

About that Dodge Super Bowl Ad

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by Fara Sunderji

Did you catch that Dodge commercial everyone is talking about with the Rev. Dr. Martin Luther King Jr. voiceover? Many viewers took to Twitter last night to express their belief that the use of the speech to sell trucks was inappropriate and not in line with Dr. King's message.

We at the TMCA were more focused on the online conversation about whether or not the use of the speech and the voiceover were authorized. While Georgia does not have a right of publicity statute on the books, the Supreme Court of Georgia has recognized a right of publicity at common law. It has also confirmed that such rights survive death and are inheritable. Accordingly, the unauthorized use of Dr. King's name and likeness for financial gain is prohibited by Georgia law. Federal copyright law is also implicated by use of the recording and the words of the speech. So would Dodge really have proceeded without permission?

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Shortly after the commercial aired, Dr. King's youngest daughter and CEO of The King Center, tweeted out a firm "No" to the question of whether the King children allowed Dr. King's voice to be used to sell Dodge Trucks. The King Center followed on with a very



informative tweet:

So who can provide permission for such uses? The exclusive licensor of the King estate, that's who. As any good advertiser should, Dodge worked with the company that acts as the exclusive licensor for Dr. King's name, image, likeness, recording and speeches to make sure this commercial was clear on the right of publicity and copyright fronts. With such a high profile campaign, they would have been crazy not to do this because the King Estate is known for being litigious in this area. While the debate on whether the use of the voiceover and speech were appropriate will likely continue today on Twitter, rest assured that the usage was legally in bounds.