

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: March 25, 2005

Opposition No. **91161269**

First Act Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161403**

Stuart Spector Designs, Ltd.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161405**

U.S. Music Corporation

v.

Fender Musical Instruments
Corporation

Opposition No. **91161406**

Warmoth Guitar Products, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. 91161269, et al

Opposition No. **91161411**

Indoor Storm, Ltd.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161413**

Tradition Guitars, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161420**

Raise Praise, Inc. d/b/a Tom
Anderson Guitar Works

v.

Fender Musical Instruments
Corporation

Opposition No. **91161422**

Schecter Guitar Research, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161486**

JS Technologies, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. 91161269, et al

Opposition No. **91161518**

W D Music Products, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161519**

Sadowsky Guitars Ltd.

v.

Fender Musical Instruments
Corporation

Opposition No. **91161520**

The ESP Guitar Company

v.

Fender Musical Instruments
Corporation

Opposition No. **91162245**

Opposition No. **91162246**

Opposition No. **91162923**

Hoshino Gakki Co., Ltd. and
Hoshino USA, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91162312**

Lakland Musical Instruments,
LLC

v.

Fender Musical Instruments
Corporation

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Opposition No. **91162313**

Michael Tobias

v.

Fender Musical Instruments
Corporation

Opposition No. **91162483**

Richard Keldsen

v.

Fender Musical Instruments
Corporation

Opposition No. **91162484**

MBT International, Inc.

v.

Fender Musical Instruments
Corporation

Opposition No. **91162485**

Levinson Music Products Ltd.

v.

Fender Musical Instruments
Corporation

Opposition No. **91162497**

James Triggs

v.

Fender Musical Instruments
Corporation

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Opposition No. **91162498**

Peavey Electronics Corporation

v.

Fender Musical Instruments
Corporation

(as consolidated)

Andrew P. Baxley, Interlocutory Attorney:

On January 28, 2005, the Board issued an order in which it notified the parties to Opposition Nos. 91160180 and 91160351 and the above-captioned proceedings that it intends to consolidate as many as feasible of the pending oppositions to registration of the claimed marks in applicant's involved application Serial Nos. 76515928, 76516126, and 76516127. In that order, the Board allowed opposers thirty days to appoint a lead counsel to supervise and coordinate the conduct of their cases. Opposers filed a letter dated February 28, 2005 which states that Ronald S. Bienstock has been appointed as opposers' lead counsel in the above captioned proceedings.¹

¹ Opposers' letter appointing their lead counsel in the above-captioned proceedings does not include any proceeding numbers. Accordingly, such letter did not become associated with any of the above-captioned proceeding files. However, at the request of the Board attorney assigned to these cases, opposers' lead counsel transmitted by facsimile a copy of that letter to the Board on March 22, 2005.

Opposer's letter does not include proof of service upon applicant, as is required by Trademark Rule 2.119(a). However, in the interest of moving these proceedings forward without further delay, the Board will consider that letter. Opposers are advised that any further papers filed in this proceeding that do

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The Board hereby orders the consolidation of the above-referenced proceedings inasmuch as the proceedings involve common questions of law and fact.² In view thereof, Opposition Nos. 91161269, 91161403, 91161405, 91161406, 91161411, 91161413, 91161420, 91161422, 91161486, 91161518, 91161519, 91161520, 91162245, 91162246, 91162312, 91162313, 91162483, 91162484, 91162485, 91162497, 91162498, and 91162923 are hereby consolidated.

The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board filed will be maintained in Opposition No. 91161269 as the "parent" case. As a general rule, from this

not include proof of service upon applicant in compliance with Rule 2.119(a) will receive no consideration.

Opposition No. 91160180, wherein Red Planet Management Corporation ("Red Planet") opposed registration of the marks in applicant's involved applications, was dismissed with prejudice in a March 22, 2005 order, following the filing of a withdrawal of that opposition without applicant's consent on March 7, 2005.

The statement in opposers' letter that James Lollar, the opposer in Opposition No. 91160351, will remain outside of the intended consolidation is noted. In a March 23, 2005 order, Opposition No. 91160351 was suspended pending final determination, including all appeals and remands, of the above-captioned proceedings.

² When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. See Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); and TBMP Section 511 (2d ed. rev. 2004).

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point on only a single copy of any paper or motion should be filed herein; but that copy should include all twenty-two proceeding numbers in its caption.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

Proceedings herein are resumed. Discovery and trial dates are reset as follows.

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| DISCOVERY PERIOD TO CLOSE: | 9/23/05 |
| Plaintiff's thirty-day testimony period to close: | 12/22/05 |
| Defendant's thirty-day testimony period to close: | 2/20/06 |
| Plaintiff's fifteen-day rebuttal period to close | 4/6/06 |

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.