

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN STRINGED MUSICAL
INSTRUMENTS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-708

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
RESPONDENTS FLOYD ROSE GUITARS, FLOYD ROSE MARKETING INC.,
DAVITT & HANSER MUSIC CO. D/B/A HHI, AND PING WELL INDUSTRIES BASED
ON A CONSENT ORDER; ISSUANCE OF CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 13) granting a joint motion to terminate respondents Floyd Rose Guitars, Floyd Rose Marketing, Inc., Davitt & Hanser Music Co. d/b/a HHI, and Ping Well Industries, Co., Ltd., based on a consent order. The Commission has issued the subject consent order.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on April 2, 2010, based upon a complaint filed on behalf of Geoffrey Lee McCabe of Hollywood, Florida ("McCabe") on February 26, 2010, and supplemented on March 18, 2010. 75 *Fed. Reg.* 16838 (April 2, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain stringed musical instruments and components thereof by reason of infringement of certain claims of United States Patent Nos. 5,986,191; 6,175,066; 7,470,841; 5,965,831 ("the '831 patent"); and 6,891,094 ("the '094

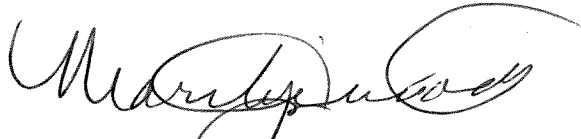
patent”). The notice of investigation named as respondents Floyd Rose Guitars of Redmond, WA (“Floyd Rose Guitars”); Floyd Rose Marketing, Inc. of Neptune, NJ (“Floyd Rose Marketing”); Davitt & Hanser Music Co. d/b/a HHI of Hebron, KY (“Davitt”); Ping Well Indus. Co., Ltd. of Taichung, Taiwan (“Ping Well”); Ibanez, Inc. (Hoshino) US of Bensalem, PA; Ibanez, Inc. (Hoshino) Japan; and Fuji Gakki Co., Ltd., of Nagoya, Japan. On June 11, 2010, the Commission issued notice of its determination to terminate the ‘831 patent and the ‘094 patent from this investigation.

On May 24, 2010, McCabe and respondents Floyd Rose Guitars, Floyd Rose Marketing, Davitt, and Ping Well filed a joint motion pursuant to Commission Rule 210.21(c) to terminate respondents Floyd Rose Guitars, Floyd Rose Marketing, Davitt, and Ping Well from the investigation based upon a consent order. On June 3, 2010, the Commission investigative attorney filed a response in support of the motion. On June 4, 2010, the ALJ issued Order No. 13, granting the motion. No petitions for review were filed.

The Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of section 210.42(h) of the Commission’s Rules of Practice and Procedure (19 CFR § 210.42(h)).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', with a large, stylized flourish at the end.

Marilyn R. Abbott
Secretary to the Commission

Issued: June 29, 2010

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

IN THE MATTER OF

CERTAIN STRINGED MUSICAL
INSTRUMENTS AND COMPONENTS
THEREOF

Investigation No. 337-TA-708

CONSENT ORDER

The U.S. International Trade Commission ("Commission" or "ITC") on March 29, 2010 (75 Fed. Reg. 63), instituted this Investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) based upon the allegations contained in the complaint filed by Complainant Geoffrey Lee McCabe ("Complainant"), which allege violations of Section 337 in the importation into the United States, the sale for importation and the sale within the United States after importation of certain stringed musical instruments and components thereof by Respondents Floyd Rose Guitars, Floyd Rose Marketing, Inc., Davitt & Hanser Music Co., d/b/a HHI, and Ping Well Industrial Co., Ltd. (collectively "Respondents") that are alleged to infringe one or more of: claims 1-3, 5 and 6 of Complainants' U.S. Patent No. 5,965,831 ("the '831 Patent"); claims 1-3, 6 and 14 of Complainants' U.S. Patent No. 5,986,191 ("the '191 Patent"); claims 1-5, 8, 9 and 11 of Complainants' U.S. Patent No. 6,175,066 ("the '066 Patent"); claims 1, 14-18, 20-22, and 24 of Complainants' U.S. Patent No. 6,891,094 ("the '094 Patent"); and claims 6, 8-11, 27, 29 and 31 of Complainants' U.S. Patent No. 7,470,841 ("the '841 Patent").

Respondents have executed a Consent Order Stipulation in which they agree to the entry of this Consent Order and to all waivers and other provisions as required by Commission Rule of

Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)). Respondents have filed a Motion for Termination of the Investigation based upon a Consent Order.

IT IS HEREBY ORDERED THAT:

1. Upon entry of this Consent Order, Respondents shall not, except under consent or license from Complainant or his assignees, sell for importation, import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation, of the accused stringed musical instruments and components thereof, including without limitation fulcrum tremolos marketed under the brand name Floyd Rose SpeedLoader fulcrum tremolos, and guitars with Floyd Rose SpeedLoader tremolos including but not limited to those guitars so equipped and marketed under the brand names Floyd Rose Discovery Series and Floyd Rose Redmond Series guitars, that are alleged to infringe one or more of the following: Claim 1 of Complainant's U.S. Patent No. 5,986,191 ("the '191 Patent"); Claim 8 of Complainant's U.S. Patent No. 6,175,066 ("the '066 Patent"); and Claims 29 and 31 of Complainant's U.S. Patent No. 7,470,841 ("the '841 Patent").

2. This Consent Order shall be applicable to and binding upon Respondents, their officers, directors, agents, servants, employees, and all persons, firms, successors, assigns, or corporations acting or claiming to act on their behalf or under their direction or authority.

3. Respondents shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.

4. Respondents shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

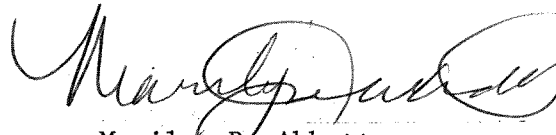
5. Respondents shall not seek to challenge and are precluded from making any challenges to the validity of claim 1 of the '191 Patent, claim 8 of the '066 Patent and claims 29 and 31 of the '841 Patent in any administrative or judicial proceeding to enforce the Consent Order.

6. If any claim of the asserted patents is held invalid or unenforceable by a court or agency of competent jurisdiction, in a final decision, no longer subject to appeal, this order shall become null and void as to any such invalid or unenforceable claims.

7. The entry of this Consent Order does not constitute a determination as to violation of 19 U.S.C. § 1337 by Respondents.

8. This Investigation is hereby terminated with respect to Respondents Floyd Rose Guitars, Floyd Rose Marketing, Inc., Davitt & Hanser Music Co., d/b/a HHI, and Ping Well Industrial Co., Ltd. These Respondents are hereby dismissed as named respondents in this Investigation provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to 19 C.F.R. § 210.76 of the Commission's Rules of Practice and Procedure. In determining whether Respondents are in violation of this Consent Order, the Commission may infer facts adverse to Respondents if they fail to provide adequate or timely information. The Commission may impose upon any person who violates this Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

By order of the Commission



Marilyn B. Abbott
Secretary to the Commission

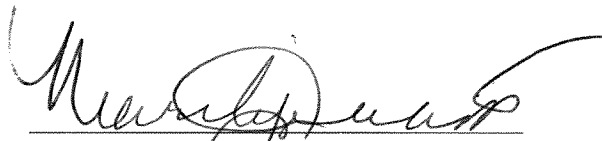
Issued: June 29, 2010

CERTAIN STRINGED MUSICAL INSTRUMENTS AND COMPONENTS THEREOF

337-TA-708

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE RESPONDENTS FLOYD ROSE GUITARS, FLOYD ROSE MARKETING INC., DAVITT & HANSER MUSIC CO.. D/B/A HHI, AND PING WELL INDUSTRIES BASED ON A CONSENT ORDER; ISSUANCE OF CONSENT ORDER** has been served by hand upon the Commission Investigative Attorney Jeffrey T. Hsu, Esq., and the following parties as indicated, on
June 29, 2010



Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Complainant:

Mr. Geoffrey Lee McCabe
6104 Glen Oak
Hollywood, CA 90068

- ~~Via Hand Delivery~~
- ~~Via Overnight Mail~~
- Via First Class Mail
- Other: _____

On Behalf of Respondents Hoshino (U.S.A.) Inc., and Hoshino Gakki Co., Ltd. (Japan) (Respectively Identified in the Complaint as Ibanez, Inc. (Hoshino) US and Ibanez, Inc. (Hoshino) Japan, Fuji Gakki Co, Ltd.:

G. Brian Busey, Esq.
MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

- ~~Via Hand Delivery~~
- ~~Via Overnight Mail~~
- Via First Class Mail
- Other: _____

**On Behalf of Respondents Ping Well Industrial Co.,
Ltd.; Floyd Rose Guitars; Floyd Rose Marketing Inc.;
and, Davitt & Hanser Music Co., d/b/a HHI:**

Louis S. Mastriani, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1200 Seventeenth Street, NW, Fifth Floor
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____