

Gibson Guitar Corp. v. Harmonix Music Systems, Inc.; MTV Networks (a division of Viacom Int'l, Inc.) and Electronic Arts, Inc.

By Nicholas Evanovich

In the Middle District of Tennessee, a battle is being waged not by opposing bands, but by the Gibson Guitar Corporation and the creators of Guitar Hero and Rock Band. On March 20th, 2008, Gibson filed a complaint claiming patent infringement by Harmonix, MTV Networks (a division of Viacom), and Electronic Arts (known collectively as the creators of Guitar Hero and Rock Band).

The complaint references violation of 35 U.S.C. Section 261 through infringement on U.S. Patent No. 5990405. 35 U.S.C. Section 261 directly touches on ownership and assignment of patents. The section begins, "Subject to the provisions of this title, patents shall have attributes of personal property."

Patent 5990405 is referenced as the patent that defendant's infringed upon. This patent was assigned on November 23, 1999, to the Gibson Guitar Corp. The abstract makes reference to a musical concert experience, titling the patent "System and method for generating and controlling a simulated musical concert experience." The abstract talks about a simulated participation in a concert by wearing headphones, playing a real instrument, and watching a computer screen. The musical instrument being played would be heard along with the pre-recorded audio and video portions.

Harmonix's official statement said that this claim is without merit, and that they intend to defend against it. Harmonix distinguished Guitar Hero and Rock Band from the Gibson patent which was filed almost 10 years ago, noting that the subject of the Gibson patent required 3D displays, real musical instruments, and a concert recording. Harmonix commented further that Gibson is simply trying to cash in on the success of these game titles.

Sources:

Gibson Guitar Corp. v. Harmonix Music Sys., Inc.; MTV Networks (a division of Viacom Int'l, Inc.) and Electronic Arts, Inc., Civ. 3:08-cv-00294 (M.D. Tenn. 2008), available at http://blog.wired.com/games/files/gib_hmx_suit.pdf.

U.S. Patent 5990405, System and Method for Generating and Controlling a Simulated Musical Concert Experience, <http://www.patentstorm.us/patents/5990405.html> (Last visited Mar. 24, 2008).