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Trademark status denied for fender body shapes: trademark board calls Strat, Tele, and P-Bass "Generic": Fender management ponders appeal.

Music Trades • May, 2009 • FOREFRONT

FENDER MUSICAL Instruments' efforts to trademark the body shape outlines of its Stratocaster, Telecaster, and Precision bass models were rejected by the United States Trademark Trial and Appeal Board in a decision handed down on March 25, 2009. The Board concluded that after more than 50 years in the market, the guitar body shapes had become generic because consumers did not solely associate them with the Fender brand.

The decision was the culmination of lengthy legal proceedings that date back to 2003, when Fender initially filed with the U.S. Patent and Trademark Office seeking trademark registration for the two-dimensional body shapes for the Strat, Tele, and P-Bass. Concerned that Fender might be granted the legal right to limit their product offerings, other guitar manufacturers banded together to oppose the application. A suit filed under the heading of Stuart Spector Designs, et al. v. Fender Musical Instruments Corp., was joined by manufacturers Jim Triggs Guitars, JS Technologies, Lakeland Musical Instruments, Levinson Musical Products, Michael Tobias Design, Peavey Electronics, Tom Anderson Guitar Works, Sadowsky Guitars, Saga Musical Instruments, Schecter Guitar Research, ESP Guitars, Tradition Guitars, U.S. Music Corp., Warmoth Guitars, and WD Music Products. The opposing guitar makers argued that in failing to legally police or protect its body shapes for 50 years, Fender had lost the fight to trademark them.

[ILLUSTRATION OMITTED]

Ronald Bienstock, senior partner at Bienstock & Michael, who argued the case said, "This case is an important victory for the guitar industry as a whole. The Trademark Trial and Appeal Board has prevented Fender from gaining a monopoly on these body shapes that have been used by hundreds of manufacturers for half a century." Fender management expressed disappointment with the ruling and is currently considering whether to appeal the decision. "We believed strongly that the evidence supported our arguments," said Bill Mendello, Fender CEO. "We disagree with the conclusions reached by the Trademark Trial and Appeal Board."

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