



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0374

December 7, 2023

LATIN AMERICAN MUSIC CO. INC.,
CONSUELO CORRETIJER-LEE

CLAIMANTS

v.

Roy Brown

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (Board) finds that your claim does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is amended.

If you wish to proceed with this claim, you must file an amended claim by **January 8, 2023**. If you do not, the Board must dismiss your claim without prejudice, although you may file again in the future before the Board or in federal court. If you file an amended claim and it is found compliant, you will be notified and directed to proceed with service. There is no additional filing fee for an amended claim. 17 U.S.C. § 1506(f)(1)(B).

To make your amended claim compliant, you must resolve the issues identified below. [37 C.F.R. § 224.1\(c\)\(2\)](#). You may also choose to correct or edit any errors or other information in your claim before you file it again. You do not need to provide a legal argument in your claim – just a statement of facts and circumstances. Being specific in your description gives the other party and the Board more information about your claim. There is no character limit, so please be as detailed as possible.

Previous Litigation

The Board cannot hear any “claim or counterclaim that has been finally adjudicated by a court of competent jurisdiction or that is pending before a court of competent jurisdiction, unless that court has granted a stay to permit that claim or counterclaim to proceed before the Copyright Claims Board.” 17 U.S.C. § 1504(d)(2). If your claim against the respondent is currently in litigation or has been finally determined in court, you cannot raise the same claim against them before the Board. In your claim, you include a [supplemental document](#) that indicates that there has been previous copyright litigation between the claimant, Latin American Music Co. Inc (“LAMCO”), and the respondent, Roy Brown, regarding this work. A Board review of the relevant caselaw appears to show that a court has found that LAMCO does not own the work in question (and potentially that the work is in the public domain), which would preclude at least LAMCO from relitigating this issue before the CCB.

In *Brown v. Latin American Music Co., Inc.*, the First Circuit affirmed the dismissal of LAMCO’s copyright infringement counterclaim regarding 11 poems including “Boricua en la Luna,” the work at issue here (the “Work”). The court noted that LAMCO did not establish the requisite threshold elements for proceeding with suit for copyright infringement with respect to its ownership of the Work. 498 F.3d 18 (1st Cir. 2007). Ownership of

“Boricua en la Luna” was discussed again in *Latin American Music Co. Inc. v. Media Power Group, Inc.*, 705 F.3d 34 (1st Cir. 2013). In that case, the court affirmed the dismissal of the copyright infringement case on collateral estoppel grounds. Collateral estoppel, or issue preclusion, applies when: (1) the issue sought to be precluded in the later action is the same as that involved in the earlier action; (2) the issue was actually litigated; (3) the issue was determined by a valid and binding final judgment; and (4) the determination of the issue was essential to the judgment. The court explained that LAMCO had presented the same evidence of copyright ownership that the decision in *Brown* deemed insufficient. *Id.*, at 42. Lastly, in *ACEMLA de Puerto Rico, Inc. v. Banco Popular de Puerto Rico, Inc.*, the court noted that LAMCO’s lack of copyright ownership over the work “has been actually litigated, was a key issue in prior litigation, as it is now, and has been decided against plaintiffs by way of a binding final judgment, plaintiffs are collaterally estopped from re-litigating the same issue yet again.” No. CV 13-1822CCC, 2015 WL 10037151, at *5 (D.P.R. Oct. 30, 2015).

Therefore, it appears that LAMCO is barred from pursuing this claim before the Board and must be removed from the claim.

Legal and Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

The claim presents conflicting facts about Consuelo Corretjer-Lee’s status as a legal or beneficial owner of “Boricua en la Luna.” There are two main issues from a review of your claim. First, the facts included in the claim do not present any facts that Corretjer-Lee retained any legal or beneficial ownership of the work when she assigned the work to LAMCO. Second, a Board search of Copyright Office records shows conflicting ownership information about the work.

In your claim, you state that “the author of the composition “Boricua en la Luna” is Juan Antonio Corretjer, deceased father of Consuelo L. Corretjer. She (as)signed his exclusive copyrights as author's heirs with the music publisher company Latin American Music Co. Inc. (LAMCO) on August 21, 1999.” However, the claim does not state if and how Corretjer-Lee remained beneficial ownership of the work after assigning the rights to LAMCO. As noted above, a beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. To correct this issue, your amended claim must include specific allegations about how the Corretjer-Lee owns, or has an exclusive license to

use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how the claimant was the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between LAMCO and Corretjer-Lee or detail how the claimant retained legal or beneficial ownership of the copyright right.

Lastly, a Board search of Copyright Office records shows conflicting ownership information about the work. In the claim, you state that “Boricua en la Luna,” was registered as “PA0002299059” in 2021. However, the district court in *Brown* stated that Juan Antonio Corretjer is the author of 11 poems, including “Boricua en la Luna,” that were registered in 2000. The court noted that “In February 2000, LAMCO obtained copyright registration for the work entitled ‘Oubao Moin y 17 Obras Más de Juan A. Corretjer,’ which contained poems #1-11.” *Brown v. Latin Am. Music Co.*, No. CV 05-1242(JAF), 2006 WL 8450668, at *1 (D.P.R. May 9, 2006). A Board search of Copyright Office records shows that “Oubao Moin y 17 Obras Más de Juan A. Corretjer” was registered as “PA0000995275” and lists LAMCO as the copyright claimant. This indicates that the work was registered in 2000 prior to the registration of PA0002299059 in 2021. Furthermore, the information included in your 2021 registration conflicts with the information in the 2000 LAMCO registration. Moreover, a Board review of the registration materials in “PA0002299059” shows that the copyright examiner asked for additional information regarding the publication of the work and that the *respondent’s* album cover was used to show the publication date of the work. This further indicates that the publication of the work may have been authorized by the author, which would be another reason that the claim cannot move forward.

If you submit an amended claim, in addition to showing how Corretjer-Lee is a legal or beneficial owner of the work, it must include specific facts clarifying the differences between the two registrations and whether the registrations cover the exact same Boricua en la Luna work. Finally, your amended claim should explain the relationship between LAMCO and Corretjer-Lee in enough detail so that the Board can determine whether, if the rights on this same Work were assigned to LAMCO, the court findings that LAMCO cannot bring a claim for copyright infringement due to a lack of ownership should also apply to Corretjer-Lee.

To submit an amended claim, log into your eCCB account and take the following steps:

1. From your dashboard, click the “**Amend claim**” button and select your docket number from the dropdown list.
2. Your claim will unlock for editing. The information you originally entered will appear in the same order as in your original claim.
3. Make the necessary edits. If you have filed supplemental documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. Please include only documents directly related to your claim, and label them clearly.
4. Once you have completed your edits, continue to click through the fillable claim form until you reach the “**Review**” page. The Review page includes all the information that you have provided in the claim up to this point. Carefully double-check the information on this page. If you have any corrections, you can select

“**Edit**” to revise any entries necessary. Each section of information has an “**Edit**” button, which will take you back to that section so you can make changes. After you make changes, you can click “**Save & review**” to return to the Review page. Please review your claim carefully. Once you submit your amended claim, you will be unable to edit the claim while it is in compliance review.

5. Once you have completed your review and any revisions, you must confirm that the information in your claim is accurate and truthful to the best of your knowledge. To complete the declaration, type your full name into the “**Digital signature**” box near the bottom of the “**Review filing**” page and click “**Agree & submit.**”

If you have questions, please contact asktheboard@ccb.gov. Include your docket number in the subject line. The Board is unable to provide legal advice. We can only provide legal information and assistance concerning Board procedures and requirements. If you would like to seek further guidance from a lawyer or a law student at reduced or no cost, please visit the [Pro Bono Assistance](#) page on ccb.gov. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney