

**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 RESPONSES TO PETITIONER'S FIRST AND SECOND SET
OF DOCUMENT REQUESTS**

December 29, 2015

Respondent herewith submits the following responses to Petitioner's First and Second Set of Document Requests as requested.

Respondent will address each document request as follows:

DOCUMENT REQUEST NO. 1:

Produce examples of all promotion and advertising for Schiedmayer Pianos which have taken place within the past five years.

Respondent has produced in its initial disclosures an example via the photograph of the SCHIEDMAYER branded piano on sale in the past 5 years at the Hollywood Piano company as of the date of the filing of the renewal.

DOCUMENT REQUEST NO. 2:

Produce all documentation supporting the allegation made to the United States Patent and Trademark Office, that the trademark Schiedmayer was used on all of the goods set forth in the subject registration at the time Registrant's Declaration of Use was filed.

Respondent has produced in its initial disclosures a sales information screen indicating that an upright SCHIEDMAYER branded piano manufactured by ASC was on the sales floor between May to September of 2007, sold, and delivered to a customer on October 9, 2007. Due to computer system failures the Respondent is unable at this time to further comply with this request by producing additional sales documents.

DOCUMENT REQUEST NO. 3:

Produce all billing information and all other related information regarding all sales of any Schiedmayer Pianos which have taken place within the past five years.

Respondent has produced in its initial disclosures a sales information screen indicating that a grand SCHIEDMAYER branded piano manufactured by ASC was on the sales floor in April of 2010, sold, and paid off May 24, 2010. Due to computer system failures the Respondent is unable at this time to further comply with this request by producing additional sales documents.

DOCUMENT REQUEST NO. 4:

Produce all documents which support good cause for filing of a Declaration of Use and Incontestability with respect to Registration No. 3,340,759.

Respondent has produced in its initial disclosures a photograph of a SCHIEDMAYER branded piano forte. Respondent produces a second photograph it is possession of that is of the same piano. The remaining documents that support good cause are already of public record in the trademark file with the USPTO, i.e., the signature of Cheryl Fox, etc.

DOCUMENT REQUEST NO. 5:

Produce documents relating to the manufacture of the Schiedmayer Piano within the past 5 years.

Due to computer crashes, Respondent's documents relating to the manufacturing activities (i.e., invoices from the factories, etc.) are currently unavailable and Respondent is unable to comply at this time with this request. Respondent is working to identify any potentially relevant documents that it can retrieve. As an aid in this effort, Respondent has asked the former president of ASC to provide Respondent with a letter discussing ASC's manufacturing activities for Respondent but has not yet received that letter as of the due date of this document request. Respondent produces an email from Gary Galanti, President of North American Music, Inc., that contains Mr. Galanti's statement that North American Music, Inc., has been a source of pianos to Respondent that became SCHIEDMAYER branded pianos. Respondent will supplement its disclosures with all information it is able to locate documents relevant to this request.

DOCUMENT REQUEST NO. 6:

Produce all documents relating to the offering for sale of Schiedmayer Pianos.

Respondent is unable to comply beyond what it has produced during its initial disclosures due to the reasons outlined in Document Request No. 5.

DOCUMENT REQUEST NO. 7:

Produce all documents relating to the promotion of Schiedmayer Pianos within the past 5 years.

Respondent has produced in its initial disclosures photographs of pianos bearing the SCHIEDMAYER trademark which were located and offered for sale on the sales floor.

DOCUMENT REQUEST NO. 8:

Produce all documents relating to why and how Registrant adopted the name Schiedmayer as a trademark.

Respondent refers the Petitioner to the 2004 Office Action in the file history of the registration produced in Respondent's initial disclosures that explains the reason why Registrant adopted the SCHIEDMAYER trademark following its abandonment by Kawai Piano Company, the licensee of IBACH, which purchased the SCHIEDMAYER trademark for piano fortes from the Schiedmayer family in 1980.

DOCUMENT REQUEST NO. 9:

On April 18, 2014, Cheryl Fox, Vice President of Respondent, having agreed that willful false statements and the like are punishable by fine or imprisonment or both, stated that the mark SCHIEDMAYER has been in continuous use in commerce for five consecutive years from the date of registration or the date of publication, and is still in use in commerce in connection with digital pianos. Please produce all documents, including, without limitation, documents relating to promotion and sales and manufacture of digital pianos which supports this allegation.

Respondent is unable to comply beyond what it has produced during its initial disclosures due to the reasons outlined in Document Request No. 5.

DOCUMENT REQUEST NO. 10:

On April 18, 2014, Cheryl Fox, Vice President of Registrant, having agreed that willful false statements and the like are punishable by fine or imprisonment or both, stated that the mark SCHIEDMAYER has been in continuous use in commerce for five consecutive years from the date of registration or the date of publication, and is still in use in commerce in connection with upright pianos. Please produce all documents, including, without limitation, documents relating to promotion and sales and manufacture of upright pianos which supports this allegation.

Respondent is unable to comply beyond what it has produced during its initial disclosures due to the reasons outlined in Document Request No. 5.

DOCUMENT REQUEST NO. 11:

On April 18, 2014, Cheryl Fox, Vice President of Registrant, having agreed that willful false statements and the like are punishable by fine or imprisonment or both, stated that the mark SCHIEDMAYER has been in continuous use in commerce for five consecutive years from the date of registration or the date of publication, and is still in use in commerce in connection with grand pianos. Please produce all documents, including, without limitation, documents relating to promotion and sales and manufacture of grand pianos which supports this allegation.

Respondent is unable to comply beyond what it has produced during its initial disclosures due to the reasons outlined in Document Request No. 5. Respondent notes that the piano in the photograph used as a specimen for the renewal appears to be a grand piano.

Respondent reserves the right to supplement/correct the foregoing with relevant information as discovery progresses.

Dated: December 29, 2015

Respectfully submitted,
/s/ Adam R. Stephenson
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CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing RESPONDENT'S RESPONSES TO PETITIONER'S FIRST AND SECOND SET OF DOCUMENT REQUESTS is being sent via email and U.S. Mail to Petitioner Schiedmayer Celesta GmbH's attorney of record as follows:

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Dated: December 29, 2015

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