

**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

**MOTION FOR HEARING ON 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 request the Court set a hearing on the contemporaneously filed Motion to Dismiss Amended Complaint as to the Viacom Defendants.

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. Through their Motion to Dismiss, the Viacom Defendants have requested the Court dismiss the claims against them in this suit.

Because of the significance of the relief the Viacom Defendants are requesting, it is imperative that counsel have the opportunity to fully articulate their positions and respond to the Court’s concerns with respect to dismissing the Viacom Defendants from this suit. Thus, Defendants respectfully request the Court set a hearing on the Viacom Defendants’ Motion to Dismiss.

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:

**MOTION FOR HEARING ON 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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