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I Have a Dream—and a Copyright

Clarence Jones had the presence of mind to protect Martin Luther King’s speech.

By Randy Maniloff
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President Joe Biden presents the Presidential Medal of Freedom to Clarence Jones in Washington, May 3, 2024. ADAM SCHULTZ/WHITE HOUSE/ZUMA PRESS

Clarence Jones, lawyer and speechwriter for Martin Luther King Jr., died last month at 95. King’s confidante is credited with helping the civil-rights leader draft the famous 1963 “I Have a Dream” speech.

In a 2021 interview, Jones assured me that King was capable of writing his own speeches. But it took work to tailor each speech to its audience.

The first half of the “I Have a Dream” speech was exactly as Jones drafted it. “I’d been around him. I knew how his mind worked,” Jones said. “Sometimes the hardest thing for him was the point of departure—starting the speech.”

While obituaries of Jones describe his role in composing the legendary speech, few mention his other contribution. He took steps to copyright the oration—and successfully litigated against would-be infringers.

The idea to safeguard King’s rights to the speech came at the last minute. In his 2011 book, “Behind the Dream,” Jones describes a chaotic scene before the 1963 march, with Jones ordering volunteers to draw a little circled C on each of the speech’s pages before distributing them to the press.

Jones sought to pre-empt an argument that the impending speech fell in the public domain. His “goal was to protect, not to profit,” he wrote. King “was going to give his ideas away,” and Jones knew others would “try to make money off those ideas.”

His concern proved prescient. That same year, Jones sought a preliminary injunction from a New York federal court to prevent 20th Century Fox and another record company from selling phonographs of the “I Have a Dream” speech.

The record companies argued that King’s speech lost copyright protection because of its public delivery. Pointing to the enormous crowd on the National Mall and the radio and television broadcasts, they maintained that the speech had entered the public domain.

In *King v. Mister Maestro Inc.* (1963), the court disagreed, concluding that there was “no dedication of the work to the public.” The speech didn’t qualify as a “general publication” and was copyright-protected. It was like the public exhibition of a painting, the public performance of a play, or the playing of a song in public—all actions that don’t negate copyright protection.

King’s estate continues to defend the intellectual property that Jones secured. Media companies seeking to use more than snippets of the speech must obtain a license from the estate until the copyright expires in 2058, 95 years after publication.

The proceeds from these licenses have helped fund the King Center, a memorial nonprofit that provides educational and community programming. “I never imagined the intellectual ownership of ‘I Have a Dream’ would prove to be a kind of endless financial river,” Jones wrote in his book, “generating substantial sums of money year after year to fund Dr. King’s ongoing work through the King Center.”

Mr. Maniloff is an attorney at White & Williams LLP in Philadelphia.

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