

King v. CBS

IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ESTATE OF MARTIN LUTHER KING, JR., INC.,  
Plaintiff,  
v.  
CBS INC.,  
Defendant.

CIVIL ACTION

FILE NO. 1 96-CV-3052

COMPLAINT FOR COPYRIGHT INFRINGEMENT - JURY DEMANDED

JURISDICTION AND VENUE

1.

This is an action for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. Sec. 101 et. seq. This court has jurisdiction of this action under 28 U.S.C. Secs. 1331 and 1338(a).

2.

Defendant resides or may be found in this district and venue is proper in this district under 28 U.S.C. Secs. 1391(b) and 1400(a).

PARTIES

3.

Plaintiff, the Estate of Martin Luther King, Jr., Inc. (the "Estate"), is a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Atlanta, Georgia.

4.

Upon information and belief, Defendant, CBS Inc. ("Defendant"), is a New York corporation with its principal place of business located at 51 West 52nd Street, New York, New York. Defendant resides in this district.

BACKGROUND FACTS

5.

The Estate is, and at all times relevant to the matters alleged in this complaint has been, the owner of the copyrights in various speeches and other literary works by Dr. Martin Luther King, Jr. ("Dr. King"). Among those works, the copyrights in which are owned by plaintiff, is the speech titled and universally known as "I Have a Dream," delivered by Dr. King on the afternoon of August 28, 1963, before some 200,000 people gathered before the Lincoln Memorial in Washington, D.C.

6.

The historic "I Have a Dream" speech was instantly acclaimed throughout the world and is heralded today as one of the greatest orations of the Twentieth Century. The immediate reaction to the speech is, perhaps, best summarized by an article that appeared on the front page of The New York Times by James Reston, former Chief of the Times Washington Bureau, the day following Dr. King's 1963 delivery:

"I Have a Dream" he cried again and again. Each time the dream was a promise out of our ancient articles of faith: Phrases from the Constitution, lines from the great anthem of the nation, guarantees from the Bill of Rights, all ending with a vision that they might one day all come true.

\* \* \*

Dr. King touched all of the themes of the day, only better than anybody else.

7.

On or about September 3, 1963, Dr. King registered his "I Have a Dream" speech with the U.S. Copyright Office, by mailing a copy of the speech, along with an application form and check for the requisite registration fees, to the Copyright Office. Dr. King registered his work as a "Lecture or Similar Production Prepared for Oral Delivery" - the category established by the Copyright Office for speeches. In fact, ultimately three different versions of Dr. King's "I Have a Dream" speech were registered with the Copyright Office to protect against unlawful infringement by those seeking to profit from his writings. Copies of the Registrations of Copyright as issued by the U.S. Copyright Office under Registration Numbers 16099, 653834, and 688840 are attached as Exhibits A, B, and C, respectively.

8.

In the years immediately after the speech was delivered, would-be profiteers attempted to pirate Dr. King's copyrighted work for their own financial gain. In October of 1963, less than two months after the Washington March, Dr. King was forced to sue a record company for selling phonographs of "I Have A Dream." In ruling for Dr. King, a federal court in New York observed that once a speech by someone "in the forefront of public life" has been delivered and the "immediate news importance has passed," the speech belongs "appropriately to [the] creator." *King v. Mister Maestro Inc.*, 224 F. Supp. 101, 107 (S.D.N.Y. 1963).

9.

Dr. King's copyrighted works are part of his legacy, and Dr. King recognized the importance of protecting his copyrights in his writings. According to records in the Library of Congress, prior to his death Dr. King personally registered his copyrights in many other speeches, books, sermons and articles, including his 1965 "Address at the Conclusion of the Selma to Montgomery March" and his 1967 "Declaration of Independence from the War in Vietnam."

10.

On December 6, 1991, Coretta-Scott King, as administratrix for the Estate of Dr. King, renewed the claims of copyright reflected in the three Registrations of Copyright for the "I Have a Dream" speech pursuant to the provisions of 17 U.S.C. Sec. 304. Copies of the Certificates of Renewal Registration as issued by the U.S. Register of Copyrights to Ms. King are attached as Exhibits D, E, and E.

11.

The Estate is currently, and at all times relevant has been, the proprietor of the copyrights in the speech "I Have a Dream," which has been produced and distributed in conformity with the provisions of the Copyright Act of 1976 and all of the laws governing copyright.

12.

Although the Estate and the King family strive to protect Dr. King's copyrighted works from unauthorized, for-profit misappropriation, the Estate and the King family historically and routinely have permitted schools, charities, and other non-profit organizations to use Dr. King's copyrighted works on a royalty-free basis.

13.

Defendant is a diversified television entertainment company with operations throughout the United States.

14.

On information and belief, Defendant, directly or through a licensee, agent or assign, has produced, distributed and performed, and continues to produce, distribute and perform, for the home video, television and other commercial markets, a video cassette tape (the "Tape Product") that contains and reproduces the great majority and the heart of the copyrighted "I Have a Dream" speech. On information and belief, Defendant sells or authorizes the sale of videocassette copies of the Tape Product for profit and licenses its exhibition for profit through commercial television.

15.

Defendant never obtained permission from the Estate to market and exploit to the home video or television industries copies of the "I Have a Dream" speech by means of the Tape Product. No fee was paid and no acknowledgment of the Estate's copyrights was included, as required by the Estate as a condition of any such publication or exploitation. A copy of the Tape Product is attached as Exhibit G.

16.

On information and belief, Defendant routinely registers and vigorously enforces its own copyrights. In fact, Defendant and its subsidiaries have brought copyright infringement actions when their own works were infringed.

17.

Defendant's violation of Plaintiff's copyrights in the "I Have a Dream" speech is contrary to Defendant's scrupulous efforts to protect and enforce its own copyright interests. Ironically, Defendant's Tape Product itself begins with a "WARNING" to all viewers that unauthorized reproduction of the program contained within would constitute a violation of federal criminal law.

18.

Exacerbating Defendant's wrongful conduct is the fact that, without so much as acknowledging Dr. King's registered copyrights in his "I Have a Dream" speech, which constitutes the focal point of one of the documentaries in Defendant's Tape Product, Defendant includes its own notice of copyright at the conclusion of the program, suggesting that Defendant is the owner of the copyrighted material contained in the Tape Product.

19.

Defendant, directly or through a licensee, agent or assign, knowingly and willfully copied, distributed and performed for profit the "I Have a Dream" speech, and continues to engage in these acts.

20.

On information and belief, the Estate has lost and will continue to lose revenues from the sale of unlawful copies of the Tape Product containing the "I Have a Dream" speech. Defendant's wrongful conduct also has deprived and will continue to deprive the Estate of opportunities for licensing its copyrights and expanding its goodwill and has and will create the false and damaging impression that the work "I Have a Dream" is without copyright protection and may be copied and exploited freely.

21.

On information and belief, Defendant, directly or through a licensee, agent or assign, continues to reproduce, distribute, perform and offer for sale, unlicensed copies of the Tape Product, despite demands by the Estate and its counsel that Defendant account to the Estate and enter into a license as a condition for such further activity.

22.

The natural, probable and foreseeable result of Defendant's wrongful conduct has been and will continue to be to deprive the Estate of the benefits of licensing its copyrights and other products, to deprive the Estate of goodwill and to injure the Estate's relations with present and prospective licensees.

23.

As a direct and proximate result of the acts of Defendant alleged above, the Estate already has suffered irreparable damage and sustained lost revenues. The Estate has no adequate remedy at law to redress the injuries that Defendant has caused. The Estate will continue to suffer irreparable damage and sustain lost revenues until Defendant's actions alleged above are enjoined by this court.

24.

By its actions alleged above, Defendant has infringed and will continue to infringe the Estate's copyrights in the speech "I Have a Dream" by producing, distributing, performing and placing upon the market direct copies of the work in its Tape Product.

25.

The Estate is entitled to an injunction restraining Defendant, its officers, agents and employees, and all persons acting in concert with them, from engaging in any further such acts in violation of the copyright laws.

26.

The Estate is further entitled to recover from Defendant the damages, including attorneys' fees, it has sustained and will sustain, and any gains, profits and advantages obtained by Defendant as a result of Defendant's acts of infringement alleged above. At present, the amount of such damages, gains, profits and advantages cannot be fully ascertained by the Estate.

#### REQUEST FOR RELIEF

WHEREFORE, the Estate requests judgment against the Defendant as follows:

1.

That the court find that Defendant has infringed the Estate's copyrights in the speech "I Have a

Dream."

2.

That the court find a substantial likelihood that Defendant will continue to infringe the Estate's copyrights in the speech "I Have a Dream" unless enjoined from doing so.

3.

That Defendant, its officers, directors, agents, servants and employees, and all other persons in active concert, privily or participation with them, be enjoined from directly or indirectly infringing the Estate's copyrights in the speech "I Have a Dream," or any works derived or copied from it.

4.

That Defendant be ordered at its expense to affix to each copy of the Tape Product in its inventory, and upon all other copies in its possession, custody or control, a notice in a form, format and location to be approved by this court, listing all speeches of Dr. King copied in whole or in part by Defendant, and informing Defendant's customers that the speech "I Have a Dream" and all such works of Dr. King are protected by copyright, and that permission to reprint such speeches and works of Dr. King, or significant portions thereof, must be secured in writing from the Estate or its authorized representative.

5.

That Defendant be required to account to the Estate and this court as to the disposition, and the proceeds therefrom, of all copies of the Tape Product, and any other infringed or compromised works or properties of the Estate.

6.

That Defendant be required to account to the Estate and this court for all gains, profits and advantages derived from its acts of infringement of the speech "I Have a Dream" and any other works of the Estate.

7.

That judgment be entered for the Estate and against Defendant for the Estate's actual damages according to proof, and for any profits attributable to infringements of the Estate's copyrights, in accordance with proof.

8.

That judgment be entered for the Estate and against Defendant for statutory damages in the amount of \$100,000 for each violation based upon Defendant's acts of infringement, pursuant to

the Copyright Act of 1976, in particular 17 U.S.C. Sec. 504(c).

9.

That the Estate have judgment against Defendant for the Estate's costs and attorneys' fees as authorized by the Copyright Act of 1976, in particular 17 U.S.C. Sec. 505.

10.

That the Estate have a trial by jury on all issues triable to a jury.

11.

That the court grant such other, further and different relief as the court deems proper under the circumstances.

Dated: November 19, 1996

Respectfully submitted,

/s/

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Georgia Bar No. 046000

/s/

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/s/

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