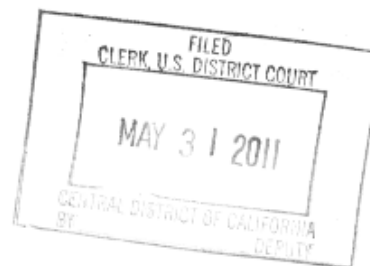




1 ANDREA E. BATES, ESQ. SBN 192491
 2 Abates@Bates-Bates.com
 3 MICHAEL A. BOSWELL, ESQ. SBN 198994
 4 MBoswell@Bates-Bates.com
 5 BATES & BATES, LLC
 6 964 DeKalb Avenue, Suite 101
 7 Atlanta, Georgia 30307
 8 Phone(866) 701-0404 and (562) 360-2097
 9 Fax (404) 963-6231



8 Attorneys for
 9 Plaintiff
 10 GIBSON GUITAR CORP.,

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

13 GIBSON GUITAR CORP., a Delaware)
 14 corporation,)

15 Plaintiff,

16 vs.

17 Richard L. Keldson d/b/a Saga Musical)
 18 Instruments, and DOES 1 through 10,)

19 Defendants,

Case No. **CV11-04622 R (AGRx)**
) COMPLAINT FOR:
) (1) Trademark Infringement;
) (2) Trademark Counterfeiting;
) (3) False Designation of Origin and
) Unfair Competition Under the United
) States Trademark Act;
) (4) False Description of Fact and
) Representations and False Advertising
) Under the United States Trademark Act;
) (5) Trademark Dilution Under the
) United States Trademark Act;
) (6) Trade Dress Infringement Under
) Federal Law;
) (7) Trademark Dilution Under
) California State Law;
) (8) Common Law Trademark
) Infringement;
) (9) Unfair Competition;
) (10) California Business & Professions
) Code §§ 14245, *et seq.*; and

1 4. Upon information and belief, Defendant Saga is a California Sole
2 Proprietorship with a principal place of business at 137 Utah Avenue, South San
3 Francisco, California 94080.
4

5 5. Upon information and belief, Defendant Saga is engaged in the promotion
6 and sale of various products in the United States, including in this District, through
7 their business, their distributors and through its website at www.sagamusic.com.
8

9 6. The true names and capacities of Defendants DOES 1 through 100 are
10 unknown to Plaintiff, who therefore sues said Defendants by such fictitious names.
11 Plaintiff is informed and believes and thereon alleges that each of the Defendants
12 designated herein as a fictitiously named Defendant is, in some manner, responsible
13 for the events and happenings herein referred to, either contractually or tortuously, and
14 caused damage to the Plaintiff as herein alleged. When Plaintiff ascertains the true
15 names and capacities of DOES 1 through 100, it will ask leave of this Court to amend
16 its Complaint by setting forth the same.
17
18
19

20 7. Plaintiff is informed and believes and thereon alleges that at all times
21 herein mentioned, each of the Defendants was and is an agent, servant, employee
22 and/or partner of each of the other Defendants, and all of the things alleged to have
23 been done by said Defendants were done in the capacity, and as the agent, servant,
24 employee, and/or partner of the other Defendants.
25
26
27
28

1 11. Gibson guitars are sold worldwide. Gibson's instruments have gained
2 worldwide recognition and reputation, winning awards for their design.

3
4 12. Gibson is the sole owner of the distinctive Les Paul Body Shape Design®,
5 U.S. Trademark Reg. No. 1782606 (hereinafter "Les Paul Body Shape Design®
6 Trademark"). This Trademark was issued by the U.S. Patent and Trademark Office on
7 July 20, 1993, and has been continuously and exclusively used in commerce by Gibson
8 since 1952. A copy of the Trademark's registration is attached hereto as Exhibit A.

9
10 13. Gibson is the sole owner of the distinctive The Dove Wing Peg-Head
11 Design®, U.S. Trademark Reg. No. 1020485 (hereinafter "Dove Wing Peg-Head®
12 Trademark"). This Trademark was issued by the U.S. Patent and Trademark Office on
13 September 16, 1975, and has been continuously and exclusively used in commerce by
14 Gibson since 1922. A copy of the Trademark's registration is attached hereto as
15 Exhibit B.

16
17 14. Gibson is the sole owner of the distinctive The Bell Shaped Truss Rod
18 Cover Design®, U.S. Trademark Reg. No. 1022637 (hereinafter "the Bell Cover
19 Design® Trademark"). This Trademark was issued by the U.S. Patent and Trademark
20 Office on October 14, 1975, and has been continuously and exclusively used in
21 commerce by Gibson since 1922. A copy of the Trademark's registration is attached
22 hereto as Exhibit C.

1 15. Gibson is the sole owner of the distinctive The Flying V Body Shape
2 Design®, U.S. Trademark Reg. No. 2051790 (hereinafter “Flying V Body Shape
3 Design® Trademark”). This Trademark was issued by the U.S. Patent and Trademark
4 Office on April 15, 1997, and has been continuously and exclusively used in
5 commerce by Gibson since 1958. A copy of the Trademark’s registration is attached
6 hereto as Exhibit D.
7

9 16. Gibson is the sole owner of the distinctive The SG Body Design®, U.S.
10 Trademark Reg. No. 2215791 (hereinafter “SG Body Design® Trademark”). This
11 Trademark was issued by the U.S. Patent and Trademark Office on January 5, 1999,
12 and has been continuously and exclusively used in commerce by Gibson since 1961.
13 A copy of the Trademark’s registration is attached hereto as Exhibit E.
14

16 17. Gibson is the sole owner of the distinctive Mustache Bridge Design®,
17 U.S. Trademark Reg. No. 1911282 (hereinafter “Moustache Bridge Design®
18 Trademark”). This Trademark was issued by the U.S. Patent and Trademark Office on
19 August 15, 1995, and has been continuously and exclusively used in commerce by
20 Gibson since 1934. A copy of the Trademark’s registration is attached hereto as
21 Exhibit F.
22

24 18. Gibson is the sole owner of the distinctive word mark FLYING V®, U.S.
25 Trademark Reg. No. 1216644 (hereinafter “FLYING V® Trademark”). This
26 Trademark was issued by the U.S. Patent and Trademark Office on November 16,
27
28

1 1982, and has been continuously and exclusively used in commerce by Gibson since
2 1958. A copy of the Trademark's registration is attached hereto as Exhibit G.

3
4 19. Gibson is the sole owner of the distinctive word mark LES PAUL®, U.S.
5 Trademark Reg. No. 1539282 (hereinafter "LES PAUL® Trademark"). This
6 Trademark was issued by the U.S. Patent and Trademark Office on May 16, 1989, and
7
8 has been continuously and exclusively used in commerce by Gibson since 1952. A
9 copy of the Trademark's registration is attached hereto as Exhibit H.

10
11 20. Gibson is the sole owner of the distinctive word mark S-G®, U.S.
12 Trademark Reg. No. 1045872 (hereinafter "S-G® Trademark"). This Trademark was
13 issued by the U.S. Patent and Trademark Office on August 10, 1976, and has been
14
15 continuously and exclusively used in commerce by Gibson since 1975. A copy of the
16 Trademark's registration is attached hereto as Exhibit I.

17
18 21. Gibson is the sole owner of the distinctive word mark DOBRO®, U.S.
19 Trademark Reg. No. 0950801 (hereinafter "DOBRO® Trademark"). This Trademark
20 was issued by the U.S. Patent and Trademark Office on January 16, 1973, and has been
21
22 continuously and exclusively used in commerce since 1971. A copy of the
23 Trademark's registration is attached hereto as Exhibit J.

24
25 22. Gibson is the sole owner of the distinctive word mark SG®, U.S.
26 Trademark Reg. No. 3931128 (hereinafter "SG® Trademark"). This Trademark was
27 issued by the U.S. Patent and Trademark Office on March 15, 2011, and has been
28

1 continuously and exclusively used in commerce by Gibson since 1959. A copy of the
2 Trademark's registration is attached hereto as Exhibit K.

3
4 23. Gibson has spent millions of dollars in the advertising and promotion of
5 the Les Paul Body Shape Design® Trademark, the Dove Wing Peg-Head®
6 Trademark, the Bell Cover Design® Trademark, the Flying V Body Shape Design®
7 Trademark, the SG Body Design® Trademark, the Moustache Bridge Design®
8 Trademark, the LES PAUL® Trademark, the FLYING V® Trademark, the DOBRO®
9 Trademark, the S-G® Trademark, and the SG® Trademark (hereinafter collectively
10 referred to as the "Gibson Trademarks") which have been used in conjunction with
11 various Gibson stringed instruments.
12
13

14
15 24. As a result of the quality of Gibson's products and the extensive sales,
16 licensing and marketing, advertising and promotion of these products under the Gibson
17 Trademarks, the Les Paul Body Shape Design® Trademark, the Dove Wing Peg-
18 Head® Trademark, the Bell Cover Design® Trademark, the Flying V Body Shape
19 Design® Trademark, the SG Body Design® Trademark, the Moustache Bridge
20 Design® Trademark, the LES PAUL® Trademark, the FLYING V® Trademark, the
21 DOBRO® Trademark, the S-G® Trademark, and the SG® Trademark have become
22 famous trademarks that are widely and favorably known by consumers in the United
23 States and elsewhere as designating high quality and dependable products originating
24 exclusively from Gibson and its related companies.
25
26
27
28

1 25. The Gibson Trademarks have been famous in the United States and
2 elsewhere since long prior to the acts complained of herein.

3
4 26. The above-identified registrations remain in full force and effect and are
5 *prima facie* proof of Gibson's exclusive right to own and use the Les Paul Body Shape
6 Design® Trademark, the Dove Wing Peg-Head® Trademark, the Bell Cover Design®
7 Trademark, the Flying V Body Shape Design® Trademark, the SG Body Design®
8 Trademark, the Moustache Bridge Design® Trademark, the LES PAUL® Trademark,
9 the FLYING V® Trademark, the DOBRO® Trademark, the S-G® Trademark, and the
10 SG® Trademark. In addition, all of the above registrations, with the exception of the
11 SG® Trademark, are incontestable pursuant to Section 15 of the Lanham Act (15
12 U.S.C. § 1065).
13
14
15

16 **Misuse By Defendants of the Gibson Trademarks**

17 27. Upon information and belief, Defendants offer for sale and sell products
18 using the Les Paul Body Shape Design® Trademark, the Dove Wing Peg-Head®
19 Trademark, the Bell Cover Design® Trademark, the Flying V Body Shape Design®
20 Trademark, the SG Body Design® Trademark, the Moustache Bridge Design®
21 Trademark, the LES PAUL® Trademark, the FLYING V® Trademark, the DOBRO®
22 Trademark, the S-G® Trademark, and the SG® Trademark ("Defendants'
23 Unauthorized Products") (See Exhibits "L-V").
24
25
26
27
28

1 28. Upon information and belief, notwithstanding the lack of authorization
2 from Gibson and the fact that said Defendants' Unauthorized Products otherwise are
3 not authorized to be sold utilizing the Gibson Trademarks, Defendants have made
4 repeated unauthorized use of the Trademark in connection with said products, as
5 described below, with the intent to mislead and confuse consumers into believing that
6 said Defendants' Unauthorized Products are made directly by Gibson pursuant to
7 Gibson's strict quality control standards or that said Defendants' Unauthorized
8 Products are otherwise authorized or licensed by Gibson and with the intent of
9 misappropriating, for their own benefit, the tremendous goodwill built up by Gibson in
10 the Gibson Trademarks (See Exhibits "L-V").
11

12 29. In particular, Defendants have improperly used the Trademark in their
13 advertising and promotional materials for said Defendants' Unauthorized Products as
14 well as on their Internet websites at www.sagamusic.com, and otherwise have falsely
15 stated or implied that said Defendants' Unauthorized Products are made directly by
16 Gibson pursuant to Gibson's strict quality control standards or that their use of the
17 Trademark is authorized or licensed by Gibson.
18

19 30. Plaintiff is informed and believes, and thereon alleges that Defendant
20 Saga is advertising the Defendants' Unauthorized Products bearing Les Paul Body
21 Shape Design® Trademark, the Dove Wing Peg-Head® Trademark, the Bell Cover
22 Design® Trademark, the Flying V Body Shape Design® Trademark, the SG Body
23

1 Design® Trademark, the Moustache Bridge Design® Trademark, the LES PAUL®
2 Trademark, the FLYING V® Trademark, the DOBRO® Trademark, the S-G®
3 Trademark, and the SG® Trademark on the www.sagamusic.com website.
4

5 31. Upon information and belief, the aforementioned misuse of the Gibson
6 Trademarks by Defendants was done by Defendants with the intent of deceiving or
7 misleading customers into mistakenly believing that said Defendants' Unauthorized
8 Products were authorized Gibson products originating from Gibson or its related
9 companies and otherwise misappropriating the goodwill built up by Gibson in the
10 Gibson Trademarks and otherwise attracting and misdirecting consumers looking for
11 genuine or authorized Gibson goods to Defendants' websites.
12
13

14 32. Prior to commencing this lawsuit, Gibson and its representatives
15 communicated directly with Defendants and their representatives in an attempt to
16 resolve this matter without the necessity of bringing this lawsuit, but Defendants have
17 failed to cease all unauthorized use of the Gibson Trademarks as requested by Gibson
18 and continues to deliberately and intentionally use the Gibson Trademarks without the
19 consent of Gibson.
20
21

22 33. The misuse of the Gibson Trademarks by Defendants was intended to
23 cause, has caused and is likely to continue to cause consumer confusion, mistake or
24 deception including the misleading of consumers into mistakenly believing that the
25 Defendants' Unauthorized Products are made directly by Gibson pursuant to Gibson's
26
27
28

1 strict quality control standards or Gibson has authorized or licensed the use by
2 Defendants of the Trademark for those products.

3
4 34. The aforementioned misuse of the Gibson Trademarks by Defendants is
5 damaging to the reputation and goodwill of the Gibson and the Gibson Trademarks.

6
7 35. Upon information and belief, the aforesaid acts of Defendants have
8 caused and, unless enjoined will continue to cause irreparable damage to Gibson and to
9 the reputation of its valuable Gibson Trademarks.

10
11 36. Gibson has no adequate remedy at law.

12 **COUNT I**

13 **Trademark Infringement Under**

14 **The United States Trademark**

15 **Act (15 U.S.C. 1114 (1))**

16
17 37. Gibson repeats the allegations set forth in Paragraphs 1 through 36.

18
19 38. The complained of acts constitute willful, deliberate and intentional
20 infringement of Plaintiff's federally registered trademarks for the Gibson Trademarks
21 in violation of §32(1) of the Lanham Act (15 U.S.C. §1114(1)).

22
23 **COUNT II**

24 **Trademark Counterfeiting Under**

25 **The United States Trademark**

26 **Act (15 U.S.C. 1114(1))**

1 39. Gibson repeats the allegations set forth in Paragraphs 1 through 38.

2 40. The complained of acts constitute trademark counterfeiting in violation of
3
4 Section 32(1) of the Lanham Act (15 U.S.C. §1114(1)).

5 **COUNT III**

6 **False Designation of Origin and**
7
8 **Unfair Competition Under The United States**

9 **Trademark Act (15 U.S.C. 1125(a))**

10 41. Gibson repeats the allegations set forth in paragraphs 1 through 40.

11
12 42. The complained of acts constitute willful, deliberate and intentional false
13 designations of origin as to products made available by Defendants and unfair
14 competition in violation of §43(a) of the Lanham Act (15 U.S.C. §1125(a)).

15
16 **COUNT IV**

17 **False Descriptions of Fact and Representations**
18
19 **and False Advertising Under The United States**

20 **Trademark Act (15 U.S.C. 1125(a))**

21 43. Gibson repeats the allegations set forth in paragraphs 1 through 42.

22
23 44. The complained of acts constitute willful, deliberate and intentional false
24 and misleading descriptions of fact, false and misleading representations of fact and
25 false advertising in violation of §43(a) of the Lanham Act (15 U.S.C. §1125(a)).

26
27 **COUNT V**

1 **Body Shape Design**

2 **Trademark Dilution**

3 **Under The United States Trademark Act**

4 **(15 U.S.C. 1125(c))**

5 45. Gibson repeats the allegations set forth in paragraphs 1 through 44.

6 46. The complained of acts have diluted and damaged the distinctive quality
7
8 of Gibson's famous the Gibson Trademarks and constitute trademark dilution of the
9 famous marks in violation of §43(c) of the Lanham Act (15 U.S.C. §1125(c)).
10
11

12 **COUNT VI**

13 **Trade Dress Infringement Under Federal Law**

14 47. Gibson repeats the allegations set forth in paragraphs 1 through 46.

15 48. Gibson has used in interstate commerce the inherently distinctive product
16 designs in connection with the sale and marketing of its guitars. The Gibson designs,
17 namely the Les Paul Body Shape Design® Trademark, the Dove Wing Peg-Head®
18 Trademark, the Bell Cover Design® Trademark, the Flying V Body Shape Design®
19 Trademark, the SG Body Design® Trademark, the Moustache Bridge Design®
20 Trademark contain inherently distinctive, nonfunctional features which are protected
21 under the Lanham Act §43(a) (15 U.S.C. 1125(a)).
22
23
24

25 49. Defendants' use of the infringing trade dress has confused and is likely to
26 continue to cause confusion or to cause mistake or to deceive the consuming public
27
28

1 into believing that the Defendants' Unauthorized Products are authorized, sponsored or
2 approved by Plaintiff.

3
4 **COUNT VII**

5 **Trademark Dilution Under**

6 **California Business and Professions Code (Section 14330)**

7
8 50. Gibson repeats the allegations set forth in Paragraphs 1 through 49.

9 51. The complained of acts are likely to cause injury to the business
10 reputation of or otherwise dilute the distinctive quality of the Gibson Trademarks in
11 violation of §14330 of the California Business and Professions Code.
12

13 **COUNT VIII**

14 **Common Law Trademark**

15 **Infringement And Unfair Competition**

16
17 52. Gibson repeats the allegations set forth in Paragraphs 1 through 51.

18 53. The complained of acts constitute trademark infringement, palming off,
19 and unfair competition in violation of the common law of the State of California.
20

21 **COUNT IX**

22 **Unfair Competition Under**

23 **California Business and Professions Code (Section 17200)**

24 54. Gibson repeats the allegations set forth in Paragraphs 1 through 53.
25
26
27
28

1 3. That Plaintiff be awarded such other monetary damages, recovery and
2 awards as appropriate under the law.

3
4 4. That Defendants' conduct violates the provisions of California Business
5 & Professions Code sections 14240, 14245, 14247 and 17200-17210 and constitutes
6 trademark infringement, unfair competition under the common law of the State of
7
8 California.

9 5. That Defendants, their officers, directors, principals, agents, servants,
10 affiliates, employees, attorneys, representatives, successors and assigns, and all those
11 in privity or acting in concert or participation with Defendants, and each and all of them,
12 be preliminarily and permanently enjoined and restricted from directly or indirectly:
13

14 (a) claiming or representing that any products and/or services sold by
15 Defendants are made directly by Gibson pursuant to Gibson's strict quality control
16 standards or Gibson has authorized or licensed the use by Defendants of the Gibson
17 Trademarks for those products;
18

19 (b) using, in any manner, or holding itself out as having rights to use,
20 the Les Paul Body Shape Design® Trademark, the Dove Wing Peg-Head®
21 Trademark, the Bell Cover Design® Trademark, the Flying V Body Shape Design®
22 Trademark, the SG Body Design® Trademark, the Moustache Bridge Design®
23 Trademark, the LES PAUL® Trademark, the FLYING V® Trademark, the DOBRO®
24 Trademark, the S-G® Trademark, and the SG® Trademark or any other name, mark or
25
26
27
28

1 design confusingly similar to the Gibson Trademarks to designate, describe or refer to
2 themselves or in conjunction with any product or service, including any use in
3 conjunction with any Internet activities conducted by it or on its behalf such as any use
4 as a domain name or in the text, graphics and hypertext metatags of any Internet
5 website;
6

7
8 (c) requesting or inducing Internet search engines to display links to
9 the Defendants' website or other websites displaying or promoting Defendants'
10 products or services when potential customers using those search engines search for
11 terms containing variations of the Les Paul Body Shape Design® Trademark, the Dove
12 Wing Peg-Head® Trademark, the Bell Cover Design® Trademark, the Flying V Body
13 Shape Design® Trademark, the SG Body Design® Trademark, the Moustache Bridge
14 Design® Trademark, the LES PAUL® Trademark, the FLYING V® Trademark, the
15 DOBRO® Trademark, the S-G® Trademark, and the SG® Trademark;
16
17

18
19 (d) selling, offering for sale, promoting, advertising, distributing or
20 providing or offering to provide any goods or services in conjunction with the Gibson
21 Trademarks or any other name, mark or design confusingly similar to the Gibson
22 Trademarks in conjunction with any product or service; and
23

24 (e) engaging in any course of conduct likely to cause confusion,
25 deception or mistake or injure Plaintiff's business reputation or dilute the Gibson
26
27
28

1 Trademarks or appropriate the good will and reputation of said mark or lead to the
2 passing off of Defendants' products and services as Gibson products and services.
3

4 6. That the Court issue an Order directing Defendants to file with the Court
5 and serve on Plaintiff, within thirty (30) days after the service on Defendants of such
6 injunctions, a report in writing and under oath, setting forth in detail the manner and
7 form in which Defendants have complied with the injunction.
8

9 7. That the Court award judgment in favor of the Plaintiff in the amount of
10 treble damages.
11

12 8. That the Court award to Plaintiff punitive damages sufficient to deter
13 Defendants from committing such willful acts of infringement in the future.
14

15 9. That the Court require a full and complete accounting of all monies
16 received by Defendants as a result of the infringement.
17

18 10. That Defendants be required to deliver to Plaintiff all merchandise,
19 packaging, labels, boxes, cartons, advertising, brochures, documents, advertising and
20 promotional materials and other things, possessed, used or distributed by Defendant, or
21 on its behalf, which use the Gibson Trademarks or any other name, mark or design
22 confusingly similar to the Gibson Trademarks.
23

24 11. That Plaintiff be awarded the costs of this action and its disbursements,
25 and reasonable attorney's and investigatory fees incurred and as otherwise appropriate
26 herein pursuant to 15 U.S.C. §1117 or other appropriate statute or law.
27
28



| | |
|--|---|
| I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Gibson Guitar Corp., a Delaware corporation | DEFENDANTS Richard L. Keldson d/b/a Saga Musical Instruments and DOES 1-100 |
| (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Bates & Bates, LLC (404) 228-7439 964 Dekalb Ave Ste 101 Atlanta GA 30307 | Attorneys (If Known) |

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|----------------------------|---|----------------------------|----------------------------|------------|------------|-----------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> | | PTF | DEF | | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| | PTF | DEF | | PTF | DEF | | | | | | | | | | | | | | | | | | | | |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify): _____
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ treble, punitive, costs

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 USC 1121 and 1125(a)(c)

VII. NATURE OF SUIT (Place an X in one box only.)

| OTHER STATUTES | CONTRACT | TORTS | TORTS | PRISONER | LABOR |
|--|---|--|---|---|--|
| <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |

CV11-04622

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | Delaware |

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | San Mateo |

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date May 27, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended, plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Manuel Real and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV11- 4622 R (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

Unless otherwise ordered, the United States District Judge assigned to this case will hear and determine all discovery related motions.

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

must serve on the plaintiff an answer to the attached complaint _____ amended complaint
 counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer
or motion must be served on the plaintiff's attorney, Andrea E. Bates, whose address is _____

Name & Address:
Andrea E. Bates, SBN 192491
Michael A. Boxwell, SBN 198994
Bates & Bates, LLC
964 DeKalb Avenue, Suite 101
Atlanta, Georgia 30307
Ph- 866-701-0404 and 5620360-2097
Fax 404-062-6221



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Gibson Guitar Corp., a Delaware corporation,

PLAINTIFF(S)

CASE NUMBER

CV11-04622 P (AGPX)

v.
Richard L. Keldson d/b/a Saga Musical Instruments,
and DOES 1 through 10 ,

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Andrea E. Bates, whose address is 964 DeKalb Avenue, Ste. 101, Atlanta, Georgia 30307. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

MAY 31 2011

Dated: _____

Clerk, U.S. District Court

JULIE PRADO

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].