

- 1 f. WALGREEN (Exhibit AA to this Declaration);
- 2 g. BROOKSTONE (Exhibit BB to this Declaration);
- 3 h. BEST BUY (Exhibit CC to this Declaration);
- 4 i. EBay (Exhibit DD to this Declaration);
- 5 j. TOYWIZ (Exhibit EE to this Declaration);
- 6 k. HSN (Exhibit FF to this Declaration);

7  
8 14. In my due diligence of this matter, I have found specific instances wherein  
9 WOWWEE, through its [www.paperjamzstore.com](http://www.paperjamzstore.com) website, has gone so far as to market its goods  
10 utilizing the protected word marks of Gibson, namely, “GIBSON®,” “LES PAUL®,” “FLYING  
11 V®,” “EXPLORER®,” and “S-G®”.

12  
13 15. In fact, I discovered the actual language that defendant WOWWEE, itself, utilizes  
14 about its guitars, stating specifically that it is “styled after the famous Gibson Les Paul” (*See* attached  
15 Exhibit GG); or the “famous Gibson Explorer” (*See* attached Exhibit HH); or the “famous Gibson  
16 SG” (*See* attached Exhibit II); or the “famous Gibson Flying V guitar” (*See* attached Exhibit JJ).  
17 Indeed, WOWWEE goes as far as to say the following on its website, “The designs of each Paper  
18 Jamz guitar are similar to a classic that is highly sought after. For example, the Rock Style 6 guitar in  
19 Series 1 of Paper Jamz is **made to resemble a Gibson SG** while the Rock Style 1 is made to look like  
20 the **famous Gibson Les Paul**. (see attached Exhibit NN)

21  
22 16. Furthermore, I discovered that defendant WOWWEE has even made the following  
23 bold statement in their advertising “WowWee Paper Jamz Guitar is molded **just like the genuine**  
24 **matter, allowing you to play on a Gibson Flying V** or a Fender Strat without experiencing to  
25 dispense hundreds of dollars” (emphasis added) (*See* Exhibit KK). The ad goes on to state that three  
26  
27

1 of its musical play instruments, Rock 4, 5, and 6, are in the “Flying V style,” “the Explorer Style,”  
2 and “the SG style.”

3  
4 17. In addition, during Gibson’s investigation, it was discovered that on defendant  
5 WOWWEE’s own website it includes a video of a consumer who confused regarding the Paper Jamz  
6 counterfeit Flying V and the Gibson Flying V Body Shape Design® Trademark (*See Exhibit LL*). In  
7 this video, the consumer shows his guitar collection, which includes a Gibson SG®. He then goes on  
8 to say that the “Flying V is the most metal guitar shape since like 1958.” He then picks up the  
9 counterfeit Flying V and states, “it’s a little smaller than I thought it would be... these things look  
10 huge when Randy Rhodes is playing them.” Randy Rhodes is a famous musician whom helped bring  
11 the Gibson Flying V® into popularity in the 1980’s. This statement may be found within the true and  
12 correct copy of this video at 0:48 (*Exhibit LL*).

13  
14  
15 18. Gibson, through a license to Hasbro® offers for sale, an electric guitar to kids between  
16 the ages of 10 to 15 years of age, competes with the infringing goods at issue here. I have obtained a  
17 copy of a website listing for the item, and have attached it hereto as *Exhibit MM*.

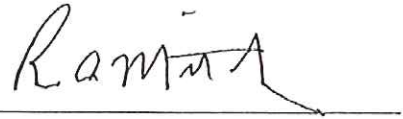
18  
19 19. Gibson also licenses its registered patent technology for use with guitar game  
20 controllers used with *Rock Band*®.

21  
22 20. My investigation of the California Secretary of States online website, that WOWWEE  
23 has only been incorporated in California since 2007.

24  
25 21. I am also informed and believe that the Defendants’ have only been offering for sale to  
26 the general public in the United States the offending Paper Jamz products, since early 2010.

1 I declare under penalty of perjury under the laws of the United States of America, the State of  
2 Tennessee and California that the foregoing is true and correct.

3  
4 Executed on November 19, 2010.

5  
6 

7  
8 Bruce Mitchell, Esq.  
9 Declarant

10  
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Int. Cl.: 15

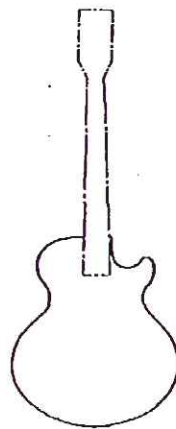
Prior U.S. Cl.: 36

**United States Patent and Trademark Office**

**Reg. No. 1,782,606**

Registered July 20, 1993

**TRADEMARK  
PRINCIPAL REGISTER**



GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
P.O. BOX 10087  
641 MASSMAN DRIVE  
NASHVILLE, TN 37210

FOR: GUITARS, IN CLASS 15 (U.S. CL. 36).  
FIRST USE 12-0-1952; IN COMMERCE  
12-0-1952.

THE LINING OF THE DRAWING IS NOT INTENDED TO INDICATE COLOR.

THE MARK CONSISTS OF A UNIQUELY SHAPED CONFIGURATION FOR THE BODY PORTION OF THE GUITAR AS ILLUSTRATED IN THE DRAWING BY THE SOLID LINES.

SEC. 2(F).

SER. NO. 73-675,665, FILED 7-31-1987.

MARY FRANCES BRUCE, EXAMINING ATTORNEY



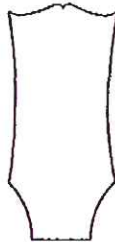
Int. Cl.: 15

Prior U.S. Cl.: 36

United States Patent Office

Reg. No. 1,020,485  
Registered Sept. 16, 1975

**TRADEMARK**  
Principal Register



Norlin Music, Inc. (Delaware corporation)  
7373 N. Cicero Ave.  
Chicago, Ill. 60646

For: STRING INSTRUMENTS, in CLASS 15 (U.S. CL. 36).

First use at least as early as 1922; in commerce at least as early as 1922.

The mark represents a design for a pig-head profile.  
Owner of Reg. Nos. 895,535, 918,934, and others.

Ser. No. 19,795, filed Apr. 25, 1974.

CHARLES R. FOWLER, Supervisory Examiner  
RICHARD A. STRASER, Examiner

EXHIBIT

tabbies

B

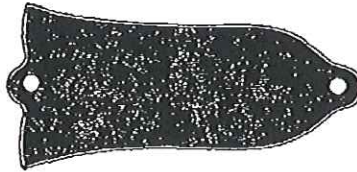
Int. Cl.: 15

Prior U.S. Cl.: 36

**United States Patent Office**

Reg. No. 1,022,637  
Registered Oct. 14, 1975

**TRADEMARK**  
Principal Register



Norlin Music, Inc. (Delaware corporation)  
7373 N. Cicero Ave.  
Chicago, Ill. 60646

For: STRING INSTRUMENTS, in CLASS 15 (U.S. CL. 36).

First use at least as early as 1922; in commerce at least as early as 1922.

The mark consists of a truss cover plate in a bell shape.

Ser. No. 16,410, filed Mar. 20, 1974.

CHARLES R. FOWLER, Supervisory Examiner  
RICHARD A. STRASER, Examiner



Int. Cl.: 15

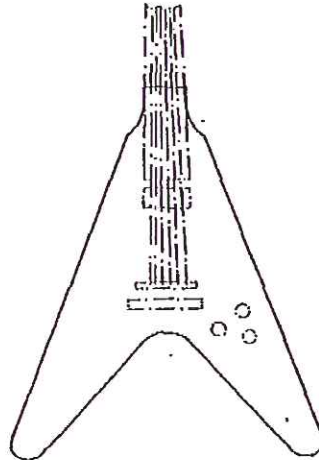
Prior U.S. Cl.: 36

Reg. No. 2,051,790

United States Patent and Trademark Office

Registered Apr. 15, 1997

TRADEMARK  
PRINCIPAL REGISTER



GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
1818 ELM HILL PIKE  
NASHVILLE, TN 37210

FIRST USE 12-31-1958; IN COMMERCE  
12-31-1958.

THE MARK COMPRISES A FANCIFUL CON-  
FIGURATION OF A GUITAR BODY.

FOR: STRINGED INSTRUMENTS, NAMELY  
GUITARS, IN CLASS 15 (U.S. CL. 36).

SER. NO. 74-570,030, FILED 9-6-1994.

LORI SCHULMAN, EXAMINING ATTORNEY



Int. Cl.: 15

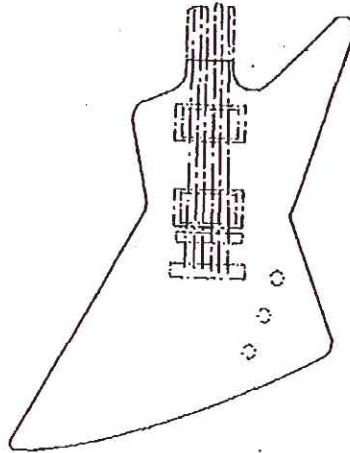
Prior U.S. Cl.: 36

Reg. No. 2,053,805

United States Patent and Trademark Office

Registered Apr. 22, 1997

**TRADEMARK  
PRINCIPAL REGISTER**



GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
1818 ELM HILL PIKE  
NASHVILLE, TN 37210

FOR: STRINGED INSTRUMENTS, NAMELY  
GUITARS, IN CLASS 15 (U.S. CL. 36).

FIRST USE 12-31-1958; IN COMMERCE  
12-31-1958.

THE MARK COMPRISES A FANCIFUL CON-  
FIGURATION OF A GUITAR BODY.

SER. NO. 74-570,078, FILED 9-6-1994.

LORI SCHULMAN, EXAMINING ATTORNEY

EXHIBIT

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E



Int. Cl.: 15

Prior U.S. Cl.: 36

Reg. No. 1,567,052

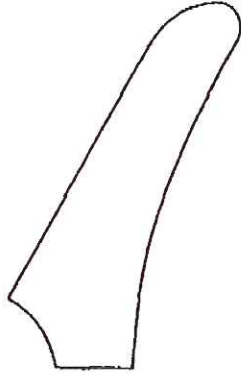
United States Patent and Trademark Office

Registered Nov. 21, 1989

10 Year Renewal

Renewal Term Begins Nov. 21, 1999

**TRADEMARK  
PRINCIPAL REGISTER**



GIBSON GUITAR CORP. (DELAWARE  
CORPORATION)  
1818 ELM HILL PIKE  
NASHVILLE, TN 37210

FOR: STRINGED INSTRUMENTS,  
NAMELY GUITARS AND BASSES, IN  
CLASS 15 (U.S. CL. 36).  
FIRST USE 7-31-1958; IN COMMERCE  
7-31-1958.

SEC. 2(F).

SER. NO. 73-755,644, FILED 10-3-1988.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Sep. 21, 1999.*

COMMISSIONER OF PATENTS AND TRADEMARKS

15



Int. Cl.: 15

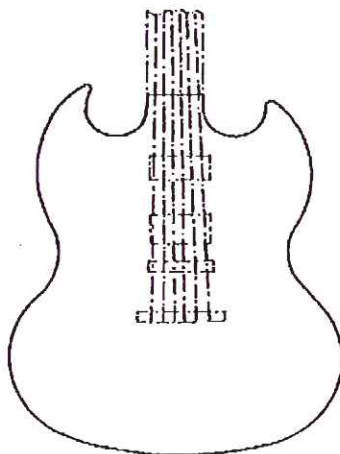
Prior U.S. Cls.: 2, 21 and 36

Reg. No. 2,215,791

**United States Patent and Trademark Office**

Registered Jan. 5, 1999

**TRADEMARK  
PRINCIPAL REGISTER**



GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
1818 ELM HILL PIKE  
NASHVILLE, TN 37210

FOR: STRINGED INSTRUMENTS, NAMELY,  
GUITARS, IN CLASS 15 (U.S. CLS. 2, 21 AND  
36).

FIRST USE 12-31-1961; IN COMMERCE  
12-31-1961.

THE MARK COMPRISES A FANCIFUL  
DESIGN OF A GUITAR BODY.  
SEC. 2(F).

SER. NO. 75-272,182, FILED 4-10-1997.

ANDREW BAXLEY, EXAMINING ATTORNEY



Int. Cl.: 15

Prior U.S. Cl.: 36

**United States Patent and Trademark Office** Reg. No. 1,539,282  
Registered May 16, 1989

**TRADEMARK  
PRINCIPAL REGISTER**

**LES PAUL**

GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
641 MASSMAN DRIVE  
NASHVILLE, TN 37210

FOR: STRINGED INSTRUMENTS, NAMELY,  
GUITARS AND BASSES, IN CLASS 15 (U.S. CL.  
36).

FIRST USE 6-17-1952; IN COMMERCE  
6-17-1952.

OWNER OF U.S. REG. NOS. 918,934 AND  
920,586.

"LES PAUL" IS THE NAME OF A LIVING  
INDIVIDUAL WHOSE CONSENT IS OF  
RECORD.

SER. NO. 755,647, FILED 10-3-1988.

CONNIE M. JUDGE, EXAMINING ATTORNEY

17



**Int. Cl.: 15**

**Prior U.S. Cl.: 36**

**United States Patent and Trademark Office**

**Reg. No. 1,216,644**

**Registered Nov. 16, 1982**

**TRADEMARK**  
**Principal Register**

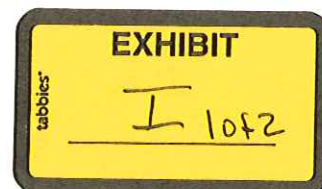
**FLYING V**

Norlin Industries, Inc. (Delaware corporation)  
44 S. Broadway  
White Plains, N.Y. 10601

For: GUITARS, in CLASS 15 (U.S. Cl. 36).  
First use 1958; in commerce 1958.

Ser. No. 343,718, filed Dec. 28, 1981.

G. T. GLYNN, Examining Attorney



Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 13  
Serial #: 73343718  
Registrant: North Industries, Inc.  
Mark: FLYING Y

Assignment 1  
Reel/Frame: 0683/0708  
Conveyance: CHANGE OF NAME  
Assignor: NORTH INDUSTRIES, INC.

Assignment 2  
Reel/Frame: 0526/0321  
Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL  
Assignor: ECL INDUSTRIES, INC.

Assignment 3  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 4  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 5  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 6  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 7  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 8  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 9  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 10  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

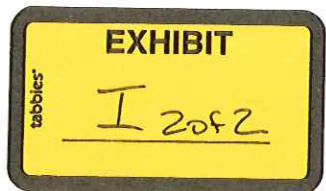
Assignment 11  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 12  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Assignment 13  
Reel/Frame: 0175/1986  
Conveyance: ASSIGNMENT OF TRADEMARK  
Assignor: GIBSON SUITAR CORP.

Filing Dt: 12/28/1981  
Reg #: 1215664  
Reg. Dt: 11/26/1982  
Recorded: 10/16/1989  
Pages: 0  
Exec Dt: 05/10/1985  
Entity Type: UNKNOWN  
Citizenship: NONE  
Entity Type: UNKNOWN  
Citizenship: NONE

Recorded: 05/19/1986  
Pages: 5  
Exec Dt: 01/15/1986  
Entity Type: CORPORATION  
Citizenship: DELAWARE  
Entity Type: CORPORATION  
Citizenship: DELAWARE



Int. Cl.: 15

Prior U.S. Cls.: 2, 21 and 36

**United States Patent and Trademark Office**

**Reg. No. 2,641,548**

Registered Oct. 29, 2002

**TRADEMARK  
PRINCIPAL REGISTER**

**EXPLORER**

GIBSON GUITAR CORP. (DELAWARE COR-  
PORATION)  
1818 ELM HILL PIKE  
NASHVILLE, TN 37210

FIRST USE 12-31-1958; IN COMMERCE 12-31-1958.

SER. NO. 75-852,090, FILED 11-17-1999.

FOR: STRINGED MUSICAL INSTRUMENTS,  
NAMBLY GUITARS, IN CLASS 15 (U.S. CLS. 2, 21  
AND 36).

WILLIAM VERHOSEK, EXAMINING ATTORNEY

20



Int. Cl.: 15

Prior U.S. Cl.: 36

**United States Patent Office**

Reg. No. 1.045,872

Registered Aug. 10, 1976

**TRADEMARK**  
Principal Register

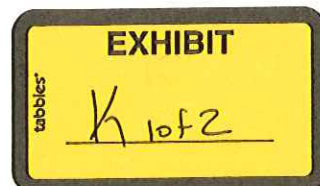
S-G

Norlin Music, Inc. (Delaware corporation)  
7373 N. Cicero Ave.  
Lincolnwood, Ill. 60646

For: GUITARS, in CLASS 15 (U.S. CL. 36).  
First use June 17, 1975; in commerce June 17, 1975.

Ser. No. 73,312, filed Dec. 19, 1975.

CHARLES R. FOWLBR, Supervisory Examiner  
M. B. SILEN, Examiner



Total Assignments: 14

Filing Dt: 12/19/1975

Reg #: 1045872

Reg. Dt: 08/10/1976

EXHIBIT

K 2 of 2

Serial #: 23072312

Registrant: NORLIN MUSIC, INC.

Mark: S-G

Assignment: 1

Reel/Frame: 0327/0156

Conveyance: MERGER AND CHANGE OF NAME

Assignors: AIKEN INDUSTRIES, INC. -MERGED INTO-

NORLIN MUSIC, INC. -CHANGED TO-

Received:

Recorded: 05/08/1978

Pages: 9

Exec Dt: 03/29/1978

Entity Type: UNKNOWN

Citizenship: NONE

Exec Dt: 00/00/0000

Entity Type: UNKNOWN

Citizenship: NONE

Entity Type: UNKNOWN

Citizenship: NONE

Entity Type: UNKNOWN

Citizenship: NONE

Entity Type: UNKNOWN

Citizenship: NONE

Correspondent: NORLIN MUSIC

7373 NORTH CICERO AVENUE  
LINCOLNWOOD, IL 60646

Assignment: 2

Reel/Frame: 0683/0708

Conveyance: CHANGE OF NAME

Assignor: NORLIN INDUSTRIES, INC.

Assignee: ECL INDUSTRIES, INC.

Correspondent: LANEY, DOUGHERTY, HESSIN & BEAVERS

SUITE 900

101 PARK AVENUE

OKLAHOMA CITY, OK 73102-7277

Assignment: 3

Reel/Frame: 0526/0321

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Assignor: ECL INDUSTRIES, INC.

Assignee: GIBSON GUITAR CORP.

1209 ORANGE ST.

WILMINGTON, DELAWARE

Received:

Recorded: 10/16/1989

Pages: 0

Exec Dt: 05/10/1985

Entity Type: UNKNOWN

Citizenship: NONE

Entity Type: UNKNOWN

Citizenship: NONE

Pages: 5

Exec Dt: 01/15/1986

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

22



Int. Cl.: 15

Prior U.S. Cl.: 36

**United States Patent and Trademark Office**

**Reg. No. 1,545,311**  
Registered June 27, 1989

**TRADEMARK  
PRINCIPAL REGISTER**

**GIBSON**

GIBSON GUITAR CORP. (DELAWARE CORPORATION)  
641 MASSMAN DRIVE  
NASHVILLE, TN 37210

FIRST USE 1-1-1890; IN COMMERCE  
1-1-1890.  
OWNER OF U.S. REG. NOS. 510,594, 989,617  
AND OTHERS.  
SEC. 2(F).

FOR: MUSICAL STRINGED INSTRUMENTS,  
NAMELY, GUITARS, BASSES, BANJOS AND  
MANDOLINS, IN CLASS 15 (U.S. CL. 36).

SER. NO. 755,657, FILED 10-3-1988.  
G. T. GLYNN, EXAMINING ATTORNEY

23

