

**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 ANSWER TO PETITIONER’S THIRD AMENDED PETITION
FOR CANCELLATION**

Respondents Piano Factory Group, Inc. and Sweet 16 Musical Properties, Inc. (“Respondents”) hereby submit their Answer to the third Amended Petition for Cancellation (the “Petition”) filed by petitioner Schiedmayer Celesta GmbH (“Petitioner”). Unless indicated differently, each paragraph below corresponds with the paragraph of the Petition bearing the same number. References to “Petition” herein refer to the third Amended Petition.

Respondents respond to the first unnumbered paragraph of the third Amended Petition as follows: Respondents admit that Sweet 16 Musical Properties, Inc. owns U.S. Reg. No. 3,340,759, and that the registration in all respects speaks for itself. Respondents deny that Petitioner is damaged by the continued registration of U.S. Reg. No. 3,340,759. Except as explicitly admitted and alleged herein, Respondents deny each and every remaining allegation contained in the first unnumbered paragraph of the Petition.

To the extent any additional unnumbered paragraphs, captions or headings in the Amended Petition are treated as allegations, such allegations are hereby denied.

1. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 1 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

2. Respondents admit that they have offices in Burbank, California. Respondents lack sufficient knowledge or information regarding the further allegations contained in Paragraph 2 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

3. Respondents admit that they are in the business of offering musical instruments, including pianos, for sale. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 3 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

4. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 4 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

5. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 5 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

6. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 6 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

7. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 7 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

8. Respondents admit that they have had no formal business relationship with Petitioner. Respondents lack sufficient knowledge or information regarding the remainder of the allegations contained in Paragraph 8 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

9. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 9 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

10. Respondents deny each and every allegation contained in Paragraph 10 of the Petition.

11. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 11 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

12. Respondents deny each and every allegation contained in Paragraph 12 of the Petition.

13. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 13 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

14. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 14 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

15. Respondents lack sufficient knowledge or information regarding the allegations contained in Paragraph 15 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

16. Respondents deny each and every allegation contained in Paragraph 16 of the Petition.

17. Respondents deny each and every allegation contained in Paragraph 17 of the Petition.

18. Respondents deny each and every allegation contained in Paragraph 18 of the Petition.

19. Respondents deny each and every allegation contained in Paragraph 19 of the Petition.

20. Respondents deny each and every allegation contained in Paragraph 20 of the Petition.

21. Respondents admit that a renewal was due for Registration 3,340,759 by May 20, 2014. Respondents lack sufficient knowledge or information regarding the remainder of the allegations contained in Paragraph 21 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

22. Respondents admit that an assignment for the benefit of creditors of the assets of Piano Factory Group, Inc. was made on or about August 17, 2006. Respondents deny the remainder of the allegations contained in Paragraph 22.

23. Respondents admit that all of the assets of Piano Factory Group, Inc were sold through a Bill of Sale to Sweet 16 Musical Properties, Inc., Respondent. Respondents lack sufficient knowledge or information regarding the remainder of the

allegations contained in Paragraph 23 of the Petition to admit or deny and, on that basis, deny each and every allegation contained therein.

24. Respondents admit that a Section 8 and Section 15 Affidavit were filed on April 18, 2014. Respondents deny the remainder of the allegations contained in Paragraph 24.

25. Respondents deny each and every allegation contained in Paragraph 25 of the Petition.

AFFIRMATIVE DEFENSES

In addition to the foregoing, and as separate and distinct affirmative defenses to Petitioner's claims, Respondent alleges as follows:

FIRST AFFIRMATIVE DEFENSE

Petitioner's Amended Petition is barred because the Petitioner has failed to state facts upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioner's allegations are not plead with particularity and do not meet either the standards of the Federal Rules of Civil Procedure, as interpreted in either *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 1966 (2007) or *In re Bose*, 580 F.3d 1240, 91 U.S.P.Q.2d 1938 (Fed. Cir. 2009).

THIRD AFFIRMATIVE DEFENSE

Petitioner's Amended Petition is frivolous and baseless.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's Petition for Cancellation is barred by laches. Petitioner did not seek cancellation of the Respondent's registration for nearly 7.5 years.

FIFTH AFFIRMATIVE DEFENSE

Petitioner's Petition for Cancellation is barred by acquiescence. Petitioner did not seek to cancel Respondent's registration for such a long period of time that it amounts to a relinquishment of any claims by Petitioner to cancel it.

FURTHER AFFIRMATIVE DEFENSES

Respondent is without sufficient information to know at the present time whether additional affirmative defenses may be applicable to this action. Accordingly, Respondent expressly reserves the right to assert further affirmative defenses should it learn that any such defenses are available.

WHEREFORE, Applicant respectfully requests that the Petition be denied, and that judgment be entered in favor of Respondent.

Dated: February 2, 2017

Respectfully submitted,
/s/ Adam R. Stephenson
Adam R. Stephenson, LTD.
8350 E Raintree Dr., Ste 245
Scottsdale, AZ 85260
Tel: 480.264.6075
Fax: 480.718.8336
Email: adam@iptech.law
Attorney for Respondents, Piano Factory
Group, Inc. and Sweet 16 Musical
Properties, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing RESPONDENT'S ANSWER TO PETITION FOR CANCELLATION is being sent via email to Petitioner Schiedmayer Celesta GmbH's attorney of record as follows:

Michael J. Striker

Striker, Striker & Stenby

103 East Neck Road

Huntington, NY 11743

striker@strikerlaw.com

Dated: February 2, 2017

____/s/ Adam R. Stephenson____