

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

**JUAN RODRIGUEZ MARQUEZ;
CHRISTIAN ASTACIO ROJA**

PLAINTIFF

v.

**JOSE FERNANDO COSCULLUELA
SUAREZ; RAMON LUIS AYALA
RODRIGUEZ; EL CARTEL RECORD
MIGUEL CORREA; PRIME PUBLISHING
OF PR; ROBERTO MARTINEZ
LEBRON; SPOTIFY; YOU TUBE;
APPLE; AMAZON; WARNER MUSIC
LATINA; JOHN DOE; CORPORATION A;
INSURANCE A**

DEFENDANTS

CIVIL NO

PLAINTIFF DEMANDS TRAIL BY JURY

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW Plaintiff, **JUAN RODRIGUEZ MARQUEZ AND CHRISTIAN
ASTACIO ROJA**, through his undersigned attorneys and respectfully states, alleges and prays:

I.

NATURE OF THE ACTION, JURISDICTION AND VENUE

1. This is an action for copyright infringement arising under the copyright act of 1976, as amended, 17 U.S.C sec. 101, et seq., the Berne Convention for Protection of Literary and Artistic Works, and for damages under state law and the laws of other countries, as set forth below. This Court has jurisdiction over this action under 28 U.S.C. secs. 1331, 1332 and 1338, inasmuch as

this is an action arising under the laws of the United States and Article III of the United States Constitution and treaties which the United States is a party, diversity jurisdiction pursuant to 28 U.S.C. sec. 1332, and supplemental jurisdiction over State Law claims under 28 U.S.C. sec. 1367.

2. Venue is proper in this District under 28 U.S.C. secs. 1391 and 1400 because Plaintiff is a citizen and resident of Puerto Rico, defendants have conducted business in Puerto Rico, and can otherwise be found here, the claims herein arose in this judicial district, and substantial part of the intellectual property and rights the reunder that is the subject of the action is situated in Puerto Rico.

II

THE PARTIES

3. Juan Rodriguez Marquez (hereinafter “Juan”) is a citizen of the United States of America and resident of Ponce, Puerto Rico. He is an artist, author, singer and musical works composer who writes and composes his original copyrightable musical works, including the work titled “A Donde Voy”.

4. Christian Astasio Roja (hereinafter “Christian”) is a citizen of the United States of America and resident of Orlando, Florida. He is an artist, author, singer and musical works composer who help “Juan” to writes and composes the original copyrightable musical works, including the work titled “A Donde Voy”.

5. Defendants Jose Fernando Cosculluela Suarez aka “Cosculluela” (hereinafter “Cosculluela”) a singer from Humacao, Puerto Rico with a place of business, Warner

Music Latina, 555 Washigton Avenue 400, Miami Beach Florida, 33139.

6. Defendant Ramon Luis Ayala Rodriguez aka Daddy Yankee (hereinafter “Yankee”) a singer with place of business 603 Calle del Parque, San Juan P.R. 00909.

7. Defendant El Cartel Record (hereinafter “Cartel”) upon information and belief is located Calle del Parque, San Juan P.R. 00909.

8. Defendant Miguel Correa (hereinafter “Correa”) upon information and belief is the President of Prime Publishing of PR, located in a place unknown to Plaintiff.

9. Defendant Prime Publishing of PR (hereinafter “Prime”) located in a place unknown to Plaintiff.

10. Defendant Roberto Martinez Lebron (hereinafter “Martinez”) upon information and belief is located in a place unknown to Plaintiff

11. Defendant Spotify (hereinafter “Spotify”) upon information and belief located 45 W 18TH ST New York, N.Y. 10011.

12. Defendant You Tube (hereinafter “You Tube”) upon information and belief located 901 Cherry Avenue, San Bruno, California 94066.

13 Defendant Warner Music Latina (hereinafter “Warner”) upon information and belief located in 555 Washigton Avenue 400, Miami Beach Florida 33139.

14. Defendant Apple Corporation (hereinafter “Apple”) upon information and belief located in a Infinite Group Loop, Cupertino CA 95014.

15. Defendant Amazon (hereinafter “Amazon”) upon information and belief located in 410 Terry Avenue, North, Seattle WA 98109-5210.

16. Defendant Corporations A , parents, subsidiaries or agents of corporations, organized and existing under the laws of Puerto Rico or of any state or country throughout the world, who have directly, vicariously and/or contributory, unlawfully and willfully, performed, reproduced, recorded, copied, published and distributed or otherwise unfairly used the compositions of Plaintiff's authorship without requesting nor receiving a license, nor paying license royalties to Plaintiff, and without Plaintiff's authorization. They are still unknown.

17. Defendant John Doe is unknown defendants, who have directly, vicariously and/or contributory, unlawfully and willfully, performed, reproduced, recorded, copied, published and distributed or otherwise unfairly used the compositions of Plaintiff's authorship without requesting nor receiving a license, nor paying license royalties to Plaintiff, and without Plaintiff's authorization. They are still unknown.

18. Defendants Insurance Company A through C, whose identities are unknown, are insurance company or agents of insurance company, organized and existing under the laws of Puerto Rico or any state or country at the time of the events than Puerto Rico, who at the time of the events had issued insurance policies to Defendants that covered their liability .

III

THE FACTS COMMON TO ALL CAUSES OF ACTION

19. Plaintiff reaffirms and reproduces as if alleged herein each and every one of the preceding allegations.

20. Plaintiff "Juan" and "Christian" are the author of the composition "A Donde Voy" which contains material wholly original and is copyrightable subject matter under the laws of the United States of America.

21. In 1994 Plaintiff with an agency called “Prom Artist” participated in a production under the artistic name “BMG” created a Compact Disk and the artistic name was “MC Non Stop Reggae

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22. The song “A Donde Voy” was part of that Compact Disk.

23. At the time “Yankee” knew Plaintiffs, and he knew the song “A Donde Voy” was created by Plaintiffs.

24. The song “A Donde Voy” was a success at the time and for a period of eighth consecutive weeks was the number one song and sold over a 100,000 thousand copies.

25. On 2016 “Coscolluela” and “Warner” signed a contract, and “Coscolluela” began promoting a promotional Compact Disk title “Blanco Perla”, which include the song “A Donde Voy” .

26. The singers of the songs “ A Donde Voy” was “Coscolluela” and “Yankee”.

27. During the 17th Annual Latin Grammys “A Donde Voy” was nominated the best song of Urban Music interpreted by “Coscolluela” and “Yankee”.

28. “Martinez” during an interview at the Latin Grammy stated the he was the composer of the song “A Donde Voy” knowingly that he was not the composer of said

song.

29. Plaintiff is currently and at all relevant times has been the main proprietor of all rights, titles, interests in and to the copyright in the musical composition.

30. On June 01, 2016, the US Copyright Office issued Certificate of Registration Number SRu 1-265-790 for the musical compositions “A Donde Voy”.

31. Plaintiff became aware the that defendants directly, vicariously, jointly and/or contributed, unlawfully and willfully, performed, reproduced, recorded, copied, published and distributed or otherwise unfairly used the compositions of Plaintiff’s authorship without requesting nor receiving a license, nor paying license royalties to Plaintiffs, and without Plaintiff’s authorization, actions which continue at the present.

32. Defendants knowingly and willfully copied Plaintiff’s musical work for the specific purpose of infringements Plaintiff’s copyrights.

33 Defendants were not licensed by Plaintiff to adapt, use, perform and include Plaintiff’s musical work in any of the records alluded to in this complaint.

IV

FIRST CAUSE OF ACTION

U.S.COPYRIGHTS INFRINGEMENTS

34. The allegation contained in paragraph 1 to 29 is incorporated by reference as is fully set forth herein.

35. Defendants “Coscolluela”, “Yankee”, “Correa”, “Martinez”, “Prime”, “Spotify”, “YouTube”. Cartel”, “Warner”, “Apple” and “Amazon” and all parents, subsidiaries or affiliated entities throughout the world, directly, vicariously, jointly, and /or contributory, unlawfully, willfully, and illegally copied adapted produced, recorded, performed, published, sold, phone,

record and/or otherwise unfairly used the musical compositions “ A Donde Voy” without Plaintiff’s authorization. Said defendants acted without requesting or obtaining a license, for the specific purpose of infringing Plaintiff’s copyright in the composition.

36. Defendants “Coscolluela”, “Yankee”, “Correa”., “Martinez”, “Prime”, “Spotify”, “You Tube”. Cartel”, “Warner”, “Apple” and “Amazon” and any and all parent, subsidiaries or affiliated entities through the world, have made false representations, by perpetrating to have obtained the rights to Plaintiff’s copyright in the composition “A Donde Voy” .

37. Defendants “Coscolluela”, “Yankee”, “Correa”., “Martinez”, “Prime”, “Spotify”, “You Tube”. Cartel”, “Warner”, “Apple” and “Amazon” and any and all parent, subsidiaries or affiliated entities through the world, have made false representations, by perpetrating to have obtained the rights to Plaintiff’s copyright in the composition “A Donde Voy” in their capacities, fraudulently concealed the existence of the phone cord at issue and committed illegal act in violation of Plaintiff’s copyrights.

38. The above mentioned phone record continues to be illegally copied, produced, recorded, sold or otherwise unfairly used up to this date.

39. All of these blasting violations of copyrights laws constitute willful travesties to the creative work of “Juan” and “Christian”, which are causing him loss of profit and irreparable harm.

40. Consequently, Plaintiff demands payment of all actual damages suffered and the profits generated by defendants, plus cost, interest and attorneys’ fees. The amount of damages cannot be estimated at this time but, upon information and belief, it accrues to no less than a MILLION DOLLARS (\$1,000,000.00) for each violation.

41. Alternatively, Plaintiff demands the payment of all statutory damages pursuant to section 504 C(2) of the Copyrights Act of 1976, as amended, 17 U.S.C. sec. 504 C (2) in addition to cost, interest and attorneys fees.

V

SECOND CAUSE OF ACTION

MORAL RIGHTS VIOLATIONS

42. The allegations contained in paragraph 1 to 37 are incorporated as if fully set herein.

43. Defendants “Coscolluela”, “Yankee”, “Correa”, “Martinez”, “Primer”, “Spotify”, “YouTube”, “Cartel”, “Warner”, “Apple” and “Amazon” and all parents, subsidiaries or affiliated entities throughout the world, directly, vicariously, jointly, and /or contributed, failed to respect the works integrity when they used the composition “A Donde Voy”.

44. Failure to respect the work’s integrity is actionable and entitles to “Juan” to claim damages under the laws in Puerto Rico, and the laws of other countries of the world where the record was distributed and sold and unfairly used, which will be subject to discovery.

45. Plaintiff than cover, claims and demands payment of no less than HALF A MILLION DOLLARS (\$500,000.00) in damages for each such violation and request the impounding and destruction of the infringing works and the enjoining of defendants fro continuing said violations and infringements, plus interest, cost and attorneys fees.

VII

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands a trial by jury and that the Court enter judgment for Plaintiff determining that his valid copyrights in the musical work A Donde Voy” has been

infringed and that his moral rights in this composition has been violated by defendants and ordering:

- a. That Defendants and their agents, employee, representatives and all other firms, divisions or corporations in active concert or participation either said defendant's be permanently enjoined fro engaging in any further acts of violation of the copyrights laws that directly or indirectly affect Plaintiff's copyrights, including but not limited to the sale, marketing, licensing, transfer, display, performance, advertisement, reproduction, development and/or manufacture of any works derived or copies from the subject work, or to participate or assist in such activity;
- b. That defendants and their agents, employees, representatives, and all other firms, divisions or corporations in active concert or participation with said defendants be ordered to recall from all clients, distributors, wholesales, jobbers, dealers, retailers and all other known to defendants, any and all originals, copies, facsimiles, performances or duplicates of :A Donde Voy" in their possession, custody or control.
- c. That defendants and their agents, employees, representatives, and all other firms, divisions or corporations in active concert or participation with said defendants be ordered to return to Plaintiff any and all originals, copies, facsimiles, performances or duplicates of :A Donde Voy" in their possession, custody or possession;
- d. That Defendants and their agents, employee, representatives and all other firms, divisions or corporations in active concert or participation either said defendant's be ordered to deliver under oath, to be impounded during the pendency of this action and destroyed to judgment herein all originals, copies, facsimiles, performances or duplicates of any work shown by the evidence to infringe any copyrights in the subject works;

- e. That defendants be ordered to file with the Court and to serve on Plaintiff within thirty (30) days after service of this Court's order as herein prayed, a report in writing under oath setting forth in detail the manner and form in which defendants have complied with said order;
- f. That judgment be entered for Plaintiff and against Defendants for actual damages, as well as for any and all profits attributed to infringement of Plaintiff's copyrights in accordance with proof;
- g. That judgment be entered for Plaintiff and against Defendants jointly and severally for statutory damages as provided by 17 U.S.C. sec. 504 C(2) based upon defendants willful acts of infringement;
- h. That Defendants be ordered to account for all gain, profits and advantages derived from the infringing acts and for their other violation of the law;
- i. That Plaintiff get judgment against defendant's for Plaintiff's cost and attorneys fees, as contemplated in 17 U.S.C. sec. 505;
- j. That judgment be entered against defendants determine that Plaintiff's moral rights in his work have been violated and pursuant to Puerto Rico Law 31 L.P.R.A. sec 1402 (f) , and the laws of each country where defendants have violated "Juan" moral rights, defendants be ordered to : (1) refrain from using, copying, displaying, performing and distributing Plaintiff's work; (2) pay damages to "Juan" and "Christian", and (3) to hand over to "Juan" and "Christian" for impoundment and destruction any and all copies, duplicates, facsimile of the work either under their control or in the control of their clients, affiliates, distributors, or any other person or entities acting in conjunction with under orders from defendants;

- k. That judgment be entered against defendants as requested in each of the causes of action pled in this complaint, and that defendants be ordered to pay Plaintiff the damages herein and therein requested under each of the causes of action, return any unjustly received income and profits, submit an accounting and pay interest, cost and attorney's fees;
- m. Any other remedy that this Honorable Courts deems just and proper.

Respectfully submitted in Ponce to San Juan, Puerto Rico this September 4th of 2018.

RESPECTFULLY SUBMITTED

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