

**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.

Registration Date: November 20, 2007

Respondent.

RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

February 3, 2016

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Trademark Rules of Practice 2.116 and 2.120, 37 CFR § 2.116 and 2.120, Respondent herewith requests that Petitioner produce the following documents within 30 days.

DOCUMENT REQUEST NO. 1:

Produce all examples of all advertising and promotion by Petitioner for piano fortes bearing the SCHIEDMAYER mark that have taken place in the past 5 years.

DOCUMENT REQUEST NO. 2:

Produce all billing information and all other related information regarding all sales of any piano fortes (upright, grand, or digital) which have taken place within the past 5 years.

DOCUMENT REQUEST NO. 3:

Produce a signed copy of the agreement (a true copy in electronic form is sufficient) by which Georg Schiedmayer sold his interests in SCHIEDMAYER PIANOS, GmbH in 1981 to IBACH.

DOCUMENT REQUEST NO. 4:

Produce a copy of any provisions of the agreement (a true copy in electronic form is sufficient) by which Georg Schiedmayer sold his interests in SCHIEDMAYER PIANOS, GmbH to IBACH that relate to any form of intellectual property.

DOCUMENT REQUEST NO. 5:

Produce all documents that provide any legal basis for IBACH to have rights to sell SCHIEDMAYER branded pianos in the United States in at least 1984 and thereafter.

DOCUMENT REQUEST NO. 6:

Produce all documents in Petitioner's possession that suggest any legal right for SCHIEDMAYER PIANOS, GmbH to file to register the SCHIEDMAYER logo trademark application for pianos in April of 1984.

DOCUMENT REQUEST NO. 7:

Produce all documents in Petitioner's possession that would suggest any legal right for SCHIEDMAYER PIANOS, GmbH to file to register the SCHIEDMAYER logo trademark application for celestes in April of 1984.

DOCUMENT REQUEST NO. 8:

Produce all documents relating to any conditions under which Georg Schiedmayer, his heirs, assigns, and successors, and/or Petitioner could continue to sell piano fortes in the United States after Georg Schiedmayer sold his interest in SCHIEDMAYER PIANOS, GmbH.

DOCUMENT REQUEST NO. 9:

Produce all documents relating to the technical specifications of a celeste that differ from the technical specifications of a piano forte.

DOCUMENT REQUEST NO. 10:

Produce all documents relating to the visual differences in appearance between a celesta and an upright, grand, and digital piano forte.

DOCUMENT REQUEST NO. 11:

Produce all documents relating to Petitioner's failure to file an opposition within the Opposition period for the SCHIEDMAYER mark that began on June 22, 2004.

DOCUMENT REQUEST NO. 12:

Produce all documents relating to Petitioner's delay in filing this cancellation action until April 1, 2015, nearly 11 years following the beginning of the publication period.

DOCUMENT REQUEST NO. 13:

Produce all documents that support Petitioner's belief that this cancellation action is not barred by laches.

DOCUMENT REQUEST NO. 14:

Produce all documents relating to Petitioner's delay in filing a U.S. trademark application for the mark SCHIEDMAYER until April 17, 2015.

DOCUMENT REQUEST NO. 15:

Produce all documents relating to any incidents of which Petitioner is aware where consumers contacted Petitioner as a result of thinking Respondent's piano fortes were related to Petitioner's celestas.

DOCUMENT REQUEST NO. 16:

Produce all documents relating to Petitioner's manufacture of a piano forte in a country other than the United States.

DOCUMENT REQUEST NO. 17:

Produce all documents relating to any of its products sold by Petitioner under its SCHIEDMAYER mark that were, at any time period, manufactured by a party other than Petitioner.

DOCUMENT REQUEST NO. 18:

Produce all documents supporting Petitioner's believe that IBACH's use of Roth & Junius, Young Chang, Concorde, Kawai, Souter, and/or Seiler and Steinberger to physically manufacture pianos that were sold by IBACH as SCHIEDMAYER branded pianos in the United States constituted false designations of the origin of those pianos.

DOCUMENT REQUEST NO. 19:

Produce all documents and other related information regarding the sale by Georg Schiedmayer of his share in SCHIEDMAYER PIANO, GmbH to Christian Ibach, Rolf Ibach and/or their related entities.

DOCUMENT REQUEST NO. 20:

Produce all documents that contain information relating to steps Petitioner or its predecessors in interest, including its current principals, took to protect the SCHIEDMAYER mark from being subjected to false designation of origin following the sale of Georg Schiedmayer's interests in SCHIEDMAYER PIANO, GmbH.

DOCUMENT REQUEST NO. 21:

Produce all documents relating to Petitioner's failure to file for a U.S. trademark application for the SCHIEDMAYER mark for keyboard instruments of any kind following the abandonment of the mark by Ibach around 2001-2002.

DOCUMENT REQUEST NO. 22:

Produce all documents that support good cause for Petitioner to file its application for the mark SCHIEDMAYER on April 17, 2015, Application Serial No. 86600864 (the '864 application).

DOCUMENT REQUEST NO. 23:

Produce all documents that support Michael J. Striker's declaration, under penalty of fine or imprisonment on April 17, 2015, that the date of first use of the SCHIEDMAYER mark in the United States was in 1860.

DOCUMENT REQUEST NO. 24:

Produce all documents relating to and/or that provide good cause why Petitioner, via the declaration of its counsel Michael J. Striker, believes its date of first use of the SCHIEDMAYER mark in the United States was in 1860 rather than 1960 as made in the application for the SCHIEDMAYER logo mark by Christian Ibach on April 2, 1984.

DOCUMENT REQUEST NO. 25:

Produce all documents relating to Petitioner's declaration allegedly filed in the '864 Application on January 7, 2016, that the mark SCHIEDMAYER has become distinctive of the applied for goods and is therefore not primarily merely a surname.

DOCUMENT REQUEST NO. 26:

Produce all documents that relate to or serve to support good cause for Petitioner's belief it has not abandoned the SCHIEDMAYER mark for piano fortes in the United States.

DOCUMENT REQUEST NO. 27:

Produce all documents that relate to why Petitioner did not designate the United States in its International Application under the Madrid Protocol for the mark SCHIEDMAYER until April 2, 2015.

DOCUMENT REQUEST NO. 28:

Produce all documents in Petitioner's possession that relate to or describe the circumstances surrounding the filing of the SCHIEDMAYER logo trademark filing in 1984 by SCHIEDMAYER PIANO, GmbH.

Respectfully Submitted,

Dated: February 3, 2016

/s/ Adam R. Stephenson

Adam R. Stephenson, LTD.
40 W. Baseline Rd., Ste 101
Tempe, AZ 85283
Tel: 480.264.6075
Fax: 480.718.8336
Email: adam@patentproblempro.com
Attorney for Respondent, Piano Factory
Group, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS is being sent via email and U.S.

Mail to Petitioner Schiedmayer Celesta GmbH's attorney of record as follows:

Michael J. Striker
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743
striker@strikerlaw.com

Dated: February 3, 2016

/s/ Adam R. Stephenson
Adam R. Stephenson, LTD.
40 W. Baseline Rd., Ste 101
Tempe, AZ 85283
Tel: 480.264.6075
Fax: 480.718.8336
Email: adam@patentproblempro.com
Attorney for Respondent, Piano Factory
Group, Inc.