



Neutral Citation Number: [2022] EWHC 1469 (IPEC)

Claim No: IP-2021-000010

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS & PROPERTY COURT OF ENGLAND AND WALES**  
**INTELLECTUAL PROPERTY ENTERPRISE COURT**

The Rolls Building  
7 Rolls Buildings, London  
EC4A 1NL

Date: Thursday, 10<sup>th</sup> February 2022

**Before:**

**HIS HONOUR JUDGE HACON**

**Between:**

**CAYMAN MUSIC LIMITED**

**Claimant**

**- and -**

**BLUE MOUNTAIN MUSIC LIMITED & ORS**

**Defendants**

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**MISS JACQUELINE REID** (instructed by **Briffa Legal Ltd**) for the **Claimant**

**MR IAN MILL QC and MISS HOLLIE HIGGINS** (instructed by **Russells Solicitors**) for  
the **Defendants**

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**APPROVED JUDGMENT**  
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**His Honour Judge Hacon:**

1. This is an application to strike out certain allegations in the Defence and Counterclaim. They are that alleged written agreements relied on in the Particulars of Claim are forgeries.
2. The claim is brought by a music publisher, which I will refer to as “Cayman”. Cayman seeks a declaration that it is the owner of copyright in the music and lyrics of 83 songs written by Bob Marley. The pleadings use the term “compositions” rather than songs, so for consistency I will too.
3. The claim to ownership is made by reason of a chain of nine alleged written assignments and a letter said to have been written by Mr Marley, thought to have been written in 1973. The assignments are on their face dated 1968, 1972, 1973, 1975, 1982, 1995, 1996, 2008 and 2020. Copies of the alleged agreements are annexed to the Particulars of Claim.
4. The First and Third Defendants are music publishers. The Second Defendant is a corporate vehicle used to hold assets used in business publishing and the Fourth Defendant is a company jointly owned by Mr Marley’s widow, Rita, and nine of Mr Marley’s heirs.
5. The defence to the claim is, in summary, that the alleged 1982, 1995, 1996 and 2008 assignments are all forgeries. The defendants also say that copyright in 77 of the 83 compositions in issue are owned by the Second, Third and Fourth Defendants in stated shares. They say that Cayman does not own copyright in the other six compositions either because they were not written by Mr Marley.
6. There is broad agreement that by reason of the 1968, 1972 and 1973 agreements a company called Cayman Music Inc owned the copyright in some of the compositions by 1973, although according to the defendants not all 83 of them. The real dispute starts with the 1975 assignment.
7. All the entities in the chain of title from 1975, beginning with the alleged assignment in that year from Cayman Music Inc to Copyright Service Bureau Limited, were associated with an individual called Danny Sims. Mr Sims was a businessman involved in the commercialisation of Afro-Caribbean music from the early 1960s. It seems he worked with Mr Marley until 1976, after which they went their separate ways.
8. Cayman Music Inc was a music publisher run by Mr Sims. Via the 1982 and 1995 assignments, and in particular the 1996 assignment, the copyrights are said to have come back to Mr Sims personally, albeit in part to Anansa Music Publishing Company, which apparently was a trading name adopted by Mr Sims. It is said by Cayman that by the 2008 assignment Mr Sims assigned the copyrights to BSI Enterprises Limited, an English company. The final link is the 2020 assignment from BSI to Cayman. This assignment is not alleged to be a forgery, but to be of no effect.
9. Before stating the grounds on which the defendants rely to support their allegation of forgery, I need to say more about the background facts and the way that Cayman puts its case.

10. Cayman has tried before in the English courts to claim ownership of copyrights in Bob Marley songs. In 2012 Cayman and BSI brought a claim to Marley copyrights, although not to any of the 83 now in dispute. The trial turned on whether a 1992 asset purchase agreement had transferred all copyrights then owned by Cayman Music Inc, without exception, to another party. If so, Cayman had no claim to any of the copyrights. Richard Meade QC, sitting as a deputy High Court judge, found that all copyrights had been transferred by Cayman Music Inc. His judgment was upheld in the Court of Appeal. Given that finding, the present claim could not rest on a chain of title which included Cayman Music Inc in 1992 after the transfer.
11. After judgment was handed down at first instance, BSI produced copies of the present chain of assignments by which the copyrights in the 83 compositions were not owned by Cayman Music Inc in 1992, thus circumventing the finding of Mr Meade. I should perhaps say that I do not use the word “circumventing” to imply wrong-doing. I intend only to indicate that the present claim is not inconsistent with Mr Meade’s finding.
12. Cayman say that the 1975 to 1996 assignments came to light in 2014 when a floppy disk was found on which they were stored. Normally it would have been possible to check the metadata on the disk, which would have assisted in authenticating, at the least, the dates of the documents. However, Cayman says that the disk was destroyed in a flood, along with the computers on which it was used.
13. Before the flood, Cayman say, the assignments were printed in about 2014. This is said to have been done by Ben Scholfield, the sole director and shareholder of Cayman. Mr Scholfield did not copy the files as such. In other words, the computer programs were not copied. Instead, what he did was print hard copies of the agreements. He then scanned the hard copies and sent the scanned images to Cayman’s solicitors. The consequence is that no original metadata has been preserved. There is nothing to prove that the assignments predate 2014.
14. The defendants infer forgery broadly for the following reasons. First, they say the assignments relied on only emerged after the finding of the High Court that Cayman could not rely on the 1992 assignment as part of its chain of title.
15. Secondly, they say that by then Mr Sims had died (he died in 2012), so he could not give evidence about the assignments in the current claim.
16. Thirdly, there are no original hard copies or electronic copies that the defendants can inspect for the reasons I have just given.
17. Fourthly, the defendants say that the schedule to the 1975 assignment lists twelve compositions which did not exist in 1975.
18. Fifthly, the defendants say that the 1975 assignment lists a work called “Iron Lion Zion”, which Mr Sims is unlikely to have known about at that time because it was only discovered among tape recordings, stored I think by Mr Marley’s widow at her house, and only discovered in 1992.
19. Sixthly, the defendants say that in 2008 Mr Sims described the works he assigned in 1975 as having been non-exploited titles. However, the defendants say, some of the

83 compositions in issue had been commercially released by then. The defendants rely on further detailed matters which they say are inconsistent with Mr Sims having assigned the 83 compositions in 1975.

20. Seventhly, in 1987 Cayman Music purported to grant to third parties certain rights under some of the 83 compositions when, according to Cayman's chain of title, Cayman Music Inc did not own the copyrights at the time.
21. With regard to the 77 compositions in respect of which the defendants say they own copyrights, the defendants have pleaded an alternative chain of title. Very briefly, they rely on the 1992 agreement which was central to the trial before Mr Meade and various other assignments by which they say copyrights in the 77 compositions which they claim came to be owned by the Second to Fourth Defendants in various proportions.
22. Cayman argues that the particulars of the alleged forgery pleaded by the defendants are inadequate and will prevent a fair hearing of the claim. Cayman makes two specific points. They say, first, that the defendants have not identified which element of each of the relevant assignments have been falsified. Secondly, they say that the persons responsible for the falsification of the documents has not been identified.
23. Cayman served a Part 18 request which, they say, elicited little. Cayman concludes that the defendants are deliberately keeping their powder dry and are not revealing their true case until trial.
24. I do not fully understand Cayman's complaint regarding which elements of the relevant assignments are said by the defendants to have been falsified. The defendants' pleaded case is that these documents were created after the dates of the assignments they purport to record and, therefore, the purported assignments recorded on the face of the documents must be false. In that sense, the defendants say all of these documents are forgeries.
25. I am not sure what more the defendants could say about the case they are advancing and I have no view at all as to whether the allegation of forgery is true. But it seems to me that the allegation is clear enough. Moreover, the allegation is not made out of thin air. I earlier summarised the pleaded reasons given by the defendants in support of their contention that the documents had been forged, in particular what they regard as the suspicious circumstances of the floppy disk and the manner in which the assignments were copied and then sent to Cayman's solicitors. I take the view that those reasons raise a sufficiently arguable case that it should go to trial.
26. I do not think there is much either in Cayman's second objection, that the persons responsible for the forgeries have not been identified. It would sometimes, perhaps often, be the case that a party claiming that documents have been forged is unable to identify the person responsible before trial and possibly not even then.
27. The defendants say they have done their best by pointing their finger at Mr Sims:  

"Mr Sims, an individual, or individuals acting on Mr Sim's instructions, and/or one or more individuals associated with or acting on the instructions of BSI or the claimant."

28. In the defendant's skeleton argument for this hearing they have spelt out a cast list of likely persons, namely, Mr Sims, Ben Scholfield and Brian and Helen Scholfield, who are and were officers of BSI. Again, I am not sure what more the defendants could say at this stage.
29. I was referred to a judgment of Arnold LJ in *Sofer v Swiss Independent Trustees SA* [2020] EWCA Civ 699. My attention was directed to paragraph 32. Arnold LJ had referred to an unreported judgment of Peter Gibson LJ in *Rigby v Decorating Den Systems Ltd* and continued:
- “[32] Whether or not it is technically binding, I see no reason to differ from Peter Gibson LJ's statement of principle. I do not doubt that, where an allegation of dishonesty is made against a body corporate, it is necessary to plead the relevant state of knowledge of that body at the relevant time. I do not accept, however, that a mere failure to identify at the outset the directors, officers or employees who had that knowledge means that such an allegation is liable to be struck out without further ado. Clearly such particulars should be given as soon as is feasible, and there may be situations in which the claimant's unwillingness or inability to give such particulars when requested to do so justifies striking out; but that is another matter.”
30. Miss Reid, who appears for Cayman, emphasised the word “inability” in the final sentence of paragraph 32. She submitted that if the party pleading corporate dishonesty is unable to identify individuals with relevant knowledge, it is appropriate to strike out the allegation of dishonesty.
31. I do not accept that this is what Lord Justice Arnold meant. In particular, where there is a pleaded allegation of forgery, I do not believe that an inability on the part of the party raising the allegation to identify the individuals responsible for the forgery means necessarily that the allegation must be struck out. As I have said earlier, it may be the case that it is not possible to identify the particular individuals concerned. Plausibly, that is the case here.
32. For the forgoing reasons, I decline to strike out the allegations of forgery.

**(Submissions re application to transfer claim follow)**

33. This is an application by the defendants to transfer this claim and counterclaim from IPEC to the general Chancery list. I set out the principles which should be applied in an application to transfer a case into or out of IPEC in *Kwikbolt Limited v Airbus Operations Limited* [2019] EWHC 2450 (IPEC):

“[3] In considering the merits of an application to transfer proceedings to the patents court CPR 63.18(2) requires that I must have regard to Practice Direction 30. I summarised the principles which cover transfer from IPEC to [another] list in the High Court in *77M Limited v Ordnance Survey Limited* [2017] EWHC 1501 (IPEC) beginning with para.9 of PD. I said this:

‘2. Next, practice direction 30, para.9:

'When deciding whether to order a transfer of proceedings to or from the Intellectual Property Enterprise Court the court will consider whether –

(1) a party can only afford to bring or defend the claim in the Intellectual Property Enterprise Court; and

(2) the claim is appropriate to be determined by the Intellectual Property Enterprise Court having regard in particular to –

(a) the value of the claim (including the value of an injunction);

(b) the complexity of the issues; and

(c) the estimated length of the trial.

9.2 Where the court orders proceedings to be transferred to or from the Intellectual Property Enterprise Court it may –

(1) specify terms for such a transfer; and

(2) award reduced or no costs where it allows the claimant to withdraw the claim'.

3. His Honour Judge Birss considered the relevant factors for transfer in *ALK-Abello Limited v Meridian Medical Technologies* [2010] EWPC 14, there in the context of the predecessor of the IPEC, that is to say the Patents County Court. He said this:

“[30] Pulling the various factors together, the points to consider are:- i) the financial position of the parties (s.289(2) 1988 Act). This includes but is not limited to considering whether a party can only afford to bring or defend the claim in a patents county court (para.9.1(1) Practice Direction 30). This factor is closely related to access to justice. The Patents County Court was set up to assist small and medium sized enterprises in enforcing and litigating intellectual property disputes. Guidance on the nature of these enterprises can be found from the Commission Recommendation 2003/361/EC.

ii) whether the claim is appropriate to be determined by a patents county court. This involves considering:

a) the value of the claim, including the value of an injunction and the amount in dispute. (Para.9.1(2)(a) Practice Direction 30 and CPR 30.3(a))

b) the complexity of the issues (para.9.1(2)(b) Practice Direction 30 and CPR 30.3(d))

c) the estimated length of the trial. (Para.9.1(2)(c) Practice Direction 30). Related to this is CPR 30.3(b) - whether it would be more convenient or fair for hearings (including the trial) to be held in some other court.

iii) the importance of the outcome of the claim to the public in general (CPR 30.3(e)) albeit that a case raising an important question of fact or law need not necessarily be transferred to the Patents Court (s.289(2) 1988 Act).

[31] A factor which does not play a role is the one in CPR Pt 30.3(c) (availability of a judge specialising in the type of claim in question) since specialist judges are available in both courts.

[32] Once those factors are considered I must bear in mind what sort of cases the Patents County Court was established to handle and that its role is to provide cheaper, speedier and more informal procedures to ensure that small and medium sized enterprises, and private individuals, were not deterred from innovation by the potential cost of litigation to safeguard their rights. The decision turns on what the interests of justice require, taking into account both parties interests and interests of other litigants.”

4. Judge Birss expanded on what he had said in para.30 of *ALK-Abello*, with regard to the financial position of the parties, in *Comic Enterprises Limited v Twentieth Century Fox Film Corporation* [2012] EWPC 13. He said this:

“[21] This case is one in which access to justice for SMEs is raised squarely. It is the key element of Miss McFarland's submissions that her client should stay in the PCC. Mr Malynicz submitted it was in effect just another factor to be weighed up like all the others. (I should note he does not accept the evidence on the point but I will deal with that below.) On the issue of principle, in my judgment Mr Malynicz is wrong. The Patents County Court has a specific role to improve access to justice for smaller and medium sized enterprises in the area of intellectual property. I described access to justice for small and medium sized enterprises as a ‘decisive factor’ in *Alk-Abello* (para.55) and I stand by that observation.

[22] However cases in which an SME seeks to sue a large defendant were always obviously going to present particular problems for a specialist court for small and medium sized enterprises in intellectual property matters. The fact that an IP right is held by a small claimant does not mean that the defendant will conveniently be a small enterprise as well. In the past small claimants were concerned that they could not afford to fight in the High Court and, more importantly, could not afford to lose. The costs order would bankrupt the company. The PCC's cost capping system deals with this problem and caps the claimant's

downside costs risk at £50,000. That is one of the ways in which the PCC facilitates access to justice.

[23] Many smaller business people perceive that their intellectual property has been stolen by large corporations. Hitherto there was little they felt they could do about it. The PCC is by no means intended to be a panacea but it is intended to be a forum to facilitate access to justice for smaller IP rights holders and for that matter smaller organisations accused of infringing IP rights as well.

[24] So what is the court to do when faced with a small claimant suing a large defendant? One thing is plain. As I have said already each case depends on its facts. A small claimant does not have an unfettered right to stay in the PCC regardless of the nature of the case any more than a large defendant has an unfettered right to demand that it be sued in the High Court.”

5. He also went on to say this:

“[48] I remind myself that the ultimate objective of an order for transfer is to do justice between the parties. The argument that the case should remain in the Patents County Court is a powerful one. Access to justice for SMEs is capable of being a decisive factor having regard to the purposes for which the Patents County Court was set up. The claimant in this case would be severely affected by an adverse costs order in the High Court. However set against that is the nature of this case itself and its value”.

6. On the facts in *Comic Enterprises*, Judge Birss was concerned with the behaviour of the claimant, the party opposing transfer out of the Patents County Court:

“[55] I believe the decisive factor in this case is the claimant's approach to the litigation despite its being an SME. The claimant is not approaching the case as if it is a Patents County Court claim. The claimant's approach has been to run this case as a full scale High Court style action with a claim for an injunction with catastrophic consequences for the defendant. Since that is the claim the claimant wishes to advance, the correct forum in which to do it is the High Court.”

7. In *Environmental Recycling Technologies* [2012] EWHC 2097 (Pat), Warren J referred to para.48 of *Comic Enterprises* and said this:

“[56] Ms. Lawrence submits that the financial position of the parties is determinative. I think she gets that proposition in the sense that when an SME wants the Patents County Court and is poor, the factor is decisive and that was indeed what Judge Birss said. If you have a very poor defendant, SME or individual who wants a case in the Patents County Court, that is a decisive factor.



For my part I would not say it was decisive but it is obviously an enormously important factor and may overwhelm others.

[57. But even Judge Birss did not mean to be as prescriptive as that. For him, as is obviously correct, the overriding matter is the justice of the case and access to justice. It does not follow, and it is illogical, that just because a party can afford High Court litigation means that the case must be in the High Court (other factors pointing in that direction) especially if the party is an SME or individual'.

8. Mr. Riordan reminded me of the cautionary note provided by Judge Birss in *Destra Software Limited v Comada (UK) LLP* [2012] EWPC 39. This was a case concerning a dispute about computer software. The judge recognised that it could be factually complicated, but he said this at paragraph 34:

“[34] However, in fact at the moment we do not know whether this case will be anything like as complicated as it might seem. That will depend on the process of disclosure and rounds of pleadings which are inevitable in a software copyright case. Although it sounds complicated, in fact it is inevitable that copyright cases of this kind have to be looked at this way. They do require more management than other intellectual property cases.”

[4] I will make some general observations before considering the facts of the case. First, I must take into account the complexity of the issues and the estimated length of trial. As these two issues are related, it will usually be the case that if a trial can be heard in two or at the most three days it will be of a complexity that makes it suitable for hearing in IPEC.

[5] There are some proceedings which have far too many issues and would plainly take too much time at trial to be heard in IPEC. Where that is the case, even important matters such as access to justice cannot assist a party who wants the case heard in IPEC. Unsurprisingly, applications to transfer into or out of IPEC rarely concern such cases. More characteristically, one side insists that the case will take four, five or six days, whereas the other side has no doubt that the trial can easily be completed within two. In assessing the time that the trial is likely to take, the court must take into account the extent to which the proceedings can fairly be case-managed to focus the issues between the parties, which will include preventing a proliferation of issues which are marginal at best and may even have been raised to improve the chances of having the case transferred out of IPEC or to resist it being transferred into IPEC.

[6] Secondly, if the proceedings are of a nature such that they can be heard fairly within two or three days, possibly following some focussing of the issues, by far the most important factor is to ensure that parties with limited financial means are afforded access to justice. I refer to the authorities cited in the passage from *77M* which I have quoted above. Where access to justice is

likely to be possible only if the proceedings are in IPEC, that is a very powerful factor in favour of having the case heard in IPEC.

[7] Thirdly, the value of the claim should not be confused with the cap on damages which applies in the IPEC. To take an example, it is possible that an injunction would cut the defendant's market share and increase the claimant's share such that the value of the injunction is well in excess of £500,000. However, it does not follow that the high value of a claim by itself means that it cannot be heard in IPEC. It would make no sense at all if an impecunious claimant could never seek to enforce his right in IPEC solely because the claimant can show that the injunction could have a large financial impact. Access to justice always remains important.

[8] That said, the value of the claim, including the likely financial impact of the injunction, is of course relevant, and sometimes will be a matter of significance. Generally, that will be the case because a defendant who is facing the possibility of an injunction which could have high financial consequences will have a proportionately greater entitlement to ensure that all these reasonable arguments in their defence are taken. I emphasise that the arguments must still be reasonable in the circumstances.”

[9] Fourthly, the approach to the litigation taken by the parties seeking to have the case heard in IPEC is relevant. As Judge Birss said in *Comic Enterprises*, [if] the claimant pleads and otherwise approaches a case in a manner more appropriate for a case in a list outside IPEC, that case is liable to be transferred out of IPEC.”

34. Ian Mill QC, who with Hollie Higgins appears for the defendants, made the preliminary point that this is a fraud case and for that reason alone is not appropriate for hearing in IPEC. He said the reason was that fraud cases cannot be sensibly heard in IPEC since they involve detailed issues of fact which are not appropriately dealt with according to IPEC's streamlined procedure. He argued that this claim, as is characteristic of fraud cases, contains too many issues to be heard in IPEC and will occupy the court for six days.
35. In a judgment I gave earlier this morning I outlined the issues in this case and I will not repeat them here. The defendants have identified the following factual disputes.
36. First, whether twelve of the compositions were composed before or after 1<sup>st</sup> December 1975.
37. Secondly, whether nine of the compositions can properly be said to have been exploited commercially before 1975.
38. Thirdly, the likelihood that Mr Sims would have known about the composition “Iron Lion Zion” before a recording of it was found in 1992 among Mr Marley's personal recordings.
39. Fourthly, whether certain of the compositions are the same as others but known under a different name.

40. Fifthly, whether six of the compositions were not written by Mr Marley at all.
41. Also, of course, the court will have to explore the facts surrounding the chain of title relied on by Cayman, including the allegations of forgery, and the chain of title relied on by the defendants.
42. The defendants say that they will need to call six witnesses to deal with these matters and Cayman has indicated that it wishes to call four. The defendants also say that they would wish to call an expert musicologist to deal with the fourth and fifth issues of fact I have just mentioned.
43. Cayman argues, rightly, that access to justice is a very important factor to be taken into account. Cayman says that it could not afford to litigate in the Intellectual Property List. Evidence was given by Ben Scholfield, who is the sole director and sole shareholder of Cayman. He exhibits Cayman's accounts for the last few years, which confirm that it is a microenterprise with limited financial resources.
44. I would make this observation in respect of that evidence. The defendants filed their application to transfer on 26<sup>th</sup> November 2021. Mr Scholfield's evidence as to Cayman's financial state was not filed until 4<sup>th</sup> February 2022, six days ago. Mr Scholfield in his second witness statement says that the delay was due in part to he and his family having contracted Covid in January 2022. I sympathise with Mr Scholfield and his family, but it leaves December unexplained. Also, Mr Scholfield does not say that he was unable to speak to anyone else, such as his solicitor, who could have provided the relevant financial evidence. The delay matters because the financial evidence advanced by Cayman was likely to be put into dispute. Had Mr Scholfield's evidence been filed much sooner, the relevant points could have been properly explored by the defendants in good time if they wished to do so. As it is, the financial evidence was produced in something of a scramble so that it is difficult to get a completely accurate picture.
45. Until just before this hearing the claimant had filed no evidence at all about the financial resources of BSI or Brian Scholfield, Ben's father. In his second witness statement Mr Scholfield says that BSI is now used by his father just to earn a consulting fee and that his parents have very limited financial means, although there was no documentary evidence produced such as bank statements.
46. The defendants point out that Ben Scholfield owns a Saville Row retailer which apparently recorded six figure profits. In his second witness statement Mr Scholfield says that the retailer has been hit by the Covid pandemic and is shortly to go into liquidation.
47. The defendants point out that no evidence was given by Cayman about the possibility of their obtaining after the event insurance. In his recent witness statement Mr Scholfield says that he anticipated that the premium for ATE insurance would be beyond Cayman's financial reach.
48. Finally, the defendants point to Mr Scholfield's evidence that he has a 12.5 percent share in a song recorded by Lady Gaga and Arianna Grande which has enjoyed very great commercial success. Mr Scholfield says that the song will be worth about £100,000 to him and that this will be used to fund this litigation, together with a loan

of £50,000. The defendants say that Mr Scholfield is very likely to obtain much more than £100,000 from a song which has had that level of success. Mr Scholfield has now exhibited two royalty statements. There was some doubt about whether the first is directly relevant. Mr Mill also submitted that the second statement was for a limited six month period and excluded the third and fourth quarters of 2021 when a rather greater income might be expected.

49. It seems to me that I cannot be sure how much money has been, or will be, received by Mr Scholfield by reason of what was agreed to be a very successful hit song. I am not in a position to resolve how much Mr Scholfield will receive.
50. There is one final point on Cayman's capacity to fund litigation outside this court. Cayman's solicitors estimate that if this case is heard in the general Chancery list the defendants' costs would be in excess of £1 million. Mr Mill told me that the defendants' costs are accurately estimated at about £480,000. It is, therefore, at least possible that Cayman's fears about its ability to afford litigation in the Intellectual Property list are somewhat exaggerated.
51. I can make no finding about Cayman's ability to raise funds to bring this case in the general Chancery list. I can say only that there is some reason to doubt that it could not.
52. However, in my view, Cayman's resistance to this case being transferred to the general Chancery list falls at the first hurdle. The factual issues raised are too many and too involved for the trial to be heard fairly in two, or even three days.
53. Cayman has helpfully and properly made suggestions as to how the case could be streamlined. First, it is said that the claim could go forward by selecting three sample compositions to represent the 83. I do not believe that would work. There are too many variations in issues arising in relation to each of the compositions. It may be possible to identify groups of compositions which cover all variations, but there would be a large number of groups and I doubt that it would cut down the number of factual matters to be explored.
54. Secondly, Cayman proposes hearing the claim and staying the counterclaim. That would not work either. The claim alone raises too many issues. Also, the counterclaim is relevant to the claim. If the court finds the defendants' claim to ownership is persuasive that will have some bearing on whether Cayman's proposed chain of title is to be accepted.
55. Thirdly, Cayman proposes considering the 1975 agreement in isolation. That would not establish Cayman's title and would be likely to increase the overall costs.
56. It is not correct to say that issues of fraud cannot be raised in IPEC, they can. However, I do not think that this case, which is almost entirely about alleged forgery, is suitable for this court. It is very much to be regretted if, as a consequence of the transfer out of IPEC, Cayman is denied access to justice. I am not completely convinced that on the evidence I have that access will be denied. But in any event it is a case which raises a large number of issues and may turn on the assessment of the credibility of several individuals who can shine a light on Cayman's claimed chain of title.

57. I would add this: the claim and counterclaim are very largely about alleged fraud. It is true that they are, in a larger sense, concerned with the ownership of copyright, but none of the usual points of copyright law fall to be determined. This is not really an IP case.
58. For those reasons, I do not believe that this court is the appropriate forum for the trial of this claim. I will, therefore, transfer the claim and counterclaim to the general Chancery list.

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**This judgment has been approved by the Judge.**