



Written by [Brian Koenig](#) on October 7, 2011

## Gibson Raid Leaves Other Guitar Makers at Risk

As federal prosecutors confirmed in a court filing Wednesday that a criminal investigation involving the recent raid on Gibson Guitar Corporation is now in motion, other American guitar makers are expressing concern for their own business operations. Gibson facilities in Memphis and Nashville were raided by federal agents on August 24, leaving the company with an estimated loss of \$2 to \$3 million.



Gibson's alleged crime was a violation of the Lacey Act, a conservation law that aims to protect plants and wildlife from endangerment by enacting civil and criminal penalties for a throng of violations. Gibson is being charged for allegedly importing wood from a foreign country in [violation](#) of a 2008 amendment to the law that makes it unlawful "to import certain plants and plant products without an import declaration."

U.S. Attorney Jerry Martin declined to provide specific details on the investigation, but the prosecutor's documents [reveal](#) that the federal government can "seek criminal fines and imprisonment for knowing violations of the Lacey Act." The imported wood seized by federal agents came from India, and authorities are deeming the wood illegal ebony and rosewood.

Henry Juskiewicz, the CEO of Gibson Guitars, voiced strong opposition to the raid, asserting that his company has been importing the same wood from India for 17 years. "Juskiewicz said last week that the materials used for the fingerboards — basically the top layer of guitar necks — were simply mislabeled," the AP [reported](#). "He disputes the federal agents' interpretation of both Indian law and the Lacey Act that requires the wood he imports to be finished."

Now other guitar manufacturers are feeling increasing pressure because of the federal government's seemingly arbitrary investigation of Gibson. Dave Berkowitz, an expert in his craft who makes and sells guitars, reluctantly [told](#) Fox News, "I use the exact same ebony and rosewood fingerboards that were confiscated in August from Gibson."

After being asked if he is "engaging in illegal business practices," Berkowitz said, "Well, technically speaking, yes, because they have declared the materials I'm using illegal." But according to the Indian government, fingerboard "blanks," the wood containing the guitar's fretboard, are not illegal to import. "Fingerboard is a finished product and not wood in primary form," wrote Vinod Srivastava, India's deputy director-general of foreign trade, in a September 16 letter. "The foreign trade policy of the government of India allows free export of such finished products of wood." However, Fox News reported:



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The U.S. government disagrees. In its affidavit to search Gibson, U.S. Fish and Wildlife Service considers fingerboard blanks to be raw materials, not finished product — illegal to export from India and, therefore, illegal to import into the United States.

What's more, according to the complaint, the Gibson wood was imported with an incorrect tariff code, which was off by one digit from the correct code. Luthiers Mercantile International, the company that imports the wood for Gibson, claims that was a simple clerical error. The difference in the codes refers to the thickness of the wood — more than or less than six millimeters in thickness.

Luthiers Mercantile, a major supplier to guitar makers all over the United States, has halted all imports of Indian rosewood or ebony since the Gibson raid, leaving many American businesses without needed supplies. Of course, many guitar companies are now reluctant to even risk harboring such wood species. "One fine from Fish and Wildlife would shut me down and bankrupt me," said Berkowitz.

The National Association of Music Merchants, a nonprofit organization representing the \$17-billion global music products industry, wrote a letter to Congress and President Obama, protesting the uncertainty and lack of clarity that federal officials invoked in the wake of the Gibson debacle. "Many of NAMM's member companies are being negatively impacted by the Lacey Act, a well-intentioned law, but one with unintended consequences that we feel are damaging to our industry and the economy," wrote NAMM Chairman and President Joe Lamond.

Many observers are asking, are American businesses not struggling enough at it is? Such government overreach only delivers further uncertainty to a market that is already suffering from depressed profits. The scrutiny that comes with such manufacturing may force companies out of business, as one small slip up can bury them into bankruptcy. Juskiewicz's assertion sums it up: "The law says that if a guitar or instrument of any kind crosses a border, you have to know the species of wood that every component is made of and where it came from."



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