

**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 WRITTEN QUESTIONS FOR CROSS EXAMINATION OF
ELIANNE SCHIEDMAYER**

June 8, 2017

Pursuant to 37 CFR 2.124(a) and Rule 28 of the Federal Rules of Civil Procedure, Respondents herewith submit the following written questions for cross examination to Elianne Schiedmayer to be answered before that official in Germany agreed between Petitioner and Respondent to be competent under the Federal Rules of Civil Procedure to record her answers. The questions are as follows:

1. You testified that in 1969 Georg Schiedmayer took over as sole owner of Schiedmayer Pianofortefabrik, is this correct?
2. Is Schiedmayer Pianofortefabrik the complete legal name of the company that Georg Schiedmayer took over in 1969?

3. After Georg Schiedmayer took over Schiedmayer Pianofortefabrik, he was the head of two separate companies, Schiedmayer Pianofortefabrik and Schiedmayer & Soehne, correct?
4. Is Schiedmayer & Soehne the complete legal name of the company that Georg Schiedmayer was over just prior to 1969?
5. Is it correct that the company Schiedmayer & Soehne changed its legal name to Schiedmayer & Soehne GmbH & Co. KG?
6. What is the relationship between Schiedmayer Pianofortefabrik and Schiedmayer Pianos, GmbH?
7. When did Schiedmayer Piano GmbH come into existence?
8. You testified that in 1980 a joint venture company was formed with Rud. Ibach GmbH, is this correct?
9. Which Schiedmayer company was the joint venture formed with?
10. Isn't it true that you have no documents showing the creation of this joint venture?
11. Isn't true that you have no documents showing any property or rights transferred to Rud. Ibach GmbH?
12. Were you personally involved in any of the activities related to the formation of the joint venture?
13. How were you involved?

14. Do you have any personal recollection of any property or rights transferred to Rud. Ibach GmbH during the joint venture formation in 1980?
15. Do you have personal knowledge whether any transfer or license of the trademark SCHIEDMAYER for pianos was discussed during the formation of the joint venture in 1980?
16. Isn't it true that you have no documents showing the dissolution of this joint venture mentioned in question 8?
17. Were you personally involved in the dissolution of the joint venture mentioned in question 8?
18. Do you have any personal knowledge of how property rights were divided upon dissolution of the joint venture in 1980?
19. Please review what has been marked as Respondent's Exhibit 1 for Cross Examination. What is this document?
20. Have you encountered the Pierce Piano Atlas before?
21. Is it your understanding that the Pierce Piano Atlas considered an authoritative source on the provenance of pianos and piano manufacturers?
22. Exhibit 1 states that that Georg Schiedmayer sold the Schiedmayer piano line to Rud. Ibach Sohn in 1980, correct?
23. Please review what has been marked as Respondent's Exhibit 2 for Cross Examination. What is this document?

24. Exhibit 2 states that Rud. Ibach Sohn purchased Schiedmayer Pianos GmbH, correct?
25. Exhibit 1 states that Kemble and Kawai manufactured Schiedmayer pianos under a license, correct?
26. Exhibit 1 states “[t]he company, now named Schiedmayer Piano Co. was taken over by Musikhaus Thomann, Erlangen Germany, in 2006,” correct?
27. Please review what has been marked as Respondent’s Exhibit 3 for Cross Examination. What is this document?
28. Have you encountered the *Encyclopedia of Keyboard Instruments* series?
29. Have you encountered the volume *Piano: An Encyclopedia* from the *Encyclopedia of Keyboard Instruments* series?
30. Exhibit 3 states “Georg Schiedmayer, who was the last of his family to build pianos, changed his focus to building celestas and glockenspiels and in 1980 sold the piano name, models, drawings, tools, and forms to the Ruldolf Ibach Sohn firm. Schiedmayer is now a brand name of the Ibach company,” correct?
31. Please review what has been marked as Respondent’s Exhibit 4 for Cross Examination. What is this document?
32. Exhibit 4 states “[i]n the 1980s Ibach expanded by purchasing the venerable Schiedmayer piano division (est. in 1809) and the piano firm of Roth and Junius (est. in 1889), known for its affordable instruments for home and school. Both brand names are still in production under the auspices of Rudolf Ibach Sohn,” correct?

33. You testified that the contents of Exhibit B submitted with your testimony are true and correct, is this correct?
34. You were aware that Ibach continued to produce pianos using the SCHIEDMAYER trademark for at least 15 or more years after 1980, correct?
35. According to Exhibit B, the firms of Roth and Junius, Young Chang, Concorde, Kawai, Sauter, Seiler, and Steinberger produced pianos under the SCHIEDMAYER trademark, is this correct?
36. Did your husband's company stop all production of pianos when the company withdrew from the joint venture with Ibach?
37. Isn't it true that your husband's company stopped production of pianos in 1980 because it no longer intended to manufacture pianofortes?
38. Isn't it true your husband, George Schiedmayer, took no legal action to stop Ibach from producing and selling SCHIEDMAYER branded pianos in the United States?
39. Isn't it true your husband, George Schiedmayer, took no legal action to stop Roth and Junius, Young Chang, Concorde, Kawai, Sauter, Seiler, and Steinberger from producing and selling SCHIEDMAYER branded pianos in the United States?
40. Isn't it true that Ibach does not sell Schiedmayer branded pianos today?
41. Isn't it true that Roth and Junius, Young Chang, Concorde, Kawai, Sauter, Seiler, and Steinberger do not sell SCHIEDMAYER branded pianos today?
42. Do you have any personal knowledge or documents regarding the takeover of Schiedmayer Piano Co. by Musikhaus Thomann?

43. Do you have any personal knowledge of any SCHIEDMAYER branded pianos manufactured or sold by Musikhaus Thomann anywhere in the world?
44. What are the legal names of the companies you inherited when your husband passed away in 1992?
45. Isn't it true that you have no document showing that Georg Schiedmayer had the right to use the SCHIEDMAYER mark with pianos in 1992?
46. In August 2002, how many companies including the Schiedmayer name did you own or control?
47. In August 2002, what musical instrument(s) did the companies in question 46 manufacture?
48. Isn't it true you became aware of the registration of the domain name www.schiedmayer.com by Respondent or Glenn Treibitz in 2002?
49. Isn't it true that you were aware that either the Piano Factory Group, Inc., Sweet 16 Musical Properties, Inc., Hollywood Piano Company, and/or Glenn Treibitz had obtained a registration for SCHIEDMAYER for pianos before April 1, 2015?
50. Isn't it true that your response to Respondent's interrogatory # 23 was "[p]etitioner first became aware of the existence of Respondent's trademark registration when it was cited against Petitioner in Petitioner's pending trademark application?
51. Isn't it true that Petitioner's US trademark application for SCHIEDMAYER was filed April 17, 2015?

52. Isn't it true that the answer to Respondent's interrogatory # 23 is incorrect?
53. Isn't it true that from 2007 to 2015, your company has sold in the United States between 40 and 50 celestas?
54. Isn't it true that Percussion Source no longer sells Schiedmayer branded Celestas as a designated distributor in the United States?
55. Isn't it true that Carroll Music no longer sells Schiedmayer branded Celestas as a designated distributor in the United States?
56. Isn't it true that The Kettles Company no longer sells Schiedmayer branded Celestas as a designated distributor in the United States?
57. In your testimony you stated that none of the Schiedmayer companies have ever been abandoned, is this correct?
58. Isn't it true that Schiedmayer Pianofortefabrik, formerly J. & P. Schiedmayer, was ordered to be dissolved due to inactivity in 2008?
59. Isn't it true that Schiedmayer Pianofortefabrik was not manufacturing any musical instruments at the time of its dissolution?
60. Isn't it true that after 1980, Schiedmayer Pianofortefabrik was intended to make celestas and not pianos?
61. In your testimony you stated that the Schiedmayer dynasty has always been family owned, is this correct?
62. Isn't it true that the grandson of Johann Lorenz, Erwin Muller-Schiedmayer, established a piano manufacturing firm called Muller-Schiedmayer?

63. Isn't it true, according to Exhibit B of your testimony, that the Muller-Schiedmayer firm was sold in 1968 to the Karl Lang Piano Company?
64. Isn't it true that any purchaser of the Karl Lang Piano Company would have legal rights to the SCHIEDMAYER mark for pianos in Europe?
65. Isn't it true that Steinway Company Munich, as the purchaser of the Karl Lang Piano Company, as discussed in Exhibit B, has legal rights to the SCHIEDMAYER mark for pianos in Europe?
66. On page 2 of your declaration, it states that the Schiedmayer family has continuously manufactured Schiedmayer musical keyboard instruments for sale in the United States since 1735, is this correct?
67. In your testimony you state that in 1980 Georg Schiedmayer renamed the company Schiedmayer & Soehne to Schiedmayer GmbH & Co. KG, is this correct?
68. On page 3 of your declaration, did you state that you have been the sole owner of Schiedmayer GmbH since its inception in 1980?
69. Isn't this statement referred to in question 68 incorrect as your husband was alive in 1980 and would have an ownership interest in the Schiedmayer GmbH?
70. Who is the author of Exhibit B?
71. Where did the author get the information to write Exhibit B?

72. Which Schiedmayer company manufactured the Schiedmayer instruments that won more than 20 gold awards, six silver awards and 10 bronze awards at World's Fairs according to page 7 of your declaration?
73. Which Schiedmayer company made the Schiedmayer piano that won the bronze award in Philadelphia according to page 7 of your declaration?
74. Which Schiedmayer company made the Schiedmayer piano that won the silver award at the Chicago World Fair in 1897 according to page 7 of your declaration?

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing RESPONDENT'S CROSS EXAMINATION BY WRITTEN QUESTIONS is being sent via email to Petitioner Schiedmayer Celesta GmbH's attorney of record as the following address:

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Dated: June 8, 2017

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