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## US company loses Cuban music case

**A US company has lost a six-year legal battle to win the copyright to a number of Cuban songs, some of which were made famous by the Buena Vista Social Club.**

The High Court in London rejected a claim by Peer International Corporation that a 600-track catalogue was taken over by Cuba's government unlawfully.

The state-run Editora Musical de Cuba (EMC) countered that it had been trying to secure royalties for composers.

Peer said that it was "gratified" this particular allegation was rejected.

"In his judgment, Mr Justice Lindsay has exonerated the company of the serious charges lodged against it by EMC, and in so doing has vindicated our conduct and our reputation," the company said in a statement.

"While the court declined in its discretion to make any award of declaratory relief in the case, given the serious charges made against us, we are gratified by his substantive findings concerning the history and conduct of peermusic in Cuba."

### **Hundreds of musicians**

Many of the songs in question had been forgotten outside Cuba but the release of the Buena Vista Social Club album in 1997, followed by the film of the same name, brought Cuban music back into the limelight.

Mr Justice Lindsay, who had heard the case in Havana and London, ruled there was no evidence to show the composers had been cheated.

He said Peer may still have some rights over songs where the copyright existed for 25 years after the death of the composer, but it had asked for a wide declaration of ownership, which he had to dismiss.

In the 1930s, '40s and '50s, in the midst of a vogue for Cuban music in the United States, Peer signed up hundreds of Cuban musicians.

The judge said there was a long period when Peer, which closed its Cuban offices after Fidel Castro came to power in 1959, had no contact with the composers but it did try to re-establish contact in the late 1990s.

He said the original composers were all dead by then so the company tried to contact their heirs.

After 1998, Peer had tried to make amends over royalties after "38 years of nothing", he added.

Peter Prescott QC, representing Termidor Music Publishers, which was given direct rights from EMC, had told the judge that the contracts involving the 600 songs were all invalid because they were "cunningly contrived".

This had allowed the publishers to get away with paying the composers virtually nothing, he

claimed.

But Mr Justice Lindsay said whatever the allegations made by the EMC, he had heard no evidence of the circumstances surrounding the making of any of the original agreements.

He also said much of EMC's criticism was "exaggerated and unfounded".

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/1/hi/entertainment/6156052.stm>

Published: 2006/11/17 13:14:25 GMT

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#### UK: COURT DISMISSES MUSIC PUBLISHER'S CLAIM TO CUBAN SONGS

The High Court in London has dismissed an application by the US publisher Peer International Corp that it be awarded the copyright for a catalogue of Cuban songs appropriated by the Cuban government. Apparently the composers of the songs, who were signed by Peer before the communists came to power in Cuba, have received nothing for their work. Peer had sought legal redress from the state-owned Cuban firm Editora Musical de Cuba (EMC), while EMC had argued that the original contracts were void. The High Court judge said he was unable to oblige Peer in giving it "the sweeping ruling" it had wanted.

Related article: "Writers of Buena Vista hits were paid with a few pesos and rum, court hears" <http://tinyurl.com/yh6w79>  
Source: BusinessWeek, Nov 16, 2006  
<http://tinyurl.com/yft6to>

#### UK: UKPO SAYS THERE ARE NO MORAL GROUNDS FOR REFUSING WARF STEM CELL PATENT

The UK Patent Office (UKPO) recently issued its response to a request from the European Patent Office (EPO) for third-party submissions regarding an application from the Wisconsin Alumni Research Foundation (WARF) for a European patent that relates to human embryonic stem cells (EP 0 770 125). The EPO had refused the patent application on moral grounds and an appeal to the Technical Board of Appeal resulted in the referral of four questions to the Enlarged Board of Appeal. The UKPO maintains "that the EPO should not refuse to grant patents on moral grounds when there is no clear consensus among its contracting states on the morality of stem cell research and patenting. This would deny patent protection in those states where such technology is morally acceptable and allowable." Access the UKPO's response here <http://www.patent.gov.uk/warf.pdf>. For a brief overview of the UKPO's position, click here <http://tinyurl.com/ye3s4m>.

#### UK: SURVEY FINDS STRONG SUPPORT FOR EXTENSION OF COPYRIGHT PROTECTION PERIOD

A considerable number of British consumers (62%) agree that copyright protection for UK artists should be extended, according to the findings of a survey conducted by YouGov for the BPI, the British recording industry trade association. The British record industry is seeking to have the copyright period extended from the current 50-years to align with the US system, which has a 95-year copyright protection term. Only 20% of respondents said they did not agree that the copyright term should be the same as in the US, while 18% were "uncertain".

Source: IFPI Media Release, Nov 13, 2006

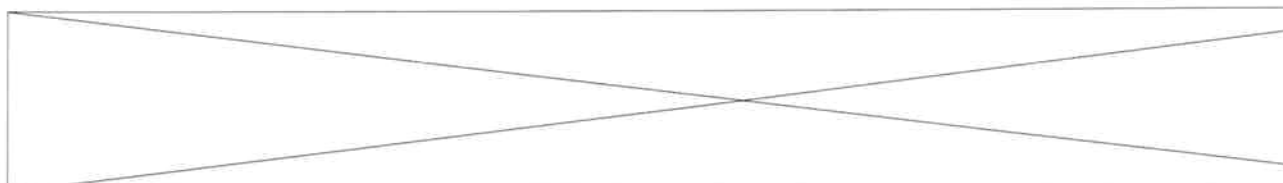
<http://tinyurl.com/ygaqb8>

BPI Media Release, Nov 13, 2006

<http://tinyurl.com/ylkske>

#### UK: COMPANY DROPS PORK PIE SUIT AFTER CONFIRMATION OF TRANSITIONAL RELIEF IN PGI BATTLE

Northern Foods has decided to drop its legal challenge to an application by the UK Department for Environment Food and Rural Affairs (DEFRA) to the European Commission (EC) for Protected Geographical Indicator (PGI) status for Melton Mowbray Pork Pies (MMPP). The company says that its decision follows DEFRA's confirmation that, if in the event the EC



THE ASSOCIATED PRESS November 16, 2006, 3:16PM EST

## Publisher loses Cuban copyright case

LONDON

An American music publisher on Thursday lost its legal bid to win copyright over 13 traditional Cuban "son" recordings that it claimed had been stolen by the island's communist authorities.

A judge at the High Court in London rejected the claim by U.S. publisher Peer International Corp. against Cuban state-owned publisher Editora Musical de Cuba.

The U.S. company had claimed that its entire catalog of around 600 titles had been unlawfully taken over by the Cuban government after Fidel Castro came to power in the 1959 revolution.

Lawyers for the Cuban company and Termidor Music Publishers -- a British-German firm that licensed the rights to the songs -- claimed that the songs' composers, signed up by Peer in the 1930s, 40s and 50s, had received almost nothing for their work.

"The composers in this case received nothing or, at most, a few pesos and maybe a drink of rum," lawyer Peter Prescott told the court earlier in the hearing.

Peer International said it had paid royalties to the composers until the revolution, when the U.S. trade embargo stopped all payments to Cuba.

During the long and complex case, judge John Lindsay traveled to Havana to obtain witness testimony from elderly musicians.

In his ruling, Lindsay called much of the Cuban company's criticism of Peer "exaggerated or unfounded."

The judge said Peer had tried to re-establish contact with the composers' heirs in the late 1990s, possibly as a result of the success of the "Buena Vista Social Club" album and film, which led to renewed interest in Cuban music around the world.

The judge said that while Peer might be able to claim copyright in some cases, he believed the company wanted a ruling that it could use as a test case for its entire Cuban catalog.

Lindsay said he could not grant the sweeping ruling of ownership the company sought, and dismissed the claim.

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# Writers of Buena Vista hits were paid with a few pesos and rum, court hears

**David Ward**  
**Wednesday May 11, 2005**  
**The Guardian**

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A court battle with Latin-American rhythms opened in London yesterday with two publishing companies clashing over the ownership of the copyright to music played by the Cuban band Buena Vista Social Club.

The argument centres on whether the composers of music that took the world by storm in 1997 were properly rewarded or, instead, received "at most a few pesos and maybe a drink of rum".

The plot is complicated by allegations that the Cuban publisher is under the direction and control of the Cuban ministry of the interior.

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In the high court, Peer International Corporation claims that its copyright to songs dating back to the 1930s has been

[widespread corruption](#)

unlawfully taken over by the Cuban government.

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But a Cuban company, Editora Musical de Cuba (EMC), says it is trying to salvage royalties from songs it claims have never made a penny for their impoverished writers. It says all the original contracts are void because they were "unconscionable bargains" not recognised in law.

Pushpinder Saini, representing Peer, told Mr Justice Lindsay that there had been a massive resurgence of interest in Cuban music since the Buena Vista film and album of 1997.

He said Peer, which owns the title track and a large number of other works featured on the film and album, had paid royalties to the composers until the Cuban revolution in 1959, when the US trade embargo stopped payments to Cuba.

Writers and composers living outside Cuba were paid and bank accounts were set up to hold funds for those who remained on the island. Many have now been paid since the US government relaxed its embargo in 1994, added Mr Saini.

"In recent years, the heirs of certain deceased authors have themselves approached Peer in order to continue to license to Peer for the future," he said. "But they have wished to minimise evidence of contacts because they, for good reason, fear the Cuban regime, which wishes itself to ensure that any US dollars to which such heirs have an entitlement are secured by EMC as part of the Cuban state."

He said all 14 authors mentioned in the action, all now dead, might have been poor when they signed with Peer. "But they were a well-educated and cultured group of people. Even if by western standards they were poor, they were not ignorant and were certainly aware of the value of their music."

So Peer had decided to sue Termidor Music Publishers, which claims exclusive rights through EMC, claiming it sought to register itself as owning the copyright of the songs in the UK.

"It is not clear whether EMC is part of the Cuban state or a private company operating in Cuba, but Peer believe it to be the former," said Mr Saini. "It is certainly agreed to be under the direction and control of the Cuban ministry of the interior."

For EMC, Peter Prescott QC said in papers submitted to the court that Peer's claims to the music of more than 600 Cuban composers were all invalid.

"We shall demonstrate that these contracts were so cunningly contrived as to allow the publishers to get away with paying the composers practically nothing," he said. "The composers in this case received nothing or, at most, a few pesos and maybe a drink of rum."

He would produce evidence to show that the composers received no royalties either before or after the revolution.

He said even after the embargo was relaxed, Peer obtained a licence to distribute pre-1988 royalties at no more than \$300 (now £160) per person "over time".

The hearing continues.

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