered or disclosed *only* to:

(a) (i) Outside counsel of record, (ii) in-house counsel to the parties, and (iii) the respective administrative staffs of such outside and in-house counsel (*e.g.*, legal assistants and clerical and secretarial employees of such counsel assigned to assist in the conduct of this litigation);

(b) Employees of any professional photocopy service or other outside litigation support service utilized by counsel in the conduct of this litigation, *provided* that all such persons first complete the Undertaking attached hereto as EXHIBIT A;

(c) Any author or recipient of the designated Discovery Materials, or any employee of the party that produced such designated Discovery Materials;

(d) The Court and any persons employed by the Court whose duties require access to such material;

(e) Any (i) Independent Expert, and (ii) his or her secretarial and clerical staff needing to access such information in order to assist the Independent Expert, retained by counsel to assist in the conduct of this action or to testify at trial or any other proceeding in this action, *provided* the documents disclosed pertain to the expected consultancy or testimony of the Independent Expert and the Independent Expert and his or her secretarial and clerical staff identified above first complete the Undertaking attached hereto as **EXHIBIT A**; and

(f) Deposition court reporters and other persons involved in recording deposition testimony in this action by any means, *provided* all such persons are first put on notice at any deposition of the existence of this Protective Order and informed that they will be bound by their obligations as court reporters to keep confidential anything confidential learned during the deposition.

13. Access to Discovery Materials designated **CONFIDENTIAL - OUTSIDE COUNSEL ONLY** shall be disclosed *only* to the persons specified in Paragraphs 12(b)-(f), above, and to outside counsel of record in this action described in Paragraph 12(a)(i), above, and the respective administrative staffs (e.g., legal assistants, and clerical and secretarial employees of such counsel assigned to assist in the conduct of this litigation) of such outside counsel, *but not to any in-house counsel of the parties or the administrative staffs of such in-house counsel.*

14. In the event a party desires to include any Discovery Materials designated **CONFIDENTIAL** or **CONFIDENTIAL-OUTSIDE COUNSEL ONLY** in, or as an attachment or exhibit to any document to be filed or lodged with either the Court or the Clerk during this

action, the party proposing to file or lodge such Discovery Materials shall comply with LR Gen. 102-01 to seek to obtain an order that maintains the confidentiality of such Discovery Materials as, for example, by filing or lodging them under seal. The designating party shall reasonably cooperate with the party desiring to so file or lodge Discovery Materials under seal, in order to maintain the confidentiality of such Discovery Materials.

15. When a party wishes to include Discovery Materials in a document to be filed or lodged with the Court that contain designated confidential information, but that designated information is not relevant to the purpose for which the filing or lodging is being made, the party desiring such filing or lodging may, in lieu of the procedures set forth in Paragraph 14, file a redacted copy of the writing that deletes the confidential information. In that event, the redaction must be indicated by placing the designation "CONFIDENTIAL INFORMATION REDACTED", or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY INFORMATION REDACTED", as may be appropriate, in the place(s) on the document where the confidential material would have appeared.

16. If a producing party inadvertently produces any Discovery Materials properly entitled to a confidentiality designation without marking it with the appropriate legend, the producing party may give written notice to the receiving party, including appropriately designated and stamped copies of the Discovery Material, that the document or information will thereafter be treated as such in accordance with the provisions of this Protective Order. Upon notification of the confidentiality designation of the document or other information, the receiving party shall use its reasonable best efforts to collect all copies of the inadvertently produced Discovery Materials from persons not entitled to see such Discovery Materials had it been properly designated and to treat it thereafter as if it had received a timely confidentiality

designation pursuant to this Protective Order, and shall substitute, as necessary, the appropriately designated pages. If the receiving party is subject to excessive costs or burden in connection with undertaking to comply with this Paragraph 16, then the producing party shall reimburse the receiving party for the reasonable expenses incurred in connection therewith. In no event shall the inadvertent disclosure by the producing party of documents or other information without the appropriate confidentiality designation legend be deemed to be a waiver in whole or in part of the producing party's claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto or on the same or a related subject.

17. Neither the provisions of this Protective Order nor the filing of any information under seal shall prevent the use, in open court, at any hearing or at trial of this case, of any material that is subject to this Protective Order or filed under seal pursuant to its provisions. The Parties shall meet and confer concerning appropriate methods for dealing with material bearing a confidentiality designation pursuant to this Protective Order at hearings and at trial, and shall cooperate to ensure that as little such information as possible is used in open court.

18. Unless and until otherwise ordered by the Court or agreed to in writing by the Parties, all material with a confidentiality designation pursuant to this Protective Order shall be treated in accordance with its designation and shall not be disclosed except under the terms of this Protective Order.

(a) In the event either Party objects to the designation of any Discovery Material, such Party may, in writing, request the designating party to remove or change the designation. Such written request shall specifically identify the Discovery Materials at issue.

(b) The designating party shall respond in writing within ten (10) court days of receipt of the written request, or within such other period of time as may be designated by order of the Court or agreed to by the parties. If the designating party refuses to remove or change the designation as requested, its written response shall state the reasons for this refusal. Notwithstanding the foregoing, failure to provide a timely written response shall be deemed a refusal of the request.

( ) If a confidentiality designation is challenged, the designating party shall bear the burden of establishing under the Federal Rules of Civil Procedure that the Discovery Materials are entitled to the confidential treatment claimed.

19. This Protective Order shall not constitute a waiver of either Party's rights under the Federal Rules of Civil Procedure or the Local Rules of this Court.

20. Any inadvertent production of Discovery Materials containing privileged information shall not be deemed to be a waiver of the attorney-client privilege, work product doctrine or any other applicable privilege or doctrine. Each Party specifically reserves the right to demand the return of any privileged Discovery Materials that it may produce inadvertently during discovery if the Party determines that such Discovery Materials contain privileged information. Any such inadvertently produced privileged information shall be destroyed and cannot thereafter be used for any purpose.

21. No later than sixty (60) days after the final adjudication of this action, including any appeals, and upon written request by a designating party, all materials that are not in the possession of outside counsel of record that have been designated "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" pursuant to this Protective Order shall be returned to the designating party or shall be destroyed, unless a motion seeking modification of

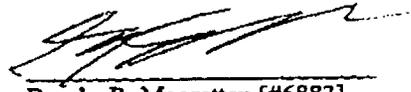
this Protective Order is filed. In the event that such materials are destroyed, the person(s) responsible for such destruction shall certify in writing to the completion and manner of destruction. Notwithstanding anything herein that may be deemed to the contrary, each party's outside counsel of record may retain copies of all pleadings and briefs, deposition, hearing and trial transcripts and exhibits, court rulings, decisions or orders, and correspondence maintained in their respective litigation files in the ordinary course of business; and nothing herein shall require the parties' outside counsel of record to purge or destroy any electronic files. This Protective Order shall have ongoing applicability to any and all materials maintained in such outside counsel's litigation files.

22. Nothing in this Protective Order shall limit any producing party's use of its own documents.

23. The Court retains jurisdiction to make such amendments, modifications and additions to this Protective Order as it may from time to time deem appropriate. Either Party may make a request to the Court for any reasonable amendment to this Protective Order to facilitate the efficient and appropriate handling of Confidential information.

Dated: July 28, 2006

  
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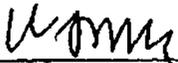
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SO ORDERED:

DATED: July \_\_, 2006

  
\_\_\_\_\_  
Honorable William E. Smith  
United States District Judge

7/31/06

Exhibit A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

-----	X	
HASBRO, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
MGA ENTERTAINMENT, INC.,	:	
	:	
Defendant.	:	
-----	:	
MGA ENTERTAINMENT, INC.,	:	CA No. 06-262 S
	:	
Counterclaimant,	:	
	:	
v.	:	
HASBRO, INC.,	:	
	:	
Counterclaim-Defendant.	:	
-----	X	

**UNDERTAKING**

I, \_\_\_\_\_, hereby certify that I have read the Stipulation and Protective Order Governing Confidentiality Of Certain Material (the "Protective Order") entered in the above-captioned case on July \_\_\_\_, 2006, and that I understand the terms, conditions and restrictions it imposes on any person given access to material or information designated "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY"

pursuant to that Protective Order. I recognize that I am bound by the terms of that Protective Order, and I agree to comply with its terms.

I will not disclose any materials, documents, information, or communications that have been designated "CONFIDENTIAL" or "CONFIDENTIAL – OUTSIDE COUNSEL ONLY" in this lawsuit to anyone other than persons specifically authorized by Paragraphs 12 and 13 of the Protective Order, and I agree to return all such materials that come into my possession to counsel from whom I received such materials upon request by that counsel or upon the conclusion of my involvement in this lawsuit, whichever occurs first. I hereby consent to be subject to the personal jurisdiction of the United States District Court for the District of Rhode Island with respect to any proceedings relative to the enforcement of the Protective Order and my obligations thereunder, including any proceeding related to contempt of Court.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Undertaking is executed this \_\_\_\_ day of

\_\_\_\_\_ 200\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Employer/Business

\_\_\_\_\_  
Job Title/Description

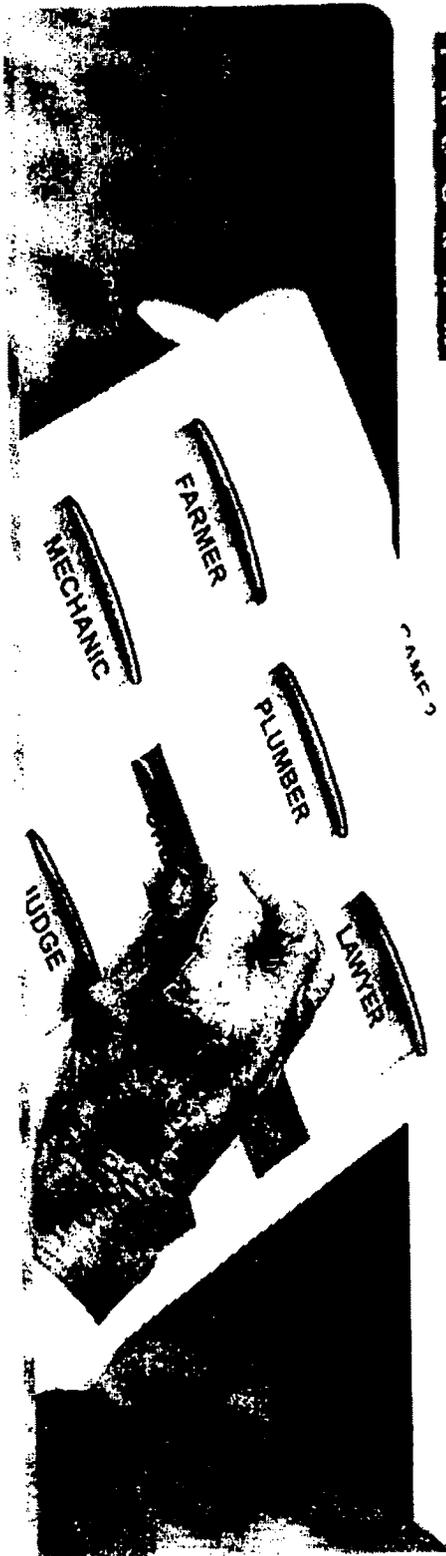
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# EXHIBIT 9

# Memory Magic™

PROGRAM

[:: DETAILS](#) [:: BENEFITS](#) [:: VIDEOS](#) [:: ARTICLES](#) [:: TRAINING](#) [:: PURCHASE](#) [:: CONTACT](#)



## FEATURED TESTIMONIALS

"The Memory Magic Program is very versatile. You can do it different ways each time, depending on the questions you ask. You can make up your own questions. You can get a lot of different responses from residents who ordinarily don't respond or don't participate or fall asleep. With Memory Magic they don't do that. They are

## Memory Magic PDF Articles

### Therapeutic Benefits & ICD9 Codes for Reimbursement Sheet

8/1/2009,

Provides an overview of benefits to residents and their families, staff, administrators and managers, and therapy staff. We provide a comprehensive list of ICD9 codes that allow reimbursement when providing therapies for residents with a wide variety of diagnoses. PDF Article: [ Reimbursement Codes ]

more involved."

**Activity Director, Skilled  
Nursing  
Shippenville, PA**

more testimonials...

## FEATURED CLIENTS



**Arden Courts**  
*Alzheimer's Assisted Living*

Arden Courts

customer list...

email this page to a friend

## Ontario Long Term Care Association Newsletter

04/02/2009, Deron Hamel

Providing residents with social and emotional benefits

The Ontario Long Term Care Association reports that the Memory Magic Program is providing residents with social and emotional benefits. The program promotes all-around success for residents, says therapist Gail Jones of Alexander Place. She is using the Memory Magic™ Program as a key element in their Cognitive Retention Therapy.

PDF Article: [ OLTCA Article ]

## Gerontechnology: Proceedings of the International Gerontechnology Society, Pisa, Italy

June 2008, Anthony Sterns, Harvey Sterns, and Ronni Sterns

Human factors design of a group activity for people with dementia

Memory Magic™ was developed as a group activity for persons with dementia. Using Montessori principles and human factors research, we designed the activity to successfully engage individuals with varying levels of cognitive and physical ability. The design process began with testing of a number of design parameters to determine which design structure was most ergonomically sound and would best accommodate visual and perceptual deficits common to aging and dementia. As a result of the pilot testing, a prototype design for the activity was developed and 15 models were constructed. The models were then tested in long term care, adult day care, and assisted living settings. Results indicate that Memory Magic™ elicited more positive engagement, improved affect, and a reduction of negative behaviors in 24 participants.

PDF Article: [ Gerontechnology: Proceedings of the IGS, Pisa, Italy ]

## **McKnight's Long-Term Care News**

April 2008, *McKnight's*

### **Memory enhancement**

The Memory Magic Program is a therapeutic, Montessori-based memory game that engages people with a wide range of cognitive abilities. It uses lifelong habits and skills to promote long-term memory, reading, social interaction, positive emotions and motor skills. It also has been shown to help reduce disruptive behavior.

PDF Article: [ McKnight's Vol. 29 No. 4 ]

### **Advance for LPN**

March 26, 2007, *Nick Schaefer*

**Beyond Bingo, residents at some LTC facilities are playing "Mind Games" to improve their cognitive ability.**

While some facility administrators are turning to technology to help improve their residents' cognitive health, others are sticking to a more traditional activity to meet this goal. Janet Mullen, Division Director of Quality of Life of Golden Living (formerly Beverly) is working to implement The Memory Magic Program across the country. "The game is a great activity for residents of all cognitive abilities. Residents with dementia often have problematic behavior such as wandering and agitation because they are bored," Mullen explained. "Memory Magic gives patients who are prone to these behaviors something to do to keep them busy while also helping to improve their memory."

PDF Article: [ Advance for LPN Vol. 7 No. 3 ]

### **Creative Forecasting**

February 2006, *Pegi Schils, CTRS, ACC*

#### **Resource Spotlight: The Memory Magic™ Program**

Memory Magic™ Program is an innovative, therapeutic program that combines trivia with reminiscence. This product was developed to provide an interesting and entertaining activity for people with memory problems. Memory Magic™ Program is a game that is played by an individual or a group of up to 20 people. An activity professional can engage a group for up to 60 minutes. Memory Magic™ Program is a well-designed product that can be used easily by staff and volunteers. It is versatile and a successful activity for people with memory problems that will get a lot of use. It is well constructed that will ensure use for many years.

PDF Article: [ Creative Forecasting Vol. 18 No. 2 ]

#### **Akron Beacon Journal - "Mind Games"**

Tue, Sep. 21, 2004, *By Cheryl Powell*

**'Bingo with words' game developed in Akron tested nationwide as aid to Alzheimer's patients**

Beacon Journal medical writer Cheryl Powell reports: Alzheimer's disease is a cruel intruder that unrelentingly takes over a person's brain and steals memories and skills, bit by agonizing bit. Routine daily activities become struggles. Loved ones turn into strangers. But a local company has developed a program to let people with Alzheimer's and related forms of dementia use and enjoy the skills they have left in a social setting.

PDF Article: [ Akron Beacon Journal Article ]

#### **Gerontechnology: Proceedings of the International Gerontechnology**

**Society, Nagoya, Japan**

May 2005, *Anthony Stems, Ronni Stems, Harvey Stems, and Vincent Antenucci*

**A low-tech intervention and therapy for large groups of persons with dementia**

The Memory Magic concept (copyrighted, patent pending) is an innovative, engaging activity for an individual or a group of 10 to 20 or more persons with cognitive disabilities in both institutional and home care settings. A single activity staffer can run the activity leaving other staff to complete other tasks. One hundred persons with dementia were observed in 3 states and in each of 3 different care settings; skilled nursing (including general populations and memory care units), adult day care, and assisted living. At least three observations playing Memory Magic and three observations playing a comparable activity were completed for each participant. MMSE and WRAT-3 scores were also collected. Engagement was measured using the Menorah Park Engagement Scale (Camp, 2002). The game was shown to be significantly more effective for constructively engaging people with dementia in all three settings.

PDF Article: [ Gerontechnology: Proceedings of the IGS, Nagoya, Japan ]

### **Press Release**

February 14, 2006, *Vice Pres. of Marketing, Creative Action LLC*

**National Institute on Aging study finds unique therapeutic activity produces dramatic results for people with dementia.**

- Study shows Memory Magic™ Activity stimulates elderly in nursing homes and adult day care centers to socialize, share memories, and smile- and it's also the highest rated activity of caregivers.
- Results prompt nation's largest long-term care provider, Beverly Healthcare, to initiate implementation of the activity nation-wide.

PDF Article: [ FOR IMMEDIATE RELEASE ]

### **Resident Care Products Magazine**

March/April 2008, *RCP Magazine*

### Group activity program

Creative Action's Memory Magic therapeutic program uses life-long habits and skills to promote long-term memory, reading, speaking, social interaction, positive emotions, and fine and gross motor skills. The program can reduce disruptive behavior while engaging groups of 10 to 20 residents for up to one hour. Each Memory Magic set includes 10 therapy boards, 40 card inserts, and 240 calling cards for the activity leader, all of which can be sanitized.

PDF Article: [ Resident Care Products Vol. 2 No. 2 ]



Creative Action is a world-class leader in research, development and marketing of products and services to improve lives and to meet social and health needs. Products and services emphasize enhancing function and quality of life for older adults, the disabled, consumers, workers, families and communities.

441 Wolf Ledges Pkwy, Suite 100, Akron, OH 44311 :: toll free 1-877-281-6336 :: tel 330-867-9978 :: [CreativeactionLLC.com](http://CreativeactionLLC.com)

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# **EXHIBIT 10**

# Memory Magic™ PROGRAM

## Comprehensive Therapeutic Intervention

### Residents & their families

- Person-centered
- Promotes use of cognitive abilities
- Promotes the use of fine and gross motor skills
- Stimulates social interaction
- Increases levels of engagement
- Increases positive emotions
- Reduces disruptive behavior
- Family members and volunteers easily connect or reminisce



### Staff

- Improves job satisfaction
- Enhances efficiency
- Reduces staff care demand load
- Can be used with one resident or groups of 20+
- No pieces to lose or hoard
- Quick setup time
- Sanitizable
- Keeps participants involved for one hour or more



### Administrators & Managers

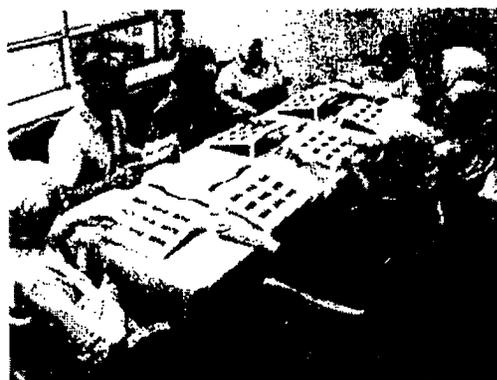
- Can be used successfully in a range of healthcare settings or throughout the facility
- Meets new Federal Guidelines for F-TAGs 248 & 249 activities & programming
- Achieves quality compliance
- Increases Medicare & Medicaid reimbursement levels
  - With RAI Manual Restorative Nursing Communication Codes
  - Using ICD-9 Codes for ST & OT Rehabilitation Therapy

#### Speech

- Symbolic Dysfunction
- Cognitive Impairment
- Dementia
- Expressive Aphasia
- Speech & Hearing Training
- Psychosocial - social deficits, depression
- Recall ability

#### Occupational

- Dexterity
- Hand Eye Coordination



## ***Reimbursable when providing therapies for residents with these diagnoses***

Symbolic dysfunction .....	784.6
Mild cognitive impairment .....	331.83
Altered mental status .....	780.97
Cerebral degeneration .....	331.0-331.9
Change in mental status .....	780.97
Cognitive deficits following (late effects of) cerebral hemorrhage or infarction .....	438.0
Cognitive impairment due to intracranial or head injury .....	850-854, 959.01
Cognitive impairment due to late effect of intracranial injury .....	907.0
Dementia .....	290.0-290.43, 294.8
Mild memory disturbance .....	310.8
Neurologic neglect syndrome .....	781.8
Personality change, nonpsychotic .....	310.1
Alcohol-induced persisting dementia .....	291.2
Presenile dementia .....	290.1
Vascular dementia with delirium .....	290.41
Senile dementia with delirium .....	290.3
Vascular dementia with delusions .....	290.42
Other frontotemporal dementia .....	331.19
Dementia with Lewy bodies .....	331.82
Vascular dementia .....	290.4
Presenile dementia with delirium .....	290.11
Presenile dementia with delusional features .....	290.12
Presenile dementia with depressive features .....	290.13
Vascular dementia .....	290.40
Vascular dementia with depressed mood .....	290.43
Other persistent mental disorders due to conditions classified elsewhere .....	294.8
Senile dementia with delusional features .....	290.20
Dementia in conditions classified elsewhere without behavioral disturbance .....	294.10
Transient mental disorders due to conditions classified elsewhere .....	293
Frontotemporal dementia .....	331.1
Senile dementia with depressive features .....	290.21
Drug-induced persisting dementia .....	292.82
Parkinson's disease .....	332
General paresis .....	094.1
Dementia in conditions classified elsewhere with behavioral disturbance .....	294.11
Other cerebral degenerations .....	331
Expressive aphasia .....	438.11
Expressive language disorder .....	315.31
Aphasia .....	784.3
Aphasia .....	438.11
Mixed receptive-expressive language disorder .....	315.32
Other speech disturbance .....	784.5
Speech therapy .....	V57.3
Speech and language deficits .....	438.1
Other speech and language deficits .....	438.19
Social maladjustment .....	V62.4
Transient ischemic attack .....	V12.54
Late effects of cerebrovascular disease .....	438

**Confidential Document**  
**Hasbro v. Creative Action LLC, Opposition No.**  
**91/166,487**