

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

TRANSMITTAL LETTER (GENERAL)
(With Certificate of Mailing by First Class Mail)

Opposers: **Hoshino Gakki Co., Ltd., and Hoshino USA, Inc.**
 Applicant: **Fender Musical Instrument Corporation**
 Opposition No.: **91162245**
 Application No.: **76/515,928**
 Trademark: **Miscellaneous Design**

Docket No.
C046939/0176360

TO THE COMMISSIONER FOR TRADEMARKS:

Transmitted herewith is the following:

1. Transmittal letter (1 page, in duplicate);
2. Answer To Notice Of Opposition (6 pages, in triplicate); and
3. Return postcard.



11-26-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #77



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Mark A. Paskar
Signature

Dated: November 23, 2004

Mark A. Paskar, Esq.
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I certify that this document is being deposited on November 23, 2004, with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Trademarks, Box TTAB - NO FEE, P. O. Box 1451, Alexandria, Virginia 22313-1451.

Mark A. Paskar
Signature of Person Mailing Correspondence

Mark A. Paskar

Typed or Printed Name of Person Mailing Correspondence

cc: Nancy D. Collora, Docket Clerk

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/515,928
Mark: Miscellaneous Design
Filing Date: April 25, 2003
Published in the Trademark Official Gazette: March 16, 2004

HOSHINO GAKKI CO., LTD. and)	
HOSHINO USA INC.,)	
)	
Opposers,)	
)	Opposition No.: 91162245
v.)	
)	
FENDER MUSICAL INSTRUMENTS)	
CORPORATION,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
Box TTAB - NO FEE
P. O. Box 1451
Alexandria, VA 22313-1451

Applicant, Fender Musical Instruments Corporation ("FMIC"), pursuant to 37 C.F.R. §2.106, hereby files its Answer to Hoshino Gakki Co., Ltd. and Hoshino USA Inc.'s ("Opposers") Notice of Opposition to the registration of U.S. Trademark Application Serial No. 76/515,928 as follows:

FMIC admits that Opposers have filed a Notice of Opposition with respect to U.S. Trademark Application Serial No. 76/515,928, which application was filed on April 25, 2003, reciting the goods "guitar bodies" in International Class 15, but is without knowledge or information sufficient to form a belief as to Opposers' business entity status or principal places of business. Except as expressly admitted herein, FMIC denies each and every allegation set forth in Opposers'

introductory paragraph.

FACTS COMMON TO ALL COUNTS

1. FMIC is presently without knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 1 of Opposers' Notice of Opposition and therefore denies same.

2. FMIC is presently without knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 2 of Opposers' Notice of Opposition and therefore denies same.

3. FMIC admits that it manufactures and sells guitars and related musical goods in the U.S. and throughout the world. Except as expressly admitted herein, FMIC denies each and every allegation set forth in Paragraph 3 of Opposers' Notice of Opposition.

4. Upon information and belief, FMIC admits that it may be considered a competitor of Opposers with respect to certain products. Except as expressly admitted herein, FMIC denies each and every allegation set forth in Paragraph 4 of Opposers' Notice of Opposition.

5. FMIC admits that it has used, among others, the mark TELECASTER® on or in connection with certain distinctive electric guitars, including, but not limited to, the distinctive electric guitar body design that is the subject of U.S. Trademark Application Serial No. 76/515,928. Except as expressly admitted herein, FMIC denies each and every allegation set forth in Paragraph 5 of Opposers' Notice of Opposition.

6. FMIC denies each and every allegation set forth in Paragraph 6 of Opposers' Notice of Opposition.

COUNT I - FUNCTIONALITY

7. FMIC denies each and every allegation set forth in Paragraph 7 of Opposers' Notice of Opposition.

8. FMIC denies each and every allegation set forth in Paragraph 8 of Opposers' Notice of Opposition.

9. FMIC denies each and every allegation set forth in Paragraph 9 of Opposers' Notice of Opposition.

10. FMIC denies each and every allegation set forth in Paragraph 10 of Opposers' Notice of Opposition.

COUNT II - LACK OF ACQUIRED DISTINCTIVENESS

11. FMIC denies each and every allegation set forth in Paragraph 11 of Opposers' Notice of Opposition.

12. FMIC denies each and every allegation set forth in Paragraph 12 of Opposers' Notice of Opposition.

13. FMIC denies each and every allegation set forth in Paragraph 13 of Opposers' Notice of Opposition.

COUNT III - GENERICNESS

14. FMIC denies each and every allegation set forth in Paragraph 14 of Opposers' Notice of Opposition.

15. FMIC denies each and every allegation set forth in Paragraph 15 of Opposers' Notice of Opposition.

16. FMIC denies each and every allegation set forth in Paragraph 16 of Opposers' Notice of Opposition.

17. FMIC denies each and every allegation set forth in Paragraph 17 of Opposers' Notice of Opposition.

18. FMIC denies each and every allegation set forth in Paragraph 18 of Opposers' Notice of Opposition.

FURTHER ANSWERS AND AFFIRMATIVE DEFENSES

1. Further answering, unless expressly admitted herein, FMIC denies each and every allegation contained in Opposers' Notice of Opposition.
2. Further answering, FMIC states that Opposers' Notice of Opposition fails to state a claim upon which relief may be granted.
3. Further answering, FMIC asserts that Opposers have failed and neglected to use reasonable means to protect themselves from alleged losses and to minimize the alleged losses and damage complained of in their Notice of Opposition and as a result Opposers' claims for relief are barred.
4. Further answering, FMIC states that Opposers' claims for relief in their Notice of Opposition are barred by the doctrine of unclean hands.
5. Further answering, FMIC states that Opposers' claim for relief in their Notice of Opposition are barred by the doctrine of equitable estoppel.
6. Further answering, FMIC states that Opposers' Notice of Opposition fails to plead the necessary and operative facts in sufficient detail to provide FMIC with adequate notice of the grounds supporting the Opposition.

WHEREFORE, Applicant Fender Musical Instruments Corporation, respectfully submits that Opposer's Notice of Opposition should be dismissed in its entirety and that Applicant's mark is entitled to, and should be approved for, registration.

Respectfully submitted,

Mark A. Paskar

Date: 11/23/04

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for First Class mail in an envelope addressed to: Commissioner for Trademarks, BOX TTAB - NO FEE, P. O. Box 1451, Alexandria, VA 22313-1451, on November 23, 2004.

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Attorneys for Applicant Fender Musical
Instruments Corporation

CERTIFICATE OF MAILING

The undersigned hereby certifies that a copy of the foregoing Answer to Notice of Opposition, was mailed, first class postage prepaid, on the 23rd day of November, 2004 to:

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