

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**EPISCOPAL DIOCESE
OF FORT WORTH**

Plaintiff,

v.

THE RT. REV. JACK LEO IKER

Defendant.

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No. _____

COMPLAINT

Plaintiff Episcopal Diocese of Fort Worth complains of Defendant Jack Leo Iker as follows:

NATURE OF THE ACTION

1. This action relates to the unauthorized use of the service marks of Plaintiff Episcopal Diocese of Fort Worth to identify religious services and works.
2. The purpose of service marks under 15 U.S.C. § 1127 is to identify and distinguish the services of one person or organization, including a unique service, from the services of others and to indicate the source of the services.
3. Protecting the public from confusion as to the source, sponsorship, or affiliation of religious services is particularly important because of the inherently personal nature of such matters. Generally, individuals wish to support, participate in, and/or find spiritual growth or benefit from the services and works of their chosen faith. The service marks serve an important function in that regard by identifying and distinguishing the services and works of one religious institution from another.

PARTIES

4. Plaintiff Episcopal Diocese of Fort Worth is a Texas unincorporated association with its principal place of business at 3550 Southwest Loop 820, Fort Worth Texas, 76133.

5. Defendant The Rt. Rev. Jack Leo Iker is an individual who may be served with process at 2900 Alameda St., Fort Worth, Texas 76116.

JURISDICTION AND VENUE

6. This action arises in part under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, for service mark infringement and dilution. This Court has jurisdiction over those claims pursuant to 28 U.S.C. §§ 1331 and 1338.

7. This Court has jurisdiction over Defendant because Defendant resides in and practices the unlawful conduct complained of herein within this District, the unlawful conduct complained of herein causes injury, in part, within this District, and Defendant regularly does and solicits business within this District.

8. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims herein occurred in this District.

FACTUAL BACKGROUND

Plaintiff and Its Service Marks

9. Plaintiff is a diocese of The Episcopal Church, a hierarchical religious denomination where governing documents are its Constitution, bylaws called canons, and its Book of Common Prayer. These documents were first adopted in 1789. Plaintiff is a

provider of religious services and works of The Episcopal Church in the North-Central Texas area.

10. Plaintiff has been continuously providing, advertising, and marketing its religious services and works under the name and service mark “The Episcopal Diocese of Fort Worth” and the corresponding United States Patent and Trademark Registration No. 3,820,400 (attached hereto as Exhibit A) since at least June 1983. Registration No. 3,820,400 is valid and subsisting. Plaintiff therefore has protectable rights in the same.

11. Plaintiff has been continuously providing, advertising, and marketing its religious services and works using the seal and service mark below:



and the corresponding United States Patent and Trademark Registration No. 3,826,996 (attached hereto as Exhibit B) (collectively with the “Episcopal Diocese of Fort Worth” service mark described in paragraph 10, the “Service Marks”) since at least June 1983. Registration No. 3,826,996 is valid and subsisting. Plaintiff therefore has protectable rights in the same.

Defendant and His Use of Plaintiff's Service Mark

12. Defendant withdrew from The Episcopal Church and pledged his allegiance to a different denomination. He is still providing religious services and works in the North-Central Texas area.

13. Defendant has been and is currently providing, advertising, and marketing his religious services and works using the Plaintiff's Service Marks.

14. Plaintiff does not provide, sponsor, authorize, or control the content of the religious services and works of Defendant.

15. Defendant's use of the Service Marks is without the express or implied consent of Plaintiff.

Public Confusion and Harm

16. Defendant's unauthorized use of the Service Marks in his provision, advertising, and marketing of religious service and works is likely to cause confusion among the public seeking to participate in, benefit from, or support Plaintiff's religious services and works.

17. Members of the public seeking religious services or works of the Plaintiff may attend or support services provided by Defendant under the mistaken belief that Defendant's services are being provided by, sponsored by, or affiliated with Plaintiff.

18. Members of the public may also associate the quality and/or content of the religious services and works offered by Defendant with those offered by Plaintiff, although, as explained above, Plaintiff does not provide, sponsor, authorize, or control the content of Defendant's religious services and works.

19. The above two examples are illustrative of the problems created by Defendant's unlawful conduct. They by no means describe all the ways in which Defendant's use of the Service Marks is likely to confuse the public or cause harm to Plaintiff.

CLAIMS FOR RELIEF

Count 1: Service Mark Infringement Under the Lanham Act

20. Plaintiff hereby alleges and incorporates each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

21. The Service Marks are valid and subsisting federally registered service marks entitled to protection under the Lanham Act.

22. Defendant uses the Service Marks in commerce, by among other things, using the Service Marks to provide, advertise, and market religious services and works.

23. Defendant's use of the Service Marks is without the consent of Plaintiff.

24. Defendant's use of the Service Marks causes confusion among the public about the affiliation, origin, and sponsorship of religious services and works.

25. Defendant's actions constitute, and continue to constitute, service mark infringement under the Lanham Act, 15 U.S.C. §§ 1114 and 1125.

26. As a result, Plaintiff has suffered actual damages and loss and suffered irreparable harm and injury, for which there is no adequate remedy at law that will continue until Defendant's conduct is enjoined.

Count 2: Service Mark Dilution Under the Lanham Act

27. Plaintiff hereby alleges and incorporates each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

28. The Service Marks are valid and subsisting federally registered service marks entitled to protection under the Lanham Act.

29. Defendant uses the Service Marks in commerce, by among other things, using the Service Marks to provide, advertise, and market religious services and works.

30. Defendant's use of the Service Marks is without the consent of Plaintiff.

31. Defendant's use of the Service Marks creates an impression of association between Defendant and his religious services and works with Plaintiff.

32. The association of Defendant and his religious services and works with Plaintiff impairs the distinctiveness of and tarnishes the Service Marks.

33. Defendant's actions constitute, and continue to constitute, trademark dilution under the Lanham Act, 15 U.S.C. § 1125.

34. As a result, Plaintiff has suffered actual damages and loss and suffered irreparable harm and injury, for which there is no adequate remedy at law that will continue until Defendant's conduct is enjoined.

Count 3: Injunctive Relief

35. Plaintiff hereby alleges and incorporates each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

36. Defendant has irreparably damaged and injured and continues to irreparably damage and injure Plaintiff by the willful and lawful acts complained of herein.

37. Unless Defendant is restrained by this Court, he will continue to cause irreparable damage and injury to Plaintiff for which there is no adequate remedy at law.

38. Plaintiff reserves its right to seek a Preliminary Injunction.

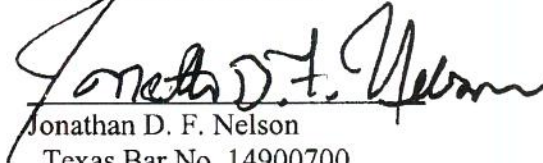
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in their favor and against Defendant as follows:

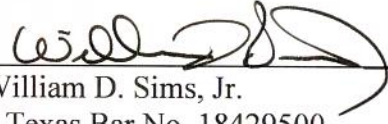
- A. Enjoin Defendant from using the Service Marks in connection with the performance, advertising, or marketing of any religious services or works;
- B. Award Plaintiff damages caused by Defendant's wrongful actions;
- C. Award Plaintiff its costs in bringing this action;
- D. Award Plaintiff its reasonable attorneys' fees; and
- E. Award Plaintiff any such other and further relief as the Court may deem just and proper.

Dated: September 21, 2010

Respectfully Submitted,



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***ATTORNEYS FOR PLAINTIFF
THE EPISCOPAL DIOCESE
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US 536734v.1

Exhibit A

United States of America

United States Patent and Trademark Office

The Episcopal Diocese of Fort Worth

Reg. No. 3,820,400

Registered July 20, 2010

Int. Cl.: 45

SERVICE MARK

PRINCIPAL REGISTER

EPISCOPAL DIOCESE OF FORT WORTH (TEXAS UNINCORPORATED ASSOCIATION)
3550 SOUTHWEST LOOP 820
FORT WORTH, TX 76133

FOR: RELIGIOUS SERVICES, NAMELY, MINISTERIAL, EVANGELICAL AND MISSIONARY SERVICES, IN CLASS 45 (U.S. CLS. 100 AND 101).

FIRST USE 6-1-1983; IN COMMERCE 6-1-1983.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

SER. NO. 77-748,064, FILED 5-29-2009.

HAI-LY LAM, EXAMINING ATTORNEY



David J. Kyffes

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

Exhibit B

United States of America

United States Patent and Trademark Office



Reg. No. 3,826,996

Registered Aug. 3, 2010

Int. Cl.: 45

SERVICE MARK

PRINCIPAL REGISTER

EPISCOPAL DIOCESE OF FORT WORTH (TEXAS UNINCORPORATED ASSOCIATION)
3550 SOUTHWEST LOOP 820
FORT WORTH, TX 76133

FOR: RELIGIOUS SERVICES, NAMELY, MINISTERIAL, EVANGELICAL AND MISSIONARY SERVICES, IN CLASS 45 (U.S. CLS. 100 AND 101).

FIRST USE 6-1-1983; IN COMMERCE 6-1-1983.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "1983", APART FROM THE MARK AS SHOWN.

THE COLOR(S) BLACK, WHITE, SILVER, GOLD, GREEN, MAROON, ORANGE, AND BLUE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A LARGE VERTICAL ELLIPSE IN WHITE CONTAINING A SECOND VERTICAL ELLIPSE IN WHITE BETWEEN WHICH ELLIPSES APPEAR IN BLACK FONT THE WORDS "THE SEAL OF THE EPISCOPAL DIOCESE OF FORT WORTH" WHICH APPEAR ABOVE TWO SMALL CROSSES AND THE YEAR "1983" WHICH ARE ALSO IN BLACK FONT WITH THE INSIDE VERTICAL ELLIPSE FURTHER CONTAINING A WHITE BISHOP'S MITRE WITH GOLD AND BLUE BANDS UNDER WHICH APPEARS A SHIELD WITH A GREEN SQUARE IN THE UPPER LEFT QUADRANT OF THE SHIELD UPON WHICH IS EMBLAZONED A GOLD AND BLACK COLORED GRIFFIN AND WITH MAROON COLORATION ON THE RIGHT QUADRANT OF THE SHIELD EXTENDING IN A BAND ACROSS THE MIDDLE PART OF THE SHIELD BELOW WHICH APPEARS AN ORANGE BAND ACROSS THE SHIELD WITH FORTRESS BATTLEMENTS OUTLINED IN BLACK AND UPON WHICH IS EMBLAZONED A BLACK LONGHORN STEER BELOW WHICH APPEARS A BLUE BAND AT THE BOTTOM OF THE SHIELD UPON WHICH IS EMBLAZONED TWO WAVY WHITE LINES AND A WHITE FIVE POINT STAR AND BEHIND THE SHIELD APPEARS A GOLD AND BLACK COLORED KEY AND A SILVER AND BLACK COLORED BISHOP'S STAFF WITH A WHITE AND MAROON BANNER UNDERNEATH THE SHIELD UPON WHICH THE WORDS "LOS BRAZOS DE DIOS" APPEAR IN BLACK FONT.



David J. Kybas

Director of the United States Patent and Trademark Office

THE ENGLISH TRANSLATION OF "LOS BRAZOS DE DIOS" IN THE MARK IS "THE ARMS OF GOD".

Reg. No. 3,826,996 SEC. 2(F) AS TO "THE EPISCOPAL DIOCESE OF FORT WORTH".

SER. NO. 77-748,164, FILED 5-29-2009.

HAI-LY LAM, EXAMINING ATTORNEY