

IWDM Intellectual Property Update

February 18, 2016 Court Hearing

By Mubaashir Uqdah

On February 18, 2016, a hearing was held regarding the Settlement Agreement between Shirley Mohammed (estate administrator-defendant) and Wallace Mohammed II (plaintiff) and Khadijah Siddeeq-Mohammed (Intervener in Opposition). The lawyers for Shirley, Wallace II and Khadijah each presented their arguments concerning the agreement. Wallace and Shirley's lawyers argued in favor of the agreement, while Khadijah's lawyer opposed it.

An important fact that came out of the hearing was that ownership of the Intellectual Property (IP) is retained by the Estate and could not be sold by Wallace II, per the agreement, but that he could only sell his exclusive rights for the duration of his exclusive license (thru the year 2032). It should be noted that the Settlement Agreement gives complete control and authority (defacto ownership control) to whoever possesses the exclusive license.

After hearing the arguments from the attorneys, the judge expressed concern about the appeals committee that is described in the agreement. He wanted to know why Khadijah could not be included on the appeals committee and he instructed all parties to file a response to his concern within 7 days. The three lawyers essentially reiterated their original viewpoints regarding the appeals committee, with the lawyers for Shirley and Wallace II reaffirming their opinion that the appeals committee is sufficient as it stands and Khadijah's lawyer emphasizing that placing her on the appeals committee does not change the structural bias of the appeals committee and does not address the real issues raised by her opposition—which is fundamentally that the Intellectual Property should be seen as belonging to the community of Imam Mohammed, with the family (estate) acting as its custodians on behalf of the community.

Therefore, the community should have role to play in how the Intellectual Property (IWDM Knowledge Body) is governed and managed. In other words, even though legally the

family (estate) may not have to include the community of Imam Mohammed in their decisions, Khadijah argues that ethically they should, because the Imam's community are inheritors of his work also and just as Shirley and Wallace can agree to make an agreement, the family members could also agree to give the community a place in the agreement should they choose to. To give Khadijah a place on the appeals committee does not address the primary concern.

The judge's concern with the appeals committee is that it is comprised of 3 members, one of which is chosen by Shirley and the other by Wallace II. Those two members would then pick a third member. Even if Khadijah was the third member, she would still be outnumbered by Wallace's and Shirley's chosen members. The judge was concerned that this was biased not only to Khadijah, but to the other heirs.

So, after reviewing the responses of the attorneys, the judge gave the following order:

ADMINISTRATIVE ORDER

THIS MATTER COMING BEFORE THE COURT seeking approval of a Settlement Agreement between plaintiff Wallace D. Muhammed II and defendant Shirley Mohammed as Administrator of the Estate of Wallace D. Mohammed; the Intervenor Khadijah Siddeeq objecting thereto:

IT IS HEREBY ORDERED:

1. The parties shall submit statutory and/or case authority that allows or prohibits the Administrator of an Estate that is the owner of intellectual property from granting an exclusive license to another person or entity without either unanimous or majority consent of all the heirs of the estate;
2. The court also seeks comment from the parties regarding an expansion of the committee structure proposed in ¶ 4.6 of the Settlement Agreement to five (5) members. The committee members would consist of:
 - a. One person selected by the Administrator of the Estate;
 - b. One person selected by Wallace D. Muhammed II;
 - c. One person selected collectively by the remaining heirs;
 - d. One person selected by the denied sub-licensee;
 - e. One person selected by the administrator of the estate, Wallace D. Muhammed II, and the remaining heirs by agreement, or if necessary by the court.
3. The submissions are due on or before March 22, 2016 with courtesy copies due to the court and to the opposing parties on the same day.

JUDGE DAVID B. ATKINS

ENTERED: MAR 08 2016

Circuit Court-1879

Judge David B. Atkins

So, we shall wait to see what transpires on March 22nd.

Mubaashir Uqdah
IWDM Study Library Administrator

END