

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

Schiedmayer Celesta GmbH,)
)
 Petitioner,)
)
 v)
)
 Piano Factory Group, Inc.,)
)
 Respondent.)
_____)

Cancellation No. 92/061,215
Reg. No. 3,340,759
Mark: SCHIEDMAYER
Registration Date: 11/20/2007

**AMENDED PETITION FOR CANCELLATION OF
U.S. TRADEMARK REGISTRATION NO. 3,340,759**

May 10, 2016

Pursuant to the Interlocutory Order dated April 22, 2016, Petitioner herewith files its Amended Petition for Cancellation:

Petitioner, Schiedmayer Celesta GmbH (Schiedmayer), herewith petitions to cancel U.S. Trademark Registration No. 3,340,759 for the mark SCHIEDMAYER owned by Piano Factory Group, Inc. (Piano Factory) and registered on November 20, 2007.

In support of this Petition, Schiedmayer hereby alleges as follows:

1. Schiedmayer Celesta GmbH is a limited liability company organized under the laws of the Country of Germany and having offices in Wendlingen, Germany. Schiedmayer Celesta GmbH is the successor in interest to the trademark SCHIEDMAYER dating to its origin in the year 1735. Schiedmayer Celesta GmbH is owned and operated by Elianne Schiedmayer successor to the Schiedmayer name and trademark dating back to its origin in 1735.
2. Upon information and belief, Piano Factory is a California corporation having offices in Burbank, California.
3. Upon information and belief, Piano Factory, the Respondent herein, is engaged in the business of offering for sale pianos.
4. For many years, and long prior to any use or registration or filing of the trademark Schiedmayer by Piano Factory, Schiedmayer and its predecessors in interest have manufactured and sold Schiedmayer keyboard instruments, representing some of the most coveted and respected keyboard musical instruments in the world.
5. For many years and long prior to any use or registration by Piano Factory, Schiedmayer has manufactured and offered for sale the Celesta piano, which

is a piano keyboard instrument having four or five octaves and in which a plate is struck rather than a wire to create sound.

6. Schiedmayer keyboard musical instruments represent the highest degree of quality and reputation. Schiedmayer keyboard musical instruments have been sold and are used by numerous symphonies and orchestras throughout the United States, by way of the following examples:

Boston Symphony, Washington National Symphony, San Francisco Symphony, New York Philharmonic Orchestra, Florida Philharmonic Orchestra, St. Louis Symphony Orchestra, Chicago Symphony Orchestra, Memphis Orchestra, Philadelphia Orchestra and several others.

7. Schiedmayer and its predecessors in interest currently and long prior to any use or registration by Piano Factory, offers for sale and has sold within the United States, Schiedmayer marked keyboard instruments. Among recent purchasers are the following:

Chicago Symphony Orchestra, Detroit Symphony Orchestra, New York Philharmonic, Cleveland Orchestra, New York University, Pittsburgh Orchestra, Paul Simon Arkansas Symphony Orchestra, Cincinnati Symphony and Pops Orchestra.

8. Piano Factory has never had any relationship whatsoever with Schiedmayer.

COUNT I – FALSE ASSOCIATION

Petitioner herewith repeats and realleges paragraphs 1-8 above as fully as set forth herein. Petitioner further states that it is a 'person' within the meaning of Sec. 2 (a) of the Act, Lanham Act Sec. 45, 15 U.S.C. Sec. 1127.

9. Long prior to any use or registration by Piano Factory, the trademark SCHIEDMAYER has been known throughout the world as being associated with the finest musical keyboard instruments ever produced.

10. Petitioner and through its predecessors in interest, owns the exclusive reputation for the mark SCHIEDMAYER.

11. Petitioner herewith states that Respondent's mark sought to be cancelled herein is the same as Petitioner's previously used name or identity.

12. Petitioner further states that the mark SCHIEDMAYER would be recognized as such, in that it points uniquely and unmistakably to the Petitioner.

13. Petitioner is not connected with the goods allegedly sold or the activities performed by the Respondent under the mark SCHIEDMAYER.

14. Petitioner's trademark SCHIEDMAYER is of sufficient fame and reputation that if and when Respondent's mark is used on its goods or services, a connection with Petitioner will be presumed.

15. All of the factors alleged above also existed at the time of registration of the Trademark Registration sought to be cancelled herein.

16. In view of the false association set forth above, Petitioner is being damaged because its right to exclusive use and registration of a mark which points uniquely to the Petitioner is being put in jeopardy, due to the registration of the mark sought to be cancelled herein.

COUNT II – ABANDONMENT

Petitioner herewith repeats and realleges paragraphs 1-8 above as fully as set forth herein.

17. Upon information and belief, Piano Factory has not used the trademark SCHIEDMAYER upon any of the goods set forth in the trademark registration sought to be cancelled herein, within at least the past 10 years.

18. Upon information and belief, Piano Factory has not sold or offered for sale or transported in commerce any of the products set forth in the trademark registration sought to be cancelled herein, for at least the past 10 years.

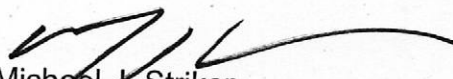
19. Piano Factory has abandoned the trademark SCHIEDMAYER and in view thereof the subject trademark registration should be cancelled in all respects.

20. Piano Factory has abandoned the trademark SCHIEDMAYER in view of its non-use of the trademark SCHIEDMAYER and with no intent to establish use of the mark.

21. Petitioner is damaged by the maintenance of a trademark registration for the mark SCHIEDMAYER, which in fact has become abandoned. Petitioner is further damaged because the said trademark registration is being cited against Petitioner in its pending trademark application for the mark SCHIEDMAYER.

In view of all of the above, favorable consideration of this Petition for Cancellation and cancellation of the subject registration is respectfully requested.

Respectfully submitted,

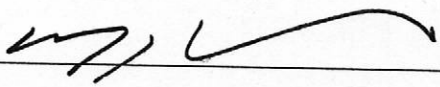

Michael J. Striker
Attorney for Petitioner
Reg. No.: 27233
103 East Neck Road
Huntington, NY 11743

CERTIFICATE OF SERVICE

It is hereby certified that a trues and complete copy of the attached document was served upon Counsel for the Respondent at his address of record:

Adam R. Stephenson, LTD.
40 Baseline Rd. Ste. 101
Tempe, AZ 85283

This 10th day of May, 2016



Michael Striker