

UNDERSTANDING THE IMAM W. DEEN MOHAMMED INTELLECTUAL PROPERTY CASE AND ITS POTENTIAL IMPACT ON US

By Mubaashir Uqdah

The majority of you who identify as members of the Community of Imam W. Deen Mohammed are aware that since the passing of Imam Warith Deen Mohammed, his estate has been in probate court. However, most of you are not aware of the details of the case and if it is relevant to you at all. After all, isn't it just a typical family dispute that is so common after someone's death, particularly someone prominent with substantial assets to be inherited, managed or distributed amongst the heirs of an estate? This is especially true where there is no will with clear instructions.

This case and its significance for the community of people who identify as followers of Imam W. Deen Mohammed has not been adequately reported for a variety of understandable reasons: such as, the sensitive and potentially volatile nature of the case, the amount of research, time, and energy required to obtain and understand the facts, the ability to be objective and fair in reporting the facts, the absence of funds to pay a qualified journalist to undertake the task, etc. But, despite these very real deterrents, the most important and relevant part of the court case for the IWDM community is nearing its conclusion—that is the ownership of the Intellectual Property (IP) of Imam W. Deen Mohammed.

In the legal case, Wallace Muhammad II vs. Shirley Mohammed, in her capacity as administrator of the Estate of Wallace D. Mohammed, the intellectual property is defined as *“audio and video recordings, publications, productions, writings, likenesses, images and all rights thereto.”*

WHY IS THIS CASE IMPORTANT TO US?

Why is this case important to us? Because the most important thing that Imam Mohammed placed in the care of his followers was his knowledge body, what we call his language and logic—and this knowledge is found in what the legal system calls Intellectual Property. Whoever owns or controls the intellectual property controls the terms, conditions

and the cost of using that intellectual property. In other words, the owner or controller of the IP determines who can use it, under what conditions they can use it, at what cost they can use it, who should be accosted or sued for using it, and who it can be sold to...so they can use it.

For example, imagine if one day Donald Trump or the Authentic Brands Group (owner of Muhammad Ali's Intellectual Property) were to buy the IP and become the owner of the intellectual property? How would you feel about them setting the terms for how you could utilize the language and logic of Imam Mohammed? How would you feel about having to seek permission from them to promote the Imam? How would you feel about having to check with them to make sure you are not violating the terms and conditions that they set for its use?

Now this is standard US intellectual property law and the application of intellectual property law works fairly well for most people like you and me. We understand that the intellectual property laws of the United States treat Imam Mohammed's knowledge-body according to the same rules that would apply to the intellectual property of any other person. We can't and we shouldn't expect others to treat our Imam as an exceptional case to the norm.

HOWEVER, his followers, his Imams, and his family should see him as an exceptional case and should recognize that for us, his intellectual property should be treated differently, because he made his community its trustee. It may not be special to the law of the United States or to other people, but it should be extremely special to us and how it is owned, controlled and managed should be given special treatment and consideration—AT LEAST BY US.

BRIEF BACKGROUND OF THE INTELLECTUAL PROPERTY CASE

I cannot provide you with the details of the intricacies of the legal arguments used by the attorneys in the case, but I will summarize the primary themes.

Upon the death of Imam Mohammed, there was a dispute in the Probate Estate Case about who would be the administrator of the Estate, Khadijah Siddeeq-Mohammed or Shirley Mohammed. The court recognized Shirley Mohammed as the administrator, under the supervision of the court and Khadijah Siddeeq-Mohammed was legally recognized as the putative wife of the Imam.

With this declaration, Shirley Mohammed's attorney began serving cease and desist legal notices to all persons who might be in possession of and selling the intellectual property of Imam Mohammed, including the Imam's son, Wallace Muhammad II (aka Warith Deen Mohammed II). The legal notice asked for an inventory of all audio and video recordings, publications, productions, writings, likenesses, images, as well as an accounting of its value and how much money has been earned selling the products since Imam Mohammed's passing in 2008. The legal notice also instructed the recipients to stop selling all products until the court case was settled.

Warith Mohammed II disagreed with the court's ruling, believing that in addition to being named by his father as the President of the Mosque Cares/WDM Ministry and being given ownership of WDM Publications, he was also the defacto owner of the Imam's Intellectual Property (IP). So, in addition to having trademarked Imam Mohammed's name in approximately October of 2008, in 2012 he hired an attorney to represent his claim in court against the estate for ownership of the intellectual property. His position was that Imam W. Deen Mohammed had given him ownership of the intellectual property around 2002 as a gift and that he has treated the IP as if it were his very own since that time.

The attorney for Warith Mohammed II presented a plethora of legal arguments in an effort to prove that Imam Mohammed gave his son the intellectual property as a gift by virtue of some of the public statements he made about giving his son the business of WDM publications and the right to sell his lectures. He argued that although the Imam did not sign a formal agreement or document transferring to his son ownership of the IP, his words and his actions show his intent and therefore ownership should be given to his client, Warith Mohammad II.

The attorney for Shirley Mohammed, on behalf of the Estate, argued an abundance of legal points in an effort to prove that Imam Mohammed's public statements and actions did not amount to giving him ownership, but merely the right to sell and manage his intellectual property and the authority to run the business. He argued that the Imam's words and actions, at best, amount to a non-exclusive license to manage and sell the intellectual property. The attorney argued that at any time Imam Mohammed could have rescinded that offer to his son and told him he no longer could sell his IP, which stands as evidence that the Imam retained

control of his IP up until the time of his death, and thus, the ownership passes to the estate of the deceased, not to his son.

In an effort to gain legal authority over the IP, Warith Mohammed II's attorney proposed a number of different proposals for striking an agreement with the estate. In one motion, the court acknowledged that he might be entitled to a non-exclusive license to sell the list of lectures that he possessed at the time of the Imam's death, without paying royalties to the estate. In other words, he could sell the CDs and DVDs and run his business independently of the Estate and for his own profit. Similarly, the estate could run a business or give licenses to others to run businesses producing products for profit from the IP, without having to get approvals from Warith Mohammed II.

At some point, the attorney for Khadijah Siddeeq-Mohammed successfully petitioned the court to allow her to have a legal voice in the deliberations regarding the ownership and control of the intellectual property of Imam Mohammed. Her attorney gave an impressive array of legal arguments that Imam Mohammed did not intend for a single person to own and control his intellectual property; that he gave several people the right to produce and sell works from his lectures and that the Imam said publicly many times that all of the believers in his mission were responsible for preserving and spreading his knowledge body, his language and logic, his teachings.

Her attorney argued the position that the community's right to utilize the IP should be recognized, taken into consideration and protected in whatever decision and agreement is made. She proposed the idea of putting the intellectual property in a Trust that would be managed by a board of trustees composed of representatives of the estate (family) and the community.

Warith Mohammed II's attorney argued against these points by saying that as noble as it may be to take into account the interests of the community, intellectual property law does not recognize the rights of the community, because they are not members of the estate. This summary brings us to the current state of affairs.

CURRENT STATUS AND IMPLICATIONS FOR US

Towards the end of 2015, Warith Mohammed II and Shirley Mohammed, on behalf of the Estate, reached an agreement to settle the dispute over ownership of the Intellectual Property. In exchange for 30% of all net profits from sales by Warith Mohammed II, the estate would give Warith II EXCLUSIVE world-wide rights of ownership and control of the intellectual property until the year 2032. According to the wording of the agreement, the judge's approval of this agreement would mean that Warith Mohammed II would be the SOLE and EXCLUSIVE authority over the Imam's intellectual property, within the boundaries of the law of course (there would still be limited fair use of the IP).

The agreement gives him the right to sell or assign the intellectual property to whomsoever he would want, whenever he would want, without anyone's consent, including the estate's; without consulting with anyone, and he doesn't even have to tell anyone until after the fact. So, the intellectual property rights could be sold to Donald Trump, Benjamin Greenstein, or Sheikh Salafi bin ISIS without any of us being informed until after it was over and done.

The section under licenses reads, *"The Estate of Wallace D. Mohammed, on behalf of itself and its successors and assignees, and any and all persons claiming by or through the Estate of Wallace D. Mohammed grants to Wallace D. Muhammed, II and WDM Publications, LLC and his and its Affiliates, successors and assignees an exclusive, worldwide, license to reproduce, have made, use, lease, sell, have sold, offer to sell, import, export or otherwise dispose of, directly or indirectly, the Intellectual Property to any person."* (Emphasis is Added)

Not only that, the agreement has a protection clause that states that upon confirmation of this agreement, the estate cannot sue Wallace Muhammad II, nor his heirs, nor his assigns for anything. So, no matter who the ownership and authority might pass to, no one, including the estate, can sue him or the assignee for any cause.

Furthermore, if he sold the IP to someone, all of the rights, such as exclusive world-wide control and protection from being sued, is passed on to the new owner and the estate and the community is absolutely powerless to do anything about it legally. Of course, the estate

does benefit from any sale, because it will receive 30% of the net profits of any sale, which is to be divided up among the heirs.

To be clear, only the estate can sell the IP to some entity permanently. Warith Mohammed II owns the rights to the IP until 2032 and has the authority to sell or assign the IP to some entity up through January 31, 2032. On February 1, 2032, the estate would determine whether to extend the license, sell it to someone else, contract with new licensees, or make some other kind of arrangement.

While there are no indications that such a sale would happen in the near future, we must be cognizant that such a prospect is not uncommon and we must look squarely at the fact that our community and our precious treasure, the knowledge-body of IWDM, is in a very vulnerable situation.

IS THERE A SOLUTION?

There is a solution to this problem, a rather simple and a legal solution...if the members of the estate were interested and willing to cooperate. The court would entertain and accept any reasonable agreement between the heirs. If Warith II, Shirley and Khadijah could be persuaded to agree to place the intellectual property into an irrevocable trust that has the stipulation that the IP could never be sold and that the Trust would be managed by a board of trustees composed of representatives of the estate and representatives of the community.

This board of trustees would issue licenses and pursue IP infringement to maximize the profits to the estate while protecting the legitimate and acceptable fair use rights of the community. Such collaboration would increase the good will of the community towards the estate, ensuring greater financial benefits for them and it would keep the spirit and motivation of the community positive, which is desperately needed to face its many challenges. It would protect the IP from being sold, thus preserving its longevity and free expression for generations to come.

The court is scheduled make a ruling on this proposed agreement on February 18, 2016. There is not much time or hope that Warith II or his mother would have a change of perspective. It has been nearly 4 years since this issue has been deliberated and the court will not wait forever to make a decision. And since at least two of the three primary parties in the

dispute have finally come to an agreement, the court could be quite tempted to accept the agreement and get this case off of its books.

I end this article with prayer and hope that the parties with the legal authority would think about the future of this community and ask the judge for time to create a new agreement based upon the solution described herein. When the results are in from the February 18th court hearing, they will be posted at www.iwdmstudylibrary.com, along with this article.

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