

ESTTA Tracking number: **ESTTA675151**

Filing date: **05/29/2015**

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

Proceeding	92061215
Party	Defendant PIANO FACTORY GROUP
Correspondence Address	PIANO FACTORY GROUP 323 S FRONT ST #106 BURBANK, CA 91502-1918 UNITED STATES glennrich@aol.com
Submission	Answer
Filer's Name	Adam R. Stephenson, LTD.
Filer's e-mail	adam@patentproblempro.com, janice@patentproblempro.com
Signature	/Adam Stephenson/
Date	05/29/2015
Attachments	AnswerFiled.pdf(26336 bytes )

**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 ANSWER TO PETITION FOR CANCELLATION**

Respondent Piano Factory Group, Inc. (“Respondent”) hereby submits its Answer to the Petition for Cancellation (the “Petition”) filed by petitioner Schiedmayer Celesta GmbH (“Petitioner”). Unless indicated differently, each paragraph below corresponds with the paragraph of the Petition bearing the same number.

Respondent responds to the first unnumbered paragraph of the Amended Petition as follows: Respondent admits that it owns U.S. Reg. No. 3,340,759, and that those registrations in all respects speaks for themselves. Respondent denies that Petitioner is damaged by the continued registration of U.S. Reg. No. 3,340,759. Except as explicitly admitted and alleged herein, Respondent denies each and every remaining allegation contained in the first unnumbered paragraph of the Amended Petition.

To the extent any additional unnumbered paragraphs, captions or headings in the Amended Petition are treated as allegations, such allegations are hereby denied.

1. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 1 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

2. Respondent admits that it has offices in Burbank, California. Respondent admits that it is the business of offering musical instruments, including pianos for sale. Respondent lacks sufficient knowledge or information regarding the further allegations contained in Paragraph 2 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

3. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 3 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

4. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 4 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

5. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 5 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

6. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 6 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

7. Respondent lacks sufficient knowledge or information regarding the allegations contained in Paragraph 7 of the Petition to admit or deny and, on that basis, denies each and every allegation contained therein.

8. Respondent admits that it offers for sale pianos in the State of California. Respondent denies each and every allegation contained in the remainder of Paragraph 8 of the Petition.

9. Respondent admits that its Application Serial No. 78/157,552 was filed on or about Aug. 24, 2002, and that it in all respects speaks for itself. Respondent denies each and every allegation contained in the remainder of Paragraph 9 of the Petition.

10. Respondent denies each and every allegation contained in Paragraph 10 of the Petition.

11. Respondent denies each and every allegation contained in Paragraph 11 of the Petition. Respondent admits that on or about April 18, 2014, it caused to be filed a Declaration of Use under Sections 8 and 15, and that it in all respects speaks for itself.

12. Respondent denies each and every allegation contained in Paragraph 12 of the Petition.

### **AFFIRMATIVE DEFENSES**

In addition to the foregoing, and as separate and distinct affirmative defenses to Petitioner's claims, Respondent alleges as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

Petitioner's Amended Petition is barred because the Petitioner has failed to state facts upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Petitioner's allegations of fraud are not plead with particularity and do not meet either the standards of the Federal Rules of Civil Procedure, as interpreted in either *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 1966 (2007) or *In re Bose*, 580 F.3d 1240, 91 U.S.P.Q.2d 1938 (Fed. Cir. 2009).

**THIRD AFFIRMATIVE DEFENSE**

Petitioner's Amended Petition is frivolous and baseless.

**FOURTH AFFIRMATIVE DEFENSE**

Petitioner's Petition for Cancellation is barred by laches. Petitioner did not seek cancellation of the Respondent's registration for nearly 7.5 years.

**FIFTH AFFIRMATIVE DEFENSE**

Petitioner's Petition for Cancellation is barred by acquiescence. Petitioner did not seek to cancel Respondent's registration for such a long period of time that it amounts to a relinquishment of any claims by Petitioner to cancel it.

**FURTHER AFFIRMATIVE DEFENSES**

Respondent is without sufficient information to know at the present time whether additional affirmative defenses may be applicable to this action. Accordingly, Respondent expressly reserves the right to assert further affirmative defenses should it learn that any such defenses are available.

WHEREFORE, Applicant respectfully requests that the Petition be denied, and that judgment be entered in favor of Respondent.

Dated: May 29, 2015

Respectfully submitted,  
/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 ANSWER TO PETITION FOR CANCELLATION is being sent via 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

Dated: May 29, 2015



---