

# Scoring a Concession from the Department of Justice

Client:	<b>Gibson Guitar</b>
Industry:	Consumer
Areas of Law:	Environmental regulation, white collar defense
Venues:	U.S. Department of Justice, U.S. Fish and Wildlife Service investigations
Result:	Comprehensive resolution of all potential civil and criminal liabilities, avoiding any charges against Gibson's officers, directors and employees, and obtaining insurance coverage for their defense

In 2011, the U.S. Fish and Wildlife Service raided the offices and factories of Gibson Guitar for the second time in two years. Armed agents seized documents, computer hard drives and materials, including hardwoods slated for the company's world-famous instruments.

The Justice Department alleged that Gibson's importation of rosewood and ebony from India and Madagascar violated the Lacey Act, originally passed in 1900 to stop the trade in poached game and wild birds, and expanded a century later to encompass illegally logged wood. The raids and grand jury subpoenas disrupted Gibson's supply lines and production schedules, and placed the company's officers under the threat of criminal prosecution.

Pillsbury attorneys immediately engaged with the government's lawyers and agents to demonstrate the factual deficiencies and overreaching by the prosecution. For instance, as *The New York Times'* Dot Earth blog later noted, "the most recent federal raid of the company was probably unjustified," because the legal status of the 2011 wood shipment that was seized was "far from obvious."

In its unusual criminal enforcement agreement with Gibson, the U.S. government also conceded that it would not "undertake enforcement actions related to Gibson's future orders, purchases, or imports of [wood] from India, unless and until the Government of India provides specific clarification" regarding its legality or illegality. So, in addition to stopping any criminal charges in this instance, Pillsbury also substantially reduced the likelihood of further investigations of Gibson.

Amplifying this success, Pillsbury's Insurance Recovery attorneys helped Gibson look to its directors and officers (D&O) liability policy for much of the cost of their legal defense. Pillsbury developed an innovative theory that the carrier initially resisted, but with persistence, convinced the carrier to pay a significant portion of Gibson's defense costs.

In addition, the government agreed its seizure of Gibson's rosewood from India had been unwarranted and the wood would be returned. Pillsbury attorneys traveled to pick up the wood and deliver it back to Gibson USA headquarters in Nashville. Through this symbolic action, they highlighted Pillsbury's passion about what we do for our clients and that we, literally and figuratively, deliver.



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*"This allows us to go back to the business of making guitars."*

—Gibson CEO Henry Juszkiewicz, on resolution of investigations