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Brazilian nonprofit suing Google over mapping project

By Eli Wolfe
Daily Journal Staff Writer

A small Brazilian nonprofit group is taking technology giant Alphabet Inc.-owned Google to court for allegedly not giving the organization credit for helping to map some of Brazil's most notorious slums.

Robert J. Muller, a partner at Cypress LLP who represents Grupo Cultural AfroReggae, filed an amended complaint last week against Google and Google Brasil Internet LTDA for failing to credit the organization for supporting a project to map favelas in Rio de Janeiro. *Grupo Cultural AfroReggae v. Google Inc., et al.*, 16CV300259 (Santa Clara Super. Ct., filed Feb. 6, 2017).

The complaint follows closely on the heels of an order made by Santa Clara County Superior Court Judge William Elfving on Jan. 27, which struck down Google's demurrer to the four causes of action in the original complaint, which included breach of a joint venture agreement, breach of implied joint venture agreement, unfair competition, and breach of fiduciary duty.

Elfving upheld Google's motion to strike AfroReggae's request for punitive damages.

"Google's attempt to avoid the obligation we alleged in the complaint by way of the demurrer has been rejected by the court, so we're off and running," said Muller, noting that he has demanded a jury trial.

AfroReggae's complaint stems from a digital mapping project that it began in 2012.

Google joined the project in 2014 and began revamping the map's website, Tá No Mapa, or "On the Map," which was later changed to Além do Mapa, or "Beyond the Map."

According to Muller, Google and AfroReggae collaborated extensively in the months leading up to the 2016 Summer Olympic Games in Rio de Janeiro with the goal of bringing greater public attention to the favelas.

The complaint claimed that when Google launched the new site, it did not include partnership credits for AfroReggae, nor did it mention the organization in its extensive marketing campaign.

Muller characterized this as a slap in the face for the organization, which developed the original idea for mapping Rio's slums and gave critical logistical support to Google's staff in safely entering and mapping 25 favelas.

"It's pretty unusual when you think about it, a nonprofit organization complaining that Google essentially cheated them," Muller said, noting that Google later offered to give AfroReggae "made with the help of" credit.

"We are not complaining that there was some money due for services we didn't get paid for ... the complaint is essentially about the failure to give credit for ideas," he added.

Attorneys from Durie Tangri LLP, which represents Google, did not respond to requests for comment.

David Schneider, a partner at Nolan Heiman LLP who handles contract negotiations and who is not involved in the matter, said

oral contract suits are often difficult to prove and that a judge or jury will likely have to determine whether a meeting of the minds occurred based on the credibility of witnesses.

He added that this may pose a challenge for AfroReggae because it's relatively unknown in California, as opposed to Google, which is a recognized institution in the region and is dealing with a case in what amounts to its own backyard.

"I suspect this is a case that will settle long before it goes to trial," Schneider said. "What they're fighting for is important for the plaintiffs, but it's a relatively minimal issue where credit is more important than the issue of money."

Lisa Holder, a Los Angeles-based attorney who teaches the civil rights and police accountability clinic at UCLA School of Law, said that while credit seemed to be the paramount concern for AfroReggae, the unfair competition cause of action highlights a deeper grievance against Google.

"There is an important historical aspect in this that should be highlighted ... the context of colonialism, post-colonialism and neo-colonialism," Holder said. "You have this organization that is trying to create opportunities in a poorer country and then you have a juggernaut like Google that's going in and [allegedly] taking their intellectual property."

Holder commented that this is obviously not evidence that could support AfroReggae's claims, but noted that it could be useful as a sympathetic backdrop for the case if it goes to trial.