THE Signet

"And thou shalt make a plate of pure gold, and grave upon it, like the engravings of a signet, HOLINESS TO YAH" (Exodus 28:36)

A bi-monthly publication of The Creation Seventh Day and Adventist Church

Hated of all Men

And ye shall be betrayed both by parents, and brethren, and kinsfolks, and friends; and some of you shall they cause to be put to death. And ye shall be hated of all men for my name's sake. (Luke 21:16, 17) They hated me without a cause. (John 15:25)

"The framers of the Constitution recognized the eternal principle that man's relation with his God is above human legislation, and his rights of conscience inalienable. Reasoning was not necessary to establish this truth; we are conscious of it in our own bosoms. It is this consciousness which, in defiance of human laws, has sustained so many martyrs in tortures and flames. They felt that their duty to God was superior to human enactments, and that man could exercise no authority over their consciences. It is an inborn principle which nothing can eradicate.' [Congressional documents (U.S.A.), serial No. 200, document No. 271." Quoted in The Great Controversy, pp. 295, 296]

"Among the Christian exiles who first fled to America and sought an asylum from royal oppression and priestly intolerance were many who determined to establish a government upon the broad foundation of civil and religious liberty. Their views found place in the Declaration of Independence, which sets forth the great truth that 'all men are created equal' and endowed with the inalienable right to 'life, liberty, and the pursuit of happiness.' And [...] [in the Constitution] Freedom of religious faith was also granted, every man permitted to worship God according to the dictates of his conscience." [The Great Controversy, p. 441, emphases and ellipsis added]

"The Constitution provides that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' and that 'no

religious test shall ever be required as a qualification to any office of public trust under the United States.' Only in flagrant violation of these safeguards to the nation's liberty, can any religious observance be enforced by civil authority." ." [Ibid, p. 442, emphases added]

"The Constitution of the United States guarantees liberty of conscience. Nothing is dearer or more fundamental. Pope Pius IX, in his Encyclical Letter of # Hated of All Men August 15, 1854, said: 'The A second testimony by Walter absurd and erroneous McGill ...page 1 doctrines or ravings defense of liberty

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conscience are a most pestilential error-a pest, of all others, most to be dreaded in a state.' The same pope, in his Encyclical Letter of December 8, 1864, anathematized 'those who assert the liberty of conscience and of religious worship,' also 'all such as maintain that the church may not employ force." [*Ibid*, pp. 564, 565]

In the Spring of 2007, I wrote an article entitled "Sued by a Fictitious Person," and during the Spring of 2008, I obeyed a divine call to the mission field of Africa. It was the Summer of 2008 when the Honorable Judge Breen (U.S. District Court, W.D. Tennessee) granted an unexpected and surprising "partial summary judgment" in favor of the Plaintiff General Conference of SDA. This judgment precluded the jury trial set by Judge James Todd. I discovered an abstract online that summarizes the opinions of Judge Breen as follows:

Opinion (Breen): Plaintiff, the General Conference Corporation of Seventh Day Adventists (GCC), filed trademark infringement and other claims against the Defendant, Walter McGill (McGill). The GCC is the corporation of the Seventh Day Adventist religion and hold trademarks for the title and for "Adventist." The trademarks have been held for over five years and are incontestable. McGill was once a subscriber to the religion but separated himself and sought to start a new branch called "A Creation Seventh Day and Adventist Church" knowing that GCC held trademarks. McGill argued the terms "Seventh Day Adventist" have been in use for so long they have become generic and describe a set of religious beliefs, not a specific church. The court found once a trademark has been designated incontestable, it can still be challenged as generic but the burden of proof lies on the defendant. The court rejected McGill's argument based on case precedence and public perception that the terms can apply to only one form of goods/services. The court granted summary judgment for GCC on the trademark claim for "Seventh Day Adventist." [Summarized by Lindsey Duggins]

And so it is that I am "hated of all men for His name's sake." But, you say, how is it that you figure that you have been so hated, and that, "for His name's sake." Let me develop my thesis within the remaining space.

In a deposition taken May 15, 2007, by General Conference counsel, Jeffrey Tew, I testified under oath. I have selected segments from that deposition as follows:

"A. (McGill): And we [David Labatad and myself] took those things [copies of our three-month research taken from Seventh-day Adventist materials at Andrews University] back with us to Spring City, Tennessee, and spent prayer and several weeks going through these documents. And it was-it was shown to us by divine revelation that we were to take the name 'Creation Seventh Day Adventist.' [...] [the James White Library had a file there on trademark prosecutions. We were not aware of these kinds of things. And there were people that had been sued and persecuted for the use of the name Seventh Day Adventist, which we saw as - from scripture, as a violation, not only of the writings of Paul in Corinthians, but also the writings of all the pioneer Seventh Day Adventist writers. The use of the civil power by the church to regulate and control religion is considered, from the Bible, as an image to the beast.

"And so, we could not – we didn't feel at liberty to take the name Seventh Day Adventist as it stood with the General Conference, because we had no desire at all to be – claiming to be General Conference Seventh Day Adventists. We were given the name – God told us to take the name 'Creation Seventh Day Adventist,' distinguishing us from the General Conference. [...] It wasn't a feeling, it was a divine mandate, in our eyes. [...] You know, our belief is that if God tells us to do something, we must obey it, because he's—he's above us, and we worship him, and we must obey him. We did not see that the trademark particularly applied to us, because it

- appeared to us that the name Creation Seventh Day Adventist shouldn't even be a violation of that in the first place.
- Q. (Tew): But even if it did, since you believe you were acting under a mandate from God, you would have—in your mind, you would have taken and adopted the name Creation Seventh Day Adventist irrespective of any federal law, any civil law?
- A. (McGill): We would take the position of the Bible and the disciples, which says we must obey God rather than men. [...]
- Q. (Tew): And am I correctly understanding your position, that having that mandate from God in your mind, that whether or not the General Conference objected to it or not, you were going to follow that mandate and use that name; is that fair?
- A. (McGill): Yes, that's fair.
- Q. (Tew): Is it fair to say that your view of the General Conference's enforcement of federal trademark rights in court, that that is a deviation from what you consider to be the proper conduct of the Seventh Day Adventist religion?
- A. (McGill): I, along with all the pioneer Seventh Day Adventists, regard this behavior as patently anti-Christian.
- Q. (Tew): You understand we're in litigation in federal court here in Tennessee to get the judge to order you and your church not to use the name Seventh Day Adventist in any combination of words, including Creation Seventh Day Adventist. If the judge orders you to stop using that name, will you obey that order?
- A. (McGill): I will ask God what he wants me to do, and I will obey him.
- Q. (Tew): So you don't know whether you'd obey the federal judge or not?
- A. (McGill): I have a judge that's above that federal judge, and I have to obey that judge. [...] I would be conscientiously bound to obey God and his instructions, if they came in conflict with men's mandates.
- Q. (Tew): Well, there doesn't seem to be any doubt in your mind that the trademark law is contrary to the God's will in terms of the use of the name Seventh Day Adventist?
- A. (McGill): At this point, in my experience, I would have to say that.
- Q. (Tew): Now, when you were at Andrews [University in 1991], you said you had the divine revelation to use the name Seventh Day Adventist as part of your church name?
- A. (McGill): It didn't happen at Andrews. It was after we

brought all of the materials back to Spring City, and we studied and prayed over the documents that we brought back.

- Q. (Tew): Now, did I have never had a divine revelation, so you're going to have to bear with me. What happened? Did you have the revelation, did Mr. did the other Mr. Smith and Mr. Labatad also have it? How did it happen, and what form did it take?
- A. (McGill): It happened to both Danny Smith and I in the same meeting.
- Q. (Tew): And what was the form of the revelation? Did God speak to you? How did you or did it just like would get a thought?
- A. (McGill): Well, he speaks to my mind similar to if I was about to get on an airliner, and he would say to me, 'Don't get on this airliner.' Then I wouldn't get on the airliner. Perhaps the airliner was going to crash or something of that nature. Now, there is a story about that, the reason I use that example. And the skeptic says well, to the fellow –
- Q. (Tew): I'm not being skeptical. I just want to know what form it took. In other words, when you say you had a divine revelation and God told you and Mr. Smith that you had to use the General Conference's trademark Seventh Day Adventist –
- A. (McGill): The trademark was not a part of the revelation.
- Q. (Tew): Well, I thought that you had God had told you or revealed to you that the name of your church would be Creation Seventh Day Adventist?
- A. (McGill): That's true, But he didn't say anything about the trademark.
- Q. (Tew): I understand. But I was referring to it as a trademark. So, that occurred to you as a thought? You did not perceive a voice, but it just came to you as a thought would come to you?
- A. (McGill): I disagree.
- Q. (Tew): I'm asking you. I'm not arguing with you. I'm saying –
- A. (McGill): It's not just a thought. It's a conviction, a picture in the mind, with authoritative words in the mind, that bring conviction [to] the soul. It's the Holy Spirit that speaks to the heart and mind of the Christian. Same as if you're about to do something wrong, God will say to you, 'This is wrong. Don't do it.' Now, that could be construed as just a thought, but when it brings conviction, a person must abide by it.
- Q. (Tew): All right. I have nothing else."

[all brackets and emphases supplied]

The above excerpts from the 2007 deposition provide the reader some background regarding my relationship to the name "Creation Seventh Day Adventist" – the name that the Creator of the universe gave to me and like believers for describing our religious observances and religion.

Now, when someone "gives" you something, it is generally considered a gift, and the giver must have certain authority to give you that gift. In simple terms, they must be the owner of the thing given. After it is given, then the object's ownership changes to the one receiving the gift. The relationship between God and His children is so intimate that all things belonging to the Father are already an inheritance belonging to His children. Life, itself, is a gift from the Father, having its sole source in Him. No gift worth receiving from God is to be taken lightly or given away without divine permission. This applies in like manner to a "God-given name."

We are told by Ellen G. White, prophetess of the Seventh-day Adventist religion, "We are Seventh-day Adventists. Are we ashamed of our name? We answer, 'No, no! We are not. It is the name the Lord has given us. It points out the truth that is to be the test of the churches.' [Letter 110, 1902] Applying what we have discussed to this point, we must conclude that the name Seventh-day Adventist was the name given to His commandment-keeping children in the last days of earth's history – a gift from the Father. Further, it is stated that we are never to be ashamed of that gift. Is there a matter of conscience involved here? I say, "Decidedly so!"

The Savior said, "Ye must be born again." In another place the Scripture says, "For the wages of sin is death; but the gift of God is eternal life through Yahshua Christ our Lord." (Romans 6:23) Salvation involves both a *mandate* and a *gift*. In order to exist in perfect harmony with the will of the Almighty, one "must be born again" by accepting the free gift of eternal life. In keeping with my testimony above, there is a *divine mandate* that all, who wish to be a child of God in good standing, must obey.

My Father in Heaven brought a conscientious conviction to my heart in 1991 that I must employ the name "Creation Seventh Day Adventist" with respect to my religious observances. At the same time, He gave me His name – a gift from Heaven. And, as I was consistent in my testimony under oath, I "ought to obey God rather than men." (Acts 5:29) Now, is there a matter of conscience indicated here? I must say, "Decidedly so!"

I expect by now, you are understanding the position I have taken and the dilemma I have been facing. On the one hand, I am bound to obey the "laws of the land," and yet, on the other, I "ought to obey God rather than men." That is, when civil law runs counter with principles of the law of God (or a divine mandate), I must regard the Higher Court as supreme. That concept is very simple in my mind and basic to remaining faithful to one's own belief system. What I am writing of are the nuts and bolts of that which is called "liberty of conscience," "religious liberty," or "freedom of religion."

By now, surely you are getting why "His name's sake" is in my title. Yes, for me, the name "Creation Seventh Day Adventist" is "His name" divinely given to me as sacred. Perhaps you are wondering how I connect the complete phrase, "Hated of all men for His name's sake." That is, how do I consider myself "hated of all men" because of the particular name that I have been divinely mandated to use describing my religion and church?

In order to rightly express my argument, I must deal with two aspects: 1) How it is that I am *hated*, and 2) How it is that *all men* are involved. Before I delve into those details, I want to include here one legal posting I discovered on the Internet at lawupdates.com:

"Holding

The U.S. District Court for the Western District of Tennessee held that defendant's "Creation Seventh Day & Adventist Church" infringed the "Seventh-day Adventist" trademark owned by plaintiff General Conference Corp. of Seventh Day Adventists. Although a trademark like that of plaintiffs' becomes incontestable five years after its registration, it could still be challenged as generic, in which case the burden of proof lies on the challenger. Here, defendant failed to present sufficient evidence to overcome the presumption that such mark was not generic. The fact that two other small churches utilize the name does not establish that the relevant public does not associate it with the "mother" church. In the absence of proof, the district court could not just assume that the relevant public would view the disputed term merely as a way to refer to a person who believes that the Sabbath should be celebrated on the seventh day and that the return of Jesus Christ is imminent, and not primarily as a means of reference to a member of the plaintiffs' church. Motion for summary judgment in favor of plaintiffs in their trademark claim was therefore warranted.

Detailed Summary

Plaintiff General Conference Corporation of Seventh-day Adventists ("Corporation") is a corporation whose principal place of business is located in Maryland. The Corporation was formed in 1863, marking the official organization of the Seventh-day Adventist Church. Order, pp. 1-2, citing D.E. No. 21, George W. Reid ThD's Expert Report, paragraph 13. The church grew out of several congregations that believed that Christ's Second Advent was imminent and that the Sabbath should be observed on the seventh day of the week. *Id.*, paragraph 1. The other plaintiff, General Conference of Seventh-day Adventists ("General Conference") is an unincorporated association that represents the interests of the Seventh-day Adventist Church. *Id.*, citing D.E. No. 37, Pls.' Statement of Undisputed Facts, paragraphs 9-10.

Since the official formation of the church, the names "Seventh-day Adventist" and "SDA" have been used by the Seventh-day Adventist Church as the church's name, and as its trade name in advertising and publishing. *Id.*, citing D.E. No. 37, Pls.'

Statement of Undisputed Facts, paragraph 40. The Corporation has registered the marks "Seventh-day Adventist," "Adventist," and "General Conference of Seventh-day Adventists," with the United States Patent and Trademark Office. *Id.*, paragraphs 17-23.

On the other hand, defendant Walter McGill is the pastor of a church he calls "A Creation Seventh Day & Adventist Church," Order, p.3, citing D.E. No. 37 Ex. 2 to Pls.' Statement of Undisputed Facts, Dep. of Walter McGill, at 5. He also referred to it as the "Creation Seventh Day Adventist Church." His church has three members. McGill was originally baptized in a Seventh Day Adventist church affiliated with the plaintiffs. After several years, however, defendant decided to separate from the church because of a theological dispute. *Id.*, citing *id.* at 18. In 1990, McGill formed his current church, taking its name from a divine revelation. While defendant was aware that the plaintiffs had trademarked the name "Seventh Day Adventist," he used it anyway, because he believed that he was divinely mandated to do so.

Plaintiffs thus filed trademark infringement claims, among others, against defendant. In their motion for summary judgment, they argued that their trademarks were incontestable pursuant to 15 U.S.C. § 1065 and there is a likelihood of confusion between the "mother" church they represent and the defendant's church. In response, defendant McGill asserted that the marks were generic, or, in the alternative, were descriptive but have not acquired secondary meaning, and that there was no chance of confusion between the plaintiffs' and his churches.

In rejecting defendant's argument that plaintiffs' "Seventhday Adventist" was generic, the district court held that defendant failed to present sufficient evidence to overcome the presumption that such mark was not generic. The fact that two other small churches utilize the name does not establish that the relevant public does not associate it with the "mother" church. If anything, the fact that the defendant can point to only two other splinter groups founded in the last century that bear the name supports the conclusion that members of the relevant public would generally associate the term with the churches affiliated with the General Conference. Order, p. 11. The district court could not just assume that the relevant public would view the disputed term merely as a way to refer to a person who believes that the Sabbath should be celebrated on the seventh day and that the return of Jesus Christ is imminent-and not primarily as a means of reference to a member of the plaintiffs' church. Id., p. 12.

In addition, defendant did not present any survey evidence that showed whether the relevant public believes that the term "Seventh-day Adventist" refers to a religion or to a specific denomination, despite the fact that such evidence is increasingly common in trademark disputes. *Id.*, p.12, citing 2 J. Thomas McCarthy, *McCarthy on Trademarks & Unfair Competition* § 12:14 (4th ed. 1996).

The Court also rejected defendant's contention that the

registered mark is descriptive and has not acquired secondary meaning because the mark was incontestable pursuant to 15 U.S.C. § 1065. The Supreme Court's has held that "(t)he language of the Lanham Act... refutes any conclusion that an incontestable mark may be challenged as merely descriptive." Id., p. 14, citing Park 'N Fly, Inc. v. Dollar Park & Fly, Inc., 469 U.S. 189, 196 (1985).

With respect to plaintiffs' "Adventist" mark, the district court found that there was a material issue of fact as to whether such mark was generic. As with the mark "Seventh-day Adventist," there is a presumption that the mark was not generic because all the requirements of 15 U.S.C.§ 1065 have been met. Id., p. 15, citing Nartron Corp. v. STMicroelectronics, Inc., 305 F.3d 397, 405 (6th Cir. 2002). To rebut the presumption, defendant used a dictionary definition of "Adventism" from Webster's Ninth New Collegiate Dictionary 59 (1985) and the Wikipedia at http://en.wikipedia.org/wiki/Adventism. Both the dictionary definition and the Wikipedia entry supported the conclusion that the term "Adventist" refers to a set of beliefs, rather than to the churches led by the General Conference. Id., citing Stocker v. General Conference Corp. of Seventh-Day Adventists, 39 U.S.P.Q.2d 1385, 1996 WL 427638, at *15 (Feb. 15, 1996). Hence, on the "Adventist" mark, the district court denied plaintiffs' motion for summary judgment.

With respect to the "SDA" mark, the district court held that because it was not a registered trademark, the burden was on the plaintiffs to prove that the term was valid. Id., p. 16, citing Blinded Veterans Ass'n v. Blinded Am. Veterans Found., 872 F.2d 1041 (D.C. Cir. 1989). Plaintiffs however failed to meet its burden, and hence the district court denied their motion for summary judgment regarding their "SDA" mark.

After having ruled on the validity of the "Seventh-day Adventist" mark, the district court then determined whether there was a likelihood of confusion. The district court applied the eight factors laid down in the case of Interactive Products Corp. v. A2Z Mobile Office Solutions, Inc., 326 F.3d 687, 694 (6th Cir. 2003), and found that such factors weighed in favor of plaintiffs. Specifically, the first factor, i.e., strength of the senior mark, weighed in favor of plaintiffs since defendant McGill failed to overcome the presumption that the incontestable mark "Seventh-day Adventist" is strong. With regard to the second factor, relatedness of the goods and services, defendant conceded that its goods and services are connected to those of the Plaintiffs, because both were churches that shared similar beliefs and provide religious services in line with those beliefs. Id., p. 19, citing D.E. No. 56, Def.'s Resp., at 17.

With respect to the third factor, similarity of the marks, the fact that McGill added the word "Creation" to the plaintiffs' mark did not sufficiently distinguish it, because plaintiffs' strong three-word mark appeared in full thereafter, with the words in the original order. Further, the district court found it doubtful that the capitalized "D" and the ampersand would be immediately noticeable to passers-by.

The district court likewise found the fourth factor, evidence of actual confusion, to be in favor of plaintiffs, by reason of absence of persuasive evidence of actual confusion. Because such evidence is hard to find, however, a lack of evidence of actual confusion is rarely significant. *Id.*, p. 21, citing *Daddy's Junky Music Stores, Inc. v. Big Daddy's Family Music Ctr.*, 109 F.3d 284 (6th Cir. 1997). McGill acknowledged that the fifth factor, marketing channels used, pointed in favor of the conclusion that the public would confuse his church with that of the plaintiffs. *Id.*, citing D.E. No. 56, Def.'s Resp., at 17.

The sixth factor, the likely degree of purchaser care, did not weigh in favor of plaintiffs. Id. Pp. 21-22, citing Homeowners Group, Inc. v. Home Mktg Specialists, Inc., 931 F.2d 1111 (6th Cir. 1991). The district court sustained defendant's view that it was difficult to imagine someone accidentally becoming a member of his church, while believing that it is affiliated with the General Conference, given that the amount of care most people take in selecting a church is significantly greater than the amount of care they might take in making a consumer purchase. The seventh factor, the intent of the defendant in selecting the mark, weighed in favor of defendant, in the absence of evidence that defendant intended to confuse the public into believing that his church was one of the plaintiffs'. Id., p. 22, citing Homeowners Group, 931 F. 2d at 1111. Last, the defendant conceded that the eighth factor, likelihood of expansion of the product lines, supported the finding that a likelihood of confusion existed. Id., citing D.E. No. 56, Def.'s Resp., at 17.

Viewing the facts in the light most favorable to McGill, the district court found that there was no issue of material fact as to whether a likelihood of confusion exists by defendant's use of the "Creation Seventh Day & Adventist Church" mark. Almost every single factor weighs in the Plaintiffs' favor; those that do not were less worthy of consideration when they favor an alleged infringer. *Id.*, pp. 22-23, citing *Daddy's Junky Music Stores*, 109 F.3d at 284-87. Thus, the district court concluded that the plaintiffs had established that McGill violated trademark infringement laws by using the mark "Seventh-day Adventist" without permission."

Please allow me to paste another Internet source that summarized my case at www.finnegan.com:

"General Conference Corp. of Seventh Day Adventists v. McGill

2008 WL 2404036 (W.D. Tenn. June 11, 2008)

Plaintiff General Conference Corporation of Seventh Day Adventists ("SDA") was a religious organization representing the interests of the Seventh Day Adventist Church. SDA owned trademark registrations for the marks SEVENTH-DAY ADVENTIST, ADVENTIST, and GENERAL CONFERENCE OF SEVENTH DAY ADVENTISTS. Defendant McGill, a former member of SDA who had broken away after a theological dispute, was the founder and pastor at "A Creation Seventh Day & Adventist Church," a three-member church unaffiliated with SDA.

McGill registered several domain names, including 7th-day-adventist.org, creation-7th-day-adventist-church.org, creation-seventhday-adventistchurch.org, creationsda.org, and csda.us. SDA sued for federal and common law trademark infringement, federal and state dilution, unfair competition, and cyber-squatting, and moved for summary judgment. The court granted SDA's motion on its infringement and unfair competition claims as to the SEVENTH-DAY ADVENTIST mark. Despite SDA's incontestable registrations, McGill argued that the SEVENTH-DAY ADVENTIST, ADVENTIST, and SDA marks were generic, or at best descriptive without secondary meaning, as they referred to a religion or set of religious beliefs, rather than a specific church.

McGill cited several break-away congregations that had taken the Seventh-Day Adventist name and criticized SDA's 1999 survey evidence that showed only 13% of the public thought "Seventh-day Adventist" represented a religion (i.e., a generic term) rather than an organization or church. The court rejected McGill's arguments as to the SEVENTH-DAY ADVENTIST mark, citing prior TTAB and district court cases that did not find the mark generic when used as a church name. Evidence of two small churches that took the SEVENTH-DAY ADVENTIST name was not sufficient to prove genericness. Instead, the presence of only two splinter groups supported SDA's claim that the public associated the SEVENTH-DAY ADVENTIST mark only with SDA. Additionally, while the court agreed that SDA's survey questions were misleading, this simply weakened the evidence that the mark was not generic, rather than supporting McGill's burden of proving genericness. Turning to the ADVENTIST mark, the court cited dictionary definitions that referred to ADVENTIST primarily as a set of beliefs rather than a church or organization. As such, the court denied summary judgment on the ADVENTIST mark and the unregistered SDA mark. Finding the SEVENTH-DAY ADVENTIST mark valid and protectable, the court proceeded with a likelihood-of-confusion analysis and found that every factor either favored SDA or was neutral.

The mark was strong due to its statutory incontestability, and the parties' services and marketing channels were closely related. The court also found that defendants' addition of "Creation" to the church name, capitalizing "Day," and using an ampersand did not sufficiently distinguish the marks. The court, however, discounted SDA's evidence of actual confusion in the form of guestbook entries on McGill's website. These online requests for additional information about McGill's church or making prayer requests were too ambiguous to "conclusively indicate that Defendant's church was part of the 'mother' church."

Additionally, the court found no intent by McGill to confuse consumers and viewed purchasers' degree of care as largely irrelevant, but held that the likelihood of 'product-line' expansion favored SDA. Based on its review of all of the factors, the court found liability for trademark infringement and unfair competition.

McGill presented several affirmative defenses, including the

First Amendment, laches, fair use, and a lack of use in commerce. The court rejected each defense, finding the First Amendment not implicated, laches inapplicable, fair use precluded due to McGill's use of the mark as a trademark, and use in commerce satisfied through the mark's use on the Internet because "the Internet is generally an instrumentality of interstate commerce." The court denied summary judgment on SDA's dilution and cybersquatting claims, finding that SDA did not sufficiently address either claim in its motion."

As I develop my thoughts more thoroughly, I wish to comment on what has been published on the Internet and tie all of it together for a final analysis. However, before I can adequately do that, I must approach the subject with some discussion of "civil law," of which *trademark law* occupies a prominent place in modern society.

Now, *civil law* is created and supported by the society holding said law. It is the law of a particular *civilization*. One online dictionary defines *civil law*:

- **"1.** the body of laws of a state or nation regulating ordinary private matters, as distinct from laws regulating criminal, political, or military matters;
- **2.** Roman History. the body of law proper to the city or state of Rome, as distinct from that common to all nations. Compare JUS CIVILE:
- **3.** systems of law influenced significantly and in various ways by Roman law, esp. as contained in the Corpus Juris Civilis, as distinct from the common law and canon or ecclesiastical law."

The civil law of a state or nation is applicable to *all men* within said jurisdiction, and that, without exception. Let me cite an example from Scripture: "And [the United States civil power] causeth *all [men]*, both small and great, rich and poor, free and bond, to receive *a mark* in their right hand, or in their foreheads: And that *no man* might buy or sell, save he that had *the mark*, [which is] *the name* of the beast, or the number of his name." [Revelation 13:16, 17; brackets and italics supplied] This passage indicates the "mark of the beast" which is intimately connected with *civil law* applies to *all men* under the jurisdiction of the law being enforced. Let me ask you this – is it not reasonable to conclude that *all men not* in accord with whatever civil law is being enforced would be judged in violation of said law?

And, further, would it not be logical to assume that those, refusing to uphold and honor (by obedience) the civil law in question, would be virtually "hated" by the society mandating that law? The term "hated" may be better worded as "held in contempt." As a consequence, any who violate the civil law of the state and refuse to obey the human enactment of the nation are *contemptible* at least, and perhaps held "in contempt of court" as they become generally rejected (and thus "hated") by the society, and more specifically for the sake of our discussion, by "all men."

Thus we have formed and described a condition of *civil disobe-dience*.

In my "RESPONSE TO [Plaintiffs'] MOTION FOR SANC-TIONS AND PERMANENT INJUNCTIVE RELIEF", my counsel writes, "The primary purpose of this Response is to make clear to the Court that Pastor McGill's actions are not intended to be 'dilatory,' 'boasting,' 'evasive,' or 'flagrant.' Pastor McGill humbly and respectfully submits to the Court that his actions amount only to civil disobedience. [...] From the outset, Pastor McGill has viewed this case as a challenge to his First Amendment right to religious freedom under the U.S. Constitution. [...] Pastor McGill does not seek to excuse his actions. He has no disrespect for the law or the courts. In fact, he respectfully believes the law protects his right to use the words Seventh Day Adventist in describing his faith. For Pastor McGill, however, his faith dictates that when the two collide, he is bound to follow the laws of God. [...] This Court has previously recognized that Pastor McGill chose the name of his church based on a divine revelation and that it was not his intent to confuse the public into thinking he was affiliated with Plaintiffs' church."

So, let us take a closer look at the title I have chosen for this article: "Hated of All Men for His Name's Sake." If I am at odds with the civil law of the society in which I live (and that I am), then it seems reasonable that I would be held in contempt or "hated of all men" for whatever I am doing "wrongly." And, what is it I have been judged guilty of? That is answered in one of the above Internet resources in the following way: "the district court concluded that the plaintiffs had established that McGill violated trademark infringement laws by using *the mark* 'Seventh-day Adventist' without permission."

You see, commercial trademark law (based on the Lanham Act) says I am guilty of trademark infringement, yet the Supreme Court of Heaven declares me innocent because I have obeyed the divine mandate. The earthly Court does not recognize what Yahweh said to me, even though the legal record plainly states, "In 1990, McGill formed his current church, taking its name from a divine revelation. While defendant was aware that the plaintiffs had trademarked the name 'Seventh Day Adventist,' he used it anyway, because he believed that he was divinely mandated to do so." Now, whether you believe God spoke to me or not, if you are a Seventh-day Adventist believer, you must admit that the name in the instant controversy was given by the Lord to His remnant people (see the statement taken from the writings of Ellen G. White at page 3 of this essay). It must be therefore true that I am "hated of all men" for the sake of "His name" (viz., the name that the Creator gave to His remnant church). And, it is important to remember that "the church" is composed of those who have "the faith of Yahshua" and keep "the commandments of God." (Revelation 14:12)

Notice, please, the previous paragraph where I italicized *the mark* in the sentence referring to the trademarked name Seventh-day Adventist. There was a reason for my emphasis. You will recall from Revelation 13:17 that "the mark" is "the name of the beast, or the number of his name." All Seventh-day Adventists know how to correctly interpret "the beast" in that passage. None can err with respect to this well-established doctrine, and of course, the "two-horned beast" is the United

States of America "speaking" via civil law. Applying my logic further, "the name of the beast" would be a name somehow protected by or originating through the laws of the state – viz., civil law. And in this case, it is surely *trademark law*, for every trademark name has assigned to it "the number of his name." No federal trademark exists without a number, and each trademark registration can be searched in the USPTO database either by name or number.

I would suggest to you that my essay title could have been "Marked by the Beast." Such a conclusion follows in that my freedom to "buy or sell" my "form of goods/services" is now restricted by the Court's interpretation of the Lanham Act. Reviewing from the initial abstract above, "McGill argued the terms 'Seventh Day Adventist' have been in use for so long they have become generic and describe a set of religious beliefs, not a specific church. [...] The court rejected McGill's argument based on case precedence and public perception that the terms can apply to only one form of goods/services." Had I been willing to accept "the mark" Seventh-day Adventist as opined by the Court, then I would *not* have been found guilty of "violat[ing] trademark infringement laws by using the mark 'Seventh-day Adventist' without permission."

It also follows that I would have changed my church name to a non-violating form of goods/services when notified that our "mark" was violating trademark infringement laws. Since I was bound by conscience to maintain the name given to us by the Father in Heaven, I was required to refuse "the mark" as legislated and enforced by "the beast." Therefore, I have resolutely refused to take "the mark of the beast," either in my forehead (my belief system) or the hand (my activities). To be "marked by the beast" means that you are "in contempt" and "civilly disobedient."

At this juncture I want to extract portions of the legal record and comment on a few of the unbiblical applications of law, while also pointing out some seemingly contradictory assumptions, for "they hated me without a cause." (John 15:25)

"The GCC is the corporation of the Seventh Day Adventist religion..."

The main issue in this controversy has been whether the term "Seventh-day Adventist" refers to a church or a religion. It seems that the abstract writer is advocating "the church is the religion." How absurd can it be! "Let us take our position as Seventh-day Adventists. The name is a true expression of our faith." [Battle Creek Letters, p. 52] "God has a church. It is not the great cathedral, neither is it the national establishment, neither is it the various denominations; it is the people who love God and keep His commandments. 'Where two or three are gathered together in My name, there am I in the midst of them.' Where Christ is, even among the humble few, this is Christ's church, for the presence of the High and Holy One who inhabiteth eternity can alone constitute a church." [Manuscript Releases Volume Seventeen, pp. 81,82]

"McGill was once a subscriber to the religion but separated himself and sought to start a new branch..."

Nothing could be farther from the truth. I never departed from *the religion* of Seventh-day Adventism. In fact, I subscribe to the pioneer version of the Seventh-day Adventist *faith*. Ellen White penned, "That which I have written is what the Lord has bidden me write. I have not been instructed to change that which I have sent out. I stand firm in the Adventist faith; for I have been warned in regard to the seducing sophistries that will seek for entrance among us as a people. The Scripture says, 'Some shall depart from the faith, giving heed to seducing spirits, and doctrines of devils.'" [Advent Review and Sabbath Herald, January 26, 1905; para 19]

"The court rejected McGill's argument based on case precedence and public perception that the terms can apply to only one form of goods/services."

What this says is that there were two definitive principles employed in deciding the case:

- 1) The first one was *tradition* (viz., the outcomes of previous trademark conflicts decided by the courts). "[Wycliffe] did not set himself deliberately in opposition to Rome. But devotion to truth could not but bring him in conflict with falsehood. The more clearly he discerned the errors of the papacy, the more earnestly he presented the teaching of the Bible. He saw that Rome had forsaken the word of God for human tradition..." [*The Great Controversy*, p. 81]
- 2) The second principle applied was *public perception* (viz., the general considerations and interpretations of a godless society being considered as "consumers"). "Very many in every age and station of life are without principle or conscience; and with their idle, spendthrift habits they are rushing into vice and are corrupting society, until our world is becoming a second Sodom." [*Child Guidance*, pp. 440, 441]

"The fact that two other small churches utilize the name does not establish that the relevant public does not associate it with the 'mother' church."

How can "two other small churches utilize the name" without showing to "all men" that "the name" is not exclusively referring to "the 'mother' church?" Common sense speaks loudly here. A name that is *strictly applied* to one thing cannot be used to describe other things. The fact that "two other small churches utilize the name" bears unimpeachable witness that the term Seventh-day Adventist describes "a set of religious beliefs."

"[McGill's] church has three members."

This statement is not entirely accurate and deserves my clarification. Suffice it to say that the Guys congregation in particular is very small, and that "little flock" is the group of worshipers under fire in this contest.

"Defendant did not present any survey evidence that showed whether the relevant public believes that the term 'Seventh-day Adventist' refers to a religion or to a specific denomination."

It is my contention that God's word carries more weight than *opinions* of "the relevant public." It was further admitted in the legal record that the survey conducted by the General Conference was flawed enough to render it inconclusive ("the court agreed that SDA's survey questions were misleading").

"The district court found it doubtful that the capitalized 'D' and the ampersand would be immediately noticeable to passers-by."

This statement is in context to our name "A Creation Seventh Day & Adventist Church." The Court did not mention the article "A" at the beginning of the name. Furthermore, the Court's conclusion was "doubtful," that is, not certain. The ampersand between "Day" and "Adventist" certainly breaks up the "three-word mark" of the General Conference Plaintiffs. Interestingly and ironically, it is highly likely that few "passers-by" would even notice the name of the church at all. Our building was originally a convenience store with gas pumps in front. Though the word "Church" in our name has been conspicuously displayed in large letters on the building for years, many who have stopped for travel information or other services would ask, "What kind of business is this?"

"The district court sustained defendant's view that it was difficult to imagine someone accidentally becoming a member of his church, while believing that it is affiliated with the General Conference."

Is this not really where "the rubber meets the road?" A significant reason for seeking trademark protection is to avoid fraud in the consuming of goods and services. If our goods/services and advertising are *not* so similar that "consumers" would be duped into joining our church or giving money to our church through actual confusion with Plaintiffs', then where is the reasonable complaint? Of course, any "Christian" organization that observed the principles of the Bible would rather be defrauded than to bring such matters to bear before the civil court.

"The intent of the defendant in selecting the mark, weighed in favor of defendant, in the absence of evidence that defendant intended to confuse the public into believing that his church was one of the plaintiffs"

This factor speaks congruently with the previous point. If there was no "bad faith" or "ill intent" on my part, and no actual harm has been done, what is the intent of the complaint? It reminds me of the Scripture that says, "But whereunto shall I liken this generation? It is like unto children sitting in the markets, and calling unto their fellows, And saying, We have piped unto you, and ye have not danced; we have mourned unto you, and ye have not lamented. For John came neither eating nor drinking, and they say, He hath a

devil. The Son of man came eating and drinking, and they say, Behold a man gluttonous, and a winebibber, a friend of publicans and sinners. But wisdom is justified of her children." (Matthew 11:16-19)

"The district court concluded that the plaintiffs had established that McGill violated trademark infringement laws by using the mark 'Seventh-day Adventist' without permission."

"Whenever men choose their own way, they place themselves in controversy with God. They will have no place in the kingdom of heaven, for they are at war with the very principles of heaven. In disregarding the will of God, they are placing themselves on the side of Satan, the enemy of God and man. Not by one word, not by many words, but by every word that God has spoken, shall man live. We cannot disregard one word, however trifling it may seem to us, and be safe." [Thoughts From the Mount of Blessing, p. 52]

Since I had received a "divine mandate" from the Creator of the universe to utilize the name "Creation Seventh Day Adventist" in the description of my religious observances and faith, how could I rightly ask permission from the General Conference? That would have been an abomination unto God and a peril unto my soul. It has ever been true that when the laws of man and the laws of the Almighty collide, the Christian "ought to obey God rather than men." (Acts 5:29)

Surely, "they hated me without a cause." (John 15:25) Shadrach, Meshach, and Abednego, answered and said to the king, O Nebuchadnezzar, we are not careful to answer thee in this matter. If it be so [that you cast us into the burning fiery furnace], our God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand, O king. But if [we are] not [cast into the burning fiery furnace], be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou hast set up. (Daniel 3:16-18)

Writing from Africa,

Walter Ogden McGill III (a.k.a. Pastor "Chick" McGill)

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"The spirit that instigates accusation and condemnation in the church which results in uprooting those that are looked upon as evildoers, has manifested itself in seeking to correct wrongs through the civil power.

This is Satan's own method for bringing the world under his dominion; but the Lord Jesus Christ has given us no such example for thus dealing with the erring.

God has been misrepresented through the church by this very way of dealing with heretics; He has been represented as the one who empowered the church to do these wicked things."

- ELLEN G. WHITE

A Publication of the CSDA Church

Church Home Office:

1162 Old Highway 45 South Guys, Tennessee 38339

Editor:

Lucan Chartier claimvictory@hotmail.com (662) 287-9758

Distribution:

Giselle Aguilar bautistagiselle@hotmail.com (813) 404-5702

www.csdachurch.org