

# David, 1; Goliath, 0

*Bass playing attorney wins landmark music case*



BY TRACY ECCLESINE IVIE

**S**taying cool under pressure is nothing new to Ron Bienstock. A Hackensack attorney, writer, teacher and professional musician for almost 40 years, Bienstock is known in the industry for being low key.

Especially after winning a landmark case earlier this year against music giant, Fender Instruments, which threatened the livelihood of small guitar makers around the world.

In a lawsuit many are calling a David and Goliath scenario, Fender, the world's largest guitar manufacturer, was attempting to retroactively trademark three guitar shapes from the 1950s – the Stratocaster, Telecaster and Precision Bass – that had been used by guitar makers ever since.

“We knew the heavy level of responsibility we had,” says Bienstock. “If we had lost, it would have been disastrous for the guitar industry as we know it.”

## INCREDIBLE RELIEF

The case was “like life or death for me,” says Roger Sadowsky, whose Brooklyn company was one of 17 that retained Bienstock to fight Fender. If Fender had won, says Sadowsky, the company would have had virtual design approval over almost every guitar he makes. “It puts everyone in a very precarious position,” he says, noting that when the case was over, “It was just this incredible sense of relief.”

To put Bienstock's role into perspective, the recent decision hinged on one 30-minute “oral argument” before a panel of trademark judges, following five years of legal wrangling and more than 20,000 pages of documentation.

Bienstock argued that to trademark the shapes now was akin to trademarking round watches or cars with four wheels. If he had lost, it would have turned American

trademark law and American business on its head, he says, causing “economic ripples that would have gone on for as long as I can think.”

**MUSICAL ROOTS**

Bienstock turns 54 in October and has been a musician since he was 16, performing with major recording artists both before and after law school. After the debut album of his band, The Suits, he was invited to play on “Late Night with Conan O’Brien” and CNBC. The band has also performed with Blues Traveler, Billy Joel, Curtis Mayfield, Ziggy Marley, The Doobie Brothers and Eric Burden and the Animals, among many others.

Bienstock’s other band, the Blue East Ensemble, a “funky, jazzy” group, performs at clubs, music trade shows and corporate events. (See above.)

Bienstock also writes for music magazines and teaches entertainment law at New York University. He seems to relish the quick change from attorney to musician and back to attorney,



PHOTO: DEB SCHERR

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which can happen any time, even when he’s in the “green room” at a major TV station, ready to perform with his band.

All of sudden, he gets an anxious call from a rocker musician client who’s detained in a European airport because his passport is out of date. One quick chat with the passport official (who suddenly realizes he’s a fan of the rocker), a fax of the correct passport, and the musician is on his way while Bienstock goes on air.

Bienstock even manages to keep his cool when young musicians start asking him legal questions while he’s performing. “They come right up to the stage and just start talking to me,” he says with a chuckle. “They have no boundaries....I got to ask you man. Hey, dude. Got to talk to you.’ And I say, ‘Could I just get

through this for a second and I’ll be right with you?”

Not everyone realizes he’s both an attorney and a musician, however. “I met David Bowie that way,” says Bienstock. I was playing in a room and he walked in and said, ‘That’s quite good,’ and asked who the band was. And his drummer at the time said, ‘Oh that’s my lawyer’s band.’ It happens all the time,” he says.



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## PUBLISHER

Before setting up his law practice, Bienstock was editor and publisher of *International Musician & Recording World* for several years, where he met many people who later became clients. Today his law firm represents most of the major musical instrument manufacturers in the world, and has an office in Manhattan as well as Hackensack, his home base.

Bienstock's company has also nurtured the careers of numerous bands, some for decades, and his New Jersey office is filled with gold and platinum records from musicians he's worked with, including Billy Joel, Simple Plan, Nelly, Def Jam, Dream Theater and the Goo Goo Dolls.

Bienstock feels it's very important for musicians to understand the music business and says, "We have never taken the attitude that the firms had when I was coming up, where they told you nothing but, 'Sign here.' We've been the opposite from Day 1. You need to know everything. Ask. It's OK. There are no stupid questions."

## HOME LIFE

The lack of a long commute allows him to spend more time with his family and to go bicycling, his other passion. He races in triathlons with his wife, Lisa Swain, a swimming teacher and competitive runner who often wins. Swain is also deputy mayor of Fair Lawn, where they live with their two teenaged

daughters, who both swim competitively.

Swain says her husband's "even-tempered manner" is his biggest asset. "He is a master at negotiation....I think that people really take him seriously because he's not losing his temper, he's not getting all upset, losing his cool."

"I'm a very lucky guy," he says. "My wife is a very wonderful person and is very patient and I like spending time with her and my kids." As he celebrates his 54th birthday, Bienstock says he has a lot to be grateful for.

"I've been in the music instrument business for a very long time. I love it. I go to all the trade shows....I play all the time. I've been playing since I'm 16. I played all through college. I played all through law school, I played before law school, after law school. I played today, I'm playing Friday. You know, as a musician, it's the greatest. I talk to the best bass manufacturers all day...It's never work."



Bienstock's other passion

PHOTO: LISA SWAIN

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