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

| | |
|-------------------------------|---|
| Proceeding | 92061215 |
| Party | Plaintiff Schiedmayer Celesta GMBH |
| Correspondence Address | MICHAEL J STRIKER STRIKER STRIKER & STENBY 103 EAST NECK RD HUNTINGTON, NY 11743 UNITED STATES Email: striker@strikerlaw.com |
| Submission | Other Motions/Papers |
| Filer's Name | Michael J. Striker |
| Filer's email | striker@strikerlaw.com |
| Signature | /Michael J. Striker/ |
| Date | 06/20/2017 |
| Attachments | SKMBT_42117062010200.pdf(118781 bytes) |

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

Schiedmayer Celesta GmbH,)
)
 Petitioner,)
)
 v)
)
 Piano Factory Group, Inc. and)
 Sweet 16 Musical Properties, Inc.)
)
 Respondents.)
 _____)

Cancellation No. 92/061,215
Reg. No.: 3,340,759
Mark: SCHIEDMAYER
Registration Date: 11/20/2007

PETITIONER'S OBJECTION TO RESPONDENTS NOTICE TO TAKE TESTIMONIAL
CROSS-EXAMINATION BY WRITTEN QUESTIONS AND
REQUEST THAT RESPONDENTS NOTICE BE STRICKEN

Petitioner hereby objects to Respondents Notice to Take Testimonial Cross-Examination by written questions, and requests that the Notice be stricken from the record.

The subject Notice of Taking Testimonial Cross-Examination is objectionable because it is not in accord with the provisions of either 37 CFR 2.124(a) or Rule 28 of the Federal Rules of Civil Procedure.

37 CFR 2.124 (a) provides that the Notice of Taking Testimonial Cross-Examination must "...be accompanied by the name or descriptive title of the officer before whom the deposition is to be taken."

Rule 28 of the Federal Rules of Civil Procedure provides that the Officer must be a "...person authorized to administer oaths either by Federal law or by the law in the place of examination."

No such person, and indeed, nobody has been designated.

The above error renders the Notice of Taking Testimonial Cross-Examination to be fatally defective since it does not accord with the rules.

For all of the above reasons the subject Notice To Take Testimonial Cross-Examination by Written Questions should be stricken from the records of this case.

Parenthetically, Petitioner wishes to note that this defect was called to the attention of counsel for the Respondents in a prior email, and counsel for the Respondents has done nothing to correct this defect. In addition, it is noted that counsel for the respondents was advised that this witness will be in the U.S. during the month of July and Petitioner has made the witness available for oral deposition during her visit. Counsel for Respondents has refused to avail himself of this opportunity.

Finally it is noted that Respondents Pretrial Disclosures are due by June 23, 2017. Proceedings have not and should not be suspended and therefore it is expected that proceedings shall continue and Respondents Pretrial Disclosures and Trial Testimony will proceed as scheduled.

Respectfully submitted,

Michael J. Striker 

Attorney for Petitioner

103 East Neck Road, Huntington N.Y. 11743

CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the attached Objection to Written Cross Examination was served upon counsel for the Respondents at his email address of record:

adam@iptech.law

this 20th day of June, 2017

Dated: 6/20/17

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Michael Striker