

**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 INTERROGATORIES**

December 29, 2015

Respondent herewith submits the following responses to Petitioner's First and Second Set of Interrogatories as requested. At the outset, Respondent would like to inform the Petitioner that over the 8 years the registration has been in place, Respondent has experienced one or more computer system crashes that has resulted in the loss of data relating to Respondent's business, including the sales of pianos branded with the SCHIEDMAYER trademark. Respondent has been working diligently to attempt to reconstruct as much information as can be recovered, but there will be sales data and other information missing that Respondent is not likely to be able to produce despite its best efforts.

Respondent will address each interrogatory as follows:

INTERROGATORY NO. 1:

Identify by name and address all purchasers of Schiedmayer Pianos of any type within the past five years.

Due to the computer data loss, Respondent is not able to conclusively determine 1) the total quantity of all SCHIEDMAYER branded pianos sold and, correspondingly, 2) the name and address of every purchaser of the pianos for the past five years.

Respondent has been able to locate contact information on one purchaser but that purchaser has refused to allow name and address information to be shared at this time.

Respondent is aware that two or more SCHIEDMAYER branded pianos are currently in the piano rental pool of the Hollywood Piano Company.

INTERROGATORY NO. 2:

Identify the name and address of the manufacturer of the piano photographed as a specimen and submitted to the United States Patent and Trademark Office in connection with the Declaration of Use as filed for Registration No. 3,340,759.

American Sejung Corporation (ASC, now defunct)

1590 S. Milliken Ave, Unit H

Ontario, CA 91761

INTERROGATORY NO. 3:

Identify and explain the origin of the piano photographed and submitted to the United States Patent and Trademark Office in connection with the Declaration of Use filed in support of Registration No. 3,340,759.

This digital piano was purchased from ASC with no nameplate and then branded with a SCHIEDMAYER nameplate and placed on the sales floor.

INTERROGATORY NO. 4:

With respect to the photograph of an alleged Schiedmayer piano submitted to the USPTO in connection with the filing of a Declaration of Use, was a label or other object bearing the name Schiedmayer affixed to the piano in such manner that it would cover up the true manufacturer of the piano.

No.

INTERROGATORY NO. 5:

Does registrant manufacture pianos.

No, in the sense that it does not physically assemble the pianos sold in its own factory. It does manufacture pianos, however, in that it orders already manufactured pianos it has selected for use as SCHIEDMAYER branded pianos and sells them to consumers with a label/name plate affixed identifying the piano as a SCHIEDMAYER branded piano. In this sense, Respondent does manufacture pianos because until

Respondent affixes the label/name plate, the pianos are not branded for sale as any particular piano brand.

INTERROGATORY NO. 6:

If the answer to the above interrogatory is in the affirmative, set forth the name and address of the manufacturer of any such pianos.

American Sejung Corporation (ASC, now defunct)

1590 S. Milliken Ave, Unit H

Ontario, CA 91761

North American Music, Inc.

11 Holt Drive

Stony Point, NY 10980

INTERROGATORY NO. 7:

Set forth each type of advertising or other promotions with respect to Schiedmayer pianos of any type and for each such area of promotion and advertising, identify an example of any such advertisement or promotion.

The pianos are marketed directly to purchasers through being placed on the sales floor. An example of such promotion can be found in the specimens filed with the Statement of Use filed 9/10/2007 and with the renewal filed 4/18/2014.

INTERROGATORY NO. 8:

With respect to the Declaration of Use filed with respect to Registration No. 3,340,759, set forth the basis for the allegation that the trademark SCHIEDMAYER was in use in commerce in the United States at the time of filing of the Declaration of Use.

As the photograph of the piano filed as the specimen with the Declaration of Use indicates, a piano forte bearing the mark SCHIEDMAYER was for sale on the sales floor of the Hollywood Piano Company. As the Hollywood Piano Company is frequented by buyers from in and out of the state of California, markets its activities on the internet (an instrumentality of interstate commerce), etc., the trademark SCHIEDMAYER was in use in interstate commerce as of the time of filing of the Declaration of Use.

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 INTERROGATORIES is being sent via email and U.S. Mail to Petitioner Schiedmayer Celesta GmbH's attorney of record as follows:

Michael J. Striker
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Dated: December 29, 2015

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