Gibson Guitar Tangles With Game Makers

By ROSE FRENCH
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NASHVILLE, Tenn. -- Gibson Guitar Corp. has widened its attack on the video game industry with a second patent infringement lawsuit.

It claims, in a case filed Thursday in federal district court in Nashville, that by developing, distributing and promoting the video game "Rock Band," Harmonix, MTV Networks and Electronic Arts are violating a virtual-reality patent the guitar maker holds.

The same 1999 patent is at issue in a separate lawsuit Gibson filed earlier in the week against Wal-Mart Stores Inc. and five other retailers. The real-guitar maker claims the stores are violating the patent by selling the Activision Inc. game "Guitar Hero."

Before Gibson filed either lawsuit, Activision sued Gibson in Los Angeles this month asking for a federal court declaration that it is not violating Gibson's patent.

The game publisher says it doesn't want or need a license under the patent as Gibson claims.

"We disagree with the applicability of their patent and would like a legal determination on this," George Rose, Activision's general counsel, said in explaining Activision's lawsuit.

Gibson officials haven't said why the company is not suing Activision directly.

Representatives for Harmonix, MTV Networks and Electronic Arts -- the companies Gibson sued Thursday over "Rock Band" -- did not immediately return phone calls seeking comment.

Harmonix also created and developed some of the "Guitar Hero" games.

Gibson said in a statement released Friday that it had made "good faith efforts to enter into a patent license agreement with the defendants in this case.

"The defendants have not responded in a timely manner with an intent to enter into negotiations for a patent license agreement," according to the statement. "Gibson Guitar had no alternative but to bring the suit, and it will continue to protect its intellectual property rights against any and all infringing persons."

Gibson wants the companies to pay damages for infringing on its patent and to stop selling "Guitar Hero" and "Rock Band," according to the lawsuit.

A copy of the patent included in Gibson's lawsuit is dated Nov. 23, 1999, and describes a device that lets a user "simulate participation in a concert by playing a musical instrument and wearing a head-mounted 3-D display that includes stereo speakers."
"Guitar Hero" users perform songs using a stringless, plastic guitar that plugs into a game console. A TV connected to the gaming console displays animated musicians playing along and graphics that guide users' play.

"Rock Band," which hasn't garnered the sales and popularity captured by "Guitar Hero," lets players hook up to peripherals modeled after a guitar, drums and a microphone and form a virtual band.

Founded in 1894 in Kalamazoo, Mich., and headquartered in Nashville since 1984, Gibson Guitar Corp. has brands including Dobro, Maestro, Kramer, Steinberger, Tobias, Echoplex and Wurlitzer.

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