# TRADEMARK: PAST AND PRESENT

WM 961

**PART ONE OF THREE**

I have been reporting on the trademark threats and lawsuits in our denomination for thirteen years. That is a long time to harass faithful believers; this is an unbelievably long time, in view of the fact that no administrator anywhere in our conferences, unions, Division, or publishing houses has spoken up in protest.

**However, the latest turn of events presents us with a historic milestone. It is time that we briefly review what has happened, where we stand now, and what is ahead of us.**

Part of what I am going to present, you will find in my 80-page book, *The Story of the Trademark Lawsuits* ($7.00 each + $1.50 p&h; hereinafter referred to as STL); but some of it I have not told before. I want you to clearly understand the situation and how you should relate to it.

You will recall that Walter Rea, a Southern California Conference pastor, broke the story to the *Los Angeles Times* on October 23, 1980, that he had uncovered massive plagiarism on the part of the deceased prophet of the Seventh-day Adventist Church. We now know his charges were mistruths and total fabrications (see our 84-page book, *Ellen White Did Not Plagiarize*, $8.00 each + $1.50 p&h), yet at the time it was a big news item. On November 13, his conference executive committee voted to oust him from the ministry.

On April 21, 1981, a non-Adventist attorney, Vincent Ramik, was hired by the General Conference for a special assignment. Because he specialized in property rights cases (patents, trademarks, and copyrights), he was asked by Warren Johns, an in-house attorney at the General Conference, to conduct a historical review of 19th century copyright law as it related to the books of Ellen G. White. In order to carry out this assignment properly, he needed to read her books. After more than 300 hours, reportedly spent on about 1,000 relevant cases in American legal history, Ramik presented his report to the General Conference in late August. It was featured in the September 17 issue of the *Review* as "The Ramik Report."

Faithful Spirit of Prophecy believers everywhere rejoiced. Little did they know that Ramik would erelong make himself one of their worst enemies. He would become a latter-day Saul of Tarsus, hailing the saints into Court and seeking to imprison them (and paid by our denomination to do it). At the time, Neil C. Wilson was General Conference

**SPECIAL NOTICE—**In the last *Checkpoints*, we listed several tracts we were going to mail to you in forthcoming mailings. However, the situation has radically changed since then.

Those tracts all deal with the Florida trademark trial. But, due to the early ruling in the case, we have been catapulted beyond that to different issues: the Florida decision, what we should do about it, and what is coming next.

In addition, we have a number of important tracts you need. Yet, if we wait till you have received all the trial proceedings in the mail, other important mailings to you could be delayed by over a month.

On top of that, in the middle of July we will need to begin sending out reports on the 2000 Session in Toronto in July and possibly in August.

We just do not have space to send the trial tracts; yet it is really not necessary to do so, for you can easily obtain a copy of the Florida Trademark Trial, which will contain all that material at a relatively low price:

**THE FLORIDA TRADEMARK TRIAL**—25 tracts about the March 13-16, 2000 trial: ***The Florida Trademark Trial–Part 1-3*** *[WM–941-943],* ***Florida Trial Photos and News Clips*** *[WM–945],* ***Analysis of the Florida Trademark Court Transcript–Part 1-9*** *[WM–946-954],* ***The Seventh-day Adventist Non-Identity Factor*** *[WM–944],* ***Summary of 36 Legal Defense Points to be used in a Trademark Lawsuit or Appeal–Part 1-2*** *[WM–955-956],* ***Letter to the Trademark Court*** *[WM–957],* ***The Florida Trademark Decision–Part 1-3*** *[WM–958-960],* ***Trademark: Past and Present*** *[WM–961-963],* ***How to Protect Your Group from a Trademark Lawsuit*** *[WM–964]* April 2000, 100 pp. $7.50 each + $2.00 p&h.

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president, and he became caught up in a web of intrigue which, in my opinion, he will have to face in the judgment. A person cannot be acquainted with the Spirit of Prophecy and, then, do the things that some of these men are doing,—without answering to a heavy charge in the Judgment.

Always interested in meeting people, Wilson became acquainted with Ramik who, for his part, recognized he might be able to increase his earnings from these friendly folk in Takoma Park, about 15 miles, as the crow flies, from his law office in Annandale, Virginia. If you consider that Ramik claimed to have spent 300 hours working on the plagiarism charge (frankly, that is a lot of hours for a project by a specialist in the field who, in my opinion, should have been able to do it in 25 hours), he had already made about $75,000.

Ramik suggested, to Wilson, that it would be a good idea to obtain General Conference trademark control over all their key names. Our president liked the idea; so, accompanied by Robert Nixon, on November 10, 1981, Ramik went to the U.S. Patent and Trademark Office in the Department of Commerce Building in Arlington, Virginia, and applied for a number of trademarks. Three of them were for "Adventist," "Seventh-day Adventist," and "SDA." (Later our leaders recognized it was best if they not attempt to sue people on "Adventist" alone, so they never have.)

At the time these trademarks were applied for, the government office was not told that the name had been used by believers for a number of years before the General Conference came into existence, in 1863, and that a number of other church organizations had continually called themselves by that name for decades prior to 1981. Under copyright regulations, it is improper to trademark a name which is already being used by other firms. Yet, because the Trademark Office was not told these facts, the trademark permits were issued.

Only a small handful of men in the denomination knew what had been done. Instead of publishing the fact, so separatist Adventist organizations could protest the fact to the Trademark Office, the General Conference kept the matter quiet and bided their time. This was due to a clause, in the trademark law, which specified that a trademark did not attain its full legal weight until five years had passed. The brethren were gleeful. Ramik had promised them that, after the five years had expired, they could order their rivals into the secular courts, one after another, and bring stiff penalties against them for using the name, "Seventh-day Adventist." Ramik would make it a crime against the State!

**"The church, being supported by the civil authority, would permit no dissent from her forms." — *Great Controversy, 290***

**"Unauthorized assemblies for religious worship were prohibited, under penalty of imprisonment."— *Great Controversy, 290***

The fact that he, a non-Adventist, was willing to do this was not remarkable; that our leaders liked the idea is astonishing. One would think a few of them, after having a few nightmares over this, would have demanded that this intended persecution of believers be stopped in its tracks! But this apparently never happened in the subsequent 19 years.

In preparation for the coming Court battles, a communications network was set up with conference presidents, throughout the nation, about two and a half years later. They were instructed to report back on any independent group that posted a church sign which included the name which Ellen White said we must always identify ourselves: "Seventh-day Adventist." On March 26, 1984, the first intimation of the impending holocaust arrived in someone's mailbox.

John Marik, pastor of an independent group in Hawaii, received a letter from Robert Nixon, a General Conference attorney. The letter was sent to Marik by mistake! It was supposed to have been sent to a local Kona pastor, to spy out information on Marik's church, in preparation for a later trademark lawsuit. The letter requested the pastor to carry out careful sleuthing on Marik and mail back reports, photographs, copies of church bulletins, etc. *(for a copy of the letter, see STL, p. 57).*

Marik did not understand what was happening, but saved the letter. A week later (April 3), Nixon sent him a second letter, apologizing for having sent him the first one *(see STL, p. 58).* This incident occurred three years before Ramik began harassing faithful believers and initiating lawsuits. When the Hawaii Conference president was alerted to the misrouted letter, he immediately wrote Marik on April 5, 1984, and asked him to stop using the trade name *(see STL, p. 59).*

Because the cat was out of the bag, although the five-year waiting period was not ended, on September 25, 1985, Ramik wrote Marik and asked that he stop using the trademarked name *(see STL, pp. 59-60).* This was followed by a second letter; this one was a "demand," on November 22 *(see page 61).*

On behalf of his small group, Marik sent a four-page letter to the General Conference on November 29, 1985, explaining why they could not deny their faith *(STL, pp. 61-63).* On December 5, 1985, Nixon replied from the General Conference by say-

ing that Marik's letter was being referred to "the General Conference law office" *(STL, p. 64).* Yet Nixon was supposedly sitting in the General Conference's *"law office"* (the Office of General Counsel for the General Conference).

The official reply to Marik's letter was dated December 30, 1985; Ramik was the "General Conference law office"! In his letter, he said that *"Seventh-day Adventist"* was now a legally owned trade name, and that Marik's group had to give it up *(STL, p. 64).*

But John Marik did not write me, nor did any of his few church members. He just saved the letter and more time passed.

Then, on November 10, 1986, the five-year waiting period ended and the harassment began. I began receiving phone calls in the spring of 1987.

Faithful Bible-Spirit of Prophecy worshipers were being threatened by someone who said he was an attorney representing the General Conference! He said to change the name which expressed their beliefs or stop worshiping!

This was happening in America! These were Seventh-day Adventist believers! And this man said it was the General Conference of Seventh-day Adventists which was authorizing him to do this!

What strange, new apostasy was coming into our denomination?

On February 9, 1987, Elder Morris Patterson, pastor of an independent black church in Huntsville, Alabama, received a threatening letter from Ramik, that his church would be sued if it did not stop calling itself "Seventh-day Adventist." Patterson was dumbfounded.

His wife was told by believers on our mailing list to phone me. During several calls, she told me the story. He was a solid Adventist pastor who had been railroaded out of the conference on a pretext, so he moved across town and started a new church with 50 members. By the Spring of 1987, his solid Spirit of Prophecy teachings had increased it to 200.

Oddly enough, his church was called "Word of Faith Church." The contested name was not written anywhere on his church signs, church bulletins, business correspondence, or newspaper notices. It appeared only on their corporation papers, filed at the Alabama State capital *(STL, p. 69).*

But Patterson was a thorn in the flesh of the Gulf States [black] Conference office, because they thought he was taking some of their members.

A second letter came from Ramik on March 11 *(notice its demanding tone, STL, p. 70).*

Finally, in total despair, on August 17 poor Patterson wrote a pathetic letter to Neil C. Wilson, pleading for this to stop. Of course, Neil did not bother to answer it. Since this child of God was now crawling on his knees, it was handed to Ramik to reply to with his tender mercies.

On September 4, he sent Patterson a copy of the *Settlement Agreement.* When a copy was sent to me, this was the first time I had every seen this horrible legal paper. It required Patterson and his Advent believers to forever abandon the name, Seventh-day Adventist, and to turn over all their books and papers with that name to the U.S. Marshal, to be forwarded to the General Conference for destruction. (See our 44-page book, *Legal Defense against a Trademark Lawsuit, Plus the Notorious Settlement Agreement,* $4.00 each + $1.50 p&h; hereinafter designated as LD.)

In two later cases, I would again be sent a copy of the *Settlement Agreement* by the victims. Each one was essentially like its predecessors.

Who was this "Vincent Ramik" that Mrs. Patterson was telling me about? Although John Marik had received a letter from Ramik in December 1985, I did not learn about it till later in 1987.

Checking back in my records, I came across that *"Ramik Report"* in the September 17, 1981, issue of the *Review*. Carefully reading it again, I found that three (3) times the *Review* editors and writers maintained that Ramik was a baptized and currently practicing Roman Catholic! I was shocked. Why were our leaders in Takoma Park hiring a faithful Roman Catholic to destroy Seventh-day Adventists?

(It is today claimed that Ramik has not been a Roman Catholic since he was about 22 years old. If that is so, then the *Review* writers deliberately lied or he lied to them in 1981. There is something here that does not ring true. We are now supposed to believe Ramik's claim, that he totally abandoned the Catholic Church decades ago. In view of his activities, can we believe those claims?)

Eventually as the September 3 Court date neared, Elder Patterson, totally crushed in spirit, agreed to sign the Settlement Agreement. His little group had been humbled in the dust, stripped of their faith.

Fortunately, throughout this ordeal, Elder Patterson's wife sent me copies of the various letters and papers, so I could share it with our people everywhere. This was the first indication that something was wrong, terribly wrong.

In the midst of our active reporting on the Huntsville ordeal, in July of 1987, I received a phone

**"The doctrine that God has committed to the church the right to control the conscience, and to define and punish heresy, is one of the most deeply rooted of papal errors."**

***— Great Controversy, 293***

call from Indiana; and, soon after, a letter from the far West. A remarkable Adventist couple had moved to a Catholic bastion in southern Indiana, and immediately set to work in active evangelism: Bible studies and house meetings. This intelligent,capable lady and her husband actively began dark-county evangelism in a Catholic area of south-central Indiana. Soon their bank credit was closed, other events occurred, and Catholic officials stopped by their home one evening and told them they were being watched and had better get out of town as soon as possible. Before leaving, they lost their home and their business.

Moving a little west in the state, they started a new missionary project and soon had raised up a church company. After relocating, they set to work; and, within four months, what started as 19 members had grown to 60! But the conference president, a former big-time evangelist who had developed a dictatorial habit, made unnecessary demands; when they did not respond quickly enough, he ordered their group to disband. Thinking he could hurt them more, he phoned Ramik

(Note that the beginnings of the Huntsville, Indiana, and south Florida breakaway churches all started the same way: Church leaders became jealous of success by a new, little church which was actively preaching solid Adventist teachings and gaining new members.)

Then Ramik phoned the woman and informed her that their local church must obtain the approval of the conference president or he, Ramik, would slap them with a major lawsuit. Oddly enough, when he phoned, they were still listed as a "duly authorized" church company with the conference office. This lady was astonished at Ramik's phone call, when he said they were not authorized to tell people they were Seventh-day Adventists. She was even more astonished when, upon calling me, I told her the *Adventist Review* said Ramik was a Roman Catholic! Why was a Catholic now being sent to them from Adventist headquarters—to stop them from worshiping on the Bible Sabbath! What was going on?

The conversation she had with Ramik on the phone that day was fabulous. He boasted that he had already put 30 other small Adventist groups out of business and he would do it to theirs also, if they did not immediately obtain the approval of the president of the Indiana Conference and comply with any, and all, requirements he might specify.

I was specifically told, by her, that Ramik said this: *"We already have 30 down; 127 to go. If we take you to Court, we will win you too."* Remember those words!

At the time, and in the years which followed, I was never able to locate many of that large number of groups which Ramik said he had been threatening and closing down. What happened to them? Did they ever exist? Did hundreds of believers just give up their faith and walk away? In this life, we will probably never know.

(Bill Perry, who we will discuss later, was able to obtain a document from the General Conference saying that, by the early 1990s, they had already sued seven local churches. You will find the names and addresses in STL, pp. 32 and 56. Because some of them were black or Hispanic, Calvin Rock, a well-known black leader was placed in charge of the infamous *"Trademark Committee"* at the General Conference, so it would not appear that the suits were racially motivated.)

After Ramik phoned, the lady telephoned the Trademark Commission in the nation's capital and asked one of their officials for counsel. He told her this (I wrote it down as she told me and quote it from a write-up I did on this over a decade ago):

> "Well, I must tell you, that if another organization, business, etc., already has that name, that you should change your name. Now, having said that, which I am supposed to tell you, let me tell you a few more things:
>
> "We will trademark your dog's hind leg for $200 if you request it. It's up to you after that to defend it and prove it in Court. I don't think your church [the Adventist denomination] has a prayer of a chance to prove it in Court."

That was a significant comment, coming as it did from an expert in the field. (However, as we know, the General Conference did have some wins; and later in this study I will tell you why.) The expert went on to assure her that, if it went to Court, her little group would probably win the case. He mentioned his disgust that the General Conference, which brags about its defense of "religious liberty," would thus seek to deny it to Advent believers.

I was in contact with that small Indiana church several times. The conference president, determined

**"The union of the church with the state, be the degree never so slight, while it may appear to bring the world nearer to the church, does in reality but bring the church nearer to the world." — *Great Controversy, 297***

Continued on the next tract

# TRADEMARK: PAST AND PRESENT

**PART TWO OF THREE**

Continued from the preceding tract in this series



to rule or ruin, continued to be overbearing and difficult to deal with. But the group, threatened with litigation and financial liquidation by Ramik's battery of attorneys if they resisted, decided to ask the Lake Region (black) Conference to take them in as a sister church. Because they sent in tithes and offerings with their request, it was very quickly accepted! At last word, the Indiana Conference president was in a rage. He had been outfoxed.

I lost contact with the little group after that (and do not know whether they remained in the Lake Region Conference); later we reported about Lake Union's massive diversion of tithe and offering funds (over $10 million) to unprofitable Chicago real estate projects. Lake Region officials had continued this for over a decade, from the late 1970s. When the Racine Street Project began in 1981, the financial drain greatly increased. *(See our 92-page Lake Region Crisis Documentary Tractbook, $7.00 each + $1.50 p&h).*

Friends in Huntsville told Mrs. Patterson to call us. Because we reported on that case, the lady in Indiana phoned us and we reported on that. In the same month (July 1987), a young pastor, reading our trademark reports, also wrote us. The Hawaii lawsuit had begun.

On July 15, John Marik sat down and typed out a letter to me. It was the first we had heard of this. I quickly phoned him and learned about those 1985 letters, mentioned earlier. Marik gladly sent me copies, which I published. (See our earlier mention of this.) He also told me the General Conference filed a lawsuit against him on April 9 *(see STL, p. 66)*. It included demands very similar to the wording in the Huntsville Settlement Agreement.

We will not discuss the Hawaii case in detail; you can read it in our book, *The Story of the Trademark Lawsuits*, and our even more extensive coverage in our six Trademark Tractbooks, filled with legal papers on this and other cases. But here are a few key points:

Marik had not the slightest idea concerning how to handle this problem; and, early on, he decided not to hire an attorney, since they wanted to charge too much. But, in a federal Court trial, he was helpless without one. Ironically on the same day that Marik first wrote me, in Honolulu a clever legal maneuver was carried out. Working with the General Conference, Ramik had his Honolulu law firm file a legal paper with the Court, asking the judge to skip the hearing (Court trial) entirely—and proceed directly to rendering a judgment (final decision)!

This was the title of that legal paper: *"Motion for judgment on the pleadings or, on the alternative, motion to strike."* If approved, this would effectually muffle all further testimony or pleas by Marik and his eight Adventist fellow believers. A United States federal judge would decide their case; and, because of the way everything was stacked against them, the result would be grim.

A copy of that important document was never sent to John Marik! Yet, the back page of the copy, retained by the Honolulu law firm, included the usual certification, guaranteeing that a copy had been sent to Marik at the same time it was filed at the courthouse. But Marik had carefully saved every paper the lawyers sent him.

I busily set to work reporting on the Hawaii lawsuit and, later that fall, I received another phone call. It was from an attorney in Texas, Max Corbett. He told me he had learned about my reports—and was going to fly to Hawaii and help Marik.

Arriving there, Corbett found that this crucial paper, which neatly sidestepped a hearing, was missing. It had never been sent to Marik. To add to the crisis, Corbett arrived just after the final judgment was handed down, by the Court, on December 8, 1987! John Marik and his little group were found at fault; they were told to take down their sign and hand it, along with their books and papers, to the General Conference for destruction.

Corbett immediately prepared a flurry of legal papers; the Honolulu attorneys representing the General Conference—working closely with Vincent Ramik—happily prepared their own blizzard of legal papers. All the while Ramik and his Hawaii attorneys were raking in a lucrative income from tithe money. Who were they opposing? NINE, yes, nine people on the northwest (Kona) coast of the big island of Hawaii! That is all, nine people!

Yet, before the Hawaii case ended, the General Conference spent well-over $5 million on it alone. How do I know? Because I had attorneys estimate it for me. They know what the costs are.

**". . that form of apostate Protestantism which will be developed when the Protestant churches shall seek the aid of the civil power for the enforcement of their dogmas . ."**

***— Great Controversy, 445***

(On April 10, 1989, Robert Nixon, the in-house General Conference attorney overseeing the trademark suits, responded to a letter of inquiry with these words: "All litigation is paid from . . tithe" *(see STL, p. 63*).

You might wonder why General Conference attorneys were not representing the General Conference in this suit. It has been said that they did not do this because they were not skilled in trademark cases and had not applied to represent clients before the federal bar in Hawaii. But that is a weak excuse. When Max Corbett later got on the case, he applied—for and within a week received—permission to appear at the Hawaii federal Court. He then quickly studied into the matter—and transformed himself into a professional in trademark litigation, arguments, and court precedents. The truth is that the General Conference preferred to work in the background, approving Ramik's decisions and not getting the blood stains of the persecuted directly on their own hands.

So every time a new trademark lawsuit was begun, Ramik hired lawyers from a law firm, in that state, to handle the case. The ongoing expenses of Ramik and those other attorneys were fabulous. So much money was poured into trademark lawsuits in the 1980s that, around 1990, an Annual Council reduced the amount of money the General Conference could play with (the "General Conference budget"), and they had to lay off a sizeable number of their staff.

You can take small comfort in the fact that, in every trademark lawsuit, the General Conference pays over four times as much in legal fees as the group they are suing. This is due to the fact that they have to pay in-house attorneys, Ramik's Virginia office, and local in-state attorneys, along with secretarial expenses on all levels, plus flying and lodging expenses. For every suit, they have to support three law offices, plus the "Trademark Committee." As long as deluded church members (told that the suits are a "Christian" thing to do) keep funding the General Conference, they could keep using the federal courts to persecute little groups.

At this juncture, we should briefly mention yet another trademark fight: There was a large black church in Houston, Texas; because, their worship services were conducted for a time separately from conference control, they also received a phone call from Ramik.

The conference was suing this local church, in order to gain property rights to their church building which had not been turned over to it. But Ramik's phone call caused them to capitulate. The congregation quickly settled its differences with the conference after that call came in. Denominational leaders were learning that Ramik could help them induce submission. The federal government carried a bigger stick than they did, and they were finding that they could use it to "enforce their decrees and . . sustain their institutions" *(Great Controversy, 445:1).*

**". . shall influence the state to enforce their decrees and to sustain their institutions, then . ."— *Great Controversy, 445***

Now, back to Hawaii: The aftermath of that legal judgment was detailed enough that you do best to read our earlier books on this. The flurry of legal papers continued (most of which are reprinted in our more than 1,700 pages of "trademark tractbooks").

On February 22, 1988, a new judge (Russell E. Smith) convened a hearing. He knew his hands were tied, since an earlier judge had already issued a decision in the case; but, listening to Max Corbett's convincing arguments, Smith said two significant things:

> "I am satisfied in this case that [December 8] judgment should not have been entered as it was . . I think it should not have been granted because the [Marik] church did not get its day in Court [to defend itself]."

Then, turning to Warren Johns, the in-house attorney representing the General Conference that day, he said:

> "Now, I am going to do something that I have never done before, and that perhaps is unusual. The plaintiff [General Conference] has won a victory in Court. But I am not sure that if you pursue this victory it isn't going to be a pyrrhic one . . The plaintiff is a conference of a religious group which has certain beliefs which are reasonably unique. The defendant is likewise a religious group which has very similar, if not identical, beliefs. And we have here a struggle between those two religious groups. I think that it is unfortunate that this litigation took the turn that it did."

Then Judge Smith asked Johns to carry back the message to the General Conference to please reconsider, and either cancel the suit entirely or let the defendants have their day in Court. Smith predicted that undesired results would accrue to the denomination if they did not do so. *(See STL, pp. 17-19 for all of this. For an explanation of a "Pyrrhic victory and its historical background, see STL, p. 19.)*

Judge Smith's message was a warning sent from God, but it was ignored. The General Conference did not accept Judge Russell E. Smith's sound advice. He asked them to reconsider and not do this terrible action. He warned them that they were about to plunge themselves into an abyss of ruin.

But the advice, carried back to Takoma Park, by Warren Johns, was ignored.

Immediately, the highest leadership in the denomination set to work to vandalize the possessions of the nine members and jail their pastor—for no crime other than that of worshiping as Seventh-day Adventists.

So, on May 9, 1988, at the federal courthouse, it was decreed that three days later (May 12), a $500-a-day fine against the little church would begin to be levied. In addition, an arrest warrant for their pastor, John Marik, would be issued. Marik went into hiding, and the fines began mounting.

A few months later he phoned me from southern California. He was living with his wife and teenage daughter in a house east of Redlands. On November 27, 1988, a special full-length article was published in the *Los Angeles Times,* the West Coast's leading newspaper, about the Hawaii trademark lawsuit. Researched and authored by their religion editor, Russell Chandler, it was a shocker. (You may recall that it was Chandler, at the *Times office,* who initially broke the story on the Walter Rea charges in October 23-24, 1980.) Meanwhile, Max Corbett was busy, working to have the case taken to a federal Appeals Court.

Continually posted by various contacts as to what was taking place, I was sending out reports. Then, in the late summer of 1988, the thought came to mind, that perhaps there might be a way to cancel that trademark in Washington, D.C.! Checking into it, I learned there was, indeed, a way it could be done. Individuals or business firms which felt they had been injured in some way, by the granting of a trademark, could file a request for cancellation. It was a two-page sheet, obtainable from the government, and was titled: *Petition to Cancel a Registration in the United States Patent and Trademark Office.*

(Keep in mind that the Lanham Act was enacted by Congress in 1946, to protect business firms from damage. It was their intent that industrial and commercial business ventures might be protected by trademark legislation.)

So, in September, we published *Canceling a Trademark [WM–203],* which explained how a person could go about doing it. When we mailed it out in September 1988, we included a sample copy of the complete petition, so it could be filled out and submitted to the proper governmental body responsible for such matters—the U.S. Patent and Trademark Commission. (We will here refer to it as the Commission.) We naively assumed it could be done rather easily.

**". . and the infliction of civil penalties upon dissenters will inevitably result . ."**
***— Great Controversy, 445***

A good friend in Pennsylvania, Bill Perry, read our announcement and phoned to tell us he was going ahead with the project. Another faithful believer, Virginia Stocker, offered to fund the project, so Bill set to work. Working virtually alone (although he had some help from a source I will not name), he gradually put together a collection of documents toward the day when a Commission hearing could be held that might cancel that terrible trademark on the name, "Seventh-day Adventist."

But the General Conference, ever a step ahead of the rest of us, petitioned the Commission to postpone the hearing until the Hawaii Appeal had been settled in Court. This delay was granted. Almost a year to the day after the fine and warrant were issued (May 9, 1988), an Appeals hearing occurred in San Francisco on May 11, 1989. By that time, the fine against the nine already totaled $182,000.

Far away on the Kona Coast of western Hawaii, the southernmost island in the Hawaiian Island chain, a weathered wooden sign was still on a building. It said *"Seventh-day Adventist Congregational Church."* Anyone looking at it can easily tell, from the word *"Congregational,"* that it belonged to an independent church group. They had never advertized in newspapers, never tried to draw off church members from the main denomination. They just worshiped quietly alone, although, of course, visitors were welcome to attend. Once in a while, someone dropped in.

But the General Conference wanted to win a court precedent and it was willing to harass nine people, at a cost of millions of dollars, to do it. Why? so they could then use that precedent to go after other, both smaller and larger, fish in the independent pond.

The Hawaii lower Court case ran from April 9, 1987, to May 9, 1988. The 9th Circuit Court of Appeals convened on May 11, 1989, to hear the case. Three judges heard the case. After thirty minutes presentation by Corbett and a second attorney, representing an *amicus curiae* group, a non-Adventist attorney from Honolulu presented the allegations of the General Conference.

(That *amicus curiae* group was one of the six branches of the Davidians. The two Adventist Reform Movement branches were asked to take part; but they always refused, assuming the General Conference would not dare go after them later, since they had the name in the U.S. since the early 1930s. But, at the Florida trial, they learned from the mouth of a General Conference attorney that they

will eventually be eliminated also.)

It was predicted that the Appeals Court would hand down its decision in three months. Instead, it took five months. On October 5, 1989, the three judges in the 9th Circuit Federal Court reconvened in San Francisco to give their verdict, which was prepared by Judge W. C. Canby.

It was decided that the judgment which the lower Court made in favor of the plaintiff (the General Conference) should be reversed, and the cause remanded to the district Court for further proceedings. The warrant was to stand as is. In everyday language, this means: The Hawaiian Court decision, that the General Conference had won the case, was set aside or canceled. The entire case had to be retried by the Hawaii federal Court again. The fine was canceled and the warrant for Marik's arrest remained in effect. One other significant decision was that only the issues brought out in Marik's two letters could be used in the retrial. But those only concerned generic and First Amendment rights issues.

Corbett then set to work to take the Hawaii case to the Supreme Court, but they refused to hear it.

Meanwhile, Bill Perry, an elderly man, stuck to his task of trying to cancel that trademark. But, fearing the possible results and desiring a good court precedent first, Ramik kept requesting additional delays.

As soon as the Hawaii Appeals Court made its decision, Ramik asked the Commission to delay the case until the Hawaii case could be retried. Then he got the Hawaii Court to delay that retrial until the Kinship case could be tried. More on these developments later.

Unfortunately, with the passing of time, John Marik became careless. He would occasionally appear at some small gatherings of the faithful and speak to them. We are told that a local denominational pastor eventually turned him in. It was the year that the General Conference moved, with great fanfare, from Takoma Park into a new building in Silver Spring, Maryland. Neal C. Wilson would be General Conference president only one more year. Would his successor close down the immoral trademark lawsuits?

At any rate, on Friday morning, December 16, 1989, at 9:15 a.m., PDT, federal marshals entered the home of John Marik, in Yucca Valley, and placed him under arrest. Handcuffed and shackled, he was taken to a prison in Los Angeles.

**". . its first resort to the power of the state . ." — *Great Controversy, 447***

The bond had been set at $25,000, even though dangerous criminals could get out on far less bail. While others could pay partial bail, the jail demanded full payment of the $25,000. In order to get enough money to bail him out, John's parents mortgaged their home. When asked about Marik's imprisonment, N. C. Wilson said, "He brought it on himself." Another church official, replying to a spoken query, said, "Marik is just trying to make a martyr out of himself."

The Sundaykeeping churches will erelong coerce the U.S. federal government into threatening, hailing into Court, and imprisoning Seventh-day Adventists because they will not deny their faith. The General Conference is already doing this. John Marik was jailed for refusing to stop being a Seventh-day Adventist.

Six months later, the Indianapolis Session elected Robert Folkenberg president. Although with a heavy-handed management style, he did nothing to stop the trademark lawsuits. His successor, Jan Paulsen has also let them continue.

In November 1985, Robert Nixon contacted Ron Lawson of Kinship, and asked them to quietly change their name because the denomination had a trademark on *"Seventh-day Adventist."*

Their board voted to let the members decide the matter at their summer 1986 "Kampmeeting," at which time they voted to retain the name. Although fully immersed in the follies of homosexuality, and with no desire to forsake them, they wanted to continue calling themselves Adventists.

Headquartered in southern California, they held frequent get-togethers; and, always on the alert to attract more participants, they regularly advertized their organization in flyers sent to students at Adventist college and university campuses in North America.

This is discussed in a set of 1980 tracts; now it is in more complete form—our 60-page, *Gay Penetration of the SDA Church* ($5.95 each + $1.50 p&h). Kinship has never been interested in reforming homosexuals; its objective is getting more Adventists to attend its social gatherings—and becoming gay.

The General Conference felt it could better rationalize the value of its trademark suits by turning its trademark guns on the gays. Surely, the church members would approve of this. Besides, Kinship was also rather small and, therefore, less

Continued on the next tract

# TRADEMARK: PAST AND PRESENT

**PART THREE OF THREE**

Continued from the preceding tract in this series



likely to mount a good defense. The Kinship case was the only trademark suit which received significant coverage in the pages of the *Review.*

But church leaders had not reckoned with two facts: (1) Because they do not support families, gays generally have more discretionary money available; and (2) Kinship could call for help from a variety of powerful, moneyed gay organizations, with a small army of lawyers dedicated to defending and promoting gay rights in America.

Just one day before they won the Hawaiian lawsuit on December 8, 1987, the General Conference had Ramik file a suit in the Los Angeles Federal Courthouse, against Seventh-day Adventist Kinship, International. In order to broaden the narrowed scope of what he could present in a Hawaii retrial, Corbett went to a multi-district panel, supervising all federal courts throughout the United States, and filed a petition to have the Marik case consolidated with the southern California case. He did not really want this, but he needed to find a way to include more points in the Hawaii case defense and also keep it from being tabled.

So he filed a motion with the Court for this purpose, but it was denied. Then more delays occurred. On August 2, 1990, the federal Court, in Hawaii, took up the General Conference request, that the Marik case be tabled until the Kinship case had ended. They granted a *Motion to Stay,* tabling the case until the spring of 1991.

Corbett appealed that ruling to the 9th District Court of Appeal, but his appeal was denied. Time and time again, a trademark case which, due to its inherent religious liberty and free speech infringements, should easily have been won by the faithful was weakened.

I believe God was permitting this, so the Advent people could see the hardness in the hearts of their leaders. But few seemed to give the matter much thought. When men want to sin, and others support them in those sins, Heaven will not prevent them from doing that which reveals what they are really like.

Several million dollars had already been spent on the Hawaii case. Now the General Conference decided to spend more—and take on an organization with powerful friends. Kinship only spent $10,000 on this case, which dragged out over a five-year period. The denomination spent far more! The National Gay Rights Advocates accepted Kinship's case and covered nearly all expenses. The prestigious firm of Fulbright & Jaworski was retained, at no charge to Kinship, to defend them *pro bono* [*pro bono publico;* that is, "for the public good"].

**". . . in the very act of enforcing a religious duty by the secular power . ."**
***— Great Controversy, 449***

The five-year Kinship case cost the General Conference millions of dollars. Intriguingly enough, Kinship had been incorporated in 1981—several months before Ramik filed for that trademark. Yet, to my knowledge, this point does not seem to have been brought up at any time in the Kinship case. —They had the name in their official title before the General Conference trademarked it!

The Kinship trial began on Tuesday, February 26, 1991, at the Federal Central District Court in Los Angeles. The presiding judge was a competent woman jurist, with many years experience: Mariana Pfaelzer. The hearing filled most of two days. Many exhibits were shown and many witnesses testified.

One of the witnesses was Ron Graybill, history professor at Loma Linda University. In a key question, he was asked about the structure of the denomination and said that it was a "representative form of government, in which all authority flows from the bottom up." That statement runs counter to statements made by church leadership in the Marikay Silver case, in the 1970s, and the Derek Proctor case, in the 1980s, in which the church compared itself in Court to a Catholic monastic organization, and was termed a *"hierarchy";* that is, a denomination controlled by church leaders. In a hierarchy, the clergy rule, not the people.

In order to help establish that *"Seventh-day Adventist"* belonged to the church organization itself, Graybill made reference to a statement in the *New Catholic Encyclopedia,* page 140, and four other non-Adventist books. No mention was made of the Spirit of Prophecy statements saying that the name was given to His faithful children on earth and that it was the name by which they must ever identify themselves.

At 5:30 p.m. on the first day, Judge Pfaelzer announced that she realized that a First Amendment issue was at stake here. By this, she meant that people had a right to call themselves what they believed themselves to be. She then set a deadline of March 27, 1991, for briefs from both sides addressing this issue. The trial had been turned from

the usage of the name, *"Seventh-day Adventist,"* to an underlying issue: freedom of speech and fair use.

*Freedom of speech:* The organization admittedly already permitted a wide variety of views, teachings, and practices. Why could not the gays have theirs?

*Fair use:* Does every one who calls himself *"Catholic"* have to be approved by the Vatican to do so?

The hearing ended on Wednesday, February 27, 1991, and the post-hearing date was set for March 27. Immediately, Corbett, Ramik, and Nixon had to fly to Honolulu for a 9:30 a.m. Friday March 1 Hawaii case rescheduling conference. Ramik's crew requested a further delay, which, over Corbett's strong objection, was granted, tabling the Hawaii case till June 3.

It is an interesting fact that Kinship leaders had strong pro-homosexual supporters in the General Conference. Two secrets were confided to them, which their attorney told someone, who then told me:

First, several staff members at world headquarters were quietly sending copies of all key legal papers to Kinship. Second, the joke going the rounds in the General Conference was that its "Trademark Committee" was nicknamed the "Search and Destroy Committee." Staff members knew what the church members were ignorant of: The General Conference was gradually working on a plan to destroy all independent Adventist groups in America.

In June, another Hawaii postponement was obtained till the Kinship suit was settled. For Max Corbett, the Hawaii situation was discouraging. He could seemingly make no headway. (1) The Honolulu judges always did what Ramik's lawyers asked. (2) The endless delays were extremely hard, financially, on Corbett. He was an older man, and the back-and-forth uselessness of the trips was wearing him out physically. (3) Worst of all, when the trial did reconvene, facts, testimony, and evidence could only be based on legal principles hinted at in Marik's two simple 1987 letters to the Court.

So Max mentioned to a friend that he was thinking of dropping out of the case. That friend immediately phoned me, and I called Max. After several tries, he returned my messages. About August 7, 1991, he sent a request to the Court to withdraw himself from the case. It was filed on the 14th. On the 21st, Max received the paper from the Court and phoned me. He told me his finances were at the bottom. We had, for example, paid for his latest trip to Hawaii; but he said the situation, since then, had become impossible. Mentioning that he had received papers from Honolulu, setting the morning of October 3 as the date to consider his withdrawal from the case, Max said he would pay for that trip himself. I could understand. He had done a gargantuan task in his collecting, typing, and presenting evidence to defend innocent believers. He was a true friend to so many of us.

But, Max added, that scheduling paper also informed him that he needed to supply the Court with an exact address for Marik, who was currently out on bail. Until they received it, they could not release him from the case. Max told me all he had was a post office box number for John, and that he was going to try and get his address.

After our conversation, Max phoned John's parents-in-law in southern California, and told them he needed John's address. They told him John had recently moved.

Then they told him the news.

As soon as Max learned what had happened, he phoned me. We were both stunned.

Max asked me what I was going to do. I told him I was going to tell everyone right away. They needed to know. Then I phoned John's wife, Dulcie, and learned still more. (Max had just obtained her phone number from the parents.)

To make a longer story short, John left his wife and went to live with another woman, a divorcée of about 40 years of age. (John was 49.)

We learned more of what happened: Frightened at the possibility of again going to prison, without disclosing his location John contacted the Hawaii attorney representing the General Conference. He said he would sign anything. Our leaders gladly handed him the Settlement Agreement, which he signed. For all their millions of dollars spent, they got a signature and an out-of-Court settlement. Not yet having won a case, they still did not have a court precedent.

The December 5, 1991, issue of the *Review* mentioned the end of the Hawaii case as a news item. Carefully worded, it incorrectly stated that Marik's six-member group was involved with Marik in that capitulation. They were not. They had nothing to do with that artful paper which purportedly signed away their rights to call themselves Seventh-day Adventists. Robert W. Nixon, a General Conference attorney, was quoted as the source of the information.

The Hawaii lawsuit ran from April 9, 1987, to November 14, 1991. That was three and a half years. During that time, nearly 2,000 pages of legal

**"The time was when Protestants placed a high value upon the liberty of conscience which had been so dearly purchased."**
***— Great Controversy, 563***

papers had been produced. I have been told, by informed individuals, that our $5 million estimate is too low; that suit alone probably cost the General Conference over $7 million.

On October 7, 1991, two months after Marik told his wife he was leaving, the decision was handed down in the Kinship case.

Although the *Review* soon after trumpeted that the General Conference had won the case, it actually lost it. (Who is telling all these mistruths to the Review editors?) Judge Pfaelzer ruled (1) individuals, not on the church rolls, could use the name; (2) organizations could use the name. But, she said she was not ruling on "Seventh-day Adventist Church," only "Seventh-day Adventist."

These lawsuits drained so much of the tithe income allocated to the General Conference (called the "General Conference Budget"), that they did not have enough money to adequately erect their new General Conference building. In 1989, when they moved into their new quarters (a few miles down the road from Takoma Park, but still in congested Montgomery County, Maryland), they had to erect flimsy partitions between "offices" instead of providing their workers with separate rooms!

Then, in the early 1990s, the Annual Council decreased the General Conference's annual budget so much, that they had to let go many office workers.

Yet the General Conference was determined to win a trademark court precedent on our hallowed name, "Seventh-day Adventist," so no one could use it without their permission. Although the Kinship decision had already ruled on "Seventh-day Adventist," but not "Seventh-day Adventist Church," the General Conference craftily decided to not appeal the Kinship case (fearing they would lose it),—but instead wait for a good opportunity to start a brand new lower court lawsuit—AGAIN on the name "Seventh-day Adventist"—even though they had already lost a case on that very point! That is shrewd. And they did just that.

You will recall that Bill Perry's *Petition to Cancel a Trademark* had been repeatedly tabled. Finally, in 1992, four years after the petition had been filed, the time had come to hear the case. Max Corbett had secretly applied for a permit to appear before the federal bar in Washington, D.C. So Ramik was dumbfounded when Corbett entered the hearing room and announced that he would speak on Perry and Stocker's behalf.

When the three-judge panel issued its ruling, two voted in favor of the General Conference and one in favor of Perry. That judge issued a minority report which was remarkably good. By this time, Max Corbett, now in his later 60s, was exhausted and he told Perry to find another attorney. He also said to immediately send in a certain form appealing the Commission's ruling.

Subsequent events were complicated (and discussed in *Story of the Trademark Lawsuits*); but ultimately an attorney who was hired to send in that appeal form did not do so, and the Appeals deadline expired. Because of something that happened, it is believed that the attorney had been paid off, by the General Conference, to not send in that form.

An unjust cause always resorts to trickery and deceptive practices; and the General Conference threats and litigations have been filled with them.

During the decade of the 1990s, from time to time we would hear of someone that Ramik threatened. But those who ignored his threats never encountered any follow-up suit. Ramik was waiting for just the right case to come along, which would have secondary elements in it which he could turn to his advantage.

He finally found it in a little church in south Florida. What made that church so special? It was their large newspaper ad, in major U.S. newspapers, which could be said to be negative to the Roman Catholic Church.

Was there really a problem with those ads? In a sense, there was. Although much of that ad was taken from the book, *Great Controversy,* yet that which Ellen White spoke against the papacy is buried in her book, not emblazoned on page 1. She never published chapter 35 in newspaper ads. Instead, in a number of passages, she warned us not to make a public attack on the Catholics.

What should we, today, do then? We should preach the message! and that is the Sabbath truth. This ad attempted to do that; but over half of it is concerned with the failings of Rome, not with a Bible study about the Sabbath.

We may deplore the fact that the General Conference seemed to have filed this suit to appease a Catholic cardinal. But we err if we do not see the deeper plot. They had been waiting for years for a good case which they could use to gain control of the name. In their view, if they could do that, and at the same time make better friends with Rome, all the better. But the primary goal was to present a case in Court which will enable them to eliminate

**"The decrees of councils proving insufficient, the secular authorities were besought to issue an edict that would strike terror to the hearts of the people."**

***— Great Controversy, 575***

every independent Adventist congregation which dares to publicly call itself Seventh-day Adventist.

Upon learning about this Florida trademark lawsuit, I immediately contacted Raphael Perez in Florida and explained to him that *the crucial points had never before been presented in Court, in defense of an independent Seventh-day Adventist church group. Therefore, in preparation for this case two important things must be done:*

(1) Place the word *"Independent"* in the church title ("Eternal Gospel Independent Seventh-day Adventist Church").

(2) Print a *disclaimer* beneath that title on every public paper or notice which they had printed, notifying the public that they were not connected in any way with the General Conference or its subsidiaries.

By doing this, they would clench the lawsuit, since the Lanham Act (the U.S. trademark law) was concerned with *"confusion of identity";* inclusion of the word, "independent," and the disclaimer would nicely avoid any confusion of identity. In order to help fix this in concrete, I even wrote a lengthy letter which he would sign and, through his attorney, send to the General Conference, declaring these points (among others); this could be entered into the Court record, to buttress his case.

(Omitting the Florida names, we reprinted it in April 1999: Solutions to the Trademark Lawsuits—Part 1-2; it is now in part one of our 44-page booklet, *Legal Defense against a Trademark Lawsuit plus the Notorious Settlement Agreement*; $4.00 each + $1.50 p&h.)

Raphael is a wonderful friend and a fine individual, but he was repeatedly voted down by others, including committees and attorneys on adding the word, "Independent," and the public disclaimer. As for the letter, his attorney (an earlier one) refused to send it to the General Conference, saying "it was not necessary." So it could not go into the Court record as showing good intent on his part.

So both vital points were never established prior to the Miami Court trial. Judge King liked the Perez group, but ruled against them because he saw no specific way, on both church signs, to tell an independent "Seventh-day Adventist Church" from a General Conference "Seventh-day Adventist Church." Read the court documents and his ruling, and you will see this to be so. The Lanham Act had been violated; there was "likelihood of confusion."

Another factor favoring the General Conference were the newspaper ads, which, although you and I may like, consisted of very uncomplimentary remarks about the papacy, made in the name of a local "Seventh-day Adventist Church." You and I may feel we have a right to do this; but, in the eyes of a trademark Court judge, this was not an ideal setting for a lawsuit to defend our use of that term.

If a non-condemnatory Sabbath Bible study had been printed, concluded by "Eternal Gospel Independent Seventh-day Adventist Church," with, immediately below it, a clear disclaimer of identity to the General Conference; we would have had a far, far stronger case.

The Florida group will appeal this case, and they may win on Appeal; but they may not.

If they do not, you can know that the General Conference will set its dogs to attack every independent group it can. Why do they do this? They somehow imagine they are doing God service by getting the federal government to enforce their decrees. You respond, "That is in clear violation of statements in *Great Controversy!"* You are right. I genuinely believe the reason those men think it is right to do this is because they really do not believe in the Spirit of Prophecy. That is a strong statement, but the evidence supports it.

*—vf*

**"Let the principle once be established in the United States that the church may employ or control the power of the state; that religious observances may be enforced by secular laws; in short, that the authority of church and state is to dominate the conscience, and the triumph of Rome in this country is assured."**

***— Great Controversy, 581***

**"Thus the secular power was in the hands of the church. It was not long before these measures led to the inevitable result—persecution."** ***— Great Controversy, 293***

**"Thus again was demonstrated the evil results, so often witnessed in the history of the church from the days of Constantine to the present, of attempting to build up the church by the aid of the state, of appealing to the secular power in support of the gospel of Him who declared, 'My kingdom is not of this world.' John 18:36."**

***— Great Controversy, 297***