

ESTTA Tracking number: **ESTTA1046375**

Filing date: **04/01/2020**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Gibson Brands, Inc.
Granted to Date of previous extension	04/01/2020
Address	209 10TH AVE S, SUITE 460 NASHVILLE, TN 37203 UNITED STATES

Attorney information	ANDREA E. BATES BATES & BATES, LLC 1890 MARIETTA BLVD NW ATLANTA, GA 30318 UNITED STATES abates@bates-bates.com, kdawson@bates-bates.com, rberkowitz@bates-bates.com, ckoerner@bates-bates.com no phone number provided
----------------------	---

**Applicant Information**

Application No	88555724	Publication date	12/03/2019
Opposition Filing Date	04/01/2020	Opposition Period Ends	04/01/2020
Applicant	Gibson, Cory 2181 Blake Drive Antioch, TN 37013 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Production of music
--

**Grounds for Opposition**


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

**Marks Cited by Opposer as Basis for Opposition**


U.S. Registration No.	510594	Application Date	10/06/1947
Registration Date	06/07/1949	Foreign Priority Date	NONE

Word Mark	GIBSON
Design Mark	
Description of Mark	NONE
Goods/Services	Class 015. First use: First Use: 1890/01/01 First Use In Commerce: 1890/01/01 GUITARS, MANDOLINS, VIOLINS, BANJOS, UKELELES, AND CASES THEREFOR, STRINGS FOR FRETTED INSTRUMENTS AND VIOLIN BOWS

U.S. Registration No.	866698	Application Date	03/27/1967
Registration Date	03/18/1969	Foreign Priority Date	NONE

Word Mark	GIBSON
Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1942/07/01 First Use In Commerce: 1942/07/01 POLISH FOR FINISHES OF BOTH MUSICAL INSTRUMENTS AND FURNITURE Class 009. First use: First Use: 1940/12/31 First Use In Commerce: 1940/12/31 ELECTRONIC AMPLIFIERS AND ACCESSORIES AND REPLACEMENT PARTS SOLD FOR USE WITH OR IN SUCH AMPLIFIERS-NAMELY, SPEAKERS, TRANSFORMERS, TUBES, REVERBERATION UNITS, FOOT SWITCH ASSEMBLIES, CONTROLS, CAPACITORS, DIODES, TRANSISTORS, RESISTORS, CORDS, AMPLIFIER CASES AND THEIR COMPONENT, FUSES, AND FUSE HOLDERS Class 016. First use: First Use: 1948/11/00 First Use In Commerce: 1948/11/00 MUSICAL MAGAZINES, COLUMNS FOR MUSICAL PERIODICALS PUBLISHED BOTH BY APPLICANT AND BY OTHERS, AND PRINTED GUITAR

	<p>TEACHING MATERIALS</p> <p>Class U036 (International Class 015, 009). First use: First Use: 1890/01/01 First Use In Commerce: 1890/01/01</p> <p>MUSICAL INSTRUMENTS OF THE FRETTED TYPE-NAMELY, GUITARS, ELECTRIC GUITARS, MANDOLINS, BANJOS, UKELELES, AND ELECTRIC BASSES; AND ACCESSORIES AND REPLACEMENT PARTS THEREFORE-NAMELY, AMPLIFIERS, SPEAKERS, BRIDGES, FINGERBOARDS, FINGER-RESTS, MACHINE-TYPE TUNING HEADS, TAILPIECES, VIBRATO TAIL-PIECES, TRUSS ROD COVERS, ELECTRIC PICKUPS AND CONTROLS, NECK STRAPS, STRING MUTES, STRING DAMPERS, BINDING, HAWAIIAN STEELS, GUITAR STANDS, PICKS, CASES, AND CASE COVERS; AND OTHER ACCESSORIES AND REPLACEMENT PARTS FOR BANJOS-NAMELY, ARMRESTS, PICKGUARDS, TUNERS, CO-ORDINATOR RODS, TENSION HOOKS AND NUTS, HEADS, TENSION RINGS, AND RESONATOR BANDS; PITCHPIPES; STRINGS FOR FRETTED MUSICAL INSTRUMENTS AND FOR VIOLINS, AND MUSICAL INSTRUMENT STRINGS AND ACCESSORIES THEREFOR</p>
--	---

U.S. Registration No.	989617	Application Date	03/22/1973
Registration Date	07/30/1974	Foreign Priority Date	NONE
Word Mark	GIBSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 015. First use: First Use: 1890/01/01 First Use In Commerce: 1890/01/01 MUSICAL INSTRUMENTS		

U.S. Registration No.	1545311	Application Date	10/03/1988
Registration Date	06/27/1989	Foreign Priority Date	NONE
Word Mark	GIBSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 015. First use: First Use: 1890/01/01 First Use In Commerce: 1890/01/01 MUSICAL STRINGED INSTRUMENTS, NAMELY, GUITARS, BASSES, BANJOS AND MANDOLINS		

U.S. Registration No.	2177027	Application Date	04/11/1994
Registration Date	07/28/1998	Foreign Priority Date	NONE
Word Mark	GIBSON		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 restaurant and bar services

U.S. Registration No.	3257493	Application Date	07/05/2006
Registration Date	07/03/2007	Foreign Priority Date	NONE

Word Mark	GIBSON
Design Mark	<b>GIBSON</b>


Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1940/12/31 First Use In Commerce: 1940/12/31 Electronic amplifiers for consumer and professional use, including amplifiers for musical instruments; foot switch assemblies for amplifiers; electronic sound processing and effects units; and electronic power attenuators


U.S. Registration No.	3877181	Application Date	06/29/2006
Registration Date	11/16/2010	Foreign Priority Date	NONE

Word Mark	GIBSON
Design Mark	<b>GIBSON</b>


Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1940/12/31 First Use In Commerce: 1940/12/31 Consumer electronic equipment, namely, audio equipment, namely, audio mixers, digital audio recorders, audio playback machines, audio amplifiers for consumer use; audio amplifiers for professional use; audio amplifiers for commercial use; audio speakers and remote control; audiospeakers; electronic sound processing and effects equipment, namely, guitar effects processors


U.S. Registration No.	4052878	Application Date	04/11/2011
Registration Date	11/08/2011	Foreign Priority	NONE


		Date	
Word Mark	GIBSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2007/12/31 First Use In Commerce: 2007/12/31 [Blank recordable CD-Rs and DVD-Rs; DVDburners; ]Electric cables[; Voltage surge protectors]		


U.S. Registration No.	4301646	Application Date	08/25/2009
Registration Date	03/12/2013	Foreign Priority Date	NONE
Word Mark	GIBSON		
Design Mark			
Description of Mark	The mark consists of Star next to "GIBSON".		
Goods/Services	Class 025. First use: First Use: 2009/08/25 First Use In Commerce: 2009/08/25 Hats; T-shirts		

U.S. Registration No.	4989433	Application Date	11/03/2014
Registration Date	06/28/2016	Foreign Priority	NONE

		Date	
Word Mark	GIBSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2014/11/03 First Use In Commerce: 2015/06/12 Headphones and headphone accessories, namely, headphone tips, headphone sleeves, headphone cases, headphone cords, holders attachable to one's arm, ear bud covers, headphone adaptors, headphone jacks		

U.S. Registration No.	5551068	Application Date	11/19/2014
Registration Date	08/28/2018	Foreign Priority Date	NONE
Word Mark	GIBSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 014. First use: First Use: 2014/11/17 First Use In Commerce: 2014/11/17 Horological and chronometric instruments and cases therefor; Horological and chronometric instruments and parts thereof; Jewelry; Key chains as jewelry; Key chains of precious metal</p> <p>Class 016. First use: First Use: 2017/11/01 First Use In Commerce: 2017/11/01 Bumper stickers; Pens; Posters</p> <p>Class 020. First use: First Use: 2010/12/31 First Use In Commerce: 2010/12/31 Furniture</p> <p>Class 025. First use: First Use: 1975/12/31 First Use In Commerce: 2009/03/01 Hats; Shirts; Socks; Sweatshirts; all of the foregoing relating to a manufacturer or use of musical instruments</p> <p>Class 028. First use: First Use: 1998/07/31 First Use In Commerce: 1998/07/31 Musical toys; Toy figures; Toy model guitars; Toy models</p>		

U.S. Application No.	88618702	Application Date	09/16/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GIBSON GARAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 015. First use: First Use: 0 First Use In Commerce: 0 stringed musical instruments, namely, guitars, guitar basses, banjos, and mandolins</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 entertainment services, namely, presentation of live music, disc jockey services and exhibition of musical instruments</p>		

U.S. Application No.	88630750	Application Date	09/25/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GIBSON GIVES		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 0 First Use In Commerce: 0 Charitable fundraising services</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Charitable services, namely, providing musical instruments, musical equipment, and musical education programs, namely, classes, and seminars for children, adolescents, and adults in need</p>		

Attachments	71536891#TMSN.png( bytes )
-------------	----------------------------

	72267480#TMSN.png( bytes ) 72452271#TMSN.png( bytes ) 76662606#TMSN.png( bytes ) 76979088#TMSN.png( bytes ) 85291879#TMSN.png( bytes ) 77812284#TMSN.png( bytes ) 86442956#TMSN.png( bytes ) 86459342#TMSN.png( bytes ) 88618702#TMSN.png( bytes ) 88630750#TMSN.png( bytes ) 4.1.20 Gibson Opposition to Cory Gibson - GIBSON GIRLS.pdf(191294 bytes )
--	---

Signature	/Andrea E. Bates/
Name	ANDREA E. BATES
Date	04/01/2020



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

Gibson Brands, Inc.,	]	
	]	
Opposer,	]	
	]	Opposition No.:
v.	]	
	]	
Cory Gibson	]	_____
	]	
Applicant.	]	
_____	]	

**NOTICE OF OPPOSITION**

Opposer, Gibson Brands, Inc., a corporation organized and existing under the laws of Delaware with a principal place of business at 209 10<sup>TH</sup> Ave. S. Suite 460, Nashville, TN 37203 believes that it will be damaged by the registration of GIBSON GIRLS (“Applicant’s Alleged Mark”) which mark is the subject of Application Serial No. 88/555,724 (the “Application”) used with “Production of music” in Class 41 (“Applicant’s Services”), filed on July 31, 2019 by Cory Gibson (the “Applicant”) and published for opposition in the Official Gazette on December 3, 2019. Opposer hereby opposes same pursuant to Section 13(a) of the Lanham Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1063(a). As grounds for opposition, Opposer alleges as follows:

1. Opposer is a corporation organized in Delaware engaged in the business of the manufacture and sale of musical instruments, electronics, entertainment systems, clothing, and musical equipment, as well as providing entertainment services.

2. Opposer has adopted and used since at least as early as 1890, a number of marks that include the words GIBSON exclusively for and in the connection with the promotion, advertising and sale of musical instruments, electronics, clothing, musical equipment, and provision of entertainment services (“Opposer’s Marks”).

3. Opposer is, and has been at all times pertinent hereto (including since long prior to the filing date of the Application), the owner of all right, title and interest in and to a family of marks that include the word GIBSON, including:

- (a) GIBSON (Stylized) (Reg. No. 510,594) used with “guitars, mandolins, violins, banjos, ukeleles, and cases therefor, strings for fretted instruments and violin bows” in Class 15;
- (b) GIBSON (Stylized) (Reg. No. 866,698) used with “polish for finishes of both musical instruments and furniture” in Class 3; “electronic amplifiers and accessories and replacement parts sold for use with or in such amplifiers-namely, speakers, transformers, tubes, reverberation units, foot switch assemblies, controls, capacitors, diodes, transistors, resistors, cords, amplifier cases and their component, fuses, and fuse holders” in Class 9; “musical instruments of the fretted type-namely, guitars, electric guitars, mandolins, banjos, ukeleles, and electric basses; and accessories and replacement parts therefore-namely, amplifiers, speakers, bridges, fingerboards, fingerrests, machine-type tuning heads, tailpieces, vibrato tailpieces, truss rod covers, electric pickups and controls, neck straps, string mutes, string dampers, binding, Hawaiian steels, guitar stands, picks, cases, and case covers; and other accessories and replacement parts for banjos-namely, armrests, pickguards, tuners, co-ordinator rods, tension hooks and

nuts, heads, tension rings, and resonator bands; pitchpipes; strings for fretted musical instruments and for violins, and musical instrument strings and accessories therefor” in Classes 9 and 15; and “musical magazines, columns for musical periodicals published both by applicant and by others, and printed guitar teaching materials” in Class 16;

- (c) GIBSON (Stylized) (Reg. No. 989,617) used with “musical instruments” in Class 15;
- (d) GIBSON (Reg. No. 1,545,311) used with “musical stringed instruments, namely, guitars, basses, banjos and mandolins” in Class 15;
- (e) GIBSON (Reg. No. 2,177,027) used with “restaurant and bar services” in Class 42;
- (f) GIBSON (Reg. No. 3,257,493) used with “[e]lectronic amplifiers for consumer and professional use, including amplifiers for musical instruments; foot switch assemblies for amplifiers; electronic sound processing and effects units; and electronic power attenuators” in Class 9;
- (g) GIBSON (Reg. No. 3,877,181) used with “[c]onsumer electronic equipment, namely, audio equipment, namely, audio mixers, digital audio recorders, audio playback machines, audio amplifiers for consumer use; audio amplifiers for professional use; audio amplifiers for commercial use; audio speakers and remote control; audio speakers; electronic sound processing and effects equipment, namely, guitar effects processors” in Class 9;
- (h) GIBSON (Reg. No. 4,052,878) used with “[b]lank recordable CD-Rs and DVD-Rs; DVD burners; [e]lectric cables; [v]oltage surge protectors” in Class 9;

- (i) GIBSON (Stylized) (Reg. No. 4,301,646) used with “Hats; T-shirts” in Class 25;
- (j) GIBSON (Reg. No. 4,989,433) used with “Headphones and headphone accessories, namely, headphone tips, headphone sleeves, headphone cases, headphone cords, holders attachable to one's arm, ear bud covers, headphone adaptors, headphone jacks.” in Class 9;
- (k) GIBSON (Reg. No. 5,551,068) used with “Horological and chronometric instruments and cases therefor; Horological and chronometric instruments and parts thereof; Jewelry; Key chains as jewelry; Key chains of precious metal” in Class 14, “Bumper stickers; Pens; Posters” in Class 16, “Furniture” in Class 20, “Hats; Shirts; Socks; Sweatshirts; all of the foregoing relating to a manufacturer or use of musical instruments.” in Class 25, and “Musical toys; Toy figures; Toy model guitars; Toy models” in Class 28;
- (l) GIBSON GARAGE (U.S. App. No. 88/618,702) for use with “stringed musical instruments, namely guitars, guitar basses, banjos, and mandolins” in Class 15 and “entertainment services, namely, presentation of live music, disc jockey services and exhibition of musical instruments” in Class 41; and
- (m) GIBSON GIVES (U.S. App. No. 88/630,750) for use with “charitable fundraising services” in Class 36 and “Charitable services, namely, providing musical instruments, musical equipment, and musical education programs, namely, classes, and seminars for children, adolescents, and adults in need” in Class 41. The goods used with Opposer’s Marks as set forth herein are referred to as “Opposer’s Goods.”

4. Opposer has used Opposer's Marks in interstate commerce in the United States continuously since at least as early as 1890 in connection with the manufacture, distribution, promotion, advertising, and sale of Opposer's Goods.

5. As a result of its widespread, continuous, and exclusive use of Opposer's Marks with Opposer's Goods, Opposer owns valid and subsisting federal statutory and common law rights to Opposer's Marks.

6. Opposer's Marks are distinctive to both the consuming public and Opposer's trade.

7. Upon information and belief, Applicant, Cory Gibson, with an address at 2181 BLAKE DRIVE, ANTIOCH, TENNESSEE 37013 on July 31, 2019 filed trademark Application Serial No. 88/555,724 to register Applicant's Alleged Mark for use with Applicant's Services.

8. Opposer's Marks have priority over Applicant's Alleged Mark because Opposer's use and registration dates predate the Applicant's alleged date of first use or any other date on which the Applicant may rely for purposes of priority.

9. The goods covered by the Applicant's Application Serial No. 88/555,724 are similar to the goods Opposer offers under Opposer's Marks.

#### **FIRST GROUND FOR OPPOSITION -- LIKELIHOOD OF CONFUSION**

10. Upon information and belief, Applicant's Services and Opposer's Goods are of similar types, are offered or may be offered through the same, substantially the same, and/or related channels of trade, to the same, substantially the same, and/or related classes of purchasers and are or may be advertised, marketed and promoted through the same media channels.

11. Upon information and belief, Applicant's Alleged Mark, when used in connection with Applicant's Services, so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Services, with respect to Opposer's sponsorship thereof or connection or affiliation therewith, and/or in other ways.

12. The proposed mark is barred from registration because it consists of or comprises a mark which so resembles Opposer's Marks as to be likely, when used in connection with the alleged goods of Applicant, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. § 1052(d).

**SECOND GROUND FOR OPPOSITION -- DILUTION**

13. GIBSON (Reg. Nos. 1,545,311; 2,177,027; 3,257,493; 3,877,181; 4,052,878; and 4,301,646) are incontestable.

14. As a result of their distinctiveness and widespread use and promotion throughout the United States, GIBSON (Reg. Nos. 510,594; 866,698; 989,617; 1,545,311; and 2,177,027) are famous trademarks within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. 1125(c), and each became famous prior to the date of first use alleged in the Application or any other priority date on which the Applicant may rely.

15. Registration by Applicant of Applicant's Alleged Mark for Applicant's proposed goods would be likely to impair the distinctiveness, and cause dilution by blurring, of Opposer's famous Marks in violation of 15 U.S.C. § 1125(c). Accordingly, pursuant to 15 U.S.C. § 1063, Applicant's Alleged Mark is not entitled to registration.

WHEREFORE, Opposer Gibson Brands, Inc. respectfully prays that the Application be refused, that no registration for Applicant's Goods be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted, this 1st day of April 2020.

BATES & BATES, LLC

/ Andrea E. Bates /  
ANDREA E. BATES  
Bates & Bates, LLC  
1890 Marietta Boulevard NW  
Atlanta, Georgia 30318  
(404) 228-7439  
ATTORNEY FOR OPPOSER