

Adam-

I am sending to you herewith our Document Request for Sweet 16.

Also enclosed is a proposed Amended Petition for Cancellation.

As required by the recent decision, this has been discussed with Interlocutory Attorney Benjamin Okeke.

He has given permission to file the Amended Petition, but he has asked that I first contact you to ascertain if it could be entered on a consent basis.

This would considerably expedite matters and avoid further pleading before the Board.

I am confident that the Amended Petition would eventually be entered, as this was invited in a footnote in the recent decision. Therefore I am hopeful that you will consent, so that we can move this case along and avoid additional controversies and delay.

Therefore, please advise by December 27, 2016 if you consent to the entry of the Amended Petition.

Finally, please advise if your service address has changed as I have noted a Scottsdale address for you firm and not Tempe.

Michael

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

Schiedmayer Celesta GmbH,)
)
Petitioner,)
)
v)
)
Piano Factory Group, Inc. and,)
Sweet 16 Musical Properties, Inc.)
)
Respondents.)
_____)

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

**PETITIONER’S REQUEST FOR PRODUCTION OF DOCUMENTS FROM
SWEET 16 MUSICAL PROPERTIES, INC.**

December 23, 2016

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Petitioner herewith requests that Respondent, Sweet 16 Musical Properties, Inc. produce the following documents within 30 days.

DEFINITIONS

The terminology “documents” is to be broadly construed to include any type of material, including, without limitation, writings, electronic data, photographs, etc.

Document Request No. 1: Produce all documents relating in any way to promotion and advertising for Schiedmayer pianos of any type which has taken place within the past seven years.

Document Request No. 2: Produce all documents relating in any way to billing information and all other related information regarding all sales of Schiedmayer Pianos of any type which have taken place within the past seven years.

Document Request No. 3: Produce all documents relating to the manufacture of Schiedmayer pianos of any type taking place within the past seven years.

Document Request No. 4: Produce all documents relating to the offering for sale of Schiedmayer pianos of any type.

Document Request No. 5: Produce all documents of any type relating to the promotion of Schiedmayer pianos of any type within the past seven years.

Document Request No. 6: Produce all documents relating to why and how registrant Sweet 16 Musical Properties, Inc. adopted the name Schiedmayer as a trademark.

Document Request No. 7: Produce all documents, including without limitation, billing invoices, estimates, etc. relating in any way to any computer crash of

any type, including with particularity the computer crash referred to in the response to document request number five addressed to Piano Factory Group, Inc.

Document Request No. 8: Produce all documents relating in any way to the offering for sale of Schiedmayer pianos of any type within the past seven years.

Document Request No. 9: Produce all documents relating in any way to the promotion of Schiedmayer pianos of any type within the past seven years.

Document Request No. 10: Produce all documents representing promotion and advertising material of any kind for Schiedmayer marked pianos which are in the possession, custody or control of Sweet 16 Musical Properties, Inc. within the past seven years.

Document Request No. 11: Produce all documents within the possession, custody or control of Sweet 16 Musical Properties, Inc. relating to any transport in commerce of Schiedmayer marked pianos of any type within the past seven years.

Document Request No. 12: Produce all documents within the possession, custody or control of Respondent, Sweet 16 Musical Properties, Inc., including without limitation, itemized invoices, emails, letters and the like which in any way relate to or support Respondent's allegation that certain documents may have been lost or destroyed due to alleged "computer crashes."

Document Request No. 13: Produce all documents within the possession, custody or control of Respondent, Sweet 16 Musical Properties, Inc., relating to any use, including without limitation, use in commerce of pianos of any type under the trademark Schiedmayer taking place within the past seven years.

Document Request No. 14: Produce all documents of any type to support the position that Sweet 16 Musical Properties, Inc. has not abandoned U.S. Trademark Registration No. 3,340,759.

Respectfully submitted,



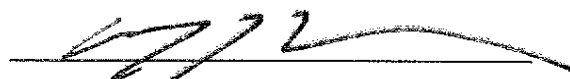
Michael J. Striker
Attorney for Petitioner
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743

CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the attached Document Request was served upon Counsel for Respondents at his address of record:

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

This 23rd day of December 2016

A handwritten signature in black ink, appearing to read 'Michael Striker', is written over a horizontal line.

Michael Striker

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

Schiedmayer Celesta GmbH,)
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Petitioner,)
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v)
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Piano Factory Group, Inc. and,)
Sweet 16 Musical Properties, Inc.)
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Respondents.)
_____)

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**

December 23, 2016

Petitioner herewith files this 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, and assigned to Sweet 16 Musical Properties, Inc. (Sweet 16).

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 SCHIEDMAER 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, Sweet 16, is a California corporation having offices in Burbank, California.

3. Upon information and belief, Piano Factory and Sweet 16, the Respondents herein, are 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 or Sweet 16, 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 or Sweet 16, Schiedmayer has manufactured and offered for sale the Celeste 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 or Sweet 16, offer 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 and Sweet 16 have never had any relationship whatsoever with Schiedmayer.

COUNT 1 – 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 Respondents, 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 Respondents 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 Respondents under the mark SCHIEDMAYER.

14. Petitioner's trademark SCHIEDMAYER is of sufficient fame and reputation that when Respondents 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.

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 III – ABANDONMENT

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

17. Upon information and belief, Respondents have not used, sold or offered for sale or transported in commerce any of the products set forth in the trademark registration sought to be cancelled herein under the trademark SCHIEDMAYER for at least the past 10 years.

18. Respondents have abandoned the trademark SCHIEDMAYER and in view thereof, the subject trademark registration should be cancelled in all respects.

19. Respondents have abandoned the trademark SCHIEDMAYER in view of its non-use, and lack of any sales, offers for sale or transport in commerce of the trademark SCHIEDMAYER upon any of the goods set forth in the trademark registration sought to be cancelled herein, for at least the past 10 years and with no intent to establish use of the mark.

20. 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 and its pending trademark application for the mark SCHIEDMAYER.

COUNT III – ABANDONMENT-FAILURE TO FILE DECLARATION OF USE

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

21. The trademark registration sought to be cancelled herein, No. 3,340,759, required the filing of a Declaration of Use by November 20, 2013.

22. On or about August 17, 2006, all of the assets of Respondent, Piano Factory Group, Inc. were assigned for the benefit of creditors to Equitable Transitions, Inc. The said assignment included an assignment in gross of the trademark registration at issue herein.

23. On August 17, 2006, all of the assets of Piano Factory Group, Inc. held by Equitable Transitions, Inc. and including the trademark registration at issue herein, were sold through a Bill of Sale to Sweet 16 Musical Properties, Inc. Accordingly, as of August 17, 2006, the subject registration was owned by Sweet 16 Musical Properties, Inc.

24. On April 18, 2014, a Declaration of Use was filed with respect to the subject registration in the name of Piano Factory Group, a corporation of California, notwithstanding the fact that on April 18, 2014 Piano Factory Group, Inc., a corporation of California, did not own the subject registration as it had been assigned to Sweet 16 Musical Properties, Inc.

25. Sweet 16 Musical Properties, Inc. never signed any Declaration of Use for the subject registration. In view thereof, the subject registration has become abandoned because no Declaration of Use was filed by the owner of the registration within the required term. In view thereof, the registration is to be considered as abandoned since no Declaration of Use was properly filed in the name of the owner.

In view of all of the above, this Petition to Cancel should be granted in all respects and Registration No. 3,340,759 should be cancelled from the Register.

Respectfully submitted,

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