

2020-1196

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United States Court of Appeals  
for the Federal Circuit

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PIANO FACTORY GROUP, INC., SWEET 16 MUSICAL  
PROPERTIES, INC.,

*Appellants,*

v.

SCHIEDMAYER CELESTA GMBH,

*Appellee.*

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*Appeal from the United States Patent and Trademark Office,  
Trademark Trial and Appeal Board, Case No. 92061215*

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**NOTICE OF CONSTITUTIONAL QUESTION PURSUANT TO  
FEDERAL RULE OF APPELLATE PROCEDURE 44(a).**

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*Attorneys for Appellants*

April 7, 2020

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## CERTIFICATE OF INTEREST

Counsel for Appellant certifies the following:

1. The full name of every party represented by me is:

Piano Factory Group, Inc.

Sweet 16 Musical Properties, Inc.

2. The names of the real parties in interest represented by me is:

Piano Factory Group, Inc.

Sweet 16 Musical Properties, Inc.

3. There are no parent corporations and any publicly held companies that own 10 percent of the stock of the parties represented by me.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:

NONE

5. The title and number of any case known to me to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

Arthrex, Inc. v. Smith & Nephew, Inc., et al., No. 18-214 (Fed Cir. 2019)

Date: April 7, 2020

/s/ Adam R. Stephenson

Adam R. Stephenson

Pursuant to the Federal Rule of Appellate Procedure 44(a), Appellants Piano Factory Group, Inc. and Sweet 16 Musical Properties, Inc. provide notice that is has challenged the constitutionality of cancellation proceedings as provided by 15 U.S.C. § 1064 and U.S. Const. Art II, § 2, Cls. 1, 2 in this appeal. Neither the United States nor any agency, officer, or employee of the United States is a party to an official capacity in this appeal.

The specific constitutional question at issue in this appeal is as follows:

Whether the administrative trademark judges (ATJs) on the TTAB that presided over this cancellation proceeding had authority to do so when they were not appointed by the President and not confirmed by Congress.

April 7, 2020

Respectfully submitted,

/s/ Adam Stephenson

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*Attorneys for Appellant Sweet 16 Musical Properties,  
Inc. and Piano Factory Group*

## CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 7<sup>th</sup> day of April, 2020, as required by Federal Rule of Appellate Procedure 25(c)(2) and the Court's May 17, 2012 Administrative Order Regarding Electronic Case Filing, the foregoing Notice of Constitutional Question was served on all counsel of record via the Court's electronic filing system.

/s/ Adam Stephenson

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