

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

GIBSON GUITAR CORPORATION,

Plaintiff,

v.

AMAZON.COM, INC., GAMESTOP
CORPORATION, TOYS-R-US INC.,
WAL-MART STORES, INC.,
TARGET CORPORATION, AND
KMART CORPORATION, SEARS
ROEBUCK & CO, HARMONIX
MUSIC SYSTEMS, INC., MTV, and
ELECTRONIC ARTS INC.,

Defendants.

Civil Action No. 3:08-0279

United States District Judge
Thomas A. Wiseman, Jr.

United States Magistrate Judge
Juliet Griffin

Jury Demand

**THE VIACOM DEFENDANTS' MOTION TO DISMISS AMENDED
COMPLAINT AS TO THE VIACOM DEFENDANTS**

Defendants Harmonix Music Systems, Inc., Viacom International Inc. (erroneously named in the Complaint as “MTV Networks”), and Electronic Arts Inc. (collectively, “Viacom Defendants”) respectfully move the Court dismiss the Amended Complaint in this action as to the Viacom Defendants.

The basis for this motion is that Plaintiff Gibson Guitar Corporation has filed two lawsuits in this Court, each of them alleging infringement of the same patent by the Viacom Defendants. Despite the Viacom Defendants’ repeated requests to Gibson to dismiss them from one of the suits, Gibson insists on pursuing identical claims against them in both actions at the same time. This Court has the inherent power to put an end to such impropriety, both to protect defendants from vexatious, cumulative and expensive litigation, and to promote judicial economy and the efficient disposition of cases. For these reasons, the Viacom Defendants respectfully request the Court dismiss the claims against them in this suit.

Filed in support of this motion are Memorandum To Dismiss Amended Complaint As To The Viacom Defendants and the Declaration of Mark A. Samuels.

Dated: May 6, 2008

Respectfully submitted,

By: /s/ Aubrey B. Harwell, III
Aubrey B. Harwell, III

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Attorneys for Defendants Harmonix Music
Systems, Inc., Viacom International Inc.
(erroneously named in the Complaint as
"MTV Networks"), and Electronic Arts
Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May 2008, I caused a true and correct copy of the foregoing:

**THE VIACOM DEFENDANTS' MOTION TO DISMISS AMENDED
COMPLAINT AS TO THE VIACOM DEFENDANTS**

to be served via hand delivery and via the Court's electronic filing system upon the following counsel of record:

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and to be served via the Court's electronic filing system upon the following counsel of record:

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/s/ Aubrey B. Harwell, III

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