

ESTTA Tracking number: **ESTTA664240**

Filing date: **04/01/2015**

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

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

|         |   |             |         |
|---------|---|-------------|---------|
| Name    | Schiedmayer Celesta GmbH                                  |             |         |
| Entity  | limited liability company                                 | Citizenship | Germany |
| Address | Schaeferhauserstrasse 10/2<br>Wendingen, 73240<br>GERMANY |             |         |

|                      |   |
|----------------------|---|
| Attorney information | Michael J. Striker<br>Striker, Striker & Stenby<br>103 East Neck Road<br>Huntington, NY 11743<br>UNITED STATES<br>striker@strikerlaw.com Phone:631 549 4700 |
|----------------------|---|

### Registration Subject to Cancellation

|                 |   |                   |            |
|-----------------|---|-------------------|------------|
| Registration No | 3340759   | Registration date | 11/20/2007 |
| Registrant      | Piano Factory Group<br>323 S. Front St., #106<br>Burbank, CA 915021918<br>UNITED STATES |                   |            |

### Goods/Services Subject to Cancellation

Class 015. First Use: 2003/11/10 First Use In Commerce: 2003/11/10  
All goods and services in the class are cancelled, namely: Pianos, namely, upright pianos, grand pianos, and digital pianos

### Grounds for Cancellation

|   |   |
|---|---|
| <i>Torres v. Cantine Torresella S.r.l.Fraud</i> | 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986) |
|---|---|

|             |                                |
|-------------|--------------------------------|
| Attachments | schiedmayer.pdf(220601 bytes ) |
|-------------|--------------------------------|

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |                      |
|-----------|----------------------|
| Signature | /Michael J. Striker/ |
| Name      | Michael J. Striker   |
| Date      | 04/01/2015           |



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

|                           |   |                  |
|---------------------------|---|------------------|
| Schiedmayer Celesta GmbH, | ) |                  |
|                           | ) |                  |
| Petitioner,               | ) | Cancellation No. |
|                           | ) |                  |
| v                         | ) |                  |
|                           | ) |                  |
| Piano Factory Group,      | ) |                  |
|                           | ) |                  |
| Registrant.               | ) |                  |
| _____                     | ) |                  |

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

April 1, 2015

Assistant Commission  
for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

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 and registered on November 20, 2007. The basis for this Petition for Cancellation is fraud in the acquisition and maintenance of the subject registration, including the false and fraudulent filing of the subject application and the false and fraudulent filing of a Declaration of Use and incontestability.

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.

2. Upon information and belief, Piano Factory Group is a California corporation having offices in Burbank, California. Upon information and belief, Piano Factory Group, the registrant herein, is engaged in the business of offering for sale musical instruments, principally pianos.

3. Since 1735, Schiedmayer and its predecessors in interest have manufactured and sold Schiedmayer keyboard instruments representing some of the most coveted and respected keyboard instruments in the world.

4. Since 1890, Schiedmayer has manufactured and offered for sale the Celesta Piano which is a piano keyboard instrument having four or five octaves.

5. Since 1860, Schiedmayer Pianos have been offered for sale and sold in the United States.

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

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 currently 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, Pittsburg Symphony Orchestra, Paul Simon, Arkansas Symphony Orchestra, Cincinnati Symphony and Pops Orchestra.

8. Piano Factory Group, registrant herein, offers for sale pianos in the State of California. Upon information and belief, Piano Factory Group does not manufacture and has never manufactured pianos. Piano Factory Group has never had any relationship whatsoever with Schiedmayer.

9. On August 24, 2002, Piano Factory Group falsely and fraudulently represented to the United States Patent and Trademark Office that it was the owner of the trademark Schiedmayer for pianos. In fact, Piano Factory Group was never the owner of the trademark Schiedmayer; and never manufactured a Schiedmayer product; and never had any control whatsoever over the quality of the Schiedmayer keyboard instrument.

10. Piano Factory Group falsely and fraudulently prosecuted Application Serial No. 78/157,552 representing to the United States Patent and Trademark Office that it was the owner of the trademark Schiedmayer, when in fact Piano Factory Group had no relationship whatsoever with Schiedmayer; had never manufactured a Schiedmayer product and had no control whatsoever over the quality of the Schiedmayer product and had no relationship whatsoever with the owner of the Schiedmayer keyboard instrument.


11. Before November 20, 2013, Piano Factory Group falsely and fraudulently caused to be filed a Declaration of Use under Sections 15 and 8, falsely and fraudulently representing to the United States Patent and Trademark Office, that it had continued to use the trademark Schiedmayer and had done so continuously. Said representations were false and fraudulent inasmuch as Piano Factory Group never had any relationship whatsoever with the Schiedmayer product and had never manufactured a Schiedmayer product and had never had any control whatsoever over the quality of the Schiedmayer keyboard instrument. The filing of said Declaration of Use was false and fraudulent.

12. The false and fraudulent obtaining and maintaining of the trademark Schiedmayer by the Piano Factory Group is likely to cause confusion and has caused confusion in the marketplace. Purchasers and potential purchasers are being falsely and fraudulently led to believe that some relationship exists between Piano

Factory Group and the coveted and highly respected Schiedmayer keyboard instrument. Schiedmayer has been and is continuing to be damaged by the false and fraudulent obtaining of a trademark registration for the mark Schiedmayer by Piano Factory Group.

In view of all of the above, it is requested that U.S. Trademark Registration No. 3,340,759 be cancelled from the register as it was obtained and maintained falsely and fraudulently.

Respectfully submitted,



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

CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the attached Petition for Cancellation was served upon counsel for the Registrant by first class mail and email as follows:

Adam R. Stephenson

40 Baseline Rd.

Tempe, Arizona

85283

[adam@patentproblempro.com](mailto:adam@patentproblempro.com)

This 1<sup>st</sup> day of April, 2015

-   
- Michael Striker