

ESTTA Tracking number: **ESTTA842933**

Filing date: **08/30/2017**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92061215
Party	Defendant Piano Factory Group
Correspondence Address	ADAM R STEPHENSON ADAM R STEPHENSON LTD 40 W BASELINE RD, STE 101 TEMPE, AZ 85283 UNITED STATES Email: adam@patentproblempro.com, janice@patentproblempro.com
Submission	Other Motions/Papers
Filer's Name	ADAM R. STEPHENSON
Filer's email	ipdocket@iptech.law
Signature	/Adam Stephenson/
Date	08/30/2017
Attachments	Amended Notice of Cross Examination by Written Questions.pdf(21148 bytes) Exhibit A.pdf(106125 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Schiedmayer Celesta GmbH,

Cancellation No.: 92/061,215

Petitioner,

Reg. No. 3,340,759

v.

Mark: SCHIEDMAYER

Piano Factory Group, Inc. and
Sweet 16 Musical Properties, Inc.

Registration Date: November 20, 2007

Respondents.

**RESPONDENT'S AMENDED NOTICE TO TAKE TESTIMONIAL CROSS-
EXAMINATION BY WRITTEN QUESTIONS**

Pursuant to 37 CFR 2.124(a), Rule 28 of the Federal Rules of Civil Procedure, and TBMP 703.02 et seq., Respondents Piano Factory Group, Inc. and Sweet 16 Musical Properties, Inc. (“Respondents”) hereby submit their amended notice to take testimonial cross-examination of Petitioner’s witness Elianne Schiedmayer by written questions before a German Civil Law Notary located in Stuttgart, Germany. Ms. Schiedmayer is (or a Civil Law Notary located at another location in Germany convenient to Ms. Schiedmayer). Such a German Civil Law Notary will be competent under the Federal Rules of Civil Procedure to record her answers. Exhibit A filed with this Notice indicates the qualifications of such Notaries which include the ability to record Ms. Schiedmayer’s answers to the written questions in a manner admissible in this proceeding.

The undersigned had reached out via telephone this week to Petitioner’s counsel to determine whether a specific Germany Civil Law Notary could be agreed upon to be named in this notice, but in talking with Petitioner’s counsel’s office staff, learned that he

was out of the office until Monday, so an agreement on a specific Notary could not be arranged at this time.

The originally filed notice was filed within the Petitioner's testimony period. This Amended Notice is being filed in response to the Board's order dated August 16, 2017. Since Elianne Schiedmayer presented testimony in this matter only by Declaration, Respondents are entitled to cross-examine her, but as she is not located in the United States and Respondents have no further information that she will be present in the United States during the pendency of this proceeding, cross-examination by written questions is the only option available to Respondents.

Copies of Respondent's questions are being re-served with this notice upon Petitioner's counsel but are not being filed with the Board per the procedure described in TMBP 703.02(c).

Given that the cross-examination will be conducted using written questions per the procedure laid out in the rules and the TMBP, Respondents respectfully request that the proceedings be suspended by the Board following the process outlined in TMBP 703.02(c) until the cross examination is completed.

Dated: August 30, 2017

Respectfully submitted,

/s/ Adam R. Stephenson
IPTechLaw
8350 E Raintree Dr., Ste 245
Scottsdale, AZ 85260
Tel: 480.264.6075
Fax: 480.718.8336
Email: adam@iptech.law
Attorney for Respondents

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing RESPONDENT'S AMENDED NOTICE TO TAKE TESTIMONIAL CROSS-EXAMINATION BY WRITTEN QUESTIONS is being sent via email to Petitioner Schiedmayer Celesta GmbH's attorney of record at the designated email below:

Michael J. Striker
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743
striker@strikerlaw.com

Dated: 8/30/2017

/s/ Adam Stephenson

Exhibit A

Admission to the profession and disciplinary control

Civil law notaries hold a public office and are therefore subject to special rules concerning appointment and admission.

Civil law notaries are selected and appointed by the State Minister of Justice according to a merit-based system. Regardless of the type of civil law notary, whether “single-profession notaries” or “attorney-notaries”, they are fully qualified to work as judges and attorneys and have undergone additional practical training. Admission to the notarial profession is highly competitive. As well as in other areas of public service, there is a strict selection of the best applicants. Civil law notaries are usually selected among the top law graduates. “Single-profession notaries” generally have to serve at least three years as “notarial candidates” (Notarassessoren) under the supervision of an experienced notary before they can apply to the State Minister of Justice for appointment. Receiving a “training on the job”, “notarial candidates” also work as “officially appointed representatives” of a notary who is temporarily absent or prevented from exercising his function. “Attorney-notaries” are likewise required to work as “officially appointed representatives” before their official appointment as well. Furthermore, they have to take part successfully in special training classes in various areas of notarial practice.

In order to ensure independence and impartiality of the civil law notaries, their number is limited. It is fixed for each state by the State Ministry of Justice within its discretion based on the relevant requirements and demands. Today, approximately 1600 “single-profession notaries”, approximately 7500 “attorney-notaries” and some 500 state-employed notaries practise in some 2000 German cities and municipalities. In order to provide easy access to a notary even in rural areas, each notary is assigned a certain district for his activity. In larger cities several notaries practise in the same district. Notwithstanding the fact that the notary is bound to the district he is assigned to, people are free to choose any notary in the country and the authentic instruments established by a notary are effective and valid everywhere.

Once officially appointed, the civil law notary does not receive a salary from the state. Instead, he or she charges fees to the parties. Such fees are fixed by law and depend on the value of the case. As an exception, in the State of Baden-Württemberg there are also notaries who are state-employed and enjoy the status of civil servants. In turn, the State is entitled to the bulk of the fees.

In case of negligence, a notary is personally liable for all damages caused. Liability insurance is mandatory for all notaries. Furthermore, the regional chambers have established a special fund for damages that are not fully covered by the liability insurance.

All civil law notaries are further subject to the supervision by the President of the competent district court. Negligence and non-compliance with the law can also result in disciplinary sanctions. In addition, all notaries are subject to a regular control of their files and their practice by the supervisory authority.

Bundesnotarkammer
Corporate body governed by public law

Postal address
Mohrenstraße 34
10117 Berlin

**BUNDESNOTARKAMMER**
KÖRPERSCHAFT DES ÖFFENTLICHEN RECHTS

E-Mail: bnotk@bnotk.de
Phone: 030-3838660
Telefax: 030-38386666