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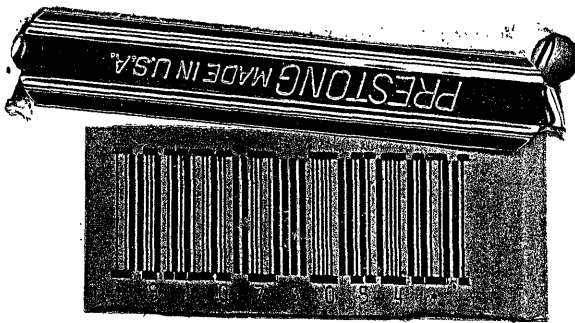
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73,054

OPP. NO.

15
CLASS NO.



TS
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1/27/86

TRADEMARK NOTICE OF OPPOSITION

TO REGISTRATION TERMINATED

FEB 24 1987

OPPOSER

Steinway & Sons

VS.

APPLICANT

Schiedmayer Pianos, GMBH

SERIAL NO.

475,680

FILED

4-16-84

FOR

Musical instruments, namely, pianos, chromes, celestes, and keyboards.

PUBLISHED

(PAGE)

O. G.

(DATE)

6-25-85

Req. to extend line granted to 8-26-

REC'D

In duplicate

8-22, 198

FEE

\$200.00

8-22, 198

SPECIMENS

19

FORWARDED

19

73,054

Steinway & Sons
vs.

Schiedmayer Pianos, GmbH

1. 7-26-85 Req. to Extend Time granted to 8-26-85
2. 8-22-85 Notice of Opposition in duplicate
3. 9-3-85 "letter" Opp. gives NO consideration
4. 9-18-85 Petition to Commissioner
5. ~~9-18-85~~ letter
6. 9-30-85 Response to NO#3 above
7. 12-4-85 Commissioner Decision: Petition granted
8. 1-21-86 Notice Sent; Answer due 3-3-86
9. 2-28-86 Def's Mot to Ext Time w/const. App. 3-25-86
10. 3-31-86 Rev. P/A For Opposed P.V. 4-18
11. 4-7-86 Def's mot to ext time w/consent App. 4-29-86 5-18
12. 5-2-86 Def's mot to ext time w/consent approved 5-28-86
13. 6-9-86 Answer 6-18
14. 6-23-86 Trial Dates Set 5-16
15. 10-12-86 Refr consented motion to extend discovery 11-6-86 approves
16. 11-12-86 Def's mot to ext time w/consent 5-16
17. 12-4-86 #16 gtd trial dates reset 8-9
18. 12-4-86 Pl's mot to ext time w/consent
19. 12-9-86 Def's mot to withdraw appl. 1-13
20. 12-22-86 Plaintiff's consent to abandonment
21. 1-20-87 appl abandoned; op dismissed w/o prej
- 22.
- 23.
- 24.
- 25.
- 26.
- 27.
- 28.
- 29.
- 30.

73,054

ATTORNEYS

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Steinway Place,
Long Island City
New York, New York → no 210

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PAT. & T.M. OFFICE

JUL 30 1985

TRADEMARK TRIAL AND APPEAL BOARD



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Schiedmayer Pianos
Serial No. : 475,680
Filed : April 16, 1984
For : SCHIEDMAYER & Design

Time for filing a notice of opposition is extended to

AUG 26 1985

Henry M. Semones
Trademark Trial and Appeal Board

REQUEST FOR EXTENSION OF TIME FOR FILING OF NOTICE OF OPPOSITION

AUG 2 1985

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

#1

6-25

Sir:

On June 25, 1985, Trademark Application Serial No. 475,680, filed April 16, 1984, for the trademark SCHIEDMAYER & Design was published at page TM 100 of the Official Gazette of the United States Patent and Trademark Office.

NOW COMES STEINWAY & SONS. a New York Corporation, whose situs and business address is Steinway Place, Long Island City, New York 11105, and requests in accordance with Section 2.102 of the Trademark Rules of Practice, an extension of time within which it may file a Notice of Opposition to the above-identified application. The extension sought is for thirty days from July 25, 1985 to August 26, 1985.

The reason this extension is sought is to permit petitioner to consider whether or not to file a Notice of Opposition.

Respectfully submitted,

STEINWAY & SONS
By its attorneys,
BRUMBAUGH, GRAVES, DONOHUE & RAYMOND

I hereby certify that this paper is being deposited with the U.S. Postal Service as 1st Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks Washington, D.C. 20231, on 7-23-85
Date of Deposit

JOSEPH D. GARN 20,420
Attorney Name Reg. No.
Joseph D. Garn 7-23-85
Signature Date of Signature

BY: Joseph D. Garn
Joseph D. Garn of the New York Bar
Attorney for Petitioner
30 Rockefeller Plaza
New York, N.Y. 10112
(212) 408-2540

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JAMES W. GOULD

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MITCHELL E. RADIN
MICHAEL A. NICODEMA
T. CARTER PLEDGER

*D.C. BAR

August 22, 1985

JOHN D. MORGAN
1893-1939
HOBART N. DURHAM
1930-1969

By: *MBS/SLG/HZ*

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Re: Opposition to Registration of
Schiedmayer Lyre Trademark (234-X-027)

Sir:

Enclosed for filing please find:

- a. An original and one copy of a Notice of Opposition whereby Steinway & Sons opposes the registration by Schiedmayer Pianos, GmbH of the Lyre mark (Serial No. 475,680) which was published in the Official Gazette on June 25, 1985;
- b. A check for \$200.00 to cover the cost of filing said Notice of Opposition; and
- c. A Deposit Account Order Form requesting two (2) status copies of the 2 registrations relied upon in said Notice of Opposition.

Please acknowledge safe receipt of the above by date stamping and returning the enclosed self-addressed, prepared postcard.

Very truly yours,

Kurt E. Richter
Kurt E. Richter

KER:ca
Enc.

cc: Alfred M. Marks, Esq.
David Rubin, Steinway & Sons

EXHIBIT 2



#200-314 PAT. & T.M. OFFICE
AUG 28 1985

TRADEMARK TRIAL AND APPEAL BOARD

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

In the Matter of Application No. 475,680
Published in the Official Gazette of
June 25, 1985 (TMOG)

-----X
STEINWAY & SONS,

Opposer,

-vs-

SCHIEDMAYER PIANOS, GMBH

Applicant.
-----X

Opposition No.
73,054

#2

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

STEINWAY & SONS, a New York corporation with offices at Steinway Place, Long Island City, New York, New York ("Steinway"), believes that it will be damaged by registration of the lyre trademark as shown in application Serial No. 475,680, which was published in the Official Gazette of June 25, 1985, and having previously been given an extension of time to oppose until August 24, 1985 hereby opposes same.

1. Since about 1878, more than 80 years prior to the 1960 date of first use alleged by Applicant, Opposer Steinway

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200.00 CK

has continuously, extensively and exclusively manufactured, reconstructed, sold, advertised and promoted STEINWAY pianos of the highest quality throughout the United States and the world under its lyre trademark, consisting of a stylized lyre form (hereinafter "Steinway LYRE" mark). Such trademark generally comprises a lyre form in which the side portions thereof are two "S" letter shapes arranged back-to-back, with an ampersand symbol placed on the strings.

2. Opposer's pianos are world-famous instruments of unique and distinctive quality which have long been recognized for superior performance by professional pianists, concert artists and other music authorities, as well as by amateur musicians, students, prospective buyers and the public in general throughout the United States and the world.

3. Opposer's LYRE mark, in one or the other of its versions has, since long prior to the date of first use alleged by Applicant, come to be recognized by the public and the trade in the United States and throughout the world as a trademark of excellence designating musical instruments originating exclusively from Opposer.

4. Since long prior to the date of first use alleged by Applicant, Opposer has also used its LYRE mark on literature, stationery, promotional items, data sheets, specifications, price lists, commercial bulletins, piano tools and house news publications as well as in connection with piano

repair services and in extensive advertising totalling in excess of twenty million dollars.

5. Opposer has been duly granted the below-listed registrations for its LYRE trademark on the Principal Register of the United States Patent and Trademark Office:

<u>Reg. No.</u>	<u>Trademark</u>	<u>Registered Since</u>	<u>Goods</u>
45,411	LYRE	August 15, 1905	Pianos
607,992	LYRE	June 28, 1955	Pianos

6. Opposer has also duly registered each of the following trademarks on the Principal Register of the United States Patent and Trademark Office:

<u>Reg. No.</u>	<u>Trademark</u>	<u>Registered Since</u>	<u>Goods</u>
45,846	"STEINWAY & SONS"	August 29, 1905	Pianos
141,687	"STEINWAY"	April 26, 1921	Pianos
285,732	"STEINWAY - THE INSTRUMENT OF THE IMMORTALS"	August 4, 1931	Pianos
522,479	"STEINWAY NEWS"	March 14, 1950	Periodical Publication
1,239,328	"STEINWAY ACCELERATED ACTION"	May 24, 1983	Mountings For Piano Keys

7. Opposer is the owner of each of the registrations listed in paragraph 5 and 6 hereof and of all of the business and goodwill of the business in connection with which each mark is used. Each registration is valid, subsisting and remains in full force and effect. (Pursuant to 15 U.S.C. §1059 an application to renew said registration No. 45,411 is being

prepared for filing prior to expiry of the time allocated therefor.) Pursuant to the provisions of 15 U.S.C. §1065, each registration (other than the 1983 registration for "STEINWAY ACCELERATED ACTION") is now incontestable and Opposer is entitled to all of the benefits of incontestable registration on the Principal Register by virtue thereof. Copies of the registrations identified in paragraph 5 are annexed hereto as Exhibits 1 and 2.

8. Applicant herein, SCHIEDMAYER PIANOS, GMBH, Schwelm, Federal Republic of Germany ("Schiedmayer"), seeks to register a mark consisting of a representation of a lyre (hereinafter "Schiedmayer LYRE") for "musical instruments, namely pianos, chimes, celestes, and keyboards" in International Class 15 based on an alleged first use of 1960 and an alleged first use in commerce of 1960. Said Schiedmayer Lyre generally comprises a lyre form in which the side portions thereof are two symmetrical "S" letter shapes arranged back-to-back, with a letter "S" symbol placed on the strings, and is essentially identical and confusingly similar to said registered Steinway LYRE trademark.

9. Opposer will be damaged by the registration of the Schiedmayer LYRE mark as aforesaid in that said trademark so resembles Opposer's Steinway LYRE trademark as to be likely, when applied to the goods of Applicant, to cause confusion, mistake and deception with consequent damage to Opposer's business and goodwill in that persons are likely to erroneously

believe that Applicant's goods originate with Opposer or that Opposer sponsors or is in some way responsible for the quality of such goods, or that Opposer is in some manner legitimately connected with the manufacture and sale of the goods, all to the detriment and irreparable damage of Opposer.

10. The issuance of the registration opposed herein will support and assist Applicant in the confusing and misleading use of the mark sought to be registered in that it will subject the goodwill and reputation of Opposer's Steinway LYRE mark to hazards attending the commercial activities of Applicant over whom Opposer has no control, in that it will dilute the distinctive quality and high character of Opposer's mark, and in that it will otherwise give color of exclusive statutory ownership rights in said trademark to Applicant in violation and derogation of the prior and superior rights of Opposer.

11. Registration should, therefore, be refused pursuant to §2(d) of the Trademark Act of 1946, as amended, ("Lanham Act", 15 USC §1052(d)) on the ground that Applicant's Schiedmayer Lyre mark so resembles Opposer's Steinway LYRE mark as to cause confusion or mistake or to deceive.

WHEREFORE, Opposer Steinway prays that this opposition be sustained and that the application by Schiedmayer to register the Schiedmayer LYRE mark, as aforesaid, for "musical instruments, namely pianos, chimes, celestes and keyboards" be refused.

Opposer hereby appoints as its attorneys in this proceeding George B. Finnegan, Jr.; Granville M. Pine; Thomas P. Dowling, P.C.; John A. Diaz, P.C.; Warren H. Rotert; John D. Foley, P.C.; Jerome G. Lee, P.C.; John C. Vassil, P.C.; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes, William S. Feiler, Janet Dore, James W. Gould and Joseph A. Calvaruso whose address is:

MORGAN, FINNEGAN, PINE, FOLEY & LEE
345 Park Avenue
New York, New York 10154

All correspondence should be addressed to Kurt E. Richter at the above address.

Pursuant to 37 CFR 2.6(e) submitted herewith is a check in the amount specified therein in payment of the requisite fee for filing this Notice of Opposition.

Dated: August , 1985

MORGAN, FINNEGAN, PINE, FOLEY & LEE

By:

Kurt E. Richter
345 Park Avenue
New York, New York 10154
(212) 758-4800

Attorneys for Opposer

Form 10-140
MAY 1975

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

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Date 8/22/85

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345 PARK AVENUE
NEW YORK, N.Y. 10154

DESCRIPTION OF ARTICLES OR SERVICES TO BE FURNISHED

Applicant : Steinway & Sons

Filing Date : August 22, 1985

Serial No. : 475,680

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Please prepare two status copies of each of the following registrations. The registrations numbers are 45,411 and 607,992.
Please send to the undersigned.

If additional space is needed attach separate sheet.

Kurt E. Richter
Kurt E. Richter (Signature) Reg. No. 24,052

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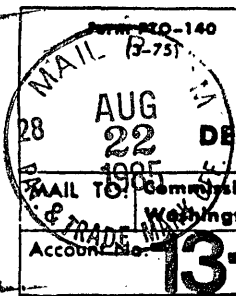
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YOUR ORDER NO.
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* D. C. BAR

August 22, 1985

JOHN D. MORGAN
1893-1939
HOBART N. DURHAM
1930-1969

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Washington, D.C. 20231

Re: Opposition to Registration of
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Sir:

Enclosed for filing please find:

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Very truly yours,

Kurt E. Richter

KER:ca
Enc.

cc: Alfred M. Marks, Esq.
David Rubin, Steinway & Sons



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DiCocco

September 3, 1985

Applicant: Schiedmayer Pianos, GmbH
Serial No. 475,680
Filed: April 16, 1984
Mark: SCHIEDMAYER and Design

3

On August 22, 1985, Steinway & Sons filed an opposition to the above-identified application.

However, a review of the opposition reveals that it is defective because it was not signed by opposer or by counsel for opposer. (1)

Under the circumstances, the opposition cannot be entertained by the Board.

Janet E. Rice
Janet E. Rice

Member, Trademark
Trial and Appeal Board

(1) It should be noted that effective February 27, 1983, Section 13 of the Trademark Act of 1946 and Trademark Rule 2.101 were amended to eliminate the requirement for verification of oppositions, with the result that an opposition need no longer be verified, and may be signed either by the opposer or by its attorney.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DiCocco

September 3, 1985

234-X-027

Applicant: Schiedmayer Pianos, GmbH
Serial No. 475,680
Filed: April 16, 1984
Mark: SCHIEDMAYER and Design

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M.F.P.F. & L

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EXHIBIT 1



GEORGE C. FINNEGAN, JR.
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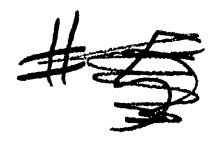
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*D. C. BAR

JOHN D. MORGAN
 1893-1939
 HOBART N. DURHAM
 1930-1969

September 17, 1985

Hon. Commissioner of Patents and Trademarks
 Washington, D.C. 20231



Re: Opposition to Registration of
 Schiedmayer Lyre Trademark
 Our Ref.: 234-X-027

Sir:

On August 22, 1985, opposer Steinway & Sons filed a Notice of Opposition in connection with the trademark application Serial No. 475,680. On September 3, 1985, the Trademark Trial and Appeal Board issued a decision that the Notice of Opposition could not be entertained because it did not bear a signature of opposer or counsel for the opposer.

Opposer is submitting herewith a petition to the Commissioner pursuant to 37 C.F.R. §2.146 requesting that the Board accept the original Notice of Opposition or, in the alternative, that opposer be permitted to substitute the within signed Notice of Opposition in lieu of the original.

A Deposit Account Order Form authorizing the charge of the requisite fee for filing the petition is enclosed.

Respectfully submitted,

Kurt E. Richter

KER:ca
 Enc.

TMT
PAT. & T.M. OFFICE

SEP 23 1985

TRADEMARK TRIAL
AND APPEAL BOARD

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

MAIL ROOM
SEP 18 1985
PAT. & T.M. OFFICE

on the Matter of Application No. 475,680
Published in the Official Gazette of
June 25, 1985 (TMOG)

STEINWAY & SONS,

Opposer,

-vs-

SCHIEDMAYER PIANOS, GMBH

Applicant.

Opposition No. 73,054

#4

NOTICE OF PETITION TO COMMISSIONER

PLEASE TAKE NOTICE that upon the Affidavit of Kurt E. Richter sworn to on the 17th day of September, 1985, Steinway and Sons hereby petitions the Commissioner pursuant to 37 C.F.R. §2.146 to substitute the within signed copies of the Notice of Opposition for that filed on August 22, 1985, or, if necessary, pursuant to 37 C.F.R. §2.148, to waive or suspend the usual requirement that a Notice of Opposition be signed and to otherwise allow the Opposer Steinway and Sons to submit a signed Notice of Opposition at this time in lieu of the unsigned notice previously submitted on August 22, 1985.

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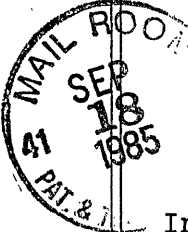
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Respectfully submitted,

MORGAN, FINNEGAN, PINE, FOLEY & LEE

Dated: New York, New York
September 17, 1985

By: *Kurt E. Richter*
Kurt E. Richter
345 Park Avenue
New York, New York 10154
(212) 758-4800
Attorneys for Opposer



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

In the Matter of Application No. 475,680
Published in the Official Gazette of
June 25, 1985 (TMOG)

-----X	:	
STEINWAY & SONS,	:	
	:	
Opposer,	:	
	:	
-vs-	:	Opposition No.
	:	73,054
SCHIEDMAYER PIANOS, GMBH	:	
	:	
Applicant.	:	
-----X	:	

AFFIDAVIT OF KURT E. RICHTER

State of New York)
) ss:
County of New York)

KURT E. RICHTER, being duly sworn deposes and says:

1. I am an attorney admitted to practice law in the State of New York and I am a member of the law firm of Morgan, Finnegan, Pine, Foley and Lee, the trademark attorneys for Steinway and Sons ("Steinway"). I make this affidavit in support of Steinway's petition to the Commissioner pursuant to 37 C.F.R. §§2.146 and 2.148, to accept the timely Notice of Opposition filed on behalf of the opposer Steinway on August 22, 1985 or, in the alternative, to otherwise allow Steinway to submit a signed Notice of Opposition at this time in lieu of the unsigned notice previously submitted on August 22, 1985.

2. On August 22, 1985, Steinway filed a Notice of Opposition to the application by Schiedmayer Pianos GmbH to register a design consisting of a representation of a lyre as a trademark for "musical instruments namely pianos ..." (S.N. 475,680). The Notice of Opposition was based on the grounds that the trademark of the application was confusingly similar to two registered trademarks, owned by Steinway consisting of a representation of a lyre design as used in the trademark for "pianos" (Reg. Nos. 45,411 and 607,992). I personally prepared this Notice of Opposition under authorization and approval of Steinway. To the best of my knowledge, information and belief, based upon reasonable inquiry, said Notice of Opposition is well grounded in fact, is warranted by existing law, is not interposed for any improper purpose such as to harrass or cause unnecessary delay, and is otherwise in full accord with the principles underlying Rule 11 of the Federal Rules of Civil Procedure and 37 C.F.R. §2.15.

3. On September 9, 1985 my office received a decision from the Trademark Trial and Appeal Board stating that the Notice of Opposition could not be entertained by the Board "because it was not signed by opposer or by counsel for opposer". A copy of this decision is attached hereto as Exhibit 1. Because I was out of the office on business until September 16, 1985, I was not able to prepare this petition prior to this date.

4. I was surprised to learn of this decision because I have a recollection of personally signing the Notice of Opposition to be submitted to the Board. I am, therefore, at a loss to explain how the copy of the Notice of Opposition submitted to the Board could have been unsigned.

5. In any event, I respectfully submit that the apparent failure to submit a signed Notice of Opposition is in this instance nothing more than a technical defect which can and should be cured by allowing Steinway at this time to substitute a signed Notice of Opposition in place of the unsigned Notice originally filed.

6. The filing of an unsigned Notice of Opposition was inadvertent and not the result of any attempt to circumvent or violate any rule or established procedure pertaining to oppositions.

7. Also, the August 22, 1985 Notice of Opposition was submitted with a forwarding letter of the same date signed by me, incorporating by reference the Notice of Opposition and enclosing a check for \$200.00 to cover the cost of filing said Notice of Opposition. A copy of this letter is enclosed herein as Exhibit 2. This letter expresses my personal review and approval of the Notice of Opposition submitted with the letter and otherwise reflects clear intention on my part to execute and be responsible for the Notice of Opposition enclosed therein.

8. The Notice of Opposition is in all other respects fully complete, bears my typewritten name on the final page, and is believed to be in full compliance with all the Rules of Practice.

9. Neither the Trademark Act, 15 U.S.C. §1063, nor the rules applicable to a Notice of Opposition, 37 C.F.R. §§2.101-2.107, expressly require that a Notice of Opposition be signed by the opposer or his attorney. By the same token, apart from the general requirement of 37 C.F.R. §2.15, the Answer also need not be signed. I respectfully submit that the forwarding letter under my signature (Exhibit 2) satisfies the requirement of 37 C.F.R. §2.15 (albeit somewhat informally) and that, accordingly, the Notice of Opposition as originally filed complies with the letter of the Rules of Practice.

10. Under the provisions of former Rules 37 C.F.R. §§2.101 and 2.103, an opposition could be filed by an attorney, and verification of the opposer was permitted within 30 days of filing. With the amendment of Rule 2.101, Rule 2.103 was deleted and no verification or signature of an attorney is expressly required upon filing the opposition apart from the signature required by Rule 2.15 as to all papers in general. As noted above, petitioner believes that the filing of the opposition complies with Rule 2.15.

11. I do not believe that accepting the unsigned Notice of Opposition will in any way prejudice the Applicant, the Board or any other party in this instance. The Notice of

Opposition clearly sets forth the grounds upon which the opposition is based. If these grounds are valid, then Applicant is not entitled to registration of this mark and registration should not be allowed in any event, let alone because of a possible technical imperfection in a Notice of Opposition which was otherwise timely filed under signature of opposer's attorney (Exhibit 2).

12. If this petition is denied, Steinway has every intention of petitioning to cancel the registration based on this application when it issues. Therefore, the refusal to allow this petition will neither resolve nor avoid the dispute between the parties. To the contrary, it will only unnecessarily delay a decision on the merits and require the Patent and Trademark Office to issue a registration which will be immediately challenged.

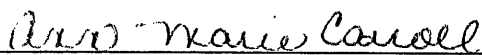
13. For purpose of good order, I submit herewith an original and one copy of a Notice of Opposition in connection with this proceeding which I have duly signed. Upon information and belief this signed Notice of Opposition is identical in every respect to the apparently unsigned Notice of Opposition which was filed on August 22, 1985. I respectfully request that this signed Notice of Opposition be substituted and used in lieu of the original unsigned Notice of Opposition.

WHEREFORE, it is respectfully requested that the Commissioner accept the original Notice of Opposition as timely or, in the alternative, suspend or waive any preceived requirement that the Notice of Opposition be signed, and in lieu of the original unsigned notice that Steinway be allowed to submit the enclosed signed Notice of Opposition, pursuant to 37 C.F.R. §2.146 and §2.148, on the grounds that this is an extraordinary situation where justice requires such a waiver or suspension and no other party is injured thereby.

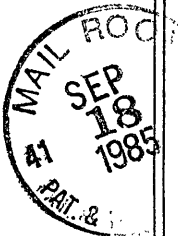


Kurt E. Richter

Sworn to before me this
17th day of September, 1985


Notary Public

ANN MARIE CARROLL
NOTARY PUBLIC, State of New York
#31-4648334 Qualified In N.Y. County
Commission Expires March 30, 1987



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

In the Matter of Application No. 475,680
Published in the Official Gazette of
June 25, 1985 (TMOG)

-----X		
STEINWAY & SONS,	:	
	:	
Opposer,	:	
	:	
-vs-	:	Opposition No.
	:	
SCHIEDMAYER PIANOS, GMBH	:	
	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

STEINWAY & SONS, a New York corporation with offices at Steinway Place, Long Island City, New York, New York ("Steinway"), believes that it will be damaged by registration of the lyre trademark as shown in application Serial No. 475,680, which was published in the Official Gazette of June 25, 1985, and having previously been given an extension of time to oppose until August 24, 1985 hereby opposes same.

1. Since about 1878, more than 80 years prior to the 1960 date of first use alleged by Applicant, Opposer Steinway

has continuously, extensively and exclusively manufactured, reconstructed, sold, advertised and promoted STEINWAY pianos of the highest quality throughout the United States and the world under its lyre trademark, consisting of a stylized lyre form (hereinafter "Steinway LYRE" mark). Such trademark generally comprises a lyre form in which the side portions thereof are two "S" letter shapes arranged back-to-back, with an ampersand symbol placed on the strings.

2. Opposer's pianos are world-famous instruments of unique and distinctive quality which have long been recognized for superior performance by professional pianists, concert artists and other music authorities, as well as by amateur musicians, students, prospective buyers and the public in general throughout the United States and the world.

3. Opposer's LYRE mark, in one or the other of its versions has, since long prior to the date of first use alleged by Applicant, come to be recognized by the public and the trade in the United States and throughout the world as a trademark of excellence designating musical instruments originating exclusively from Opposer.

4. Since long prior to the date of first use alleged by Applicant, Opposer has also used its LYRE mark on literature, stationery, promotional items, data sheets, specifications, price lists, commercial bulletins, piano tools and house news publications as well as in connection with piano

repair services and in extensive advertising totalling in excess of twenty million dollars.

5. Opposer has been duly granted the below-listed registrations for its LYRE trademark on the Principal Register of the United States Patent and Trademark Office:

<u>Reg. No.</u>	<u>Trademark</u>	<u>Registered Since</u>	<u>Goods</u>
45,411	LYRE	August 15, 1905	Pianos
607,992	LYRE	June 28, 1955	Pianos

6. Opposer has also duly registered each of the following trademarks on the Principal Register of the United States Patent and Trademark Office:

<u>Reg. No.</u>	<u>Trademark</u>	<u>Registered Since</u>	<u>Goods</u>
45,846	"STEINWAY & SONS"	August 29, 1905	Pianos
141,687	"STEINWAY"	April 26, 1921	Pianos
285,732	"STEINWAY - THE INSTRUMENT OF THE IMMORTALS"	August 4, 1931	Pianos
522,479	"STEINWAY NEWS"	March 14, 1950	Periodical Publication
1,239,328	"STEINWAY ACCELERATED ACTION"	May 24, 1983	Mountings For Piano Keys

7. Opposer is the owner of each of the registrations listed in paragraph 5 and 6 hereof and of all of the business and goodwill of the business in connection with which each mark is used. Each registration is valid, subsisting and remains in full force and effect. (Pursuant to 15 U.S.C. §1059 an application to renew said registration No. 45,411 is being

prepared for filing prior to expiry of the time allocated therefor.) Pursuant to the provisions of 15 U.S.C. §1065, each registration (other than the 1983 registration for "STEINWAY ACCELERATED ACTION") is now incontestable and Opposer is entitled to all of the benefits of incontestable registration on the Principal Register by virtue thereof. Copies of the registrations identified in paragraph 5 are annexed hereto as Exhibits 1 and 2.

8. Applicant herein, SCHIEDMAYER PIANOS, GMBH, Schwelm, Federal Republic of Germany ("Schiedmayer"), seeks to register a mark consisting of a representation of a lyre (hereinafter "Schiedmayer LYRE") for "musical instruments, namely pianos, chimes, celestes, and keyboards" in International Class 15 based on an alleged first use of 1960 and an alleged first use in commerce of 1960. Said Schiedmayer Lyre generally comprises a lyre form in which the side portions thereof are two symmetrical "S" letter shapes arranged back-to-back, with a letter "S" symbol placed on the strings, and is essentially identical and confusingly similar to said registered Steinway LYRE trademark.

9. Opposer will be damaged by the registration of the Schiedmayer LYRE mark as aforesaid in that said trademark so resembles Opposer's Steinway LYRE trademark as to be likely, when applied to the goods of Applicant, to cause confusion, mistake and deception with consequent damage to Opposer's business and goodwill in that persons are likely to erroneously

believe that Applicant's goods originate with Opposer or that Opposer sponsors or is in some way responsible for the quality of such goods, or that Opposer is in some manner legitimately connected with the manufacture and sale of the goods, all to the detriment and irreparable damage of Opposer.

10. The issuance of the registration opposed herein will support and assist Applicant in the confusing and misleading use of the mark sought to be registered in that it will subject the goodwill and reputation of Opposer's Steinway LYRE mark to hazards attending the commercial activities of Applicant over whom Opposer has no control, in that it will dilute the distinctive quality and high character of Opposer's mark, and in that it will otherwise give color of exclusive statutory ownership rights in said trademark to Applicant in violation and derogation of the prior and superior rights of Opposer.

11. Registration should, therefore, be refused pursuant to §2(d) of the Trademark Act of 1946, as amended, ("Lanham Act", 15 USC §1052(d)) on the ground that Applicant's Schiedmayer Lyre mark so resembles Opposer's Steinway LYRE mark as to cause confusion or mistake or to deceive.

WHEREFORE, Opposer Steinway prays that this opposition be sustained and that the application by Schiedmayer to register the Schiedmayer LYRE mark, as aforesaid, for "musical instruments, namely pianos, chimes, celestes and keyboards" be refused.

Opposer hereby appoints as its attorneys in this proceeding George B. Finnegan, Jr.; Granville M. Pine; Thomas P. Dowling, P.C.; John A. Diaz, P.C.; Warren H. Rotert; John D. Foley, P.C.; Jerome G. Lee, P.C.; John C. Vassil, P.C.; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes, William S. Feiler, Janet Dore, James W. Gould and Joseph A. Calvaruso whose address is:

MORGAN, FINNEGAN, PINE, FOLEY & LEE
345 Park Avenue
New York, New York 10154

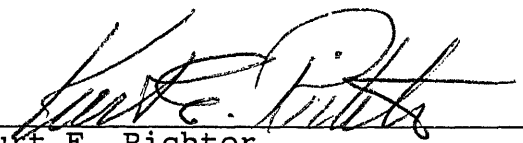
All correspondence should be addressed to Kurt E. Richter at the above address.

Pursuant to 37 CFR 2.6(e) submitted herewith is a check in the amount specified therein in payment of the requisite fee for filing this Notice of Opposition.

Dated: August 22, 1985

MORGAN, FINNEGAN, PINE, FOLEY & LEE

By:


Kurt E. Richter
345 Park Avenue
New York, New York 10154
(212) 758-4800

Attorneys for Opposer



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

HMS/Greene

September 25, 1985

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X
Q

Applicant: Schiedmayer Pianos, GmbH
Serial No: 475,680
Filed: April 16, 1984
Mark: SCHIEDMAYER and Design

Sirs:

On September 18, 1985, Steinway & Sons, through counsel, filed a petition to the Commissioner requesting that its opposition filed herein on August 22, 1985 be accepted or, in the alternative, allow opposer to submit a signed notice of opposition filed concurrently with the petition. A copy of the petition is enclosed for applicant.

In view thereof, the application file is herewith forwarded to the Assistant Commissioner for Trademarks for consideration of the petition.

Respectfully,

Henry M. Semones
Applications Examiner,
Trademark Trial and Appeal Board

cc:

Kurt E. Richter
Morgan, Finnegan, Pine,
Foley & Lee
345 Park Avenue
New York, New York 10154

Andrus, Sceales, Starke & Sawall
735 North Water Street
Milwaukee, Wisconsin 53202

TM

PAT. & T.M. OFFICE

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30
1985
TRADE MARK

GEORGE B. FINNEGAN, JR.
GRANVILLE M. PINE, P.C.
JOHN D. FOLEY, P.C.
JEROME G. LEE, P.C.
THOMAS P. DOWLING
WARREN H. ROTERT
JOHN A. DIAZ, P.C.
JOHN C. VASSIL, P.C.
ALFRED P. EWERT
DAVID H. PFEFFER, P.C.
HARRY C. MARCUS
ROBERT E. PAULSON
STEPHEN R. SMITH
KURT E. RICHTER
J. ROBERT DAILEY
EUGENE MOROZ
JOHN F. SWEENEY
ARNOLD I. RADY
CHRISTOPHER A. HUGHES
WILLIAM S. FEILER
JANET DORE
JOSEPH A. CALVARUSO
JAMES W. GOULD

MORGAN, FINNEGAN, PINE, FOLEY & LEE
ATTORNEYS AT LAW
345 PARK AVENUE
NEW YORK, NEW YORK 10154

OCT 4 1985

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AND APPEAL BOARD

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T. CARTER PLEDGER

TEL. (212) 758-4800

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TELECOPIER: (212) 751-6849

* D. C. BAR

JOHN D. MORGAN
1893-1939
HOBART N. DURHAM
1930-1969

September 25, 1985

#6

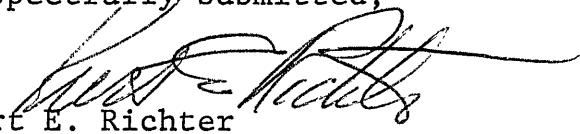
Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Re: Steinway & Sons
Opposition to Registration of
Schiedmayer Lyre Trademark
Serial No. 475,680
Our Ref.: 234-X-027

Dear Sir:

With reference to your letter of September 17, 1985
and the Petition to the Commissioner of the same date, we
enclose herewith copies of Exhibits 1 and 2, which are
referred to in the Affidavit of Kurt E. Richter, but which
were inadvertently omitted. We apologize for any inconvenience.

Respectfully submitted,


Kurt E. Richter
Attorneys for Opposer

KER:ca
Enc.



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

COPY MADE

DEC 4 1985

ASSISTANT COMMISSIONER

85-49

#7

Re: Trademark Application of :
Steinway & Sons :
Serial No. 475,680 : On Petition
Filed: April 16, 1984 :
For: SCHIEDMAYER and Design :

Petition Filed: September 18, 1985:

Steinway & Sons has petitioned the Commissioner, pursuant to Trademark Rules 2.146 and 2.148, 37 C.F.R. §§2.146 and 2.148, to substitute signed copies of a Notice of Opposition for that filed on August 22, 1985 or, in the alternative, to waive the requirement that a Notice of Opposition be signed.

Petitioner timely filed a Notice of Opposition to the registration of the above-identified mark on August 22, 1985. The Trademark Trial and Appeal Board refused to entertain the opposition because it was not signed by petitioner or its counsel. The instant petition was then filed.

Petitioner argues that the filing of an unsigned petition was inadvertent and not the result of any attempt to circumvent the rules or established procedure. Further, petitioner's counsel states that the Notice of Opposition was submitted with a forwarding letter signed by him and incorporating by reference the Notice. Petitioner's counsel affirms that this letter expresses his personal review and approval of the Notice and reflects his intention to execute and be responsible for the Notice of Opposition.

Petitioner maintains that the unsigned Notice of Opposition meets the requirements of the rules because Rules 2.101-2.107 do not expressly require that a Notice of Opposition be signed, and that the forwarding letter bearing counsel's signature satisfies the requirements of what is now Rule 10.18 (formerly Rule 2.15).


Rule 10.18 requires that every paper filed by a practitioner representing an applicant or party to a proceeding in the Office must bear the signature of, and be personally signed by, such practitioner except those papers which are required to be signed by the applicant or party. The Board's decision in refusing to entertain the opposition because the Notice itself was unsigned cannot be considered clear error or an abuse of discretion, the standard for the

exercise supervisory authority pursuant to Rule 2.146(a)(3). Riko Enterprises, Inc. v. Lindsley, 198 USPQ 480 (Com'r. Pats. 1977).

Petitioner is entitled to relief, however, pursuant to Trademark Rule 2.148, which provides that the Commissioner may suspend or waive a rule which is not a requirement of the statute in an extraordinary situation, when justice requires and no other party is injured thereby. The situation is extraordinary in that petitioner's attorney did sign the letter accompanying the Notice of Opposition. He even swears to having a recollection of signing the Notice, and is therefore at a loss to explain how the Notice which was filed could have been unsigned. It is clear that the failure to file a signed Notice of Opposition was inadvertent and inexplicable and therefore extraordinary.

Further, while Rule 11 of the Federal Rules of Civil Procedure is superseded by Rule 10.18, the spirit of the Federal Rules and the general philosophy of the federal courts and the TTAB that cases not be decided on procedural technicalities support a finding that justice requires a waiver of Rule 10.18 in this instance. As for the third part of the test, no party will be injured by the granting of a waiver since petitioner has indicated that he will otherwise file a cancellation proceeding, and the burden of proof in the two proceedings is the same. See, Massey Junior College, Inc. v. Fashion Institute of Technology, 181 USPQ 272 (CCPA 1974); Yucum v. Covington, 216 USPQ 210 (TTAB 1982).

The petition is granted, and the file is forwarded to the Trademark Trial and Appeal Board for institution of the opposition proceeding.


Margaret M. Laurence
Assistant Commissioner
for Trademarks

MML:EJS:jdw

Date: DEC 4 1985

Attorney for Opposer:
Kurt E. Richter, Esq.
Morgan, Finnegan, Pine, Foley & Lee
345 Park Avenue
New York, New York 10154

Attorney for Applicant:
Andrus, Sceales, Starke & Sawall
735 North Water Street
Milwaukee, Wisconsin 53202

Barnes



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 8

Mailed JAN 21 1986

Andrus, Sceales, Starke &
Sawall
735 North Water Street
Milwaukee, Wisconsin 53202

Ser. No. 475,680

Opposition No. 73,054

Steinway & Sons

v.

Schiedmayer Pianos, GMBH

A notice of opposition to the registration sought in the above-identified application has been filed. Copy of the pleading is attached.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE forty days after the mailing date hereof. (See Rule 1.7 for expiration dates falling on Saturday, Sunday, or a holiday).

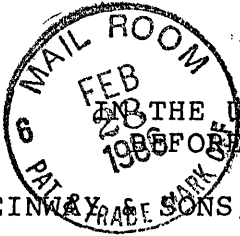
By direction of the Commissioner.

A handwritten signature in cursive script that reads "Emma J. Brown".

Administrator,
Trademark Trial and
Appeal Board

Kurt E. Richter
c/o Morgan, Finnegan, Pine, Foley
& Lee
345 Park Avenue
New York, New York 10154

All correspondence including envelopes
relating to this proceeding and not
accompanied by a fee should be directed to
Box 5, Att: TTAB, U.S. Patent & Trademark Office
Washington, D. C. 20231



Long

THE UNITED STATE PATENT AND TRADEMARK OFFICE
 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

STEINWAY & SONS,)
)
 Opposer,) OPPOSITION
)
 v.) NO. 73,054
)
 SCHIEDMAYER PIANOS, G.M.B.H.)
)
 Applicant.)

PAT. & TRADEMARK OFFICE
 MAR 2 1986
 U.S. PATENT & TRADEMARK OFFICE

STIPULATION FOR EXTENSION OF TIME

Milwaukee, Wisconsin

February 25, 1986

HONORABLE COMMISSIONER OF
 PATENTS AND TRADEMARKS
 BOX 5
 ATTN: TTAB
 U.S. PATENT & TRADEMARK OFFICE

Washington, D.C. 20231

Sir:

#9

It is hereby stipulated by the parties, through their attorneys, that the period of time for Applicant to answer or otherwise respond to the Notice of Opposition, be extended up to and including April 3, 1986.

Applicant resides in West Germany. The undersigned attorney is presently corresponding with the applicant in West Germany to obtain instructions regarding the answer to be filed in this matter. The extension of time is required to obtain these instructions.

Approval of this stipulation for extension was given by Mr. Timothy A. French's office in a telephone conference on February 24, 1986. This matter was transferred to Mr. French from Mr. Kurt E. Richter.

APPROVED
 MAR 25 1986

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL
 Attorneys for Applicant

A. Springer
 Paralegal Specialist
 Trademark Trial and
 Appeal Board

By *Andrew S. McConnell*
 Andrew S. McConnell

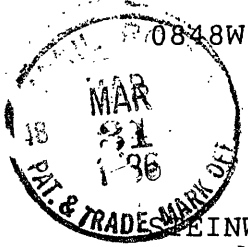


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation For Extension of Time was mailed, first class mail, postage prepaid, to Timothy A. French, Esq., Fish & Richardson, One Financial Center, Suite 2500, Boston, MA 02111, this 25th day of February, 1986.

✓
Handwritten

Andrew S. McConnell
Andrew S. McConnell



TMT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD & T.M. OFFICE

APR 4 1986

WEINWAY & SONS,

Opposer,

TRADEMARK TRIAL
AND APPEAL BOARD

v.

Opposition No. 73,054

SCHIEDMAYER PIANOS, GMBH,

Applicant.

#10

Commissioner of Patents and Trademarks
Washington, DC 20231

POWER OF ATTORNEY

Sir:

The undersigned, assignee, by virtue of an assignment recorded in the U.S. Patent and Trademark Office on November 12, 1985, at Reel 0509, Frames 529-532, of the entire interest in and to the trademarks and registrations listed in paragraphs 5 and 6 of the Notice of Opposition filed in the above identified matter, including the goodwill of the business symbolized by the marks, hereby revokes all former Powers of Attorney and appoints Charles C. Winchester, Esquire, Registration No. 21,040, and Timothy A. French, Esquire, Registration No. 30,175, Fish & Richardson, One Financial Center, Suite 2500, Boston, Massachusetts 02111, Attorneys, with full power of substitution and revocation, to prosecute said opposition and to transact all business in the Patent and

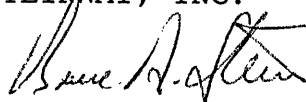
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C.

20231, on March 28, 1986

[Signature]

Trademark Office connected therewith. All correspondence should be directed to Timothy A. French.

STEINWAY, INC.



Bruce A. Stevens
Its: President

Place: Weston, Massachusetts

Date : March 2, 1986



Certificate of Service

I hereby certify that a true and correct copy of the foregoing Power of Attorney was mailed, first class mail, postage prepaid to:

Andrus, Sceales, Starke & Sawall
735 North Water Street
Milwaukee, Wisconsin 53202

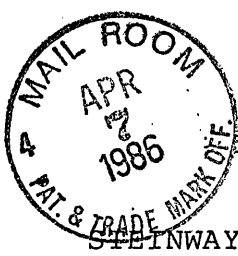
PAT. & T.M. OFFICE

APR 4 1986

This 28th day of March, 1986.

TRADEMARK TRIAL
AND APPEAL BOARD

gmt



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

STEINWAY & SONS,)	
)	
Opposer,)	OPPOSITION
)	
v.)	NO. 73,054
)	
SCHIEDMAYER PIANOS, G.M.B.H.)	
)	
Applicant.)	

PAT. & T.M. OFFICE

APR 10 1986

TRADEMARK TRIAL
AND APPEAL BOARD

STIPULATION FOR EXTENSION OF TIME

Milwaukee, Wisconsin

April 3, 1986

#11

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB
U.S. PATENT & TRADEMARK OFFICE

Washington, D.C. 20231

Sir:

It is hereby stipulated by the parties, through their attorneys, that the period of time for Applicant to answer or otherwise respond to the Notice of Opposition, be extended up to and including May 3, 1986.

Applicant resides in West Germany. The undersigned attorney is continuing to correspond with the applicant in West Germany to obtain instructions regarding the answer to be filed in this matter. The extension of time is required to obtain these instructions.

Approval of this stipulation for extension was given by Mr. Timothy A. French's office in a telephone conference on March 3, 1986.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL
Attorneys for Applicant

APPROVED
APR 29 1986

By Andrew S. McConnell
Andrew S. McConnell

G. French
Paralegal Specialist
Trademark Trial and
Appeal Board



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation For Extension of Time was mailed, first class mail, postage prepaid, to Timothy A. French, Esq., Fish & Richardson, One Financial Center, Suite 2500, Boston, MA 02111, this 3rd day of April, 1986.

Andrew S. McConnell
Andrew S. McConnell

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 4-3-86

Andrew S. McConnell

Name

Reg. No.

Andrew S. McConnell 4-3-86

Signature

Date



mt

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

STEINWAY & SONS,)
)
Opposer,)
)
v.)
)
SCHIEDMAYER PIANOS, G.M.B.H.)
)
Applicant.)

OPPOSITION
NO. 73,054

PAT. & T.M. OFFICE

MAY 06 1986

TRADEMARK TRIAL
AND APPEAL BOARD

#12

STIPULATION FOR EXTENSION OF TIME

Milwaukee, Wisconsin

April 30, 1986

APPROVED

MAY 28 1986

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB
U.S. PATENT & TRADEMARK OFFICE

Washington, D.C. 20231

H. S. Granger
Paralegal Specialist
Trademark Trial and
Appeal Board

Sir:

It is hereby stipulated by the parties, through their attorneys, that the period of time for Applicant to answer or otherwise respond to the Notice of Opposition, be extended up to and including June 3, 1986.

Applicant resides in West Germany. The undersigned attorney is continuing to correspond with the applicant in West Germany to obtain instructions regarding the answer to be filed in this matter. The extension of time is required to obtain these instructions.

Approval of this stipulation for extension was given by Mr. Timothy A. French's office in a telephone conference on April 30, 1986.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL
Attorneys for Applicant

By *Andrew S. McConnell*
Andrew S. McConnell



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation For Extension of Time was mailed, first class mail, postage prepaid, to Timothy A. French, Esq., Fish & Richardson, One Financial Center, Suite 2500, Boston, MA 02111, this 30th day of April, 1986.

Andrew S. McConnell
Andrew S. McConnell

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 4-30-86

Andrew S. McConnell

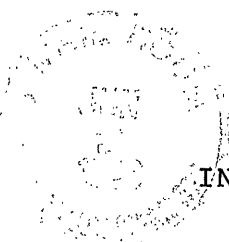
Name

Reg. No.

Andrew S. McConnell 4/30/86

Signature

Date



PAT. & T.M. OFFICE
JUN 13 1986
TRADEMARK TRIAL
AND APPEAL BOARD

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

STEINWAY & SONS,)
)
Opposer,)
)
v.)
)
SCHIEDMAYER PIANOS, GmbH,)
)
Applicant.)

Opposition No. 73,054

#13

ANSWER OF SCHIEDMAYER PIANOS, GmbH, APPLICANT,
TO NOTICE OF OPPOSITION

Milwaukee, Wisconsin 53202

June 2, 1986

Honorable Commissioner of
Patents and Trademarks

Washington, D.C. 20231

Sir:

Schiedmayer Pianos, GmbH, answers the Notice of
Opposition as follows.

1. Answering paragraph 1 of the Notice of Opposi-
tion, Applicant is without knowledge or information sufficient
to form a belief as to the date on which Opposer began manu-
facturing, reconstructing, selling, advertising, and promoting
its pianos under its lyre trademark. Applicant admits that
U.S. Trademark Registration Numbers 607,992 and 45,411 show a
lyre form with an ampersand symbol placed on the strings.

2. Applicant is without knowledge or information
sufficient to form a belief as to the averments of paragraph 2
of the Notice of Opposition and therefore, denies the same.

3. Applicant is without knowledge or information
sufficient to form a belief as to the averments of paragraph 3
of the Notice of Opposition and therefore, denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the averments of paragraph 4 of the Notice of Opposition and therefore, denies the same.

5. Applicant admits that the copies of U.S. Trademark Registration Numbers 45,411 and 607,992, furnished by Opposer, indicate that Opposer has duly registered said trademarks.

6. Applicant admits that the copies of U.S. Trademark Registration Numbers 45,846; 141,687; 285,732; 522,479; and 1,239,328, all furnished by Opposer, indicate that Opposer has duly registered the listed trademarks.

7. Applicant is without knowledge or information sufficient to form a belief as to the present ownership and validity of the registrations listed in paragraphs 5 and 6 and therefore, denies the same. Applicant is further without knowledge or information sufficient to form a belief as to the incontestability of the registrations listed in paragraphs 5 and 6 and therefore, denies the same.

8. Applicant admits that it seeks to register a mark showing a lyre for "musical instruments, namely--pianos, chimes, celestes, and keyboards". Applicant denies that its mark is essentially identical and confusingly similar to Opposer's lyre trademarks.

9. Applicant denies the allegations of paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.

12. As an affirmative defense, Applicant alleges that the lyre mark alleged by Opposer to be its trademark is a

"weak" mark which is entitled to only a very limited scope of protection, as evidenced by uses of a lyre as a trademark by others for related goods and services. Applicant further alleges that the "weak" nature of Opposer's alleged marks cannot serve as the basis for a successful opposition to the registration of Applicant's mark.

13. As an affirmative defense, Applicant believes and avers that its trademark is different in appearance from any of the alleged marks of the Opposer, and that in light of such difference in combination with the nature of the goods involved there is no likelihood of confusion between Applicant's trademark and the various marks relied on by Opposer.

14. As an affirmative defense, Applicant avers that Opposer has not in the Notice of Opposition alleged facts sufficient to show that it might or could be damaged by registration of Applicant's trademark, and further avers that the use and registration of Applicant's trademark is not damaging to Opposer within the meaning of the trademark law.

WHEREFORE, Applicant prays that the Opposition filed in Application Serial No. 475,680 be rejected and that the mark forming the subject matter of the opposition be registered on the Principal Register of the United States Patent and Trademark Office.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL

By Andrew S. McConnell
Andrew S. McConnell
Attorney for Applicant

PROOF OF SERVICE

It is hereby certified that a true copy of the foregoing Answer has this day been forwarded by United States mail, first class mail, postage prepaid, to Timothy A. French,

STEINWAY & SONS v.
SCHIEDMAYER PIANOS, GmbH

OPPOSITION NO. 73,054

Esq., Fish & Richardson, One Financial Center, Suite 2500,
Boston, Massachusetts, 02111, this 2d day of June, 1986.

ANDRUS, SCEALES, STARKE & SAWALL

By Andrew S McConnell
Andrew S. McConnell

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service
as first class mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231, on June 2, 1986

Andrew S. McConnell

Name	Reg. No.
<u>Andrew S McConnell</u>	<u>6/2/86</u>
Signature	Date

Paper No. #14

Henderson



**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAILED JUN 23 1986

• Andrus, Scales, Starke &
Sawall
735 North Water Street
Milwaukee, WI 53202

• Opposition No. 73,054
Steinway & Sons

vs.

Schiedmayer Pianos GMBH

The answer filed by defendant is noted.

In accordance with the Trademark Rules of Practice, trial dates are set as indicated below.
IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party **WITHIN THIRTY DAYS** after completion of the taking of testimony. Rule 2.125.

THE PERIOD FOR DISCOVERY TO CLOSE: September 22, 1986

Testimony period for party in
position of plaintiff to close
(opening thirty days prior thereto) November 21, 1986

Testimony period for party in
position of defendant to close
(opening thirty days prior thereto) January 20, 1987

Rebuttal testimony period to close
(opening fifteen days prior thereto) March 6, 1987

Briefs shall be filed in accordance with Rule 2.128 (a) and (b).

An oral hearing will be set only upon request filed as provided by Rule 2.129.

• Timothy A. French
c/o Fish & Richardson
One Financial Center
Suite 2500
Boston, MA 02111

• *Emma A. Brown*

Administrator,
Trademark Trial
and Appeal Board



Just

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

STEINWAY & SONS,)
)
Opposer,)
)
v.)
)
SCHIEDMAYER PIANOS, G.M.B.H.)
)
Applicant.)

OPPOSITION
NO. 73,054

PAT. & T.M. OFFICE
OCT 17 1986
TRADEMARK TRIAL
AND APPEAL BOARD

STIPULATION FOR EXTENSION OF TIME

#15

Milwaukee, Wisconsin

October 8, 1986

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB
U.S. PATENT & TRADEMARK OFFICE

Washington, D.C. 20231

Sir:

It is hereby stipulated by the parties, through their attorneys, that the period of time for Applicant to answer Opposer's First Set Of Interrogatories to Applicant, and to produce documents and things requested in Opposer's First Request To Applicant For The Production Of Documents And Things, be extended up to and including November 15, 1986.

Approval of this stipulation for extension was given by Mr. Timothy A. French, attorney for Opposer, in a telephone conference on October 8, 1986.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL
Attorneys for Applicant

APPROVED

Handwritten initials

NOV 6 1986

By *Andrew S. McConnell*
Andrew S. McConnell

Edward R. Hinger
Patent Specialist
Trademark Trial and
Appeal Board

CERTIFICATE OF SERVICE

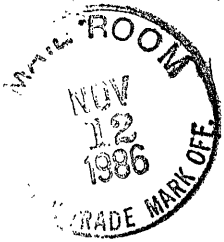
I hereby certify that a true and correct copy of the foregoing Stipulation For Extension of Time was mailed, first class mail, postage prepaid, to Timothy A. French, Esq., Fish & Richardson, One Financial Center, Suite 2500, Boston, MA 02111, this 8th day of October, 1986.

Andrew S. McConnell
Andrew S. McConnell

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 10-8-86

<u>Andrew S. McConnell</u>	<u>P32,272</u>
Name	Reg. No.
<u>Andrew S. McConnell</u>	<u>10-8-86</u>
Signature	Date



TMT

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

STEINWAY & SONS,)	
)	
Opposer,)	OPPOSITION
)	
v.)	NO. 73,054
)	
SCHIEDMAYER PIANOS, G.M.B.H.)	
)	
Applicant.)	

#16

STIPULATION FOR EXTENSION OF TIME

PET. & T.M. OFFICE
NOV 24 1986
TRADEMARK TRIAL AND APPEAL BOARD

Milwaukee, Wisconsin
November 10, 1986

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB
U.S. PATENT & TRADEMARK OFFICE

Washington, D.C. 20231

Sir:

It is hereby stipulated by the parties, through their attorneys, that all discovery deadlines be extended up to and including December 15, 1986.

Approval of this stipulation for extension was given by Mr. Timothy A. French, attorney for Opposer, in a telephone conference on November 7, 1986.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL
Attorneys for Applicant

By Andrew S. McConnell
Andrew S. McConnell



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation For Extension of Time was mailed, first class mail, postage prepaid, to Timothy A. French, Esq., Fish & Richardson, One Financial Center, Suite 2500, Boston, MA 02111, this 10th day of November, 1986.

Andrew S. McConnell

Andrew S. McConnell

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 11-10-86

Andrew S. McConnell P-32,272

Name

Reg. No.

Andrew S. McConnell 11-10-86

Signature

Date

Paper No. 3240

TJQ/Toombs
All communications respecting
this case should identify it by
number and names of parties.



**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Opposition No. 73,054

Steinway & Sons

v.

Schiedmayer Pianos, GMBH

MAILED

DEC 04 1986 #17

PAT. & T. M. OFFICE

Applicant, on November 12, 1986, filed a motion to extend. Inasmuch as opposer has consented thereto, the motion is granted.

Trial dates, including the period for discovery, are rescheduled as indicated in the accompanying trial order.

T. Jeffrey Quinn
T. Jeffrey Quinn
Attorney-Examiner
Trademark Trial
and Appeal Board



**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAILED **DEC 04 1986**

Opposition No. 73,054

•
Andrus, Sceales, Starke & Sawall
735 North Water Street
Milwaukee, Wisconsin 53202

•
Steinway & Sons

v.

Schiedmayer Pianos, GMBH

~~xxxxxx in accordance with the Trademark Rules of Practice, the dates are set as indicated below xxx~~

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party **WITHIN THIRTY DAYS** after completion of the taking of testimony. Rule 2.125.

THE PERIOD FOR DISCOVERY TO CLOSE: December 15, 1986

Testimony period for party in position of plaintiff to close (opening thirty days prior thereto) February 13, 1987

Testimony period for party in position of defendant to close (opening thirty days prior thereto) April 14, 1987

Rebuttal testimony period to close (opening fifteen days prior thereto) May 29, 1987

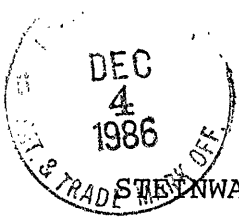
Briefs shall be filed in accordance with Rule 2.128 (a) and (b).

An oral hearing will be set only upon request filed as provided by Rule 2.129 (c).

T. Jeffrey Quinn
T. Jeffrey Quinn
Attorney-Examiner

~~Chief~~
Trademark Trial
and Appeal Board

•
Timothy A. French
c/o Fish & Richardson
One Financial Center, Suite 2500
Boston, MA. 02111



[Handwritten signature]

PATENT & TRADEMARK OFFICE
DEC 12 1986

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

STEINWAY & SONS,

Opposer,

-v-

SCHIEDMAYER PIANOS GMBH,

Applicant.

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Opposition No. 73,054

TRADEMARK TRIAL
AND APPEAL BOARD

#18

JOINT REQUEST FOR EXTENSION OF TRIAL DATES

Subject to the approval of the Trademark Trial and Appeal Board, it is hereby stipulated by and between the parties through their respective counsel that the trial dates shall be extended eighty-four (84) days and reset as follows:

The period for discovery to close:

December 15, 1986

Testimony period for party in position of plaintiff to close:

February 13, 1987

Testimony period for party in position of defendant to close (opening 30 days prior thereto):

April 14, 1987

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D. C. 20231, on December 1, 1986

[Handwritten signature]

*N.A.
see #17*

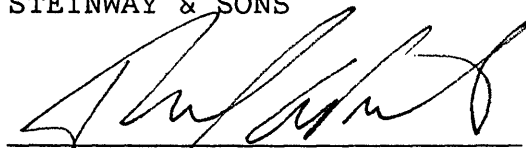
Rebuttal testimony period to close (opening 15 days prior thereto):

May 29, 1987

Approval of this stipulation for extension was given by Mr. Andrew S. McConnell, attorney for Applicant, in a telephone conference.

Respectfully submitted,

STEINWAY & SONS



Timothy A. French
Attorney for Opposer
FISH & RICHARDSON
One Financial Center
Boston, MA 02111
(617) 542-5070



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing JOINT REQUEST FOR EXTENSION OF TRIAL DATES has this 1st day of December, 1986 been mailed by prepaid first-class mail to Andrew S. McConnell, Esq., Attorney for Applicant, at his place of business: Andrus, Sceales, Starke & Sawall, 735 North Water Street, Milwaukee, WI 53202.



PAT. & T.M. OFFICE

DEC 18 1986

TRADEMARK TRIAL AND APPEAL BOARD

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

STEINWAY & SONS,)	
)	
Opposer,)	OPPOSITION
)	
v.)	NO. 73,054
)	
SCHIEDMAYER PIANOS, G.M.B.H.)	
)	
Applicant.)	

Milwaukee, Wisconsin

December 5, 1986

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB

Washington, D.C. 20231

Sir:

Enclosed herewith is a formal withdrawal of the application for registration which is involved in the above opposition. In light of the withdrawal of the application, the opposition is hereby rendered moot.

Respectfully submitted,

By Andrew S. McConnell
Andrew S. McConnell
Reg. No. 32,272

ANDRUS, SCEALES, STARKE & SAWALL
735 North Water Street
Milwaukee, Wisconsin 53202
(414) 271-7590
Docket No.: TMC.1305-1



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

#19

Application Of:)	Mark:	S. SCHIEDMAYER &
)		Design
SCHIEDMAYER PIANOS, GmbH)		
)		
Serial No. 73/475,680)		
)		
Filed: April 16, 1984)		

NOTICE OF WITHDRAWAL OF APPLICATION

Milwaukee, Wisconsin

December 5, 1986

hold so waiting for consent - see note in file

HONORABLE COMMISSIONER OF
PATENTS AND TRADEMARKS
BOX 5
ATTN: TTAB

Washington, D.C. 20231

Sir:

Applicant hereby expressly withdraws the above
referenced application for registration.

Respectfully submitted,

By Andrew S. McConnell
Andrew S. McConnell
Reg. No. 32,272

ANDRUS, SCEALES, STARKE & SAWALL
735 North Water Street
Milwaukee, Wisconsin 53202
(414) 271-7590
Docket No. TMC.1305-1

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service
as first class mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231, on 12-5-86

<u>Andrew S. McConnell</u>	<u>32,272</u>
Name	Reg. No.
<u>Andrew S. McConnell</u>	<u>12-5-86</u>
Signature	Date

1055W

101



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

STEINWAY & SONS,

Opposer,

v.

SCHIEDMAYER PIANOS GMBH,

Applicant.

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:

Opposition No. 73,054

PAT. & T.M. OFFICE

JAN 7 1987

CONSENT TO WITHDRAWAL OF APPLICATION

TRADEMARK TRIAL
AND APPEAL BOARD

Opposer, Steinway & Sons, by and through its undersigned attorney, hereby consents to withdrawal, without prejudice, by Applicant of its Trademark Application No. 73,054, which is the subject of this opposition.

#20

Respectfully submitted,

STEINWAY & SONS

Timothy A. French
Attorney for Opposer
FISH & RICHARDSON
One Financial Center
Boston, MA 02111
(617) 542-5070

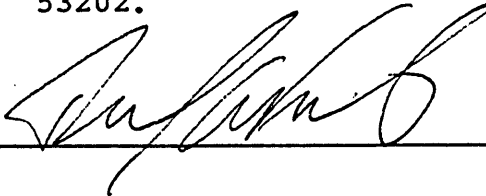
Date: December 17, 1986

I hereby certify that this correspondence is being deposited with the United States Postal Service at first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D 20231, on December 17, 1986

1055W

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing CONSENT TO WITHDRAWAL OF APPLICATION has this 17th day of December, 1986, been mailed by prepaid first-class mail to Andrew S. McConnell, Esq., Attorney for Applicant, at his place of business: Andrus, Sceales, Starke & Sawall, 735 North Water Street, Milwaukee, WI 53202.



A handwritten signature in cursive script is written over a horizontal line.



TJQ/Jones

All communications respecting
this case should identify it by
number and names of parties.



Paper No. 735

**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Opposition No. 73,054

● Steinway & Sons

v.

Schiedmayer Pianos, GMBH

MAILED

JAN 20 1987

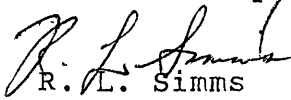
#21

PAT. & T. M. OFFICE

Applicant, with opposer's written consent, filed an abandonment of its application Serial No. 475,680 on December 9, 1986.

In view thereof, the application stands abandoned and the opposition is dismissed without prejudice.


L. E. Rooney


R. L. Simms


R. F. Cissel

Members, Trademark Trial
and Appeal Board