

PROTECTION OF INTELLECTUAL PROPERTY IN AN INDUSTRY

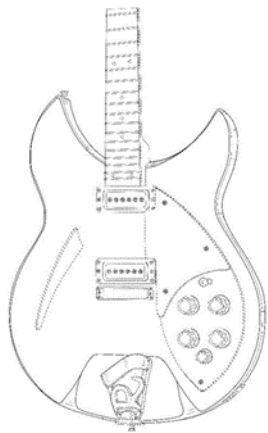
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USPTO ISSUES FOUR 3D GUITAR REGISTRATIONS

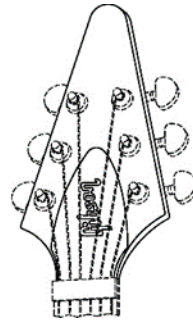
In the last few months, different features of guitars (1) “overall design”; (2) “tuning assembly/peg box”; (3) “peg head”; and (4) “oval-shaped hole” were registered as trademarks. Shown in this newsletter in corresponding order:

- (1) Rickenbacker Reg. No. 4774991
- (2) Bruce Alfred Wright (BAW) Reg. No. 4767088
- (3) Gibson Reg. No. 4758471
- (4) Hoshino Gakki Reg. No. 4775227



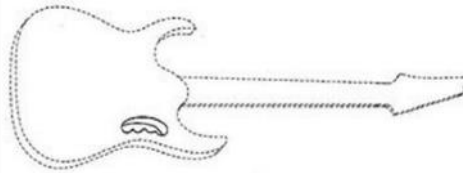
Rickenbacker Reg. No. 4774991

These registrations show a creative and novel way of protecting each of the different guitar designs and setting them apart within an industry.



Gibson Reg. No. 4758471

This means that each applicant had to demonstrate through sales, advertising and by consumer recognition that these designs serve as an identifier of source.



Hoshino Reg. No. 4775227

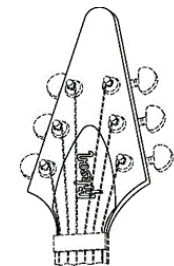
For more information about the process, go to <https://ntmblog.wordpress.com>, August 2, 2015 blog post, entitled, “GUITAR MANIA!! USPTO RECENTLY ISSUED FOUR 3D GUITAR TRADEMARK REGISTRATIONS” or go to USPTO.gov.

PROTECTION OF GUITAR DESIGNS VIA DESIGN PATENT

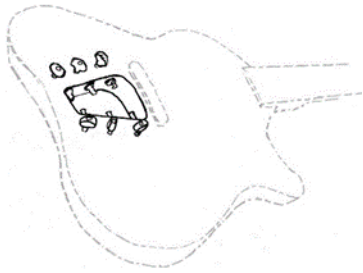
For example, the entire guitar design for the Gibson “Flying V” (below) was protected by a Design patent (D181867) in 1958.



In 1997, Gibson registered the “V” design, the bottom part of the guitar, (shown below left), as a trademark citing use from 1958 (U.S. Reg. No. 2051790) and in 2015, registered the “peg head” design, the top part of the guitar (below right), also citing use from 1958 (U.S. Reg. No. 4758471). While the record for the “V” design is not available on the



USPTO website, the more recent “peg head” record is available that shows acquired distinctiveness was required in order to register the 3D product design



BAW Reg. No. 4767088

Regarding the trademark registration process in the U.S., in each application, applicant was asked to demonstrate acquired distinctiveness because 3D product design is never considered to be inherently distinctive in the U.S.

Design patents can be a useful tool to protect ornamental features of an article of manufacture, and in fact may be the first protection obtained but protection is for a limited duration (14 years). In some instances, after specific advertisement about the ornamental features, the design features can later be protected by trademark.

as a trademark. Gibson provided an abundance of information, including from its website Gibson.com, that the Flying V guitar is shown as the “V” design and “peg head” design:



This is a good example of “look for _____” advertising that focuses on the features of the design that identify the source of the product, in this case, the guitar.

Aversano IP Law provides strategic advice in the global marketplace for securing, protecting and enforcing intellectual property rights by way of trademark, trade dress, copyright and design patent.

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