

Copyright Board
Canada



Commission du droit d'auteur
Canada

UNLOCATABLE COPYRIGHT OWNER
FILE 2022-UO/TI-15

Ottawa, August 25, 2022

Application by Rafael Leonardo Zaldivar La Rosa, Marieval, Québec for the reproduction of the musical works Ellegua and Obbatala

[1] The Copyright Board finds that the application does not meet the requirements of section 77 of the *Copyright Act* (the “Act”).

[2] In this regard, subsection 77(1) of the Act states that

[w]here, on application to the Board by a person who wishes to obtain a licence to use

- (a) a published work,
- (b) a fixation of a performer’s performance,
- (c) a published sound recording, or
- (d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be. [emphasis added]

[3] The Board can only issue a licence for works in which copyright subsists.

[4] Information available on the works indicate that the songs are ancestral Cuban-African folkloric chants which have been passed along for many generation. Therefore, it is reasonable to conclude that the works are no longer or might have never been protected by copyright.

[5] We conclude that these works are most likely part of the public domain and as such, no licence is required for their use in Canada.

Lara Taylor
Secretary General