

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

BANCO POPULAR DE PUERTO RICO

VS.

LAMCO, ET AL.

Civ. No 01-1142(PG)

LAMCO, ET AL.

VS.

BANCO POPULAR DE PUERTO RICO, ET  
AL.

Civ. No 01-1461(PG)

**Motion Requesting Discovery.**

TO THE HONORABLE COURT:

NOW COME, Latin American Music Co., Inc. (LAMCO) and ACEMLA de Puerto Rico, Inc., (ACEMLA), defendants under Civil No. 01-1142(PG) and plaintiffs under Civil No. 01-1461(PG), represented through their undersigned attorney and respectfully allege, state, and pray:

1. On March 21, 2005 a Status Conference was held in the Chambers of the Honorable Magistrate-Judge Aida M. Delgado. At the conference, a controversy arose as to whether discovery had been stayed in the instant case. As a result, the Magistrate-Judge asserted that she would consult with Honorable Juan Pérez Giménez regarding the matter and granted the parties until April 29, 2005 to complete a chart similar to the one designed by the Special Master under Civil 97-2875(PG).

2. In the course of the compilation of the chart, the issue of the discovery permitted has become key to the creation of an accurate chart. As explained herein, the information

contained in the Chart is contingent upon the discovery information relevant to the ownership of the copyrights.

3. Last week, the Peer publishers submitted some purported assignments from Luis Morales Ramos, the author of “Dame La Mano Paloma”. (See Exhibit 1). In summary, the assignment stated that all musical works penned from April 1, 1965 to June 30, 1967 would become property of Peer International Corporation of Puerto Rico. The assignment was allegedly executed on April 1, 1965 and by its terms ended in approximately two (2) years later. Subsequently, on May 26, 1972, five years after the alleged agreement ceased to exist, either Peer or Southern Music Publishing Co. obtained a Certificate of Registration for “Dame La Mano Paloma”. (See Exhibit 2).

4. Peer now claims, without any supporting evidence whatsoever, that “Dame La Mano Paloma” was created sometime between April 1, 1965 to June 30, 1967. The composer, Luis Morales Ramos nonetheless, assures LAMCO that he never transferred “Dame La Mano Paloma” to either Peer or Southern Music Publishing Co. during 1965-1967 or at any time. In fact, the composer issued a sworn declaration to that effect. (Exhibit No. 3). This situation demonstrates why further discovery is required.<sup>1</sup> The first phase of these cases (Civil Nos. 01-1142 and 01-1461) involves only 14 songs, thus there is no possible way that the discovery process will constitute any undue burden to any of the parties. Moreover, this is precisely what Banco Popular requested by bringing this declaratory judgment action.

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<sup>1</sup> Moreover, the signature that appears in the purported Certificate of Recordation obtained by Peer or Southern Music Publishing Co. to purport to renew the song on January 1, 2000 is *not* the actual signature of the composer, but an “imitation” executed by some Peer Officer. (See **Exhibit 4**). Peer claims it is entitled to execute such “imitations” under a so called power of attorney. LAMCO believes this practice is highly misleading and it is designed to give the impression that the composer is vouching for the Peer publishers’ actions in the year 2000-which he is not.

5. As another example, the Peer publishers submitted purported assignments for “Bang Bang” and “I’ll Never Go Back to Georgia” (a/ka/ “El Pito”). (See Exhibit 5). The documents, however, contain a signature that was not executed by composer Jimmy Sabater. (See Exhibit 6, containing LAMCO’s assignment, to examine the real signature of Jimmy Sabater). Mr. Sabater asserts that he never assigned these compositions to the alleged publisher known as Cordon Music, Inc., and is eager to come to trial to testify that he was the sole author of the songs. In fact, he had offered to bring other members of the Joe Cuba Sextet that will testify that Jimmy Sabater was the sole author of the compositions.
6. Clearly, the information that the parties may submit in their charts will not resolve these present controversies. Accordingly, the appearing parties respectfully move for the exchange of further discovery.

**WHEREFORE**, it is respectfully requested that the Honorable Court rule that discovery, which is necessary in this case, shall proceed as provided in the Federal Rules of Civil Procedure so that the parties can submit accurate charts.

**RESPECTFULLY SUBMITTED.**

**IT IS HEREBY CERTIFIED** that on this date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys **Edwin Prado, Esq., Ina Berlingeri, Esq., Francisco Besosa, Esq., Roberto Sueiro, Esq. Heath Hoglund, Esq. Jean Paul Viseppe, Esq.**

In San Juan, Puerto Rico, this 13<sup>th</sup> day of April 2005.

*S:\ Jane Becker Whitaker*

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