


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

2  
3 Executed on December 10, 2010 in Nashville, Tennessee.

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7 Mike McGuire  
8 Declarant  
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# Exhibit 10

1 ANDREA E. BATES, ESQ. SBN 192491  
2 Abates@Bates-Bates.com  
3 MICHAEL A. BOSWELL, ESQ. SBN 198994  
4 MBoswell@Bates-Bates.com  
5 BATES & BATES, LLC  
6 964 DeKalb Avenue, Suite 101  
7 Atlanta, Georgia 30307  
8 Phone (866) 701-0404 and (562) 360-2097  
9 Fax (404) 963-6231

10 Attorneys for  
11 Plaintiff

12 GIBSON GUITAR CORP.,

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA

15 GIBSON GUITAR CORP., a Delaware ) Case No. CV10-8884 RGK (RZx)  
16 corporation, )

17 Plaintiff,

18 vs.

19 WOWWEE USA, INC., et. al.

20 Defendants,

) SUPPLEMENTAL DECLARATION  
) OF BRUCE MITCHELL IN SUPPORT  
) OF PLAINTIFF'S REQUEST FOR A  
) PRELIMINARY INJUNCTION

) Judge: Judge R. Gary Klausner  
)

21  
22 **DECLARATION OF Bruce Mitchell**

23  
24 I, Bruce Mitchell, declare as follows:

25 1. Unless otherwise stated as based upon information and belief, the facts set  
26 forth in this declaration are personally known to me and I have first knowledge of  
27

1 these facts. If called upon to testify during court of this action, I could, and I would  
2 competently testify thereto under oath. I am over 18 and a party to this action.

3  
4 2. I am a licensed attorney and am the General Counsel for Plaintiff Gibson  
5 Guitar Corp. ("Gibson").

6  
7 3. I have reviewed the Supplemental Declaration of Kim Landsman and  
8 Declaration of Jolyon Dantzig, whereby they asserted that Gibson allowed Heritage  
9 Guitars manufacture a guitar similar to the LES PAUL design. Mr. Landsman fails to  
10 clarify said use; including use of other designs such as the EXPLORER design was  
11 subject to a Settlement Agreement, whereby Gibson's rights are reserved. The details  
12 of this settlement agreement are governed by confidentiality restrictions.

13  
14  
15 4. I have reviewed the Declaration of Jolyon Dantzig, Ex. 3.16 pgs 6-10 and  
16 Ex. 3.17 pgs 1 & 2, whereby he states that, use of the LES PAUL body shapes by  
17 Hamer USA makes the Gibson designs generic, however, he fails to indicate that said  
18 use is governed by a trademark license from Gibson. The details of this license are  
19 governed by confidentiality restrictions.

20  
21  
22 5. In the Declaration of Jolyon Dantzig he points to several third party  
23 guitars, which are allegedly similar to the Gibson Design Marks. Defendant WowWee  
24 has stated that because Gibson has not "policed" its Gibson Design Marks, said design  
25 are now generic. However, this Gibson has policed its mark, previously sending cease  
26 an desist letters and/or instituted proceeding against Dean, ESP, Gretsch, Hamer,  
27

1 Harmony, Heritage, PRS, Samick, and Jay Turser; all of which are named by Mr.  
2 Dantzig.

3  
4 6. In addition to the licenses stated above, Gibson has also licensed its  
5 Gibson Design Marks for toy guitars, which directly compete with the Paper Jamz  
6 guitars, namely Hasbro's Power Gig Guitar, Guitar Hero and the J Reynolds guitar.  
7

8 7. Attached hereto as **Exhibit A**, is a cross section of advertisements of the  
9 Gibson Marks, of which Gibson has spent 100s of millions of dollars in the past few  
10 years, alone.  
11

12 8. Attached hereto as **Exhibit B**, are advertisements and commentaries  
13 found on the Internet whereby consumers and retailers refer to Paper Jamz guitars, as  
14 being based on Gibson's FLYING V®, LES PAUL®, EXPLORER® and S-G®.  
15

16 9. Attached hereto as **Exhibit C** is the Paper Jamz insert included with the  
17 guitars, showing how to play major and minor chords that states "[use] this Paper Jamz  
18 pocket guide to play real guitar chords and create your own songs."  
19

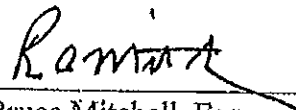
20 10. Attached hereto as **Exhibit D** is a search result found on the Defendant  
21 Best Buy's website, whereby the search term "electric guitar" brings up both Paper  
22 Jamz guitars and Gibson guitars.  
23

24 11. Attached hereto as **Exhibit E** is are articles and books which discuss the  
25 iconic nature of the Gibson Marks.  
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1 12. Gibson has not licensed the Gibson Marks to the Defendants for use on the  
2 Paper Jamz guitars. The Paper Jamz guitars do not meet the quality standards of  
3 Gibson.  
4

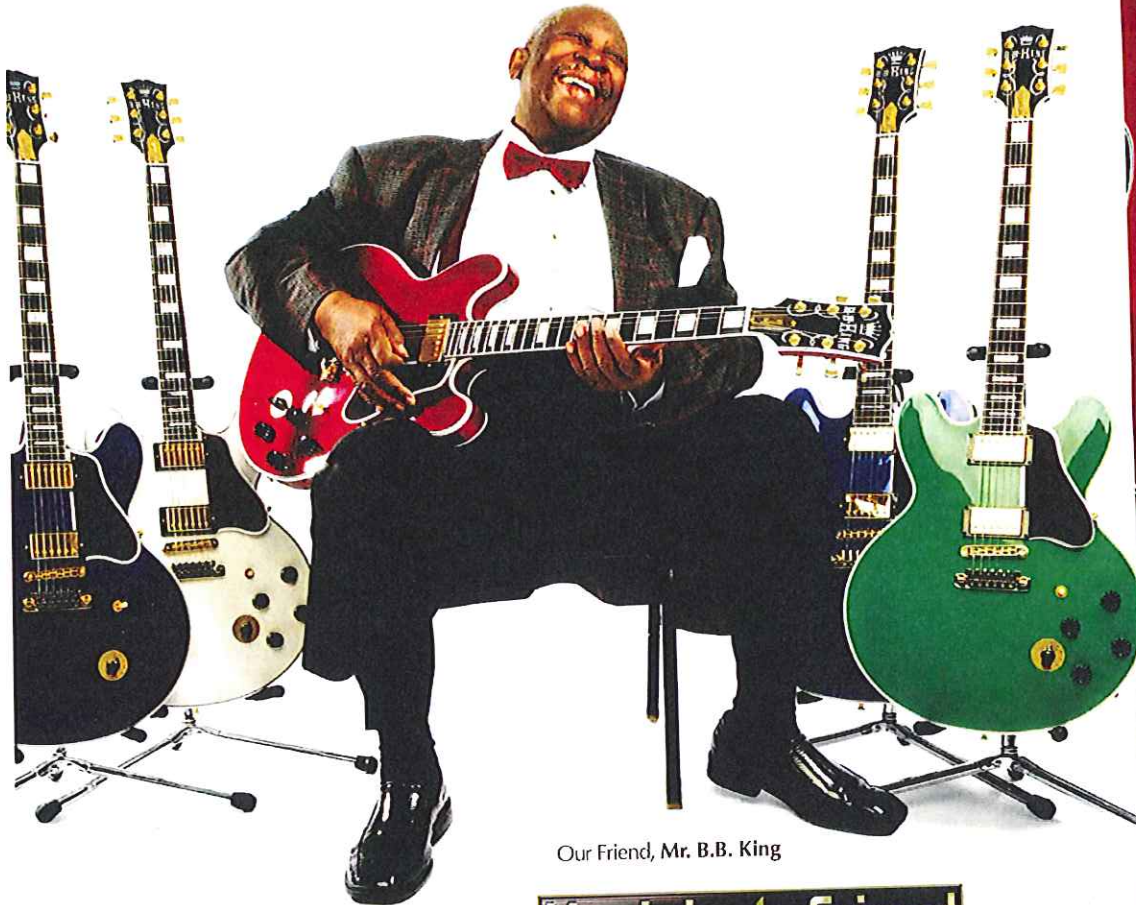
5 I declare under penalty of perjury under the laws of the United States of  
6 America, the State of Tennessee and California that the foregoing is true and correct.  
7  
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9 Executed on December 10, 2010 at Nashville Tennessee.  
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14 Bruce Mitchell, Esq.  
15 Declarant  
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# EXHIBIT A

## New Hues For The King Of The Blues.



Our Friend, Mr. B.B. King

**L**ucille just got five new outfits:

Amethyst, Diamond,  
Ruby, Sapphire, and Emerald.  
Very limited quantities.  
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ONLINE SELECTION  
FINEST GUITARS

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• SERIAL NO 003389 • SHOP GUITARS BY SERIAL NO AT PLATINUMGUITARCENTER.COM •

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**SOLD FOR: \$23,900**  
HA.com/7022\*46047



1940 Martin D-18  
**SOLD FOR: \$19,925**  
HA.com/7022\*46406



1965 Gibson Firebird VII  
**SOLD FOR: \$19,120**  
HA.com/7022\*46239



1961 Gibson ES-335  
**SOLD FOR: \$25,095**  
HA.com/7022\*46209

Consign your rare and  
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Consignment Director  
214-409-1585  
800-872-6467 ext. 1585  
GarryS@HA.com



MIKE GUTIERREZ  
Consignment Director  
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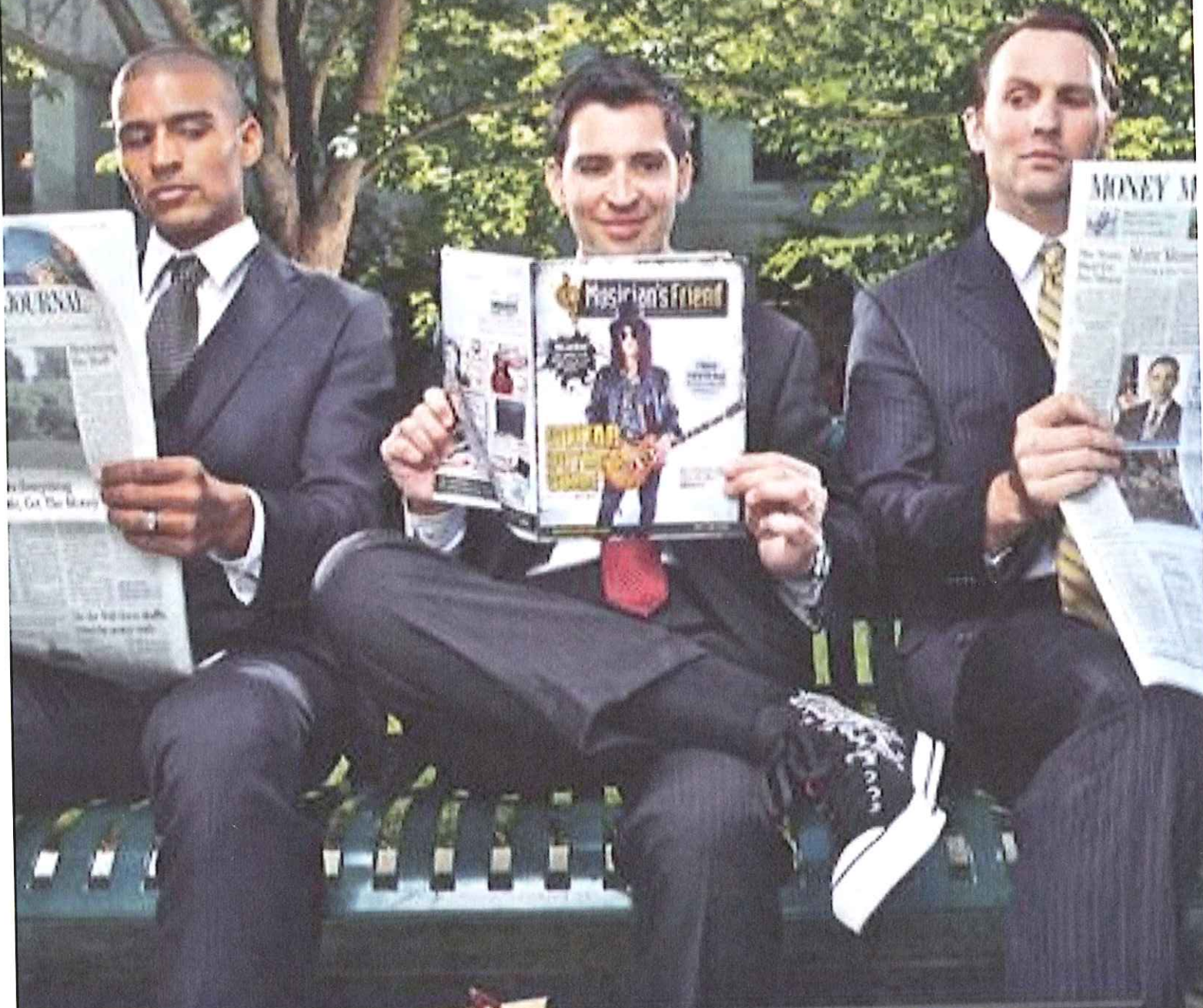
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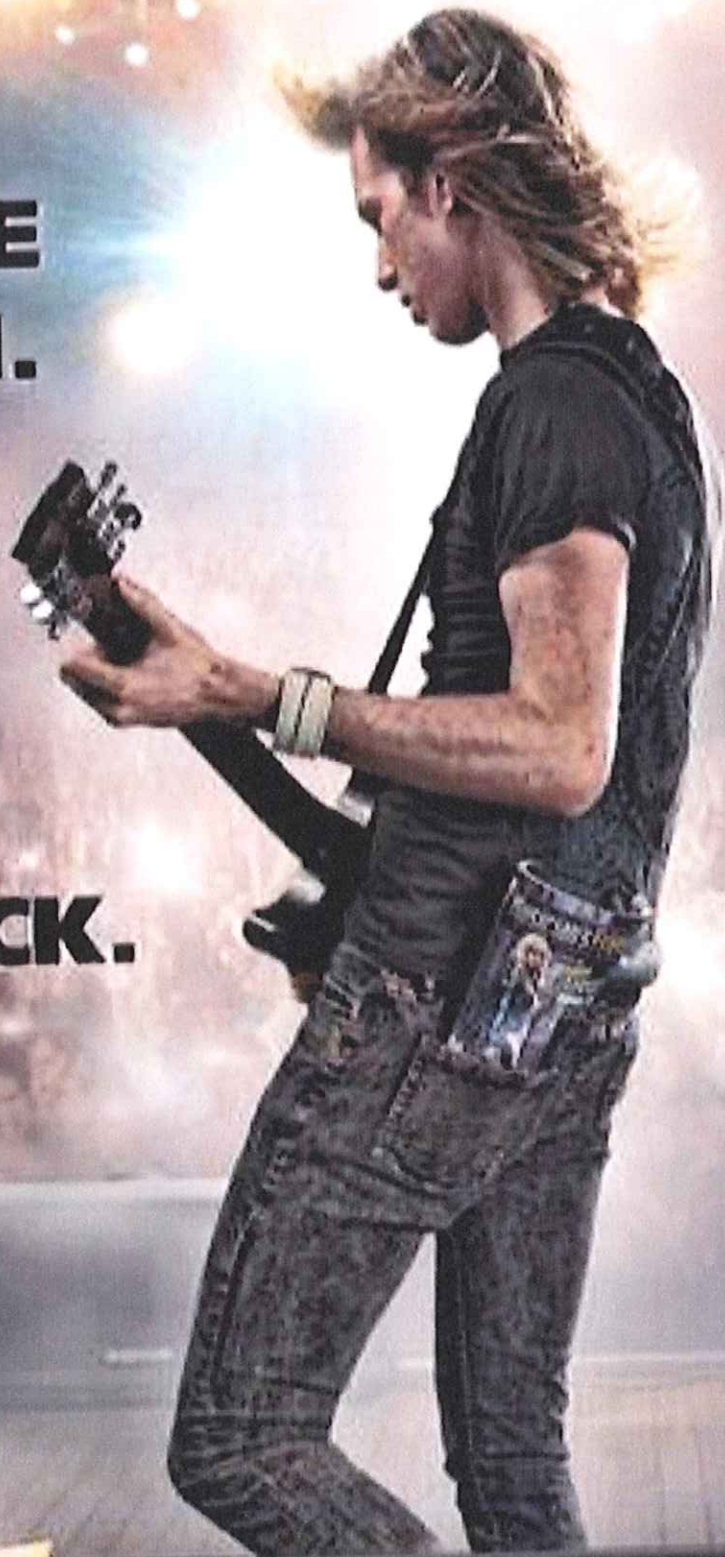
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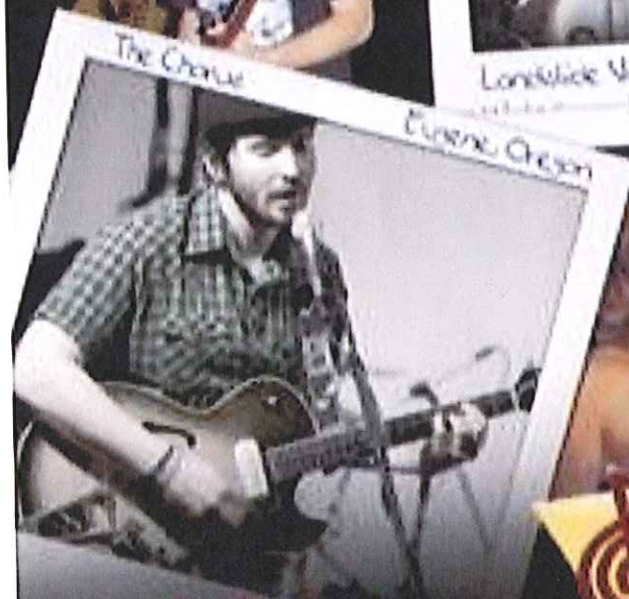
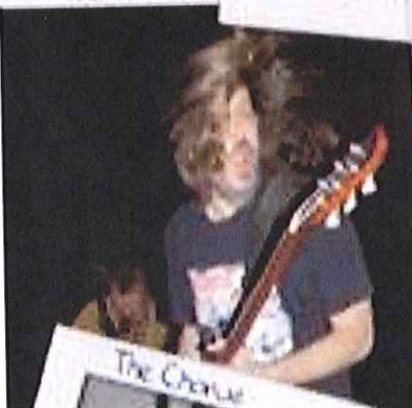
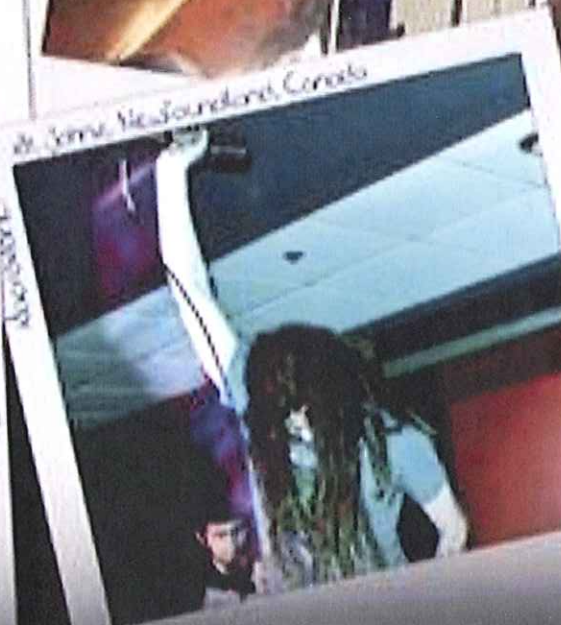
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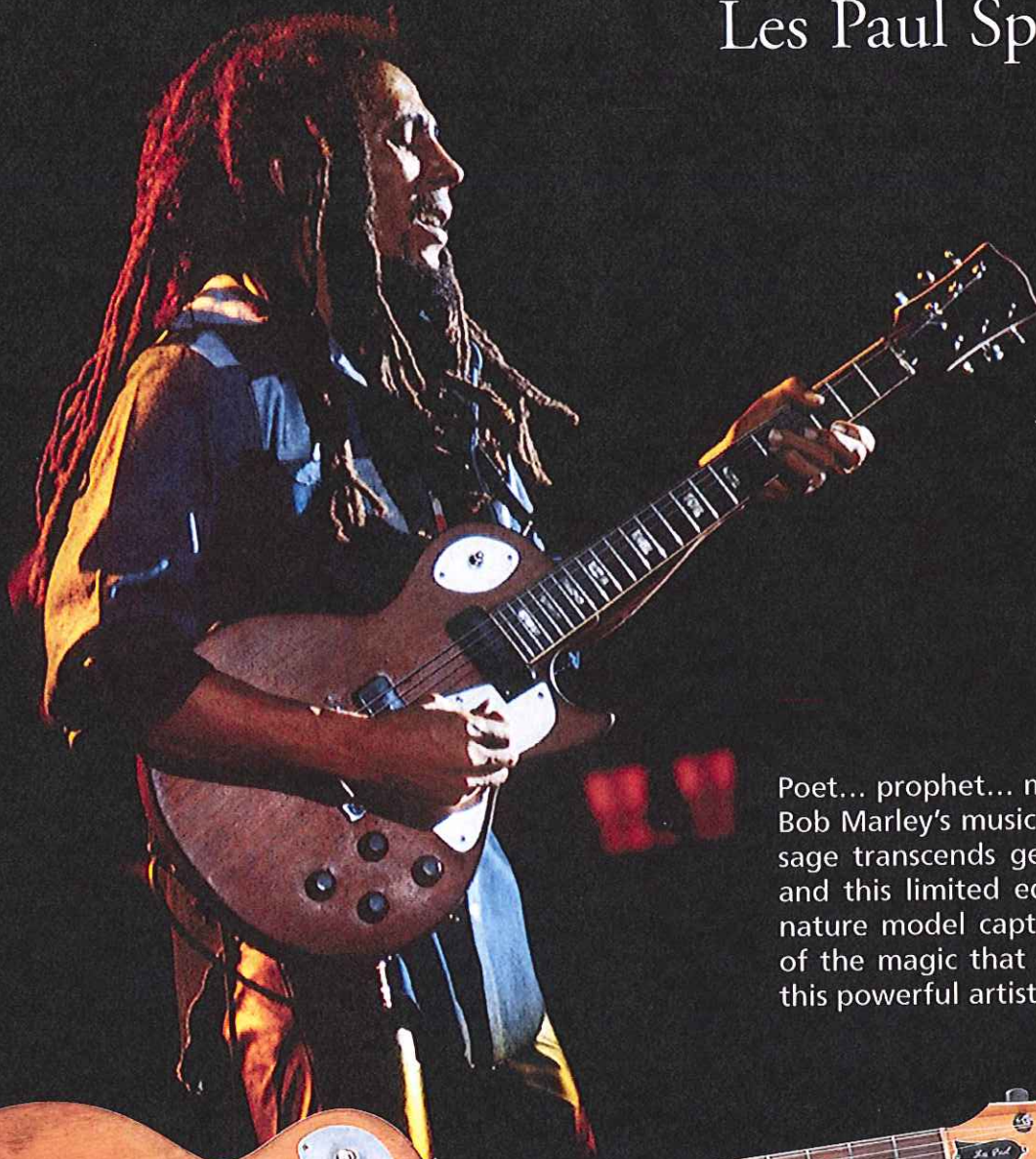
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