

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

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

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

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

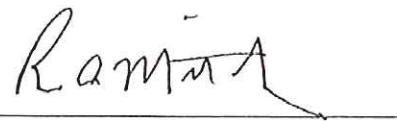
18 19. Gibson also licenses its registered patent technology for use with guitar game
19 controllers used with Rock Band®.
20

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

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

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



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7
8 Bruce Mitchell, Esq.
9 Declarant
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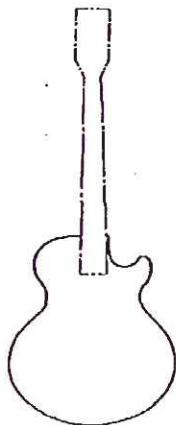
· 9 ·
28 DECLARATION OF BRUCE MITCHELL IN SUPPORT OF PLAINTIFF'S EX PARTE
APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY INJUNCTION

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

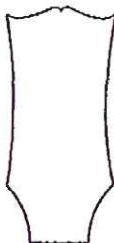
Prior U.S. Cl.: 36

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®

3

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

12

EXHIBIT

tabbies®

C

Int. Cl.: 15

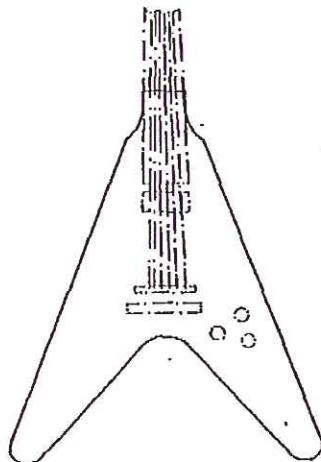
Prior U.S. Cl.: 36

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

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 CONFIGURATION OF A GUITAR BODY.

SER. NO. 74-570,030, FILED 9-6-1994.
LORI SCHULMAN, EXAMINING ATTORNEY

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EXHIBIT

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D

Int. Cl.: 15

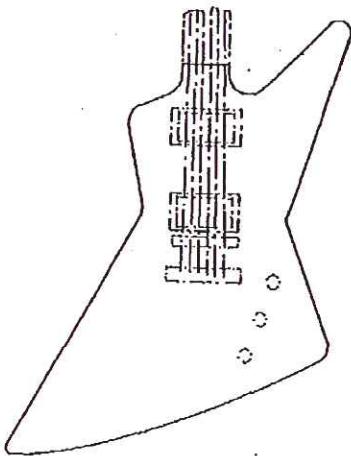
Prior U.S. Cl.: 36

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 CONFIGURATION OF A GUITAR BODY.

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

LORI SCHULMAN, EXAMINING ATTORNEY

Int. Cl.: 15

Prior U.S. Cl.: 36

Reg. No. 1,567,052

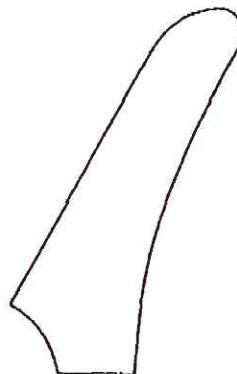
United States Patent and Trademark Office

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

Int. Cl.: 15

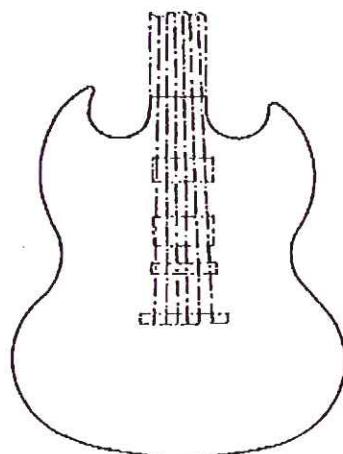
Prior U.S. Cls.: 2, 21 and 36

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

FIRST USE 12-31-1961; IN COMMERCE
12-31-1961.
THE MARK COMPRIMES A FANCIFUL
DESIGN OF A GUITAR BODY.
SEC. 2(F).

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

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, NAMLY,
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

EXHIBIT

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H

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 #: 73243718

Registrant: Norlin Industries, Inc.
Mark: FLYING V

Assignment: 1

Reel/Frame: 0682/0702

Conveyance: CHANGE OF NAME

Assignor: NORLIN INDUSTRIES, INC.

Assignee: ECL INDUSTRIES, INC.

Correspondent: LANRY, DOUGHERTY, HESSIN & BEAVERS
SUITE 900
101 PARK AVENUE
OKLAHOMA CITY, OK 73102-7277

Assignment: 2

Reel/Frame: 0526/0321

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Assignor: ECL INDUSTRIES, INC.

Received: 05/29/1986

Recorded: 05/29/1986

Pages: 5

Reg. Dc: 11/7/1982
Reg. #: 1216644
Filing Dc: 12/28/1981
Reg. Dc: 11/7/1982
Reel/Frame: 0682/0702

Assignment: 3

Assignee: SEISON SUGAR CORP.

1209 ORANGE ST.

WILMINGTON, DELAWARE

Correspondent: LANRY, DOUGHERTY, ET AL.

SUITE 900, 101 PARK AVE.

OKLAHOMA CITY, OK 73102

tables:

EXHIBIT
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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,
NAMLY GUITARS, IN CLASS 15 (U.S. CLS. 2, 21
AND 36).

WILLIAM VERHOSEK, EXAMINING ATTORNEY

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EXHIBIT

J

tabbies

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. POWELL, Supervisory Examiner
M. B. SILEN, Examiner

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EXHIBIT

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K 10f2

Total Assignments: 14

Serial #: 23072312

Registrant: NORLIN MUSIC, INC.

Mark: S-G

Filing Dt: 12/19/1975

Reg #: 1045622

Reg. Dt: 08/10/1976

Assignment: 1

Reef/Frame: 03227/0156

Conveyance: MERGER AND CHANGE OF NAME

Assignors: AITKEN INDUSTRIES, INC.-MERGED INTO-

Pages: 9

Exec Dt: 03/29/1978

Entity Type: UNKNOWN

Citizenship: NONE

Exec Dt: 00/00/0000

Entity Type: UNKNOWN

Citizenship: NONE

Correspondent: NORLIN MUSIC

7373 NORTH CICERO AVENUE

LINCOLNWOOD, IL 60646

Assignment: 2

Reef/Frame: 0683/0708

Received:

Recorded: 10/15/1989

Pages: 0

Exec Dt: 05/10/1985

Entity Type: UNKNOWN

Citizenship: NONE

Entity Type: UNKNOWN

Citizenship: NONE

Correspondent: LANEY, DOUGHERTY, HESSIN & BEAVERS

SUITE 900

101 PARK AVENUE

OKLAHOMA CITY, OK 73102-7277

Assignment: 3

Reef/Frame: 0526/0321

Received:

Recorded: 05/19/1986

Pages: 5

Exec Dt: 01/15/1986

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: GIBSON GUITAR CORP.

1209 ORANGE ST.
WILMINGTON, DELAWARE

EXHIBIT

K 2 of 2

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

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

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).

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

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