

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Vignelli Associates, Ltd. and Massimo Vignelli
and Elena Vignelli, Indiv. & as Officers

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Sales & Use Tax :

under Article 28 & 29 of the Tax Law

for the Period 6/1/71 - 11/30/76. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of January, 1981, he served the within notice of Determination by mail upon Vignelli Associates, Ltd. and Massimo Vignelli, and Elena Vignelli, Indiv. & as Officers, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Vignelli Associates, Ltd. and Massimo Vignelli
and Elena Vignelli, Indiv. & as Officers
410 E. 62nd St.
New York, NY 10031

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
9th day of January, 1981.

Cornelia A. Haglund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Vignelli Associates, Ltd. and Massimo Vignelli
and Elena Vignelli, Indiv. & as Officers :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Sales & Use Tax :
under Article 28 & 29 of the Tax Law
for the Period 6/1/71 - 11/30/76. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of January, 1981, he served the within notice of Determination by mail upon Laurence Vogel the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Laurence Vogel
Greenbaum, Wolff & Ernst
437 Madison Ave.
New York, NY 10022

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
9th day of January, 1981.

Cornie A. Hagelund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

January 9, 1981

Vignelli Associates, Ltd. and Massimo Vignelli
and Elena Vignelli, Indiv. & as Officers
410 E. 62nd St.
New York, NY 10031

Gentlemen:

Please take notice of the Determination of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 & 1243 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Laurence Vogel
Greenbaum, Wolff & Ernst
437 Madison Ave.
New York, NY 10022
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the	Application	:
of		:
VIGNELLI ASSOCIATES, LTD., and		:
MASSIMO VIGNELLI and ELENA VIGNELLI,	DETERMINATION	:
INDIVIDUALLY AND AS OFFICERS		:
for Revision of a Determination or for		:
Refund of Sales and Use Taxes under		:
Articles 28 and 29 of the Tax Law for		:
the Period June 1, 1971 through		:
November 30, 1976.		:

Applicants, Vignelli Associates, Ltd., and Massimo Vignelli and Elena Vignelli, 410 East 62nd Street, New York, New York 10031, filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period June 1, 1971 through November 30, 1976 (File No. 19396).

A formal hearing was held before Edward Goodell, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 1, 1978 at 9:15 A.M. Applicants appeared by Greenbaum, Wolff & Ernst (Laurence Vogel and Jonathan M. Harris, Esqs., of counsel). The Audit Division appeared by Peter Crotty, Esq. (Bruce M. Zalaman, Esq., of counsel).

ISSUES

- I. Whether temporary transfers of possession of graphic presentations of design concepts for the purpose of reproduction constituted taxable sales.
- II. If so, whether the receipts of applicant Vignelli Associates, Ltd. should, nevertheless, be exempt from sales tax to the extent of \$808,012.70.

FINDINGS OF FACT

1. A Notice of Determination and Demand for Payment of Sales and Use Taxes Due, dated May 9, 1977 (Notice No. 90,740,894), was issued by the Audit

Division against the applicants, Vignelli Associates, Ltd., and Massimo Vignelli and Elena Vignelli, individually and as officers, for the tax period June 1, 1971 through November 30, 1976 in the amount of \$80,467.92, plus penalties and interest of \$35,713.28, for a total of \$116,181.79.

2. Applicant Vignelli Associates, Ltd. is a New York corporation with offices in New York City and applicants Massimo Vignelli and Elena Vignelli are its sole officers and shareholders.

3. Applicants Elena Vignelli and Massimo Vignelli attended "the Universities of Architect" in Italy; received fellowships to universities in the United States; and both have lectured at universities in the United States.

Applicant Elena Vignelli is a registered architect in Italy but is not licensed as an architect in the United States.

In 1973, Elena and Massimo Vignelli were awarded the gold medal for design by the American Institute of Architects; were also "honored" in 1978 by the New York chapter of the American Institute of Architects for "the interior design of the St. Peter's Church in Citicorp"; and in or about 1977 or 1978, Massimo Vignelli was President of the American Institute of Graphic Arts.

4. Applicant Vignelli Associates, Ltd. is engaged in the business of rendering design services as follows:

a. The visual communication of graphic design, such as the design of corporate logos, packages and book covers for publishers.

b. Product design, such as lines or items of furniture and dishware.

c. The design of the interior of rooms and of exhibitions.

5. In the rendition of its services, applicant Vignelli Associates, Ltd., communicates its design concepts to its clients either through (a) oral consultation with the client and supervision of the client's graphic design staff or (b) by delivering to the client or to the client's printers or signmakers,

sketches, mock-ups, models, diagrams, layouts, specifications or blueprints, as may be appropriate, (hereafter collectively referred to as "visual presentations").

6. Said visual presentations are delivered as aforesaid for the purpose of communicating the design concept and for the purpose of producing the final product after which they are returned to applicant Vignelli Associates, Ltd.

7. Prior to delivery as aforesaid, said visual presentations are stamped with a legend as follows:

"Please return to:
Vignelli Associates
Designers
410 East 62 Street
New York 10021 New York
212/593-1416 --593-1418
For reproduction purposes only"

8. No one to whom applicant Vignelli Associates, Ltd. delivers the said visual presentations on behalf of its clients has the right to alter or in any way retouch the work that it has done.

9. Title to the said "visual presentations" is at all times retained by applicant Vignelli Associates, Ltd. and it has the sole right to any copyright, trademark or patent relating to the design concept it has created.

10. To the extent of \$808,012.70 the receipts of the applicant, Vignelli Associates, Ltd., during the period at issue, were derived from the following sources:

(a) From sales to organizations which were exempt under section 1116 of the Tax Law; or

(b) From sales to organizations established by the Government of the United States; or

(c) From sales to organizations that furnished the said applicant with resale certificates; or

(d) From sales involving the delivery of visual presentations to clients of the said applicant outside the State of New York; or

(e) From sales involving only the performance of oral services in which no physical product or design was delivered; or

(f) From reimbursement of expenses advanced by the applicants.

CONCLUSIONS OF LAW

A. That since the transfers of possession of graphic presentations of the design concepts were temporary for the purpose of reproduction only, without the right to alter or retouch the same, title thereto at all times remaining in Vignelli Associates, Ltd., they did not constitute taxable sales.

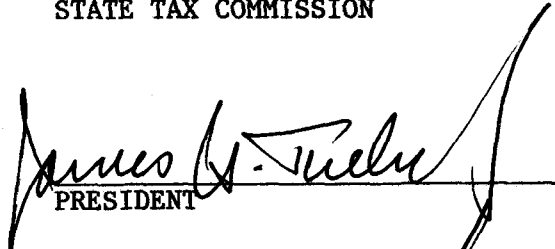
B. That in view of Conclusion of Law "A", Issue II above is moot and need not be passed upon in this decision.


C. That the application of Vignelli Associates, Ltd. and Massimo Vignelli and Elena Vignelli is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued against the said applicants, dated May 9, 1977, is cancelled.

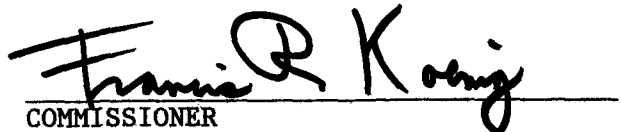
DATED: Albany, New York

JAN 09 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER