

STARTS ON SIDE "B" OF TDK TAPE<sup>1</sup> AT 162

TELEPHONE CONVERSATION BETWEEN JOHN DONOVAN AND  
DAVID PATTON (NINTENDO) AT AROUND 9.45AM FRIDAY 18 JUNE

18 June 73  
P231

DON: DAVID PATTON

PAT: SPEAKING

DON: HELLO DAVID ITS JOHN DONOVAN OF DON MARKETING

PAT: HY THERE

DON: HY. YOU MAY RECALL OUR DISCUSSIONS AND THE PROPOSAL WE  
PUT FORWARD FOR SHELL FOR A NINTENDO THEMED GAME

PAT: THATS RIGHT YEAW

DON: I MUST SAY THIS MORNING SEEING THE NEWSPAPERS, I'M  
ABSOLUTELY STAGGERED THAT SHELL ARE NOW RUNNING A  
PROMOTION WITH AN INSTANT WIN GAME WITH A PRIZE HIDDEN  
ON EVERY CARD

PAT: YEP

DON: WITH A GAMEBOY AS A PRINCIPLE PRIZE

PAT: RIGHT

DON: EXACTLY THE ELEMENTS WE SUGGESTED THERE'S EVEN A LINE  
FROM OUR PROPOSAL USED IN THIS COPY FOR THE AD. I JUST  
WONDERED WHAT YOUR COMMENTS WERE ON IT

PAT: ERR ABOLUTELY NO COMMENT WHATSOEVER. THE PROPOSALS  
WERE'NT LIFTED FROM YOUR IDEAS WHATSOEVER ITS QUITE A  
COMMON THEME MECHANIC. AN INSTANT WIN MECHANIC. I FEEL  
THERE'S ABSOLUTELY NO REFLECTION WHATSOEVER IN YOUR  
PROPOSALS WITHIN THE ACTUAL SHELL PROMOTION

DON: WHAT, THE FACT THAT ITS AN INSTANT WIN GAME WITH A  
PRIZE ON EVERY CARD, THAT IT HAS A NINTENDO THEME, THAT  
GAMEBOYS ARE THE PRINCIPLE PRIZE ... THAT YOU DON'T

PAT: IT'S A COMMON THREAD AN INSTANT WIN SCRATCH CARD UM AND  
NO CONCERN WHATSOEVER. THE PROPOSAL WAS TAKEN UP BY  
SHELL NOT BY US

DON: YOU SAY THAT THE PROPOSAL WAS TAKEN UP BY SHELL

PAT: YEAH

DON: SO WHAT HAPPENED THEY CONTACTED YOU DID THEY

PAT: WE ER HAVE A PROMOTIONS AGENCY THAT WORKS ON OUR BEHALF.  
BUT IN NO WAY WHATSOEVER WERE YOUR IDEAS EVEN TAKEN ON  
BOARD. I CAN BARELY REMEMBER WHAT YOUR IDEAS WERE.

DON: WELL THEY WERE PUT FORWARD TO YOU UNDER THE COVER OF STRICTEST CONFIDENTIALITY. YOU MUST HAVE A COPY OF THAT PROPOSAL.

PAT: WE PROBABLY HAVE GOT A COPY, IT HASN'T BEEN CONSIDERED AT ALL.

DON: I TOLD YOU AT THE TIME THAT ANDREW LAZENBY TURNED THE PROPOSAL DOWN AT THE TIME BECAUSE HE SAID IT WAS TOO CHILD ORIENTATED. WELL IN FEBRUARY OF THIS YEAR, 19TH FEBRUARY, I FAXED A LETTER TO HIM SUGGESTING THAT HE LOOK AT THAT PROPOSAL AGAIN

PAT: GREAT, WELL OUR CONTACT HASN'T EVEN BEEN ANDREW LAZENBY SO ...

DON: NO WELL HE'S THE NATIONAL PROMOTIONS MANAGER SO HE'S OBVIOUSLY VERY MUCH INVOLVED IN IT

PAT: RIGHT

DON: AND HE FAXED BACK TO ME SAYING THAT HE WOULD LOOK AT IT AND BE BACK IN CONTACT WHEN THERE IS ANY FURTHER PROGRESS. WITHIN A MATTER OF WEEKS THIS PROMOTION IS THEN BEING PREPARED

PAT: I SUGGEST YOU SPEAK TO ANDREW LAZENBY ABOUT IT. I HAVEN'T EVEN SPOKEN TO HIM ABOUT THE PROPOSAL UM WE GET 30 40, 50 PROPOSALS THROUGH A WEEK. YOUR PROPOSAL HASN'T BEEN TAKEN UP AT ALL. I DON'T BELIEVE THAT ANY OF IT WHATSOEVER HAS BEEN PLAGUERISED AND CERTAINLY HASN'T BEEN USED AS A REFERENCE DOCUMENT WHATSOEVER.

DON: SO YOU HAVEN'T YOURSELF SPOKEN TO ANDREW LAZENBY.

PAT: NO CONTACT WITH ANDREW LAZENBY WHATSOEVER.

DON: RIGHT, OKAY HE SEEMS VERY FAMILIAR WITH YOU BECAUSE I'VE JUST BEEN TALKING TO HIM FOR THREE QUARTERS OF AN HOUR.

PAT: SPEAK TO ANDREW LAZENBY AND ASK HIM AT WHAT POINT EVER HE HAS SPOKEN TO ME OUR CONTACT HAS NOT BEEN THROUGH ANDREW LAZENBY.

DON: RIGHT

PAT: I DON'T RECALL HIM, CERTAINLY IF HE HAS GIVEN THAT IMPRESSION THEN I CAN BE CONCERNED ABOUT THAT

DON: LET'S PUT IT THIS WAY HE WAS VERY FAMILAR WITH YOU WITH YOUR NAME

PAT: WELL HE WOULD BE

DON: BUT I'M NOT QUESTIONING WHAT YOU'RE TELLING ME ON THAT. WHAT I AM SAYING IS THAT WE PUT FORWARD A PROPOSAL TO SHELL. WE WERE THE FIRST PEOPLE TO PUT FORWARD THE IDEA OF AN INSTANT WIN GAME FOR THE PETROL FORECOURT WITH A NINTENDO THEME WITH INSTANT WIN PRIZES, A PRIZE ON EVERY CARD, WITH GAMEBOY AS A PRINCIPLE PRIZE AND THAT IS NOW WHAT IS RUNNING, THE ONLY DIFFERENCE IS THAT THE DESIGN OF THE CARD IS DIFFERENT TO WHAT WE PROPOSED AND IT'S ON A LEAFLET RATHER THAN A SCRATCH CARD, OTHERWISE IT'S THE PROMOTION THAT WE PUT FORWARD.

PAT: YOU KNOW, WHAT DO YOU WANT ME TO SAY, IT'S QUITE A COMMON THEME MECHANIC AN INSTANT WIN MECHANIC, I COULD WALK IN ANY STORE AND SEE AN INSTANT WIN MECHANIC

DON: BUT WHAT WE'RE TALKING ABOUT DAVID IS THE THEME FOR THAT INSTANT WIN GAME

PAT: I CAN ASSURE YOU THAT UNDER NO CIRCUMSTANCES ARE WE PASSING OFF YOUR PROMOTION MECHANIC

DON: I'LL TELL YOU SOMETHING THAT HAPPENED A FEW YEARS AGO. ESSO RAN A PROMOTION CALLED NOUGHTS AND CROSSES, I DON'T KNOW WHETHER YOU HAVE SEEN THAT AT ALL, IT ENDED UP AS A DISASTER BECAUSE THERE SHOULD HAVE BEEN TWO £100,000 PRIZES AND ON THE SECOND DAY THEY HAD 22 VALID CLAIMS BECAUSE THE PRINTER HAD MADE AN ERROR.

PAT: RIGHT

DON: SUBSEQUENTLY, IT TURNED INTO EVEN MORE OF A DISASTER. THAT COST THEM 5 MILLION POUNDS BUT GLENDENNING SUED ESSO AND THEIR AGENCY FOR PINCHING THEIR IDEA AND I WAS CALLED IN AS AN EXPERT WITNESS ON THAT CASE WHICH DRAGGED ON FOR 2 YEARS AND WAS EVENTUALLY SETTLED OUT OF COURT AND I CAN TELL YOU FOR A FACT THAT THERE ARE MANY MORE SIMILARITIES BETWEEN THE CONCEPT THAT WE PROPOSED AND WHAT IS ACTUALLY RUNNING NOW THEN WAS THE CASE WITH ESSO NOUGHTS AND CROSSES

PAT: RIGHT

DON: WHEN ESSO HAD TO GIVE UP AND SETTLE. I JUST THINK IT'S <sup>JUST</sup> ~~IT'S~~ WRONG IF YOU PUT YOURSELF IN MY POSITION WITH THE WORK WE PUT INTO THAT PROMOTION, PUTTING THE IDEA FORWARD TO SHELL GETTING ADVANCE CLEARANCE FROM YOUR COMPANY, EVEN GIVING YOU A COPY OF OUR PROPOSAL TO SHELL, TO THEN SEE AFTER ONLY A FEW MONTHS AFTER MY LAST CONTACT WITH SHELL ON THE CONCEPT TO ACTUALLY SEE THAT PROMOTION RUNNING AND BEING ADVERTISED IN THE NATIONAL PRESS IS VERY UPSETTING INDEED, IT REALLY IS

PAT: WELL I CAN ASSURE YOU THAT YOUR IDEAS WERE NOT EVEN CONSIDERED BY OURSELVES BUT THE CONVERSATION I HAD WITH YOU SOME MONTHS AGO I CAN RECALL I CAN ASSURE YOU PLAYED NO ROLE WHATSOEVER IN DETERMINING THE TYPE OF MECHANIC INFORMATION.

DON: BUT WE PUT FORWARD THE IDEA OF AN INSTANT WIN GAME WITH A NINTENDO THEME FOR PETROL COMPANIES. NOW IF THERE HAD BEEN ANYONE ELSE WHO SUGGESTED THAT PRIOR....

PAT: I CAN ASSURE YOU WERE ONE OF ABOUT 10 PROMOTION COMPANIES WHICH HAVE COME FORWARD WITH AN INSTANT WIN MECHANIC FOR PETROL COMPANIES YOU CERTAINLY DON'T HAVE A COPYRIGHT.

DON: NO BEFORE, BEFORE WE PUT FORWARD OUR IDEA WHICH WAS LAST YEAR

PAT: NINTENDO IS A MAJOR INTERNATIONAL COMPANY, I MEAN WE GET APPROACHED BY ABOUT 50 PROMOTION COMPANIES A WEEK AT THE MOMENT. THERE IS NOTHING I CAN SAY. I CAN ASSURE YOU, CERTAINLY AS FAR AS I'M CONCERNED FROM A LEGAL POINT OF VIEW WE'RE CERTAINLY NOT PASSING OFF YOUR IDEA, THE MECHANIC IS SOMETHING THAT UNDER NO CIRCUMSTANCES WOULD YOU EVER CLAIM TO HAVE A COPYRIGHT ON. A MECHANIC WHICH HAS BEEN FURTHER DEVELOPED BY SHELL AND A PROMOTIONS AGENCY...

DON: THIS IS YOUR PROMOTIONS AGENCY

PAT: THIS IS A PROMOTIONS AGENCY WHICH WORKS ON OUR BEHALF

DON: RIGHT

PAT: THIS IS AN IDEA WHICH FELL IN WITH EXACTLY WHAT SHELL WANTED

DON: AND ANDREW SAYS THIS WAS PUT FORWARD TO ANOTHER OIL AS WELL COMPANY BEFORE THEN

PAT: IT WAS INDEED YEAH. AND IT WAS ONCE AGAIN IN A VERY DIFFERENT MECHANIC AND THE MECHANIC HAS BEEN TAILOR MADE FOR EACH RELEVANT PETROL COMPANY.

DON: DIFFERENT MECHANIC?

PAT: NINTENDO WILL ONLY EVER EVER RUN INSTANT WIN PROMOTIONS. THE ONLY TYPE OF PROMOTION WE WILL EVER RUN.

DON: IT'S A SIMILAR MECHANIC, NOT THE SAME BUT THE SAME CONCEPT

PAT: THE GAME WITH KELLOGGS AT THE MOMENT ON THEIR FROSTIES PACK IS AN INSTANT SCRATCH CARD. THAT'S THE ONLY TYPE OF MECHANIC THAT NINTENDO CAN EVER RUN. I'M REALLY NOT IN A POSITION TO SORT OF CONCEDE ANYTHING. THERE IS CERTAINLY NO PASSING OFF AS FAR AS I'M CONCERNED THERE IS NO INTENT THERE TO DECEIVE YOU, THERE IS NO INTENT TO DECEIVE SHELL. IT'S SIMPLY YOUR PROMOTION WAS PUT FORWARD TO ME. IT WAS OBVIOUSLY, IT WAS BOUNCED OUT BY SHELL. UNDER NO CIRCUMSTANCES DO I BELIEVE THAT WE'RE PASSING OFF YOUR PROMOTION MECHANIC.

DON: UM, SO YOU'VE GOT NO REASON TO THINK THAT I SHOULD FEEL AGGRIEVED IN ANY WAY AT ALL OVER WHAT HAS HAPPENED. THE FACT THAT I PUT THE PROPOSAL TO YOU FIRST FOR YOUR APPROVAL, PUT IT TO SHELL AND NOW THOSE TWO COMPANIES ARE RUNNING THE PROMOTION JOINTLY. DON MARKETING DOESN'T GET A CENT OR ANY RECOGNITION WHATSOEVER AND YET THE CONCEPT WAS WHAT WE PUT FORWARD TO BOTH OF YOU. NOW IF YOU CAN PROVE THAT SOME OTHER AGENCY PUT FORWARD A CONCEPT FOR AN INSTANT WIN GAME FOR A PETROL COMPANY PRIOR TO THE DATE OF OUR PROPOSAL THEN THAT'S A DIFFERENT KETTLE OF FISH ALTOGETHER.

PAT: YEAH

DON: BUT, I DON'T THINK YOU CAN BUT AT ANY RATE THAT WILL BE RESOLVED WON'T IT?

PAT: I, I DON'T NEED TO DO THAT. AS FAR AS I'M CONCERNED THE PROMOTION IS ABOVE BOARD AND THERE'S CERTAINLY NO PASSING OFF AND WILL BE A STRONG PROMOTION FOR BOTH OURSELF AND SHELL

DON: I WOULD RESPECTFULLY SUGGEST THAT YOU READ OUR PROPOSAL AGAIN INCLUDING THE LEGAL PART ON THE FIRST PAGE ABOUT THE FULL INTELLECTUAL AND PROPRIETARY RIGHTS TO ALL PROMOTIONAL CONCEPTS, DESIGNS AND ALL OTHER RELEVANT INFORMATION DETAILED IN THIS PROPOSAL. CHECK THE SIMILARITIES BETWEEN OUR PROPOSAL AND WHAT IS ACTUALLY RUNNING. ASK YOUR LEGAL DEPARTMENT TO DO THAT AND YOU MAY FIND THAT THEY'RE NOT SO CONFIDENT AS YOU ARE. I WILL PURSUE IT WITH SHELL INITIALLY AND WE MAY HAVE FURTHER CONTACT IN THE FUTURE.

PAT: OKAY THEN

DON: THANKS VERY MUCH DAVID, BYE

PAT: BYE