

Bird & Bird LLP • Maximiliansplatz 22 • D-80333 München

In advance via e-mail to

[REDACTED]

[REDACTED]

For the attention of the management

[REDACTED]

United States of America

Dr. Richard Dissmann
Ext: +49 (0) 89 3581 6151
Richard.Dissmann@twobirds.com

Munich, 11 May 2026

Our sign (please always indicate): 0002-21/RDI/LAYJ

English translation – in case of doubt the German original prevails

[REDACTED] - **copyright infringement of the “Stratocaster” body shape**

Dear Sirs or Madams,

We are writing to you in the name and on behalf of Fender Musical Instruments Corporation, Inc, Scottsdale, Arizona, USA (hereinafter “**Fender**” or “**our client**”).

Subject of this letter is your offer of products which infringe the copyright of our client’s Fender Stratocaster guitar. We insist that you immediately stop manufacturing, selling, marketing, or producing such infringing products. We look forward to receiving a response until 25 May 2026.

As you know, Fender is one of the most prestigious and well-known manufacturers of musical instruments and equipment, particularly of electric guitars. Fender has been producing electric guitars since 1946.

Abu Dhabi • Amsterdam • Beijing • Bratislava • Brussels • Budapest • Casablanca • Copenhagen • Dubai • Dublin • Dusseldorf • Frankfurt • The Hague • Hamburg • Helsinki • Hong Kong • Lisbon • London • Lyon • Madrid • Milan • Munich • Paris • Prague • Riyadh • Rome • San Francisco • Shanghai • Shenzhen • Singapore • Stockholm • Sydney • Tokyo • Warsaw

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In 1954, the company's founder, Leo Fender, created an electric guitar called the "Stratocaster". Inspired by the futuristic tail fins of the Cadillacs and Mustangs popular at the time, and by the appeal of feminine curves, Leo Fender developed a unique body shape through a lengthy creative process involving drawings and hands-on experimentation with wood using grindstones and similar tools. The Fender "Stratocaster" body is designed as follows:



Front



Back



and

Rear view from above



and

Side view (left)

The design as a body without edges gives the “Stratocaster” soft curves that evoke associations with a female torso consisting of hips, waist, and arms. At the same time, the left side is stretched so that the “S-lines” of the two sides are not parallel, but the radii of their respective curves are uneven. In addition, the left horn — reminiscent of an arm — is more elongated than the right, giving the impression that it is reaching for something distant. This not only creates an asymmetrical shape but also gives the impression that the “Stratocaster” is leaning slightly to the right, like a dancer leaning to one side. The impression of the body being stretched is further emphasized by its three-dimensional design with a flattening of the front left side — resembling a backward-tilted pelvis — and a narrower left rear side compared to the right side. Finally, the pickguard further emphasizes this characteristic individual shape by echoing the curves of the body on the right, upper, and lower sides as well as on the left side, thus underlining them together with the arrangement of the cable outlet parallel to the lower right end of the pickguard. Such a futuristic, elegant, and timeless design of a guitar body with a fretboard that further emphasizes the asymmetrically curved shape represented something fundamentally new at the time of the conception and release of the “Stratocaster”.

In recent years, copyright protection for designs of everyday objects like the “Stratocaster” body has become significantly stronger, thanks to key rulings by the Court of Justice of the European Union (CJEU). The CJEU made clear that designs of useful objects are not held to a higher standard than other types of works. Under EU law, the concept of a “work” is the same across all categories and requires only two things: First, the object must be original — meaning it is the author’s own intellectual creation. Second, that creation must be expressed in a concrete form, not just remain an idea (CJEU, C-833/18, judg. of 11.06.2020, paras 22 ff. — *Brompton*; C-683/17, judg. of 12.09.2019, paras 29-35 — *Cofemel/Brompton/Mio*). In other words, mere ideas cannot be protected, but a design that reflects the personal creative choices of its author can be. The CJEU recently confirmed those principles in a widely noted judgement in the matter of *Mio/Konektra* (C-580/23 and C-795/23, judg. of 04.12.2025, paras 48 ff. — *Mio/Konektra*).

Under the established case-law of the German Federal Court of Justice (Bundesgerichtshof — BGH) on the other hand, a “work” must represent a creation of individual character whose aesthetic content has reached such a level that, in the opinion of circles receptive to art and reasonably familiar with artistic views, they can be described as an “artistic” achievement (BGH, I ZR 17/24, judg. of 20.02.2025, GRUR-RS 2025, 4384, para 18 — *Birkenstock sandal*;

I ZR 203/22, judg. of 9.11.2023, GRUR 2024, 386, para 24 – E2; I ZR 173/21, judg. of 15.12.2022, GRUR 2023, 571, para 13 – *Vitrinenleuchte*). In accordance with the CJEU case-law, however, the BGH understands the “artistic achievement” as a creative, original achievement in the field of art that reflects the individual personality of its creator (BGH, I ZR 17/24, judg. of 20.02.2025, GRUR-RS 2025, 4384, para 23 – *Birkenstock sandal*). Therefore, the BGH does not apply different standards to copyright protection of works of applied art than the CJEU.

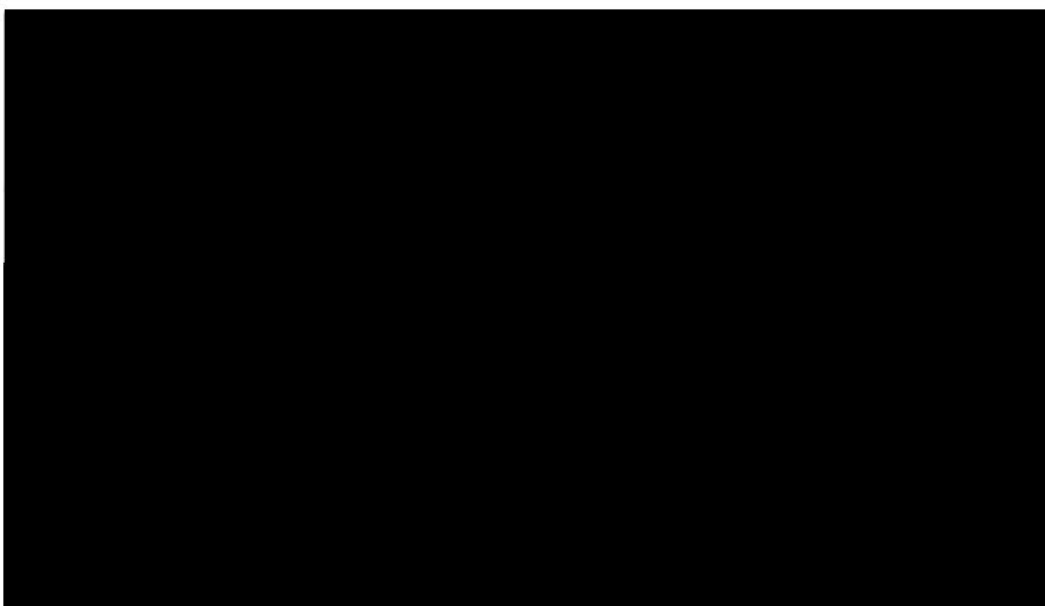
Based on these recent legal developments, the “Stratocaster” body shape qualifies as a copyright protected “work” under Secs. 2(1) No. 4, (2) UrhG (German Copyright Act) and the relevant case-law of the CJEU. This was confirmed by the Court of Düsseldorf in a default judgment of 22 December 2025, a copy of which we enclose here for your information together with an English translation.

The Court of Düsseldorf, applying the most recent EU standards determined by the CJEU decision *Mio/Konektra*, explicitly confirmed copyright protection of the “Stratocaster” body shape. It examined the essential features of the “Stratocaster” body in great detail and held the following (Court of Düsseldorf, 14c O 64/25, p. 11 f. – Stratocaster; emphasis added):

“Taking these principles into account, the body of the Stratocaster created by Leo Fender proves to be an outstanding intellectual creation that reflects his personality. The design as a body without edges gives the “Stratocaster” soft curves that evoke associations with a female torso consisting of hips, waist, and arms. At the same time, the left side is stretched so that the “S-lines” of the two sides are not parallel, but the radii of their respective curves are uneven. In addition, the left horn—reminiscent of an arm—is more elongated than the right, giving the impression that it is reaching for something distant. This not only creates an asymmetrical shape but also gives the impression that the “Stratocaster” is leaning slightly to the right, like a dancer leaning to one side. The impression of the body being stretched is further emphasized by its three-dimensional design with a flattening of the front left side – resembling a backward-tilted pelvis – and a narrower left rear side compared to the right side. Finally, the pickguard further emphasizes this characteristic individual shape by echoing the curves of the body on the right, upper, and lower sides as well as on the left side, thus underlining them together with the arrangement of the cable outlet parallel to the lower right end of the pickguard. **Such a futuristic, elegant, and timeless design of a guitar body with a fretboard that further emphasizes the asymmetrically curved shape represented something fundamentally new at the time of the conception and release of the “Stratocaster”.**”

Fender holds all rights in the “Stratocaster” body shape, including the rights of reproduction, distribution, and communication to the public. This was also confirmed by the Court of Düsseldorf in the judgment referenced above.

It has come to our client’s attention that you are marketing electric guitars under the brand [REDACTED] e.g. under the designation [REDACTED] as instanced by the model [REDACTED] [REDACTED] which have a guitar body as depicted below:



Front

and

Back

The design of the body of these guitars is nearly identical to the design of the body our client’s “Stratocaster” guitars. They are in particular not less similar to the Stratocaster guitars than the guitars which were subject of the Düsseldorf judgment.

You are therefore infringing our client’s copyright in the Stratocaster body shape. As a consequence, our client has claims against you to cease and desist from further marketing such guitars, disclosure of information about your sales and marketing, damages, destruction of the infringing products, recall of the infringing products, and reimbursement of our legal fees. You can satisfy these claims by providing an undertaking as set out below.

We appreciate that copies of our client's famous "Stratocaster" have been in the market before. However, with the judgment of the Court of Düsseldorf, it is now clear that our client has a copyright to the shape of the "Stratocaster" guitar body, and that copies of these guitar body constitute copyright infringement. Our client is resolved to assert its rights and will enforce them consistently in order to keep the market free of infringing copies of the "Stratocaster" body shape. Your company, as well as any other manufacturer of copies of the "Stratocaster", will of course be able to continue to market electric guitars which are sufficiently distinct from the "Stratocaster".

Our client therefore insists that you immediately stop manufacturing, marketing, selling and producing the infringing products and confirm this to us until

25 May 2026.

If you confirm that you will comply with our client's claims, our client would in turn be prepared to make concessions in relation to their claims for e.g. damages, and also possibly in relation to phase-out and transition periods.

However, should you fail to respond accordingly within the deadline, we will advise our client to commence the required further judicial steps against you without further hesitation.

With kind regards


Dr. Richard Dissmann
Rechtsanwalt


Dr. Laura Jones
Rechtsanwältin

Undertaking to cease and desist

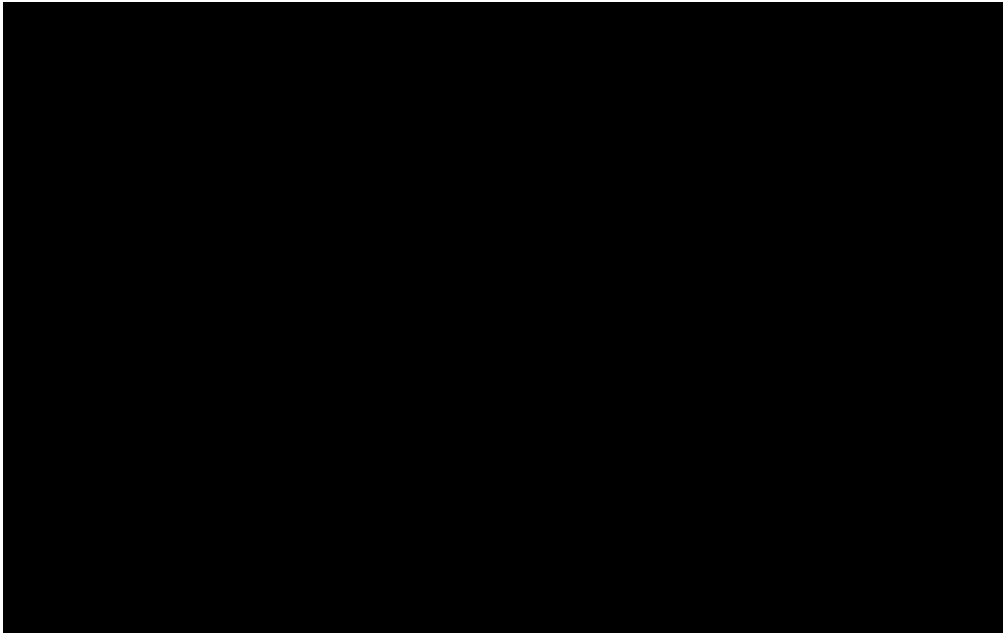
Herewith,



undertakes vis-à-vis

Fender Musical Instruments Corporation, Scottsdale, Arizona, USA (“**Fender**”)

1. to cease and desist, in avoidance of a contractual penalty of € 15,000 for each case of contravention, from advertising and/or offering and/or distributing and/or otherwise putting onto the market guitars if their body is designed as shown below:



2. to render information on the scope of incriminated acts as per cipher 1 by providing a detailed breakdown of the number of guitars sold, turnover and profits made, and the advertisement done for these products as well as a list of customers, submission of invoices and delivery notes, and disclosure of sales prices.

3. to compensate all damages that occurred or will occur because of the acts as specified in cipher 1, calculated based on the information provided in accordance with cipher 2.
4. to recall all products as per cipher 1 from the trade channels and to destroy the products and to provide suitable evidence about the destruction in due course:
5. to reimburse the attorneys' fees for this warning letter in the amount of a 1.5 attorney's fee for an amount in dispute of € 250,000.00 under the German Act for Attorneys' Remuneration [Rechtsanwaltsvergütungsgesetz – RVG], totaling € 3.948.00 plus a flat-rate expense allowance of € 20, totalling in **€ 3.968** (in words: three thousand nine hundred sixty-eight).

The amount is immediately due and payable to the following account:

Account Holder: Bird & Bird LLP
Address: Carl-Theodor-Straße 6, 40213 Düsseldorf
BIC: DEUTDE33HAN
IBAN: DE 21 3007 0024 0106 8832 00
Reference: 0002-21/RDI/LAYJ

6. to agree that the claims following from this undertaking are subject to German law whereas only the Regional Court of Hamburg, the Regional Court of Düsseldorf or the Regional Court of Munich shall have jurisdiction - to be determined at the creditor's choice.

Date and place: _____

Signature: _____