

Lost in 1957, Litigated in 2026: The Copyright Risks Hidden in Older Creative Works

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Puerto Rican singer-songwriter Roy Brown spent decades setting the poems of celebrated nationalist poet Juan Antonio Corretjer to music. After Corretjer died in 1985, one of his heirs assigned the poems to Latin American Music Company (LAMCO), a music publisher that registered the works with the Copyright Office in 2000 and began claiming royalties on Brown's recordings. Brown sued, LAMCO countersued, and the parties have been in federal court in Puerto Rico for over twenty years across multiple rounds of litigation. The most recent chapter closed on August 12, when Judge María Antongiorgi-Jordán of the District of Puerto Rico issued a ruling on cross-motions for summary judgment – one which should be on the radar of anyone whose work involves older creative material.

The dispute over twelve of the thirteen poems turned on the Copyright Act of 1909, which governed all creative works published before January 1, 1978. Under that statute, publishing a work without a proper copyright notice was fatal to copyright protection, as the work entered the public domain immediately, with no opportunity to fix the mistake. LAMCO and Corretjer's daughter, Consuelo, tried to avoid this result by invoking the "limited publication" doctrine, which provides that sharing copies only with a specifically select group, for a limited purpose, and without allowing further distribution does not trigger the notice requirement. Corretjer was a politically persecuted dissident under FBI surveillance, and the claimants argued he kept his manuscripts within only a trusted circle of allies. They supported that theory with an affidavit from an administrator who had no personal knowledge of any of the events at issue, but the administrator's description of Corretjer, a political poet determined to reach as many sympathizers and spread his political ideas, undercut the claim that he was carefully restricting who could receive his work. The court granted summary judgment for Brown on all twelve poems. The thirteenth, "Boricua en la Luna" (a piece that functions as something close to a second national anthem for Puerto Rico), survived as a question for the jury. Brown claims Corretjer personally handed him the manuscript at a 1976 concert in Ponce and told him to set it to music. Under First Circuit law, this kind of exchange can establish an oral implied license. Even so, Brown is not out of the woods: issues regarding scope of permission remain, and an informal instruction to "set it to music" may not necessarily authorize decades of commercial recordings, printed lyrics, and album packaging.

For clients in the music and arts space, this case illustrates two risks. Pre-1978 creative works are governed by a legal framework that offered no safety net for a missing copyright notice. If the notice was absent when the work was first published, the copyright was lost, and no subsequent registration could claw back the rights. Anyone acquiring or asserting rights in older material needs to examine the original publication history before assuming protection exists. The case also highlights the danger of relying on informal permissions. A verbal authorization granted in a concert hall fifty years ago, with no surviving witness and a principal who has since passed away, may end up before a jury rather than settling the question cleanly, and even a favorable verdict may leave the scope of those rights unresolved.